

# Congress of the United States

Washington, DC 20510

February 23, 2022

President Joseph R. Biden  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, DC 20500

Dear President Biden:

We write to express our support for your Administration's recent engagement to encourage the European Union (EU) to revise its proposed Digital Markets Act (DMA). As presently drafted, the DMA would unfairly target American companies and workers while protecting domestic European firms and providing an unfair advantage to Chinese, Russian, and other foreign-owned firms. To address our shared concerns, we ask that your Administration intensify its engagement with the EU to prevent the European Council from adopting the DMA without further revisions later next month.

We wholeheartedly support the EU's right to protect consumers and recognize that the United States is currently considering new rules to govern the increasingly digitalized economy. Furthermore, we agree that we must do more to address privacy and consumer protection within the United States. Nevertheless, we are troubled that the European Parliament is moving forward aggressively to enact the DMA without meaningful consultation or addressing key concerns from American lawmakers and stakeholders. We are greatly concerned that EU's proposed approach to promoting competition among digital platforms unfairly targets American workers by deeming certain U.S. technology companies as "gatekeepers" based on deliberately discriminatory and subjective thresholds.

In its current form, the DMA would only apply to American companies with large numbers of American workers. This *de facto* discrimination against U.S. firms and workers is unfortunately by design. As European leaders have made clear, the DMA as currently drafted is driven not by concerns regarding appropriate market share, but by a desire to restrict American companies' access in Europe in order to prop up European companies. In fact, the lead negotiator of the DMA stated that its size thresholds were intentionally set so they would not apply to European firms.<sup>1</sup>

In addition to the fact that the DMA has been designed to unfairly advantage European technology firms, it also alarms us that the DMA would not apply to Chinese, Russian, or other foreign firms. These include tech firms such as Alibaba, Huawei, Baidu, and Tencent, which already operate at a competitive advantage as they are supported by the Chinese government and benefit from a protected market of over 1.3 billion consumers in China. The EU agrees that we should develop joint approaches to combat China's digital authoritarianism, surveillance regime,

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<sup>1</sup> Andreas Schwab, the lead negotiator of the DMA, told the *Financial Times* on May 31, 2021: "Let's focus first on the biggest problems, on the biggest bottlenecks. Let's go down the line — one, two, three, four, five — and maybe six with Alibaba ... But let's not start with number seven to include a European gatekeeper just to please [President] Biden." URL: <https://www.ft.com/content/49f3d7f2-30d5-4336-87ad-eea0ee0ecc7b>.


and human and worker rights violations. It therefore should avoid supporting companies complicit in the expansion of these harmful practices.


As presently drafted, we believe the DMA's discriminatory aspects raise serious concerns and are at odds with the fundamental principles of the World Trade Organization (WTO). Therefore, we request that you communicate Congress's concerns about the DMA in all relevant fora. These include both the U.S.-EU Joint Technology Competition Policy Dialogue and U.S.-EU Trade and Technology Council, in which both parties committed to cooperate on forging rules for the digital economy that reflect a democratic model of digital governance and avoid new, unnecessary barriers to digital trade.

We believe that there is a better path forward for the American and European technology sectors that advances the interests of workers, consumers, and businesses of all sizes. To do so, the United States and the EU must work together to forge joint approaches based on shared values. We must also collaborate closely to address the Chinese government's efforts to advance its own model for digital governance that favors censorship and authoritarianism over human and worker rights, privacy and consumer protections, and a free and open internet.


We remain hopeful about the future of the U.S.-EU transatlantic relationship and look forward to engaging with you on these urgent matters.


Sincerely,

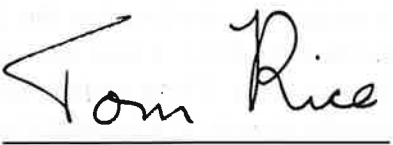
  
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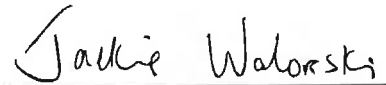
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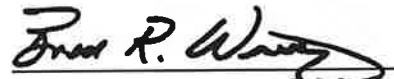
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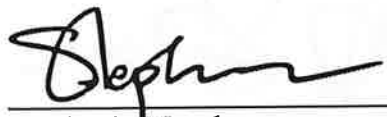
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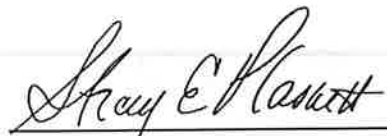
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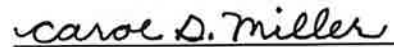
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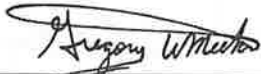
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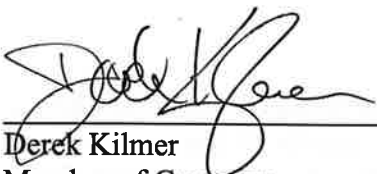
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