Questions of the Honorable Debbie Dingell

House Committee on Energy and Commerce

HEARING

Profits Over Consumers: Exposing How Pharmaceutical Companies Game the System

September 19, 2019

OPENING STATEMENT

Today, we are examining an often-overlooked issue in the drug pricing debate known as product hopping or evergreening.

As the Energy and Commerce Committee works to provide relief to Americans from the high cost of prescription drugs, we must leave no stone unturned in examining ways to address this issue.

All of us have heard from constituents who are forced to cut pills in half, choose between paying for medication and rent, or avoiding taking needed medicines entirely due to cost.

Part of the reason these costs remain so high is due to the loopholes and tactics that some pharmaceutical companies use to delay competition from generic drug manufacturers.

Competition is crucial to lowering prescription drug prices and improving Americans' access to lifesaving medication. When generic drugs enter the market in the United States, prescription drug prices fall dramatically, by up to 90 percent.

This is how a market should work – by rewarding innovation and promoting competition, the American people benefit.

Unfortunately, we have seen increasing examples in recent years of pharmaceutical companies exploiting the current structure of our nation's regulatory and patent system to block competition and keep drug prices high through practices like product hopping.

Product hopping, or evergreening, is the reformulation of a drug by a brand-name manufacturer to delay competition and protection their profits.

This often includes minor changes, like reformulating a capsule to a tablet, small changes in the dosing or strength of a branded drug, or other changes that have little effect or therapeutic value.

Timed correctly, and combined with tactics like removing the older version of the drug from market or aggressively marketing the new version of the product, pharmaceutical companies can – and do – successfully block competing generic products from the market.

The reason that this happens is simple – a blockbuster drug can bring in hundreds of millions of dollars each year in sales while under patent protection.

In fact, a 2016 study found that these sorts of tactics to delay generic competition cost Americans at least $5.4 billion annually.

Currently, there is little recourse against these types of abuses. The FTC's authority to address product hopping is limited and unclear. As a result, product hopping and similar practices have proliferated in recent years.

It is my hope that today's witnesses help us all learn more about product hopping, and that their expertise and knowledge will point us toward a solution that addresses this problem. I would like to thank them all for being here.

Inaction on this issue is not an option. High health care and prescription drug costs affect all of us, regardless of background or party. This is an issue where bipartisan action is necessary and needed.

I know my colleagues share my concern, and it is my sincere hope that this hearing forms the basis for future action and reforms.