

**Testimony of Brian Scarpelli of ACT | The App Association regarding
*Annual Review of Country Eligibility for Benefits Under the African
Growth and Opportunity Act for Calendar Year 2024* (88 Fed. Reg.
31579, Docket Number USTR-2023-0003)**

July 24, 2023

ACT | The App Association appreciates the opportunity to provide the African Growth and Opportunity Act (AGOA) Implementation Subcommittee of the Trade Policy Staff Committee with its views on U.S. Trade Representative's (USTR's) annual review of the eligibility of sub-Saharan African countries to receive AGOA benefits.¹

The App Association represents thousands of small business innovators and startups in the software development and high tech space located across the United States.² As the world embraces mobile technologies, our members create the innovative products and services that drive the global digital economy by improving workplace productivity, accelerating academic achievement, and helping people lead more efficient and healthier lives, which today represents an economy worth more than \$1.7 trillion annually and that provides over 5.9 million American jobs.³

Mobile technologies in Africa have already generated 1.7 million jobs and contributed \$144 billion to the continent's economy.⁴ While the global digital economy holds great promise for the small business digital economy in terms of growth and competition, many entrepreneurs face a diverse array of challenges entering new markets. These barriers include laws, regulations, policies, or practices that either exclude U.S. goods and services from foreign markets, artificially stimulate exports of particular domestic goods and services to the detriment of U.S. companies, or fail to provide adequate and effective protection of intellectual property rights for U.S. companies. While these challenges take many forms, they have the same net effect: impeding U.S. exports and investment, and depriving entrepreneurs and consumers in Africa of access and opportunity. With respect to improving Africa's digital economy and trade while also expanding opportunities for American innovators, the App Association supports enabling cross-border data flows, prohibiting data localization policies, avoiding customs duties on digital content, ensuring market entry is not contingent on source code transfer or inspection, preserving the ability to utilize strong encryption techniques to support security and privacy, securing intellectual property protections, and discouraging the misapplication of competition laws

¹ 88 Fed. Reg. 31579.

² ACT | The App Association, *About*, available at <http://actonline.org/about>.

³ ACT | The App Association, *State of the U.S. App Economy: 2020*, 7th Edition, <https://actonline.org/wp-content/uploads/2020-App-economy-Report.pdf>

⁴ Nathaniel Allen, *The promises and perils of Africa's digital revolution*, Brookings Institute (March 11, 2021) available at <https://www.brookings.edu/techstream/the-promises-and-perils-of-africas-digital-revolution/>

to leading digital technology markets. These are principles we expand on in our written comments.

Access to affordable and reliable internet and power is essential to unlocking the digital trade potential within the continent. However, without investment in broadband infrastructure, internet access will remain out of reach for many African people, especially those living in rural areas. Study has demonstrated that even 3G internet coverage can produce a 10 percent decline in poverty.⁵ Simultaneously, as new internet infrastructure and last-mile connections are established, the App Association is increasingly aware of digital trade barriers across AGOA-eligible markets, either in proposal or already in place, that run counter to our priorities already described.

While AGOA eligibility determinations already include modality-neutral evaluations (e.g., already include determining whether there is an adequate and effective protection and enforcement of intellectual property,⁶ which the App Association fully supports the continuation of), the growth and unrealized potential of the digital economy for both U.S. and AGOA-eligible businesses and consumers must be further prioritized. The App Association therefore urges the Administration to address the barriers to digital trade to exist across AGOA-eligible markets by including the App Association's digital trade policies above as prerequisites to AGOA eligibility, and to identify specific ways to help AGOA beneficiaries build their capacity to achieve these goals. Further, the App Association requests that AGOA beneficiaries demonstrate their steps to align with pro-digital trade goals in order to remain AGOA beneficiaries, including by notifying USTR of their efforts to create new laws and/or change existing laws to align with pro-digital trade goals noted above as well as their joining and enforcing relevant treaties.

The App Association also urges the United States to mitigate and eliminate these barriers through bilateral and/or multilateral agreements.⁷ Now, more than ever, it is imperative that the United States set an example of the best ways to pursue digital trade and the growth of the digital economy through trade agreements (and U.S. domestic policies). For example, the African Continental Free Trade Area (AfCFTA) represents a major global economic trade block, and plans to develop digital economy provisions for the AfCFTA agreement.⁸ It is imperative that pro-digital economy policies are reflected across AGOA beneficiaries. Doing so will advance the ability of American small business innovators to grow into new markets to create more American jobs, while bolstering Africa's emerging digital economy.

⁵ Nathaniel Allen, *The promises and perils of Africa's digital revolution*, Brookings Institute (March 11, 2021) available at <https://www.brookings.edu/techstream/the-promises-and-perils-of-africas-digital-revolution/>

⁶ See AGOA Section 104(1)(C)(ii) and AGOA Section 111.

⁷ The App Association notes some of these barriers in **Appendix A**.

⁸ <https://au-afcfta.org/>.

The App Association appreciates the opportunity to provide its views and we look forward to working with the USTR to advance digital transformation and growth across sub-Saharan African countries that received AGOA benefits.