

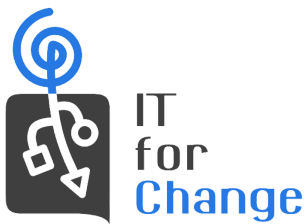
What development actors need to know about e-commerce

IT for Change Policy Brief



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Preliminary insights from the research network on Policy Frameworks for Digital Platforms- Moving from Openness to Inclusion

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About us

IT for Change is an NGO based in Bengaluru, India. We aim for a society in which digital technologies contribute to human rights, social justice and gender equality.



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What development actors need to know about e-commerce

In today's 'platformizing' economy, e-commerce platforms are not merely digital market places but in effect, consummate digital ecosystems that underlie the new architecture for the global economy. E-commerce platforms have radically reorganized economic activity, given rise to new structures of intermediation and changed the conception of global trade altogether. While what seems manifestly unprecedented is the shift in consumption cultures (whether it be a rising culture of impulse buy on Amazon Prime or artisanal product websites that allow shoppers to buy directly from the craftsman), 'platformization' changes everything deeply and often invisibly—from how production and labor arrangements are organized to how capital is mobilized and market advantage entrenched.

What we are witnessing is globalization on steroids. And yet, the same issues that have plagued global trade for centuries – structural inequities in opportunities and access between players in the developed nations at the core and those in the developing nations at the periphery, market distortions riding under the garb of free trade, information asymmetry, exploitative value chains of labor and manufacturing, harsh and punishing financial, human and ecological externalities – persist and if anything, are growing. The possibilities for the Internet to be the equalizer of digital trade stands heavily contested.

This policy brief briefly touches upon some of these issues and their implications for actors in developing nations and offers recommendations. The arguments and discussion offered for consideration in this brief are drawn from IT for Change's long standing engagement with the political economy of the digital and from more recent work undertaken as part of our global research project, Policy Frameworks for Digital Platforms- Moving from Openness to Inclusion.¹

Summing up the global e-commerce outlook

The rising role for e-commerce in the economy has been concurrent to the rise of the all powerful e-commerce platform-companies such as Amazon and Alibaba that can orchestrate and control entire market ecosystems comprising providers, producers, suppliers and consumers/users. These giants have taken over the domain², leaving smaller competitors in the dust through various forms of market distortion, which have included exploiting the absence of digital age laws to engage in anti-competitive practices,³ and eroding local competition by underwriting steep discounts and incentives to consumers.⁴

¹ See <https://itforchange.net/platformpolitics/>

² Bloomberg. (6 July 2017). JD and Lazada square off in Indonesia, Asia's next e-commerce prize. *Business of Fashion*. Accessed from: <https://www.businessoffashion.com/articles/news-analysis/jd-alibaba-lazada-amazon-e-commerce-in-indonesia>

³ Despite rules to the contrary, platforms often run combined inventory and marketplace models and maximize the 'best of both worlds'. Given their economic clout, they are able to easily get around rules that prohibit the conflation of these models by opening up subsidiaries that can push their own product lines, or enter into preferential deals with certain sellers to make available attractive discounts. Further they also indulge in malpractices such as manipulation of page rankings on their platform and use other strategies that can nudge consumers.

⁴ The Amazon Great Indian Sales, for instance, strategically announced around major holiday seasons in India, directly eat into the share of the local economy, in violation of rules. See Press Trust of India. (25

What is even more worrying is the way in which such platforms have doubled up as a vehicle to further neoliberal capture of the economy by their parent countries who are often developed nations. Developing countries see their markets flooded⁵ with cheaply produced goods while their domestic manufacturing is slowly rendered uncompetitive (Alibaba's dumping in Africa and in South East Asia as cases in point). Historically exploitative practices of colonial trade are thus being repackaged and served up as 'consumer choice,' shipped in 24 hours or less.

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Free data flows do not equal free trade flows

Market distortion in the e-commerce domain also happens on account of the global data regime. The discourse of 'free data flows' disregards the unequal footing⁶ on which 'intelligence rich' and 'intelligence poor' nations compete in the digital economy. Major trade agreements and instruments such as the Regional Comprehensive Economic Partnership (RCEP) and the Trans Pacific Partnership (TPP) and the rehaul of the North Atlantic Free Trade Association (NAFTA) are

all pushing for the idea of data without borders, with monumental efforts in policy making, such as the European Union's General Data Protection and Regulation (GDPR) 2018, or the National Data Policy currently underway in Canada.⁷

In most countries in the global south, inadequate legal frameworks fail to address issues of personal data protection, privacy and security, allowing large digital platforms to mine consumer data without informed consent. This, when combined with the lack of clear sectoral data protection laws in health, insurance, banking etc., has created an unregulated and privatized public data regime that platforms can game to their advantage using their ever-growing, colossal networks to engineer lucrative value for themselves.

E-commerce companies bank on these data regimes as that is the key way in which their ecosystems can generate value, using such data to create the hold-all digital intelligence to completely transform the DNA of the market and attain a position of dominance. Amazon's rise from an online book retailer to becoming the biggest tech giant with an ever expanding suite of services and products is a case in point.

January, 2018). Amazon and Flipkart battle it out for first festive sale of 2018. *Hindustan Times*. Accessed from:

<https://www.businessoffashion.com/articles/news-analysis/jd-alibaba-lazada-amazon-e-commerce-in-indonesia>

<https://www.hindustantimes.com/tech/amazon-and-flipkart-battle-it-out-for-first-festive-sale-of-2018/story-lykUJSN0J36F1fCViedOIN.html>

⁵ KiKUU. (7 November 2016). KiKUU, quietly positioning itself to become Africa's first mobile Commerce Unicorn. *CISION PR Newswire*. Accessed from:

<https://www.prnewswire.com/news-releases/kikuu-quietly-positioning-itself-to-become-africas-first-mobile-commerce-unicorn-300358163.html>

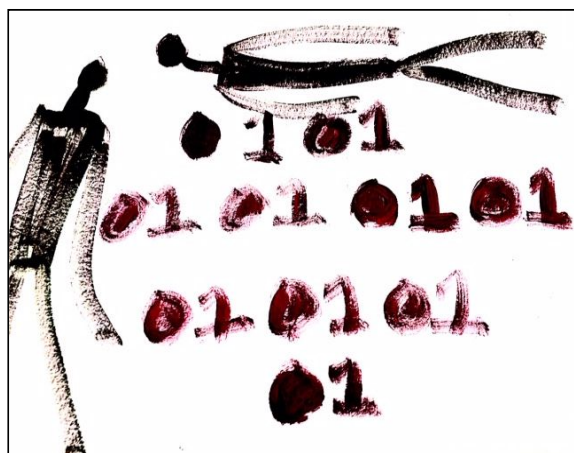
⁶ Gurumurthy, A. Vasudevan, A. Chami, N. (2017). The grand myth of cross-border data flows in trade deals. *IT for Change*. Accessed from:

<https://www.itforchange.net/index.php/grand-myth-of-cross-border-data-flows-trade-deals>

⁷ Information from primary research in Canada by Katherine Reilly and Carol Monoz, Simon Fraser University

Barriers for small players

Apart from external threats, small players in developing nations face many operational constraints and barriers in making a mark in the digital marketplace. There is a convenient myth that makes digital e-commerce an easy sell as the next frontier for growth - available to anyone, anywhere, with nothing more than an enterprising mind and an Internet connection. But every step - whether it be organizing the new supply chain or putting in place a secure and robust online interface, payment infrastructures and authentication systems or sustaining consumer interest - is highly resource intensive and draws upon structural capabilities that cannot be taken for granted in developing country contexts. For instance, even in the case of Malaysia, a high performer in the Asian economy, 70% of Small and Medium Enterprises⁸ do not have a website. Rural connectivity in a country like India covers only 16%, even after a push for digital payments by the state.⁹ Also,



enter the digital economy.

The skewed flows of global finance and venture capital that are directed towards established players also means that avenues for financial support and funding for smaller players are limited. Changing traditional consumer behaviour becomes another roadblock. Trust is key to the digital economy. In Nigeria, fear of deceit, counterfeit

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predatory big players often gobble up the archetypal startup.

Emerging trends in e-commerce point to the presence of global finance capital in considerable control and competing big stakes. India's Flipkart - backed by the likes of SoftBank Group, Tiger Global, eBay, Accel Partners, Naspers, Tencent Holdings and Microsoft Corp - is reported to be on the radar of both Walmart and Amazon as a target for acquisition.¹⁰ Clearly, the structural conditions of a platform economy present steep challenges for small producers and entrepreneurs aspiring to

⁸ Ibid

⁹ Pandey, N. (20 February, 2018). Only 16% of rural users access Internet for digital payments: report. *Mint*. Accessed from: <https://www.livemint.com/Politics/PhY0kTxoJqq6U9GISlpSaK/Only-16-of-rural-users-access-Internet-for-digital-payments.html>

¹⁰ Reuters. (6 April, 2018). Walmart completes due diligence for controlling stake in Flipkart. *VCCircle*. Accessed from: https://www.vccircle.com/walmart-completes-due-diligence-for-controlling-stake-in-flipkart-report/utm_source=VCCircle+April+6%2C+2018&utm_campaign=Constant+Contact&utm_medium=e

websites and fraudulent transactions have been noted as reasons impeding consumer trust. ¹¹Added to this are fears of identity theft, data mining and misuse.¹²

Hosting on a big platform is not simply the only option for small players, but an actual fight for survival in the long run.

Should small companies and outfits overcome such challenges to enter the game, their overall sustainability and success remains a precarious proposition, given the online visibility and market shares of giants. Amazon, Alibaba and e-Bay are always likely to show up at the top of search engine rankings – the definitive make or break for an online platform. Smaller players thus find it easier to host their products on such platforms, even if it means paying hefty commission prices and despite the risk that they may be subsumed by the platform. With digital intelligence of the entire ecosystem at its fingertips, the platform

corporation can simply squelch the competition over time, offering better prices, redirecting customers or simply developing a more competitive product.¹³ Yet again, lack of access to data capital and digital intelligence puts small players on the backfoot. Hosting on a big platform is not simply the only option for small players, but an actual fight for survival in the long run.

Unsustainable paradigm, disempowered consumer

The infinite expansion of ‘choice’ for the millennial consumer who now has the ability to buy anything and everything from anywhere and everywhere at rock-bottom prices, sitting in the comfort of his or her home is the breezy, happy narrative of e-commerce. But the larger picture that emerges is a far cry from a digital utopia or the ideal marketplace that the Internet was once thought capable of ushering in. The indiscriminate mining of consumer data has meant that online retailers have penetrating level of insights into our buying habits, our location, our socio economic status and more, all of which are fed into sophisticated algorithms. From regionally specific price point manipulation to creating illusions of merchandise scarcity to predictive search results – online platforms can goad us into particular buying choices that are most beneficial to the platform.¹⁴ Further, propped up by unsustainable pricing and underwritten by venture capital, it is unlikely that the era of ‘dream deals’ will continue indefinitely for the consumer.¹⁵

¹¹ Information from primary research in Nigeria by Kemi Ogunyemi

¹² These are issues not particular to developing nations. The European Union’s effort to create a digital single market had to weigh the question of consumer trust as well. See European Union. (2018). Boosting e-commerce in the EU. *European Union*. Accessed from: <https://ec.europa.eu/digital-single-market/en/policies/ecommerce>

¹³ Zhu, F. and Liu, Q. (2016). Competing with complementors: An empirical look at Amazon.com. *Harvard Business Review*. Working Paper 15-044. Accessed from: https://www.hbs.edu/faculty/Publication%20Files/15-044_d9d88071-7cf7-4d0f-90ba-548e018265ef.pdf

¹⁴ Useem, J. (May, 2017). How online shopping makes suckers of us all. *The Atlantic*. Accessed from: <https://www.theatlantic.com/magazine/archive/2017/05/how-online-shopping-makes-suckers-of-us-all/521448/>

¹⁵ Clark, K. (9 March, 2016). Is there a hidden bubble in the market? *Time*. Accessed from: <http://time.com/money/4159637/market-hidden-bubble/>

Despite the concerns noted above, this brief holds that e-commerce can be a viable economic proposition. With right and agile policy frameworks and pro-active regulation, e-commerce can in fact be a tempering influence to correct market distortion, open pathways of trade and commerce between people and nations and allow for a more equitable flow of goods and services, truly diversifying 'choice' and reflecting the spirit of an inclusive economic system. These desired directions however need strong and urgent strategies to counter the capture of digital trade by the collusion between powerful digital corporations and developed nations. E-commerce should not become yet another economic paradigm that is tilted in favor of the first world. Towards these goals, this brief makes the following recommendations:

Recommendations

1. Policies for just and equitable platform ecosystems

Despite the oft-evoked platitudes of innovation and deregulation going hand in hand, an active legal and policy framework is a prerequisite for e-commerce to flourish. This has two dimensions. The first involves having adequate and comprehensive policy measures that can govern platform excesses and strengthen intermediary liability within e-commerce provisions. Critical policy frontiers such as labor, consumer protection, privacy, foreign investments and other areas that directly impact the livelihood and other fundamental rights of citizens and the rights of platform users cannot be conceded to immediate short term gains that big platforms often usher in. These measures, while a bitter pill for policy makers to push, given the inevitable industry backlash they will face, can go a long way in making the global value chain of e-commerce more equitable for all parties.

The second aspect involves recognition of e-commerce as a discrete and important domain of trade requiring regulatory interventions whether in banking, payment, competition and trust, etc. In Nigeria, merchants and third-party payment processors are required to comply with the Payment Card Industry Security Standard Council guidelines.¹⁶ This set of standards, created by card companies such as Visa and MasterCard governs how electronic transactions are conducted and attempts to protect cardholders against misuse of private information. While industry self-governance mechanisms seem to occupy the public policy vacuum, they cannot take the place for state backed policy. The Philippines for instance passed the E-Commerce Act (Republic Act No. 8792) to recognize and promote electronic commercial and non-commercial transactions. In 2016, the Philippines' Department of Trade and Industry also came up with the E-commerce Roadmap 2016-2020 through a multi-stakeholder consultative effort.¹⁷ The Reserve Bank of India has mandated all payment system operators to store data within the country by September of 2018 in order to have unfettered access to all payment data for supervisory purposes.¹⁸ The development comes at a time when

¹⁶ Nigeria also has The Nigerian Cyber Crime Act, 2015 and the NITDA Draft Guideline on Data Protection contain guidelines (information from primary research in Nigeria by Kemi Ogunyemi)

¹⁷ Information from primary research in the Philippines by Foundation for Media Alternatives

¹⁸ Mishra, D. (6 April, 2018). Store data in India, RBI tells payments companies. *Economic Times*. Accessed from:

<https://cio.economicstimes.indiatimes.com/news/government-policy/store-data-in-india-rbi-tells-payments-companies/63638182>

global tech giants like Google and WhatsApp have entered the domestic digital payments sector in India, sparking a debate over data privacy and security.

2. Foregrounding the interests of Micro, Small and Medium Enterprises (MSMEs)

Nurturing local platform businesses is a big part of making global e-commerce a diverse economic sector. In 2015, 21 members of the Asia-Pacific Economic Cooperation (APEC) adopted the 'Boracay Action Agenda to Globalize MSMEs'¹⁹ as a step towards facilitating the participation of micro, small and medium enterprises in global trade. This agenda stresses on an expanded role for MSMEs led by women and advocates increased global opportunities for MSMEs in e-commerce. Enabling smaller players however, is not just about rhetoric. It calls for pro-active measures on many counts (See Box 1 on page 7).



3. Data sovereignty for developing countries

In a datafying economy, any step towards creating a level playing field for local platforms and developing countries must foreground issues concerning data in digital trade regimes. Policy think tanks in developed countries like Canada have noted that data is the key capital asset of the digital age and so, foregoing data localization requirements in international treaties represents an unfavorable value proposition.²⁰ Obviously major economies are aligning policies in international agreements with their national interests: the US is promoting an open architecture that aligns with the market dominance of its data-intensive firms; the

European Union is promoting sound regulation, which aligns with its primarily defensive interests; and China is taking advantage of the size of its internal market to develop a competitive digital economy.²¹ Developing countries need flexibilities to regulate in the national interest and not sign off the sovereignty over their data in plurilateral and multilateral agreements. The wealth of data in critical sectors is vital for both businesses and governments in the Global South. Mandating that global platform companies share some of the data they collect with public agencies in key sectors is important for curbing their anti-competitive practices and promoting the space for smaller local start-ups or innovators to use these data sets for coming up with their own innovative products. States should also invest in the development of public digital intelligence infrastructure so that national and sub-national communities can own and use their data for their own benefit.

¹⁹ Asia-Pacific Economic Cooperation. (2015). Boracay Action Agenda to Globalize MSMEs. APEC. Accessed from: https://www.apec.org/Meeting-Papers/Sectoral-Ministerial-Meetings/Trade/2015_trade/2015_mrt_standalone.aspx

²⁰ Centre for International Governance Innovation. (2018). A National Data Strategy for Canada-Key Elements and Policy Considerations. CIGI Papers No. 160. Waterloo, ON: CIGI. Accessed from: <https://www.cigionline.org/publications/national-data-strategy-canada-key-elements-and-policy-consideration>

²¹ Ciuriak, D. (2018). Digital Trade: Is Data Treaty-ready? CIGI Paper No. 162. Waterloo, ON: CIGI. Accessed from: <https://www.cigionline.org/sites/default/files/documents/Paper%20no.162web.pdf>

Box 1: What should policies do to encourage MSMEs in e-commerce?

- Build strong and robust governance for identity authentication, digital payments, data/information security, ensuring privacy by design.
- Create a supportive operating environment for local entrepreneurship – easy access to credit, dependable power supply, reliable transportation, warehousing and logistics solutions, affordable and quality communications infrastructure.
- Support communities to set up and operate non-profit, co-operativist platforms in traditional and emerging sectors through business leadership training programs and digital upskilling.
- Foster education at all levels - improving the capacity of smaller firms to engage in e-commerce as well as consumer awareness, attitudes and skills.
- Use policy measures to enhance online visibility of MSMEs through appropriate regulatory measures for algorithmic transparency and accountability; quotas for links of MSME businesses in sponsored ads etc.
- Operate public funded e-commerce platforms, especially for creating and promoting the capability of very small and marginal producers and artisans to participate in digital trade

4. A model that is appropriate for local conditions

Developing countries need to assume leadership in different ways to create the kind of economic scenario in which e-commerce can be a diverse, actor rich domain. Setting up marketplaces as a public good for artisans and small producers to gain an entry point would be useful, as the Bangladesh Ministry of Women and Children has done with *e-joyeeta*.²² Expanding digital infrastructure to encourage domestic innovation is another important measure developing nations can take, taking cues from nations such as Canada which has been rolling out its 'Innovation Agenda'²³ through various steps such as economic strategy tables, incubation competitions and creating super clusters of

²² See <http://www.nationalappsbd.com/>

²³ Government of Canada. (2016). Positioning Canada to lead: An inclusive innovation agenda. *Government of Canada*. See https://www.ic.gc.ca/eic/site/062.nsf/eng/h_00009.html

companies that can harness digital intelligence and create a competitive edge.²⁴ India and Singapore also have some interesting initiatives in this regard. With voluntary labor from tech developers, the Government of India has set up India Stack²⁵, a set of Open APIs that facilitate digital payments processing and identity authentication in e-transactions. This set of APIs has been visualized as public infrastructure that can facilitate innovation both in governance and the private sector (by encouraging businesses, startups and developers to create business models through 'presenceless, paperless and cashless' commercial transactions).

Looking Ahead

It is encouraging that the dominant e-commerce discourse is slowly but steadily being contested in global policy discussions.²⁶ The need for data ownership at the national level for domestic economic decisions, the possible role of regional blocs in digital trade and new frameworks for regional pooling, rather than 'free flow', of data, are some such ideas that present new considerations that directly address policy alternatives for the Global South.

²⁴ Information from primary research by Katherine Reilly and Carol Munoz, Simon Fraser University

²⁵ See <http://indiastack.org/about/>

²⁶ UNCTAD. (2018). South-South digital cooperation for industrialization: A regional integration agenda. UNCTAD. Accessed from: http://unctad.org/meetings/en/SessionalDocuments/gdsecidc20180308_Key%20Messages%20of%20the%20Meeting.pdf

