

April 16, 2026

The Honorable Jamieson Greer
United States Trade Representative
600 17th Street NW
Washington, DC 20508

Re: Discriminatory Digital Trade Practices in Asia Should Be a Priority in Forthcoming Section 301 Investigations

Dear Ambassador Greer:

The undersigned organizations write to commend the Office of the United States Trade Representative (USTR) for launching Section 301 investigations into the acts, policies, and practices of foreign economies that burden U.S. commerce. We welcome your stated intention to address discrimination against U.S. technology companies and their users, digital services taxes, and related unfair trade practices through additional Section 301 proceedings.¹

As these investigations proceed, we urge USTR to give particular attention to discriminatory digital trade practices across Asia. A growing number of Asian governments are adopting regulatory frameworks—often modeled on the EU’s Digital Markets Act—that disproportionately burden American technology companies while shielding domestic and Chinese competitors. These measures include targeted enforcement actions, DMA-style platform regulation, data localization mandates, and restrictions on foreign investment in digital services. Taken together, they represent a pattern of non-tariff barriers that threaten American innovation, investment, and technological leadership across the region.

Targeted and discriminatory treatment of U.S. firms is seen across Asia.

- Japan’s Mobile Software Competition Act (MSCA), which entered into force in December 2025, represents another significant adoption of DMA-style regulation in Asia.² The Japan Fair Trade Commission designated Apple and Google as the sole “specified software providers” subject to the law’s obligations.
- India’s Digital Personal Data Protection Act (DPDPA) grants the government broad discretion to restrict cross-border data transfers in a manner that will disproportionately

¹Press Release, Off. of the U.S. Trade Representative, *Ambassador Greer Issues Statement on Supreme Court IEEPA Decision* (Feb. 20, 2026), <https://ustr.gov/about/policy-offices/press-office/press-releases/2026/february/ambassador-greer-issues-statement-supreme-court-ieepa-decision>.

²Matthew P. Goodman & Aidan Arasasingham, *Starting Up the Competition: Japan’s Mobile Software Act*, Ctr. for Strategic & Int’l Studies (Dec. 18, 2025), <https://www.csis.org/blogs/charting-geo-economics/starting-competition-japans-mobile-software-act>.

capture large American technology platforms.³ India also prohibits foreign direct investment in inventory-based e-commerce, effectively barring American companies like Amazon and Flipkart from operating on equal terms with domestic competitors.⁴

- China’s data localization requirements and cross-border transfer restrictions severely restrict the ability of American companies to transfer data across borders, fragmenting global operations and imposing significant compliance costs.⁵
- The Korea Fair Trade Commission (KFTC) has a well-documented history of imposing disproportionate penalties on American technology companies, including an \$865 million fine against Qualcomm in 2016 and a \$177 million fine against Google in 2021.⁶ Meanwhile, the Korean National Assembly continues to advance DMA-style platform legislation—the misleadingly named “Fairness Act”—that would grant the KFTC broad authority to target leading American companies including Google, Apple, Amazon, Coupang and Meta, while imposing strict operational mandates combined with large fines for non-compliance.⁷ These actions directly contradict the commitments Seoul made in the November 2025 U.S.–Korea Strategic Trade and Investment Deal, in which the ROK agreed to ensure that U.S. companies “are not discriminated against and do not face unnecessary barriers” in digital services.⁸

Across the region, these practices create a hostile investment climate for American firms and the consumers that rely on them. The breadth of enacted and proposed digital trade barriers across Asia—from platform regulation to data localization to targeted enforcement—constitutes a systemic challenge to U.S. digital commerce.⁹ Regulatory unpredictability and disproportionate enforcement erode the rule-of-law principles that underpin open markets. When enforcement is lenient toward Chinese-linked competitors while escalating against American firms, it raises

³Info. Tech. & Innovation Found., *India’s Cross-Border Data Transfer Regulation* (June 9, 2025), <https://itif.org/publications/2025/06/09/india-cross-border-data-transfer-regulation/>.

⁴U.S. Dep’t of Commerce, Int’l Trade Admin., *India Country Commercial Guide: Digital Economy* (2025).

⁵Off. of the U.S. Trade Representative, *2025 National Trade Estimate Report on Foreign Trade Barriers* 101–116 (Mar. 31, 2025).

⁶Korea Fair Trade Comm’n, Decision No. 2016-KFTC-329 (Dec. 28, 2016) (imposing a fine of KRW 1.03 trillion on Qualcomm, Inc.); Korea Fair Trade Comm’n, Decision (Sept. 14, 2021) (imposing a fine of KRW 207.4 billion on Google LLC).

⁷Joseph V. Coniglio, *Korea’s Proposed Fairness Act: Will It Discriminate Against American Firms?*, Info. Tech. & Innovation Found. (Jan. 21, 2026), <https://itif.org/publications/2026/01/21/koreas-proposed-fairness-act-will-it-discriminate-against-american-firms/>.

⁸Off. of the U.S. Trade Representative, *Fact Sheet: The United States and Korea Agree to the Korea Strategic Trade and Investment Deal* (Nov. 14, 2025), <https://ustr.gov/about/policy-offices/press-office/fact-sheets/2025/november/fact-sheet-united-states-and-korea-agree-korea-strategic-trade-and-investment-deal>.

⁹Computer & Commc’ns Indus. Ass’n, *Global Digital Trade Barriers: Priority Issues for Anticipated Section 301 Investigations* (Mar. 2026).

serious questions about strategic favoritism at a time of heightened concern over China’s growing economic influence.¹⁰

We respectfully urge USTR to:

- **Prioritize discriminatory digital trade practices in Asia** in forthcoming Section 301 investigations, with particular attention to South Korea, Japan, India, and China.
- **Hold South Korea accountable** for the commitments it made in the November 2025 Korea Strategic Trade and Investment Deal, applying appropriate remedies where those commitments have been violated.¹¹
- **Use the ongoing structural excess capacity investigation**—which already includes Korea, Japan, and India among the sixteen investigated economies—to examine the full scope of discriminatory digital trade practices in these markets.
- **Make clear to governments across the region** that discriminatory measures against American companies—whether through disproportionate enforcement, protectionist legislation, data localization mandates, or trade-restrictive regulations—will carry real consequences.

American companies operating abroad deserve fair, non-discriminatory treatment consistent with trade agreements and global norms. This improves competition and helps keep prices of goods and services affordable for consumers. We stand ready to support your efforts to defend American competitiveness across the Asia-Pacific and beyond.

Sincerely,

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¹⁰Daniel Castro, *Washington Should Draw a Line in the Sand on Korea to Defend U.S. Tech Leadership*, Info. Tech. & Innovation Found. (Feb. 6, 2026), <https://itif.org/publications/2026/02/06/washington-draw-line-korea-defend-tech-leadership/>.

¹¹Daniel Castro, *The Korean Government Should Keep Its Word and Push Against the Misleading “Fairness Act”*, Info. Tech. & Innovation Found. (Nov. 20, 2025), <https://itif.org/publications/2025/11/20/korean-government-should-push-against-the-misleading-fairness-act/>.

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