

# FACT SHEET #11



## FAIR DRUG PATENT REGULATIONS

A better choice for retired Canadians

Since the passage of Bill C-91 in 1993, Canada has 20-year patent terms for pharmaceutical products, which is the international standard. However, in addition to what is required by Canada's international trade agreements, Canada also has the Patented Medicines (Notice of Compliance) Regulations.

The Patented Medicines (Notice of Compliance) Regulations of Canada's Patent Act allow brand-name drug companies to stop Health Canada approval of generic drugs simply by alleging patent infringement.

The automatic 24-month injunction under the Regulations means that Health Canada cannot approve a generic drug until any claim of alleged patent infringement is decided in court.

This provides an enormous financial incentive to brand-name drug companies to allege patent infringement regardless of the possible outcome of the litigation. They strategically list a number of additional patents on a single drug at staggered dates

in order to start additional 24-month injunctions, thus prolonging the litigation under the Regulations to keep competition off the market. This practice is commonly known as "evergreening".

Even when the generic manufacturer wins (which has happened in 75 per cent of the cases since the last amendments to the Regulations in 1998), the generic drug is still kept off the market through lengthy and costly litigation – often for years past the expiry of the original patent. The Supreme Court of Canada has described the Regulations as a "draconian regime."

This abuse of Canada's drug patent laws means provincial governments, private drug plans and Canadian consumers lose out on millions of dollars in savings every year by having to pay for higher-priced brand-name drugs for extended periods of time.

Patent disputes in the pharmaceutical industry should be resolved through the normal litigation process used by every other industry in Canada. Brand-name drug companies do not need their own special set of rules for patent disputes – particularly when these rules are being systematically abused to extend monopolies beyond the expiry of the basic patents, and forcing Canadians to pay higher drug prices for longer.

The federal government made bad choices. They put drug company profits ahead of the needs of Canadian citizens. Since 1999, they also chose to give away \$10 billion in tax cuts to already profitable businesses.

### You can make a better choice.

**When you vote,** choose a party that supports fair drug patenting rules and one that puts the needs of people ahead of the profits of the big pharmaceutical corporations.



For more information about the Congress of Union Retirees of Canada (CURC) and better ideas for health care, visit: <http://curc.clc-ctc.ca>.