



Competition Bureau
Canada

Bureau de la concurrence
Canada

Canadian Generic Drug Sector Study

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on the enforcement and administration of the
Competition Act
Consumer Packaging and Labelling Act
Precious Metals Marking Act
Textile Labelling Act

Canada

Exhibit 1132

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Executive Summary

The Competition Bureau promotes and protects competitive markets across the entire economy. The Bureau is not only responsible for enforcing the civil and criminal provisions of the *Competition Act*, it is also responsible for advocating for greater reliance on market forces to deliver the benefits of competition to Canadians.

Canada's health system is an area where competition is often viewed as playing a limited role. The reality is that competitive markets are responsible for delivering many of the products and services on which our health system relies. Given their importance to the welfare of Canadians and because this is a large market - at approximately 10% of GDP, health related markets have been a key enforcement and advocacy priority for the Bureau for several years.

The Bureau's health-related advocacy activity has focused on pharmaceuticals. This reflects the role of pharmaceuticals in treating patients and their importance as a source of health care costs – at \$17.8 billion in 2006, they are the second largest source of health care costs. The Bureau has specifically focused its attention on prescribed generic pharmaceuticals. Generics play an important role in keeping health costs down by providing competition for brand drugs when they lose patent protection.

Several studies have found prescription generics to be relatively more expensive in Canada than in other countries. The studies prompted the Bureau to conduct the generic drug sector study to examine the generic drug market and identify areas where changes in the market framework may secure greater benefits through competition.

In conducting the study, the Bureau relied on publicly available information, data purchased from data providers, and information voluntarily provided by sector participants. In July 2007, a preliminary draft of the study was circulated to key interest groups for fact-checking and to provide them with an opportunity to offer additional information.

Key findings in the study include the following:

- Generic drugs are supplied through a unique and complex framework. Physicians prescribe medication to be taken by patients. In filling the prescription, pharmacies can supply any brand-name or generic drug product listed on formularies (or drug plan product lists) as interchangeable for the prescribed medication. Drugs are paid for by drug insurance plans or out-of-pocket by consumers. Government and private drug plans provide coverage for approximately 98% of all Canadians. Pharmacies are normally paid the invoice price.
- Generic manufacturing has become more competitive over the past 15 years. It appears that strong competition exists in the supply of many generic drugs in

Canada. The end of patent protection for a drug can now lead to supply within a short period of many interchangeable generic products.

- In most provinces, an important way in which manufacturers compete to have their product stocked by pharmacies is by offering them rebates off invoice prices. Rebates provide incentive for pharmacies to select a particular manufacturer's product. It has not been possible to obtain detailed evidence regarding the size of these rebates. Public sources and information provided by parties interviewed for this study indicate that these are on average 40 per cent of the price the pharmacy is invoiced. Rebates are currently prohibited in two provinces, Ontario and Quebec. However, legislation adopted in Ontario in 2006, and under consideration in Quebec, allows generic drug manufacturers to provide professional allowances to pharmacies.
- Competition by generic manufacturers to offer lower prices through rebates is not reflected in prices paid by either public or private plans, or out of pocket. Rather, until recently, prices paid for generic drugs across the country tended to reflect the maximum generic drug prices allowed under Ontario's drug plan. This changed in 2006 when Ontario reduced the maximum it would pay for generic drugs to 50% of the brand-name product price. These lower prices are not paid by private drug plans in Ontario, or drug plans in other provinces, although this pricing discipline is due to be adopted in Quebec in 2008.
- Plans incorporate various policies, such as maximum generic prices and so-called "most favoured nation" clauses, to reduce their generic drug costs. However, these policies provide limited incentive for manufacturers to compete by offering competitive generic prices to the plans.

A regulatory and market framework where incentives to supply drug plans more closely reflect the underlying market dynamics could provide significant benefits to drug plans, and in turn to insurers, employers and Canadians.

The Competition Bureau will continue its work in the generic drug sector by examining possible options for obtaining the benefits from competition and the impediments to their adoption. Measures for accomplishing this goal may include, for example:

- providing manufacturers with incentives to compete to be listed on plan formularies;
- using competitive tendering processes to determine the products that can be dispensed by pharmacies;
- monitoring of the net price paid by pharmacies for generic drugs to ensure the price paid by plans reflects competitive prices; and,
- an increased role for private plans in obtaining lower prices for their customers.

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