

May 11, 2018

Submitted via the Federal eRulemaking Portal: <http://www.regulations.gov>

Mr. Robert E. Lighthizer
United States Trade Representative
The Office of the U.S. Trade Representative (USTR)
600 17th Street NW
Washington, DC 20508

Re: Notice of Determination and Request for Public Comment Concerning Proposed Determination of Action Pursuant to Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation [Docket No. USTR-2018-0005]

Dear Ambassador Lighthizer:

Vizient, Inc., respectfully submits our comments on the Office of the United States Trade Representative's (USTR/Trade Representative) notice of determination, request for comments, and notice of public hearing regarding China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation as published on April 6, 2018 in the Federal Register (Vol. 83, No. 67).

Background

Vizient, Inc., is the largest member-driven health care performance improvement company in the country. At Vizient, our purpose is to ensure our members deliver exceptional, cost-effective care. Vizient is member-driven and member-minded, working tirelessly to amplify each organization's impact by optimizing every interaction along the continuum of care.

Vizient provides innovative data-driven solutions, expertise and collaborative opportunities that lead to improved patient outcomes and lower costs. Vizient serves a diverse membership and customer base including academic medical centers, pediatric facilities, community hospitals, integrated health delivery networks and non-acute health care providers. Vizient is headquartered in Irving, TX with locations in Chicago, Washington, D.C., and other cities across the country.

Recommendations

Vizient appreciates the Office of the U.S. Trade Representative (USTR) request for public comment with respect to the proposed action in response to China's acts, policies, and practices determined to be unreasonable or discriminatory, and to burden or restrict U.S. commerce. The USTR is seeking comment specifically on whether imposing increased duties on a particular product would be practicable or effective to obtain the elimination of China's acts, policies, and practices, and whether maintaining or imposing additional duties on a particular

product would cause disproportionate economic harm to U.S. interests, including small- or medium-size businesses and consumers.

Vizient is supportive of USTR actions that would reduce or eliminate the unfair acts, policies and practices that China uses against the United States. We appreciate that the Trade Representative is carefully weighing the disproportionate economic harm to U.S. interests – including businesses and consumers. However, Vizient is concerned that, while well-intentioned, USTR proposals could inadvertently impact the health care industry and specifically, the supply chain. The acquisition process for the health care supply chain is incredibly complex, as it involves thousands of suppliers selling many more thousands of pharmaceuticals, devices, products, and services to providers. Vizient is the largest group purchasing organization (GPO) in the U.S.; in this role, we are a sourcing and purchasing partner to more than 3,000 hospitals and health systems nationwide – reducing costs, increasing competition in the marketplace, and ensuring that hospitals and health systems have access to the best products and services available by identifying a wide variety of suppliers with necessary and innovative products and bringing them to market.

The central purpose of GPOs is to enhance the quality of the services delivered and lower our members' operating costs by reducing transaction costs and negotiating lower prices for supplies than providers might otherwise obtain on their own. As part of improving efficiency in the supply chain, GPOs also provide a range of additional services to healthcare providers that may lower costs or improve operations¹. Vizient is concerned that the USTR proposals could unintentionally result in higher prices for products and services being paid by our nation's hospitals, patients, and all American taxpayers.

Additionally, hospitals, health systems, and other healthcare facilities face intermittent shortages of critical medications, often due to manufacturing delays, but sometimes attributable to natural disasters or supply and demand problems². As the USTR determines which products should be subject to tariffs, we urge the USTR to use caution in applying these penalties to the active pharmaceutical ingredients (API) used in the manufacture of finished pharmaceuticals for American consumers. We are concerned that tariffs may disrupt supply of API, which could, in turn, upend pharmaceutical manufacturing and create new medication shortages or exacerbate existing shortages.

While supply of API is not the cause of current drug shortages, application of tariffs to API could result in significant unintended consequences, including manufacturing disruption or delay. Any resulting shortages could have serious ramifications for patient care in the United States. Thus, we strongly urge the USTR to consult with the Food & Drug Administration (FDA) about the possibility of shortages before imposing any tariffs on API.

Vizient respectfully requests that the Trade Representative continue to work with health care industry stakeholders to take steps to ensure that the final list of products subject to the

¹ Group Purchasing Organizations: How GPOs Reduce Healthcare Costs and Why Changing Their Funding Mechanism Would Raise Costs – A Legal and Economic Analysis. Dan O'Brien, Jon Leibowitz, and Russell Anello. Published July 2017.

² American Society of Health-System Pharmacists (ASHP). Drug Shortage Statistics, available at <https://www.ashp.org/Drug-Shortages/Shortage-Resources/Drug-Shortages-Statistics>

proposed additional duties does not adversely impact the health care industry – specifically the costs to our nation’s hospitals, patients, and taxpayers.

Conclusion

Vizient welcomes the USTR’s request for comments, which provides a significant opportunity for stakeholders to inform the administration. We look forward to continuing to work with the Administration on behalf of our members, their patients, and their communities – and offering support for efforts that lead to affordable and innovative improvements to the nation’s health care system.

Vizient membership includes a wide variety of hospitals ranging from independent, community-based hospitals to large, integrated health care systems that serve acute and non-acute care needs. Additionally, many are specialized, including academic medical centers and pediatric facilities. Individually, our members are integral partners in their local communities, and many are ranked among the nation’s top health care providers.

In closing, on behalf of Vizient, Inc., I would like to thank the USTR for providing us this opportunity to comment on this important proposal. Please feel free to contact me at (202) 354-2600 or Chelsea Arnone, Director of Regulatory Affairs and Government Relations (chelsea.arnone@vizientinc.com), if you have any questions or if Vizient can provide any assistance as you consider these issues.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Shoshana Krilow". The signature is fluid and cursive, with a large initial "S" and a long, sweeping underline.

Shoshana Krilow
Vice President of Public Policy and Government Relations
Vizient, Inc.