



The Case for the Digital Platform Act: Market Structure and Regulation of Digital Platforms

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Foreword by Tom Wheeler

A late 1970's television commercial for stock brokerage firm E.F. Hutton closed with the tagline, "When E.F. Hutton talks, people listen." On technology-related policy matters in the 21st century, when Harold Feld talks, people listen.

We now have the advantage of Harold's speaking between two covers. The volume you hold in your hands is a tour de force of the issues raised by the digital economy and internet capitalism. Whether you agree or disagree with Harold, these thoughts will stretch your intellect and stimulate your thinking.

Digital platforms are a unique creation of the late 20th and early 21st centuries. The digital economy may have replaced the industrial economy, but the rules created to oversee the fair operation of the industrial economy have not kept pace with that evolution. This volume sets out numerous thoughts about the kinds of policy changes necessary to reflect the realities of our new era.

Thus far, the companies of the digital economy have been successful in keeping government oversight at bay. The growth of these companies happened to coincide with the era of deregulation. The companies seized that momentum to spin the story that somehow "digital is different" than traditional analog activities and thus needed to be left alone.

It has always been true in history that the pioneers made the rules ... until their activities infringed on the rights of individuals and the public interest. We have now reached that watershed. Just as rules were established for industrial capitalism, it is now time to think about guardrails to protect competition, consumers, and workers in the era of internet capitalism. In the process, such policies will also protect internet capitalism from its own incentives to excess while embracing its ability to stimulate new and innovative products and services.

Digital information—the basis of the new economy—is unlike any other asset in history. All other assets, such as oil or gold, are finite, both in supply and demand. Produced by the interconnection of microcomputers, digital information is inexhaustible. Every action on the network produces data that is used to create a new data product, which then creates additional data, which creates a new product. It is a digital perpetual motion machine.

It is this new reality of an inexhaustible and manipulatable asset that has reshaped our economy to create internet capitalism. There are at least four consequences of the digital economy that require oversight.

The first is the “digital alchemy” that turns personal information into a corporate asset and how this inexhaustible supply of data is harvested by a handful of companies for their commercial gain. The new information economy is based on the mining of this data to develop ever more granular insights into each of us that can be sold to marketers seeking to promote their product or idea to targeted audiences.

Once having collected this data, the companies create a bottleneck to its use in order to maximize its monetization. In Medieval times, information was hoarded by the powerful as a tool to control the masses. Over half a millennium later, the hoarding of information is now used for a new kind of control: to control markets. Controlling access to the collected data, for instance, allows the platform companies to cannibalize local businesses by knowing more about the neighbors than even the locals do.

Third, the hoarding of concentrated data is also used to keep new competitors from entering the market. A new company has the “cold start problem,” which is the challenge of beginning a new business without the data asset for which customers are willing to pay. Because innovators do not have the data assets of the incumbents, they are at a huge handicap entering new markets—a handicap that further reinforces the power of those who siphon personal information and turn it into a corporate asset.

Finally, such control of data also gives the digital companies the ability to control the future. As machine learning and artificial intelligence become the tools by which data is manipulated, those with the greatest storehouse of data thus have a leg up to control the development of ever-more intelligent algorithms—and ultimately, to control the future.

It is through this forest of challenges that Harold Feld charts a path. This volume is a thoughtful and creative effort to put forth new proposals for the oversight of those who control the networks and platforms that determine our economic and individual digital reality in the 21st century.