



April 2, 2021

The Honorable Katherine Tai
U.S. Trade Representative
600 17th St. NW
Washington, DC 20006

Dear Ambassador Tai:

On behalf of the Internet Infrastructure Coalition (i2Coalition), we congratulate you on your confirmation as the U.S. Trade Representative. Our organization, which represents a broad range of Internet infrastructure companies, looks forward to working with you and your staff to help shape U.S. trade policies that support innovation, strengthen technology infrastructure, and expand the digital economy and opportunity for all.

The digital economy is a key driver of the U.S. economy overall. The United States leads the world in Internet innovation. Our organization's members are helping to change how businesses and consumers participate in international commerce and trade. Small businesses, which until recently struggled both to navigate foreign customs procedures and to find foreign customers, are now using the Internet to export American goods and services globally. By breaking down barriers to communications, advertising, content-delivery, IT capabilities, and language, the Internet has become a critical tool for growing and sustaining U.S. trade. With more than 3 billion people connected to the Internet worldwide, it is imperative that U.S. trade policy prioritizes policies that will maintain U.S. leadership in the digital economy.

Challenges Facing U.S. Internet and Technology Companies

Unfortunately, other foreign governments, including some of our closest trading partners, are increasingly promulgating protectionist laws and regulations designed to limit U.S. competitiveness. These rules come in many forms, including through unbalanced intellectual property regimes that provide overbroad enforcement of copyright rules, through insufficient intermediary liability protections, and through restrictions on cross-border data flows. In all cases, Internet-enabled businesses and their customers suffer when governments threaten the integrity of the free and open internet.

The i2Coalition's members are concerned about the global trend towards restricting the flow of data across borders. The U.S. Trade Representative is in a unique position to ensure that the free flow of data, which has been the hallmark of the growth of the global digital economy, is not restricted. We recommend significant focus on issues like data localization and the importance that intermediary liability protections play in enabling U.S. digital exports. Also, including Section 512 provisions (based on the Digital Millennium Copyright Act in Title 17 of the U.S. Code) in trade agreements has led to greater protection of IP interests around the world. Requiring an

analogous process to our own creates awareness in countries that lack strong IP protection regimes.

Source Code Protections

The template text used by our trade negotiators has traditionally included language that prohibits governments from mandating disclosure of source code as a precondition to selling into that market. We strongly encourage you to continue to keep prohibitions on the mandatory disclosure of source code. Source code is among the most protected assets a technology company possesses. This information is proprietary and extremely confidential, and mandatory disclosure creates significant cybersecurity, piracy, and competition issues.

Coordination with Industry and Transparency

Close and frequent collaboration with industry trade groups such as ours is essential to ensure workable outcomes. In addition, we encourage you to maintain as much transparency in trade negotiations as is reasonably possible. More open negotiation processes will contribute to increased support for the administration's trade agenda.

Relationship with China

We also have deep concerns about the future of cloud computing and associated services in the Chinese market. Over the course of the past five years, the Chinese government has implemented or proposed regulations that would significantly limit the ability of non-Chinese companies to participate in this growing market. Some of these regulations, including forced technology transfer requirements, localization measures, and prohibitions on the use of dedicated bandwidth connections and virtual private networks, appear to conflict with China's bilateral and WTO commitments. We strongly urge you to review the extent to which China has strayed from both its bilateral and WTO commitments related to key services sectors and insist that China provide non-discriminatory treatment for U.S. cloud and associated services suppliers.

In the coming months, we seek the opportunity to meet with you and your staff to discuss in more detail the issues outlined above. Again, congratulations on your confirmation and thank you for serving our country as U.S. Trade Representative.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Snead", with a stylized flourish at the end.

David Snead
Policy Working Group Chair
Internet Infrastructure Coalition - I2Coalition