

Drug companies challenge NHS rationing plan in court

Chris Smyth Health Editor

The pharmaceutical industry is taking the NHS to court in an unusual effort to block “wrong and unnecessary” rationing plans.

Drugs companies argue that they are acting in patients’ interests by trying to kill off powers that allow health chiefs to delay or restrict medicines to save money, even if they have been ruled to be cost-effective by experts.

However, the sight of pharmaceutical giants dragging the NHS through

expensive litigation will be uncomfortable for an industry that is trying to build bridges with the government over Brexit and its strategy for the industry.

The Association of the British Pharmaceutical Industry (ABPI) is seeking judicial review of changes that allow NHS England to delay or restrict treatments if the total cost to the health service exceeds £20 million a year.

The rule applies to medicines judged good value for money by the National Institute for Health and Care Excellence (Nice) and has been condemned

by patients’ groups after it emerged that one in five new drugs could face delays. The threshold came into effect in April but has yet to be triggered.

Richard Torbett of the ABPI said: “The idea that the best medicines that help more people are going to be captured by this contravenes the fundamental right to access to cost-effective medicines ... To arrive at this position where it’s the most important new medicines are the ones that get delayed, that seems back to front.”

He said that legal action was the

“absolute last resort” but argued that NHS England had refused to consider options that would affect fewer people.

“We think the legal case is so strong that if we hadn’t taken this action, given the strength of feeling, somebody else would have looked to do so,” he said.

Rachel Power, chief executive of the Patients Association, said: “NHS England’s decision not to fund new medicines recommended by Nice was an astonishing admission that our NHS can no longer afford to keep up with scientific breakthroughs. This is a

direct result of the government’s decision to underfund the NHS.”

Baroness Morgan of Drefelin, chief executive of the charity Breast Cancer Now, said she hoped the legal case would “provide clarity on the issue of timely access to drugs”.

Simon Stevens, head of NHS England, said there was no reason why new drugs should “crowd out” spending on extra nurses, mental health staff or other effective ways to treat people.

NHS England and Nice declined to comment.