



AFTINET Ltd  
Level 1, 46-48 York Street  
Sydney NSW 2000  
Phone: 02 9299 7833  
Fax: 02 9299 7855  
Email: [lsouthalan@piac.asn.au](mailto:lsouthalan@piac.asn.au)  
Website: [www.aftinet.org.au](http://www.aftinet.org.au)  
ABN 83 659 681 462  
ACN 097 603 131

## AFTINET Bulletin 98, 27 July 2004

If you would like to contribute to the Bulletin, please contact Louise Southalan via email at [lsouthalan@piac.asn.au](mailto:lsouthalan@piac.asn.au) or on (02) 9299 7833. Our website is <http://www.aftinet.org.au>.

### Contents

1. Marginal Polls tell Labor to Reject US Free Trade Agreement
2. Government PBS review Process released for comment
3. Plum jobs for US trade deal advisers

### 1. Marginal Polls tell Labor to Reject US Free Trade Agreement

Polling conducted for the Australian Manufacturing Workers Union of 1000 voters across 10 marginal seats over the last 2 weeks shows that the majority of Australians oppose the Australia US Free Trade Agreement, with strong opposition from Labor, Democrat and Green voters.

The polling shows that:

- 48% oppose, 41% support – with 64% of Labor voters opposing
- 65% agree that Australia could have done better in negotiations for a Free Trade Agreement
- Only 9% of voters believe that Australia will benefit the most from the FTA, with 61% saying that the US will benefit most
- 61% of voters oppose Australia becoming more integrated with the US
- 52% of voters believe that the Prime Minister is putting America's interests ahead of Australia's.

On all key issues, Labor, Democrat and Green voters strongly opposed the agreement.

National Secretary of the AMWU, Doug Cameron said that the AMWU was extremely concerned that the Australian US FTA might go ahead despite strong

community concern, and significant economic research that showed that Australia would suffer under this agreement.

“This research reaffirms what our members and union has been saying: this agreement is not in the national interest, it is unbalanced, and Australia has been duded,” Mr. Cameron said.

Mr. Cameron said that the Howard Government had been prepared to sign away Australia’s future economic sovereignty and that the many thousands of manufacturing jobs would be lost.

“We will lose local content policies, and open our doors to billions of dollars of American imports. Our industry will be decimated,” Mr. Cameron said.

A pdf copy of the polling summary is available at [www.amwu.asn.au/images/ftasurveysumm.pdf](http://www.amwu.asn.au/images/ftasurveysumm.pdf)

---

## **2. Government PBS review process released for comment**

Health Minister Tony Abbott released the Government's paper on the implementation of the USFTA’s review of decisions and improvements in transparency of decision making. The government has invited public comment by 20 August on the paper, which is available at [www.health.gov.au/ausfta](http://www.health.gov.au/ausfta) Below are some brief preliminary comments on the paper.

Currently the Pharmaceutical Benefits Advisory Committee assesses applications for drugs to be listed as eligible for government subsidies on two criteria: the health benefits of the drug and whether it provides value for money compared with existing drugs. The PBAC has sub committees on technical issues. The government then uses its bargaining power to obtain the lowest possible wholesale price for drugs, in part by comparing the price of new drugs under patent which are more costly, with generic drugs whose patents have expired. This process keeps the wholesale prices of drugs low in Australia. The wholesale price of commonly prescribed drugs is three to ten times less in Australia than in the US. The PBAC makes recommendations to the Minister who makes the final decision about which drugs are listed for subsidy. The drugs are then prescribed by doctors and made available at subsidised prices, \$23.70 for those in work and \$3.80 for those on pensions and benefits. The cost of the PBS to taxpayers is the difference between the wholesale and subsidised price.

Drug companies make detailed written submissions to the PBAC . As part of this process they can already have meetings with Health department staff, have access to departmental reports to the Committee and make written responses to them, and can respond in writing to PBAC subcommittee reports . If an application is rejected, they can meet with the PBAC Chair and departmental staff to assist them with re-submission of their application.

**The recommended additional transparency measures** include the publication of all PBAC recommendations with relevant data justifying them, except that "material

agreed as confidential" will be protected. The drug companies have argued for transparency but have been very reluctant to have data published which they think will harm their commercial interests. The companies will also be able to request hearings before the full PBAC or its subcommittees in addition to their written submissions.

**The review process** will be available only to drug companies, not to other parties. The review is available in cases where the PBAC has rejected an application to list the drug. The most common reason for rejection of listing is that the drug does not provide value for money compared generic alternatives. There will be a single reviewer who will conduct consultations in closed sessions and make a report to the PBAC. The company will see the report and be able to make a response before it is considered by the PBAC. The outcomes of the review will be made public.

The government claims that this process will not result in higher drug prices to the consumer. However, they have not made a similar promise about the wholesale price of drugs, which is a cost to taxpayers. Given that the cost of new drugs is a common reason for rejection, the review process will exert more pressure on the PBAC and ultimately on the Minister to list higher priced drugs.

The US drug companies have said repeatedly that they regard the PBS pricing system as an unfair violation of their intellectual property rights . They clearly they expect these changes to result in the listing of more new drugs which will have higher wholesale prices.

Legal experts agree that the sections of the USFTA which deal with the PBS (Annex 2c and the side letter on pharmaceuticals) are both subject to the disputes process of the USFTA. If the companies are not satisfied with the review process , they can ask the US government to make a complaint under the disputes process of the USFTA. The companies have a strong record of persuading the US governments to make such complaints. For example they persuaded the US government to make a complaint under the WTO disputes process against Brazilian government in 2001, for producing cheap generic drugs to treat AIDS. This case was only dropped by the US government after a global campaign by health organisations. The dispute would be heard by a panel of trade law experts who would consider the dispute only in terms of trade law, not in terms of public health principles like access to affordable medicines. If the US government complaint was successful, the panel could seek changes to the complaints process. The Australian government would have to make these changes or face trade sanctions on Australian products from the US.

---

### **3. Plum jobs for US trade deal advisers**

*Sydney Morning Herald*

By John Garnaut and Marian Wilkinson

July 27, 2004

Two senior United States trade negotiators who sealed the trade deal with Australia have accepted plum jobs representing US medical and drug companies. Ralph Ives

was promoted in April to assistant US trade representative for pharmaceutical policy after leading the trade negotiations with Australia.

Next month he becomes vice-president for global strategy at AdvaMed, an industry group that says its members produce half of the world's medical technology products. Claude Burcky, who was Mr Ives's head negotiator for intellectual property trade issues, is now director of global government affairs at the pharmaceutical company Abbott Laboratories.

Mr Ives and Mr Burcky took their jobs after negotiating the trade deal. Neither returned calls from the Herald.

The trade deal has been praised in the US for strengthening the intellectual property rights of pharmaceutical companies, who say it will set a precedent for trade agreements throughout the world. The deal has been criticised in Australia and the US for the same reasons.

The Federal Government is adamant chapters of the agreement dealing with intellectual property and the Pharmaceutical Benefits Scheme will not lead to higher medical costs for Australians. But the appointments of Mr Ives and Mr Burcky after negotiating the deal has raised question marks on both sides of the Pacific.

"This may help explain why the Australian trade agreement is designed to undercut access to affordable medicines for Americans and Australians alike," said Sherrod Brown, a Ohio congressman who has been prominent in a push to reduce the high cost of health care in the US.

Peter Cook, the Labor senator who is chairing a parliamentary committee examining the deal, said he was troubled about the impact the agreement might have on health costs. "The ink isn't yet dry and these people have transferred to special interest groups that stand to benefit from the intellectual property rights they have negotiated," he said.

A small, influential and growing group of Labor MPs has argued that the agreement may not be in Australia's economic interest but must nevertheless be supported to avoid Labor being accused of being anti-American.

The Labor leader, Mark Latham, has said his party will decide whether to support or scupper the agreement after Senator Cook's report is tabled. The committee hopes to complete the report next week.

The president of the Business Council of Australia, Hugh Morgan, said yesterday that efforts by unions and the Greens to pressure Labor into rejecting the deal were short-sighted and reminiscent of efforts to prop up protectionism in the 1980s and 1990s.

The Australian Medical Association said no final verdict on the trade pact should be made until August 20, the deadline for public comment.

<http://www.smh.com.au/articles/2004/07/26/1090693902122.html>

