

June 16, 2023

Mr. Richard L. Revesz  
Administrator  
Office of Information and Regulatory Affairs  
Office of Management and Budget  
725 17th Street NW  
Washington, DC 20503

**Re: Consumer Technology Association Comment to Docket OMB 2022-0014 Regarding the Request for Comments on Proposed OMB Circular No. A-4. “Regulatory Analysis”**

Dear Administrator Revesz:

The Consumer Technology Association (“CTA”) respectfully submits these comments to the Office of Management and Budget’s (“OMB”) Office of Information and Regulatory Affairs (“OIRA”), in response to its request for public comments on proposed updates to OMB Circular No. A-4, which sets forth OMB’s guidance to Federal agencies on the development of regulatory analysis.<sup>1</sup>

CTA represents the more than \$505 billion U.S. consumer technology industry, which supports more than 18 million U.S. jobs. Our members are comprised of over 1200 companies from every facet of the consumer technology industry, including manufacturers, distributors, developers, retailers, and integrators, with 80 percent of CTA members being start-ups or small and mid-sized companies. CTA also owns and produces CES®—the most influential technology event in the world—which showcases and serves as a forum for discussion of international policies concerning existing and new technologies, international technology trade and investment, and global opportunities and challenges facing the consumer technology industry.

CTA and its members appreciate OMB’s efforts to modernize the regulatory review and analysis process, particularly given the robust advances in analytic, economic, and scientific methods since Circular A-4 was first released. Efficient and transparent regulatory analysis, as well as the guidance such analysis can provide to policymaking efforts, are particularly important for the fast-paced consumer technology industry.

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<sup>1</sup> Request for Comments on Proposed OMB Circular No. A-4, “Regulatory Analysis”, 88 Fed. Reg. 20,915 (Apr. 7, 2023).

The consumer technology industry, like many others, has become increasingly globalized in this same timeframe. U.S. leadership in the World Trade Organization (“WTO”) and the negotiation of numerous bilateral and plurilateral free trade agreements have spurred this shift. Not only has the globalization of our industry been critical to building and maintaining U.S. dominance in the technology sector, but it has also enabled the significant economic growth – in the United States and around the world – associated with increased access to consumer technology products.

To this end, CTA is concerned that the proposed update to Circular A-4 almost entirely omits guidance on analyzing the international context and the cross-border trade impact of regulations. A short paragraph on page 10 of the proposed update briefly addresses international regulatory cooperation (“IRC”) efforts, but otherwise the draft fails to provide context on the importance of IRC. The same paragraph contains merely two sentences regarding international trade impact and refers only to changes to import and export volumes.

OMB is of course correct to note that agencies “often engage” in IRC activities “consistent with” Executive Order 13609, but CTA notes that Executive Order 13609 more broadly encourages and enables analysis of both IRC and international trade effects than the proposed update to Circular A-4 otherwise suggests. Executive Order 13609 states that “international regulatory cooperation, consistent with domestic law and prerogatives and U.S. trade policy”, is an important means of promoting improved regulation and regulatory review. The relevant “domestic law” for this purpose thus not only includes agency enabling statutes or statutes requiring regulatory efforts, but also those U.S. laws implementing the WTO agreements<sup>2</sup> and other U.S. free trade agreements.<sup>3</sup>

These agreements, incorporated in the U.S. laws that implement them, contain obligations on both the United States and our trading partners to engage in good regulatory practices when developing regulations, and to provide transparency throughout the regulatory process. For example, the United States-Mexico-Canada Agreement (“USMCA”), which was approved by a significant bipartisan majority in Congress, recognizes that the “application of good regulatory practices can support the development of compatible regulatory approaches among the Parties [to the Agreement], and reduce or eliminate unnecessarily burdensome, duplicative, or divergent regulatory requirements.”<sup>4</sup> The USMCA then commits the United States to various disciplines regarding the use of the best available information, regulatory planning, transparency and public participation, the use of plain language, and the conduct of regulatory impact assessments, among others. Other U.S. agreements contain similar commitments. Thus, OMB should ensure that Circular A-4 not only describes such obligations, but is fully

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<sup>2</sup> Uruguay Round Agreements Act, Pub. L.

<sup>3</sup> For example, the USMCA was implemented into domestic law via the USMCA Implementation Act, Pub. L. 116-113.

<sup>4</sup> USMCA Article 28.2.1.

consistent with them, in addition to other best practice international frameworks and instruments which the United States supported and shaped.<sup>56</sup>

Executive Order 13609 also emphasizes that agencies should identify significant “international impacts” of proposed regulations, which is defined to include the effects of the proposed regulation on “international trade and investment”, or effects that “may otherwise be of significant interest to the trading partners of the United States.” Failure to fully consider such international regulatory context on proposed trade and investment regulations may inadvertently result in domestic regulations that impose significant additional costs or other burdens; diverge from coordinated regulatory approaches undertaken with U.S. allies; or is otherwise inconsistent with international standards or best practices. OMB’s guidance should therefore ensure that regulatory analysts at all Federal agencies are fully aware of, and educated about, international trade impact analysis that may be needed to assess proposed regulations and their impact on U.S. consumers and businesses. As such, the proposed updates should include references to the work of, and resources published by, agencies that have specific competencies on these matters, such as the U.S. International Trade Commission, the Department of Commerce’s International Trade Administration, and the Office of the U.S. Trade Representative.

Improved guidance from OMB on this subject can help ensure that U.S. regulations and the regulatory process do not become unnecessary barriers to international trade and investment. OMB’s actions in this regard can also set a positive example for U.S. allies and trading partners who are in the process of modernizing (or implementing for the first time) high-standard regulatory review processes of their own. This would further be consistent with the U.S. government’s efforts to develop a new template for good-governance principles in the Indo-Pacific Economic Framework for Prosperity (IPEF), as well as in advance of its hosting of this year’s Asia-Pacific Economic Cooperation forum.

In sum, CTA urges OMB to further update the proposed Circular A-4 to better contextualize the importance of IRC and the analysis of international trade effects, and to provide more detailed guidance to Federal agencies in that regard.

Thank you for your consideration of these comments.

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<sup>5</sup> These frameworks and instruments include but are not limited to: APEC-OECD Integrated Checklist on Regulatory Reform (2005), <https://www.oecd.org/regreform/34989455.pdf>; OECD Best Practice Principles on the Governance of Regulators (2012), <https://www.oecd.org/gov/regulatory-policy/governance-regulators.htm>; APEC Economic Leaders Declaration: Annex D – Strengthening Implementation of Good Regulatory Practices (2011), [https://www.apec.org/meeting-papers/leaders-declarations/2011/2011\\_aelm/2011\\_aelm\\_annexd](https://www.apec.org/meeting-papers/leaders-declarations/2011/2011_aelm/2011_aelm_annexd); OECD Framework for Regulatory Policy Evaluation (2014), [https://read.oecd-ilibrary.org/governance/oecd-framework-for-regulatory-policy-evaluation\\_9789264214453-en#page1](https://read.oecd-ilibrary.org/governance/oecd-framework-for-regulatory-policy-evaluation_9789264214453-en#page1);

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Petricone". The signature is fluid and cursive, with a prominent initial "M" and a long, sweeping underline.

Michael Petricone  
Senior Vice President, Government Affairs  
Consumer Technology Association

A handwritten signature in black ink, appearing to read "Ed Brzytwa". The signature is cursive and includes a Roman numeral "II" at the end, indicating a second name.

Ed Brzytwa  
Vice President, International Trade  
Consumer Technology Association