Regulating Data

Americans may spend 40 minutes a day on Facebook and be unable to imagine navigating without Google Maps, but the public increasingly feels apprehensive about the amount of our personal data held by tech behemoths. Tapping into these worries, politicians have floated various ideas for regulating “tech monopolies.” Most recently for example, Massachusetts Senator and Democratic president candidate Elizabeth Warren unveiled a proposal to “unwind tech mergers that illegally undermine competition,” citing Facebook’s deals for WhatsApp and Instagram, and Google’s purchase of Waze as examples.

But there are many factors that make data monopolies harder to regulate than the traditional kind. And there are many reasons why data-driven companies thrive on size. First, access to vast amounts of data allows platforms to train their products to become more effective – think of Waze, which can give more accurate directions the more data it collects. That obviously gives Waze owner Google a leg up with its Maps app, as well. Second, online platforms like Facebook enjoy network effects – in other words, the platform becomes more valuable the more people use it. Yes, both of these dynamics make it harder for competitors to challenge the platform; but they also allow the platform to offer a better product. Traditional anti-trust remedies, such as breaking up the platform, are less desirable because they may reduce the quality of the customer experience. We need different remedies.

What if instead the user owned the data they generate? This is not an impossible ideal, especially given the advances in data processing. Moreover, any data collected on a customer could be maintained in standardized but decentralized fashion. It is easy to visualize the emergence of trusted information utilities, independent from the firms that use the data. If we own our data, and if there’s a neutral data utility that stores it, then companies like Facebook and Google could still access the data – based on our own individual privacy settings – but would not own it. Users and the utility could decide how to partition individual or aggregated data into various buckets for different purposes (such as one bucket for advertising, one for academic research, and so on) enabling each of us to grant or withdraw our permission.

When each of us controls our data, we will have the option to sell portions of it to firms, or enter into
longer-term arrangements where firms would provide their services in return for the use of our data. Some of what is implicit today – free services for data -- would become explicit. The key difference is that the bargain is controlled by the user. Indeed, new technologies like bargaining bots can help routinize data acquisition for a fee when corporations need vast amounts of data to train their artificial-intelligence applications. With data available for a fee, competition will not be shut out.

Users would no longer need to be tied to any specific platform simply because that’s where their data is stored, and that’s what their friends use. Consider mobile payments, where a Venmo user may feel locked in because all her friends use Venmo. The network effects essentially shut out competition from other apps, like Square’s Cash App, Apple Pay Cash, or indeed Facebook or Google’s own payment services. But it doesn’t have to work this way. For instance, in India, electronic retail payments are made over a bridge called the Unified Payments Interface (UPI), which has been developed by a corporation owned by all the banks. An individual with an account in a bank or platform like Google, WhatsApp, or Alipay, can make payments over the bridge to anyone who has an account in any other bank or company. No entity owns the network, but all benefit from it.

Data monopolies need not be dismantled so long as regulators mandate interoperability between data-driven companies. If an individual wants to leave social network A and go to social network B, she should still have access to all her relationships in network A, and they should have access to her in network B. The networks may not have exactly the same functions and features, but much as phone calls are connected between networks run by different telecommunications companies, social networks should also be interconnected.

The objective in all this is not to eliminate the profitability of innovation, but to preserve competition, which is central to the prospect of continuing innovation and customer service. By shifting ownership of user data back to the users themselves, as well as by requiring networks be interoperable, market power will be rebalanced. As the temptation to build data monopolies is reduced, corporations and platforms will have to compete harder on the products and services they provide. This is as it should be.
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