

# SUBMISSION TO CONSULTATION ON POSSIBLE CANADA–EUROPEAN DIGITAL TRADE AGREEMENT

**TRUSTED FUTURE** is a non-profit organization dedicated to the belief that we need smarter, better-informed efforts to enhance trust in today's digital ecosystem in order to expand opportunities for tomorrow. Our submission is grounded in the belief that we deserve a vibrant digital ecosystem that is trusted, responsible, inclusive, and safe. Any Canada-EU Digital Trade Agreement (DTA) should help enable that vision.

Canada's consideration of a DTA with the European Union (EU) should be guided by principles that enable prosperity and innovation while protecting the privacy and security of its citizens.

## TRUSTED FUTURE PROPOSES FIVE CONSIDERATIONS THAT SHOULD GUIDE CANADA'S POSITION ON A DTA WITH THE EU:

1. Reject any digital services taxes that harm trade and hurt Canadian businesses.
2. Continue to support the free flow of data across borders.
3. Support privacy by enabling and supporting the use of strong end-to-end encryption for Canadian users.
4. Promote security by design and reject DMA-style mandatory security backdoors that also create major trade barriers.
5. Allow Canadians to take advantage of new breakthrough technologies.

## Consideration #1:

### REJECT ANY DIGITAL SERVICES TAXES THAT HARM TRADE AND HURT CANADIAN BUSINESSES

The experience earlier this summer between the United States and Canada regarding a possible digital services tax should serve as a warning that digital services taxes would be wisely avoided in any EU-Canadian DTA. The simple fact is it will harm bilateral trade and hurt Canadian businesses and the economy.

The Canadian government's decision to rescind its digital services tax on US technology companies after the US threatened to cut off trade talks over the issue demonstrates the degree to which industry and the economy could be negatively impacted by such a tax.<sup>1,2</sup> Prior to Canada's decision, organizations working on technology policy, including the Computer and Communications Industry Association, Consumer Technology Association, the Information and Technology Industry Council and the US Chamber of Commerce, sent a letter to Secretary of the Treasury Scott Bessent, Secretary of Commerce Howard Lutnick and US Trade.

Representative Jamieson Greer calling for “decisive action” to address digital services taxes imposed by the United Kingdom and Canada.<sup>3</sup> The groups warned that Canada’s proposed regulation could cost companies up to \$2.3 billion annually and up to 3,140 lost jobs.

In considering an agreement with the EU, Canada should ensure it does not include any digital services tax provisions that would harm trade and hurt businesses. Furthermore, a DST would run the risk of increasing the operating costs for companies that could then be passed on to the consumer. All at a time when inflation is a major concern for consumers, this runs the risk of adding to already high consumer prices.

While a DST aims to generate revenue and ensure fair contributions from large multinational digital companies, it could very well harm Canadian businesses and consumers through increased costs, reduced competitiveness, and potential trade disputes.

→ ***Policies should be working to create a more dynamic digital landscape, not a less dynamic one.***

## **Consideration #2:**

### **CONTINUE TO SUPPORT THE FREE FLOW OF DATA ACROSS BORDERS**

Restricting data flows through trade agreements has been shown to hurt trade, increase costs, and harm businesses. Instead the Canadian Government would be well served working to ensure cross-border data flows, but with a focus on strong protections.

The Information Technology and Innovation Foundation analyzed data-localization measures around the world and found that a single-point increase in data restrictiveness for a nation resulted in:

- Cutting gross trade output by 7 percent;
- Slowing productivity by 2.9 percent, and
- Hiking downstream prices by 1.5 percent over five years.<sup>4</sup>

The smarter approach is to enable cross-border data flows while protecting privacy, intellectual property, and national security. This is the model promoted by the Organization for Economic Cooperation and Development (OECD) in their report on cross-border data flows. It has worked in practice, for example, in the United States-Mexico-Canada Agreement (USMCA), which includes provisions that ensure the free flow of data across borders, promoting digital trade and innovation.<sup>5</sup> These provisions are crucial for businesses relying on cloud computing, AI, and other software solutions. The agreement also protects against forced disclosure of source code and promotes predictability for businesses by safeguarding trade secrets.

→ ***Any proposed agreement with the EU should contain similar provisions to ensure it enables data flows, rather than hindering them.***

## Consideration #3:

### SUPPORT PRIVACY BY ENABLING AND SUPPORTING THE USE OF STRONG END-TO-END ENCRYPTION FOR CANADIAN USERS

End-to-end (E2E) encryption has proven time and again to be among the most powerful and effective tools we have to protect personal privacy, safety and security. E2E encryption has become even more important amid two simultaneous trends: 1) Canadians are using connected technologies, like smart phones and tablets, more often and for more purposes; 2) as people are spending more time on connected technologies, bad actors are conducting more and more cyber attacks.<sup>6</sup>

But recent efforts to undermine strong encryption – such as the UK’s efforts to compel companies to create backdoors into encrypted cloud storage – are dangerously misguided. Advocates have warned that the UK’s order “severely harms the privacy rights of users in the UK and worldwide.”<sup>7</sup> And a large study by the Canadian Chamber of Commerce and Canadian Chamber Future of Business Centre concluded that “strong encryption and effective cyber security have become strategic imperatives for Canada.”<sup>8</sup>

→ *Support for strong end-to-end encryption, and a commitment to not weaken current protections, should be a foundational principle in any DTA being considered with the EU.*

## Consideration #4:

### PROMOTE SECURITY BY DESIGN AND REJECT DMA-STYLE MANDATORY SECURITY BACKDOORS

The implementation of the EU’s Digital Markets Act (DMA) has proven to have major security implications. It has also become a major trade barrier with the United States. The European Centre for International Political Economy warns the DMA was a “gift to hackers.”<sup>9</sup> And the Trump administration has labeled fines on US companies under the DMA “[economic extortion](#)” and brought them to the negotiating table during trade talks.<sup>10</sup>

Trusted Future has long warned about the security and privacy concerns that the DMA’s interoperability mandate brings. The regulation’s forced ‘opening up’ of previously secure environments is leading to significant cybersecurity risks for consumers, enterprises, critical infrastructure, and government networks and data by allowing unvetted apps onto devices.<sup>11</sup> We have offered guidance on how to make the DMA more serious when it comes to privacy and cybersecurity.<sup>12 13 14</sup> Any DTA should ensure it takes into account the ramifications of the DMA’s implementation and promote security by design at the outset.

→ *Any DTA should avoid the lessons learned of DMA implementation and avoid imposing security backdoors.*

## Consideration #5:

### ALLOW CANADIANS TO TAKE ADVANTAGE OF NEW BREAKTHROUGH TECHNOLOGIES

Today, Canadians lack a uniform level of access to technological innovations. This is due to current provincial regulations that block some Canadians from taking advantage of some of the newest technological innovations. A recent high-profile example is the use of Apple's AirPods Pro 2 as an off-the-shelf hearing aid and hearing test, which Health Canada has approved but is not yet available because certain regulations on hearing aids vary from province to province.<sup>15</sup>

The impact that this has is real. Canada is one of the only countries in the world missing out on this new consumer technology. Yet, in 2022, an estimated 5.6% of Canadians or over 1.6 million people had a hearing disability, according to the Canadian Survey on Disability.<sup>16</sup> Of the people with a hearing disability surveyed, 23% needed a hearing aid but didn't have one with the overwhelming majority (74%) citing cost as a reason. These Canadians are missing out on new off-the-shelf hearing aids at a fraction of the cost. For technology to work, we need to trust that the benefits of technology will be felt equally across society.

→ *Any proposed DTA should work to remove these local-level barriers and help Canadians take advantage of breakthrough technologies when they enter the marketplace.*

Guided by these five considerations for any potential Digital Trade Agreement with the EU, Canada will be in a much stronger position to enable prosperity and innovation while protecting the privacy and security of its citizens. **This is key to building a more trusted future.**

# ENDNOTES

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