The Daily Dish

# European “Leadership”

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You were warned. Eakinomics wrote about the Unholy Three of European Union digital regulations in April 2021. Since then, the Digital Services Tax (DST) was supposedly put on hold by the negotiations surrounding Pillar 1 and Pillar 2, only to reappear as a “cultural contribution” in Denmark. (The euphemism “cultural contribution” is itself a cultural contribution!) Meanwhile, *The Wall Street Journal* reports: “European lawmakers approved two sweeping new pieces of digital regulation, paving the way for clashes between regulators and some of the world’s biggest tech companies over how the rules should be applied.”

These laws – the Digital Markets Act (DMA) and the Digital Services Act (DSA) – will regulate digital “gatekeepers” and digital content, respectively. Specifically, the DMA will classify certain tech companies such as Google, Apple, Facebook, and Amazon as “gatekeepers” and subject them to additional regulations. As AAF noted: “To be classified as a gatekeeper, a tech company must have a large size in the EU market, be important in businesses’ attempts to reach end-users, and have entrenched and durable control of these gateways. The DMA creates a regulatory presumption that a company is a gatekeeper and subject to the DMA’s regulations if for three consecutive years it reaches a threshold in turnover or market capitalization, provides its service in at least three EU countries, and has 10 percent of the EU population as monthly active users and at least 10,000 active annual business users.”

Meanwhile, the DSA focuses on content moderation and online advertising. It seeks to regulate online intermediaries and platforms, including online marketplaces, social networks, content-sharing platforms, and app stores, as well as online travel and accommodation platforms. Specifically, it identifies “very large platforms” that are subject to tighter regulation, greater reporting, and higher fines.

The march of DMA, DSA, and (perhaps) DST to law is troubling for three reasons. First, they are just bad policy. In the end, effective competition regulation should be focused on consumer welfare and regulators should identify appropriate markets and examine the competition in those markets. These make the mistake of focusing on the actions of competitors (not consumers) and focusing on firms (and not particular markets).

Second, in contrast to those who argue that we should “let Europe be Europe,” the reality is that these laws are aimed almost exclusively at large, successful U.S. tech companies. Their negative impacts will be felt in the United States as in Europe.

Finally, some elements of the DMA and DSA are showing up in congressional proposals and U.S. regulatory agencies. The spillover of European regulatory “leadership” into the United States puts at risk the light-touch American approach that has yielded so many innovative companies and benefits to consumers.