July 24, 2024

Ambassador Katherine Tai
United States Trade Representative
600 17th Street NW
Washington, D.C. 20508

Re: Canada's Digital Services Tax (DST)

Dear Ambassador Tai:

On behalf of the Travel Technology Association ("Travel Tech") and our members, we strongly urge the Biden Administration to use all available tools, including an investigation under section 301 of the Trade Act of 1974, to respond to Canada's recent decision to formally implement a discriminatory and retroactive 3% digital services tax ("DST").

Travel Tech advocates for public policy that promotes market transparency and competition to empower traveler choice. Our members are innovators in travel technology, including online travel agencies ("OTAs"), metasearch engines, short-term rental platforms, global distribution systems, and travel management companies. Travel Tech member companies created the digital infrastructure and Internet-based marketplace from which American and global travelers and travel service providers like airlines, hotels, and car rentals benefit.

It is well understood that most organizations subject to Canada's new DST are U.S.-headquartered. However, it is important to recognize that not all companies offering digital services are likely to be impacted in the same way. Indeed, Canada's DST has a disproportionate and outsized impact on U.S. companies in the travel technology industry, as described below, which in turn will seriously affect tourism between the United States and Canada.

- **Canada's Digital Services Tax does not apply equally across the travel sector. It will distort the market, undermine competition, and increase costs for consumers.**

  Hundreds of thousands of hotels worldwide choose to upload their room inventory into Travel Tech members' systems and platforms. Hotels and Travel Tech members then simultaneously market and sell these quickly expiring goods to consumers, including those living in Canada. Airlines, car rentals, and other travel service suppliers similarly partner with Travel Tech members to sell their inventories. Bringing together different travel service suppliers in marketplaces provided by Travel Tech members creates competition that benefits consumers and suppliers and increases tourism overall.

Yet, despite selling the same goods and competing within the same market, only Travel Tech members will be subject to Canada's digital services tax since they are now designated as a "digital interface" that allows "users to interact with other users and facilitates the supply of property or services between those users."[1] Hotels, airlines, car rental companies, and other travel service suppliers are excluded from this definition and tax since they are defined as a "single supplier" – and therefore, not a marketplace – of such property or services.[2] This de facto preferential treatment of single suppliers in the travel industry is included even though global hotel brands now mainly operate as digital interfaces for their franchisees, offering online booking platforms similar to Travel Tech members. As a result, Travel Tech member companies are put at a competitive disadvantage versus travel service suppliers, distorting the market. These new taxes will impact the ability of Travel Tech members to compete and provide services in Canada.

- **By targeting gross revenue, Canada's Digital Services Tax unfairly fails to account for different cost bases and market power among digital service providers, which negatively impacts Travel Tech members.**

  Canada's digital services tax imposes a tax on gross revenue rather than net income, which is inconsistent with accepted international practice. Revenue-based taxes ignore differences in business models. Two digital service companies may earn the same gross revenue but have a different cost base resulting in very different margins. Travel Tech member companies operate on very small margins by facilitating marketing and bookings between travel service suppliers and consumers. For example, in direct contrast to other digital services, most of the revenue collected by Online Travel Agents is conveyed to single travel service suppliers. By targeting gross revenue instead of net income, Canada's new digital services tax impacts Travel Tech members significantly more than other digital service providers.

[1] See Explanatory Notes for the Digital Services Tax Act and Related Regulations (canada.ca):
"online marketplace"
The definition "online marketplace" provides that an online marketplace has three elements:
- it is a digital interface;
- it allows users to interact with other users; and
- it facilitates the supply of property or services, including digital content, between those users.

[2] See Explanatory Notes for the Digital Services Tax Act and Related Regulations (canada.ca):
"Paragraph (a) of this [online marketplace] definition excludes a digital interface that has a single supplier. For example, the website of a traditional retailer that sells its products directly to customers would have a single supplier and thus would not be an online marketplace."

In addition to absorbing the cost of the new digital services tax on Travel Tech members' own sales, they also incur increased costs from the largest tech companies, which can and do pass on the costs of national DSTs to their advertisers, including our members, via increased advertising costs. This has already occurred in several other countries, including the UK, Austria, and Turkey. It is reasonable to assume the largest tech companies will do the same in Canada, meaning our members are impacted on both ends yet again.

- **Canada's Digital Services Tax undermines years of multilateral work at the OECD/G20 and increases the likelihood of other countries pursuing their own digital services taxes, compounding the impact on Travel Tech members and consumers.**

  Canada has implemented its own digital services tax despite ongoing work at the OECD and Group of 20 to reach a consensus on global rules governing the taxation of digital services. That Canada, the United States' closest trading partner, did so will undoubtedly incentivize other countries to do so as well, creating a cascade of new digital services taxes and compounding the impacts on Travel Tech members detailed above. Beyond undermining ongoing multilateral efforts, the DST's retroactive nature also erodes established principles of predictability, certainty, and fairness in taxation, setting a dangerous precedent that other countries may follow.

Given the great economic impact on Travel Tech's member companies, we ask for a swift and robust response to Canada's new digital services tax. By leveraging USTR's tools, the U.S. can work towards a resolution that protects its economic interests while maintaining a strong and cooperative relationship with Canada.

Sincerely,

Laura Chadwick

Laura Chadwick
President & CEO
The Travel Technology Association

cc: The Honorable Janet Yellen, Secretary, U.S. Department of Treasury
The Honorable Jason Smith, Chairman and Richard Neal, Ranking Member, Committee on Ways & Means, U.S. House of Representatives
The Honorable Ron Wyden, Chairman and Mike Crapo, Ranking Member, Committee on Finance, U.S. Senate