

**“Victory is hollow if the EU cannot actually entrench regulations into concrete market outcomes.” -
Interview with Anu Bradford about her book
*Digital Empires: The Global Battle to Regulate Technology***

The quickly growing digital landscape has led regulators to pivot quicker than ever to the topic of digital markets and digital regulation. As such, new trends that shape the global market and international affairs have begun to emerge causing scholars, lawmakers, and tech companies to take note of the shifting environment that binds them together.

Professor Anu Bradford dives deeper into her latest book on this topic with [Mitchell Rutledge](#), a student in the MA program for European History, Politics, and Society at the European Institute.

Anu Bradford is a leading scholar on EU and digital regulation and is the Henry L. Moses Professor of Law and International Organization at Columbia Law School. Professor Bradford coined the term the *Brussels Effect* in her previous book, *The Brussels Effect: How the European Union Rules the World* (2020). Her new book *Digital Empires: The Global Battle to Regulate Technology*, was published by Oxford University Press in September 2023 and has garnered much recognition.

Mitchell Rutledge: At the outset of your writing, what attitude did you have towards the current state of tech regulation, in all three empires that you speak of (US, EU, and China), and now knowing what you know, what attitudes and perceptions do you have for the future state of tech regulation in those three empires?

Anu Bradford: I clearly was observing a different outcome already at the outset. I was witnessing vigorous, ambitious regulatory activity in the EU, the lack of regulation in the US, while also noticing how China was moving very fast from not regulating to just starting to regulate technology. But what I really did not fully appreciate is what explains these differences. What are the values guiding each digital empire? What is the historical context and the origins of these different regulatory approaches? Do they extend across all different kinds of regulations? But then when I delved much deeper into these regulatory regimes, I both got a more complete understanding of why the Europeans regulate and why the Americans have been so reluctant to pursue regulation, including what is holding the US policymakers back even if the attitudes are shifting. I also was able to piece together a much more nuanced story. What was really interesting is that something that at first seemed very clear (my delineation of three models), when you start looking at those models more closely, it's not necessarily that any model is absolute or pure; instead, there are many state-driven features in the US model, there are market-driven features in the Chinese model. And the EU is ultimately rather market-driven as well while moving towards state-driven features. So, ultimately, I felt it was satisfying to spell out that nuance and explain in a more intricate way what the differences and what the similarities are. And then, of course, I asked what those differences mean for the world? What does it mean when these differences collide? Or, to the extent that there's an agreement among the empires, is it possible that we see less contestation?

MR: I think the nuances are exactly one of the things that drew my attention, especially because in the EU with the 27 member states, there's so much nuance to all the regulations. How do you perceive the internal disagreements of the EU, affecting the perception of what you call 'European values' concerning the digital realm, and how those are going to develop over the next, 5 to 10 years?

AB: We need to recognize that there are some pan-European commitments and values. Europeans, in general, are more comfortable with regulation than Americans. There is a greater trust in governments and less of a trust in markets, this baseline appreciation of the importance of data privacy, and a discomfort with excessive power of

tech companies. There is a set of commonalities that allows me to talk about a European rights-driven model. It's also interesting how the EU is not homogeneous. There are occasions where I am more troubled by it. For example, the EU's ability to really promote democracy-enhancing regulation is compromised if it cannot hold some of its own member states in check and ensure that they respect the rule of law and democratic institutions – I'm mainly referring to Hungary and, at least until very recently, Poland. At the same time, in many ways, tech regulation involves a lot of tradeoffs. I do not think there is a single framework through which to look at that. Different member states have different priorities and, ultimately, the regulatory fabric becomes richer by incorporating these different priorities. I think that allows the EU not to pursue as extreme regulation. There are those countries that advocate a little bit more market-driven approaches. However, those are checked by countries that feel much more strongly about regulating. I think that is partially the secret why the EU has been so successful in exporting its regulatory model, because those EU-wide compromises already reflect an attempt to overcome differences and come up with a regulatory model that works in countries that do not fully agree and that have different legal cultures and legal institutions.

MR: Being the pessimist that I am, I want to dig into the opposite side of the success of the EU. How do you see EU integration and harmonization through the tech realm and policy potentially affecting the far right, anti-EU movements and sentiment – like in Hungary, France, Germany, and Poland, with the idea of EU regulatory models being oppressive in some sense? How do you see this kind of fitting into that story?

AB: That is an important story, but the main theater of war in that story is not digital regulation. I think these extreme right, populist parties care a lot about immigration, they care a lot about the freedom of the press, or the independence of the judiciary (or the lack thereof), certain social movements that pose a threat or criticism to those policies. I do not think that the main focus has been whether the EU pursues Google through its antitrust laws, or whether it protects data privacy. There have been concerns in places like Hungary and Poland on whether these tech companies harbor liberal bias and whether they would be censoring conservative speech. That resembles the US Republicans' concerns on content moderation and the power these tech companies have. But if you look at just how wide the support was for regulation when the parliament voted on the DMA (Digital Markets Act)¹ and DSA (Digital Services Act)², they really have the backing of the parties on the right and the left and the center, which I think is rather striking and speaks to there being a set of European regulations where there is still a rather common understanding of their importance.

MR: One thing that came to mind for me throughout the book was the sense of consumer rights and data protection being protected at a state level and the EU level, but you do mention the idea of incorporating cross national legal rights so that there is an effective flow of data between the US and the EU due to the issues that were raised concerning rights in the US found by the ECJ (European Court of Justice). Do you see this idea of incorporating cross national legal rights to have an effective flow of data developing beyond bilateral agreements to an international legal level in today's political realm? If not, why, and if so, how?

AB: I think the only domain where you see a rather serious push for a transnational acknowledgment of rights is artificial intelligence (AI). There was the UK organizing an AI Summit, there are conversations within the UN and G7 and G20 and OECD. International institutions are trying to carve out a role for international coordination on AI regulation. First of all, let me be clear: I think there will be a lot of gains from a more coordinated international approach. I am worried about regulatory gaps. At the same time, if you just look at the state of international cooperation – the deteriorating trust among governments and the significance of the AI race as a tool for economic supremacy, geopolitical supremacy, and the militarization of AI – AI is so important for the countries that few of

¹ Adopted on September 14th, 2022.

² Adopted on October 4th, 2022.

them are willing to constrain their regulatory choices by committing to an international treaty. It is still helpful to have those conversations, but I see more of an opportunity to cooperate in entities such as the US-EU Trade and Technology Council or agree on common principles within the G7. The reason being that as soon as you bring, for instance, China in conversations about AI, it is harder to reach a truly multilateral consensus on issues. For example, in looking at the EU's AI Act, the EU bans exactly the kinds of AI systems that are widely deployed in China.

MR: You mentioned that the Brussels effect is the EU's strongest muscle and that there is this potential for there to be a Beijing effect, but it's not as strong as the Brussels effect for multiple reasons. One thing I was thinking of while I was reading this is that the Beijing model seems to focus on national sovereignty, and it's very much a key focus for I think, a lot of states these days – including the US and the EU. But also, it is a growing sentiment for countries in the global realm that don't have as much power or that have historically been oppressed. I think that these are kind of the key battlegrounds that are referred to with these empires, so I'm curious to know, how do you envision the EU in promoting its model successfully, despite the EU's Imperial elements that you refer to as well?

AB: I use the term “empire” more metaphorically. It is not meant to draw direct parallels to historical empires. But I think what makes it interesting is that in many ways, these empires can be both admired and criticized. Even in the past, there were “empires by invitation” – and similarly today, there are many markets that want the Chinese digital infrastructure. That is their path to digital development. Then there are many consumers around the world that are dependent on US tech companies, products, and services. If you ask them, they do not want those to be taken away from them. Similarly, there are many countries who say that the EU's global regulatory power is a manifestation of regulatory imperialism, and it may be overriding their own consumers' preferences. However, at the same time, there are others who are happily free-riding on the EU's regulatory efforts. In that sense, I think there are many countries that are both feeling some negative effects of the presence of the Empires, but also sometimes explicitly welcome the presence of those very same Empires. In this way, the book is an attempt to tell a more nuanced story of what is the relationship between the center and the periphery.

MR: If this is a zero-sum game for the Empires, and the EU is trying to beat the US or China, what does it have in its toolbox to say to the countries that perceive it as potentially imperialist that it does not want to impose these regulations on them and that it wants to be invited while maintaining its values and standards?

AB: If the EU wants to compete with the Chinese infrastructure investments in Africa, it is hard for the EU to offer an alternative that is more expensive, and that potentially comes with various strings attached. I think the Europeans need to understand that the era of them being able to offer those conditional deals is largely over. They are now facing an uphill battle in trying to persuade these countries not to collaborate with China. Also, there is a view that the EU has been able to shape the global digital economy through its regulations—at least partially for the better. But at the same time, the question is, are these the right priorities for these countries? What kind of regulation serves their needs the best? And I don't think there is necessarily a simple answer there, either.

MR: You say in the book that for the EU to win the horizontal battle against the US it first needs to win the vertical battle against the global tech companies. When I'm reading this, it seems that the horizontal battle may be more easily won as it would look like an agreement between the US and the EU rather than collaboration between the EU and the tech companies. Winning the horizontal battle would then give the EU some more leverage in enforcing the regulation that it can agree on between the US and the EU, making it much quicker and much more influential to then win the vertical battle. How did you envision this order when writing?

AB: I believe that the EU is winning the ideological horizontal battle, that the people around the world, including in the United States, are increasingly disillusioned with self-regulation and distrustful of these tech companies. However, even if the Americans and many other citizens and governments around the world were to agree that the European model is the best one and align their own regulations or expectations with that model, that victory is hollow if the EU cannot actually entrench those regulations into concrete market outcomes. In such case, a weakly enforced EU model means that the tech companies continue to rule the world. The marketplace remains controlled by these tech companies, so if the vertical battle is lost, we go back to the horizontal battle and need to concede that the EU won a hollow victory.

MR: I'm curious to know how you imagined the tech giants' founders and CEOs receiving the message from your book. How do you imagine them responding to it?

AB: I have been invited to speak at Google and at Microsoft, so I will find out how they respond. I think in many ways that tech companies are savvy enough to realize that the world has shifted, and they do not have anymore the luxury of being just seen through a benevolent lens. Alongside the admiration that there still is for them, there is a lot of skepticism – which I think has led them to concede that regulation is inevitable. If they want to contest it, they need carefully pick their battles. Ultimately, they will not be able to litigate every provision of every regulation. They are repeat players, and they need to come to terms and live with these regulations. I think the shift is more to this reality where they try to shape the regulation as opposed to resist the regulation. I hope that the book actually helps them understand what the expectations are by different governments and also it sends them this message that they should not be fighting a losing battle. Ultimately, the expectations of individuals have changed. I also hope that it sends them the message that they need to think about what is going to be their legacy in shaping our digital future. Ultimately, I hope it will instill in them a sense of responsibility about the way they develop and govern their technologies and what they want their role in this arc of history of digital regulation and of digital societies to be.

What is at stake is the future of liberal democracy. I am not sure that any of these tech companies want to live in the world where we have destroyed the basic pillars of liberal democracy, where fundamental trust is gone, and where they are no longer seen as good citizens. I think there is a lot for them to do to rebuild that reputation and show that they want to be architects of the kind of digital future that their users and consumers also want and benefit from. I really would like to leave them with the sense of opportunity to play a positive role because they are extremely powerful, and the choices they make are consequential. I hope they approach those choices with a weighty sense of responsibility and thoughtfulness.

Interview conducted by Mitchell Rutledge, student in the MA program in European History, Politics, and Society at the European Institute, Columbia University.

January 24, 2024