

DRUG PRICE COMPETITION IN THE WHOLESALE MARKETPLACE

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 13, 2000

Mrs. EMERSON. Mr. Speaker, today I am introducing legislation that will preserve drug price competition in the wholesale marketplace, prevent the destruction of thousands of small businesses across America and avoid a possible disruption in the national distribution of prescription drugs to nursing homes, doctors offices, rural clinics, veterinary practices and other pharmaceutical end users. As befitting such legislation, I am pleased to note that this bill has cosponsors from both political parties, a number of different committees and many different areas of the country.

Our objective is to prevent and correct the unintended consequences to prescription drug wholesalers of a Final Rule on the Prescription Drug Marketing Act (PDMA) issued by the Food and Drug Administration in December, 1999. This regulation will require all wholesalers who do not purchase drugs directly from a manufacturer to provide their customers with a complete and very detailed history of all prior sales of the products all the way back to the original manufacturer. Absent such sales history, it will be illegal for wholesalers to resell such drugs. But in a true "Catch 22" fashion, the regulation does not require either the manufacturer or the wholesaler who buys directly from the manufacturer to provide this sales history to the subsequent wholesaler. In addition, the wholesaler who does not purchase directly from a manufacturer has no practical way of obtaining all the FDA required information needed to legally resell RX drugs. The result of this rule will be that most small wholesalers will be driven out of business. The FDA has estimated that there are about 4,000 such secondary wholesalers who are small businesses.

The FDA's Final Rule will also upset the competitive balance between drug manufacturers on the one hand and wholesalers and retailers on the other by granting the manufacturers the right to designate which resellers are "authorized" and which are not, quite apart from whether the reseller buys directly from the manufacturer or not. The original intent of the PDMA was that wholesalers who purchase directly from manufacturers be authorized distributors, exempt from the requirement to provide the sales history information to their customers. However, the FDA's regulation has separated the designation of an authorized distributor from actual sales of product, and will allow manufacturers to charge higher prices to wholesalers in exchange for designating them as authorized distributors. Drug price competition will also be significantly reduced if thousands of secondary wholesalers are driven out of business. The result of the FDA's regulation will be that consumers and taxpayers will pay even higher prices for prescription drugs.

Seems to me that the FDA is protecting the drug companies at the expense of the American public at a time when these companies must be encouraged to lower their outrageous prices so that our seniors and others in need can afford to pay for their medicine.

Thus, while the Congress wrestles with difficult questions regarding drug pricing for sen-

iors, expanded insurance coverage for prescription drugs and the like, the PDMA Rules is a drug pricing issue that is relatively uncomplicated, easy to solve and not expensive.

The bill would make minor changes in existing language to correct the two problems described above. First, the bill would define an authorized distributor as a wholesaler who purchases directly from a manufacturer, making the definition self-implementing and removing the unfair advantage given to the manufacturer by the regulation. Secondly, the bill will add language to the statute which will greatly simplify the detailed sales history requirement for most wholesalers. If prescription drugs are first sold to or through an authorized distributor, subsequent unauthorized resellers will have to provide written certifications of this fact to their customers, but will not have to provide the very detailed and unobtainable sales history. For any product not first sold to or through an authorized distributor, a reseller would have to provide the detailed and complete sales history required by the FDA Rule. This would protect consumers against foreign counterfeits or any drugs which did not enter the national distribution system directly from the manufacturer, while eliminating a burdensome and expensive paperwork requirement on thousands of small businesses which has no real health or safety benefit in today's system of drug distribution.

My cosponsors and I invite and encourage Members to add their names to this bill and look forward to its prompt enactment this year. Unless the FDA regulation is reopened and significantly modified by the agency, overturned in court or, as I hope, corrected by this bill, wholesalers will have to start selling off their existing inventories as early as May because the products will be unsalable when the regulation goes into effect in December 2000. This forced inventory liquidation will be accompanied by an absence of new orders by thousands of wholesalers, and the result could easily be disruptions in the supply of prescription drugs to many providers and end users. Let us then move quickly to fix this problem and save consumers, taxpayers and thousands of small business men and women across the land from higher drug prices, potential health problems due to supply interruptions and significant economic loss and unemployment.

THE ARMENIAN GENOCIDE

SPEECH OF

HON. LORETTA SANCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 12, 2000

Ms. SANCHEZ. Mr. Speaker, I am paying tribute and joining my colleagues in commemorating the 85th anniversary of the Armenian Genocide. As many of you know, on April 24, 1915, a group of 200 Armenian religious, political, and intellectual leaders were arrested and murdered, marking the beginning of the first genocide of this century. Over the next 8 years, 1.5 million Armenians were massacred and over 500,000 survivors were exiled in an attempt to eliminate the Armenian population in the Ottoman Empire. Several were deported from areas as far north as the Black Sea and as far west as European Turkey to concentra-

tion camps. In addition to being deprived of their homeland, their freedom, and their dignity, many Armenians died of starvation, thirst, and epidemic disease in horrendous concentration camps.

Unfortunately, 85 years after the beginning of this terrible period in the history of humanity, the Turkish Government refuses to acknowledge the truth about its past. As a member of the House Armed Services Committee and the Armenian Caucus, I have supported efforts to recognize the Armenian Genocide. I feel it is imperative that we show respect and remembrance to those victims and encourage Turkey to do the same. By remembering this crime against humanity, we honor those who perished and serve notice on all governments that such crimes will not be forgotten.

TRIBUTE TO MILTON J. WALLACE, COMMUNITY HERO

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 13, 2000

Mrs. MEEK of Florida. Mr. Speaker, I want to take this opportunity to pay tribute to one of my community's unsung heroes, Attorney Milton J. Wallace. On May 10, 2000, 12:00 noon, at the Miami Inter-Continental Hotel the Miami-Dade Affordable Housing Foundation will host its First Annual Housing Heroes Awards Luncheon to honor him for his many years of dedication and service under the aegis of the affordable housing movement.

Born to Mark and Regina Wallace in New Jersey on December 17, 1935, Milton Wallace was the only child who came to grace this loving couple. His family moved to Miami in 1949, and he subsequently attended the University of Miami, obtaining his bachelor's degree in 1956 with summa cum laude, the highest distinction awarded to any graduate. In 1959 he obtained his law degree, and was inducted as a member of the Iron Arrow—the august group of Hurricane alumni who have gone above and beyond the call of duty in upholding the honor and glory of their Alma Mater.

A Certified Public Accountant since 1957, he has also been a Member of the Florida Bar since 1959 and a Licensed General Contractor in Florida since 1969. Mr. Wallace became a City of Miami Judge from 1961 to 1963, and served as Florida's Assistant Attorney General from 1965 to 1970. He moved on to hold the position of General Counsel to the Florida Securities Commission, which soon became the Division of Securities within the office of Comptroller of the State of Florida.

Happily married to his wife Patricia since 1963, he is blessed with two sons, Mark who is 32 and Hardy, age 22. While his affiliations with many corporations and civic organizations are many, Milton Wallace takes ample pride in representing the noblest of our community. As a Director and founding member of the Miami-Dade Affordable Housing foundation, Inc., he has resiliently dedicated a major portion of his life to making the justice system work on behalf of the less fortunate.

He wisely chose the challenge of ensuring home ownership as an affordable and accessible right for countless ordinary citizens who have done and are doing their fair share in

contributing to the good of our community. Long before anyone ever thought of hastening the dream of affordable housing into reality, Milton Wallace was relentless in his creativity and resourcefulness deeply aware of the fact that this project was well worth his effort. His focus saliently maximized his insight, understanding and commitment to those who lack the financial wherewithal to fulfill their wish of someday owning their dream house.

Under his leadership many lives have been saved and countless families have been rendered whole because the opportunity of accessing affordable housing has been expedited. He was the proverbial lone voice in the wilderness in exposing his righteous indignation over the harrowing difficulties of hard-working individuals who just could not cut through the labyrinth of banking regulations impacting housing loans that are truly affordable. At the same time, he has been forthright and forceful in advocating the tenets of equal treatment under the law for the poor who often are unfairly subjected to extensive red-tape and bureaucracy. To this very day his commitment toward them remains firm.

Accordingly, I will join my community in honoring him as a genuine leader whose dedication to affordable housing for all serves as an example of the difference each of us can make on behalf of the less fortunate. Single-handedly he has championed a career-long commitment to affordable housing for all of America's families. As the noble gadfly that he represents, he is one to goad his colleagues toward a more hopeful life for our community's ordinary working families. Milton Wallace thoroughly understands the accouterments of power and leadership, sagely exercising them alongside the mandate of his conviction and the wisdom of his knowledge, and focusing his energies on the well-being of a community he has learned to love and care for so deeply.

His being honored as the recipient of the First Annual Housing Heroes Awards truly evokes the unequivocal testimony of the respect and admiration he enjoys from our community. Milton Wallace indeed exemplifies a visionary whose courage and perseverance in the face of overwhelming odds appeal to our noblest character. This tribute dignifies his role as a community servant par excellence who gives credence to the generosity and optimism in the American spirit. Indeed, he will always serve as our indelible reminder of the nobility of commitment and the lasting power of public service.

On behalf of a grateful community, I truly salute him, and I wish him the best!

INTRODUCTION OF THE IDENTITY THEFT PREVENTION ACT OF 2000

HON. DARLENE HOOLEY

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 13, 2000

Ms. HOOLEY of Oregon. Mr. Speaker, today I introduced the bipartisan Identity Theft Prevention Act of 2000. Identity theft has become the latest coast to coast crime wave. This bill includes common sense measures that will allow consumers to work with creditors and credit bureaus to combat this growing problem.

Identity theft occurs whenever someone uses your name, social security number,

mothers maiden name, or any personally identifiable information to purchase goods or services—usually with credit cards. Victims of identity theft never realize they are victims until they receive a bill in the mail, or even worse, a notice from a collection agency for a purchase they never made on a credit card in their name that they don't even own.

While credit issuers have been willing to refund fraudulent charges, victims are still faced with problems of ruined or destroyed credit, the time commitments of redeeming their name with multiple credit bureaus and credit issuers, and the fear and anxiety associated with knowing that someone is using all of their personal information to charge any manner of goods. As a result of identity theft, victims have been turned down for jobs, mortgages, and other important extensions of credit.

Identity theft is a growing problem. Just look at the following statistics: Trans Union credit bureau's fraud victim assistance unit received just 35,235 complaints in 1992 but in 1997 received 522,922. That's a 1,400 percent increase! The Privacy Rights Clearing House estimates that there will be 400,000 to 500,000 new cases of ID fraud this year and the Federal Trade Commission's 1-800 number for ID theft receives an average of 400 calls a week from people like my constituent Paul LaLiberte, from Clackamas, Oregon, who has been a victim of identity theft twice. One of those thousands of calls stated, "Someone is using my name and social security number to open credit card accounts. All the accounts are in collections. I had no idea this was happening until I applied for a mortgage. Because these "bad" accounts showed up on my credit report, I didn't get the mortgage." May 18, 1999.

This bill attempts to address these problems by empowering consumers and asking creditors and credit bureaus to do their part to combat fraud.

For instance, the bill requires that any time a creditor receives a change of address form, the creditor send back a confirmation to both the new and the old addresses. That way, if a thief attempts to change your billing address so you won't find out about fraudulent charges—you'll know.

The bill also requires credit bureaus to investigate discrepancies in addresses, to make sure that the address for the consumer that they have on file is not the address provided by the identity thief.

This bill codifies the practice of placing fraud alerts on a consumer's credit file and gives the Federal Trade Commission the authority to impose fines against credit issuers that ignore the alert. Too many credit issuers are presently ignoring fraud alerts to the detriment of identity theft victims. It also requires that fraud alerts are placed on all information reported by a credit bureau, including credit scores. Often when a credit score is issued without a full report, the fraud alert does not show up.

This legislation also gives consumers more access to the personal information collected about them, which is a critical tool in combating identity theft, by requiring that every consumer across the nation have access to one free credit report annually. Currently, six States—Colorado, Georgia, Massachusetts, Maryland, Vermont, and New Jersey—have such statutes. This act makes one free credit report a national requirement. In addition, consumers could review the personal information

collected about them by individual reference services. With greater access to their own personal information, consumers can proactively check their records for evidence of identity theft and uncover other errors.

The bill also restricts the type of information a credit bureau can sell to marketers to your name and address only. Currently credit bureaus can sell such personally identifiable information as your social security number or mother's maiden name. This sensitive information would be treated under this bill like any other part of the credit report, with its disclosure restricted to businesses needing the data for extensions of credit, employment applications, insurance applications, or other permissible purposes.

I am introducing the Identity Theft Prevention Act with Representative STEVE LATOURETTE (R-OH) and twelve other cosponsors. This bill has been endorsed by Public Citizen and the Privacy Rights Clearinghouse, and is a companion bill to S. 2328 offered by Senators FEINSTEIN, KYL, and SHELBY. It is my hope that the House Banking Committee will take up consideration of this bill and that we can soon bring it to the floor for a vote by the entire Congress.

LEGISLATION TO REINFORCE ANTITRUST LAWS

HON. DAVID MINGE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 13, 2000

Mr. MINGE. Mr. Speaker, following is a summary of my legislation.

A bill to reinforce our antitrust laws by focusing on three main issues:

(1) Broadening our antitrust laws: Antitrust violators should be liable to all injured persons, whether the damages are direct or indirect. Under current federal law, only direct parties have the right to a remedy for antitrust harm. By broadening the scope of persons who can demand reparations for harm caused by antitrust violators, without relying on government bureaucracies to do it for them, our antitrust laws can be more effective.

(2) Modernizing antitrust enforcement: This bill increases the maximum fines from \$10 million to \$100 million to reflect the magnitude of today's economy and potential damages from anti-competitive activity. Moreover, megamergers create heavy workload for the agencies responsible for their approval. The pre-merger notification filing fee structure is changed to reflect that.

(3) Addressing concentration in agribusiness: Growing concentration in food processing and distribution has been accompanied by low farm income and the loss of thousands of farmers. The weakening bargaining power of farmers and the potential market power of suppliers, processors and other intermediaries has been accompanied by record earnings. Moreover, the benefits of low farm prices are not passed on to American consumers; food prices are not declining. This bill creates a commission to study this troublesome situation. This bill also clarifies the Packers and Stockyards Act to ensure that small producers are not discriminated against and establishes a senior official position for agriculture at the Antitrust Division of the DOJ.