

Congress of the United States  
U.S. House of Representatives  
Committee on Small Business  
2561 Rayburn House Office Building  
Washington, DC 20515-6515

February 26, 2024

The Honorable Katherine Tai  
Ambassador  
U.S. Trade Representative  
600 17<sup>th</sup> Street NW  
Washington, DC 20006

Dear Ambassador Tai:

As the 13<sup>th</sup> World Trade Organization (WTO) Ministerial Conference commences, the House Committee on Small Business (Committee) writes to express concern over your recent policy decision to abandon support for core U.S. digital trade priorities.<sup>1</sup> The Committee is disappointed that this sudden change in the U.S. position was done with little consultation with Congress and within the Executive Branch. Newfound opposition to longstanding policies run contrary to the interests of safeguarding American workers and businesses, particularly small businesses. We strongly urge the Administration reconsider this approach especially in light of the important role American small businesses play in the digital economy and urge you to reconsider your decision with meaningful consideration of small businesses.

The global digital economy enables job growth and creation in the U.S. and around the world, while empowering competition and innovation. In fact, U.S. exports in the digital economy accounted for 75 percent of all U.S. services exports, totaling \$594 billion, in 2021.<sup>2</sup> Due to American innovation, the U.S. has emerged as a global leader in the digital economy. Significantly, 97 percent of these digital exports come from small and medium businesses.<sup>3</sup> Many small businesses rely on the predictability and scale of global digital platforms to grow and thrive.<sup>4</sup> Dramatic policy reversals, such as this one, remove the stability required to ensure small businesses have a fair shot at competing.

For small businesses that are already facing excessive regulatory burdens, rising inflation, and uncertainty with the U.S. economy, the impact of your decision will be far more pronounced and burdensome in comparison to large companies. In the words of one small business owner, “the companies being hurt by these [restrictive trade] policies . . . is not Meta, it’s us.”<sup>5</sup> Your

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<sup>1</sup> Press Release, Off. of the U.S. Trade Rep., USTR Statement on WTO E-Commerce Negotiations (Oct. 24, 2023).

<sup>2</sup> DANIELLE M. TRACHTENBERG, CONG. RESEARCH SERV., IF12347, DIGITAL TRADE AND DATA POLICY: SELECT KEY ISSUES, 1 (Mar. 16, 2023).

<sup>3</sup> Letter from Engine Advocacy to Laura Buffo, Chair, Trade Policy Staff Committee, Off. of the U.S. Trade Rep. (Oct. 23, 2023).

<sup>4</sup> Tiffany Smith, *A Good Week for Digital Trade – Almost*, NAT’L FOREIGN TRADE COUNCIL (Feb. 9, 2024).

<sup>5</sup> See *supra*, note 6.

decision takes the Biden Administration's over-regulation agenda international, adding to the 289 million hours of paperwork hours and \$452.3 billion in compliance costs *already* imposed on American businesses by the Biden Administration.<sup>6</sup>

Further, there are an increasing number of policies implemented around the world targeting American small businesses and threatening U.S. innovation.<sup>7</sup> These policies include restrictive data localization requirements, cross-border data flow controls, and compelled technology transfers.<sup>8</sup> If these policies replace the longstanding digital trade principles that were previously championed by the U.S., small business will face a disproportionate burden.<sup>9</sup> This drastic change in policy threatens the U.S. economy overall and further harms small businesses, their workers, and their ability to fairly compete in the global economy.

The Office of the U.S. Trade Representative (USTR) generally relies on advice from other agencies, including the U.S. Small Business Administration (SBA), through the Trade Policy Staff Committee (TPSC) and the Trade Policy Review Group (TPRG), to develop positions on international trade issues.<sup>10</sup> However, the Committee learned that this decision was made with little to no input from other agencies, including the SBA. The Committee is concerned that you failed to thoroughly consider other perspectives, or the consequences resulting from this policy reversal.

As the 13<sup>th</sup> WTO Ministerial Conference approaches, we strongly suggest that you reconsider your decision to withdraw support for core digital trade priorities, and properly assess the impact of such policy changes on small businesses. Small businesses—which make up 99.9 percent of all businesses in the U.S.—must be heard and considered. Therefore, we request the following information no later than March 11, 2024:

1. Why was the SBA not included in roundtables about the impact of Ambassador Tai's decisions?
2. Did the USTR conduct any sort of economic impact analysis, including the impact on U.S. small businesses, before announcing its unwillingness to support longstanding trade principles?
3. What has the USTR done to ensure small businesses are considered in decisions involving international trade issues?

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<sup>6</sup> *Explore the Data*, Regulation Rodeo, AM. ACTION FORUM (last visited Feb. 15, 2024), <https://regrodeo.com/?year%5B0%5D=2024&year%5B1%5D=2023&year%5B2%5D=2022&year%5B3%5D=2021>

<sup>7</sup> See e.g., Brian Fung, *EU officials agree on sweeping new rules targeting Big Tech*, CNN (Mar. 25, 2022) (demonstrating, for example, the European Union's Digital Markets Act almost exclusively applies to U.S. big-tech companies).

<sup>8</sup> Letter from Darin LaHood, Chairman, H. Comm. on Ways and Means, Subcomm. on Work and Welfare, Katherine Tai, Amb., Off. of the U.S. Trade Rep. (Nov. 15, 2023).

<sup>9</sup> Hua Wang, *Restful Nights and Regulatory Insights: A Conversation with Olivia Walch*, Arcascope Founder, GLOBAL INNOVATION FORUM (Dec. 15, 2023).

<sup>10</sup> *Executive Branch Agencies on the Trade Policy Staff Committee and the Trade Policy Review Group*, OFF. OF THE U.S. TRADE REP. (last visited Feb. 16, 2024).

The Honorable Katherine Tai

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To schedule delivery of your response or ask any related follow-up questions, please contact the Committee on Small Business Majority Staff at (202) 225-5821. The Committee on Small Business has broad authority to investigate “problems of all types of small business” under House Rule X. Thank you in advance for your cooperation with this inquiry.

In God We Trust,

A handwritten signature in black ink, appearing to read "Roger Williams". The signature is fluid and cursive, with the first name "Roger" and last name "Williams" clearly distinguishable.

Roger Williams  
Chairman  
Committee on Small Business

cc: The Honorable Nydia M. Velasquez, Ranking Member  
Committee on Small Business

The Honorable Jake Sullivan, National Security Advisor  
U.S. National Security Council