



**Mr. Jean-Claude Juncker**  
President of the European Commission  
Rue de la Loi 200  
B - 1049 Brussels

Ref.: BEUC-X-2016-102/MGO/LAU/rs

24 October 2016

**RE: EU citizens urgently need rock solid data protection safeguards in TiSA and TTIP**

Dear President Juncker,

The European Consumer Organisation (BEUC), the European Consumer Voice in Standardisation (ANEC), European Digital Rights (EDRi), the Transatlantic Consumer Dialogue (TACD) and, Consumers International (CI) closely follow and contribute 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 and citizens. Our organisations support free trade agreements which are beneficial for consumers and do not undermine vital principles, rights and standards.

We are writing to you today because the EU is at a crossroads to shape the future of trade. The TiSA negotiations are intensifying with a view to achieve a conclusion in the coming months. The EU's negotiating partners are notably expecting its proposal on cross border data flows. We urge the European Commission to resist the pressure and come forward with proposals which will uphold and defend its citizens' fundamental rights.

It is essential to restore consumer trust by showing leadership and facing the challenges of globalised digital trade. Our organisations recognise the importance of the flow of data. However, data flows by definition include personal data and the data protection regimes between some TiSA countries, such as the US, and the European Union are starkly different and unbalanced. That is why our organisations firmly believe that data flows should not be subject to trade negotiations. Nevertheless, if provisions on data flows were to be included in TiSA and TTIP despite our concerns, it needs to be done in the most effective way possible for the protection of the personal information and privacy of EU citizens. EU consumers, as well as consumers in the US and across the globe, are counting on the EU to show that it is possible to ensure rock solid data protection safeguards in trade agreements.

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A recent independent study<sup>1</sup> by the University of Amsterdam assessed the solidity of the current data protection safeguards in free trade agreements concluded and negotiated by the EU. The study confirmed our concerns: the safeguards are not strong enough today and urgently need to be reinforced if the EU really wants to protect its citizens' fundamental rights. The study formulated recommendations that we shared with DG Trade, DG Justice, the European Parliament and the Council. The study was presented in the European Parliament during a debate we organised on 12 October 2016, hosted by MEP Viviane Reding. Representatives from both DG Trade and DG Justice participated. During the discussion, a consensus emerged on the need to find a solution that will not sacrifice EU data protection rules.

We believe the EU could set a global example by upgrading the out of date general exceptions of the GATS (General Agreement on Trade in Services) to make it really rock solid in the core text of TiSA. The same logic should apply to the specific data protection safeguards in the e-commerce, financial services and telecom annexes. By following such an ambitious approach, the EU would not only prove to its citizens that they can be protected in trade agreements, but also set an example for other trading partners to follow.

However, if the EU would propose the same old "safeguards" in TiSA, or TTIP, public concern would continue to grow. Our organisations would have no other choice than to adopt a negative position towards the agreements, despite our support for free trade in principle. Sticking to the old approach would also go against the recommendations of the European Parliament, which will ultimately be the voice of EU citizens and take the final decision when the ratification phase will come.

We trust that you will take our views into account and we remain at your disposal for further discussion.

Yours sincerely,

Monique Goyens  
Director General, BEUC  
EU Co-Chair of TACD

Edmund Mierzwinski  
Consumer Programme  
Director, U.S. PIRG  
US Co-Chair of TACD

Amanda Long  
Director General,  
Consumers International

Stephen Russell  
Secretary General, ANEC

Joe McNamee  
Executive Director, EDRi

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<sup>1</sup> [Trade and Privacy: Complicated bedfellows? How to achieve data protection-proof free trade agreements?](#)  
Kristina Irion, Svetlana Yakovleva, and Marija Bartl, Ivir Institute, University of Amsterdam