



## **Answers to opposition to ‘emergency vaccine waiver’**

### **1. Countries already have the option to use compulsory licensing.**

In a written answer to a PQ from Róisín Shortall TD on 3 March 2021, Tánaiste and Minister for Enterprise, Trade and Employment, Leo Varadkar TD explained Ireland’s support for the EU’s opposition to the proposed ‘emergency vaccine waiver’ at the WTO as follows:

*“The EU’s current position on the proposed waiver is that the WTO international agreement on Trade Related Aspects of Intellectual Property Rights (the TRIPS Agreement) allows countries the flexibility to respond to the concerns raised by proposers of the waiver. Specifically, the TRIPS agreement allows compulsory licensing which is when a government permits an entity to produce the patented product or process without the consent of the patent owner.”*

However, compulsory licensing (CL) is not a suitable mechanism to deliver global equitable access for vaccines given the need for "know-how", rather than just IP, which isn't covered by CL. Developing countries are being reasonable, legal and proactive in demanding access to all the knowledge they need – in a genuine global public health emergency – to gain more affordable doses. The vaccines are protected by a “steel gate” of multiple patents and licenses and seeking compulsory licenses will be time-consuming and complex and there are [considerable legal obstacles](#) around many countries effectively using CL. Countries don't have the time or legal resource to pursue this path in an emergency. In addition, many national systems (including Ireland) do not facilitate a fully usable framework for CL. As a result, no country has applied for a CL to produce Covid 19 vaccines despite the global pandemic.

### **2. The COVAX facility has been set up to deal with this issue**

COVAX is a welcome and vital process, and it needs massively more support – but it alone is struggling to meet the scale of need. Even if it meets its goals, only 20% of people in developing countries dependent on it will get the dose by the end of this year. Research by the People’s Vaccine Alliance suggests it will be more like only 10%. More needs to happen.

### **3. Patents (intellectual property rights) are necessary incentives for Pharmaceutical Companies to keep innovating.**

Scientists all around the world performed miracles to develop COVID vaccines so quickly and they did so in large part because over \$100 billion in public money that was thrown in behind them. It was public money, not patents, that was responsible for innovation, and it was public money not pharmaceutical corporations that has taken on the bulk of the risk. We

all shared in the making of the vaccine and we should all share in its benefits. Moreover, this proposal is just for the length of the pandemic and companies will still be able to make large profit from the sale of vaccines.

#### **4. Patent waivers won't help because there isn't any spare production capacity.**

There is vaccine production capacity now available around the world and plenty of offers of help to make hundreds of millions of doses by qualified manufacturers – but these offers are being blocked by pharmaceutical monopolies and a refusal to share the IP, technology.

- Last week, [The Associated Press](#) found factories on three continents whose owners said they could begin producing hundreds of millions of doses of Covid-19 vaccines on short notice, if only they had the blueprints and technical know how to do so. Suhaib Siddiqi, former director of chemistry at Moderna, producer of one of the first approved vaccines, said that with the blueprint and technical advice, a modern factory should be able to produce vaccines in at most three to four months.
- UNICEF has collated data from all manufacturers involved in all Covid-19 vaccines at all stages of development and shows that only 43% of that capacity is currently being used on the approved Covid-19 vaccines this year. It's important to note that the UNICEF data doesn't account for the potential production capacity of other vaccine manufacturers NOT currently involved in Covid-19.

#### **5. Countries are donating surplus vaccines to developing countries already.**

- Any and all donations are entirely welcome and utterly needed if appropriate and fairly allocated. But the world cannot and should not be tackling a global health crisis via charity alone. There are structural barriers in the way of producing enough vaccines for everyone. The WTO provides a space for an ordered and legal way to remove these barriers and get us on the path to producing more safe and effective vaccines for all.

#### **6. IP isn't the issue - manufacturing capacity and ingredients shortages are the main bottlenecks to expanding COVID-19 vaccine production.**

- It is true that Intellectual Property (IP) is not the only barrier and other issues like tech transfer are critical (in addition to working together to fix raw material shortages) but make no mistake - IP, trade secrets, data protections all stand in the way of a massive scale up in production. It's not the only barrier but it's a massive one and governments have to remove it.

### **Reasons for supporting the 'emergency vaccine waiver'**

#### **1. Precedent:**

- In South Africa, Malawi and other African nations history is in danger of repeating itself. Millions of people died in the early 2000's because pharmaceutical monopolies had priced successful treatments for HIV/AIDS out of reach at up to \$10,000 a year. Pharmaceutical companies eventually lost their fight to protect their HIV/AIDS patents – and yet today, are on the wrong side of history again.

#### **2. Mutual self-interest:**

- Getting vaccines to everyone is not just morally right, it is in the self-interest of countries like Ireland too. The longer the virus is allowed to spread, the greater the risk of mutations and the greater the risk that the vaccines rich countries are rolling out right now will become ineffective. We could be back to zero with more deaths, more lock-downs and more children not in school. It's also bad for the economy. A new International Chamber of Commerce report concluded that the current best-case scenario of wealthy nations being fully vaccinated by the middle of 2021 and poor countries largely shut out could cause economic losses exceeding \$9 trillion. Nearly half of those costs would be absorbed by wealthy countries like Ireland.

### **3. Scale is vast and urgent**

- Around the world, two and a half million lives have already been lost due to this deadly virus and many countries are battling without adequate medical care and no vaccines. By allowing a small group of pharmaceutical companies to decide who lives and who dies, rich nations are prolonging this unprecedented global health emergency and putting countless more lives on the line. At this crucial time, developing countries need support – not opposition.
- Countries like South Sudan, Yemen and Malawi have seen dramatic surges in cases in recent months. Malawi saw a 9,500 percent increase in cases as the South African mutation spread through the country and two of their cabinet ministers died in one day.
- Hospitals in many developing countries including Peru, Malawi, Nigeria and Mexico are facing an oxygen crisis in hospitals and the head of Africa's Centre for Disease Control has said lack of oxygen is the main reason why people in African countries are more likely to die during surges of infections. Acute shortages of testing, PPE and other medical tools mirror the inequality in access to vaccines. People are dying with no resources to save them.