

To: U.S. House Committee on the Judiciary

December 22, 2025

**Subject: Concerns About Statements on the EU's Digital Markets Act Before the U.S. Congress**

**Dear Members of the U.S. House Committee on the Judiciary,**

We, the undersigned scholars and experts in digital markets, law, and policy, write to express our serious concerns about statements given in evidence to the Subcommittee on Antitrust, Commercial, and Administrative Law (the Antitrust Subcommittee) at its December 16, 2025, hearing on the impact of the European Union's (EU) Digital Markets Act (DMA) and other related legislation.

**The Hearing's framing and mischaracterisation of the DMA**

The December 16 hearing titled *"Anti-American Antitrust: How Foreign Governments Target U.S. Businesses"* was framed as an inquiry into allegedly discriminatory foreign regulation modelled on the DMA, and the hearing openly questioned the EU's rules-based framework for digital markets and its regulatory influence beyond Europe.

The December 16 hearing is especially difficult to reconcile with the Antitrust Subcommittee's own 2022 findings and its final report *"Competition In Digital Markets,"* which concluded that *"the digital economy has become highly concentrated and prone to monopolization."*<sup>[1]</sup> It further found that *"[t]he companies investigated by the Subcommittee - Amazon, Apple, Facebook, and Google - have captured control over key channels of distribution and have come to function as gatekeepers."*<sup>[2]</sup> The report cautioned that *"[t]he rise of market power online has materially weakened innovation and entrepreneurship in the U.S. economy" and "risks undermining both political and economic liberties."*<sup>[3]</sup> .

The DMA is the EU's principal instrument for addressing well-founded concerns about digital gatekeepers, concerns that closely align with those identified by policymakers, including members of the Antitrust Subcommittee. The DMA is a rules-based framework designed to check the growing power of large technology platforms and to prevent abusive conduct, while upholding fundamental user rights, and fostering competition and innovation. Many U.S. businesses actively supported the adoption of the DMA and continue to support its effective implementation by assisting the European Commission in its investigations. Yet, during the hearing, the DMA was repeatedly characterized as a protectionist tool, allegedly "weaponized" against U.S. companies, stifling innovation, and harming consumers.<sup>[4]</sup> Its influence was portrayed as an interventionist blueprint for other jurisdictions to politicize competition law and foster regulatory hostility.<sup>[5]</sup>

Two witnesses affiliated with think tanks that receive funding from designated gatekeepers<sup>[6]</sup> went so far as to portray the DMA as an external threat to American innovation and consumers. They accused the EU of "gerrymandering" gatekeeper designations on the basis of U.S. origin, even though the Antitrust Subcommittee's own

report focused on the very same companies, reflecting their impact on society. Labeling the DMA as a “non-tariff attack”, the witnesses depicted it not as a legitimate exercise of democratic rule-making to address well-established harms, including those identified by the Antitrust Subcommittee, but as a discriminatory and politically motivated intervention against the United States.

### **Verifiable factual errors**

These claims were misleading and, in large parts, factually false. For instance, the witnesses incorrectly asserted that (i) *“every single gatekeeper designated in the DMA is a U.S. company”*,<sup>[7]</sup> (ii) *“since 2019, the EU Commission has virtually stopped fining domestic firms for competition violations”*,<sup>[8]</sup> (iii) *“Google was forced to remove the seamless maps integration from search”*<sup>[9]</sup>, and (iv) Europeans *“don’t have Apple Intelligence as AI features in their iPhone”*.<sup>[10]</sup>

Each of these statements is incorrect. At the time of designation, the DMA’s gatekeeper list included ByteDance (based in China) and Booking.com (based in the Netherlands). Since 2019, the European Commission has imposed substantial fines on multiple EU-based firms (including major car manufacturers, delivery platforms, and luxury brands), and has opened investigations into others. Although mapping functionality remains accessible from Google’s search results, the company opted to remove certain integrated map modules rather than redesign them to include rival providers’ services. Furthermore, not only do Europeans get Apple Intelligence, but services like the live translation feature will also be made available for non-iPhone devices, showing the DMA-induced interoperability benefits are concrete and definitely outweigh the alleged “innovation harms” of the DMA.

Overall, the testimonies misrepresented the DMA’s design and objectives, which rest on neutral, size- and power-based criteria set after extensive consultations with experts and stakeholders, including U.S. companies. EU competition law and digital regulation remain firmly grounded in the goal of protecting effective competition for the benefit of consumers and society at large, as reflected in established case law, policy guidelines, and the European Commission’s enforcement practice. Inflammatory and inaccurate portrayals risk misleading the U.S. Congress, undermining transatlantic trade, agency cooperation, and broader regulatory relations between the U.S., the EU, and their allies. They also detract from a constructive dialogue on how best to regulate digital markets and promote innovation.

### **Call for a Fact-Based Transatlantic Dialogue**

We therefore call on the U.S. Congress to re-establish a substantive transatlantic dialogue on digital regulation, one grounded in constructive exchange of views, factual accuracy, and normatively sound analysis. While the DMA, like all legislation, is imperfect, it does provide a rules-based model to check digital dominance, uphold fundamental rights, and support competition and innovation. Legitimate disagreement over democratic oversight should be grounded in openness to constructive dialogue and reliance on clear evidentiary findings. False or misleading testimony from supposedly objective commentators, or the reframing of legislation as a retaliatory threat, distorts constructive engagement and impoverishes public debate on both sides of the Atlantic.

### **Signatories in alphabetical order**

Alberto Alemanno, HEC Paris

Arianna Andreangeli, University of Edinburgh

Max Bank, Rebalance Now

Maciej Bernatt, University of Warsaw

Jan Blockx, University of Antwerp

Ondrej Blažo, Comenius University Bratislava

Jasper van den Boom, Leiden University

Caroline Cauffman, Maastricht University and University of Hasselt

Kati Cseres, University of Amsterdam, The Good Lobby Profs

Alessia D'Amico, Utrecht University

Amber Darr, University of Manchester and University College London

Mark Dempsey, ARTICLE 19

Magali Eben, University of Glasgow

Eleanor Fox, New York University

Amandine Garde, University of Liverpool

Anush Ganesh, University of Exeter

Anna Gerbrandy, Utrecht University

Inge Graef, Tilburg University

Natali Helberger, University of Amsterdam

Joris van Hoboken, University of Amsterdam

Marios Iacovides, Uppsala University, Sweden

Kristina Irion, University of Amsterdam

Maria Ioannidou, Queen Mary University of London

Michael Jacobides, London Business School

Andriani Kalintiri, King's College London

Vikas Kathuria, BML Munjal University, India

Małgorzata Kozak, Utrecht University, Blue Dragon Institute

Emanuela Lecchi, University of Dundee

Justin Lindeboom, University of Groningen

Miłosz Malaga, Adam Mickiewicz University in Poznań

Jurgita Malinauskaite, Brunel University of London, UK

Despoina Mantzari, University College London

Marek Martyniszyn, Queen's University Belfast

Stavros Makris, University College London

Sandra Marco Colino, Chinese University of Hong Kong

Andrew McLean, University of Edinburgh

Juliane Mendelsohn, Technical University Ilmenau

Giorgio Monti, Tilburg University

Viktorija Morozovaite, Utrecht University

Alberto Nicotina, University of Amsterdam

Caio Mário S. Pereira Neto, FGV Law School (São Paulo, Brazil)

Pauline Phoa, Utrecht University

David Reader, University of Glasgow

Cecilia Rikap, University College London

Maria José Schmidt-Kessen, Central European University, Vienna

Jasper Sluijs, Utrecht University

Maria Luisa Stasi, ARTICLE 19

Ben Van Rompuy, Leiden University

Max von Thun, Open Markets Europe

Sybe de Vries, Utrecht University

Masako Wakui, Kyoto University

Simonetta Vezzoso, Trento University

Jacquelyn Veraldi, Central European University Democracy Institute

Laura Zoboli, IE University

Roman Petrov, National University of Kyiv-Mohyla Academy, Ukraine

[1] House Committee Print 117-8 – Investigation of Competition in Digital Markets, Part I-III, page 5, see also pages 6, 23, 28, 31, 34.

[2] Ibid., Part I, page 5, 29.

[3] Ibid., page 11, 12, 36.

[4] House Judiciary Subcommittee on the Administrative State, Regulatory Reform, and Antitrust, Hearing, “Anti-American Antitrust: How Foreign Governments Target U.S. Businesses,” <https://judiciary.house.gov/committee-activity/hearings/anti-american-antitrust-how-foreign-governments-target-us-businesses#:~:text=The%20hearing%2C%20%22Anti%2DAmerican,on%20legislative%20initiatives%20in%20South>

[5] See Written Testimony of Aurelien Portuese, GW Competition & Innovation Lab, <https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/portuese-testimony.pdf>.

[6] See Written Testimony of Dirk Auer, Director of Competition Policy at ICLE, <https://docs.house.gov/meetings/JU/JU05/20251216/118753/HHRG-119-JU05-Wstate-AuerD-20251216-U2.pdf>

[Uncovering Big Tech's hidden network | Corporate Europe Observatory](https://corporateeurope.org/en/2025/10/big-tech-lobby-budgets-hit-record-levels)

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[7] Since 2018, Dirk Auer is employed and Aurelien Portuese is an Academic Affiliate of ICLE, which has been funded by Google for many years, see The American Prospect, October 26, 2020, Google’s Guardians, <https://prospect.org/2020/10/26/googles-guardians-big-tech-antitrust-defenders/>.

[8] Note: at the time of designation, ByteDance was based in China and Booking.com in the Netherlands.

[9] Note: since 2019, the EC Commission has fined, amongst others, the following EU-based firms for competition law infringements: BMW, Volkswagen, Mercedes-Benz, Renault-Nissan, Delivery Hero, Glovo, Gucci, Chloé, Loewe, Exide, FET, Rombat, and Euroabot. Investigations into SAP, Red Bull and Deutsche Börse are pending.

[10] Note: nothing in the DMA requires Google to remove maps in search results pages. Google voluntarily removed maps from Google Maps, while it could alternatively show maps of other providers.