

Express-Scripts: The FTC Decision

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Introduction

In April 2012, the Federal Trade Commission (“FTC”) announced that it had closed its eight-month investigation of the \$29 billion acquisition by Express Scripts, Inc. (“Express Scripts”) of Medco Health Solutions (“Medco”) without imposing any limitations on the parties. This merger combined two of the three largest domestic Pharmacy Benefit Managers (“PBM”). PBMs manage prescription drug plans for employers and insurers and serve as the middlemen between the drug companies and the payors. The merger was heavily politicized, with many groups opining on the benefits and costs of the acquisition. Provided below is an analysis and discussion of the FTC’s decision to not challenge the merger.