

guest commentary

## Compulsory drug licensing disastrous

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Are drug patents preventing people in poor countries from gaining access to life-saving medicines?

Some public health advocates say so. And by allowing governments to break drug patents through “compulsory licenses,” they believe we can cure the ills of the world’s poorest.

Compulsory licenses grant third parties permission to produce, use, or sell a patented product prior to the patent’s expiration. But compulsory licenses won’t do much to alleviate the extreme poverty that is actually responsible for keeping drugs from poor people. Instead, such policies will have a disastrous effect on public health worldwide.

Consider Thailand’s experience with compulsory licensing.

Last year, the Thai government granted itself the right to produce copies of two HIV/AIDS anti-retrovirals and a popular heart-disease drug, all of which were patented.

Thai officials claimed that the patents were seized in order to fulfill their obligation to provide universal health care. But they were really just interested in bolstering ineffective

Thai producers and lining their supporters’ pockets.

For starters, they turned down dramatically discounted offers from the firms that manufactured the drugs. Then they rejected the chance to purchase generics certified by the World Health Organization (WHO) with money from the Global Fund, an international philanthropy. In effect, refusing free drugs.

Thai leaders instead tasked the Government Pharmaceutical Organization (GPO) with producing the medicines, even though it had already been censured by the WHO for producing harmful drugs in substandard facilities.

What was really going on? The Thai government wanted to establish the GPO as a drug manufacturer capable of competing on the world stage -- and enrich political supporters working there in the process. Unfortunately, the citizens of Thailand are stuck footing the bill for drugs that may be dangerous or even lethal.

Compulsory licensing doesn’t just hurt poor



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patients in the short run -- it hurts them in the long run as well.

Drug development is a fundamentally difficult and expensive process. New cures require years of research, and the invention of a new drug costs close to a billion dollars, on average. According to the Tufts University Center for the Study of Drug Development, only 3 of every 10 drugs earn enough to cover their research and development costs.

If governments of developing nations overrun patents, it's a virtual certainty that pharmaceutical manufacturers will pull out of the marketplace and scale back production. Faced with the risk of having their investments stolen, firms will divert their resources away from neglected diseases, and instead concentrate on drugs for larger markets. So the diseases that uniquely plague the developing world — like Dengue Fever, Chagas Disease, and Trypanosomiasis — will disappear from the research agenda.

What's more, patents aren't blocking drugs from reaching patients in the developing world. Virtually none of the drugs on the World Health Organization's essential drug list are on patent. And of those that are, few patents are enforced.

The real barrier to accessing medicine is extreme poverty. Half the world's population lives on less than \$2 per day. They can't afford drugs no matter how cheap they are.

And then there's the problem of infrastructure. Even if drugs were suddenly free, few governments in developing nations are capable of delivering medicine to their citizens.

Look at Coartem, the world's most effective anti-malarial drug. In 2001, drug maker Novartis signed a contract with the WHO to provide the drug at production cost to patients in Africa.

But many of these drugs became unusable after sitting in hot, ramshackle storage facilities for months on end. Few hospitals had the staff or financial ability to distribute the drugs. And many of the Africans most in need of treatment were in rural areas, without any means of transportation.

Novartis, facing enormous losses, was left with little choice but ask for guaranteed orders of the drug. And the manufacturer even had to shut down a production facility.

It's hard to see how revoking patents will solve the fundamental problems facing developing nations.

Compulsory licensing may deliver more affordable drugs today, but it undermines public health and all but ensures that the drugs of the future will exclusively treat the maladies of industrialized nations. Public

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health advocates must explore alternatives that get people access to drugs without jeopardizing pharmaceutical innovation.

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