



With A Conference In Colorado, Big Tech Woos Its Regulators

Max Moran

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If you read the headlines, it sure seems like Big Tech is in peril. The president has escalated his rhetorical attacks on the industry while his administration opened antitrust inquiries into the four largest tech companies. Calling out these companies may be among Trump's most popular political moves.

As tough as times might sound for Silicon Valley's titans, they didn't get to where they are without preparing for the worst, nor without—despite their supposed progressivism—making friends with other big business tycoons who are practiced hands at keeping the feds off their backs. Big Tech has learned how to play Washington's influence game, and this week, at a quaint resort in the Colorado mountains, the industry deployed a key weapon in its fight against accountability: soft power, or the use of indirect cultural experiences to shape a lawmaker's opinion, rather than direct lobbying.

The tenth annual Aspen Forum ran from Monday to Wednesday at the Saint Regis Aspen Resort. The conference was hosted, as always, by the Technology Policy Institute, a think tank whose stated mission is “to advance knowledge and inform policymakers by producing independent, rigorous research and by sponsoring educational programs and conferences on major issues affecting information technology and communications policy.”

Sounds strictly informative. But scroll down to the “Why Attend?” section of this year's registration webpage, and the Institute gives away the real reason techies should trek out to Colorado: “Discuss policy with the people who make it. Sit at the table to debate the topics you care about and influence the world of technology in a beautiful and relaxed atmosphere.”

Indeed, three of the confirmed speakers at this year's conference are among the most important decision-makers for Big Four executives to woo right now — Assistant Attorney General Makan Delrahim, who runs the Department of Justice's antitrust division, and Federal Trade Commission (FTC) commissioners Rebecca Slaughter and Noah Phillips, who hold two of the three votes the companies need to kill an antitrust case currently at the FTC. (Slaughter ultimately couldn't make it due to flight problems.) The Commerce Department's Fiona Alexander was there too, along with Lisa Goldman, the senior counsel on the House's Consumer Protection and Commerce subcommittee.

How convenient for the Big Tech firms, then, that these Washington bureaucrats spent the week listening to committed anti-government crusaders and Silicon Valley lobbyists over fine meals and drinks. Confirmed speakers from the tech industry include the Verizon executives Gil Beyda and Donna Epps, T-Mobile executive Kathleen Ham, and tech trade group executives Claude Aiken, Svetlana Gans, Delara Derakhshani, Mitch Glazier, Jan van Voorn, and Ross Lieberman.

The FTC's Phillips had a chance to catch up with some of his former colleagues who have gone on to serve the tech industry and other influential groups. Most prominently, he shared the stage with Julie Brill, a former FTC commissioner who is now deputy general counsel at Microsoft. Attendee Neil Chilson was the FTC's acting chief technologist before he took a job at the Charles Koch Institute. The aforementioned Ms. Gans was the FTC chief of staff before joining NCTA, the Internet and Television Association.

Were any anti-monopoly activists invited to speak at the Forum? What about journalists struggling under Big Tech's thumb on the advertising market? Maybe an actual tech employee or two, who mostly support candidates critical of their own industry? Of course not.

To borrow a rubbery phrase from the tech industry itself, the Aspen Forum is not and never has been a "neutral platform." It is instead just one piece of the industry's soft power operation, a chance to control lawmakers' ideas of, and experiences with, the industry—to make decision-makers think highly of powerful companies.

The leadership behind the Technology Policy Institute have been playing the soft power game for a long time. Its president, Scott Wallsten, and a long-time board member, Raymond Gifford, founded the Progress And Freedom Foundation (PFF) in the 2000's, a "market-oriented think tank that studies the digital revolution and its implications for public policy." PFF was funded by Google, Microsoft, Intel, and Yahoo, along with telecom companies like AT&T, Comcast, and Verizon. After PFF folded, the Technology Policy Institute sprouted up to continue its work. The aforementioned corporate funders all support TPI now—Yahoo isn't listed, though, since it was bought by Verizon.

TPI's funder base also includes Facebook, Amazon, and Apple, meaning all of the five largest tech companies pay the bills for the think tank hosting this week's Aspen conference. And TPI has another prominent funder: the Charles Koch Foundation, which gave TPI \$100,000 in 2017, the most recent year for which tax documents are available.

Charles Koch's soft-power network has deep claws in TPI. Wallsten, the group's president, was a resident scholar at the American Enterprise Institute, which Koch funds. One of TPI's senior fellows is Sarah Oh, who earned a Ph.D. and J.D. from George Mason University, which Koch heavily funds and influences. George Mason University also helped develop the "Virginia school of political economy," one of Koch's preferred forms of libertarian ideology—the historian Nancy MacLean describes it as attempting "to save capitalism from democracy."

Readers might think that Silicon Valley companies make strange bedfellows with the Koch network. Those readers might like to know that Facebook and Microsoft donated to the closely Koch-affiliated State Policy Network in 2013 and that Google donates to the Heritage Foundation, Cato Institute, and Federalist Society, all of which have Koch ties. Koch has reciprocated by spending millions defending Silicon Valley, and deploying his political organizations to defend light-touch tech policies.

The Technology Policy Institute isn't even the only tech-focused Washington think tank which Koch and the Big Five jointly fund. The Center for Democracy and Technology received at least \$200,000 from each Big Five firm last year, and another \$100,000+ from the Charles Koch Foundation. The Big Five also heavily fund New America, to which the Charles Koch Institute donated \$6,500 last year.

Of course, it's not unreasonable for a commissioner or assistant attorney general to want to hear the views of the industry they're regulating. After all, they need to understand Big Tech to understand what to do about it. And Slaughter in particular has taken a suitably scrutinizing stance so far in her tenure at the FTC. She has pushed for the Commission to use new rulemaking powers to get ahead of tech's ubiquitous privacy problems, instead of always trying to investigate after the fact. She dissented from the recent settlement with Facebook, arguing strongly in favor of pursuing direct legal action against CEO Mark Zuckerberg and other top Facebook officials. Even if she'd made it out to this one conference, it wouldn't suddenly transform her entire perspective on Big Tech.

But as government officials, Delrahim, Slaughter, and Phillips don't have to do their fact-finding at flattering retreats. If they summon Silicon Valley representatives to a meeting in Washington—a setting where the regulator holds the power, as it legally should be—rest assured that these companies would come running.

Soft power is not always an effective tool, no matter who is wielding it. But as a whole, it's a more and more prominent part of big business' strategies to influence Washington—for instance, one study found that when a congressperson is appointed to a key committee overseeing a given industry, that industry tends to suddenly shower donations on charitable organizations in the congressperson's district.

Likewise, attending the Aspen Forum does not inherently mean that any government official is corrupt. But it does mean that they are being exposed to potentially weighty influences. Events like the Aspen Forum, and groups like TPI more broadly, offer a veneer of independence that might lower an otherwise-vigilant regulator's guard. That's intentional. Remember that Facebook, Amazon, Google, Microsoft and Apple are ultimately paying the bills for these three days in the refreshing Colorado mountains.

The Big Five did not get to where they are without preparing for the worst. Now that they're in danger, they can use well-established think tanks and well-connected corporate allies to help deter their would-be overseers. In other words, events like the Aspen Forum are all a part of the game.