

MEDIA RELEASE

Melbourne, 10th July 2014

Social media companies, entrepreneurs, investors, and Internet user groups speak out about copyright dangers in the Trans-Pacific Partnership (TPP) agreement

With secretive TPP talks intensifying in Ottawa Canada, business leaders have sent a letter raising concerns about how the TPP could force online service providers to act as Internet cops, raising costs and potentially putting smaller providers out of business.

A large international coalition representing over 100 web companies and Internet user groups are speaking out about how the [Trans-Pacific Partnership \(TPP\)](#) would force ISPs and web providers to police the Internet.

International names such as Wikimedia, reddit, O'Reilly Media, and BoingBoing have been joined by Australian voices iiNet, Electronic Frontiers Australia (EFA), the Australian Privacy Foundation (APF) and the Australian Digital Alliance (ADA). This comes as secretive TPP talks intensify at the Delta Hotel in downtown Ottawa, due to run until 11th July.

The TPP is a 'free trade' deal being negotiated by Australia, Brunei, Canada, Chile, Japan, Peru, Malaysia, Mexico, New Zealand, Singapore, Vietnam, and the United States. The changes to copyright proposed by the TPP would restrict citizens' and businesses' ability to innovate, both on and offline.

The group has set out their concerns in a [joint letter](#) which focuses on the tough new burdens the TPP would impose on telecom and web service providers. The letter highlights how the TPP would "force service providers throughout the region to monitor and police their users' actions on the Internet, pass on automated takedown notices, block websites and disconnect Internet users." The letter was put together by the [Fair Deal network](#) of civil society groups and businesses working to reform the copyright provisions in the Intellectual Property chapter of the TPP.

The letter will be handed to negotiators at a face-to-face meeting in Ottawa today.

Jon Lawrence, Executive Officer of Electronic Frontiers Australia (EFA) says, "Australia's experience with implementing these types of provisions has not been good. The signing of the Korean-Australian Free Trade Agreement (KAFTA) was accompanied by the news that we would have to legislate to overturn the High Court Decision in the iiNet case, effectively offshoring our domestic IP policy. Meanwhile we still have not properly implemented the protections for organisations excluded from the safeharbour scheme allowed under the AUSFTA, the subject of a 2011 review by the Attorney-General's Department, which has yet to be released'.

"Locking these provisions into a 12 party 'free trade' agreement is binding us to bad policy and removing our ability to deal with future challenges" says Trish Hepworth, Executive Officer of the Australian Digital Alliance. "The internet is ever-changing, ever evolving. We need the flexibility to respond effectively to changes in technology and business practices. These prescriptive, overly-bureaucratic provisions will lock us into a rigid system that is already showing signs of irrelevance".

"We know from [leaked documents](#) that the TPP will have an enormously harmful impact on our everyday lives," said OpenMedia Executive Director **Steve Anderson**. "Under the TPP whole families could be kicked offline, Internet costs will rise, and online free expression will be seriously undermined. It's profoundly undemocratic for TPP leaders to lock out citizens, while allowing secretive industry lobbyists to write rules that will harm Internet users and potentially put many Canadian telecom and web service providers out of

business. It's high time for Stephen Harper and other TPP leaders to open up this whole process and enable citizens to finally have a say."

Tim Bray, a Canadian software developer, founder of two companies, and co-inventor of XML, which is foundational to the Internet, said: "I'm generally pro-free-trade, but I'm horrified that this agreement might be used, in a secretive back-door way, to twist Canada's copyright system, which generally works well, in ways that could criminalize common-sense, socially-valuable uses of our shared intellectual heritage."

Leading copyright expert **Prof. Michael Geist** had this to say: "The Canadian notice-and-notice system has proven to provide a fair balance for all stakeholders with evidence of benefits for rights holders while preserving free speech and privacy rights. The model has been adopted or is being considered in other countries and should be featured as an option in the TPP."

Erik Martin, General Manager of popular social news site reddit, said: "reddit is a platform for creating communities and sharing information. We have immense concerns about any proposals that would place the burden of preemptively policing users and blocking information onto communication platforms such as reddit directly. This is a real threat to all communication platforms that help to make our open Internet ecosystem so rich and diverse."

Jeremy Malcolm, from the Electronic Frontier Foundation commented, "There is no reason to think that the copyright rules being pushed in this agreement are the best rules for all twelve countries. Indeed, they may not be the best rules for *any* of those countries. They are simply the rules that the highly-paid lobbyists from big content industries would like to see locked in as immutable global standards. We mustn't fall into that trap."

The following have signed on to the joint letter:

Entrepreneurs: Alexis Ohanian (Co-founder of Reddit), Cory Doctorow, and Tim Bray (Textuality Services, Inc.), Ron Yokubaitis.

Businesses: Affinity Bridge, Agentic Digital Media, Amicus, Blacknight, Blindspot, Briteweb, Cheezburger, Data Foundry, Engine.is, Happy Mutants LLC (Boingboing.net), Catalyst Internet, cStreet Campaigns, Codename Design, Credo Mobile, Disconnect, Ello Foods, Engine Advocacy, Fark, Functional Imperative, Floop Technologies, Galiano Coffee Roasting, GHL Consultants, Giganews, Golden Frog, GrowthLogic, Hackers/Founders, i2Coalition, iiNet, iFixit, Interdependent Investments, Internet Archive, Imgur, Lionsgate Software, O'Reilly Media, Namecheap, reddit, RadioAtlantic.ca, Techdirt, Thoughtworks, Tucows, TunnelBear, Scoop Media, ServInt, Spake Media House, Stack Exchange, Stack Overflow.

User groups: Article 19, Association of Progressive Communicators, Australian Digital Alliance, Australian Privacy Foundation, B.C. Freedom of Information and Privacy Association, Consumer New Zealand, Consumers International, Demand Progress, Electronic Frontier Foundation, Electronic Frontiers Australia, Fight for the Future, Gen Why Media, Hiperderecho, OpenMedia, Public Knowledge, Samuelson-Glushko Canadian Internet Policy & Public Interest Clinic (CIPPIC), Wikimedia Foundation.

Companies and organizations can still sign on to the joint letter here: <http://bit.ly/U2bzro>

About the Our Fair Deal coalition

Starting at first in New Zealand and then connecting with organizations and people internationally, a group of individuals from the fields of Internet policy, art, information technology and law got together to discuss a TPP campaign with a copyright focus. What resulted was the idea of a fair deal, one that opens up trade opportunities for TPP member states but doesn't force copyright and other IP-related changes on us that could damage our future. [Learn more at OurFairDeal.org](http://OurFairDeal.org)

Members of the Fair Deal coalition include:

Affinity Bridge, Article 19, Australian Digital Alliance, Australian Library & Information Association, Association for Progressive Communications (APC), Internet NZ, BCFIPA, The Canadian Internet Policy and Public Interest Clinic (CIPPIC), Consumers International, Council of Canadians, Creative Freedom, Demand Progress, Derechos Digitales, Electronic Frontiers Australia, Electronic Frontier Foundation (EFF), Engine.is, Fight for the Future, FreePress, Gen Why Media, Hiperderecho, Library & Information Association of New Zealand Aotearoa, Movements for the Internet Active Users, NZRise, NZOSS, OpenMedia.org, Public Citizen, Public Knowledge, Royal New Zealand Foundation of the Blind, Scoop, Tech Liberty NZ, TechDirt, Tuanz, Tucows, TradeMe

About the Trans-Pacific Partnership Agreement:

The TPP is one of the most far-reaching international free trade agreements in history. We know from [leaked TPP draft texts](#) that participating nations would be bound to much stricter and more extreme copyright laws than now exist under current national laws. These new rules would criminalize much online activity, invade citizens' privacy, and significantly impact our ability to share and collaborate online.

U.S. negotiators are pushing hard to force smaller nations into accepting a censored Internet. However, reports have indicated that the intellectual property provisions have been quite a ["challenging"](#) issue for those behind the agreement.

Over 140,000 people have now signed a petition at <http://OpenMedia.org/censorship>, which demands that TPP decision-makers reject copyright proposals that would restrict the open Internet, access to knowledge, economic opportunity, and our fundamental rights.

Over 3.2 million people have signed on to a recent campaign led by OpenMedia and [other](#) groups against the excessive secrecy surrounding the TPP at <https://StopTheSecrecy.net>

Tens of thousands are taking part in [a crowdsourcing initiative](#) organized by OpenMedia to create a positive vision for sharing and collaborating online. The initiative aims to create an Internet-fueled positive alternative that decision-makers can't ignore.

Media Contact

Jon Lawrence, Electronic Frontiers Australia
media@efa.org.au
0414 669 787

More Information

- Dozens of Organizations and Businesses protest TPP copyright proposals. Source: [Electronic Frontier Foundation](#)
- Internet governance expert says U.S. trying to strong-arm Canada into economically-damaging Internet censorship rules in international agreement. Source: [OpenMedia.ca](#)
- Full text of the TPP's Internet censorship chapter - source: [Wikileaks](#)
- Detailed expert analysis of the leaked TPP draft can be found at: <http://keionline.org/node/1825>
- In August 2013, OpenMedia and the Our Fair Deal Coalition [launched an alternative process to the secretive Trans-Pacific Partnership talks](#), enabling citizens to have their say on shaping their digital future.

- In May 2013, OpenMedia and Coalition partners sent TPP Trade Ministers a letter [to demand a 'Fair Deal' on provisions that would restrict Internet use in the ongoing Trans-Pacific Partnership \(TPP\) talks.](#)
- We also sent a message to new U.S. Trade Representative Michael Froman by purchasing a [hard-hitting Washington D.C. newspaper ad.](#)
- In December 2012, OpenMedia's Steve Anderson took our message direct to TPP negotiators in Auckland. Read his [full report from Auckland here.](#)
- In June 2012, OpenMedia joined with [a diverse coalition of groups](#) to launch the [StopTheTrap.net](#) petition - a petition which gained over 135,000 signatures and which [was hand-delivered to TPP negotiators](#) in San Diego.

Open Letter on Intermediary Liability and the TPP

Dear Ministers and Negotiators

The technology sector has become one of the leading drivers of the global economy. The Internet's international network of knowledge-sharing platforms has enabled new innovative, digital services to emerge from all corners of the world, creating hundreds of thousands of new jobs for educated, skilled workers. As our lawmakers and policymakers maintain rules for the use of technology, it remains crucial that these rules respect the very values that gave rise to these new businesses.

As Internet service providers, tech companies, and organizations representing thousands of engineers and users around the world, we write to you today to call your attention to a threat to this thriving technological ecosystem: the Trans-Pacific Partnership (TPP) agreement. This highly secretive, supra-national agreement is reported to include provisions impacting copyright and privacy in ways that significantly constrain legitimate online activity and innovation.

The provisions regarding intermediary liability are particularly concerning. We are worried about language that would force service providers throughout the region to monitor and police their users' actions on the internet, pass on automated takedown notices, block websites and disconnect Internet users. Irresponsible rightsholders can burden intermediaries with many thousands of automated takedown requests every day, using systems that operate with little or no human oversight. These systems rely on a "takedown first and ask questions later" approach to pages and content alleged to breach copyright.

Burdening these service providers with these new liabilities could also add new costs that may be passed onto Internet users. These automated systems have also led to many forms of legitimate speech being taken down, even when they are protected under fair use. (See this two-page fact-sheet for more info: <http://bit.ly/1rx1AG5>) We oppose any kind of proposal for an enforcement regime that could lead to a "notice and staydown" system, where there is little to no recourse for users to challenge takedowns and restore removed content.

In light of these issues with existing intermediary liability systems, there are two specific models that could better protect the joint interests of tech services and users:

- 1) A notice-and-notice system that does not burden intermediaries with the obligation to remove and block access to content.
- 2) A judicial notice and takedown system that ensures the formal application of due process in determining the lawfulness of allegedly infringing content.

We hope the final language provides proper flexibility for nations to establish these kinds of takedown systems, as they continue to re-evaluate and reform their legal frameworks in response to new technological realities. We sincerely hope you re-examine the proposals that are on the table, and seriously question whether you are pushing for proposals that would truly enable new businesses to flourish in our countries in the decades to come.

Sincerely,

(Initial Signers)

***Entrepreneurs, Investors, Businesses and Industry groups:**

Alexis Ohanian, Co-founder of Reddit

***User groups:**

Association of Progressive Communications

Australian Privacy Foundation

Affinity Bridge
Agentic Digital Media
Australian Digital Alliance
Blindspot
Briteweb
Cheezburger
Corey Doctorow, Happy Mutants, LLC
(Boingboing.net)
cStreet Campaigns
CREDO Mobile
Data Foundry
Disconnect
Engine Advocacy
Fark, Inc
Floor64 Inc. (aka Techdirt)
Gen Why Media
Golden Frog
GrowthLogic Inc.
iiNet
iFixit
Internet Archive
Internet Infrastructure Coalition (i2Coalition)
Imgur, Inc.
O'Reilly Media
Namecheap
Reddit
RadioAtlantic.ca
Ron Yokubaitis, Founder of Data Foundry Inc.
Tim Bray, Textuality Services, Inc.
Tucows
TunnelBear
Scoop Media
Stack Exchange
Wikimedia Foundation

BC Freedom of Information and Privacy Association
Consumer New Zealand
Consumers International
Demand Progress
Electronic Frontier Foundation (EFF)
Electronic Frontiers Australia, Inc.
Fight for the Future
Hiperderecho
OpenMedia
Public Knowledge