Current Controversies No. 56

SUPERVISING THE TECH GIANTS

Markets will do a better job than state regulation

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January 2018

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Summary

- The rise of the 'tech giants' is, of course, a significant commercial threat to more traditional media, but it also raises some potentially important issues of public policy. These companies have variously been accused of facilitating the spread of 'fake news' and extremist material, dodging taxes, and exploiting their market dominance.

- In reality, 'fake news' is nothing new, nor is it as influential as many assume. Most people rely on multiple sources for information. Television and newspapers are still trusted far more than online platforms.

- The market is also coming up with its own checks and balances, such as fact-checking services. The internet may have provided more channels for 'fake news', but new technology has also made it easier to find the truth.

- The UK newspaper industry itself shows how self-regulation can be effective, especially when supported by the backstops of existing criminal and civil law.

- The internet is not the regulation-free zone that some suppose. But, in any event, the tech companies have a strong economic interest in protecting their brands and being responsive to the demands of their customers and advertisers.

- It may be worth considering some ways in which these pressures could be strengthened, such as obliging new platforms to publish a code of practice like those adopted by newspapers. However, most already do, and the rest will surely follow.

- The taxation of tech giants raises many issues relevant to any multinational company. It seems reasonable to expect firms to explain clearly what tax they pay. But an additional levy on the activities of tech companies would be inconsistent with the general principles of fair and efficient taxation.

Introduction

This paper discusses the current state of the UK media and advertising industries and some of the challenges posed by new technologies and platforms. These include the five US tech giants: Amazon, Apple, Facebook, Microsoft and Alphabet – which owns Google and YouTube.

The rise of the internet is, of course, a significant commercial threat to more traditional media, such as print newspapers and TV. This may largely be a matter for the companies affected. However, it also raises some important issues of public policy, including the extent to which government intervention and regulation can, or should, create a level playing field. Or, as the Daily Mail (2017) put it:

> 'how much longer can the arrogant, filth-spreading, fake news mongering, tax-dodging, small firm-destroying, terror-abetting internet giants remain above the law?'

To start with an obvious question, what's wrong with more competition? For example, advertising has been migrating away from print and towards online platforms for many years. As a result, digital ad spending in 2016 exceeded £10bn in the UK and $70bn in the US. That might be bad news for newspapers and good news for, say, Twitter. However, at first sight it isn't a problem for the rest of us. Advertising is simply following consumers as they switch from one technology to another.

More generally, there could be a useful analogy with the emergence of innovative online platforms which can offer taxi services more efficiently and at a lower cost than established providers. Passengers have typically benefited from shorter waiting times, cheaper fares, and higher quality – despite the protests of the incumbents.

Applying this analogy to advertising, new technology has the potential to allow ads to be targeted more accurately at the consumers who are most interested in the goods or services on offer. This benefits the consumer as well as the seller. As discussed further in *Advertising in a Free Society* (published by the IEA in 2014), advertising provides useful information about products. It can also raise quality and lowers costs by encouraging competition and allowing firms to exploit economies of scale.

Nonetheless, there are several potentially valid concerns. What happens online is, in general, subject to lighter regulation than the activities of traditional media. Many people (not just competitors) have drawn attention to the role of the internet in broadcasting extreme material, including terrorist propaganda and unacceptable pornography. The tech giants have also been criticised for the role of their platforms in spreading ‘fake news’.

The advertising model itself may now be broken too. All industries are vulnerable to the ‘principal-agent’ problem, where a company (the ‘principal’) which is ultimately paying for a good or service delegates important purchasing decisions to another party (the ‘agent’) whose interests are not necessarily aligned.

This includes the sort of non-transparent business practices, such as undisclosed rebates (or hidden kickbacks) from a supplier to an agent, that are found in many sectors, not just media.

However, this problem may be becoming more acute as advertising migrates online. For example, it is hard to monitor whether an online advertisement is appearing on a legitimate site, or whether responses are coming from a real person or a bot. This is particularly important given the prevalence of the ‘pay-per-click’ model, where advertisers pay publishers, directly or indirectly via an agency, each time that an ad is clicked.

The purchasing practices of ad agencies and online platforms also often rely on ‘black box’ algorithms which are much less transparent than the circulation figures released by newspaper publishers or the viewer numbers for broadcast TV.

Again, this is not necessarily a problem for the rest of us. Advertisers themselves can put pressure on agencies and platforms to provide a better service, including by ensuring that contracts adequately align the incentives of all parties. If they are still unsatisfied, they can either take legal action or simply return to buying ads on traditional media.

But there is also a public interest issue here. A badly-placed ad can end up financing terrorist organisations, with implications well beyond the industry itself. For example, the pay-per-click model means that someone posting a popular YouTube video can earn money from the ads that appear alongside. That's fine if it is a video of a cute puppy, but clearly not if it is promoting a jihadist group – as has happened more than once.

To address some of these issues, this paper starts with a discussion of 'fake news'. This illustrates many of the points relevant to the broader debate.

The paper then looks at how the traditional media is regulated, before considering some ways in which the internet could be regulated more closely – from increased government intervention through to self-regulation and market pressures.

The penultimate section looks at the issues around taxation. Many of the points here also apply to other tech-based companies, such as online auction sites or new platforms connecting people buying and selling taxi services or renting rooms, and to other multinationals, such as global coffee chains, where much of the value is generated from a brand or other form of intellectual property.

The paper concludes with a summary as a basis for further discussion.

Is fake news a problem?

Those dismayed by the Brexit vote in the UK, or the election of Donald Trump as President of the United States, often blame the phenomenon of ‘fake news’. It is hard to dispute that the winning campaigns in both cases included some dubious claims and that these were repeated, apparently successfully, even when refuted by independent experts. But this still raises several questions. What exactly is ‘fake news’? Is it really new? Is it actually that influential? And what, if anything, needs to be done about it?

‘Fake news’ is an increasingly over-used term. A formal definition might be ‘the deliberate publication of misleading or false statistics, hoaxes, or other disinformation with the intention to deceive’. The two important elements here are the inaccuracy and the intent – both are necessary.

For example, satirical material, such as the spoof stories in Private Eye or The Onion, is made up. But they would not normally be regarded as fake news because they are not meant to be believed. Indeed, they are usually so silly that few could ever take them seriously. Similarly, there is plenty of bad journalism which is just sloppy or inaccurate, but not deliberately so.

This still leaves plenty of grey areas. For example, one of the most widely read ‘news’ items on Facebook in the run-up to the US election was a report that the Pope had endorsed Donald Trump. This report was false. But it is not clear whether it was created maliciously or whether those sharing it believed it or simply found it amusing. Indeed, there may actually be a market for fake news, even if only as a form of entertainment. Many websites promoting fake news also include celebrity gossip and other topical tittle-tattle.

What about biased reporting, such as the presentation of official statistics in a misleading way? It is not hard to pick up any newspaper on any given day and find at least one objectionable piece of coverage. But this would normally be considered opinion or partisan spin, rather than fake news, provided the story is based on fact.

What about the infamous claim that the UK sends £350m a week to the EU and that this sum could be spent on the NHS instead? This is widely cited as an example of 'fake news', because the £350m figure is the gross contribution before taking account of the UK's rebate and EU spending in the UK. It can be argued that only the net amount – perhaps £250m – could be redirected to the NHS without taking money away from other parts of the UK economy.

But this isn't as clear an example of 'fake news' as many critics claim either. Even if £350m is not the right number, it is true that the UK makes a large contribution to the EU budget and that at least some of this could be diverted to the NHS. How misleading must a claim be before it becomes wholly 'fake'?

Suggestions that we are only now entering an era of 'fake news' are also wide of the mark. 'Fake news' isn't new. The internet has allowed fake news to be distributed to a much larger number of people, quickly and at near-zero cost, and with minimal government control. But propaganda, to give it another name, has been around in one form or another since ancient times – for both good and ill. For example, the development of the printing press in the 16th and 17th centuries played a key role in the religious and cultural revolutions that followed, but also led to what Niall Ferguson (2017) has called an 'age of manias and panics … millenarian sects and witch-crazes'.

The bigger issue, then, is whether 'fake news' actually works. Some commentators appear convinced that it played a decisive role in the UK referendum on EU membership. This is debatable.

One survey by Opinium (2017) did find that 34% of Leave voters believed the £350m claim at the time. This was significantly more than the proportion of Remain voters (16% in the same poll) who also took it at face value. But this isn't proof that the £350m claim tipped the balance, because we simply cannot know what would have happened otherwise.

Some Leave voters may already have made up their minds on the basis that money given to the EU would be better spent at home. The £350m claim was simply consistent with this prior belief. It is then hard to argue that it would have made any real difference if a lower figure for the UK's net contribution to the EU, say £250m, had been used instead.

What's more, the £350m figure was widely debunked at the time – including by the official statistics watchdog. It is therefore unlikely that it persuaded many people who were not already biased towards voting Leave.

Nonetheless, even if a particular claim can easily be debunked, its simple repetition can influence the national debate. For example, the Leave campaign's unconditional statement that 'Turkey is joining the EU' may have been easy to refute, but probably fed wider concerns about immigration.

Indeed, there is a risk that endlessly pointing out an error in a claim can simply draw attention to it. Some Leave campaigners have suggested that Remainers did them a favour by constantly criticising the £350m figure, as it gave the underlying point a higher profile than it would otherwise have gained.

Genuine facts can be relatively 'boring' and easily swamped by more entertaining ideas. US tobacco companies ran a successful rear-guard action in the 1950s and 60s against mounting scientific evidence of the harm caused by smoking. This often relied on distraction tactics, demonstrating that facts alone may not be enough to win an argument. Similarly, apparently pedantic points about 'gross' versus 'net' contributions to the EU, or the precise definitions of 'send' or 'control', did not help the Remain camp in the Brexit referendum.

There have also been many studies of the recent US Presidential election and the role that 'fake news' may have played in the outcome (given added importance by the claims of Russian intervention). But there is no consensus on its influence.

Some studies have found that 'alternative facts' are highly persuasive. For example, an experiment by Barrera et al (2017) during the French presidential election found that voters exposed to a narrative based on misleading numbers did shift towards a populist agenda.

However, other studies have found little effect, partly because few people actually rely solely, or even mainly, on social media for their news. Nielsen and Graves (2017) note that most people are highly sceptical of the media and tend to view almost all news with suspicion. Guess, Reifler and Nyhan (2017) and Allcott and Gentzkow (2017) also provide good evidence from the US that fake news has less reach than many suppose.

More generally, it is surely wrong to start from the assumption that voters would otherwise make informed and rational decisions (Caplan, 2006). Fake news may only lead to a small increase in considerable prior ignorance.

More positively, there is ample evidence that demand for more reliable information is creating its own supply. The market is therefore already providing its own solutions. One example is advertiser boycotts of outlets that fail to prevent the placement of ads next to inappropriate (e.g. extremist) content or on sites that are mainly channels for fake news. Another is the emergence of many independent fact-checking organisations, such as Full Fact in the UK and PolitiFact in the US, some of which are now being used by Google and Facebook.

It is also notable that 'fake news' appears to be more successful where there is less competition – in Russia, for example. Diversity in media sources is therefore essential. Indeed, this may be one way in which the internet actually reduces the threat from 'fake news', which is why so many authoritarian regimes choose to restrict access to it.

Overall, then, allowing the state to decide what is or isn't 'fake news' could be a far more dangerous threat to democracy than anything the Twitterati can come up with. The internet may have provided more channels for 'fake news', but new technology has also made it easier to find the truth.

Lessons from the regulation of traditional media

Before addressing the issue of regulating new media further, what lessons can be drawn from the regulation of traditional media, especially the UK newspaper industry?

Recent developments in press regulation in the UK may not be completely 'bonkers', to use David Cameron's word, but they have come perilously close. Perhaps we shouldn't be surprised that politicians, judges and celebrity campaigners haven't combined to produce a better response to the perennial demands that 'something must be done' to rein in the tabloids.

It may therefore be helpful to step back and review the issues in economic terms. Let's begin with four general points. First, the media should be viewed in the same way as any other economic activity. This means that, in general, consumers should be free to decide what to watch, hear and read, without having their choices limited by politicians, regulators or a handful of dominant producers.

Second, it follows that any restriction on media freedom needs to clear a very high hurdle. There are, nevertheless, some potential market failures that regulation or some other form of intervention could usefully address. For example, the gross invasion of someone's privacy could be seen as an externality – a cost imposed on a third party – which market forces alone may not correct.

Third, regulation can take many forms. One option would be direct control by the government, as is common in authoritarian regimes. But surely no-one would support this approach. There are already concerns that the UK is slipping down the global league tables for press freedom, such as those compiled by 'Reporters without borders'.

A more attractive alternative would be a regulatory body which is more or less independent of the state. This covers a wide range of options, from an arms-length body with some statutory powers, to self-regulation by the industry itself. The latter clearly wouldn't work in the case of a monopoly. But self-regulation may be effective in a relatively competitive market where reputation and peer pressure are important, and consumers can easily vote with their feet. The Advertising Standards Authority is widely held up as an example of best practice here, having successfully gained the confidence of the industry, government and consumers.

All such options can be supplemented by the normal operation of the legal system, including criminal prosecutions for the most egregious behaviour. The threat of civil action (facilitated by no-win-no-fee agreements) may also provide an effective means for aggrieved individuals to protect their rights.

Fourth, whatever form of regulation is chosen, it is important that different media outlets are treated equally. Regulation should not distort the market by favouring particular newspapers, or by treating one technology (e.g. print) more harshly than another (e.g. internet).

So how does the current system stack up? In 2011 the Cameron government ordered an inquiry under Lord Justice Leveson to investigate the 'culture, practices and ethics of the press', in response to concerns over phone-hacking and payments to police officers. This led to the establishment of a Press Recognition Panel (PRP), tasked with approving new and existing regulatory bodies. So far, the only approved regulator is a new organisation called Impress.

However, most publishers have chosen to be regulated by the industry's own Independent Press Standards Organisation (IPSO), which is effectively the successor to the old Press Complaints Commission. And some, including the publishers of the Financial Times, Guardian and Private Eye, have chosen not to be regulated at all, except by themselves. (For example, the FT and its journalism are subject to a self-regulation regime under the FT Editorial Code of Practice, accessible at FT.com/editorialcode.)

There are a several oddities here. For a start, why should there be more than one regulator for the same activity? But this isn't perhaps as bizarre as it sounds. Once you have accepted the principle of self-regulation, it makes sense for a bit of competition to determine which regulator is most effective. IPSO is clearly winning this fight.

Other observers may baulk at the idea that some publishers are not regulated at all. However, they are still constrained by the backstops of criminal and civil law. Indeed, most of the outrageous things that some newspapers have been accused of doing are already illegal – including harassment, hacking phones and bribing police officers. If existing laws were simply enforced properly, many of the problems would go away. And there have, of course, already been several criminal prosecutions and many cases of large civil damages paid as a result of the scandals that led to the Leveson inquiry.

Nonetheless, there are still a couple of issues to be resolved. The first is the unique status of Impress. Thus far, Impress has adjudicated on only one complaint and referred one other to arbitration. Arguably, market forces will see it naturally wither on the vine. But as the only state-recognised regulator, Impress is not competing on equal terms.

Indeed, this problem might have been much worse if the Conservatives had not committed (in the 2017 general election manifesto) to repeal Section 40 of the Crime and Courts Act 2014. This Section would have meant that newspapers who failed to sign up to a state-recognised regulator (and Impress is currently the only option) could be liable both for their own and their opponents' costs following a libel or privacy action, even if they won the case.

In principle, this could have been dealt with (in part) by recognising IPSO too. But whatever the politics here, the bigger point is that Section 40 was awful economics. By making it almost costless and risk-free to bring a libel or privacy action against an 'unregulated' newspaper, the system would have been distorted in favour of claimants. And even though the threat passed by Section 40 has passed, there is still pressure for some form of stick to force publishers to choose one regulatory body over another. This seems to defeat the point of allowing self-regulation in the first place.

This raises the question of whether the additional protections for the individual under civil law are sufficient. Some have suggested a new and stronger right to privacy, balanced by a strengthening of the defence of public interest. However, the Editors Code operated by IPSO (and the equivalents run by Impress and individual publishers) already look comprehensive enough.

New media: state regulation of self-regulation?

So, what about the new media? The tech giants have sometimes argued that they are not media companies because they do not produce the content published on their platforms. A comparison could be made with a telephone operator, who would not normally be held responsible for what is said over one of their lines.

Against this, online platforms do have more control over content than telecoms companies, and they also depend heavily on revenues from advertising targeted on the type of content. A TV company may not produce any of its own content but would still expect to be subject to the usual broadcasting rules.

Contrary to what some believe, however, the internet is not now a regulation-free zone. A 2014 OECD survey identified:

> *‘various industry standards, co-regulatory agreements between industry and the government, and in some cases also state regulation. Most of them aim at protecting personal data and consumers more generally. In many cases generally applicable laws and regulations exist that address privacy, security and consumer protection issues both in the traditional and the digital economy’.*

In the UK, for example, online advertising is subject, at least in principle, to the same self-regulation as traditional media. The rules of the Advertising Standards Authority apply equally to websites, social media, newspapers and billboards. What’s more, IPSO already regulates 1,100 online titles, in addition to over 1,500 print newspapers and magazines. And the courts in the UK, as well as elsewhere, have long been able to require internet service providers to prevent access to rogue websites for a wide range of reasons, from blocking child pornography to copyright protection.

The question then is whether these existing controls are sufficient. The issue of the availability of extremist material useful to terrorists is particularly topical. The current government has pledged to continue to push internet companies to deliver on their commitments to develop technical tools to identify and remove terrorist propaganda and to counter fake news.

Some commentators have gone further and argued that a new regulator needs to be established to ensure that internet users are protected from harmful material online and to hold tech companies accountable for the content published on their platforms, as other outlets are.

In the US, this would run counter to Section 230 of the Communications Decency Act of 1996 (Title V of the Telecommunications Act). This exempts online companies from liability for the actions of their users. But this exemption is already under challenge due to the proposed Stop Enabling Sex Traffickers Act (SESTA), which would penalise tech platforms that publish ads promoting certain types of activity.

Germany has also recently introduced legislation requiring internet firms to take down certain types of material within a short period or face financial penalties.

The problem with these approaches is where the line is drawn. Nobody would think it acceptable for a tech giant to promote sex trafficking. But given that they wouldn't, ordinary users of these services for other legitimate reasons, as well as the advertisers who provide the bulk of the revenues, can play the part of regulators. Caplan (2006) notes one form of anti-market bias is the false assumption that customers are always victims of the market, rather than participants who can influence outcomes.

An alternative solution is therefore to encourage private regulation by the market. This might seem naive, but it is already happening. For example, Google now has a strict set of policies governing the type of ads allowed on its platforms. The company claims to have taken down 1.7 billion ads in 2016 alone for violating these policies.

A long and growing list of advertisers (including Adidas, BT, Deutsche Bank, Diageo, Hewlett-Packard, Mars, Procter & Gamble, Sky, Unilever and Vodafone) have been applying pressure on platforms to put their own house in order. In some cases, they have voted with their feet and suspended advertising completely; in others, they have provided advertising agencies with ‘whitelists’ of sites where they are happy for their brands to be featured.

In part, this reflects their desire not to be associated with harmful material that damages their own reputation. But there are also increasing doubts about the effectiveness of online marketing. Online advertising outlets often claim to be able to target consumers with surgical precision, or at least much more efficiently than a print ad. In practice, it is hard to monitor who actually reads an online ad. Indeed, it has been suggested that half of online ads are viewed by networks of hacked devices programmed to generate fake clicks.

Giving the market the leading role in sorting out these problems may be more realistic than shifting the onus onto government. As the OECD study also noted,

> *’the task of regulating the internet is further complicated by the multitude of players, activities and media involved as well as by the rapid shifting of the economic and technological landscape and the virtual absence of geographical boundaries.’*

Indeed, clumsy regulation could simply hold back innovation – for example, by imposing a disproportionate compliance burden on start-ups, while being easy for less scrupulous players to evade. It may also result in censorship of legitimate opinion for fear of disproportionate penalties. Finally, rather than merely restoring a level playing field, state-led regulation of the internet would risk tilting it in favour of traditional media, which are largely self-regulated.

Nonetheless, for self-regulation via brand reputation and other market pressures to work effectively, internet companies need to be under constant scrutiny. Traditional media outlets are performing a useful role here by exposing bad behaviour and thus helping other interested parties, including consumers and advertisers, to make more informed decisions.

It is also worth exploring two ways in which these pressures could be enhanced by regulation. One proposal is that tech firms should be required to publish a policy on taking down unacceptable content and performance against this policy could be independently monitored. However, such regulations may not be necessary if this is already regarded as good practice.

The second proposal is that tech firms should be required to make it easier for users to move their personal data from one platform to another, in the same way that consumers can transfer phone numbers between providers. This is the concept of ‘social graph portability’, commonly associated with Luigi Zingales and Guy Rolnik of the University of Chicago.

This proposal raises many technical and other practical issues. But it is consistent with the more general proposition that the services provided by platforms such as Facebook and Google are now so embedded in our lives that they should be thought of in the same way as traditional utilities, such as energy or water suppliers.

In summary, though, ensuring that new platforms are ‘made accountable’ for the content published on them does not necessarily mean accountable to the government, for example in the form of statutory regulation. The tech giants can also be held accountable by the market, and by the wider public.

Taxing questions

There is a widespread perception that online companies do not pay enough tax. Some of these concerns are clearly unfair.

For a start, the headlines often focus solely on the corporation tax paid on reported profits. But companies also pay taxes on the resources that they use in producing and selling their goods and services, and on the revenues that they receive.

For example, even before making any profits, most companies will pay national insurance contributions for the people that they employ and business rates on the properties that they occupy. Their activities also generate other revenues for the government, such as the income tax and national insurance paid by employees themselves.

Most companies also pay taxes on the revenues that they earn from their activities, including VAT (though this is typically passed on to consumers in the form of higher prices). The upshot is that companies can make a large contribution to the public finances even without paying any corporation tax themselves.

What's more, some of the factors that allow technology-based companies to pay lower taxes than their competitors simply reflect the underlying economics of their business models. For example, an online retailer may be able to sell books from a warehouse located in an area where business rates are lower than those paid by a high street shop. This, surely, is a legitimate saving, and will typically be shared with consumers in the form of lower prices.

A more difficult example might be an online auction site that generates a large amount of revenue in a foreign country without the need for any local offices or staff. Instead, it remits that revenue to its home country, which is where it incurs costs, and pays tax on profits. In this example, the company is not a significant burden on the resources of the country where it is earning revenues. So, while it seems right for it to pay VAT, or its equivalent in the countries of its customers, why should it pay corporation tax there?

Perhaps the response is that it is potentially taking business away from a local company that would pay more tax. But again, all it is doing is taking advantage of a business model that allows it to sell across borders without having a physical presence. Using taxation to protect less efficient domestic suppliers would impose unwarranted costs on domestic consumers.

More generally, production, and hence profits, have traditionally been taxed in the jurisdiction where the producer is based, while consumption has been taxed in the jurisdiction where the consumer is based. As Trovato and Zuluaga (2017) argue, it is far from obvious that the current taxation of multinational companies, including tech giants, breach these principles in any systematic ways.

However, there are other factors which are more questionable. Many companies have been accused of dubious accounting practices which ensure that profits are booked in jurisdictions where taxes are relatively low, even if the bulk of the activity that has generated these profits takes place somewhere else. This is perhaps more prevalent in sectors where much of the value of a product or service can be attributed to some form of intellectual property, such as a patent or a brand. For example, some multinationals have been accused of artificially redistributing profits by making large royalty payments to holding companies or subsidiaries in low-tax countries.

This is widely considered to be unfair, because it means that the multinational company has benefited from the tax-funded infrastructure of high-tax countries without contributing on a level playing field with local businesses. Equally, the low-tax country benefits unfairly from an increase in government revenues without having to provide the infrastructure.

There is no easy answer to this problem. Some governments have responded by trying to negotiate special deals with tech giants to ensure they pay more tax in their jurisdictions, but this often relies on moral pressure and is inherently unsatisfactory. The perception that multinationals are still being treated more favourably has also led to some of these deals being challenged by the EU as an illegal form of state aid.

An alternative approach would be to apply an additional tax on the revenues earned by certain multinational companies, including tech giants. This would at least have the advantage of being relatively transparent. But tech companies could reasonably argue that their activities already generate a lot of income for the government based on the resources they use. Revenues alone are also not necessarily a good indicator of the ability to pay. And it is more likely that this type of tax would simply be passed on to customers in the form of higher prices, in the same way as VAT.

What's more, an additional tax on, say, digital ad spending, would itself be discriminatory. It would penalise all tech companies, big and small, foreign and domestic – not just those perceived to be behaving badly. In the process, it would favour older technologies over new, and deter innovation. The perception that it is driven at least as much by political as economic considerations would increase uncertainty and discourage investment. Attempts to level a playing field by penalising one class of participants rarely deliver the desired outcome.

Proposals for EU-wide taxes targeting the tech sector run into two further objections. First, unless the taxes are applied worldwide (or at least across the OECD) they are likely to encourage firms to shift activities outside the EU altogether – perhaps to the US or Asia.

Second, they would be a further encroachment on the rights of national governments to determine their own tax rates and would discourage positive competition between countries to see who can offer the most favourable business environment.

The optimal solution may instead be a combination of more rigorous scrutiny of accounts, so that dubious practices are exposed, alongside a reduction in corporate tax rates. It is no coincidence that calls for EU-wide taxes are being led by France – a country where corporate taxes are relatively high. Lowering corporate tax rates would both help to level the playing field for those companies that are 'paying their way', and reduce

Conclusions

The 'tech giants' include Alphabet (which owns Google and YouTube), Amazon, Apple, Facebook and Microsoft. Their rise is, of course, a significant commercial threat to more traditional media, including newspapers and TV. But it also raises some potentially important issues of public policy.

These companies have variously been accused of facilitating the spread of 'fake news' and extremist material, dodging taxes, and exploiting their market dominance to the detriment both of customers and competitors. In particular, some critics have argued that the tech giants are not operating on a 'level playing field' in their dealings with regulators.

The debate over 'fake news' illustrates many of the issues. There is an obvious public interest in countering made-up stories which deliberately aim to mislead. Nonetheless, the influence of fake news is probably overstated and even the term itself is increasingly over-used.

There is some evidence that dubious claims are only taken seriously by those people already disposed towards believing them. They may reinforce existing views, but are quickly debunked once they reach a wider audience. Few people rely on social media for their news and most do treat what they read with a healthy dose of scepticism.

That said, fake news can be persistent. Simple repetition of a false claim can influence a debate even if the specific point has been refuted. Facts are sometimes 'boring' and can be drowned out by sensationalist stories based on fear. Even if fake news is only having a small impact, this could be sufficient to tip the balance in a close race.

Nonetheless, government intervention is unlikely to be the answer. In part this is because there are many grey areas. Allowing the state to decide what is or isn't fake news would surely be an unacceptable restriction on freedom of expression.

The market is also coming up with its own solutions, such as independent fact-checking services. Indeed, while the internet has made it easier to disseminate fake news, it has also made it easier to find the truth (which is one reason why authoritarian regimes like to restrict access). Related initiatives include the 'flagging' of disputed reports, and 'pop-up' warnings on these reports before people share them.

The regulation of traditional media in the UK provides some further examples of effective self-regulation. Only a small number of publishers have signed up with the single officially-recognised regulator (Impress). Instead, most abide by the rules of the industry's self-regulator (IPSO), or have opted out completely. But this does not mean there is no regulation. Instead, the market itself operates many checks and balances.

The tech giants have sometimes argued that they are not media companies because they do not produce the content published on their platforms. A comparison could be made with a telephone operator, who would not normally be held responsible for what is said over one of their lines.

Against this, online platforms do have more control over content, and they also depend heavily on revenues from advertising targeted on the type of content. A TV company may not produce any of its own content but would still expect to be subject to the usual broadcasting rules.

However, ensuring that new platforms are 'made accountable' for the content published on them does not necessarily mean accountable to the government, for example in the form of statutory regulation. The tech giants can also be held accountable by the market, and by the wider public. A good example here is advertiser boycotts of online platforms that fail to prevent the placement of advertisements next to inappropriate material, such as extremist propaganda or pornography, or on sites that fail to police 'fake news' effectively.

Another is the initiatives being taken by tech giants themselves to encourage users to report problems. This can be an effective form of self-regulation, driven by commercial interest in protecting a company's reputation and gaining market share.

There is also a danger that, rather than levelling the playing field, increased regulation of new platforms could put them at a disadvantage compared to traditional media, which are operating in an environment of self-regulation. This could also stifle innovation and competition in the sector, particularly as larger companies are more likely to be able to handle the additional compliance burden than start-ups.

There may be a middle way. For example, tech firms could be required to publish a policy on taking down unacceptable content and performance against this policy could be independently monitored. This would strengthen market pressures to improve behaviour, without the government having to intervene further.

The taxation of new media companies also raises issues that apply to many other multinationals, from online auction sites to global coffee chains. There is a widespread perception that these companies are paying less than their fair share. Again, this problem may be overstated.

Tech companies may have legitimate reasons for paying less tax, for example if they can save on property taxes by operating from out-of-town sites. What's more, production (and hence profits) has traditionally been taxed in the jurisdiction where the producer is based. It is far from obvious that the current taxation of multinational companies, including tech giants, breaches this principle in any systematic ways.

However, some companies have been accused of dubious accounting practices which ensure that profits are booked in jurisdictions where taxes are relatively low. There is no easy answer to this problem. Some governments have responded by trying to negotiate special deals with tech giants. But this often relies on moral pressure and is inherently unsatisfactory.

An alternative approach would be to apply an additional tax on the revenues earned by certain multinational companies, including tech giants. This would at least have the advantage of being relatively transparent, but would itself be discriminatory.

Proposals for EU-wide taxes targeting the tech sector run into two further objections. First, unless the taxes are applied worldwide they are simply likely to encourage firms to shift activities outside the EU altogether. Second, they would be a further encroachment on the rights of national governments to determine their own tax rates.

A better solution may be a combination of more rigorous scrutiny of accounts, so that dubious practices are exposed, alongside a reduction in corporate tax rates. The latter would both help to level the playing field for those companies that are ‘paying their way’, and reduce the incentive for others to avoid taxes in the first place.

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