Chapter 11
Policy
Platform Revolution: How Platforms Should (and Should Not) Be Regulated

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Platform Revolution: 
Chapter 11 – Policy

1. Introduction: Welcome to Platform World
2. Network Effects: The Power of the Platform
3. Architecture: Basic Principles for Designing Successful Platforms
4. Disruption: How Platforms Conquer & Transform Traditional Industries
5. Launch: Chicken or Egg? 8 Ways To Launch Successful Platforms
6. Monetization: Capturing the Value Created by Network Effects
7. Openness: Defining What Platform Users/Partners Can & Cannot Do
8. Governance: Policies That Increase Value and Enhance Growth
10. Strategy: How Platforms Change Competition
11. Policy: How Platforms Should (and Should Not) Be Regulated
12. Future: Industries Facing Imminent Change

(click to order on Amazon)
REGULATORY CHALLENGE: REWORKING OLD RULES FOR A NEW WORLD

APPROPRIATION OF PUBLIC GOODS
- Public spaces

PRIVACY

1099 ECONOMY
- Part time work

ABUSE OF DOMINANCE
- Ebooks
- Skewed search
THE DARK SIDE OF PLATFORM WORLD

DISRUPTION OF TRADITIONAL INDUSTRIES
EXTERNALITIES
• e.g., Airbnb party houses

APPROPRIATION OF PUBLIC GOODS
• Monkey Parking App

PRIVACY

1099 ECONOMY

ABUSE OF DOMINANCE
• Ebook price fixing
• Skewed search
THE CASE AGAINST REGULATION

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The car service Uber is fighting in cities all over America to end the regulatory capture enjoyed by the taxicab industry.
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Consistent with Chicago School: Ronald Coase and George Stigler
THE CASE AGAINST REGULATION

``Uber and other sharing-economy innovations create more productive capital and create more capitalists. Government interventions against Uber and other sharing-economy innovations are, therefore, government interventions aimed not only at protecting the value of existing capital (and established capitalists) from the forces of creative destruction.”

Don Boudreaux - Café Hayek
``...reliance of the Chicago School on litigation as an alternative to regulation assumes and depends upon the existence of an independent and honest judiciary. This ignores the fact that judges and lawyers are just as subject to manipulation and capture as other government employees."

- Parker, Van Alstyne, Choudary, “Plaform Revolution”
THE CASE FOR REGULATION

JONATHAN’S COFFEE HOUSE - PRECURSOR TO LONDON STOCK EXCHANGE

• To enforce contracts, guilds emerged that would exclude bad actors.
• A group of stockbrokers paid for exclusive use of Jonathan’s coffee house for 3 hours a day while they traded securities. In 1762, one Mr. Renoux was forcibly ejected as such a bad actor; he sued for assault.
• The court found for the plaintiff since the house had been a “public market” where securities were being traded, and to which he could not be denied access; but the fine was one shilling because he had previously been a poor trading partner.
SUCCESS STORIES

U.S. AIRLINE SYSTEM

SAFE DRINKING WATER

HIGHWAY TRANSPORTATION SYSTEM
REGULATORY ISSUES - ACCESS

• SONY, MICROSOFT, AND NINTENDO
  CATEGORY EXCLUSIVITY

• EXCESS INERTIA
  SLOW OR PREVENT THE ADOPTION OF NEW, PERHAPS BETTER, TECHNOLOGIES

• INNOVATION, OPENNESS, & PLATFORM CONTROL
  LIMITING COMPETITION AT DEVELOPER LEVEL CAN INCREASE INNOVATION
REGULATORY ISSUES - FAIR PRICING & ABUSE OF DOMINANCE

PREDATORY PRICING

• ... but watch out for 2-sided networks

MANIPULATION OF SEARCH
FTC REPORT REVEALS HOW GOOGLE MANIPULATED ITS SEARCH RESULTS
Leaked Documents Show How Yelp Thinks It’s Getting Screwed By Google

@joshconstine
REGULATORY ISSUES - DATA PRIVACY AND SECURITY

LONG HISTORY

• 1974 EQUAL CREDIT OPPORTUNITY ACT (ECOA)
• SEX, MARITAL STATUS, RACE, RELIGION, NATIONAL ORIGIN, AGE, ETC. (1976)

EXPLOSION OF DATA SERVICES
THE DATA BROKERS: SELLING YOUR PERSONAL INFORMATION
DATA MINING HOW COMPANIES NOW KNOW EVERYTHING ABOUT YOU

The Creep Factor
There is now an enormous multibillion-dollar industry based on the collection and sale of this personal and behavioral data, an industry that Senator John Kerry, chair of the Subcommittee on Communications, Technology and the Internet, is hoping to rein in. Kerry is about to introduce a bill that would require companies to make sure all the stuff they know about you is secured from hackers and to let you inspect everything they have on you, correct any mistakes and opt out of being tracked. He is doing this because, he argues, "There's no code of conduct. There's no standard. There's nothing that safeguards privacy and establishes rules of the road."
### CONCERN OVER TARGETING VULNERABLE SEGMENTS

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Data brokers won’t even tell the government how it uses, sells your data | Ars Technica 11/17/14
FTC REPORT

- Data Brokers Collect Consumer Data from Numerous Sources, Largely Without Consumers’ Knowledge
- The Data Broker Industry is Complex, with Multiple Layers of Data Brokers Providing Data to Each Other
- Data Brokers Collect and Store Billions of Data Elements Covering Nearly Every U.S. Consumer

FTC REPORT

• COMPANIES STUDIED:

Axciom, Corelogic, Datalogix, eBureau, ID Analytics, Intelius, PeekYou, Rapleaf, Recorded Future

• Identification Data
• Sensitive ID Data
• Demographic Data
• Court Data
• Social Media Data

• Financial Data
• Vehicle Data
• Travel Data
• Purchase History Data
• Health Data
PENDULUM SWING: 2017 LEGISLATION

House Votes to Let Internet Providers Sell User Browsing Data Without Consent

Republicans send bill to President Trump after dismissing privacy concerns.

Congress Votes to Allow Broadband Providers to Sell Your Data Without Your Permission

By Molly Olmstead

Your ISP knows all.
REGULATORY ISSUES: TAX POLICY

- WHO BENEFITS FROM THE SALES TAX DOLLARS GENERATED? SHOULD THEY BE PAID AT THE LOCATION OF A CENTRAL PRODUCER, OR SHOULD THEY BE COLLECTED AT THE POINT OF CONSUMPTION?
- CONTRACTORS CAN SHIFT COST OF MEDICAL CARE FROM PRIVATE TO PUBLIC
- MAIN STREET FAIRNESS ACT
  - supported by Amazon (as well as by retail giant Walmart).
Elance-oDesk flings open the doors to a massive digital workforce

By Sarah Halzack

June 13

Several years ago, when Serge Knystautas was building his Web site business, PrestoSports, he faced a typical start-up dilemma: He badly needed software developers, and he was finding it hard to lure such in-demand workers when he couldn’t promise them a steady paycheck.

So Knystautas turned to oDesk, an online platform for hiring, managing and paying remote freelance workers of all kinds. From his Rockville, Md., headquarters, he scooped up developers based in Russia, China, Colombia and elsewhere to help PrestoSports build its system for hosting Web sites for hundreds of college teams.

“Telecommuting on steroids,” Knystautas calls it.
Let's get real: the 'sharing economy' won't solve our jobs crisis
Moira Herbst

These days, everyone's talking about the so-called sharing economy. Newspaper columnists, pundits and tech reporters are – for the most part – enthusiastically explaining how new rental, resale and sharing services like Uber, Lyft, TaskRabbit and DogVacay are revolutionizing how we consume, and fostering entrepreneurship, conservation, cost savings and community spirit along the way. The prevailing narrative is that startups like these are the bright spots in an otherwise lackluster economy, and that if we could all learn to be better micro-entrepreneurs, our economy would recover faster.

Ebay has spawned even more sites that re-sell or 'share' people's goods and services. Photograph: Martin Godwin
REGULATORY ISSUES: LABOR

UBER, TASKRABBIT, AND MECHANICAL TURK

- truly independent contractors?
- August, 2014, FedEx lost a federal court case involving 2,300 full-time workers in California who were classified as contractors rather than employees

FREELANCERS CAN SWITCH BETWEEN MULTIPLE PLATFORMS OVER THE COURSE OF A DAY—FOR EXAMPLE, DRIVERS CAN ACCEPT JOBS FOR BOTH UBER AND LYFT. REGULATORY CHALLENGE.
**Kinder, Gentler, Faster**

As Uber tries harder to work with regulators, it is taking less time for some U.S. cities to pass ordinances that make the app-based car service legal.

- Uber operates in legal gray area
- Uber operates legally after city passes an ordinance

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<td>Chattanooga, Tenn.</td>
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*As of Dec. 31
Source: the company

**Cities where Uber operates world-wide**

- Passed pro-Uber ordinances: 17

- **2016**: 276

The Wall Street Journal
BEWARE MARKET FRAGMENTATION: GLOBAL PLATFORM UNICORNS

N. America: 42 / $191B
Europe: 13 / $28.6B
Asia: 25 / $79.5B

“European Platform Anxiety”
REGULATORY ISSUES: DATA NATIONALISM

EU DATA PRIVACY REGIME

• More privacy
• Germanwings crash?
• Economic consequences?
• GDPR

EU LOSS OF SAFE HARBOR PROTECTION

• Fragmentation (EU already has “platform anxiety”)
Rise of Data Protectionism and the “Splinternet”

“an accelerated rise of ‘data nationalism’ and a digital world that begins to erect barriers rather than transcend them.”

Ambassador Michael Froman, US Trade Representative

Source: Robert Moran  - Partner, Brunswick Group
CHINA PULLS PLUG ON GE’S REMOTE MONITORING

Fleet of China-based gas turbines must be monitored in China
EU GENERAL DATA PROTECTION REGULATION (GDPR)

- **Expanded scope**: GDPR regulation includes “processors” and “controllers” of data; institutions must own their compliance as well as third-party companies.
- **Significant fines**: non-compliance can incur a fine of either 4 percent of a company's annual global revenue or €20 million, whichever is greater.
- **Increased consumer rights**: GDPR has expanded the scope of rights for data subjects, including data portability and access.
- **Data breach reporting**: notification of a data breach is now required within 72 hours.
- **Data protection officers**: institutions may be required to appoint data protection officers to monitor compliance with GDPR regulation.

The Clock is ticking ... May 25, 2018
SPLINTERNET CAN STOP PLATFORMS


REGULATION 1.0

- PRESCRIPTIVE RULES
- CERTIFICATION PROCESSES
- GATE KEEPING
REGULATION 2.0

- DATA DRIVEN TRANSPARENCY AND ACCOUNTABILITY
- CHANGES GOVERNMENT ROLE FROM ESTABLISHING RULES OF MARKET ACCESS TO ENFORCING AFTER-THE-FACT TRANSPARENCY.

REGULATION 2.0?

- TRADITIONAL SYSTEMS OF STANDARD-SETTING AND CERTIFICATION FACILITATE CONSUMPTION OF GOODS AND SERVICES WITHOUT ANXIETY
- REGULATION 2.0 REGIME WOULD REQUIRE SIGNIFICANT TALENT UPGRADES ON THE PART OF GOVERNMENT AGENCIES AS WELL AS COMPLEX REVISIONS TO EXISTING STATUTORY CODES.
- PLATFORM BUSINESSES CAN’T NECESSARILY BE TRUSTED TO BEHAVE WITH CONSISTENT TRANSPARENCY AND INTEGRITY UNLESS SOME OUTSIDE BODY IS MONITORING THEIR ACTIONS.
2014 NOBEL PRIZE FOR REGULATION

If markets dominated by a small number of companies are left unregulated, society often suffers negative consequences. Prices can become unjustifiably high and new companies can be prevented from entering the market. Since the mid-1980s, Jean Tirole has worked to develop a coherent theory, for example showing that regulation should be adapted to suit specific conditions in each industry. Based on game theory and other theories, Tirole has also suggested a framework for designing regulations and has applied it to a number of industries, from banking to telecommunications.

If the platform has better information, parties are on-platform, and matched incentives, it can self regulate. If parties are off-platform, incentives are mis-matched, or harm greater than good, platform may require state regulation.
ADVICE FOR REGULATORS

- DOES PLATFORM HAVE A FUNCTIONING GOVERNANCE SYSTEM IN PLACE?
- IF SO, IS IT BEING USED TO REDUCE NEGATIVE EXTERNALITIES THAT WOULD HARM THE PLATFORM (SUCH AS CRIMINAL BEHAVIOR BY USERS)
- OR IS IT BEING USED TO REDUCE COMPETITION OR TAKE ADVANTAGE OF A DOMINANT MARKET POSITION?
If we let tech companies launch first and ask questions later, we invite misbehavior . . . Perhaps some sectors suffer unnecessary or outdated regulation; if so, let’s remove the regulations through proper democratic processes. If we let a few firms ignore the rules, we effectively penalize those that comply with the law, while granting windfalls to free-wheeling competitors. That’s surely not a business model consumers are looking for.

https://hbr.org/2015/01/digital-business-models-should-have-to-follow-the-law-too
**TAKEAWAYS FROM CHAPTER ELEVEN**

Despite concern over regulatory capture, some level of societal regulation of business is healthy and beneficial both to the economy and to society as a whole.

There are a number of regulatory issues that are unique to platform businesses or that require fresh thinking in the light of the economic changes that platforms are causing. These include access to platforms, compatibility, fair pricing, data privacy and security, national control of information assets, tax policy, and labor regulation.

Regulation 2.0 - New data made available by today’s information age technologies suggests the possibility of new regulatory approaches based on after-the-fact transparency and accountability rather than restrictions on market access.

Economic frameworks for industries with network effects suggest that dominance alone is not necessarily cause for government intervention. Rather, failure to manage externalities, abuse of dominance, manipulating populations, and delaying innovation can indicate when intervention in platform markets is necessary and appropriate.
Platform Revolution:
Chapter 12 – Future

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