

# Open Letter to the Pharmaceutical Manufacturers

By *moderator*

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*TAC - HIV & AIDS Treatment Action Campaign*

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*22 September 1999*

## **OPEN LETTER TO THE PHARMACEUTICAL MANUFACTURERS. ASSOCIATION OF SOUTH AFRICA: JOIN THE PARTNERSHIP AGAINST AIDS**

ATT: MS MIRRYENA DEEB, CHIEF EXECUTIVE OFFICER

Dear Ms Deeb,

Today's demonstrations are supported by major organisations of civil society in South Africa including South African National NGO coalition, the Congress of South African Trade Unions, religious bodies, the AIDS Consortium and organisations of people living with HIV and AIDS.

The aim of the demonstrations is to highlight the positive role that could be played by the pharmaceutical industry in helping to make treatment affordable for people with HIV, and assisting the transformation and improvement of the public health service.

In this context there are several issues we wish to raise with the PMA.

### **1. ACCESS TO ESSENTIAL MEDICINES**

In 1997 the Public Protector reported:

"pharmaceutical profits are substantial in this country; the cost and price of pharmaceuticals is high; and of the premium rand available for healthcare the amount spent on medicines is nearly double to triple that of other major countries".

These general comments are still true. However, the consequences of the high price of medicines are being made worse by the HIV and AIDS epidemic which is preparing an unprecedented health crisis in South Africa.

3,5 million people are already infected with HIV and it is estimated that 150 000 people die of AIDS related illnesses every year.

However, most of the drugs that are essential for prevention, treatment and palliative care of HIV and AIDS related illnesses are very expensive. This means that most people with HIV /AIDS die prematurely, without access to treatment and often without dignity. In recent weeks, for example, Chris Hani Baragwanath hospital has had to stop providing

Gancyclovir to people with AIDS.

This is a terrible human tragedy.

However, what is particularly tragic and obscene is that it is not caused by the absence of effective drugs. It is happening in the presence of drugs which are registered in South Africa which have been proven to prevent and alleviate some AIDS related illnesses and even to delay death. But these drugs are priced beyond the reach of the majority of people who need them.

Some of the patented drugs that, we believe, could alleviate this suffering, but which are too expensive for the State to make widely available are:

- Fluconazole,
- Gancyclovir,
- Aciclovir and
- AZT.

We are also concerned that AIDS is creating new inequalities in South Africa. For many common and preventable illnesses essential medicines are only available in the private health sector which accounts for approximately 75% of national expenditure on medicines. However, it provides health care for only 20% of the population.

The uncontrolled price of medicines is making even private health care unaffordable and is increasing the numbers of people who are dependent on the public sector.

It is also driving up the price of drugs sold to the public sector further decreasing the likelihood of making many essential medicines widely available.

Therefore, we believe, that there is a moral responsibility on the pharmaceutical manufacturers represented by the PMA to take extraordinary measures that will assist the government in South Africa and other developing countries to prevent HIV infection and to treat and care for people living with HIV/AIDS.

We call on the PMA:

- To announce the sale of AZT to the government at R180.00 per one month course for a pregnant woman or rape survivor. This demand is reasonable in view of the fact that AZT is available at a price lower than our demand on the international market.
- To unconditionally lower the price of essential drugs, for example Fluconazole and Gancyclovir.
- To publish the real production costs and legitimate research and development costs of: diagnostics; anti-retroviral drugs; and essential prophylactic medicines and treatments;

## **2. PATENT RIGHTS?**

The PMA's legal action against the Medicines and Related Substances Control Amendment Act (1997) is an unreasonable attempt to delay and deny South Africans access to affordable treatment and care.

The consequence of this action is that drugs and technologies that could prevent new HIV infections and alleviate the suffering of people with AIDS cannot be purchased by the public sector on an open and competitive market.

It seems that the only rationale for your members' actions is:

- to defend patent "rights" and
- to sustain the excessive profits that many PMA members derive from the high price of medicines.

The TAC is not opposed to patent or intellectual property rights. But we demand flexibility when patents lead to monopolies that prevent essential drugs from reaching the market -- keeping essential medicines beyond the reach of people for whom they are a matter of life and death.

We are not alone in holding these views.

- Dr Peter Piot the Executive Director of UNAIDS, described the health gap between rich and poor countries as "morally reprehensible." Piot acknowledged that "mechanisms such as compulsory licensing, transfer of technology, parallel import of drugs and joint procurement by several countries should be investigated."
- The United States government has now also accepted that the AIDS crisis in South Africa is a legitimate reason for the government to take steps that may make it possible to purchase essential drugs.

TAC therefore calls on the PMA to:

- Unconditionally withdraw your legal action against the government;
- Publicly support the government's right to use compulsory licensing and parallel importing in a manner that is compliant with the WTO TRIPS agreements and the Revised Drug Strategy of the World Health Assembly;
- Publicly support the principle that generic substitution of patented medicines is a legitimate and internationally practiced measure to bring down the costs of medicines.

### **3. HEALTH SERVICE TRANSFORMATION**

The TAC supports the government's National Drug Policy (NDP) which aims to improve access to health care and medicines for all.

We recognise that price is not the only impediment to the delivery of essential drugs. However, significant reductions in drug prices would allow a greater part of the health budget to be spent on improving the public health infrastructure and allow a better delivery of services.

HIV and AIDS will create escalating demands and costs for the health service. In the absence of access to effective medicines more people will develop costly opportunistic infections be hospitalised and than necessary. The public sector will also still have to carry the costs of providing inefficient and ineffective medicines to people with AIDS. The diversion of scarce resources to care for people with HIV, will very rapidly impact on other areas of public health and the on the overall quality of medicine and care in South Africa. This will divert money away from key aspects of health service transformation such as equipping primary health care clinics, training nurses and doctors and improving access to HIV testing and counselling.

You have the means to contribute to preventing this.

We therefore ask you to respond concretely and urgently to these issues and to set a date to meet with the TAC and Department of Health representatives to try and find a solution to these problems.

Yours sincerely,

Mazibuko Jara

National Chairperson

Treatment Action Campaign

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