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ONE HUNDRED TWELFTH CONGRESS  
**Congress of the United States**

**House of Representatives**

COMMITTEE ON THE JUDICIARY

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August 5, 2011

The Honorable Lamar Smith  
Chairman, Committee on the Judiciary  
2138 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman Smith:

I am writing to request that the Committee hold hearings concerning the application of antitrust laws to the potential merger between Express Scripts Inc. and Medco Health Solutions, Inc. I believe that the House Judiciary Committee should conduct a hearing to examine the impact that this merger would have on healthcare insurance, drug costs for corporations and for consumers. A hearing would also allow us to examine how the merger would affect competition, American employers, consumers, patients and pharmacists.

Earlier this month, Express Scripts, Inc. agreed to buy Medco Health Solutions, Inc. for \$29.1 billion. This merger would be a large consolidation of the market for pharmacy benefit managers (PBMs). PBMs negotiate and administrate the prescription drug benefit portion of health insurance plans for private companies, unions, and governments. PBMs are responsible for processing and paying prescription drug claims, contracting with pharmacies and negotiating discounts and rebates with drug manufacturers.

If the merger is approved, the new company will become the largest pharmacy-benefits manager in the United States and one-third of all Americans, approximately 135 million people, would rely on the company to manage their prescriptions. According to data compiled by Atlantic Information Services, Medco Health Solutions, Inc. is currently the largest drug benefit administrator in the United States, with 18.2 percent of the market. Express Scripts, Inc. controls 11.8 percent and ranks third in terms of market-share. If Express Scripts, Inc. and Medco Health Solutions, Inc. combined, then their 30 percent share would be greater than the 17.8 share of the second ranked competitor, CVS/Caremark.

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Several different pharmacy groups, including the National Community Pharmacists Association (NCPA) and National Association of Chain Drug Stores (NACDS), have expressed concern, and a hearing will help us determine how this merger will affect competition within the prescription-drug-benefit and pharmacy market. Keeping with our Committee's commitment to antitrust oversight, I urge you to hold hearings on this issue and I look forward to discussing this matter with you at your earliest convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "John Conyers, Jr.", written in a cursive style.

John Conyers, Jr.

cc: The Honorable Bob Goodlatte  
The Honorable Mel Watt