Antitrust and Consumer Protection Lawsuit Filed Against Maker of Opioid Addiction Treatment Drug

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Attorney General Herbert H. Slatery III, along with the Division of Consumer Affairs, today announced the filing of an antitrust and consumer protection lawsuit against the makers of Suboxone, a prescription drug used to treat opioid addiction. Slatery and attorneys general from 34 other states and the District of Columbia, filed the lawsuit over allegations that the companies engaged in an anti-competitive scheme to block generic competitors and cause consumers to pay artificially high prices.

Reckitt Benckiser Pharmaceuticals, now known as Indivior, is alleged to have conspired with MonoSol Rx to switch Suboxone, a brand-name prescription drug used to treat heroin addiction and other opioid addictions by easing addiction cravings, from a tablet version to a dissolvable film version in order to prevent or delay generic alternatives from entering the market while maintaining monopoly profits.

The companies are alleged to have violated state and federal antitrust laws and the Tennessee Consumer Protection Act.

“Because of these tactics, consumers have been forced to pay unnecessarily high prices for medicine they need,” Attorney General Slatery said. “Opioid abuse is a serious problem and we need to make sure those addicted to opioids have treatment available. Putting a stop to anticompetitive and deceptive practices is one way to accomplish that.”

According to the lawsuit, in 2002 when Reckitt introduced Suboxone in tablet form, it had exclusivity protection that lasted for seven years, meaning no generic version could enter the market during that time. Before the exclusivity period ended, Reckitt worked with MonoSol to create a new version of Suboxone – a dissolvable film, similar in size to a breath strip. Through deceptive marketing and price adjustments, Reckitt allegedly destroyed the tablet market and steered the public toward its film product. In time, the majority of Suboxone prescriptions were written for the film and Reckitt removed the tablet version from the U.S. market.

The attorneys general allege this conduct was illegal “product hopping,” where a company makes modest changes to its product to extend patent protections preventing other companies from entering the market with cheaper generic alternatives. According to the suit, in spite of the companies’ claims, the Suboxone film provided no real benefit over the tablet and Reckitt continued to sell the tablets in other countries.

“This is another good example of how multiple states can work together for the greater good of American consumers,” said Tennessee Department of Commerce and Insurance Deputy Commissioner Bill Giannini.

According to the lawsuit, consumers have paid artificially high prices since late 2009, when generic alternatives of Suboxone might otherwise have become available. During that time, annual sales of Suboxone topped $1 billion.

The lawsuit, filed in the U.S. District Court for the Eastern Division of Pennsylvania, alleges the companies violated the federal Sherman Act and state antitrust and consumer protection laws. Counts include conspiracy to monopolize and illegal restraint of trade. The attorneys general ask the court to stop the companies from engaging in anticompetitive and deceptive conduct, to restore competition, and to order appropriate relief for consumers and the states, plus costs and fees.

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