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Via Electronic Submission

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Docket No. USTR-2025-0007

Jennifer Thornton
General Counsel
Office of the U.S. Trade Representative
600 17th Street, NW
Washington, DC 20508

Re: Docket No. USTR-2025-0007: Request for Comments on the Section 301 Investigation of China's Implementation of Commitments under the Phase One Agreement, 90 Fed. Reg. 48,733 (Oct. 28, 2025)

Ms. Thornton,

The Entertainment Software Association ("ESA") welcomes the opportunity to provide comments on the investigation by the Office of the U.S. Trade Representative ("USTR") into China's implementation of its commitments under the 2020 Economic and Trade Agreement Between the U.S. Government and the People's Republic of China (the "Phase I Agreement"). ESA is the U.S. trade association for the video game industry, representing the companies that manufacture video game hardware and publish interactive entertainment software for video game consoles, handheld devices, personal computers, and the internet. ESA members are the innovators, creators, publishers, and business leaders reimagining entertainment and transforming how America plays video games. These companies develop not only the world's most engaging interactive experiences for consumers, but also novel and cutting-edge entertainment technologies, such as virtual, augmented, and mixed reality hardware and software.

Among the issues identified for comment in USTR's notice is the question of what action, if any, should be taken to address China's non-implementation of its commitments under the Phase I Agreement. Additional tariffs on video game consoles, controllers and other game accessories would significantly harm the video game industry, small game developers located in every state, ancillary businesses such as retailers and all of those employed in the U. S. in the industry, as well as the millions of consumers who love to play video games. For these reasons, ESA strongly urges USTR to ensure that video game consoles, controllers, and accessories remain excluded from any remedy enacted by USTR in relation to this Section 301 investigation.

I. The Video Game Industry is a Key Contributor to the U.S. Economy

The U.S. video game industry is an important contributor to the U.S. economy, and has grown significantly in recent years. The industry contributed a staggering \$101 billion to the U.S. economy in 2023. In 2024, overall consumer spending on video games in the United States totaled \$59.3 billion, an increase of more than 108% over the past decade. This amount included \$4.9 billion spent on video game hardware and \$3.2 billion on other accessories, such as controllers, headsets, and keyboards. In total, the video game industry supports—directly and indirectly—more than 350,000 jobs in the United States, and directly employs

104,000 workers who on average earn \$168,600 per year. Critically, 33% of video game companies are small businesses.

The industry is also a significant U.S. exporter of games, which are predominantly created in the United States. The U.S. video game industry develops and publishes approximately one-third of mobile games and two-thirds of console and PC games, which means that U.S. creativity and innovation are responsible for around \$75 billion—or 40%—of the world’s \$190 billion in sales of video game content.

Furthermore, console makers collectively invest billions of dollars in research and development (“R&D”) in the United States to develop and deliver next-generation technology to U.S. customers. Innovations in the video game sector have contributed to significant advancements in virtual reality devices, bringing this cutting-edge technology to Americans in an easy-to-use format and at an accessible price point. Importantly, these developments generate U.S. innovation across a variety of other sectors. For example, motion sensing technologies developed for video games have contributed to innovations that are now deployed globally across multiple applications. Other video game innovations have contributed to the development of educational devices, as well as mobility assistance devices that bring therapeutic benefits to injured veterans.

In short, the economic footprint of the video game industry in the United States is significant, and our members support many high-paying U.S. jobs. For example, ESA members Microsoft Corporation (“Microsoft”), Nintendo of America Inc. (“Nintendo”), and Sony Interactive Entertainment LLC (“SIE”), which together supply virtually all video game consoles, directly employ nearly 20,000 people in the United States. These include jobs in high-value, high-tech R&D roles, hardware, software, and online services engineering positions, and creative design and coding jobs in game development studios located across the country.

II. Video Games Are Widely Used and Essential Elements in the Lives of American Consumers

In addition to its significant economic contributions, the U.S. video game industry plays an important social, educational, and recreational role in the lives of ordinary Americans, both young and old. Over 205 million Americans play video games, and 83% of U.S. households have played at least one video game device in the last year.

More Americans than ever enjoy video games, and 42% of U.S. households play video games on a console. As life-long players become parents and grandparents who play with younger family members, adults make up an increasing share of consumers, with those over 50 accounting for nearly one-third of all video game players. In this way, video games have become an important social platform for Americans who play with families and friends on a regular basis. Indeed, 72% of Americans who play video games do so with others, either online or in person.

III. Video Game Consoles and Controllers Should be Excluded from Any Proposed Section 301 Remedy

Given the importance of the video game industry to the U.S. economy and to the lives of everyday Americans, ESA respectfully urges USTR to ensure that video game consoles, controllers, and accessories remain excluded from any Section 301 remedy enacted in response to China’s non-implementation of its commitments under the Phase I Agreement. Aside from the crucial economic and social role of video games, the industry is uniquely vulnerable to new tariffs. Purchasing a video game console or PC is the gateway—and a

necessary predicate—to sales of games and other products for millions of Americans. The availability and affordability of these products thus drive consumption of other products across the sector, as well as the uptake of new technology by consumers, which in turn funds R&D into new technologies.

To reduce initial barriers to entry for consumers, console producers often sell their products at razor-thin margins or even at a loss. Video game retailers also operate with small profit margins and thus are unable to absorb the additional costs of new tariffs. All of this means that additional costs resulting from new tariffs would—unavoidably—be passed along to ordinary American consumers. This cost would be felt sharply by middle- and lower-income households with children, as well as by single young adults, who are significant purchasers of consoles and controllers. Furthermore, as advanced technology products, video game hardware and accessories can be expensive, even with producer efforts to increase accessibility. As a result, consumers are highly sensitive to fluctuations in price, such that the imposition of even a minor tariff on these products could place these products out of reach for many consumers.

Beyond the direct and detrimental effect new tariffs would have on American consumers, tariffs would also result in a ripple effect of harm across the industry and the jobs it generates and supports. As noted, tariffs would curtail consumer demand as a result of consumer price sensitivities. This would in turn slow uptake of new technology, which, consequently, reduces the resources producers have to invest in R&D. This domino effect would ultimately hinder the domestic industry’s ability to remain competitive globally, resulting in dramatic and harmful repercussions for small- and medium-sized game developers in the United States. Retailers that distribute consoles would also feel the effects of any new tariffs on video game products. In short, new tariffs on video game consoles, controllers, and accessories would decrease productivity, innovation, and the competitiveness of the U.S. video game industry, leading to lost sales and jobs among producers, retailers, and video game developers.

IV. USTR Should Continue to Exclude Video Game Consoles, Controllers, and Accessories from Any Section 301 Remedy

In 2019, USTR previously considered imposing tariffs of 25 percent on a range of imports from China, as part of the agency’s Section 301 investigation into China’s technology transfer practices. The list of products facing such tariffs was known as “List 4B” and included various consumer electronics, including video game consoles, controllers, and accessories. In comments submitted to USTR regarding this proposed action, ESA emphasized the negative effects that List 4B tariffs would have on American consumers and businesses. ESA also underscored that imposition of such tariffs would not be effective in changing the underlying Chinese practices that USTR was targeting with its Section 301 investigation. Instead, such tariffs threatened to disproportionately harm American consumers and workers, and to undermine the U.S. industry’s position as a dominant leader in the development of emerging technologies for interactive and immersive entertainment.

These same realities remain true today. As noted, new tariffs on video game consoles, controllers, and accessories would adversely impact the welfare of American consumers, result in lost U.S. sales and jobs, and cripple innovation in the U.S. video game sector. In sum, such tariffs would harm U.S. economic interests. Meanwhile, though manufacturers have made headway in moving production and manufacturing out of China, this is a difficult undertaking that requires long-term strategic planning and implementation. Video game consoles are not general-purpose computers, but rather highly customizable machines that require custom chips and casings and numerous specifically designed and complex components that cannot be made in a

generic factory. Setting up a factory to manufacture a video game console or related hardware requires extensive re-tooling of factories and retraining of workers over several years, if not decades.

ESA members remain committed to diversifying supply chains and production outside of China, and have already succeeded in doing so for discrete console products and certain supply chain segments. These efforts remain ongoing, as ESA members continue to progressively reduce the percentage of components sourced from China, including over the course of this year. Nevertheless, supply chain dependencies persist for certain hard-to-replace components with few or no substitutes available outside of China. Moreover, because such production shifts require sustained investments over extended periods and remain in process, new tariffs on Chinese-origin video game products or components would have significant adverse consequences for American consumers, workers, and businesses.

After its consideration of tariffs in 2019, USTR ultimately suspended the List 4B tariffs indefinitely, even before the tariffs took effect. This was the right decision for U.S. consumers and businesses, and—because the same considerations remain relevant today—USTR should reach a similar conclusion here with respect to any potential new tariffs on video game consoles, controllers, and accessories.

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ESA thanks USTR for the opportunity to share our comments on the Section 301 investigation regarding China's implementation of the Phase I Agreement. Imposing new tariffs on imports of consumer electronics such as video game consoles, controllers, and accessories will only harm American consumers and industry, while also discouraging U.S. investment in innovative gaming technologies. Console manufacturers, video game publishers, and developers would suffer lost revenues, which would ultimately lead to job losses here at home. On behalf of our members, ESA therefore urges USTR to exclude video game consoles, controllers, and accessories from any Section 301 remedy resulting from this investigation. We welcome opportunities for continued engagement and are happy to answer any questions you have.

Respectfully submitted,

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Entertainment Software Association