

DAVOS

Privacy Problems Mount for Tech Giants

Tighter privacy rules have had some benefits for the biggest companies. That may not last.

By Sam Schechner

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Big tech companies have taken a public lashing in the past year over their handling of users' personal information. But many of their biggest privacy battles have yet to be fought—and the results will help determine the fate of some of the world's largest businesses.

So far, tech giants like Facebook Inc. and Alphabet Inc. 's Google have proved relatively resilient against a growing backlash over possible abuse of their users' personal privacy. Tech companies' stocks may have swooned, but advertisers are continuing to cut them checks, and their profits are still growing at double-digit rates that would earn most CEOs a standing ovation.

This year may be stormier. Growing discontent among users over privacy and other issues—such as the widespread feeling that mobile devices and social media are addictive—could damp profit growth, discourage employees or chase away ad dollars. In Europe, regulators are slated to make major rulings about tech companies' privacy practices, likely setting off high-stakes litigation. In the U.S., revelations about allegedly lax privacy protections are raising political pressure for federal privacy regulation.

At risk are tens of billions of dollars that marketers spend every year in online advertisements targeted at users with the help of personal information about individuals' web browsing, mobile-app usage, physical location and sometimes other data, like income levels.

The behavior of tech giants is likely to be a major topic at the World Economic Forum this week in Davos, Switzerland. While the yearly meeting of world leaders and company executives normally celebrates how businesses can solve the world's problems, tech companies were on the defensive last year against complaints that ranged from fomenting political polarization to building artificial intelligence that will displace millions of workers.

Since then, the pressure has increased. Facebook executives have been dragged before legislators

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on both sides of the Atlantic, after the company said data related to as many as 87 million people may have been improperly shared with Cambridge Analytica, a political analytics firm. And in September, Facebook said hackers had gained access to nearly 50 million accounts.

Google, meanwhile, has faced criticism of its privacy practices from political leaders, including flak after The Wall Street Journal reported that the company had exposed the private data of hundreds of thousands of users of its Google+ social network and opted initially not to disclose it.

Some tech executives have raised alarms, too. Apple Inc. Chief Executive Tim Cook, speaking in October before a privacy conference organized by the European Union, called for tighter regulation in the U.S. along the lines of a strict new privacy law in the EU, saying that some companies had “weaponized” users’ personal information in what he described as a “data-industrial complex.”

Facebook and Google both say that they have been investing heavily in improving how they protect user privacy and that they welcome tighter privacy rules; both companies support passage of a U.S. federal privacy law. Tech-industry lobbyists say they are planning to support U.S. privacy legislation over the coming year, in part to avoid contending with a patchwork of laws like one passed last year in California.

“Our industry strongly supports stronger privacy protections for consumers,” says Josh Kallmer, executive vice president for policy at the Information Technology Industry Council, which represents Facebook, Google and other tech companies. Mr. Kallmer says consumers “benefit incredibly from these technological innovations,” but adds that “alongside that are some very legitimate concerns about how data is being handled.”

What impact will stricter privacy rules have? There are two theories.

One school of thought says that stricter rules and tighter enforcement will benefit big, incumbent companies that already have access to large amounts of user data and can spend more heavily on legal-compliance efforts. The other argues that rules like those in the EU’s new General Data Protection Regulation, if strictly applied, will force significant changes to how the biggest tech companies collect and analyze individuals’ personal information—undercutting their

advertising businesses and weakening their advantage over existing or potential new competitors.

“Both are reasonable claims. But it is far too early to tell which will turn out to be true,” says Alessandro Acquisti, a professor at Carnegie Mellon University who studies the behavioral economics of privacy.

At issue, in part, is the distinction between short-term and long-term effects. There are signs that Google, for one, benefited at least initially from the transition to the GDPR in May, in part because advertisers shifted money to the bigger firms, which were able to show they had users’ consent to display targeted ads.

In Europe, Google saw a 0.9% increase in the share of websites that include its advertising trackers two months after the GDPR went into effect compared with two months before, according to Cliqz, which makes antitracking tools for consumers. Facebook’s share declined 6.7%. The share for the other top 50 online-ad businesses fell more than 20%.

The longer-term impact on big firms is harder to predict. One study of nearly 10,000 online display advertising campaigns showed that users’ intent to purchase products was diminished after earlier EU laws restricted advertisers’ ability to collect data in order to target those ad campaigns. But more research is needed to determine what impact tighter rules would have on consumer spending more broadly, Prof. Acquisti says.

How the laws are enforced by regulators and courts will play an important role. Ireland’s Data Protection Commission, which is the EU’s lead regulator for Facebook and Google, is investigating complaints from privacy activists that the consent companies sometimes request for the processing of individuals’ data is a condition of using a service and so is not “freely given,” as the law requires.

In Germany, the federal antitrust enforcer says it will issue early this year a final decision regarding its preliminary finding that Facebook uses its power as the most popular social network in the country to strong-arm users into allowing it to collect data about them from third-party sources. A German decision wouldn’t involve fines, but could include orders to change business practices.

Both Facebook and Google say they comply with privacy laws.

Initial decisions could come this year, but whichever way the watchdogs come down, their actions are likely to end up reviewed in court. Those cases will end up determining how new privacy standards will be applied. And that will determine how profound their impact is.

“There is active litigation in a couple of places that could become hugely important,” Mr. Kallmer says. “It’s uncertainty that our industry thinks it’s on the right side of.”

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