

EU anti-trust probe maintained on Johnson & Johnson, Novartis

January 31 2013

European anti-trust authorities said Thursday they had sent written objections to pharmaceutical giants Johnson & Johnson and Novartis over a deal affecting generic medicine.

The European Commission said it had informed the US and Swiss companies of "objections regarding an [agreement](#) concluded between their respective Dutch subsidiaries on fentanyl, a strong pain-killer."

The sending of a so-called "statement of objections" effectively means that a probe opened by the Commission in October 2011 was continuing.

The EU, which polices a single market of half a billion consumers, said it believed that an agreement between the two drugs giants "delayed the market entry of a cheaper generic medicine in the Netherlands."

A statement said: "If our preliminary conclusions are confirmed, the Dutch subsidiaries of Johnson & Johnson and Novartis entered into a so-called 'co-promotion' agreement to avoid competing against each other, depriving users of fentanyl in the Netherlands from access to a cheaper pain killer."

Competition Commissioner Joaquin Almunia said that Brussels would continue to fight undue delays in the market entry of generic medicines so that European citizens have access to affordable healthcare.

"It is also important to make sure that pharmaceutical companies do not

free ride our welfare state and health insurance systems, especially in this period of constraints on public spending", Almunia added.

The EU executive said Janssen-Cilag, the J&J subsidiary supplying fentanyl in the Netherlands, concluded a so-called "co-promotion agreement" with its close generic competitor Sandoz, a Novartis subsidiary, in July 2005.

The agreement foresaw monthly payments from Janssen-Cilag to Sandoz for as long as no generic product was launched in the Dutch market.

Consequently, Sandoz abstained from entering the market with generic fentanyl patches for the duration of the agreement from July 2005 until December 2006.

Fentanyl is a pain-killer stronger than morphine that is used to treat patients with severe pain.

"This may have delayed the entry of a cheaper generic medicine for seventeen months and kept prices for fentanyl in the Netherlands artificially high," the Commission statement said.

A Commission spokesman refused to state the size of the monthly payments to Sandoz.

The probe is a further step in the Commission's fight against undue delay to generic entry though the sending of a statement of objections does not prejudge the final outcome.

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