



10 March 2009

The Secretary  
Senate Community Affairs Committee  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

Dear Secretary

### **Inquiry into Gene Patents**

I respond to the invitation to provide a submission on the impact of granting of patents in Australia over human and microbial genes and offer the following suggestions.

I am aware of the complex debate for and against patenting genetic material. Issues surrounding intellectual property and the capacity of the Australian patent system to regulate the rapid expansion of the science of sequencing the human genome are also contentious. I am, however, concerned about the need to retain an essential level of knowledge in the public domain.

#### **Impact of granting such patent monopolies on the provision and costs of healthcare, training and accreditation for healthcare professionals, medical research and the health of the Australian people**

- Limitations should be placed on licence fees to ensure that genetic testing does not become prohibitively expensive, but with an awareness that if no protection is available to the biotechnology industry, then research and development costs may not be recovered, hindering incentives for further investment.
- Industry should be able to recoup recoverable costs, plus a reasonable profit component.

**Measures that would ameliorate any adverse impacts arising from the granting of such patents, including whether the *Patents Act 1990* should be amended, in light of any matters identified by the inquiry**

- Despite Australia being a party to the *Agreement on Trade-Related Aspects of Intellectual Property Rights 1994* (TRIPS Agreement), consideration should be given to whether patents over human and microbial genes should be shorter than the conventional term of 20 years.
- Allow greater scope for challenging patent applications by society and public interest groups, or even a post-approval review of patent applications, along with an independent adjudicator to consider earlier release of the patent monopoly.

**Whether the *Patents Act 1990* should be amended to expressly prohibit the grant of patent monopolies over such materials**

- There should be provision for access and use of genetic material where it is in the public interest and for the welfare of individuals.
- An independent adjudicator could examine cases where the monopoly should be modified or relaxed.

I welcome this inquiry and look forward to your deliberated outcomes and recommendations.

Yours sincerely



Bob Such MP JP  
**Member for Fisher**