Research

Primer: Generic Drug Approval Backlog

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Introduction

Generic drugs, chemically identical compounds of drugs that have come off-patent, play a major role in increasing access to prescription drugs and keeping prices low. Almost 90 percent of prescriptions filled in the United States are generics.[1] Despite the obvious utility of having low-cost competitors in the market, the Food and Drug Administration (FDA) has been unable to strike the right balance between ensuring drug safety and timely approvals of generic drugs for sale.

Differences Between Generic and Innovator Drug Approvals

Innovator, or brand-name drugs require years' worth of pre-clinical and clinical testing that can cost millions of dollars before they are approved for sale by the FDA. These expensive trials, along with the investment in Research and Development (R&D), contribute to the price tag of many innovator drugs.

Generic drugs, on the other hand, are essentially knock-offs of innovator drugs, and contain the same active ingredients.[2] Because the active ingredient has already been shown during initial trials to be both safe and effective, it is unnecessary for generic drugs to go through the same rigorous review process. Instead, generic drug manufacturers must only file Abbreviated New Drug Applications (ANDAs) which require the manufacturer to demonstrate bioequivalence between the generic and the brand name drug, per the 1984 Hatch-Waxman Act.[3] This is typically accomplished by showing that the same amount of the active ingredient will be absorbed into the patient's body in the same amount of time and at the same rate as the brand name drug. This type of testing requires only a few dozen subjects.

The ANDA Backlog

Generic drugs cost significantly less to develop and bring to market than innovator drugs, and are therefore often given preferential treatment by government and private health insurers, increasing the demand for these products.

Generic drug manufacturers (often the same facilities that manufacture other brand name drugs) have been quick to try to meet that demand. In fact, in 2012 the FDA was facing a backlog of over 2,800 unexamined ANDAs.[4] This overload is in part driven by the relative ease with which manufacturers can obtain generic drug approvals since Hatch-Waxman, and the lack of a respective increase in FDA reviewers to process the applications. By 2012 the average waiting period for an ANDA approval had increased to 31 months.[5]

In July 2012, Congress attempted to simulate results seen in the Prescription Drug User Fee Act (PDUFA), which required manufacturers submitting innovator New Drug Applications to pay a fee that is applied towards hiring staff to speed the application approval process.[6] The 2012 law, the Generic Drug User Fee

Amendments (GDUFA) went into effect in October of that year and instituted user fees on ANDAs, Prior Approval Supplements, Drug Master Files, and facility fees to generate $1.5 billion over the life of the five-year program.[7]

The goal of GDUFA was to eliminate the ANDA backlog and reduce the average review time to ten months or less. The program has so far shown signs of success, action has been taken on 84 percent of the backlog, reducing it from 2,414 to just under 400 ANDAs, and newly submitted ANDAs will likely have average review periods of close to ten months.[8]

GDUFA does prioritize some drugs over others, which may increase the anticipated review periods for certain classes of drugs. Generics that address 'medical shortages' may be fast-tracked. Likewise, where there is a lack of competition in the market (with only one manufacturer of a drug), first-entrant generics are also fast-tracked. [9]

Issues Remain to be Addressed Before GDUFA is Reauthorized

The language of GDUFA has left some questions unanswered, which will need to be considered by Congress before the law expires in 2017.

Congress has not given the FDA authority to fast track generics that address a spike in drug prices because such a spike does not constitute a 'medical shortage.' The Turing Pharmaceuticals episode has convinced many that the FDA should be given this power to combat bad actors in the market.[10] Others have expressed concern that this type of authority opens the door to price setting.[11]

It is unclear in the text of the law whether the previous approval of any generic version of a drug, even if that particular version is no longer being manufactured or sold, still prohibits subsequent ANDAs based on the same innovator drug from being treated as first-entrants.

There is no clear system for prioritizing ANDAs (beyond first entrants), or distinguishing between the second ANDA based on an expensive drug and a new generic of low cost brand name drugs like Asprin or Tylenol. Likewise, there are no clear guidelines for communication between the FDA and the industry.

In addition to utilizing the additional funds provided by GDUFA to hire more staff to minimize the backlog, the FDA should also be incentivized to streamline the approval process and cut down on paperwork hours.

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[1] http://www.help.senate.gov/imo/media/doc/Woodcock5.pdf