

## TECH POLICY: THE FALL & THE FUTURE

For much of the past two decades, U.S. tech policy seemed governed by the motto: “*what’s good for the Internet is good for America.*” The tech sector enjoyed consistent wins on tax, trade, infrastructure, immigration, non-regulation, in Washington, states & around the world. A bipartisan consensus sought to support, promote & engage iconic inventors & entrepreneurs.

Times have changed. ***Tech is increasingly playing defense across issues and geographies.*** In part these challenges reflect the rise of global populism after decades of geopolitical, social and economic disruption. Tech is the clear winner in the “[superstar economy](#)” where most fear falling behind and even prominent tech leaders warn of accelerated [inequality driven by AI](#). In part, policy headwinds demonstrate the ubiquity of the Internet in every facet of our lives, accelerating change... and fears. And some of the heightened scrutiny reflects every winner’s inevitable turn. Tech players are the [most valuable](#) and dominant companies in the world so policy makers (and competitors) naturally ask questions.

Companies have already started adjusting their engagement strategies and tactics for this Fall and the years ahead. ***Proactive efforts create opportunities to shape future outcomes, but much more needs to be done.*** To help focus such considerations, here is our current look at the key trends.

### **THE POLITICS**

1. ***It’s not really a techlash.*** Policy makers and media are targeting a few specific dominant players ([GAFA](#)) and significant platforms ([Uber/Lyft](#), AirBnB, Twitter) rather than all “tech.” [Microsoft](#) is not under the gun, for example, and the “computer industry” enjoys the [2<sup>nd</sup>-most net positive image among Americans](#) (Gallup 2019). Most policy makers remain eager to promote tech employers, advance regional infrastructure and support critical innovations such as 5G, quantum computing, distance learning and IoT.
2. ***Expect an ongoing fight to define “tech.”*** Given the preponderance of negative attention on platforms, traditional tech players that manufacture hardware or sell software/ services increasingly seek distance from ad-financed social media companies. They see no reason to defend Facebook, answer for Google’s sins or resist popular reforms (eg SESTA), and fear getting caught in the crossfire absent targeted reforms. Likewise companies that make / sell tech will distance themselves from [companies that merely use tech](#) to sell non-tech products such as office space ([WeWork](#)), exercise equipment ([Peloton](#)), nicotine (Juul Labs) or food delivery (DoorDash).
3. ***Attacks on “big tech” are politically appealing, both for 2020 candidates and Congress.*** While only a few companies are targeted, scrutiny is bipartisan, daily and intense. We’ve seen it on the campaign trail from Presidential aspirants and Senate candidates. ***Tech-bashing is where the populists on the left (anti-rich, anti-business, anti-Country Club) meet the populists on the right (anti-PC, anti-globalist, anti-University Club).*** Given accelerating global populism and concerns with inequality and insufficient competition, criticism of big, global, elitist tech will persist past 2020 around the world.

## **THE PLAYERS**

- 4. State and local leaders are stepping-up oversight and regulation of tech companies and platforms.** Increasingly state officials are advancing policy where Washington cannot or will not. Fracking, opioids, privacy, and data breach, among other issues, see new progressive leaders emerging among governors, AGs and state legislators. California's passage of AB-5, e.g., threatens the future of the gig economy with federal preemption hard, while CCPA may define the floor in privacy. Concurrently state AGs brought more [multistate lawsuits to block the Trump Administration](#) (90) than vs Obama (60), Bush (44) or Clinton (18).
- 5. Global oversight of American tech behemoths will accelerate.** [M. Vestager](#) won five more years and greater powers in the EU, while China's 2025 plan (combined with trade wars) will reshape supply chains and market opportunities for years to come. Competition, privacy, tax, data localization and content liability policies are already in-play... rules for AI, AVs, additive manufacturing and climate could be next.
- 6. Activists are empowered (and inflamed) by social media in an [age of rising engagement](#).** Americans who say they are [most likely to boycott business for political issues](#) are predominantly college-educated, liberal, highly-paid and urban... aka tech workers and consumers. Tech workforce activism is rising, as Google employees staged [sit-ins](#), [walk outs](#) and [petitions](#); gig drivers went on strike, college students boycotted [Palantir](#) and "woke workers" demanded employer action on gun control, law enforcement and immigration.

## **THE POLICY**

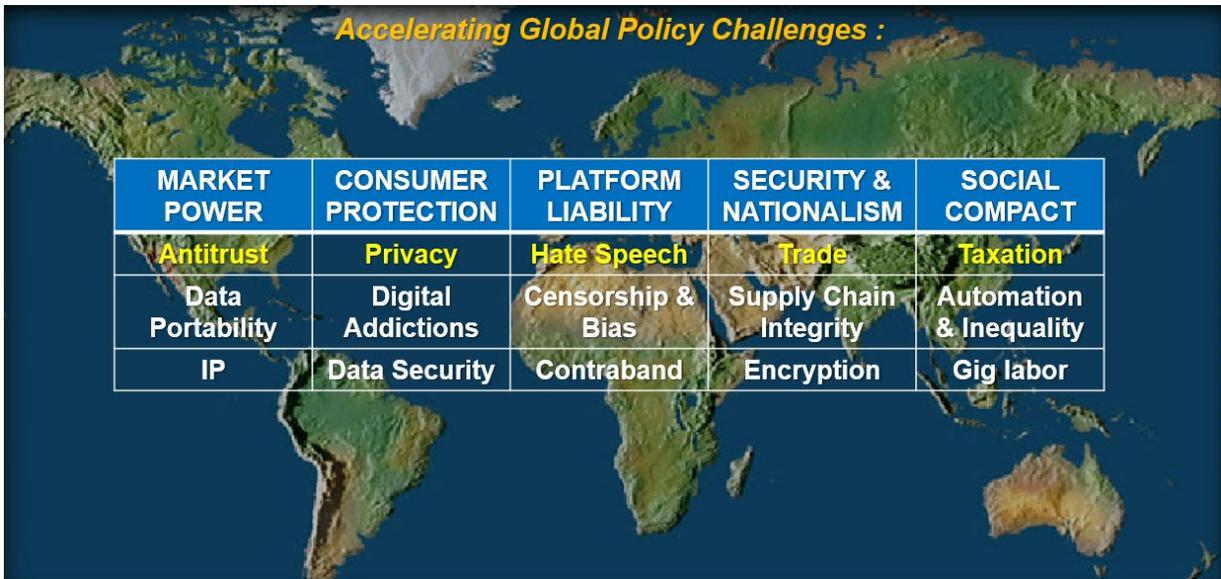
- 7. Antitrust oversight is moving faster than expected.** [Perhaps due to competition](#) between the EU, state AGs, the DOJ, FTC, House and Senate, risks perceived to be delayed until 2021 are clear-and-present dangers now for Google and Amazon, with significant risks for Facebook and Apple. Recent polling finding that "nearly two-thirds of Americans would [support breaking up tech firms](#) by undoing recent mergers... if it means ensuring more competition in the future." With more tools and a head start, the EU may act here even faster.
- 8. Federal privacy legislation is moving slower than expected.** We expected more energy behind comprehensive federal preemption in 2019 given CCPA and GDPR, but activists (and CA Democrats) resist any federal action that might weaken CA. We expect to see multiple privacy laws advanced in blue states in Q1 2020. Platforms have minimal support in Washington to advance this issue... plus they emerged as the [winners under GDPR](#). As CA's law takes effect and other states follow its example in 2020, we may see a new push for federal preemption... but it's uphill.
- 9. Section 230 is the hardest issue for platforms with broader risks to infrastructure and even enterprise players.** Democrats demand *increased* censorship to block hate speech and election interference. Republicans demand *decreased* censorship lest

liberal bias undermine Americans' free speech and influence politics. These goals are irreconcilable. Platforms were built to allow [permissionless](#) publishing and self-provisioned advertising, allowing a few bad actors to abuse the freedom and poison perceptions. Imprecise regulatory or legislative “fixes” to 230 may entrench dominant players and extend beyond social platforms to businesses players that host, cache or even transmit data.

- Persistent cyber vulnerabilities remain the likeliest existential threat and catalyst for game-changing tech regulation.** More than 285M Americans are online, over 3 billion globally. We've seen cyber attacks breach banks, hospitals, vehicles, industrial controls, city governments, energy infrastructure, [baby monitors](#), medical devices and telecom networks... and influence voters around the world. Nation-states actively develop network exploit capabilities and conduct offensive cyber actions against other nations, while criminal networks reap billions from fraud and hacking. ***It seems only a matter of time before a catastrophic critical infrastructure failure or election-changing deepfake generates unstoppable calls for massive regulation.***

There are countless other policy issues we're watching, including:

**Accelerating Global Policy Challenges :**



| MARKET POWER     | CONSUMER PROTECTION | PLATFORM LIABILITY | SECURITY & NATIONALISM | SOCIAL COMPACT          |
|------------------|---------------------|--------------------|------------------------|-------------------------|
| <b>Antitrust</b> | <b>Privacy</b>      | <b>Hate Speech</b> | <b>Trade</b>           | <b>Taxation</b>         |
| Data Portability | Digital Addictions  | Censorship & Bias  | Supply Chain Integrity | Automation & Inequality |
| IP               | Data Security       | Contraband         | Encryption             | Gig labor               |

## **THE FUTURE**

- U.S.-China decoupling will continue beyond the “splinternet.”** The U.S. and China may temporarily slow-down their trade war to protect domestic economic and political conditions in 2020, but competition between America and China will define the next decade. Imminent export control regulations, [toughened CFIUS](#) rules, an Executive Order on fentanyl, and Hong Kong / Taiwan could undermine even short-term deals. Long-term rapprochement is unlikely, with “getting tougher on China” one of the few issues on which there is bipartisan agreement and popular support.

12. **Pressure will grow for CEOs to engage on social policy issues and represent a broader swath of stakeholders.** The hardest issue clients faced over the past two years was when and how to engage on social / political issues. Companies are not NGOs... they need to appeal to consumers across ideologies & work with policy makers from all parties. Yet workers & customers increasingly expect [values-based leadership from CEOs](#). Get it right and you can differentiate your products ([Apple](#)), appeal to new demographics ([P&G](#)), reinforce positive perceptions of your company ([Walmart](#)), improve employee morale ([IBM](#)). Get it wrong and you could generate boycotts ([Uber](#)), invite retribution by lawmakers ([Delta](#)) or face accusations of craven “woke washing” ([Pepsi](#) / [Starbucks](#)). There are many ways to improve your odds of success here, but the two most critical are expanding stakeholder engagement early (earn friends *before* you need them) and walking your talk (it’s not just *what* you’re for, it’s *how* you operate).
13. **Calls to “fix capitalism” will accelerate, with systemic reforms inevitable.** The disruption driven by new technologies, changing geopolitics and fast-evolving social demographics has [arrived in politics](#) and is [coming to policy](#). The next decade will see significant government efforts to ameliorate income inequality, improve market competition and cope with the mega-disruptors of climate change, government debt, ageing populations and accelerating urbanization. Technology can help address many of these challenges such as smart cities ([Qualcomm](#)), re-skilling ([AT&T](#)) and cyber security. But tech companies and investors who fail to engage effectively can expect greater regulation, oversight and blame ([Amazon](#) HQ2).

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Companies can no longer differentiate through words, messages or campaigns, but only by deeds. Expectations for CEOs to engage in societal issues and serve more than shareholders will only climb, and **reforms are coming with or without business input**. There is no substitute for direct and sustained engagement, and the most successful will seek to shape rather than stymie these reforms.

While some technologies and tech companies are in the crosshairs, few will escape a more intense level of scrutiny from a wider range of regulators and policy makers. On the positive side, most officials recognize the importance of innovation to our future prosperity. Successful players will expand their allies beyond their corporate brethren. It’s no longer enough to think globally and act locally — they must think locally as well. Des Moines may become the new Davos as CEOs work to demonstrate their value to local communities. They will be judged on whether their deeds match their words and heightened expectations. Look for innovators to acknowledge rather than dismiss the future disruption coming from emerging technologies, demonstrating greater humility and responsibility as they endeavor to help solve the challenges they help create.

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