



TO: AAM

FROM: Quadrant Strategies

DATE: July 1, 2019

RE: Patent Settlements Legislation Poll

From June 7 to June 20, 2019, we fielded a representative national poll of 2,000 registered voters, focusing on patent settlement issues and proposed legislation on the topic. The below memo sets out our key findings from the research.

Before we asked participants the following questions, we provided a description meant to educate them on the issue of patent settlements:

“Please read the following description carefully. They will be essential for the rest of the survey.

When a company creates a new prescription drug, it is granted one or more patents that allows the company to market that drug without competition for a period of years. This is what is known as a brand-name drug. This lack of competition is why brand-name drugs are often very expensive.

When a generic drug-maker wants to make a generic drug before the end of a brand-name drug’s patent period, it must engage in patent litigation with the company making the brand-name drug. The brand-name drug maker is then provided a time-limited window to sue the generic drug-maker. In many cases, the maker of the brand-name drug and the generic company reach a settlement agreement establishing the date the generic drug can come to market.”

RESULTS AT A GLANCE

A majority of US voters support the use of cash payments to generics makers as part of settlements of patent cases.

- This is not an issue that they find instinctively to be a problem.

SUPPORT OF PATENT SETTLEMENT PAYMENTS <i>In a small percentage of these settlements, in order to reach agreement (without going to court) about the date that the generic version of the drug can come to market, the brand-name drug company agrees to pay the generic drug maker a sum of money. How strongly do you support or oppose having this type of cash payment as an option to help settle these cases and end the litigation?</i>	National Sample
Strongly support + somewhat support	55%
Strongly oppose + somewhat oppose	45%

- **By almost 6 to 1, people trust the generics makers more than they trust the brand-name drug-makers to push in these settlements for an outcome that benefits patients.**

WHO DO YOU TRUST? <i>In these settlements, who do you trust more to push for an outcome that will benefit patients?</i>	National Sample
The maker of the generic drug that is seeking to bring the generic version of the drug to market	59%
The maker of the brand-name drug that is already on the market and protected by a patent	11%
Both about the same	20%

That means there is a significant risk to lawmakers of taking up this issue. It's not important to voters, and the benefits of the bill are not obvious to them. It begs the question for lawmakers: Why are you messing around with this? Given people's strong view that big brand-name pharma already has too much clout, which it uses to fix the system in its favor, lawmakers are inviting suspicion by taking this up.

MANIPULATING THE SYSTEM <i>How much do you agree with the following statement?</i>	National Sample
The makers of brand-name prescription drugs manipulate the medical system for their own benefit at the expense of regular people and patients	92%
The makers of generic prescription drugs manipulate the medical system for their own benefit at the expense of regular people and patients.	46%

This risk is compounded by the fact that people think the bill could well have important negative consequences.

- After learning what the legislation does, **almost two-thirds of voters think the legislation will deter generic drug companies from pursuing patent litigation to get generic drugs to market as early as possible**, compared to a third who think it will reduce anti-competitive settlements.

BURDEN OF PROOF <i>Which is closer to your view?</i>	National Sample
By increasing the cost and risk of litigation, this legislation makes it more likely that generic drug makers will sometimes decide not to go through the expense of trying to bring certain generic drugs to market as early as possible	64%
It is important to require the generic drug maker to prove to the government that the settlement is not anti-competitive in all cases	36%

- **By 4 to 1, voters thus think the legislation will result in higher drug prices.**

PRICES: POST <i>Do you think this legislation would result in higher or lower drug prices?</i>	National Sample
Higher	54%
Lower	13%
About the same	26%

- When reminded that the higher litigation costs resulting from this legislation will ultimately be passed on to patients, **70% opposed the legislation.**

INFORMATION ON PATENT SETTLEMENTS <i>Does the following statement make you more likely to support or oppose this type of legislation? Showing % strongly + somewhat oppose</i>	National Sample
This legislation would drive up the cost of litigation for these patent suits and those costs would inevitably get passed on to patients, meaning higher drug prices.	70%

Voters believe this legislation is just another giveaway that the lobbyists for the brand-name drug industry have secured in order to drive up its profits, and a strong majority opposes the legislation because of that belief.

INFORMATION ON PATENT SETTLEMENTS <i>Does the following statement make you more likely to support or oppose this type of legislation? Showing % strongly + somewhat oppose</i>	National Sample
This legislation is another giveaway to the powerful lobby for brand-name drugs . By making it harder for generics to get to market, the brand-name drug-makers will make huge additional profits. It's no wonder their lobby is not actively working to defeat this legislation.	60%

In the end, **59% of national voters oppose patent settlement legislation.**

OPPOSITION TO PATENT SETTLEMENT LEGISLATION <i>How strongly do you support or oppose this legislation?</i>	National Sample
Strongly oppose + somewhat oppose	59%
Strongly support + somewhat support	41%