

Govt may use compulsory licensing for drug companies only in emergency

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NEW DELHI: Global drug companies that under attack from Indian generic companies and healthcare groups on compulsory licensing (CL) issue can breathe easy.

The government will not invoke CL unless the country is faced with an epidemic-like situation. It feels that the recent applications for CL may not be able to convince the government to take the extreme step. Hyderabad-based Natco Pharma has recently applied for CL to export generic versions of two cancer drugs –Roche’s Tarceva and Pfizer’s Sutent—to Nepal.

“We are not in favour of CL unless there is an extraordinary problem. There is no point in going in for CL unless there is an epidemic which impacts a large chunk of the population, and needs immediate solution, ” a senior official of DIPP (Department of Industrial Policy and Promotion), the nodal government department which oversees patent offices in India told ET.

On being asked if a disease like cancer may qualify under CL, he said, “It may not.” In addition to Natco Pharma, an NGO Cancer Patient’s Aid Association (CPAA) with the support of Indian and global NGOs is planning to demand CL for about 20 cancer drugs. CPPA say that the cost of patented cancer drugs are highly expensive and deny access to treatment to thousands of cancer patients in the country.

Once a drug gets patent, the government provides the innovator company with exclusive marketing rights of the drug for 20 years from the date of grant of the patent. However, under the product patent laws in India and other countries, the government can invoke CL to enable non-patent drug makers to manufacture and sell patented drugs in national or public interest. The government is of the view that the provision in the law for CL is there to deal with extraordinary situations and safeguard national interest.

“Research-based companies invest millions of dollars and several years of research to develop new products and secure their patent. We respect genuine research and can’t infringe upon any company’s patent rights without much reason, ” the official added. The government’s thinking seems to be in sync with the views of research-based drug companies.

Organisation of pharmaceutical manufacturers and producers (OPPI) (which represents research based companies in India) VP Tapan Ray said, “CL is a provision in the patent law which the government can use to meet the demand in unusual circumstances like epidemic for a limited period. CL should not be invoked for anything else. If it is invoked for any other reason, the whole sanctity of patent gets lost.”

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