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NetChoice
Defending Free Speech and Free Enterprise Online

Congress Must Reject European Legislative Imports Threatening our Jobs and Free Speech

Comment for the Record

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House Committee on the Judiciary

Chairman Jordan, Ranking Member Raskin, and Members of the House Judiciary Committee:

On behalf of NetChoice, a trade association working to make the Internet safe for free enterprise and free expression, we write to raise the alarm regarding multiple European copycat legislative models that are being considered by this Congress. At odds with the goals of this committee and the work of the Trump administration are multiple bills that, borrowing the censorious and central planning mindset of Europe, would undermine America's free market economy and expand our government's purview over speech. These ideas are bad policy in Europe, but in the United States would strike at our most fundamental rights to expression and private property. NetChoice strongly supports the committee's work of educating other lawmakers on the potential harm of European abuses against American firms, and the dangers associated with passing identical legislation here at home.

American Consumer Welfare or European Rent Seeking?

American antitrust and competition law are built on the sturdy foundation of consumer welfare. If it's good for the consumer then, by and large, it should not be the target of antitrust enforcement. That's how you get an explosion of accessibility, lower prices, and constrain government power to clear and economically coherent metrics when enforcing the law. It ensures that antitrust law cannot be weaponized by mediocre competitors looking for a handout, or a government-manufactured leg up on their competition.

While European antitrust proposals are not as popular in Congress today as during the Biden administration and the Khan FTC chairmanship, there are still lingering ideas that still need to be sent back across the Atlantic. The American Innovation and Choice Online Act (AICOA) and the App Store

Freedom Act (formerly known as the Open App Markets Act) both seek to undermine the consumer welfare standard. Both bills, in their own way, would give the government wide-ranging authority to define and regulate online markets while exploding popular digital services like two-day shipping, useful map features, and app store safety.

Both AICOA and the App Store Freedom Act have European-socialist antecedents. AICOA is largely a copy of the Digital Markets Act, which attempts to preference European firms over American innovators and has been strongly and consistently opposed by the Trump administration. The App Store Freedom Act is a reintroduction of Lina Khan's Open App Markets Act that itself is a copy of Europe's app store regulations–found within the DMA. The app store mandates have caused chaos in Europe and would essentially force app stores to carry pornography, apps developed by untrustworthy sources, and undermine parental control tools.

Who is asking for these proposals? Ask that question and you quickly arrive at whether these proposals are a reflection of the American or European antitrust ethos. With AICOA and the App Store Freedom Act, both bills respond directly to grievances held by less popular competitors. The bills don't bring relief to consumers but amount to corporate welfare for companies not willing to compete for the attention and business of Americans. American consumers choosing how to spend their own hard-earned money is not a policy failure, it's how the free market is supposed to work.

Free Speech Violations

Of significant concern are the numerous proposals before different House and Senate committees that would undermine the constitutional right to free speech. While this is not an exhaustive list, it is designed to present the committee with the scope of the problem. Bills like the Kids Online Safety Act, the App Store Accountability Act, the Kids Off Social Media Act, Sammy's Law, and continued efforts to sunset or repeal Section 230 substantially weaken every American's ability to freely express themselves without government interference.

NetChoice has opposed these efforts too many times to count, particularly at the state level, where hundreds more ill-conceived ideas have percolated for years. They are often well-intentioned, but that does not make them any more dangerous. A unifying theme is that politicians regard American speech as inherently dangerous, and that the government can save its citizens from their own bad ideas and hazardous beliefs. While such logic may find credence in the European Union, theocratic regimes in the

Middle East, or Communist China, it is anathema here in this country. In the United States, the First Amendment protects us from the government's bad ideas.

As such, bills that would ban lawful content, restrict citizens' access to open platforms of inquiry and expression, or force companies to become censors of the state, are all wildly unconstitutional, and should be passionately fought by every member of this body. The politics of these fights may sometimes be complicated, but those complications do not override the oaths sworn by every representative and each senator upon taking office.

Conclusion

NetChoice applauds the committee's commitment to building out the extensive record of European free speech attacks and abuses of American technology firms. The ultimate irony would be to passionately defend ourselves from attacks abroad but invite those same attacks domestically. We ask that every proposal that can be traced back to European anti-speech and anti-market legislation be defeated. The U.S. Congress should be a place where free markets and free expression are uplifted and strengthened. NetChoice stands ready to support such an effort.

Sincerely,

Zachary Lilly
Director of Government Affairs
NetChoice

NetChoice is a trade association that works to make the internet safe for free enterprise and free expression.