



1600 20th Street, NW • Washington, D.C. 20009 • 202/588-1000 • www.citizen.org

September 29, 2026

Public Citizen Post-hearing Comments re: “Request for Comments on the Section 301 Investigation Regarding Germany’s Persistent Underpayment for Innovative Pharmaceutical Products”
USTR-2026-0463

Public Citizen is a nonprofit consumer advocacy organization with more than one million members and supporters. The Access to Medicines program advocates for access to prescription drugs in the United States and internationally.

At the hearing, the Section 301 Committee asked what the impact would be on drug prices, including prices for U.S. consumers, if Germany abandoned the pharmaceutical pricing policies described in the investigation notice.

The consequences of weakened pharmaceutical pricing and spending policies are higher prices and greater cost burdens on governments and people. For example, removing the mandatory rebate policy would increase the effective price of patented drugs in Germany, undoing the country’s efforts to address rising spending on high priced medicines. Spending on patented drugs has increased by an average of eight percent annually over five years, driving costs higher for public insurers and the people who finance them.¹

Weakening Germany’s, or any other country’s pricing policies, would not benefit U.S. consumers. Price differences between countries are best understood within the context of the respective countries’ health care systems and pricing policies, including the degree to which they provide a counterbalance to the patent-based pharmaceutical industry’s power to set high prices. This is evidenced by rising launch prices for new drugs in both the United States, which largely allows companies to operate without government negotiations as a check on price, and Germany, which allows manufacturers to set prices for a limited period after a drug’s launch before negotiated prices take effect. Between 2008 and 2021, U.S. launch prices increased by 20 percent per year.² In Germany, launch prices increased by an average of six percent per year between 2011 and 2022.³

Price increases in peer countries will not lower prices in the United States. The International Trade Administration came to the same conclusion in a 2004 study, finding: “...deregulating prices overseas is unlikely to reduce prices in the United States in the short term ... once a new drug is launched on the market, the nature of pharmaceutical markets and economic theory suggest that prices in one market will behave relatively independent of prices in other markets, absent the more fundamental changes in the competitive forces operating in those markets.”⁴ The Congressional Budget Office similarly finds that, given market segmentation and pharmaceutical company profit-maximization strategies, prices in one market are not impacted by prices in other markets.⁵

¹https://www.bundesgesundheitsministerium.de/fileadmin/Dateien/3_Downloads/F/FinanzKommission_Gesundheit/FinanzKommissionGesundheit_Erster_Bericht_20260330.pdf, at 276.

² <https://jamanetwork.com/journals/jama-health-forum/fullarticle/2827325>

³ <https://jamanetwork.com/journals/jama/fullarticle/2792986>

⁴ <https://web.archive.org/web/20190414170009/https://2016.trade.gov/td/health/DrugPricingStudy.pdf>, at 33–4.

⁵ <https://www.cbo.gov/system/files/2024-10/58793-rx-drug-prices.pdf> (“Manufacturers maximize their global revenue by charging different prices in different market segments, depending on the demand characteristics of those

While the Trump administration has proposed new “most-favored nation” drug pricing policies that would link U.S. drug prices to those in other countries, it is unclear whether the policies in their current form will meaningfully lower drug prices in the United States. Exemptions, carve outs, and implementation uncertainties related to the proposed U.S. reference pricing policies undermine their potential savings.⁶ At the same time, if prices in peer countries increase as a result of trade pressures, the U.S. reference point would also rise, limiting the price impact in the United States. If the administration fails to meaningfully implement reference pricing but succeeds in pressuring other countries to raise drug spending, then the ultimate result would be an increased burden on other countries and still no change to high U.S. prices.

Increasing pharmaceutical spending and industry revenues also does not guarantee better innovation. Fewer than half of approved first indications for new drugs in the United States and Europe between 2011 and 2020 added substantial therapeutic value over existing treatments.⁷ One way to incentivize genuine innovation and to help ensure that the public does not overpay for low-value drugs is to evaluate new medicines based on the benefit they add compared with existing treatments. Germany’s system does this, negotiating a higher reimbursement price for drugs determined to offer minor, considerable, or major added benefit.⁸ When making price offers in the Medicare Drug Price Negotiation Program, the Centers for Medicare and Medicaid Services also considers evidence of therapeutic value, among other factors.⁹

Rather than using trade policy against measures that keep medicines affordable, the United States and partner countries should consider how to appropriately balance innovation rewards with the need for medicines that are accessible for patients and sustainable for payers. In addition to ensuring drug pricing frameworks reward genuine innovation, alternative models to monopolies, such as grants and prizes, offer ways to incentivize private sector investment and help deliver products at affordable prices.¹⁰ Given the critical contributions of public funding to drug research,¹¹ countries could also coordinate to advance global innovation through greater direct public investment in R&D.¹²

segments. ... Differences in drug prices paid in different countries in part reflect that market segmentation, as do differences in prices paid by various purchasers within the United States.”).

⁶ For example, many large pharmaceutical manufacturers are excluded from the administration’s proposed Medicare reference pricing policies and the proposed Medicaid reference pricing policy applies to a limited number of drugs and is dependent on states electing to participate, minimizing the potential impact of these policies.

See, e.g., <https://endpoints.news/internal-cms-email-confirms-globe-and-guard-exemption-plan/> (showing that many large pharmaceutical manufacturers are excluded from the administration’s proposed Medicare reference pricing policies, minimizing the potential impact of those policies, should they be fully implemented).

⁷ <https://www.bmj.com/content/382/bmj-2022-074166>

⁸ <https://www.iqwig.de/en/presse/in-the-focus/new-drugs-approval-benefit-assessment-coverage/1-drug-approval-and-early-benefit-assessment-in-germany/>;

https://www.commonwealthfund.org/sites/default/files/documents/___media_files_publications_issue_brief_2013_oct_1711_schlette_early_benefit_assessment_rx_germany_intl_brief.pdf;

<https://www.g-ba.de/english/benefitassessment/>

⁹ <https://www.kff.org/medicare/key-facts-about-medicare-drug-price-negotiation/>; 42 U.S. Code § 1320f-3(e)(1)–(2).

¹⁰ <https://www.keionline.org/book/prizes-to-stimulate-innovation>;

<https://docs.house.gov/billssthisweek/20241216/CR.pdf> (showing a congressional appropriations bill with bipartisan support that proposed a National Academies of Sciences, Engineering, and Medicine study on the feasibility of alternative mechanisms for stimulating R&D investment).

¹¹ <https://doi.org/10.36687/inetwp133>

¹² https://apps.who.int/gb/cewg/pdf_files/A65_24-en.pdf