

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States  
House of Representatives

COMMITTEE ON THE JUDICIARY

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August 15, 2024

Mr. Thierry Breton  
Commissioner for Internal Markets  
European Commission  
Rue de la Loi / Wetstraat 200  
1049 Brussels, Belgium

Dear Mr. Breton:

The Committee on the Judiciary and the Select Subcommittee on the Weaponization of the Federal Government of the U.S. House of Representatives are conducting oversight of how and to what extent the executive branch of the U.S. government has coerced or colluded with companies and other intermediaries to censor lawful speech.<sup>1</sup> As a part of our oversight, the Select Subcommittee has received testimony about how officials from other governments, including you and other officials in the European Union (EU), have sought to censor speech—including political speech—online.<sup>2</sup> In light of your recent threats of reprisal toward X Corp., an American company, for facilitating political discourse in the United States, we write to demand that you stop any attempt to intimidate individuals or entities engaged in political speech in the United States and that you take no action to otherwise interfere in the American democratic process.

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<sup>1</sup> See Ryan Tracy, *Facebook Bowed to White House Pressure, Removed Covid Posts*, WALL ST. J. (July 28, 2023).

<sup>2</sup> 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) (“Across the world right now, governments, in the name of the good, are considering or adopting measures like we have in Canada. In Dublin, they’re about to enact a draconian hate-crime bill that poses a dire threat to free speech. In Paris, President Emanuel Macron has called for censoring online speech. **In Brussels, the EU’s Internal Market Commissioner [Thierry Breton] is calling for a crackdown on ‘illegal content.’** In Brasilia, they’re fighting ‘fake news’ and ‘disinformation’ by clamping down on legitimate online speech. To say nothing of Russia and China and Iran. America is so exceptional—indispensable really. Please do not succumb to the same illiberal, the same authoritarianism. Please keep fighting for what you know is right. Canada is watching. *The whole world is watching.*”) (bolded emphasis added; italicized emphasis in original); see also 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 ATTACK ON FREE SPEECH ABROAD AND THE BIDEN ADMINISTRATION’S SILENCE: THE CASE OF BRAZIL* (Comm. Print Apr. 17, 2024); 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 ATTACK ON FREE SPEECH ABROAD AND THE BIDEN ADMINISTRATION’S SILENCE: THE CASE OF BRAZIL, PART II* (Comm. Print May 7, 2024).

In the United States, government censorship of speech is unacceptable and political speech, in particular, sits at the very core of the First Amendment to the U.S. Constitution.<sup>3</sup> Here, political candidates have a right to broadcast their message to voters, and voters have a right to hear from the people running to represent them. Here, government bureaucrats may not intimidate, coerce, or threaten individuals engaged in free speech. Free expression in the marketplace of ideas is a cherished and fundamental American value that sets the United States apart as the world's foremost democracy.

Regrettably, the EU does not share the United States's commitment to free expression in the digital age. The EU's Digital Services Act (DSA), passed in 2022, is Europe's comprehensive internet regulation regime.<sup>4</sup> It requires so-called "Very Large Online Platforms" operating in the EU, such as X, Facebook, and YouTube, to censor broad and vague categories of online speech, including alleged "misinformation," no matter where the speech originated.<sup>5</sup> These provisions, if adopted in America, would clearly violate the First Amendment by prohibiting individuals' right to free expression.<sup>6</sup> The EU law is also bad policy—by manipulating the marketplace of ideas, government coercion, not merit, shapes public debate and the discourse of ideas.<sup>7</sup> In recent days, you have used these provisions to threaten X with adverse action if the company does not censor constitutionally protected speech originating in the United States.<sup>8</sup>

On August 12, X broadcasted a highly publicized conversation between its owner, Elon Musk, and President Donald Trump, the current Republican nominee in the upcoming election.<sup>9</sup> Ahead of this interview, you made veiled threats towards Mr. Musk, warning that you "[would] not hesitate" to weaponize your DSA enforcement "toolbox" if you deemed the content of the interview to be "harmful."<sup>10</sup> You wrote to Mr. Musk that even though the interview would take place in United States, you would be "highly vigilant" for "potential spillovers in the EU."<sup>11</sup> You

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<sup>3</sup> See U.S. CONST., amend. I; *Mills v. State of Ala.*, 384 U.S. 214, 218-219 (1966). ("There is practically universal agreement that a major purpose of [the First] Amendment was to protect the free discussion of governmental affairs. This of course includes discussions of candidates . . . and all such matters relating to political processes.").

<sup>4</sup> Ioanna Tourkochoriti, *The Digital Services Act and the EU as the Global Regulator of the Internet*, 24 CHI. J. INT'L L. 129 (2023).

<sup>5</sup> *Id.*; see also Jacob Mchangama, *Don't be too tempted by Europe's plan to fix social media*, L.A. TIMES (Dec. 23, 2022) ("The Digital Services Act will essentially oblige Big Tech to act as a privatized censor on behalf of governments – censors who will enjoy wide discretion under vague and subjective standards.").

<sup>6</sup> J.D. Tuccille, *E.U.'s Digital Services Act Threatens Americans' Free Speech*, REASON (June 5, 2023) (describing how legislative changes in the United States similar to the DSA "would run afoul of the First Amendment").

<sup>7</sup> 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 CENSORSHIP INDUSTRIAL COMPLEX: HOW TOP BIDEN WHITE HOUSE OFFICIALS COERCED BIG TECH TO CENSOR AMERICANS, TRUE INFORMATION, AND CRITICS OF THE BIDEN ADMINISTRATION* (Comm. Print May 1, 2024).

<sup>8</sup> Thierry Breton (@ThierryBreton), X (Aug. 12, 2024, 12:25 PM), <https://x.com/ThierryBreton/status/1823033048109367549>.

<sup>9</sup> Donald J. Trump (@realDonaldTrump), X (Aug. 12, 2024, 7:47 PM), <https://x.com/realdonaldtrump/status/1823144316014911820>.

<sup>10</sup> Thierry Breton (@ThierryBreton), X (Aug. 12, 2024, 12:25 PM), <https://x.com/ThierryBreton/status/1823033048109367549>.

<sup>11</sup> *Id.*

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also approvingly referenced the United Kingdom's recent efforts to arrest citizens for online speech disfavored by government authorities.<sup>12</sup>

As the U.S. election approaches, American voters have the constitutional right to hear from nominees for public office—including President Trump. In the United States, political candidates have the right to express their views and journalists have the right to report and question candidates for public office.<sup>13</sup> Your recent threats to Mr. Musk and X Corp. for facilitating political discourse in the United States are antithetical to fundamental American values and an inappropriate intrusion in the American democratic process. These actions must stop immediately.

To ensure that the American democratic process is not corrupted by your unilateral regulatory conduct, we request a briefing about (1) the European Commission's efforts to intimidate, threaten, or coerce Elon Musk or X Corp. in connection with Mr. Musk's interview of President Donald Trump; (2) efforts by the European Commission to use EU law to force companies to censor American speech; and (3) any communications the European Commission has had with the Biden-Harris Administration to use EU law as a way to bypass the First Amendment.

We respectfully ask that your staff arrange the briefing as soon as possible but no later than 5:00 p.m. on August 29, 2024. 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.<sup>14</sup> In addition, House Resolution 12 authorized the Committee's Select Subcommittee on the Weaponization of the Federal Government to investigate "issues related to the violation of the civil liberties of citizens of the United States."<sup>15</sup> If you have any questions about this matter, please contact Committee staff at (202) 225-6906.

Sincerely,



Jim Jordan  
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

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<sup>12</sup> *Id.*

<sup>13</sup> See *Fighting for a Free Press: Protecting Journalists and their Sources, Hearing of the Subcomm. on the Const. and Limited Gov't. of the H. Comm. on the Judiciary*, 118th Cong. (Apr. 11, 2024).

<sup>14</sup> Rules of the House of Representatives R. X (2023).

<sup>15</sup> H. Res. 12 § 1(b)(1).