



MARKET INSTITUTE

May 16, 2017

The Honorable Greg Walden
Chairman, Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Walden:

We and the millions of Americans who support our organizations are deeply concerned that Senator Elizabeth Warren's "Over the Counter Hearing Aid Act of 2017" is a bait-and-switch piece of legislation that will impose burdensome regulations, resulting in limited choice and higher prices for consumers. We are concerned that the House will allow a version of this legislation to be attached to the non-controversial Prescription Drug User Fee Act (PDUFA) legislation.

Senator Warren claims that she wants to create a new over-the-counter (OTC) category for personal sound amplification products (PSAPs). The truth is that Senator Warren's legislation expands the power of federal bureaucrats, eliminates state authority, and reduces consumer access to amplification devices by making them more expensive and highly regulated.

Today, there are sound amplification products legally available at Best Buy, Wal-Mart, and thousands of other stores and outlets for reasonable prices. Anyone can buy these devices. They are not designed for people with medical hearing loss, but for any American who wants to amplify sound.

Medical hearing aids are in a different category. Hearing aids are designed for people who have been medically identified with measurable hearing loss. These patients require doctors and dispensing professionals to help determine the cause of their hearing loss and the appropriate way to correct the problem. Medical hearing aids are specifically tailored to the patient.

PSAPs are not medical hearing aids and they don't need to be regulated like medical hearing aids. However, Senator Warren's legislation will subject PSAPs to FDA regulation and explicitly lock states out of any role in the oversight process. The Warren legislation will declare PSAPs as available "over-the-counter," even though they are already available "over-the-counter," yet will subject them to superfluous regulations that will hike the cost.

Bose, the well-known speaker manufacturer, markets an expensive PSAP called "Hear Phones." This company is in Senator Warren's home state. These amplification devices aren't medical hearing aids, but they could be promoted in such a way as to pose as real hearing aids. Senator Warren's bill will hurt patients in need of proper hearing healthcare. Creating a new regulatory regime to help corporations market their products and raise their prices is corporate cronyism and a misuse of government power.

Senator Warren's legislation is misleading. Her proposal will increase regulation, pre-empt states, raise prices, and limit choice. It's a solution looking for a problem. Physicians, healthcare professionals, patients, and consumers all lose under the Warren bill. We urge you to oppose it at every turn.

Thank you.

Andrew Langer, President
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Sabrina Schaeffer, Exec. Director
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