



#4. HOW FREE TRADE RULES LET BIG TECH TARGET MĀORI

Ngā Toki Whakarururanga's commitment to a Tiriti-based Kaupapa aims to ensure that international free trade agreements preserve the rangatiratanga of Māori within a digital world.

It is very unnerving to receive ads on social media that refer to something you have just talked about! The ads might make you feel like you are being watched or listened to by your phone or laptop. Yet, it is likely you have accepted, without realising, the right for Big Tech companies, like Facebook/Meta or Google, to collect your data or even listen to you via their apps to identify which ads to send you. And maybe you don't think twice anymore about accepting the cookies on a website or their terms and conditions or privacy policy when you sign up to a new form of social media.

The price of free Internet is your data

How much do we know about what happens to our data? A 2022 study showed that [Google](#) collects the most data from users (on average 30 different kinds of data), beating out Meta, Twitter and Amazon. The more data Google has, the more accurate it can make its algorithms and the more money it can earn. That's how Google makes money even though the search is free! The price is your data and you are a captive consumer.

Google (owned by Alphabet) now the largest media company worldwide. It made US\$224.5 billion in advertising revenues in 2022. Every time that you click on its website, Google runs an [automated bidding auction](#) for advertisers to target you. Another multi-billion dollar industry of "[data brokers](#)" uses your data from mobile apps, cookies, and other sources to create detailed dossiers, which have detailed information on your location, health, what you have bought and your browsing history. Those who buy your data include predatory loan companies, scammers and foreign governments.

Targeted advertising can be toxic and racist

Algorithms (step-by-step instructions that drive your online activities) target ads to categories of consumers based on analysis of data that shows who is most likely to buy what. That often means targetting vulnerable people to buy what is bad for them. Alcohol, fast foods, tobacco are common. [Overseas studies](#) show young black Americans see far more alcohol ads online than kids in general. A 2022 [UN report](#) showed how alcohol marketing by companies are effectively beyond the reach of local laws and courts when they operate from offshore. Algorithms also screen out those the advertisers don't want; that could be Māori, women, activists, unionists, the poor.

Data as the "new oil"

The most important global rule for Big Tech and data brokers is an unfettered right to mine, harvest, control, transfer and use your data. It's not that they aim to target you personally; that's inefficient. They target the categories you fit into based on ethnicity, gender, class, age, wealth, past online behaviour. Unrestricted cross-border movement of data lets the Tech giants consolidate and grow their data base and sell it to other marketers.

What does this have to do with free trade rules?

Free trade agreements act as vehicles for Tech giants to retain their firm grasp on your data. The e-commerce or digital trade rules that are signed on to in many recent free trade agreements:

- provide guarantees against what the tech companies call “data localisation” requirements. This allows them to take data from a source country anywhere they want to. In some agreements, the source country cannot even require a copy of data is held locally. That means no ability for the government to require that Māori data is held in Aotearoa under Māori control.
- prevent governments requiring the disclosure of source code (software that human beings can read) and algorithms (the higher level instructions that underpin the code). Without access to both of them it is very hard to prove bias, racism, discrimination and targeting, as well as practices that undermine competitors. This rule has sometimes been loosened after governments’ recognised the problems.
- guarantee that the digital companies can operate from outside the country without a local presence, which makes it almost impossible to make them comply with domestic law.

Aren’t there any protections in these agreements for Māori?

The exceptions to these rules are very limited, are open to challenge, and differ across agreements. The Treaty of Waitangi Exception aims to advance Māori commercial interests; it does not address issues of racism or targeting. The Waitangi Tribunal found it does not provide an effective counter to the “data localisation” and source code rules.

What does this mean for Māori?

Māori control over Māori data is out of reach the moment it is passed onto tech companies. If free trade agreements allow the big players a virtual free-for-all on data, they will deepen their stanglehold and ethical Indigenous alternatives will struggle to gain any foothold. And if a trade agreement denies access to source codes and algorithms, or says only governments can do so, there is almost no way for Māori to expose the systemic racism of how many digital tools operate.

Can’t Māori provide ethical alternatives?

Some Māori techies are working on developing Māori digital platforms and algorithms that would operate on the ethnics of tikanga. But they don’t have the same level of data to develop the sophisticated products that big tech can. To achieve that requires levels of control over data that they don’t have, or compulsory data transfers that trade agreements don’t allow.

What’s the answer?

Ideally, “free trade” rules need leave the digital space alone. Significantly, the US is now backing off the data localisation and source code rules it created because of public and political concern to counter the power of Big Tech.

At the least, Aotearoa needs to protect the ability to adopt a Tiriti-based regime that recognises rangatiratanga, kaitiakitanga and tikanga as legal principles to govern data and use of these technologies in accordance with tikanga - along with the principle of free, prior and informed consent that applies collectively for whakapapa. For that to happen, Māori data needs to be held in Aotearoa and subject to domestic law and policy, including the Human Rights and Race Relations Acts. The “digital trade” agreements prevent that.

We need more people to be aware of these risks and join Ngā Toki Whakarururanga to stop and reverse trade agreements that threaten rangatiratanga in a Tiriti-based digital space.

Check us out at ngatoki.nz/kaupapa/digital/