



General Motors Corporation supports the Federal Trade Commission's proposed collection of information on the anti-competitive activities of pharmaceutical manufacturers. GM has reached a crisis point in providing a pharmacy benefit. Pharmaceutical expenditures are the fastest rising component of our health care costs. GM's pharmacy trend is averaging over 25% annually and our total drug expenditure for calendar year 2000 will exceed \$1.2 billion. Business practices of many of the large pharmaceutical companies seem to be driving much of this increase, with little evidence that these expenses are offsetting other health care costs.

As the new President and Congress promise to consider adding some sort of drug benefit to Medicare, more employers such as GM are paying greater attention to the pricing and other practices of the pharmaceutical industry. Americans regularly pay up to twice as much as Europeans and Canadians for the same drug. GM actively communicates the value of generic drugs to our 1.2 million plan members, promotes the use of generic substitution and drug utilization review programs as proven and effective ways to lower costs. But if the availability of generics is constrained by means of questionable trade practices which extend the life of patents or otherwise promote exclusionary practices and free and open trade in prescription drugs, our efforts to achieve savings for both consumers and GM are in vain.

Because of its expertise in both trade regulation and antitrust laws, GM believes that the FTC can and should examine the practices and agreements that extend monopoly positions and restrict trade to determine whether there has been any violation of the antitrust laws.

The financial impact of generic drug utilization to GM is enormous. As mentioned earlier, we will spend well over \$1 billion on pharmaceuticals this year. Brand-name drugs account for 90 percent of the total drug spend. General Motors' current utilization rate for generic drugs is just 37 percent. For each one percent increase in the use of generic drugs, GM can save \$3 million a year. Collection of data that illustrates unfair trade practices and results in consumers and payers having greater choice in the purchase and use of effective prescription drugs has, therefore, an absolute value.

General Motors encourages the use of generic drugs because they are safe and effective, yet priced substantially below the cost of a brand equivalent product. Practices that retard generic product entry into the market waste health care dollars and make newer drugs unaffordable by many people.

GM believes that there are a number of serious concerns that need to be addressed by a study of this type. Four specific areas we suggest are:

- So called "me-too" drugs (minor variations of established products) that appear to offer no benefits; they only add to consumer confusion and expense, particularly given the amount of consumer advertising to influence patient behavior;
- The practice of artificially extending patents when generic manufacturers are ready to provide the same drugs at significantly lower cost; including paying generic manufacturers to delay or forego introducing a generic;
- The need for real consumer education that can help people become more informed and economically sensible while ensuring appropriate medical effectiveness;
- Pricing practices of pharmaceutical companies for the U.S. compared to Europe or Japan that result in higher costs to consumers and other de facto purchasers in the United States.

The pharmaceutical industry receives unprecedented government protections and subsidies. Much of the early research that may lead to new drug discoveries is funded by the National Institutes of Health. (1) It is usually only later, when the research shows potential, that the drug companies become involved. The industry also enjoys great tax advantages. (2) Because of United States tax, patent and antitrust laws, the industry has a fair opportunity to earn a reasonable return on its investment on prescription drugs without artificially preventing the introduction of generics.

The industry has shown extreme ingenuity in finding ways to extend patents on its best-selling drugs. For example, a recent Wall Street Journal article describes a complicated business deal between Merck and Schering-Plough for the marketing of two new drug combinations, one to lower serum lipid levels and the other to relieve allergies. Each combination will pair one company's "blockbuster" drug, whose patent as a single product will soon expire, with a drug with supplementary action owned by the other company. The combination drugs will have new patents, and both companies will share their profits. (3) Such practices may be unreasonable restraints of trade because it appears that the principal purpose for such actions is to preserve a monopoly in the market through a questionable patent practice.

Pharmaceutical manufacturers deserve recognition for the many outstanding and life-saving drugs that they have developed. Also, it is hard to imagine any other system for developing new drugs and bringing them to market. No doubt, this is a job best suited for the private sector. But, an industry so important to the public health and so heavily subsidized and protected by the government has social responsibilities that should not be totally overshadowed by its drive for profits. One of those responsibilities is to allow affordable generic drugs on the market when available.

General Motors has strong concerns about rising drug costs. It is concerned about the approval of any product or practice that maintains high prices and excludes lower cost generic products without benefit to any parties except the pharmaceutical companies.

Practices that keep quality generic substitutes from coming to the market, or keeps the market share of generics low – serve neither the interest of our society as a whole or consumers who must purchase prescription drugs.

For these reasons, and because it makes products of vital importance to the public health, there needs to be a study on the competitive behavior of the industry.

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1. Gerth J, Stolberg SG. Drug makers reap profits on tax-backed research. New York Times. April 23, 2000:1.
  2. Anderson C. Drug firms said to pay less in taxes. Boston Globe. December 26, 1999.
  3. Harris G. Drug makers pair up to fight key patent losses. Wall Street Journal. May 24, 2000.