TPP raises spectre of higher drug prices

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For The Straits Times

The Trans-Pacific Partnership (TPP) is a multilateral free-trade agreement currently being negotiated among 12 countries. It includes the United States, Japan, Canada, Australia and Singapore. Ministers met last month in Hawaii to conclude negotiations, but they failed to do so.

Reportedly, one of the stumbling blocks is intellectual property (IP) rights. The US is pushing new rules that it claims will protect and promote US exports of IP-intensive products and services throughout the Asia-Pacific region for the benefit of producers and consumers of those goods and services in all TPP countries. Currently, the world-wide standard for IP rights is the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), agreed in 1994. However, the US Congress questioned the TRIPS’s secrecy, and in April, 2013, the US Congress instructed the US Trade Representative to negotiate a secret TPP agreement for lower drug prices.

The US reportedly wants to expand the scope of patent protection by allowing patents for methods of medical treatment... To the extent that physicians are already well motivated by peer approval and the desire to improve patient care, patenting might well not increase invention. But, actually, there is no evidence of the effect of patents on invention. However, we do know that patents would be associated with higher fees for treatment and that higher fees would reduce patient welfare.

The US reportedly also wants to expand the scope of patent protection by allowing patents on plants and animals.

Unlike new drugs and semiconductors, biological “inventions” require only the recombination of existing genetic material and, to that extent, the “invention” is smaller. Trips stipulates the inventive step to be a basic requirement for a patent.

What would be the effect of patents on plants and animals? The closest evidence comes from patents on genes, which Trips specifies to allow.

What was the effect of the US extension of data exclusivity by seven years? Here, I’m beginning to sound like a broken record. To date, there has been no empirical evidence that the extension increased the invention in the field of biological drugs, or even increased investment in R&D. However, what is certain is that any increase in the period of data exclusivity would retard the entry of generic competition in biological drugs that have already been invented. Generic competition drives down the prices of pharmaceuticals by as much as 90 per cent. More affordable drugs obviously help sick people, particularly those with lower incomes.

It is difficult to see how higher prices would benefit them (as opposed to US drug manufacturers).

Overall, the possible changes of IP rights in the TPP would clearly benefit particular US industries. But at what cost to consumers and businesses in the other TPP countries? At the minimum, Singapore should insist that any changes to IP rights apply only prospectively – to new inventions and creations. That would focus the changes on stimulating new innovation. There is no reason to enrich US vested interests at our expense.

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