The Center for Healthcare Affordability
A Project of the Institute for Legislative Analysis

United States Trade Representative
600 17th Street NW
Washington, DC 20508

August 10, 2026

Re: Section 301 Investigation Regarding Germany's Persistent Underpayment for Innovative Pharmaceutical Products
Docket No. USTR-2026-0463

Dear Ambassador Greer,

The Institute for Legislative Analysis's Center for Healthcare Affordability (CHA) respectfully submits these comments in support of the Office of the United States Trade Representative's Section 301 investigation into Germany's persistent underpayment for innovative pharmaceutical products.

CHA advances limited-government, market-oriented solutions to America's healthcare affordability challenges. Germany's pharmaceutical pricing system illustrates the consequences of replacing voluntary exchange and competitive price discovery with statutory discounts and centrally administered reimbursement rules.

Germany formally recognizes pharmaceutical patents, but its policies substantially limit the economic value of the innovations those patents protect. Through mandatory rebates, spending controls and government-directed reimbursement decisions, Germany suppresses the amount paid for innovative medicines and weakens the global revenue base that finances future research and development.

Those policies do not eliminate the cost or risk of discovering a new medicine. They either shift more of that burden to countries that provide stronger market-based incentives -- most notably the United States -- or reduce the resources available to pursue future treatments.

USTR is therefore right to examine whether Germany's policies are unreasonable or discriminatory and whether they burden U.S. commerce. USTR reports that American consumers pay approximately 3.9 times the prices paid in Germany for brand-name medicines. It further concludes that Germany's policies contribute to an imbalance in which American patients finance a disproportionate share of global pharmaceutical research and development.

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Germany's recent actions reinforce the need for this investigation. In July, German lawmakers approved legislation increasing the mandatory manufacturer rebate on most branded medicines from 7 percent to 15.5 percent. The legislation also raises the additional rebate on patented vaccines to 9 percent and freezes prices for those vaccines from 2027 through 2030.

German lawmakers ultimately abandoned a proposed variable rebate that could have changed from year to year. Removing that provision improved predictability, but it did not cure the legislation's central defect. The final law still requires manufacturers to surrender a substantially greater share of their revenue based on fiscal targets established by the government rather than the value patients receive from a medicine.

This distinction matters. In a functioning market, prices communicate information about demand, therapeutic value, scarcity, and the risks involved in bringing a product to consumers. A statutory rebate does none of those things. It is a government-mandated transfer imposed after a company has invested years -- and often a billion dollars -- developing a medicine under an established set of expectations.

The predictable result is less investment.

Eli Lilly recently announced that it would reduce the remaining scope of a major manufacturing project in Alzey by at least 50 percent. The company specifically cited Germany's policy direction and warned that the proposed measures undermined the stable and predictable conditions necessary for long-term investment.

Boehringer Ingelheim similarly halted $1.1 billion in planned German investments for 2027 through 2030, including investments in laboratory buildings and other infrastructure. The company cited Germany's difficult policy environment, including the government's healthcare savings measures and higher mandatory rebates, while indicating that capital would instead be directed toward more dynamic markets.

These decisions were not caused by changing consumer preferences or ordinary competition. They were rational responses to public policies that reduced the expected return on private investment and made Germany a less attractive place to conduct pharmaceutical research and manufacturing.

The consequences extend well beyond individual companies. Pharmaceutical innovation depends on a complex ecosystem of investors, scientists, research institutions, manufacturers and entrepreneurs. Capital moves toward jurisdictions that offer clear rules, predictable returns and respect for private enterprise. When governments repeatedly intervene to appropriate a larger share of the value created by successful innovation, investment moves elsewhere -- or does not occur at all.

Price controls, therefore, involve a trade-off that is too often ignored. They may reduce government spending on existing medicines in the near term, but they also weaken the incentives and resources needed to develop new medicines in the years ahead. A policy that lowers today's pharmaceutical budget by discouraging tomorrow's cures is not genuine cost reduction. It is a deferred cost, often borne by patients who never receive treatments that might otherwise have been developed.

Germany's policies also contribute to an inequitable international division of responsibility. The United States represents less than 5 percent of the world's population, yet the Administration estimates that roughly three-quarters of global pharmaceutical profits originate in the American market. Those returns help finance research whose benefits extend to patients around the world.

American employers, taxpayers, patients, investors and workers all have an interest in a system in which other wealthy nations contribute more fairly to the cost of innovation. Germany should not be permitted to enjoy the benefits of an innovative global pharmaceutical sector while systematically limiting its own contribution to sustaining that sector.

CHA rejects the claim that this investigation constitutes unwarranted U.S. interference in pharmaceutical markets. Germany's system already substitutes government mandates for market competition. USTR is not creating that distortion; it is determining whether the distortion unfairly burdens American commerce and consumers.

At the same time, the appropriate response to one government intervention is not necessarily another. CHA urges USTR to prioritize consultations and market-opening reforms over measures that would introduce additional trade barriers or further politicize pharmaceutical pricing. The goal should be to reduce Germany's reliance on mandatory rebates, improve the transparency and predictability of its reimbursement system, and ensure that compensation for innovative medicines more accurately reflects their therapeutic value.

Germany is also not alone. USTR has reviewed concerns involving other wealthy nations whose policies suppress pharmaceutical prices and leave the United States carrying a disproportionate share of the global innovation burden. Left unchallenged, these practices encourage governments to compete not by creating attractive environments for research and investment, but by extracting increasingly large concessions from the companies that produce lifesaving medicines.

A successful resolution of this investigation would establish an important principle: wealthy trading partners cannot expect the American market to finance the next generation of medicines while using government policy to minimize their own contribution.

CHA strongly supports USTR's investigation and encourages the Administration to pursue meaningful reforms to reduce Germany's reliance on government-imposed pharmaceutical discounts and to restore a more open, predictable, and market-oriented system. Germany's recent legislation demonstrates that the problem is growing more severe. Addressing it is essential to protecting American patients and workers, promoting fair competition, and preserving the incentives that make continued medical innovation possible.

Respectfully submitted,

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