

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

September 14, 2009

The Honorable Jon Leibowitz  
Chairman  
Federal Trade Commission  
600 Pennsylvania Avenue N.W.  
Washington, D.C. 20580

*Re: CVS Caremark Corporation merger*

Dear Chairman Leibowitz:

We are writing to ask the Commission to reopen its investigation of CVS Corporation's acquisition of Caremark Corporation. This merger combined the largest pharmaceutical chain with the second largest Pharmaceutical Benefit Manager ("PBM"). This merger was cleared by the FTC after a brief investigation in November 2007.

We strongly believe that CVS Caremark is engaging in unfair and deceptive business practices that are causing harm to consumers, patients and local community pharmacies.

Over the past three months we have heard of dozens of examples of consumers that have been deceived or harmed by some of CVS/Caremark's practices including:

- CVS has placed consumers on a so-called "maintenance choice" program, under which consumers can only get their prescriptions by mail or at a CVS pharmacy. We have received complaints from pharmacists that consumers are being switched without the permission of their plan or the consumer;
- CVS has significantly reduced the copay for members when they fill their long-term prescriptions at CVS pharmacies. This clearly raises the costs for members for using non-CVS pharmacies;
- CVS Caremark has adopted a program to attempt to steer consumers to CVS pharmacies. When a Caremark member fills a prescription at a CVS pharmacy, the CVS pharmacist is informed through the Caremark electronic system of whether the recipient uses another non-CVS pharmacy. In those situations, the CVS pharmacist is instructed to inform the consumer of the dangers of using multiple pharmacies. Obviously the only way the CVS pharmacist knows the consumer uses multiple pharmacies is through the misuse of consumer information possessed by Caremark. Not only is this an unfair practice, it may be a violation of CVS' firewall agreement with other pharmacies; and
- CVS Caremark co-brands its prescription drug card in such a fashion to confuse consumers that the benefit card can only be used at CVS.

We are troubled that these are unfair and deceptive business practices. We strongly encourage the FTC to reopen the CVS Caremark merger investigation and determine if the acquisition poses a threat of reducing competition or whether CVS is engaging in any unfair or deceptive practices.

We appreciate your consideration of this important matter.



ANTHONY WEINER  
Member of Congress

Sincerely,



MARION BERRY  
Member of Congress



JOHN BOOZMAN  
Member of Congress



MICHAEL ARCURI  
Member of Congress



MIKE ROGERS  
Member of Congress



WALTER JONES  
Member of Congress



ROBERT ADERHOLT  
Member of Congress



LLOYD DOGGETT  
Member of Congress