

**Congress of the United States**  
**Washington, DC 20515**

October 5, 2009

The Honorable Jon Leibowitz  
Chairman  
Federal Trade Commission  
600 Pennsylvania Avenue Northwest  
Washington, DC 20580

Dear Chairman Leibowitz:

We have heard from numerous local pharmacies and patients concerned that the merger of CVS and Caremark is inhibiting fair competition, misleading consumers, and hurting small businesses. We are therefore requesting that the Commission review the merger and ensure that fair competition is not being stifled.

We are particularly concerned by the merged company's decision to adopt the name "CVS/Caremark." This linked name, which is prominent on the prescription cards Caremark enrollees carry, understandably leads Caremark enrollees to believe they must go to a CVS store for their prescriptions. We have heard from constituents on this issue, and I believe it is a serious one.

There have been reports from Caremark enrollees that they face higher copays if they choose to fill their prescription at an independent pharmacy rather than through a CVS retail store. Other beneficiaries have been told that only a limited number of prescriptions can be filled at an independent pharmacy or regional chain. Additionally, some patients were told that unless they stopped using their independent pharmacy, they would not be able to obtain their chronic use medications.

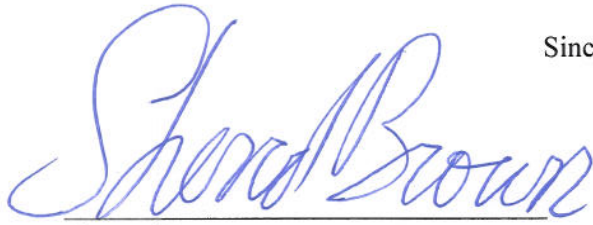
Another concern that has been raised is CVS pharmacists reportedly receive electronic notices when a consumer fills prescriptions at non-CVS pharmacies. After receiving the notices, pharmacists are told to inform the consumer that using multiple pharmacies can be dangerous and try to convince the consumer to transfer all of the patient's prescriptions to CVS. For this process to occur, it appears that Caremark is providing CVS with personal health information generated by the outside pharmacy. Not only does this alleged practice raise concerns about coercive, anti-competitive behavior, it raises questions about whether CVS/Caremark is appropriately sharing personal health information.

Independent pharmacies and regional chains play a key role in our health care system. They serve sparsely populated and inner city areas that may not attract large drug stores chains, and their pharmacists become trusted sources of medication management and advice. It would be tragic if CVS/Caremark were indeed engaging in unfair business practices at the expense of independent pharmacies, small, community-oriented businesses that are highly valued by the consumers they serve. It is important that

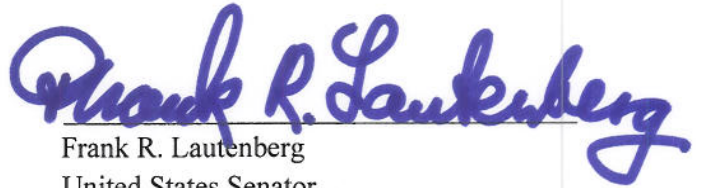
the FTC review these business practices against the rules established to prevent unfair business practices, including false advertising.

We appreciate your dedication and leadership, and urge the Commission to act on these concerns in a timely manner. Thank you for considering this request.

Sincerely,



Sherrod Brown  
United States Senator



Frank R. Lautenberg  
United States Senator