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

In re:
Section 301 investigation of China's Acts,
Policies, and Practices Related to Technology Transfer,
Intellectual Property, and Innovation.
Notice of determination, request for comments,
and notice of public hearing

Docket No. USTR-2018-0005

COMMENTS OF
INTERNET ASSOCIATION

Internet Association[1] represents over 40 of the world's leading internet companies. We support policies that promote and enable internet innovation -- ensuring that information flows freely across national borders, uninhibited by restrictions that are fundamentally inconsistent with the transnational, free, and decentralized nature of the internet.

U.S. internet platforms are a significant driver of the U.S. economy and U.S. exports. Our industry represents an estimated 6 percent of U.S. GDP in 2014, totally nearly $967 billion, and accounts for nearly 3 million American jobs. Many of these jobs depend on internet-driven exports. Digital trade alone has added up to 2.4 million jobs to the U.S. economy.

In China, many U.S. internet companies are either blocked from operating or are severely restricted. China's ongoing intellectual property rights violations, forced technology transfers policies, and state interventions harm U.S. companies, workers and consumers. Barriers to digital trade in China continue to present significant challenges to U.S. exporters. China is forcing U.S. cloud service providers to transfer valuable U.S. intellectual property, surrender use of their brand names, and hand over operation and control of their business to a Chinese company in order to operate in the Chinese market, effectively barring U.S. cloud service providers from operating or competing fairly in China.

China imposes numerous requirements on internet services to host, process, and manage data locally within China, and places significant restrictions on data flows entering and leaving the country. China actively censors –and often totally blocks – cross-border internet traffic.

[1] Internet Association members include Airbnb, Amazon, Coinbase, DoorDash, Dropbox, eBay, Etsy, Eventbrite, Expedia, Facebook, Google, Groupon, Handy, HomeAway, IAC, Intuit, Letgo, LinkedIn, Lyft, Match Group, Microsoft, Netflix, Pandora, PayPal, Pinterest, Quicken Loans, Rackspace, reddit, Salesforce.com, Snap Inc., Spotify, SurveyMonkey, Thumbtack, TransferWise, TripAdvisor, Turo, Twilio, Twitter, Uber Technologies, Inc., Upwork, Vivid Seats, Yelp, Zenefits, and Zillow Group.

It has been estimated that approximately 3,000 internet sites are totally blocked from the Chinese marketplace, including many of the most popular websites in the world. High-profile examples of targeted blocking of whole services include China's blocking of Facebook, Twitter, Tumblr, Google search, YouTube, and Dropbox. China's business environment has cost U.S. services billions of dollars in potential business.

We appreciate that the Administration has acknowledged and is trying to address these trade barriers. Tariffs, however, are the wrong solution to real problems. The U.S. government should not undertake policies that stifle growth. Internet companies understand that tariffs are hidden, regressive taxes that will be paid by the U.S. consumer in the form of higher product prices and by hurting companies ability to invest in future technology. Instead of punishing China for its trade violations, tariffs will punish hard-working Americans across the country.

Many of the products that are currently on the proposed tariff list are consumer goods -- including goods which incorporate hardware, software, design and R&D inputs from the United States. Other products on the list include machinery, parts, and components that U.S. manufacturers and their workers need to make American products. The results will be bad for the American economy. It will cause a decreased global competitiveness for American technology and other firms that ultimately will lead to fewer jobs for American workers.

We agree that it's time to address China's unfair trade practices, but we should do so in a way that doesn't punish American families or firms. Instead of unilateral tariffs, the Administration should lead a coalition of countries that share our concerns about China and its unfair trade practices.

The following tariff lines are problematic for internet companies. We respectfully request that USTR remove the following items from the list of products subject to the proposed additional duties:

- **Key Consumer Products: Flat screen televisions (HTS 85287264), water filters (HTS 84212100), air purifiers (HTS 84213980), scanners (HTS 84716080), flash drives (HTS 84717060), video projectors (HTS 85287110), handheld radios (HTS 85256010), portable generators (HTS 85021100), remote controls (HTS 85269250), vacuum sealers (HTS 84223091), ink cartridges (HTS 84439925)[2], and mini fridges and water coolers (HTS 84186901)**
  Tariffs on consumer products will mean that working families will pay more for everyday products, negating gains for American consumers from U.S. tax reform. One estimate suggests that the price of ink cartridges and flat screen televisions made in China would each increase around 23 percent after the tariffs are applied.[3]

[2] Other tariff lines the study considered: 8443.99.20, 8443.99.45, 8443.99.50
[3] Estimated Impacts of Proposed Tariffs on Imports from China: Televisions, Monitors, Batteries and Printer Cartridges. Trade Partnership Worldwide. 11 April 2018. Available at: http://www.cta.tech/CTA/media/policyImages/China301Tariffs_TVs_Monitors_Cartridges_Batteries.pdf

- **Hard Drives (HTS 84717040) and Parts/Accessories of Printed Circuit Assemblies (HTS 84733020)**
  U.S. manufacturers of high-technology products who rely on imported industrial inputs to support jobs in the United States will see their input costs increase due to tariffs. Imported hard drives and parts/accessories of printed circuit assemblies are essential components in technology products manufactured in the United States, such as servers.

  The imposition of tariffs will represent a tax on these U.S. manufacturers, workers, and on the products they build and export. This will potentially make these products more expensive, raising the price of finished goods and negatively impacting U.S. jobs as foreign competitors gain market share. In addition, information available indicates that about 95% of motherboard parts originate in China. While some other countries have the capability to produce enterprise class motherboard parts, current supply from those countries could not meet U.S. companies' demand.

- **Thermostats (HTS 9032.10.00)**
  Smart thermostats are a key product of the Internet of Things (IoT) sector, where the U.S. is a global leader. By 2020, the global IoT market is projected to grow to $457 billion, and "smart home" products like smart thermostats will contribute to 14% of the market value. U.S. companies have led and continue to lead in the smart thermostat market, innovating technology capable of reducing household energy costs, increasing the stability of the electrical grid, and enabling energy utilities to offer consumers valuable demand response services.

  U.S. developers of smart thermostats largely conduct their research and development, and develop the software behind this technology in the U.S., not in China. This is the real value-add driving U.S. smart thermostat leadership and it is minimally impacted by the use of contract manufacturers for assembly in China. Furthermore, to the best of our knowledge, all of those contract manufacturers are headquartered outside China. Unlike the case for many other products, Chinese companies do not have a meaningful presence in the U.S. market for smart thermostats.

  Consequently, tariffs on smart thermostats will hurt U.S. businesses and have minimal, if any, impact on companies based in China or the trade practices at issue in the 301 Investigation. Instead, they risk dampening the thriving market for these products, which could negatively impact the growth of this key IoT market in which U.S. companies have been leaders up to now.

- **Optical fiber cables made up of individually sheathed fibers (HTS 8544.70.00) and bus bars (HTS 8536.90.85)**
  Optical fiber cables and bus bars are essential components for the U.S. information and communications technology (ICT) industry. These products are specialized and widely used in data centers, which form the backbone of the internet, wireless applications and data storage. While often assembled and sourced from China, these products feature key components made in the U.S. The imposition of 25% tariffs will put an upward pressure on the cost of these products for American companies (including manufacturers), and will negatively affect U.S. ICT industries' ability to supply the rapidly expanding data centers and could potentially affect jobs growth related to data centers.