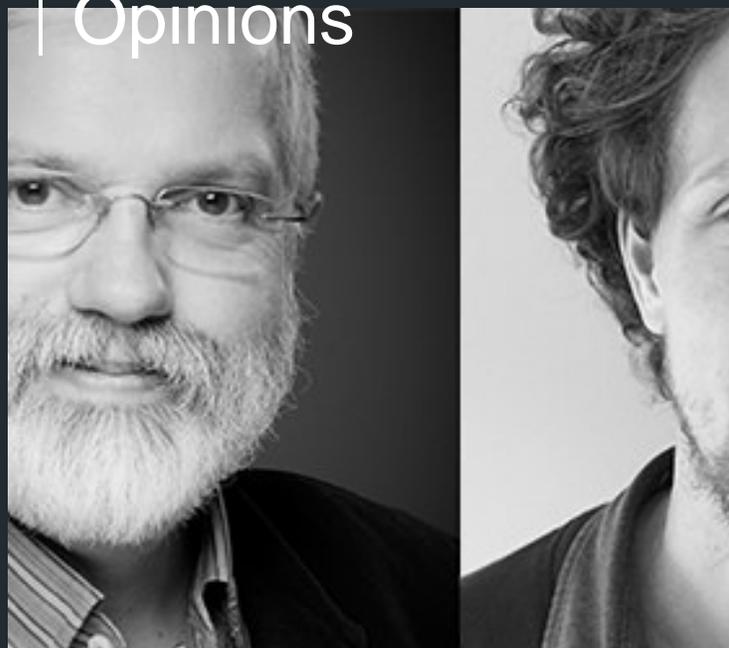




## | Opinions



Date:

September 30, 2015

Author:

Arne Rückert & Ronald Labonté

Share this opinion



# The Trans-Pacific Partnership threatens the health of Canadians

Canadian media coverage of the Trans-Pacific Partnership (TPP) agreement has almost exclusively focused on the effects the deal would have on the economy, especially the dairy industry and auto sector. The implications for health and health care have hardly received any media attention in Canada. We feel this is a grave oversight.

After all, the economic impacts of the TPP are relatively small. One study estimated the TPP would add a mere 0.1% of GDP by 2035 to Canada's economy. Yet, the deal – expected to be signed later this year by Canada and 11 other countries – will have potentially serious implications for how health systems are governed. That's because the Trans-Pacific Partnership is less about increasing trade through reducing tariffs (which have already been reduced substantially), but rather protecting the investments and intellectual property of multinational corporations.

How do the proposed investment protections affect health? Firstly, the TPP can protect food, alcohol and cigarette companies' ability to freely market products that are harmful to health. Investor-State Dispute Settlement (ISDS) provisions will grant multinational corporations the right to sue TPP governments over public policy decisions perceived as damaging to their investments and business operations. A prominent litigation target has been plain packaging of tobacco, a promising public health policy advocated in the Framework Convention on Tobacco Control, which requires tobacco companies to package cigarettes without branding elements such as logos, colours or promotional texts. Australia is currently facing a lawsuit from Phillip Morris over plain packaging under a bilateral investment treaty with Hong Kong that contained similar ISDS stipulations as the TPP. Canada is already the most-sued developed country in the world because of the ISDS process of the North American Free Trade Agreement (NAFTA), and has paid out over \$170 million in compensation.

The TPP will significantly increase the number of foreign investors eligible to sue for compensation, opening up Canada to additional lawsuits from companies based in the 7 TPP countries that are not already part of NAFTA. We are concerned the TPP will thus engender regulatory chill – the unwillingness of policy makers to introduce novel health and other regulations for fear of litigation. Academic analyses have raised particular concerns about the TPP's potential chilling impact on future food policy and tobacco and alcohol regulations.

In the draft chapter on intellectual property rights (IPRs), the TPP proposes to extend IPRs beyond current stipulations in World Trade Organization (WTO) treaties, increasing Canada's vulnerability to lawsuits from pharmaceutical companies. Already, under NAFTA, pharmaceutical giant Eli Lilly is suing Canada based on patent decisions the federal government made for two of its drugs, and is claiming \$500 million in damages. The TPP would make it even easier for companies to apply for drug patents and extend patents in comparison to other free trade agreements, including NAFTA and World Trade Organization (WTO) treaties. Proposed changes to patent law in the leaked IPR chapter could also delay the availability of cheaper generic medicines by up to five years due to the TPP's promotion of extended patents. Under the proposed IPR rules, patents may be granted for minor variations to existing products and patents could also be lengthened to compensate for delays in issuing patents or in obtaining marketing approval. Both of these moves would delay the entry of

generic drugs to the market.

The costs associated with extended IPRs could be significant. An analysis of the signed, but not yet ratified, Canada-EU Comprehensive Economic and Trade Agreement (CETA) suggests that new IPR provisions under CETA, which are similar to, but may still be less stringent than those expected to be included in the TPP, will increase drug costs in Canada by anywhere between \$850 million and \$1.6 billion. Already, Canada has the second-highest drug prices in the world.

In Europe, media scrutiny over ISDS has contributed to the development of a compromise amendment by the European Parliament which seeks to make health regulations exempt as law suit targets under the TPP. Canada should demand a similar compromise. In addition, some TPP member states have been publicly opposed to extended intellectual property rights, and Canadian negotiators can work with these country leaders to limit any extension of intellectual property rights in pharmaceuticals beyond those already present in WTO agreements.

Canada clearly does not want to be left behind in global trade negotiations. But it should not sign on to the TPP unless it can be sure that that the necessary policy space and flexibility to make healthy public policy remains, and unless drug costs will not be affected negatively. Ultimately, there is no point in signing on to a free trade agreement that represents little economic benefit to the Canadian economy, but has major political and social implications, including the potential to undermine the health of Canadians.

*Arne Rückert is a Senior Research Associate and Professor in the Faculty of Medicine at the University of Ottawa. Ronald Labonté holds a Canada Research Chair in Globalization and Health Equity at the Institute of Population Health and is Professor in the Faculty of Medicine at the University of Ottawa.*

Leave a Comment

## Comment

Yes, add me to your mailing list.

Enter the debate: reply to an existing comment

## 2 comments

---

**Diane Petryk** October 1st, 2015 at 1:19 pm

Canada should get out of the TPP deal.....as fast as it can run

Share

Reply to Diane Petryk

---

**Elizabeth** October 2nd, 2015 at 3:49 am

Canada needs to invest in it's own resources; the IP of its own people & their

companies so we have more control over everything we need.

NAFTA was just the beginning of our decay. TPP will surely take away any choices we think we still have.

Sadly I fear none of us have a choice. It is already a done deal.

Share

Reply to Elizabeth

Submit a comment