



Committee Secretary
Senate Legal and Constitutional Committee
Parliament House
PO Box 6100
CANBERRA ACT 2600

Dear Sir/Madam

Subject: Inquiry into Patent Amendment (Human Genes and Biological materials) Bill 2010

I refer to the recent invitation to interested individuals and organisations to provide a submission to the above Inquiry.

I have canvassed the views of the Tasmanian Clinical Genetics Services in providing a submission to the Inquiry.

Patents by their very nature create monopolies and this has serious implications for health services in areas such as the cost and availability of health services, recruitment and retention of health professionals as well as evidence based health care. The recent experience in Australia with regard to the attempt by Genetic Technologies Ltd attempt to enforce exclusive licence claims for BRAC1 and BRAC2 illustrates the uncertainty and potential impact of enforcement of patent rights in this area.

These impacts can be significant in a small jurisdiction such as Tasmania which does not have the level of service capacity or the alternatives available to larger Australian jurisdictions or countries.

We are supportive of the need for legislative reform to ensure that the principle that biological material, by virtue of natural occurrence, is discoverable and are therefore not patentable, in contrast to inventions. We strongly support the intention of the Bill. In reviewing submissions provided to the Inquiry it is noted that there are arguments for and against the particular amendments proposed.

From a service provision perspective the symbolic message of legislative change in this area should not be understated. For example, the legal system, in considering complex matters, often relies on matters of principle in making decisions.

We therefore consider that the Inquiry, in considering all of the material available to it, should support amendments to the *Patents Act 1990* that ensure that human genetic material is not patentable.

Yours sincerely

David Roberts
Secretary

25 February 2011