



## **Oppose Anti-Competitive & Anti-Innovation Drug Pricing Schemes**

October 16, 2023

Dear HELP Committee Members & Staff:

I am writing on behalf of the Trade Alliance to Promote Prosperity (TAPP), a coalition of American companies, workers, trade associations, opinion leaders, lawmakers, and policymakers committed to building America's economy by creating jobs through strategic trade partnerships that will drive growth for decades to come.

As the HELP Committee considers Monica Bertagnolli's nomination to lead the National Institutes of Health, we understand that a discussion of drug prices is likely to ensue.

TAPP urges you to reject anti-competitive and anti-innovation schemes including the "reasonable pricing" and "march-in" policy concepts.

### Reasonable Pricing

Just like in socialist drug-pricing systems, the "reasonable pricing" scheme offers a false promise to American patients. Price controls are proven to be harmful to patients, doctors, and innovators across the world. Inflicting the "reasonable pricing" scheme on the domestic healthcare industry would harm Americans in need of medical care, as access to both doctors and medicines would be curtailed.

Currently, the United States is a world leader in R&D because the system of healthcare rejects price controls and encourages innovation. As you know, a majority of new medicines are developed and launched in America. Our innovative environment is enormously beneficial to the long-term well-being of Americans.

Consequently, pharmaceutical companies devote billions of dollars each year to developing new, lifesaving cures. Price controls would deprive them of the money needed to fund their research and development efforts.

In countries where price-setting policies are in place, patients literally die waiting for access to cures that are readily available in America.

The investment required for research and development of medicines leads to more high-paying jobs and a stronger economy. Importing price controls would undermine this system and hinder American innovators' ability to compete on an international scale. America's innovation edge would abruptly erode.



Small businesses would be decimated if the “reasonable pricing” scheme were implemented. Price controls could eliminate more than \$700 billion dollars in investments into small pharmaceutical companies alone. The downstream effects of this lack of investment into small pharmaceutical companies would stop many potentially lifesaving medicines from ever reaching the market and eliminate more than 200,000 jobs across the country.

The “reasonable pricing” scheme would threaten high-paying manufacturing jobs across the country at a time when we are still emerging from the economic wreckage from the pandemic. According to a 2017 study by TEconomy Partners, pharmaceutical manufacturers—large and small—invest \$100 billion in the U.S. economy every year, directly supporting 800,000 jobs including jobs in every state. These jobs are high-paying—the average compensation is \$126,000—more than double the average wage in the United States. When accounting for indirect and induced jobs, medical innovation supports more than four million jobs.

### March-In

The bipartisan Bayh-Dole Act was created to empower universities, small businesses, and nonprofit institutions to license to the private sector for further development and potential commercialization of the technologies and discoveries resulting from federal research grants. By encouraging investment due to secure intellectual property rights to these inventions, the Act has been a catalyst for incredible innovation.

One provision of the law allows the federal government to “march in” and reissue patents that stemmed from federally funded research, but under only very limited circumstances such as when the licensed invention in question is not being commercialized.

The statute delineates four grounds that permit the use of march-in rights, but none of those grounds includes pricing as a reason to invoke march-in rights. Indeed, the law’s co-authors, Sen. Birch Bayh (D-IN) and Sen. Robert Dole (R-KS) explicitly said they did not intend that the government set prices on products resulting from the law. They noted that the omission of any reference to price controls in the law was intentional.

Both Democratic and Republican administrations for over 40 years have declined to march in under Bayh-Dole to control prices. We encourage you to uphold the plain meaning and legal framework of the Bayh-Dole Act and reject any discussion of invoking its march-in provisions to institute price controls.

We need scientists to continue researching and developing breakthrough medicines. Sacrificing future innovation to achieve some short-term financial savings would ultimately hurt patients. The concept of “paying it forward” could hardly be more compelling than in the case of discovering life-saving therapies and treatments for our



most pressing healthcare challenges. Indeed, the selfishness implicit in injecting socialist price controls into the pharmaceutical market is astounding.

This is why we are calling on you to reject anti-competitive and anti-innovation schemes and instead pursue policies that bolster American medical innovation and provide incentives for our scientists and researchers to continue providing extraordinary, cutting-edge therapies and cures to the benefit of all Americans.

Thank you,

Kent Kaiser, Ph.D.  
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Trade Alliance to Promote Prosperity