Webinar

Using Competition Law to Address High Medicines Prices

Fred Abbott

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Q&A Session with the Participants

16:18:40
From Mauro Guarinieri: What is a reasonable profit margin then? We know that production cost for Sovaldi is below 50 usd.

16:24:53
From Dominik Müllerschön: I guess it is ok if it also includes development cost + Phenytoin is 100 years old.

16:26:12
From Flona Nicholson: How do you overcome the definition of “consumer” when assessing the alleged consumer harm from the excessive pricing in jurisdictions where the government is essentially the buyer, buying on behalf of the population; or where it is insurance companies who are essentially the purchaser?

16:28:41
From Stuart Flavell: Please address insulin as a case, if possible.

16:29:44
From Dimitri Eynikel to all panellists: Where does one find the specifics of the cost of R&D of a particular therapeutic class or product for a company that developed a product?

16:30:18
From Temmy Sunyoto: Who should take the lead in your opinion for using this excessive price argument for condition such as neglected diseases whose treatments are produced by single manufacturer i.e no competition?

16:33:02
From Marcela Vieira: Can we use the excessive price doctrine in countries where there is price regulation of medicines?

16:33:26
From Fiona Nicholson: Would you consider that private cause actions are limited almost entirely by legal privilege/ requirements of confidentiality for an originator drug where R&D costs are not publicly known? Would such cases be possible only for the likes of competition authority to pursue?

16:38:02
From Tony Salvador: Excessive royalty and interest payments to related parties in other tax jurisdictions may be used to justify exorbitant prices. What can we do about this?

16:38:33
From Nicoleta Dascalu to all panellists: what about the secrecy of price negotiations?

16:39:25
From Joanna Laurson to all panellists: Sometimes pricing seems to be dependent on savings to health system/government, i.e. not treating. How does this relate to excessive pricing?

16:39:29
From Luisa Arueira Chaves to all panellists: The US, the largest pharmaceutical market in the world, suffer with excessive prices and medicines shortage of old, off patented medicines. In my research, I have been hearing shortages happens because of excessive competition and very low prices and, therefore, low profit margins. In both cases, a reasonable pricing argument is spoken. How do you see this argument as a cause of shortages?

16:41:02
From Barbara Milani: Pharmaceutical lobby innovators or generics are very influential at government level (also in countries where there are national insurance schemes). Negotiation is often used by government as the tool to set the price for ground-breaking products (see HCV). In how many countries, competition law has been effectively used to overcome “excessive prices”?

16:42:23
From Luisa Arueira Chaves to all panellists: How do you see the recent Elizabeth Warren´s proposal of public production of generics?

16:45:13
From Gilad Barnea: Defendants often claim that they entitled to a return higher than WACC. They also refer to "Hurdle rates" higher than WACC.

16:45:24
From Gilad Barnea: Could you refer to this issue?

16:47:50
From Fiona Nicholson: Does the fact that only competition authorities have the power to compel information on R&D costs limit the use of this doctrine to rich countries, as developing countries are less likely to have the financial resources or capacity to launch such an inquest?

16:48:31
From Jens Plahte to all panellists: I understood that a reasonable price could be determined by the value of the product. Is it then possible for a company charged with excessive pricing to respond that 'this product saves lives so the value is very high!'? In this manner, could the company counter charges based on a cost-plus-profit price estimate?

16:52:11
From Stuart Flavell: What role can compulsory licensing play in this process?

16:53:20
From Salomé Meyer: The South Africa Competition Commission is currently investigating Roche for anti-competitive behaviour and excessive pricing for trastuzumab (Both Herclon and Herceptin). The outcome of this is expected by end April 2019.

16:53:48
From Dzintars Gotham: What is the relationship of competition law / excessive pricing doctrines to health technology assessments: e.g. is it conceivable that an assessment by NICE (UK's HTA) that a medicine is not sufficiently cost-effective at the price offered would trigger involvement by the competition authority?

16:54:21
From Marcela Vieira: Link to the OECD report on excessive prices in pharmaceutical markets:http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=DAF/COMP(2018)12&docLanguage=En