



Gowers Review of Intellectual Property
Zone 4/E1, HM Treasury
1 Horse Guard Road
London
SW1A 2HQ

Dear Sir

Gowers Review of Intellectual Property Response from the Crop Protection Association

The Crop Protection Association represents companies in the UK engaged in the manufacture, formulation and supply of crop protection products for use in agriculture, horticulture, forestry, home gardening, industrial and local authority outlets.

The crop protection industry is one of the world's most research-intensive sectors. The top 10 companies invested £1.3 billion (7.5% of sales) on research and development (R&D) in 2004 (Phillips McDougall). More than 300 new pesticide active ingredients have been introduced since 1980. The total time from first synthesis to first sale averages 9.1 years and only 1 in 140,000 molecules synthesised will make it to the market. The total cost per new product is £140 million (year 2000 figures).

Plant protection products are amongst the most thoroughly regulated chemicals in the world. Following research and development, new products have to be registered or approved prior to sale. The cost of preparing the registration application alone is about £8.4 million.

This level of investment is only possible if there is adequate intellectual property protection. This includes patents, trademarks and copyright as well as data protection.

Supplementary Protection Certificates

Supplementary Protection Certificates were introduced for plant protection products in recognition of the time taken for companies to bring new products to market. We believe that they are an effective means of overcoming the disincentive that results from patent term lost during the time taken to obtain regulatory approval. However we feel that it would be fairer if they fully compensated for the marketing time lost through regulatory requirements and would support an extension beyond the current maximum term of 5 years. Granting an SPC for the whole period between patent award and regulatory approval would be an equitable solution.

Parallel Imports

Plant protection products are brought into the UK under national parallel import arrangements. The rules are subject to frequent change in response to judgments in the UK and European Courts. Pharmaceutical rulings are read across to plant protection products even though there are significant differences between the two types of products and how they are regulated.

It would be far preferable for there to be a clear set of harmonised rules operating across the EU and specific to the plant protection industry. The proposed regulation to replace the authorisations Directive, 91/414/EEC, would be a suitable vehicle for this. This regulation will set out the strict rules that must be complied with before plant protection products can be sold in the EU. It is reasonable that parallel imports should be controlled to the same high standards in order to ensure the protection of consumer, user and environmental health.

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Coherence between competition policy and IP policy

Effective patent protection is clearly vital to the plant protection industry. We believe that patents should be granted if the normal requirements for patents are met; the motive of the applicant should not be used as an additional test.

Patents grant a monopoly whilst placing information in the public domain (which is therefore an incentive to further innovation) and our member companies will defend their patents in order to protect their investment in R&D.

Yours sincerely

A handwritten signature in cursive script that reads "Anne H. Buckenham". The signature is written in black ink and is positioned above a thin horizontal line.

Dr Anne H Buckenham
Director of Policy