



Written by [Michael Tennant](#) on August 8, 2010

Tylenol's Maker Suffers Pain From Recalls

According to legend, in the bad old days before the federal government got into the business of regulating pharmaceuticals, Americans routinely fell prey to unsafe "snake oil" products. Consumers, so the story goes, are simply unable to sift through all the necessary information about available drugs to determine which ones are safe and effective; and pharmaceutical companies, ever eager to cut costs and increase profits, care little for the ill effects their drugs may have on consumers. Thus, the government must step in and force companies to make their products safe in order to protect benighted Americans from the unscrupulous drug manufacturers.



In fact, however, the market does a pretty good job of weeding out the bad actors. Case in point: Johnson & Johnson's recent recalls of Tylenol and other over-the-counter drugs.

[According to CNN](#), "Johnson & Johnson's drugmaking unit McNeil, which makes popular cold and pain drugs like Tylenol and Motrin, has recalled millions of children's and adult versions of those drugs over the past 10 months." Between those recalls and a plant closing, there is now a shortage of "adult varieties of those medicines and a complete vacuum for children's over-the-counter (OTC) versions of the brands," says the report.

As a result of the shortage, store brands have stepped in to fill the demand for these products. Actavis Inc. (U.S.), a division of the fourth-largest maker of private-label drugs, said that it has quintupled its production of such drugs for major retailers such as CVS, Walgreens, and Wal-Mart. Both CVS and Walgreens spokespeople said that they are still experiencing shortages of Tylenol and other drugs and are meeting the demand with their private-label brands.

Consumers, having been forced to switch to store brands, may decide not to return to the brand-name drugs when they become available again, Russ Meyer, chief strategy officer for Landor Associates, a brand strategy and forecasting firm, told CNN. "The Tylenol situation has opened the door to people asking, 'Do I really need this brand?'" Meyer said.

On top of the shortage issue is the matter of reputation. Why go back to purchasing the brand-name products now that they have been revealed as potentially unsafe? Better to stick with the cheaper and (thus far) safer private-label brands.

CNN again:

"I think those brands are in jeopardy," said branding expert Alan Siegel of branding firm Siegel & Gale.

"The definition of a 'brand' is consistency in quality, safety and efficacy," said Siegel. "Tylenol has been a household staple for years. For all these recalls to happen to a Johnson & Johnson brand is



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astounding to me.”

Indeed, consumers may not only be wary of resuming their purchases of the recalled brands but may also opt for alternatives to other Johnson & Johnson products — and all without a single intervention by the Food and Drug Administration.

As Daniel B. Klein, Ph.D., and Alexander Tabarrok, Ph.D., explain at FDAReview.org, a project of the Independent Institute, a business’s reputation is one of most significant ways in which markets regulate themselves: “A good reputation is one of the most important keys to success because a good reputation will bring satisfied customers calling again and will bring others who hear of the seller’s good reputation. If the seller sells an unsafe product, he will not only pay tort penalties, but also lose his reputation and business.”

Thus, argue Klein and Tabarrok, the United States could move toward a voluntary, rather than compulsory, FDA approval process for pharmaceuticals without endangering consumers. Sellers’ reputations, along with other “voluntary practices and institutions ... which assure quality and safety,” they say, would be just as effective as — or even more effective than — the FDA’s one-size-fits-all approach that assumes that a handful of bureaucrats knows what is best for every American in his particular situation. Such a voluntary approach would also have the advantage of being compatible with both liberty and the Constitution.

Ordinary Americans are far savvier than the folks in government give them credit for being. They know how to process information and to make reasonable decisions based on that information. Johnson & Johnson may suffer far more at the hands of average people who have come to realize they can do without its more expensive and frequently recalled products than it would ever suffer from fines and sanctions by the FDA — evidence that the land of the free could thrive in the absence of such federal oversight of the pharmaceutical industry, as it did for the first 130 years of its existence.





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