

Intelligence MEMOS



The C.D. Howe Institute's third Regent Debate recently addressed the question: Should Governments Regulate Big Tech to Protect the Public Interest? Today, former FBI director James Comey and Robert Atkinson, head of Washington's Information and Technology Innovation Foundation, offered their rebuttals.

James Comey: It appears we agree up here on two things. The first is that government should regulate big tech in the public interest and the second is that government should do it carefully.

We agree very much about that.

I want to comment on a couple things that our opponents said which I think are reasonable, but I want to put them into context. First, yes we should be very careful about – especially the United States Congress – regulating anything. I've spent ... I've spent a lot of time in front of that august body and one of my aides used to say it was like visiting the bar scene in Star Wars. And if we only had these shutoff mics in Congress that would be awesome.

But what Melanie (Aitken) and I are suggesting is not that our legislators regulate, but that our legislators reflect the public interest by identifying those areas in which experts ought to promulgate regulation.

We struggled as our two nations with the great technological development of the 20th century, the telephone, and what to do about the tremendous concentration of power in the hands of a few monopolies, duopolies that dominated. And we found a way, with expert guidance, intervention by the courts, to whack that up. Which actually opened the way for the developments we're seeing now – for the goose to lay more golden eggs.

So please don't hear us to suggest that legislators regulate, only that legislators identify the public interest and ask the experts to regulate.

The challenge of applying traditional antitrust thinking about this crisis is that we're talking about free services here. So price effects should not drive the analysis or lead us to believe we shouldn't apply antitrust principles to this situation, because even though people are getting a free good, there is tremendous limitation of competition. Facebook eats everybody.

Robert Atkinson: Well first of all, Director Comey, we don't all agree. Yeah, I don't agree we should regulate big tech. I think we should regulate issues in the new digital emerging economy. It's very different than taking one small segment of it and targeting that for regulatory action.

Second, I want to make a point neither David (Plouffe) or I are libertarians. David was in the Obama administration and I'm Canadian, so this isn't some libertarian fantasy we're spinning.

This is basically grounded in analysis and how we can figure out a way to get progress for Americans and Canadians going forward. I want to address the antitrust issue that Melanie brought up, where she said these companies are using it to squash competition.

First of all, regulatory antitrust authorities in both Canada and in the US have plenty of tools right now for any time any company uses their power in an anti-competitive way. They can bring action and they should bring action. We don't need to revamp antitrust rules, we don't need new regulations, we just need antitrust authorities to be doing their job. And if any of these companies behave in an anti-competitive way, great, go after them. To date there hasn't been very much evidence of that, if any.

Secondly, Melanie talked about squashing competitors. We have to recognize, what are we trying to do here? What I think we're trying to do here is not protect every business from competition. If you're in business, you take a risk. You might go out of business because a better competitor has a better mousetrap, and if you succeed you make a lot of money.

We don't take the upside and we shouldn't protect you from the downside. So yes, a lot of these technology companies are disruptive in the Schumpeterian way of positive creative destruction and that helps everybody.

Last point: the Canadian government is making a big bet on the technology in the future including superclusters, and if the Canadian government goes down this (regulatory) path it sends a very clear message that it is not friendly to tech.

James Comey is a former director of the US Federal Bureau of Investigation and Robert Atkinson is president of the Information and Technology Innovation Foundation in Washington D.C.

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