

August 13, 2008

The Honorable Max Baucus  
Chairman  
Finance Committee  
United States Senate  
Washington, DC 20510

Dear Senator Baucus:

Thank you again for the opportunity to testify at the July 15 Finance Committee Hearing on “International Enforcement of Intellectual Property Rights and American Competitiveness.” At the hearing, you asked us to work together to find a “middle ground” on the issue of global access to medicines. Specifically, you asked whether we could find a way “to protect our patents abroad but also demonstrate flexibility and compassion with respect to public health crises in the developing world.”

We are pleased to respond that we have worked hard this past month to address your challenge, and believe that it is possible to strike such a balance. In fact, we have been able to identify a common approach that we think would do so.

The problem of health care in the developing world – especially in the poorest countries – is a complex one. People in these countries lack access to health care for a variety of reasons, including lack of financial resources, lack of health infrastructure, and political instability. Solving this problem will require the efforts of a broad range of parties, including governments, multilateral organizations, private industry, and non-governmental organizations, each with important roles to play.

We believe that these efforts are most likely to succeed if the parties involved share a common vision. An important component of health care is of course access to medicines; another important component is encouragement of research. We have agreed upon the following as a practical vision for addressing the access to medicines issue in developing countries, while preserving incentives for innovation.

- (1) Developed-world nations would commit themselves to develop detailed mechanisms to ensure that their government pharmaceutical purchasing authorities pay an adequate price to encourage research and also that, as donors, they pay a price adequate to cover an appropriate share of research costs for their purchases of new products of primary value to developing nations.
- (2) Under WTO rules, least developed countries (the world’s poorest countries, primarily in Sub-Saharan Africa) are not obligated to provide IP protection to medicines, at least through 2016. We agree with this rule. That said, we need

to keep in mind that the goal is to promote access to medicines, and that there are a range of policies that countries need to put in place to achieve that goal effectively. We also recognize that as these countries develop and become more viable locations for investment and R&D, they should consider time-limiting such a suspension of IP. We believe it appropriate that the global and national funds purchasing for these countries pay competitive prices but also believe that these prices should cover an appropriate share of research costs for new products whose primary value is in developing nations.

- (3) Middle-income nations would protect IP, but markets would be divided: the poorer sections would get the benefit of low prices, and the wealthier sectors would pay a price more aligned with the developed-world price. Some countries would need to de-regulate their pricing regimes to allow this to happen.
- (4) All nations would prohibit trade in counterfeit and fake drugs, would cooperate with generic and research pharmaceutical firms to help suppress it, and would assist in preventing the reverse flow of low-income-nation generic drugs to high-income nations.
- (5) All beneficiaries of the low-margin pricing would remove all legal tax, duty, and similar barriers to the import and marketing of pharmaceuticals. They would further agree to accept new drugs on the approval of those drugs by an appropriate international process.
- (6) Donor nations would commit themselves to support the global funds (whether multilateral or national) at a defined level.

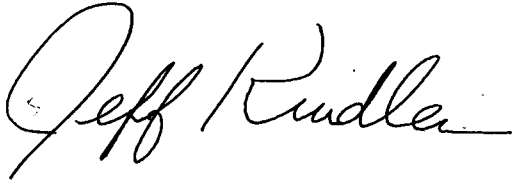
We identified two steps that we believe might contribute to achieving such a vision. One is to initiate a dialog among the various participants in the middle income markets to explore ways in which poorer patients in those markets might best be served. Such a discussion could include issues such as how to prevent arbitrage between market segments that would undermine access for the poorest, as well as ways to reduce counterfeits and to eliminate distortions that arise when the prescribing and dispensing functions are not separated. We are committed to beginning such a dialogue with other interested parties, and will explore the means to do so.

Second, we believe that the United States should consider as a trade goal the achievement of a sector-specific trade agreement among developed countries (e.g., under the aegis of the WTO, or perhaps the OECD) to ensure that pricing and reimbursement policies recognize and reward innovation, and to set disciplines on government practices that undermine incentives for innovation. This is necessary to ensure that short-term cost containment objectives do not overwhelm the longer term benefits from the effective promotion of R&D. We recognize that this could be a difficult and longer-term goal to achieve. It might, for example, best be achieved in the form of a global sector-specific approach that would include a number of the components of the vision outlined above.

We would be happy to attempt to propose language defining this goal for a new trade-promotion authority bill should you wish.

We are honored to have had this opportunity to explore these issues together and believe that we have started a fruitful dialogue. Thank you for the opportunity.

Sincerely,

A handwritten signature in black ink that reads "Jeff Kindler". The signature is fluid and cursive, with the first name "Jeff" being more prominent than the last name "Kindler".

Jeff Kindler  
Chairman and CEO  
Pfizer, Inc.

A handwritten signature in black ink that reads "John Barton". The signature is cursive and somewhat compact, with the first name "John" and last name "Barton" clearly visible.

John Barton  
George E. Osborne Professor of Law Emeritus  
Stanford University