The Honorable Jamieson Greer
United States Trade Representative
Office of the United States Trade Representative
600 17th Street NW
Washington, D.C. 20508

July 9, 2025

Dear Ambassador Greer:

We write today to urge you to oppose efforts by the largest Big Tech monopolists to revive a plan started by President Obama in the Trans-Pacific Partnership (TPP) to use trade agreements and trade policy actions to internationally preempt and derail domestic policies that safeguard consumers, workers, farmers and competing businesses against Big Tech abuses here and in other countries.

Since President Trump's first term, Congress passed security legislation forbidding data brokers from moving our data to nations like China and Russia, federal agencies are requiring cloud storage contractors to store certain data only domestically, and more than 100 right-to-repair, child online safety, and other bills were enacted or are pending in 42 states from Montana to Texas to protect children online, protect privacy, and guarantee a right-to-repair. Thus, today if the White House were to support what Big Tech has branded as its "digital trade" agenda, it would put the Trump administration in the position of favoring global trade rules over U.S. sovereignty and existing U.S. federal and state law and policy.

In the context of trade negotiations that are now underway or will be conducted, we urge you not to replicate "digital trade" rules found in the U.S.-Mexico-Canada Agreement (USMCA) that conflict with the laws Congress and U.S. states have since enacted and/or are under consideration domestically. As you have often stated at congressional hearings, our country – its policymakers and public – are now engaged in a domestic discussion of these digital policy questions. It is critical that our trade policies do not prejudge or preempt that domestic process by imposing constraints on policies Congress and state legislators have enacted or may enact here. We also urge you not to demand changes to other countries' online privacy, data security, competition, anti-monopoly and other similar

digital policies in conjunction with negotiations with scores of countries related to the 90-day tariff suspension announced on April 9.

We are keen to work with you in the context of the six-year review of the USMCA to remove specific TPP-style "digital trade" rules from that pact that conflict with U.S. laws and policies that enjoy broad bipartisan support. These USMCA terms rolled over from the TPP into the USMCA while the national USMCA debate was focused on job offshoring, labor enforcement and other matters. Perhaps even President Trump was surprised to find language in USMCA aimed at locking in and exporting the Big Tech liability waiver concept of Section 230 of the Communications Decency Act, a law that he opposes. As they have become aware that such "digital trade" rules were included in USMCA, many members of Congress have expressed their opposition to these provisions that had not been part of past U.S. trade agreements. We understand that you also have heard from American "medium" and "small" tech firms that join us in opposing Big Tech's ploy of using trade pacts and jargon to try to undermine governments' enactment of common forms of domestic tech oversight.

Specifically, we urge you to use the USMCA to remove certain "digital trade" provisions and to exclude such terms and concepts from any trade agreements, trade enforcement actions or other administration policies or action. This includes the provisions that:

Forbid governments from limiting where and how our data flows, including personal data, and where it is stored: The USMCA Cross-Border Transfer of Information by Electronic Means and Location of Computing Facilities terms conflict with the Protecting Americans' Data from Foreign Adversaries Act of 2024, that forbids data brokers from selling Americans' sensitive personal information to offshore entities subject to the jurisdiction of adversarial nations to protect American national security and individual privacy. This bill, passed unanimously in the GOP-controlled House, was signed into law in April 2024. These terms would also undermine a cybersecurity requirement included in U.S. government contracts with private-sector cloud computing service providers since 2015 and expanded in 2023 to store certain U.S. government data within U.S. territory. These USMCA terms would also conflict with the "Preventing Access to Americans' Bulk Sensitive Personal Data and United States Government-Related Data by Countries of Concern" regulation that goes into effect on April 8 forbids the transfer of "bulk sensitive personal data or US government-related data" to a foreign country of concern, or by a national of such a country. Among the state laws that this USMCA term threatens are Montana's 2023 Genetic Information Privacy Act, which bans the storage of genetic and biometric data collected in the state in countries sanctioned in any way by the U.S. federal government.

Forbid governments from requiring corporations to share algorithmic information and code, even when necessary to repair our own cars, tractors, phones and other property or ensure child online safety, fair competition or other national interests: Among the laws that this USMCA "Source Code" provision could undermine are Texas's 2023 Securing Children Online through Parental Empowerment (SCOPE) Act, requires digital service providers to disclose algorithmic information to third-party researchers, with an exemption for small businesses. There also are at least eight states that have enacted right-to-repair laws covering everything from farm equipment and cars to motorized wheelchairs. There are more than 50 additional such US state laws pending that the Big Tech "digital trade" agenda would undermine by branding requirements to share digital keys, code updates and the like as illegal trade barriers that must be eliminated. As well, anti-trust enforcement, such as that initiated during the first Trump administration against Big Tech platforms, often requires disclosure of source code and detailed algorithmic information to discover self-preferencing and other anti-competitive practices or requires disgorgement of certain proprietary code in settlements.

Label many commons forms of competition policy on which innovative up-and-coming U.S. tech firms rely as illegal trade barriers that must be eliminated: USMCA digital product "non-discrimination" rules target facially neutral competition policies that could have a greater impact on larger firms—because they are dominant, not because they are American— for elimination. Smaller, innovative American tech firms rely on such policies to gain market access and create new products and jobs. This includes bipartisan proposals like the Open App Markets Act, which seeks to limit anti-competitive practices by app stores; the US Journalism Competition and Preservation Act, introduced in the last congressional session by a group of 11 Democratic and 10 Republican senators to push dominant platforms to negotiate payment terms for the news content they use, with news content creators; and American Innovation and Choice Online Act, which prohibits platforms from self-preferencing their own products via their platform. Big Tech lobbyists have attacked the same policies in other countries with claims of "digital trade" discrimination, including the European Union's Digital Markets Act.

Requiring governments to provide Section 230-style liability protection for tech platforms. The USMCA Interactive Computer Services rule is designed to lock in the controversial U.S. platform liability waiver regime and expand this policy to other countries.

It seems improbable that President Trump would choose to sublimate U.S. sovereignty to trade-agreement dictates, much less expose U.S. state and federal law or executive branch actions to international preemption by a trade pact, USMCA, with which he is associated. We hope that the administration will see through Big Tech lobbyists' cynical game and defend the president's smart views expressed when nominating Gail Slater to lead the Department of Justice Antitrust Division: "Big Tech has run wild for years, stifling competition in our most innovative sector and, as we all know, using its market power to crack down on the rights of so many Americans, as well as those of Little Tech!"

A critical first step to doing so will be to remove the "digital trade" provisions in the USMCA that undermine U.S. sovereignty to maintain and to enact policies regulation Big Tech in the national interest. We are keen to work with you on updating USMCA and also ensuring that U.S. sovereignty and policy space is preserved with respect to regulation of tech platforms.

Sincerely,

AFL-CIO
American Economic Liberties Project
Center for Digital Democracy
Consumer Federation of America
Demand Progress Education Fund
Economic Security Project
NETWORK Lobby for Catholic Social Justice
Rethink Trade
Tech Oversight Project
Trade Justice Education Fund
United Steelworkers