



COALITION AGAINST
**SOCIALIZED
MEDICINE**

a Project of THE CONSERVATIVE POLITICAL ACTION COALITION



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MEMORANDUM

To: Hon. Jamieson Greer, United States Trade Representative
From: Andrew Langer, Executive Director, Coalition Against Socialized Medicine
Date: June 26, 2025
Re: USTR Request for Comments “Regarding Foreign Nations Freeloading on American-Financed Innovation”, Docket ID USTR-2025-0011

Below are comments of the American Conservative Union Foundation's (d/b/a. Conservative Political Action Coalition Foundation) (hereinafter “CPAC Foundation”) Center for Regulatory Freedom (hereinafter “CRF”), and the Coalition Against Socialized Medicine, a project of the Conservative Political Action Coalition (hereinafter “CASM”) in response to the United States Trade Representative’s request for comments “Regarding Foreign Nations Freeloading on American-Financed Innovation”, Docket ID USTR-2025-0011, published in the Federal Register on May 23, 2025.

CRF is a project of the CPAC Foundation, a non-profit, non-partisan 501(c)(3) research and education foundation. Our mission is to inject a common-sense perspective into the regulatory process, to ensure that the risks and costs of regulations are fully based on sound scientific and economic evidence, and to ensure that the voices, interests, and freedoms of Americans, and especially of small businesses, are fully represented in the regulatory process and debates. Finally, we work to ensure that regulatory proposals address real problems, that the proposals serve to ameliorate those problems, and, perhaps most importantly, that those proposals do not, in fact, make public policy problems worse.

CASM is a project of CPAC, and represents a broad alliance of organizations dedicated to defending the free-market principles that underpin America’s healthcare system. CASM stands firmly against government overreach, including efforts to implement centralized healthcare models, impose price controls, or eliminate private insurance. Instead, it champions policies that promote innovation, protect intellectual property, and increase competition by reforming anti-competitive practices. The coalition advocates for market-driven solutions that expand access to care, increase the supply of healthcare professionals, and deliver better outcomes for patients and taxpayers alike. Above all, CASM seeks to preserve the values of choice, competition, and innovation in American healthcare while exposing and opposing the creeping encroachment of socialized medicine in all its forms.

The implementation of the Executive Order entitled "Delivering Most-Favored-Nation Prescription Drug Pricing to American Patients" (the "Executive Order") represents not merely a significant departure from longstanding United States trade and health care policy, but a direct incursion into the core principles of free-market capitalism upon which the American economy has thrived for over two centuries. The policy, while ostensibly designed to combat foreign freeloading and reduce domestic drug costs, proposes mechanisms that imperil pharmaceutical innovation, restrict patient access, and

cede critical leadership in biomedical advancement to adversarial nations such as the People's Republic of China. The following analysis dissects these dangers with the precision of legal scrutiny and the urgency demanded by the high stakes involved.

Executive Summary

The Executive Order "Delivering Most-Favored-Nation Prescription Drug Pricing to American Patients" proposes to tie U.S. drug prices to those set by foreign governments operating under socialist, state-controlled healthcare systems. While intended to counter foreign freeloading, the MFN model threatens to dismantle the market-based incentives that have made the United States the global leader in pharmaceutical innovation. This memorandum exposes the multiple legal, economic, and geopolitical risks associated with implementing MFN pricing. It warns that such a model will suppress innovation, diminish patient access to life-saving treatments, and cede strategic advantage to adversarial powers such as China.

The memorandum proceeds in seven sections. Section I details how MFN pricing undermines U.S. pharmaceutical R&D investment by injecting price uncertainty and dismantling the profit models necessary to sustain billion-dollar drug development pipelines. Section II explains how the MFN model mirrors foreign single-payer systems that ration patient access and generate dangerous treatment delays, thereby compromising patient care. Section III demonstrates that MFN pricing rewards foreign price control behavior rather than correcting it, and proposes instead that the U.S. adopt diplomatic and trade-based solutions to combat freeloading. Section IV outlines alternative pro-market policy tools, including NATO-style spending targets, bilateral cost benchmark negotiations, and regulatory alignment via trade agreements. Section V addresses the significant constitutional and statutory defects of MFN implementation, including likely violations of the nondelegation doctrine, statutory Medicare mandates, and international trade obligations. Section VI exposes MFN as a Trojan horse for backdoor price controls, historically shown to erode innovation and harm patients. Finally, Section VII presents a forward-looking strategic framework that empowers USTR to pursue equitable cost-sharing globally while safeguarding American leadership in biopharmaceutical research.

The legal, policy, and national security stakes implicated by the Executive Order are profound. If implemented, MFN pricing would impose foreign socialized medicine's failures onto U.S. patients, weaken American innovation, and hand over leadership in drug development to geopolitical rivals. The Executive Order should be rejected in its entirety, and a principled, free-market solution should guide U.S. policy instead.

Introduction

The Most-Favored-Nation Prescription Drug Pricing Executive Order reflects a dangerous and radical shift in American trade and health care policy—one that abandons core free-market principles in favor of foreign-imposed price controls. The proposed model would tie domestic drug prices to foreign government reimbursement rates set under socialist single-payer systems notorious for rationing care, suppressing innovation, and delaying access to critical treatments. In the name of combating foreign freeloading, the Executive Order would hand pricing authority over to foreign bureaucracies that have no accountability to American patients, taxpayers, or businesses.

The United States has long served as the global leader in pharmaceutical research and development precisely because of its market-based pricing system, which rewards innovation, attracts capital, and funds the next generation of life-saving medicines. The MFN model disrupts this proven framework by creating price volatility driven by political and economic decisions made abroad. Such a system would discourage private investment, shrink R&D pipelines, and ultimately deprive patients of breakthrough therapies that depend on robust private sector innovation.

Equally alarming are the national security implications. As China aggressively invests in biopharmaceutical leadership, the erosion of U.S. market incentives opens the door for Beijing to surpass America as the world's dominant force in drug development. The MFN framework not only jeopardizes American economic interests, but also undermines the nation's geopolitical standing in a sector critical to future global competitiveness and public health security.

This memorandum rigorously evaluates the manifold dangers of MFN pricing, exposing its profound economic distortions, legal infirmities, and national security risks. It also proposes viable, pro-market alternatives to address legitimate concerns of foreign freeloading without sacrificing American leadership in pharmaceutical innovation. The stakes could not be higher, and policymakers must act accordingly.

I. Threats to Pharmaceutical Innovation: An Existential Risk to U.S. Leadership

A foundational axiom of free-market economics holds that private investment is driven by the expectation of commensurate returns. The Executive Order's proposed Most-Favored-Nation ("MFN") pricing model jeopardizes this basic economic calculus by injecting profound uncertainty into future revenue projections for pharmaceutical developers.

The pharmaceutical industry is uniquely characterized by immense upfront research and development ("R&D") costs, prolonged and unpredictable regulatory pathways, and extraordinarily high failure rates. Current estimates place the average cost of bringing a novel therapeutic to market at approximately \$2.6 billion, with only a fraction of candidate compounds ultimately reaching patients. Investors tolerate these risks because the American pricing environment permits successful drugs to recoup these investments and fund future innovation. The MFN model, by tethering U.S. drug prices to those negotiated in foreign, state-controlled systems, threatens to decimate this delicate incentive structure.

Unlike the United States, many nations employ centralized price-setting mechanisms, frequently leveraging monopsonistic power to extract below-market prices from manufacturers. Under an MFN system, drug developers would face the prospect of U.S. prices plummeting in response to political decisions made in foreign capitals. The rational investor, faced with such a volatile and arbitrarily depressed revenue environment, will logically divert capital to less regulated sectors or jurisdictions offering more stable returns.

Further, the implementation of MFN pricing does not merely affect future projects in a vacuum. Pharmaceutical development is cumulative; today's profits fund tomorrow's breakthroughs. Disrupting this virtuous cycle risks depleting the very R&D pipelines that have historically produced transformative treatments for cancer, rare diseases, neurological disorders, and countless other conditions.

The threat extends beyond mere economic theory. China's aggressive investments in biopharmaceutical innovation exemplify the geopolitical implications of this policy. The People's Republic has already surpassed the United States in several clinical trial benchmarks, positioning itself to dominate future pharmaceutical markets. The MFN model effectively hands Beijing a strategic gift: the erosion of American competitive advantage in exchange for transient, politically expedient domestic price reductions. In a global race for biomedical supremacy, unilateral concessions of this magnitude undermine national security, economic prosperity, and public health.

II. Patient Access Barriers: The Foreign Model as a Cautionary Tale

Beyond its chilling effect on innovation, the MFN policy threatens to replicate the access failures endemic to socialized healthcare systems abroad. Nations that negotiate drug prices through single-payer systems or centralized formularies routinely sacrifice timely patient access in pursuit of cost containment.

Empirical evidence demonstrates that in many foreign markets, newly developed therapies languish for years before patients gain access. For example, in numerous European jurisdictions, the combined duration of regulatory approval, health technology assessment ("HTA") evaluations, and price negotiations often exceeds two years, with additional delays of 18 months or more before reimbursement decisions are finalized. The net result is that patients in these countries are systematically denied the latest therapeutic innovations available to their American counterparts.

The MFN model, by importing these artificially depressed price points, effectively signals to manufacturers that introducing breakthrough treatments into the U.S. market may no longer be financially viable. This chilling effect may manifest preemptively, disincentivizing companies from prioritizing U.S. launches or limiting the scope of market entry. Patients will suffer as once-routine access to cutting-edge therapies becomes contingent upon opaque foreign pricing dynamics entirely divorced from domestic demand or clinical need.

The experience of patients subjected to socialized systems underscores the human cost of such policies. Wait times for specialized treatments routinely extend between 32 and 38 months in certain nationalized systems. These delays translate into worsened prognoses, avoidable morbidity, and preventable mortality. The United States has long distinguished itself by rejecting these models and prioritizing rapid access to medical innovation. The MFN policy represents an alarming step towards abandoning this commitment.

III. The Fallacy of Addressing Foreign Freeloading Through MFN Mechanisms

The Executive Order ostensibly aims to remedy the legitimate grievance of foreign freeloading. It is indisputable that many nations benefit disproportionately from U.S.-funded pharmaceutical R&D while contributing comparatively little themselves. However, the MFN mechanism is an ill-conceived instrument for addressing this imbalance.

Tying U.S. prices to foreign benchmarks rewards the very behaviors it purports to condemn. Nations that employ aggressive price controls and delayed reimbursement schedules will dictate the prices paid

by American patients. This perverse incentive structure grants foreign governments leverage over U.S. policy, effectively outsourcing pricing authority to actors fundamentally unaccountable to American voters or stakeholders.

The proper response to foreign freeloading lies not in self-sabotaging our domestic market but in confronting the root cause: the failure of allied nations to equitably contribute to global drug development. The United States must pursue diplomatic and trade-based strategies that compel these nations to shoulder their fair share. Leveraging existing trade agreements, engaging in bilateral negotiations, and conditioning market access upon meaningful financial commitments to pharmaceutical innovation represent far more effective—and far less damaging—approaches.

Moreover, adopting MFN pricing undermines the very negotiating position the United States ought to wield. When foreign actors observe the U.S. voluntarily subjecting itself to the distorted pricing outcomes of their socialized systems, they are emboldened to maintain or deepen those practices. Far from achieving price parity, the MFN model cements the asymmetric burdens that have long disadvantaged American innovation.

IV. Viable Alternatives: Pro-Competitive, Pro-American Solutions

Rather than embracing MFN pricing, policymakers should adopt targeted strategies that align with free-market principles while addressing legitimate concerns of global cost-sharing disparities. Several policy alternatives merit serious consideration.

A. NATO-Modeled Spending Targets

Drawing inspiration from collective defense obligations under the North Atlantic Treaty Organization ("NATO"), the United States could establish pharmaceutical spending benchmarks tied to GDP per capita for innovative medicines. Under this model, allied nations would commit to investing an equivalent share of their economic output into new drug acquisition and innovation, matching that of the U.S. This framework incentivizes fair participation without undermining domestic pricing autonomy.

Such an approach recognizes the collective benefits derived from pharmaceutical breakthroughs and apportions the financial responsibility accordingly. It transforms foreign freeloading into cooperative burden-sharing while preserving the dynamic pricing structures that fuel American innovation.

B. Bilateral Negotiation of Benchmark Reforms

Another pragmatic avenue involves leveraging bilateral trade negotiations to update outdated cost benchmarks that no longer reflect current market realities. Many existing price references are rooted in historical models that fail to account for contemporary clinical advancements, expanded indications, and improved efficacy data.

By recalibrating these benchmarks through direct negotiation, the United States can address foreign underpayment without compromising its domestic market incentives. Such reforms would ensure that prices reflect actual therapeutic value rather than arbitrarily assigned figures divorced from clinical outcomes.

C. Trade Agreements Conditioning Regulatory Alignment

Finally, trade agreements present a powerful mechanism for aligning regulatory and reimbursement policies among trading partners. Conditioning market access upon adherence to transparent, science-based pricing methodologies fosters a more level playing field without resorting to self-imposed price caps.

Regulatory alignment reduces non-tariff barriers, expedites access to innovative therapies, and mitigates the distortions created by opaque foreign price-setting bodies. Importantly, this approach retains sovereign control over domestic pricing while incentivizing systemic reform abroad.

V. The Constitutional and Legal Deficiencies of MFN Implementation

Beyond the economic and policy objections, serious constitutional and legal concerns attend the Executive Order's proposed MFN framework. Chief among these are violations of the nondelegation doctrine, improper executive overreach into legislative prerogatives, and potential conflicts with existing statutory mandates governing Medicare reimbursement.

A. Nondelegation Doctrine Concerns

The MFN model effectively grants executive agencies unchecked authority to determine Medicare reimbursement rates by reference to foreign pricing systems. Such expansive discretion arguably violates the nondelegation doctrine, which mandates that Congress—not the Executive—set forth intelligible principles to guide administrative action.

In *Gundy v. United States*, the Supreme Court reaffirmed limits on Congress' ability to delegate legislative power absent clear guidance. The MFN model's open-ended incorporation of foreign price controls, set by foreign governments according to opaque and often politicized criteria, fails to satisfy this constitutional standard.

B. Separation of Powers and Statutory Conflict

Medicare reimbursement frameworks are statutorily governed by the Social Security Act, which prescribes detailed methodologies for determining payment rates. The Executive Order's unilateral imposition of MFN pricing arguably conflicts with these statutory schemes, raising questions of executive usurpation of legislative authority.

Such unilateral executive action invites judicial scrutiny under the *Chevron* and *West Virginia v. EPA* doctrines, particularly given the substantial economic and political significance of the proposed policy shift. Courts may well conclude that Congress did not intend to confer upon administrative agencies the authority to fundamentally restructure Medicare pricing mechanisms in this manner.

C. Treaty Obligations and International Law Implications

Adopting MFN pricing may also run afoul of international trade obligations. The World Trade Organization ("WTO") and various bilateral trade agreements prohibit certain discriminatory pricing practices that MFN systems might inadvertently trigger. Further, embedding foreign pricing into

domestic reimbursement structures risks unintended trade retaliation, undermining broader diplomatic and economic objectives.

VI. The MFN Model as a Trojan Horse for Price Controls

At its core, the MFN model represents a Trojan horse for introducing socialized price controls under the veneer of international parity. Proponents obscure this reality by framing the policy as a corrective to foreign freeloading. In truth, it imports foreign price suppression mechanisms wholesale, fundamentally altering the free-market foundation of American healthcare.

Price controls, whether explicit or disguised, invariably produce predictable economic consequences: supply shortages, diminished innovation, rationed access, and distorted incentives. The MFN framework incorporates these pathologies under the guise of parity, delivering an outcome that is neither genuinely competitive nor economically sound.

Historical experience offers ample warning. The United States has long eschewed the price control models adopted by European counterparts, recognizing their corrosive effects on innovation and patient welfare. The MFN policy disregards these lessons, opting instead to replicate the very systems that have stifled medical progress elsewhere.

The ethical dimension must also be confronted. Price controls redistribute the burdens of drug development onto future patients who will suffer from delayed or foregone innovation. They transform short-term savings into long-term costs paid in human suffering, lost productivity, and preventable mortality. Policymakers must resist the false promise of immediate price reductions at the expense of generational health security.

VII. Strategic Policy Recommendations Moving Forward

Given the grave consequences outlined above, it is imperative that the United States Trade Representative ("USTR") and allied agencies adopt a fundamentally different approach that preserves American leadership in pharmaceutical innovation while addressing foreign cost-sharing inequities.

First, USTR should prioritize bilateral and multilateral negotiations that compel trading partners to abandon exploitative price suppression tactics. Diplomatic pressure, coupled with trade leverage, offers a viable path to rebalancing global pharmaceutical cost burdens.

Second, policymakers should advance domestic reforms that enhance price transparency, promote competition through generic and biosimilar pathways, and streamline regulatory approval processes. These measures can yield substantial cost savings without compromising the free-market engine of innovation.

Third, Congress should reassert its constitutional role by enacting statutory safeguards that prohibit the use of foreign pricing benchmarks in Medicare or other federal programs. Legislative clarity would preempt executive overreach and ensure that pricing authority remains grounded in accountable, democratic processes.

Finally, USTR should coordinate with national security agencies to assess the geopolitical ramifications of ceding biopharmaceutical leadership to adversarial nations. The strategic consequences of diminishing American preeminence in this critical sector cannot be overstated.

Conclusion

The MFN Executive Order threatens to compromise the very foundations of American biopharmaceutical leadership, trading away long-term innovation, patient access, and national security for illusory short-term savings. Rather than forcing the United States to import the failed pricing policies of foreign socialist healthcare systems, policymakers must recommit to the free-market principles that have driven unparalleled medical breakthroughs, sustained private sector investment, and ensured that American patients are among the first in the world to benefit from cutting-edge treatments.

At a time of intensifying global competition, especially from state-backed adversaries like the People's Republic of China, the United States cannot afford self-inflicted wounds that erode its innovation base and transfer leadership abroad. Addressing foreign freeloading demands strong, targeted diplomatic and trade action—not the wholesale adoption of foreign pricing regimes that reward bad behavior.

The CPAC Foundation's Center for Regulatory Freedom respectfully urges the United States Trade Representative to reject MFN pricing in its entirety and instead advance policies that defend America's free-market health care system, protect the rights of patients to timely access, sustain the private sector's capacity for biomedical innovation, and ensure that U.S. leadership in the global pharmaceutical sector remains unchallenged.

The stakes implicated by the MFN Executive Order are not merely financial or procedural; they are existential. At issue is whether the United States will preserve its unparalleled record of biomedical achievement or squander it on the altar of expedient price suppression. The correct course is clear: reject MFN pricing and chart a path that secures American innovation, safeguards patient access, and confronts foreign freeloading through principled, market-driven policies.

Please do not hesitate to contact us if you have any questions or require additional information. Please direct any inquiries to Andrew Langer, Director of the CRF, at ALanger@mail.conservative.org