

FTA battle continues

By Shane Wright

427 words

4 August 2004

AAP Bulletins

English

© 2004 Australian Associated Press Pty Ltd. All Rights Reserved

CANBERRA

Labor and the government dug in and refused to give ground on the United States free trade agreement as the deal was signed by President George W Bush.

Labor and the government dug in and refused to give ground on the United States free trade agreement as the deal was signed by President George W Bush.

Prime Minister John Howard said Labor's demand for protection of the Pharmaceutical Benefits Scheme (PBS) in the trade deal was dangerous and could undermine the entire agreement.

But Labor leader Mark Latham said Mr Howard was under pressure from pharmaceutical companies not to agree to a change that would protect Australians from paying higher drug prices.

The stand-off follows Labor's decision to only pass the FTA through the Senate if the government agrees to two amendments covering generic drug patents and local content regulations for television and radio.

Labor argues that tougher penalties for companies that lodge dodgy patents are needed to ensure the listing of cheaper generic drugs on the PBS.

Labor received the backing of state premiers and chief ministers and of the Australian Medical Association (AMA).

But while the government has agreed to Labor's proposals on local content, it is holding the line against the proposals on patent law.

Mr Howard said Labor's proposals were not only unnecessary, but showed a lack of knowledge about Australia's patent laws and could actually backfire and hurt the nation's intellectual property system.

"It would discourage innovation and the creation of new ideas, which are precisely the things that this country ought to be encouraging rather than discouraging," he told parliament.

"The free trade agreement is good for Australia, but it is bad government to adopt bad policy to solve a political problem."

Mr Latham said Labor was only trying to hold Mr Howard to his word that the FTA would not undermine the prices of drugs in Australia.

He said the AMA had backed Labor's proposals, which were aimed at preventing pharmaceutical companies from using the nation's patent laws to delay cheaper generic drugs entering the market.

It was up to Mr Howard to choose between protecting the PBS and lower drug prices or not.

"I know that he's under pressure from the pharmaceutical companies and, at this stage, unfortunately, he's taking their side instead of the people who buy their pharmaceuticals," he told the John Laws radio program.

But Professor **Peter Drahos**, from the Australian National University, said both arguments were flawed.

Document AAPBLT0020040804e084000gp

Fed: Evergreening already a problem in Aust say academics

431 words

4 August 2004

Australian Associated Press General News

English

(c) 2004 Australian Associated Press Pty Ltd. All Rights Reserved

T By Sandra O'Malley

CANBERRA, Aug 4 AAP - Pharmaceutical companies are already trying to stop cheaper generic drugs making it on to the Australian market, academics warned today.

The federal opposition says it will not support the Australia-US free trade agreement unless there are changes to patent laws to protect the Pharmaceutical Benefits Scheme (PBS).

Labor wants tougher penalties to prevent big drug companies using a tactic known as evergreening to stop cheaper generic medicines entering the Australian market.

Evergreening occurs when a drug company files a new patent - based on a minor change to its product, such as a change in colour or from tablets to capsules - when its old patent is about to expire.

If the new patent is granted, generic manufacturers are prevented from entering the market until it expires.

Prime Minister John Howard has deemed the amendments unnecessary, saying they are based on a misreading of Australian patent law.

The government argues that spurious patents are not granted in Australia and a patent application alone cannot hold up the marketing or sale of a generic product, as it can in the United States.

But Australian National University lecturer Matthew Rimmer said evergreening was a problem in Australia.

"Something needs to be done about it," he said.

He cited a 2002 High Court case involving pharmaceutical giant Astra Zeneca and its drug Losec, which prevented generics group Alphapharm entering the market.

Dr Rimmer said there were a number of ways to address the problem, including the penalties proposed by Labor.

But he said a better option may be enlisting the Australian Competition and Consumer Commission (ACCC) to monitor any anti-competitive behaviour in relation to patents.

Professor **Peter Drahos**, also from ANU, said evergreening had been a problem in the pharmaceutical industry for decades.

"It shows something about the Liberal Party that they have really failed to raise this issue," he told ABC Radio.

"In a sense, by putting the intellectual property rules of Australia on the table during this negotiation, they have opened the way to an intensification of the problem."

But Malcolm Royal, president of the Institute of Patent and Trade Mark Attorneys of Australia, denied it was a problem.

He said the patent process was much more transparent in Australia compared with the US.

"If a spurious patent is lodged, it is objected to," Mr Royal said.

"Generic companies can see this process taking place and know they can just ignore these applications, if they were to be made."

AAP so/sb/pw/sd

Document AAP0000020040804e08400139

Fed: ALP and govt dig-in on FTA battle

607 words

4 August 2004

Australian Associated Press General News

English

(c) 2004 Australian Associated Press Pty Ltd. All Rights Reserved

T By Shane Wright

CANBERRA, Aug 4 AAP - Labor and the government dug in and refused to give ground on the United States free trade agreement today as the deal was signed by President George W Bush.

Prime Minister John Howard said Labor's demand for protection of the Pharmaceutical Benefits Scheme (PBS) in the trade deal was dangerous and could undermine the entire agreement.

But Labor leader Mark Latham said Mr Howard was under pressure from pharmaceutical companies not to agree to a change that would protect Australians from paying higher drug prices.

The stand-off follows Labor's decision to only pass the FTA through the Senate if the government agrees to two amendments covering generic drug patents and local content regulations for television and radio.

Labor argues that tougher penalties for companies that lodge dodgy patents are needed to ensure the listing of cheaper generic drugs on the PBS.

Labor today received the backing of state premiers and chief ministers and of the Australian Medical Association (AMA).

But while the government has agreed to Labor's proposals on local content, it is holding the line against the proposals on patent law.

Mr Howard said Labor's proposals were not only unnecessary, but showed a lack of knowledge about Australia's patent laws and could actually backfire and hurt the nation's intellectual property system.

"It would discourage innovation and the creation of new ideas, which are precisely the things that this country ought to be encouraging rather than discouraging," he told parliament.

"The free trade agreement is good for Australia, but it is bad government to adopt bad policy to solve a political problem."

Mr Latham said Labor was only trying to hold Mr Howard to his word that the FTA would not undermine the prices of drugs in Australia.

He said the AMA had backed Labor's proposals, which were aimed at preventing pharmaceutical companies from using the nation's patent laws to delay cheaper generic drugs entering the market.

It was up to Mr Howard to choose between protecting the PBS and lower drug prices or not.

"I know that he's under pressure from the pharmaceutical companies and, at this stage, unfortunately, he's taking their side instead of the people who buy their pharmaceuticals," he told the John Laws radio program.

But Professor **Peter Drahos**, from the Australian National University, said both arguments were flawed.

He said the government was wrong to claim that so-called patent evergreening, whereby companies lodge a number of patents so as to prevent generic companies from listing products, was not occurring in Australia.

The FTA would make matters worse.

"In a sense by putting the intellectual property rules of Australia on the table during this negotiation, they have opened the way to an intensification of the problem," he told ABC radio.

But Prof Drahos said it was yet to be seen if Labor's proposals would work, because drug companies could afford relatively small financial penalties.

"If the penalties are a few hundred thousand dollars, that will not be a deterrent for a large pharmaceutical company," he said.

"That's small change to them, that's less than one day's profit on a large blockbuster drug."

In Washington, President Bush formally signed his country's FTA commitments into law, saying it would be a boost to both nations.

"The US-Australia free trade agreement is a milestone in the history of our alliance," he said.

"It expands our security and political alliance by creating a true economic partnership."

AAP sw/sb/sp/tma/sd

Document AAP0000020040804e08400138

Fed: Govt and opposition continue FTA brinkmanship

271 words

5 August 2004

Australian Associated Press General News

English

(c) 2004 Australian Associated Press Pty Ltd. All Rights Reserved

T CANBERRA, Aug 5 AAP - Prime Minister John Howard and Opposition Leader Mark Latham will resume their brinkmanship today over the United States free trade agreement (FTA), with time running out for its approval.

Today is the last parliamentary sitting day of the week, with no signs that either Mr Howard or Mr Latham will give in on their respective positions concerning the deal.

Labor is demanding two amendments to the legislation that will bring the FTA into operation, covering local content regulations for media and tougher penalties for patent laws to keep a lid on drug prices under the Pharmaceutical Benefits Scheme.

The government has accepted the local content rules, but will not change its mind on the patent law proposals.

If neither side gives in, the upcoming federal election could be fought over the FTA.

Mr Howard said Labor's proposals were unnecessary and would stifle innovation by companies wanting patent protection.

But Mr Latham said that by protecting the PBS, Mr Howard could have the FTA quickly and at the same time ensure drug prices were kept under control.

Experts are divided over the merits of Labor's proposals and the government's claims the PBS will not be affected by the trade deal.

Professor **Peter Drahos**, from the Australian National University, said drug prices would be pushed up by the free trade deal.

But he said he doubted whether Labor's proposals would be tough enough to prevent a major drug company from flouting Australian laws to keep out of the market a low-priced competitor.

AAP sw/rgr/pw Document AAP0000020040805e0850002u