

# United States Senate

WASHINGTON, DC 20510

March 11, 2015

President Barack Obama  
The White House  
1600 Pennsylvania Avenue NW  
Washington DC 20500

Dear Mr. President,

We appreciate your ongoing efforts to negotiate the Trans-Pacific Partnership (TPP) trade agreement. While this trade deal has the potential to provide economic benefits for the countries involved, it is imperative that any final deal must reinforce our nation's commitments on key priorities, including the protection of American intellectual property.

As such, to ensure the TPP lives up to these standards now and into the future, we urge you to maintain high standards for Intellectual Property rights in the final deal – including 12 years of data protection for biologic drugs. This protection allows innovators to pursue their ideas while also providing them with adequate protections that will offset the considerable initial investments needed.

However, we are concerned that the administration's commitment to maintaining robust patent protection, specifically with regards to the 12 year data exclusivity for biologics, is not as strong as we have been led to believe. The fiscal year 2016 budget proposal for the Department of Health and Human Services includes, as it has for the last several years, a proposal to reduce the 12 year domestic data exclusivity to seven years. When asked specifically about this proposal and its relation to the ongoing trade negotiations during a hearing of the Senate Committee on Finance, Secretary of Health and Human Services Sylvia Mathews Burwell stated that "the administration's position is that we believe ... we should go to seven [years]." This statement contradicts several assurances we have received that the administration's position is the maintenance of the 12-year standard.

As you know, innovative industries make up a vital sector of the U.S. economy. They not only create high-skilled, high-paying jobs here at home, but also position the U.S. as a global leader in many of our most dynamic and fastest-growing industries. Substandard IP provisions in TPP would set a dangerous precedent for future trade agreements, and would weaken America's ability to compete in the global marketplace, putting both jobs and future innovation at risk.

Our nation's dynamic biopharmaceutical sector is a good example of the impact that robust IP laws can have. The industry supports an estimated 3.4 million jobs and generates \$789 billion in economic output. These results are a direct result of the U.S.'s strong IP laws, which have allowed biopharmaceutical firms to continue investing heavily in research to develop new, groundbreaking treatments. Efforts, both domestically and as part of international trade deals, to undermine these law will have a significant impact on our nation's ability to innovate and patients' ability to benefit from these breakthrough therapies.

As TPP negotiations progress, we will continue to require confirmation that you and Ambassador Froman are working to ensure that strong IP standards are included in any final agreement.

With best personal regards,

Sincerely yours,



Thomas R. Carper  
U.S. Senator



Robert Menendez  
U.S. Senator



Maria Cantwell  
U.S. Senator



Robert Casey  
U.S. Senator