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A digital divide? Digital market governance in the transatlantic space

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Abstract. The EU and the US have emerged as central actors in the governance of the digital economy. Existing scholarship tends to view their digital governance models as distinctive approaches, with the EU advancing a rights-based model and the US favoring a market-based approach. Yet, such arguments mask the underlying interdependencies that shape digital policymaking on both sides of the Atlantic. In this paper, we show how the digital market governance strategies of the EU and the US were shaped through the constant interactions of their respective attempts to unleash market competition and shield citizens from harm. By tracing the evolution of transatlantic digital governance since the 1990s, we highlight how both jurisdictions initially emphasized market making over market correction, hoping to unleash the promises of new technology. As the digital economy consolidated around a few large US-based technology companies, however, digital governance in the EU shifted toward a more protective approach. EU digital governance attempted to balance the EU's dependence on foreign digital technology firms—and their influence on EU policymaking—with efforts to get these firms to follow EU market rules. European regulatory efforts reverberated across the Atlantic as US policymakers took up concerns related to market concentration. With the reelection of Donald Trump, digital policy is increasingly becoming intertwined with both trade and security policy on both sides of the Atlantic. The paper, then, underscores the interrelated nature of digital policy-making where markets and authority increasingly span borders.

Keywords: Digital markets; Market-building; Market-correcting; Regulatory spillovers; Transatlantic governance

Introduction

In just two and half decades, nearly every aspect of a person's life has been transformed by mobile phones, social media, and digital platforms, while elevating a set of new firms to the commanding heights of the international economy. These opportunities, however, have been tempered by the fact that these same technologies generate a host of complex policy challenges, ranging from questions of free speech and antitrust to safeguarding individual privacy.

In response, the European Union (EU) and United States (US) have adopted markedly different approaches. The EU has introduced a series of comprehensive regulatory packages, including the General Data Protection Regulation (GDPR), Digital Services Act (DSA), Digital Markets Act (DMA), the Data Act, and the Artificial Intelligence Act (AI Act), which emphasize consumer protection over market promotion. Meanwhile, comprehensive federal legislation

to regulate the digital economy and 'Big Tech' has been absent in the US. Instead, the US is marked by a patchwork of state-level rules, as exemplified by the adoption of state privacy and content moderation laws. In contrast to the push for greater harmonization in digital regulation in the EU, the US seems to move toward greater fragmentation of its own digital single market.

What explains these distinct approaches to digital governance in both jurisdictions? Existing explanations tend to attribute these divergent regulatory responses to underlying differences in values and regulatory philosophies across the jurisdictions. The EU's propensity to pass comprehensive regulations reflects its emphasis on protecting human rights through public controls, whereas the non-interventionist approach in the US reflects its greater deference to market actors and decisions (Long and Quek 2002; Schwartz and Peifer 2017). From this perspective, both approaches are fundamentally incompatible and bound to clash as they compete to become the global standard (Aaronson and Leblond 2018; Bradford 2023).

In contrast with this "systems clash" perspective, we argue that the EU and the US have faced very similar political and normative starting points in the creation of their respective single markets (Parsons and Andrejuk in this issue; Newman 2008). In both cases, regulatory debates have been shaped by tradeoffs between market-correcting and market-making governance approaches (Newman 2020). And in both cases, market-making policies dominated early policy phases. In the case of the EU, however, market-correcting policies have become more prevalent over time as the EU worked toward building its digital single market. The unequal growth of digital markets across the Atlantic combined with fears of overdependence on US companies for digital services further reinforced the push toward market-correcting policies in the EU. In the US, private companies have largely prevented the adoption of market-correcting legislation on issues like privacy and online content at the federal level. Consumer protection advocates, finding little room at the federal level, have targeted state level initiatives. At the same time, even in the absence of federal legislation, US advocates of market-correcting policies have found openings through agencies, most notably on anti-trust through the Department of Justice (DOJ) and the Federal Trade Commission (FTC).

Bridging research on transnational politics and international political economy, we add that the difference in approaches today is rooted less in normative fights and more in the interaction of the two jurisdictions over time. Instead of developing in isolation before competing with each other internationally, digital regulation in the EU was shaped by regulatory decision in the US and vice versa. As the EU became increasingly dependent on the US for various digital services (Beaumier et al. 2024), market-correcting policies have become more prominent both because domestic industry was weak and fear of US dominance heightened the perceived urgency for regulatory action. In short, as Europe failed to develop its own Big Tech, it needed to regulate that of others. Meanwhile, the recent rise of state laws and executive actions aimed at correcting market failures in the US is in part the result of the transnational influence of EU regulations on US authorities and companies. In effect, the GDPR inspired US citizens behind the original ballot initiative to create a privacy law in California and drove industry associations to lobby the Californian government to harmonize its standards with the EU (Gunst and De Ville 2021: 448).

Our argument makes several contributions. Theoretically, we build on scholarship that emphasizes interdependence, spillovers, and feedback loops among domestic regulatory regimes

(Farrell and Newman 2010, 2019). We specifically highlight how economic competition and regulatory spillovers shaped the trade-offs and policy responses to the rise of their respective digital markets. In doing so, we contribute to work that attributes regulatory outcomes in the EU and US to underlying political processes rather than ideological discrepancies (Young 2024). Empirically, we demonstrate how the US and the EU digital governance approaches balanced the tradeoff between market-making and market-correcting goals in the creation of their respective digital single markets over the last 30 years, and how these choices have, in turn, influenced the evolution of the broader structure of their respective digital single markets. While previous studies noted the existence of regulatory overlap in their approaches (Bradford 2023), they generally failed to highlight their continuous influence on each other. When such influence was noted, it was typically portrayed as one-sided, with the EU portrayed as the actor able to impose its rules globally (Bradford 2020; Gunst and De Ville 2021). We demonstrate, by contrast, how the US market-driven approach also influenced digital regulations in the EU.

Digital governance approaches, trade-offs and spillovers

The EU and the US are commonly depicted as two competing models of digital governance (Aaronson and Leblond 2018; Bradford 2023);[1] the EU as a single market where public authorities proactively adopt laws to safeguard their citizens' rights in the digital sphere and the US as a single market adopting a *laissez-faire* approach, delegating the regulation of digital markets to private actors. At the core of these differences supposedly lies the European belief that certain fundamental rights are too critical to be left to market forces and the American view that government intervention risks hindering the growth and innovation of digital markets (Bradford 2023: 36 and 110; see also Long and Quek 2002; Schwartz and Peifer 2017).

These depictions of the EU and the US as two fundamentally distinct ideal types of digital governance, however, overlook the fact that each jurisdiction's approach is more multifaceted than often recognized. In effect, both aim to simultaneously combine market-making and market-correcting policies (Newman 2020). Market-making policies define policies aimed at promoting economic development and expanding market dynamics, whereas market-correcting policies focus on restraining market failures and protecting broader social interests. Significantly, a single policy may incorporate elements of both market-making and market-correcting dynamics.

Previous work on EU policymaking highlights how digital governance in the EU promotes both market values and social protections (Bonnamy 2024; Broeders et al. 2023). As Bonnamy and Perarnaud (2023: 11) notes, the GDPR, for example, simultaneously aimed to protect EU citizens privacy rights and promote the free movement of personal data across Europe and to some extent globally. While not as extensively studied, the US has also been found to complement its market-driven approach with policies aimed at protecting its citizens, including vulnerable ones like children (Macenaite and Kosta 2017).

Rather than representing two competing models of digital governance, the EU and the US can in effect be seen as diverging in how they balance the same interrelated goals of building their digital markets and protecting their citizens. In both jurisdictions, new technology spurred the call for basic market-making policies (i.e. digital property rights, liability laws, and open access rules). Both jurisdictions passed laws that guaranteed open and free markets. As the

markets developed, however, demand grew for social protection in a kind of Polanyian 'double movement' (Cioffi et al. 2022; Newman 2020). According to Polanyi (2001[1944]), liberal economies in the nineteenth century evolved through the constant interaction of laissez-faire and interventionist policies. The digital transformation has similarly created an impetus for re-embedding digital markets within political institutions, in an effort to ensure that they align with broader social goals. The commodification of individuals' online activity contributed to demands for individual privacy rights (Zuboff 2019). Greater concentration of market participants in the hands a few powerful firms generated calls for antitrust action. And the spread of hate speech and online misinformation has catalyzed government regulation of digital content (Gorwa 2024).

Beyond simply balancing similar goals, we argue that interactions between the two jurisdictions shaped how each ended up promoting market-making and market-correcting policies, thereby influencing the evolution of the structure of their respective digital single markets. The new interdependence literature emphasizes how open markets not only facilitate the cross-border flow of goods and services but also alter domestic policy processes (Farrell and Newman 2016; Kahler 2016). This is especially true in the context of digital markets which span national borders and so contribute to creating a transnational political economy. As digital companies from the EU and the US sell their services in each other's market, they interact with market-making and market-correcting policies put forward in both jurisdictions.

This creates what Farrell and Newman (2016) describe as a state of "rule overlap", where market relations operate under both regulatory systems at once. Such overlaps can sometimes lead to conflicts, as digital companies may encounter contradictory rules, and neither the EU nor the US can easily impose its own regulations on the other (Drezner, 2007). However, rule overlap is not solely a source of potential conflict; it can also serve as a productive force, influencing the design of each jurisdiction's digital governance approach and reshaping how public and private interests intersect in both markets. We hereafter focus on two key dynamics to explain the joint development of US and EU digital policy.

First, we expect that domestic firms' market potential will influence their support for either market-making or -correcting policies within each jurisdiction. Firms anticipating gaining from economic integration are more likely to emphasize the benefits of global growth, advocating for market-making policies that promote openness and interoperability to enable access to international consumer markets. Earlier work on European integration specifically highlights how transnational business interests pressed for the adoption of market-making policies to remove national barriers and gain new market shares (Sandholtz and Zysman 1989; Sweet and Sandholtz 1997). In a transnational context, these same firms will also tend to oppose the adoption of market-correcting policies that risk creating more fragmentation and limit their growth in other jurisdictions. For example, US Big Tech companies actively lobbied against the GDPR, employing both direct and indirect strategies, such as funding European industry associations to advocate on their behalf (Atikcan and Chalmers 2019; Kalyanpur and Newman 2019; Seidl and Laurer 2021).

Conversely, when competition becomes lopsided in favor of foreign firms, domestic firms can use this imbalance to highlight the risks consumers may face and advocate for new market-

correcting policies that primarily target foreign competitors. As one market grows faster than the other, it effectively changes the trade-offs shaping regulatory development in the other jurisdiction. Domestic firms no longer see the same benefits associated with market expansion, if market liberalization primarily benefits foreign competitors. Meanwhile, market-correcting policies can contribute to create new barriers for transnational businesses while providing protection to the domestic industry. In the context of the EU's recent turn toward industrial policy, research highlights how intensifying foreign competition has prompted the EU to move away from a primarily market-making approach and adopt a more interventionist economic agenda (Seidl and Schmitz 2024; Heidebrecht 2024).

Second, regulatory decisions made in one jurisdiction will have spillover effects on the policy-making opportunities of the other. Public authorities influence each other's willingness to adopt market-correcting policies through both direct and indirect interactions (Lavenex 2014). As national markets become increasingly global, public authorities often engage in transgovernmental networks to promote greater harmonization in their policies (Slaughter 2004). A prominent example is the Transatlantic Technology Council, launched in 2021, where policymakers from the EU and the US collaborate to develop a shared vision for building a transatlantic digital economy (Fahey 2023). In the realm of privacy, multiple agreements negotiated between the EU and the US over cross-border data flows have similarly played a critical role in shaping how personal data is protected in each jurisdiction and avoid potentially costly disruptions (Beaumier et al. 2024; Farrell 2003).

Firms can also be catalysts of regulatory convergence. Once new market-correcting policies are adopted in one jurisdiction, firms may voluntarily implement them in other to facilitate their activities across multiple markets (Bradford 2020). Private gains from harmonization works to extend the reach of market-correcting policies across national frontiers (Beaumier 2021; Gunst and De Ville 2021). Furthermore, once firms adopt these stricter regulations, they may lobby their home jurisdictions to codify them into law, effectively raising barriers to entry for competitors in the future (Vogel 1995; Vogel and Kagan 2004). In some cases, firms can even push for the negotiation of international agreements to resolve any fragmentation coming from market-correcting measures adopted in different jurisdictions (Heering et al. 2025).

As US and EU digital policy evolved through these twin dynamics, it significantly shaped the evolution of the broader structure of their respective digital single markets. Market-correcting policies typically involve the creation of new regulations (i.e., positive integration), while market-making policies can either aim to remove regulatory barriers (i.e., negative integration) or push toward greater regulatory harmonization (i.e., positive integration) (Scharpf 1999: 45). The greater the adoption of policies promoting positive integration, the more likely economic integration will be driven by centralized institutions. In contrast, the greater the adoption of policies promoting negative integration, the more likely it will lead to markets governed by multiple and often overlapping institutions. As transatlantic interactions increasingly pushed each jurisdiction toward a particular policy orientation, they also influenced whether their digital markets evolved around more or less centralized institutional arrangements. The next section begins by examining how each jurisdiction initially approached the development of their digital markets in the early 1990s.

The rise of the digital economy and early transatlantic approaches

With the commercialization of digital technologies in the mid-1990s and early 2000s, both the US and EU prioritized market-making policies. At the same time, the way in which they governed this market-making process diverged in that the US promoted a more laissez-faire policy aimed at removing existing barriers, while the EU joined market making with the creation of new supranational institutions.

Market-making in the United States

In the 1990s, the Clinton administration in the US identified the burgeoning digital economy as a critical sector where they held a comparative advantage (Kiggins 2015). In this context, the adoption of digital policies in the US became focused on nurturing the growth of its digital market. Amid strong lobbying efforts by industry representatives (Kiggins 2015: 99—100), this mainly took the form of promoting greater delegation of regulatory tasks to private actors. The idea that private actors should lead the regulation of this new marketplace crucially became the first principle of the Clinton's administration official digital governance strategy (White House 1997). The four other principles all emphasized limited government intervention and, where necessary, geared toward creating a business-friendly environment for online activities. This approach primarily reflected a market-making logic, wherein US authorities focused on eliminating potential barriers to the rise of the digital economy, while private companies were tasked with addressing any social issues arising from the development of this new market. While part of a broader trend toward promoting private regulation across the economy (Bartley 2007), this push was particularly pronounced in rapidly growing digital markets.

A first example of this tendency to favor a market-making strategy in practice can be seen in the regulation of online communication, particularly through the adoption of Sect. 230 of the Communications Decency Act (CDA) in 1996. By shielding internet companies from legal liability for third-party content posted on their websites, Sect. 230 of the CDA actively contributed to create a permissive environment that has been credited as underpinning the growth of the Internet, in particular of social media platform companies (Kosseff 2019). A year before the adoption of this law, the Supreme Court's decision in *Stratton Oakmont, Inc. v. Prodigy Services Co.* maintained that companies allowing individuals to post online comments acted like publishers and could thus be held liable for the content of those comments. In this case, Prodigy, a company allowing individuals to post comments on online bulletin boards, was found liable for defamatory comments posted by one of its users.

This decision was seen as creating a potentially significant barrier to private investment in the new digital marketplace. As one of the two authors of the bill, then-congressman Ron Wyden (D-OR), recalled asking himself when he learned about the Supreme Court's decision: "why would anybody invest in a technology company if they thought they would be held personally liable?" (cited in Kosseff 2019: 60). By enshrining into law that companies allowing users to post content online could not be held liable for their users' actions, the US removed this risk and paved the way for the emergence of today's major social media platforms, such as Facebook and YouTube. At the same time, it left private actors in charge of defining what harmful content should be removed and under what conditions (Bradford 2023: 44). To this day, the original

emphasis on enabling market actors to freely exchange information online continues to take precedence over other important social objectives, such as preventing online disinformation or harassment.

Privacy regulation provides another example of how the US prioritized a market-making logic early on. As digital markets expanded, data about individuals' online activities became increasingly valuable, driving innovation and economic growth while raising concerns about how this information was collected, used, and protected. Noting that the full potential of digital markets could only be achieved "if the privacy rights of individuals are balanced with the benefits associated with the free flow of information", the Clinton administration maintained that the best approach was to promote industry self-regulation (White House 1997). In addition to facilitating online business operations within the US, they viewed self-regulation as a way to eliminate barriers to the global expansion of digital markets caused by regulatory fragmentation across jurisdictions (Farrell 2003; Mueller 2017). At the same time, the Federal Trade Commission (FTC) played a pivotal role in shaping and enforcing these industry-led regulations. Following consultations, the FTC issued a set of fair information principles in 1998, largely based on guidelines negotiated by the US government at the OECD 18 years earlier. These principles became the foundation for many industry self-regulations. Furthermore, under its authority to address unfair or deceptive acts, the FTC sued companies that failed to comply with their own rules, transforming what might have been pure self-regulation into a form of publicly enforced self-regulation. In addition, the US government enacted sector-specific laws to protect sensitive data, such as health and children's information. However, beyond these targeted interventions, limits over the use of personal data remained largely voluntary, reflecting the prevailing business interest in minimizing restrictions in the development of digital markets (Newman 2008).

Market-making policies in the context of European integration

In Europe, policymakers were similarly driven by competitiveness concerns in the early days of developing their digital governance strategy. As an example of an early transatlantic policy spillover, previous liberalization policies in the telecommunication sector in the US put pressure on the EU to adopt similar measures and look for ways to remain competitive in a digital environment (Franda 2001: 84). The digital revolution, in effect, coincided with the privatization of public monopolies for telecommunications and many of these firms like Deutsche Telekom thought that they could be the winners of a new transatlantic market (Wired 2000).

Against this backdrop, EU officials, led by then-Commissioner for the Internal Market and Industrial Affairs Martin Bangemann, explored options for the EU to harness digital technologies to strengthen its single market. The Bangemann report, stemming from these deliberations, explicitly urged European leaders "to put its faith in market mechanisms as the motivating power to carry [the EU] into the information age" (European Commission 1994: 2). In many ways, the report appears quite similar to the US digital policy framework adopted by the Clinton administration. It talks of a "market-driven revolution", establishing "minimum [government] regulation" and the need to "safeguard competitive forces" (European Commission 1994: 13, 16 and 17). In other words, it presented a vision of European authorities actively working to safeguard and promote market dynamics in the emerging digital economy.

The 2000 E-Commerce Directive serves as another example of the EU's early prioritization of market-making policies. In its effort to further develop the EU digital single market, the Directive introduced several provisions aimed at removing barriers for European companies to participate in this new marketplace. Chiefly, it established intermediary liability limitations similar to those found in Sect. 230 of the US and stipulated that commercial disputes between consumers and sellers in different Member States would be handled under the legal jurisdiction of the sellers.

The EU, however, differed in how it implemented its market-making approach. EU policy-makers were much more concerned with preventing fragmentation within the European single market. As highlighted in the Bangemann report, the EU questioned whether the rise of digital markets would become "a strategic creation for the whole Union, or a more fragmented and much less effective amalgam of individual initiatives by Member States" (European Commission 1994: 10). This emphasis on preventing fragmentation pushed the EU to adopt market-making policies by creating new supranational institutions. The underlying goal was that harmonization at the EU level would foster the growth of the digital single market. In practice, this approach also allowed for industry self-regulation but primarily as a means of implementing principles and rules established by European public authorities. Significantly, this approach constituted a form of coordinated self-regulation where market-correcting rules were first determined by European public authorities, as opposed to the enforced self-regulation model predominant in the US (Bach and Newman, 2004).

This specific approach to building the EU digital single market was perhaps most evident in the realm of privacy. Following the Bangemann report, one of the first policies designed to prevent the fragmentation of the EU digital single market was the 1995 European Data Protection Directive. The Directive linked market-correction to market-making objectives: it aimed to facilitate the free flow of data within Europe by establishing a common set of data protection rules. During the Directive's negotiation, national privacy regulators played a pivotal role, threatening to hold up market integration if it did not include comprehensive rules governing the use of personal data by the private sector (Newman 2008). This effort resulted in the establishment of higher data protection standards compared to those in the US, frequently threatening to disrupt transatlantic data flows (Beaumier et al. 2024). While Article 27 of the Directive encouraged the European Commission to promote the development of industry codes of conduct, these were primarily intended to ensure the proper implementation of the Directive rather than serve as a standalone framework for regulation (Beaumier 2023: 383). In the end, self-regulation never became as important as in the US. Where it was adopted, it functioned chiefly as a mechanism to implement and reinforce EU legal principles. By hitching their agenda to the market-making objectives of the Commission, European data privacy agencies were able to successfully push for market-correcting policies.

In sum, in the early phases of the digital revolution both the US and the EU sought to foster the development of their digital markets and firms on both sides of the Atlantic thought they might win the competitive race. At the same time, there were already some differences in their regulatory approach, pushing the governance structure of their digital single markets in different directions. The US adopted an industry-led approach that prioritized the removal of domestic

barriers and minimal government intervention. As a result, the US relied on a greater diversity of policies adopted by private actors to govern its single market. In contrast, the EU pursued greater market integration through government-led regulation, emphasizing greater regulatory harmonization.

Digital governance spillovers and transatlantic divergence

For much of the 1990s and 2000s, the EU and the US were committed to promoting greater integration between their respective markets. Policymakers on each side of the Atlantic viewed international market openness as essential to maintaining domestic competitiveness in the emerging global digital economy. In practice, both the EU and the US prioritized maintaining an open digital ecosystem as a central component of their governance strategies (European Commission 1994; White House 1997). Over the years, they negotiated multiple international agreements to alleviate tensions between their differing regulatory approaches allowing for the rapid expansion of cross-border data services trade (Beaumier et al. 2024). Beyond merely resolving potential clashes, though, this openness changed the relative balance of political coalitions in both jurisdictions, influencing goals of building and embedding their respective digital markets.

A new wave of market-correcting policies in the EU

For the EU, openness came at the expense of its domestic digital ecosystem (Calvo et al. 2024). For a variety of reasons, the digital economy has consolidated among a handful of, mostly US, Big Tech companies rather than around legacy European telecommunications companies. As a result, Europe has grown increasingly dependent on these US firms. In the social media market, Meta alone accounts for more than 85 percent of the European market, while 95 percent of the European's online search market are controlled by Google and Microsoft (StatCounter 2024a,b). US firms also dominate the EU cloud market, a critical backbone of the broader digital economy. In 2022, Amazon, Microsoft, and Google controlled nearly three quarters of the EU cloud market. Meanwhile, the market share of EU-based cloud providers dropped from 27 percent in 2017 to just 13 percent (Synergy Research Group 2022). Even where the EU has sought to address this dependence and regain 'digital sovereignty', such as through the Gaia-X project to develop a European cloud, it has found itself reliant on US providers (Obendiek and Seidl 2023).

The EU's growing dependence on US technology companies shifted the intra-EU debate on two fronts. European firms had been weakened and potentially sought protection from US competitors. At the same time, advocates of market correction who were concerned about emerging harms in the digital world, from online hate speech to misinformation to violations of user privacy, could use the specter of foreign US companies to raise the salience of the need for protection. The Snowden revelations showed how the dominance of US tech companies within the digital ecosystem could be leveraged as a tool of the US security apparatus (Newman and Kalyanpur, 2019). Together, these dynamics contributed to EU officials further embracing calls for greater consumer protection and efforts to level the playing field (Heidebrecht 2024). These consumer protection initiatives, in turn, fed into a broader geoeconomic turn in which the EU increasingly aimed to adopt new policies and instruments to "protect and project" its

single market (Herranz-Surrallés et al. 2024; Quaglia et al. 2025). In the digital space, this was most clearly embodied in three signature pieces of legislation – the General Data Protection Regulation (GDPR), the Digital Services Act (DSA), the Digital Markets Act (DMA).

Both the DSA and the DMA place particularly strong regulatory requirements on the largest Big Tech companies, most of which are US-based. The DMA designates six companies as 'gatekeepers' in the digital economy: Alphabet (Google's parent company), Amazon, Apple, Booking, ByteDance, Meta, and Microsoft (European Commission 2023). The European Parliament's rapporteur for the DMA, Andreas Schwab explicitly noted that he viewed Google, Apple, Amazon, Facebook, and Microsoft as the "biggest problems" and that the EU should not feel forced to "include a European gatekeeper just to please [the United States]" (Espinoza 2021). Meanwhile, the DSA places strict obligations on a set of 20 'very large online platforms' (VLOPS) and 'very large online search engines' (VLOES), the majority of which are operated by U.S.-based firms (European Commission 2024).

The DMA also reflects the realization that in the context of digital regulation in the EU, a market-correcting approach necessarily precedes a market-making one due to the centralization of power in the hands of US Big Tech companies. These firms benefit from network effects, economies of scale, and their ability to buy up smaller competitors, which reinforce their market concentration over time (Weymouth 2023). Policies to support the growth of EU tech firms would therefore be unlikely to lead to long-term competitiveness of the EU digital economy without simultaneous measures to limit U.S. firms from acquiring emerging competitors.

At the same time, concerns about the EU's economic competitiveness in the digital economy have led to continued advocacy for market-making policies. In two 2024 reports to the European Commission, former Italian prime ministers Enrico Letta and Mario Draghi separately laid out visions for the future of the Single Market. In contrasting the development of the EU Single Market with the US, both reports emphasize the EU's lag behind the US in the digital sector. "The key driver of the rising productivity gap between the EU and the US has been digital technology," Draghi (2024, 20) notes. Similarly, Letta (2024, 55) notes that "European digital services are virtually non-existent today. Europe needs to foster a favourable environment for digital innovation, to reduce dependence on digital services from third countries." Both reports repeatedly point to overly burdensome regulation as one of the sources of this digital gap, along with financing challenges for EU digital firms.

As US companies have also increased their efforts to exert direct influence on the content of EU regulations, Big Tech has ramped up its lobbying presence in Brussels. In 2023 Meta, Microsoft, Apple, Google, and Amazon spent a collective 33.5 million Euro on lobbying in EU policymakers.[2] Despite spending only half as much on lobbying in the EU as they did in the US in 2023,[3] these US Big Tech companies still rank among the top six individual firms in lobbying expenditures within the EU. Several—including Amazon, Google, Meta, Microsoft, and Uber—also met with Mario Draghi to ensure their perspectives were reflected in his report to the EU (Draghi 2024: 2–3), and collectively, held over 1,200 high-level meetings with European Commission officials over the last decade.[4]

While Big Tech lobbying helped to forestall market-correcting digital regulation in the US, their status as 'foreign' companies has blunted the influence of US Big Tech on EU policy-making.

Civil society organizations were able to highlight the 'foreignness' of firms like Google and Facebook to limit their influence over the GDPR (Kalyanpur and Newman 2019). Moreover, while US-based digital platform companies can draw on latent support of consumers to limit regulation in their home jurisdiction (Culpepper and Thelen 2020), their 'foreignness' has also limited their political power in other countries (Girard 2024). US digital firms likewise experienced very mixed success in their attempts to mobilize European publics against the 2019 EU Copyright Directive (Kemmerling 2025).

In some instances, US Big Tech companies even supported elements of EU market-correcting policies. When the DMA first was unveiled, Facebook issued a statement that the company "hope[s] the Digital Markets Act will set boundaries for Apple" because "Apple controls an entire ecosystem from device to app store and apps, and uses this power to harm developers and consumers, as well as large platforms like Facebook" (Kelion 2020). Particularly on the DMA, this reflected a broader tendency among these companies to only oppose provisions that affected their core business models and support regulation that primarily harmed their competitors. "GAFAM were basically throwing each other under the bus," a representative of a Brussels-based industry association representing several US companies designated as gatekeepers under the DMA, noted, using a popular acronym for Google, Apple, Facebook, Amazon, and Microsoft.[5]

With the DMA and DSA, in particular, the EU doubled down on its approach to pursue positive single market integration through rule harmonization and the creation of supranational institutions. Both laws designate the Commission as the primary enforcement body for the largest online platforms, contrary to the GDPR, where enforcement was left to national authorities. As such, these two regulations contribute to push the EU toward a more centrally integrated digital single market.

Regulatory spillovers in the United States

As the EU was advancing its market-correcting agenda, advocates for market correction also saw openings in some corners of the US. Under the Biden and first Trump administrations, both the FTC and the DOJ ramped up antitrust action against Big Tech companies. Since 2020, the FTC and DOJ initiated actions against Amazon, Apple, Google, Meta, and Microsoft (Weiner, Jiang, Scassini, 2024). Concerns about the outsize power of Big Tech and efforts to limit this power through anti-trust action found bipartisan agreement through much of the Biden term (Kravitz 2022).

However, these efforts to promote market-correcting approaches were crucially facilitated by the new wave of EU regulations and direct exchange with EU regulators (Damro 2024). In 2021, the FTC, DOJ, and the Commission institutionalized their cooperation on digital competition policy through the establishment of the Technology Competition Policy Dialogue (Federal Trade Commission, 2021). As part of this initiative, the FTC has sent regulators to Brussels to consult on the implementation of the DMA (Federal Trade Commission 2023). A senior FTC official noted that one objective of this exchange was for the FTC to learn "how [the DMA] operated in practice in case [the FTC] ended up with [...] similar authority" (US House Committee on Oversight and Accountability, 2024). A former Commission anti-trust official even noted that on antitrust "the posture of U.S. enforcers is [now] much more direct and aggressive" than that of

the EU (Sisco 2024).

Outside of competition policy, however, federal action has been much more limited. Despite the regular proposal of federal consumer privacy legislation, these have failed to find sufficient support. In contrast to the EU, market-correcting policies have not become attached to a single-market creation process. Instead, market-correcting policies have been most successful at the state level, where there has been clear evidence of policy spillovers from the EU. The adoption of the GDPR directly influenced lobbying for privacy legislation in the US. Advocates of the 2018 California Consumer Privacy Act based their campaign on many of the GDPR's core features (Gunst and De Ville 2021). Similar laws have then been adopted in Virginia and Colorado. By June 2024, 19 US states had implemented comprehensive privacy legislation, albeit varying in scope (IAPP 2024). Regulation of online content moderation in the US has been even more fragmented and politicized. While states like Florida and Texas have enacted laws to limit perceived 'censorship' of conservative voices online, California and New York have laws that require platforms to be more transparent about their content moderation decisions and to strengthen reporting requirements for harmful content. By the end of 2024, states had adopted more than 50 bills targeting the social media use of minors (NCSL, 2024).

In sum, by prioritizing a more negative form of market integration, the US has seen a proliferation of state-level market-correcting policies, which have contributed to the growing fragmentation of its digital single market. This trend challenges the commonly held assumption that the US market is more economically integrated than the EU. At the very least, these recent developments show that the US enjoys greater international fragmentation than the EU.

Conclusion

On its face, differences in scale and scope of digital regulation in the EU and the US are substantial. While the EU has adopted comprehensive regulations of online privacy, digital services, and competition in the digital economy, similar federal laws are seemingly absent in the US. These different outcomes have largely been attributed to underlying differences in values and regulatory ideology (Aaronson and Leblond 2018; Bradford 2023).

However, depictions of the EU and the US as fundamentally different regulatory regimes tend to overemphasize regulatory conflict (Young 2024), and they mask the extent to which both jurisdictions responded to similar political challenges in the development of their single markets (Parsons and Andrejuk in this issue). We highlight how both the EU and the US faced a similar tradeoff—between promoting economic growth and competitiveness through market-making policies and embedding digital markets in political institutions through market-correcting policies.

Crucially, decisions to prioritize either market-making or market-correcting policies in one jurisdiction were influenced in important ways by both market and policy developments in the other jurisdiction. While both jurisdictions privileged market-making in the early days of the digital economy, as Europe lost market share to large US firms, market-correcting advocates gained advantage. The resultant policies, then, had consequences for US state-level actions and in turn increasing market fragmentation.

Significantly, these tradeoffs are still being reevaluated in a dynamic process in both jurisdic-

tions. With the re-election of Donald Trump, new transnational dynamics have emerged. US Big Tech have found renewed government support for their long-standing complaints that EU regulation creates an unfair burden on US companies. President Trump has used the treat of tariffs to push back against EU digital policies that he views as "unfairly" targeting US firms, including digital services taxes as well as the DMA and DSA (White House 2025). Meanwhile, in the EU, the new Von der Leyen Commission, inspired by the Draghi report, has shifted toward a stronger deregulatory agenda and promised to review "whether the expanded digital acquis adequately reflects the needs and constraints of businesses" (European Commission 2025, 6). As such, proposals by the Commission to weaken the GDPR and AI Act under the 'digital omnibus' package are not only (or even primarily) driven by US complaints but internal EU pressure (MacCarthy and Propp 2025). Here again, US pressure reinforces factions within the EU seeking to deregulate.

These dual developments are contributing to a renewed emphasis within the EU on regulatory simplification and competitiveness, suggesting a policy reorientation toward market-making strategies, particularly through negative integration. By contrast, in the US, market-correcting advocates remain largely sidelined at the federal level, leading to a patchwork of digital regulations across states and exacerbating the fragmentation of the national digital market.

Ultimately, our paper challenges the image of two systems clashing over the future of the digital economy and instead underscores the many ways that US and EU markets and governance are economically and politically interdependent with one another. The nature of those interactions will leave a lasting mark on the face of the digital economy in both.

Notes

1. China is generally represented as the third main model of digital governance in these analyses (Bradford 2023). Some have even otherwise talked of Russia and India as other competing potential models (O'Hara and Hall, 2021). As part of this special issue, we focus on the US and EU case.

2. Data retrieved from https://www.lobbyfacts.eu/search-all, accessed November 2024.

3. Meta, Microsoft, Apple, Google, and Amazon spent $74.1 million on lobbying US lawmakers in 2023 (OpenSecrets, 2025).

4. Data retrieved from https://www.lobbyfacts.eu/search-all, accessed November 2024.

5. Author interview, Brussels, June 2025. The interview was one of more than 20 semi-structured interviews that one of the authors conducted for a different project. We draw on this one interview only for illustrative purposes.

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