

Statement of  
**The Honorable Patrick Leahy**

United States Senator  
Vermont  
March 7, 2007

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Chairman, Senate Judiciary Committee  
Hearing on "The McCarran-Ferguson Act and Antitrust Immunity:  
Good for Consumers?"

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When Hurricane Katrina ravaged the Gulf Coast in 2005, it caused unimaginable devastation to the region's residents. My friend from Mississippi and my friend from Louisiana have expended every effort to provide help to those who have suffered. They remind us that the victims are not confined to any one demographic group. The devastation did not care whether you were old or young, man or woman, white or black, or whether your political affiliation was Republican or Democratic.

Today we focus on a subject that has concerned me for some time, a topic that in the wake of the behavior of certain insurance companies in the Gulf Coast, has been thrust into the forefront. Our topic is the federal antitrust immunity of the insurance industry contained in federal law and ending it so that the insurance industry will operate by the same, good competition laws that apply to most other industries.

Our Nation's competition laws can be powerful tools to ensure that consumer welfare is the benchmark for fair and accountable industry practices. Consumers benefit through lower prices, more choices, and better services. Those benefits come from competition.

The antitrust immunity for the insurance industry, contained in the 1945 McCarran-Ferguson Act, raises serious concerns with me. Insurance industry practices affect all of us. If the antitrust immunity is used in a way that distorts the market - that leads to higher prices and poorer service - consumers throughout the country can be harmed.

The potential for insurance industry abuse became clear on the Gulf Coast in the wake of Hurricane Katrina. Residents, who lost so much as a result of the 2005 Hurricanes, and were then let down by a woefully unprepared government, were left to face insurance companies refusing to fulfill their commitments and help rebuild. No one should have to go through what these Americans have been through.

Senator Lott and Senator Landrieu can relate as well as anyone to the difficulty their constituents have had with insurers, insurers that have no trouble collecting premiums when times are good, but are nowhere to be found when tragedy strikes. Their states were hit hardest by Hurricane

Katrina, and I commend them on their tireless efforts to ensure the resources are in place to rebuild.

Now that the Gulf Coast is rebuilding, two of the areas biggest home insurers - Allstate and State Farm - are moving out and abandoning the area. A recent editorial in the Times Picayune implored the Louisiana Insurance Commissioner to make sure Allstate's refusal to write new home insurance policies in New Orleans "is not another systematic effort by the company to cancel thousands of policies for which homeowners have been paying premiums."

They are not moving out because the companies have hit on hard times. State Farm just announced that last year it recorded net income of over \$5 billion.

Both Allstate and State Farm want to keep their special status, exempt from the antitrust laws, yet both rejected my offer to come here today and explain to the Committee why they deserve it.

The bottom line is, right now we do not know what anticompetitive acts insurers may be engaging in because the antitrust immunity insurers enjoy acts as a curtain that hides their activity from federal antitrust authorities.

The Insurance Industry Competition Act that I have introduced with Senators Specter, Lott, Reid and Landrieu would pull back that curtain to give the Department of Justice and the Federal Trade Commission the authority to apply our federal competition laws to insurance companies.

Our antitrust laws are about good competition policy. Competition is good for consumers and good for our economy. Insurers may object to being subject to the same antitrust laws as everyone else, but if they are operating in an honest and appropriate way, they should have nothing to fear.

I hope that this hearing will spark a serious, thoughtful debate about insurance industry practices - those that benefit consumers; and those that do not. Insurers often say that their behavior is pro-competitive. If that is true, application of the antitrust laws should not be controversial. Under our federal antitrust laws pro-competitive behavior is encouraged. It is time to pull back the curtain of immunity and let the light shine in.

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