

# FROM RHETORIC TO REGULATION

**Will 2022 be a watershed year for technology  
sector privacy, regulation, and AI?**

With perspectives from global youth

| MARCH 2022

There is talk of 2022 being a watershed year when it comes to regulation in the technology sector.

While the so-called techlash has ushered in global scrutiny of the sector overall, much of this conversation has been relatively toothless to date. It has of course produced some important regulatory and legislative changes in several jurisdictions, but there has not been a universal or uniform approach as yet on if, how and when to manage the – often unintended – consequences of technology on society.

That said, conversation is now turning to how 2022 could potentially be the year that policymakers turn rhetoric into significant industry regulation for the technology sector.

But what does that mean when every company is a technology company today? Is regulation even the right option? And in what guise? In reality, much of the issue is actually about regulating data and the flow of that data to protect individual rights to privacy and to freedom of expression. Which is why privacy, trust and AI are so important to the conversation.

And within this context, what do consumers really think? After all, be it AI or health tech, fintech or climate tech, the industry will also be instrumental in providing long-term solutions to some of the world's greatest challenges.

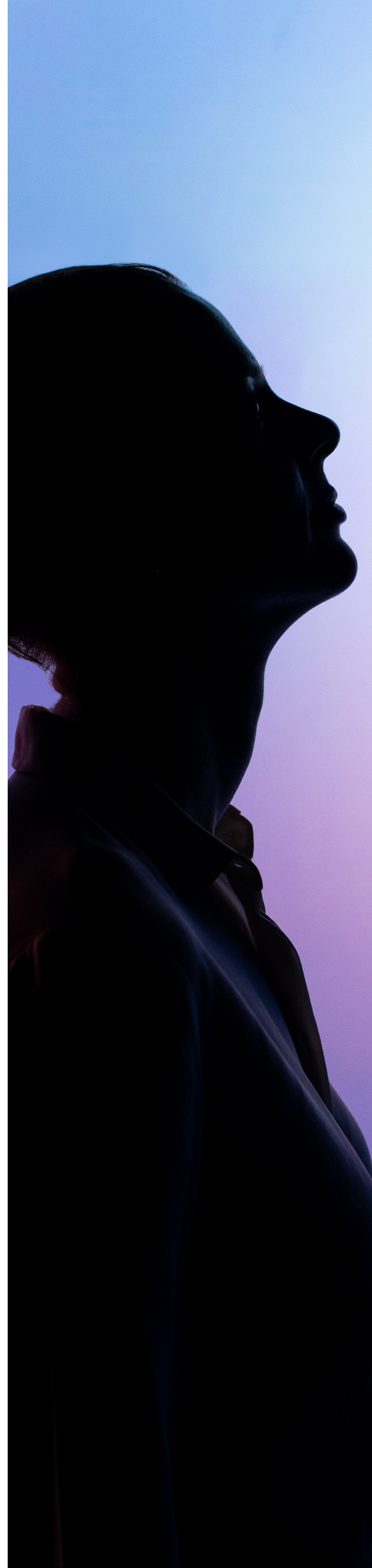
To help inform our insights, we looked at the sector's broad reputation when it comes to trust, regulation, privacy and AI – but through the eyes of digital natives, those that will be most impacted by the role of technology (both good and bad) in society. We wanted to hear perspectives from those aged 16-26 in the U.S., China, Germany and the U.K. on whether they want to move from rhetoric to regulation for the global technology sector.

Informed by these insights, our market experts have brought out their crystal balls to share their thoughts, predictions and knowledge on the major trends and themes facing the technology sector in 2022.



**Sophie Scott**

Global Technology Lead



# HOW DO YOUNG PEOPLE JUDGE THE TECHNOLOGY SECTOR?



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Global Head of Research and Insight  
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Director, U.S.  
Sarah Raker is a Director in the Research and Insights team.

But concerns towards data privacy threaten to erode this trust. Young people assume data tracking is the norm, not the exception, with over half of respondents in all markets expressing concern about how their data is used by companies – an anxiety highest in China (83% concerned) followed by the U.S. (64% concerned).

## WHAT OUR RESEARCH SHOWS

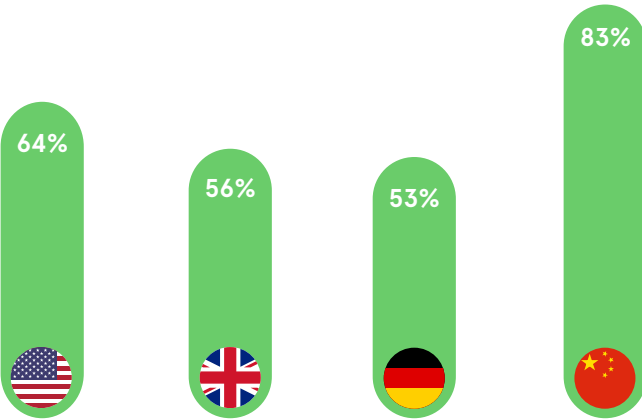
With the technology industry under immense political and media scrutiny, we wanted to understand how Gen Z and younger millennials view the sector, and the growing calls for greater regulatory intervention.

To find out, we surveyed a total of 2,400 Gen Z and younger millennials across the U.S., China, Germany, and the U.K., giving us a global perspective on the sector’s strategic environment.

Their responses underscored the opportunity for tech to leverage its goodwill with young people. In each market, large majorities of Gen Z and younger millennials express trust in the sector and rate the industry as a force for good.

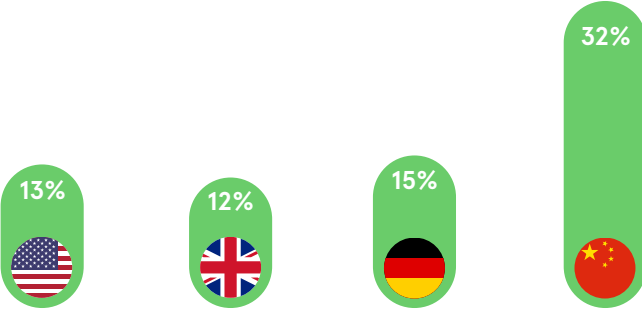
Tech’s reputation is especially strong in China, where nine-in-ten see the industry as a force for good. But even in the U.S and U.K., where we saw more sceptical reactions to aspects of technology, two-thirds view the sector as a positive force.

## YOUNGER PEOPLE ARE CONCERNED ABOUT HOW THEIR DATA IS BEING USED BY COMPANIES



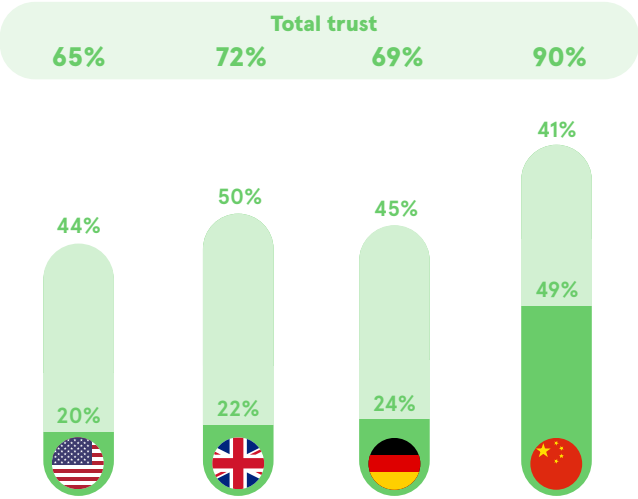
**What’s in it for me?** Driving this concern is a strong perception that the status quo doesn’t benefit the end-user. Less than one-in-five young people in Western markets feel they personally benefit a great deal from data collection, highlighting the need for business to do a better job of demonstrating what’s ‘in it’ for the consumer.

## YOUNG PEOPLE FEEL THEY BENEFIT A GREAT DEAL FROM DATA COLLECTION



## TRUST IN THE SECTOR

Trust a lot   Trust some



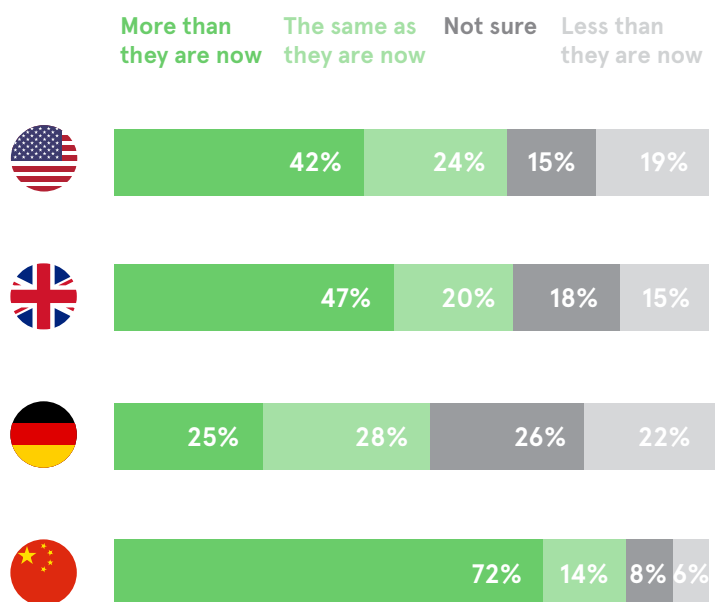


## HOW DO YOUNG PEOPLE JUDGE THE TECHNOLOGY SECTOR?

With young people feeling positive about the sector, but concerned about intrusive tracking, attitudes toward regulation are more split.

American, British, and German young people are divided on whether companies should be more, or less regulated, or if current regulation is adequate – a similar pattern to their feelings on whether steps should be taken to reduce the size of major companies.

### TECHNOLOGY COMPANIES SHOULD BE REGULATED...



### HOW WOULD YOU FEEL IF THE GOVERNMENT WERE TO TAKE STEPS TO REDUCE THE SIZE OF MAJOR TECHNOLOGY COMPANIES?

				
It would be mostly a <b>GOOD</b> thing	35%	32%	23%	49%
It would be mostly a <b>BAD</b> thing	29%	25%	29%	27%
It would not make much of a difference/not sure	36%	43%	49%	25%





HOW DO YOUNG PEOPLE JUDGE THE TECHNOLOGY SECTOR?

**Where is this going?** Only in China do we see clear-cut support for greater regulation. Even with the industry enjoying a strong reputation in the market, seven-in-ten (72%) say technology companies should be more regulated than they are now.

**Artificial intelligence is at the frontline.** Young people in Western markets are more likely to be worried than excited about AI, while their Chinese counterparts are much more excited about AI.

Existing concerns toward privacy and the use of data shape how AI is judged, with over half of young people across markets worried about the implications of AI for privacy. Young people in all four markets support calls for greater regulation of how both the private and public sector use AI technology.

**What should the sector do?** Despite concerns, over half agree that AI can help solve societal problems. The sector needs to seize the moment to demonstrate the real and tangible benefits, focusing on outcomes, not inputs.

				
I Agree that AI will help us solve many different kinds of problems in society	51%	55%	52%	78%
I Agree that AI will transform our way of life for the better	44%	44%	49%	84%



## BI-PARTISAN HEADWINDS FOR BIG TECH IN THE U.S.



**Jack Krumholtz**  
Partner, U.S.

Jack Krumholtz is a Partner in Washington D.C., representing clients before Congress and the Administration on issues including antitrust, intellectual property and immigration.



**Josh McCafferty**  
Associate Director, U.S.

Josh McCafferty is an Associate Director in Washington D.C. His policy focus includes technology, telecommunications, and competition and antitrust issues.

With consumers and policymakers alike casting a critical eye towards the dominant digital players – particularly Amazon, Apple, Facebook, and Google – the push to rein in the power and size of Big Tech companies is heating up in the United States. And while the reasons may vary, it is notable that the criticism is coming from across the political spectrum.

Progressives – concerned about the consolidation of corporate power, proliferation of misinformation online, and unbridled data collection – have pushed reforms that would go as far as breaking up the largest Big Tech companies. Meanwhile, conservatives have expressed outrage over the power these companies, which are based in liberal cities and comprised of left-leaning workforces, have over what content is disseminated and promoted online. While these conflicting narratives make it unlikely that any large-scale policy proposals will be enacted, the heightened attention on the control the Big Tech platforms have over the digital economy and, increasingly, our daily lives are likely to continue – and could lead to targeted legislative and regulatory reforms.

The first year of Joe Biden's presidency saw a flurry of antitrust activity both in Congress and the administration. A package of six bills aimed at boosting competition in digital markets, reining in the power of Big Tech platforms, and providing more tools and resources to antitrust enforcement officials is currently working its way through Congress. The bills' introduction followed a 16-month investigation into allegations of anticompetitive conduct.

President Biden has also signalled a willingness to be more aggressive on antitrust issues with his appointments of Lina Khan to chair the Federal Trade Commission (FTC) and Jonathan Kanter to lead the

Department of Justice's (DOJ) Antitrust Division, the two federal antitrust enforcement agencies, as well as the appointment of Tim Wu to the White House's National Economic Council. All three appointments were a major win for progressives seeking stronger enforcement action from the federal government.

Beyond antitrust, Members of Congress on both sides of the aisle have introduced numerous bills – both partisan and bipartisan – to lay down a marker and continue the dialogue on a comprehensive federal privacy regime. That said, Republicans and Democrats have been unable to find consensus on key sticking points, such as a private right of action and federal pre-emption of state privacy laws. Without federal privacy legislation, US companies operating in the global marketplace must navigate a complex patchwork of state laws and EU regulations to remain compliant, a point Republicans have hammered on. But congressional Democrats are reluctant to enact a compromise federal bill that waters down the strongest privacy protections already passed by Democratic state legislatures.

Fueled by a perceived anti-conservative bias and the suspension of former President Donald Trump's Twitter and Facebook accounts, congressional Republicans have focused on reforming – or outright repealing – Section 230 of the Communications Decency Act, which provides digital platforms with immunity from liability for third party content published on their sites. For their part, Democrats in both the House and Senate have proposed bills that would make platforms liable for making recommendations that lead to user harm, including disinformation and hate speech.

While it remains to be seen how these dynamics will play out in the halls of Congress and at the White House, it is clear that US audiences are beginning to question the practices of the platforms that have become ubiquitous in daily life. Forty-nine percent of younger Americans say their values don't always align with the technology sector. That scepticism is resonating with U.S. policymakers.

Without federal privacy legislation, U.S. companies operating in the global marketplace must navigate a complex patchwork of state laws and EU regulations to remain compliant

# TAMING THE BEAST – AI REGULATION IN THE EU



## Irina von Wiese

Senior Advisor, Brussels

Irina von Wiese is a Senior Advisor. She is a German and UK qualified lawyer specialising in competition and TMT law. She is a lecturer in EU Law at the ESCP Business School and served as Member of the European Parliament, where she focused on human rights and business-government relations.

## Artificial intelligence is on everyone's mind.

Our research shows that the generation most affected and most likely to benefit from an AI revolution has expressed an ambivalent attitude. They hope that AI will transform lives and solve different problems facing society. But on the other hand, they express worry about the use of AI and are concerned that AI technologies will ultimately be an invasion of privacy.

### **So: how to tame the beast once it has been unleashed?**

Regulation has always played catch-up with technology, and AI is no exception. While numerous public and private actors have produced legislation and ethical guidelines in this field, there is currently no comprehensive international legal framework. This is partly due to the fiendishly difficult balance between potential and risk – both currently incalculable. Different cultural, socio-economic and geopolitical considerations lead to different regulatory approaches in different jurisdictions. But the challenges of AI, like those of most digital technologies, go beyond national and continental borders. For regulation to be successful it needs to be comprehensive and, ideally, based on broad consensus.

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The EU Commission – arguably the world's leading tech regulator – has now embarked on an ambitious journey. In April 2021, it published an AI legislative package, proposing new rules and actions to 'turn Europe into the global hub of trustworthy AI'. At its core lies a proposal for an AI Regulation laying down harmonised rules for the EU (the Artificial Intelligence Act).

The 'European Way' promises to marry technological advance with a 'human-centric' approach: promoting excellence and trust, aiming to boost research and industrial capacity and to ensure people's safety and fundamental rights. As our research shows, however, this is a difficult marriage.

First, excellence and trust are two separate issues. Excellence is to be achieved by maximising resources and coordinating investments within the EU. Through the Digital Europe and Horizon Europe programmes, the Commission plans to invest €1bn per year in AI. It proposes to mobilise further investments from the private sector and the Member States in order to reach an annual investment volume of €20bn over the course of the decade. In addition, the newly adopted Recovery and Resilience Facility makes €134bn available for digital projects. Other regulatory initiatives, such as the EU Cybersecurity Strategy, the Digital Services Act and the Digital Markets Act, and the Data Governance Act, will ensure access to high quality data and provide the right infrastructure for high-performance, robust AI systems.

Trustworthiness, however, does not automatically spring from excellence. Autonomous vehicles are proven to be safer than human-controlled vehicles, but are trusted less by the majority of people. To generate trust, both governments and private actors have to ramp up education and transparency. Under the new rules, companies would have to open the black box of AI by being more open about the way they design and use algorithms in commercial environments. Governments will have to build robust human rights safeguards into the use of facial recognition software for law enforcement purposes. And, as self-driving car accidents have shown, one single incident can set trust back by years.

Second, to encourage the adoption of global rules and 'human centric' standards in AI, the EU will have to work with like-minded countries and stakeholders – even if it means putting competitiveness on a backburner. On a global stage, stricter regulation can cost economic advantage. To be successful, the EU will have to resist the temptation to water down regulation in the interest of political or economic gain.

# THE TECHNOLOGY OPTIMISTS



## Ginny Wilmerding

Partner, Asia

Ginny Wilmerding is a Partner in Hong Kong, where she advises clients in the tech sector on capital raising, ESG strategy, and geopolitical issues.

Experts in the West are working hard to formulate official policy on artificial intelligence and data privacy, issues increasingly viewed in a geopolitical context. When doing so, they would do well to open their eyes to what is happening in plain sight in China, rather than cling to assumptions or preconceived notions.

We consider objective measures of public opinion, watch Chinese AI governance initiatives, and scan the capital markets for clues. What we find is that AI innovation is happening particularly fast in countries with more 'AI optimists', and that practical ideas on the regulatory front are not only coming from Europe and America, but also out of China.

Our research shows that China's young generation is particularly concerned that companies are tracking their activity and mining their data. At the same time, they believe that AI can solve societal problems and make their lives better. They also believe these areas must be more regulated by their government. It's worth reflecting on why they welcome strong government involvement. Certainly nationalism and propaganda play some role in influencing public opinion, but there is a basis for their strong views. What else is going on?

China's AI governance initiatives are surprisingly advanced and there is a lot of evidence that China has studied evolving European and U.S. regulation. In addition, China cares about public opinion, and its citizens clearly worry that tech companies have become too powerful – echoing public and government concerns all around the world. Matt Sheehan, a scholar at the Carnegie Endowment for Peace, recently published a piece arguing that we ought not ignore or dismiss China's regulatory efforts in this area, nor should we criticise everything through a surveillance and human rights lens.

For example, China's Cyberspace Administration (CAC) requires that AI algorithms be explainable (hard to argue against that). If regulators can't understand how lending decisions are made, how ride-sharing services choose routes or customers, or how citizens can be identified correctly when crossing borders, they can't oversee such algorithms.

With regard to accuracy, robustness and reliability, the Chinese Academy of Information and Communications Tech (CAICT) is striving to standardise tools and certifications for 'trustworthy AI' that sound a lot like U.S. definitions. Finally, the Ministry of Science and Technology now wants companies to set up AI ethics review boards and to build ethics into product development. Some forward-looking private companies began doing that without government prodding as early as 2019.

Many of China's AI darlings – both state-owned and private sector – are currently sanctioned by the U.S. government and have been placed on Entity List export control lists and/or Civil-Military Industrial Complex investment blacklists. Are the U.S. policies incentivising companies to follow Western norms instead? Are they having the desired punitive effects on China? It's complicated. We need only look at the Hong Kong IPO of Softbank and Silverlake-backed Sennet, which was put on its second blacklist right before its Hong Kong listing. The listing got done anyway with a short delay (and without U.S. investors), gaining as much as 23% in early trading before ending the day 7.3% up, and the stock has risen another 25% in the first two weeks of 2022, during a market slump.

Like it or not, China is an important global player in technology and in the regulation of that technology. It's also a country of AI optimists who are largely pro-regulation. We would all benefit if the conversation on AI and data regulation was a global one – allowing everyone to debate shades of gray, rather than black and white.



# MAKING THE CASE FOR DATA-DRIVEN TECHNOLOGY



**Ruth Porter**

Managing Director, U.K.

Ruth Porter is a Managing Director in London. She previously worked as Head of International Affairs at the London Stock Exchange Group and served as a Special Adviser in the UK government.



**Josh Butler**

Associate Director, U.K.

Josh Butler is an Associate Director in London and a qualified lawyer. He has a particular interest in digital and data policy, as well as how competition law developments impact technology companies.

Much of the debate around data focuses on the negatives – data breaches, intrusive collection methods and unregulated online monitoring.

This perception is strong among those aged 16–26 in the U.K. and 56% of those surveyed expressed concern about how their data is used. However, the everyday benefits data-driven technology provides means this statistic shows a clear lack of understanding. It also demonstrates the opportunity that exists to make the case in its favour.

Data creation and collection is growing at an ever-increasing rate, a trend only accelerated by COVID. The U.K.'s young people understand that, with 78% of those polled assuming that some of what they are doing online or on their phone is being tracked by advertisers, technology firms, or other companies.

This statistic is not a concern in and of itself, and likely reflects the reality of modern data collection. However, when combined with the fact that 47% believe the risks of data collection outweigh the benefits (compared to 36% who believe the benefits outweigh the risks), there is a danger that future data-driven technological advancements could be stymied by unsubstantiated public concerns.

For policy-makers and businesses, there is a need to proactively make the case for data-driven technology, a case that will be supported by more effective regulation. As in reality, the case for data-driven technology is inarguable.

Consider the pandemic as an example: the U.K.'s ability to identify new variants relied on mass genomic sequencing, issues with self-isolating were lessened by the social contact communications platforms enable, and reopening was facilitated by ordering through QR codes in pubs and restaurants.

These real-life benefits would not have been possible without the proliferation of data-driven technology. It should therefore concern both the Government and the plethora of businesses that rely on data that only 12% of young people believe they benefit a lot from data collection.

This is ultimately a failure on two fronts. Policy has failed to keep up with the rapidly changing digital landscape, while together businesses and Government have failed to make the positive case for data-driven technology.

The U.K. Government is beginning to wake up to this challenge. It launched a consultation last year on a 'new direction' for data in the UK, while the expert Centre for Data Ethics and Innovation is leading the charge to drive trustworthy data collection and sharing methods, with new guidance, data principles and assurance models.

These policy initiatives will go some way towards building trust in data. However, as the U.K. considers its 'new direction' it must start from first principles and highlight the benefits that data-driven technology provides. This will ultimately require businesses to explain how their data usage improves our lives – both on the grand-scale and in the small every day things.

For companies, working with Government to develop effective policy that builds public trust in data must therefore go hand in hand with proactively communicating the benefits of the technology. Without this proactive approach, we risk stifling innovation and further technological progress.

As the U.K. considers its 'new direction', it must start from first principles and highlight the benefits that data-driven technology provides



# IS AMBIVALENCE A COMPETITIVE ADVANTAGE?



## Philipp Raidt

Partner, Germany

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## Cecilia Siebke

Associate Director, Germany

Cecilia Siebke is an Associate Director in Berlin. She advises clients in their general public affairs strategy and in business-critical situations, with a focus on tech and platform regulation as well as digital policy.

As our research shows, young people are generally ambivalent towards more regulation in the tech sector.

However, compared to other countries, young Germans take a stronger stance against more regulation. At the same time, a majority of German respondents fear that the risks of companies collecting data about them outweigh the benefits they receive.

When asked about AI, 50% of German aged 16-26 think it is 'mostly a good thing', however a significant number are worried that AI technologies like facial recognition will be an invasion of their privacy. Over half (53%) of German respondents also agree that companies' use of AI should be more strictly regulated.

### **This ambivalence reflected in the survey results is not surprising:**

One reason why young Germans are less in favour of more regulation could be that Germany already has rather strict technology sector regulation in place – especially with regard to personal data and privacy protection. Hence, young people might see less need for action, despite acknowledging that regulation in general is required. However, there is historically a general scepticism and high sensitivity among many Germans when it comes to entities collecting data or personal information, no matter if they are public or private.

At the same time, the idea of having failed to seize the opportunities offered by the first and second wave of digitisation does not sit well with Germany's strong engineering soul: there is great concern that local companies are losing competitiveness (especially in comparison with U.S. tech companies) and that the administration is poorly positioned in terms of digitisation. Also, German consumers wish to use the many new technologies and

data-driven services available, and German companies want to become frontrunners in the development of new technologies and technology-based business models.

There is an evident gap in public perception between the desirable goals of regulation on the one hand, and the acceptance of the necessary instruments to achieve them on the other. Take, for instance, content moderation. There is strong public support for curbing hate speech online. Yet, upload-filters and other necessary automatic means are frowned upon.

The ambivalence towards technology regulation is also mirrored in the new federal government's working program: the coalition wants to enable data-driven business models to ensure the competitiveness of the German economy. For that the program identifies AI, quantum-computing and support for digital business models as key. Yet, there are also strong commitments to limit data usage, ensure the protection of data and strengthen consumer protection.

What does it mean for tech companies, especially for those that are less experienced with the German market?

The good news is, Germany is politically and societally willing to facilitate data-driven and AI-based technologies and digital business models. There is opportunity but with a caveat: you have to do it right.

- | Make sure you are aware of and able to address the societal ambivalence that is mirrored in the political and regulatory environment. Having the right attitude is key.
- | Demystify 'tech': take time to educate stakeholders about your business model. Address people's fears and explain the possibilities as well as the limits of technology, in particular when you are a provider of AI-based services.
- | Include not only regulators, but also the public, in your communication efforts to address possible contradictions between regulation goals and the acceptance of necessary instruments.

If you do it right when entering the German market, the ambivalence can serve as a competitive advantage.

## ACTIONABLE INSIGHTS FROM THE DATA

- | Businesses need to do a better job demonstrating what's 'in it' for the consumer
- | Start from first principles and highlight the benefits that data-driven technology provides
- | To generate trust, both governments and private actors have to ramp up education and transparency
- | Despite concerns, over half think that AI can help solve societal problems. The sector needs to seize the moment to demonstrate the real and tangible benefits of AI



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# | THANK YOU



FINSBURY  
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