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BE WARY OF CANADA'S DRUG PRICE CONTROLS AND LACK OF IP PROTECTIONS

There is an ill-thought out war underway on brand-name drug prices and pharmaceutical intellectual property (IP). Washington can learn from Canada's mistakes.

President Trump has asked CEOs of research-based pharmaceutical manufacturers to lower U.S. drug prices and increase jobs in America. Given the fact more is already spent on pharmaceutical R&D in the U.S. than anywhere else, this presents a serious challenge for U.S. and other global pharmaceutical companies.

Differential pricing among country and regional markets have been used in many industries for many years based upon identifying different classes of buyers for which different prices would be used.

The World Bank endorses differential pricing for medicines as a means to increase economies of scale in production through greater sales thus reducing costs, prices and distribution inequities around the world.

Briefly put, differential prices allows early access to new medicines in wealthier countries and lower prices than would be predicted in developing countries.

One of the contributing factors to higher drug prices in the U.S., compared to other countries, is that Americans are paying most of the bill for R&D while other countries benefit.

In Canada, many listed brand-name drug prices are lower than American listed brand-name prices even though the average income per capita is almost identical for the two neighbors. However, aggressive price competition through contracts with purchasers and managed care customers often eliminates the price differential between the USA and Canada.

In Canada, the prices for new brand-name (or patented) drugs are set by the Patented Medicine Prices Review Board (PMPRB), a federal agency established 30 years ago to both protect Canadians from (never defined) "excessive" drug costs and to monitor investment in pharmaceutical research and development (R&D).

Originally, the PMPRB was tasked to compare the price of new brand-name drugs to the prices existing in a basket of hand-picked reference countries; industry was to invest 10 percent of its sales in R&D within 10 years.

The original basket of seven reference countries included relatively high price countries (U.S., Germany) offset by lower price countries (France, Italy) and balanced with "average" price countries (UK, Sweden, Switzerland). These were also countries with R&D to sales ratios similar to that Canada sought — evidence that R&D levels were not necessarily tied to prices.

The PMPRB, as do many in Washington, confuses price with overall aggregate spending which is a product of price and quantity used. The Canadian Institute for Health Information (CIHI) says increased drug spending is because of increased utilization, a growing and aging population and the increasingly widespread use of cheaper generics — not the prices of brand name drugs.

After 30 years of price controls, Canada ranks 17 of 19 OECD countries in terms of access to medication. The only ones suffering are patients: They wait, their symptoms worsen, they receive older generic drugs and some prematurely die.

Today the PMPRB is proposing to expand its mandate from ensuring “non-excessive” prices to ensuring “affordable” prices. It is proposing to use a new basket of arbitrarily chosen reference countries — all with low drug prices.

NAFTA talks continue. NAFTA was the first trade agreement to enshrine IP protection to provide a level playing field for persons, firms and others in the enforcement of IP rights in law, a basic proviso for free trade, market access, creativity and competitiveness. For the research-based pharmaceutical industry there would be no profits, no R&D and therefore no new medicines without IP protection.

Canada’s IP protection regime is out-of-step with the U.S. Canada plays loose with NAFTA IP rules while simultaneously not providing Canadian firms adequate protection. Canadian governments have turned a blind eye to internet pharmacies selling patented Canadian drugs into the U.S. market at lower prices than in the U.S., without the permission of the U.S. manufacturers; this violates the provisions of NAFTA.

Canada, because it lags behind other countries in border enforcement against counterfeit products, including drugs, has become the gateway to American consumers.

In a recent survey by Morning Consult, over 90 percent of Americans recognized the value of innovation to job creation, economic growth and healthcare. Innovation in medicine saves lives; and innovation requires investment and pricing flexibility across country markets.

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