



# Association of Australian Medical Research Institutes

President: Professor Robert Graham AO, FAA, MD  
Victor Chang Cardiac Research Institute  
Lowy Packer Building  
405 Liverpool Street  
Darlinghurst NSW 2010  
Tel: (02) 9295 8602  
Fax: (02) 9295 8601  
[www.aamri.org](http://www.aamri.org)

25 October 2009

Senator Rachel Siewert  
Chair  
Senate Standing Committee on Community Affairs  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Australia

Dear Senator,

**Re: AAMRI submission to Senate Standing Committee on Community Affairs inquiry into gene patents.**

The Association of Australian Medical Research Institutes (AAMRI) represents 37 independent, not-for-profit medical research institutes across Australia. AAMRI members carry out some of Australia's most distinguished and world-renowned health and medical research and are closely affiliated with major research hospitals and universities. Many of our members are also involved in the commercialisation of research.

AAMRI has been following the progress of the Senate Community Affairs Committee inquiry into gene patents, however, due to the complexity of the issue, AAMRI members have responded as individual institutes to this inquiry so far.

AAMRI understood that the terms of reference for the inquiry originally revolved around the granting of patents in Australia over human and microbial genes and non-coding sequences, and the impact of this on our healthcare system. However, it has been brought to our attention that there has been a recommendation to restrict the *Patents Act 1990* to specifically exclude patents over all biological materials.

Specifically, Cancer Council Australia has recommended an amendment to the legislation to exclude the following:

Biological materials, including recombinant materials (including but not limited to their components, parts or derivatives, whether isolated or purified or not and regardless of their state and processes used in their production) which are identical or substantially identical, individually or collectively, to those that exist in nature.

Cancer Council Australia submission goes on to explain that their proposed amendment would exclude, "as a class, a patent monopoly over naturally occurring biological materials regardless of their actual physical state or their method of production. So long as the biological materials are identical or substantially identical to the naturally occurring biological materials they cannot be the subject of a patent monopoly, even if they are recombined."

Although this prohibition may have some intuitive appeal to the general public, this amendment would seriously damage the activities and reputation of the medical research and biotechnology sector in Australia.

Federal and state governments, as well as the public in the form of charitable donations, have spent billions of dollars in developing Australia's research sector so that it now has an international reputation for research excellence and productivity.

In return for substantial public and private support, one aim of medical research is to ensure that innovation is translated into products and services that can be used to save lives or improve health and wellbeing. Commercialisation is one of the best avenues of ensuring that research is rewarded and disseminated. As the proposed amendments would not be consistent with the patent practices of our major trading partners, Australia would be left with a weak patent system, which could damage our reputation and trade opportunities.

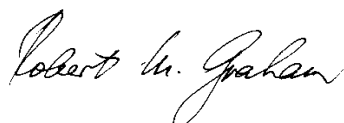
A consequence of the proposed amendment to the *Patents Act* would ensure that many of the best and brightest researchers would be attracted overseas, to countries with a stronger support and recognition of the commercial opportunities of health and medical research.

Many of our member institutes already hold patents which cover biological materials, including isolated genes. A Federal Government review estimated that in 2007, publicly-funded research organisations including universities and medical research institutes derived \$8.3 billion in revenue from licensed IP (this included IP associated with medical as well as other inventions).<sup>1</sup> For medical research institutes, a significant proportion of the income derived from the licensing of these innovations flows directly back to the institutes which fostered them, thus perpetuating a cycle of research and innovation.

In the worst case scenario, under the proposed amendments, medical therapies that are based on biological compounds may not be available in Australia for many years. Examples of such pharmaceutical products include herceptin, a monoclonal antibody used to treat breast cancer, and taxol, a therapy for cancer and some forms of heart disease that was originally derived from yew trees.

We ask that the Senate Committee considers the ramifications of amending the *Patents Act* on the health and medical research sector, that produces significant economic benefits in the form of increased health and wellbeing of our population, income derived from Australian research that is marketed internationally, and the employment of highly-skilled researchers. We believe further consultation with the health and medical research sector is necessary if the proposed amendment to the Patents Act is being seriously considered.

Yours faithfully



Robert M Graham AO, FAA, MD

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<sup>1</sup> Department of Innovation Industry Science and Research. National survey of research commercialisation 2005 - 2007. Canberra; 2009.