



**Take Back Our Drugs:  
Gilead's profitable PR move merely  
withholds slightly less of the public's medicine,  
while continuing billion dollar barriers to  
the Trump plan to end AIDS.  
Government Action Urgently Needed.**

**Submission by Housing Works, Inc, for the Congressional Hearing Record, 16 May 2019  
House Oversight and Reform Committee,  
"HIV Prevention Drug" Billions in Corporate Profits after Millions in Taxpayer Investments"**

Thank you to Representative Cummings and the entire committee for this very timely hearing investigating deadly self-serving corporate misdeeds, misuse of taxpayer funds, and the failure of the Executive Branch to take action.

Housing Works is the nation's largest community-based provider of AIDS services, including healthcare, housing, harm reduction and legal aid, with offices and affiliates in New York City, Albany, Washington DC, Puerto Rico and Haiti. We are also co-conveners of the Birddog Nation, with active grassroots leaders more than 140 cities across the United States—people who played a definitive role in defending the Affordable Care Act, when thousands of them descended repeatedly on town halls and DC offices of elected officials over and over to stop the repeal. Housing Works also convenes the Act Now End AIDS Coalition, organizing in jurisdictions all across the United States to support local activists and health officials to mobilize and plan for an end to the HIV epidemic. Charles King, Executive Director of Housing Works also co-chaired the State of New York's Ending the HIV Epidemic Task Force.

**Gilead's public-relations and profit-driven donation is a false act of charity, fully consistent with the company's track record of price gouging patients and the public, at a cost in real human lives.**

One deadly example is how the company chose to price a cure for Hepatitis C literally just barely lower than the cost of a liver transplant. As a direct result, cases of HCV are up in the United States, instead of Hep C being on its way to being eradicated. Gilead has already banked billions at taxpayer expense on "Truvada"—the combination of tenofovir/emtricitabine (TDF/FTC), while injuring patients paying for delays and strong-arming competitors to provide inferior medicines that maximize Gilead's profit and monopolies. **The public owns the patent for PrEP, and it's time for the government to take back our meds.**

Gilead's announcement of a donation to the U.S. program to end HIV is no selfless act of public service, but rather, a tax deductible and insufficient donation that creates a near-captive market for the company's new PrEP drug—one that is **not** nearing the end of its patent monopoly. When Housing Works and our allies fought successfully for generic AIDS medication for people in impoverished countries in 1999-2000, we saw the same playbook that Gilead is using now: when a company gets nervous about a threat to its patent, it quickly offers donation programs to distract from real and sustainable solutions, and acts to extend its ability to soak payers, while ransoming the lives of patients who must do without.

**The government must act to protect patients and tax payers.**

The evidence is clear: in countries who have taken corrective action, effective, generic medicines for pre-exposure prophylaxis are available at \$5 per month—a price that still provide handsome profits to the generic manufacturers. Gilead's insistence on charging \$2,000 per month for a drug nearing the end of its

patent life is unconscionable, in particular when the patents for pre-exposure prophylaxis are held by the CDC, and the research was funded by the CDC and the Gates Foundation—public and non-profit entities.

The multitude of likely illegal and certainly immoral actions by Gilead to lock up the market and delay and prevent generic competition have a real cost in lives—disproportionately born by low income people, people of color, GLBT communities and families, and others most at risk of new HIV infection.

The Trump Administration’s laudable plan to end AIDS by 2030 is dramatically undermined by the action of Gilead. Failure by the Executive Branch to exercise the public’s considerable rights in this case for publicly financed innovations and publicly held patents gives an indelible appearance of collusion, to protect corporate profits at the expense of public responsibility and public health.

Accepting price reductions from Gilead at face value is collusive with Gilead’s ongoing legally and ethically suspicious efforts to corner markets. At least three solutions must be pursued by the United States Government.

The first is to license multiple generic producers, and hold Gilead, its CEO and its board responsible for actions that have directly caused more HIV infections than would have occurred had the company committed to fair prices for publicly financed medicines.

The second is to launch a true national program of free “PrEP for all”, with community-based organizations led by people with HIV and groups representing those most vulnerable funded to promote and provide this vital prevention strategy that is a cornerstone of every effort to end the HIV epidemic. The program can be amply funded with savings gleaned from generic PrEP medications, as well as royalties, and potential future civil and criminal damages.

The third action step is to prevent this abuse from ever happening again. In cases of price gouging or other means by which monopoly holders delay or deny life-saving medicines from the public, the government must finally make use of its existing rights to license generics, including march-in rights. The government must also update our own laws to be similar of those in every other developed nation, and permit competitive licensing when prices are too high. For example, when prescription drug corporations charge dramatically more in the United States for the same product than is charged in other economically similar nations, the United States should have the ability to negotiate drug prices and revoke a monopoly when the cost is too high. This step should incorporate setting a baseline for drug prices that is based on real therapeutic value and improvements over predecessor drugs, real investments in R&D (both private and, especially, public), and a price index of what is paid in the next five richest nations..

The Administration’s commitment to end HIV by 2030 should be supported. This will require getting free PrEP to *all* of 1.1 million people estimated to be in need—hundreds of thousands more Americans than can be reached with Gilead’s donation program, as well as directly opposing the company’s efforts to continue illegitimate monopolies. Generic second- generation PrEP combinations containing TAF+FTC will be even cheaper to produce than generic Truvada, based on molecule size and the amount of active ingredients needed for clinical efficacy.

To meet the United States Government’s goal of ending HIV, then we need to sweep away advantage-seeking barriers like Gilead’s cynical “donation” of a critical, overpriced prevention tool already funded by the public. Just as the government funded and conducted the research necessary to prove pre-exposure prophylaxis was effective, the government must now take action to establish free, long-acting PrEP medicines for every person with HIV worldwide.