

## **ACTA and the Drug Monopoly Enforcement Agenda: *A windfall for big drug companies; higher medicine prices for all***

The U.S., E.U., and key trading partners are negotiating an Anti-Counterfeiting Trade Agreement (ACTA). ACTA is one of several major new initiatives seeking, in part, to protect drug monopolies under the guise of fighting counterfeits. Much like a counterfeit, ACTA misrepresents its true ingredients to the public.

### ***ACTA will keep medicine prices high***

- ACTA's Elements Under Discussion could restrict availability and free movement of generic medicines.
- ACTA will worsen the rampant problem of seizures of legitimate medicines at national borders.
- ACTA is likely to reduce generic competition, resulting in higher prices for consumers.

### ***ACTA threatens the generics industry***

- ACTA proposes liability for active ingredient manufacturers that may threaten the generics supply chain.
- ACTA imposes robust penalties and litigation and storage fees on alleged infringers, without adequate safeguards or anti-abuse provisions.
- Uncertainty & financial cost to generics firms could chill the industry, risking jobs and access to medicines.

### ***ACTA fails to adequately address public health & safety concerns***

- Patents are not reasonably related to counterfeiting or drug quality concerns.
- Copyright is not reasonably related to health or safety.
- Trademark is unnecessary to protect the drug supply; a better policy would specifically target fraudulent and deliberately mislabeled drugs.
- Serious health and safety measures are absent from ACTA proposals.
- ACTA's costs to competition and access to medicines outweigh its claimed safety benefits.

### ***ACTA's draft text is secret***

- Publicly available materials regarding ACTA's proposed provisions are still thin and too general.

### ***ACTA enforces private monopolies at public cost***

- ACTA shifts the burden and cost of enforcing private rights to taxpayers.
- ACTA diverts law enforcement and border protection resources from other public priorities.
- ACTA's broad new standards for damages & injunctive relief could hinder innovation & economic growth.
- ACTA changes the nature of private rights without needed legislative debate and analysis.

### ***Essential Action urges, at a minimum, the following principles:***

- ACTA negotiations should cease until the draft text is made public.
- Patent status is clearly an improper proxy for drug quality or counterfeiting concerns.
- Patents should have no role in decisions to detain or seize medicines.
- Enforcement measures must not compromise generic medicine supply chains.
- Border measures must include robust procedural safeguards and evidentiary standards.
- Border measures must include robust anti-abuse & liability provisions adequate to deter wrongful seizures.