

For Immediate Release:

Consumer Groups, Health Plans, and Pharmacy Groups All Voice Concerns with the Express Scripts/Medco Merger

Consumer groups raise concerns with FTC on Express Scripts/Medco merger as health plans and pharmacy groups focus attention to today's House Judiciary hearing on the proposed deal.

Date: Washington, D.C. September 20, 2011

In a letter to the Federal Trade Commission this morning, the nation's leading consumer advocacy groups, including **Consumers Union, Consumer Federation of America, National Consumers League, U.S. PIRG and the National Legislative Association on Prescription Drug Prices**, expressed their concern with the proposed merger of two of the three largest pharmacy benefit managers, Express Scripts and Medco Health Solutions. The consumer organizations commend the FTC for issuing a second request in this investigation, "in light of the proposed acquisition's potential for significant consumer harm" and "urge the Commission to thoroughly review the concerns of consumers in their investigation and particularly focus on the impact on the *ultimate* consumer—the patient."

Among consumer group concerns is the particular risk the proposed deal presents for the most vulnerable consumers, those with severe diseases that need specialty drugs. The merger combines the two largest specialty pharmacies, Curascript and Accredo, and would give them over a 50% market share. Consumer groups are concerned that the deal would "[establish] tremendous dominance for Express Scripts in the specialty pharmacy area, likely resulting in decreased access to care for our most vulnerable patient populations."

This consumer letter comes out just as the House Judiciary Subcommittee on Intellectual Property, Competition, and the Internet prepares for a hearing on the proposed merger this afternoon. Accordingly, other stakeholders are

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voicing similar concerns to Congress and asking that they be addressed in today's hearing.

In a letter to the Subcommittee, the **National Coordinating Committee for Multiemployer Plans ("NCCMP")** explained the concerns of the purchasers of PBM services. Many of NCCMP's members rely extensively on the three major PBMs. "With the absence of Medco in the bidding process," the letter states, "NCCMP is concerned that the merger would result in a significant loss of competitive pressure on ESI and CVS Caremark to lower prices and pass savings on to plans."

NCCMP is a non-profit membership organization of unions and national employer associations representing 26 million Americans receiving coverage from multi-employer health welfare plans.

The **Independent Specialty Pharmacy Coalition ("ISPC")**, the **Food Marketing Institute**, and the **California Pharmacists Association**, representing specialty, supermarket and community pharmacies, are also voicing their concerns in letters to the Subcommittee. These pharmacy groups are concerned that the merger would increase the merged entity's incentive and ability to exclude rival pharmacies and force patients into mail-order, which ultimately is more costly and denies consumers access to their pharmacy of choice.

"The efficiencies claimed by the merging parties seem rather modest given the potential for the joint-company to engage in anti-competitive conduct," ISPC Executive Director Russell Gay said upon reviewing a written version of Express Scripts testimony for today's hearing. "Express Scripts also wholly ignores the competitive issues posed in the specialty market-- which shouldn't be a surprise given that it is likely their intent to pay for the merger by denying patients the care they prefer and trust and forcing them into inferior mail-order."

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These exclusions, the pharmacy groups argue, are not only anti-competitive, but also disrupt the care and threaten the health of the patients that depend on their service.

Contact: Maggie Aker, maggie.aker@dcantitrustlaw.com, (202) 789-5424