

# Novartis ruling good news for ARV access

News of the Indian High Court's ruling against Swiss pharmaceutical giant, Novartis, this week, has been welcomed by AIDS activists in the developing world.

Novartis had challenged an Indian law that allows the country to refuse a patent for a medicine that is a modified version of an existing drug and not truly innovative.

According to Dr Marta Darder, of the South African office of international medical humanitarian organisation, Médecins Sans Frontières (MSF), patenting new versions of old drugs is a strategy used by the pharmaceutical industry to prolong monopolies that keep the prices of essential medicines out of reach of people in the developing world.

A ruling in favour of Novartis would have stifled competition among India's generic drug manufacturers, which have played a vital role in driving down the prices of antiretroviral (ARV) drugs over the last decade. "This is exceptional news for the future of access to affordable medicines in resource-constrained settings," said Darder.

India has become known as the 'pharmacy of the developing world' because of its huge generic drug manufacturing industry, which exports two-thirds of its production to developing countries at a fraction of the cost of patented medicines.

After being forced to comply with World Trade Organisation (WTO) rules governing patents in 2005, India designed its patent law to take advantage of safeguards provided in the WTO's Trade Related Aspects of Intellectual Property Rights (TRIPS), which allow intellectual property rights to be balanced against public health priorities.

"In many ways, India's patent law is very progressive," commented Jonathan Berger, a senior researcher at the AIDS Law Project, an organisation that fights for the rights of people living with HIV/AIDS in South Africa. "It is the only country that has taken advantage of flexibilities in TRIPS; the real question is, why haven't other countries done the same?"

The ruling will mean that a drug like the new version of the second-line ARV, Kaletra, which has been modified so that it no longer requires refrigeration, will still not be patentable in India and can therefore be produced in cheaper, generic forms and exported to other countries.

Indian Health Minister Anbumani Ramadoss, Archbishop Desmond Tutu, members of the European Parliament and the US Congress were among nearly 500,000 people worldwide who signed an MSF-led petition protesting Novartis' legal action and highlighting the negative impact it could have on access to essential medicines such as ARVs.

Berger hoped the landmark decision by India's High Court would help build a stronger case for other developing countries to act against patent barriers.

"The fact that India has been able to protect this [patent] provision under incredible pressure does provide some encouragement to other countries to use similar provisions, or else to amend their laws to take advantage of the flexibilities and safeguards under TRIPS.

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