

Big Tech's Big-Time, Big-Scale Problem

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## Summary

High-tech and network industries have a long history of evoking populist scrutiny. New technologies frequently disrupt incumbent, often less centralized, business models and interfere with existing relationships between sellers and consumers. Inevitably, the paradigmatic small-town buggy manufacturer displaced by technological advance directs his ire against the large, distant car companies that make the automobiles responsible for his demise. Even consumers and business owners who benefit from enhanced efficiency or entirely new and beneficial products often end up feeling dependent on them. Adding to that a distrust of firms that operate in geographies or at scales that are distant from typical consumer experiences, critics express their concerns about firms with a single heuristic: big is bad.

Although often framed in more complex antitrust terms — large firms are accused of employing anticompetitive business practices, including the development of “predatory” innovations designed to expand their reach and thwart potential competition, for example — populist antipathy is, at root, fundamentally about the “bigness” of these high-tech firms. Companies that owe their success — and their size — to clever implementations of innovative technologies are ultimately decried not for their technology or their business models but for their expansive operations. Standard Oil, AT&T (in the early 20th century), IBM, AT&T (in the late 20th century), Microsoft, and, most recently, Google, Facebook, Amazon, and (once again) AT&T have regularly found themselves in the crosshairs of antitrust enforcers for growing large by besting (and, often, buying) their competitors.

The size of these companies — among the largest in the American economy — endows them with the superficial appearance of market power, providing competitors and advocates with a rhetorical basis for antitrust action against them. But their problems also extend beyond mere allegations that they are too large: in each case, these companies have also engaged in some conduct disfavored by powerful political actors. The appearance of market power and the firms' problematic-to-some conduct give rise to calls to use antitrust law to regulate their behavior — or, perhaps most troubling, to constrain their perceived power by breaking them up.

This article is not an apologia for the bad acts of the modern tech industry. There is no question that some of today's largest companies have transformed society and the economy over the years (not necessarily always for the better) and have engaged in arguably

troubling conduct in the process. But whatever the beliefs of those calling for the breakup of Big Tech, the question remains whether it is wise to shoehorn broader social and political concerns into the narrow, economic remit of antitrust law.

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