

Mrs Cecilia Malmström
Commissioner
European Commission
Rue de la Loi 200

B – 1049 Brussels

Ref.: BEUC-X-2016-058/MGO/LAU/rs

10 June 2016

Subject: Concerns regarding US demands in TTIP and TiSA to fully prohibit data localisation policies for financial services

Dear Commissioner Malmström,

BEUC closely follows and contributes to the work on international trade agreements such as the Transatlantic Trade and Investment Partnership (TTIP) and the Trade in Services Agreement (TiSA), as these cover a broad range of economic sectors and will inevitably affect consumers. Our organisation supports free trade agreements which are beneficial for European consumers and do not undermine vital EU principles, rights and standards.

European Digital Rights (EDRi) works to ensure public engagement in debate around trade agreements and to oppose agreements that undermine human rights online, including the fundamental rights to data protection and privacy, as defined in the Union's primary law and as given force by its secondary legislation.

We are writing to express our deep concern related to recent information that the U.S. government intends to push for a full prohibition of data localisation policies, including for financial services, in TiSA and TTIP.

In light of this information, we reiterate the position that our organisations have stated previously, notably through the platform of the [Transatlantic Consumer Dialogue \(TACD\)](#): we strongly urge European negotiators to leave data flows regulations out of these trade negotiations. It is impossible to address the issue of data flows when the data protection regimes in the United States and the European Union are starkly different and unbalanced. Efforts to address anti-competitive or politically motivated localised data storage must not be exploited or misrepresented as a tactic to prevent legitimate protections for personal data, as in Europe's rules on export of personal data.

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Since the conclusion of the Trans-Pacific Partnership (TPP) negotiations between the United States and eleven Pacific rim nations, Wall Street firms, and several influential members of the U.S. Congress, have demanded that the U.S. Trade Representative and Treasury "fix" a provision in the TPP that carves financial services out of a rule that would ban governments from requiring companies to store data within their borders. According to the most recent information, the United States would push the proposal in future trade deals, including TTIP and TiSA.

We urge the European Commission to publically state that it will not agree to such provisions in the context of trade agreements. Any cooperation on data flows and data protection and privacy issues involving the European Union should happen outside the context of trade negotiations.

We look forward to your commitment towards beneficial trade agreements for citizens and remain at the disposal of your services for any further exchange of views.

Yours sincerely,

Monique Goyens
Director General, BEUC

Joe McNamee
Executive Director, EDRi