

Testimony of  
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July 31, 2008

THE INSURANCE FEDERATION OF PENNSYLVANIA, INC.

Public Testimony

Prepared for

The Senate Judiciary Subcommittee on Antitrust, Competition Policy and Consumer Rights

ON

Consolidation in the Pennsylvania Health Insurance Industry: The Right Prescription?

July 31, 2008

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THANK YOU FOR THE OPPORTUNITY TO BE HERE. I AM SAM MARSHALL, PRESIDENT OF THE INSURANCE FEDERATION OF PENNSYLVANIA. WE'RE A TRADE ASSOCIATION REPRESENTING COMMERCIAL INSURERS IN ALL LINES OF INSURANCE IN PENNSYLVANIA. OUR MEMBERS INCLUDE MANY OF THE LARGE NATIONAL HEALTH INSURERS AND SOME OF THE FEW REMAINING SMALL LOCAL HEALTH INSURERS. WE

REPRESENT FAMILIAR NAMES IN HEALTH INSURANCE - AETNA, UNITED, HEALTH AMERICA AND CIGNA TO NAME A FEW - BUT NONE WITH SIGNIFICANT MARKET SHARES WHEN COMPARED WITH ANY OF THE FOUR REGIONAL BLUES PLANS WITH WHICH WE TRY TO COMPETE.

ATTACHED TO MY TESTIMONY ARE THE COMMENTS WE SUBMITTED TO THE PENNSYLVANIA INSURANCE DEPARTMENT AND THE PENNSYLVANIA SENATE AND HOUSE INSURANCE COMMITTEES AS PART OF THEIR REVIEW OF THE PROPOSED CONSOLIDATION OF HIGHMARK AND IBC. I'LL SUMMARIZE: THIS CONSOLIDATION WILL LESSEN COMPETITION, BOTH POTENTIAL AND ACTUAL, AND WITHOUT ANY OFFSETTING UNIQUE BENEFITS OR EFFICIENCIES - ABSENT THE CONDITIONS WE RECOMMENDED. THOSE CONDITIONS ARE MEANT TO ENSURE THAT COMPETITION SURVIVES, AND THAT THERE IS MEANINGFUL ONGOING REGULATION OF THE CONSOLIDATED ENTITY TO ENSURE THAT THE PURPORTED SAVINGS ARE REALIZED AND GO TO THE PENNSYLVANIANS WHO PRODUCE THEM.

MAKE NO MISTAKE - THIS PROPOSED CONSOLIDATION WILL IMPACT COMPETITION. FIRST, IT ENDS THE POTENTIAL FOR HIGHMARK AND IBC COMPETING WITH EACH OTHER. THEIR CURRENT MANagements MAY NOT PLAN TO COMPETE, BUT THAT'S SUBJECT TO CHANGE. IN PENNSYLVANIA, WE'VE HAD SOME EXPERIENCE WITH BLUE-ON-BLUE COMPETITION BETWEEN HIGHMARK AND CAPITAL BLUE CROSS IN THE CENTRAL PART OF THE STATE - AND THE COMPANIES, AND CONSUMERS, REPORT IT HAS BEEN A GOOD THING.

SECOND, THE CONSOLIDATION WILL MAKE IT MORE DIFFICULT FOR OTHER INSURERS TO COMPETE. THERE'S BEEN A LOT OF DISCUSSION AND DOCUMENTATION OF THIS IN THE DEPARTMENT'S ONGOING REVIEW - BUT THE SIMPLEST EVIDENCE IS THAT HIGHMARK AND IBC HAVE BOTH SAID THEIR CONSOLIDATION WILL MAKE THEM EVEN MORE "COMPETITIVE". GIVEN THAT THEY ALREADY ENJOY VERTIABLE MONOPOLY STATUS IN THEIR OWN REGIONS, THAT'S ONLY GOING TO ENABLE THEM TO CRUSH OR DISCOURAGE ANY COMPETITIVE FORCES. THIS IS NOT BECAUSE THEY'VE BUILT A BETTER MOUSE TRAP, BUT BECAUSE THEY WILL EMERGE AS THE ONLY REAL GAME IN TOWN, ESPECIALLY IN NEGOTIATING WITH PROVIDERS, THE BIGGEST KEY TO BEING COMPETITIVE IN HEALTH INSURANCE.

I'M A FIRM BELIEVER THAT COMPETITION IS THE HALLMARK OF ANY VIABLE INSURANCE MARKET, WHERE CONSUMERS HAVE CHOICES AND WHERE INSURERS FACE THE OPPORTUNITIES AND PENALTIES THAT COME FROM EITHER ANSWERING OR FAILING TO ANSWER CONSUMER DEMANDS.

I'VE COME TO THAT BELIEF THROUGH HARD EXPERIENCE OVER THE PAST TWENTY-PLUS YEARS IN PENNSYLVANIA. VERITABLY EVERY LINE OF COVERAGE HAS, AT SOME POINT, FACED THE CRISIS WE SEE IN HEALTH INSURANCE NOW - CONSUMERS NOT GETTING THE COVERAGE THEY WANT AT A PRICE THEY CAN AFFORD.

THE ONLY ANSWER THAT HAS WORKED HAS BEEN TO FOSTER COMPETITION. THE MOST PROMINENT EXAMPLE, ESPECIALLY FOR THOSE FROM PHILADELPHIA, IS OUR AUTO MARKET. BACK IN THE 1980s, WE FACED A LIMITED AND EXPENSIVE MARKET - NOT MANY INSURERS, AND CONSUMERS COULDN'T AFFORD THEIR PRICES. A NUMBER OF REFORMS WERE TRIED, BUT THE ONLY ONE THAT WORKED WAS A LAW IN 1990 THAT ENCOURAGED AND REWARDED NEW CARRIERS, NEW IDEAS AND MORE COMPETITION. THE RESULT OVER THE PAST 18 YEARS HAS BEEN FLAT RATES AND BROAD AVAILABILITY FOR ALL DRIVERS.

WE'VE SEEN THAT WORK IN OTHER LINES, TOO, WITH WORKERS COMPENSATION PROBABLY THE SECOND MOST PROMINENT EXAMPLE: IT WAS A BAD MARKET, VARIOUS REFORMS WERE TRIED, BUT THE ONLY ONE THAT WORKED WAS A LAW PASSED IN 1993 THAT BROUGHT IN NEW CARRIERS, NEW IDEAS AND MORE COMPETITION.

IT IS NO COINCIDENCE THAT OVER THE PAST TWENTY YEARS, THE TWO TOUGHEST LINES OF INSURANCE HAVE ALSO BEEN THE TWO MOST CONCENTRATED ONES - MEDICAL MALPRACTICE AND HEALTH INSURANCE. WE'RE SEEING SOME IMPROVEMENT IN THE MALPRACTICE AREA BECAUSE OF SOME RECENT REFORMS THAT HAVE ENCOURAGED MORE COMPETITION.

BUT WE HAVEN'T SEEN MUCH IN THE WAY OF REFORMS THAT HAVE ENCOURAGED COMPETITION IN HEALTH INSURANCE, AND I THINK THAT'S ONE OF THE MAIN REASONS WE HAVEN'T SEEN ANYWHERE NEAR THE PROGRESS CONSUMERS NEED. SOME OF THE HEALTH INSURANCE REFORMS THAT HAVE HELPED - THE GROWTH OF MANAGED CARE, WHICH MAY HAVE BEEN POORLY NAMED BUT PRODUCED SOME TANGIBLE SAVINGS; AND THE CONSUMER-DRIVEN ALTERNATIVES LIKE HEALTH SAVINGS ACCOUNTS - BOTH GERMINATED FROM SMALL INSURERS TRYING TO CREATE A NEW PRODUCT AND WAY TO GET INTO THE MARKET.

COMPETITION ALONE ISN'T THE ANSWER TO OUR COMMONWEALTH'S HEALTH INSURANCE PROBLEMS. BUT ANY OBJECTIVE ANALYSIS OF INSURANCE MARKETS HAS TO CONCLUDE THAT THE RIGHT PRESCRIPTION HAS TO INCLUDE A STRONGLY COMPETITIVE HEALTH INSURANCE MARKET - THAT'S THE BEST SOURCE OF INNOVATION, CUSTOMER RESPONSIVENESS AND TRUE EFFICIENCY. IT HAS PROVEN OVER THE YEARS TO WORK IN ALL OTHER LINES OF INSURANCE, AND IT NEEDS TO BE PART OF THE SOLUTION IN HEALTH CARE.

THAT DOESN'T MEAN CONSOLIDATIONS, EVEN OF THIS MAGNITUDE, ARE INHERENTLY FLAWED OR FATAL TO THE PROSPECT OF COMPETITION. IT DOES MEAN THAT CONSOLIDATIONS, ESPECIALLY OF THIS MAGNITUDE, HAVE TO BE SCRUTINIZED AND ONLY APPROVED IF THEY COME WITH CONDITIONS THAT ENSURE THE CHANCE FOR OTHER CARRIERS TO THRIVE AND NEW IDEAS TO EMERGE. THAT'S WHAT WE'VE RECOMMENDED TO THE INSURANCE DEPARTMENT. WE HOPE THAT'S THE OUTCOME.

ONE ADDED POINT IN CLOSING: THERE WAS AN OP-ED PIECE IN SUNDAY'S NEW YORK TIMES BY WILLIAM POOLE OF THE CATO INSTITUTE ON FANNIE MAE AND FREDDIE MAC, WHERE HE NOTED THE DANGER IN ALLOWING A CRUCIAL MARKET TO HAVE ONLY TWO OPERATORS, POINTING OUT THAT "MARKETS WORK BEST WHEN NUMEROUS FIRMS COMPETE AGAINST EACH OTHER". THAT'S WORTH REMEMBERING HERE: ANY MARKET THAT BECOMES A PRIVATE MONOPOLY IS IN DANGER OF BECOMING A HOSTAGE TO THAT MONOPOLY, NO MATTER HOW EXTENSIVE OR WELL-INTENTIONED THE REGULATORY OVERSIGHT. IT'S NOT JUST THAT COMPETITION GETS STIFLED, AND WITH IT THE PRESSURE TO DO BETTER. IT'S THAT CONSUMERS CAN BE HARMED BY THE ABSENCE OF THE CHECKS, BALANCES AND SAFETY VALVES THAT COME FROM A COMPETITIVE MARKET.

AGAIN, THANK YOU FOR THE CHANCE TO BE HERE. I'M HAPPY TO ANSWER ANY QUESTIONS.