



February 5, 2015

Senator Orrin G. Hatch  
Chairman  
Senate Committee on Finance  
219 Dirksen Senate Office Building  
Washington, DC 20510-6200

Senator Ron Wyden  
Ranking Member  
Senate Committee on Finance  
219 Dirksen Senate Office Building  
Washington, DC 20510-6200

Dear Chairman Hatch and Ranking Member Wyden,

The Library Copyright Alliance (LCA) consists of three major library associations—the American Library Association, the Association of College and Research Libraries, and the Association of Research Libraries—that collectively represent over 100,000 libraries in the United States, employing over 350,000 librarians and other personnel. An estimated 200 million Americans use these libraries more than two billion times each year.

As Congress considers granting “fast track” trade promotion authority to President Obama, LCA urges you to keep in mind the far reaching effects trade agreements have and the importance of preserving democratic participation and process. We have serious concerns that fast track authority will prevent Congress from substantively engaging in discussions regarding or amending large-scale regional trade agreements, such as the Trans-Pacific Partnership Agreement (TPP) and the Trans-Atlantic Trade and Investment Partnership (TTIP). We therefore urge Congress not to grant fast track authority with respect to portions of the agreement that affect intellectual property laws or, in the alternative, to ensure that fast track language protects a balanced copyright system.

The negotiations for the TPP, for example, have suffered from a serious lack of transparency, without the opportunity for open and informed debate. Even as the negotiations near their end, there has not been a single official release of the text. Policy should not be made in secret, with the general public kept in the dark about what effects the agreement will have. While the general public is denied access to information, corporate interests,<sup>1</sup> such as the Recording Industry of America (RIAA) and the Copyright Clearance Center (CCC),<sup>2</sup> are well represented through trade advisory

---

<sup>1</sup> The trade advisory committees have been criticized for lack of public interest representation. While the Office of the United States Trade Representative (USTR) has proposed the creation of a Public Interest Trade Advisory Committee, it is our understanding that this committee has not yet been formed. Additionally, given the advanced state of the TPP negotiations, it is too late for a public interest trade advisory committee to meaningfully engage and affect the outcome of the agreement.

<sup>2</sup> The International Trade Advisory Committee (ITAC) on intellectual property has continuously been represented by large corporate interests. The list of members has changed over time, but continues to

committees. Members of these committees are able to view texts and make substantive comments while the general public and Congressional staff have not been granted such access. As a result, Congress has not yet had a chance to fully address concerns that may arise over the specific text of the agreement.

Fast-track authority will prevent Congress from amending the agreement because it delegates authority to the President to sign the agreement and only allows Congress to accept or reject the agreement in its entirety, with a simple majority vote. It also limits debate and requires Congress to vote on the agreement within ninety days. Due to the lack of transparency in the negotiations, this limited time period may make it difficult for members of Congress to fully analyze and understand the implications of these lengthy agreements that cover a broad range of topics. Such a procedure significantly curtails the ability of Congress to meaningfully weigh in on the agreement. Notably, no agreement that has reached Congress through fast track authority has ever been rejected.

The TPP will have a comprehensive intellectual property chapter, which could potentially contain provisions that will require changes to current law, or lock-in harmful provisions making it extremely difficult for the United States to amend its laws without violating the agreement. Only through extensive negotiations with the other TPP parties would the United States be able to amend its copyright laws without risk of being sued by another TPP party or by an investor, through the investor-state dispute settlement system, which allows corporations to directly sue the government.

Given the impacts that agreements like the TPP and TTIP will have, Congress should ensure that it does not delegate its authority to the Executive Branch. Congress must be an active participant in reviewing these agreements before accepting their content and should not grant fast track authority, at least with respect to intellectual property provisions in these agreements. Alternatively, if legislation on fast track does include language on intellectual property, this language must protect the careful balance that exists in US law. Libraries, and the vast public we serve, depend on a balanced copyright system, including important limitations and exceptions such as fair use and the first sale doctrine. Any language granting fast track authority implicating intellectual property must recognize the importance of limitations and exceptions.

Sincerely,



Krista L. Cox  
Director of Public Policy Initiatives, Association of Research Libraries  
**On behalf of the Library Copyright Alliance (LCA)**