



July 29, 2020

The Honorable Robert E. Lighthizer
United States Trade Representative
Office of the United States Trade Representative
600 17th Street NW
Washington, DC 20508

Dear Ambassador Lighthizer:

Our associations represent the nation's most innovative companies from every part of the technology sector. We are writing in strong support of the U.S. continuing to advocate longstanding U.S. copyright law in the ongoing trade negotiations. As more exporters leverage the internet to trade goods and services, it is more critical than ever to promote the parts of the U.S.'s innovative intellectual property framework that are tailored for the digital environment. We believe that a U.S.-UK Free Trade Agreement (FTA) must include copyright safe harbors from liability for online service providers, including language modeled on the U.S. Digital Millennium Copyright Act (DMCA), which has been a cornerstone of U.S. innovation and protection for rights holders for two decades.

A safe harbor system that protects the interests of copyright holders, online service providers, and users by defining responsibilities of each and incentives for collaboration among them is important to a U.S.-UK FTA being a modern agreement. Safe harbors are critical to the functioning of cloud services, social media platforms, online marketplaces, search engines, internet access providers, and many other businesses. A safe harbor system also provides incentives for service providers to cooperate with rights holders and go above and beyond baseline requirements.

In addition to being a well-established part of U.S. law, these provisions have long been part of U.S. trade policy. As USTR engages in the ongoing negotiations, it is critical that its positions on copyright and pro-innovation intellectual property frameworks continue to reflect the priorities of Congress as articulated in the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (TPA). Under TPA Congress stipulated that trade agreements should "foster an appropriate balance in copyright systems, inter alia by means of limitations and exceptions," and should include the safe harbors contained in the DMCA. USTR should continue to use the language found in the United States-Mexico-Canada Agreement (USMCA), which just went into force this month and passed both houses of Congress by wide bipartisan margins – with the House voting 385 to 41 and the Senate voting 89 to 10.

These long-established DMCA-based FTA provisions, which protect copyright holders, service providers and users, are essential for our companies. Many of our companies' products and services depend on advancing the interests of both rights holders and innovative content creators, while maintaining the free and open internet already enshrined in U.S. law.

The inclusion of these provisions in a U.S.-UK FTA will create new economic opportunities for American consumers, workers, small businesses, software developers, content creators, and manufacturers. Our associations look forward to working with USTR and the UK government to ensure that the U.S.-UK FTA includes clear language around copyright safe harbors from liability for online service providers.

Sincerely,

BSA | The Software Alliance

Computer & Communications Industry Association (CCIA)

Computing Technology Industry Association (CompTIA)

Consumer Technology Association (CTA)

Engine

i2Coalition

Information Technology Industry Council (ITI)

Internet Association

National Foreign Trade Council

TechNet