

**October 28, 2019****Ray Padgett** | raypadgett@shorefire.com**Mark Satlof** | msatlof@shorefire.com

T: 718.522.7171

## **Intelligence Squared U.S.**

### **Europe Has Declared War on American Tech Companies**

For the Motion: Roslyn Layton, Berin Szóka

Against the Motion: Marietje Schaake, Ramesh Srinivasan

Moderator: John Donovan

**AUDIENCE RESULTS****Before the debate:****30% FOR****23% AGAINST****47% UNDECIDED****After the debate:****30% FOR****64% AGAINST****6% UNDECIDED**

Start Time: (00:00:00)

[applause]

John Donovan:

The topic of tech -- it's a place where our lives meet science, and business, and culture and where so much is actually debatable. And that's why, at Intelligence Squared, we have debated tech's impact numerous times, in numerous areas, on the issues of privacy, on security, on our brains, on the state of our discourse. But this time we're going a little bit more global. Most of the online giants that we know, like Google, and Facebook, and Apple, and Amazon, they're products of American capitalism, but they play around the world, including where the rules are different.

Europe has passed laws that do set limits on these companies can do in a range of areas, including user data, with, you know, putting limitations on the gathering of and the storage of and the selling of and the deleting of. And some people here in the U.S., including some of the people who are now running for president in 2020, are suggesting the U.S. should do some of the same.

00:01:00

So, how is Europe's approach working out so far? Once again, then, on the topic of tech, we think we have the makings of a debate, so let's have it. Yes or no to this statement: Europe Has Declared War on American Tech Companies. I'm John Donovan; I stand between two teams of two who are experts in this topic who will argue for and against that resolution. As always, our debate will go in three rounds, and then our live audience here at the Kaye Playhouse in New York City will choose the winner. And as always, if all goes well, civil discourse will also win. Our resolution one more time: Europe Has Declared War on American Tech Companies. Let's meet our debaters. Please, ladies and gentlemen, first welcome Roslyn Layton.

00:03:15

[applause]

Roslyn Layton:  
Great to be here.

John Donovan:  
Roslyn, you're a visiting scholar at the American Enterprise Institute. While there -- at there -- at that place, you research and analyze all things tech and communications. You also hold positions in Denmark, including visiting research at Aalborg University -- did I pronounce that correctly?

Roslyn Layton:  
That's correct.

John Donovan:  
Thank you.

00:02:00

And I just want to say welcome to Intelligence Squared.

Roslyn Layton:  
Great to be here.

John Donovan:  
Great to have you. And let's now meet your partner. Ladies and gentlemen, welcome Berin Szóka.

[applause]

Berin, welcome. You are a lawyer. You're a technology policy lawyer; you're the founder and president of an organization called TechFreedom -- that's a think tank-based on Washington. Great to have you with us, Berin.

Berin Szóka:

Thanks for having me.

John Donovan:

It's a pleasure. Ladies and gentlemen, Berin Szóka and the team arguing for the resolution.

[applause]

And let's meet the team arguing against the resolution Europe Has Declared War on American Tech Companies. First, please welcome Marietje Schaake.

[applause]

Marietje, you are a former member of the European Parliament, and you are now the international policy director at Stanford's Cyber Policy Center. You have debated with us before; you have won when you have debated with us. I want to say congratulations, and I also want to say welcome back.

Marietje Schaake:

Thank you.

John Donovan:

It's great to have you here.

Marietje Schaake:

Thank you.

[applause]

John Donovan:

And finally, let's meet your teammate. Ladies and gentlemen, Ramesh Srinivasan.

[applause]

Ramesh, you're at UCLA.

00:03:01

You're a professor at UCLA; you're a founder and director of the UC Digital Cultures Lab. You're also the author of a new book, *Beyond the Valley*, and it is great to have you joining us.

Ramesh Srinivasan:  
I'm really happy to be here.

John Donovan:  
Thanks so much.

Ramesh Srinivasan:  
Thanks, John.

John Donovan:  
Ladies and gentlemen, the teams arguing for and against the resolution.

[applause]

So, let's move on to the debate proper. We go to Round One. Round One will be opening statements by each debater in turn. Up to speak first in support of the resolution *Europe Has Declared War on American Tech Companies*, Roslyn Layton, visiting scholar at the American Enterprise Institute. Ladies and gentlemen, Roslyn Layton.

[applause]

Roslyn Layton:  
So -- well, thank you to Intelligence Squared for hosting this debate, and to our colleagues. My team has one job this evening: to convince you that Europe has declared war on America's tech companies. Now, I'm an American, but I live in Copenhagen. I lived in the Netherlands for two years and Denmark for 10, and I want Europe to succeed in the digital economy, if for nothing else, for my three European children.

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For 20 years, the EU has pursued very well-intentioned but misguided regulatory policies for the tech industry. They haven't succeeded to create the tech companies that they had wanted. There's no European tech company that you can probably name besides Spotify. In fact, the situation is so bad today that the Europeans feel no choice but to have to go to war to remedy this situation. In fact, the incoming EU president has said it's too late for the EU to build its own tech platforms. Paul Nimitz of the European Commission took it a step further and said, "It's the end of democracy."

Now, let's be clear about what this debate is about. This debate is about war, not competition. Competition is a merit-based contest in which companies attempt to win your favor with better goods and services. War, on the other hand, is a conflict carried out by force to undermine or destroy one's adversary. We will show you that the European policymakers no longer want to compete; they want to subjugate American tech companies.

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Now, we're not debating whether American tech companies are problematic; they are. We're not debating whether American tech companies behave in ways that can be greedy and arrogant and untrustworthy; they do. And we're not debating that these companies should not be regulated; they should.

We're not even debating there should be a war. We're only debating that there is one. Now, you can think that the companies should be left alone, but you can still agree that a war has been declared on them. And indeed, you'll hear a lot of good points tonight, but that doesn't change the fact that there is a war. Voting for this motion is a simple, fact-based, binary statement: Europe Has Declared War on American Tech Companies. We will give you the facts and reasons why. Now, our distinguished opponents are likely going to say the E.U. is just conducting policy. They're not waging a war. Well, if you ask the European leaders, they'll say the time for policy is over.

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Now, the irony here -- we just talked about GDPR. This is general data protection regulation. It's proposed as a privacy -- across the 173 chapters of this mammoth regulation, that word does not appear once. The -- one day after it launched, 1,000 U.S. startups stopped serving the E.U. because of 45 bone-crushing regulations that cost millions of dollars to implement.

That was the first step to get rid of the low-hanging fruit of American companies, get it out of the way. The second step is to go after American companies, which with -- I quote from "La Quoi d'Tour Dounette [spelled phonetically]," which said, "Let's attack Ligafam [spelled phonetically] and methodically deconstruct them and their allies in the press and government." Two years after this regulation has taken effect, consumers don't say they're better off. In fact, they install pop-up blockers on their phones to stop the GDPR pop-ups coming into their face.

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They report the lowest level of trust online since 2006. Now, there's something deeper going on here. This is a conflict between ordinary Europeans and European elites. The Europeans are still suffering from the 2008 financial crisis. The voters are so angry and

disappointed with the E.U.'s lack of success, so much so that they want to leave the European Union. The Brexit vote of 2016 -- it shocked Brussels to the core. So, the key conflict in Europe today is not whether you're left or right; it's whether you're for or against the European Union. And the E.U. leaders are so desperate for credibility and a reason for being, and they have to stop these countries who want to exit the European Union. So, what is more visible than anything else when you go to Europe? It's American technology: the iPhone, Google Maps, Amazon Prime, WhatsApp, you name it. All of these things that Europeans use. So, the European leaders think, if they can overcome American tech companies, if they can show the E.U. is good for something, then maybe they will love the European Union again.

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Now, it didn't have to be this way. In the year 2000, Europe thought it would lead the world in the tech economy. It was a time of optimism and promise. The Communist countries were welcomed into the European Union. There was the EURO and the GSM standard for global communication. Nokia and five other European companies made phones in Europe. Legendary startups like Skype and Angry Birds. And the region accounted for one-third of the world's total investment. And treasuries were filled with billions of Euros from the spectrum auctions. But where is Europe today? Two years behind on 5G. And the capital has just gone away. And Nokia was bought by Microsoft. And all of this is so tragic because it didn't have to be that way. And there's so many deserving, well-educated, and hardworking people. So, Europe has declared war on American tech companies, but it's a war of desperation.

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And these policies haven't worked, so they have -- feel like there's only one option left. They have to dismantle the companies that stand in the way of their legitimacy. Now, Berin is going to describe the story in more detail. He'll show you it's not just a war against U.S. tech; it's a war against our technological future. By the end of this debate, you will have no doubt that Europe has declared war on American tech companies, and you will be able to vote for this motion.

John Donvan:

Thank you, Roslyn Layton.

[applause]

And that motion, again: Europe Has Declared War on American Tech Companies. And here to make his opening statement against the resolution is Ramesh Srinivasan. He is founder and director of the U.S. Digital Culture's Lab. Ladies and gentlemen, Ramesh Srinivasan.

[applause]

Ramesh Srinivasan:

Thank you, everyone. It's great to be here with you. I start with a quote: "People around the world have called for comprehensive privacy regulation, in line with the European Union's general data protection regulation" -- what we call the GDPR.

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"And I agree. I believe it would be good for the Internet if other nations adopted regulations like these." Who said that? Mark Zuckerberg said that. Founder and CEO of Facebook. Far from being at war with the European Union. We can see how in Zuckerberg's own words and stated desires how European Union regulation, specifically the GDPR, which he cites, are consistent with the founder of Facebook's own stated goals.

In my remarks today, I will explain why it's important to oppose this motion and why the European Union is not declaring war against American tech companies for several reasons. First of all, customer-focused branding. American technology companies are focused on customers in ways that respect their public appeal, in ways that are actually consistent with the European Union's own policies towards technology companies.

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So, if you actually want to look at what the European Union is actually implementing, it's consistent with the branding and the public statements of American tech companies. Second, European Union regulations assist technology companies to reach their citizens and consumers, so -- and you can see European Union as actually -- as conciliatory, as diplomats, as communicators with technology companies in this manner.

Third, we can see, actually, how the European Union regulations actually support liberties of all kinds. They support the liberties of business interests, they support consumers, and they actually support a free market of ideas by supporting all these different types of interests. So, let me start by just reminding us how the internet was founded. I'm at UCLA, and the first node of the internet is right next to my office. It's right next to where I go and get coffee sometimes, and run away from my students sometimes, too.

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It's a -- the internet was publicly funded by American taxpayers. What about the web? The web was a nonprofit, scholarly communication system for scientists to share information with one another, so, in a sense, there would be no internet without the government, there'd be no internet without public regulations of some form or public

subsidies of some form, and, in fact, there would be no technology companies without the internet and, therefore, the government itself.

So, let's look at these brands as I spoke about earlier. Apple calls its retail centers "town squares." It's almost like Apple appears to be something like the state or the government. Apple claims in its branding that its technology engages in privacy protections. Guess what privacy protections also sound like? Exactly the European Union's own regulations. Facebook; Mark Zuckerberg on multiple occasions has called Facebook the social infrastructure -- note these words -- for the global community.

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Is there anything more public in its branding than that? Is that not consistent with a part of the world who has consumers and citizens saying, "Here's how we can work with you, big tech companies. Here are ways consumers can actually engage with you." Amazon; in 2017, Jeff Bezos describes Amazon as the earth's most customer-centric company, and in other utterances, he's described Amazon as the ultimate marketplace. Again, a marketplace doesn't necessarily mean a privatized space; it actually means a place where we all contribute and share content, objects, books.

Remember when Amazon was just books? Now it's everything, right? But it's peer-to-peer sharing, and that is a form of public virtuous exchange that technology companies profit off of. Even Google has argued that they bring the world together -- not to be evil -- in the past, create universally accessible content for everybody that is meaningful or for everyone. So, these are really important points. The public language and even the stated policies that are actually interpreted and stated externally by tech companies themselves are consistent with the European Union's regulations, which my wonderful partner Marietje is going to explain a little bit in her remarks.

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So, we can actually see European Union regulations as assisting technology companies in their mission, in their stated mission. We can also see parts of the European Union regulations really helping technology companies with some of their most spectacular failures, like algorithmic radicalization or AI auditing, for example.

I don't know how many of you know that facial recognition systems across the board have almost no ability to tell famous black women like Michelle Obama, Serena Williams, Oprah. They often think that these women are male. The same is true with AI systems of all kinds, which we saw contributes to the radicalization that led to the Brexit vote, that led to the election in 2016, that influenced the election in various manners. So, we can actually see this kind of component -- the problems that technology companies face -- actually be resolved by the European Union's own content.

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In a sense, the European Union is actually pointing us the way forward toward a humane world, a balanced world, one that supports the liberties, values, and freedoms of all of its stakeholders. And that's why I think it's extremely important to understand what the European Union is actually about. It's supporting people engaging with technologies and platforms and companies. It's about a relationship that we all build with one another.

It's consistent, again, with the language that the tech companies speak. That is why I ask you all to really keep in mind these points, and why you must vote against the motion, that the European Union has declared war on American technology companies. Thank you so much.

[applause]

John Donovan:

Thank you, Ramesh Srinivasan. And a reminder of what's going on: we are halfway through the opening round of this Intelligence Squared U.S. debate. I'm John Donovan. We have four debaters -- two teams of two -- arguing it out over this resolution: Europe Has Declared War on American Tech Companies. You've heard from the first two debaters, and now onto the third.

00:16:02

He'll be debating for the resolution. Please welcome Berin Szoka, founder and president of TechFreedom. Ladies and gentlemen, Berin Szoka.

[applause]

Berin Szóka:

This debate is not about taking sides between the E.U. and the U.S. Roslyn and I are about as pro-European as any two Americans you can find. We both want to see Europe succeed. My father was German. He was a green energy pioneer. I've spent much of the last year navigating the process of German bureaucracy, of privacy laws, trying to collect the documentation that I need to claim my own German citizenship. And I've spent much of the last year in Europe. Who would live in the U.S. these days if they didn't have to? Why would you stay in D.C., right?

[laughter]

I love Europe. I love being there. It's a great place to be an intellectual, to write about technology policy, to have debates about what the good life is and what policy should be. It's a terrible place, though, to build a business. The European Commission has

recognized this. At a briefing recently in D.C., someone asked a European Commission representative, "Why hasn't Europe succeeded?"

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And his answer was, "Well, the problem, maybe, is a lack of ambition and talent." In other words, the problem, he claimed, wasn't the E.U., or its laws, or its regulations; it was Europeans themselves. I was reminded of what Bertolt Brecht, the great East German dissident said, that "Would it not be simpler for the government to dissolve the people and elect another?" Well, I don't think that the problem is Europeans, and neither should you. Europe produces plenty of bright, creative, and ambitious people. I meet them all the time, right here in New York and in San Francisco. They're everywhere.

[laughter]

But the best ones come here. That's what makes this country great. So, if there's a problem in Europe, it's a brain drain. It's because the best, and most ambitious, and most creative people can't build businesses they want in Europe. They can't make them succeed. What makes the United States great isn't Americans. It's our ability to draw foreigners. Half of the employees at tech companies in San Francisco are foreign. 71 percent in the Bay Area are foreign, and many of those are Europeans.

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They are coming here because this country offers them a framework that allows them to succeed in digital technology. Yes, of course Europeans succeed in other areas. They build great trains, and great airplanes, and great green technologies, but they struggle in digital technologies, where disruption matters most, where the pace of innovation matters most, and where the regulatory framework has really crushed them. And this is not a new problem. This goes back in 2000. There was twice as much venture capital funding in the United States.

2005 to 2007 -- six times as much investment in Internet platforms in Europe as in the United States. And this is not just about the big companies. That's what Ramesh has been talking about. This is about small companies. For companies under \$5 million in funding, in -- across 2000 to 2015, there was twice as much funding available in the U.S. as in Europe, and four times for companies under \$10 million. So, the E.U. has talked about throwing money at the problem. That's not going to work. The problem is fundamentally about legal regimes, and it's about the underlying assumptions that those legal regimes rest on.

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The new E.U. President has announced that new technologies can never mean new values. But when those values are control and stability, those values become fatal to European success. What has made the United States successful is the values of openness, and learning, and experimentation. That's why people come here. Those are the secrets to American success. That's what we mean when we talk about permissionless innovation.

In Europe, that's impossible, and let me give you a few quick examples as a lawyer. First and foremost, platform responsibility. Today's Internet is about users. What Internet users want is to be able to create content and share it with other users. Netflix and Spotify are great, but that's not really what we're talking about. We're talking about being able to create content online. And European law holds platforms -- websites -- responsible for essentially everything that their users say and do. The United States, we recognize that that's crazy. It's impossible to expect that websites can filter, and monitor, and be responsible for content the same way that newspapers monitor every letter to the editor.

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That law has made the single biggest difference between the United States and the rest of the world -- of anything. And unfortunately, the Europeans are only going to make their law worse. Under their approach, something like Wikipedia could never have gotten off the ground. We see the same thing on copyright. Spotify has succeeded in Europe, because in part, European copyright law hasn't been that different in the past from the U.S. But it's about to get a heck of a lot worse. You might have heard about the European Union cracking down, demanding that news sites have the right to decide whether you can link to their stories and whether you -- they have to charge for payment.

They're also requiring mandating filtering for websites. These are mandates that only the very largest tech companies can actually support. These are not things the smallest companies can do, and these things have been framed explicitly in terms of trade war. This is about control, about making sure that European companies don't have to change and adapt. The same is true for privacy, right?

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The GDPR isn't really about privacy; it's about that framework of control and stabilities. It's a system of controls that the biggest companies -- yes, the biggest companies have adapted. They can manage those things. The smallest companies can't, and neither can nonprofits. In my research, I came across Genealogy.net, the largest German genealogical site. For 23 years, volunteers provided genealogical information to anybody who wanted it, but GDPR came along, and they had to shut down. They could not do business, a nonprofit non-business of offering their service as volunteers in the

world of GDPR. That's the kind of response that the market has shown to European regulation. Churches have stopped sending out bulletins to their users. The first privacy case in Europe to have criminal penalties back in 2003 was about a church member sending out a bulletin to her email distribution list. And finally, the European Court of Justice could literally shut off data flows between the United States and Europe overnight. What is that if not a war?

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It is a trade war, it is about the European mentality of control, and it's killing Europe.

[applause]

John Donovan:

Thank you, Berin Szóka. Our final speaker on the resolution Europe Has Declared war on American Tech Companies, Marietje Schaake. She's a former MEP and international policy director now at Stanford Cyber Policy Center. Ladies and gentlemen, Marietje Schaake.

[applause]

Marietje Schaake:

Good evening, ladies and gentlemen. My name is Marietje. I come from Europe, and I come in peace.

[laughter]

I thought I should repeat this with the very, very strong proposition that Europe has declared war on American tech companies. Now, I don't know how many of you have recently spoken to people who've actually experienced war. In Iraq, in Syria, and in too many places all over the world we see bloodshed, violence, refugees, displacement, rape, and the worst kinds of atrocities that we can imagine, and I'm very glad to say that Europe and the United States are not at war.

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In fact, we're living in peace. Thanks to the coalition that we've had since World War II, we live in peace. Now, does it mean that we always agree on everything? No. But words have meaning, and let's not throw big words like "war" around frivolously. We have too many people throwing around big words too lightly if you ask me. Now, generally, and I do think that that's where war in this context is important, a lot of Europeans, people that I served alongside with in the European Parliament, have vivid memories of what war actually means and what repression means. I had the honor to serve next to anti-communism resistance heroes who in their own lifetime have served

prison sentences for expressing themselves freely and who have been subject to surveillance Stasi and other kinds of state intelligence surveillance.

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So, is it any wonder that with that experience in Europe people are sensitive, not to say allergic, to the abuse of power, intrusion, and surveillance also through technological and ever more sophisticated means of their private communications and their everyday moves? The right to privacy in Europe is a fundamental right, and that also means that governments have to protect their citizens from abuse. Now, the way I think of regulation is not against American tech companies or against much at all, but really for protecting fundamental rights; for safeguarding security, including cybersecurity; safeguarding fair competition; having some rules of the road in the economy; making sure that AI doesn't disrupt our societies in ways that discriminate.

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Discrimination is illegal offline; it should not be legal online or tolerated online. Now, is it always easy? Do all Europeans agree that this is the way forward and this is how we should deal with tech companies? No. There are heated debates, political debates, big disagreements, lobby efforts, debates like the one we're having tonight before votes -- amended laws are taken. And that is how it should be in a democracy.

But suggesting that tech companies are facing a declaration of war from the European side is like suggesting that child safety measures are a declaration of war against Chinese toy companies; or that medicine, safety, and other health requirements are a declaration of war against Swiss pharma companies; or that airbag and other kinds of car requirements that make you and I safe when we go on the road are a declaration of war against Japanese car makers.

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Can it get any more preposterous? This is not to say that Europeans should decide for Americans what they should do. I believe members of Congress -- to the extent that they can work it out together -- the FTC, the FCC, and other democratically-mandated regulators should decide for you, for Americans, what the proper rules should be. I was looking online before we started this debate, and it turns out that the FTC took a product off the market. It's a product that allows spouses to spy on each other. But it was so poorly protected that the FTC said, "No more until better safety measures are taken." I hope none of you are subject to these kinds of services, but they're available freely on the market, and that is allowed in this country. I think there is a waking up here in America that a lot of people think there might be room for more oversight and more rules for the digital economy.

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I follow this debate with great interest. I also note that when anti-trust measures are announced, tech companies are hiring lobbyists for millions and millions of dollars, and up to 75 percent of lobbyists hired come from congressional offices that will be directly involved in regulating on the anti-trust. This revolving door is your American freedom to work that way -- that is up to you. But similarly, it is up to European lawmakers -- those who are democratically-mandated -- to regulate for the kinds of safeguards of fundamental rights and freedoms, for a fair economy, against discrimination and whatnot, in the way that they see fit. And in fact, the E.U. has inspired Tim Cook, CEO of Apple, who called for privacy laws mirroring European ones. Mark Zuckerberg called for content moderation regulations, so that they don't have to make those decisions. Brad Smith of Microsoft also called for regulating facial recognition technologies. And actually, Microsoft is an interesting example.

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It has faced strong anti-trust measures and is still one of the largest tech companies in the world. So, to conclude, I would say, it is absolutely necessary that democratically-mandated lawmakers regulate for the protection of very, very elementary freedoms and rights of people, fair competition in our economies. It has nothing to do with the atrocities of war, and I'm very happy, because I stand here with a big trans-Atlantic heart.

Vote against the motion -- Europe Has Declared War on American Tech Companies -- and let's continue to debate on how we can do regulation in a democratic way together -- because in all of this debate, we haven't mentioned China, that is actually developing a governance model of technology that goes against all the liberties and freedoms that we cherish in the free world.

00:29:03

Thank you.

[applause]

John Donovan:

Thank you, Marietje Schaake, and that concludes Round One of this Intelligence Squared U.S. debate, where our resolution is: Europe Has Declared War on American Tech Companies. Now, we move on to Round Two. And Round Two is where the debaters address one another directly, and they also take questions from me, and then a little bit of time -- questions from you, our live audience here in New York. We've heard the team on this resolution -- Europe Has Declared War on American Tech Companies.

We've heard the team arguing for the resolution say that they are not against regulation; they don't think these companies are perfect. But they say that the -- Europe has built, over many years, a regime of regulation that is well-intentioned but is misguided and has led to stifling of innovation, and basically success -- and that, in response to that, Europe has now set out to crush the competition presented by American companies by imposing the same sorts of regulations on them. In other words, they are talking about the motivation behind the regulation. After Europe blew it, this was Europe's way of catching up.

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They say that Europe is a terrible place to do business and that the motivation behind these regulations is about control, not supporting or providing conducive environments for the success of American businesses there. The team arguing against the resolution -- Marietje Schaake and Ramesh Srinivasan -- they are saying that -- first of all, they make the argument that they don't think war is an appropriate metaphor for the state of play, but they say that the motivation behind the regulation is not to control or crush U.S. companies, but actually to respond to a demand by the public.

The public has serious concerns about privacy and other forms of abuse by large companies, of which they cited several examples. They say that the regulations actually are liberty-based; that they are in place -- built with the intention to facilitate business, but also to facilitate it in a way that is ethical and responsible to social concerns.

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So, before we move on, I want to say something about the choice of the word "war." It was our choice. This team rose to the occasion of using that metaphor. I don't think that we are going to hold you responsible to compare what you're talking about to the atrocities of war. I think it's good that you brought that point up. I think what the point we're trying to say, and you actually made this point in your opening statement, Roslyn, is that you believe the motivations of the regulation are, in fact, to crush and destroy the competition, that, in that sense, the regulations are not benign, but they're actually motivated by a desire that goes beyond competition.

So, having cleared that up, I want to actually start by going to you, Berin, and there's a point you made that puzzled me and how it fits into your argument. You were saying that the regulations in Europe have driven Europe's best talent to Silicon Valley, which sounds to me like the European regulations are doing American companies a favor. So, how -- can you please pack that into your argument?

00:32:02

Berin Szóka:

Sure. Well, in any war there are always refugees, right? So, Europe's --

[laughter]

Europe's best and brightest have come here, and we welcome them with open arms. But, look, this is a war, right? Clauswood [spelled phonetically] said that war is the continuation of politics by other means. We have trade wars. This country, unfortunately, is engaged in a series of self-defeating moronic trade wars at the moment. Right? They're not trade wars that anyone in this room would support, just as I don't think that most Europeans support the war that I think that the European regulatory establishment is engaging in. But they are engaging in that war nonetheless, and I want to be clear about this. I -- there's a variety of motives, right? We can never speak of Europe having a single motive. Some people, some politicians, are bringing antitrust cases because it's a great way to make headlines; they sound good, and they advance their careers. They get enormous settlements -- you know, \$5 billion -- claiming that Google doesn't compete with Apple in the operating system market. That's crazy. We all know that -- of course they compete, right?

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What I think this war is really about is not so much crushing and destroying American companies; it's trying to tame them and make them pliant. And, in fact, our opponents have made this argument for us. They have just told you that all the biggest companies in the United States are rushing, are falling over themselves to say, "Yes, of course, we love what Europe is doing; of course, we can implement those regulations," because they can. I'm not concerned about them --

John Donovan:

Well, let me break in, because you made a number of points. I want to let Ramesh respond to some of what you just --

Ramesh Srinivasan:

Yeah, sure. So, a couple of quick points.

First of all, the web -- you may not know this -- the web was actually created in Switzerland by a British person. So, you want to talk about some sort of innovation that has blown our world over? The web comes out of the European Union. A second point is that almost every major technology company has a substantial set of offices or employees in the European Union itself. A big reason why so much of, you know, these technology companies have emerged is, of course, because Americans are brilliant and wonderful, and there's a great environment for that, but also because of the early adopter situation.

00:34:05

John Donovan:

But, Ramesh, can you be responsive to the point that Berin was making, that it's really about control, it's about taming, it's about bringing these companies down a notch?

Ramesh Srinivasan:

So, if that were the case, if what I read from Mark Zuckerberg was actually his -- you know, if that were -- if that was actually the point that he was trying to make, he would be out as CEO the next day. Right?

Because Mark Zuckerberg's goal is one goal primarily, right? Which is to grow his company, allow his company to expand. So, what Mark Zuckerberg is clearly identifying, which we also see -- and that was the point I tried to make -- by the sort of stated policies and behaviors, to some extent, of every American tech company is to try to attempt to develop some balance at this point, and that balance is consistent with the EU regulations. So, my point, again, is that this argument is really -- these leaders of tech companies are not doing this because they are tamed. They're doing this because they're realizing there's a pathway forward, whereby they can avoid all of these huge problems that have emerged in the last several years.

00:35:07

John Donovan:

Okay. So, Roslyn, what we're hearing your opponent's saying is that, bottom line, Ramesh is arguing that the regulations -- you're not quite putting it this way, but are doing these companies a favor. They're giving them assistive situations.

Roslyn Layton:

Right. So, if we accept that they're profit-maximizing companies, I would be very concerned as a policymaker when any tech company comes to my door and says, "Please regulate me." Because there's a profit motive behind it. This is a touchstone concept in the economics literature called regulatory capture. Regulation is created by industry, and it's operated for its benefit. There is nothing that the E.U. would like better than to have maybe two or three large American tech companies which it lords over and controls all the little things, and it's all going the way the E.U. wants for its five-year plan, rolling out this time, and that -- version Number 7 in the seventh month, at the ninth hour, and so on. That's how they want to do it.

00:36:00

Now, Americans know it doesn't work that way, but we have this kind of history where government and industry makes an unholy alliance. Look at the Ma Belle [spelled phonetically] telephone network, 1913. Set up to say universal service. This meant that one company gets to control the market, and the government blessed that. So, all of

that history over the 20th century -- it was so bad, the prices were so high, the innovation was so deterred that the Department of the Justice had to break up the collusion between the FCC and the private company.

And if you want a current example, look no further than California and all the fires. It's PG&E. It is a government, publicly-owned utility with oversight by the California Public Utilities Commission, which is literally causing fires. This is the court's decision. People are losing lives because these two entities collude. They cannot be held accountable because they're so tied closely together.

John Donovan:

So, why couldn't that happen in Europe? I mean, why couldn't that happen to the benefit of the companies in Europe?

00:37:00

Because your argument seems to be that the existence of regulations is not to collude with the companies, but to crush the companies.

Ramesh Srinivasan:

Look -- the Europeans are doing what regulators do, which is to try to create team-regulated enterprises. And it is to their advantage that there are only -- if they can't have European companies, what they'd rather have is client companies with offices in Europe that do their bidding -- rather than the messiness of having a long tail of medium-sized and small-sized companies. Those are the companies that I am concerned about. Those are the companies that are not possible to build and launch in Europe.

John Donovan:

Okay. Marietje, you've been very patient. Jump in there.

Marietje Schaake:

Well, I've just been amused at the talk about collusion these days --

[laughter]

-- in the United States.

But back to the topic. The underlying assumption of the other team is that Silicon Valley is such an extraordinary success that Europeans are jealous up to a way that makes them aggressive, that has them declare war, and stop with no means to undermine this --

John Donovan:

Stop one second.

00:38:00

That does sound to me like the argument that you're making. Is that --

Female Speaker:

Can you say it one more time? I didn't hear.

John Donovan:

Really?

Marietje Schaake:

[laughs] I -- let me finish.

John Donovan:

Where were you?

[speaking simultaneously]

Marietje Schaake:

I will explain. So, I think the assumption is that, you know, European lawmakers, regulators are going after the sickeningly jealous-making success of Silicon Valley. Let me ask the audience: how many of you have recently been in San Francisco or Silicon Valley? One of the --

John Donovan:

I just want the -- those who are not here, but only listening, to know that it looked like about 20 percent, 25 percent of the audience -- I -- that would be my number.

Marietje Schaake:

Yeah. At least.

John Donovan:

At least.

Marietje Schaake:

I think --

John Donovan:

At least. Okay.

Marietje Schaake:

-- anyone who goes to Silicon Valley, the heart of tech development in the United States, these days, will see shocking homelessness, extraordinary inequality. If this is the paradise that Europeans are allegedly jealously looking at, I see more of a paradise lost. And the point is this: if you look at bigger and better companies, fine.

00:39:05

There are a couple of huge companies that are very successful. But what is the impact for small, medium-sized enterprises. What will mom-and-pop stores think about Amazon? Amazon is not that big in Europe. This is much more a company that has impact on your neighborhoods, your delivery services, et cetera. It is indeed a huge financial success. But I think it is important to look at society-wide impacts. I think there is more of that in Europe -- not so much against American companies. If you look at anti-trust, there have been fines against Gazprom, and Google, like, against Microsoft, and milk makers. It is not about going after American tech companies; it is about preserving balance, preserving some rules, and making sure that our system -- which is different from yours -- continues to work, and that certain principles are not disrupted, no matter what the technological innovation.

John Donovan:  
Roslyn?

Roslyn Layton:  
So, I think we -- what we're trying to make clear -- that the war is a symbolic one.

00:40:04

It's a political war. But the point that we want to make: it is transparent if you want to find out for yourself. It's on the European Commission's website, the European scoreboard. What we care about is the new business in Europe -- the smaller, medium-sized enterprise. And you can look at data going back to the year 2000. There's hundreds of data points. But what you see in every single European country is that small business may start, but it has a very hard time growing. They don't invest; they don't buy information technology; they don't sell outside their borders. And this is even a problem in the Nordic countries. I live in Copenhagen; it's one of the leaders. Netherlands is another case. But even then, the regulations adopted in the European Union make it so expensive to do so that they just don't do it.

John Donovan:  
But your opponents are saying that the -- that standard is applied as well to European companies and to Russian companies and to Chinese companies as it is to American companies, therefore it's not -- they're not targeting American companies. I think that's what you're saying, right?

Roslyn Layton:

No, I would say not, because if you look at the networks in Europe -- because the telecom sector was so over-regulated it drove them into the arms of the Chinese.

00:41:07

So, now you have -- the networks are built by Chinese equipment, which has no safety features; they're operating in brazen defiance of the GDPR; and I'm going around to European governments saying, "Please take out this Huawei equipment," that they're making us all unsafe. And they're, like, saying, "No, no, no, you know, it's fine. It's no problem, you know." So, what I'm trying to say -- it's selective. It's selective who they decide is going to be the bad person.

John Donovan:

Let me bring in Ramesh.

Marietje Schaake:

Okay.

John Donovan:

Okay, Marietje?

Ramesh Srinivasan:

I mean, I'll just speak to one point, and then Marietje is going to go directly at this. It's as if -- so, two points, actually.

One is that we can imagine how -- and this is actually starting to occur in various places since the GDPR has been passed -- how the GDPR can actually influence a business ecosystem to emerge in relation to these technology companies and these new policies. For example, companies that might emerge to help people with protecting their data; companies that might emerge in the civil society space, nonprofits, to kind of help people understand their digital rights and surveillance issues and privacy issues.

00:42:04

It's as if the motion basically says that if you -- that the only way to be at -- not at war with American technology companies is to blindly accept 24/7/365 surveillance, behavioral manipulation, algorithmic bias --

John Donovan:

That's an extreme statement of what the -- the resolution doesn't go that far.

Ramesh Srinivasan:

Right, but if you take it to its logical extreme it could be that, right?

Because this is the sort --

John Donovan:

But I don't think your opponents are suggesting taking it -- that it is taken to that level.

Ramesh Srinivasan:

The resolution itself.

John Donovan:

Okay, I want to ask you one question that came from the other side, and this is this -- it was brought up in Berin's opening. The ability to manipulate data, to experiment with it, to see what happens when you put this together with this, is -- has been, for better or worse, the business model of these big companies. That's what they do, and they don't like to have somebody telling you, "You can't do this; you can't do that; you have to check ahead of time.

00:43:00

They don't know what the outcome might be; they want to wander; that this is what they do as a core thing, and that the regulations -- and they do it better than European companies are doing. So, by targeting that sort of thing, by requiring permissions and putting limitations on what they can do with data, that it goes directly at the business models of these companies. And I want us to -- just to take on that. You don't have to hit it out of the ballpark, but I want to see what you say.

Ramesh Srinivasan:

Shall I, or Marietje?

John Donovan:

Either one of you, yeah.

Ramesh Srinivasan:

I mean, for me, that's sort of as a potential statement of reality in terms of what the companies are about, but that's not the only way in which they have to be, right? And that actually -- and, for example, several folks -- in my new book *Beyond the Valley*, I interviewed several senior executives at the big tech companies, and they are currently doing A/B testing, which means you kind of test things out with different kinds of approaches toward your users, and they say, "If we want to do some disclosure to our users about what we might be collecting on about them or why you might see what you see," for example, with Google searches or algorithms that you see displaying content on Facebook, "we want to see whether that can actually also maximize our returns as well." So, if you argue that the business model is sort of static in this sense, that actually doesn't describe what these -- how these companies operate.

John Donovan:

Okay. Berin, you've been very patient.

Berin Szóka:

Yeah, this is not just about selective enforcement, although I think that does happen, right? We've talked a little bit about China. It is really worth noting here that the European Union has waged this war, effectively, against American companies, but not Chinese companies. Right? Chinese companies are companies that actually give their data directly to the Chinese government, the most repressive government in the world, right? And yet it's the United States that is on the verge of having data flows cut off by a decision of the European Court of Justice.

There's some degree of selectivity here, but that's not primarily what I'm concerned about. In my view, the fact that these are American companies that we're primarily talking about is somewhat incidental, because the real issue is that the ecosystem of regulation in Europe is based on these values of control and stability.

00:45:01

They're not able to deal -- yes, of course, there are real problems, right? But they're not able to deal with those problems in a flexible, dynamic way. Their response again and again is control, and I'll just give you just two quick examples. We've heard a few times the other side talk about discrimination. Algorithmic discrimination is a real problem. There are real patterns of discrimination in the world that we need to study and understand. One of the most important patterns in discrimination is how judges decide cases. Are they making decisions based on racial bias for example, right? We want to know that. Everyone in this room wants to know if there's a racist judge out there. And yet, in France, that is illegal, subject to criminal sanctions.

You are not allowed to use what is called judicial analytics because the French think that that's going to corrupt their platonic system of justice. That's the kind of control that I'm talking about. I'll give you a second quick example. Right now, at Gay Pride this year, in Paris, the number one issue that every lesbian in that parade marched about was the fact that the French government prohibits -- not just will not fund, but prohibits -- anyone who is not a heterosexual couple from getting in-vitro fertilization, right?

00:46:12

It has nothing to do with digital technology, but it is an example of the mentality of control -- that the state should decide when particular technologies should be used. That's what I'm talking about. That's the war. It's a war against the unplanned, against the open society, by people who claim that they are defenders of the open society.

John Donovan:

Let me go to the other side. And -- Marietje, we haven't heard from you. It looks like Ramesh wants to speak --

Ramesh Srinivasan:

Marietje first.

John Donovan:

-- but you --

Marietje Schaake:

Okay.

John Donovan:

-- sort it out.

Marietje Schaake:

Well, I'll try to stick to the topic, first and foremost. And what always happens when you're someone from Europe that's invited to speak somewhere, that you're almost made to defend everything that happens in Europe -- and that's not what I'm going to do. I just spent 10 years in the European Parliament arguing with my colleagues, arguing against a number of measures of the European Commission, a lack of awareness of the national security risks -- for example, Huawei Technology.

00:47:02

So, I'm not here to defend all -- and especially not French policies, mind you --

[laughter]

-- what is happening in Europe. But I want to pick up on an important point that the other team has made, and that there are some kind of selection -- and a specific focus on American companies. That is not at all the case. The approach is principled.

And the reason why a number of American companies are in view is actually that they are so successful. If we're listening the other side arguing, it sounds as if, you know, these companies have no opportunities do business in Europe, that they're being chased away, and that it is all very, very barren over there. No. The European market is still one of the major markets for all the tech companies that we mentioned: large and small. And I actually think it is an extraordinary success of Silicon Valley's entrepreneurship, of the ecosystem of acquiring capital, talent. I hope it stays that way with new immigration kinds of debates -- et cetera, et cetera.

00:48:04

But at the same time, I recognize also, in the United States, a wake-up call -- that it is not all fantastic and great for everybody, the bigger these companies get, with the little oversight -- especially over algorithms and other kinds of more and more used methodologies. And so, I believe that the question also in America is not so much whether there will be regulation. That bridge has been crossed. The question will be, what kind of regulation? And I argue that we need to work between America and Europe -- together -- on a democratic model, because while we're sitting here arguing the preposterous notion that there's a war from Europe going on against the United States, China is the laughing third that is gaining more and more power, as we are in disagreement and not focusing on what the actual challenges for our rights and freedoms also in the digital world.

Ramesh Srinivasan:  
Bravo.

00:49:03

So, in my case, I just want to add that, for all of you who have been to Europe -- and I would guess that's a substantial number of you -- this isn't a place of massive authoritarianism that we're entering into. This is not a place where we -- where people are controlled; they're herded. This isn't, you know, "The Handmaid's Tale" we're talking about here. This is -- this is another experiment in democracy, another experiment in free-market capitalism. And in fact, many aspects of control -- if you want to apply them to the United States -- also apply here. For example, with pro-choice and pro-life kinds of issues, or other issues as well. As far as this point that Berlin made about courtrooms, what has actually been applied here in the United States -- you may not believe this. Look at the reporting by ProPublica on this. We have been deploying algorithmic AI machine learning systems to advise judges on the possibility -- like "Minority Report" style -- on the probability that someone might commit a future crime or commit a future violent crime.

00:50:01

And again, and again, and again, we're finding this blind technological deployment that is absent of the voices of people who might be vulnerable in such a situation is criminalizing people of color, and black people. We see the same deployment with automated technologies and AI technologies in human resources work, against women for science and engineering.

John Donovan:  
Ramesh, I'm going to jump in now --

Ramesh Srinivasan:

Yes?

John Donovan:

-- because I don't think this is an important topic. But it's --

Ramesh Srinivasan:

Okay.

John Donovan:

It actually sounds like something that will probably take on and debate down the road, but we're getting a little bit off this question of whether -- that we're exploring of whether Europe -- about Europe's motives and methods.

So, I want to move to audience questions at this point, and normally I go directly to the general audience, but tonight we're very fortunate to have two people in the audience who know this topic and who live this topic, and we want to go to them for questions first. So, I want to start with Jeff Jarvis, and, Jeff, if you could stand up, a mic will be brought to you. The both of you are front-row center. Jeff is a professor at the Craig Newmark School of Journalism at CUNY, and he is also an alumnus of our debates.

00:51:03

You've debated with us twice; you're a terrific debater. Let's see how you are putting together a very short, terse question on topic --

[laughter]

-- that moves things forward.

Jeff Jarvis:

Isn't it hubris that Europe is to think that they can define and limit and regulate the net without a sense of the precedent that is being set even in Europe? It's fine if Netherlands regulates us, but what about Turkey? What about Poland? What about Hungary? What about our own government, the United States? Who is to say the government is our best protector of our newfound, overdue freedoms? Or, to put it more provocatively, who died and made Europe the protector of the world and the future?

John Donovan:

Okay, that was a little bit debate-y, that question.

[laughter]

But I'm going to pass it. So, do you want to take it, Marietje?

Marietje Schaake:

Look, I think that there are definitely political battles between incumbents or industries with a lot of power.

00:52:02

I've been very involved in pushing back against the kinds of proposals that the publishers, but also the music industry that you may find very powerfully in this country -- you know, records -- record industry, movie industry -- are very, very American-dominated, very, very heavily, right? Pushing for the kinds of copyright protections that do not benefit newcomers and tech companies. So, I think that this is not so much a European-centered discussion.

This is a discussion that you will see in any society where there is disruption of old industries and the question, what comes in their place? It is always easier for incumbent industries to lobby against a new regulation that's going to be disadvantageous to them, and I think you've seen similar debates. For example, on copyright here; I don't know how many of you remember, but there was this Stop Online Piracy Act and similar proposals here.

00:53:02

So, again, I think this underlines that some of the discussions we have questions about, how do existing laws apply in the analog and in the digitally connected world? How do we deal with certain disruptions in a way that it doesn't exclude all kinds of people, whether it be minorities or small and medium-sized enterprises? How do we deal with this in open societies and democracies together? This is not America versus Europe, but this is something that we have in our societies. Sorry.

John Donovan:

No, you don't have to be sorry. I'm sorry for interrupting. I just --in the interest of moving on to different topics, that was a point that you landed several times, so I wanted to let the other side respond a little bit. But very courteous of you to apologize to me for interrupting you. And now, Roslyn, I just want to ask you -- it sounded to me like Jeff's question was kind of in support of your side. He was sharing your outrage and indignity.

Roslyn Layton:

Sure. Well, thank you, Jeff, for the question. I think you do bring up an important point, and it's a fair one.

00:54:03

I had a quite an honor to earn my PhD in a Danish university where I studied the multi-stakeholder model, which I would say is probably the most important contribution of the modern left to our policy discourse, to our policy capabilities. And one of the best things about the internet was we used multi-stakeholder model to manage the growth and the emergence of the internet. And I studied internet regulation across 50 countries and looking at all the different instrumentation.

And I learned that there's a spectrum of different kinds of measures that you can use. And if you want to be intelligent or scientific about it, you'd actually test the different measures and see, "Which one provides the best outcome?" And you know, quite interestingly, multi-stakeholder works very well, because it allows different stakeholders to come together. They can exchange information. They can learn, and the system can evolve. It's not static. Now, all of the things that are coming out of the E.U. today, unfortunately -- it doesn't have to be this way -- and of course, Denmark actually used multi -- Nordic countries are awesome at it.

00:55:05

They are so brilliant at doing it. But I compared this kind of bottom-up approach to what you would see in maybe Holland or France -- to-down command and control. Okay? When you have emerging technologies, you need to have things allowed to be tried. They have to be experimented. Then you have to test them. Now, we do have large platforms today. That doesn't mean that they get a pass. But there are new questions around artificial intelligence.

If you read the GDPR explicitly, it's illegal to do that in European Union today. You can make that argument. So, what I would say is, look at the spectrum of options. Test them, like a scientist would test them. Make randomized control trials, and then make your decision.

John Donovan:

Okay. We -- again, I feel like we're -- we just really departed and took a left turn on the topic that we're discussing. It's all very interesting, but at the end of the evening, you folks need to vote on what you think Europe is doing to these American companies. So, Anu Bradford, I'd like you to rise and ask a question that's going to succeed in getting us to debate on that point.

00:56:06

Anu, welcome to Intelligence Squared. You're a professor and director of the European Legal Studies Center at Columbia Law. You're also working on a new book that's titled "The Brussels Effect: How the European Union Rules the World" -- relevant to our topic tonight. What's your perfectly-constructed and extremely brief question --

[laughter]

-- that gets the debaters to elucidate more on the question of whether Europe is at war with American tech companies.

Anu Bradford:

So, thank you. So, I guess my question is, who is declaring the war, if there is one, against the U.S. tech companies?

So, could we rather not say that there may be a civil war that the American companies are fighting on the European territory -- or what Berin mentioned, the foreign talent that sustained the Silicon Valley's innovation base -- the war that the American government has declared against letting the foreign talent migrate into the United States.

John Donovan:

Wow. That nailed it. Thank you very much.

[applause]

00:57:01

Roslyn Layton:

[affirmative] You want to take it?

John Donovan:

Berin, you want to take that?

Berin Szóka:

Yeah. It's a great question. And I should have made this point more clear. I don't think this is as simple as the U.S. versus Europe. I think a lot of what's happening in Europe is that European policy is being weaponized by American companies against each other. The big tech companies are perfectly happy to have the GDPR as a regulatory barrier to entry. It costs millions of dollars to comply. Microsoft, Google, Facebook? Of course they can handle those burdens. Smaller companies can't. In the United States, of course, we would love to have more Europeans contributing to our economy. I'd be all in favor of that. I just want to give you two examples.

John Donovan:

Can you make it one?

[laughter]

Berin Szóka:

SOPA. So, Marietje mentioned the Stop Online Privacy Act -- Piracy Act of 2012, right? That law would have been draconian. It would have looked a lot like the copyright directive that just passed in Europe. And the difference, fundamentally, between the United States and Europe is that we stopped that law because that law was fundamentally inconsistent with the American values of openness and experimentation.

00:58:00

And in Europe, it has been controversial. I'm going to give Europeans credit -- but that is now the law of the land. The values of control and stability triumph. It's not because Europe is authoritarian; it is because incumbent industries with established interests managed to continue to control the regulatory apparatus. Sometimes they're European. Sometimes they're American. But the war that they're waging is essentially a war against the messy, unplannable future in which --

John Donovan:  
But that's not --

Berin Szóka:  
-- [inaudible] American.

John Donovan:  
But that -- oh, because the companies are American.

Berin Szóka:  
Yes.

John Donovan:  
Okay.

Berin Szóka:  
So, this is the critical point, to get back to the debate. So, here -- look --

[laughter]

John Donovan:  
Why do that?

Marietje Schaake:  
Okay.

Berin Szóka:

This -- yeah. The critical point here is that European policymakers are essentially waging war against digital disruption, against the dynamism that has defined the Digital Revolution for 20 years. And on the other side of that debate, it just happens that all of the companies, essentially, that they are -- whose burden this is falling upon are American, because it's here in the United States that those companies have been able to take off.

00:59:02

John Donovan:

So, you're saying it's not an anti-American animus; it's an anti-success animus.

Berin Szóka:

And it is -- it ends up being a war against American tech companies. I don't think it's because --

John Donovan:

And Roslyn, the other part of Anu Bradford's question: who declared war? Who's declared war on the U.S.?

Roslyn Layton:

Yeah. So --

John Donovan:

And again, we're understanding that we do not mean war in the very technical sense.

Roslyn Layton:

Right. So, the thing is, we didn't -- we could have a whole evening discussing all the countries, the various levels of government, the different policy actors. You know, it would be interesting, but there are many different -- you know, there are many different actors. You have the new president and her manifesto; you have, for example -- you have very strong policy actors as activists, you know, saying, "Let's dismantle the companies," and they're serious about that.

They don't like commerce; they want the companies to be destroyed. You have a guy like Paul Nimetz [spelled phonetically] in the European Commission; you have various members of Parliament. I don't say that they speak in a uniform voice, and they're not monolithic. You have many different nation states with different, particular views, but there's a lot of grievances, and so it's -- when you have these various -- what unites people, unfortunately, under those circumstances is a war.

01:00:10

And to say these problems through our economy is because of the big tech industry, that's a great way to get people to pay attention to you and to vote for you.

John Donovan:

I want to go to whoever wants to speak on the other side.

Ramesh Srinivasan:

So, this term "disruption" -- this is just sort of a term that we kind of bandy about, but what does that actually mean?

There are so many European technology companies that are innovative in a range of different manners. I worked for multiple years for a machine learning AI company, and guess what? It ended up being bought by an American company. This is an example of the kind of collaboration that can occur across borders. I think, most importantly, I just want to make the point again that the internet is a global phenomenon. As different technology companies offer services, platforms, et cetera, and they approach different markets, is it not appropriate for people in those markets to say, "Hey, here are the ways in which we can work with you; here are the ways in which we can reach your customers?"

01:01:04

This is not a phenomenon, to Berin's point, just about Facebook, though Facebook is totally agreeable to these policies, as I pointed out earlier. This is a point about having the ability not to protect, but to work with extraterritorial companies in different types of manners. This is about diplomacy and communication in this matter.

John Donovan:

Marietje?

Marietje Schaake:

I think the implication is that when you suggest that any initiative to regulate is a declaration of war from the European side, question is, what does an unregulated space look like? And I believe that Americans are waking up to this. You only need to look at the debates between Democratic presidential candidates to hear a number of proposals of how to sort of curb the excessive and unregulated, maybe libertarian kind of way in which the tech companies are disrupting various aspects of this society.

01:02:01

Today, 47 attorneys general -- I'm talking about American state attorneys general -- have joined their investigations into antitrust practices by Facebook. This has nothing to do with Europe. Maybe Europe was a little bit ahead in understanding the disruption,

maybe because it confronted the European system of, for example, social welfare and the right to privacy in a slightly different way than it did American principles.

But the idea that any regulatory initiative is an attack against the tech companies is something that this company -- this country, excuse me -- regulators and politicians in this country are not accepting it.

John Donovan:

I want to go to another audience question, but first, I do feel that you're mischaracterizing the extremity of your opponent's arguments, so let me just ask you. Are you saying that any regulation amounts to an act of war? Just a yes or no.

Roslyn Layton:

No.

Berin Szóka:

Absolutely not.

John Donovan:

Okay, I didn't think that you were. Let's go to some of these questions. If you raise your hand, I'll call on you.

01:03:01

Seeing some questions, right down in the front. And wait for the mic. By the way, if you can hold the mike like that, there's an antenna at the bottom. I think that might have been what was interfering before if your hand touches that. And can you tell us your name?

Female Speaker:

Hi, my name is Georgia. I'm from Australia, so just another country to throw into the mix here. What I want to get to is a point that Marietje made before about the idea of regulating for European citizens or regulating against companies, because although the motion talks about companies, what are companies for if not to serve us, the people? It's not just about the big tech companies and who works for them. So, I kind of just wanted to bring it back to people here and what would be better for us in the situation, and how should we take that into regard when it comes to these different policies?

John Donovan:

Could we rephrase it -- would it be better for the users if, in fact Europe succeeds in crushing these companies, which is this side's premise.

[laughter]

And we'll take it to the other side, which refutes that premise. Well, obviously, the answer is going to be "No."

Female Speaker:

You're making it a debating question.

John Donovan:

So, never mind that. Yeah.

[laughter]

Ramesh Srinivasan:

So, absolutely.

John Donovan:

Thank you, Ramesh.

Ramesh Srinivasan:

What the European Union has been putting forward is just an example of common-sense balance, right?

01:04:03

It's sort of -- I have argued, and you know, in my own personal work, in my new book, "Beyond the Valley," for a digital bill of rights, a balanced digital world, right? As we see privatized technologies that we don't understand; we don't understand what's being gathered about us; we don't understand how that's being monetized; we don't even realize that our credit card records can be bought and sold -- that's a place of invisibility, which can open itself to having very little control, which can also open itself to all of these problems we're starting to face. So, what the European Union is doing is just leading in a way that, in my mind, is pro-innovation. It's consistent with tech branding, right -- big tech branding, at least -- in a way that balances things, that is good for consumers, good for small businesses, good for big tech companies.

John Donovan:

Let me take George's question, again, to try to frame it in terms of -- what we're debating in the resolution -- to your opponent. So, I -- what I heard from Ramesh is his argument that the regulation -- the motivation behind the regulation is to do right by the customers.

01:05:02

You're arguing that the motivation behind the regulation is to punish American companies for their success -- that you need to give them room to catch up. So, what

about their argument that, actually, the motivation behind the regulations -- the whole reason they exist -- is not over a matter of competition and trying to create advantages, but it's to do right by European users?

Berin Szóka:

I think the fundamental motivation is not punishing Americans; it's fear of the unknown and of people doing things differently, right? This is not about Europe over-regulating. This is about the fact that Europe effectively does not have a digital tech sector. This is the problem, right? If you get to the point where you don't have start-ups able to succeed, if all of your people leave, if small businesses can only succeed by being acquired and then moving to the United States, if the German genealogical volunteer group that I mentioned -- an enormous volunteer organization -- has to shut down, if a thousand news -- American news sites can't provide service to Europe because of the GDPR, you're doing regulation wrong, right?

01:06:07

You're no longer protecting users; you are making it impossible to provide service. That's what I'm describing as a war against technology, against the future, and against change. It doesn't require anti-American bias. It's not that people are just jealous. It's that they are -- they keep gripping the wheel harder, when what they really need to do is realize that, yeah, there are problems, but we need to work those out as we go. And the Obama administration, I think, had a pretty good approach to doing that. It was a multi-stakeholder approach. It was solidly an approach of the left, but it would have been very different on privacy.

John Donovan:

We have time for one more question, and Roslyn hasn't spoken in a while. Does somebody have a question that lives naturally in Roslyn's territory?

Audience Member:

Oh. Hi, Roslyn. I'm Virginia. I still don't understand -- and I know we're supposed to be very careful about the war metaphor -- but since it's in the resolution, what counts as an act of war? So, we've thrown around the word resolution -- I mean, "regulation" a lot.

01:07:03

I'll give you just one example how I -- as a consumer -- was influenced by some European regulation, even using the Internet in the United States. So, I'm a regular user of Twitter -- compulsive, obsessive lifelong user of Twitter. And I was getting -- like a lot of people who are disinhibited by Twitter -- I was making incendiary statements, and hearing back in rape language, and Nazi language --

John Donovan:

I need you to get to your question.

Audience Member:

Okay. So, Germany instituted something where the tech companies -- Twitter was fined \$6 million, something like that, for every 15 minutes that a Nazi statement stood.

As soon as that happened, I moved to virtual Germany. I set my location for Badvelba [spelled phonetically], Germany on Twitter, and I've been free of Nazi language and rape language for two years. I can't say I feel especially inhibited. I don't know how innovation was cut down because of that, and I don't know how that could possibly constitute an act of war.

Roslyn Layton:

So -- well, good for you that you could move with your feet.

01:08:01

And you have followed your bliss to go to a place where you're happier.

Audience Member:

Well, virtual. I --

Roslyn Layton:

Okay. No, I thought you said that you moved to Germany. Okay. So -- [laughs] --

John Donovan:

I want to clear up --

Roslyn Layton:

-- so --

John Donovan:

-- for the people who can't hear that Virginia has clarified that she moved virtually. She -- through VPN.

Roslyn Layton:

-- some of the European laws violate America's First Amendment. So, whether you like that they're not. Any person who gets their First Amendment, or company, can take it to Supreme Court, and it could be struck down.

So, that is the first challenge. Now, the thing that we're getting at is we accept that they're big companies; they need to have a higher standard. That's fair enough, okay? Twitter is one thing. We're talking about the bottom-up companies, the Twitter of tomorrow, or the church, or the genealogy company that Berin -- can they afford to

have the standard you're talking about? If we look at California, on January 1 they are set to put their version of the GDPR, which in my opinion is even more strict -- it's going to cost California \$70 billion. Okay?

01:09:03

The benefits are expected to be \$5 billion. So, the costs exceed the benefits by 14 times, and the -- those who are going to bear the cost are the 99 percent of companies in California that have less than 500 employees. Now, I talk to a lot of people on the left who think it doesn't matter that it costs money, right? But it may matter to someone who wants to start a business that won't be able to use data that will have to find a different field, a different area, and I think that that's what some people want.

They don't want to have innovation in data. For --

John Donovan:

Berin -- I'm sorry. Berin, can -- let the other side have a crack at this? And we're a little over time, so if you can do 15, 20 seconds --

Berin Szóka:

In your particular case, that's worked out well for you, but you're not seeing the unseen cost of that. Requiring platforms to take down content immediately means that they have -- they can't exercise any judgment in doing so, and anything that anyone might suggest might be harmful comes down. That means chilling a significant amount of speech. It makes it very difficult to operate a platform for discussion.

01:10:03

Maybe Twitter can handle that -- a lot of speech comes down -- certainly no one else can. And I'm concerned about all the websites out there and their ability to operate, which they can't do in Europe.

John Donovan:

One more round from the against side?

Ramesh Srinivasan:

I'm giving Marietje all our time for this.

John Donovan:

Go for it.

Marietje Schaake:

Well, I think the question that you asked, or the example that you gave of the requirement under German law to take down pro-Nazi content shows that this is not

against American companies, but is for safeguarding principles that are typical from Germany, that are debated in Germany, but that come from a place that is legitimate.

Not all Germans will agree that this is appropriate in 2019. Some Americans will like it; some Americans won't. I think that the point is the democratically elected representatives and governments have the legitimate right to look at how laws should apply, whether it's about tech companies or transport companies that are more traditional, whether it's companies from China or from the United States, and that is the whole point.

01:11:04

What I see, and I've served in European Parliament for 10 years -- I've been part of these heated debates of what the proper regulation is, how or how we should not regulate. I'm a liberal in the European sense, which means I believe in not so much regulation, believe it or not. It would be easy to get a different impression this evening, but I do think that even the most open markets, even the most open societies, require some rules of the road for fairness, for fundamental rights protection, and for preserving freedoms. So --

John Donvan:

And that concludes round two of our Intelligence Squared U.S. debate --

[applause]

-- where our resolution is Europe Has Declared War on American Tech Companies.

And here's where we are: we're about to hear brief closing statements from each debater in turn again. They will be two minutes each. This is their last chance to prove to you which side is more persuasive, because right after they speak and sit down you're going to vote one more time and choose our winner.

01:12:01

On to round three, closing statements. To make her closing statement against the resolution Europe Has Declared War on American Tech Companies -- and Roslyn, I'll give you a minute to get up there -- here is Roslyn Layton, visiting scholar at the American Enterprise Institute.

[applause]

Roslyn Layton:

"What happens to a dream deferred? Does it dry up like a raisin in the sun or fester like a sore and then run? Does it stink like rotten meat or crust and sugar over like syrupy

sweet? Maybe it just sags like a heavy load, or does it explode?" So, this is Langston Hughes, and he was living in this area of New York, and I love that poem so much because to me at representing all of the potential that we miss today. I would prefer the beautiful truth -- sorry -- I would prefer an ugly lie over the beautiful truth, and in my day to day, I come across so many policies that sound wonderful, but my job is to test, do they actually do what they say?

01:13:02

And I have seen so many things from the European Union saying, "We're doing this for the people," but when I look at what the people say themselves, and the statistics over time, that their trust in the European Union, in the actual policies, is at the lowest point. So, I would say it may sound great, but we actually have to test and what happens. So, as a -- Berin has a -- he's alluded to the Prussian military theorist Clausewitz, who lived through the Napoleonic Wars.

And at the time, it was quite glorious. You know, [unintelligible] to die and be glorious, and whatnot. We know it's very terrible. But there was a way to try to say, "Well, there's somehow a morality to it." And as you know, we didn't pick today's framing, but we thought that it had an important symbolic meaning. And I would say that policymakers will frequently use this kind of rhetoric to say what they're doing, because they'll use morality to describe the policy. And so, in this case, the way that they've talked about the American tech companies -- that they want to break them up, that they want to destroy them, that they want to put them under European control -- it does amount to a type of war.

01:14:10

And so, I hope you've seen tonight that we've shown you that Europe has declared war on American tech companies. And I ask you to vote for this motion.

John Donovan:

Thank you, Roslyn Layton.

[applause]

And the position against the motion -- Europe Has Declared War on American Tech Companies -- its first speaker summarizing will be Ramesh Srinivasan, who is professor at UCLA.

Ramesh Srinivasan:

Thank you, all. It's been a pleasure to join you, pleasure to debate with you. I want to first bring to your attention a Vox poll that was done recently, right here in the United States. Americans across political stripes, across economic classes, across geographic

regions -- altogether support technology regulation. In what way? A far more powerful set of regulations -- breaking up technology companies -- than what we see proposed by the European Union. So, what we actually see occurring here is this groundswell that is global in its scope, wanting a balanced world, wanting approaches like regulations that have been good for tech companies.

01:15:10

Think about net neutrality as an example. That's the best friend to many big tech companies. So, what we actually are right now arriving at is an incredibly important moment. My colleagues on the other side have argued that disruption is somehow a uniquely American phenomenon. They haven't been able to define clearly to me what disruption is. What if I argued that disruption is developing business models that are balanced, that agree with what almost every Internet user now agrees with, that agrees with the world that is balanced, that agrees that small enterprises and small businesses that thrive on a secure and balanced climate is the best way to go? I have argued that branding from -- with branding and statements made by technology company magnates themselves -- are consistent. In fact, they are defining the E.U. regulations themselves. I have not seen any evidence that the European Union -- in fact, my personal experience is the opposite -- that the European Union is not a place for technology innovation.

01:16:06

And in fact, the Web itself comes from the European Union itself, much like the Internet itself comes from public funding. Public-private partnerships are the way to go. There is no evidence that the European Union's regulations are harming businesses. There's no evidence that shows that Europe is some sort of defunct technological ecosystem, and that's why it's so important to understand that we need a balanced world in the image of our collective humanity. And that's why I urge you to vote against this motion -- that Europe is somehow declaring war on American tech companies. Thank you so much.

John Donovan:

Thank you. Ramesh Srinivasan.

[applause]

The resolution, again, Europe Has Declared War on American Tech Companies. Here to make his closing statement in support of the resolution, Berin Szoka, founder and president of TechFreedom.

Berin Szóka:

As I said before, this is not about big companies. This is about small companies, and non-profits, and everyone else who builds Internet tools. Those tools do not take off in Europe.

01:17:00

It's simply not possible. They have taken off here in the United States because we've had a legal environment that makes it possible to hold user content without being sued for everything your users do. We have a system of copyright law that doesn't drive you out of business. The European Union has made it -- and is making it even more impossible to build those services. This is not an argument against regulation.

You don't have to be a libertarian to recognize that there's a war here. This is about the United States making innovation possible and Europe not. That's the war. It's not about picking, necessarily, on your -- on American companies. No doubt, if there were successful European companies, European regulators would strangle them too. And the fact is, they already have. They just strangle them in the crib, so you never saw them. The only ones that exist -- the only ones that exist exist because they're services, like Spotify. They're great services. I love them. They don't rely on user content, right?

So, they don't need the kind of protection that we have here in the United States that makes those services possible. Right? So, the evidence is right in front of you.

01:18:03

I've talked about the distinction in venture capital investing. And what you've heard from the other side is primarily the companies, the companies, the companies -- they can live with this. Right? What they're talking about are the biggest companies. Yes, of course, those companies can always live with regulation. They love regulation. It's moat around their business model, right?

It protects them from disruption, but that's the disruption I'm talking about. What I am most concerned about is that those companies can be disrupted, that someone new can come around and replace them. That happens in the United States. There is a cycle of that. That cycle has been short-circuited in Europe, and that's why I'm asking you to vote for this motion to recognize that, in fact, Europeans -- unfortunately, the European Union has declared war against American tech companies and, indeed, against the thing that is made innovation possible here in the United States, openness and experimentation. And instead, Europeans are prizing control and stability.

[applause]

John Donvan:  
Thank you, Berin Szóka.

01:19:01

And our final speaker against the motion, Marietje Schaake, a former MEP and international policy director at Stanford's Cyber Policy Center.

Marietje Schaake:

Well, what a wonderful way to end. I echo the hope that newcomers and competitors will have all the space to innovate in this country, too, and that they're not bought or strangled by big tech companies before they can even exist.

I can also assure you on the slightly more dramatic and emotional statements that we heard that when I go home to Amsterdam, I go back to a country that's one of the most innovative economies in the world with a very, very lively start-up. It's certainly not a place where civil society and SMEs are strangled and where there's a third-world kind of despair in the streets. In fact, I would say the opposite, and I invite you all to come and see for yourself. But to conclude, I actually wanted to go back to the questions that we got from the audience. The lady from Australia, I think, asked a very, very important question when she said, "I would like to bring it back to the people and ask the panel what is better."

01:20:05

This is a great question. And actually, what is better? Is San Francisco's decision to ban facial recognition technology better for the people, or is the new data protection law in California a better, more libertarian approach that we see in Silicon Valley as well? Or is European-driven research funding for artificial intelligence better? Or is Chinese technology safe, or is it rather very dangerous for us?

"What is better?" is the question that is debated in parliaments, in city councils, and in debating halls like this one tonight every day. That is how democracy works, because the people do not agree what is better for them. But what I think is for sure is that it is better when the people in their parliaments and in their democracies decide than when shareholders decide, because what shareholders believe generally, and what their responsibility is, is to maximize profit and often maximize efficiency, for example, of apps, screen time, and more addiction of children.

01:21:15

It's all better for profits. So, instead of having shareholders or algorithms that are increasingly deciding for the people what is best, I would prefer that our parliaments and our city councils and our democratically elected officials will battle it out together in a way that fits our democracy. And I would actually suggest that instead of hyping the notion of war coming from Europe to the United States, we think more in terms of how

we can work together in this democratic way that makes our societies and our internet as open as it is, and that we look globally at the true threats that we should be concerned about.

And those are not coming from Europe; they're, among other places, coming from China, where a state-driven, control-driven model is going to be more and more dominant the more we differ between ourselves.

01:22:07

Thank you.

[applause]

John Donovan:

Thank you, Marietje Schaake. And that concludes our closing statements, and now it's time to learn which side you have argued the best. So, now it's time for you to vote the second time, and that vote will determine our winner. Again, go to your phones and go to that URL and vote one more time. And I want to clarify something: victory for -- in this organization, this program, victory goes to the team whose numbers go up the most from the first to the second vote.

It's not the absolute vote; it's the shift. It's the poll from one side to the other, because what we're looking at is the quality and the persuasiveness of the arguments that are made as judged by you. So, while you're doing that, I have a couple things I wanted to say. First of all, this was kind of a technically complicated debate. It got a little bit into technology, a little bit into law, a little bit into morality, a little bit into politics, a little bit into history. There were a lot of moving parts. Sometimes we went -- we -- the train went a little bit off the tracks, but we kept pulling it back. I want to thank the debaters for cooperating with all of that and also for doing this, having this argument in front of everybody in a spirit of respect.

01:23:05

You're all -- you all obviously really like Europe [laughs], so that was pretty clear I think, in the long run, you're all basically believing in the same thing; you're just disagreeing a little bit on the means to get there. But what you were able to do is to have that conversation in a way that was civil, and enlightening, and that's what we aim for here. So, I want to thank you for how you did all of this tonight.

[applause]

I especially want to thank Jeff Jarvis and Anu Bradford for the questions that they brought to the conversation this evening, and to everybody else who got up and asked a question. I think this is the first time in a long time that I haven't had to turn down a

question. So, they were terrific, and I want to thank you for that as well. While we're waiting for the results, I just wanted to have -- this is not part of the competition any longer -- but just curious to see what you think, since we were talking about regulation in Europe, and the challenges there.

We got into this a little bit, about the situation here.

01:24:02

But we've -- we're curious now, after we've done more than 170 debates, about things going on around the world. If you take home this tech topic to the U.S., to the election coming up, do you think it's -- that the thing that we're going to be talking about -- do you think it has a relevance -- it will have a relevance, that we'll see it coming up in the presidential contest that unfolds, both within the Democratic Party, and then between the Democratic and whoever the Republican candidate turns out to be? Do you -- where do you see this going, and do you see, ultimately, five years from now, are we going to be living with a more regulated tech sector? Now, Roslyn, you --

Roslyn Layton:

So, I've actually written on this topic. I think -- I would like to ask you to go to [AEI.org](http://AEI.org). I wrote a paper on tech policy and the midterms in 2018.

And what I -- I've looked at was looking at the different -- what drives people to the polls, and traditional economic questions. Tech policy can be helpful to create symbolic politics. It's a way to get different people to engage.

01:25:02

But typically, at the polls, people aren't necessarily thinking about the tech companies or tech policy. It's generally the wallet issues. But I do lay that out in the paper. And if people want to see it, you know, it has a lot of interesting references and data.

John Donovan:

Marietje, what do you think? Now that you're out of Stanford, especially.

Marietje Schaake:

It's already -- well, it's already a topic. There's an actual battle -- to stick with this evening's metaphor -- going on between Mark Zuckerberg and Elizabeth Warren that you all could be a witness to. We heard the president of this country alleging that the tech platforms are, you know, to the far-left -- maybe your other topic of debate, socialist, as well. So, the idea of, are they politically non-partisan, are they able to determine the outcome of these elections -- I think -- is a very lively question, especially after 2016.

And I would hope -- but let me just end with that, as an observer of American politics -- not as a voter, but as someone who appreciates the power of this country, for better and for worse -- that I hope that it can be a non-partisan issue, that there not be foreign or other interference that undermines the democratic rights of the American people.

01:26:15

I think that that is hugely important --

[applause]

-- and for people to exercise that right. And I want to compliment you; it is very important to have a well-informed debate. And the question is, what is the impact of more and more online engagement, more and more young people looking for information online? Does it help a well-informed political debate or hurt it? I leave it up to you. But I wish for a well-informed debate and the rights of people protected.

John Donovan:

Let's hear from Ramesh, and then give Berin the last word.

Ramesh Srinivasan:

Yeah. It's been a pleasure to join you all today. Two quick points. One is, you know, we all remember in 2016, Facebook was the place where Americans got news much dominantly more than any other platform. Of course, journalistic platforms publish their news onto Facebook, but it also became a place where we started to see content; we didn't know where it came from.

01:27:00

That's obviously going to be a huge issue yet again. Also, Trump's unfortunately baseless claim -- President Trump's baseless claim that Google's sort of search results system altered millions of votes away from him in 2016 and even more votes away from the Republican Party in 2018 -- those are sorts of issues, to Marietje's point, that we're going to have to rebut and deal with. But the last thing I'll say is it's not -- when we talk about technology, it's not just sort of technology platforms itself; it's the vehicle and the modalities by which our society and our world and our economies are changing, and that's why we saw in the last Democratic debate a lot of discussion, fortunately -- I was glad -- about the gig economy, about automation, and so on. So, it's actually partly about the technologizing of human experience, and so what does that mean, and how do we ensure that our values as Americans are protected in relation to those trends, that we understand what we're getting into as well.

John Donovan:

Thank you. Berin?

[applause]

Berin Szóka:

Well, unfortunately, we see growing bipartisan agreement that the U.S. should work more like Europe, that we should have more control from the government, and that the platforms themselves should be more in charge of who says what online.

01:28:13

Right? That's what Donald Trump says; that's what you hear from Elizabeth Warren as well. All right? I think that's perfectly disturbing, and unfortunately, it's a situation, as I've emphasized time and time again, that Facebook ultimately can manage, but nobody else can. The smaller platforms, the smaller companies that could have taken off in the past, simply will not be able to do so, and we're going to be in a more and more controlled, if you will, oligopolistic future because people are cracking down on the very fundamentals that have made it possible for one company to come along and replace the next company in the United States. Right? We're talking about making platforms responsible for everything their users say and do online. That is the kiss of death for small companies.

John Donovan:

So, we're going to leave with a smile on our faces.

[laughter]

I guess not.

01:29:00

All right, thank you for all of those thoughts, very, very interesting and insightful. So, it's all in; I've just received the results. Remember, it's the difference between the first vote and the second vote that determines our winner. Here's how it went. On the resolution Europe Has Declared War on American Tech Companies, before the debate, in polling the live audience here in New York City, 30 percent agreed with the resolution, 23 percent were against, and a very large 47 percent were undecided. Again, those are the first results. It's going to be the difference between that and the numbers I'm about to read out that determines our winner. The team arguing for the resolution Europe Has Declared War on American Tech Companies, their first vote was 30 percent; their second vote, 30 percent. They stayed flat on that one. The team arguing against the resolution, their first vote was 23 percent, their second vote was 64 percent.

They pulled up 41 percentage points. That makes them the winner, the team arguing against a resolution that Europe Has Declared War on American Tech Companies.

01:30:00

[applause]

Our congratulations to them. Thank you from me, John Donovan, and Intelligence Squared U.S. We'll see you next time.

[applause]

[end of transcript]

**This is a rough transcript. Please excuse any errors**