Big Tech Regulation

Empowering the Many by Regulating a Few

Sébastien Soriano

Statut du document *(English version below)*

De nombreuses réflexions sont en cours concernant la régulation des grands acteurs du numérique (Big Tech) et l'évolution du droit de la concurrence, en France, en Europe, aux Etats-Unis, au Japon, en Australie et bien ailleurs encore. C'est dans ce contexte que je partage par écrit une [keynote](#) donnée à Austin, à l'occasion du Festival South by South West le 8 mars dernier.

Le texte propose cinq pistes de régulation. Leur originalité est de chercher des options qui font intervenir la puissance publique, non pour décider à la place des Big Tech, mais pour rendre le pouvoir à la multitude des innovateurs et des citoyens. Car on ne régulera pas une technologie décentralisée avec une pensée centralisatrice.

Le constat de départ est celui d'une concentration inédite et persistante du pouvoir sur internet autour d'une poignée d'entreprises qui, à partir d'une innovation pionnière, ont construit des empires qui semblent s'étendre sans fin. Au cœur de cette dynamique jouent des « effets de réseaux » particulièrement puissants. Ceux-ci alimentent une dynamique d'attraction et d'accumulation qui procure des avantages concurrentiels si importants que la mécanique même de « main invisible » et de « destruction créatrice » du marché est sérieusement mise en danger.

Pour ouvrir ce verrou, les cinq pistes proposées s'inspirent de régulations existantes dans les infrastructures, particulièrement les télécoms où la problématique des effets des réseaux est bien connue, ainsi que dans le domaine financier. On part de ce qui marche tout en prenant en compte les spécificités du numérique. De plus, on procède de manière ciblée, en écartant toute régulation générale d'internet. Ces sont d'abord les Big Tech, identifiées par un statut particulier, que l'on entend soumettre à un régime d'obligations préventives, sur mesure et évolutives.

Certaines propositions reprennent des travaux de l'Arcep : c'est le cas des terminaux. D'autres procèdent de réflexions personnelles, qui n'engagent pas l'institution. C'est notamment le cas du droit de la concurrence, que je propose d'engager plus nettement dans un agenda pro-innovation. Enfin, toutes ces réflexions méritent débats et approfondissement et je serais ravi de recueillir vos commentaires.

Sébastien Soriano

Status of the document

There is a great deal of debate today over regulating Big Tech, and over the evolution of competition law in France, in Europe, in the United States, Japan, Australia and many other locations. Which is why I wanted to provide a written transcript of a [keynote](#) I delivered in Austin, Texas, at the South by South West Festival on March 8 of this year.

The text proposes five possible avenues for regulation. Their originality lies in seeking options that bring the power of the public into play, not to make decisions for Big Tech, but rather to empower the many innovators and the people. Because we cannot regulate decentralised technology with centralised thinking.

The starting point is the unprecedented and persistent concentration of power on the Internet around a handful of companies which, from one pioneering innovation, have built apparently endlessly expanding empires. A core dynamic at work here are especially powerful network effects. They fuel a momentum of attraction and accumulation that procures such massive competitive advantages that the very mechanisms of the market's "invisible hand" and "creative destruction" are being seriously threatened.

To unlock this stranglehold, the five avenues being proposed draw inspiration from existing regulations for governing infrastructure, particularly from telecoms where the network effects issue is well known, and from the financial industry. We are taking what already works as our point of departure, while factoring in the tech industry's singular features. Added to which, we are proceeding in a very targeted fashion, rejecting blanket regulation of the Internet. The first to be subject to a regime of preventative, bespoke and adaptive obligations would be the Big Tech companies identified as having a special stature in the marketplace.

Some of the proposals echo work that Arcep has done: a prime example being those regarding devices. Others are more the result of private reflection, and in no way commit the institution. One example is competition law, which I suggest steering more resolutely towards a pro-innovation agenda. Ultimately, all of these avenues warrant careful and in-depth debate, and I wholeheartedly welcome your feedback.

Sébastien Soriano

A Robin Hood Regulation to Free Us From Big Tech

Introduction

From the edge of the network, from a scattering of garages and dorm rooms, a handful of services made their way from the mind of their makers to each and everyone's pocket. In the blink of an eye, we have seen revolutionary services turn into firms that have grown and mushroomed and, for some, become unstoppable machines.

We, the users of these services, made it happen. We do love them so. They are so easy to use, so well designed, so practical, so free, that we cannot stop using them. These companies are not bad in themselves. Quite the opposite actually. Because they make our lives easier and more connected, we rely on them more and more. We helped put the Big in Big Tech. We widened their footprint to the ends of earth. We enriched their data. We made their success stratospheric. We allowed them to attract the brightest minds on the planet. We let them into our homes and private lives. We turned them into the overlords of our civilisation to such an extent that they now have the power, and in many cases the incentive, to limit our freedom of choice, to block potential rivals and police the public online space.

Up until recently, we tended to think this was no big deal. The mammoths would invariably be ousted some day by some other tech genius offering an even brighter solution. After all, had we not witnessed the continuous rise and fall of Internet companies since the Internet bubble burst?. We have embraced the idea of creative destruction for so long.

We have reached a level of "bigness" where any outside innovation is very unlikely to defeat those who now have it all.

But the truth is that this era is over because we no longer live under the rule of Schumpeterian economics. We have reached a level of "bigness" where any outside innovation is very unlikely to defeat those who now have it all.

What are the forces at work here? In a nutshell, it is mainly about network effects.

Let's do a quick sketch of how an Internet platform typically develops.

The first thing a platform needs to do is to attract users. It will offer discounts, crank up on innovation and grabbing attention to win users over. Forge an "alliance with the crowd" (Nicolas Colin and Henri Verdier). It is no mean feat for a platform to get to this point. And it's a tricky situation for a service provider because its attractiveness depends first and foremost on the number of people who are already connected to it. Why connect to Facebook if none of my friends are on it? Why connect to Uber if no drivers are available? Creating a community is hard, and Big Tech have been incredibly good at providing very smart services to attract us.

Once a tremendous effort has been made on the user experience, prices, design, communication, a certain threshold is reached and the Law of Metcalfe kicks in. Network effects are at work. Acquired users attract more users. The community grows naturally, without any additional effort from the platform.

At this point, the platform is freed from competitive pressure. Of course you can leave, but then you leave the community. And where do you go? There is usually no obvious or easy alternative. Search

engines are a prime example of this: the more traffic you have as an engine, the more you know what people search for and which link they click on, the more your algorithm learns, the more your service is relevant, the more attractive you are, the more people pay to advertise on your site, the more revenue you generate and the more users you get. Here, the platform may be tempted to shift from attracting users with this nice service, to making money off their back. Think of social media monetising your attention, a ride-sharing service creating scarcity or a voice assistant promoting its partners' products.

The problem is that, whenever we have network effects, we eventually reach a point where the market tips: because of a marginal or temporary comparative advantage, one firm can win the whole market, and firms no longer have an incentive to innovate. This is true not only for the dominant firm but also for its rivals.

At some point, the intrinsic quality of the service provided becomes secondary: new customers simply come to you, regardless of whether you keep on innovating.

As they get bigger and bigger, Big Tech can also accumulate data, purchase start-ups, hire skilled workers, create partnerships, become a default service, and reach an unprecedented scale, while their incentives to innovate shrivel up.

The upshot: Metcalfe has knocked Schumpeter out cold!

Because power attracts power, some could also be tempted to abuse that power. And we are clearly not equipped to handle it properly. We do have some tools, of course: competition law, consumer law, net neutrality, data protection, you name it. But these tools are not enough. They're about limiting the damage, not solving the problem. We need to do more.

Norbert Wiener, the father of cybernetics, called the new industrial revolution a two-edged sword. It is as much a force of emancipation as an instrument of control and violence. So what are we doing to the Internet today? What is it doing to us?

Digital technology can only fulfil its promises if power is distributed, not concentrated.

In my opinion, the basic premise is that we need to delight in technology once again. But digital technology can only fulfil its promises if power is distributed, not concentrated. This is where the Internet does wonders.

And this is where we need Robin Hood, who took from the Rich to give to the Poor: we have to take the power from Big Tech and redistribute it to the many. Control over digital technology must be distributed amongst users, start-ups, civil society. And, for this, we need to add new strings to our bow.

Adding new strings to our bow

What I'd like to do now is to offer five proposals for a redistribution of power on the Internet.

My proposals aim to free everybody from the hands of a few.

My proposals are regulatory ones. What else would you expect from a regulator? But I would like to insist on one crucial aspect: the proposals I am making all aim to free everybody from the hands of a few. These proposals are not about creating rigid rules that would rein in entrepreneurs. On the contrary, I believe they could help give each and every one of us more freedom and control.

My proposals are designed to complement technological ones. A number of brave people today are committed to developing and implementing solutions to re-decentralise the Internet: the most famous is the "Solid" project from Sir Tim Berners Lee, the "father" of the Web, but there are also many other initiatives based on blockchain, freeware, peer-to-peer and so forth. It won't be easy for these initiatives to make inroads, however, as they will be battling against massive network effects, like a powerful tide throwing you back to shore. This is where my proposals act as complement: to enable alternative businesses and technological solutions challenge and, why not, perhaps one day replace Big Tech.

A. First proposal: Tougher antitrust rules for Big Tech

Competition law is a vital part of our arsenal. And we owe a great debt to the breakthroughs in US laws in this area since the early 1900s. For a century they made it possible to guarantee that the most powerful could not take control of the markets at the expense of innovation and consumers. But because of the accelerated pace of innovation in the Tech era, and the now greater scale of network effects, antitrust laws are now reaching their limits.

1. Example: The Android case

Take a fantastic tool like Google Search, for instance. Google initially secured its prominence in the search market through consumers who were mainly using desktop computers.

In the early 2010s, Google was faced with a paradigm shift: more and more, people were starting to use their smartphones to access the Web.

To secure its dominance in the mobile era, Google deployed a strategy based on Android.

For a tool like Google Search, this had the potential to change just about everything, as the change in interface opened the door to new players who could offer new services. To secure its dominance in the mobile era, Google deployed a strategy that the European Commission described very well, and penalised for violating antitrust laws.

Eight out of every ten smartphones in the world run on Android. And when you buy your phone in Europe, Google Search and Google Chrome are already installed on it. Not only that, but Google Search is the only pre-installed search engine (at least until further notice). And this extends beyond Android phones since, according to reports, Google pays Apple billions of dollars for Google Search to be the default search engine on iOS.

Added to this, on Android you have an entire software suite that is also preinstalled. These are apps that you can sometimes deactivate, but which you cannot uninstall. The situation was such that Europe's Commissioner for Competition, Margrethe Vestager said that Google's business practices: "have denied rivals the chance to innovate and compete on the merits".

Because of the accumulation of behaviours that Google had adopted to secure its dominance over the search market, and over the smartphone ecosystem as a whole, the European Commission imposed a record fine on the company in 2018.

2. The limits of antitrust and how we managed with it in telecoms

As impressive as a large fine might be, a decision penalising an abuse of dominant position can only target the past or current abusive practices of a single economic player.

As Big Tech are controlling resources that are necessary for other companies to develop their business, their abusive conduct causes the economy irreparable harm, be it a start-up deprived of launching an innovative solution or a traditional economy player handicapped in its digitisation strategy. This is especially harmful at a time when the pace of innovation is accelerating and when the space that technology, data and AI occupy in all economic sectors is ever expanding.

What we need, to truly defend innovation, is a proactive agenda. My proposal here is to create a specific status for Big Tech and apply preventive rules to them — regardless of the authority in charge.

Let me describe how this could work, using the example of telecoms regulation in Europe.

In Europe, we have a full toolkit of remedies that we can apply to the telecoms operators who enjoy significant market power.

We have a legal framework that requires us to analyse the degree of competition that exists in certain pre-defined markets. If we identify sustained market failures and dominant players in one of these markets, we can impose obligations on them to grant access to their facilities, obligations of non-discrimination, transparency, business separation, price regulation, etcetera, for a limited period of time, and for as long as healthy market competition cannot be achieved on its own, in the foreseeable future.

This regulation has several practical advantages:

- It allows us to define a small group of players that will be subject to specific rules, in a way that benefits everyone, while avoiding horizontal regulation that would apply equally to an Internet giant and a tiny start-up.

- It establishes an ongoing dialogue with the players, working with regulators on building solutions.

- It provides a range of remedies from which the regulator can choose the most appropriate in a timely fashion to repair the market failures, notably as a preventive and proportionate measure.

- It gives the regulator the ability to adjust the remedies applied over time, thanks to a process of regular review that balances flexibility and security.

3. Preventive measures for "prevailing platforms"

The idea would be to design an equivalent to the regulation we have in Europe to regulate infrastructures such as telecoms and energy networks. But this regulation would be tailored to the Tech era.

A preventive approach that would rein in the most prevailing players.

As we have with telecoms markets in Europe, we could develop a preventive approach that would rein in the most prevailing players. The first step would be to identify which players need to be regulated. Here we require a legal concept to encompass what characterises Big Tech: market power and economic impact. I propose using a concept of "prevailing platforms", acting as gatekeepers vis-à-vis start-ups and SMEs seeking to innovate and expand their markets, and the source of strong network effects or any other factor that will likely lock in the market.

A second step would be to define the set of obligations that would be applied to this category of powerful players, starting from duly identified "market failures" (barriers to entry, risks over innovation, risks of side market distortions, etc.).

We have to be very careful here, because we cannot simply transpose the regulation we have put in place for telecoms, or for public utilities in general. A platform can of course be seen as an "infrastructure", but we need to take into account its particular features, and especially its business model, which, often based on multi-sided markets and free services. Not all of the tools used in the telecom sector can be carried over to this ecosystem, especially when it comes to price supervision.

But I think we could easily apply obligations of access, transparency, non-discriminatory treatment and business separation, which have paid off.

So what might this mean, concretely?

In these days when some people are calling for a dismantling of Big Tech, you might call my proposal a "soft dismantling".

If we come back to the example of Google and Android, this would mean that they might have to grant access to certain resources such as Search and the Operating System to other companies in a non-discriminatory way — provided the regulator can prove that these companies meet the definition of "prevailing platform" and can justify these obligations in terms of market failure. Of course, security and privacy issues would have to be taken into account to carefully design such remedies. This kind of obligation would undoubtedly have prevented Google and Android from violating competition law, as described earlier.

Other example: Amazon might have to put a specific accounting system into place that would prevent cross-subsidies between its e-commerce, cloud and other businesses. Same thing for the collection of data: the regulator could apply rules to the way that datasets from separate activities

can be gathered within the company. So Amazon could continue to expand its operations, but under fair conditions.

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4. Forbidding "killer acquisitions"

As an adjunct, I would like to mention Tim Wu who, in his latest work (The Curse of Bigness), highlighted the limitations of merger laws. Because merger control laws often focus on the size of the companies and the impact that a merger will have on prices, they do not make it possible to sustain a powerful enough competition dynamic. Tim Wu raises one crucial question in particular: Should we allow a merger whose goal is to eliminate a potential competitor?

It would be up to the companies involved in the merger to prove that they would not harm competition or innovation.

This scenario is as a "killer acquisition". Nobel Prize winner Jean Tirole proposed a solution to prevent this, notably in reaction to the merger between Facebook and WhatsApp. His proposal is to reverse the burden of proof. So it would be up to the companies involved in the merger to prove that they would not harm competition or innovation. Of course not all companies would be subject to such a rule. Coming back to my proposal to introduce a status of "prevailing platforms", why not impose such a burden of proof on this category of player when they are purchasing a start-up?

5. Ultimately, it is about anchoring innovation at the heart of competition law

The aim behind this proposal is here to enable the innovation capabilities of the many, by slightly reducing the ability of a few incumbents to expand their activities. It is not an agenda designed to restrict Big Tech per se, because they are already big. The regulatory scheme proposed here is based entirely on detailed market analysis and proportionate remedies. Ultimately, the objective is to promote an efficient market structure that is truly open to new models and new players, and thereby repair the "invisible hand" mechanism.

B. Second proposal: Systemic supervision

After this proposal inspired by European rules for telcos, I would like to look at financial regulation and the related regulatory tools. I imagine you all remember the financial crisis of 2008. We had to deal with "too big to fail" banks that had no incentive to behave, and the thoughtless risks that led to the debacle we all know. Don't you think that, to some extent, Big Tech have reached a point where their responsibility goes well beyond their initial service and market? Look at Facebook and fake news, Twitter and hate speech.

Define a systemic supervision regime for the players that warrant it

My second proposal is therefore to define a systemic supervision regime for the players that warrant it, a little bit like the one we have now in the financial sector.

It could apply to those that have a systemic dimension, from both an economic and societal standpoint. In which case this would involve identifying those players whose behaviour could have a significant leverage effect on the economy and society as a whole (hate speech, fake news, start-ups' access to marketplaces, traffic on the roads, cybersecurity, etc.).

As with financial regulation, the aim is to prevent the risks posed by these players by defining and monitoring processes (e.g. moderating content), conducting stress or other types of test.

The obligations imposed would be chiefly obligations of means, and seek to make the players accountable for their actions.

Under a supervision-based approach, the obligations imposed would be chiefly obligations of means, and seek to make the players accountable for their actions. So it would be up to these powerful players to implement processes capable of containing the potentially harmful effects of the way they operate (e.g. to limit the spread of fake news, to make relationships between platforms and businesses more fluid) and to report to a dedicated public body like the SEC in the US. In this scenario, the role of the regulator is to make sure the supervised companies fully assume their responsibilities, and to provide all relevant information to the public. The regulator may also define several standards: picture, for instance, a standardised alert mechanism for users to report hate speech on social networks.

C. Third proposal: Device neutrality

1. Devices are shaping our Internet experience

At some extent, Big Tech regiments our lives. And one of the ways they do it is by virtually choosing the services we can access.

The more convenience a device delivers, the more choices it is making in our stead.

In the 2000s, ISPs took hold as the digital economy's potential gatekeepers. This was true of Comcast and of mobile operators that blocked VoIP on mobile for years. We created net neutrality rules to fight against this type of practice.

But net neutrality only targets ISPs. And their behaviour is only a tiny part of the problem. App stores, operating systems and devices have far more influence over our choices than ISPs. They decide the restaurant search app you can use, they push certain recommendations, they force you to use a certain search engine. And the more convenience a device delivers, the more choices it is making in our stead.

This is a phenomenon that could well accelerate with voice assistants: the voice user interface reduces the options that can be given to users. The most telling examples are when your hands are busy elsewhere, whether driving the car or cooking. When you ask your voice assistant to "put on the radio, buy butter, order what I need to make a ceviche" you are, by default, surrendering to the machine's choices, to a limited number of options, to the trade agreements the vocal assistant has made.

Added to which, we are in a situation where app stores have the power of life or death over businesses.

We at Arcep experienced this directly as a simple user. We had taken part in the development of an app that was initially refused on Apple's App Store. Why? Because the App Store didn't see what purpose it could possibly serve for users.

The story attracted media attention, and the app was eventually allowed on the App Store. But what about all those apps that are rejected without warning, without justification? To whom can their makers complain?

One interesting example is the case of apps that allow you to manage the time you spend on your phone. There was a time when some app stores refused to carry them. The apps complained publicly, and reappeared. But now that we are seeing device manufacturers developing their own time management apps, we are viewing this story in a different light.

From the user's standpoint, it is the company selling you the device saying: I decide how you spend your time on your device. For a start-up, this behaviour can be severely damaging.

Added to which, OS providers often prevent you from installing apps that come from somewhere else. Let us simply ask the question whether an app store like F-droid is really any less safe? Why are we discouraged from installing apps off developers' sites? There are no doubt myriad legitimate reasons. But are we not allowed to have alternatives? Can we not have the choice? By the same token, why can't we have several search engines on app stores? Can it not be up to us to decide which apps we can uninstall? In other words, even for 1,000 euros, your phone doesn't really belong to you.

2. Reclaiming our freedom to choose and innovate

Arcep produced a full report on the issue. We believe that very simple remedies could allow us to regain our freedom of choice.

To begin with, we need to expand net neutrality to players other than telcos, especially to devices: they are the faucets of the Internet, where networks are the pipes.

We need to expand net neutrality to players other than telcos, especially to devices.

Concretely, this would mean that users must always have the choice of which services and applications are on their device, be it the voice assistant, the browser, the search engine or any application. Of course there could be options installed by default, but with a built-in right to skip it. And there could still be exceptions, for instance rules to ensure the phone's security or to guarantee the proper functioning of the device, but it would have to be done in a transparent, non-discriminatory and proportionate way.

D. Fourth proposal: Data as common good

Data sharing can also be an interesting remedy. It can help to better serve the general interest. If we think of transportation and city management, Waze data becomes very interesting. Think of public

health, and the data we provide to a vast array of services become even more interesting. After all, data collected by Big Tech often come from the crowd, meaning you and me. So why to keep them locked in a silo, for the exclusive use of the concerned companies? Crowdsourced data should belong to the many!

Crowdsourced data should belong to the many!

Data sharing mechanisms could also be used for competitive purpose. Economists have [shown]() that, in data-driven markets, data sharing would allow us to regain our capacity to innovate: "*Data sharing (voluntary, or not) eliminates the mechanism causing data-driven markets to tip.*"

This is no small issue: it would amount to protecting the innovation economy and ensuring that innovation is not the sole dominion of a small handful of people. This is why the idea is catching on more and more. One of Germany's main political party's actually made it part of their platform for the EU elections.

This raises a number of practical questions, of course. But we believe it is an avenue worth exploring. And many are currently exploring it. Which is a good thing as, with the use of AI and machine learning, the data owned by a small handful of players are becoming ever more crucial.

This type of solution would apply to data other than personal data. They would be aggregated and anonymised. Data sharing does not interfere with data protection as they are each pursuing different goals.

E. Fifth proposal: API-driven regulation

Still with the aim of redistributing the power of the few prevailing platforms, further remedies can also be envisaged. Today, it is the Big Tech companies themselves that decide whether other developers can log on to contribute or collect data from their platforms. They have complete freedom over API (application programming interface) development, and so over other platforms' and services' right to interconnect with them. And there is a long history of services like Google Maps making a radical change to their APIs and so having a major impact on the ecosystem that relies on them.

Recognise start-ups' right to interconnect with Big Tech

My fifth proposal is to recognise start-ups' right to interconnect with Big Tech. This right would not be absolute, of course, notably for the protection of users themselves. We need only think to the Cambridge Analytica scandal. But let me give you two examples where such a right could really make sense.

1. Multi-homing and Interoperability

One of the Internet's greatest riches lies in the range of services it lays at our doorstep. We all have multiple messaging services on our phones, for instance. We hang out on a variety of social media sites. As a result of which, we live in a multihoming world. This world brings diversity, but is also more complex to manage.

For companies, this makes things even trickier. Take a restaurant owner or a driver, for instance. Their ability to be on several platforms at once is materially and contractually limited. Which creates strong ties of allegiance with the platform they are on. Rather than doing away with relations of domination, we are merely creating new ones.

Open their interfaces to other comparable services in order to make them interoperable

One use case of API-driven regulation would be to require platforms to open their interfaces to other comparable services in order to make them interoperable, or at the very least to facilitate users' ability to multi-home. This could mean that a person using one service could communicate with people using a different service. Interoperability is the best way to deal with network effects. It prevents power being concentrated in the hands of a single player, by distributing it between competitors and users. This is, after all, the central idea behind the Internet's architecture. This is also the cornerstone of telecom rules. Without it, a Sprint subscriber wouldn't be able to call an AT&T subscriber. Thanks to interoperability, outsiders could have access to customers or resources hosted by an incumbent platform, and so develop their business much more easily and quickly.

Of course, we would need to be careful not to hinder any one service's ability to innovate. We could thus think of this in terms of strata: we would have shared and interoperable, common communication building blocks, and each platform offering users its own set of benefits.

Interoperability could also give users real control over their data. In Europe, we have the General Data Protection Regulation (GDPR), which introduces the right for anybody to obtain a copy of their personal data from any digital company. In future, combined with interoperability, this could allow you to transfer your data directly from one service to another or to operate different services using self-hosted data.

2. The right to be represented by a bot

In a Ted Talk, Albert Wenger of Union Square Venture put forth the idea of being represented by a bot. He explains that this bot would be a software programme that contains information on how we want to interact with platforms. For this to happen, platforms would need to open APIs to the bots in question.

I personally see it as a digital ID card that would contain all of our consents, the information we agree to share, the type of services we agree to use, the platforms on which we want to share our content, etc.

Our relationship to platforms would be flipped: it would be up to the platforms to seek out the content that we have agreed to publish on those platforms.

We would have complete control over all of it. We would decide which platforms we want to interface with. We would be the keepers of our data and managers of our choices. While the platforms would have to allow us to interface with them. This would breathe new life into innovation, as new platforms would not be hamstrung by the behaviour of existing ones.

Lastly, as Albert Wenger said so well, our relationship to platforms would be flipped: it would be up to the platforms to seek out the content that we have agreed to publish on those platforms. This reversal of perspective is important. They would come to us; we would not go to them.

In other words, it is a complete reversal of the relationship of sovereignty. And this is exactly what we need to see across the board: redistributing power to the people.

Conclusion

As it stands today, we can penalise and play sheriff, but this is not what we need. We cannot continue to function the way we did last century, using only policing tools. We need to think differently. We need to think like the Internet, the instrument of our emancipation. To this end, I'd like to refer to Yochaï Benkler, the author of "the Wealth of Networks". Recently, in an interview he gave to a French magazine, he sketched out a very sound exit strategy from the current balance of power.

Yochaï Benkler says that, "*we need to play three-dimensional chess, like on Star Trek*". Which means "*we need to be rooted in all three dimensions: government, the market and the commons*". The solution is not one or two-dimensional. It is three-dimensional.

This means that government needs to accept that it cannot control everything. We cannot govern the Internet, a decentralised network, in a centralised fashion.

It is we, as individuals, who are the wealth of the Internet.

To meet our objectives, we need to find our footing in the wealth of the network, starting with the fact that the Internet's wealth is located at its extremities. It is we, as individuals, who are the wealth of the Internet. And it is we, the people, the businesses, the commons, who need to mobilise or be mobilised to achieve the goals we have set for ourselves.

For this to happen, the State must serve as the guardian of openness, and nothing more. It needs to allow, to act as an enabler and reduce its restriction and penalty-based involvement to a bare minimum. But enabling does not equal abdication. I'm sure you've understood by now that the idea is not to leave people at the mercy of big corporations nor to give back control to the State. I would especially like to insist on the fact that my proposals are not rooted in "soft laws". As far as I'm concerned, the distinction between soft law and hard law is no longer relevant. This is not a question of balance of power between the market and governmental bodies. API regulation and data sharing, to name but a few, are not likely to happen on their own! If we want to empower the many, we still need a few well targeted, coercive measures.

If we want to empower the many, we still need a few well targeted, coercive measures.

The ultimate aim of my proposals is to empower the people, start-ups, civil society — not the State. But to achieve this, we still need regulation. A new breed of regulation, designed to redistribute power to the many. A rallying cry for the ages, and why I call my proposal: "Robin Hood regulation".