

# The Boston Globe

## Big Tech will still face big challenges during Biden administration

*Longstanding issues like antitrust, privacy, immigration, and broadband access come to the fore*

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Like everyone else, the technology barons of Silicon Valley were on the edges of their seats waiting for the outcome of the presidential election. But the consensus among tech industry analysts is that while a Biden administration will do things differently from President Trump on issues like antitrust, privacy, and immigration, Big Tech still faces big challenges.

On their biggest pain point — the threat of an antitrust crackdown — the social-network companies Facebook and Twitter, search and advertising titan Google, and mega retailer Amazon were in hot water already. A Biden administration could turn up the heat even higher — or perhaps not, if Republicans retain their grip on the Senate.

But tougher antitrust enforcement is a genuine threat, say some analysts. “I would expect Biden to get tougher on the tech sector, just because his party has moved to the left on those issues,” said [Darrell West](#), senior fellow at the Center for Technology Innovation at the Brookings Institution in Washington.

Chris Lewis, president of [Public Knowledge](#), a nonpartisan tech policy advocacy group, said the shift will be even more dramatic if the Democrats seize the Senate. In that case, he says, Congress might enact antitrust laws that impose strict new regulations on Internet giants like Amazon, Facebook, and Google. A Democratic Congress might even contemplate laws that would break up the tech titans into smaller companies — for instance, by compelling Google to sell its Android smartphone operating system. But for that to happen, the Democrats must win a pair of runoff elections for the Senate seats in Georgia.

Either way, [Michael Cusumano](#), a professor at the MIT Sloan School of Management, doesn’t foresee antitrust breakups of Big Tech companies. “I think the more extreme positions of the Democratic party will not make it into policy,” Cusumano said. “I would guess the career lawyers in the Justice Department who’ve been looking at this . . . will probably come to some agreement with these companies.”

On other hot-button tech issues, the differences between Biden and Trump will probably come down to tone and tactics rather than core principles.

For instance, both parties favor some kind of Section 230 update — that’s the federal law that shields companies like Twitter and Facebook from liability — so that social media companies

can be sued for the kinds of messages their users post, or for those they remove. Trump and conservative Republicans wanted to ban big online forums like Facebook from “censoring” conservative viewpoints. But Biden and others on the left favor changes that could penalize companies for publishing racist or hateful messages.

"Unlike Trump-backed proposals intended to limit platforms' moderation, Biden would have them do more," said Will Duffield, policy analyst at the Cato Institute, a libertarian think tank. Either way, Section 230 is in for a substantial overhaul.

A federal privacy law is another likely legal change. “I think 2021 will be the year of a national privacy bill,” said Brookings' West. Such a law could require companies to reveal exactly what information they collect about consumers, and what they do with it. A privacy law could also give US citizens the right to demand that companies stop monitoring their online activities.

That might sound like bad news for social media companies that use personal data to generate hugely profitable ad campaigns. But states like California are enacting similar laws, each of them a little different. “Companies don’t want to end up in a situation where they’re subject to 50 different privacy laws," West said. It’s simpler and cheaper to accept a single national standard.

Biden’s administration will probably reinstate the Federal Communications Commission’s Obama-era rules on regulating broadband Internet carriers like Comcast and AT&T. This would give the government broad authority to impose “network neutrality” rules, forbidding carriers to prefer some data traffic over others. Lewis said such a shift would also empower the FCC to investigate broadband carriers for failing to provide access to millions of citizens.

In addition, analysts predicted that a Biden administration will put universal broadband access at the heart of his proposed \$2 trillion infrastructure bill. Doug Brake, director of broadband and spectrum policy at the Information Technology and Innovation Foundation, a Washington think tank, said that Republicans tend to dole out infrastructure grants to states, to spend as they see fit. In contrast, he expects the Democrats to set aside money specifically for broadband projects.

On foreign policy, both parties favor challenging China’s unfair trade practices, including its thefts of US intellectual property. “I think the big difference is that Biden will get tougher within a systematic process," West said. "He will have a strategy.”

Perhaps. But so far, Biden has not explicitly renounced Trump’s tariffs on Chinese goods. Neither has he said whether he will rejoin the Trans-Pacific Partnership, a trade pact abandoned by the Trump administration that was designed in part to counter China’s growing power.

However, Biden’s more generous attitude toward immigration could pave the way for a bargain on the future of the H-1B visa program, used by many tech companies to bring highly skilled foreign workers to the United States. In October, the Trump administration said it would force companies to pay much higher wages to H-1B visa workers and require that they have at least a bachelor’s degree.

“Trump’s reforms were pretty mainstream,” said Ron Hira, associate professor of political science at Howard University. “They’re shared by the progressives within the Democratic party.”

Biden will be under pressure from tech companies to expand the number of H-1B visas issued annually from the current level of 85,000. But Hira said that Biden, like Trump, has been critical of the low wages paid to many H-1B workers. There's the makings of a deal here, in which Congress might agree to expand the number of visas in exchange for paying higher wages to the foreign workers.