

Countering HIV and hepatitis excessive drug prices in Europe

By Adopting Intellectual Property Strategies from Activists in Low- and Middle-Income Countries

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Background

Since the 2010s, high-income countries began to face difficulties in accessing innovative drugs due to excessive prices. It became clear in 2014 when Sofosbuvir, the new hepatitis C medicine, was commercialized in Europe for 40K€ the 3-month-cure. However, in low- and middle-income countries (LMIC), activists had already developed various intellectual property strategies to counter patent system abuses and exorbitant prices, including patent opposition, unilaterally fixed price and compulsory licensing.

Description

Based on the experience of activists in LMIC, European civil-society organizations started to take into account price-setting concerns, linking them to access issues for the first time. This transition was illustrated clearly in two cases.

In March 2017, a coalition of organizations including AIDES filed an opposition to contest one of the patents covering Sofosbuvir by claiming it was not an innovation per se.

In September 2018, the European Patent Office ruled in favor of maintaining the patent, although it amended its scope. The civil-society coalition has decided to appeal this decision in order to maintain pressure against unfair pricing and patenting.

Civil-society coalitions also combated the extension of Truvada's monopoly. While the patent on this HIV drug was due to expire by July 2017, the pharmaceutical company Gilead obtained a supplementary protection certificate (SPC) maintaining its monopoly until February 2020. SPC provides for a compensatory extension when the period between the patent's filing date and the marketing authorization exceeds 5 years.

A thorough analysis from European treatment activists and a referral to the European Union Court of Justice were necessary to demonstrate the extension was invalid.



AIDES, Doctors of the World and Doctors Without Borders, European Patent Office, September 2018

Lessons

Both procedures contributed to lower prices in 2017: cures went from 41 to 28,7K€ for Sofosbuvir and from 400 to 160€ for Truvada. Price-cutting was especially critical to roll-out Truvada's use for PrEP in France.

Conclusions

This transfer of experience from precursor activists in LMIC to activists in Europe illustrates that challenging drug prices has become a global issue, and that civil-society organizations must expand their expertise to counterbalance the hegemony of pharmaceutical companies. Our efforts with the Sofosbuvir appeal must now continue, as we consider its price is still excessive.

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