

# Reckitt Benckiser (RB) 'Gaviscon'

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**Office of Fair Trading**

- **The facts – chronology:**

- Gaviscon: heartburn medicines – c80 per cent market share
- Gaviscon Liquid (GL) patent expires in 1997 – no ‘generic name’
- ‘Peptac’ launched as ‘branded generic’ – limited impact
- Gaviscon Advance (GA) launched in 1997 – patent protected until 2016
- NHS packs of both products retained following GL launch
- Some switching to GA, though GL remains more popular
- Confusion around generic name, until 2005 when regulator was due to issue generic name for GL
- RB withdraw GL in June 2005. GA no generic equivalent
- **‘Evergreening’ patent protection** – small secondary innovation in this case accompanied by the withdrawal of the original product to prevent switching to generic entrants

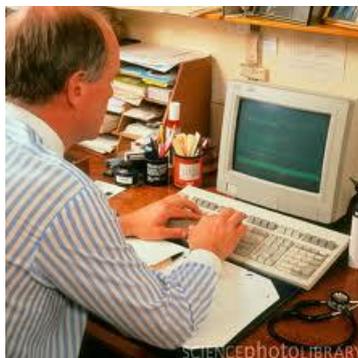


Gaviscon Liquid

Patent expired 1997

Withdrawn 2005 before generic name

GP writes 'Gaviscon' in system - no open generic alternative comes up



Gaviscon Advance  
launched 1997

Pharmacist has to dispense  
GA against branded prescription



- **Normal competition analysis**

- Aim of the withdrawal was to limit 'open' prescriptions
- Withdrawal involved a profit sacrifice:
- Withdrawal was irrational were in not for anticipated benefits of restricting competition

- **Possible counter-arguments**

- It is 'normal product lifecycle management'?
- Long term efficiencies not anticipated, e.g. focussed marketing
- Debate as to merits of GA/GL not decisive

- **The Withdrawal tended to restrict competition**
  - In 2005, RB expected that the Withdrawal would result in fewer open scripts
  - As a result, RB expected weaker competition
  - RB anticipated the retention of a high market share, and to preserve high price levels.
- **Extent of any actual effects is now the subject of a damages action by the NHS**

- **RB case regarded as example of ‘ever-greening’**
- **Other OFT examples:**
  - *Napp*
    - predatory and exclusionary pricing in secondary care
    - excessive pricing in primary care
  - *Genzyme*
    - Genzyme launch own homecare service
    - ‘Margin squeeze’ downstream rival
    - Part of strategy to prevent generic competition – no route to market
- **Enforcement only one way to change incentives...**