

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074
MINORITY (202) 225-5051

<https://oversight.house.gov>

March 27, 2024

Mr. Barry Lynn
Executive Director
Open Market Institute
655 15th Street NW, #800
Washington, D.C. 20005

Dear Mr. Lynn:

The Committee on Oversight and Accountability is investigating the consultation process utilized by the Office of the United States Trade Representative (USTR) leading to its decision to stop supporting key commitments protecting U.S. workers and global Internet freedom.¹ The Committee's oversight seeks to understand interactions that may lead to necessary reforms, including legislation Congress could pursue setting new transparency requirements for USTR in forming negotiating positions.

After USTR announced its decision to abandon longstanding and bipartisan positions on digital trade during an October 2023 meeting of the World Trade Organization's (WTO) Joint Statement Initiative (JSI) on e-commerce, a bipartisan group of 32 U.S. Senators led by Senate Finance Committee Chairman Ron Wyden (D-Ore.) and Ranking Member Mike Crapo (R-Idaho) expressed profound concern about the lack of an adequate consultation process.² The record gathered from stakeholders, members of Congress, and their staff since this correspondence indicates how USTR eschewed an opportunity to conduct a fulsome and transparent public discussion on its proposed actions and instead relied upon a secretive and closed process that emphasized inputs from ideological allies.

Documents brought forward through a Freedom of Information Act (FOIA) request show that USTR officials repeatedly engaged with individuals associated with non-government organizations (NGO), including the one you lead, about preferred outcomes on digital trade.³ These interactions even involved USTR employees who had past employment ties to NGOs seeking special access and, at times, indicated the existence of clandestine communication

¹ Letter from James Comer, Chairman, H. Comm. on Oversight and Accountability, to Hon. Katherine Tai, Office of U.S. Trade Representative (Mar. 4, 2024).

² See Press Release, U.S. Senate Finance Committee, 32 Bipartisan Senators Call on White House to Reverse Course on Digital Trade and Stand Up to China, Support American Workers and Human Rights, (Nov. 30, 2023).

³ U.S. Chamber of Com., *U.S. Digital Trade Priorities* (Jan. 9, 2024).

efforts. USTR employees may not have followed requirements set forth in the Federal Records Act (FRA) or other federal transparency laws in these interactions.⁴

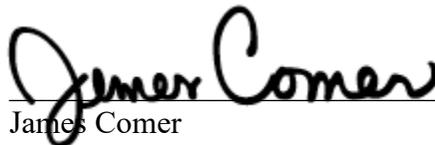
As the Committee investigates how USTR employees conducted themselves during its policy making process we anticipate the possibility that the agency may not be able to completely account for the interactions with your organization due to failures, deliberate or otherwise, by agency employees to preserve records. While the Committee is not requesting a production of documents from your organization at this time, we ask that you undertake the following actions to preserve an ability for potential future requests:

- 1) Please preserve all documents from January 1, 2023 to present related to interactions your organization, its employees and representatives have had related to USTR or individuals employed by USTR at any point during this period. In your preservation efforts, please include all emails, text messages, call logs, or messaging app communications. Please also include all internal memos or notes of any interactions with USTR employees.
- 2) Please advise all current and former employees who may have interacted with USTR during this period to preserve any or all such documents residing on personal devices or otherwise in their possession.
- 3) Please preserve all documents from March 4, 2024 to present related to reaction or communication related to the Committee's March 4 letter to USTR. Please include all emails, text messages, call logs, messaging app communications, internal memos, and relevant notes.

If you have any questions, contact the Committee on Oversight and Accountability Majority staff at 202-225-5074.

The Committee on Oversight and Accountability is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X. Thank you in advance for cooperating with this inquiry.

Sincerely,



James Comer
Chairman

Committee on Oversight and Accountability

cc: The Honorable Jamie B. Raskin, Ranking Member
Committee on Oversight and Accountability

⁴ *Records Management Regulations, Policy, and Guidance*, NAT'L ARCHIVES (Aug. 15, 2016).