Maximizing Export Strengths to Benefit the U.S. Economy

# Digital Trade Agenda For 2025 and Beyond

Digital trade, accounting for over $600 billion of U.S. services exports annually, is essential to U.S. economic interests and a critical counterbalance to its trade deficit in goods. Promoting the export of U.S. digital products and services undergirds the United States' long-term prosperity, as reflected in each state's GDP, employment and trade, as CCIA Research has demonstrated in its state-by-state breakdown.

The incoming administration has a prime opportunity to breathe new life into the Office of the U.S. Trade Representative's (USTR) work after its recent retreat from defending digital trade interests abroad. Returning to active support for digital trade would position the United States to reclaim leadership in establishing trade norms in an area that is a key source of U.S. competitiveness and thus of strategic importance, and of deep interest to friendly trade partners. The Administration can maximize the benefits of digital trade to the U.S. economy by:

- Removing barriers to U.S. digital exports currently hindering American companies' operations abroad through enforcement of existing trade commitments;
- Striking new agreements with partners that extend robust protections to U.S. companies and intellectual property abroad; and
- Intensifying engagement in international organizations.

## Defending U.S. Digital Trade Interests to Protect U.S. Industry

As new USTR leadership looks to 2025, it will face a host of unaddressed barriers to U.S. digital exports that are either inconsistent with trade partners' commitments or otherwise represent unwarranted restrictions–thus meriting a firm response.  On Day 1 of the new administration, USTR should forcefully respond to measures that hinder U.S. digital exports or the operation of U.S. digital companies overseas, using all diplomatic and legal tools at its disposal. Where appropriate, this could include launching consultations under the auspices of applicable bilateral trade agreements or investigations under Section 301 of the 1974 Trade Act.

In addition to immediately actionable measures, close monitoring of proposed discriminatory and/or arbitrary measures in many markets targeting U.S. companies bears scrutiny and engagement.  This includes numerous proposed measures modeled on aspects of the EU's discriminatory Digital Markets Act, including in Korea,  Japan, Brazil, India, and the United Kingdom.

If engagement with these countries fails to address these barriers, the U.S. should not hesitate to pursue the appropriate and relevant remedies, including, where relevant, re-opening Section 301 investigations and actions. USTR should focus on enforcement on the following barriers, which add up to annual costs or lost sales to U.S. firms of billions of dollars.

- **Australia.**
  - Requiring online service providers—only two companies from the U.S.—to pay news publishers for the presence of their content, including hyperlinks, supplemented with a proposed coercive tax on companies that chose to exit the news market.
  - Mandatory payments by online streaming providers (overwhelmingly American) to fund Australian audiovisual content.
- **Canada.**
  - Discriminatory digital services taxes that disproportionately hit U.S. companies, while sparing Canadian competitor service providers.
  - Mandatory payments for online streaming providers (overwhelmingly American) to fund and promote Canadian content.
  - Requiring online service providers—only two companies from the U.S.—to pay news publishers for the presence of their content, including hyperlinks.
- **European Union.**
  - Discriminatory requirements pursuant to the "Digital Markets Act" (DMA) that restrict the operations of U.S. companies, while sparing European competitors. The only companies subject to the strictest aspects of the law are American, with the exception of one Chinese firm. Engagement on this issue is particularly important given the EU's active promotion of this policy around the world, which has resulted in several other major U.S. trading partners adopting or drafting similar discriminatory regulatory frameworks that undermine digital exports.
  - Finalizing elimination of discriminatory sovereignty and ownership requirements in the European Union's Cybersecurity Scheme for Cloud Services (EUCS) that were proposed in 2020 and that remain unresolved. Ensuring these do not reappear in the EU's updated Cybersecurity Act (the basis for EUCS) that is planned for 2025 will be crucial.
  - Eight member states have enacted discriminatory digital services taxes that disproportionately hit U.S. companies, while sparing local competitor service providers.
- **France.**
  - Discriminatory "sovereignty" requirements for cloud service providers that preclude their ability to receive public institution contracts and undermine their presence in the private sector as well.
  - Discriminatory digital services taxes that disproportionately hit U.S. companies, while sparing French competitor service providers.
- **South Korea.**
  - Discriminatory "sovereignty" requirements for cloud providers that preclude their ability to bid on public sector (and potentially private sector) contracts.
  - Proposed targeting of U.S. firms through regulations modelled on the EU's DMA.

# Promoting U.S. Economic Interests Through New and Enhanced Digital Trade Commitments

The Administration can expand the already formidable influence of U.S. innovation and industry abroad through robust commitments in new trade deals, building on the success of the renegotiated U.S.-Mexico-Canada Free Trade Agreement (USMCA) of 2018 and the U.S.-Japan Digital Trade Agreement of 2019 to a broader set of markets.

In addition, there may be opportunities to strengthen existing trade agreements with partners to further protect digital trade interests. For example, the USMCA review set to kick off, quickly identifying deficiencies that need to be addressed through new or amended rules must be a priority. The United States also has agreements with partners in the Asia-Pacific region that could be updated with new, digital trade-specific commitments.

Although comprehensive Free Trade Agreements are generally the strongest method to shore up bilateral trade ties, sector-specific trade agreements can bring vast benefits to exporters, investors, and the workers that power these firms without wading into import sensitivities that would otherwise halt progress of a broader agreement. This is particularly true in the services world, where agreements, such as that between the U.S. and Japan, serves as a method to bring certainty to multinational enterprises and align approaches to governance.

Enshrining commitments to promote and protect digital trade in formal agreements also serve as an important signal globally that the free flow of data, information, and services is a top priority of these two allies, particularly as an increasing number of countries adopt the digital authoritarian model of China and Russia or become overly restrictive to outside investment and access. For example, the OECD has reported that digital trade barriers have increased by 25% between 2014 and 2023, "driven by increasing regulatory hurdles that affected communication infrastructures and data connectivity."

This bilateral trade brings numerous positive externalities for business operations, consumers, and workers. Easing access to markets increases the reach and productivity of firms in each market to the other. This improves competition, as more firms can operate in both markets and bring consumers more innovative options. Additionally, as the President's Export Council has highlighted, the "removal of market access restrictions and discriminatory regulations for services leads to added American jobs and a positive impact on the U.S. trade deficit."

The following markets present particular opportunities to pursue new or revamped deals:

- **United Kingdom.**
- **The Asia-Pacific region, including countries with agreements that could be updated with new digital trade provisions, such as Singapore, Korea, Taiwan, and Australia.**

## Defending U.S. Interests at International Organizations

International organizations are increasingly focused on addressing topics such as AI governance and cross-border data flows. An assertive U.S. government stance would play a critical role in supporting innovation, protecting U.S. businesses, and countering China's expanding influence in the following areas:

- **World Trade Organization.**
    - Re-engagement in the Joint Statement Initiative on E-Commerce with the goal of achieving outcomes aligned with the high-standard provisions reached in the U.S.-Mexico Canada Agreement and the U.S.-Japan Digital Trade Agreement.
    - Pursuit of a permanent—or, at a minimum, a renewal of—moratorium on customs duties on electronic transmissions.
- **Organisation for Economic Co-operation and Development.**
    - Alignment on reasonable governance frameworks for AI and trust and safety.
    - Defending U.S. interests in conversations about global taxation.
- **United Nations.**
    - Promoting U.S. viewpoints at the UN and affiliated bodies, especially the ITU.
    - Engaging in the implementation of initiatives such as the Global Digital Compact, the UN Cybercrime Convention, and the UN Tax Convention to avoid overreach.
- **Asia-Pacific Economic Cooperation.**
    - Leveraging the forum to share best practices, engage with industry, and build common norms, APEC member states can help develop innovative approaches with the potential to evolve into legally enforceable trade rules.