



Criticism of CVS Caremark Growing

By Michael F. Conlan

A total of 21 members of Congress, both Democrats and Republicans, have written to the Federal Trade Commission to urge the independent consumer protection agency to investigate the business practices of CVS Caremark that are harming patients and pharmacies. In addition, groups representing state legislators, labor, and consumers also are calling for a probe.

NCPA has made the investigation a top priority for the past year, starting with a letter from NCPA Executive Vice President and CEO Bruce T. Roberts, RPh, to the FTC last December. In May, some 80 NCPA members who were attending the annual legislative conference met with FTC Chairman Jon Leibowitz and his top aides for two hours. Another meeting with Leibowitz was scheduled for last month.

Sens. Sherrod Brown (D-Ohio) and Frank Lautenberg (D-N.J.) were the latest lawmakers to join the growing chorus. Lautenberg's support for an investigation is especially noteworthy, because he serves on two Senate committees that oversee the FTC's budget and operations.

Previously this year, 14 members of the House and five other senators wrote the FTC about reopening the merger agreement that allowed the giant drug store chain and the giant PBM to merge. The National Legislative Association on Prescription Drug Prices, the Consumer Federation of America, the U.S. Public Interest Research Group, and the Change to Win labor coalition also have expressed support for an FTC investigation.

The CVS Caremark combination fills or manages 1.2 billion prescriptions a year, covering about one out of two Americans. By owning Caremark, CVS has access to the most sensitive information from competitor pharmacies. The arrangement also allows CVS to control reimbursement for a large slice of its competitors. In no other industry does a company have this type of control or access to such information of its competitors.

In September, eight members of the House contacted the FTC: Reps. Anthony Weiner (D-N.Y.), Robert Aderholt (R-Ala.), Michael Arcuri (D-N.Y.), Marion Berry (D-Ark.), John Boozman (R-Ark.), Lloyd Doggett (D-Tex.), Walter Jones (R-N.C.), and Mike Rogers (R-Ala.).

The bipartisan delegation specifically called out CVS Caremark's "Maintenance Choice" program, which forces patients to fill prescriptions only at the company's retail or mail order operations; higher co-payments for patients choosing independent community pharmacies; mining of patient data to coerce patients to switch to CVS; and misleading branding on drug benefit cards.

In late July, Sens. Mark Pryor (D-Ark.) and Roger Wicker (R-Miss.)—chairman and ranking member, respectively, of the Senate Commerce Committee's subcommittee on consumer protection, product safety and insurance—as well as Sens. Byron Dorgan (D-N.D.), Russell Feingold (D-Wis.), and Amy Klobuchar (D-Minn.) sent letters to the FTC seeking the agency's intervention.

Reps. Jo Bonner (R-Ala.), Jim Gerlach (R-Pa.), Larry Kissell (D-N.C.), Bob Latta (R-Ohio) Linda Sanchez (D-Calif.), and Jan Schakowsky (D-Ill.) have also contacted the FTC with concerns about the merger. **ap**

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