

30 April 2013

Mr Terry Moore
IP Australia
PO Box 200
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pharmapatents@ipaaustralia.gov.au

Pharmaceutical Patents Review Draft Report

Dear Mr Moore

I refer to the above report and the draft recommendations it contains. Our submission does not address all the proposals and recommendations contained in the draft report; we have instead restricted our comments to some fundamental principles of the Intellectual Property (IP) system as they relate to pharmaceuticals and some key elements of the draft report.

To ensure that the full benefits of health and medical research are harnessed for Australia, we need to ensure not only that Australians have access to the latest medicines and therapies but that we derive the economic benefits that come from undertaking research, development and manufacturing in Australia.

Australia has a strong health and medical research sector, and while our medicinal and pharmaceutical industry has grown at 12% pa. over the last 20 years to become one of our largest manufacturing export sectors, there is the potential for it to become even more significant.

Central to this success is a strong IP system. The two-fold purpose of the IP system is to reward innovation and promote competition, and Australia's system fundamentally achieves these objectives. The patent extension system, by recognising that a company is unable to recoup its investment in its IP until it has been able to register its products for sale in Australia is an important element of the system, and is consistent with the principles of rewarding innovation and promoting competition.

Any move to link the patent extension period to an expiry date in a country other than Australia divorces the patent extension period from this underlying principle, and should be avoided.

Research Australia recognises that Australia's IP system operates within a global context, as do our researchers and our manufacturers. We believe that it is important that overseas collaborators and investors feel confident that they can operate in Australia, and that IP will be protected. To this end, comparisons with countries such as India are less relevant than comparisons with our major collaborators and investors, which remain first world countries such as the USA and Europe.

A subsidy is a 'gift or grant provided by government to support an undertaking that is in the public interest'. While acknowledging that the Australian government is a large purchaser of medicines, we do not believe it is appropriate to characterise the premium paid by governments for medicines under patent as a government subsidy to pharmaceutical companies. Paying a price for a good that fairly recompenses the owner of the IP is not providing a subsidy. Suggesting that government funds that are currently expended on patented medicines could be better directed to government funding of Australian research and development confuses the principle of paying a price for a product that rewards innovation with the opportunity to use those funds for another (indeed any other) purpose. Research Australia is fully supportive of more government funding for biomedical research and development, but not if the price is a policy or policies that undermine the principles behind IP rights and work against a viable industry able to collaborate with, and attract, international partners.

Please do not hesitate to contact me if you have any questions in relation to this submission or would like to discuss it further.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Elizabeth Foley', with a stylized flourish at the end.

Elizabeth Foley
Chief Executive Officer

About Research Australia

Research Australia is an alliance of 170 members and supporters advocating for health and medical research in Australia. Independent of government, Research Australia's activities are funded by its partners, donors and supporters from leading research organisations, academic institutions, philanthropy, community special interest groups, peak industry bodies, biotechnology, medical technology and pharmaceutical companies, small businesses and corporate Australia. We have a diverse alliance representing the interests of the broader community.