From
Terry Novak
Chief Executive Officer
Benuvia Operations, LLC
3950 N Mays ST.
Round Rock, Texas 78665sss

To
Stephen Astle
Director, Defense Industrial Base Division,
Office of Strategic Industries and Economic Security,
Bureau of Industry and Security,
U.S. Department of Commerce
1401 Constitution Ave NW
Washington, DC 20230

RE: Federal Registrar Docket No. 250414-0065

Dear Mr. Astle,

Benuvia Operations LLC ("Benuvia") is delighted to have the opportunity to comment on Federal Registrar Docket No. 250414-0065 as a domestic pharmaceutical product manufacturer. Benuvia is a contract development and manufacturing organization (CMDOs) specializing in controlled substances. Examples of controlled substances that might be used to respond to a national emergency include the following: Codeine, ketamine, diazepam, Tramadol, Pregabalin, and Robitussin AC®. Additional products in this class include stimulants, depressants, hallucinogens, and anabolic steroids. Many of these products are used for pain relief, including surgical interventions, and may also assist in alleviating anxiety or be used to sedate patients during illness.

Benuvia would like to highlight the key role that CMDOs play in the American pharmaceutical manufacturing ecosystem. CMDOs are smaller organizations driving innovation by producing drug substances for early-stage research and development, while filling gaps in needed essential medications when larger organizations cannot or will not deliver them to the market. Even if fully funded and permitted today, these large-scale manufacturing projects would not deliver commercial output until close to 2030, leaving a five-year vulnerability window for essential medications. As a small business under the Small Business Administration's designation, we are nimble and often run on very limited

budgets. Still, we employ proud Americans and provide good-paying jobs in research, development, and manufacturing.

(i) In response to your first question: What is the current and projected demand for pharmaceuticals and pharmaceutical ingredients in the United States?

a. The current demand for controlled substances is strong, with several companies, including the National Institutes of Health, exploring additional studies of Schedule I products, such as psilocybin, for improving mental health and addressing substance abuse, which surged after the COVID-19 lockdowns.

b. In 2024, the market for controlled substances was estimated at $98.70 billion, and it is anticipated to increase by 5.4% per year to $157.64 billion by the end of 2034. The market estimate includes North America, Europe, Asia-Pacific, Latin America, and the Middle East & Africa, with North America being the largest market and Asia-Pacific being the fastest growing.[1] Therefore, Benuvia anticipates increased demand and subsequent growth in this market.

(ii) In response to your second question: what is the extent to which domestic production of pharmaceuticals and pharmaceutical ingredients can meet domestic demand?

a. Scaling pharmaceutical manufacturing, particularly controlled substance manufacturing, requires collaboration among several regulatory agencies, including the Drug Enforcement Agency (DEA), Food and Drug Administration (FDA), and Customs and Border Protection (CBP), to address the restrictions impacting production. Additionally, smaller manufacturers face challenges in securing equipment such as jacketed glass reactors for chemistry production, which necessitates several weeks of lead time and becomes even more difficult during a national or global crisis. Finally, investments in equipment can be costly, often amounting to tens or hundreds of thousands of dollars, and may be challenging to justify when there is a short-term need to increase production. Therefore, we recommend you consider the following actions:

    i. The DEA quota, which is based on past sales, inventory, anticipated needs, and market trends, slowly adjusts to sharp increases in market demand, such as during a national emergency. This facilitates immediate increases in production, as quotas are set annually and are open to public comment. We recommend including an analysis of

[1] *Gokhale, S. (2024, November 13). Controlled Substance market size to hit USD 157.64 BN by 2034. https://www.precedenceresearch.com/controlled-substance-market*

the DEA quota and its flexibilities to enhance domestic manufacturing production capabilities.

ii. Benuvia also recommends that the administration consider the benefits of increasing domestic manufacturing of laboratory supplies, such as laboratory equipment, glass chemistry vials, and slides. At Benuvia, we purchase 100% of our laboratory supplies domestically. Boosting domestic production and reducing costs associated with laboratory glassware and other production needs would enhance our competitiveness.

iii. Increase domestic production of Active Pharmaceutical Ingredients (APIs). Our commitment to American sourcing is critical; we produce our own APIs to comply with DEA regulations, as the importation of the precursor of controlled substances is also highly regulated. We do import some precursor chemicals from India as we prepare to manufacture APIs. However, relying on American labor and sources is expensive, increasing the cost of our product and making it less attractive to PBMs and other payers, including Medicare, Medicaid, and military purposes. Increasing American capacity for precursor chemicals or APIs is highly recommended.

(iii) In response to your third question: the role of foreign supply chains, particularly of major exporters, in meeting the United States' demand for pharmaceuticals and pharmaceutical ingredients?

a. We would like to note the impact of middlemen in the pharmaceutical supply chain in the United States, who often prefer imported medications, significantly decreasing American competitiveness. Pharmacy Benefit Managers (PBMs), particularly the top five, which include Prime Therapeutics, Evernorth by Express Scripts, Optum, Humana Pharmacy Solutions, and MedImpact Healthcare Systems, control over 94% of the pharmaceutical market in the United States, leaving less than 6% to other competitors and cash pay.[2]

b. The challenge is that many of these PBMs prefer products produced internationally due to lower costs. It is difficult for American manufacturers to compete on quality or other factors when the market is controlled by organizations focusing on the lowest absolute cost to maintain their market share or margin.

[2] Fein, A. J., PhD. (2024, April 9). *The Top Pharmacy Benefit Managers of 2023: Market Share and Trends for The Biggest Companies—And what's ahead*. https://www.drugchannels.net/2024/04/the-top-pharmacy-benefit-managers-of.html

i. Recommendation: Identify methods to reduce production costs in America to compete with foreign-made pharmaceuticals for placement on PBM formularies.
ii. Recommendation: Identify the anti-competitive practices PBMs use to ensure adequate competition across various activities, including price, quality, and supply chain security.
iii. Recommendation: Explore opportunities for Medicare, Medicaid, and other federal buyers of pharmaceuticals to lessen the regulatory burden or enhance American competition by introducing bonus payments or restricting statutory rebates for Medicaid.

(iv) Recommendation: Support smaller to mid-scale CMDOs like Benuvia by expanding their capabilities and size to facilitate larger-scale operations or specialty markets, such as the controlled substance market. For instance, the Administration has backed the AI-Stargate project and domestic chip production. However, we have yet to witness investment in small to mid-sized manufacturers who can impact domestic manufacturing immediately. The administration can prioritize supporting domestic production instead of merely promising large-scale investments that will require years to be realized, may not produce a drug until the next decade, and might be withdrawn if politically convenient, as observed with larger companies in recent months.

(v) In response to your fourth question: What is the impact of the concentration of United States imports of pharmaceuticals and pharmaceutical ingredients from a small number of suppliers and the associated risks?

a. The limited number of manufacturers, particularly for generic and essential medications, causes supply chain disruptions, such as those experienced in 2020, which decrease access for American consumers and result in shortages during a national crisis.
b. Additionally, with limited competition, firms may raise their prices for Americans while relying on state-sponsored subsidies abroad, thereby increasing costs here while enjoying robust tax advantages.
c. With fewer manufacturers, a single failure point becomes a national concern. This means that a plant failure, strike, or other disruption in another country could leave Americans without access to essential medications. Expanding American capacity is essential.

(vi) In response to the feasibility of increasing domestic capacity for pharmaceuticals and pharmaceutical ingredients to reduce import reliance?

a. We recommend that the administration consider the above solutions, which include addressing the DEA quota and increasing domestic manufacturing capability in various potential areas, such as laboratory glassware and precursors to APIs, to enhance domestic production.

b. We recommend that the administration consider reimbursement policies that enable production in the United States to compete with lower-cost labor markets, ensuring manufacturing stability and long-term output. Previous strategies have included incentives for manufacturers to expand capabilities, compensation for idle time, tax incentives and reductions, capital gains reductions for equipment investments, and more, in addition to tariffs.
c. We urge the administration to consider reimbursement policies in federal programs that would align with domestic production increases, such as payment bonuses and incentives for domestically manufactured medications in federal programs, or reductions in mandatory rebates required from pharmaceutical manufacturers under Medicare and Medicaid.

(vii) The impact of current trade policies on domestic production of pharmaceuticals and pharmaceutical ingredients, and whether additional measures, including tariffs or quotas, are necessary to protect national security; and

a. Yes, Benuvia believes that competing with products made in countries with lower production costs endangers American lives due to potential supply chain disruptions. Equalizing the playing field should consider necessary punitive measures, such as tariffs, to address lower labor costs, and solutions to encourage domestic production capabilities, including supporting industries like glassware.
b. Current tariff levels are insufficient to close cost gaps when labor and compliance burdens result in domestic manufacturing costs several times those overseas. A more effective approach would pair targeted tariffs with domestic manufacturing tax credits and volume-based federal purchasing commitments to neutralize the price advantage of state-subsidized foreign products.

(viii) (x) any other relevant factors.

I welcome any questions; you can reach me at tnovak@benuvia.com

Thank you for the opportunity to comment,

Terence Novak

Terry Novak

CEO, Benuvia