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SAFETY OF IMPORTED PHARMACEUTICALS: STRENGTHENING EFFORTS TO  
COMBAT THE SALE OF CONTROLLED SUBSTANCES OVER THE INTERNET

BEFORE THE SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS  
COMMITTEE ON ENERGY AND COMMERCE

DECEMBER 13, 2005

Chairman Whitfield, Mr. Stupak and members of the subcommittee, my name is Dan Silva and I am the Corporate Security Manager for UPS. I have responsibility for security matters worldwide for the company. Thank you for the opportunity to appear this afternoon to discuss the issue of the sale of controlled substances over the internet and the efforts of UPS to work with law enforcement to ensure that our system is not used to transport these substances.

It is the clear policy of UPS, as stated in our tariff, that illegal products of any type are prohibited from being transported through our system. We have a long history of working with law enforcement agencies at all levels to enforce legal requirements.

While our company privacy policy prohibits us from disclosing customer information in general, we regularly provide law enforcement agencies with information required by a lawful subpoena.

Since 2001 we have conducted an Online Pharmacy Monitoring program. Through our outside counsel, we conduct weekly searches of the internet to identify online pharmacies that use the term "UPS." We send cease and desist letters and are prepared to follow-up with appropriate legal remedies to online pharmacies (1) that offer UPS services and offer to sell pharmaceuticals without a prescription, and (2), that display a UPS trademark or logo (to avoid any appearance of sponsorship or endorsement). We have shared information about internet pharmacy sites that we have gathered through our monitoring program with the U.S. Food and Drug Administration ("FDA") and the U.S. Drug Enforcement Administration ("DEA").

Since much of the concern in this area arises from imported pharmaceuticals, I would like to mention efforts we have undertaken with the U.S. Bureau of Customs and Border Protection ("Customs") and FDA. First of all, UPS identifies to Customs and FDA all packages it delivers into the United States that are declared to be pharmaceuticals. Customs and FDA have the ability to pull any of these packages for further examination and enforcement action. Additionally, in conjunction with our automated international air hub in Louisville, Kentucky, we developed a computer program called Target Search for the use of Customs. This is a sophisticated and flexible tool that enables Customs to search manifest information for all imported packages

passing through that facility. Customs can use this system to help identify illicit shipments by screening for a wide variety of data.

On an ongoing basis, we respond to subpoenas with information requested in support of ongoing investigations by the DEA and FDA. We have had periodic meetings with the DEA and FDA on the issue of the sale of controlled substances over the internet. Additionally, we have met periodically with officials of FDA and DEA here in Washington to discuss ways in which we might further our cooperation concerning illegal pharmaceutical shipments. These meetings have been productive, and we will continue to meet as needed in the future. As I have already indicated, we have shared information about internet pharmacies that we identified through our online pharmacy monitoring program with FDA and DEA.

I would like to specifically mention some of the activities we have undertaken in the state of Kentucky. After an increase in internet pharmaceutical activity was reported in southeastern Kentucky about a year ago, we became more involved with state, federal and local law enforcement in dealing with the problem. I traveled to Hazard, Kentucky in April of this year and met with Operation Unite, the local drug task force, and we agreed on certain actions that we could take together. Subsequently, the state of Kentucky passed a law to tighten up requirements relating to internet pharmacies, including requiring registration of internet pharmacies. We have met twice with the Attorney General's Office and the Kentucky Bureau of Investigations to discuss ways in which we can work together to implement the new law.

While the Kentucky law appears to be having a positive effect, we believe this is a problem that calls for a national response. A number of bills have been introduced in both the House and Senate. We support legislation that would establish clear standards for internet pharmacies. In particular, we support requiring internet pharmacies to be licensed and to meet a number of common sense requirements, such as providing the address of the principal place of business, the names of persons serving as pharmacists, and state license information. In addition, we support provisions that would prohibit internet sales of pharmaceuticals to individuals without a prescription obtained from a practitioner with a qualifying medical relationship, which requires at least one in-person medical evaluation.

Such legislation would help ensure that requirements for the safety and efficacy of drugs are met when U.S. consumers make purchases in this new marketplace. From the standpoint of a package delivery company, we would welcome more certainty that the products we are carrying meet the requirements of law and therefore meet our own tariff requirements. As a carrier, we can take actions such as those I have described in conjunction with law enforcement agencies, but we do not have the independent ability to judge the validity of a prescription or the legitimacy of a particular drug.

Thank you for the opportunity to share the views of UPS and I look forward to any questions that you may have.