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The great disruptor

Netflix's rise has been phenomenal

Alfonso Cuaron's Roma marked a number of firsts for Netflix when the 2019 Oscar nominations were announced. The black-and-white, autobiographical drama not only received the streamer's first best picture nomination, but also nabbed its first nominations for best director, best actress in a leading role, original screenplay, foreign-language film, production design, sound editing and sound mixing. In all, Netflix's Spanish-language production received an incredible 10 nominations. Netflix has also joined the Motion Picture Association of America (MPAA), which is the world's most influential entertainment lobby, with members including Walt Disney Studios, Paramount Pictures, Sony Pictures Entertainment, Twentieth Century Fox Film, Universal City Studios, and Warner Bros Entertainment. Neither event surprised the cognoscenti.

Netflix's entry into the MPAA was overdue. Its output of some 82 films and 700 original television shows is more than the combined output of any five other MPAA members. Apart from scale, the content generation is truly global, spread across 21 nations, and sourced in many languages. Roma is not an outlier — a high percentage of Netflix's content receives critical acclaim, quite apart from being popular. The company now has close to 150 million global subscribers, and its streaming services and content libraries are available in every major nation except China. By some estimates, Netflix's subscribers consume 20 per cent of global bandwidth on any given weekend. The growth has been phenomenal. The streaming service has picked up over 30 million subscribers in the last 12 months. Revenues have grown by over 35 per cent in 2018, crossing the $16 billion mark, with operating profits almost doubling to $1.6 billion. Netflix does have substantial debt — about $8.5 billion — on the balance sheet, and it is cash-flow negative due to its huge spend. Nevertheless, investors love the stock, which has outperformed other tech giants such as Facebook, Apple and Google in the past year. It is an amazing track record, especially when you consider that Netflix entered the business of original content-generation as recently as 2011.

It started as a DVD-rentals outfit, back in 1997. It has transformed itself multiple times to stay ahead of technological change. First, it moved from being a DVD rental service to become a streaming service in the United States. Then it moved from sourcing content to producing it. In its journey to becoming a global streaming service, which delivered its own in-house content, it tiptoed past regulators in multiple jurisdictions, avoiding major trouble by sticking to entertainment. It also adapted to different flavours of the internet, handling slow connections in India, and coping with unfair local competition in places without net-neutrality. Indeed, Netflix has been accused of pusillanimity because it bends over backwards to avoid trouble by self-censoring. This happened, for instance, when comedian Hasan Minhaj's criticism of the Saudi regime was not broadcast in the Kingdom. But the focus on entertainment also avoids the fake news scandals that have rocked Facebook, Twitter and Google. Netflix has, therefore, successfully straddled the entertainment and tech universes, combining business models and techniques in a manner unlike any other company. It uses a subscription model similar to that of Hollywood studios and TV channels.

But it also uses data science as effectively as Amazon, Facebook or Google to guess what its viewers enjoy watching. Its algorithms sort viewers into thousands of different "taste clusters". This is done reportedly by adapting an astrophysics program originally used to classify the spectrums of stars. It has proved remarkably successful in commissioning content that works locally and, globally, with appropriate subtitling. Narcos is popular in India while Latin Americans like Sacred Games.

This evolutionary process has made it a massive and serial disruptor. Netflix disrupted the home DVD-rental market. It disrupted conventional TV programming with its streaming services. It disrupted the global model of content generation and commissioning where even the biggest studios stuck, by and large, to their own turf. Ironically some analysts feel that the success will sooner, or later, lead to trouble with regulators if it crowds out free-to-air, public-service broadcasters. But until such an eventuality comes to pass, Netflix will retain a unique identity as the only company that is a member of both FAANG (Facebook, Apple, Amazon, Netflix and Alphabet's Google) and the MPAA.

Donald Trump: Economic czar?

It is not fair to downplay President Trump's achievements by citing post-war growth rates

SITHARAM GURUMURTHI

Ever since Donald Trump assumed charge as the President of the United States on January 20, 2017, not a single day passes without some controversy or the other. Trump's outspoken criticism of top leaders of his Nato allies is well known. His firing of almost all the top echelons of his administration has not even spared the secretary of state. His own election campaign is under the scanner with the Robert Mueller investigation reaching an advanced stage. At the same time, it is necessary to reflect on the performance of the US economy during the last 25 months, which has received comparatively little coverage in the media.

Mr Trump in recent months has been saying "We have the best economy we have ever had in the history of our country". According to the *Washington Post*, Mr Trump has repeated this at least 40 times. When he took charge in January 2017, he vowed to achieve a growth rate as high as 6 per cent. According to the US department of commerce, the economy grew at an annualised rate of 3.2 per cent in the third quarter of 2017. GDP growth reached an annualised rate of 4.2 per cent in the second quarter of 2018. Though this is the best for several years, it was still less than the 4.9 per cent achieved in the third quarter of 2014.

Daniele Polumbo, a data journalist, draws attention to the fact the Dow Jones Industrial Average not only rose to record highs throughout 2017 in a run that stretched back to August 2016, but broke through the 20,000 mark for the first time 10 days after Mr Trump's inauguration. It is now close to 25,000. Oil has fallen by double digits, with the US becoming a net exporter in November 2018 for the first time in 75 years. Similarly, Standard & Poor's 500 Index and the Nasdaq also reached historical heights.

Corporation tax cuts prior to Christmas 2017 gave a big boost to US shares coupled with Mr Trump's US-centric policies, clampdown on the bureaucracy and promises of investment in infrastructure have been cited as factors responsible for this phenomenon. According to the October 2018 report of the Reality Check Team of BBC, the Dow reached record highs under the Trump Presidency "largely unfazed by geo-political risks like rising trade tensions with China and Trump's decision last year to ditch the Trans Pacific Partnership (TPP) trade deal".

The unemployment rate in September 2018 was 3.7 per cent, the lowest since 1969. In fact, the downward trend had started during the Barack Obama years. According to Ryan Sweet of Moody's Analytics, the US now has a greater proportion of older and better educated workers, both of whom tend to have lower unemployment rates. According to Mr Sweet, the unemployment rate was below four per cent in 2000 and demographic changes since then would suggest the current rate should be even below the 3.7 per cent in September 2018. African American unemployment levels have also registered record low levels. In May 2018, unemployment for black Americans fell to 5.9 per cent, the lowest since the 1970s. Ivanka Trump proudly tweeted that the unemployment rate for women was at a 65-year low.

On February 1, the labour Department reported that payroll has increased by 304,000 in January, which was about 130,000 more jobs more than what economists in Wall Street had been predicting, notes John Cassidy in the *New Yorker*: The job gains were widely spread across the economy, with construction, health care, retail and leisure, and hospitality showing particular strength. The report also said wages are still rising at an annualised rate of more than three per cent, while consumer price inflation is falling, because of cheaper energy prices. That inflation-adjusted wages are rising, is the key point according to Mr Cassidy.

If Mr Trump wants to go down in history as the greatest jobs-producing president of the US, he will have to create more than 18.6 million jobs, estimates Kimberly Amadeo in the January 28 issue of *The Balance*. While Bill Clinton created many jobs, Mr Trump will have to create at least 32.7 million jobs to beat the record of President Franklin D Roosevelt, who had increased the number of jobs by more than 21 per cent. Ms Amadeo notes that the construction industry makes the most efficient use of federal dollars to create jobs. A study by the University of Massachusetts at Amherst found that $1 billion spent on public works created 19,795 jobs, which was better than defence spending, which created 8,555 jobs at the same cost.

Mr Trump's plan is to create jobs by eliminating outsourcing and bringing jobs back from Japan, China and Mexico. The US lost 34 per cent of its manufacturing jobs between 1998 and 2010. Many were outsourced by US companies to save money while others were eliminated by new technology (robotics, artificial intelligence and bio-engineering). Mr Trump's thrust on infrastructure development (the "Rebuild America" programme) envisages spending $200 billion over 10 years to match $800 billion in business spending. While this will create one million apprentices in two years, it also requires the approval of Congress.

Mr Trump's critics, however, hold that GDP growth was much higher in the 1950s and 1960s.

Job gains in January were spread widely across the economy, and wages are still rising at an annualised rate of more than three per cent

Megan Black, assistant professor of history at the London School of Economics, notes that the post-war era witnessed tremendous economic growth, most notably in manufacturing, agriculture, transportation, trade, finance, real estate and mining, and back in the 1950s, the unemployment rate was even lower than the current rate of 3.7 per cent.

According to Mark Zandi, chief economist at Moody's Analytics, "We are experiencing a boom now but it is increasingly likely it will bust early in the next decade when the fiscal stimulus fades, and the economy struggles to manage the much higher interest rates." Mr Zandi predicts that the next recession will arrive on June 20, 2020.

It is not fair to downplay Mr Trump's achievements by citing post-war data. There is no denying the fact that Mr Trump has transformed the US into a booming economy in less than two years.

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Intermediary liability law needs updating

SUNIL ABRAHAM

There is a less charitable name for intermediary liability regimes like Sec 79 of the IT Act — private censorship regimes. Intermediaries get immunity from liability emerging from user-generated and third-party content because they have no "actual knowledge" until it is brought to their notice using "take down" requests or orders. Since some of the harm caused is immediate, irreparable and irreversible, it is the preferred alternative to approaching courts for each case.

When intermediary liability regimes were first enacted, most intermediaries were acting as common carriers — ie they did not curate the experience of users in a substantial fashion. While some intermediaries like Wikipedia continue this common carrier tradition, others driven by advertising revenue no longer treat all parties and all pieces of content neutrally. Facebook, Google and Twitter do everything they can to raise advertising revenues. They make you depressed. And if they like you, they get you to go out and vote. There is an urgent need to update intermediary liability law.

In response to being summoned by multiple governments, Facebook has announced the establishment of an independent oversight board. A global free speech court for the world's biggest online country. The time has come for India to exert its foreign policy muscle. The amendments to our intermediary liability regime can have global repercussions, and shape the structure and functioning of this and other global courts.

The amendments to India's intermediary liability regime can have global repercussions, and shape the structure and functioning of the world's social media giants

While with one hand Facebook dealt the oversight board, with the other hand it took down APIs that would enable press and civil society to monitor political advertising in real time. How could they do that with no legal consequences? The answer is simple — those APIs were provided on a voluntary basis. There was no law requiring them to do so.

There are two approaches that could be followed. One, as scholar of regulatory theory Amba Kak puts it, is to "disincentivise the black box". Most transparency reports produced by intermediaries today are on a voluntary basis; there is no requirement for this under law. Our new law could require a extensive transparency with appropriate privacy safeguards for the government, affected parties and the general public in terms of revenues, content production and consumption, policy development, contracts, service-level agreements, enforcement, adjudication and appeal. User empowerment measures in the user interface and algorithm explainability could be required. The key word in this approach is transparency.

The alternative is to incentivise the black box. Here faith is placed in technological solutions like artificial intelligence. To be fair, technological solutions may be desirable for battling child pornography, where pre-censorship (or deletion before content is published) is required. Fingerprinting technology is used to determine if the content exists in a global database maintained by organisations like the Internet Watch Foundation. A similar technology called Content ID is used pre-censor copyright infringement. Unfortunately, this is done by ignoring the flexibilities that exist in Indian copyright law to promote education, protect access knowledge by the disabled, etc. Even within such narrow application of technologies, there have been false positives. Recently, a video of a blogger testing his microphone was identified as a pre-existing copyrighted work.

The goal of a policy-maker working on this amendment should be to prevent repeats of the Shreya Singhal judgment where sections of the IT Act were read down or struck down. To avoid similar constitution challenges in the future, the rules should not specify any new categories of illegal content, because that would be outside the scope of the parent clause. The fifth ground in the list is sufficient — "violates any law for the time being in force". Additional grounds, such as "harms minors in anyway", is vague and cannot apply to all categories of intermediaries — for example, a dating site for sexual minorities. The rights of children need to be protected. But that is best done within the ongoing amendment to the POCSO Act.

As an engineer, I vote to eliminate redundancy. If there are specific offences that cannot fit in other parts of the law, those offences can be added as separate sections in the IT Act. For example, even though voyeurism is criminalised in the IT Act, the non-consensual distribution of intimate content could be criminalised, as it has been done in the Philippines.

Provisions that have to do with data retention and government access to that data for the purposes of national security, law enforcement and also anonymised datasets for the public interest should be in the upcoming Data Protection law. The rules for intermediary liability is not the correct place to deal with it, because data retention may also be required of those intermediaries that don't handle any third-party information or user generated content. Finally, there have to be clear procedures in place for reinstatement of content that has been taken down.

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OTHER VIEWS

RBI's rate cut signals desire to bolster growth momentum

But MPC fails to flag fiscal slippages, which can hurt private investment

Barely four months after the Reserve Bank of India switched its monetary policy stance to one of "calibrated tightening", signalling interest rates were set to trend higher, it has reversed direction. Not only did the RBI's monetary policy committee unanimously opt to revert to a "neutral" posture, but the rate-setting panel unexpectedly decided, by a 4-2 majority, to cut the benchmark repo rate by 25 basis points, to 6.25 per cent. The MPC's reasoning has been fairly straightforward. With Consumer Price Index-based inflation having continued to slow and projected to stay well below the medium-term target of four per cent till at least the October-December quarter, the MPC saw an opportune moment to pivot to a growth-supportive stance. That there is a need to bolster economic momentum is evident from the RBI's downward revision of the forecast for growth in the first half of the next fiscal year. The projection has been lowered to a range of 7.2-7.4 per cent, from 7.5 per cent posited in the RBI's December statement, as moderating global growth and slowing overseas demand add uncertainties to the prevailing domestic imbalances.

Inexplicably, however, the RBI's policy statement fails to make any mention of its hitherto abiding concern about fiscal prudence. With the Interim Budget showing some slippage from the fiscal roadmap and projecting a budget deficit of 3.4 per cent for both the current financial year and the next, the risk of government borrowing crowding out private investment demand remains tangibly real.

The Hindu, February 8

The timing seems political

Why grill Robert Vadra now?

Faith in the fairness of police investigations is in short supply in India. The Enforcement Directorate — an investigative agency, like the discredited CBI — questioned Robert Vadra, the husband of recently-appointed AICC general secretary Priyanka Gandhi Vadra, for six hours on Wednesday and again on Thursday. It appears the allegation of money-laundering and the possession of properties in London has been made against Ms Gandhi's husband. He has denied these allegations in detailed replies and has alleged a "witch-hunt". The BJP, on the other hand, held a press conference on Wednesday at which it alleged that Mr Vadra made money illegally in petroleum and defence deals when the UPA was in power, and used earnings from these transactions to buy the London properties. The saffron party offered no proof.

But what is evident is that India sent no letter rogatory to the British authorities to investigate Mr Vadra's suspicious dealings, if there were any, in that country. So it's not clear on what basis the ED is building its case. The question is apt to be asked if pulling her husband in for questioning is the government's way of degrading the charismatic Ms Gandhi as an effective election campaigner against the BJP, especially in Uttar Pradesh, where Prime Minister Narendra Modi's Lok Sabha constituency is located.

The Asian Age, February 8

A ticking time bomb

Unemployment data deeply worrying

The suppressed National Sample Survey Office report on employment in India bears some deeply worrying evidence apart from the rising unemployment rate. One such is the decline in the labour force participation rate, which measures the ratio of people employed or actively seeking employment to the total working age population. This ratio has been falling systematically and sharply in India, from 63.7 per cent in 2004-05 to 55.9 per cent in 2011-12 to 49.8 per cent in 2017-18. The ratios for men and women taken separately have both fallen. Roughly three-fourths of the male working age population is included in the LFPR while only a quarter of working age females are employed or are actively seeking work.

This obviously is of concern since India is supposed to have a demographic dividend with a large proportion of young people entering the labour market. However, the report reveals that the LFPR for youth in the age group of 15-29 years has also declined from 44.6 per cent in 2011-12 to 38.2 per cent in 2017-18. The unemployment rate for this age group is estimated to be an alarming 27.2 per cent in 2017-18. Looking at the big picture in India, there is, evidently, an employment crisis. Tweaking data will not change any of these facts. The Centre is sitting on a potentially inflammable social problem.

The Telegraph, February 8