



11 March 2016

Foreign Affairs, Defence and Trade Select Committee  
Parliament Buildings  
Wellington

**Re: Submission on Trans Pacific Partnership Agreement**

Thank you for the opportunity to provide a written submission on this consultation document.

Regional Public Health serves the Greater Wellington region, through its three district health boards (DHB): Capital and Coast, Hutt Valley and Wairarapa and is based at the Hutt Valley District Health Board.

We work with our community to make it a healthier safer place to live. We promote good health, prevent disease, and improve the quality of life for our population, with a particular focus on children, Māori and working with primary care organisations. Our staff include a range of occupations such as: Medical Officers of Health, Public Health Advisors, Health Protection Officers, Public Health Nurses, and Public Health Analysts.

We are happy to provide further advice or clarification on any of the points raised in our written submission. The contact point for this submission is:

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Kind Regards

Dr Stephen Palmer  
**Medical Officer of Health**

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**Service Manager**



## Submission

Regional Public Health (RPH) considers that there are important risks to public health from the Trans Pacific Partnership (TPP) Agreement. RPH would like to draw attention to the advice of several health experts including the New Zealand Medical Association and Keating et al (2015), who have recommended that a comprehensive independent analysis of the health impacts are conducted and made available for public and parliamentary review, before ratifying the TPP<sup>1,2</sup>.

New Zealand is suffering from an increasing burden of non-communicable diseases that are associated with use of commercial products (e.g. tobacco, alcohol, highly processed foods, and sugary drinks). According to the New Zealand Health Strategy adults in high deprivation areas and Maori still have high rates of smoking (28% and 38% respectively), hazardous drinking and obesity have increased since 2012 (by 3% and 2% respectively) and Pacific people with very high rates of obesity at 66%<sup>3</sup>. This is of concern as each of these risks, are strongly associated with increased rates of chronic respiratory disease, cancer, diabetes, and cardio vascular disease.

The following sections have the potential to affect the delivery of public health initiatives that aim to improve overall population health and with this health expenditure.

### **Chapter 28: Dispute Settlement - The expansion of the WTO disputes process**

The listed expertise required for the disputes panel (in Chapter 28) does not include health expertise, therefore health experts can only provide technical advice if the complaining country agrees. This may result in the removal and or prevention of health protecting policies or financial penalties for those countries that choose to continue with them regardless. This has implications for health strategies that have been found to significantly reduce high risk behaviors and resulting health conditions including tobacco plain packaging, as well as restrictions on alcohol advertising and sponsorship.

### **Chapter 9: Section B – Investor State Dispute Settlement**

This is further threatened by the potential involvement of Investor State Dispute Settlement (ISDS). Concerns about ISDS were highlighted by Keating et al (2015) because the TPP is the first trade agreement that New Zealand have signed involving ISDS with the USA. This is of particular concern as ISDS have been traditionally used by trade industries to sue government restrictions on high risk products and there is no right of appeal<sup>2</sup>. This has been demonstrated by the dispute between Philip Morris and Australia over their tobacco plain packaging legislation that incurred \$50 million dollars worth of costs, and was only dismissed on a technicality<sup>2,4</sup>.

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<sup>1</sup> New Zealand Medical Association, 2015. NZMA calls again for independent health assessment of TPPA

<sup>2</sup> Keating, G., Freeman, J., MacMillion, A., Neuwelt, P., Monasterio, E. 2016. TPPA should not be adopted without a full independent health assessment. *New Zealand Medical Journal*, 129 (1430), 7-13

<sup>3</sup> New Zealand Health Survey. 2015. Ministry of Health

<sup>4</sup> Alcorn, T. 2016. TPP: trade offs for health behind closed doors. *The Lancet*, 387 (10022), 929-930



### **Annex 2, Page 30: New Zealand Appendix on Tobacco and Alcohol**

RPH is pleased to see that TPP permits regulation of Tobacco and Alcohol wholesale and retail sales, however, it is unclear of the breadth of scope, for example does wholesale and retail trade services include the setting of minimum prices or special excise taxes on these products?

This would need to be broadened to encompass pricing, taxation, promotion and marketing of tobacco and alcohol, in order for it to allow flexibility for the implementation of future public health measures. In addition, RPH suggest the agreement needs to be future proofed in terms of goods that may in the future be identified as public health risks, for example, unhealthy food may need to be categorised as such at some point, in the future. There needs to a method to identify and re-categorise such goods in a similar way to tobacco and alcohol.

### **Tobacco Exception in Chapter 29.5**

RPH support the safeguards in place in Chapter 29.5 for smokefree policies, however would prefer that this were extended for a the wider range of products that have evidence of causing significant health costs and long term conditions including alcohol, and unhealthy food.

### **Measures Relating to Pharmaceutical Products in Chapter 18 (section C)**

The provision of patent extensions to pharmaceutical products is likely to increase costs for Pharmaceutical and Biological medicines. By allowing for an extension of these patents, manufacturers will have exclusive rights to sell new medicines for a longer period of time, stalling price competition provided by alternative manufacturers. Potentially this could lead to a substantial increase for health spending or delays in access to life-saving medication and treatment for those who rely on government subsidized medication<sup>4</sup>.

### **Acknowledgement of Existing Agreements**

RPH would like to highlight that the TPP does not acknowledge the following agreements that are likely to impact and have relevance to various clauses within the agreement. These include:

- The Framework Convention on Tobacco Control
- 1948 Universal Declaration of Human Rights (with reference to the right to health
  - progressively attaining conditions which enable people to be healthy)
- 1981 WHO International Code of Marketing of Breast-milk Substitutes
- 1992 UN Framework Convention on Climate Change and subsequent international agreements
- 2010 WHO global strategy to reduce harmful use of alcohol
- WHO Global action plan for the prevention and control of non-communicable disease 2013-2020
- 2015 UN Sustainable Development Goals

### **Final Comments**

Based on the points raised, RPH believe there are genuine concerns around the implications of the TPP on Public Health; in particular the ability to introduce health measures that address known risk factors including tobacco use, alcohol abuse, and poor nutrition.