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December 19, 2024

Mr. Elon Musk and Mr. Vivek Ramaswamy
Co-Chairmen
Department of Government Efficiency

Dear Mr. Musk and Mr. Ramaswamy,

President-elect Trump has charged you with leading the “Department of Government Efficiency” (DOGE), an advisory committee to “provide advice and guidance from outside of Government, and [that] will partner with the White House and Office of Management and Budget [OMB] to drive large scale structural reform, and create an entrepreneurial approach to Government never seen before.”

Rather than using DOGE as an outlet to advocate for radical cuts to regulations that protect our air, water, workers, and children’s safety,¹ we are writing to offer you two proposals that collectively can save the government and taxpayers hundreds of billions of dollars while improving patient health and access to medicines. These are:

(1) use existing authority under 28 U.S.C. § 1498 to license patents and authorize generic competition to lower prices on anti-obesity medications (AOMs), and

(2) implement Medicare drug price negotiation and inflation rebate programs effectively and expand them to lower prices for more patients and more medicines, and on a quicker timeline, through legislation.

Lowering AOM Prices through Licensing Competition

Mr. Musk, you recently posted on X, “Nothing would do more to improve the health, lifespan and quality of life for Americans than making GLP inhibitors super low cost to the public.”² The Biden Administration recently proposed requiring Medicare and state Medicaid programs to cover these medicines for patients with obesity.³ But at current prices, widespread use of these drugs would be financially ruinous for health programs and patients’ premiums and out-of-pocket costs.⁴ Through existing authority under 28 U.S.C. § 1498, the next administration can expand access to these drugs

¹ <https://www.newsweek.com/musk-ramaswamys-doge-cocktail-corruption-illegality-harm-opinion-1998706>

² <https://www.politico.com/live-updates/2024/12/11/congress/musk-pitches-weight-loss-drugs-00193721>

³ <https://www.whitehouse.gov/briefing-room/statements-releases/2024/11/26/fact-sheet-biden-harris-administration-takes-latest-step-to-lower-prescription-drug-costs-by-proposing-expanded-coverage-of-anti-obesity-medications-for-americans-with-medicare-and-medicaid/>

⁴ <https://www.sanders.senate.gov/wp-content/uploads/Wegovy-report-FINAL.pdf>

while protecting against drug manufacturer price gouging that would explode health program budgets.

Last August, Public Citizen petitioned the current Secretary of Health and Human Services (HHS), Xavier Becerra, to use his statutory authority under 28 U.S.C. § 1498 to authorize generic competitors for semaglutide, sold by Novo Nordisk under the brand names Ozempic and Wegovy.⁵ We calculated that Medicare alone could save tens of billions of dollars annually through licensing generic competitors to bring down prices.⁶

Not only would licensing competition save the government and taxpayers tens of billions of dollars, but it is well justified by the large disparity in U.S. prices charged by Novo Nordisk relative to prices it charges in other high-income countries, the extraordinary revenues already obtained by Novo Nordisk through semaglutide sales, and the low production costs of the drug.

Novo Nordisk charges Americans up to 15 times more than it charges other wealthy countries for Ozempic and Wegovy.⁷ Novo Nordisk's pricing isn't justified by research and development costs. Since Ozempic's launch in 2018, the two drugs have made the company nearly \$50 billion in sales (\$49.74 billion),⁸ which is an order of magnitude higher than even the most generous estimates of research and development costs for drugs that take into account failed candidates and a reasonable return on investment.⁹ Further, over the past six years, Novo Nordisk has spent over \$44 billion enriching its shareholders through stock buybacks and dividends—over twice as much as it spent on R&D across its entire portfolio. Novo Nordisk's price is also not justified by production costs. Generic Ozempic and Wegovy could be sold profitably for around \$5 and \$13 per month, respectively.^{10,11} Novo Nordisk prices them over 100 times higher for Americans, while generics firms have indicated they would sell generics for less than \$100 per month.¹²

We are not alone in seeking generic competition on AOMs. After unsuccessful efforts to negotiate lower prices for its State Health Plan with GLP-1 manufacturers, North Carolina's Treasurer, a Republican, requested that HHS initiate efforts to negotiate voluntary licenses between Novo Nordisk and generic drug producers for supply to federal, state, and local government payers.¹³ Sen. Sanders has also called on the federal government to take bold action to make AOMs more

⁵ <https://www.citizen.org/article/expanding-access-to-semaglutide-through-section-1498/>

⁶ <https://www.citizen.org/article/estimate-of-savings-from-generic-competitors-to-ozempic-and-wegovy/>

⁷ <https://www.citizen.org/article/key-facts-to-know-before-novo-nordisks-ceo-appears-at-the-senate-help-committee/>

⁸ <https://www.citizen.org/news/novo-nordisks-50-billion-in-ozempic-wegovy-sales-comes-at-the-expense-of-healthcare-solvency/>

⁹ Cong. Budget Off., Research and Development in the Pharmaceutical Industry (Apr. 2021), <https://www.cbo.gov/publication/57126#:~:text=Only%20about%2012%20percent%20of,than%20%242%20billion%20per%20drug>

¹⁰ <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2816824>

¹¹ <https://www.statnews.com/2024/07/23/wegovy-medicare-medicaid-costs-why-not-buy-manufacturer-novo-nordisk/>

¹² <https://www.sanders.senate.gov/press-releases/news-sanders-announces-generic-pharma-companies-willing-to-sell-ozempic-for-less-than-100/>

¹³ <https://www.shpnc.org/documents/folwell-request-usdhhs-glp1/download?attachment>

affordable if Novo Nordisk and Eli Lilly do not do more to substantially reduce the price of the drugs.¹⁴ In a post on X last September, Mr. Musk expressed sympathy with Sen. Sanders' call for allowing generics manufacturers to produce AOMs.¹⁵ If you are sincere about your desire to make low cost AOMs available to Americans, DOGE should advise the next administration to use 28 USC 1498 to authorize competition without delay.

Effectively Implement and Expand Medicare Drug Price Negotiation and Inflation Rebates

In August 2022, congressional Democrats and President Biden advanced into law a new program to allow the government to negotiate prescription drug prices for Medicare and require rebates to be paid to Medicare by drug companies that raise prices faster than the rate of inflation. Shortly after President Biden signed the new law, the nonpartisan Congressional Budget Office (CBO) estimated its Medicare drug price negotiations and inflation rebate provisions would collectively save the federal government more than \$150 billion over the next ten years.¹⁶

While these savings are substantial, negotiated prices remain too high. HHS found that had negotiated prices of the first 10 drugs been in effect last year, they would have saved \$6 billion in that year alone.¹⁷ But Public Citizen research shows that patent abuses will have cost Medicare nearly that amount (between \$4.9 and \$5.4 billion) by the time negotiated prices take effect, by virtue of inappropriately blocking price lowering competition and delaying it well beyond the monopoly periods realized in other high-income countries.¹⁸ Moreover, a Reuters study showed that the negotiated prices are still on average more than double (and in some cases substantially higher) the prices charged by drug corporations in other high-income countries.¹⁹

These high prices are neither required nor justified. Within the existing Medicare negotiation law, CMS has the opportunity to save taxpayers and patients billions more by negotiating lower prices, more consistent with those paid in other wealthy countries, including by taking into account patent abuses.²⁰ Moreover, there is already a blueprint to multiply the impact of Medicare drug price negotiations and inflation rebates. The CBO estimated that Medicare drug price negotiations and inflationary rebates in House Democrats' Lower Drug Costs Now Act (H.R.3) would have saved nearly \$500 billion.²¹ H.R. 3 achieves these savings by negotiating prices for more drugs sooner, establishing an international reference price ceiling for negotiated prices, providing access to negotiated prices to patients with commercial insurance, and including commercial sales in inflation rebate calculations, among other measures.²²

¹⁴ <https://vermontbiz.com/news/2024/october/22/sanders-joins-biden-new-hampshire-event-discuss-lowering-prescription-costs>

¹⁵ <https://x.com/elonmusk/status/1836131972525232380?s=46>

¹⁶ <https://www.cbo.gov/publication/58455>

¹⁷ <https://www.hhs.gov/about/news/2024/09/30/hhs-announces-cost-savings-for-prescription-drugs-thanks-to-medicare-inflation-rebate-program.html>

¹⁸ <https://www.citizen.org/article/using-the-inflation-reduction-act-to-rein-in-patenting-evergreening-abuses/>

¹⁹ <https://www.reuters.com/world/us/us-will-still-pay-least-twice-much-after-negotiating-drug-prices-2024-09-03/>

²⁰ <https://www.citizen.org/article/using-the-inflation-reduction-act-to-rein-in-patenting-evergreening-abuses/>

²¹ <https://www.cbo.gov/publication/55936>

²² <https://www.congress.gov/bills/116th-congress/house-bill/3/text>

By improving and expanding Medicare drug price negotiations and inflationary rebates, taxpayers and patients can save hundreds of billions of dollars more. The federal government should negotiate deeper discounts through the 2022 Medicare drug price negotiation law and Congress should expand the law to bring down the prices of more drugs, for more patients, sooner.

For too long, the American people have been victimized by Big Pharma price gouging. Tackling this issue head on can both save the government and patients billions of dollars and expand access to medicines.

Sincerely,

Public Citizen