Testimony before the

House Committee on Energy and Commerce, Subcommittee on Health

United States House of Representatives

February 1, 2012

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Chairman Pitts, Ranking Member Pallone and members of the Health Subcommittee, thank you for the opportunity to submit testimony about the essential steps Congress must take to protect Americans and ensure the integrity of our drug supply.

Based on research and critical analysis, the Pew Health Group seeks to improve the health and well-being of all Americans by reducing unnecessary risks to the safety of medical and other consumer products and supporting medical innovation. Pew applies a rigorous, analytical approach to improve public policy, inform the public and stimulate civic life.

The safety of the U.S. pharmaceutical supply system, a focus for Pew for the past four years, has also been a matter of sustained interest to this Committee. Nevertheless, many Americans would be surprised by the rapid and profound changes in how our prescription drugs are made – and the new risks that brings. Today, 40 percent of all finished pharmaceuticals,[1] and 80 percent of the active ingredients and bulk chemicals in U.S. drugs, are now sourced by industry from foreign countries.[2] Up to half are purchased from plants in India and China.[3] The number of non-U.S. plants we depend on has doubled in just the past decade.[4]

Despite this shift, FDA oversight of manufacturing is overwhelmingly domestically-focused. This puts consumers at risk and American manufacturers on an uneven playing field. While leading companies are already doing thorough assessments of their supply chains, we must make sure there is no incentive for the weaker actors to gain a competitive advantage by cutting corners.

In 2008, hundreds of American patients were sickened, and some died, after they received a blood thinning drug, heparin, that had been adulterated during the manufacturing process in China.

Since that time, this committee has held nine hearings and heard from more than 60 witnesses, in this Congress and those prior. You have conducted a careful and thorough investigation that has identified serious gaps in the system. We do not know who intentionally adulterated Chinese made heparin in 2008 but we certainly know how to make it much less likely that that kind of adulteration can happen again. Congress needs to act now to protect American consumers.

An ideal system will reduce risks, reward companies with good quality systems, promote an even playing field and use taxpayer dollars efficiently.

Pew has been working to identify the risks to the drug supply and advance pragmatic solutions. In July of 2011, we released a report entitled "After Heparin: Protecting Consumers from the Risks of Substandard and Counterfeit Drugs."[5] The report, which underwent extensive external review, was based upon information from regulatory and public documents, peer-reviewed journal articles and interviews with dozens of supply chain experts from numerous perspectives. It was informed by a two-day conference we hosted in March 2011 that included representatives of brand and generic pharmaceutical manufacturers, active drug ingredient makers, major and secondary pharmaceutical wholesalers, chain and independent pharmacies, consumer and health professional organizations, the U.S. Food and Drug Administration (FDA), state regulators and independent supply chain experts.

One of the most striking outcomes of this conference was the amount of consensus among stakeholders about risks and the need to address them. Leaders within industry that adhere to high standards of quality management and supply chain oversight understandably want all makers of drugs to be held to maintain and ensure drug quality.

Stakeholders at the Pew meeting acknowledged the geographic disparities in FDA oversight of drug manufacturing. Not far from here is a pharmaceutical manufacturing plant in West Virginia, operated by Mylan, the largest U.S. producer of generic drug products. Like every other domestic facility, it faces FDA inspections at least every two years. But as Heather Bresch, the company's president has noted, her competitors in China receive nowhere near this level of scrutiny. She has written that:

> "Every consumer should have the peace of mind in knowing that every prescription

> purchased in the U.S. is held to the same standard of quality regardless of whether the product or its ingredients originated in the U.S. or outside its borders."[6]

While FDA inspections alone are not enough to ensure quality, the expectation of inspection is a critical driver of quality compliance by makers of drugs and their ingredients. A plant outside the U.S. knows FDA may visit only once, before the product is first approved, and then never return. That reduces the incentive to make ongoing investments in quality. The FDA should inspect plants, both domestic and overseas, based on risk, which will permit the Agency to make much more efficient use of its limited resources. However, no plant should go indefinitely without an inspection. A minimum frequency of 4 or 5 years should thus also be established.

Second, Pew's research underscored again and again how important it is that companies know their suppliers and have systems in place to ensure the production quality throughout their supply chains. Pfizer, who joins us on this witness panel, has invested heavily in supply chain integrity, creating overarching systems that cover all company functions – from production and ingredient sourcing to distribution security. Pfizer has said in testimony:

> "Companies in emerging markets are operating in a developing regulatory environment with a novice inspectorate. Many have rudimentary quality systems or none at all. Before a US pharmaceutical firm can consider sourcing from these suppliers, it is imperative that the firm works with the suppliers to upgrade their quality systems and standards. To accomplish this, Pfizer and other companies have taken steps to Educate, Evaluate and for lack of a better word, Enforce appropriate quality standards."[7]

Pew supports updating current regulations to ensure all companies implement quality systems to manage their supply chains. These systems should include robust supplier assessment. Companies that do not adequately monitor and control suppliers may not only be ignorant of quality problems, they may be deliberately deceived. There have been well-documented cases of suppliers concealing the actual source of drug ingredients, in some cases bringing in chemical materials that were not intended for pharmaceutical use.

Martin VanTrieste, Vice President for Quality at Amgen and a founder of an industry pharmaceutical quality consortium called Rx-360 has said:

> "Rx-360 members recognize that we are responsible for our suppliers and supply chains and have a responsibility to tackle head-on the challenges associated with a global supply chain."[8]

Finally, we need to ensure FDA regulatory systems are appropriate for today's global paradigm. We should ensure that companies with high-quality systems in place don't face delays at the border. We need a system that benefits those companies and allows FDA to focus resources on firms that can't show a record of inspections or compliance with best practices. Indeed, FDA has conducted pilot programs in this area, and is also implementing a new risk-based screening system for imports to increase the efficiency of targeting. We also need to ensure that the FDA has the clear authority to refuse products when the plant that made them has denied an FDA inspection.

This year's authorization of the Prescription Drug User Fee Act (PDUFA) and other user fee programs offers an opportunity for Congress to tackle the risks of the global supply chain. We are greatly encouraged that the Generic Drug User Fee agreement, which will provide the FDA with new resources to conduct increased inspections of overseas generic manufacturing facilities – reaching parity with US inspections within five years. The additional changes to bring the FDCA into the 21st Century are feasible, practical and germane to the user fee renewal.

Numerous stakeholders agree on the path forward. They also agree that without action, we will face another disaster like that of the adulterated heparin four years ago. We have heard over and over the mantra, "it is not if, but when." Now is the time for this Committee to act on what it has learned over the past four years.

Thank you, and I welcome your questions.

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[1] Hamburg, Margaret. Commissioner, U.S. Food and Drug Administration. Testimony before the House Committee on Energy and Commerce, Subcommittee on Oversight and Investigations. April 13, 2011. http://republicans.energycommerce.house.gov/Media/file/Hearings/Oversight/041311/Hamburg.pdf. Accessed April 27, 2011.

[2] U.S. Government Accountability Office (March 1998). Food and Drug Administration: Improvements Needed in the Foreign Drug Inspection Program (Publication No. GAO/HEHS-98-21).

[3] NSD Bio Group. *Potential Health & Safety Impacts from Pharmaceuticals and Supplements Containing Chinese-Sourced Raw Ingredients*. Prepared for the United States China Economic and Security Review Commission. April 2010.

[4] Woodcock, Janet. Director, Center for Drug Evaluation and Research, Food and Drug Administration. "The FDA's Response to Biogenerics, QA and Globalization." Unbranding Medicines: The Politics, Promise, and Challenge of Generic Drugs. Harvard Interfaculty Initiative on Medications and Society. December 12, 2008

[5] Pew Health Group. "After Heparin: Protecting Consumers from the Risks of Substandard and Counterfeit Drugs." (2011) http://www.prescriptionproject.org/after_heparin_report

[6] Bresch, Heather. President, Mylan Inc. Submission to Docket No. FDA-2010-N-0381 Re: Generic Drug User Fee, FDA Request for Comments. October 17, 2010

[7] Migliaccio, Gerry , Vice President, Quality, Pfizer Inc. "Restoring FDA's Ability to Keep America's Families Safe". Testimony before the Senate Health, Education, Labor, and Pensions Committee, April 24, 2008.

[8] VanTrieste, Martin. "Securing the Pharmaceutical Supply Chain". Testimony before the Senate Health, Education, Labor, and Pensions Committee. Wednesday, September 14, 2011