

▶ THE REGULATION OF BIG TECH: WILL GOVERNMENTS WIN?

Late last February, Australians almost lost the ability to share domestic news content on Facebook due to a proposed law by Parliament. However, losing the ability to share news content was not part of the law itself; this was because Facebook decided it was in its best interest to make it so. While an agreement between Facebook and NewsCorp eventually resolved this, I see this as the latest in a long trend of regulators losing the ability to regulate the social media giant and other companies like it. In other words, big tech has become powerful enough to dictate regulatory terms to governments.

To make sense of my previous statement, I think it is important to unpack what Australia was seeking to do with this law. In short, Australia was looking to establish what is commonly known as a “link tax,” whereby publishers get paid for content that gets posted on social media sites¹. In principle, this sort of tax is designed to support media outlets as we transition to a digital news future. So, what does a mechanism designed to support legacy news corporations have to do with the power of large tech giants and regulation?

The problem is simple: we as the public see the products and services provided by tech companies such as Facebook as utilities, and in effect, they are. Whether it be social media platforms or chat apps such as WhatsApp (also owned by Facebook), these services have increasingly become the ways by which we communicate. It is disconcerting, then, when companies take this access away arbitrarily, especially when proposed regulations might run counter to their interests.

We might not all use Facebook these days, so here is a hypothetical example that might be closer to home. Imagine that after reading this post, you sign onto a video conferencing app to attend class or a meeting, but there seems to be an issue. For whatever reason, it won't connect. Meanwhile, unknown to you, the company that supplies the service has pulled out of the Canadian market because of the government's new data regulations. While this might be inconvenient, there are other options. Or are there? It is difficult to know because different companies will look at regulations differently, especially in a small market like Canada. To tie this back to the beginning of this piece, this is the calculation that Facebook made when it blocked the sharing of domestic news content in Australia. Australia is a small market compared to Europe and the United States, so it was worth the calculated risk to send a message to its government.

Some could argue that this concern is for nothing; companies want to make money and collect our data, so the chances of disruption are minimal. This might be true, but this is not the first time Facebook has threatened to take action against governing institutions. One recent example involves Facebook possibly pulling out of Europe due to data sharing regulations, prohibiting data transfers from the European Union to the United States². As our dependence on technology grows, so will these companies' power to do what they feel is best for their shareholders' interests. This is concerning, not only because it means that governments are now losing the battle to regulate the frontier that is the Internet, but it is concerning for another reason. Many of us take for granted that the Internet is an

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unobstructed flow of information that connects us globally, but this might not always be the case. As governments attempt to regulate, the internet is becoming more splintered, where what we have access to is dictated by what companies are willing to provide and what arrangements our governments are willing to make, to maintain the free flow of information and services that we rely on daily.

References

¹ Casey Newton, “Australia's Bad Bargain with Platforms,” accessed March 23, 2021, <https://www.platformer.news/p/australias-bad-bargain-with-platforms>.

² “Facebook Says It May Quit Europe over Ban on Sharing Data with US,” the Guardian, September 22, 2020, <http://www.theguardian.com/technology/2020/sep/22/facebook-says-it-may-quit-europe-over-ban-on-sharing-data-with-us>.



BRADY KROEKER , MPA Candidate, Johnson Shoyama Graduate School of Public Policy

Brady Kroeker is an MPA candidate with experience in the post-secondary disability sector as Saskatchewan director for a national disability non-profit organization. Through this work, he has been involved on several advocacy efforts, such as consultations with the federal civil service on the Canada Emergency Student Benefit. Most recently, he is participating in the Access and Equity Services policy revision group at the University of Saskatchewan.