



April 16, 2024

The Honorable Jason Smith
Chair
Ways and Means Committee
U.S. House of Representatives
Washington, District of Columbia 20515

The Honorable Richard Neal
Ranking Member
Ways and Means Committee
U.S. House of Representatives
Washington, District of Columbia 20515

Re: April 16, 2024 House Committee on Ways and Means Hearing on the Biden Administration's 2024 Trade Policy Agenda; the Imperative for Support of Startups, Small Businesses, and Entrepreneurs in the Global Digital Economy

The undersigned, representing a broad and diverse community of entrepreneur, small business, and startup innovators, collectively share our deep concern with the United States Trade Representative's (USTR) decision to withdraw its support for foundational positions on digital trade policy.

We represent and support the U.S. startups and small businesses that are the driving force behind equitable economic growth, competition, innovation, and export of countless consumer and enterprise products and services. They make software, hardware, and internet of things (IoT) solutions and systems for agriculture, education, healthcare, manufacturing, public safety, and countless other uses. They employ tens of millions of Americans who live and work in communities in every state of the nation and are responsible for adding more than \$2.41 trillion to the American gross domestic product.

The U.S. government's consistent support for policies that reduce artificial barriers to digital trade has long provided an important foundation for even the smallest American companies' competitiveness abroad. As the digital transition has continued and regulators abroad have increasingly sought to exclude American small business and startup innovators from their markets, this support has never been more important. Unlike larger companies, smaller businesses with few product or service lines usually cannot shoulder the superfluous costs of data localization, technology transfer, prohibitions on encryption, and arbitrary application of regulation to American firms.

We are therefore significantly concerned with the USTR's withdrawal of its support for foundational digital trade policies, including with respect to enabling cross-border data flows,

avoiding forced data localization mandates, protecting source code, and ensuring that digital products are not unduly discriminated against. Stepping away from the negotiating table weakens the global competitiveness of U.S. startups and small businesses, cedes leadership to countries like China that remain engaged, and buoys anti-democratic and oppressive governance proposals and policies that directly contradict U.S. policies, including those just agreed to by the United States in the G7. Even more recently, the USTR's contradictory positioning has been exacerbated by its decision to ignore numerous digital trade barriers in jurisdictions abroad in its annual National Trade Estimate Report on Foreign Trade Barriers, contrary to the plain language of Section 181 of the Trade Act of 1974. Unfortunately, on net, the Administration's unfortunately policy shift has damaged, and continues to damage, U.S. leadership and standing across multilateral policy fora like the WTO as well as in bilateral negotiations with important trading partners. The decision further sets a concerning precedent that may not end with digital trade priorities, including affecting enforcement of the United States-Mexico-Canada Agreement (USMCA) and creating a potential path for USTR's reversal on advancing American trade interests in other areas.

It is vital that Congress and the Administration reassure the American small business community, trading partners, and others that its support for digital trade policies will continue. We request your assistance in ensuring that the Administration complete appropriate interagency processes and formally seek public input before initiating sweeping policy changes on digital trade.

Thank you for the opportunity to bring your attention to this vital issue. We appreciate the Committee's continued support of equitable participating in trade of U.S. entrepreneurs, startups, and small businesses.

Sincerely,

ACT | The App Association

Center for American Entrepreneurship

Engine

Global Innovation Forum

Small Business & Entrepreneurship Council