



February 16, 2023

The Honorable Maria Cantwell
Chairman
Committee on Commerce, Science,
and Transportation
United States Senate
Washington, DC 20510

The Honorable Ted Cruz
Ranking Member
Committee on Commerce, Science,
and Transportation
United States Senate
Washington, DC 20510

Dear Chair Cantwell and Ranking Member Cruz:

The U.S. Chamber of Commerce strongly opposes S. 127, the “Pharmacy Benefit Manager Transparency Act (PBMTA) of 2023.”

This bill would grant sweeping authority to the Federal Trade Commission (FTC), already beset by issues of overreach, to regulate prices in the private sector prescription drug marketplace. S. 127 would also raise significant privacy concerns by expanding state-level oversight of employer-sponsored health coverage. Finally, this bill would insert the federal government into negotiations between drug manufacturers on the one hand and the plan sponsors, insurers and workers on the other.

This legislation would expand FTC authority well beyond its appropriate role, which is to examine competition in the marketplace. We urge Congress to reject efforts to turn FTC into a regulator of the pharmacy supply chain and oppose legislation that would give the Commission the power to set prices. Moreover, employer-sponsored health benefits are already heavily regulated by the Departments of Health and Human Services, Treasury, and Labor. Adding the FTC as a new regulator would not reduce costs to companies providing benefits to their workers.

Finally, the Chamber believes inserting the FTC into negotiations between employer plan sponsors and manufacturers is unwarranted. The FTC second guessing contractual terms that are used to defray administrative fees and annual fluctuations in costs will not lower costs for businesses that provide benefits, nor for their employees.

More broadly, the Chamber has significant concerns with recent FTC operations and actions. Chair Lina Khan’s tenure has been marked by a sharp decrease in staff morale and confidence in leadership’s “honesty and integrity,” criticism from the FTC’s own Office of Inspector General for politicizing hiring and subjecting the agency to significant risk, abuse of the agency’s procedural safeguards (such as through the use of “zombie votes”), and by repeated attempts to expand the FTC’s authority beyond its statutory bounds. In particular, Chair Khan envisions FTC as a sort of uber-regulator and as “a public body whose work shapes the distribution of power and opportunity across our economy.”

The Chamber strongly opposes S. 127.

Sincerely,

A handwritten signature in blue ink, appearing to read "Neil Bradley". The signature is fluid and cursive, with a large loop at the end.

Neil Bradley
Executive Vice President, Chief Strategy Officer,
and Head of Strategic Advocacy
U.S. Chamber of Commerce

cc: Members of the Senate Commerce, Science and Transportation Committee: