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# **Monopolistic-Existentialism: A Structural Proposition for a Free-Market Alternative**

## Executive summary

Today's big tech companies are capitalizing on pressure from recent demand for privacy legislation by phasing out third-party cookies and advancing their own in-house versions of first-party cookies. They are using legislation compliance as a guise to further expand their monopolistic power. This is the causal result of the current market climate and the general problem privacy concerns related to third-party cookies raise. We aim to address both of these problems through market restructuring of third-party cookies regime, but not their complete elimination. To narrow the scope of this problem, we will propose a hypothetical tax on the sale of tele-health related data. We propose, along with market restructuring, an API or Application Programming Interface to integrate a new software system, the user interface portal, with already existing models of cookie crumb aggregation. This will give users access to their personal data, and log data assetization when data is sold or transformed in nature, and most importantly be logistically taxable.

The result of the Google, Facebook, Apple, and Amazon first-party cookie take-over would be exclusive access to user data and metrics integrating and controlling what could be separate markets. However, the result of the status quo or current market structures would be the continued non-consensual and non-transparent extraction of user data. Our proposal aims to toe the line between these two issues.

We propose to:

- Stop the complete transition to first-party cookies and phasing out of third-party cookies
- Add a filtering or color tag to third-party cookies code that will sort them based on the data asset type to create market separation
- Prohibit firms from accessing all cookie types but allowing them to encrypt and aggregate to fulfill buyer demand: buyers looking for specific user metrics
- Create consumer API's for user portals that must be easy to access This API for personalized user data portal will facilitate our tax on medical data. By having clear access to data transactions and collections. We will only tax health-care related data and put it into a relief fund for health data breaches.

To be clear, our proposal has one expected cost. We are letting companies use third-party cookies in a manner that can exploit personal information not related to health care. We support this because it will protect competition in the marketplace and provide a long-run means for users to have access to their personal data, including health data. The causal effect of a transition to first-party cookies will be the expansion of big-techs' gateway monopoly and the elimination of the possibility for true user transparency. This new status-quo, the transition to first-party cookies, will see the big four tech companies become near impervious to any market competition. Moreover, they will have exclusive access to near-perfect market information. This access can be used to push costs onto customers and small businesses who are bullied for their dependence on big tech's massive infrastructure.

This proposal is ambitious, but it meets the moment in a timely manner and takes key assumptions from the House of Representatives Subcommittee's recommendation based on its investigation into big techs' monopolies. We have derived a new market vision that would see

small businesses flourish and create a market wherein data localization can be facilitated by capitalist free market incentives. Small firms compete for access to open asset data based on the merit of their services and quality of privacy. It is also a response to the FTC's call for transparency in the data brokerage market. A direct user API such that users can access their data but firms only have limited access to this data could create structured market separations and delineated lines of operation knowledge based on market separations such that the firms will have clearly delineated market areas. This could be a viable solution to this privacy problem in the long-run. However, for the sake of this proposal there will only be two specific market areas, health related data and non health related data.

The major cost to the implementation of our proposal for taxing health data transactions is that it is dependent on the creation of an API that can filter cookies. It could be a government organization like CISA, or it could be a market player that gets paid for this service but is limited to a market task. This could be in the form of a SIC code which restricts the business to optimizing and making private user data in an interactive portal but not to the monetization of the data. Specifically, the large-scale transition of it into user metrics to meet a third-party demand. The benefit of this portal is that users would see the number of data transactions, actively see data points update, have pooled risk and competition because many firms could potentially compete at this role, and most importantly the categories individuals get placed in will be visible. Access to this information is becoming so important that it may be a human rights violation for big-tech to withhold such access. For example, in a 'gig' economy, workers from food delivery services have dual production value. They provide labor but also tracking data of orders and services. Some food delivery drivers offer lower wages for courier services and systematically discriminate to terminate contracts based on the categories they are put in. This is supported by the peer review article *Platform capitalism hidden abode: producing data assets the Gig economy.* ( Van Doorn 1486)

In conclusion, the test for effectiveness will be clear user satisfaction, economic growth, a decrease in health-market debt because of the tax, and an expansion of firm-driven user portals services. The degree to which our proposal will be anti-monopolistic can be adjusted and expanded by the type of cookie sorting that gets chosen by the market to functionally separate firms. This feature, ability to create structural separation in the market and limit business to area specific data services, is in alignment with the majority staff report and recommendations of antitrust lawyers following investigations into competition in the digital marketplace. The "Subcommittee recommended that Congress consider legislation that draws on two mainstay tools of the antimonopoly toolkit: structural separation and line of business restrictions." (317) Although in this proposal there is a binary mechanism for classifications, 1-health data 0 non-health data. Health care cookies can be taxed for user benefit.

The total revenue generated from the sales of telehealth data in the US is around \$31 billion. A 2% tax on this amount would generate approximately \$620 million per year. Over a 20-year period, the total revenue generated from the tax would be around \$12.4 billion. The total amount of medical debt in the US was estimated to be \$81 billion. This is just a sample structure describing how a tax of a single type of transaction could erase 15% of medical debt. Moreover, users should be getting the benefit from the demand their own personal data generates ( National Health Expenditures, 2019).

## **Health Data Tax for Market Structuring**

Our long-term goal is to create a flourishing eco-system that prioritizes user protection and promotes technological innovation by breaking barriers to market-place entry. We argue that the transition to first-party cookies is a violation of antitrust and anti-competition laws. Specifically, it is a violation of the Sherman Act and Clayton Act, which prohibit the abuse of market dominant power to facilitate further expansion, insulate from competition, and eliminate market competition. Therefore, our proposal is to stop Google, Apple, and Facebook from phasing out third-party cookies completely. However, considering the demand for compliance with privacy legislation that allowed for this monopolistic power grab, we also propose a regulatable free-market alternative to the previous unregulated exploitation of third- and first-party cookie brokerages. Central to this is user interface portals which will give users immediate access to their data and make the taxation of market specific data transactions logistically plausible.

Moreover, our tax would be progressive and aim to facilitate the development of free-market alternatives that aims at prioritizing the user. Firms that participate in large scale healthcare data mining and data-monetization will be taxed but small tech firms could be given breaks if they propose and remain in market specific areas. By doing this we would be incentivising small firms or data brokerage start-ups to create market specific business models with restricted lines of business. We propose mandating a color-tag in a value format of the actual physical code of cookie trackers: this means after crawling, the crumbs are fundamentally categorized upon their genesis, placing them in categories based on what type of asset for which

the data they collect will be used. For the sake of this tax the cookies will be sorted into two categories: blue cookies and non-blue cookies, health data and non-health data.

There has been much literature on the benefits of structural separations in the data brokerage market place, and it is based on economic theory. These categories of cookies will create fundamental industry fault lines. They will help to promote competition and prevent market fixing practices from dominant tech-monopolies across diverse markets of data collection and monetization. Our goal is to protect users of apps and the internet by increasing anonymity and allowing user interface with their data profiles. The only way to conceivably do this is through a complete restructuring of marketplace norms. This new stream of firms will serve the purpose of data localization.

Telehealth data will be tagged as blue, and the users will have the right to keep this data from generating third-party revenue or ensure there is a high degree of encryption to ensure anonymity. Our proposal will be limited to the scope of sensitive medical information, but we could expand it to put blinders on companies so they stay in their sector. It is important to initially establish this 'color' category in a restricted sense, but its constitutions can be further expanded in the future. Moreover, "strictly necessary" will be visible and also tagged as a color in the user interface portal. This is the only long-run solution to the data crisis because fundamental to it is the idea of small firms, which allows for nuanced hyper-efficiency to optimize the asset value of data across the different asset types it can take, but also provides jobs in a capitalist economy which is fundamentally built on data localization. Without data localization, there will be one big castle with all the treasure; even if it is defensible, it is a single

target. However, a marketplace built on many small firms is like spreading the treasure across many defensible towns. This is a proposition for a capitalist and user-friendly data-localized marketplace.

Specifically, Google has announced a complete shift to a first-party cookies model by the end of 2024. Apple has already done so, and Facebook and Amazon are trying to follow suit with Google. Consider the implications of exclusive access to such information on the existing data brokerages which represents a 300- billion dollar industry.

This seems like a threat to the market presence of the big players. While it does limit monopolistic control, the ideal market would see them as a major player. The nature of their role and antitrust concerns must be considered, but ideally they can create smaller sub-companies and compete on a market level as a small firm would. They already have sub-companies—for example, Google Fiber—and they represent risk-mitigation tactics and have the long-run financials backing them from investor faith. These will be domain- or color-specific, and they will be able to communicate with each other, but the scope of the communication can be subject to market regulations. This highlights the brilliance of market-base data localization.

### **Monopolies and Narrowed focus**

The broad problem is that Google, Apple, Facebook, and Amazon already have massive gateway monopolies. They abuse their grip on key market infrastructure to bully competitors, pick market winners and losers, and expand their market power. Moreover, their exclusive access to swaths of real-time user data and metrics gives them near-perfect market information. This facilitates their size and allows them to use predatory pricing models; they can use capital gain in one market to finance ventures into emerging markets while abusing market dominance in their first market to give them competitive advantages.

Since 1997, they have bought over 500 companies, and the government has failed to stop a single one for antitrust violations. Are they buying out these companies to insulate themselves from competition? The answer is clearly yes, so we will not spend much time arguing that a monopoly exists, but rather focus the scope on a narrower aspect of monopolistic expansion. First, some examples. Facebook's purchase of Instagram is a clear example of how a purchase can decrease competition in the marketplace. Facebook and Instagram are each other's biggest competition, and they are both owned by the same company which can stop them from competing. Google's size is another example, for it allows them to have predatory pricing models; they can afford to bleed millions to get rid of competition. Then they can use capital gain in one market to finance ventures into emerging markets while abusing market dominance in their first market to give them competitive advantages.

Another example is Amazon who can force the small business they facilitate into nearly any deal by threatening to remove their product from being serviced. They also have direct access to product data and can make market copies with predatory price models to drive the

original product off their platform. This is an example of a clear violation of Sherman's Antitrust Act and is the same reason railroad companies were not allowed in the coal mining industry. There is a fundamental conflict of interest with providing infrastructure and having market power to drive out market competition. Google controls virtually all search and web activity, Facebook has a monopoly on all social media apps and competes with itself the most, Apple has a monopoly on device production, and Amazon has a monopoly on distribution. Moreover they all use control of their infrastructure scale and limit competition. This is a conflict of interest. “In other words, ownership and control over the computational architecture built for data capture is the essential precondition not only for a platform’s rentiership but also for achieving ‘scale as institutional or boundary level’” (Fernandez 2). Our proposal would see separate markets established.

If we allow this change to the status quo to exclusive first party cookies this will not help privacy. it will just give big tech more exclusive access to extract personal data no way of seeing what they're doing. Stopping the transition to first party cookies is similar to stopping further anti-competition attempts Here are some subcommittee findings:

“During the investigation, the Subcommittee found evidence of monopolization and monopoly power. For example, the strong network effects associated with Facebook have tipped the market toward monopoly such that Facebook competes more vigorously among its own products—Facebook, Instagram, WhatsApp, and Messenger—than with actual competitors. “  
(10 Judiciary Committee)

“It has diminished consumer choice, eroded innovation and entrepreneurship in the U.S. economy, weakened the vibrancy of the free and diverse press, and undermined Americans’ privacy.” (10 Judiciary Committee)

Here is a quote that illuminates the challenges of market entry. Small firms struggle because they need revenue returns or “require short-term returns on their investments in order to survive, the lack of economic sustainability is much less of an acute problem for private platform companies whose profitability is secondary to their market capitalization, or the appreciation of their total stock value.” Google, Apple, Amazon and Facebook can sustain losses in certain markets because of their monopolization in other markets. Here are more examples found by the subcommittee.

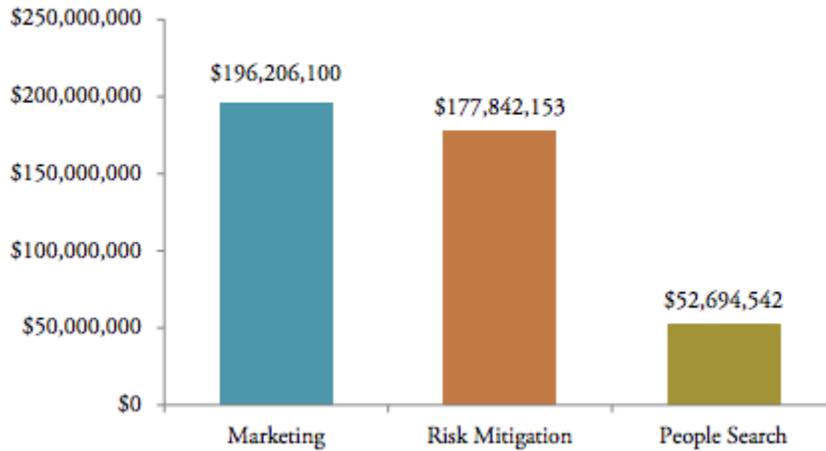
"Google’s ability to set defaults and steer users to preferred platforms, coupled with its data advantage, enables it to control the online ad stack in a manner that has created an almost unassailable market position." (10 Judiciary Committee)

"Facebook has a history of acquiring potential rivals and neutralizing competitive threats by integrating the functionality of such rivals into its own products, in ways that harm competition and consumers."(10 Judiciary Committee)

"Amazon has engaged in a pattern of predatory pricing that harms competition and threatens the viability of independent retail."(10 Judiciary Committee)

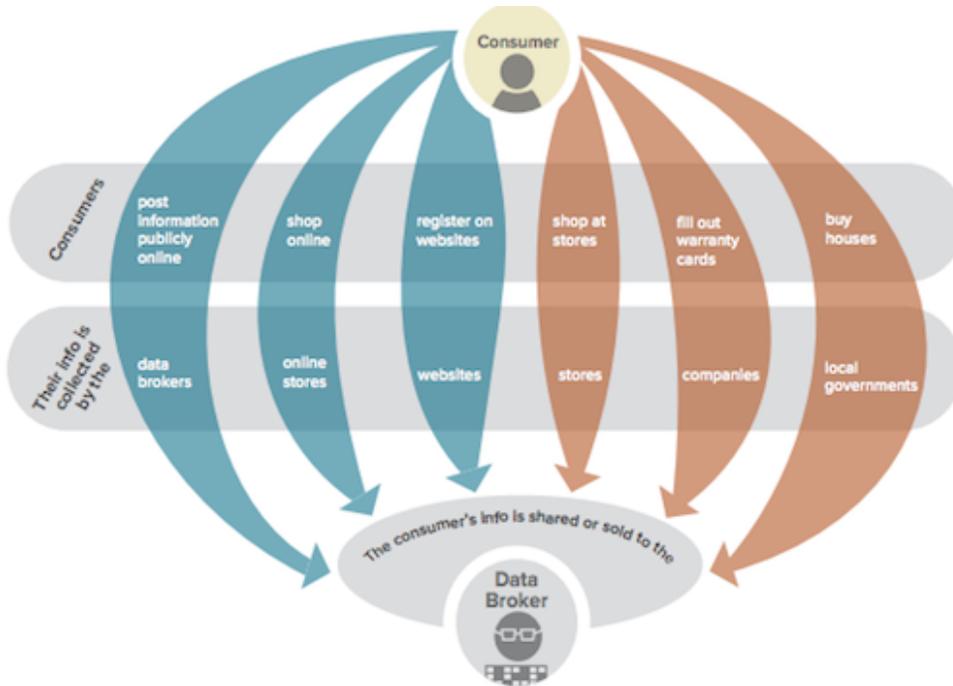
## Possible avenues for business line separation

**Exhibit 3: Revenue of Nine Data Brokers by Product Category**



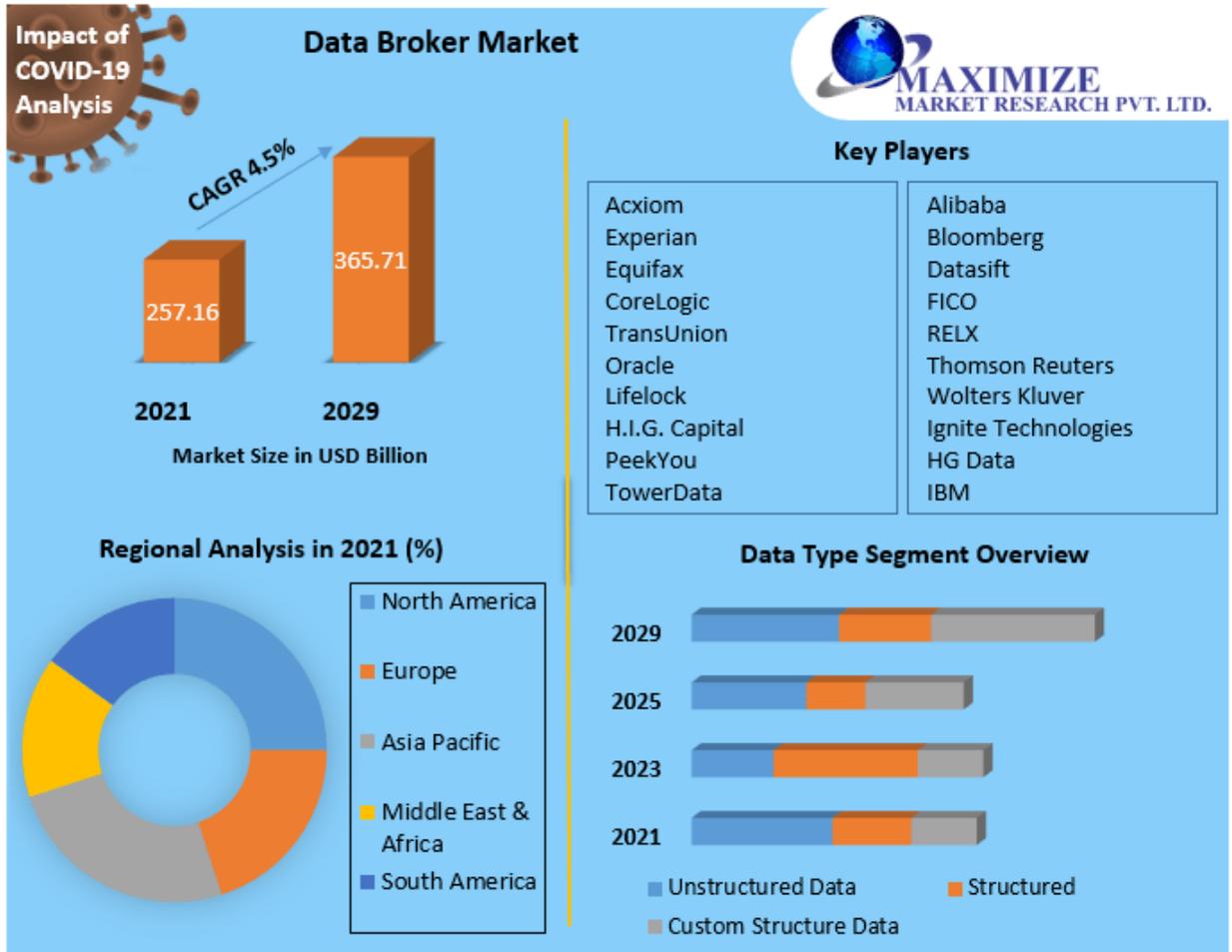
This proposal is aimed at the monetization of health care data. However consider how this market structure could be translated if the data industry were further divided into sector specific submarkets using this type of cookie filtering.

If a users data portal was the sum of all data from these three categories of monetization provided by the FTC, it could be localized by sector specific firms providing a privacy protection barrier and incentivizing market collaboration.



This is an example of how data brokers get information according to the FTC's study on 9 data brokers. Notice how the arrows go one way, with our proposal the arrows would go both ways and the data brokers at the end would be responsible for the user-interface API which integrates and filters cookies. Moreover, they would be liable for the privacy protection of this data. In this way our free-market alternative also functions as a natural data localization plan where the data is misrepresented.

## Implication of Market projections



This figure can be used to illuminate the forecast of what the future of the data brokerage market will be. The key metric is the dramatic projected increase in the custom structure data. In the FTC's call, there is a section on how data brokers do not only get information from primary sources, but they are also in constant dialogue with each other. Consider how this dialogue is not transparent and cannot be taxed in any clear way. Under the current privacy rights regime in this winner-take-all, monopolistic, and abusive marketplace, such a key market transition will not be taxable.

## **Conclusion**

Consider that this is only the medical tax and that Its Acxiom alone has servers that “process more than 50 trillion data transactions” a year. Company executives have said its database contains information about 500 million active consumers worldwide, with about 1,500 data points per person.” (Singer 12) This is the data users should have access to, and these transactions should be benefiting users in some way. Such a revenue stream will never see the light of day if big tech sharks gain exclusive access to such data. The elimination of third-party cookies under the guise of privacy with the ultimate aim of in-house, first-party cookie dominance is an abuse of power and fundamentally anti-competitive, resulting in more monopolistic control by Google, Apple, Facebook, and Amazon. The four horsemen are arriving to turn a democratic democracy into a digital oligarchy. We must stop the shift to an exclusive first-party cookies regime and implement a regulated free-market structure where third party cookie transactions are for the benefit of the user.

The future of the data brokerage marketplace is at a tipping point because of legislative pressure for privacy. In response, opportunistic attempts for the implementation of exclusive meta-platforms represent monopolistic market takeover ploys by large tech firms. We must not allow this legislation to have radical unintended consequences. There must be a swift and calculated response. The bottom line of our proposal is stopping the development of meta-platforms which seek to collect, analyze, and monetize every facet of data as an asset in-house.

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