

# Two wrongs make a right: Why the trans-Atlantic antitrust rift is necessary in the global economy



Less than week after the European Commission hit Google with a record £3.9 billion fine for abusing its dominant position in Android, Google's [quarterly earnings report](#) came in: a noticeable dip in profits — down to \$2.8 billion from the expected \$7.8 billion—but a rise in share price—up almost 6 per cent.

Investors seemed to shrug off the giant fine as the regulatory risk was, once again, discounted. The story of the EU as global digital markets cop is all too familiar by now to shake markets. Similar developments, including last year's hefty £2.2 billion fine to Google for abuse of dominance in the search market, Germany's tight [grip](#) on Facebook's data policies, and the recently annulled £0.9 billion fine on Intel for exclusive dealing, which used to be the largest fine until Google, did not seem to make a dent either. Tech giants like Apple, Microsoft, and Amazon are still inching closer to a first-ever \$1 trillion valuation.

## Is antitrust irrelevant?

It is and it isn't. It is irrelevant in terms of immediate quantifiable effects. Unless antitrust authorities and courts impose structural remedies—breaking up a company, for example—milder behavioural remedies and fines rarely have meaningful impact. Google's competitors still [maintain](#) that the changes the search engine made earlier this year in its comparison shopping results to comply with EU's decision had negligible positive effects. The same was true when Microsoft was ordered to stop tying its Windows Media Player (WMP) to Windows so as to give a chance to other media players. As expected, nobody wanted to buy a version of Windows without WMP, which meant that for Microsoft it business as usual.

In all, [little evidence exists](#) that antitrust enforcement does anything to rectify monopolization or abuse of companies' dominant position.

## Why the trans-Atlantic antitrust rift is good and necessary

But there is something to be said about antitrust as a tool to reign the market as a whole, not just individual companies. Antitrust may fail to discipline the occasional offender, but its role is broader than that; it shapes the economic zeitgeist by defining at any given time what is acceptable and what not in the market economy.

In fact, in that role, the widening rift between the US and the EU is actually key. Despite the frustration emanating from the divergence between Europe's activism and America's lax approach, the schism helps achieve an overall equilibrium. As the conservative US pulls the world towards unbounded laissez-faire-ism, Europe balances things out with its socialist sensitivities. And as Europe is carried away with its rigid and overbearing regulations, the US shows the efficiencies of uninhibited market innovation.

The two complement each other. For every Robert Bork that [extols](#) the rigorousness of economic analysis of markets, there must be a Vestager that insists on the messier but more wholesome application of "fair" antitrust. Not because they are both fully right, but precisely because neither of them is.

For antitrust to be effective, this ideological tug of war is more necessary today than ever. When economies were more insular and firms more localised, whatever rules applied to those firms also only had local impact. Little did Europe care about the break-up of the biggest trust in US history, Standard Oil in 1911; the case resulted in a more competitive re-organisation of the oil industry in the US, but the benefits did not spill over to Europe.

But with companies going global, especially digital companies that can reach the entire world instantly, antitrust policies also have a global ripple effect. In this setting, being subject only to one set of rules is dangerous. We can't rely on a single country to get rules and policy right on behalf of the entire world.

Europe's stringent antitrust and regulatory requirements have been blamed for the perennially [feeble](#) entrepreneurial environment across the bloc, and it should be welcome that the U.S.' pro-market approach balances things out. Under U.S. pressure to succeed, the E.U. is finally [streamlining](#) the entrepreneurial environment.

But go too far and expand the U.S. approach everywhere, and you will end up with the kind of ruthless liberalism that has been charged with [increase](#) of market power, worker [exploitation](#), and the [demise](#) of the welfare state. This time around, it is for Europe to be the market ballast, and indeed the source of inspiration for what has been termed America's new Brandeis movement, after the 1930s anti-monopolist Supreme Court Justice.

Antitrust may well appear broken, and its relevance especially in digital markets weak. But its effects extend beyond the obvious aftermath of each fine. One just has to look wider and at both sides of the Atlantic to see the full picture.



#### Notes:

- *The post gives the views of its author, not the position of LSE Business Review or the London School of Economics.*
- *Featured image credit: [Photo](#) by [openDemocracy](#), under a [CC-BY-SA-2.0](#) licence*
- *When you leave a comment, you're agreeing to our [Comment Policy](#).*



**Konstantinos Stylianou** is a lecturer in competition law and regulation, and the deputy director of the Centre for Business Law and Practice at the University of Leeds' School of Law. His areas of focus are communications networks, digital markets, blockchain, and high tech industries in general. Before joining the University of Leeds, he was a fellow at the Center for Technology and Society at FGV Direito Rio (Brazil), where he was involved in the public consultation and drafting of the local net neutrality rules. Before that he worked and/or interned at the Council of Europe, the U.S. Federal Communications Commission, the Berkman Center at Harvard, and the European Platform for Regulatory Authorities. He has also provided consultancy/advisory services to Google and numerous Internet start-up companies. He holds degrees from Penn, Harvard, and Aristotle University.