CPI's Europe Column Presents:

Who's the Daddy?

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I love babies, I love running, and I love water…especially tides. What does any of this have to do about competition issues in the digital economy though?

This note is provoked by many visits I've made recently to competition authorities and governments. They want to do something about online harms and competition problems, but don't know what to do, and don't think they have the necessary tools or – frankly – the economic might to make a difference. I thus introduce some thoughts I was honored to debate at the United Nations this summer, in a digital and competition conference of 193 member governments.

Digital giants are often perceived as all powerful, and enormously complex…but this doesn't mean that governments should throw up their hands and say it is "all too difficult" or "what can one country do?" or even "what if we get it wrong, won't the sky fall in?" The tech giants are all relatively young – Facebook is a teenager and Google in its early 20s – but they don't always act like grownups, sad to say. In fact, more often than not they act like giant babies with very simple wants. Indeed, they may seem to be providing us with amazing things, but they also take up a lot of our energy. So, yes, like babies they are life-changing, and wonderful, and they let us see the world through new eyes, and do things we could never have imagined. They give us joy and add real value to our lives. But like children most of these giant tech babies are exhausting, they are demanding, all they want is our attention. Indeed, demanding attention and maximizing engagement is the core business model for many of them – and they take, take…and take. Most of the time the attention they seek is rewarded in development and growth, and we feed them insights and lessons, which they can make their own as they mature.

But we have to remember that they are not the boss of our lives. Their needs and development are not so difficult and demanding that we should cede our authority over them – not even when they do grow up and show that they can be responsible. And most of all, we have to stop being so intimidated by these tech babies, and we must never say "gosh, understanding them and raising them is so difficult, let's just let them grow up on their own." That would be the feral path – and no one wants that, do they?

Yes, we see more and more of the world through their eyes, and work and live online…spend hours rubbing a rectangular piece of glass…but that does not mean that we live in their world. They live in our world, and we have to remember "who's the daddy?," "who's the mummy?" Who is? We are. The giant babies are in *our* house, and they have to live by our rules – they don't get all of our attention, they don't get fed

whenever they want – and they don't get whatever they think is best, not for them, and they definitely do not get to say what is best for us.

Life is messy, and more often than not, babies need a bath. As they grow into kids and teenagers, even more so sometimes. They need a good wash sometimes, and particularly so until they can clean themselves, or have the incentive to keep themselves relatively hygienic. Right now, it seems to me that the giant tech babies are getting into a serious mess. If they haven't understood the need to keep themselves clean, then until they do, sadly, the grownups need to step in. Obviously, whether human or digital, no one wants to throw the baby out with the bathwater. But that often-used phrase is not an excuse for never getting them to clean up their act.

Of course, we need to preserve tech giants' innovation incentives, and of course our remedial wash must go with the grain of technological developments. These days we clean with soap, after all, not sand – and we shouldn't add grit or friction to these fast-moving markets. But it is our bath, it is our house, it is our rules, and we determine when they're clean enough to go to school or just out to play again.

So, are our rules adequate? This takes me to the second love I mentioned: running. I think of proper competition in terms of a race. A true competitive constraint is like the loud footsteps and hot breath of the runner just behind you. In many of the digital markets there aren't many other runners, and even if there are, they are either way behind the leader, or are busy running a different race entirely, though it may take place on the same track. Just as a 10,000-meter runner is no constraint on a sprinter, so too is the world's fastest 100-meter star no constraint on the marathoner. As such, it is back on mom and dad again to run after the kids and make sure they play safe. We have to ask whether we enforcers are running quickly after these giant lumbering babies, especially those who say that their operating ethos is to "move fast and break things" – and so often then do break important things like data security, invading our privacy, and hurting businesses, consumers and citizens. Are we fast enough to catch and stop these giants? Of course we aren't.

Yes, many of the practices of the big tech firms are analogue models in digital clothes – old wine in new bottles – and we've seen them before and know what to expect. We know about exclusionary tactics and exploitation of power imbalances – we've seen kids shutting other playmates down, freezing others out, or outright bullying, so we know what to expect. Our legal framework, broadly speaking, is adequate and it can evolve to handle new harms. But whether we know what to expect, or are just being vigilant for the future, we have to be close enough to matter. More often than not, enforcers are too far behind the action. And when we have to bring the courts with us to tackle

new harms, we cannot wait for the glacial evolution of judicial precedent, we have to lead the charge.

When people tell me that enforcers can never catch up and that tech markets are too fast for us to comprehend, they sometimes argue that we should do nothing, for fear of scaring the horses. But that's rubbish – these markets are not that difficult to grasp. We know what the ad-funded tech babies want – our attention. We know they take our data and they change it into interesting new things that provoke more engagement and data release from us, and they make money off that. In the process, sometimes they are greedy and starve others, and sometimes they get leaky. So, follow the data, follow the money, are good overall policies, but when we start to hear complaints of actual harm, we need to act fast or cake-grabs or lunch-money-thefts by the bullies can lead to starvation and worse. If we see this stuff on the playing field, we have to blow the whistle fast – use interim measures and call a time-out. The sky won't fall in, it really won't. And we need to get faster at detecting and acting on such harms for two reasons. One, it's the right thing to do, and if we don't, we are not fulfilling our responsibilities as enforcers. But second, if we don't act, then with the rising tide of populist revolt against the tech giants, some other regulator will step in, and they won't care a jot for baby's welfare. The regulatory bath they draw will be cold, it will be full of grit and will chill any growth or innovation.

Finally, speaking of water, I mentioned I like tides. A tide is coming in. It is indeed a cold tide and it is aimed at regulating online harms in digital markets. No swimmer should ever try to fight a tide – we can't hold it back, that's for sure. But we can channel it, and we can use its tidal momentum, its force, and use it to drive regulatory innovations.

I've said we want to help clean up the worst practices of the digital babies, not throw them out with the bath water, and make them work harder, and face a genuine race, so they work harder for consumers and users, even if it means they have to sweat a bit more than they'd like.

In our report of the Digital Competition Expert Panel – *Unlocking Digital Competition* – in March 2019 we proposed improvements to competition law – to help enforcers run faster. But we also proposed a complementary layer of pro-competitive regulation because, first, it is the right thing to do, and second, because it is needed to handle the features of digital markets that create the opportunities for problems but which are not themselves issues for competition law: so network effects, economies of scale and scope, the transformational use of data, tippy markets, entrenched dominance and consumer and user inertia and dependence on the big platforms. This dependence means we have a duty as enforcers to ensure that platforms' great power is balanced

with a great responsibility – to act appropriately. So, we proposed a code of conduct for companies with strategic market status, to help clean up these markets of the most toxic exclusionary and exploitative practices. This would make the tech giants behave better, ensure a more competitive and fair ecosystem, create opportunities for innovators and consumers, and take the pressure off competition agencies or governments to Just Do Something ill-thought-out. So, we are proposing to "ride the tide" of the momentum for strong digital regulation, but aim it at the worst practices.

So, to conclude: like good parents we clean the baby, we teach it right from wrong, we ensure it has what it needs (not just want it wants) we teach it to run and compete fairly, and we ensure that its environment is safe for it, and all participants, whether incumbents, entrants or consumers. If we have to ride a tide of tech regulation to make that happen, then so be it. We're the Daddy, and don't you forget it.

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