



## What Do “Free Trade” Agreements Have To Do With Surveillance and Privacy?

BY HADRIAN MERTINS-KIRKWOOD

**H**ave you heard about the TPP? How about CETA? Or TISA? Or any number of unfamiliar acronyms in the overflowing alphabet soup of international trade treaties?

Don't blame yourself if you haven't. The Canadian government hasn't exactly made it a priority to engage the public in these negotiations. Our mainstream media tend to ignore these deals, too. And when free trade agreements do make the news, it's in the context of oil exports and manufacturing jobs and other dimensions of the free trade debate. It's no surprise that many Canadians tune out.

But deals like the Trans-Pacific Partnership (TPP), which Canada recently signed with 11 other Pacific Rim nations, go well beyond “free trade” to affect us in ways we don't even realize. Did you know that the TPP creates a quasi-judicial arbitration system that allows foreign corporations to sue our governments for regulations that might adversely affect their investments — including environmental protection measures and public health rules? Did you know that CETA, Canada's new deal with the European Union, prevents municipalities from encouraging local development through local hiring requirements? The range of “behind-the-border” regulations that are affected by these

so-called “free trade” agreements is staggering.

In the realm of information, the TPP will have major implications. For starters, the deal forces Canada to extend its minimum copyright term to the life of the author plus 70 years, which will delay copyrighted works from entering the public domain for an additional 20 years. Schools, libraries and other institutions that rely on classic works will have to wait that much longer before sharing them freely.

The TPP bans data localization requirements, which are rules forcing companies that collect personal information to store that information where it is gathered. Under the TPP, multinational corporations like Google, Facebook and Amazon cannot be prevented from sending Canadians’ private information to servers in the U.S and elsewhere. Even personal information collected by private healthcare and education providers may move more freely under the TPP. This is concerning because data stored outside Canada is subject to surveillance and seizure by foreign authorities like the U.S. National Security Agency.

The TPP changes Canada’s rules for “digital locks,” which are mechanisms for preventing the unauthorized reproduction and distribution of protected works. Under the TPP, Canada must add criminal penalties to the list of repercussions for breaking digital locks, which is not the case under current Canadian law. That puts individuals and institutions at greater risk when transferring and sharing certain materials, even if it is for educational purposes.

Furthermore, although the TPP does include protections for personal privacy, those requirements are weak and mostly unenforceable. For example, the deal says that countries must implement a legal framework for protecting citizens’ privacy, but it also says that voluntary private sector initiatives are adequate for meeting this requirement. Overall, the TPP’s rules for personal data and intellectual property favour corporations and rights holders at the expense of citizens and users.

Consistent with past international treaties, all of these provisions are locked in permanently. That is, the TPP supersedes current Canadian law and cannot be changed through future domestic legislation. If Canada did try to back out of these rules down the road, we would be subject to punitive trade sanctions from other TPP countries. So even where the TPP is in line with current Canadian standards, it takes away our right to modify or retract those rules later on.

When it comes to the Trans-Pacific Partnership, the issues mentioned here are just the tip of the iceberg. The TPP also has implications for state-owned enterprises, labour rights, public services and more. Canada's other deals, including CETA, are just as expansive and concerning. A growing range of public policy is being written by trade negotiators without public input or oversight via these international trade treaties.

Here's the good news: the TPP and CETA aren't done deals. Even though the negotiations have been concluded, Canada has yet to ratify either agreement. As the new Liberal government contemplates implementing these two treaties, which were negotiated by the previous Conservative government, public opinion has never been more important. Now is the time for Canadians of all stripes to take a hard look at these deals and decide for themselves if they're really in the country's best interests. If the implications for surveillance and privacy are any indication, it may be time to tell our government to go back to the drawing board.

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**HADRIAN MERTINS-KIRKWOOD** is a researcher with the CCPA's Trade and Investment Research Project. Learn more about deals like CETA and the TPP at [policyalternatives.ca/projects/trade-and-investment-research-project](http://policyalternatives.ca/projects/trade-and-investment-research-project).