



POLICY & ACTION FROM CONSUMER REPORTS

March 10, 2014

Federal Trade Commission,
Office of the Secretary, Room H-113
600 Pennsylvania Avenue, NW
Washington, DC 20580

Re: Health Care Workshop, Project No. P131207

Submitted via <https://ftcpublic.commentworks.com/ftc/healthcareworkshop>

To whom it may concern:

Consumers Union, the policy and advocacy division of *Consumer Reports*, appreciates the opportunity to comment on the announcement of Public Workshop, "Examining Health Care Competition," scheduled for March 20-21, 2014.

In this letter, we respectfully ask that you include a few additional questions during the March 20-21 panels, within the proposed investigative areas.

Our overall recommendation is that the workshop include a realistic assessment of the state of competition in the current marketplace for health care. We believe that many markets currently have very low levels of health provider competition. As studies have shown, many provider markets lack price transparency and metrics for measuring quality, or there may be too few providers participating in the marketplace.^{*} Low levels of competition are further suggested by studies that show extremely wide variation in both prices and quality, and little correlation between price and quality. Further, the products and services being consumed in this market are viewed by many consumers as social goods, not commodities.[†] Unlike microwaves or TVs, these products can mean the difference between life and death, or pain and comfort. Health care products and services (such as a course of treatment) are often extremely complex, and multiple agents are involved in purchasing decisions, greatly affecting the nature of the consumers' role in this marketplace.

* The Massachusetts Attorney General used her authority to directly examine insurers' contracts with providers and found "[p]rice variations are correlated to market leverage as measured by the relative market position of the hospital or provider group. Her report concluded that the health care "market" in Massachusetts was not able contain health care costs. Further, the report found that price variations are not correlated to (1) quality of care, (2) the sickness of the population served or complexity of the services provided, (3) the extent to which a provider cares for a large portion of patients on Medicare or Medicaid, or (4) whether a provider is an academic teaching or research facility. Moreover, (5) price variations are not adequately explained by differences in hospital costs of delivering similar services at similar facilities. <http://www.mass.gov/ago/docs/healthcare/2010-hcctd-full.pdf>

[†] Roseanna Sommers et al., "Focus Groups Highlight That Many Patients Object To Clinicians' Focusing On Costs," *Health Affairs*, February 2013.

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In light of this, we suggest the Commission begin proceedings by articulating the role for competition in health care markets and establishing a realistic assessment of baseline competition in provider markets.

Regulation of Health Care Practitioners

The competitive implications of professional regulation are an important topic for the Commission's consideration. We support the Commission's adoption of a consumer perspective when examining these methods of professional regulation.

We ask that the Commission consider the impact of the various forms of professional regulation not only on competition in general, but also more particularly on consumers' ability to play an active role in the market. When panel discussion turns to assessing the role of these regulations in "protecting consumers," this phrase should be defined broadly to include not only patient safety but also the ability of patients to shop for providers, treatments and services in an informed manner.

Advancements in Health Care Technology

We recommend the commission to take into consideration the role of competition in promoting greater patient privacy protections during this panel.

Developments in Measuring And Assessing Health Care Quality

Each panel is asked to take into account the affect of the regulation or market development on "quality." We recommend the quality panel go first, in order to establish those areas where the ability to measure quality has not kept up with the needs of consumers and regulators. Reliable, trusted, usable quality information is essential for competitive markets and for consumers to shop with confidence in the health care marketplace.

Making Price Information for Health Care Services More Transparent

Health care costs and prices are almost completely opaque in today's health care marketplace. In addition to the questions posed by the Commission, we recommend considering:

- The difference between price and cost. As demonstrated by Stephen Brill and others, lack of meaningful competition, opacity with respect to price and cost and other factors can lead to prices being far above the cost of providing the service or manufacturing the medical product.[‡]

[‡] In his March 4, 2013 *Time* magazine article, "Bitter Pill: Why Medical Bills Are Killing Us," Steven Brill speculates that a dose of a drug called Flebogamma for which a patient is charged \$2,135 costs the hospital \$1,500 to buy from the producer and costs the producer just \$300 to "collect, process, test and ship."

- How price transparency might help regulators seeking to monitor and understand rising health care costs, particularly when combined with quality information, bearing in mind the need to guard against price collusion that may result from increased price transparency.

At a later date, we look forward to providing additional comments on the questions posed by the FTC in connection with this important investigation.

Sincerely,



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