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Commission report: big role for competition law enforcement in fighting excessive drug prices

A Commission report issued today stresses the crucial role EU and national competition authorities play in keeping medicine prices in check and in ensuring access to generic medicines is possible.¹

In recent years, price hikes of life-saving medicines of 500%² or even up to 2,000%³ have made headlines. These cases of excessive price increases for medicines are distressing for patients and result in a heavy financial burden for them, health budgets and taxpayers. As a final consequence, patients might even be at risk of medicines not being available or treatments being discontinued.

The report provides an overview into how the EU and national competition bodies have enforced competition law in the pharma sector between 2009 and 2017. In order to dampen business moves which obstruct the introduction of a generic medicine, the report highlights how competition authorities should act against pay-for-delay practices i.e. payments to generic companies to hold off sales.

The report also flags that, while it is legitimate for businesses to seek to set prices which ensure return on investment, pharma companies are expected not to abuse their position to obtain the highest possible remuneration.

Monique Goyens, Director General of The European Consumer Organisation, commented:

“This report is a thorough compilation of the many instances when anti-competitive behaviour from pharma companies made drugs unavailable or unaffordable for patients who needed them. It is shocking how some companies take advantage of people’s dependence on a drug and charge prices which are unaffordable for patients and unsustainable for the health system. The short-term profitability of blockbuster medicines can have very serious long-term effects on drug innovation and accessibility of treatments.

“These practices must be kept in check and competition bodies should use their full armoury to curb unfairly high medicine prices and artificial shortages.

“But let’s be clear, competition policy alone cannot solve the scourge of high-drug prices. There is a responsibility both for pharma companies and health authorities to make sure that innovation that is priced to us all is cost-oriented. A company’s exclusive right over a medicine is not a reason to charge excessive fees.”

¹ The report about the role of competition policy in the pharmaceutical sector is a follow-up to the request of the Council in its conclusions on “strengthening the balance in the pharmaceutical systems in the EU and its Member States”.

<https://www.consilium.europa.eu/en/press/press-releases/2016/06/17/epsco-conclusions-balance-pharmaceutical-system/>

² <https://www.dutchnews.nl/news/2018/04/dutch-hospital-challenges-big-pharma-by-making-own-version-of-very-pricey-drug/>

³ <http://ec.europa.eu/competition/publications/reports/kd0718081enn.pdf>, page 24

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