AusBiotech
AUSTRALIA'S BIOTECHNOLOGY ORGANISATION

AusBiotech response to the Competition Policy Review

To: Competition Policy Review
C/- The Treasury
Email: contact@competitionpolicyreview.gov.au
Online submission via http://competitionpolicyreview.gov.au/submissions

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From: AusBiotech Ltd
ABN 87 006 509 726
Level 4, 627 Chapel St
South Yarra VIC 3141
Telephone: +61 3 9828 1400
Website: www.ausbiotech.org

Introduction

AusBiotech is a well-connected network of over 3,000 members in the life sciences industry, including bio-therapeutics, medical technology (devices and diagnostics), food technology and agricultural biotechnology sectors.

AusBiotech is pleased to submit the following comments to this review to identify factors impacting on competition in Australia, based on submissions and comments from AusBiotech members.

This submission does not address issues raised in the Issues Paper (April 2014), but rather raises concerns over the ability for Australian businesses to compete internationally, against the tax incentive regimes established and being introduced in other countries. It also outlines the case for a new tax incentive for Australia that builds on the R&D Tax Incentive and will provide the opportunity for Australia to compete with major trading partners for intellectual property (IP)-based businesses to bring their IP management operations, manufacturing, and the associated spillover benefits (jobs, exports, etc.) to Australia.

Research and Development (R&D) Tax Incentive

Recognising the importance of innovation to Australia's future, policy makers have already taken one important step by implementing the R&D Tax Incentive. This Incentive is an effective tool in promoting investment in research and encouraging collaboration between business and research centres in the development of new and improved products for Australians.

The R&D Tax Incentive has also had the effect of attracting international businesses to base operations here and in some cases move their operations to Australia. For example, in late 2013 Innate Immunotherapeutics moved from New Zealand to Sydney and has since listed on the ASX, as a result of the R&D Tax Incentive.

The benefits of an R&D Tax Incentive are widely recognised in Australia as it has encouraged more R&D and the associated spillover benefits. The importance of being internationally competitive is also recognised globally, with 30 countries now offering R&D tax incentives. In this regard Australia is internationally competitive.

Other tax incentives

Countries all around the world are competing for investment in R&D and manufacturing, and most of them offer substantial incentives to attract the attention of global decision-makers.

Preferential tax treatments are being offered by many countries and Australia could more effectively compete for investment by reducing the corporate tax rate under defined circumstances that would encourage not only the development of new IP but also enable associated high-tech manufacturing to take place in Australia.

In one example, ten countries now have a 'patent box'-style incentive that allows a lower tax rate on profits from IP. The Patent Box was recently implemented in the UK, providing a 10% tax rate on qualifying profit from patents, in contrast to the normal corporate tax rate of 23%. The UK Government analysis indicates that the incentive has already led to significant benefits.

For example, GlaxoSmithKline, one of the world's largest pharmaceutical companies, is centralising its pharmaceutical IP in the UK as a result of the Patent Box, and has announced $800 million in new investment in the UK, including the first manufacturing plant to be built by GSK in the UK in almost 40 years.

In other examples, Singapore and Ireland offer compelling examples of other types of tax incentives that governments can offer to attract investment. Singapore offers an exemption from corporate income tax for up to 10 years in return for investment in new R&D or manufacturing facilities; a 13% tax rate for up to 10 years for companies investing in existing manufacturing facilities; tax incentives for R&D investment; long-term loans for small and medium sized enterprises; concessionary tax rates for companies that relocate their headquarters to Singapore; and tax exemptions from qualifying income from overseas investments and projects.

These and other incentives have ensured Singapore's place among the world's leading locations for investment in manufacturing and R&D by the biopharmaceutical industry. In the last ten years alone, Singapore has attracted over $50 billion in direct foreign investment in this sector. Such incentives allow countries like Singapore to successfully attract major foreign direct investment in high technology industries like pharmaceuticals, biotech and other innovative industries.

Singapore has coupled these incentives with an aggressive approach to courting foreign direct investment through its Economic Development Board (EDB). Over the years, EDB has had a deliberate strategy of proactively approaching multinational corporations and selling the benefits of investing in Singapore to the boards of these companies.[1]

Ireland offers similar incentives. For example, a flat corporate income tax rate of 12.5% is a major incentive for biotechnology and pharmaceutical companies. Additionally, they pay no income tax at all on earnings from IP where the underlying R&D is conducted in Ireland.

These and other incentives have allowed Ireland to become a major European, and indeed a global, hub for biopharmaceutical R&D and manufacturing. Currently, the biopharmaceutical industry in Ireland exports over $30 billion worth of medicines and vaccines every year, and manufactures 12 out of 25 of the world's top selling drugs. Usefully from a government perceptive, the biopharmaceutical industry has also become Ireland's largest payer of corporate tax. Such incentives have actually generated additional tax revenue for their governments by attracting additional tax-paying economic activity.

[1] AusBiotech member company AbbVie, recently announced that it will invest $320 million in a new manufacturing facility in Singapore. Dozens of other earlier examples where Singapore secured new investments from large biotechnology and pharmaceutical companies also exist. In the late 1990s, Pfizer considered new investment in Australia and Singapore. The decision to locate the plant in Singapore rather than Australia was made in 1999 and the plant commenced production in Singapore in 2004. This decision was based almost entirely on the basis of comparative incentives.

A patent box incentive a competitive necessity for Australia

Australia would benefit enormously from a well-targeted tax incentive to attract and retain R&D once it reaches commercialisation, its benefits, and the associated high-tech manufacturing, across all innovative industries.

It is imperative that Australia takes action to remain competitive and relevant on the world stage, especially, when economies such as the UK, France, Switzerland and China are already reaping the benefits of their tax regimes. If we are to maximise Australian innovation and reinvigorate the manufacturing sector in Australia, it is vital that the existing R&D Tax Incentive be complemented with a commercialisation tax regime that can secure Australia's competitiveness for the future.

As R&D and patent box incentives becomes more common place around the world, a number of governments have demonstrated that to stay ahead, it is necessary to offer competing environments.

AusBiotech is advocating for tax reform that introduces end-to-end incentives that keep us internationally competitive and encourage desired economic activity and growth. AusBiotech has been advocating the introduction of the Australian Innovation and Manufacturing (AIM) Incentive, a 'patent box'-style incentive to keep home-grown IP once it reaches commercialisation, as well as associated manufacturing, in Australia.

Australia already supports the R&D phase of IP creation via the R&D Tax Incentive, before leaving it vulnerable to being sold, managed or manufactured overseas at the critical point. The resulting community and economic benefits – such as jobs, exports, manufacturing and clinical trials - go with it.

IP is highly-mobile and can be easily separated from the jurisdiction where it was developed and its management and manufacturing migrated to low-tax jurisdictions or where there are on-going incentives. If Australia is serious about becoming a knowledge-based economy, we need public policy that will encourage IP and its spillover benefits to stay in Australia, thereby creating wealth and jobs.

The AIM Incentive is designed to address the gap that leaves our IP vulnerable, and support Australian innovators and manufacturers, while retaining our home-grown IP and attracting IP created overseas to be commercialised and managed from Australia.

Rather than a direct subsidy, the AIM Incentive would see the Federal Government provide tax relief based on the retention of IP ownership and associated commercialisation of IP in and from Australia. It would also support companies that make goods outside Australia where a significant 'value-add' activities are performed in Australia and the net benefit from its sales will benefit the Australian economy.

AusBiotech recommends that the Government consider adopting the structure of the UK model and adapt the policy to suit the Australian environment. Under the UK model, the definition of qualifying

IP for the AIM Incentive purposes is limited to patents or a license to a patent. In Australia this would include certified innovation patents. Qualifying income for the lower tax rate includes the following:

- license fees, royalties and milestone payments;
- sales income from patented products;
- contract manufacturing income (provided a patent is involved in the process and to the extent the profit is attributable to the patent);
- income from the provision of a service reliant on a patented tool (to the extent the profit is attributable to the patent); and
- income from patent infringement.

In summary

It is imperative that Australia takes action to remain competitive and relevant on the world stage, especially, when economies such as the UK, France, Switzerland and China are already reaping the benefits of their patent box regimes. If we are to maximise Australian innovation and reinvigorate the manufacturing sector in Australia, it is vital that the existing R&D Tax Incentive be complemented with an end-to-end tax regime that can secure Australia's competitiveness for the future.

Australia needs innovation to continue productivity growth and encourage new industries to supplement declining industries. If Australia's tax system does not provide a conductive environment with competitive incentives for small and start-up companies, these technology ventures are undermined and Australia's best ideas and the resulting economic benefits are then developed, manufactured and managed in other countries.

There are currently 10 countries in the world (nine in Europe and China) that have adopted a 'patent box' or 'innovation box' policy with many more looking to introduce similar regimes in the future. Australia needs to move now if we are to compete.