

Why Not Control All Drug Prices?



Sonali Kolhatkar

01-20-2024 ~ *Pharmaceutical companies are resisting public scrutiny and suing over modest drug price regulations. It's past time to regulate their profiteering.*

Major pharmaceutical companies in the United States are battling with Vermont Senator Bernie Sanders over an issue that is at the heart of whether we value human wellbeing over corporate profits. As chair of the Senate Committee on Health, Education, Labor, and Pensions (HELP), Sanders has vowed to force CEOs of pharmaceutical companies to publicly answer for why their drug prices are so much higher than in other nations. He plans to bring a committee vote to [subpoena them](#). The subpoenas are necessary because—brazenly—the CEOs of Johnson & Johnson and Merck have simply refused to testify to the HELP committee. What are they afraid of?

In a defensive-sounding [letter](#) to Sanders, an attorney for Johnson & Johnson accused the Senator of using committee hearings to “punish the companies who have chosen to engage in constitutionally protected litigation.” The letter does not specify the litigation in question—perhaps because it would sound so ridiculous and would reveal the company’s real agenda. Last July, the company, along with Merck and Bristol Myers Squibb [sued the Biden administration](#) for allowing the Medicare program to regulate prescription drug prices.

It appears that Johnson & Johnson and Merck are indeed afraid of being questioned by lawmakers about drug-profiteering in the U.S.

One pharmaceutical expert, Ameet Sarpatwari of Harvard Medical School explained to the [New York Times](#) that, “The U.S. market is the bank for pharmaceutical companies... There’s a keen sense that the best place to try to extract profits is the U.S. because of its existing system and its dysfunction.” Another expert, Michelle Mello, a professor of law and health policy at Stanford university, told the Times, “Drugs are so expensive in the U.S. because we let them be.”

In other words, it’s been a free-for-all for pharmaceutical companies in the U.S. In 2003, then-President George W. Bush [signed a Medicare reform bill into law](#), promising help for seniors struggling to pay for medications, but that law [stripped](#) the federal government of its power to negotiate drug prices for Medicare’s participants. It was a typically Republican, Orwellian move: promise help to ordinary people and deliver the exact opposite.

Nearly two decades later, the [Inflation Reduction Act](#) (IRA), which Biden signed into law in 2022, tied Medicare drug prices to inflation and required companies to issue rebates if prices rose too fast. It was the first time since Bush’s 2003 law that drug manufacturers were subject to any U.S. price regulations. Pharmaceutical companies aren’t having it, and not only did they sue Biden over the IRA, they don’t seem to want to answer for their actions publicly.

It’s not enough for Medicare to be able to cut drug prices. There needs to be nationwide regulation on all drug prices for all Americans. After all, American taxpayers generously subsidize the research and development of most drugs. A [report](#) by Sanders’ staff explained that “[w]ith few exceptions, private corporations have the unilateral power to set the price of publicly funded medicines.” The report’s authors chided that “[t]he government asks for nothing in return for its investment.”

What’s more, the report rightly points out that people in other nations benefit from having access to lower-cost drugs that Americans have paid global pharmaceutical companies to develop. For example, [SYM TUZA](#), an HIV medication that scientists at the U.S. National Institutes of Health helped to develop, is available to U.S. patients for a whopping \$56,000 a year, while patients in the UK pay only \$10,000 a year for the same drug purchased from the same company.

It's not as if companies like Johnson & Johnson have some perverse preference for European patients over American ones. It's merely that their prices are regulated by most other industrial nations. The U.S. "happens to be the only industrialized nation that doesn't negotiate" drug prices, explained Merith Basey, Executive Director of [Patients For Affordable Drugs NOW](#), in an [interview](#) on Rising Up With Sonali last fall.

Indeed, countries like the [UK, France, and Germany](#), offer models for the U.S. in drug price controls and much has been written about what works best. Further, there is—unsurprisingly—a strong public desire for price controls. According to a [Kaiser Family Foundation poll](#) in August 2023, "[m]ajorities across partisans say there is not enough regulation over drug pricing." Moreover, a whopping 83 percent of those polled "see pharmaceutical profits as a major factor contributing to the cost of prescription drugs."

There is no shortage of ideas for specific price control regulations that could work in the U.S. For example, the Center for American Progress's October 2023 report, "[Following the Money: Untangling U.S. Prescription Drug Financing](#)," delves deep into how market prices are determined for medications and suggests interventions at every stage of drug price setting.

Frankly, such complex solutions would not really be necessary if [all Americans could simply join Medicare](#) health coverage and if Medicare's bargaining power to negotiate drug prices could be applied to all drugs. But, in the absence of this commonsense holistic approach to healthcare, even complex price controls would be better than no price controls.

Predictably, conservative capitalist critics have trotted out the same, tired arguments against government price regulations of pharmaceuticals. "[Drug Price Controls Mean Slower Cures](#)," declared a Wall Street Journal editorial headline. The paper's editorial board called the IRA, "the worst legislation to pass Congress in many years," and went as far as accusing the Biden administration of "extortion."

But who is engaging in extortion? Economists studying the pharmaceutical industry have found that for years companies have been so flush with cash that they have [spent hundreds of billions of dollars](#) in stock buybacks and exorbitant executive bonuses and pay packages. "The \$747 billion that the pharmaceutical

companies distributed to shareholders was 13 percent greater than the \$660 billion that these corporations expended on research & development over the decade,” wrote William Lazonick and Öner Tulum in a report for the Institute for New Economic Thinking.

Further, the Wall Street Journal’s screed ignores price controls in the UK, France, Germany, and other nations. If those have no bearing on the speed and quality of drug development, why should U.S. price controls have an impact? And if they do have an impact, then Americans are being unfairly required to bear the burden that people all over the world benefit from.

The Journal’s editorial board made one accurate claim, saying that the IRA “will also give companies the incentives to launch drugs at higher prices and raise prices for privately insured patients to compensate for the Medicare cuts.” The paper made this prediction without any comment on unfettered corporate greed. Indeed, if anyone is engaging in de facto extortion, it appears as though pharmaceutical companies may be the guilty parties in punishing Americans for price controls.

Pharmaceutical companies launched the new year with announced price hikes on [at least 500 medications](#)—a massive effort at gouging the public. In contrast, the IRA’s drug price controls [apply to only 10 medications so far](#), and will be expanded to 15 drugs per year for the next four years, and 20 drugs per year thereafter.

Rather than removing price controls on the paltry numbers of medications the IRA can regulate, an easy fix is to apply those same regulations to most or all drugs. Best of all, in order for such a solution to be implemented, pharmaceutical company CEOs wouldn’t even have to drag themselves into committee hearings to explain away their corporate greed.

By Sonali Kolhatkar

Author Bio: Sonali Kolhatkar is an award-winning multimedia journalist. She is the founder, host, and executive producer of “[Rising Up With Sonali](#),” a weekly television and radio show that airs on Free Speech TV and Pacifica stations. Her most recent book is [Rising Up: The Power of Narrative in Pursuing Racial Justice](#) (City Lights Books, 2023). She is a writing fellow for the [Economy for All](#) project at the Independent Media Institute and the racial justice and civil liberties editor

at [Yes! Magazine](#). She serves as the co-director of the nonprofit solidarity organization the [Afghan Women's Mission](#) and is a co-author of [Bleeding Afghanistan](#). She also sits on the board of directors of [Justice Action Center](#), an immigrant rights organization.

Source: Independent Media Institute

Credit Line: This article was produced by [Economy for All](#), a project of the Independent Media Institute.