GLOBAL DATA ALLIANCE
TRUST ACROSS BORDERS

MYTHS VS. FACTS
Cross-Border Data and Access to Information

The ability of the United States to access knowledge and move information supports national security, scientific progress, digital transformation, and economic opportunity. This document addresses several myths that have recently emerged that threaten to undermine the strategic and economic value of strong US leadership on cross border data policy.

MYTH	FACT
Cross-border access to data doesn't benefit the United States.	The US economy and American workers in virtually every sector benefit from cross-border access to information. Restrictions on that access threaten the 40 million American jobs supported by international trade and over $1 trillion in US digitally enabled goods and services exports. When other governments erect barriers to US digitally enabled exports–such as aircraft, vehicles, semiconductors, creative content, and financial and other services–they hurt workers and enterprises that design, produce, and deliver them. Allowing other governments to force US companies to localize operations abroad also undermines the US tax base.
Trade rules on cross-border data undermine US leadership on artificial intelligence.	Without cross-border access to data, the US and its allies will not be able to maintain their edge in innovation and artificial intelligence. US companies in all sectors and of all sizes–and the US government itself–need cross-border access to overseas data in order to fulfill the potential of AI.
Trade rules on cross-border data harm national security and the public interest.	The US–like every other country–retains absolute discretion to act in its national security interest. Our trade agreements contain a blanket exception that allows for national security-based data restrictions, such as those contained in the Justice Department Regulations to Prevent Access to US Sensitive Data by Countries of Concern and the Protecting Americans' Data from Foreign Adversaries Act of 2024. Moreover, US agreements provide broad latitude to regulate in the public interest. Instead, our national security is threatened when we retreat from our strategic interest in promoting US rules and US values on cross-border data. The calculus is simple: If the US government abandons efforts to ensure greater fairness and due process on cross-border data transfers, then other governments–including adversaries–will fill the vacuum. Those governments will be free to replace cross-border data rules that reflect US interests, US values, and US law with new norms that don't.
Trade rules on cross-border data undermine democracy and human rights.	The ACLU, the Center for Democracy and Technology, Freedom House, and Internet Society have raised alarms at arbitrary, discriminatory, disguised, or unnecessary governmental measures that restrict access to knowledge, information, and data. These entities underscore that, "[t]he United States must champion policies that ensure the free flow of information across borders, while respecting privacy and security." The US must not support digital authoritarianism abroad–even indirectly or inadvertently. The US should return to cross-border data norms that protect human rights and counter digital authoritarianism.

MYTH	FACT
Promoting cross-border access to knowledge and data is unpopular.	Actions that undermine the United States' democratic commitment to cross-border access to information and data flows have provoked bipartisan criticism from nearly 100 Senators and House representatives; sparked congressional inquiries on small business impacts and competition; and raised alarms among academics; civil society; think-tanks; human rights advocates; strategic, cybersecurity and national security experts; small businesses; individual enterprises; economy-wide and sectoral associations; CEOs; and some 50 business groups that represent thousands of companies and millions of workers across the country. As expressed in a bipartisan letter signed by dozens of Senators: "Retreating from our longstanding principles without offering a viable alternative does not help US workers, it does not help US consumers, it does not help US businesses, and it does not help US allies; it only helps our adversaries."
Trade rules on cross-border data undermine competition in the digital economy.	There is no conflict between antitrust and cross-border data norms. Nothing in these norms impedes new antitrust legislation or enforcement. Data localization mandates have the most severe impacts on smaller firms, which do not wield the resources to develop in-country data centers. Allowing trading partners to arbitrarily mandate data localization and restrict data transfers will raise new barriers to entry and increase the power of incumbent firms and "foreign monopolies and firms that are state-owned [or] state sponsored." Likewise, allowing foreign governments to impose undue restrictions on US cross-border access to data from abroad will only amplify the market power of those that have amassed massive data sets.
US leadership on cross-border trade rules is no longer necessary.	For decades, Democratic and Republican administrations alike have supported international trade rules that promote cross-border access to information. These rules were negotiated at Congress' direction; formally certified by multiple US presidents as fully consistent with US law; and repeatedly approved in US legislation supported by bipartisan congressional majorities. These rules reflect US legal principles of transparency, fairness, and accountability that the US has espoused globally for over 75 years. These norms are core to US democracy and our place in the world. We should not abandon them.
Trade rules on cross-border data prevent Congress from legislating on AI or privacy.	Nothing in these trade rules would prevent Congress from creating new AI or consumer privacy rules. Indeed, the US itself maintains stringent federal privacy rules on health data, children's data, and financial data; over a dozen US states have enacted privacy laws; and major federal privacy bills have advanced–with no conflict vis-à-vis our pro-democracy and pro-human rights rules on cross-border data.
Trade rules on cross-border data only benefit "Big Tech."	The importance of data transfer rules extends far beyond the technology sector. These rules help promote millions of US jobs, including in the agriculture, automotive, clean energy, finance and insurance, healthcare and medical technology, logistics, media, pharmaceutical, and telecommunications sectors. Small- and medium-sized businesses (SMEs) are key beneficiaries of cross-border data transfers; they are also most vulnerable to digital barriers. As stated in a letter from the House Committee on Small Business, "97% of [US] digital exports come from small and medium businesses," which "make up 99.9% of all businesses in the US.… Dramatic policy reversals, such as this one, remove the stability required to ensure small businesses have a fair shot at competing."

About the Global Data Alliance

The Global Data Alliance (globaldataalliance.org) is a cross-industry coalition of companies that are committed to high standards of data responsibility and that rely on the ability to transfer data around the world to innovate and create jobs. The Alliance supports policies that help instill trust in the digital economy while safeguarding the ability to transfer data across borders and refraining from imposing data localization requirements that restrict trade. Alliance members are headquartered across the globe and are active in the advanced manufacturing, aerospace, automotive, electronics, energy, financial and payment services, health, consumer goods, supply chain, and telecommunications sectors, among others. Business Software Alliance administers the Global Data Alliance.