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August 18th, 2025

Ambassador Jamieson Greer
United States Trade Representative
Office of the U.S. Trade Representative
600 17th St. NW
Washington DC, 20508

Re: Initiation of Section 301 Investigation: Brazil's Acts, Policies, and Practices Related to Digital Trade and Electronic Payment Services; Unfair, Preferential Tariffs; Anti-Corruption Enforcement; Intellectual Property Protection; Ethanol Market Access; and Illegal Deforestation; Hearing; and Request for Public Comments (Docket No. USTR-2025-0043)

Dear Ambassador Greer,

The Consumer Technology Association ("CTA") welcomes the opportunity to respond to the Office of the U.S. Trade Representative's ("USTR") request for comments on the Section 301 Investigation into Brazil's acts, policies, and practices. Strong U.S.-Brazil trade and investment ties support America's leadership and influence in the Western Hemisphere and the Global South. If USTR conducts this Section 301 investigation in a legitimate and meaningful way, it can actively help scale back discriminatory Brazilian acts, policies, and practices, and discouraging other countries in the region and developing world from using them as models.

Section 301 of the Trade Expansion Act of 1974 continues to help ensure that our trading partners treat U.S. businesses fairly. We appreciate that USTR uses this tool in a measured and transparent way, including the thoroughness of its investigations, its well-written and researched reports, and its consideration of stakeholder input at each phase, consistent with the Section 301 statute, as enacted by the U.S. Congress.

CTA represents the more than $537 billion U.S. consumer technology industry, which supports more than 18 million U.S. jobs. Our members are comprised of over 1200 companies from every facet of the consumer technology industry, including manufacturers, distributors, developers, retailers, and integrators, with 80 percent of CTA members being start-ups or small and medium-sized companies. CTA also owns and produces CES®—the most influential technology event in the world—which showcases and serves as a forum for discussion of international policies concerning existing and new technologies, international technology trade and investment, and global opportunities and challenges facing the consumer technology industry.

CTA recognizes that Brazil plays limited but promising role in the global technology value chain. Brazil now stands out as a notable innovation adopter, as shown by its ranking on the 2025 CTA Global Innovation Scorecard.[1] While the country demonstrates strong pro-innovation policies and trends in some categories, it does not yet lead in most areas. The presence of 455 Brazilian attendees at CES 2025 underscores the nation's growing interest in, and commitment to, technological advancements.[2] As a crucial player in the Latin American economy, Brazil influences markets well beyond its borders. Therefore, CTA and the broader tech community closely follow Brazil's acts, policies, and practices.

On behalf of our members, **CTA urges USTR to ensure this investigation results in the removal, not the creation, of barriers to trade.** USTR should treat any barriers it finds as negotiation points with the Brazilian Government and should use the leverage from the Section 301 process to push for their removal. CTA also warns that USTR should not use Section 301 to add or raise tariffs permanently without Congress's approval.

This view helps American tech companies compete fairly and access the Brazilian market, while protecting U.S. businesses and consumers from unfair enforcement actions. If USTR tackles Brazil's trade barriers, it can drive innovation, create jobs, and help the United States stay a leader in technology. We urge USTR to advise the President to open Brazil's market to U.S. tech companies, while protecting our industry and supporting fair trade.

CTA stands ready to work with USTR to ensure Brazil's acts, policies, and practices treat American tech companies fairly. CTA offers comments on the following specific focus areas in the Section 301 Investigation: Digital Trade and Electronic Payment Services, Unfair, Preferential Tariffs, and Intellectual Property Protection.

Digital Trade and Electronic Payment Services

Internet Speech

As expressed in the CTA Innovation Agenda, we oppose efforts in the United States that attempt to limit free speech online and remove internet platforms' ability to moderate

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[1] 2025 CTA Global Innovation Scorecard, *CTA*, Jan. 2025. https://cdn.cta.tech/cta/media/media/advocacy/scorecard/2025-cta-global-innovation-scorecard.pdf.
[2] CES 2025 Attendance Audit Summary, *CTA*, Jan. 2025. https://www.ces.tech/media/53eghnx5/ces-2025-attendee-audit-summary.pdf.

content without fear of lawsuits.[3] Section 230 of the Communications Decency Act is a foundational law that underpins innovation, free speech, and the startup economy.[4] We extend this advocacy to our global policy priorities, and have successfully supported to include Section 230-style protections in the text of free trade agreements such as the United States-Mexico-Canada[5] and the U.S.-Japan Digital Trade Agreement.[6]

On June 26th, the Supreme Court voted to partially overturn Article 19 of Brazil's Civil Rights Framework for the internet ("Marco Civil") and now holds platforms liable for illegal posts by users.[7] The court replaced the general court order and takedown regime with a notice and takedown process in many cases and made ads generally liable by default. The decision also set general duty of care rules. The public still lacks full details because the court has not published the final decision yet.

Brazil's courts continue to press internet platforms to take responsibility for select third-party content and as a result, companies would likely aggressively remove any content that might come close to violating the law.[8] Furthermore, Brazil issued extraterritorial orders that require U.S. companies to remove content not just in Brazil, but worldwide, including the United States. Although Brazil's courts have jurisdiction over content available within their national borders, they should not dictate what content can be uploaded or viewed in other countries, including the United States. This practice triggers a race to the bottom on free speech and violates the First Amendment rights of U.S. companies and American citizens. President Trump recognized this issue through his memorandum titled, "Defending American Companies and Innovators From Overseas Extortion and Unfair Fines and Penalties."[9]

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[3] The CTA Innovation Agenda: Policies to Maintain U.S. Leadership in Global Technology, *CTA*, 2025. https://www.cta.tech/media/vorlmklh/2025-cta-innovation-agenda.pdf.
[4] 47 U.S.C. § 230.
[5] Article 19.17: Interactive Computer Services, *USMCA*. https://www.trade.gov/sites/default/files/2023-09/fulltext.pdf.
[6] Article 18: Interactive Computer Services, *U.S.-Japan Digital Trade Agreement*. https://ustr.gov/sites/default/files/files/agreements/japan/Agreement_between_the_United_States_and_Japan_concerning_Digital_Trade.pdf.
[7] Social Media Firms Accountable for Posts, Brazil Judges Conclude, *Bloomberg*, Jun. 11, 2025. https://www.bloomberg.com/news/articles/2025-06-11/brazil-top-court-forms-majority-to-boost-social-media-oversight.
[8] Brazil's Supreme Court Rewrites the Rules to Censor Online Speech, *CATO*, Jun. 27, 2025. https://www.cato.org/blog/brazils-supreme-court-rewrites-rules-censor-online-speech.
[9] Presidential Memorandum, *Defending American Companies and Innovators From Overseas Extortion and Unfair Fines and Penalties,* 90 Fed. Reg. 10685 (Feb. 21, 2025). https://www.federalregister.gov/documents/2025/02/26/2025-03188/defending-american-companies-and-innovators-from-overseas-extortion-and-unfair-fines-and-penalties.

Digital Ex Ante Competition Regulations

Brazil is advancing digital regulations that are modeled after the European Union's ("EU's") discriminatory Digital Markets Act.[10] Specifically, Bill No. 2768/2022 would let Brazilian regulators temporarily suspend the operations of American companies and possibly prohibit a platform's activities in Brazil.[11] The bill uses vague terminology and does not clearly describe the specific requirements needed to comply. Instead, it grants the National Telecommunications Agency ("ANATEL") significant discretionary authority to define terms and create rules.[12] Because the bill uses unclear wording, U.S. companies cannot easily determine exactly what obligations they would face. At minimum, the bill would drive up compliance costs and could force companies to restructure their business operations.

In addition, the Ministry of Finance's 2024 proposal, outlined in the report titled "Digital Platforms: Competition Aspects and Regulatory Recommendations for Brazil," draws on elements of European, United Kingdom, and German digital regulation.[13] It would create a Digital Markets Unit within the Administrative Council for Economic Defense ("CADE") and grant CADE broad new powers to designate select companies as "systemically relevant platforms." The proposal mirrors the UK's Digital Markets Competition and Consumer Act (DMCC) and would authorize CADE to investigate, identify certain players, set rules for them, and make sure they follow those rules. At a press conference in October 2024, the Secretary of Economic Reforms Marcos Barbosa Pinto predicted that the seven companies that are currently considered "gatekeepers" by the European Union's Digital Markets Act will likely meet Brazil's criteria.[14] This proposal could discriminate against U.S. companies by using quantitative thresholds that are poor indicators of market power and anticompetitive conduct.

Further, Bill No. 4691/2024 includes provisions related to content moderation and, when necessary, content removal, which resembles Brazil's court actions on internet speech, which we discussed above. The bill seeks to establish ANATEL and CADE share

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[10] Brazil Considering New Digital Competition Legislation, *CSIS*, May 9, 2024. https://www.csis.org/analysis/brazil-considering-new-digital-competition-legislation.
[11] Bill No. 2768/2022, *Camara*. https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra?codteor=2214237&filename=PL%202768/2022.
[12] Brazil's Digital Markets Act, *ITIF*, May 25, 2025. https://itif.org/publications/2025/05/25/brazil-digital-markets-act/.
[13] Digital Platforms: Competition Aspects and Regulatory Recommendations for Brazil, Oct. 10, 2024. https://www.gov.br/fazenda/pt-br/central-de-conteudo/publicacoes/relatorios/sre/digital-platforms-competition-regulatory-recommendations-brazil-en.pdf.
[14] Press Conference on Digital Platforms, Oct. 10, 2024. https://www.youtube.com/watch?v=cnZt9E_wsN0.

responsibility as co-regulators of digital platforms above a certain size and subject them to certain obligations.[15]

CTA worries that if Brazil adopts these EU-style rules, it could unfairly target U.S. companies and hurt competition and innovation in Brazil, especially if regulators design these rules to only affect dynamic U.S. firms in the digital sector. The United States should push Brazil to commit to not adopt these discriminatory *ex ante* regulations.

Even in the absence of specific legislation, CADE aggressively targets U.S. technology companies, seeking to force them to follow DMA requirements locally through "interim measures" that essentially introduce tough European regulations that Brazil has not yet adopted.[16]

Data Localization

We urge USTR to uphold high-standard digital trade rules to ensure cross-border data flows. In successive comments to USTR for the National Trade Estimate ("NTE") reports, CTA categorizes data localization as a top-priority digital trade barrier. In fact, we include "Allows Cross Border Data Flows" as a scoring category for the annual Global Innovation Scorecard.[17] Countries with data localization laws or requirements have a lower score, while those facilitating free data movement receive a higher score. Unfortunately, Brazil earned a "D-" score in this category.[18] We support USTR ensuring that Brazil does not impose overly broad restrictions on the transfer of data.

Preferential Treatment of Local Content

The Brazilian Senate has approved Bill No. 2331/2022, directly targeting U.S. video platforms while favoring Brazilian broadcasters and imposing a platform-wide tax to fund Brazilian content development. The bill does not exempt platforms with user-generated content. Furthermore, the bill includes new provisions mandating minimum quantities of Brazilian audiovisual content that service providers must make available to the Brazilian market.[19] The President is expected to issue a decree that adopts these same requirements.

Digital Services Tax

Brazil's Congress is moving forward with Digital Services Tax ("DST") proposals that could disproportionately impact U.S. companies. Lawmakers are debating seven DST

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[15] *Id.* at 10.
[16] CADE issues interim measure against Apple, Mar. 11, 2025. https://www.gov.br/cade/en/matters/news/cade-issues-interim-measure-against-apple.
[17] *Id.* at 1.
[18] *Id.* at 1.
[19] *Id.* at 10.

bills, and President Lula has publicly backed these initiatives.[20] These measures clash with Brazil's current tax system and planned reforms, risking double taxation and placing U.S. firms at a considerable disadvantage compared to Brazilian competitors offering the same services.[21] By implementing these unilateral taxes, Brazil threatens fair competition, international tax cooperation, and creates greater barriers for U.S. businesses operating in the country.

Proposed AI Regulation

Bill No. 2238/2023, which recently passed the Senate and awaits in the Chamber of Deputies, raises serious concerns. In its current form, this legislation risks creating substantial barriers for U.S. artificial intelligence ("AI") developers and U.S. businesses seeking to export AI-related products and services to Brazil.[22] Addressing Bill No. 2238/2023 will directly promote the goals of the American AI Exports Program, as outlined in President Trump's Executive Order on July 23, 2025.[23]

The bill labels many types of AI as "high-risk," causing legal uncertainty and forcing developers and users to meet strict rules that may not match the real risks. The bill also fails to clearly separate the rules for companies that build AI from those that use it, especially for high-risk situations.[24]

CTA is particularly concerned about the bill's strict copyright provisions. The bill would require AI developers to pay for and disclose the use of Brazilian copyrighted materials used in AI model training, and it would apply these rules retroactively. Such provisions could place heavy burdens American AI companies, making it harder to provide U.S. AI solutions in the Brazilian market and creating bigger issues for cross-border digital trade.

In addition, the bill grants wide powers to a central regulatory authority, further contributing to legal uncertainty. Obligations for General Purpose AI ("GPAI") developers are considered inadequate. By forcing developers to fully comply even for low-risk uses, the bill could slow innovation and make them spend money on unnecessary requirements for safe applications.

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[20] Exclusive: 'I won't humiliate myself': Brazil's president sees no point in tariff talks with Trump, *Reuters*, Aug. 6, 2025. https://www.reuters.com/world/americas/i-wont-humiliate-myself-brazils-president-sees-no-point-tariff-talks-with-trump-2025-08-06/.

[21] Brazil's Digital Tax Policy, *ITIF*, Feb. 27, 2025. https://itif.org/publications/2025/02/27/brazils-digital-tax-policy/.

[22] Bill No. 2238/2023, *LexML*, Apr. 28, 2023. https://www.lexml.gov.br/urn/urn:lex:br:camara.deputados:projeto.lei;pl:2023-04-28;2238.

[23] Executive Order 14320, *Promoting the Export of the American AI Technology Stack,* 90 Fed. Reg. 35393 (Jul. 23, 2025). https://www.federalregister.gov/documents/2025/07/28/2025-14218/promoting-the-export-of-the-american-ai-technology-stack.

[24] *Id.*

Data Center Obligations

Brazil's ANATEL Resolution No. 780/2025 sets broad new requirements on data centers connected to telecommunications networks, mandating conformity assessment and certification to continue operating.[25] These rules set tough standards for operations, security, energy use, and the environment. Regulators adopted these measures without public input or a conducting a regulatory impact study, raising serious concerns about transparency, predictability, and following proper regulatory steps. For U.S. tech companies heavily invested in Brazil's cloud and data center market, these sudden, unilateral rules create a lot of uncertainty and drive up compliance costs. Skipping normal review processes also increases the risk of discriminatory rules or non-tariff barriers that block foreign companies.

Network Usage Fee

Brazil is weighing a network usage fee that would require U.S. technology and content companies to pay major local internet service providers, helping to fund telecommunications infrastructure.[26] Brazil's telecommunications regulator, ANATEL, introduced this proposal in a 2023 public consultation, using a "cost-sharing" approach that targets companies generating large amounts of data traffic with higher charges.[27] If Brazil approves this fee, U.S. firms would be hit hardest, facing costs that undermine their investments in Brazilian infrastructure and force them to subsidize local competitors by paying more than smaller, non-U.S. companies.

Brazil's Unfair, Preferential Tariffs

Information Technology Agreement

Brazil does not participate in the World Trade Organization ("WTO") Information Technology Agreement of 1997 ("ITA-1") or its 2015 expansion ("ITA-2"),[28] hence its low score in our Global Innovation Scorecard. Information and communication technologies account for just 0.32 percent of the country's exports and 9.79 percent of the country's imports. If Brazil joins the Information Technology Agreement (ITA), it could boost its economic growth by nearly a full percentage point over 10 years compared to not joining.[29] Since the United States already participates in both ITA and ITA-2, encouraging Brazil to lower tariffs on tech products would provide a clear, "easy win"

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[25] ANATEL Resolution No. 780/2025, *ANATEL*, 2025. https://informacoes.anatel.gov.br/legislacao/resolucoes/2025/2054-resolucao-anatel-780.
[26] Cost-Sharing Models Undermine the Global Internet, *Internet Society,* Dec. 1, 2023. https://internetsociety.org/resources/internet-fragmentation/brazils-cost-sharing-proposal/.
[27] *Id.*
[28] Information Technology Agreement, *WTO*. https://www.wto.org/english/tratop_e/inftec_e/inftec_e.htm.
[29] Assessing How Brazil Would Benefit from Joining the ITA, *ITIF*, March 2019. https://www2.itif.org/2019-brazil-ita-exec-summary.pdf.

and increase U.S. tech exports to Brazil. In addition, USTR should urge Brazil to work with its Southern Common Market ("MERCOSUR") partners on accessing to ITA-1 and ITA-2 simultaneously, thereby integrating South America more broadly into global technology supply chains.

Intellectual Property Protection

Gray Market for Connected Devices

Brazil enforces strict regulations on cell phones and other protectionist policies designed to throttle imports of these products, such as rigorous certification mandates by ANATEL and multiple layers of taxation on imports. These measures create an environment of smuggled devices sold at much lower prices relative to legitimate products have flooded the Brazilian market.[30] This gray market severely undermines companies that comply with regulations, creating a major obstacle to investment and growth for consumer technology companies in Brazil. According to Brazil's Association of Electronics Manufacturers ("Abinee"), gray market channels account for 10% of smartphone sales, with Chinese brands like Xiaomi, Oppo, and Realme becoming top sellers.[31] These informal economy dynamics also hinder trade by discouraging foreign companies from entering the Brazilian market. To address this challenge, Brazil should simplify regulations and remove import barriers, not only for cell phones but for all connected devices, particularly televisions.

The widespread presence of gray market devices raises significant intellectual property ("IP") concerns, as these devices often bypass IP protections, leading to losses for legitimate manufacturers. The Government of Brazil must discourage retailers from carrying gray market devices, uphold IP standards, and foster a fair competitive environment. If Brazil fixes these issues with broad regulatory reforms, it can attract more investment, support responsible businesses, and help the consumer tech sector grow sustainably.

Conclusion

Thank you again for the opportunity to provide input on the Section 301 Investigation into Brazil's acts, policies, and practices. We look forward to working with USTR as it makes its determination, consistent with the Section 301 statute under the Trade Act of 1974. Recognizing that Brazil already faces two distinct tariff actions under the International Emergency Economic Powers Act of 1974 ("IEEPA"), imposing additional tariffs under Section 301 may not be necessary or appropriate and may in fact be

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[30] *See,* Smartphone Smuggling in Brazil Reaches Unprecedented Scale. https://www.forbes.com/sites/angelicamarideoliveira/2024/04/01/smartphone-smuggling-in-brazil-reaches-unprecedented-scale/.
[31] *Id.*

counterproductive in eliminating Brazil’s acts, policies, and practices that USTR identifies in its investigation.

Sincerely,

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Consumer Technology Association	Consumer Technology Association