We need patent protection in EU deal

Jason Langrish, Special to Financial Post | Oct 11, 2012 7:29 PM ET | Last Updated: Oct 11, 2012 7:43 PM ET

← ***Ideological opponents exaggerate impact***

Having thrown everything at the wall and with nothing sticking, those opposed to the Canada-EU Comprehensive Economic and Trade Agreement (CETA) have turned their focus to its intellectual-property chapter. Specifically, they oppose EU demands that protection for research-based pharmaceutical products be strengthened through longer patent-protection terms and stronger data protection.

Their argument is based on a 2011 study commissioned by the Canadian generic-drug lobby that claims the EU approach would increase Canadian drug prices by $2.8-billion per year. The study, which does not appear to have been peer-reviewed, has a number of holes.

For starters, the study focused on six drugs where the proposed intellectual-property (IP) protections would have a disproportionate impact in terms of cost escalation. That is to say, the study chose products that would generate the biggest hit. Furthermore, the study makes no reference to the potential for research-based pharma products to reduce health-care costs, for example by creating products that allow patients to emerge from surgery more quickly and thus spend less time in hospital.

Another weakness of the study, and indeed with those who argue for watered-down intellectual-property protections in general, is the idea that we should weaken our protection of IP as a way to reduce costs, as opposed to finding more efficient and productive ways to contain costs.

If we extend the logic of weak IP as cost control to its logical conclusion, Canada should not have IP protections in place at all. That way, copies of all the things we use in our daily life would be readily available at knock-down prices. So why don’t we take this route?

The basis of a modern economy is knowledge, which is converted into wealth through the sale of IP. While the manufacture of cars, drugs and consumer electronics does provide some good jobs to segments of the economy, the real action is in the research and development of the product and the sale of the IP that it contains.

Those opposed to CETA use the threat of higher health-care costs because it plays to Canadian fears about our supposedly deteriorating health-care system. It is book-ended with the narrative that we are marching toward a future in which our health-care system will be privatized. This is of course nonsense, but it is understandably used by those who seek to kill an agreement that they ideologically opposed.

IP has been on the table in CETA since the 2009 joint study conducted by Canada and the EU recommended that both sides proceed with comprehensive negotiations. So when some claim to be in favour of CETA, but call for the exclusion of an IP chapter, including patent coverage, this is disingenuous at best.

Europeans find the Canadian IP-cost debate perplexing, since they have similar public health systems and on average pay less for drugs and achieve better overall health-care outcomes at a lower price, all while having better IP standards than Canada. They use other and more effective direct means to control their costs, and the same tools are available to Canadian governments.

The IP changes being talked about in the CETA process are required to level the competitive playing field for innovative Canadian life sciences companies competing in a global market. For far too long, too many of Canada's most promising homegrown life sciences innovations have been commercialized elsewhere — in countries that offer the basic protections proposed in CETA. As a result of not having equivalent protection, Canada loses out on the benefits of commercializing these technologies at home. That means we lose the people, the jobs, the GDP and productivity gains associated with these cutting-edge innovations.

Given everything else the government has done to make Canada a great place to do business, from lowering taxes to reducing red tape, it makes sense to give Canadian companies the same opportunities as those we compete against.

Let's not fall into the short-sighted trap being laid that by lowering the bar our economy will strengthen. This is not the way to build an innovative, modern economy that works for Canadians.

Financial Post

Jason Langrish is the executive director of the Canada Europe Roundtable for Business.