

Statement of
The Honorable Patrick Leahy

United States Senator
Vermont
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Opening Statement Of Senator Patrick Leahy (D-Vt.),
Chairman, Committee On The Judiciary
Executive Business Meeting

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Down the hall from here the Finance Committee is in the process of considering critical health care reform legislation. Today I am introducing a bill that would bring competition among health insurers and better protections for Americans. My bill is drawn from an effort I began last Congress with Senator Lott to repeal outdated antitrust immunities for insurers. Senator Lott returned to Capitol Hill yesterday, as his leadership portrait honoring his service as Senate Majority Leader was unveiled.

Our Nation's antitrust laws exist to protect consumers. These laws promote competition, which ensures that consumers will pay lower prices, and receive more choices of higher quality products. The Health Insurance Industry Antitrust Enforcement Act would make those laws applicable to health insurers and medical malpractice insurers. In the markets for health insurance, costs continue to increase at an alarming rate. I believe a strong contributing factor is the lack of competition. As the insurance industry prospers behind its archaic exemption from antitrust laws, patients and small businesses suffer. It is time to repeal the antitrust exemption for health insurance providers. The health insurance industry does not play by the same good competition rules as other industries. That is wrong, and this legislation corrects it.

The lack of affordable health insurance plagues families throughout our country. There is simply no justification for health insurance companies to be exempt from Federal laws prohibiting price fixing. My bill will serve to prohibit the most egregious anticompetitive conduct - price fixing, bid rigging and market allocations - conduct that harms consumers and drives up health care costs. Surely in this environment of rising healthcare costs, we can agree on this more narrowly tailored repeal.

Insurers should not object to being subject to the same antitrust laws as everyone else. If they are operating in an appropriate way, they should have nothing to fear. American families rely on insurance. It is important to ensure that the prices they pay for health insurance are established in a fair and competitive way. Antitrust oversight in the health insurance industry will provide consumers with the confidence that insurance companies are operating in a competitive marketplace.

Now to our agenda for today. The Committee's first legislative item today is bipartisan legislation to establish a qualified privilege for journalists to protect their confidential sources and the

public's right to know. I support the Free Flow of Information Act, S. 448, and I was proud to chair this Committee when we reported press shield legislation for the first time during the last Congress. I hope that the Committee will favorably report this carefully balanced bill today.

Last week, the Committee unanimously adopted a substitute amendment offered by Senators Schumer, Specter and myself that made several changes to the bill to address concerns raised by the Obama administration. I understand that the lead sponsors of this bill will offer another amendment today that makes additional changes requested by the administration.

In January, I encouraged the Obama administration and the supporters of this bill to work together to reach consensus on a carefully-crafted media shield bill. I commend Senators Specter and Schumer for working diligently with the Department of Justice, the Office of the Director for National Intelligence, the Office of the White House Counsel, and various media organizations in consultation on this legislation. My staff has also participated in those productive discussions. I am confident that discussions will continue as this bill moves forward, and I will continue to work with all of the parties to help reach consensus.

The bill before the Committee today strikes the right balance among the important objectives of protecting our Nation, enforcing our criminal laws and ensuring freedom of expression. The bill makes several improvements to better protect the Government's important national security and law enforcement interests. Among other things, the bill expands the national security exception to the privilege, refines the definition of who is a "covered person" and clarifies that the bill does not modify Federal grand jury secrecy laws, or the Foreign Intelligence Surveillance Act. I hope that we can report this bill without including unnecessary amendments that would weaken this carefully-crafted legislation or delay our action.

The time has come to consider and favorably report this important legislation. This bill was introduced in February and it has been on the Committee's agenda for several weeks. This bill is supported by more than 70 news media and journalism organizations, including ABC News, the Associated Press, CNN, the National Newspaper Association, the Society of Professional Journalists and the Vermont Press Association.

President Thomas Jefferson once wisely noted that "[o]ur liberty depends on freedom of the press, and that cannot be limited without being lost." After years of debate and countless cases of reporters being held in contempt, fined and even jailed for honoring their professional commitment not to publicly reveal their sources, the time has come to enact a balanced Federal shield law. I thank the lead sponsors and supporters of this bill for their hard work on this legislation and I encourage all Members of the Committee to support this important bill.

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