

Competition Law Challenges in the Pharmaceutical Sector The Swiss View

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AGENDA

- 1. Background:** Legislation
- 2. Challenges:** Pricing
- 3. Competition Authority:** Practice

1. Background: Legislation

Competition Law

- Cartel Act
→ pharmaceutical sector is in a wide extent excluded from the scope of application!
- Merger Control Ordinance
→ High thresholds in Switzerland
- Unfair Trade Practices Act
→ "Soft" sanctions

1. Background: Legislation

Marketing & Pricing of pharmaceutical products

- Medicinal Products and Medical Devices Act
→ Main provisions about “allowed” products for Switzerland
- Health Insurance Act
→ Maximum prices (the insurance pays) for a range of products
- Price Surveillance Act
→ Only applies to dominant companies

2. Challenges: Pricing

Patents

- General

→ Regional exhaustion within the EEA

- Exemption

→ Determined prices by public authority → National exhaustion

→ **Patent owner can protect Swiss territory**

2. Challenges: Pricing

Insurance

- General

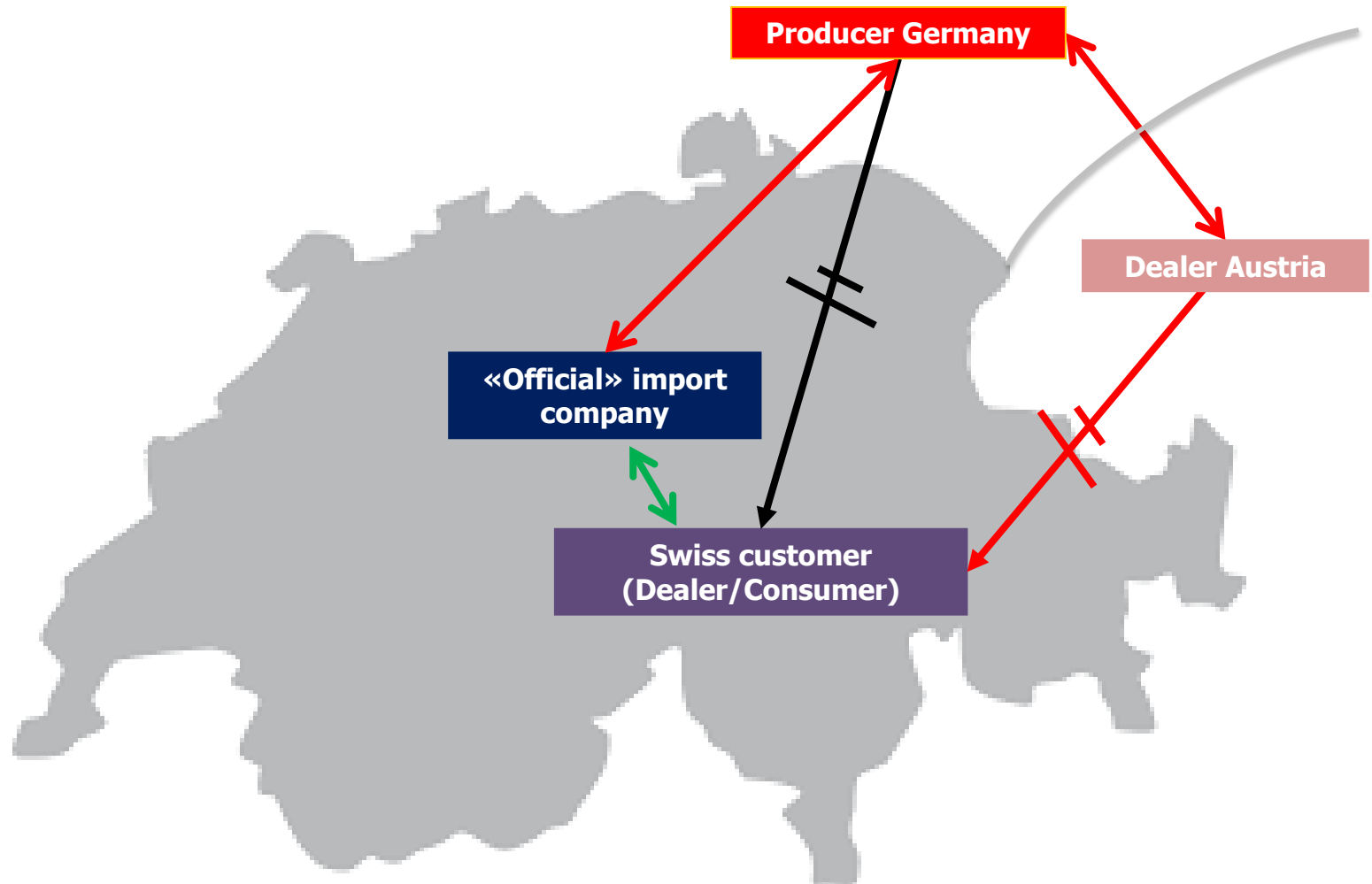
→ Obligatory health insurance for Swiss citizens

- Exemption

→ State support in case of financial emergencies

→ **“Soft” competition among health insurance companies**

3. Competition Authority: Practice



3. Competition Authority: Practice

Competition Law

- „GABA-Decision“
 - **Import restrictions based on IP-rights are not exempted from antitrust law**
- Enforcement
 - **Swiss competition authority is actively fighting the prohibition of parallel imports**

Thank you very much for your attention!

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