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### **Kaletra – Abbott’s Abusive Practices**

Abbott Laboratories has a history of using aggressive tactics to keep Kaletra profits high. The following are examples:

#### **Retaliation against Thailand for issuing compulsory licenses**

In 2006, the Thai Ministry of Public Health (MoPH) declared access to generic versions of Abbott’s Kaletra in the public interest and issued a license for government use of patents. In response, Abbott undertook a well-financed public relations and lobbying attack on the Thai government in an attempt to block compulsory licensing. The company accused the Thai government of breaking patents and “stealing” intellectual property.

In retaliation, the Chicago-based company cancelled plans to sell seven new medicines in Thailand and threatened to stop registering drugs in Thailand. One of these applications was for Aluvia, a heat-stable version of lopinavir/ritonavir requiring no refrigeration. Under global pressure, Abbott cut the price of Kaletra for more than 40 countries but demanded Thailand repeal the CL if it wanted to benefit from the discount. The MoPH refused.

These actions were criticized by Abbott’s stakeholders who sent a letter to Abbott’s Chief Executive Officer urging the company to reverse its decision and ensure access to the medicines. They feared that Abbott’s decision “could damage the company’s reputation and hurt business prospects in developing countries.” The group emphasized, “We believe that Abbott’s actions are creating a precedent for pharmaceutical industry behavior which we can not endorse.” Ultimately, Abbott withdrew the sanctions and offered a new price for Aluvia.

Abbott launched its attacks while simultaneously seeking a compulsory license of its own on a patent concerning a method of genotyping the Hepatitis C virus (HCV). Innogenetics had accused Abbott of infringing on their patent claims and sought an injunction to prevent Abbott from using the patent to manufacture and sell the products which utilized the patented technology. The U.S. District Court ruled in favor of Innogenetics, Inc., issued an injunction, and rejected Abbott’s request for the compulsory license as a means to avoid the injunction.<sup>1</sup>

#### **Anti-competitive tying: 400% increase of the price of Norvir (ritonavir)**

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<sup>1</sup> Love, James. “Abbott recently sought compulsory license in US patent dispute,” Knowledge Ecology International. <http://keionline.org/content/view/43/1>



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In December 2003, Abbott raised the price of Norvir (ritonavir) by 400%. Ritonavir is a protease inhibitor which can boost the effectiveness of other HIV/AIDS treatments. The wholesale price for 30 100mg capsules subsequently rose from \$51.30 to \$257.10. Abbott however, did not similarly raise the price of Kaletra, giving their combination product an unfair market advantage.

This anti-competitive tying arrangement reduced incentives for other pharmaceutical companies to develop new HIV treatments that would also rely on Abbott's ritonavir as a boosting agent.<sup>2</sup> In other words, ritonavir, a publicly-funded drug for treating HIV, was subsequently exclusively commercialized in a price-abusive manner that stifled, rather than encouraged, R&D and innovation.

The price hike prompted several lawsuits against Abbott. In 2008, Abbott settled a class action suit for \$27.5 million brought by the AIDS Healthcare Foundation and the Service Employees International Union for the 400 percent price increase the drugmaker imposed on buyers. GlaxoSmithKline (GSK) and retailers also initiated lawsuits for the Norvir price hike alleging that Abbott created an illegal monopoly. As the price increase occurred a month after GSK introduced Lexiva, a product that includes Norvir, without also increasing the price of Kaletra, GSK argued that Abbott's move forced the daily dosage of Lexiva to cost 75 percent more than Kaletra. Consequently, GSK claimed to have lost more than \$570 million in profits. The federal jury rejected the charges by GSK, however Abbott was obliged to pay \$3.4 million for breaching licensing contracts.

For more, see:

The Wall Street Journal, "Abbott Hit With Another Norvir Lawsuit," October 30, 2007. Available at: [http://online.wsj.com/article/SB119371558998476009.html?mod=dist\\_smartbrief](http://online.wsj.com/article/SB119371558998476009.html?mod=dist_smartbrief).

Pharmalot, "Abbott Sued By Drug-Store Chains Over AIDS Drug," October 30<sup>th</sup>, 2007, <http://www.pharmalot.com/2007/10/abbott-sued-by-drug-store-chains-over-aids-drug/>.

Bloomberg News, "Abbott Settlement in Norvir Lawsuit Approved by Judge," Karen Gullo and Matthew Hirsch, August 19 2008, available at: <http://www.bloomberg.com/apps/news?pid=20601202&sid=acy1SbJAFm00&refer=healthcare>.

Pharmalot, "Glaxo Loses Antitrust Lawsuit Over HIV Pricing", March 30, 2011, available at: <http://www.pharmalot.com/2011/03/glaxo-loses-antitrust-lawsuit-over-hiv-pricing/>

## High prices in middle income countries

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<sup>2</sup> Testimony of Robert Weissman before the U.S. Senate Committee on the Judiciary, "The Role of Federally-Funded University Research in the Patent System," October 24, 2007.



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In 2008, people living with HIV/AIDS in Mexico and Colombia, along with international advocates such as Health Action International, Essential Action and the AIDS Healthcare Foundation, decried Abbott's high prices for the HIV/AIDS treatment Kaletra (lopinavir/ritonavir). Abbott charged buyers in Mexico and Colombia between \$3,000 and \$6,000 per patient per year despite Kaletra's availability in other middle-income countries for \$1,000, and generics available for under \$750 at the time. Following strong civil society pressure and coordinated actions in the U.S., Mexico, and Colombia, Abbott reduced the price of Kaletra from 4688.00 MXN to 3750.40 MXN in 2009, and ultimately to \$1000 USD in Colombia.

For more, see:

Pharmalot, "Group Slams Abbott Over Kaletra Pricing," September 16th, 2008, available at <http://www.pharmalot.com/2008/09/aids-group-slams-abbott-over-kaletra-pricing/>.

Essential Action press release, "Groups Urge Colombia to Issue AIDS Drug License," August 6, 2008, <http://www.essentialaction.org/access/index.php?/archives/169-Groups-Urge-Colombia-To-Issue-AIDS-Drug-License.html>