

## More digital regulation on the way, study finds

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Digital and technology companies can expect to face increasingly stringent regulations in the next few years, a Hogan Lovells study has found.

According to the firm's analysis of proposed regulations in 16 jurisdictions around the world, legislators are seeking to tame the growing power of the digital industry through a variety of means, including mandatory access to data and the break-up of big tech companies.

The majority of proposed regulations – which the firm studied in the first half of 2019 – originated in Europe, despite many of the world's biggest tech companies being based in the US and Asia. Only 28% of the proposed regulations came from the US and 8% from Asia, the study found.

The survey also found a highly fragmented approach to regulation across jurisdictions and said that the chances that approaches to digital regulation will converge are slim.

But companies should expect new rules in some form or another: the study found that 70% of the proposed regulations came from incumbent governments, suggesting a high likelihood that they will eventually be passed.

Though global convergence is unlikely on all aspects of digital regulation, it is most likely in the field of data protection, the study said. Falk Schöning, the study's editor and a partner at Hogan Lovells in Brussels, told GDR that this is in large part because the EU chose to forge ahead with the GDPR rather than waiting for US lawmakers to make the first move.

But this may not necessarily happen in all areas, Schöning said. Many individual EU countries have attempted to tackle data and digital issues from a competition perspective, he said, but this is unlikely to lead to a worldwide standard.

"I don't think an individual member state can force the entire world to follow it; I'm not sure that they are strong enough. If we see national responses to the issues that tech players put forward, then we might see the opposite of convergence, getting a scattered field instead," Schöning said.

Data concerns are prominent in many of the proposed regulations, especially those that seek to

control digital companies via competition rules, the study said.

Some of the “most interesting” proposals relate to access to data, Schönig said. “I think the study shows that there is still a lot of uncertainty around that – who owns data, whether data access will open up competition. There are interesting proposals out there – nobody really seems to have the answer. But if we need standards anywhere, it’s probably there.”

The relatively high level of international uniformity in data protection rules may also present a barrier to mandatory data access for competition purposes, Schönig said. As most data protection laws worldwide would prevent personal data from being shared for this reason, he said, data access as an antitrust remedy may be difficult.

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