

July 24, 2017

The Honorable Tom Marino  
Chairman  
Subcommittee on Regulatory Reform, Commercial and Antitrust Law  
U.S. House of Representatives Committee on Judiciary  
2138 Rayburn House Office Building  
Washington, DC 20515

The Honorable David Cicilline  
Ranking Member  
Subcommittee on Regulatory Reform, Commercial and Antitrust Law  
U.S. House of Representatives Committee on Judiciary  
2138 Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Marino and Ranking Member Cicilline,

CVS Health, on behalf of its subsidiaries and affiliated entities, writes to express support for H.R. 2212, the Creating and Restoring Equal Access to Equivalent Samples Act (the “CREATES Act”). The CREATES Act is important bipartisan legislation that would address a serious anti-competitive practice in the pharmaceutical industry, the abuse of Risk Evaluation and Mitigation Strategies (REMS).

CVS Health is a pharmacy innovation company helping people on their path to better health. Every day, we work to make health care more affordable. We believe common sense, market-oriented reforms that promote competition are key to making prescription drugs affordable and reducing overall health care costs. Competition in the pharmaceutical industry helps us negotiate lower prescription drugs. Clinically equivalent, lower cost generics are an important part of that effort. Generic drugs account for the majority of drugs dispensed, but they equal only a fraction of drug spending overall, helping to keep medicines affordable. In 2016, CVS Caremark’s generic dispensing rate was 85 percent, and generics had the largest deflationary impact on the rising cost of prescription drugs. Despite the fact that we saw brand inflation increase by 8.6 percent in 2016, our pharmacy benefit management clients’ costs grew by only 3.2 percent, in large part due to utilizing low cost generics over brand drugs.<sup>1</sup>

Unfortunately, some pharmaceutical manufacturers engage in anti-competitive practices that prevent or delay competition and lead to higher drug costs. One particular problem is when brand manufacturers utilize REMS to prevent generic manufacturers from accessing needed samples of drug products, or when brand manufacturers refuse to allow generic manufacturers to participate in an existing REMS. It is estimated that REMS abuse costs the United States health care system more than \$5 billion every year.<sup>2</sup>

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<sup>1</sup> CVS Health, *Insights: Trend Drops to the Lowest Level in 4 Years*, March 15, 2017.

<sup>2</sup> Association for Accessible Medicines, “Anti-Competitive Practices are Costing Patients Billions,” accessed July 24, 2017.



CVS Health applauds the CREATES Act and the provisions this legislation includes to address REMS abuse. The CREATES Act would provide generic manufacturers with a legal remedy if they are denied samples by brand manufacturers. It would also allow judges to award damages to manufacturers who violate the law by denying or delaying access to samples, and give the U.S. Food and Drug Administration additional authority to address REMS abuse.

We believe that it is vitally important to end practices that delay competition and ultimately lead to higher drug prices. CVS Health supports the CREATES Act and appreciates your work and leadership in addressing this problem.

Thank you for the opportunity to comment, and CVS Health looks forward to continuing to work with you to advance the CREATES Act.

Sincerely,

A handwritten signature in black ink that reads "Melissa A. Schulman". The signature is fluid and cursive.

Melissa Schulman  
Senior Vice President  
Government and Public Affairs