



First Vice-President Timmermans  
Vice-President Ansip  
Vice-President Katainen  
Commissioner Malmström  
Commissioner Jourova  
Commissioner Gabriel

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28 February 2018

**Subject: Horizontal position on data flows and data protection in trade agreements**

Dear members of the project team on data flows and trade,

On behalf of the European Consumer Organisation (BEUC), European Digital Rights (EDRI) and the Transatlantic Consumer Dialogue (TACD), we write to express our support for the political decision of the Commission on data flows and data protection in trade agreements, and to ask clarification on some of its key points.

**Defending citizens' fundamental rights in trade discussions: the right move**

The European Commission is right to put the protection of citizens' fundamental rights as its primary objective. This is what EU citizens expect and is the natural thing for EU institutions to do. In particular, we agree with the Commission's decision to emphasise that the EU data protection framework shall always prevail with regards to cross-border personal data transfers and shall never be challenged through investor-to-state dispute settlement.

**Keys to ensure the success of this approach**

For the political decision to be efficient, it is important for the Commission to explain how these clauses would apply, compared to the old safeguards in case of a dispute with trading partners. In addition, it is necessary to clarify in article B that the provisions will apply to all chapters of the agreements, including chapters on telecoms and financial services and the services schedule of commitments.

Finally, we urge the Commission to publish the text as soon as possible, to keep in line with its positive transparency agenda. It is essential to ensure equal access to this crucial position for all.

We thank you in advance for your clarification and remain at your disposal if you wish to receive further information.

Yours sincerely,

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