



BEYOND THE
PANDEMIC
DEBATE SERIES

The readout

The technological tipping point

With Benedict Evans, Natasha Good,
Giles Pratt and James Harding



Freshfields Bruckhaus Deringer

BEYOND THE PANDEMIC

Thirty years ago the tech industry sold software and hardware to big businesses. Today, tech companies are the biggest businesses of them all. They have connected almost everyone on earth and in the process become a systemically important part of society.

- ▶ When COVID-19 sent everyone into enforced isolation it accelerated the need for all businesses to migrate online. Before the coronavirus there was a degree of choice around when and how to operate digitally. Now, every company has to do it, or at least has to try. The transformation that was already happening – think e-commerce and streaming content – is now taking place at super-speed.

The pandemic has also set in motion a series of changes with less certain outcomes, such as whether full-time office working, in-person conferences and widespread business travel will survive to the other side. Likewise, COVID-19 will reset industries carrying fixed costs that cannot simply be slashed in line with falling revenues. Newspapers and department stores are at the forefront of this trend – at some point it becomes impossible for them to shrink any further and they will simply cease to exist.

The coronavirus will also have significant geopolitical consequences and drive major regulatory and cultural change. But when all's said and done, the biggest impact of COVID-19 could be to embed technology even deeper in all aspects of our lives.

To discuss these issues and more, we were joined by another fantastic cast of experts for the fourth and final instalment of our 'Beyond the Pandemic' digital debate series: industry analyst **Benedict Evans**, author of *the* must-read newsletter for all things tech; **Natasha Good**, co-lead of Freshfields' technology practice; and **Giles Pratt**, head of the firm's London data group. What follows are the highlights from their conversation.

1

While it is tempting to see big tech as the sole winner from COVID-19, the pandemic has boosted other businesses, too. Amazon may be rushed off its feet but so are plenty of other retailers. The crisis has driven people to experiment with buying everything from cosmetics to meat on the internet, and the fact people have been ‘retrained’ to do things differently means some of those habits may stick. Shopify, a platform that allows any seller to develop an online business, has thrived through the crisis. So has Zoom, despite Google offering a similar product in the shape of Google Meet. Some of the biggest tech players have also suffered as a result of lockdown measures – they have been hit like everyone else by the downturn in advertising, while travel platforms have struggled in the face of a massive drop in demand.

2

How much of our working lives will be spent in offices post-COVID remains to be seen. It’s likely millions of us will continue to work from home in the immediate aftermath, but the pendulum may swing back towards physical proximity as some of the hidden downsides begin to emerge. As an example, new joiners who work remotely will not benefit from being able to build relationships with their colleagues face-to-face, potentially affecting cultural cohesion.

3

Just as COVID-19 has accelerated the process of technological transformation, so it is also likely to strengthen the regulatory headwinds facing the tech industry. Many of these are focused on data, at least in Europe – from a privacy perspective but also in the consumer protection and antitrust arenas. Are consumers being treated fairly in the way services are delivered? What’s being done with the data that’s generated by our interactions with tech and our movements online? There has been a strong societal demand for businesses to operate ethically in recent years and there’s no reason to think that will change once the crisis has passed.

4

It’s a major challenge for regulators to know where to strike the bargain in a post-COVID environment. Data privacy authorities were quick out of the blocks to say they wanted to support contact tracing technology in the bid to control the virus’s spread. However, the longer-term trajectory – particularly as data becomes more ubiquitous through our greater use of tech – is likely to see regulatory hardening in three areas.

- **Transparency**, not just around AI but also in relation to more rudimentary systems.
- **Cyber security**. As more of our lives move online, regulators will want to set benchmarks to ensure this is done safely.
- **Anonymisation**. As businesses try and take their use of data outside the constraints of privacy rules by anonymising it, authorities will more closely scrutinise their tactics.

5

We are witnessing a great shift in the technological ecosystem, which mirrors the geopolitical rebalancing of power between East and West. The period when most tech and computers were made in Silicon Valley is slipping away. There are more startups in Europe and Asia than in the past, and they are creating systems that are gaining global adoption (the social network TikTok is a prime example). In parallel we are also seeing a shift in the prevailing cultural attitudes that govern technological development. For years, tech was built using the cultural assumptions of the US West Coast around issues such as free speech and privacy. But the global nature of tech has brought these orthodoxies into contact with often conflicting national laws and regulations. This, in turn, creates a compliance barrier to building the ‘next internet’.

6

Having said this, there is a lot of regulatory co-operation in Europe in relation to data privacy and increasingly in the realm of ethical technology (following the societal demands outlined in 2). There has been some harmonisation at a global level around European standards (eg California has adopted a privacy law that borrows from the EU General Data Protection Regulation), but there is a sense that regulatory authorities are not sufficiently well funded to spend more time joining up their rule-making. This fragmented approach is likely to remain the norm for the foreseeable future, with a complex, piecemeal approach to regulation rather than a simpler regime imposed by a regulatory monolith.

7

Trust is one of the hottest topics in tech. How much can we trust the information we read online, whether that's in the form of a tweet or an online review? We may see more 'signposting' emerging to help consumers understand what it is they're reading – whether driven by regulators or the corporations themselves (as we've recently seen with Twitter). But that transparency will have to be delivered thoughtfully, or we will continue to click past it.

8

The biggest challenge facing regulators in the tech space is the speed at which things move. It took centuries to develop rules to make cars safer, yet authorities are having to react in real-time to deal with the effects of technology. Every rule change comes with trade-offs – and today, those calculations must be made much more quickly.

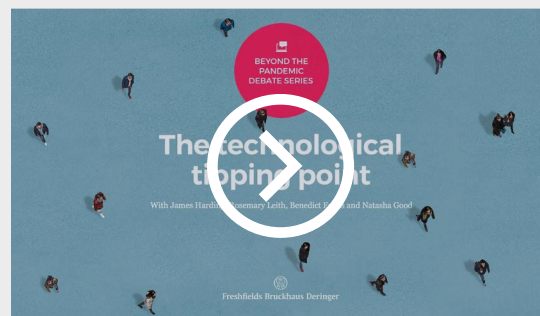
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Businesses will look to M&A to reshape their models and be more resilient to future shocks, but we're also seeing more corporates partnering with tech players to drive technological transformation. There's also a lot of interest in new areas of tech that have proved essential through the pandemic, such as healthtech and edtech. The days of Softbank firehosing sovereign wealth into capital-intensive businesses in search of network effects are over. But 0 per cent interest rates mean there is still significant capital looking for opportunities.

10

Our increasing reliance on tech will increase inequality and social exclusion if not addressed. The fact that many stores have not been accepting cash through the crisis is detrimental to older people who are less familiar with digital payments. Likewise, people who are not as technologically savvy simply do not know enough to ask the right questions around the way their data is used, potentially opening them up to exploitation. This could be solved by regulation, but the more likely route is by businesses embracing the ethical agenda and building new systems around core principles such as openness, accessibility and freedom from discrimination. This focus on principles rather than rules can also help governments to encourage innovation.

To rewatch the discussion in full, [click here](#):



For further insights on the current and future consequences of COVID-19, visit [freshfields.com](https://www.freshfields.com)

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Our experts



James Harding (chair)

James is a co-founder and an editor of Tortoise Media. He started his journalistic career at the *Financial Times* before becoming the youngest ever editor of *The Times* newspaper in 2007. He later moved to the BBC as director of news and current affairs.



Benedict Evans

Industry analyst Benedict Evans, who has 20 years' experience in strategy, equity research, consulting and venture capital. Benedict writes a must-read tech newsletter that goes out to more than 140,000 subscribers each week.



Natasha Good

Natasha Good, a partner in Freshfields' global transactions practice and co-head of the firm's technology, media and telecoms industry group.



Giles Pratt

Giles Pratt, a Freshfields partner who leads the firm's intellectual property and IT practice and its data group in London.