Scapegoating Businesses for Bad Government Policy

There's a disturbing and counterproductive tendency to scapegoat individual businesses for responding predictably to conditions established by the choices politicians make. A recent example is a replay of last year's attacks on Mylan, which manufactures the popular epinephrine auto-injector EpiPen and is still apparently being blamed for problems in the health care industry that were created long ago by bad government policy and sustained over the years thanks to political cowardice.

Last year, Mylan came under intense public scrutiny for raising the list price of EpiPens by 500 percent since it bought them in 2007. This came across as opportunism by politicians seeking to divert attention away from their own failures to fix problems in health care. But even in a free market, which the pharmaceutical industry most certainly is not, public opinion can force companies to reduce prices. That said, it's a rather weak mechanism when compared with true competition.

In his "Adventures in Capitalism" column in *The New York Times*, Charles Duhigg recently castigated Mylan for not responding satisfactorily to last year's furor. The list price for a two-pack of EpiPens, he noted, is still $609. "Didn't we solve this problem?" he asked. Well, it depends on what problem you are talking about.

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For one thing, Duhigg's outrage over what he sees as the excessive price of an EpiPen is just smoke and mirrors. As an excellent piece in *Reason* by Ira Stoll correctly points out, focusing on list prices for pharmaceuticals is misleading because almost no one actually pays the listed price. And if people do, it's usually only until they hit their insurance deductible for that year, after which most drugs become highly discounted. Companies set unrealistic prices as opening bids for negotiation with insurance companies, not because they expect many customers to really pay those prices.

Stoll adds that Duhigg knows this. He writes, "Twenty-six paragraphs later, way down toward the very end of the article, Duhigg discloses, 'In fact, the company says that since it came under attack in August, nearly 90 percent of EpiPen buyers have paid less than $100 per box because of insurance, discounts or coupons.'" I guess it's hard to write an entire column about the unseemly price of the lifesaving device if you have to acknowledge upfront that this high price isn't what consumers actually pay.

Now, if you think that this is a weird and probably counterproductive pricing system, you would be correct. But unlike Duhigg, don't blame it on Mylan's flouting "the norms of good corporate behavior," because we mostly have the government to thank for it. Politicians turned insurance from a hedge against catastrophic financial loss into a medical prepayment program. Obamacare made it worse, but government distortions at both the state level and the federal level have been contributing to this problem for decades. As the third-party-payer system expanded over the years and patients made fewer and fewer purchases out of pocket, the pricing of drugs and medical care predictably became opaque and unresponsive to usual market pressures.

Compounding the problem is the Food and Drug Administration, which makes developing new drugs prohibitively costly — upping pressure on companies to bring in sufficient revenue through existing drug sales to fund research and development. The FDA routinely blocks new competitors from entering existing markets, too.

Last year, Mylan's primary competitor, Sanofi, discontinued its line of Auvi-Q auto-injectors. Several other companies attempted to enter the market with new products, only to be thwarted by the FDA. If a government agency effectively grants a company a monopoly in a particular market, who is really to blame when that company then behaves like a monopoly?

Closing his column, Duhigg expressed hope that sustained attention might impact the price of EpiPens and urged continued questioning of why EpiPens cost so much. But that's a question better directed at politicians. If only *The New York Times* had an "Adventures in Government Regulation" column.

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