RADIX
THINK TANK FOR THE **RADICAL CENTRE**

OPEN MARKETS **OUTLOOK**

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THE STRANGE MONOPOLY SIDE-EFFECTS OF OUR COVID-19 LOCKDOWN – OR ARE THEY?

What if the USA cornered the market on Covid vaccine?

When the USA has bought up virtually all the stocks for the next three months of one of the two drugs proven to work against Covid-19 - leaving none for the UK, Europe or most of the rest of the world – it created a storm about monopolies that has yet to die down.

That was just the remdesivir drug, which failed to show it reduced Covid deaths, but which clearly speeded up recovery. What would happen if the same monopoly interfered with the distribution of a vaccine, experts asked?[1]

The Trump administration has shown that it is prepared to outbid and outmanoeuvre all other countries to secure the medical supplies it needs for the USA. Does that matter? If does politically.

The USA bought up 500,000 doses of one Covid drug

Remdesivir was the first drug approved by US licensing authorities to treat Covid. It is made by Gilead Sciences. The Trump administration bought more than 500,000 doses, which is all of Gilead's production for July and 90 per cent of August and September.

The French manufacturer Sanofi has also said the USA would get first access to its Covid vaccine if it works.

Canadian prime minister Justin Trudeau warned there could be unintended negative consequences if the US carried on outbidding its allies.

"This is the first major approved drug, and where is the mechanism for access?" said Dr Andrew Hill of Liverpool University. *"Once again we're at the back of the queue."*

Hill went on to ask rhetorically what would happen if the same fate befell a Covid vaccine.

The drugs incident is only one of a range of competition issues raised by the Covid crisis. Regulators across a number of jurisdictions have promised not to act against legitimate co-operation aimed at preserving the supply of goods and services during the crisis.

This loosening of regulations is already affecting an already largely bankrupt airline industry, sparking rage from Ryanair CEO Michael O'Leary.

"What's clearly happening is we have the French and the Germans creating a huge fund — billions of state aid…"

"What's clearly happening is we have the French and the Germans creating a huge fund — billions of state aid — that will allow them to either low-cost sell against the likes of Ryanair during the recovery period. Or allow them to engage in mergers and acquisitions and buy up all their weaker competitors when this is over."[1]

Instead of governments treating all airlines equally, they are massively subsidising the state aid junkies like Lufthansa (9bn euros alone) and Air France. Air Italia has been renationalised.

We don't want state aid, but we would like to see significant reductions in airport charges in Italy instead of these massive doses of state aid crack cocaine."

Michael O'Leary, CEO Ryanair

Let me be clear about this newsletter's position on this. There does seem to be a basic insanity about using taxpayers' money to prop up airlines which barely make a profit, just when we desperately need to reduce air travel for the sake of the planet.

But we are neither in favour nor against the big companies. If we are in favour of anything it is that competition regulators need to start regulating and stop doing trading standards work which can perfectly well be done locally. But then – would you believe it…

UK IS SUDDENLY THE MOST AGGRESSIVE ANTI-TRUST ENFORCER

Well, there is a surprise…

After years of criticism about the UK's pusillanimous record on tackling monopolies, the UK is now the most aggressive antitrust enforcer worldwide, according to the *Financial Times.*[2]

The Competition and Markets Authority, which is seeking tougher powers after Brexit, thwarted 6 per cent of the deals it assessed over the past five years, according to a new report by law firm Allen & Overy. That compares with less than 1 per cent of deals scrutinised by the US and Germany.

Last year, the CMA stopped eight deals in the UK — three of which were prohibited and five abandoned. It only blocked one merger in 2018. The authority has also increased the fines it levied relating to procedural infringements from one fine of £20,000 in 2017 to a total of £778,000 of fines last year.

This is not entirely coincidental. Andrea Coscelli, the CMA's chief executive, said that they were looking to be more active scrutinising of large mergers and tackling anti-competitive behaviour, because – after Brexit – this may be the best route for a seat at the 'top table' of competition regulation.

As well as blocking deals, the CMA also referred more for in-depth investigations. Some 15 cases were referred to a so-called Phase 2 investigation, a lengthier and more in-depth probe, up from 10 cases the previous year.

Is it time to protect the minnows from the whales in competition cases?

VESTAGER STILL HAS SIGHTS ON BIG TECH

Margrethe Vestager, EU competition commissioner, has new powers allowing her to bring together the issues of privacy, monopoly and security. She has called for the burden of proof in antitrust cases to be put on the larger companies, to stop the small ones from going go out of business fighting the big ones, with their deep pockets and big legal staff.

She has also floated the idea of using rules that could force companies to "cease and desist" from activities considered problematic while waiting for the outcome of antitrust cases. These include competing in allegedly unfair ways on their platforms against their own customers, or refusing to allow audit of algorithmic bias.

"Vestager has suggested that Big Tech should have to show how it helps consumers, rather than just that it does not harm them…"

As we recommended in our own paper on competition policy[3], it seems likely that the idea of consumer harm, and in particular consumer prices, as the final measure of monopoly will be challenged. US and European regulators are starting to look closely at whether traditional University of Chicago thinking on monopoly, which has reigned for 40 years, makes any sense any more.

Chicago School thinking held that, as long as consumer prices were falling, there was no competition problem. But when they are paying for apparently free services with data, this idea may no longer work. Especially when only the company itself knows how much the data is worth.

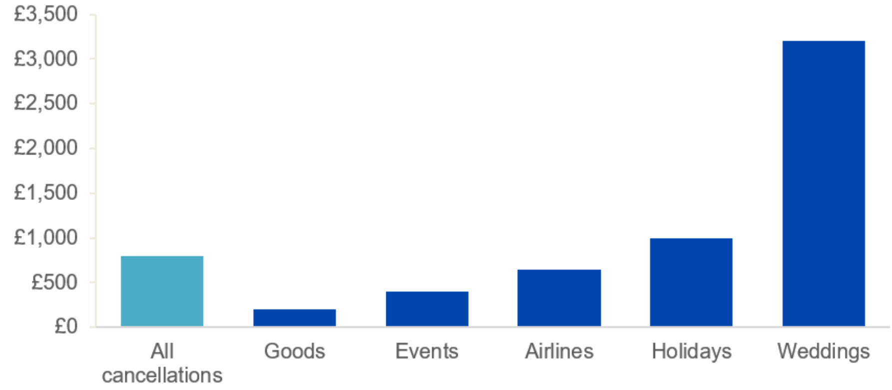
California wants to find out exactly what data is worth to Facebook

In the USA, the Federal Trade Commission is considering an injunction against Facebook on the sharing of data between Instagram, WhatsApp, and Messenger. This could force not only new disclosures on data value and how much it is worth to the company – which states like California are pushing for - but also more transparency about how data is used.

THE CMA GETS 80,000 COMPLAINTS DURING LOCKDOWN

The UK's competition regulator, the Competition and Markets Authority (CMA) was contacted during the Covid lockdown more than 80,000 times about coronavirus-related issues – at one stage at a rate of about 7,000 a week.

Cancellations: amounts at stake
Average (median) reported amount for all and selected sectors



Source: CMA complaints data
Note: This chart relies on extracting the amounts at stake as described by complainants in free text. It should be regarded as a good approximation, rather than an exact reflection, of the reported values.

Most of these were about unfair practices in relation to cancellations and refunds. The restrictions on travel and business activity resulting from the coronavirus outbreak have resulted in the cancellation of holidays, travel, event bookings and other services.

In most cases, the CMA expect consumers to be offered a full refund where no service is provided, including where a consumer cancels, or is prevented from receiving any services, because of the restrictions that applied during the lockdown.

Consumers are still complaining about firms refusing to provide refunds, introducing unnecessary complexity into the process of obtaining refunds, charging high administration or cancellation fees, and pressuring consumers into accepting vouchers instead of cash refunds. Around three-quarters of cancellation complaints received to date relate to holidays and air travel.

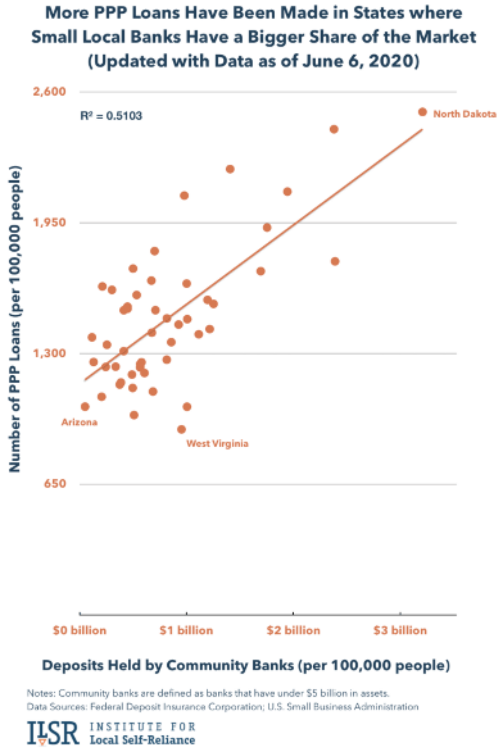
Complaints about airlines – representing around a fifth of all cancellation complaints – have been passed to the Civil Aviation Authority, which has lead responsibility for the enforcement of consumer law as it applies to air travel.

More loans reach small businesss where local banks proliferate in the USA...

SMALL BANKS CONSISTENTLY BEATING BIG ONES ON LOANS

Size of banks appeared to be a factor in the number of relief loans made to small businesses in the USA, according to a report published by the Boston-based Institute for Local Self-Reliance in April.[4]

The report showed that a significantly larger number of federal PPP relief loans were reaching small businesses in states where small, local banks comprise a greater share of the market, compared to states where big banks are more dominant.



After Congress authorised a second round of PPP funding in May, the media suggested that the big banks, like JP Morgan Chase and Bank of America, were picking up the pace and catching up to small banks. Yet data on total PPP lending through June 6 continue to show that a greater presence of big banks in a state correlates with fewer relief loans made to small businesses.
"Banking consolidation also appears to have contributed to a stark pattern of racial discrimination in the distribution of PPP loans," says ILSR. Recent surveys have found that businesses owned by BAME people have been much less likely to secure one of these relief loans. A long-standing pattern of discrimination in bank lending is one reason. Another reason may be that BAME communities have fewer local banks.

In research not yet published, they found that counties with a higher share of African American residents have lost nearly half of their small community banks since 2006. This is a significantly steeper decline in local banks than other counties experienced.[5]

Trump officials are now refusing to provide loan data…

Now the Trump Administration is refusing to release a list of all borrowers and loan amounts, which is standard practice for loans backed by the Small Business Administration (SBA). This makes it impossible to fully analyse the distribution of loans. It's also helping to conceal the identities of larger companies that took a PPP loan when they did not need the assistance.

TWITTER VERSUS TRUMP: A THIRD WAY

"The fight between President Donald Trump and Twitter CEO Jack Dorsey is a good illustration of the dangers that result from such concentration…"

A flawed regulatory environment in the USA has allowed Google, Facebook, and other platforms to acquire a dangerous concentration of control over how Americans exchange ideas, opinions, and news, says Open Markets Institute director Barry Lynn.

Moreover, the profits of these corporations are based in large part on building user "engagement" through false and inflammatory content while starving trustworthy and accountable information sources of ad revenue.

"The fight between President Donald Trump and Twitter CEO Jack Dorsey is a good illustration of the dangers that result from such concentration," he says.[1] "The fight appears to present us with two options. We can support the idea that a private executive who controls one of most important information gates in the world should be allowed to censor the speech of the US president. Or we can support the idea that a president who has routinely wielded lies and subverted norms has a right to force all communication platforms to broadcast his libels and hate speech.

"This is a false choice. We don't have to be ruled by oligarchs or autocrats. A third option is to return to the principles and practices that Americans long used to promote true freedom of speech and of the press, by offering equal and open public access to any essential communications technology, even when it is privately owned."

"AT&T was a private company. But we didn't let its executives make decisions about who could speak over its wires, much less censor the content of those messages. By the same token, we did not hold AT&T executives accountable for any libels or hate speech that happened to cross their networks. We did insist that AT&T operate as a highly regulated public utility, meaning that it could not discriminate in price or terms of service and was forbidden from engaging in other lines of business. We need to apply the same principles to today's social media platforms."

Barry Lynn, Open Markets Institute

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About Radix

Radix is a non-aligned public policy think tank for the radical centre. 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.

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