



ELECTRONIC FRONTIER FOUNDATION

Protecting Rights and Promoting Freedom on the Electronic Frontier

August 23, 2017

Dear TPP-11 Ministerial Group,

Removal of Copyright Extension from the Trans-Pacific Partnership

According to recent reports, the 11 remaining signatories of the Trans-Pacific Partnership (TPP) have agreed to move ahead with minimal revisions to the original text of the free trade deal. A revised framework is expected to be proposed for approval at the Asia-Pacific Economic Cooperation (APEC) TPP-11 Ministerial Meeting in November.

Attempting to revive TPP without addressing the trade-offs made for access to U.S. markets that are no longer beneficial to negotiating countries will have far-reaching ramifications on innovation, creativity and culture. With the U.S. out of the picture, the TPP-11 have the opportunity to reassess these trade-offs.

Foremost amongst these should be the provision on copyright term extension. Under the TPP, all countries would be required to extend copyright term to a minimum term of the life of the author plus 70 years, adding to the TRIPS minimum term of life plus 50 years. The TPP copyright extension terms were pushed by the U.S. to benefit big and entrenched rightsholders in the U.S.

Lengthy copyright terms restrict access to knowledge and our ability to build-on existing works in the public domain. Copyright term extensions, and their retrospective application to published works, create a cloud of legal uncertainty that impacts innovation and creativity. Extending copyright also involves costs. New Zealand has estimated that costs to extend national copyright terms by 20 years would cost an average of around \$55 million per year.

Moreover, it is very hard to reverse terms once an extension is agreed upon. The extension of copyright term by another 20 years is unnecessary in the absence of U.S. forcing the mandatory inclusion of the extension.

We urge you to exclude the mandatory extension of copyright term from TPP-11. For those countries that have already passed TPP implementing legislation that is contingent on the passage of the agreement, it must also be amended to ensure that the copyright extension obligation does not come into force.

Should you have any enquiries relating to this matter, please do not hesitate to contact us.

ELECTRONIC FRONTIER FOUNDATION

Jyoti Panday and Jeremy Malcolm

815 Eddy Street • San Francisco, CA 94109 USA

voice +1 415 436 9333

fax +1 415 436 9993

web www.eff.org

email information@eff.org