



Information Technology Industry Council
Leading Policy for the Innovation Economy



Promoting Cross- Border Information and Data Flows in the TPP

Building a Lasting Framework for Economic Growth and Jobs

Businesses seek an ambitious Trans-Pacific Partnership (TPP) agreement that will link economies together, create new commercial opportunities and build a lasting framework for job growth and economic development in the region. Support for the TPP will depend on achieving commitments to open markets and on other rules that enable countries to realize the full potential and economic benefits of the 21st century knowledge economy.

The growth in the development and use of information and communications technologies (ICT) has been a major driver of economic growth, dynamism, job creation, productivity, and competitiveness for industries across all sectors of the global economy. With this rapid growth, businesses are increasingly using digital platforms to reach and sell to new customers in the TPP countries and around the world. Business, financial, insurance, information, communication, education, entertainment, retail and other services rely heavily on digital data and information flows, and many of these services act as enablers for the rest of the economy. Agriculture, manufacturing and service enterprises with overseas operations increasingly rely on global communication networks and cross-border flows of data and information to manage their businesses, from keeping track of sales and customers, sourcing options, imports and exports, and commodity prices to managing human relations and customers.

Importantly, the digital economy creates vast new opportunities for small and medium enterprises (SMEs), which account for the largest share of TPP businesses, to trade, innovate and create jobs. With limited access to capital or resources, small businesses and entrepreneurs benefit substantially from accessing digital platforms. A TPP agreement can help secure access by small businesses to online distribution and marketing platforms throughout the region. For instance, an agreement could provide a framework for entrepreneurs and small businesses to access and serve international customers via e-commerce platforms, or to manage sales via online customer relations management services, from anywhere in the region. The economic benefits of such a framework would be especially pronounced in developing countries, where access to regional internet-based products and services and cloud computing applications can enable innovators, entrepreneurs and established companies to leapfrog traditional technologies and participate more actively in the global marketplace. Promoting the flow of data and

information throughout the TPP economies will provide businesses and entrepreneurs with an affordable means to scale their operations and innovate across borders.

To compete effectively in international markets, enterprises and individuals need to be assured that they can move and maintain information and data across borders in a reliable and secure manner. It is therefore critical that the TPP negotiations ensure that trade and investment rules promote, rather than inhibit, the growth of the digital economy.

Given the economic importance of international flows of data and information to the region, the TPP negotiations should produce legally binding commitments to:

- Permit cross-border information and data flows, while ensuring that privacy and intellectual property rights are protected.
- Allow business enterprises from the TPP parties to transact business through e-commerce platforms without establishing a commercial presence in each country.
- Prohibit requirements to use local computing infrastructure, such as servers, as a condition for doing business or investment in a TPP country or engaging in e-commerce or cross-border trade.

Within this context, businesses recognize the need to protect and secure personal information and privacy, and seek to comply with legitimate government requirements regarding that information. Many companies already have mechanisms in place for accountability in the privacy space, including contracts, binding corporate rules, codes of conduct, and other commitments, which can be enforceable by governments. Governments should allow flexibility through an agreement for businesses to comply with regulations and standards in TPP countries in the most cost-efficient manner and without undermining a commitment to promoting the flow of information in the region.

TPP also needs to address other disciplines essential to doing business in the digital economy, including achieving comprehensive services and ICT market access. The services, financial services, investment, and intellectual property chapters must also, at minimum, reflect the high standards achieved in recent free trade agreements (FTAs), such as the Korea-U.S. FTA. The U.S. business community fully supports this broader agenda, which, combined with strong principles to promote cross-border data and information flows, will enhance the competitiveness of companies producing and consuming these goods and services and pay large dividends for the broader regional economy.

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