CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

R. BRUCE JOSTEN
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The Honorable Charles Rangel
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

The Honorable Dave Camp
Ranking Member
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Rangel and Ranking Member Camp:

The U.S. Chamber of Commerce, the world's largest business federation representing more than three million businesses and organizations of every size, sector and region, urges Congress to pass reasonable, sound health reform legislation this year. However, the Chamber strongly opposes "America's Affordable Health Choices Act of 2009" in its current form.

While the Chamber is still reviewing the more than 1,000 pages of this legislation, many serious problems have already become evident. In its current form, this bill would greatly increase taxes on American businesses and families, do little to address the rising costs of health care, and restrict choice or force Americans to lose the health care coverage they have.

Chamber members continue to support reforming the health system. Specifically, the Chamber calls for efforts to control costs and improve quality, reforms of insurance markets, and the creation of a streamlined, simplified marketplace to purchase insurance. However, this bill fails the Chamber's simple litmus test for health reform legislation: in its current form this bill does not improve the current situation; it will largely make things worse.

The Chamber strongly opposes the bill's proposed tax increases. These provisions would devastate small businesses already struggling with a severe recession, would harm the competitiveness of U.S. companies, and would negatively impact global trade.

PROBLEMATIC TAX PROVISIONS

- **Small Business Surtax.** The Chamber strongly opposes the proposed surtax on high-income households to help pay for health reform. This tax would raise the effective income tax rate for many taxpayers, including businesses paying taxes at individual tax rates. A recent study by the Tax Foundation shows that this surtax will push the top marginal tax rate over 50 percent in 39 states. The *Wall Street Journal* notes that this surtax would hit those who create jobs especially hard because more than six of every 10 affected are small business

owners. This tax increase would be devastating to small businesses, which have led America out of the last seven recessions and create two out of every three jobs during a recovery. Accordingly, the Chamber strongly urges you to oppose the use of this surtax, which is tantamount to an attack on America's small businesses.

- **Competitiveness-Killing Taxes.** The Chamber also opposes the revenue raising provisions in this legislation which impact companies operating globally. For U.S. businesses with foreign operations, the proposed delay in the implementation of the interest allocation rules enacted by the "American Jobs Creation Act of 2004" would adversely affect U.S. competitiveness in global markets. For foreign-owned companies doing business in the United States, the provision limiting treaty benefits would raise taxes on foreign corporations that invest and create jobs in the United States, would discourage foreign investment in the United States, override long-standing tax treaties, damage U.S. relationships with major trading partners, and could prompt retaliation by foreign governments against U.S. companies operating abroad, further aggravating already jittery financial markets.

- **Legislative Interpretation of Judicial Doctrines.** The Chamber has long-opposed the codification of the judicially-developed economic substance doctrine. Codifying the economic substance doctrine would transform a long-standing doctrine in such a way that previously legitimate business transactions could be deemed abusive. Moreover, because of the vague and subjective nature of the economic substance doctrine, the provision of this bill, would, as a practical matter, be unworkable. The Chamber believes effective administration and enforcement of the tax code is a much better alternative than a legislative change.

PROBLEMATIC HEALTH PROVISIONS

- **Employer Mandate.** The bill contains a job-killing employer mandate and accompanying 8 percent payroll tax. Attempts to carve out some small businesses will not prevent the adverse economic consequences of this provision.

- **Government-Run Insurance Plan.** Because it relies on Medicare rates, the public option in this bill would drastically increase costs for everyone with private insurance. It would leverage government power to crush private competitors, and could lead to government-run health care.

- **Government Health Committee.** The bill creates an unaccountable bureaucracy to make decisions better left between patients, doctors, plan-sponsors, and insurers.

- **Extreme Rating Restrictions.** Although the Chamber supports fairness in rating, this bill eliminates any reasonable distinction between individuals in setting insurance premiums. It would also put an end to many successful wellness programs, and eliminate the existence of personal responsibility for health behaviors.

- **Benefits Package and Out-of-Pocket Costs.** A government-designed "essential benefits package" will limit flexibility and force a one-size-fits-all approach to health benefits.

Worse, out-of-pocket limits will lead to further standardization, remove aspects of personal responsibility, and further encourage over-utilization.

- **Individual "Cadillac" Requirement.** The bill requires all individuals to purchase health insurance, but does not specify that a simple, high-deductible catastrophic plan will satisfy this requirement.

- **Unworkable Small Business Credits.** The small business tax credits in the bill are not refundable and are structured such that very few small business can use them.

- **Network Interference.** The government would interfere in the creation of insurance network, judging the "adequacy" of private provider networks.

- **COBRA.** Even with the establishment of a working marketplace and subsidies, this bill leaves in place the expensive and then-unnecessary COBRA program.

- **Medicaid.** Only some children on Medicaid would be allowed into the Exchange. Public programs should move toward vouchers for use in the Exchange.

- **Comparative Effectiveness Tax.** Creates a new tax on every individual with health insurance to finance comparative effectiveness research.

CONCLUSION

While the Chamber is committed to health care reform, "America's Affordable Health Choices Act" fails to pass our simple litmus test: this legislation will not address the nation's health cost explosion, will steeply hike taxes in an already precarious economic situation, will fail to lead to more affordable, accessible, quality health coverage, and will lead us toward government-run health care. In short, it will make a bad situation worse, at great costs to the nation in jobs, taxes, and freedom.

For these reasons, unless there are significant revisions addressing the concerns above, the Chamber strongly opposes "America's Affordable Health Choices Act."

Sincerely,

R. Bruce Josten

Cc: The Members of the Committee on Ways and Means