

**When Platforms Act Opportunistically:
Ethics of Platform Governance**

Kirsten Martin, Hong Guo, Rob Easley

Abstract

As platforms become more dominant in the marketplace, they face increased scrutiny from the press, regulators, and academics regarding their policy decisions to govern participants in the exchange. Opportunistic platform policies may make transactions more difficult for exchange participants and even harm actors on the platform. The goal of this paper is to delineate the boundaries of legitimate platform governance and to explore why certain platform governance policies are considered unfair and illegitimate. We argue that the legitimacy of a platform company's governance policy depends not only on the market power of the firm but also the beneficiary of the policy intervention. Platforms exist to create an exchange for other market actors and have a dual purpose: benefiting the efficiency of the exchange as well as the traditional long-term value of the firm. While in most cases these purposes are aligned, some platforms will face opportunities where an opportunistic policy would harm the efficiency of the exchange by increasing transaction costs of participants while benefiting the firm. While platforms with low market power enjoy the flexibility of being opportunistic in their policies, we argue platforms with market dominance have a duty to the exchange parties as the primary beneficiary of their policies. We provide the boundary conditions for determining whether a platform company's interventions may violate their obligation to maintain the integrity of the market and the efficiency of the participants in their market.

Keywords: Ethics of platform governance, transaction costs, market power, platform neutrality

When Platforms Act Opportunistically: Ethics of Platform Governance

1. Introduction

We live in an age where platform companies play an increasingly important role in facilitating the exchange between platform participants, including matching a consumer with a seller, a user with content, a rider with a driver, a marketing company with online ad inventory. Platforms are intermediaries that support transactions between external producers and consumers (Constantinides et al. 2018; Goldfarb and Tucker 2019; Parker et al 2016). As platforms become more dominant in the marketplace, they face increased scrutiny from the press, regulators, and academics regarding the policy decisions the platform owner makes to govern the participants in the exchange. Facebook, for example, is a dominant social media platform that has faced intense criticism for their design of the algorithms matching its consumers with news content of increasingly extreme nature, in a manner that is not so much aimed at providing the desired information as at increasing emotionally intensive responses that result in longer engagement on the platform, and thus increased Facebook revenues (Keach & Jeff 2021).

Facebook is not alone in facing this level of scrutiny, and the policies and practices of platform companies may cross a line and be seen as unfair and illegitimate. The EU passed the Digital Markets Act (DMA) which is seen as informing US discussions about regulations (Cennamo et al. 2023). The EU's DMA requires large online platforms, defined as 'gatekeepers', to not act unfairly by prioritizing their own business lines or by precluding third parties from participating in the platform marketplace.¹ Similarly, the EU's Digital Services Act covers online platforms in addition to websites and internet infrastructure, but the rules primarily focus on online platforms and intermediaries to reduce harms and risks online. Users are provided greater rights and online platforms have greater transparency and

¹ https://ec.europa.eu/commission/presscorner/detail/en/IP_22_6423 The platforms considered in scope are called "core platform services" including app stores, online search, social networking, messaging services, video sharing, virtual assistants, browsers, operating systems, online marketplaces, and advertising services.

accountability standards. For example, platforms have greater responsibility to limit the spread of illegal content and products on their platform with larger obligations for large online platforms that reach more than 10% of the EU population (45M people).² New lawsuits within the United States by the DOJ and FTC similarly focus on the policies of platforms with market dominance and platforms have been the subject of U.S. Congressional Hearings.

With the public backlash as well as new and impending regulating in the EU and US, Cusumano et al. (2021) argue that platforms should focus more on self-regulation. Self-regulation, also called private ordering in economics, involve the proactive governance decisions made by firms as well as by collective institutions such as industry initiatives designed to avoid regulation and meet the needs of stakeholders (Cusumano et al. 2021). How platform companies design and implement governance policies to control their platforms exchange through self-regulation “are thorny problems not covered well in the literature on platform strategy and management” (Cusumano et al. 2021). Importantly, firms (usually) do not wait until regulators pass laws or bring cases before trying to understand how their stakeholders could be harmed by their actions. Jacobides and Lianos rightly summarize that “tech firms may benefit from willingly and credibly curtailing their own practices by self-regulation, since otherwise they may raise questions about their societal license to operate, attracting even harsher regulation from outside” (Jacobides & Lianos 2021, p. 1134).

Self-regulation, however, is guided by how stakeholders should be treated in order to foster value creation and trade (Freeman & McVea 2005) and is grounded by theories of business ethics as to how firms and managers should behave (Norman 2011). In other words, in order to provide guidance as to how firms and managers should self-regulate around platform governance – a needed area of focus given previous scholarship – theories within business ethics such as stakeholder theory provide both descriptive and prescriptive guidance (Purnell & Freeman 2012).

² https://ec.europa.eu/commission/presscorner/detail/en/IP_22_6906

Platforms face a credible threat of government regulation and public sentiment turning against digital platforms. Given the benefits of self-regulation, and in order to engender legitimacy and trust within the market, we provide a framework to assess self-imposed governance policies on platforms. Previous work has found a shift in the beneficiaries of platform governance policies as platforms gain market dominance. (Rietveld et al. 2020). We explain what platforms should watch out for as they shift their governance policies and the boundary conditions for when platform governance policies would diminish public legitimacy and trust (Cusumano et al. 2021).

The goal of this paper is to delineate the boundaries of legitimate platform governance. Normally, firms' practices can be justified if the policy is in the long-term interest of the firm (Stout 2012). However, platforms are known to be unique and have a dual purpose (Constantinides et al. 2018; Mulherin et al. 1991) as both a firm and a creator of a market. This dual purpose – as both a platform company and as a creator of a market – creates opportunities for the two purposes to conflict, where a governance policy could benefit the platform as a firm but harm the platform as an exchange. While the dual purpose has been identified in past scholarship, we attempt to better understand whether and under what conditions platform companies have an obligation to create value for their exchange market actors, and even to forgo opportunistic rent-seeking policies that would increase the transaction costs of exchange partners.

We argue that the legitimacy of a platform company's governance policy depends on both the market power of the platform and the beneficiary of the policy intervention. We use transaction costs of exchange participants as the primary measure of the impact of governance policies, to assess whether a policy creates value for the exchange (decreases the transaction costs of exchange participants) or harms the exchange (increases the transaction costs of exchange participants) (Coase 1937; Goldfarb & Tucker 2019). Firms reduce transaction costs of the exchange through one or more of several types of governance policies: by increasing the quality of the match, by facilitating search, by improving the information available through standardization of presentation and pricing, or by increasing the legitimacy or integrity of the platform to reduce risk. Therefore, rather than simply increasing consumer prices, as with

traditional firms, platforms' leverage comes from changing the governance policies of the exchange to their advantage.

Furthermore, we argue that the corporate responsibility and the goals of platform governance are dependent on, but not determined by, their market power. We argue that platforms with low market power have a wider range of legitimate goals to pursue, including implementing opportunistically rent seeking policies (no matter how short-sighted that may be) or creating stakeholder value, since the participants within the created exchange have alternatives if necessary. A platform with market domination is more limited in its legitimate governance goals since opportunistic rent-seeking would not only delegitimize their exchange but also be seen as an abuse of power, and as anticompetitive behavior in extracting rents from those with no real options in the market. Therefore, while platforms with low market power enjoy the flexibility of being opportunistic in their policies, platforms with high market power have a primary duty to the exchange they created as the primary beneficiary of their policies.

In providing our conceptual model, we define the boundary conditions for whether a platform company's interventions may violate their obligation to maintain the integrity and efficiency of the market. Developing governance policies that are outside the boundaries would be considered an abuse of power and anticompetitive practice, and such opportunistic policies would be seen as undermining the institutional trust and legitimacy of the market created and, therefore, the trust and integrity of the platform company.

This paper makes several contributions. First, we build upon transaction cost economics and the purpose of the firm to develop a normative framework to judge the legitimacy of platform governance policies. This framework leverages the dual purpose of platforms – as both a firm and as a creator of an exchange or market – to identify when the platform should prioritize the exchange as the beneficiary of their governance policies and even forgo profitable opportunities that undermine the efficiency of the exchange.

Second, we characterize platform governance policies rather than consumer pricing as the primary mechanism by which platforms can abuse market power. In doing so, we offer an alternative to

studying changes in consumer pricing to view the impact of platform governance policies as harming market actors – including consumers. Examining how policies impact the transaction cost of the exchange actors as the measurement of ‘harm’ brings the assessment of platform governance more in line with traditional assessments of market regulation in law and economics, which is appropriate since platforms are unique in creating markets rather than traditional products and services.

Finally, the framework we offer enables assessment of specific governance policies rather than the platform company as a whole. Market power alone is not sufficient to judge a platform’s governance decisions to be unethical or unfair, thus we treat it as just one dimension in determining unethical platform behavior.

2. Literature Review

This article extends scholarship on the ethics of IS by creating ethical theory to explore the boundary conditions defining when platform governance is wrong and then normatively grounding *why* those policies are unethical (Stahl 2012). As such, we take a stakeholder perspective to understand the impact of firm policies on the legitimate stakeholders of the firm’s exchange. This approach is consistent with previous applications of stakeholder theory within IS (Someh et al. 2019) which sought to understand the impact of IS decisions – such as to implement an ERP system – on legitimate stakeholders (Sarker et al. 2019). By combining normative ethical theories used to judge the ethics of platform governance with the more traditional instrumental approaches of market power and platform design, this paper also responds to Sarker et al’s call for connecting humanistic and instrumental approaches in IS literature (Sarker et al. 2019).

Our approach herein is consistent with the more pragmatic traditions within IS ethics scholarship. For example, within discourse ethics, Mingers and Walsham (2010) focus on the process of discourse which brings to the forefront the legitimate voices of stakeholders and ensures any policy would be acceptable to all parties. Similarly, Sarker et al. (2019) highlight the sociotechnical axis of cohesion which serves as a distinctive core for the IS discipline. Those authors suggest that neither the

technological nor the societal perspective should be privileged; and our approach critically evaluates how the combination of platform governance policies, including technological design, market power, and firm goals, impact the ethics of platform governance.

In terms of application domain, prior work in IS ethics can be categorized as related to information management, to IS development, and to the conduct of IS research (Berente et al. 2011; McKnight et al. 2002). Thematically, research in IS ethics has focused on trust (McKnight et al. 2002); privacy (Culnan & Williams 2009); hacking and abuse of IT (Chatterjee et al. 2015); piracy (Moores & Chang 2006); and more recently on big data analytics (Someh et al. 2019) and blockchain (Tang et al. 2019). We extend the application domain of IS ethics to platform governance, which has a rich tradition within IS scholarship (Acquisti 2004; Gol et al. 2019; Gorwa 2019; Gorwa et al. 2020; Tsai et al. 2011). In so doing, we take a pragmatic approach to normatively justify how and why platform governance is sometimes considered unethical. This is an important extension, as demonstrated by the extent to which governance decisions of platform companies have faced increased criticism in the popular press, increased attention by government regulators, and increased focus within legal and economic scholarship (Guggenberger 2020; Khan 2017; Lamoreaux 2019).

3. Theory Background and Development

In order to delineate the boundaries of legitimate platform governance and to theorize across a diverse set of platforms – e.g., online marketplaces, financial exchanges, social networks – we use a broad definition of platforms. We explore theory within platform governance to understand the types of policies implemented to govern exchanges. Then, in order to examine the legitimate goals of platform governance, we use scholarship on transaction cost economics to understand the intent behind platforms that enact policies to govern their exchanges. Finally, we leverage theory on the purpose of the firm to define the purpose of the platform – the unique situation of platforms with a ‘dual purpose’: platforms have obligations to the platform-as-firm as well as the platform-as-exchange. This combined approach allows

us to judge (a) the impact of a specific policy within a platform governance and (b) whether that policy lies within the legitimate purpose of the firm.

3.1. Platform and Platform Governance

Platforms exist to facilitate exchanges between other economic actors. The purpose of the platform can be characterized as facilitating interactions between platform participants and thus creating a market (Goldfarb & Tucker 2019), whether for information (such as with Wikipedia, Facebook news feed), goods (Amazon, Taobao), or services (Uber, Lyft).³ Platform governance refers to the policies/strategies that a platform company enacts which orchestrates value creation and capture in the overall ecosystem (Rietveld & Schilling 2021).

Whether more recent ‘digital’ platforms require a novel analysis is a subject of scholarly debate.⁴ For example, Newman (2015) argues that digital platforms demand unique treatment due to the problem of zero price and the fact that it is not necessarily desirable online and the problem that we pay with ‘data and attention’. Similarly, Harbour and Koslov see digital platforms as being defined by their data rather than the exchange they offer to economic actors.⁵ However, according to Tucker, the fundamental goal of platforms and the economic theory underpinning their purpose and obligations does not change due to either (a) the amount of data or (b) the profitable temptations to exploit that data in other markets or on other platforms (Tucker 2021). In other words, data itself is not a reason to change the definition of a

³ “For example, marketplaces run by eBay, Amazon, Alibaba, and many others enable retailers as well as individual users from around the world to sell millions of items to buyers from around the world. Apple’s iOS and Google’s Android operating systems enable thousands of software developers to create millions of apps and services usable from mobile devices.” (Cusumano et al. 2021).

⁵ “we suggest the definition of markets for data, separate and apart from markets for the services fueled by these data. Data market definition would reflect the distinction between data collection at one point in time and expanded data usage at some later date. Data market definition also would properly recognize the increased significance and value of the massive and growing data troves that constantly are generated by Internet activities. Additionally, and importantly, this approach to market definition would be consistent with marketplace reality: Internet-based firms often derive great value from user data, far beyond the initial purposes for which the data initially might have been shared or collected, and this value often has important competitive consequences. In contrast, product market definitions based only on a snapshot of current data usage may not accurately capture this aspect of competition, especially in markets that exhibit network effects based on aggregations of data” (Harbour & Koslove 2010)

platform or how we measure market dominance. For example, Tucker argues against the sheer volume of data being dispositive of market dominance and examines the impact of data on three sources of market power that apply to digital and non-digital platforms (Tucker 2019). In other words, a company with huge swaths of data can still have low market dominance.

Ecosystems, as a unit of analysis, are useful to better understand ‘economies of scope’ and suggest to firms that the consumer data collected in one exchange can be used in many contexts (Jacobides & Lianos 2021). However, this strength is also a limitation as the focus on ecosystems can obscure the use of dominance in one platform to dominate a second platform as well as the use of data across platform exchanges. In fact, firms are currently being sued for obscuring distinct platform exchanges they operate, for example, to use data collected in one exchange on another platform, or to use the market power of one platform to attempt to dominate a second platform (U.S. v. Google).

According to Adner (2017), "the ecosystem is defined by the alignment structure of the multilateral set of partners that need to interact in order for a focal value proposition to materialize." The platform "holds a hub position in a network of interactions, exercises power through centrality, but does so wisely through appropriate governance choices regarding terms of access, incentives, and control" (Adner 2017, p. 50). From Jacobides et al. "the term ecosystem generally refers to a group of interacting firms that depend on each other's activities." (Jacobides et al. 2018, p. 2256), whereas platforms are a special case with the platform's exchange as a required intermediary for actors to transact.

Different perspective have been brought to bear in examining various forms of platform governance and their impacts. Tiwana (2013) identifies three dimensions of platform governance – decision rights, pricing, and control. Decision rights refers to the division of authority and responsibilities between the platform company and market participants. Pricing refers to decisions about how proceeds are divided between a platform company and the platform's market participants. Control refers to the collection of mechanisms through which the platform company exercises control over market participants, which in turn enables the platform company to offer an efficient exchange and facilitate coordination for market participants. Focusing on addressing the dyadic governance tension between

cocreated value and governance costs, Huber et al. (2017) examine different governance practices in platform ecosystems. Rietveld et al. (2020) consider multi-sided platforms with end users and complement producers and investigate the evolution of platform governance strategies and their impacts on complementor performance. They examine three types of governance changes (structural, boundary spanning, and redistributive governance changes) and find that the demand for complements becomes more concentrated as the platform becomes more dominant. In addition to their direct impacts on complementors, platform governance policies also have second-order impacts through the multilateral interdependence among different groups of producers (Chen et al. 2022). Complementors may be less likely to multihome under open governance due to the frictions between platform providers and complementors (Chen et al. 2022).

Specific governance policies in various contexts have been investigated in the literature. Focusing on technology ecosystems, Wareham et al. (2014) explore specific governance mechanisms designed to manage three salient tensions (standard-variety, control-autonomy, and collective-individual tensions). Platform gatekeeping, as the prominent policy for governing platform access, has been shown to critically affect knowledge sharing among complementors (Zhang et al. 2020). From an innovation-centric view, Cennamo et al. (2023) emphasize the critical role of digital platforms in enabling new interactions among market actors beyond facilitating existing transactions. The proposed framework has been applied to assess two contentious governance practices – self-preferencing and data-sharing.

In this paper, we analyze platforms as the focal actor and examine the platform’s central role in the ecosystem from the perspective of the ethics of platform governance. Our framework accommodates both the market transaction perspective, where the platform is a gatekeeper enabling value exchange; and the innovation perspective, where the platform is a gate-maker unlocking new latent interactions.

Platforms deploy various governance policies for the exchange they created in order to facilitate existing transactions and enable new transactions between exchange participants, and thus, decrease transaction costs. These governance policies have significant impacts on various transaction costs, which we will discuss in the next section.

3.2. Transaction Costs: Understanding Platform Governance Policies

Platforms exist to enable exchanges between other economic actors, thus the purpose of a platform is to facilitate matches between platform participants, thereby creating a market (Goldfarb & Tucker 2019). In so doing, platforms enact policies to improve the matches between exchange parties and increase the efficiency of trades by lowering transaction costs (Goldfarb & Tucker 2019). For example, eBay allows for ratings of buyers and sellers to make identifying potential exchange partners easier, the NYSE standardizes pricing to allow buyers to easily compare stock purchases, and Uber’s main value proposition is lowering transaction costs between drivers and passengers (Henten and Windekilde 2016). As noted by Pirrong (2000) “exchanges are in large part institutions devised to reduce transaction costs” (p. 440) in order to decrease the coordination costs between economic actors on the exchange (Brousseau 2000). Governance policies of the platform, therefore, can be seen as decreasing transaction costs, generally by both increasing the quality of the match and increasing the legitimacy of the exchange.

We define transaction costs broadly to include both the costs of existing transactions and the opportunity cost of potential new transactions, e.g., value creation of new actors joining the platform. This approach addresses the concerns raised by Cennamo et al. that defining market transactions too narrowly misses the opportunity to create new value with new interactions (Cennamo et al. 2023). They are concerned that transaction costs, in the EU’s DMA but also generally for regulators in the U.S, assume a digital platform’s business model to be ‘neutral’ to value creation and focused only on value exchange through existing transactions. Notably, transaction costs analysis, as used in entrepreneurship research, regularly includes the cost of value creation (Dew 2006; Dew et al. 2008). In other words, the stakeholders considered important include both existing market actors on the exchange as well as potential new, less powerful stakeholders seeking to create value (Martin & Phillips 2021). Where Cennamo et al. (2023) focus on the impact to innovation, rightly so, here we focus on when platforms could be seen as implementing unfair business practices, thereby harming economic actors on their exchange, as well as innovation through value creation of new actors on the exchange.

We focus on three types of transaction costs of the economic actors on the exchange that can be affected by the platform company's governance policy decisions: search and information costs, bargaining and decision costs, and policing and enforcement costs (Coase 1937; Williamson 1979). First, platforms implement governance policies that *decrease bargaining and decision transaction costs* through standardization and pricing (Mulherin et al. 1991). For example, financial exchanges standardize pricing of stocks and financial instruments for consumers to easily compare options; other platforms mandate all orders are in USD, standardize the product quantity or terms of use (monthly charges, unit pricing), and the type of information required to be shown.

Second, platforms also implement policies *that increase the quality of the match by lowering search costs* (Coase 1937; Williamson 1979). For example, Uber's dynamic pricing provides incentives for drivers to 'match' passenger demand so that there is a driver when a passenger needs one and a passenger when a driver wants one (Henten and Windekilde 2016). Uber and Lyft also provide the match of a driver to a consumer, while placing limits on the type of driver allowed on the site. Addressing similar concerns about supply quality, Apple evaluates all products in the Apple Store, and also provides privacy checks. And of course there are many platforms engaged in some variation of recommendation, from Reddit allowing up-voting by users; to product recommendations in Amazon, including relevant preferences in product or service offering; to Facebook recommendations on user preferences; or rank ordering search results by user preferences for Orbitz. Too much choice has been found to overload users (Zhang & Xu 2021), so platforms have an efficiency rationale to limit choices in the match.

Third, platforms implement policies that increase the legitimacy and integrity of the platform market thereby *decreasing policing and enforcement transaction costs*. Policies that lower enforcement costs resolve the 'trust in strangers' problem (Whelan 2019) and foster institutional trust (Martin 2019) in the market, thus developing the legitimacy and integrity of their created market. Examples include Amazon dealing with counterfeit products, fraud, security, discrimination; and eBay securing payment via PayPal; Uber and Lyft providing safety checks of drivers and passengers (Bensinger 2019; Bensinger 2021); Facebook removing illegal (copyrighted, revenge porn, etc.) content; Reddit removing hate speech,

such as TheDonald subreddit; and Apple requiring all apps sold through its store to be legal, and vetting all apps for privacy controls. In this last case, Apple emphasizes that its App Store is curated, thus offering a level of protection since all apps are vetted before being released. As such, Apple charges app developers to be a part of their platform (price) while also implementing control measures to ensure the integrity of their exchange.

Framing platform policies to govern their exchange in terms of transaction costs allows us to compare practices across seemingly disparate industries, such as Discord, Orbitz, and a financial exchange. Further, understanding these policies as having the goal of decreasing the transaction costs between the parties on the exchange and increasing the quality of the match provides a metric by which to judge whether or not a particular practice or policy is intended to benefit the platform-as-an-exchange or only benefit the platform-as-a-firm. Importantly, success for a platform’s governance policy should be a more efficient exchange.

3.3. Purpose of the Firm: Delineating the Duty of the Platform

Traditionally, a given business decision or policy is judged based on its alignment with the overall purpose of the firm. However, platforms are unique in having two goals or purposes, both as-a-firm and as-an-exchange. Because platforms create new markets (Goldfarb & Tucker 2019), platforms are neither a traditional firm nor a market in the traditional Coasian analysis (Mulherin et al. 1991) in that their product is the creation of a market for other economic actors. These platform organizations “provide markets while taking on the formal structure of firms” (Mulherin et al. 1991). As such, platforms are critical intermediaries between economic actors as well as functioning as a firm (Khan 2016). This dual function – to be a firm that also creates a market – has important implications for the goals and obligations of platforms. “The platform owners’ priorities, then, are to protect their own interests and secure their competitive positions while also securing the interests of producers and consumers who contribute to the value-creation of the platform” (Constantinides et al. 2018). In other words, the platform-as-firm may have different goals than the platform-as-an-exchange.

Purpose of Firms. All firms deal with different, sometimes conflicting, obligations. For example, firms face decisions between their employees being provided better health care and their shareholders being paid dividends. Traditionally, this tension in goals of the firm is framed as shareholder wealth maximization versus stakeholder value creation. Stakeholder management (Freeman 1984) has grown as a field of study to understand both the normative obligations of firms to their stakeholders (Martin & Phillips 2021; Phillips 1997) as well as the strategic value for firms that manage for stakeholders (Freeman et al. 2008; Freeman et al. 2020) for self-regulation. Where Smith and Hasnas (1999) posit stockholder and stakeholder theory as competing ethical theories, here we join a line of management and strategy scholarship that frame these theories as alternative goals of the firm that are within managements' discretion (Martin & Phillips 2021).

Shareholder wealth maximization posits that firms should always seek to maximize the value created for current shareholders of a company. For some, maximizing shareholder wealth should be seen as a legal obligation. In fact, when dissolving a corporation, managers are obligated at the point of sale or bankruptcy to maximize shareholder wealth and not, for example, to start paying employees bonuses (Stout 2012). For a firm as an ongoing entity, however, maximizing shareholder wealth is not a legal obligation. Shareholder primacy offers a simple measurement by which to compare policies and goals of firms in scholarship and a short-handed way to communicate the goal of the firm. For those arguing for shareholder wealth maximization as a goal for the firm, shareholders are assumed to have the interest of the firm in mind when buying shares and are thus a proxy for firm growth (Sundaram & Inkpen 2004).

The limitations of shareholder primacy are many. Not all shareholders share the same goals (Stout 2012), and shareholders can be short-term focused and prefer policies that are not in the long-term interest of the firm (Cremers & Ferrell 2014). Shareholders are the parties who can most easily get out of their position (by selling stock) thus leaving the remaining stakeholders (customer, suppliers, employees, etc.) with the greatest investments as those who should require the most attention. Finally, firms can make bad decisions when attempting to maximize current shareholder wealth, e.g., Enron (Hake 2005) or Purdue Pharma (Schwartz 2017).

Alternatively, those advocating for a stakeholder approach to the firm state that firms should focus on *stakeholder* value creation and trade more broadly, rather than wealth maximization for shareholders. Stakeholder theory claims managers should take into account the legitimate interests of those groups and individuals that can affect or be affected by their activities (Donaldson & Preston 1995; Freeman 1994). Within stakeholder theory, shareholders and other financiers of the firm are one type of stakeholder. However, stakeholder theory states that the obligation of the firm is to all those impacted by the firm including employees, customers, suppliers, users, communities, etc. Stakeholder theory “encourages managers to articulate the shared sense of the value they create, and what brings its core stakeholders together” (Freeman et al. 2004). The obligations to different stakeholders are not prioritized *a priori* nor is the prioritization constant. One decision may put employees first where another may prioritize customers.

Both approaches - shareholder wealth maximization and stakeholder value creation - share the belief that the long-term value of the firm is best served by their respective approaches. In other words, firms can and should behave in ways that are in their long-term best interests. For stakeholder theory proponents, the long-term value of the firm is best served by creating value for stakeholders (Business 2019; Freeman et al. 2020). For shareholder primacy proponents, the firm is best served by shareholder wealth maximization (Jensen 2010).

All firms face situations where the interests of a particular stakeholder are in conflict with the interests of another stakeholder. For example, executives may wish to market a drug under patent, which is more profitable, rather than on that is safer for patients and the community (Harriet 2022). This type of tension can usually be resolved by pointing to the long-term interest of the firm; and management is under no obligation to capitulate to the short-term win hoped for by owners or shareholders if the strategy would undermine a legitimate business interest and the long-term value of the firm. Both stakeholders and the firm should benefit, when possible, because better stakeholder relationships help firms weather uncertainty and innovate (Martin & Phillips 2021). In other words, these firms can be short-term, profit

focused, rent-seeking with guile (Williamson 1983) or create value for stakeholders, but firms are not legally obligated to act in either direction.

Platforms as Explicitly Dual Purpose. Platforms differ from traditional firms - firms that manufacture and sell their products and services directly to customers - in that a platform's 'service' is the creation of a market on which other economic actors transact. So while traditional firms can choose between maximizing the wealth of current shareholders versus creating value for stakeholders in service of the firm's long-term interests, platforms create a dual obligation in the creation of a new market for economic exchange between platform parties (Constantinides et al. 2018; Mulherin et al. 1991). In addition to the standard stakeholders of all firms, platforms also have an exchange with actors who have come to rely upon the platform for market transactions. Platforms have two obligations: the platform-as-firm and the platform-as-exchange.

This dual role of a platform - as an exchange for market actors as well as a firm with standard obligations - renders the platform a different type of company to govern. While some have argued that the very position of a firm as a platform requires additional regulations, we instead focus on the specific policies and interventions the platform takes in that affect the platform's exchange participants.

Implications of a Platform Company's Dual Purpose. One implication of this broader mandate is that certain practices that normally would be seen as a restraint of trade are legitimate for platforms and exchanges. Enforcement mechanisms, in the form of platform governance, that can restrict trade "are often considered to facilitate a monopoly" but these interventions are justified for platforms as legitimate as they provide the enforcement of standardization and decreasing transaction costs of their members (the economic actors utilizing the matching platform) (Mulherin et al. 1991). For example, the Apple App store, by enforcing minimum standards for apps in terms of security or privacy (Albergotti & Alcantara 2021), provides a safe minimum basis for consumers to trust the apps on the other side of the exchange. Considering that most users do not prefer cross-app tracking and, in surveys, have stated preferences that match the App Store's settings (Martin 2020; Martin & Nissenbaum 2017 2020), such minimum standards allow users to enjoy lower transaction costs in terms of search costs. In a more traditional

example, a financial exchange can standardize terms of pricing to facilitate transactions between actors on the exchange (Mulherin et al. 1991).

However, this broader mandate of creating and maintaining an exchange for economic actors not only validates some governance policies but also calls into question governance practices that could be seen, under certain circumstances, as an abuse of power, anti-competitive behavior, or undermining the integrity of the market they created. Policies that benefit the platform-as-a-firm at the expense of the platform's exchange can, under certain conditions, interfere with the economic exchange of those actors and be seen as anti-competitive and unfair.

As Chen et al. theorize, platform owners' governance policies may create frictions between market actors (Chen et al. 2022). And research has shown that with greater market dominance, "platform policies begin to favor one set of market actors, specifically end users" (Rietveld et al. 2020). Within the theory of self-regulation, and given how antitrust action has focused on harm to consumers through unfair pricing historically, focusing on consumers would normally stave off regulators. However, increasingly regulators are concerned about more than consumers (Khan 2016) and about more than excess price (Newman 2015).

This boundary is where we focus: we examine the boundaries of legitimate interventions for platforms as they seek to control the market they created. Under what conditions can a platform prioritize maximizing the profit to the platform-as-a-firm rather than creating value for the exchange?

4. Research Framework

Thus far, we have argued that platforms differ from traditional firms in creating a market or exchange for other economic actors. Platform governance decisions, therefore, can be seen as attempts to increase the efficiency of that exchange by lowering the transaction costs for the exchange actors. Market actors on the platform, therefore, assess the value of the platform by how well the governance policies address their ability to transact or find a match by lowering their transaction costs, broadly construed. This dual purpose – as both a platform company and as a creator of a market – creates opportunities for

the two purposes to conflict, where a governance policy could benefit the platform as a firm but harm the platform as an exchange. Next we attempt to better understand whether and under what conditions platform companies have an obligation to create value for their exchange market actors and even to forgo opportunistic rent-seeking policies that would increase the transaction costs of exchange partners.

At the end of this section, we define the boundaries of legitimate interventions for the platform company as it seeks to govern the exchange it created. We argue that the legitimacy and fairness of an intervention is dependent upon the market power of the platform and the goal of the intervention: While platforms with low market power enjoy the flexibility of being rent-seeking and opportunistic in their policies, platforms with high market power have a primary duty to the exchange they created as the primary beneficiary of their policies.

4.1. Market Power

Traditionally, a firm's market position or market power can be defined by the percent of a given market the firm controls, among other measures. This can be due to a traditional analysis of market concentration including threats of new entrants, barriers to entry (regulations, high fixed costs), high switching costs, proprietary materials required, or being highly differentiated. For example, the main criteria for when an online platform becomes considered a gatekeeper (and falls within the scope of concern of the DMA) include size measured by revenue and scope in the EU, control of a business-consumer transaction with at least 45M monthly active users in the EU and more than 10,000 annual active business users, and the durability of this control over the last three years.⁶

For a traditional industry (non-platform), a significant market power may be defined as the percentage of customers that rely on a firm for that good or service. Cheng makes a strong case to measure market power for platforms not only by their market share and existing entry barriers but also by switching costs (Cheng 2021). These switching costs – the cost for an economic actor on the exchange to

⁶ https://ec.europa.eu/commission/presscorner/detail/en/IP_22_6423 The platforms considered in scope are called “core platform services” including app stores, online search, social networking, messaging services, video sharing, virtual assistants, browsers, operating systems, online marketplaces, and advertising services.

switch to an alternative market to complete a transaction – include search costs, learning costs, and uncertainty costs, among others. Market power, under this theory, can be measured by how difficult or costly it would be for actors on the exchange to transact in an alternative market. For example, the market power of a ride-share platform in regards to riders would be partially explained by market share, but also by how difficult it would be for riders to find alternative transportation – e.g., a taxi or public transportation. The market power of Google in online advertising is partially explained by how difficult it would be for a company to place online ads without using Google’s Ad Exchange.

Tucker argues that multiple factors impact assessments of market dominance for platforms, without relying on consumer price, including network effects, switching costs, and being an ‘essential facility,’ which are all sources of market power for traditional firms and platforms that, importantly, may not have a direct relationship to the amount of data a company holds (Tucker 2019). Greater switching costs, where completing the transaction outside the platform’s exchange is too costly or impossible, would mean greater market power for the platform in regard to that economic actor. For example, Google’s ad exchange commands a strong market presence – serving 75% of all online ad impressions – making it expensive if not impossible for advertisers to complete a transaction online without using Google’s ad exchange (Hagey & Mickle 2021).

In addition, economic actors of the exchange are not necessarily consumers. As noted by Khan (2017), the current regulatory approach mistakenly “assesses competition largely with an eye to the short-term interests of consumers, not producers or the health of the market as a whole” (Khan 2017). In defining market power for platforms, we are agnostic as to who is on each side of the exchange, whether consumers or not. For example, Google provides platforms that include consumers and some that are B2B: Google has up to 90% of the ‘search’ market; Google’s Android operating system has captured 87.5% of their market; and Google’s ad exchange has 50-90% of the market depending on the sector (Hein 2022).

Within the traditional analysis of firm market power, evidence of high market power is, at times, conflated with the *abuse* of market power, with abuse being measured through price increases in excess of

marginal cost for consumers (Cheng 2021; Steinbaum 2022). For example, Bamberger and Lobel (2017) provide examples of platform market power by asking if a given platform stifles competition, fixes prices, unfairly price discriminates, etc. However, the market power of a platform cannot be adequately measured by consumer pricing as platforms do not control the pricing of the product on the exchange (Lande 2007) and the price directly charged to consumers may be zero for some platforms (Newman 2015). As noted by Steinbaum (2022), courts struggle to define market share or market power when the impact on consumer revenue is not an available metric. And, platforms work to control two sides of a transaction rather than being a member of a transaction with a single customer.

Platforms may *abuse* their market power through the control of their platform governance decisions rather than through consumer pricing. While platforms do not impact consumer prices, these firms do set governance policies on their exchange. Through this control – the governance decisions of the exchange – platforms can exert their market power, act in ways that undermine exchange actors, and benefit only themselves. Specifically, when governance policies to control the platform exchange *increase* transaction costs rather than decrease transaction costs of the exchange actors, the platform is undermining the efficiency of the exchange. Where traditional firms have the lever of increasing consumer pricing as the preferred option to abuse market power, platforms have the governance policies over their exchange to opportunistically take advantage of their market power. Platforms extract rents via their governance policies rather than directly manipulating consumer prices.

In fact, making the platform attractive for one party (e.g., consumers) can increase the platform's market power in regards to the counterparty (e.g., supplier). Amazon provides an excellent example of a platform that is attractive to consumers and even lowers prices for consumers but is able to have a very strong market position for suppliers (Mattioli & Flint 2021). Steinbaum (2022) uses ride-share platforms as another example. By making rideshares attractive to consumers, making consumers even more loyal, the rideshare platform increases its power over drivers. And, as Steinbaum (2022) summarizes, “the more they [drivers] are at the platform's mercy and must absorb any change in the terms of dealing.”

In assessing a platform's market power, which forms a key dimension in our analysis, we make four assertions that are consistent with current scholarship within economics. First, measuring a platform's market power through market share and entry barriers is to be augmented with the switching costs of the economic actors on the exchange (Cheng 2021; Tucker 2019). Second, we broaden the analysis of market power from only the impact on consumers to any economic actor on the platform's exchange (Kahn 2019). For example, Amazon's marketplace market power may be best understood by the high switching costs and bargaining power of suppliers rather than Amazon's market power over consumers.

Third, we assess market power separately from the abuse of market power. This approach distinguishes the issues of market power from anti-competitive behavior and allows firms to have high market power but not act in an illegitimate, unfair, anticompetitive manner. In other words, market power is necessary but not sufficient to show that a firm is acting unfairly or in an anticompetitive manner. Separating the market position of a firm from assessing their specific interventions is important because platforms with strong market position do not necessarily act in unfair, illegitimate, or anti-competitive ways.

Fourth, one way platforms *abuse* their market power is through the control of their platform governance decisions rather than only through consumer pricing. Platforms can exert their market power, or act in ways that undermine exchange actors and benefit only themselves, through the control of their governance policies of the exchange. Market power gives firms the *ability* to extract rents in their dealings. And, in the case of platforms, abuse of market power would come in the form of opportunistic governance policies.

4.2. Impact of Intervention

The platform's role vis-a-vis the exchange is to lower transaction costs for the exchange actors. In order to benefit the exchange, the goal and impact of any given policy would be to decrease bargaining and decision costs, decrease search costs, or increase the legitimacy of the exchange (lower safeguarding

costs). For example, setting standardized pricing and the type of information shown to market actors decreases bargaining and contracting costs; providing search results based on actor preferences decreases search costs; and enforcing rules – such as identifying fraud and counterfeit products, ensuring the product or service is delivered consistently – increases the legitimacy of the exchange and decreases safeguarding costs of market actors.

While most firms would presumably act in ways that improve the transaction costs for the exchange actors – thereby increasing the popularity and volume of transactions of the exchange – platforms have been known to implement policies that *worsen* the transaction costs of the exchange actors and decrease the efficiency of the exchange. Perhaps the classic example is Sabre, the airline scheduling and reservation system. Sabre was originally owned by American Airlines and, in 1976, was the sole way travel agents could search for and make reservations for their customers (Friedman & Nissenbaum 1996).⁷ American Airlines and Sabre were sued for anticompetitive behavior because as the platform company, with high market power, they prioritized their own flights in searches. This policy benefited Sabre and American Airlines by decreasing the quality of the match and increasing search costs for users. In a more recent example, Amazon was accused of increasing the search costs for consumers by decreasing the quality of the match when Amazon’s private label was artificially ranked higher in the search results list, thereby prioritizing Amazon’s profits while harming the quality of the search results (Kalra & Stecklow 2021). Similarly, policies can also *decrease* platform legitimacy, such as when a merchandise exchange stops policing for safety or fraud for their own benefit, which decreases the legitimacy and safety of the exchange for the actors (Mattioli & Flint 2021).

The impact of any given intervention thus becomes the second key dimension of our analysis, distinguishing between policies that increase the transaction costs of the exchange actors, as opposed to those that decrease them. For example, Sabre search results, Amazon prioritizing their own private labels,

⁷ Ironically, American Airlines is now suing Sabre for preferencing Delta in the search results. <https://www.dallasnews.com/business/airlines/2021/07/01/american-airlines-suing-reservations-company-sabre-for-new-service-that-favors-delta/>

and even Facebook not removing harmful content based on the popularity of the user, serve to increase the transaction costs of the exchange actors while benefiting the firm financially.

Further, a long-standing concern has been that a platform would enact policies to advantage more powerful economic actors on the exchange in a way that was mutually beneficial but to the disadvantage of those with less economic power on the exchange (Pirrong 2000). We therefore define opportunistic governance policies of the platform as when the platform raises the transaction costs of market actors on their exchange in order to benefit the platform-as-firm. In other words, when the governance policy for the platform is profitable but actually renders the exchange less efficient by raising transaction costs for exchange actors. Further, platforms also act opportunistically when increasing the transaction costs of actors on the exchange who have less power. Therefore, special attention should be paid to the types of economic actors on the exchange being harmed by the governance policies of the platform.

4.3. Relationship Between Market Power and Ethics of Platform Governance

When platform organizations have low market power and face near perfect competition, the platforms adopt appropriate governance structures because they will not survive otherwise (Pirrong 2000). Competitive forces place a natural corrective pressure on platform company governance policies that are not in the interest of the economic actors within the platform's market. In such cases, economic actors on the platform exchange are free to choose another distribution channel or platform in order to transact. Platform companies that enact policies that increase transaction costs, e.g., lower match quality or decrease the legitimacy of their exchange, would do so at great risk: the economic actors on the exchange would have viable alternatives to complete their transaction. When Uber's policies caused the price of a ride to skyrocket, market pressure pushed the rideshare company to fix their platform to put a ceiling on how much a ride could cost. If Orbitz promoted search result rankings based on profits from third parties or based on a consumers' operating system (Mattioli & Flint 2021), consumers would have options to leave because Orbitz has low market power. The attempt to profit from the increased search

costs of consumers would be seen as opportunistic, but also as a bad business practice since the users would have other options.

However, if a platform company possesses *high market power*, the firm could create rules and governance policies to exploit this power and adopt practices that are counter to the efficiency, legitimacy, and integrity of their exchange harming some actors on their exchange (Pirrong 2000). For platforms with high market power, Pirrong (2000) argues that the structure of the platform may be forced to change so that the needs of the economic actors of the exchange would be considered in the platform's decisions – to align the dual obligations of the platform-as-firm and platform-as-exchange. The fear, for Pirrong (2000), is that platforms that possess strong market power can exploit the weakened bargaining power of smaller economic actors by enacting policies to benefit themselves or other powerful actors on the platform. Pirrong (2000) foresaw that larger members of the exchange and the platform itself would act in a rent-seeking manner at the expense of smaller economic actors on the exchange when in a high market power situation.

For example, Travelocity is an exchange offering users the ability to search for and purchase flights from the major airlines (among other travel related items) as noted in Figure 1, with the two key dimensions of our analysis – market power and the impact of policy on market players – as the x and y axes respectively. Travelocity has many competitors, including the airlines themselves, who offer websites easily accessed by users. Thus Travelocity has low market power. If Travelocity started prioritizing a favored partner, one who paid them for priority search results, users would have many alternative platforms on which to complete their transactions. Travelocity's exchange actors have low switching costs. So, while such a practice may be opportunistic, and increases the transaction costs of the actors by lowering the quality of the match, the benefits would be short-lived as users could flee to a more neutral site.

INSERT FIGURE 1 ABOUT HERE

In contrast, Sabre offered an exchange whereby travel agents could search for and purchase flights from airlines. However, Sabre was the only exchange available at the time, well before the

existence of websites. Sabre’s exchange actors had incredibly high switching costs (there were no other options). Thus Sabre had high market power. When Sabre started prioritizing American Airlines in the search results and both travel agents and other airlines were not able to switch to a competing platform, legal and regulatory pressure was required to enforce platform neutrality. Sabre increased the transaction costs of exchange actors by increasing the search costs of consumers and the airlines and lowering the quality of the match. Sabre abused their market power through their platform governance policies that increased the transaction costs on the exchange.

Ebay and Amazon offer alternative examples. Ebay has relatively low market power as alternatives exist for many products being sold on Ebay. Ebay’s policies to rid their exchange of counterfeit products lowered the transaction costs for actors on the exchange in the form of lowering search and enforcement costs; consumers were more likely to find ‘real’ products and reporting counterfeit products was easier. While consumer prices could have increased with the removal of counterfeit products, the policies lowered the transaction costs of exchange actors and reinforced the goal of providing an efficient exchange. As noted in Figure 2, Amazon, while having greater market power over their exchange actors than eBay, enacted similar policies around quality assurance to rid their marketplace of counterfeit products and created value for the exchange.

INSERT FIGURE 2 ABOUT HERE

However, Amazon’s governance policies about search rankings and their Buy Box option have been criticized as not in the interest of the platform but rather benefiting Amazon-as-a-firm (Bodoni 2021). During 2019 congressional hearings, Nate Sutton, Amazon’s Associate General Counsel, Competition, stated that Amazon’s “algorithms are optimized to predict what customers want to buy regardless of the seller” (Kalra & Stecklow 2021). Yet internal Amazon documents reveal that its own employees have found ways to circumvent that barrier to meet their own performance objectives. The company used a technique called “search seeding” to boost the rankings of its Amazon Basics and Solimo brand goods, according to the 2016 private-brand report. Referring to Amazon’s product codes – known as ASINs, or Amazon Standard Identification Numbers – the report stated: “We used search seeding for

newly launched ASINs to ensure that they feature in the first 2 or three ASINs in search results.” The document also referred to another technique that gave Amazon an edge: “Search sparkles” (Wikipedia 2014). The use of search seeding and search sparkles both lead to improved ranking in search results, thus distorting the quality of the match provided and the perceived legitimacy of the marketplace while benefiting Amazon-as-a-firm. In Figure 2, Amazon’s governance policies about search rankings are designed to benefit the firm at the expense of the platform’s efficiency. Since Amazon has strong market power this tactic would be considered unfair, since actors on their exchange have few options to transact. When platform companies have high market power and economic actors on the exchange have few or no alternatives to complete their transactions, platforms that enact policies that raise transaction costs, lower the quality of the match, or decrease the legitimacy of the exchange, would be intentionally interfering with the efficiency of the market exchange for their own benefit. Such rent-seeking with guile is ‘punished’ in a lower market power environment, where the competitive market pressures of low switching costs and realistic competition serve to give economic actors on a given exchange alternatives to the rent-seeking behavior of platform owner. However, platform companies with high market power that act in a rent-seeking manner, profiting at the expense of the exchange itself, are degrading the only viable option for the economic actors to transact, thus putting their stakeholders, the buyers and sellers on their exchange, at a disadvantage. We regularly limit the ability to interfere in the transactions of two other parties, whether by limiting the abuse of monopoly power, identifying the harm of tortious interference, or identifying unfair practices. Abusing the power inherent in being the market creator in order to extract rents while undermining the efficiency and legitimacy of the market is also deemed unethical.

For example, when Facebook prioritizes user engagement in the design of their content moderation algorithm and decides to amplify hate speech and groups, many actors on their exchange (users) who must encounter the hateful material are harmed while Facebook continues to benefit. The profits made by Facebook by keeping users engaged with harmful material would not outweigh the harm to the users as well as those not even on the platform who are the subject of the posts (Stewart 2021).

This argument runs counter to Cennamo et al. (2023) who argue that large platforms who self-preference – prioritizing the platform owner’s interests over the legitimacy and transaction costs of the exchange – are not necessarily problematic. Whether or not self-preferencing is an issue depends instead on “whether they replace, sustain, or trigger new interactions” (Cennamo et al. 2023). We argue that platforms with high market domination create an obligation to ensure the legitimacy and efficiency of the exchange because their market domination has created a reliance on their exchange as an essential service. Platforms with lower market power may act opportunistically and prioritize value for themselves or more powerful actors on their exchange in the name of innovation for some at the expense of others. Platforms with market dominance, according to our argument, become more limited in how they self-regulate with an obligation to the exchange.

Increasing transaction costs while having high market power would be taking advantage of the fact that the economic actors on the exchange have no real options. A platform company, in such a situation, would be treating the actors on the exchange as a mere means and without regard to their interests. For example, when Amazon leverages inside information on their exchange actors (suppliers) in order to develop competitive products to sell on their own exchange (Mattioli 2020), Amazon uses the market actors as a mere means to their rent-seeking end by taking advantage of their need to be on the exchange due to the market power of Amazon in online retail.

At a minimum, firms are expected to prioritize stakeholders from whom they have received a benefit. Within stakeholder theory, Phillips (1997) argues that the primary stakeholders to whom a firm has an obligation are those from which the firm has benefited in the past. Employees, suppliers, communities all provide benefits to the firm, and the firm therefore should consider their interests in making decisions. The actors on a platform’s exchange would be considered foundational to the firm – the platform would not exist if not for the exchange participants. According to this theory, platforms would have an obligation to consider the interests of those exchange participants – drivers and riders on Uber, buyers and sellers on Amazon, Internet users for ISPs. This would be true, according to Phillips, in any market environment. In a high market power environment, where the platform company achieved its

market position due to those exchange actors, the platform would have an additional obligation to consider their interests since they are now ill-equipped to bargain for their interests due to the market power of the platform.

When the platform company acts opportunistically, the firm breaks the social contract entered into when developing the exchange: namely, that the platform created the exchange for platform participants and would act in a manner to help develop the exchange by reducing transaction costs. For example, Google's ad exchange commands a strong market presence serving 75% of all online ad impressions. Google violates the implicit social contract when it also charges two to four times as much in fees as its rivals, thereby driving up the bargaining costs for advertisers (Hagey & Mickle 2021). Google also wins 80% of its own ad auctions, so its policies not only increase the bargaining costs for advertisers but decrease the quality of the match by prioritizing its own ads in the auction. In this case, no actor would reasonably enter into an agreement with an ad platform only to have that ad platform begin to compete as another market actor on the exchange and consistently win ad placements. This is a reasonable social contract norm because no reasonable buyer or seller would voluntarily agree to an arrangement wherein the platform company has the buyer and seller to commit to having only one alternative for their transaction – the company's exchange – only to have the company then act opportunistically.

The legitimacy of the platform exchange depends on the legitimacy of individual transactions. If other firms see unfair competitive practices – where a platform company is able to abuse its market power to take advantage of smaller stakeholders now beholden to its exchange – this will dissuade other firms from entering the market. Legitimate firms that treat economic actors fairly will believe the market to be inhospitable to their type of firm. This is the reason why, for example, the SEC sees its duty as being to maintain the integrity of the market. When Amazon is seen to be requiring legitimate vendors on their exchange to pay additional money to the platform-as-firm through ad placements in order for the platform-as-exchange to remove competing counterfeit products, Amazon would be enacting policies that

de-legitimize the exchange for suppliers while benefiting itself through increased profits (Mattioli & Flint 2021).

INSERT FIGURE 3 ABOUT HERE

In sum, in a competitive environment, the users on a platform have alternative mechanisms to find a similar match or transaction. Such a platform has a range of options for their goals and duties including: shareholder wealth maximization, where the firm focuses on short term profits that benefit shareholders; or long-term value of the firm; or stakeholder value creation, where the managers act in ways that create value for all stakeholders on their exchange as well as suppliers, employees, customers, banks, community, etc. In a competitive environment, an economic actor on the exchange that finds a platform's policies are value destroying can choose a competitor.

However, when platform companies have high market power, they must have the structure and governance policies in place to prioritize the survival and legitimacy of the exchange they created by decreasing transaction costs, increasing the quality of the match, and increasing the legitimacy of the market. Without a competitive market, such firms are more limited in their legitimate goals and actions so as to avoid practices deemed to be unfair, an abuse of power, or anticompetitive.

5. Discussion and Conclusion

We extend the study of the ethics of information systems to the platform economy, taking into account the dual purpose of platform as both a platform company and as a creator of a market – that is, as a firm with standard obligations to its shareholders and stakeholders, that also provides a marketplace for the exchange of information, goods, and services. We develop a research framework that permits us to compare the ways that different platform interventions affect transaction costs on the markets the platforms companies create and support: through decreasing bargaining and decision transaction costs, through increasing the quality of the match they provide, or through decreasing policing and enforcement transaction costs.

We discern the boundary conditions for unfair and possibly anticompetitive behavior in a two-dimensional space that is characterized on one axis by the market power of the platform company, and on the other by the goal of the governance policy or intervention, which can range from self-interested rent seeking as the platform-as-a-firm, to creating value for the market itself as the platform-as-a-market. We argue that the legitimacy of an intervention is dependent upon the market power of the platform and the goal of the intervention. While platforms with low market power enjoy the flexibility of being rent-seeking and opportunistic in their policies, platforms with high market power have a primary duty to the exchange they created as the primary beneficiary of their policies. We demonstrate how this plays out with respect to existing theories of self-governance and ethics, and illustrate this through a number of examples with platform companies of low, medium, and high market power.

6.1. Implications to Theory

Platform governance. IS researchers have studied extensively the governance of various forms of digital platforms. The main focus of existing platform governance research is on allocating the decision rights among market participants, designing control mechanisms, and choosing pricing strategies. An important yet underexplored area is the ethics of platform governance. This work fills this research gap by proposing an ethics framework of platform governance that characterizes a given platform governance policy with two critical features: the market power of the platform (a platform-level feature) and the goal of intervention (a policy-level feature). Based on where the given policy falls on the spectrum from opportunistic rent seeking to value creation for the exchange and the market power of the platform, the proposed framework provides guidance on whether the policy is ethical. The proposed framework has some desirable properties: First, the framework is universally applicable to all digital platforms and their corresponding governance policies. Second, the two features in the framework are measurable and thus can be directly implemented.

Ethics and IS. This article contributes to IS ethics theory by exploring the boundary conditions of legitimate platform governance as well as providing normative and economic justifications as to why

those policies could be unethical (Stahl 2012). We also extend the application domain of IS ethics to platform governance, which has a rich tradition within IS scholarship. Previous work has focused on the ethics of privacy (Smith and Hasnas 1999; Culnan and Williams 2009), IS research (Berente et al 2011), trust (McKnight et al. 2002), piracy (Moores and Chang 2006), blockchain (Tang et al 2019), and big data analytics (Someh et al 2019).

Business Ethics. Within the field of business ethics, the normative analysis of platform and platform governance has focused on trust (Etzioni 2019; Whalen 2019) as well as the ethics of the sharing economy (Etter et al. 2019) - a distinct use of the platform form. 11/13/23 3:54:00 PM This paper extends the current work in business ethics to more generally examine the ethical issues of platforms as a corporate form. By analyzing the ethical tension within the dual purpose of platforms, this paper contributes to business ethics scholarship and pushes the field to more generally analyze platforms, including questions concerning harm, shared responsibility, and the platform's role in society.

6.2. Implications to Practice

In this article we offer a systematic way to approach platform governance policies that transcends what is exchanged on the platform. We provide the boundary conditions for determining whether a platform company's interventions may violate their obligation to maintain the integrity of the market and the efficiency of the participants of their market. Such a policy can guide internal decision making. For example, Facebook is a platform company that owns several exchanges that match consumer interests with content creators on the platform, earning its revenue from the sale of advertisements shown to users.⁸ Facebook does attempt to police posted content. To assure that its biggest clients with the most followers were not affected by such mistakes, Facebook created the cross-check (or Xcheck) program, which whitelisted such users, and most Facebook employees were able to add users to this list, resulting in millions of accounts being exempted from oversight. While in principle violations of rules would still be

⁸ At Facebook, the News Feed accounts for the majority of time its roughly 3 billion users spend on the platform, and the sale of advertising on both Facebook and Instagram accounted for nearly all of Facebook's \$86 billion in revenue in 2020.

flagged for manual review, there were many cases where no review occurred, and flagrant violations of rules, such as posting of revenge pornography, went unaddressed for a significant period of time (Horwitz 2021). In doing so, Facebook increased transaction costs by reducing the quality of the match, providing more aggressive content than would otherwise be recommended, and damaging the integrity of the exchange to the point of undermining its own content moderation processes.

Net Neutrality provides another example (For a full review, see Easley et al. 2018). In the case of Internet Service Providers (ISPs) the request for a match received from a user is for a precise set of packets of information that constitute the content of the URL requested from a content provider. The “neutrality” in Net Neutrality simply refers to the FCC requirement, now no longer in effect, that the packets be passed back to the requesting user in the order received, without any prioritization of specific content over any other. The consumer receives content in the order they requested content. The ISPs long argued that they should be able to accept payment from some content providers to prioritize delivery of their packets. Given the significant ownership of content providers by ISPs, such as AT&T with Warner Media, and Comcast with NBC Universal, there is clearly an opportunity for distortion in the quality of the match provided by the platform, which in this case is most easily measured as speed of content delivery. In terms of the model of platform governance offered here, ISPs have strong market power and would be limited in the legitimate governance policies they could enact. Most consumers have few if any options to access content on their televisions at home. ISPs would need to enact policies that decrease the transaction costs of economic actors on their exchange (content providers and consumers) to maintain the efficiency and legitimacy of the exchange. Slowing down content delivery of those who do not make additional payments to the ISP would be the type of rent-seeking opportunism that increases the transaction costs of the economic actors – matching costs, enforcement costs - while profiting the firm.

6.3. Implication to Policy

A key implication of our framework is encapsulated in the notion of platform neutrality, which underscores the manner in which the current debates about the responsibilities and abuses of platforms parallels the network neutrality debate. As Candeub (2020) notes,

Both network neutrality and platform regulation seek to counter a powerful internet firm, whether a Comcast or Google – a broadband provider or social network/search engine – which has the market power to discriminate among users and businesses that rely on their network. (pg 395)

His main point is that the development of regulation of common carriage has divided regulation of these industries in the US, such that the FCC manages relatively tight network neutrality regulations for broadband providers, while the FTC provides generous Section 230 protections for platforms. He proposes a more unified regulatory framework in which he focuses on the tradeoff with market power

... the dominant firm is not regulated only to curb its market power. Rather, its dominance is tolerated to provide additional public goods not otherwise obtainable. (pg 398)

which echoes the key tradeoff we portray in the figures above. While we discuss the responsibilities that accrue as a platform-supported exchange gains market power, he similarly describes platforms in these terms:

A universal communications platform is a public good. It ... lowers search costs for finding suitable goods and services and their associated transaction costs. (pg 400)

While we focus on the development of an ethical framework to inform the decisions platform firms make, it is clear that when firms are successfully called out on their unethical practices (e.g., Fb and Frances Haugens) regulators may step in. The concept of platform neutrality is thus a useful bridge from our ethical framework to the regulatory approach espoused by Candeub.

References

- Adner, R. (2017). Ecosystem as structure: An actionable construct for strategy. *Jnl. of Mgmt.* 43(1), 39-58.
- Albergotti, R., & Alcantara, C. (2021). Apple’s tightly controlled app store is teeming with scams. *The Washington Post*. <https://www.washingtonpost.com/technology/2021/06/06/apple-app-store-scams-fraud/>
- Acquisti, A. (2004). Darknets, DRM, and trusted computing: Economic incentives for platform providers. *Workshop on Information Systems and Economics*.
- Bamberger, K. A., & Lobel, O. (2017). Platform market power. *Berkeley Technology Law Jnl.*, 32(3): 1051-1092.
- Bensinger, G. (2019). When rides go wrong: How Uber’s investigations unit works to limit the company’s liability. *The Washington Post*. <https://www.washingtonpost.com/technology/2019/09/25/ubers-investigations-unit-finds-what-went-wrong-rides-its-never-companys-fault/>
- Bensinger, G. (2021). Why Uber won’t call the police. *New York Times*. <https://www.nytimes.com/2021/12/22/opinion/uber-safety-ride-sharing.html>
- Berente, N., Gal, U., & Hansen, S. (2011). Ethical implications of social stratification in information systems research. *Info. Systems Jnl.* 21(4), 357-382.
- Bodoni, S. (2021). Amazon loses court fight over doubled-up antitrust probe. *Bloomberg*. <https://www.bloomberg.com/news/articles/2021-11-08/amazon-loses-court-fight-over-doubled-up-antitrust-probe>
- Brousseau, E. (2000). What institutions organize electronic commerce? Private institutions and the organization of markets. *Economics of Innovation and New Technology*, 9(3) 245-274.
- Business Roundtable. (2019). *Statement on the purpose of a corporation*. <https://s3.amazonaws.com/brt.org/BRT-StatementonthePurposeofaCorporationJuly2021.pdf>
- Candeub, A. (2020). Bargaining For Free Speech: Common Carriage, Network Neutrality, and Section 230. *Yale Jnl. of Law & Technoogy* 22, 391.
- Cennamo, C., Kretschmer, T., Constantinides, P., Alaimo, C., & Santaló, J. (2023). Digital platforms regulation: An innovation-centric view of the EU’s Digital Markets Act. *Jnl. of European Competition Law & Practice: 14*(1), 44-51.
- Chatterjee, S., Sarker, S., & Valacich, J. S. (2015). The behavioral roots of information systems security: Exploring key factors related to unethical IT use. *Jnl. of Mgmt. Info Systems*, 31(4), 49-87.
- Chen, L., Yi, J., Li, S., & Tong, T. W. (2022). Platform governance design in platform ecosystems: Implications for complementors’ multihoming decision. *Jnl. of Mgmt.* 48(3), 630-656.
- Cheng, S. (2021). Market power and switching costs: An empirical study of online networking market. *University of Cincinnati Law Review*, 90(1): 122-147.
- Coase, R.H. (1937). The nature of the firm. *Economica*, 4(16), 386-405.
- Constantinides, P., Henfridsson, O., & Parker, G. G. (2018). Introduction—platforms and infrastructures in the digital age. *Information Systems Research* 29(2), 381-400.
- Cremers, M., & Ferrell, A. (2014). Thirty years of shareholder rights and firm value. *The Jnl. of Finance*, 69(3): 1167-1196.
- Culnan, M. J., & Williams, C. C. (2009). How ethics can enhance organizational privacy: Lessons from the choicepoint and TJX data breaches. *MIS Quarterly*, 33(4), 673-687.
- Cusumano, M. A., Gawer, A., & Yoffie, D. B. (2021). Can self-regulation save digital platforms? *Industrial and Corporate Change*, 30(5): 1259-1285.
- Dew, N. 2006. Institutional Entrepreneurship: A Coasian Perspective, *The International Jnl. of Entrepreneurship and Innovation* (7:1), SAGE Publications Sage UK: London, England: 13–22.
- Dew, N., Sarasvathy, S. D., Read, S., & Wiltbank, R. 2008. Immortal Firms in Mortal Markets? An Entrepreneurial Perspective on the ‘Innovator’s Dilemma,’ *European Jnl. of Innovation Management*,

- Donaldson, T., & Dunfee, T. W. (1994). Toward A unified conception of business ethics: Integrative social contracts theory. *Academy of Management Review*: 19(2) 252-284.
- Donaldson, T., & Preston, L. E. (1995). The stakeholder theory of the corporation: Concepts, evidence, and implications. *Academy of Management Review* 20(1), 65-91.
- Easley, R. F., Guo, H., & Krämer, J. (2018). From network neutrality to data neutrality: A techno-economic framework and research agenda. *Info Systems Res* 29(2) 253-272.
- Etter, M., Fieseler, C., & Whelan, G. 2019. Sharing Economy, Sharing Responsibility? Corporate Social Responsibility in the Digital Age, *Jnl. of Business Ethics* ,159(4), 935–942.
- Freeman, R. E., Harrison, J. S., & Wicks, A. C. (2008). Managing for stakeholders. *Yale University Press*.
- Freeman, R. E., Parmar, B. L., & Martin, K. (2020). The power of and. *Columbia University Press*.
- Freeman, R. E., Wicks, A. C., & Parmar, B. (2004). Stakeholder theory and “the corporate objective revisited”. *Organization Science*: 15(3), 364-369.
- Freeman, R. E. (1984). Strategic management: A stakeholder approach. Marshfield: *Pittman Publishing*.
- Freeman, R. E. (1994). The politics of stakeholder theory: Some future directions. *Business Ethics Quarterly*, 4(4), 409-421.
- Friedman, B., & Nissenbaum, H. (1996). Bias in computer systems. *ACM Transactions on Information Systems*: 14(3), 330-347.
- Gol, E. S., Stein, M., & Avital, M. (2019). Crowdwork platform governance toward organizational value creation. *The Jnl. of Strategic Information Systems* 28(2): 175-195.
- Goldfarb, A., & Tucker, C. (2019). Digital economics. *Jnl. of Economic Literature*, 57(1), 3-43.
- Gorwa, R. (2019). What is platform governance? *Information, Communication & Society* 22(6), 854-871.
- Gorwa, R., Binns, R., & Katzenbach, C. (2020). Algorithmic content moderation: Technical and political challenges in the automation of platform governance. *Big Data & Society*, 7(1): 1-15.
- Guggenberger, N. (2020). Essential platforms. *Stanford Technology Law Review* 22(1), 32-42.
- Hagey, K. & Horwitz, J. (2021). Facebook tried to make its platform a healthier place. It got angrier instead. *Wall Street Jnl.*. <https://www.wsj.com/articles/facebook-algorithm-change-zuckerberg-11631654215>
- Hagey, K., & Mickle, T. (2021). Google charges more than twice its rivals in ad deals. *Wall Street Jnl.*. <https://www.wsj.com/articles/google-charges-more-than-twice-its-rivals-in-ad-deals-wins-80-of-its-own-auctions-court-documents-say-11634912297>
- Hake, E. R. (2005). Financial illusion: Accounting for profits in an Enron world. *Jnl. of Economic Issues*, 39(3), 595-611.
- Harbour, P.J, & Koslove, T.I. (2010). Section 2 in a Web 2.0 World: An expanded vision of relevant product markets. *Antitrust Law Jnl.*, 76. 769-.
- Harriet, R. (2022). Full coverage: Oxycontin investigation. *Los Angeles Times*.
- Hein, R. (2022). How did Google get a stranglehold on the digital ad marketplace? *CMSWire*. <https://www.emswire.com/digital-marketing/how-did-google-get-a-stranglehold-on-the-digital-ad-marketplace/>
- Horwitz, J. (2021). Facebook says its rules apply to all. Company documents reveal a secret elite that’s exempt. *Wall Street Jnl.*. <https://www.wsj.com/articles/facebook-files-xcheck-zuckerberg-elite-rules-11631541353>
- Huber, T. L., Kude, T., & Dibbern, J. (2017). Governance practices in platform ecosystems: Navigating tensions between cocreated value and governance costs. *Information Systems Research* 28(3), 563-584.
- Jacobides, M. G., Cennamo, C., & Gawer, A. (2018). Towards a theory of ecosystems. *Strategic Management Jnl.*, 39(8) 2255-2276.
- Jacobides, M. G., & Lianos, I. (2021). Regulating platforms and ecosystems: An introduction. *Industrial and Corporate Change*, 30(5): 1131-1142.
- Jensen, M. C. (2010). Value maximization, stakeholder theory, and the corporate objective function. *Jnl. of Applied Corporate Finance* 22(1), 32-42.

- Kalra, A., & Stecklow, S. (2021). Amazon copied products and rigged search result to promote its own brands. *Reuters*, <https://www.reuters.com/investigates/special-report/amazon-india-rigging/>
- Khan, L. M. (2016). Amazon's antitrust paradox. *Yale Law Jnl.* 26, 710-805.
- Khan, L. M. (2017). Sources of tech platform power. *Georgetown Law Technology Review* 2, 325.
- Lamoreaux, N. R. (2019). The problem of bigness: From standard oil to Google. *Jnl. of Economic Perspectives*, 33(3), 94-117.
- Lande, R. H. (2007). Market Power Without a Large Market Share: The Role of Imperfect Information and Other 'Consumer Protection' Market Failures, *American Antitrust Institute*.
- Whelan, G. (2019). Trust in Surveillance: A Reply to Etzioni, *Jnl. of Business Ethics* 156(1): 15–19.
- Martin, K. (2019). Trust and the online market maker: A Comment on Etzioni's cyber trust. *Jnl. of Business Ethics*: 156(1) 21-24.
- Martin, K., & Phillips, R. (2021). Stakeholder friction. *Jnl. of Business Ethics*: 1-13.
- Mattioli, D. (2020). Amazon Scooped Up Data From Its Own Sellers to Launch Competing Products. *The Wall Street Jnl.*. <https://www.wsj.com/articles/amazon-scooped-up-data-from-its-own-sellers-to-launch-competing-products-11587650015>
- Mattioli, D., & Flint, J. (2021). How Amazon strong-arms partners using its power across multiple businesses. *Wall Street Jnl.*. <https://www.wsj.com/articles/amazon-strong-arms-partners-across-multiple-businesses-11618410439>
- McKnight, D. H., Choudhury, V., & Kacmar, C. (2002). Developing and validating trust measures for e-commerce: An integrative typology. *Information Systems Research*: 13(3), 334-359.
- Mingers, J., & Walsham, G. (2010). Toward ethical information systems: The contribution of discourse ethics. *MIS Quarterly*, 34(4), 833-854.
- Moore, T. T., & Chang, J. C. (2006). Ethical decision making in software piracy: Initial development and test of a four-component model. *MIS Quarterly*, 30(1): 167-180.
- Mulherin, J. H., Netter, J. M., & Overdahl, J. A. (1991). Prices are property: The organization of financial exchanges from a transaction cost perspective. *The Jnl. of Law and Economics*, 34(2), 591-644.
- Newman, J. M. (2015). Antitrust in zero-price markets: Foundations. *University of Pennsylvania Law Review*: 149-206.
- Phillips, R. A. (1997). Stakeholder theory and a principle of fairness. *Business Ethics Quarterly*, 7(1), 51-66.
- Pirrong, C. (2000). A theory of financial exchange organization. *The Jnl. of Law and Economics*, 43(2), 437-472.
- Rietveld, J., Ploog, J. N., & Nieborg, D. B. (2020). Coevolution of platform dominance and governance strategies: Effects on complementor performance outcomes. *Academy of Management Discoveries*, 6(3), 488-513.
- Rietveld, J., & Schilling, M. A. (2021). Platform competition: A systematic and interdisciplinary review of the literature. *Jnl. of Management*, 47(6): 1528-1563.
- Sarker, S., Chatterjee, S., Xiao, X., & Elbanna, A. (2019). The sociotechnical axis of cohesion for the IS discipline: Its historical legacy and its continued relevance. *MIS Quarterly*, 43(3), 695-720.
- Schwartz, S. A. (2017). America's deadly opioid epidemic from which everyone but the users profits. *Explore: The Jnl. of Science and Healing*: 13(4) 240-242.
- Silva, S. (2021). Wikipedia in a Chinese editing war of words. *BBC*. <https://www.bbc.com/news/technology-59081611>
- Smith, H. J., & Hasnas, J. (1999). Ethics and information systems: The corporate domain. *MIS Quarterly* 23(1): 109-127.
- Someh, I., Davern, M., Breidbach, C. F., & Shanks, G. (2019). Ethical issues in big data analytics: A stakeholder perspective. *Communications of the Association for Information Systems*, 44(1), 718-747.
- Stahl, B. C. (2012). Morality, ethics, and reflection: A categorization of normative IS research. *Jnl. of the Association for Information Systems*: 13(8), 636-656.
- Steinbaum, M. (2022). Establishing market and monopoly power in tech platform antitrust cases. *The Antitrust Bulletin*, 67(1): 130-145.

Stewart, E. (2021). Detecting fake news: Two problems for content moderation. *Philosophy & technology*, 34(4), 923-940.

Stout, L. A. (2012). The shareholder value myth: How putting shareholders first harms investors, corporations, and the public. *Berrett-Koehler Publishers*.

Sundaram, A. K., & Inkpen, A. C. (2004). The corporate objective revisited. *Organization Science: 15*(3), 350-363.

Tang, Y., Xiong, J., Becerril-Arreola, R., & Iyer, L. (2019). Ethics of blockchain: A framework of technology, applications, impacts, and research directions. *Information Technology & People*, 33(2), 602-632.

Tiwana, A. (2013). *Platform Ecosystems: Aligning Architecture, Governance, and Strategy*. Morgan Kaufman Publisher.

Tsai, J. Y., Egelman, S., Cranor, L., and Acquisti, A. (2011). The effect of online privacy information on purchasing behavior: An experimental study. *Information Systems Research* 22(2) 254-268.

Wareham, J., Fox, P. B., & Cano Giner, J. L. (2014). Technology ecosystem governance. *Organization science* 25(4): 1195-1215.

Whelan, G. (2019). Trust in surveillance: A reply to Etzioni. *Jnl. of Business Ethics: 156*(1): 15-19.

Wikipedia. (2014). *Wikipedia: Arbitration committee/discretionary sanctions*. https://en.wikipedia.org/wiki/Wikipedia:Arbitration_Committee/Discretionary_sanctions

Williamson, (1979) [is missing here, but cited on p 14]

Williamson, O. E. (1983). Organization form, residual claimants, and corporate control. *The Jnl. of Law and Economics* 26(2), 351-366.

Zhang et al (2020) [is missing here, but cited on p 12]

Zhang, N., & Xu, H. (2021). Reconciling the paradoxical findings of choice overload through an analytical lens. *MIS Quarterly*, 45(4): 1893-1920.

Zhang, Y., Li, J., & Tong, T. W. (2022). Platform governance matters: How platform gatekeeping affects knowledge sharing among complementors. *Strategic Management Jnl.*, 43(3), 599-626.

FIGURES

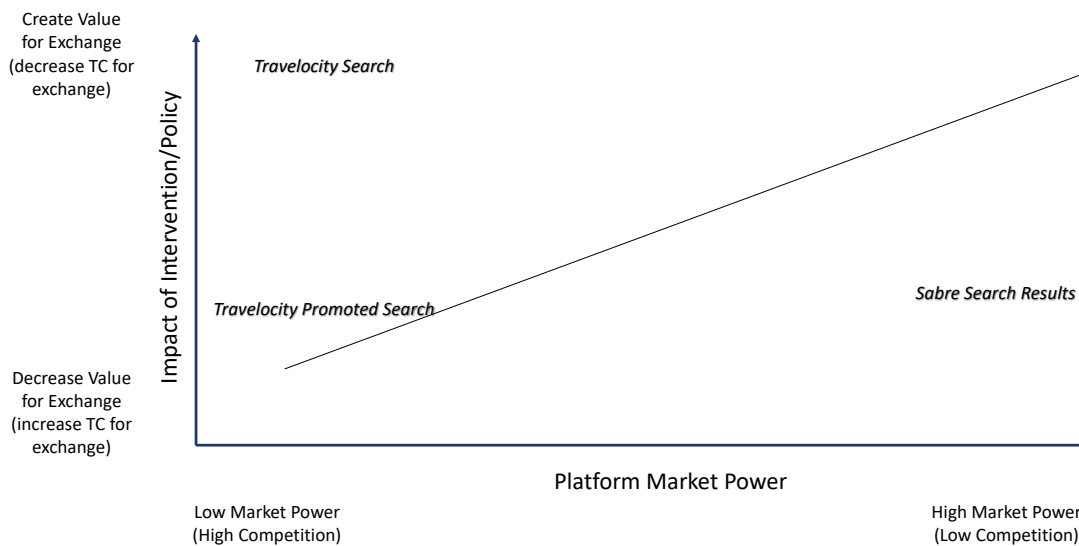


Figure 1: Platform Governance Ethics Framework for Travel Platforms

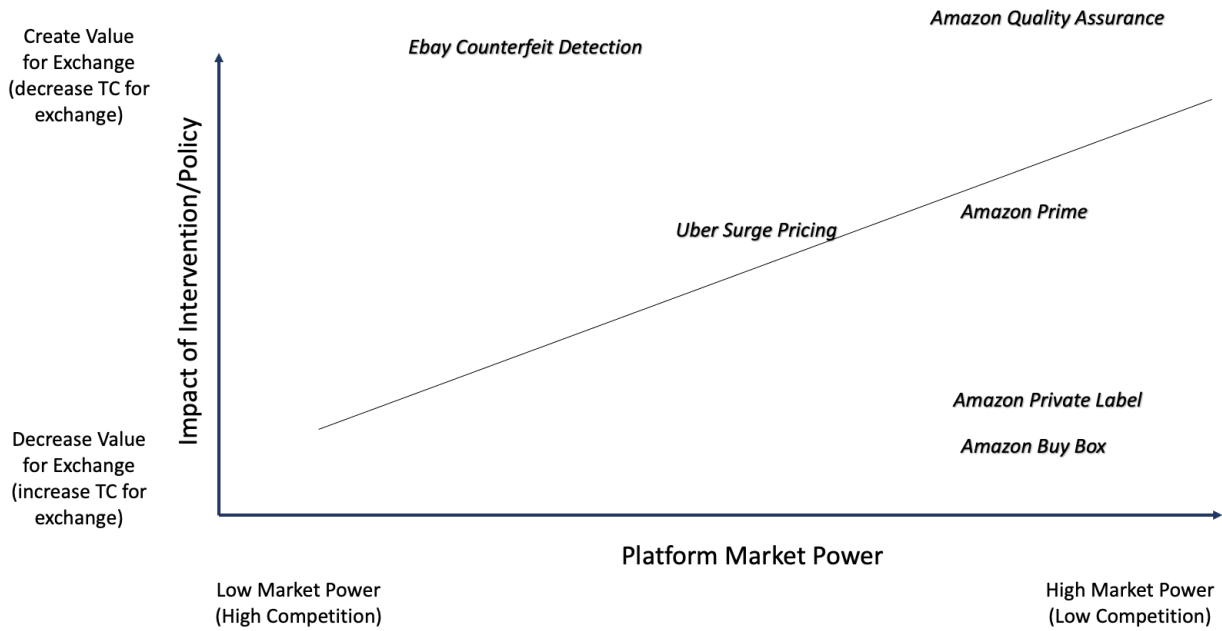


Figure 2: Platform Governance Ethics of High Market Power Platforms

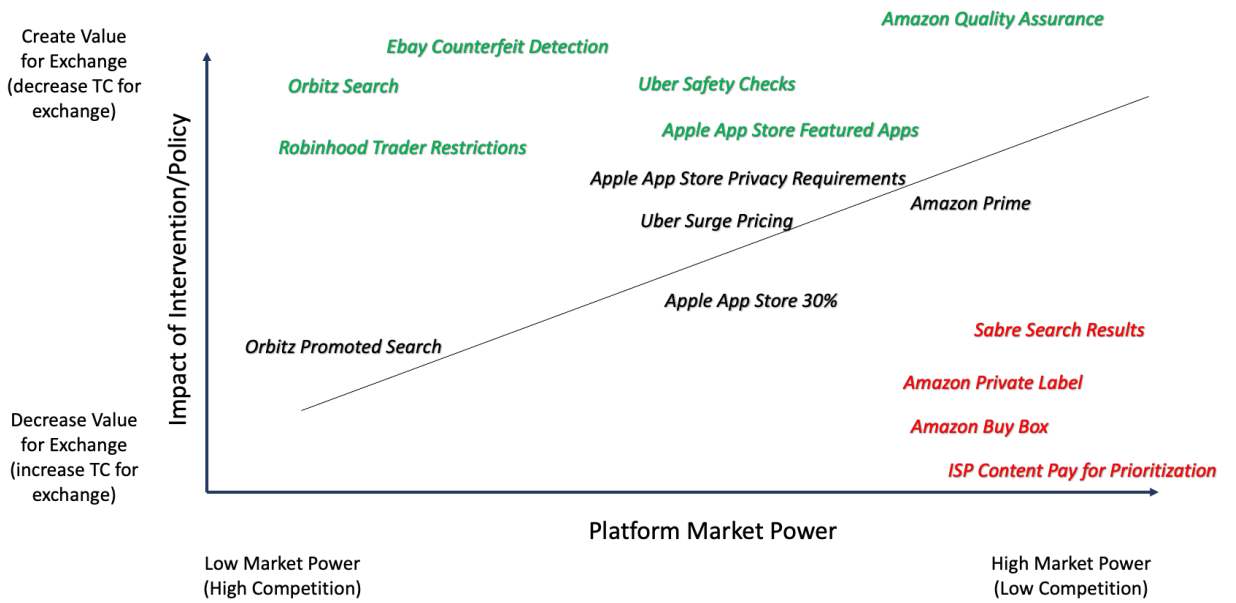


Figure 3: Ethics of Platform Governance