

## **Protection of public funded intellectual property bill to be made more transparent**

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The Ministry of Science and Technology will bring in changes to the 'Protection and Utilisation of Public Funded Intellectual Property Bill, 2008' to make the process of patenting and commercialisation of inventions from public funded projects more flexible and transparent in line with the suggestions from the experts.

The Ministry will also accommodate the recommendations made by the Parliamentary standing committee on science and technology which has called for a more balanced approach in the attempt to set up a legal framework for the intellectual properties developed through public funded projects.

“The Committee feels that this bill is likely to shape the direction and set the destination of research and innovation in the country, but the government must give due thoughts on this issue and weigh all the pros and cons before taking a final decision. The Committee is of the opinion that while formulating a policy for promoting utilization of inventions arising out of public funded research, the Government must strive to strike a fine balance between social sector and market driven model so as to serve public interest in the best possible way,” according to the report of the panel.

One of the criticisms levelled against the bill was its move to make compulsory for all scientists to apply for patent for any innovation developed through public funded projects. The Department of Biotechnology sources revealed that the clause will be made more flexible to allow the patenting on case-to-case basis as the scientists would know better when and for what the patent should be applied for. The DBT also will make changes in the penal provisions, which many felt, are harsh as per the pending bill. The Bill had been presented in the Rajya Sabha.

“The Committee feels that the objective of the Bill is how to utilize the public funded money to maximize the benefit for the nation. Intellectual Property creation is an important component. In doing so, one needs to create wealth, to create public good. Non-exclusive licensing benefits the public but the revenue earning is low. Exclusive licensing increases the revenue earning but the private good is higher than the public good. So it needs to be judiciously decided as to when one should prefer public good and when one should opt for private good. So if there is a case for licensing a drug where customer in our country is quite less, we can go for private good because it will take global market and hence this Intellectual Property should be exclusively licensed. But if we have to license a drug for say Malaria or Tuberculosis which afflicts larger populace of our country, we should go for non-exclusive licensing,” according to the Parliamentary panel.

“The Committee feels that there cannot be any uniform policy for licensing as it needs a sort of strategy. The Committee is of the opinion that the overall welfare of the society should take precedence over mere commercial interests to decide whether exclusive or non-exclusive license needs to be granted. Therefore, grant of exclusive or non-exclusive license should be decided on case-to-case basis depending upon its merit and keeping in view the interests of the poor people so as to ensure that the benefits of the public-funded research percolate down to the lowest strata of the society. To avoid misuse of the exclusivity of the license, a provision for reviewing the operation of license at regular intervals should be provided for in the Bill,” the report said.