

Proposals to waive intellectual property rights for pandemic response products in the World Health Organization pandemic accord need Australia's support

IN REPLY: We thank Cueni and de Somer¹ for their interest in our article.² Equitable access to pandemic countermeasures is vital. What the world needs to ensure equity, however, is not privately held intellectual property (IP), but decentralised manufacturing underpinned by systematic technology transfer to manufacturers in low and middle-income countries.³

The speed of coronavirus disease 2019 (COVID-19) vaccine development was enabled by the mobilisation of extraordinary amounts of public funding, rather than private investment and IP.⁴ The risks and costs associated with product development were primarily borne by governments, not private companies or investors.⁴ Contrary to popular belief, underlying vaccine technologies also relied on decades of extensive public funding.⁵


Rather than contributing to equitable access, COVID-19 vaccine manufacturers prioritised sales to wealthy countries and made hundreds of millions of dollars in profit during the pandemic, while doing little to share their know-how and technology.⁶ The COVID-19 Technology Access Pool, which was established to encourage voluntary sharing, did not receive timely industry support, and the work of the mRNA vaccine technology transfer hub established in Africa has been slowed by companies' unwillingness to transfer technology.⁶

Although some companies pledged not to enforce COVID-19-related patents during the pandemic, the lack of enforceability mechanisms meant that companies could revoke or revise them at will, as the case of Moderna's pledge illustrates.⁷

Voluntary licensing is not a panacea. Voluntary licensing for COVID-19 vaccines occurred on far too small a scale to correct global inequities in access during the pandemic. The statistics speak for themselves.⁶

Although manufacturers have shown more willingness to enter voluntary licensing agreements for antivirals, relying on industry goodwill to deliver equitable outcomes is risky. Companies control the terms and are able to limit the scope of these agreements. Voluntary licenses negotiated by Pfizer and Merck Sharpe and Dohme with the Medicines Patent Pool for their COVID-19 antivirals, for example, excluded many upper-middle income countries.⁶

The failure of voluntary measures to deliver equitable outcomes during COVID-19 clearly demonstrates the need for effective IP waivers that can be activated during pandemics. Rather than undermining the global IP system, these would provide the type of limited exception to IP rights envisaged by its architects.

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