



# Competitiveness and National Security Implications of House Bills

*At a time when U.S. technology leadership is under threat from competitors abroad, a series of bills introduced in the House would take a sledgehammer to America's most successful, dynamic companies – fundamentally undermining U.S. tech competitiveness and giving an unearned advantage to foreign rivals. These proposals conflict with critical R&D priorities, facilitate foreign access to sensitive U.S. data and IP, and open the door to a future where the U.S. is no longer the global technology leader.*

## Executive Summary

Radical House legislation<sup>1</sup> designed to put a thumb on the scale against leading U.S. technology companies will put U.S. international competitiveness at risk.

- These sweeping new sectoral regulations would disfavor U.S. businesses, forcing them to grant advantages to foreign products and services, while foreign platforms won't be obligated to reciprocate for their U.S. counterparts.
- These bills will facilitate foreign access to sensitive and personal information about American citizens, as well as sensitive business data, undermining the integrity and security of U.S.-led tech ecosystems.
- The bills will enable state-owned foreign companies to acquire U.S. technologies and IP, circumventing years of comprehensive trade and regulatory efforts.
- Damaging U.S. cloud and consumer device businesses and reducing R&D investment will mean lower U.S. demand for semiconductors, making it harder to reshore manufacturing to the U.S. and create U.S. jobs.
- In eroding U.S. tech leadership, these proposals inadvertently align with the techno-industrial policy approaches currently being pursued by international rivals.

## Displacement of U.S. Tech Leadership by Foreign Competitors

The House bills introduced by Rep. Cicilline and others will kneecap U.S. tech leadership at a pivotal moment in the global technology race. By targeting a small group of U.S. innovators, the proposed sectoral regulations are likely to displace U.S.-led ecosystems in critical segments including cloud services, app stores, search engines, mobile devices, and IoT – enabling rivals abroad to claim the

<sup>1</sup> The bills and lead sponsors are: H.R. 3816, the "American Choice and Innovation Online Act" (Cicilline); H.R. 3825, "Ending Platform Monopolies Act" (Jayapal); H.R. 3826, "Platform Competition and Opportunity Act of 2021" (Jefferies); and H.R. 3849, "Augmenting Compatibility and Competition by Enabling Service Switching Act of 2021/ACCESS Act of 2021" (Scanlon).



advantage in these sectors. This would be a self-defeating industrial policy stance, given the increasingly assertive focus on techno-industrial policy evident in China and other geopolitical rivals.

The bills would also directly contradict the signal Congress just sent about its commitment to global competitiveness with the [U.S. Innovation and Competition Act](#). In June 2021, the Senate passed this legislation with the goal of bolstering U.S. competitiveness with China in ten critical emerging sectors, including AI, high performance computing, semiconductor chips, quantum, robotics, cybersecurity, immersive technology, and data storage and management.

However, the House bills aim to break up or hobble the very firms making the greatest commitments to R&D investment in these critical emerging sectors. Instead of strengthening U.S. tech leadership in the face of increasing global challenges, these bills would damage U.S. cloud and consumer device businesses, reducing both demand and R&D investment in critical sectors. In the longer term, these barriers on U.S. tech growth and innovation would result in a world where the U.S. excels at producing new apps, but U.S. app developers are primarily providing their services on foreign-run platforms, networks, servers, and ecosystems.

### Access to U.S. Data and Information

These bills will facilitate foreign access to Americans' data and force U.S. companies to give foreign rivals preferential access to U.S. infrastructure, including through:

- overbroad interoperability and data portability mandates that risk (a) the misuse of user data and (b) the transfer of user data to foreign entities, including Chinese companies (H.R. 3849; Scanlon)
- supposed “anti-discrimination” measures that will require U.S. companies to empower foreign companies (including Chinese competitors) that are seeking to:
  - “access or interoperate with” US-owned “operating system, hardware and software features”
  - secure a higher ranking position or otherwise gain an advantageous position within U.S. ecosystems, including through app stores, marketplaces, search engines, and other interfaces (H.R. 3816; Cicilline)

In fact, under the interoperability measures in both the Scanlon and Cicilline bills, Russian and Chinese companies like Yandex and Baidu with a degree of state ownership would be able to invoke an entitlement to interoperate with U.S. platforms. In so doing, they would gain not just increased market share, but also increased levels of access to information about American citizens and businesses.

### Subsidizing Foreign Competition through Non-Reciprocal Treatment of Foreign Companies

Under the so-called “American Innovation and Choice Online Act” (H.R. 3816; Cicilline), U.S. platforms may be forced to favor foreign products and services, while foreign platforms will be under no obligation to reciprocate. Foreign competitors will be free to build integrated, easy-to-use



products, while U.S. companies will be prohibited from doing the same. Finally, U.S. companies will face restrictions, delays, and prohibitions on bringing new technologies to market, while foreign rivals would face no such obstacle.

These non-reciprocal requirements will immediately make U.S. companies less competitive with existing and emerging competitors abroad. In fact, many key international competitors are building their own integrated digital services, some of which have been copied directly from U.S. companies – but these foreign companies will be permitted to innovate and grow while U.S. companies are hobbled.

This comes at a time when China, Europe, and other regions are increasingly singling out U.S. companies for discriminatory treatment and requiring the transfer of U.S. technology and IP as a condition of market access. In short, other nations are actively undermining U.S. competitiveness, and the *House bills embrace and compound that disadvantage*.

This same dynamic is at play in each of the other bills.

- The Platform Competition and Opportunity Act (H.R. 3826; Jeffries) would better position foreign companies to acquire innovative U.S. companies, enabling foreign countries to own key technologies and IP in sectors where the U.S. maintains an advantage. Foreign companies would benefit from reduced competition and prices when bidding on U.S. technologies.
- The Ending Platform Monopolies Act (H.R. 3825; Jayapal) would bolster the competitive position of foreign companies – which would be able to benefit from scale and integration advantages that are no longer available to U.S. platforms. Through forced divestiture, this Act would also make it simpler for foreign companies to acquire divested assets and lines of business, again including key U.S. technologies and IP. Indeed, other covered U.S. companies would likely not be able to acquire these divested assets, significantly lowering the price that foreign companies would need to pay to acquire them.
- The ACCESS Act (H.R. 3849; Scanlon) increases the risk that U.S. companies will be forced to share sensitive user data and business data with foreign companies, including through overbroad interoperability and portability mandates.

### Contrast with Foreign Techno-Industrial Policy

The current U.S. model of innovation and technology leadership has worked extremely well, and has enabled strong public and private sector investment in R&D as well as current and next-generation technologies. Congress has taken an important step to strengthen this model through the bipartisan USICA legislation.

Other world leaders are taking a very different approach to industrial policy in the tech space.

- *China* has built a State-centered, closed digital economy and is exporting a techno-nationalist and authoritarian model globally, with implications for broader U.S. national security interests and the competitiveness of U.S. industry. China protects its indigenous and rapidly expanding



tech industry by blocking U.S. apps and cloud services; pays massive subsidies and provides R&D support to its domestic tech industry; and promotes its tech firms overseas through foreign aid and regulatory assistance. China's approach is creating enough challenges for U.S. tech leadership – the U.S. certainly should not exacerbate the problem by passing legislation that favors foreign tech companies at the expense of domestic providers and American jobs.

- *The European Union* is rapidly advancing an agenda of “technological sovereignty” that disproportionately punishes and restricts American firms. EU officials have stated that the purpose of this digital sovereignty initiative is to create a “new empire” of European industrial powerhouses to resist American rivals, including through restrictions on U.S. cloud and platform providers.

The same week that the House bills were introduced to undermine U.S. technology leaders, French President Emmanuel Macron ramped up state efforts to position EU industrial champions – including Airbus, SAP, BMW, and Axel Springer – at the heart of EU technological growth, [insisting](#) that “there is no sovereignty without local champions.” According to a (subscription) Politico [article](#), ‘Macron seeks to lead push for European tech expansion’, the French President “is gathering a cast of startup CEOs, legacy company heavyweights and investors at the Elysée Palace. ‘We must admit that we do not yet have technology giants in Europe, compared to the U.S. and China. We must be able to go further and that is Scale-Up Europe’s objective,’ an official from the Elysée Palace told reporters Monday.”

Broad sectoral regulations aimed at hobbling and dismantling leading U.S. digital services dovetail with this unfortunate zero-sum view of the trans-Atlantic relationship, even when the Administration is demanding fair access to trading partners’ domestic markets.