

attributable to newly introduced drugs from the development pipeline.³⁷ On the basis of current trends, most of the remaining \$13 billion would be generated by price increases, not increased sales volume.

Of course, Shkreli and other pharmaceutical executives would tell a different story about high prices. New treatments have immense value in improving quality of life, extending life spans, and eliminating the need for invasive medical procedures to be used instead.³⁸ The hefty price for some of these pharmaceuticals reflects the value they offer to patients.

There is certainly some truth to these statements, as well as an obvious counter-argument: Why would prices of existing drugs, some of which have been available for decades, increase when constantly improving medical care would suggest that their relative value should decrease or remain stagnant? The routine price bumps suggest that pharmaceutical companies are taking advantage of price inelasticity and minimal competition to push pricing to its limit.

All of this begs the question: How *do* these price increases go unchallenged? Shouldn't other drug makers step in to provide competition in the marketplace? That is where generic drugs enter the picture. Always looming in the back of the minds of pharma executives is the threat of generic competition. Nothing has more power to shift the all-important bottom line. A United Therapeutics executive at the J. P. Morgan event referred to a generic launch as a generic intrusion.

In a way, generics are quite an intrusion. Brand-name drug companies, who enjoy a monopoly in the market for a drug until generic entry, face a nearly instantaneous plummet in market share and price. Within a year of entry by the first generic, a brand-name drug generally loses an average of 80–90 percent of its market share.³⁹ As multiple generic competitors enter the market, the price of most drugs eventually falls to 15–20 percent of the original brand-name cost.⁴⁰

For companies that rely on just one or two patent-protected drugs for the majority of their revenues, generic competition can be a rude awakening. Considering that generic entry often coincides with the expiration of a brand-name company's patents

³⁷ *Ibid.*

³⁸ Victoria Colliver, *Biotech Execs Talk "Value" in Backlash against High Drug Prices*, S.F. CHRON. (Jun. 9, 2016), www.sfchronicle.com/business/article/Biotech-exec-s-talk-value-in-backlash-7974134.php; Rebecca Robbins, *With Tens of Millions on Hand, Drug Makers Fight State Efforts to Force Down Prices*, STAT (Jun. 9, 2016), www.statnews.com/2016/06/09/drug-companies-fight-back/.

³⁹ See *ibid.*; see also Henry G. Grabowski *et al.*, *Evolving Brand-Name and Generic Drug Competition May Warrant a Revision of the Hatch-Waxman Act*, 30 HEALTH AFF. 2157, 2163, exhibit 4 (2011). In fact, for the period between 2004 and 2008, Grabowski *et al.* found that the average drug with more than \$1 billion in annual sales had more than ten generic competitors one year after first generic entry. See *ibid.* at 2160 exhibit 1.

⁴⁰ See *Facts about Generic Drugs*, U.S. FOOD & DRUG ADMIN., www.fda.gov/Drugs/ResourcesForYou/Consumers/BuyingUsingMedicineSafely/UnderstandingGenericDrugs/ucm167991.htm (last updated June 28, 2016).