



Decision Time

Comparing the Candidates' Views on Pharma

The future of DTC under the Presidency of either Sen. John McCain or Sen. Barack Obama is difficult to discern (since neither has a true track record on the issue), but it's clear the pharmaceutical industry could face challenges under both. DTC Perspectives analyzed the records of the candidates to piece together a prognostication of how each would view key issues for the pharmaceutical industry.

By Scott Ehrlich

“We're not going to make some of these changes unless we change how business is done in Washington.” The changes that Sen. Barack Obama was referring to in this Dec. 13, 2007, Democratic debate related to healthcare, namely a plan for prescription drug coverage. Both Sen. Obama and Republican presidential nominee Sen. John McCain have plans for change in the prescription drug industry.

Analysts at DTC Perspectives have collected various quotes and voting records from each candidate on prescription drugs and have contacted each of their campaigns to attempt to figure out where DTC will be headed when one of these men take residence in the White House in January of next year.

Taking on the drug companies

Each candidate has said that one of the ways they plan on lowering prescription drug costs is to “take on the drug companies.” Sen. McCain, an Arizona Republican, has blamed “the power of pharmaceutical companies” for everything from the high price of prescription drugs and the inability for Americans to re-import drugs from Canada to the slow approval process for generic drugs (2008 Facebook/WMUR-NH Republican primary debate Jan. 5, 2006). It is clear that Senator McCain sees the drug companies themselves as an obstacle to reducing prescription drug costs.

However, McCain also apparently believes that, while drug companies are an obstacle to lower prices, they are not the

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enemy. According to his campaign plan: “Bold Solutions for Economic Prosperity,” issued Feb. 3, 2008: “Families should receive quality, accountable care at lower costs by harnessing market competition.” This echoes McCain’s sentiments from the 2007 Republican primary debate on Univision from Dec. 9, 2007, when he made it clear that it would be the market and individuals that would take the lead to lower prescription drug costs, not the government. “Ronald Reagan said nobody ever washed a rental car. . . If they’re responsible for it, then they will take more care of it.” He also said, during a Republican primary debate, “We have to award wellness and fitness. We’ll have a healthier nation and we will have less health care costs.”

Reading Obama’s tea leaves

Sen. Obama, on the other hand, has not been so measured in his criticism of the drug industry. In a YouTube debate in July 2007, Obama said “drug and insurance companies are spending \$1 billion over the last decade on lobbying. And that’s why we’ve got to have a president who is willing to fight to make sure that they don’t have veto power.” In September of that year, Obama again promised to fight the drug industry: “We’ve also got to overcome the drug and insurance company lobbies that spent \$1 billion over the last 10 years to block reform. As President, I am going to take them on” (2007 Democratic primary debate on Univision in Spanish Sept. 9, 2007).

He furthered his argument later last year, blaming drug companies for the high costs: “The reason we can’t negotiate prescription drugs under the Medicare prescription drug plan is because the drug companies specifically sought and obtained a provision in the bill that prevented us from doing it” (2007 Des Moines Register Democratic debate, Dec. 13, 2007). He not only held pharma responsible for obstructing reform, but also for gouging consumers: “Drug companies have to do what’s right by their patients instead of simply hoarding their profits” (2007 Democratic debate at Saint Anselm College, June 3, 2007).

Despite stating a position on his campaign Web site that one of his main goals is “reforming our market structure to increase competition in the insurance and drug markets,” Obama certainly sees a much larger role for government

in healthcare than his opponent. According to a passage in the Democratic nominee’s book, “The Audacity of Hope,” Sen. Obama noted that “the market alone cannot solve the problem.” So what is one way that would, according to Obama, help solve this problem? Ironically, in two major ways his market-oriented opponent has long championed: drug re-importation from Canada and the wider use of generic drugs.

Re-importation and generic options

Sen. McCain has long been a key proponent of two major issues that he feels can go a long way towards cutting prescription drug costs for consumers. In fact, McCain took legislative action on both of these issues back in 2002, more than two years before the current Democratic nominee even became a Senator.

The first of these issues involved the re-importation of prescription drugs from Canada. While Sen. McCain alluded to this in the 2006 WMUR-NH debate, he has long championed this issue. McCain voted “yes” July 31, 2002, on a bill that would have authorized the secretary of Health and Human Services to announce regulations allowing pharmacists and wholesalers to import prescription drugs from Canada. Had this bill passed, Canadian pharmacies and wholesalers that provide drugs for importation would have been required to register with Health and Human Services and individuals would have been allowed to import prescription drugs from Canada for a supply of less than 90 days. This bill passed in the Senate, but was never signed into law.

McCain’s other key legislative step for lowering drug prices dealt with generic drugs. Here, too, the Senator has long acted in the way that Sen. Obama wants. The bill he voted on in 2002 that would have allowed re-importation also called for a single 30-month stay against Food and Drug Administration approval of a generic drug patent when a brand-name company’s patent is challenged.

McCain followed this by also voting Nov. 3, 2006, for an amendment on a bill that would have raised the Medicaid deduction rebate for generic drugs from 11 percent to 17 percent. This would have cut the fees on what generic drug makers would pay to pharmacies and therefore increase the amount of generic drug use in Medicaid.

Sen. Obama certainly has not been out in front of these issues in the Senate for as long as Sen. McCain. However, he has used his time in the Senate to take legislative action in line with his words. Obama voted with McCain on the generic drug amendment in 2006. And while he has not voted on any issues involved in re-importation, Sen. Obama has expressed his support for it, urging his then-Republican opponent for a senate seat from Illinois, Jack Ryan, on May 21, 2004, to stop siding with the drug manufacturers and put aside his opposition to the re-importation of lower-priced prescription drugs from Canada.

Digging into the legislative records

Sen. Obama has voted on several occasions in favor of efforts to lower the cost of prescription drugs. On April 18, 2007, Obama voted for a bill that would have required that the government negotiate with pharmaceutical manufacturers the prices that may be charged to prescription drug plan sponsors for covered Medicare Part D drugs. The voting for this bill was highly partisan and opponents charged that it was akin to the government mandating price controls on pharmaceutical products. The bill was defeated in a highly partisan vote (Sen. McCain did not vote on this bill).

Obama also voted for another amendment on March 17, 2005, that was designed to lower drug prices. This amendment would have allowed the secretary of Health and Human Services to negotiate bulk purchases for Medicare prescription drugs with drug companies. This amendment was defeated, 50-49, in a partisan vote. Sen. McCain also voted yes, and was one of just four Republican senators to do so.

Sen. McCain, however, did not vote with Sen. Obama on Feb. 2, 2006, on a bill that would have extended the six-month enrollment period for the Prescription Drug Benefit Program to the entire year of 2006, and also allow beneficiaries to change plans once in that year, without penalty, after enrollment. This vote was also highly partisan and was rejected, 52-45.

Sen. McCain has traditionally voted against government involvement in prescription drugs through Medicare. He did so June 22, 2000, and again on June 26, 2003. While his party was largely against the first bill, which failed, they overwhelmingly supported the second, which passed, as he was one of just six members of his party to vote “no.”

McCain, however, did vote for a Republican-sponsored Medicare prescription drug benefit on April 3, 2001. This bill made up to \$300 billion available for a Medicare

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prescription drug benefit for 2002 through 2011 from the budget’s contingency fund. The key element in this one – and what had been missing from the other bills – was that this amendment required a Medicare overhaul by the Republican-led government. This bill passed the Senate on Vice President Dick Cheney’s tie-breaking vote.

Specific Stands on DTC

The future of DTC under either Sen. McCain or Sen. Obama is difficult to discern, as there is very little on record from either candidate as to what their respective administrations would do in that regard. DTC Perspectives contacted each campaign seeking an official DTC policy statement, but, as of press time, had not received an answer from either one. However, a person’s actions of the past are often good representations of how they will behave in the future. And just one of the two candidates had actually acted on a piece of DTC legislation.



Sen. Obama, in his role as a member of the Senate's HELP Committee (Health, Education, Labor and Pensions), voted in a strict party line vote in favor of the Kennedy Amendment on Senate Bill S. 1082, which would have imposed certain restrictions on advertising of a drug. It would have allowed the FDA to require all advertisements be submitted for review 45 days before distribution. It also allowed the FDA to require certain disclosures in an advertisement, such as a drug's date of approval, scant safety history, or a serious risk, included in the labeling. Most importantly, this amendment also provided that if these disclosures did not serve to protect the public health, in the view of the FDA, the agency would have been able to prohibit DTC ads for up to two years after approval, although it was said that the FDA would do so on a case-by-case basis and only rarely use the moratorium. Thanks in part to Sen. Obama's vote, this amendment was approved in committee by a single vote, although it was later voted down by the Senate.

Sen. McCain is not on a committee with jurisdiction over pharmaceutical advertising so he has no legislative record specific to DTC. However, as chairman of the Commerce Committee, Sen. McCain pushed legislation in favor of restrictions on the advertising of tobacco products. In June 17, 1998, he crossed party lines and voted for Senate Bill S.1415, which would have increased restrictions on the way tobacco was marketed. While tobacco is a different industry than pharmaceuticals, there are some parallels and it is clear that while McCain is a believer in the marketplace of ideas, he has no problem pushing for more government control if the ideas aren't gaining enough market share.

What's ahead for DTC marketing?

From all these statements and votes, two things are relatively clear. Firstly, neither Sen. Obama nor Sen. McCain would be a good friend to the pharmaceutical industry. Each has been

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critical of it at several junctures, has pushed for government regulations on advertising, and has pushed issues that the industry is adamantly against, such as the increased use of generics and re-importation. It seems likely that neither would hesitate to push for increased regulation of DTC advertising.

However, the degrees to which each would act does differ. Sen. McCain seems far more interested in dealing with drug prices than he does with DTC. Based on his professed interest in finding a free-market solution to prescription drug prices, it appears relatively safe to say that DTC can play a role in that and therefore will not disappear under a McCain presidency. While it may be on a tighter leash, any sort of moratorium or ban seems highly unlikely.

Sen. Obama, however, seems to not just want to lower the prices of prescription drugs, but also to lower their profit margins. Based on not just his words, but his voting record indicating he's not opposed to a moratorium on DTC ads (one of the few times Obama has actually voted as a senator on a DTC-specific issue), the future of DTC could be much bleaker under an Obama presidency. For what better way to stop drug companies from "simply hoarding their profits" than to squeeze them not just on the margin on the drugs they sell by forcing lower prices but by also hurting their sales volumes by hamstringing, if not eliminating, their ability to advertise directly to the consumer.

If there is a bright side for DTC, it is the second thing that has become relatively clear from this research: neither candidate seems to have taken a very firm or public position on the issue, which means they likely feel little pressure from constituents to act. There is no mention of DTC on either of the candidates' Web sites, nor any official position either candidate has put in the public domain.

Therefore, it appears that each candidate is taking a wait-and-see attitude toward DTC, preserving the status quo until either the pharmaceutical industry pulls back in its marketing or crosses a line that forces them to act. Since inaction on nearly any issue is a safe bet where the federal government is concerned, it appears DTC will be around awhile. But it is this writer's opinion, based on the words and deeds of the two candidates, that pharma CEOs may sleep a good bit easier with Sen. McCain in the White House than they would having to answer to a President Obama. ■