

Attacking State Run Medical Schemes: The Trans-Pacific Partnership Spells Privatization?

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The latest release from WikiLeaks on parts of the Trans-Pacific Partnership Agreement dealing with medical insurance and medical systems goes some way in affirming the destructive potential the agreement has.[1] Forged in the corridors of unaccountable secrecy, officials have been undermining their own sovereign systems at stages, even as they claim it to be in their country's interest.

The draft chapters released by WikiLeaks have already revealed the extent corporations will be privileged with an assortment of investment protections, while broader environmental protections will be undermined. The entire agreement reads like a catastrophic abdication of sovereignty and state responsibility. The boardroom triumphs over the parliamentary chamber.

In an analysis of the Annex on transparency and procedural fairness for pharmaceutical products by Jane Kelsey of the Law Faculty at Auckland University, we are told that the document “seeks to erode the processes and decisions of agencies that decide which medicines and medical devices to subsidise with public money and by how much.”[2]

Provinces where the state should stand guard will be subject to a shadow occupation. The TPP acts as an ultimate ground clearance, a form of scorched earth policy on traditional protections. One such area is that of state-run medical schemes. Investor-state disputes have the potential of cutting deep there, where the investors (corporations, for the most part) will have a legitimate expectation to be treated fairly and equitably. This may arise in cases where subsidising medicines or medical devices could be challenged as negatively affecting investments.

For that reason, Australia, in the leaked investment chapter of January 2015, specified that its own Pharmaceutical Benefits Scheme, Medicare Benefits Scheme, and Therapeutic Goods Administration and Office of the Gene Technology Regulation would be exempt from such investor state dispute settlement.

The analysis on the potential effect of the agreement on New Zealand's Pharmaceutical Management Agency (Pharmac) is telling. It also reveals the persistent doublespeak of diplomats who are proclaiming one reality for citizens, and another for the strategic, US-led fold.

US Trade officials and members of the pharmaceutical industry have made it clear that Pharmac is the bogey to their vision of free trade. Established in 1993, its aim was “to secure for eligible people in need of pharmaceuticals the best health outcomes that are reasonably achievable from pharmaceutical treatment and from within the amount of

funding provided” (Disability Act 2000, s. 47).

Its role is singular and expansive, covering the negotiation of prices of medical products with the pharmaceutical companies and levels of reimbursement. It is also a dream for those concerned about skyrocketing costs in the medical sector. The US pharmaceutical industry has expressed a different view, seeing it as the grand obstacle, “an egregious example” of a model that pushes down prices of medicines and medical devices at the expense of profit.

The submission to the US government by the industry in 2011 regarding the TPPA specifically made that point, further noting the sanctity of intellectual property, which was being violated by this perceived lack of transparency. The powerful were feeling slighted.

The US annual report on Special 301 (2015) by Michael Froman, covering intellectual property issues, notes “serious concern about the policies and operation of New Zealand’s Pharmaceutical Management Agency (PHARMAC), including, among other things, the lack of transparency, fairness and predictability of the PHARMAC pricing and reimbursement scheme, as well as the negative aspects of the overall climate for innovative medicines in New Zealand.”

The discussion about fairness and transparency has little to do with accrued benefits for citizens. The trade scheme on the table has everything to do with the corporate wallet and its anticipated depth. Fair treatment towards citizens, which would entail keeping medical costs down and make health care accessible, is less significant than pharmaceutical profit margins. But just to remind us about how the US negotiating position on this has been shaped, we need only see that it deems its own state run schemes to be exempt from the free trade bonanza.

The schemes of other countries are to be targeted, while domestic interests are satisfied. This strategy was exactly the same one pursued in making the free trade agreement with Australia. “USTR has worked closely with all relevant US agencies to ensure the FTA does not require any changes to US health care programs.” The US trade lobby pilfers, while the smaller state run schemes suffer.

There are signs that the free trade ideology may not be receiving the same purchase on the Hill it once did. Last Friday, the House of Representatives voted down the Trade Promotion Authority to “fast track” the TPPA negotiations.[3] While this is far from suggesting that the members have gone cold on regional trade agreements, it suggests that providing the executive vast powers to push supposedly “free” trade deals is a source of concern. Greater scrutiny is required.

Outside the various parliaments involved, resistance to the TPPA has reinvigorated the anti-globalisation movement, finding form in a grass roots resistance that is gradually breaking through the manufactured consensus on free trade. Free trade is the age’s great oxymoron, and deserves banishment from the lexicon of political engagement.

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Notes:

[1] <https://wikileaks.org/tpp/healthcare/>

[2] <https://wikileaks.org/tpp/healthcare/Professor-Jane-Kelsey-Analysis-on-TPP-Transparency-for-Healthcare-Annex.pdf>

[3] <http://www.abc.net.au/news/2015-06-16/berg-tpp-not-the-bogey-treaty-that-we-think-it-is/6547242>

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