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In October of last year, India's competition watchdog slapped Google with a $146 million dollar fine for having abused its dominant position in the Android mobile market.

Earlier this year, Google came back with an unusual response. Accusing the Competition Commission of India of having copied a previous European Commission antitrust ruling, the U.S. tech giant claimed it had found "more than 50 instances of copy-pasting" in a filing to an Indian appeals tribunal.

Although the Indian competition authority has denied the accusation, first reported by Reuters, and neither the filing nor the regulator's decision has been made public, the tech company's allegation served as a powerful reminder of the "Brussels Effect"—the idea that the European Commission is a "global regulatory superpower" whose rules and directives ripple out far beyond the EU's geographic borders. The term was coined by Columbia University law professor Anu Bradford in 2012.

One of Bradford's central arguments was that the Brussels Effect arises from the importance of the EU consumer market—the world's largest trading bloc and economy. As a result, globally operating companies headquartered in, say, China or the U.S. often choose to also comply with EU standards to reduce the costs they would incur complying with different regulatory regimes. Bradford dubbed this the "de facto" Brussels Effect.

In addition to this largely market-driven mechanism, she also saw a "de jure" Brussels Effect, with foreign governments adopting EU-style laws as a result of pressure from local companies that already comply with EU regulation, as well as the appeal of copying EU rules in countries with less-skilled or underresourced administrative agencies.

Lawyers interviewed by Law.com International, however, said that lately, the commission appeared to be on a deliberate mission to export its rules worldwide in areas like trade and privacy.

In trade, measures that lawyers said aim to impose EU rules on companies based outside the EU have proliferated—from a new proposal to ban products made with forced labor to a controversial corporate sustainability due diligence directive.

Dylan Geraets, a senior associate in Mayer Brown's international trade group in Brussels, pointed out that the EU's executive body has previously adopted due diligence instruments—in a 2010 timber regulation and a 2021 conflict minerals regulation, for instance. However, he noted that unlike those previous bills, the commission's current corporate sustainability due diligence proposal and forced labor proposal go beyond merely setting product standards and technical regulations for companies that want to access the EU market.

As Law.com previously reported, the corporate sustainability due diligence bill requires EU companies with more than 500 employees and more than €150 million in net turnover worldwide to monitor, prevent and account for adverse human rights and environmental impacts in their own operations, those of their subsidiaries and their entire value chains across the world. The forced labor law will prohibit the selling of products made with forced labor in the EU, as well as their export from the EU, and is meant to act as an incentive for EU companies to ensure their supply chains are free of forced labor.

“It’s the EU saying, ‘You companies are responsible for ensuring that whatever happens in your supply chains is in accordance with the international rules and regulations, the international norms that we have set and that we as the EU in the absence of what we call an international extraterritorial jurisdiction may not have the power to enforce,’” Geraets said.

A similar goal, Geraets said, is the basis for the commission’s plan for a carbon border tax, which he described as “an attempt to bring trading partners, but also states more generally across the globe, to adopt a mode of carbon pricing.”

The commission has said as much. When the law cleared an important legislative hurdle at the end of last year, EU climate chief Frans Timmermans described it as a critical tool to “ensure that what we do in the EU does not push up emissions abroad but rather becomes an incentive to replicate our ambition.”

The objective of the EU Carbon Border Adjustment Mechanism, or CBAM, is to prevent the EU’s greenhouse gas emissions reduction efforts from being offset by companies increasing emissions outside its borders through the relocation of production to non-EU countries that have less ambitious policies to fight climate change, or by increased imports of carbon-intensive products. Under the regulations, companies that import into the EU must pay the difference between the carbon price paid in the country of production and the price of carbon allowances under the EU emissions trading scheme.

But countries that have adopted a form of carbon pricing that is equivalent to the EU’s would be exempted from the CBAM regulations.

This, Geraets says, is an effort to ensure that countries take their obligations under the Paris Agreement—the international treaty on climate change—more seriously.

In the privacy arena, U.S. and EU officials announced they had reached a tentative agreement for trans-Atlantic data transfers last March after a year of negotiations. The new EU-U.S. Data Privacy Framework, which is not yet final, provides a legal basis for companies to transfer EU customers’ personal data to the U.S. Its Privacy Shield predecessor was struck down by a top EU court on the grounds that it violated the EU Charter of Fundamental Rights following a legal challenge filed by Austrian privacy activist Max Schrems.

Cedric Burton, managing partner of Wilson Sonsini’s Brussels office and the co-chair of its global privacy and cybersecurity practice, said this, too, should be considered a deliberate effort on the commission’s part to have its data protection rules apply outside the 27-member bloc.

The new data transfer framework, for instance, introduces restrictions on U.S. national security data collection methods and provides a redress instrument for EU citizens in the event of privacy violations. “Through this negotiation between the EU and the US, the EU Commission managed to export, again, the fundamental rights that we have in the EU and make sure that EU individuals are able to exercise them outside” the EU, Burton said.

Burton added that Europe’s flagship GDPR law is only four years old and that Brussels officials have since proposed five new bills—the Data Act, the Data Governance Act, the Digital Services Act, the Digital Markets Act—that all overlap with the GDPR in places. “In Europe, when there is a new issue, we issue a new regulation,” he said. “Sometimes, it would probably make sense to pause and apply the existing regulation first, make sure [it’s] applied entirely before moving on to the next one.”

In the antitrust space, things appear to be a little different. The European Commission is not, for example, deliberately trying to export the key tenets of the Digital Markets Act—the antitrust rulebook it has created for tech companies, according to Niklas Maydell, the new managing partner of Weil, Gotshal & Manges' Brussels office, which opened in February of last year.

Instead, both the commission's Digital Markets Act and its merger-control approach show the "de jure" Brussels Effect is fully at play. Maydell described the new rulebook as the "golden standard" for antitrust regulation of tech companies.

"I'm not aware of similarly prescriptive and targeted antitrust rules that apply ex ante, before anything has happened, in any major jurisdiction worldwide," Maydell said. "That automatically then sets the tone for everybody else."

When parties are involved in merger proceedings, they can give waivers for authorities to talk to each other, he added. Though all of this is confidential and happens "behind the scenes," Maydell said other regulators often appear to be inspired by the commission's decisions.

"The Chinese, the Indians, the South Africans, they all are sort of reaching out to the European Commission on actual cases to understand what they're doing to inform their own decision-making," he said.

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