

SUMMARY OF THE ARGUMENT

The Act violates the free exercise rights of people of faith, such as *Amici*, by forcing them to pay for the abortions of others. Because the Act is not a neutral, generally applicable law, it must survive strict scrutiny. This it cannot do because Congress did not and cannot explain why it allowed exemptions for those who have religious objections to insurance *per se*, but not for those who have religious objections to abortion. Similarly, Congress did not and cannot explain why it allowed exemptions for some religious persons but not others. A related constitutional infirmity is the Act's lack of an adequate conscience protection provision for religious health care providers.

ARGUMENT

I. The Act Unconstitutionally Infringes upon the Free Exercise Rights of Those Who Oppose Abortion.

In their Brief on the Individual Mandate, the Private Respondents employ an apt analogy to explain why the mandate is unconstitutional:

[W]hile the “substantial effects” doctrine allows Congress to regulate local bootleggers because of their aggregate harm to the interstate liquor market, it may not conscript teetotalers merely because conditions in the liquor market would be improved if more people imbibed. Yet the uninsured regulated by the mandate are the teetotalers, not the bootleggers, of the health-insurance market.

(Br. Private Resp't 30.)

This analogy applies with particular force to the objections of *Amici*. Just as many teetotalers object to the consumption of alcohol on deeply-held religious grounds, so the *Amici*—and millions of other Americans—object to funding abortion on deeply-held religious grounds.

People of faith will often be at special risk when government seeks to compel action. Any time the compelled action conflicts with deeply-held religious beliefs, the free exercise rights of those holding such beliefs will be trampled.