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The “Google Case” and the Promotion of Europe’s Digital Economy

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That the European Commission this week threw down the gauntlet to Google in its long-running competition investigation hardly came as a surprise for people following digital policy in Brussels. Everyone would have seen the crosshair on Google’s back for some time, at least since Commissioner Gunther Oettinger revealed a bit too much in his hearing last autumn in the European Parliament about his successful political campaign to stop the Barroso Commission from settling with Google.

Political pressure has been built up over some time. Some big member states have interfered far more than usual in competition cases, and area of policy where Brussels’ regulators should be protected against political influence. The European Parliament last year passed a resolution effectively demanding a break-up of Google unless the EU’s competition regulators were going to keep the company on a tight leash. That resolution was no doubt part of political campaign and could easily have been neglected by the Commission. Yet it grew out of a series of initiatives by politicians in Brussels as well as key European capitals to re-draw the map of digital services and stack regulations as to favour digital enterprises that carry a European passport.

Some European politicians, in cahoots with companies chasing business opportunities, tried to usher in the idea of a “Schengen cloud” on the back of the NSA spying affair. That built on an older idea of creating a European cyberspace. Data networks in Europe, argued German Chancellor Angela Merkel, should be closed off from the United States, cutting the freedom of exporters and importers to trade in digital services. A data protection bill working its way through the EU machinery has been taken hostage by forces that just not want to protect privacy and integrity, but use it as an excuse to reduce Europe’s exposure to digital competition.

And just this week, the French senate voted to attach an “anti-Google law” to France’s economic reform package, Loi Macron, that, among other things, would demand search engines to subject its algorithm to regulatory oversight and forced them to show search ranks. And the same morning as the Commission announced its case against Google, the German government tabled its own version of a data localisation law, demanding companies to store the data it collects and uses in Germany. So Germany is about to join the ranks of China, Russia, Indonesia, Vietnam, and other digital centres of excellence in the world in effectively splitting up the supply chains of digital services offered in Germany.

Behind many of these initiatives hide Jean-Baptiste Colbert and the spirit of mercantilism. Many leaders in Europe have got the case for digital competition and trade upside down. Not only do they think that regulators can attach a national flag on every bite that is generated or crosses a border; they’ve also charted a political campaign about combatting American dominance in digital services because they think Europe is at the loosing end of the digital economy.

In a speech this week in Germany, the mother of digital mercantilism, Commissioner Oettinger vented his frustration with America’s digital prowess. He opined about the replacement of “today’s web search engines, operating systems and social networks” and how they should come from Europe. He argued that “Our online businesses are today dependent on a few non-EU players,” and added that “this must not be the case again in the future.” If it does, continued Oettinger, the dominance of American firms may erode Europe’s competitiveness in sectors like cars.

But Oettinger like others who subscribe to this economic ideology gets the economics of trade, competition and innovation wrong. In an open economy, the passport of a company is of little interest for capturing the gains from new technologies. Not only are many European innovators and companies supplying services to the American digital firms, but access to the services offered by these firms have helped to create a more productive European economy and European firms with greater capacities to compete and raise revenues. For Europe's businesses, having undisrupted access to digital services is key to their ability to compete. Closing Europe off from the digital world would have serious consequences. And for Europe's community of small and medium sized firms – that cannot afford to build up own digital services – many of these digital companies originating in America or elsewhere supply services that allow them to compete and grow. So Europe's digital mercantilists should pause and think about what digital services have delivered to the European economy. In France, to take just one example, the Internet has delivered over a 15-year period 700 000 new jobs net, according to McKinsey Global Institute.

Europe's ideologues of digital mercantilism spawn the notion that the economic value of digital services is in their creation. For digital services that offer general-purpose benefits to an economy, this proposition is obviously wrong. It is tantamount to saying that the American economy has not benefited much from the rise of mobile telecommunication because the dominating firms supplying the network technology are Finnish-German (NSN), French (Alcatel Lucent) and Swedish (Ericsson). But there is a bigger fundamental error, because the economic power of innovation lies not in the creation but in the adoption. Let's repeat that: the economic power of innovation comes mainly from its adoption, not its creation. The big economic value of the Internet or digital services is not the value-added created in Silicon Valley, but in the global economy through producers and consumers that have adopted new technologies and changed the way they compete and do business.

Consequently, Europe's digital challenge is neither about low digital competition nor stagnant digital innovation. For anyone versed in the modern digital economy it is perfectly obvious that we are talking about a European economy that generally have seen tougher competition as well as an acceleration of digital innovation. It also sees a high degree of concentration in many narrow segments of the market. Europe's digital challenge is rather that there are far too many policies that slow down the adoption of new digital services or technologies. And most of these policy flaws are not to be found in digital or Internet policy. They are rather generic policies or connected with self-inflicted digital policy wounds.

No one can tell the outcome of the Commission's Google case. In the next couple of years – yes, years – we will hear the arguments from the different sides. Three things are important now.

First, the case should not be allowed to suck the energy out of a pro-competitive agenda for a deregulated digital economy with a faster rate of adoption in the EU economy. There is a clear risk it will. Like the Microsoft case in the past, it will be a defining process that will occupy a lot of policymakers – not just regulators – businesses, and other stakeholders. They will have to spend time, energy and money defending their side of the argument. It is likely to trigger regulatory responses elsewhere. The "patent war" around standard essential patents has already become a battleground for corporate competition in mobile technology. Let's not double down by throwing search engines and platform competition into that mix.

Second, it is important that regulators don't erode intellectual property and the network properties of the Internet economy. The Commission itself has been fighting hard to get away from regulations and practices that prevent digital interoperability or fracture the digital economy. Some of the companies gunning for Google are out to achieve exactly that.

Third, Europe's leaders will have to prove that the case against Google is not just another branch of its campaign to squeeze out American firms. That will be a hard task because so many politicians have done so much to promote that cause.