

EpiPen Maker Accused of Anti-Competitive Practices

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The EpiPen is a necessity for people who are at risk of anaphylaxis, a life-threatening type of allergic reaction. They are a common item in kids' backpacks and home first-aid kits, and the name has become a generic term that refers to epinephrine auto-injectors. Yet the product itself is only available as a brand-name product that costs hundreds of dollars.

Schools across the country keep a supply of EpiPens on hand for students who have severe allergic reactions. Mylan Pharmaceuticals, the maker of EpiPens, has been selling the devices to schools at discounted prices for over four years through the "[EpiPen4Schools](#)" program. Last year, the EpiPen4Schools discounted price was [\\$112.10](#), which is about a quarter of the cost charged to pharmacies at the same time. So far, over 65,000 schools have taken advantage of the program.

While the program reduces the cost of devices for schools, the program also prohibits schools from buying competitors' devices—a condition which may violate antitrust law. In order to qualify for a discounted price through the program, schools must agree to not "purchase any products that are competitive to EpiPen(R) Auto-Injectors" for the next year. Whether through these restrictive contracts or other forces, Mylan has gained a dominant market share; last year, EpiPen made up [89 percent](#) of the epinephrine auto-injector market.

Since 2004, the inflation-adjusted list price of EpiPens has increased by about 450 percent. This dramatic price increase has caught the attention of politicians. In August, Minnesota Senator Amy Klobuchar [called on](#) the U.S. Federal Trade Commission (FTC) to investigate possible antitrust violations in the pricing of the EpiPen. In response to Klobuchar's letter, an FTC spokesperson said that "the Commission takes seriously its obligation to take action where pharmaceutical companies have violated the antitrust laws, and it will continue to closely scrutinize drug market competition on consumers' behalf."

In September, New York Attorney General Eric Schneiderman [announced](#) he had launched an antitrust investigation into Mylan's role in limiting public schools' access to competitive devices. Around the same time, Consumers Union, a branch of Consumer Reports, also called for an investigation into Mylan's allegedly anticompetitive practices. In a [letter](#) to the Commissioners of the FTC, Consumers Union presents evidence that Mylan acted to prevent competing epinephrine auto-injectors from reaching the market, and to keep customers from purchasing competing products on the market.

Earlier this month, the Senate Judiciary Committee [urged](#) the FTC to launch a probe into whether Mylan violated any anti-trust laws through their agreements with schools. In [response](#), a Mylan spokesperson said that there have never been purchase requirements for schools to receive free EpiPens.