How do actors with asymmetrical power assert authority in policy agenda-setting? A study of authority claims by health actors in trade policy

Belinda Townsend[a,*], Ashley Schram[a], Ronald Labonté[b], Fran Baum[c], Sharon Friel[a]

[a] School of Regulation and Global Governance, College of Asia and the Pacific, Australian National University, Canberra, 0200, Australia
[b] Institute of Population Health, University of Ottawa, Ottawa, ON, K1N 6N5, Canada
[c] Southgate Institute for Health, Society and Equity, Department of Public Health, Flinders University, Adelaide, 5042, Australia

ABSTRACT

How health advocates and industry actors attempt to assert their authority as a strategy of influence in policymaking remains underexplored in the health governance literature. Greater exploration of the kinds of authority sources used by health actors vis-à-vis market actors and the role ideational factors may play in shaping access to these sources provides insight into advocates' efforts to exert influence in policy forums. Using the trade domain in Australia as a case study of the way in which the commercial determinants of health operate, we examined the different ways in which health, public interest and market actors assert their authority. Drawing on a political science typology of authority, we analysed 87 submissions to the Australian government during the Trans-Pacific Partnership negotiations. We identify four types of authority claims; *institutional authority,* derived from holding a position of influence within another established institution; *legal authority* through appeals to legal agreements and precedents; *networked authority* through cross-referencing between actors, and *expert authority* through use of evidence. Combining these claims with a framing analysis, we found that these bases of authority were invoked differently by actors who shared the dominant neoliberal ideology in contrast to those actors that shared a public interest discourse. In particular, market actors were much less likely to rely on external sources of authority, while health and public interest actors were more likely to appeal to networked and expert authority. We argue that actors who share strong ideational alignment with the dominant policy discourse appear less reliant on other sources of authority. Implications of this analysis include the need for greater attention to the different strategies and ideas used by industry and public health organisations in trade policy agenda-setting for health, which ultimately enable or constrain the advancement of health on government agendas.

1. Main text

The recent research attention to the commercial determinants of health, that is, the study of the "strategies and approaches used by the private sector to promote products and choices that are detrimental to health" (Kickbusch et al., 2016, e895) has revealed a number of mechanisms used by corporations to promote greater uptake of their products and undermine public health regulation (Buse et al., 2017; Collin et al., 2017). Documented strategies include lobbying and donating to political representatives, partnering with governments, funding research biased in favour of industry, co-opting health professionals and policymakers to promote industry objectives and sponsoring campaigns to favourably influence public opinion (Moodie et al., 2013, Moodie, 2017; Kickbusch et al., 2016). Scholars have mapped the ways

in which corporations operate across policy sectors to promote their products (e.g. tobacco, alcohol, ultra-processed food) and resist public health regulation (Freudenberg, 2016; Anaf et al., 2017).

The trade and investment domain is one key macroeconomic policy area designed to promote the movement of products across borders, with impacts on health including those arising from the liberalisation of harmful products that serve as commercial drivers of noncommunicable diseases (NCDs) (Friel et al., 2013; Baker et al., 2014; Schram, 2017). A recent systematic review of scholarly literature on the health impacts of trade agreements found a "common association between implementing regional trade agreements or related trade and investment policies and higher consumption of processed foods and sugar-sweetened beverages, higher prevalence of cardiovascular diseases, and higher BMIs" (Barlow et al., 2017, 8). For example, Schram et al. (2015) demonstrated that

* Corresponding author.
E-mail addresses: Belinda.townsend@anu.edu.au (B. Townsend), Ashley.schram@anu.edu.au (A. Schram), rlabonte@uottawa.ca (R. Labonté),
fran.baum@flinders.edu.au (F. Baum), Sharon.friel@anu.edu.au (S. Friel).

growth in sugar-sweetened beverage sales in Vietnam, led by foreign-owned companies, significantly accelerated after a period of trade and investment liberalisation. Analyses of the final text of the Trans Pacific Partnership agreement, one of the largest regional trade agreements ever negotiated, revealed several public health areas of concern including for access to medicines and health services, and impacts on public health regulation arising from new opportunities for private actor involvement in policymaking and investor-dispute mechanisms (Labonté et al., 2016; Gleeson et al., 2018).

To date, despite the robust public health evidence on the need to reduce trade agreements facilitation of the commercial drivers of NCDs, there has been a striking lack of coherence between governments' health commitments and their trade policymaking (McNamara, 2018). Globally, the World Health Organisation's *Global Action Plan for the Prevention and Control of NCDs 2013 – 2020* calls for greater engagement between health and trade ministers (WHO, 2013) but this is yet to be operationalised nationally (Battams and Townsend, 2018). The United Nations Sustainable Development Goals (2015) also include targets to reduce tobacco consumption and the harmful use of alcohol (although are notably silent on unhealthy food), but these targets remain separate to other goals to expand trade liberalisation, driving consumption of these harmful products. Recent studies of the need for greater coherence between trade and health policy goals have highlighted power asymmetries between the different actors and interests involved; with trade and investment negotiators seeking to advance the interests of politically influential corporate exporters on the one hand, and government public health officials and health advocacy groups seeking to protect health from trade-related negative influences on the other, often operating on the margins of trade negotiations with limited influence in setting the trade agenda (Battams and Townsend, 2018; Friel et al., 2019).

What remains underexplored in such studies is how non-state actors – market actors and health and public interest organisations - seek to establish their authority as 'legitimate' actors that governments should take advice from. Here, political science literature on how non-state actors have acquired authority as 'global governors' may be of use (Avant et al., 2010). Studies in global governance have shown that non-state actors, such as multi-national corporations, philanthropic foundations and non-government advocacy organisations, have acquired authority in different ways, including: by holding positions of influence within established organisations; receiving direct delegation by states; recognition of their specialised knowledge; capacity to deliver results; or principled moral values (Avant et al., 2010). How non-state actors assert their authority in policymaking in areas that affect health is far less understood, and the focus of this analysis.

1.1. Theoretical framework

The starting point for this analysis is the theoretical and evidence-informed acknowledgment that contemporary trade and investment policy is principally designed to promote the flow of goods and services across borders and to facilitate private enterprise in new markets (Schram, 2017; Battams and Townsend, 2018). Framing analysis of the ideas and discourses in trade policy finds that the dominant ideas and objectives informing trade and investment negotiations are underpinned by neoliberal assumptions about the primacy of competitive markets to advance societal wellbeing (Friel et al., 2016; Townsend et al., 2018). Neoliberal economic theory gained political prominence in much of the world in the 1980s and refers generally to "the new political, economic and social arrangements within society that emphasise market relations [and] re-tasking the role of the state," extending a discourse of "competitive markets into all areas of life" (Springer et al., 2016, p. 2; Labonté and Stuckler., 2016). Trade and investment liberalisation ('free markets') are central to neoliberal economics; in common with many other countries, the Australian government promotes trade agreements as mechanisms to create "wider

economic benefits to all Australians" (Australian Government, 2018).

In addition to highlighting the dominance of one particular set of ideas in trade policy, framing analysis has also illustrated that market actors share with governments this common neoliberal language for greater export expansion and the removal of perceived regulatory barriers to market integration (Townsend et al., 2018). Our earlier framing analysis of non-state actor's submissions to the Australian Government during its participation in the Trans Pacific Partnership agreement negotiations (TPP) found that while market actors shared neoliberal ideas, public health actors used very different societal framing (Townsend et al., 2018). Public health actors in trade policy are concerned primarily with protecting public health and state sovereignty and emphasise the importance of protecting public health regulation. This public interest framing can conflict with the purpose of trade agreements, in particular when trade agreements promote liberalisation of harmful commodities (e.g. tobacco, alcohol, ultra-processed food) or constrain regulatory space for governments. As a result of tensions between the two sectors, public health organisations and advocates often find themselves largely confined to the periphery of trade negotiations (Battams and Townsend, 2018; Friel et al., 2019).

In this exploratory study, we focus on understanding better some of the strategies utilised by market actors and health advocacy organisations to attempt to influence the trade negotiations. Here, we turned to political science literature which examines how non-state actors have obtained authority in global governance (Avant et al., 2010). Specifically, we were interested in determining if non-state actors in trade policy appeal to different sources of authority in attempt to assert their 'legitimacy' as actors who should be listened to by government.

We drew on Avant et al.'s (2010) typology of authority in political science to investigate whether these non-state actors were using claims to authority as one strategy of attempting to influence the negotiations. This typology identifies multiple bases by which non-state actors can obtain authority in global governance, including i) *institutional authority* derived from holding a position of influence within an established organisation such as the World Health Organisation; ii) *delegated authority* by state or state agency delegation to a non-state actor; iii) *expert authority* based on specialised knowledge; iv) *principled authority* through a non-state actors' appeals to an accepted set of morals or values, and v) *capacity-based authority* through recognition of delivering results.

2. Methods

We initially conducted a framing analysis of publicly availably submissions made by non-state actors to the Australian Government during its participation in the Trans-Pacific Partnership (Townsend et al., 2018). Australia initiated a formal submission process during its participation in the negotiations for receiving submissions i. e policy-oriented documents from non-state actors expressing their position on the negotiations and what they did or did not want the government to agree to. This framing analysis, on which this present study builds, revealed a dominant neoliberal market framing in all industry submissions (more than half of all submissions), two university submissions and three academic submissions, and a counter-framing for the public interest amongst submissions from civil society, individual citizens and trade unions, and the majority of academic submissions. The analysis also found that the public interest framing was much more enabling for arguments to advance the social determinants of health in trade policy, but as a counter framing was often peripheral to the dominant market frame.

For this study, we applied a heuristic of non-state actors' 'authority sources' (Avant et al., 2010) to policy actor submissions. We used the data set of submissions by non-state actors (n = 87) to the Australian Government during the TPP negotiations to explore which claims to authority these non-state actors were (or were not) using as a strategy to assert influence, and, by combining these findings with the framing analysis, exploring what differences, if any, appear in the use of

authority sources by those actors whose objectives align with the dominant neoliberal market discourse (i.e. industry actors), and those actors who ideas and objectives often conflict with the dominant discourse (i.e public health actors).

Using Avant et al.'s typology of five authority bases as a starting point (i.e institutional, delegated, expert, capacity-based and principled), we coded all 87 submissions for evidence of actors' claims to authority. Two researchers independently read ten different submissions to develop an initial set of codes which were then discussed amongst the author team to develop a final set of authority codes. When differences were found, these were discussed and refined. For example, it was decided that, following the Avant et al. (2010) typology, institutional authority only referred to a claim by an actor that they held a position of influence in another institution, and were not merely stating the name of an institution in their submission. To ensure inter-rater reliability, two researchers applied the final coding scheme to the same set of ten submissions.

The final coding scheme was then applied to all 87 submissions coded separately by the two researchers (n = 61) and (n = 26) respectively. Once common authority sources were identified (outlined below), we compared the use of these authority sources between the two actor groups; those aligned with the dominant neoliberal market framing (i.e primarily industry actors), and those actors using a counter-framing for the public interest and state sovereignty (i.e health advocacy organisations and civil society).

2.1. Coding scheme

The final coding scheme was based on four identified sources of authority amongst all submissions (reported in detail in Results). Using Avant et al.'s (2010) typology, we identified two of the five types of authority claims in the submissions: *institutional* and *expert* authority. We did not find any evidence of *delegated* or *capacity-based* authority, which seems reasonable given that non-state actors are unlikely to receive any formally delegated power in trade negotiations and would be unable to demonstrate results in this arena. Moreover, after initial coding we determined that *principled* authority had been captured in our previous framing analysis (Townsend et al., 2018). On the other hand, our analysis revealed additional strategies by which actors were seeking to build power and influence that didn't appear to be captured in the typology from Avant et al. (2010). Specifically, actors building consensus in their positions and cross-referencing each other and submissions, which we refer to as *networked* authority, and drawing on legal text, decisions and agreements to support their position, which was sufficiently different to merit the use of scholarly or government evidence and data, which we refer to as *legal* authority(see Table 1).

The first authority claim, networked authority, was derived from evidence in the submissions of connections between actors that made a submission. This approach to using submissions to identify connections between policy actors has been used in other studies (Browne et al., 2017) and is adapted from traditional network analysis methods which ask participants to identify their relationships (Lewis, 2006; Knoke and Yang, 2008). Connections recorded included an actor referencing another actors' submission, endorsing another actors' submission, co-authoring a submission, and stating membership or partnership with another actor. The extent of these connections was recorded as 'strong', 'medium' or 'weak' according to the apparent level of connection between the actors (see Table 2), and the connections were then illustrated using open source Gephi network mapping software with nodes (circles) represent submitting actors and lines indicating connections between them (Fig. 1). The size of the nodes represents in-degree centrality, that is, the total number of times a node was named by other nodes in the network, which is used as a proxy for its importance in the network (Browne et al., 2017) and was calculated by Gephi software algorithms.

The second authority source identified, institutional authority,

mirrored Avant et al.'s (2010) typology, and included recording when actors stated holding positions of influence within other established institutions (Fig. 2). Common categories of institutions were identified: business institutions (e.g. Music Copyright Society Vietnam), public-private partnerships (e.g. Global Harmonization Taskforce), national government bodies (e.g Australian Therapeutic Goods Administration), intergovernmental organisations (e.g. International Labour Organisation), international unions (e.g. International Trade Union Confederation) and other not-for–profits (e.g Mental Health Council of Australia).

The third authority source identified, legal authority, was based on actors' appeals to legal source for their arguments (Fig. 3). Several categories of legal sources were identified, including international agreements (e.g. WTO Doha Declaration on TRIPS and Public Health), foreign government policy (e.g. New Zealand PHARMAC), other bilateral or regional trade agreement text (e.g. Australia-United States free trade agreement), court decisions in Australia and overseas (e.g. Phillip Morris Asia v The Commonwealth of Australia, UNICTRAL, 2012) and leaked TPP text (e.g. draft treaty text on intellectual property).

The fourth authority claim, expert authority, was based on appeals by actors to specialised knowledge to support their arguments, with evidence cited coded in three general categories; scholarly evidence (i.e peer reviewed evidence), government evidence and private data (e.g non-peer reviewed data from a business group or NGO) (Fig. 4, y axis total citations). For all authority sources, total authority claims, submission count (total submissions referencing an authority claim) and use of these authority sources were contrasted for the two framing groups (market and public interest) and visually depicted in graphs.

3. Results

We identified four kinds of authority claims (*networked, institutional, legal,* and *expert*) evident in the submissions by both market and public interest actors. However, we identify differences in both the frequency and use of these claims to authority by the two framing groups. In particular, we show that market actors relied less than public interest actors did on claims to other sources of authority. In the following sections we outline each authority claim and contrast its use by the two actor groups. We then discuss these findings in more detail and reflect on implications in the Discussion.

3.1. Networked authority

We found multiple examples of policy actors cross-referencing each other in their submissions (N = 39 cross references in a total of 18 submissions). Coding for cross-referencing included citing or endorsing another actors' submission, co-authoring a submission, or explicitly stating membership or partnership with another actor that made a submission. For a visual representation of this cross referencing, we input the actors and their connections in Gephi software, revealing a visual mapping of connections (see Fig. 1). The graph illustrates more connections between actors whose ideas and objectives were aligned with a public interest framing (pink nodes) than market actors (light blue nodes). We found that 16 of 41 submissions by public interest actors (trade unions, civil society organisations including health advocacy organisations and a majority of academic researchers) cross-referenced another public interest actor that made a submission. For example, the Australian Fair Trade and Investment Network, Public Health Association of Australia, Médecins Sans Frontières, Australian Medical Students Association, Palliative Care Australia, Asia Pacific Network of People Living with HIV, and Australian Federation of AIDS Organisations made a joint submission together urging attention to health in the negotiations. Several of these actors also gave input into the formation of a Health Impact Assessment of the TPP negotiations which was submitted by a consortium of researchers and health advocacy organisations during the negotiations (Hirono et al., 2015). In

Table 1
Authority claims.

| Authority source	Scope of claim	Example
Networked authority	Cross referencing between actors that made a submission.	"We share the concerns expressed by the Australian Fair Trade and Investment Network (AFTINET) in their submission" (CFMEU, public interest actor). "APRA/AMCOS is a member of the Music Council of Australia and we also endorse the sentiments expressed in their submission" (APRA/AMCOS, market actor)
Institutional authority	Claim by actor that they hold a position of influence in other recognised institutions.	"We have participatory status at the Council of Europe and general consultative status with the United Nations. We are the only animal welfare NGO in the world to have such status. We collaborate with the Food and Agriculture Organisation (FAO), the World Organisation for Animal Health (OIE), and national governments - influencers with the power to improve the lives of millions of animals" (WSPCA, public interest actor). "Our specific activities include: … representing business in international and global forums including the International Labour Organisation, International Organisation of Employers, International Chamber of Commerce, Business and Industry Advisory Committee to the Organisation for Economic Co-operation and Development, Confederation of Asia-Pacific Chambers of Commerce and Industry and Confederation of Asia-Pacific Employers" (ACCI, market actor)
Legal authority	Actor claims specific legal authority for their arguments (e.g. other trade agreements, legal case findings and court findings).	"This public submission looks at some of the serious failings of the current system of international investment arbitration. It also draws on the experience of Canada, which has been exposed to claims by American investors under the investment chapter of the North American Free Trade Agreement (NAFTA) for the last fifteen years, to illustrate how an investor-state dispute settlement mechanism in the TPP could negatively affect public policy in Australia" (Tienhaara, public interest actor). "The USA/Australia Free Trade Agreement offers no provisions to assist sugar exports from Australia. This is in contrast to the North American Free Trade Agreement (NAFTA) which allows for the free trade of sugar from both Canada and Mexico" (Sugar Australia, market actor)
Expert authority	Actor cites expert evidence and data to support their arguments (*scholarly evidence, government data or private data e.g. NGO or business).	"Several empirical studies have shown the effects of similar TRIPS Plus provisions on medicine prices and access to medicines in developing countries …" (Multi-NGO submission, public interest actors). "The Australian Farm Institute predicted in a study of twelve Asian nations that by 2020 pork consumption would increase by 17.7 million metric tonnes, of which 16.5 million metric tonnes will be produced domestically; an additional 1.2 million metric tonnes will be imported." (Australian Pork, market actor)
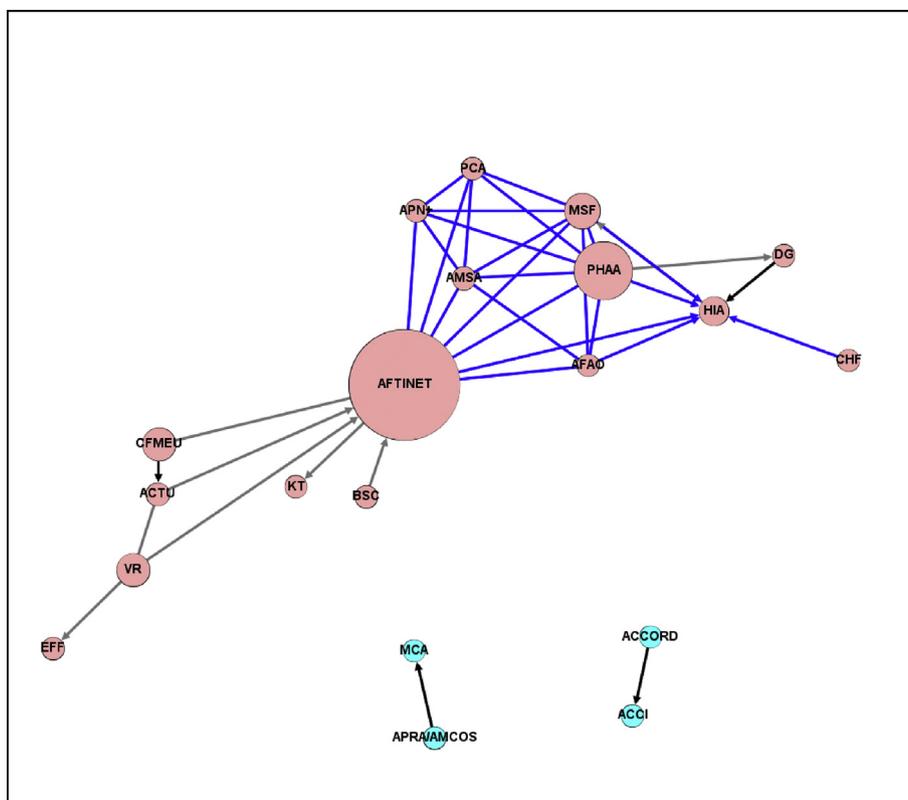
Fig. 1. Cross-referencing between submitting actors. Light blue node = actors with market framing. Pink node = actors with public interest framing. **Size of node** indicates the total number of times an actor was named by others. **Direction of arrow** indicates citation. No arrow indicates co-authored submission.

Table 2
Extent of actor connections.

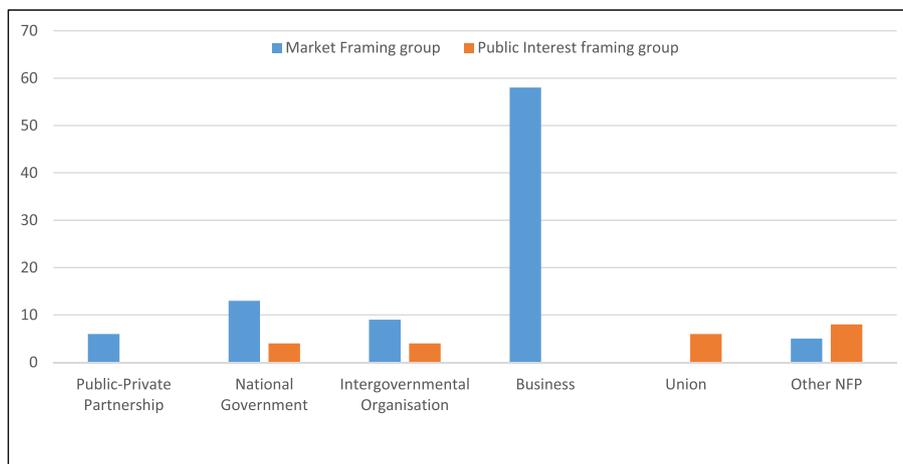| Extent of connections	Types of connections
Strong (black line)	Member of another actor; committee member of another actor; partner of another actor
Medium (blue line)	Co-authored submission with another actor; gave advice to another actor
Weak (grey)	Endorsed another actor's submission; referenced another actor's submission

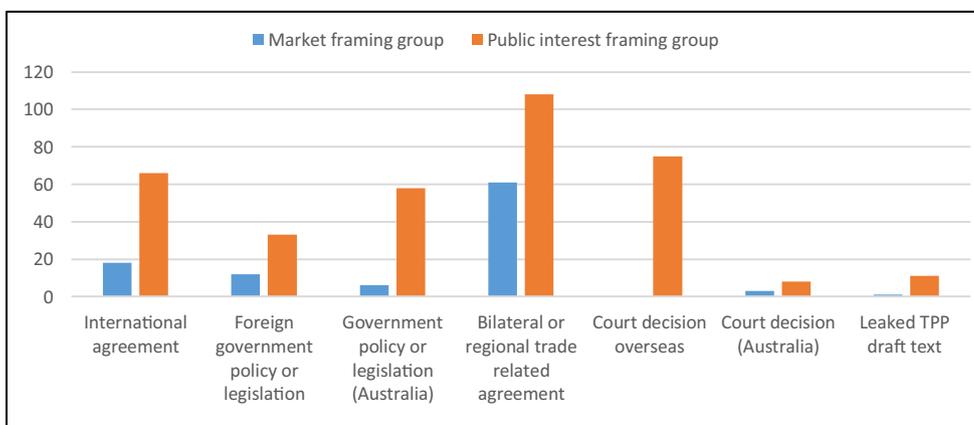**Fig. 2.** Institutional claims to authority (total claims, by institution type).

Fig. 3. Legal sources of authority (total claims).

contrast, only 2 of the 51 market-interest actors cross-referenced another submitting actor.

3.2. Institutional authority

The second type of authority identified refers to actors' claims to holding positions of influence within other recognised established institutions. Several actors in their submissions explicitly identified positions they held in other government bodies, intergovernmental organisations, industry-government partnerships, business organisations, international trade unions, and not-for-profit organisations (Fig. 2). Positions included board membership, membership of key bodies, holding consultative status and advisory roles. Statements to positions held in other institutions appeared to act as attempts by non-state actors to assert their perceived legitimacy to government and, in doing so, attempt to garner greater influence over agenda-setting.

Claims to institutional authority also appeared to be invoked differently between the two framing groups. In contrast to networked authority, we found that market actors (n = 17 submissions, 91 claims) were much more likely to make claims to institutional authority in their

submissions than were public interest actors (6 submissions, 22 claims) (Fig. 2). There were also noticeable differences in the types of institutions that market and public interest actors cited. Market actors overwhelmingly claimed to hold positions of influence in key business organisations and in government and intergovernmental organisations. For example, the Australian Dental Industry Association submission, focused on influencing government on medical device regulation and standards in the TPP, claimed that it had representation in committees within Standards Australia and the International Standards Organisation. Public interest actors were less likely to claim institutional authority, and when they did, mainly cited positions of influence within other key not-for-profit organisations (in particular health-focused not-for-profits) and trade unions. For example, a Health Impact Assessment submission (HIA) by academic researchers, which sought to advance protections for public health in the agreement, made use of institutional authority through collecting endorsements by a suite of key national health bodies.
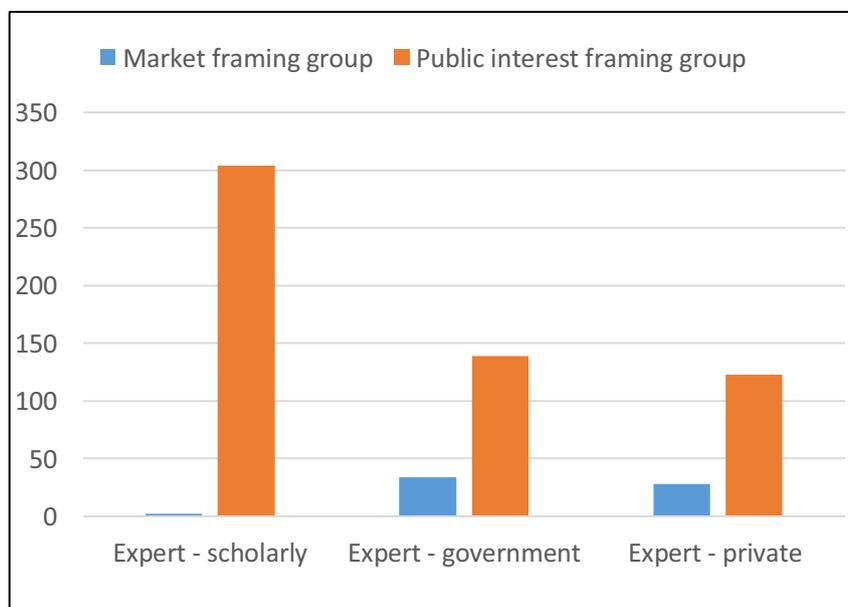
Fig. 4. Expert authority (total citations).

3.3. Legal authority

The third type of authority claim we identified in the submissions refers to the use of legal sources of authority, that is, claims by actors to legal texts, decisions and agreements to bolster their arguments. Legal sources of authority cited by market actors (n = 24 submissions) and public interest actors (n = 29 submissions) included other bilateral and regional trade-related agreements, international agreements, domestic and foreign government legislation, court decisions in Australia and overseas, and leaked TPP draft negotiating text (Fig. 3). The focus and extensive use of legal sources is indicative of the particular characteristics of the trade and investment policy domain, where trade agreements are implemented into domestic law once ratified by governments.

Like networked and institutional authority, we found differences in the use of legal authority by the actor groups. In particular, we found that, overall, public interest actors relied on more legal sources of authority to support their arguments than market actors (see Fig. 3). We also observed key differences in how the different actors appealed to their legal sources. Market actors, for example, mainly cited legal sources as part of broader statements of support for trade and investment agreements. For example, the American Chamber of Commerce in Australia (2008, 1) claimed that the TPP could "play a useful complementary role to the ongoing efforts within the Asia Pacific Economic Cooperation Forum to achieve trade and investment liberalisation within a realistic time frame". Some market actors also invoked legal sources to argue for better deals. For example, both the Australian Pork and Sugar Industry submissions were critical of other trade agreements for not giving them greater access to overseas markets. In contrast, public interest actors were much more likely to use legal texts to raise concerns about the potential impact of particular trade provisions on government regulation and public services (see more in Discussion). For example, a group of health and public interest organisations led by the Public Health Association of Australia (2013, 3) cited the Australia-US Free Trade Agreement as an example of "inappropriately high" intellectual property standards for developing countries, arguing that the Australian Government should not pursue an AUSFTA-type outcome in the TPP.

3.4. Expert authority

The fourth and final authority source we identified in the submissions refers to the use of expert evidence and data to support actors' arguments and objectives. Several public interest actors (n = 39 submissions) and market actors (n = 24 submissions) cited evidence to support their arguments, whether scholarly peer reviewed expertise, government data, or private data (i.e non-peer reviewed evidence from industry, NGOs, or trade union groups) (Fig. 4). Again we observed differences between the two framing groups in the use of expert authority. Overall, market actors were less likely to draw on expert sources of authority than public interest actors. More than half of the market actor submissions cited no evidence to support their arguments, and only two of fifty-one market actor submissions made reference to scholarly evidence (n = 1 each). In contrast, we found 304 references to scholarly expert evidence in the public-interest submissions. This difference was less pronounced but still evident in the use of government and private sources of evidence (see Fig. 4). Citing of networked groups by public interest actors was minimal (4 of 566 public interest citations, or 3 of 39 submissions) and no market actors cited another market actor for evidence.

4. Discussion

Our analysis of non-state actors' submissions in trade policy identified four common sources of authority claims; networked; institutional; legal; and expert. Combining this analysis with a framing analysis of submissions allowed us to compare the differing uses of these authority sources by market-oriented and public health/public interest actors respectively. In this section we discuss these differences in the use of authority claims in turn, and then reflect on the use of the Avant et al.'s (2010) authority heuristic for a better understanding of how actors attempt to assert their authority and thus legitimacy in policies that affect health.

The first authority source, networked authority, which refers to the strategic cross-referencing between actors that made submissions, appeared more evident as a strategy by public health and public interest actors than market actors. Several not-for-profit organisations including public health advocacy organisations and trade unions, as well as academic researchers endorsed one another in their submissions to government, and many co-authored submissions together. In contrast,

as highlighted above, very few market actors cross-referenced one another in these publicly available submissions. One explanation for this difference is that market interest actors are more competitive, especially if in similar market niches, while public interest actors are more cooperative given the broader 'public' orientation of their work. Another explanation grounded in the literature on negotiations is that this cross referencing relies on some degree of connection between actors making submissions and suggests that these connected actors are operating through networks. Networks often serve as a strategy for policy actors to amplify their messaging and assert their legitimacy, in particular when they have less material resources (Drahos, 2003; Keck and Sikkink, 1998). Indeed, mapping these recorded connections revealed evidence of a multi-hub network of public interest actors (in Fig. 2 above). Two groups appeared to stand out for their networked authority; the Australian Fair Trade and Investment Network (AF-TINET), a community organisation comprised of consumer groups across Australia, appeared to be at the centre of this network and a key hub for connecting trade unions (e.g. Australian Council of Trade Unions, Vintage Reds) with health organisations (Australian Fair Trade and Investment Network, 2008). Similarly, the Public Health Association of Australia (PHAA), a professional body for public health practitioners and academics, also appeared as a key actor connecting in other health and medical groups (e.g. Médecins Sans Frontières, Australian Medical Students Association) to raise health concerns in the trade negotiations.

We argue that these differences in the use of cross-referencing between the two actor groups reflect broader power asymmetries in the trade domain, where market actors such as industry associations are generally more economically powerful actors than health advocacy NGOs. As highlighted in our introduction, trade and investment agreements are principally designed for market interests, with industry actors often given privileged access to negotiations, as was the case for more than five hundred business associations in the US during the TPP negotiations (Ranald, 2015). Industry actors have reported greater access to informal and formal processes in trade negotiations and thus can exert influence in other ways than making submissions (Friel et al., 2019). Furthermore, framing analysis shows that industry actors share and benefit from the dominant neoliberal market discourse within government which promotes free enterprise between competitive markets. Public interest actors, including public health organisations, do not share the neoliberal framing with government and therefore have less discursive power to influence the trade agenda (Townsend et al., 2018). We argue that these discursive and material power differences help explain the differences in strategy between these groups, where public health and public interest actors appear more reliant on networked authority as a strategy to try and overcome these power imbalances.

The second authority claim, institutional authority, refers to claims by actors to holding positions of influence in other established institutions. We found that market actors were more likely than non-market actors to assert their roles in other trade and regulatory bodies, including national and international standards setting bodies. We argue that these assertions of influence in other established institutions reflect a strategy by actors to establish their authority and legitimacy to government. These claims were also telling of the positions of influence held by actors. For example, the Australasian Performing Right Association (APRA) & Australasian Mechanical Copyright Owners Society (AMCOS) primary objective was for securing elevated levels of copyright and monopoly protection in the TPP (Australasian Performing Right Association and Australasian Mechanical Copyright Owners Society,). Both associations emphasised their authority in their submissions by highlighting their international, regional and national formal partnerships with other established institutions, including the Australian Government Attorney General's Department, World Intellectual Property Organisation, Music Copyright Society in Vietnam, Pacific Island Forum, and Pacific Island Trade Investment Commission.

Claims made by the associations of their founding member status of the Fiji Performing Rights Association and Pacific Arts Alliance illustrated their authority in other countries in the region. Statements such as these by market actors served as attempts to legitimise their authority as actors the government should take seriously.

Public interest actors, in contrast, made fewer such claims. Where reference was made, this was mainly statements of membership in other civil society groups or international trade unions. The World Society for Protection of Animals, which sought to influence the government's position on animal welfare protections in the trade agreement, was an outlier, asserting their consultative status in the Council of Europe and United Nations, formal agreements with the World Organisation for Animal Health and ongoing collaboration with the Food and Agriculture Organisation (World Society for the Protection of Animals, 2013) – statements that appeared to serve as attempts to assert their legitimacy in advancing environmental and animal protections in the TPP.

We argue that these differences in the use of institutional authority claims between the actor groups may be indicative of their different levels of access to trade and regulatory organisations. In contrast to networked authority - a potential strategy of the less powerful to amplify their voices - institutional authority appears more accessible to actors with greater economic and discursive power. It may also be the case that public interest/public health actors see their strengths elsewhere and have therefore not focused on highlighting their institutional connections.

Legal sources were another common authority base for non-state states identified in the submissions, with legal sources appearing as strategic claims for actors to give greater weight and support for their arguments. The most common legal source used by all actors were other existing bilateral and regional agreements. The Australia-United States Free Trade Agreement, for example, was invoked by 18 public interest actors and 7 market actors to support their claims. However, we found differences in how actors used legal sources. Market actors were more likely to cite other existing agreements as part of general statements of support for trade agreements, and as suggested models for the TPP. Public interest actors instead used legal sources as critique to raise concerns about the potential impacts of trade provisions for public regulation. The North American Free Trade Agreement (NAFTA), for example, was invoked by several public health and public interest actors as containing potentially harmful provisions that should not be replicated in the TPP (whereas no market actors cited NAFTA). Overseas court decisions, and in particular investor-state arbitration cases, were also extensively used by public interest actors to critique investor protections. It is notable that during the TPP negotiations, the tobacco giant Phillip Morris International commenced a lawsuit against the Government of Australia over its 2011 tobacco 'plain packaging' legislation, which required the removal of all tobacco products branding material, the use of one standardised colour for all packs, and large graphic health warning labels (Australian Government Tobacco Plain Packaging Act, 2011). Phillip Morris initiated a claim of hundreds of millions of dollars in compensation through an investor-state dispute mechanism in a treaty between Hong-Kong and Australia and the case was ongoing throughout the TPP negotiations (Phillip Morris later lost on abuse of process). The case was cited by several public health actors in their submissions as an example of how market actors can use mechanisms in trade agreements to threaten legitimate public health policy, and thus as a rationale for opposing the inclusion of investor-state dispute settlement (ISDS) in the TPP.

Public interest actors also made greater use than market actors of leaked draft TPP legal text in investment and intellectual property to critique trade provisions and raise public health concerns, in particular for access to medicines. This difference in use of leaks between the actor groups may also reflect differential access to the negotiations between market and public interest actors. As highlighted above, business actors have reported greater access to negotiators and greater knowledge of

some content in trade negotiations than public health actors e.g. tariff lines (Friel et al., 2019). It is also the case that leaked text are usually politically sensitive and tend to be about controversial issues in trade agreements that public health and public interest actors are concerned about (e.g. intellectual property and access to medicines).

Furthermore, international agreements in the areas of environment, labour, trade and health, were cited extensively by public interest actors as part of their attempts to introduce international norms outside of the trade domain into the policy discussion. These included norms for access to medicines in the *Doha Declaration on TRIPS and Public Health*, the primacy of tobacco regulation over private interests in the *World Health Organisation's Framework Convention on Tobacco Control*, and member state commitments to reduce non-communicable disease risk factors in the *United Nations Political Declaration on non-communicable diseases*. Public interest actors also made greater use of existing domestic legislation to draw attention to potential conflicts between existing regulations and trade provisions. In particular, the *Australian Pharmaceutical Benefits Scheme, Australia's 2011 Tobacco Plain Packaging Bill, Intellectual Property Law* and *Patent Act* were invoked as existing policies potentially at risk from changes in the TPP. In contrast, market actors emphasised foreign government legislation, citing trade rules and policies in countries such as the United States as models that should be adopted in Australia to promote export liberalisation. Overall, we argue that these differences in the use of legal authority sources between the actor groups can plausibly be explained through their differing objectives. On the one hand, market actors who share a common vision for neoliberal reform appear to make use of fewer legal sources, and on the other hand, public interest actors attempting to assert new norms draw on extensive legal sources in other areas to support their objectives.

The fourth source of authority claims identified in the submissions was expert authority; the use of expert evidence and data to support actors arguments and objectives. We found that public interest and public health actors were much more likely to draw on expert sources of authority than market oriented actors. More than half of the market actors cited no sources of expertise, and only two industry submissions cited scholarly peer reviewed evidence. The main sources that were cited by industry included general government employment and trade data to support their claims of the wider economic benefits of trade agreements (e.g. data on market sizes). In contrast, public interest actors appealed to a wider range of scholarly and government expertise to critique and challenge these claims and support their public interest objectives. This included the use of expertise in the Department of Health and Ageing, Medicare, Australian Preventative Health Taskforce, National Health and Medical Research Council, and the Australian Institute of Health and Welfare.

We argue that these differences in the reliance and use of expert authority between public and market actors can also be explained by their alignment to the dominant neoliberal market framing. It appears that market (i.e industry) actors, through their submissions, advance positions for market openness that draw on ideas from the neoliberal discourse that are so deeply embedded within trade and investment policy that they are held as fact. That is, trade stimulates economic growth, which results in prosperity for all, and thus market actors simply need to establish the size of the available market and request that attention be given to dismantling all tariff and non-tariff barriers in that sector. Public interest actors however rely heavily on expert authority to try to justify alternate positions. This finding on low use of evidence by industry actors, parallels similar findings of alcohol industry submissions to the Scottish Parliament (Cullen et al., 2017).

Finally, the findings from our study support the application of Avant et al.'s (2010) political science heuristic of non-state actors' sources of authority to the study of the commercial determinants of health. This heuristic worked well as a method to categorise the ways in which health advocates, public interest groups and market actors appealed to different bases of authority as they sought to influence the government

to adopt their policy objectives in their formal submissions. We did not use two categories from the original typology because we found no evidence of claims to capacity-based authority - which seems reasonable given that non-state actors are unlikely to receive any formally delegated power in trade negotiations - and only minor references that may have matched principled authority, but which closely mirrored our framing analysis (Townsend et al., 2018). Some of the categories are unlikely to appear in the same way in other policy domains. In particular, legal authority appeared context-specific to the trade and investment domain. Overall, the analysis supports the usefulness of Avant et al.'s (2010) framework as a broad typology for thinking about the different bases in which non-state actors claim authority in a policy domain.

4.1. Limitations and future research

This analysis is based on publicly-available submissions and as such we cannot infer how non-state actors behave in other forums. Further research of authority claims in other policy domains would enable greater inference of the applicability of these categories for understanding how non-state actors assert authority as a strategy to influence agenda-setting. Further research is also needed to investigate the impact of actors' authority claims on shaping government agendas. We have shown the strategic claims within submissions, and the different uses of these, but more research is needed to answer the question of the impact of these claims on government policymaking.

This exploratory research raises questions for further research, in particular; what is the influence of non-state actors' different authority claims on government? It is noteworthy that public health analyses of the final text of the TPP negotiations (prior to US withdrawal under Trump) revealed a better protection for tobacco control from investor disputes, but ongoing concerns in several areas for health including medicines and public health regulation, suggesting that protecting health did not become a core negotiating mandate (Labonté et al., 2016; Hirono et al., 2016; Gleeson et al., 2018). Other areas for future research from this study include potential tensions that might arise from using multiple authority sources (Avant et al., 2010), and opportunities for public health actors for using different authority claims in different forums. In this paper we suggest that actors with greater material resources and shared ideas with the dominant (neoliberal) policy domain confers their legitimacy to 'speak'. What other conditions might shape space for exerting authority and influence and how might health advocates navigate these?

5. Conclusion

Our analysis adds a novel application of authority claims from political science to the health governance literature. In doing so, we reveal how health advocacy/public interest and market actors use multiple bases to assert their authority as one strategy to attempt to enhance their influence over policymaking. The case of trade policy was chosen because it is a key domain for the commercial determinants of health where the governance of economic policies can directly and indirectly affect health, and where health arguments remain largely on the periphery. An analysis of policy actor submissions to government identified four bases of authority claims: *networked authority, institutional authority, legal authority and expert authority*. Combining this analyses with framing analysis, we find that market oriented actors rely less on external sources of authority, whereas public health and public interest organisations are more likely to appeal to networked and expert authority.

Future work is needed to understand the efficacy of these authority sources, for example, through interviews with policymakers. However, public interest actors could reflect on these findings to help assess their current strategies. For example, public health advocates could review whether asserting their institutional authority in the health domain is

or is not effective for asserting greater legitimacy as actors that can evaluate the health impacts of trade policy. Public health actors could also reflect on whether the lack of evidence underpinning contemporary neoliberal objectives for trade policy, as we find in the study, could serve as one way to elevate discussion on the evidence-base for trade policy, including greater attention to the established health evidence. Ultimately, what is needed to advance greater coherence between trade and health is a disruption to the dominant assumptions in trade policymaking so as to enable greater attention to social and public health objectives. Exploring how health advocates can establish their authority in a "non-health" policy domain may positively contribute to this agenda.

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