

**Testimony from Congressman Austin Scott (GA-08)**  
Subcommittee on Regulatory Reform, Commercial and Antitrust Law  
February 16, 2017

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- Chairman Marino, Ranking Member Cicilline and Members of the Subcommittee, thank you for allowing me to submit my testimony in support of H.R. 372, the Competitive Health Insurance Reform Act of 2017.
- Many of you have law degrees from very distinguished schools, although none quite as distinguished as the University of Georgia, where I earned my degree in Risk Management and Insurance in the early 90's. This is when I was first licensed as a life and health agent during an internship in the summer of 1991.
- In all I spent approximately 20 years as an employee benefits broker representing approximately 40 carriers. In addition to the BBA, I was designated by the American College as a Chartered Life Underwriter, a Chartered Financial Consultant, a Registered Health Underwriter, and a Registered Employee Benefits Consultant. Just as most of you maintain your bar membership, I still maintain my series seven and several other licenses.
- I might also mention that my father is a surgeon in a small town, so I have seen this issue from the rural provider side as well.

- Before I go any further, I want to be clear that I believe that there were a number of problems in the health insurance market before the Affordable Care Act passed.
- I think most brokers would tell you that, I also think that they as well as patients, physicians, pharmacists, hospital executives, etc. would tell you that many problems that existed have been made worse by the lack of competition in the market.
- As I am limited to 5 minutes, I will stick to the point of the Antitrust.
- If I may be so bold as to ask you a few questions.
- Do you think that pharmacies should be exempt from the antitrust laws of our country?
- Do you think that physicians should be exempt from the antitrust laws?
- What about hospitals?
- Nobody in this room has, or would, put forward a bill that exempted any of the people who actually provide health care to patients from the antitrust laws of our country. It is clearly not in the best interest of patients to do that.
- So why do we allow the health insurance industry who controls through their contracts who our doctor is, who our pharmacist is, which medicine we can get, and which hospital we can go to to be exempt from the antitrust laws of our country?

- No doubt, their lawyer will tell you that they are exempt because they are regulated by the states.
- So are all of the groups that I mentioned before. Physicians, Pharmacists, Hospitals, and even Insurance brokers, all licensed and regulated by the states, not the federal government, and all subject to the antitrust laws of our country just as they should be, just as the health insurance industry should be.
- Because of the conduct of the health insurance industry, this industry, of all industries, does not deserve any exemption.
- I very distinctly remember a renewal letter that a client received with a choice of sign here and accept a new pre-existing conditions clause and your renewal will be a certain dollar amount or don't sign and your renewal will be much higher.
- The people who argue that the health insurance industry should be exempt from the antitrust laws will also defend this pricing scam as just good business.
- This was from one of the biggest of the big carriers, and they are bigger and more controlling today than ever before. They are, in fact, the only carrier available to many of my constituents today.
- The dominance of the market that these large carriers have enjoyed has forced many providers to move, close, merge, or sell to larger regional hospitals.
- The end result of this is that in the 24 counties that I represent, patients have few health care providers left.

- This also drives up the cost of health care to the consumer.
- But how is the antitrust issue relevant here?
- By definition, health care and health insurance are not the same thing, but when one insurance company controls such significant portions of the cash flow of all of the providers in a region, no provider can stay in business without a contract with that carrier. Therefore, the insurance company gets to determine who is, and who is not, able to provide health care.
- Accept the lower reimbursement or we will cancel your contract. It is closer to extortion than negotiation.
- I don't believe that all of this anti competitive conduct is technically exempt from the antitrust laws. I have no doubt that in this room the insurance industry would say the most reprehensible of these conducts is not, but in the court room down the street they know that no provider has the resources to challenge them.
- The insurance company will simply cancel the providers contract and they will be broke before the insurance company is.
- A few brief comments to finish.
- This exemption is not only damaging to the consumer when they purchase health insurance, it damages the health care providers and therefor further limits access to health care.
- I don't think this issue alone solves all of the problems in the health care industry, but I don't think that any of the problems in the insurance market will be solved if this exemption stays in place.

- I also think it noteworthy that on February 24, 2010, the Health Insurance Industry Fair Competition Act passed the House with a vote of 406 to 19. This is only one month prior to the Affordable Care Act being signed into law.
- Much of the debate in 2010 focused on the sharing of historical loss data. The sharing of historical data primarily benefits small carriers, I think it would be wise to consider specifically allowing historical loss data to be shared to prevent unnecessary litigation.
- I thank you all for your time and the opportunity to provide testimony this morning. I yield back the balance of my time.