



**Interview with  
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**C&S:** There is a hot policy debate today in Europe on whether we should regulate platforms. Some argue in favor of a "laissez faire" approach, because due to strong innovation dynamics, they say, the dominant platforms of today will soon be replaced by new players, in a Schumpeterian fashion. Others propose to strongly regulate platforms, in terms of neutrality, portability of data, access, etc. Where do you think lies the right level of regulation for platforms?

**Sébastien SORIANO:** Whether or not an economic activity should have specific regulation is a matter of two cumulative factors: an economic factor (are there market failures?), and a political one (is this activity having a structural impact on our society and economy?).

There is no single answer for all platforms, because the term "platform" covers a great variety of actors and models: e-commerce platforms, social networks, search engines, application stores... The fact that the European Commission is currently investigating on whether Uber is a transport service or a digital platform is actually a striking example of the lack of a consensual definition of what a platform is.

In my opinion, it is obvious that some digital platforms have today acquired such a significant influence over multiple segments of our economy that some kind of regulation is needed. But defining specific economic rules for every type of platform would be inappropriate: it would risk numbing the innovation process without bringing any added value, not to mention the potentially high cost of such a regulation.

In the end, the question is whether we should regulate only a handful of major platforms. I believe that such a regulation would help promoting confidence in the digital economy and thus fast-tracking the development of those markets in Europe.

**If platforms, or some platforms, should be regulated, what kind of regulation should be put in place? In other words, what kind of market failures calls for a regulatory intervention? Going further, which form of intervention do you think is preferable: *ex ante* regulation or *ex post* competition policy?**

General rules already exist in consumer, commercial, competition or privacy laws. The Booking.com case, dealt in France by the Autorité de la concurrence, is an illustration that the current legal tools are often sufficient. The real debate today is whether we need *ex ante* regulation, that is to say a specific regulatory framework adapted to a certain category of platforms.

To build such a framework, three essential values will be needed in my opinion:

- First, regulation must have the ability to react quickly: the general law provides some answers, but the response times are often totally ill-adapted. Disputes between a platform and a startup or an SME should be settled in no longer than a couple of months.
- Second, the framework must be an agile one: strict and detailed rules would indeed soon become outdated, or simply be bypassed by some actors. Regulation should be articulated around a few general principles, with a regulating institution in charge of ensuring the applications.
- Finally, regulation must form an alliance with *the multitude*: the digital economy is a complex and shifting sector and regulation must take shape with the help of researching communities, programmers, makers... We need to invent the concept of "crowd-regulation".

**The economics literature on platforms and two-sided markets shows that applying insights from the analysis of one-sided markets to two-sided markets might be misleading. For example, we know that it may be profitable (and socially optimal) for a platform to charge a very low price on one side to generate strong network effects for the other side. With "one-sided" glasses, such a price may look predatory, whereas with "two-sided" glasses, it could be viewed as just efficient. How can regulators account for these specificities of two-sided markets?**

Infrastructure regulation has existed in France for close to 20 years, and has been applied to a great variety of sectors: railroads, energy, communication... The fundamental issue has always been to deal with network effects, a phenomenon that allows the largest network to constantly reinforce its dominant position. Regulation allows our society to benefit from the positive consequences of these network effects, while minimizing the drawbacks.

The notion of two-sided markets, with cross network effects, is only a refinement of those concepts. Of course, some of our regulation tools will need to be adjusted to the stakes and the specificity of those markets. But

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the fundamentals are the same, and the issue at stake is to regulate our digital economy's main foundations.

**There is at least one area of friction between telecoms and platform markets, which is the competition and/or complementarity between telcos and over-the-top (OTT) players. Can telecommunications regulation have a role in securing a level-playing-field between telcos and OTTs?**

Whether it is as a client, a supplier or a competitor, every company subjected to some form of regulation fears having to deal with Internet players who don't play by the same rules. Because there are specific rules in their sector, this is especially true for the telecom or the media industry. Part of this fear is entirely justified: real issues are at stake, especially when telcos and internet players are in direct competition.

However, we won't solve anything with downward alignment or total deregulation: a new balance must be established, and, in my opinion, part of the solution is precisely to be found by building a framework for platform regulation.

**A related topic is net neutrality. What is the current status of net neutrality regulation in Europe and in France?**

The Internet has become a crucial collaborative space, tremendously important for all our society and economy, and I believe it must now be considered as a common good. The risk today is that some companies manage to distort this essential tool for their own profit and against the interest of other users. This is not science fiction or paranoid delusion: some essential privately-controlled bottlenecks have indeed emerged, and without appropriate regulation, there is a real threat to see some kind of privatization of the Internet.

Net neutrality rules precisely aim at preventing a specific category of actors, the telecom operators, from doing so. An ambitious set of rules on net neutrality is in the process of being adopted in Europe. The European framework will be very protective and will rely on guidelines to be issued by BEREC. ARCEP will contribute actively to these works and will be in charge of its application in France.

But if we really want an open Internet, we also need to prevent a situation where a few Internet giants could take advantage of their current position to dictate their own rules to the World Wide Web. This should be a necessary addition to the net neutrality framework, and without it, the job would only be half done, or maybe even less. Ask yourselves: what actors are the most worrying for the future of the Internet?

**Platforms are global players, whereas telcos are usually attached to a local market. Is it possible to regulate platforms at a national level, or should such regulation be supra-national?**

The correct level to construct tomorrow's regulation is obviously the European one, and this work is currently underway via the Digital Single Market initiative. But each member state has the responsibility to contribute to this reflection, and I believe it would be appropriate to act first on a national level in order to better observe, understand, compare and assess actor's behaviors in platform markets.

I would however advise against going too far on a national level. Only with a European solution can we avoid a discrepancy of treatment between member states. Moreover, a European solution would be more legible for actors, and we need this legibility if we want actors to invest in innovation in Europe.

Digital platforms, and the digital economy in general, raise new regulatory challenges. Yet, the nature of those challenges, and the potential harm for our society remains poorly understood. France mustn't underestimate the complexity of the issues, and we should give ourselves the means to accumulate the necessary experience and expertise to participate in the debate.

**One possible concern in platform markets is that due to the strong dominance of one firm or a few firms, competition might not emerge. What can be done to protect the innovation process and potential entry by new (European?) players?**

This ultimately comes back to the issue of dealing with network effects that participate in locking dominant positions over some markets. One of the challenges for every regulation is to bypass those effects in order to maintain an open competitive game. There is no single right answer but the solution typically lies with regulatory tools such as portability, interoperability, open format...

Another crucial aspect is the matter of vertical integration: in the last few years, some Internet giants have been developing new activities related to their core-business and have constructed entirely closed ecosystems. This is not a problem in itself, but it is imperative that this should be done in a loyal manner, without the dominant actor leveraging its position to stifle competition on other markets.

Similar problematics have been dealt with very strong remedies in the past: structural separations were put in place in railway and electrical companies, and some companies were even dismantled. This is not to say we should go that far in platform markets. Most likely, platform regulation can bring more subtle remedies, adapted to platform specificities.