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Paper 1: Trusting Busting and Silicon Valley

In the post-civil war period, America saw rapid growth in industrialization with the development of a nationwide railroad system that enabled cheap transportation. In turn, it allowed markets to expand boosting productivity and increasing competition. However, with rising competition, corporations sought to expand and protect their revenues through mergers and acquisitions which provided them with a power to control the market in their favor. The paper will examine the trust-busting measures adopted by progressive governments in the early 20th century and evaluate their role in regulating Silicon Valley today.

As the laissez-faire system encouraged deregulation of businesses, it began to lead to widespread abuse of corporate power. Corporations created trusts for stock management of businesses that cooperated with them. This collaboration enabled them to control production and prices. One of these companies was Standard Oil that established a trust of such nature in 1882 that helped drive out competition and fixed prices. Other industries such as beef, sugar, tobacco, or whiskey each adopted similar measures which led to the concentration of capital in the hands of a few. It thus became necessary to control mergers and regulate incorporations. Regulation increasingly started to become a major policy feature of governments between 1900 to 1916 seeking to establish fair competition among larger and smaller businesses (Sklar).

In 1901, President Roosevelt devised a plan that integrated some socialist programs with laissez-faire policies. Although Americans did not believe in a big government, Roosevelt's anti-trust measures were appreciated by the public as trusts set up by corporations had grown tremendously in power and numbers. Roosevelt’s policies did not oppose big businesses because of their size alone, rather he was of the view that larger corporations operated more efficiently than smaller businesses; however, he was the view that larger corporations should not oppress small businesses using their power or size, and thus he supported policies to neutralize some of these powers by extending federal control over the economy. A Bureau of Corporations was created in 1903 to investigate business practices of different corporations, enforcing the ‘rule of reason’ on businesses to use federal power to prevent corporations from growing through unreasonable means (OSU Ehistory).

Anti-trust measures were a battle fought on two fronts; firstly, to protect consumers from corporate greed and interests, and to prevent trusts from monopolizing and controlling the market. Regulating the industry was another goal since a lack of regulation, especially in the transportation sector, allowed many corporations to obtain unfair deals and set higher rates. At the same time, the food and the meat-packing industry were rife with unhygienic practices that required regulatory checks. Regulatory measures were enforced through the newly created Department of Labor and Commerce which especially oversaw interstate commerce. In 1910, the Interstate Commerce Commission (ICC) was tasked to regulate telephone and telegraph companies under the Mann-Elkin Act. To improve worker welfare and working conditions in general, another Department of Labor was created separately in this regard (Sklar). Another significant antitrust legislation, the ‘Clayton Antitrust Act’ was passed in 1914 during President Wilson’s administration which sought to further strengthen the earlier Sherman Antitrust Act and identify business combinations or practices that attempted to create a monopoly and lessen competition.

In the later-half of the 20th century, trust-busting measures started to be pursued more aggressively by the governments. The FTC was established which successfully loosed the monopoly of several industries in their respective fields. The measures continued to be adopted until the 1990s; however, the focus shifted from loosening monopolies towards policing conduct. Yet illegal mergers were still checked by federal institutions which continued to examine market practices. In the contemporary era, the internet changed the way business and advertising operated. A number of policy measures were adopted to control IT industries to make way for competition, which helped a number of corporations emerge into the mainstream.

As IT industries began to flourish, Microsoft quickly began to dominate the computer software market and used its position to give its own products, MSN and Internet Explorer advantage in the market. There were charges and scrutiny against Microsoft, mostly involving anti-trust cases filed in Europe as well as the U.S., which led to federal intervention to prevent it from creating disadvantages for its competitors. The intervention allowed companies such as Google to emerge which eventually ended up acquiring 200 companies, amassing a power that is still difficult to understand for many policymakers. Like Microsoft, it is now Google that increasingly disadvantages its competitors by using its monopoly to divert users towards its own products. At the moment, besides the most popular search engine, google own the most commonly used mapping app, web browser, and online video site. Moreover, it owns Android OS and nearly five out of the ten most popular smartphone applications. Additionally, it rivals Facebook in the online advertising business.

The power and market control acquired by Facebook and Google has managed to grow to an unprecedented level with little hindrances because current anti-trust legislation is based on outdated models that did not take into account the complexities and realities of modern Internet-based business. Activists and private organizations such as the EFF have tried to suggest measures to improve antitrust enforcement in order to protect the marketplace and the consumer while maintaining competition. Currently, anti-trust regulatory bodies consider costs to the consumer and market in terms of financial capital whereas one of the most salient characteristics of IT companies is that the costs consumers pay may not always be a physical price, but rather access to their data. The autonomy and private data provided by the consumer helps with corporate advertising and generates revenues for these corporations (Evans). Therefore, to regulate these growing IT industries requires a careful evaluation of these factors when their anti-competitive behavior, acquisitions, and mergers are checked (Buttar and Stoltz). Consumers can be harmed beyond price manipulation by monopolies in the digital market; and thus, anti-trust principles based on the earlier trust-busting vision but which also takes into considerations the dynamic new ways in which IT corporations monopolize, are needed.

In the Progressive Era, anti-trust legislation was supported by President Wilson and Roosevelt to ensure that large corporations would not use their market share to drive away the competition. Most anti-trust legislation and its implementation by the courts have been based on how consumers are affected by the move focusing more on whether consumer prices are affected by the corporation’s move. However, today’s digital monopolies are offering a range of products for free and thus to bring the Progressive Era back would require reversing a number of earlier precedents set by the courts to keep these digital monopolies in check. Therefore, a new standard is needed to measure monopolization which is based more on the lopsided incentives offered by large companies such as Google or Facebook instead of evaluating monopolies solely based on consumer harm considerations (Yoo). Groups such as Amazon have managed to avoid scrutiny and regularization because of anti-trust standards because of the inability to recognize how digital markets can be distorted by their corporate practices.

To conclude, it is evident that anti-trust laws should be applied and implemented on Silicon Valley in order to protect the Internet economy and the billions of online consumers and to provide a level playing field to competing companies in the digital world that are otherwise subject to the dominance of a few names in the market.

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