

**Hochschule für Politik
an der Technischen Universität München (TUM)POL61301**

Technology Governance and the Regulatory State
Winter Semester, 2021-2022

Hochschule für Politik (Richard-Wagner-Str. 1; 80333 München)

Dr. Chase Foster
chase.foster@tum.de

H.103, CIP-Raum

Please Note:

The language specification for this course is English. Accordingly, the readings for this course are all in English and the seminar discussion will be in English, too. The course paper must be written in English as well.

Course Description

As recently as one decade ago, most governments took a hands-off approach to Big Tech. Viewing the sector as a driver of economic efficiency, a boon to consumers, and a benefit to democracy, policymakers sought to encourage the development of the digital platform economy and to avoid establishing *ex ante* regulatory rules that might limit the growth of the industry. Today, the political climate has changed. The largest companies within this sector face intense criticism and regulatory scrutiny around the world. From privacy to competition, taxation to democracy, policymakers and reformers have noted major challenges generated by digital platforms and the size and behavior of the largest information technology companies. The European Union has spearheaded the regulation of large technology firms. Now, an increasing number of other jurisdictions, including China and the United States, are also discussing substantial regulations.

This course explores the politics of regulating Big Tech. The course will provide an overview of the political, economic, and technological processes that have led to the emergence of the ‘platform economy’ and the explosive growth of companies such as Google, Apple, Facebook, Apple and Microsoft. It will also introduce students to the ‘regulatory state,’ and broader theories of regulatory governance that can be used to understand and evaluate state regulation in this sector. We will explore the market failures that have led to new regulatory initiatives, the regulatory failures that allowed these problems to go largely unaddressed until recently, as well as the potential problems and unintentional consequences that may result from new regulation. Students will explore the strengths and limitations of current state responses across four areas of policy: antitrust, consumer protection, labor regimes, and the functioning of democracy. Participants will draw up different scenarios for technology governance in order to think creatively about the issues at hand. Students in the *Hochschule für Politik* Master's program Politics & Technology may count the course toward the “Global Governance, Ethics, and Technology” specialization.

Learning Objectives

Students will:

- be introduced to the key concepts in the field of regulatory politics and policy, focused in particular on technology governance, from the perspective of firms, civil society, and the state.
- gain an in-depth understanding of the potential and the limits of regulations and other forms of governing technology based on research in law, economics, political economy political science, sociology, and public policy.
- apply their understanding of regulatory politics and policy to concrete cases of recent technology governance initiatives in the EU and the US.
- hone their analytical skills through the application of quantitative and qualitative methods to the analysis of regulatory policy, technology governance, and related issues in ways that will leave them better prepared to develop an independent research project.
- evaluate policy and regulatory initiatives in the realm of technology governance according to whether the initiatives are likely to achieve their stated goals.
- Formulate ideas for public policy and regulatory initiatives in the realm of technology governance.

Course Format and Workload Expectations

The course will be organized as a 14-week seminar. The course will initially convene in-person in room H.103 CIP-Raum, subject to HfP health rules. The format will combine a traditional seminar, focused on discussing key issues and questions that arise out of the readings, with occasional, highly interactive lectures.

Students are expected to do the required readings in advance of each meeting of our seminar; to shape our seminar discussion through questions raised in class, as well as a brief presentation toward the end of the semester, and to contribute through regular participation.

Student presentations will occur on February 7, 2022. Papers should be submitted to the instructor at chase.foster@tum.de by March 20, 2022.

Readings

All readings will be available online – either through the Internet, TUM Library E-resources or on Moodle. Throughout the seminar, the instructor may supplement required readings with news articles and other short texts.

Assessment / Grading

Students' achievement of intended learning outcomes will be assessed through a paper and a presentation at the end of the semester. Papers should apply the material covered in the course while also going beyond the assigned readings. They offer an opportunity for students to synthesize what they have learned throughout the course, as well as to conduct

original research that goes beyond the assigned literature and the topics of discussion in class. The final grade for the course will be based on the following components:

- Research paper (80%) of 15-20 pages in length including notes and bibliography due on October 22nd. The topic for this paper should be agreed with the instructor by the end of January 2022 (preferably sooner). It can deal with any issue related to the course and be organized either as an in-depth critical reflection on a body of literature (akin to a review article) or an original research paper that examines a topic using either qualitative or quantitative methods.
- Paper presentation (20%). A 5-8 minute presentation of your paper idea on the last meeting of the short course.
- In addition, a “bonus” of up to 1/3 of a grade will be given for high quality contributions to the classroom discussion (turning a 2 into a 2+, a 2+ into a 1-, etc.).

Collaboration Policy

Students should feel free to discuss the issues raised by their reading or writing for the course with other students. However, all written work for it should be entirely your own and no one other than the instructor should be allowed to see the papers that you submit, the notes made for it, or any previous drafts of the paper. Any material used from primary or secondary sources should be appropriately footnoted and direct quotations identified as such, using established citation practices.

Prerequisites and Enrollment

The course is designed primarily for students in the Master’s program of the Hochschule für Politik / Bavarian School of Public Policy, but open to others. It provides a multi- and trans-disciplinary social scientific introduction to the topic; no previous knowledge of regulatory politics or antitrust law, economics, and policies is expected.

Schedule and Readings

Session 1: Introduction. What is the Platform Economy? – October 18, 2021

Kenney, M. and Zysman, J., 2016. [The rise of the platform economy](#). *Issues in Science and Technology* 32(3).

Srnicek, N., 2017. [The challenges of platform capitalism: Understanding the logic of a new business model](#). *Juncture* 23(4): 254-257.

Furman, Jason. 2020. "[The value and challenge of regulating Big Tech](#)," *Harvard Kennedy School*.

Podcast: Listen to "Kara Swisher Explains the High Costs of 'Big Tech,'" <<https://www.futurity.org/kara-swisher-podcast-big-tech-2555722-2/>>.

PART I: THEORY and BACKGROUND

Session 2: Theory I: The Rationales Behind Regulation and the Regulatory State – Oct. 25, 2021.

Stiglitz, J. "[Government Failure vs. Market Failure: Principles of Regulation](#)." In *Government and Markets: Towards a New Theory of Regulation*, edited by Edward J. Balleisen and David A. Moss. New York:Cambridge University Press, 2010: 13-51.

Jordana, Jacint and David Levi-Faur. [Selection from:] "The Politics of Regulation in the Age of Governance." In *The Politics of Regulation: Institutions and Regulatory Reforms in the Age of Governance*, edited by Jordana and Levi-Faur. Northampton, MA: Edward Elgar Publishing, 2004:1-15. [See Moodle].

Vogel, Steven K. "[Why Freer Markets Need More Rules](#)." In *Creating Competitive Markets: The Politics of Regulatory Reform*, edited by Marc K. Landy, Martin A. Levin and Martin Shapiro. Brookings Institution Press.

Optional background (not required):

Moran, M. (2002). 'Review Article: Understanding the Regulatory State. *British Journal of Political Science* 32(2), 391-413. [See Moodle].

Majone, G (1997), 'From the Positive to the Regulatory State: Causes and Consequences of Changes in the Mode of Governance' *Journal of Public Policy* 17(2), 139-68. [See Moodle] .

****Class will not meet Monday, Nov. 1, 2021 because of a holiday.****

Session 3: Theory II: Regulatory Capture– Nov. 8, 2021

Munger, Michael C. “[Regulation](#).” *Encyclopedia of Libertarianism*. Washington: Cato Institute, 2010: 418-420.

Dal Bó, E. (2006) ‘[Regulatory Capture: A Review](#)’ *Oxford Review of Economic Policy*, 22(2): 203-25.

Carpenter, DA and Moss, DA (2014) ‘[Introduction](#)’ in D.A. Carpenter and D.A. Moss (eds). *Preventing Regulatory Capture*, Cambridge, Cambridge University Press.

Short article:

Schechner, Sam and Nick Kostov. “[Google and Facebook Likely to Benefit from Europe’s Privacy Crackdown](#).” *The Wall Street Journal* 23 April 2018.

Recommended background (not required):

Stigler, George J. 1971. “The Theory of Economic Regulation.” *Bell Journal of Economics and Management Science* 2(1). [See Moodle].

Yandle, B. “[Bootleggers and Baptists](#).” *Regulation* 7(3): 12-16.

Session 4: Theory III: Political Frameworks – Nov. 15, 2021

Wilson, James Q. “The Politics of Regulation.” In *The Politics of Regulation*, edited by James Q. Wilson. New York: Basic Books, 1980: 357-394. [See Moodle]. Be sure to have read pages 357-372.

Thatcher, M. and Sweet, A.S., 2002. [Theory and practice of delegation to non-majoritarian institutions](#). *West European Politics*, 25(1), pp.1-22.

Guidi, M., Guardiancich, I. and Levi-Faur, D., 2020. [Modes of regulatory governance: A political economy perspective](#). *Governance*, 33(1), pp.5-19.

Recommended background (not required):

Carrigan, C. and Coglianesi, C., 2011. [The politics of regulation: From new institutionalism to new governance](#). *Annual Review of Political Science*, 14, pp.107-129.

Part II: The Political Economy of the Platform Economy

Session 5: The ‘Hidden’ Developmental State and the Rise of Big Tech – Nov. 22, 2021

Mazzucato, Marianna, 2013. *The Entrepreneurial State*. Chapters 2, 4 and 5 [See Moodle].

Block, Fred, 2008. [Swimming against the current: The rise of a hidden developmental state in the United States](#). *Politics & society*, 36(2), pp.169-206

Session 6: Political Economy II: Platform Capitalism - Nov. 29, 2021

Belleflamme, P. and Peitz, M., 2018. [Platforms and network effects](#). In *Handbook of Game Theory and Industrial Organization, Volume II*. Edward Elgar Publishing.

Cohen, Julie. 2017. [Law for the Platform Economy](#). *UC Davis Law Review*. *Read only pages 133-153

Rahman, K.S. and Thelen, K., 2019. [The rise of the platform business model and the transformation of twenty-first-century capitalism](#). *Politics & Society*, 47(2), pp.177-204.

Pasquale, F. 2016. “[Two Narratives of Platform Capitalism](#),” *Yale Law and Policy Review* 35: 309. [short article]

Additional background (not required):

Liebowitz, Stan J. and Stephen E. Margolis. 1998. [Network Externalities](#) (Effects).

Arthur, Brian W. 1989. “[Competing Technologies, Increasing Returns, and Lock-In by Historical Events](#).” *The Economic Journal* 99(394): 116-131 (skim)

Schwartz, Herman. 2021. [Global secular stagnation and the rise of intellectual property monopoly](#), *Review of International Political Economy*, DOI: 10.1080/09692290.2021.1918745

Kenney, M., Zysman, J., & Bearson, D. (2020). [Transformation or Structural Change? What Polanyi Can Teach Us About the Platform Economy](#). *Sociologica*, 14(3), 227-240.

Session 7: Political Economy III-Platform Power and Regulatory Politics (Dec. 6, 2021)

Atal, M.R., 2020. [The Janus faces of Silicon Valley](#). *Review of International Political Economy*, 28(2), pp.336-350

Culpepper, P.D. and Thelen, K., 2020. [Are we all Amazon primed? Consumers and the politics of platform power](#). *Comparative Political Studies*, 53(2), pp.288-318.

Cioffi, J.W., Kenney, M. and Zysman, J., 2021. [Platform Power and Regulatory Politics: Polanyi for the 21st Century](#). BRIE Working Paper.

[How Big Tech money skews the European playing-field](#). Sept 1, 2021. *Social Europe*. [short article].

Recommended background:

Boyer, R., 2021. [Platform capitalism: a socio-economic analysis](#). *Socio-Economic Review*.

Part III: Regulating Big Tech

Session 8: Concentration, Market Power and Antitrust – Dec. 13, 2021

Kenney, M., Bearson, D. and Zysman, J., 2021. [The platform economy matures: measuring pervasiveness and exploring power](#). *Socio-Economic Review*.

Khan, Lina. 2017. “[Amazon’s Antitrust Paradox](#),” *Yale Law Journal* 126: 710-805.

Read one of the two articles below:

Gutiérrez, G., & Philippon, T. (2018). [How EU Markets Became More Competitive than US Markets: A Study of Institutional Drift](#) (No. w24700). NBER.

Foster, C. 2021. Varieties of Neoliberalism: [Courts, Competition Paradigms and the Atlantic Divide in Antitrust](#). Forthcoming in *Socio-Economic Review*.

Recommended background (not required):

[Monopoly by the Numbers](#), OPEN MARKETS INSTITUTE,

Santesteban, C. and Longpre, S., 2020. [How Big Data Confers Market Power to Big Tech: Leveraging the Perspective of Data Science](#). *The Antitrust Bulletin*, 65(3), pp.459-485

Khan, Lina. 2020. [The End of Antitrust History Revisited](#), *Harvard Law Review*.

Wright, J.D., Dorsey, E., Klick, J. and Rybnicek, J.M., 2019. [Requiem for a paradox: the dubious rise and inevitable fall of hipster antitrust](#). *Arizona State Law Journal* 51: 293-369.

Grullon, G., Larkin, Y. and Michaely, R., 2019. “[Are US Industries Becoming More Concentrated?](#)” *Review of Finance*, 23(4), pp.697-74. [skim]

Session 9: Regulating Labor Rights on Digital Platforms - Dec. 20, 2021

De Stefano, V., 2015. [The rise of the just-in-time workforce: On-demand work, crowdwork, and labor protection in the gig-economy](#). Conditions of Work and Employment Series. International Labour Office.

Kellogg, Katherine C., Melissa A. Valentine, and Angèle Christian. 2020. “[Algorithms at work: The new contested terrain of control](#),” *Academy of Management Annals* 14(1): 366-410. [See Moodle].

Thelen, K., 2018. [Regulating Uber: The politics of the platform economy in Europe and the United States](#). *Perspectives on Politics*, 16(4), pp.938-95.

Optional background (not required):

Seidl, T., 2020. [The politics of platform capitalism: A case study on the regulation of Uber in New York](#). *Regulation & Governance*.

CNBC, “[Europe Could Be Seeing the End of its Gig Economy](#),”

“[On the job but unprotected—why European welfare is failing gig workers](#),” 2021. *Politico*

Meyers, Z. 2021. “[Driving Uncertainty: Labour Rights in the Gig Economy](#),” Centre for European Reform.

Session 10: Regulating the “Sharing Economy” – Jan. 10, 2022

Schor, J. B., & Vallas, S. P. (2021). [The Sharing Economy: Rhetoric and Reality](#). *Annual Review of Sociology*, 47: 369-389.

Edelman, Benjamin G. and Damien Geradin. “[Efficiencies and Regulatory Shortcuts: How Should We Regulate Companies Like Airbnb and Uber?](#)” *Stanford Technology Law Review* vol.19 no.2 (2016): 293-328.

Ryan Calo & Alex Rosenblat. 2017. “[The Taking Economy: Uber, Information, and Power](#),” 117 *Columbia Law Review* 1623 [See Moodle]. [skim].

Podcast: Knowledge@Wharton. “[When Business Blows Up Policy: How to Regulate Disruptions](#).” 27 July 2018. (28:55 minutes).

Optional background (not required):

Biber, Eric, Sarah E. Light, J.B. Ruhl and James E. Salzman. “[Regulating Business Innovation as Policy Disruption: From the Model T to Airbnb](#).” *Vanderbilt Law Research Paper* no.17-24, 2017.[skim]

Session 11: Regulating Data Privacy/ Ownership - Jan. 17, 2022

Zuboff, S., 2015. [Big other: surveillance capitalism and the prospects of an information civilization](#). *Journal of information technology*, 30(1), pp.75-89.

Pohle, J. and Thiel, T., 2020. [Digital sovereignty](#). *Internet Policy Review*, 9(4), pp.1-19

Laurer, Moritz, and Timo Seidl. "Regulating the European Data-Driven Economy: A Case Study on the General Data Protection Regulation." *Policy & Internet* 13.2 (2021): 257-277. [see Moodle].

Chakravorti, Bhaskar. 2020. [Why companies make it so hard for users to control their data](#). *Harvard Business Review*. [short article].

Optional background:

Cohen. Julie. 2017. [The Biopolitical Public Domain: The Legal Construction of the Surveillance Economy](#). *Philosophy and Technology*.

European Commission, "[Factsheet on the 'right to be forgotten' ruling \(C-131/12\)](#)"

Gary Marsden, "[Post-GDPR Developments on Data Protection and Privacy Regulations Around the World](#)", *Security Boulevard*

"[WhatsApp fined 225M euros for not telling users how it shared data with Facebook](#)," *Financial Times*

[Making the Digital Services Act Work for Consumers](#). BEUC [The European Consumer Organization].

Session 12: Regulating 'Fake News', Protecting Independent Journalism– Jan. 24, 2022

Nechushtai, E., 2018. [Could digital platforms capture the media through infrastructure?](#). *Journalism*, 19(8), pp.1043-1058

Bell, Emily and Taylor Owen. 2017. "[The Platform Press: How Silicon Valley Reengineered Journalism](#)." *CJR Report*. [short]

Google Blog. 2021. "[Research: What really happened to newspaper revenue](#)." [short]

Ingram, M. 2020. "[Should Google and Facebook be Forced to Pay for Content?](#)" *Columbia Journalism Review*. [short]

Juntusen, Laura and Hannu Nieminen. 2019. [The Future of National News Agencies in Europe](#). London School of Economics [see Moodle].

Session 13: Regulating Social Media, Defending Liberal Democracy – Jan. 31, 2022

Tucker, J.A., Theocharis, Y., Roberts, M.E. and Barberá, P., 2017. “From Liberation to Turmoil: Social Media and Democracy,” *Journal of Democracy* 28(4): 46-59. [see Moodle].

Zhuravskaya, E., Petrova, M. and Enikolopov, R., 2020. [Political effects of the internet and social media](#). *Annual Review of Economics*, 12, pp.415-438

Fukuyama, F. “[Making the Internet Safe for Democracy](#),” *Journal of Democracy*. [See Moodle].

Session 14: Presentation of Paper Ideas – Feb. 7, 2022.

The following texts may be helpful when writing your papers:

King, Gary, Robert O. Keohane, and Sidney Verba. [Selections from:] *Designing Social Inquiry: Scientific Inference in Qualitative Research*. Princeton, NJ: Princeton University Press, 1994: 3, 6f, 9-12, 12-19, 23, 25f, 32f, 46, 55-57, 63, 75-95, 128-135.

Büthe, Tim. “Writing an Analytical Paper in Political Science.” [MimeoFile](#). [See Moodle]

George, Alexander L. and Andrew Bennett. "Advantages and Limitations of Case Studies." [Selection from chapter 1 of:] *Case Studies and Theory Development in the Social Sciences*. Cambridge, MA: MIT Press, 2005: 17-22. [See Moodle].

Munck, Gerardo L. “Tools for Qualitative Research.” In *Rethinking Social Inquiry: Diverse Tools, Shared Standards*, edited by Henry E. Brady and David Collier. Lanham, MD: Rowman & Littlefield, 2004: 105-121. [See Moodle].