



Congress of the United States
House of Representatives
Washington, DC 20515

December 15, 2023

Dear President Biden:

We write today to express our grave concern with the European Union’s (EU) designation of five U.S. companies as “gatekeepers”¹ under the Digital Markets Act (DMA). Our strong relationship with our European allies remains essential; however, the recent decisions by EU authorities pose serious potential damage to America’s competitiveness and security interests. We strongly urge you to advocate for American companies and workers by insisting that EU policymakers administer and enforce their digital policies fairly.

American ingenuity and innovation support over 18 million American jobs, add \$2.3 trillion to the U.S. economy, and create economic opportunities across the United States. Securing our leadership in this sector is imperative for our economy and American workers but the designation of leading U.S. companies as “gatekeepers” threatens to upend the US economy, diminish our global leadership in the digital sphere, and jeopardize the security of consumers.

While we must protect consumers, strengthen individual privacy through clear user rights and robust privacy measures, and ensure competitive markets on an economy-wide basis, these policies must be applied in a reasoned and equitable manner. The EU has the right to regulate the digital economy, but the EU’s “digital sovereignty” agenda has repeatedly applied one set of rules to American companies and a different, more favorable set of rules to European and other foreign firms, including Russian and Chinese firms. We are concerned that the EU’s approach to its “digital sovereignty” agenda, including the labeling of many U.S. companies as “gatekeepers” under DMA, unfairly targets and harms American businesses. A recent Center for Strategic and International Studies report estimated that the EU’s digital agenda will cost American businesses \$97 billion, including \$45 billion on small businesses, and will limit U.S. exports to Europe by at least \$13 billion.²

Last year, your Administration pressed the EU to revise the rules under the DMA to safeguard American intellectual property and economic and security interests, while seeking commitments from the EU to apply its digital regulations in a non-discriminatory manner by ensuring that non-U.S. based companies would be subject to the same rules.³ Despite these initial efforts, the European Commission ultimately designated zero European companies as “gatekeepers.”

¹ Alphabet, Amazon, Apple, Meta, Microsoft https://ec.europa.eu/commission/presscorner/detail/en/IP_23_4328 In addition to these US companies, the EU also designated the Chinese company ByteDance as a gatekeeper.

² https://csis-website-prod.s3.amazonaws.com/s3fs-public/publication/221122_EU_DigitalRegulations.pdf?VersionId=iuEI9KteAl_SKhjPCEWN8LvqgORV02X

³ <https://www.politico.eu/article/us-government-in-bid-to-change-eu-digital-markets-act/>

Instead, five of the six companies designated “gatekeepers” are U.S.-based, 21 of the 22 “gatekeeper” core platform services identified under the DMA are provided by U.S. companies, and an additional five services offered by American firms are being considered by the EU for potential designation in the coming months.⁴

The EU inexplicably failed to designate any European retailers, content-sharing platforms, payment firms, and telcos as “gatekeepers” even though many have a greater national segment of the European market than the US firms declared “gatekeepers.” Further, the Commission declined to name Samsung, a non-U.S. firm, a “gatekeeper” despite it clearly meeting the thresholds under the DMA.⁵ And the Commission did not name large Chinese tech and cloud conglomerates (such as Tencent, Alibaba, and Huawei) as “gatekeepers,” despite the fact that they are competing aggressively with U.S. firms in the EU and other markets. The stated purposes of EU’s digital agenda of protecting consumers and competition appears suspect given its recent decisions to disproportionately target U.S.-based companies, while excluding European and most other foreign-based companies. The DMA as currently implemented unfairly discriminates against US companies, fails to protect consumers or to increase competition, and ultimately makes America less globally competitive and less secure.

In addition to the DMA, the Commission and individual member states are actively considering policies that will harm American companies, including sovereignty requirements that would block American cloud service providers, and threats to charge discriminatory digital services taxes that raid the U.S. tax base. In parallel, the EU is rushing to finalize a “two-tier” version of the EU Artificial Intelligence Act that would limit or restrict U.S. technology in Europe while protecting European rivals.

We commend your efforts at the Trade and Technology Council and encourage you to maintain the critical relationship between Europe and the United States, but we are disappointed by the lack of a strong coordinated U.S. government in response to the clear targeting of U.S. companies by EU policies, especially under the DMA.

To address these near-term risks to the American economy, companies, and workers, we respectfully, but adamantly encourage you to:

- Immediately investigate how Europe’s “digital sovereignty” agenda may damage American economic and security interests, including compelling American firms to transfer U.S. data, trade secrets, and intellectual property to European, Chinese, and other foreign companies.
- Secure commitments from European leaders that Europe will cease developing or implementing measures that discriminate against American companies and workers, including unfairly using or applying provisions like the DMA’s “gatekeeper” or the

⁴ ByteDance’s Tiktok service was designate a social network https://ec.europa.eu/commission/presscorner/detail/en/IP_23_4328

⁵ https://ec.europa.eu/commission/presscorner/detail/en/IP_23_4328

Digital Services Act's "Very Large Online Platforms" in a discriminatory manner in future legislation and regulations.

- Encourage DOJ and FTC officials working in Brussels to support U.S. companies and demand regulations promulgated through the DMA do not cause undue damage to or inequitably discriminate against American companies.

Thank you in advance for your attention to this critical issue. We stand ready to work with you and your Administration to address these concerns.

Sincerely,

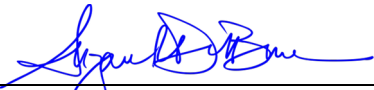
Sincerely,



J. Luis Correa
Member of Congress



Thomas Massie
Member of Congress



Suzan K. DelBene
Member of Congress



Darin LaHood
Member of Congress



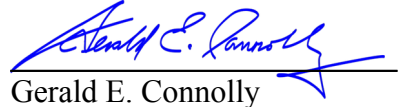
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Jimmy Panetta
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Deborah K. Ross
Member of Congress



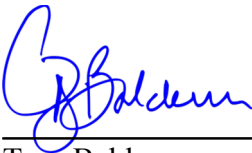
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Ami Bera, M.D.
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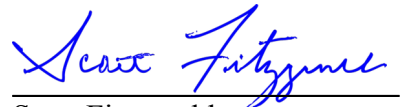
Cliff Bentz
Member of Congress



Jared Moskowitz
Member of Congress



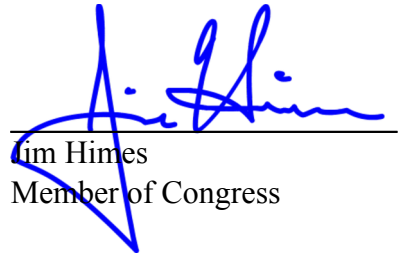
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