Book Review

Review of Tusikov, Natasha. 2016. *Chokepoints: Global Private Regulation on the Internet*. Los Angeles: University of California Press.

320 pp. Paperback. US \$29.95. ISBN: 9780520291225.

Matthew Perks

University of Waterloo
mperks@uwaterloo.ca

Following moral panic over the proliferation of child pornography and other illicit content online, intermediaries such as Google were coerced to take on the responsibility of acting as *chokepoints* to control what content is seen or unseen. Subsequent regulation has resulted in a sequence of ‘behind closed doors’ agreements that, instead of policing illicit activities, extend control and surveil users’ behaviours online. Natasha Tusikov’s book *Chokepoints: Global Private Regulation on the Internet* (2016) examines the emergence of private self-regulation and the interdependencies between corporate and state actors. Her argument for a typology of chokepoints offers an important, timely intervention for surveillance studies. *Chokepoints* demonstrates why greater attention should be paid to growing concerns over surveillance by state and private actors through the study of anti-counterfeiting, tracking of financial flows, and users’ online behaviours. These issues speak to a wider scope of problematic surveillance practices, the effects of which are just beginning to be grappled with.

Tusikov uses the term “macrointermediaries” to describe the private actors who dominate and shape the internet through significant market share, sophisticated systems, and global reach—such as Google, eBay, PayPal, Visa, and Mastercard (6). The focus of the book is how responsibility and regulation became negotiated and managed by state, corporate, and macrointermediary actors through the creation of numerous agreements between 2009 and 2013. *Chokepoints* interrogates eight core agreements between these actors surrounding “payment, advertising, search, marketplace, and domain name systems” operated by core macrointermediaries (33). The book draws from 90 semi-structured interviews with legal, corporate, and state stakeholders involved in anti-counterfeiting in the United States, the United Kingdom, Canada, and Australia and observations from an industry conference focused on anti-counterfeiting enforcement strategies. Tusikov’s focus on anti-counterfeiting regulation highlights the newest approach toward regulatory interventions online. This methodology allows for a triangulation of interview, legislative, and observational sources of data that supports a strong, comprehensive analysis.

Tusikov introduces and explains the eight agreements in the first chapter: “*Secret Handshake Deals*.” These agreements go by many names (e.g., legally non-binding, “behind closed doors,” and industry-led) and a strength of *Chokepoints* is that the author threads them together in a manner that is easy to follow. Unable to keep up with online counterfeiters, anti-counterfeiting efforts by corporate rights-holders (e.g., music conglomerates and fashion brands) created these agreements to coerce macrointermediaries to

proactively regulate on their behalf at a global scale. These agreements detailed an imperative to target those re-selling, pirating, or hawking wares that might damage a rights-holder's brand. Tusikov outlines how rights-holders framed counterfeiting goods as a serious offense, worked with state actors to pressure private corporations to self-regulate, and charted the rise of macrointermediaries online. She then illustrates their problematic effects, which result in legitimate merchants and users being swept up in "enforcement dragnets" (14).

Chapter Two, "*Internet Firms Become Global Regulators*," discusses the transition of macrointermediaries from private internet firms to global regulators of content, purchases, and users. As state actors introduced anti-counterfeiting bills into law, macrointermediaries faced increasing pressures to take on the role of enacting regulation and enforcement. This chapter highlights how these agreements bring macrointermediaries together as regulatory bodies able to watch over and exert power over the content and services available to users on the internet.

Chapter Three, "*Revenue Chokepoints*," focuses on macrointermediaries PayPal, Visa, and Mastercard. Tusikov details the processes whereby state and rights-holders demanded that these macrointermediaries terminate services to websites. Revenue chokepoints can prohibit targeted sites from generating revenue on the grounds of hosting or selling counterfeit goods or content. These same platforms control the online advertising industry and view inappropriate sites and advertisements as threats to revenue. Rights-holders coerce chokepoints to regulate these advertisements, but there is risk of targeting with punitive action lawful users and sites.

Chapter Four, "*Access Chokepoints*," interrogates the role of intermediary Google and domain intermediary GoDaddy. Access chokepoints regulate what can or cannot be found by users online. This includes the implementation of search engine codes of conduct, domain name seizures, and the emergence of mass, automated notice and takedown processes through which advanced algorithms regulate both legitimate and illegitimate users. Chapter Five, "*Marketplace Chokepoints*," examines case studies of eBay and online Chinese market Taobao. As rights-holders and state actors coerce marketplace macrointermediaries to regulate their platforms in a proactive manner, these platforms affect the items that move through these markets, while potentially targeting and punishing legitimate users and merchants.

Chapter Six, "*Changing the Enforcement Paradigm*," interrogates how state actors coerce macrointermediaries into operating as enforcers through threats of harsher legislation to ensure their compliance. In doing so, Tusikov develops a more complicated picture of power, drawing attention to commonalities that are present in the desires of corporate and state actors. Tusikov uses this chapter to expertly outline the clear lack of due-process, accountability, and meaningful transparency in these agreements.

In the seventh and final chapter, "*A Future for Digital Rights*," Tusikov theorizes how corporations and macrointermediary actors could regulate users in ways that generate greater fairness, transparency, and accountability. Consequently, they limit the rights to privacy and control that users have over their data. Tusikov concludes that movements for the protection of digital rights thus far, including those seen in Brazil, set the stage for more meaningful transparency in how users' data are used, controlled, and protected internationally. Movements such as these lay the foundation for future claims to digital rights, including the right to be forgotten by search intermediaries.

Chokepoints provides scholars interested in state and private surveillance a 'peek behind the curtain' of the secret handshake deals that inform internet regulation. As these agreements are designed to be opaque to the public, Tusikov offers a concise exploration of how they signal structural changes in the way our content and rights are regulated online. However, Tusikov does not delve into how user data are surveilled or otherwise used by macrointermediaries. She instead focuses on tracing the processes by which these

corporations have become our watchers. Nonetheless, *Chokepoints* investigates how these global corporations have risen in power to comprise the global surveillance apparatuses we know today. Those interested in examining the historical basis of contemporary surveillance online would benefit from Tusikov's arguments.

Tusikov's *Chokepoints* is a timely, necessary intervention of private regulation in the field of surveillance studies. As platforms like Facebook are called to self-regulate amidst allegations of 'fake news,' and YouTube faces criticism for the mass de-monetization and silencing of Queer creators and users, analyses of the systems that regulate and surveil our online behaviour are critical to helping us understand digital mechanisms of social control and censorship. As an area of research often black boxed in terms of access and analysis, the book offers a skilful examination of the analogous systems whereby users are regulated online, one that addresses the hybridity of law and regulation shaping surveillance on the internet. *Chokepoints* offers a compelling interrogation into regulatory systems that intersect with issues of state and private surveillance and the digital rights of users online.