AARP
Real Possibilities

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March 13, 2019

The Honorable Frank Pallone, Jr.
Chairman
Committee on Energy and Commerce
United States House of Representatives
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Greg Walden
Ranking Member
Committee on Energy and Commerce
United States House of Representatives
2322 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Anna Eshoo
Chairwoman
Subcommittee on Health
Committee on Energy and Commerce
United States House of Representatives
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Michael C. Burgess
Ranking Member
Subcommittee on Health
Committee on Energy and Commerce
United States House of Representatives
2322 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Pallone, Ranking Member Walden, Chairwoman Eshoo, and Ranking Member Burgess:

AARP appreciates your focus on prescription drug prices and the challenges that increasing drug costs pose for seniors, and we thank you for holding this hearing entitled “Lowering the Cost of Prescription Drugs: Reducing Barriers to Market Competition”. AARP, with its nearly 38 million members in all 50 States, the District of Columbia, and the U.S. territories, is a nonpartisan, nonprofit, nationwide organization that helps empower people to choose how they live as they age, strengthens communities, and fights for the issues that matter most to families, such as healthcare, employment and income security, retirement planning, affordable utilities and protection from financial abuse.

Prescription drug prices are a high priority for AARP and all older Americans, as older adults are particularly vulnerable to high prescription drug prices. Medicare Part D enrollees take an average of 4.5 prescriptions per month, and over two-thirds have two or more concurrent chronic illnesses. When older Americans talk about the impact of high prescription drug prices, they are often talking about costs that they will face every year for the rest of their lives.

Most Medicare beneficiaries live on modest incomes, with an annual median of just over $26,000. One-quarter have less than $15,000 in savings. This is not a population that has the resources to absorb rapidly escalating prescription drug prices, and many are simply unable to afford the medications they need.

The growing number of brand name and specialty drugs with remarkably high prices – a $100,000 or more – has led many to question whether the costs associated with these products are defensible or sustainable. The timely availability of generic and biosimilar drugs – which will increase competition and help lower prices – will play an important role in addressing these concerns.

We strongly support improving competition by increasing access to generics, including support for two of the bills included in today's hearing: H.R. 965, the Creating and Restoring Equal Access to Equivalent Samples (CREATES) Act, and H.R. 1499, the Protecting Consumer Access to Generic Drugs Act.

H.R. 965, the CREATES Act, targets two forms of anticompetitive behavior that brand name drug manufacturers can use to stifle generic and biosimilar drug entry: refusal to provide access to product samples that are needed to gain FDA approval, and preventing generic and biosimilar manufacturers from joining a distribution protocol applicable to both brand and generic versions of a medicine, or "shared REMS." Providing generic drug manufacturers with a recourse to address these abusive practices will help bring more generic and biosimilar drugs to market.

H.R. 1499, the Protecting Consumer Access to Generic Drugs Act, would ban the use of pay-for-delay agreements. These pay-for-delay agreements provide financial benefits to drug manufacturers at the expense of consumers: the brand-name manufacturer can continue to charge monopoly prices, and the generic company is compensated for its inaction. The Federal Trade Commission (FTC) estimates that pay-for-delay agreements cost American consumers $3.5 billion per year.[1] Generic prescription drugs play an essential role in efforts to reduce health care spending, and AARP believes that additional savings can be found by eliminating pay-for-delay agreements.

We look forward to working with this Committee to enact these two bills as well as other measures that will help lower prescription drug prices and costs for older Americans. If you have any additional questions, feel free to contact me or have your staff contact Amy Kelbick on our Government Affairs staff at akelbick@aarp.org or 202-434-2648.

Sincerely,

David Certner
Legislative Counsel & Legislative Policy Director
Government Affairs

[1] Federal Trade Commission, Pay-for-Delay: When Drug Companies Agree Not to Compete, https://www.ftc.gov/news-events/media-resources/mergers-competition/pay-delay