



**PROGRESSIVE
YEARBOOK 2020**





PROGRESS IN EUROPE

Digital Union: What has happened so far? What should progressives aim at next?

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In this contribution, we will survey some of the monumental events and trends of last year, and look at some of the policy responses in the digital field at European level. In the second part, we will look ahead, to what will certainly be an important year for digital policymaking in Europe. Although it is always risky to make predictions, it is our bet that many of the problems in the digital arena, as well as the solutions, hinge on the question of data, and that this is the key policy debate for the coming year and beyond. What are data? Who controls them? Who can access them? And on what terms? How should they be used? In short, data governance is the key question for progressives, looking ahead.

As we head into the new decade, digital issues are at the very top of the EU policy agenda – from rampant privacy violations and large-scale social media manipulation, to the vast economic, *and political*, power of big tech, and the idea that Europe has 'lost' its digital sovereignty. On top of that, there is the urgent question of climate change, and how the digital transition can support the greening of our economy.

What underpins many of these phenomena is what has been incorrectly called the 'oil' of the digital economy: data. The accumulation of data about people's online *and offline* behaviour, transformed into detailed profiles, compromises people's privacy and underpins the personalisation, polarisation and manipulation of how we gather information and communicate online. The extraction, storage and processing of data about European citizens, communities, and businesses has helped create a platform ecosystem that we need to use, but that we do not understand, and that does not embed public values such as democracy, transparency or solidarity. Right now, many of the datasets are controlled and closely guarded by powerful firms, as the datasets provide the means to fortify and expand the firms' dominant position and profits.

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However, data could also serve a variety of extremely valuable public goals. Data collected via online platforms and apps in the health and education sectors could help to diagnose disease early, or identify children with reading disorder, so that they can then receive timely support. Data collected by the variety of ride-sharing and urban mobility apps could help identify underserved areas, reduce congestion and pollution, and improve urban planning. Platforms could help bring precarious and informal workers within the scope of social security and reduce employer abuse. But this will require different governance.

Looking back: 2019 culmination of a long trend

The rise of ‘surveillance capitalism’

In the long run, we may look back on 2019 as a turning point. In January 2019, Professor Shoshana Zuboff published her seminal work “The Age of Surveillance Capitalism”. The book does a great job in laying bare the existence of a hidden economy, relying on the relentless extraction of people’s data, for manipulation, prediction, and ultimately, profit. Her contention that capitalism itself has changed is probably somewhat overstretched – after all, firms still compete to maximise profit, but in order to reap those profits, they have commodified new domains.¹ In this case, our personal data, and hence ourselves.

Zuboff locates the start of the new business model very precisely: in 2001, when, in the wake of the ‘dot.com bubble’ bursting, Google needed to boost profits to allay investors’ concerns. Under pressure, it realised it could monetise the vast amount of data generated by its search engine, such as search terms, click patterns and location data, and use it for targeted advertising. Facebook quickly followed suit. The use of personal data for targeted advertisements has been hugely profitable for Google and Facebook, which control most of the market. For instance, according to the UK’s Competition and Markets Authority, Google pocketed over 90% of revenues for search advertising in the UK.²

Fast forward to 2020, and this model has become pervasive and is no longer limited to advertising. An entire market has been created around the continuous collection, sale and management of personal data, involving thousands of companies.³ This obviously undermines people’s right to privacy, but that it is only one aspect. The collection of data about citizens, without the latter knowing what data are collected, how they are interpreted,

- 1 Morozov, E. (2019), “It’s not enough to break up Big Tech. We need to imagine a better alternative”, The Guardian, 11 May. Available at: <https://www.theguardian.com/commentisfree/2019/may/11/big-tech-progressive-vision-silicon-valley>.
- 2 Competition and Markets Authority (2019). “Online platforms and digital advertising. Market study interim report.” Available at: <https://www.gov.uk/cma-cases/online-platforms-and-digital-advertising-market-study#interim-report>.
- 3 Christl, W. and S. Spiekermann (2016), *Networks of Control. A report on Corporate Surveillance, Digital Tracking, Big Data & Privacy*, Wien: Facultas Verlags-und Buchhandels.

and how they are used, creates significant power imbalances and scope for manipulation.⁴ Increasingly, such data are used for automated decision-making in important areas, including finance, employment, law enforcement, healthcare, housing, retail, insurance and much more.⁵ When such data are incorrect, the algorithms are biased, or the decisions are simply arbitrary and not explained, there is a high risk of negative consequences for especially vulnerable groups.⁶ In 2019, these issues moved to the top of the public debate, with the discussion around 'Artificial Intelligence', and efforts from the European Commission to stake out an ethical path for AI.

At the same time, and more optimistically, 2019 has also seen the start of what Polanyi in his time characterised as the 'second movement: a reaction against the commodification of people's lives, and the resulting destabilisation and inequality'. The discussion, both in popular terms, and policy circles, has changed. It is true that the market valuation for the biggest online platform companies, such as Alphabet, Facebook, Amazon, Microsoft and Apple is higher than ever; but they are also starting to face more regulatory pushback.

For example, Alphabet, Amazon, and Facebook have been, and still are, subject to a raft of inquiries from competition, consumer and data protection authorities in both the EU and the US. In 2019, the Federal Trade Commission slapped Facebook with a 5 billion dollar fine for its role in the Cambridge Analytica scandal, and Google-owned YouTube for a total of 170 million dollars for violating children's privacy laws. Under the leadership of former European Commissioner – and current Executive Vice-President – Margrethe Vestager, Google was fined for a grand total of over 8 billion euros, in three different competition cases. Most significantly, regulation of big tech is a big topic in the US presidential elections, with some contenders proposing to break up some of the biggest online platforms and treat them as public utilities.

In addition, although the market sentiment around the handful of biggest online platforms is still very positive, we may have reached a peak in the model of aggressive venture capital funding in the hope of recouping investments in the form of monopoly profits that come with scale. We have seen a number of well-known start-ups that went public last year, and that immediately saw a big drop in share prices – for example, Uber and Lyft. Most spectacular is the fall of WeWork, which saw its valuation drop from 47 billion to 12 billion dollars in the space of two months, forcing the main investor, Softbank's Vision Fund, to bail them out with additional liquidity.

2019 perhaps saw peak market concentration of big tech, and a continuation of pervasive online surveillance. It became clear that regulation is necessary

4 Pasquale, F. (2015), *The Black Box Society: The Secret Algorithms that control Money and Information*, Cambridge, Massachusetts: Harvard University Press.

5 Christl, W. (2017), "Corporate Surveillance in Everyday Life. How Companies Collect, Combine, Analyze, Trade, and Use Personal Data on Billions", report by Cracked Labs, Vienna, June. Available at: https://crackedlabs.org/dl/CrackedLabs_Christl_CorporateSurveillance.pdf; AlgorithmWatch and Bertelsmann Stiftung, (2019), *Automating Society. Taking Stock of Automated Decision Making in the EU* (1st edition), January.

6 O'Neil, C. (2016), *Weapons of Math Destruction. How Big Data Increases Inequality and Threatens Democracy*, UK: Penguin Random House.

In short, 2019 perhaps saw peak market concentration of big tech, and a continuation of pervasive online surveillance. At the same time, it became clear that regulation is necessary and coming. Even Facebook CEO Mark Zuckerberg admitted in 2019 that the internet, and not least Facebook itself, needs more regulation and that he would welcome it. In the face of this imminent change, big tech firms appear to have made a last run before new rules kick in. Most notable was Facebook's announcement to move into digital payments, by aiming to create a new digital currency, Libra. Less visibly, Alphabet made aggressive moves into the educational tech sector, and both it and Amazon expanded operations in the healthcare sector. And yes, most of these initiatives, from Facebook's Libra, to Amazon's deal with the UK's National Health Service, came under direct regulatory and public scrutiny that would have been unlikely a few years ago.

What has the EU done so far?

May 2019 saw the one-year anniversary of the General Data Protection Regulation (GDPR). It started to apply in mid-2018 and has been rightly perceived as the main EU regulatory response to ensure the internet is a space where citizens' rights will be respected. Although many of its provisions already existed in previous legislation, the GDPR contains innovative ideas around data portability – allowing users more control over their data – and privacy by default and design, and it allows for much higher fines. It is a signature piece of progressive legislation, and – often forgotten – a hard-won victory over entrenched interests and business lobbies that lasted more than half a decade.

But the proof of the pudding is in the eating: the benefits will only be realised with effective enforcement. At the moment, roughly one and a half years after the entry into application of the GDPR, the balance is decidedly mixed. On the one hand, jurisdictions across the globe have started to copy the legal regime, so it can be considered successful from a standard-setting perspective. On the other hand, tangible enforcement action, and serious fines, have been few and far between, even though it is clear that the provisions of the GDPR are routinely infringed on a massive scale.⁷ Finally, the new institutional provisions seem to concentrate competence in the hands of a few data protection authorities, especially the Irish Data Protection Authority, which creates bottlenecks for processing the wide number of complaints received so far.

Of course, the GDPR was first put forward in January 2012, before the start of the Juncker Commission. The latter took action as well, notably deciding to focus on building a Digital Single Market.⁸ This, it was thought, would provide the scale and opportunities for European firms to compete internationally, specifically with the dominant platform businesses from the US. According to the Commission's own assessment, it was successful on the procedural side, as it was able to find political agreements on 28 of the 30 initiatives it contained.⁹

7 Privacy International (2019), "Your Mental Health for Sale. How Websites about Depression share Data with Advertisers and leak Depression Test Results", 3 September.

8 European Commission (2015), A Digital Single Market Strategy for Europe. COM/2015/0192 final.

9 European Commission (2019), *A Digital Single Market for the benefit of all Europeans. Factsheet*, May. Available at: <https://ec.europa.eu/digital-single-market/en/news/digital-single-market-benefit-all-europeans>.

At the start of 2020, it is too soon to give a fair assessment of the Juncker Commission's initiatives, as many legislative acts – on copyright, media, e-commerce, online platforms, telecoms and others – have just started to apply, or still have to be implemented by the member states. That said, from a progressive point of view, a number of things are apparent.

First, there is a growing realisation that citizens' lives play out online, and that a raft of important human rights and public values are affected – from democracy and elections, to citizens' privacy and data protection, the right not be discriminated against, and the freedom of speech and assembly. Many of these values and rights have not been safeguarded online, as 'cyberspace' in general has been relatively unregulated since the rise of the commercial internet in the 1990s. As some predicted, the absence of democratic governance has led to a space where commercial values and activities have crowded out most else.¹⁰ Against this background, to frame Europe's digital strategy as a 'Digital Single Market' strategy is way too narrow a frame. What the internet lacks is not so much space for market transactions, but space for social and civic interaction, free from surveillance.

Second, when it comes to market freedom, the European Commission has focused on breaking down market barriers created by different national rules, but not enough on the entry barriers and unfair commercial practices from large online platforms. In spite of significant enforcement action, especially by Vestager, the EU has been unable to reduce the unhealthy concentration of market power in key sectors of the online platform economy. Additional actions, such as the platform-to-business regulation, provide more transparency, but that alone will not alter the power imbalance. Furthermore, the European Commission's tendency to make platforms more responsible, for copyright infringing content, hate speech and other illegal content, may inadvertently entrench their market power, as has been noted by many commentators.¹¹

Finally, the focus on creating a Digital Single Market is not a replacement for a proper industrial strategy. It is high time that the EU developed a more coherent industrial strategy for the digital economy. The Digital Single Market Strategy was notably light on this aspect, the implication being that unlocking the benefits of a 500-million consumer market would in itself be sufficient for European businesses to compete globally, based on free trade rules. However, given the pressure on the multilateral trading regime, the state interventions from both the US and China, and the continuing expansion of a handful of very large platforms in a number of strategic sectors, this is no longer tenable. The tense discussions surrounding the role of Chinese telecoms company Huawei in the roll-out of 5G infrastructure across Europe show that attitudes are shifting. The new commissioner for the internal market, Thierry Breton, acknowledged as much, when he said at the start of 2020 that "my goal is to prepare ourselves so the data will be used for Europeans, by Europeans and with our values".

In short, there is widespread understanding that EU policymaking should change direction. So far, we have seen a great deal of digital disruption, now it is time to start building. In the coming years, authorities need to use their capacity as rule-maker, service provider, and investor to ensure that technologies such as AI raise the productivity of workers instead of

10 Lessig, L. (1999), *Code and Other Laws of Cyberspace*, New York, US: Basic Books.

11 Stikker, M. (2019), *Het internet is stuk. Maar we kunnen het repareren*, Breda, Netherlands: De Geus.

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replacing them, and reduce carbon emissions instead of adding to the energy bill; that the digital infrastructure we use aligns with our values and interests, and that citizens retain agency in an online environment that increasingly operates via algorithmic decision-making systems. If we manage this, we can look forward to a future where increases in worker productivity translate into lower inequality, where our social media supports democratic deliberation, and where the digital transition goes hand in hand with a greening of our economy. However, there is much less clarity on the how. Where can policy have a tangible impact? We will discuss some key issues in the next section.

Looking ahead: New EP, new EC, new opportunities

After the European elections in May 2019, the new European Parliament held its first plenary session in July 2019. The new European Commission took up its duties a few months later, on 1 December 2019. Judging from Commission President Ursula von der Leyen's political guidelines, the mission letters she prepared for the different commissioners, as well as the way she divided the portfolios, it is clear that the digital agenda is a top priority, second only to the Green Deal.

This offers opportunities for progressives to shape EU digital policymaking, to ensure a more just, democratic and transparent online environment. In particular, there is a clear need for bold measures from the EU on data governance. If the EU wants to have more autonomy in the digital arena, to ensure citizens' rights are respected, and democracy continues to function, it will need to have more control over the data value chain. If the EU wants to ensure the digital transition supports a more sustainable and just economy, data need to be unlocked and aggregated for use in the public interest. Additionally, if Europe wants to be able to take a more strategic approach vis-a-vis notably the US and China, it will need to take a close look at current rules around dataflows and data gathering practices.

Market concentration

It is no secret that the power accumulated by a number of tech firms is becoming problematic and has to be addressed. For progressives, this is an issue, not just because such concentrations of market power impede fair competition and restrict user choice – which they do – but also because such power concentrations inevitably translate into political power and undermine democratic processes. For instance, big tech firms dominate the lobbying on digital policy issues in Brussels. Of course, monopolies have existed before, but the importance in the digital economy of intangible investments, such as software, training, databases, R&D, and data, means that there are very strong benefits to scale.¹² This has led to a handful of firms controlling large swathes of the digital economy across the globe.

¹² Haskel, J. and S. Westlake (2018), *Capitalism without Capital. The Rise of the Intangible Economy*, Oxford, UK: Princeton University Press

In key markets such as search, social media, e-commerce, online advertising, and mobile phone operating systems, concentration is very high, and the same firms keep expanding their market power into new markets. For instance, Amazon is not only becoming increasingly dominant as the go-to platform for e-commerce, but is expanding in too many sectors to count – from operating its own delivery, logistics and payment services, to producing TV shows, publishing books, designing fashion items, and becoming the world's major provider of cloud services. Beyond that, all the big players are increasingly investing in AI technology, and aim to move into publicly sensitive sectors such as healthcare and education. The data and profit they collect in one business sector, they cross-leverage to expand their market share in others.

It could be argued that these big platforms are simply the most efficient, and, given their investments, simply deliver the best service. In other words, the problem is only one of distribution of monopoly rents, via taxation. This is indeed an important problem, and progressives have fought and should continue to fight for higher and more effective corporate taxation. However, there is a reasonable case to be made that the big tech firms actually stifle the rise of new and better alternatives. For instance, it is very difficult for social media that respect user privacy, and provide meaningful transparency, to grow in the current environment – but many would surely prefer this. Similarly, it is likely that many app developers would prefer another platform than Apple's Appstore, where they would not then be subject to 30% charges for in-app purchases and would have more control over their data, but they cannot afford not to use the platform.

In terms of regulatory solutions, 2020 will be important. There are broadly speaking two different strands of policy suggestions. Some consider that big platforms' power to exploit customers and employees is simply too large, and they argue that antitrust law should be used to break up the biggest among these companies.¹³ On the other hand, some consider platforms as public utilities that benefit from scale, and argue that breaking up such companies would be inefficient and futile.¹⁴ In this vision, large online platforms could be regulated as public utilities, and for example be forced to give fair access to competitors, or only ask for a certain amount of fees for use of its platform. Or in such thinking, platforms could be replaced by publicly owned alternatives of a similar scale.

In the end, there are variety of platform business models, and both the problems and solutions will depend on the type of service a platform provides.¹⁵ For instance, in markets where powerful platforms own both the marketplace, and at the same time compete in it, which is for example the case for Amazon's e-commerce platform and Apple's Appstore, there are clearly structural conflicts of interest: both firms have very strong incentives to promote their own products and services on their platforms, above those of competitors, whom in that case do not stand a chance. In addition, a number of platforms, such as Alphabet's

13 Stoller, M. (2019), *Goliath: The 100-Year War Between Monopoly Power and Democracy*, New York, US: Simon & Schuster.

14 Morozov, E. (2019), "It's not enough to break up Big Tech. We need to imagine a better alternative", *The Guardian*, 11 May. Available at: <https://www.theguardian.com/commentisfree/2019/may/11/big-tech-progressive-vision-silicon-valley>

15 Smicek, N. (2017), *Platform Capitalism*, Cambridge, UK: Polity Press.

Google Search platform, are the gateway for entire business sectors, and many businesses are crucially dependent on Google's search ranking. Here, Google Search is what has been called 'functionally sovereign': it sets the market rules.¹⁶ Such power should come with accountability, such as transparency and non-discrimination requirements. What could be very effective to dampen powerful network effects is to mandate interoperability, so that users

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can switch more easily without losing access to other users.

This could be an interesting remedy against Facebook's hold on social media and messaging, especially after its acquisition of WhatsApp and Instagram. Interoperability could be part of the Commission's proposed Digital Services Act and is something progressives should fight for.

However, what underpins the market power of all these firms, and what sustains it, is the leveraging of data. By accumulating user data, platforms are able to perfect their algorithms, which allow them to better predict user behaviour, and hence to deliver users tailored services, or more problematically, to better manipulate them. Simply breaking up tech firms, could reduce their market power to some extent, but will not necessarily end the ubiquitous surveillance or create better outcomes for citizens. And it will not allow data they hold to be used for more socially beneficial purposes, such as improving healthcare, or reducing congestion and pollution in cities. In other words, yes, we need to apply the competition rules, and re-evaluate their effectiveness. The focus should be less on short-term consumer prices, and more on the competitive value of data, privacy implications, and nascent competition. But beyond that, we need to look at data itself.

Collection of, access to and use of data

Data underpin much of the power of big tech firms, while their collection and (mis)use is at the heart of the erosion of citizens' privacy. At the same time, data can be a key resource for development of better healthcare solutions, more efficient public transport, and other public interests. Issues surrounding data access and use will therefore rise to the top of the debate this year, and progressives should find ways to challenge the status quo, in which big platforms collect, aggregate, treat and analyse personal and other data, without any meaningful transparency, for significant profit, and precluding wider societal benefits.

Right now, personal data are handed over by consumers and workers to a few big online platforms, officially with their consent and in exchange for services at little to no financial cost. But in reality, this happens mostly unwittingly, or with no realistic alternative to which consumers or citizens can turn. As to workers, they often do not have a choice at all, and data they generate are mostly collected and used as a matter of course. These data have enormous value for those businesses. Against that background, a key question then becomes how we can provide citizens with more control over their data, and whether there are ways to ensure that data which are socially produced also create societal benefits.

16 Pasquale, F. (2018), "Tech Platforms and the Knowledge Problem", *American Affairs II*, no. 2 (Summer), pp. 3-16.

A first, crucial, point is to provide more control to citizens over the data that are collected. In fact, it can be argued that many of the troves of personal data, which are collected by platforms and sold and re-sold by an opaque network of data brokers, should not exist in the first place. The extremely detailed profiles of social media users and online shoppers are used for commercial manipulation of users, but also for large-scale disinformation campaigns in the context of recent elections. For personal data, EU law requires firms to collect as few data as possible, and for a clear purpose, but this is obviously not working in practice.¹⁷ Protecting people's privacy therefore requires better enforcement of the GDPR.

However, the protection of people's privacy will also require a departure from the idea that consent alone will be a sufficient safeguard. We cannot leave it up to individuals to protect their crucial rights, against trillion-dollar companies. Instead, we should remove some of the incentives for this data collection in the first place. This could involve much higher financial risks and legal liability for data breaches, or obliging firms to provide paid alternatives to access their services, which do not require users to hand over their personal data. Additionally, the EU should provide a trusted authentication and identification infrastructure, which would make it easier for citizens to maintain their privacy when using the different online services.

Beyond that, the EU could consider flat-out restrictions on types of behavioural tracking, especially, but not only, in relation to children, and increased transparency requirements, especially for advertisements of a political nature. The new privacy-friendly browser *Brave* shows that relevant online ads are possible, without companies collecting and holding detailed behavioural data of their customers.

Furthermore, the EU could require rules on the transparency and traceability of data. Right now, the data value chain is largely opaque, so an important first step is acquiring a better understanding of what data are collected, shared and treated by whom, and for what purposes. Citizens and authorities cannot control what they do not understand. This becomes especially crucial in the debate around automated decision-making, or AI, where personal data are used to make judgments that directly affect not just individuals, but entire classes of citizens in ways that can – and do – negatively affect women, minorities, and the poor¹⁸ The announcement of the European Commission to propose horizontal legislation on AI provides a key opportunity to increase transparency of the ecosystem, and progressives should insist on binding rules, not just ethical guidelines.¹⁹

There is also some emerging economic literature that looks into venues to redistribute the monetary value of data to those who helped create it. Some propose to treat data as capital, which can be taxed, or as the intellectual property of those who produced the data. Others

17 Van Hoboken, J. (2016), "From Collection to Use in Privacy Regulation? A Forward-looking Comparison of European and US Frameworks for Personal Data Processing" in B. Van der Sloot, D. Broeders and E. Schrijvers (eds), *Exploring the Boundaries of Big Data*, The Hague: The Netherlands Scientific Council for Government Policy, pp. 231-259.

18 Noble, S. (2018). *Algorithms of oppression. How search engines reinforce racism*, US: New York University Press; AlgorithmWatch and Bertelsmann Stiftung, (2019), *Automating Society. Taking Stock of Automated Decision Making in the EU* (1st edition), January; O'Neil, C. (2016), *Weapons of Math Destruction. How Big Data Increases Inequality and Threatens Democracy*, UK: Penguin Random House.

19 Martini, M. (May 2019), *Fundamentals of a Regulatory System for Algorithm-based Processes*, German University of Administrative Sciences Speyer.

propose to treat data as labour, for which workers should receive an income.²⁰ In line with the opinion of the German Data Ethics Commission,²¹ it seems risky to think of personal data as property or an intangible asset, which can be sold or licensed out by individuals.²² In addition, recent experiments and initiatives show that the value of an individual's data is very low and most likely does not provide a meaningful source of income.

Instead, it seems more fruitful for progressives to view data not so much as an individual property, but as a public good. When people share their data, they inevitably share attributes about other people as well (think of your messaging history, or your friends on Facebook). Because data

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reveal something about social relations, and because benefits become available in the aggregate, progressives should facilitate collective action and governance, to allow citizens and communities to take back ownership of their data. The idea of data labour unions comes to mind, which has been pioneered in the Netherlands, but there are other examples. For instance, the idea of data trusts, where data from members are pooled, and entrusted to a third party to manage, on behalf of all. This could facilitate use of sensitive data for research in the public interest, such as the improvement of healthcare. Patients with a rare condition could, for example, choose to pool data to help speed up development of new medicine,²³ and such data

could be used for AI improvements in diagnostics, evaluations of drug-efficacy, and more.²⁴

Some of the best examples of managing data collectively, and in the common interest, come from cities across Europe, most notably Barcelona. By revamping public procurement procedures to ensure contractors share data and use open standards, via the creation of an online platform where citizens can share their data, and by taking more active control over key infrastructures such as software and data, the municipality has provided a new model for using digital technology in the public and citizens' interest.²⁵

Data-sharing should be encouraged when it serves a clear public interest, and can be done in full respect of the GDPR. But there are also data that cannot be linked to individuals, either

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- 20 Savona, M. (2019), "The Value of Data: Towards a Framework to Redistribute It", SPRU Working Paper Series 2019-21, SPRU-Science Policy Research Unit, University of Sussex Business School; Posner, E. and G. Weyl (2018), *Radical Markets: Uprooting Capitalism and Democracy for a Just Society*, Princeton, US: Princeton University Press.
- 21 Data Ethics Commission, (2019), "Opinion of the Data Ethics Commission", October. Available at: https://www.bmjv.de/SharedDocs/Downloads/DE/Themen/Fokusthemen/Gutachten_DEK_EN.pdf?__blob=publicationFile&v=2.
- 22 We are not talking about copyrighted content here, which can be licensed under the current EU copyright acquis.
- 23 Mulgan, G. and V. Straub (2019), "The new ecosystem of trust. How data trusts, collaboratives and coops can help govern data for the maximum public benefit", blogpost, Nesta, 21 February. Available at: <https://www.nesta.org.uk/blog/new-ecosystem-trust/>.
- 24 Trajtenberg, M. (2018). "AI as the Next GPT: a Political-Economy Perspective", NBER Working Paper No. 24245, January. Available at: <https://www.nber.org/papers/w24245>.
- 25 Ajuntament de Barcelona (2019), "Barcelona digital city. Putting technology at the service of people", Barcelona Digital City Plan (2015-2019). Available at: https://ajuntament.barcelona.cat/digital/sites/default/files/pla_barcelona_digital_city_in.pdf.

because the data have been anonymised, or because they contain, for example, data about industrial processes – for instance, communication between different machines. It should be kept in mind that the boundary between personal and non-personal data is notoriously difficult to draw, and changes with technological developments. Indeed, many datasets contain both types. With this proviso in mind, access to non-personal data should be more widely available. And the EU has taken measures to stimulate their unrestricted flow across the EU, with limited restrictions. Progressives should support this, and notably push firms to share and pool relevant data, via standards and possibly tax incentives. Mandatory data-sharing could make sense to ensure competition in key online platform markets, but it should be looked at case by case, with the use of existing possibilities under competition law.

Nevertheless, the EU should be careful about further extending the paradigm of the free flow of data uncritically to the international domain. Right now, the EU is unique in that most of the data generated in the EU leaves its territory – and control – as opposed to what is happening in China, Russia and the US.²⁶ Whereas especially the US is pushing to codify the principle of the free flow of data at the World Trade Organisation, the EU should realise that data are not just any commodity. The EU possesses a large number of high-quality datasets, which can provide the inputs to develop new services and business models in strategic sectors such as healthcare, energy, transport, climate change mitigation and defence. The control over data has important implications for the future of our society and our future prosperity. It also has implications for the path of digital development that the EU wants to take. It is an important input for the development of AI, which could be considered an infrastructure. As the European Commission has been tasked with developing an industrial strategy, data governance should be a crucial part of it. Progressives should ensure that such a strategy will not unfairly protect existing industries, but that it will be able to provide the EU with the autonomy to use the digital transition in support of a more just and sustainable economy.

26 Villani, C. (2018), *“For a meaningful artificial intelligence. Towards a French and European Strategy”*, report resulting from mission assigned by French Prime Minister Edouard Philippe, March.