

## **“ADVANTAGES AND RISKS OF DIFFERENTIAL PRICING FOR PRESCRIPTION DRUGS”**

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Differential pricing of prescription drugs is not a new phenomenon. International comparisons have always shown price differences for a particular drug in various countries. Sometimes, these differentials have been wide – so wide, in fact, that much of the last decade has been spent in trying to bring about more uniform pricing in, for example, the European Union.

What is new, is the sheer magnitude of the price differential that is required if access for poorer countries is to be greatly improved. Here, need is paramount and access is clearly inadequate.

*QUESTION: Is differential pricing the answer, or part of the answer, or no answer?*

I have been asked to discuss concepts, not conflicts; longer-term principles, not knee-jerk reactions: the way to agree, not the impulse to fight. If you believe that concepts belong to the ivory tower, then I can only plead that I hope to keep both feet firmly on the ground floor.

Differential pricing is a task for the pharmaceutical industry. There are two sides to it: it affects not only the recipient of drugs but also has repercussions for the industry. I suggest, therefore, that we consider its impact on both.

Differential pricing can be adopted in three separate contexts:

*Firstly*, as part of normal commercial practice in free markets. Differentials can take the form of quantity rebates, discounts to key purchasers, concessions for long-term contracts, and so on. It is applicable both to patented drugs and to generics.

*Secondly*, in international trade between countries with different degrees of pricing freedom or price regulation for drugs. Regulated prices will be more or less uniform for single-source drugs within a particular country, but parallel trade will arise from price differentials in a free trade area or economic union. Severe price controls in some



It is simply not worth the cost and risk to invent and embark upon the elaborate product development and clinical trial process without patent cover. Pharmaceutical patents were introduced in the 19<sup>th</sup> century, because piracy was depriving inventors of the rewards that are the incentive to *develop* inventions, making them marketable and – for pharmaceuticals – bringing them to the physician and the patient. To attack pharmaceutical patent protection because of its exclusivity is to remove those incentives. Eventually, that will turn the flow of new drugs that health care needs into a trickle.

Patented drugs can be priced differentially, given the will to do so and the basic safeguards that are needed to enable patentees still to benefit substantially from the development of their inventions. Weakening patent protection does nothing to solve the underlying problem of access: it merely throws out the baby with the bath water – the baby being the innovative drug of the future.

How can we best define and eventually resolve the problem of differential pricing with safeguards?

The aim is to find ways and means by which differential pricing can ease access to essential medicines in poor countries.

To make a real impact on access, differential prices have to be very substantially lower than normal market prices.

One of the main obstacles that needs to be overcome in order to make such differential prices workable, is 'reflux' trade: leakage and re-importation, especially of patented drugs, back into the full-price markets of North America, Europe, and Japan.

The first and main **advantage** of differential pricing as a contribution to problem solving is simply that more patients would gain access to essential medicines if they were cheaper. Affordability is not confined to those who can afford everything and those who can afford nothing at all, not even the lowest *differential* price. Affordability is graded. Differential pricing will bring access to more patients. The ultimate step is donations which have their advantages but are not generally welcome as the *sole* vehicle of the pharmaceutical industry's contribution.

The second advantage of differential pricing for the poorest countries is that the pharmaceutical industry is, if I may put it that way, losing business that it does not possess and never will, at full price. The financial sacrifice is limited, whereas the benefit to recipients can be life-saving. For this reason alone, differential pricing is, in principle, very desirable.

We now come to the **risks**.

Only an understanding of risk can turn the ‘



To fence in differential pricing would damage nothing except the dogmatic pursuit of free trade 'come-what-may'. Surely the circumstances that this Workshop is addressing are more critical and ought to carry more weight than the unalloyed purity of free trade. What is needed, in effect, is action that can fulfil desperate medical needs and at the same time provide the necessary industrial safeguards. That calls for a more pragmatic view of free trade than has been the established wisdom in recent decades.

Secondly, we need to encourage a more positive approach to original drug research into the diseases of poverty. For that to happen, adherence to strong intellectual property rights is essential.

The pharmaceutical industry has a moral, social and financial duty to make its contribution to solving the grave medical crisis of unaffordable access. It cannot stand apart and decorously avert its gaze. But it is an *industry*, not a charity. Demonising it for behaving like an industry will not get us very far in the long run. Measures that threaten industry's core interests will not help today's or tomorrow's need for advances in drug therapy.

Am I suggesting, then, that we should see both sides of the problem when many believe that one is right and the other is wrong? I am suggesting just that, because both are right and both are