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May 2-3 USTR's "Public Hearing on Promoting Supply Chain Resilience

Oral Statement for USTR Supply Chain Hearing

Thank you for the opportunity to testify here today. My name is Jonathan McHale, Vice President for Digital Trade at the Computer & Communications Industry Association, a nonprofit association representing a broad cross-section of communications and technology firms.

Widespread disruptions due to the pandemic and ongoing geopolitical shifts weigh heavily on many policies. Accordingly, it makes sense to look at how trade policy can help bolster supply chain resilience and boost domestic investment, complementing the Biden Administration's domestic industrial agenda.

However, we are concerned that the tone and framing of this Federal Register Notice reflects an unsupported assumption that resilience, like other attributes of the U.S. economy, has been fundamentally undermined by decades of precedent in U.S. trade policy. We do not believe the evidence supports that conclusion. And, as a premise for policy prescription, this framing may harm, not help, resilience, and broader goals of this inquiry.

Many of the ills ascribed to traditional trade policy are tied to specific, rather than general effects, such as those attributed to the so-called "China Shock" following China's entry into the WTO. Those effects were profound, but even the authors of the "China Shock" paper cautioned, to quote "Few economists would interpret our empirical results as justifying greater trade protection." Trying to solve a China problem by upending the trade system writ large will likely undermine significant benefits past policy has achieved—including with respect to resiliency.

One more note of caution on how this inquiry was framed, equating risks to services as comparable to manufacturing. That is a false premise, both in terms of the way services are delivered, and the incentives to locate production in specific locations. First, there are no tariffs in services that trade policy affects, incentivising one location over another. Second, there is no evidence that the U.S. is experiencing or is likely to experience any significant services displacement due to trade. We have always been highly competitive in services, and trade rules only strengthen that comparative advantage. In two of the biggest categories of traded services, ICT and other business services, U.S. exports over the past decade grew 28% faster than imports, significantly increasing U.S. surpluses in these sectors.

Turning to the positive contributions trade agreements can make to resilience, there are both general and specific benefits: generally, binding trade agreements provide the predictability and legal certainty that companies need to put capital at risk and devote the resources to building resilient supply chains.

On specifics, I would highlight four provisions from trade agreements that USTR should prioritize that directly address resiliency:

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- First, binding national treatment commitments in specific sectors are critical in enabling U.S. suppliers to own and control the digital supply chains that facilitate trade, for example submarine cable networks.
- Second, the ability to move data over these and other networks is critical to managing any global operation, and monitoring disruptions.
- Third, the ability to encrypt that data is fundamental to deterring cyberthreats.
- Finally, foreign government mandates to require the localization of data and/or infrastructure is, from a U.S. firm's perspective, a mandate to offshore. Apart from the economic effects, this is widely recognized as increasing network vulnerabilities, by expanding the "attack surface" available to bad actors, and severely hindering cybersecurity best practices, which requires centralized visibility into networks.
- The United States championed these best practices, in its domestic cybersecurity framework, in FTAs, and in the related international standards, such as the ISO's information security standards–the gold standard for protecting networks and the data they carry.
- Let me leave you with a quote from Peter Swire, a veteran of many Administrations, and one of our foremost privacy experts, in a recent paper entitled The Effects of Data Localization on Cybersecurity. His conclusion with respect to implementing these standards says it all: "Our analysis shows how 13 of the 14 relevant information security controls would be affected by localization of personal data."

In conclusion: before looking to upend decades of successful policies, USTR's top priority should be to lean into existing, time-tested trade tools that have proven their worth in enhancing resiliency. Thank you.