

Europe puts American Big Tech on Leash

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BERLIN — It's official: Silicon Valley's most important regulator is Europe.



[That's the message from the decision late on Wednesday by the EU to push ahead with plans to impose tougher controls on Big Tech's use of content they don't own \(read: digital copyright\).](#)

[Despite years of intense PR and behind-the-scenes lobbying, U.S. tech giants failed to convince European lawmakers to ditch their plans for new copyright rules. That matters for a whole host of reasons that Silicon Valley will have to digest in the weeks ahead. Most immediately, the move is a challenge to the business model of Google built around unfettered access to information online.](#)

[More importantly, perhaps, it again signals Europe's willingness to confront American tech on other fronts that affect the sector, in particular the ongoing debate over digital taxation. And then there's the first mover advantage: By pressing ahead with tough rules on issues from tax to privacy and copyright before the U.S., Europe is establishing its claim to be the de facto standard-setter for the emerging digital world.](#)

[Keep in mind this isn't the EU's first crack at trying to tame the "Big Five." Last summer, the European Commission slapped a record €4.3 billion antitrust fine on Google for what it called "serious illegal behavior," a reference to the pressure the platform exerted on smartphone manufacturers to pre-install apps for its Android operating system. That penalty followed a €2.4 billion antitrust fine leveled against Google by the Commission in 2017 in connection with its online shopping business.](#)

[On another front in 2016, the Commission ordered Apple to pay Ireland €13 billion plus interest, rejecting the company's decades-old sweetheart tax arrangement with Dublin that enabled it to pay almost no tax.](#)

[Brussels' run-ins with American tech have prompted howls in Washington. President Donald Trump complained to Commission President Jean-Claude Juncker last year that the official behind the fines, antitrust chief Margrethe Vestager \(whom Trump referred to as "your tax lady"\), "hates" America.](#)

[But some elements of the EU's approach to Silicon Valley are also gaining traction on the other side of the Atlantic. Lawmakers from both major U.S. parties are talking openly about antitrust and tech. California passed a sweeping privacy law in the spirit of Europe's own revamp.](#)

Meanwhile, Europe is turning up the dial. In addition to the EU-level actions, individual countries are stalking U.S. tech over everything from privacy to tax. Just last week, German authorities took aim at Facebook's practice of tracking users and collecting their data, the heart of its business model. The ruling by Germany's cartel office, which Facebook is appealing, prompted Wired to quip: "German regulators just outlawed Facebook's whole ad business." France, meanwhile, decided in December not to wait on the EU to come up with a digital tax and proceeded alone with a law that took effect in January.

Market matters

Amid the perpetual talk about Europe's decline and marginalization on the world stage against the rise of powers like China and India, it's easy to lose sight of the fact that it remains a hugely important market for U.S. companies, in particular internet platforms that rely on well-heeled consumers to fuel their ad sales and online commerce. Germany and the U.K., for example, are Amazon's biggest markets after the U.S. With 28 countries (for now, anyway) and more than half a billion consumers, the EU is even bigger than the U.S.

Whatever spin emerges from Silicon Valley in the coming days over how to interpret Europe's decision on copyright, one shouldn't lose sight of the bottom line: Silicon Valley lost big.

Forget the jargon about "upload filters," "neighboring rights" and "data mining" that dominates the copyright debate. At its core, Europe's proposed new regimen involves a concept that has been a tenet of civilization for millennia: ownership. Supporters of the new rules argue that owners of content rights should be compensated for its use.

While the details of Europe's move may seem obscure, the longer-term impact could be considerable. If the new copyright standards win final approval in the coming weeks, which seems likely, that could mark the end of the freewheeling age of the internet. "The Wild West on the internet, which often left right-holders with less than their due, is over," said Axel Voss, the lead European legislator who negotiated the package.

And not only in Europe. For all of the EU's dysfunction, if there's one thing it's good at, it's regulation.

If you're sitting on the other side of the Atlantic and think you can safely ignore Wednesday's decision, Google the acronym "GDPR."

Despite years of planning, Europe's introduction of new digital privacy rules last summer caught many U.S. companies flat-footed. With fines for GDPR violations totaling up to 4 percent of a company's global annual revenue, U.S. firms scrambled to comply, spawning a cottage industry for lawyers and consultants.

If the copyright rules win final approval, another stampede to comply could follow. And adhering to copyright rules across digital borders is bound to be more complicated than it sounds.

U.S. publishers, meanwhile, have already begun pressuring Washington to follow Europe's lead.

For years, Silicon Valley has argued that traditional notions of privacy and ownership are an anachronism in the digital universe, reasoning that sooner or later many of today's challenges will work themselves out with time and continued innovation.

They may be proved right in the long term. But in the meantime, Europe will be looking over their shoulder.

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