

ONE HUNDRED NINETEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
**COMMITTEE ON ENERGY AND COMMERCE**  
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May 19, 2025

**MEMORANDUM**

TO: Members, Subcommittee on Commerce, Manufacturing, and Trade  
FROM: Committee Majority Staff  
RE: Subcommittee on Commerce, Manufacturing, and Trade Hearing

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**I. INTRODUCTION**

The Subcommittee on Commerce, Manufacturing, and Trade has scheduled a hearing on Wednesday, May 21, at 10:15 a.m. (ET) in 2322 Rayburn House Office Building. The hearing is entitled, “AI Regulation and the Future of US Leadership.”

**II. WITNESSES**

1. Mr. Sean Heather, Senior Vice President, U.S. Chamber of Commerce
2. Mr. Adam Thierer, Senior Fellow, R Street Institute
3. Mr. Marc Bhargava, Managing Director, General Catalyst
4. Ms. Amba Kak, Co-Executive Director, AI Now Institute (*Minority*)

**III. BACKGROUND**

Artificial intelligence (AI) is expected to transform global commerce and deliver new products, services, and innovations to consumers. By one estimate, AI may add up to 7 percent to global GDP and 1.5 percent to annual productivity growth over ten years.<sup>1</sup> Another estimate suggests AI could generate \$2.6 trillion to \$4.4 trillion in value across industries.<sup>2</sup> While economic forecasts may differ, they point in the same direction: AI will be a driving force in the next wave of technological progress and, by extension, global competition.

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<sup>1</sup> Goldman Sachs, *Generative AI Could Raise Global GDP by 7 percent* (Apr. 5, 2023), [www.goldmansachs.com/insights/articles/generative-ai-could-raise-global-gdp-by-7-percent](https://www.goldmansachs.com/insights/articles/generative-ai-could-raise-global-gdp-by-7-percent).

<sup>2</sup> McKinsey, *The Economic Potential of Generative AI* (Jun. 14, 2023), [www.mckinsey.com/capabilities/mckinseydigital/our-insights/the-economic-potential-of-generative-ai-the-next-productivity-frontier#introduction](https://www.mckinsey.com/capabilities/mckinseydigital/our-insights/the-economic-potential-of-generative-ai-the-next-productivity-frontier#introduction).

The U.S. is leading the current wave of AI innovation and is positioned to maintain its strategic advantage. In 2024, U.S. institutions produced forty notable large language models. By contrast, the People's Republic of China produced fifteen and the European Union (EU), only three.<sup>3</sup> Yet U.S. AI leadership cannot be taken for granted. In January 2025, Chinese startup DeepSeek released a frontier model that it purports was developed at a fraction of the cost of U.S. competitors' models, though the stated cost only reflects a single training run and not the overall costs of research and infrastructure.<sup>4</sup> Nonetheless, this development poses a new and concerning risk to American consumers and businesses. Chinese AI advancements underscore that the U.S. must take affirmative steps to maintain its global leadership in these critical technologies.<sup>5</sup>

Properly crafting the AI governance rulebook is a critically important part of maintaining U.S. global leadership in AI technologies. A “common-sense, pro-innovation regulatory regime” would enable AI to be developed and adopted at scale in the U.S. and exported to markets abroad, thereby supporting American economic growth, innovation, and jobs.<sup>6</sup> An approach that unduly restricts AI innovation, embraces an inconsistent patchwork of rules, or closes foreign markets for U.S. AI exports, by contrast, may cede the advantage to China. As with technological competition with China, where the U.S.'s technological edge is not being taken for granted, there is no guarantee that the U.S. will lead in the race to write the global rulebook for AI governance without taking intentional steps to pursue the right approach. In this respect, the EU Artificial Intelligence Act (AI Act) offers important lessons—and a warning.

The EU AI Act went into effect on August 1, 2024, and comprehensively regulates how AI technology is developed, commercialized, and deployed.<sup>7</sup> It serves as a stark contrast to the U.S. federal approach, which is to apply longstanding consumer protection laws to AI applications and enact targeted legislation, such as the TAKE IT DOWN Act, where there are specific, widespread harms that must be addressed.<sup>8</sup> As with other EU regulations, the AI Act may be adopted by U.S. trading partners and serve as the de facto rulebook for AI governance around the world. U.S. states, moreover, are adopting elements of the AI Act into new regulations and proposals, contributing to an emerging patchwork of state rules that puts our nation's AI advantage in peril. According to one analysis, over one thousand AI bills have been introduced in the U.S. this calendar year, mostly at the state level.<sup>9</sup>

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<sup>3</sup> Stanford Institute for Human-Centered AI, *The 2025 AI Index Report: Top Takeaways* (Apr. 7, 2025), <https://hai.stanford.edu/ai-index/2025-ai-index-report>.

<sup>4</sup> Ryan Brown and Dylan Butts, *DeepSeek's AI claims have shaken the world – but not everyone's convinced*, CNBC (Jan. 30, 2025), <https://www.cnbc.com/2025/01/30/chinas-deepseek-has-some-big-ai-claims-not-all-experts-are-convinced-.html>.

<sup>5</sup> See House Committee on Energy and Commerce, *Chairmen Guthrie and Bilirakis Lead Letter to DeepSeek Over Relationship with Chinese Communist Party* (Apr. 24, 2025), <https://energycommerce.house.gov/posts/chairmen-guthrie-and-bilirakis-lead-e-and-c-republican-letter-to-deep-seek-over-relationship-with-chinese-communist-party>.

<sup>6</sup> Michael Kratsios, *The Golden Age of American Innovation*, WHITE HOUSE OFFICE OF SCIENCE AND TECHNOLOGY POLICY (Apr. 14, 2025), <https://www.whitehouse.gov/articles/2025/04/8716/>.

<sup>7</sup> Regulation (EU) 2024/1618 of the European Parliament and of the Council of 13 June 2024 laying down harmonized rules on artificial intelligence (Artificial Intelligence Act) [2024].

<sup>8</sup> See H.R.633, 119th Cong. (2025); S.146, 119th Cong. (2025).

<sup>9</sup> *1,000 AI Bills: Time for Congress to Get Serious About Preemption*, LAWFARE, <https://www.lawfaremedia.org/article/1-000-ai-bills--time-for-congress-to-get-serious-about-preemption>.

The global AI rulebook is already being written and will have direct impacts on U.S. economic growth, innovation, and jobs. However, there is still time for the U.S. to assert global leadership in providing a pro-innovation regulatory counterbalance.

#### IV. THE EUROPEAN UNION'S ARTIFICIAL INTELLIGENCE ACT

##### A. Background

The EU AI Act is the world's first attempt to comprehensively regulate AI development, distribution, and use.<sup>10</sup> The culmination of a six-year process, the law embodies the EU's ambitions to set a global standard for how AI is governed.<sup>11</sup> These ambitions may be propelled by the "Brussels effect," or when non-EU countries align their technology regulations with European ones.<sup>12</sup> Over the past decade, for example, U.S. trading partners, such as Brazil, India, and the United Kingdom, have adopted or maintained local versions of the EU's General Data Protection Regulation (GDPR). U.S. states have also integrated EU legal concepts and requirements into their comprehensive consumer privacy laws.<sup>13</sup>

The AI Act is a complex regulation. The law is built on the EU's product safety framework, which means the bloc is regulating AI in substantially the same way it regulates elevators, toys, gas stoves, fireworks, and jet skis.<sup>14</sup> The law's requirements vary depending on an AI system's risk category. AI that poses an "unacceptable risk," such as a tool used for "social scoring," is prohibited outright.<sup>15</sup> AI used in critical infrastructure, education, employment, credit, insurance, and healthcare, among other sectors, is classified as "high-risk."<sup>16</sup> Each "high-risk" AI system must comply with extensive data governance, recordkeeping, logging, human oversight, accuracy, and transparency requirements and undergo a "conformity assessment" before it can be sold or used.<sup>17</sup> The initial cost for only one of these requirements is expected to be between €193,000 to €330,000, according to a report funded by the European Commission (EC).<sup>18</sup>

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<sup>10</sup> European Parliament, *EU AI Act: first regulation on artificial intelligence* (Feb. 19, 2025), <https://www.europarl.europa.eu/topics/en/article/20230601STO93804/eu-ai-act-first-regulation-on-artificial-intelligence>.

<sup>11</sup> European Commission, *European approach to artificial intelligence*, <https://digital-strategy.ec.europa.eu/en/policies/european-approach-artificial-intelligence> (last visited May 17, 2025).

<sup>12</sup> See Anu Bradford, *The Brussels Effect: How European Union Rules the World*, OXFORD ACADEMIC (Feb. 27, 2020).

<sup>13</sup> See Jennifer Bryant, *Three Years in, GDPR highlights privacy in global landscape*, IAPP (May 25, 2021), <https://iapp.org/news/a/three-years-in-gdpr-highlights-privacy-in-global-landscape>.

<sup>14</sup> European Commission, *New Legislative Framework* (accessed May 6, 2025), [https://single-market-economy.ec.europa.eu/single-market/goods/new-legislative-framework\\_en](https://single-market-economy.ec.europa.eu/single-market/goods/new-legislative-framework_en).

<sup>15</sup> European Commission, *AI Act* (accessed May 6, 2025), <https://digital-strategy.ec.europa.eu/en/policies/regulatory-framework-ai>.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> Andrea Renda, Moritz Laurer, and Timothy Yeung, *Clarifying the costs for the EU's AI Act*, CENTER FOR EUROPEAN POLICY STUDIES (Sep. 24, 2021), <https://www.ceps.eu/clarifying-the-costs-for-the-eus-ai-act/>.

After the public release of ChatGPT in November 2022, EU leaders added additional obligations for “general purpose” AI, such as large language models.<sup>19</sup> The EC is currently drafting a “code of practice” for general purpose AI developers to meet these obligations.<sup>20</sup> The Trump Administration has urged the EC to pause implementation and has raised concerns that the code goes beyond the AI Act’s requirements.<sup>21</sup>

Leading European businesses, including Ericsson, Spotify, and SAP, have raised concerns about the impact of the AI Act on the bloc’s competitiveness.<sup>22</sup> In a September 2024 report, former Italian Prime Minister Mario Draghi noted that “the EU’s regulatory stance towards tech companies hampers innovation: the EU now has around 100 tech-focused laws and over 270 regulators active in digital networks across all Member States.”<sup>23</sup> In response, innovators have looked to markets elsewhere. Between 2008 and 2021, close to 30 percent of European unicorns, or startups valued over \$1 billion, relocated outside of the EU, with the vast majority moving to the United States.<sup>24</sup> EU officials may have begun to appreciate the downsides of restrictive regulation. Since the “Draghi report” was published, the EC withdrew a proposal to impose additional liability onto AI developers and is considering modest reforms to the GDPR.<sup>25</sup> Whether this diminishes the appetite in other jurisdictions for EU approaches to technology regulations is unclear at this time.

### *B. Challenges for U.S. Companies*

U.S. firms may face additional challenges as the AI Act is implemented. The EU has often used domestic regulations related to privacy, data security, competition policy, and online platforms to disadvantage or discriminate against American firms.<sup>26</sup> The AI Act may offer EU

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<sup>19</sup> Anthony Faiola, Cat Zakrzewski, and Beatriz Rios, *E.U. reaches deal on landmark AI bill, racing ahead of the U.S.*, WASHINGTON POST (Dec. 8, 2023), <https://www.washingtonpost.com/technology/2023/12/08/ai-act-regulation-eu/>.

<sup>20</sup> European Commission, *General-Purpose AI Code of Practice* (accessed May 6, 2025), <https://digital-strategy.ec.europa.eu/en/policies/ai-code-practice>.

<sup>21</sup> See Gian Volpicelli, Samuel Stolton, and Alberto Nardelli, *Trump Administration Pressures Europe to Ditch AI Rulebook*, BLOOMBERG (Apr. 25, 2025), <https://www.bloomberg.com/news/articles/2025-04-25/trump-administration-pressure-europe-to-reject-ai-rulebook>.

<sup>22</sup> Ryan Brown, *SAP boss warns against regulating AI, says Europe risks falling behind U.S., China*, CNBC (Oct. 22, 2024), <https://www.cnbc.com/2024/10/22/sap-ceo-urges-europe-not-to-regulate-ai-says-will-put-region-behind.html>; See also *EuropeNeedsAI*, Open Letter: Europe needs regulatory certainty on AI (accessed May 6, 2025), <https://euneedsai.com/>.

<sup>23</sup> European Commission, *The Future of European Competitiveness: A Competitiveness Strategy for Europe* (Sept. 2024), <https://bit.ly/3YLAwUE>.

<sup>24</sup> *Id.*

<sup>25</sup> Caitlin Andrews, *European Commission Withdraws AI Liability Directive from Consideration*, IAPP (Feb. 12, 2025), <https://iapp.org/news/a/european-commission-withdraws-ai-liability-directive-from-consideration>; Lexie White, *European Commissioner discusses EU-U.S. Data Privacy Framework, potential GDPR Reform*, IAPP (Mar. 14, 2025), <https://iapp.org/news/a/european-commissioner-discusses-eu-us-data-privacy-framework-potential-gdpr-reform>.

<sup>26</sup> See U.S. Trade Representative, 2025 National Trade Estimate Report on Foreign Trade Barriers (Mar. 31, 2025), <https://ustr.gov/about/policy-offices/press-office/press-releases/2025/march/ustr-releases-2025-national-trade-estimate-report>.

and member state officials—as well as other foreign governments—new opportunities in this respect. Oftentimes discrimination against U.S. companies takes the form of disproportionate enforcement actions by European regulators. U.S. companies, for example, have been subject to 83 percent of all fines levied since the GDPR took effect in May 2018, or €4.68 billion.<sup>27</sup> In 2023 alone, they paid €1.61 billion in GDPR fines, or more than the combined amount that 10 EU member states contributed to the bloc’s annual budget that year.<sup>28</sup>

The Digital Markets Act (DMA) has built on these efforts. Ostensibly a competition law, the regulation targets seven so-called “gatekeepers.”<sup>29</sup> Six of the companies—Alphabet, Apple, Amazon, Booking Holdings, Meta, and Microsoft—are American.<sup>30</sup> The seventh, ByteDance, is Chinese. On April 22, 2025, the EC announced its first fines under the DMA, €500 million for Apple and €200 million for Meta.<sup>31</sup> In February, President Trump issued a memorandum outlining actions to defend American companies and innovators from such practices.<sup>32</sup> The Chair of the Federal Trade Commission has similarly criticized the DMA.<sup>33</sup>

The AI Act will empower EU regulators to levy additional large fines, including up to seven percent of a company’s global turnover depending on the violation.<sup>34</sup> Officials will also have the authority to pull AI tools and services from Europe’s market, even when they comply with the law’s requirements.<sup>35</sup> Observers are also alarmed that the EU may use technical standards, which are critical for compliance with the AI Act, to disadvantage U.S. companies.<sup>36</sup> In recent weeks, the EC has suggested it may write technical standards itself, rather than rely on non-political, technical bodies.<sup>37</sup>

If the AI Act is implemented in ways that disadvantage or discriminate against U.S. firms, then U.S. exporters, innovators, and workers may suffer. In 2023, the U.S. exported \$320 billion

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<sup>27</sup> Daniel Castro, *Europe’s GDPR Fines Against US Firms Are Unfair and Disproportionate*, CTR. FOR DATA INNOVATION (Apr. 17, 2025), <https://datainnovation.org/2025/04/europes-gdpr-fines-against-us-firms-are-unfair-and-disproportionate/>.

<sup>28</sup> *Id.*

<sup>29</sup> European Commission, *Gatekeepers*, (accessed May 15, 2025) [https://digital-markets-act.ec.europa.eu/gatekeepers\\_en](https://digital-markets-act.ec.europa.eu/gatekeepers_en).

<sup>30</sup> *Id.*

<sup>31</sup> European Commission, *Commission finds Apple and Meta in breach of Digital Markets Act* (Apr. 22, 2025) [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_25\\_1085](https://ec.europa.eu/commission/presscorner/detail/en/ip_25_1085).

<sup>32</sup> The White House, *Memorandum: Defending American Companies and Innovators from Overseas Extortion and Unfair Fines and Penalties* (Feb. 21, 2025), <https://www.whitehouse.gov/presidential-actions/2025/02/defending-american-companies-and-innovators-from-overseas-extortion-and-unfair-fines-and-penalties/>.

<sup>33</sup> Francesca Micheletti, *Trump’s antitrust agency chief blasts EU digital rules as ‘taxes on American firms’* (Apr. 2, 2025), <https://www.politico.eu/article/trumps-antitrust-agency-chief-blasts-eu-digital-rules-as-taxes-on-american-firms/>.

<sup>34</sup> Regulation (EU) 2024/1618 of the European Parliament and of the Council of 13 June 2024 laying down harmonized rules on artificial intelligence (Artificial Intelligence Act) [2024].

<sup>35</sup> *Id.*

<sup>36</sup> Nigel Cory, *How the EU is Using Technology Standards as a Protectionist Tool in Its Quest for Cyber Sovereignty*, ITIF (Sep. 19, 2022), <https://itif.org/publications/2022/09/19/how-the-eu-is-using-technology-standards-as-a-protectionist-tool/>.

<sup>37</sup> Cynthia Kroet, *EU Commission ready to step in if AI standards delayed*, EURONEWS (Apr. 28, 2025), <https://www.euronews.com/next/2025/04/28/eu-commission-ready-to-step-in-if-ai-standards-delayed>.

in digitally deliverable services to Europe.<sup>38</sup> This accounts for half of all such U.S. exports and 2.2 times more than digitally deliverable services exported to the entire Asia-Pacific region.<sup>39</sup> As more than three million American jobs are tied to digital trade, barriers to U.S. AI exports may have negative downstream impacts on American workers.<sup>40</sup> For U.S. businesses developing, integrating, and using AI in the products and services they export and deploy across their global operations, the EU is a consequential market.

## V. THE EMERGING U.S. STATE PATCHWORK

A key U.S. advantage in the global AI race is that U.S. businesses can operate in a single domestic market to develop, sell, and use AI at scale. Whereas businesses and consumers in the EU must contend with a single complex and burdensome AI law, in the U.S. they face a tidal wave of potential AI requirements spanning many jurisdictions. In the first four months of 2025, lawmakers around the country introduced over one thousand AI bills.<sup>41</sup> In May 2024, Colorado enacted Senate Bill 205, a first-in-the-nation comprehensive framework intended to address “algorithmic discrimination.”<sup>42</sup> The Colorado law mirrors the EU AI Act in important ways, raising concerns about its potential negative impact on AI innovation in the state.<sup>43</sup> In early May, Colorado’s governor, attorney general, and members of its congressional delegation implored the state legislature to delay its implementation.<sup>44</sup> The Governor then stated his support for a federal moratorium on state AI laws.<sup>45</sup>

Other U.S. states are aligning, or have contemplated aligning, with the EU’s rulebook. California has actively cultivated relationships with European institutions.<sup>46</sup> The California Privacy Protection Agency is also advancing rules to regulate “automated decision making,”

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<sup>38</sup> Daniel Hamilton and Joseph Quinlan, *The Transatlantic Economy 2025*, U.S. CHAMBER OF COMMERCE (Mar. 17, 2025), <https://www.uschamber.com/international/the-transatlantic-economy-2025>.

<sup>39</sup> *Id.*

<sup>40</sup> U.S. Chamber of Commerce, *The Digital Trade Revolution* (Mar. 19, 2024), [https://www.uschamber.com/assets/documents/USCC\\_Digital-Trade-Report.pdf](https://www.uschamber.com/assets/documents/USCC_Digital-Trade-Report.pdf).

<sup>41</sup> Kevin Frazier and Adam Thierer, *1,000 AI Bills: Time for Congress to Get Serious about Preemption*, LAWFARE (May 9, 2025), <https://www.lawfaremedia.org/article/1-000-ai-bills--time-for-congress-to-get-serious-about-preemption>.

<sup>42</sup> S.B. 205, 74th Gen. Assemb., 2d Reg. Sess. (Colo. 2024).

<sup>43</sup> Dean Ball, *The EU AI Act is Coming to America*, HYPERDIMENSIONAL (Feb. 13, 2025), <https://www.hyperdimensional.co/p/the-eu-ai-act-is-coming-to-america>; Laura Caroli, *After the Virginia AI Bill was Vetoed, What’s Next for State-Level AI Legislation?*, CSIS (Apr. 3, 2025), <https://www.csis.org/analysis/after-virginia-ai-bill-was-vetoed-whats-next-state-level-ai-legislation>.

<sup>44</sup> Office of the Governor of Colorado, *Press Release: Mayor Johnston, Governor Polis, Attorney General Weiser, Senator Bennet, Congressman Neguse, and Congresswoman Pettersen Release Letter to Colorado General Assembly on AI* (May 5, 2025), <https://www.colorado.gov/governor/news/mayor-johnston-governor-polis-attorney-general-weiser-senator-bennet-congressman-neguse>.

<sup>45</sup> Zach Williams, *Colorado Gov. Polis Supports Federal Moratorium on State AI Laws*, BLOOMBERG (May 13, 2025), <https://news.bgov.com/bloomberg-government-news/colorado-gov-polis-supports-federal-moratorium-on-state-ai-laws>.

<sup>46</sup> Khari Johnson, *How California and the EU work together to regulate artificial intelligence*, CALMATTERS (May 24, 2024), <https://calmatters.org/economy/technology/2024/05/ca-eu-ai-regulation/>; Pascale Davis, *A big win for the EU? How California’s new AI bill compares to the EU AI Act*, EURONEWS (Sep. 11, 2024), <https://www.euronews.com/next/2024/09/11/a-big-win-for-the-eu-how-californias-ai-legislation-compares-to-the-eu-ai-act>.

projected to impose significant new costs on businesses. In many respects, this follows the trajectory of data privacy. Nineteen states, for example, have comprehensive data privacy laws, which integrate concepts such as “automated decision-making” from the EU’s GDPR.<sup>47</sup> In the AI context, a Texas bill, for example, explicitly borrows from the EU AI Act’s treatment of “unacceptable” risks, banning certain uses of AI outright.<sup>48</sup>

A patchwork of state AI laws will likely have profound, negative impacts on U.S. AI competitiveness, with a disproportionate burden falling on startups and small businesses. Comparisons to the patchwork of state privacy laws are illustrative. One report found that startups spend \$100,000 to \$300,000 to comply with data privacy laws and an average of \$15,000 to \$60,000 for each additional state privacy law that is enacted.<sup>49</sup> Another found that the cost of fifty state privacy laws would be \$1 trillion over ten years, with at least \$200 billion of that burden falling on small businesses.<sup>50</sup> Ensuring we do not have a patchwork of state AI law and regulation is critical to ensuring U.S. global competitiveness.

## **VI. KEY QUESTIONS**

1. To what extent is a patchwork of state-level AI laws undermining American competitiveness?
2. How does the EU AI Act service as a cautionary tale for overregulation, and what can we learn from its impact on innovation?
3. What are the strategic risks to U.S. global leadership in AI if we allow China to outpace U.S. deployment of technology and block U.S. efforts to set global norms and standards?

## **VII. STAFF CONTACTS**

If you have any questions regarding this hearing, please contact Giulia Leganski, Evangelos Razis, Natalie Hellmann, or Alex Khlopin of the Committee Staff at (202) 225-3641.

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<sup>47</sup> See C. Kibby, *U.S. State Privacy Legislation Tracker*, IAPP (Apr. 21, 2025), <https://iapp.org/resources/article/us-state-privacy-legislation-tracker/>.

<sup>48</sup> H.B. 149, 89th Leg., R.S. (Tex. 2025), <https://capitol.texas.gov/tlodocs/89R/billtext/html/HB00149I.htm>.

<sup>49</sup> Engine, *Engine Releases Report on Privacy Patchwork Problem* (Mar. 24, 2023), <https://www.engine.is/news/category/engine-releases-report-on-privacy-patchwork-problem-costs-burdens-and-barriers-encountered-by-startups>.

<sup>50</sup> Daniel Castro, Luke Dascoli, and Gillian Diebold, *The Looming Cost of a Patchwork of State Privacy Laws*, ITIF (Jan. 24, 2022), <https://itif.org/publications/2022/01/24/looming-cost-patchwork-state-privacy-laws/>.