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Opening Statement
Chairwoman Carolyn B. Maloney
House Committee on Oversight and Reform

Hearing Before House Committee on the Judiciary
Subcommittee on Antitrust, Commercial, and Administrative Law
"Treating the Problem: Addressing Anticompetitive Conduct and Consolidation in Health Care Markets."

April 29, 2021

Chairman Cicilline, Ranking Member Buck, and members of the Subcommittee, thank you for holding this important hearing today and for inviting me to testify about the Oversight Committee's findings of anticompetitive conduct in the pharmaceutical industry.

At the outset, I want to commend this subcommittee for its groundbreaking work on antitrust issues.

The former Chairman of my committee, the late Elijah Cummings, cared deeply, as I do, about the issue of rising prescription drug prices. He understood that drug companies' exorbitant prices have devastated patients across our country, forcing many to make gut-wrenching choices between affording their medications and paying rent, buying food, or saving for retirement.

For this reason, at the beginning of the 116th Congress, Chairman Cummings launched an in-depth investigation into some of the largest and most-profitable drug companies in the world. This investigation has remained one of my highest priorities since I took over as Chairwoman.

Over the last two years, we have reviewed over 1.3 million pages of internal company documents. Last fall, the Committee held hearings with six CEOs and released five staff reports summarizing our initial findings.

Before I describe some of these findings, I want to recognize that we rely on the pharmaceutical industry to develop critical new therapies, cures, and vaccines. In exchange, our system grants these companies the exclusive right to sell their products for a limited number of years without facing competition from lower-priced generic and biosimilar drugs.

Unfortunately, brand name drug companies have abused this system by engaging in blatantly anticompetitive strategies to extend their monopoly pricing for far longer than our system intended.

Our Committee's investigation found that these strategies, combined with laws restricting Medicare's ability to negotiate directly for lower prices, have emboldened drug companies to target the United States for price increases while cutting prices in the rest of the world. Our system, in essence, is leading to higher—and less affordable—drug prices right here in the U.S.

In addition, our investigation found that pharmaceutical companies dedicate significant portions of their research budgets to coming up with new ways to suppress generic and biosimilar competition, rather than focusing on developing new therapies.

By allowing these anticompetitive tactics to continue, we are paying more money and getting less innovation.

Our investigation exposed the inner workings of the types of anticompetitive conduct your Subcommittee is seeking to combat. Here are just a few examples:

- Companies such as Amgen and Novartis entered into patent settlement agreements with potential generic competitors to delay their entry into the market. Amgen internally estimated that it collected $202 million in extra sales of the kidney drug Sensipar by delaying generic entry by just ten weeks. Experts estimate that Novartis' delay of generic competition for its cancer drug Gleevec cost the U.S. market $700 million.

- Executives at another company, Celgene, discussed how to leverage the high price of its cancer drug Revlimid to prevent their competitors from conducting productive cancer research.

- Another company, Teva, engaged in what is known as "product hopping": using its monopoly market power to shift patients from one dose of its blockbuster MS drug Copaxone to another dose before generic competition for the first dose came to market.

I want to provide you with more detail about our findings regarding Teva, as these findings show why we need legislative reform to prohibit similar product hopping in the future.

In 1997, Teva began selling Copaxone as a 20-milligram dose administered once a day. For 18 years, Teva enjoyed monopoly pricing for its drug, raising its price from $9,000 per year to over $60,000 per year. As the 20-milligram dose of Copaxone approached the loss of market exclusivity and the possibility of competition from lower-priced generics, Teva introduced a new

40-milligram version of the drug to be administered three times a week. According to internal emails, Teva's executives referred to the new dose as a "generic defense strategy."

Internal documents revealed how Teva used its market power to shift patients to the new 40-milligram dose. Teva exerted pressure on pharmacy benefit managers to add 40-milligram Copaxone to their formularies by tying such action to contractual rebates on 20-milligram Copaxone. Teva used information collected during sales of 20-milligram Copaxone to lobby doctors to prescribe 40-milligram Copaxone. Teva even considered discontinuing its patient financial assistance program for 20-milligram Copaxone to pressure patients to switch to the 40-milligram version of the drug.

Teva's strategy was incredibly successful. By the time a lower-priced generic version of 20-milligram Copaxone entered the market in 2015, Teva had shifted over 75% of patients to its 40-milligram version. Experts estimate that Teva's product hop strategy cost the U.S. health care system over $4.3 billion in excess expenditures. We cannot allow this type of abuse in the future. That is why I am honored to co-sponsor the Affordable Prescriptions for Patients Act of 2021, which seeks to combat product hopping. I thank many of the Senators and Representatives in this room for their leadership on this bill.

Our Committee's investigation also revealed damning details about other abuses like patent thickets, misuse of the Orphan Drug Act, and exclusionary contracting with pharmacy benefit managers. I encourage Members and the public to use these reports as a resource as they seek to combat rising drug prices in our country.

I hope the Oversight Committee's findings are helpful as the Judiciary Committee considers legislation to address the pharmaceutical industry's anticompetitive practices and unsustainable price increases.

Thank you. I appreciate the opportunity to appear before you today.