

9 June 2025

Hon. Tatiana Prazeres
Secretary of Foreign Trade
Ministry of Development, Industry, Commerce
and Services
Federative Republic of Brazil

**RE: The Imperative for Supporting Brazilian MSME Innovators in Ongoing Brazil-U.S.
Bilateral Trade Agreement Negotiations**

Dear Secretary Prazeres:

ACT | The App Association appreciates Brazil's efforts to empower its micro-, small-, and medium-sized entities (MSMEs) by facilitating their access to international markets and supporting their ability to compete. A strong and fair digital trade framework is vital to the success of small Brazilian businesses innovating across consumer and enterprise markets, and they need your support for their continued investment, growth, and job creation across and outside of Brazil. We recognise the importance of your ongoing negotiations with the United States (U.S.) to achieve a bilateral trade agreement. To support your efforts, we highlight key non-tariff barriers that should be addressed during these negotiations.

The App Association represents small business application developers and connected device companies located both in Brazil and around the globe. These companies drive the global app economy worth [more than BRL 10.2 trillion globally](#) and are responsible for [approximately 428,000 jobs across Brazil](#). App Association members leverage the connectivity of smart devices to create innovative solutions that introduce new efficiencies across consumer and enterprise use cases and rely on a predictable and fair approach to digital economy regulation to succeed and create new jobs.

We are encouraged by Brazil's commitment to opening markets and are optimistic that the ongoing negotiations with the United States will lead to a deeper alignment on digital economy priorities. As you negotiate with the United States and seek ways to support Brazilian MSME innovators through digital trade policies and eliminate non-tariff barriers to trade, and otherwise support Brazilian economic and national security, through a bilateral trade agreement with the United States, we call on Brazil to (1) reconsider Brazilian proposals for regulation of digital platforms, such as Bill No. 2,768/2022, that would deter investment and innovation by imposing revenue-based designations, overlapping oversight, and punitive fees, and instead pursue a risk-based, consultation-driven approach that aligns with Brazil's goals for MSME growth and its prospective digital trade commitments with the United States; and (2) support access and innovation in new and emerging technology markets, such as digital platforms, by securing commitments to non-discrimination, transparency, and adequate notice and consultation in negotiations with the United States.

Brazil has already taken meaningful steps to shape digital platform markets through different notable initiatives. In 2022 the Chamber of Deputies introduced Bill No. 2,768/2022 that would let Brazil's antitrust authority, the Administrative Council for Economic Defense (CADE), impose up-front rules on data sharing, self-preferencing, and platform fees. Building on that, the Ministry of Finance's 2024 consultation and draft legislation proposes an ex-ante framework that extends CADE's authority, introduces cross-sector merger control, and enhanced enforcement powers. While these measures aim to ensure fairness and prevent abuse by dominant entities, its proposals risk undermining the very innovation and investment they seek to promote in digital platforms.

Today's leading curated online marketplaces (COMs) enable MSMEs to fairly and securely access broader markets at lower costs and with greater efficiency. We initially emphasise that it is vital that Brazil ensure fair treatment of COMs under existing competition mechanisms as a measure of supporting trade. At the same time, it is important that the Brazilian government refrain from advancing new policies that could further impact the ability of MSMEs to leverage COMs to compete on a level playing field. Brazil's Bill No. 2,768/2022, combined with the Ministry of Finance's 2024 consultation and draft legislation, signals a commitment to an ex-ante regulatory model resembling the European Union's Digital Markets Act (DMA).

While Brazil's initiatives allude to fostering innovation and curbing anti-competitive behaviours such as 'self-preferencing' by so-called market-dominant players, these interventionist frameworks would, in practice, produce the opposite effect. By mirroring the DMA's regulatory model, Brazil's proposals fail to account for the pro-competitive benefits of platform-driven innovation and ultimately risk undermining Brazilian consumer welfare in a fast-evolving digital marketplace, raising costs and reducing operational flexibility for platforms. Ultimately, those costs will be passed on to the App Association's small business innovator members, who will also find the key utilities they rely on in COMs—vetting for data stewardship and privacy, cybersecurity risk mitigation, intellectual property dispute resolution, and disability access functionality support, among others—either greatly reduced in their effectiveness or eliminated entirely.

We also note our significant concern with the National Telecommunications Agency's (ANATEL) proposal to introduce new regulations, fees, or taxes targeting digital platforms and over-the-top (OTT) services. Such regulations would create unnecessary burdens, stifle innovation, and harm Brazil's thriving app economy, particularly impacting small businesses and startups, and put a significant barrier to trade in place. We note that OTT services already comply with existing consumer protection laws and pay applicable taxes, and that further regulatory measures would hinder their ability to invest, grow, and compete globally. Treating OTTs like traditional telecommunications service providers (TSPs) is inappropriate, as their roles and business models are fundamentally different; imposing new requirements on OTTs, such as required contributions to universal service funds or special licensing, would not only create unfair barriers to market entry but also risk damaging Brazil's digital ecosystem and its position in the international digital economy.

Continuing to pursue misguided platform regulatory proposals places Brazil at a significant disadvantage in its ongoing negotiations with key trading partners, including the United States. The current Trump Administration has made its opposition clear with respect to digital platform regulatory proposals that appear to specifically target U.S. companies by restricting their operations and effectively prohibit U.S. companies from engaging in normal and beneficial

business practices on their platforms. Further, legislation has been introduced in the U.S. Congress to confront the potential of new discriminatory digital economy policies that other key U.S. trading partners have proposed.

Brazil's apparent commitment to new interventions into the digital economy that App Association members power would contribute to a growing delta between it and the U.S. approach to regulation and competition, potentially straining the overall Brazil-U.S. alliance. Given the historically strong trade ties between these two nations, the potential of reciprocal actions offers an additional incentive for Brazil to reconsider its approach to digital platform regulations. The new Brazil-U.S. reciprocal trade agreement can and should eliminate this delta by protecting Brazil's digital economy MSMEs that rely on COMs to grow and create more Brazilian jobs.

We therefore urge you to (1) work with counterparts across Brazilian government to resist calls to enact harmful proposed ex-ante regulation of COMs; and (2) support access and innovation in new and emerging technology markets, such as digital platforms, by securing commitments to non-discrimination, transparency, and adequate notice and consultation in negotiations with the United States. Taking such steps would represent significant steps forward in supporting Brazilian startups and MSMEs, and in supporting Brazilian economic security and competitiveness, while also demonstrating global leadership in setting pro-innovation policy.

Thank you for your consideration of this matter and your continued support of strong trade policies that bolster the success of Brazilian MSMEs. We welcome the opportunity to meet with you to elaborate on our views and to identify further ways we can support your mission.

Sincerely,

A handwritten signature in black ink that reads "Morgan Reed". The signature is fluid and cursive, with the first name "Morgan" and last name "Reed" clearly distinguishable.

Morgan Reed
President

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