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Patent laws delaying bird-flu drugs: expert

By **LINCOLN WRIGHT**

GREEDY drug companies are using patents to block greater access to life-saving anti-bird-flu drugs, legal experts say.

In the event of a flu pandemic, they say the Federal Government should licence Australian firms to make the anti-virals more cheaply and on a mass scale.

A vaccine against the bird flu virus is still being developed and will be unavailable until next year.

That leaves a class of anti-viral drugs as mankind's last resort if the H5N1 virus mutates into a deadlier form.

At present, Roche and GlaxoSmithKline make

Tamiflu and Relenza, the two main anti-virals.

But critics say these drug corporations are protecting their rights to produce the anti-virals, despite worldwide criticism they are not producing enough.

Intellectual property rights lawyer Peter Drahos said the Government should consider overriding the patents to make these drugs.

Australia had the right to protect the health of its society under World Trade Organisation rules, he said.

"Global supply of the anti-virals is controlled by the European-based patent owners, Roche and GlaxoSmithKline," he said.

"This prevents competition

in the manufacturing and distribution of anti-virals and has reduced global supply capacity and affordability."

A first step to increasing supply was to negotiate a voluntary licence with the patent holders.

But if that failed, Dr Drahos said the Government could use what was known as a Crown use of licence — or a compulsory licence — to override patent holders' rights.

Australia is trying to stockpile anti-virals — GSK has started producing Relenza again here — but the nation still faces a shortage.

Health Minister Tony Abbott estimates one million essential service workers

could receive protection for only six weeks before supply ran out.

Dr Drahos said giving Australian firms export assistance could allow them to make the drugs more profitably as they could also sell them overseas.

That would give local generic manufacturers the go-

ahead to produce the anti-virals more cheaply — and on a mass scale.

Dr Drahos is a professor of law at the Australian National University.

His views, along with co-authors Buddhima Lokuge and Warwick Neville, are in the latest issue of the *Medical Journal of Australia*.



SWAN LAKE SEQUEL: In the south-western French city of Bordeaux, a municipal employee removes a swan from a waterway after the city banned birds. Picture: REUTERS