



ISSUES

Antitrust Legislation

Updated February 2010

PIA supports current antitrust laws that prevent anti-competitive activities and provide for innovation and competition in the market.

The current system of state-based regulation of the business of insurance has consistently proven that it includes appropriate antitrust enforcement and ensures that anti-competitive activities remain illegal. Therefore, PIA:

- Supports continued enforcement of existing antitrust laws that prohibit anti-competitive activities including price-fixing and market allocation.
- Opposes any changes to or repeal of the McCarran-Ferguson Act.
- Opposes changes that would prevent innovation and competition in the market.

The McCarran-Ferguson Act of 1945 provides the states with the authority to regulate the business of insurance and enforce anti-trust laws that prohibit anti-competitive activities, such as price-fixing or market allocation.

The primary purpose of the “antitrust exemption” provided by McCarran-Ferguson is to permit insurers to share loss data after the fact. This allows small and mid-sized insurers to develop sound actuarial models and sound pricing strategies that they could not develop with their own limited policy-holder loss experiences. This is vitally important to insurance consumers because it enables these small and mid-sized insurers to offer competitively priced insurance products and to remain in business.

Without the ability to share loss data, as afforded by McCarran-Ferguson, many small and mid-sized insurers would ultimately go out of business. So while Americans are now served by over 3,000 insurance companies, which range from small companies serving clients in a single state, to larger multi-state regional companies, to the largest national companies, the end result of removing the McCarran-Ferguson antitrust exemption would actually be a marketplace dominated by a few, “too-big-to-fail”, national insurance companies.

At present, property/casualty insurers across the country are subject to a successful, comprehensive system of state-based regulation and antitrust enforcement (including health and medical malpractice insurance). States have a healthy history of regulating virtually every aspect of insurance, including licensing, market conduct, financial solvency and underwriting standards. No credible evidence exists that shows that the pricing or availability of insurance would be improved should the McCarran-Ferguson Act be repealed or modified. Changes to the McCarran-Ferguson Act would only lead to decreased innovation and competition, resulting in increased consumer costs.

Federal action to amend or repeal part of McCarran-Ferguson based on erroneous allegations of anti-competitive behavior is unnecessary. Doing so would preempt and repeal state laws that for over 60 years have established mechanisms for insurers to gather information and develop actuarially-based rates.

For additional information on this issue, please contact PIA’s federal affairs department.