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'NPPA must Reinvent Itself as a Vigilant Price Monitor'

ET Q&A

Chandra Prakash Singh, outgoing chairman of the National Pharma Pricing Authority (NPPA), who oversaw India's transition to a new drug pricing policy, tells ET's **Soma Das** that the drug pricing regulator must work closely with states and gear up for a new role. Edited excerpts:

We have to balance out consumers' interest with the industry's in a backdrop where the out-of-pocket expenditure on medicine is disproportionately high

CHANDRA PRAKASH SINGH,
Outgoing Chairman of NPPA

More than ₹3,000 crore that NPPA estimates drug companies have overcharged over the past two decades is stuck in courts. Is there any possibility of an out-of-court settlement or some innovative way to recover it?
Speaking of innovative mechanisms, I read reports indicating that the finance minister plans to conduct risk assessment of pending cases on tax recovery and focus on cases where amount to be recovered and chances of recovery are high. But unlike tax cases, where a lot depends on interpretation, most overcharging cases are black and white based on hard evidence. In most cases, companies are only challenging the quantum of financial penalty NPPA has calculated. During my tenure, I have not come across a single company winning against NPPA in any such case. So, I do not think there is any possibility of an out-of-court settlement unless a company just decides to pay up. Under the last policy regime, some companies used to contest that their product is different from the drug under price control, and hence, should be exempted from price net. We removed the ambiguity by holding that any formulation with any proportion of bulk drugs listed under the drug price control order 1995 would fall under price control. And, if the company evades this rule, it would have to forfeit not only the amount it has overcharged, but the entire sale from that product. Many companies chose to close their cases by paying up the overcharged amount. Unless the government takes a different view and chooses to grant mass remission on some accounts, under the present arrangement, we will have to continue to fight these cases.

The drug pricing regime in India changed last year after 18 years. What are the major issues in implementation?
The process of implementation is still on and the matter is also sub judice. But we have ensured that the policy is implemented in the most transparent manner with utmost objectivity and the hiccups we have faced are largely nut and bolt issues which will be sorted out.

The drug industry complains that while enforcing the new pricing policy, NPPA has changed the rules of the game midway at least in three areas – by keeping time-release drugs under price control, by defining 'brand' in a manner which means lower price caps in many cases and now, expanding the number of essential drugs...
Such industry perception is absolutely incorrect. A policy provides the state with a broad framework to proceed, but on finer points, authorised government agencies have to interpret matters. If the industry wants us to interpret the policy the way they understand it or want us to understand it, that is too presumptive a position. We have to balance out consumers' interest with the industry's in a backdrop where the out-of-pocket expenditure on medicine is disproportionately high. In each of the cases you describe, we have remained true to the new drug pricing order and provided a full explanation behind the action and the industry is free to challenge these interpretations legally. Also, the drug market is not one where the consumer has freedom of choice; it is shaped by practices followed by hospitals and doctors. We have to ensure availability but also accessibility and, mind you, a higher-priced drug doesn't necessarily guarantee better quality.

With the realities of drug pricing changing, don't you think it is time NPPA reinvents itself?
I agree that NPPA must reinvent itself from largely being a research outfit involved in price discovery of each product to a vigilant price monitor. For that, we have to work very closely with state governments who largely handle the consumer and retail fronts. We also have to multiply the sample size we draw and keep a close watch on changing trends in the market. Because, unlike the last policy, where every essential drug had one set price to follow, under the present regime, companies can market hundreds of brands of the same product at different price points as we are fixing only price caps.

The drug industry complains of a fractured policymaking space where they have to straddle multiple ministries and regulators on the same issue.
That is a genuine issue and we should formalise a mechanism for different government arms to coordinate on policy-making, especially contentious issues.