



**IT for Change's Response to the USTR  
Call for Comments from the Public on  
Unfair and Non-Reciprocal Trade  
Practices**

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In March 2025, the Trump Administration initiated a series of enquiries through the office of the United States Trade Representative (USTR) on unfair and non-reciprocal trade practices in countries currently trading with the United States. The below is the response from IT for Change to this Call for Comments.

IT for Change ([www.itforchange.net](http://www.itforchange.net)) is a not-for-profit organization based in India and engaged in policy research, advocacy, and institutional capacity-building on digital rights. A key area of our work is to promote policies for fair and inclusive digital economies. Our submission intends to inform the Office of the United States Trade Representative (USTR)'s assessment of unfair and non-reciprocal trade practices. Recently, some of India's regulatory practices have been met with criticism from US Big Tech companies as distorting digital trade. In particular, the following regulatory instruments have been targeted:

- (a) the provision on regulating cross-border data flows in the Digital Personal Data Protection Act (2023),
- (b) the proposed Digital Competition Bill (anti-trust bill to regulate digital markets), and
- (c) the Intermediary Guidelines issued under the Information Technology Act (2021).

Through this submission, we make the case for how these regulatory instruments constitute a legitimate exercise of the Government of India's powers to introduce policies to protect citizen rights and the overall health of the digital economy. These regulatory instruments prioritize citizen interests and national security, and should not be considered trade-distorting. Furthermore, we submit that all these instruments have parallels in the US context, and therefore, should not be categorized as 'non-tariff barriers to digital trade' during the assessment.

**India: Long-Standing Trade Ally Committed to a Fair, Open, and Competitive Digital Marketplace**

India has been a long-standing trade ally of the US, and this partnership is expected to deepen even further in the coming years, with leaders in both countries committed to strategic cooperation on trade, investment, and emerging technologies such as semiconductors and AI. The initiatives in the pipeline—US-India TRUST (Transforming the Relationship Utilizing Strategic Technology) initiative, US-India Roadmap on Accelerating

AI Infrastructure, and the Indus Innovation Bridge—point to the deepening convergence of US-India strategic interests in the coming years. In their joint statement on 13 February 2025, the leaders of both countries have also committed to evolving a mutually beneficial, multi-sector Bilateral Trade Agreement (BTA) by the fall of 2025. India's economic policies are geared towards a level playing field and minimizing trade barriers. As the fastest-growing digital economy, India is committed to fair and free digital trade. In fact, in August 2024, as part of its commitment to the OECD Pillar-1 taxation proposal, India struck down its equalization levy on foreign digital service providers.

### **Data Free Flows: India's Targeted Approach to Protect Citizens' Personal Data — Parallels to US Practices**

India's Digital Personal Data Protection Act allows the government to regulate cross-border flows of personal data based on considerations of citizen privacy, law enforcement, national security, and digital sovereignty. The Government of India is monitoring the rise of DeepSeek's artificial intelligence (AI) model to the top of app store rankings for potential risks relating to data safety and citizen sovereignty for the citizens of India. The Government of India's motivation is similar to concerns of national security and citizen interest underlying the US government's Executive Order 14117—Preventing Access to Americans' Bulk Sensitive Personal Data and United States Government-Related Data by Countries of Concern. Both countries see a need for caution about the transmission of sensitive personal data to foreign servers, particularly those located in China, in keeping with their respective national security interests.

With respect to financial data, the Reserve Bank of India requires such data generated within India to be stored and processed on servers located within the country's borders. US regulators of the financial system have also adopted this approach, going by the challenges faced by the US Treasury to access data for regulatory oversight in the aftermath of the 2008 financial crisis.

### **India's Proposed Digital Competition Law: Preserving a Free, Open, and Fair Digital Marketplace**

India is proposing a Digital Competition Law that will prevent dominant digital commerce marketplace platforms from exploiting non-public user data and unfairly prioritizing their own private label products. Big digital companies would also be barred from restricting the ability of users to download third-party apps and services in any way.

This proposed law is not trade-distorting. On the contrary, it is motivated by the imperative to preserve a free and fair digital market. In the US, too, public interest groups have argued for bipartisan competition law

bills—the “American Innovation and Choice Online Act” and “Open App Markets Act”—to be passed, in preceding years. More recently, the Department of Justice has also cracked down on Google’s search monopolies and anti-competitive conduct.

### **India’s Internet Regulation Proposals: A Legitimate Attempt to Address the Shortcomings of the Intermediary Liability Framework of the US Communications Decency Act (Section 230)**

Section 230 of the US Communications Decency Act has come under the scanner for facilitating the spread of propaganda warfare and electoral disinformation. President Trump has observed in his first term that Section 230 should not facilitate Big Tech power at such great national risk. India’s Intermediary Guidelines issued under the Information Technology Act (2021) are intended to prioritize national security and electoral integrity and safeguard democracy from misinformation through due diligence obligations on the part of digital service providers. As India and the US continue to deepen their strategic partnership interests in the Indo-Pacific region, it is crucial for both countries to regulate Internet services in a manner that strengthens national sovereignty and prevents foreign interference.

Ensuring a secure and resilient digital ecosystem will strengthen economic and security cooperation between India and the US while safeguarding citizens’ rights, maintaining open markets, and upholding national and regional security. We believe that the evidence submitted above provides a convincing case on how India’s digital governance regulations and policy frameworks further the strategic economic interests of both India and the US.