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Chapter 3 Focus 2

HOW TO PREVENT BEHEMOTH FROM TURNING INTO A MONSTER¹

Lawrence Lessig^{*}

The current business model of digital platforms (DPF) can be categorized into four types, based on two dimensions: users and society.

The first type is a business model that benefits both the platform user and society. For instance, by displaying recommendations based on past purchases and search history, Amazon suggests new products that exactly fit their preferences. Unless we are not against books, reading, or commerce in general, we should recognize this is a use that benefits both users and benefits society.

The second is a model that harms the user but benefits society. The development of technologies makes it easy to identify predators who are using the platform to harm, for example, children. Such development is not ideal for those predators, however, it obviously benefits society.

Thirdly, there is a model that harms both the user and society. This applies to the extraordinary spending in the gaming industry. People called Whale spend an astonishing amount of money on gaming. The fact that DFPs identify these gamers through surveillance and exploit them is harmful to both the users and society.

The last model benefits the users but harms society. There is a concept called “Brain Hacking”. This concept was inspired by the technologist Tristan Harris, who left Google to start the NGO called Center for Humane Technology to make understandable to the rest of us the emergence of an incredibly important science within Silicon Valley. Brain Hacking lets people naturally spend more time using digital technologies, and as a result, the DPF becomes more profitable.

This science tricks and addicts users to scroll forever by giving them random rewards. It is not easy to escape from this trick; users are literally hacked into their brains by social media and algorithms. On the other hand, DPF will be able to gather more data about users for the purpose of selling ads. Think about the effects of the Facebook News Feed. It is designed to trigger certain addictions and depression, and it is particularly significant in certain classes and demographics, especially young teenage girls. It also has negative social effects, as it is architected to isolate users and make them vulnerable as a way to drive more

¹ This text is written by the editorial team, based on the presentation by Lawrence Lessig at the Research Project Keio 2040/Cyber Civilization Research Center “Social Networks and Democracy Considered through the War in Ukraine” held on the 24th of June 2022, and the KGRI Great Thinker Series “How Can and Should the Platforms be Governed?: Assessment of EU Digital Services/ Markets Acts”.

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engagement with the DPFs.

As Sociologist Zeynep Tufekci states, “These companies are in the business of monetizing attention and not necessarily in ways that are conducive to health or success of social movements or the public sphere.” In particular, the most successful way to drive people’s attention when it comes to democracy or politics is to exploit the politics of hate. As society turns more polarized, we, the users, are becoming more willing to engage on social media. We know what happened on the 6th of January in 2021. Thousands of Trump supporters believed that “their election had been stolen” and went on to attack the US Capitol Building. This was, of course, a collective disaster. However, for the media companies, this was the most profitable strategy.

The ways these social media companies drive us to behave collectively result in harming the whole society. What truly makes it awful is not a function of the surveillance itself, but the function of its use. As shown by the four models mentioned above, surveillance can also have positive commercial, economic, and social effects. Then how can we ensure that surveillance does not produce negative social effects?

We need to face the “root cause” of this issue. Henry David Thoreau famously wrote, “For every thousand hacking at the branches of evil, there’s one striking at the root.” This is exactly how we should tackle this issue. It is necessary to examine how, in some situations, the incentives of this Brain Hacking business model are destructive of social values.

People critique surveillance capitalism, including social psychologist Shoshana Zuboff, while I am not entirely opposed to surveillance capitalism. In the world of capitalism, surveillance is fine so long as the data is not deployed in ways that are harmful to the individual. If we regulated the use of data, the surveillance that produced that data would be not a problem.

Of course, in certain contexts such as news and politics, and especially when we are dealing with psychologically vulnerable people, the business model that profits from engagement is the problem. The root that we should be striking at here is the profitability of that business model.

Europe chooses to tackle these issues by enacting new regulations. GDPR, DSA, and DMA are the examples. It is noteworthy that the EU, as a functioning governing body, is addressing the problems created by DPFs, while the United States has not been addressing these issues.

The regulations in the EU are indeed fantastic from the lawyers’ perspectives, however, its effects remain questionable. We admit that the system providing empowerment and choice is attractive. We empower the consumer, and we give the consumer choice. This EU system that regulates data use by DPF is amazing for lawyers’ perspectives. However, who reads and completely understands the endless Microsoft’s terms of service that take more than an hour to read? Spotify’s would take about 36 minutes, and for Pokémon GO it takes 35–36 minutes. How many users read and understand everything before using their services?

Again, I am not opposed to the surveillance of the users by DPF. However, we should clarify certain contexts that shall not be under surveillance. Under the DSA, surveillance for minors or certain audiences that are vulnerable to the effects of surveillance is prohibited. However, surveillance for news and politics, and profiting from surveillance and engagement are the areas that undoubtedly require to be banned.

Now, how shall we regulate such business models? Remember how we regulate the business model of burning coal to produce electricity? Since the way it produces electricity has externalities, a carbon tax or

tax for the deployment of coal is introduced. In this way, electrical companies shifted from coal to alternative sources.

The same measure could be taken to regulate DPF: taxing a particular use of data. If there is a well-designed structure of taxation, there will no longer be a business model like Facebook's that benefits from making people believe Donald Trump was elected. I believe the regulation system based on taxation is more likely to be effective than attempting fact-checking every individual post. This is the fundamental solution for regulating the attention economy in specific fields.