

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

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May 1, 2024

The Honorable Katherine Tai
United States Trade Representative
600 17th Street NW
Washington, D.C. 20508

Dear Ambassador Tai:

The Committee on Oversight and Accountability is continuing to investigate 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. The Committee wrote to you on March 4, 2024, seeking documents and information related to our concerns.¹ On April 18, 2024, USTR provided an inadequate response to that letter and failed to address the Committee's concerns.² As such, we are reiterating our full document request along with an additional request that USTR make Jillian DeLuna, Director for ICT Services and Digital Trade, available for a transcribed interview.

As we wrote previously, the Committee is concerned about how USTR conducted itself as a handful of ideologically aligned organizations influenced the agency's decision to abandon longstanding and bipartisan positions on digital trade during a meeting of the World Trade Organization's (WTO) Joint Statement Initiative (JSI) on e-commerce. In its April 18 response, USTR neglected to address concerns articulated by the Committee, pointing instead to the agency's consultation process and transparency principles.³ While the Committee is aware USTR consults with outside stakeholders, records produced in response to a Freedom of Information Act (FOIA) request reveal USTR employees appeared to provide certain favored interest groups with special treatment, including through a clandestine communications channel that suggest an intentional and possibly illegal effort to avoid requirements of the Federal Records Act.⁴

Some of the emails disclosed through the FOIA suggest select nonprofits had access to key USTR staff.⁵ In one of the emails, a senior advisor at USTR connected Ms. DeLuna with the

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

² Letter from Hon. Katherine Tai, Ambassador, United States Trade Representative, to Hon. James Comer, Chair., H. Comm. on Oversight & Accountability (Apr. 18, 2024).

³ *Id.*

⁴ *Supra*, n.2.

⁵ *Supra*, n.2.

director of Rethink Trade, an ideological advocacy group with a close relationship to your senior staff.⁶ The email also described Ms. DeLuna as the leader of JSI negotiations. Given the Committee's previously raised concerns regarding USTR's decision at the WTO, the Committee seeks information directly related to Ms. DeLuna's activities while at USTR.⁷

The Committee reiterates its previous requests for information from USTR. For your convenience, below are the requests from the Committee's March 4 letter:

1. Copies of the Signal chat between Heather Hurlburt and Lori Wallach in February 2023 preserved to comply with FRA legal obligations.
2. All other 2023 communications from Heather Hurlburt that utilized Signal or other non-official communications channels (such as personal email) for official business and were preserved to comply with Federal Records Act obligations.
3. All 2023 correspondence between USTR employees and individuals at the following organizations:
 - a. Open Markets Institute
 - b. American Economic Liberties Project (including Rethink Trade)
 - c. New America
 - d. Public Citizen
 - e. Center for Digital Democracy
4. All 2023 notes, memos, and internal correspondence mentioned related to individuals at organizations or organizations themselves in request #3.
5. All 2023 inputs and written consultation related to digital trade sent to or received by federal agencies.
6. All 2023 memos, notes, and internal correspondence related to USTR's efforts to engage Congress on digital trade positions and negotiation.
7. All 2023 memos, notes, and internal correspondence related to discussion of any potential public comment periods on or relating to digital trade matters.
8. All documents, notes, drafts, and correspondence showing how USTR assessed and arrived at its October 25 action withdrawing the U.S. position at the WHO JSI on e-commerce.
9. All 2023 documents, notes, and correspondence capturing or reporting reaction to USTR's October 25 withdraw action or positioning on digital trade.

⁶ *Supra*, n.2.

⁷ *Supra*, n.2.

10. Provide documents responsive to all unfulfilled requests from the Committee's October 12, 2023, oversight request letter, including:
 - a. All correspondence with the DOJ and/or FTC relating to the digital trade provisions in the IndoPacific Economic Framework (IPEF);
 - b. All correspondence with the DOJ and/or FTC relating to the EU's Digital Markets Act, Digital Services Act, or any other EU laws, regulations or policies regarding digital markets; and
 - c. All correspondence between USTR and the White House regarding IPEF negotiations and digital trade

In addition to the abovementioned information, the Committee requests USTR make available Ms. DeLuna for questioning by the Committee in a transcribed interview. If USTR is unable or unwilling to comply with these requests, USTR should contact Committee staff no later than May 8, 2024, so the Committee is able to evaluate additional actions it may take to obtain the information it seeks from USTR.

To schedule the interview or ask any related follow-up questions, please contact Committee on Oversight and Accountability 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 Raskin, Ranking Member
Committee on Oversight and Accountability