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The Hon. Richard Marles
Minister for Trade
Parliament House
Canberra ACT 2600

12 August 2013

Cc. The Hon. Tanya Plibersek, Minister for Health

Cc. State and Territory Ministers for Health

Dear Mr Marles,

Re: The impact of TPPA negotiations about State-owned enterprises on public hospitals

Our organisations are concerned about proposals in the Trans-Pacific Partnership Agreement which could have an impact on public health.

We have written to you about the importance of maintaining government policy against allowing foreign investors to sue Governments for damages over public health policy as exemplified by the attempt by the Philip Morris tobacco company to sue for damages over the tobacco plain packaging legislation, using an obscure 1993 Hong Kong Australia investment agreement.

We also urge your government to maintain its opposition to proposals which would broaden the scope and duration of patents on medicines, thus delaying the availability of cheaper generic medicines, and proposals which would restrict the ability of the Pharmaceutical Benefits Scheme to make medicines available at affordable prices. These proposals would increase costs for the government and for consumers.

We want to draw your attention to current proposals in the negotiations on state owned enterprises (SOEs), which could apply to enterprises at the state government level, including public hospitals. The stated intention is to ensure that SOEs which compete commercially with private enterprises, including through international trade and investment, are not receiving unfair advantages from state ownership. However it is proving difficult to reach agreement about a definition of SOEs which would exclude SOEs which exist for a public purpose but which have some commercial operations, like Australia Post and the National Broadband Network.

Initially we understood that these provisions would only apply to SOES owned by national governments.

We are concerned that it now appears that SOEs owned by state governments could also be included. In addition the definition of SOEs is not precise enough to ensure the exclusion of state public hospitals, which do engage in some operations which could be defined as commercial. We understand there has so far been no consultation about these proposals with state governments.

We ask you to ensure that both the definition and scope of the negotiations clearly exclude public hospitals and that state governments are fully consulted before any commitments are made in the negotiations.

We look forward to your response

Yours sincerely



Dr. Patricia Ranald
Convenor, Australian Fair Trade and Investment Network



Michael Moore
CEO, Public Health Association of Australia



Alison Verhoeven
Chief Executive, Australian Healthcare and Hospitals Association



Rob Lake
Executive Director, Australian Federation of AIDS Organisations



David Legge, Contact Person, People's Health Movement Australia and Co-Chair,
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Endorsing organisations



**Australian Federation
of AIDS Organisations**