

Differential Pricing and Access to Medicines: Achieving Progress Through Compromise
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Scholars have known for decades that differential pricing of essential medicines has great potential for the expansion of access to medicines in the developing world. However, few if any scholars have systematically examined existing systems of differential pricing, aiming to identify their flaws and to propose solutions. This Article seeks to accomplish that goal. Specifically analyzing the context of HIV/AIDS drugs, this Article argues that pharmaceutical companies' existing tiered pricing schemes do not maximize profits, maximize patient access, or optimize a combination of the two. The existing schemes may be eminently rational, in light of corporate social responsibility pressures and the activism of the access community. But there is a solution to be found — a solution that would save lives while simultaneously increasing pharmaceutical companies' profits. Companies, intergovernmental payers, and the access community should work together to bring about this goal. If social pressures prove too strong to permit this solution, however, more drastic forms of differential access might be warranted. In particular, this Article goes on to consider the potential ramifications of eliminating varying degrees of patent protection for essential medicines in developing countries. Ultimately, this Article discusses the ways in which law and policy might respond to the potential solutions advocated throughout the piece, presenting solutions that could work on their own or synergistically together to bring reality closer to the ideal.

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