Dear Senators

I urge you to kill the US-Australia FTA, or else amend it substantially in its provisions on pharmaceuticals, including Article 17 (Intellectual Property).
Contrary to Government statements, there are many features of the FTA that threaten the PBS and through it Australia's entire public medical insurance system. Not only is the FTA as it now stands altogether different in this respect than it has been represented by the government, it is consistent neither with Australia's national interest nor the equitable principles of neoclassical free trade.

There is strong distributive justice language in the FTA concerning manufacturer's 'rights' to compensation for R & D. Free trade is premised on the freedom of both parties to negotiate in their own interests. However, there is no mention that buyers, whether private or private insurers, should have a right to offer what they think a product is worth. US drug firms do not attempt to impose their inflated full 'list' prices on major private health insurers in the US. These are free to negotiate price based on what a drug is worth medically. Nor are major US government buyers like the Army, in its procurement contracts, prevented from negotiating a low bid or else choosing a better value drug from another supplier. The travesty of legally requiring US Medicare to pay a price that no other large customer would pay should hardly serve as an example to emulate outside the US. It is nothing but another rank subsidy to a fundamentally failing but cash-rich and influential industry (see P. Pignarre, Le Grand Secret de L'Industrie Pharmaceutique, Editions La Decouverte 2003, according to which the main reason new drug discovery is getting more expensive is that the drug companies are finding it increasingly difficult to find medicines that are genuine improvements)

Second, it is important to note that the US drug industry is heavily subsidised by the US government, through by far the largest public medical research establishment in the world (whether figured on a per capita, % GDP, or absolute basis). Particularly since 1980, but beginning earlier, the fruits of US government funded medical R & D have flowed into the pockets of US drug companies as a matter of explicit policy. A case in point is Erythropoietin, the top biotechnology drug with US$10bn in global sales and still climbing. It was discovered using many millions of dollars of US government funds through NIH grants to the University of Chicago (and elsewhere) throughout the 1960s
and 1970s. Then in 1980 the Chicago researcher who had accumulated much of
this public knowledge, Eugene Goldwasser, joined Amgen and helped the firm patent and produce the substance as a drug. Amgen is now a major multinational pharmaceutical firm because of Erythropoietin. The US policy of funding public biomedical research and facilitatiing its privatisation, in order to build its national pharma sector, has worked as planned. Now comes the US government attempting to force other nations to pay not what they consider the products of its national industry are worth, but whatever that industry asks. How does this differ from simply demanding tribute?

Third, it is worth keeping in mind that the US has such a large public medical research establishment precisely because it was put there as a

symbolic compensation for Truman's defeated 1948 public medical insurance scheme. This is well esatbalished by historians. Public health insurance was blocked by the doctor's trade association, but the expanded NIH was soon turned into a subsidy mechanism for drug firms. In 1980 a decision was taken that the current R & D subsidy system was too indirect and American industry was falling behind Japan and Europe. Hence the 1980 Bayh-Dole Act which allowed universities to patent and license publicly funded inventions; universities were efffctively allowed a 5% royalty cut for transferring knowledge from public to private sector. The fact that European as well as American drug firms are beneficiaries of this sector subsidy scheme is immaterial to Australia, which lacks the resources to foster a world contender in such a concentrated industry as pharmaceuticals.

Australia has a right to deciide to spend its health care budget chiefly on care instead of research, unlike the US domestic policy, and to do seek to do so in
an economically efficient manner. No provisions that prejudice the local
generic drug sector from meeting local needs (essential for economic efficiency in our health care system) belong in a purported 'free' trade act. Article 17 is unacceptable as it stands.

Sincerely

Nicolas Rasmussen, PhD