

Digital Trade for Small Tech





For small firms in the app economy, business has always been global. Software developers, brand strategists, app makers, and other tech-focused small businesses sell products and services all over the world. Due to their inherently global nature, small tech companies like ACT | The App Association members need strong protection through digital trade policies.

We were deeply concerned by the United States Trade Representative's (USTR's) October 25, 2023, announcement of its withdrawal of support for four foundational digital trade policies, including:

- [Protecting cross-border data flows;](#)
- [Opposing forced data localization mandates;](#)
- [Protecting against foreign government demands for source code; and](#)
- [Opposing foreign regulatory regimes that unduly discriminate against American digital products and services.](#)

USTR's position significantly impacts U.S. leadership across various global industries and platforms, enabling countries like China to secure their position in and dictate matters on global trade. Stepping back on crucial digital trade priorities that support U.S. businesses will set a harmful precedent for other U.S. trade interests. We urge USTR to reinstate their position on key policies, including data localization, digital trade tariffs, and source code protection.

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 and is often beyond the technical and financial capacities of businesses. 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.



Digital Trade Tariffs

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 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)—another type of tariff— could represent a huge portion of their operating expenses. In Canada, for example, the newly-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.