Congress of the United States
Washington, DC 20515

October 22nd 2009

Speaker
U.S. House of Representatives
H-232, The Capitol
Washington, DC 20515

Dear Speaker Pelosi:

We have all heard the stories about the excesses of the health insurance industry: the use of rescission to dump sick people from the insurance rolls, refusing to renew polices of high-cost patients and denying coverage to individuals with pre-existing conditions, all for the sake of profits.

Health insurance reform is desperately needed. Yet of all the proposals on how best to reform the insurance industry and its practices, one above all other would rein in insurance companies' anti-competitive behavior and save consumers billions of dollars in premiums. The proposal is simple: Require the health insurance industry to operate under the same anti-trust laws as all other industries. We appreciate that the Judiciary Committee has just finished its markup on HR 3596, the Health Insurance Industry Antitrust Enforcement Act of 2009. Their bill is necessary and essential, but is likely more narrowly based than required to effectively eliminate the problem. The Judiciary bill repeals the antitrust exemption for three specific practices (bid rigging, market allocation, and price fixing). It does not ensure that the FTC has the power to go after the offenders, an essential step to restoring competition in the marketplace.

That is why we are asking that the health reform bill subjects the health insurance industry to *all* federal anti-trust laws and unambiguously give the FTC authority to investigate and go after the offenders.

The health insurance industry, as well as all other lines of insurance, has operated beyond the reach of America's anti-trust laws for more than six decades since the McCarran-Ferguson Act was passed by Congress in 1945. This exemption was intended to be temporary, but it has not turned out that way. If there ever was, there is no longer any justification to exempt the insurance industry from federal anti-trust law. The insurance industry claims that they are currently subject to state anti-trust laws. The truth is many states have limited resources to investigate and go after anti-trust violations.

Applying federal anti-trust law to the industry will provide an important backstop for states and help end anti-competitive, collusive conduct such as price fixing, agreements not to pay, and divvying up the market in non-competitive ways. Repeal of the industry's anti-trust exemption would effectively end insurance company collusion and bring much-needed competition to the industry. Furthermore, giving the FTC unambiguous authority to investigate these illegal activities would put the insurance industry on notice that these practices will no longer be endured.

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The Consumer Federation of America has said that consumers would save more than $40 billion in insurance premiums if the antiquated McCarran-Ferguson law was repealed. This action has garnered bipartisan support from people such as Governor Bobby Jindal of Louisiana, former Majority Leader Trent Lott and Senate Judiciary Committee Chairman Patrick Leahy. Even President Obama has expressed support for repealing the anti-trust exemption. In 2005, while serving in the U.S. Senate, he was an original cosponsor of the Medical Malpractice Insurance Antitrust Act, which would have repealed the McCarran-Ferguson Act for medical malpractice insurance. In 2008, while campaigning for president, he added it as a provision in his health care proposal.

Insurers may object to being subject to the same anti-trust laws as everyone else, but their concerns are outweighed by the financial burden rising premiums unfairly place on consumers. Consumers have the right to be confident that the cost of their insurance, and the decisions by their insurance carriers about which claims will be paid, reflect competitive market conditions, not collusive behavior.

Sincerely,

Peter DeFazio
Member of Congress

Bart Stupak
Member of Congress

Peter Welch
Member of Congress

Gene Taylor
Member of Congress

John W. Olver
Member of Congress

Daniel Lipinski
Member of Congress

Pete Visclosky
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