

STREAMING SUCCESS: SMALL BUSINESSES IN THE AGE OF DIGITAL INFLUENCE

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WEDNESDAY, SEPTEMBER 17, 2025

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,

Washington, DC.

The Committee met, pursuant to call, at 2:04 p.m., in Room 2360, Rayburn House Office Building, Hon. Roger Williams [chairman of the Committee] presiding.

Present: Representatives Williams, Stauber, Alford, LaLota, Jack, Downing, King-Hinds, Schmidt, Patronis, Velázquez, McGarvey, Scholten, McIver, Cisneros, Olszewski, Conaway, and Goodlander.

Chairman WILLIAMS. Before we get started, I want to recognize Congressman Alford from the great State of Missouri to lead us in the pledge and the prayer. Would you please stand.

Mr. ALFORD. Thank you, Chair.

Let's go in that order. We'll start with the Pledge of Allegiance.

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.

Our dear Father in Heaven, we just thank you for this day. Thank you that we have it to be here to make positive change for America in small businesses. God, we thank you for our Chair and our Ranking Member, for their leadership, and bringing this Committee together for the common purpose of supporting small businesses and making those improvements to the SBA where we can.

God, I thank you for the witnesses here today. Give them patience with us sometimes and us with them, and just help us to learn something, that we can take that knowledge for the betterment of America, and give them a safe trip home. It is through Jesus Christ we pray. Amen.

Chairman WILLIAMS. Amen.

Good afternoon, everyone. I now call the Committee on Small Business to order.

And without objection, the Chair is authorized to declare a recess of the Committee at any time.

I now recognize myself for my opening statement.

Welcome to today's hearing, titled "Streaming Success: Small Business in the Age of Digital Influence." Today we will examine one of the fastest growing sectors of our economy: content creation. While some may think of content creators only as online personalities, they really are a new generation of entrepreneurs taking risk in navigating the rapidly growing industry.

Content creators are more than just entertainers. They are small business owners, entrepreneurs, and job creators. They have transformed digital influence into sustainable careers by launching product lines, providing education, and creating loyal communities around everything from sports to law.

In fact, more than 1.5 million Americans now earn a full-time living as creators. Americans are building small businesses through platforms like YouTube. YouTube itself contributes \$55 billion and half a million jobs to the American economy. Globally, this sector is already valued over \$250 billion, and it is projected to drive \$2 trillion in social commerce by 2026.

The impact of this economy goes far beyond the creators themselves. A single successful creator fuels jobs for editors, designers, video producers, product manufacturers, and countless other small businesses. This superb—or this spiderweb effect shows what content creators aren't just building brands but powering an entire ecosystem of small business growth. But as with any small business, they face real challenges. Unique tax situations, unpredictable revenue streams, and costly intellectual property protections create barriers for these small business owners. Like this Committee has seen too often, red tape makes it difficult for these entrepreneurs.

So the creator economy is a prime example of the American entrepreneur spirit. Creators are innovative, they are fiercely competitive, and contribute greatly to America's economy. By reducing barriers and ensuring the government does not stand in the way, we can ensure that these small businesses have the freedom to thrive and grow in a digital economy. So I look forward to today's discussion.

I now recognize my distinguished Ranking Member and my friend for her opening remarks, Ms. Velázquez from New York.

Ms. VELAZQUEZ. Thank you, Mr. Chairman—and good afternoon, everyone—for calling this important hearing.

Like with any emerging technology, nobody could fully foresee the economic and social implications of social media as it has been. Since then, the landscape of social media has evolved. America is now home to a novel content creation industry worth billions of dollars.

Content creators come from assorted backgrounds, and their paths to content creation are just as diverse. Many are owners of traditional small businesses, looking to advertise their goods and services to new audiences. Others post about topics that they are passionate in, go viral, and connect with their devout following, and a golden opportunity for ad revenue develops almost overnight. With the low to nonexistent capital requirements and cost of starting and operating a social media page, coupled with the prospects of instant fame, it is no wonder so many American youths today dream of becoming content creators.

America's content creators often encounter longstanding issues that this Committee has addressed time and time again. As the world becomes more interconnected, especially in the online sphere, tariffs are an outside barrier to content creators looking to grow their small businesses through product and merchandise sales.

This spring, I led 67 colleagues in sending a letter to the Trump administration's U.S. Trade Representative, Treasury Department, Commerce Department, and SBA, calling on them to consider and address the needs of small businesses in their tariff decisions. I still have not received a response from the Trade Representative or Commerce Secretary.

Mr. Chairman, I seek unanimous consent to enter the letter into the record.

Chairman WILLIAMS. So moved.

Ms. VELAZQUEZ. With the new technologies and new industry come new challenges. The rise of social media has also seen the rise of online hate and harassment, the side effects of algorithmic content creation, the proliferation of content harmful to children, and the drowning of our discourse with AI slop. I would also be remiss if I did not address the elephant in the room: the ban on one of America's most important social media platforms, TikTok.

TikTok has given small businesses a lifeline in a sea of inflation, labor shortages, and ever-changing consumer preferences. With this tool in their toolboxes, small business owners can expand their reach and sales far beyond their hometowns, making them profitable and sustainable. Now we are in TikTok limbo. After President Trump's attempt to ban TikTok through executive action and Congress' subsequent legislative action, he has suddenly U-turned and is repeatedly delaying the ban's enforcement for short periods of time. In fact, the last delay was supposed to expire today and was only reextended yesterday by 3 months.

President Trump claims he will reach a deal to keep TikTok available in America within 30 to 45 days, but it hasn't been finalized. Such short timeframes create uncertainty for the content creators that rely on this platform, rendering them unable to plan beyond a 2-month horizon and adding immeasurable pressure to their business models.

America's content creators deserve a federal government that is willing and able to support their endeavors. That requires responsive agency and strong, stable public policy conducive to a prosperous business environment. It also means enacting thoughtful policies to rein in harmful content when necessary.

With that, I thank all the witnesses for your presence today, and I yield back. Thank you, Mr. Chairman.

Chairman WILLIAMS. The gentlelady yields back.

I now will introduce our witnesses. First witness here with us today is Ms. Kayla Moran. Ms. Moran is an attorney and the founder of Kayla Moran Law based in Miami, Florida. Ms. Moran began her career as a personal injury attorney before finding her own firm—founding her own firm to represent creators and entrepreneurs in the growing creator economy. She is also the host of "The Let's Get Candid" podcast, where she inspires young women to pursue their passions and build careers on their own terms. Ms. Moran earned her J.D. from the University of Tennessee College of Law, and holds a bachelor's degree from the University of Central Florida. We are looking to your testimony this morning—or today.

Our next witness here with us today is Ms. Christina Brennan. Ms. Brennan is the president of CelebExperts located in New York

City. She began her career in sales with the New York Yankees—

Did you sell them out?

Ms. BRENNAN. You know it. Top of the board.

Chairman WILLIAMS. Okay.—and quickly rose to the talent industry, becoming the youngest vice president of CelebExperts history, while growing a roster of over 30 exclusive influencers with a reach of more than 46 million followers. Ms. Brennan now oversees partnerships, brand strategy, and talent management for top-tier clients across the sports, food, and digital career industries, having aggregated tens of millions of dollars for both startups and Fortune 500 companies. Ms. Brennan earned her bachelor of science in sports management from Syracuse University.

Thank you for joining us today.

The next witness we welcome today is a constituent of mine, Mr. Nicholas Luciano from Weatherford, Texas. Mr. Luciano is the founder and chief executive officer of Tratter House located in Weatherford, as I spoke. Mr. Luciano worked as a mechanical engineer for the U.S. Department of Defense before making a pivot in 2020 to launch his own brand and media company. Since then, he has grown a digital audience of over 8 million, generated a 7-figure revenue through brand deals and merchandise, and helped companies expand their online presence. Nicholas earned his bachelor's degree in mechanical engineering technology from the University of North Texas, the Mean Green.

And thank you for traveling here from the great State of Texas to testify for us today, Nicholas.

I now recognize the Ranking Member from New York, Ms. Velázquez, to briefly introduce our last witness appearing before us today.

Ms. VELÁZQUEZ. Thank you, Mr. Chairman.

Jesse Appell is a comedian and entrepreneur, owning and operating Jesse's Teahouse, an e-commerce business specializing in high-quality tea and tea accessories. Born and raised in the Boston area, Mr. Appell became a Fulbright scholar, studying standup comedy in China, an experience he leveraged to begin posting about Chinese tea on TikTok during the COVID pandemic. Later, he went viral, used the attention to launch a tea business, and still posts today about his products, intercultural exchange, and his greatest standup hits. His work has also been featured on TEDx, PBS, NPR, and Chinese media. Mr. Appell holds a bachelor's degree in East Asian studies and international and global studies from Brandeis University.

Welcome, Mr. Appell.

Chairman WILLIAMS. If you are a comedian, you are going to do great up here.

We appreciate all of you being here again before us. And before recognizing, I want to—I would like to remind that oral testimony is restricted to 5 minutes in length. And if you see the light turn on in front of you, if it is red, if it turns on, it means your 5 minutes has concluded and you should wrap up your testimony. And if you keep going, you are going to hear this, and it will just get louder and louder, and finally you are going to have to stop, okay. I know you will do it just right. So anyways, it will be easy.

I now recognize Ms. Moran for her 5-minute opening remarks.

STATEMENTS OF MS. KAYLA MORAN, FOUNDER & ATTORNEY, KAYLA MORAN LAW; MS. CHRISTINA BRENNAN, PRESIDENT, CELEBEXPERTS LLC; MR. NICHOLAS LUCIANO, FOUNDER & CEO, TRATTER HOUSE; AND MR. JESSE APPELL, FOUNDER & OWNER, JESSE'S TEAHOUSE

STATEMENT OF KAYLA MORAN

Ms. MORAN. Thank you, Mr. Chairman and Ms. Ranking Member of the Committee, for the opportunity to speak with you today. And thank you to my fellow experts for joining me in giving creators in the creator economy a platform.

My name is Kayla Moran, and I am the founder and managing attorney of Kayla Moran Law, a dedicated creator economy firm with an innovative creator-first approach to help influencers and entrepreneurs build, scale, and protect their businesses. I am a first-generation American born to a Latin family in Miami. My father is a Marine Corps veteran turned banker, and my mother is an operations executive.

I entered this industry as a creator myself in 2018, and during the rise of TikTok, I realized creators need lawyers who understand their perspective. I have been a small business owner in the creator economy for over 4 years, first as a blogger and podcast host, then as an influencer manager, and now as an attorney.

The story of American entrepreneurship is changing. Today, the storefronts of main street have moved online. The creator economy with its low barriers to entry and flexibility open new career paths for Americans. Starting in its early years with bloggers and evolving into marketing agencies hiring social media influencers, the creator economy has disrupted traditional and costly multimillion dollar marketing productions. It has become a very lucrative career path, and now creators need Congressional backed support and protection to support and protect them as they navigate the industry as it continues to grow.

Running a business from a phone allows millions of Americans to turn their skills, voices, and ideas into businesses. Creators can turn side hustles into careers, stay at home while still putting food on the table, and students can even pay their way through college.

While the average American may discredit influencing as a hobby, Goldman Sachs, in their 2023 creator economy report, projected the industry could grow to almost \$0.5 trillion by 2027. In the U.S., there are full strategic teams at marketing agencies sourcing the right influencer for their client's marketing goals and allocating million-dollar budgets. And these businesses, at the heart of economic growth, deserve the same protections as traditional ones.

The Small Business Administration's mission of providing aid and protecting the interest of small business owners should be extended to this industry. Creative entrepreneurs need access to dedicated creator economy experts, including lawyers, accountants, and wealth management services, to give them the same level of support and protection the SBA provides to restaurants and mechanic shops so they feel equally valued and respected.

The rise of the creator economy has elevated the importance of the right of publicity, the ability to commercialize your name, image, and likeness, and it requires federal attention. Currently this right is governed by a patchwork of inconsistent State laws originally designed to protect privacy, which gives little guidance to creators across State lines. Federal statutory guidance would be helpful to us as service professionals seeking to standardize a very cyclical industry.

Managers are not always equipped with the resources to support their clients. Perhaps creator economy lawyers having a federal license similar to the patent bar could be a solution. If creators know to hire an attorney, they turn to their neighborhood lawyer, but the issues impacting this growing cohort of American entrepreneurs needs dedicated and tailored support, which we could provide if we were not in fear of triggering unauthorized practice-of-law issues.

Another growing concern is the concentration of power among a few large marketing agencies. This trend toward monopolization is creating a severe imbalance in bargaining power between contracting parties. Due to the overall lack of education and the legal implications of intellectual property ownership and other deal terms, marketing agencies are restricting a creator's ability to negotiate their rights while continuing to offload their responsibilities of production and distribution, leaving all parties frustrated.

Similarly, the one-sided payment terms marketing agencies rely on hinder a creator's ability to earn a steady income. Often payment terms are net 60 or net 90, meaning a creator won't be paid for their work for up to 3 months, and payments are still late or they never come. Unfortunately, creators are unaware that they can sue in small claims court. And the ineffective governing law clauses in these agreements, if they are present at all, are yet another disadvantage they face.

While Congress is currently acknowledging the mental health of minors on social media, and there are a few scattered State laws that require protective financial trust for children performers, another issue is the lack of national oversight enabling forum shopping and exploitation of child creators where no regulations exist.

And, lastly, there are growing platform volatility issues creators face with the rise of AI and account hacking. Right now, a creator's only mechanism to recover their account and loss of income is a Digital Millennium Copyright Act takedown. However, because a DMCA takedown action often requires registration of an account holder's trademarks and/or copyright, which is cost prohibitive at volume, and creators are often unaware these traditional IP protections are available to them, it is not the most feasible option. This impacts small businesses using social media as well, where there is a growing practice of bigger companies using the DMCA takedown tools built into platforms to restrict and shut down their competition, what are traditionally considered unfair trade practices.

I hope I have demonstrated today how creators are small business owners and how they need the same infrastructure of support and protection that other American entrepreneurs receive. This is a pivotal moment, and I am honored to be here. Thank you, and I look forward to your questions.

Chairman WILLIAMS. Great job.

And I now recognize Ms. Brennan for her 5-minute opening remarks.

STATEMENT OF CHRISTINA BRENNAN

Ms. BRENNAN. Good afternoon, Chairman Williams, Ranking Member Velázquez, and distinguished Members of the Committee. My name is Christina Brennan, and I am honored to appear before you today to discuss the impact of social media on small businesses, entrepreneurs, and local economies.

When people think of social media, they often picture a feed of birthday photos, vacation selfies, or the occasional “no excuses” gym post. But beneath the surface is an entire web and ecosystem of commerce. Social media is a marketplace, a workplace, and in many cases, a lifeline for small and large businesses alike.

In the United States, the social media industry has grown into a multihundred-billion-dollar industry, touching everything from advertising and publishing to retail and entertainment. But its impact is perhaps most deeply felt by small businesses. For a restaurant owner, a craftsman, or a young college athlete building her brand, social media isn’t just marketing, it is survival and it is scale.

For influencers, whether they have a few hundred followers or millions, revenue streams are diverse: brand partnerships, affiliate revenue, platform payments, merchandise, and even their own product lines. Every influencer fuels an ecosystem of offshoot businesses: attorneys, assistants, editors, publishing houses, and managers like myself. Some even play strategic roles in fundraising and acquisitions for emerging startups.

Consider Azuna, a Buffalo-based brand whose digital strategy helped it scale to 25 employees, a Buffalo Bills partnership, and four agencies. Additionally, they have contracted over 100 influencers, some of which sit on their cap table. Or Chef Darian Bryan, an immigrant entrepreneur with multiple restaurants and a recent Snickers campaign at Highmark Stadium creating food so delicious it would make you want to break a table. These are local economic engines powered by digital reach.

And the beauty of social media is its accessibility. I helped scale CelebExperts and Renegade Talent Management while living outside Fort Bragg, North Carolina, as a proud military spouse. Unlike many in my community who face staggering unemployment rates, I was fortunate to continue my career remotely. Social media allows for people to earn a living, contribute to their families, and bring economic opportunity to their hometowns in various locations, whether that is Buffalo, Fayetteville, or Endicott, New York.

Most recently, our organization has begun work in the NIL space, specifically, young, dynamic women who are learning to build long-lasting businesses around passions that they love. This next generation represents not just a cultural shift but a chance to democratize entrepreneurship itself.

But as powerful as this industry is, it faces real challenges. Today, I would like to highlight three. First, cash flow. Too often, influencer partnerships are paid months after services are delivered. For many creators and small businesses, waiting that long is not just difficult, it is unsustainable. I do want to add, we were one

of the first ever influencer agencies, and that is not how it was when this originally started.

Second, the rise of AI. We are entering a world where it is increasingly difficult to know what is real and what is fake. Bot influencers, content theft, dubbing, and misrepresentations don't just hurt credibility, but it can have dangerous consequences.

Third, the resource gap. Many new entrepreneurs lack the knowledge to navigate contracts and offers. Education and transparency in this space are critical. This isn't just about the creators I manage, it is about the creators I don't.

Social media is no longer just about pictures and posts. It is about people, jobs, and communities. It deserves thoughtful consideration, protection, and support as we navigate its future together.

Thank you.

Chairman WILLIAMS. The gentlelady yields back.

I now recognize Mr. Luciano for his 5-minute opening remarks.

STATEMENT OF NICHOLAS LUCIANO

Mr. LUCIANO. Good afternoon, Chairman, Ranking Member, and Members of the Committee. Thank you for the opportunity to speak with you all today. My name is Nick Luciano. I grew up in Maryland, not far from here, but for the last 10 years, I have called Weatherford, Texas home. I came to Texas, fell in love with the western lifestyle—riding, roping, and rodeo—and I built my life there.

Before I ever made a piece of content, I earned a degree in mechanical engineering technology from the University of North Texas, and worked for 3 years as a mechanical engineer for the Department of Defense. My job was to design protective systems and run high-speed cameras to safeguard our soldiers. That experience taught me problem solving, systems thinking, and responsibility at the highest level.

I bring that same mindset to the digital space. Along the way, I have built an audience of over 8 million followers across platforms, and I have created the third most-liked TikTok in the entire world. That moment showed me that, not only the global impact of this new digital landscape, but also that I have played a role in help crafting and shape it.

I first started posting content not to get famous but to help people. I realized that something as simple as a video could reach someone at just the right time. In college, I would get messages from classmates saying my posts encouraged them to keep pushing forward. But years later, I have received messages from people saying that my videos have literally saved their lives.

One man wrote—he actually emailed me while he was sitting on the tailgate of his truck, ready to end it all, but after coming across my video, he didn't pull the trigger. I was crying in an airport when that happened. Moments like that showed me that this work is bigger than clicks and likes. It is about impact. It is about using digital platforms to reach people, to build trust, and to create positive changes.

That is where my journey shifted from being “just an influencer” to becoming what I call a creatorpreneur. Influencers chase trends and attention, but creatorpreneurs like me build businesses, solve

problems, create jobs, while still connecting with millions of people online. For me that meant founding Tratter House, the first western lifestyle content house. What started as a group of creators under one roof, grown into a business that partners with major brands like Ariat, Spotify, Red Bull, et cetera; and we support artists like Bailey Zimmerman and Will Moseley; and now we are focused on artist development and marketing strategy.

We don't just post videos, we roadmap careers. We help artists build merchandise lines, manage online stores, and craft content strategies that cut through the noise. We also run a nonprofit, the Tratter Foundation, where every year we fly a family to Texas to give them a once-in-a-lifetime western experience.

Tratter House has created jobs directly—my cofounders, full-time team members, editors, accountants, merch members—and indirectly, through partnerships with printers, fulfilment companies, record labels, rodeos, and a bunch of small businesses across the country.

Our biggest win to date has been helping our new artist, Tyce Delk. We launched his debut single. And with our strategy, his very first release hit over 5 million streams in just under a month, reached number one on Spotify Viral 50 in both the USA and Canada, climbed to number six on Texas radio, and charted globally. That is not just a viral moment, that is building a foundation for a sustainable career, and it is proof that digital creators like me can generate real economic results.

But here is the challenge. When many people hear the word “influencer,” they picture kids making silly videos for clicks, and that is a stigma that I want to break. Behind the scenes, many of us are educated, disciplined, and purpose-driven. We are running teams, managing payrolls, filing taxes, and partnering with brands and other small businesses. We are contributing to the economy just like any other entrepreneur. That is why the term I prefer is “creatorpreneur,” because, yes, I create content, but I also employ people, serve clients, and build businesses.

My vision for the future is clear. The creators who endure—who build trust, and serve their audiences, and innovate in business—are the next generation of entrepreneurs. We are not just chasing clicks; we are building foundations. We understand how to attract millions of people online, nurture those relationships, and channel that trust into businesses, nonprofits, and movements that make a real difference.

And if I could leave you with one takeaway, it is this: People like me aren't in it for the money and fame. We are in it to change lives, build businesses, and strengthen communities. We are part of a new economy, one rooted in trust, creativity, and purpose. So when you think about influencers, I ask you to see us not as just entertainers but creatorpreneurs—innovators, small business owners, and job creators who are here to stay.

Thank you for your time, and I look forward to your questions.
Chairman WILLIAMS. Thank you.

I now recognize Mr. Appell for his 5-minute opening remarks.

STATEMENT OF JESSE APPELL

Mr. APPELL. Good afternoon, Chairman Williams, Ranking Member Velázquez, and Members of the Small Business Committee, and to everybody watching on YouTube. I want to thank you all for the honor and opportunity to represent my fellow creator small businesses and to farm the aura of this esteemed chamber.

My name is Jesse Appell. I am the founder of Jesse's Teahouse. I run an online teahouse, which is really two businesses—it is a media company and an e-commerce business. Every day, my 1.5 million followers watch me make and drink tea, and some of these followers actually buy the tea that I drink. As of today, we have sent over 80,000 orders to customers all over the country.

I source my teas from farmers in China and Taiwan, many of whom I met during my time as a Fulbright research fellow in China. My work as a cultural ambassador has now moved online, and I spend several months a year in Asia, going to tea mountains, filming videos with our farmers so people can see the tea that they are drinking and know the people who grow it. I started this business with my own savings from my dad's kitchen during COVID, and it has just been amazing to see how it has grown.

I get tons of messages from customers who have shared a tea time with their spouse or kids or parents, but sometimes emails even go deeper. One customer was a veteran who told me that the ritual of tea making, along with the socialization of inviting people over, was the best treatment for PTSD that he had found so far. Another told me that he had replaced hard drugs with tea, swapping one habit for another and the mantra, "Only tea in the house."

All of this good is possible because of two uniquely American pillars: a free internet, where I can share my story; and a free market that allows me to sell the best tea in the world. It is to the protection and improvement of those free systems that I hope to call the committee's attention today.

On challenges related to internet freedoms, the most immediate issue for my business is the potential banning of TikTok. A few hours before this statement was due, news broke that there was a TikTok deal. And if there is a good deal, I think that is excellent news for creators. If TikTok is banned, I lose 600,000 followers and sales losses likely in the hundreds of thousands.

But even if the TikTok deal is perfect, this process was not comfortable for creators. There was a real chance that creating what amounts to an American version of the great firewall, which would have solved this problem with reactive isolation rather than the American ideals of openness, law, and transparency. And in the end, a deal is not a law and deals can be undone, so I urge Congress to codify any deal.

Because even if every national security issue with TikTok were resolved, the battle on copyright enforcement, on data privacy, and algorithm manipulation, these all continue. And as Congress considers these issues, I hope that you will consult us creators. I definitely don't want foreign powers manipulating my algorithm, but I also don't want domestic CEOs or even a for-profit board manipulating my algorithm. Creators want clearly defined rules which all platforms will play by, not just foreign ones.

As for challenges in the free market, the recent tariffs have had a devastating impact on my business. I estimate that we have lost approximately \$250,000 in sales as a direct result of the most recent trade war. I run a subscription tea club where every 3 months I send new teas to all the subscribers, but our May subscription box just sat in the port during the trade war, and we couldn't send it. We had to skip it all together. We also couldn't get a single re-stock shipment in from the entire time between January and August. This is all in addition to the increased taxes.

Further, the chaotic nature of the policy changes has also been a challenge. I woke up one day to find the de-minimis clause had been closed completely, without exception. The Postal Service had to shut down all packages coming from China while they awaited further instructions. Then it was reversed, and then it was reinstated. And will it be reversed again? It is hard to tell.

Developing a new product takes 6 to 9 months, and it is hard for me to know what U.S. trade policy will be in 6 to 9 months. And beyond my personal stake, should it really be necessary for small business owners to need day-to-day updates on my new trade policy issues in order to run a small business?

In the end, I sell tea. I am a tea guy. There are no national security implications and no jobs to be gained from a tariff. And yet the real jobs that I have created for myself and my five American employees have been staked as leverage and are being treated as less important than hypothetical jobs that might come from a hypothetical success of the tariff. I urge the Members to consider exempting small businesses from these tariffs. As small business, we simply do not have the resources to withstand these added costs and uncertainties.

Finally, I want to thank the Members for their time and attention. I paid for my own ticket to come here and share my experiences in good faith. If any Members believe I can be of help in any way going forward, please contact me. I am here to try to solve these problems.

A wise man once said, Do it for the 'gram. Today, I do not just for the 'gram, but for America and all creators.

Thank you very much.

Chairman WILLIAMS. The gentleman yields back.

Thank you all for that, and we will now move to the Member questions under the 5-minute rule.

I recognize myself for 5 minutes.

Mr. Luciano, you left your career at the Department of Defense to pursue content creation full time, as you said, in a leap that many would see as unconventional. But today, we are seeing more people make that jump. So the question is, what aspects of the content creator industry inspired you to make that transition? What opportunities motivated your decision?

Mr. LUCIANO. Yes, sir. Thank you for the question. Honestly, what motivated me was to start a purpose-driven career. I loved working for the Department of Defense, but there was always a fire in me to help people. And I felt like me, myself, as a Christian, it gave me the reach to talk about my faith and talk about mental health in ways that were unconventional, especially with the start of TikTok.

I realized very quickly, me being a systems guy, that the systems of this algorithm were built different and I wanted to use it for good. So I downloaded TikTok at my desk in 2019, and the rest is history. And I have been able to work with dream brands and start my own businesses, and I feel like I am walking in a path of purpose. So that is really the main driver behind it.

Chairman WILLIAMS. Thank you.

Ms. Brennan, the rise of name, image, and likeness—something we are all interested in—has changed the landscape for athletes and creators, opening new doors for entrepreneurs, and establishing a lasting market presence. So the question is, how have you worked with your clients to navigate this space when it comes to protecting and strengthening their personal brands?

Ms. BRENNAN. Thank you so much for that question. You know, it is a really cool time to be involved with, you know, young athletes, because they are able to finally monetize their brands and build businesses beyond just what they do. They can explore passions and build out big programs. I mean, we are talking about equity programs and things like that, interests outside of their sports.

I have worked with companies like IPSY Beauty Box, and that is really exciting, because you think athlete, okay, you think ball and stick, things like that, but you don't necessarily think about the offshoot businesses created because of that. And that has just been an honor and a blessing. We work with—our firm works with both NIL athletes and pros, and it has just been incredible to see these young women grow, learn more about business, and have real passions and goals outside of their sport as well, further extending their longevity, may I add, as well. Thank you.

Chairman WILLIAMS. Good. This question will be to all of you in my remaining time, so we will start down here and move. Content creation has become a powerful driver in today's economy, expanding opportunities for entrepreneurship. So from each of your perspectives, how important are creators to the American economy and their communities?

Ms. MORAN. Thank you for the question. I think as many of us have said, it creates jobs not only for ourselves, but I have my staff here with me, some of them, my family helps me out, and I do pay them when they create content for me. I think also, as Jesse has said, you know, they create sales. They are creating product lines and merch and beauty companies and service businesses and product-based businesses as well. So I think they are a driver of the economy because, as we are here, it is a small business, and at the end of the day, this country is built on small businesses.

Chairman WILLIAMS. Good. That is right. Thanks.

Ms. BRENNAN. Seventy-seven percent of small businesses in the United States use social media for essential functions, such as sales, marketing, and customer service, according to BusinessDasher. That is significant, and I would argue that that is a dated number. Social media is not just a vehicle for sales; it is branding, it is voice, and it is connecting with the consumer.

Small businesses have the opportunity to geo tag where they are and have this plethora of, you know, new views and new opportunities that come from that. I work with Azuna, the Buffalo-based company, and they are expanding like wildfire due to their digital

strategy. It is impressive and it is incredible. And they are intertwined with the creator economy. It is a really exciting time, and I am looking forward to, you know, finding additional ways that these creators can expand. Thank you.

Chairman WILLIAMS. Good. We have got 50 seconds, so, Mr. Luciano, if you could come and then we will finish up—

Mr. LUCIANO. Yes, sir. I will make it brief. I will just reference a video of mine where I adopted a dog at a local shelter in Stephenville, went viral, and we started an annual event called K-9s and Coffee, where we brought all small businesses together to help raise money to fund a new shelter because they are underfunded in the local community.

Chairman WILLIAMS. Good.

Mr. APPELL. Thank you, Chairman. For my part, I just want to add more of a spiritual addition here. The enjoyment that I get out of life of being my own boss, going in my own direction, doing what I love to do, this is, I think, what really is making creators so eager to find a way to make a living so that they can live this kind of lifestyle. Thank you.

Chairman WILLIAMS. Great. Well, I will yield my time back.

I now recognize the Ranking Member for 5 minutes of questions.

Ms. VELAZQUEZ. Thank you, Mr. Chairman.

Mr. Appell, how do small businesses and content creators earn money and grow on social media?

Mr. APPELL. Thank you, Congresswoman. There is a couple ways you can make money. One of them is you can make money off of views. If you get enough views, they will pay you for the views, different platforms will. People can do branding deals and merchandising deals; the other witnesses have talked about that. Another way is by creating your own brand and essentially going way beyond merch, so rather than just the T-shirt or a hat with my name on it, to be able to sell tea pots and equipment and specialized teas and stuff like that. So there are various ways that creators can make money.

Ms. VELAZQUEZ. Thank you. And you mentioned the tariff wars. President Trump's escalating trade wars have caused tariff rates to change often. What business uncertainty did that pose?

Mr. APPELL. Thank you. It adds a lot of uncertainty. It is very difficult to price items when I don't know how much I am paying for them. During the—kind of the worst parts of the tariff war, I had already had boats with tea that had left the port, and I didn't know what I would be paying for them when they would arrive. That was an extreme version of this. But even beyond it, if a tax is raised, I can kind of adjust, but it is difficult to know how much extra I should adjust based off of future uncertainty given that we are working on 60- or 90-day schedules until the next deal.

Ms. VELAZQUEZ. What knowledge do you need to navigate the tax tariffs?

Mr. APPELL. Obviously, we need to spend a lot of time, a lot more than before, keeping our eyes on the news, keeping our eyes on tweets where a lot of times the news breaks earlier than other places. And also, I need to spend a lot more time communicating with my suppliers in China. They are ready to go. I am ready to go. They message me asking what is going on, and I feel like I owe

them at least an explanation of my best understanding of what is going on with the U.S. trade policy. They are not going to get it anywhere else. So there is a lot of extra communication that comes into effect that is completely unrelated to the tax price.

Ms. VELAZQUEZ. The President says that China will move TikTok to U.S. ownership, but he hasn't closed a deal. Instead, he paused the TikTok ban for 3 months. Do you feel whiplash from the constantly changing news?

Mr. APPELL. Yeah. I mean, we don't know what is going to happen with the platform. As a creator and an artist, my reaction has been to put my head down and try to keep creating. But that could mean, if it is banned, I have just put more time and energy into a platform that is now destroyed.

Ms. VELAZQUEZ. Secretary Bessent says President Trump was willing to let TikTok go dark today. Does that scare you?

Mr. APPELL. Yes.

Ms. VELAZQUEZ. Last year, Committee staff issued a report warning that AI-made content is unfairly crowding out human creators.

Mr. Chairman, I would like to enter the report into the record.

Chairman WILLIAMS. So moved.

Ms. VELAZQUEZ. How does AI slop compete with your content?

Mr. APPELL. Sure. So the most basic thing is when you are on an app, which is primarily recommendation based, they have a mix of things that come up on that feed, and a lot of that stuff can be determined to be AI slop, or at the very least is perhaps not the best, like, you know, real creator content that is out there. That gums up the air waves. It makes a very bad user experience for people who are trying to watch quality media. And for some industries, it is much worse than others.

I am here today as a tea guy, but I will say as a standup comedian, go and check when you see a standup video, check to see if it is the actual standup comedian posting. I would say 9 out of 10 times it is all stolen, and we work for a long time to get a couple jokes onto a TV show. To have that just stolen and repeated or to have the video on the top while somebody plays Subway Surfer on the bottom, you know, this is very discouraging to people who really want to put time and energy into making really good content.

Ms. VELAZQUEZ. Ms. Brennan, anything to add on AI risk for creators?

Ms. BRENNAN. Thank you so much for that question. Yes. The content theft and dubbing over words is extremely dangerous. I represent a number of medical professionals, including a surgeon. At one point his content was taken and they dubbed over a completely different ad, were using it in whitelisting and targeting, and people were buying this product. Now, this was an overseas company selling it, so that adds additional complications. But that is dangerous. They know this doctor because he has millions of followers and he is a practicing surgeon. So, you know, that is a very, very big problem.

I think AI can be helpful as well. When we are talking about content scraping from, you know—for children's sake, I think it can be a very, very helpful tool. But it has to have a human element to it, and it always has to be checked. Thank you.

Ms. VELÁZQUEZ. Thank you. I yield back.

Chairman WILLIAMS. The gentlelady yields back.

I now recognize Mr. Stauber from the great State of Minnesota for 5 minutes.

Mr. STAUBER. Thank you, Chair Williams and Ranking Member Velázquez, for holding the hearing today, and all the witnesses for your testimony.

In northern Minnesota, small businesses are the backbone of our economy, and many of these entrepreneurs are blending online content with traditional operations to expand their customer base, build brand recognition, and reach markets well beyond Minnesota's Eighth Congressional District.

The digital economy isn't just about influencers in Los Angeles. It is the real estate agent in Brainerd, Minnesota, looking to reach new buyers. It is the photographer in Duluth who is looking to share their portfolio capturing the beauty of northern Minnesota. These creators are building something real, and like every other small business, they face red tape that Washington is too slow to recognize.

Mr. Luciano, you have turned your platform into a full-fledged business. Can you talk about the biggest challenges to formalizing your operation, particularly in accessing capital?

Mr. LUCIANO. Yeah. I mean, the biggest challenge as far as accessing capital is just education, the misrepresentation of what we do. So a lot of the times you are having to tell people that I am not just an influencer in it for clicks and likes, that I am actually like these small businesses in the squares. And just because you can't see it on a storefront doesn't mean we are not in our houses doing live streams and trying to build revenue.

And luckily, I have partnered with CrowdSurf to explore the funding side of things, so I am taking investments in my business as well. So it has been really interesting to explore, and I am looking forward to actually having people in my back pocket to make them proud when I make Tratter House a flourishing company.

Mr. STAUBER. Ms. Brennan, what risk do creators face when handling contracts and business deals on their own, and what protections do they need to avoid exploitation?

Ms. BRENNAN. Thank you so much for that question. When creators start, it is not necessarily given that they have a business degree from Harvard. So there is an inherent lack of education in the creator economy, and they deserve to receive that education, whether that is through the platforms or something else. Education is fundamental to decision-making processes. You know, you have to be informed to be able to make the decision if you want to go forward or not and understand the implications that come to that.

As far as management, oftentimes creators, especially when they are first starting, have not quite hit their revenue where it makes sense from a business perspective to pursue. So they are doing it on their own, and that can have longstanding implications to their business. Thank you.

Mr. STAUBER. Thank you. I am glad you said you don't have to have a business degree from Harvard, because you are looking at two Lake Superior State University grads out of Sault Ste. Marie, Michigan.

Ms. Moran, as not only a creator but someone who advises creators, are there specific legal or tax hurdles that disproportionately impact new digital entrepreneurs, especially those who are just starting to grow their digital business?

Ms. MORAN. Thank you for the question. As Ms. Brennan said, I think a lot of times they think I need to have a manager to help me make a business and make more money, but they don't think of the legal implications of the contracts that they are signing or if there is a contract at all, especially when the tax season comes around. On Monday, the Q3 estimated taxes were due. I paid mine. I don't know if a lot of these creators know that they need to be doing that, and then come April, there is a really large tax bill that they are frightened by.

And, you know, having advisers and people who can assist them in understanding what a business is—because as we said, a lot of them, they know they are small businesses. Even when they start out, once you start making money, you are a business, and I think we know that inherently. We don't necessarily think of, you know, the formalization of it, starting an LLC to protect their intellectual property, you know, having a lend-out company, who is the contracting party. A lot of them let their managers sign for them, which isn't necessarily bad, but having an understanding of what that means. Yeah, there is a lot of things to consider, honestly.

Mr. STAUBER. With my last 50 seconds, I would like to take a quick poll of all of our entire panel. Within the last year, has your content creator business hired another small business to help your business in any way? Ms. Moran?

Ms. MORAN. An accountant and employees.

Mr. STAUBER. Ms. Brennan?

Ms. BRENNAN. We have been established for a long time, so we do have parties we work with. We continue to expand our creator roster, which expands our business. Thank you.

Mr. STAUBER. Mr. Luciano?

Mr. LUCIANO. Yes. And I am proud to shout out my tax team, Decipher Financials.

Mr. STAUBER. Perfect.

Mr. LUCIANO. Yeah, because they have helped—they understand me as a creator to get my taxes right.

Mr. STAUBER. Thank you.

Mr. Appell?

Mr. APPELL. Yes. We have been working with Rare Flower Media in Los Angeles for additional editing help and social media posting.

Mr. STAUBER. Perfect. Good shout-out to those folks.

Mr. APPELL. Represent.

Mr. STAUBER. Thank you, all. I yield back.

Chairman WILLIAMS. The gentleman yields back.

I now recognize Ms. Scholten from the great State of Michigan for 5 minutes.

Ms. SCHOLTEN. Thank you so much, Mr. Chair.

And thank you so much to our incredible, young entrepreneurs for being here today. We recognize the work that you do is a part of generating not only important content but drawing others to incredible products that are already in the market. We know increas-

ingly businesses rely on content creators to help elevate their products in the absence of a traditional advertising market space. You all can help get this content out to where it needs to be.

As the mom of two pre-teen and teen boys, who are constantly telling me all about the latest trends that they see online, I can tell you, I know firsthand about the importance of your work.

Ms. Appell [sic], I want to thank you for joining us here today and giving us an idea of what it is like to be a content creator in an ever-changing economic and social landscape. As social media continues to evolve with technology, I am curious about your thoughts on the use of Generative AI in content creation. We know Gen AI can be used to augment a wide variety of online content. Have you used or considered using Gen AI for your business, and are you concerned about the potential for Gen AI to pose unfair competition for human creators?

Ms. MORAN. Are you speaking to me or to Ms. Brennan?

Ms. SCHOLTEN. To you.

Ms. MORAN. Me, okay.

Ms. SCHOLTEN. Yeah.

Ms. MORAN. I just wanted to double-check. I have actually considered using AI in my business. I think sometimes there is a lot of concern with the open-source/close-source situation in a legal capacity. Actually, one of my associates was telling me about a new AI legal tool, so I have some research to do when I get back to my hotel room.

But I think—yeah, I mean, I am not going to say I don't use ChatGPT or Claude. I do prefer Claude sometimes. I think it is just educating creators on not putting a full contract with personally identifying information into ChatGPT—no names, no addresses, company names, things like that.

For creators using AI, I think making sure they understand where they are getting their information from and always checking sources when they get an output, making sure that the information that ChatGPT or whatever AI tool they are using is, you know, it is accurate and correct information. There is history of it making up case law or stories and facts.

I think also for creators, I get clients asking me all the time, when I create content for my clients as a social media manager, can I use a Pinterest image in a graphic that I make? You know, they want to understand the licensing. I think understanding, most of us, when we sign up for a new account, we check, yes, we read the terms of service. None of us actually read the terms and conditions of anything, because they are really long, but I think making sure you understand what you are agreeing to.

When CapCut changed the terms a couple months ago, you know, I created a video explaining what these terms of service changes are and what they mean for you as creators. And I think a lot of people are really upset by them, but no one has stopped using CapCut. So I think making sure you know what you are using.

Ms. SCHOLTEN. Yeah. Do you think—I want to stick on this question line just a second, because it is such a new and emerging technology. And I—you know, I agree with the gist of what you were saying, which is it can be such a helpful and important tool

for content creators, but there is a lot of parameters and rules of the road people need to understand.

Do you think content creators and young people in particular are getting the education they need around how best to use these tools, whether in school or, you know, is that potentially a lane for, you know, the SBA?

Ms. MORAN. I think both. I think there is room for education from fellow creators. I think knowledge creators are a really growing community of creators. Professionals ourselves, we are content creators. That is how we market our services to other creators. I think having the SBA provide guidance, you know, resources, you know, having a database of experts to go to, not just lawyers and accountants but also, you know, an AI expert, someone explaining what these terms mean.

But I think there is also—the issue is a lot of misinformation. There is, myself included, multiple creators, every single time a new status update changes or something, we are sharing what this actually means in a video, but then someone is discrediting us because they don't want that to be true.

Ms. SCHOLTEN. Yeah.

Ms. MORAN. And I think, again, flagging “is this correct information?” is important.

Ms. SCHOLTEN. Yeah. Thank you. My time is expiring here, but really, really appreciate your comments. Thank you.

Chairman WILLIAMS. The gentlelady yields back.

I now recognize Mr. Alford from the great State of Missouri for 5 minutes.

Mr. ALFORD. Thank you, Mr. Chair, and thank you, Ranking Member Velázquez, for this important hearing.

Today's hearing is about more than social media. It is about recognizing that digital creators are America's next generation of small business owners. Whether it is a farm family sharing their story on YouTube—we have several of those in my district, Missouri—a veteran teaching lessons on Instagram, or young entrepreneurs selling products online, creators are turning influence into real businesses that drive jobs and growth, some 1.5 million content creators in America. Social commerce projected to reach \$2 trillion by 2026.

But like many small businesses, they are running into barriers, from confusing tax rules to trouble accessing capital, simply because their income looks different on paper. Our job on this Committee is to make sure that Washington does not hold back innovation. Supporting creators is not about promoting trends. It is about empowering small business owners, like yourselves, who are driving economic growth in the digital age.

My mom is 84 years old. She is in assisted living down in Houston, Texas, area, and we spend a lot of time on the phone now talking about her memories as a child. She talks a lot about the family sitting around listening and watching the radio, before there was television, and then her dad going to the town square to the radio store where they had just put a television in the window, and they would stand around and watch a test pattern.

We have gone a remarkable way in the last 80 years in America. From the Founding Fathers, the money was in independent print-

ing presses, then it transitioned to newspapers, then the money followed radio when it was invented, and then television and then cable, and now social media. And I look forward to telling my granddaughter, who is only 9 months old—her name is Naomi—about when social media came on to the scene and content creators and the difference that it made in our society and in our economy.

So I applaud what you are doing. And I think our job here is to try to find ways that we can help you be even more successful than you are. It is an inspiration to me and I think the Chair and the Ranking Member and others on this Committee just the spirit of entrepreneurship that you guys have captured, that you have reached beyond the boundaries that some have been standing in your way to find a way to do business online, and seeking out these guardrails for protecting your business, to make more money, and to make sure that we stay in these lanes, especially with the advent of AI.

So I just want to know, Ms. Brennan, how can we—there is a lot of generalities out there, but what do we need to be look—we probably should have looked 10 years ago at this, but what can we do now to help you and the industry be even more successful for the economy of America and main street?

Ms. BRENNAN. Thank you for that question. And I think it comes back to education. I think, you know, tax breaks are always helpful for new businesses that are starting and coming up, specifically creator-led businesses. If we are identifying these individuals—and they are—as the next generation of entrepreneurs, they deserve the same protections and education on how to grow. I think that is a really dynamic way.

And then looking at it from perhaps the NIL standpoint, where there is a lot of marketing deals. And I am going to speak to marketing deals. I am not going to speak to the actual contracts with the universities. Right now, it is not a national registration for agents. Right now, it is segmented by the States and it varies, and it becomes costly for small businesses. For the big guys, it is no problem, but you start adding up those bills and start swiping those credit cards and it adds up. These athletes deserve to be protected. However, you know, let's kind of avoid the barriers to entry that aren't necessary. Thank you.

Mr. ALFORD. Thank you very much.

Mr. Luciano, appreciate your work. I have seen a little bit online. What drives you to do this? You said you wanted to give something back, you wanted to make a difference. Expound on that just a little bit.

Mr. LUCIANO. For me, I refer to the younger you principle. When I was 16 years old, I really struggled with my mental health. And I go around to FFA events across the country, and I speak to 16-year-olds on the daily. And to see them do what I want to do is amazing, but I also want to protect them and their mental health, and as these ladies were saying, the misinformation that can be harmful. So I just want to put a good message out into the world and protect these kids as they take in this media.

Mr. ALFORD. Well, thank you. There is a lot of hate out there right now, especially after last week. And I applaud what you are doing. Thank you. God bless you.

And I yield back.

Chairman WILLIAMS. The gentleman yields back.

I now recognize Mrs. McIver from the great State of New Jersey for 5 minutes.

Mrs. MCIVER. Thank you so much, Chairman, and thank you to the Ranking Member. Thank you so much for holding this hearing. I want to thank our witnesses today for joining us.

Online content creators are not just influencers. They are entrepreneurs, job creators, innovators, and small business owners. They deal with money management, taxes, compliance, and marketing engagement like any other business. But they face unique challenges, as we have heard already from some of our testimony today, unique challenges when their primary storefronts are intangible online platforms.

Content creation can often make or break a small business. Congress must identify where federal policy can help creators operate on a level playing field, protect their business revenues, and compete fairly in a consolidated and often crazy online marketplace.

With that, we heard some testimony from Mr. Appell about how the tariffs have, you know, definitely disrupted your regular, normal process. And I am sorry to hear that, especially when you talk about \$250,000, that is a lot of money, and even the unsettledness of where your business is going and how to plan for that.

I would love to hear more from some of the other panel members. Based on your experience, how have the tariffs impacted content creators' ability to maintain product quality, affordable pricing, and customer satisfaction? We can start at the end.

Ms. MORAN. For me, I am in the service-based business and my clients as well, digital content creation, but I think access to personal capital. You know, income isn't coming in. Money isn't going as far as it used to, so not having the ability to hire service professionals to guide them.

I heard from a lot of my creator friends. They, you know, filed their own taxes this year instead of hiring an accountant last year. Hopefully things went well. We won't know until, you know, refunds come through or things like that.

Yeah, I just don't think money is going as far as it used to, and so people are skipping steps where they can—to cut costs. And I understand that, but it is also worrisome. You know, people don't want to hire a lawyer to read their contracts, but these are really bad contracts. Sometimes they are very one-sided. They are very favorable to the marketing agencies or to the brands directly if they are the contracting party.

So I think, you know, skipping steps is dangerous.

Mrs. MCIVER. Thank you.

Ms. Brennan?

Ms. BRENNAN. Thank you. With the tariffs came uncertainty, and I think it is going to go back to education and how to mitigate risk as a business owner because, again, that is what these people are, they are business owners.

How do you mitigate risk? How do you have multiple streams of income coming from everywhere? And again, I will hit on it again. It is about the creators I don't manage, the creators that maybe

don't have a manager in their corner with, you know, tons of different services.

As far as the tariffs and small businesses, I did hear from one small business that due to the, I guess you could say the exit of two very, very big ad buyers, it actually led to less competition as far as ad buying and ad auction, giving them a really interesting opportunity to grow. And if we can build off of that in a very unique way, right, hiring more influencers and local creators and things like that, I think that is a home run.

So, yes, tariffs definitely cause uncertainty, and I can't say what the impact will be year-to-date, but, again, it is going to go back to education and mitigating risk as a business owner. Thank you.

Mrs. MCIVER. Thank you so much.

Mr. Luciano?

Mr. LUCIANO. Yeah. For me, I have built my brand, and we go around the country. We set up booths from FFA events to the NFR, and just over the years, we have had to hike up prices. So we see people come by the booth and go, \$40 for a cap? No way. When I used to be able to sell it for \$29 4 years ago, right.

So it has just been me seeing the prices hike up, and then, in turn, that affects my top line, and then I am not able to, you know, reinvest as much as I can back into that revenue stream.

Mrs. MCIVER. Yeah. Thank you so much for that.

Anything you want to add to that? I know you already spent some time talking about it, but anything else you might want to add, I would love to hear.

Mr. APPELL. Sure. I would just like to add, I mean, I came to tea through being a full-bred scholar in China and drinking tea and meeting tea farmers there and speak Chinese. For me, this is not a matter of, oh, if the market is cheaper to sell Japanese tea or Indian tea, oh, we will just switch it. On paper, you might be able to do that, and maybe to the country it will look on paper like there is a similarity between the business.

For me, that would be not only just a total upheaval of my life, and I would have to learn Japanese, but it is also—again, spiritually, the best part of being a creator is I get to chase what I really care about, and I get to do it with the people that I love, and I get to do it with the people who have been good to me, and I can be good to them, and sometimes they are in China.

Mrs. MCIVER. Thank you so much for sharing, to each of you.

With that, I yield back, Mr. Chairman.

Chairman WILLIAMS. The gentlelady yields back.

And now I recognize Mr. LaLota from the great State of New York for 5 minutes.

Mr. LALOTA. Thank you, Mr. Chairman. I appreciate your leadership on this issue.

Ms. Moran, how are you doing?

Ms. MORAN. Good. How are you?

Mr. LALOTA. Good. My memo here says that the internet content creation industry is a \$250 billion industry as of 2023, but it is expected to grow to \$500 billion by 2030.

And you are an attorney who represents a lot of internet content creators?

Ms. MORAN. Yes. Most of my clients are talent directly or talent management agencies, like Ms. Brennan here. So there are hundreds of creators and hundreds of talent managers in this country, and there is a lot of money circulating.

Mr. LALOTA. Yeah. And about what kind of content do they often create?

Ms. MORAN. Anything from fashion and beauty to educational content, mental health, sports, anything. It could be anything you want.

Mr. LALOTA. Cool. And on what platforms do they usually place this content?

Ms. MORAN. I think the majority of creators use your main three: TikTok, Instagram, YouTube. But there is Twitch, streamers, gamers. There is—I can't think of any right now. I am blanking. Lemon 8, which is owned by ByleDance as well. Facebook is still a primary source for some companies. Yeah, there is—Pinterest is another one. There are several.

Mr. LALOTA. This hearing is enlightening for me because I didn't realize how big this industry is, and you four are able to tell us exactly how big it is and where it reaches and whatnot.

I take it that because you are an attorney, you probably don't work for free?

Ms. MORAN. No, I do not.

Mr. LALOTA. Good. Good for you. You should charge.

Nevertheless, so the clients that pay you, they are profitable too. They are paying taxes. They are feeding their families. They are contributing to society?

Ms. MORAN. I would hope so.

Mr. LALOTA. Good.

Ms. MORAN. I always advise them to do so, yes.

Mr. LALOTA. Smart. That wasn't a trick question, I promise.

Ms. Brennan, I really want to spend my time talking to you about the New York Yankees, the greatest sports franchise we have ever seen on the face of this Earth. I am going to try to stay a little focused here and not spend my time on that.

But knowing how economically viable the industry that you are involved in is, when an entrepreneur's content gets stolen or copied, how damaging could it be to that person's ability to operate as a small business?

Ms. BRENNAN. Thank you so much for that question. It can be extraordinarily damaging. I gave the example of a surgeon who had his content stolen, and it was used by an offshore brand to sell a supplement that wasn't even third-party tested. He got DMs from people who follow him saying they bought it because they saw he endorsed it. And that is scary.

So that is a very, very, very big issue, because that is not just an issue of, you know, credibility; that is an issue that maybe has safety implications. So those situations should be, you know, thought of in high regard. Thank you.

Mr. LALOTA. Great. So when an individual's work product gets stolen, it is damaging to the individual. What about the rest of the industry? Does it have a chilling effect on the rest of the industry? Do people then want to put less resources into creating the content

because they anticipate, perhaps reasonably, that their stuff is going to be stolen?

Ms. BRENNAN. That is a great question, and I don't necessarily have a full answer for you. What I can say is, from a consumer standpoint, if we are seeing content that is stolen with AI dubbing, and there are no disclosures, that is a big issue. So from a consumer standpoint, when we go to purchase products, what is it doing to that consumer's psyche? Is it real? Is it fake?

I believe right now as far as the disclosures go, they are optional for the parties using it, but as a consumer, I would like to know if something is heavily edited using AI. I would like to know if it is a CGI influencer who are taking brand deals that are valued at a lot of money when they are not real people or groups of people, and that needs to be clearly disclosed.

Mr. LALOTA. Great.

Mr. Appell, I am going to go to you now.

Mr. APPELL. Yes.

Mr. LALOTA. What are you drinking over there?

Mr. APPELL. I am drinking ancient tree red tea with roses in it from Yunnan, China. It is great.

Mr. LALOTA. You are welcome. I know you did the—

Mr. APPELL. I can make you some if you would like.

Mr. LALOTA. I wanted to make sure we got the YouTube version of it.

Mr. APPELL. Thank you.

Mr. LALOTA. Tell me, piggybacking on what I just said before, how does a lack of consistent right of publicity protection leave small creators especially vulnerable?

Mr. APPELL. Yes. So my business is called Jesse's Teahouse. So one of the reasons I did that is because it is very hard to fake Jesse. I make the tea myself. I show the farmers we work with. All of these things really are antipiracy ways of going about business.

You know, I learned definitely from my career as a comedian online the content will be stolen. The question is not whether it will be stolen. The question is when they steal the content, does it help your business or hurt you?

If people decide to steal Jesse's Teahouse videos with Jesse hosting, they are really kind of advertising for me. But this was a long workaround that it took really a decade of dealing with a very leaky rights protection system for creators that led me to figure out this very specific way I could try to protect my rights without any additional regulation.

Mr. LALOTA. Great. Thanks.

Mr. APPELL. Thank you.

Mr. LALOTA. Mr. Luciano, great that you are here. My time has expired. Thanks for being here, sir.

I yield.

Chairman WILLIAMS. The gentleman yields back.

I now recognize Dr. Conaway from the great State of New Jersey for 5 minutes.

Mr. CONAWAY. Thank you, Mr. Chairman.

And thank you, Messrs. and Mrs. for—not Mrs. Mrs.? Anyway, thank you, ladies and gentlemen, for presenting yourself here today and giving very important information at least to yours truly who

is not involved very much with social media at all, believe it or not. But it has not passed me by exactly, but I don't spend a lot of time there because I don't have that much time, but I am glad you are doing very well at the work that you are doing, and clearly it is work that you love doing, and it is always nice to hear from people who are enjoying their work.

One of the things that struck me as I listened to your comments as small business persons and understanding the environment in which we all operate today, how has Big Tech, if you will, how does that impact you? And do you have some suggestions about how we defend your space and your purchase in this economy?

Anybody can take it. That is a round-robin question.

Mr. LUCIANO. Yeah, I will go for it. I like to specifically speak to like Meta and how these certain platforms offer verification processes through our actual identity and through our government paperwork, but when—specifically me, there are thousands of fake accounts of me, but I am paying this platform with my government ID to say that I am who I say I am. So when I report an account, why isn't it not taken down immediately?

So that is one of the big things where I was like, you know, people are DM-ing me about crazy things that have happened from a fake profile of mine.

Mr. CONAWAY. So more focus by the Justice Department, I presume, on this kind of trade violation, I suppose.

Mr. LUCIANO. Yeah. Yeah, it is just very easy to steal someone's content.

Mr. CONAWAY. Ms. Moran?

Ms. MORAN. Yes. To piggyback off that, I think also there is a lot of disincentivizing of creators disclosing with the FTC guidelines that they are monetizing their content because the platforms don't push it out. So not only is there fake accounts being made and harassment and bullying, but also creators don't want to put these disclosures on, that they are contractually obligated to do so and legally obligated to do so, because then the content won't get pushed out and then the views won't be as high and then they might not hit the targets that the contract set to get bonus money.

So Big Tech disincentivizing disclosures is a big issue. I think also these big companies, not just tech but any big company, there is this trend of monopolization. So these contracts are very one-sided. They are very unfavorable to the small businesses, to the creators.

And, again, there is not a lot of education on what these contract terms mean. Also, arbitration. A lot of these contracts have arbitration clauses in it instead of a mediation clause or suing in small claims court.

These contracts are not that big. Some of them are. Some of them can be very lucrative, but a lot of times being lucrative is at volume. But these deals are, for the most part, 2 to 5 to 10 to \$20,000, and arbitration is just not feasible at that point.

Mr. CONAWAY. That is another issue.

Ms. Brennan, just quickly, if you can, because I do want to get to another question.

Ms. BRENNAN. So I like the saying, if you can't play nice, you can't play at all. So these companies that are stealing this data,

and perhaps they didn't know, right. Let's assume the positive and they didn't know. Have some sort of step and education where they have to complete it. Similarly to, you know, if you commit a crime, you have to go through some sort of program, right. And if you can't play nice, you can't play at all because this is a serious issue.

Mr. CONAWAY. Thank you.

Mr. Appell?

Mr. APPELL. Yes. And just really briefly on that. I think the algorithm and the lack of control about what legally you can do with a recommendation algorithm is something that can be looked at.

I have 1.5 million followers, but there is no law that says they have to show my video to anyone. I have worked on it for years to build the accounts, but will they show it? Maybe not.

Additionally, if, you know, any given tech company realizes that they make marginally more money showing coffee videos rather than tea videos, they could just only show coffee videos and never show tea videos, and I would never know. I have to work endlessly hoping they show it.

Mr. CONAWAY. And just for the record, you know, hate speech has been mentioned. It is certainly something that is top of mind. Many persons in minority communities face discrimination online. If they say something that is unpopular or perceived as being unpopular, the Big Tech companies, those who are sort of controlling access to the world digitally, can censor them, quite frankly.

Have any of you experienced hate speech or censorship in the things that you have been doing?

And thank you, Mr. Chairman. I yield back.

Chairman WILLIAMS. The gentleman yields back.

I now recognize Mr. Downing from the great State of Montana for 5 minutes.

Mr. DOWNING. Thank you, Mr. Chair, and thank you to the witnesses for being here.

You know, this is an exciting topic for me. You are coming out of technology. This has been something that we have been talking about since my formative years.

And my last job before I was in Congress, I was a regulator of the insurance and securities industries in the State of Montana, and artificial intelligence, machine learning, big data all became a big part of the conversation on how we make use of this as a tool and understand really where, you know, reasonable sideboards are so you inspire and, you know, invoke innovation in the United States of America. Make sure that we continue to be innovators there but understanding what the implications are, and some of these conversations have just been really, really intriguing.

You know, a couple of top line comments. Artificial intelligence is really set to transform the whole scope of the American economy, you know, including revolutionizing how business owners invest in their ventures, employ workers, manufacture products, and, you know, as I mentioned before, even, you know, how it rates insurance.

There are so many opportunities there, and a lot of folks are, you know, excited about the opportunity but concerned about what it means, because a lot of folks just want to be able to look into that black box. And, you know, I always say, well, once that black box

has an N equals infinity matrix, you know, network in there, how does any human understand it. So there are interesting problems before us.

Ms. Moran, in your testimony, you discussed the growing role that artificial intelligence will play in the digital creator economy. Notably, you highlight some AI-associated challenges that online content creators face in forwarding their brands, including, you know, deepfakes and account hacking.

So with computing and machine learning capabilities set to become more and more powerful in the coming years, how do you think online small businesses and creators are positioned to deal with these AI-associated challenges going forward?

Ms. MORAN. Thank you. I think as we have all said, education, and I think disclosure, disclosing that AI is being used and in what capacity it is being used, to the extent. Having a percentage of how much AI can be used or how much is inputted versus output. I mean, I don't know how feasible that really is, but I think education and disclosure are primary things with deepfakes.

I know there are countries, in Europe primarily passing copyright laws. Denmark passed a law that you could copyright your face, basically, so they can't make deepfakes. I don't know if that is feasible here but some sort of regulations.

Mr. DOWNING. So I am glad you brought up, you know, foreign countries. So from your experience, what foreign countries and actors are the most culpable for promulgating malicious activities like hacking and spam accounts and, you know, target online creators?

Ms. MORAN. I think there is a big—I don't know if I necessarily want to call out specific countries, but there are countries that are associated with bot followers. So a lot of times companies or people will maliciously purchase followers for an account that they want to blow up to then try to steal the account, or, you know, I will offer you \$500,000 to buy your account from you, and, you know, you have to—you should sell it because now it is no longer yours.

Mr. DOWNING. Right.

Ms. MORAN. And so that is a business model that also needs regulation, but a lot of times these followers are coming from who knows where.

Mr. DOWNING. Right. So despite these challenges, the growing power of AI also has incredible potential to assist entrepreneurs as well, including those based online. So what do you think could be some positive developments that could come from AI that could help digital creators generate better content to better compete in the online economy?

Ms. MORAN. Efficiency. AI is a great tool for efficiency. You know, I have friends who have created tech apps with closed source AI tools where I can upload a video. It can watch my video and create a script for me—

Mr. DOWNING. Thank you.

Ms. MORAN.—instead of me sitting and scripting out the video itself. So things like that are really helpful.

Mr. DOWNING. Thank you.

Ms. Brennan, from your experience managing your clients' online presence, what has your experience been with AI? How has it factored into your firm's business strategy and operations?

Ms. BRENNAN. I think that is a great and multifaceted answer. As far as the pros, it can, you know, detect, you know, potentially harmful content as far as the user experience, so that is great. We want everyone safe online, including our children. And then as far as efficiency and accessibility, that is quite helpful if you are a small business and you don't have the resources to, you know, produce more jobs at the time.

As far as cons, the fake AI influencers, that is scary, and the content theft and dubbing over people's name, image, and likeness and creating false ads with faulty supplements—and I can go on and on with that—that needs to be regulated. There has got to be clear disclosures, and when there is a concern, it has to be escalated and escalated quickly to remedy that.

Mr. DOWNING. Right. Unfortunately, I have run out of time, but I really appreciate you all participating.

And I yield my time, Mr. Chair.

Ms. KING-HINDS. [Presiding.] Thank you.

I now recognize Ms. Goodlander from New Hampshire for 5 minutes.

Ms. GOODLANDER. Madam Chair, thank you.

To our witnesses, I just want to thank you so much for being here today. I know you are not doing it for the 'gram. And I have a confession to make. Herb and I had to Google what that meant, but now we know, and we know you are not doing it for the 'gram. You are doing it for America.

And so I am farming your aura, another phrase I didn't know about until today, so thank you for that. Because you are talking about freedom; you are talking about fairness; you are talking about public safety in the most important arena of the present and the future, and that is the digital world.

Much of what has been discussed today really cuts across small businesses across our country. You know, you have talked about the high cost of doing business both because of regulatory red tape, and I am making lists and taking names. You show me red tape. Let's work together to cut it. That is why I am on this Committee.

You have talked about the high cost of lawless trade wars, and I want to thank you, Mr. Appell—am I pronouncing that right?

Mr. APPELL. Appell.

Ms. GOODLANDER. Appell. Jesse.

Mr. APPELL. Yes.

Ms. GOODLANDER.—for quantifying just part of the invoice that you are paying as a result of these trade wars.

We have got a bill, the Small Business Liberation Act, that would protect small businesses from these lawless trade wars, and, look, this is basic fairness. You shouldn't be paying this kind of tax, and it is especially ironic for someone who has got a tea shop, because we all know how this great experiment, the United States of America, began.

But I want to say, you know, the creator economy, when we talk about the creator economy, Ms. Brennan, you mentioned 77 percent of small businesses use social media. I agree with you. That is, I would think, a real undercount, and I see it every day on this job.

You know, I was in a great town in my district, Littleton, New Hampshire. I met a fellow millennial who owns a small business

called Tailswag, and it is an amazing—it is right on main street in Littleton, New Hampshire. It is a pet boutique, a treat bar. I had never been to a small business quite like this.

You know, she has used social media so effectively, and I will give you all a pitch. Dachtobberfest is happening. Littleton, New Hampshire, October 4, 11 a.m. to 3 p.m. She advertised this on the 'gram, among other social media platforms. And as a direct result of this one post, we saw a booming business in Littleton, New Hampshire.

It is a win, win, win. Everyone wins when these platforms can be used to the effect that we all want to see them being used for.

Now, I came to Congress having worked in the Department of Justice in the Antitrust Division. So I spent a lot of time thinking about the harms and abuses of power we see from Big Tech monopolists. And, you know, you have touched on so many today, but I really want to invite you—and I am going to be sending you, I hope it is okay, questions for the record, because there is so much in your testimony that I think we could really benefit from in this Committee.

But I wanted to just put the question out. You know, part of the challenge with Big Tech monopolists is they are really these days getting to make big decisions about who gets heard and who gets paid and how much. And I just—I want to throw this out to the panel.

And I am sorry I have taken up so much time in my questions because I am just so grateful that you are here, and I hope we can stay in close touch.

When you think about—you mentioned there are many methods of being paid, but when you think about how Big Tech gatekeepers, Big Tech monopolists are actually controlling the purse strings and controlling the microphones, what would you point us to as your top priorities for barriers that you are facing that you really believe Congress has got to tackle?

Ms. MORAN. I can start.

I think payment terms. I think, a lot of these payment terms are net 60 and net 90, meaning creators aren't being paid for 2 or 3 months after the work, if they even get paid at all. I think having thresholds. Maybe if it is under a certain amount, it needs to be net 30.

I don't know. There are so many different ways that this could be framed, but having some sort of regulation on payment terms would be really, really helpful. And I think also having, you know, in our termination clauses that if the creator terminates for whatever reason—life happens, things happen—force majeure clauses and pro rata shares in our termination clauses are really helpful. I think also indemnification clauses, limitations of liability, caps on damages. Creators are small businesses. We can't go up against a Big Tech company and have unlimited damages. We don't have that money.

Ms. GOODLANDER. And you don't have an army of lawyers to do it.

Ms. MORAN. No.

Ms. GOODLANDER. Well, my time has passed, but I want to thank you all and really look forward to working with you.

Chairman WILLIAMS. [Presiding.] The gentlelady yields back.

I now recognize Ms. King-Hinds from the Northern Mariana Islands, the great Northern Mariana Islands for 5 minutes.

Mrs. KING-HINDS. Thank you. Thank you, Mr. Chair and Ranking Member, and Hafa Adai.

So I credit my election to my relationship with social media influencers. I come from the island of Tinian, and the island of Tinian has one of the smallest population in the Northern Mariana Islands. And no one from my island ever wins a commonwealth-wide election. I am the first, and I credit that, basically, to the work that was put in by Palm Treo. I have to give them a shout-out because they totally helped out.

And I also had the privilege of hosting the first ever Palm Treo social media awards. And this is where I kind of learned, you know, the value and the importance and all the work that goes behind content creating.

And as I sit here and as I listen to what Ms. Goodlander was talking about, right, you know, just the intricacies of these conversations, and I think about the social media influencers back home who are struggling to go, you know, from having an online presence into actually developing a sustainable business, and as I tie in Mr. Luciano's statement about, you know, just the challenge in terms of classification, right, and what all this means with regards to regulations, IRS taxes, and so that is the kind of conversation that I want to have with all of you today.

And I want to hear more from you, Ms. Moran, because you are an attorney and, obviously, you have helped a lot of these people get through some of these legal hurdles. And so if you could just start off by kind of sharing, you know, what are those—what are a couple of the top barriers that these entries to the market are—that Congress can assist with in terms of regulations?

Ms. MORAN. Thank you. I think to Nick's point earlier about not knowing how to classify yourself on a cap table, I think a lot of times the mindset of an entrepreneur as a small business, once you start making money, you are now a business. So I think having them have guidance from the SBA and other organizations. You know, access to lawyers who can help them draft an operating agreement or file for their LLC. Knowing what address to put on an LLC, because some States don't let you put a P.O. box, but you don't want your address publicly out there because for mental health and safety concerns.

So I think having guidance on when and how to formalize a business could be really helpful.

Ms. KING-HINDS. Okay. How about we just move down the line and get your thoughts on the matter.

Ms. BRENNAN. Thank you. Yeah, I would agree with Ms. Moran. Education is a huge component to this. You know, how do you classify yourself? It is for the people who don't have access to all the things a management firm may bring—attorneys, accountants, things like that. So really education on what they can do to build their business would be crucial. Thank you.

Mr. LUCIANO. Yeah, I will touch on what Kayla said, but just classifying yourself. Like, there were no resources for me to understand in order to go from once I am making money to this thresh-

old to now I am making this amount of money, okay, I need to be classified as an S corp and pay myself a proper payroll, right. So I had to learn all of that myself.

And then I have had to seek out resources to understand what I am actually trying to do. So that is why my whole accountant team, their entire team just works with creators alone, because I have actually had the other—my other accountant team, they didn't know how to classify me, and I had to go re-amend all my taxes from the past couple of years.

So those are some challenges I face as a creator.

Mr. APPELL. Thank you, Congresswoman. I agree with everything that they have said as well. I would add an extra loop, an extra element to this.

I sell a physical item, and so I sell my tea in every State in the country. You know, even in like, you know, big cities, you would be surprised how hard it is to find really good Chinese tea. So that means that I have to pay State sales tax in every State in the country. That means a separate registration in every State income tax board.

I hire a third-party company to do this, which is just a total loss to the business in terms of the processing fee that I need to pay them to be able to register 50 different times. Some are quarterly. Some are every year. Some are, you know, biannually.

There are different definitions of what makes a nexus of sales that requires me to register. Every State has different amounts that you have to pass before you have to register. It is a very confusing system, and I am not sure federally what can be done about that, but as a small business who is trying to pay their State sales taxes, it is incredibly difficult. And if I didn't, basically, just pay somebody else to solve that problem for me, there is absolutely no way I could do it.

Ms. KING-HINDS. All right. I am about to run out of time, but before I do, I want to give a shout-out to Zori Talks and Eddie C who are amazing content creators from the CNMI.

Thank you, Mr. Chairman. I yield my time.

Chairman WILLIAMS. The gentlelady yields back.

I now ask Mr. Olszewski from the great State of Maryland for 5 minutes.

Mr. OLSZEWSKI. Thank you very much, Chairman Williams. I want to thank our Ranking Member Velázquez, and to our witnesses, for your time today. It is truly exciting to be with you to discuss the social media landscape that has led many Americans to entrepreneurial adventures beyond their wildest dreams.

Back home in Maryland's Second, local social media accounts like Marianne Mehrer's Home Sweet Baltimore are helping to contribute to the success of businesses in our region. Marianne provides amazing real estate advice through her content while also shouting out some great small businesses that stimulate Maryland's economy. Douglas Clayton has a Charm City Food Adventures account that uplifts local restaurants and food festivals. And these are the constituents, like all of you, who are creating business opportunities for themselves while also boosting brick and mortar businesses and small businesses in our district. It is such a positive thing.

But we know that as these industries arise, the federal government has to make sure that we are working harder to support and protect our constituents from the harms that can and do exist online. As the father of a young daughter who just started fourth grade this year, I am especially acutely aware of the dangers that our children are exposed to online in particular.

In Maryland, our State police have launched the Internet Crimes Against Children Task Force, alongside 61 task forces across the nation. They have partnered with State, local, and federal law enforcement on a month-long initiative to combat online child exploitation. The task force has initiated 595 investigations, resulting in 41 arrests and 17 child victims rescued from ongoing abuse.

While it is horrific that resources even need to be used to combat these crimes, there is no excuse not to battle this epidemic head-on in a bipartisan way.

So I look forward to advancing bipartisan legislation that works to protect everyone online, both from crimes as well as the hate speech which is so pervasive today. We know the web is a powerful tool that can connect Americans in positive ways, and that is needed now more than ever.

So with that, I will ask a question of all the panelists, and I hope I can save time for one other issue for Ms. Moran. But I just want to ask everyone, what actions might you recommend Congress take that can both help us better protect children from being exposed to violence, harassment, hate speech, and more, while also ensuring that you can do your jobs and grow your businesses effectively? I think there is a balance to be struck, but we want to be doing both.

So I just want to open it up for the panel.

Mr. APPELL. I think from my perspective, I really like the idea of saying—you know, looking at the internet as a village, and if somebody breaks the law in the village once, do you let them create another account? Do you let them create another hundred accounts? Do you have some sort of thing that they have to go through where they recognize the problem that they had with the first account and with the first speech before they are able to go on and then continue to speak?

I think different issues should be dealt with differently, but I like the idea of having the internet be full of people that are, you know, being righteous actors. And if there are people that are problematic actors, that they are just not allowed right back onto the internet immediately with no problem after they have been caught.

Mr. LUCIANO. I would say for me it starts with, like, the parents at home, with really just filtering the amount of screen time that kids have because that can—down the line, especially because I am really big into mental health, that can, you know, carry down through generations. So just starting with the parents and really educating on what it means to limit screen time and—yeah.

Ms. BRENNAN. Yeah, I would agree with Mr. Appell. Repeat offenders cannot be on those platforms. If there is an issue, whether it is dealing with a child or whether it is dealing with an adult getting harassed, and there is, you know, a process where it goes through discovery beyond just AI, because I know some of the platforms just look at AI and there is no human interaction, that needs to be dealt with, and it needs to be dealt with and addressed by

another human being. It can't just be banned, here we go, we are done. Maybe some intervention further than that would be helpful. Thank you.

Mr. OLSZEWSKI. Ms. Moran, in addition to your answer on this, if you can also respond to—I know that you have called the TikTok ban and President Trump's repeated short-term delays an emotional roller coaster. In your 30 seconds, if you can both answer that question and elaborate on what you mean by that roller coaster.

Ms. MORAN. Sure. I think the Coogan laws—you know, States like California, Utah, Illinois have passed Coogan laws for child performers having trust accounts. Parents have to put a percentage away that is in a trust for children that when they turn 18 they can access.

We have seen this a lot with actors like Jennette McCurdy from iCarly. You know, when her mom passed away, she got access to her income and realized that it was all gone. Her parents took it. And she is not the only one.

Children performers', family vlog channels are very popular on YouTube and TikTok, and these creators are being exploited by their own parents for money, and they are not getting to see any of that. So I think federalizing Coogan laws or incentivizing States to pass Coogan-type laws would be really, really helpful.

And then with the TikTok ban, I think—I mean, Jesse and Nick have said it too, but it hurts not knowing, you know, can I post content today? Is anyone going to see it? You know, not knowing that TikTok got pushed back, I created a lot of content during the ban in December and January. I was abroad. I was in Europe, and I was waking up early to talk about it.

Chairman WILLIAMS. The gentleman's time is up.

Mr. OLSZEWSKI. Thank you for that.

I thank the Chairman for his indulgence.

Chairman WILLIAMS. Next, I now recognize Mr. Jack from the great State of Georgia for 5 minutes.

Mr. JACK. Well, thank you very much, Mr. Chairman, and I want to commend you and the staff of this incredible Committee on convening this hearing. It is exciting. As a member of the generation of many of our panelists, it is exciting to see you all accomplishing incredible things.

And I am curious. One of the questions I would love to start with is, as somebody who obviously follows, you know, content creators that are working to generate small business leads for people across my community, I am interested in talking about search engine optimization. I am interested in learning how you all navigate that.

So we can go down the line, and we will start with Ms. Moran. I would love for you to explain to this Committee how you navigate the topic of SEO.

Ms. MORAN. Thank you. I mean, I wouldn't be here if it wasn't for SEO. You know, Danielle found me through Instagram, and now Instagram is searchable. When you Google someone, you know, whatever was in the caption of your post or your video on Instagram now comes up on Google. That was recent as of like I think 2 weeks ago.

So I think, you know, platforms are starting to understand that search engine optimization is not just for small businesses and marketing of products and service-based businesses but also creator content, because there is a lot of really great education, and there are a lot of really great businesses using social media because it is cost-effective. It is more affordable for businesses to use digital marketing than traditional multimillion dollar productions and commercials.

Mr. JACK. Wonderful. Thank you.

Please.

Ms. BRENNAN. I think we are seeing the rise of blogging again, which is an interesting platform that kind of took a little bit of a break. And as there is more competition in SEO, it will become costlier. So going back to education and resources, as well as funding for these small businesses will help them compete in an ever-growing landscape.

Mr. JACK. On what platforms are you seeing that expansion of blogging? Is it now that X has long-form posts, or are you seeing it in different—I mean, it used to be Tumblr, but I am curious what it is now.

Ms. BRENNAN. That is a great question. So there is SEO on the platforms and then there is traditional blogs. So a lot of these creators have their own websites where they are SEO-ing various things. And Substack, yes. Thank you. Substack as well.

Mr. JACK. Sure. Thank you.

Please.

Mr. LUCIANO. So me personally, as a creator, I rely more on SEO with optimizing my landing pages for where I am trying to drive traffic, but as far as online creation, I am really in the space of like audience retention. So I build my platforms as far as like strong hooks, ping points, et cetera, going down to the bare bones of marketing.

So the SEO for me is literally just trying to optimize my pages of where I am driving traffic online. But organically, I want people to connect with me with strong hooks, ping points, resolutions, calls to actions, stuff like that.

Mr. JACK. Helpful context.

Please.

Mr. APPELL. Yes. Thank you, Congressman, for your question.

I agree with Mr. Luciano. I feel like as a creator, if I do a really good job of making awesome content, making videos, sharing what I know and what I care about, that those people will fight through bad searches to find my website. But if I just have a mediocre—mediocre at everything, SEO will not save me.

Now, that is kind of my mentality. I don't know if that is literally true, like, in the numbers, but I think that is a healthy mentality to have as a creator, to try to focus on the video.

We do do SEO now, especially as the business has gotten bigger, to try to get more people who may have seen a video of mine once on a train 7 months ago and now they want tea. You know, that can help that person find my website if they have already had a real interaction with me online.

But I think that as a business owner, you are asking—I would be asking a lot of SEO to convert somebody who has like never

seen me, doesn't know the brand, doesn't know the tea. That is not really how I would look to use it. I think it is that final push to get somebody who already does know you up to the top of the list.

Mr. JACK. Wonderful. And I have got just a minute left. So I am curious, on an analytics perspective, if you could share with the Committee, are you using Google Trend? What analytic structure are you using to help at least see how successful your advertising has been?

And we can start with you and go as far as we can.

Ms. MORAN. I mean, each platform has its own analytics tools. I think Google Alerts are great to see, you know, what people are searching for and what comes up when they are searching. But I have a newsletter on beehiiv, and beehiiv has really great analytics for email open rates and, you know, click rates within an email, but each platform has its own tools.

Mr. JACK. Thank you.

Ms. BRENNAN. Yeah, I think it is really important to look at the platform specifically, but I do want to voice that there are aggregate platforms that companies can buy, and I hate to say it but a lot of times they are wrong. So businesses are then getting this data, and it is based on things that aren't correct.

So there is another, I guess you could say, issue that needs to be addressed there. Thank you.

Mr. JACK. Thank you.

Please.

Mr. LUCIANO. My bread and butter has always been audience retention, so I look at retention curves and I look at, you know—I mean, TikTok specifically has done a great job of including more analytics of where we can improve our videos.

Mr. JACK. Thank you.

Lastly.

Mr. APPELL. Yeah. I also look at creator—like, the interaction. If I am getting great comments from people that really care about what I am talking about, I kind of hope that the rest of it is going well. But, you know, in terms of raw analytics, I use the Google Analytics platform.

Mr. JACK. Thank you very much.

Mr. Chairman, I think this is a great hearing. I appreciate you for convening it, and I yield back my time.

Chairman WILLIAMS. The gentleman yields back.

I now recognize Mr. Schmidt for 5 minutes.

Mr. SCHMIDT. Thank you, Mr. Chairman. I want to thank you for convening this, thank the witnesses, and express my apologies for my late arrival. It wasn't a lack of interest. I will never get back the last 5 hours of my life in the Judiciary Committee with Director Patel. And it was a—let's just say I am in the mindset where sort of the darkness of human nature is currently on my mind. So this is uplifting.

Tea would do it. That would be fantastic, yeah. Although Kash would say it is spiked with something we imported from China. So, you know, it is a whole different deal.

So sort of in that spirit, let me ask you a question. It is kind of the flip side of what our colleague from Maryland asked you. He asked you your initial thoughts using the illustration of child ex-

ploitation and ICAC work online, you know, what can be done to make things safe. Let me ask you the flip side of that.

One of the things the Director said to us repeatedly today in multiple contexts—and it wasn't an internet hearing. It was a wide-ranging around the world, and yet he came back I think four or five times when asked, you know, what is the one thing we could do in Congress that would make America safer. And he said, give us more eyes and tools to find bad guys doing bad things online. It was a constant theme.

Let's assume for the sake of discussion we take that advice and try to figure out from very smart people what things we could do that would be helpful. From your vantage point, what should we be keeping in mind so that we don't throw the baby out with the bath water, kill the goose that laid the golden egg—pick the metaphor that you want—but so we don't foul up the good things you are doing online while we are trying to address the really awful things a lot of folks are doing online?

We can just go down the line.

Mr. APPELL. I may have a little unconventional angle on this because I spent 10 years in China doing Chinese social media. And in China, political interests were always the thing that was dictating what the people who are regulating the internet were doing. It wasn't business. It wasn't art. It was politics.

And so I think finding a way that if we have the eyes and the ears to be able to go and catch bad people on the internet, that it can be done in a data-forward way as opposed to a politics-forward way. And make sure that those tools are used and people know that they are being adjudicated fairly and not because of any given political cycle. Thank you.

Mr. LUCIANO. I will actually give you an interesting story on this topic of the bad guys. My dad was robbed. I am from Maryland. My dad lives in Maryland, and his Side-by-Side was stolen. And me as a creator, I went to the internet and was like, hey, this is the footage. This is what happened. And literally the entire—I am from Cecil County, Maryland. Cecil County came together through comments and through—like singular comments of people going to work at 4 a.m. in the morning, I saw that Side-by-Side riding down the road. And through that we were able to catch the guy.

So I think things like that are really great, and social media has that community aspect where, even if it is not regulated, like, single comments can help things like that go a long way to catch the bad guys.

Ms. BRENNAN. Thank you. And I think there was a documentary around cats that did something similar where there were internet sleuths around there. I won't say the name of the documentary. You will have to look that one up.

But as far as, you know, using AI for good, scraping is wonderful, because if we can catch these guys before the content even airs, and I am talking about explicit images, things that have to do with children, I mean, that is a win.

Now, the guidelines need to be clear and explicit. So that is a very, very, very important factor in this sort of, I guess you could

say, content policing and, you know, the safety of our kids. Thank you.

Ms. MORAN. And I will zoom out a little bit from just the AI aspect of it, but I think mental health, which I think we can all attest to, community. Brands can build businesses using community. They can build community first and then launch a product, and then they have sales immediately built into that.

But I think also, at least for me, I wouldn't be here today if I hadn't had a community online when I was in law school in my darkest days, and the rise of social media really allowed me to have a voice and share it and find like-minded people.

And I think for children as well, there are really great tools. There are a lot of, you know, learn how to read, learn how to color, learn your numbers, online educational programming using social media that could be really, really helpful.

And I think if we regulate and disclose when AI or bad actors are being, you know—when they are caught and they are taken down and banned from using the platform so more good content can keep coming up.

Mr. SCHMIDT. Thank you.

Thanks, Mr. Chairman. I yield back.

Chairman WILLIAMS. Okay. The gentleman yields back.

I now recognize Mr. Patronis from the great State of Florida for 5 minutes.

Mr. PATRONIS. Thank you, Chairman. Thank y'all for being here.

I am not going to try to lead with questions—or lead you with my questions I am asking, but let's talk Section 230. How important is its existence to each of you?

Ms. MORAN. Can you expand on the section, please?

Mr. PATRONIS. If we repealed Section 230, would your life change?

Ms. MORAN. Can you expand what the section is for those who don't know?

Mr. PATRONIS. Oh, Section 230 is providing liability protection to social media companies.

Ms. MORAN. I mean, I think that would be really helpful, especially from the legal perspective. I think, again, the education, the regulation, the disclosure, limiting liability for creators if they are, you know, being the one violating these platforms. But I think the platforms being regulated and held accountable.

Mr. PATRONIS. Sure.

Ms. BRENNAN. I don't know enough about the section to be able to talk about it. As far as limitation of liability as far as creators are concerned, that would be very helpful in navigating the business and the landscape that is ever changing. Thank you.

Mr. PATRONIS. Great. Thank you.

Mr. LUCIANO. Yeah, I don't know enough about the section to form an opinion on it.

Mr. PATRONIS. Got you.

Mr. APPELL. I don't know specifically about that section either, other than I think the responsibility on the side of both the platforms and the creators is important. If we all know that everybody

has responsibility for what they are putting up, you generally will get better actions, I think.

Mr. PATRONIS. Cool. So parent of a 14-year-old and a 17-year-old. It is fascinating. When I was a kid, I would open up this catalog called JCPenney, and I would circle all the things I wanted for Christmas in it. Now, because of what my children now are able to find, they are writing very detailed lists because of how they have been influenced on social media of the exact model, color, style, model number of what they want. It is crazy. Their desire for different colognes and how social media has steered—you are laughing because you know exactly what I am talking about, and it is so stinking powerful.

So now here is my concern. Should the liability—if we were going to try to regulate this for the health of our kids, is it easier for us to say, all right, Congress, if you want to fix this, why don't you just fix it with two players, and that is Apple and Google, or do you go out there and create a solution that is going to affect every social media company, or do you do both?

I would love any input you have about that.

Ms. BRENNAN. Yeah. Thank you for that question. I think it needs to be everything, because we don't know the next social media platform and how fast it is going to grow. So instead of being, you know, perhaps, behind, we get ahead. And I also think it is really important to look at biometric information and how that is being collected and how that is being used.

Mr. PATRONIS. Elaborate.

Ms. BRENNAN. So I know Illinois, I think back in 2008, passed the Biometric Information Privacy Act, and that has to deal with—and, again, please look into this, but to my understanding, it dealt with written consent, clear consent. And as soon as the content or the information that was being, you know, collected was done with, they delete it and it couldn't be sold.

So I think we need to look into that as far as, not only collecting content, but when companies buy it, can they pair it up with the users there so they can create a full, you know, image.

And I know the EU—I will let Ms. Moran speak to that. And the legal implications did pass some, you know, data protection acts.

Mr. PATRONIS. Yeah, I think they are a little more—a little stronger in their protections than here.

Ms. MORAN. I mean, in general, the EU has a lot stronger protections for things, even beauty products and chemicals and things. So, yeah, I think looking to other countries that have done similar things.

I like the idea of biometric regulation. You know, companies, you know—an influencer's swimwear line, they use where their customers are coming from. You know, how many times did they shop this year? What colors do they like? What prints do they like to, you know, design new collections. But how much information are they really getting? And, yeah, what are they doing with it? Maybe they are not selling it, but bad actors are coming in and hacking into it and selling it.

Mr. PATRONIS. So do you think—again, getting back to the question, do you think, if Congress was going to act on trying to create some protections, do we just put the expectations on Google

and Apple because they have the market share, or do you go and pivot to Facebook, Meta, Twitter, TikTok?

Ms. MORAN. I think, as Christina said, I think everybody. I think those two for sure, Apple, Google. Start there. Meta, they are a monolith. You know, they own Instagram, they own Edits, they own—what is the other one? They own WhatsApp. You know, they are huge.

So I think going after Meta as well, and then through TikTok and Snap Inc. Even Uber and Lyft, you know, they are using social media as well. The dating apps. Like, everybody.

Mr. PATRONIS. Yeah. Don't get me started on dating apps.

Mr. APPELL. And then just very briefly, I think it is a good thing for the country if everybody plays by the same rules. But that being said, if we do have one or two parties that are just bigger, making sure those people play by the rules as a way to make sure everybody else knows the rules have changed would be great.

Mr. PATRONIS. Great. Thank you.

Thank you, Mr. Chairman. My time is up. I appreciate you all.

Chairman WILLIAMS. The gentleman yields back.

What a great hearing this has been. We appreciate all of you, and I would like to thank all of our witnesses for your testimony and for appearing before us today.

Without objection, Members have 5 legislative days to submit additional materials and written questions for the witnesses to the Chair which will be forwarded to the witnesses. So I ask the witnesses to please respond promptly if that happens.

And if there is no further business, without objection, the Committee is adjourned. And we want to come down and shake your hand, so don't leave yet.

Thank you.

A P P E N D I XKAYLA MORAN LAW
TRADEMARK • CONTRACT ATTORNEY**Written Testimony of Kayla Moran****Streaming Success: Small Businesses in the Age of Digital Influence****Introduction**

The story of American entrepreneurship is changing. Today, the storefronts of Main Street have moved online. The creator economy, with its low barriers to entry and flexibility, opens new career paths for Americans. What started in its early years with bloggers, has evolved into an unique and uncharted industry where marketing agencies now hire social media influencers to reach new audiences. With this shift, the creator economy has effectively disrupted traditional and costly multi-million dollar marketing productions.

Content creation and influencing has become a potentially lucrative career path for many people, and now creators need Congressional backed support and protection to navigate the industry as it continues to rapidly grow into a multi billion-dollar segment of the American economy.

Running a business from a phone allows millions of everyday people to turn their skills, voices, and ideas into businesses. Creators can turn side hustles into careers, stay at home while still putting food on the table, and students can even pay their way through college.

While the average American may discredit creators as a mere hobby, Goldman Sachs, in their 2023 Creator Economy Report, projected that the global creator economy could grow to almost half a trillion dollars by 2027. The industry is not only content creators, in the U.S. there are full strategic teams at marketing agencies sourcing the right influencer for their client's marketing goals, developing traditional and digital first marketing campaigns and allocating million dollar budgets. These small businesses, everyday people at the heart of economic growth, deserve the same protections as traditional ones.

The Small Business Administration's mission of providing aid and protecting the interests of entrepreneurs should be extended to small businesses in this industry. Creators need access to dedicated creator economy experts, including lawyers, accountants, wealth management services to give creators and creative entrepreneurs the same level of support and protection as the SBA provides to restaurants and mechanic shops. Access to these resources provides creators not only a feeling of value and respect, but also the knowledge to navigate a growing industry.

Growing Concerns

The Right of Publicity and Intellectual Property

The rise of the creator economy has also elevated the importance of the right of publicity - the ability to commercialize your name, image and likeness.

- Currently this right is governed by a patchwork of inconsistent state laws to protect privacy, and it requires federal attention. E.g. Brands, as large corporations, favor Delaware as their choice of law. Delaware does not recognize the Right of Publicity, while states like New York, Florida, and California do.
- As this industry expands, the federalization of right of publicity laws, in a manner similar to intellectual property laws, would help create unity and protect creators across the US, as digital content is national and global in reach.
- In the creator economy, creators are hired as independent contractors, yet marketing agencies often strong arm creators into giving up all rights to their work product while continuing to offload the responsibilities of production and distribution to the creator.
 - Unlike traditional actors who contribute toward “evergreen” works meant to last lifetimes, creators develop content only designed to last 30 to 90 days due to authenticity and seasonality, with Instagram stories only lasting 24 hours to capture incredibly timely moments.
- A brand’s insistence on ownership, with the intent to use at an unpredictably later date and the ability to create derivative works of this content could lead to massive disruption in the creator’s future partnerships with other brands.
 - Yet, the same brands will require a creator to represent and warrant that the creator freely enters into an agreement with them without any past obligations to other brands.
- Without direct case law or statutory guidance, legal professionals working to standardize and stabilize a very cyclical and periodic industry are forced to constantly educate and reeducate these powerful brands on the reality of the business in which they seek to take part.

Imbalance in Bargaining Power and the Trend Towards Monopolization

The concentration of power among marketing agencies among a few large marketing agencies. This trend toward monopolization is creating a severe imbalance in bargaining power between contracting parties.

[Please see this visual aid from global adtech company, Eskmi, demonstrating the consolidation.](#)

- There is a lack of education in the legal implications of the intellectual property ownership and licensing clauses and other deal terms in these agreements.
- Agreements are silent on governing law and other important boilerplate clauses.
- Marketing agencies and their decentralized legal teams, if there is one, refuse to negotiate a creator's deal terms and contracts making deals unconscionable and very one-sized - a "take it or leave it attitude"
 - By disincentivizing creators from negotiating or even understanding their contracts, this practice leaves them vulnerable to accepting deals that prioritize short-term income and growth over their long-term wellbeing.
- Standardized payment timelines (ex: 30 days- or LESS) could protect creators the way small contractors in other industries are protected.
 - Most creators don't know they can sue in small claims court for nonpayment but more tools like Dupay, a collections service for creators, freelancers, and small businesses could be beneficial
- Payment delays and reducing the practice of NET 60 and NET 90 payments under a threshold, to protect smaller creators and those just starting out.
 - American Influencer Council, a 501(c)(6) nonprofit dedicated to the creator economy, is asking brands to commit to NET 30 payment terms.
 - Adding enforceable penalties for late payments (interest, fees, or required disclosure of delays) to standard contract terms would encourage brands to treat creator payments with the same urgency as other vendors.

Issues Facing Industry Professionals

In this quickly evolving industry, many creators struggle to find professional help. This is attributed not only to a lack of access, but also to a lack of industry professionals caught behind unclear regulations and uncertainty in authority.

- Managers, traditionally, are unregulated and are not always equipped with the resources to support their clients.
- Creator economy lawyers, without a federal license similar to the Patent Bar or a form of interstate safe harbor, risk triggering unauthorized practice of law issues while servicing their clients.
- The creator economy could substantially benefit from added regulations on representatives such as agents and managers.
 - Currently, the 'talent agent' is regulated in states like New York, California and Florida, where traditional entertainment hubs called for regulation of the business.

However, the nationwide and global reach of the creator economy begs the question for federal recognition of standards and rules for talent agents and managers working throughout the country on interstate deals with creators and brands – Managers, who exert a significant amount of influence onto the career of the creator may require similar oversight as the talent agent.

- Adding stronger distinctions between agents, managers, and the companies providing representation services ensures competency in their respective fields as well as protection against unauthorized practices amongst distinctive roles.
- Creators also deserve protection from predatory managers, particularly in fee structure and when exiting representation, just as much as predatory marketing agencies. Unlike real estate agents and sports agents, who have set regulations on commission caps, talent managers and agents lack these same regulations.
 - In California, for example, creator managers merely have vague guidelines governed by the department of consumer affairs. Additionally, talent agencies are governed by the same local laws as employment agencies that place home health aids into homes.
- That is to say, regulations among managers and agencies are vague and oftentimes ineffective in applicability in this growing sector of the economy. Codifying or creating a standardized cap on commissions for managers and agents in the creator economy could prohibit these predatory practices.

Mental Health and Financial Protections for Children

While Congress is currently acknowledging the mental health of minors on social media and there are a few scattered state laws that require protective financial trusts for child performers, the lack of national oversight enables forum shopping and exploitation of creators where no regulations exist.

There are also the risks of overexposure and omnipresence that can lead to severe mental health issues and doxxing. Often, creators are everyday people, not celebrities, and therefore have not been exposed to such scrutiny, and lack the training and resources to properly deal with the mental repercussions. This, coupled with the nature of the internet – its fast moving pace and how vicious it can be – creates the perfect storm leading to mental health issues.

Foreign and Domestic Brands and Creators Working Together

Social media goes beyond state lines and sovereign borders. Many U.S. brands work with Canadian and other international creators. Similarly, U.S. creators often work with brands headquartered abroad.

- Guidance on the following would alleviate both marketing agencies/brands and creators (including their representatives, whether managers or agents, and their larger legal and accounting teams) concerns about working with non U.S. entities and individuals:
 - Choice of law clauses
 - Tax compliance
 - Intellectual property
 - Immigration
 - Advertising regulations such as the FTC, Advertising Standards Authority (ASA) and Competition and Markets Authority (CMA) in the UK, Competition Bureau and Ad Standards in Canada and the European Union's Unfair Commercial Practices Directive and each member states national laws

Advertising Guidelines and Best Practices

Continuing from above, the FTC has not updated their [Disclosures 101 For Social Media Influencers](#) since 2019. In 2024 they did issue their [Rule on the Use of Consumer Reviews and Testimonials](#) which does have implications for small businesses and creators, but more current guidance on how to balance platform volatility and disclosure would be helpful.

- It is often a concern of creators and social media users alike, does using the built in platform disclosure tools i.e. having a “Paid Partnership” and/or “Branded Content” banner on your post disincentivize the platforms themselves from circulating the content to the poster’s audience?
- From a consumer perspective, a law school classmate of mine shared this with me:
 - “I feel like I can't trust any videos or reviews these days because everything feels like it is a partnership or a paid ad. I don't know where to find information anymore that isn't paid for by the brand that produced the video. Or someone does make a great review or video and I think it's a paid for video so I don't give the creator any credit to what they are. Wherever we can protect creators' rights and opportunity to earn money, we should. I think solid policy around fiscal protection will trickle down to other areas of the industry.”

Support for Accountants in Protecting Creators: Taxes, Expenses, Deductions

Similar to how creators need dedicated lawyers in this space to advise and counsel on contracts and intellectual property, support for CPAs, tax professionals and wealth management services is needed.

- In my call with staffers preparing for this hearing, it was mentioned the U.S. House is considering updating the Tax code to provide clarity for 1099 freelancers and contractors vs employees
- Traditional entertainment professionals have SAG-AFTRA, WGA and other collective bargaining agreements and specialized experts to navigate the financial and tax implications of being a performer, could we have similar guidance for creators?
 - Suggestion from a CPA in online crowdsourcing and research:
 - “Replicating the tax rules for movie production expenses but for content creators. I know movies/ productions take a while to film, etc. but the deductions available to them should be similar.
 - Guidance for creators on what can be expensed and deducted
 - “Someone that is a fashion/lifestyle blogger/influencer. If they buy something like a piece of furniture, make posts about it, get commissions from the link but then use it personally, how does that get treated? Guidance is needed on stuff like that!”
 - Guidance for accountants and creators doing their own taxes on expenses and deductions
 - Membership clubs such as Soho House are often used as coworking spaces by creatives, could this be a business expense?
 - Production costs such as wardrobe and beauty maintenance is often treated as an expense, should it be?
- Guidance on which entity choice a creator or digital small business should consider when formalizing their business would be helpful
 - Plus, because each state handles misclassification of entities differently, perhaps relaxed misclassification laws for independent contractors as well

Platform Volatility, AI and More Intellectual Property Considerations

The rise of artificial intelligence in every facet of American life coupled with inadequate intellectual property protections is creating a perfect storm of platform volatility issues for creators and small businesses trying to grow and support their families.

- Over the last few years there have been an increase in issues such as deepfakes, synthetic influencers and parody accounts, and account hacking from bot farms, often an influx of fake followers tied to other countries that take over an account and destroy its viewership and ability to monetize. Guidance on how to navigate these issues is needed
- Concern from small businesses using social media as well, where there is a growing practice of bigger companies using the Digital Millenium Copyright Act (DMCA) tools built into platforms to restrict and shut down their competition, whether it's a YouTube channel copyright strike or a direct-to-consumer jewelry business
 - These are traditionally considered unfair trade practices and lawyers dedicated to this industry could provide guidance if creators know to hire them
- In the event of these scenarios, often a creator's only recourse is a DMCA takedown action
 - But they are cost prohibitive at volume and creators are often unaware these traditional IP protections are available to them
 - Should there be trademark and copyright group registrations for videos similar to photos?
 - Would give creators the ability to protect and commercialize at scale their work, such as recipes, poetry and artwork, etc.
 - Case law/precedent needed to protect creators and small business owners from loss of income and unfair trade practices but a federal right of publicity could help fill the gap
- Guidance on AI
 - Training models are known for using huge bodies of work
 - Touch back on copyright registrations above, group registrations could protect creators whose work is used for training
 - Anthropic settlement and ongoing Midjourney lawsuits by three major studios, could creators apply these rules to their own scenarios?

Conclusion

At its core, the creator economy is about marketing and opportunity. Creators have effectively become their own small businesses, and they deserve treatment as such. Having case law as a framework for legal issues creators are beginning to face at scale, such as loss of income and unfair trade practices is deeply needed.

Developing a federal right of publicity would fill the gaps in underprotected states, promoting regulation and unity across a nationwide industry. Additionally, access to educational resources and cooperation from local and state governments nationwide providing professional services dedicated to creators and creative entrepreneurs would be integral to the continued growth, knowledge, and success of this industry.

My testimony demonstrates how creators and creative entrepreneurs such as artists, photographers and the like are small business owners. As such, they need and deserve the same infrastructure of support and protection that other American entrepreneurs receive.

This is a pivotal moment. Thank you for inviting us to start this conversation. It is my hope that with smart, inclusive policy, the U.S. can lead the world in building an innovative, fair, and sustainable creator economy. And I look forward to being a part of this charge.

I want to take a second to thank my colleagues and contributors in this testimony, who over the course of the last week have helped me compile research and feedback and reviewed my submission to ensure we're all represented.

Frank Poe, Poe Law PLLC; Brittany Ratelle, Ratelle Law; Chuong Bui, Attorney and co-founder Counsel For Creators; Dave Ugelow, General Counsel at Fohr; Sophia Sofferman, Partner, Co-Founder at NTSS Law PLLC; Claire Gregory and Medha Krishen, recent law school graduates awaiting Bar Exam results and various talent managers and industry experts in my network.



Written Testimony

When people think of social media, they often picture a feed of birthday photos, vacation selfies, or the occasional “no excuses” gym post. But beneath the surface is an entire web and ecosystem of commerce. Social media is a marketplace, a workplace, and in many cases, a lifeline for small and large businesses alike.

In the United States, the social media industry has grown into a multi-hundred-billion-dollar sector, touching everything from advertising and publishing to retail and entertainment. But its impact is perhaps most deeply felt by small businesses. For a restaurant owner, a craftsman, or a young college athlete building her brand, social media isn’t just marketing — it’s survival and scale.

For influencers, whether they have a few hundred followers or millions, revenue streams are diverse: brand partnerships, affiliate revenue, platform payments, merchandise, and even their own product lines.

And every influencer fuels an ecosystem of offshoot businesses: attorneys, assistants, editors, publishing houses, and managers like myself. Some even play strategic roles in fundraising and acquisitions for emerging startups.

Consider Azuna, a Buffalo-based brand whose digital strategy helped it scale to 25 employees, a Buffalo Bills sponsorship, four agencies, and has contracted over one hundred influencers some of which sit on their cap table. Or Chef Darian Bryan, an immigrant entrepreneur with multiple restaurants and a recent Snickers campaign at Highmark Stadium creating food so delicious it would make you want to break a table. These are local economic engines powered by digital reach.

And the beauty of social media is its accessibility. I helped scale CelebExperts and Renegade Talent MGMT while living outside Fort Bragg, North Carolina, as a proud military spouse. Unlike many in my community who face staggering unemployment rates, I was fortunate to continue my career remotely. Social media allows people to earn a living, contribute to their families, and bring economic opportunity to their hometowns and in various locations, whether that’s Buffalo, Fayetteville, Endicott, NY or beyond.

Most recently, our organization has begun work in the NIL space. Specifically, young dynamic women who are learning to build long-lasting businesses around passions they love. This next generation represents not just a cultural shift, but a chance to democratize entrepreneurship itself.

But as powerful as this industry is, it faces real challenges. Today, I want to highlight three.

First, cash flow. Too often, influencer partnerships are paid months after services are delivered. For many creators and small businesses, waiting that long is not just difficult, it's unsustainable.

Second, the rise of AI. We are entering a world where it is increasingly difficult to know what is real or fake. Bot influencers, Content theft, dubbing, and misrepresentation don't just hurt credibility but can have dangerous consequences.

Third, the resource gap. Many new entrepreneurs lack the knowledge to navigate contracts and offers. Education and transparency in this space are critical. This isn't about the creator I manage, it is about the creators I don't.

Social media is no longer just about pictures and posts. It's about people, jobs, and communities. It deserves thoughtful consideration, protection, and support as we navigate its future together.

Thank You.

Testimony – House Committee on Small Business

Good morning Chairman, Ranking Member, and members of the Committee. My name is Nick Luciano. I grew up in Maryland, but for the last ten years I've called Weatherford, Texas home. I came to Texas, fell in love with the western lifestyle — riding, roping, and rodeo — and built my life there.

Before I ever made a piece of content, I earned a degree in mechanical engineering from the University of North Texas and worked for three years as a mechanical engineer for the Department of Defense. My job was to design protective systems and run high-speed cameras to safeguard our soldiers. That experience taught me problem-solving, systems thinking, and responsibility at the highest level. Today, I bring that same mindset to the digital space.

Along the way, I've built an audience of over 8 million followers across platforms and created the third most liked TikTok in the entire world. That moment showed me not only the global reach of this new digital landscape, but also that I've played a role in helping craft and shape it.

I first started posting content not to get famous, but to help people. I realized that something as simple as a video could reach someone at just the right time. In college, I'd get messages from classmates saying my posts encouraged them to keep pushing forward. Years later, I've received messages from people saying my videos literally saved their life. One man wrote that he was sitting on the tailgate of his truck, gun in hand, ready to end it all — but after coming across my video, he didn't pull the trigger.

Moments like that showed me that this work is bigger than clicks and likes. It's about impact. It's about using digital platforms to reach people, to build trust, and to create positive change.

That's where my journey shifted from being "just an influencer" to becoming what I call a creatorpreneur. Influencers chase trends and attention. Creatorpreneurs build businesses, solve problems, and create jobs — while still connecting with millions of people online.

For me, that meant founding Tratter House, the first western lifestyle content house. What started as a group of creators under one roof has grown into a business that partners with major brands like Ariat, Spotify, and Red Bull; supports country artists like Bailey Zimmerman and Will Moseley; and now focuses on artist development and marketing strategy.

We don't just post videos — we roadmap careers. We help artists build merchandise lines, manage online stores, and craft content strategies that cut through the noise. We also run a nonprofit, the Tratter Foundation, where each year we fly a family to Texas to give them a once-in-a-lifetime western experience.

Tratter House has created jobs directly — my co-founders, full-time team members, editors, accountants, merch managers — and indirectly, through partnerships with printers, fulfillment companies, record labels, rodeos, and small businesses across the country.

Our biggest win to date has been helping a new artist, Tyce Delk, launch his debut single. With our strategy, his very first release hit over 5 million streams, reached number one on Spotify Viral 50 in both the U.S. and Canada, climbed to number six on Texas radio, and charted globally. That's not just a viral moment — that's building a foundation for a sustainable career, and it's proof that digital creators can generate real economic results.

But here's the challenge: when many people hear the word "influencer," they picture kids making silly videos for clicks. That's the stigma I want to break. Behind the scenes, many of us are educated, disciplined, and purpose-driven. We're running teams, managing payroll, filing taxes, and partnering with brands and small businesses. We are contributing to the economy just like any other entrepreneur.

The term I prefer is creatorpreneur. Because yes, I create content — but I also employ people, serve clients, and build businesses that last.

My vision for the future is clear: the creators who endure — who build trust, serve their audiences, and innovate in business — are the next generation of entrepreneurs. We're not chasing clicks. We're building foundations. We understand how to attract millions of people online, nurture those relationships, and then channel that trust into businesses, nonprofits, and movements that make a real difference.

If I could leave you with one takeaway, it's this: people like me aren't in it for fame or money. We're in it to change lives, build businesses, and strengthen communities. We are part of a new economy — one rooted in trust, creativity, and purpose.

So when you think about "influencers," I ask you to see us not just as entertainers, but as creatorpreneurs — innovators, small business owners, and job creators who are here to stay.

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

Jesse Appell – Opening Statement

House Committee on Small Business 9 17 25

Good afternoon, Chairman Williams, Ranking Member Velázquez, and Members of the Small Business Committee, and everyone watching on YouTube.

I want to thank you all for the honor and opportunity to represent my fellow creator-small businesses, and to farm the aura of this esteemed chamber.

My name is Jesse Appell, and I am the founder of Jesse’s Teahouse. I run an online teahouse, which is really two businesses—a media company and an ecommerce business. Every day, my 1.5 million followers watch me make and drink tea; some of these followers also purchase the tea I drink. As of today, we have sent over 80,000 orders to customers all over the country.

I source my teas from farmers in China and Taiwan, many of whom I met during my time as a Fulbright research fellow in China. My work as a cultural ambassador has moved online, and I spend several months a year in Asia going to tea mountains, filming videos with our farmers so people can see the tea they will be drinking and know the people who make it. I started this business with my own savings in my dad’s kitchen during COVID, and it’s amazing how it has grown.

I get tons of messages from customers who have shared a teatime with their spouse, or kids, or parents. But sometimes the emails go deeper. One customer was a veteran who told me that the ritual of teamaking, along with the socialization from inviting people over for tea, was the best treatment for PTSD he had found so far. Another told me he has replaced hard drugs with tea, swapping one habit for another and the mantra: “Only tea in the house!”

All of this good is possible because of two uniquely American pillars: a free internet where I can share my story, and a free market that allows me to sell the best tea in the world. It is the protection and improvement of those free systems to which I hope to call the committee’s attention.

On challenges to our Internet freedoms, the most immediate issue for my business is the potential banning of TikTok. A few hours before this statement was due, news broke that there may be a “TikTok deal.” A good deal would be excellent news. If TikTok is banned, I lose 600,000 followers and sales losses that are likely in the hundreds of thousands.

But even if the Tiktok deal is perfect, this process was not comfortable for creators. There as a real change of creating what amounts to an American version of the great Firewall, which would have “solved” the problem with reactive isolation rather than the American ideals of openness, law, and transparency. And in the end, a deal is not a law and deals can be undone, so I urge Congress to codify any such deal.

Because even if every national security issue with Tiktok is resolved, the battle on copyright enforcement, data privacy, algorithm manipulation continues. As Congress considers these issues, please consult us creators. I don’t want foreign powers manipulating my algorithm – but I also don’t want domestic CEOs, or even a for-profit board manipulating my algorithm. Creators want clearly defined rules by which all platforms should play - not just foreign ones.

As for challenges in the free market, the recent tariffs have had a devastating impact on my business. I estimate we have lost approximately \$250,000 in sales as direct result of the most recent trade war. I run a subscription tea club, where every 3 months, we send our club members great new teas. But our May subscription box sat in the port during the trade war, and we had to skip it altogether. We also couldn’t get a single restock shipment between January and August. This is all in addition to increased taxes.

Further, the chaotic nature of the policy changes has also been a challenge. I woke up one day to find the *de minimis* exemption was closed completely, without exception. The postal service had to shut down receiving from China while they awaited further instructions. Then it was reversed, then reinstated. Will it be reversed again?

Developing a new product takes six to nine months. I don’t know anymore what US trade policy will be in six to nine months.

And beyond my personal stake, should it be necessary for small business owners to need to get day-by-day updates on minute trade policy rules in order to run a small business?

In the end, I sell tea. There are no national security implications and no jobs to be gained from a tariff. And yet, the real jobs that I have created for myself and my 5 American employees have been staked as leverage and are being treated as less important than hypothetical jobs that might come from hypothetical success of these tariffs.

I urge the Members to consider exempting small businesses from these tariffs. As small businesses, we simply do not have the resources withstand these added costs and uncertainties.

Finally, I want to thank the members for their time and attention. I paid for my own ticket to come here and share my experiences in good faith. If any members believe I can be of help any way going forward, please contact me. I am here to try to solve these problems.

A wise man once said, do it for the 'gram. Today, I do not just for the 'gram, but for America, and all creators. Thank you.



College of Agriculture
and Life Sciences

Communication



September 16, 2025

Dear Chairman Williams, Ranking Member Velázquez, and Members of the House Committee on Small Business:

Thank you for giving me the opportunity to submit written testimony for consideration as part of the hearing on “Streaming Success: Small Businesses in the Age of Digital Influence.” As an academic researcher who specializes in content creation and platform labor, I understand the tremendous potential of the creator economy for independent workers and small business owners. Yet influencers and creators also face significant risks, including career instability, identity-based pay gaps, algorithmic bias, and occupational hazards that stem from their dependence on Big Tech platforms. Without regulatory oversight and a commitment to improving labor conditions, creators—and the publics who rely on them for information, inspiration, and advice—remain vulnerable.

Before detailing my concerns, allow me to briefly summarize my credentials and experience: Since earning my Ph.D. in 2011, I have dedicated my career to studying forms of work and labor mediated by social platforms. At Cornell University, where I am an Associate Professor of Communication, I lead a research group on Creators and Platform Labor and teach a doctoral seminar exploring power and precarity in the creator economy. I have published several books, dozens of peer-reviewed journal articles, and numerous popular essays exploring the role of social media in work and society. The testimony that follows draws on insight from more than 100 in-depth interviews I conducted with social media creators, influencers, talent managers, and platform representatives since 2020. My research reveals marked inequalities and power asymmetries in this rapidly emergent career sector.

Platform Dependence and Precarious Work

Participants in the creator economy are astoundingly diverse—spanning content niches, labor statuses (i.e., full-time, part-time), income streams, and platforms. What unites them, however, is a reliance on mainstream platforms such as YouTube, Instagram, TikTok, and Twitch to create, distribute, market, and/or monetize their labor. Despite such a high level of dependence on these platforms, creators are not considered legal employees of these companies. Consequently, they lack the labor protections traditionally afforded by employer-employee relations.

Creators often report frustratingly limited communication channels and few systems of recourse, such as when their content seems wrongfully banned or when they are locked out of their professional account. Algorithmic opacity is an especially acute source of their angst—contributing to an experience described in a different context as “algorithmic anxiety” (Jhaver et al., 2018).

Structural Inequalities and Pay Gaps

Considerable research and policy interventions have debunked platforms’ claims of “neutrality.” Still, mainstream platform companies frame their creator programs as a content meritocracy where seemingly “anyone” can garner success and reap the rewards of visibility. My research, however, reveals marked disparities in platforms’ treatment of marginalized groups, including women, people of color, LGBTQ+ creators, disabled creators, and those with non-normative bodies. Some creators have documented racial and body-size bias structured into platforms’ recommendation systems (Hern, 2020). In other cases, marginalized creators or those working in socially stigmatized content categories describe fears of platform censorship or content suppression (Duffy & Meisner, 2023).

Brands, too, play a role in enabling or exacerbating social inequity. While influencer compensation rates are notoriously uneven and hidden, creators report labor exploitation, with some still being asked to “work for free.” Gender- and race-based pay gaps are, unfortunately, rife. Industry reports suggest that women are paid significantly less than their male counterparts, and the pay gap is far worse for women of color. Compensation delays are common, leaving creators scramble until brands deliver on their “Net-90” payment terms. It’s no small wonder that both creators and talent managers describe the creator economy as the “Wild West.”

Occupational Hazards

In addition to platform precarity and pay gaps, creators face occupational risks ranging from identity theft and copyright violations to mounting concerns about non-consensual image abuse (NCII). Over the years, many creators have recounted to me harrowing experiences with trolling, hate, and/or harassment—attacks which disproportionately impact marginalized groups. Far too often, these and other online and offline harms are dismissed as merely “part of the job.”

Creators’ careers mandate consistent posting—often across multiple platforms, and so, reports of burnout and overwork are prevalent. But they worry that stepping away from their accounts—even briefly—puts them at risk for lower views, lost brand deals, and/or reduced reach due to algorithmic penalties. In other words, the “always on” culture of platforms is a unique occupational hazard with implications for mental health and wellbeing.

Looking Ahead

Recent years have revealed the critical role of influencers and creators in social, cultural, and civic life. But as laborers and small business owners, they require regulatory protection—and oversight. The American Influencer Council (AIC), a not-for-profit membership trade association, is one of the few resources available to help navigate this uneven landscape. As AIC Founder and Executive Director Qianna Smith Bruneteau writes of the urgent need to support and empower creators: “Overcoming gender and racial biases and socioeconomic barriers requires elevating the status of creators in every capacity, from no-cost small business education, to access to affordable healthcare, to the ability to acquire funding from traditional financial institutions, and public policy.”

With an eye toward the latter point, I close by reiterating three urgent priorities: 1). algorithmic accountability and platform oversight; 2). pay transparency and contract reform; and 3). basic labor protections to minimize the risks of occupational hazards such as harassment and overwork. Recognizing creators as a legitimate and socially meaningful labor category means taking their concerns seriously. I hope that these suggestions are a productive place to start.

Thank you for this opportunity to present this testimony. If I can be of service in the committee’s future work, please don’t hesitate to reach out.

Best,



Brooke Erin Duffy, Ph.D.
Associate Professor
Department of Communication
Board of Directors, American Influencer Council



September 24, 2025

Chairman Roger Williams
Committee on Small Business
2361 Rayburn House Office Building
Washington, DC 20515

Ranking Member Nydia M. Velázquez
Committee on Small Business
2069 Rayburn House Office Building
Washington, DC 20515

Dear Members of the House Committee on Small Business,

Engine is a non-profit technology policy, research, and advocacy organization that bridges the gap between policymakers and startups. Engine works with government and a community of thousands of high-technology, growth-oriented startups across the nation to support the development of technology entrepreneurship through economic research, policy analysis, and advocacy on local and national issues. In 2021, Engine launched the Digital Entrepreneur Project to examine and help explain the relationship between Internet policy and the people across the country who have built the 21st-century version of a small business, creating content, selling products and services, and growing global communities.¹ The Internet has democratized opportunity, removing the gatekeepers of traditional media and allowing anyone to publish and find their audience. We appreciate the Committee's attention to these issues and work to facilitate this conversation at the September 17 hearing titled "Streaming Success: Small Businesses in the Age of Digital Influence."

One consistent theme of the hearing was the need for resources and education for creators attempting to navigate legal and regulatory systems, including income taxes, interstate sales tax, contract negotiation, and business registration. This echoes concerns the startups and creators in Engine's network have voiced, and we encourage the Committee and the Small Business Administration to address these needs by streamlining requirements where possible and providing guidance where appropriate. Critically, creators can only benefit from resources that they know about, and that requires finding creators where they are. As the creator economy continues to grow and evolve, policymakers will have to find novel and creative ways to communicate with these entrepreneurs to ensure government resources and tools are reaching the intended audiences.

The hearing also made it clear that creators are profoundly impacted by Internet policy and should be considered a major stakeholder group as policymakers think about changing the rules governing the Internet. Multiple witnesses discussed the uncertainty creators faced after the passage and enactment of the law to effectively ban TikTok in the U.S., the enforcement of which has been

¹ Kate Tummarello, *Are you a Digital Entrepreneur? Don't Let Your Voice Get Drowned Out in D.C.*, Medium (Dec. 6 2021), <https://medium.com/@engineadvocacyfoundation/are-you-a-digital-entrepreneur-dont-let-your-voice-get-drowned-out-in-d-c-42bc64ca6c80>



repeatedly delayed every few months since January. The creators talked about the risk of losing access to hundreds of thousands of followers—including paying customers—and spending time and energy on promotional content, not knowing if it would all be wasted effort were the app to suddenly become inaccessible for U.S. users. These are the kinds of perspectives that policymakers should actively seek out as they consider changes to legal and regulatory frameworks if they want to find an appropriate balance that supports innovation, creativity, and expression online.

That balance will be necessary as Congress considers crafting new rules around artificial intelligence and intellectual property. The hearing repeatedly touched on the issues creators face navigating a state patchwork of rights of publicity, especially given the rise of artificial intelligence, which can be used to realistically recreate an individual's name, image, and likeness (NIL) without permission. While several witnesses spoke to the ways AI can benefit those creating content—and the need for additional resources so creators better understand the ways they can use existing federal intellectual property protections to combat unauthorized use of their work—the hearing highlighted the fractured approach governing NIL across state lines.

If Congress wants to legislate to make NIL protections more consistent, lawmakers must carefully balance the privacy and right of publicity for individuals with protections for free expression as well as the technological and legal realities of the Internet platforms hosting user content. An imbalanced legal framework for NIL could easily erode existing intermediary liability frameworks, making it more difficult for platforms to host content and for creators to reach their audiences. As one witness pointed out, existing requirements under the Digital Millennium Copyright Act (DMCA) can be easily weaponized against small creators.² Policymakers should approach any legal framework with the necessary safeguards to ensure Internet intermediaries aren't pushed to over-remove user content out of a fear of ruinous legal liability.

It's especially concerning that the hearing included a conversation about repealing Section 230 of the Communications Decency Act, a foundational Internet law. The reason the Internet has democratized the world of content creation and sharing is because platforms of all sizes and catering to all types of user content and communities of users are able to host and spread user content at scale; that is only possible because of Section 230. As Engine has explained, absent Section 230, an Internet platform would have to fear ruinous liability over its choices to host any content that could

² *Streaming Success: Small Businesses in the Age of Digital Influence: Hearing before the H. Committee on Small Business*, 119th Cong. (2025) (statement Kayla Moran, attorney and CEO of Kayla Moran Law). “[There is a] growing practice of bigger companies using the DMCA takedowns tools built into platforms to restrict and cut down their competition.” See related, Daphne Keller, *Empirical Evidence of Over-Removal by Internet Companies Under Intermediary Liability Laws: An Updated List*, Stanford Law School Center for Internet and Society (Feb. 8, 2021), <https://cyberlaw.stanford.edu/blog/2021/02/empirical-evidence-over-removal-internet-companies-under-intermediary-liability-laws/> (Documenting the instances of over removal due to DMCA's incentive structure).



give rise to a lawsuit (and each lawsuit could cost the platform hundreds of thousands of dollars in legal fees).³ Without Section 230, platforms looking to avoid those costs will be incentivized to either over-remove or under-moderate user content, leaving users—including creators—with the uncertainty that their content could be unfairly removed or the unpleasant experience of an unmoderated online space where spam, harassment, and more can run rampant.

Creators themselves have weighed in on the importance of Section 230 to their ability to find and grow an audience online. In an amicus brief to the Supreme Court, creators told the court how a variety of Internet platforms' ability to host, recommend, and moderate user content—as enabled by Section 230—allowed them to grow their Internet-based businesses.⁴ “For many creators, building a successful small business online is the modern American dream: an opportunity to financially support themselves through their self-expression while also having a broader impact on society as a whole,” the brief—signed by doctors, educators, artists, entertainers, and more—said.

The hearing is a promising step in Congress seeking out and considering the perspectives of the lawyers, athletes, merchants, and many more that make up the creator economy. We appreciate the Committee's ongoing work to support small businesses and its attention to the creator economy. Engine is eager to serve as a resource for the Committee as you continue this important work.

Sincerely,
Engine
700 Pennsylvania Ave SE
Washington, D.C., 20003

³ *Legislative Proposal to Sunset Section 230 of the Communications Decency Act: Hearing before the Subcomm. on Communications and Technology of the H. Comm. on Energy and Commerce*. 118th Cong. (2024) (Kate Tummarello, executive director of Engine), available at:

https://democrats-energycommerce.house.gov/sites/evo-subsites/democrats-energycommerce.house.gov/files/evo-media-document/05.22.24_Testimony_Tummarello.pdf

⁴ Brief for Authors Alliance, et al. as Amici Curiae Supporting Respondent, *Gonzalez v. Google*, 598 U.S. 617 (2023) (No. 21-1333), available at:

https://www.supremecourt.gov/DocketPDF/21/21-1333/252706/20230119155511738_21-1333_Amicus%20Brief.pdf

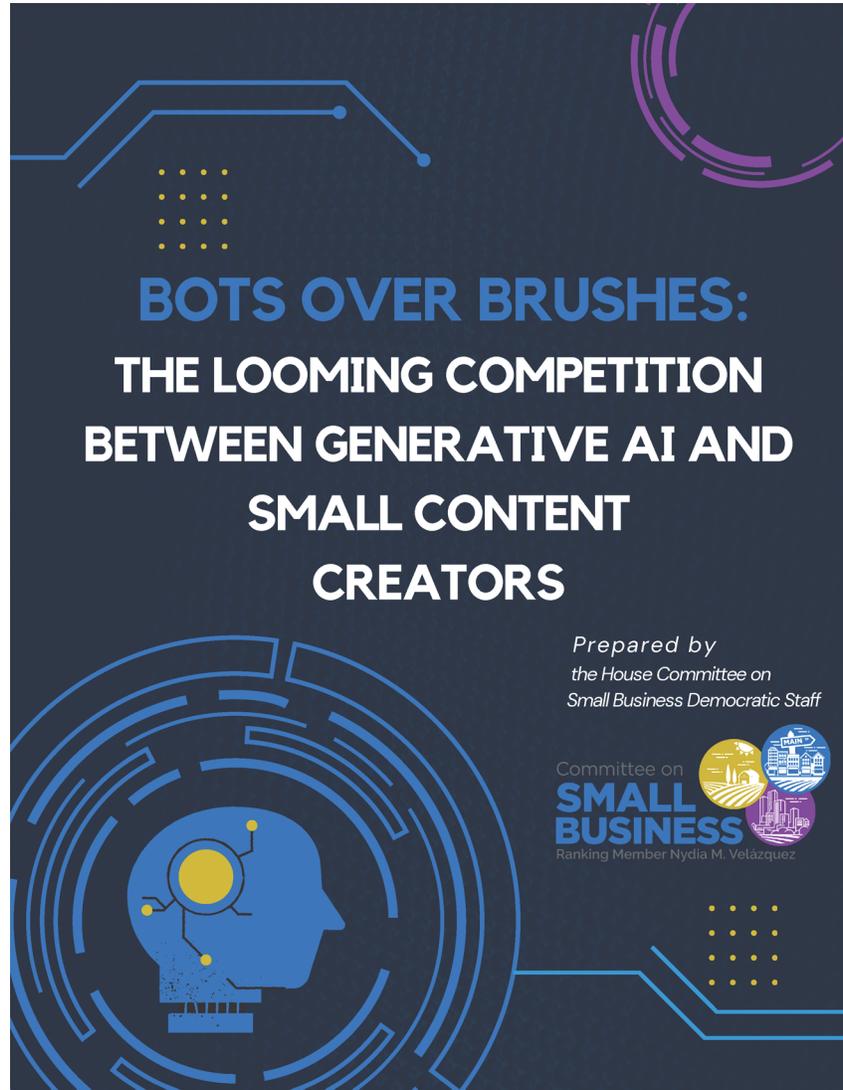


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Executive Summary

Generative artificial intelligence (GenAI) is a kind of AI software that can make written, visual, and audio content for users upon request. With GenAI software, users can specify what kind of content they are looking for in writing and receive outputs that are statistically likely to fulfill their requests. This software, which is based on the human brain, can do this because it can identify, understand, and replicate patterns among examples of the target medium. The process where a GenAI software scans these examples to determine what patterns exist is called training. When a GenAI software trains, it typically requires millions, or billions, of examples.

Assembling a dataset containing such a large quantity of content examples is highly resource intensive. Because of this, many GenAI firms do so by extracting content from as many publicly accessible websites as possible, a process called scraping. However, these firms often scrape the internet without licensing content from their owners.

The increasing popularity of GenAI, which can generate content faster and cheaper than America's small creators, poses a serious threat to their livelihoods. GenAI firms' unlicensed use of these creators' work compounds the intensity of this competition and adds layers of unfairness. Small creators are not only having their work used without compensation, but also seeing their work improve the software that could push them out of business.

This report seeks to address this issue by highlighting relevant policies being developed across the House of Representatives and examining their implications for American small creators. Four kinds of proposals have received considerable attention: (1) a statutory mandate for GenAI firms to disclose the unlicensed contents of their training datasets; (2) creating licensing and opt-out schemes for the use of online content in GenAI training; (3) government-made training datasets; and (4) watermarking GenAI outputs. Each of these four policies would bring benefits to America's small creators, but in different ways. First, the disclosure mandate would help small creators know if their work has been included in training data, allowing them to understand if they have been harmed and if they can seek legal recourse. Second, the licensing scheme would assist small creators in receiving compensation for the use of their work and empower them to prevent the use of their work in GenAI training. Third, the government training dataset proposal could also be helpful, though some controversial questions regarding censorship and misinformation would need to be resolved before the proposal is further developed. Lastly, the watermarking scheme would help content consumers better understand where they are receiving content from, and address aspects of the competition issue by helping distinguish GenAI and human creators' work in the broader marketplace.

As the legislative conversation widens and intensifies in Congress, it is important to keep the interests of America's small creators in mind. As GenAI matures, it will only be increasingly capable of unfairly competing with small creators. The livelihoods of these hardworking artists, writers, and musicians are particularly vulnerable to the AI revolution, and Congress can step in to protect them from unfair impacts. As AI moves forward, we must ensure that small creators are not left behind.

Background: Generative Artificial Intelligence (GenAI)

In recent months, Congressional interest in AI has exploded. AI is a broad term encompassing many kinds of software, each with profound implications for the sectors they touch. As such, the policy discussion surrounding AI and potential regulation and oversight is rightfully just as broad. However, the scope of this staff report is much narrower: it treats the role of copyrighted content in training GenAI, a subset of AI technology, and highlights the related concerns of America's small creators, many of whom are the sole proprietors of their businesses.

Overview

GenAI takes user instructions to create content such as text, images, videos, or audio.¹ It does this by combining elements of the target medium in configurations that are statistically likely to fit into the given parameters.² To make works that adequately fulfill user requests, GenAI models are trained on datasets to learn how to categorize, compare, and associate source materials, and notice patterns or differences within. In the same way that human creators can learn by observing others' work, GenAI models become capable of creating items like those included in their training data.³

GenAI models are known for their ability to adapt, combine, and prioritize information in their creations, creating work that can appear human-made. They can also frame information in unconventional ways, providing new perspectives and adding value to human-made work and thinking.⁴

The most notable introduction of GenAI in the technology scene happened in 2020 when OpenAI released GPT-3,⁵ a textual GenAI model, the largest GenAI model at that time. Subsequently, competitors released their own models, and OpenAI then revealed ChatGPT, an improved version of GPT-3. While they received large amounts of public attention and scrutiny, they are not sudden developments. These models are built upon other, already existing technologies and are maturing more quickly because of increasing computing power and access to training data.⁶

¹ CONG. RESEARCH SERV., GENERATIVE ARTIFICIAL INTELLIGENCE AND COPYRIGHT LAW, 1 (May 11, 2023).

² Chris Stokel-Walker & Richard Van Noorden, *What ChatGPT and Generative AI Mean for Science*, NATURE (Feb. 6, 2023), <https://www.nature.com/articles/d41586-023-00340-6>; Kim Martineau, *What is Generative AI?*, INT'L BUS. MACHS. CORP., (Apr. 20, 2023), <https://research.ibm.com/blog/what-is-generative-ai>.

³ GOV'T ACCOUNTABILITY OFFICE, SCIENCE & TECH SPOTLIGHT: GENERATIVE AI, 1 (Jun. 13, 2023); CONG. RESEARCH SERV., GENERATIVE ARTIFICIAL INTELLIGENCE AND DATA PRIVACY: A PRIMER, 2 (May 23, 2023); Ziv Epstein et al., *Art and the Science of Generative AI: A Deeper Dive*, 3 (Jun. 7, 2023), <https://arxiv.org/abs/2306.04141>.

⁴ Tanay Varshney & Annie Surla, *An Introduction to Large Language Models: Prompt Engineering and P-Tuning*, NVIDIA CORP. (Apr. 26, 2023), <https://developer.nvidia.com/blog/an-introduction-to-large-language-models-prompt-engineering-and-p-tuning>.

⁵ The term GPT is short for general-purpose transformer. In this context, a transformer is a kind of neural network (see "Underlying Technologies") that can understand the meaning of entire sentences, rather than individual words, and recall information previously stated in a given conversation. According to the Congressional Research Service, the creation of transformers and GPTs represented a leap in GenAI technology and paved the way to its mainstream use.

⁶ Stokel-Walker & Van Noorden, *supra* note 2; Jim Euchner, *Generative AI*, 66 RES.-TECH. MGMT. 71 (2013), <https://www.tandfonline.com/doi/full/10.1080/08956308.2023.2188861>; Annamalai Chockalingam et al., *A Beginner's Guide to Large Language Models: Part 1*, 23, NVIDIA CORP. (2023), <https://resources.nvidia.com/en-us->

Underlying Technologies

Machine Learning

Machine learning algorithms use given, correctly labeled content to statistically generate predictions and label new content. A more advanced iteration of machine learning, deep learning, can be given unlabeled, disorganized content, automatically label it, and continue to make predictions and other labels.⁷

Neural Networks

A neural network is a sophisticated type of deep learning algorithm that can identify and infer patterns in content.⁸ Based on the human brain, it is structured into layers of nodes (i.e., computer connections) that take and create information and can “learn” from examples and instruction, just like the human brain can, without much or any human supervision.⁹ In the same way that human brains are more powerful when they have more connections between brain cells, neural networks are quicker and more accurate when they have more nodes and layers. GenAI models use neural networks to understand the meaning of source materials, which materials are similar, why they are similar, and how to make new materials just like the sources.¹⁰

Foundation Models

A foundation model is a kind of neural network that has been pre-trained on a specific medium (e.g., text or images) with many examples in its dataset and can be adapted for various tasks. AI firms build their GenAI models, among others, upon foundation models, thus giving them their name.¹¹

Capabilities

Using elements of examples in their training datasets, GenAI software creates content in their target media that is most likely to fit the instructions in given prompts.

large-language-model-ebooks/llm-ebook-part1; CONG. RESEARCH SERV., ARTIFICIAL INTELLIGENCE: BACKGROUND, SELECTED ISSUES, AND POLICY CONSIDERATIONS, 1 (May 19, 2021).

⁷ Reinaldo Padilha França et al., *An Overview of Deep Learning in Big Data, Image, and Signal Processing in the Modern Digital Age*, in TRENDS IN DEEP LEARNING METHODOLOGIES: ALGORITHMS, APPLICATIONS, AND SYSTEMS 63 (Vincenzo Piuri et al. eds., 2021); *What is Machine Learning?*, INT’L BUS. MACHS. CORP., <https://www.ibm.com/topics/machine-learning>.

⁸ *What is a Neural Network?*, AMAZON WEB SERV., <https://aws.amazon.com/what-is/neural-network>.

⁹ França et al., *supra* note 7; Chockalingam et al., *supra* note 6, at 12-3; Int’ Bus. Machs. Corp., *supra* note 7.

¹⁰ *What is Generative AI?*, NVIDIA CORP., <https://www.nvidia.com/en-us/glossary/data-science/generative-ai>; Int’l Bus. Machs. Corp., *supra* note 7.

¹¹ *A New Era of Generative AI for Everyone*, 3, ACCENTURE (2023), <https://www.accenture.com/content/dam/accenture/final/accenture-com/document/Accenture-A-New-Era-of-Generative-AI-for-Everyone.pdf>; Cong. Research Serv., *supra* note 3, at 6; Nvidia Corp., *supra* note 10.

GenAI Can Make Art

Social media platforms and political campaigns have been flooded with AI-generated images. Some have been realistic “deep fakes,”¹² while others are striking, new images using stylistic and creative elements found in existing art.¹³

When given a prompt, a GenAI art software generates images that are statistically like the images in its training data that it associates with the words or image exemplars in the prompt. This allows the software to create totally new content, combining elements of its training images and remaining faithful to given instructions.¹⁴ The methodology also makes this software highly versatile.

Figure 1. GenAI Art Output Example 1¹⁵



¹² CONG. RESEARCH SERV., DEEP FAKES AND NATIONAL SECURITY, 1 (Apr. 17, 2023).

¹³ Kevin Roose, *An A.I.-Generated Picture Won an Art Prize. Artists Aren't Happy.*, N.Y. TIMES (Sep. 2, 2022), <https://www.nytimes.com/2022/09/02/technology/ai-artificial-intelligence-artists.html>.

¹⁴ Gov't Accountability Office, *supra* note 3, at 1.

¹⁵ Andriis Mucenicks, *Midjourney Prompts 101 (With Examples)*, PRINTIFY (Jun. 22, 2023), <https://printify.com/blog/midjourney-prompts>.

Figure 2. GenAI Art Output Example 2¹⁶

Prompt: Imagine a closeup shot of a woman playing the violin in an orchestra, focused and confident, shot on Fujifilm.

Midjourney Output:



Figure 3. GenAI Art Output Example 3¹⁷



An AI-generated photorealistic image of a city's street grid which resembles a scene in Rick Astley's "Never Gonna Give You Up" music video.



The corresponding scene from Rick Astley's "Never Gonna Give You Up" music video.

¹⁶ Nick St. Pierre (@nickfloats), Twitter (Mar. 15, 2023, 5:44 PM), <https://twitter.com/nickfloats/status/1636122631614128134?s=20>.

¹⁷ *Hidden Imagery in AI Art – Never Gonna Give You Up*, KNOWYOURMEME, <https://knowyourmeme.com/photos/2666059-hidden-imagery-in-ai-art> (last visited Nov. 3, 2023); Rick Astley, *Never Gonna Give You Up (Official Music Video)*, YOUTUBE (Oct. 25, 2009), <https://www.youtube.com/watch?v=dQw4w9WgXcQ>.

GenAI Can Creatively Write

The public has been highly engaged with GenAI text software like ChatGPT. Software like it can present information in a specific style or format, predict information, and combine, summarize, and simplify information.¹⁸ The high use volume of platforms like ChatGPT has also led to their unforeseen, autonomous development of new capabilities like multiplication, interpreting combinations of emoji, and writing and running their own code.¹⁹

When given a prompt, GenAI text software combines words and text in a manner that is most likely to fit the instructions. Armed with millions or billions of points of training data and sample texts, this software is highly versatile and can write nearly any conceivable kind of text upon request. More advanced GenAI text software can also use and search for information on the Internet in real time while responding to prompts.²⁰

Figure 4. GenAI Text Output Example

Prompt: Write a series of verses in the style of the Iliad, the Odyssey, and other Homeric works depicting the Small Business Administration's 7(a) loan guaranty program application process.

ChatGPT Output:

Sing, Muse, of the Small Business Administration's might,
And the 7(a) loan guaranty, a beacon of financial light.
A tale of entrepreneurs seeking funds for their grand dreams,
Through a process, intricate and complex, so it seems.

In the halls of government, the SBA doth reside,
Where business owners, with ambition, come to confide.
Their hopes and aspirations, they lay before the throne,
To obtain a loan to build, expand, or call their own.

The first step, like Achilles, in this heroic quest,
Is to prepare documentation, to prove your worthiness best.
A business plan, financials, and details of your trade,
Like a warrior's armor, must not be displayed.

Next, like Odysseus navigating the raging sea,
Applicants must seek a lender, the SBA's decree.
With a trusted partner, they shall set sail,
Hoping for approval, or their efforts shall fail.

Then the lender shall scrutinize, like a Cyclops' eye,

¹⁸ CONG. RESEARCH SERV., GENERATIVE AI, 2 (May 23, 2023); Alex Hughes, *ChatGPT: Everything You Need to Know About OpenAI's GPT-4 Tool*, BBC SCI. FOCUS (Jun. 30, 2023), <https://www.sciencefocus.com/future-technology/gpt-3>.

¹⁹ Stephen Ornes, *The Unpredictable Abilities Emerging from Large AI Models*, QUANTA MAGAZINE (Mar. 16, 2023), <https://www.quantamagazine.org/the-unpredictable-abilities-emerging-from-large-ai-models-20230316>.

²⁰ Gov't Accountability Office, *supra* note 3, at 1; Accenture, *supra* note 11, at 3; Cong. Research Serv., *supra* note 17, at 2; Alex Hughes, *supra* note 17.

The application, the credit, with judgment from on high,
 To see if the borrower is worthy of the loan,
 Or if their dreams of growth must forever postpone.

As if battling sirens, they must resist the urge,
 To embellish their story or misrepresent the surge.
 For the SBA's scrutiny is keen and astute,
 And honesty's the path to approval, to boot.

Once past the lender's gate, like a journey's halfway mark,
 The SBA shall deliberate, in chambers dim and dark.
 With wisdom like Athena, they'll make the final call,
 To grant or deny the loan, to rise or to fall.

Should fortune favor the bold, and the loan's approved,
 The borrower shall embark, like a hero unmoved.
 On a path paved with funds, to grow their enterprise,
 With the SBA's support, they'll reach for the skies.

But if denied, they must persevere, like the heroes of old,
 For another chance may come, like a fable retold.
 With resolve and persistence, they'll try once more,
 To secure their 7(a) loan, their business to restore.

So, sing, Muse, of the Small Business Administration's grace,
 In aiding entrepreneurs, in this financial race.
 A tale of courage, hope, and striving for success,
 In the world of business, a true epic, no less.

GenAI Can Make Audio and Music

GenAI sound and music software can make content in the same way that GenAI art and text platforms can. By combining sound elements in a way most likely to fit given specifications and parameters, these tools can make highly realistic noises, verbal statements, and music. When creators use this software in tandem with GenAI text software, they can create content that almost perfectly mimics the style, voice, and unique tics of specific human musicians.²¹

There are two very common kinds of GenAI audio outputs that proliferate and go viral on the Internet. In the first type, users of GenAI voice cloning software create lifelike recordings of musical artists singing songs they have not actually sung, resulting in AI-generated covers of copyrighted material.²² For instance, videos exist on YouTube nearly-authentically depicting Michael Jackson, who died in 2009 and did not speak Korean, singing the K-pop group BTS's 2020 hit "Dynamite."²³

²¹ Joe Coscarelli, *An A.I. Hit of Fake 'Drake' and 'The Weeknd' Rattles the Music World*, N.Y. TIMES (Apr. 19, 2023), <https://www.nytimes.com/2023/04/19/arts/music/ai-drake-the-weeknd-fake.html>.

²² *Id.*

²³ MICHAEL JACKSON – DYNAMITE (AI COVER), (May 15, 2023), <https://www.youtube.com/watch?v=C66HB6sDmo0> (last visited Jul. 28, 2023).

In the second type of GenAI music software output, users make all-new songs that appear to be written and recorded by artists and their producers. The most notable example of this content is an AI-generated recording depicting Drake and The Weeknd singing an original song, “Heart on My Sleeve,” evoking their musical style, mirroring the topics they would sing about, and making relevant pop culture references. “Heart on My Sleeve” was even released on commercial music streaming platforms before it was removed due to the presence of a producer’s protected mark in the music.²⁴ The software used to generate “Heart on My Sleeve” appeared to have been trained on so much copyrighted Drake and The Weeknd music that to fit any prompt asking for music that could have been made by both, the software deemed it necessary to include their shared producer’s mark to make the output seem realistic.

GenAI Cannot Think for Itself Yet

Because GenAI makes content by stringing together statistically likely patterns of elements in the target medium, it is currently unable to reason and think critically. As such, GenAI software cannot yet fully understand the significance of elements of content. It can only understand how elements of content could be combined appropriately. For instance, GenAI text software like ChatGPT cannot fundamentally grasp why a joke is funny and make other jokes based on its understanding—it can merely only make sentences that sound like the (funny) jokes it has trained upon.²⁵

This shortcoming is why GenAI developers attempt to program and train their models to refuse making certain outputs, like bigoted statements, misinformation, pornography, and other inherently harmful content.²⁶ Still, GenAI software can be easily jailbroken and made to create content from which developers aim to protect users.²⁷ GenAI text software can also include inaccurate information in its outputs²⁸ and even spontaneously make up false claims or facts, and assert they are real, an issue known as “hallucination.”²⁹

Even if GenAI software has been instructed to avoid or refrain from making specific kinds of content, it cannot do so in a foolproof way. Additionally, while GenAI software cannot specifically replicate copyrighted content in its training datasets, it can replicate elements of that content without fully understanding the implications of what it is doing and without the ability to fully refrain from replicating those elements.

²⁴ Joe Coscarelli, *supra* note 21.

²⁵ Cal Newport, *What Kind of Mind Does ChatGPT Have?*, THE NEW YORKER (Apr. 13, 2023), <https://www.newyorker.com/science/annals-of-artificial-intelligence/what-kind-of-mind-does-chatgpt-have>.

²⁶ Rebecca Klar, *AI Chatbots Provided Harmful Eating Disorder Content: Report*, THE HILL (Aug. 7, 2023), <https://thehill.com/policy/technology/4141648-ai-chatbots-provided-harmful-eating-disorder-content-report>; Billy Perrigo, *Exclusive: OpenAI Used Kenyan Workers on Less Than \$2 Per Hour to Make ChatGPT Less Toxic*, TIME (Jan. 18, 2023), <https://time.com/6247678/openai-chatgpt-kenya-workers>.

²⁷ Will Oremus, *The Clever Trick That Turns ChatGPT into Its Evil Twin*, WASH. POST (Feb. 14, 2023), <https://www.washingtonpost.com/technology/2023/02/14/chatgpt-dan-jailbreak>.

²⁸ Alex Janin, *What Happens When You Let a Chatbot Plan Your Meals*, WALL ST. J. (Aug. 14, 2023), <https://www.wsj.com/articles/chatgpt-artificial-intelligence-recipes-meal-planning-edcd4a71>.

²⁹ Karen Weise & Cade Metz, *When A.I. Chatbots Hallucinate*, N.Y. TIMES (May 1, 2023), <https://www.nytimes.com/2023/05/01/business/ai-chatbots-hallucination.html>.

Training Data

Aside from the vast amounts of energy, money, and skilled manpower³⁰ needed to create a GenAI software, and build its underlying systems, a GenAI software’s most important resource is training data. Any content in the target medium can be used as training data. This criterion is broad because every kind of GenAI software needs to examine and label examples of the content it is intended to make.³¹ That way, it can understand what to generate and how to make outputs realistically fit user requests. For instance, to know how to make pictures of cats, a GenAI image software, like Midjourney, would need to know what cats look like, as well as the visual elements that make a cat a cat, and therefore examine existing pictures of cats in its training dataset.³²

GenAI is Trained on Highly Expansive Datasets

To be highly flexible and capable of making almost any conceivable output, GenAI software must be trained on — in technical terms — a “large” dataset.³³ That said, the term “large,” from a layperson’s perspective, grossly understates the size of a typical GenAI training dataset: most datasets are voluminous archives consisting of millions, or even billions, of content examples.³⁴ In the context of digital storage, these archives take up dozens of terabytes: in fact, estimates pin the size of GPT-3’s training dataset at 45 terabytes.³⁵

The truly massive size of GenAI training datasets is crucial to their versatility: general-purpose datasets need to include content related to every conceivable prompt so that the software trained on those datasets can respond to all kinds of user prompts. Conversely, if a GenAI software was intended to make niche content, create very specific kinds of work, or use standardized formatting, its dataset would need to be narrowed and fine-tuned.³⁶ For example, to write the AI-generated text example displayed in Figure 4, ChatGPT needed to have many copies of information about the Small Business Administration (SBA)’s 7(a) loan guaranty program and existing Homeric works stored in its training dataset to incorporate and emulate. In other words, for a GenAI software to emulate *anything*, it must “understand” *everything*.

³⁰ Nvidia Corp., *supra* note 10; *What is Generative AI?*, MCKINSEY & CO. (Jan. 19, 2023), <https://www.mckinsey.com/featured-insights/mckinsey-explainers/what-is-generative-ai#>; Kathy Baxter & Yoav Schlesinger, *Managing the Risks of Generative AI*, HARV. BUS. REV. (Jun. 6, 2023), <https://hbr.org/2023/06/managing-the-risks-of-generative-ai>.

³¹ Cong. Research Serv., *supra* note 1, at 3; Cong. Research Serv., *supra* note 3, at 3; Sheera Frankel & Stuart A. Thompson, ‘*Not for Machines to Harvest*’: *Data Revolts Break Out Against A.I.*, N.Y. TIMES (Jul. 15, 2023), <https://www.nytimes.com/2023/07/15/technology/artificial-intelligence-models-chat-data.html>.

³² Gov’t Accountability Office, *supra* note 3, at 1.

³³ The characterization “large” also appears in the term “large” language model (LLM), which is a type of foundation model trained specifically on text and written language. ChatGPT and other GenAI text software are built upon LLMs.

³⁴ Gov’t Accountability Office, *supra* note 3, at 1; Cong. Research Serv., *supra* note 3, at 3-4; Annamalai Chockalingam et al., *supra* note 6, at 8-11; Accenture, *supra* note 11, at 3.

³⁵ McKinsey & Co., *supra* note 30.

³⁶ Gov’t Accountability Office, *supra* note 3, at 1; Nvidia Corp., *supra* note 4; Nvidia Corp., *supra* note 6, at 10; Accenture, *supra* note 11, at 6.

The need to have an immense volume of content, and a wide variety of it, makes assembling training datasets a daunting, expensive, and cumbersome task.³⁷ To alleviate licensing costs and the menial tasks involved in finding and adding content to the dataset, developers often turn to easily accessible content taken from the Internet by automated software. However, much of this content, though easy to obtain, may be protected by their creators' intellectual property rights, pending court litigation or legislative action.³⁸

GenAI Outputs Are Significantly Impacted by Items Included in Training Datasets

As discussed in the previous section, GenAI models need exemplars of the content they aim to create for users in their training datasets. This makes it highly plausible that including specific content in a GenAI model's dataset would significantly impact its outputs.

For example, in a recent copyright and trademark infringement lawsuit, Getty Images alleges that the GenAI image software Stable Diffusion mimics Getty watermarks in its outputs because photographs with Getty watermarks – showing that they are copyrighted and owned by Getty – appear in the software's training data. Without those photographs' presence in the training data, Stable Diffusion would be unable to emulate Getty watermarks in its own outputs.³⁹ This logic similarly holds in the SBA 7(a) loan guaranty program Homeric verse example mentioned in the previous section: without an example of a Homeric verse and an example of SBA 7(a) program information in its training data, ChatGPT would be unable to understand what each was, or how to emulate them.

Furthermore, the unconscious bias inherent in much of the Internet's content is reflected in many GenAI outputs. Documentation exists of cases where GenAI image software has distorted, stereotyped, and censored depictions of Black people, history, and culture in its outputs. These incidents, critics contend, occur because stereotypes and prejudiced content regarding marginalized groups have been overrepresented in some GenAI training datasets. That said, GenAI firms such as OpenAI, Midjourney, and Stability AI (the company behind Stable Diffusion) have commendably acknowledged the issue of bias in their training data and pledged to improve their tools.⁴⁰

This mechanic also highlights the importance of marking undesirable kinds of content so that a GenAI model can refuse to create similar outputs.⁴¹ Still, as mentioned in the section "GenAI Cannot Think for Itself Yet," methods currently exist to jailbreak GenAI models and force them to make harmful content—drawing upon the harmful content that is included in their training data.

³⁷ CONG. RESEARCH SERV., ARTIFICIAL INTELLIGENCE: OVERVIEW, RECENT ADVANCES, AND CONSIDERATIONS FOR THE 118TH CONGRESS, 2-3 (Aug. 4, 2023).

³⁸ *Id.*, at 3; Cong. Research Serv., *supra* note 1, at 4.

³⁹ See Complaint at 18, Getty Images (US), Inc. v. Stability AI, Inc., No. 1:23-cv-00135 (D.Del. Feb. 3, 2023), <https://copyrightlately.com/pdfviewer/getty-images-v-stability-ai-complaint>.

⁴⁰ Zachary Small, *Black Artists Say A.I. Shows Bias, With Algorithms Erasing Their History*, N.Y. TIMES (Jul. 4, 2023), <https://www.nytimes.com/2023/07/04/arts/design/black-artists-bias-ai.html>.

⁴¹ Billy Perrigo, *supra* note 26.

All of this is to underscore the integral part that training data plays in the quality and outputs of GenAI models. As many observers write, GenAI is only as good as the data upon which it is trained.⁴²

“Black Box” Issue: GenAI Decision-Making and Training Processes Are Nontransparent

Even with the recent attention on GenAI and its training data, not much is publicly known about exact dataset details or the way GenAI software makes decisions, as developers do not often disclose them. Because developers do not share how their GenAI models work, it becomes extremely difficult for researchers, policymakers, and the public to identify and remedy the issues and factors underlying the choices these models make.⁴³ Additionally, developers do not even fully understand some of the emergent, unexpected capabilities that their GenAI models develop, or how they came into being.⁴⁴ This set of problems is commonly referred to as the “black box” issue: GenAI software is considered a “black box” because observers cannot see inside the opaque processes that turn inputs into outputs.⁴⁵

To address the “black box” issue, much discussion has focused on transparency and explainability, core tenets of Senate Majority Leader Chuck Schumer’s recently proposed *SAFE Innovation Framework*.⁴⁶ Furthermore, explainability and understanding emergent capabilities in AI, which was previously overlooked, is now a topic of great interest in the academic community. However, the “black box” issue is complicated and cannot be resolved overnight. Much thought needs to be put into striking the right balance between transparency and encouraging private innovation in AI.

GenAI Has Serious Ramifications for Small Creators

As repeated ad nauseam in the media and policy conversations surrounding AI, this technology is very likely to fundamentally remake how society approaches work and creativity. In the realm of content creation, GenAI can automate many aspects of content creation and acquisition, making it vastly quicker, cheaper, and easier for users compared to manual, human work.

GenAI Competes with Human Creators and Devalues Their Work

Because many GenAI outputs are nearly indistinguishable from human-made content, and so quick and cheap to obtain,⁴⁷ human content creators are increasingly finding themselves competing against GenAI firms in securing work and revenue.⁴⁸ Even though GenAI isn’t yet completely

⁴² Kathy Baxter & Yoav Schlesinger, *supra* note 30; Dana Rao, *Responsible Innovation in the Age of Generative AI*, ADOBE (Mar. 21, 2023), <https://blog.adobe.com/en/publish/2023/03/21/responsible-innovation-age-of-generative-ai>.

⁴³ Cong. Research Serv., *supra* note 1, at 4; Cong. Research Serv., *supra* note 6, at 12; Ziv Epstein et al., *supra* note 3, at 6.

⁴⁴ Cong. Research Serv., *supra* note 37, at 2.

⁴⁵ CONG. RESEARCH SERV., ARTIFICIAL INTELLIGENCE (AI) AND EDUCATION, 2 (Aug. 1, 2018).

⁴⁶ Sen. Chuck Schumer Launches *SAFE Innovation in the AI Age at CSIS*, 7-8, CTR. FOR STRATEGIC AND INT’L STUDIES (Jun. 21, 2023), https://csis-website-prod.s3.amazonaws.com/s3fs-public/2023-06/230621_Schumer_SAFE_Innovation.pdf?VersionId=jApHm2QrP7nAZv1_B4GJ6s_YjSrfyYBK.

⁴⁷ Ziv Epstein et al., *supra* note 3, at 9.

⁴⁸ McKinsey & Co., *supra* note 30; Alain Strowel, *ChatGPT and Generative AI Tools: Theft of Intellectual Labor?*, 54 IIC 491, 492, (2023), <https://link.springer.com/10.1007/s40319-023-01321-y>; Joel Loynds, *Adobe Firefly Burns*

mature — there are still notable issues in the way GenAI image software portrays people of color⁴⁹ — its versatility and speed give it an objectively inhuman advantage over its human competitors. GenAI software can quickly give users outputs that fit their specifications for much lower prices than commissions would cost for human creators.⁵⁰ The extremely high profile and interest GenAI software has received in recent months has also made it very easy to find, as opposed to many small creators who struggle to gain exposure in the content market.

Such developments could lead to the concentration of market share in both the content creation and AI markets in the hands of a few GenAI firms and disincentivize human content creation.⁵¹ In fact, reports already state that companies and other potential clients for content creators are instead turning to GenAI firms to generate visual content for social media outreach.⁵² Without adequate guardrails, the proliferation and increasing availability of GenAI software could fundamentally threaten the livelihoods of many of America’s small creators.

GenAI Uses Human Creations to Learn and Mimic, Unbalancing Competition with Human Creators

As previously mentioned, GenAI relies on the work of its human competitors to function and improve. Its ability to quickly assimilate the skills and aesthetic styles of others through the inclusion of content in training data,⁵³ is much faster than the years of painstaking training that humans undergo in learning their crafts. Armed with training data containing recent, groundbreaking content, GenAI software can suddenly enter the market for that novel, niche content style, with experience in every other conceivable style.

Such a dynamic could further depress human content creation and sharing. As more and more human creators find their work being incorporated into competing GenAI training datasets, they may choose to stop sharing their content and work, staunching the free flow of ideas and inspiration and straining the digital commons.⁵⁴ The growing knowledge that work shared online can be incorporated into GenAI training datasets without compensation could spook human creators from posting their work or sharing samples of their content, further harming their advertising opportunities and their prospects of finding work.

The sheer inherent advantages that GenAI models have over human creators in speed, ubiquitous name recognition, and versatility make the playing field extremely unlevel when it comes to competition between humans and GenAI.

Bridges with Stock Photo Creators, Dexerto (Jun. 21, 2023, <https://www.dexerto.com/tech/adobe-firefly-burns-bridges-with-stock-photo-creators-2185518>).

⁴⁹ Zachary Small, *supra* note 40.

⁵⁰ Saffron Huang & Divya Siddarth, *Generative AI and the Digital Commons*, 4-5, (Mar. 20, 2023), <http://arxiv.org/abs/2303.11074>.

⁵¹ *Id.*, at 2-5.

⁵² Accenture, *supra* note 11, at 7.

⁵³ Ziv Epstein et al., *supra* note 3, at 3.

⁵⁴ Joel Loynds, *supra* note 48; Saffron Huang & Divya Siddarth, *supra* note 50, at 7.

“Black Box” Issue Obscures Potential Harms and Risks

It is also important to note that the “black box” issue can make detecting these risks and harms difficult, if not impossible, for every actor in the AI policy space. GenAI firms often do not disclose what is included in their training datasets, which means that they do not guarantee small creators that their work has not been included.⁵⁵ Furthermore, academics, policymakers, and even developers themselves cannot explain precisely how the inclusion of a given piece of content in a GenAI training dataset would affect its outputs, the impacts of its removal, and how the accompanying model picks elements from its training data to mimic. While it is easy to understand that America’s small creators are harmed by the use of their work without compensation in competing GenAI models’ training, it is hard to determine the extent of the damage without a better understanding of the processes that underlie these models’ training and “creative” decision-making.⁵⁶

Recently, it was revealed that one GenAI firm is under investigation by the Federal Trade Commission to determine in part how its models are trained and potentially where it sources its training data. The firm, OpenAI, the maker of ChatGPT, is believed to be reluctant to share such information because of the resulting undesirable opportunity for competitors to copy its methods.⁵⁷ While this concern is understandable, it should not be necessary for a federal agency to investigate a firm to force transparency in a potentially industry-wide practice that could harm a vast swath of America’s small businesses.

Ongoing Litigation and Need for Congressional Action

As referenced previously, ongoing litigation could change the way the law treats GenAI and its use of human-made content for training.⁵⁸ However, it is important to note that these legal actions, while capable of remedying the harm done by these GenAI training practices, could take too long for many of America’s small creators to survive on their own. Furthermore, long, drawn-out lawsuits, as a practical matter, can only be sustained by corporations and the wealthy. America’s small creators cannot afford to initiate and fight their own lawsuits to obtain relief and compensation. Congress must act in upcoming AI legislation to address this issue and maximize benefits and protections for American small creators.

Policy Considerations

The conversation surrounding GenAI policy has drawn much interest and many perspectives. This report treats four of the most concrete and discussed policy options to address this issue: a statutory mandate for GenAI firms to specifically disclose the presence of copyrighted content in their training datasets; a licensing, opt-out, and compensation scheme for human-made content that

⁵⁵ *Id.*, at 13; Ziv Epstein et al., *supra* note 3, at 6.

⁵⁶ Cong. Research Serv., *supra* note 6, at 27; Ziv Epstein et al., *supra* note 3, at 4.

⁵⁷ Cecilia Kang & Cade Metz, *F.T.C. Opens Investigation into ChatGPT Maker Over Technology’s Potential Harms*, N.Y. TIMES (Jul. 13, 2023), <https://www.nytimes.com/2023/07/13/technology/chatgpt-investigation-ftc-openai.html>.

⁵⁸ Cong. Research Serv., *supra* note 1, at 4; Judy Kurtz, *Sarah Silverman Sues OpenAI, Meta Over Use of her Book in Training AI Programs*, THE HILL (Jul. 10, 2023), <https://thehill.com/blogs/in-the-know/4088765-sarah-silverman-sues-openai-meta-over-use-of-her-book-in-training-ai-programs>.

could be used to train a GenAI model; the creation of a federal, public “gold standard” training dataset with properly licensed content for the use of GenAI developers; and a watermarking scheme for GenAI outputs.

Mandated Disclosure of Unlicensed and Copyrighted Content in Training Datasets

It is believed that members of the European Union Parliament, in writing regulations for AI, plan to require software like GenAI to disclose the presence of unlicensed and copyrighted content in training data. While controversial, the adoption of similar transparency requirements at the federal level would address the “black box” issue and make it easier for small creators to determine whether their work has been used for GenAI training without their consent.

GenAI firms may raise concerns that revealing even parts of their training datasets could allow competitors to copy their training data. It is important to remember that to assemble these datasets in the first place, a firm needs large amounts of funding and other resources. With these resources, it is likely that these firms can afford to resolve these disputes among themselves. Furthermore, a leaked internal memo from Google argues that many of these closed-source GenAI models “have no secret sauce” and are rapidly being outpaced by open-source models,⁵⁹ meaning that the firms who embrace transparency in their training data may not necessarily lose advantages against closed-source GenAI developers.

Mandating GenAI firms’ disclosure of unlicensed and copyrighted data in training datasets would allow creators to more easily determine whether their work has been used without their consent and the extent to which that potentially unfair use hurts their businesses. The added transparency would help present a check against the harm that indiscriminate content scraping poses to the livelihoods of America’s small creators.

Licensing and Compensation for Use of Content in Training Data

Some policy actors have called for the creation of a content licensing scheme for GenAI training data collection, to be used in the same way that commercial entities can license copyrighted content and other protected intellectual property from others.⁶⁰ Stakeholders differ on how a licensing scheme should be implemented through statute, specifically whether it should run on government-set rates, if rates should be set on the free market, or if rates should be negotiated through artist collectives. Still, the idea, in general, would lead to the generation of revenue for creators whose work has been used for GenAI training while still giving GenAI firms a way to collect content created by others.

⁵⁹ Dylan Patel & Afzal Ahmad, *Google “We Have No Moat, and Neither Does OpenAI:” Leaked Internal Google Document Claims Open Source AI Will Outcompete Google and OpenAI*, SEMIANALYSIS (May 4, 2023), <https://www.semianalysis.com/p/google-we-have-no-moat-and-neither>; Emma Roth, *That Google Memo About Having ‘No Moat’ in AI Was Real – and Google’s AI Boss Disagrees with It*, THE VERGE (Jul. 10, 2023), <https://www.theverge.com/2023/7/10/23790132/google-memo-moat-ai-leak-demis-hassabis>.

⁶⁰ Saffron Huang & Divya Siddarth, *supra* note 50, at 9; *Protect Working Musicians Act (PWMA) of 2023*, AM. ASS’N OF INDEP. MUSIC (Sep. 25, 2023), <https://a2im.org/protect-working-musicians-act-2023/>.

Opt-Out Systems and Do-Not-Train Tags

Many licensing proposals are also mentioned alongside proposals for government-backed standards and requirements for opt-out and do-not-train tags. Some GenAI firms have begun developing ways to mark online content so that their training datasets exclude marked websites and other content.⁶¹ Allowing creators to explicitly identify their work as not licensed for GenAI training would make it easier for them to seek recourse if their work has been used without their consent, and for GenAI developers to understand what content to avoid when building training datasets. However, it is also important to ensure that whatever system is implemented is unified, reliable, and easy-to-use, so that small creators can focus on their work rather than navigating a complicated maze of opt-out and do-not-train systems that vary in scope and efficacy.

Clarifying Fair Use Exceptions

As previously mentioned, litigation focusing on GenAI training datasets' unlicensed inclusion of human-made content remains pending. These lawsuits hinge upon how federal copyright law is applied to such use. By clarifying in future legislation that fair use exceptions in copyright law do not apply to inclusion in GenAI training, Congress could effectively render GenAI firms' legal defenses relying upon fair use exceptions useless.⁶² This change will make GenAI developers more vulnerable to legal action if they continue using human-made work without authorization. However, as also written above, many small creators do not have the means or resources to initiate and sustain lawsuits against firms as well-resourced as those capable of creating GenAI models. The direct, practical benefits of tightening copyright law would be limited, though not undesirable, for America's small creators.

"Gold Standard" Training Datasets

Stakeholders have suggested that an entity like the National Institute of Standards and Technology or the new National AI Research Resource create a "gold standard" training dataset with licensed and legally safe content available for public and commercial use in training GenAI models.⁶³

Like the licensing proposal, implementing this idea would create another possible source of revenue for small creators while still providing GenAI developers with viable training data. Additionally, the creation of a "gold standard" dataset could have the added benefit of lowering barriers to entry into the GenAI market for new AI startup businesses. The creation of this standardized dataset could also demonstrate its viability and help nudge private companies to use

⁶¹ Meera Navlakha, *OpenAI Launches Webcrawler GPTBot, and Instructions on How to Block It*, MASHABLE (Aug. 8, 2023), <https://mashable.com/article/open-ai-gptbot-crawler-block>; Forrester, *Generative AI Gets an Upgrade to Business Class*, FORBES (Mar. 31, 2023), <https://www.forbes.com/sites/forrester/2023/03/31/generative-ai-gets-an-upgrade-to-business-class>; Artificial Intelligence and Intellectual Property – Part II: Copyright: Hearing Before the Subcomm. on Intellectual Property, 118th Cong. (2023) (Statement of Dana Rao) [*hereinafter* Rao Judiciary Testimony].

⁶² Cong. Research Serv., *supra* note 1, at 4; Judy Kurtz, *supra* note 58.

⁶³ Saffron Huang & Divya Siddarth, *supra* note 50, at 13.

licensed, legally safe training datasets. In fact, some firms, such as Adobe and Getty, have already created GenAI image tools trained only on properly licensed content.⁶⁴

However, the creation of a federal government GenAI training dataset would raise numerous controversial questions about its nature, especially because of ongoing policy discussions surrounding misinformation and censorship. In funding or mandating the creation of such a dataset, it is imperative that Congress prohibit the inclusion of false, misleading, and other harmful content under the disingenuous guise of including the views of “both sides” of an ideological conflict such as the January 6, 2021 insurrection at the United States Capitol. It is important that any “gold standard” legislative proposal resolve these questions before advancing.

Watermarking GenAI Creations

Congress is considering legislation to require the watermarking of GenAI outputs, and President Biden’s Executive Order 14,110 directs the Commerce Department to report on “science-backed standards and techniques” for GenAI output watermarking. GenAI firms are also exploring watermarking and content “nutrition label” -like technology.⁶⁵ These watermarks can be visual or digital, depending on the output medium, and technology is being developed that would make them difficult, if not impossible, to remove.⁶⁶ For optimal efficacy, the content ecosystem would need to widely adopt output watermarking with a single, universal standard⁶⁷ — something that can be prompted by federal regulation. This could be implemented through the creation of a standard watermarking system by an agency like the National Institute of Standards and Technology and a statutory requirement for GenAI software to watermark outputs.

While many conversations surrounding GenAI watermarking have focused mainly on deepfakes and misinformation, a policy mandating the practice could also be beneficial to small creators by distinguishing potentially competing content and helping potential clients and viewers understand what content has been made by a GenAI model and what has been made by a human. This distinction would be analogous to the same distinctions made between products made by American small businesses and products made abroad or products made by large corporations and would help inform client decisions in who to solicit content from. In promoting the use of human-made content, this kind of federal regulation could be a boon to America’s small creators.

⁶⁴ Rao Judiciary Testimony, *supra* note 61; Press Release, Getty Images, Getty Images Launches Commercially Safe Generative AI Offering (Sep. 25, 2023), <https://newsroom.gettyimages.com/en/getty-images/getty-images-launches-commercially-safe-generative-ai-offering>.

⁶⁵ Rao Judiciary Testimony, *supra* note 61; Cristiano Lima, *Congress is Playing Catch-Up on AI. She’s Been Sounding the Alarm*, WASH. POST (Jul. 13, 2023), <https://www.washingtonpost.com/politics/2023/07/13/congress-is-playing-catch-up-ai-shes-been-sounding-alarm/>; Exec. Order No. 14,110, 88 Fed. Reg. 75,191 (Oct. 30, 2023).

⁶⁶ Ziv Epstein et al., *supra* note 3, at 9-10; John Kirchenbauer et al., *A Watermark for Large Language Models*, (Jun. 6, 2023), <http://arxiv.org/abs/2301.10226>; Keith Collins, *How ChatGPT Could Embed a ‘Watermark’ in the Text It Generates*, N.Y. TIMES (Feb. 17, 2023), <https://www.nytimes.com/interactive/2023/02/17/business/ai-text-detection.html>.

⁶⁷ Ziv Epstein et al., *supra* note 3, at 9-10.

Conclusion: GenAI Policy Must Benefit America's Most Vulnerable Content Creators

GenAI, in general, is not yet a fully mature technology. Many of its outputs still contain inaccuracies, distortions, and “glitches” that render them imperfect and flawed. However, even in its current state, GenAI software in various mediums has demonstrated that it can unfairly outcompete America’s small artists, writers, and musicians, and push them out of business. Adding to the advantages that GenAI holds in content creation is the fact that GenAI firms regularly use these creators’ work to train and improve their models, commercially benefitting at creators’ expense. As GenAI continues to mature, its competition with human content creators will only intensify, and its advantages will grow wider.

Much fanfare has been made of the forthcoming action and debate surrounding AI policy and regulation, with visions of far-reaching, long-term legislation.⁶⁸ While it is important to adopt a far-sighted, comprehensive approach to addressing the AI revolution and the issues it will surface, it is also imperative that Congress directly acts to protect America’s most vulnerable entrepreneurs and content creators from the shocks and consolidated corporate power that AI will bring. GenAI may be merely a part of the larger conversation surrounding AI, but it is extremely important to the small creators that the Committee endeavors to empower.

⁶⁸ Ctr. for Strategic and Int’l Studies, *supra* note 46; Ryan Tarinelli, *Lawmakers Suggest Agency to Supervise Artificial Intelligence*, ROLL CALL (May 23, 2023), <https://rollcall.com/2023/05/23/lawmakers-suggest-agency-to-supervise-artificial-intelligence>.

Congress of the United States
 U.S. House of Representatives
 Washington, DC 20515
 April 16, 2025

Amb. Jamieson Greer
 U.S. Trade Representative
 Office of the U.S. Trade Representative
 600 17th Street, NW
 Washington, DC 20006

Hon. Scott Bessent
 Secretary
 U.S. Department of the Treasury
 1500 Pennsylvania Avenue, NW
 Washington, DC 20220

Hon. Howard Lutnick
 Secretary
 U.S. Department of Commerce
 1401 Constitution Avenue, NW
 Washington, DC 20230

Hon. Kelly Loeffler
 Administrator
 U.S. Small Business Administration
 409 3rd Street, SW
 Washington, DC 20416

Ambassador Greer, Secretary Bessent, Secretary Lutnick, and Administrator Loeffler:

We write regarding your imposition of widespread, indiscriminate taxes on goods imported from abroad, followed by your suspension of some of those taxes by social media post and daily increases of others. Tariffs were raised to their highest effective rates in over 100 years,¹ including on critical allies such as the European Union, Japan, South Korea, and Australia.² Small businesses across nearly every industry will be harmed by the tariffs and the uncertainty surrounding their 90-day pause. Especially concerning are the 145 percent duties on China, the successive daily tax hikes on Chinese imports, the remaining 10 percent tariffs still in place for all imports regardless of origin, and the specific duties in place on items such as aluminum and steel.

Contrary to your beliefs, American importers pay these taxes, and consumers ultimately shoulder the burden. Taxes on imported goods hit small businesses the hardest, with 88 percent of small firms relying on imports for the goods they produce and sell.³ These companies operate on thinner margins and do not have the sophisticated supply chain management staff that larger firms do, putting them at a competitive disadvantage. Small firms also lack leverage in negotiating more favorable terms when they attempt to shift supply chains. The result will spike consumer and input prices across the board, reducing their affordability for everyday Americans and the Main Street businesses they support in the middle of a cost-of-living crisis.

¹ Jesse Pound, *U.S. tariff rates under Trump will be higher than the Smoot-Hawley levels from Great Depression era*, CNBC (Apr. 3, 2025), <https://www.cnbc.com/2025/04/03/us-tariff-rates-under-trump-will-be-higher-than-the-smoot-hawley-levels-from-great-depression-era.html>.

² Jeanna Smialek, et al., *With Trump's Tariffs, the Chasm Between Allies and the U.S. Widens*, N.Y. TIMES (Apr. 2, 2025), <https://www.nytimes.com/2025/04/02/world/europe/trump-tariffs-reciprocal-reaction-trade-war.html>.

³ FEDEX, FEDEX SMALL BUSINESS TRADE INDEX, 16 (Mar. 2024).

Current trade policy overlooks the very fact that not every ingredient, crop, or product can be produced domestically. While our nation is one of the world's top exporters of agricultural and food products, with volumes even reaching \$196 billion under the previous administration,⁴ crops like coffee,⁵ tea,⁶ cocoa,⁷ spices⁸ like natural vanilla,⁹ and tropical fruit such as bananas¹⁰ and mangoes,¹¹ are nearly impossible to produce at scale within the United States in the foreseeable future. Many of our nation's small businesses depend on imported agricultural products to power their payrolls, innovation, and productivity. From Main Street cafes and restaurants, to shippers, truckers, and grocers, millions of businesses rely on and derive significant revenues from import sales. Even America's own farmers sometimes use spent products in their compost to fertilize crops. Americans cannot shift en masse to domestic alternatives, because for many goods, no large sources exist in the United States.

Additionally, the suddenness of these tariffs, as well as their suspension and increases, ignores how most businesses – no matter their size – operate. Businesses make purchases that take weeks to arrive, meaning that goods that recently left their countries of origin by cargo ship – and are still on the way to America – have had taxes imposed, raised, and paused at least 5 times thus far. When those cargo ships arrive on our shores, it is entirely possible that, on the wrong day, an entrepreneur will have to pay tens of thousands of dollars extra for goods they purchased a month ago – a death sentence for their business. Entrepreneurs, and the customers who buy from them, cannot reasonably anticipate how products will be priced next month, next week, or even tomorrow.

The uncertainty and chaos emanating from these choices, and their timing, create undue anxiety for small employers, workers, and customers alike in nearly every industry. When consumers tighten their belts, small businesses will be the first to experience a decrease in demand, as they shift their spending to larger discount retailers. Main Street America cannot afford yet another recession under President Trump's watch.

In sum, small employers and entrepreneurs, who are the backbone of our economy, cannot operate in such a volatile and unpredictable economic climate. This fear and uncertainty are

⁴ CONG. RESEARCH SERV., USDA'S FOREIGN AGRICULTURAL SERVICE: AN OVERVIEW (Nov. 16, 2023).

⁵ NAT'L COFFEE ASSOC., *Coffee regions of the world*, <https://www.aboutcoffee.org/origins/coffee-regions-of-the-world> (last visited Apr. 4, 2025).

⁶ UNIV. OF HAW. AT MANOA, A MARKET FEASIBILITY STUDY EXECUTIVE SUMMARY: HAWAII-GROWN TEA (2011), https://www.ctahr.hawaii.edu/oc/freepubs/pdf/tea_2011.pdf; John C. D'Auria et al., *United States Tea: A Synopsis of Ongoing Tea Research and Solutions to United States Tea Production Issues*, 13 FRONT. PLANT SCI. 934651 (2022), <https://www.frontiersin.org/articles/10.3389/fpls.2022.934651/full>.

⁷ NAT'L OCEANIC & ATMOSPHERIC ADMIN., *Climate & Chocolate*, U.S. DEP'T OF COM. (Feb. 10, 2016), <https://www.climate.gov/news-features/climate-and/climate-chocolate> (on file with the H. COMM. ON SMALL BUS.).

⁸ AM. SPICE TRADE ASSOC., Comment Letter on Unfair Trade Practices (Mar. 11, 2025), <https://astaspice.org/safe-view/982280>.

⁹ Shelby Vittek, *A Domestic Vanilla Industry Is Slowly Unfurling in Florida*, AMBROOK RESEARCH (Apr. 12, 2023), <https://ambrook.com/research/supply-chain/domestic-vanilla-bean-florida-madagascar>; NAT'L INST. OF FOOD & AGRIC., *Vanilla Could Be the Next Big Crop for Small Farmers in Southern Florida*, U.S. DEP'T OF AGRIC. (Oct. 16, 2023), <https://www.nifa.usda.gov/about-nifa/blogs/vanilla-could-be-next-big-crop-small-farmers-southern-florida>.

¹⁰ *All About Bananas And Why Bananas Matter*, BANANALINK <https://www.bananalink.org.uk/all-about-bananas> (last visited Apr. 8, 2025).

¹¹ *The Amazing Mango Tree*, NAT'L MANGO BD., <https://www.mango.org/mango-tree> (last visited Apr. 8, 2025).

illustrated by a recent National Federation of Independent Business survey finding that small business uncertainty spiked to the second-highest level since 1973.¹² The disastrous effects of this Administration’s tariff policy will force the closure of these small businesses and the loss of the jobs and livelihoods they sustain.

We strongly urge you to rethink your trade war – and the recession it is causing – and to make good on your campaign promises to lower prices for Americans. Furthermore, we respectfully request that you:

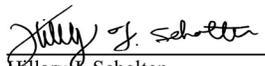
- 1) Engage with small businesses and their stakeholders.
- 2) Analyze the effect your trade policies have had on our nation’s small businesses and entrepreneurs, including small farmers and producers.
- 3) Consider how the current uncertainty around tariff policy negatively impacts how small businesses operate.
- 4) Take action to protect the interest of small employers, producers, farmers, and entrepreneurs.
- 5) Collaborate to provide resources for small businesses that can assist them in understanding and navigating your trade policies.

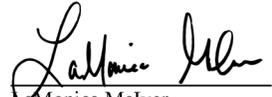
Pursuant to Rule X of the House of Representatives, the Committee on Small Business (Committee) has broad authority to investigate “problems of all types of small business.” The Committee possesses jurisdiction over “assistance to and protection of small businesses.” If you have any questions, please contact the Committee’s Minority staff at (202) 225-4038.

Sincerely,


Nydia M. Velázquez
Ranking Member
Committee on Small Business


Morgan McGarvey
Vice Ranking Member
Committee on Small Business


Hillary J. Scholten
Member of Congress


LaMonica McIver
Member of Congress

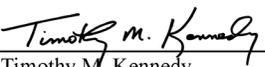
¹² NAT’L FEDERATION OF INDEP. BUS., SMALL BUSINESS ECONOMIC TRENDS, 1 (Feb. 2025).


Gilbert Ray Cisneros, Jr.
Member of Congress

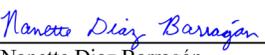

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Lateefah Simon
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Herbert C. Conaway, Jr.
Member of Congress

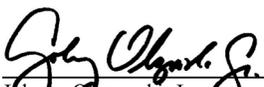

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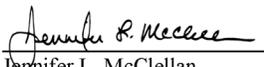

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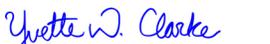
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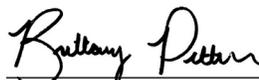
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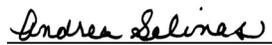
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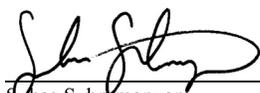
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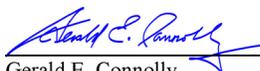
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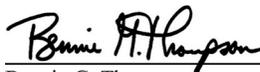
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Darren Soto
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Joe Neguse
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