



UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

Office of the Chair

May 5, 2022

The Honorable Maria Cantwell
Chair
Committee on Commerce, Science, and
Transportation
United States Senate
Washington, D.C. 20510

The Honorable Roger Wicker
Ranking Member
Committee on Commerce, Science, and
Transportation
United States Senate
Washington, D.C. 20510

The Honorable Richard Blumenthal
Chairman
Subcommittee on Consumer Protection,
Product Safety, and Data Security
Committee on Commerce, Science, and
Transportation
United States Senate
Washington, D.C. 20510

The Honorable Marsha Blackburn
Ranking Member
Subcommittee on Consumer Protection,
Product Safety, and Data Security
Committee on Commerce, Science, and
Transportation
United States Senate
Washington, D.C. 20510

Dear Chair Cantwell, Ranking Member Wicker, Chairman Blumenthal, and Ranking Member Blackburn:

I write to express my strong support for the Senate's ongoing work and upcoming hearing on pharmacy benefit managers (PBMs) entitled, "Ensuring Fairness and Transparency in the Market for Prescription Drugs."¹

I believe that PBMs play a critical and under-examined role in determining the price and availability of prescription drugs to patients at the pharmacy counter and clinic, and I am concerned that certain incentives and the surrounding lack of transparency means that PBMs' interests may not always align with patients and others who pay for prescription drugs. I am also concerned that PBMs' vertical integration and dominant market position may allow them to under-reimburse independent pharmacies and steer business to PBM-owned mail-order and

¹ *Ensuring Fairness and Transparency in the Market for Prescription Drugs: Hearing Before the Subcomm. on Consumer Protection, Product Safety, and Data Security of the S. Comm. on Commerce, Sci., and Trans.*, 117th Cong. (May 5, 2022), <https://www.commerce.senate.gov/2022/5/ensuring-fairness-and-transparency-in-the-market-for-prescription-drugs>.

specialty pharmacies, which may threaten the long-term viability of independent pharmacies in both urban and rural communities.

Addressing dominant intermediaries such as PBMs has been a top priority during my tenure at the FTC.² In line with this priority, FTC staff has been working since last year to use the FTC's 6(b) authority to conduct an inquiry into PBMs, and I am hoping that the Commission will vote to initiate a study as soon as possible.³ Given the life-and-death stakes of this work, I believe the FTC has a moral imperative to act swiftly.

As part of this effort, the FTC has issued and recently extended a Request for Information seeking public comments on PBM business practices.⁴ Hundreds of unique comments have been submitted to date on how PBMs are impacting patients, doctors, and pharmacists. The comments touch on a range of issues, including Direct and Indirect Remuneration (DIR) fees, inadequate pharmacy reimbursements, unnecessary prior authorizations and step therapy requirements, detrimental formulary exclusions, and the steering of patients to PBM-owned pharmacies.⁵

While the FTC will continue its work in this important area, I also welcome legislative action on PBMs, including efforts to ensure that these intermediaries are serving the interests of American patients and contributing to a fair and accountable prescription drug system.

Sincerely,



Lina M. Khan
Chair, Federal Trade Commission

² Memorandum from FTC Chair Lina M. Khan to Commission Staff and Commissioners Regarding Vision and Priorities for the FTC, at 3 (Sept. 22, 2021), https://www.ftc.gov/system/files/documents/public_statements/1596664/agency_priorities_memo_from_chair_lina_m_khan_9-22-21.pdf (“The second area I’d like us to prioritize addressing is dominant intermediaries and extractive business models.”).

³ Remarks of Chair Lina M. Khan Regarding the 6(b) Study on Pharmacy Benefit Managers (Feb. 17, 2022), <https://www.ftc.gov/news-events/news/speeches/remarks-chair-lina-m-khan-regarding-6b-study-pharmacy-benefit-managers>.

⁴ Solicitation for Public Comments on the Impact of Prescription Benefit Managers’ Business Practices, FTC-2022-0015, <https://www.regulations.gov/docket/FTC-2022-0015/comments> (last visited May 5, 2022).

⁵ *Id.*