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COMMITTEE ON
HOMELAND SECURITY

COMMITTEE ON
ARMED SERVICES

Congress of the United States
House of Representatives

Washington, DC 20515-3226

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The Honorable Jon Leibowitz
Chairman
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, DC 20580

Dear Chairman Leibowitz:

I write to express my concern with the proposed merger between Express Scripts (ESI) and Medco. I urge the Federal Trade Commission (FTC) to thoroughly examine the potential implications of this merger on consumers, independent and chain pharmacies, and government health care programs.

ESI and Medco are the largest and third largest Pharmacy Benefits Managers (PBMs) in the United States, respectively. Analysts estimate that a merger between these two companies would create a PBM controlling roughly 40% of all annual prescription processing, over 50% of the market share for specialty drugs, and nearly 60% of all mail-order prescriptions.

I am deeply concerned that this concentration of prescription drug processing into one company would limit consumer choice, and I hope the FTC will carefully assess the potential impacts of this merger on consumer access – especially for seniors – to local pharmacies and face-to-face consultations with pharmacists. In addition, I fear that decreasing competition in an industry that is already largely unregulated would allow the merged ESI-Medco PBM to manipulate prescription drug costs for their own benefit, raising consumer prices across the country.

Finally, I am concerned about the impact this merger would have on both independent and chain small business pharmacies. According to the National Community Pharmacists Association, in New York State alone, there are 2,182 independent community pharmacies, employing over 23,300 full time employees, and in my district, there are 30 independent community pharmacies, employing 321 full time employees. Already, these pharmacies possess little leverage when negotiating contracts with PBMs. A merger between Express Scripts and Medco would only increase the PBM's ability to strike deals with independent and chain pharmacies that disproportionately benefit the PBM and place greater burdens on pharmacies.

Again, I ask that you to take a close and careful look at this proposed merger. If there is any evidence at all that this new PBM may increase health care costs, decrease consumer choice and quality service, or harm our nation's independent and chain pharmacies, I urge you to reject the merger.

Sincerely,



Kathleen C. Hochul
Member of Congress