

Let's clear up a couple of things about Europe.....



Cristina Caffarra  
GMU February 2020

---

*For disclosure, I have advised multiple players in the digital space generally, including adverse to Google on Android and multiple other matters in Europe, and elsewhere, as well as work for Apple, Amazon, Microsoft, Uber, Netflix, Newscorp and multiple others. I am also advising regulators.*

# 1. We *really* don't care about the concentration/margins debate

Posture around “need to tighten up enforcement” has *nothing to do* with macro measures of increasing concentration (and margins)

We *know* there's controversy over measurement but most importantly multiple factors drive this, rise of superstar firms etc) – *not just lax antitrust*

**Debate is a *total straw man***

Two main factors at play:

- anxiety over large digital platforms
- direct evidence of multiple sectors going from 6 to 5 to 4 to 3 to 2 and no sign of efficiency or benefits (telco, cable, pharma, agrochem, chemicals etc.)



## 2. We *have* been ahead of the game...



DC, March 27 2019

*“The ABA Fringe”:*  
Are the Europeans  
Creating Momentum  
in Digital Enforcement?





...rather than in denial

### The alleged seven deadly sins of tech

1. Competition
2. Innovation
3. Acquisitions
4. Entry
5. Switching cost
6. Entry barriers
7. Size



### Seven deadly sins or seven heavenly virtues?

1. Competition: **high**
2. Innovation: **high**
3. Acquisitions: **small**
4. Entry: **easy**
5. Switching cost: **low**
6. Entry barriers: **low**
7. Size: **appropriate**



### 3. The cases are good (even though the remedies suck)



Antitrust: Commission fines Google €4.34 billion for illegal practices regarding Android mobile devices to strengthen dominance of Google's search engine

Brussels, 18 July 2018



## Google's job-search dominance demands EU interim measures, rivals claim

By [Michael Acton](#) and [Lewis Crofts](#) on 13 Aug 19 | 09:31 GMT

Google Inc [+ Add to myFT](#)

### Yelp files new EU complaint against Google over search dominance

Company urges Brussels to launch new charges against internet group

**mlex**  
market insight

### Google targeted in new holiday-industry complaint

---

...and more underway



**Ex-post case/fine  
re misinformation  
in *WhatsApp*  
notification.**

**Formal case  
opened on data  
use and privacy**



**Focus on “self-  
preferencing”, data  
accumulation and  
use, concerns about  
use of third party  
sellers’ data to launch  
“copycat” products**



**Concerns about  
“Apple Tax” and  
whether this  
undermines services  
(e.g. Spotify) which  
compete with Apple’s  
own apps/services**

## BUT NOTE: *what we are NOT saying*

- We **don't have "tech envy"** in Europe
- We **don't do this to protect competitors**
- We absolutely **understand the economics**:  
two sidedness, network effects, economies of scale and scope,  
"free" paradigm on the user side which requires monetisation  
on the other side. **Got it.**
- We understand **not all digital platforms are the same**  
and don't worry about all of them:  
*we don't "have a problem with tech".*
- We understand Google, FB, Amazon are where they are  
because **the product is good, they innovate a lot,**  
**they integrate lots of complements and scout talent**  
(startups) that may otherwise fail to execute
- We understand that **rivals should go get their own data**  
**and there are multiple ways to generate "some" data**

### COUNTRIES WITH EMERGING UNICORNS IN 2017

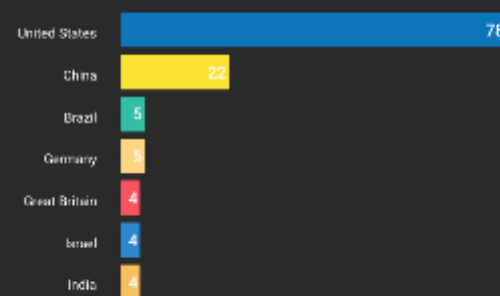
32		United States
18		China
4		United Kingdom
1		United Arab Emirates
1		India
1		Indonesia

### COUNTRIES WITH EMERGING UNICORNS IN 2018 TO DATE

34		United States
25		China
8		Continental Europe
7		India
5		United Kingdom
9		Rest of the World

### Count Of New Unicorn Companies In 2019 By Leading Countries

New Companies Valued At \$1 billion Or More In A Private Funding Round In 2019



crunchbase news



## 4. Regulation coming super fast down the pipes

Calls for various **specialist agencies/bodies to be created** - a **“digital market unit”, or a “digital agency”, or a special tribunal** – either standalone or as a subset of an existing agency

**“Codes of conduct”** to be agreed between multiple parties (digital companies and major constituencies of business users) and umpired/facilitated by digital agency or regulator



The UK's “other” big experiment:  
setting the AGENDA for a DMU /  
REGULATOR

Platform regulation at the EC level...



## 5. Can it all go horribly wrong? Geopolitics and industrial policy

# EU aims to loosen big tech's grip by forcing groups to share data

◆ Bid to break near-monopolies ◆ Fresh threat to US companies ◆ Potential clash over privacy



Europe can win global battle for industrial data, EU industry chief...  
Europe may have lost the battle to create digital champions capable of taking on U.S. and Chinese companies harvesting personal data, but it can win the war of ...  
reuters.com



Thierry Breton  
@ThierryBreton

The battle for industrial #data starts now, and the main battlefield will be Europe 🇪🇺

Europe is the world's top industrial continent.

We will organize ourselves to win this battle.

“Europe’s second chance at becoming a world leader on tech”...

All about IoT and French/German industry in post-Brexit reality...

“Digital sovereignty! Digital autonomy!”