

Congress of the United States
House of Representatives
Washington, DC 20515–0545

March 25, 2021

Rebecca Slaughter
Acting Chairwoman
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Dear Acting Chairwoman Slaughter,

We thank you for your leadership and recent actions at the Federal Trade Commission (FTC) to encourage competition in the pharmaceutical industry. We commend you for the announcement that the FTC will join its partners in the United States and across the globe to reevaluate standards for mergers and acquisitions in the pharmaceutical industry.¹ Still, there is much more we must do. That is why we write to you today to request that the FTC use its authority to investigate the insulin industry and the allegations of potential collusion between the three manufacturers—Eli Lilly, Sanofi, and Novo Nordisk—that control nearly 100% of our country’s insulin supply.²

Together, Eli Lilly, Sanofi, and Novo Nordisk control nearly all of the insulin supply in the United States and have exploited this market power, raising prices repeatedly over the last few decades.³ They continue to raise prices in tandem, often on the same day, such that between 2012 and 2016, the price of insulin nearly doubled.⁴ For example, in May 2014, Sanofi and Novo Nordisk each raised their prices for a vial of diabetes medication by 16.1 percent within a day of each other. Six months later, the companies both raised the medication price by 11.9 percent. There have been 13 reported instances of such tandem price increases between those two companies since 2009, including one as recently as 2019.⁵ Eli Lilly often followed suit. Former Chairman Elijah Cummings made a similar request of the FTC, noting then that “the potential coordination by these drugmakers may not simply be a case of ‘shadow pricing,’ but may indicate possible collusion.”⁶ Regardless of whether or not collusion is occurring, it is clear that these three companies are not in competition with each other and are using their stranglehold on the market to drive up costs.

¹ FTC Announces Multilateral Working Group to Build a New Approach to Pharmaceutical Mergers, Federal Trade Commission, Retrieved at: <https://www.ftc.gov/news-events/press-releases/2021/03/ftc-announces-multilateral-working-group-build-new-approach>

² Insulin Products and the Cost of Diabetes Treatment, Congressional Research Service, Retrieved at: <https://fas.org/sgp/crs/misc/IF11026.pdf>.

³ Letter from Senator Bernie Sanders and Representative Elijah Cummings to Loretta Lynch, Attorney General, Department of Justice and Edith Ramirez, Chairwoman, Federal Trade Commission, Retrieved at: <https://www.sanders.senate.gov/download/sanders-cummings-letter-to-doj-ftc-on-insulin?inline=file>.

⁴ Letter from Senator Bernie Sanders and Representative Elijah Cummings to Loretta Lynch, Attorney General, Department of Justice and Edith Ramirez, Chairwoman, Federal Trade Commission, Retrieved at: <https://www.sanders.senate.gov/download/sanders-cummings-letter-to-doj-ftc-on-insulin?inline=file>.

⁵ Insulin: Examining the Factors Driving the Rising Cost of a Century Old Drug, Senate Finance Committee, Retrieved at: [https://www.finance.senate.gov/imo/media/doc/Grassley-Wyden%20Insulin%20Report%20\(FINAL%201\).pdf](https://www.finance.senate.gov/imo/media/doc/Grassley-Wyden%20Insulin%20Report%20(FINAL%201).pdf)

⁶ Letter from Senator Bernie Sanders and Representative Elijah Cummings to Loretta Lynch, Attorney General, Department of Justice and Edith Ramirez, Chairwoman, Federal Trade Commission, Retrieved at: <https://www.sanders.senate.gov/download/sanders-cummings-letter-to-doj-ftc-on-insulin?inline=file>.

The price for patients has been monumental: According to a 2019 analysis conducted by the Health Care Cost Institute, from 2012 to 2016 the annual cost of insulin for a patient with Type 1 Diabetes nearly doubled (from \$5,705, on average in 2016 to \$2,864 in 2012).⁷ As many as 1 in 4 people cannot afford their insulin, so they ration it out or starve themselves so as to “need” less insulin.⁸ At least thirteen Americans have died from insulin rationing in recent years, unnecessary deaths caused by the ever-growing price of a drug that was first patented nearly a century ago.⁹ The extraordinarily high cost of insulin is specific to our country. In fact, as with so many other drugs, American patients pay far more for insulin in average out of pocket costs than any other country.¹⁰ It is a uniquely American phenomenon that patients with diabetes are regularly forced to ration insulin and risk death. And the number of patients harmed by these actions only continues to grow: 1.2 million Americans have Type 1 diabetes and 30 million Americans have Type 2 diabetes, a number that continues to rise rapidly.¹¹

Taking action on this issue aligns with the Biden Administration’s commitment to equity.¹² Systemic inequality and racial disparities in the American health system have led to a higher incidence of diabetes among Black Americans.¹³ The price of insulin exacerbates this existing inequality: ProPublica recently wrote of an “epidemic” of amputations among Black Americans—an epidemic largely caused by exorbitant insulin prices.¹⁴ Insulin manufacturers, specifically Eli Lilly, have lobbied against attempts to cap the cost of insulin at the state level. When those efforts have failed, they’ve acquiesced to allowing the bills introduction, so long as they carve out the uninsured.¹⁵ The industry group representing these companies, PhRMA, has “argued that the industry was already taking voluntary steps to help diabetics, including supporting rebate and discount programs and advocating for insurers to limit copays.”¹⁶ These actions similarly only help those with insurance, leaving those who are uninsured or underinsured stuck with the bill for a drug whose price continues to rise, even as its production costs remain incredibly low.¹⁷

Those living with diabetes aren’t the only ones who bear the burden of this cost: American taxpayers are paying for Eli Lilly, Novo Nordisk, and Sanofi’s greed. One study, examining reimbursements from 1991 to 2015 from Medicare and Medicaid, found “a near exponential upward trend in Medicaid payments on a per-unit basis for a wide variety of insulin products regardless of formulation, duration of action, and

⁷ U.S. insulin costs per patient nearly doubled from 2012 to 2016, study finds, NBC News, Retrieved at: <https://www.nbcnews.com/health/diabetes/u-s-insulin-costs-patient-nearly-doubled-2012-2016-study-n961296>

⁸ Is Insulin’s High Cost Keeping Diabetes Patients From Taking their Medicine?, Kaiser Health News, Retrieved at: <https://khn.org/news/is-insulins-high-cost-keeping-diabetes-patients-from-taking-their-medicine/>.

⁹ #insulin4all : In Memory, T1 International, Retrieved at: <https://www.t1international.com/in-memory/>

¹⁰ Access to Insulin and Supplies Survey, T1 International, Retrieved at: <https://www.t1international.com/access-survey16/>.

¹¹ U.S. insulin costs per patient nearly doubled from 2012 to 2016, study finds, NBC News, Retrieved at: <https://www.nbcnews.com/health/diabetes/u-s-insulin-costs-patient-nearly-doubled-2012-2016-study-n961296>

¹² President Biden’s Executive Actions: Focus on Diversity and Equity, JD Supra, Retrieved at: <https://www.jdsupra.com/legalnews/president-biden-s-executive-actions-5613277/>

¹³ Diabetes and African Americans, Office of Minority Health, U.S. Department of Health and Human Services, Retrieved at: <https://minorityhealth.hhs.gov/omh/browse.aspx?lvl=4&lvlid=18>

¹⁴ Lizzie Presser, The Black American Amputation Epidemic, ProPublica, Retrieved at: <https://features.propublica.org/diabetes-amputations/black-american-amputation-epidemic/>.

¹⁵ States are trying to cap the price of insulin. Pharmaceutical companies are pushing back., NBC News, Retrieved at: <https://www.nbcnews.com/news/us-news/states-are-trying-cap-price-insulin-pharmaceutical-companies-are-pushing-n1236766>

¹⁶ States are trying to cap the price of insulin. Pharmaceutical companies are pushing back., NBC News, Retrieved at: <https://www.nbcnews.com/news/us-news/states-are-trying-cap-price-insulin-pharmaceutical-companies-are-pushing-n1236766>

¹⁷ Production costs and potential prices for biosimilars of human insulin and insulin analogues, BMJ Global Health, Retrieved at: <https://gh.bmj.com/content/3/5/e000850>

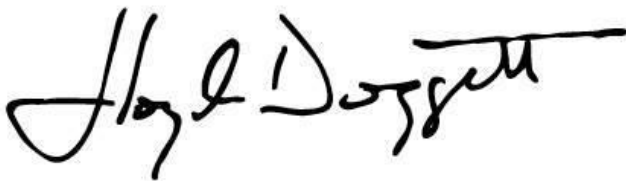
whether the product was patented.”¹⁸ Between 2010 and 2018, Medicare Part D spent \$78.4 billion on insulin prior to rebates. This change is not the result of an increased number of patients on insulin within the program: The number of Medicare Part D beneficiaries using insulin increased 51%, from over 2.1 million in 2010 to approximately 3.2 million in 2017. In the same period Medicare spending on insulin prior to rebates increased more than 470%, from over \$3 billion in 2010 to roughly \$14.3 billion in 2018.¹⁹

It is clear that the insulin market is broken, and we believe that an FTC investigation and intervention is long overdue. American patients and taxpayers cannot wait any longer, and as such, we ask for a reply by April 25, 2021. Thank you in advance for your attention to this important matter, and we look forward to working with you on this issue.

Very Truly Yours,



KATIE PORTER
Member of Congress



LLOYD DOGGETT
Member of Congress



CORI BUSH
Member of Congress



PRAMILA JAYAPAL
Member of Congress



PETER WELCH
Member of Congress



RO KHANNA
Member of Congress

¹⁸ Trends in Medicaid Reimbursements for Insulin from 1991-2014, JAMA Internal Medicine, Retrieved at: <https://jamanetwork.com/journals/jamainternalmedicine/fullarticle/2429536>.

¹⁹ Insulin: Examining the Factors Driving the Rising Cost of a Century Old Drug, Senate Finance Committee, Retrieved at: [https://www.finance.senate.gov/imo/media/doc/Grassley-Wyden%20Insulin%20Report%20\(FINAL%201\).pdf](https://www.finance.senate.gov/imo/media/doc/Grassley-Wyden%20Insulin%20Report%20(FINAL%201).pdf)

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MARK POCAN
Member of Congress

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JAMAAL BOWMAN, Ed. D.
Member of Congress

A handwritten signature in blue ink, appearing to read 'Chellie Pingree', with a long horizontal flourish at the end.

CHELLIE PINGREE
Member of Congress