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October 2, 2024

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

*VIA EMAIL*

Statement of Engine Advocacy re: Hearing on Protecting American Innovation by Establishing and Enforcing Strong Digital Trade Rules Held September 20, 2024

Dear Chairman Smith, Ranking Member Blumenauer, and Honorable Members of the House Ways and Means subcommittee on trade:

We write to thank you for the September 20th hearing regarding the U.S. approach 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 this hearing is a good step toward correcting that mistake.

Engine has regularly engaged the committee to highlight how startups rely on smart digital trade policy to keep barriers low and help them reach markets around the world. 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 growth by limiting the flow of goods and services across borders. Engine and over 40 startups, investors, and other support organizations earlier this year urged you and colleagues across government to pursue policies to support startup success:<sup>1</sup>

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

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<sup>1</sup> See *Open letter to U.S. Trade Policymakers*, (Feb. 7, 2024), <https://static1.squarespace.com/static/571681753c44d835a440c8b5/t/65c3906e36cbbb45ba281205/1707315310372/Startup+Digital+Trade+Open+Letter.pdf>

- 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.

We are pleased you heard from the founder of one of those startups at the hearing, Dr. Olivia Walch, cofounder and CEO of Arcascope.<sup>2</sup> Her testimony highlights the importance of a strong, proactive digital trade agenda to the success of U.S. small businesses. Dr. Walch highlighted components of this agenda: opposing “rules like tariffs on digital goods, mandatory data localization, or forced source code disclosure.” Allowing digital trade barriers to take root will lock out U.S. startups, but “does not mean innovation [...] won’t happen,” Dr. Walch underscored, it “means a non-U.S. competitor or someone better-funded and with more legal resources” will benefit instead.

These barriers must be addressed, but how we address them matters. Pursuing measures that create barriers to trade in their own right—such as tariffs or site-blocking<sup>3</sup>—in response to unfair trade practices is the wrong approach, because they will harm U.S. startups and consumers. Instead, policymakers must engage countries directly and through fora that enshrine gold-standard digital trade provisions. The U.S.-Japan digital agreement and USMCA are examples of this success. The Joint Statement Initiative on E-Commerce and the Indo-Pacific Economic Framework trade chapter negotiations were other recent opportunities that the administration missed due to their misguided new direction on digital trade.

U.S. startups need strong digital trade policy implemented by policymakers that will fight for their interests on the global stage. 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 use what you learned at this hearing to implore Ambassador Tai’s agency 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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<sup>2</sup> *Protecting American Innovation by Establishing and Enforcing Strong Digital Trade Rules: Hearing before the U.S. House Ways & Means Subcomm. on Trade*, 118th Congress (2024) (Testimony of Olivia Walch), <https://waysandmeans.house.gov/wp-content/uploads/2024/09/Walch-Testimony.pdf>

<sup>3</sup> Site blocking was cited as a remedy for copyright violations at the hearing, but that approach is akin to using a backhoe to weed a flower garden—U.S. content hosting startups are likely to be collateral damage (see, e.g., Abby Rives, *Copyright Law & Startup Innovation: Policies That Matter and Where They May be Headed*, Engine (Jan. 19, 2022), <https://engineadvocacyfoundation.medium.com/copyright-law-startup-innovation-policies-that-matter-and-where-they-may-be-headed-dea034904e25>). Further, that adopts a problematic censorial playbook from our adversaries, even if the intentions are more noble—fighting fire with fire leads to more fire.