



First Minister Nicola Sturgeon MSP
St Andrew's House
Regent Road
Edinburgh
EH1 3DG

13th April 2018

Dear First Minister,

CC: Shona Robison MSP, Cabinet Secretary for Health & Sport

We write as a group of health campaigners and NHS patients, including Scottish breast cancer patients who have struggled to access the medicines we need, to ask you to issue a Crown use licence to help secure access to pertuzumab in Scotland.

Access to treatment and care for Scottish cancer patients has been an issue which your government has admirably held as a high priority. However pertuzumab (brand name Perjeta) is currently unavailable on the NHS in Scotland due to the high price charged by the pharmaceutical company, Roche. Hundreds of patients across Scotland are therefore currently being denied access to a drug which could give them extra months or even years of life.

We understand that the NHS in Scotland has a limited budget and appreciate the difficult job the Scottish Medicines Consortium (SMC) has in deciding which treatments to make available here. However, when, despite the best efforts of government a fair and affordable price cannot be agreed for an effective medicine we do not believe that this should be the end of the process. It is unethical that patients' lives be held to ransom by the profit-driven decision-making of a drug company.

Indeed, the WTO's TRIPS (Trade-Related Aspects of Intellectual Property Rights) Agreement and the Doha Declaration which clarifies the terms of the agreement, make it clear that there are legal safeguards to ensure public health is not sacrificed at the expense of the interests of the owners of intellectual property rights. One such safeguard is the ability for governments to issue compulsory licences, or in the UK context, crown use licences when patent monopolies prevent access to a medicine.

Up until the 1970s the NHS regularly procured affordable generic versions of patented medicines through this mechanism, paying a fair royalty to the patent holder. Government and compulsory use licences have played a vital role in helping to facilitate access to affordable medicines throughout the world - including in Germany in 2017. Last year in Italy, the prospect of a government issued compulsory licence on hepatitis C medication led to a much improved pricing offer from the patent holder, Gilead, paving the way for scale up in treatment.

The power to issue crown use licences was granted to the Holyrood government as part of the devolution settlement in 1999. With pertuzumab having reached the end of the SMC decision-making process and received a negative ruling, we believe there is a compelling case to put this legal tool into action to try to secure access to an affordably priced version of the medicine for Scottish patients. Even a public commitment to explore a crown use licence could tip the balance in negotiations and increase the chance of securing a fair price from Roche. With our lives on the line we believe that every avenue to secure access should be pursued by the government.

We have attached some information outlining the context, background and considerations that might be of use to you and your colleagues in considering this request; and ask that you meet with us - Scottish breast cancer patients in need of pertuzumab, and access to medicines experts - to discuss how this approach can play a vital role in securing equitable access to medicines in Scotland.

Many thanks for your time and consideration. Over the coming weeks we will be publicly making the case for this course of action, and we look forward to working with you to ensure affordable access to all effective medicines for Scottish patients.

Yours,



Dunise MacIver
Scottish Breast Cancer Patient & Just Treatment Leader



Diarmaid McDonald
Just Treatment Lead Organiser

Anne MacLean-Chang, Esme Radin, Fiona Morrison, Lesley Stephen
Scottish Breast Cancer Patients & Just Treatment Leaders

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