

Electricity, Gas, Google?: Why Google Is Not a Utility

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Every month, most of us receive a bill for the public utilities that serve our home — the water company, the electric utility and the gas company. These companies provide vital services, and we tend not to think about these utilities too much until something goes wrong.

And while social networks and search engines also serve a useful service, few people would mistake them for public utilities. Unfortunately, some of Google Inc.'s rivals are currently arguing that governments in the U.S. and Europe should regulate Google just as they regulate public utilities.

After all, the proponents of regulation argue, electricity and water are important, and so is Google. Utilities have large market shares, and so does Google. Google delivers information about websites and the water company delivers water. Therefore, they argue, Google should be regulated like a public utility, and governments should oversee how Google ranks and displays search results.

Of course, this is nonsense. I have specialized for 27 years in the study of public utilities — and there are good reasons that search engines are not utilities, and that governments shouldn't police their results.

Your electricity, gas and water providers are utilities because they are government-franchised monopolies, depend on government grant of right-of-way, provide services

whose failure could shut down an economy, and have very stable technologies. In fact, their technologies are so static that some of their investments have been in place for over 40 years.

That's not Google. Sure, Google has a large share of general search queries, but this is because so many customers make conscious decisions every day to use it, not because the government prohibits competition. Google may be important, but Google's success doesn't depend on a franchise or other resources from the government. And unlike relatively static utilities, Google changed its algorithms more than 500 times last year.

More importantly, your local government has to give one water utility rights to serve your home because it's impractical to grant multiple water companies access to your home. In contrast, the openness of the Internet means you can switch between different search engines as often as you like.

As we all know, Internet customers are quick to change their habits when something better comes along. Remember when Fortune magazine declared Yahoo! the winner of the "search wars" in 1998? Or when MySpace was at the top of the heap in social networking? There never is such a thing as a winner in the Internet and no finish line. It is a constant race. And without innovating, companies that do well today will most likely be an afterthought tomorrow.

Failing to make a case that Google is a public utility, some critics of Google say that it should be regulated as a "common carrier," like a telephone company or a trucking company. Or declared to possess an "essential facility" — something that rivals (in this case, websites) must have access to in order to compete.

But these terms have very specific meanings under the law, and Google doesn't meet any of them.

Google isn't a common carrier like a railroad or phone company, transporting goods or information on someone else's behalf. Google simply tells people where they might find the things they are looking for, just as Yahoo!, Microsoft's Bing, and other search engines do.

And Google does not possess an essential facility to which Google denies rivals access, and that the rivals must have and cannot duplicate. Google doesn't exclude rivals from its general search results. Even if it did, Google doesn't prevent users from navigating directly to a website — or finding a site through Bing, Yahoo!, Facebook or Twitter. Indeed, when Google's search engine had a brief malfunction in 2009, Yahoo!'s search traffic doubled, demonstrating just how competitive general search is.

Yet some continue to argue that Google has some kind of vague public responsibility to websites, just as the U.S. Supreme Court said some Illinois grain elevators did in the late 1800s for farmers and merchants. This court decision is credited with being a critical legal foundation for the idea of public utilities.

But Google's success isn't because it happens to sit on a unique, geographically important point, as the grain elevators did — grain could not pass from the Midwest to the eastern states without passing through these elevators — but because of Google's extensive research into what consumers want. Rivals can and do duplicate much of this research, but without Google's effectiveness, at least for now.

What is at stake if government regulators start dictating search engine results, just as local government dictate utility rates today? Nothing less than flourishing innovation

from the Internet, which stands in sharp contrast to the steady, status quo of most public utilities. After all, when was the last time you heard someone raving about the cool new electric power or water pressure that their utility unveiled?

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