

A call for European choices

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Introduction

In a time marked by shifting global power dynamics, ecological threats and rapid technological change, two relatively recent developments are increasingly challenging Europe's social market economy. These developments are 1) the growing influence of power at the expense of rules and 2) the growing intrusion into our "free will".

And yes, there is reason for serious concern but no, these developments do not leave us, Europeans, without options. In the words of the Austrian psychiatrist and Holocaust survivor Viktor Frankl: "Between stimulus and response there is a space. In that space is our power to choose our response. In our response lies our growth and our freedom." So, the two developments that are central to this opinion require, and allow, deliberate - albeit sometimes difficult - choices by a self-determined European society.

Power versus rules

The growing influence of power and the declining role of rules are visible at multiple levels. First, between countries. The UN Charter formally protects state sovereignty, yet violations continue. Russia is neither the first nor the last UN member to illegally invade another member state, but the Ukraine invasion stands out due to its European proximity and transparency of its intentions. It reflects a broader shift toward "power over law."

A similar dynamic appears in international trade. The US administration's trade policy openly challenges the relevance of WTO rules and dispute mechanisms. The underlying message is clear: economic and military strength trump a rule-based order. We also see this shift in the relationship between powerful companies and governments. For example, some US companies actively seek political backing to resist regulation abroad. In doing so, they align themselves with geopolitical power, while foreign governments hesitate to act and protect their citizens out of economic and military concerns.

As a result, powerful companies can ignore or delay compliance with democratically adopted rules. At the same time, governments become more cautious in enforcing

them. Power - and the threat of it - outweighs the effectiveness of formal regulation adopted by a sovereign jurisdiction. So, can it still claim to be sovereign?

For a country like the Netherlands, this is particularly problematic. As a small, open social market economy without serious international economic and military power, it has depended on adherence to predictable rules in trade and international relations for a long time. This explains its tradition of supporting international law. However, protecting oneself becomes increasingly difficult when others stop adhering to those rules. The situation resembles a football match in which one team suddenly starts using its hands, with the referee unable to enforce the rules. Now, the opposing team faces three choices: continue playing by the rules, leave the field, or start breaking the rules too.

Continue playing

First, continue adhering to rules. Power dynamics are not fixed. There will come a time when the rule-based order regains prominence. Maintaining legal and ethical standards helps to prevent further deterioration. In our competition world, merger control is a litmus test for our resolve. Strictly assessing mergers prevents the creation of new powerful firms and the expansion of current ones. And as the saying goes, mergers are forever. So even more reason to be diligent. Merger control is a potent tool against corporate power and remains one of the few regulatory tools that companies cannot easily ignore or delay. Existing gaps in merger control, like anti-competitive below-the turnover threshold mergers, should therefore be addressed, and pressure from overseas and European corporate lobbying to weaken enforcement should be resisted.

The European Commission's updated Merger Guidelines of which a consultation draft was published late April, will be a test case. The draft provides a well-drafted smorgasbord of ideas. There is something in it for everyone: importance of scale, global competition, innovation, sustainability and resilience. It rightly emphasizes the importance of facts and evidence, so the proof of pudding will be in the eating. Theories of benefits should, in practice, not pave the way for theories of fantasy.

Walking away

The second option after foul play is to walk away from the game. In economic terms, this means a boycott by stopping to purchase certain goods or services. Buyer boycotts can be powerful, as illustrated historically by Gandhi's boycott of British textiles. However, this requires viable alternatives in a democratic society with a high standard of living. The lack of such alternatives is precisely what has enabled

powerful firms to consolidate and exploit their position. Developing substitutes is therefore a precondition for reducing dependency and regaining sovereignty.

In the context of the digital economy, this implies a strong push for European alternatives to critical digital infrastructure and services. Full digital autarky is unrealistic, but significantly reducing dependencies is both feasible and necessary. Priority should be given to cloud services and essential software for government and other critical services. Without these basic functions our society cannot operate. Governments, as major buyers of IT services, can drive this transition, supported by key private actors such as banks, insurers and pension funds. Across Europe promising initiatives are emerging that deserve our full support. At the same time, care must be taken not to replace one dependency with another. Scale matters but derisking through supplier diversification ultimately matters even more.

Rule-breaking

The third option in the football match that has broken down - breaking the rules - is inherently risky and understandably controversial. Unintended further escalation is a real possibility. If in response to the agitator the other party also starts breaking the rules, the first one may go even further, leading to total anarchy. Nevertheless, completely ruling out this option may be naive. In certain cases, selective rule-breaking can be justifiable to protect sovereignty. Examples include designing public procurement policies that favor European digital service providers or selectively protecting strategic industries. While undesirable in an effective and genuine rule-based order, such measures can be justified in an environment where others no longer adhere to these rules. The key is that these actions are proportionate and remain instrumental to the broader strategy of protecting a rule-based order, reducing dependencies and defending sovereignty.

In summary, power is gaining importance at the expense of rules. This shift is problematic, but not reversible through nostalgia. It requires adaptation to a new reality. A pragmatic approach combines rule adherence, strategic disengagement, and selective countermeasures. But first and foremost, choices, European ones.

Intrusions into our free will

The second development directing our social market economy concerns the increasing influence on human decision-making and our already fragile and questionable "free will". Almost all political and economic models assume rational individuals who make informed and independent choices that serve their interests. Nowadays, this assumption is becoming even less realistic. Advances in digital

technology enable increasingly precise and effective methods of influence. Intrusions into the free will are as old as humanity. What has changed is scale, precision, and speed.

Three changes are central. First, big digital platforms allow for continuous large-scale experimentation and near instant feedback. These platforms run constant A/B tests to determine which designs, messages, and features maximize engagement or sales. Second, targeting is becoming increasingly granular. Small, specific groups and even individuals can be identified and approached with tailored strategies. Success in the attention economy depends on this capability. Third, AI only accelerates both processes. Testing is becoming faster, adaptation more immediate, and targeting more precise, even without a human in the loop. In addition, AI blurs the distinction between fact and fiction. Influence is no longer limited to presenting edited texts but extends to creating near-realistic false images. As a result, behavioral influence becomes faster, more targeted, and more effective. The question is not whether our “free will” disappears entirely, but how much of it will be left in practice and who controls it.

Regulation

There are three broad responses possible to this development: regulation, prohibition, and laissez-faire. Regulation is the default response in Europe. When negative effects emerge, policymakers often respond by introducing rules to try to restrain them. Examples in the digital domain include the DMA, DSA, AI Act, DA, DNA and DFA, among others. This approach has clear limitations. For long-term success, it often requires a level playing field for companies in a globally connected but heterogenous world. It also requires enforcement against powerful companies in a context where the rule of law is already weakening. Moreover, it often seeks to protect individuals from behaviors they themselves choose and value, at least in the short term. This creates a structural imbalance like public health challenges such as smoking or obesity.

A far more intrusive regulatory approach could be the introduction of a licensing regime. Comparable to, for example, broadcasting licenses. Conditions can be attached to a license, including compliance with applicable laws. Violation of these conditions can lead to revocation. I appreciate that for many this will clearly be a bridge too far, but perhaps a licensing regime for providing digital services targeted at children is more proportionate. In any event, some form of regulation remains necessary but cannot fully resolve the issues.

Prohibition

Prohibiting goes obviously much further than regulating because it bans certain digital services altogether. While uncommonly intrusive in Europe, particularly for adults, it remains a viable option. Proposals to ban social media for children illustrate this. A ban can be partially circumvented, but it can still be effective if broadly supported. At the very least, it signals officially recognized danger. Although that may particularly attract teenagers.

Obviously, a prohibition of certain digital services entails significant trade-offs, particularly in open societies that cherish individual freedom. However, these digital services may produce such systemic negative externalities, like mental health issues, increased aggression, or erosion of democratic norms, that prohibition is justified. Again, protecting children seems to offer a logical starting point. Light-touch measures such as smartphone bans in schools or, more strict, social media bans for young children may be the first steps.

Laissez-faire

The third option is to simply allow developments to unfold. Laissez-faire, nothing is permanent. Societies tend to adapt over time to new realities. Old challenges are replaced by new ones. Sincere parental concerns about my own television consumption as a child in the 1970's illustrate this pattern. I turned out just fine. Not all societal risks can be eliminated without disproportionate costs and restrictions of freedom and self-determination. Most people don't want to live in a nanny state even if they would be objectively better off. Accepting a degree of risk, uncertainty and relying on human adaptive behavior is therefore part of the spectrum of policy options.

Conclusion

Two new developments are challenging our social market economy: the shift from rules to power and the increasing digital influence on human decision-making. However, these developments do not eliminate agency. People, companies, societies and governments, including independent authorities like the ACM and BKartA, retain choices. These choices may be difficult and sometimes contradictory, requiring trade-offs between competing values. The key to action is to recognize that passivity is not neutral and choices need to be made. A combination of strategies - reducing key dependencies, consistently enforcing existing or slightly modified rules, protecting

minors more rigorously and selectively adapting to new realities - offers probably the most realistic path forward. Most importantly, it is essential to recognize that genuine choices exist. The task is to make them deliberately and together, in our long-term interest, as self-determined Europeans.