



Australian Consumers' Association
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12th January, 2006

The Hon John Howard MP
Prime Minister
Parliament House
CANBERRA ACT 2600

Dear Prime Minister,

Re: Evergreening provision of legislation enacted following the Australia US Free Trade Agreement (AUSFTA)

The Australian Consumers' Association (ACA) and the individuals and groups endorsing this letter noted below are concerned that the Government is considering removing the legislative provision enacted following the AUSTFA which seeks to prevent or limit the 'evergreening' of pharmaceutical patents. Minister Vaile has hinted that this issue will be raised when he meets with US negotiators about the AUSFTA later this month. The ACA is strongly opposed to the removal of the evergreening provision as it would be disadvantageous to Australian consumers.

The ACA is concerned that the removal of the amendment will limit choice for Australian consumers as there will be fewer generic products available on the market. As a result the Government will need to spend more money on prescription drugs because of the lack of availability of cheaper options. This will lead to an increase in the cost of the Pharmaceutical Benefits Scheme (PBS) and this increase will be passed on to consumers in the form of higher co-payments. Research has shown that around one in five Australian households has difficulty affording the present co-payments for prescription medicines. In our view the Government should be looking for ways to reduce the burden of medicine costs on families, not providing companies with an avenue for raising their prices.

We are concerned that Minister Vaile appears to have endorsed comments made by Medicines Australia in the media last week, that the removal of the amendment would have no impact on prices. If this were the case, why would the pharmaceutical industry be so strongly advocating the removal of the evergreening amendment? The argument that the pharmaceutical industry has put forward that the evergreening amendment will stifle innovation is unfounded as the industry has yet to produce evidence to support this claim. The number of innovative drugs approved by Australian authorities actually fell during the late 1990s when industry profits were at an all time high.

The pharmaceutical industry also claims that the amendment will discourage investment in the Australian pharmaceutical industry. This is not a valid argument. Investment decisions are not made on the basis of local factors. If this were the case, the industry would have shut down operations in Switzerland long ago because of its small market size.

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The ACA and the signatories to this letter believe that if the government wishes to provide support to the industry, it should do so through the industry portfolio and not subvert the principles of the PBS to allow drug manufactures to extract a higher price for their drugs. Indeed the industry already receives support in the form of the Pharmaceutical Partnerships Program (P3) for research and development. With a turnover of roughly \$14.5 billion dollars, it is the third largest exporter of manufactured goods in Australia. It should not receive further concessions and support at the expense of consumers.

The strategic lobbying undertaken by the US-based pharmaceutical companies and the weak response from the Government highlights the increasing prominence of industry interests in politics. Australian consumers want to have confidence that the parliamentary processes will protect their rights and interests in preference to those of multinational corporations.

The ACA and the groups and individuals endorsing this letter seek your assurance that the interests of the pharmaceutical industry will not take precedence over the interests and health of Australians who need medications. We urge the Government not to remove the evergreening amendment of the FTA.

Yours Sincerely,

Viola Korczak
Health Policy Officer
Australian Consumers' Association

Supported by the following groups and individuals:

Professor John Dwyer, Chair of Australian Health Care Reform Alliance
Professor David Henry
Associate Professor Jill Sewell, AO, President of the Royal Australasian College of Physicians
Associate Professor Michael Sparks
Associate Professor, Peter Sainsbury
Dr Ken Harvey
Dr Thomas Faunce
Dr Peter R Mansfield
Kerren Clark, Australian Physiotherapy Association
Michele Kosky, Health Consumers Council WA
Tony McBride, CEO Health Issues Centre
Bob Jay, Combined Pensioners & Superannuants Association of NSW Inc (CPSA)