



Antitrust vs. Silicon Valley

By: Chris Edwards

As the American and European economies struggle, one of the few bright spots is the ongoing innovation and free-market expansion in technology industries. Thank goodness we have entrepreneurial companies such as Apple and Google generating economic growth and providing exciting opportunities for young people.

But that won't last if governments have their way. The [Washington Post today discusses](#) government efforts to essentially turn the high-tech industry into another moribund regulated industry through antitrust rules:

European regulators last week imposed a \$1.1 billion fine on a technology giant that “abused its dominant position.” The company was Microsoft, circa 1998. U.S. officials weren’t much faster. Last year, it officially closed its 14-year-old antitrust case against the software firm. As federal regulators launch fresh investigations into Silicon Valley, their history of drawn-out cases has companies on edge.

In taking on an industry that moves at lightening speed, federal officials risk actions that could appear to be too heavy-handed or embarrassingly outdated, some analysts and antitrust experts say. Indeed, in May, U.S. officials said they would step up their policing of Myspace’s privacy policies even though the company has long fallen out of fashion to behemoth Facebook.

In recent months, antitrust regulators around the world initiated cases involving Silicon Valley’s new guard — Google, Apple and Amazon.

Microsoft’s antitrust battle began in 1998, has stretched over three continents and cost the company more than \$2 billion in fines.

These new efforts to impose antitrust rules on technology industries are idiotic. I say idiotic because there is a long history of government failure here. But that history doesn't seem to make any impression on the proponents of aggressive antitrust action, who seem to be driven by legalistic ideologies, not by common sense economics or practical experience.

In [Downsizing the Federal Government](#), I discussed some prior federal efforts to strangle technology firms with antitrust rules:

The American economy is so dynamic that government "solutions" are usually obsolete by the time they are imposed. Consider the antitrust case against Xerox Corporation in the 1970s. After inventing the photocopier in 1960, Xerox led the industry that it created. It still held a large market share in the early 1970s, which prompted the FTC to charge the company with monopoly. Xerox had a two-year struggle with the FTC that cost millions of dollars and ended in a settlement. As it turned out, government intervention was wholly unneeded as IBM, Eastman-Kodak, Canon, Minolta, and Ricoh surged into the market in the mid-1970s with copiers that were often superior to Xerox's. Xerox's market share eroded rapidly under the competition.

Government intervention was also a big waste of time and energy in the infamous IBM antitrust case that lasted from 1969 to 1982. IBM was charged with monopolizing the mainframe computer business. During the long legal battle, the industry evolved rapidly. By 1982, the government finally dropped its case and conceded that it was without merit. The case cost hundreds of millions of dollars in legal expenses, generated 66 million pages of evidence, and diverted IBM's time and energy from more productive business endeavors.

Despite decades of such failed interventions, antitrust proponents still don't seem to understand the dynamic nature of markets. [A 2003 study by Brookings scholars](#) Robert Crandall and Clifford Winston examined a century of antitrust policy. They found "little empirical evidence that past interventions have provided much direct benefit to consumers or significantly deterred anticompetitive behavior." Indeed, the authors discuss numerous major cases where the government got it wrong and pursued actions that damaged the economy.

The Brookings analysis makes clear that after a century of trying, antitrust enforcers still have no clear idea when intervening in markets might be a good idea. So let's stop bludgeoning some of the nation's leading businesses with impractical rules based on flawed theories. If there ever was a group of One Percenters that we really don't need, it's high-paid antitrust lawyers.