First things first...

Bush protects drug giant's patent on anthrax medicine

Jerry White
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In the light of the recent cases of anthrax contamination, officials from the Bush administration have repeatedly asserted the government's number one priority is ensuring the health and safety of the American public. Behind the scenes, however, the White House had demonstrated its overriding concern is protecting the profits of giant pharmaceutical companies.

The Bush administration has vehemently resisted demands to break Bayer AG's patent on Cipro—the drug most recommended for treatment of anthrax—and permit other drug companies to produce a cheaper generic version of the antibiotic. The White House has rallied to the side of the German conglomerate on the grounds that ending its monopoly of the production and distribution of the antibiotic would violate free market principles and undermine the industry's incentive to create new drugs.

In a conference call with reporters earlier this week Health and Human Services Secretary Tommy Thompson said such a move would be illegal and that the administration was not "in the process of breaking patents."

On Thursday the Canadian government announced it had broken the patent and ordered a million tablets of a generic version from another company. "These are extraordinary and unusual times," said Paige Raymond Kovach, a spokeswoman for Health Canada. "Canadians expect and demand that their government will take all steps necessary to protect their health and safety."

This argument didn't cut any ice with the Bush administration, however, which dismissed the Canadian decision. "We don't feel there's a need to lift the patent at this time," reiterated Anthony Jewell, a spokesman for the Health and Human Services office.

Although Bayer says it is tripling production of Cipro, it will take the company 20 months, working 24 hours a day, to produce the minimum amount that the US government says is required. The government has currently stockpiled enough antibiotics to treat 2 million people for 60 days each, but health officials say in an emergency enough medicine to treat 12 million people is required.

Five drug companies, which have received initial approval to produce generic versions of the drug pending the expiration of Bayer's patent in 2003, say they could produce the same quantity in three months. They could also sell the antibiotics at a fraction of the cost. A generic drug from reputable suppliers costs only $10 a month in India, for example, while Bayer sells a month's supply of Cipro in the US for $350.

Cipro was Bayer's number one seller even before the September 11 attacks, with $1.6 billion in sales last year. The Federal Trade Commission is currently investigating reports that Bayer made payments to another drug company to delay the introduction of generic versions, a common practice by large brand-name manufacturers.

Patent lawyers have ridiculed the Bush administration's claims that overriding Bayer's patent is illegal. "It boils down to something very simple," Alfred B. Engelberg, a veteran patent attorney told the *New York Times*: "The government has the right to procure whatever it needs for government purposes."

An official close to the administration acknowledged the White House had "clearly made a political decision" to defend Bayer's patent. This is not

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surprising given the Bush administration's close ties to the drug companies, which donated heavily to the president's campaign and Republican election committees in 2000. The pharmaceutical industry donated nearly $2 million for the cost of Bush's inauguration.

Secretary of Defense Donald Rumsfeld is one of two Bush cabinet members who is a former drug company executive. Rumsfeld led Searle, now Pharmacia, from 1977 to 1985, while Mitch Daniels, the director of the Office of Management and Budget, was a top executive at Eli Lilly. Top officials from drug maker Merck and the Pharmaceutical Research and Manufacturers of America also sat on advisory committees shaping the administration's health care policies, including its virulent opposition to regulating prescription medicine prices.

The Bush administration has also done the bidding of the drug companies internationally, most infamously with its opposition to allowing South Africa, Brazil and other poor countries to produce cheaper generic AIDS drugs. In this latest case, the White House has again upheld private property rights over public health.

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