

The EU has become a digital colony. Time to act!

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A review of the policy papers that the European Union has published and the statements that key officials have made over the last three years, highlights the anxiety that the EU will not be able to effectively regulate its digital universe, protect its citizens' data and compete successfully with China and the US in the arena of digital geopolitics. References made by EU policymakers to digital or technological sovereignty and digital autonomy imply that the EU is a weak actor in the digital domain and thereby, this affects its ability to regulate its digital services, protect its critical information infrastructure and shape the development of global norms regarding cyberspace governance.

The hard reality is that the EU has been digitally colonized. The EU has been dominated by non-EU companies, especially US and Chinese firms. In the top 20 digital companies list, only one EU based company makes it to the list (Deutsche Telecom), while US companies claim 12 spots; China and Japan two each; and Hong Kong, South Korea, and Taiwan one each. Likewise, in Artificial Intelligence (AI), the EU is lagging both the US and China, in terms of private investment and adoption of AI technologies by the private sector and by the public sector. Currently, there is no significant European operating system, browser, social media network or search engine and the investment gap compared to the US and China is huge. The EU is a digital colony due to its dependence on foreign technology and its underdeveloped digital industry. Europe is lacking both the technological power and innovation that is concentrated in Silicon Valley and the extraterritoriality of US law, and the centralized decision-making and ambition to master digital infrastructure that characterizes China. There is a global race for technological leadership and the EU is falling behind.

In terms of digital geopolitics, the EU is unable to compete with its peer competitors, China and the US. This competition involves not only the politics of digital platforms that privileges certain technological giants, and the competition over the control of data, but also the division between liberal powers and authoritarian ones - in relation to Internet freedoms and cyberspace governance. Trapped between the US Cloud Act and Chinese 5G providers, Brussels needs to balance between data localization and technological nationalism on the one hand, and the lack of a strong industrial and technological base on the other hand.

In 2019, the EU expressed its concern about the potential reliance of its member-states on Chinese 5G infrastructure. Even though, Huawei was not banned, despite the pressure exercised by the US, certain member-states restrained Huawei's role in their networks. The EU is concerned about the lack of control over data produced in its territory. The global cloud market is dominated by US and Chinese technological giants. Both governments and the private sector in the EU, are concerned about using non-European data services, given the expansive extra-territorial ability granted to US law enforcement agencies to obtain foreigners' personal data under the 2018 US Cloud Act. As a result, the European Commission highlighted the need to deploy European designed cloud solutions and began discussions with the German and French governments, which had already launched the GAIA-X cloud project. Such initiatives aim to build a resilient digital infrastructure.

Technological giants like GAFAM, are collecting massive amounts of personal data and their economic model - data capitalism - is largely based on the collection and exploitation of online users' data to generate profit. Most EU citizens store their data with US cloud providers because there are hardly any European alternatives. This is problematic and has raised concerns within the EU, because US intelligence and law enforcement agencies can access this data under the US Cloud Act. Thus, the European Court of Justice overturned in July 2020 the so-called "Privacy Shield" agreement, which allowed data transfers between European and US companies, but without providing the legal protection in the US that users enjoy in Europe. Because this data could be tapped by US authorities without EU citizens being able to take effective action against it, the Court declared it invalid.

This development is regarded, as a step towards digital sovereignty because the EU had stood up for its values and the rights of its citizens. A European alternative to the US providers is on the way. GAIA-X, a Franco-German project, is to produce cloud services according to European standards next year. It is a platform where customers can find providers that meet certain criteria, such as compliance with the GDPR. By building cloud services, the EU seeks to keep in Europe data generated on the continent and to protect that information from foreign governments. US companies are also welcomed to participate, as long as they comply with these standards. This is an example of how Europe can extend its digital sovereignty, through clear sets of criteria, which companies must meet to be allowed to enter the internal market. Some EU member-states, including Belgium, Bulgaria, France, Germany, Greece, Luxembourg, the Netherlands, Poland, Romania, and Sweden have taken a further step, by enacting data localization measures that exclude certain categories of data from being relocated outside their territory.

Over the last three years, Europe has been discussing whether to commission Chinese producers like Huawei to equip Europe with 5G technology. The choices of 5G operators, infrastructures and their suppliers are directly linked to national security and sovereignty. Any decision about 5G cannot be made solely on terms of quality and price. Even though, Chinese companies offer high quality at a low price, there is a concern that the Chinese government could influence companies like Huawei to monitor or even shut down critical infrastructure whenever it wants. The US sanctioned the company and demanded Europe to follow. Brussels left the decision to the states. For example, Spain hired Huawei, whereas the Czech Republic decided not to.

Germany took the middle way, welcoming all companies as long as they follow certain safety criteria. For example, suppliers must give a declaration of confidence that no information will reach foreign authorities and that they can refuse to disclose confidential information from or about their customers to third parties.

In common with the early days of the Cold War, Europe is experiencing a superpower squeeze. This digital superpower squeeze places the EU between the emergent China and the US, which is struggling to retain its technological advantage. A global race for digital supremacy that includes AI and quantum computing and influences national security, global trade, and civil society, is already underway, and the EU despite its many assets, is lacking behind. It is in this environment that the debate on Europe's digital sovereignty is much needed.

The purpose of the above analysis was not to identify a course of action for Brussels, but rather to highlight the political dilemmas that the EU is facing. The EU has launched many policies and instruments over the last years, but a wide arsenal of policy tools remains at its disposal. Building a strong industrial and technological base in the digital sector, bolstering its digital diplomacy, and improving its cyber-resilience are top priorities. Issues like the Huawei 5G offer highlight the need to develop policies that will strengthen Europe's technological competitiveness. Above all, the EU needs to crystallize a strategic vision, about its future. To do that, the EU must first acknowledge its vulnerabilities and value the risks and controversies of becoming a digital fortress. Choosing between data localization and anti-trust policies and risking a technological / data war with either the US or China, is not an easy decision to make. Geopolitical antagonisms will only escalate as the digital domain becomes critical to an increasing number of actors and thus Europe must make a meaningful and concrete decision.

It is a fact and an important asset that the EU is a regulatory power, but Brussels cannot base its digital strategy mainly on law and ethics. Only an independent and autonomous EU in terms of digital capabilities and cyberspace governance can ensure its prosperity. The process of 'digital decolonization' is not an easy one. The EU should realize its vulnerabilities and not form its strategy solely on soft elements like laws and regulations, but also on hard ones, like investments in the digital sector. Playing the game of digital geopolitics, demands from the EU to break its chains from the US. Even if both actors have similar views on cyberspace governance, they do not share necessarily the same interests. The development of internet governance - in particular, the emphasis on "internet freedom" as maximized interconnection and interoperability are examples of US hegemony in action. Both the multi-stakeholder governance model and "internet freedom" reflect US values and interests. They promote the dominance of American companies through easy access to foreign markets, in this case via a thoroughly commercialized internet. The EU should not allow the US to impose its approach on cyberspace governance and instead promote the existing mechanisms within the United Nations, that are based on universally accepted rules.

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