

Press Release

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South African Institute of Race Relations
The power of ideas

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Protecting patents protects patients and promotes prosperity

The Department of Trade and Industry (DTI) is busily pressing ahead with damaging changes to patent law, writes Jasson Urbach, a director of the Free Market Foundation, in the latest issue of *@Liberty*, the policy bulletin of the IRR.

These changes were first outlined in the DTI's Draft National Policy on Intellectual Property (the Draft Policy), published last year.

Says Urbach: "In this Draft Policy, the DTI has focused inordinate attention on patents over antiretroviral drugs and other medicines. Its proposals thus seek to make it more difficult to obtain patents over medicines. They also aim to make it much easier to 'break' them after they are granted, so that competitors can cheaply copy patented medicines and sell generic versions."

However, the proposals are not limited to the health sector or to foreign companies. Instead, they extend to inventions of every kind – and will bear most heavily on local innovators.

Adds Urbach: "If this law is enacted, it will be disastrous for all sectors that rely on technology and the robust protection of patent rights. Among the worst affected will be the pharmaceutical sector and the millions of patients needing innovative drugs.

"The Draft Policy's ill-founded focus on patents as a key barrier to good public health care also diverts attention from more pressing needs. Since most essential medicines are already off-patent, the Government's first priority should be to eliminate the barriers impeding access to these drugs.

"Prime among these obstacles is poor management in many public hospitals and clinics, where even such basics as adequate hygiene are frequently neglected."

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Proper protection for patent rights is also vital in stimulating international trade, encouraging foreign direct investment (FDI), and promoting rapid economic growth.

Notes Urbach: “To date, South Africa has a proud record in upholding patent rights – a record generally lacking elsewhere on the African continent. This has helped it to attract a high level of FDI and contributed to local industrialisation. It has also helped to give South Africans access some of the world’s most advanced goods and services, allowing all of us to become wealthier and healthier.

“Business decisions to invest in foreign countries are complex and take into account a wide variety of factors, from energy availability to the size of domestic markets. Robust and effective patent protection is thus not enough in itself to attract FDI – but a weak patent regime can act as a significant deterrent for innovative companies seeking returns on their investments.

“Moreover, in the vast majority of countries across the globe, standards of patent and IP are improving. Reducing patent protection in South Africa is a short-sighted and inappropriate strategy that will deter local innovation and further diminish the country’s attractiveness to direct investors.”

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