

# Momentum grows for a digital watchdog to regulate tech giants

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With Big Tech accused of everything from decimating industries to abusing privacy, calls are growing for the creation of a federal regulator.

Presidential candidates, [consumer advocates](#) and some [antitrust enforcers](#) have focused on breaking up Amazon.com Inc., Apple Inc., Facebook Inc. and Alphabet Inc.'s Google—or at least forcing them to unwind past acquisitions. Yet those moves could take years and face lengthy court challenges.

The desire for faster action is fueling demands for a new agency to oversee the industry, an idea that's gaining traction among liberal and free-market economists in the U.S., Europe and Australia. They say there's plenty of precedent: The U.S. and other countries have watchdogs for specific industries, such as aviation, medicine, financial services and the environment, so why not digital markets?

Advocates say a digital regulator could referee disputes between competitors, set standards for privacy, make it easier to move one's data between networks, and make sure the biggest companies aren't squelching innovation or smothering potential rivals.

"If the search engine discriminates against you vigorously enough, you're not alive for very long," said Fiona Scott Morton, a Yale University economist and a former antitrust official at the Justice Department. "You need a regulator to be alerted to the problem on Monday and be able to have a hearing the next Monday, figure it out and keep the victim alive rather than taking two or three years to bring a case."

The European Union on Tuesday took a big step in this direction when the president-elect of the EU Commission enlarged the portfolio of Margrethe Vestager, one of the world's toughest antitrust regulators as the bloc's competition commissioner. As the head of digital affairs, she will oversee such matters as big data, innovation, cybersecurity and artificial intelligence, along with antitrust.

In the U.S., efforts to establish such an agency would be met with many

obstacles. Republicans, who opposed the creation of the Consumer Financial Protection Bureau in 2010, would likely fight another bureaucracy. Democrats may see it as diluting antitrust inquiries. The [tech companies](#), too, would likely try to stop it. An agency with the power to require changes to their business practices could be even more threatening to their bottom lines than budding federal and state antitrust investigations.

Besides Scott Morton, who led a University of Chicago panel that produced a report on the digital economy in July, supporters include Jason Furman, President Barack Obama's former chief economic adviser who was the lead author of a similar study for the British government.

President Donald Trump might welcome a digital authority, which could also monitor social-media companies for alleged bias. He has been a persistent critic of Facebook, Google and Twitter Inc. for what he says is suppression of conservative political opinions, a charge the companies have denied.

It's notable that a digital agency was a key proposal in the report by the University of Chicago's Stigler Center for the Study of the Economy and the State. The so-called Chicago School's laissez-faire thinking on antitrust has dominated the approach of courts and enforcers since the 1970s. Many experts now think that stance went too far, clearing the way for industry overall to become more consolidated and for the tech giants to rise.

To foster more competition, a digital agency could, for example, mandate that companies can't discriminate against rivals that operate on their platforms. It might ban Amazon, on which many third-party merchants depend to sell their goods, from punishing a successful outside vendor by pushing it down in its search rankings. Or it might require that Apple lower its fee for app store purchases of third-party

services, such as Spotify Technology SA's music-streaming service, which competes with Apple Music.

A digital authority was also the central recommendation in Furman's report. The U.K.'s competition authority in July said a new regulator might be needed to police the digital platforms, mirroring Furman's recommendations. A version is under consideration in Australia, whose competition commission also issued a similar report in July.

Some American lawmakers are warming to the idea, including Senator Lindsey Graham, a South Carolina Republican and chairman of the Judiciary Committee, who is a close ally of Trump's. "It seems that a regulatory body is the right way to go," Graham told reporters after a hearing on technology and competition in May.

Even Facebook's Chief Executive Officer Mark Zuckerberg has called for global regulations on data ownership by consumers, policing harmful content, protecting the integrity of elections and guarding privacy rights. Erin Egan, Facebook's chief privacy officer, last week outlined areas where a regulator or other outside group could help improve choice and promote innovation—two goals of antitrust enforcement.

A regulator could oversee data portability, in which consumers move their data from one social-media site to another. It could establish standards to make sure Facebook users who want to move to an alternative network can easily take their lists of friends, photos and posts with them. Congress did something similar when it passed the 1996 Telecommunications Act, which forced carriers to let consumers keep their phone numbers when switching networks.

A related idea would have digital companies pay consumers for the use of their data. California is looking into it, while Democratic Senator Mark Warner of Virginia and a Republican colleague, Josh Hawley of

Missouri, back legislation that would make companies publicize the value of the data they hold. If consumers are going to own and sell their own data, a regulator would have to set up a marketplace and establish basic rules.

Facebook and Google say users can already download their data for personal use, but critics have said the process is too cumbersome, or the data that users are allowed to move is too limited, to represent true portability.

All four companies have also said they face robust competition and don't monopolize their respective markets or block access to their platforms by competitors.

Amazon spokesman Jack Evans said the company represents 1% of global retail, including e-commerce and brick-and-mortar stores, and that it depends on third-party sellers for its success.

Apple referred to July testimony before the House antitrust panel by a company vice president who said Apple runs a fair marketplace that has allowed apps, including Spotify, to succeed, and that its own apps face tough competition.

Some doubt a single regulator could tackle the diversity of issues involved. "The fact that the businesses are so different and that we would try to slam them all together in some sort of tech regulator" seems an impossibly hard legislative challenge, said Neil Chilson, a former Federal Trade Commission official who now serves as a senior research fellow in technology at the libertarian Charles Koch Institute. "It's just not clear to me how you achieve that."

Such hurdles aren't stopping digital agency proponents. Some are calling for urgent action not just to end the tech giants' dominance but also to

prevent them from controlling the next tech revolution—artificial intelligence and machine learning.

"In every society a lot of the same issues are bubbling up," said Gene Kimmelman, one of the authors of the University of Chicago report and a former Justice Department antitrust official. "It's going to take quite a bit more than antitrust to actually drive competitive forces in these markets," he added.

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