



European Digital Rights (EDRI) thanks AFET for issuing a [draft Opinion on TTIP](#). In line with [EDRI's redlines](#) on TTIP, we would like to make some comments on the paragraphs that fall within our scope of work:

#### **Paragraph 1:**

- Its **assertions** should be nuanced, since they are based on non-evidence based assumptions.
- The **reference to the "Trans Pacific Partnership" (TPP) should be deleted** for two reasons. First, this agreement included measures that the Commission refused to include in the TTIP. For example, with regard to the rights of "intellectual property", the TPP provides for the inclusion of measures of criminal enforcement and Internet service providers' liability, which are two contentious points that were included in the Anti-Counterfeiting Trade Agreement (ACTA), which was rejected by Parliament in 2012.<sup>1</sup> The EU approach to intermediary liability is already closely modelled on the US approach and has never been identified as a barrier to trade. Indeed, both need heavy review for human rights reasons. Second, neither the EU nor its Member States are part of the agreement. The fact of the inclusion in the opinion would be confusing and so the purpose of including this mention is very unclear.

#### **Paragraphs 2 and 5:**

- Regarding the **regulatory cooperation** proposed in TTIP, EU standards should not be lowered and regulatory cooperation should not undermine the EU's and governments' right to regulate.
- In the context of cooperation between the EU and US, we draw your attention to the European Parliament's [Resolution of 12 March 2014](#) on the US NSA surveillance programme, surveillance bodies in various Member States and their impact on EU citizens' fundamental rights and on transatlantic cooperation in Justice and Home Affairs.

#### **Paragraph 6**

- The Commission should improve transparency, as its efforts so far have failed to achieve minimum standards of openness. A reference to the **Decision of the European Ombudsman** of 6 January 2015 is necessary for the AFCO report. It should be noted that on 25 February 2015, the European Ombudsman also opened a [case against the Commission](#) for refusing to give access to documents on TTIP.

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<sup>1</sup> See the European Commission's fact sheet on the intellectual property of the Commission, page 2, reference to ACTA: [http://trade.ec.europa.eu/doclib/docs/2015/january/tradoc\\_153020.7%20IPR,%20GIs%202.pdf](http://trade.ec.europa.eu/doclib/docs/2015/january/tradoc_153020.7%20IPR,%20GIs%202.pdf). For more information on the TPP in this sense, see an analysis of the latest leak regarding the chapter on "Intellectual Property rights": <https://www.eff.org/deeplinks/2014/10/latest-tpp-leak-shows-us-still-pushing-terrible-drm-and-copyright-term-proposals>



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