Comparative Global Innovation Policies

A focus on South Africa

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FREE MARKET FOUNDATION
Progress through freedom
About the FMF

• Independent, public benefit organisation
• Founded in 1975
  • Promote and foster an open society
  • The Rule of Law
  • Personal Liberty
  • Economic and Press Freedom
• SAs leading property rights champion
GTIPA Summit

• Focus of this session:
  • Newly promulgated national innovation policies
  • Best practices and ideas in global innovation policy

• Lessons from South Africa...
“What is the surest way to kill innovation & creativity?”

• Ruling African National Congress resolved to adopt expropriation without compensation

• Parliamentarians backed a motion brought by the Economic Freedom Fighters to establish a parliamentary ad hoc committee that
  • “Will review and amend section 25 of the Constitution after hearing public submissions from policy makers, academics, civil society and the public”.

• The ad hoc committee needs to report back to parliamentarians by August 30th
Property rights are sacrosanct

• Property rights are human rights and are the basis of a market economy
• Apartheid was a denial of this fundamental human right
• Every tyranny in the world today is noted for the absence of property rights
• The rule of law, freedom, and property rights are a package deal
• There is no freedom of expression without the ability to own cellular telephones, art, clothing etc
Property rights fuel innovation

• The recognition & protection of property rights is the cornerstone of a free society that fuels innovation

• Without property rights there would be few economic incentives to bring products to market

• Govn’s role is to create an enabling environment

• Institutions such as private property rights, impartial courts and predictable laws and regulations provide the incentives to innovate
Draft IP Policy – Phase 1

• Traditionally, SA has a **proud record** of upholding IPRs
• Draft IP Policy’s **inordinate focus** on pharma & patents to the **detriment** of all other manner of IP
• Healthcare activists: “Fix the Patent Laws”
• **Decline** in the number of innovative pharmaceutical companies marketing drugs in SA
“Knowledge, innovation and technology are increasingly becoming the drivers of progress, growth and wealth. Therefore, SA needs to transition towards a knowledge economy, and away from an overreliance on natural resources. A specific framework of conditions is necessary to enable SA to make this transition, and an IP policy is one of the core elements required to achieve this objective.”

(Draft IP Policy, pg. 3)
Building a knowledge economy?

- The Draft IP policy *weakens* IPRs by making it
  - More difficult to register patents
  - Easier to “break” patents
  - Limits the remedies available to patent holders
Draft IP Policy – Proposals

- Substantive search and examination system
- Issuing “workable” compulsory licences via a non-judicial review mechanism
- Pre- and post-grant opposition (with pre-grant opposition by third parties and an administrative review mechanism for post-grant opposition)
- Amending patentability criteria to promote “genuine” innovation
- “To introduce a broader set of policy options to address instances where voluntary mechanisms prove insufficient or inadequate”
Conclusion

• PRs and IPRs standards are improving in most countries across the globe; but SA is bucking the trend

• When it comes to international investment the decision to invest in a foreign country is a complex one based on a variety of factors

• Whilst a robust & effective property rights regime is not sufficient in and of itself to attract FDI, a weak or poorly enforced one would most certainly deter innovative companies from investing
Thank You!

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