

Congress of the United States

Washington, DC 20515

May 4, 2023

Ambassador Katherine Tai
United States Trade Representative
Executive Office of the President
600 17th Street NW
Washington, DC 20508

Hon. Gina Raimondo
Secretary
Department of Commerce
1401 Constitution Avenue NW
Washington, DC 20230

Ambassador Tai and Secretary Raimondo:

We write to express concern about the administration's efforts to bind the United States to a specific set of competition policies in the course of negotiations with foreign governments over the possible Indo-Pacific Economic Framework for Prosperity ("IPEF"). Congress, not the President, has the constitutional prerogative to craft domestic policy in the antitrust space,¹ and the undersigned Members of Congress are actively weighing measures to refine federal antitrust law and better promote competitive markets.

In particular, Congress is in the midst of a longstanding exploration of reforms that would reduce the market power of large technology companies and promote consumer interests in the technology sector.² The largest technology firms have repeatedly exploited their dominant position in the market to censor disfavored speech and spread harmful social ideologies.³ And, because a select group of dominant technology firms control the social media market and create barriers to entry for competitors, victims of Big Tech censorship and indoctrination often find that there are few viable alternatives to the incumbents.

Congress has made strides toward curbing these abuses, but the industry has mounted stiff resistance.⁴ In recent years, the tech sector has orchestrated efforts to develop the concept of

¹ U.S. Const. art. I, § 8.

² Marcy Gordon, *House approves antitrust bill targeting Big Tech dominance*, ASSOCIATED PRESS, September 29, 2022, <https://apnews.com/article/2022-midterm-elections-technology-business-lobbying-congress-6e49cfc65668b99c633647898d114a8b>; *Senator Hawley Introduces The 'Trust-Busting for the Twenty-First Century Act': A Plan to Bust Up Anti-Competitive Big Businesses*, April 12, 2021, <https://www.hawley.senate.gov/senator-hawley-introduces-trust-busting-twenty-first-century-act-plan-bust-anti-competitive-big>.

³ *Reining in Big Tech's Censorship of Conservatives*, U.S. House of Representatives, Committee on the Judiciary, Oct. 6, 2020, https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/legacy_files/wp-content/uploads/2020/10/2020-10-06-Reining-in-Big-Techs-Censorship-of-Conservatives.pdf; Victoria Waldersee & Paresh Dave, *YouTube takes down Xinjiang videos, forcing rights group to seek alternative*, REUTERS, June 25, 2021, <https://www.reuters.com/technology/exclusive-youtube-takes-down-xinjiang-videos-forces-rights-group-2021-06-25/>; Jared Eckert & Mary McCloskey, *How Big Tech Turns Kids Trans*, THE HERITAGE FOUNDATION, Sept. 15, 2022, <https://www.heritage.org/gender/commentary/how-big-tech-turns-kids-trans>.

⁴ Cecilia Kang, *Lawmakers, Taking Aim at Big Tech, Push Sweeping Overhaul of Antitrust*, N.Y. TIMES, June 11, 2021, <https://www.nytimes.com/2021/06/11/technology/big-tech-antitrust-bills.html> ("Over the past decade, the

“digital trade” and enshrine favorable policy in international agreements.⁵ Now, with antitrust reform gaining momentum on Capitol Hill, the industry has apparently prevailed on the administration to internationalize the issue, in derogation of Congress’s legislative authority to shape domestic competition policy.

The administration must ensure that it does not propose or adopt text in IPEF that binds the United States to competition policies that Congress may soon reject. For example, the administration should not require that the United States or any foreign government adopt and maintain legal structures modeled on Section 230 of the Communications Decency Act, which many have identified as a tool used by incumbent technology firms to protect themselves from liability and buttress their advantage over would-be competitors.⁶ Such efforts would not only undermine congressional prerogatives, but betray the sincerity of the president’s commitment to a “worker-centered trade policy.”⁷

With these considerations in mind, we request that you answer the following questions:

- Has the administration proposed or contemplated any IPEF provisions that could conflict with Congress’ ongoing effort to reform federal antitrust law?
- Has the administration proposed or contemplated any IPEF provisions that could be used by incumbent technology firms to evade current or future enforcement of federal antitrust law on trade-related grounds?
- Has the administration proposed or contemplated any IPEF provisions that could restrict Congress’ power to shape domestic competition policy?
- Have concerns been expressed by the Department of Justice and Federal Trade Commission that proposed IPEF provisions could hinder or confuse enforcement of existing antitrust law?

Please respond to this letter by May 10, 2023, answering the questions posed and addressing in full the interaction of ongoing IPEF negotiations and Congress’s power to shape domestic competition policy.

industry has assembled the largest group of lobbyists in Washington, and the companies sponsor think tanks, fund academic papers and employ top antitrust litigation firms to defend their businesses.”)

⁵ David Dayen, *Big Tech Lobbyists Explain How They Took Over Washington*, THE AMERICAN PROSPECT, Apr. 19, 2023, <https://prospect.org/power/2023-04-18-big-tech-lobbyists-took-over-washington/>.

⁶ Joseph A. Wulfsoh, *Sen. Josh Hawley on censorship, Section 230 and Democrats’ love’ for Big Tech*, FOX NEWS, Nov. 1, 2021, <https://www.foxnews.com/media/josh-hawley-big-tech-censorship>.

⁷ *Remarks of Ambassador Katherine Tai Outlining the Biden-Harris Administration’s “Worker-Centered Trade Policy,”* Office of the United States Trade Representative, June 2021, <https://ustr.gov/about-us/policy-offices/press-office/speeches-and-remarks/2021/june/remarks-ambassador-katherine-tai-outlining-biden-harris-administrations-worker-centered-trade-policy>.

Sincerely,



JD Vance
United States Senator



Josh Hawley
United States Senator



Matt Gaetz
Member of Congress



Ken Buck
Member of Congress



Paul A. Gosar, D.D.S.
Member of Congress