



September 21, 2015

Dear TPP Trade Officials,

We speak in the interest of millions of individuals, including internet users, librarians, creators, technologists, and others who will be affected by the Trans-Pacific Partnership (TPP).

There have been reports recently that the exceptions and limitations provision in the TPP's Intellectual Property chapter is being revisited in negotiations. We write to emphasize how critical it is that this language unequivocally protects and promotes exceptions and limitations to copyright in ways that are fit for the 21st century.

Fair uses of content must be protected with strong safeguards, especially in the context of an agreement that emphasizes increased protections and enforcement of copyrights. In order to be adequate, flexible exceptions and limitations language must be mandatory, not merely encouraged, to better enable each TPP country to achieve balance in its copyright rules. A flexible exceptions and limitations framework in this agreement is necessary for each party to craft rules that best suit the needs of its people for new or previously unaddressed public-interest uses of copyrighted content.

Ensuring these safeguards remain in the text is one meaningful way to help alleviate some of the negative effects of digital IP provisions. Based on last month's leak of the TPP's chapter on intellectual property, we remain very concerned about these provisions in particular:

- 1) The retroactive extension of copyright terms that robs culture of 20 years of public domain works.
- 2) A ban on circumvention of technological protection measures, which threaten people's autonomy over legitimately purchased digital content and devices.
- 3) Heavy-handed criminal penalties and civil damages in cases where the parties were not involved in large-scale or financially-motivated infringement.
- 4) Over broad trade secret rules that could criminalize the work of journalists or whistleblowers who report on corporate wrong-doing.

Taken together, these and other restrictive provisions in the Intellectual Property Chapter threaten the rights and interests of users and individuals in many dangerous, ways, such as undermining the public's right to free expression, and their ability to access knowledge, participate in culture, and innovate online.

We continue to hold strong reservations about the effects of the Intellectual Property Chapter, and the opaque negotiating process by which these provisions have been decided. Tens of thousands of our organizational members have demanded that trade negotiators, "reject copyright proposals that restrict the open Internet, access to knowledge, economic opportunity and our fundamental rights." This opposition will be strengthened without adequate protections for exceptions and limitations essential to innovation and free expression. We urge trade negotiators to be receptive to this critical change in the exceptions and limitations provisions in the TPP Intellectual Property chapter.

Signed,

Australian Digital Alliance (Australia)  
Consumers NZ (New Zealand)  
Copia Institute (United States)  
Creative Commons (International)  
Electronic Frontier Foundation (United States)  
Electronic Frontiers Australia (Australia)  
Hiperderecho (Peru)  
Futuristech Info (International)  
Global Exchange (International)  
iFixit (International)  
New Media Rights (United States)  
ONG Derechos Digitales (Chile)  
Open Media (Canada)  
Public Citizen (United States)  
Public Knowledge (United States)