

# **Preventing Platform Decay**

## **Regulatory Solutions to Counter Treacherous Turns**

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## **About the Resisting Information Disorder in the Global South Project**

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Despite information disorder being a widespread problem in countries in the Global South, the study of this phenomenon remains dominated by examples, case studies, and models from the Global North. This project builds on this pre-existing research and its recommendations. It takes a thematic approach to identify the key drivers of information disorder in the Global South and evaluates appropriate responses and strategies. The goal is to support and influence future policy and governance interventions.

## **About Research ICT Africa**

Research ICT Africa (RIA) is an African think tank that has operated for over a decade, working to fill a strategic gap in the development of a sustainable information society and digital economy. It has done so by building the multidisciplinary research capacity needed to inform evidence-based policy and effective regulation in Africa. RIA's dynamic and evolving research agenda examines the uneven distribution of the benefits and harms of the intensifying global processes of digitalisation and datafication.

## Introduction

The concentration of market power in the hands of multinational platforms like Meta and Google has pernicious effects that extend far beyond the realm of social media.<sup>1</sup> While issues like information integrity, algorithmic manipulation and disinformation attract due attention from regulators,<sup>2</sup> the ‘treacherous turn’ toward decay in two-sided digital markets is often the overarching process that sets these issues in motion, affecting a wide array of platform-dependent services. The pernicious effects of concentrated market power become especially visible when platforms decay, in part because platforms are intermediaries providing matching services for engagement data markets that have become nearly essential for contemporary market activity.<sup>3</sup> Engagement data derives from engagement with a platform, often prompted by algorithmically selected data shared by other users, which is algorithmically extended and intensified to algorithmically target communications, commercially and politically.

Regardless of whether a platform is a transaction and exchange platform, an ad-supported platform or a software platform, as centralised mediators in two-sided markets, platform decay can disrupt entire ecosystems of businesses and services that rely on their infrastructures. The magnitude of the effort only increases when one considers complex vertically integrated platforms like Amazon.<sup>4</sup> Given that “cloud platforms control not only computing infrastructure but also the marketplaces for AI models and applications, representing a dual power”,<sup>5</sup> the disruption caused by the treacherous turn can (and does) negatively impact labour, particular kinds of investors and markets themselves. Part of the solution involves competition enforcement.

## The Process of Platform Decay

Cory Doctorow’s concept of ‘enshittification’ captures the essence of platform decay — the process by which the internet was colonised<sup>6</sup> by platforms that subsequently degraded their offerings through a pattern of ‘treacherous turns.’<sup>7</sup> This change in corporate conduct often unfolds gradually, beginning with platforms attracting users through useful services flanked by relatively opaque, tedious terms and conditions. Once established, however, platforms may start twisting those contracts to benefit their business customers. Next, platforms claw back value for themselves at the expense of both users and business customers. Platform engagement ultimately declines due to this corrosive behaviour, often taking users, customers and investors by surprise.

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<sup>1</sup> Srnicek, N. (2016). Platform Capitalism, Polity; Sharma, C. (2019). Concentrated Digital Markets, Restrictive APIs, and the Fight for Internet Interoperability, The University of Memphis Law Review Vol. 50: 441-508; Teachout, Z. (2020). Break ‘Em Up; Timcke, S. (2021) Algorithms and the End of Politics, Bristol University Press.

<sup>2</sup> McChesney, R. (2013) Digital Disconnect, The New Press.

<sup>3</sup> See Jordan, T. (2020). The Digital Economy, Polity.

<sup>4</sup> Khan, L. (2016). Amazon’s Antitrust Paradox, The Yale Law Review, 126(3): 710-805.

<sup>5</sup> van der Vlist, F., Helmond, A., & Ferrari, F. (2024). Big AI: Cloud infrastructure dependence and the industrialisation of artificial intelligence. Big Data & Society, 11(1).

<sup>6</sup> Couldry, N., & Mejias, U. A. (2019). Data Colonialism: Rethinking Big Data’s Relation to the Contemporary Subject. Television & New Media, 20(4): 336-349.

<sup>7</sup> Doctorow, C. (2024, February 8). ‘Enshittification’ is coming for absolutely everything, Financial Times. For more on treacherous turns see Bostoan, F. and Petit, N. (2023, December 1). Platforms’ Treacherous Turn. Available at SSRN.

We add a rider to Doctorow's analysis. Certainly, operational difficulties mean some users leave. However, many stay in misery because of their long-term investment in the platform and the high costs of switching to another platform. Concurrently, a tailspin makes it harder for the platform to raise capital, as assets in the form of data and data sources depreciate. The result is that the share price of the platform falls and there comes a tipping point whereupon operations cease. But this is not mere mismanagement, as the platform's founders and executives routinely emerge with outsize rewards. In the temporal dynamics of platform decay, value is extracted from late-stage investors, meaning that they also carry the costs of a platform's treacherous turn.

Why do users, labour and late capital carry the costs of these terrible business practices? Why have such value-destructive behaviours become so commonplace in the digital economy that Doctorow has had to create new terminology? To invoke Lina Khan, "Without considering these questions, we risk permitting the growth of powers that we oppose but fail to recognize."<sup>8</sup> Treacherous turns are not inevitable. With appropriate regulatory safeguards and oversight mechanisms in place, they can be prevented. While holding the currently powerful to account is important the primary of these interventions is to re-set the dynamics that gave rise to platform decay.

## **Objective**

This paper charts a path for regulatory architecture that can constrain a platform's treacherous turn through devising enforceable standards that disincentive inefficient distortions. Some suggestions are drawn from existing legal frameworks, while others propose crafting new purpose-built regulations to deter platforms from engaging in treacherous turns. After discussing the economic and policy problems, this piece proposes several regulatory solutions to counter platform decay.

## **The Economic and Policy Problem**

Treacherous turns pose significant economic problems given how many businesses are built to run on these platforms. "Catering to multiple sides makes two-sided platforms different from one-sided platforms in that any change in price the platform makes to either side will affect sales on both sides. Thus, the two-sided firm must delicately balance the needs of both sides."<sup>9</sup> However, as Doctorow's critique highlights, short-term incentives combined with considerable market power can lure platforms into an inescapable cycle of exploiting different stakeholders in these two-sided markets, eventually undermining the longevity of the platform itself. Enshittification points to how platform decay is not an idiosyncratic failure to safeguard customers' interests. Rather, it is a set of known and predictable processes within networked commercial spaces under neoliberal capitalism.

Platform decay is problematic from a platform governance perspective because the abuse of dominance has consequences for transaction costs. When business users make relationship-specific investments for a platform, the platform can then opportunistically exploit those costs throughout the treacherous turn. The knock-on effects may lead to poor capital allocation within the wider market.

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<sup>8</sup> Khan, L. (2016). Amazon's Antitrust Paradox, *The Yale Law Review*, 126(3): p805.

<sup>9</sup> Bloodstein, R. (2019). [Amazon and Platform Antitrust](#), *Fordham Law Review*, 88(1), p189.

While public attention has been captivated by X (formerly Twitter) becoming the quintessential example of how a platform’s trajectory can take a treacherous turn under new ownership,<sup>10</sup> a wider lens that focuses on monopolistic marketplaces like Amazon and Takealot is more pressing. This is because a platform’s treacherous turn can harm multiple markets. Already, platform marketplaces exemplify how, by leveraging asymmetric information, controlling access and dictating terms, they can distort markets and erode consumer and supplier choice.<sup>11</sup> These developments warrant scrutiny and proactive, decisive policy engagements in competition regulation to disincentive treacherous turns by platforms.

Although it has adapted over the past two centuries, competition regulation has not yet acquired all the tools necessary to regulate the information and communication technology sector. This partly stems from efforts to neutralise competition regulation in the United States. What began as an ideological claim that competition regulation should solely focus on consumer prices became an unquestioned assumption. This occurred simultaneously with information economics fundamentally restructuring markets. The decade between 2007 and 2017 saw a high tide of policy consensus that a narrow interpretation of competition regulation was desirable.<sup>12</sup> This consensus claimed the sole objective of competition regulation was to prevent a decrease in ‘consumer welfare’ and that consumer welfare is reducible to price. However, this consensus did not account for the “Divergence between judicial opinions on the one hand, and the rigorous use of modern economics to advance consumer welfare on the other.”<sup>13</sup> Following on from the empirical work by Tim Wu and others, competition regulation cannot rely only on merger approval and abuse of dominance if it is to address the winner-take-all tendency of networks.<sup>14</sup>

## **A Regulatory Change of Direction and Pace**

Scale-free networks — characterised by the ‘Matthew effect’ where highly connected nodes accumulate even more connections — pose challenges for traditional regulatory frameworks. Current legal and regulatory frameworks, compounded by a lack of political will, remain inadequate to address the treacherous turn. Countering this structural domination requires a willingness to renegotiate the power dynamics and accountability frameworks governing platforms, insisting that unchecked private authority is unacceptable. Part of this involves shifting the evidentiary burden to the platforms themselves.

Our proactive regulatory vision reasserts foundational democratic principles of fair access to competitive markets and accountability to customers, clients, and shareholders. It is questionable whether existing competition tools are adequate to address competitive advantages derived from

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<sup>10</sup> Conger, C., Isaac, M., Mac. R., & Hsu, T. (2022, November 11). [Two Weeks of Chaos: Inside Elon Musk’s Takeover of Twitter](#), New York Times.

<sup>11</sup> Bloodstein, B. (2019). [Amazon and Platform Antitrust](#), Fordham Law Review 88(1): 187-230.

<sup>12</sup> Khan, L. M. (2020). [The End of Antitrust History Revisited](#), Harvard Law Review 133: 1655-1682.

<sup>13</sup> Scott Morton, F. (2019, May). [Modern U.S. antitrust theory and evidence amid rising concerns of market power and its effects: An overview of recent academic literature](#), Washington Center For Equitable Growth, p8.

<sup>14</sup> Khan, L. M. (2020). [The End of Antitrust History Revisited](#), Harvard Law Review 133: 1655-1682; Wu, T. (2018). *The Curse of Bigness: Antitrust in the new Gilded Age*, New York: Columbia Global Reports.

data and decentralised, scale-free network effects, at least in the United States.<sup>15</sup> Moreover, the rapid pace of technological innovation necessitates an equally dynamic and adaptive approach to regulation.

Early warning systems and confidential reporting channels are crucial for regulators to stay ahead of emerging risks in platform ecosystems. Dynamic regulation, capable of keeping pace with the speed of innovation, is imperative for effective 21st-century oversight of these rapidly evolving two-way markets. A forward-looking, proactive regulatory stance is required to navigate complexities and address the challenges posed by treacherous turns. However, we have reached a point where there is little consensus on the specific actions needed to stop these detrimental practices. While doctrinal tests and discussions about standards of proof are still useful, interventions must go beyond such debates. There is value in focusing on charting the direction and determining the appropriate pace for regulatory action.<sup>16</sup>

### **Create exit rights with reduced switching costs through adversarial interoperability**

One major factor contributing to the market power of dominant platforms is high switching costs for users. The effort required to rebuild social connections and transfer data and content across platforms leads to an effective user lock-in. This hinders competition and the rise of new players in the long run. Platforms employ several tactics to entrench this lock-in effect. They rely on lengthy, densely worded ‘clickwrap’ agreements that few users comprehend yet bind them to a long list of terms and conditions that can be changed unilaterally by the platform operator. These “Notice and consent practices in the platform economy are not only normatively futile but also positively harmful.”<sup>17</sup> The cumulative effect of such high switching costs and legal manoeuvres erects formidable barriers to users looking to freely move to alternative platforms.

Adversarial interoperability can be seen as a capitalist market principle that has allowed innovation to flourish even under conditions of monopolisation.<sup>18</sup> This practice of reverse-engineering compatibility with dominant platforms, even without the consent of the platforms, was instrumental to the rise of technology firms like Apple, Google and Meta. Through adversarial interoperability, they could compete with incumbents over consumers by offering superior products that still networked with the existing user base. This converted monopoly dominance from an asset into a liability that could be exploited by competition. As this idea applies to platforms, adversarial interoperability would empower users and business consumers to exit a platform and seamlessly migrate elsewhere if they believed conditions were unsatisfactory.

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<sup>15</sup> Scott Morton, F. (2019, May). Modern U.S. antitrust theory and evidence amid rising concerns of market power and its effects: An overview of recent academic literature, Washington Center For Equitable Growth.

<sup>16</sup> One set of ideas involves making platforms a public utility, but this is adjacent to our suggestions here in part because technological change requires regulation of new platforms as they emerge to prevent the tendencies to decay being built in early.

<sup>17</sup> Bietti, E. (2020). Consent as a Free Pass: Platform Power and the Limits of the Informational Turn, *Pace Law Review* 40(1): 307-397.

<sup>18</sup> Doctorow, C. (2019, June 7). Adversarial Interoperability, EFF.

## **Mandated transparency to avoid exclusionary conduct**

Mandating transparency from platforms regarding the metrics and algorithms that govern access to their core online infrastructures is a key priority. True data portability and robust adversarial interoperability standards are essential counterweights. Moreover, regulators cannot ignore how platforms optimise their systems to relentlessly extract value for their investors at the expense of other stakeholders. By evading democratic governance and oversight, they engage in regulatory arbitrage that exacerbates inequities. Transparency around pricing from a supplier perspective is crucial, as abruptly altering incentives or conditions of access in an extractive bid to further consolidate control is detrimental and counterproductive. Disclosure of key metrics and statistics aligned with principles like South Africa's King Commission, which emphasises enhanced shareholder reporting and responsible use of capital, can help mitigate exclusionary conduct.<sup>19</sup>

Facebook's (now Meta) much-hyped 'pivot to video' can be seen as an example of a wider misallocation of capital and resources. Driven by an executive desire to gain a footing in the video streaming market, the platform reconfigured its algorithms to aggressively promote video content. Predictions from the marketing unit were distributed to publishers and creators, who in turn reconfigured their labour force. Algorithmic changes drastically altered audience flows and had a devastating impact on publishers reliant on the platform's traffic. The reach of content by publishers that did not undertake 'video first' was throttled in newsfeeds. Unfortunately, user interests did not proceed, match or follow this change. One consequence was that publishers lost revenue, with their labour force bearing the brunt as costs were shifted onto them.<sup>20</sup> The 'pivot to video' effort was a market distortion that skewed creator incentives and wasted capital.

Such misleading assertions by dominant platforms around unilateral business shifts, that subsequently immiserate dependent businesses, must become legally actionable as unfair business practices. Mandating transparency and accuracy around key platform performance metrics is crucial in this regard. Transparency and accuracy around platform metrics that influence the business decisions of dependent entities are also essential.

## **Reverting to fundamental principles of contract**

Merely agreeing to the platform's terms and conditions constitutes consent to future updates. Coupled with technological barriers preventing data portability and interoperability with other services, these contracts attempt to legalise extractive conduct by platforms while insulating them from accountability.

Clickwrap agreements and their inequitable features are relatively recent introductions into contract law, which has traditionally required demonstrable consensus by all parties. While clickwrap terms and conditions are widely used, they have not been completely endorsed by courts. If courts and legislators returned to the basic concept of a contract as a mutual agreement that embodies an actual consensus, they would likely reject most of these one-sided agreements. Instead, they could require contracts that protect both parties, are simple enough to be understood by users and short enough to be read by users. Additionally, contracts should not be able to change without good cause. It is well within the power of judges in common law countries

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<sup>19</sup> Institute of Directors South Africa (2016). [King Report](#).

<sup>20</sup> See Meese, J., & Hurcombe, E. (2021). [Facebook, news media and platform dependency: The institutional impacts of news distribution on social platforms](#). *New Media & Society*, 23(8), 2367-2384.

to make contract decisions along these lines. However, given the failure of courts to exercise their powers, it will likely take active steps by regulators and even legislators to ensure a return to the basic principles of contract law.

In many African countries and regions, standards for electronic contracts or the need to update laws on this subject have not yet been established. There is an opportunity for legislators who are required to set standards for what constitutes a valid electronic agreement to mandate fundamental features of electronic contracts for them to be legally valid. An example of fundamental features that could be mandated for electronic contracts to be legally valid include provisions that cannot be changed unilaterally but require informed consent. The contract itself must be written in plain language at the literacy level of users in the country of operation. Additionally, the contract provisions must be short enough for a user to read them in a reasonably short time, as that seems a reasonable expectation for anyone who did not choose a legal career. If this burdens the platform, that is the price of having lawful contracts.

Affirmative consent should be mandated for platform contracts, aligning with fair contract principles. Regulators can establish default equitable contracts reflecting users' reasonable expectations, as free markets require such safeguards. One-sided, differential contracts burdening users and discouraging competition must be prohibited. Narrowly defined carve-outs allowing changes due to new laws and regulations should require user consent, not blanket allowances for unilateral platform alterations. The costs of extractive contracts cannot be offloaded onto captive businesses and individuals. Mandating affirmative consent is crucial for restoring balance.

Lastly, to deter platform decay, platforms' gatekeeper terms of service should not be unilaterally changeable without input from the national competition or information regulators. Any change should require informed consent from users and regulators should have the power to trigger conditions that freeze or revert the terms. This freeze would remain in effect until platform decay has verifiably stopped or the platform business is liquidated. Unfreezing would only take place once decay has ceased. Such measures could deter opportunistic platform behaviour that dampens investment and innovation across the wider ecosystem. These measures would still allow pro-competitive platform evolutions, provided they are adequately signalled to and accepted by market participants. Freezing exploitative term changes protects users and businesses from being captive to a platform's treacherous turn, enabling consumer-benefiting adaptations through legitimate processes.

## **Investor protection**

Treacherous turns by platforms ultimately disadvantage investors who buy in after a company's initial public offering (IPO). This dynamic overlooks the temporal elements of capital investment, where late-stage investors effectively subsidise the earlier investors and founders who cash out post-IPO. Certain companies pursue a treacherous path by avoiding IPOs altogether, instead raising unlimited private capital through special purpose vehicles that evade traditional securities' oversight. This allows companies to amass war chests to acquire competitors and entrench their market dominance, leveraging lenient regulatory environments to achieve monopoly status before being subjected to public market scrutiny and capital and securities regulation,

By circumventing IPOs and sidestepping capital controls, platforms undertaking a treacherous turn can raise funds unencumbered by the constraints of public finance markets. Ultimately, those excluded from the private funding rounds get shut out from the wealth creation, effectively



transferring value from open market investors to insiders and early backers through this exploitative model. The role of unchecked valuations exacerbates this as the capital that comes in later gets disadvantaged the most. The avoidance of IPOs using special purpose vehicles tends to disadvantage institutional investors who use open finance markets.

## **Conclusion**

There is value in developing affirmative public interest regulatory interventions to establish fair default contracts, consumer data rights and meaningful worker representation within platform ecosystems. To reiterate an earlier point, it is crucial to implement a forward-looking, proactive regulatory stance that can match the pace of developments in the platform economy and counteract 'innovative' evasions of competition and accountability mechanisms. For businesses and individuals locked into decaying platforms, there must be robust exit rights that allow them to escape these dying ecosystems and move their activities to healthier market alternatives. Regulatory frameworks should facilitate relatively seamless migration away from platforms exhibiting the tendency towards a treacherous turn.

There is also a need for updated competition frameworks that can designate dominant platforms as common carriers prohibited from directly competing with the businesses they host. The market-making functions of these platforms must be structurally separated to eliminate ruinous conflicts of interest incentivising platform decay. However, even proactive regulatory interventions establishing clear guardrails, facilitating market exit, designating common carrier obligations and enforcing structural separations are insufficient. Bolder actions redefining the relationships between platforms, individuals and the businesses dependent on them are required to genuinely address the root causes driving treacherous turns.