



UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

Office of Commissioner
Andrew N. Ferguson

**Concurring Statement of Commissioner Andrew N. Ferguson
Joined by Commissioner Melissa Holyoak
Regarding the Second Pharmacy Benefit Managers Interim Staff Report
Matter Number P221200**

January 14, 2025

The Commission today issues a second interim staff report in connection with its ongoing Section 6(b) study into pharmacy benefit managers (“PBMs”). I am not surprised that the Biden-Harris Commission is releasing one more interim report on its way out the door. After having already issued one rare interim report, what’s one more? Were it up to me, I would have preferred the Commission take the time needed to complete its work and issue a final report when it is ready to do so. But that alone is not good enough reason to deny Congress and the public the Commission staff’s additional insight.

The second interim staff report is a marked improvement over the first. It is largely empirical, focusing on the data the Commission received in response to its Section 6(b) orders rather than cherry-picked, anonymous comments.¹ It meaningfully expands on staff’s initial two case studies regarding specialty generic drugs.² Indeed, the second interim staff report focuses entirely on specialty generics.³ The Commission staff could not have performed much of this specialty-generics analysis by the time the Commission released the first interim report because

made by the Chair, not PBM obstinance, has been the primary cause of the delay in the final report's completion.⁵

The Commission still has more work to do on this Section 6(b) study. I remain committed to bringing it to a conclusion, culminating in a final report.⁶ That process necessarily will require Commission staff to engage meaningfully with the order recipients, as has long been the Commission's practice. Such engagement ensures that the Commission understands the context for the documents and raw data it obtains from the Section 6(b) order recipients. Without that context, we cannot fulfill Congress's command to "evaluate and report facts which reveal[] the structure of our economy" in an objective way.⁷