



Consumer Federation of America

1620 I Street, N.W., Suite 200 * Washington, DC 20006

Comments of Consumer Federation of America on the Transatlantic Trade and Investment Partnership

Docket Number USTR-2013-0019

May 9, 2013

Introduction

Consumer Federation of America (CFA) is a nonprofit association of nearly 300 nonprofit consumer organizations across the United States. Its mission is to advance the consumer interest through research, education and advocacy. CFA is also a member of the Transatlantic Consumer Dialogue (TACD), a forum of consumer organizations in the US and the European Union. The TACD develops and agrees on joint consumer policy recommendations to the US and EU governments to promote the consumer interest in their policy making. CFA believes that close cooperation between the US and the EU is helpful to address common challenges and ensure that the transatlantic marketplace is safe and fair for consumers. Consumer protection should not be viewed as a barrier to trade; it strengthens trade by instilling consumer confidence and trust in the marketplace. When consumer protection is inadequate, markets fail, as the recent economic crisis has so vividly demonstrated. Therefore, trade pacts must have at their center the advancement of consumer well-being.

CFA will vigorously oppose any attempt through the Transatlantic Trade and Investment Partnership (TTIP) to dismantle existing consumer protections or to prevent new consumer protections from being implemented within the US and EU. CFA supports the positions regarding the TTIP that were outlined in the March 5, 2013 TACD letter and accompanying policy paper¹ sent to US Trade Representative Ron Kirk and EU Commissioner for Trade Karel De Gucht. As that letter states, any agreement that aims toward regulatory convergence must require high standards for consumer protection and not impinge on countries' rights to enact stronger standards when they deem it necessary. These principles must be incorporated in the framework for the TTIP.

¹ See www.tacd.org/index2.php?option=com_docman&task=doc_view&gid=354&Itemid=40.

Specific topics of concern to CFA

The March 5, 2013 TACD letter² highlights several specific topics of concern to CFA and other TACD members and which might be included in the TTIP: safe food, emerging technologies, financial protections, intellectual property rights, privacy rights, drugs and medical devices, energy and climate change, investor-state dispute resolution, and competition policy. CFA agrees with the positions on those issues as outlined in the letter.

On privacy rights, CFA strongly opposes including cross border data flows in the TTIP negotiations. CFA supports the efforts that are currently underway in the EU to strengthen consumers' data protection rights³ and would be very concerned about any actions on the part of the US government or industry that could undermine that democratic process. Earlier this year, CFA joined other consumer and civil liberties groups in a letter⁴ to key US government policymakers in this regard. CFA would view inclusion of cross data flows in the TTIP as a potential end-run around new EU data protections. The lack of an adequate privacy protection regime in the US *is* a problem for cross-border trade, but the solution is to enact sufficiently strong privacy protections here, not to attempt to negotiate a deal that would oblige the EU to accept the patchwork of weak sectoral laws and self-regulatory programs in the US as an adequate basis for transatlantic data flows.

CFA supports the principles outlined in the US Administration's Consumer Privacy Bill of Rights⁵ and has urged US officials to turn them into legislation. Until and unless such legislation is enacted, it is premature to include any discussion of data flows in the TTIP.

On food issues, negotiations should not result in reduced protections for consumers, in terms of either safety or information and disclosure. CFA insists that the US and EU must be allowed to establish non-discriminatory food safety, nutrition and labeling standards that are stronger than any minimal standard negotiated through the trade agreement. In particular, food safety and inspection standards must be at the highest level to ensure consumer protection and any trade agreement should not override existing safety regulations.

² *Id.* pages 1 and 2.

³ See September 5, 2012 consumer and privacy group letter to EU Parliamentarians Jan Philipp Albrecht and Lara Comi, www.consumerfed.org/pdfs/Comments.EUPrivacyRegulationLetter9.5.12.pdf.

⁴⁴ See www.consumerfed.org/pdfs/Letter_Strengthen_EU_US_Privacy_Laws.pdf.

⁵⁵ *Consumer Data Privacy in a Networked World*, February 2012, www.whitehouse.gov/sites/default/files/privacy-final.pdf.

On financial services issues, negotiations of the TTIP should not result in the weakening or elimination of existing consumer protections for high-cost credit products, including, but not limited to caps on interest rates and restrictions on abusive loan terms and collection tactics. Negotiations should also not limit the ability of the public to identify or determine the physical location of any financial institution.

Regarding product safety issues, negotiations of the TTIP should not result in the weakening of any product safety laws. The US laws for product safety were strengthened relatively recently with the passage of the Consumer Product Safety Improvement Act in 2008. This law requires that toys and infant and toddler products be tested to mandatory standards before they are sold, establishes a procedure for promulgating mandatory standards for infant and toddler products, practically eliminates lead and bans phthalates in children's products, and creates the first comprehensive publicly accessible consumer incident database – www.saferproducts.gov. These important consumer protections are necessary to effectively protect consumers from unsafe products and should not be undermined in any way.

CFA concerns about the process of the TTIP negotiations

The TACD's March 5 letter⁶ concerning the TTIP calls for an open process in which negotiating texts are publicly available and civil society can be actively involved. It urges the US and EU to create a Consumer Advisory Committee that is briefed regularly and provided the opportunity to provide input in the process.

CFA believes that such transparency and engagement is absolutely crucial for these trade negotiations to be successful and credible. While it is encouraging that the Office of the US Trade Representative has reached out to CFA and other consumer organizations to ask for their input regarding the TTIP, it is impossible for us to provide meaningful input as the negotiations proceed without having access to information about what topics are covered and the positions on them. It is essential that a Consumer Advisory Committee be set up to provide a formal mechanism through which we can participate in a constructive and substantive manner. In addition, USTR should provide regular updates on its website, including timely posting of documents, stakeholder comments and input provided to the agency, so that this information will be available to the public.

⁶ See www.tacd.org/index2.php?option=com_docman&task=doc_view&gid=354&Itemid=40, page 3.

Conclusion

Consumers play a major role in the functioning of competitive markets; they are the engines of commerce. Promoting consumer welfare must be placed high on the agenda of the TTIP. A trade agreement that weakens or blocks consumer protections would damage prospects for long-term economic growth and prosperity on both sides of the Atlantic. Simply put, what is good for consumers is good for business.

In order for the TTIP to truly reflect and advance the interests of the American public, the process must be open and transparent. Furthermore, consumer representatives must be engaged in the negotiating process – not just occasionally consulted but actively engaged through a formal mechanism created for that purpose. CFA looks forward to working with the US Trade Representative to ensure that the TTIP helps to foster a safe, fair and vibrant transatlantic marketplace.

Submitted by:

A handwritten signature in black ink that reads "Susan Grant". The signature is written in a cursive, flowing style.

Susan Grant

Director of Consumer Protection

Consumer Federation of America