Analysis: Trans-Pacific FTA, meds & Australian patent law

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A new analysis from Public Citizen, 'Dangers for Access to Medicines in the Trans-Pacific Partnership Agreement: Comparative Analysis of the U.S. Intellectual Property Proposal and Australian Law' is available at: http://www.citizen.org/Page.aspx?pid=5025&frcrld=1

Thanks to lead author Dr. Burcu Kilic, as well as Dr. Luigi Palombi of the Australian National University and Kimberlee Weatherall of the University of Queensland for their comments.

More information and analysis on the TPPA is available here: http://www.citizen.org/more-about-trans-pacific-fta

The following media release & issue summary comes from Dr. Patricia Ranald at the Australian Fair Trade and Investment Network:

-peter

MEDIA RELEASE 1 September 2011

Trans-Pacific Partnership Agreement proposals increase corporate rights, reduce access to affordable medicines, say public health and fair trade groups

'Leaked US proposals in the Trans-Pacific Partnership Agreement (TPPA) being negotiated by Australia, the US, New Zealand, and six other countries would increase the rights of pharmaceutical companies to charge higher prices for medicines for longer, and reduce the rights of consumers to have access to affordable medicines. These proposals are to be debated at the TPPA negotiations next week in Chicago', said Dr Deborah Gleeson of the Public Health Association of Australia.

'US pharmaceutical companies have lobbied the US government to propose even more changes than were conceded in the Australia-US Free Trade Agreement in 2004,' explained Dr Gleeson. 'The attached table

compiled by US and Australian intellectual property law experts give details of the impact the proposals would have on Australian law', see www.aftinet.org.au<http://www.aftinet.org.au>

'Pharmaceutical companies already have rights under current patent law to charge monopoly prices for medicines for 20 years. Extensions of patent periods and delays in the marketing of cheaper generic drugs benefit these companies, but disadvantage consumers, and would increase the cost of medicines to the public health system,' said Dr Patricia Ranald of the Australian Fair Trade and Investment Network

Dr Ranald explained that the US proposals include:

- Lowering Australian standards to allow more patents which make only slight changes to an existing medicine, thus enabling the repeated extension or 'ever-greening' of patents

- Removal of public rights to object to new patents before they are granted, which would make it easier for unjustified patents to be granted

- Removal of current Australian flexibility to disallow the patenting of medical procedures, which could impose future costs on hospitals

The pharmaceutical companies are also lobbying for extension of periods of data exclusivity which would delay generic drugs, including data exclusivity for biological drugs for 12 years, and elimination of Australian safeguards against patent abuse and 'ever-greening' which Parliament inserted at the time of the Australia-US Free Trade Agreement in 2004.

'The 2010 Productivity Commission Report on Bilateral and Regional Trade Agreements found that expansion of patent rights under the Australia-US Free Trade agreement has already caused economic losses because Australia is a net importer of patented goods,' added Dr Ranald.

'The Australian Government trade policy announced in April 2011 accepted the recommendations of the Productivity Commission report not to expand patent rights. The Government should not support the US proposals, which are against the interests of consumers and would increase costs for our health system. Such

changes would be even more disastrous for developing countries, making many medicines simply unaffordable. Australia should make alternative proposals for an agreement that promotes health and protects access to essential medicines in the region,' said Dr Gleeson.

Keywords: Trans-Pacific / FTA / Australian / Patent law