Silicon Valley's Dangerous Political Game

The tech titans are asking Washington for more political involvement in their industry; it may not end well

BRET SWANSON > July 10, 2017

O, it is excellent
To have a giant's strength, but it is tyrannous to use it like a giant.

– Shakespeare

Google, Facebook, Amazon, and the rest of Silicon Valley are on top of the world. They've never enjoyed more success or influence. Yet at the peak of their power, they are stepping on the political accelerator in a way that could backfire spectacularly.

On Wednesday, political activists are planning a "Day of Action" to support the Obama-era Federal Communications Commission regulations that turned the Internet into a public utility. The activist groups oppose the new FCC's proposal to reapply the light-touch and highly successful rules that governed the Internet for the past three decades. Although much of Silicon Valley opposed the FCC's surprise effort in early 2015 to invoke the heavy-handed "Title II" rules, they are now supporting the partisan Day of Action.

The tech firms' support for highly partisan and ideological activism comes at a crucial time. Silicon Valley's gigantism is making lots of people nervous. Many economists are worried about over-concentration and the possible need to constrain or even break up the largest tech firms. At the very time one might think technology firms would be resisting micromanagement from Washington, however, they are instead inviting politicians to get more involved in the technology business. Is this a wildly clever play we don't yet understand, or a massive blunder?

The largest five tech titans now boast a combined market value of $2.84 trillion. Google and Facebook account for 70% of the $73 billion spent on online advertising and generate some 80% of online referral traffic. Apple still rules the mobile world, and Amazon, Google, and Microsoft dominate the rapidly growing business of cloud computing.

As large as these firms are, however, they are preparing to grow much bigger. Google is a major player in autonomous vehicles. Apple is getting into health care. And Amazon is making huge plays in food, pharmacy, and, well, everything else.

Market Value of Tech Titans

	in billions of dollars, as of July 7, 2017
Alphabet	$642
Amazon	$468
Apple	$752
Facebook	$439
Microsoft	$536
Total	**$2,837**

These firms may bring important efficiencies and innovations to the rest of the economy. I would argue the rest of the economy needs Silicon Valley's creativity and know-how. There is a growing debate, however, over how big is too big.

Neutrality For Thee, But Not For Me

In this context, Silicon Valley's continued obsession with "net neutrality" seems odd. In several decades of Internet experience, less than a handful of neutrality violations ever emerged. To the extent the violations were even real, they were exceedingly minor and quickly resolved. Why press for Title II, a policy that goes far beyond "net neutrality," when more important policy issues are just around the corner? When Title II could interfere with the expansion of bandwidth you need to roll out new content and services? And especially when your insistence on "neutral" behavior may tend to implicate your own business practices?

Critics point to a growing array of tech titan behaviors, which seem to violate the values of neutrality that the firms claim to cherish.

1. **Anticompetitive behavior:** In the most high profile example, the European Union in late June fined Google's parent Alphabet $2.7 billion for a lack of neutrality in its search results. The EU concluded that Google favored its own shopping links and demoted competitive shopping links, which boosted consumer prices and put some of its rivals out of business.

2. **Anticompetitive behavior:** The Federal Trade Commission in the U.S had previously issued a staff report, in 2012, which recommended suing Google for three anticompetitive practices. The report found that Google illegally restricted advertisers from doing business with rival search engines; copied, or "scraped," proprietary information from competitors, such as Yelp, TripAdvisor, and Amazon, and used or displayed it as if it were its own information; and blocked websites that displayed Google results from also working with rival search engines, such as Microsoft's Bing. The staff report also found, like the EU did, that Google favored its own affiliated commercial sites and demoted rival sites but didn't recommend action on that point. In the end, the Commissioners declined to act on the staff recommendation to sue Google and instead asked for, and received, some mild behavioral changes.

3. **Throttling:** In June of 2016, Netflix admited to throttling video speeds on AT&T and Verizon networks, in secret, for *over five years.*

4. **Blocking:** Verizon now owns AOL and Yahoo! and thus Flickr and Tumblr. In late June, when Yahoo! announced that AT&T email addresses would stop working on Flickr and Tumblr, many users objected. "A clear violation of net neutrality," they howled. Except that's not the case. The Title II Order of 2015 applies only to broadband Internet access services (or BIAS) – the connections to homes and mobile devices. The regulations do not apply to websites or apps or content or cloud services. So under the Title II rules, it is perfectly acceptable for Tumblr to block AT&T email holders from accessing its site. Or for any Web, cloud, software, or device company to block or throttle users or other sites, apps, and participants in the ecosystem.

5. **Blocking:** Critics claim that over the last few years, when Twitter suspended user accounts for offensive or abusive behavior, the company seemed to apply different standards according to the account holders' political views. Conservatives charged that conservative or Republican accounts were suspended for relatively minor offenses, while huge numbers of "liberal" accounts suffered no such scrutiny despite behavior that was as bad, or even much worse. Regardless of the truth of these charges, conservatives and Republicans have begun to view many Silicon Valley firms as explicitly partisan entities.

Smart people of good will can debate the facts of these practices, their welfare effects on consumers, and whether the law should have anything to say about them. I often disagree with many of Silicon Valley's critics. Yet three ironies are apparent.

First, the largest "gatekeepers" in our data-driven world are not the broadband firms but Silicon Valley's cloud, Web, software, and device firms. Second, despite the vague alarmism over possible future net neutrality violations by broadband firms that never materialize, there is a large and growing list of real non-neutral behavior by Silicon Valley firms. Third, the Title II rules that the Day of Action protestors claim are so important only apply to the parts of the Internet that have been most free and open, the most neutral. The rules don't apply to most of the Internet ecosystem – the parts where Silicon Valley reigns – and do nothing to protect consumers from demonstrable, real-world, non-neutral practices.

Again, non-neutral business behaviors aren't necessarily bad – they often *enhance* consumer welfare. But a lack of neutrality *in the law* is a problem. Non-neutral laws have the discriminatory effect of favoring some firms and disfavoring others. Rep. Marsha Blackburn has introduced legislation that would apply neutrally the Obama FCC's new rules governing Internet privacy across the entire information ecosystem. This would impose the harsh privacy regulations Silicon Valley sought against the broadband network firms to Web, software, and cloud companies, too. If the bill was intended merely to expose the hypocrisy of Silicon Valley on this score, it probably has succeeded. If Silicon Valley keeps insisting on attacking other firms with discriminatory rules, it can probably expect more such scrutiny from politicians and regulators.

What is Silicon Valley thinking?

But again, why is Silicon Valley doubling down on a policy it knows is bad? Remember, after President Obama's surprise YouTube video, in November 2014, directing the FCC to apply Title II, Google's chairman Eric Schmidt went to the White House to plead against Title II, arguing it was overkill. More recently, in the spring of 2017, Netflix CEO Reed Hastings told investors his company had downgraded the importance it placed on net neutrality, saying the Internet would be healthy without the policy.

So why are the Silicon Valley giants backing the partisan Day of Action?

Perhaps it's this simple: Silicon Valley created a monster. What began as a nerdy, well-intended academic exercise to "treat all Internet traffic equally" spun out of control. As the issue was politicized over the past 15 years, Google and the others radicalized their own employees, their fanboys, and the Democratic base against a phantom menace. Although there wasn't an actual problem to solve, it became a partisan cause and a successful fundraising tool. Now, Eric Schmidt and Reed Hastings can't talk the alarmed followers off the ledge. So Silicon Valley finds itself backing a partisan mob who cheer a policy – Title II – which they don't understand and the firms never contemplated.

That bizarre outcome is bad enough. But it gets worse for Silicon Valley.

Problems Left And Right

Both the political left and right are getting anxious with the tech titans' never ending expansion. Many liberal economists have come to believe income inequality may be a function of worrisome industry concentration. (My fellow Washington Bytes contributors discussed the need for heightened antitrust scrutiny of Silicon Valley in two recent Forbes chats, here and here.) Farhad Manjoo of the New York Times calls the titans the "fearsome five" because they dominate our lives and, he says, our resistance is futile. Writing in MIT's Technology Review, the perceptive financial journalist James Surowiecki puts it this way:

> Still, the most surprising—and potentially troubling—thing about today's digital economy is how remarkably stable it has become. The buzzword that was always associated with digitization was "disruption." The Internet and other digital technologies, it was assumed, would accelerate competitive pressures and make it harder for incumbents to hold onto power. If the old industrial order was characterized by companies that stayed at the top for decades, the digital economy, with its supposedly low barriers to entry and low switching costs, was going to be characterized by constant turnover at the top. Instead, the opposite is true. Today's digital economy, at least on the consumer side, is dominated by the same five giants that have dominated it for at least the past decade and that almost everyone seems to anticipate will dominate it for the foreseeable future (at least if you go by their market capitalizations, which anticipate many more years of enormous profits for all of them). The digital economy is an economy in which platforms are the biggest source of value, and the Big Five's platforms are the most lucrative ever invented. The result is that this economy is governed, in effect, by an oligopoly. The Big Five sometimes compete and sometimes coöperate, but ultimately each has solid control over its core markets.

If Silicon Valley is trying to shore up its left flank with support for Title II, it may not be working.

The tech firms' problems on the right are growing, too. Conservatives historically favored less interventionism on economic matters, but populism is growing across the spectrum, and with it distrust of the big and powerful.

In a recent series of tweets, John Carney, the finance editor of the Trumpian website Breitbart, insists "the next big thing coming in politics" is "outlawing the combination of communications and commerce." "Two generations ago," he writes, "we separated banking and commerce." Now, "cable, wireless, cloud are the banking of the 21st century." "If your business model turns on this combination," he continues, "you should brace yourself. This is shaping up to be the political movement of our era." Carney concludes by noting that "The Trump admin is already at war with Amazon and CNN. The separation of communications and commerce gives a legal/theoretical frame to this."

The End Game

Nearly two decades ago, T. J. Rodgers, then the CEO of Cypress Semiconductor, offered a manifesto called "Why Silicon Valley Should Not Normalize Relations With Washington, D.C." He warned that if Silicon Valley started playing the Washington game by encouraging regulation of rivals and seeking subsidies for itself, it would backfire and ruin Silicon Valley's unique culture. "The political scene in Washington," Rodgers wrote, "is antithetical to the core values that drive our success in the international marketplace and risks converting entrepreneurs into statist businessmen. The collectivist notion that drives policymaking in Washington is the irrevocable enemy of high-technology capitalism and the wealth creation process." It almost sounds quaint. But the coming campaign against the "frightful five" seems to bear him out.

Silicon Valley has, in its campaign to regulate broadband, normalized relations with Washington, D.C. But do the tech titans realize how eager Washington is to normalize relations with them? As history's wealthiest firms, they have a lot to lose (and Washington much to gain) by submitting to the kind of political management that has slowed innovation in so many other industries. The biggest losers, however, would be the rest of us – consumers, employees, investors – who rely on the unconstrained creativity of Silicon Valley as a central driver of human welfare.

A more constructive path forward on net neutrality would be for Silicon Valley to join with parties across the political spectrum to find a common sense legislative solution that protects content consumers and also the ability of current and future firms to innovate. **EE**