

copyright on **TPP**

- i) domain names**
- ii) term of protection**
- iii) tpm**
- iv) exceptions**
- v) enforcement**
- vi) isp**

i) domain names

- + The US proposal emphasizes the relation between domain names and trademarks, which could put freedom of expression at risk, especially when trademarks are used for political or economic criticism.
- + We propose to incorporate within the TPP text a series of restrictions on measures that the CCTLD administrator could adopt in cases related to freedom of expression or general well-intended use.

i) domain names

- + We propose the incorporation of an explicit reference regarding the CCTLD's obligation to respect the national law on data protection and consumer rights.

ii) term of protection

- + The US proposal (4.5) affects the development of an opulent and expanding cultural environment, nurtured by works that enter the public domain, and their legitimate use by consumers, users and intermediaries.
- + There is no reason to increase the protection terms beyond those that have been established by the WIPO and WTO standards.

ii) term of protection

- + The protection terms should be determined by domestic laws of the State parties.

iii) tpm

- + The US proposal excessively overprotects the TPM and goes far beyond the multilateral agreements, extending the sanctions not only to the ones that “evade” but also against those that commercialize devices that allow the evasion of DRM’s, even if their conduct does not infringe on copyright.

iii) tpm

- + The proposed exceptions (4.9.b) are considerably more restrictive than the ones contained in other FTA's, and can seriously affect the citizens of countries that do not have fair use provisions within their copyright law.
- + The excessive protection measures contained within the TPP could affect consumer rights (a potential source of Human Rights infringement), diminish technological innovation and worsen free market and trade.

iii) tpm

- + The TPM should be recognized in the established terms of section 11 of the WCT treaty.
- + We propose that the TPP should incorporate the criminalization of those that hinder the legal access to a protected work or hinder making use of a current exception to the copyrights, including the exercise of fair use exceptions, when that hindering is made through TPM's.

iv) exceptions

- + To achieve a suitable balance between copyright protection and exceptions and limitations, it is necessary to establish mandatorily an exception similar to the fair use (US) to protect the good faith uses of copyright protected works in specifically and determined circumstances.

v) enforcement

- + The US proposal (15) criminalizes every copyright infringement, including those made with non-profit purposes and without economic benefit to the infractor.
- + This proposal violates basic principles of the criminal responsibility.
- + Parties should preserve their freedom to modify copyright laws and except conducts not oriented for profit from criminal sanctions.

v) enforcement

- + The established sanctions should be proportional to the caused damage or at least to similar offenses, leaving the possibility of establishing only economic sanctions.
- + The US also proposes forcing effective imprisonment penalties when there's commercial benefit or a private financial gain
- + That's not acceptable, because it breaks the parties criminal system, impeding first-time or low amount infraction exceptions, and probation-like systems.

vi) isp

- + The US proposal (16.3) lead to censorship on the Internet, through removal or block orders of contents.
- + The proposal requires (16.3.xi) the internet service providers violate the privacy of its clients, forcing them to give their information without due process.

vi) isp

- + These measures could be adopted with private mechanisms and without judicial (or state) intervention.
- + These private mechanisms will collide with Internet users rights:
 - + Freedom of expression
 - + Privacy
 - + Due process of law.

balance

(**protection** & **access**)

thanks

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