Before the
Office of the United States Trade Representative
Washington, D.C.

In re Request for Public Comments on National Trade Estimate
Docket Number: USTR-2025-0016

COMMENTS OF THE DIGITAL MEDIA ASSOCIATION (DIMA) REGARDING THE NATIONAL TRADE ESTIMATE REPORT ON FOREIGN TRADE BARRIERS

October 30, 2025

The Digital Media Association (DIMA) offers the following comments in response to USTR's Federal Register notice inviting submissions from the public to assist USTR and the Trade Policy Staff Committee to identify significant foreign barriers to, or distortions of, U.S. exports of goods and services and U.S. foreign direct investment, for inclusion in the National Trade Estimate Report.

DIMA represents the leading music streaming services in the world: Amazon, Apple Music, Feed.fm, Pandora, Spotify, and YouTube. Our members are the driving source of recorded music revenue in the United States, Mexico, Canada, and much of the rest of the world.

In the United States, DIMA's members are responsible for approximately 84% of recorded music revenues, with music streaming generating more than $14 billion for the U.S. recorded music industry in 2024.[1]

Music streaming services are not just the economic engine powering the U.S. – and global – music industries; music streaming is also a significant contributor to the broader economy. In the U.S., for every $1 in economic value generated by streaming, other sectors of the U.S. economy gain an additional $1.65. For every job directly created in music streaming, other sectors of the U.S. economy gain nine additional jobs. And streaming services are constantly innovating – in 2020, 8.82% of revenue from streaming services went to research and development – more than twice the investment level of the average industry. Streaming sustains thousands of businesses large and small, from the services themselves to artists, songwriters, producers, managers, record labels, music publishers, and collective rights management organizations.

All of this has led not only to a revitalized music industry, which now sees year-over-year revenue increases, after being rescued from the clutches of piracy, but also an enhanced fan experience. 94% of U.S. music streamers say they like or love their streaming service. This is translating into real results for the music industry – streamers are spending 26% more on recorded music today than they did just five years ago.

The majority of DIMA's members operate internationally, and all of them rely on global supply chains that support a robust music industry that empowers music listeners to listen to whatever music they want, whenever they want, and for artists to connect with fans and reach new audiences around the world.

Streaming is a global success story – and a testament to American innovation and creativity – but there are a number of initiatives under consideration or recently enacted in countries around the world that could negatively impact this positive story and penalize and discriminate against U.S. companies.

DIMA appreciates USTR's consideration of these issues and the work to identify unfair foreign trade barriers.

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[1] https://www.riaa.com/wp-content/uploads/2025/03/RIAA-2024Year-End-Revenue-Report.pdf

<u>Chile</u>

"Ley Tommy Rey"

The Chilean House of Deputies is currently considering legislation – known as the *Ley Tommy Rey* – that introduces a new non-waivable and non-transferable right to remuneration for performers when their performances are made available to the public, even if those rights have already been assigned and paid for through licensing contracts with rights holders, such as producers or record labels.

Under this approach, digital services would be forced to pay twice for the same stream: once under existing licensing agreements, and again via a collective management organization (CMO).

This legislation is part of a concerning trend across the region that would threaten the economic sustainability of the streaming model, and have a significant impact on U.S. companies, in addition to Chilean consumers and creators.

If the Chilean legislature continues to pursue this misguided and unnecessary approach, we believe that the legislation could run afoul of the U.S.-Chile Free Trade Agreement, including Article 17.7, which requires full transferability of copyright and related rights and guarantees freedom of contract.

By imposing inalienable, collectively managed remuneration, the bill disregards the terms of valid domestic and international contracts and creates legal uncertainty that could negatively impact trade relations.

<u>Canada</u>

Online Streaming Act

In 2023, the *Online Streaming Act* was passed by the Canadian government. The Act (previously referred to as Bill C-11) was ostensibly intended to update the country's *Broadcasting Act* for the streaming age. According to the Canadian government, the Act was meant to play "an important role in supporting Canada's cultural industries and ensuring Canadian content is available and accessible." DIMA takes no issue with those stated goals, but in practice, the Act and its implementing regulations impose new discriminatory obligations that fall overwhelmingly on U.S. businesses, compel American streaming services to make contributions to funds for Canadian content (which may be accessed for use by Canadian broadcasters, but not by U.S. streaming services, as explained below) and create discriminatory barriers in the online marketplace. The *Online Streaming Act* differentiates between foreign and domestic streaming services, imposing obligations on U.S. companies. The actions of the Canadian government have created a digital trade environment that appears to intentionally target U.S. companies for discrimination.

The Canadian law attempts to impose outdated, local broadcasting regulations on internet-based services. This is neither practical nor desirable. It would have significant implications for U.S. companies and creators, as well as those in Canada.

Recently, the *Online Streaming Act* has attracted attention in both the U.S. and Canada, and scrutiny from Congressional leaders. This includes a July 31, 2025, letter to Secretaries Bessent, Lutnick, and USTR Greer that was signed by 18 members of the House Ways and Means Committee, calling on President Trump to instruct Prime Minister Carney to suspend the *Online Streaming Act,* which they described as a "major threat" to the U.S.–Canada trade relationship. The letter attracted significant coverage in both the U.S. and Canada.[2][3][4]

For the reasons we explain below, we believe that the *Online Streaming Act* and its implementation is substantial a departure from the principles – and, in many cases, plain text – of the USMCA and could be construed as a foreign trade barrier. At the time of its passage, some observers noted that the law as written would likely violate the USMCA by discriminating against U.S. (and foreign) companies and content.[5]

Implementation of the bill has brought these concerns into even sharper focus. On June 4, 2024, the Canadian Radio-television and Telecommunications Commission (CRTC) issued its first major decision implementing the *Online Streaming Act*.

The CRTC's decision stipulated that foreign, largely U.S.-based, music and audio-visual streaming service providers with revenues over $25M must contribute 5% of their gross in-country revenue to a set of Canadian cultural and content funds, such as the Indigenous Music Office and the Community Radio Fund of Canada. These funds would enable initiatives supporting Canadian or Indigenous content including "support for Canadian events **exclusively** featuring Canadian and/or Indigenous artists," among other funds.[6] This 5% levy, or streaming tax, should be examined by USTR in light of Canada's USMCA obligations.[7]

Critically, the 5% levy openly targets foreign companies, and in particular U.S. streaming companies, since it expressly exempts their competitors affiliated with Canadian broadcasters. And, going further, the regulations prevent those same U.S. companies from even accessing the funds to which these levies flow – something traditional Canadian broadcasters are able to do. Moreover, music streaming services are required to allocate 1.5% of their mandatory 5% contribution to subsidize local Canadian broadcast radio news production. This obligation is entirely unreasonable since music streaming services are not in the news business, meaning the levy represents a government-mandated subsidy to an unrelated industry.

The measure also imposes an undue economic and competitive burden on music streaming services. By applying the contribution to gross revenues rather than profits, the framework fails to reflect the economics of the streaming market, where roughly 70% of revenues already flow to rights holders in royalties and licensing payments. In practice, this design results in a

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[2] U.S. Congress Republicans Pressure Canadian Government to Suspend 'Discriminatory' Online Streaming Act

[3] 'Major threat' to trade: U.S. Congress Republicans call for Canada to rescind Online Streaming Act

[4] Members of Congress say Canada's online streaming act discriminates against Americans

[5] https://ccianet.org/library/ccia-white-paper-on-canadas-online-streaming-act-bill-c-11/

[6] Broadcasting Regulatory Policy CRTC 2024-121-1 and Broadcasting Order CRTC 2024-194 | CRTC

[7] https://www.uschamber.com/international/u-s-chamber-condemns-crtcs-decision-on-u-s-streaming-servicesciting-trade-agreement-violations-and-investment-impact

disproportionate impact on digital services compared to traditional broadcasters. The levy effectively operates as a market-access barrier or "entry fee" for participating in the Canadian market. In effect, the framework creates a one-sided financial requirement borne only by foreign providers – primarily U.S. providers – leaving domestic competitors unaffected. This is particularly concerning given that streaming services are already the primary economic driver of Canada's recorded music industry, accounting for nearly 80 percent of total revenues. No comparable obligations exist in the United States or other countries, which shows that Canada's approach is commercially unbalanced and internationally anomalous.

According to a recent report by the Computer and Communications Industry Association (CCIA), "conservative estimates indicate U.S. companies will be forced to direct an extraordinary **US $2.19 billion** to the funding of Canadian cultural organizations and the production / acquisition of certified Canadian audiovisual content by 2030."[8]

The U.S. Commerce Department has expressed that the U.S. government "has concerns regarding the CRTC's approach," which has "reinforced the U.S. government's view that Bill C11 disproportionately targets U.S. companies to financially benefit Canadian firms."[9] We agree.

The CRTC is now in the midst of consultations related to discoverability and the definition of Canadian content ("CanCon") for audio services. Remarkably, this definition was lacking when the regulator purported to assess music streaming services' contributions to the Canadian music sector and concluded that it was insufficient and thus imposed the streaming levy. And now, after the levy is imposed, it remains unclear what the definition is intended for. On the radio side, the Canadian content definition is used to impose quotas for Canadian content, which preferences Canadian content over recordings by U.S. and other artists, reducing the royalty streams U.S. artists would otherwise receive absent this obligation.

The CRTC consultations may lead to local content production and discoverability requirements, and additional direct spending requirements, on top of the already onerous 5% gross revenue contribution requirement, which fails to take into account the fact that online streaming services currently pay roughly 70% of their revenues toward music licensing – an investment that is 8.5 times higher than radio.

The imposition of so-called "CanCon" rules also fundamentally ignore the way that today's modern music industry works, and could discourage Canadian artists, producers, and songwriters from collaborating with American creators, as it could be counted against how they qualify under the definition of Canadian musical selection (the "MAPL system"). This is a double penalty to American creators.

Ultimately, we are concerned that the implementation of the *Online Streaming Act*, by targeting U.S. companies, and penalizing non-Canadian content, including partly Canadian content, is a foreign trade barrier.

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[8] Cost of Canada's Online Streaming Act 9.5.25

[9] https://www.trade.gov/country-commercial-guides/canada-digital-economy

Quebec Bill 109

The *Online Streaming Act* has recently inspired similar bills at the provincial level meant to promote "discoverability" of Canadian artists that similarly discriminate against U.S. companies operating in Canada. On May 21, 2025, Quebec's Minister of Culture and Communications introduced Bill 109, which amends the province's Charter of Human Rights and Freedoms by establishing a right for Quebecers to access French-language content on music and video streaming services, as well as appliance and connected device manufacturers. The bill would establish criteria for what is French-language content, determine quota requirements for French-language content, and how it must be made available, in a manner that discriminates against U.S. content. A new Ministry office would have broad and investigative powers and the ability impose fines, adding discriminatory, harmful new rules to U.S. streaming firms.

Both the *Online Streaming Act* and Bill 109 risk jeopardizing U.S. investment and create barriers for American streaming services doing business in Canada.

<u>Mexico</u>

Mexico's "Kill-switch" and Article 30-B in the 2026 Economic Package

In Mexico, DIMA members face challenges stemming from tax enforcement rules that uniquely affect cross-border digital services. Amendments to Mexico's Value-Added Tax (VAT) law authorize telecommunications carriers to block access to foreign digital services that fail to meet local tax obligations, such as registering a Mexican legal representative, obtaining an electronic signature (e-firma), or remitting VAT.

Widely referred to as a "kill-switch," this mechanism applies only to non-resident suppliers and therefore results in differential treatment of U.S. companies. Conditioning access to national telecommunications networks on tax compliance, rather than on technical or security grounds, creates unnecessary uncertainty and undermines the predictability that cross-border digital services require.

The proposed 2026 reform to Mexico's Federal Fiscal Code (CFF Article 30-B) would further intensify these concerns. The measure would mandate continuous, real-time access for Mexican tax authorities to platform-level data, again using network blocking as the penalty for non-compliance. Beyond its operational burden, this approach raises serious data-security and trade-secret concerns. Taken together, these measures represent a disproportionate and discriminatory method of tax enforcement that risks restricting legitimate market access and discouraging future investment in Mexico's digital economy and raise serious concerns regarding Mexico's USMCA commitments.

Türkiye
Digital Services Tax

In 2020, Türkiye introduced a 7.5% Digital Services Tax (DST) through Law No. 7194 on revenues from digital services, including advertisements and subscriptions.[10] This tax applies to companies with global revenues exceeding €750 million and local revenues over TRY 20 million. The tax applies to revenue generated from the following services, all of which are sectors where American companies are world leaders: 1) digital advertising; 2) online streaming and sales of audio and audiovisual content; and, 3) social networking services.

Notably, the law also grants the President the authority to reduce this rate downward to 1 percent or to increase it upward to 15 percent. The tax has been in effect since March 1, 2020. In 2020, USTR initiated a Section 301 investigation.

USTR has already determined that Türkiye's DST is unreasonable or discriminatory and burdens or restricts U.S. commerce, making it actionable under Section 301(b) of the Trade Act. However, USTR did not act upon this finding.

We recognize Turkish authorities' commitment to a gradual reduction of the DST and hope the rate eventually reaches a level that reflects a competitive and investment-friendly environment for digital services.

Austria
Digital Services Tax

Austria is planning to impose 5% DST on revenue from online advertising. The threshold is for companies with worldwide revenue of €750 million and local revenue of €25 million. On February 15, 2024, U.S. Treasury announced the extension of the agreement between the United States and Austria allowing DST liability accrued by U.S. companies through June 30, 2024 to be creditable against future income taxes accrued under the OECD's Pillar 1.

Belgium
Digital Services Tax

In 2025, the new ruling government of Belgium put forward a plan to implement a 3% "digitax" by 2027 at the latest, pending further European and global discussions. If it follows Belgium's 2019 proposal, it would apply to companies with worldwide revenue of €750 million and local revenue of €5 million and would have the same scope as the European Commission's DST proposal, which would allow the revenue streams of advertising services, intermediation and marketplace services, and data transmission to be taxable.

[10] https://ustr.gov/sites/default/files/enforcement/301Investigations/Report%20on%20Turkey%E2%80%99s%20Digital%20Services%20Tax.pdf

Colombia
Digital Services Tax

Colombia's implementation and proposed expansion of its digital services tax (DST) represent a significant trade barrier that disproportionately affects U.S. companies. Initially established as a 3% Significant Economic Presence (SEP) Tax in January 2024, the Colombian government now seeks to increase this to 5% through a September 2025 tax reform bill. This measure directly violates the United States-Colombia Trade Promotion Agreement (USCTPA) through discriminatory treatment of U.S. providers and contradicts international tax norms. The tax structure effectively functions as a de facto tariff by increasing costs for imported digital services while favoring domestic providers. Most concerning is the reduced rate offered to companies establishing local presence, violating USCTPA Article 11.5's prohibition on local presence requirements. The proposed 5% rate would position Colombia's DST among the highest globally, creating substantial market access barriers and potentially violating multiple USCTPA provisions, including restrictions on digital products and services.

France
Digital Services Tax

France has imposed a 5% DST on revenue from services connecting users through a digital platform and the sale of advertising space and digital data. The threshold is for companies with worldwide revenue of €750 million and local revenue of €25 million.

Italy
Digital Services Tax

Italy maintains a 3% DST on revenue from advertising services, intermediation and marketplace services, and data transmission (i.e. the transfer of data collected from users and generated through the use of digital interfaces). The tax applies to companies with worldwide revenue of €750 million and creates market access barriers for U.S. companies, including music streaming services.

Nigeria
Levy on Foreign Digital Platforms

A 1% levy on foreign digital platforms was proposed in 2023 but has not yet been enacted.

Spain
Digital Services Tax

Since 2021, there has been a tax on certain digital services. It is an indirect 3% tax and the taxable base is constituted by the amount of income, excluding, where applicable, VAT or other equivalent taxes, obtained by the taxpayer for each of the digital services subject to the tax, namely online advertising, online intermediation and data transmission services, carried out in Spain.

United Kingdom

Digital Services Tax

The UK has a 2% DST. The threshold is for companies with worldwide revenue of £500 million and local revenue of £25 million. The tax applies to revenues of “digital services activity” which includes “social media platforms,” “internet search engines,” or “online marketplaces.” The UK government has acknowledged that 90% of the tax is paid by 5 digital services companies, which are likely all American, as USTR has previously identified in its Section 301 report.

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DIMA appreciates consideration of the above issues and recommendations in preparation for the 2026 National Trade Estimate, and USTR’s trade agenda. It is critical to defend U.S. business interests against discriminatory policies that target U.S. companies and threaten their ability to invest and innovate. DIMA thanks USTR and the Trade Policy Staff Committee for their ongoing work to identify foreign trade barriers and enforce U.S. trade agreements.

If you have any questions regarding DIMA’s comments, please contact Sally Rose Larson, DIMA’s Senior Vice President of Government and External Affairs, at sallyrose@dima.org.