

United States Senate

WASHINGTON, DC 20510

July 23, 2004

The President
The White House
Washington, DC 20500

Dear Mr. President:

As supporters of the United States-Australia Free Trade Agreement, we were very pleased by last week's strong bipartisan vote of approval.

Our votes of support were based on our belief that Australia is an important market for U.S. goods and services, and that the agreement will result in increased American exports to Australia as well as lower costs to consumers in both countries.

Our votes were based also on important assurances that the agreement will not require any changes to U.S. health care programs or negatively impact efforts to obtain lower cost prescription drugs for Americans. Specifically, our support was based on the expectation that the following statements are true:

- 1) U.S. federal health programs, including Medicaid and the new Medicare Part D program, are not subject to Annex 2-C of the agreement, including the provisions relating to transparency and to independent review.
- 2) While Medicare Part B is subject to Annex 2-C, and the VA and DOD programs are covered by Chapter 15 on government procurement, these and all other federal health programs are currently in full compliance with the agreement. No changes to U.S. law or administrative practice are necessary to implement the agreement.
- 3) In cases where programs are required to comply with Annex 2-C, the agreement would not create a right of companies to challenge decisions by Medicare or Medicaid. The independent review process required of each country would be non-binding on the relevant program.
- 4) The agreement would not jeopardize the prescription drug prices the Veterans Administration and Medicaid are currently able to negotiate.
- 5) The ability of the Medicare program to negotiate the prices of prescription drugs per future legislation would not be impeded.

The President
July 23, 2004
Page two

It is critical that U.S. trade negotiations focus on eliminating trade barriers and not serve as an obstacle to our efforts to ensure access to affordable pharmaceuticals for our citizens.

In the private sector and at every level of government, the U.S. is currently struggling to sustain both the development of new, life-saving pharmaceuticals and the ability to ensure that those new treatments are affordable for those who need them.

We must not limit our policy options through trade agreements or otherwise. Absent evidence of trade protectionism, the United States Trade Representative (USTR) should not attempt to influence the pharmaceutical development, purchasing, or reimbursement policies of our federal health care programs.

In the final days before the U.S. Senate and House votes, there was much confusion about the potential impact of the agreement on U.S. federal health care programs. The negotiating process included policy decisions made by the USTR with serious implications for public health and health care delivery.


The intellectual property advisors working with the negotiators included representatives from the pharmaceutical industry, but not from the public health community. We believe strongly that formal representation by the public health community, consumer advocacy groups, and other affected parties in future trade negotiations is critical.

Thank you for your attention to this matter. We look forward to hearing from you.

Sincerely,



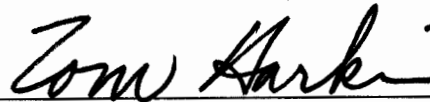
Jeff Bingaman
United States Senator



Richard Durbin
United States Senator



Bob Graham
United States Senator

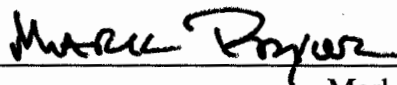


Tom Harkin
United States Senator

The President
July 23, 2004
Page three



Blanche Lincoln
United States Senator



Mark Pryor
United States Senator



Bill Nelson
United States Senator