CCIA Statement for the Record to the House Judiciary Subcommittee Hearing: "Anti-American Antitrust: How Foreign Governments Target U.S. Businesses"

December 16, 2025

The Honorable Jim Jordan
Chair, Committee on the Judiciary
U.S. House of Representatives
2138 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Jamie Raskin
Ranking Member, Committee on the Judiciary
U.S. House of Representatives
2142 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Scott Fitzgerald
Chairman, Subcommittee on the Administrative State, Regulatory Reform, and Antitrust
Committee on the Judiciary
U.S. House of Representatives
2138 Rayburn House Office Building
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The Honorable Jerrold Nadler
Ranking Member, Subcommittee on the Administrative State, Regulatory Reform, and Antitrust
Committee on the Judiciary
U.S. House of Representatives
2142 Rayburn House Office Building
Washington, D.C. 20515

Dear Chair Jordan, Subcommittee Chair Fitzgerald, Ranking Member Raskin, Ranking Member Nadler, and Members of the Committee:

In light of the upcoming hearing held by the Subcommittee on the Administrative State, Regulatory Reform, and Antitrust of the Committee on the Judiciary titled "Anti-American Antitrust: How Foreign Governments Target U.S. Businesses,"[1] the Computer & Communications Industry Association (CCIA)[2] takes this opportunity to address several major industry concerns with the European Union's (EU) Digital Markets Act (DMA),[3] Japan's Mobile

[1] *Anti-American Antitrust: How Foreign Governments Target U.S. Businesses*, Hearing Before the Subcomm. on the Administrative State, Regulatory Reform, & Antitrust, of the H. Comm. on the Judiciary, 119th Cong. (2025), https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=118753.

[2] CCIA is an international, not-for-profit trade association representing a broad cross-section of technology and communications firms. For over fifty years, CCIA has promoted open markets, open systems, and open networks. The Association advocates for sound competition policy and antitrust enforcement. CCIA members employ more than 1.6 million workers, invest more than $100 billion in research and development, and contribute trillions of dollars in productivity to the global economy. For more, visit www.ccianet.org.

[3] Regulation (EU) 2022/1925 of the European Parliament and of the Council of Sept. 14, 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act), 2022, O.J. (L 265) 1, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2022.265.01.0001.01.ENG&toc=OJ%3AL%3A2022%3A265%3ATOC.

Software Competition Act,[4] and a number of foreign *ex-ante* regulatory proposals modeled on the DMA being considered in various jurisdictions, including major U.S. trading partners such as South Korea, Brazil, India, Türkiye, and Australia. CCIA asks that this statement be made part of the record.

EU regulations on digital services are imposing enormous costs on American companies — up to $97.6 billion annually.[5] They lead to an estimated $2.2 billion in direct compliance costs annually for U.S. companies, including roughly $1 billion annually from the DMA.[6] Costs to U.S. companies will further rise from other jurisdictions adopting similar regulations. For example, if adopted, South Korea's proposed digital-market regulations could lead to losses of up to $525 billion for the United States.[7] South Korean regulations would cost the average American household roughly $3,800 in economic losses over the next 10 years.[8]

The Digital Markets Act Unfairly Disadvantages American Companies Competing Against Foreign Rivals

Contrary to the European Commission's claims that American tech companies merely "are subject to the same laws and regulations [as] any other player," the DMA targets primarily U.S. companies.[9] Under the DMA, the European Commission has designated seven "gatekeeper" companies (Alphabet, Amazon, Apple, Booking, ByteDance, Meta, and Microsoft) that are subject to increased scrutiny and burdensome obligations. Five of these seven companies are American, one is owned by a U.S. company, and none are headquartered in Europe.[10] The DMA has primarily targeted American companies, while excluding similarly positioned foreign competitors.

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[4] Japan Fair Trade Commission, Press Release, *Regarding the Passage of the Act of Promotion of Competition for Specified Smartphone Software* (Jun. 12, 2024), https://www.jftc.go.jp/en/pressreleases/yearly-2024/June/240612.html.

[5] CCIA, *Costs to U.S. Companies from EU Digital Services Regulation* (July 25, 2025), https://ccianet.org/research/reports/costs-to-us-companies-from-eu-digital-services-regulation/.

[6] *Id.*

[7] Shanker Singham, Competer Foundation, *Advice on Application of Competition Policy Against Large US firms in Korea*, (Oct. 2025), https://competerefoundation.org/wp-content/uploads/2025/10/US-Economic-Losses-Advice-on-Application-of-Competition-Policy-against-large-US-firms-in-Korea-Competere-Foundation-Final.pdf.

[8] *Id.*

[9] *Compare* Barbara Moens and Henry Foy, *Stand up to Trump on Big Tech, says EU antitrust chief*, Financial Times (Aug. 29, 2025), https://www.ft.com/content/010c5b1e-e900-4ec2-b22a-61300c70e531 ("American tech companies 'are making great profits out of this market, but they are subject to the same laws and regulations than any other player, independently of where their headquarters are based,' she added.") *with* Javier Espinoza, *EU should focus on top 5 tech companies, says leading MEP*, Financial Times (May 30, 2021), https://www.ft.com/content/49f3d7f2-30d5-4336-87ad-eea0ee0ecc7b ("The EU lawmaker who will steer the EU's flagship tech regulation through the European parliament has said it should focus on the largest five US tech companies. ... He said Google, Apple, Amazon, Facebook and Microsoft, were the 'biggest problems' for EU competition policy.") *and* Dita Charanzová, *Turning Europe's internet into a 'walled garden' is the wrong path to take*, Financial Times (Feb. 17, 2021) https://www.ft.com/content/d861af6a-eb92-4415-881a-be798f018401 (European parliament vice-president: "we must state the truth: these [Digital Markets Act and Digital Services Act] proposals target US companies.").

[10] Although Booking.com was founded and is headquartered in Europe, parent company Booking Holdings was founded and is headquartered in the U.S.

By designating these "gatekeeper" companies through the DMA, the EU imposes onerous restrictions and burdensome obligations on them, including a ban on self-preferencing practices, mandatory data-portability and interoperability requirements, and anti-tying obligations.[11] Importantly, these obligations are not required of other domestic or foreign rivals competing against American companies in the EU, providing said foreign rivals with a competitive advantage and implicating core trade principles designed to prevent unjustified discrimination. Studies have found that policy discussions around the DMA largely overlooked competition and innovation models.[12] Specifically, Articles 5 and 6 of the DMA fail to consider the innovation dynamics resulting from the initial creation and subsequent innovations of a service. Companies that are closing in on the threshold for meeting gatekeeper status may be disincentivized from creating new and innovative services that would increase competition in digital markets.[13]

Additionally, conservative estimates suggest that the total fines and compliance costs under the DMA could range from $22 billion to $50 billion,[14] with annual costs of around $200 million for U.S. digital service providers operating in Europe.[15] What is particularly concerning is that regulators have imposed fines or business model changes for allegedly deficient compliance even in cases where the regulator cannot clearly specify what would constitute adequate compliance, leading to prolonged proceedings that serve as a forum for rivals' (and/or the regulator's) demands — often with no obvious consumer benefit, and in some cases with significant customer inconvenience and degraded functionality

Furthermore, the DMA over-enforces competition laws by restricting a range of business practices that commonly occur both offline and online, and that are often procompetitive and enhance consumers' welfare or at least are competitively benign.[16] Unlike traditional antitrust and competition laws that apply to all companies, however, these DMA prohibitions apply only to designated companies, creating discriminatory treatment between designated and non-designated companies, where undesignated foreign rivals gain an unfair competitive advantage

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[11] *See* Articles 5 - 7 of the DMA.

[12] Meredith Broadbent, *Implications of the Digital Markets Act for Transatlantic Cooperation* (CSIS, Sept. 15, 2021), https://www.csis.org/analysis/implications-digital-markets-act-transatlantic-cooperation; David J. Teece & Henry J. Kahwaty, *Is the Proposed Digital Markets Act the Cure for Europe's Platform Ills? Evidence from the European Commission's Impact Assessment* (Berkeley Research Group, Apr. 12, 2021), https://media.thinkbrg.com/wp-content/uploads/2021/04/11215103/Is-the-DMA-the-Cure_Teece_Kahwaty.pdf.

[13] Meredith Broadbent, *Implications of the Digital Markets Act for Transatlantic Cooperation* (CSIS, Sept. 15, 2021), https://www.csis.org/analysis/implications-digital-markets-act-transatlantic-cooperation.

[14] Kati Suominen, *Implications of the European Union's Digital Regulations on U.S. and EU Economic and Strategic Interests*, Center for Strategic & International Studies, (Nov. 22, 2022), https://csis-website-prod.s3.amazonaws.com/s3fs-public/publication/221122_EU_DigitalRegulations.pdf?VersionId=iuEl9KteAl_SKhjPCEWN8LlvqqORV02X.

[15] CCIA, *Costs to U.S. Companies from EU Digital Regulation* (Mar. 11, 2025), https://ccianet.org/research/stats/costs-to-us-companies-from-eu-digital-regulation/.

[16] *See e.g.*, Felipe Flórez Duncan, *How Platforms Create Value for Their Users: Implications for the Digital Markets Act* (Oxera, May 12, 2021), https://www.oxera.com/insights/reports/how-platforms-create-value/; D. Bruce Hoffman & Garrett D. Shinn, *Self-Preferencing and Antitrust: Harmful Solutions for an Improbable Problem* (June 2021), https://www.clearygottlieb.com/-/media/files/cpi--hoffman--final-pdf.pdf; Sam Bowman & Geoffrey A. Manne, *Platform Self-Preferencing Can Be Good for Consumers and Even Competitors* (Mar. 4, 2021), https://truthonthemarket.com/2021/03/04/platform-self-preferencing-can-be-good-for-consumers-and-even-competitors/.

over designated American companies. Additionally, the mandatory introduction of choice screens, data sharing, sideloading, and payment link-outs not only degrade the user experience but also open the door for consumers to inadvertently allow malicious actors to access their data, or introduce malware that erodes their privacy.[17] Rather than looking out for consumers, these burdensome requirements appear to benefit foreign competitors while harming consumers and designated "gatekeepers."

Major U.S. Trading Partners are Debating Similar DMA-like Proposals

While *ex-ante* digital regulatory proposals are currently being discussed and debated in several jurisdictions worldwide,[18] there are only three jurisdictions with fully operational *ex-ante* digital regulatory frameworks: Germany, through the 10th amendment of the German Competition Act (GWB)[19] and Section 19a of the GWB,[20] the EU's DMA,[21] and the UK's DMCC.[22] Additionally, Japan's Mobile Software Competition Act (MSCA) is expected to become fully operational on December 18, 2025.[23]

However, despite the limited experience with these regulatory experiments in Europe, several major U.S. trading partners,[24] are considering introducing similar DMA-like regulations, which would pose a grave threat to U.S. companies and serve as trade barriers. These include South Korea, Brazil, India, Türkiye, and Australia.

South Korea

In addition to the South Korean DMA-like proposal, the Online Platform Monopoly Act (KOPMA), numerous Korean bills have recently emerged proposing a narrower approach, generally described as "platform transaction fairness." Both of these approaches would establish *ex-ante* regulation for South Korean digital markets, in which U.S. firms have a significant presence. A recent study has found that South Korean competition enforcement has shifted from a consumer-welfare focus to a precautionary approach, penalizing efficient business practices and stifling innovation.[25] Antitrust cases and proposed regulations directed at U.S. companies stem from South Korean officials' claims that American firms have an unfair

[17] Kati Suominen, *New Costs and Cybersecurity Challenges Flagged as DMA Compliance Starts*, CSIS Commentary (Mar. 22, 2024), https://www.csis.org/analysis/new-costs-and-cybersecurity-challenges-flagged-dma-compliance-starts.

[18] *See, e.g.*, Center for Strategic and International Studies (CSIS), *Digital Competition Policy Tracker* (Apr. 2024), https://www.csis.org/programs/scholl-chair-international-business/competition-policy-digital-era.

[19] 10th Amendment to the German Competition Act (GWB), Federal Law Gazette Volume 2021 Part I No. 1, issued in Bonn on January 18, 2021, https://www.bgbl.de/xaver/bgbl/start.xav#/switch/tocPane?_ts=1755723013671.

[20] Id., Section 19a ("The Bundeskartellamt may issue a decision declaring that an undertaking which is active to a significant extent on markets within the meaning of Section 18(3a) is of paramount significance for competition across markets.").

[21] *Supra* n. 3.

[22] UK Legislation, *Digital Markets, Competition and Consumers Act 2024* (May 24, 2024), https://www.legislation.gov.uk/ukpga/2024/13/introduction.

[23] *Supra* n. 4.

[24] CCIA, *Key Threats to Digital Trade 2025: Asia-Pacific* (Oct. 30, 2025), https://ccianet.org/wp-content/uploads/2025/10/2025-Digital-Trade-Barriers-in-Asia-the-Pacific.pdf.

[25] *Supra* n. 7.

advantage over Korean businesses. Moreover, the study finds that the Korea Fair Trade Commission's (KFTC) competition enforcement, plus the KOPMA proposed regulations, could lead to losses of up to $525 billion for the United States, and cost the average American household roughly $3,800 in economic losses over the next 10 years.[26] These proposals interfere with innovative and dynamic digital markets, raising concerns over discriminatory treatment of and market access for American tech platforms seeking to compete with Chinese rivals.[27]

Brazil

On September 18, 2025, the Brazilian government submitted Bill 4.675/2025 (the Digital Markets Bill) to the Brazilian House of Representatives.[28] The bill, inspired by similar European frameworks, would empower Brazil's national competition authority (CADE) to designate firms with "systemic relevance in digital markets" based on certain qualitative criteria and revenue thresholds, discriminating mainly against U.S. companies. The Digital Markets Bill draws heavily from international regulatory models and provides a "hybrid" approach, incorporating different elements from the EU's DMA, the UK's DMCC, and Germany's Section 19a of the GWB. Domestically, it follows a legislative proposal from 2022 that was more closely aligned with the DMA.[29]

If enacted, the Bill would mark a significant shift from Brazil's established, effects-based antitrust enforcement tradition toward a highly interventionist, *ex-ante* regulatory model. By imposing asymmetric, conduct-based obligations on a narrow set of large, mostly foreign, firms, the proposal risks overdeterrence, regulatory fragmentation, and heightened legal uncertainty. As a result, it risks potentially chilling innovation, deterring foreign investment, and undermining cross-border digital trade.[30]

The proposed *ex-ante* approach in Brazil's Digital Markets Bill would establish an asymmetric regime based on arbitrary measures rather than demonstrable competitive harm, posing significant risks to competition and innovation. The absence of an explicit efficiency or justification defense further amplifies the risk of overdeterrence, diverging from Brazil's consumer welfare–oriented antitrust tradition.

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[26] *Id.*

[27] Lilla Nóra Kiss and Hilal Aka, *Korea's New Fairness Act Risks Chilling Innovation and Derailing Trade Talks,* Information Technology & Innovation Foundation (Jul. 24, 2025), https://itif.org/publications/2025/07/24/koreas-new-fairness-act-risks-chilling-innovation-and-derailing-trade-talks/.

[28] *See* https://www.camara.leg.br/proposicoesWeb/fichadetramitacao?idProposicao=2562481.

[29] The 2022 bill is available here https://www.camara.leg.br/proposicoesWeb/fichadetramitacao?idProposicao=2337417.

[30] Wilson Center, *Exploring Brazil's Approach to Digital Regulation and Competition: An Interview with Krisztian Katona, Vice President of Global Competition and Regulatory Policy at CCIA* (Oct. 28, 2024), https://www.wilsoncenter.org/article/exploring-brazils-approach-digital-regulation-and-competition-interview-krisztian-katona.

Australia

The Australian Competition & Consumer Commission (ACCC) released a final report in March 2025,[31] reflecting the findings of the ACCC's five-year digital platform services inquiry.[32] The Proposal recommends that the Australian Government implement a new *ex-ante* digital competition regime, imposing specific conduct obligations and prohibitions on certain designated entities. The Proposal has an overly narrow scoping of the targets of the new regulatory framework, and seems to be primarily targeting products and services of specific U.S. companies. Additionally, the ACCC proposes to include the imposition of a levy on targeted companies to fund the ACCC's administration regardless of harmful conduct, and would impose burdensome rules controlling U.S. companies' business models while leaving competitors unregulated, reducing their competitiveness and ability to invest in research and development.

India

India has considered advancing DMA-style *ex-ante* rules through proposals for a Digital Competition Act targeting "systemically important digital intermediaries," with obligations on anti-steering, platform neutrality, data use, ranking, and advertising that would predominantly affect U.S. firms. Although a 2024 draft Digital Competition Bill was withdrawn in August 2025 pending a market study to reassess the bill's thresholds and potential impact on startups and Micro, Small and Medium Businesses (MSMBs),[33] India's Ministry of Corporate Affairs has continued to support *ex-ante* regulation of digital markets.[34] The trajectory signals continued regulatory pressure that could disadvantage U.S. providers.

Türkiye

In recent years, Türkiye has opened several investigations against U.S. tech firms operating in its market,[35] and introduced an amendment to the Turkish Competition Act in 2024 to impose DMA-style restrictions and mandatory data sharing obligations on "gatekeeper" firms, with thresholds that disproportionately target U.S. firms.[36] The Turkish Competition Authority's draft amendment to Law No. 4054 on the Protection of Competition is modeled on the EU's

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[31] ACCC, *Digital Platform Services Inquiry final report - March 2025,* (Mar. 2025), https://www.accc.gov.au/system/files/digital-platform-services-inquiry-final-report-march2025.pdf.

[32] ACCC, *Digital platform services inquiry 2020-25,* https://www.accc.gov.au/inquiries-and-consultations/finalised-inquiries/digital-platform-services-inquiry-2020-25.

[33] *See, e.g.* Financial Express, *Govt to withdraw draft Digital Competition Bill* (Aug. 10, 2025), https://www.financialexpress.com/business/industry-govt-to-withdraw-draft-digital-competition-bill-3942328/; Medianama, *Parliamentary Report Traces How Ex-Ante Rules for Digital Competition Bill Lost Momentum* (Aug. 13, 2025), https://www.medianama.com/2025/08/223-parliamentary-report-digital-competition-bill-delayed/.

[34] The Economic Times, *India to gain from ex-ante regulation of digital markets: MCA* (Nov. 9, 2025), https://economictimes.indiatimes.com/tech/technology/india-to-gain-from-ex-ante-regulation-of-digital-markets-mca/articleshow/125197828.cms?from=mdr.

[35] Meredith Broadbent and John Strezewski, CSIS, *Turkey Considering New Digital Competition Legislation* (May 7, 2024), https://www.csis.org/analysis/turkey-considering-new-digital-competition-legislation.

[36] Dr. Matthias Bauer and Dyuti Pandya, Turkish Law Blog, *Brussels Blueprint, Turkish Overreach? The Risks of Copying the EU's Digital Competition Law* (Jun. 11, 2025) https://turkishlawblog.com/in-house/insights/detail/brussels-blueprint-turkish-overreach-the-risks-of-copying-the-eus-digital-competition-law.

DMA, imposing extensive ex-ante obligations, such as mandatory interoperability and prohibitions on self-preferencing and cross-service data utilization, on designated "Undertakings Holding Significant Market Power."[37]

Japan

Japan's Mobile Software Competition Act (MSCA), expected to come into force by December 18, 2025, establishes an *ex-ante* regulatory regime for mobile ecosystem competition, closely modeled on the EU's DMA.[38] Only two U.S. firms are designated under the law, explicitly noting that no Japanese or third-country competitors meet the thresholds, reflecting a narrowly defined market intended to capture specific U.S. companies. The MSCA prohibits 13 types of conduct, including tying, self-preferencing, and restrictions on interoperability or default settings, while allowing limited defenses. These presumptions risk penalizing practices that often enhance consumer welfare and innovation, imposing heavy compliance costs on U.S. firms that reduce their incentives to innovate.[39] Moreover, Japan's decision to target U.S. suppliers while exempting domestic players with comparable market structures raises concerns about discriminatory treatment inconsistent with Japan's WTO commitments on national treatment and most-favored-nation obligations.

Conclusion

CCIA thanks the Committee for its continued leadership in bringing attention to the growing challenges that unfair foreign regulations pose to U.S. companies, which undermine their ability to compete on a level playing field.

We applaud the Committee's oversight of foreign digital regulations. If this discrimination against American companies continues, we encourage this Committee, as well as the full Congress and Administration, to consider all available tools and remedies to ensure foreign governments stop targeting U.S. companies, and harming innovation that benefits consumers.

CCIA appreciates the Committee's efforts to defend American interests and looks forward to engaging with the Committee to identify constructive solutions to address foreign regulations that threaten U.S. competitiveness abroad.

Respectfully submitted,

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CC: Members of the House Judiciary Committee

[37] CCIA, *Key Threats to Digital Trade 2025: Eurasia* (Oct. 30, 2025), at 2 https://ccianet.org/wp-content/uploads/2025/10/2025-Digital-Trade-Barriers-in-Eurasia.pdf.
[38] *Supra* n. 25, at 2.
[39] Toshiaki Takigawa, *A Critical Examination of Japan's Mobile Software Competition Act (MSCA) and its Guidelines* (Nov. 7, 2025), at 7 https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5715202.