

United States Senate

WASHINGTON, DC 20510

March 27, 2023

The Honorable Lina Khan
Chair
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Dear Chair Khan:

I write to request that the Federal Trade Commission (FTC) investigate AmerisourceBergen for potential violations of the FTC Act, including potentially engaging in unfair methods of competition; unfair or deceptive acts or practices; and restraint of trade through contract, combination or conspiracy.

Public reports indicate that AmerisourceBergen—the sole wholesale distributor of the brand name version of Mifepristone to retail pharmacies—may be planning to exercise its monopolistic power in certain States to refuse to sell brand name Mifepristone to retail pharmacies that receive U.S. Food and Drug Administration certification to distribute that medication, while continuing to sell brand name Mifepristone directly to healthcare providers.

While significant controversy around this alleged commercial strategy focuses on matters related to reproductive health freedom, the bottom line is that a major wholesale distributor with market dominance over a product that retail pharmacies may wish to purchase, appears to be using its monopolistic market power to conspire against doing business with an entire industry of retail pharmacies, to the advantage of another class of customers, healthcare providers.

Beyond AmerisourceBergen's potential restraint of trade through contract, combination or conspiracy against retail pharmacies, the company may also be engaging in unfair or deceptive acts or practices that threaten to restrict consumer choice, lessen competition and increase costs for patients that live in States where AmerisourceBergen plans to refuse to distribute brand name Mifepristone to retail pharmacies and only provide the medication to certain providers.

The bottom line is that based on existing information, data and evidence, one cannot dismiss the possibility that AmerisourceBergen may be using broader political disagreements and active legal debates as pretextual cover and justification for engaging in anticompetitive, unfair and deceptive practices that are primarily concerned with maximizing profit margins by reducing consumer choice and restricting trade with an entire industry of retail pharmacies.

Sincerely,

A handwritten signature in blue ink that reads "Tammy Duckworth". The signature is fluid and cursive, with the first name "Tammy" being the most prominent part.

Tammy Duckworth
United States Senator