

Patent Act

In suggesting the amendment the CAC said that where a company has received either a compulsory licence or a notice of compliance but not both, it is unfair to grant retroactive exclusivity of seven years to the patented drug. That is exactly what the Government is proposing. I suggest that the amendment is very sensible and will introduce some fairness and equity to this proposal.

Professor Eastman studied this issue exhaustively and with care. He examined some of the difficulties created when a patented drug has too long a period of protection. The Government's proposal is two and a half times the length that Professor Eastman recommended, and therefore it is important to remind the House and Canadians exactly what Professor Eastman said.

While it could be argued that this is a quite a complex and difficult issue, in many respects it is very straightforward. We are talking about the right of Canadians to low cost prescription drugs. We are talking about the right of Canadians to have a Government that will not cave in to pressure from multinational drug companies south of the border as part of a free trade deal. Every Member of this House remembers Clayton Yeutter's complaints about Canadian drug patent laws. We know the Government is caving in to that pressure. A period of 10 years for compulsory licensing is far too long.

My colleague from Winnipeg North has spoken on this point and led the fight, not just on behalf of this caucus but on behalf of all Canadians, against this Draconian legislation. I want to join with my colleague from Cowichan—Malahat—The Islands in saluting the work done by the Hon. Member for Winnipeg North (Mr. Orlikow). He is carrying on in the finest traditions of Members of Parliament from the north end of Winnipeg, including of course Stanley Knowles.

What did Professor Eastman have to say about this suggestion of a 10-year period of exclusivity? He said, and I quote from his report:

• (1610)

Patent protection may also be too long. This occurs when the period of patent protection is such that the innovator expects to earn profits in excess of the minimum necessary to justify the investment. Inventors' profits from innovation might on the average exceed the rate of return obtainable from other uses of the resources invested in research and development.

He then makes this comment:

Patent life also has an effect on the choice of research projects.

If the rewards of investment in research from the temporary monopoly are low, investment in marginal research projects, which are the least promising ones innovators carry on, are foregone even though their benefit for society would exceed the resources used.

He then makes this important point:

If average patent life is too long, it leads to a reduction in social welfare due to duplication and to overinvestment in marginal projects. The result of excessive patent protection is the attraction of too much investment in research and development and the consequent dissipation of the gains from research.

Innovating firms may be induced to compete for the high profits on new inventions by increasing their research activities with the result that the

discoveries of research which is marginally attractive to the firms bring negligible benefits for society.

In other words, new products do appear but the resources that have been spent to produce them would have benefited society more if they had been spent elsewhere. That argument by Professor Eastman is obviously a very powerful argument in terms of an undue delay in the area of patent protection. Certainly the suggestion of a 10-year period of patent protection is quite unreasonable.

Doctor Eastman also voiced his support for an amendment of the nature of the one which has been proposed by my hon. colleague, the Member for Winnipeg North, when he appeared before the standing committee which studied this issue. He said:

I think the legislation could be improved by these three things: allowing the R and D ratio of individual firms to be revealed; allowing the board to remove, if need be, the exemption from compulsory licensing from all the patents of firms with excessive prices; and then the most telling change would be to reconsider the transitional arrangements and allowing firms that have compulsory licences to exercise them when they receive an NOC.

That is otherwise known as a notice of compliance. I would like to pick up on one of those points, that with respect to excessive pricing. Ministers of the Government have gone around the country telling Canadians that their proposals with respect to compulsory licensing will not increase the price of drugs in Canada. If that is the case, why is the same Government promising \$25 million a year for a four-year period to compensate provinces which have pharmacare plans? It does not make any sense. On the one hand the Government is saying there will not be any additional cost and, in the next breath, is saying that just to be on the safe side it will give the provinces \$25 million to compensate in case there are additional costs.

That is Tory logic. My constituents in Burnaby, particularly senior citizens and the disabled who are dependent on drugs and have already been hit by the actions of the provincial Government of British Columbia, do not accept that form of logic. They do not accept that because they know this is simply an excuse of the Tory Government for making a cosy deal with the multinational drug companies as part of an over-all free trade package.

Who will suffer as a result of these proposals? It will not be the friends of the Conservative Party. It will not be the high-paid lobbyists who were busily lobbying the Conservative Government from the law offices of Ogilvy, Renault and elsewhere on this legislation. No, it will be those who can least afford to bear the burden.

I hope that Hon. Members will recognize the importance of this amendment, the fact that it will save Canadians a great deal of money on a wide range of drugs including the ulcer drug, Zantac, which is ready for introduction this year, the generic version of which is one-half the price of the brand name drug. I hope that government Members, including the very distinguished Member for Saskatoon West (Mr. Hnatyshyn), will be prepared to rise in their places to speak in support of this amendment.