

*Questions for the Record from Mr. Ben Cline for Aurelien Portuese
“Anti-American Antitrust: How Foreign Governments Target U.S. Businesses”*

December 16, 2025

Response to Questions for the Record from Congressman Ben Cline

Thank you, Congressman Cline, for your insightful questions following the December 16, 2025, hearing on “*Anti-American Antitrust: How Foreign Governments Target U.S. Businesses.*” As I conveyed in my opening statement—where I underscored the costs of regulatory overreach—I approach these issues with a profound appreciation for the individuals and communities affected by policy decisions. Ex-ante regulations like those modeled on the EU's Digital Markets Act (DMA) often prioritize entrenched interests over the vibrant competition that uplifts societies. They can inadvertently stifle the creative spark that drives progress, leaving consumers—families, workers, and entrepreneurs—with fewer choices and higher burdens.

1. You’ve argued that ex-ante regulations, whether in Korea or the EU, are about protecting less efficient competitors, not about helping consumers. You point out that common practices like data integration and bundling that regulators attack are standard business practices that enhance consumer benefits. When Korea goes after American platforms for these practices, who really benefits?

Congressman, your question touches on a profound tension in global competition policy: the balance between shielding domestic players and nurturing an ecosystem where innovation serves humanity's shared aspirations. As I elaborated in my hearing testimony, responding to inquiries about the DMA's ripple effects, regulations like South Korea's amendments to the Platform Fair Competition Promotion Act (PCPA)—inspired by the DMA—impose asymmetric constraints on practices such as data integration and bundling. These are not mere corporate tactics but engines of efficiency that deliver personalized, seamless experiences, much like how a well-integrated map app saves a parent precious time during a family outing.

In my work, including “European Competition Enforcement in the Digital Economy: The Birthplace of Precautionary Antitrust” (Global Antitrust Institute Report on the Digital Economy, November 2020), I demonstrate how such ex-ante measures shift from evidence-based assessments to presumptive bans, effectively safeguarding less agile local incumbents at the expense of global leaders. In Korea, the primary beneficiaries are established domestic firms like Naver and Kakao, which dominate search and messaging but may innovate less vigorously without external pressure. For instance, by scrutinizing U.S. platforms' data practices through the Korea Fair Trade Commission's (KFTC) investigations, regulators create barriers that allow Naver to preserve its market position without matching the AI-driven advancements of competitors like Google. This echoes the EU's DMA, where, as Rapporteur Andreas Schwab candidly admitted in 2021, the focus was on “the biggest [U.S.] bottlenecks” rather than European ones: “Let’s focus first on the biggest problems... But let’s not start with number seven to include a European gatekeeper just to please Biden”.

Yet, this protectionism extends beyond businesses to bolster national narratives of “digital sovereignty,” a concept former EU Commissioner Thierry Breton championed in 2020 as essential

amid U.S.-China tech rivalries, as analyzed in Huw Roberts et al.'s “Safeguarding European Values with Digital Sovereignty” (Internet Policy Review, Vol. 10(3), 2021). In Korea, it similarly empowers government agendas, preserving economic control and tax bases, but at a human cost: it diminishes the incentives for local entrepreneurs to dream bigger, fostering dependency rather than the self-reliance that true innovation inspires. Ultimately, as I argue in “The Case for an Innovation Principle: A Comparative Law & Economic Analysis” (Manchester Journal of International Law, Vol. 15(2), 2018, co-authored with Julien Pillot), policies that prioritize precaution over progress rob societies of the transformative benefits that competition unleashes for all.

a. Follow-Up: And what do Korean consumers lose when their government protects Korean companies from having to compete on equal terms?

Korean consumers, the very individuals whose well-being should anchor these policies, suffer the most poignant losses: eroded choices, stalled innovations, and a subtle erosion of daily conveniences that technology promises to enhance. In my hearing response, I highlighted surveys revealing post-DMA degradations; similarly, in Korea, shielding firms from equal competition imposes an “innovation tax” on everyday lives.

My analysis in “The Digital Markets Act: A Triumph of Regulation Over Innovation” (Information Technology and Innovation Foundation Report, August 2022) quantifies parallel harms: compliance burdens, estimated at up to \$1 billion annually for U.S. firms per Carl J. Schramm's July 2025 CCIA report, divert resources from R&D, slowing advancements in areas like e-commerce or AI that could enrich Korean lives—from personalized education tools for students to efficient mobility apps for families. On a deeper, humane level, this fosters economic stagnation, limiting job creation in dynamic sectors and disproportionately affecting vulnerable groups, such as rural communities reliant on affordable tech. True equity demands policies that ignite competition on merits, ensuring innovation serves as a bridge to greater opportunity and connection for all.

2. Korean President Lee Jae-myung's nominee to head the Fair Trade Commission, the agency conducting these dawn raids and threatening American executives with prison, is an economist named Joo Byeong-ki. Last year, he wrote an op-ed where he said, "Trump's tariff war is nothing more than a shallow ploy to mask the deep-seated ills of American society and to solve internal problems by emptying the pockets of other countries and foreign corporations." Does this give you any insight into Korean motivations here?

Indeed, Congressman, Mr. Joo Byeong-ki's op-ed offers a illuminating glimpse into the ideological currents potentially shaping Korea's enforcement trajectory, much as I discussed in the hearing regarding foreign regulators' underlying biases. His framing of U.S. trade policies as exploitative—dismissing them as a “shallow ploy” (in a broader context of tariff debates)—suggests a worldview that views American economic assertiveness with suspicion, possibly justifying reciprocal measures against U.S. entities. This resonates with the KFTC's actions, including investigations into U.S. tech firms, which mirror the DMA's enforcement, such as the European Commission's April 2025 fines of €500 million on Apple and €200 million on Meta for alleged breaches.

Such rhetoric often cloaks protectionist impulses under sovereignty banners, as in the EU's push for autonomy from U.S. dominance. Mr. Joo's perspective may signal a nationalist reflex, where targeting American platforms advances a narrative of equity while entrenching local advantages—yet this risks

overlooking the collaborative spirit that has historically propelled global progress, from joint tech ventures to shared economic growth.

a. Follow-Up: Are we looking at economic policy, or are we looking at ideologically driven targeting of American companies?

We are confronting a sophisticated interplay, Congressman, but one tilting toward ideologically driven targeting, veiled as impartial economic policy—a dynamic I dissected in my testimony when addressing the DMA's discriminatory roots. Genuine economic policy would demand rigorous evidence of harm, permitting defenses for consumer-benefiting practices; instead, Korea's PCPA, like the DMA, enforces presumptive prohibitions, as evidenced by selective scrutiny of U.S. data integrations while sparing similar Korean conglomerate behaviors.

A telling illustration: The KFTC's focus on U.S. self-preferencing parallels the EU's actions, yet domestic chaebols like Samsung often evade equivalent rigor, hinting at ideological selectivity rather than balanced economics. As I opine in my analyses of DMA-like regimes, this stems from a blend of envy toward U.S. innovation leadership and a sovereignty ethos that prioritizes national narratives over mutual gains. This escalates tensions, fracturing alliances that could amplify prosperity—imagine foregone U.S.-Korean AI collaborations benefiting healthcare or education. To mitigate, as I recommended in testimony, the U.S. should wield “sharp power” through targeted diplomacy and legislation, championing frameworks that honor innovation's role in elevating human potential worldwide.

I welcome further dialogue and remain committed to advancing policies that truly serve people.