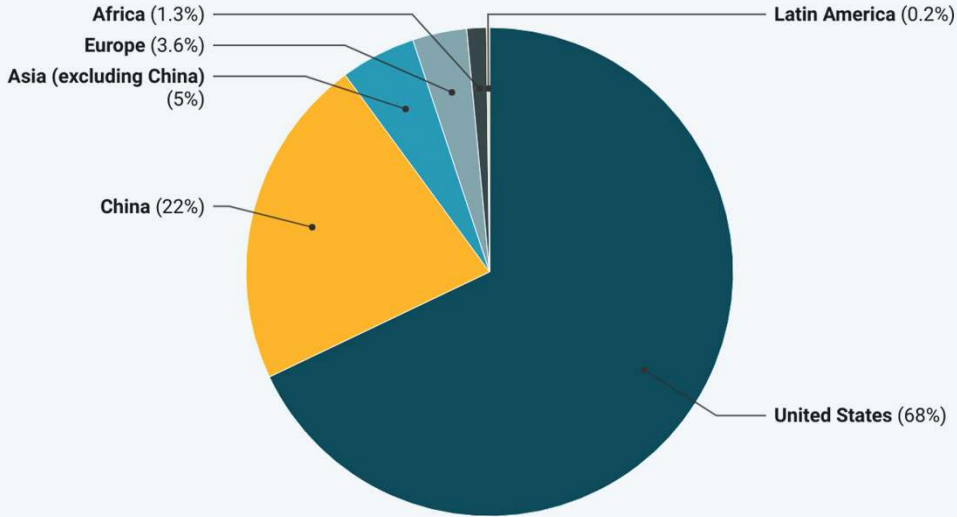


Levelling the digital trade playing field: The role of regulation

Concentration of the global data economy



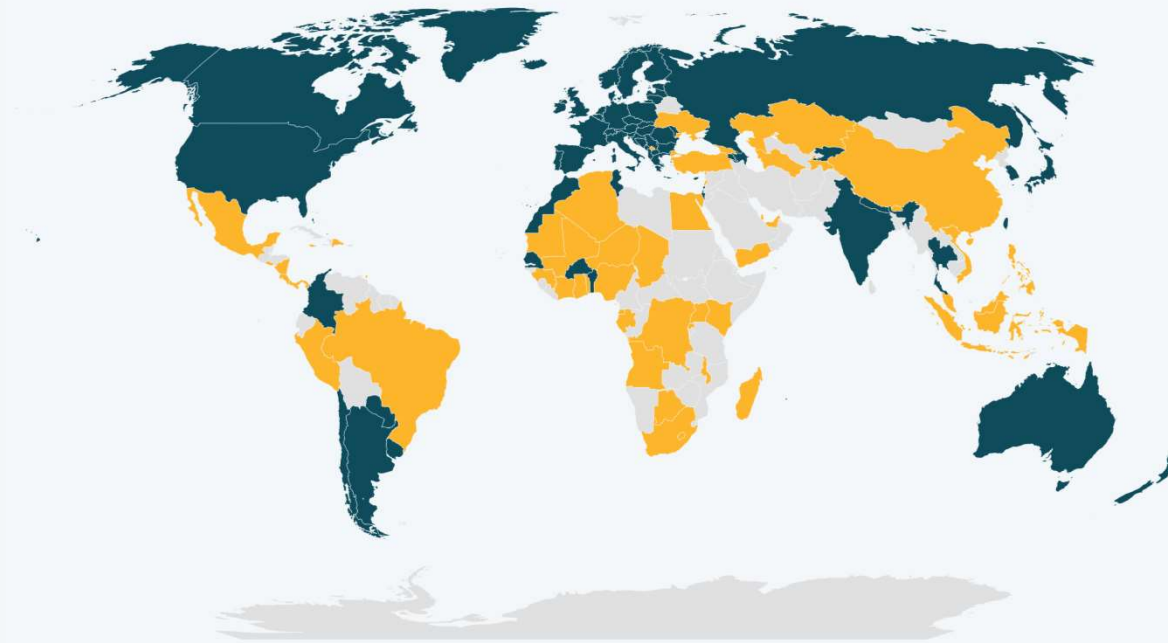
U.S. firms dominate the global digital economy

(percent market capitalization value by country for the world's 70 largest digital platforms)
Source: UNCTAD 2022



Data protection legislation around the world

- Data protection legislation introduced and passed between 2010 - Present
- Data protection legislation introduced and passed before 2010



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Factors contributing to an uneven digital trade playing field

- Implementation challenges in LMICs
- The SME compliance hurdle
- EU adequacy process seen as opaque and politically motivated
- The global proliferation of adequacy regimes

Regional disparities in staffing and budget for data protection regulation

| Region | Median Per-country DPA Budget | Median Per-country DPA Staff |
|---------------------------|-------------------------------|------------------------------|
| North America | \$58 million | 647 |
| Asia/Oceania | \$6.9 million | 77 |
| Europe | \$2.2 million | 34 |
| Africa/Middle East | \$500,000 | 14 |
| Central And South America | \$400,000 | 13 |
| OECD | | |
| Member | \$6 million | 50 |
| Non-member | \$500,000 | 17 |

Source: Fazliogu, 2018

The SME compliance hurdle

- Chen, Benedikt Frey, and Presidente (2022) conducted the first systematic evidence on the impact of the GDPR on firm performance across all sectors of the economy
 - On average, firms exposed to the regulation experienced an 8% decline in profits and a 2% reduction in sales
 - But large tech companies were relatively unaffected by the regulation on both performance measures...
 - While the negative impact on profits among small tech companies was almost double the average effect

EU adequacy process seen as opaque and politically motivated

- Adequacy determinations confer a competitive advantage for firms based in countries deemed adequate
 - E.g., a report issued before the UK achieved GDPR adequacy estimated that not receiving it would cost UK firms between £1 billion and £1.6 billion due to additional compliance obligations (McCann, Patel and Ruiz, 2020)
- But experts we spoke with complained about the process' complexity and lack of transparency, and argued that decisions were motivated by political and economic factors
- The EU has granted adequacy to only eight countries outside of Europe, and none in Africa

The global proliferation of adequacy regimes

- 61 countries have established an adequacy-like regime for determining the legality of cross-border data flows (Chander and Schwartz, 2022)
- “This concept has now been adopted throughout the globe, but without any common substantive definition of adequacy, and without any uniform process” (Chander and Schwartz, 2022)

Taken together, these four factors...

- *implementation challenges in LMICs;*
 - *the SME compliance hurdle;*
 - *EU adequacy process being seen as opaque and politically motivated; and*
 - *the proliferation of adequacy regimes*
- ...suggest the global digital economy will remain tilted in favor of rich countries and large tech companies and against poorer countries and smaller enterprises absent significant policy reform

The role of the international community in levelling the digital trade playing field



National

- Devote **more resources** to **strengthening** domestic data protection regimes in line with **countries' needs** and **capacities**

Global

- Promote a **common, transparent, and flexible approach** to establishing the **legality** of cross-border data flows
- Foster global and regional initiatives to **harmonize** data policies with **genuine input** from low- and middle-income countries

Thank you