



Conservatives
for
Property Rights

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Statement on Congressional Antitrust Hammers Against Biopharma Innovation

This statement, regarding new antitrust legislation aimed at new and improved biopharmaceutical products, may be attributed to James Edwards, Executive Director, Conservatives for Property Rights:

“Lawmakers in both parties have latched onto antitrust as their weapon of choice for hobbling biopharma innovation. These politicians apparently dislike how U.S. innovators bring Americans with serious illnesses new and improved products for treating and curing them.

“This at a time when generic medicines count for 9 out of 10 U.S. prescriptions and American drug firms set the global pace in remarkable new medicines, such as the leading COVID-19 vaccines, drugs that shrink cancerous tumors and cures for diseases like Hepatitis C.

“Proponents’ ominous terms — ‘product hopping,’ ‘patent thicketing’ — mislabel common iteration and improvement found in every area of invention.

“Academic activists, including Profs. Michael Carrier and Robin Feldman, aid and abet the antitrust effort by clouding the debate with tilted but scholarly sounding trappings. They gloss over very important antitrust principles: the consumer welfare standard, price or size alone aren’t determinative, introduction of innovation drives dynamic competition.

“Proponents don’t appreciate why a drug company may need to pull a medicine’s older version. Take the regulatory compliance costs — for market surveillance, ensuring manufacturing quality, chain-of-custody to prevent counterfeiting. These and other costs for two similar products may not be feasible. Nothing stops generic drugmakers from making the older version.

“Weaponizing antitrust for a misguided purpose sets back the pace of medical progress and unduly prolongs human suffering. It reduces America’s competitiveness in a critical field in which China seeks to surpass us. This legislation deprives the exercise of property rights. Antitrust enthusiasts need to step back and take a closer look at adverse effects they’ll cause.”

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Background: The House Judiciary Antitrust Subcommittee held a hearing April 29 on anticompetitive conduct and consolidation in health care markets. The hearing served as a platform for introducing intellectual property-encroaching antitrust legislation, including Sens. John Cornyn’s and Richard Blumenthal’s S. 1435, the “Affordable Prescriptions for Patients Through Promoting Competition Act.”

See previous CPR communications on this issue here, here and here, and op-eds here and here.