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Clinton Vs. Trump: Three Scenarios For Biopharma

by Michael McCaughan

The presidential campaign is about to begin in earnest, and for biopharma companies, the biggest question is what the outcome will mean for the pricing climate in the US. It isn't an easy question to answer.

With the Democratic National Convention getting under way in Philadelphia, the presidential campaign is ready to begin in earnest. Hillary Clinton and Donald Trump will officially start campaigning as the formal nominees of the Democratic and Republican parties, and in just over three months, one of them will be elected President of the United States.

For the biopharma industry, there is one question that dominates the discussion of the upcoming election: what will the result mean for the pricing climate in the US going forward?

Like so much else about the upcoming election, the answer isn't at all clear. Or, maybe more accurately, it is only half clear:

A Clinton Victory presents a relatively straightforward – if unpleasant – scenario for the industry: work with the opposition to block her proposals, and cut a deal to limit the damage if necessary.

Hillary Clinton, of course, has a long history of criticizing pharmaceutical pricing practices, and her tweet attacking [Turing Pharmaceuticals AG](#) last fall was the catalyst for the frenzy of concern about drug pricing that has surrounded the industry (at least in the minds of investors) heading into the November elections.

The list of provisions to address pricing that Hillary Clinton will support or propose is long and varied. But it is also predictable – and, in fact, is not really a departure from the status quo. President Obama already supports (and regularly proposes) legislative action to rein in drug pricing. While a Clinton Administration might bring renewed zeal to those efforts, the ideas and

levers aren't likely to change. (Also see "[Pricing, Innovation & Presidential Politics: Today's Shocking News](#)" - Pink Sheet, 7 Mar, 2016.)

Assuming the GOP retains control of the House and at least 40 votes in the Senate, there is no reason to think Clinton will be able to enact price control legislation any more easily than Obama can. And, while Administrative action can still take place, the current fight over the Part B demo is reminder that even executive action can only move so quickly.

In a worst case scenario where the Democrats gain control of the both the House and the Senate, the industry is in the same position it was in 2009, and the solution will be the same as well: cut a deal to protect launch pricing. For example, by agreeing to pay rebates in Medicare Part D.

It bears remembering that as popular as calls for "price negotiation" are, the Congressional Budget Office regularly scores the budgetary impact as zero – since "negotiation" alone cannot address the situation of therapeutic breakthroughs that by definition have no competition. Most Democrats are not willing to support excluding those drugs from Medicare/Medicaid or creating a system to suspend patent rights on those products.

In contrast, Part D rebate proposals score well in excess of \$100 billion in savings over 10 years. That would certainly be a painful measure for biopharma companies – but its long term impact is far less damaging than mechanisms that would curtail launch prices.

A Trump Victory, to put it mildly, is a bit more difficult to handicap. In fact, we would argue, there are really two entirely different scenarios to consider.

1. *Trump wins as a conventional Republican.* One route to the White House involves Trump delivering on his pledges of uniting the Republican Party and winning over the "establishment." On his core issues like immigration and foreign policy, he may rock the boat, but on domestic policy he governs no differently than a Bush or Rubio Administration. Imagine, for instance, that he makes New Jersey Governor Chris Christie his HHS Secretary. There would be an emphasis on pro-innovation policies, not price controls. It bears mentioning that even a best case scenario has some risks. After all, the Medicaid Rebate Law was signed by President George H.W. Bush as part of a bipartisan budget deal – and the pharmaceutical industry had no choice but to accept the outcome since it was coming from a staunch ally.
2. *Trump stays unconventional.* In this scenario, Trump doesn't change at all from his approach in the primaries, and makes no move to win over or unify the Republican Party. Whether you view that approach like his opponents as a proto-fascist campaign, or like his allies as maverick populist in the mold of Teddy Roosevelt, you are still left with an almost inherently unpredictable outcome. As President, Trump will do what he will do. And it bears mentioning

that the one thing Trump committed to do in the primaries was to support price negotiation – and save *\$300 billion per year* by doing it right. It is easy to laugh off the projected savings as typical hyperbole rather than a serious goal, but it still bears mentioning: when it comes to drug pricing, the only thing the Trump campaign has said is that it will be dramatically more aggressive than Clinton. And, if President Trump does indeed follow through by proposing action to take on drug pricing, there is no reason to think Democrats in Congress would oppose him on those items.

Thus, it is possible to imagine a Trump Presidency as either the best case scenario or the worst case scenario for the biopharma industry, with a Clinton Presidency somewhere in between. That should make the fall very interesting for everyone in the biopharma sector.