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Biden's Corporate Dilemma: The Political Dimension

By Adam Garfinkle

SYNOPSIS

President Biden's recent Executive Order on "Promoting Competition in the American Economy" illustrates well the difficult political juggling act he is obliged to perform.

COMMENTARY

ON FRIDAY 9 July 2021, President Joe Biden announced a major Executive Order (EO) on Promoting Competition in the American Economy. Speaking in the White House with the director of the Federal Trade Commission (FTC) and the acting assistant secretary of Justice for Antitrust silent at his side, Biden proclaimed:

"The heart of American capitalism is a simple idea: open and fair competition... Competition keeps the economy moving and keeps it growing. Fair competition is why capitalism has been the world's greatest force for prosperity and growth." He later added by way of careful counterpoint that capitalism without fair competition is "exploitation".

Connecting the Dots

Rumours of a forthcoming EO had circulated in June, but the broad scope and girth of the result took most observers of US domestic policy unawares. The EO took on anti-competitive market distortions in big-tech, healthcare and health insurance, agriculture, telecommunications, transportation, and more. It included 72 separate initiatives spelled out by more than 6,300 words, accompanied a White House Fact Sheet in excess of 3,800 words.

Partly as a result of the EO's scope and complexity, and its summertime Friday rollout, media coverage of the announcement was sparse. Even the predictable criticism from

corporate lobbyists was notably unimaginative, failing even to take the full measure of the challenge to business-as-usual the EO really portends.

But the 9 July EO is far too important to remain a victim of the media's attention deficit disorder. True, major parts of it are less than meets the eye, as is typical of what was a political performance as well as a policy pronouncement. Some parts are just for show, and many of the EO's desiderata are not the president's alone to bring about: For some he needs independent agencies to concur and for others he needs Congress.

But other aspects of the EO presage much more than meets the eye, notably its implications for the entire domain of antitrust regulation going forward.

To properly understand what happened on 9 July requires connecting the dots between America's fraught contemporary politics, which requires President Biden to juggle optics left and right as he looks toward elections next year and in 2024, and a recent shift in the intellectual evolution of legal thought concerning antitrust regulation.

Growing Anti-Corporate Left-Wing

First things first. As to the politics, Biden has within his own party a growing left-wing that is generically anti-corporate, anti-big tech to the point of being para-Luddite, and is at its further extremes avowedly anti-capitalist. With the Senate evenly divided and the Democrats with but a slim four-seat majority in the House.

Biden must keep this wing of the party content enough to ensure its support for his major legislative initiatives. This is because, having so far spurned in all but the case of the recently passed infrastructure bill a "triangulation" deal with the rump of sane Senate Republicans, he needs perfect party unity to achieve anything in Congress.

Besides, anti-corporate rhetoric plays well to an electorally significant populist Left, particularly among younger voters who are, whether they realise it or not, the inheritors of the Occupy Wall Street movement.

On the other hand, right-wing populism has also grown increasingly anti-big corporation in timbre, giving the Democrats a chance to recoup support from the corporate world at Republican expense if they can stake out a credible claim to the political centre.

That is a tricky proposition when, at the same time, the main thrust of Democratic political outreach is to disaffected blue-collar workers — a.k.a. somewhat disingenuously termed "the middle class".

But both can be done so long as the optic of the corporate critique is impassioned based on facts about the impact of corporate consolidation on wages and jobs in a post-industrial economy, and lacks sanctimonious "eat the rich" rhetorical threats to tax corporations and wealthy individuals as moralistic punishment for their successes, which the left defines solely as "exploitation".

Fumbling the Juggling

Lately, Biden has fumbled trying to keep his juggling balls aloft. The pro-capitalism language of the 9 July EO was perfect — kudos to the speechwriter. But somehow the desired spin on the event failed to take in the media.

Most headlines next day transformed the positive connotation of the EO's title about promoting competition into the negative tense: Saturday's *Washington Post* front-page headline read "Biden targets corporate power". The same spin caromed abroad, even into the *Straits Times*' brief story, probably taking its cue from a Reuters dispatch.

Worse, soon afterwards Biden got into a public shouting match with Facebook about anti-vaccination memes on social media. Facebook did not back down. How that has played politically is open to interpretation, but Biden's tone came across as petulant.

Worse still, media coverage of the administration's plans to spend US\$3.5 trillion over and above the stimulus and infrastructure bills — the bipartisan Committee for a Responsible Budget puts the real price tag nearer to \$5.5 trillion — is regularly accompanied by a statement that Biden plans to pay for all this by sharply raising taxes on corporations and wealthy individuals.

The recent US-supported framework agreement on a Minimum Corporate Tax signed by 130 countries is taken to be a part of the broader effort, and most US corporations don't like it one bit.

Finding a Better Balance

Biden has at times beclouded the presumed determination to raise corporate taxes; like any experienced politician knows how to do, he has fudged his intentions with clouds of temporising ambiguity.

But at the same time he has allowed administration spokesmen and congressional allies to pre-justify a tax hike by pointing out that the current corporate tax rate is historically far lower than it was, say, during the Republican Eisenhower and Nixon-Ford administrations.

If Biden avoids significantly raising taxes to pay for his "go big" spending plans, which in political terms means doing more than simply reversing the effects of the Trump tax cut, the only other ways available to pay for them risk politically untimely inflation or recession. Business constituencies won't like either one, and neither will many voters.

The president cannot allow a major EO to be characterised as "targeting corporate power", *and* use his bully pulpit to accuse Big Tech of harming public health via social media, *and* be seen to favour raising corporate taxes couched as a moral imperative, and still stand a chance of wooing corporate support for the Democrats.

He needs to refine his juggling act and find his balance, or too many balls will hit the floor. At this parlous moment in American politics, the stakes could hardly be higher.

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