Key Private Bank

Key Questions

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# Is Big Tech In Big Trouble?

George Mateyo, Chief Investment Officer

**Owning stocks at the right price — not just any price — and being selective are essential practices to adhere to.**

In June of last year, in the same week that twenty individuals began campaigning to be the Democratic Party's presidential nominee, we posed a question: "Who is Makan Delrhaim?"

Delrhaim is the US Assistant Attorney General for the Antitrust Division of the Department of Justice (DOJ), and we suggested last summer that investors should get to know his name. We made that recommendation believing that regardless of which candidate would prove successful and even which political party would prevail next week, Big Tech would face greater attention from all sides of the political spectrum. "Antitrust actions and greater regulatory scrutiny may be in the offing," we argued.

Big Tech is the group composed of the largest and best-known technology companies that have become dominant forces within our society and are large constituents of stock market indexes such as the S&P 500 Index. Amazon, Apple, Google, Facebook, and Microsoft are among the most widely recognized.

When highlighting these risks, we did so based on the observation that regulators' views on anti-competitive practices had undergone a strategic shift. Historically, monopolies were tolerated so long as consumers benefit. Further, consumer benefit was measured by the prices they paid for a good or service. In general terms, consumers were said to have benefitted if prices were low. Thus, a company producing such a good or service could exist as a monopoly under prior antitrust laws.

Delrhaim, however, suggested other metrics beyond price should be applied when evaluating whether or not anti-trust practices are at play: "Competition has price and non-price dimensions," he stated.

Fast forward to last week, and this change came into full view when the DOJ filed an antitrust lawsuit against Google, alleging the company has unlawfully maintained a monopoly by "implementing and enforcing a series of exclusionary agreements with distributors over at least the last decade." More specifically, Google is accused of illegally protecting its dominant position in the internet search market through deals with Apple and other smartphone manufacturers. Google responded by stating the lawsuit was deeply flawed, but investors are justified in asking: "Is Big Tech in big trouble?"

Interestingly, on the day of the DOJ filing, Google's stock rallied 3%, outperforming the broader market that finished higher by 1% on the same day. In other words, investors at first blush concluded that litigation risk was not as bad as feared. To some extent, that conclusion would seemingly be correct as there were no recommendations for penalties, sanctions, or other actions to be taken against Google.

Nonetheless, we would also note that the DOJ's lawsuit is now coming into public view, and other claims could be brought later. Moreover, while the DOJ has formally initiated its own suit, it comes on the heels of an extensive and wide-ranging report from the House of Representatives titled "Digital Market Competition."

The House report, which took 16 months to create, outlines a view that Big Tech companies are currently engaging in anti-competitive behaviors, and it makes specific recommendations for both legal and structural remedies.

As a result, technology companies could face profit pressures due to increased compliance costs. Additionally, they could be prohibited from engaging in future mergers or acquisitions and might even be forced into a corporate restructuring that could fundamentally reorder their business models.

However, investors should recognize that while such obstacles and disruptions are possible, it could take years before they materialize. For instance, it took a full decade before a final decision was reached in a similar lawsuit against Microsoft in the late 1990s.

Still, given the intense political scrutiny placed on these companies and a possible overhang that may linger, we continue to suggest that investors scrutinize their portfolios regarding their exposure to Big Tech and make sure such exposures are sized appropriately.

To be sure, as a result of their dominance, these companies possess many desirable characteristics: strong competitive positions, fortress-like balance sheets, above-average profitability, rich histories of innovation, and deeply loyal customers. Thus, we do not suggest selling them en masse. But we do believe investors should own stocks at the right — not just any — price, employ robust diversification throughout their portfolios, and engage in selectivity and sound judgment.

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