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Europe: patents limit access to medication

In 2008, the European Commission's Directorate-General for Competition conducted an inquiry into possible anticompetitive practices by pharmaceutical companies. Its conclusions are damning (1).

Delaying competition. Pharmaceutical companies marketing new drugs use any means available to delay competition from both generic drugs and new drugs with the same therapeutic indications.

Many of these strategies come as no real surprise: spreading disinformation in the media, questioning the efficacy or quality of generic drugs; making minor chemical modifications to drugs whose patents are about to expire, in order to obtain follow-on drugs presented as "second generation" products, which are protected by patents (me-too drugs); amassing "clusters" of patents (in particular belated patents, each protecting a different component of the drug); bringing multiple patent litigation cases against generic or non-generic drug manufacturers; engaging in financial agreements with other drug companies to delay or prevent the licensing of generics; intervening at the level of wholesale and pharmacy distribution channels to restrict the introduction of generics onto the market (1).

The inquiry also shows that drug companies succeed in delaying licensing approval or reimbursement arrangements by influencing the regulatory agencies dealing with the drug.

Some drug companies even file "defensive" patents "*with the main purpose of keeping other originator companies from further developing a specific invention*" (1). There is a striking inconsistency in the drug companies' reassuring statements on the role of patents in innovation and the reality observed by the European Commission.

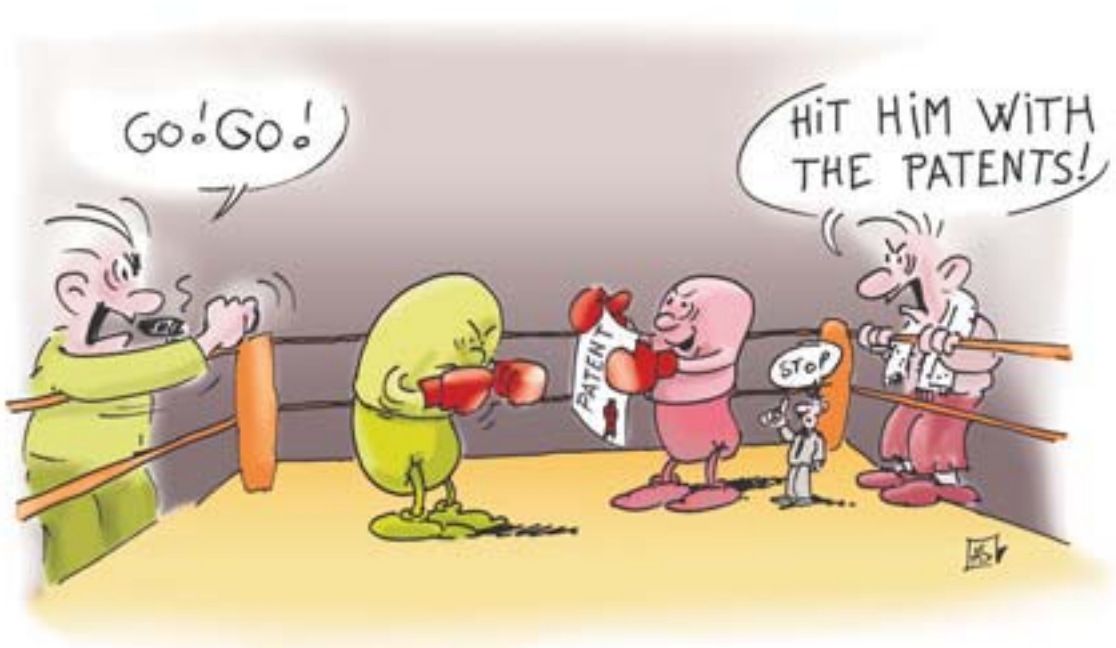
Patients and citizens are the real victims. These strategies are effective because they delay the market introduction of generics by several months and lead to billions of euros of additional pharmaceutical spending (1).

For the European Commission, this inquiry shows that competition in Europe is being restricted.

But the main victims are patients and citizens, particularly in countries where drugs are inadequately reimbursed.

This is one good reason for the Commission and its Directorate-General for Enterprise to stop placing the commercial interests of drug companies ahead of patients' interests and the public purse, particularly when it comes to proposing drug legislation.

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Selected references from Prescrire's literature search.

1- European Commission "Pharmaceutical sector inquiry. Final report" 8 July 2009. ec.europa.eu accessed 27 August 2009 : 426 pages.

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