

Facebook Hearings Reveal How Government Regulations Work

A [commentator](#) on Mark Zuckerberg's appearance before the Senate observed that the event seemed like a 5-hour tech-support call. Truth.

If you have ever had to do tech support, you know the way it happens. The user is hopeless, frustrated, and essentially ignorant of the product. That's the Senate. The support employee tries to organize tasks and stay patient. That's Zuckerberg.

Eventually, the problem is resolved when its source becomes immediately obvious. It was something dumb all along and the fix was easy. (A secret of tech support is the time on hold. The longer the technician delays answering, the more likely it is that the user will fix his or her own problem.)

So it went with the Facebook hearings. It became obvious that Senators knew essentially nothing about how Facebook works, who owns the data, how the business makes money, the platform's relationship to the app economy, what a data breach means, and so on. Mark was on the other end of the call, explaining all the basics, filling in technical details, revealing the basic business model, speaking earnestly of his personal history and dream for the platform.

And agreeing to be regulated.

Teacher and Students

Each Senator who took him on immediately felt out of his element. It's a solid reminder to all of us. These people are not masters of the universe. They are not the most intelligent people from among the population. They specialize in one thing: getting elected to the office of Senator. In so doing,

they craft messages that appeal to the party and to the base. Once in office, they work on getting reelected. Otherwise, they vote on legislation.

There was only one person in the room who really knew about Facebook and that was Mark Zuckerberg. That gave him a distinct advantage over everyone there. He used that to the hilt. He explained that users are the ones who elect to provide data and they control how much, how often, how in depth. They share that data by authorizing apps that scrape that data. Users can roll back the process anytime. Senators were amazed. Mark won. The stock price of Facebook rose 9% after his testimony.

The Regulation Question

And yet the Senators asked themselves the question: what can we actually do here? The answer is obvious: regulate. Please read the following [exchange](#) between Mark and Senator Lindsey Graham of South Carolina.

GRAHAM: You embrace regulation?

ZUCKERBERG: I think the real question, as the Internet becomes more important in people's lives, is what is the right regulation, not whether there should be or not.

GRAHAM: But – but you, as a company, welcome regulation?

ZUCKERBERG: I think, if it's the right regulation, then yes.

GRAHAM: You think the Europeans had it right?

ZUCKERBERG: I think that they get things right.

GRAHAM: So would you work with us in terms of what regulations you think are necessary in your industry?

ZUCKERBERG: Absolutely.

GRAHAM: Okay. Would you submit to us some proposed regulations?

ZUCKERBERG: Yes. And I'll have my team follow up with you so, that way, we can have this discussion across the different categories where I think that this discussion needs to happen.

GRAHAM: Look forward to it.

Do you see what has happened here? We have a transcript from the Senate that Facebook will be the consulting author of the regulations. How does that strike you? Conflict of interest? Welcome to regulatory politics. The large-scale stakeholders are always and everywhere involved in crafting regulations, and they do so in a way that benefits them, precisely as one might expect.

Self Regulation

So in Facebook's case, they will advocate some institutionalized changes in the way social media should work. Every change will involve compliance costs. Facebook will make sure that it can comply...and that its competitors cannot without great expense. That will give them a distinct advantage in the marketplace, make it more difficult for startups to compete, and guarantee this platform a leading place by law.

This is why Mark readily agreed to be regulated. Regulations always work to the advantage of the largest market players.

Regulatory Capture

Nor should this come as some sort of shock. This is the way government regulations have always worked, from the meatpackers in the early 20th century (who crafted and enforced meatpacking legislation), to all labor legislation (it's labor-union lawyers who exercise the dominant influence)

to Bitcoin regulations (the major exchanges are always involved) to digital technology today (no way are Google and Facebook going to be excluded from writing the regulations that govern their industries).

There is a civics-text myth that imagines government workers and politicians as all-knowing, crafting rules that benefit everyone as opposed to particular players. It imagines that major market players are suffering as government forces new rules that require their operations put greed on hold and serve the public. The on-the-ground reality is otherwise. There is not a single regulation on the books that does not have an author who is unattached in some way to the regulated industry in question.

Milton Friedman called this [regulatory capture](#). The problem is the influence of industry is there from the beginning. It's absolutely not the case that capitalists are champions of capitalist competition, as the career and policies of Donald Trump should make clear. Lots of people are good at using markets to make money; only very special people become defenders of open competitive processes.

Right now, Facebook faces massive competition from other platforms in social media, copycats, and alternative uses of people's time. In some ways, it's the best possible moment to call on government to institutionalize Facebook as a form of public utility. That might actually be the end game that Zuckerberg has in mind. Then the politicians can update their timeline status: today we passed regulations that brought this wayward company to heel.

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