

## **Regulating Internet Giants (RIG) - Masters Course Syllabus**

Amazon, Apple, Facebook, Google, Twitter and other internet giants have played leading roles in shaping the transnational digital order, enabled by light regulation and robust liability protection in the US. The platforms make their own rules and through lobbying have managed to escape national regulators and prevented international legal regulation through treaties. But these US companies are currently encountering important regulatory pushback, especially from the EU, and increasingly from China, which is fast developing as a home for world-leading internet and digital innovation companies (eg Alibaba, Huawei, Tencent).

This course offers an overview of the Internet's technological foundations, infrastructure, and governance, focusing on IGs' role in each of these. We look at how law has helped corporations develop into giants and asks what law if any applies to them. We then focus on the potential for and scope of future global governance in this area. In this context, we explore different regulatory models. (1) We look at how historically different jurisdictions (US, EU, China) have made use of their law to either expand innovation or limit corporations' powers, based on their different approaches to sovereignty but also privacy and freedom of speech. (2) We investigate how because of (national) protectionist approaches countries have failed to reach a consensus that international regulation is needed. (3) We show how in the absence of this, IGs have been compelled to self-regulate, a solution that is increasingly being put to the test as new revelations about the impact of new technologies on our lives and well-being become apparent. (4) We then explore to what extent international regulation is likely to happen in the future given the developments of the last two years, and in what areas. We specifically address what role the EU is likely to play as a regulatory leader in this regard (eg through the Brussels Effect).

The course builds on international relations and international law and analyses how power dynamics between major world powers have played out in the digital sphere (eg US-China tensions, emerging regulatory role of the EU). The objective of the course is to equip students with basic knowledge, core concepts, and versatile tools necessary to think critically and creatively about the legal and extra-legal regulation of global internet giants going forward.

### **RIG Session 1: Introduction to the Internet and the Global Digital Economy**

In the first session, we study what the internet is, how it came about, why the centre of internet power lies in the Silicon Valley and how – today – internet giants make their money. The reading explains the birth of Google and describe the historical moment when Google and other IGs started turning a profit by analysing our behaviour and selling these predictions to advertisers. We look at what legal issues technologies used by IG raise and how they encroach on our rights and more generally on our lives. We map out the areas of law any potential regulation would need to address.

- *Readings:* Tim Wu - The Master Switch (ch 2,3); Tim Wu - The Attention Merchants (ch 3); S. Zuboff - The Age of Surveillance Capitalism (Chapters 3 and 4). *Podcasts:* BBC - 'Will America's Big Tech firms be reined in?'; NY Times Rabbit Hole. *Films:* The Great Hack, Coded Bias and the Social Dilemma.

### **RIG Session 2: Global Internet Infrastructure Governance**

The third session looks at the role governments and major internet corporations play in Internet infrastructure governance. To what extent are their interests aligned? Who holds power? What are the obstacles that have thus far prevented international legal regulation in this area? Is it useful to think of platforms as infrastructure? We analyse regulatory relevance of the Internet's infrastructure, including cables, satellites, internet exchanges, and their protocols for data flows and discuss related questions of financing, ownership, and control. We study three institutions within the complex Internet governance ecosystem (ICANN, IETF, and ITU).

- *Reading:* Kate Crawford *Atlas AI: Power, Politics, and the Planetary Costs of Artificial Intelligence*; D. Winseck Geopolitical Economy of the Global Internet Infrastructure; S Bradshaw et al Emergence of Contention (2016); *Case study:* IRP - Amazon v. ICANN; I. Tate Regulating internet infrastructure: Comparison of ICANN, ITU and WSIS.

**RIG Session 3: Self-Regulation**

The question of how to regulate the Internet has led to a spirited debate on ‘cyberlaw’ - from arguments about a special law for ‘cyberspace’ to Larry Lessig’s famous: ‘code is law’. In this session, we ask how global Internet corporations came to the idea that they should self-regulate. We will look specifically at content regulation and free speech and look at how the construction of a new ‘international court’, like the FB Oversight Board, applying international human rights law might impact international regulation in the future.

- *Reading:* JP Barlow - A Declaration of the Independence of Cyberspace; D Post - In Search of Jefferson’s Moose (ch 3); L Lessig The Law of the Horse - What Cyberlaw Might Teach; K. Klonick - New Governors HLR; K Klonick on Oversight board – Yale Law Review. *Podcasts:* Big Tech Klonick on Oversight board.

**RIG Session 4: EU as a Regulatory Leader**

While the EU has struggled to develop its own digital economy, its regulations, in particular the GDPR, have significantly influenced the transnational regulatory landscape in which IGs operate. This session will survey the EU’s various regulatory initiatives, including new recent legislation and its projection beyond the EU’s territorial borders, labelled the Brussels Effect.

- *Reading:* PJ Dittrich - Online Platforms and How to Regulate Them; Schwartz - Global Data Privacy - The EU Way; A. Bradford - Brussels Effect: How The European Union Rules the World; GDPR, Articles 1-9 and 44-50; Directive 2000\_31\_EC \_Directive on Electronic Commerce.

**RIG Session 5: China and the Digital Silk Road**

China’s regulatory model stands in stark contrast to the EU’s attempts to regulate platforms and to the US-backed Silicon Valley Consensus. Major Chinese Internet corporations increasingly compete in third countries and the Belt and Road Initiative includes investment in Internet infrastructure. Which legal and digital technologies are undergirding China’s digital economy? How do they square with the emerging international legal framework on free data flows and against data localization?

- *Reading:* L. Jia and D Winseck - The Political Economy of Chinese Internet Companies; H Gao - Data Regulation with Chinese Characteristics; H. Shen - Building a Digital Silk Road, M Erie and T Streinz – The Beijing Effect: China’s Silk Road as Transnational Data Governance (2021). *Podcasts:* The Cyberlaw Podcast: U.S.-China Tech Divide—Where Will it End?; Frontier Podcast: China, Huawei and the future of global technology.