



# News

Contacts:

Phil Oliva  
IMS Health  
(203) 845-5345  
[poliva@imshealth.com](mailto:poliva@imshealth.com)

Tracy Everly  
SDI  
(267) 685-4387  
[teverly@sdihealth.com](mailto:teverly@sdihealth.com)

## **IMS, SDI Seek U.S. Supreme Court Review in Critical First Amendment Case**

**Washington D.C., March 27, 2009** – IMS Health (NYSE: RX) and SDI today filed a joint petition for a writ of certiorari with the U.S. Supreme Court in the case of *IMS Health vs. Ayotte*, the U.S. Court of Appeals First Circuit ruling that upheld a New Hampshire law restricting the commercial use of prescriber-identifiable data.

The decision reversed a U.S. District Court decision that had previously ruled that such restrictions were in violation of the First Amendment's protection of commercial speech. The appellate court, instead, found that the First Amendment afforded no such protection to the gathering, analysis or publication of data for commercial purposes, and that restriction of such data

was not an abridgment of free speech. A writ of certiorari asks the Supreme Court to review the lower court's opinion.

"The Court of Appeals violated basic constitutional principles when it allowed the government to adopt barriers to truthful discussions about important medical questions," said Robert H. Steinfeld, IMS senior vice president and general counsel. "This decision jeopardizes both speech and commerce, including market research, data collection and dissemination, financial analysis, consumer studies, credit verification, and important publishing activities. Recognizing that the Court of Appeals' decision is in conflict with rulings of other courts, we are hopeful that the Justices will bring much needed clarity to these important issues."

The petition that IMS and SDI are now filing explains that the Court of Appeals' decision represents a threat to the most basic constitutional right of free speech. The legal principles established by the Court of Appeals create a serious barrier to transfers of information – the core of the nation's emerging knowledge-based economy.

"Our constitutional principles recognize that commerce and speech are inextricably linked. The sale of data in this case should have been entitled to the full measure of constitutional protection that shelters the distribution of truthful information," said Rodney Smolla, Dean of the Washington and Lee University Law School and a First Amendment scholar. "These companies service the free flow of information by gathering and synthesizing data and then selling that data to those who find it valuable. Vast arenas of our

economy and culture are built around such sales. We should not choke off these useful enterprises.”

The petition was submitted to the U.S. Supreme Court today and is available at [www.imshealth.com/scpetition](http://www.imshealth.com/scpetition). Amicus briefs will be filed 30 days later. The Court is expected to decide whether to take the case before its summer recess in July.

More information on this case is available at: [www.imsfreespeech.org](http://www.imsfreespeech.org).

In addition to New Hampshire, two other states, Maine and Vermont, have passed similar laws that restrict the use of prescriber-identifiable data. The U.S. District Court in Maine has enjoined the enforcement of the Maine data restriction law holding that it was unconstitutional. In Vermont, a lawsuit challenging that state’s data restriction law was heard in U.S. District Court in Brattleboro Vermont from July 28 - August 1, 2008. A decision is pending.

## **About IMS**

Operating in more than 100 countries, IMS Health is the world’s leading provider of market intelligence to the pharmaceutical and healthcare industries. With \$2.3 billion in 2008 revenue and more than 50 years of industry experience, IMS offers leading-edge market intelligence products and services that are integral to clients’ day-to-day operations, including product and portfolio management capabilities; commercial effectiveness innovations; managed care and consumer health offerings; and consulting and services solutions that improve productivity and the delivery of quality

healthcare worldwide. Additional information is available at:

[www.imshealth.com](http://www.imshealth.com).

### **About SDI**

On July 29<sup>th</sup>, 2008 Verispan, LLC was acquired by SDI. Since 1982, SDI has been delivering innovative healthcare data products and analytic services to the pharmaceutical, biotech, healthcare, medical device, financial services, and consumer packaged goods industries. SDI is the leading provider of de-identified patient-level data analytics and offers a broad array of solutions and insights across the continuum of care. These include custom and syndicated patient-level data studies; localized disease and treatment surveillance and projection; market research audits; healthcare profiles; comprehensive managed care offerings; clinical trial optimization; direct-to-patient pharmacy programs; marketing effectiveness; sales targeting and compensation products; data integration, warehousing, and mining; list services; and direct marketing services. Its current roster includes the top 50 pharmaceutical/biotech companies. For more information, visit [www.sdihealth.com](http://www.sdihealth.com) or call 610.834.0800.