A Democratic Counteroffer to China's Digital Power

Article by Sabine Muscat
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The EU and the US have to navigate bilateral differences and work with like-minded countries to formulate a response to China's techno-authoritarianism. This effort should go beyond industrial policy towards shaping a positive and inclusive digital agenda.

In dealing with China as a digital superpower, the European Union and the United States share a range of values and interests, but they start from very different places. For the US, China's growing geostrategic and technological power poses a direct strategic threat. While European policymakers, business leaders and the public increasingly share the perception of a systemic rivalry between liberal democracies and China's techno-authoritarian state, the fear of losing access to China's market is still a more powerful motivator for the EU and its member states, especially Germany, than the US fear of a potential confrontation – militarily or in cyberspace.

There is growing transatlantic agreement on the national security risks of letting companies from a state-run economy build our critical infrastructure or of increasing our vulnerability to unwanted technology transfer by integrating our companies into China's digital ecosystem. Let alone the moral issues around exporting products that could be used for domestic surveillance purposes in China or of integrating our companies into supply chains that include forced labor.

Yet when it comes to data protection or fair competition in the digital economy, Europeans don't trust Facebook any more than TikTok. Europe's assertion of its "digital sovereignty," exemplified by the Gaia-X project to build a European framework for governing clouds, is a testament to the mistrust of US surveillance and lack of data privacy protections.

Navigating these differences seems over-ambitious within the confines of a narrowly defined transatlantic project. The answer to the question how the EU and the US should deal with China in the digital sphere, to some extent, lies in taking China out of the equation – and instead building new partnerships with the goal to create a joint vision of the digital world we want to live in as democratic societies. Rather than focus on countering China, we should craft a global democratic digital agenda.

Research, standards, and digital public goods

A comprehensive transatlantic China policy is as elusive as a template for a transatlantic digital agenda. Yet partial convergence in some areas can be leveraged in concert with other like-minded partners.

The Biden administration is currently discussing a framework for joint research and standard-setting with the goal to protect critical infrastructure and supply chains. In a Foreign Affairs article, Jared Cohen and Richard Fontaine proposed that such an alliance of "techno-democracies" should initially consist of Australia, Britain, Canada, Finland, France, Germany, India, Israel, Japan, South Korea and Sweden, along with the United States. A similar concept was put forth in a joint call for action by the Center for a New American Security (CNAS), which is led by Fontaine, in coordination with the Berlin-based Mercator Institute for China Studies (MERICS) and the Asia Pacific Initiative of Japan. The three also recommended that alliance members pool resources to finance secure

digital infrastructure and boost digital inclusion in third countries. The China Strategy Group, which was co-chaired by Cohen, a Google executive, and former Google CEO Eric Schmidt, proposed to set up an international technology finance corporation as a way to counter China's global connectivity project, the Belt and Road Initiative (BRI), by providing digital public goods to the parts of the world that increasingly depend on Chinese technology.

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For such efforts to gain broader democratic legitimacy, they will have to go beyond industrial policy and competition against China. They would have to aim to structure global digital governance debates around shared values – from sustainability and inclusion to democracy and human rights. And they would have to include the EU as a global standard-setter instead of just some of its member states.

For this to become a path forward, both sides have homework to do. The EU needs to come to a clear evaluation of how its economic interests align with its other goals of protecting human rights, environmental standards, and yes, strategic interests in its Eastern neighbourhood, which is very much a target of BRI. German carmakers' deep entanglement with the Chinese market continues to provide Beijing with leverage, as seen in the last-ditch EU agreement with China on the principles of an investment agreement at the end of 2020, which raised fears in the US of a closer integration of European companies into China's digital economy.

Germany's China dilemma meets America's credibility gap

In a virtual speech at the Heinrich-Böll-Stiftung's annual foreign policy conference on January 18, 2021, German Green Party co-chair Annalena Baerbock sharply criticized the deal, a priority of the Merkel government, for failing to gain sufficient Chinese concessions on market access and labour standards. Yet Baerbock also conceded the dilemma. "We won't be able to decouple from China, but we also must not be blind," she said, warning of growing dependencies on Chinese infrastructure investments in EU's regional vicinity, such as in Serbia.

The Biden administration, on its end, will have to regain European trust in a US-led global digital economy and to re-affirm its membership in the democracy and digital rights camp after the end of the Trump years. Injecting values into the global digital governance conversation will be difficult as long as the US lacks credibility for protecting digital rights at home. The US political debate has recently moved away from disregarding European regulations as protectionism. After an initial outcry in 2018, the EU's General Data Protection Regulation is now accepted as the de facto global gold standard even by many US companies. California's Consumer Privacy Act (CCPA) draws heavily from GDPR, and many expect Congress to make another attempt at passing federal data privacy legislation this year.

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The US tech lobby is geared up for a fight over the European Commission's draft Digital Services Act (DSA) and Digital Markets Act (DMA). At the same time, many US policymakers and experts discussing a reform of the liability protections for platforms (Section 230) rather look with envy to the thoughtful legislative proposal, which

proposes greater accountability and transparency as an alternative to blunter tools for filtering and taking down content that is seen as harmful, but not illegal. As anti-trust investigations against Google and Facebook are gaining steam in the US, the DMA's linking of platform accountability to market domination is widely discussed as a pioneering legislative approach.

The need for a broader coalition

Apart from domestic adjustments, the EU and the US need to sort out a few things bilaterally. For a broader multilateral democratic digital governance coalition to take shape, it would be ideal if they could remove the most obvious transatlantic digital policy stumbling blocks sooner than later – by finding a rights-respecting way to restore transatlantic data transfers after the European Court of Justice struck down the Privacy Shield agreement, and by finding a compromise within the OECD on digital taxation. They can revive what used to be the most promising part of the failed TTIP negotiations – a dialogue on aligning industrial standards for emerging technologies. The European Commission's proposed EU-US Trade and Technology Council could be the right place for that.

A broader coalition among democracies would seek to establish and coordinate multilateral export controls for critical technologies, investment screening and other measures to protect national digital infrastructures. It would identify areas to pursue research and commercial cooperation – within the realistic limitations of competition within such a group over IP and talent.

But apart from security and competition, it would focus on a positive agenda around values such as sustainability, inclusion, democracy and human rights, for example by seeking to shape value-guided rules for emerging technologies such as Artificial Intelligence (AI) in the OECD, G20 or other forums.

Differences in domestic laws or regulations should not be insurmountable obstacles, as long as the partners can agree on procedural elements to ensure the democratic legitimacy of digital governance structures. Transparency, accountability and legal redress would be core elements of such legitimacy.

Very importantly, the democratic coalition would have to open the conversation beyond an exclusive circle once known as "the West." Its members would have to demonstrate that its alternative connectivity offerings to low- and middle-income countries are buffered by higher ethical standards than China's. They would have to ensure that digital trade agreements such as the one currently under negotiation by 80 WTO members under the Joint Statement Initiative give others the space they need to carve out their own digital sovereignty. Developing and emerging economies have to be a part of the discussions over what an inclusive, democratic, sustainable and rights-based digital sphere should look like – and how much they are willing to trust a powerful coalition of "techno-democracies" over China.

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