



# COALITION AGAINST SOCIALIZED MEDICINE

*a Project of* THE CONSERVATIVE POLITICAL ACTION COALITION

## Via Electronic Delivery

The Honorable Howard Lutnick  
Secretary of Commerce  
1401 Constitution Ave, NW  
Washington, D.C. 20230

Dear Secretary Lutnick:

As a coalition committed to preserving free-market principles in American health care, the Coalition Against Socialized Medicine (CASM) writes to express deep concern about the recently circulated bipartisan [letter](#) led by Jodey Arrington urging the Department of Commerce to support sweeping reforms of the drug-patent system, such as those outlined in the Eliminating Thickets to Increase Competition (ETHIC) Act.

While we appreciate the legislators' stated intention of lowering prescription drug costs, we believe the ETHIC Act and the enforcement approach advocated in the letter are misguided.

### **Concerns with the ETHIC Act approach**

#### **1. It undermines the integrity of intellectual property law in favor of political convenience.**

By limiting — in litigation — the number of patents a brand-name drug manufacturer may assert to “one patent per patent group,” [ETHIC](#) effectively diminishes protections for legitimate innovations. Many patents within a “thicket” reflect distinct and [meaningful improvements](#) to a drug’s formulation, manufacturing, delivery, or safety profile. Preventing enforcement of those patents could discourage follow-on innovation or lead to the substitution of trade-secrecy strategies, therefore reducing transparency and potentially harming public access to improved therapies.

#### **2. It overstates the existence and impact of so-called “excessive” patent thickets.**

The narrative underlying the ETHIC proposal assumes that a dense web of overlapping patents is widespread and intentionally abusive in order to delay generics or biosimilars. However, [recent analysis](#) challenges that assumption, finding that the data does not support the idea that the mere count of patents correlates with delayed market entry or lack of competition. If that is the case, then ETHIC would be remedying a largely theoretical problem at the expense of valid innovation. This is a poor trade.

#### **3. It risks chilling future biomedical innovation and undermining U.S. competitiveness.**

Strong, enforceable patents are vital to encourage R&D investment. Weakening patent protections as the ETHIC Act would do sends a negative signal to innovators, investors, and entrepreneurs: investments in improving existing drugs may no longer yield meaningful, enforceable returns. That dynamic undermines the balance the U.S. patent system was designed to strike between promoting innovation and ensuring competition.

**4. There are less harmful, more targeted alternatives to address any real problem.**

If overpatenting or low-quality patents are a concern in specific cases, a [better approach](#) would be to strengthen patent-examination standards (e.g., improve prior-art search, better training for examiners) and enforce rigorous novelty/non-obviousness requirements at the granting stage, rather than broadly limiting the enforceability of patents after the fact. This preserves incentives for meaningful innovation while preventing abuse.

**Our Recommendation**

If the Department of Commerce — or related agencies — believes patent-related reforms are warranted, we urge you to *oppose* broad enforcement-focused proposals like ETHIC. Instead, consider supporting reforms that:

- Improve patent-examination quality at the United States Patent and Trademark Office (USPTO) to prevent overly broad or marginal patents from issuing in the first place
- Strengthen post-grant review tools to weed out low-quality patents
- Preserve robust protection for genuine innovations — including improvements to drug formulation, delivery, manufacturing, and safety — thereby safeguarding incentives for continued investment

Such an approach would strike the appropriate balance between protecting innovation and supporting competition, without harming future therapeutic advances or undermining the foundations of the American biotechnology sector.

We appreciate your attention to these concerns. We remain available to engage further with your office to ensure any patent-system reforms support both patient access and continued innovation.

Respectfully,



Andrew Langer  
Executive Director  
Coalition of Socialized Medicine (CASM)