

March 6, 2025

The Honorable Adrian Smith  
Chair  
Subcommittee on Trade  
Committee on Ways and Means  
Washington, District of Columbia 20515

The Honorable Linda Sánchez  
Ranking Member  
Subcommittee on Trade  
Committee on Ways and Means  
Washington, District of Columbia 20515

The Honorable Jason Smith  
Chair  
Committee on Ways and Means  
Washington, District of Columbia 20515

The Honorable Richard Neal  
Ranking Member  
Committee on Ways and Means  
Washington, District of Columbia 20515

**RE: Subcommittee on Trade Hearing on American Trade Enforcement Priorities**

Dear Chairman Smith, Ranking Member Sánchez, Chairman Smith, and Ranking Member Neal:

Thank you for holding this hearing titled “American Trade Enforcement Priorities.” I applaud your focus on key trade pillars that support small business, keep Americans safe, and protect innovation.

The App Association is a global trade association for small and medium-sized technology companies. Our members are entrepreneurs, innovators, and independent developers within the global app ecosystem that engage with verticals across every industry. We work with and for our members to promote a policy environment that rewards and inspires innovation while providing resources that help them raise capital, create jobs, and continue to build incredible technology. Free digital trade supports App Association members in growing their companies, reaching their business goals, and supporting U.S. economic growth. We need strong digital trade protections to ensure innovators can continue their important work.

The bipartisan work that your committee has historically accomplished in trade policy has led to a strong digital services trade surplus for U.S. enterprises. Your collaborative approach has been instrumental in advancing America's trade interests and fostering economic growth, especially for small businesses. In particular, your strong stance on the importance of the World Trade Organization’s moratorium on e-commerce tariffs provides a critical foundation for digital commerce. The continuation of such bipartisan work is crucial for maintaining our nation's competitive edge in the global marketplace.

However, I must express my concerns regarding the future of digital trade policy. As more countries consider or implement digital services taxes and regulations that mirror the European Union’s (EU’s) Digital Markets Act (DMA), there is a growing need for a robust and forward-

thinking approach to digital trade. These barriers pose significant challenges to American businesses, particularly our innovative tech sector, and could potentially hinder the free flow of data and digital services across borders.

## **Background**

The importance of strong digital trade protections for small businesses cannot be overstated. Internet-enabled trade has empowered millions of U.S. small businesses to sell their goods and services globally, contributing significantly to local economies and job creation. Studies have shown that small businesses engaged in online marketplaces are more likely to export and reach a broader range of international markets compared to their offline counterparts.<sup>1</sup>

Each year, digitally delivered services account for more than 10 percent of all global trade, amounting to \$4.25 trillion annually.<sup>2</sup> Digitally delivered services trade grew 9 percent in 2023, outpacing all other sectors of global trade. The United States exports \$649 billion in digitally delivered services, making it the largest exporter and 50 percent larger than the next largest exporter (the United Kingdom, with \$438 billion).<sup>3</sup> Free digital trade is a win for American businesses and consumers, but small businesses need support in a few key areas to ensure they are able to compete on the global stage.

## **Cross-Border Data Flows and Data Localization**

For app developers whose products are available for download worldwide from the major app stores or the internet, much of their business comes from spontaneous downloads by people who have a need the app fills. If the developer acquires a single user in a country with a data localization requirement, they may need to pay for separate storage and processing of that data in the country, while ensuring that any data pertaining to the single user stays within that country's borders. Requiring this level of data management adds an unnecessary layer of complexity along with increased compliance costs. Congress must continue its support of American small businesses by opposing data localization requirements and supporting cross-border data flows.

Many businesses rely on cross-border data flows, and not just those in technology industries. These entities are often clients and customers of App Association members. Small manufacturers and even retailers need to send data from their customers' location to their warehouses during an online order, and small businesses of all kinds rely on cross-border exchange to reach their customers. Forcing businesses to store data inside the borders of a country where they conduct business but not where they are physically located has enormous overhead costs that disproportionately harm our members.

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<sup>1</sup> <https://ustr.gov/about-us/policy-offices/press-office/blog/2014/january/Benefits-of-internet-enabled-trade-to-small-business>

<sup>2</sup> [https://www.wto.org/english/res\\_e/booksp\\_e/trade\\_outlook24\\_e.pdf](https://www.wto.org/english/res_e/booksp_e/trade_outlook24_e.pdf)

<sup>3</sup> [https://www.wto.org/english/res\\_e/booksp\\_e/trade\\_outlook24\\_e.pdf](https://www.wto.org/english/res_e/booksp_e/trade_outlook24_e.pdf)

## **Digital Trade Tariffs and Taxes**

The United States has the most successful digital export industry in the world. Digital trade tariffs are inherently anti-American. The digital services sector generates \$2.3 billion in revenue annually and supports thousands of U.S. jobs. App Association members and other small businesses need protection from e-commerce tariffs to continue to do business. E-commerce tariffs are trade barriers that give preferential treatment to the narrow set of companies whose digital supply chains stop at national borders. We applaud the U.S. government's contributions to efforts leading to the preservation of the e-commerce tariff moratorium, including their work at the 2024 World Trade Organization Ministerial Conference.

For small businesses that rely on licensing of data or user contributions, digital services taxes (DSTs) could represent a huge portion of their operating expenses. In Canada, for example, the recently finalized DST charges a 3 percent tax on revenues related to digital services and the sale or licensing of user data. Canada's DST could cost U.S. exporters and the U.S. tax base up to \$2.3 billion annually and directly result in the loss of thousands of full-time jobs. DSTs attempt to target large tech companies but will almost certainly sweep in small tech as well. We urge Congress to support the Organisation for Economic Co-operation and Development (OECD)/G20 Inclusive Framework to address this taxation.

## **Intellectual Property and Source Code Protection**

App makers depend on intellectual property (IP) protection for their success. Some governments have proposed or implemented policies that make legal market entry contingent upon the transfer of proprietary source code. For app developers and technology companies, the transfer of source code presents an untenable risk of theft and piracy. The infringement and theft of IP jeopardizes the success of App Association members and hurts the billions of consumers who rely on their app-based products and services. IP violations lead to customer data loss, interruption of service, revenue loss, and reputational damage – each alone is a potential “end-of-life” occurrence for a small app development company. Strong and fair protection of intellectual property for copyrights, patents, trademarks, and trade secrets is essential to their businesses.

## **The Digital Markets Act (DMA) and its Imitators**

The DMA has proven to be detrimental to innovation in the European market. Even the strongest proponents of the law are feeling buyer's remorse. DMA eliminates new product development in the EU,<sup>4</sup> degrades customer experience and small business prospects,<sup>5</sup> and prioritizes

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<sup>4</sup> [https://www.lexology.com/library/detail.aspx?g=1e81431e-add4-4f39-bbe6-14fb6e85b4cc#:~:text=Following%20Apple's%20announcement%20last%20month,Digital%20Markets%20Act%20\(DMA\).](https://www.lexology.com/library/detail.aspx?g=1e81431e-add4-4f39-bbe6-14fb6e85b4cc#:~:text=Following%20Apple's%20announcement%20last%20month,Digital%20Markets%20Act%20(DMA).)

<sup>5</sup> <https://www.mirai.com/blog/dma-implementation-sinks-30-of-clicks-and-bookings-on-google-hotel-ads/>

bureaucrats' preferences over those of consumers.<sup>6</sup> In the United States, competitors have relatively wide latitude to make the products and services that consumers want more than those made by rivals. The net result of this is that small businesses are often able to satisfy consumers' (and their own) discerning demand for the best inputs and distribution paths to reach their global markets. Unfortunately, many other countries are choosing to follow the EU into a DMA-style regulatory nightmare rather than prioritize their own markets and small businesses.

The App Association has submitted comments to or attended meetings with regulators around the world, including Japan, South Korea, Australia, Brazil, Vietnam, and the United Kingdom on the topic of platform regulation. In these key markets we urge policymakers to consider the impacts of policies like the DMA on their local small business ecosystems and the broader global economy. Their concerns often fail to consider the procompetitive advantages of platforms, including access to a global market, reduced overhead for small businesses, built-in trust networks for consumers, stronger privacy policies, and more widely available developer tools. As governments around the world attempt to regulate Big Tech, they often catch small businesses up in their regulations, which leads to less innovation, more consolidation, and an overall less healthy economy.

American innovation would not survive a DMA-style regime. Small businesses need the flexibility offered by a lighter-touch system to thrive and put forth new ideas.

## **Conclusion**

App Association members and other small businesses need the support of Congress to uphold key digital trade provisions that allow them to flourish. Isolationist trade policies, or those that favor heavy handed tactics over global leadership, will lead to decreased market access, higher costs, and risk for intellectual property. I appreciate that the Committee is considering these ideas, and urge you support legislation that protects American small businesses.

Sincerely,



Morgan Reed  
President

ACT | The App Association

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<sup>6</sup> <https://www.politico.eu/article/margrethe-vestager-digital-rules-big-tech-apple-antitrust/>