



June 4, 2009

**An Open Letter to the Senate:  
Don't Pile Drug Price Controls on Top of Regulatory Overreach**

Dear Senator:

In response to several inquiries, I write on behalf of the 362,000 members of the National Taxpayers Union (NTU) to express our views on H.R. 1256, legislation to extend the regulatory reach of the Food and Drug Administration (FDA) to tobacco products, as well as amendments thereto.

We understand that an amendment, SA 1229, will be offered to H.R. 1256 in order to introduce new provisions to allow importation of U.S.-label pharmaceuticals that have been copied in foreign countries. As you may know, NTU has long taken issue with importation on the grounds that cost-saving estimates are volatile (even dubious) and that introducing price-controlled drugs to the U.S. undermines incentives for domestic innovators to develop new life-saving cures. Thus, from our perspective SA 1229 would worsen, not improve, H.R. 1256's impact on taxpayers and consumers.

Further, as an advocate for limited *and* effective government, NTU cannot support a massive FDA expansion when the agency's capability to carry out its current mandates is by no means clear. According to its performance rating at [www.ExpectMore.gov](http://www.ExpectMore.gov), the FDA received a score of only 54 percent in "program results/accountability." An agency already operating at this dismal level of efficiency should not be given additional responsibilities. If this bill were to pass, time and resources would be diverted from its core mission of ensuring that innovative new treatments are available to the Americans that so desperately need them.

Additionally, recent estimates suggest that state and local governments would forgo roughly \$1 billion in revenue from tobacco products from the provisions of H.R. 1256. Given the financial straits in which most state and local governments find themselves, it is likely that officials would seek – and receive – even more aid from the federal government should their deficits worsen. In an era of unconscionable bailouts, heavy existing tax burdens on tobacco products, and a difficult economy, federal taxpayers should not be forced to make up this "lost" amount through other tax hikes.

It is not too late for the Senate to pursue alternatives to the proposal currently on the floor. Legislation sponsored by one of your colleagues in the House, Steve Buyer, contains several elements that could become the basis of a sensible compromise that balances consumer choice with public health concerns. For example, Mr. Buyer's bill (H.R. 1261) contains more carefully-drawn limits to prevent heavy-handed regulation, and takes a more consultative approach over the best methods to combat underage smoking and inform consumers.

If Congress insists upon heaping more regulations onto tobacco products, a more thoughtful and deliberative debate about costs and benefits should take place. We believe that H.R. 1256 has yet to reflect these qualities, especially as amended by SA 1229.

Sincerely,

A handwritten signature in black ink that reads "Andrew Moylan". The signature is written in a cursive, flowing style.

Andrew Moylan  
Director of Government Affairs