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cc:

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Dear High Commissioner Zeid Ra'ad Al Hussein,

ACCESS TO MEDICINES IS A BASIC HUMAN RIGHT

We are writing to you from the Tobeka Daki Campaign for Access to Trastuzumab in South Africa on the occasion of International Women's Day to highlight the gross injustice faced by women across the globe in many low and middle income countries who cannot access lifesaving cancer treatments due to the exorbitant pricing of the pharmaceutical industry.

The Tobeka Daki Campaign launched a month ago on 7th February 2017. The campaign is in loving memory of a fearless activist who led the struggle to ensure access to breast cancer treatment for women in South Africa. Despite being prescribed trastuzumab, a WHO essential medicine for the treatment of HER2+ breast cancer, Tobeka was never able to access the treatment due to its high cost. In South Africa, the annual price charged by Swiss multinational company Roche in the private sector is around US\$ 38,365. The few public facilities which can access trastuzumab do so at a lower price of around US\$ 15,735 per year. But, health economists have shown that a year's worth of trastuzumab can be produced and sold for only US\$ 240, a price that includes a 50% increase above the cost of production for profit.

Roche maintains its high prices and unconscionable profits in every way possible. Roche holds multiple evergreened patents on trastuzumab in many countries across the world, including South Africa where their patents could block biosimilars from entering the market until 2033. In countries where patents have expired or do not exist, Roche is using long, complicated litigation to block potentially more affordable biosimilar versions from coming to market. In Brazil and Argentina, Roche is one of the pharmaceutical companies litigating against those governments for their attempts to use TRIPS flexibilities i.e. legal international safeguards to protect public health.

In 2015, Roche made US\$ 8.9-billion profit while CEO Severin Schwan earned US\$ 12-million. It is highly plausible that Roche could cut the price of trastuzumab dramatically and still be very profitable. Instead, Roche attempts to distract critics with proposals for differential pricing that still keep the drug unaffordable; pat themselves on the back for patient assistance programmes that reach a fraction of the women in need; and, most of all, consistently pass on the blame to governments - whom Roche demands should spend limited resources to

ensure their limitless profits. These high profits are not benefiting women, rather women are denied treatment and sent home to die.

Tobeka died in Mdantsane, South Africa, in November 2016 within three years of her diagnosis. On this day, there are many more women in the developing world diagnosed with HER2+ breast cancer and more women that would never have access to this lifesaving drug due to greed.

We know that the tragedy faced by Tobeka and her family, and by women across the world unable to access this medicine because of pricing is just one example of a gross human rights violation.

We therefore welcome the initiative of the UN Human Rights Council to convene a panel discussion on the basic human right to access medicines, and your resolution last year to work on this critical issue. We also applaud the South African government for co-sponsoring the resolution; we call on them to immediately fix South Africa's patent laws to include and use TRIPS flexibilities and to exercise every power they have to bring down the prices of cancer medicines and provide these to all who need them.

In the words of Nelson Mandela, South African freedom fighter, Nobel Peace Laureate and human rights activist, "*Where you live should not determine the outcome of your treatment*".

We ask you: make this the mission of the Human Rights Council to ensure that women across the globe can access the medicines and other health technologies they need and that their right to life and health is not held to ransom by the greed and monopolies of the pharmaceutical industry.

Yours sincerely

The Tobeka Daki Campaign for Access to Trastuzumab
#ForTobeka

*The **Tobeka Daki Campaign for Access to Trastuzumab** is lead by the **Fix the Patent Laws Campaign** in South Africa. It is a joint coalition of 31 organisations, including: Advocates for Breast Cancer, AmaBele Belles' Project Flamingo, Breast Course 4 Nurses, Breast Health Foundation, Can-Sir, Cancer Association of South Africa (CANSAs), Cape Mental Health (CMH), Childhood Cancer Foundation of South Africa (CHOC), DiabetesSA, Doctors without Borders (MSF), EpilepsySA, Hospice Palliative Care Association (HPCA), Igazi Foundation, Look Good Feel Better, Marie Stopes South Africa, National Council Against Smoking, Oncology Nursing Association of SA, Pancreatic Cancer Network of SA, People Living With Cancer (PLWC), Pink Trees, Reach for Recovery, Schizophrenia and Bipolar Disorders Alliance (SABDA), SECTION27, South African Depression and Anxiety Group (SADAG), South African Federation of Mental Health (SAFMH), South African Non-Communicable Diseases Alliance (SANCD Alliance), Stop Stock Outs Project (SSP), The Sunflower Fund, Treatment Action Campaign (TAC), Vrede Foundation, and Wings of Hope.*

www.fixthepatentlaws.org