

Statement of
The Honorable Patrick Leahy

United States Senator
Vermont
June 9, 2010

Statement Of Senator Patrick Leahy (D-Vt.),
Chairman, Senate Judiciary Committee,
Hearing On "Oversight Of The Enforcement Of The Antitrust Laws"
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Today, the Judiciary Subcommittee on Antitrust performs one of its most critical duties: oversight of the Federal agencies that enforce our Nation's antitrust laws. The antitrust laws protect hardworking Americans by ensuring that our markets are characterized by vibrant competition. This competition results in lower prices and more choices for consumers. I thank Senator Kohl for chairing this important hearing.

Last year, when the Obama administration took office, it promised a more vigilant enforcement of the antitrust laws. Thus far, the administration's actions have matched its words. In the fall, I chaired a Committee hearing in Vermont at which Assistant Attorney General Varney promised to take a close look at competition issues in the dairy industry. Subsequently, the Department of Justice (DOJ) began hosting workshops around the country to analyze competition issues in the agriculture sector, and the Department challenged the acquisition of two dairy bottling plants by the country's largest dairy distributor. This vigilance has extended to other industries as well, including financial products, ticketing, and air cargo, just to name a few. Similarly, the Federal Trade Commission (FTC) has pursued an aggressive enforcement agenda that has resulted in enforcement actions in the healthcare, manufacturing and retail clothing industries.

Today our antitrust enforcers face complex markets and economic issues never encountered in the pre-digital age. Their hard work ensures that our antitrust laws adapt, and continue to be suited for enforcement actions in the new millennium. The latest example of this is the newly proposed joint DOJ-FTC guidelines for horizontal merger review. While I am still reviewing the specific changes that the new guidelines entail, I applaud the continued effort to enable companies to understand the review that will be undertaken to analyze their proposed merger. As I work with our antitrust authorities and business community to find the ways to promote consistent antitrust enforcement standards around the world, an important first step is transparency. Demonstrating that we take transparency seriously at home provides an example that the rest of the world can follow. These merger guidelines send that signal, and I applaud this effort.

The DOJ and FTC perform a critical service to American consumers by serving as competition watchdogs. We need not look far to understand the value these agencies provide. The health insurance industry, which enjoys a statutory exemption from the federal antitrust laws, is a great

example of the problems that would result from a lack of adequate antitrust oversight. The industry is characterized by high levels of market concentration throughout the country. Millions of Americans suffer the consequences through un-affordably high health care costs, which may not reflect the price that would be set through true competition. For the past three Congresses, I have worked to repeal this six-decade-old exemption from the Federal antitrust laws. There is no justification for it, and I have urged the Senate to take up quickly and pass the legislation that cleared the House with an overwhelming bipartisan majority. I appreciate the administration's support for this legislation. In the meantime, we must continue to ensure that the DOJ and FTC have the resources to protect consumers from anticompetitive practices in those industries over which they do have jurisdiction.

Finally, I would like to thank Chairman Leibowitz for his prompt response to my recent inquiry as to whether the antitrust laws pose any barrier to companies meeting to discuss how best to deal with the oil crisis. This oil spill is an ecological disaster, with far-reaching consequences. The Chairman's immediate attention to this matter again demonstrates the FTC's priority of dealing with critical real world problems that impact the lives of hard working Americans.

I commend Assistant Attorney General Christine Varney and Chairman Jon Leibowitz for the tremendous job they are doing to lead their respective agencies. I look forward to hearing from them today.

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