The Unspoken Cost of Pharma IP Protections from Trade Agreements

- 3-year patent term extension applied in Korea (2012) as required by the US-Korea Trade Agreement (KORUS) and a 5-year patent term extension (2015) as required by the EU-Korea FTA

- A 5-year data exclusivity term for small molecule medicines implemented in Mexico in 2012 as part of NAFTA

- 5-year data exclusivity term implemented in Ecuador in 2017 as EU-Andean FTA requirement

- 5-year data exclusivity term implemented in Peru in 2013 as EU-Andean FTA requirement

Without the 3-year patent term extension applied in Korea as a result of KORUS…

Without the 5-year patent term extension required in the EU-Korea FTA…

If the 3-year patent term extension hadn’t been enacted in Korea as a result of KORUS, 3,000+ patients could have been treated with Trastuzumab for HER2 negative gastric cancer.

Without the 5-year data exclusivity term…

Without the 5-year patent term extension required in the EU-Korea FTA…

For too long, bilateral, plurilateral and multilateral trade agreements have put the interests of the originator pharmaceutical companies over the needs of patients and their access to affordable, safe and effective generic and biosimilar medicines.

7,000+ patients could have been treated with Filgrastim (twelfth-greatest lost-cost-savings molecule) for a low neutrophil count due to HIV/AIDS or following chemotherapy poisoning.

7,300+ patients could have been treated with Dutasteride for benign prostatic hyperplasia; this is vital in a country where the prevalence of disease is increasing rapidly due to an aging male population.

3.200+ patients achieving disease-free survival for at least 12 months could have been treated with Trastuzumab for HER2 negative gastric cancer.

10.700+ patients could have been treated with Trastuzumab for HER2 negative gastric cancer.

$1.2 billion combined total lost savings

$320 million total lost savings

$620 billion total lost savings

The elusive balance between supporting innovation and ensuring access to medicines through a competitive market can be found. It just requires that countries stay within the bounds of the current TRIPS agreement and not seek expanded monopoly rights.

The study does not suggest intellectual property rights are not important. It clearly points to a cost to health system and patients if extending the intellectual property rights of originator companies is given precedence over the broader societal interests.

Billions in revenue has gone to the originator pharmaceutical industry and has been denied to health care systems and patients that badly need treatments. Countries need to beware before agreeing to provisions in trade agreements: There is a cost.

The American public is entitled to access to medicines at affordable prices, not just to protect their medical and patent rights, but because new treatments can be so expensive. Patients deserve access to affordable innovative treatments.

The Takeaways

Billions of revenue has gone to the originator pharmaceutical industry and has been denied to health care systems and patients due to the ever-increasing costs of-developing medicines, but patents that have hard-to-patent products can be so expensive. Patients deserve access to affordable innovative treatments.

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