

Testimony of
Senator Don White

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Before the US Senate Judiciary Committee
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Good Morning Senator Specter and members of the Senate Judiciary Committee, I am Pennsylvania State Senator Don White and I serve as Chairman of the Senate Committee on Banking and Insurance.

It is an honor to be invited by Senator Specter to testify at this important public hearing and I would like to applaud him for scheduling this event. I appreciate the opportunity to provide the Judiciary Committee with a perspective of the Highmark/ Independence Blue Cross (IBC) merger from the state government level and to discuss the concerns that I, and others, have regarding this proposal. The potential affect on the availability and quality of health care coverage in Pennsylvania could be profound.

You have already heard from the principal players in the merger, as well as from officials from the health care industry and are fully aware of the magnitude of this proposal. The questions Senator Specter posed to Highmark and IBC prior to this hearing are most appropriate and accurately summarize the concerns we all should have.

The state legislature is moving rapidly to ensure maximum review and oversight over this proposed merger occurs. Currently, under the Commonwealth's GAA Amendments Act and the Insurance Holding Companies Act, the Pennsylvania Department of Insurance is empowered to review proposed mergers of for-profit health insurance providers. Such review is intended to protect the interests of both policyholders and the marketplace by directing the Department of Insurance to protect the integrity of the insurance market through review of corporate transactions for anti-competitive effect.

Unfortunately, under current law, the Highmark-IBC deal, because it involves two 'Blues' organizations, is not subject to the same scrutiny.

In response, I introduced Senate Bill 550 which would provide the Pennsylvania Department of Insurance oversight power over mergers involving non-profit health care insurers such as Blue Cross/Blue Shield. SB 550 will ensure this proposal comes under the same scrutiny as if they were for-profit corporate transactions.

If the existing gap in the Department's regulatory authority is allowed to persist, the Department will remain unable to protect the interests of the Blue plans' policyholders in ruling on corporate transactions, or review any pending transaction involving the parent Blue plans for anti-

competitive effect. However, I am confident we will correct this gap in a very timely manner. The state Attorney General must also have the authority necessary to review this proposed merger and I am working with his office to ensure that is the case.

I am encouraged by this committee's concern about the quality and availability of health care coverage in Pennsylvania. From what I understand there is potential for review of this merger at the Federal level under the Hart-Scott-Rodino Antitrust Improvements Act. I would assume Highmark and IBC will file an advance notice of this merger with both the Federal Trade Commission and the Department of Justice, since its value greatly exceeds the thresholds that trigger this federal requirement. I strongly urge this committee to recommend to those federal agencies that they scrutinize this merger for its impact on competition in the health insurance market and share their work with the state legislature, the Insurance Department and our Attorney General. While Pennsylvania does not have a state antitrust law, our Attorney General can take action under the federal law. Therefore coordination between the state and federal review is essential.

While economies of scale and efficiencies may be achieved by this merger and result in positive short-term benefits, there must be concern over its long-term affects. Creating the third largest insurer in the nation with a specifically defined geographic territory is not, I believe, in the best interests of competition and the reality is competition is in the best interests of the consumer. There is no better regulator than a competitive marketplace - in terms of bringing better service, better products and better prices to consumers, and in terms of giving consumers and providers real and fair choices. In my own district, I've seen the problems providers and consumers face from a lack of competition in health insurance - it can lead to some real predatory practices. We need to make sure such practices are not spread across the Commonwealth through this merger.

Highmark and IBC contend the merger should be approved based on the premise that it will result in savings. If so, then there needs to be iron clad assurances that those savings will occur not only in the short term but also the long term. Further, any savings should not be used to support growing operations in other states or in lines of business outside of insurance. Moreover, we need to make sure those savings do not come at the cost of consumers' accessibility to needed health care - and to the doctors, hospitals, pharmacists and other who provide that care. Finally this merger must not undercut the social mission obligation that Highmark and IBC have - an obligation that is part of their being excused from premium taxes and affords them other statutory advantages under Pennsylvania law.

Again, thank you Senator Specter and members of the Judiciary Committee for your interest in this critical issue and I look forward to working with you on this matter in the months ahead.