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Insight

Why tech firms should not stoke transatlantic tensions

by Zach Meyers, 24 January 2025

Some large US tech firms want to enlist President Trump in their attempts to water down EU tech laws. Such a strategy will only make life harder for US firms in Europe – and globally.

If Donald Trump's re-election had not already set off alarm bells across Europe, American tech firm CEOs lining up behind the president surely did. While the EU has largely failed to develop tech firms of its own, it could at least console itself with passing tech laws which US firms had to comply with. However, some US-based tech firms, emboldened by Trump's return to the White House, are taking an increasingly defiant stance towards EU regulation. Elon Musk's active interference in European politics, and Meta chief Mark Zuckerberg's call to "work with President Trump" to push back on Europe's "ever increasing number of laws institutionalising censorship", put into question Europeans' ability to regulate the largest online platforms, even when they do business in the EU.

How fiercely Trump will back America's tech incumbents is in question. Elon Musk appears to be driving the political agenda; other tech CEOs may simply be aping Trump's political positions to protect themselves. Some members of Trump's inner circle remain critical of the largest US tech firms. But if he chooses to, Trump has plenty of ways to pressure Brussels to scale back their enforcement of EU tech laws. If European authorities bowed to this pressure, US tech firms may secure short-term wins. But US firms would find this has severe long-term costs. Government around the world, not just in Europe, will harden their suspicions that overreliance on US technology is unwise – contributing to more protectionism and reinvigorating efforts by countries to reduce their dependence on American technology especially in technologies like artificial intelligence (AI).

US technology firms' woes in Europe are growing. Google, Apple and Meta are being investigated under the Digital Markets Act (DMA), a law aimed at forcing large tech platforms to act more fairly and allow more competition. Google could face billions of euros in fines and a possible break-up under a separate EU competition investigation. Meta was fined €1.2 billion for data protection breaches in 2023, and Apple was ordered to pay €13 billion in back taxes to Ireland in a case decided by the European Court of Justice in 2024. However, by far the most politically charged set of investigations surrounds the EU's Digital Services Act (DSA), which requires large social media networks to identify and mitigate systemic risks such as threats to democracy. The Commission is investigating whether Elon Musk's social network X complies with the law, concerns which were recently amplified by Musk's recent interview with German far-right leader Alice Weidel on the platform. US firms are not the only targets of the EU's DSA: TikTok is also under investigation for lack of transparency and risks to civic discourse and the electoral process.

US firms have until now mostly bowed to foreign laws, at least in large jurisdictions. For example, after being blocked for a month across Brazil, X complied with local legal requirements to prevent hate speech. Occasionally, tech firms have instead decided to delay product rollouts or stop offering certain services instead. For example, Meta blocked news sharing on Facebook and Instagram in Canada and Australia after those countries passed laws requiring large tech platforms to share advertising revenue with news publishers. However, often these decisions were reversed (as in Australia) or proved to be fairly inconsequential – as when Meta's rollout of Threads in the EU was delayed temporarily, or Apple's delay of AI features in the EU, which has not been a game-changer.

Large tech firms have been loath to suspend important rollouts in the EU (despite making threats to), likely because the bloc is their largest foreign market and they cannot risk losing market share by withholding new products. So far, then, the economic power of the US tech giants has not made them 'too big to care'. If anything the opposite is true: as the firms have become larger and more established, they have tended to focus more on helping influence regulation rather than ignoring it outright, as smaller firms like Uber are accused of.

Take content moderation rules. These impose a direct cost on social media networks. They also impose an indirect cost: if users spend more time engaging with provocative content, reducing the spread of that content may reduce a user's time on a platform and, consequently, advertising revenues for social media networks. However, the largest networks have largely accepted laws on content moderation as a cost of doing business around the world. Even Mark Zuckerberg's recent shellshock announcement of ending Meta's fact-checking program in the US seems to reflect this: perhaps concerned about being fined under the DSA, Meta clarified that it had "no immediate plans" to end fact-checking in the EU. Furthermore – in a development that received little fanfare – Meta's platforms, X and a number of other large platforms signed an updated voluntary code of conduct to fight illegal hate speech in Europe, as a way of demonstrating their compliance with the DSA.

Donald Trump offers an opportunity to change the dynamic where large firms have mostly had to engage constructively with EU policy-making. Trump has previously had a fractious relationship with many large technology firms – but he has also railed against what he sees as foreign governments' "unfair" treatment of American champions. US firms are now lining up behind Trump. In addition to ditching its fact-checking program, Meta unceremoniously replaced its head of global policy with a Republican and appointed a close associate of Trump to its board. OpenAI's CEO Sam Altman, Microsoft's Satya Nadella, Google's Sundar Pichai, Amazon's Jeff Bezos and Apple's Tim Cook have all tried to establish a rapport with Trump and donated to his inaugural fund. And at least some of these firms seem keen to influence European policy-makers as a first priority. That is not because the EU is a global outlier or takes a particularly extreme approach: its approach to online safety, for example, is in many ways more moderate and friendly to technology firms than stricter or more complex rules in countries like the UK and Australia. Rather, it is likely because the EU is often a "first mover" and has global influence – the famed 'Brussels effect'.

How can the EU continue to enforce its laws if Trump is prepared to turn them into transatlantic disputes? Unconcerned by niceties like Europe's commitment to the rule of law, Trump would have many options to cajole Europe – such as threatening the EU with tariffs, limiting energy supplies, retaliating against European firms doing business in the US, or putting the US commitment to NATO in doubt. Vice-President JD Vance has already explicitly linked US support to NATO to the EU's approach to regulating X.

Europe will not withdraw its tech laws in response to Trump's pressure. There is a broad political consensus behind the DSA, DMA, the EU's data protection rules, and many other digital regulations – particularly among MEPs who would need to agree to repeal or amend these laws. The implementation and enforcement of these laws remain ripe areas which the US could try to influence, however. Many MEPs are urging the Commission not to back down in enforcing the EU's digital laws, but they have limited ability to influence the Commission's approach. Similarly, Commission president von der Leyen has emphasised in recent days that the EU "plays by the rules" and offers predictability. However, Brussels' digital enforcers are not independent agencies, structured so as to avoid political interference. Despite von der Leyen's rhetoric, the Commission has already paused some of its cases against US tech firms to conduct a 'review'.

In many of its investigations the Commission could find face-saving ways to back down if that proves politically convenient. Take the DSA's rules for large social media networks. Despite Zuckerberg's complaint that it "institutionalises censorship", the DSA's central rule does the opposite: it exempts online platforms from liability for the content posted by their users, thereby protecting speech. In return for this broad exemption from liability, online platforms are merely asked to comply with reasonable conditions – such as requiring platforms take down illegal content once they become aware of it, and for large platforms, to identify and mitigate certain 'systemic risks' the platforms create, such as risks to electoral processes and civic discourse. The DMA does not dictate which specific steps platforms must take to mitigate these risks. This gives the Commission flexibility in how it enforces the DSA. A platform is not in breach of the DSA solely because it stops some measures aiming to tackle disinformation, as Meta is doing in the US, or if it loosens the rules on hateful content, as Meta is doing globally. What matters is the platform's overall effort at tackling social harms – for which there is no objective or hard-and-fast measure of whether a firm is compliant. As noted above, while Meta has loosened some protections against hate speech, it has also taken positive action such as signing a new voluntary code to tackle hate speech in Europe: the Commission will have to weigh these competing facts carefully. Similar judgement is required when the Commission enforces the DMA: large tech firms can mostly decide for themselves how to comply with that law.

This flexibility may prove useful. If the Commission is persuaded that it needs to effectively water down landmark laws like the DMA and DSA, however, this would come at a cost. Politicised enforcement does not just harm consumers who suffer the consequences of a less safe online environment, or firms like tech start-ups which were relying on strong enforcement of the DMA to have a fair chance to compete. It will create a more unpredictable and volatile regulatory environment for businesses, who have recently been crying out for the EU to adopt principles of 'better regulation'. Better regulation includes ensuring laws are impartially and objectively enforced and that regulators are allowed to get on with their job without political interference. The EU ought not take the approach of the UK, which has just replaced the chair of its competition agency, just as the agency was about to start implementing a new law on digital competition, in an effort to force the regulator to take a supposedly more pro-growth approach.

If the EU decides not to back down, how else can it stand up to Trump? One option would be to respond with its own tough tactics. The EU's 2023 Anti-Coercion Instrument (ACI), for example, allows the Commission to respond to countries which try to pressure the EU with threats related to trade or investment. The Commission can design responses to such threats, including applying tariffs, excluding a country's firms from public procurement opportunities, or enacting measures targeting their investments in the EU. However, implementing these countervailing measures requires the support of a qualified majority of member-states. It is unclear whether such a majority would support escalating a dispute with the EU's largest trading partner, much less one the EU is dependent on for exports, security and increasingly for the EU's energy needs.

With or without escalation, one consequence is clear. Just as many countries today are trying to 'de-risk' from China, coercion by the US on issues as sensitive as online safety would convince countries around the world, not just in Europe, that it is unwise to allow digital markets to continue to be dominated by a small number of US firms. That will be particularly true in areas like cloud computing and AI which, to a much greater extent than social media, will become important inputs across many sectors of the economy.

To address this concern, countries will make much stronger efforts to boost their 'digital sovereignty' and to become less dependent on US technologies. To date, efforts to create competitors to the US tech giants have had little success, at least in Europe – and that might continue to be the case. But even if they fail, these efforts will be accompanied by increasing attempts to close off European markets to US digital services, in particular in sensitive areas like defence contracts. US tech firms have constantly railed against supposed EU protectionism, notwithstanding that the EU is far more open than the US, and is becoming even more open over time. Stoking transatlantic tension may produce some short-term results for American firms currently facing fines in Europe. But if they choose to help stoke disputes between the US and Europe, tech firms will see fewer opportunities in their most important foreign market.

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