



---

For immediate release

## **Consumers, Taxpayers to Pay More for Drugs Under Proposed Changes to Patent Rules**

***Federal government poised to ignore Supreme Court of Canada and reopen loopholes that allow for “evergreening” of drug patents***

**Toronto, May 6, 2008** – Proposed amendments to Canada’s drug patent rules will force consumers and taxpayers to pay monopoly drug prices on top-selling prescription drugs for longer than they should by reopening loopholes that allow brand-name drug companies to unfairly keep competition from lower-cost generic prescription medicines off the market.

The Government of Canada published draft regulatory amendments to the *Patented Medicines (Notice of Compliance) Regulations* of Canada’s *Patent Act* on Saturday, April 26, 2008. The changes would allow brand-name drug companies to list patents that are irrelevant to their products and get an automatic injunction preventing Health Canada’s approval of lower-cost generic versions, even though the relevant patents have expired.

The proposed amendments would override a November 3, 2006 ruling by the Supreme Court of Canada. In the decision, the Supreme Court ruled that brand-name drug companies were being incorrectly allowed to abuse the patent system to the detriment of consumers and generic pharmaceutical manufacturers, a practice known as “evergreening.” The proposed amendments would allow that abuse to resume.

“Changes to stop evergreening came after years of study and calls for change from the Supreme Court of Canada, Romanow Commission, Canada’s Competition Bureau, Canada’s First Ministers, seniors organizations, health-care groups, unions, and employers that sponsor drug benefit plans for their employees,” said Jim Keon, President of the Canadian Generic Pharmaceutical Association (CGPA). “Now, the government is proposing to override a Supreme Court Decision without prior consultation with the generic pharmaceutical industry or anyone in Canada who will have to pay higher prescription drug prices if these amendments are adopted.”

The proposed amendments could lengthen market monopolies for some prescription drugs, for example, Lipitor and Norvasc, the two top-selling prescription drugs in Canada.

The Government of Canada is allowing a mere 15 days for written submissions on the proposed amendments and admits in its regulatory impact assessment statement (RIAS), that the proposals will lead to higher drug costs for consumers and provincial governments by delaying the introduction of lower-cost generic drugs, stating:

*“The Government recognizes that one possible consequence of the proposed amendments is that some generic drug companies may not be able to enter the market with a generic version of a patented drug on the same date as had been expected if the Federal Court of Appeal’s decision were left to stand. While this could result in delayed savings to consumers and provincial drug plans, the Government considers these potential costs to be counter-balanced by the above-mentioned benefits...”*

(more)

“The brand-name pharmaceutical industry is the spoiled child of Canada’s intellectual property regime,” Keon said. “Despite 20 years of government concessions, Big Pharma’s investments in research and development continue to fall below the levels they committed to when their government-granted monopolies were first increased in 1987. Now the Government of Canada is prepared to ignore the Supreme Court in order to let them continue their abuse of the patent system.”

With the adoption of the 1987 amendments to the *Patent Act* that lengthened their monopolies, brand-name drug companies made a public commitment to increase their annual research and development (R&D) expenditure to 10 per cent of Canadian sales. However, the 2006 Annual Report of the Patented Medicine Prices Review Board (PMPRB) shows that for the sixth consecutive year, Big Pharma’s R&D-to-sales ratio has fallen below that level. Brand-name drug companies spent only 8.1 per cent of their revenues on research and development in 2006, and less than 2 per cent on basic research into new drugs.

Keon also pointed out that the provinces of Quebec and Ontario have experienced crippling job losses in the manufacturing sectors in recent months. Unlike most brand-name drugs that are shipped into Canada, most generic drugs sold in Canada are made domestically, primarily in Ontario and Quebec. “The Government of Canada is further threatening manufacturing jobs in the country’s industrial heartland by pandering to brand-name drug companies.”

#### **About the Canadian Generic Pharmaceutical Association**

The Canadian Generic Pharmaceutical Association (CGPA) represents Canada’s generic drug industry – a dynamic group of companies that specialize in the production of high quality, affordable generic drugs and fine chemicals and in conducting the clinical trials required for government approval of generic drugs. The industry plays an important role in controlling health-care costs in Canada. Generic drugs are dispensed to fill 49 per cent of all prescriptions but account for less than 21 per cent of the \$19-billion Canadians spend annually on prescription medicines.

- 30 -

#### **For more information, please contact:**

Jeff Connell  
Director of Public Affairs  
Canadian Generic Pharmaceutical Association (CGPA)  
Tel: (416) 223-2333  
Cell: (647) 274-3379  
Email: [jeff@canadiangenerics.ca](mailto:jeff@canadiangenerics.ca)  
Website: [www.canadiangenerics.ca](http://www.canadiangenerics.ca)