



the campaign for
SUSTAINABLE Rx PRICING

September 17, 2024

The Honorable Richard Durbin
Chairman
Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Lindsey Graham
Ranking Member
Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, D.C. 20510

To Chairman Durbin and Ranking Member Graham:

The Campaign for Sustainable Rx Pricing (CSRxP) is a broad-based coalition of leaders representing consumers, employers, health plans, hospitals, nurses, pharmacists, pharmacy benefit companies, and physicians. Our coalition is united behind one goal – to lower the cost of prescription drugs for patients. We greatly appreciate your leadership in drawing attention to anti-competitive practices by brand-name pharmaceutical companies¹ and for advancing bipartisan legislation to address abuses of the patent system this Congress.²

We write today, however, to express our opposition to the Patent Eligibility Restoration Act (PERA) (S. 2140). PERA would significantly broaden the scope of what is patentable in the United States and result in brand-name pharmaceutical companies being able to gain the exclusive rights to what the Supreme Court has recognized as products of nature or naturally occurring phenomena.³ When one then considers brand pharma’s ability to build patent thickets on its blockbuster products, it is easy to see that patients will be harmed in the form of higher drug prices should PERA be enacted.

Brand pharma’s abuse of the patent system is well-documented:

- Pharmaceutical companies filed more than 140 patent applications and obtained 74 patents, on average, on each of America’s top ten selling drugs.⁴

¹ CSRxP, “They Said It!: Lawmakers Roast Big Pharma’s Patent Abuse, Call for Action on Bipartisan Solutions to Hold the Pharmaceutical Industry Accountable,” May 22, 2024 ([Link](#)).

² CSRxP, “CSRxP Applauds Senators for Bipartisan Action to Hold Big Pharma Accountable for Egregious Patent Abuse,” February 9, 2023 ([Link](#)).

³ See U.S. Supreme Court decisions in *Association for Molecular Pathology v. Myriad Genetics, Inc.*; *Alice v. CLS Bank International*; and *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*

⁴ I-MAK, “Overpatented, Overpriced. Curbing Patent abuse: Tackling the root of the drug pricing crisis,” September 2022 ([Link](#)).



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- Market exclusivity periods are well beyond what Congress intended with one study finding median market entry of 21 years for biologics and 14 years for small molecule drugs.⁵
- The cost of patent thickets to consumers was more than \$16 billion on just five drugs in 2023.⁶ A second study on a broader set of drugs estimated excess costs of \$40 billion in 2019.⁷

We thus urge the Senate Judiciary Committee to reject PERA. Reform of the patent system is essential to improving patent quality, spurring pharmaceutical competition, and to reducing the cost of prescription drugs for patients. Unfortunately, passage of PERA would be a step in the wrong direction and would undermine the progress made by the committee in the 118th Congress.

Sincerely,

Lauren Aronson
Executive Director
Campaign for Sustainable Rx Pricing

⁵ Rome et al, "Market Exclusivity Length for Drugs with New Generic or Biosimilar Competition, 2012-2018," Clin. Pharmacol. Ther., February 2021 ([Link](#)).

⁶ Alex Brill and Christy Robinson, "Patent Thickets and Lost Drug Savings," Matrix Global Advisors, January 2023 ([Link](#)).

⁷ American Economic Liberties Project and I-MAK, "The Costs of Pharma Cheating," May 2023 ([Link](#)).