



Office of Commissioner
Mark R. Meador

UNITED STATES OF AMERICA
Federal Trade Commission
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International Cooperation and Convergence in the Digital Economy

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I. Introduction and Shared Goals

Good morning and thank you for the opportunity to be here with you all.

Today I want to talk about international cooperation and convergence, and the important policy issues and challenges they raise for agencies involved in competition and consumer protection enforcement. The digital economy has made economies across nations increasingly interconnected, and the challenges we face increasingly global. My central message today is that cooperation remains essential—perhaps more so than ever, but emerging ex ante regulatory models and weakening procedural safeguards undermine future prospects for convergence and collaboration.

The United States has long demonstrated leadership in championing inter-agency cooperation and convergence on enforcement principles and processes globally. For decades, the Federal Trade Commission and the Department of Justice's Antitrust Division have worked with partners across the globe to strengthen, and in many cases help establish, effective competition regimes. Institutions like the OECD, where the United States continue to play a leading role on the Competition Committee, and the International Competition Network were founded with active U.S. leadership, reflecting our commitment to building shared principles, sound enforcement practices, and common frameworks for competition policy.

The FTC has likewise been a founding member of the International Consumer Protection Enforcement Network which remains a critical forum for coordinating cross-border fraud prevention and consumer protection efforts among its 80 member jurisdictions.

And there is much to appreciate in our ongoing collaboration, including with many of my European colleagues who are gathered here today. Case-level cooperation remains robust. In fiscal year 2025, the FTC worked on 30 competition matters with 16 jurisdictions and obtained information from abroad in 41 consumer protection matters, and those numbers remain strong in 2026.¹ These partnerships help agencies resolve matters more effectively, and they help businesses by promoting consistency across markets, leading to real benefits for consumers and workers.

¹ FED. TRADE COMM'N, ANNUAL PERFORMANCE REPORT FOR FISCAL YEAR 2025 AND ANNUAL PERFORMANCE PLAN FOR FISCAL YEARS 2026 TO 2027, at 10, 19 (2026).

We also share significant common ground on the digital economy. Agencies around the world are grappling with similar questions about platform behavior, market power, and data use. We share concerns about practices that entrench platform dominance and about protecting consumers, particularly children, from deceptive and unsafe practices online.

There is also increased recognition that the speed of technological change presents its own unique challenges and can amplify harm. Network effects and durable data advantages compound quickly, and the longer such conduct persists, the harder it is to restore competition.

If the early years of the 21st century taught us anything, it is that the fast-paced and dynamic nature of digital markets counsel in favor of more rigorous enforcement, as urgency in markets should likewise translate into urgency in enforcement.

But alignment in diagnosing these challenges is only a starting point. Cooperation and convergence requires alignment not only on what the problems are, but on how we address them: how enforcement actions are conducted, how companies are treated as those actions unfold, and whether interventions are tailored to identifiable problems with measurable consumer harm. It also requires clarity and predictability in the substantive rules that enforcers adopt. Rules should be stated plainly and applied consistently, especially in rapidly evolving sectors.

Cooperation and convergence do not require complete consensus on every issue, and countries will always pursue their own policy priorities and retain the prerogative of self-governance. But even where legal frameworks differ, enforcement decisions should be evenhanded and reflect careful analysis. Businesses may face different rules across the globe, but they should be able to understand the standards being applied and rely on their consistent, fair administration.

On these points, I unfortunately see growing divergence in implementation and enforcement that, in my view, risks undermining the progress we have made together. When processes become unclear, or the obligations imposed diverge sharply across jurisdictions, convergence becomes harder to advance. I want to speak candidly about two concerns, not to criticize, but to underscore the importance of getting our shared framework right and working towards greater collaboration and convergence.

The first concern I plan to discuss is the accelerating shift toward broad ex ante regulation, which imposes obligations upfront, often without specific evidence of harm. The second is increased concerns about procedural fairness and discrimination in how investigations are conducted.

II. The U.S. Enforcement Approach

Before addressing alternative enforcement philosophies, it is helpful to start by discussing the U.S. experience, which has taken a case-by-case approach that has served competition and consumers well for more than a century.

Our approach is rooted in the Anglo-American common-law tradition that shaped the antitrust laws. That tradition sets broad principles, including prohibitions on practices that restrain trade or unlawfully entrench dominance, but applies them through individual cases, based on evidence

specific to the market, conduct, and trading relationships at issue. The U.S. approach therefore places a premium on ordinary-course evidence and fact-driven analysis of business conduct.

That approach allows competition and consumer protection law to adapt as markets change. The same foundational principles can be applied across industries with very different characteristics, and to forms of competition lawmakers could not have anticipated when the antitrust and consumer protection statutes were enacted. Rather than prescribing in advance how competition should occur, or specifying every form deception may take, the law lets enforcers examine how firms actually compete and how conduct affects the competitive process, trading partners, and consumers in practice.

Case-by-case enforcement also connects the conduct found unlawful to the remedy imposed. Courts, often informed by agencies with deep experience designing remedies, can tailor relief to the problem the evidence establishes. That proportionality matters in dynamic markets. It also encourages economic growth and innovation by promoting trust in market interactions and taking evidence-based approaches to enforcement actions.

By avoiding overly prescriptive rules, we leave room for firms to experiment with new products and business models. Businesses may not always know how a case will resolve at the onset, but they operate within durable principles focused on how conduct affects consumers and the knowledge that the analysis will be driven primarily by the concrete concerns of their trading partners and impact on the marketplace rather than the abstract policy preferences of regulators.

Certainty and predictability, therefore, does not necessarily require detailed rules dictating how every emerging technology or commercial practice must function at the onset. It can instead come from confidence that established principles will be applied evenhandedly and consistently to the facts and evidence. That institutional stability underpins the ability of firms to contract and plan over the long term.

This approach does not mean every case moves as quickly as we would like. I share the concern that antitrust cases, particularly monopolization matters, often take too long. But the answer is not to abandon a case-by-case, evidence-based model. It is to address timing directly, by managing litigation more efficiently and securing effective relief sooner. The FTC has brought cases on accelerated timelines, and, in line with recent remarks from Chairman Ferguson, the agencies are actively exploring measures like case management orders to speed up the timeline pursuant to which courts adjudicate conduct cases.²

At its core, the U.S. approach reflects an important institutional principle: intervention should ordinarily follow an examination of the specific facts at issue and should be proportionate to the harm the evidence demonstrates, without deterring lawful business activity more broadly than necessary.

² Khushita Vasant, *FTC's Ferguson Says US Courts Ought to Make Rules to Speed Up Antitrust Lawsuits*, MLEX (June 26, 2026), <https://www.mlex.com/mlex/dealrisk/articles/2494214>.

III. Concerns About the Trend Towards Ex Ante Regulation of Competition

That brings me to what appears to be an increasing reliance on ex ante regulation for competition problems in digital markets outside the United States.

Various jurisdictions have pursued a diverse set of regimes on this front. The EU's Digital Markets Act imposes, once a company and core platform service are designated, an ongoing set of obligations and prohibitions that the Commission itself describes as “do’s” and “don’ts” for gatekeepers.³ The United Kingdom has adopted a distinct, albeit similar, model with its Digital Markets, Competition and Consumers Act, under which the CMA may designate firms with strategic market status and then impose conduct requirements. Other jurisdictions have taken still different paths, including regimes directed toward particular products or particular layers of the technology stack.

Those differences create both challenges and opportunities for dialogue. It is important to study and compare these experiences, because doing so can help us identify best practices that address harmful conduct, including, for U.S. enforcers, potential lessons that can inform our ex post enforcement efforts.

But these regimes also share features that raise significant questions. Do extensive ex ante obligations provide greater clarity when applied to rapidly evolving technologies? Have they produced more timely or effective relief? Have interventions stayed tied to demonstrated harms? Based on the evidence available, I believe the answer to each of these questions is no.

United States Ambassador to the European Union Andy Puzder has described the consequences of this difference in enforcement philosophy in a useful way. In the United States, the starting question for a business is: What am I not allowed to do? Under a more prescriptive model, like that presented by the DMA, the question is instead: What am I allowed to do?

The ex ante model therefore tends toward uniform obligations and provides less flexibility for business when seeking to respond to shifts in consumer preferences and opportunities for innovation. It identifies firms in advance and restricts them without first establishing that the particular conduct is harming competition in the circumstances in which it occurs.

The danger of such an approach is overcorrection and regulation that does not necessarily prevent likely consumer harm. Conduct that is harmful in one market may be beneficial, or simply benign, in another. Product integration can foreclose rivals in one case, but consumers may value an integrated product in another. Limits on interoperability can reinforce dominance, or protect privacy and security. Default settings can impede switching, or make a product easier to use.

Ex ante regulation is often defended as offering more certainty. In practice, that is not necessarily so. Companies must guess how regulators will interpret broadly framed obligations, redesign products, and then learn whether the changes satisfy the regulator, with the threat of substantial

³ *About the Digital Markets Act*, EUR. COMM’N, https://digital-markets-act.ec.europa.eu/about-dma_en (last visited Oct. 6, 2026).

finances looming if they choose incorrectly. When the meaning of compliance develops through ongoing interpretation, purportedly well-defined obligations begin to resemble open-ended standards. Before long, the term, “prediction market” may take on an entirely new meaning.

The experience of the DMA to date illustrates the difficulty. Its obligations reach interoperability, data use, self-preferencing, default settings, app distribution, and business-user relationships across very different technologies and business models. The Commission may impose fines of up to 10 percent of worldwide annual turnover, and up to 20 percent for repeated infringements.⁴

The combination of ill-defined obligations and open-ended liability not obviously tied to likely harm can have negative consequences for consumers. We have already seen companies delay new technology in Europe because of this uncertainty. For example, Apple announced in 2024 that it would delay several features in the EU, including Apple Intelligence and iPhone Mirroring, citing uncertainty about the DMA’s interoperability requirements.⁵

There is a related concern about evenhandedness. Six of the seven designated gatekeepers are American companies, and 22 of the 23 designated core platform services are provided by those six.⁶ Whatever the explanation, the practical consequence is that the overwhelming share of the obligations imposed by the DMA falls on American firms. Regardless of intent, that makes neutrality in the design and implementation of the DMA’s requirements especially important.

The United States, the European Union, and competition authorities around the world have spent decades building relationships grounded in predictable rules and confidence that enforcement turns on conduct rather than country of origin. When a regime falls overwhelmingly on firms from a particular trading partner, extra care needs to be taken to ensure that designations and enforcement decisions are grounded in identifiable harms and applied through procedures that give affected companies a meaningful opportunity to understand and respond. Otherwise, the potential that foreign firms are being treated differently can erode the trust on which international cooperation depends.

IV. Concerns About Regulatory Overreach through Leveraging of Consumer Protection Authority

The risks of an ex ante approach are also increasingly, and in many ways more problematically, apparent on the consumer protection front. In particular, I want to turn to the topic of content moderation and the EU’s Digital Services Act.

⁴ *Id.*

⁵ Omar Gallaga, *EU Countries Won’t Get Apple Intelligence and Other New iOS Features This Year*, CNET (June 21, 2024), <https://www.cnet.com/tech/services-and-software/eu-countries-wont-get-apple-intelligence-and-other-new-ios-features-this-year/>.

⁶ *Gatekeepers Portal*, EUR. COMM’N, https://digital-markets-act.ec.europa.eu/gatekeepers-portal_en (last visited Oct. 6, 2026).

At a higher level, we share important goals when it comes to consumer protection online. Child safety and data protection are legitimate issues that deserve thoughtful regulation, and the question is how best to address them.

In this regard, the U.S. approach targets specific unfair or deceptive acts or practices. It requires concrete proof of harm and identification of the problematic conduct, which gives us proportionality and predictability. Our work under the TAKE IT DOWN Act and in cases like Aylo/Pornhub shows a focus on discrete harms, not vague, general mandates.⁷ Accordingly, we are exploring platform liability for deceptive conduct like scam ads, but we are not going broadly into all content or making platforms liable for every “risk.”

Our system also relies on more than federal enforcers. State enforcement and private action show the breadth and effectiveness of targeted tools. Forty-seven states and the District of Columbia reached a settlement with Meta that secured meaningful reforms and relief for affected individuals.⁸

The DSA presents a much different, and less targeted, approach. Its regulatory and rulemaking authority is expansive, and its scope reaches well beyond traditional content moderation. Obligations framed around broad, loosely defined “risks” leave companies unsure what compliance requires, and unclear guidance can have a chilling effect.

As outlined in a recent report released by the U.S. House of Representatives Judiciary Committee, the DSA presents a number of risks, including to civic discourse, involving censorship of lawful speech and basic principles of procedural fairness and due process in the regulation of American companies.⁹

For example, the DSA’s “systemic risk” provisions direct platforms to assess and mitigate risks from “disinformation” and “hate speech,” and the DSA’s own recitals extend that to “information which is not illegal.”¹⁰ The report also describes supposedly voluntary regulatory processes that American companies understood to be effectively mandatory, with the Commission retaining substantial control over the agenda and expected outcomes of working group meetings.¹¹

These concerns extend to enforcement of the DSA. As described in the report, according to X, the Commission gave its lawyers only five days to review more than 3,800 confidential

⁷ Press Release, Fed. Trade Comm’n, FTC Begins Enforcing the TAKE IT DOWN Act (May 19, 2026); Press Release, Fed. Trade Comm’n, FTC Takes Action Against Operators of Pornhub and other Pornographic Sites for Deceiving Users About Efforts to Crack Down on Child Sexual Abuse Material and Nonconsensual Sexual Content (Sep. 3, 2025).

⁸ Cecilia Kang & Eli Tan, *Meta to Pay Up to \$17.1 Billion in Landmark Settlement over Social Media Addiction Claims*, N.Y. TIMES (Aug. 26, 2026), https://www.nytimes.com/2026/08/26/technology/meta-settlement-social-media-addiction-lawsuit.html?eafs_enabled=false.

⁹ STAFF OF THE H. COMM. ON THE JUDICIARY, THE FOREIGN CENSORSHIP THREAT, PART II: EUROPE’S DECADE-LONG CAMPAIGN TO CENSOR THE GLOBAL INTERNET AND HOW IT HARMS AMERICAN SPEECH IN THE UNITED STATES (2026).

¹⁰ *Id.* at 42.

¹¹ *Id.* at 6.

documents supporting the allegations, in a monitored room with malfunctioning computers where Commission staff could inspect counsel's notes upon exit.¹² X also alleges that the Commission relied in part on informal meetings rather than sworn testimony and that the Commission threatened to ban X from the EU entirely unless it met its demands.¹³

The DSA has therefore drawn, rightfully in my view, significant criticism, but it is not alone. Other content moderation laws, including the UK's Online Safety Act, have been criticized on similar grounds. I raise these concerns as a partner who shares the goal of online safety and wants to develop the right approach.

V. Procedural Fairness as a Foundation for Cooperation

Let me turn finally to the issue of procedural fairness, which is the foundation of effective enforcement and meaningful institutional cooperation. These concerns are not limited to the DMA, DSA, or other ex ante regimes. They apply to all enforcement efforts.

Due process should be a central pillar of any enforcement regime. Investigations must respect confidentiality, both to protect the firms involved and to preserve the integrity of the proceeding. Companies also need clear notice of the allegations against them, clear requests, defined deadlines, and reasonable time to respond. Overlapping or repeated demands can prolong investigations unnecessarily. These are not abstractions. When requests are unclear or timelines shift, companies cannot respond meaningfully, and agencies cannot trust the record they build. Companies need a real opportunity to engage with enforcers, rather than submitting information into a "black box" and hoping for the best.

When process is used as a weapon, it undermines the responsibilities of enforcers and erodes public trust. And procedures cannot be one-sided, in law or in practice, or turn on a company's country of origin.

This matters for cooperation, which rests on mutual respect and trust among agencies. A lack of due process, or singling out of companies based on their nationality, undermines that trust. A precondition for cooperation is confidence in the information we receive and an understanding that investigations are conducted in an evenhanded manner and will not unfairly target U.S. companies.

For that reason, the United States cannot support processes that undermine fairness or introduce bias. Approaches like these weaken collaboration and strain longstanding relationships. Again, I raise this as a partner who values those relationships and wants to them to succeed.

VI. A Path Forward: Principles for Alignment and Cooperation

With that in mind, I will make a few final comments on how I view the path forward.

¹² *Id.* at 132.

¹³ *Id.*

Alignment on the diagnosis of the concerns platforms raise, and on identifying problematic practices, is a first step, but only a first step.

Further convergence efforts should emphasize:

- The benefits of case-by-case analysis and targeted enforcement actions
- More timely investigations and adjudicative processes
- Proportional, tailored remedies
- A commitment to nondiscrimination
- Procedural fairness and due process, and
- Approaches that target consumer harm while minimizing burdens on legitimate businesses

An even more significant concern arises when regulation is used to target companies based on their country of origin, whether intentionally or not, and when rules have the practical effect of reaching beyond a jurisdiction's own borders. In that situation, the need for consistent rules for business becomes particularly acute. Moreover, even setting aside a particular jurisdiction's chosen regulatory regime, a commitment to procedural fairness and due process is a necessary prerequisite to cooperation and convergence.

To emphasize what I said earlier, the goal is not complete uniformity. Jurisdictions can differ in their national priorities and even in substantive rules. Differences in enforcement approach, while manifest, are therefore not necessarily the issue themselves. Rather, our aim should be to collaborate effectively while grounding enforcement in mutual respect for sovereignty and principles of comity, with as much convergence around shared principles as possible as our goal.

The United States remains committed to strong cooperation and evidence-based approaches. I urge our partners to reinforce their own commitments to procedural fairness and to finding more targeted solutions. And I welcome the opportunity for more dialogue on this topic.

Thank you.