

ONE HUNDRED NINETEENTH CONGRESS

Congress of the United States
House of Representatives

COMMITTEE ON THE JUDICIARY

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January 31, 2025

Ms. Henna Virkkunen
Executive Vice-President for Tech Sovereignty, Security, and Democracy
European Commission
Rue de la Loi / Wetstraat 200
1049 Brussels, Belgium

Dear Ms. Virkkunen:

The Committee on the Judiciary of the U.S. House of Representatives is conducting oversight of how and to what extent foreign laws, regulations, and judicial orders compel or coerce companies to censor speech in the United States.¹ As part of this oversight, the Committee has examined how officials from other governments, such as the European Union (EU), have sought to censor speech online.² We previously wrote to your predecessor, Thierry Breton, following his threats of reprisal toward an American company for facilitating political discourse in the United States.³ In light of your recent confirmation as the European Commission's (EC) Executive Vice-President for Tech Sovereignty, Security, and Democracy, the Commissioner responsible for enforcing the EU's Digital Services Act (DSA), we write to express our serious concerns with how the DSA's censorship provisions affect free speech in the United States.⁴ In addition, consistent with the EC's previous engagement with the Committee,

¹ See, e.g., Peter Caddle, *EU must not to 'interfere in US politics' through tech censorship, justice committee warns*, BRUSSELS SIGNAL (Aug. 19, 2024); Peter Caddle, *US Congressman makes fresh attack on Breton, warns 'digital enforcer' not to censor Americans*, BRUSSELS SIGNAL (Sept. 10, 2024); see also Steven Lee Myers, *E.U. Law Sets the Stage for a Clash Over Disinformation*, N.Y. TIMES (Sept. 27, 2023) ("The law, the Digital Services Act, is intended to force social media giants to adopt new policies and practices If the measure is successful, as officials and experts hope, its effects could extend far beyond Europe, changing company policies in the United States and elsewhere.").

² See, e.g., *Hearing on the Weaponization of the Federal Government: Hearing Before the Select Subcomm. on the Weaponization of the Fed. Gov't of the H. Comm. on the Judiciary*, 118th Cong. (Nov. 30, 2023) (submitted written statement of Rupa Subramanya).

³ See Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Thierry Breton, Comm'r for Internal Mkts., European Comm'n (Aug. 15, 2024); Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary to Thierry Breton, Comm'r for Internal Mkts., European Comm'n (Sept. 10, 2024).

⁴ Mission Letter from Ursula von der Leyen, President, European Comm'n, to Henna Virkkunen, Exec. Vice-President for Tech Sovereignty, Security, and Democracy, European Comm'n (Sept. 17, 2024), at 7.

we request a briefing on your approach to DSA enforcement and ongoing investigations of American companies.⁵

The DSA requires that social media platforms have systematic processes to remove “misleading or deceptive content,” including so-called “disinformation,” even when such content “is not illegal.”⁶ Though nominally applicable to only EU speech, the DSA, as written, may limit or restrict Americans’ constitutionally protected speech in the United States.⁷ Companies that censor an insufficient amount of “misleading or deceptive” speech—as defined by EU bureaucrats—face fines up to six percent of global revenue, which would amount to billions of dollars for many American companies.⁸ Furthermore, because many social media platforms generally maintain one set of content moderation policies that they apply globally, restrictive censorship laws like the DSA may set *de facto* global censorship standards.⁹

Indeed, the establishment of a global censorship law appears to be the DSA’s very purpose.¹⁰ Your predecessor, Thierry Breton, demonstrated this when he attempted to weaponize the DSA to pressure American companies to censor American speech in the United States.¹¹ In August 2024, Breton publicly threatened an American social media company with adverse regulatory action if the company did not censor American content to prevent “potential spillovers in the EU.”¹² Likewise, your recent statements raise serious concerns that you are following Mr. Breton’s footsteps. In your confirmation hearing, you promised vigorous enforcement of the

⁵ Staff of European Comm’n, Briefing to Staff of H. Comm. on the Judiciary (Oct. 2, 2024).

⁶ See, e.g., Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services and Amending Directive 2000/31/EC (Digital Services Act), 2022 O.J. (L 277) 9, 84, Art. 35.

⁷ See, e.g., STAFF OF THE SELECT SUBCOMM. ON THE WEAPONIZATION OF THE FED. GOV’T OF THE H. COMM. ON THE JUDICIARY, 118TH CONG., THE WEAPONIZATION OF THE FEDERAL GOVERNMENT (Comm. Print Dec. 20, 2024), at 1988-2618; see also Steven Lee Myers, *E.U. Law Sets the Stage for a Clash Over Disinformation*, N.Y. TIMES (Sept. 27, 2023).

⁸ Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services and Amending Directive 2000/31/EC (Digital Services Act), 2022 O.J. (L 277), Art. 52 §3; see also The Editorial Board, *European Censorship, Elon Musk and the Telegram Arrest*, WALL ST. J. (Aug. 27, 2024).

⁹ See, e.g., Dawn Carla Nunziato, *The Digital Services Act and the Brussels Effect on Platform Content Moderation*, 24 CHIC. J. INT. LAW 115 (2023). (“In short, the DSA’s substantive content moderation and notice and take down provisions will likely incentivize the platforms to remove large swaths of content And the platforms will likely alter their globally applicable terms of service and content moderation guidelines in response to the DSA’s mandates in ways that will be speech-restrictive worldwide.”).

¹⁰ See, e.g., *id.*; Steven Lee Myers, *E.U. Law Sets the Stage for a Clash Over Disinformation*, N.Y. TIMES (Sept. 27, 2023) (“The law, the Digital Services Act, is intended to force social media giants to adopt new policies and practices If the measure is successful, as officials and experts hope, its effects could extend far beyond Europe, changing company policies in the United States and elsewhere.”).

¹¹ See Thierry Breton (@ThierryBreton), X (Aug. 12, 2024, 12:25 PM), <https://x.com/ThierryBreton/status/1823033048109367549>; see also The Editorial Board, *European Censorship, Elon Musk and the Telegram Arrest*, WALL ST. J. (Aug. 27, 2024) (“Thierry Breton, the European Commissioner for Internal Market and a former French telecom executive, is wielding the law as a cudgel to censor speech worldwide. Consider his threat against Mr. Musk mere hours before Mr. Musk’s recent live interview on X.com with Donald Trump. [] This is thuggish stuff. European regulators are trying to meddle in the U.S. presidential election.”).

¹² Thierry Breton (@ThierryBreton), X (Aug. 12, 2024, 12:25 PM), <https://x.com/ThierryBreton/status/1823033048109367549>.

DSA against American companies.¹³ In a recent opinion approving a new social media Hate Speech Code of Conduct, you endorsed a censorship-by-proxy campaign in which social media companies are required to give priority treatment to censorship requests from government-backed third parties—a scheme similar to one the Committee previously uncovered, and stopped, in the United States.¹⁴ Relatedly, in written answers in your Commissioner-designate questionnaire, you expressed support for EU President Ursula von der Leyen’s Democracy Shield proposal,¹⁵ which involves setting up an EU agency “to detect, track, and delete [allegedly] deceitful online content in coordination with national agencies.”¹⁶

Attempts to censor so-called “disinformation,” as you seem intent to do, miss the fundamental point about free speech. To oppose censorship is to acknowledge that a government with the authority to define disinformation will inevitably do so in a way that benefits those in power at the expense of the truth.¹⁷ No entity has a monopoly on good ideas. Dissenting voices matter because the “expert consensus” can be, and often is, wrong, as shown most recently by the devastating consequences of government-imposed lockdowns.¹⁸ In liberal nations like the

¹³ *Confirmation Hearing of Henna Virkkunen, Commissioner-designate, Tech Sovereignty, Security and Democracy: Hearing Before the Comm. on Industry, Rsch., and Energy & Comm. on Internal Mkt. and Consumer Protection of the European Parliament* (Nov. 12, 2024) at 13-16.

¹⁴ European Comm’n, *Commission Opinion of 20.1.2025 on the assessment of the Code of conduct on countering illegal hate speech online + within the meaning of Article 45 of Regulation 2022/2065*, C(2025) 446 final; see STAFF OF THE H. COMM. ON THE JUDICIARY AND THE SELECT SUBCOMM. ON THE WEAPONIZATION OF THE FED. GOV’T OF THE H. COMM. ON THE JUDICIARY, 118TH CONG., *THE WEAPONIZATION OF “DISINFORMATION” PSEUDO-EXPERTS AND BUREAUCRATS: HOW THE FEDERAL GOVERNMENT PARTNERED WITH UNIVERSITIES TO CENSOR AMERICANS’ POLITICAL SPEECH* (Comm. Print Nov. 6, 2023) (detailing the U.S. government’s work with Stanford University’s Election Integrity Partnership to censor Americans in the lead-up to the 2020 U.S. presidential election).

¹⁵ European Parliament, *Responses to Questionnaire to the Commissioner-Designate, Henna Virkkunen, Executive Vice-President for Tech Sovereignty, Security, and Democracy*, at 11.

¹⁶ Irene Sanchez & Giorgos Verdi, *Digital deceptions: How a European Democracy Shield can help tackle Russian disinformation*, EUROPEAN COUNCIL ON FOREIGN RELS. (May 28, 2024); see also Mared Gwyn Jones, *Von der Leyen pitches plan to shield EU from foreign interference if re-elected*, EURO NEWS (May 14, 2024) (“The Shield would be tasked with detecting and removing online disinformation[.]”); Ursula von der Leyen (@vonderleyen_epp), X (May 20, 2024, 10:54 AM), https://x.com/vonderleyen_epp/status/1792569693242352120 (“This new structure will track down information manipulation and coordinate with national agencies. The Shield will detect foreign interference, remove content, with a stronger approach to AI deepfakes, and finally pre-bunk and build resilience.”).

¹⁷ See *Hearing on the Weaponization of the Federal Government: Hearing Before the Select Subcomm. on the Weaponization of the Fed. Gov’t of the H. Comm. on the Judiciary*, 118th Cong. (July 20, 2023) (testimony of Robert F. Kennedy, Jr.) (“There’s never been a time in history when we look back and the guys who were censoring people were the good guys.”).

¹⁸ See, e.g., Great Barrington Declaration (Oct. 4, 2020) (explaining how COVID-19 lockdown policies were producing devastating effects on short and long-term public health); The Editorial Board, *The Startling Evidence on Learning Loss Is In*, N.Y. TIMES (Nov. 18, 2023) (“The school closures that took 50 million children out of classrooms at the start of the pandemic may prove to be the most damaging disruption in the history of American education.”); Peter C. Earle et al., *The Devastating Economic Impact of Covid-19 Shutdowns*, AM. INST. FOR ECONOMIC RSCH. (2020) (“Whether policymakers purposely or out of ignorance disregarded them, the tradeoffs of stay-at-home orders were immediate and severe: a massive spike in unemployment, rivaling the Great Depression; similarly historic drops in GDP, and others.”); Nafiso Ahmed et al., *Mental health in Europe during the COVID-19 pandemic: a systematic review*, 10 LANCET PSYCH. 537 (2023) (“Potential consequences of the pandemic and associated social restrictions included increase in psychological distress, increase in new onsets of mental health

Ms. Henna Virkkunen

January 31, 2025

Page 4

United States and those in the EU, we must respect the right and the ability of citizens to consume content and to make decisions about what speech is persuasive, what is truthful, and what is accurate.¹⁹ By enshrining and protecting freedom of speech, the U.S. Constitution entrusts Americans with the liberty to make these determinations; the DSA, in contrast, seeks to take this power from ordinary people and put it in the hands of governing authorities.²⁰

Accordingly, the Committee asks for a briefing on your approach to DSA enforcement and ongoing DSA proceedings against American companies. Please have your staff arrange the briefing as soon as possible but no later than 10:00 a.m. ET on February 13, 2025. Pursuant to the Rules of the House of Representatives, the Committee on the Judiciary has jurisdiction to conduct oversight of matters concerning “civil liberties” to inform potential legislative reforms.²¹ If you have any questions about this matter, please contact Committee staff at +1 (202) 225-6906.

Sincerely,



Jim Jordan
Chairman

cc: The Honorable Jamie Raskin, Ranking Member

conditions, and worsening of difficulties already experienced by people living with mental health conditions.”); Sylke V. Schnepf & Silvia Granato, *COVID-19 and the European Education Performance Decline: A Focus on Primary School Children’s Reading Achievement between 2016 and 2021*, IZA DP No. 16531 (2023) (“It is widely acknowledged that COVID-induced physical school closure lead to considerable learning loss.”).

¹⁹ See *Hearing on the Weaponization of the Federal Government: Hearing Before the Select Subcomm. of the Weaponization of the Fed. Gov’t of the H. Comm on the Judiciary*, 118th Cong. (Mar. 9, 2023) (testimony of Matt Taibbi) (“One of my heroes growing up was the Ukraine-born author Isaac Babel. He gave a speech at the first Soviet Writers Congress, and he was asked if any important rights had been taken away. He sarcastically answered, ‘No. The only rights that have been taken away are the right to be wrong.’ The crowd laughed, but he was making an important point, which is that in a free country you can’t have freedom without the freedom to be wrong.”).

²⁰ See *Hearing on the Weaponization of the Federal Government: Hearing Before the Select Subcomm. of the Weaponization of the Fed. Gov’t of the H. Comm on the Judiciary*, 118th Cong. (Nov. 30, 2023) (submitted written statement of Matt Taibbi) (“This leads to the one inescapable question about new ‘anti-disinformation’ programs that is never discussed, but must be: who does this work? Stanford’s Election Integrity Project helpfully made a graphic showing the ‘external stakeholders’ in their content review operation. It showed four columns: government, civil society, platforms, media. One group is conspicuously absent from that list: ordinary people. Whether America continues the informal *sub rosa* censorship system seen in the Twitter Files or formally adopts something like Europe’s draconian new Digital Services Act, it’s already clear who *won’t* be involved. There’ll be no dockworkers doing content flagging, no poor people from inner city neighborhoods, no single moms pulling multiple waitressing jobs, no immigrant store owners or Uber drivers, etc. These programs will always feature a tiny, rarefied sliver of affluent professional-class America censoring a huge and ever-expanding pool of everyone else.”).

²¹ Rules of the House of Representatives, R. X (2025).