

**March 20<sup>th</sup>, 2014**

Dear Senator Ron Wyden,

Congratulations on your recent appointment as Chair of the Senate Finance Committee. As technology companies with business models inextricably linked to the Internet, we admire your work as a staunch defender of users and online rights—most prominently when you led the fight against SOPA and PIPA in Congress.

Today we write about another emerging front in the battle to defend the free Internet—massive trade deals like the Trans-Pacific Partnership. These highly secretive, supranational agreements are reported to include provisions that vastly expand on any reasonable definition of "trade," including provisions that impact patents, copyright, and privacy in ways that constrain legitimate online activity and innovation. We applaud your prior efforts as Senator to bring transparency and public participation to trade negotiations. We strongly urge you to uphold and expand this dedication into your new role.

None of the usual justifications for trade negotiation exclusivity apply to recent agreements like the TPP. Even assuming that it is legitimate to shield the discussions of certain trade barriers—like import tariffs—from political interference, the provisions in these new trade agreements go far beyond such traditional trade issues.

Based on what we've seen in leaked copies of the proposed text, we are particularly concerned about the U.S. Trade Representative's proposals around copyright enforcement. Dozens of digital rights organizations and tens of thousands of individuals have raised alarm over provisions that would bind treaty signatories to inflexible digital regulations that undermine free speech. Based on the fate of recent similar measures, it is virtually certain that such proposals would face serious scrutiny if proposed at the domestic level or via a more transparent process. Anticipated elements such as harsher criminal penalties for minor, non-commercial copyright infringements, a 'take-down and ask questions later' approach to pages and content alleged to breach copyright, and the possibility of Internet providers having to disclose personal information to authorities without safeguards for privacy will chill innovation and significantly restrict users' freedoms online.

Some aspects of U.S. copyright law, such as the DMCA's safe harbor provisions, have helped foster the vibrant tech industry in this country. But in other areas, we are due for major reforms—a fact made clear by Register of Copyrights Maria Pallante's call for the "Next Great Copyright Act" and the House Judiciary Committee's efforts to implement that reform. In light of these needed revisions, the U.S. system cannot be crystallized as the international norm and should not be imposed on other nations. It is crucial that we maintain the flexibility to re-evaluate and reform our legal framework in response to new technological realities. Ceding national sovereignty over critical issues like copyright is not in the best interest of any of the potential signatories of this treaty.

We can only build a successful innovation policy framework—one that supports new ideas, products, and markets—if the process to design it is open and participatory. Unfortunately, the trade negotiation process has been anything but transparent. Our industry, and the users that we serve, need to be at the table from the beginning to design policies that serve more than the narrow commercial interests of the few large corporations who have been invited to participate.

We urge you not to pass any version of Fast Track or trade promotion authority, or approve any mechanism that would facilitate the passage of trade agreements containing digital copyright enforcement provisions designed in an opaque, closed-door process.

As the new Chair of the Senate Finance Committee, you are in a position to shape U.S. policy to keep this country a place where innovation thrives. We look forward to your continued dedication to the interests of technology and its users.

Thank you for your attention.

Sincerely,



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