



ELECTRONIC FRONTIER FOUNDATION

PROTECTING RIGHTS AND DEFENDING FREEDOM ON THE ELECTRONIC FRONTIER eff.org

Trade Agreements and Digital Rights

Trade agreements, also known as free trade agreements, are treaties between two or more countries by which they agree on common rules, committing to implement these in their own countries through domestic laws and policies. Originally, these sorts of agreements dealt only with issues such as tariffs, agricultural subsidies, and other trade barriers.

But powerful private and public actors have taken advantage of these secret, opaque processes to pass Internet rules that would not otherwise survive the scrutiny of transparent, democratic rulemaking.



The ***Trans-Pacific Partnership agreement (TPP)*** and the ***Trans-Atlantic Trade and Investment Partnership (TTIP)*** are a few such deals.

They cover a wide range of regulatory issues, including provisions that would impact users' human rights such as free speech, privacy, and access to knowledge.

Here are a few examples of provisions from the TPP that pose the biggest threats to users' rights:

Escalate DRM Restrictions: Provisions that compel signatory nations to enact laws banning circumvention of digital locks mirror the DMCA and treat violation of these rules as a separate criminal offense even when there is no copyright.

Force Internet Intermediaries to Police Copyright Violations: Rules that bind signatories to provide legal incentives for ISPs to privately enforce copyright rules. This opens the door for Internet filtering, DNS blocking, and ISPs monitoring users.

Expand Copyright Terms: Reinforce and extend already-excessive lengths of copyright restriction. The TPP could lengthen terms from Life of the author + 50 years, to Life + 70 years for works created by individuals, and either 95 years after publication or 120 years after creation for corporate owned works.

Threats to Journalists and Whistleblowers: Dangerously vague text on the misuse of trade secrets, which could impose harsh criminal punishments against anyone who reveals or even accesses confidential information through a "computer system".

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Many of these terms are copied-and-pasted from the U.S. Digital Millennium Copyright Act (DMCA), but negotiators abstract the language just enough so that U.S. law is still compliant, while the other countries are pressured to enact even harsher domestic restrictions. But these deals also threaten to lock the U.S. into these dubious international standards that could discourage positive, user-oriented reforms in the future.

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