

# POLITICO

## Vestager's misguided Google crusade

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“Your tax lady, she really hates the U.S.”

That's how, with his typical touch, Donald Trump reportedly voiced his concerns about the harsh treatment of American companies by the EU to a top European official.

The tax lady is European Commissioner for Competition Margrethe Vestager.

While it's painful to think that the U.S. president is unable to refer to one of Brussels' foremost figures by name, or at a minimum get her job title right, Trump's attitude toward Vestager is unlikely to change anytime soon, as she prepares to hit Google with a fine of up to \$11 billion — the largest antitrust penalty in Europe to date.

But this is one area where Trump gets something right. This crusade of Vestager's against Google is misguided at best — and more likely to harm European consumers than to help them.

From a political perspective, this case is bound to define Vestager entire legacy as Europe's antitrust czar.

The case is part of a three-pronged probe into Google's business practices. The first inquiry dealt with Google Shopping, Google's price-comparison service. The Commission concluded the company had abused its market power by discriminating against competing services and “Big G” was fined €2.4 billion.

The second concerns AdSense, Google's advertising network, and is still is underway. The third targets Google's mobile operating system, Android.

The tech giant is charged with smothering competition in the smartphone industry by imposing unreasonable restrictions on device manufacturers looking to license its software, including a requirement to preinstall a whole set of Google apps and to use Google's search engine as the default option.

Vestager inherited the Google Shopping and AdSense proceedings from her predecessor, but she launched the Android investigation on her own. From a political perspective, this case is bound to define her entire legacy as Europe's antitrust czar. So, it's unfortunate for her that the case seems to have been built on shaky grounds.

While it's true that Android is used by more than 80 percent of smartphones worldwide, the history of the tech sector shows us that such arrangements can change very rapidly. At one point or another, Yahoo, Nokia and even MySpace were all thought to have conquered indisputable monopolies. Now we speak about them in the past tense.

Too often regulators assume that in tech markets the past is a good indicator of the future. It is not. And so, in assessing Android's dominance it's important to look carefully at the mobile market and how it affects consumer welfare.

Android is a Google product — but it's also much more than that. It is an open-source software available in countless and potentially infinite variations, as anyone is allowed to tinker with it. It can be modified by lone wolves working in their garages or major corporations devising new products based on the operating system but unwilling to give away their brand identity or, more importantly, their revenue sources. For example, Amazon tablets run a customized version of Android.

Open systems are great, as all software guys will tell you, but there are trade-offs. Smartphones are complex devices that people ought to be able to use in the simplest ways. Google requires manufacturers to submit to compatibility checks, to preinstall its proprietary apps and to enter into so-called anti-fragmentation agreements, which prevent them from marketing devices based on competing Android renditions (known as “forks”). In doing so, Google is ensuring consumers will have a device they can understand intuitively.

Consumers now know what to expect when they buy a new Android device, in spite of it being an open system that could vary substantially between different developers' versions. Ensuring a smooth and consistent user experience can be tricky in an open environment — thus the need for some degree of uniformity. That, in turn, is of paramount importance to app developers, as it provides them with a reliable audience for their coding efforts.

If you're wondering how an antitrust effort could improve consumer welfare in this case, wonder no more: It cannot.

Consumers are not “locked in.” They can and do play a role in policing abuses or wrong strategies, either by personalizing their handsets (64 billion apps were downloaded from the Google Play store in 2017, according to intelligence firm Sensor Tower) or by switching over to a different model altogether.

Google's agreements with manufacturers are what allow the company to continue to offer Android for free, while shouldering the huge costs that its development and constant improvement demand. The revenues generated (directly) through the sale of apps and (indirectly) through search-enabled advertising contribute to making the whole thing profitable.

The result: Androids can have their cake and eat it. Have an open system, which can be customized in all possible ways, and yet look noticeably similar from one handheld device to another. And what's more, they can have it for free.

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