

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

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July 11, 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 (Committee) continues 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. To date, USTR has not addressed concerns about secret communications, special access, and undue influence certain ideological groups appear to carry with USTR officials—including officials who formerly worked at these organizations. The Committee’s patience in seeking USTR’s cooperation in producing meaningful new documents and scheduling a voluntary transcribed interview with Director for ICT Services and Digital Trade Jillian DeLuna under acceptable terms is nearing an end.

The Committee previously wrote to you on March 4, 2024, seeking documents and information related to our concerns.¹ On April 18, 2024, USTR again provided an inadequate response to that letter, which failed to address the Committee’s concerns.² On May 1, the Committee again wrote to you regarding USTR’s unsatisfactory response to oversight.³ Yesterday evening, USTR staff reached out to discuss a possible new willingness to make Ms. DeLuna available but under an unacceptably narrow scope of topics. The Committee has afforded USTR many opportunities to answer key questions and accepted a briefing that USTR staff asserted would address Committee concerns, but USTR has still not answered the Committee’s key questions.

Documents USTR has sent the Committee have not meaningfully added to the understanding of key concerns highlighted in previous correspondence. Discussion during USTR’s June 12 briefing for Committee staff on “USTR’s digital trade negotiations, including USTR’s decision to withdraw some of the previous administration’s attributions in the WTO E-

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

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

³ Letter from Hon. James Comer, Chairman, H. Comm. on Oversight & Accountability, to Hon. Katherine Tai, Ambassador, Office of U.S. Trade Representative (May 1, 2024).

Commerce JSI negotiations” aptly underscored key shortcomings of your agency’s response. For example:

- **Former USTR employee Heather Hurlburt’s Signal Chat with Lori Wallach of the American Economic Liberties Project (AELP):** USTR staff stated that the agency had not identified any record indicating that Ms. Hurlburt had taken steps to preserve and archive her communication with Ms. Wallach in January 2023, using an encrypted messaging app Signal, to comply with the Federal Records Act. USTR staff furthermore would not say whether it had conducted a search, as specifically requested in the Committee’s March 4 letter to you, to identify records of other communications made by Ms. Hurlburt using non-official communication channels. USTR did proactively assert that the agency had written to its former employee asking that she remit any work records on personal accounts. However, when queried by Committee staff, USTR acknowledged that this request to Ms. Hurlburt had only been sent on June 11—the day before USTR’s briefing and more than three months after the Committee’s initial request.
- **Interagency concerns over USTR’s decision to withdraw from Joint Statement Initiative (JSI) positions:** USTR staff indicated they would not discuss objections or concerns from within the Biden Administration on USTR’s decision to withdraw support for e-commerce provisions, including concerns that other agencies reportedly believed the decision ceded ground to China. USTR staff would neither dispute nor respond to published comments by National Security Council (NSC) spokesperson John Kirby acknowledging internal divisions over USTR’s decision.⁴ USTR staff expressed that USTR may not be prepared to cooperate on questions related to internal objections to your decision.
- **Inability or unwillingness to explain key engagements with outside groups:** Committee staff asked USTR briefers about USTR’s decision on September 21, 2023—barely one month before USTR dropped longstanding digital trade positions at the WTO—to add Ms. DeLuna, identified as the individual “leading the JSI negotiations” to a planned conference call requested by Ms. Wallach to connect on “JSI Ecommerce issues.” While USTR briefers diminished Ms. DeLuna’s importance in the negotiations and contributions on the call with Ms. Wallach (which USTR staff confirmed during the briefing), they were unable or unwilling to describe the conversation that occurred or explain why Ms. DeLuna had been asked to join. Furthermore, they offered no insights into the apparent readiness of agency officials to make her available to outside entities on a then-sensitive topic and at a critical time. This stands in stark contrast with the agency’s significant reluctance to make her available for a transcribed interview with the Committee.

Furthermore, during the June 12 briefing USTR staff acknowledged that virtually all documents sent to the Committee in response to its inquiry were limited to materials that were already public or had made been made available previously through Freedom of Information Act requests. This is not the level of cooperation the Committee can accept from federal agencies.

⁴ Gavin Bade, *NSC, USTR at odds over digital trade decision at WTO*, PoliticoPro (Nov. 9, 2023).

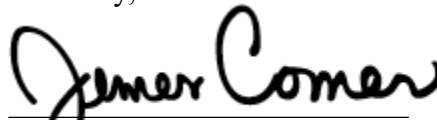
The Honorable Katherine Tai
July 11, 2024
Page 3 of 3

The Committee remains concerned USTR eschewed longstanding processes for developing consensus and promoting transparency in favor of decisions made behind closed doors at the behest of political allies. Even the White House National Security Council considered USTR's decision counter to U.S. goals in trade competition with China.⁵

USTR must take oversight and accountability seriously. USTR should promptly provide possible dates for the Committee to conduct a transcribed interview with Ms. DeLuna under acceptable terms and communicate a plan that is responsive to the Committee's concerns to search for relevant and non-public internal documents. If USTR fails to take such steps without further delay, the Committee will consider the use of compulsory process to obtain these—and likely additional—testimonies and documents.

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,

A handwritten signature in black ink that reads "James Comer". The signature is written in a cursive style with a large, sweeping "J" and "C".

James Comer
Chairman
Committee on Oversight and Accountability

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

⁵ *Id.*