

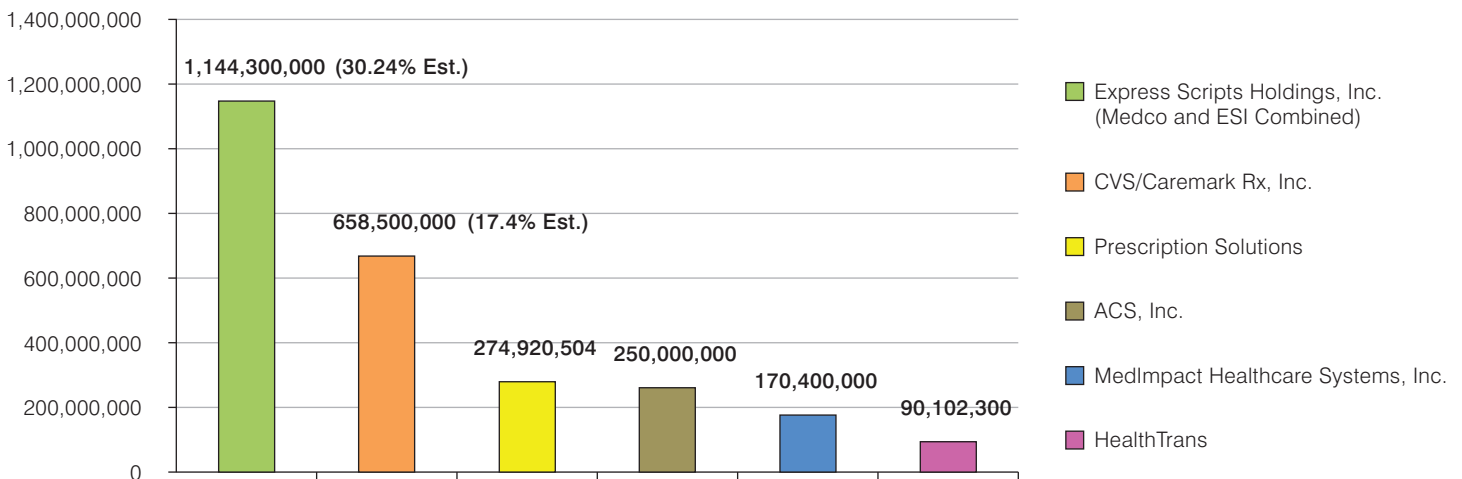
OPPOSE Merger of PBM Giants Express Scripts and Medco

ACTIONS REQUESTED

- Ask the FTC to block this merger: stand up for patient choice, oppose higher drug costs, and protect small business owners.
- Support legislation to curb PBM audit abuses, S.1058 / H.R.1971.
- Support legislation to level the playing field and give small pharmacies anti-trust exemption H.R.1946.

Merger Would Result in Unparalleled Market Concentration of PBMs

The pharmacy benefit management marketplace is already currently extremely concentrated and is dominated by “the big three”—Express Scripts, Medco and CVS Caremark. The proposed merger of two of the “big three” would result in unparalleled market concentration and analysts have already predicted that the combined entity will dominate the PBM market with control over 30% of annual prescriptions processed—both at retail and at mail (see below), and about 60% in the private sector market.



Source: AIS Survey, Q1 2011

Extreme Market Concentration Will Result in Reduced Choices for Both Third Party and Federal/State Payers

Federal and state Government programs, as well as private sector plan sponsors, today have very little real choice with regard to the PBM they contract with because only the big three are large enough to manage the practical demands of administering the prescription drug benefit portion of their health plan. Perhaps more troubling is the concern that reduced PBM competition will most likely have a negative fiscal impact on large Federal health care programs including: TRICARE (military health care program); Medicare Part D prescription drug program; and the Federal employees health benefit program (FEHBP).

All of these federal health plans currently rely very heavily on the “big three” to administer these very large and complex prescription drug benefit plans. With the market already very concentrated now, this merger will only give these Federal, State and private plans two choices rather than three to ensure the most advantageous pricing for the federal government as well as consumer choice. Given the current national fiscal crisis—this proposed merger that would limit market competition and may result in higher drug costs for the federal government—would be unwise.

Merged Entity Would Likely Corner the Market on Specialty Drugs

Specialty drugs—high-cost medications (average price \$1,867) that treat chronic, complex illnesses—are the wave of the future. Many analysts predict that revenues in the pharmacy industry will shift away from brand-name drugs to specialty drugs. In fact, it is estimated that eight of the top ten drugs in 2016 will be specialty drugs, compared with only five in 2008 and just one in 2000. Currently the large PBMs already dominate this market due to the fact that they drive these prescriptions to their own mail-order pharmacies. The proposed merged entity would immediately own a staggering 52% of the market share for specialty drugs.

Greater Cost Savings in the Market? Where's the Proof?

Representatives from Express Scripts and Medco have claimed that the combination of the two companies would create a powerful entity invested with the negotiating leverage that will enable the company to exert extreme pressure on not only drug manufacturers but also on pharmacy care providers. Even if one accepts this premise, this presumes that any enhanced “savings” extracted from other market participants will be accordingly passed along to plan sponsors and ultimately consumers in the form of reduced drug prices. Oftentimes these savings are not passed through.

At the present time, each of the “big three” PBMs nets an average profit of \$15 billion per year partly stemming from rebate deals they negotiate based on the plan sponsor’s estimated drug spend. PBMs also negotiate two types of contracts—one with pharmacies—and one with plan sponsors. The PBM reimburses pharmacies one rate for dispensing a medication but charges a higher rate to the plan sponsor for the same medication—and pockets the “spread” between the two prices as well as the spread between payments to pharmacies and the amount they charge the plan sponsor for the same drugs.

Proposed Merger Will Have Negative Affect on Independent Community Pharmacies—Trusted Healthcare Providers and Small Business Owners

Representatives from both Express Scripts and Medco have publicly claimed that the “synergies” created from such a merger will enable them to squeeze other market participants—namely drug manufacturers and pharmacies in order to find savings in the marketplace. Drug manufacturers as large corporate entities with vast revenue streams of their own would most likely be able to withstand increased pressures. However, independent community pharmacies, who in today’s current marketplace have little to no leverage when negotiating contracts with PBMs, would most likely not be able to adjust to even more onerous contracts with PBMs. It is likely that such a merger would drive independent community pharmacies out of business—and the PBM would simply step in and force plan beneficiaries to use the PBM-owned mail order pharmacy. This will reduce competition, reduce access and eliminate jobs in towns and communities all across the United States!

The PBM Industry Is Virtually Unregulated At Federal or State Level and Has Long Track Record of Enforcement Actions Alleging Fraudulent and Deceptive Conduct

Over the past few years, there have been substantial enforcement actions taken against each of the major PBMs, indicating fraudulent and deceptive conduct that have resulted in over \$370 million in damages. Between 2004 and 2008, these cases shed light on widespread practices in the PBM industry, including misuse of rebates, kickbacks, submission of false claims, taking secret rebates and drug switching.

