



Better to Ask For Forgiveness, Not Permission

Publish Date:

February 2015

The abundance of information available to us today would have been unimaginable to people living only twenty years ago. Previous generations found themselves bound to a restricted group of information channels and distribution networks, which were often slow and with limited scope. With the emergence of the internet everything changed. Suddenly, the flow of information and the methods of exchange became seemingly limitless.

Through recent developments in mobile technologies—laptops, tablets, and wearable digital devices such as glasses and watches—the movement and exchange of ideas and knowledge has made information even more accessible and ubiquitous.

Underpinning this great leap forward has been the ability for anyone to participate. The internet is a global platform which gives a high school student in Siberia or a university drop-out in Shepparton the same opportunity to experiment and create as a professor at Stanford University.

According to Adam Thierer, the author of a new book *Permissionless Innovation: The Continuing Case for Comprehensive Technological Freedom*



, it is this freedom to experiment and invent without asking permission that has underpinned the economic benefits of the internet.

Thierer argues: 'Permissionless innovation is about the creativity of the human mind to run wild in its inherent curiosity and inventiveness. In a word, permissionless innovation is about *freedom*.' The key outcome of the freedom that results from permissionless innovation is not anarchy but openness. It creates an environment in which entrepreneurs and innovators can flourish by removing the barriers to entry.

However, new technologies are disruptive. Faced with the upheaval that they can cause, modern policy debates continue to revolve around one key question: 'Must the creators of new technologies seek the blessing of public officials before they develop and deploy their innovations?'

On the one side, those that espouse the importance of the precautionary principle argue that new inventions and technologies must be curtailed until an inventor can prove beyond all doubt that their inventions will not harm individuals, the environment, or damage cultural or social norms.

The other disposition, 'permissionless innovation', refers to the notion that 'experimentation with new technologies and business models should generally be allowed by default.'

Of course, history is riddled with examples of regulators being precautionary by default. In the midnineteenth century, the British Parliament passed the 'Red Flag Law' as part of the 1865 *Locomotive Act*, designed to limit the dangers caused by the development of the automobile.

As a result, early cars were restricted to a speed limit of two miles an hour in towns and cities and four miles on the open road. The law also stipulated that three people were required to operate any automobile: one to drive, one to stoke the engine, and one to walk fifty meters in front with a red flag or lantern and warn pedestrians of the approaching danger.

These laws, which were introduced because of heavy lobbying from stage coach and railroad companies, stifled the growth of the industry in Britain. But in Germany and the United States (except the state of Vermont), who did not have any such laws, the industry flourished. Britain finally repealed this law in 1896.

More recently, the regulatory reaction to the use of commercial drones, 3D printing, and autonomous cars offer interesting case studies which Thierer examines in an accessible fashion. But it is tempting to think about restrictions that continue to be applied to GM crops and the onerous regulations that add millions of dollars to the cost of developing new pharmaceutical drugs and medications—a cost that is inevitably passed onto the consumer.

The internet itself is the most poignant example of the dangers of the precautionary principle in practice. Although permissionless innovation has been a pivotal element of the success of the platform in transforming our lives, few people realise that it was not always the default position.

Indeed, for many years commercial use of the internet was not allowed. Drawing from the 1982

MIT handbook for the use of ARPAnet, the predecessor of the internet, Thierer highlights original restrictions that were placed on the technology:

It is considered illegal to use the ARPAnet for anything which is not in direct support of government business... Sending electronic mail over the ARPAnet for commercial profit or political purposes is both anti-social and illegal. By sending such messages, you can offend people, and it is possible to get MIT in serious trouble with the government agencies which manage the ARPAnet.

As a result of those restrictions, the internet remained, in its formative years, a closed club for selected university professors, government bureaucrats, and some engineers. Although these restrictions were no doubt placed on the web with the best of intentions, in hindsight the opportunity costs of such restrictions were immense.

Once these restrictions were removed and commercial use was allowed to proceed, social and economic opportunities became apparent and the internet developed beyond most people's wildest expectations.

Yet despite the technological progress that has resulted from innovators who did not seek prior approval from regulatory bodies and the beneficial results that have emerged from the internet, social networks, and mobile technologies, there remains a prevalent disposition to be overly cautious about new things. Groups that espouse this way of thinking seek to beat all imagined harms out of any new development before they will allow it to proceed, with intensely harmful consequences for innovation and economic growth.

Of course, that does not mean that problems that develop from disruptive technologies should be ignored. But regulation should remain a last resort. Bottom-up adjustment and integration will always be more effective than top down bureaucratic controls.

Furthermore, Thierer argues that torts, common law, and class actions provide mechanisms that hold firms introducing potentially dangerous products in to the market accountable. These instruments create an incentive for firms to make better, safer products over time.

The limited regulation placed on the internet has shown what entrepreneurs can achieve when government gets out of the way. Thierer makes a powerful case for slow-moving and risk-averse regulators to take heed of this lesson and ensure the freedom to innovate without permission becomes the default position, rather than the rare exception.