



American Federation
of Teachers, AFL-CIO

AFT Teachers
AFT PSRP
AFT Higher Education
AFT Public Employees
AFT Nurses and Health
Professionals

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March 22, 2016

U.S. House of Representatives
Washington, DC 20515

Dear Representative:

On behalf of the 1.6 million members of the American Federation of Teachers, including 120,000 healthcare professionals, I write to express our opposition to H.R. 2745, the Standard Merger and Acquisition Reviews Through Equal Rules Act (SMARTER Act). The bill would weaken the Federal Trade Commission (FTC), an institution at the forefront of ensuring that the interests of patients are protected during merger and acquisition activity.

The purported intent of the legislation is to provide a single standard of review for businesses when a merger is challenged by either the Department of Justice or the FTC by removing the FTC's adjudicative function, which it has been authorized to use for more than 100 years. This change could be extremely harmful; it is not only businesses, but also patients and other consumers, who will ultimately feel the impact of this bill.

Our nation's anti-trust laws are not focused only on protecting the interests of businesses in a given market. Indeed, the most important objective of these laws, including our nation's merger enforcement regime, is to protect consumers from harmful market conditions, such as increased prices and lower quality. In the healthcare industry, the "consumers" are patients; and we are particularly concerned with the impact this bill would have on the patients our members serve.

The healthcare industry is in the midst of continuous and drastic reform. New delivery and payment models, workforce transitions and other market conditions are constantly moving variables. As the Committee on the Judiciary report for H.R. 2745 notes, Professor John Kirkwood of the Seattle University School of Law has observed that "in those instances when an industry is changing rapidly or when an agency has not developed much expertise in it, an administrative proceeding would be quite helpful, such as the FTC's use of administrative proceedings in hospital merger enforcement as an example of such benefits." Removing the administrative adjudication authority from the FTC could easily exacerbate the unsteadiness in a rapidly changing industry.



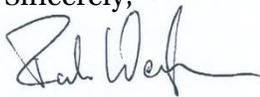
The **American Federation of Teachers** is a union of professionals that champions fairness; democracy; economic opportunity; and high-quality public education, healthcare and public services for our students, their families and our communities. We are committed to advancing these principles through community engagement, organizing, collective bargaining and political activism, and especially through the work our members do.

I've heard from several AFT members that following a merger, the new buyer has skimmed on the quantity and quality of medical supplies. Other members have expressed concern that cuts to staffing following a merger have impeded their ability to deliver the care their patients deserve. These are precisely the types of outcomes that current anti-trust law aims to prevent. It is essential that we retain and build upon a robust merger enforcement regime that retains all of its tools to ensure merger activities do not harm patients.

At best, the SMARTER Act offers solutions in search of a problem: More than 95 percent of proposed mergers move forward without being challenged; and as the bill presupposes, there is no evidence to support the notion that the process employed by the Department of Justice is superior to the one used by the FTC. These facts suggest that the goal of this legislation is actually undermining consumer protections rather than preventing the abuse of administrative powers by the FTC.

I ask that you put patients in your district before the theoretical profits big businesses might reap under the SMARTER Act. I urge you to vote NO on H.R. 2745, the Standard Merger and Acquisition Reviews Through Equal Rules Act. Thank you for considering our views.

Sincerely,

A handwritten signature in black ink, appearing to read "Randi Weingarten". The signature is fluid and cursive, with a long horizontal stroke at the end.

Randi Weingarten
President

RW:sah opeiu#2 afl-cio