FRED UPTON, MICHIGAN
CHAIRMAN

HENRY A. WAXMAN, CALIFORNIA
RANKING MEMBER

ONE HUNDRED TWELFTH CONGRESS

Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6115

Majority (202) 225–2927
Minority (202) 225–3641

MEMORANDUM

June 8, 2012

To: Committee on Energy and Commerce Democratic Members and Staff

Fr: Committee on Energy and Commerce Democratic Staff

Re: Healthy Economy Now and Americans for Stable Quality Care

Today, Committee Republicans released another memorandum on the efforts of the White House to build support for passage of the Affordable Care Act. The Republican memorandum contains significant distortions and inaccuracies.

The Republican memorandum claims that "the White House gave away billions of dollars in policy concessions to PhRMA in exchange for millions of dollars in advertising." In fact, the final legislation required the drug companies to contribute $110 to $125 billion toward the cost of health reform, as explained in the Democratic memorandum of May 31, 2012. This contrasts starkly with the passage of the Medicare Prescription Drug, Improvement and Modernization Act in 2003 under President George W. Bush, where PhRMA obtained policy changes that shifted $100 billion in costs from drug companies to taxpayers.

Three points are important in understanding the activities of Healthy Economy Now and Americans for Stable Quality Care, which are the focus of the Republican memorandum: (1) there is widespread precedent for White House efforts to build public support for its priorities; (2) the activities of Healthy Economy Now and Americans for Stable Quality Care were widely known at the time; and (3) without the advertising support of Healthy Economy Now and Americans for Stable Quality Care, the opponents of health care reform would have significantly outspent proponents at pivotal moments in the consideration of the Affordable Care Act.

Presidential Precedent

The involvement of the White House in efforts to build support for the President's domestic priorities is amply supported by precedent. Presidents from Lyndon B. Johnson through George W. Bush have coordinated closely with outside groups to advance legislation through Congress.

The Johnson Administration worked with a host of interest groups, including labor groups and a coalition called the National Council of Senior Citizens, in its effort to enact Medicare.[1] According to Larry O'Brien, President Johnson's Special Assistant to the President for Congressional Relations and Personnel, these interest groups were part of a "team effort" led by the White House.[2] Mr. O'Brien has described this "team effort" as the archetype of a successful legislative campaign:

> This was always our attempt. How can you bring in the private sector, and what's available out there in any organized manner to complement the administration's effort? Then you're maximizing the effort, too, by assignment of members for lobbying purposes and joint head counts you conduct. We could be approaching a senator, and labor and senior citizens has certain assignments, and they might be going to the same senator. . . .
>
> It was a coordinated effort. . . .
>
> So when you add it all up—the Congress, the leadership, the committee, the White House, the administration, the department primarily responsible, the private sector elements—if you've done it in a well-organized way, that's the best you can do and the best assurance you have of success. And this is a good example of how it works.[3]

In 2001, the Bush White House worked closely with the Tax Relief Coalition, a group of large and small business associations, to build support for the President's tax cuts. High-level White House officials, including Senior Advisor and Deputy Chief of Staff Karl Rove, began planning strategy early in the Administration with business groups in the coalition. White House officials coordinated with the U.S. Chamber of Commerce, the National Federation of Independent Business, and the National Association of Manufacturers to generate phone calls, e-mails, internet pop-up advertisements facilitating contacts to Congress, sample letters to Congress, newspaper editorials, and radio and television advertisements in support of the President's tax cut agenda.[4]

Four years later, President Bush assembled a similar coalition to support his 2005 efforts to privatize Social Security. In this instance:

> The White House worked closely in conjunction with corporate lobbyists, public advocacy groups, selected senior groups, and unions to form the Coalition for the Protection and Modernization of America's Social Security, which organized

---

[1] Transcript, Lawrence O'Brien Interview XI (July 24, 1986), by Michael L. Gillette, Internet Copy, LBJ Library, at 26-27.

[2] *Id*. at 27.

[3] *Id.*

[4] Joseph A. Pika, *The White House Office of Public Liaison*, Presidential Studies Quarterly (Sept. 2009).

> support groups in 32 states. The effort included media advertising, town hall meetings, phone calls, and information booths, with the most efforts focused on the members of congressional tax-writing committees. Rove was the White House mastermind of the overall effort, which leaned heavily for funding on administration allies in the business community, particularly the National Association of Manufacturers, financial and securities trade associations, Progress for America, and the Club for Growth, which were collectively expected to contribute millions to the administration effort.[5]

On May 9, 2012, the Committee staff interviewed Bryant Hall, the top PhRMA lobbyist in 2009 and 2010. He told the Committee that PhRMA was involved in a nearly identical effort with the Bush Administration during the passage of the 2003 Medicare Part D drug law.[6] In that case, PhRMA worked closely with the Bush Administration to build public support for the new drug benefit, including through advertising. In fact, PhRMA was the key funder of "Citizens for a Better Medicare," an allied organization that spent heavily on advertising in support of the Part D drug benefit.[7] As part of the negotiations in 2003, PhRMA obtained two concessions that increased taxpayer costs: a ban on the Medicare program directly negotiating for discounts and a shift of the drug benefit for low-income seniors from Medicaid to Medicare. According to the Department of Health and Human Services, the shift of drug coverage for dual-eligible beneficiaries from Medicaid to Medicare will cost taxpayers $100 billion over the next ten years.[8]

Contemporaneous Coverage

The premise of the Republican memorandum is that the activities of Healthy Economy Now and Americans for Stable Quality Care were not well understood. In fact, their activities were widely known and reported on during consideration of the health care legislation.

Even before the official formation of the organization, reports indicated that many of its key members were working together to advertise in support of health care reform. In January 2009, PhRMA, the American Medical Association, the Service Employees International Union (SEIU), the American Cancer Society Cancer Action Network, Regence BlueCross BlueShield, and Families USA created and aired an advertisement "juxtapos[ing] imagery of factory workers with the voiceover: 'At a time when American businesses are hurting, why should we worry about fixing healthcare? Because quality, affordable healthcare can save money and make

---

[5] *Id.*

[6] House Energy and Commerce Committee, *Interview of Bryant Hall, Vice President, Federal Affairs, Pharmaceutical Research and Manufacturers of America* (May 9, 2012).

[7] *See, e.g.*, *Drugmakers launch campaign on Medicare*, Washington Post (July 28, 1999).

[8] Department of Health and Human Services, *Fiscal Year 2013: Budget in Brief*, at 52 (Feb. 2012).

businesses more competitive.'"[9] According to this report, the advertisement was "aimed in part at demonstrating unanimity among groups with often divergent interests in healthcare policy."[10]

In May 2009, after Healthy Economy Now was formed, an article in the Washington Times listed the members of the coalition and the fact they were running advertising in support of health care reform.[11] Another article in May 2009 explained that Healthy Economy Now was airing pro-reform advertisements in Ohio, Indiana, and Maine.[12]

A Washington Post article in June 2009 described Healthy Economy Now, its members, the content of a new advertisement, the areas the ad would run, and the estimated amount of money the coalition spent.[13] Other articles describing the activities of Healthy Economy Now and Americans for Stable Quality Care ran in July and August 2009.[14]

PhRMA officials publicly explained the decision to hire AKPD by noting that "there are very gifted consultants who have done very good work. … [A]t the end of the day, the coalition partners determine the message."[15] PhRMA officials also noted that although they were "very involved in reviewing ad copy and determining targeted districts and states," they were not involved in the decision to hire AKPD.[16]

Comparison of Pro- and Anti-Reform Spending

The record before the Committee shows that PhRMA made the largest donations to Healthy Economy Now and Americans for Stable Quality Care, contributing $10.2 million to Healthy Economy Now and $59.5 million Americans for Stable Quality Care.[17] The other organizations for which the Committee has contribution information gave to Healthy Economy Now. The

---

[9] *PhRMA, AMA ads tie healthcare access to economy,* Medical Marketing & Media (Jan. 8, 2009) (online at http://www.mmm-online.com/phrma-ama-ads-tie-healthcare-access-to-economy/article/123716/).

[10] *Id.*

[11] *Liberal attack ads push medical reform; Turn up heat as Congress debates to overhaul plans,* The Washington Times (May 19, 2009).

[12] *Healthcare Reform Battle Takes to the Airwaves,* Congress Daily (May 27, 2009).

[13] *The Fix: Coalition of Outside Groups Drops $2 Million on Health Care Ads,* Washington Post (June 11, 2009) (online at voices.washingtonpost.com/thefix/democratic-party/pro-healthcare-group-launches.html).

[14] *See e.g., Blue Dogs Targeted in Pro-Reform Ads,* Roll Call (July 14, 2009); *Industry Struggles to Get Its Message Out; Tumult at Town Halls Adds to the Confusion,* Roll Call (Sept. 8, 2009).

[15] *Firms with Obama ties profit from health push*, Associated Press (Aug. 19, 2009).

[16] *David Axelrod's ties targeted in health fight*, Politico (Aug. 19, 2009).

[17] E-mail from Counsel for Pharmaceutical Research and Manufacturers of America to Majority Staff, House Energy and Commerce Committee (Apr. 26, 2012).

Blue Cross Blue Shield Association donated $250,000. SEIU and the Advanced Medical Technology Association each donated $100,000. AARP gave $50,000; the Federation of American Hospitals donated $35,000; the American Medical Association $25,000; and the Business Roundtable $25,000.

Ranking Member Waxman asked the Committee to gather similar information about contributions to entities advertising against health reform, but the Committee has to date refused to do so. As a result, the Committee does not have an accounting of how much was spent by opponents of health reform. News and independent reports reveal that this spending was significant, however.

In 2009, the U.S. Chamber of Commerce alone spent $144 million on lobbying against the passage of health reform.[18] One donor, America's Health Insurance Plans, gave the Chamber $86.2 million to pay for advertisements and grassroots events to oppose the enactment of the Affordable Care Act.[19]

In one month for which data is available, October 2009, opponents of health reform outspent proponents by more than two to one, spending $23 million on advertisements opposing health reform compared to $11 million by supporters.[20] As the House considered the Senate bill in March 2010, news articles disclosed that anti-health reform advocates had spent $5.5 million on television ads in the prior 30 days in contrast to the spending of reform supporters who spent only $200,000 in the same period.[21] The Campaign Media Analysis Group, a company that analyzes advertising expenditure data, showed that immediately before final passage of the law, groups opposing health care reform spent approximately $750,000 per day on advertising while supporters only spent a few thousand dollars.[22]

Because of the one-sided focus of the Committee's investigation, the record before the Committee on spending against health reform is limited. But the available evidence indicates that without the efforts of Healthy Economy Now and Americans for Stable Quality Care, the spending on advertisements would have been dominated by the opponents of health reform. Healthy Economy Now and Americans for Stable Quality Care helped ensure balance on the public airwaves.

---

[18] *Pro or Con, Lobbying Thrived,* New York Times (Jan. 30, 2009).

[19] *Insurers Gave U.S. Chamber $86 Million Used to Oppose Obama's Health Law*, Bloomberg (Nov. 17, 2009).

[20] *$600 million spent to influence health care debate,* CNN Money (Nov. 18, 2009).

[21] Talking Points Memo, *Health Care Foes Dramatically Outspend Pro-Reform Groups in TV Ad Wars* (Mar. 17, 2010) (online at tpmdc.talkingpointsmemo.com/2010/03/health-care-ad-wars-heat-up-video.php).

[22] *Undecided Democrats Caught in Crossfire of Health Reform Ads*, PBS News (Mar. 17, 2010) (online at www.pbs.org/newshour/rundown/2010/03/undecided-democrats-are-in-the-health-reform-ad-crossfire.html).