

**Senate Judiciary Committee Hearing “Ensuring Affordable & Accessible Medications: Examining Competition in the Prescription Drug Market, May 21, 2024**

**Professor Rai’s Answers to Senator Grassley’s questions**

1. Do you believe there is anti-competitive conduct occurring in the PBM marketplace that leads to higher drug costs for consumers? Please explain.

*The PBM marketplace is highly concentrated, and oligopoly power creates the conditions necessary for anti-competitive behavior of various sorts. For example, PBMs can use their oligopoly power to negotiate rebates with drug manufacturers that are not passed on to consumers. My understanding is that PBMs also engage in anti-competitive practices in their negotiations with pharmacies. However, the study of PBM-pharmacy contracting is not my area of expertise.*

2. Senator Cantwell and I have a bill, the Pharmacy Benefit Manager Transparency Act, to prevent unfair, anti-competitive practices by PBMs and to bring about greater transparency. Do you believe that this bill would help address competition concerns and lower the price of drugs for patients?

*My understanding is that this bill focuses on PBM contracting with pharmacies. As noted in my answer to question 1, the study of PBM contracting with pharmacies is not my area of expertise. In general, however, particularly in oligopolistic markets, contract transparency of the sort promoted by the PBM Transparency Act is likely to promote competition.*

3. Chairman Durbin and I have attempted to pass our bill, the Drug Price Transparency for Consumers (DTC) Act, to require drug companies to list the price of a drug in their ads to empower consumers. The Trump Administration attempted to require it through rule-making, but Big Pharma opposed it. Why do you think Big Pharma opposes this policy?

*Although insured consumers are not fully exposed to list prices, they are exposed to co-payments that are often calculated based on these list prices. To the extent consumers are aware of this connection, direct-to-consumer advertising by*

*pharmaceutical firms will presumably fail to generate the increases in consumer demand it currently generates.*