Differential pricing structures around the world tend to reinforce higher prices in the United States. Along with the lower prices that must exist to serve patients in lower-income countries, many developed countries have state-run health care systems that are able to negotiate prices with drug makers unilaterally. The United Kingdom's National Health Service, for example, is the country's only drug buyer and establishes what drugs it will make available to its citizenry, encouraging companies to cut costs.[70] The diffuse configuration of buyers in the United States prevents any one buyer from gaining enough market power to make a big dent in prices. Perhaps most important, the largest American drug purchaser – the federal government – is barred by federal law from directly negotiating drug prices with pharmaceutical companies in key programs. Specifically, the U.S. government spent approximately $165 billion on prescription drugs for Medicare and Medicaid combined in 2014,[71] which amounts to roughly 55 percent of the $298 billion total spent on prescription drugs.[72] In other words, despite having $165 billion in purchasing power, the government cannot directly negotiate prices for Medicare and Medicaid![73]

In addition, the United States generally has stronger intellectual property protections than many other countries. For example, drug prices became a subject of focus during negotiations over the Trans-Pacific Partnership trade accord as the involved countries sought to harmonize intellectual property regulations. The United States argued for twelve years of exclusivities outside patents for complex biologic drugs, while countries such as Australia wanted periods as short as five years to put lower-cost generics on the market more quickly.[74] The final plan called for a flexible period that can be set between five and eight years in each country depending on

[70] Nadia Kounang, *Why Pharmaceuticals Are Cheaper Abroad*, CNN (Sept. 28, 2015), www.cnn.com/2015/09/28/health/us-pays-more-for-drugs/.

[71] Andy Slavitt & Niall Brennan, *Medicare Drug Spending Dashboard*, Centers for Medicare & Medicaid Services (Dec. 21, 2015), https://blog.cms.gov/2015/12/21/medicare-drug-spending-dashboard/ (noting $143 billion of spending for Medicare in 2014); Medicaid & CHIP Payment & Access Commission, Issue Brief: Medicaid Spending for Prescription Drugs at *1 (Jan. 2016), www.macpac.gov/wp-content/uploads/2016/01/Medicaid-Spending-for-Prescription-Drugs.pdf (noting $42 billion on spending for Medicaid in fiscal year 2014, but $20 billion in rebates reduced net spending to $22 billion).

[72] Centers for Medicare and Medicaid Services, National Health Expenditures 2014 Highlights (2015), www.cms.gov/research-statistics-data-and-systems/statistics-trends-and-reports/nationalhealth expenddata/downloads/highlights.pdf.

[73] Margot Sanger-Katz, *The Real Reason Medicare Is a Lousy Negotiator: It Can't Say No*, N.Y. Times (Feb. 2, 2016), www.nytimes.com/2016/02/02/upshot/the-real-reason-medicare-is-a-lousy-drug-negotiator-it-cant-say-no.html?_r=0. Granted, some say the potential cost savings of allowing government negotiation would not necessarily be as large as one might think.

[74] Jonathan Weisman, *Patent Protection for Drugs Puts Pressure on U.S. in Trade Talks*, N.Y. Times (Jul. 30, 2015), www.nytimes.com/2015/07/31/business/international/pacific-trade-deal-drugs-patent-protection.html; Anna Maria Barry-Jester, *The Problem with Tying Health Care to Trade*, FiveThirtyEight (Oct. 19, 2015), http://fivethirtyeight.com/features/the-problem-with-tying-health-care-to-trade/.