



OPINION

On High Drug Prices, Republicans Shouldn't Take the Arbitration Bait

BY DEE STEWART

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With bipartisan consensus that drug prices are too high, the search is on for so-called “middle-of-the-road” policies that have a shot at becoming law. Thus far, this has only resulted in the repackaging of failed price-control tactics that have been tried in socialist health systems for decades.

House Democrats are attempting to win over the Trump Administration and Senate Republicans to one such idea known as binding arbitration, whereby an unelected, unaccountable “arbitrator” would be vested with the sole power to determine drug prices. This idea is anything but middle-of-the-road.

Rather than empower consumers, binding arbitration would grant astonishing authority to one or a few individuals, while ensuring virtually no transparency or oversight.

Critical questions are swept under the rug: Who would select the arbitrators? What sort of experience (government, private sector, legal) should these

individuals have? How would they be expected to weigh the various competing considerations and viewpoints inherent in a matter as complicated as

viewpoints inherent in a matter as complicated as drug pricing?

Most importantly, how could consumers be sure that special interests aren't hijacking the process? The answer, of course, is that they can't.

Binding arbitration would be a system without checks or balances. It begs for, at best, biased rulings, and at worst, outright corruption. It offers no recourse for participating parties when they disagree with the arbitrator's decision; they cannot file court cases, and they cannot appeal to Congress or any other body that is accountable to more than just itself.

This lack of transparency serves no one, but especially not patients.

Seniors would see fundamental changes to Part D, as arbitration would explicitly repeal the non-interference provision that has underpinned the program's success. All patients would suffer from the decline in pharmaceutical innovation that would likely follow.

Most of all, instead of reducing prices, binding arbitration would reduce *access*. With added complexity and reduced market incentives, drug makers will reasonably decide to withdraw from the market.

We know this because virtually every other country on earth has artificial price-control measures like this one in place, and virtually every other country on earth has lower access to drugs than America.

Americans have access to **87 percent** of all new medicines introduced since 2011, a staggering 16 percent more than second-place Germany. Even

percent more than second-place Germany. Even many highly developed nations such as Australia only have access to around one-third of new drugs.

Viewed this way, current drug pricing in America doesn't seem like the runaway crisis it's made out to be. And indeed, there are reasons to believe it isn't.

The cost of drugs account for only about 10 percent of America's health expenditures. And unlike medical bills, which are the leading cause of bankruptcy in the United States, nearly 75 percent of Americans currently taking prescription drugs say they have no trouble affording them.

Prices could still be lower, but we should be wary of a cure that is worse than the disease.

The only price-control measures that work are choice and competition: the twin engines of the free market. Unleashing them is the only way to lower drug prices without setting off a cascade of unintended consequences. Fair prices for virtually every other good — from t-shirts to houses — reach an equilibrium when innovators compete for consumers.

Why should prescription drugs be any different?

Lawmakers should enact market reforms that realign drug pricing with the interests of patients while still properly rewarding and incentivizing the innovators who design these lifesaving drugs. The last thing they should do is empower anyone with the ability to overrule free markets.

This is especially true for those who claim to be conservative. Arbitration is a command-and-control big government idea poorly disguised as moderate.

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