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Facebook: taming the beast

Why EU law seems powerless against the giants of social media

When companies dominate a market, the law is meant to kick-in and restore competition. But social media giants like Facebook and Twitter have become virtual monopolies. German judge, Ulf Buermeyer, explains why it's so difficult to knock them from their dominant position.

Social media giants such as Facebook and Twitter dominate our lives. In Europe, they are virtual monopolies. Have they become too powerful?

Monopolies easily flourish on the internet because virtual services can be easily scaled up. It costs broadly the same whether a server is for 100,000 people or a million. That's why the competitive advantages of these companies grows bigger and bigger the stronger they become. Social media platforms become more valuable for users the more people already use them. No-one will use a network that doesn't let them reach their friends. As a result, the growth of big services has been accelerating exponentially – leading to companies like Facebook to dominate the market.

There are all sorts of laws designed to safeguard fair competition in the EU. Why have they failed to reign in Facebook's dominance?

I still haven't actually seen any serious attempts to challenge Facebook's dominant market position using competition law. But, given the market mechanisms at play on the internet, any such attempt probably wouldn't have much of an impact on Facebook's actual market. The "social network" market niche is basically sown up – a new market player would have to offer something radically different to outdo Facebook. And, if Facebook feels threatened by any new innovation, it just copies or adapts the technology, as Snapchat recently discovered. Facebook's acquisition of WhatsApp in 2014 was

a real coup for the company. It helped them achieve an outstanding position on the market in the area of Smartphone communication. But there are still some big questions to be answered over whether the takeover should have happened in the first place.

In 1911, the US constitutional court decided to break up Standard Oil because of its monopoly position. At that time it was the biggest oil business in the world. Is something like that still conceivable today for transnational internet businesses?

Why shouldn't it be conceivable? Historically, there have been many such cases, such as when the once all-powerful US telephone monopoly Bell/AT&T was split into several regional "Baby Bells" including Bell Atlantic and Bell South.

You could, for example, split Facebook up into different components – companies that may only operate in a certain region for a fixed amount of time, when they are allowed to operate worldwide again – a so-called "vertical split". You would then have a number of "baby faces", which could compete with each other. Or you could split Facebook up horizontally – for example into a Facebook back end, which deals only with user administration, and makes that available to a separate Facebook website and to different Apps. Other companies could offer services via a user interface on this user base. That would be similar to the model which Germany set up for the railways, where the rails and the operation of vehicles is separate, at least in theory.

But the railway example shows that, in practice, it's very hard to split up integrated businesses into their component parts, because of longstanding personal connections and political influence. Since AT&T was broken up in the early 80s, many of the "Baby Bells" have come back under the AT&T or Verizon umbrella. And some of the Baby Bells have effectively become regional monopolies in their own right. We can learn from these examples. There's a lot of room for creativity.

Mark Zuckerberg, the CEO of Facebook, has hired a number of staffers who used to work for Barack Obama and Hillary Clinton. Some commentators are speculating he might have political ambitions of his own. He's also been very vocal in the debate about President Trump's travel ban. Isn't he already doing politics?

Of course! Every change to the Facebook algorithm is political because it changes which political messages users get to see.

Facebook refused to admit for a long time that it wasn't just distributing content – it was deciding what content should appear in what position on people's timelines. As a provider, it's impossible to

be totally content-neutral. Anyone who pretends to be is shutting their eyes to their own responsibilities. I see that as shortsighted. The influence of Facebook on how people form their opinions is now so big, there'll be more and more calls for democratic control of how content is managed. Mark Zuckerberg won't be able to put this genie back into the bottle.



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