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# It Takes Two to Tango

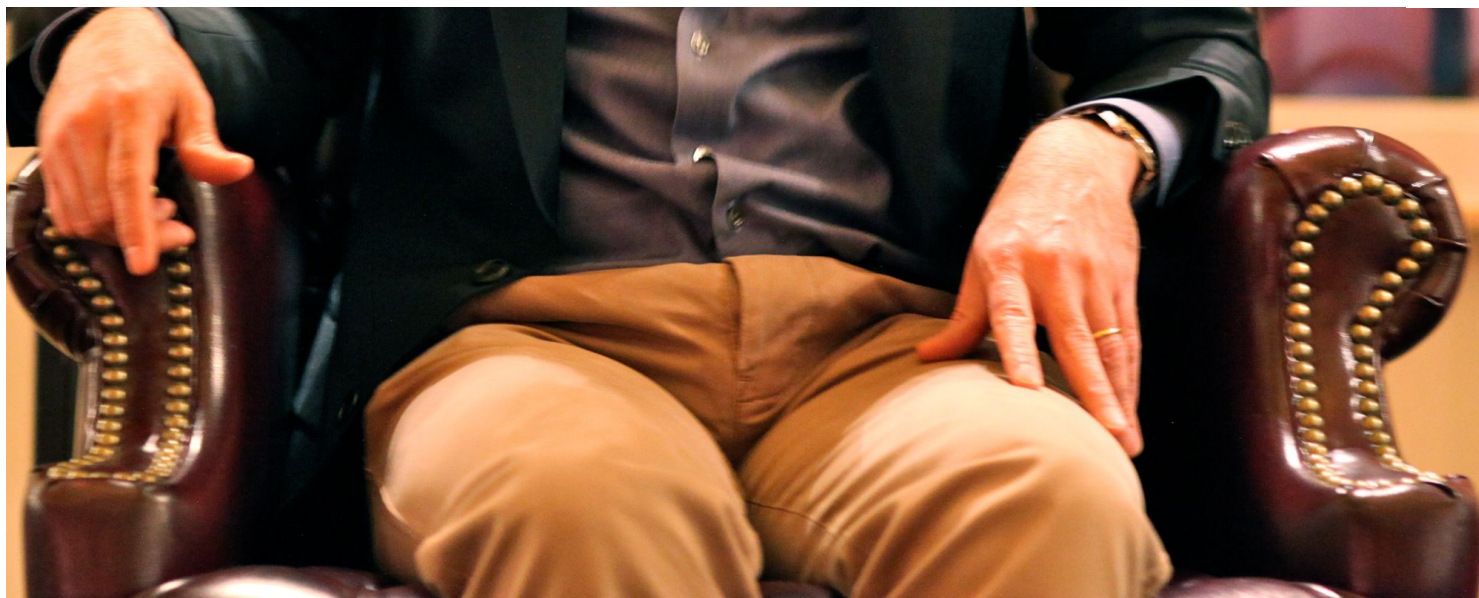
As American tech companies contend with strict scrutiny from Congress in the wake of the 2016 election, several have already been harassed by European regulators.



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As American tech companies contend with strict scrutiny from Congress in the wake of the 2016 election, several have already been harassed by European regulators. During the past year, Amazon and Google were slapped with massive fines, continuing a trend of EU hostility toward major American tech companies.

Google was hit with a €2.4 billion (~\$2.8 billion) antitrust fine for unfairly promoting its shopping service over those of its rivals in June. In response, the company announced it would [introduce](#) some minor changes to the way it displays results from its shopping tool<sup>[1]</sup>. These changes were [self-imposed](#) by the company, as the EU mandated that Google come up with its own solution rather than impose any specific

possibility of further action remains<sup>[3]</sup>.

Europe's General Data Protection Regulation is thought to be one of the toughest privacy laws in the world, compared to much more lenient guidelines in the United States<sup>[4]</sup>. Historically, the US has been reluctant to impose antitrust regulations on digital companies unless a demonstrable harm to consumers can be proven. For example, in 2012, the Federal Trade Commission (FTC) found that Google demoted its competitors' search results, a charge nearly identical to the one the EU recently levied against the company<sup>[5]</sup>. The FTC needed to prove that Google not only dominated the online search market, but that it used its position to dominate another market; the price comparison market, for instance. Across the pond, regulators merely had to prove Google used its search dominance to gain an advantage over its competitors in the price comparison market.

Some feel the EU's fine is a much-needed measure that gives Google's competitors an at least marginal chance to compete<sup>[6]</sup>. Given Google and Facebook's duopoly in the online ad market, and Europe's history as one of the world's toughest regulators of digital services, the fine surprised few<sup>[7]</sup>. Nonetheless, that Google was asked to change the way it displays search results could open the door for future lawsuits<sup>[8]</sup>. As far back as 2015, President Barack Obama criticized the EU for what he termed protectionist actions taken against the American tech giants. While the US is likely to impose some punitive measures following revelations about Russia's role in the 2016 elections, Europe remains a far more hostile environment for tech companies.

## All together now

American and European regulators agree, however, that Amazon illegally avoided paying their fair share of taxes. Earlier this month, the company

with Luxembourg. In short, regulators accused Amazon of shifting roughly three-quarters of its profits made in Europe to an empty shell holding company that could not “justify the level of royalty it received”<sup>[9]</sup>.

Stateside, Amazon was similarly accused of transferring funds to the same shell company to avoid paying taxes for 2005 and 2006. Unlike in Europe, the Internal Revenue Service (IRS) lost its case against the tech giant in March, but has since appealed the ruling<sup>[10]</sup>. Based on the size of the EU’s tax claim against Amazon, analysts expect the roughly €1 billion (\$1.16 billion) of profits in Luxembourg left untaxed by Europe to instead be taxed in the US. Whether the IRS will succeed in its appeal against Amazon remains to be seen.

The recent clash between Amazon and European regulators is illustrative of more fundamental differences between the US government and the EU concerning the taxation of multinational corporations. Despite its own ongoing case against the company, the US Treasury recently said it was “deeply concerned” about the EU’s retroactive tax assessments against Amazon<sup>[11]</sup>. In addition to Amazon, the EU cracked down on Apple in Ireland and Starbucks in the Netherlands for tax avoidance, while an investigation into arrangements between Luxembourg and McDonald’s continues<sup>[12]</sup>. One potential solution: President Trump, whose tax reform plan would lower the corporate tax rate by 20 percent, enticing corporations to stop storing their profits overseas.

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withdraw US support for the Trans-Pacific Partnership (TPP).



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