



Mr Shri V Bhaskar,  
Joint Secretary,  
Department of Industrial Policy and Promotion  
(DIPP),  
Ministry of Commerce and Industry,  
Government of India  
Udyog Bhawan, Rafi Marg,  
New Delhi 110 001.

30 September 2010

Dear Sir,

BUSINESSEUROPE has taken note of the recent discussion paper issued by the government of India on compulsory licensing and the opportunity to provide comments.

Taking into account the possibility aired in the discussion paper of extending compulsory licensing to any industry sector other than the pharmaceutical sector with potential far-reaching implications, BUSINESSEUROPE would like to provide some general comments on compulsory licensing.

Intellectual property rights such as patents spur innovation by providing incentives to inventors and to those who invest in research and development, and facilitate the dissemination of technology through licensing transactions. In addition, the requirement to disclose the invention enables others to study and improve the patented technology. The dissemination of technology through licensing transactions and patent disclosure ultimately benefits developing countries that may lack the resources to invest in cutting-edge research.

The general mood of the paper is that extensive and systematic compulsory licensing with the aim of reducing prices of patented products is in the public interest. In BUSINESSEUROPE's view, such an objective goes against the purpose of compulsory licensing. The grant of a compulsory licence to a party who has not contributed to the process of innovation for the purpose of reducing prices or to stimulate local production will reduce incentives for foreign direct investment, for non-Indian companies to partner with local companies and also for local companies to innovate.

These consequences could be significant for a country such as India which has strong potential for further economic growth and an innovation boost.

BUSINESSEUROPE believes that any use of compulsory licensing must meet the carefully balanced requirements of the Agreement on Trade-Related Aspects of



Intellectual Property (TRIPs) that sets specific conditions and should only be contemplated in extraordinary circumstances. In addition, the Paris Convention (Article 5A(2)) mentions compulsory licenses as a means to address abuses of the patent, not for any other purposes.

We thank you for the possibility to provide our views on compulsory licensing and we hope to continue engaging in a constructive dialogue with you on this important issue for companies.

Yours sincerely,

Jérôme P. Chauvin  
Director  
Legal Affairs Department  
Internal Market Department