

### ACIP patent system report mirrors other views: AusBiotech

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**NATIONAL industry body AusBiotech has welcomed an Australian government independent Advisory Council on Intellectual Property report into what should be patented, arguing it supports the industry body's position that carving out genes or biologics as not-patentable material is not the way to go.**

On releasing the December 2010 final report yesterday, ACIP chairman Leon Allen acknowledged recent debate in Australia on the patenting of genes, computer software and business methods.

"Concern has been expressed that mere discoveries or abstract ideas are being patented, and that these patents are hampering access to important innovations and restricting the development of new products," he said in a statement.

Allen said ACIP's recommendations provided a framework to deal with those concerns.

Key recommendations were:

- codifying the established principles of patentability – so an invention must be an artificially created state of affairs in the field of economic endeavour;
- maintaining the current exclusion from patentability of human beings and biological processes for their generation – but not introducing any further specific exclusions; and
- introducing a general exclusion from patentability of inventions whose commercial exploitation would be wholly offensive to the Australian public

The body recommended changes designed to assist the Commissioner of Patents apply a test for patentability.

ACIP also recommended a statement of objectives be added to the Patents Act 1990.

Allen argued ACIP had listened to concerns from the community, businesses and other stakeholders and sought a balanced approach, to take their diverse views and interests into account.

AusBiotech chief executive Dr Anna Lavelle told *BTN* the industry body welcomed ACIP's report.

"The ACIP report supports the position that we have been taking, that carving out genes or biologics as not-patentable material is not the way to go."

Lavelle said that AusBiotech believed the ACIP report pointed to the fact that patient access ought to be facilitated by the pricing systems that the federal government has already – such as in the Health Department and



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Dr Anna Lavelle

Pharmaceutical Benefits Scheme – and not by the patent system.

“We are pleased and we welcome the ACIP report,” she said. “We think it is excellent timing as the submissions to the Senate committee are due by the 25th of this month.”

The report would help people, who are thinking about what to put into submissions, frame their thoughts around what ACIP has in fact laid out, she added.

Lavelle said it was worth noting ACIP’s report mirrored recommendations of a November Senate report.

“There is consistency there as well,” she said.

A copy of the February 16-released December report is available at the ACIP website, [acip.gov.au](http://acip.gov.au).

Comments on proposed changes to the patenting system are due this month.