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Pfizer offers commitments to settle case at the Italian Competition Authority

Daniela Ampollini (Trevisan & Cuonzo) · Monday, June 20th, 2011

In the antitrust case initiated by the Italian Competition Authority ([AGCM](#)) last October (see my posts [here](#) and [here](#)), Pfizer have offered a number of commitments in order to settle the case and avoid sanctions. These are the following. Firstly, Pfizer will offer an irrevocable and royalty-free license on [EP 1225168](#) to all interested parties (this is the divisional patent claiming latanoprost – contained in Pfizer’s drug Xalatan – which is at the basis of the dispute, and for which an appeal is currently pending against the decision of revocation recently issued by the EPO Opposition Division). Secondly, Pfizer will refrain from requesting the paediatric extension relating to the SPC issued on latanoprost based on EP 1225168. Thirdly, Pfizer will settle the whole of the Italian litigation (7 civil proceedings pending in Rome and Milan and 1 action before the administrative Court of Rome) against generics. In particular, for 6 of these proceedings, it is stated that Pfizer will accept the requests of the opposing parties, with the sole exception of the reimbursement of legal and administrative costs. Finally, Pfizer will issue through its website a press-release (which will be maintained for 3 years) in which Pfizer will inform patients of the existence of generic versions of Xalatan at a lower price and with equal therapeutic effects. For a period of 6 months, Pfizer’s agents will similarly inform practitioners.

The possibility to offer commitments is granted to the subjects involved in the inquiry by [Article 14-ter](#) of the Italian antitrust law (Law no. 287/1990), according to which commitments can be offered which are aimed at eliminating the antitrust profiles that are the subject matter of the inquiry. The Authority will then evaluate the commitments and, in case they are considered appropriate, make them obligatory and close the enquiry without issuing any ruling on the alleged breach of competition law. As far as the procedure is concerned, the proposed commitments are published in the AGCM bulletin and interested parties have a right to forward their observations in the following 30 days. Thereafter, the Authority finalises its assessment and decides if the case can be settled on the basis of the commitments.

In the Pfizer case the commitments were published in the AGCM’s [bulletin of 16 May 2011](#). The authority has announced that it will finalise the assessment process by 29 July 2011. Let’s see what happens in a one month time.

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