

**STATEMENT CONCERNING
THE INTELLECTUAL PROPERTY POLICY
OF THE *INNOVATIVE MEDICINES* JOINT TECHNOLOGY INITIATIVE**

The Presidents and senior management of leading European Research and Technology Organisations, meeting as the EARTO-EUROTECH Special Interest Group in Dresden on 7th April 2008, have taken note of the Intellectual Property Policy developed by the *Innovative Medicines Initiatives (IMI)* Joint Technology Initiative and endorse in their great majority the present statement.

The Intellectual Property Policy, and other dispositions, developed by IMI give rise to serious concerns of substance and of principle.

Major **concerns of substance**, among others, are:

- Access rights to foreground and background may be available not only to downstream affiliates (*cf* FP7) but also to parent companies and other upstream entities.
- Access rights may be available to affiliates (both downstream and upstream) worldwide (and not restricted to affiliates in the EU or Associated Countries – *cf* FP7).
- An unusually extensive definition of "Research Use" is employed in relation to access rights, which presages significant pressure on research organisations to grant royalty-free access to foreground and background.
- Provision is made for access to side-ground (*cf* FP7 compared with FP6).
- IMI apparently intends that SMEs and research organisations shall be required to submit Expressions of Interest, to be examined by a Review Panel together with pharmaceutical companies, but with no explicit arrangements for pre-proposal agreements to protect the ideas thus revealed to the Review Panel and pharmaceutical companies.

Key **concerns of principle** are:

- Council Regulation 73/2007 establishing IMI stipulates that IMI shall "*adopt distinct rules governing the protection, use and dissemination of research results based on the principles of Regulation EC 1906/2006*" (i.e. the FP7 Rules for Participation). The IPR policy adopted by IMI would appear not to fulfil this requirement in several important respects.
- In any event, FP7 funds are to be deployed to co-fund IMI research projects, but under IPR rules that are substantially different to the FP7 rules applying when the European Council and European Parliament agreed to the establishment of the IMI Joint Technology Initiative; it would seem material that the IPR policy developed by IMI was not in the public domain when Council and Parliament agreed to the establishment of IMI.

We note further that the IMI policy does not appear compatible with the *Responsible Partnering* principles endorsed by the European Commission, nor with the provisions of the draft *IP Charter* currently under consultation.

RECOMMENDATIONS

There is an urgent need to reconsider the IPR policy and other dispositions developed by IMI before the intended first IMI Call for Proposals in April 2008. EARTO high-level IPR experts will be pleased to assist in this process.

It would appear advisable that the European Commission examines carefully the conformity with the applicable legal dispositions of the intended use by IMI of FP7 funds.

It should be verified whether similar considerations hold for other existing or emerging Joint Technology Initiatives and, if so, appropriate action should be taken.

THE EARTO-EUROTECH SPECIAL INTEREST GROUP

The EARTO-EUROTECH Special Interest Group comprises the Chief Executive Officers and senior management of leading European Research and Technology Organisations.

Members of the EARTO-EUROTECH Special Interest Group include:

- ARCS (Austria)
- CEA (France)
- DGA (France)
- DTI (Denmark)
- FOI (Sweden)
- Fraunhofer Gesellschaft (Germany)
- IABG (Germany)
- QinetiQ (United Kingdom)
- SINTEF (Norway)
- Tecnalia (Spain)
- TNO (Netherlands)
- VTT (Finland)