

Patent Act

In the 1960s we had prices in Canada which were higher than those in the United States. They were reportedly some 20 per cent higher. However, I might say parenthetically that I came across a paper that was presented to the Liberal Government in the 1960s. It made the point that the figures the then Ministers were using to justify a change in the Patent Act were false; they were cooked numbers. In fact, the whole initial change was based upon false numbers in terms of what drugs cost in Canada versus the United States.

There is no question that prices were quite high in Canada at that time. The reason was very simple. We had just come into the pharmacare or medicare era. That meant that many people who had previously paid for drugs out of their own jeans, so to speak, suddenly had a third party paying for them. When one does not pay for something oneself price discipline tends to disappear. What does it matter what it costs if someone else is paying? That had an upward pressure upon prices in Canada. The provincial Governments which were funding pharmacare schemes started to get their acts together to try to compensate for market pressures. Today, provincial Governments buy 60 per cent of the drugs sold in Canada. In essence they have very sophisticated price setting mechanisms. Every six months they establish something called a formulary which states the price they will pay for drugs. They organize bulk purchases and get volume discounts and so on.

There is no generic competition in 93 per cent of the drugs sold in Canada. Some people are under the impression that there is generic competition on all drugs. That is not true; 93 per cent of the drugs sold in Canada have no generic competition. They are low volume and so on. In that area, the prices in Canada are only 80 per cent of what they are in the United States. There is no generic competition. We cannot look at the Patent Act and claim that it has lowered costs for Canadians but, in fact, the prices in Canada are lower than they are in the United States. That will continue. There is nothing in here which will jeopardize in any way, shape or form the fundamental relationship between pharmaceutical manufacturers and provincial Governments. Those market dynamics will remain in place.

One can expect that the relationship of 80 per cent of U.S. prices will remain in place. Unless there are some other changes in the market caused by external forces, either in the United States or elsewhere, we should continue to have that kind of saving. It has nothing to do with the Patent Act. This is another reason I object so strenuously to opposition claims regarding drug prices. For 93 per cent of drugs there is no generic competition. There will be no effect one way or another.

We are talking about a comparatively small group of 7 per cent, albeit they are the high volume drugs and represent 20 per cent in terms of costs. However, that is a far cry from the statements made that all drug prices will go up, in an attempt to frighten people.

We are calling for the creation of a drug prices review board to monitor the existing prices of drugs and the prices of any

new drugs to ensure that the market situation which exists now, where our drug prices are at about 80 per cent of those in the United States, remains in place. The board will be headed by Dr. Harry Eastman. Surely that should give confidence to members of the Opposition. Dr. Eastman is not likely to have his name attached to something which is a sham, a toothless tiger or something like that. He has a lot of personal integrity and personal investment in it. He would only be a part of the board if he recognized, as any fair-minded person would recognize, that in fact it will have teeth and be in a position to ensure fair prices.

Earlier today in Question Period there was some debate about what effect the Bill will have in terms of bringing on generic competition in the area where generic drugs compete. For the moment I will try to indicate some of the factors involved in generic competition. To begin with, when a company discovers a new drug it applies for a patent. It takes eight years of testing, on average, before the Department of National Health and Welfare authorizes the company to sell the drug to the public. Also it takes a number of years and a lot of expense to develop the market and to convince physicians to prescribe the drug for use. A lot of cost is involved in monitoring use, getting feedback from users, physicians and so on.

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If the drug turns out to be a drug used by many people then it attracts the interest of generic copycat companies. These companies have to find somebody in a country that does not have patent protection to manufacture the drug, which is not easy. Then they apply to the Government, having to pass certain tests to ensure that that generic equivalent, whether in capsules or pills, is safe. That whole process takes a long time, on average eleven and a half years.

No one can claim absolutely that 10 years of patent protection will delay generic competition. It might. But anyone who says absolutely it will is not being intellectually honest. That is the kind of thing we should and will be discussing in committee.

Averages are important to provincial Governments that buy all the drugs and look at the whole spectrum. To an individual company, averages are not very helpful. If a company spent \$100 million developing a drug, bringing it to market, but as a result of some quirk three years later cash flows and sales volumes are cut back because a copycat came on the market, it would then be out of luck could lose its investment. The \$100 million spent bringing the drug to market may not be recovered. Consequently if you are thinking about a new research program, you will be very careful about investing in Canada for fear of being cut off.

We have very low research and development activity in Canada and very few drugs. I was at the University of Montreal last week talking to people in the Department of Pharmacy. One of the professors found a new drug that in his opinion has some therapeutic value. He has, however, patented