

## **Don't fear the splinternet: Policy interoperability and lessons from the banking sector**

Blayne Haggart

Associate Professor, Brock University

[bhaggart@brocku.ca](mailto:bhaggart@brocku.ca)

March 31, 2023

In platform governance debates, few words carry as much weight as the word “global.”

It's in the background of fears that domestic regulation of social media platforms will [“break the internet,”](#) even as an increasing number of countries move to bring such (typically American or Chinese) companies under domestic law. In Canada, for example, critics have argued that the very [act of bringing global platforms under the Canadian broadcasting regime](#) is [folly](#) or [illegitimate, akin to the actions of actually authoritarian regimes](#), such as China's isolationist “Great Firewall” or Russia's RuNet.

In reality, the issues at play are the usual [contests](#) between competing norms, and over the appropriate level of regulation of businesses. Implicit in the word “global,” as used by critics of platform regulation, are specific ideological and normative commitments favouring a particular type of regulation, while appeals to their inherent and desirable globalness are deployed to argue against state regulation of platforms.

In the case of online platforms, the “global internet” involves not just the internet's backbone and fundamental protocols, but globe-spanning companies (usually based in the US or China) and a relatively undifferentiated regulatory space. From such a perspective, existing state regulation, such as Germany's [NetzDG legislation](#), tends to be perceived, even by supporters of regulation as an unnatural interruption of these companies' naturally global state, [an anomaly to be justified](#), even by its proponents, rather than a way to bring an unregulated industry under democratic control. As a result, it is that much more difficult for policymakers to regulate in the public interest. As I discuss below, however, fears of creeping authoritarianism are overblown, and there is nothing unnatural or against the nature of the internet that should keep policymakers from engaging in sound platform regulation in the public interest. Done well, it can even improve quality of the global internet itself.

### **Fear of the “splinternet”**

In the background of the suspicion of platform regulation is a worry that the global internet is transforming itself into the “splinternet”: the fracturing of the internet along national or regional borders. Splinternet concerns go far beyond worries that countries may physically cut themselves off from the global network of the internet. [Writing in the \*Duke Law Journal\*](#), legal scholar Mark A. Lemley nicely captures the ideological stakes of the splinternet as they relate to platforms. For Lemley, the splinternet is caused in part by national regulation. His fear is that, for example, European regulation “will end up either moving European consumers to separate European internet companies and internet technologies or, perhaps, co-opting US companies in ways that will still end up dividing the US experience from the European experience.”

A single experience implies a single set of norms. [Internet scholar Niels ten Oever](#) identifies maximizing interconnection and interoperability as the fundamental internet norms: the more people and networks that are connected to each other, the better. When people talk about “internet freedom,” this is what they mean.

### **An unusual form of globalization**

This view might seem natural and unobjectionable, but embedded in it is a perspective that downplays all other possible policy objectives. It also naturalizes a very narrow and unusual view of how a global regime should operate.

The global dominance of a few companies in a regulatory regime that presumes there should be one set of norms and rules for all countries is an example of what economist [Dani Rodrik](#) ([adapted by me](#) for the internet governance space) calls “hyperglobalization.” This is a form of globalization characterized by a single dominant set of rules, or rule-setters (the platforms) in a world of nation-states, in which democratic-rule by these states is seen as impossible or undesirable.

In terms of values, ten Oever notes that attempts to address human rights or other concerns requires restrictions on the system’s interconnection and interoperability. However, because interconnection and interoperability are taken as synonymous with internet freedom, any violation is seen as an attack on the internet itself, leading to the “splinternet.” Thus, debates over domestic regulation, [say to prevent hate speech to ensure that more voices are heard](#), or to promote cultural expression, degenerate into accusations that proponents of regulation are advocates for [creeping authoritarianism or totalitarianism](#).

### **Don’t fear the splinternet: A view from the banking sector**

Democratic communities have legitimate disagreements and preferences about nearly every issue. From this perspective, it is the desire to implement a single set of norms on everyone, everywhere that emerges as a problem. Fortunately, when we look beyond the internet sector, it becomes clear that domestic regulatory regimes need not impede global interactions. It can even improve those interactions and our quality of life.

Consider the banking sector, and the financial industry generally. It’s hard to think of a more paradigmatic global industry. As with the large platforms, a few geographic centres dominate, and there are several globe-spanning corporations. This same industry is also characterized by varying levels of domestic regulation and protectionism of local actors.

As Rodrik and [others](#) have remarked, different levels of regulation internationally reflect fundamental views about the relative desirability of various policy objectives. The relatively lax approach to financial regulation in the United States reflects a different attitude toward the risk-innovation trade-off that we see in Canada, whose regulatory regime favours large, incumbent charter and sacrifices innovation for stability.

Neither system is objectively “right” or “wrong”: each reflect particular values, preferences, and the interests of the dominant actors in each system. Beyond the inherent democratic virtue of a country’s regulatory regimes reflecting the desires and needs of its citizenry, a globally heterogeneous regulatory landscape can minimize contagion when a sector goes off the rails.

[As economists Michael D. Bordo, Andgela Redish and Hugh Rockoff](#) remind us, Canada’s conservative banking system, for example, allowed the country to withstand the 2008 Global Financial Crisis, which originated in the United States thanks to its lax regulatory regime. Similarly, though it is early days yet, Canada looks well positioned to weather the current banking crisis emerging from the March 10, 2023, failure of Silicon Valley Bank, which was also [rooted in part permissive US regulations](#).

### **Redefining globalization, embracing domestic regulation**

This very brief consideration of the banking sector should remind us that most policy spaces are multi-dimensional and require balancing competing objectives. It should also remind us that different democratic governments and societies will have different policy preferences, and that such differences can easily be accommodated within a “global” system. From this perspective, policy heterogeneity should be celebrated, not feared.

Imagine if Silicon Valley Bank were the world’s startup banker, and US banking regulations the template for the world. The crisis would have been far worse. Yet, in platform regulation, we have single companies, [some headed by very erratic leaders](#), who can [cause chaos, and worse](#), for billions, with the locals having relatively little say in their operation. And domestic regulation is often presumed to be, at best, a necessary evil.

Embracing global policy heterogeneity as a feature, not a bug, points toward a way forward, one that looks – as Rodrik suggests regarding economic globalization – for minimal acceptable terms of engagement among like-minded countries while respecting domestic policy differences. The goal for global internet governance should not be a single set of freedom-maximizing rules, but an interoperable patchwork of policy regimes, and international institutions, that reflect the different preferences, and democratic rights, of their citizens.

Moving beyond the use of “global” as a shorthand for a specific set of interests and ideologies won’t, on its own, eliminate platform-governance disagreements. But it will, at the very least, allow Canadians and Canadian policy-makers to have a more-direct and honest conversation about the legitimate values at stake in these debates.