



# OPEN MARKETS OUTLOOK

by David Boyle  
dcboyle@gmail.com

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## TRENDS SHIFT FROM CONSOLIDATION TO DISTRIBUTION OF MARKET POWER

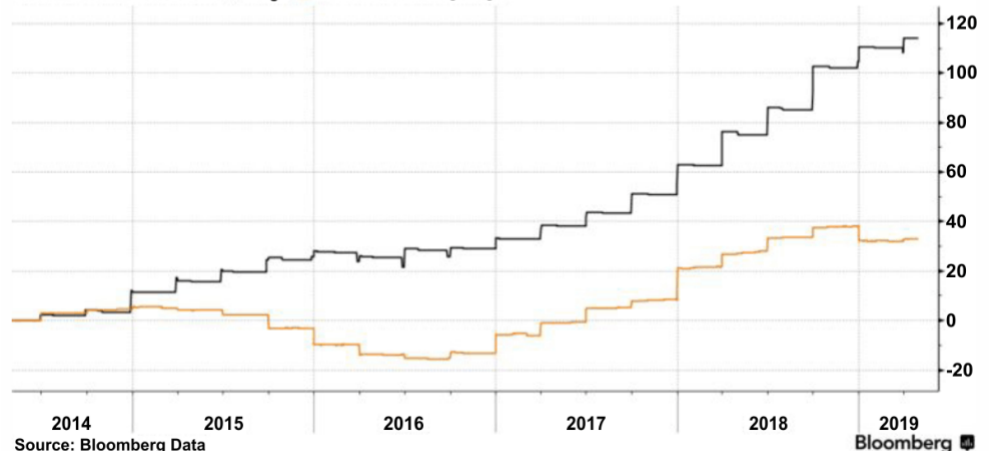
*There are signs of a mega-shift in regulation in the US*

FANG has become the acronym of choice in the investment community to describe the big six tech companies – Facebook and Amazon via Google. There was a fascinating chart in Bloomberg in the summer to look at their extraordinary growth in earnings, doubling over the past five years – not so much disrupting the economy, said Bloomberg’s John Authers, as “*eating it alive*”.

*[FANGs] are not so much disrupting the economy as ‘eating it alive’ according to Bloomberg’s John Authers*

### Disrupting Earnings Fang 6 Earnings Have Doubled in 5 Years

Normalized As of 05/02/2014 ■ Fang 6 ■ MSCI World excluding Fang 6



Yet [according](#) to the investment research company 13D Research, this is a sign that the trends are shifting – at least in the USA – between consolidation to distribution of market power.

*“Market participants still don’t understand the power of the cycle that turns from wealth accumulation to wealth distribution. But they will,”* wrote Kiril Sokoloff and his research team. They point to the following signs of a shift:

- Facebook co-founder [Chris Hughes wrote an op-ed for The New York Times](#) with the headline: “It’s time to break up Facebook”.
- The Supreme Court allowed iPhone users to move forward with an antitrust suit against the company.
- [Forty-four US states have filed suit against 20 drug companies](#) for scheming to fix drug prices and suppress competition.
- Bayer’s C-suite is facing a shareholder revolt for failing to see the risks of its biggest acquisition ever, Monsanto.
- Disney-heiress Abigail Disney spoke publicly against Bob Iger’s salary: “Jesus Christ himself isn’t worth 500 times his median workers’ pay,” she said.

It is increasingly clear that the forces of anti-trust are strengthening in the USA. Why not yet in the UK?

### TIME TO WAKE UP AND SMELL BACON, SAYS RADIX

It is time the UK authorities woke up and started to defend competition again, says a new Radix [paper](#) by competition lawyer Tim Cowen.

He argues in *Freedom to Choose* that it is high time that competition policy emerged from its position as a specialist field, only relevant to competition technocrats, to become part of our mainstream public debate.

Rather than seeing competition policy as the preserve of technical specialists, Tim explains how competition policy affects all our lives.



*Competition authorities should get past their narrow focus on ‘consumer welfare’ and see their role as positively promoting freedom of choice.*

Entrepreneurship, innovation and the perception of a fair society where people can succeed with hard work and on their own merits are all undermined if citizens come to believe that the market doesn't work and is rigged against them.

This undermines faith in market economies, fuelling the rise of reactionary political forces that people will welcome as a way of exercising more control of dysfunctional markets through increased regulation or nationalisation.

Companies and regulators should have a shared interest in avoiding such developments. Yet they are both failing in what has evolved into an adversarial process.

Tim argues that competition authorities should get past their narrow focus on 'consumer welfare' and see their role as positively promoting freedom of choice.

*The test for action on competition should be the promotion of competition and consumer choice*

This paper makes three recommendations:

- The test for action on competition should be the promotion of competition and consumer choice
- Remedial action means actively taking steps and imposing remedies to restore competition and consumer choice. It may mean that current businesses may need to be broken up, or that layers in the technology stack are opened up and access remedies created to enable competition to thrive
- A clear break from the past is needed; the authorities have to get a lot more active and move more quickly

These three things can probably and most easily be achieved through a public prosecutorial system that was the favoured option in the UK until very recently.

## EU DUSTS DOWN ITS ANTI-TRUST WEAPON

*Act now to avoid 'serious or irreparable harm'...*

Margrethe Vestager, the EU's competition enforcer, is planning to use 'interim measures' in her investigation into US chip manufacturer Broadcom to tackle the problem that years that can pass before an antitrust measure can be implemented, says the [Financial Times](#).

Vestager is seeking to force the company to stop alleged anti-competitive behaviour at the start of an EU investigation – hence the "interim" element. The case against Broadcom alleges the company is abusing its dominance by

imposing illegal terms on seven customers that make TV set-top boxes and modems, preventing them from buying chips elsewhere.

She wants to use interim measures *“to order Broadcom to halt its behaviour while our investigation proceeds, to avoid any risk of serious and irreparable harm to competition”*.

Interim measures were first established in EU competition law in 1980. But they have remained dormant since 2001, when a European court set a high legal threshold for their use. Now, however, Vestager is building on similar efforts made by French competition authorities in some domestic antitrust cases.

Vestager *“hates the United States perhaps worse than any person I’ve ever met,”* Donald Trump told Fox News.

### AMAZON WINE TROUBLE IN CALIFORNIA

*“It’s almost all corporate wine of the most boring sort...”*

A wine industry publication and search engine, Wine-Searcher, [claimed](#) that Amazon violated California law to expand its alcohol delivery business, [says the Washington-based thinktank, the Open Markets Institute](#).

To deliver alcohol in California, retailers need to have a bricks-and-mortar store that’s open to the public for at least half as long as their delivery hours. But when Wine-Searcher visited one of Amazon’s alleged liquor stores in Los Angeles they found a warehouse, but no store.

Now the California Department of Alcoholic Beverage Control [is investigating](#) whether or not Amazon’s location meets state qualifications for a liquor store. Amazon has licenses for at least [seven other warehouse “liquor stores”](#) in California as it expands alcohol delivery through Prime Now.

Regardless of whether Amazon broke the law, it is apparent that they intend to focus on delivering alcohol, not running liquor stores in business parks. This gives Amazon a competitive advantage over other California alcohol retailers who must pay for staff, stocking, and real estate. The move threatens store owners as well as craft producers and raises public health concerns about sales to minors.

California law only allows retailers to deliver alcohol from a physical store that’s open to the public, and retailers cannot deliver alcohol that is stored off the premises. Hence, Amazon got retail liquor licenses for their warehouses.

*“It is my understanding that California doesn’t want an unanswerable giant company dominating liquor deliveries while avoiding the public interaction*

*“A real store front has some public health and safety functions”*

*and commitment required by an actual storefront,”* said Wine-Searcher editor Blake Gray. *“A real storefront has some public health and safety functions.”* These would include trained staff who can safeguard against sales to minors or intoxicated people.

Another worry is that as Amazon consolidates control over the market for beer, wine, and alcohol, it will become harder for smaller suppliers to get their products to market. Gray, for instance, thinks the selection of Prime Now wine in California is “terrible”.

*“It’s almost all corporate wine of the most boring kind. There’s no room for innovative small wineries or exciting small-production wines,”* he said.

### SMALL BOOKSHOPS ARE PAYING FOR MONOPOLIES

Small bookshop [One More Page Books](#) in Arlington, on the Washington outskirts held a [silent auction](#) in August to help pay for a 30 percent property tax increase levied by Arlington County.

*Amazon got a \$23,000,000 tax incentive to set up in the same county*

Ironically, according to the [Washington Post](#), the notice from their landlord arrived not long after the county had granted the massive bookseller [Amazon a \\$23 million tax incentive package to situate its HQ2](#) in One More Page’s backyard.

The jaw-dropping increase resulted after the county changed the way it calculated the value of mixed-use properties. What hurt worse was the new assessment piled on top of the six-fold increase in taxes since the bookstore opened in 2011.

#### About Radix

Radix is a non-aligned think tank for the radical centre of contemporary politics. Its aim is to re-imagine the way government, institutions and societies function based on open-source, participative citizenship. To kick-start the thinking that is needed for politics to embrace technology, innovation, social and cultural change.

Contact: [hello@radix.org.uk](mailto:hello@radix.org.uk) [www.radix.org.uk](http://www.radix.org.uk)

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