MEMORANDUM

From: **Public Citizen**
Date: **July 17, 2026**
Re: **Competition in the Digital Economy: Separating Fact from Big Tech Fiction**

Over the past few years, several countries have enacted or sought to enact digital competition/antitrust laws. Many of these laws bar various forms of harmful behaviour by dominant digital platforms and also impose competition-enhancing obligations on them.

These laws are necessary for a number of reasons, including:

- Significant harms to consumers and smaller businesses by vertical and horizontal bundling of services by dominant digital service providers;
- First mover advantage;
- Network effects;
- Access to data as a competitive advantage;
- Quick pace of technological change and the inability of legacy legal frameworks to keep pace;
- Economies of scale;
- Rapid growth of digital businesses through mergers and acquisitions.

Examples of such laws include:

- Enacted: the EU's Digital Markets Act (DMA)[1], the UK's Digital Markets, Competition and Consumers Act, 2024 (DMCCA), Japan's Smartphone Software Competition Promotion Act and Mobile Software Competition Act, and Nigeria's Federal Competition and Consumer Protection Act.
- Proposed: India, Australia, South Africa, South Korea, Kenya, Brazil, Canada, Thailand, and Turkiye.

[1] Also the Digital Services Act, which establishes ex ante safety and accountability norms for digital platforms, with enhanced obligations on "very large online platforms."

Brief overview of Brazil's proposed Fair Competition Act for Digital Markets (Bill 4675/2025)
• Brazil's proposed legislation, which seeks to learn from and build on the EU's experience with the DMA, creates a new digital markets division within the existing national antitrust authority, the Administrative Council for Economic Defence (CADE). CADE is an independent regulatory agency with protections from political interference. • The legislation seeks to empower CADE with the authority to designate entities with systemic relevance in digital markets. The designation is to last for a certain number of years and is subject to periodic review. • Designation is to be based on quantitative and qualitative criteria. The former includes economic size, and the latter considers factors such as presence in multi-sided markets, market power linked to network effects, vertical integration, access to significant data, amongst other factors. Recent proposals to amend the law reportedly seek to further clarify these criteria. • Designated platforms are required to adhere to various obligations imposed by CADE through a specific administrative proceeding supported by economic justification. The proposed legislation lists various prohibited behaviors such as self-preferencing, tying and bundling, and imposes obligations such as merger notifications, transparency requirements, data portability and interoperability. • The legislation is still at the discussion stage, with significant amendments being debated, though it is expected to be enacted in the near future. It is also notable that the bill was only introduced subsequent to considerable background work, including market studies and open public consultations by the Brazilian government and other authorities.

Big Tech has long opposed any form of digital economy regulation implemented both within and outside the U.S, including measures to promote and protect competition in online markets. More recently, Big Tech has sought to leverage its proximity to the Trump administration to target digital competition (and other) laws in several countries, as illustrated in industry comments submitted to the USTR's reciprocal tariff and National Trade Estimates report consultations in 2025.

The primary arguments made against foreign digital competition laws are that:

- These laws discriminate against U.S. companies by using thresholds based on user and revenue base to determine applicability;
- Fines imposed on U.S. companies under such laws are excessive and disproportionate;
- Such laws expose the intellectual property (IP) of U.S. companies to misuse;
- Fines imposed under such laws are a "tariff" on U.S. companies and designed to "handicap" U.S. firms.

These claims are mistaken and misleading, given that:

- U.S. companies do in fact dominate and monopolize various sectors of the digital economy, implying that those dominant companies will naturally face greater antitrust scrutiny;
- Laws such as the EU's DMA, the UK's DMCCA and Brazil's proposed Fair Competition Act for Digital Markets are neutral and do not only apply to U.S. companies. They apply irrespective of the country of origin;
- Thresholds in laws such as the DMA are based on quantitative criteria such as user base, economic scale, and market presence. This provides an objective assessment and proxy for the systemic risk posed by the platform to users and smaller businesses. Assessments may also consider qualitative structural characteristics such as network effects and data-driven advantages. This allows companies that meet the thresholds but are not structurally significant to be excluded from designation, while smaller companies that are structurally significant can be included. Similarly, thresholds in the DMCCA are based on market power, economic size, and digital activity in the UK;
- The EU has designated non-U.S. firms as gatekeepers/very large online platforms, such as ByteDance, Alibaba, Ali Express, and Booking.com under the DMA/DSA. Enhanced obligations are equally applicable to all designated entities;
- Enforcement actions in the EU are generally preceded by attempts to secure voluntary compliance, allowing the infringing entities to challenge designations/enforcement actions and appeal decisions. Several investigations under the DMA/DSA have been closed by the EU Commission following constructive dialogue. This illustrates the lack of political intent to discriminate against U.S. companies;
- The EU has often only imposed "modest" or "insufficient" fines on U.S. companies found to be in breach of the DMA/DSA;
- Competition and other regulatory authorities around the world have dealt with sensitive business information for decades, across multiple economic sectors. There is no reason why the intellectual property of tech companies will be exposed merely by requirements to cooperate with enforcement processes.

Rather than targeting foreign countries for their legitimate enactment and enforcement of competition law in the digital ecosystem, the US should enforce digital antitrust laws domestically. There is bipartisan consensus that the dominance of Big Tech is a problem and harms users and small businesses and poses structural concerns to the economy and society more broadly. Indeed, the U.S. has previously taken [similar antitrust action] against Big Tech as is being taken and considered in various foreign jurisdictions.

- Framing these initiatives as "anti-U.S." obscures their policy rationale and dismisses the sovereign right and responsibility of governments to regulate all companies operating within their borders that wield structural power over key sectors of the economy.

- Using trade policy to attack foreign countries' digital competition initiatives is both highly inappropriate and self-defeating. Competition policy is a core element of domestic economic governance, and countries must retain the policy space to address concentrated market power in ways suited to their own institutional and market realities.

- Pushing back against foreign digital competition law threatens [similar U.S. policies] and hurts small and medium enterprises in the U.S. and the world over. Notably, several [small businesses] expressed their support for the shift in the U.S. position on digital trade under President Biden, to enable countries to enforce digital competition and other public interest laws to create a fair and level playing field in the digital ecosystem.

Further Reading:

- Public Citizen, "Congressional Hearings Provide Megaphone for Big Tech Attacks on Global Anti-Monopoly Laws," December 22, 2025, https://www.citizen.org/article/congressional-hearings-provide-megaphone-for-big-tech-attacks-on-global-anti-monopoly-laws/
- Public Citizen, "Don't Fall for the Big Tech B.S.: The European Commission's Fines Against Apple and Meta are not 'Retaliatory Tariffs,'" April 24, 2025, https://www.citizen.org/article/dont-fall-for-the-big-tech-b-s-the-european-commissions-fines-against-apple-and-meta/
- Rethink Trade, "International Preemption by "Trade" Agreement: Big Tech's Ploy to Undermine Privacy, AI Accountability, and Anti-Monopoly Policies," March 15, 2023, https://rethinktrade.org/reports/international-preemption-by-trade-agreement/
- Coalition for App Fairness et al., "Letter to Ambassador Tai and Secretary Raimondo," May 16, 2023, https://www.washingtonpost.com/documents/9ee18cda-efb8-44ac-a84d-b53b48534a91.pdf
- Joseph Stiglitz, "Big Tech Is Trying to Prevent Debate About Its Social Harms," Foreign Policy, April 4, 2024, https://foreignpolicy.com/2024/04/04/big-tech-digital-trade-regulation/

- DeLauro et al., “Letter to President Biden,” February 12, 2024, https://rethinktrade.org/letters-filings/letter-88-democrats-rosa_delauro/
- Guilherme Ribas and Leonardo Danesi, “Brazilian Antitrust Authority may Become a Regulator for Digital Markets”, International Bar Association, March 26, 2026, https://www.ibanet.org/Brazilian-antitrust-authority-may-become-regulator
- Beatriz Kira, “Brazil’s Bill No. 4675/2025: Regulating Systemically Important Economic Actors,” January 22, 2026, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=6113706