

# Congress of the United States

Washington, DC 20515

## *Thomas TPA bill undermines access to affordable medicines*

October 10, 2001

Dear Colleague:

We bring your attention to a troubling provision in the Thomas Trade Promotion Authority (TPA) bill that would inappropriately interfere with other countries' abilities to provide affordable health care to their citizens, and sets a precedent that could threaten current U.S. government price discounts on prescription drugs for veterans, military personnel, and Medicaid recipients. H.R. 3005 sets as a principal trade negotiating objective [section 2(b)(7)(D)]:

*"to achieve the elimination of government measures such as price controls and reference pricing which deny full market access for United States products."*

"Reference pricing" is a cost containment mechanism widely used in most other industrialized countries and some developing nations. For example, if a country's health system determines that a new drug provides only a marginal medical benefit over the next best drug that treats the same ailment, then the system reimburses the manufacturer at a price that is a reasonable amount greater than the next best drug. This prevents the country's health consumers from being charged a manufacturer's arbitrarily high launch prices for "me-too" drugs, a practice which is a major driver of pharmaceutical price increases in the U.S.

If a country discriminates against a pharmaceutical product based on national origin, it can and should be liable for trade action. But if a country applies the same non-discriminatory pricing structure to all drugs, regardless of national origin, it is not a trade issue subject to dispute. While couched in language of "market access," this provision represents nothing but greed, in a blatant attempt to accommodate the U.S. pharmaceutical industry's frustration that it cannot charge the same high prices overseas as it charges to uninsured American seniors.

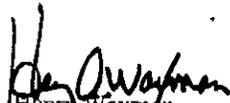
Other problems with this provision of H.R. 3005 include:

- Jeopardizes HIV/AIDS patients' access to affordable drug treatment: HIV/AIDS sufferers in the Third World cannot afford life-extending AIDS cocktails unless their governments can use effective cost containment tools to reduce the First World prices the manufacturers charge. By targeting "price controls and reference pricing" policies of developing countries, our trade negotiators could undermine the ability of these nations to treat their growing HIV/AIDS populations.
- Threatens current drug discounts for veterans, the military and Medicaid: If other countries turned around and applied this trade objective to the U.S., we could be forced to repeal the U.S. "price controls and reference pricing" that enables prescription drug discounts for these valued groups. Currently, the VA buys most of its drugs at a federal government-mandated 24% discount off the Average Manufacturers Price.
- Creates a double standard on sovereignty: A talking point for the Thomas TPA bill is that it "preserves U.S. sovereignty." Yet section 2(b)(7)(D) is a direct assault on the sovereignty of our trading partners, by intruding on their ability to provide affordable health care for their citizens.

We hope you agree that section 2(b)(7)(D) is an inappropriate objective for our trade policy, and ask you to join us in seeking to remove it as H.R. 3005 proceeds to the House floor.

Sincerely,

  
Tom Allen  
Member of Congress

  
Henry Waxman  
Member of Congress

  
Sherrod Brown  
Member of Congress