Mr Vytenis Andriukaitis
Health & Food Safety Commissioner
European Commission, Berlaymont
Rue de la Loi 200
1049 Brussels
Belgium

By e-mail

Brussels, 2 July 2015

Dear Commissioner,

We write to you on behalf of the European Association of Euro-Pharmaceutical Companies (EAEPC), which represents the licensed parallel distribution industry in Europe. Our association has 85 member firms from 24 countries throughout the EEA. For over thirty years our sector has enhanced competition in an otherwise fragmented pharmaceutical market, ensuring lower costs for patients in Europe, in sometimes challenging economic environments.

We have seen a copy of the letter addressed to you by the European Federation of Pharmaceutical Industries and Associations (EFPIA), dated 29 June, which refers to parallel trade in the context of the current economic crisis in Greece.

A further letter addressed by the Greek manufacturers' federation SFEE to the Greek Minister of Health translates the EFPIA message into the formal request for a total export ban of pharmaceuticals (enc.).

The EFPIA letter raises the hypothetical potential for medicines shortages that could arise from excess parallel trade, particularly if Greece were to leave the Eurozone and introduce a new currency.

It is telling that the wealthy pharmaceutical industry is exploiting the potential advent of another crisis in Greece for their own commercial purposes in portraying a medicines shortage in the country in the coming weeks and months. The same unsubstantiated claims have periodically been raised, in particular in 2012 by the EFPIA President, when the first signs of a financial crisis surfaced. Parallel exports of medicines from Greece have since decreased by more than one third. Compared to the peak in 2005-6, our estimates are that parallel exports have more than halved. This only underlines the fact that there is no link between parallel trade and shortages. When shortages occur they often take place for other reasons. Our experience is that supply shortages in countries in financial distress are caused by critical liquidity problems impacting upon the whole supply chain, with national healthcare systems unable, in a timely fashion, to reimburse pharmacies, which in turn are unable to settle their accounts with wholesalers and manufacturers, resulting in delayed and interrupted deliveries.

In the case of Greece, pharmaceutical manufacturers had – for commercially understandable reasons – ceased to extend any credit lines to their customers, and had already in 2013 started to request cash payments from wholesalers for medicine purchases, and are now requesting cash from pharmacies when supplying these directly. It is the lack of liquidity in the Greek supply chain that is the primary cause for shortages, and for the disruption of ordinary supply.

On top of all this, it is well known that Greek pharmaceutical companies have long maintained supply management schemes aimed at preventing parallel trade, and have applied these ever more strictly by regularly cutting down on orders of wholesalers. Pharmacists have repeatedly pointed at the risk of shortages caused by supply schemes. From within our membership we understand that supplies from manufacturers to the Greek market have been kept at minimum levels in recent months, leading to undersupply.

If a new currency emerges in Greece, which may depreciate rapidly, this would not create "significant room for EU arbitrage on medicines", as it is crystal clear that the pharmaceutical industry would invoice its supply in those circumstances in Euros and not in the new currency; this would not render the export from Greece any more competitive than before.

Furthermore, if medicines prices were to decrease in Greece, this would not lead to any increase of exports, for a number of reasons: firstly, it is fair to assume that the pharmaceutical industry would not supply more packs to Greece than before and would maintain the supply quota systems. Secondly, in combination with the public service obligation of wholesalers to supply the Greek hospital and pharmacy market as a priority, not a single box more would be exported under these circumstances. Hence the fear of shortages due to parallel trade is rationally unfounded, except that it may appear as sound, albeit populist, economics, whilst instead exclusively serving the interests of the initiators. Unless, of course, a situation of shortage had been created to begin with and on purpose.

Parallel trade inside the EEA, as you will well know, is perfectly legal, indeed an integral part of the EU single market, where pharmaceutical manufacturers operate differential pricing policies depending on member state. Erecting barriers to the single market is contrary to the EU Treaties and CJEU jurisprudence.

It is therefore inappropriate at best, and inequitable at worst, to suggest there need to be special measures to protect Greek public health against parallel trade.

On the contrary, it is our firm belief that maintaining the current level of parallel exports of medicines out of Greece provides much needed liquidity to the pharmaceutical market in Greece. Importers pay cash at receipt of goods, which keeps wholesalers financially afloat and in turn helps them to extend credit lines to pharmacies, thereby allowing patients in Greece to receive the appropriate medication and ensuring the supply chain remains fluid and operative.

Interrupting this source of liquidity into an already strained supply chain by issuing an export ban, as the local Greek manufacturers representation is requiring, is entirely counterproductive from the viewpoint of public health.

This seems at least for the present moment also to be the insight of the local health authorities, as we understand from our members in Greece. There have apparently been talks between all the supply chain partners in the country, initiated by the Greek Medicines Agency EOF, and EOF had today placed a message on its website saying “During our discussions, it was clear from all suppliers that the supply of the market takes place regularly.”

The CJEU ruling on the Lelos case (joined cases C-468/06 to C-478/06) suggests that action to prevent shortages should be guided by public health considerations and enacted by the respective authorities, not be handled by, and serving the private interests of, pharmaceutical companies.

Having said all this, we stand ready to meet you to discuss the complex situation in Greece, including by bringing expert testimony from market participants, as you continue to reflect on this matter.

We look forward to hearing from you at your earliest convenience.

Yours sincerely,

Richard Freudenberg
Chief Executive EAEPC

Heinz Kobelt
Director European Affairs EAEPC

c.c.
Elzbieta Bienkowska, Commissioner for Internal Market, Industry, Entrepreneurship, SMEs
Jyrki Katainen, Vice-President for Jobs, Growth, Investment & Competitiveness
Pierre Moscovici, Commissioner for Economic & Financial Affairs, Taxation & Customs
Margrethe Vestager, Commissioner for Competition