



November 2020

Justice for Big Tech

In 2019 during her campaign to become the Democrat nominee for President, Sen. Elizabeth Warren promised to use the antitrust laws to reverse “illegal and anti-competitive tech mergers.”¹ As examples, she cited Amazon’s merger with Whole Foods, Facebook’s merger with Instagram, and Google’s merger with DoubleClick. “To restore the balance of power in our democracy,” she wrote, “to promote competition, and to ensure that the next generation of technology innovation is as vibrant as the last, it’s time to break up our biggest technology companies.”²

More recently, Sen. Ted Cruz has claimed that Big Tech is censoring conservative content. “Big Tech is out of control,” he said, “filled with hubris and flagrantly silencing those with whom they disagree.... These actions don’t just threaten our First Amendment rights and free speech. They threaten the integrity of our elections and the future of our democracy.”³ He has implied that the government use antitrust laws to break up Big Tech in order to foster free speech:

[I]f you look at the Big Tech giants, you look at Google, YouTube, Facebook, Twitter, they have power. They have a market cap that by any measure, they’re bigger and more powerful than Standard Oil was when it was broken up under the antitrust laws.⁴

When an unabashed Progressive like Warren and a staunch conservative like Cruz agree on an issue, one might be inclined to think that we have entered the Twilight Zone. But this isn’t an eerie tale from Rod Serling. It is a real, bi-partisan campaign against some of the nation’s largest and most successful technology companies.

Companies like Google, YouTube, Facebook, and Twitter have created new ways for us to obtain and disseminate information. They have provided us with innovative ways to communicate, learn, and be entertained. They have changed our lives for the better.

If we follow the advice of Sen. Warren and Sen. Cruz, these companies will be dramatically altered. Indeed, the very reason for breaking them up is to force them to alter their business operations. They will no longer be able to provide us with the same values that they currently do. Our lives will again be changed, and there is no guarantee that it will be for the better.

United States Senators are neither infallible nor omniscient. Nor are they experts on every issue with which they deal. What if Warren’s claim that breaking up Big Tech will increase competition and

1. Sen. Elizabeth Warren, “Here’s how we can break up Big Tech,” Medium.com, March 8, 2019, <https://medium.com/@teamwarren/heres-how-we-can-break-up-big-tech-9ad9e0da324c>

2. Ibid.

3. Sen. Ted Cruz, “Sen. Cruz Joins Parler, Says Bick Tech Has Stacked the Deck Against the American People,” Cruz.Senate.gov, June 25, 2020, https://www.cruz.senate.gov/?p=press_release&id=5218

4. Sen. Ted Cruz, “Sen. Cruz: Big Tech is Drunk on Their Power,” Cruz.Senate.gov, October 16, 2020, https://www.cruz.senate.gov/?p=press_release&id=5430

innovation is wrong? What if Cruz's claim that breaking up Big Tech will protect free speech is wrong? What if the promised benefits never materialize? Would we be doing justice in breaking up Big Tech?

If we want to make the best policy decision possible, then we must not side with Warren or Cruz simply because we agree with their political philosophy. We must look at the full context. We must be clear on what concepts such as competition, innovation, and free speech really mean. We must identify and examine the implications of using the antitrust laws to break up Big Tech. We must look beyond the immediate perceived problem and consider the long-term consequences. And, if possible, we must look at the track record of government promises and innovation.

However, before we begin to analyze the issue objectively, we must first name our standard. We must identify the goal or value that we seek. If we choose an improper standard, then we are unlikely to make the best possible decision. We will be pursuing the wrong thing. So, let us now turn to the standard advocated by Warren and Cruz and determine whether that standard is proper or flawed.

The Standard

The stated purpose of the antitrust laws is to promote competition and prohibit actions that are deemed to restrain trade. Section 1 of the Sherman Antitrust Act states, "Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is declared to be illegal." Section 2 states, "Every person who shall 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, shall be deemed guilty of a felony...."

Many who call for the breakup of Big Tech argue that these companies are restraining trade and engaging in anti-competitive activities. Using the antitrust laws, they claim, is necessary to foster competition and innovation. Warren has written, "The government's antitrust case against Microsoft [in the 1990s] helped clear a path for Internet companies like Google and Facebook to emerge."⁵ Similarly, Will Chamberlain, publisher of *Human Events*, wrote that antitrust is "one of the few remaining pathways to a robust free market in digital technology."⁶ But are these claims true?

The website for the Federal Trade Commission (FTC) states, "The FTC takes action to stop and prevent unfair business practices that are likely to reduce competition and lead to higher prices, reduced quality or levels of service, or less innovation."⁷ The site goes on to say,

It is unlawful for a company to monopolize or attempt to monopolize trade, meaning a firm with market power cannot act to maintain or acquire a dominant position by excluding competitors or preventing new entry. It is important to note that it is not illegal for a company to have a monopoly, to charge "high prices," or to try to achieve a monopoly position by aggressive methods. A company violates the law only if it tries to maintain or acquire a monopoly through unreasonable methods.⁸

According to the FTC, it is legal to achieve a monopoly position, so long as one does not do so through "unreasonable" methods. Unfortunately, the FTC does not offer a definition of "unreasonable" methods. Which means, a business has no way to know if its methods are reasonable or unreasonable, an aggressive method or an anti-competitive method, until a court announces its verdict. Which means, a business has no way to know if its methods are legal or illegal until long after the fact.

5. Warren.

6. Will Chamberlain, "Use Antitrust Against Big Tech," *Human Events*, July 27, 2020, Use Antitrust Against Big Tech

7. "Anti-competitive Practices," Federal Trade Commission, <https://www.ftc.gov/enforcement/anticompetitive-practices>

8. Ibid.

Nobody would claim that Big Tech hasn't used aggressive methods to achieve their dominance. Successful companies often use aggressive methods to expand. But according to their critics, they have crossed that invisible, undefined, and undefinable line that separates aggressive methods from unreasonable methods.

Those who defend antitrust laws ignore a crucial fact about competition and private businesses. Competition occurs when two or more individuals (or businesses) produce and trade the same (or similar) values. No business can prevent others from entering a market and competing. Yahoo! couldn't prevent Google from offering a competing search engine. And Google can't prevent DuckDuckGo from developing a rival search engine. MySpace couldn't prevent Facebook from developing a different social media platform. And Facebook can't prevent Parler from offering an alternative platform.

Certainly, Google, Facebook, and the other tech giants have a competitive advantage over competitors and would-be competitors. Google, for example, has spent more than twenty years perfecting its algorithms and data collection methods. It has expertise and resources that a startup doesn't have. So? Google earned its competitive advantage, and it is an advantage that others haven't earned. That isn't anti-competitive; that is the epitome and result of competition.

Despite the claims of its advocates, antitrust doesn't promote competition. As evidence, consider the fact that the Big Tech companies have competed against numerous rivals and have emerged as the dominant companies in their respective sectors. They have competed extremely well. But to antitrust advocates, they have competed too well. And for that, they should be broken up. In other words, the "reward" for competing well is to be declared in violation of the antitrust laws. In the name of promoting competition, antitrust punishes those who compete too successfully. This is the type of contradiction that can emerge when one chooses the wrong standard, and competition is the wrong standard. What then, is the proper standard?

Competition occurs when someone thinks that he can produce and trade a value in a better way than others currently are. He may offer lower prices, better service, a product with more features, or something else that he thinks individuals want or need. Competition is possible only when individuals are free to produce and trade values as they think best. And this means a free market.

In a free market, each individual can produce and trade as he judges best. Each individual is free to choose what to produce, as well as the terms and conditions for trading those values. And other individuals are free to accept those terms and conditions or reject them. In a free market, all transactions and interactions require the voluntary consent of the parties involved.

A free market is the economic/political implementation of an individual's moral right to take the actions he thinks best to sustain his life. The proper standard when judging any political policy is individual rights including property rights. A policy that violates an individual's rights to act on his own judgment is improper. A policy that protects an individual's right to act as he deems reasonable is proper.

The antitrust laws do not protect an individual's economic freedom. They do not promote, as Will Chamberlain claims, "a robust free market." Quite the contrary. In a free market, economic activities are voluntary and consensual, with each individual acting as he thinks best. But antitrust declares that some economic actions are illegal, even if all of the parties involved consent to that action. Antitrust laws declare that individuals can't act on their judgment, but must defer to the judgment of bureaucrats and politicians.

If we want to make good policy decisions regarding Big Tech (or any political issue), then individual rights must serve as our standard. Only then can we begin to properly analyze the issue. Only then can we look at the full context clearly and objectively.

The Full Context

The advocates of breaking up Big Tech claim that many benefits will result. Warren, for example, claims that a break up will promote competition and innovation. Cruz and other conservatives claim that it will protect free speech and the integrity of our elections. And while these promised benefits are certainly desirable, we cannot consider them out of context. We must identify what these concepts mean and what social conditions give rise to them. Only then can we determine if breaking up Big Tech will actually achieve these results.

We have already seen that competition is a consequence of a free market. In a free market, the right of individuals to act on their own judgment is protected, regardless of who or how many may disagree with their judgment. In a free market, individuals are free to create, trade, and use the values of their choosing.

A free market is a pre-condition for economic competition. The same is true of innovation.

An innovation is a new idea, process, or product. It is something that hasn't been created previously. The very nature of innovation challenges the conventional wisdom and the status quo. Thomas Edison and Steve Jobs—two of the greatest innovators in history—did things that others said was impossible. They were able to do so because they were free to act on their own judgment, even when the experts said that they were on a fool's errand. Innovators do not take opinion polls to determine what is true; they trust their own judgment. But they cannot innovate if they cannot act on their judgment. They cannot innovate if their judgment is subservient to that of others.

Innovation occurs when individuals are free to try new ideas and produce new or better values. Innovation cannot and does not occur when individuals aren't free to try new ideas and act accordingly. Innovation is possible only when minds are free to conceive new ideas and act on them.

Twitter stands as a telling example. When Twitter was launched in July 2006, it was unlike anything that had ever existed. Unlike Google and Facebook, Twitter wasn't entering a market with other competitors. It was creating something so unique that the founders weren't even sure what market they were entering. Evan Williams, one of the founders, later said, "From early on, we didn't know what it was: a social network; microblogging was a thing a lot of people called it."⁹

When Twitter was first introduced publicly, a tweet (a Twitter message) was limited to 140 characters, which is the number in this sentence. It was a quirky product, and the character limitation made long messages impossible.

Like many new technologies, convincing individuals to use Twitter was a slow process. Nine months after its launch, only twenty thousand tweets a day were being sent. Today, an average of six thousand tweets are sent every second! But because the founders were free to try a new idea, even an idea as peculiar as Twitter, they were able to innovate and offer individuals a new way to communicate and share ideas.

Jeff Bezos provides a similar example. In his 2019 letter to shareholders, he wrote about the Amazon Echo:

Market research doesn't help. If you had gone to a customer in 2013 and said, "Would you like a black, always-on cylinder in your kitchen about the size of a Pringles can that you can talk to and ask questions, that also turns on your lights and plays music?" I guarantee you they'd have looked at you strangely and said, "No, thank you."¹⁰

9 Kevin Maney, "Why Twitter Is More CB Radio Than Uber," Newsweek, August 8, 2015, <https://www.newsweek.com/2015/08/21/why-twitter-more-cb-radio-uber-361187.html>

10. Catherine Clifford, "Jeff Bezos and Steve Jobs agreed this counterintuitive advice is key to legendary success," CNBC, April 15, 2019, <https://www.cnbc.com/2019/04/15/jeff-bezos-and-steve-jobs-counter-intuitive-advice-is-key-to-success.html>

In the past six years, Amazon has sold more than 100 million Echos. Bezos knew that the Echo was a potentially crazy idea. But like the founders of Twitter, he was free to try it and tens millions of people have benefited from that innovation.

Even their detractors acknowledge that Big Tech companies have been remarkably innovative. However, the reason is not, as Warren claims, because Microsoft was prosecuted for antitrust violations. The reason is because Big Tech has been relatively free to conceive new ideas and then act on them. They have been free to innovate. But antitrust makes it illegal to act on certain ideas, even when they violate nobody's rights.

Antitrust laws do not promote competition, innovation, or free markets. Antitrust is an intervention in the market. Under antitrust, individuals cannot engage in certain types of actions, even when all parties involved do so knowingly and voluntarily. They are not free to act on their own judgment, but can only act in a manner deemed reasonable by government officials. When individuals cannot act on their own judgment, both competition and innovation are stifled.

Critics argue that Big Tech companies stifle innovation and competition by buying other technology companies. Warren, for example, writes, "As these companies have grown larger and more powerful, they have used their resources and control over the way we use the Internet to squash small businesses and innovation, and substitute their own financial interests for the broader interests of the American people."¹¹ Despite using this claim to justify breaking up Big Tech, Warren offers no evidence to substantiate it.

As of December 2016, Google had acquired more than two hundred other companies. But these acquisitions did not squash innovation. Many of Google's products were originally developed by companies that Google later bought. Google's acquisition brought those products to more people than the developing company could have. In other words, Google has made innovations more widely available.

At the same time, Google provides a motivation to innovators to develop new products and services. Google has made a lot of innovators very wealthy through its acquisitions. As one example, in 2012 it bought Viewdle for \$45 million to acquire facial recognition software to use in Google's image search. In addition, Google's Android operating system provides software developers with an unlimited opportunity to develop a new and innovative product and reach a market far larger than they could on their own. Rather than squash innovation, Google has helped spur and spread innovation.

But let us assume for a moment that Google decided to "squash" a particular innovation—buy a company and do nothing with its technology. Such an action would do nothing to stop others from developing a similar or better technology. Indeed, Google can't stop anyone from innovating or competing. But breaking up Google will stop the company from spurring and spreading innovations.

The fact is, a free market, and only a free market, provides the social conditions necessary for competition and innovation. Only a free market provides the conditions in which innovators can try daring and crazy ideas. Only a free market provides the conditions in which innovators can prove their critics wrong and make everyone's lives better. And only a free market provides the conditions in which free speech is possible.

Ayn Rand wrote, "*Intellectual* freedom cannot exist without *political* freedom; political freedom cannot exist without *economic* freedom; *a free mind and a free market are corollaries.*"¹² Economic freedom means the recognition and protection of property rights—the freedom to create, use, keep, and trade values as one judges best. It means the freedom to create a new widget and sell it to willing buyers. It

11. Warren.

12 .Ayn Rand, "For the New Intellectual," *For the New Intellectual*, p25, http://aynrandlexicon.com/lexicon/free_market.html

means the freedom to set terms and conditions which others must abide by if they enter your place of business. It means the freedom to get “stuff” and do with as one chooses, so long as one respects the freedom of others to do the same.

Without property rights, free speech cannot and does not exist. The right to property protects the freedom of a publisher to print ideas others disagree with. The right to property protects the freedom of a broadcaster to air controversial ideas. The right to property protects the freedom of a lecture hall owner to invite only those with whom he agrees. The right to property protects the freedom of the owner to use his property as he thinks best, including his freedom to support and disseminate the ideas of his choosing.

Free speech does not mean that others must provide one with a printing press, a microphone, or a lecture hall. It means that one can express his ideas without penalty from the government.

It is not censorship to refuse to support ideas one does not agree with; it is an application of property rights and the right to free speech. A private business cannot engage in censorship. It can only refuse to use its property to print, air, or provide a forum for those with contrary views. A private business cannot prevent others from expressing their ideas through other means. Only government can. A private business cannot imprison those who express ideas that it disagrees with. Only government can.

Ted Cruz and other conservatives claim that Big Tech is guilty of censorship for suppressing conservative content. But the fact that Facebook or Twitter remove posts about certain stories doesn't prevent individuals from sharing those stories elsewhere. Indeed, while Cruz was claiming censorship of a story about Hunter Biden, talk radio, blogs, and websites were telling their audiences about it. Facebook and Twitter did not and could not censor the story and prevent it from being shared.

To equate the actions of a private party with the actions of government is to ignore the difference between the voluntary and the coercive. Facebook and Twitter can determine how others may use their platforms. Facebook and Twitter can establish terms and conditions for using their platforms, including the type of content that can be posted. Users are free to accept those terms and conditions or use other social media websites. But Facebook and Twitter cannot dictate the terms and conditions for other platforms or property owners.

Cruz and other conservatives want to dictate how Big Tech uses its property. They want to force Big Tech to allow certain ideas to be expressed on their platforms, regardless of the desires of the owners. To force a property owner to support ideas that he does not agree with is to violate *his* right to free speech. It is a veiled effort to re-institute the Fairness Doctrine.

In 1949, Federal Communications Commission (FCC) issued the Fairness Doctrine. This policy required broadcasters to present controversial issues of interest to the public, and to present both sides of the issue in a manner that was “fair and equitable.” Broadcasters were forced to use their property to air ideas that they did not agree with.

The policy was rescinded in 1987, and it ushered in conservative talk radio. Radio station owners could air three hours of Rush Limbaugh, and they were no longer forced to air three hours of Rachel Maddow to meet the dictates of the Fairness Doctrine. Station owners were free to use their property as they thought best, and that included the freedom to air those who expressed ideas that they agreed with.

Today, conservatives want the equivalent of a Fairness Doctrine for Big Tech. They want to force Facebook, Twitter, and other tech companies to present both sides of an issue in a manner that is fair and equitable. And they are doing this in the name of free speech.

Free speech means the freedom to express one's ideas without penalty from the government. It also means the freedom to refrain from expressing ideas one does not agree with and not be penalized by the government.

The attacks on Big Tech are not about competition, innovation, or free speech. They are about power. Warren, Cruz, and other critics of Big Tech think that certain companies have too much power. These critics are equating economic power with political power.

Economic power is the power to produce and trade. It is the power that results when one produces values that individuals want or need. Economic power is the result of the voluntary choices of individuals and businesses.

That Big Tech has enormous economic power is indisputable. Those companies make huge profits and are among the top companies in market capitalization. But that power was earned by producing and trading values. They have not and cannot force anyone to use their products or pay them money.

Political power is government's monopoly on the legal use of force. Only government can legally detain or incarcerate individuals. If an individual does so, he is guilty of kidnapping. Only government can legally seize an individual's property. If an individual does so, he is guilty of theft. Only government can legally use force. If an individual does so, he is a criminal.

The difference between economic power and political power, wrote Ayn Rand, is that

economic power is exercised by means of a *positive*, by offering men a reward, an incentive, a payment, a value; political power is exercised by means of a *negative*, by the threat of punishment, injury, imprisonment, destruction. The businessman's tool is *values*; the bureaucrat's tool is fear.¹³

Big Tech has produced values that tens of millions want. Warren, Cruz, and their ilk are using the threat of breakups, fines, and imprisonment. Big Tech has economic power, but no political power. It cannot punish or imprison its critics and detractors. Warren and Cruz can.

While denouncing the economic power of Big Tech, critics want to unleash political power on those companies and their leaders. In October 2020, Cruz sent letters to Mark Zuckerberg of Facebook and Jack Dorsey of Twitter. He demanded that they immediately explain to the Senate Subcommittee on the Constitution who was responsible for suppressing certain stories and the basis for those decisions.

Cruz did not explain why the subcommittee needed to know about the internal policies and operations of a private business. To Cruz, such explanations aren't necessary. He can issue orders, and he expects businessmen to rush across the country to grovel at his feet. Cruz offered no values to Zuckerberg and Dorsey for attending his hearing. The only motivation to attend was the fear of what Cruz could do if they didn't attend or he did not like their answers.

Despite all of the platitudes about competition, innovation, and free speech, the critics of Big Tech are not after any of these things. They seek to use political power to control economic power. And they want to do so in pursuit of their own political agendas.

For Warren and other Progressive detractors of Big Tech, the goal is to place the production of values under control of "the people." She writes that large technology companies "wield so much power that they can undermine our democracy." Breaking up Big Tech will "restore the balance of power in our democracy...."¹⁴ She laments the fact that a small number of people—the leaders of Big Tech companies—"have enormous power over our digital lives."

Warren ignores the fact that the power Big Tech has is the cumulative choices of tens of millions of people. Each individual who uses their products and services has made an economic vote based on their own individual economic power. Each individual who uses Facebook, Twitter, or any other product is voting for the success of that company because of the values offered. It is a truly democratic

13. Ayn Rand, "America's Persecuted Minority: Big Business," *Capitalism: The Unknown Ideal*, p47, http://aynrandlexicon.com/lexicon/economic_power_vs_political_power.html

14. Warren.

vote, in which each individual votes within the scope of his knowledge, interests, and values. And he can't impose his judgment on others.

But Warren doesn't want individuals to be limited by their economic power. She wants legislators such as herself to be able to use political power to control economic power. She wants voters to sanction her envious call to break up Big Tech.

Cruz and other conservatives have a much different agenda. For example, FCC Commissioner Brendan Carr, said, "By silencing core political speech on this important story [regarding Hunter Biden], I think Big Tech has crossed a line. For those of us in the conservative movement, we've long been talking about the need to rein in Big Tech."¹⁵ Will Chamberlain believes that Big Tech threatens the very existence of the conservative movement. He writes that the market power of Big Tech, "combined with these platforms deep, entrenched anti-conservative bias—presents a profound threat to the conservative movement."¹⁶ The solution is to unleash the coercive power of government by using the antitrust laws.

Chamberlain offers this solution while claiming that conservatives support free speech:

Today's conservative movement has become a bastion for free expression and ideological experimentation; we zealously guard the marketplace of ideas as much as we do free enterprise. But that political project is jeopardized in a world where all of that speech can only happen on platforms that harbor deep anti-conservative bias. In fact, we exist in a digital marketplace where we couldn't even leave these major platforms if we wanted to—Big Tech's monopoly power stymies the potential for conservative-led startups and small businesses.¹⁷

Apparently, Chamberlain's support for free expression and ideological experimentation extends only to those with whom he agrees. He thinks it fair to force Big Tech to act contrary to their own ideas.

Further, Chamberlain claims that Big Tech makes the expression of conservative ideas impossible. This claim is ludicrous, for he publishes a web magazine with a conservative slant. Big Tech cannot and does not stop him or any other conservative from expressing their views.

Nor can Big Tech stop conservative alternatives. Parler, for example, was launched in 2018 as a conservative alternative to Facebook. In June 2020, Cruz joined Parler, saying, "This platform gets what free speech is all about, and I'm excited to be a part of it. Let's speak. Let's speak freely."¹⁸ Cruz, like Chamberlain, supports free speech for those with whom he agrees, but not for those with different views.

Despite their pretense, neither Progressives nor conservatives want individuals to be free to act on their own judgment. They want government to dictate and regulate what individuals may do. They want government in control.

If we want to make good policy decisions regarding Big Tech, then we must look beyond the claims of those who want to break up companies. It is easy to make claims of great benefits from a particular policy, but that does not mean that those benefits will actually materialize. Consider, for example, the story of the AT&T monopoly. That story provides an illuminating example of broken promises from public officials and the negative impact on innovation.

15. Talia Kaplan, "Big Tech's censorship of Hunter Biden report is a violation of speech: FCC Commissioner," FoxBusiness.com, October 15, 2020, <https://www.foxbusiness.com/technology/facebook-twitter-censorship-hunter-biden-report>

16. Chamberlain.

17. Ibid.

18. Sen. Ted Cruz, "Sen. Cruz Joins Parler, Says Big Tech Has Stacked the Deck Against the American People," Cruz.Senate.gov, June 25, 2020, https://www.cruz.senate.gov/?p=press_release&id=5218

Broken Promises and Innovation

When Alexander Graham Bell's telephone patents expired in 1884, thousands of competitors entered the market and the price of telephone service dropped. In Michigan alone, about two hundred companies were offering telephone service by 1900.

American Telephone and Telegraph (AT&T), which was the main company of Bell's business, began buying out rivals in response to the increased competition. As AT&T's dominance of the industry grew, federal authorities started an antitrust investigation against the company. In 1913, company officials proposed a compromise, which came to be called the "Kingsbury Commitment."

Theodore Vail, AT&T's president at the time, argued that telephone service could be provided more efficiently by one company. His motto was "One Policy, One System, Universal Service." AT&T would provide universal phone service and in exchange be granted a government protected monopoly.

Public officials soon embraced Vail's proposal. For example, a report in 1921 by the Michigan Public Service Commission stated, "Competition resulted in duplication of investment," and that state governments were justified to prohibit competition in phone service.¹⁹ That same year, a report from the United States House of Representatives similarly concluded, "There is nothing to be gained by local competition in the telephone business."²⁰ Establishing a telephone monopoly had broad political support.

AT&T's motivation was the elimination of competition. And the company was successful. Until the early-1980s, AT&T controlled more than 80 percent of the telephone business. Competition in the telephone industry was illegal.

During the decades of the AT&T monopoly, innovation was virtually non-existent. Consumers could not own their phone and could only rent equipment from the telephone company. It was illegal to modify telephone equipment, which even included a prohibition on putting a protective cover on the phone book! Telephones had few features, and consumers had virtually no choice in regard to service plans. The government protected monopoly did what it wanted, and consumers had no choice in the matter. There was nobody else to call, both literally and figuratively.

With competition prohibited, AT&T had no incentive to innovate. There were no competitors offering less expensive service plans. There were no competitors offering telephones with added features. And with no incentive to innovate, phone service and equipment remained nearly stagnant for decades. For seventy years—nearly three generations—telephone service remained virtually the same because the social and political conditions necessary for innovation did not exist. That began to change in the mid-1980s when the government broke up AT&T and ended the government protected monopoly (which never should have existed). The break-up had almost immediate effects.

The first innovations in telephone service came in long-distance service. Within a few years of the breakup of AT&T's monopoly, companies such as MCI and Sprint, along with hundreds of others, were offering long-distance service with a variety of plans. The new companies were charging 25 percent to 30 percent less than AT&T.²¹ The success of the new phone companies is testimony to the fact that innovators were quick to respond to their freedom to offer new services and consumers were eager to exercise their freedom to choose.

19. Diane S. Katz and Dr. Theodore Bolema, "Crossed Lines: Regulatory Missteps in Telecom Policy," December 3, 2003, <http://www.mackinac.org/6033>

20. Ibid.

21. William R. Greer, "Long Distance Lines: Making Right Choice," *New York Times*, December 14, 1985, <http://www.nytimes.com/1985/12/14/style/long-distance-lines-making-right-choice.html>

It wasn't long before consumers had other choices. Freed from arbitrary government restrictions, a multitude of manufacturers began offering phones with added features, such as call waiting, re-dialing, and answering machines. In the ten years after the break-up of the telephone monopoly, consumers saw more innovations than AT&T had introduced in seventy years. But the innovations were only beginning.

Mobile telecommunications were first introduced in the 1940s. However, the mobile equipment was large, expensive, and had to be installed in an automobile or other vehicle. The available service area was very limited. In 1973, Motorola introduced the first handheld mobile phone, but it wasn't until the 1980s that a widely deployed cellular system was available in the United States.

During the 1990s, innovations in cellular technology began to accelerate. Second generation (2G) mobile phone systems were developed, which allowed for expanded features, such as texting and accessing media content. These new features gave mobile phones added popularity, with cell phone subscriptions increasing from about 5.2 million in 1990 to nearly 110 million in 2000.²² Today, nearly every American household has a cell phone, and more than 40 percent of American households no longer have a land line.²³ Today's smart phones offer features far beyond making and receiving phone calls. We can take photographs, send and receive email, listen to music, surf the World Wide Web, and so much more. And we can do it from almost anywhere. Smart phone manufacturers have introduced more innovations in less than ten years than the AT&T monopoly introduced in seventy years.

For nearly seventy years, Americans were told that a government protected monopoly was beneficial for everyone, that competition would be ruinous. But the claims made in the early 20th century were false, as evidenced by the innovations that resulted when innovators were freed from government controls and restrictions.

Today, we are told that breaking up Big Tech will provide great benefits. But those claims are just as wrong as the claims made about the AT&T monopoly. And we certainly don't want to wait seventy years to recognize that fact.

Breaking up Big Tech will not promote competition, innovation, or free speech. Only free individuals can compete, innovate, or engage in free speech. Breaking up Big Tech is a move away from freedom. And it would be a grave injustice to companies that have done great good.

Justice for Big Tech

The critics of Big Tech claim that breaking up large technology companies will promote competition, innovation, and free speech. But this is the wrong goal, and it cannot be achieved through coercive means. Coercion stifles competition, innovation, and free speech.

If we truly desire a competitive market, innovative products and services, and free speech, then we must recognize the social conditions that foster and promote these values. Only the recognition and protection of individual rights creates the social conditions that allow individuals to conceive and act on new ideas—to innovate. Only the recognition and protection of individual rights creates the social conditions that allow individuals to express ideas that others may disagree with—to practice their right to free speech.

22. "Cell Phone Subscribers in the U.S., 1985–2010," InfoPlease.com, <http://www.infoplease.com/ipa/A0933563.html>

23. "Drew Desilver, "CDC: Two of every five U.S. households have only wireless phones," July 8, 2014, Pew Research, <http://www.pewresearch.org/fact-tank/2014/07/08/two-of-every-five-u-s-households-have-only-wireless-phones/>

Big Tech has created great value. They have made it enormously easier to obtain and share information. Their products and services are used by tens of millions, and billions in the case of Facebook and Google, of people across the globe. Even their detractors acknowledge the value created by Big Tech. And it is that value that has attracted critics.

Many argue that the products and services offered by Big Tech are necessities. For example, former Trump advisor Steve Bannon has said that “Facebook and Google have become effectively a necessity in contemporary life.”²⁴ Kashmir Hill, a reporter for Gizmodo, tried to live without Facebook, Apple, Google, Amazon, and Microsoft for a week each. “I wanted to find out if that was possible,” she said, “and, spoiler, it’s not possible.”²⁵ The critics don’t want such important values in the hands of private entities. Government, they say, should be in control to protect “the public.”

In other words, Big Tech has created values that benefit a huge number of people, and for that reason, they should be broken up. The reward for making our lives better is to wreck their businesses. This is a gross injustice.

Justice is the virtue of judging and treating others as they deserve. To grant unearned rewards or inflict undeserved penalties is an injustice. Those who create values have earned our support and praise; they do not deserve to be attacked and penalized for their success in creating values that sustain and enhance our lives.

Those who want to break up Big Tech are treating the executives of those companies like criminals. They are not criminals; they are productive geniuses. Criminals steal and destroy values; productive geniuses create values. To treat the two as moral equivalents is monstrously evil. When a culture attacks and punishes its most productive members, that culture is on the path to moral bankruptcy and the material decay that inevitably follows.

We have a choice. We can pay tribute to the men and women who create the values that sustain and enhance our lives, or we can castigate and penalize them. Justice demands that treat them like the productive heroes that they are. Justice demands that we honor Big Tech.

The Texas Institute for Property Rights provides analysis, training, and resources for legislators, businesses, organizations, and property owners.

Voice: 979-429-4447

Website: www.texasipr.com

Email: contact@texasipr.com

Facebook: www.facebook.com/texasipr/

24. Ryan Grim, “Steve Bannon Wants Facebook and Google Regulated Like Utilities,” *The Intercept*, July 27, 2017, <https://theintercept.com/2017/07/27/steve-bannon-wants-facebook-and-google-regulated-like-utilities/>

25 .Lulu Garcia-Navarro and Francesca Paris, “Why We Can’t Break Up With Big Tech,” *NPR*, February 10, 2019, <https://www.npr.org/2019/02/10/692877140/why-we-cant-break-up-with-big-tech>
