

U.S. Claims Country Building Its Own Network to Protect Against NSA Spying Violates Trade Laws

By [Washington's Blog](#)

Theme: [Intelligence](#), [Law and Justice](#)

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Labels Attempt to Thwart NSA Spying “Draconian”

NSA spying is costing the U.S. tech industry [tens of billions of dollars](#), and people around the world are trying to find non-U.S. companies to provide internet, cloud and computer products and services. And see [this](#) and [this](#).

Numerous countries are trying to [thwart NSA spying](#).

Many countries are planning to create their own communications infrastructures to [bypass the U.S. altogether](#). For example, economic powerhouse Germany is rolling out a system that would keep all data [within Germany’s national borders](#).

The U.S. is trying to not only protect U.S. businesses, but also keep the NSA’s hand in the cookie jar by arguing (wait for it...) that closing borders to the NSA would violate *trade law*.

Specifically, the United States Trade Representative released a [report](#) Friday stating:

Recent proposals from countries within the European Union to create a Europe-only electronic network (dubbed a “Schengen cloud” by advocates) or to create national-only electronic networks could potentially lead to effective exclusion or discrimination against foreign service suppliers that are directly offering network services, or dependent on them.

In particular, Deutsche Telekom AG (DTAG), Germany’s biggest phone company, is publicly advocating for EU-wide statutory requirements that electronic transmissions between EU residents stay within the territory of the EU, in the name of stronger privacy protection. Specifically, DTAG has called for statutory requirements that all data generated within the EU not be unnecessarily routed outside of the EU; and has called for revocation of the U.S.-EU “Safe Harbor” Framework, which has provided a practical mechanism for both U.S. companies and their business partners in Europe to export data to the United States, while adhering to EU privacy requirements.

The United States and the EU share common interests in protecting their citizens’ privacy [cough, sure, cough], but the draconian approach proposed by DTAG and others appears to be a means of providing protectionist advantage to EU-based ICT suppliers. Given the breath of legitimate services that rely on geographically-dispersed data processing and storage, a requirement to route all traffic involving EU consumers within Europe, would decrease efficiency and stifle innovation. For example, a supplier may transmit, store, and process its data outside the EU more efficiently, depending on the location of its data centers. An innovative supplier from outside of Europe may refrain from offering its services in the EU because it may find EU-based storage and processing requirements infeasible for nascent services launched from outside

of Europe. Furthermore, any mandatory intra-EU routing may raise questions with respect to compliance with the EU's trade obligations with respect to Internet-enabled services. Accordingly, USTR will be carefully monitoring the development of any such proposals.

What's next?

The U.S. trade rep claiming that countries which don't invite killer American reaper drones with open arms are unfairly competing against American weapons manufacturers?

Postscript: The U.S. Trade Representative is the same motley crew pushing the Trans Pacific Partnership, which would [destroy the sovereignty](#) of all nations which join.

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