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## **USTR'S 2024 TRADE BARRIER REPORT MAKES U.S. TRADE POLICY MORE CONSISTENT WITH CONGRESSIONAL, ADMINISTRATION DIGITAL POLICY GOALS**

Washington, D.C. – American Economic Liberties Project (AELP) appreciates the Biden administration's ongoing effort to make U.S. trade policy consistent with the Biden administration's competition and other pro-worker and pro-consumer goals and policies, which today's 2024 National Trade Estimate (NTE) report reflects.

For many years, the annual NTE report, which lists what the U.S. government considers to be illegal trade barriers around the world, elevated special interest peeves about other countries' consumer protections, competition and other policies into official U.S. policy by labeling legitimate, non-discriminatory policies as illegal trade barriers. In recent years, Big Tech lobbyists have tried to use the NTE report to promote their strategy of rigging trade agreements with binding rules unrelated to trade that forbid governments from enacting or enforcing many common online privacy, competition, and civil rights and liberties policies, worker protections, and AI oversight.

"Big Tech lobbyists are mad because the 2024 NTE report no longer lists as illegal trade barriers some of the most well-known online privacy, competition and other digital governance policies enacted in other countries that Congress or the Biden administration are now trying to enact here," said Lori Wallach, director of AELP's Rethink Trade program. "The degree of corporate lobbyists' control over this report in past administrations is revealed by the Chamber of Commerce and other big business lobby groups whining that this U.S. government report does not list their every personal peeve with other countries' domestic policies as targets for U.S. government attack."

Some past NTE reports included digital policies, such as those in Canada, Australia, Korea, and the European Union, that are identical or very similar to U.S. bills with strong bipartisan support. Policies that were targeted in previous iterations of the report, but no longer are mentioned are:

- Australia's News Media Bargaining Code and Canada's Online News Act, laws similar to the U.S. Journalism Competition and Preservation Act (JCPA), which remedy Big Tech platforms' monopolization of ad revenue and decimation of local journalism by creating the conditions for digital platforms to pay for the news they distribute;
- The EU's Digital Markets Act, the European Union's crackdown against abusive behavior by dominant digital firms, which shares many elements of the American Innovation and Choice Online Act (AICOA);
- EU's General Data Protection Regime (GDPR), the world's leading privacy framework, which is similar to the American Data Privacy and Protection Act; and
- South Korea's App Stores Law, which, like the U.S. Open App Markets Act requires app stores to allow diverse payment systems (not only their own) and to allow app developers to sell on other platforms.

As USTR notes in its press release, the 2024 NTE rightly targets data policies in furtherance of state intrusion in the PRC and Russia.

However, in addition, the 2024 NTE report still lists as potential trade barriers digital services taxes in Canada, some EU countries, India, and Kenya. The report also questions important EU digital policies in the Intellectual Property Protection section, labeling as trade barriers aspects of the Digital Services Act (DSA), the Data Act, and the AI Act. The report also criticizes network usage fees being considered by the EU and Korea. The report criticizes Korea's encryption policies. The report criticizes Kenya's 2019 Data Protection Act's (DPA) "unclear provisions governing the cross-border transfer of personal information" and Korea's limitations on cross-border movement of location-based data and data transfers by reinsurance institutions.

The 2024 NTE also still lists as illegal trade barriers other countries' product safety, environmental, food and other policies that we consider to be legitimate policies, not trade barriers. This includes the EU's Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) chemical safety policy and the EU's Carbon Border Adjustment Measure. Policies regulating GMOs in the EU, Mexico, India, Korea and Turkey are still listed as are halal certification requirements in Brunei, Indonesia, Qatar, and other countries.

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*The American Economic Liberties Project works to ensure America's system of commerce is structured to advance, rather than undermine, economic liberty, fair commerce, and a secure, inclusive democracy. Economic Liberties believes true economic liberty means entrepreneurs and businesses large and small succeed on the merits of their ideas and hard work; commerce empowers consumers, workers, farmers, and engineers instead of subjecting them to discrimination and abuse from financiers and monopolists; foreign trade arrangements support domestic security and democracy; and wealth is broadly distributed to support equitable political power.*