TPPA FACTS

Fact Sheet #2:
Medicines & Public Health

Throughout the back and forth about the TPPA, one of the biggest concerns has been how the deal could affect Kiwis' access to medicines. The worry was that drug companies would invent new treatments but be allowed to keep the recipe to themselves for many years. That would prevent competition and allow them to keep prices much higher. This factsheet looks at how the TPPA will affect your prescriptions bill and access to medicines, as well as the global impact on affordable medicine.

WHAT WE GET:

- The Pharmac purchasing model is not directly affected (though there may be pressure applied to Pharmac over time)
- Principles for increased transparency and fairness in pharmaceutical purchasing agreed by parties (but not legally enforceable)

WHAT WE GIVE UP:

- A requirement to provide patent extensions when there are delays in approving medicines
- A review mechanism for pharmaceutical companies to challenge PHARMAC's decisions.
- Patent extensions will cost about $1 million a year, while setting up the PHARMAC review process will cost $4.5m upfront with $2.2m a year in ongoing costs.
- Global expanded market access for Big Pharma at monopoly prices dictated by industry. This will hit less developed countries hardest.

"TPPA WILL BRING STAGNATION ON ACTIONS TO CONTROL THE PRODUCTS THAT MAKE PEOPLE SICK IN THE FIRST PLACE - TOBACCO CONTROL, MANAGING JUNK FOOD ADVERTISING TO CHILDREN AND CUTTING DOWN ON FOSSIL FUELS BEING TURNED IN TO CARBON EMISSIONS AND CLIMATE CHANGE"

- Doctors for Healthy Trade New Zealand

The TPPA will increase the costs of medicine in NZ and the Kiwi taxpayer will foot the bill.

Under TPPA we open ourselves up to lawsuits from big pharmaceutical companies.

Developing countries will be hit hardest by the increased costs.

Will we pay jacked-up prices for antibiotics and life-saving medications, while Big Pharma laughs all the way to the bank?

Not quite. All of the most commonly prescribed medicines are already churned out in generic form so patent protection periods will have no impact on them. For future drugs and innovations, on say vaccines or cancer treatments however, we will see some changes.

The main changes are patent extensions and a review mechanism for pharmaceutical companies to challenge PHARMAC's decisions. This does come with a cost of millions per year, likely to the taxpayer. The extensions could also mean delays in some medicines entering New Zealand.

These factsheets were crowdfunded by members of:

ActionStation
people powered change

Informed by research from 'Preliminary analysis of the final TPP Healthcare Transparency Annex' by Dr Deborah Gleeson, School of Psychology and Public Health, La Trobe University. Find out more at tppafacts.co.nz

TPPA FACTS

SHOULD PUBLIC HEALTH EVEN FEATURE IN A TRADE AGREEMENT?

It can be reasonably argued that it is inappropriate to have provisions that impact health legislation in a trade agreement. Dr Deborah Gleeson of La Trobe University argues that:

- the conduct of health programmes should be a matter for domestic and democratic policy making
- that the inclusion of such provisions sets a negative precedent for other trade agreements.

It certainly does seem off to have our Trade Minister negotiate on issues that will impact public health, without the input or oversight of health officials.

THE GOOD NEWS IS THAT IT'S MUCH BETTER THAN IT COULD HAVE BEEN. THE BAD NEWS IS IT CAN STILL GET WORSE

The health care chapter in TPPA has undergone huge transformation during the negotiations, as a result of relentless opposition both here and abroad to the initial US proposal. The deal no longer represents the serious violation on the functioning of national drug and medicine pricing that it once threatened to be. That said, the following concerns regarding the impact on medicine and public health remain:

- The TPPA includes an investor-state dispute settlement (ISDS) mechanism which provides the pharmaceutical and medical device industries with an avenue to sue our government, or threaten to sue, over pharmaceutical policy decisions they perceive as breaching their rights (or profits) under the investment chapter. The risk remains that an ISDS claim could be made, or that a company may threaten to use ISDS, in an effort to deter governments from regulating in the interest of public health. The United States accounts for more than a third of the global pharmaceutical market, with $340 billion in annual sales - more than the entire GDP of New Zealand. If you think they won't protect their profits with a lawsuit, you're probably wrong.

- TPPA does not prevent countries from prohibiting direct-to-consumer advertising of pharmaceuticals, but if a TPPA country that has previously permitted pharmaceutical advertising subsequently prohibits or places new limits on it, this may be challenged using the ISDS mechanism.

- The cost of implementing the changes to PHARMAC are approximately $4.5 million NZD in initial establishment costs and $2.2 million each year in ongoing costs. These costs are quite significant given that PHARMAC reported spending approximately $28.7 million in operating costs in the 2014-2015 financial year. PHARMAC may also face pressure on its pharmaceutical budget resulting from commitments in the IP chapter, such as patent term extensions and patent linkage (and extended market exclusivity for biologics, should New Zealand bow to pressure from the US to provide longer than the existing five years).

- Developing countries that introduce subsidy programmes in future are more likely to find the costs associated with implementing the TPPA prohibitive and are less likely to have the human resource capacity to administer the requirements without introducing opportunity costs in other areas of health policy.

- PHARMAC will likely face increased industry lobbying and pressure from other TPPA parties.

Informed by research from 'Preliminary analysis of the final TPP Healthcare Transparency Annex' by Dr Deborah Gleeson, School of Psychology and Public Health, La Trobe University. Find out more at tppafacts.co.nz