

**GOVERNMENT OF INDIA
CHEMICALS AND FERTILIZERS
LOK SABHA**

UNSTARRED QUESTION NO:4480

ANSWERED ON:20.12.2012

ISSUANCE OF PRELIMINARY NOTICES FOR OVERCHARGING

Joshi Shri Mahesh;Singh Shri Brij Bhushan Sharan

Will the Minister of CHEMICALS AND FERTILIZERS be pleased to state:

- (a) whether there are allegations that the Officers of National Pharmaceuticals Pricing Authority (NPPA) are ignoring the instances of overcharging of prices of life saving medicines by openly accepting bribes from the Drug Companies and the Officers of the Ministry are also involved in such cases;
- (b) if so, the details thereof and the action taken / proposed to be taken thereon;
- (c) whether preliminary notices issued on overcharging of live saving drugs are not converted in to final notices;
- (d) if so, the details of Preliminary Notices issued during the last three years, product and company wise and the final action taken thereon; and
- (e) whether the instances of overcharging the prices of Ciplox, Ciplox TZ Tabs, Nutraline-B Capsules and Paediatric Tabs were brought for the first time to the notice of his Ministry and if so, the action taken thereon?

Answer

MINISTER OF STATE (INDEPENDENT CHARGE) OF THE MINISTRY OF STATISTICS AND PROGRAMME IMPLEMENTATION AND MINISTER OF STATE IN THE MINISTRY OF CHEMICALS AND FERTILIZERS (SHRI SRIKANT KUMAR JENA)

(a) & (b): The `life saving drugs` are not defined in Drugs (Prices Control) Order, 1995 (DPCO, 95). National Pharmaceuticals Pricing Authority (NPPA) has issued notices for overcharging as and when price violation cases have come to notice. The allegations received that notice for overcharging has not been issued in many cases, however, were not backed by requisite product information and supporting documents and hence, not found sufficient evidence to initiate action relying upon those allegations.

(c) The issue of preliminary notice does not mean that the company is liable to deposit the overcharged amount. The notices issued by NPPA for overcharging based on inputs received from different sources are vehemently opposed and contested by the pharmaceutical companies on several grounds, like, the composition of their product is different and no price has been fixed for their product or the ceiling price notified by NPPA is not as per the provisions of DPCO, 1995 or the SSI units are exempted from price control and not required to take approval of price from NPPA or the formulation has been manufactured before date of issue of the price notification etc. Each such case requires -thorough examination involving various technical issues to test the contentions / arguments of the companies wrong and establish overcharging. It is only after the overcharging is established; the demand notice is issued directing the company to deposit the overcharged amount including interest to the Government. About 95% of the total amount demanded from companies for overcharging is under litigation in various High Courts and the Supreme Court

(d) During the last 3 years, viz., 2009, 2010 and 2011 there are about 700 cases where preliminary notices have been issued. Year wise detailed information as asked for in the question is not readily available.

(e) The instances of overcharging in the prices of Ciplox & Ciplox TZ Tabs manufactured by M/s Cipla Ltd. have come to notice of NPPA and appropriate action has been taken for recovery of overcharged amount for the relevant period by issuing Demand Notices. The Hon`ble High Court of Allahabad in its order dated 4.03.2004 in W.P. no. 41214/2003 quashed various price notifications issued for Ciprofloxacin based formulation. The Hon`ble Supreme Court in SLP (CA 329/2005 filed by Union of India vs M/s Cipla Ltd.) while staying the operation of the said order on 14.03.2005, directed NPPA not to take any coercive action or launch prosecution for recovery of amounts against respondent i.e. M/s Cipla Ltd. The aforesaid SLP is pending for final hearing in the Hon`ble Supreme Court of India. As regards Nutrolin B Plus Caps and Pedtabs, Show Cause Notice has been issued to the company quantifying the overcharging liability based on ORG-IMS data.