



April 15, 2024

House Committee on Ways and Means
Longworth House Office Bldg. Rm. 1139
Washington, D.C. 20515

Senate Committee on Finance
Dirksen Senate Office Bldg. Rm. SD-219
Washington, D.C. 20510-6200

Dear Chairmen Smith and Wyden, Ranking Members Neal and Crapo, and Honorable Members of the House Committee on Ways and Means and Senate Committee on Finance:

We write to urge you to use the upcoming hearings in your committees on April 16th and 17th to probe recent actions by the Office of the U.S. Trade Representative, particularly with regard to digital trade. Engine is a non-profit technology policy, research, and advocacy organization that bridges the gap between policymakers and startups. Engine works with government and a community of thousands of high-technology, growth-oriented startups across the nation to support the development of technology entrepreneurship. Lowering barriers to trade unlocks markets for U.S. startups to expand, compete, and find success and is a vital part of promoting domestic technology entrepreneurship. Recent backsliding on longstanding digital trade priorities threatens to raise barriers to global success for U.S. startups, and it must be corrected.

Several recent actions by USTR have been alarming for startups that rely on smart digital trade policy to keep barriers low and help them reach markets around the world. In multilateral talks at the World Trade Organization last October, the U.S. Trade Representative retreated from important and long-held negotiating positions on source code protection, antidiscrimination, and free data flows.¹ Shortly thereafter, the trade pillar of the Indo-Pacific Economic Framework was seemingly jettisoned, in part due to the emerging upheaval on digital trade.² Last month, in the National Trade Estimate, which is supposed to be an accounting of trade barriers faced by U.S. companies, USTR markedly dialed back the number of digital trade barriers they intend to address, especially around data localization.³

Barriers encountered by startups dictate the markets where they can reasonably enter, create additional costs that detract from investments in R&D and job creation, and hamper U.S. economic

¹ See, e.g., David Lawder, *US drops digital trade demands at WTO to allow room for stronger tech regulation*, Reuters (Oct. 25, 2023), <https://www.reuters.com/world/us/us-drops-digital-trade-demands-wto-allow-room-stronger-tech-regulation-2023-10-25/>.

² See, e.g., David Lawder, *U.S. suspends Indo-Pacific talks on key aspects of digital trade -lawmakers*, Reuters (Nov. 8, 2023), <https://www.reuters.com/business/finance/us-suspends-indo-pacific-talks-key-aspects-digital-trade-lawmakers-2023-11-08/>.

³ See, e.g., Ari Hawkins & Doug Palmer, *USTR defends trade report amid industry rebuke*, Politico (Apr. 1, 2024), <https://www.politico.com/newsletters/weekly-trade/2024/04/01/ustr-defends-trade-report-amid-industry-rebuke-00149889>.

growth by limiting the flow of goods and services across borders. Across administrations, the U.S. has pursued a strong, forward-looking digital trade agenda to address these digital trade barriers like data localization. These measures placing limitations on how and when data can be transferred across borders have particularly negative impacts upon startups. Startup founders have described these restrictions as “very costly,” leading them to “lose prospects and customers,” and forcing them into decisions about what services they can offer.⁴

U.S. startups need strong digital trade policy implemented by policymakers that will fight for their interests on the global stage. To that end, a coalition of over 40 startups, investors, and support organizations penned an open letter highlighting what U.S. trade policymakers must do to support them. That letter is attached below, but in particular, the startups called for policies that:

- Enable cross-border data flows and oppose local storage mandates;
- Foster innovation and regulatory consistency;
- Avoid technology-specific levies and prohibit duties on digital transmissions; and
- Streamline trading processes and support access to resources and digital tools.

Many of the policies needed to support startups are those that the U.S. Trade Representative is actively backing away from. We urge you and your colleagues to examine the recent moves of Ambassador Tai’s agency and to implore her to change course. It is imperative that the U.S. pursues a strong digital trade policy agenda that ensures U.S. startups can thrive and remain global leaders in innovation.

Sincerely,
Engine

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⁴ See *Letter from Engine to Ambassador Katherine Tai*, (Oct. 30, 2023), https://static1.squarespace.com/static/571681753c44d835a440c8b5/t/653ab38280bab20aba47a209/1698345894992/Startups_letter+to+USTR.pdf.

Appendix: Open Letter from Coalition of Startups:

February 7, 2024

To U.S. Trade Policymakers:

We are leading members of the U.S. startup ecosystem—entrepreneurs, startup founders, incubators, investors, accelerators, and support organizations—that serve customers and clients across the country and around the globe. Sound digital trade policy is critical to startups’ international competitiveness, and we write to encourage U.S. trade policymakers to aggressively pursue policies that lower barriers to trade and enable startup success.

U.S. startups are at the fore of global innovation and domestic job creation, largely thanks to the Internet, digitization of world economies, and forward-looking digital trade policies that have enabled startups to reach markets beyond U.S. borders. Still, U.S. startups encounter myriad barriers as they grow and scale internationally. Those barriers dictate the markets where startups can reasonably enter and compete, create additional costs that could instead fuel R&D and job creation, and hamper U.S. economic growth by limiting the flow of goods and services across borders.

Startups need smart digital trade policies that promote an open and global Internet to lower and keep low barriers to trade. In 2020, Congress overwhelmingly approved the U.S.-Mexico-Canada Agreement, revealing a broad bipartisan consensus on the forward-looking digital trade provisions included in the deal. U.S. digital trade policy should build on those provisions and other longstanding U.S. trade policies to support the success of U.S. startups looking to expand into foreign markets and engage customers abroad by embodying these principles:

Enable cross-border data flows and oppose local storage mandates.

The Internet is inherently borderless and should allow startups to reach foreign markets with little additional investment. Conversely, policies that restrict where data can be stored or how and when data can be transferred across borders erect barriers to trade and increase costs that startups with limited resources have difficulty overcoming, especially compared to their larger rivals.

Foster innovation and regulatory consistency.

Different rules about the same issue across jurisdictions create costs and heighten barriers for startups. Regulations adopted in other jurisdictions—including around data privacy, intermediary liability, emerging technologies, and more—can negatively impact startups, especially when they are discriminatory, apply extraterritorially, or require startups to

significantly alter their products, undermine security measures, or compromise proprietary technology.

Avoid technology-specific levies and prohibit duties on digital transmissions.

Digital services taxes increase costs for startups regardless of who the taxes are initially levied upon, putting startups at a disadvantage in jurisdictions with them. And the moratorium on imposing customs duties on electronic transmissions has shaped the market, allowed digital trade to flourish, and must be permanently extended.

Streamline trading processes and support access to resources and digital tools.

Trade facilitation and capacity building is critical to lowering costs and burdens while opening opportunities for startups. Federal and state governments can play a critical role in helping more startups reach markets abroad through grants, workshops, access to digital services, and other resources.

Trade policy impacts U.S. startups' ability to break into new markets, create domestic jobs, earn investment, and scale their ventures. We encourage you to pursue strong digital trade provisions that open opportunities and defend the ability of U.S. startups to provide their goods and services to customers around the globe.

Sincerely,

1Huddle
Newark, NJ

ACT | The App Association
Washington, DC

Allied for Startups
San Francisco, CA

ArchAngels
Washington, DC

Arcascope
Arlington, VA

Black Women Talk Tech
New York, NY

CAPTVR3D
Clark, MO

Carefully
Brooklyn, NY

Center for American Entrepreneurship
Great Falls, VA

Colorado Startups
Boulder, CO

Connected Commerce Council
Washington, DC

Deltacard Corp
Orlando, FL

Engine
Washington, DC

Employable, Inc.
Tysons, VA

Get Write to Business LLC
Belton, TX

Hacom LLC
Santa Ana, CA

KCRise Fund
Kansas City, MO

Libib
Covina, CA

M1PR, Inc.
Roswell, GA

PIE
Portland, OR

pollen.media
Austin, TX

Pruuvn Inc
Atlanta, GA

RevUp Capital
Providence, RI

Small Business & Entrepreneurship Council
Washington, DC

TechUnited:NJ
Jersey City, NJ

TheraTec, Inc
Horace, ND

Tostie Productions LLC
San Diego, CA

Voatz
Boston, MA

Global Innovation Forum
Washington, DC

hobbyDB
Superior, CO

Ki-Zen Power Systems
Portsmouth, VA

Make Startups
Augusta, GA

MetaProp
New York, NY

PILOT Inc.
New York, NY

Productions.com
Atlanta, GA

Retail Aware
Omaha, NE

Shatterbox
Tulsa, OK

SmarTwin AI
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Themis Strategic Partners, LLC
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