The Daily Dish

Data Localization and Internet Innovation

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Eakinomics: Data Localization and Internet Innovation

Yesterday the U.S. Census Bureau released the data on retail sales in May, and there were some eye-popping numbers. For example, sales in clothing and clothing accessories stores were up 188 percent compared to April. Unfortunately, April was so apocalyptic that May sales were still 63.4 percent below May 2019. The data point that has grabbed my eye for several months running, however, has been sales by non-store retailers. Buying over the internet was up 9.0 percent from April and 30.8 percent over May 2019. Everyone knew this was going on anecdotally, but the strength of the sales data is impressive.

This is just one way that technology has helped to address COVID-19, the pandemic, and the recession. But there is a quiet threat to the vitality of internet innovation: data localization laws. One reflexively thinks of the internet as a global, free-flowing network, but data localization laws and regulations require data that data be retained and/or processed in the country it is collected. Stopping the flow of data is a barrier to innovation and online commerce.

In a new study, Jennifer Huddleston and Jacqueline Varas point out that this is far from a hypothetical concern: "China has data localization requirements that affect all personal, business, and financial data. Russia has data localization requirements for all personal data, and Kazakhstan requires all data for servers on the country's specific domain (.kz) be local. Furthermore, India's data localization requirements apply to payment service providers and government procurement." Fighting the spread of data localization requirements is highlighted by the fact that across the globe, half of all services trade depends on access to cross-border data flows.

The U.S. approach is exemplified by the United States-Mexico-Canada Agreement (USMCA), which has an entire chapter on digital trade. This chapter prohibits tariffs on digital goods, discrimination against foreign suppliers of digital goods and services, and data localization laws. The Trans-Pacific Partnership also contains such a chapter, but there is no generally accepted principle for including such provisions in trade agreements around the globe.

This lack of consensus is a risk. As the authors note, "As more data move to cloud-based computing and emerging technologies lead to an increasing number of connected devices and data, data localization could risk splintering the internet from a single global system to a series of more limited regional systems due to data governance requirements."

The internet has been essential in the response to COVID-19, but its benefits are far from automatic and will require constant work to maintain.