

Health and the Trans-Pacific Partnership Agreement –Aotearoa New Zealand perspective

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1. The 'behind the border' regulation in the TPPA, which amounts to regulatory capture by multi-national corporate interests, has far-reaching implications for the [cultural, political and social] self-determination of partnership countries; however, the devil is in the legal detail, and who reads or understands that? Health is one of the few areas of public interest which largely transcends normal 'sectarian' divisions: regardless of political persuasion, health is seen as central focus of government: it affects everyone, it is one of the largest and fastest growing areas of public expenditure, and, as the bottom line of productivity – the healthier the population the more productive it will be - it speaks to the heart of what such agreements are supposed to be about: increased prosperity. It is therefore enormously important as a potential unifying factor between competing political, social and industrial aspirations. As Michael Joseph Savage, First Labour Party Prime Minister of NZ said The health of the nation is the highest law of the land.

I am going to talk about what the experience we've had over the past few years trying to inform and mobilise the health sector and public in the cause of to raise awareness about potential Negative consequences of the TPPA

2. But first, a few snapshots of where I come from – Wellington, Te Whanganui a Tara, – the coolest little capital in the world – which I hope will motivate you to visit, sometime! [In the words of poet Lauris Edmond inscribed here: "It is true you can't live by chance/ you have to do and be, not simply watch/ or even describe. This is the city of action,/ the world headquarters of the verb". This beautiful sculpture– a sphere of silver ferns is just across from where I work. And since the southern hemisphere is tilted towards the Galactic Centre and we have small population, we have wonderful skies - some of you may recognise Orion 'upside down'.]

3. I'll first highlight the issues for health, describe our key collaborations, and finish by drawing some lessons from the strategies we've used to increase public and health sector awareness of the potential adverse consequences of the TPPA.

4. The two big issues for health are increasing cost of medicines which will reduce access and increase health disparities not only within NZ, but globally; and investor dispute provisions which will have the effect of limiting the government's ability to legislate in the public interest. In Aotearoa our national pharmaceutical agency, PHARMAC, has been internationally recognised for its remarkable success in containing medicines expenditure by securing comparatively low cost medicines, mainly through its use of generic drugs and the range of commercial strategies it employs, such as therapeutic reference pricing, closed tenders, etc. To give you some idea: we pay ~\$20 for the same statins that Aussie pays \$450: on average we pay around 1/3 of US, 1/2 of Australian prices for the same medicines. PHARMAC has a capped, not very generous, budget and has saved about \$7 billion since its inception. Decision makers, in and outside of the health system, are well aware of how crucial protection of PHARMAC is and until 2008 it was explicitly ringfenced from all FTAs

when the current PM John Key mentioned in reference to the TPPA that we would have to make concessions, perhaps with pharmaceuticals. [NZNO wrote to him asking for clarification and it interesting to note that from that single, private letter, NZNO was publicly identified by pharmaceutical lobbyists as being opposed to the TPPA!]

5. The TPPA will affect PHARMAC two ways – the all encompassing provisions of the IP chapter allow for a range of strategies that will effectively extend patent protection to timeframes that will kneecap the production of generics – PHARMAC won't be able to purchase cheap drugs, because the bottom line is they won't be available.

Secondly an annex to the agreement imposes new processes ostensibly for 'transparency' which undermine PHARMAC's competitive negotiating strategies and make decisions open to review. [eliminate therapeutic reference pricing, introduce appeals processes for pharmaceutical companies to challenge formulary listing and pricing decisions, and introduce onerous disclosure and "transparency" provisions that facilitate industry involvement in decision-making around coverage and pricing of medicines] A recent editorial in the DomPost commented: "This sounds ominously as though the US wants to open up our drug policy to litigation and endless argument funded by super wealthy foreign corporations" and warned "We face negotiations with the monstrously powerful American agriculture, drug and business lobbies. They don't surrender easily."

There is not a health professional or health advocacy group in Aotearoa that wants PHARMAC weakened and that united support in the health sector has been a key strength.

6. The second public health issue is the investor dispute resolution provisions which will blunt governments' desire to legislate for the public good under the threat of litigation, by tribunals operating outside the state, and without the usual guarantees of judicial independence or rights of appeal. In NZ we are in the fortunate position of having a cross party agreement for a Smoke Free Aotearoa by 2025, have signed up to the WHO Framework convention on Tobacco Control, and we have a prime example of the consequences of ISDS, with Australia being sued by tobacco companies.

7. That dictated a key alliance for us, and was an entre to both political party and health advocacy groups, including professional organisations like NZNO who were able to follow up and strengthen Jane's voice. The key political driver of SFA was the Māori Party (Māori, and particularly Māori women have the highest rate of smoking and deaths from tobacco related disease of any ethnic group) SFA was pretty much the price they paid to keep a National government in power, so they have a considerable investment in ensuring that that campaign is not nullified by the TPPA, which would be a gross betrayal. The combined voice of the health professions could not get the Health Select Committee to agree to a hearing on the TPPA and health, but the Māori Select Committee welcomed it and the Māori party has asked the government in no uncertain terms to support the Malaysian proposal to carve out tobacco completely.

There were other campaigns with which we shared common messages and values - equity, self determination, etc. - Stop asset sales, environmental causes, the Occupy movement, for example - and these also proved very valuable not only in linking into their networks, but also providing opportunities to speak at meetings, rallies, marches, giving a chance to get out to diverse groups, and tapping into their creativity.

8. One of the most successful events in terms of media exposure for instance was a mock boxing match between the Corporate sponsored Uncle Sam and a half asleep kiwi Fred Dagg organised by Aotearoa's Not For Sale group – all we had to do was turn up; conserving energy is impt in a long term project like this. And it is a sad fact, but true, that this hammy simplistic entertainment got more attention than many more serious events that we put a lot of effort into.

9. Other critical alliances include the Council of Trade Unions – Bill Rosenberg CTU economist 'a treasure!' hugely important, particularly in arranging meetings with the negotiators both here and at international meetings; health practitioners and health organisations – opportunities to speak at conferences like Public Health Association and regular University and Public Policy lectures /workshops – tapping into those networks can be very useful and often they want someone to fill a slot. Overseas networks are just as important – 'sister' organisations like Aussie PHA; Medicin San Frontiers, Public Citizen Trade unions are invaluable sources of information, speakers, research, partners and add weight and credibility. A short lecture tour by Dr Deb Gleeson was invaluable in brining health professionals, politicians, negotiators and researchers together – led to a joint paper with Deb Gleeson Lori and one of our leading health researchers, Paparaangi Reid which argues “that the US agenda, if successfully prosecuted, would be likely to increase costs and reduce access to affordable medicines for New Zealanders. This would in turn be likely to exacerbate known inequities in access to medicines and thus disproportionately affect disadvantaged population groups, including Māori and Pacific peoples”

But I have Jane here in the middle because she is the –cornerstone -, the source of information, contacts, ideas and the brains driving and directing us though the developments of the text, negotiations and different stages of the campaign from simply raising public awareness to focusing on different aspects –PHARMAC & medicines, environmental issues, etc. right up until now when the focus of public pressure is on the lack of transparency in the secret negotiations.

10. Photo Lori Wallach (Public Citizen US), Jane Kelsey (Auckland Uni) , Marilyn Head (NZNO), Patricia Randal (Convenor Aus. Fair Trade and Investment, Sydney Uni))

11. Target Audience and Tailor Action: Audiences include: Negotiators, Public, Sector Groups – VIPs, Universities, Politicians, Government, Activists, Industry

12. STRATEGIES: there is NO magic bullet – you have to do the things that always need doing: Website (keep TISA) & Comms

✓Identify target groups and tailor action to suit

✓Use existing campaigns, alliances and networks

✓Plan ahead - have information in all forms; have speakers; presentations; petitions

- ✓Easier to get a small group to do something than a large number of people - go easy on 'national' events – (seeing MP a dismal failure)
- ✓High profile media events
- ✓Little and often
- ✓Conserve energy!

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