

TRANS-PACIFIC PARTNERSHIP & TRANSATLANTIC TRADE INVESTMENT PARTNERSHIP – A RIGHT TO PRIVACY

ABSTRACT

The aim of this paper is to enlighten the reader into the current multi-national agreements currently making their way through government in Europe, and trans-pacific countries. In this case, I will be focusing discussion on the two major agreements currently at large, the “Trans-Pacific Partnership” and the “Trans-Atlantic Trade Investment Partnership” or TPP & TTIP for short respectively. Both of the aforementioned agreements have currently been “fast tracked” into government in both the EU and the United States. If passed, these agreements would have severe consequences on the average individual’s privacy online. We are entitled to privacy online, having our online tendencies and activities monitored or limited should not be something we worry about in this day and age. We have a right to privacy.

TRANS-PACIFIC PARTNERSHIP LEAK

As part of our Cyber Ethics module, we as individuals have been tasked with composing an essay based on a “contemporary issue” within relation to cyber ethics. Throughout the past few weeks, we have been lectured on various areas of cyber ethics, including intellectual property, copyright and privacy. I have therefore decided to base my essay on the topics aforementioned in relation to both the **Trans-Pacific Partnership**, and the **Trans-Atlantic Trade Investment Partnership**.

I’d like to begin by introducing both the Trans-Pacific, and Trans-Atlantic agreements, and give a general overview about them. They are both very similar agreements, the only difference being they govern different sections of the globe, their policies, and governing topics remain the same. Both the TPP and TTIP agreements are extremely complex in the sense they govern many areas of day-to-day life including, but not limited to areas such as: the economy, trading policy, ecommerce, intellectual property, digital rights management, agriculture, medicine and public health schemes, copyright etc.

The manner in which both of these agreements have been negotiated is extremely shady, and illegitimate in itself. The Trans-Pacific Partnership agreement specifically has only been brought to the attention of the public as recent as early 2015. The TPP agreement was negotiated in private and complete secrecy by the involved parties (New Zealand, Singapore, Chile, Brunei, Australia, Canada, Japan, Vietnam, Peru, Mexico, Malaysia and the United States), no information was ever disclosed to the public, and remained completely secret. It is believed that the TPP has been under negotiations since 2010, and has only been outed this year thanks to the efforts of white-hat hackers, or hacktivists, which in itself could make a good ethic related article. As previously mentioned, both the TPP and TTIP govern a vast area of topics. Therefore, I have decided to refine my discussion to the issues that spring from the recently leaked TPP document titled “**TPP Treaty: Intellectual Property Rights Chapter, Consolidated Text (October 5, 2015)**”. The aforementioned document was leaked to WikiLeaks.com, and made available for public reading on October 9th 2015, a link to the document can be found [here](#). This

document contains solid indications that if the agreement were to be enforced by law, shackles would be placed on us as individuals, and our online privacy. Taking into account the TPP agreement has been fast-tracked in the United States, it is looking extremely likely our right to online privacy is on-the-ropes.

“Barack Obama was given the authority he has long sought to expedite negotiations for a massive trade deal with countries on the Pacific rim, propelling the US toward a landmark agreement that, both proponents and critics agree, will reshape the global economy.[1]”

The fact the governments have been negotiating, lobbying, and fast tracking these agreements in complete secrecy is both immoral and completely unethical. The only insight we have into the agreements are through the leaked documents, the government seem to be making decisions that ultimately influence our rights behind our backs, without any sort of consent. The lack of communication, and presence of secrecy only heightens the fact we should be worried about our entitlement to privacy. The implications of the “Fast-Track” policy could mean that by the time the TPP documents become public in its entirety, it could be too late for citizens to lobby against it, and it be inducted into law. Julian Assange, the WikiLeaks founder has himself stated his fears on the TPP:

“Secretive Deal Isn't About Trade, But Corporate Control. [2]”

TPP & TTIP – PRIVACY INVASION

Intellectual property should be protected, there is no doubt about that. I am a firm believer in protecting one's work, and exercising copyright law on anyone in breach of the laws put in place. However, the regulations proposed in the leaked TPP documents seem to deal with IP and copyright in too strict of a manner.

It is a fact that online piracy is at large in this day and age. A vast majority of online users around the world participate in some form of online piracy. As it stands, piracy is extremely simple, and participants really face no threat of being caught. Through the simple download of a magnet peer to peer magnet downloader, and a quick Google search, an individual has access to a wide, and ever expanding library of files. These archives contain many forms of data, ranging from a single song, to an entire album, the entire season of your favourite television program, the latest video games and so on. With the simple click of a link, the file is now “yours” so to speak. Although many people use these methods of obtaining content otherwise locked behind a paywall for self-use, others will make copies, and distribute the product for financial gain.

However, the means in which the TPP aims to protect IP and police copyright infringement is ethically wrong. The Trans-Pacific Partnership contains a chapter solely dealing with intellectual property that I feel puts the rights of internet users at risk. The first segment I'd like to bring to light is located on page 52 of the [TPP IP chapter](#).

“3. require Internet Service Providers carrying out the functions referred to in paragraph 2(a) and 2(c) to participate in a system for forwarding notices of alleged infringement, including where material is made available online, and where they fail to do so, subjecting them to pre-established monetary damages for that failure;”[3]

This direct quote from the official TPP IP document states, that if a user downloads a file such as a movie or song, or any other form of media protected by copyright law, the ISP by law, must forward a copy of that individual's web usage. Again, as I previously stated, I am a firm believer that artists should be paid for their work and art, however I feel the manner in which TPP plans to police copyright is a step too far. The quote also refers to two previous points, marked 2(a) and 2(b) respectively, that further prove my point. These points state, that if a person markets, or promotes websites hosting torrents related to copyright protected to another person online, they too will have their online activity forwarded to a court of law.

The act of forwarding a user's online activity to a government body is simply unethical and raises a few flags. It implies that every individual tied under contract to an internet service provider will have their activity monitored and stored locally on the ISP's servers. A user's activity will then be filtered, with some sort of system in place to flag an alert if the user's activity contains copyright infringing activity.

The TPP IP chapter takes further action, and goes as far as to completely cut off an individual's access to the internet: ***“remove or disable access to material upon becoming aware of a decision of a court to the effect that the person storing the material infringes copyright in the material.”***[4]

Further reading also implies that infringers will be criminally charged in a court of law ***“pay the right holder the infringer's profits that are attributable to the infringement”*** ***“compensate for the injury the right holder has suffered”*** [5]

It is evident that the Trans-Pacific Partnership only takes into account the interests of multi-million euro/dollar companies, and in-turn infringes on the online privacy rights of the everyday individual. The involved countries seem to be negotiating out rights, for favours and financial gain. The outlook is also very bleak, the fact the agreement is an international treaty means the treaty will only be made public right before it is made law. The nations involved need to be more transparent, and cater to public interest.

REFERENCES

- [1] [Guardian Article detailing Barak Obama's decision to fast track the Trans-Pacific Partnership into US government.](#)
- [2] [Interview with WikiLeaks founder Julian Assange, conducted by journalist Amy Goodman on behalf of Democracy Now.](#)
- [3] [TPP document, copyright infringement, online activity forwarding](#)
(Page 57)
- [4] [TPP document, disable internet access upon discovery of copyright infringement.](#) (Page 58)
- [5] [Trans-Pacific Partnership leaked documents, hosted by WikiLeaks.](#)