

Ensuring Access: New Approaches to IP

While tensions surrounding intellectual property (IP) protections are still perceived as a key barrier for industry engagement in global health, according to a panel of experts that included representatives from industry and not-for-profits groups, IP is no longer a major impediment to providing life saving medical innovations to developing countries.

“We don’t view IP as a barrier to access,” said Mark Feinberg, vice president of policy, public health and medical affairs for Merck Vaccines and Infectious Diseases. He said, while IP is “clearly a foundation that enables innovation,” there are now multiple ways for companies to protect their interests and still make products more widely available – through non-exclusive licenses, tiered-pricing programs and other arrangements.

He cautioned, however, that IP issues are neither simple nor trivial. “But there are solutions,” he said, and what we need most is for people to develop a common vision or goal at the outset of a licensing deal or collaboration.

Erik Iverson, associate general counsel for the Bill & Melinda Gates Foundation, said IP does not even “rank near the top of the list” when it comes to impediments to increasing the development and distribution of medical interventions in poor countries. He said IP issues usually can be addressed in the course of routine negotiations and are just one element of the bigger challenge, which is how to provide the developing world with “sustainable access.”

According to Zeda Rosenberg, president and CEO of the non-profit International Partnership for Microbicides (IPM), IP challenges “pale in comparison” to developing a successful product that women in developing countries can use to prevent HIV transmission.

Rosenberg, whose organization is involved in several product development partnerships with industry, said negotiations over IP protections have been successful, in part, because IPM is sharply focused on securing distribution rights for poor countries, not the U.S. and Europe. As a general practice, IPM tries to structure all of its deals as non-exclusive licenses. “We say those conversations [about distributing a successful product in developed countries] can happen later”, she said, as long as an agreement is in place for developing countries.

Feinberg agreed that negotiations are easier when the “goal is serving the needs of the poorest countries” and there is not a concern that the partner could end up being a competitor in developed country markets.

Clifford Samuel, senior director of international access operations at Gilead Sciences said, on a scale of one to ten, IP issues rank about five when it comes to global health challenges. Resolving IP conflicts “generally takes getting into a room and understanding where we stand versus what others in the room are looking for.” The more “daunting” concerns, according to Samuel, involve logistical issues, infrastructure problems and regulatory hurdles.

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