“Content Layer” Gate
Keepers and Internet Concentration: A Case of Cause and Effect?

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Structure of Talk

1. Introduction and Motivation
2. Identifying the Legal Framework
3. Examining the Empirical Findings
4. Identifying Causes and Suggesting Solutions
5. Directions for Future Research
Introduction and Motivation

- The “myth” of the Internet
- The Implications of Internet Diversity
- Facing reality
Introduction and Motivation

- In general: Very far from the “3 network” world of the 50’s.

- The traits of the medium:
  1. General notions of freedom
  2. For “readers”: Millions of websites, access is easy, open and cheap
  3. For “contributors”: Low publication costs, easy to be “picked up” by search engine or send link to others, easy to make use of other content posted online
Introduction and Motivation

- Diversity of online content –
  - Regulators are not intervening
  - Reason for “loosening” policy in other media
Introduction and Motivation

- Problems in Paradise
  - Very few sources of new content online
  - Evidence of concentration in markets, web traffic and web use patterns
  - Data regarding “hits” is proprietary – and we must rely on heuristics (market data, surveys, links)
Identifying the Legal Framework

- Justifications for enhancing competition in the media market:
  - Antitrust arguments (Fixed costs, sunken costs, network effects) – prices are going down in any event...
  - Free Speech Arguments
    1. Diversity of content
    2. Diversity of voices
    3. Localism
    4. The Public Interest
    5. Fears of Manipulation

Summing up: For the Internet – we would want new independent content of quality – for that in theory we need a competitive market
Identifying the Legal Framework

- Readers vs. Speakers – Usage vs. Number of voices – unique to the Internet – the real scarcity is the public’s attention
Identifying the Legal Framework

- Breadth of First Amendment Protection:
  - Political Speech vs. Commercial Speech
  - Importance of Popular Culture
  - The Distinction Blurring
  - Internet Impact – disconnection between news and entertainment providers
Identifying the Legal Framework

- Additional Points:
  - Defining geographical markets
  - Defining possible actions:
    - Removing restrictions, proactive steps
      (raises paternalistic concerns)
Examining the Empirical Data

- Significance of Concentrated Market:
  - Few firms generating profits; Therefore,
    1. Might indicate bias in the distribution system
    2. Lack of feedback will lead to less voices
    3. Lack of an audience – will lead to less profits (advertising, direct income) and therefore lower quality

However:
- Online environment facilitates peer production – which can provide high quality products with lower fixed costs
- People might continue producing content even without a viable business plan – if they receive feedback from a close circle of friends
- Geographical market factor is redefined
- Arguments might not be as strong in the “entertainment” realm
Examining the Empirical Data

- Existence of Power Laws in Online Content Consumption –
  - Difficult to establish what part of the effect is a “natural” result of positive feedback – and what part is a result of a biased market
  - In the Internet realm – technical reasons enhance feedback cycles and therefore create power laws.
Identifying Causes and Suggesting Solutions

- Solutions in other media:
  Restrictions on horizontal and vertical mergers

- Issues usually addressed in the online context:
  Net neutrality and problems arising from control over physical conduits (serious possible concern: inhibitions on “upstream” data)

  - My suggestion: *Examine the ways in which content is distributed.*
  - Uniqueness of online realm – the use of intermediaries is *essential.*
Models for Content Distribution

- Web addresses (alphanumeric strings): Leverage from offline brands and benefits from trademark
- Portals – concerns of vertical integration and promoting specific forms of content; possible shift from “pull” to “push”
- Search engines
Focusing on Search Engines

- Elements to Consider:
  1. Neutrality
  2. Transparency
  3. Vulnerability to “Gaming”
  4. Vertical Integration
  5. Subsidies for new engines, the role of open source/free software
Directions for Future Research

- Who can regulate the Internet and under what authority (no licensing scheme); Shift to “state actor” doctrine?
- Future applications- walled gardens applying personal information (might be helpful to minority and local voices)
- Converging the various media (towards the death of the “scarcity” rationale)