

For Innovation and Access to Essential Medicines

Description of the situation:

The unprecedented medical progress of the recent decades has almost completely bypassed the majority of the world's population. Almost 13 million people are dying each year of diseases that can actually be combated. They are dying of Tuberculosis, Malaria, HIV/AIDS and other diseases related to poverty, malnutrition, unclean water, inadequate housing conditions and lack of appropriate healthcare. However, they are also dying because pharmaceutical patents create de-facto monopolies that make vital pharmaceuticals prohibitively expensive, or worse, not developed at all.

Among the inadequacies of the current patent-based research model is the fact that the only pharmaceuticals and vaccines being developed are geared toward wealthy clients. The health needs of people who have limited or no purchasing power are being neglected. Thus, those who most urgently need pharmaceuticals are being excluded from access to treatment because the research ambitions of the pharmaceutical industry are skewed toward financially rewarding and highly profitable "me-too drugs" rather than lifesaving innovations.

However, patents do not only affect access to essential medicines; they are also impeding innovation itself. Contemporary research processes depend on free information and open data exchange between globally connected research-institutions and are therefore being made more difficult by legal limitations. A thicket of sprawling protective patents whose only function is to protect lucrative market segments against competitors is hampering innovation. It is not surprising that the pharmaceutical industry's output in terms of real medical innovation is declining despite increased spending on research and development.

We are convinced that the current system for health research requires an urgent paradigm shift. The demand is for a new balance between people's health needs and the financial resources that are being deployed for medical research and development. To align innovation with the public interest new incentives are necessary — beyond patents. It is not innovation at any cost that is in demand, but rather innovation that is accessible to all.

We see two areas for action that could improve access and innovation.

1. Improvement of access to patent-protected medicines

It is a dangerous misconception that access to medicines could be improved by global "harmonization" of patent protections. The tightening of international patent laws will only erode the right to life of many people. The world is still too heterogeneous to implement any standardized patent system. Instead it is necessary to take differing levels of development into consideration and to implement patent right flexibilities provided in the TRIPS Agreement and further reiterated in the 2001 "Doha Declaration on Intellectual Property Right and Public Health."

We see a necessity for:

- Support of developing countries for building their own production capacities (technological transfer) and strong, efficient regional distribution systems.
- Creation of patent pool mechanisms in order to create easier and more cost effective ways of dealing with license contracts.
- Use of compulsory licenses and other TRIPS flexibilities to their fullest extent. Countries that exercise their right to compulsory licenses in order to respond to health needs deserve support instead of being put under political and economic pressure by the affected patent holders and their governments.

2. Essential Health Research

Health research is a social task that needs public funding and state regulation. Although Public Private Partnerships (PPPs) may provide an important contribution today, their importance should in no way be overestimated. Especially because such partnerships structurally cannot assure financial sustainability, and they may still decisively depend on the goodwill of private donors and the marketing interests of pharmaceutical companies. Long-term guarantees of essential health research are only possible within a transparent and democratic framework that may legitimately set priorities and provide the necessary new incentives.

In detail this would mean:

- To implement an intergovernmental institution that has both the ability and the legitimacy to determine the priorities of research (for example at the WHO).
- To disconnect the cost of research and development from the prices of medicine.
- To introduce new incentives, for example through a publicly run „Prize fund“, which rewards successful therapeutic innovation with adequate financial payments instead of granting patent-monopolies – and thereby promoting high prices.

In this context, the incentives which are solely banking on the creation of demand such as Advanced Market Commitments (AMC) should not be overemphasized. Such AMCs may be able to promote research, preferably at a late stage, but they do not change anything in the fact that the use of essential health knowledge being produced with public resources will be restricted by privately owned patents.

- To give direct public funding to essential health research in order to systematically kick-start a needs-driven development of vaccines, diagnostic procedures and medicines – either by contracts or through subsidies.
- To establish a global funding mechanism that secures affordable innovation for all. The costs involved need to be shared by all countries, consequently poor countries should make contributions depending on their ability to pay.

We call for a policy aimed at the health needs of people. Medicines, and other goods indispensable for people's existence, should be considered as public goods and therefore be exempted from monopolies and exclusive market rights. Only in this way can essential health knowledge be made accessible to all.

Initiated by:

Brot für die Welt, BUKO Pharma-Kampagne, medico international, Misereor

Signers:

Aktionsbündnis gegen AIDS, Health Action International (HAI), European AIDS Treatment Group, IPPNW – Ärzte in sozialer Verantwortung, Médecins Sans Frontières (MSF), medico international (Schweiz), Seeds Action Network (SAN)