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United States Senate  
COMMITTEE ON THE JUDICIARY  
WASHINGTON, DC 20510-6275

March 09, 2022

The Honorable Lina Khan  
Chairwoman  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580

Dear Chair Khan,

I write in regards to the Federal Trade Commission's (FTC) recent deadlocked vote on February 17 to initiate a 6(b) Study into the business practices of Pharmacy Benefit Managers (PBMs). I urge you to find consensus and vote to move forward on a revised 6(b) study to examine competitive concerns within the PBM industry.

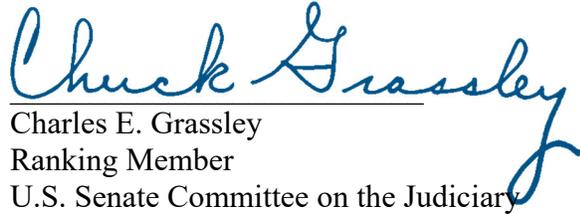
As you know, PBMs operate with little to no transparency, making it very difficult if not impossible to understand the flow of money in the prescription drug marketplace and how PBMs determine the prices for prescription drugs. Recent consolidations between PBMs and insurance providers have resulted in vertical integration whereby a small number of companies now manage the vast majority of prescription drug benefits. CVS/Caremark, OptumRx and Express Scripts control roughly 75% of the PBM market and are owned by insurers Aetna, United Healthcare, and Cigna, respectively.

I have introduced legislation, S. 1388 the Prescription Pricing for the People Act, which would require the FTC to conduct a study and report to Congress on the effects of consolidation and potentially anticompetitive behavior that may impact prescription drug pricing. A few of the provisions required to be examined in the report include whether PBMs charge certain payers a higher price than competing pharmacies or steer patients to pharmacies at which the PBM has an ownership stake, whether PBMs use formulary designs to depress market share of low cost prescription drugs, and if more information about roles of intermediaries in the healthcare marketplace would benefit consumers. This legislation was approved unanimously by the Judiciary Committee last year.

There is widespread bipartisan support for examining PBMs and looking into whether they are causing Americans to pay higher prices for prescription drugs. I hear stories about rising drug costs all the time at my 99 county meetings. A study into the business practices of these intermediaries would provide transparency and insight about possible competitive harms.

Looking at the record from the FTC's open hearing on February 17, there is widespread support amongst all of the Commissioners to conduct a 6(b) study into the business practices of PBMs. A more targeted focus for the study on the impact of PBMs on consumers and the out of pocket costs of their prescription drugs appears to be an area of agreement. I encourage you to come together with your fellow commissioners to find common ground on a meaningful 6(b) study.

Sincerely,

  
Charles E. Grassley  
Ranking Member  
U.S. Senate Committee on the Judiciary

CC:

Commissioner Phillips  
Commissioner Slaughter  
Commissioner Wilson