

February 1, 2016

The Honourable Chrystia Freeland, P.C, M.P.
Minister of International Trade
House of Commons
Ottawa ON K1A 0A6

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Dear Ms. Freeland:

As organizations representing teachers and education workers in the primary, secondary, and post-secondary education sectors in Canada, we are concerned about the potential impact of the Trans Pacific Partnership Agreement (TPP) on the quality and affordability of education.

The TPP is a comprehensive trade agreement that covers issues ranging from the trade in goods and services, to protections for intellectual property and investment. The negotiations were conducted largely in secret, with little input from civil society organizations in Canada. This is regrettable, as the broad scope of the Agreement could have sweeping impacts on many sectors and many communities across the country.

We are particularly concerned about the way the scope and rules of the TPP could jeopardize our ability to provide quality education to Canadians. The TPP contains a chapter on the cross-border trade of services that, if fully applied to education and other public services, would lock-in and intensify the pressures of commercialization and privatization.

We are aware that the TPP exempts “services supplied in the exercise of governmental authority,” but we are concerned that this exemption is ambiguous and open to conflicting interpretations. As in the General Agreement on the Trade in Services (GATS), the governmental authority exclusion applies to services supplied on a non-commercial basis and not in competition with other service providers. In other words, if a government service is provided on a commercial or for-fee basis, or if there are other suppliers that compete for clients and revenues, the service may not benefit from this general exclusion. Canada has a mixed education system, with a variety of public, private not-for-profit, and private for-profit providers at various levels competing for students and revenues. Consequently, the line between services covered by the TPP service definition and those which are excluded may be difficult to draw in practice.

Similarly, Canada has specifically indicated in an Annex to the Agreement that it reserves “the right to adopt or maintain a measure for ... the following services to the extent that they are social services established or maintained for a public purpose: income security or insurance, social security or insurance, social welfare, public education, public training, health, and child care.” Notably, Canada specified that only *public* education is protected from the full rules of the TPP.

We believe this is inadequate and that Canada should seek an exception for education as a whole. As already noted, Canada's education system, while varying at each level, is characterized by a mix of public and private providers. While basic, compulsory, and free primary and secondary education may be considered to be a public service, the situation is less clear at the post-secondary level where there are more private and for-profit providers operating. Even publicly-funded universities, colleges, and institutes are increasingly reliant upon private sources of financing to make up a greater share of their operating revenues.

Beyond the general concern with the erosion of public services through privatization and commercialization, we are concerned with the potential loss of privacy resulting from the terms of Chapter 14 of the Agreement. The footnote to Article 14.8 that lowers the protection of privacy threshold to "voluntary undertakings" is very problematic. Those working in education treat the privacy of their students very carefully. The potential for student information being warehoused in international databases that may be less than secure is not acceptable.

Finally, we are concerned the Intellectual Property chapter of the TPP will have important implications for the education sector. Ensuring access to quality teaching and learning materials is a critical building block in supporting quality education. The TPP would require Canada to extend copyright terms beyond the current provisions of the Copyright Act of 50 years after the life of the author, to 70 years. This means works that would have entered the public domain to be freely used and accessed by teachers and students will be subject to copyright for a further 20 years of restricted use. This could impose additional costs on an education sector that is already feeling budgetary pressures.

As an example, we need only turn to the Australia's assessment of the copyright extensions found in AUSFTA. As Kimberlee Weatherallⁱ from the University of Sydney points out,

this extension imposed significant costs on the Australian economy and was against Australia's interests. There seems to be little evidence or economic theory to support the idea that extending the copyright term long into the future will increase incentives for creativity: the gains are simply too far into the future to be taken into account.

We believe the TPP is a flawed agreement. Education must be seen as more than a tradable commodity. It is part of the cultural and social fabric of our society. Canada should not sign on to any treaty that jeopardizes our ability to pursue and enact policies that promote high quality education for all.

Recommendations

1. That the Government of Canada explicitly exclude education as a whole from the terms of the TPP.
2. That the footnote to Article 14.8 be amended to delete “or laws that provide for the enforcement of voluntary undertakings by enterprises relating to privacy.”
3. That the copyright terms be maintained at 50 years after the life of the author.

Yours sincerely,



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CTF President



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ⁱ Weatherall, Kimberlee G. (2015). *Section by Section Commentary on the TPP Final IP Chapter Published 5 November 2015 – Part 2 – Copyright*. Downloaded from the Internet January 24, 2016.
<http://works.bepress.com/kimweatherall/32/>