**How do the US and EU differ in their approaches to regulating big tech monopolies such as Google, Amazon, and Apple, what are their implications on competition?**

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Published: 27th of January, 2025

**Abstract**

Companies such as Google, Amazon, and Apple have completely taken over our lives, influencing nearly everything we do, and turning into global powerhouses. One of these impacts is on the economy, as these companies have become complete monopolies in their industries. This has resulted in the loss of competition, as well as damaging small businesses' potential to grow. Both the United States and the European Union have taken steps to regulate these big tech monopolies. However, their approaches differ: the EU has taken a more punitive approach, imposing large fines on these companies with the aim of increasing market fairness, the US has taken a more laissez-faire approach, in an attempt to ensure consumer welfare, and ensure creativity. While the EU and the US have adopted differing approaches to handling the issue, the EU’s strict regulations may have a faster impact, however, there is a risk of stifling innovation, whereas, the US attempts to ensure balance between enforcement and economic growth.

Keywords: Monopolies, Big Tech, Regulation

**I. Introduction**

Google, Apple, Meta, Microsoft, and Amazon, often referred to as the “Big Tech” companies, have greatly impacted our lives. Not only have they affected the way we communicate, allowing us to reach anyone, no matter where, in a matter of a few clicks: Big Tech companies have completely monopolized their respective market sectors, mostly due to their interest, at times excessive, in growing rapidly and becoming even larger companies, completely diminishing the possibility of competitors' growth.

In an effort to prevent rivalsfrom gaining too much power and becoming a threat to their market share, they either eliminate, buy, or eliminate and buy. The process of ‘eliminate and buy' consists of purchasing a competitor to remove them from the market (eliminate) while gaining their shares and capabilities (buy).

It is an undeniably empirical observation that, for every sector of the market, there is at least one company that has almost complete control. When looking at the search bar industry, for example, Google has nigh-complete control, accounting for “*81.05% of the global search market*”.[[1]](#footnote-0) The remaining 18.95% belongs to other minor search engines such as Bing, and it is thus hardly deniable that Google has *de facto* completely monopolized this sector.

It would also not be an absurd statement to say that people simply cannot go about their daily lives without Big Tech companies. Following the COVID-19 Pandemic, their already massive influence has grown exponentially, “*as we have all become ever more dependent on our smart devices to stay connected with our personal and professional worlds*.”[[2]](#footnote-1) Not only have they become essential in our everyday lives, but they constitute significant contributions to our economy. Despite their relevance in both the economic and social contexts, this should never be taken to mean that these companies should be allowed unlimited powers, but rather that the need for regulation should be even more self-evident. This raises the question: How do the US and EU differ in their approaches to regulating big tech monopolies such as Google, Amazon, and Apple, what are their implications on competition?

**II. Excessive reliance and the need for some form of regulation**

 Nowadays, a large majority of companies and even governments are reliant on Cloud infrastructure from companies such as Amazon, Microsoft, and Google. The reliance on these major companies is a result of the need for reliable, and efficient cloud services. Companies and even public services are reliant on such in many instances, especially in times of war, as a way of protection against cyberattacks. This has, in turn, begun to result in social, economic, and geographic discrepancies.[[3]](#footnote-2) This has led countries, especially ones in the European Union, to come to the realization that their over-reliance on Big Tech monopolies is likely to become a threat to the digital sovereignty of the EU.

Granting excessive leeway to such cornerstones of our infrastructure would place all bargaining power in the hands of a select few entities whose only ultimate goal is profit, and which would certainly abuse their power over small businesses and clients. Their far-reaching influence over numerous aspects of daily life, and especially the one they exert over significant swathes of our industrial sectors means that they can create extensive damage and widespread destruction, therefore, it is essential that proper means of regulation are put in place. Overreliance from many sectors such as healthcare leaves these sectors exposed, meaning that the smallest impact to their database such as a cyberattack can completely paralyze certain industries. Especially those following COVID-19, both the US and the EU have thus felt the need for regulation to be passed to limit their power.

However, the approach between these global powerhouses differs. The EU has a history of imposing large fines on companies to increase market fairness; the US, on the other hand, has taken a more laissez-faire approach and its antitrust laws have instead remained focused on consumer welfare, despite a strong need for bigger scrutiny of monopolies. The US and the EU thus have replicated their different approaches in their attempts to manage Big Tech conglomerates and concentrations, which naturally has resulted in very different market and corporate outcomes; due to this, the EU’s more stringent drive towards regulation of Big Tech monopolies will have a greater short-impact on changing competition, while the US’ choices will have a more lasting impact in the long-term, and change innovation and competition in the long run.

**III. The EU Approach**

The European Union has strongly advocated for stringent regulation of big tech monopolies in an attempt to limit their power and abuse. The European Commission passed the Digital Markets Act in an effort to ensure this is accomplished; starting in 2022, however, the European Commission seems to have also taken other approaches to curbing the power of Big Tech.[[4]](#footnote-3) The Commission has e.g. embarked in litigation to regulate these companies, such as Google and Alphabet v. Commission (Google Shopping), or a case brought against Facebook Marketplace.

The EU’s focus on regulating Big Tech comes from a long and storied background history of regulation of monopolies in general. Regulation began in 1957 through the creation of the Treaty on the Functioning of the European Union. The application of Article 102 of the Treaty on the Functioning of the European Union prohibits *“abusive behaviour by companies holding a dominant position on any given market”*.[[5]](#footnote-4) This provision forbids a company holding a dominant position to abuse said position for anti-competitive reasons. Most cases concerning abuse of dominant positions “*concern practices having an exclusionary effect on actual or potential competitors*”.[[6]](#footnote-5) Additionally, Article 101 of the Treaty on the Functioning of the European Union *“prohibits agreements between two or more independent market operators, which restrict competition*”.[[7]](#footnote-6) Both of these articles clearly take an aggressive stand against monopolies, impeding two or more companies to create agreements which limit competition.

The articles present regulation of monopolies as a right by the EU, and theThe European Union’s rather intolerant disposition towards monopolies has thus generally led to clear guidelines for their regulation, enforcement, and disciplining; Big Tech monopolies remain however a daunting challenge due to the aforementioned issue of society’s arguably excessive reliance on the services they provide.

The EU is generally enthusiastic about regulation, however, this is not the case when it comes to tech monopolies, for various reasons. Firstly, the technological environment is complex and new, therefore lack of knowledge plays a factor in making it hard to regulate, as the field is not the same as regulating traditional monopolies. Additionally, there is the aforementioned dependence on technological companies, especially those which have taken over their sectors such as Facebook, Google, and Amazon. They are the reason for many jobs and the economic status of member countries. These factors make the regulation of tech monopolies a challenging mission, even though the EU is generally prone to regulation.

Despite this, the European Union passed the Digital Markets Act to regulate technological powerhouses, in efforts to “*to make the markets in the digital sector fairer and more contestable*”.[[8]](#footnote-7) For a fairer digital sector to be achieved, it establishes a set of criteria to identify gatekeepers, which are “*large digital platforms providing so called core platform services, such as online search engines, app stores, messenger services”*.[[9]](#footnote-8) The criteria established by the Act sets out a list of “*dos and don’ts*”, such as “*allow their business users to promote their offer and conclude contracts with their customers outside the gatekeeper’s platform*”[[10]](#footnote-9) (which would be an example of a “do”). On the other hand, treating services or products offered by gatekeeper platforms more favorably in comparison to those offered by other platforms which are similar would be an example of a don’t.

This act has thus set strict parameters for how gatekeepers are allowed to act when it comes to operations with other businesses, ensuring that they are not to abuse said power and take advantage of small business competitors. The commission has also established a set of penalties to ensure these guidelines are followed, such as fines of up to 20% of the company’s total worldwide annual turnover depending on the severity and frequency of infringements.[[11]](#footnote-10) The Act also allows the Commission to conduct market investigations “to ensure that the new gatekeeper rules keep up with the fast pace of digital markets.”[[12]](#footnote-11)

This act isn’t the only proactive measure the Commission has taken to regulate these companies. The Commission has also brought cases against big tech monopolies such as Google and Facebook. The Google and Alphabet v. Commission was a 2021 case, which convicted Google of abusing dominance as a search engine. The Commission found that Google was infringing Article 102 of The on the Functioning of the European Union (TFEU), alongside, an infringement of Article 54 of the Agreement on the European Economic Area (EEA).[[13]](#footnote-12) Article 54 prohibits “a*ny abuse by one or more undertakings of a dominant position within the territory covered by this Agreement or in a substantial part of it shall be prohibited as incompatible with the functioning of this Agreement in so far as it may affect trade between Contracting Parties.*”[[14]](#footnote-13) The Facebook case was also deemed to be in violation of Article 102 of TFEU and Article 54 of the EEA.[[15]](#footnote-14) The Commission stated that “*the company breached EU antitrust rules by distorting competition in the markets for online classified ads*.”[[16]](#footnote-15) Additionally, the Commission raised concern that “*Meta is imposing unfair trading conditions on Facebook Marketplace's competitors for its own benefit.*”[[17]](#footnote-16) In its preliminary hearings, the Commission deemed that Meta (Facebook) was dominant in the personal networks market, alongside the international market for online advertising. Therefore, the Commission established that Facebook was in violation of Article 102 and Article 54.

The European Commission is not alone, within the framework of the EU, to have undertaken steps to curb the Tech giant’s market dominance, as the Member States of the European Union themselves, such as France, have deployed legal instruments within their purview. Indeed, France has pushed for a digital tax to be imposed on big tech companies,[[18]](#footnote-17) nicknamed the “G.A.F.A. Tax” (acronym for Google, Apple, Facebook, and Amazon), “*will impose a 3% levy on the total annual revenues of the largest technology firms providing services to French consumers*”[[19]](#footnote-18).

The EU financial service “*is heavily regulated. Notably, the EU legislative framework represents a quite solid tool to address the concerns raised regarding the stability of the financial system and the lack of a level playing field among competitors*”.[[20]](#footnote-19) It is the EU’s acknowledgment of the lack of a level playing field among competitors which has fueled interest and desire to regulate big tech companies. Due to the constant evolution of technology, not just in the big tech sector, but also when it comes to FinTech firms has led to further work “*being conducted by EU supervisory and legislative authorities on the prudential risks and opportunities stemming from the use of new technologies*.”[[21]](#footnote-20) The European Union has taken proactive steps in numerous ways such as passing the Digital Markets Act and taking on multiple court cases which have directly prosecuted companies such as Facebook and Google.

Through these regulatory efforts, we can catch a glimpse into the European Union’s awareness of the risks posed by growing technologies and their purveyors, its awareness of the impact their products have on the citizens of the EU, and both consumers and States’ ever-increasing dependency on them. The EU seems to have takenit upon itself to show the world that increasing regulation is required for Big Tech companies to continue to help economies as competition is essential for economic growth as “*businesses will have greater incentives to lower prices, to improve the quality of their products and services, and to provide buyers with more options.”*

**IV. The United States and its relaxed approach**

In comparison to the European Union, the United States has taken a less regulatory approach when it comes to dealing with monopolization. This, of course, should not be taken to mean that there has not been regulation at all: over the years, numerous cases have been fought against US-based Big Tech conglomerates such as Google, Facebook, and Amazon, which faced accusations of monopolization and abuse of dominance. A prime example of such actions would be the Federal Trade Commission v. Facebook, Inc. case, in which Facebook was sued for illegally maintaining its personal social networking monopoly through a years-long course of anticompetitive conduct.[[22]](#footnote-21) In the trial, Facebook was alleged to have been performing and upholding a scheme whereby it strategically acquired rival companies such as Instagram and WhatsApp in an attempt to eliminate the possibility of threats to its monopolistic position.

Although a decision on the matter is yet to be reached, the case serves as an optimal representation of how the United States has been dealing with its issue over Big Tech conglomerates. The United States approaches monopolization on a case-by-case basis rather than passing laws that are binding on all companies. The United States does, of course, have some legislation on the matter, mainly in the form of the Sherman Antitrust Act[[23]](#footnote-22); this act was passed in 1890 and declares unlawful any person’s action to "*monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce among the several States, or with foreign nations*”[[24]](#footnote-23) Aside from the Sherman Antitrust Act, the US also has the Clayton Antitrust Act, and the Federal Trade Commission Act. The Clayton Antitrust Act prohibits *“certain actions that might restrict competition, like tying agreements, predatory pricing, and mergers that could lessen competition”.[[25]](#footnote-24)* On the other hand, the Federal Trade Commission Act allows the Commission to*“(a) prevent unfair methods of competition and unfair or deceptive acts or practices in or affecting commerce; (b) seek monetary redress and other relief for conduct injurious to consumers; (c) prescribe rules defining with specificity acts or practices that are unfair or deceptive, and establishing requirements designed to prevent such acts or practices; (d) gather and compile information and conduct investigations relating to the organization, business, practices, and management of entities engaged in commerce; and (e) make reports and legislative recommendations to Congress and the public.”[[26]](#footnote-25)* These acts monitor competition in the US and regulate how companies conduct business.

The application of the Sherman Antitrust Act to big tech monopolies can be seen in the U.S and Plaintiff States v. Google case.[[27]](#footnote-26) This case began in late 2020 when two lawsuits were filed alleging violation of the Sherman Antitrust Acts section 1 and 2 by Google. According to the US Department of Justice, Google had unlawfully used its distribution agreements to circumvent competition, and in turn, ensure that it maintains its monopoly in the search service and online advertising markets industries.[[28]](#footnote-27)

Google was convicted due to its anti-monopoly conduct in trying to eliminate competition through online advertising, which is in violation of the Sherman Antitrust Act Section 2, . The court held that Google has monopoly power in the general search service and general search text ad markets and that the distribution agreements Google holds have anticompetitive effects, to which the company hadn’t offered valid procompetitive arguments.[[29]](#footnote-28)

Importantly, the court also found that Google had exercised its monopoly power by charging super competitive prices for general search text ads, which allowed Google to earn monopoly profits[[30]](#footnote-29). This was hailed as an important victory in the US: *“This victory against Google is an historic win for the American people,”* said Attorney General Merrick Garland,[[31]](#footnote-30) as it established that regardless of the size of the company and its impact on the economy, it was not above the law, and its conduct had to be in accordance with the regulations in place. Additionally, the decision further reinforced that monopolistic practices undermine consumer welfare and fair competition, reaffirming that companies such as Google should be punished for such behaviour. Both the Facebook case and the Google decision demonstrate the steps the United States has been taking to limit monopolistic attitudes in technological companies.

It is significant to note that the United States has always followed a more *laissez-faire* approach, regulating on a case-by-case basis, rather than creating new laws to adapt in accordance with our society's changes. Another case that demonstrates this approach is FTC v. Amazon, in which the Federal Trade Commission (FTC), alongside attorney generals from 17 different states, sued Amazon, alleging illegal "*price spiking*."[[32]](#footnote-31) With this term, the FTC claimed that Amazon was using a secret algorithm that would lock competitors into higher prices. This algorithm is referred to as Project Nessie, which manipulates rivals' weaker pricing algorithms, in turn, locking competitors into higher prices.[[33]](#footnote-32) The algorithm was used for years to improve Amazon's profits and force competitors to raise their prices. The FTC claims that Amazon had thus violated major antitrust laws such as the Sherman Antitrust Act, the Clayton Antitrust Act, and the Federal Trade Commission Act. Alongside the statutes mentioned above, there are also several antitrust State laws that companies have to abide by such as the Washington State Consumer Protection Act which states that it “*shall be unlawful for any person to monopolize, or attempt to monopolize or combine or conspire with any other person or persons to monopolize any part of trade or commerce.”*

The United States thus does not have any general laws that have been developed recently as a response to the growth in big tech companies like the EU Digital Markets Act, but rather they fight monopolization on a case-by-case basis. The US has acts that limit competition as a whole and which companies have to abide by, under threat of e legal and even criminal prosecution.

**V. Conclusions**

Both the European Union and the United States have clearly taken steps to adapt their antitrust disciplines to limit Big Tech companies' ever-increasing attempts at concentrating power and preventing them from monopolizing their market sector; in doing so, however, their approaches have clearly differed.

The European Union has taken a proactive approach in lockstep with the recent growth of technology: acts and regulations have been passed to combat the growth of companies. As mentioned above, legislation such as the Digital Markets Act has been passed to prevent monopolization, in a more concerted general effort to ensure the European market’s fairness and prevent small competitors from being harmed.

On the other hand, the US has kept on relying on a reactive approach, taking on individual cases rather than passing laws of general effect and broad applicability to prevent anticompetitive conduct and monopolizing tendencies. The cases brought against Amazon, Google, and Facebook all occurred after they were suspected of illegal conduct, and yet no laws or acts were passed beforehand or afterward to prevent said conduct.

This difference in approaches is also certain to lead to a difference in outcome. For instance, the European Union's regulation is immediate and follows strict regulations with large fines and penalties, which can quickly change how the market functions for companies, as its dynamics could be changed very quickly and prompt smaller businesses or competitors to enter the field or acquire power. This can be seen in the Digital Markets Act alongside multiple high-profile antitrust cases.

On the other hand, the US case-by-case approach will most likely have an impact in the long term. The US fighting against monopolization on a case-by-case basis rather than establishing strict regulation is meant to prevent the stifling of creativity and allow companies room to grow and create, whereas legislation such as the one established in the EU may limit that creativity as there are strict rules that have to be followed constantly, the US only limits companies once they have broken a rule. This, however, may allow monopolistic behaviors to be sustained over prolonged periods of time.

The impact of these approaches on big tech companies is undeniable. The European Union has levied multi-billion dollar fines, which have caused significant damage to Tech companies. These measures may diminish the dominance of these US-based tech giants, and allow for European-based companies to grow and compete. However, they are running the risk of stifling innovation due to the financial burden of developing in the EU. Meanwhile the US approach, which places a bigger emphasis on innovation, gives Tech companies an advantage in their attempt to completely monopolize their sectors. The differing approaches in large part stem from a historical basis, the US’ more relaxed attitudes to monopolistic conduct are rooted in the Sherman Antitrust Act, which focused on fostering innovation and low prices. On the other hand, the EU is influenced by the post-World War II economic climate, with a focus on preventing market dominance and ensuring fairness.

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