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CCP CENTRE FOR COMPETITION POLICY

February 2013

What is the price of pay-to-delay deals?

CCP Policy Briefing

# What is the price of pay-to-delay deals?

## BACKGROUND

- A pay-to-delay deal (or 'reverse payment') involves a payment from a branded drug manufacturer to a generic manufacturer to delay market entry.
- Pay-to-delay deals are on the rise on both sides of the Atlantic.
- According to the Federal Trade Commission, pay-to-delay deals stifle competition from lower-cost generic medicines and have cost US consumers on average $3.5 billion per year.

## METHODOLOGY

- The author considers entry limiting agreements in one pharmaceutical segment: the psychostimulant drugs used for the treatment of attention deficit hyperactivity disorder (ADHD). Pay-to-delay deals in this segment highlight the tension between patent laws and antitrust laws in an economically significant area.
- Simulated market equilibrium prices are computed under hypothetical situations constructed to mimic delays in generic drug entry in the market.

## KEY FINDINGS

- Under all three of the counterfactual conditions considered, there is a significant increase in the price of ADHD drugs.
- In a typical pay-to-delay deal, two features may be present: a two to three year delay in any generic entry, followed by a term of licensed entry and joint profit maximisation.

## POLICY ISSUES

- The results of the analysis support reforms that establish the presumption of the anti-competitiveness of pay-to-delay deals.

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## THE CCP

The ESRC Centre for Competition Policy (CCP), at the University of East Anglia, undertakes competition policy research, incorporating economic, legal, management and political science perspectives, that has real-world policy relevance without compromising academic rigour.

## FOR MORE INFORMATION

The full working paper 13-1 and more information about CCP and its research is available from our website: [www.competitionpolicy.ac.uk](http://www.competitionpolicy.ac.uk)

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