September 3, 2025

Commissioner Henna Virkkunen
Commissioner for Tech Sovereignty, Security and Democracy
European Commission

Re: US Congressional Hearing on "Europe's Threat to American Speech and Innovation"

Dear Commissioner Virkkunen:

We are scholars of digital civil liberties and the European Union's Digital Services Act (DSA). We have submitted the attached letter to the Judiciary Committee of the United States House of Representatives to clarify persistent misconceptions that the DSA is a tool for censorship, particularly those a recent report issued by the Committee's majority staff. That letter explains why the DSA is a balanced piece of legislation that is rightly intended to empower users. It also identifies some opportunities for clarification of the DSA to prevent further confusion in other jurisdictions.

Most importantly, you have assured the European Parliament that the DSA "does not regulate speech," that the law "is content-agnostic," and that the "Commission and Member States as regulators have no power to moderate content or to impose any specific approach to moderation."[1] We agree: this is the DSA's red line, and it is essential. We think explaining it further is key to resolving some of the misunderstandings from the United States representatives. Ideally, content-agnosticity could be codified in the text of the DSA itself, just as the DSA codifies another longstanding red line—the prohibition of general monitoring.[2] Pending such statutory clarification, another solution would be to operationalise it by committing the Commission to explain how each enforcement action on the basis of Articles 14(4) (fundamental rights) and 35 (risk mitigation) complies with this red line. This has been recently suggested by a report of the International Federation of European Law (FIDE) authored by one of us.[3]

The other central source of confusion and US concern about the DSA relates to its potential extraterritorial effect. We have explained in our letter that the DSA itself is not designed this way, but also that the law of the Member States can have such expectations. Recognising the challenge of finding a common ground in the situation of disparity between the US and the EU standards on

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[1] Answer given to the European Parliament by Executive Vice-President Virkkunen on behalf of the European Commission (Aug. 19. 2025), https://www.europarl.europa.eu/doceo/document/E-10-2025-002633-ASW_EN.pdf; see also H. Comm. on the Judiciary, The Foreign Censorship Threat: How the European Union's Digital Services Act Compels Global Censorship and Infringes on American Free Speech at 138-40, 188th Cong. (2025) (available at, https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/2025-07/DSA_Report%26Appendix%2807.25.25%29.pdf (Letter from Commissioner Henna Virkkunen to Jim Jordan (Feb. 18, 2025) ("The DSA is content-agnostic…").

[2] "Providers of intermediary services should not be, neither de jure, nor de facto, subject to a monitoring obligation with respect to obligations of a general nature." DSA Recital 30. The Electronic Commerce Directive of 2000 contains the same principle. Directive 2000/31, art. 15, 2000 O.J. (L 178) 1.

[3] Martin Husovec, General report: topic II - EU Digital Economy: general framework (DSA/DMA) and specialised regimes, in XXXI Fide Congress: EU Digital Economy: general framework (DSA/DMA) and specialised regimes, 59–60 (Krzysztof Pacuła ed., 2025), https://www.fide-europe.org/xms/files/Katowice2025/REPORTS/T2/T2._EU_Digital_Economy._General_Report.pdf.

freedom of expression, we think the ideal solution would be if the US and the EU concluded a political agreement outlining that neither will attempt extra-territorial application of its speech rules at the expense of the rights of its citizens. We are available to answer any questions you may have and can be reached at <M.Husovec@lse.ac.uk>.

Sincerely,

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Prof. Andrej Savin, Professor in IT Law & Internet Law, Copenhagen Business School

Prof. Damian Tambini, Associate Professor and Distinguished Fellow., Department of Media and Communications, London School of Economics and Political Science

Prof. Andrew Murray, Dean of the LSE Law School, London School of Economics and Political Science

Prof. João Pedro Quintais, Associate Professor, University of Amsterdam, Institute for Information Law (IViR)

Prof. Matthias C. Kettemann, Department of Theory and Future of Law, University of Innsbruck, Austria

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Prof. Sally Broughton Micova, Assoc. Professor of Communications Policy and Politics, University of East Anglia

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** Affiliations are listed for identification purposes only and do not constitute institutional endorsements*