

# MEDIA ALERT



## Warren Entsch, MP Parliamentary Secretary to the Minister for Industry, Tourism and Resources

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### PATENTS AND EXPERIMENTAL USE

Federal Industry Parliamentary Secretary, Warren Entsch, today released the report on *Patents and Experimental Use* prepared by the Advisory Council on Intellectual Property (ACIP).

The report examines whether some types of patents are inhibiting research and development in Australia and whether current laws need to be modified.

“The rights of patent owners have to be carefully balanced against the rights of researchers and the general public,” Mr Entsch said.

The report found that Australian law is not clear on whether researchers are able to experiment on patented inventions without first obtaining the permission of the patent owner. Although it has been common practice within the industry to allow certain levels of experimentation on patented inventions, business practices are changing and continued uncertainty in this area could hold back the Australian research industry.

The report recommends that patent law be changed to make it clear that research done for experimental purposes does not infringe patents, as long as it does not unreasonably conflict with the normal exploitation of a patent. ACIP believes this will allow researchers to continue experimenting in patented fields, but if anyone wants to use a patented invention in the normal way then a license must be obtained from the owner.

Mr Entsch thanked ACIP for their report, noting that it was a difficult issue. “Patent rights have to be strong enough to encourage innovators to take risks and invest in research, but not so broad that they discourage others from experimenting any further and prevent new technologies from being brought to the Australian public,” he said.

ACIP is an independent body and advises the Federal Minister for Industry, Tourism and Resources on intellectual property matters. The Council's [membership](#) reflects a cross section of industry involved with the intellectual property system, and includes individuals from both large and small businesses, the legal and attorney professions and academia.

The report on *Patents and Experimental Use* has been prepared following consultation with the public and interested parties, and seeks to address the numerous comments received on an options paper that was prepared previously.

Mr Entsch said the Government will consider ACIP's recommendations carefully.

A copy of the report is available at [www.acip.gov.au](http://www.acip.gov.au).

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