NATIONAL REVIEW

Don’t Let Policy-Makers Break Up a Good Thing

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Let’s not let policy-makers be a toxic ex who changes the narrative or comes back to ruin the relationship.

The last thing anyone wants to deal with around Valentine’s Day is a breakup. But policy-makers are looking to use antitrust laws to force a split on some of America’s most successful tech companies. Unfortunately, if they succeed, consumers may be the ones who end up brokenhearted.

Like a toxic ex who crashes a happy couple’s wedding, government enforcers seem determined to break up existing mergers that have been previously approved. For example, the Federal Trade Commission (FTC) is trying to undo Meta’s acquisition of Instagram, which occurred well over a decade ago. What’s worse is that they can’t seem to understand there are still plenty of fish in the social-media sea.

For instance, the FTC’s definition of a “market” ignores the growing number of social-media competitors such as TikTok and Twitter, instead focusing on a market definition that could only fit Facebook. But this isn’t the reality that most consumers face. In fact, Facebook continues to grow less popular with younger generations who are using new and different social-media platforms instead.

These breakups have an even deeper effect both on products that consumers love and innovations that would improve them. It’s difficult to know what exactly a true breakup of many tech companies would look like when it comes to products being offered.

A breakup of these companies would also split teams and talent, as well as the companies themselves. Further, companies with fewer resources would be less able to address user concerns such as content moderation and data usage.

It’s unclear what stipulations would be placed on a separate Instagram and Facebook, but things such as cross-messaging would almost certainly be off the table. These separate, smaller companies might also have to rely more on user data and advertising to support the product or otherwise pass costs along to the users.

Government regulators are also trying to stop new acquisitions before they begin. Increasingly, when a company tries to acquire or merge with a new company in the tech sector, the company will face stiff challenges from regulators. This is, in part, based on regulator concerns that there is a “kill zone,” wherein large companies gobble up smaller companies before the upstart can challenge them.

This mindset focuses on the idea that "going public" should always be the goal of an innovator. But such a perspective neglects the fact that there are many reasons why companies develop products, and that such acquisitions can often benefit consumers by either improving products or by simplifying services. Instead, enforcers are going after acquisitions such as Meta-Within, which could add new options for fitness, and Amazon-One Medical, which could increase access and innovation in primary care.

In these cases, regulators are seeking to end a potentially positive relationship before it even begins.

Even worse, like someone who has been hurt in too many relationships, overzealous scrutiny of mergers and acquisitions can deter beneficial actions as much as they deter potentially harmful actions. This over-scrutinization harms small companies looking for innovative options, large companies that often find new creative talent, and most of all, consumers who never get the efficiencies or product features these transactions could bring.

Finally, just like the ex who wants to redefine the narrative around why the relationship ended, the last Congress saw the introduction of several proposals to change current competition laws.

These laws would shift the focus away from whether companies were engaged in consumer-harming, anticompetitive behaviors. Instead, the new laws would home in on the presumption that big companies are themselves harmful by their success and size.

Such changes would risk infusing laws regulating competition with more political objectives and supporting less successful competitors. In each case, the focus would not be on the consumer.

In fact, these changes could force users through cumbersome smartphone changes, such as a limited Google Maps or a diminishment of Amazon's generic products and its Prime services. While the focus may be on "big tech," it's the average consumer who will ultimately bear the costs of these changes and the shift in antitrust law.

The current competition laws support a healthy relationship focused on consumers. Let's not let policy-makers be a toxic ex who changes the narrative or comes back to ruin the relationship.

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