

**From:** Pisarik, Holly  
**To:** Patel, Swati <SwatiPatel@gov.sc.gov>  
Godfrey, Rob <RobGodfrey@gov.sc.gov>  
**CC:** Adams, Chaney <ChaneyAdams@gov.sc.gov>  
**Date:** 1/11/2016 3:17:30 PM  
**Subject:** RE: DEPARTMENT OF JUSTICE AND FEDERAL TRADE COMMISSION SUPPORT REFORM OF SOUTH CAROLINA LAWS THAT CURB COMPETITION, LIMIT CONSUMER CHOICE AND STIFLE INNOVATION FOR HEALTH CARE SERVICES

---

I agree with Swati. I think that's the right message. The Joint Statement from the FTC and DOJ Antitrust Division confirms what she's been saying about CON – CON laws create barriers to entry and expansion, provide a bureaucratic process that is often used by providers to prevent or delay competitors entry into the market, limit consumer choice, and stifle innovation. Let me know if you need anything from me.

---

**From:** Patel, Swati  
**Sent:** Monday, January 11, 2016 3:03 PM  
**To:** Godfrey, Rob  
**Cc:** Adams, Chaney; Pisarik, Holly  
**Subject:** Re: DEPARTMENT OF JUSTICE AND FEDERAL TRADE COMMISSION SUPPORT REFORM OF SOUTH CAROLINA LAWS THAT CURB COMPETITION, LIMIT CONSUMER CHOICE AND STIFLE INNOVATION FOR HEALTH CARE SERVICES

I haven't read through the letter - but we should say something about how we have been saying this since first year of our administration - CON is fundamentally flawed, driven by politics, and anti-free market...which is why she supports repealing CON and hopes the Senate will take action this session.

Sorry ...just left the funeral.

Sent from my iPhone

On Jan 11, 2016, at 2:53 PM, Godfrey, Rob <RobGodfrey@gov.sc.gov> wrote:

Guidance on response?

Rob

Sent from my iPhone

On Jan 11, 2016, at 2:47 PM, Patel, Swati <SwatiPatel@gov.sc.gov> wrote:

We should definitely respond. This is helpful to us.

Sent from my iPhone

On Jan 11, 2016, at 2:40 PM, Adams, Chaney <ChaneyAdams@gov.sc.gov> wrote:

Holly is this on your radar? Do you think we should respond?

---

**From:** Kinnard, Meg [<mailto:mkinnard@ap.org>]  
**Sent:** Monday, January 11, 2016 2:36 PM  
**To:** Adams, Chaney  
**Subject:** FW: DEPARTMENT OF JUSTICE AND FEDERAL TRADE COMMISSION SUPPORT REFORM OF SOUTH CAROLINA LAWS THAT CURB COMPETITION, LIMIT CONSUMER CHOICE AND STIFLE INNOVATION FOR HEALTH CARE SERVICES

Hi Chaney, I'm writing up something very short on this before 5pm today. If you guys have any statement you'd like to send along in reply to this development, please let me know, and thank you!

MK

---

From: USDOJ-Office of Public Affairs (SMO) [<mailto:USDOJ-Office.of.Public.Affairs@usdoj.gov>]

Sent: Monday, January 11, 2016 2:02 PM

To: USDOJ-Office of Public Affairs (SMO)

Subject: DEPARTMENT OF JUSTICE AND FEDERAL TRADE COMMISSION  
SUPPORT REFORM OF SOUTH CAROLINA LAWS THAT CURB COMPETITION, LIMIT  
CONSUMER CHOICE AND STIFLE INNOVATION FOR HEALTH CARE SERVICES

Note: The letter is attached as a PDF file.

<image001.jpg><image006.png>

---

FOR IMMEDIATE RELEASE

AT

MONDAY, JANUARY 11,

2016

(202) 514-2007

[WWW.JUSTICE.](http://WWW.JUSTICE.GOV)

[GOV](http://WWW.JUSTICE.GOV)

TTY (866)

544-5309

**DEPARTMENT OF JUSTICE AND FEDERAL TRADE  
COMMISSION SUPPORT REFORM OF SOUTH CAROLINA  
LAWS  
THAT CURB COMPETITION, LIMIT CONSUMER CHOICE AND  
STIFLE INNOVATION FOR HEALTH CARE SERVICES**

***Agencies Submit Joint Statement Regarding Proposed Legislation  
Addressing the State's Certificate-of-Need Laws***

WASHINGTON – The Department of Justice's Antitrust Division and the Federal Trade Commission (FTC) have recommended that South Carolina repeal its laws regulating the building of hospitals and other health care facilities and the provision of health care services.

In response to a request by South Carolina Governor Nikki R. Haley for views on South Carolina House Bill 3250, which would narrow the application of and ultimately repeal South Carolina's certificate-of-need (CON) laws, the joint statement suggests the state consider whether its CON program best serves the needs of its citizens.

"South Carolina lawmakers have the opportunity to help health care consumers in the state," said Assistant Attorney General Bill Baer of the Antitrust Division. "CON laws raise the cost of investment in new health care services and can shield incumbents from competition that would benefit consumers and lower costs. Repeal of South Carolina's CON laws could invigorate competition in this important sector, to the benefit of patients, employers and other health care consumers."

Although CON laws vary considerably by state, these laws, including South Carolina's CON laws, typically require certain health care providers to obtain state approval before expanding, establishing new facilities or services or making certain large capital expenditures.

According to the joint statement, the Justice Department and FTC historically have urged states to consider repeal or reform of their CON laws because they can prevent the efficient functioning of health care markets and thereby harm consumers. CON laws can create barriers to entry and expansion, limit consumer choice, deny consumers the benefit of an effective remedy for antitrust violations, facilitate anticompetitive agreements, and stifle innovation.

# # #

16-032

DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE OFFICE OF PUBLIC AFFAIRS AT 202-514-2007.

<SC CON Letter to Governor Haley.pdf>