HIAA®
Health Insurance Association of America

Charles N. Kahn III
President

December 15, 2000

The Honorable Donald S. Clark
Secretary
Federal Trade Commission
Room H-159
600 Pennsylvania Avenue, NW
Washington, DC 20580

Re: Generic Drug Study—FTC File No. V000014

Dear Secretary Clark:

The Health Insurance Association of America (HIAA) appreciates this opportunity to comment on the Federal Trade Commission's (FTC) proposed requests for information from pharmaceutical manufacturers relating to the agency's investigation of generic drug competition.

HIAA is the nation's most prominent trade association representing the private health care system. Our nearly 300 members provide health, long-term care, dental, disability, and supplemental coverage to more than 123 million Americans.

HIAA commends the FTC for initiating this important investigation. We believe that the proposed requests for information are necessary to the FTC's function as the primary governmental agency charged with protecting consumers from anticompetitive practices. In addition, we believe that the information the FTC proposes to collect will have significant practical utility in determining whether drug manufacturers are engaging in practices that impede generic competition and the extent to which consumers are harmed by such behavior.

HIAA is extremely troubled by recent allegations that brand-name and generic drug manufacturers have engaged in conduct that would delay or prevent the availability of lower-cost generic drugs to consumers. Such conduct clearly would represent an abuse of the Drug Price Competition and Patent Term Restoration Act of 1984 (the Hatch-Waxman Act) and is clearly contrary to the public interest.

It is vitally important to our nation's health care system that we maintain and encourage strong generic drug competition. As the FTC is aware, over the next five years brand-name

drugs with combined U.S. sales approaching $20 billion will go off patent.[1] Consumers will be denied the benefit of that development if drug manufacturers are free to engage in anticompetitive behavior that stifles generic competition. For this reason, HIAA fully supports the FTC's investigation and its recent efforts to combat anticompetitive practices by drug manufacturers. For the same reason, we support the proposed "Greater Access to Affordable Pharmaceuticals Act" (S. 3501 and H.R. 5247).

Rising cost pressures on American health care and the central role that pharmaceuticals now play in medical cost inflation underscore the importance of the FTC's investigation. Over the past few years, spending for prescription drugs has far outpaced all other major categories of health expenditures. Some estimates show recent annual increases in prescription drug spending topping 20 percent. And this trend is likely to continue. Researchers at the University of Maryland project that the nation's spending on prescription drugs will more than double over the five-year period from 1999 to 2004.[2]

Much can be done to mitigate these rising cost pressures if generic drugs are widely available to consumers when brand-name patents expire. On average, generic drugs cost approximately two-thirds less than their brand name equivalents.[3] The Congressional Budget Office estimates that, considering sales through pharmacies only, consumers saved $8 to $10 billion in 1994 alone by substituting generic drugs for their brand-name equivalents.[4]

In light of the importance of generic drug competition to our nation's health care system, we believe that the FTC's proposed information requests are fully justified and necessary to the agency's mission. We encourage the agency to move forward with its investigation.

If you have any questions about these comments, please contact Joe Holahan of my staff at 202-824-1737, jholahan@hiaa.org.

Sincerely,

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[1] National Institute for Health Care Management, "Prescription Drugs and Intellectual Property Protection," at 3 (August 2000).
[2] Daniel Mullins, *et al.*, "The Impact of Pipeline Drugs on Pharmaceutical Spending," Center on Drugs and Public Policy, University of Maryland School of Pharmacy (April 2000) (study prepared for HIAA and the Blue Cross Blue Shield Association).
[3] Generic Pharmaceutical Industry Association, "Facts and Figures" (available online at www.gpia.org).
[4] Congressional Budget Office, "How Increased Competition from Generic Drugs Has Affected Prices and Returns in the Pharmaceutical Industry," at xiii (July 1998).

From: "George Keats" <dsikeats@home.com>
To: FTC.SERIUS("genericdrugstudy@ftc.gov")
Date: Thu, Oct 12, 2000 1:34 PM
Subject: Consumer Response re. Generic Drug Costs --- Inflated Costs at the Distribution Level

Today's (October 12, 2000) Chicago Tribune carried another article about the practices of various drug companies, notably Abbott Labs, in manipulating and/or stopping the availability of generic equivalents of 'name brand' drugs. I believe that there is also the possibility that local drug distribution and distributors are also responsible for keeping lower cost equivalent prescription Rx's at an unnaturally elevated price level.

In my own case, I am a 'Senior Citizen' consumer of "Hytrin" which costs about $180 for bottle of 100 tablets, here in the northern suburbs of Chicago. The generic equivalent, manufactured by Geneva, sells for only slightly less, at about $160 for a like quantity and strength. The prices for either generic or name brand seem to vary by only a few percentage points depending upon whether one shops at a chain store such as Walgreens, or at a local privately owned pharmacy.

I have also investigated the pricing of both the generic and proprietary product through the Internet, mail order(AARP, Planet Rx, etc.), and found that the generic equivalent of Hytrin manufactured by Geneva sells for between 20% to 40% of the prices available locally. I finally purchased a bottle of the Geneva brand (100 capsules) for about $35 (versus about $160, locally)! When I asked my local pharmacy about the pricfe disparity, I was informed that the Internet/mail order suppliers might be getting some sort of a special credit from the manufacturers -----, but he has subsequently informed me that in rechecking with his supplier, future prices would be at around the $50 level!!!

Since all of the pharmacies in my area proposed approximately the same price, I can only assume that the local distribution systems might artificially inflate the generics to a level well beyond their costs from the manufacturer? Whatever the actual reasons, the consumer may not be always getting the advantage of the lower costs when choosing a generic equivalence. I do not know, but it would be most interesting to investigate, if the manufacturer of the proprietary drug can influence the distribution selling prices? If desired, I would be happy to send you the exact price quotes received in the above case.

My family and I appreciate the fine efforts of your organization, and your accomplishments in protecting consumer interests.

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