



**SUBJECT:** FICPI Observations to the  
Preliminary Report of the European  
Commission, DG Competition,  
on the Pharmaceutical Sector Inquiry  
of 28 November 2008

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**PURPOSE** For ratification

**DATE:** 27 April 2009

**REFERENCE:** EXCO/US09/CET/1407

**MEETING::** ExCo Washington D.C., US

**MEETING  
DATE:** 6 & 10 June, 2009

### *Executive Summary*

During the FICPI meeting with DG Enterprise and Industry in Brussels on 17 March 2009, FICPI presented its view that the Preliminary Report was not appropriate at all. FICPI argued that the authors have misinterpreted the data gathered and identified usual practices (filing patent applications for improvements and enforcing patents at courts) as misuse or improper behaviour.

In the present observations, FICPI insisted on the need to support innovators (“without originators, there are no generics”) instead of generally blaming them (without any proof) to play against the rules. In the Preliminary Report, wrong or at least biased conclusions have been drawn from the data obtained.

In the present FICPI observations, several recommendations are given in order to put these data into a correct analysis in the final respect.

The officers of DG Enterprise and Industry asked FICPI to officially file a statement to the Preliminary Report on behalf of FICPI. Irrespective of the already lapsed official deadline for such filing statements, the officers insisted that such a FICPI statement “will be considered if submitted soon”.

The FICPI observations were duly submitted to DG Competition and the inquiring officers of DG Enterprise and Industry on 27 April 2009.

FICPI should monitor the topic for its further developments.

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