

Productivity Commission
Compulsory Licensing of Patents
LB 2 Collins Street East
Melbourne VIC 8003
Email: patents@pc.gov.au

8 February 2013

AusBiotech response to the Productivity Commission Draft Report: Compulsory Licensing of Patents (dated December 2012)

After making a submission in regard to the 'Issues Paper' in October 2012, I write on behalf of AusBiotech to commend the thorough work of Commission and its 'Draft Report' on Compulsory Licensing of Patents.

AusBiotech is a well-connected network of over 3,000 members in the life sciences, including therapeutics, medical technology (devices and diagnostics), food technology and agricultural, environmental and industrial biotechnology sectors, supporting the biotechnology industry.

AusBiotech generally supports the Report's draft findings and recommendations, and believe they appropriately support access to patented technology and maintaining the patent incentive to create and protect new technologies. AusBiotech appreciates the Commission's attention to striking a balance between immediate access to technologies and the innovation system that enables them to be developed in the first place, and thus, accessible to the community.

In particular, AusBiotech is pleased to see that the Report is supportive of a technology neutral approach to the treatment of intellectual property in Australia and of not creating compulsory licensing exclusions or exceptions for healthcare or a specific regime for public health.

AusBiotech agrees with comments in the Report that in the event of compulsory access, an appropriate mechanism is provided to ensure patent owners receive a return commensurate with the commercial and regulatory risks they face(ed). The tests applied must be reasonable and the companies concerned treated fairly in terms of compensation, so as not to discourage innovation.

AusBiotech notes the request for further input on the merit of adopting a "licence-of-right mechanism to encourage voluntary licensing. AusBiotech agrees, in principle, that this may be a positive path, due to the voluntary nature of the mechanism. AusBiotech will monitor developments in this regard with interest.

Yours sincerely



Dr Anna Lavelle
Chief Executive Officer