



# GLOBAL RUSSIAN AMERICAN HEALTH ALLIANCE (GRAHA)

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GRAHA Response to Draft paper for Consultation dated 19 September 2007

“Human Rights Guidelines for Pharmaceutical Companies in relation to Access to Medicines”

Global Russian American Health Alliance (GRAHA) is an educational project of American Russian Medical Association (ARMA) established to promote greater worldwide development and availability of medical drugs and treatment and to educate our population on the issues that affecting the subject development and availability. On behalf of its members GRAHA is conducting public opinion research to determine public needs and wants, develops position papers based thereon, and presents of the same to professional conferences and health care policy makers such as the World Health Organization and Congressional committees. Most of our members together with millions of other Americans with Russian origins possess the first-hand experience of the “comprehensive” health care managed by the former USSR government.

We would like to express our deep concerns about the spirit and the letter of the draft Guidelines because most of ideas in it sound very familiar to those who lived under total government control. We do not see how most of proposals in that document could be reconciled with the conception of free market society which most of the developed countries are using currently to govern themselves. Most of our members are working in health care industry and have a great understanding and knowledge of R&D importance for providing the whole world population with new more effective medicines.

In that context the following themes from Guidelines getting us concerned the most:

- In developed countries the pharmaceutical industry as any other industry consists almost exclusively of publicly-owned or privately-owned enterprises. In a so-called free world the main purpose of any private company is to create profit for those who took a risk of investing their money in those businesses. We can not imagine any private enterprise that could survive any competition operating on the basis of the subject guidelines
- Every existing corporation in developed countries has By-laws defined by its founders at the inception of enterprise. Could you propose the draft of such By-laws that would make that enterprise viable and would not contradict those Guidelines? We can not imagine what category of for-profit investors would be attracted by the business bounded by such Guidelines
- It is not clear from reading which pharmaceutical companies subject Guidelines are talking about. And we think it is impossible to take them into serious considerations without such clarification. As in any other industry pharmaceutical companies in every country are falling in three categories: large, medium and small. Those three categories have totally different approaches in terms of business models on which basis they are operating. Which of those assumed to be covered by those Guidelines?

- On the pricing-of-medicines (or pricing-of-anything in the broader context) issue there is two ways only to define the price: it's either market-defined (capitalism) or government-defined (socialism). There is nothing in between. The second one has failed miserably in the last century and we are firsthand witnesses of that colossal failure.

We can see only one way to get those Guidelines implemented in the real life – it is a nationalization of pharmaceutical industry. If that is what you are getting at why don't you say it as it is? In former USSR where many of GRAHA and ARMA members used to live that “good intentions” approach has been tested already. The results in terms of new medicine development are very well known: no new medicines, no essential medicines, and no real health care. And we think the proposed Guidelines would – if implemented – guide the world in the same direction.

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Below please find attached to our comments the copy of letter Dr. Alexander Gershman, president of ARMA, had submitted to the 2<sup>nd</sup> session of WHO's Intergovernmental Working Group in Geneva on the issues closely related to those discussed above



## AMERICAN RUSSIAN MEDICAL ASSOCIATION

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The American Russian Medical Association (ARMA) would like to take this opportunity to comment on the issue of public health, innovation and intellectual property protection, which is the subject of current IGWG hearing. We want to express our deep concerns about the spirit and the letter of the Draft global strategy and plan of action that has been presented by IGWG to the public recently. With growing anxiety we are watching IGWG developing the alternatives to the current private sector innovation model. And in that regard the attempts of some developing countries, like Thailand or Brazil, to use the compulsory licensing as a vehicle for arbitrarily patent breaking is especially troublesome.

Founded in 1990 by a group of physicians with Russian origins, The American Russian Medical Association was established in Los Angeles to provide support and networking opportunities for physicians who immigrated to the United States from the former Soviet Union. From what began as a ten-member organization, the Association has grown to a two hundred plus member organization that encompasses medical physicians from all branches of medical science including dentistry, nursing, and other allied health professionals.

Most of our members possess the first-hand experience with the Soviet Union government being in control of health care innovations and intellectual property rights. Every decision made by Soviet government was claimed to be done on behalf and in the interest of Soviet people. And there is an evidence of all so-called “new” approaches, like “prize” model, has been tried out already and failed in the framework of the “government-controlled” economy. At the same time industries and the academia working in the free market environment had prepared and put into practice the on-going technological revolution. The fruits of that revolution, including variety of new life-saving medical drugs, currently being used and enjoyed by billions of people, both in developed and in developing countries.

ARMA members are aware and in full support of the considerable progress that has been made in recent years by governments, industry, charitable foundations, and nongovernmental organizations in funding initiatives to develop new products to fight diseases affecting developing countries, and to increase access to existing ones. However, we are opposing strongly the idea of expanding those efforts at the expense of the intellectual property rights system. It took about two hundred years to develop and fine-tune gradually the existing international IP law. Under protection of that law researches and inventors all over the world have created and developed more than 90% of all know-how acquired by the humankind in its whole history.

In the last century the success achieved in the field of health care and medicine has been driven mostly and primarily by free market forces and shielded internationally by IP laws it has reached such proportions that it speaks for itself. And the speed of progress in the pharmaceutical industry of both developed and developing countries is increasing exponentially boosted by likewise expansion in adjacent industries and sciences. It is obvious that such tremendous growth of means and goods in immediate terms does not make them accessible to all countries of the world. But in a longer run the technological and intellectual progress benefits everybody.

Pharmaceutical innovation based on the current private-sector model has produced massive benefits for patients worldwide. Its success rests on the existence of patent protection, which plays an important role in each step of the innovation process. The ability to receive the patent protection for their discoveries permits research-based institutions to gain commercial rewards for their innovative efforts. Those rewards, in turn, enable these institutions to continue to undertake their research and develop a new knowledge.

We think that the recent unprecedented growth of the last decades in pharmaceutical innovations was exactly the reason why that industry caught attention of “social engineering” activists. The idea of the private property “fair re-distribution” under the government control is following historically every success of the free market forces. It was not a coincidence that Karl Marx had came up with his theory of “total fairness” in the midst (chronologically and geographically speaking) of the 19<sup>th</sup> century industrial revolution. Hundred years ago Russia was one of the most developed countries in the world and had a huge disparity in access to its fortunes between haves and have-nots. At that time armed with Marxist theory self-proclaimed advocates of poor people rights promised to create the government fair to everybody. Do we need to re-count the results of it?

On behalf of the ARMA members and of hundreds of thousands of our current and future patients who's lives were either saved or improved by new drugs created under existing IP laws we would like to express our opposition to any social tinkering with the current patent protection model of immense value. If as the result of such tinkering under the auspice of the reputable international organization the existing international "pipeline" of new medicine development got broken, in a long run it would bring the tremendous increase in suffering of the people in poor countries.

As most of the Soviet citizen learned on the basis of their personal experience: the uneven distribution of wealth under the free market model is better that the even distribution of poverty brought to them by the communism.

Best regards,

Alexander Gershman, M.D.  
President