

# KEY FACTS: Intellectual Property and Information Technology

## Intellectual Property

- TPPA provisions on intellectual property are a net cost to New Zealand citizens and businesses. There are significant financial costs, and more significant lost opportunities, with some rules limiting our ability to experiment and innovate.
- The text has improved over time. Compared with leaked earlier drafts, the final text involves reduced restrictions and lower costs to New Zealand.
- The final impact of the TPPA depends in part on whether we make full use of allowed exceptions, New Zealand can and should adopt these exceptions.

## Copyright

- Increases to copyright term under the TPPA are estimated to cost New Zealanders at least \$55 million a year on average. Official analysis equates this with an up-front cost of \$500 million dollars.
- The same analysis notes that these copyright cost estimates are uncertain, and are likely to be underestimates.
- Opening “digital locks” on copyright content, including purchased content, will mean risking personal liability.

## Medicines and biologics

- The TPPA requires data exclusivity for biologic medicines either for a term of eight years, or a shorter term with unspecified other measures to ensure a “similar market outcome”. New Zealand’s current five year term may be challenged by the US. Extended protection for biologics would add to the cost of some treatments, resulting in higher costs for patients or the tax-funded health system.
- New biologic treatments would be eligible for longer patent terms. This may not happen often, but when applied would delay access to cheaper generic versions.

## Software Patents

- New Zealand can continue to exclude patents for pure software under the TPPA.

## The Internet and Data Flows

- New Zealand could retain its existing “graduated response” regime, where ISPs pass on copyright notices to customers for file sharing.
- TPPA rules make it easier for business to move information overseas, but limit potential restrictions and protections for user data.
- Our .nz domain registry is independent from government. TPPA domain name provisions, though consistent with current practice, are a wrinkle on this independence.

## Innovation and Exports

- Overall, TPPA rules on intellectual property do not assist innovation. Benefits go mainly to established, overseas companies, not new or rapidly growing businesses.
- New Zealand technology businesses may benefit from opening of TPPA markets.

*This briefing sheet is drawn from the expert, peer reviewed research paper “TPPA: Intellectual Property and Information Technology”, authored by James Ting-Edwards, Melanie Johnson, Judge David Harvey, Debbie Monahan, Kate McHaffie and Jo Shaw at <https://tpplegal.files.wordpress.com/2015/12/tpp-ip-it.pdf>*