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Committee Member
Committee on the Judiciary
U.S. Senate
Washington, D.C. 20510

Dear Senator,

On behalf of the more than one million members and supporters of the Council for Citizens Against Government Waste (CCAGW), I urge you to oppose [S. 150](#), a bill to amend the Federal Trade Commission Act to prohibit product hopping, and for other purposes, when this bill is considered by the Judiciary Committee.

Currently, the bill language is unavailable to the public on Congress.gov, but it is our understanding that S. 150 is similar to [S.1435, the Affordable Prescriptions for Patients Act of 2021](#), introduced in the 117th Congress by Sen. John Cornyn (R-Texas). His bill would have given the Federal Trade Commission (FTC) unprecedented authority to determine that a pharmaceutical company has violated antitrust laws just for holding patent applications. This liability would not be based on science, but on whether a non-patent-trained administrative law judge decides that the patent qualifies as “product hopping” or “patent thickening” regardless of the benefits provided by the innovation. The legislation applied only to pharmaceutical patents but that would not stop the bill from being amended to include other research-intensive industries that constantly improve their inventions, like telecommunications and technology.

The Inflation Reduction Act has already adversely impacted drug development and S.150 will further discourage future developments. “Patent thickets” and “product hopping” as defined in S. 1435 predetermined that any new formulation of a drug, including whether administration changes from a needle to a patch, or from two doses to one dose per day, or being used to treat a different disease, is per se anticompetitive. Even discontinuing an older version of a drug could be considered anticompetitive. Congress must protect rather than undermine the intellectual property (IP) that has been the underpinning of the development of new life-saving medicines that make patients’ lives better and easier.

This issue has significant implications for patients, pharmaceutical innovation, and U.S. global IP leadership. If a drug manufacturer is behaving in an anticompetitive manner, there are sufficient remedies available under current antitrust laws. It is completely unnecessary to grant new and redundant powers to the FTC.

Again, I urge you to oppose S. 150. All votes on S. 150 will be considered for CCAGW’s 2023 *Congressional Ratings*.

Sincerely,

Tom Schatz