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### Government supports gene patent reform

The Labor Government has responded to three key reports on Australia's patent system, endorsing many reforms affecting biotechnology and gene patents.

Tim Dean (Australian Life Scientist) | 24 November, 2011 13:26 | [Comments](#) | [Like](#)

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The Labor Government has endorsed reform of the Australian patent system, especially where it impacts health and medical research and gene patents, in its response to three key reports from a Senate Committee, the Advisory Council on Intellectual Property and the Australian Law Reform Commission.

The accepted recommendations continue to allow for genetic and other biological materials to be the subject of patents. However, they also allow for patented material to be freely used for research, and the Government will reserve the right to make certain patents freely available in order to prevent the blocking of reasonable access to diagnostics or treatments.

The reports also recommend a general tightening of the patent system, improving transparency and raising the base requirements for a patent to be granted. Many of these reforms are included in the Intellectual Property Raising the Bar Bill already introduced into the Senate on 22 June.

One of the accepted recommendations is the introduction of a 'morality exclusion,' which will "exclude from patentability an invention the commercial exploitation of which would be wholly offensive to the ordinary reasonable and fully informed member of the Australian public."

The response was tabled in the Senate by Innovation Minister Senator Kim Carr today. "The response is designed to give confidence to the significant investments in biotechnology innovation and research and development," said Minister for Innovation Senator Kim Carr.

"It will also ensure that patients will not be denied reasonable access to affordable treatments and essential diagnostic tests through inappropriate use of the Patents Act.

"We need the incentives provided by the patent system to encourage the development of new technologies. But this Government will not allow patent owners to block reasonable access to affordable medical treatments and essential diagnostic tests, nor to stifle legitimate research."

The Government's acceptance of these key recommendations has been applauded by AusBiotech CEO, Dr Anna Lavelle.

"We congratulate the Government on responding to these previously unaddressed reports, which will now allow us to move forward with greater clarity to provide improvements to intellectual property management in

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Australia," she said.

"The Government's response, which includes progressing the 'Raising the Bar' Bill, answers the stated community and concerns over patient and research access, while, ensuring a patent system that will encourage development of new biotechnologies.

"It provides further evidence that the private members bills on patenting biological materials currently in the Parliament are redundant and fundamentally flawed – and should be abandoned."

The Institute of Patent and Trade Mark Attorneys in Australia (IPTA) also voiced approval for the Government's acceptance of many of the reports' recommendations.

"IPTA applauds the Government's response and we look forward to continuing to work with the members of the scientific and legal community going forward," said IPTA spokesperson Dr Tania Obranovich.

"The Government's recommendations are well placed and focus on ensuring the existence and application of patentability thresholds consistent with International standards, while simultaneously acknowledging the availability of safeguards already present in the Patents Act to control how a patent right is exercised and to thereby prevent abusive monopolistic behaviour," said Obranovich.

"Importantly, the Government recognises the importance of ensuring fair and reasonable access to patented medical technologies, both in terms of community access to affordable healthcare and access for research purposes," she said. "Crucially, the recommendations highlight the importance that these outcomes be pursued in a technology neutral manner, ensuring community access to all technologies. This focus reflects the Governments appreciation of the outcomes which are sought by

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