

# EUROPE'S THREAT TO AMERICAN SPEECH AND INNOVATION

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## HEARING

BEFORE THE

COMMITTEE ON THE JUDICIARY

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED NINETEENTH CONGRESS

FIRST SESSION

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WEDNESDAY, SEPTEMBER 3, 2025

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An article entitled, “Knock knock, it’s the Thought Police: As thousands of criminals go uninvestigated, detectives call on a grandmother. Her crime? She went on Facebook to criticise Labour councillors at the centre of the ‘Hope you Die’ WhatsApp scandal exposed by the MoS,” Feb. 22, 2025, *Daily Wire* (Not available at the time of publication.)

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- A letter to the Honorable Donald J. Trump, President of the United States, The White House, from the Honorable J. Luis Correa, a Member of the Committee on the Judiciary from the State of California, and the Honorable Scott Fitzgerald, a Member of the Committee on the Judiciary from the State of Wisconsin, Apr. 9, 2025
- A report entitled, “The future of European competitiveness—Part A| A competitiveness strategy for Europe,” Sept. 2024, *European Union*
- A report entitled “New Campaign: How Digital Markets Act Has Become Europe’s Digital Curtain: Europe’s tech law has turned Europeans into second-class digital citizens,” Feb. 10, 2025, *Chamber of Progress* (Not available at the time of publication.)
- An article entitled, “Six Ways the DMA Is Backfiring on Europe by Harming Users, Innovation, and Allies,” Jun. 30, 2025, *Information Technology & Innovation Foundation (ITIF)*
- An article entitled, “EU regulations impose heavy costs on US companies, study finds,” Jul. 28, 2025, *Washington Examiner*
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- A statement from Neil Chilson, Head of AI Policy, Abundance Institute, entitled, “Ban All Imports of Europe’s ‘Regulate-First’ Attitude,” *Abundance Institute*, Sept. 2, 2025
- A statement from Yaël Ossowski, Deputy Director, and James Czerniawski Head of Emerging Technology Policy, Consumer Choice Center, entitled, “The Red, White, and Blocked: Europe’s Threat to American Voices and Innovation,” Sept. 2, 2025, *Consumer Choice Center*
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## EUROPE'S THREAT TO AMERICAN SPEECH AND INNOVATION

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Wednesday, September 3, 2025

HOUSE OF REPRESENTATIVES

COMMITTEE ON THE JUDICIARY

*Washington, DC*

The Committee met, pursuant to notice, at 10 a.m., in Room 2141, Rayburn House Office Building, the Hon. Jim Jordan [Chair of the Committee] presiding.

*Present:* Representatives Jordan, Issa, Biggs, McClintock, Tiffany, Roy, Fitzgerald, Cline, Gooden, Van Drew, Moore, Kiley, Hageman, Lee, Fry, Grothman, Knott, Harris, Onder, Baumgartner, Raskin, Nadler, Lofgren, Cohen, Johnson, Jayapal, Correa, Scanlon, McBath, Ross, Balint, Garcia, Moskowitz, Goldman, and Crockett.

Chair JORDAN. The Committee will come to order. Without objection, the Chair is authorized to declare a recess at any time. We welcome everyone to today's hearing on Europe's threat to American speech and innovation.

The Chair now recognizes the gentleman from Alabama to lead us in the Pledge of Allegiance.

ALL. I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation, under God, indivisible, with liberty and justice for all.

Chair JORDAN. The Chair is now recognized for an opening statement. Then, we will move to the Ranking Member's opening statement. Our witnesses will get five minutes.

I want to just take an opportunity before I even do an opening statement to welcome everyone back. Hope everyone had a good break. The Ranking Member and I, along with a few other Members—Mr. Kiley, Mr. Fitzgerald, Mr. Correa, I think Mr. Swalwell and Ms. Crockett—all had a wonderful visit—and Mr. Cohen—to Europe, where we talked about this issue, and we've learned some valuable information. We look forward to today's hearing and hearing from our witnesses. First, you have to listen to the Chair and the Ranking Member talk.

On August 12th of last year, Thierry Breton wrote Elon Musk a letter. Thierry Breton is the commissioner in charge of enforcement of the Digital Services Act and the Digital Marketing Act. In very first sentence, the guy in charge of enforcing this legislation passed by the EU writes this:

Dear Mr. Musk,

I am writing to you in the context of recent events in the United Kingdom and in relation to the planned broadcast on your platform, X, of a live conversation between a U.S. Presidential candidate and yourself.

Think about it. A guy in Europe in charge of enforcing a European Union law writes an American about an American company about an American election, and he says the context for the letter, the reason for the letter, are events that are happening in the U.K., a non-European Union country.

If that's not Europe trying to influence what happens here, I don't know what it is.

He goes on throughout the letter and says this: "Measures need to be taken to combat disinformation." He's telling this to Mr. Musk. "We are concerned about any illegal content you may have." He ends his letter by saying in the very last sentence: "My services and I will be extremely vigilant to any evidence that points to breaches of the Digital Services Act and will not hesitate to make full use of our toolbox."

He ends the letter with a threat. Before the interview even takes place, he's threatening an American running an American company about an interview regarding the most important election we have, election of the President of the United States, and, again, saying the reason for doing so are events that are happening in a non-European Union country, the U.K.; comments about events happening in the U.K. concerned about this, quote, "spillover effect." That is why we're having today's hearing. That's why we went to Europe last month—or actually, in July to study this issue.

Now, here's what's interesting. Mr. Breton, after he sends this letter, we, this Committee, sent him two letters, and then he suddenly resigns. We asked him to come today, but he refused to come. We ask him to send written testimony. He refused to do that. We asked him to appear—he just wouldn't come.

It's important to remember what the House Judiciary Committee did last Congress. We investigated our government, the Biden Administration, their attacks on free expression here in the United States, what Michael Shellenberger called, journalists called, "the censorship industrial complex." Big Government, Big Tech, Big Media, and Big Academia, all working together to censor Americans. We learned all kinds of things in that investigation.

We learned, on April 27, 2022, that the Biden Administration had established a Disinformation Governance Board. That's right. A bunch of bureaucrats going to get together and tell you what you can say, what you can tweet, what you can post, what you can read, what's misinformation, and what's disinformation—and the new term they come up—what's malinformation.

Thank goodness, because many of us raised concerns about that, they disbanded that Disinformation Governance Board. We no longer had that. We heard from journalists like Mr. Shellenberger, like Matt Taibbi, regarding the Twitter files. We heard from Tulsi Gabbard. We heard from RFK, Jr. All Democrats, frankly. In fact, I took some heat for that. "What are you doing bringing Democrats in front of the Judiciary Committee?" We brought them in because they care about the First Amendment.

It was interesting when RFK, Jr., came in to testify, the Democrats actually made a motion to go to an Executive Session, kick everyone out, no journalists, and no one was allowed. They wanted to kick everyone out, go to an Executive Session so no one could hear what RFK, Jr., was going to testify to in a hearing on censorship. You can't make this stuff up.

We learned that, on January 23rd—think about that, by the way. We learned, on January 23, 2021—maybe point this one out first—that there was an email. The third day of the Biden Administration, there was an email sent from the White House to Twitter which said, “Take down this tweet ASAP.” Who initiated the tweet? Who had put out the tweet? RFK, Jr. You had the Biden Administration trying to censor a fellow Democrat who was going to run against him in the Democrat primary. Everything in that tweet actually were true statements.

We learned all that last year. Of course, our investigation culminated with the letter from Mr. Zuckerberg, on August 26, 2024, last year, where he said, “Yes, the Biden Administration pressured us to censor. We did it. We're sorry. And we won't do it again.”

Meta and Facebook has now subsequently changed policy. They now go to the community notes policy instead of the, quote, “independent fact-checker” approach that was being used before.

We had one other witness last Congress, journalist from Canada, Rupa Subramanya, who I thought said something that was really important. She said “free speech is a core value of Western culture.” That is true. That's what our concern is. We're concerned about the attacks on free expression in Europe, the censorship, the arrest for offensive posts, and the chilling effect it all has on speech.

We're more concerned, frankly, as Americans about the limits the DSA, the Online Safety Act in the U.K., put on Americans' First Amendment rights and the shakedown—and that's the appropriate term—the shakedown of American tech companies under the DSA, the OSA, and the Digital Markets Act in the European Union.

These acts target our tech companies that provide the modern town square, and they are the engines of innovation in our global economy. Since the turn of the century, European tech companies have languished behind their American counterparts. European governments have tried everything to change this except what might actually work: Deregulating their own economy and letting free enterprise flourish. Instead of cutting red tape and allowing their own companies to innovate and grow, the EU and the U.K. are going after American companies that have grown to dominate the global tech landscape. Regulations like the EU's Digital Markets Act and the U.K.'s Digital Markets, Competition and Consumers Act impose burdensome requirements on U.S. tech companies while leaving their European counterparts untouched.

These attacks on American companies won't result in a so-called European champion. Instead, China wins, as Europe hurts both itself and America. They make the user experience worse. They distort the digital marketplace by allowing less innovative and less efficient foreign companies—foreign competitors to simply steal from U.S. tech companies.

In addition to attacking American tech companies, Europe is attacking free speech around the world, including here in America. The laws like the Digital Services Act and the Online Safety Act are the engines of global censorship regime targeting political speech disfavored by European bureaucrats.

The censorship mechanism is simple: The DSA and the OSA effectively require social media platforms to change their terms of service to moderate more content. These companies have one set of standards that they apply globally because it's costly, impractical, and harmful to user privacy to change content moderation rules based on the user's location. When platforms are forced to change their terms of service to comply with European laws, it affects what we see, what we read, and what we say online here in America, infringing on Americans' First Amendment rights.

This is no accident. Even *The New York Times* and *The Atlantic* have acknowledged that these foreign censorship laws are intended to have global impact. The European actions have proven it. Again, just look at Mr. Breton's letter.

Supporters say these laws make the online environment safer for children, something that we all agree with. We all want to protect kids. Censorship laws are never about disinformation, child safety, or anything else. They're always about censoring criticism of the government.

Social media is a relatively new technology, but censorship is as old as time. Misinformation, disinformation, and hate speech labels are always used by the people in power to censor their critics. My experience has taught me that today's misinformation is tomorrow's truth. We have seen it time and time again.

I always like to point out everything the government told us about COVID turned out to be wrong. Everything our government told us about COVID. I'm not even talking about Europe here. Everything. They told us that the virus didn't come from a lab. It sure looks like it did. They told us it wasn't gain-of-function research done at the lab. Yes, it was. They told us it wasn't our tax money used at the lab. Yes, it was. They told us vaccines—they told us that the vaccinated can't get it. They told us the vaccinated can't transmit it. They told us masks work. They told us a six-foot social distance was based on science. They told us this is the first virus in history where there's no such thing as natural immunity. They were zero for eight. Yet, they're going to define with some Disinformation Governance Board what we can say, what we can tweet, what we can read, and what we can post. You got to be kidding me.

As RFK, Jr., testified before our Committee—never forgot what he said. He said, “When you look at history, it is never the good guys who are for censorship; it is always the bad guys.” That's our concern. We need to debate. The best way to answer bad speech, wrong speech, stupid speech, crazy speech, and even hate speech is more speech. We need the First Amendment. Our Committee will continue to move legislation that protects free speech from threats, including threats from abroad.

With that, I now recognize our Ranking Member for his opening statement.

Mr. RASKIN. Thank you kindly, Mr. Chair. Welcome to our witnesses.

I imagine that in a hearing about threats to freedom of speech abroad, we might hear from a Russian dissident about Putin's massive violations of political freedom, or the death of Alexei Navalny in prison, or perhaps a Chinese prodemocracy activist about President Xi's attacks on free speech in Hong Kong, Tibet, Xinjiang, or the persecution trial of Jimmy Lai, or maybe a journalist about the Saudi Crown Prince's assassination of Jamal Khashoggi, the *Washington Post* writer who demanded freedom from religious persecution and oppression in Saudi Arabia, but no. The dictators of the world have got nothing to fear from this hearing.

The Republicans called it to attack our democratic allies in Europe. The star witness is not a human rights leader, like Navalny, but a far-Right pro-Putin politician who leads the U.K. Reform Party, a party that is four Members out of 650 Members in the Parliament. He calls England an authoritarian regime while saying that Vladimir Putin is the world leader he admires the most.

Well, this hearing mimics Vice President J.D. Vance, who went to the Munich Security Conference in February, in the first two minutes of his speech, whitewashed the world's leading autocratic regimes proclaiming that the threat that worries him is not Russia; it's not China, he said, "but rather it's our European allies." Amazing.

Republicans are promoting far-Right parties in Europe like Alternative for Deutschland, Reform U.K., and Rassemblement National Francaise, and ignoring massive repression in Russia, China, Pakistan, Saudi Arabia, and among all the autocrats of the world, Republicans are vilifying European liberal democracies simply for engaging in the line-drawing exercises that we Americans engage in under our First Amendment with respect to the epidemic of child pornography, protecting children from other harmful content, defamatory speech, online scams and false advertising, and speech inciting riots and imminent lawless action, all forms of speech that the First Amendment does not protect, and these tricky contours must still be drawn by law.

We could have a meaningful hearing on this complicated subject, but this hearing is just a drive-by hit against a strong democratic ally to benefit a Donald Trump sycophant and wannabe.

It's even worse than this. Not only are our colleagues ignoring intensifying repression in the world's dictatorships; they're also trying to distract the world from the attack on freedom taking place right here in America every single day. Americans aren't worried about the EU or the Online Safety Act in the U.K. We're not worried about White nationalists not having enough license to incite lynch mobs to set immigrants on fire in their bedrooms. The Americans are worried that Donald Trump is working to rewrite and whitewash American history in our museums, our textbooks, and our National Parks, to destroy *PBS*, *NPR*, and public broadcasting, to ban books in our libraries, and to censor any news stories critical of him by installing political henchmen in private broadcast rooms.

The Americans know that academic freedom is in danger when the administration cancels and withholds billions of dollars in scientific and medical research funding from American universities,

even for urgent, lifesaving studies about breast cancer or heart attacks as a way to force schools to impose government orthodoxy on curriculum, hiring, admissions, and any student and faculty speech that MAGA considers politically incorrect.

The Americans see Trump trying to harass, intimidate, control, and shut down the press, like *ABC*, *CBS*, *NBC*, *NPR*, and *PBS*. The Republican-controlled FCC essentially blackmailed media companies Skydance and Paramount into agreeing to install a spy, a monitor, a minder, I think the Brits might say, to police *CBS News* programs to make sure that they are being sufficiently Trumpy in giving us the news to get approval of a merger from FCC.

Meanwhile, Trump sued “60 Minutes” and *CBS* personally for \$20 billion for the frivolous cause of action that he thought an interview with Kamala Harris was edited too favorably and then walked away with a cool \$16 million in a shakedown settlement for his library, all part of a now familiar pattern. When Trump doesn’t like the news, he sues the broadcaster and unleashes the FCC on them until they pay up and agree to a government spy stationed in their office.

Free speech is so much in danger in the U.S. today that, if the government tries to violate our rights, we might not even be able to find a lawyer to defend ourselves because Trump is systematically exacting retribution against law firms that represent anyone on the other side of a case against him.

Look. Our country loves free speech. We fight for free speech. We fought for free speech, and we know it’s in danger when students who are lawfully in the United States are taken off the street and arrested without warrants by masked Federal agents in unmarked cars for writing an article or attending a rally that Stephen Miller doesn’t like.

Free speech is in danger when visitors to our country have their social media accounts screened at the border for any criticism of Donald Trump.

Free speech is in danger when “To Kill a Mockingbird,” “The Handmaid’s Tale,” “1984,” and “The Kite Runner” are banned from our schools and libraries across the country, and even families defending our freedom abroad have to fight for their kids’ right to read freely in public schools run by the Department of Defense.

Freedoms are in danger when the administration tramples the civil service rights of hundreds of thousands of nonpartisan expert civil servants. Civil servants have been protected against political discrimination for more than a century to maintain the excellence and independence of our Federal workforce, but they’re now being fired simply for doing their jobs, like prosecuting violent criminals and insurrectionists who try to overthrow our government and attack our police officers, or because they honestly gave honest economic information in labor statistics to the public.

These honorable civil servants are being fired because they won’t be the political hacks Trump demands that they be. When private comments made by Federal employees are scrutinized for anti-Trump bias and they can lose their jobs because of it, then we’ve entered the realm—not just of Vladimir Putin but of Joseph Stalin.

Now, Mr. Trump and Mr. Farage both claim they’re protectors of free speech, but they only want to protect speech they agree with.

In the U.K., Mr. Farage is openly promoting the abolition of The Human Rights Act of 1998 to be replaced with a British Bill of Rights that limits the right of free speech to British citizens and legally sanctioned residents. He complains that racist threats against immigrants are not protected free speech while he proposes to strip migrants, tourists, and perhaps even visiting American Congresspeople of any free speech rights at all. I had my own close encounter with that when Mr. Farage and his team presented for more than an hour in a conversation we had about free speech, and after three minutes of talking, he cut me off and terminated the meeting because he didn't like what I was saying. That's the kind of free speech he's committed to.

There is a free speech crisis in America today, but there's no free speech crisis in Britain. The U.K. Prime Minister Keir Starmer has not shut down *GB News* where Mr. Farage has his own show just because Mr. Farage has used his airtime to call for banning peaceful protests that he disagrees with. No one has stopped him from going on Russian TV 17 times and saying also and repeating that the one world political leader he most admired was Vladimir Putin, even though Vladimir Putin is a war criminal and a dictator who has regularly interfered in other countries' democratic elections.

No one has stopped Mr. Farage from parroting Putin's absurd talking points like when Farage claimed that NATO, the U.S., and Britain provoked this war in Ukraine. For a man who fashions himself as a free speech martyr, Mr. Farage seems most at home with the autocrats and dictators of the world who are crushing freedom on Earth.

Mr. Farage wants to get rid of the Online Safety Act in his country, a law shepherded by the Conservative Party and implemented by the Labour Party, which bans child pornography online, protects children from harmful content, forbids nonconsensual pornography, and other unlawful content. He should go and advance the positions he's taking here in Congress today in Parliament, which is meeting today, if he's serious about it.

To the people of U.K. who think this Putin-loving free speech imposter and Trump's sycophant will protect freedom in your country, come on over to America and see what Trump and MAGA are doing to destroy our freedom, kidnap college students off the street, ban books from our libraries, militarize our police and unleash them against our communities, take over our universities, wreck our professional civil service, and turn the government into a money-making machine for Trump and his family. You might think twice before you let Mr. Farage make Britain great again.

I yield back.

Chair JORDAN. The gentleman yields back.

I would just point out that the encounter that the Ranking Member had with Mr. Farage was a little different in my recollection than how it was described. I would also point out that the gentleman alleges there's no free speech in America under President Trump while his staff member is holding up countless number of articles criticizing the Trump Administration. I think that's a little bit of a—well. Let's say that's not how I think it actually goes.

We now will introduce today's witnesses.

We will start with The Right Honorable Nigel Farage. Mr. Farage is a Member of Parliament from Clacton and the leader of the Reform U.K. Party. He is also a television host and was a leading proponent of the Brexit campaign.

Mr. Lorcán Price is an attorney with the ADF International, a nonprofit organization that works to protect religious freedom, free speech, parental rights, and the sanctity of life. Before joining ADF International, he was an attorney in Ireland.

Mr. Morgan Reed is the President of The App Association, a trade association comprised of app developers and connected device manufacturers. He routinely testifies before Congress on matters of interest to his Members, including artificial intelligence, competition, and other issues.

We have Professor David Kaye. Mr. Kaye is a Clinical Professor of Law at the UC Irvine School of Law. Professor Kaye previously served as the United States Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression. We welcome our witnesses and thank them for appearing today.

We will begin by swearing you in. Would you all please rise and raise your right hand.

Do you swear or affirm under penalty of perjury that the testimony you're about to give is true and correct to the best of your knowledge, information, and belief, so help you God?

Let the record show that each of the witnesses answered in the affirmative. You can—thank you. Please be seated.

Please know that your written testimony will be entered into the record in its entirety. Accordingly, we ask that you summarize your testimony in five minutes. I think we'll just go down the line, and we will start with Mr. Reed, then Mr. Price, Mr. Farage, and then Professor Kaye.

So, Mr. Reed, you're recognized, five minutes.

#### **STATEMENT OF MORGAN REED**

Mr. REED. My name is Morgan Reed, and I'm the President of ACT | The App Association. Our members are small- and medium-sized tech companies from your districts and around the world. We build and sell the apps on the products you love. If you're scheduling a haircut, tracking your productivity at work, or using online tools to train your employees, it's likely one of my members made that happen.

I'm here to tell you that our European members are just as good, just as smart, and just as entrepreneurial as our American members. Whether it's Clement Sauvage in France, Mitchel Volkering in The Netherlands, or Mark Thomas in the U.K., their companies are busy trying to change the world.

The difference between them and our American members can be seen in the ever-growing wall of ex ante regulation and compliance requirements from the EU government that is constantly asking how government can be more involved rather than less.

Unfortunately, the DMA is a perfect encapsulation of the problem. Ostensibly, it exists to make it easier for EU companies to compete with the U.S. tech lead. Instead, it just creates leadership and red tape. Small companies find value in the bigger platforms

for three boring and absolutely vital reasons: They need to offload overhead, have access to a global market, and have customer trust.

Because small businesses are always overworked and undermanned, for us, offloading overhead is critical. A small business is trying to ship a product, not learning about tax laws in 160 countries. We don't want to sign multiple contracts with middlemen to handle shipping or web storage or send bills to dozens of different platforms, each with their own P.O. system. Small businesses need to focus their time on serving the customer to compete.

Of course, to grow your small business, you need customers, and that means access to a global market. If your product has fewer than 100 customers in your State, that's a hobby, but to 100,000 customers worldwide, that's a business. Nearly every one of the DMA's designated gatekeepers are actually gateways to a global market. You might say, "Morgan, the internet itself is a global market." We would agree, but the internet lacks one key characteristic: Trust.

Today, many of us take for granted the measures of keeping malware and other harmful content off our devices and off our shopping sites. DMA threatens to change this by forcing companies to roll out the red carpet for bad actors. As a result, consumers will rationally steer away from startups and small developers they've never heard of and toward larger, more established rivals that spend millions on marketing and buy Super Bowl ads to build their brand.

Don't forget who's pushing the DMA. It's companies like Spotify, Yelp, Duck Duck Go, companies you've heard of. Just in case you think I'm exaggerating, the first business to take advantage of the DMA's requirements wasn't some brilliant startup being kept down by Big Tech. It was an app called Hot Tub, a porn aggregator that can now be sideloaded and could even operate without parental controls.

This is the most damaging aspect of the DMA. By forcing the gatekeepers to remove features or capabilities that would keep bad actors off your smart phone and out of your wallet, the DMA demands the world adopt a flea market model, where anybody with a plastic folding table and some boxes that fell off the back of the truck are given the same access to consumers as legitimate businesses.

For small businesses, we want platforms to provide us with ever-improving tools, features, and pricing models to make it attractive. We don't love the big platforms. We do business with them. Without our products, their platforms aren't worth very much. Without their tools, our overhead goes up, our speed goes down, and trust goes out the window.

If we have any ask of the platforms, it's for them to do more, not less. We want them to do more to reduce overhead, more to protect our intellectual property, and do more to maintain those trust relationships.

Into this relatively straightforward business arrangement, Europe has injected regulatory walls like the Digital Markets Act, the Digital Services Act, the Online Safety Act, our old friend GDPR, and the newest addition, the AI Act. These laws aren't there to lower friction. They are, as Teresa Ribera at the European Com-

mission puts it, “focused on creating a culture of compliance.” That’s a quote.

While an ever-thickening wall of overlapping regulations is exactly what compliance lawyers want, it’s not what innovators want. It’s not what small businesses want. It’s not what customers want.

We ask you to reject the European regulatory culture and instead focus on a culture of opportunity and innovation. Small businesses never succeed if we can’t beat the red tape.

Thank you very much for your time, and I look forward to your questions.

[The prepared statement of Mr. Reed follows:]



## Europe's Threat to American Speech and Innovation

*Testimony of*

Morgan Reed  
President  
ACT | The App Association

*Before the*

United States House of Representatives  
Committee on the Judiciary  
September 3, 2025



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## Introduction

If the Committee learns one thing from digital regulation in the European Union (EU), it is that taking an EU approach will yield EU results. The record is clear that those results are not the ones this Committee seeks. While ACT | The App Association's European members face a stagnating economy where productivity grew by just 5 percent between 2010 and 2023, their American counterparts benefited from productivity gains of 22 percent, a difference experts attribute largely to tech investment and adoption.<sup>1</sup> However, Europe's regulatory woes negatively affect American small business innovators as well. On this point, the Committee<sup>2</sup> is aligned with the United States Trade Representative (USTR) across administrations<sup>3</sup> in identifying the Digital Markets Act (DMA) as having the characteristics of a non-tariff trade barrier (NTB). The App Association's members in the EU, United States, and United Kingdom (UK) can attest to the DMA's harmful effects.

The DMA is a particularly problematic framework that severely disadvantages small business innovators, even as its scope is technically limited to large online marketplaces and platforms. It is one policy amid a growing miasma of EU regulatory interventions that includes the EU's Digital Services Act (DSA), which adds a layer of unnecessary compliance and privacy challenges, and the Artificial Intelligence (AI) Act, which has precipitated debilitating levels of confusion for startups and small businesses in the app economy. As the European Commission's (EC's) then-competition chief summarized, the EU's regulatory ethos is to cultivate a "culture of compliance,"<sup>4</sup> whereas the United States has historically fostered a culture of innovation. Our message today is simple: the App Association's members need American policymakers to avoid *ex ante* DMA-, DSA-, and AI Act-style frameworks. More fundamentally, we urge Congress to reject the regulatory philosophy that continually meets morale shortages with further beatings. Without a firm and clear refusal of the temptation to mirror the EU's approach, the United States remains

<sup>1</sup> Patrick Artus, *Economics: Why Europe is falling behind the USA*, POLYTECHNIQUE INSIGHTS (June 11, 2024), available at <https://www.polytechnique-insights.com/en/columns/economy/economy-why-europe-is-falling-behind-the-usa/>.

<sup>2</sup> Letter from Hon. Jim Jordan, Chairman, U.S. House Committee on the Judiciary, and Hon. Scott Fitzgerald, U.S. House Committee on the Judiciary, Subcommittee on the Administrative State, Regulatory Reform, and Antitrust, to Ms. Teresa Ribera, Exec. Vice-President for a Clean, Just, and Competitive Transition, European Comm'n (Feb. 23, 2025), available at <https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/2025-02-23%20DJ%20SF%20to%20Ribera%20re%20DMA.pdf>.

<sup>3</sup> U.S. TRADE REP., 2025 NAT'L TRADE ESTIMATE REPORT ON FOREIGN TRADE BARRIERS (2025), available at <https://ustr.gov/sites/default/files/files/Press/Reports/2025NTE.pdf>; U.S. TRADE REP., 2023 NAT'L TRADE ESTIMATE REPORT ON FOREIGN TRADE BARRIERS (2023), available at <https://ustr.gov/sites/default/files/2023-03/2023%20NTE%20Report.pdf> (however, the Biden Administration removed DMA from the list of digital NTBs in 2024 before the Trump Administration re-listed it in 2025).

<sup>4</sup> Foo Yun Chee, *Mondelez Fined \$366 Million by EU for Cross-Border Trade Curbs*, REUTERS (May 23, 2024), available at <https://www.reuters.com/business/retail-consumer/mondelez-fined-3657-mln-euros-by-eu-cross-border-trade-curbs-2024-05-23/>.

susceptible to a European recursive regulation spiral necessitating more and more government intervention to address the unintended consequences of regulations at earlier levels of the stack.

The App Association is a global trade group for small and medium-sized technology companies working across every sector of the economy from agriculture to manufacturing to healthcare. They are the entrepreneurs, innovators, and independent developers powering the \$6.3 trillion global app economy, supporting 1.6 million jobs across the United States. We work with and for our members to promote a policy environment that rewards and inspires innovation while providing resources that help them raise capital, create jobs, and continue to build incredible technology. By nature, our members are international businesses and need the legal and policy environment in the countries where they do business to support their growth.

## Background and Regulatory Context

The DMA, which the EC developed to regulate competition in the digital sector by imposing numerous obligations and prohibitions on designated “gatekeepers,” is particularly problematic for small businesses in the app economy because it either prohibits or threatens key platform management functionalities that small businesses rely on more so than their larger rivals to reach consumers around the world. App Association members widely benefit from three things that leading curated online marketplaces (COMs) offer, all of which DMA threatens:

1. **Built-in consumer trust.** For software developers, trust is paramount. Take smartphones for example. Today, many of us take for granted the myriad measures operating systems and app stores take to keep malware and other harmful content off our devices. DMA threatens this paradigm by forcing app stores and operating systems to roll out the red carpet for all comers, including bad actors. As a result, consumers will rationally steer away from startup and small developers they’ve never heard of (our members) and toward larger, more established rivals that spend millions in marketing and advertising annually (some of which support DMA).
2. **Off-loading overhead.** App stores and other COMs currently provide bundled service offerings at lower costs than if the services were cobbled together separately. App stores and other COMs also have a progressive fee structure that charges small business developers far less for distribution than larger companies. DMA outlaws these progressive fee structures as well as the offering of complementary distribution services and the day-to-day marketplace management activities that small businesses disproportionately rely on to compete with larger rivals.

3. **Instantaneous access to global markets.** App stores and other COMs currently enable worldwide app distribution. Discriminatory frameworks like DMA threaten to balkanize distribution, imposing government-directed marketplace management regimes that start and stop at national or continental borders.

For our EU member companies who want to succeed through ingenuity and innovation, the DMA is a major brick in a growing wall of regulation, surmountable only with the help of compliance attorneys. Facing economic warning signs, the EC has doubled and tripled down on regulating technology markets early and often (*ex ante*), rather than taking an *ex post* approach centered on demonstrated systemic harms typical of the United States. It is no secret that this regulatory environment has led to economic stagnation, depressed capital access for startups, and produced comparatively few domestic champions in global tech markets. Over the past decade-and-a-half, the U.S. gross domestic product (GDP) surged from roughly equal to the Eurozone's in 2011 to about 1.5 times its size in 2024.<sup>5</sup> While experts quibble over the details, many point to faster productivity gains in the United States due to its far larger technology investment and adoption rates during this period.<sup>6</sup>

Similarly, from 2013 to 2023, private investment in artificial intelligence (AI) in the United States totaled about \$468.1 billion, dwarfing the \$75.7 billion in AI investment in the EU and the UK combined over the same period.<sup>7</sup> Small business startups and entrepreneurs in the app economy know that entering digital markets requires the acceptance of significant levels of risk. As outlined in former Italian Prime Minister and President of the European Central Bank Mario Draghi's *The Future of European Competitiveness*, Europe's heavy-handed approach to regulation fails to encourage—and even punishes—risk-taking.<sup>8</sup> Notable among the EU's tech-focused regulations, the AI Act stands out for its as-yet undefined contours. Our members are concerned primarily with this lack of clarity, with some of them moving their businesses elsewhere, like the United States and Dubai, in order to avoid the uncertainty. Buse Bircan, data scientist at Scotland-based App Association member INSINTO, reflected many of our members' views when she said, “as an AI-based SME [small and medium-sized enterprise], one of the biggest challenges we face is that most AI regulations are still undefined or unclear. And that uncertainty has a direct impact on how we develop our products and services.”

<sup>5</sup> STATISTICS TIMES, COMPARING UNITED STATES AND EUROPEAN UNION BY ECONOMY, <https://statisticstimes.com/economy/united-states-vs-eu-economy.php> (2025).

<sup>6</sup> Patrick Artus, *Economics: Why Europe is falling behind the USA*, POLYTECHNIQUE INSIGHTS (June 11, 2024), available at <https://www.polytechnique-insights.com/en/columns/economy/economy-why-europe-is-falling-behind-the-usa/>.

<sup>7</sup> Kedhar Sankararaman, “To Win the AI Race, Congress Must Learn from Europe's Missteps,” ACT | THE APP ASSOCIATION BLOG (June 2, 2025), available at <https://actonline.org/2025/06/02/to-win-the-ai-race-congress-must-learn-from-europes-missteps/>.

<sup>8</sup> MARIO DRAGHI, THE FUTURE OF EUROPEAN COMPETITIVENESS: A COMPETITIVENESS STRATEGY FOR EUROPE (2024), available at [https://commission.europa.eu/document/download/97e481fd-2dc3-412d-be4c-f152a8232961\\_en?filename=The%20future%20of%20European%20competitiveness%20\\_%20A%20competitiveness%20strategy%20for%20Europe.pdf](https://commission.europa.eu/document/download/97e481fd-2dc3-412d-be4c-f152a8232961_en?filename=The%20future%20of%20European%20competitiveness%20_%20A%20competitiveness%20strategy%20for%20Europe.pdf).

The DSA is also a fixture in the regulatory backdrop that has caused problems for small business app developers. For example, we sent a sign-on letter of several EU member companies highlighting concerns with—and seeking clarity regarding—DSA Article 30’s scope and applicability for certain developers. Specifically, the provision requires “traders” to publish personal information, and we pointed to the privacy issues that creates for one-person development companies and not-for-profit developers.<sup>9</sup> Thus, the App Association’s concerns with DSA are most immediately associated with the compliance and related costs it imposes on small business innovators.

We have gone into more detail about how the European approach to digital platforms has already harmed small businesses across the app economy after only a year of implementation,<sup>10</sup> and similarly has harmed nascent markets for AI services, in our *Antitrust at a Crossroads: Protecting Innovation in the AI Era* report earlier this year.<sup>11</sup> Europe’s regulatory approach to tech markets creates an unnecessarily difficult environment for the investment cycles necessary to produce against-the-odds tech success stories which are proliferating here in the United States. We cannot replicate it here.

## What is DMA?

The DMA is a law developed by the European Commission (EC) that empowers the EU to impose sweeping restrictions on the core platform services (CPS) of “designated gatekeepers” meeting certain criteria. Embedded in the DMA framework is a drawn-out process whereby the EC first designates gatekeepers subject to DMA; then identifies any CPS owned by designated gatekeepers; and finally, translates the various high-level prohibitions and mandates in DMA to each one of the specific CPS controlled by designated gatekeepers.<sup>12</sup> To date, the EC has identified seven gatekeepers and 24 CPS controlled by one of the seven designated gatekeepers.<sup>13</sup> As we pointed out in a 2023 white

<sup>9</sup> Letter from several App Association members to Mr. Roberto Viola, Director-Gen., DG Connect, European Comm’n (April 29, 2024), available at <https://actonline.org/2024/04/29/european-small-and-medium-sized-enterprise-developers-request-clarifications-on-trader-registrations-under-the-digital-services-act-dsa/>.

<sup>10</sup> ACT | The App Association, *The EU’s DMA at One Year: Are SMEs Better Off?* (Mar. 9, 2025), <https://actonline.org/2025/03/10/the-eus-dma-at-one-year-are-smes-better-off/>,

<sup>11</sup> ACT | THE APP ASSOCIATION, *ANTITRUST AT A CROSSROADS: PROTECTING INNOVATION IN THE AI ERA* (2025), available at <https://actonline.org/antitrust-at-a-crossroads-protecting-innovation-in-the-ai-era/>.

<sup>12</sup> EUROPEAN COMM’N, *THE DIGITAL MARKETS ACT: ENSURING FAIR AND OPEN DIGITAL MARKETS*, available at [https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/europe-fit-digital-age/digital-markets-act-ensuring-fair-and-open-digital-markets\\_en](https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/europe-fit-digital-age/digital-markets-act-ensuring-fair-and-open-digital-markets_en).

<sup>13</sup> EUROPEAN PARLIAMENT, *DIGITAL MARKETS ACT ENFORCEMENT: STATE OF PLAY* (2025), available at [https://www.europarl.europa.eu/RegData/etudes/ATAG/2025/772826/EPRS\\_ATA\(2025\)772826\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/ATAG/2025/772826/EPRS_ATA(2025)772826_EN.pdf).

paper,<sup>14</sup> the gatekeeper criteria is apparently designed from the start to sweep in and disadvantage American competitors.<sup>15</sup> Since then, the gatekeeper designation process has unfolded as expected, with all but one of the designated gatekeepers, ByteDance, based in the United States.<sup>16</sup>

Notably, DMA is unlike other regulatory frameworks in that it is not designed to address specific harms from defined business models or conduct. In this sense, it is a true *ex ante* regulation insofar as it lists prohibited and compelled conduct without regard to whether such conduct is procompetitive or net harmful. Unmoored from addressing specific harms, the law's contours are arbitrary. For example, the DMA is purposely designed to apply equally to both Google search and to the Amazon retail marketplace. Whereas Google search's revenue comes from selling search ads, Amazon's marketplace generates the bulk of its revenue from retail sales. The differences between these two businesses are vast—and conveniently overlooked. The same set of mandates and prohibitions would not naturally fit these two significantly different kinds of enterprises—and yet, once a CPS is designated, the EC must ostensibly begin trying to apply DMA. Compounding matters, the DMA's sweeping grant of authority to the EC does little to constrain its implementation, allowing EC to alter its own interpretations of the mandates and condemning regulated services to constant potential adjustments to compliance programs. Thus, implementation becomes an exercise in designing ever-evolving company- and even CPS-specific requirements in a quasi-adjudicative process under which it issues “preliminary findings”<sup>17</sup> with “proposed measures,” followed by binding “decisions.”<sup>18</sup>

Accordingly, it cannot be overstated how much flexibility and deference DMA gives to the EC at the implementation stage—and therefore, how much uncertainty pervades digital marketplaces in Europe. In the software distribution context, as described further below,

<sup>14</sup> ACT | THE APP ASS'N, EUROPEAN-STYLE ONLINE MARKETPLACE REGULATION: GOOD OR BAD FOR AMERICAN GROWTH? (June 2023), available at <https://actonline.org/wp-content/uploads/European-Style-Online-Marketplace-Regulation-v1-1-2.pdf>.

<sup>15</sup> See also Javier Espinosa, “EU should focus on top 5 tech companies, says leading MEP,” FINANCIAL TIMES (May 31, 2021), available at <https://www.ft.com/content/49f3d7f2-30d5-4336-87ad-eea0ee0ecc7b> (“The EU lawmaker who will steer the EU's flagship tech regulation through the European parliament has said it should focus on the largest five US tech companies . . . . “But let's not start with number 7 to include a European gatekeeper just to please [US president Joe] Biden,” he added.”).

<sup>16</sup> Some have argued that because Booking.com is based in Amsterdam, it is an example of a European gatekeeper. However, the EC designated its U.S.-based parent company, Booking Holdings Inc., as the gatekeeper and Booking.com is the CPS. BOOKING HOLDINGS INC., BOOKING HOLDINGS, INC., DIGITAL MARKETS ACT COMPLIANCE REPORT (November 2024), available at <https://www.bookingholdings.com/wp-content/uploads/2024/11/DMA-Compliance-Report.pdf>.

<sup>17</sup> See, e.g., Apple iOS SP Features for Connected Physical Devices, Case DMA.100203, Art. 6(7), (18 December 2024), available at [https://digital-markets-act.ec.europa.eu/document/download/8f28e456-5bd4-4b33-af95-b9f52aeb8a03\\_en?filename=DMA.100203%20-%20Overview%20of%20proposed%20measures.pdf](https://digital-markets-act.ec.europa.eu/document/download/8f28e456-5bd4-4b33-af95-b9f52aeb8a03_en?filename=DMA.100203%20-%20Overview%20of%20proposed%20measures.pdf) [iOS Preliminary Findings].

<sup>18</sup> Apple iOS SP Features for Connected Physical Devices, Summary of Comm'n Decision, Case DMA.100203, Art. 6(7), (19 March 2025), available at [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:C\\_202504646](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:C_202504646) [iOS Summary of Comm'n Decision].

EC staff have a free hand in redesigning operating system and device features, mainly unchecked by typical due process and regulatory constraints. We have also seen the EC ratchet up enforcement seemingly in response to trade tensions even where no evidence of harm is presented, signaling that the EC views DMA more as a means of asserting the primacy of its “culture of compliance” than as a means of protecting consumers and competition.<sup>19</sup>

While the EU claims that the DMA will benefit small businesses and startups, its implementation has instead generated significant uncertainty and challenges for these smaller players.<sup>20</sup> Startups now face increasing uncertainties about whether they can rely on COMs to provide the functionalities that have empowered unprecedented growth and job creation. The DMA's erosion of COMs' ability to support the small business community through consumer trust mechanisms (and the reality that small business developers may need to look elsewhere, and spend more, for replacements), and delays by COMs in rolling out advanced features within the EU limit startups' access to tools crucial for differentiation and competition. By any measure, the EU's repeated *ex ante* regulatory approach to digital and emerging markets has harmed, and continues to harm, small business technology developers, an outcome contrary to the DMA's intent of leveling the playing field for all players.

## DMA at the Cost of Privacy, Security, and Trust

The DMA's interoperability mandates seem to be both the most important aspect of the regulation for its proponents and the most gravely concerning for App Association members. Twin interoperability mandates work together to nullify software platform management: Article 6(4), which forces your smart device to accept third-party app stores and software; and Article 6(7), which mandates open access to your smart device and operating system by any device maker or service provider. The security and privacy problems these mandates present are serious and are manifesting widely as implementation unfolds.

Some have argued that the interoperability provisions may lead to better security because they mandate the existence of additional options on top of current mobile app stores and operating systems. Some others have pointed to threats presented by apps currently on the

<sup>19</sup> See, e.g., European Comm'n, “Commission sends preliminary findings to Alphabet under the Digital Markets Act,” (March 18, 2025), available at [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_25\\_811](https://ec.europa.eu/commission/presscorner/detail/en/ip_25_811) (alleging violations of DMA's requirements but identifying no independent harm to consumers or competition) [Google Play and Google Search Preliminary Findings Summary].

<sup>20</sup> Caitlin Irr, “The EU's DMA at One Year: Are SMEs Better Off?” ACT | THE APP ASSOCIATION BLOG (March 9, 2025), <https://actonline.org/2025/03/10/the-eus-dma-at-one-year-are-smes-better-off/>,

stores, having slipped through the vetting process, as evidence that DMA interoperability is necessary. However, small business innovators do not see mandatory access to individuals' devices and software as helping improve security. As Mitchel Volkering, founder of Netherlands-based App Association member Vaic.at, puts it, "there is no such thing as perfect security, but I can guarantee that individual smartphone users' privacy and security will get worse if you mandate the existence of additional threat vectors. You do not deal with a hole in a boat by shooting another hole in it."

On this point, Clément Sauvage, founder of Lille, France-based Bits 'n Coffee, another EU App Association member, agrees: "Smart devices have very sensitive data. They're now repositories of healthcare information, precise location, personal photos, and confidential messages that people do not expect to be shared. DMA's interoperability mandates are being applied to require support for notifications to third-party wearable devices in ways that subvert consumers' expectations. Meta's business model is to make money on my data. I know that and that's why I don't share information with them. These mandates would take that choice out of my hands."

Article 6(4) requires designated gatekeepers to "allow and technically enable the installation and effective use of third-party software applications or software application stores using, or interoperating with, its operating system and allow those software application stores to be accessed by means other than the relevant core platform services of that gatekeeper."<sup>21</sup> Many basic, proactive security and privacy measures are prohibited, since *only* "measures to ensure" that third-party software "does not endanger the integrity of the software or operating system" are allowed "to the extent that they are strictly necessary and proportionate," and "duly justified by the gatekeeper."<sup>22</sup> For example, by default, neither iOS nor Android allow unvetted external links to apps, stores, or software downloads—but it is unclear whether or to what extent these basic measures comport with Article 6(4). Similarly unhelpful allowances are made for operating system-level controls for end users.

Article 6(7) requires designated gatekeepers to provide "effective interoperability with, and access for the purposes of interoperability to, the same hardware and software features accessed or controlled via the operating system or virtual assistant . . . as are available to services or hardware provided by the gatekeeper."<sup>23</sup> The Article further requires the same level of access for "business users" and "alternative providers of services." The allowance for privacy and security measures is the same throwaway line from Article 6(4), limiting the universe of legal security measures to those that are "strictly necessary and proportionate" and "duly justified by the gatekeeper."

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<sup>21</sup> Digital Markets Act, Art. 6(4), available at [https://www.eu-digital-markets-act.com/Digital\\_Markets\\_Act\\_Article\\_6.html](https://www.eu-digital-markets-act.com/Digital_Markets_Act_Article_6.html).

<sup>22</sup> *Id.*

<sup>23</sup> Digital Markets Act, Art. 6(7), available at [https://www.eu-digital-markets-act.com/Digital\\_Markets\\_Act\\_Article\\_6.html](https://www.eu-digital-markets-act.com/Digital_Markets_Act_Article_6.html).

Taken together, both Articles 6(4) and 6(7) undermine key COM privacy and security foundations, hampering their ability to vet and enforce privacy commitments in terms of service and heightening risks for unauthorized data access or breaches. As a result, consumer trust, an absolutely vital feature in the app economy that enables small developers to compete with larger ones, continues to erode, along with opportunities for small businesses and startups and consumer choices.

## The EC Implements DMA: Interoperability

The EC recently cast its regulatory gaze on Article 6(7)'s applicability to iOS's treatment of third-party hardware makers, issuing a set of "preliminary findings" and "proposed measures"<sup>24</sup> in December 2024. Subsequently, the EC issued a final decision—substantially unchanged from its initial determinations—in March 2025, a summary of which was just made available in August 2025.<sup>25</sup> Emblematic of how unwieldy DMA's mandates are in practice, Article 6(7)'s implementation has been punctuated by decisions that ignore technical realities and consumers' actual needs.

*Automatic Wi-Fi Connections.* iPhone owners know that they can share the Wi-Fi network to which they are connected and the password to that network with one tap to another nearby iOS device. This provides a major convenience and as currently designed, it protects privacy by only making the information available to the devices themselves. In order to facilitate the function, iOS enables iPhone owners to save networks to which they have connected in the past and the associated passwords—this allows them to connect automatically and to share the saved information with nearby iOS devices.

The device-only storage structure allows for the information to be saved and shared among iOS devices without Apple having access to it. A device maker having a record of every Wi-Fi network to which you have been connected is obviously a risky proposition, since that data can illustrate a picture of all of your past whereabouts, from job interview locations to doctors' offices.

Paragraph 29 of the final Commission decision requires Apple to first gain access to the saved information so that it can then share it with third-party device makers. Forcing Apple to collect sensitive information creates a new privacy risk that runs against best practices, especially in Europe where the General Data Protection Regulation (GDPR) is the law of the land. But even worse, the mandate to make the information available to any device maker—from Huawei to the KGB—is plainly reckless.

<sup>24</sup> iOS Preliminary Findings, available at [https://digital-markets-act.ec.europa.eu/document/download/8f28e456-5bd4-4b33-af95-b9f52aeb8a03\\_en?filename=DMA\\_100203%20-%20Overview%20of%20proposed%20measures.pdf](https://digital-markets-act.ec.europa.eu/document/download/8f28e456-5bd4-4b33-af95-b9f52aeb8a03_en?filename=DMA_100203%20-%20Overview%20of%20proposed%20measures.pdf).

<sup>25</sup> iOS Summary of Comm'n Decision, [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:C\\_202504646](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:C_202504646).

Mitchel Volkering is especially critical of this Wi-Fi mandate from both a privacy and competition perspective: “I provide services for job search candidates, who trust me and their smart devices with their personal information. If they go to an interview and their device connects to the Wi-Fi, DMA mandates that a third-party device has access to that information. After the interview, if the candidate is connected to that same Wi-Fi regularly, a third-party device now has that information too and can ascertain they must have gotten the job. The fact that this information is now potentially for sale undermines my competitive position by giving all my competitors potential access to my client’s information and also exposes my client to privacy risks associated with their Wi-Fi connection history. Their movements can be tracked. It is not appropriate for government to create these problems. It certainly doesn’t help my EU-based company, and it should serve as a warning for U.S. policymakers.”

*Background Execution Management.* Paragraph 22 of the final decision summary mandates that Apple must provide full access to background execution—processing functions taking place in the background, including when the phone is locked—to any developer of a companion app that goes with a third-party connected device. The fundamental problem here is simple: computing resources are finite. Developers know that the inability for iOS to manage access to computing resources would lead to a classic tragedy of the commons: if the operating system cannot say no to unlimited requests to access computing capacity, it is easy to see how poorly the phone could operate overall. Background execution functions allow for connected devices like watches and headsets to upload data to or perform processing on the iOS companion app even while the phone is locked.

If smartphones are required to provide computing resources to all comers, things can quickly get unfair. For example, one of the most intractable issues with virtual reality / augmented reality (VR/AR) headsets is providing for adequate compute capacity inside of—or in equipment connected to—the headset itself while avoiding adding too much weight to the device or making the assembly cumbersome to wear. A third-party wearable device maker would love to offload major computing functions necessary to support the next model to consumers’ smart devices via the iOS companion app. In fact, it would be nice if all of it could happen via background processes while the consumer’s phone is locked. Conveniently, this is exactly what Paragraph 22 would require. It would essentially force Apple to supply the third-party AR/VR computing needs.

This would solve third-party manufacturers’ device weight problem by pushing the compute capacity cost onto iOS. Unfortunately for the rest of the ecosystem (non-device related apps), third-party manufacturers would have every incentive to maximize the amount of computing done on consumers’ iPhones, in order to lessen the weight and cumbersome aspects of their own devices. This would result in a few major problems, including eliminating compute capacity for other apps to run, overheating of the device, excessive battery drain, and other issues that may arise when an iPhone must

accommodate more demands than it was designed to handle. Small app companies, in particular, would lose in this scenario because the well-resourced device companies would be allowed to monopolize iOS resources, leaving no capacity and a diminished iOS experience for the rest of the ecosystem.

As Mark Thomas—founder of UK-based App Association member Appanalysis—points out, “mobile operating systems are designed for a user-friendly experience. If you prohibit the operating system from managing the device’s resources, you bring computing several steps backward to the pre-personal computer age. The user experience will plummet, and I can’t imagine that’s what regulators have in mind.”

*Encumbering or Eliminating a Broad Range of New Features and Updates.* One of the great benefits of the iOS ecosystem for small business developers is that Apple rolls out new features at a vigorous pace and fixes bugs across millions of devices via regular updates. It also has a robust beta program for developers.

Unfortunately, the EC’s preliminary findings proposed that, across all 11 of the iOS features to which the document applies, Apple must “inform third parties of the addition of new feature functionalities or updates of the relevant feature as soon as Apple has taken the decision to add these feature functionalities or updates.”<sup>26</sup> But as alluded to in Paragraph 30 of the iOS final decision summary, these provisions would operate more broadly than those 11 iOS features, effectively applying to any features that may be the subject of future requests. This extraordinary scope would require that third-party developers be in the room even during the development phase of either a new feature or even a simple update to any of the features, which could dramatically slow down the update process.

Compounding this issue, paragraph 131(d) of the preliminary findings would prohibit Apple from restricting “business users, directly or indirectly, to make use of any interoperability solution in their existing apps via an automatic update.” The provisions would work together to effectively give each and every developer the ability to preview the rollout of any potential update to an undefined range of iOS features and give some developers veto power over those updates. As a result, the few multi-billion-dollar developers with the significant resources needed to dedicate staff and time to participating in this iOS update review process would dictate the course of iOS updates in the proposed measures’ scope.

They would rationally elect to control the issuance of iOS updates to serve their own interests at the expense of the much more numerous small business iOS developers that have long depended on efficient updates designed to serve the broader ecosystem. More insidiously, this would put in place a durable framework that is neither grounded in DMA’s legal requirements nor limited to the EC’s contestability objectives. Apple would be

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<sup>26</sup> iOS Preliminary Findings, [https://digital-markets-act.ec.europa.eu/document/download/8f28e456-5bd4-4b33-af95-b9f52aeb8a03\\_en?filename=DMA.100203%20-%20Overview%20of%20proposed%20measures.pdf](https://digital-markets-act.ec.europa.eu/document/download/8f28e456-5bd4-4b33-af95-b9f52aeb8a03_en?filename=DMA.100203%20-%20Overview%20of%20proposed%20measures.pdf).

required to maintain this broad and complete access in perpetuity, diverting resources to catering to unforeseen use-cases from specific developers and away from rolling out new features, technologies, and updates that small developers and startups actually want. The EC-operated framework would overshadow the existing ecosystem, which involves beta testing of new operating system features and continuous developer feedback.<sup>27</sup> Small business developers will experience overall slower and less responsive rollouts in Europe, disadvantaging them as they seek to differentiate themselves and to compete for new customers.

## The EC Implements DMA: Fee Structures

Apple's App Store was also first through the DMA implementation woodchipper with respect to Article 5(4), along with the Google Play store shortly thereafter.<sup>28</sup> This provision requires that the designated gatekeeper "shall allow business users, free of charge, to communicate and promote offers, including under different conditions, to end users acquired via its core platform service."<sup>29</sup> In practice, DMA's implementation of this provision has outlawed the *progressive* fee structures that exist outside DMA's purview, allowing only more *regressive* fee structures to stand.

The vast majority of apps and app developers pay no commission on revenue in exchange for developer services,<sup>30</sup> including distribution of apps, in non-DMA jurisdictions. For apps whose revenue stream depends on digital-only goods and services—such as skins for characters in videogames and unlocking messaging on dating apps—those charges are assessed a 15 percent commission on either Google Play or the Apple App Store. Both stores also charge app developers making more than \$1 million in digital-only goods and services 30 percent on those digital-only sales, but these developers only account for a tiny fraction of all developers. Some of them are proponents of DMA because they want to push the distribution costs they bear now in non-DMA jurisdictions away from themselves,<sup>31</sup> even if it means those costs shift downward to smaller developers like App Association members.

<sup>27</sup> See, e.g., press release, "Apple elevates the iPhone experience with iOS 26, (June 9, 2025), available at <https://www.apple.com/newsroom/2025/06/apple-elevates-the-iphone-experience-with-ios-26/>.

<sup>28</sup> Google Play and Google Search Preliminary Findings Summary, available at [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_25\\_811](https://ec.europa.eu/commission/presscorner/detail/en/ip_25_811).

<sup>29</sup> Digital Markets Act, Art. 5, available at [https://www.eu-digital-markets-act.com/Digital\\_Markets\\_Act\\_Article\\_5.html](https://www.eu-digital-markets-act.com/Digital_Markets_Act_Article_5.html).

<sup>30</sup> JESSICA BURLEY, PH.D., AND PROF. ANDREY FRADKIN, PH.D, THE GLOBAL APP STORE AND ITS GROWTH, (Jun. 2025), available at <https://www.apple.com/newsroom/pdfs/2024-Apple-Global-Ecosystem-Report-June2025.pdf>.

<sup>31</sup> See Spotify, "The DMA Means a Better Spotify for Artists, Creators, and You," FOR THE RECORD (January 24, 2024), available at <https://newsroom.spotify.com/2024-01-24/the-dma-means-a-better-spotify-for-artists-creators-and-you/> ("All of this can now come without the burden of a mandatory ~30% tax imposed by Apple, which is prohibited under the DMA.").

As Romania-based Sveatoslav Vizitiu, founder of App Association member Rhuna, puts it, “Let’s get something straight. Most of us don’t pay any commission. My business is centered on improving the events and entertainment industry by tokenizing products, services, and experiences. That’s not a digital-only service, so I don’t pay a commission on sales. These companies complaining and agitating for DMA sell digital-only services and that’s just not the majority of developers. Even most developers who pay a commission recognize they get value for the money. Distribution isn’t free, so I don’t appreciate that the bigger companies are trying to shift more of those costs to my business through regulation.”

Notably, in view of the EC’s vast flexibility under DMA, there is no legal requirement for the EC to ever tell regulated entities if proposed compliance plans actually comply with the law. This has led to a rather absurd guessing game where designated gatekeepers propose compliance plans pursuant to preliminary findings while the EC process vacillates between genuine legal analysis and threats of fines.

## The EC Implements DMA: Self-Preferencing

In the United States, self-preferencing is typically seen as an example of competition on the merits.<sup>32</sup> DMA’s Article 6(5), however, strictly prohibits designated gatekeepers from treating “more favourably, in ranking and related indexing and crawling, services and products offered by the gatekeeper itself than similar services or products of a third party.”<sup>33</sup> Google Search provides illustrative examples of several pro-competitive and pro-consumer features that preference Google’s own offerings. For example, in non-DMA jurisdictions, Google Search includes a Google Maps link providing a convenient shortcut to the map location of the object of a search. Google removed this link in the EU and consumers are complaining about it.<sup>34</sup>

Similarly, Google also removed features allowing users to easily find and book hotels and flights, since Google itself provides those tools and featuring them may run afoul of Article 6(5). As a result, instances where users book directly with hotels via search results on

<sup>32</sup> See Jonathan Jacobson and Ada Wang, “Competition or Competitors? The Case of Self-Preferencing,” *ANTITRUST MAGAZINE*, American Bar Assoc., Vol. 38, No. 1 (Fall 2023), available at <https://www.wsgr.com/a/web/bW8aKf3yEkMqwKUwDCRi6D/jacobson-fall23.pdf> (“because much self-preferencing is supported by common-sense procompetitive justifications, including competition “on the merits,” self-preferencing alone cannot sensibly be viewed as a standalone monopolization offense.”).

<sup>33</sup> Digital Markets Act, Art. 6(5).

<sup>34</sup> See Jérémy Torres, “Mais t’es où? Pourquoi Google Maps ne fonctionne plus directement dans la recherche Google” *LIBÉRATION* (March 4, 2024), available at [https://www.liberation.fr/economie/pourquoi-google-maps-ne-fonctionne-plus-directement-dans-la-recherche-google-et-comment-y-remedier-20240304\\_2WC0EUZ5IJADFMSTFPOXY2KBTA/](https://www.liberation.fr/economie/pourquoi-google-maps-ne-fonctionne-plus-directement-dans-la-recherche-google-et-comment-y-remedier-20240304_2WC0EUZ5IJADFMSTFPOXY2KBTA/).

Google are down 30 percent,<sup>35</sup> users having been shuffled instead to third-party booking services that charge fees.

Even though Google took all of these measures to comply with Article 6(5), the EC is nonetheless threatening a fine and is pointing to additional features that may run afoul of the provision. In a summary of its Preliminary Findings against Google, the EC alleges that “certain features and functionalities of Google Search treat Alphabet’s own services more favourably compared to rival ones . . .”<sup>36</sup> Although the EC has not published the full Preliminary Findings on how Google Search allegedly violates Article 6(5), it appears likely Google will need to remove additional consumer-friendly options. Compliance with the provision appears to have raised prices for consumers while reducing their options and adding friction where they want convenience. App developers do not rely solely on the app stores to be found—they rely significantly on open search platforms like Google Search. They need search owners to have the flexibility to make their offerings attractive, convenient, and as low-friction as possible to ensure consumers want to use the service and reliably use them. Article 6(5)’s disintegration of Google Search only reduces the value of it for our members and makes it harder for them to be found.

## DMA’s Progeny and Expansion

Despite the mounting evidence that DMA has been harmful to European and U.S. developers and consumers, jurisdictions around the world are considering measures patterned from DMA. For example, the United Kingdom enacted the Digital Markets, Competition, and Consumers Act (DMCCA), with an implementation schedule through Spring 2026.<sup>37</sup> The UK’s Competition and Markets Authority (CMA) is struggling to balance privacy and security with the law’s sweeping restrictions on both potentially harmful and procompetitive conduct. Likewise, Japan recently enacted and began to implement the Promotion of Competition for Specified Smartphone Software Act (“Smartphone Act”),<sup>38</sup> a “mini”-DMA specifically for smartphones and mobile operating systems. The Smartphone Act’s strict prohibitions on basic app store management functions and restrictions on app

<sup>35</sup> Adam Cohen, Director, Economic Policy, Google, “New competition rules come with trade-offs,” THE KEYWORD, (April 5, 2024), available at <https://blog.google/around-the-globe/google-europe/new-competition-rules-come-with-trade-offs/>.

<sup>36</sup> Google Play and Google Search Preliminary Findings Summary, available at [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_25\\_811](https://ec.europa.eu/commission/presscorner/detail/en/ip_25_811).

<sup>37</sup> Suman Khurana, “UK Government sets out implementation plan for the Digital Markets, Competition and Consumers Act 2024,” DLA PIPER INSIGHTS (September 25, 2024), available at <https://www.dlapiper.com/en/insights/publications/2024/09/uk-government-implementation-plan-for-digital-markets-competition-and-consumers-act-2024>.

<sup>38</sup> Press release, Japan Fair Trade Comm’n, Designation of Specified Software Operators under the Act on Promotion of Competition for Specified Smartphone Software, (March 31, 2025), available at <https://www.jftc.go.jp/en/pressreleases/yearly-2025/March/250331.html>.

stores' efforts to compete with one another threaten the benefits of software distribution for small business app developers.<sup>39</sup> South Africa's Competition Commission is actively enforcing digital antitrust regulations heavily influenced by the DMA.<sup>40</sup>

Similarly, the Republic of Korea's (RoK's) legislature is considering several iterations of legislation that would effect DMA-like *ex ante* digital platform regulation, most recently the Fairness in Online Platform Intermediated Transactions Act ("Fairness Act").<sup>41</sup> Although the Fairness Act's proponents suggest that it is a more palatable version of a prior proposal that more closely resembled DMA, it presents the same problems.<sup>42</sup> Specifically, the proposal would target COMs based on an unfounded presumption that they abuse business users, empowering the Korean Fair Trade Commission (KFTC) to intervene into competitive digital markets under vague authority and criteria that invite selective enforcement. Meanwhile, Brazil has been developing its own *ex ante* competition regulation framework for nascent digital markets<sup>43</sup> for over a year, and rumors now swirl of its imminent introduction and passage in the legislature, which the App Association has discouraged.<sup>44</sup> Other important markets, including Australia, Malaysia, Indonesia, Thailand, Kenya, and Turkey, are at various stages of developing DMA-like regulations.

While this may seem like an insurmountable wave of regulation, other important regulators are appropriately walking back DMA-like proposals because they are observing (1) the longstanding harm to the EU's competitiveness such an approach has had over time and (2) the immediate negative impacts of the DMA's implementation. Most notably, the Indian

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<sup>39</sup> See Letter from Morgan Reed, President, ACT | The App Association, to H.E. AKAZAWA Ryosei, Minister of State for Economic and Fiscal Policy, (May 19, 2025), available at <https://actonline.org/2025/05/19/act-the-app-association-letter-to-the-japanese-government-on-trade-negotiations-with-the-united-states/>.

<sup>40</sup> Competition Commission South Africa, *Media and Digital Platforms Market Inquiry (MDPMI): Provisional Report*, February 2025, [https://www.compcom.co.za/wp-content/uploads/2025/02/CC\\_MDPMI-Provisional-Report\\_Non-Confidential-Final.pdf](https://www.compcom.co.za/wp-content/uploads/2025/02/CC_MDPMI-Provisional-Report_Non-Confidential-Final.pdf).

<sup>41</sup> See Lilla Nóra Kiss and Hilal Aka, "Korea's New Fairness Act Risks Chilling Innovation and Derailing Trade Talks," INFO. TECH. & INNOVATION FOUND., (July 24, 2025), available at <https://itif.org/publications/2025/07/24/koreas-new-fairness-act-risks-chilling-innovation-and-derailing-trade-talks/>.

<sup>42</sup> See Letter from Morgan Reed, President, ACT | The App Association, to Minister Yeo Han-koo, Minister of Trade, Industry and Energy, (July 25, 2025), available at <https://actonline.org/2025/07/25/letter-from-act-the-app-association-to-the-minister-of-trade-industry-and-energy-in-the-republic-of-korea-re-ongoing-trade-negotiations-with-u-s/>.

<sup>43</sup> Anna Moskal, and Marcella Brandão Flores da Cunha, "Brazil's Path towards Digital Ex Ante Competition Regulation – Remarks on the Brazilian Ministry of Finance 2024 Proposal," KLUWER COMPETITION BLOG, (April 4, 2025), available at <https://legalblogs.wolterskluwer.com/competition-blog/brazils-path-towards-digital-ex-ante-competition-regulation-remarks-on-the-brazilian-ministry-of-finance-2024-proposal/>.

<sup>44</sup> See Letter from Morgan Reed, President, ACT | The App Association, to Fernando Haddad, Minister of Finance (July 29, 2025), available at <https://actonline.org/2025/07/30/act-the-app-association-letter-to-minister-of-finance-fernando-haddad-re-digital-platform-legislation-in-brazil-english-and-portuguese-versions/>.

government has withdrawn a legislative proposal for *ex ante* digital platform regulation,<sup>45</sup> instead electing to address demonstrated harms through the enforcement of technology-neutral competition law. And for those countries still considering emulating the DMA, it is not too late for these jurisdictions to learn from Europe's *ex ante* DMA misadventure and go back to the drawing board. It is critically important to ensure the negative effects of the framework are highlighted and repeated, including by Congress.

Built into the DMA are periodic reviews, which could offer opportunities for the EC to pull back on DMA's own goals. Some Members of the European Parliament (MEPs) have questioned the DMA's overregulatory approach, expressing concerns that its broad, pre-emptive obligations stifle innovation and create legal uncertainty.<sup>46</sup> However, as the current review unfolds toward its March 2026 deadline, the EC most recently took the opportunity to implausibly propose an expansion of DMA's scope to include the "AI sector."<sup>47</sup> Ironically, DMA, along with the EU's complementary tech regulations, has already delayed introduction of the latest AI models, forcing small business innovators in the EU to rely on older models and U.S. app companies to build the delays into their products in order to continue reaching EU customers. Clément, the Lille, France-based founder of Coffee 'n' Bits, put it succinctly, pointing out that "EU developers shouldn't be blocked from using tools like Llama 4 and Apple Intelligence. The delay puts us at a distinct disadvantage against our U.S. and other global rivals, who get to use the latest technology has to offer. DMA shoots us in the foot in this regard." Mitchel Volkering, the Netherlands-based founder of Vaic.at, added his perspective, noting that, "we're restricted from accessing innovative new tools and features that Apple and other companies release in the U.S. and other regions. These include Apple Intelligence and iPhone Mirroring. In the EU, when these tools do arrive, they're often late and degraded versions. Competing with rivals based outside the EU has never been more challenging than it is today." Expanding DMA officially to the "AI sector" is yet another example of the EU taking the same approach and expecting different results and will only wrap markets for AI services and tools up in additional red tape, further disadvantaging developers based in the EU and anywhere DMA-style frameworks take shape.

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<sup>45</sup> Manu Kaushik, *Govt to Withdraw Draft Digital Competition Bill*, FIN. EXPRESS (August 10, 2025), <https://www.financialexpress.com/business/industry-govt-to-withdraw-draft-digital-competition-bill-3942328/>.

<sup>46</sup> European Centre for International Political Economy (ECIPE), *EU Export of Regulatory Overreach: The Case of the Digital Markets Act* (Oct. 9, 2024), <https://ecipe.org/publications/eu-export-of-regulatory-overreach-dma/>.

<sup>47</sup> European Comm'n, press release, "Commission gathers views on how the DMA can support fair and contestable markets and AI sector," (August 27, 2025), available at [https://digital-markets-act.ec.europa.eu/commission-gathers-views-how-dma-can-support-fair-and-contestable-digital-markets-and-ai-sector-2025-08-27\\_en](https://digital-markets-act.ec.europa.eu/commission-gathers-views-how-dma-can-support-fair-and-contestable-digital-markets-and-ai-sector-2025-08-27_en).

## Threats to Encryption

From time to time, governments seek legal authorities or technical capabilities enabling law enforcement or national security agency access to otherwise end-to-end encrypted services. These are concerning developments because they threaten the integrity of encryption protections, especially when applied to end-to-end encryption (E2EE) of data at rest or in transit. With E2EE of data at rest, the device manufacturer does not retain access to device owners' decryption keys and with E2EE of data in transit, the developer of a messaging service does not retain access to the key to decrypt the content of users' communications.

In one recent example, press reports indicated that the UK's Home Office had issued a secret technical capability notice (TCN) requesting that Apple build a feature to enable UK investigators to access iCloud data unreadable to Apple itself.<sup>48</sup> In response, Apple turned off access to its fully encrypted offering, Advanced Data Protection (ADP), in the UK.<sup>49</sup> Although Director of National Intelligence Tulsi Gabbard announced that the UK had dropped its TCN on August 18,<sup>50</sup> more recent reports suggest that it may still be pressing the order and that the order was broader than originally believed.<sup>51</sup>

The App Association sought to intervene in Privacy International's and Liberty's legal challenge to the TCN, including evidence detailing how a TCN would affect small businesses in the app economy.<sup>52</sup> For example, one of our UK members, Nuke From Orbit, provides a mobile-friendly security platform enabling users to retain control of their digital identity even when their smartphone is lost or stolen. The service enables users to remotely and instantly revoke access to any digital accounts or sensitive data held on their smartphone, thereby preventing misuse following loss or theft.

If Nuke From Orbit were compelled under a TCN to decrypt some or all of their users' data, the protection of the tokens they use would be seriously weakened, exposing data to a real risk of interception and undermining how well they can protect their users.<sup>53</sup> Ultimately, a fundamental concern with orders like this is that they create new vulnerabilities that, even

<sup>48</sup> Joseph Menn, *U.K. orders Apple to let it spy on users' encrypted accounts*, WASH. POST (Feb. 7, 2025), available at

<https://www.washingtonpost.com/technology/2025/02/07/apple-encryption-backdoor-uk/>.

<sup>49</sup> Zoe Kleinman, *Apple pulls data protection tool after UK government security row*, BBC (February 22, 2025), available at <https://www.bbc.com/news/articles/cgj54eq4vejo>.

<sup>50</sup> Hon. Tulsi Gabbard (@DNIGabbard), X.com (August 18, 2025), available at <https://x.com/DNIGabbard/status/1957623737232007638>.

<sup>51</sup> Graham Fraser, *Court documents shed new light on UK-Apple row over user data*, BBC (August 29, 2025), available at <https://www.bbc.com/news/articles/cx293qg7z39o>.

<sup>52</sup> Witness Statement of Brian Scarpelli, Sr. Global Policy Counsel, ACT | The App Ass'n, *Apple Inc. v. Sec'y of State for the Home Dept*, Investigatory Powers Tribunal, IPT/26/68/CH, IPT/25/83-86 (July 22, 2025).

<sup>53</sup> *Id.*

if intended only for government investigators, open a new reason for bad actors to attack E2EE and obtain the keys intended only for certain entities.

Members of this Committee and counterparts on the Senate side weighed in with letters to the UK's Home Office and the Trump Administration. For example, Chairman Jordan and Rep. Andy Biggs penned a letter to Attorney General Pam Bondi suggesting the TCN runs afoul of the bilateral cross-border investigation agreement the United States signed with the UK under the Clarifying Lawful Overseas Use of Data (CLOUD) Act.<sup>54</sup> Similarly, Rep. Biggs joined Sen. Wyden in a letter to Director of National Intelligence Tulsi Gabbard highlighting concerns with the TCN's impact on Americans' privacy and security.<sup>55</sup> We echo the concerns raised in these letters and urge that U.S. policymakers reject efforts to weaken E2EE, wherever they are proposed.

## Conclusion

This Committee's review of DMA is timely. The momentum is heading in the wrong direction, with jurisdictions around the world considering or having already adopted DMA-style frameworks. For our EU members, they understand DMA's promise and its vision but have come to accept its reality: delays, degraded tools, and compliance costs that only entrench bigger competitors. However, DMA need not eat the world. Congress must lead by example, overseeing and maintaining a legal and policy mix that encourages and enables small businesses in the app economy to solve problems, succeed, and grow.

Similarly, Congress can help by taking measures through trade negotiations and with domestic policy changes that clearly reject DMA. For example, the App Association supports Subcommittee on the Administrative State, Regulatory Reform, and Antitrust Chairman Scott Fitzgerald's Protecting U.S. Companies from Foreign Regulatory Taxation Act (H.R. 4278).<sup>56</sup> The legislation is an important measure to address the negative effects the DMA has on small business innovators. We hope the Committee will move this through the process expeditiously. Likewise, Congress and the Administration should work together to ensure that appropriate trade levers are used to discourage DMA's continuation and spread to other jurisdictions. In any case, we believe U.S. policymakers are on the right

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<sup>54</sup> Letter from Hon. Jim Jordan, Chairman, U.S. House of Representatives Committee on the Judiciary and Hon. Andy Biggs, U.S. Congressman, to Hon. Pamela J. Bondi, U.S. Att'y Gen., (Apr. 8, 2025), *available at* <https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/2025-04-08-jdj-ab-to-bondi-re-cloud-act-us-uk-agreement.pdf>.

<sup>55</sup> Letter from Hon. Andy Biggs, U.S. Congressman, and Hon. Ron Wyden, Chairman, U.S. Senator, to Hon. Tulsi Gabbard, U.S. Dir. of Nat'l Intelligence, (February 13, 2025), *available at* <https://www.wyden.senate.gov/jimo/media/doc/wyden-biggs-letter-to-dni-re-uk-backdoors.pdf>.

<sup>56</sup> Press release, "Rep. Fitzgerald Introduces Legislation Declaring U.S. Businesses Independent from EU Regulations," (July 2, 2025), *available at* <https://fitzgerald.house.gov/media/press-releases/rep-fitzgerald-introduces-legislation-declaring-us-businesses-independent-eu>.

path by rejecting and opposing DMA-style frameworks both at home and in trade settings as jurisdictions overseas consider adopting it.

## Appendix

### Small Business App Companies in Your Districts

**Chairman Jim Jordan, OH-04**

Based in Delaware, Cloud9 Home Technology builds custom solutions and integrations to help their customers get the most out of smart home technology. From installation to integration, Cloud9 ensures that the entire home ecosystem functions in harmony and is easy to manage.

**Majority:****Rep. Darrell Issa, CA-48**

Located steps away from the beach in El Segundo, Thinklogic is a technology consulting firm that has been in operation since 1998. Thinklogic spans various industries, including education, healthcare, law, government, and retail, to provide services in custom mobile and web development, cloud hosting, and e-commerce solutions.

**Rep. Andy Biggs, AZ-05**

Founded in 2020, Zoodealio focuses on providing real estate agents with their own custom websites, offering lead generation, a client-facing platform for monitoring offers, and a monthly market report. Their software also connects with existing client relationship management (CRM) software, blending into existing workflows.

**Rep. Tom McClintock, CA-05**

From their base on the north side of Fresno, Famous Software has been providing technology solutions to the agricultural produce industry for 50 years. They provide a platform that helps producers manage and automate warehouse management, sales, sourcing, and financial processes. They have more than 20,000 users across 1,500 installation sites.

**Rep. Thomas Tiffany, WI-07**

Located in Superior, Sinex Solutions is a software company specifically serving the regulated transportation industries across rail, aviation, trucking, and marine shipping. They provide software around regulatory compliance, inventory tracking, operations assistance & fleet management across the entire shipping cycle.

**Rep. Thomas Massie, KY-04**

Operating just south of the Ohio River in Wilder, Red Hawk Technologies has been building custom software solutions for their clients since 2008. They've grown to 36 employees and provide software-as-a-service (SaaS) solutions, including product development and support, integration, code evaluation, and tech innovation workshops.

**Rep. Chip Roy, TX-21**

Located just outside Austin, WeStrive is a one-stop shop for personal trainers to grow their businesses, offering a range of features across coaching and client management. Their platform provides tools for building fitness programs, nutrition software, personal websites with group messaging and billing support, as well as an on-demand library and reports across multiple locations.

**Rep. Scott Fitzgerald, WI-05**

Symmetrix Software, Inc., has been developing custom software solutions for the manufacturing industry since 1991, providing a range of tools to simplify complex processes. Located in Pewaukee, they build mobile apps, desktop apps, and websites, as well as integrated business systems, improved system architecture, and even prototype.

**Rep. Ben Cline, VA-06**

Located in Swoope, Giant Software is a one-person operation building custom software tools since 1998. While often serving as a fractional, contract-based technology leader for various startups in the area, in 2003, Walgreens approached Giant Software for a product that would enable store managers across 9,200 locations to order products directly from vendors. They continue the upkeep of this product to this day.

**Rep. Lance Gooden, TX-05**

Sutton Technologies is a family-owned business that develops software solutions and integrations for vehicle repair shops across the automotive, recreational vehicle, and marine industries. Based in Mesquite, Sutton Technologies is a management platform that integrates with all standard dealership and repair shop software typically used within the industry.

**Rep. Jefferson Van Drew, NJ-02**

Based in Medford, Micro Integration Services has been building custom software for their clients since 1985. They create custom web and mobile applications as well as cross-platform software that integrates with existing database software for a variety of clients, including AT&T, the Philadelphia Eagles, Nabisco, and more.

**Rep. Troy Nehls, TX-22**

Established in 2013 with their headquarters in Sugar Land, App Maisters is a development agency specializing in providing technology solutions to startups, small businesses, and government agencies. Their solutions cover mobile app development, blockchain and big data, IoT devices, and artificial intelligence integration.

**Rep. Barry Moore, AL-02**

Founded in 2008, Kindred Technology Group is an information technology company specializing in web development, branding, search engine optimization, and digital marketing. The team at Kindred Tech collaborates with a diverse range of clients, including academic groups, religious organizations, and businesses of all sizes.

**Rep. Kevin Kiley, CA-03**

Based in Folsom, Ignitelogix has been building custom software solutions for over 15 years. They provide a wide range of services including web and mobile development, internet of things (IoT) integration, cloud implementation, digital marketing, and even consulting in big data science and artificial intelligence.

**Rep. Harriet Hageman, WY At Large**

BlackFog is a cyberthreat prevention company that utilizes a unique combination of behavioral analysis and data exfiltration technology to identify, stop, and prevent future data hacks, unauthorized data collection, and other threats across mobile and web endpoints. Their services protect their clients and their clients' most sensitive data and privacy while also strengthening their regulatory compliance.

**Rep. Laurel Lee, FL-15**

Founded in 2005 by Alberto Rafael Moyano, Insight Risk Technologies is a business-to-business (B2B) solution that focuses on helping risk management professionals manage risk from anywhere, at any time. Insight offers a comprehensive list of products, ranging from risk identification and cloud storage processes to business continuity plans, and more across various fields.

**Rep. Wesley Hunt, TX-38**

Houston Web Design and Hosting is a custom web design company that has built over 600 websites and mobile applications in their 10-year history as a business. They work with a diverse range of clients across various industries from their Tomball headquarters.

**Rep. Russell Fry, SC-07**

Based in Myrtle Beach with two employees, Biz Buzz Media is a digital marketing agency specializing in helping local businesses enhance their online presence. They started as a traditional marketing firm, but the founder fell in love with social media and digital marketing and now uses those techniques and related technologies daily with clients.

**Rep. Glenn Grothman, WI-06**

Located in Green Bay since 2011, Appdroplet is a team of two running a custom software development agency specializing in projects within the transportation and retail industries. They work to develop new tools that integrate seamlessly into existing business systems. They also developed Appdroplet TV, a digital display product for retail businesses, featuring elements including weather, reviews, and news.

**Rep. Brad Knott, NC 13**

Founded in 2007, CB Web Innovations is a one-person website design and digital marketing firm located in Burlington. CB Web Innovations' goal is to help businesses reach more consumers through visitor-friendly sites and improved search engine optimization (SEO) strategies and techniques.

**Rep. Mark Harris, NC 08**

Based in Charlotte with an additional office in Waxhaw, Idea Forge Studios is a web and graphic design firm that has been in operation since 2011. They specialize in website development and search engine optimization (SEO), serving large and small clients across the United States.

**Rep. Robert Onder, MO 03**

After working as a developer for nearly a decade at companies like Mastercard and IBM, Jason Oesterly founded WASHMO Media in 2006, offering a range of services, including web development and system integrations, to local businesses in the area.

**Rep. Derek Schmidt, KS 02**

Founded in 2014, Foster Care Technologies is an evidence-based support tool that helps inform placement decisions in the foster care system. Through their work with the University of Kansas School of Social Welfare, it was determined that their product leads to better long-term placement outcomes for children in foster care, as well as reduced costs for agencies working on placement.

**Rep. Brandon Gill, TX 26**

Based in Flower Mound, Axis Software Dynamics is a custom software development company that's been serving the area since 2016. With 11 current team members, they provide traditional web and mobile application development services as well as business intelligence, enterprise software solutions, and API integrations.

**Rep. Michael Baumgartner, WA 05**

Established in 2017, Gestalt is a 15-person team dedicated to bringing healthcare into the 21st century by replacing traditional microscopes and glass slides with automated, electronic, and digital workflows. They provide services related to pathology in the medical field to professionals as well as those in education or academic research.

**Minority:****Minority Leader Jamie Raskin, MD-08**

Launched in 2009, Boost Labs is a digital product agency specializing in data visualization and interactive solutions. With a team of designers, developers, and data experts, they help organizations transform complex information into actionable insights that drive business outcomes.

**Rep. Jerrold Nadler, NY-12**

Since 2018, Particle Health is a health-tech platform that provides a single, secure application programming interface (API) for accessing and analyzing medical records from

a wide array of sources including electronic health records (EHRs), health information exchanges, and prescription networks, covering 320+ million patients.

**Rep. Zoe Lofgren, CA-18**

Fresco Capital is a San Francisco-based, early-stage venture firm with a five-person team of investors. The firm supports exceptional entrepreneurs at the intersection of technology and social change, focusing on scalable innovations that drive both impact and growth.

**Rep. Steve Cohen, TN-09**

What began in Memphis, Tennessee, as the Facebook group Pandemic Product Sightings has since grown into Youdle, a platform that connects community members to the products they need, bridging the gap between big-tech chains and local grocery stores.

**Rep. Hank Johnson, GA-04**

Founded in 2015, just outside Atlanta, Turbojet Technologies is a one-person web development company that works with other small businesses and non-profits. Turbojet provides website buildout, as well as support programs and integration across Drupal, WordPress, and other PHP-based websites. While Turbojet is a small operation, they occasionally hire contract designers from across the country if they need to scale up for a larger project.

**Rep. Eric Swalwell, CA-14**

Located in San Mateo, Lumity is a 30-person software company that provides an end-to-end benefits administration solution for both employers and employees. Lumity works with high-growth companies like Lyft, GoFundMe, Robinhood, and Bird, which have less-established HR departments.

**Rep. Ted Lieu, CA-36**

Founded in 2016, Dataplör helps companies determine where to expand globally. It maps and verifies businesses and locations in hard-to-reach markets, blending innovative technology with on-the-ground checks to ensure data accuracy. By transforming messy international data into clear market insights, Dataplör enables global expansion helping their clients' make decisions faster, safer, and more confidently.

**Rep. Pramila Jayapal, WA-07**

Oleria is a cybersecurity startup developing identity security software that gives organizations clear visibility into who has access to their systems, why, and what they're doing. Backed by over \$40 million in venture funding from Evolution Equity Partners, Salesforce Ventures, and others, Oleria helps teams respond quickly, reduce risk, and keep sensitive information secure.

**Rep. Luis Correa, CA-46**

Founded in 2020, Goshsha is an artificial intelligence (AI) and augmented reality platform that transforms retail products into interactive experiences. By scanning items, shoppers

can access reviews, tutorials, and virtual try-ons, while brands gain new ways to connect with customers directly at the shelf.

**Rep. Mary Gay Scanlon, PA-05**

Founded in 2015, MacGuyver Media is a five-person custom web and application development company based in Glenolden that creates web-based software solutions for businesses. Through website, app, and e-commerce development, website maintenance, and assessments, as well as the ability to integrate with any database or application programming interface (API) source, MacGuyver provides clients with solutions and services to help their businesses succeed. Their clients range from companies in the financial sector to those in the alcohol distribution industry, and dozens more.

**Rep. Joe Neguse, CO-02**

Founded in 2018, Earable is a deep-tech wearable startup that applies neuroscience and artificial intelligence (AI) to improve sleep and focus. Their flagship product, the FRENZ Brainband, is the world's first AI-powered headband capable of tracking and stimulating brain activity in real time through bone-conduction audio.

**Rep. Lucy McBath, GA-06**

Based in Atlanta, Zyrobotics is transforming the way kids learn by developing educational tools that foster a high-quality STEM foundation for the next generation. Their lineup features a diverse range of products including an artificial intelligence (AI)-powered learning tool that makes learning enjoyable through educational games, connected e-books, learning analytics tools, and coding apps. Zyrobotics was founded in 2013 and has more than 10 employees.

**Rep. Deborah Ross, NC-02**

Founded in 2014 and based in Apex, Oak City Labs is a custom software development company that partners with entrepreneurs to help them leverage technology to grow their businesses. They provide their clients with general consulting, software, custom mobile apps, DevOps, database management, and data visualization programs.

**Rep. Becca Balint, VT**

Aprexis Health Solutions is a cloud-based software that provides personalized services for Medication Therapy Management, with over 1,000 participating pharmacies and serving more than 1 million patients. Founded in 2009, Aprexis works with health plans, pharmacy networks, corporate employers, and providers, to deliver improved patient-centric health outcomes.

**Rep. Jesús García, IL-04**

RyTech is a family-owned, award-winning digital marketing agency that has grown from a one-person operation into a small team serving businesses nationwide. With deep expertise in SEO, web design, social media, email marketing, paid advertising, and

outsourced CMO services, RyTech focuses on measurable strategies tailored to each client's goals.

**Rep. Sydney Kamlager-Dove, CA-37**

Founded in 2014, Boon is a startup that utilizes an artificial intelligence (AI)-driven referral platform to simplify and enhance the hiring process. By applying innovative matching technology, organizations can share job openings, connect with qualified candidates through existing networks, and build teams more quickly, affordably, and inclusively.

**Rep. Jared Moskowitz, FL-23**

SOAP Health is a health technology startup that utilizes conversational artificial intelligence (AI) to capture patient histories, identify risks, and generate clinical notes. Their animated virtual assistant integrates with electronic health records (EHRs) to ease physician workload and improve care quality.

**Rep. Daniel Goldman, NY-10**

World Owned is a creative content company that develops for the entertainment industry. Based out of Brooklyn, World Owned focuses on producing intellectual property that adds value to major brands including the NBA and DC Comics by inspiring the human experience.

**Rep. Jasmine Crockett, TX-30**

Dallas-based EdgeSight Technology offers IT solutions and custom software development to businesses seeking to enhance their value and protect their information. They provide their clients with a wide range of services, including web design, e-learning, web and mobile software development, IT equipment, cloud storage, and desktop security.

Chair JORDAN. Thank you, Mr. Reed.  
Mr. Price, you're recognized for five minutes.

#### STATEMENT OF LORCÁN PRICE

Mr. PRICE. Thank you. Thank you very much. Good morning, Chair Jordan, Ranking Member Raskin, and the distinguished Members of the Committee, ladies and gentlemen. My name is Lorcán Price. I am a barrister and legal counsel for ADF International. I'm very happy to come here today to speak to you about the perilous situation for freedom of expression in Europe and why it matters for Americans. I do this on the basis of my experience litigating in speech and religious liberty cases before the European Court of Human Rights.

However, today, principally, I wish to address the Digital Services Act of the European Union. Before I do that, I'd like to set the scene briefly by telling you how bad things have become in Europe and the United Kingdom, and very much building on the remarks of the Chair because, when I met some Members of the Committee in Europe recently, I think that there was a genuine element of surprise and disbelief about the state of affairs in Europe. I'll give you some examples.

In Finland, our client Paivi Rasanen, a Member of Parliament, is now in year five of a prosecution for simply posting a verse from scripture on Twitter. Our client Rose Docherty in Scotland, a 74-year-old grandmother, was arrested for offering to have consensual conversations with people. Adam Smith-Connor, an army veteran, was prosecuted for praying silently in his head in England.

Just yesterday, you would have seen that the U.K. police arrested a comedian and fellow Irishman, Graham Linehan, a person I know well, for tweets about gender ideology. German pensioners are having their homes raided and are being prosecuted for insulting politicians. Indeed, one member of The Green Party in Germany has over 700 criminal complaints outstanding for insult.

What's happened in Europe is, as Vice President Vance said on St. Valentine's Day in Munich, "a serious retreat from a fundamental value, that of free speech." It's a sign that our European political elite has lost control of the narrative, and the Digital Services Act is the response to that, an increasingly desperate attempt to suppress growing public discontent.

Why should this matter for Americans? Why should you be concerned? Because of the worldwide reach of European law, the so-called Brussels effect changes regulation in every area that the European Union chooses to regulate. Now, they have entered the business of regulating speech. They're very proud of the so-called Brussels effect when you ask them about it.

This new EU law is essentially an antispeech law. When you read the case law of the European Court of Justice, statements from senior officials, and the provisions of the Digital Services Act, you can see everything is there to create a digital censorship industrial complex. We see a whole structure of trusted flaggers, codes of conduct on so-called hate speech and misinformation, content moderation for so-called systemic risks. Much of this is hidden in bland technocratic language in the DSA, and our written submissions go into some of the problems associated with it. It constitutes

nothing more than an attempt to bring Brussels regulation of speech onto a global stage.

Furthermore, when the European Union is now negotiating trade deals, including with your neighbors to the North in Canada, they insist that the Digital Services Act is part of that. It's very clearly a global intent. It means that the European Union will set the global standard when it comes to speech. Because of the laws that I just outlined in Europe, the type of prosecutions we're seeing, it's an extremely low standard.

It draws, I would suggest to you, a digital curtain where once there was an iron curtain. The U.S. companies bear the brunt disproportionately of this. They're hijacked by the DSA to become essentially the EU's global censorship police whether they like it or not. The DSA contains expansive powers of investigation, huge compliance costs, and crippling fines if they're fined to be non-compliant for removing so-called illegal content.

Indeed, I commend your Committee's report recently on showing the bias at the heart of the system.

As we speak, companies are having to make a decision, an invidious decision, between whether or not they defend German pensioners criticizing politicians or they comply with the European Commission and with national laws.

We know from COVID censorship which is the most likely route they take. Compliance is easier and cheaper, but it is not good for speech. Indeed, yesterday I was just informed by a senior lawyer for a major U.S. company that the Germans are prosecuting a 14-year-old boy for mild online post. They want the identity of another post outside Germany, and they've launched criminal proceedings against U.S. employees of this company for refusing to pass over the identity information.

That's the attitude we're dealing with. We've seen it from Thierry Breton, from others in the European Commission. They want censorship power, and they want it globally.

The digital square is one of the great gifts from the United States to the world. It has been transformative for our political discussion. The EU wants to make itself the sheriff of the square, and it's armed itself with powerful tools. There are more to come, unfortunately, including the democracy shield.

I agree with Ranking Member Raskin that it is sad when close allies and democracies do this kind of thing, and we must call them out for it. We must take a stand against this new censorship wave. Democracy requires free speech. I'm looking forward to our discussion and any questions you may have.

[The prepared statement of Mr. Price follows:]

Written Statement of Lorcán Price  
Legal Counsel  
Alliance Defending Freedom International

**Delete. Silence. Abolish:  
How Europe's Digital Services  
Act Threatens Free Speech and  
Faith Worldwide**

Before the  
**United States House of Representatives  
Committee on the Judiciary**

September 3, 2025  
Hearing on Europe's Threat to American Speech  
and Innovation

### Introduction

Europe's Digital Services Act ("DSA") and its proponents seek worldwide narrative control in the digital age. Its goal is censorship; its means draconian centralization; its reach global. The DSA is the head of a growing censorship industrial complex. It must be stopped.

Europe wants to be the global leader in censorship. Its obsession with harmonization and regulation is at odds with the values of free speech and a free press. Those are universal human freedoms as well as traditional European values, but increasingly they are treated by some as a social ill that should be purged from enlightened society. Europe's online speech codes not only violate these human rights but are deliberately designed to position European authorities as the arbiter of truth in virtually every online controversy.

Rather than a suffocating list of regulations dictating what can and cannot be said, the DSA operates to create a tangled web where it is never clear whether something is illegal or simply unwise, where there are punishments for leaving content up but not for taking too much content down, and where even appealability is obscured by a morass of "optional" procedures spanning platforms, member states, and EU courts. The DSA enables threats and intimidation rather than setting forth a clear and unbiased rule of law. Former EU Commissioner Thierry Breton threatened Elon Musk last summer over Musk's plans to interview then-candidate Donald Trump in a livestream on X. If you can't host an interview with a U.S. presidential candidate on your own major speech platform without upsetting the EU, what *can* you do?

Former Commissioner Breton admits that the DSA is already being used against American tech companies, which function as the digital public square. And Europe isn't slowing down. In fact, it continues to add new Codes of Conduct to the DSA, new Guidelines, and has planned a "European Democracy Shield" that will strengthen the DSA in the realm of so-called election integrity and political processes. Additionally, the EU is using the DSA as an element of its negotiations in wider trade agreements with Canada, and at least one member of European Parliament has called on Europe to partner with other nations on regulating technology companies. Because the Internet is global, the DSA's proposed reach is global, too.

The DSA operates through an unwieldy and bureaucratic web where all roads eventually lead back to the European Commission and censorship. The Commission oversees a purposefully confusing morass of often Orwellian-sounding censors, including Digital Services Coordinators, Very Large Online Platforms (VLOPs), Very Large Online Search Engines (VLOSEs), Non-Governmental Organizations (NGOs), Trusted Flaggers, Monitoring Reporters, boards, adjudicators, and courts.

Specifically, the two VLOSEs are the two largest search engines operated by American companies: Google and Bing. Of the 19 VLOPs, 10 are large online platforms operated by American companies—including Amazon, the Apple App store, Pinterest, LinkedIn, the Meta family of sites (Facebook, Instagram, WhatsApp), X (formerly Twitter), and Wikipedia. And as discussed more fully below, these American enterprises are increasingly the tools of censorship by the EU for speech in Europe, the U.S., and around the world.

Because the Commission has broad investigatory powers against Internet companies, including dawn raids with law enforcement to conduct a surprise investigation, companies are incentivized to avoid any questions from the Commission. If after the investigation, the Commission finds that a service provider has made insufficient commitments to enforcing the DSA, it may impose fines up to 6% of the total worldwide annual revenue. If this persists, the Commission can restrict EU access to the platform or suspend operations.

With penalties this severe, you would think the crime would be egregious. But instead, the crime is vague: posting or permitting “anything that is not in compliance with Union law or the law of any Member State.”<sup>1</sup> The examples would be cartoonish if they weren’t so horrifying: people being arrested for yodeling in their own backyards, posting Bible verses, and retweeting memes are all enough to get individuals in trouble with the law in various European jurisdictions, to say nothing of requiring the Internet service providers to cease being digital public squares and start being the first line of censorship.

When 6% of your global revenue is at stake, complying with speech codes is never voluntary. And now that the DSA is mandatory and additional add-ons are coming, American companies will be, at best, forced to stop innovating and start policing speech.

If you don’t like nationwide injunctions, get ready for global injunctions based on an Internet user’s complaint or an ideologically biased NGO’s disgruntled scrolling. This is an affront to the First Amendment<sup>2</sup>—your right to speak will be curtailed if an unelected European bureaucrat believes it is “misinformation,”

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<sup>1</sup> Regulation (EU) 2022/2065 of the European Parliament and of the Council, art. 3(h), 2022 O.J. (L 277) 1 (Oct. 19, 2022), [https://www.eu-digital-services-act.com/Digital\\_Services\\_Act\\_Article\\_3.html](https://www.eu-digital-services-act.com/Digital_Services_Act_Article_3.html)

<sup>2</sup> John Rosenthal, *Make Speech Free Again: How the U.S. Can Defeat E.U. Censorship*, CLAREMONT REV. BOOKS, Spring 2025, at 22-26.

“disinformation,”<sup>3</sup> “information manipulation” or a threat to “information integrity.”<sup>4</sup> This is not just a European problem. It is the frontline of a global struggle over whether people can speak the truth—and live by it—without fear, and whether American companies including Google, Bing, and Meta are free to continue to drive Internet innovation or instead be forced to help Europe silence speech worldwide.

Yesterday it was European speech, but today and tomorrow it will be American speech that will be removed from American platforms at the threat of European bureaucrats. This is a global, coercive effort against not just American companies, but global platforms for the free exchange of ideas.

## **I. The DSA has created a “Censorship Industrial Complex” for the EU and the World**

The unelected and largely unaccountable European Commission has positioned itself under the DSA to enable sweeping censorship in the name of “public safety” and “democracy.” It does this through an elaborate cast of characters, but ultimately the Commission always pulls the strings of censorship, making private enterprises its puppets lest they face draconian fines.<sup>5</sup>

### **A. The DSA Enforcement Apparatus**

The DSA is enforced via a web of censors, with the European Commission in the center of the web. Through its Commissioner for Internal Markets, the European Commission sets and coordinates policy and initiates enforcement actions. The Commission also has exclusive authority over certain provisions of the DSA, including the supervision of VLOPs and VLOSEs.

But the DSA does not rely exclusively on the Commission for its enforcement. Each EU member state must designate at least one “competent authority” to serve as the “Digital Services Coordinator,” which is responsible for administering and enforcing the DSA within that member state, except for the provisions of the DSA

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<sup>3</sup> European Partnership for Democracy, *Civic Discourse and Electoral Processes in the Risk Assessment and Mitigation Measures Reports under the Digital Services Act: An Analysis* (Mar. 2025), <https://epd.eu/news-publications/civic-discourse-and-electoral-processes-in-the-risk-assessment-and-mitigation-measures-reports-under-the-digital-services-act-an-analysis/>.

<sup>4</sup> Naja Bentzen, *Information Integrity Online and the European Democracy Shield*, EUR. PARL. THINK TANK (Dec. 2024); [www.europarl.europa.eu/thinktank/en/document/EPRS\\_BRI%282024%29767153](http://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI%282024%29767153); Copenhagen Conference on Information Integrity, *Danish Presidency of the Council of the European Union*, Nov. 11–12, 2025, <https://danish-presidency.consilium.europa.eu/en/events/copenhagen-conference-on-information-integrity/>.

<sup>5</sup> ADF International, *Unpacking the EU Digital Services Act*, ADF INTL (Apr. 17, 2025), <https://adfinternational.org/article/digital-services-act-unpacked>.

that are the sole province of the Commission. The Commission can also supersede the Digital Services Coordinators' decisions.

Moving towards the edges of the web, we find the “Trusted Flaggers,” a network of “civil society organisations,” industry organizations, law enforcement, and other private or semi-public bodies that member states may deputize to monitor and flag potentially illegal content.<sup>6</sup> The Commission may also designate non-profit or public entities with “expertise on illegal hate speech” as “Monitoring Reporters,” whose job it is to surveil the internet to identify “illegal hate speech.”<sup>7</sup>

When a Trusted Flagger speaks, the service provider must listen and prioritize the review of the flagged content before that of its regular users. The service provider must review the flagged content to determine whether it violates the law of an EU member state or the EU itself. If so, the service provider must remove or disable access to the content. If the service provider determines the content is not illegal, it may permit the content to remain but must document its reasoning and share its decision with the Trusted Flagger and record the decision in a database that will be made available to regulators and researchers.<sup>8</sup>

Finally, at the edges of the web are the service providers themselves. Under the DSA, service providers are obligated to proactively search for and remove so-called “illegal content.” Failure to do so—or do so adequately in the eyes of the Commission—will expose the platform to punishment, as described in the next section.

In practice, this amounts to a regime of pre-publication review—content must be filtered, flagged, or throttled before it ever reaches the public.

More troubling still, the DSA requires companies to engage in opaque forms of “risk assessment and mitigation,” effectively pushing them to re-engineer their algorithms and train their artificial intelligence systems to suppress categories of lawful but disfavored speech. Because these decisions happen inside corporate systems, they are nearly impossible for the public to see, debate, or challenge. The result is a hidden form of mass, pre-publication censorship at a scale never before witnessed—a model that threatens not only European discourse but speech, debate, and dialogue around the globe. The DSA creates a strong incentive for service providers to remove flagged content regardless of its legality. A service provider

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<sup>6</sup> Digital Services Coordinators, European Commission Digital Strategy, <https://digital-strategy.ec.europa.eu/en/policies/dsa-dsccs>.

<sup>7</sup> European Commission, Code of Conduct on Countering Illegal Hate Speech Online+ at 5.

<sup>8</sup> If the flagged content is deemed to pose “a threat to the life or safety of a person or persons” the service provider is also obligated to notify the police of the relevant member state. Regulation (EU) 2022/2065 of the European Parliament and of the Council, art. 18(1), 2022 O.J. (L 277) 1 (Oct. 19, 2022) <https://eur-lex.europa.eu/eli/reg/2022/2065/oj/eng>.

paying an employee to conduct a legal review is expensive, especially given the scope and complexity of European speech law. Given that the financial value of most individual pieces of content to a service provider is minimal, the procedural requirements of the DSA alone create a bias towards censorship.

The individuals whose content is targeted by a Trusted Flagger are at a distinct disadvantage. Appeals may be handled by the service provider (who is subject to the DSA), by a non-judicial “out-of-court dispute settlement body” that is dependent on the member state’s Digital Services Coordinator (who enforces the DSA) for its continued certification, or in some cases by a court—a costly and lengthy process that most individuals will lack the means and sophistication to pursue.

If the Commission or a member state’s Digital Services Coordinator believes there has been a violation of the DSA, the Commission or a Digital Services Coordinator may initiate an investigation. However, if the Commission initiates an investigation, the Digital Services Coordinator loses its jurisdiction over the alleged violation, exemplifying how the DSA centralizes power within the Commission.

### **B. The DSA Enforcement Process and Punishment**

While the procedural requirements of the DSA create powerful incentives for service providers to censor their users at the drop of a hat, that is nothing compared to the incentives created by the DSA’s enforcement regime. When an investigatory proceeding is initiated, the DSA provides the European Commission and its member states with broad and invasive investigatory powers. If a DSA violation is found, or the service provider fails to be sufficiently responsive, the DSA provides the Commission and its member states with the ability to discipline the service provider with massive fines, exclusion from the EU market, and even criminal sanctions.

*Commission Investigations of VLOPs and VLOSEs.* The DSA permits the Commission to send VLOPs (e.g., Amazon, Meta, X/Twitter, and other American companies) and VLOSEs (Google and Microsoft’s Bing) the equivalent of a subpoena, conduct interviews, and send investigators to “inspect” the service provider’s premises. It also permits the Commission to require the service provider to document and explain their internal systems, including sensitive commercial information like algorithms, and seal the premises of the European operations of these companies—again, many of which are U.S.-based companies. To compel compliance with these investigatory demands, the Commission may fine X/Twitter, Meta, Google, Amazon, or any other non-compliant VLOP or VLOSE up to 5% of its *global* daily revenue for each day the company fails to comply.

If the Commission finds *prima facie* evidence of a DSA violation, it may impose interim measures on the service provider for a “specified period of time.”<sup>9</sup> However, the Commission may also determine what that specified period of time is and renew the order so long as the renewal is considered, in the sole discretion of the Commission, to be “necessary and appropriate.”<sup>10</sup>

If, as part of the investigation, the service provider offers sufficient commitments that it will comply with the DSA, the Commission may reach a binding agreement with the provider and close the proceedings.<sup>11</sup> However, if the Commission does not believe the commitments are sufficient, it may, in effect, convict the service provider via a “non-compliance decision.”<sup>12</sup>

In certain instances, a non-compliance decision, as well as instances where a VLOP or VLOSE fails to comply with an “interim measure” imposed by the Commission or conditions imposed by a Commission decision, allows the Commission to impose a fine on the VLOP or VLOSE of up to 6% of its *global* annual revenue. Other infractions can result in fines of up to 1% of *global* annual revenue. For U.S. companies like X/Twitter, Google, and Meta, this represents an existential threat to their operations and coerces them to become co-censors with the EU.

*Proceedings by Digital Services Coordinators.* An EU member state’s Digital Services Coordinator may enforce the DSA against service providers in that state. While the Digital Services Coordinator’s powers are similar to those of the Commission, each EU state may implement its own rules and procedures for investigations of and penalties for infringements.

*Exclusion from the EU Marketplace.* If all else fails, a Digital Services Coordinator, at the request of the Commission in the case of VLOPs and VLOSEs or on its own initiative for other service providers, may request that a competent judicial authority in the EU member state where the service provider resides temporarily restrict access to the service provider or seek assistance from other intermediaries, such as ISPs, to prevent the service provider from being accessed.

*Emergency Powers.* Under mundane circumstances, the DSA provides the EU and its member states with a huge tool to force service providers into compliance, but that is nothing compared to the powers provided in a crisis. When the Commission determines that “extraordinary circumstances lead to a serious threat to public

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<sup>9</sup> Regulation (EU) 2022/2065 of the European Parliament and of the Council, art. 70, 2022 O.J. (L 277) 1 (Oct. 19, 2022), [https://www.eu-digital-services-act.com/Digital\\_Services\\_Act\\_Article\\_70.html](https://www.eu-digital-services-act.com/Digital_Services_Act_Article_70.html).

<sup>10</sup> *Id.*

<sup>11</sup> Regulation (EU) 2022/2065 of the European Parliament and of the Council, art. 71, 2022 O.J. (L 277) 1 (Oct. 19, 2022), [https://www.eu-digital-services-act.com/Digital\\_Services\\_Act\\_Article\\_71.html](https://www.eu-digital-services-act.com/Digital_Services_Act_Article_71.html).

<sup>12</sup> Regulation (EU) 2022/2065 of the European Parliament and of the Council, art. 73, 2022 O.J. (L 277) 1 (Oct. 19, 2022), [https://www.eu-digital-services-act.com/Digital\\_Services\\_Act\\_Article\\_73.html](https://www.eu-digital-services-act.com/Digital_Services_Act_Article_73.html).

security or public health in the Union or in significant parts of it”<sup>13</sup> the DSA permits the Commission to impose additional censorial requirements.

These include requiring VLOPs and VLOSEs to determine how their services are contributing to the crisis, take steps to prevent or curtail the threat, and report to the Commission on what measures are being taken.<sup>14</sup> The DSA also permits the Commission to, *inter alia*, demand that VLOPs and VLOSEs increase their content moderation efforts, devote more resources to those efforts, increase their cooperation with trusted flaggers, and change their terms of service. In short, if the Commission declares a crisis, then it can micromanage VLOPs and VLOSEs.

*The Lack of Meaningful Judicial Review.* While the DSA technically allows service providers and individual users to challenge censorship decisions in court, the DSA also prohibits the courts of EU member states from contradicting the Commission.<sup>15</sup> Instead, appeals must go to the Court of Justice for the European Union, a complex and expensive proposition that generally takes at least 1-2 years to reach a decision.

In short, the DSA enables extensive EU regulation of the largely American digital public square against individual users across the world. The key goal of the DSA, according to the EU, is that the “roles of users, platforms, and public authorities are rebalanced according to European values”<sup>16</sup>— not American ones.

## II. Extraterritoriality: The Global Reach of the DSA Is a Feature, Not a Bug

By its very nature, the DSA is extraterritorial. Like an invisible digital force field, it seeks to bounce any so-called illegal speech away before it can land on the heads of its citizens. Although the DSA pays lip service to being “limited to what is strictly necessary” to achieve its objectives, its objectives are so sweeping that this is

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<sup>13</sup> Regulation (EU) 2022/2065 of the European Parliament and of the Council, art. 36(2), 2022 O.J. (L 277) 1 (Oct. 19, 2022), [https://www.eu-digital-services-act.com/Digital\\_Services\\_Act\\_Article\\_36.html](https://www.eu-digital-services-act.com/Digital_Services_Act_Article_36.html).

<sup>14</sup> See Regulation (EU) 2022/2065 of the European Parliament and of the Council, art. 91, 2022 O.J. (L 277) 1 (Oct. 19, 2022), [https://www.eu-digital-services-act.com/Digital\\_Services\\_Act\\_Article\\_91.html](https://www.eu-digital-services-act.com/Digital_Services_Act_Article_91.html).

<sup>15</sup> Regulation (EU) 2022/2065 of the European Parliament and of the Council, art. 82, 2022 O.J. (L 277) 1 (Oct. 19, 2022), [https://www.eu-digital-services-act.com/Digital\\_Services\\_Act\\_Article\\_82.html](https://www.eu-digital-services-act.com/Digital_Services_Act_Article_82.html).

<sup>16</sup> The Digital Services Act, *European Commission* (last updated 2024), [https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/europe-fit-digital-age/digital-services-act\\_en](https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/europe-fit-digital-age/digital-services-act_en).

a toothless limitation.<sup>17</sup> The DSA covers platforms used by Europeans, regardless of where the companies are based.<sup>18</sup>

Even more, the DSA leverages the mixed jurisdictions of the European Union to cast the broadest possible net to deem speech illegal. Thus, if speech in one member state violates the law of *a different member state*,<sup>19</sup> that may trigger a cross-border enforcement.<sup>20</sup>

If fellow member states and their citizens enjoy no cross-border courtesies, it is readily foreseeable that Americans' constitutionally protected rights won't either.

As a result of the DSA's weedy procedures and severe penalties for under- and non-compliance, as well as European courts' comfort with extraterritorial application regarding Internet regulation,<sup>21</sup> any VLOP or VLOSE (including X/Twitter, Meta, Google, and Amazon) is incentivized to adapt its international content moderation policies to EU censorship. If platforms deem something "illegal" under EU rules, that content may be banned everywhere, even in countries with strong free speech protections.<sup>22</sup> If Americans' speech is taken down because it allegedly violates the

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<sup>17</sup> Regulation (EU) 2022/2065 of the European Parliament and of the Council, art. 9(2)(b), 2022 O.J. (L 277) 1 (Oct. 19, 2022), [https://www.eu-digital-services-act.com/Digital\\_Services\\_Act\\_Article\\_9.html](https://www.eu-digital-services-act.com/Digital_Services_Act_Article_9.html).

<sup>18</sup> Regulation (EU) 2022/2065 of the European Parliament and of the Council, art. 2(1), 2022 O.J. (L 277) 1 (Oct. 19, 2022), [https://www.eu-digital-services-act.com/Digital\\_Services\\_Act\\_Article\\_2.html](https://www.eu-digital-services-act.com/Digital_Services_Act_Article_2.html).

<sup>19</sup> See, e.g., DSA, art. 9(2)(b) nd DSA, art. 36.

<sup>20</sup> Although the DSA in principle sets out that take-down orders should be limited to the territory of the issuing member state, exceptions are allowed. Those exceptions are likely to become the norm: if the illegality comes from EU law or if the authority determines that the rights at stake justify a wider territorial scope. Accordingly, in cases judged sensitive, a national authority in an EU member state could issue global takedown orders.

<sup>21</sup> Adina Portaru, *The EU Digital Services Act and Freedom of Expression: Friends or Foes?*, CONST. DISCOURSE (Oct. 17, 2022), <https://constitutionaldiscourse.com/the-eu-digital-services-act-and-freedom-of-expression-friends-or-foes/>. See, e.g., *Google LLC v Commission nationale de l'informatique et des libertés (CNIL)* (2019) EUR-Lex - 62017CJ0507 - EN - EUR-Lex. In this ruling on the "right to be forgotten on the Internet," the Court of Justice of the EU ordered Google to erase results from all EU member state domain names (i.e., google.fr, google.it, google.de, etc.) and is keeping open a back door for worldwide enforcement. Additionally, see *Glawischnig-Piesczek v. Facebook* EUR-Lex - 62018CJ0018 - EN - EUR-Lex. In response to defamatory content posted on Facebook, the Court of Justice of the EU decided that a member state may make global takedown orders and, more importantly, that such orders are not prohibited under Art. 15 of the E-Commerce directive. The Court held that it is up to the member state to determine the geographic scope of the restriction, as long as it is within the "framework of the relevant international law." *Glawischnig-Piesczek v. Facebook*, para. 49-52.

<sup>22</sup> The Irish Institute of International and European Affairs highlights that the DSA incentivizes platforms to over remove content--including legal and truthful posts—and may encourage authoritarian regimes. *The Digital Services Act: Censorship Risks for Europe*, IIEA (Dec. 18, 2024), [https://www.iiea.com/publications/the-digital-services-act-censorship-risks-for-europe?utm\\_source=chatgpt.com](https://www.iiea.com/publications/the-digital-services-act-censorship-risks-for-europe?utm_source=chatgpt.com); See also ADF Int'l, *Unpacking the EU Digital Services Act*, ADF INT'L (Apr. 17, 2025), <https://adfinternational.org/article/digital-services-act-unpacked>.

DSA, that infringes on the constitutionally protected rights of U.S. citizens. The guarantees of the First Amendment of the U.S. Constitution cannot co-exist with the censorship powers of the DSA.<sup>23</sup>

In fact, European politicians have made it clear that they view their ability to regulate American Internet companies as an issue of “European sovereignty.” After President Trump threatened tariffs on Ireland and other nations inflicting penalties on American companies, Member of the European Parliament Barry Andrews called on Europe to “stand up to Trump” by using the Anti-Coercion Instrument.<sup>24</sup> Called the “big bazooka,” the ACI has never before been used, but could offer Europe a variety of options to retaliate against America.<sup>25</sup>

Member of European Parliament Alexandra Geese, who negotiated the DSA, has called on Europe to “enforce DSA and DMA [the Digital Markets Act] in a meaningful and effective manner,” claiming that “virtually all platforms utilize algorithms to amplify outrage, anger, and fear, overriding users’ explicit content choices. Those emotions serve to perpetuate the dissemination of disinformation and undermine trust in science, media, and governments.”<sup>26</sup> She believes that “[a]lgorithmic control over speech by platform owners is currently the biggest risk to freedom of speech,” not because of platforms shadow-banning speech, but because they might leave speech in place and thus people might view speech she dislikes.

Geese believes Europe needs to “build a European sovereign digital infrastructure” from “data centers and undersea cables to software, AI, and social media” so that Europe is no longer “dependent” on U.S. technology. And she is reaching outside of Europe: Geese has called on Europe to partner with other nations,

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<sup>23</sup> Staff of the House Judiciary Committee, *The Foreign Censorship Threat: How the European Union’s Digital Services Act Compels Global Censorship and Infringes on American Free Speech* (Report & Appendix) (July 25, 2025), U.S. House Judiciary Comm., [https://judiciary.house.gov/sites/evo-subsites/rep-publicans-judiciary.house.gov/files/2025-07/DSA\\_Report%26Appendix%2807.25.25%29.pdf](https://judiciary.house.gov/sites/evo-subsites/rep-publicans-judiciary.house.gov/files/2025-07/DSA_Report%26Appendix%2807.25.25%29.pdf) “Though nominally applicable to only EU speech, the DSA, as written, may limit or restrict Americans’ constitutionally protected speech in the United States. Companies that censor an insufficient amount of ‘misleading or deceptive’ speech—as defined by EU bureaucrats—face fines up to six percent of global revenue, which would amount to billions of dollars for many American companies. Furthermore, because many social media platforms generally maintain one set of content moderation policies that they apply globally, restrictive censorship laws like the DSA may set de facto global censorship standards.”

<sup>24</sup> Barry Andrews MEP, *Appeasement Won’t Work: Why Europe Must Stand Up to Trump*, BRUSSELS TIMES (Aug. 27, 2025) <https://www.brusselstimes.com/1719562/appeasement-wont-work-why-europe-must-stand-up-to-trump>.

<sup>25</sup> Vassilis Akritidis & Jean-Baptiste Blancardi, *The Anti-Coercion Instrument: What Is It and How Europe Might Use It Over the Next Four Years*, CROWELL & MORING (Feb. 4, 2025), <https://www.crowell.com/en/insights/client-alerts/the-anti-coercion-instrument-what-is-it-and-how-europe-might-use-it-over-the-next-four-years>.

<sup>26</sup> Alexandra Geese, *Europe Cannot Wait to Fight Trump’s Assault on Democracy*, TECHPOLICY.PRESS (Aug. 27, 2025), <https://www.techpolicy.press/europe-cannot-wait-to-fight-trumps-assault-on-democracy/>.

including Brazil, Canada, Taiwan, South Korea, India, Mexico, “and numerous other nations to promote democratic principles in the digital age.” Why? To “cooperate and exchange on enforcing democratic legislation on technology companies.”<sup>27</sup>

Indeed, expanding the formal scope of the DSA is part of the official European Union agenda. In June, an EU-Canada Summit took place in Brussels to try to export and universalize the principles of the DSA against U.S. demands. Canada and the EU agreed to advance the Digital Trade Agreement “to align standards and infrastructure,” which would allow European and Canadian regulators to issue parallel alerts or requests for takedowns during times of geopolitical tension.<sup>28</sup> As the United States approaches 250 years since the Declaration of Independence, it is notable that Americans are still fighting against European efforts to control Americans’ speech, censor unpopular views, and exert their will over the lives of Americans through draconian laws that lack any meaningful due process protections.

The comments of EU Parliamentarians and officials belie the argument that the DSA does not reach beyond the EU: this is no simple content moderation law and no simple request to respect the online cultural mores of the Continent. Instead, this is a quest for narrative control over the entire globe: mandating that American companies remove American content and threatening economic sanctions through a never-before-used tool.

### III. The DSA Imposes Speech Restrictions Globally That Dramatically Contradict the American Tradition

#### A. The Sweeping Restrictions on Speech imposed by the DSA

The First Amendment to the U.S. Constitution safeguards the freedom to speak and engage in expressive conduct. It also prohibits restricting speech using a standard that is so vague that a person cannot understand beforehand what is prohibited or that is so broad that it allows the state to sweep protected speech up with the unprotected.<sup>29</sup> Unfortunately, the DSA embodies the polar opposite of this tradition.

The DSA prohibits any speech that violates the laws of the EU or any EU member state.<sup>30</sup> It is respectfully submitted that many of these national laws in

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<sup>27</sup> *Id.*

<sup>28</sup> EU and Canada Sign Security and Defense Partnership at 20th Summit, *Directorate-General for Trade and Economic Security, European Commission* (June 24, 2025), [https://policy.trade.ec.europa.eu/news/eu-and-canada-sign-security-and-defence-partnership-20th-summit-2025-06-24\\_en](https://policy.trade.ec.europa.eu/news/eu-and-canada-sign-security-and-defence-partnership-20th-summit-2025-06-24_en).

<sup>29</sup> See, e.g., *Smith v. Goguen*, 415 U.S. 566 (1974); *City of Houston v. Hill*, 482 U.S. 451 (1987).

<sup>30</sup> DSA art. 3(h).

Europe rely on the very sort of vague and arbitrary language that is repugnant to the American Constitution and tradition.

Even when the laws the DSA will impose online are clear in their prohibitions, they still have a chilling effect on free speech. For example, in Germany, it can be illegal to mock or insult a government official, regardless of whether or not the insult is true.<sup>31</sup>

In America, speech criticizing the government or government officials is protected because it is such an important tool to defend against tyranny.<sup>32</sup> However, in Germany, and therefore under the DSA, German government officials are actually shielded from criticism to a higher level than regular German citizens, and this protection is backed by the threat of prosecution.<sup>33</sup>

This threat is not idle either. For example, on June 25<sup>th</sup>, 2025, in what it called a “day of action against hate-posts” the German Federal Criminal Police Office raided homes for cases of “hate speech” or criminal insults to politicians.<sup>34</sup> Among the examples of criminal speech cited by the police was that of a journalist who had posted a clearly satirical, photoshopped image of the German interior minister holding a sign that said “I hate free speech”<sup>35</sup>—much like the humor of the Babylon Bee or similar satirical websites in the U.S.

Unfortunately, Germany does not have a monopoly on criminalizing speech that would clearly be protected under the United States Constitution.

- In Austria, a man was fined for yodeling in his backyard because his Muslim neighbor believed it was a mockery of the Muslim call to prayer.<sup>36</sup>

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<sup>31</sup> Dr. Anthea Pitschel, *Allegation of Insult Under § 185 StGB, MPP Rechtsanwälte* (Nov. 17, 2024, updated Jan. 7, 2025), <https://muegge-pitschel.de/en/criminal-law/allegation-of-insult-under-%C2%A7-185-stgb/>.

<sup>32</sup> See *New York Times v. Sullivan*, 376 U.S. 254 (1964).

<sup>33</sup> *Criminal Liability in Germany for “Insulting a Politician?”*, BRG Rechtsanwälte (Apr. 15, 2025), <https://brg-recht.de/en/news/criminal-liability-in-germany-for-insulting-a-politician.html>.

<sup>34</sup> *Police in Germany Launch Nationwide Operation Against Online Hate Speech*, YAHOO NEWS (June 24, 2025), <https://www.yahoo.com/news/german-police-launch-nationwide-operation-061636979.html>.

<sup>35</sup> *Raid on Germany’s “Digital Arsonists” Feeds Row Over Free Speech*, Times (London), June 25, 2025, <https://www.thetimes.com/world/europe/article/raid-on-germanys-digital-arsonists-feeds-row-over-free-speech-pq6dxlqxq>.

<sup>36</sup> *Austrian, 63, Fined £700 After Muslim Neighbours Claim Yodelling Mocks Prayer*, Daily Mail (Dec. 17, 2010), [www.dailymail.co.uk/news/article-1339150/Helmut-Griese-fined-700-Muslim-neighbours-claim-yodelling-mocks-prayer.html](http://www.dailymail.co.uk/news/article-1339150/Helmut-Griese-fined-700-Muslim-neighbours-claim-yodelling-mocks-prayer.html).

- In Ireland, a Catholic Bishop was investigated by the police in response to a complaint from an atheist activist who objected to a homily the Bishop preached criticizing secularism.<sup>37</sup>
- And in Finland, a member of the Finnish parliament, Päivi Räsänen, has faced trial three times for comments she made in a pamphlet and on social media, peacefully arguing that marriage should be between one man and one woman.<sup>38</sup>

Proponents of the DSA justify it with the saying: “What is illegal offline should be illegal online.”<sup>39</sup> Given what is illegal offline in Europe, this is terrifying. But in fact, the DSA is far worse.

While offline speech is subject to the laws of a particular jurisdiction, under the DSA, online speech is subject to *all* EU jurisdictions’ laws.

This means that online speech is limited by the most restrictive law of an EU member state, or the EU itself, because under the DSA that is what dictates how online platforms must moderate their content. This creates a race to the bottom where a person’s ability to speak and hear is controlled by the most restrictive bureaucrat’s most restrictive interpretation of the most restrictive law in Europe.

This is bad enough, but in addition to formal laws and regulations, the DSA permits the use of “voluntary” guidelines that suppress speech. Under Article 45 of the DSA, several “voluntary” codes of conduct have been promulgated, including codes related to “hate speech”, “disinformation” and “misinformation.”<sup>40</sup> Not only do these codes increase the already burdensome reporting requirements imposed by the DSA proper, but they also increase the power of non-governmental organizations, many of which are directly funded by European governments, which, as discussed above, are empowered by the DSA to control the content available online.<sup>41</sup>

Similar codes were previously used by the EU during COVID where the EU established a program to fight so-called “disinformation” about the disease. This program resulted in widespread removal or shadow-banning of communications

<sup>37</sup> *Bishop Accused of Incitement to Hatred in Homily*, Irish Independent (Jan. 29, 2012), [www.independent.ie/irish-news/bishop-accused-of-incitement-to-hatred-in-homily/26815932.html](http://www.independent.ie/irish-news/bishop-accused-of-incitement-to-hatred-in-homily/26815932.html).

<sup>38</sup> *Alliance Defending Freedom International Homepage*, ADF INTERNATIONAL, <https://adfinternational.org/> (last accessed Sept. 1, 2025).

<sup>39</sup> *What Is Illegal Offline Should Be Illegal Online: Council Agrees Position on the Digital Services Act*, Press Release 887/21, Council of the EU (Nov. 25, 2021), [www.consilium.europa.eu/en/press/press-releases/2021/11/25/what-is-illegal-offline-should-be-illegal-online-council-agrees-on-position-on-the-digital-services-act/](http://www.consilium.europa.eu/en/press/press-releases/2021/11/25/what-is-illegal-offline-should-be-illegal-online-council-agrees-on-position-on-the-digital-services-act/).

<sup>40</sup> *Codes of Conduct Under the Digital Services Act*, European Commission Digital Strategy (last updated Feb. 2025), <https://digital-strategy.ec.europa.eu/en/policies/dsa-codes-conduct>.

<sup>41</sup> Dr. Norman Lewis, *Manufacturing Misinformation: The EU-Funded Propaganda War Against Free Speech*, MCC Brussels (May 15, 2025), <https://brussels.mcc.hu/publication/manufacturing-misinformation-the-eu-funded-propaganda-war-against-free-speech>.

questioning the official position on COVID’s origin, the efficacy of treatment, and the government’s response, as well as resulting in the suspensions of thousands of social media accounts whose users refused to hold to the party line, including accounts outside of the EU.<sup>42</sup> Put differently, criticism of the ruling elite’s views was suppressed at the exact moment when open debate is most critical in a self-governing democracy.

While these codes are technically voluntary, there is reason to believe that this voluntariness is more ephemeral than real. For example, X’s (formerly Twitter) recent decision to stop complying with the Code of Practice against disinformation prompted overt threats against X from EU officials.<sup>43</sup> European Commission Vice President Věra Jourová stated:

Twitter has chosen the hard way. They chose confrontation. This was noticed very much in the commission. I know the code is voluntary but make no mistake, by leaving the code, Twitter has attracted a lot of attention, and its actions and compliance with EU law will be scrutinised (sic) vigorously and urgently[.]<sup>44</sup>

The threat of enhanced regulatory scrutiny for leaving a nominally voluntary agreement raises the question of whether such codes are *de facto* mandatory.

### B. The DSA versus Americans

Extraterritorial enforcement is already happening, both against American companies and American users.

Consider former EU Commissioner Thierry Breton’s letter to Elon Musk last year, in which he threatened to “make full use of our toolbox, including by adopting interim measures” (code for “shutting down your website”) over Musk’s “planned broadcast on your platform X of a live conversation between a US presidential candidate and yourself” because it would “also be accessible to users in the EU.”<sup>45</sup> Although his letter contained lip service to “ensuring, on one hand, that freedom of expression and of information, including media freedom and pluralism, are effectively protected,” he demanded Musk inform EU “judicial and administrative authorities” on the measures taken to address “orders against content considered illegal,” taking

<sup>42</sup> BRG Rechtsanwälte, *Criminal Liability in Germany for “Insulting a Politician?”*

<sup>43</sup> Carl Vander Maelen & Rachel Griffin, *Twitter’s Retreat from the Code of Practice on Disinformation Raises a Crucial Question: Are DSA Codes of Conduct Really Voluntary?*, DSA OBSERVATORY (June 12, 2023), <https://dsa-observatory.eu/2023/06/12/twitters-retreat-from-the-code-of-practice-on-disinformation-raises-a-crucial-question-are-dsa-codes-of-conduct-really-voluntary/>.

<sup>44</sup> Lisa O’Carroll, *Google and Facebook Urged by EU to Label AI-Generated Content*, Guardian (London), June 5, 2023, <https://www.theguardian.com/technology/2023/jun/05/google-and-facebook-urged-by-eu-to-label-ai-generated-content>.

<sup>45</sup> Letter from Thierry Breton, Eur. Comm’n, to Elon Musk, CEO of X (Aug. 12, 2024), <https://x.com/ThierryBreton/status/1823033048109367549>.

action on such content, and informing users and the public of those measures. Continuing the threatening language, he reminded Musk/X “[a]s you know, formal proceedings are already ongoing against X under the DSA.”<sup>46</sup>

And this is not unique to presidential election years—European-compliant censorship was used against Americans during COVID.

WhatsApp introduced a limit on forwarding “highly forwarded” messages to a single chat at a time in April 2020<sup>47</sup>—an anti-virality measure later tracked in EU monitoring reports—and this restriction was enforced globally, directly shaping how U.S. users could share COVID-related information.

In February 2021, Meta expanded its list of removable COVID/vaccine claims globally.<sup>48</sup>

The same week, Instagram banned RFK Jr.’s account.<sup>49</sup>

Twitter, while filing monthly reports to the European Commission in March 2021, detailed that over 22,000 tweets had been removed globally under its COVID misinformation rules; these rules were applied in the U.S. as well, where American accounts received labels, strikes, and suspensions under the same standards.<sup>50</sup>

YouTube reported to the EU and adopted a WHO-aligned global medical misinformation policy.<sup>51</sup> This was enforced against Florida’s Governor Ron DeSantis, whose roundtable video was removed in April 2023.<sup>52</sup> As a frightening reminder, 2021 was when the DSA was still voluntary. Imagine the response now that it is binding law.

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<sup>46</sup> See also Thierry Breton (@ThierryBreton), *Twitter Leaves EU Voluntary Code of Practice Against Disinformation*, X (May 26, 2023, 5:02 PM), <https://x.com/ThierryBreton/status/1662194595755704321> (calling into question whether the DSA Codes of Conduct were *ever* voluntary).

<sup>47</sup> Jon Porter, *WhatsApp Says Its Forwarding Limits Have Cut the Spread of Viral Messages by 70 Percent*, *Verge* (Apr. 27, 2020), <https://www.theverge.com/2020/4/27/21238082/whatsapp-forward-message-limits-viral-misinformation-decline>.

<sup>48</sup> Elizabeth Culliford, Sheila Dang, *Facebook to Remove More False Coronavirus Claims From Platform*, *Reuters* (Feb. 8, 2021), <https://www.reuters.com/business/media-telecom/facebook-remove-more-false-coronavirus-claims-platform-2021-02-08/>.

<sup>49</sup> Rishi Iyengar, *Robert F. Kennedy Jr. Banned From Instagram*, *CNN* (Feb. 10, 2021, updated Feb. 11, 2021), <https://edition.cnn.com/2021/02/10/tech/robert-kennedy-jr-instagram-ban>.

<sup>50</sup> X (formerly Twitter), *Updates to Our Work on COVID-19 Vaccine Misinformation* (Mar. 1, 2021), [https://blog.x.com/en\\_us/topics/company/2021/updates-to-our-work-on-covid-19-vaccine-misinformation](https://blog.x.com/en_us/topics/company/2021/updates-to-our-work-on-covid-19-vaccine-misinformation).

<sup>51</sup> *YouTube Announces New Policies to Target Medical Misinformation*, Global Center for Health Security (Aug. 15, 2023), <https://www.unmc.edu/healthsecurity/transmission/2023/08/15/youtube-announces-new-policies-to-target-medical-misinformation/>.

<sup>52</sup> *YouTube Pulls Florida Gov.’s Video, Says His Panel Spread COVID-19 Misinformation*, *NBC News* (Apr. 9, 2021), <https://www.nbcnews.com/news/us-news/youtube-pulls-florida-governor-s-video-says-his-panel-spread-n1263635>.

### C. The DSA versus the United States Constitution

As discussed above, the DSA requires suppressing speech that violates the law of any EU member state as well as the EU itself. These laws are often broad and vague, providing those responsible for enforcing them significant discretion as to how they are actually enforced. Even when the laws are clear, they often prohibit the sort of core political and religious speech the First Amendment was enshrined to protect.

European law not only provides weaker protection for speech than the U.S. Constitution, it also empowers bureaucrats with tools that U.S. law expressly forbids. The DSA threatens to expand those tools into instruments of global censorship.

The way the DSA is enforced is anathema to the American Constitutional order. The U.S. Supreme Court has consistently rejected approaches similar to the EU's threats against platforms that don't censor speech the EU dislikes. This began at least as far back as 1963 in the case of *Bantam Books, Inc. v. Sullivan*.<sup>53</sup> In *Bantam*, the Court clarified that even if the government coerces a private actor to censor speech protected by the First Amendment, the government is still responsible for the censorship.<sup>54</sup>

That precedent continues today, such as in the recent decision of *National Rifle Association of America v. Vullo*.<sup>55</sup> There, the Court reaffirmed that a government official violates the First Amendment when he attempts to silence a speaker by threatening an intermediary on whom the speaker relies. The Court recognized that the distinction between such an effort and direct censorship is equivalent to the difference between killing someone by "cutting off his oxygen supply rather than by shooting him."<sup>56</sup>

The DSA allows the EU to grab the throat of global speech and squeeze. Instead of directly attacking the speaker, the EU places the online platforms in the precarious position of having to choose between crippling fines and a loss of access to valuable market or the speech of a subset of its customers. As the Court recognized in *Vullo*, the insidiousness of this strategy is that the intermediary is unlikely to care as much about the speech being targeted as the speaker, and therefore less willing to risk a fight with a regulator.<sup>57</sup> Given the extraterritorial pretensions of the EU, if America

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<sup>53</sup> *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58 (1963)

<sup>54</sup> See, e.g., Brief of Amicus Curiae Alliance Defending Freedom in Support of Respondents, *Murthy v. Missouri*, No. 23-411, at 2 (U.S. filed Feb. 9, 2024).

<sup>55</sup> *Nat'l Rifle Ass'n of Am. v. Vullo*, 602 U.S. 175 (2024).

<sup>56</sup> *Vullo* at 197 (quoting *Backpage.com, LLC v. Dart*, 807 F.3d 229, 231 (7th Cir. 2015)).

<sup>57</sup> *Vullo* at 198.

does not do something to safeguard the speech of its citizens, Americans will find themselves *de facto* controlled by a foreign power.

The DSA exploits the nature of online speech, which relies on a handful of centralized, and almost exclusively American, platforms on which most online expression and activity occur. In other words, America built the online free marketplace of ideas—and now Europe wants to regulate what can and cannot be said there.

These platforms are where people go to speak and to be heard. Sure, an American could still host a blog. But without the large reach of social media platforms, it's the difference between a hermit in the wilderness and a man speaking on the public square.

The DSA exploits the reality that these large platforms' economic interests will push them to acquiesce to European demands for censorship, permitting the EU to extend its grip globally. Something the EU has already shown itself willing to attempt. Geo-blocking will soon become global blocking.

#### **IV. The Time to Act is Now: Review is Coming**

This month is a critical time for America and the DSA, as the DSA comes under mandatory review this November. It is not yet too late for America and free-speech-minded Europeans to fight back against the DSA's oppressive reach. But Europe is preparing to double down.

In advance of the November review, the Council of the EU is convening a conference in Copenhagen under the auspices of the Danish Council Presidency. The Orwellian description speaks for itself: "Conference on promoting information integrity online, with the aim of scaling regional and local experiences and solutions from different contexts into a global dialogue and effort to strengthen information integrity in the digital age, combat mis- and disinformation, and promote reliable information, thereby contributing to strengthening democracy digitally."<sup>58</sup> To translate: how to expand and enforce the DSA to restrict the greatest amount of speech such that no one is permitted to speak or think for themselves.

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<sup>58</sup> Copenhagen Conference on Information Integrity, Conference / Colloquium / Seminar, 11–12 Nov. 2025, FN-byen, Copenhagen, Denmark, organized by the Ministry of Foreign Affairs of Denmark & International Media Support, Danish Presidency of the Council of the European Union, <https://danish-presidency.consilium.europa.eu/en/events/copenhagen-conference-on-information-integrity/>.

This review is a critical time to repeal the DSA, as it violates not only the constitutional rights of Americans, but also European and international law.<sup>59</sup>

## V. The United Kingdom’s Online Safety Act Poses a Significant Threat to Online Speech Too

The DSA is not the only threat to digital freedom of speech emerging from Europe. The United Kingdom has enacted its own sweeping legislation—the Online Safety Act of 2023—that poses many of the same threats to free speech as the DSA. While framed as a safeguard against harmful online content, this law, when combined with existing UK communications and public order statutes, poses serious risks to open debate, particularly around controversial political and religious issues.

### A. Pre-Online Safety Act Laws

Several laws already regulate online speech in the UK. The *Malicious Communications Act 1988*, section 1 prohibits sending a “grossly offensive” message to a person, originally aimed at criminalizing hate mail or poison pen letters. Similarly, section 127 of the *Communications Act 2003* makes it an offence to send a “grossly offensive message” over a public communications network, even if no one actually receives it or feels offended. Additionally, the *Public Order Act 1986*, specifically sections 4A and 5, prohibits “insulting, abusive or threatening words” if they result in harassment, alarm, or distress. The *Crime and Disorder Act 1998* further extends these provisions by including offences that are racially or religiously aggravated. For instance, ADF client Pastor Dia Moodley was arrested under this law after publicly debating Islam.<sup>60</sup> Furthermore, the *Public Order Act sections 19*

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<sup>59</sup> Adina Portaru, *Is the EU’s Digital Services Act Compliant with the Right to Freedom of Expression?* (Feb. 14, 2025), <https://ohrh.law.ox.ac.uk/is-the-eus-digital-services-act-compliant-with-the-right-to-freedom-of-expression/>; See also Charter of Fundamental Rights of the European Union, art. 11, O.J. C 326/391 (Oct. 26, 2012), reproduced on European Union Agency for Fundamental Rights website, <https://fra.europa.eu/en/eu-charter/article/11-freedom-expression-and-information>. “Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers;” European Convention on Human Rights art. 10, 213 U.N.T.S. 221, <https://www.equalityhumanrights.com/human-rights/human-rights-act/article-10-freedom-expression>; “Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers;” International Covenant on Civil and Political Rights art. 19, Dec. 16, 1966, 999 U.N.T.S. 171, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>; “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print...”

<sup>60</sup> Dia Moodley: *Censored and arrested for preaching in public*, UK, ADF International, <https://adfinternational.org/en-gb/cases/dia-moodley-uk>.

and 29AB criminalize “stirring up” racial or religious hatred. In 2025, John Wik was convicted for inciting religious hatred for displaying the peaceful message, “We love you Europe. The Islamisation of Europe is already happening and it is getting worse each day.”<sup>61</sup>

### B. The Online Safety Act

The Online Safety Act introduced further obligations on internet service providers. Section 10 of the Act requires them to take “proportionate measures” to prevent adults from encountering illegal content, with “priority illegal content” defined in Schedule 7. This includes offences from the Public Order Act 1986, many of which are ambiguously worded. Because of the vague definitions, companies are likely to err on the side of over-censorship, blocking content even when its legality is unclear. This could mean that UK residents may be restricted from viewing political content created abroad, including from the United States.

Under Chapter 6 of the Act, the Office of Communications (“Ofcom”) is empowered to issue sanctions against service providers if they are deemed to be in breach of these duties. Penalties can reach up to 10% of a company’s global turnover or £18 million, whichever is higher.<sup>62</sup>

Section 62 of the Act introduces duties to protect children from “priority content” that is abusive and targets characteristics such as race, religion, sex, sexual orientation, disability, or gender reassignment.<sup>63</sup> The provision further defines priority content as material inciting hatred against these groups.<sup>64</sup> The terms “abusive” and “targeting” are highly subjective and could be applied broadly, potentially censoring even legitimate discussions on controversial topics such as gender identity or religion if they are perceived as offensive. Since there is no existing case law clarifying these definitions, Ofcom is effectively granted the authority to determine what qualifies as abusive or targeting content. This provision has already been used to remove content of political significance. For example, a video depicting UK police assaulting a protestor during anti-migration demonstrations in Epping was censored under this section.

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<sup>61</sup> Tristan Kirk, *IT Worker Spared Prison for Anti-Islam Cyber Attack on Wi-Fi at UK Train Stations*, Yahoo News UK (July 11, 2025), <https://uk.news.yahoo.com/worker-spared-prison-anti-islam-071354977.html>.

<sup>62</sup> *Online Safety Act: Explainer*, GOV.UK (updated Apr. 24, 2025), <https://www.gov.uk/government/publications/online-safety-act-explainer/online-safety-act-explainer>.

<sup>63</sup> Online Safety Act 2023, c. 50, § 62 (UK), <https://www.legislation.gov.uk/ukpga/2023/50/section/62>.

<sup>64</sup> *Id.*

Section 152 of the Act mandates the creation of an advisory committee on disinformation and misinformation.<sup>65</sup> This body is tasked with advising Ofcom on how regulated services should deal with such content, as well as on Ofcom’s powers under section 77 to require annual transparency reports from providers. This committee will almost certainly function as an unofficial body for developing censorship guidance, determining how platforms should address “misinformation and disinformation,” which will inevitably lead to the suppression of legitimate debate.

Section 179 of the Online Safety Act criminalizes sending a message that conveys information the sender knows to be false, with the intent of causing “non-trivial psychological harm” to an audience, and without a “reasonable excuse.”<sup>66</sup> This provision effectively criminalizes “disinformation,” a concept that is open to broad interpretation. Notably, Section 180 exempts “recognised news publishers”<sup>67</sup> from liability, raising questions as to why large media outlets with greater reach are immune, while ordinary citizens face criminal penalties. Concerns about overreach are not merely theoretical. In 2024, Dmitrie Stoica was sentenced to three months in prison after creating a satirical video claiming he was being chased by rioters during the August 2024 riots.<sup>68</sup> His case shows how the law is being abused to suppress satire and political speech, rather than narrowly targeting genuinely harmful falsehoods.

### C. The Online Safety Act, like the DSA, Is a Global Threat to Speech Online

The UK’s Online Safety Act poses a major threat to free speech online. Together with earlier legislation like the Malicious Communications Act and Public Order Act, the new Act expands censorship powers through vague and broad definitions of illegal or harmful content. By empowering Ofcom to issue sweeping sanctions and by institutionalizing a committee to advise on “misinformation,” the law risks chilling debate and limiting public access to legitimate political and religious discourse.

Moreover, just like the DSA, the Online Safety Act has extraterritorial effects: it threatens American companies operating in the UK with harsh penalties and compels them to censor speech that would otherwise be protected under the U.S.

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<sup>65</sup> Online Safety Act 2023, c. 50, § 152 (UK), <https://www.legislation.gov.uk/ukpga/2023/50/section/152>.

<sup>66</sup> Online Safety Act 2023, c. 50, § 179 (UK), <https://www.legislation.gov.uk/ukpga/2023/50/section/179>.

<sup>67</sup> Online Safety Act 2023, c. 50, § 180 (UK), <https://www.legislation.gov.uk/ukpga/2023/50/section/180>.

<sup>68</sup> Greig Watson, *TikToker Jailed Over Hoax Riot Claim*, BBC (U.K.) (Aug. 12, 2024), <https://www.bbc.com/news/articles/czrg70xgm5zo>.

Constitution. As with the DSA, the Act’s censorious demands will spill over and harm American speech.

#### **VI. How America can preserve free speech for itself, and the world.**

European censorship laws cannot coexist with America’s robust protections for free speech. Offline, national borders separate these rival systems, but online, the DSA threatens to impose its restrictive framework globally. Unlike in the U.S., where the First Amendment protects speech, the EU is not bound by those limits. That means America’s courts cannot intervene when Americans face censorship by European regulators. The duty is on Congress and the executive branch to defend Americans’ rights from being subordinated to foreign regulation.

There are two avenues within Europe that could help rein in or reform the DSA: its mandated review process and the possibility of annulment before the Court of Justice of the European Union. Both paths give member states and advocates an opportunity to raise concerns about transparency, impartiality, and fundamental rights. But the United States cannot rely solely on Europe to fix its own overreach.

Respectfully, Congress must investigate, legislate, and ensure U.S. law equips diplomats, trade officials, and platforms to resist foreign censorship. Whether through trade tools, expanded legal protections, or stronger support for American companies, the United States has both the responsibility and the strategic interest to safeguard free expression at home and abroad.

#### **Conclusion**

America has long been a “shining city on a hill”—a land where every person is free to speak and live according to the dictates of their conscience. Its history is one of throwing off oppressive laws of European powers and crafting a New World of possibility, freedom, and ingenuity. Despite America’s leadership in creating the Internet and its digital public square where ideas from across the globe can be shared, debated, and refined, Europe is once again trying to put America’s light under a bushel,—this time under the pretext of online safety and international compliance.

Americans must remain vigilant. Congress must not back down in defending freedom of speech and expression—not just for Americans but for the entire world. And American companies must not bend the knee to the Orwellian DSA. Help us stop the DSA before it reveals its true nature: Delete, Silence, Abolish.

Chair JORDAN. Thank you, Mr. Price. The Right Honorable Member of Parliament, Mr. Farage, is recognized.

**STATEMENT OF THE HON. NIGEL FARAGE**

Mr. FARAGE. Well, thank you very much indeed. Good morning, everybody. Thank you, Chair Jordan, for inviting me here today. It turns out with news over the last 48 hours to have been really rather timely.

I'm delighted to reacquaint with the charming Mr. Raskin. Delightful testimony you gave me earlier on with your speech. Hey, that's fine. You can say what you like. I don't care. Because that's what free speech is.

In a sense, this has all been going wrong now for a couple of decades. We've kind of forgotten the Voltairian principles that we'll fight and defend to the death your right to say something that we fundamentally disagree with. That is the absolute foundation, if you think about it, free speech, democracy, and living in freedom. It's why we fought two World Wars at massive, massive cost, to defend that very principle for ourselves and for many, many others around the country.

I first became worried about all this with cancel culture, the idea that we can't have this speaker go to university because some people might be offended by what he or she have to say.

It is important to note that there is not a parent in the United Kingdom—and I would guess it's the same for America too—that is not concerned about content their children, as minors, can find on the internet. Not a single parent that is not concerned about this. At the moment, we're not finding the right solutions.

I did myself begin to think that hardware might be one of the solutions; those laptops and headsets could be programmed so that many, many apps and many, many services are simply unavailable from these devices. What we've done is to go down the legislative route. It's extraordinary that I come from a land of Magna Carta. I come from a land that gave us the mother of parliaments. It doesn't give me any great joy to be sitting in America and describing the really awful authoritarian situation that we have now sunk into.

J.D. Vance did us all a service at the Munich Security Conference back in February of this year. He really got this debate up and running. It's a vital one. We've run on since then. The Online Safety Act was put in place by the last Conservative government. I don't doubt for a minute their good intentions, but sometimes the road to hell is paved with those good intentions. We are now where we are.

We have a couple of very famous cases. We, of course, have Lucy Connolly, who put out an intemperate tweet after the savage murder of those three beautiful young girls; she herself, a mother who had lost a child. It was intemperate. It was wrong. She removed it 3½ hours later. Sentenced to 31 months in prison. She's now out, having served 40 percent of the time. I wanted to bring her with me today as living proof of what can go wrong. Sadly, the restrictions that have been put on her banned her from making the trip, which is a very, very great shame.

We, of course, have the extraordinary events that we understood yesterday of Graham Linehan, the comedy writer, comedic writer, and he put out some tweets months ago when he was in Arizona. Months later, he arrives at Heathrow Airport to be met by five armed police. Armed police, not a big deal in the USA. A very big deal in the United Kingdom. Five of them. He was arrested and taken away for questioning. He's not even a British citizen. He's an Irish citizen.

This could happen to any American man or woman that goes to Heathrow that has said things online that the British Government and British police don't like. It is a potentially big threat to tech bosses, to many, many others.

This legislation we've got will damage trade between our countries, threaten free speech across the West because of the knock-on roll out effects of this legislation from us, or from the European Union. I've come today as well to be a klaxon, to say to you, "Don't allow piece by piece this to happen here in America." You will be doing us and yourselves and all freedom-loving people a favor if your politicians and your businesses say to the British Government, "You've simply got this wrong."

At what point do we become North Korea? Well, I think the Irish comedy writer found that out two days ago at Heathrow Airport. This is a genuinely worrying, concerning, and shocking situation. I thank you for the opportunity to come here today.

[The prepared statement of Mr. Farage follows:]

## Written Statement for the Record

**Hearing:** *Europe's Threat to American Speech and Innovation*

**Committee:** House Judiciary Committee, U.S. House of Representatives

**Witness:** Nigel Farage, MP

**Date:** 3<sup>rd</sup> September 2025

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### Executive Summary

Europe's regulatory model for online speech, exemplified by the United Kingdom's Online Safety Act 2023 enacted by the Conservative Party while in government ("OSA")<sup>1</sup>, risks exporting restrictive standards to the United States that will violate the constitutional rights of American citizens.

The OSA integrates the United Kingdom's broad, speech-related criminal offences with sweeping duties imposed on online platforms that are enforceable by the UK regulator, Ofcom. Ofcom is empowered to remove speech that constitutes a criminal offence in the United Kingdom. Much of this speech is constitutionally protected expression in the United States.

Ofcom can impose financial penalties on platforms for not complying with content moderation duties, including fines up to 10% of qualifying worldwide revenue and the ability to seek service blocking in serious cases.<sup>2</sup> Ofcom also purports to have the authority to demand that American citizens who operate web platforms provide Ofcom with incriminating information about themselves and their services. Failure to respond to these demands, or any evasion in a response to these demands, is a criminal offence in the United Kingdom, punishable by arrest, fines, and a term of imprisonment of up to two years' duration.

Ofcom has already threatened four American companies with exactly these penalties. I repeat: regulatory bodies in the United Kingdom are actively threatening to imprison American citizens for exercising their protected Constitutional rights. Just last week, two of those American companies brought a federal lawsuit in the District of Columbia, seeking protection from Ofcom's attempt to impose UK speech laws on US soil.

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<sup>1</sup> **UK Government**—*Online Safety Act (collection page)*: scope, timelines, and enforcement powers (including fines up to 10% of qualifying worldwide revenue and potential blocking). Updated July 24, 2025. <https://www.gov.uk/government/collections/online-safety-act>

<sup>2</sup> **Ofcom**—*Statement on Online Safety fees and penalties* (maximum penalties, approach, and fee regime), June 26, 2025. <https://www.ofcom.org.uk/siteassets/resources/documents/consultations/category-1-10-weeks/consultation-online-safety---fees-and-penalties/main-documents/statement-on-online-safety-fees-and-penalties.pdf>

Ofcom’s assertion of duties for services with “links to the UK” – which Ofcom defines as UK users, not a UK nexus or presence – creates powerful, and unconstitutional, extraterritorial pressures that can chill protected American speech, burden U.S. startups, and complicate end-to-end encryption (E2EE). Recent UK prosecutions for online expression—most prominently the Lucy Connolly case<sup>3</sup>—underscore how Europe’s legal thresholds for criminalizing speech diverge sharply from U.S. First Amendment doctrine.<sup>4</sup> Claiming that American companies using American servers must follow UK content moderation law is like claiming that UK law applies to Americans who receive a telephone call from the UK.

Congress should reaffirm that foreign speech restrictions have no force against Americans on U.S. soil or U.S.-hosted services, support strong encryption without scanning mandates, seek startup safe-harbors in transatlantic engagements, and insist on due-process safeguards before any foreign order impacts American speakers or services.

## I. Europe’s Model in Brief

### A. Statutory scope and penalties.

The OSA imposes duties on online services with “links to the UK”—including those with significant UK users or targeting the UK market.

“Links to the UK” is defined as services which present a “risk of harm” to the UK. Ofcom’s first American targets were, almost uniformly, controversial American and international forums which adopt free speech content moderation rules, with Ofcom’s first four social media targets being American social media platforms. We may infer from this that Ofcom believes that free speech, particularly when it emanates from the United States, is coextensive with Ofcom’s understanding of the meaning of the phrase “risk of harm.” Ofcom can investigate, fine up to the greater of £18 million or 10% of qualifying worldwide revenue, and in serious cases seek court orders to block access in the UK. UK government guidance confirms these powers and their staged implementation (illegal-content duties effective March 17, 2025; child-safety duties effective July 25, 2025).

### B. New criminal “communications” offences.

Part 10 of the OSA created several new offences effective January 31, 2024, including the false communications offence (s.179), which criminalizes sending a message known to be false with intent to cause non-trivial psychological or physical harm to a likely audience (with exemptions for

<sup>3</sup> **The Independent / PA**—Why was Lucy Connolly jailed and why was her appeal dismissed? (case explainer and appeal outcome), May 20, 2025. <https://www.independent.co.uk/news/uk/crime/lucy-connolly-court-jail-appeal-b2754556.html>

<sup>4</sup> **The Independent / PA**—Why did Lucy Connolly receive a 31-month sentence for Southport tweet? (release coverage and sentencing context), Aug. 21, 2025. <https://www.independent.co.uk/news/uk/home-news/southport-sentencing-council-kemi-badenoch-keir-starmer-richard-tice-b2811687.html>

recognized news publishers and certain broadcasters).<sup>5</sup> The Crown Prosecution Service has incorporated these offences into its communications guidance alongside older provisions (e.g., Communications Act 2003 s.127).<sup>6</sup>

### C. Active enforcement posture.

Ofcom has already opened enforcement programs and its first investigation under the new regime, targeting an online suicide forum's compliance with illegal-content duties.<sup>7</sup> Clearly encouragement to commit suicide is entirely unsavory content, and it may be that vulnerable people, and young people need protection from exposure to this kind of content. Ofcom's published correspondence and notices to non-UK services emphasize that duties attach whenever a service has "links to the UK," even if operated abroad—requiring action to protect UK users.<sup>8</sup>

## II. The Lucy Connolly Case: A Window into UK Speech Enforcement

On July 29, 2024, amid public fury after the Southport killings, Lucy Connolly posted on X: "*Mass deportation now, set fire to all the f hotels full of the b\*\* for all I care... if that makes me racist so be it.*"

<sup>9</sup> The post reportedly drew ~310,000 views in 3.5 hours before deletion. Connolly was arrested August 6, 2024 and subsequently pleaded guilty to stirring up racial hatred under Public Order Act 1986 s.19(1). On October 17, 2024, she received a 31-month sentence, categorized by the court at the highest culpability and harm levels. Her appeal was dismissed in May 2025. She was released on August 21, 2025, with time on remand contributing to the custodial portion served.<sup>10</sup>

<sup>5</sup> **UK Legislation**—*Online Safety Act 2023*, Part 10 (s.179–182) including the **false communications offence** and exemptions (s.180). In force for Part 10 as of Jan. 31, 2024. <https://www.legislation.gov.uk/ukpga/2023/50/part/10>

<sup>6</sup> **Crown Prosecution Service**—*Communications Offences* (guidance updated Mar. 24, 2025; notes OSA Part 10 offences and interaction with legacy provisions). <https://www.cps.gov.uk/legal-guidance/communications-offences>

<sup>7</sup> **Ofcom** (News)—Ofcom investigates online suicide forum (first investigation under the OSA), Apr. 9, 2025. <https://www.ofcom.org.uk/online-safety/illegal-and-harmful-content/ofcom-investigates-online-suicide-forum>

<sup>8</sup> **Ofcom** (Correspondence/Notice)—Risk Assessment Enforcement Programme; Section 100 information notice addressed to Gab AI Inc., Apr. 14, 2025 (published via Politico). <https://www.politico.com/f/?id=00000198-573c-d5ca-af99-773c9e750000>

<sup>9</sup> **Sky News**—Wife of Tory councillor jailed for 31 months over social media post stirring up racial hatred (sentencing report), Oct. 2024. <https://news.sky.com/story/wife-of-tory-councillor-jailed-for-31-months-over-social-media-post-stirring-up-racial-hatred-13234756>

<sup>10</sup> **ITV News Anglia**—Why has Lucy Connolly been released now? Timeline of hate-tweet sentence (remand credit; 40% release point), Aug. 21, 2025. <https://www.itv.com/news/anglia/2025-08-21/why-has-lucy-connolly-been-released-from-prison-now>

The Connolly case—though not an OSA prosecution—captures the UK’s readiness to criminalize merely unpleasant, challenging, or incendiary online speech under a legal threshold markedly different from U.S. law (e.g., *Brandenburg v. Ohio*<sup>11</sup> “imminent lawless action” standard for direct incitement). While Connolly’s case involved inflammatory speech, there is a long line of English caselaw showing that even benign speech – including completely passive speech such as displaying a poster from the window of one’s home, or praying silently on a sidewalk – may result in criminal sanction.

UK sentencing triggered intense domestic debate on proportionality and consistency with punishments for violent disorder, illustrating a speech-restrictive baseline that, when combined with the OSA’s regulatory machinery, can shape content moderation and platform design far beyond Britain’s borders.<sup>12</sup> What Lucy Connolly said in her X message, which was only visible for 3.5 hours may have been expressed inelegantly, but it was a sentiment that was being felt by a lot of the public at that moment, and it should not have been criminalized.. When the government starts regulating speech in this way, it is rarely those that agree with the government who find themselves in court.

### III. Extraterritorial Pressures on U.S. Platforms and Users

The OSA’s architecture incentivizes global services to adopt UK-compatible rules: ignoring Ofcom can mean blocking or penalties keyed to worldwide revenue. Ofcom’s notices to non-UK services (e.g., Gab AI Inc., April 2025) explain that compliance is expected where “links to the UK” exist—even if operations and hosting are abroad. UK government materials likewise emphasize Ofcom’s enforcement toolkit and the live status of duties. The practical effect is to pressure American platforms to adjust U.S. speech experiences to the strictest jurisdiction’s standard, chilling lawful speech and raising compliance costs that hit startups hardest.

### IV. Encryption and Privacy

Critics warn that, in practice, the OSA may compel client-side scanning or similar measures incompatible with robust end-to-end encryption. Industry analyses point out that no “accredited technology” currently exists that can both scan at scale and preserve genuine E2EE, creating a risk

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<sup>11</sup> *Brandenburg v. Ohio*, 395 U.S. 444 (1969)

<sup>12</sup> *Telegraph View (via Yahoo News)*—What the Lucy Connolly case tells us about British justice (context and proportionality debate), Aug. 21, 2025. <https://uk.news.yahoo.com/case-lucy-connolly-tells-us-182253189.html>

of surveillance creep and weakened cybersecurity if such mandates are pursued.<sup>13</sup> The uncertainty around potential obligations already complicates product roadmaps for secure messaging, cloud storage, and developer platforms serving American users.<sup>14</sup>

## V. Implications for American Innovation

1. *Compliance drag and barriers to entry.* Age-assurance, risk assessments, new reporting and record-keeping requirements, and rapid-takedown expectations become fixed costs, deterring U.S. early-stage ventures or pushing them to geoblock the UK, and both occurrences are harmful to innovation and transatlantic exchange. In any event, geoblocking the UK is ineffective given the wide use of VPN providers. If the UK forces American companies to block VPN access, that would prevent legitimate American users of those VPN services from accessing content that is lawful in the USA.
2. *Fragmentation (“Splinternet”) risk.* If firms resist, Ofcom can seek blocking; if they comply, they may shift global product design to UK standards. Either path fragments markets and constrains iteration cycles.
3. *First Amendment tension.* Ofcom’s ambitions are to ensure that every Internet platform in the world, if it is accessible by UK nationals, must implement the Online Safety Act’s “illegal content” rules. This effectively means that American platforms must choose between surrendering their First Amendment rights or complying with the Online Safety Act. These two legal regimes governing speech are irreconcilable, and it is simply not possible to fully exercise the former without fully violating the latter.

How the UK manages its own affairs is, of course, a matter for the UK Parliament to decide. The Reform Party, in its last electoral manifesto, proposed enacting a UK Free Speech Act which would create similar protections for the British people as the First Amendment creates for the American people.

In the meantime, ensuring that the UK respects America’s speech rules is in the interests of the United Kingdom. When a foreign regulator’s leverage induces moderation choices that narrow U.S. discourse, this offends the UK’s most important foreign ally, poisons the UK’s reputation among American citizens, leads to mockery online as the Labour government’s initiatives are openly flouted by offshore companies who are beyond any reasonable jurisdictional reach, and threatens to drive

<sup>13</sup> **Proton (Andy Yen)**—*The Online Safety Act doesn’t protect encryption, but Ofcom can* (industry analysis of encryption risk), Oct. 27, 2023. <https://proton.me/blog/online-safety-act>

<sup>14</sup> **ITPro**—*Explainer on the Online Safety Bill and end-to-end encryption (“spy clause” debate), 2023–2024 coverage.* <https://www.itpro.com/security/privacy/explained-the-state-of-end-to-end-encryption-in-the-uk-now-the-online-safety-bill-saga-is-over>

away technology investment and development that the UK desperately needs to stay relevant in a fast-accelerating technological environment.

## VI. Recommendations for Congress

- VII.** Affirm that the First Amendment is the rule that governs the behavior of American companies with no UK nexus. Declare as U.S. policy that foreign speech restrictions have no effect on Americans acting in the United States and on U.S.-hosted services even if accessed abroad, and instruct the Executive to defend this position in diplomacy and trade fora.
- VIII.** Back strong encryption. Reaffirm support for E2EE without scanning mandates; make clear that U.S. policy will not endorse measures that undermine encryption or require pre-emptive scanning of private communications.
- IX.** Create startup safe-harbors. Pursue bilateral understandings (or trade-related MOUs) that shield non-established U.S. startups with no UK presence from onerous OSA enforcement while Ofcom's codes mature.
- X.** Due-process and transparency. Seek reciprocal commitments ensuring notice, contestability, and appeal before any foreign order affects American speakers, data, or services.

## Conclusion

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Americans share the UK's goals of combating illegal content and protecting children online. But those objectives must not become a back door for importing foreign speech standards that erode First Amendment values, weaken encryption, and stifle U.S. innovation.

There are, of course, many horrific things available on the internet, from which young and vulnerable people must be protected. However, the OSA is completely ineffective at accomplishing this goal, as this content is still available with the use of VPN, and this ineffectiveness comes at the price of chilling genuine free speech and penalizing good actors in the marketplace. The OSA is overbroad and counterproductive.

Free speech is a fundamentally British value. We would do well to remember that every signatory of the American Declaration of Independence was, after all, a British subject. On the question of civil liberties, Britain has, unfortunately, now lost her way. I will do my part, as a participant in UK democracy, to help our country find its way back to the traditional freedoms which have long bound together our two countries in friendship.

In the meantime, Congress should draw bright lines: British free speech rules, applicable to Britons, are made in Britain, and American speech rules, applicable to Americans, are made in America. Somewhere on this planet of ours, innovators must remain free to build the next generation of platforms without being hamstrung by illiberal and authoritarian censorship regimes that are alien to both American and traditionally British values. Right now, that place is America. Those of us in the UK will do what we can to make Britain such a place as well.

Chair JORDAN. Well said. Thank you, Mr. Farage. Professor Kaye, you're recognized for five minutes.

**STATEMENT OF DAVID KAYE**

Mr. KAYE. Chair Jordan, Ranking Member Raskin, and the Members of the Committee, thank you for the invitation to appear before you. I ask that my written statement be entered into the record.

My name is David Kaye. I'm a law professor at the University of California Irvine where I research and teach international law.

I know something about censorship. From 2014–2020, I was the United Nations Special Rapporteur on Freedom of Opinion and Expression. In that role, I monitored a growing global assault on free speech, among other things. I led a landmark effort to call out China's attacks on civil society. I detailed repression of media and criticism in Putin's Russia. I condemned Iran's suppression of dissent. I even criticized democratic governments when they sought to force platforms to take down lawful speech.

That is censorship, violations of the human right to seek, receive, and impart information and ideas of all kinds guaranteed by Article 19 of the International Covenant on Civil and Political Rights, a treaty ratified by the United States in 1992. Inspired by the First Amendment, it guarantees a speaker's rights and the rights of everyone to access information.

It pains me that the United States, the country that had my back as special rapporteur, the land of the First Amendment's Make No Law, now leads the charge to undermine freedom of speech and of the press. The threat is real, live, and shocking given our Nation's historic commitments.

The administration follows a well-worn path. A few examples:

The silencing of scientists and public health officials. Just last week, the head of the CDC was fired because she would not agree to change her conclusions about vaccines. The administration has scrubbed websites that doctors and parents use to make decisions.

Censoring and punishing speech of visitors. In visa interviews and at the border, there are increasing reports of officers screening visitors according to their social media activity or detaining and deporting based on speech and op-eds.

The repeated assaults on the media as we've seen attacks on public broadcasting, frivolous lawsuits against media outlets, and the defamation of Voice of America.

This is the tip of an iceberg of censorship that should concern this Committee and every American. Yet, U.S. officials who claim to be free speech warriors are spending their time looking abroad.

Now, I know nobody who argues that EU and British laws on speech are perfect. Still, the EU Digital Services Act and the U.K. Online Safety Act respond to problems both sides of the aisle. Congress have found serious but have yet to address: The enormous, opaque, and unaccountable power of a small number of massive tech companies over our information environments.

The EU answered the question of massive platform power not by claiming new powers to take down content or accounts. It adopted new rules to empower users, including by requiring notice and an opportunity to appeal content moderation decisions.

The Online Safety Act championed by Labour and Conservative Parties was widely popular as an attempt to hold Big Tech accountable. It does have elements that concern me. Whatever faults it might have, it, like any other British law, is subject to legal challenge and review by courts for any violation of fundamental rights just as we would expect of any democracy. Neither establish censorship regimes.

I encourage the Members of this Committee to consider two things.

First, instead of criticizing ally democracies, consider the kinds of content online that you find objectionable. Maybe it's antisemitic or Islamophobic content; misogyny; child endangerment; and content glorifying terrorism or inciting violence. How do you propose to address those in a way that is consistent with free speech values? That's not an easy question. It can't be waved away with just three words, "because free speech." The EU and the U.K. have made their choices, subject to democratic judicial oversight and acting in good faith, I think this Committee could do the same.

Second, this Committee has the obligation to protect Americans' freedom of expression here at home. The administration is putting freedom of expression under direct attack, and oversight and constraint from this Committee would make quite a bit of sense. That, I would respectfully submit, is the real threat to American speech and innovation. I look forward to your questions. Thank you.

[The prepared statement of Mr. Kaye follows:]

Written Testimony of David Kaye

Clinical Professor of Law  
University of California, Irvine School of Law

Before a Hearing of the House Judiciary Committee  
“Europe’s Threat to American Speech and Innovation”

September 3, 2025

Chairman Jordan, Ranking Member Raskin, Members of the Committee:

Thank you very much for the invitation to appear before you today. My name is David Kaye. I am a law professor at the University of California, Irvine, School of Law, where I conduct research and teach courses and a clinic in public international law, international human rights and humanitarian law, freedom of expression, and human rights and technology.

I want to start by emphasizing censorship as a serious violation of human rights. From 2014 to 2020, I served as the United Nations (UN) [Special Rapporteur](#) on freedom of opinion and expression. In that role, I monitored the growing global assault on free speech. In hundreds of communications each year, a dozen reports to the UN, and numerous country visits, I documented the practice, law and increasingly sophisticated mechanisms of state censorship.

I led a landmark UN effort to call out [China’s broad attack](#) on civil society through censorship, propaganda, and surveillance. I detailed repression of media and criticism in [Putin’s Russia](#). I condemned [Iran’s](#) pervasive [suppression of dissent](#) and transnational repression and called out the government of Saudi Arabia when they jailed [poets](#) and [murdered](#) writers like Jamal Khashoggi. I documented the rise of internet shutdowns, the use of [spyware](#) against reporters and civil society, and the jailing of advocates for tweets and posts. I spotlighted the [rise of incitement](#) and harassment on social media, the failure of companies to address them, and the overreaching steps often taken by governments in response to such harmful but often lawful speech. I also issued firm critiques when democratic governments, [like Germany](#), sought to force tech companies to take down legitimate speech, or when others, [like Singapore](#), enacted laws to criminalize disinformation.

All countries, including the United States and its democratic allies, are bound by strong standards of human rights law that guarantee everyone’s freedom “to seek, receive and impart information and ideas of all kinds, regardless of frontiers.” This language comes from Article 19 of the [International Covenant on Civil and Political Rights](#), a treaty the United States helped draft and ratified, in 1992, upon the recommendation of President George H.W. Bush. It guarantees a speaker’s rights, to be sure, but it also guarantees the right of everyone to access information, to become educated voters, citizens, parents, kids, consumers. Censorship condemns us not only to be less free but also to be less informed and less safe.

So it saddens me that the United States, the country that had my back in fighting attacks on freedom of expression, is now the tip of the spear leading the charge to undermine it. If I were Special Rapporteur today, the situation in the United States would raise the most serious alarms. The threat here is real and live. This is a shocking state of affairs given our free speech

tradition, a national belief in and legal protection, if not celebration, of dissent, protest, and difference of opinion.

This administration is turning its back on that tradition. We now face unprecedented hostility toward freedom of expression. To name just a handful of examples:

- Silencing science and public health: The administration is silencing scientists and public health officials. Just last week, the head of the Centers for Disease Control was fired because she would not agree to change her scientifically acquired conclusions about appropriate vaccine policies. The administration has scrubbed websites of information, from health to environmental safety to climate change. The result: less information available to all who require it for their health and the health of their loved ones.
- Intimidating media: The White House has not only banned media outlets from the press pool. The President has brought non-meritorious lawsuits against outlets, pressuring the outlets to settle. In the case of CBS and Paramount, the White House implicitly conditioned their merger on settling the suit in the President's favor.
- Weaponizing the FCC: The Federal Communications Commission has been weaponized, pressuring YouTube to carry specific religious programming in its streaming service, investigating NBC over Kamala Harris' appearance on Saturday Night Live, accusing several platforms of "censorship" for partnering with NewsGuard, a recognized expert on disinformation. It has launched investigations of most major networks, with the curious exclusion of Fox News. The President has urged the FCC to revoke media licenses, calling ABC and NBC "biased".
- Weaponizing the FTC: The Federal Trade Commission, in a clear breach of free speech standards, held up a merger of major advertising firms, Omnicom and Interpublic, until they committed to run ads on X, a gift to Elon Musk.
- Censoring and punishing speech of visitors: The administration has made clear that it will investigate the content of one's opinions when seeking a visa to enter the United States. In visa interviews and at the border, there are increasing reports of officers screening visitors according to their social media activity. We have already witnessed the arrest and jailing of at least one student solely on the basis of an opinion essay she co-wrote for a campus newspaper.
- Flag burning ban: The President issued an Executive Order purporting to ban the burning of the American flag, an issue the Supreme Court found to be a violation of the First Amendment in 1989.
- Limiting economic and security analysis: The President has fired officials when they exercise their responsibility to provide the public – and lawmakers – with honest information. The President fired the principal official at the Bureau of Labor Statistics when he did not like the jobs statistics. The administration fired the head of the U.S. Defense Intelligence Agency following an intelligence assessment of the U.S. attacks on Iran that was not on the same political page as the White House.
- Censoring history and art: In a move that rejects artistic freedom and fidelity to American history, the administration has demanded the removal of Smithsonian exhibits that fail to meet political criteria.

- Seeking to destroy public media: The administration, with the support of Congress, is seeking to destroy the Corporation for Public Broadcasting and National Public Radio, major sources of information nationwide, all because of hollow claims of bias.
- An unprecedented attack on higher education: The administration has launched an all-out attack on academic freedom, unlawfully stripping universities of research funding in an effort to force them to adhere to political criteria for admissions, campus protest, curricular design and much else.

This is the tip of an iceberg of censorship that should concern this Committee and every American. All of which makes it simply astonishing that U.S. officials not only claim to be free speech warriors, but they are spending their time looking abroad, criticizing European online speech policies, thinking they can be seen as doing so in good faith.

‘Clean up your own house,’ Europeans might retort, ‘even if we might agree that our own house needs a little dusting.’

To be clear, European and British laws on speech are not perfect. I’ve criticized them in the past, in direct communications and before the United Nations.

Still, the European Union’s Digital Services Act (DSA) and the United Kingdom’s Online Safety Act (OSA) respond to public policy problems most of you, on both sides of the aisle, find serious but have yet to address: the enormous power of a small number of huge technology companies over our information environments. Why should a handful of billionaires from the Bay Area have so much control over speech? And why is this Committee, which claims to be concerned about the rights of Americans to speak freely, not addressing that foundational issue?

The EU answered the question of massive platform power over speech not by claiming new powers to take down content or accounts. Indeed, it is entirely incorrect to say that the EU’s signature digital regulations constitute censorship. Instead, the DSA preserves long-established legal regimes governing online content. It did not establish new rules for speech; it adopted new rules to empower users, including by requiring notice and an opportunity to appeal content moderation decisions. It answered the challenge of unaccountable platform power – one that the U.S. Congress has done virtually nothing to address – by demanding that platforms be transparent about their systems, that they assess the risks they pose to democratic societies, and then mitigate them. Such risks include illegal terrorist content and child abuse material, and difficult-to-define challenges such as interference with elections and public debate, and harassment that can lead to gender-based violence. The DSA is aimed at giving the public the tools to know, and to do something about, what are widely seen as online harms. Again, it provides no *new* rules permitting demands to censor content.

Across the English Channel, the United Kingdom’s Online Safety Act was formulated through a years-long democratic process, adopted and championed by members of the Labour and Conservatives parties, and is widely popular as a response to the perception of unaccountable power of Big Tech. It has elements that concern me and many free speech and privacy experts in the UK, particularly those dealing with age verification and young people’s access to information online, which impact all people in the UK. Yet whatever faults it might have, it, like any other British law, is subject to legal challenge and review by courts for any alleged violation of fundamental rights, just as we would expect of any democracy. The Online

Safety Act has safety valves for democratic accountability and control to protect users' rights, which can hardly be characterized as censorship.

I find it troubling that in both of these cases, we are only discussing these issues now, in the wake of significant fines to major technology companies coming from the European Union for failure to meet the expectations of lawmakers and the public. This hearing addresses mainly harms to *companies*, not to users in Europe and certainly not to the American people. The fact is that both the DSA and the OSA have been discussed for years. The DSA alone had thousands of public comments, more than 2300 amendments submitted by members of every political party. But now, after fines, after tech leaders befriend the White House and donate to inauguration ceremonies and balls, this is when these issues get the attention of this body. It is disingenuous at best. The fact is that US companies do not have the right to operate beyond the law in other countries, something they themselves often acknowledge.

As I conclude, I would encourage Members of this Committee to think about two things. First, instead of merely criticizing the sovereign right of allied democracies to figure out how to address what they see as serious harms caused by Big Tech and the broader digital age, I would ask that you consider the kind of content online that you and your constituents find problematic or concerning. Maybe it's antisemitic content. Maybe it is misogynistic content. Maybe it is content glorifying terrorism or inciting violence against communities, or against journalists. Or content encouraging children to harm themselves or, God forbid, commit suicide. Or content of the ugliest, most heinous kind, involving abuse of children or violence of other sorts. There is a troublingly long list that we could brainstorm. *How do you propose to address those harms?* How do you propose to do that in a way that is consistent with our free speech values and obligations? I strongly doubt that your response would be that each and every one of these harms is the price of free speech, so what would you have the platforms do? Assess the risk of amplification and encourage mitigation, as the DSA requires? Or just do nothing, because free speech?

These are not simple questions with easy answers. Through impressively democratic processes, the EU and the UK have made their initial choices. Do I agree with them all? Maybe not. Were they done in good faith? I believe so. Do they undermine the foundations of democratic life? Not at all. Do they constitute a new form of censoring Americans? It's not even a serious proposition.

Second, I urge this Committee to consider the real threat to Americans' freedom of expression, the one here at home. I have noted a handful of areas where this administration is putting freedom of expression under direct attack. Where is the opposition, let alone outrage, given the attack not only on speakers – journalists, public media, professors, students, whistleblowers, civil servants – but on every American's right of access to information about the issues important to our democracy and to our public's health? That, I would respectfully submit, is the real threat to American speech and innovation, and I look forward to helping this Committee, in any way you see fit, work to address it.

Thank you.

Chair JORDAN. Thank you, Professor.

We'll now proceed under the five-minute rule. The Chair now recognizes the Chair of the Subcommittee, Mr. Fitzgerald.

Mr. FITZGERALD. Thank you, Chair Jordan.

Well, one of the things we found out on our trip through Europe was that the U.S. innovates, China duplicates, and now the EU regulates.

Mr. Reed, I have a question for you first. Reports estimate that complying with the EU's Digital Markets Act, the DMA, could cost American companies up to a billion dollars every single year. That is not just a number on a page. Those costs ultimately fall on American workers, who will see fewer jobs; on consumers, who will face higher prices and fewer choices; and on entrepreneurs, who will have a harder time competing against subsidized foreign rivals.

Mr. Reed, is it correct that these compliance costs affect our economy? What does it mean for America if Europe is allowed to impose these kind of costs on U.S. innovation?

Mr. REED. The short answer is yes. Absolutely.

The more detailed answer is that unfortunately Europe has taken an ex ante approach to regulation. The United States has always done well with an ex post. As a small business entrepreneur, I actually want fraud to be gone after. I want deceptive practices to be reduced. Unfortunately, what we see in the EU is an ex ante process that ups my compliance requirements without actually giving customers the certainty of the result.

It's absolutely raising costs. For American developers, we see one of the largest problems is how do you get to those European customers if the first tranche you hit is paying a compliance lawyer to meet all these tests.

Mr. FITZGERALD. Thank you.

Mr. Price, our Federal Trade Commission Chair Ferguson has warned that government regulation can stifle, obviously, competition and innovation, and in many cases, the government itself becomes the most dangerous of all the monopolies. Isn't it the DMA—is the DMA a perfect example of that? It is weaponizes and makes it burdensome with regulations. Can you give me your comments on the DMA? What do you think is the status right now?

Mr. PRICE. Certainly, agree that European regulation generally slows down competition. It creates a situation whereby companies are unable to innovate with any degree of speed because they're constantly looking over their shoulder toward regulators around compliance. DMA, very good example of that. Not just the DMA. Of course, you have the General Data Protection Regulation, GDPR. You have the DSA, the Digital Services Act, and constantly more and more being added. It's been estimated, in the digital market space alone, since 2016—30 pages of regulation existed at the time. We're now over 1,000 and growing.

The European Union's response to American innovation is more and more regulation, generally around nebulous concepts like safetyism and protecting consumers, but very often just, particularly with the DSA, to create, unfortunately, a censorship industrial complex, as I outlined. DMA, very good example of that as well.

Mr. FITZGERALD. Thank you very much.

Mr. Reed, if I can come back to you. President Trump just secured a landmark commitment from the EU to address unjustified digital trade barriers. It was part of the U.S.–EU trade deal. I'm hopeful that this will result in the EU kind of removing—and a lot of people we talked to in Europe when we were there said that there was a possibility that they could pull back on some of this.

What action could President Trump take to hold the EU accountable to their commitment? Are there additional enforcement tools that Congress could provide to make that happen?

Mr. REED. Well, Congressman Fitzgerald, you've done great work in reaching out and sending letters to make it clear what the position of the U.S. Government is on these issues. The reality is that the Europeans themselves, through the Draghi Report, are recognizing that they have done a lot to harm those very same industries. We're hopeful that the United States can continue to use the careful power and the careful discussions through our trade negotiations and other actions to get them to step back.

We're here to talk about free speech. One of the things I would point out is we want the small businesses in Europe to also be able to speak and say, "Hey, we need these regulations pulled back."

Mr. FITZGERALD. So, just to followup to that, then, as well. A 2024 Staff Report by the Housing Oversight Committee found that FTC Chair Lina Khan was using taxpayer dollars to send agency, quote, "liaisons to the EU to assist with the implementation of the Digital Markets Act."

Mr. Reed, do you think it's appropriate for that to have a consultation or for the use of taxpayer dollars to help a foreign country implement laws that unfairly discriminate against U.S. companies?

Mr. REED. Well, we don't think taxpayer dollars should ever be used to unfairly discriminate against United States companies. We're hopeful that U.S. taxpayer dollars can be used to ensure open markets around the world and a safe environment for our entrepreneurs to succeed.

Mr. FITZGERALD. Thank you, Chair. I yield back.

Chair JORDAN. The gentleman yields back. The Chair now recognizes the Chair of the—Ranking Member of the Subcommittee, gentleman who made a big announcement this week we're sorry to hear about, but we appreciate your service. You are recognized for five minutes.

Mr. NADLER. Thank you.

Mr. Chair, there is a clear and present danger to free speech in America, but it is not across the Atlantic Ocean. It is right here in Washington sitting in the Oval Office. At a time when the greatest threat to the First Amendment rights of Americans resides in the White House, our Republican colleagues have brought us here today to talk about Europe. They've invited a fringe politician from the United Kingdom to attack the laws regulating certain conduct online in his country and the European Union, laws that are intended to combat disinformation by hostile foreign actors, hate speech, and other fraudulent or criminal conduct.

They have sounded the alarms about these foreign laws. When it comes to the Trump Administration suppression of speech in this country, Republicans are curiously and dangerously silent. There is

actually no corner of society Donald Trump and his administration have left untouched by their effort to impose their radical views on the American people and to stamp out dissent.

Since taking office, President Trump and Members of his administration have used the powers of the Executive Branch in their attempt to silence their political opponents by attacking our core democratic institutions, such as academia, the legal profession, and journalism. These are moves straight out of the authoritarian playbook.

For example, the Trump Administration has taken aim at colleges and universities trying to bend them to its will by withholding billions of dollars in scientific research funding, a short-sighted move that will set back innovation in this country by decades. In some cases, including at my alma mater of Columbia, it has demanded onerous conditions that infringe our academic freedom.

On these same college campuses, students are being kidnapped for writing op-eds, and others are being deported for participating in protests.

The Trump Administration has also targeted disfavored law firms that dare to challenge the President or to hold him accountable or simply for hiring an attorney who clashed with Trump in the past, some have said capitulated to its campaign of extortion.

The President has even taken aim at the arts and humanities, launching a hostile takeover of the Kennedy Center and censoring exhibits at the Smithsonian Institution, attempting to whitewash American history and to stamp out free expression.

He has also engaged in a dangerous campaign of harassment and intimidation on the media. For example, last October, he sued *CBS* for \$10 billion for editing a “60 Minutes” interview with Kamala Harris in a way he didn’t like.

Although the suit is widely ridiculed by First Amendment attorneys who called it meritless and absurd, *Paramount*, the parent company of *CBS News*, was desperate to win approval from the Trump-controlled FCC for its proposed multibillion dollar merger and felt pressure to settle this baseless lawsuit. Ultimately, paid \$16 million to settle the suit. Just days later, the FCC approved the merger. What a coincidence.

This followed *NBC* settling on a similar baseless Trump lawsuit for \$15 million because of corporate pressure. Now, *The Wall Street Journal* and Rupert Murdoch face their own \$10 billion lawsuits from Donald Trump over the journal’s reporting that shed new light on Trump’s well-documented relationship with Jeffrey Epstein.

I am not aware of any President in the past suing media companies or newspapers or television stations for free expression they didn’t like.

Professor Kaye, the free press is essential to our democracy and the rule of law. Can you explain how President Trump’s attacks on the news media and his attempts to sue them into silence impact freedom of expression and freedom of speech in this country?

Mr. KAYE. Yes. Thank you, Mr. Nadler. Congratulations on your announcement this week.

Well, I think it's important to note that, when we're talking about attacks on the press, it's not just about attacks on the journalists themselves or the media outlets themselves. It's about every American's right of accessed information. It's about the freedom of public debate that we get from a media that isn't intimidated either by suit or by criticism from the Oval Office, or whatever it might be. It's really important to think about these kinds of attacks, not only as those on journalists but on the entire information ecosystem.

It's also important for us to realize that we can't pick and choose what censorship we like and don't like. The Chair's statement was really correct when he said censorship used by people in power to censor critics, and that's at the core. We should be examining where do we see that. We tend to see that quite a bit in this country in an unprecedented way.

Mr. NADLER. In your testimony, you identified a number of threats to freedom of expression in the United States, including science and public health. It's also been reported that the government has a list of hundreds of words, ranging from issues related to climate change to diversity, equity, and inclusion, that it essentially has banned from government websites and uses to make funding decisions. Is this true?

Mr. KAYE. I have seen those reports, and I understand that to be true as well, particularly the use of lists of words essentially to censor research that would be conducted by scientists at universities and at national academies in the United States.

Mr. NADLER. Thank you. My time has expired. I yield back.

Chair JORDAN. The gentleman yields back. The Ranking Member is recognized for unanimous consent, I understand.

Mr. RASKIN. Yes. Thank you, Mr. Chair. This is a Minority fact sheet about the Majority's report on the Digital Services Act.

Chair JORDAN. We'll look forward to reading that. Without objection.

Mr. NADLER. Mr. Chair, I have a unanimous—

Chair JORDAN. The gentleman from New York is recognized for unanimous consent.

Mr. NADLER. Mr. Chair, I have a unanimous consent request. I ask unanimous consent to enter into the record an article, published by *Reuters* on October 29, 2024, titled, "Fact Check: U.K. woman jailed for inciting racial hatred, not posting hurtful words," which confirms that Lucy Connolly pled guilty to inciting racial hatred and was not, as claimed in deceptive social media posts, punished merely for posting, quote, "edgy words on the internet."

Chair JORDAN. Without objection. I'm sure it will be comments about that later.

Mr. NADLER. Thank you, Mr. Chair.

Chair JORDAN. The gentleman from California is recognized for five minutes.

Mr. ISSA. Thank you, Mr. Chair.

Professor Kaye, being a fellow Californian, I'm sure you're aware of and could correct the Ranking Member that our own Governor has sued *Fox* for \$787 million. Isn't that correct?

Mr. KAYE. I'm not familiar with that.

Mr. ISSA. Well, I didn't think you would be, but neither was the Ranking Member, apparently.

Mr. FARAGE, do you have the equivalent of what the Professor Kaye was talking about, which is the Article 19? You're a signator to that international convention, if you will, on free speech. Do you feel that it is being observed in the U.K.?

Mr. FARAGE. We may be a signatory to it—and we may—and the Prime Minister today in the House of Commons, was talking about free speech. Indeed, when President Trump—I was with him in Scotland the other day. He talked about our proud history of free speech. What people say and what they do are two very different things. The argument is that the Online Safety Act—I'll repeat what I said earlier—may have been designed by the Tories with the best of intentions, but it's turned out to be the sledgehammer that misses the nut. It's not protecting kids. It is damaging—

Mr. ISSA. Going back to United States, you don't have a constitutional framework that is the equivalent of ours in that you have no First Amendment absolute guarantee. Is that correct?

Mr. FARAGE. It is correct. Our Constitution isn't in written form. It's based on common law that's evolved and adapted over centuries, and your Founding Fathers. The best bits—

Mr. ISSA. It appears in Europe and in the U.K., free speech is whatever the bloody members think it is at a given time, and it changes with the will of the people they elect. Is that right?

Mr. FARAGE. Yes. I don't think at any point we've really had a proper debate about infringement of free speech until COVID. I think COVID changed the game.

Mr. ISSA. OK.

Mr. FARAGE. The government, social media platforms, and Big Media, suddenly there were arguments that needed to be made that were banned.

Mr. FITZGERALD. Mr. Reed, to your knowledge—and I would go to the professor, but he seems to be ill-informed even on our own Governor's lawsuits. First Amendment—in the United States, you can sue for anything. Do you often win if you sue against institutions like *Fox*? *Wall Street Journal*? Isn't it true that effectively the First Amendment creates a tremendous shield against anything except malicious and deliberate lies?

Mr. REED. Not my area of expertise. We can absolutely talk about apps. As an American, yes, that is absolutely my understanding.

Mr. ISSA. OK. You have no such protection—just the opposite. You have no idea in Europe or in Britain about what is going to be allowed or not allowed—in other words, you don't know where to call balls and strikes. You just simply have to pay the fines when you get to them.

Mr. REED. Well, I only carry one passport. I am more aware of the American laws. That is my understanding. Correct.

Mr. ISSA. OK. Now, we do have a First Amendment, and we are a signator to Article 19. I'm going to draft—I'm going to go a little bit into opinion. Now, I'm the author of "No Censorship on Our Shores," meaning—Mr. Price, I know you're familiar with it. I'm not going to tolerate censorship overseas and then have those people come to United States. Now, Professor Kaye may object to the

idea that I'm not going to let people who have been involved in censorship come into the United States because it's unacceptable to get away with that overseas.

Let's be reciprocal for a moment, for Mr. Reed and for everyone. If we're seeing Europe and the U.K. and other countries stifle what we are guaranteed in the U.S., and particularly arrest somebody for what they said while on U.S. soils, shouldn't this administration be just as strong and reciprocal that we will not tolerate that activity even off our shores? Isn't that ultimately what the United States must make available to the world? Essentially guarantee a First Amendment to anyone anywhere if they want to do business with the United States? Mr. Price.

Mr. PRICE. The leadership of the United States on this issue has been transformative for the discussion in Europe. From the President, Secretary Rubio, and the Vice President, they have transformed the issue. I hope more comes.

Mr. ISSA. To the fringe Parliamentarian, as you were called and probably the future Prime Minister, what say you?

Mr. FARAGE. Yes. For Mr. Nadler's benefit, it's a very big fringe, and we're doing rather well, but there we are.

Look, if you were to follow, Mr. Issa, the logic of your argument that you were to ban people from entering America, it would pass legislation that was prejudicial against American companies or American citizens and would threaten them with potential arrest if they came across the other side of the pond.

I think the practical difficulty with that is you'd have to ban the British Government, the entire Labour Party. I'm not sure in practical terms that it works, but I understand the sentiment.

Mr. ISSA. Thank you. I yield back.

Chair JORDAN. The gentleman yields back. The gentlelady from California is recognized for five minutes.

Ms. LOFGREN. Thank you, Mr. Chair.

Let me be clear. I am not here to defend the European laws, and I've often criticized the approach of European countries to internet-related issues. It's really generally wrongheaded. I don't really think that's the point of this hearing.

The real threat to the First Amendment isn't coming from Europe. It's coming from Republican-led States that have introduced bills to close the open internet and, most of all, from Donald Trump, who's actively trampling free speech here at home.

It's rather absurd for this committee to spend our time criticizing laws we have no jurisdiction over while ignoring the countless ways the Trump Administration is tearing up the First Amendment.

If this Committee is really serious about protecting free speech, we need to focus on the Trump Administration's literal assault on the First Amendment that's happening right here at home.

So, Professor Kaye, I have a series of questions for you.

Do you think that arresting international students for being critical of U.S. foreign policy is an attack on the First Amendment?

Mr. KAYE. Yes, absolutely.

Ms. LOFGREN. Isn't that because it's not just the right of the person to speak but the right of all the rest of us to hear. The First Amendment isn't just about the Speaker. It's also about the listener. Isn't that correct?

Mr. KAYE. Right. That's true.

Ms. LOFGREN. Now, a Federal judge agreed with you and with us, warning that arresting students for their views chills the speech of millions of Americans. The government can't punish speech simply because they don't like its content.

This here has been mentioned by others. President Trump's FCC blocked the CBS merger until the network agreed to change its programming and install a so-called bias monitor. The head of "60 Minutes" resigned, saying he could no longer make independent decisions about the news.

Doesn't that sound like a violation of the First Amendment's guarantee of a free press?

Mr. KAYE. It does. It's important to underline that restrictions on free speech don't come just from a law or the police outside your door. It can come from a whole network of intimidation, of public attack that really does chill speech, including the kinds of attacks that lead to deportations of people who are here just to study.

Ms. LOFGREN. Since January, the Trump Administration has revoked over 6,000 student visas because the speech of these students didn't align with what Trump agreed with, and now they're doing the same to immigrants who are applying for citizenship.

Does that raise First Amendment concerns, do you think?

Mr. KAYE. It raises First Amendment concerns, but it's also—in a broader way, it's raising concerns about our tolerance of dissent, of this government's tolerance of criticism.

Not everything is specifically about the First Amendment and the ability to enforce it in our courts. Sometimes it's about leaders in our country actually promoting a culture of open debate and open access to information, the very things that we've heard a lot about already this morning, a kind of marketplace of ideas that some people still talk about.

That's not just about what the law provides. That's also about how our leaders behave toward that kind of open debate.

Ms. LOFGREN. The Federal Trade Commission held up a merger of two major advertising firms Omnicom and Interpublic until they agreed to run ads on X, essentially a government-ordered gift to Elon Musk.

Isn't that a blatant violation of free speech standards, forcing private companies to promote speech they otherwise wouldn't?

Mr. KAYE. It's certainly a kind of extensive use of the term of jawboning that has come up over the last several years, and it's a kind of pressure that absolutely interferes with free speech. It's also the kind of weaponizing of our Federal agencies in support of a particular actor, a particular businessperson.

Ms. LOFGREN. It seems to me that these actions affect not just the companies or the individuals that are the target of this abuse, but they're also to scare off everyone else from engaging in that behavior. Would you agree with that?

Mr. KAYE. Absolutely. That is what we're seeing right now with just this essentially an avalanche of restrictions and intimidations of free speech in this country that it's designed to chill that kind of debate.

It's designed to chill whistleblowers, to chill scientists, to chill professors and students. That's essentially what we're witnessing right now.

Ms. LOFGREN. My time has expired, Mr. Chair. I yield back.

Chair JORDAN. The gentleman yields back.

Mr. ISSA. Mr. Chair, I ask unanimous consent.

Chair JORDAN. An UC request from the gentleman from California.

Mr. ISSA. Yes. I ask unanimous consent that the *Politico* news that was dated June 27, 2025, saying "Gavin Newsom Sues for 787 Million," be placed in the record.

Chair JORDAN. Without objection. Mr. Price, has anything in the Digital Services Act changed in the last year?

Mr. PRICE. No, sir.

Chair JORDAN. It hasn't been amended? It hasn't been changed at all?

Mr. PRICE. No, sir.

Chair JORDAN. Everything Mr. Breton wrote one year ago—well, August 12, 2024, that's still in place, where he said to an American running an American company about an interview that was yet to happen, a future happening interview, threatened this individual, none of that has—nothing in the law has changed that would change the actions this individual took?

Mr. PRICE. Nothing in the law.

Chair JORDAN. Just because Mr. Breton is gone doesn't mean Ms. Virkkunen can't do the same darn thing, right?

Mr. PRICE. Precisely.

Chair JORDAN. Yes, and that's the concern. Mr. Price, is the statement "we need to take back our country," is that statement hate speech?

Mr. PRICE. We don't really know what hate speech is, it's so vague, and that's the problem with it. I wouldn't regard that as hate speech.

Chair JORDAN. Well, you may not, but the EU regulators do, because they had a workshop on May 25th where—and this is part of our investigation, material we've subpoenaed. They gave us this information, and they said it is hate speech. That's a concern, right?

Mr. PRICE. Yes, sir.

Chair JORDAN. It could be made by an American and be termed hate speech, and there could be some ramifications for Americans' First Amendment liberties. Is that accurate?

Mr. PRICE. Yes, sir.

Chair JORDAN. OK. Mr. Price, what's a trusted flagger?

Mr. PRICE. A trusted flagger is an NGO or a private organization that's recognized under the DSA. If they identify or a complaint has been made—

Chair JORDAN. Wait, wait, wait. Recognized by who?

Mr. PRICE. Oh, the terms of the DSA. Oh, and the national regulators and the commission as well.

Chair JORDAN. OK. They do what? They're recognized by the government. They're approved by the government, right?

Mr. PRICE. Yes.

Chair JORDAN. What do they do?

Mr. PRICE. If they identify content that they regard as illegal content, the companies have to give priority to removing that content.

Chair JORDAN. People that the government approves tell companies what they can allow on their platform and what they can't, right?

Mr. PRICE. That is correct, sir.

Chair JORDAN. The same people who approve these folks are the same people who conducted the workshop and said "we need to take back our country" is hate speech. Is that fair to say?

Mr. PRICE. That is correct, sir.

Chair JORDAN. That's the concern. What happens if these trusted flaggers approved by the government, the same government that says "we need to take back our country" is hate speech—by the way, that statement is made probably more by Democrats right now than Republicans. The head of the Democratic National Committee made that statement like three months ago at a big Democrat rally or something they were having.

The same people who say that's hate speech approve the trusted flaggers, who then tell the platforms what they can and can't have on their platform. If they don't agree with what the trusted flaggers say, there are civil penalties. Is that right?

Mr. PRICE. Yes, sir. Both under national law and the DSA, investigations begin, and there's a whole process that can result in enforcement and then ultimately crippling fines for companies.

Chair JORDAN. Those crippling fines or civil penalties can be what, 5–10 percent of global revenue, depending on the Online Services Act or the DSA?

Mr. PRICE. Under the DSA, six percent.

Chair JORDAN. Six percent? Wow, that's a lot of money, because these are big companies, right?

Mr. PRICE. Yes, sir.

Chair JORDAN. Now, Mr. Farage, it's not just civil penalties, though. This is where it gets really scary, because my understanding is they can—there's criminal penalties. In 2023, in the United Kingdom, there were 12,183 arrests for offensive posts, 12,000 people arrested for things they posted online that some trusted flagger approved by the government, the same government that says what's being said at the Democratic National Committee, "we need to take back our country," is hate speech.

That's a scary scenario. Is that right?

Mr. FARAGE. Yes. They're math statistics. Some of it comes under noncrime hate incidents. You've said something on social media. Someone's taken objection. You get the knock at the door from the police sort of warning you that if you do this again something may happen.

This has now been broadened out. Mr. Price made the point, what is hate speech? How do you define hate speech? That's the problem, isn't it, with all these laws?

Chair JORDAN. Yes.

Mr. FARAGE. That we finish up in a position where local police forces, et cetera, have to choose their own interpretations.

Again, as I said to you earlier, the timing of this hearing today is perfect, because the head of the Metropolitan Police who arrested

Graham Linehan at Heathrow Airport, he's thrown the ball back now to the British Home Secretary and the government to say, "Please tell us what is this law intended—what are we supposed to, as the police, to do?"

We're going to have a much more rapid debate about this, but my worry is it may get worse, if I may quickly.

Chair JORDAN. Yes.

Mr. FARAGE. Because the Labour Government now is intending to pass a law that has a definition of Islamophobia. They're intending to put that into law. That effectively will mean that criticism of a religion, mocking of a religion would become an offense, and that's totally against everything. We've always given the Pope a hard time. We've always given the Archbishop of Canterbury a hard time. We're finishing up kind of with two-tier law and two-tier justice, and that's very concerning.

Chair JORDAN. Yes. I have one other question I'd like to get from maybe you and Mr. Price, if I could.

Speaking of religion, tell me what performative prayer is. This is something we've seen in, or we've discovered in our investigative work. Maybe we'll start with Mr. Price and then go to Mr. Farage.

Mr. PRICE. Yes, sir. We have a client at the moment who's being prosecuted in or who was arrested in Bristol, a Christian pastor preaching about the differences between Christianity and Islam. He was then assaulted by a group people identifying as Islamic people. The police arrived, and they arrested him, not the people who assaulted him.

This is the State of play in the United Kingdom in terms of free speech and, unfortunately, across Europe. I have a whole file of cases here where people have been arrested for criticisms of Islam where they're being prosecuted. Things are getting pretty bad.

Mr. FARAGE. Yes. That extends to abortion clinics, doesn't it? The abortion debate in Britain and Europe is different to the abortion debate in America. It's in a different place. We have seen people warned or arrested if they've been seen to be praying outside abortion clinics, even if they're doing it silently. Hence, it's performative in the sense they're doing that.

I'm afraid you now have to be a certain distance away from one of these clinics. If other Members of the public object and say that your praying there is causing them psychological harm, well, the police may intervene.

Chair JORDAN. Thank you.

Mr. KAYE. Chair, may I comment on one of these issues very briefly?

Chair JORDAN. I'm fine if the Ranking Member—OK. I may have to ask you a question after you comment when you do that. Go ahead.

Mr. KAYE. I realize I'm opening the door.

Chair JORDAN. Yes.

Mr. KAYE. I just wanted to note on this question of what is hate speech. First, the question of identifying hate speech is not something that happens in a vacuum. In the U.K., in Europe, there are very strict rules around the definition of hate speech that connected not merely to speech but to incitement.

It's incitement to violence or hatred or discrimination. That's just an important baseline point, that this isn't just about pure speech. It's about the kind of speech that might lead to violence.

Related to that, when you mention this hypothetical of "take back our country" and is that hate speech, my understanding is that came up in the context of a hypothetical related to persistent harassment of a Muslim girl, and that was the hypothetical.

The question was, in that particular context, did that constitute a kind of incitement to some violence against this young girl. It's important to put some of these kinds of abstract questions into that kind of context.

Chair JORDAN. Professor, did you agree with the Biden Administration when they established the Disinformation Governance Board?

Mr. KAYE. I didn't take a position on that. I do think that disinformation is an issue that—

Chair JORDAN. Do you think the government should be deciding what we can say and what we can't?

Mr. KAYE. Absolutely not.

Chair JORDAN. OK. Well, that's good to know. I'll give the Ranking Member a little extra time if he so desires. With that, I'll recognize the gentleman from Tennessee.

Mr. COHEN. Thank you, Mr. Chair.

First, I was pleased to join on the codel. It was a very fine, good codel, and I appreciate the Chair and my friend and my classmate from 2006.

One of the things I found most heartening about the codel, we had a tour of Parliament. Along with us were two Conservative Members who were—I think they were either in House of Lords—maybe one was in Lords and one was in the House of Commons, but they talked to us about the Magna Carta and about how it's the basis of our laws. There was a copy there and copies here and there and whatever, but how precious the Magna Carta is.

They suggested to us that a legislator—this was in the House of Lords where he spoke—that a legislator is not somebody who votes. A legislator's job is not just to vote; a legislator's job is to stand up to an out-of-control executive. Very telling for British Parliament Members to instruct us on what we should be doing, and I thank him for that.

I'm a strong supporter of free speech and always have been, but I find this hearing a bit disingenuous because of the problems we have here in America. Free speech includes the speech of those with whom we disagree, people who say vile things. In my case, racist and antisemitic and Islamophobic-type speech is something I find foul, but it's protected by free speech, and offensive speech as well.

That does not mean that there aren't limitations, however. Speech can be harmful, dangerous, and infringe on other people's rights. It isn't a free-for-all, though. The U.S. and our First Amendment does not have a monopoly on what constitutes free speech.

There is speech protected by the First Amendment, like corporate political donations, which is misplaced and misapplied, and there are times when our legal system itself suppresses disfavored speech.

I passed the SPEECH Act in the 111th Congress. I think Mr. Issa was my cosponsor. It dealt with the fact that Britain is a favored Nation for defamation actions. It's easy to get a defamation judgment there. We would not allow those judgments to be recognized here in our country under the SPEECH Act if the activities that took place did not conform to our laws on free speech.

I would think Mr. Farage could try to look at changing their laws on defamation and can contour more to what we see in the First Amendment, and that might be good for the people in England.

Two of my good friends, most revered friends, were from England, London, Christopher Hitchens and Sir Bill Browder, and they've written books, and they could be subject to such laws as well. Work on protecting your English authors who from Shakespeare on, they've been pretty good.

We used to be bipartisan in these efforts to look out for free speech, but President Trump has taken on free speech in ways that would never have been thought about.

Ms. Lofgren brought some points to Professor Kaye. It's not just laws; it's autocratic actions as well. President Trump, as Mr. Dalio said clearly, but so many other people have said it and felt it, is bringing us on the verge of an autocratic State.

His actions in trying to bring law firms to their knees, colleges to their knees, Federal employees, students, et cetera, is antifree speech, antiopportunity, and fear for themselves and their futures if they speak out. Even Congresspeople could be subject in the future, I'm sure, with some of the ways we're seeing this Justice Department act with questions about their speech.

Our President has sued every broadcasting company almost. They've gone after *CNN*. They've gone after *NBC*. They pick some of these fringe people to pick on the Ukrainian President about his attire. It's bizarre what's going on in our country, and I'm concerned. They try to silence and shake down those who don't conform to whatever the President thinks.

We need to understand that his review of the Smithsonian exhibits and other—African American Museum, in saying there was too much emphasis on how bad slavery was. I don't know how you can find anything good about slavery. Edwin Starr, who's a singer, would tell you about slavery, like war, there's absolutely nothing good about it.

We shouldn't be trying to—Professor Kaye, how would you compare, from your expertise, how we evaluate and compare with relative states of freedom of expression written in the United States. Where do you see the comparisons?

Mr. KAYE. Well, right now we're at a very dismal place in the United States. I do think that it's also worth thinking a bit about some of the issues that Mr. Farage raised.

For example, he mentioned the issue of a law against Islamophobia, but there's also a lot of discussion about laws against anti-Semitism and against other attacks on people on their status, on the basis of their religion and so forth.

Those are actually valuable conversations to have, but you can't just sort of pick and choose which censorship, or which restrictions are OK, and which are not. You really need to have a general view as to what's appropriate.

Again, the Chair's point about censorship being a focus on criticism is the appropriate one. To the extent that we can make that comparison, which country is really doing more or which countries are really doing more to tamp down, to silence critics. That's the harm to our democracy. Right now, I see that more in the United States than I see in Europe or in the U.K.

Chair JORDAN. The time of the gentleman has expired.

Mr. COHEN. I'd just like to say welcome. I have a lot of British friends and respect for Britain. I have a great time when I'm there, and I'm happy we won the war.

Chair JORDAN. The gentleman yields back.

The gentleman from Arizona is recognized.

Mr. BIGGS. Thank you, Mr. Chair.

The statement that Trump is bringing us to the edge of being an autocratic state in and of itself disproves the premise of that statement. Think about that. It's absurd.

Under the First Amendment, the general proposition is that government should not be regulating the content of its citizens' speech. You have the opposing idea that it's the responsibility of government to decide not only what its citizens should think, but what content they are allowed to see and engage with.

The sum of the reality of the government regulation of free speech may sound like it's a distant authoritarian notion that won't come to the United States of America, but I would ask you to just think back again. I'm reminded of Orwell's "1984."

Think of the memory hole that people are trying to memory hole right now, some even on this panel, sir, who don't want you to realize how bad a government can be when it attempts to censor right here in the United States. For instance, President Obama—this is from an article. I'd ask unanimous consent.

Chair JORDAN. No objection.

Mr. BIGGS. President Obama has been the most aggressive administration in history, not only going after whistleblowers, but pursuing reporters who write their stories.

How about this one, the Biden legacy. How about this whole stack—and I'll put these in just a second. It's convenient to memory hole what the Biden Administration did, what they did to suppress dissent and contrary opinion. I'll get into that in a second.

The actions of European governments show that the type of censorship by government is not only possible but very much doable. Under the guise of public safety, government officials in Europe have suppressed and arrested individuals who have simply engaged in political speech that is arbitrarily deemed to be unspeakable by the government.

This kind of regime doesn't just appear on the scene, though. It takes time to develop. We've seen it here, and that's why I'm taking this opportunity to remind you that FISA must be reformed. The FISA must be reformed.

Mr. Price, you alluded to this, and so I have this document right here that compares the GDP growth of "*GDP Growth Comparison: EU vs. US (1998–2023)*." The U.S. has grown about 87 percent, almost 90 percent. The EU has increased its GDP by about 13 percent. You have almost a six X variable there.

The question is, when you set these kind of draconian fines, and you set up a system that is amorphous and almost indefinable, might it not also have—more than just even the safety, ostensible safety of the society, might it lead to trying to regulate when you can't innovate?

Mr. PRICE. That's very much the case, sir. We've seen it not just in the area of speech but, obviously, as we're discussing, the Digital Markets Act, data protection and so on.

Europe is facing some very serious structural problems demographically, financially. A lot of what I think is inspiring the DSA is what we saw from Germany beginning after the election of President Trump and after Brexit, which is to control the narrative, slow down speech.

Into that then, they're throwing a very wide net out that's affecting all kinds of legitimate speech. We talked about my client, Paivi Rasanen in Finland, who was prosecuted for sharing a tweet from the Bible. It's absolutely outrageous. That becomes now the standard that the DSA will set, not just for Europe but possibly and predictably globally.

Mr. BIGGS. Similarly, Mr. Reed, that's going to happen to your app innovators. They're not going to be able to have access to 440 million people in a marketplace in Europe without having to go through essentially government censorship.

Mr. REED. Well, you hit it earlier when you said that their focus has been on regulating or adding legislation. It isn't one piece of regulation or one piece of legislation that has caused problems for our innovators both in the U.K., in the EU, and in America. It's been a stacking effect because, if you start with one regulation, I can handle that. I'll build that into my business. It's when you have one, then two, then four, and then six.

What's been the biggest problem for growth has been their answer is that old quip the beatings will continue until morale improves. We often feel that way about regulation. Innovation will get regulated until we get more innovation. I don't think that will work out.

Mr. BIGGS. Thanks, Mr. Reed.

Now I'll finish with you, Mr. Farage. What happened to the great countries of the West? Seriously, and their liberal understanding of civil rights and the ability to speak one's mind openly without fear of arrest or censorship or abuse of harassment by the government?

Mr. FARAGE. What went wrong in many ways is we forgot why we actually had those liberties and had those freedoms in the first place. We forgot that—as I mentioned or touched on earlier, we forgot the huge sacrifices that were made by citizens alive at that time to defend those principles against tyranny and against dictatorship.

We've lost our way in understanding why we are as we are. That has permeated through the education system where I'm not sure we've been teaching good values.

The slavery comment was made earlier. I completely understand, there's nothing good about slavery. Take our country. We spent decades driving slavery off the high seas. While we were perpetrators to begin with, we actually in the end drove it off the high seas.

We need to teach our kids a sense of balance about our history and about the sacrifice that's been made. That's my feeling.

Mr. BIGGS. Mr. Chair, I have some unanimous consent.

Chair JORDAN. The gentleman is recognized.

Mr. BIGGS. (a) "GDP growth comparison GDP Growth Comparison: *EU vs. US (1998–2023)*."

(b) "Biden's press freedom legacy: Empty words and hypocrisy."

(c) "Massive government censorship during and about COVID," from the *New Civil Liberties Alliance*.

(d) "The Fifth Circuit agrees that Federal officials unconstitutionally coerced or encouraged online censorship," under the Biden Administration.

(e) "Information during the pandemic suppressed."

(f) "Feds blew \$267 million fighting 'misinformation' under Biden—as Trump vows to ban 'censorship cartel.'"

(g) "How the FBI violated the privacy rights of tens of thousands of Americans."

(h) "The inspector general report on FBI's FISA abuse tells us one thing: We need radical reform."

(i) "U.K. comedy writer Graham Linehan arrested over social media post criticizing trans activist."

(j) "Why did Lucy Connolly receive a 31-month sentence for Southport tweet?"

(k) "Policing thought crime should have no place in the U.K."

(l) "Britain's emerging police State."

(m) "Knock, knock, It's the Thought Police: As thousands of criminals go uninvestigated, detectives call on a grandmother. Her crime? She went on Facebook to criticize Labour councillors."

(n) "U.K. Steps up Free Speech Crackdown as Armed Police Arrest Comedy Writer Graham Linehan at Heathrow Airport."

(o) "Britain's New Thought Police: How Labour Plans to Police your Online Speech."

Thank you, Mr. Chair.

Chair JORDAN. Without objection.

Mr. COHEN. Mr. Chair, I'd like to offer two unanimous consent requests. I'm not going to challenge the forest as much as the gentleman is, but two records, letters to you, one to you and one to Commissioner Virkkunen pushing back on the framing of this hearing from 30 EU and U.S. academics.

Chair JORDAN. Thank you. Without objection. The gentleman from Georgia is recognized.

Mr. JOHNSON. Thank you, Mr. Chair. Mr. Farage, welcome to the United States of America. This isn't your first time here, correct?

Mr. FARAGE. Correct.

Mr. JOHNSON. You were here in 2024 in Milwaukee, weren't you?

Mr. FARAGE. I've been coming here since 1982 on a very regular basis. I work for American companies.

Mr. JOHNSON. For what purpose were you coming to Milwaukee for? Why did you come to Milwaukee?

Mr. FARAGE. I've been to Milwaukee many times. I think that was some type of event. It was a convention.

Mr. JOHNSON. In 2024, it was the convention, the Republican Convention.

Mr. FARAGE. Yes. I think that's right. I think you're right.

Mr. JOHNSON. The Trump convention.

Mr. FARAGE. I think you're right. Very good.

Mr. JOHNSON. Where Trump was coronated.

Mr. FARAGE. Well, he won, didn't he? That's what happened.

Mr. JOHNSON. He had already won. We already knew who had won.

Mr. FARAGE. It's called political policy.

Mr. JOHNSON. It was his coronation, and you attended. You also attended Trump rallies, correct?

Mr. FARAGE. I've attended lots of Trump rallies.

Mr. JOHNSON. Make America Great Again rallies, many of them.

Mr. FARAGE. Yes, optimistic, happy, wonderful, and joyous events.

Mr. JOHNSON. You publicly endorsed his—

Mr. FARAGE. I thoroughly enjoyed them. I've even spoken about—

Mr. JOHNSON. You endorsed him for President, and you attended his election night watch party.

Mr. FARAGE. I did.

Mr. JOHNSON. You consider Trump to be your mentor, correct?

Mr. FARAGE. No.

Mr. JOHNSON. He's not your mentor?

Mr. FARAGE. No. Sorry.

Mr. JOHNSON. He is somebody who you want the support of, and you have the support of.

Mr. FARAGE. Yes, I do. I think he's a very, very brave man.

Mr. JOHNSON. Because you're getting ready to run for Prime Minister of Great Britain, correct?

Mr. FARAGE. Oh, I've been trying for years, yes.

Mr. JOHNSON. As it stands right now, you head up a party. How many seats in the Parliament are there?

Mr. FARAGE. Six hundred and fifty-one, if you include the Speaker, that is.

Mr. JOHNSON. Six hundred and fifty-one.

Mr. FARAGE. Yes.

Mr. JOHNSON. How many are a part—how many seats does your party hold?

Mr. FARAGE. How many seats do the opinion polls say we're going to get next time? Is that the question?

Mr. JOHNSON. No. The numbers don't lie.

Mr. FARAGE. Oh, I see.

Mr. JOHNSON. You only have four seats, right?

Mr. FARAGE. I'm afraid so, yes.

Mr. JOHNSON. You are indeed the leader of a fringe party.

Mr. FARAGE. Oh, I'm a fringe, all right. Don't worry about that. Yes, absolutely. Everything I've ever done.

Mr. JOHNSON. As a fringe party leader seeking to run for Prime Minister of Great Britain, you need a lot of money to blow up like the MAGA movement has blown up.

Mr. FARAGE. What you need is a message of truth and a message of hope, and—

Mr. JOHNSON. Well, you need money also, right?

Mr. FARAGE. Money is helpful, but it's not the primary thing you need.

Mr. JOHNSON. The first thing that came out of—

Mr. FARAGE. No, you're wrong.

Mr. JOHNSON. The first thing that came out of the Chair's mouth this morning during his opening statement had to do with Elon Musk.

Mr. FARAGE. Yes.

Mr. JOHNSON. You're carrying water for Elon Musk today, aren't you?

Mr. FARAGE. From what I can see, Elon Musk is abusive about me virtually every single week, but it's a free country, so he's entitled to—

Mr. JOHNSON. You never stop trying to ingratiate yourself with him.

Mr. FARAGE. Wrong, wrong. You're wrong.

Mr. JOHNSON. Well, you are familiar with the fact—

Mr. FARAGE. You're wrong.

Mr. JOHNSON. You are familiar with the fact, Mr. Farage—

Mr. FARAGE. I had a public fallout with Elon Musk.

Mr. JOHNSON. —that Donald Trump's campaign benefited to the extent of \$250 million from Elon Musk.

Mr. FARAGE. Well, I mean how much did—

Mr. JOHNSON. You are familiar with that, correct?

Mr. FARAGE. How much did Mr. Zuckerberg give to the Democrats? This is what happens—

Mr. JOHNSON. Well, he didn't give any money to the Democrats.

Mr. FARAGE. Let me be clear.

Mr. JOHNSON. He was sitting behind Trump with the rest of the tech bros. You are here today—

Mr. FARAGE. I'm going to answer your question.

Mr. JOHNSON. —to impress all those tech bros, including Elon Musk. Isn't that correct?

Mr. FARAGE. I'm going to answer your question very, very honestly.

Mr. JOHNSON. You need money from Elon Musk to get elected Prime Minister of Great Britain. That's the bottom line. Is that correct?

Mr. FARAGE. We can sit here all day as long as the Chair allows us. I don't mind. I had a very public falling-out with Elon Musk early in the year over a political issue.

Mr. JOHNSON. You're still trying to get some money from him, though. It's not about the prior dispute.

Mr. FARAGE. I'm sorry. It was a fundamental—

Mr. JOHNSON. You are trying to ingratiate yourself with the tech bros by coming over here and—

Mr. FARAGE. Can I get a cup of coffee or something?

Mr. JOHNSON. You're arguing—

Mr. FARAGE. I've been sitting here for a long time.

Mr. JOHNSON. What you're arguing is that the citizens of Great Britain should pay a tariff if these tech companies are not allowed to violate the laws of Great Britain.

Mr. FARAGE. No, I'm not. That was a falsehood put out by the British Prime Minister today.

Mr. JOHNSON. You didn't say in your statement—

Mr. FARAGE. I have never suggested any of this kind—

Mr. JOHNSON. Your statement, you don't call tariffs as tools to force Great Britain—

Mr. FARAGE. My statement is very clear. My statement is—

Mr. JOHNSON. You are not calling for tariffs and trade sanctions?

Mr. FARAGE. It might surprise you. It might surprise you to know that trade. No. That trade—you may not know this, but trade between our countries is actually rather important. You are the biggest investor in our country. We're not the biggest investor in yours.

Mr. JOHNSON. What you've done is—

Chair JORDAN. The time of the gentleman from Georgia has expired.

Mr. JOHNSON. What you did is come here to the United States—

Mr. BIGGS. Regular order, Mr. Chair. He's been rude. He's been disgusting. He's been hilarious.

Chair JORDAN. Hang on. Hang on. The gentleman's time is expired.

I feel like we should give Mr. Farage a chance to respond to one of the many questions he was not allowed to respond to. We'll give you 30 seconds, Mr. Farage, and then we'll move on to our next one. Because I know Mr. Farage does have to leave in about an hour. We want to get through as many Members as we can.

Mr. FARAGE. No. 1, I had a public fallout over a political issue with Elon Musk. I can't be bullied by anybody. I haven't changed my mind.

The last time I looked, he was being spectacularly rude about me yesterday. That's life. If we believe in free speech, we live with it. What I've made very clear—

Mr. JOHNSON. You're fixated on—

Mr. FARAGE. What I've made—now, this is my time, I think.

Chair JORDAN. Yes. You got 19 seconds.

Mr. FARAGE. Thank you, Mr. Chair.

What I've made perfectly clear in this paper is the situation we've got with successive pieces of legislation, including now the Online Safety Act, which is a danger to trade between our countries.

The allies and friends and trading partners have honest conversations with each other. I hope many American companies and politicians have honest conversations with the British Government.

Chair JORDAN. You're done.

Mr. FARAGE. I've not suggested sanctions at all in any way.

Mr. JOHNSON. Good luck with your race.

Chair JORDAN. The gentleman from California is recognized.

Mr. MCCLINTOCK. Thank you, Mr. Chair.

First, I'd remind my colleague from Georgia that President Trump was openly nominated after decisively winning the primary votes across the country. That's in open contrast to the Democratic nominee, who was decreed the nominee of her party in spite of the fact she did not receive a single primary vote. I would be a little careful if I were him about talking about coronations.

I do agree with my Democratic colleagues that we need to be on guard against suppression of free speech, whether it's coming from the Left or the Right. I disagree with them that the Chief Executive regulating the Executive Branch's communications or con-

forming executive agencies and grantees to executive policy is somehow a threat to free speech.

The Executive Branch is designed to speak with one voice, a voice chosen every four years by the people. I disagree with them that suing for defamation is an infringement on speech in a legal system where the truth is an absolute defense.

The threat to democracy is from the government regulating other people's communications. We're now discovering that the Biden Administration used the FBI to pressure tech companies to censor the communications of American people over a free discussion of everything from COVID policy and origins, the Russian collusion hoax, Biden family influence peddling, and climate change. I myself was the victim of this censorship when I warned of the damage that the COVID lockdowns were causing.

Now, democracy assumes that the best way to separate truth from lies or wisdom from folly or good from evil or love from hate is to place the two of them side by side and then trust the common-sense and judgment of the people to know the difference.

This assumes that the people have full and unfettered freedom to express themselves and to challenge the claims and opinions of each other. Now, some of our colleagues seem to be suggesting that we should transfer that prerogative from the people to the government. That's the very definition of authoritarianism.

Mr. FARAGE, what are your thoughts?

Mr. FARAGE. Yes, I agree with that. As citizens, we should be free to make our minds up, to express our opinions, to a large extent to make our own mistakes, provided—and we all know there's a limit to free speech.

The professor talked about incitement earlier, and, of course, we would be absolutely joined together on that. We don't want incitement. We're accepting—incitement. If people put out something irrational or inciteful but very quickly put their hands up and apologize and learn their lesson, that's kind of how the world is. I do not want government to be the arbiter of what I should think.

Mr. MCCLINTOCK. We have a word for that. It's *demos kratos*, rule by the people—Democracy.

Mr. FARAGE. Yes, I'm with you on that. I also agree with you—the COVID. I touched on this earlier. It was during COVID when rational debate about many important issues, be it mask wearing, be it lockdowns, rational debate on these things was, frankly, stamped out. This was supported by big social media companies, many—not *GB News*, obviously, but many TV stations, et cetera. It's a very dark period that we're coming out of.

Mr. MCCLINTOCK. In this country, what we're discovering is that was being done under pressure by the FBI directed by the Executive Branch of the government under Joe Biden.

Just briefly, how did this happen to the U.K. and the EU, and what lessons should we be drawing here today?

Mr. FARAGE. Well, we joined the EU half a century ago, or the EC as it was then called. It was a huge mistake, in my opinion. We forgot about common law, the kind of law that you guys have always enjoyed too. We sort of gradually transferred to a European way of thinking.

We incorporated a Human Rights Act, which kind of meant really that—as opposed to being born free, under a human rights regime, the State gives you your rights, which you were supposed to be incredibly grateful, but they can take them away whenever they like.

We lost our bearings. The U.K. lost its way. It became obsessed about doing things the European way, countries, frankly, that don't have that history of liberty, freedom, and democracy that we do.

Mr. MCCLINTOCK. Finally, what do you see as the shape of things to come? Are we going to regain these freedoms or lose them?

Mr. FARAGE. Well, ultimately the people have to get what they vote for. One of the reasons that we are seeing an extraordinary political revolution that is happening in parts of Europe, and if you believe the polls, what is happening in the United Kingdom right now is we want a government that comes in and gets rid of all these laws and starts again and starts on the basis, yes, we want to try and protect kids—and we will do whatever we can when it's practical to protect kids from serious harm online—but we will get back to the idea that I can insult you; you can insult me.

Mr. Raskin and I can have our chats, but we do it in a spirit that's not inciteful and in a way that honors those who have built our great countries. Thank you.

Chair JORDAN. The gentleman yields back. Well done.

The gentlelady from Washington is recognized.

Ms. JAYAPAL. Thank you, Mr. Chair.

It wasn't too long ago that Democrats and Republicans on this Committee together agreed to undertake a 16-month investigation into the anticompetitive practices of Big Tech companies—I represent many of them in Seattle—and proposed bipartisan legislation, which actually passed this Committee, to restore fairness and competition for consumers and small businesses.

That included the American Choice and Innovation Online Act, or AC-IOA, which included similar commonsense structural solutions to what the EU included in the Digital Markets Act. It was a real recognition that these Big Tech companies are squelching competition and innovation, and that hurts consumers.

It's a big turnaround then that suddenly the Republican Majority wants to do something as absurd as use trade negotiations to help bolster Big Tech in Europe, when EU has undertaken the very smart solutions that fight back against Big Tech monopolies and protect consumers and small businesses.

Maybe it's linked to the fact that these Big Tech companies are now pouring money into Donald Trump's campaign funds. I don't know. Maybe it's because they're making all kinds of deals to screw consumers and preference giant corporations in exchange for campaign contributions and a 24-carat gold plaque to Donald Trump like the CEO of Apple just recently did.

It seems to me that the Republican Party has suddenly turned its back on small businesses, on competition, on innovation, and, yes, even on free speech, which is apparently the topic of discussion today.

In fact, one of our witnesses here claims to represent—one of the Republican witnesses claims to represent small- and medium-size app developers, but his organization gets more than half of its

funding from Apple, the very giant corporation that those same small- and medium-size app developers are trying to fight. Make it make sense for me.

Now, we have this hearing centered around so-called free speech and so-called censorship, not here in America but in Europe. Well, what about right here at home on U.S. soil, the censorship by the Trump Administration, the Republican Party, on anything that they don't agree with.

Let's just take a recent example. Rumeysa Ozturk, a Ph.D. student at Tufts University, wrote an op-ed in the student newspaper calling for the university to divest from Israel. It was a simple exercise of her free—First Amendment free speech rights. She committed no crime. She didn't bully or harass anyone. She didn't incite violence toward anyone. The action was totally peaceful.

Yet what happened? In March, the Trump Administration revoked her student visa, sent masked men to kidnap and disappear her, forcing her into an unmarked car and detained her for 45 days.

Professor Kaye, how does this kind of abuse utilizing the immigration system in this case for now, for now, can extend to U.S. citizens, to green card holders, to anyone else, how does this hinder the free speech rights of all Americans?

Mr. KAYE. Well, we've seen already that Americans have been—American citizens have been caught in the enforcement of immigration laws over the last—and outside of the immigration laws over the last several months, but I think we can look at it from two perspectives.

One is it's a clear violation of a student's free speech right, as you just explained it, when they're detained and set up for deportation solely because of an op-ed that they wrote. It's also an intimidation for anybody who would write anything further.

Anybody who's in that same kind of visa situation now is not going to be writing that op-ed. That's not just harm to them. That's not just chilling their speech. That's also harm to all of us who would benefit from hearing those kinds of views.

Ms. JAYAPAL. In fact, right now the Trump Administration is reviewing all social media of visa applicants to see if they've posted any anti-Trump or pro-Palestinian sentiments.

How does that affect our free speech rights?

Mr. KAYE. Well, it's the same answer. It's a deterioration of our public debate in this country. It's exactly this kind of—I think that Mr. McClintock had said before, putting side by side different ideas, and that's an interference with that.

Ms. JAYAPAL. Quickly another example: In June, a Spanish language reporter named Mario Guevara was live-streaming a gathering of Americans protesting against Trump's immigration policy. The police arrested him on bogus misdemeanor charges that were later dropped a few days later. He was detained by ICE.

Now, we've got a government that arrests a student for writing an op-ed, filters the speech of visitors, and arrests a journalist for covering a protest.

How does that compare to free speech practices of other countries?

Mr. KAYE. Well, it does compare with authoritarians, who regularly use law enforcement to transform journalism into a crime. This is a major global censorship problem, and we're seeing it in Georgia. We see it in this context that is not just a one-off. It's part of a systemic approach to a free media in this country. That's one and perhaps the harshest example, because I understand that the journalist remains in detention, but it's part of a systemic approach to speech.

Ms. JAYAPAL. Similar to Russia and China, places like that.

Mr. Chair, I yield back. I have some unanimous consent requests.

Chair JORDAN. Do you want to go now or—

Ms. JAYAPAL. Yes.

Chair JORDAN. All right. Go ahead.

Ms. JAYAPAL. Thank you. I ask for unanimous consent to enter into the record a letter from the Open Markets Institute. Another one, a letter from the TechFreedom Association raising concerns with the FTC's inquiry on censorship. A final one from The App Association, and it's titled, "Apple is top funder of lobby group that says it represents small developers." I'm sorry, Mr. Chair, I have one more here.

Chair JORDAN. OK. Go right ahead.

Ms. JAYAPAL. This is an article entitled "The False Choice Between Digital Regulation and Innovation."

Chair JORDAN. Without objection.

Ms. JAYAPAL. Thank you. I yield back.

Chair JORDAN. Quickly, Mr. Reed, is your association fighting Apple?

Mr. REED. Pardon me?

Chair JORDAN. Is your association fighting Apple?

Mr. FARAGE. Fighting Apple?

Chair JORDAN. Fighting Apple.

Mr. KAYE. We disagree with Apple on multiple issues as well as for all our sponsors. Our membership is the small businesses that many of you have met when we've had our fly in every year.

Chair JORDAN. OK, great. It seems to me that your association uses Apple. That's where your apps go. I don't think you're fighting Apple.

The gentleman from Wisconsin is recognized for five minutes.

Mr. TIFFANY. Professor Kaye, was the Centers for Disease Control correct in 2020 about the handling of COVID? The Chair laid out all the things that we now know are debunked. Was the Centers for Disease Control correct in how they went about their business?

Mr. KAYE. I'm not a scientist so I can't speak to that. I remember the time, like we all did, a time of great fear.

Mr. TIFFANY. Shutting down schools, things like that have set kids behind. See, because it's to Representative McClintock's point that, once this administration wanted to change some people that you talked about that are in the Department of Health Services, shouldn't they change them if they were wrong about, really, the seminal issue that has come before this generation? Shouldn't they change those people?

Mr. KAYE. Well, that's just not my understanding of why people have been taken out.

Mr. TIFFANY. Are you familiar, Professor Kaye, with the case *Berenson v. Biden*, which is a censorship case where Alex Berenson, a reporter, was deplatformed on Twitter?

Mr. KAYE. I'm not familiar with that one.

Mr. TIFFANY. I would suggest that you take a look at that, because the Biden Administration weaponized themselves against Mr. Berenson and stifled his speech on Twitter.

What college are you a professor at, again?

Mr. KAYE. University of California, Irvine.

Mr. TIFFANY. How many classes are you teaching this semester?

Mr. KAYE. This, I teach one class right now.

Mr. TIFFANY. One class this semester.

Mr. FARAGE, I want to thank you so much for coming to the great State of Wisconsin of which I represent part of it, including Milwaukee. I hope you had a good time there.

Mr. FARAGE. I've always had a good time in Milwaukee, no question. Wonderful breweries, friendly people. Love it.

Mr. TIFFANY. You're welcome back anytime.

I want to thank the Ranking Member for giving us a tutorial on free speech.

Mr. FARAGE, did you instruct anyone on this panel, including the Chair, to instruct us to stifle the Ranking Member's speech? Did you—

Mr. FARAGE. No, absolutely not. Of course not.

Mr. TIFFANY. Can you comment on the key issue before the far Right that we heard about earlier? What is that key issue in Europe right now that the far Right is heavily engaged in?

Mr. FARAGE. Well, I'll speak for the United Kingdom. If you're opposed to illegal immigration on a mass scale and the huge cost to the taxpayer and the risk to our communities, then—oh, and if you like the flag, our national flag, then apparently, you're far Right.

Mr. TIFFANY. That illegal immigration issue that was very informative to the election in 2024 in America, the same thing is happening in Europe. Is that accurate?

Mr. FARAGE. It's a very similar argument in many, many ways. Therefore, the definition of far Right now applies to about two-thirds of the British population.

Mr. TIFFANY. About someone who is very famous from your country, Ms. J.K. Rowling, who wrote one of the finest series of books, the Harry Potter series, that has ever been in print, who I believe is self-defined as a liberal, as we call them in America, hasn't she even been threatened for a position she's taken in regard to transgenderism?

Mr. FARAGE. Yes. She very much comes from a liberal wing of politics historically, but she's taken a view that women should be safe in women's spaces. That means changing rooms, et cetera. That's all she said.

By the way, that's something that our Supreme Court recently did back up, the fact that there are fundamental differences. This is not to launch an attack on anyone that's trans, just to bring

some commonsense. She has faced cancel culture and abuse on a huge scale.

Mr. TIFFANY. I would just—one other comment in regard to the Ranking Member's opening statement. He was saying that we are stifling speech here in America, including *PBS*, by defunding them. I would suggest that the Ranking Member look at the news that came out in the past week. It is very good news for *PBS*, where the Ford Foundation and other foundations have said they are going to put in tens of millions if not hundreds of millions of dollars to make sure that they stay on the air. Protecting the American taxpayer, that is a great thing that we were able to do with the One Big Beautiful Bill.

Final question for Mr. Price: How is the problem going to be fixed, and can America help?

Mr. PRICE. Yes, America can help. The light, the spotlight that has already been shown on the problem by the administration, by the amazing work that this Committee is doing here is hugely welcomed by those of us who support the human right to free speech.

We have people who are suffering under prosecutions, unjust prosecutions in Europe right now. I've outlined a lot of them in my written submissions. It's only because of the support that's coming from this side of the Atlantic that we're able to see possibly a brighter future.

Mr. TIFFANY. We will continue those efforts.

Mr. PRICE. Thank you.

Mr. TIFFANY. I yield back, Mr. Chair.

Chair JORDAN. The gentleman yields back. The gentleman from Maryland is recognized.

Mr. RASKIN. Thank you, Mr. Chair.

When I was a professor of constitutional law, I used to teach my students that freedom of speech is like an apple, and everybody wants to take just one bite out of the apple. If somebody doesn't like Left-wing speech, there's a bite. If somebody doesn't like Right-wing speech, if somebody doesn't like feminist speech, and if somebody doesn't like sexist speech. Everybody just wants to take one bite, but if we let everybody take a bite, at end of the day, there's no apple left. It's all gone.

If you want to defend free speech and you want a society that's defined by free speech, you've got to accept even the speech you oppose, the speech that you abhor.

Now, Professor Kaye, we want to try to bring some objectivity to the conversation. I looked up the Reporters Without Borders rankings of every country in the world, according to press freedom: Norway was No. 1 and North Korea was number 179. It's like a totalitarian dungeon.

The U.K. was number 20. The U.S. was number 57 under Trump, down from 45 where it was before. Russia, which some people here lionize, was at 171, right? If we were going to undertake a serious study of the State of press freedom all over the world, for example, where should our focus be?

Mr. KAYE. I appreciate that question. I have a very long list that I could highlight.

Mr. RASKIN. Just tell us methodologically quickly how we should go about doing it if we want to undertake this in a serious way.

Mr. KAYE. Absolutely. I would really use the lens of what do we need as a democracy to be well-informed, to make choices about our democracy, and to make choices about our health? What do we need?

We need an open press. We need open government. We need access. We absolutely don't want to see websites scrubbed, as this administration has done. I would look at it through that lens, through the lens of what we need to have a democracy.

Mr. RASKIN. Got you.

Mr. Farage, first, to be called charming by you, a man of your evident erudition and dazzling brilliance, is undoubtedly a lifetime achievement award for me. I will hold it closely.

I wanted to ask you about your commitment to the freedom of speech universally. It's a principle that you advocate for everyone, not just for people who are in your party or people you agree with.

You said that there should not have been a protest against the Gaza war in the U.K. Then, when it went ahead, the police refused to shut it down, you called them gutless for not shutting it down.

Do you regret having opposed that, given that there was no violence there and there were 700,000 people who wanted to express themselves that day?

Mr. FARAGE. I have not opposed people standing up and protesting in favor of people living in Gaza at all. There was one particular day, and it was the Sunday near November 11th, which was when we had big memorial services in London. A march being allowed to go ahead on that day would have been a mistake. Any other day, fine.

Mr. RASKIN. Oh, I see. Who gets to decide that?

Mr. FARAGE. Well, actually something that is embedded in the country, something that is absolutely fundamental to—

Mr. RASKIN. That's why we have a written Constitution. You might take that idea back to the U.K. with you, because the freedom of speech applies 365 days a year here under the First Amendment, not 364 or 363, depending on some politician's heckling the government and telling them to shut down free speech.

Mr. FARAGE. We have allowed mass pro-Gaza demonstrations in London weekend after weekend.

Mr. RASKIN. No thanks to you.

Mr. FARAGE. This was one particularly sensitive day. That's all.

Mr. RASKIN. I got you. It was a sensitive day. I thought that's what the freedom of speech was about. You have a right to engage in speech that other people consider offensive or insensitive. In any event—

Mr. FARAGE. They have every right to do it.

Mr. RASKIN. You have made yourself clear, Mr. Farage.

Mr. FARAGE. They can do it 364 days a year if they want. Not on that day.

Mr. RASKIN. You have made yourself clear to your constituents in Clacton.

Let me ask you this: You've banned journalists from your political events that you disagree with, haven't you?

Mr. FARAGE. No. In fact, I'm the only political—

Mr. RASKIN. Really? At your convention, you didn't ban journalists and revoke their credentials?

Mr. FARAGE. At the average press conference, I take 25 questions.

Mr. RASKIN. No, that wasn't my question. Mr. Farage, we're politicians, so we see what you're doing. I'm asking you a direct question.

Mr. FARAGE. Well, thank you. I'm very pleased that you do.

Mr. RASKIN. I'm asking you a direct question, and I hope you can answer it. Why do you ban journalists who oppose your views from coming to your events? Why did you tell your party—why did you tell the local government not to do interviews with your local newspaper?

Mr. FARAGE. I am the most open person to any journalist.

Mr. RASKIN. Undoubtedly, you're the handsomest man in the world, but I'm asking you a different question.

Mr. FARAGE. I do it every day.

Mr. RASKIN. That's not my question. My question for you is—and it's legit. Why do you ban journalists that you disagree with from your political events, like from your convention?

Mr. FARAGE. I don't.

Mr. RASKIN. OK. You say you've never done that?

Mr. FARAGE. I can't think—if I go back the last 25 years, I can't think of banning anybody, but I mean maybe somebody else did, but I—

Mr. RASKIN. I see. It was somebody else who did it.

Mr. FARAGE. I take more questions from journalists than all the other leaders added up together.

Mr. RASKIN. Mr. Price, let me ask you. You're an honest man. Do you have any objection to the things you've heard about what Donald Trump is doing in the United States of America, going after law firms, for example, banning them from Federal buildings and Federal courthouses, stripping them of security clearance, saying they can never get Federal jobs or contracts because he doesn't like something one of the lawyers at the firm did.

Do you think there's a First Amendment problem with that, as our courts have found?

Mr. PRICE. There's a lot of information you put into that. It's good to talk to you again after London—

Mr. RASKIN. Yes. Have you followed that at all?

Mr. PRICE. I haven't, I have to be perfectly honest with you. No.

Mr. RASKIN. I see. Do you have any problems with anything Donald Trump has done with respect to free speech and freedom of expression in America? Or you just haven't followed it?

Mr. PRICE. There are plenty of people here better informed on American matters than I.

Mr. RASKIN. We are. Thank you very much.

Mr. Chair, thank you for your indulgence. I yield back.

Chair JORDAN. I thank the gentleman.

My guess is Mr. Farage takes press questions probably as often as President Trump does. These are two guys who aren't afraid to talk to the press and take any question that comes to them. We've seen that displayed time and time again.

The gentleman from California, Mr. Kiley, is recognized.

Mr. KILEY. Thank you, Mr. Chair. It was an honor to be with you and the Ranking Member as we had the chance to see firsthand

what's going on in the EU and the U.K. Maybe this Raskin–Farage show could become a recurring event. It's very interesting on both occasions.

I'd actually like to direct my questions to you, Mr. Price, at first. It's good to see you again.

Those of us on the trip were really alarmed by the ways in which the tide is turning against free speech in the U.K. and the EU. That there actually was quite a bit of bipartisan agreement among the Members of our delegation on a number of these issues.

I was hoping you could give us a little context of what you think explains this.

We understand that not every country needs to have a First Amendment or needs to have the exact same standards or the exact same exceptions or the exact same way that the law is applied. We've always felt it important that we have an alliance with our European allies around the issues of freedom that stands in contrast to authoritarian regimes around the world like in Russia and China, places where they don't have free speech. To the extent that these values are fraying among our allies, then it really harms our ability to stand up for the values of freedom around the world.

What do you think is going on? How can we sort of strengthen our alliance with our European allies around the issue of freedom of speech?

Mr. PRICE. Thank you, sir.

Well, what we've seen, sadly, over many decades—and it's accelerating—has been a consistent use of overbroad, vague laws to crack down on speech that's regarded as provocative or unorthodox. I can give you and I have given examples of the clients that I'm involved in representing where they've been simply speaking about their faith publicly or where they've been offering to talk to people.

Things have reached crisis point, though. This is why it's important that Vice President Vance and the administration have intervened.

One thing I would tell you, without divulging any contents of conversations, but Representative Raskin and I had quite a good conversation about just how bad things had become in Europe. I agree with you; I think there is a bipartisan realization, certainly on this Committee—and I commend the work that it's doing—about the nature of the problem in Europe.

With the DSA, though, we find the European Union stepping into speech, regulating it, and bringing that restrictive model global. This is where the work that is happening here is crucial, because we can't allow that to happen, because we're going back to COVID-style censorship all over again.

Mr. KILEY. Thank you.

Of course, it's doubly concerning when this actually implicates the free-speech rights of Americans. I would hope that, moving forward, we can try to work with our counterparts in Europe to try to get back to having these shared values around freedom of speech and we don't continue to see a divergence.

Mr. Reed, I also wanted to ask you about the DMA, because based on—I know you represent smaller app developers, but we also spoke with folks who represent Apple and Facebook and others, and it's a matter of public record, the way that these compa-

nies are now sort of uniquely targeted under this law and the similar law in the U.K.

Honestly, it caused me to sort of see some of the ongoing negotiations around tariffs and other issues through a somewhat different lens. Because the way that American companies are being targeted with the DMA really is a tax—or imposes—or is a direct transfer of wealth from our country overseas. These are some of the sort of nontariff barriers that American countries (sic) are now facing. Could you give me your perspective on that and the DMA more broadly?

Mr. REED. Right. It's ironic that, as you say, it's a nontariff trade barrier, but the ultimate biggest loser is usually the small- and medium-size companies.

Earlier, we heard a Member of this Committee talk about bills here in the United States. The irony of those who supported those bills were also billionaire companies. We joked about the fact that it was the trillionaires versus the billionaires who went to war. The problem when that happens, if any of you have run a small business, is the small guy gets crushed.

What's happening with the DMA in Europe is, their desire to put pressure on the U.S. companies means that there are fewer services, fewer features, and less trust available for the smaller business to take advantage of. That's how we get crushed.

That ends up being, as you say, a nontariff trade barrier, because it puts the very companies that could compete with these giants at a disadvantage when they have to meet those new tests.

Mr. KILEY. Thank you. That is going to be an important issue for us to remain focused on, as to how we can alleviate these barriers that our companies are facing that honestly are hindering innovation in Europe as well.

I yield back.

Chair JORDAN. The gentleman yields—

Mr. KILEY. I yield back to the Chair.

Chair JORDAN. I just want to be really clear on the most recent situation. Maybe I'll direct this to Mr. Farage.

Graham Linehan is an Irish citizen who posted something while in America and then gets arrested when he goes to the U.K. for something—for some, quote, “offensive” post online. Is that accurate?

Mr. FARAGE. That is absolutely right.

Chair JORDAN. Yes. That's where this is all headed. That's exactly where this is all headed.

Mr. FARAGE. Yes.

Chair JORDAN. The gentleman from California who accompanied us on the trip, and we were so glad that he did, is recognized for five minutes.

Mr. CORREA. Thank you, Mr. Chair. I also appreciate being invited on the trip and spending time with you and Ranking Member Raskin. Very informative.

Interesting, looking at the DMA, winners and losers, unintended consequences. According to a recent report commissioned by the EC, “The Future of European Competitiveness,” only four of the 50 top tech firms in the world are actually in Europe.

As a Californian, I found it very interesting that a lot of the European entrepreneurs move out of Europe, move to the U.S., specifically California, to grow, and then possibly move back to Europe.

I'm a Californian, so the health and welfare, the interests of California firms are of interest to me. Seeing hundreds of millions of dollars in fines and the DMA's nebulous violations being levied against California firms, money that could be best spent on R&D, in many ways, is very bothersome.

I care about encouraging California entrepreneurs. We have the most successful entrepreneurs in the world today. Yet, they are essentially being targeted by the EU and other foreign regulations.

*California.* This money is better, again, invested in creating jobs in California. By the way, a lot of these firms that are actually being fined actually pay taxes in California.

Today, California recently passed up Japan to become the fourth-largest economy in the world. California is the number-one producer of AG products in the world, No. 1 in terms of venture capital in the U.S., and number-one manufacturer. We pay \$100 billion more to the U.S. Federal Government than we get back on an annual basis.

Despite all the challenges we have in California, we actually know how to do it right.

Surprisingly, our workforce—visa holders from other countries. Workforce—undocumented workers from around the world that actually harvest their crops. Manufacturing: We are the top manufacturer in the United States in terms of State. A lot of undocumented workers there.

California, we actually can manage pretty well. The best-managed State, I would argue, in the Union.

Mr. Reed, I want to ask you, given your association with these small firms, how is the DMA affecting our California firms as they try to grow in the European Union?

Mr. REED. The ex ante regulation creates barriers of entry—

Mr. CORREA. What do you mean by "ex ante"? Explain that to me.

Mr. REED. In simple terms, it means that the European Union is determining the behavior before the bad act has happened. It's before it happens—

Mr. CORREA. They're fining before the actual behavior?

Mr. REED. They're not just fining; they're setting the rules by which you could be fined. The best way to think about it is, they are saying, "Mother, may I?" if you remember the game "Mother, may I?" They are asking companies to go forth and say, "Can we do this?" Then the Commission says, "Well, yes, you can," or "Yes, you cannot."

We traditionally in the United States have taken an ex post—meaning, did you deceive someone, did you lie, did you cheat, did you steal, and then you're punished. Unfortunately, the EU is taking a "Mother, may I?" approach rather than a punishment approach. That harms California businesses because it makes it a lot harder to get in the door.

Mr. CORREA. Mr. Price, you're from Irvine.

Mr. PRICE. Sorry—

Mr. CORREA. Mr. Price?

Mr. PRICE. Yes. I'm Irvine.

Mr. CORREA. Tell me a little bit about California firms and how the DMA—

Mr. PRICE. OK.

Mr. CORREA. Well, Irvine, by the way, a lot of biotech and high tech?

Mr. PRICE. I think you might be referring to Professor Kaye.

Mr. CORREA. Mr. Kaye. I'm sorry. Go ahead. Mr. Kaye, Irvine.

Mr. KAYE. Yes. Yes, I teach at the University of California at Irvine. I actually wanted to respond to two of the points that you're making in part because—

Mr. CORREA. You've got about 20 seconds. Go.

Mr. KAYE. Thank you. In part, because this hearing is entitled as one dealing with censorship and we're spending quite a bit of time talking about defending companies, and two things I just wanted to mention.

First, the DMA doesn't specifically discriminate against American companies anymore than it does against California companies; and second, is that it's important to think about the—

Mr. CORREA. Mr. Price, what would you say to that?

Mr. PRICE. In relation to discrimination?

Mr. CORREA. Yes.

Mr. PRICE. They designed the rules in such a way that they almost perfectly encompass American companies, particularly under the DSA. If you were studying the rules and they just happened to throw a net over a particular target group, you can legitimately infer from that this was the intention.

Mr. CORREA. The intention was discrimination?

Mr. PRICE. The intention is to throw a dragnet over U.S. companies and turn them into a—

Mr. CORREA. The intention is discrimination against American firms.

Mr. PRICE. That's precisely what the outcome is.

Mr. CORREA. Thank you very much, Mr. Chair. Before I yield, I also have some articles I'd like to submit for the record, if I may.

Chair JORDAN. Sure. Yup.

Mr. CORREA. First, a letter by Chair Fitzgerald and myself to President Trump dated April 9th of this year outlining our concerns with the Digital Markets Act.

Second, a report by the *European Commission* dated September 24th, "The Future of European Competitiveness," which is failing to translate into innovation.

Third, a statement by *Chamber of Progress* dated February 10th, "How Digital Markets Act has become Europe's Digital Curtain."

Fourth, an article by the *Information and Technology Foundation* dated June 30th, "Six Ways the DMA is Backfiring on Europe."

Fifth, an article by *Washington Examiner*, July 28th, "EU Regulations Impose Heavy Costs on U.S. Companies."

Sixth, an article in *The Wall Street Journal*, "The Tech Industry is Huge—and Europe's Share of It is Very Small."

Thank you, sir.

Chair JORDAN. Without objection. Thank you. The gentleman yields back. The gentleman from Texas is recognized.

Mr. ROY. I thank the Chair. I thank you for holding this hearing. I thank the witnesses.

Mr. Price, you referenced Paivi Rasanen earlier, correct?

Mr. PRICE. Yes, sir.

Mr. ROY. Can you just really quick, in 30 seconds, give the quick summary of what the facts are behind that issue with respect to why she is facing prosecution despite having served in parliament and, I believe, as a minister in the government?

Mr. PRICE. That's correct, sir.

Over five years ago, she posted a tweet with a verse from scripture, and in that tweet she objected to her church, the Finnish Evangelical Lutheran Church, using church funds to fund the Helsinki Pride Parade. For that, then, criminal proceedings were launched against her.

Mr. ROY. She had been dealing with that for 4–5 years, correct?

Mr. PRICE. That's correct, sir. Her case is before the Supreme Court at the end of October.

Mr. ROY. Facing jail time.

Mr. PRICE. Facing significant fines.

Mr. ROY. For having expressed her faith with respect to issues involving marriage in the context of a Bible verse, correct?

Mr. PRICE. That's correct, sir.

Mr. ROY. Now, as the Chair illuminated a moment ago, we've got this issue involving Graham Linehan, who here in the United States made a joke and then is arrested in the U.K., correct?

Mr. PRICE. Yes, he's being arrested—or he was arrested for comments that he posted while here.

Mr. ROY. That's correct, Mr. Farage? You agree?

Mr. FARAGE. It is.

Mr. ROY. That joke had something to do with, as I've looked it up, trans-identified males in female-only space, and he made some joke about that issue.

Mr. FARAGE. That's exactly right.

Mr. ROY. We've got now someone being arrested for alleged transphobia or some sort of hate comment involving a joke on another continent.

Now, in the meantime, we've had Mr. Farage talking about Lucy Connolly and her fate, which I understand she got sentenced to something like 31–32 months, for having put out a social media post. Now, that social media post has been alleged to be tied to some incitement. She deleted the post. The post was in response to violence and on the heels of a whole lot of issues involving crime in the U.K. Whatever the connection is we're saying, there is crime in the U.K.

Now, here's my question, Mr. Farage: How do you feel from the standpoint of borders in the U.K.? Are open borders healthy for either United States or the U.K.?

Mr. FARAGE. No. They're disastrous.

Mr. ROY. Are they having a deleterious effect with respect to crime and culture in the U.K.?

Mr. FARAGE. Yes, they are. It's been a debate that's been very difficult to have without being screamed at, but we are now having that debate.

Mr. ROY. Now we've got a moment here where we've got someone being put in jail for putting out something on social media that is allegedly transphobic.

My question is, I wonder what's going to win out? What's going to win out when the questions of Islamophobia and the tenets of Islam mash up against transphobia? What will the determiners of truth in the U.K. Government decide? What will those who make decisions about what we can say and what we cannot say do when these worlds collide?

Would you have any comment on that, Mr. Farage?

Mr. FARAGE. In the Lucy Connolly case, it's very interesting that this horrific murder of three young girls happened. The country was in very deep shock—very deep shock. The government deliberately withheld the truth about who the perpetrator was, and it led to a sea of speculation.

It turned out, ultimately, that the man that committed those murders was, in fact, U.K.-born, had not come over on a boat, as was being said on social media. Just goes to show that, actually, however bad the news is, people deserve to know the truth about a situation. It stops that frenzy of speculation.

Who's going to win these great battles?

I think that there is a growing silent majority, certainly in my country, who object to the two-tier concept that Lucy Connolly gets 31—and, by the way, there were mitigating circumstances for what she said with her own personal situation. She's arrested very quickly. She's threatened that if she pleads not guilty, she'll go straight to prison and be on remand until the trial in goodness who knows when. Without defending what she said—but she recognized her error in a moment of anger and passion and upset, and she withdrew it 3½ hours later.

That the answer, Mr. Roy, is that the silent majority will win. The silent majority will win, good will triumph over bad, and commonsense will be returned. It won't happen quickly. It won't happen quickly. As I've already outlined, there is coming down the tracks an Islamophobia law which would divide speech even more widely than it is now. In the end, commonsense and decency will win.

Mr. ROY. Is sharia law consistent with Western values?

Mr. FARAGE. No.

Mr. ROY. Thank you. I yield back.

Chair JORDAN. The gentleman yields back. The gentleman from Florida is recognized.

Mr. MOSKOWITZ. Thank you, Mr. Chair.

Mr. Farage, thanks for being here, coming across the pond. I'm sorry to hear you're leaving the hearing early.

Mr. FARAGE. Well, it's not a question of leaving the hearing early, but I do have other things to do.

Mr. MOSKOWITZ. Oh, where are you going?

Mr. FARAGE. I'm so sorry about that.

Mr. MOSKOWITZ. That's OK. Where are you going?

Mr. FARAGE. It's not lunch, I promise you.

Mr. MOSKOWITZ. It's not lunch. You're not going to have lunch?

Mr. FARAGE. I don't think so, no.

Mr. MOSKOWITZ. No lunch.

Mr. FARAGE. Sad, isn't it?

Mr. MOSKOWITZ. You're meeting with the President?

Mr. FARAGE. I can't remember what the schedule is. It's possible—

Mr. MOSKOWITZ. You can't remember if you're meeting with the President.

Mr. FARAGE. I'm being very polite, and I'm not going to tell you what I'm doing this afternoon. I can assure you that—

Mr. MOSKOWITZ. This is the free-speech hearing. You're not going to tell me what you're doing this afternoon?

Mr. FARAGE. Oh, free speech is one thing; discretion is quite another too.

Mr. MOSKOWITZ. OK. All right. You're leaving to have lunch with the President. Mr. Farage, I have a question. Have you heard about the Epstein thing that's going on here?

Mr. FARAGE. I have.

Mr. MOSKOWITZ. You have. What do you think about it?

Mr. FARAGE. I'm not going to give comments on anything happening in America. I'm here as a witness—

Mr. MOSKOWITZ. Perfect.

Mr. FARAGE. I'm here as a witness—

Mr. MOSKOWITZ. Let me—

Mr. FARAGE. I'm here as a witness for what is happening in the United Kingdom and in the European—

Mr. MOSKOWITZ. Perfect. Let me just go through it. It's been nine months since we've been meeting in these hearings. We have not had Pam Bondi here, even though we have jurisdiction over the Department of Justice—not Pam Bondi—

Chair JORDAN. Will the gentleman yield?

Mr. MOSKOWITZ. —not Kash Patel—I will, 100 percent. We'll go back and forth. Let me just do my thing and then we'll—

Chair JORDAN. OK. Well, I'm just going to correct what—Kash Patel is coming in two—I'll give you an extra 10 seconds. Kash Patel, the Director of the FBI, is coming in two weeks, and the Attorney General is coming in four weeks.

Mr. MOSKOWITZ. Fantastic. Still, we're not doing that this week, the week we're having votes on the Epstein thing. Pam Bondi gives the influencers, these Republican influencers, a binder. It says, "Part 1 of the Epstein files." I don't know if you saw it. It was quite spectacular. The Attorney General then says, "the Epstein list is on her desk." Then, DOJ issues a memo, says, "there is no list." Do you have any questions about any of that?

We've had no hearings on any of that, at all, that, "the list is on my desk," then "there is no list," then "we gave binders to Republican influencers." This Committee has had no questions on any of how that transpired at the Department of Justice. Then—hold on.

Mr. FARAGE. Well, it sounds like you're going to in the next few weeks and that's a jolly good thing.

Mr. MOSKOWITZ. Hold on. No, no, no—oh, Mr. Farage. Mr. Farage, we can talk soon, but not yet, OK?

Mr. FARAGE. All right.

Mr. MOSKOWITZ. Then, the President comes out and says, "the whole thing's a hoax." He blasts his own base. He blames Barack Obama. He hasn't been President for a very long time.

The Republicans in Committee, vote against the release in the Rules Committee. Then, Republicans refuse to go back in the Rules Committee because they're getting blasted for their vote, getting crushed by their own base. Congress leaves a day early.

The administration sends the Deputy Attorney General to meet with Maxwell in jail. He happens to be Trump's former personal attorney. She says something favorable about the President. Miraculously, she gets transferred to a minimum-security prison. The President starts talking about how he has the right to pardon her if he wanted to. The leaks to *The Wall Street Journal* then stop.

We come back from break. We have the Massie petition. Comer does a document dump where 97 percent of these documents are already public. How long has he had those documents? Why hasn't he released them for the last six weeks? Does it the day of the vote.

Republicans drop a nonbinding resolution trying to kill the Massie discharge petition. The White House said passing the Massie discharge petition is a "hostile act." Wow. That's a lot of distraction, deflection, and misinformation. Wait, wait. Passing a discharge petition to release the Epstein files, the White House said, "would be a hostile act." Nope, we have no questions about that. Why is it that we're spending so much political capital to keep this list from coming out? Do you think the list should come out? Do you think we should know the people who dealt with Mr. Epstein, Mr. Farage?

Mr. FARAGE. I thought I was coming to a hearing on free speech, not process.

Mr. MOSKOWITZ. Oh. Listen—but here's the good—

Mr. FARAGE. It sounds like you're discussing process—

Mr. MOSKOWITZ. No, no. Do you think the list should come out?

Mr. FARAGE. I have no opinion on it. I don't know at all—

Mr. MOSKOWITZ. We have victims that were sexually abused by potentially people in power, and we don't know who's on the list.

Mr. FARAGE. I'm very happy to discuss that with you another time—

Mr. MOSKOWITZ. Hold on, Mr. Farage. We don't know who's on the list. We don't know who's on the list. We don't know if the President is or is not. I'm not going to say whether he is or isn't. I'm just going to say, these are weird behaviors. We don't know that there aren't other people in Congress that are on the list, right? We have no idea.

Do you think the list should come out? Do you think people in power should be held to account for these victims who have been sexually abused and assaulted? Do you think the list should come out?

Mr. FARAGE. I'm very happy to come to a different hearing where you talk about legal process—

Mr. MOSKOWITZ. OK.

Mr. RASKIN. Will the gentleman yield for a quick question?

Mr. MOSKOWITZ. I will.

Mr. RASKIN. Were you aware that he has already called for the Epstein file to be released?

Mr. MOSKOWITZ. Oh, I—

Mr. RASKIN. It has been reported that he has called for it to be released.

Mr. MOSKOWITZ. Oh, yes, right here. Just to refresh your memory I happen to have this.

Mr. FARAGE. Yes, but that's not what we're—

Mr. MOSKOWITZ. How random.

Mr. FARAGE. That is not—look, you could ask me, if you like, about Social Security policy—

Mr. MOSKOWITZ. Do you agree with yourself?

Mr. FARAGE. We are here—

Mr. MOSKOWITZ. Do you agree with yourself—

Mr. FARAGE. We are here to discuss free speech.

Mr. MOSKOWITZ. Hold on. It's awkward for your lunch after this? Do you agree with yourself?

Mr. FARAGE. No, it isn't at all.

Mr. MOSKOWITZ. OK. Mr. Chair, I'm just curious. This Committee has jurisdiction over the Department of Justice.

Chair JORDAN. The gentleman's time has—

Mr. MOSKOWITZ. Why have we allowed Comer to cover this up for the last couple of months?

Chair JORDAN. As I said—

Mr. MOSKOWITZ. Why is this Committee not taking jurisdiction?

Chair JORDAN. I said six weeks ago that we will have the FBI Director in, we will have the Attorney General in, and we are doing that in two weeks. You can ask all—you can go through that whole list—that whole list. You can do whatever you want to do with—I've got lots of questions for the FBI Director, including the whistleblower who came forward and told him that Adam Schiff leaked classified information. I want to ask him about that as well, as well as the issues you all want to ask him about.

That's why he's coming, so we can ask all these questions and follow the process, as Mr. Farage just talked about.

The gentleman from Virginia—

Mr. MOSKOWITZ. Mr. Chair, unanimous consent—

Chair JORDAN. Unanimous consent?

Mr. MOSKOWITZ. I'd like to enter the *Politico* article into the record that Mr. Farage said the Epstein files should be released.

Chair JORDAN. Without objection. The gentleman from Virginia is recognized.

Mr. CLINE. I thank the Chair. I want to talk about censorship tools that are being used by Europe and protectionist measures that have major consequences for U.S. companies and free expression worldwide. I'm glad to have you all here to get your views on those issues.

Mr. Farage, you've called the Online Safety Act a borderline dystopian censorship regime. Many agree, including myself, that the law badly overreaches.

One of the most serious criticisms is that it empowers Ofcom to undermine encryption and open the door to not just government surveillance of posts online and public statements but private messages, raising alarms not just in the U.K., but beyond U.K. borders. Vice President J.D. Vance has warned this could threaten Americans' privacy as well.

Do you recognize that this is not just a domestic issue for the U.K., but a global one? If you become Prime Minister, what assur-

ances would you give allies that the U.K. will not undermine end-to-end privacy standards?

Mr. FARAGE. You have my absolute word that a Reform government will repeal the Online Safety Act and will go right back, actually, to legislation back to 2010 under which these whole concepts of hate speech have begun to be interpreted in U.K. law, and we will do that.

Do we want to protect kids? This is the big question. Yes, we do. We need to find means. We need to find ways. I half-suggested earlier that hardware could be part of the solution. Yes, we want to protect—to encourage and let free speech flourish.

Mr. CLINE. You've said Reform UK has access to some of the best tech minds to design alternatives. How do you propose to balance protecting children without scanning private messages or weakening encryption?

Mr. FARAGE. Well, as I've said, I don't have all the answers to this, but the British Prime Minister says he has got the answers to this. Well, if it's about protecting kids, why does the legislation give Ofcom the most extraordinary and, frankly, arbitrary powers? Why is there the establishment, under the act, of an elite police force unit to monitor what you've said online?

It's far better to be honest and say we don't have the perfect solutions than to pretend we have with legislation that is a sledgehammer that misses the nut.

Mr. CLINE. Thank you.

Mr. Price, the EU's Digital Services Act imposes liability for so-called systemic risks. How does that chill religious or political speech? Do you see conflicts with First Amendment principles?

Mr. PRICE. Yes, that's correct. The systemic risk provision constitutes a form of content moderation that they are misrepresenting, frankly, in their letters to you.

Where the systemic risk provisions talk about, in fact, damage to what they call "civil discourse"—and we've already seen prosecutions, including clients of ours, who have been prosecuted for, among other things, praying silently, discussing the differences between Christianity and Islam, tweeting a verse from the Bible.

If these constitute systemic risks to civil discourse, the EU has the power in terms of this content moderation provision to step in.

Mr. CLINE. "Damage to civil discourse" seems a little broad, doesn't it.

Mr. PRICE. Absolutely.

Mr. CLINE. Mr. Reed, the EU's Digital Markets Act and the U.K.'s Digital Markets, Competition, and Consumers Act are sold as procompetition, but don't compliance costs just burden small app developers?

Mr. REED. Absolutely. The problem is that—it's interesting, as you talked about, how do you do a better job? You asked, how do we do a better job to protect children? One of the ways we do it is by empowering parents to be good parents.

One of our deepest concerns is, by removing some of the capability of the platforms to curate and provide information to parents about what applications do through a clear, forward interface that they see every day, that's useful, it makes it harder to parent and

harder to know what apps are on your kid's device and harder for you to control it.

We absolutely see that not only are there problems with it on encryption, which we agree with you 100 percent, but we also think it weakens our ability as parents to be in charge of the devices our children are using.

Mr. CLINE. Yes, these rules don't help parents and consumers, if you will. They just shift power from platforms, parents, and consumers to regulators, correct?

Mr. REED. Correct.

Mr. CLINE. Do these regimes create a level playing field for U.S. firms, or do they advantage European competitors at the expense of American innovation?

Mr. REED. Well, the original thought behind the DMA was that Europe had not been successful in creating their own industry, as was alluded to by several other Members of Congress, and Congressman Correa noted it as well.

Europe's economic potential has slowed, while the United States has grown incredibly. We've gone from almost equal in 2008 to a 50-percent increase in the size of the U.S. economy between 2008 and now.

We think a lot of it comes from the small technology companies that have been creating amazing devices, amazing products, and amazing applications that you're all using. We are disappointed that there aren't the same opportunities for the U.S.—for our EU members.

Mr. CLINE. Thanks. I yield back.

Chair JORDAN. The gentleman yields back. The gentlelady from Pennsylvania is recognized.

Ms. SCANLON. Thank you, Mr. Chair.

For years, political extremists, including some of our colleagues, have claimed, without evidence, that so-called conservative speech is being canceled. The speech at issue is not conservative political speech; it's hate speech, including incitement to violence, threats and harassment of particular people or groups, and lies about almost everything, from election results to healthcare. There's nothing conservative about any of that.

Today's hearing appears to be one more attempt by these extremists to claim victimhood, promote falsehoods, and normalize radical ideas, all while attacking others.

Today, our Republican colleagues claim that our European allies pose the biggest threat to Americans' free speech today. Seriously? There is an all-out assault on the First Amendment in the U.S., but it's coming from inside the house—the White House, the Executive Branch of our own country.

For the past eight months, our Republican colleagues have done nothing but cheer on the administration's un-American attacks. Because the truth is, they're all for free speech, but only if it's the speech they agree with.

I'd say, if you really want to talk about censorship, let's talk about how this administration, with the support of our MAGA colleagues, has tried to strangle speech and ideas that it doesn't agree with when that speech comes from the free press, college campuses, law firms and judges, library books, the Smithsonian museums, re-

sponsible investors, scientists, dedicated employees with deep expertise, and more.

We have seen this White House use Executive Orders, threats and intimidation, illegal withholding of Federal funding, raids by masked and armed police, and even sending military troops onto American streets to shut down opposition to this administration's policies.

Professor Kaye, you are an internationally recognized expert on freedom of expression and have studied the growing assault on free speech and civil society around the world. In your testimony, you said that the situation in the U.S. raises serious alarms. Can you elaborate on that?

Mr. KAYE. Yes. Well, everything that—thank you for the question.

Everything that you just mentioned is alarming. The assaults on the press, on universities, on public protest—all those things are the kinds of things that historically the United States has fought against.

Ms. SCANLON. Uh-huh.

Mr. KAYE. All those things are very problematic.

That one way to think about them, perhaps—and it's useful in this Committee, actually, in the context of this Committee—is to think of those things that the Trump Administration is doing as a contrast to something like the DSA, right?

The DSA sees a problem, which is a problem shared or perceived on both sides of the aisle, which is massive platform power—

Ms. SCANLON. Uh-huh.

Mr. KAYE. —and also, the kinds of content that you alluded to. The DSA doesn't create any new rules that allow either the European Commission or countries to censor. It is a transparency regime. It's a risk assessment regime. It's actually researcher access. It's actually a tool to give us information about what's happening online.

That's in just sharp contrast to the kind of issues that we're seeing in this country, which are very much focused on criticism and content.

Ms. SCANLON. Yes. My colleague, Ms. Jayapal, talked about the fact that we had a very robust investigation of Big Tech in prior Congresses, which has kind of been shut down by a new alliance between Big Tech and the Republican Party.

It is about dealing with the real issues and the very real power that these Big Tech platforms have and trying to provide tools for ordinary citizens to fight back against disinformation or harmful content.

Can you talk a little bit about that?

Mr. KAYE. Yes, absolutely.

If you think about one tool that the DSA offers, it's this assurance that individuals will be able to challenge, to appeal, content moderation decisions. That is not something that is allowed or mandated by law in the United States.

One other thing just to mention in this connection: I think Mr. Farage mentioned—and it's really just to highlight how hard some of these questions might be. Mr. Farage has suggested the possibility that hardware could be part of a solution to deal with chil-

dren's access to harmful information. There's something possibly there, but it's another form of censorship.

Ms. SCANLON. Uh-huh.

Mr. KAYE. We should just recognize that restrictions are on the table in the United States, in the U.K., elsewhere.

Chair JORDAN. The gentlelady's time—

Mr. KAYE. I think the Europeans have adopted an approach that makes quite a bit of sense—

Chair JORDAN. The gentlelady's time has—we're trying to get to as many Members as possible. The gentlelady's time has expired.

The gentleman from New Jersey is recognized.

Ms. SCANLON. Thank you.

Chair JORDAN. Mr. Farage has to leave in a few minutes, so we want to get to as many Members as possible.

Mr. VAN DREW. Thank you. Thank you, Mr. Chair.

Before I begin, my friend who's not here now, Mr. Moskowitz from Florida—there's kind of a little trick in debating. When you're losing the debate on the issue, you change the issue. This is not about Epstein. It has nothing to do with that. As the Chair so correctly said, the Attorney General's going to be here, the FBI Director's going to be here, and we can talk about it until the cows come home.

Second, I believe it was you, Mr. Farage, that said COVID changed our world in many ways, more than just the biological disease. What it did to us psychologically, governmentally, and philosophically was really bad. We're still not out of it yet because of what happened then.

We're losing our freedoms. We are losing our freedoms. It's not because of an American Congress. It's not because of American courts. It's not because of American Republicans. I'm going to even say it's not because of American Democrats. It is due to bureaucrats in Brussels and in London—sorry—and in other places as well. It's wrong. It's un-American.

I am unabashedly—and we all are here, hopefully—pro-American. We should be protecting our citizens. Instead, we're watching foreign bureaucrats come to our country and try to force United States companies to censor humor, satire, and news they don't like. It's backward, it's bizarre, it's perverse, and it's weird. That's what we would call it in New Jersey; it's just weird. It's not good. It's the opposite of everything that the United States of America fought and stands for.

It's a globalist mindset. We can all talk about the issues, but I'm going to keep talking about globalism versus American exceptionalism and individuality. I believe very much, sincerely, that the whole battle that's going on now with the Right and the Left, what's happening in Great Britain, what's happening around the world, what's happening in the United States, is very much that argument—individuality and, in our case here in the States, Americanism, exceptionalism. Or is it globalism?

The EU's Digital Services Act and the U.K.'s Online Safety Act are the pinnacle examples of how upside-down things have gotten in the effort to globalize our society. That is the ultimate show-down. It is resulting in our loss of our freedom, losing our influ-

ence. The only winner here are some countries in Europe, Russia, China, and others.

Europe is spending their time attacking American tech companies, dictating how our platforms operate, how our technology operates, and punishing people for exhibiting free speech. The European model—I'm sorry if I offend anyone, but it is wrong.

We fought a revolution to defend ourselves. Men and women pledged their lives, their treasure, their sacred honor so that they wouldn't have to go through this. We never thought that Americans would be stripped of that. That's why this moment is so serious. It's more serious than most Americans and people realize right now.

For generations, we thought if we were ever attacked it was going to be a nuclear holocaust, we thought it was going to be the domino theory, we thought it was going to be world wars, we thought it was so many things. I maintain it's this. If we lose our First Amendment rights and our freedom of speech, we have lost everything, and nothing else matters.

Internet technology is being used as a vehicle to make this happen.

I have a question for Mr. Farage and Mr. Price. This hearing is really good, and I'm sure we're going to have some other hearings. More than hearings and talking about it, what is it, tangibly—this is a hard question—that we can do to stop it? What is it?

Mr. Farage, I'll start with you.

Mr. FARAGE. The debate we've had here—nobody here from any side of the debate has told me that the Online Safety Act is a wonderful piece of legislation right across the spectrum. You're having your own internal debates about free speech in America—right, healthy—and what this Committee is for.

*I want to make this argument:* I know these companies are very big and very powerful, many of the tech firms, but governments talk to each other, yes? It needs the American administration and businesses to have an honest conversation.

Brussels, you won't get a hearing. They are fundamentally anti-American, frankly. I was there for 20 years; I saw it.

I do think there is a conversation to be had with the British Government about the shape of their legislation and the impact it can have on American individuals, their liberty, and American companies.

I am calling for, as a result of what's happened—it's clearly got—the legislation's clearly doing the wrong thing. It is cause for proper intergovernmental debate.

Mr. VAN DREW. I hope that we have—and, by the way, we have censorship in America. Watch *ABC*, *NBC*, and *CBS*. I'm in the meetings, I'm in the discussion, I see and hear what happens. My wife has Channel 6 on, which drives me nuts, at home, and it has nothing to do with the damn stuff that actually happened. That's the truth. We have it already, and I pray to God we don't lose America.

Mr. Chair, indulgence, then I'll shut up. Mr. Price didn't get a chance.

Chair JORDAN. Quickly.

Mr. VAN DREW. Yes, sir.

Mr. PRICE. You talked about putting pressure on—and I agree that Brussels is a cold house for free speech. A lot of the regulation is actually happening in my own country, in Ireland, in Dublin, where a lot of the tech companies are headquartered, their European headquarters. It's the Irish Media Commissioner, "Coimisiun na Mean" in the Irish language, which is the ground zero, really, for a lot of this regulation.

Here's where the U.S. can do a lot, because there are strong bilateral relationships between Ireland and the United States, is to put pressure on the Irish Government to stop the bullying of tech companies. Already, X is in the Irish Supreme Court soon against the Irish Media Commissioner, so they're already starting to crack down. I would hope that you use your good offices here to put pressure on the Irish.

Mr. VAN DREW. Yep.

Chair JORDAN. The gentlelady from—

Mr. GOLDMAN. Mr. Chair, I have a point of parliamentary inquiry.

Chair JORDAN. The gentleman is recognized.

Mr. GOLDMAN. Why is the witness leaving this hearing early and certainly without—

Chair JORDAN. Because he has an engagement he told us about. This is not unusual. It's happened before under Democrat leadership of the Committee and under Republican leadership of the Committee.

We're trying to get through as many people as we can.

You've had many of your witnesses who did not ask Mr. Farage a question—many of your colleagues. You could've coordinated with them. You didn't go in order. We didn't necessarily go in order because we wanted to get as many people up front asking Mr. Farage questions.

Mr. GOLDMAN. Could we ask him if he would be willing to stay for—

Chair JORDAN. That is totally up to the witness, but if the witness has to go somewhere, I understand. We were glad that he came. We were glad that we had a chance to visit with him in Europe, so—you could've gone on that trip and had a chance to interact with—

Mr. GOLDMAN. I wasn't invited, but next time—

Chair JORDAN. Oh, you were definitely invited. Everyone was invited from the Democrat side. The whole Committee was invited. The Chair now recognizes the gentlelady from Georgia for questions.

Mr. Farage, if you can stay longer, we would definitely welcome that.

Mr. FARAGE. When I Chaired this event in the Palace of Westminster, we had an hour for it, because time was very tight.

Chair JORDAN. Yep.

Mr. FARAGE. That was perhaps the source of the slight disagreement Mr. Raskin and I had.

Mr. RASKIN. See, a little bit of confusion on that.

Mr. FARAGE. We would've given this—

Mr. RASKIN. Each side got an hour, but the whole thing was limited to an hour. Your side went, and then you called it off—

Mr. FARAGE. I was given the instruction—this we've been given three hours, and I apologize, but, no, I can't stay longer.

Chair JORDAN. OK.

Mr. GOLDMAN. I could send the Constitution down to the White House for the President to read it while—

Chair JORDAN. The gentleman is not recognized. The gentlelady from Georgia has five minutes to ask her questions while Mr. Farage is still here, and then he will leave when he has to leave.

Ms. MCBATH. Thank you, Mr. Chair. Thank you to our witnesses today.

Our First Amendment rights, as you can see, are definitely under attack. Words are very powerful tools, as you've heard them being used here in this hearing. This administration has gone out of their way to retaliate against our students, news agencies, and others who express views that don't align with their extreme agenda by using lawsuits, eliminating funding, and even going so far as to send out a memo with a list of restricted words that can't even be used.

The actions of this administration have been ruled against in court time and time again by judges from both parties on a basis of abusing our constitutional rights.

From freezing funding for colleges because they do not bend to this administration's will, to removing programs that are designed to expand student understanding and access in education—which, I'd like to add increases future opportunities for our Republican constituents as well—and using Federal investigation powers to retaliate, we are watching the First Amendment be manipulated in ways that this Nation hoped that they would never see.

Hear it from the judges who have ruled against government bullies who attempt to violate the rights of the American people.

The U.S. District Judge Sooknanan found First Amendment violations in the government investigation into *Media Matters*, which she stated is likely to succeed in its claim that the FTC was using this investigation as a retaliation against the watchdog group for claims against a prominent Trump supporter, a clear violation of First Amendment protections. The cases, they just go on and on and on.

U.S. District Judge McFadden, a Trump appointee, ordered that the *Associated Press's* access to the White House press be reinstated, ruling that denying their access because of differing viewpoints was a clear violation of the First Amendment.

If the Majority want to talk about attacks on the First Amendment in other parts of the world, they need to start right here in our administration.

The Constitution is the foundation of this country. It is not meant to be trampled on for political or for business advantage.

When you love something, you want to protect it, and you want to do what's best for it. You want to improve it. This means people will speak out and disagree on actions taken in their country and offer critiques to our leaders and, yes, the politicians. That's a constitutionally protected right.

If the First Amendment is our guardrail, then this administration is truly trying to push us off the road. This government should

be strong enough to accept any criticism without violating people's rights and offending the man in the White House.

Professor Kaye, I have a question, just one question, for you. Based on what you've seen since this January, if our colleagues in the Majority continue to pretend that our First Amendment rights are not under attack here at home, what could this mean for our country within the next three years?

Mr. KAYE. Thank you for that question.

As we look at the current moment and the current situation for our media, for our universities, for people's access to information generally, particularly access to health information, it portends really very problematic and dark days ahead. Will we be able to have access to information that makes us informed parents or informed citizens able to make voting decisions? That's the kind of future that we should expect if we don't recognize this situation.

That the tenor of the conversation could at least recognize that there are violations of fundamental rights to freedom of expression by this government right now—at least recognize it. I know that Democrats in the last five years called out the Biden Administration from time to time when it did things that it thought was inconsistent with free-speech values. Having that kind of honest discussion and then some real constraint is where the Committee should be heading.

Ms. MCBATH. Thank you so much.

I encourage everyone that sees nothing wrong with this administration's retaliatory attacks on expressions of our First Amendment to consider just how much you are willing to give up to appease this man in the White House.

At this time, I'd like to yield the remainder of my time to our Ranking Member.

Chair JORDAN. There's no time left to yield. I thank the gentlelady. The gentlelady yields back.

I do have to run to another commitment. I will be back in 20 minutes. We will have Mr. Knott take over as Chair.

Mr. Farage, if you have to leave, I look forward to visiting with you sometime later, hopefully—

Mr. FARAGE. I do, but thank you very much for—

Mr. GOLDMAN. Mr. Farage, could I—

Chair JORDAN. Thank you for your testimony.

Mr. GOLDMAN. Could I just ask you to stay for—one more, Mr. Farage?

Chair JORDAN. The gentleman from Alabama is recognized for five minutes.

Mr. MOORE. Thank you, Mr. Chair.

Mr. Farage, I enjoyed Milwaukee at the Harley-Davidson plant with you. That was a great evening. All right. A question for both Mr. Price or Mr. Farage.

One requirement for speech to be censored as a false communication offense under the OSA is that speech must cause nontrivial psychological or physical harm. What is nontrivial psychological harm?

Mr. FARAGE. I honestly don't know. That's the problem with this legislation. It's so open-ended it could mean anything. It leaves this entirely in the hands of local police forces to make their decisions.

The other disturbing element of this is that much within this act can be changed on a whim by a government minister, or, at the other end, it can be interpreted by Ofcom in ways that it sees fit.

This is not good legislation. It's totally open-ended. It could literally mean whatever you want it to mean.

Mr. MOORE. Local law enforcement, I guess, can make that decision on who they decide to prosecute and who they do not. Have we seen it tending one way or the other? I know we've talked about a couple of cases here. Are there certain people being targeted, do you think, with OSA?

Mr. FARAGE. Well, that's the fear, isn't it? The fear is that certain communities will be acted on more harshly than other communities. That creates the impression of a two-tier country. That breaks down trust in law and order, the democratic system, and everything else.

What was interesting overnight was that the boss, Sir Mark Rowley, the boss of the Metropolitan Police, has said, look, we arrested this guy at Heathrow because we had to under the law, but they've thrown it back to the government to say, come on, could you just define more clearly what you want this legislation to mean?

That's why I think it's rotten legislation. It impacts us in ways that we can't yet foresee. It impacts, potentially, Americans and American businesses. It needs to be gotten rid of, and we need to start again.

Mr. MOORE. Mr. Price, talking about affecting American businesses, I guess Europe is 440 million people, the U.S. is 300 million people. How do these companies—what do you see down the road for these platforms, these social media platforms, these companies that feel like they have to try and comply if they're going to do business in Europe, if, in fact, we don't repeal this OSA thing? Which, I hope Mr. Farage is able to do that with his leadership at some point in the near future.

How does this play out for our companies, Mr. Price, and for free speech in Europe in general?

Mr. PRICE. Well, on the corporate side, they're facing a really complicated piece of legislation. As Mr. Farage outlined, the provisions that are confusing in the Online Safety Act in the United Kingdom, there are similarly extremely confusing provisions in the Digital Services Act. The mindset has to be one normally of compliance.

One company has stood up to this whole regime and is challenging it at every level, and that's X. I hope others join and do the same, because the European Commission, though, really has been quite threatening. You'll recall the Thierry Breton letter, of course, about Elon Musk's interview with then-candidate President Trump.

You'll also see that other Members of the Commission have made threatening remarks against companies, as well, on these so-called voluntary codes of conduct. When X and Google left one of the codes of conduct, a European Commissioner said, "Well, of course, they are voluntary, but we note that you've left them, and we'll still hold you on the obligations." You have Thierry Breton saying, as

well, “You can run, but you can’t hide” if you leave the codes of conduct.

The whole thing is designed to force compliance, and the hammer that they have, of course, is these enormous, crippling fines.

Mr. MOORE. It’s 10 percent on global revenue, if I understand correctly. For some of these companies, that’s a pretty tremendous fine.

Mr. PRICE. Absolutely, yes, of turnover.

Mr. MOORE. I guess, as we’re looking through this, it’s almost like people could claim that they were offended or hurt, that you hurt their feelings, and then all of a sudden you’re a target of this investigation.

Is that right, Mr. Farage? Is that kind of—

Mr. FARAGE. Yes. Frankly, under free speech, we should be allowed to cause offense. I should be able to offend you, you should be able to offend me, provided we know what the limits are. The limits I think we fully understand—of incitement, for example. Then, we have to get back to a much freer way of living. If people say rude things and we don’t like them, well, we just ignore them and get on with our lives.

Mr. MOORE. Like today when you were accused of Russian collusion, I guess. That was pretty offensive—

Mr. FARAGE. Well, I remember the Russian hoax very, very well. We had shades of it earlier on this morning, but not much more than that, I am pleased to say.

Mr. MOORE. That’s what I was thinking.

Well, thank you. Mr. Chair, with that, I’ll yield back.

Mr. FARAGE. Thank you. We’re going to have to go, Mr. Chair, but thank you very much—

Mr. GOLDMAN. Mr. Farage, you can blame it on me. One more. Oh, you’re avoiding me.

Mr. KNOTT. [Presiding.] Mr. Farage, thank you. The Chair now recognizes the gentleman from New York, Mr. Goldman.

Mr. GOLDMAN. I’m sorry to see you leave, Mr. Farage. I actually had much that we agree on and was looking forward to your testimony, because it’s very nice and refreshing to hear from my GOP colleagues that they are worried about authoritarianism. Mr. Biggs and Mr. McClintock both said that earlier.

I imagine, given what’s going on in this country, when the President is sending the military into American cities, is weaponizing the Department of Justice to investigate his enemies, requiring loyalty oaths from all Federal workers, at risk of otherwise being fired—the list goes on and on—it is reassuring to hear that the Republicans who have remained stone-silent about Trump’s authoritarian takeover of our government here are actually concerned about authoritarianism.

I found it really heartening that Mr. Van Drew said, and I quote, “If we lose our First Amendment rights, we lose everything.”

Now, in his opening statement, Mr. Farage said, quote, “When the government starts regulating speech, it is rarely those that agree with the government who find themselves in court.”

Mr. Farage, I’ll ask you the question: Is that similar to your concern about suppressing speech that disagrees with the government? Oh. Mr. Farage has left.

Well, Mr. Raskin, I will then maybe just—you can stand in for Mr. Farage for a minute here. I know you are a champion of free speech. I'm not sure it's the same free speech that Mr. Farage is supporting.

If this concern about the government regulating speech is because it is rarely those that agree with the government who find themselves in court, then you would think that Mr. Farage and all our Republican colleagues would be very, very concerned if an administration here in the United States was investigating criminally individuals who made the colossal mistake of speaking out against the President.

That would be a clear violation of Mr. Farage's principle. Is that right?

Mr. RASKIN. He was talking about the importance of political dissent. This is a test, Mr. Goldman of our constitutional patriotism. To what extent are we willing to speak up for people who are the targets of government repression even if we don't agree with what they're saying?

A great example of that is our colleague Congresswoman McIver from New Jersey. I would hope that in a comparable circumstance I would stand up for a Republican colleague who tries to exercise his or her oversight rights by going to a government facility on a prearranged visit and then gets caught up in the chaos and confusion outside, and they want to send her to jail for 30 years.

I did stand up for our colleague from New York—I'm spacing on his name Mr. Santos—

Mr. GOLDMAN. Mr. Santos. Our friend.

Mr. RASKIN. —because they wanted to expel him without his having a conviction or an ethics process, and I said that wasn't fair. I passed a micro-test there. I would hope some of our colleagues would—

Mr. GOLDMAN. I agree.

Mr. RASKIN. —agree and don't prosecute our colleagues just for doing their jobs.

Mr. GOLDMAN. Well, let's talk about that, because that is exactly what this Department of Justice is doing.

Recently, we heard publicly—which would ordinarily never happen. The Department of Justice does not say publicly—they don't confirm that there are any investigations by anyone until there's an indictment, because that person or those individuals can't defend themselves. Now, we know that Senator Adam Schiff, who led the first impeachment of Donald Trump, is under investigation by the Department of Justice.

New York State Attorney General Letitia James, who filed a lawsuit against Donald Trump and his business, she is now under investigation.

Miles Taylor, who literally did the only thing that he did was write an op-ed and a book criticizing the President of the United States, he is under criminal investigation.

Chris Krebs, whose offense I think was to say that the 2020 election was the most secure ever, he is under investigation.

John Bolton, who has criticized the President, gets his house raided.

Lisa Cook, the Fed Governor, is now under investigation for mortgage fraud, I guess because she doesn't want to lower rates.

The degree to which this government is suppressing speech that simply opposes the President's views should make Mr. Farage and every single one of my Republican colleagues speak out in favor of the First Amendment, and yet we have heard nothing.

There is still time, my friends. I yield back.

Mr. KNOTT. Thank you, sir. The Chair now recognizes the gentlelady from Wyoming.

Ms. HAGEMAN. Benjamin Franklin said over 270 years ago,

Freedom of speech is a principal pillar of a free government. When this support is taken away, the Constitution of a free society is dissolved, and tyranny is erected on its ruins. An evil magistrate entrusted with power to punish for words would be armed with a weapon, the most destructive and terrible. Under pretense of pruning off the exuberant branches, he would be apt to destroy the tree.

Mr. Farage talked in his opening statement that—noted that Europe's regulatory regime risks exporting restrictive standards that could violate Americans' constitutional rights. I'd like to expose that and discuss that a little bit further.

He noted that the oh-so-benignly titled Online Safety Act exemplified this regulatory model. The OSA is marketed as a measure to protect children online, but it is clearly being used as a means to actually impose government-backed censorship, especially speech which is critical of government policy.

As an egregious example, we have learned that the OSA has been used against Katie Lam, MP for Weald of Kent, to block videos of her speeches made in Parliament critical of the fallout from the country's immigration policies.

Mr. Price, are you familiar with the circumstance where actual speeches in Parliament or other public figures are—their speeches are being censored by the government under this claim of protecting minors or protecting people from hearing the speech?

Mr. PRICE. I'm familiar with censorship of public protests. That's already happened in the United Kingdom. The Online Safety Act has placed blocks on those to so-called—to protect children—that's the claim—but it has prevented adults from accessing it as well.

Ms. HAGEMAN. *The Times* has also reported that using the Communications Act of 2003 and the Malicious Communications Act of 1988, there have been—37 police forces have made over 12,000 arrests in 2023 alone, which is the equivalent of 33 a day, all in relation to social media posts. Are you familiar with that information, Mr. Price?

Mr. PRICE. I am, yes.

Ms. HAGEMAN. OK. In July, the House of Commons' Science, Innovation, and Technology Committee released a report indicating that the OSA was “merely a first step,” is the way that they have described this. In other words, they are planning to do even more to address what they describe as online harm.

Have you heard that as well?

Mr. PRICE. I have, yes.

Ms. HAGEMAN. Well, that there's something that just happened this week, and a few of the Members have referenced it, but it involved the Irish comedian and writer Graham Linehan, who was

arrested in Britain apparently for social media posts about transgender issues. Did you hear of this circumstance?

Mr. PRICE. Yes, I did. I know Graham personally.

Ms. HAGEMAN. OK. According to his *Substack* article, the trouble actually began when he was in America. He was at the airport in Arizona seeking to fly back to Europe, was told that he did not have a seat, was put on a later flight, and when he arrived at Heathrow, he was met by five armed police officers.

Are police officers in England typically armed?

Mr. PRICE. They're not, no.

Ms. HAGEMAN. Did you find it strange that he would be met by five armed police officers?

Mr. PRICE. At airports, counterterrorism police are usually armed and—or, there is a special wing of the Metropolitan Police that has an armed support unit.

Ms. HAGEMAN. Is he considered a terrorist?

Mr. PRICE. We're not—I'm not clear what provision he was arrested under legislation, but there is a power in the Terrorism Act to arrest people at airports and seize their devices.

Ms. HAGEMAN. Sure. Was he identified as a terrorist because of his online posts?

Mr. PRICE. It's not clear yet if he was arrested under that provision, but it has very wide-ranging powers and it is used on occasion to detain people at ports.

Ms. HAGEMAN. OK. I understand that, and that probably is more of a frightening answer than I expected, which is that they've used the power that is typically reserved for terrorists or people who are a grave risk to the country to arrest Mr. Linehan at the airport because of his Twitter posts.

Is that right?

Mr. PRICE. It's not clear if they used it yet, but that is a power that they frequently—

Ms. HAGEMAN. OK.

Mr. PRICE. —that is used to seize people's devices at airports.

Ms. HAGEMAN. Can you describe more of what happened with this incident involving Mr. Linehan? Do you have familiarity with the facts?

Mr. PRICE. I've read his statement, yes.

Ms. HAGEMAN. OK. Could you please explain what happened?

Mr. PRICE. It appears that he was detained on arrival in Heathrow and then arrested, searched, subjected to a long series of questions, most of which revolved around his beliefs on gender ideology and transgender issues.

Some of the questions from the police, according to Mr. Linehan, were extremely ideological in nature, and they talked about people who are "assigned" a gender at birth, which, as he pointed out himself, is activist language that the police should not be using.

Ms. HAGEMAN. He also claims that his bail conditions was—one of the conditions was that he could no longer use X. Is this a tactic you have seen or heard of being used before?

Mr. PRICE. Yes. We've seen extraordinary bail conditions even placed on clients of our own. We had a client, Pastor Dia Moodley, who was given a bail condition that he was not allowed to preach about the differences between Christianity and Islam on the basis

of that he would be bailed. We have seen bizarre and wide-ranging bail conditions set on people before under speech offenses.

Mr. KNOTT. Time has expired.

Ms. HAGEMAN. OK. Thank you.

Mr. KNOTT. The Chair now recognizes the gentlelady from North Carolina.

Ms. ROSS. Thank you very much. Thank you to all the witnesses for your testimony and for your patience. It's been a long hearing.

It's very timely that we're discussing threats to freedom of speech and innovation in this Committee. I do wish we were talking about what's going on in this country right now, but I don't always get what I wish for.

The freedom of speech in this country is under threat. There is no question about it. We haven't talked about this much so I'm going to focus on it—the essential American ideal of innovation is also under threat. It's enshrined in our Constitution, and it's being ignored.

The gravest threats to speech and innovation are coming not from our democratic European allies, but from the authoritarian and unconstitutional actions of the Trump Administration.

The Trump Administration has embarked on a coordinated crackdown of speech on universities across the country. I represent more than five universities in the Research Triangle area. I've seen it.

The administration illegally froze billions of dollars in Federal research grants, affecting not just people's health and safety, which is what they were for in the first place, but the economies of places like North Carolina.

They forced the resignation of university presidents they don't like. They threatened to strip universities of patents for discoveries made in their labs—unprecedented.

This administration has also refused to restore these important grants, which fund research for everything from breast cancer to infant mortality, unless the schools allow the government to exert control over faculty hiring, academic programs, and student admissions.

Professor Kaye, how have the Trump Administration's attacks on our Nation's preeminent research universities harmed the ability to innovate?

Mr. KAYE. I think that's an excellent question. We've seen it across the board, these attacks on universities.

If we think about universities—and there is a connection here to freedom of speech. If we think about universities as the principal engine for the generation of knowledge and the generation of ideas, basically innovation in our country, the administration is going after them in all the ways that you described.

It goes after them not only by withholding grants that have already been awarded; it's also going after them in the context of seeking to shape what the research is, what's actually being taught in the classroom. Those are very significant interferences with the potential for innovation in our country.

Ms. ROSS. Well, thank you for that.

Now, to get to the tech issues, because that's kind of underlying what's going on, this hearing is supposed to be about Europe's

threat to Big Tech companies, but I'd like you to speak about the threat of Big Tech companies and the AI models that they're creating on intellectual property rights, many of which are protected more strongly in Europe than they are here.

How have AI models that scrape everything that they can, whether copyrighted or not, impacted innovation and even our newspapers, which are having to sue for the copyright for the content that they create?

Mr. KAYE. Well, this is, as you know, a pretty complicated area. I would highlight, just to bring it to European regulation for a moment: Whereas the United States has not really gone very far down the path of legislating in this area and finding ways to boost AI's potential for democratic and freedom-of-expression purposes, Europe has actually adopted an AI Act, which, again, we might not agree with all its particulars, but it's aiming to harness the power of AI for democratic purposes and to ensure that AI doesn't have this negative impact on fundamental rights.

That's an approach that we can learn from, actually, and that we haven't so far.

Ms. ROSS. I want to just—because I know I only have a second left—I really want to give a lot of credit to Congressman Issa, because he has been having excellent hearings on this very issue. Unfortunately, the larger Judiciary Committee has taken no action.

I would encourage the larger Judiciary Committee to follow Congressman Issa's lead about protecting our creators.

Thank you, and I yield back.

Mr. KNOTT. Thank you, Representative Ross. The Chair now recognizes the gentleman from South Carolina.

Mr. FRY. Thank you, Mr. Chair.

We're here to talk about ongoing concerns with European censorship, British censorship, and its effect on American speech or broader free-speech principles that hurt certainly citizens but American companies both domestically and abroad.

What I'm hearing today, at least from the witnesses, is rather alarming—this Orwellian-in-nature approach that Europe has taken, the hostility to free speech, to satire, and to maybe speech that you disagree with. I want to talk about that as it pertains to the U.K., the EU, and certainly the U.S.

Mr. Price, Prime Minister Starmer said that the U.K. does not have a free-speech problem. Do you agree with that statement?

Mr. PRICE. No, I do not.

Mr. FRY. In what ways do you disagree with the Prime Minister?

Mr. PRICE. We have seen numerous prosecutions in the United Kingdom for totally nonviolent speech. We have clients my own organization is acting for who have been arrested for silently praying, for offering consensual conversations, and for preaching about the gospel. I can go on. There are numerous, numerous examples.

Mr. FRY. The 12,183 prosecutions is at least what I've read. Does that sound about accurate to you?

Mr. PRICE. That sounds accurate.

Mr. FRY. Which is a 50-percent increase from prepandemic levels. What does that tell you about maybe the focus of the British Government as it pertains to speech right now?

Mr. PRICE. Sadly, it shows that the United Kingdom, just like the rest of Europe, has entered a spiral of censorship, and it's getting worse. It's gotten to the point where even our oldest and closest ally, the United States, has had to intervene and point that out. As I've said on numerous occasions, I'm extremely grateful to all of you for doing that.

The problem, frankly, is being now compounded and set in stone by things like the DSA from the European Union and the Online Safety Act in the United Kingdom.

Mr. FRY. Let's talk about the Online Safety Act for a second. Maybe it's intended to protect children, and I think everyone lauds that. Mr. Farage talked about that, that nobody, Right or Left, wants their child exposed to bad content online.

It's been talked about, and you've seen this in your practice, used as a weapon to target speech that maybe the government finds uncomfortable or disagrees with. Is that correct?

Mr. PRICE. Yes, that's correct. We've seen, for example, Section 62, which is designed to protect children, being used to censor videos of protests near asylum centers.

Once you reach a point where content is restricted on the basis that it is political, we're moving well out of any kind of zone of protecting children into essentially censorship.

Mr. FRY. Right. At least in the case of the comedian, the Irish comedian that was recently arrested I viewed—I was not aware of his content before and then looked at it, and it seemed to be satirical in nature or maybe hyperbolic and not necessarily to be treated literally. Is that your interpretation of that too?

Mr. PRICE. Yes. In fact, I told Graham Linehan, when I was growing up, I wasn't allowed to watch his comedy on TV. "Father Ted" was the show that he's probably most famous for.

What I would say is, he's an excellent satirist, and he's in the long tradition of Irish satire, starting with Jonathan Swift, really, and all the way up to today.

Mr. FRY. Isn't that part of British society, though, is satire is embedded in the culture? Like, you've embraced this for hundreds of years, right?

Mr. PRICE. Yes. I would just add, Irish and British.

Mr. FRY. Irish and British. Excuse me.

Mr. PRICE. Yes. Very much so, yes. It's a concept—really, we haven't seen political extremism in the British Isles in the way that we did in Europe because we have a healthy way of kind of laughing at and poking fun at our leadership. Whether it's cartoons about the king in the 1800s all the way up to "Father Ted" and Graham Linehan's work today, that's a great tradition.

Mr. FRY. Isn't there growing frustration with the Irish people, the British people, maybe broader European cultures, that the government is more focused on speech than it is, say, the migrant crimes that are happening right under their noses?

That seems to be, from my view across the pond, that particularly the British people, they're fed up with the nonenforcement of immigration laws at the expense or maybe because in large part they're focused on what people are saying online. Do you share that?

Mr. PRICE. I completely agree with that. This is a discussion I had with Representative Raskin in London. This is about shutting down growing discontent in Europe with the decisions that our political elites have made. We've reached a crisis point where it's no longer possible to conceal the level of public anger. These censorship maneuvers are an act of desperation, and they won't work.

Mr. FRY. Thank you for that.

Radically shifting to Mr. Reed for a second, in a different approach: In the app industry, does the DMA incentivize Chinese copycat companies to flood the market? If so, how does that impact American companies in European markets? What are the associated data privacy implications of that?

Mr. KNOTT. You may finish.

Mr. REED. Being aware of the time. Yes. The problem is Article 6, Section 4—

Mr. FRY. You have unlimited time. Pay no attention to the Chair.

Mr. REED. OK. I always pay attention to the Chair and the Ranking Member.

The easy idea is, Article 6, Section 4, Article 6, Section 7, and even 10, part of the problem is they basically have must-carry provisions. What that does is open the door.

Part of what small businesses have benefited the most from the existence of these platforms—again, as I said, this isn't a love affair. It's a business relationship. They opened the door to customers, and the customers trust what they're buying on the platform.

The Article 6, Section 4, and Section 7, really say they must put on anyone's product. Of course, the most classic example of that: The first mover under the new DMA was Pornhub, which—Apple had decided they didn't want porn apps on their app store. The first one out of the gate to say—incorrectly, they claimed it was an Apple-approved app, which once again leads to confusion and breaks down trust. That was, out of the gate, the first app.

From my Members' perspective, their concern is, hey, I want to be sold at the store that people feel comfortable buying at. The more you degrade the quality of experience and the more you degrade or allow it to be broader, we run into a problem.

Mr. KNOTT. The gentleman's time has expired.

Mr. REED. Thank you. I'm sorry for the time.

Mr. RASKIN. Mr. Chair, I have a parliamentary inquiry.

Mr. KNOTT. Yes, sir. Go ahead.

Mr. RASKIN. Apparently, the whereabouts of our missing witness have been ascertained. He is appearing on *GB News*, which I guess is the network he works for, outside of the Rayburn Building.

I just wonder if it would be consistent with the rules and the practice of our Committee for us to send someone to invite him to come back, because I think we have five or six Members who haven't questioned yet.

Would that be alright, if we sent someone to go alert him that there are still Members waiting to do their questioning, just out of courtesy and respect for our colleagues?

Mr. KNOTT. Well, the Chair will make note that the witness has appeared voluntarily and he has left voluntarily. In terms of going and asking him to come back, no objection there.

Mr. RASKIN. OK. If we could do it, if we could find him.

I'd like to submit for the record this clip from *GB News*: "British Free Speech Under Threat? Nigel Farage Says U.K. is an Authoritarian State Like North Korea."

Mr. KNOTT. Without objection.

Mr. RASKIN. Thank you.

Mr. KNOTT. Does the gentleman yield?

Mr. RASKIN. Yes, sir.

Mr. KNOTT. The Chair recognizes the Representative from Vermont.

Ms. BALINT. Thank you. Thank you, Mr. Chair.

I spent my August traveling around my State listening to Vermonters tell me what was on their minds, and there was one constant thread, and that was fear and concern for young people—for their safety and their future.

Parents kept asking me, will my kids ever be able to afford a house in this economy? Is it going to be safe for my kid to go to school? Are my kids safe online? Over and over again.

I want to tell you about one conversation I had with a high school student in Vermont, who said to me, "we all know that social media on our phones is hurting us, and in some instances, it's literally killing us." What he wanted to say is, what are you doing about it? What are you doing about it?

I have to ask myself the same question, because I'm a parent, I'm a former teacher, I'm now a Member of Congress, and what are we actually doing to solve the problem, to stand up for our kids?

It's clear we need real attention on this. We need to focus our attention. We do need to regulate corporations behind these problems. We need real public oversight, yes, over the gun makers, yes, over financial speculators, but also Big Tech.

Because polls show, across the country, Americans overwhelmingly want us to take action on the harms that are hurting their kids.

Yet, here we are, first hearing back. We're not talking about the AI platforms that are leading kids to self-harm. We're not talking about the algorithms profiting off teens' eating disorders. We're not working together to hold Big Tech accountable. No. We're here talking about how other countries are being too mean to Big Tech. It's gross.

Professor Kaye, thanks for being here. Can you briefly describe how the EU's Digital Services Act regulates social media content for children?

Mr. KAYE. The DSA is a very big piece of legislation, a big regulation, but it gets to exactly the point that you're making, which is, the DSA is the result of a years-long process of, democratically, Europe trying to figure out what's the response to the massive power of Big Tech over their information environments.

To give one example, they provide a mechanism that actually requires those companies that are considered the very largest platforms and search engines to do an assessment of the risk that they cause in the context of illegal content, which could include child sexual abuse material.

That is really only doing that basic risk assessment that we should imagine all companies would do.

Ms. BALINT. Exactly.

Mr. KAYE. Then, based on that, they're supposed to—they're actually obligated to take mitigating measures against them.

Ms. BALINT. Yes.

Mr. KAYE. That's one example.

Ms. BALINT. Yes. This is bare-minimum stuff here, right? Bare minimum.

Mr. KAYE. Yes.

Ms. BALINT. Risk assessment: What are we subjecting our children to?

Mr. KAYE. Correct.

Ms. BALINT. In your assessment, does the EU prioritize protecting kids and teens from content related to suicide and self-harm?

Mr. KAYE. The DSA is not content-specific, right? It doesn't require any company, for example, to take down any particular kind of content. In the risk assessment provision, it's pretty clear, and if you read the negotiating history around the DSA as well, it's pretty clear that this is one of the key issues that concerns Europeans and, thus, concerned the regulation as it was adopted.

Ms. BALINT. Thank you. I really appreciate you being here to balance this out. Look, we've got to follow the money here, OK? I want to draw your attention here to the visual here, OK?

*Trump Inauguration Fund*: Amazon, a million; Meta, a million; Google, a million; Microsoft, a million; Apple, a million; OpenAI, a million. The list goes on.

This hearing is not about making the internet a safer place for kids. It's about harassing Europeans who are trying to do something—something. No, it's imperfect, but they're trying something, and we sit here twiddling our thumbs.

There has never been a more important time than now to create some basic rules for Big Tech. Our kids are more important than these billionaires and their shareholders, period. If we truly want to protect our kids, we have to push back on unrestrained corporate power and try to retain some moral clarity in this moment.

Chair JORDAN. [Presiding.] The gentlelady—

Ms. BALINT. I was told I would have more time because there was a Member that went over by a minute.

Chair JORDAN. Sure. Go right ahead.

Ms. BALINT. We should be looking at any country around the globe who is actually trying to do something. No, should we copy exactly what they're doing? No. We shouldn't stick our heads in the sand and say, "Oh, there's nothing we can do here."

We cannot maintain the status quo and then go back to our constituents and look these parents in the eye and say that we're actually doing our jobs. The solutions are right in front of us if we would actually do the work here in this Committee.

I yield back.

Chair JORDAN. The gentlelady yields back.

I would just remind the gentlelady that Mr. Zuckerberg from Meta sent this Committee a letter a year ago, August of last year, saying that the Biden Administration pressured them to censor, they did it, they're sorry, and they're not going to do it again, and they've changed policy. I said that in my opening statement. We do

think this Committee has had a huge impact on protecting free speech.

The gentlelady from Florida is recognized for five minutes.

Ms. LEE. Thank you, Mr. Chair.

Today, we are examining a growing threat—the way that Europe and the U.K. are using so-called digital safety and competition laws to undermine American values and American innovation.

The EU Digital Services Act and the U.K.'s Online Safety Act go far beyond legitimate regulation. They empower foreign bureaucrats to label political dissent, even ordinary phrases like “take back our country,” as hate speech, and they pressure U.S. platforms to apply those censorship rules globally.

At the same time, the EU's Digital Markets Act and the U.K.'s DMCC deliberately single out American technology companies for punitive treatment, forcing them to share proprietary data and subsidize less innovative rivals. These laws are protectionist by design, and they put American jobs, innovation, and free speech at risk.

Congress has a duty to push back. We must ensure that foreign governments cannot dictate what Americans are allowed to say online nor use regulatory schemes and backdoor taxes on our most successful industries.

I look forward to hearing from you all today and appreciate your testimony.

Mr. Price, I am a former American judge, and, as such, I know that laws must have clear, defined terms to be applied impartially and fairly and consistently.

I'd like to return to the discussion of the OSA and specifically the requirement under which speech to be censored as a false communication, it must cause, quote, “nontrivial psychological or physical harm.”

Would you share with us your perspective on the use of phrases such as “nontrivial psychological harm” and your view of whether it is possible for these terms to be applied uniformly, fairly, and consistently?

Mr. PRICE. I'm afraid I really can't. You've hit the nail on the head, really, in terms of your question. These terms are extremely vague. It's a longstanding principle of the common law that vagueness in the criminal law is repugnant.

Ms. LEE. Sir, is it your view that this is actually an appropriate or even enforceable regulatory scheme?

Mr. PRICE. It's not appropriate, but they certainly intend to enforce it.

Ms. LEE. OK. Thank you. Mr. Reed, I'd like to turn back to the DMA's application to our companies and the concept of gatekeepers, which we touched on earlier today.

Would you please describe how that operates and how these regulations are creating an unfair competitive advantage for European and Chinese firms at the expense of American companies?

Mr. REED. Well, the primary problem with the way that the EU has set up the gatekeeper requirements is, it's driving the largest companies to essentially pull back from the tools they build for my members, from the frameworks that they build for the small businesses—ironically, oftentimes, these small guys are the ones who

are going to compete with them—because it allows them to say, well, to comply with the DMA, we need to remove various functions.

This isn't a hypothetical. What we've seen so far in our discussions is, they want to remove link-throughs, they want to remove other elements that they see as essentially keeping power in a few of the big companies.

The irony is, of course, the small guy, not the medium-size guy, not the billionaire, but the truly small guys actually need that foothold to step up. What it creates is an environment where, sure, there will be some billionaire companies that will do well out of the DMA, but the thousandaires, those of us who are trying to get to that next level, are the ones who get crushed between the two giants.

Ms. LEE. Thank you. I yield the balance of my time to the Chair.

Chair JORDAN. I thank you. Mr. Price, I just want to make sure I understand exactly what's happening.

A pastor gets arrested for what he said, but the guys who attacked him don't.

Lucy Connolly said things that she shouldn't have, probably—or, not "probably"—definitely. I mean, what did Mr. Farage say, "intemperate statements"? She took them down. She got more prison time than young violent offenders got.

Ms. Rose Doherty, I believe, was praying silently outside, and she got charged. Is that all accurate?

Mr. PRICE. The only point I would add is, Rose Doherty, a 74-year-old grandmother, was arrested for holding a sign that said, "Here to talk, only if you want."

Chair JORDAN. Oh. She was praying silent—not saying anything, just a sign, right?

Mr. PRICE. Just a sign, sir. Yes, sir.

Chair JORDAN. Oh, wow. Wow. If an American comments on this in a way that the DSA defines as disinformation, misinformation, hate speech, they can have their speech taken down as well. Is that accurate?

Mr. PRICE. That is entirely accurate within the terms of the DSA.

Chair JORDAN. That's the State of play.

Mr. Reed, I would just point out, when Ms. Virkkunen, the guy—the lady who took Mr. Breton's place, when she was here talking about how the Digital Markets Act could impact companies, she said, "You know, we don't have anyone in Europe complaining about the law." My response was, "That's because you don't have any companies."

The way you define it, according to Mr. Price—and you understand—it only includes American companies and one Chinese company. Is that right?

Mr. REED. Well, the irony is, there are a lot of smaller European companies that are complaining about the DMA. Not the idea that they need a competitive landscape; it's that it focuses on entirely the wrong thing.

Chair JORDAN. Yep.

Mr. REED. You hit it on the head. A lot of our Members come here to get money to go back there to build products.

Chair JORDAN. Yep. I'm sorry. They called votes. I do want to move quickly, and I shouldn't have went over. Mr. Garcia is recognized.

Mr. GARCIA. Thank you, Mr. Chair.

We are here today for two reasons: (1) Republicans are in the pocket of Big Tech; and (2) they want to distract us on the war on free speech and expression in the U.S.

We all remember Trump's inauguration. The tech oligarchs were all there—Musk, Zuckerberg, Bezos, Cook, and Pichai—and they looked like they won the Presidency. Because they did.

They got what they paid for. Since taking office, Trump put out an AI action plan that could've been written by Big Tech, dropped enforcement provisions against tech companies, and tried to unlawfully fire two FTC commissioners who fought to hold these companies accountable. By the way, one successfully got back to work today, first day back. That's Rebecca Slaughter.

Trump and his loyalists in Congress are also serving their corporate overlords by attacking the countries that actually try to rein in Big Tech. That's not innovation; that's corruption and oligarchy.

The American people do not want corruption and oligarchy. They want leaders who have the backbone to stand up to Big Tech, to stop massive surveillance and protect data privacy and uphold freedom of speech.

The people least qualified to talk about freedom of expression are the ones that currently are cracking down on the First Amendment. As my colleagues have described, Trump and his fellow Republicans have banned words that the Federal Government can use. They have extorted media companies to punish news coverage they don't like. They've weaponized the immigration system against people who have other views. They've suppressed economic data and other information that contradicts the propaganda machine, and targeted medical research, even, and museum exhibits—all because they're afraid of words, history, and the truth.

At the same time, Republicans are leading a historic crackdown on expression and they're holding propaganda hearings like this and telling us to reject the evidence of our eyes and ears.

Mr. Kaye, thank you for being here today.

As I mentioned, this administration is using the immigration system to suppress speech, as we've seen—Mahmoud Khalil, Mohsen Mahdawi, Mario Guevara, and many others being targeted and detained because of their speech and, in *Guevara's* case, his reporting. Could you please comment on the ongoing weaponization of immigration to trample freedom of expression?

Mr. KAYE. Yes. Each of those examples is accurate. As we've heard so many different examples of crackdowns or alleged crackdowns on different kinds of speech in the U.K. or in Europe or in the United States, we just have to be honest that there are crackdowns happening in the United States.

It's entirely accurate to say these kinds of content-based restrictions and punishments in the U.S. are very serious interferences with freedom of expression. It would just be important to acknowledge that as we're talking about other kinds of restrictions as well.

Mr. GARCIA. Thank you for that. It's really important that we not allow arsonists to pretend that they're firefighters, and we must not let Republican lies prevail.

I yield back.

Chair JORDAN. The gentleman yields back.

We will do one more. Then, unfortunately, we have to recess for votes. I know guys have been sitting there for three hours. You need a well-deserved restroom break. We'll see if we've got some refreshments for you back there, hopefully.

Mr. HARRIS is recognized, and then we'll take a quick recess.

Mr. HARRIS. Thank you, Mr. Chair, and thank you for this important, important issue.

To all of you that have shared on this panel today, greatly appreciate your patience and your thoughtful answers.

I've served as a pastor for 36 years, and so, obviously, I have a heightened sensitivity to the whole issue of when governments and institutions begin to talk about hate speech and the censorship of hate speech.

I guess one of the questions that I'm concerned about today—and I'll ask you, Mr. Price, because of your experience in this area, particularly with ADF. Would you consider posting a Bible verse hate speech?

Mr. PRICE. No.

Mr. HARRIS. Is saying there are only two genders hate speech?

Mr. PRICE. I certainly wouldn't consider that hate speech.

Mr. HARRIS. Yet, the U.K.'s Online Safety Act, among other things, is requiring companies to take actions against content which, quote, "incites hatred against people."

I guess my question is, again, Mr. Price, who is in charge of determining what constitutes content which incites hatred against people?

Mr. PRICE. The regulator of the Online Safety Act is Ofcom, which is the statutory body.

The legislation itself includes what they call "priority content." That's content that would be age-restricted. It encompasses things that are illegal outside—or in real life, not online.

The problem with that is that our Pastor Dia Moodley that I mentioned earlier, he was threatened—he was arrested under the Public Order Act, which talks about stirring up religious hatred, for comparing Islam and Christianity.

On the basis that the Online Safety Act restricts something that's deemed to be a crime outside, that kind of content would be restricted. That's extraordinary overreach.

Mr. HARRIS. Is hate speech, quote, "objective"?

Mr. PRICE. This is where I might just pick up on something Professor Kaye said earlier in relation to hate speech. The problem with it is, it's a tautology, saying that incitement to hatred is speech that creates hatred.

There have been attempts by the United Nations, like the Rabat Plan of Action, to try and, on the prosecution side, set out a more clear framework for it. As far as European courts are concerned, that their jurisprudence in this area is essentially incoherent.

Mr. HARRIS. Right. Well, obviously, I oppose any hateful rhetoric that's expressed online, but, at the end of the day, it's not the job

of governments to police bad speech, especially when they'll never be able to agree on what actually constitutes bad speech. At the end of the day, the best remedy for bad speech is good speech, not censorship, in my opinion.

*I'll also ask:* There is currently a clash between social media platforms that value free speech and the laws of the U.K., causing some companies to alter their terms of service.

Mr. Price, are American social media companies expected to comply with U.K.'s Online Safety Act?

Mr. PRICE. Yes, sir, they are.

Mr. HARRIS. How does this impact the way in which companies set their terms of service?

Mr. PRICE. We've seen this again and again when it comes to regulations from European regulators, either from Brussels or London, where companies, of course, commercial enterprises, setting and designing a system that complies with EU law often means setting something for their entire operations globally.

We saw that again and again with GDPR. Every time you have to click "I don't want cookies" or something—and Americans are exposed to this—that's as a result of—it's a complicated enough process, but—of European regulation reaching into your online activity.

Mr. HARRIS. Well, again, this is a critically important issue.

You've done some incredible work, I know, with Alliance Defending Freedom, and I know, Mr. Price, you have defended witnesses criminally charged for praying near abortion clinics. One of those examples was Father Sean Gough, a Catholic priest who was charged for praying and holding a sign that read, "Praying for free speech."

The U.K. authorities allege that silent prayer near abortion clinics constitutes an attempt to coerce women who are considering abortions.

I just ask, is silent prayer coercive?

Mr. PRICE. No, sir.

Mr. HARRIS. Should silent prayer and holding signs result in legal consequences?

Mr. PRICE. Absolutely not.

Mr. HARRIS. So, when prolife activists are prosecuted for engaging in peaceful prayer and protest, what kind of message does that send to other prolife activists in the U.K.?

Mr. PRICE. It shows an extreme degree of intolerance; it shows police overreach.

Ultimately, we have to go back systemically—the problem is these laws that are being created. They are incredibly vague, overbroad, whether it's by European regulators or U.K. regulators. They're having a real impact on people's lives and their human right to free speech.

Mr. HARRIS. Well, as this Committee has discussed previously, the FACE Act here in the United States has been used to go after proliferators, and I just pray we don't reach the point that such activists are arrested for silent prayer, as we've seen there.

With that, Mr. Chair, I yield back.

Chair JORDAN. The gentleman yields back. The Committee will stand in recess for 15 minutes, more or less. Restrooms and refreshments in the back for you guys.

Thank you so much.

[Recess.]

Chair JORDAN. The Committee will come to order. We have a few more—again, I want to thank our witnesses. You’ve been very patient, very good. We appreciate you being here.

We’re going to start with the gentleman from Wisconsin. Then, we’ll go to the gentleman from North Carolina, unless a Member of the Minority party shows up and then we’ll go with them. We’ll finish up from there.

The gentleman from Wisconsin is recognized for five minutes.

Mr. GROTHMAN. It’s my opinion—first, I had a few comments I wanted to have for Mr.—Farange (sic), we call it?—before he left.

Chair JORDAN. Farage.

Mr. GROTHMAN. I have always known—there are certain things you think about the English. I know we can’t stereotype today, but we’re going to. When you think of the English, you think of irreverence. You think of accepting of eccentricities, right? You think of their dry sense of humor.

There is no—if we had to crack down on free speech in any country in the world, the country we’d lose the most in is if we cracked down on free speech in England. Because they are great, aren’t they? There was just a general comment.

Now, Mr. Price, there are a variety of things we’re trying to get at in this hearing, and some of it is financial and how regulations can hurt companies. The most important thing is to wake up the world in what’s going on in Britain, OK, and other countries in Europe. I don’t think the average American is aware of that.

It’s important they be aware of it, because, in general, stupid-idiot ideas begin in Europe, and then they go to California and New York, and then they seep their way across the United States.

This idea that we can crack down on free speech—I would like you, Mr. Price, just to go through a few examples, including the examples of that poor gal who wound up in prison. Don’t be afraid to not be able to say what she said, “because we’re still in America, it’s still a free country.”

What do you say to wind up having to go to prison in Britain today? Exactly what do you have to say? While you’re still in the U.S.

Mr. PRICE. Yes, sir. I am going back to the U.K., though, and after what happened to my fellow Irishman, Graham Linehan, I might just be careful.

One thing I would say is that the overbroad laws that we’ve been discussing, and the implementation or the enforcement of the law has reached a point where we now have perfectly legitimate speech being caught up in criminal prosecutions.

For a Christian pastor like Dia Moodley in the city of Bristol, it’s a perfectly natural thing to answer a question from a member of the public about the differences between Christianity and Islam. The fact that he was ultimately arrested under the Public Order Act there for stirring up religious hatred, a charge they later dropped, and not the people who are assaulting him gives us an idea of how bad things have gotten in the U.K.

We were delighted, of course, that Vice President Vance, in his Munich Security Conference speech, drew attention to this other

class of cases involving prosecutions for praying silently or for holding a sign offering consensual conversations in vicinity of abortion clinics, which is an extraordinary assault on freedom of speech and, I would say, freedom of religion as well.

Mr. GROTHMAN. OK. When I was looking this up, I didn't know what she said. Apparently, she was critical of a mass murderer whose ancestors came from Rwanda. It's now against the law to point that out in Great Britain, apparently?

Mr. PRICE. Yes. That's the case of Lucy Connolly. Lucy Connolly tweeted a tweet where some of us—or I think most people would probably disagree with what she said. She disagreed with it herself. She took it down 3½ hours later. It was, as Mr. Farage said, “in a moment of great tension and great personal stress.” For that, she received a 31–32-month sentence. She has been released since, but she was prevented from attending this hearing, which I think is a real shame.

Mr. GROTHMAN. Last week, in the United States, we had a horrible murder, and I think it was a Catholic school in Minnesota. The murderer happened to be a transgender. Would that be illegal to point out in England?

Mr. PRICE. If you were—you could very readily see that it could be regarded—strong criticism—

Mr. GROTHMAN. It was a bitter, angry person who—

Mr. PRICE. Yes.

Mr. GROTHMAN. Could we point out maybe that had something to do with transgender? Can people have that opinion in Britain?

Mr. PRICE. If I were advising people—and this is the chilling effect in action—I would say, think very carefully before posting criticism of what happened, that tragedy in the school in England, because you could be accused very easily of stirring up hatred against a group of people.

Mr. GROTHMAN. “Stirring up hatred.” I mean, that's just preposterous. What is hatred? I don't even know what hatred is.

Mr. PRICE. This is an ongoing discussion among lawyers in relation to—

Mr. GROTHMAN. Is there any—just so you know, in your understanding and your understanding, Mr. Reed, is there any—doesn't free speech mean I can say things that maybe imply I hate somebody? Can I hate somebody? Is that against the law now?

Mr. REED. Really, that's a question that Mr. Price is probably better to handle.

Mr. GROTHMAN. Controversial. Maybe I can't. Well, thank God, I'm the type of person who's never hated anybody in my life. If I was a different sort of person, would it be against the law to say I hate somebody?

Mr. PRICE. The difficulty with it is that we've seen again and again legitimate Christian beliefs being described as hatred when it comes to the definition of marriage, when it comes to sexual relations.

Mr. GROTHMAN. Would it be the easiest thing just to enforce the First Amendment and say we can say whatever we want to say? Go back to old English?

Mr. PRICE. What I would say is, you're well-blessed in this country to have the extraordinary protections of the First Amendment, and I really do wish we had something similar in Europe.

Mr. GROTHMAN. Well, next time you get back to Europe, straighten them out, kick them in the butt, OK? Thanks.

Mr. PRICE. Yes, sir.

Chair JORDAN. The gentleman yields back. The gentlelady from Texas, who joined us for part of our visit to the European—to Europe—we appreciate that—recognized for five minutes.

Ms. CROCKETT. Yes. I hate that I didn't get to reminisce with our good friend, Mr. Farage.

Nevertheless, it's interesting that we're sitting here and we're talking about the so-called threats to the First Amendment when the biggest threat to free speech right now is the old guy that is sitting over in the Oval.

Now, Mr. Farage and I met over a month ago. He has made it a brand of being this free-speech warrior. One of the things that I wanted to recap was the fact that he literally tried to shut down my Ranking Member as he was engaging in his own free speech. It seems like it's more so "free speech for me, but not for thee" a lot of times with certain people. It's sad that he had to run and have lunch with Trump or to go raise some money for his four-member party.

Mr. Price, you get to be the lucky one to help me figure out what exactly free-speech advocates believe. It's good to see you again. You tell me whether these government actions support free speech or suppress it. Let's call it "free speech" or "Federal suppression." Fining or defunding—or defunding news outlets or companies because they don't share a political—a particular political message.

Mr. PRICE. I'm not entirely sure what context you're referring to. I think I'd need a little bit more information.

Ms. CROCKETT. Long story short, if they decide that they are going to fine or defund any news outlet simply because it doesn't necessarily go far Left or far Right, do you think that this is a violation of free speech?

Mr. PRICE. Well, I'm not entirely sure how it would connect with, let's say, the area of expertise that I have. I think you may be referring to the *PBS* controversy. It's probably not something that I would be able to really—

Ms. CROCKETT. Not necessarily. Let me go to Professor Kaye. Professor Kaye, did you understand my question? Fining or defunding news outlets or companies because they don't share a particular political message.

Mr. KAYE. Yes. Thank you for the question. At the very core of the First Amendment is a prohibition of viewpoint discrimination.

Ms. CROCKETT. OK.

Mr. KAYE. What you describe sounds like viewpoint discrimination.

Ms. CROCKETT. It definitely sounds like Federal suppression.

If you require news outlets and companies to have content moderators to ensure their coverage promotes a political ideology or leaning, would that be Federal suppression?

Mr. KAYE. Well, that does sound like an interference with a company's content moderation decision.

Ms. CROCKETT. Banning materials because of their content?

Mr. KAYE. Materials?

Ms. CROCKETT. Yes. So, like, books.

Mr. KAYE. Oh. Of course. Well, we've seen this in the range of book bans at libraries across the country.

Ms. CROCKETT. Absolutely. What about threatening private companies with lawsuits or fines unless they do the government's bidding?

Mr. KAYE. It sounds like pressure that would be undue, yes.

Ms. CROCKETT. OK. I agree with you.

All these actions are exactly what Trump has done since he's taken office. Make no mistake, Trump is weaponizing his idea of free speech to force folks and companies to become his political puppets to promote his propaganda.

Trump and Republicans defunded *NPR* because they argued it was biased.

Trump has removed books discussing racial discrimination at U.S. military academies, including the amazing Maya Angelou's autobiography, "I Know Why the Caged Bird Sings."

He's tried to strip funding to schools across the country if they don't remove materials that include discussions of racial discrimination or that promote diversity.

In order for the merger between Paramount and Skydance to happen, the FCC Chair and Republican-appointed commissioners required Skydance to establish a bias monitor and, in its FCC order, noted reports, quote, "concerning negative media coverage of the Trump Administration."

This is to say nothing of Trump pushing television networks to get rid of comedians and talk-show hosts who criticize his administration, say, like Mr. Colbert.

Let's call this what it is: It's Trump weaponizing the idea of free speech to force people, institutions, and companies to be his mouthpieces. This ain't free speech; it's propaganda.

Meanwhile, my Republican colleagues are out here having a meltdown over the European bill—one that, by the way, inclusion provisions to fight child trafficking.

It's frustrating because we talk about being fiscally responsible and we talk about free speech, and right now, as we're having these discussions, you know who's trying to shut down Members from voting in the way that they want to vote? It's the President, who literally said he would look at anyone who decided that they were going to vote to release the Epstein files as hostile.

That sounds like a threat as it relates to all First Amendment protections, in addition to the fact that it's literally contravening our constitutional duty that we swore an oath to. Because we don't swear to an orange king. Instead, we have sworn an oath to the Constitution, and we were elected to represent the people that elected us.

Thank you so much, and I'll yield.

Chair JORDAN. The gentlelady yields. The gentleman from North Carolina is recognized.

Mr. KNOTT. Thank you, Mr. Chair. To the witnesses, thank you all for being here.

This is a very important topic when we look at what's going on in Europe and, because of what's going on in Europe, what's happening, by extension, around the world. When we look at the encroachments on freedom of expression, freedom of speech, it is chilling. It's remarkable that the countries that gave birth to the Western civilization that we all enjoy are really becoming totalitarian.

Even points of expression that are organic to the United States or statements made while in the United States can result in being arrested once you return to Europe. If this was noted 15–20 years ago, people would not believe it.

Listening to the witnesses here who are on the ground, who are dealing with these totalitarian measures in Europe, it's worth noting to anyone who listens that they are thanking the President of the United States. They are begging the President, they are begging the Vice President and the Secretary of State to continue doing what they're doing, fighting this repression that's going on in Europe.

We've heard testimony that economic liberty is diminishing, freedom of opinion is diminishing, freedom of expression is gone, increased scrutiny of online comments—Twitter, Facebook—or X, excuse me—is gone, all under the mantra of safety.

Mr. Price, I want to talk to you first. You said that these points of legislation are really aimed at, quote, “protecting youth.” How exactly are the proponents of these restrictive measures—how are they making the argument that they are protecting youth?

Mr. PRICE. Yes, that's the argument they make, sir.

Essentially, particularly if we look at the Online Safety Act, the premise is that safety requires various kinds of restrictions, such as age verification. What that does, in effect, is that it means that minors aren't allowed to access certain content.

There's are two types of content. One is what they call primary priority content, which is the worst kind of thing that we would all agree is wrongful. Then, there's also priority—or primary content, which would include things that I think are otherwise lawful that people should be allowed to access, particularly in the United Kingdom, where the proposal now is to give—it's been passed or it's in the process—16-year-olds the vote, who would then be prevented from seeing certain content under the Online Safety Act.

Mr. KNOTT. In terms of some of the examples you've mentioned that give me concern, it doesn't seem as though there's too much restriction for modern gender theory, transgenderism, aimed at children, or graphic or explicit material aimed at children, but there are restrictions on pointing out verses of scripture or biblical truths that people adhere to. You can't discuss that online.

How does that factor into the protection of the child?

Mr. PRICE. I think your point is well-made.

It's worth noting and it often strikes me that smartphones with internet access have been available really—the iPhone was launched in 2008, and there were no immediate actions by governments or regulators to try and protect children from content. It's only after the election of Donald Trump and Brexit that there was suddenly an enormous effort at the European level to crack down

on content in the name of safety. I suspect, as I say, that there's an underlying political justification.

Mr. KNOTT. What's the goal? We've talked about the diminishing prosperity. The freedom is gone. There's diminished enjoyment of life. There's diminished humor. There's zero free-flowing information. What's the goal besides complete political power?

Mr. PRICE. I certainly think the goal, as you allude to, is narrative control. Information is the first and most important, as it were, quantity in a democracy. That's how we make our decisions, based on what we hear. If you can restrict the amount of information that people hear or you can channel it in one direction, then you influence democracy.

As I say, there's increasing discontent in Europe about the direction of travel in so many areas, and I do believe the DSA, like the German Network Enforcement Act and other related legislation, is part of a serious effort to control the narrative.

Mr. KNOTT. It's basically a tool of, quote, "progressivism" to silence dissent and to move the agenda forward. Is that correct? That's what I'm gleaning from the conversation today.

Mr. PRICE. Certainly, in a lot of our work it has gone that way. It seems that Christians are disproportionately targeted.

There was a dissenting opinion by the Polish judge in a case called *Dorota Rabczewska* before the European Court of Human Rights in 2022, where he made the observation that, when it comes to speech, those who are critics of Islam seem to be prosecuted and do not have the protections of the right to freedom of expression, whereas Christians—people who are critical of Christianity are prosecuted and they suddenly are entitled to free speech in that context.

In the U.K., we often call this two-tier policing, and I think there's a two-tier approach to human rights. Certainly, the Polish judge did, and I agree with him.

Mr. KNOTT. Interesting. Mr. Kaye, just briefly, in regard to the points that you've made—I appreciate what you've said; I appreciate your perspectives—would you admit at this point that the Biden Administration was involved in suppressing information as it related to various components of the COVID response, the COVID treatment plans, the vaccine's efficacy, and so forth?

Mr. KAYE. I mean, no. That is just not something I know—

Mr. KNOTT. You wouldn't stipulate to that?

Mr. KAYE. No.

Mr. KNOTT. Even—I know you criticized Mr. Zuckerberg for saying that the government leaned heavily on social media companies to remove content as it is related to COVID. You do not think that the government was engaged in suppressing information in any way?

Mr. KAYE. Well, we know there was—because there is Supreme Court cases around this, where the allegation was that officials in both administrations, the Trump and Biden Administrations, did put some pressure on the companies in terms of public health messaging. There's no question about that.

I think the Court found that this didn't constitute unlawful pressure or coercion. Clearly, those kinds of messages were part of the period of 2020–2021.

Mr. KNOTT. Do you condemn that? Do you affirm that action by regulating content, or no?

Mr. KAYE. Do I—

Mr. KNOTT. Do you affirm the motivations or the actions of the Biden Administration to suppress the COVID discussions?

Mr. KAYE. No. There needs to be clear back-and-forth and information-sharing between government and the largest platforms that shape the information environment. Of course you don't want coercion, but I think you have to find the balance where that kind of back-and-forth can exist.

Mr. KNOTT. Well, I'm sure you're aware that they say they were coerced by the Biden Administration.

Mr. KAYE. I think—

Mr. KNOTT. It appears to be a partisan interpretation when you say that it was reasonable what Biden did with Facebook, with X, and so forth.

Mr. KAYE. Well, we could go back and forth, but in my view is that that wasn't coercion, actually.

Mr. KNOTT. If you could say—if you could type on Facebook, “These vaccines do not work,” would that have been allowed?

Mr. KAYE. Honestly, I think it would—

Mr. KNOTT. No, it would be stripped. It would be stripped—

Mr. KAYE. It would depend on when we're talking about.

Mr. KNOTT. Under Biden, it would've been stripped. I'm sorry, our time's up, but—anyway.

Mr. KAYE. Mr. Chair, may I have just one very brief—

Chair JORDAN. Of course.

Mr. KAYE. Yes. Thank you.

I just want to make one point about hate speech, because there's been a lot of discussion about hate speech here, and it's valuable for us to at least understand the basis for where these hate speech laws come from.

Most of the language from the international law on hate speech, particularly in Europe, was a result of the use of propaganda to target Jews and others during the Nazi Holocaust. Quite a bit of the hate speech is actually a response to that history.

At least acknowledging that this is a part of the cultural freedom-of-expression background in Europe is useful so that it's not just a kind of bullying—

Chair JORDAN. Fair enough. Fair enough.

Mr. KAYE. —of Europeans but also an understanding of where they come from.

Chair JORDAN. Yes. Mr. Price made the point—I think his last comments made the point about a two-tiered system which they see versus—how certain Christians get treated versus how people of a different faith get treated. If you even use that term, “two-tiered system,” you can be criticized for using the term about something that many people think exists currently in the U.K. and in the EU. There's been lots of comments there.

I'll give the Ranking Member some time, and then I've got maybe one last question—one last point I would like to make.

Mr. RASKIN. Thanks. This is just for a UC request, Mr. Chair, because you had mentioned the outreach that you'd gotten from Mark Zuckerberg, and this is an article about that, “Meta to Pay

\$25 Million to Settle 2021 Trump Lawsuit.” The sentence that stuck out to me was, “The President signaled that the litigation had to be resolved before Zuckerberg could be ‘brought into the tent,’” one of the people said.

I just want to introduce that.

Chair JORDAN. Without objection.

Mr. RASKIN. One other thing is just the Supreme Court decision, *Murthy v. Missouri*, disproving the government censorship claims.

Chair JORDAN. OK. Without objection. I’ll just make one maybe final point, because it’s been brought up several times, I believe.

I’ll ask all of you. Mr. Kaye, has President Trump banned any books in the country? Are you aware of any?

Mr. KAYE. I don’t know about him specifically, but I do know that, for example, from “Defense of Libraries” (ph)—books on Martin Luther King have actually been removed.

Chair JORDAN. Mr. Price, do you know—do you know if President Trump has banned any books?

Mr. PRICE. I’m not aware that he has.

Chair JORDAN. Mr. Reed, has President Trump banned any books?

My understanding, the way it works is, you’ve got a local library board, you’ve got a local school board, and then they say certain books aren’t appropriate for kids, which is, frankly, the argument they use in the EU on the Digital Services Act and U.K. on the On-line Safety Act.

No President’s banning books. They’re just saying—local library board is saying second-graders should maybe not see certain things that adults can see.

Mr. RASKIN. Mr. Chair, if I could followup on that?

Chair JORDAN. Sure.

Mr. RASKIN. Because I’ve got constituents who are in the service abroad, and there are schools called DoDEA schools, Department of Defense schools. There was an Executive Order applying to the Department of Defense, and they shut down the school libraries there. These are Federal schools, not local schools, Federal schools. They stripped all kinds of books from there.

There have been protests throughout Europe by American families over there saying that they don’t want, “1984” and “The Handmaid’s Tale” to be stripped from the schools. I mentioned that, actually, in my opening statement.

Chair JORDAN. I want to thank each of our witnesses for being here today. I appreciate your patience, and appreciate you being here for, wow, five hours. Thank you very much.

This concludes today’s hearing, and we thank our witnesses for appearing before the Committee.

Without objection, all Members will have five legislative days to submit additional written questions for the witnesses or additional materials for the record.

Mr. RASKIN. Can I say one more thing, Mr. Chair, in praise of you?

Chair JORDAN. OK.

Mr. RASKIN. I might have designed it differently, but I want to thank you for organizing a very interesting trip for us and this hearing as well.

Chair JORDAN. Without objection—thank you. Without objection, the hearing is adjourned.

[Whereupon, at 2:55 p.m., the Committee was adjourned.]

All materials submitted for the record by Members of the Committee on the Judiciary can be found at: <https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=118565>.

