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For Immediate Release:
Dec. 17, 2014

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Leak of Obama Administration Trade Pact Proposal Reveals Negotiations Affecting Net Neutrality, Limits on Data Privacy Protections

U.S. Internet Governance Policy Should Not Be Designed in Closed-Door, Industry-Influenced Negotiations of U.S. Trade in Services Agreement

WASHINGTON, D.C. – While a domestic debate about net neutrality rages and public demands for better data privacy protections grow, a U.S. trade pact proposal leaked today reveals that issues related to both policies are being negotiated in closed-door trade talks to which corporate trade advisors have special access, said Public Citizen.

The leaked text is the U.S. proposal for language relating to e-commerce and Internet issues in a proposed Trade in Services Agreement (TISA), which is now being negotiated between a 50-country subset of World Trade Organization members. The pact would require signatory countries to ensure conformity of their laws, regulations and administrative procedures with the provisions of the TISA; failure to do so could subject a country to trade sanctions. Negotiators are pushing to complete and implement the pact next year.

“This leak reveals a dangerous trend where policies unrelated to trade are being diplomatically legislated through closed-door international ‘trade’ negotiations to which industry interests have privileged access while the public and policy experts promoting consumer interests are shut out,” said Lori Wallach, director of Public Citizen’s Global Trade Watch. “Given the raging domestic debate over net neutrality, the growing demands for more data privacy and the constantly changing technology, a pact negotiated in secret that is not subject to changes absent consensus of all signatories seems like a very bad place to be setting U.S. Internet governance policies.”

Added Burcu Kilic, a lawyer with Public Citizen, “The Internet belongs to its users. Anyone who cares about an open and free Internet should be concerned that U.S. trade negotiators are seeking to lock in international rules about how the Internet functions, and are doing so in a closed-door process that is not subject to the input of Internet users. Negotiating rules internationally, behind closed doors, while the domestic discussion is ongoing not only makes an end-run around the domestic process, but excludes the perspectives and expertise needed to make good policy.”

With respect to privacy protections, the leaked text reveals that the U.S. negotiators are pushing for new corporate rights for unrestricted cross-border data flows and prohibitions on requirements to hold and

process data locally, thus removing governments' ability to ensure that private and sensitive personal data is stored and processed only in jurisdictions that ensure privacy.

Such measures are considered critical to ensuring that medical, financial and other data provided protection by U.S. law are not made public when sent offshore for processing and storage, with no legal recourse for affected individuals. Numerous U.S. organizations are pushing for improvements in such policies, which are considerably stronger in other countries. If the proposed TISA terms on free data movement were to become binding on the United States, such needed progress would be foreclosed.

For a more detailed analysis of the leaked text and its implications for net neutrality and data privacy, please see [this memo](#) co-written by Professor Jane Kelsey, University of Auckland School of Law, and Kilic of Public Citizen.

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