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August 17, 2011

The Honorable Jonathan Leibowitz
Chairman
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Dear Chairman Leibowitz:

As you know from my past correspondence with you regarding the CVS Caremark merger, I am deeply concerned about the impacts on health care consumers of changes in the Pharmacy Benefit Management (PBM) market. The proposed merger of Express Scripts and Medco, two of the largest PBM companies, would continue that trend, resulting in unparalleled market concentration in an already limited PBM marketplace. I hope that you will review this proposed merger very carefully in terms of its likely effects on choices and costs for third party payers and consumers, including federal programs such as Medicare Part D, TRICARE, and the Federal Employees Health Benefit Program. After doing so, I believe the appropriate action would be to deny the proposed merger.

I am aware that representatives of Express Scripts and Medco make the argument that a large, merged entity would have better negotiating leverage and allow it to obtain additional savings from pharmaceutical companies that could benefit plan sponsors, consumers and American taxpayers through lower costs. However, the PBM industry is virtually unregulated at either the federal or state levels and there have been a series of allegations and enforcement actions taken against major PBMs in the past few years related to fraudulent and deceptive conduct. Without full transparency and oversight, there is no guarantee that consumers, plans and taxpayers would reap their fair share of any lower costs that would be achieved.

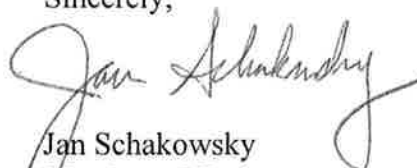
I am also greatly concerned about the effect that the proposed merger would have on consumers' access to independent community pharmacies. I am aware that independent community pharmacies are already running into trouble negotiating contracts with large PBMs – the greater PBM concentration, the less leverage that those pharmacies will have in bargaining for fair terms. This is an extremely important issue for many of my constituents – including seniors and persons with disabilities or chronic conditions -- who rely on their local pharmacist to help them navigate complex medical regimens. Community pharmacists play a vital role by promoting optimal medication usage, ensuring adherence, looking for the effects of drug interactions, and helping with care coordination. I do not believe we should reduce access to community pharmacists but a super-PBM that could seek to maximize use of its own mail-order pharmacy could do just that.

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The proposed merger raises significant consumer concerns, since it would increase concentration in a largely unregulated industry that provides essential prescription drugs and pharmacy services to my constituents and patients around the country. For those reasons, I believe it would be appropriate for the FTC to block the pending proposed merger of Express Scripts and Medco.

As always, I want to thank you for your attention to my concerns and to the interests of consumers.

Sincerely,



Jan Schakowsky
Member of Congress