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Ideas & insights from the East

Redefining the relationship between Tech and Government in the Digital Economy

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Introduction

Discussions around the concept of the 'digital economy' have been around since the mid-1990s, referring primarily to the adoption of the internet and later on, the emergence of the internet economy in the first decade of 2000. Over the past years, however, 'digital economy' is no longer understood as a separate sector, but as the rapidly increasing digital transformation (or simply: digitalisation) of nearly all the so-called traditional industries.

Digital platforms are one of the central drivers of the expansion of the digital economy. The revolutionary impact of those platforms is exemplified by looking at the composition and the market capitalisation of the Top 20 companies worldwide. In 2009, the Top 20 companies in the world comprised only three tech companies, with a share of 16% market capitalisation. Only a decade later, out of the Top 20 companies, eight were tech companies, seven of which were based on digital platforms, amounting to a 56% share of market capitalisation. While US companies clearly dominate the platform economy, Asian countries, (mainly China), are hosting 35% of the platforms (Europe: 18%). Moreover, the Asian region includes the fastest growing digital economies worldwide. For instance, while China already accounts for 40% of all e-commerce sales worldwide, South Asia's internet economy has tripled in size from 2015 to 2019, reaching USD 100 billion, and is expected to triple again until 2025 (E-conomy SEA 2019).

When Big Government and Big Tech go hand in hand

Governments have pushed the digitalisation of the economy all across the Asia-Pacific region. They have launched various strategies to capitalise on the opportunities provided by the digital economy and to speed up the integration of the internet and traditional industries. In 2015, China launched its strategy, Internet Plus, and Japan its 'ICT Action Plans for the Entire Society towards 2020', in 2018 Singapore announced the 'Digital Economy Framework of Action and Programmes', the Australian government its 'Australia's Tech Future' and South Korea its 'Innovation Growth Report'. In India, the Prime Minister, Narendra Modi, called the program 'Digital India' (since 2015) "no longer a simple government initiative, but a way of life".

To promote innovation and transition to the digital economy, and to digitally transform the services offered to their citizens, governments are engaging, more closely than ever, with tech companies and startups. The collaboration may take many different forms. The Public-Private Partnerships-model (re-) emerges as a favorite approach; that is when public authorities provide the data, based on which IT companies develop a

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product in public interest. A case in point is a project between the South Korean Financial Supervisory Service and SK Telecom, aiming at accumulating existing data and preventing future voice phishing crime, also known as vishing, a type of criminal fraud to obtain financial or other confidential information from people by placing phone calls that seem to be from a legitimate organisation[1]. Financial Supervisory Service had accumulated data of previous vishing since its first occurrence in Korea in 2006, and using this data, SK Telecom built a platform called T-Call where automated alerts pop up on screen and ringtone changes when a receiving call is from a suspicious number. Another example is the PPP between a Singaporean Government agency and American technology consultancy firm ThoughtWorks, which resulted in a mobile app for new families. The app, launched in June 2019, provides services and information needed by parents and caregivers of young children on a single digital platform. Public-Private Partnerships are also promoted in Japan, where the government has set up a series of funding schemes for PPPs (i.e. the Strategic Innovation Promotion Program, the Moonshot Research & Development program).

The rapid and detrimental spread of the COVID-19 virus further illustrated the reliance of governments on quick tech solutions and data infrastructures provided by the private sector. In China, Alibaba and Tencent were mandated by the government to launch case tracking platforms and personal health code system, which they did within days. When the Australian and Indian governments introduced its COVID-19 tracing app, they gave Amazon Web Services (AWS) the data storage-related contract, which raised concerns about the access by foreign governments to personal data of their citizens.

Generally, the overwhelming power of those large technologies' companies, particularly the so-called GAFAs (Google, Apple, Facebook, Amazon) and the BATXs (Baidu, Alibaba, Tencent, Xiaomi) has led many governments around the globe, including in the Asia-Pacific region, to question how to adapt regulations and rules to the new world of the digital economy. On the one hand, governments rely increasingly on the big tech companies' innovations and digital infrastructure, and seek their investments. On the other hand, as Australian Tech Strategy puts it, regulatory systems are needed to help citizens "benefit from digital technologies, while safeguarding social, environmental and competition outcomes". Yet, getting the balance right is harder then ever".

The regulation of 'Big Tech' has many different facets. The following takes a closer look at the Anti-Trust regulations, the Digital Services Tax and the regulation of fake news in the Asia-Pacific region.

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[1] https://www.dictionary.com/browse/vish?s=ts

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When "Big Tech" is too big -
Competition and Anti-Trust regulation

The extraordinary rise of the American big tech companies has led to concerns that they have grown too big and are abusing their market leading position, stifling innovation and reducing competition. Amazon, for instance, is accused of abusing its role as both a platform for third-party sellers and a retailer. Apple is facing criticism for unfairly blocking rival companies from its App Store and demanding high commissions. Facebook's acquisition of WhatsApp and Instagram, for instance, raised concerns regarding their unparalleled reach in social networking.

Similar to developments in Europe and, more recently in the US, governments in Asia and Asia-pacific are responding to the dominant position, through various means. In Japan, the government adopted a law that aims to create more transparency and fair competition in May 2020, forcing large tech companies to disclose the terms of contracts with their customers and report to the public authorities about their operations. Facebook criticised the new law for being stricter - in some respects - than the EU regulations. In India, the government implemented a new rule in early 2019 by which online market places can no longer enter into exclusive deals for selling products on their platforms or selling goods from companies in which they own a stake. After facing criticism from Indian app developers, the Indian government recently declared that it is considering launching a local Indian app store. Following the US Government's anti-trust lawsuit in October

2020, the competition watchdogs of both Australia and South Korea announced looking into launching an anti-trust case against Google. Concerns over monopolies and anti-competitive practices have also emerged in China, particularly with respect to its home-grown tech giants. A court case presented in 2019 against Tencent, alleging the tech giant of abusing its extraordinary powers over the instant messaging platform WeChat, which has nearly 1.2 billion active users, was unsuccessful because the current antitrust law fails to provide sufficient basis to define a dominant market position for internet companies. Hence, Chinese regulatory authorities have proposed a revised anti-monopoly law, which would expand the scope to monitor more closely and sanction in particular internet companies.

Redefining the relationship
between Tech and Government
in the Digital Economy

Digital Tax: Waiting for a multilateral solution

The current international tax system is still largely based on a principle established a century ago, according to which a foreign company can only be taxed if it has physical presence (office, store) in that country. In the digital economy, however, tech companies or online retailers may very well offer their services and products in a country, without having to have a physical presence there and earn considerable profits without paying taxes in that jurisdiction. Under the OECD/G20 Inclusive Framework (IF) on BEPS (Base erosion and Profit Shifting), over 135 countries are trying to find a multilateral solution to the so-called 'digital tax'. According to the two-pillar tax proposal, multinational enterprises would not be taxed any longer by their physical presence, but by where they conduct business (that is where the customer base is). Additionally, the second pillar foresees the introduction of a global minimum tax, which applies to all multinationals companies irrespective of their degree of digitalisation. In the OECD Steering Group of the IF on BESP, Asian countries are fairly well represented in the 24-person committee, with China being the deputy-chair of the BEPS steering group and Australia, India, Japan, South Korea and Singapore being members. However, the process is being prolonged amidst continued diverging views. Meanwhile, some countries, such as France, have pressed ahead and established a Digital Services Tax (DST) unilaterally. What about Asian economies?

Despite having a strong homegrown IT services industry, India is one of the frontrunners in pushing for taxing digital business, as the OECD proposal is focusing primarily on consumer-facing IT giants, while India's Infosys, WIPRO, TCS et al. are primarily serving businesses. Hence, in 2016, India introduced the first digital tax, the so-called Equalisation Levy 1 (EL1), which taxes online advertising and related services between businesses (B2B) only (at 6%). As the negotiations on the multilateral level have not advanced as planned, the Indian government announced in April 2020 the Equalisation Levy 2 (EL2), which extends the scope to all other e-commerce offers and services and includes B2C transactions.

India has so far been the only Asian country

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to go that far ahead, as other countries are awaiting the outcome of the G20/OECD process. Japan is an example. At the 2019 G20 summit in Osaka, Prime Minister Shinzo Abe addressed the topic of non-taxation of tech giants, supporting the attempt to resolve the issue through international cooperation only. He argued that a unilateral measure would lead to double taxation, and that any revision of the Japanese tax law could also affect traditional businesses besides digital platformers. Other countries, in accordance with OECD guidelines, have started to tax digital services indirectly, through a value added tax. For instance, Australia has implemented indirect tax schemes, such as the requirement for non-resident vendors of digital services to register for and collect GST. Similarly, South Korea and Singapore have introduced VATs on digital services, in July 2019 and January 2020 respectively. However, the South Korean VAT shies away from including B2B transactions, which constitutes the major part of the revenue of Tech Giants.

Regulating Social Media and Fake News

Global Tech giants have not only revolutionised the way people buy, but also how they consume and disseminate information. Newspapers have lost the monopoly on information dissemination due to social media, and platforms such as Google and Facebook have become the go-to places to read the latest news. With regard to the latter, Australia is the world's first country to introduce a draft mandatory code of conduct in July 2020 forcing Google and Facebook to pay news media platforms that are struggling with dwindling ad revenues, for using their content. Other countries in the Asia-Pacific region seem more concerned with the so-called 'fake news on social media'. For instance, in October 2019 the Parliament of Singapore passed the Protection from Online Falsehoods and Manipulation Act (POFMA), which gives the government broad powers to decide what is fraudulent and establishes a wide array of enforcement mechanisms. POFMA also mandates that online platforms remove content that the government deems fraudulent or issue warnings and corrections. Companies that fail to comply face hefty fines. Internet giants like Facebook and Google raised the alarm about this new law. In China, the Cyberspace Administration established new rules that came into effect on January 1st, 2020, making it a criminal offense to publish false information or deep fakes without disclosing that AI or VR technology was applied. The fight against 'fake news' is also on the agenda of the Association of Southeast Asian Nations (ASEAN), whose member nation Thailand suggested setting up 'verification centers' to combat it. In 2018, the

Redefining the relationship
between Tech and Government
in the Digital Economy

ASEAN Minister responsible for Information issued a "declaration to minimize the harmful effects of fake news", referring to a WEF report that called it "one of the biggest threats to society". Meanwhile, in Japan and South Korea, the governments have adopted a more cooperative approach. In Japan, the creation of a public-private panel was suggested, which would be composed of government agencies and leading tech companies, incl.

local IT companies and GAFA, and would address in a voluntary way fake news issues, i.e. by disclosing internal standards for removing fake news through AI. In South Korea, YouTube announced that it would cooperate with the Korea Communication Commission (KCC), which requested more coordination to monitor more closely and prevent the spread of fake news, following misinformation around COVID-19.

Conclusion

Asia-Pacific based companies accounted for 42% of the world's Fortune 500 companies (the world's 500 biggest companies by revenue) in 2018, according to the McKinsey Global Institute's report, 'Asia's future is now, July 2019'. The same report noted that, of the world's largest 5000 companies by revenue, 43% (2150 groups) were based in Asia-Pacific in 2017 with more than three-quarters of these based in China, Japan, South Korea and Australia.
https://www.internationaltaxreview.com/
article/b1l9lmjgt33bpf/asia-pacifics-response-
to-the-proposed-oecd-reforms

According to the UNCTAD's Digital Economy Report 2019, the digital economy is driven, on the one hand, by the opportunities created through the collection, use and analysis of digital data. This is illustrated best by the explosion of the data flow. In 1992, the Global Internet Protocol traffic was at 100 GB per day; in 2017 it was at 45,000 GB per second and is expected to further triple until 2022 (see UNCTAD, 2019).

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