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**U.S. House of Representatives Committee on the Judiciary**

**2138 Rayburn House Office Building**

**August 29, 2025**

**Hearing on “Europe’s Threat to American Speech and Innovation.”**

**Written Statement of Jessica Melugin**

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Chair Jordan, ranking member Raskin, and distinguished members of the House Judiciary Committee, thank you for the opportunity to submit written testimony to this critical hearing, “Europe’s Threat to American Speech and Innovation.”

My name is Jessica Melugin. My work focuses on technology and antitrust at the Competitive Enterprise Institute, a non-partisan public policy organization that concentrates on regulatory issues from a free-market perspective. I am also an Antitrust and Competition Fellow at the Innovators Network Foundation.

I will briefly discuss the problems for American companies and citizens posed by the U.K.’s Online Safety Act, the EU’s Digital Markets Act, and the EU’s Digital Safety Act.

**The U.K.’s Online Safety Act**

Free speech in the U.K. is under attack. Numerous examples were reported out of the country even before the Online Safety Act went into force, including the conviction and fining of a British man for praying outside an abortion clinic.<sup>1</sup> But since the Act went into effect, speech policing has spread online, even reaching U.S. companies with threatening letters from U.K.

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<sup>1</sup> “Praying Man Breached Abortion Clinic Safe Zone,” BBC, October 16, 2024, <https://www.bbc.com/news/articles/c4g9kp7r00vo>.

authorities.<sup>2</sup> The U.K.’s subjective speech standards must not be tolerated or mimicked in the U.S.

The First Amendment does and should protect Americans from this kind of government abuse. Furthermore, the U.S. must continue to be a beacon for freedom of thought and speech for others around the globe. Congress should denounce the spread of laws like the Online Safety Act to citizens of other nations and act decisively to oppose those laws effecting U.S. citizens by invoking all diplomatic, legal, and legislative measures to protect American businesses from these “extraterritorial censorship mandates.”<sup>3</sup>

The U.S. should also learn from the U.K.’s mistake. Measures in the U.S. that mandate different treatment for children, like the Kids Online Safety Act, will create incentives for age verification like the ones in the U.K. and will trigger the same speech and privacy problems we are observing in real-time across the pond. Last year, I detailed the remarkable similarities between efforts in the U.K. and EU to regulate speech online with the structure of proposed legislation stateside.<sup>4</sup> The U.S. doesn’t need to learn the dangers of this legislation, however well intentioned, the hard way when the U.K. has been kind enough to run the unsuccessful experiment for us.

### **The EU’s Digital Markets Act**

The European Union’s Digital Markets Act (DMA) regulates large “gatekeepers.” It replaces case-by-case, responsive regulations with *ex-ante* preemptive, upfront regulation. It makes the EU the most aggressive, full-time digital regulator in the world. Notably, six of the seven “gatekeeper” identified companies regulated under the DMA are U.S. companies: Apple, Amazon, Alphabet, Meta, Microsoft and Booking.com.<sup>5</sup>

The DMA, while intended to only regulate European markets, has obvious and negative effects for U.S. consumers, investors, and start-ups. Higher compliance costs for companies likely reduce innovation, degrade online experiences, and introduce privacy concerns for U.S. consumers. These same concerns also have consequences for start-ups hoping to partner with these “gatekeepers” for global reach. The constant redesign of software and business practices to fit evolving EU regulator demands weaken these U.S. companies’ competitive edge by restricting their ability to respond to market demands, handing an advantage to competitors not designated

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<sup>2</sup> Chris Vallance, “4chan Will Refuse to Pay Daily Online Safety Fines, Lawyer Tells BBC,” BBC, August 21, 2025, <https://www.bbc.com/news/articles/cq68j5g2nr1o>.

<sup>3</sup> “We issue this statement on behalf of our client in response to press reports indicating that the U.K. Office of Communications,” Preston Byrne (@prestonbyrne), X (formerly Twitter), August 15, 2025, 12:25 p.m., <https://x.com/prestonbyrne/status/1956391746029428914>; Will McCurdy, “4chan to Trump Administration: Protect Us from UK’s Online Safety Act,” PCMag, August 23, 2025, <https://www.pcmag.com/news/4chan-to-trump-administration-protect-us-from-uks-online-safety-act>.

<sup>4</sup> Jessica Melugin, “A Blueprint for Digital Censorship in the US?,” Open Market (blog), Competitive Enterprise Institute, November 14, 2024, <https://cei.org/blog/a-blueprint-for-digital-censorship-in-the-us/>.

<sup>5</sup> Booking.com is registered and headquartered in Amsterdam, Netherlands, but its parent company, Booking Holdings, is a U.S. company based in Norwalk, Connecticut. The seventh company designated as a “gatekeeper” is China-based ByteDance, owner of TikTok.

as “gatekeepers.” Government picking winners and losers is, I hope, still a decidedly un-American way to govern.

To that point, because DMA penalties are ten percent of global revenue, the EU is able to tax U.S. companies’ revenue for conduct that is legal under U.S. law. The DMA contains many of the same restrictions and requirements recommended in the House Subcommittee on Antitrust’s 2021 majority report and subsequent introduced legislation.<sup>6</sup> All but one of those in the suite of bills, a relatively minor measure, were rejected by this body. The same opposition should be adopted by Congress when these measures threaten to spill over from the EU and affect U.S. businesses and consumers.

### **The EU’s Digital Service Act**

Thankfully, this Committee does not need me to detail the harms of the EU’s Digital Services Act (DSA). The Committee’s July report, *The Foreign Censorship Threat: How the European Union’s Digital Services Act Compels Global Censorship and Infringes on American Free Speech*, documents the measure’s threat to free speech around the globe.<sup>7</sup> Suffice it to say that the DSA presents a chilling effect on speech, risks passing along costs of compliance to consumers, incentivizes slower rollout of product features and regional fragmentation on the Internet, risks privacy concerns, and places U.S. start-ups at a disadvantage for entering the European market. I do want to take this opportunity to thank the Committee for their work on this important issue.

### **Conclusion**

The U.S. benefits from many uniquely American inputs in its quest to remain the global leader in tech: citizens with an entrepreneurial spirit, free trade, the rule of law rooted in strong property rights, and the First Amendment. But today, a critical ingredient of U.S. success is under assault from the U.K. and the EU in the form of overly burdensome regulation. I urge lawmakers to oppose these regulatory exports from abroad and instead to continue with the light-touch regulatory approach that allows the U.S. to claim eight of the top ten global tech companies—Europe and the U.K. cannot claim one company on that list.<sup>8</sup> To borrow and update a phrase: *if it ain’t broke, don’t let Europe regulate it*.

Thank you.

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<sup>6</sup> Subcommittee on Antitrust, Commercial and Administrative Law of the Committee on the Judiciary, U.S. House of Representatives, *Investigation of Competition in Digital Markets*, Majority Staff Report and Recommendation, Part I, July 2020, <https://www.govinfo.gov/content/pkg/CPRT-117HPRT47832/pdf/CPRT-117HPRT47832.pdf>.

<sup>7</sup> Committee on the Judiciary, U.S. House of Representatives, *The Foreign Censorship Threat: How the European Union’s Digital Services Act Compels Global Censorship and Infringes on American Free Speech*, interim staff report, July 25, 2025, [https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/2025-07/DSA\\_Report%26Appendix%2807.25.25%29.pdf](https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/2025-07/DSA_Report%26Appendix%2807.25.25%29.pdf).

<sup>8</sup> “Largest Tech Companies by Market Cap,” CompaniesMarketcap.com, accessed August 29, 2025, <https://companiesmarketcap.com/tech/largest-tech-companies-by-market-cap/>.