



Document Downloaded: Thursday February 25, 2010

**Kauffman Proposal Session**

Author: Keith McDowell

Published Date: 02/24/2010

# **Kauffman “Free Choice” Proposal:**

**A Response to the Memorandum of August 17, 2009,  
to Esther Lee, Department of Commerce**

**by**

**Keith McDowell**

**Vice Chancellor for Research and Technology Transfer  
The University of Texas System  
February 18, 2010**



# Free Choice Major Themes

- No credible evidence for TTO underperformance.
- No evidence that Free Choice would work.
- Flawed understanding of university technology commercialization, Bayh-Dole, and mission of universities.



# Performance of TTOs

- Underperformance is an Urban Myth!
- Surveys and anecdotal stories are not evidence of performance
  - False correlation: NIH funding – FDA drug approval
  - IP “out the back door” – minor problem
- Understaffing conundrum
- Speed versus quality deal
- Revenue distribution not a determinative factor
- AUTM data indicates robust system
- Paul Harvey: “the rest of the story.”
- TTOs are self-improving and self-adapting





*The Association of  
University Technology  
Managers*

- 686 new products into market in 2007
- 555 new startup companies launched in 2007
- 19,827 disclosures
- 5,109 licenses and options signed
- 3,622 patents issued
- 3,388 startup companies still operational








# The “rest of the story” in UT System/Texas Innovation/Commercialization Ecosystem

- Over 100 technology transfer professionals
- UT Technology Managers Council – 2 decades
- Monthly Special Interest Group conference calls
- Contract, Commercialization, Incubator Councils
- 12 incubators out of 15 campuses
- Working with over 250 startup companies
- Ideas on Fire: [www.utsystem.edu/rtt](http://www.utsystem.edu/rtt)
- Regents: commercialization in T&P
- Regents: commercialization in mission statements
- Regents: Texas Ignition Fund
- Texas Emerging Technology Fund
- Commercialization in \$300M per year cancer fund



# Performance of “Modest” Operations

- UT Brownsville Incubator – Nearly 60 companies since 2003
  - ConsultingPoint, Inc. – NASA 
- UT Pan American Incubator – NAFTA economy and Fortune 500 companies
  - FibeRio Technology Corporation 
- UT Permian Basin – 2 startups in NCET2 webinar
  - HazSoft®  MSDS Information Management
  - Turbo Trac  SYSTEMS
- UTEP – Rapid acceleration in spinouts
  - SENEXTA: Alzheimer drug, Swiss partners 



# Problems with Free Choice Requirement

- Concept didn't work before Bayh-Dole
- Concept hasn't worked internationally
- Will significantly slow down commercialization
  - Complexity of multiple inventors and technologies
  - Complexity of funding sources
  - Complexity of multiple managers
  - Balkanization of faculty IP
  - Tangled legal obligations – legal and financial liabilities
- Faculty COI: financial interest in license and startup
- Personal benefit over societal benefit
- Lack of practical experience and time of most faculty
- Faculty conflict of commitment





# Problems with Free Choice Requirement

*(continued)*

- Ignores university investment in inventions
- Who bears the cost of commercialization?
  - Inventors – No, heavy burden
  - Home institutions – Reluctant to risk money on IP managed by others
- Potential emergence of third party licensing entities with profit/sustainability business plan
- Competition is NOT the issue – sustainable ecosystem is!
  - Slow down commercialization
  - Drive up costs
  - Cherry pick IP
- Committing the resources of other universities



# Problems with Free Choice Requirement (continued)

- State Law: Texas requires fair value for IP
- No evidence would improve more “modest” operations
- Harm to the faculty-TTO relationship!
- Major TTOs believe inappropriate



# University Mission and Federal Funding

- Education of students/workforce as agents of technology transfer
- Creation and dissemination of knowledge
- Increase in the storehouse of knowledge
- Enhancing national research capacity, capabilities, and infrastructure
- Assure America world leader in discovery and innovation

