

MPs set to tackle vital patent legislation on medicines

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THE Department of Trade and Industry has confirmed that the changed policy on medicinal patents would be tabled in Cabinet in April.

This would allow Parliament to start drafting a new bill on patents after the May 7 national elections.

It is expected that the proposed law would be strongly opposed by the pharmaceutical industry.

Health Minister Aaron Motsoaledi launched a blistering attack on pharmaceutical companies last month and accused them of "genocide" for planning to block the legislation.

Motsoaledi's spokesperson Joe Maila said the Department of Trade and Industry was working on changes to the patent policy to be submitted to the Cabinet.

"It is not about health, it is about every aspect of our lives," Maila said.

Chief director for policy and legislation in the Department of Trade and Industry McDonald Netshitenzhe said they would soon meet all departments

that would be affected by changes to the legislation.

He applauded Motsoaledi for speaking out strongly against plans by multinational pharmaceutical companies to lobby against the intellectual property (IP) legislation.

"A lot of patents in South Africa are in the hands of foreign companies," Netshitenzhe said.

"When we deal with pharmaceuticals, these companies are afraid that if they allow South Africa to take the lead other developing countries will follow suit. South Africa has a lot of influence internationally," he said.

"We would like to have cheap medicines to be able to compete in the world," he said.

The Department of Trade and Industry will meet with the departments of Defence, Communications, Health, Arts and Culture, Science and technology and Agriculture, Forestry and Fisheries, all affected by the patent issue.

Netshitenzhe said a lot of South African trademarks were stolen by foreign companies.

"It is the policy of the government

now. The new administration will go for amendments to the legislation," he said.

The generic drug manufacturers in South Africa echoed the concerns of high intellectual property protection.

"South Africa's current drug patent laws give branded pharmaceutical companies longer effective patent protection and monopoly over the industry" CEO of PharmaDynamics, Paul Anley said.

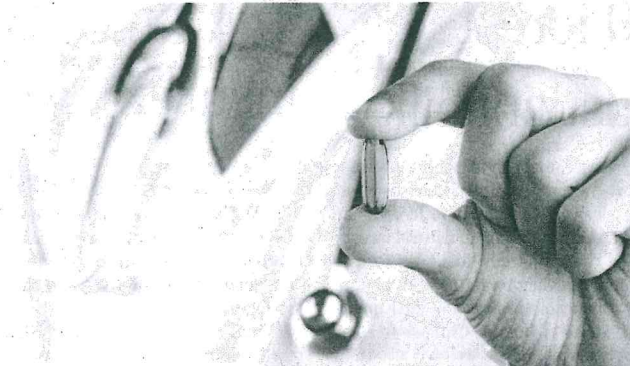
The company is a South African generic medicine manufacturer.

"This ultimately delays the entry of

generic medication onto the market, forcing consumers to pay higher prices for originator medicine in the absence of generics. The average price of generics is less than half those of originators. This effectively delays public access to cheaper generic medicine," he said.

Anley said South African drug prices were considerably higher than in India and that the proposed South African patent policy document was far more conservative than patent law in India.

However, an industry body, the Inno-



novative Pharmaceutical Association of South Africa (Ipasa), has hit back.

Spokesperson Val Beaumont said: "You cannot compare the intellectual property environment in South Africa directly with that of India.

"The patent law is multi-faceted and one must compare like with like and generalisations are misleading. The IP law in India is new as India has only recently introduced legislation to become compliant with the Agreement on Trade-Related Aspects of Intellectual Property Rights," Beaumont said.

The Indian Patent Act was enacted in 2005. As per the data available at the Indian Patent office, it has rejected 25% of the patent applications since 2011. In comparison to this the South African counterpart has not refused a single patent during the same period.

Beaumont said medicine prices in South Africa were controlled by the Medicines Act. Ipasa is an integrated association of originator drug companies in South Africa including Bayer Healthcare, Merck, Pfizer and Bristol-Myers Squibb.

"The controls were implemented in

2004 and at that time the price of medicines came down on average 21%."

Beaumont said since 2004 the increases in medicine prices, which were also controlled by the Minister of Health, remained below that of inflation.

"Medicines account now for 17.7% of the healthcare rand - a very significant drop from what it used to be," she said.

She said that South African medicine prices in the public sector were low when compared globally and private sector prices were transparent and also controlled by the government through legislation.

Beaumont said to advance public health goals through IP, the answer was not to diminish the protection granted to IP holders but in a careful balancing of rights between public health needs and the need to develop a knowledge economy.

"As in the Agreement on Trade-Related Aspects of Intellectual Property Rights, one cannot consider public health in isolation as this will affect all spheres of IP and is unacceptable."

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