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6 SAFEGUARDING AMERICAN CONSUMERS:

7 FIGHTING FRAUD AND SCAMS DURING THE PANDEMIC

8 THURSDAY, FEBRUARY 4, 2021

9 House of Representatives,

10 Subcommittee on Consumer Protection and Commerce,

11 Committee on Energy and Commerce,

12 Washington, D.C.

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16 The subcommittee met, pursuant to call, at 12:00 p.m.
17 via Webex, Hon. Jan Schakowsky, [chairwoman of the
18 subcommittee] presiding.

19 Present: Representatives Schakowsky, Rush, Castor,
20 Trahan, McNerney, Clarke, Cardenas, Dingell, Kelly, Soto,
21 Rice, Craig, Fletcher, Pallone (ex officio); Bilirakis,
22 Upton, Latta, Guthrie, Bucshon, Dunn, Pence, Lesko,
23 Armstrong, and Rodgers (ex officio).

24 Also present: Representatives Blunt Rochester; and
25 Carter.

26

27

28 Staff Present: Jeff Carroll, Staff Director; Lisa
29 Goldman, Senior Counsel; Waverly Gordon, General Counsel;
30 Tiffany Guarascio, Deputy Staff Director; Perry Hamilton,
31 Deputy Chief Clerk; Alex Hoehn-Saric, Chief Counsel, CPC; Ed
32 Kaczmariski, Policy Analyst; Zach Kahan, Deputy Director
33 Outreach and Member Service; Mackenzie Kuhl, Press Assistant;
34 Kaitlyn Peel, Digital Director; Tim Robinson, Chief Counsel;
35 Chloe Rodriguez, Deputy Chief Clerk; Sydney Terry, Policy
36 Coordinator; Anna Yu, Professional Staff Member; Sarah Burke,
37 Minority Deputy Staff Director; William Clutterbuck, Minority
38 Staff Assistant; Theresa Gambo, Minority Financial and Office
39 Administrator; Nate Hodson, Minority Staff Director; Peter
40 Kielty, Minority General Counsel; Emily King, Minority Member
41 Services Director; Bijan Koohmaraie, Minority Chief Counsel;
42 Tim Kurth, Minority Chief Counsel, CPC; Brannon Rains,
43 Minority Policy Analyst, CPC, Energy, Environment; Michael
44 Taggart, Minority Policy Director; and Everett Winnick,
45 Minority Director of Information Technology.

46

47 *Ms. Schakowsky. Good afternoon, everyone. Welcome to
48 the Subcommittee on Commerce -- on Consumer Protection and
49 Commerce, and it will now come to order.

50 Today I will be holding a hearing entitled,
51 "Safeguarding America -- American Consumers: Fighting Scams
52 and Fraud During the Pandemic.'" And due to COVID-19 public
53 health emergency, today's hearing will be conducted entirely
54 remotely. All members and witnesses will be participating
55 via video conference.

56 As part of our hearing, microphones will be set on mute
57 for the purpose of eliminating inadvertent background noise.
58 Members and witnesses will need to unmute your microphones
59 each time that you wish to speak. I will try and remind you.

60 Additionally, members will need to be visible on screen
61 in order to be recognized.

62 Documents for the record can be sent to Ed Kaczmariski --
63 at -- Kaczmariski, sorry -- and -- at the email address that
64 we have provided to staff. All documents will be entered
65 into the record at the conclusion of the hearing.

66 Before I recognize myself for an opening statement, I
67 want to take a point of personal privilege, and recognize
68 some of the -- all of the new members to our subcommittee.
69 And I -- first let me just recognize the Democrats.

70 We have Kathleen Rice from New York; Angie Craig from
71 Minnesota; Lizzie Fletcher from Texas; and Lori Trahan from

72 Massachusetts. So welcome to the Democratic new members.

73 I will mention the new members also on the Republican
74 side, and afterwards I am going to welcome the new ranking
75 member, Gus Bilirakis from Florida, who has been on this
76 committee, but not on the subcommittee before. And I am so
77 happy to have him. But let me just mention the GOP numbers.

78 We have Neal Dunn from Florida; Debbie Lesko from
79 Arizona; Greg Pence from Indiana; and Kelly Armstrong from
80 North Dakota.

81 Welcome all. We are so -- I am so happy. I hope you
82 are now, to be on this important subcommittee.

83 So I am going to see if Congressman Bilirakis, our
84 ranking member, has some words to say. Let me turn it over
85 to you.

86 Oh, let me first just say we do have new staff -- I
87 really messed up his name once -- Ed Kaczmariski.

88 And I also just wanted to mention that we have a new
89 acting chair of the Federal Trade Commission. She has been
90 on the Commission before, but -- Rebecca Kelly Slaughter.

91 So, Gus, Representative and Ranking Member Bilirakis?

92 *Mr. Bilirakis. Yes, Chairman.

93 *Ms. Schakowsky. Go ahead.

94 *Mr. Bilirakis. Yes, thank you very much. I appreciate
95 it. And I look forward to working with you for our
96 constituents and, well, the whole country. And this is a

97 wonderful, wonderful committee, the best committee in
98 Congress. And I am really looking forward to it.

99 I do have a prepared statement, but I am really looking
100 forward to working also with the Republican leader, Cathy
101 McMorris Rodgers, my great friend.

102 So, again, you recognized the new members. I think we
103 have an all-star team here. These new -- Dr. Dunn from
104 Florida and, of course, Mr. Pence, who we just spoke with,
105 has some great ideas from Indiana. And then Ms. Lesko, I
106 admire her so much, she does a great job for the team, and
107 for her district as well, from Arizona. And then Mr.
108 Armstrong from North Dakota. So -- and again, all the
109 Democratic -- the new members on the Democratic side, as
110 well. We are going to work and get things done for the
111 American people.

112 So with that, I will yield back, Madam Chair.

113 *Ms. Schakowsky. Thank you. I just wanted to say I am
114 excited about Representative Bilirakis. He was voted in
115 Florida the most effective Member of Congress because of all
116 the bills that he actually got passed into law. So I am
117 looking forward to seeing that kind of performance in a
118 bipartisan way here, also, in the committee.

119 So at this point I will recognize myself for an opening
120 statement of 5 minutes.

121 So, again, good morning and welcome to our hearing on

122 the Federal Trade Commission and its response to COVID-19.

123 The Federal Trade Commission was established in 1914,
124 through an Act of Congress, and is inextricably linked to our
125 committee, and particularly to the work of our subcommittee.

126 And of course, you know that the Energy and Commerce
127 Committee is the oldest standing committee in Congress,
128 originally stood up to regulate interstate and international
129 commerce. And like this committee, the Federal Trade
130 Commission was tasked with regulation -- regulating
131 interstate commerce. It is the only agency with jurisdiction
132 over both consumer protection and competition issues.

133 Many critics, myself included, frankly, would argue that
134 the Federal Trade Commission has not lived up to its
135 potential over the last, well, 40 years. But yesterday the
136 FTC announced a remarkable settlement with Amazon over the --
137 its systemic stealing of delivery drivers' tips. Imagine.

138 This is an example of the sort of announcement I had
139 hoped that the new acting chairwoman would make, a sign that
140 the Federal Trade Commission would be taking on big cases
141 that serve as a true deterrent to illegal conduct by those
142 who might prey on American consumers.

143 But we must recognize that this settlement would not
144 have been possible without the threat of the Federal Trade
145 Commission using its section 13(b) authority. I will
146 explain.

147 Under 13(b), the Federal Trade Commission can require
148 defrauders to provide restitution, money, to individuals who
149 have been defrauded. Unfortunately, this authority is under
150 assault right now at the Supreme Court, and the FTC may find
151 itself deprived of a critical tool.

152 Additionally, companies that defraud consumers make it
153 hard on honest businesses to be able to conduct their
154 business and to gain the trust of consumers. So I would hope
155 that organizations like the Chamber of Commerce would
156 recognize that rooting out bad actors and returning stolen
157 funds to consumers is important for them and for everyone.

158 Luckily, the Federal Trade Commission, in a bipartisan
159 way, has reaffirmed the authority of section 13(b). So all
160 the commissioners are on board, but it should be -- we should
161 all be on board.

162 Specifically, the COVID -- specific to COVID-19, the
163 Federal Trade Commission has been very aggressive in
164 investigating fraud that originates online. The agency has
165 sent hundreds of takedown letters, but has not really gone
166 after the major cause of the problem, which is negligence by
167 platforms.

168 These platforms are not unwitting co-conspirators, but
169 rather partners in profit. Platforms must demonstrate real
170 efforts toward keeping scammers off their sites, especially
171 now, of course, with consumers relying more on the Internet

172 for their shopping.

173 I would like to see the subcommittee pass what we --
174 what I have called the Informed Consumer Act, which would
175 require online platforms to verify their -- the identity of
176 their third-party sellers. This would go a long way toward
177 protecting Americans. And I hope that this Congress -- this
178 subcommittee can pursue a 21st century consumer rights
179 agenda, a -- in a bipartisan way, and make sure that consumer
180 rights that exist in the physical world also extend to the
181 online world.

182 I am looking forward to the direction that the FTC
183 acting chair will take, and protect -- in protecting
184 consumers, and using all the tools included, including the
185 franchise rule, the funeral home rule, and pursue more when
186 it comes to unfair practices, unfair cases.

187 [The prepared statement of Ms. Schakowsky follows:]

188

189 *****COMMITTEE INSERT*****

190

191 *Ms. Schakowsky. So I want to thank the witnesses who
192 are here for joining us today. I now will recognize Mr.
193 Bilirakis for 5 minutes.

194 *Mr. Bilirakis. Thank you, Madam Chair. And again, I
195 want to thank all the members of the committee. Welcome to
196 the Consumer Protection and Commerce Subcommittee hearing of
197 the 117th Congress.

198 I would like to congratulate again you, Madam Chair, for
199 another term leading this great subcommittee, where we
200 promise innovation, champion emerging technologies, and
201 protecting consumers. And I am greatly looking forward to
202 working with you.

203 And I want to thank also the Republican leader for
204 giving me -- the E&C leader, for giving me the opportunity to
205 serve on the committee. I appreciate it so much. And to
206 chair -- I mean, excuse me, to be the ranking member, or the
207 lead Republican on the CPC. So I -- again, I want to thank
208 Ms. Rodgers for giving me the opportunity to lead as a
209 Republican, and congratulate her on leading the committee on
210 the Republican side, and I also look forward to working with
211 the full committee chair, who is a good friend of mine, as
212 well, Mr. Pallone.

213 I know Cathy is going to do a great job as our leader to
214 help the American people, as well.

215 Today we will explore steps we can take to advance our

216 fight against fraud and scams, which is so important to --
217 again, especially during this pandemic. Millions are forced
218 to isolate or remain in their homes, and bad actors continue
219 to exploit consumers' fears, their fear and confusion, some
220 promising fake reservations for the coronavirus vaccines --
221 again, fake is the word that I want to use -- stimulus
222 checks, fake loans for small businesses struggling to stay
223 afloat, and, of course, we want to discuss the Super Bowl
224 tickets. And we are hoping -- I am hoping that my Tampa Bay
225 Buccaneers will prevail on Sunday.

226 Just earlier this year, in my district in Pasco County
227 -- I represent Pasco, which is the Tampa Bay area, as well as
228 Pinellas and Hillsborough Counties -- the health departments
229 discovered use of a fake Eventbrite website being used to
230 charge money for registrations for the COVID vaccine.
231 Inexcusable. This fake website was a complete scam, where,
232 as we know, vaccine registration is completely free.

233 We must continue to protect consumers from falling
234 victim to scams. And it is not only -- it not only cripples
235 individuals financially, but can also cause serious mental
236 health issues and lead to suicide, again, particularly during
237 this pandemic.

238 We made great progress on this subcommittee last year.
239 We enacted H.R. 6435, the Combating Pandemic Scams Act, led
240 by Representative Carter, along with Representatives Hudson,

241 Kuster, and Rochester. With the efforts of our friends at
242 the FTC, this law will focus the tools, give us the tools and
243 resources on vulnerable communities to better educate and
244 protect them from scams.

245 Unfortunately, scammers are continuing to find new ways
246 to exploit vulnerable Americans during COVID-19. With people
247 remaining locked in their homes, many had online for social
248 interaction, particularly our seniors. The bad guys know
249 this, and take advantage of it. And the FTC has already
250 found that people are increasingly falling victim,
251 unfortunately, to scams through social media platforms. This
252 must stop.

253 In just the first 6 months of 2020, scams originating
254 from social media tripled, resulting in 117 million in
255 losses. With more consumers tuning in to these platforms,
256 scammers create fake profiles offering connection,
257 friendship, or economic relief, only to steal information and
258 hard-earned dollars. These scams will often come by way of a
259 friend, a friend request, and direct messages or
260 advertisements.

261 As the FTC continues to publish helpful information on
262 best practices, I urge big tech platforms -- I urge them to
263 -- that they should help your users remain vigilant against
264 scams and fraud.

265 Bad actors will resort to any means to steal money and

266 information. We know that. They will create fake profiles,
267 calls from new phone numbers, and even try to mask their
268 identity as a friend or family member.

269 The best preventative measure is education, as you all
270 know, and entities across the country working in unison to
271 share educational materials. And we must have a duty to
272 share these materials with our constituents. If consumers
273 know what to look for, they will be better equipped to avoid
274 these scams.

275 I commend the FTC for their tireless work fighting on
276 behalf of consumers. However, they cannot do it alone.
277 There must be greater collaboration -- I am over my time,
278 Madam Chair. I am just -- can I ask for another 20 seconds?

279 [No response.]

280 *Mr. Bilirakis. If not, that is okay. We will discuss
281 these issues during the meeting, and I apologize for going
282 over my time.

283 And I will yield back --

284 *Ms. Schakowsky. No, go ahead, go ahead, finish.

285 *Mr. Bilirakis. Is that okay? All right, I am very --
286 I will be finished.

287 There must be greater collaboration and cooperation with
288 state and local law enforcement, as you know, collaboration
289 and cooperation for merchants, and platforms, and communities
290 to better educate consumers on best practices to avoid

291 falling for scams, and to increase efforts to hold bad actors
292 accountable.

293 I want to thank all of our witnesses for being here
294 today, and I look forward to learning how to better
295 strengthen protections for Americans from scams and frauds.
296 And this is a great way to lead, Madam Chair. Thanks for
297 having the agenda and this particular meeting. It is so
298 important. Thank you.

299 [The prepared statement of Mr. Bilirakis follows:]

300

301 *****COMMITTEE INSERT*****

302

303 *Mr. Bilirakis. And again, I will yield back.

304 *Ms. Schakowsky. When I listen to you I can see that we
305 are really on the same page on so many things.

306 And now the gentleman yielded back, and I now recognize
307 the chairman of the full committee, Mr. Pallone, for 5
308 minutes.

309 *The Chairman. Thank you, Chairwoman Schakowsky. And
310 it is good to see our new ranking member, Gus Bilirakis, as
311 well. Good to see you both.

312 I wanted to -- let me just say my concern, of course, we
313 have a situation now where we have safe and effective
314 vaccines, and we are trying to push them out. But while
315 these vaccines provide real hope, there is new variants of
316 the coronavirus, you know, that are now spreading, that are
317 highly transmissible. And for consumers, these new strains
318 are causing a renewed panic -- I am sure you are hearing
319 about this from your constituents -- and another scramble for
320 personal protective equipment, intense demand for vaccine
321 appointments.

322 But for scammers and fraudsters, this is exactly the
323 kind of fear and desperation that they seize and thrive on.
324 So that is why I think that this hearing is so important, not
325 only to deal with the scams and frauds that we have seen in
326 the last 10 months, but now, you know, even more opportunity
327 for scams and frauds because of the fear that a lot of people

328 have with these new variants.

329 And overall, the pandemic has just upended American
330 life, pushing so many aspects of consumer laws to the online
331 realm. And you get all these fly-by-night businesses that
332 are just a click away, and fraudsters that can assume
333 different identities. And there is con artists that really
334 pose threats to consumers' health, safety, and financial
335 well-being.

336 And these sellers, these unscrupulous sellers on the
337 Internet, are sophisticated. They flood fees to drive
338 traffic to their suspect goods. They include counterfeit and
339 substandard personal protective equipment, sham testing kits,
340 bogus cures. But the products they are selling can endanger
341 the health, and their online stores may just be a front to
342 scam consumers. And the number of reports about scams
343 originating on social media has more than tripled in the past
344 year.

345 And these scams, Madam Chair, have been particularly
346 harmful to older Americans and senior citizens. I know you
347 have been involved with the Senior Task Force for so many
348 years, Jan.

349 And this isolation -- you know, a lot of these people
350 are isolated now, these seniors, and that has left them
351 particularly vulnerable to fraudsters. For example, online
352 puppy scams and romance scams have risen precipitously during

353 the pandemic.

354 And some of the worst fraudsters are the identity
355 thieves stealing stimulus checks and unemployment benefits
356 from those already struggling to pay their bills. To make
357 matters worse, these people are often targeted for fake
358 employment scams, deceptive income schemes, and unwise
359 investment solicitations.

360 So I wanted to applaud both the chairwoman and
361 Congressman Bucshon for their bipartisan work in giving the
362 Federal Trade Commission new authority to seek civil
363 penalties for COVID-19 scams. That was in the 2021 omnibus
364 end-of-the-year package. And that provision empowers the FTC
365 to dole out real consequences to bad actors. They reported
366 losing more than 300 million -- you know, consumers have lost
367 more than 300 million in just pandemic-related fraud.

368 Now, one of the concerns that I have, though, is that
369 the FTC's ability to make victims whole is under threat in
370 the Supreme Court. And it is -- that is why it is critical
371 that the FTC step up its efforts to protect consumers. I
372 know that Tony Cardenas has a bill to deal with this power of
373 restitution that we feel is under threat, and he is going to
374 talk about that.

375 But the former FTC chairman, Joseph Simons, I think,
376 insulated some of the worse that came out, some of these
377 scams, because of -- and was very critical sometimes of the

378 Trump Administration. But the agency really needs to show
379 its teeth now. And because -- since the beginning of the
380 pandemic the FTC has issued numerous warning letters, but
381 warning letters are nothing, they are really just a slap on
382 the wrist.

383 [The prepared statement of The Chairman follows:]

384

385 *****COMMITTEE INSERT*****

386

387 *The Chairman. So I want to hear from the panel. But
388 before that I would like to yield the time remaining to Tony
389 Cardenas, who -- I know he has some important legislation
390 that I mentioned.

391 *Mr. Cardenas. Thank you, Mr. Chairman. The Federal
392 Trade Commission is the country's premier consumer protection
393 agency, and respected internationally, and is the leader in
394 consumer protection. For example, just in the last 5 years
395 alone, they returned \$11 billion in refunds to victimized
396 consumers.

397 Again, as the chairman mentioned, this authority to
398 secure monetary relief for consumer victims under section
399 13(b) of the FTC Act currently hangs in the balance in the
400 United States Supreme Court. Should the court rule against
401 the FTC, American consumers will pay the price. As warned in
402 a remarkable bipartisan letter from all five FTC
403 commissioners to the committee last October, and I quote, it
404 says, "It is imperative that the Congress act quickly, so
405 that the FTC can continue to effectively protect American
406 consumers.''

407 I would like to submit that letter for the record, Madam
408 Chair, and I plan to introduce legislation in response to the
409 bipartisan call to ensure the FTC's continued ability to
410 return consumer and victims their resources.

411 I welcome working with my Republican colleagues on this

412 issue. I note that Senator Wicker introduced legislation
413 last Congress to address 13(b), and I hope we can continue to
414 work in a bipartisan way on this.

415 [The prepared statement of Mr. Cardenas follows:]

416

417 *****COMMITTEE INSERT*****

418

419 *Mr. Cardenas. Thank you very much. I yield back my
420 time.

421 *The Chairman. And I yield back as well, Madam Chair.

422 *Ms. Schakowsky. There we go. That will be submitted
423 in the record at the end of the hearing today.

424 [The information follows:]

425

426 *****COMMITTEE INSERT*****

427

428 *Ms. Schakowsky. And let me now both congratulate and
429 recognize Congresswoman Morris -- or McMorris Rodgers, and --
430 for now being the ranking member on the full committee, and
431 for her 5 minutes on this subcommittee.

432 You are recognized.

433 *Mrs. Rodgers. Thank you very much, Madam Chair. A big
434 welcome to everyone to the first Consumer Protection and
435 Commerce Subcommittee of the 117th Congress.

436 Last Congress I had the pleasure of working very closely
437 with the chair, Chair Jan Schakowsky, as I was the
438 subcommittee Republican leader. And I am very proud that we
439 were able to accomplish some significant bipartisan
440 priorities. We re-authorized the U.S. Safe Web Act to ensure
441 international cooperation against scams and frauds, which has
442 never been more important.

443 We also got the American COMPETE Act signed into law.
444 And I really appreciate the help in getting this included in
445 the end-of-the-year package. This bill will play an
446 important role in widely deploying emerging technologies,
447 many of which are also being used right now to respond to the
448 pandemic.

449 We also made great bipartisan strides on privacy
450 protections, and I hope that we can build on the bipartisan,
451 bicameral achievements from the end of last year, and get a
452 federal privacy law signed this year, as soon as possible.

453 I also want to congratulate my friend from Florida, Gus
454 Bilirakis, for taking on the leadership of this subcommittee
455 for the Republicans. I have every confidence he is going to
456 do a great job. He is someone that digs in, and really does
457 the hard work of legislating to get results. And I am
458 excited about what we will be able to accomplish for the
459 American people, and how we will be able to help win the
460 future.

461 These have been some difficult times, unprecedented
462 times. Millions of citizens remain trapped inside their
463 homes with little social interaction. In addition to
464 worsening our country's mental health and substance abuse
465 crisis, this isolation has created opportunities for bad
466 actors to exploit Americans' pain.

467 Last Congress this subcommittee helped combat these bad
468 actors and empower vulnerable communities to not become
469 victims. Buddy Carter's Combating Pandemic Scams Act was
470 signed into law at the end of last year, and I am glad that
471 we are continuing the good work of this subcommittee at the
472 beginning of this year.

473 As Mr. Bilirakis discussed, there are several scams to
474 be on the lookout for, and lies about COVID vaccines and
475 attempts to steal stimulus checks, as well as the good old
476 gift card scams that are on the rise.

477 I want to thank and welcome Traci Ponto. She is from

478 Spokane, Washington. She is with Spokane C.O.P.S., Community
479 Oriented Policing Services. And she is one of our witnesses
480 today. She is going to be sharing some of her insight on a
481 range of scams that she sees, and her work to protect and
482 serve eastern Washington.

483 Education is the best prevention. And I know your
484 dedication to that, and your cooperation with law enforcement
485 is getting results for victims.

486 I also want to thank our allies at the Federal Trade
487 Commission. They are on the front lines, educating our
488 communities about the risks of COVID scams, and holding bad
489 actors accountable. And just as I said during our work on
490 privacy protections, we need a strong national standard, and
491 a regulator who is empowered to enforce that standard.

492 The FTC has long relied on section 13(b) of the FTC Act
493 to obtain and enforce a range of remedies against certain
494 illegal conduct. But I understand that that authority is
495 currently being challenged in the courts. Specifically, the
496 Third and Seventh Circuits have ruled recently that the FTC
497 cannot obtain monetary relief under section 13(b). And the
498 Third Circuit decided that the FTC misused section 13(b) to
499 address past illegal conduct. While we await the Supreme
500 Court's decision, Congress has been asked by the FTC to amend
501 the Act to clarify this authority.

502 There is certainly a need to get financial restitution

503 to victims. However, I am concerned about the potential for
504 the FTC to abuse that authority and use it primarily to
505 leverage defendants into settlements. If the argument in
506 favor of increased FTC authority is that defendants are
507 defending themselves too often without it, it is simply not
508 persuasive.

509 I want to be clear. I understand the importance of
510 section 13(b), and the role that it can play in an agency's
511 consumer protection mission, especially in the bigger cases.
512 But I also understand the reality that the Democrats are in
513 the control of both chambers, and may want to move before the
514 Supreme Court rules. If that is the case, we must use this
515 time as an opportunity to address other reforms to the
516 Commission.

517 Again, I want to thank the witnesses for being here
518 today. This is a timely and important discussion, and I look
519 forward to hearing from all of you. Thank you.

520 [The prepared statement of Mrs. Rodgers follows:]

521

522 *****COMMITTEE INSERT*****

523

524 *Ms. Schakowsky. I would like to introduce our
525 witnesses for today's hearing.

526 I -- there is Bonnie Patten, the executive director of
527 TruthinAdvertising.org; the Honorable William E. -- let me
528 say it right -- Kovacic, who is global -- let me get this
529 right, okay -- global competition professor of law and
530 policy, professor of law and director of Competition Law
531 Center at Georgetown University Law School. We have Traci
532 Ponto, spokesman -- no. Traci Ponto from Spokane C.O.P.S.,
533 crime victims advocate. You heard our ranking member of our
534 full committee talk about her from Spokane Community Oriented
535 Policing Services. And Jessica Rich, director -- no, I am
536 sorry, distinguished fellow at the -- I think maybe I could
537 use my glasses here, let's see. No, not as good. Jessica
538 Rich -- am I past her? No, Jessica -- distinguished fellow
539 at the Institute of Technology Law and Policy at Georgetown
540 Law.

541 Those are our witnesses, and we want to thank our
542 witnesses for joining us today. We look forward to your
543 testimony. And so let's begin with Ms. Patten.

544 You are recognized now for 5 minutes.

545

546 STATEMENT OF BONNIE PATTEN, ESQ., EXECUTIVE DIRECTOR, TRUTH
547 IN ADVERTISING; TRACI PONTO, CRIME VICTIM ADVOCATE, SPOKANE
548 COMMUNITY ORIENTED POLICING SERVICE (C.O.P.S.); WILLIAM
549 KOVACIC, PROFESSOR, GEORGE WASHINGTON UNIVERSITY LAW SCHOOL;
550 AND JESSICA RICH, DISTINGUISHED FELLOW, INSTITUTE OF
551 TECHNOLOGY LAW AND POLICY AT GEORGETOWN UNIVERSITY LAW CENTER

552

553 STATEMENT OF BONNIE PATTEN

554

555 *Ms. Patten. Thank you, Chairman Schakowsky, Ranking
556 Member Bilirakis, and members of the Subcommittee. On behalf
557 of Truth in Advertising, TINA.org, I am pleased to appear
558 before you to highlight fraudulent and deceptive marketing
559 schemes that have arisen during this unprecedented crisis,
560 and to sound the alarm that the worst may be yet to come if
561 the FTC cannot claw back ill-gotten gains from wrongdoers
562 under section 13(b) of the FTC Act.

563 My organization, TINA.org, is a nonpartisan, nonprofit
564 consumer advocacy organization whose mission is to combat
565 deceptive advertising and consumer fraud. We work with
566 businesses and government agencies on behalf of consumers to
567 effectively prevent and stop deception in our economy. There
568 can be no doubt that the ongoing pandemic has exacerbated the
569 ever-present dangers of deceptive and unfair acts and
570 practices in the marketplace.

571 TINA-org has heard from countless consumers, senior
572 citizens, military veterans, and struggling parents whose
573 experiences illustrate the fact that deceptive marketing is
574 putting the health, financial well-being, and safety of our
575 most susceptible populations at risk.

576 The list of deceptively marketed products and services
577 exploiting this pandemic is extensive: CBD products marketed
578 to military veterans as a coronavirus treatment; bleach,
579 advertised as a liquid cure-all; wellness centers targeting
580 first responders with IV vitamin drips to protect against
581 COVID-19; Amazon and eBay sellers falsely claiming that their
582 PPE is FDA approved; hand sanitizer marketed as protecting
583 for 24 hours against COVID-19; alleged immunity-boosting
584 supplements targeting children; colloidal silver solutions
585 advertised as having the ability to kill the virus from
586 within; toothpaste and teeth-whitening products claiming to
587 prevent COVID-19; and sham wellness kits targeting seniors.

588 Unfortunately, the deception does not stop with
589 outrageous health claims; many are exploiting the economic
590 desperation wrought by this pandemic: multilevel marketing
591 companies claiming people can earn full-time pay working part
592 time; lending companies deceptively using the CARES Act to
593 exploit college students; investment scams claiming to have
594 patented COVID cures; and financial entities pretending to be
595 SBA-authorized lenders to lure in small businesses struggling

596 to keep their workers employed.

597 And to make matters worse, the agency primarily charged
598 with policing these deceptive acts, the FTC, is now at risk
599 of losing a mainstay of its enforcement authority: the
600 ability to make victims whole under section 13(b).

601 Because 13(b) does not specifically say anything about
602 equitable relief when a permanent injunction is issued, the
603 Supreme Court is now deciding the remedial scope, if any, of
604 13(b) in the case AMG versus FTC. AMG was a payday lending
605 scheme that extracted money from people in desperate
606 circumstances. In its appeal, the company does not dispute
607 that it violated the law. Instead, it argues that the \$1.3
608 billion it stole should be its to keep.

609 AMG asserts that it was never Congress's intention for
610 the FTC to return money to victims of fraud under 13(b).
611 Quite to the contrary, AMG argues that this legislative body
612 fully endorsed the notion that wrongdoers should pocket the
613 money they have illegally taken when it drafted 13(b). If
614 the Supreme Court rules in AMG's favor, and this Congress
615 does not act to empower the FTC to seek restitution under
616 13(b), then the deceptive practices I have enumerated will
617 only multiply.

618 Allowing wrongdoers an absolute right to retain funds
619 under 13(b) will make consumers and our economy more
620 vulnerable to harm, especially during these unprecedented

621 times.

622 Thank you, and I look forward to answering your
623 questions.

624 [The prepared statement of Ms. Patten follows:]

625

626 *****COMMITTEE INSERT*****

627

628 *Ms. Schakowsky. Thank you. Thank you for your
629 testimony. And next we will hear -- and thank you so very
630 much for that really compelling, compelling testimony. And
631 now let me call on Ms. Ponto.

632 You are recognized now for 5 minutes.

633

634 STATEMENT OF TRACI PONTO

635

636 *Ms. Ponto. Thank you. Good afternoon, Members of
637 Congress. Thank you for inviting me here today to talk to
638 you about our organization, and what is happening in the
639 world of scams and frauds over this past 2020 season.

640 First, let me introduce myself. My name is Traci Ponto.
641 I am a retired Spokane police officer, after serving 25
642 years. I now work full-time as a crime victim advocate for
643 Spokane Community Oriented Policing Services.

644 Spokane C.O.P.S. is the nonprofit organization for the
645 Spokane Police Department. We have staff staff members, 400
646 volunteers, and nine C.O.P.S. shops throughout our city. Our
647 C.O.P.S. shops serve as a liaison between the police
648 department and our communities, and provide a location for
649 neighbors to come in and seek assistance with their concerns.
650 Our C.O.P.S. shops provide programs such as block watch,
651 identity theft and fraud victim callbacks, neighborhood
652 observation patrols, and other programs that work on getting
653 neighbors engaged in their community, working alongside law
654 enforcement, and taking ownership and keeping their
655 communities safe.

656 Our organization focuses on crime prevention and working
657 with neighbors to help resolve quality of life issues. In a
658 time where our nation is asking questions on how to get our

659 law enforcement and community working together, our focus is
660 to help educate the community and provide crime prevention
661 tips to help solve many of their concerns.

662 My current position as a crime victim advocate is to
663 help any and all victims of crime. Law enforcement is able
664 to go after the criminals, but who takes care of those that
665 are victimized? Many people feel unsafe about -- after being
666 victimized. And, as an advocate, we are able to help restore
667 some of that sense of safety by providing a crime prevention
668 through environmental design survey, amongst other services.

669 When you are a victim of identity theft and fraud, you
670 are incredibly vulnerable to losing your money, which is what
671 supports your daily life. Our advocates' primary goals are
672 to respond to the emotional, psychological, and physical
673 needs of crime victims. We assist victims in stabilizing
674 their lives after victimization, and help them understand and
675 participate in the criminal justice system. Our goal is to
676 restore a measure of security and safety for them.

677 In 2020 many victims found themselves losing their
678 employment or working from home. With quarantine and social
679 distancing, victims found themselves doing more of their
680 shopping online. Victim advocates saw an increase in
681 identity theft, fraud, and scams with this vulnerable
682 population. Phishing scams targeted victims by claiming they
683 were trying to process Amazon returns and needed more

684 personal information. Microsoft scams targeted victims using
685 threats of subscription expiring, which would disrupt people
686 trying to work online from home. Unemployment fraud, where
687 databases were hacked, personal information stolen, and
688 fraudulent unemployment claims surfaced. This alone affected
689 thousands of people dependent on supplementing their lost
690 wages. This also created concern from victims that were
691 still employed, yet had claims open under their names.

692 Now, as we prepare for tax season, we have seen an
693 increase from victims who are receiving paperwork showing
694 unemployment income they were not aware of. With the
695 pandemic, victims that are already feeling isolated and
696 lonely are more vulnerable to phone calls and social media
697 messages that lead to scams.

698 Victims that have been targeted by scammers and have
699 lost money are often too ashamed to tell family members, and
700 now have an increased anxiety and fall into despair. Victims
701 do not know where to turn, and the magnitude of these crimes
702 are overwhelming and creating more mental health-related
703 issues.

704 COVID set a perfect storm by creating isolation and
705 depression that put people at a higher risk for scams, and
706 allowed scammers many different opportunities to prey on this
707 vulnerable audience. As a crime victim advocate, our goal is
708 to provide assistance to our clients, and walk them through a

709 step-by-step process of reporting the fraud, gathering
710 evidence to provide their financial institutions, and protect
711 them from further identity theft and fraud-type crimes.

712 Thank you for your time today.

713 [The prepared statement of Ms. Ponto follows:]

714

715 *****COMMITTEE INSERT*****

716

717 *Ms. Schakowsky. And thank you.

718 Professor Kovacic, it is yours for 5 minutes. You are
719 recognized.

720

721 STATEMENT OF WILLIAM KOVACIC

722

723 *Mr. Kovacic. Thank you, Madam Chair. Thank you,
724 Ranking Member and members of the committee. I am very
725 grateful for having the opportunity to participate in these
726 proceedings.

727 I am going to suggest a series of steps that you and
728 your colleagues can take to put the FTC in a better position
729 to address the formidable challenges that you have mentioned.

730 I acknowledge the wonderful work that I think the FTC
731 has done in a terrible time in which the challenges have
732 intensified, and they have had to move out of their building
733 and do everything remotely.

734 I speak from my experience at the FTC and my current
735 work as a non-executive director on the board of the United
736 Kingdom's Competition and Markets Authority. I don't speak
737 on behalf of the agency, but I speak with an awareness of
738 what the CMA, the FTC, and others have done in an
739 extraordinary circumstance when they have had the hardest
740 challenges, and have had to work in a remarkably difficult
741 setting. I think they performed admirably. I have some
742 thoughts about what you and your colleagues can do to put
743 them in a position to do still better.

744 Let me start by offering three suggestions that involve
745 new legislation, and then to come up with three that involve

746 your role as an oversight body and as a forum for holding
747 policy discussions about what the FTC and others should do.

748 First, on the legislative side, I simply echo the
749 priority that all of you have given, that Bonnie Patten has
750 just given, as well, to repairing what is likely to be a hole
751 in 13(b) authority. My own view of the AMG case which Bonnie
752 just discussed is that the FTC will lose that case. The oral
753 argument was not favorable, from a wide variety of
754 perspectives within the Supreme Court.

755 I think priority number one is to be prepared as soon as
756 possible to repair the damage that an adverse decision would
757 do. If the Commission does not have the ability to disgorge
758 ill-gotten gains from misconduct, the deterrent effect of its
759 enforcement power is considerably weakened. That is priority
760 number one. You are aware of that.

761 Second, I would make major new investments in the
762 capability of the Federal Trade Commission. Let's remind
763 ourselves of what Congress has asked it to do. It is not
764 only the principal consumer protection agency in the country,
765 it is a major antitrust agency, and it is the principal U.S.
766 data protection agency. But we pay peanuts to carry out
767 those functions. We pay low salaries, compared with even
768 what other federal officials get. And we provide a very
769 modest budget, not even quite \$350 million a year.

770 My suggestion: raise the compensation of FTC employees,

771 at least to the level of the Consumer Financial Protection
772 Bureau. That salary scale is fully 20 percent higher. Why
773 and in what respect is financial services consumer protection
774 more important than the concerns we mentioned?

775 Second, and more dramatically, I would give the FTC a
776 billion dollars a year to do its job. I would monitor the
777 performance with that money, but my view is that we are
778 demanding Mercedes-like performance, but we want to pay for a
779 Chevy, instead. And that doesn't happen in real life. I see
780 a real measure of the sincerity of the nation and its elected
781 officials to deliver on this promise its willingness to fund
782 these activities appropriately. Otherwise, we are just
783 kidding ourselves about what we want to be done.

784 Related to that, major investments in upgrading the FTC
785 system built over a period of 20, 25 years to improve its
786 capacity to collect data on misconduct, and to apply it -- a
787 major upgrade of the Sentinel System -- and to mimic the
788 experience of the Competition and Markets Authority to build
789 up a data team. The Competition and Markets Authority has a
790 team of 40 technologists that now work on these issues.

791 A third legislative proposal is to eliminate gaps in the
792 FTC's jurisdiction by eliminating the exceptions for common
793 carriers, banking and financial services, and not-for-profit
794 organizations.

795 Finally, three thoughts about the use of oversight

796 authority.

797 One, as the ranking member mentioned, boost cooperation.
798 I suggest to you that taking money away with civil remedies
799 is not going to keep serious bad guys from doing what they
800 do. The only solution there is cooperation with criminal
801 enforcement authorities to take away their freedom. If we
802 are not going to do that, again, I think we are not really
803 digging in to the seriousness of the problem and addressing
804 it.

805 Second, invite the FTC and its partners at the state and
806 local level to sit down with you and talk about what they
807 learned by way of doing innovative things to address the
808 COVID crisis, and what gaps have to be filled. That should
809 be an ongoing collaboration between the committee and the
810 public enforcement agencies.

811 And last, to confront the future design of the FTC.
812 Should you adopt new privacy legislation, what do we want the
813 FTC to do in the future?

814 My thanks to the committee for the chance to be here.

815 [The prepared statement of Mr. Kovacic follows:]

816

817 *****COMMITTEE INSERT*****

818

819 *Ms. Schakowsky. Thank you so much for your testimony.

820 And last, but not least, Ms. Rich, you are recognized

821 for 5 minutes for your testimony.

822

823 STATEMENT OF JESSICA RICH

824

825 *Ms. Rich. Thank you, Chair Schakowsky, Ranking Member
826 Bilirakis, and members of this subcommittee. I am really
827 pleased to be here to discuss the challenges of fighting
828 fraud during the pandemic.

829 I am no longer at the FTC, but I spent most of my career
830 there, actually, 26 years, the last 4 of those years as its
831 director of consumer protection. I care deeply about
832 ensuring a safe and fair marketplace for the American public.

833 One of the biggest challenges in consumer protection, as
834 we have all been talking about here today, is fighting fraud,
835 a pernicious problem that steals from consumers, often those
836 least able to afford it, undermines their trust, and distorts
837 the functioning of the marketplace.

838 In times of crisis, fraud can be especially relentless.
839 Con artists prey on distressed consumers, offering bogus
840 health cures, nonexistent financial aid, and many other
841 scams, often posing as a government agency or official. This
842 happened with Hurricane Katrina and the Great Recession, and
843 it is happening now.

844 Over the past year the FTC has received many consumer
845 complaints related to COVID-19, and has responded with
846 consumer alerts, warning letters to scammers, and law
847 enforcement. As of December, thanks to the leadership of

848 this committee, the FTC can now impose fines on the scams'
849 perpetrators. However, the FTC is facing serious challenges
850 in its broader fight against fraud, which is the focus of my
851 testimony today.

852 In my written testimony I flagged four issues.

853 First is the FTC's authority to obtain restitution under
854 13(b) of the FTC Act. As everybody has discussed extensively
855 today, it is under risk. For over 40 years, the FTC has used
856 section 13(b) to return many billions of dollars to consumers
857 and small businesses victimized by fraud and deception.
858 Until recently, every circuit court to consider the issue
859 held that the FTC could do so.

860 Notably, 13(b) is the only provision in the law that has
861 enabled the FTC to seek in one -- in the same action both an
862 injunction against FTC Act violations and restitution for
863 consumers. The adverse rulings in the circuit courts have
864 already undermined the FTC's ability to obtain restitution in
865 those circuits. An adverse ruling in the Supreme Court would
866 be devastating.

867 Section 13(b) is simply the most efficient and effective
868 tool that the FTC has to stop illegal conduct, prevent
869 defendants from profiting from it, and return money to
870 consumers. Without it, the FTC has to engage in either a
871 cumbersome two-step process with two separate back-to-back
872 lawsuits, or a limited -- limit restitution to those

873 situations where it is enforcing a rule which is a subset of
874 cases. These options will severely hinder the FTC's ability
875 to get money back to consumers, and I hope that Congress will
876 restore the authority to do that, that the FTC has been using
877 for over 40 years.

878 The second issue I flagged was the -- is the ability of
879 the FTC and others to hold accountable the entities that
880 enable frauds to thrive, including the platforms through
881 which scammers disseminate fraudulent information. At the
882 FTC and elsewhere, defendants of all types argue they are
883 immune from liability under section 230, often forcing
884 protracted litigation to resolve the issue. Although 230
885 reform is complex and beyond the scope of this hearing, there
886 may be other measures, like last year's Inform Consumers Act,
887 that could create much-needed accountability short of
888 wholesale 230 reform.

889 Third, fraud can have a disproportionate impact on
890 certain communities such as seniors, veterans, African-
891 Americans, and Latinos. During my tenure at the FTC we
892 created an ambitious outreach and research initiative called
893 Every Community, the goal of which was to ensure that the FTC
894 was reaching and protecting the diverse communities
895 victimized by fraud. The FTC should scale up this program
896 again now, including by collecting more data with appropriate
897 safeguards to enable a broader examination of whether the FTC

898 is reaching different communities. Also, it should consider
899 hiring experts on racial equity and representation to assist
900 with this effort.

901 Finally, the FTC needs stronger authority to protect
902 consumers' privacy, including the ability to seek penalties
903 for first-time violations. One lesson of the pandemic was
904 that Americans refused to use contact tracing apps, which
905 could have been helpful to track the disease, largely due to
906 concerns that the data wouldn't be protected from misuse.
907 This subcommittee has shown very strong support for privacy
908 legislation in the past, and I hope that will continue.

909 Thank you again for allowing me to be here today.

910 [The prepared statement of Ms. Rich follows:]

911

912 *****COMMITTEE INSERT*****

913

914 *Ms. Schakowsky. Well, thank you so much. The
915 gentlewoman yields back, and let me now -- we have concluded
916 the witnesses' opening statements.

917 At this time we will move to member questions. Each
918 member will have 5 minutes to ask a question and get an
919 answer of our witnesses. And I will start by recognizing
920 myself for 5 minutes.

921 So we certainly have talked a lot about 13(b) and the
922 importance of that. I want to thank Representative Cardenas
923 for your leadership on this, on addressing this issue. And I
924 want to say that I hope that every single member of this
925 subcommittee can agree that scammers should not get to keep
926 the money that they stole from consumers, which is
927 essentially what would happen if we were to get rid of 13(b).

928 So, Ms. Patten, I noticed that you filed an amicus brief
929 urging the Supreme Court to uphold the FTC's ability to seek
930 restitution. And as you may know, the attorney general from
931 the State of Illinois, Attorney General Kwame Raoul, has a
932 bipartisan coalition now of 30 state attorneys general who
933 are also filing an amicus brief in support. I wondered if
934 there is anything -- I know you spoke about it, but if there
935 is anything else that you want to say that we should know and
936 care about when it comes to protecting this very important
937 tool.

938 *Ms. Patten. Yes, thank you, Chair. The amici brief

939 from the states and the District of Columbia made clear that
940 states absolutely need the FTC to have 13(b) authority.
941 States do not have nationwide jurisdiction over these scams.
942 They can't go into foreign countries easily. So if the FTC
943 cannot claw back ill-gotten gains through 13(b), then the
944 states will be required to shift resources over to trying to
945 make victims whole.

946 One of the things that I thought was so telling in the
947 amici brief was that they said between 2016 and 2019, the FTC
948 returned more than \$10 billion to nine million consumers in
949 all 50 states, the District of Columbia, and Puerto Rico.
950 And then if the FTC loses 13(b), you can be guaranteed that
951 consumers in every single state will be faced with more
952 deceptive acts and practices.

953 *Ms. Schakowsky. Thank you. I wanted to ask Ms. Rich,
954 Mr. -- I am sorry -- Mr. Kovacic. Here is a really important
955 question: Is there any point in waiting to see how the
956 Supreme Court rules on the question of 13(b), or should the
957 authority under that -- should we deal with it before the
958 Supreme Court?

959 [No response.]

960 *Ms. Schakowsky. Mr. Kovacic? Was I --

961 *Mr. Kovacic. My own intuition would be to wait until
962 the decision comes up. There is the possibility -- comes
963 out. There is the possibility that the court will say,

964 contrary to my prediction, the FTC is doing a great job, that
965 is just what Congress wanted, full speed ahead.

966 I would be faintly concerned that, if there were a
967 measure introduced and adopted before that, the argument
968 could be made, or the impression given that, oh, my God,
969 Congress didn't think that it had -- that the Commission has
970 the authority. So it has got to put in a supporting
971 mechanism right now.

972 I guess my inclination would be -- but you are -- you
973 understand the legislative process better than I do, how long
974 it takes and how it goes. My inclination would be to drop
975 that bill as fast as possible, or even now to be ready if
976 there is an adverse decision. But I hope I am wrong. Maybe
977 the Supreme Court says, "God bless the FTC, full speed
978 ahead."

979 *Ms. Schakowsky. So let me ask Ms. Rich or anyone else
980 who wants to weigh in on this. Go ahead.

981 *Ms. Rich. I would love to just state a contrary view,
982 which is that I understand that the FTC already cannot pursue
983 restitution under 13(b) in two circuits. And in other
984 circuits now defendants are saying, "Oh'" -- dragging their
985 feet, delaying, saying, "You don't have the authority.'" And
986 these are defendants that have wrongly taken money from
987 consumers.

988 And so the FTC is limited now, and I would encourage

989 Congress to take action now, because it is already a problem.
990 And I, too, have been following the arguments in the Supreme
991 Court, and I am not optimistic. But regardless, it is
992 already a problem.

993 *Ms. Schakowsky. So, although I am out of time, I am
994 just going to ask Ms. Patten what -- yes or no, should we
995 move now, or wait for the Supreme Court?

996 *Ms. Patten. I think you should absolutely move now to
997 protect 320 U.S. consumers and honest and fair businesses.
998 They deserve that protection now.

999 *Ms. Schakowsky. Thank you. Well, this is a very
1000 important decision for us to consider as a subcommittee and
1001 as a full committee. So we will get to it.

1002 And now I will recognize the ranking member of the
1003 committee, Mr. Bilirakis, for 5 minutes --

1004 *Mr. Bilirakis. Thank you, Chair --

1005 *Ms. Schakowsky. -- for questions.

1006 *Mr. Bilirakis. Thank you very much, Chair. I
1007 appreciate it. I thank the panel for their testimony today,
1008 very informative.

1009 Recently, constituents in my district have been targeted
1010 by scammers promising COVID-19 vaccinations. I mentioned
1011 that in my only -- opening comment. Fake Eventbrite websites
1012 masking themselves as health departments, requiring residents
1013 to pay fees for appointments to receive the vaccination.

1014 This was reported in my local paper, the Tampa Bay Times,
1015 recently.

1016 I am glad to hear steps have been taken to remedy this
1017 particular situation, but more needs to be done to protect
1018 the vulnerable individuals trying to receive the
1019 vaccinations. I think most people would agree with that.

1020 Ms. Ponto, how can we better educate individuals on
1021 vaccination scams?

1022 And then should local health departments around the
1023 country work with community organizers and law enforcement
1024 agencies?

1025 If yes, what should they collaborate on?

1026 I know you mentioned this. I believe you mentioned --
1027 you touched on this. Can you elaborate a little more?

1028 *Ms. Ponto. Thank you. We have not actually seen a lot
1029 of scams in regards to vaccinations and PPEs and other things
1030 in our community. Because we are so well based and have our
1031 shops, we actually filter a lot of what is happening out
1032 there into our shops, and thus into our C.O.P.S. program.

1033 We do have a health district that is down around our
1034 police station, and they are pretty good at educating folks
1035 about what is going on, and staying up on that population.
1036 What I am concerned about is definitely our elderly, who are
1037 sitting at home and isolated, and scared, and might be more
1038 susceptible to that social media or those phone calls, and

1039 fall prey to this.

1040 Education, again, is the way to go. And for us, it is
1041 getting it out there, making our phone calls to our community
1042 members. Our neighborhood councils are also very successful
1043 at getting out the information, and then getting our city
1044 council involved, as well, to get it out. And that is on our
1045 level -- city-wide. Thank you.

1046 *Mr. Bilirakis. Working with law enforcement, do you
1047 recommend that, as well?

1048 *Ms. Ponto. I always recommend working with law
1049 enforcement, and law enforcement is my background, so I --
1050 any way that we can pull them in and work with them and not
1051 have them do our work for us is a win-win in my books.

1052 So what does that look like? Not exactly sure, but we
1053 are community oriented policing, and so we kind of are
1054 setting in the nation -- we have other cities that come to
1055 see our programs, and why it works so well for our city.
1056 Volunteers in the community is where it is at, and we get to
1057 work alongside with our law enforcement.

1058 *Mr. Bilirakis. Very good. Thank you.

1059 *Ms. Ponto. Thank you.

1060 *Mr. Bilirakis. Ms. Rich, in your testimony you
1061 mentioned the findings of "Every Community," an FTC program
1062 you worked on, which highlighted that under-served -- the
1063 under-served communities impacted by scams are not reporting

1064 them as often as they should. Can you explain why it is
1065 important that every scam should be reported?

1066 And then I have a question for Ms. Ponto.

1067 Why should every scam be reported?

1068 *Ms. Rich. The FTC really does rely on -- it relies on
1069 many sources for targeting its law enforcement, but one of
1070 the sources is consumer complaints that it receives, and also
1071 information it receives from its partner about the complaints
1072 they are seeing on the ground.

1073 So if the inputs for -- if the agency isn't getting
1074 information about the scams that are really hurting
1075 consumers, it can't target its enforcement well. And if
1076 certain communities aren't comfortable reporting to the FTC,
1077 or don't know to report to the FTC, the FTC may not be
1078 protecting those communities. And research that we did when
1079 I was still at the FTC suggests that was the case in some
1080 instances.

1081 And so it is very, very important that the FTC do more
1082 work to ensure that it is reaching every community that needs
1083 its protection, whether through -- by itself or through
1084 trusted partners, so that it can target its protection
1085 efforts effectively.

1086 *Mr. Bilirakis. I would thank you, Madam Chair. I am
1087 going to go ahead and yield back, because my time has
1088 expired. But I will submit questions for the record. Thank

1089 you.

1090 *Ms. Schakowsky. I now recognize the chair of the full
1091 committee, Mr. Pallone, for 5 minutes.

1092 *The Chairman. Thank you, Chairwoman Schakowsky. I
1093 wanted to ask some questions.

1094 I wanted to use New Jersey, if I could, as an example,
1095 because we have had a very aggressive state attorney general
1096 who has been trying to go against consumer protection
1097 violations. But even so, since the beginning of the
1098 pandemic, we -- New Jersey has lost nearly \$9 million in --
1099 individuals, in fraud, despite this aggressive enforcement by
1100 the attorney general. And that includes -- he sent out,
1101 like, 1,800 cease and desist letters, and at least a dozen
1102 enforcement actions.

1103 And of course, I am proud of the fact that we did a
1104 bipartisan initiative at -- in the end-of-the-year package to
1105 include, you know, this provision that gives the FTC new
1106 authority to seek civil penalties for scams and deceptive
1107 practices related to COVID. That, I believe, was Jan and Dr.
1108 Bucshon's initiative. And the FTC has issued more than 500
1109 warning letters to sellers of unapproved or misbranded
1110 products related to COVID.

1111 So let me just ask quickly, because there is not a lot
1112 of time, obviously. Ms. Patten, are warning letters enough
1113 to protect consumers from fraud and scams?

1114 *Ms. Patten. Unfortunately not. I think the one common
1115 theme with every scam we are going to talk about today is
1116 that they are perpetrated for financial gain. And unless the
1117 money is taken out of the pockets of wrongdoers, it will
1118 always be in their interest to continue. So a warning
1119 letter, regardless of where it comes from, is just not going
1120 to deter criminals.

1121 *The Chairman. Well, thank you. So let me ask Ms.
1122 Rich, how could the FTC use the new authority from the COVID-
1123 19 Consumer Protection Act to fight fraud and scams more
1124 effectively?

1125 If you could, quickly. And I hate to say, "quickly,"
1126 but --

1127 *Ms. Rich. The new law covers a huge amount of scams.
1128 It is very broad as to COVID scams. So if a company engages
1129 in any of that activity, it can -- the FTC can pursue civil
1130 penalties. So just as Ms. Patten just said, it is very
1131 important for deterrence to make it painful for fraudsters to
1132 rip off consumers. And so the civil penalty authority --

1133 *The Chairman. All right. Well, let me ask this. You
1134 know, I mentioned today about the Supreme Court and the
1135 threat to the FTC's 13(b) authority, you know, restitution.
1136 And Tony has a bill to deal with that.

1137 But now that the FTC has this authority to fine
1138 companies that have committed fraud and scams related to the

1139 pandemic under this new law, why is it still important to
1140 ensure that the FTC's 13(b) authority is preserved? Why is
1141 that still important, Ms. Rich?

1142 *Ms. Rich. The COVID scams are terrible, but they are
1143 one of many frauds that the FTC has to fight all year long,
1144 in and out of a pandemic. So in many of those cases, the FTC
1145 doesn't have civil penalty authority, and its redress
1146 authority is under threat. So it is a much broader problem
1147 that goes beyond the COVID scams that are occurring here.
1148 And so it still needs to be fixed.

1149 *The Chairman. All right. And then, just quickly, on
1150 social media for Ms. Patten or Ms. Rich. We know that, you
1151 know, the scams on social media have tripled this year,
1152 mostly with online shopping. And earlier this week, Jan,
1153 myself, Anna Eshoo, Mike Doyle sent a letter to Facebook,
1154 Twitter, and Google regarding their handling of COVID vaccine
1155 misinformation, and how it has escalated on their platforms.
1156 And obviously, I am concerned about that.

1157 So, Ms. Patten, can you talk more about why it is so
1158 easy for consumers to be duped by the ads they see on social
1159 media?

1160 And then I could ask both of you what are some things
1161 that FTC could be doing to help prevent those types of social
1162 media scams in the time left.

1163 I will start with Ms. Patten.

1164 *Ms. Patten. Thank you. Social media is incredibly
1165 effective at persuading consumers to believe what they are
1166 seeing, because they are following people they believe in or
1167 they want to emulate. So it is one of the most effective
1168 tools scammers have to be able to get to consumers, because
1169 there is honest and trustworthy belief by consumers.

1170 *The Chairman. So what do you suggest, between you and
1171 Ms. Rich, about the things the FTC could do to help prevent
1172 these scams on social media? Just briefly, if you could.

1173 *Ms. Patten. I will defer to Ms. Rich.

1174 *Ms. Rich. Well, obviously, the FTC should keep doing
1175 warning letters, and take action wherever possible using its
1176 new authority.

1177 But there is a huge role for education here, and for the
1178 FTC working with the groups that consumers trust to get the
1179 word out. People trust information that comes from their
1180 community groups, their church, et cetera, their local
1181 groups. So the FTC really has to be aggressive about
1182 education. I don't know whether the FTC is amplifying its
1183 own messages on social media. If not, it should be doing
1184 that. And of course, the FTC should be pressing the platform
1185 strongly to take their own action.

1186 But as you know, 230 is a problem in terms of the FTC
1187 actually taking action against the platforms.

1188 *The Chairman. Thank you. Thank you, Jan.

1189 *Ms. Schakowsky. Thank you. Now I recognize the
1190 ranking member of the full committee, Mrs. Rodgers, for 5
1191 minutes.

1192 *Mrs. Rodgers. Thank you, Madam Chair. And before I
1193 move to questioning, I just want to emphasize the importance
1194 of section 13(b), and the role that it plays and has played
1195 and will continue to play in the FTC's consumer protection
1196 mission, and especially with the bigger cases.

1197 I think we also need to recognize, as we -- as these
1198 cases are moving up to the Supreme Court, and we are
1199 anticipating a decision, as we move forward, due process is a
1200 fundamental principle for the protection of Americans' legal
1201 rights, and it must be central to any changes to existing
1202 law.

1203 If we are to tackle 13(b) authorities, we should also
1204 take a holistic view, I believe, of FTC's authorities, and
1205 consider other amendments.

1206 We considered FTC process and transparency reforms in
1207 the 114th Congress. And I would just recommend them to you,
1208 Madam Chair and the other members of this committee, that as
1209 we are moving forward, looking at FTC roles and
1210 responsibilities, that what was put together then be a part
1211 of this legislative effort.

1212 With that I would like to start with Ms. Ponto from
1213 Spokane, Washington, and just thank you for your excellent

1214 testimony today. I thought it was really helpful to be able
1215 to hear from somebody who is on the front lines, really
1216 trying to help so many in our community that are being
1217 impacted by various scams.

1218 You know, we are talking a lot about the FTC and its
1219 statute and authorities, but I also think it is also
1220 important just for us to better understand, you know, why
1221 people are falling for these scams, and why they are
1222 vulnerable now, and how we can improve education to prevent
1223 scams and facilitate cooperation among the federal, state,
1224 and local agencies.

1225 So in that vein, Ms. Ponto, I just wanted you to speak
1226 to the type of scams that you are seeing for the most part,
1227 whether they are directly tied to COVID, or if other things
1228 are also on your radar screen, perhaps a cure scam or a
1229 treatment scam. Or are consumers just more vulnerable in
1230 general because they are shut in, and are more likely to be
1231 tricked by scammers calling their home phone during COVID?

1232 *Ms. Ponto. Thank you. Absolutely. With the
1233 isolation, and people being locked up in quarantine, that is
1234 the number-one complaint that I am seeing coming through our
1235 office, is that they are lonely. And these scammers are
1236 targeting folks.

1237 I had an elderly lady who bought an iPad, and somehow
1238 she got a scammer telling her that he sees 29 hacks on her

1239 iPad, and, you know, she is in her 70s, and she is thinking,
1240 okay, this gentleman is nice, sounds nice, he is going to
1241 help me fix this. Broken English accent, you know, but she
1242 didn't see those flags.

1243 And basically, long story short, he had her in the car,
1244 tripping around to Fred Myers and Target, pulling gift cards,
1245 putting 500 to \$1,000 on gift cards, walking her through the
1246 process of going through different checks stands, giving him
1247 cash. The store manager come up, recognized that she may
1248 have been a victim of fraud. She lied to him. She goes,
1249 "Crazy, I knew that he was telling me -- and I still lied to
1250 him."

1251 The scammer stayed on the phone with her while she did
1252 all of this, while she drove to the stores, picked up the
1253 gift cards, went through the different check stands, went
1254 back out to her car, scratched off the numbers, and read the
1255 numbers to him. He called her 12 times a day when she
1256 wouldn't pick up the phone. He claimed that he got control
1257 of her Nest camera, and was able to look into the house
1258 because he was concerned for her.

1259 And so, when you are talking about these kinds of
1260 things, whether some of this happened or not, it absolutely
1261 is scary. The way that it came about was that her daughter
1262 was flying up here for the holidays, and the credit card was
1263 declined. And as soon as she saw -- and Mom didn't tell her

1264 daughter, because she was embarrassed. These are stories
1265 that we are seeing over and over and over again.

1266 The newest thing now with Washington State auditors,
1267 with this big, massive breach that is just coming about,
1268 worries me that I am going to have tons of victims in my
1269 office that were victims with the Employment Security
1270 Department breach we saw this spring.

1271 So we need help. I have got detectives who are having
1272 difficult times pulling information for victims, even though
1273 the FTC says that, you know, these businesses shall provide
1274 this information. It is taking months to get it. And so we
1275 need better, thorough, more timely help from the Federal
1276 Trade Commission in these areas. Thank you.

1277 *Mrs. Rodgers. Thank you. Thanks for what you are
1278 doing on the front lines, and joining us today. I yield
1279 back.

1280 *Ms. Schakowsky. Those are amazing, amazing stories.
1281 Now I am happy to call on my dear friend and fellow
1282 Illinoisan, and longtime member of this committee,
1283 Congressman Bobby Rush.

1284 [Pause.]

1285 *Ms. Schakowsky. Bob, can you unmute?

1286 [Pause.]

1287 *Ms. Schakowsky. Robbie Rush, unmute.

1288 *Mr. Rush. Thank you, Madam Chair. And I am your

1289 friend, and we have been friends for decades now. And I
1290 certainly enjoy your friendship.

1291 Ms. Rich, the COVID-19 pandemic has exposed the
1292 healthcare disparities in our nation. And parallel to these
1293 to this pandemic is what I call a consumer protection
1294 pandemic that is more longstanding, and that has existed for
1295 many multiple decades in our nation.

1296 In your testimony you mention that the rulings on 13(b)
1297 by the Third and Seventh Circuits -- and I quote -- "have
1298 already undermined the FTC's ability to obtain restitution
1299 for consumers.'" My district is in the heart of the Seventh
1300 Circuit.

1301 And I would ask you if you would please drill down for
1302 us, and to describe how these rulings have undermined the
1303 FTC's ability to obtain restitution, and how has this
1304 impacted communities, consumers?

1305 *Ms. Rich. Well, I am not at the FTC now, so I don't
1306 have the details of the cases and -- that have been stopped
1307 or changed because of the rulings.

1308 But when the circuit court says that you can't get
1309 restitution through 13(b), until that is reversed, whether by
1310 a miracle at the Supreme Court or by Congress acting, the FTC
1311 cannot bring a 13(b) action and in one action both get
1312 injunctive relief against law violations -- often fraud --
1313 and restitution at the same time.

1314 Instead, it has to bring -- get -- instead it would have
1315 to sue that company. And if it wants to get restitution in
1316 an administrative action, that takes years at the Commission.
1317 And then, when that is done, and there is an order, go to
1318 court in the Seventh Circuit in your district and seek
1319 redress then. In cases where the FTC has used this tool, it
1320 is taking years and years. And the money -- there is no
1321 guarantee the money will be there at the end of it, allowing
1322 defendants to keep the money.

1323 The other alternative is that if there is a rule on the
1324 books that the FTC can enforce, then you can go to the
1325 Seventh Circuit and seek restitution in the same action where
1326 it is stopping the conduct. But many cases the FTC brings
1327 don't involve rule violations. And so that is a problem, as
1328 well.

1329 And so you are putting your finger on the very heart of
1330 the problem.

1331 *Mr. Rush. Thank you.

1332 Ms. Patten, can you please discuss what reforms you
1333 think are needed to section 230?

1334 And specifically, why should the Congress exclude
1335 commercial speech from the protections section 230 currently
1336 affords?

1337 *Ms. Patten. Thank you. I don't think that deceptive
1338 and false speech that is commercial in nature -- and I want

1339 to stress commercial speech -- should be protected. That is
1340 the kind of speech that is being used to take advantage of
1341 susceptible and vulnerable populations, especially during
1342 this pandemic, to steal money from them, steal their
1343 identities.

1344 And it does more than just economically impact these
1345 people. It really goes to, as we have talked about, people's
1346 mental health care, and the like. And so I just don't think
1347 that there should be a law protecting that kind of illegal
1348 speech.

1349 *Mr. Rush. Thank you.

1350 Madam Chair, I yield back.

1351 *Ms. Schakowsky. And now -- thank you for your
1352 questions and answers -- and let me now call on everybody's
1353 friend, and a one-time chairman of this committee,
1354 Congressman Upton, for 5 minutes.

1355 *Mr. Upton. Well, thank you, Madam Chair. And it is a
1356 very important hearing, and I really appreciate the listening
1357 in, and participating with all of my colleagues. This is so
1358 important, because so often this really does prey on the most
1359 vulnerable, those that are our least prepared to deal with
1360 something like this.

1361 And, you know, we have seen it on other issues. You
1362 know, traditionally the, you know, I have been kidnaped,
1363 please send money to pay my hotel bill, and you know, it goes

1364 to Nigeria and it disappears. But this is even worse,
1365 because all of us know about COVID, and all of us want a
1366 resolve to this issue so that we can get our life back to
1367 normal again. And these folks who are preying -- with an
1368 "ey'" versus "ay'" -- are so dangerous to our society.

1369 Let me just say a couple of things from Michigan's
1370 perspective. We know that there have been already contacting
1371 our offices, our state offices, more than -- almost 4,600
1372 cases of fraud have already been identified; another almost
1373 2,600 scams; identity theft, almost 1,300; do not call, 331;
1374 five -- almost \$6 million total, with an average of \$250 per
1375 individual. And the percentage of reports indicating the
1376 loss, 44 percent. So a real issue.

1377 I guess my first question is to Mr. Kovacic.

1378 What is your understanding as it relates to section
1379 13(b) and section 19? Are they mutually exclusive? What are
1380 your thoughts on that issue?

1381 *Mr. Kovacic. There are complementary mechanisms, but
1382 Jessica has underscored the superior quality of section
1383 13(b). It provides, by far, a more effective way of getting
1384 the kind of immediate relief, getting a temporary restraining
1385 order right away. Freezing assets, making it possible to
1386 preserve the possibility for recovery.

1387 The Commission does have other tools. But in the
1388 context we are describing, especially with the urgency that

1389 you have just set out, 13(b) is the best mechanism the
1390 Commission has to get immediate, effective relief.

1391 But part of what I find disheartening about our
1392 conversation is notice how often we have heard the word
1393 "crime" and "criminals" mentioned here. My concern is
1394 that, if there not an effective collaborative mechanism
1395 between the civil enforcement side and criminal enforcement
1396 officials, if that is not a priority, what we have really
1397 said is that the worst that will happen to you is you will
1398 have to give the money back. And I think the only way to
1399 have the real deterrent message here is to take away the
1400 freedom of the criminals we have been talking about.

1401 But 13(b), for getting the civil recovery in place, by
1402 far superior to the other tools the FTC has.

1403 *Mr. Upton. Well, thank you.

1404 Ms. Ponto, you know, in your previously -- service in
1405 law enforcement before joining the Spokane C.O.P.S., how can
1406 law enforcement be better equipped to go after scammers?

1407 I know social media is used. I look at my relationship
1408 with my law enforcement folks, and they are often the ones
1409 that are going knocking on the doors, trying to help
1410 individuals who might have been victims of scams. But how
1411 did you work and enlist social media to try and bring about
1412 the knowledge and education to folks as relates to potential
1413 scams in your previous role?

1414 *Ms. Ponto. Thank you. Backing up just a little bit,
1415 with our department I think it is important to know that, you
1416 know, fraud is not necessarily a glamorous crime. Most of
1417 our crimes that we investigated that took higher priority are
1418 the crimes against persons. And, you know, identity theft
1419 and fraud is a property crime.

1420 It also has multiple layers to it. And I know, as a
1421 patrol officer, you know, we would hand off to go to domestic
1422 violences and big assaults, and you had somebody that was at
1423 a Safeway with identity theft. You know, it was like, oh, my
1424 God, I am not even sure if I know how to do this. There are
1425 so many layers to identity theft and fraud, that when we
1426 would take the report, then we would pass it off to the
1427 detectives to do the investigations.

1428 Well, about 10 years ago our fraud unit was dissolved.
1429 We needed more detectives in different areas of Spokane. And
1430 so they kind of farmed out the fraud cases to those
1431 detectives that were already carrying a large caseload. And
1432 so I think that is detrimental in itself, because we don't
1433 have folks that are doing that specifically.

1434 And I see my time is just about up, so -- thank you.

1435 *Mr. Upton. Well, thank you.

1436 *Ms. Schakowsky. Thank you, and now I recognize Mr.
1437 Cardenas for 5 minutes of questions.

1438 [No response.]

1439 *Ms. Schakowsky. Did I skip someone? Oh, you know
1440 what? Sorry, I am so sorry. Yes, it was a couple of people.
1441 Wow. Okay, Mr. -- oh, no.

1442 Ms. Castor, you are next. Sorry.

1443 *Ms. Castor. Great. Thanks, Chairwoman Schakowsky.
1444 This is a very important hearing.

1445 And let me start by congratulating my good friend and
1446 neighbor, Gus Bilirakis. "Ranking Member Bilirakis'" has a
1447 great ring to it. And I know Representative Soto would agree
1448 that, when the Tampa Bay Buccaneers win the Super Bowl this
1449 Sunday, it will not be a scam. It may be hard to believe.
1450 It may be a miracle. But no scam at issue here.

1451 But this is a really good place for the subcommittee to
1452 start, because we are talking about the fundamental
1453 authorities of the Federal Trade Commission, and whether or
1454 not the FTC is really working at its full capacity for our
1455 neighbors. And unfortunately, in many cases it is not. And
1456 it couldn't be more obvious than during this pandemic, when
1457 folks are desperate, and they don't know who to trust from
1458 day to day.

1459 And as our witnesses have pointed out, it is just these
1460 -- the scams are widespread. Unfortunately, the scam artists
1461 are all too creative these days. And back home in Tampa I
1462 have heard of -- from my neighbors about fake COVID cures,
1463 and phony clinical studies, and even the puppy and romance

1464 scams. And unfortunately, the FTC has been ineffective
1465 because they are required to send these toothless warning
1466 letters to lawbreaking companies. And that is just not going
1467 to cut it anymore, in my opinion.

1468 So Ms. Rich, you have been at this for many years. In
1469 your testimony you point out that the FTC lacks that -- the
1470 authority to impose that first-offense civil penalty.
1471 Explain to us how this is harmful to the FTC efforts to go
1472 after deceptive companies.

1473 And do you think it is -- now it is emboldening
1474 companies to proceed with these deceptive practices?

1475 *Ms. Rich. Some of my co-panelists and many of the
1476 representatives have -- the members have said it is very
1477 important to have appropriate remedies to deter wrongdoing,
1478 and also to, where possible, return money to consumers.

1479 The FTC's first choice of remedy is always to return
1480 money to consumers, not penalties. But you can't always
1481 return money to consumers. And, as we have been discussing,
1482 that authority is under threat. And one of the reasons you
1483 can't always return money to consumers is you can't find the
1484 consumers, there is not enough to implement a meaningful
1485 redress program, et cetera.

1486 So in some instances, civil penalty authority is better
1487 than redress authority and, for example, in many of these
1488 types of scams, where it is against a small fly-by-night

1489 company. So the FTC needs all of these monetary remedies in
1490 order to provide meaningful deterrents. And it lacks them
1491 in, you know, across a lot of its programs.

1492 *Ms. Castor. And, Ms. Patten, do you agree?

1493 *Ms. Patten. Absolutely. I think we can look at the
1494 Amazon case that we have mentioned earlier. To think that
1495 this giant company that makes billions of dollars every year
1496 had to steal \$60 million of tips from its drivers, and all
1497 the FTC could do in that case was get the money back, they
1498 couldn't penalize Amazon. And I just think that is crazy, it
1499 is outrageous. And I think that Amazon absolutely deserves a
1500 penalty.

1501 *Ms. Castor. Well, I think it is clear that, especially
1502 with the evolution of the online platforms, these scam
1503 artists are just -- the scams have accelerated, the online
1504 platforms have facilitated it, and I think this committee
1505 will have an obligation to modernize the FTC and address the
1506 first-offense civil penalties and the ability to use and
1507 reinforce section 13(b), going forward. So I will look
1508 forward to working with all of my colleagues here to do just
1509 that.

1510 And thanks, and I yield back.

1511 *Ms. Schakowsky. Thank you. And now I recognize Mr.
1512 Latta for 5 minutes of questions.

1513 *Mr. Latta. Well, I thank the chair, and also for our

1514 witnesses today who are appearing for us virtually.

1515 Before I begin with my questions, I would like to
1516 briefly touch on how important access to the WHOIS
1517 information is to this discussion. In short, WHOIS
1518 information is like the public lands records for the
1519 Internet. It tells us who is responsible for doing a domain
1520 name or an IP address. This data can be incredibly helpful
1521 for federal agencies and law enforcement when investigating
1522 crimes, and even consumer scams.

1523 Unfortunately, due to an overly broad interpretation of
1524 the European Union's General Data Protection Regulation, the
1525 GDPR, WHOIS information is no longer made widely available
1526 for public access.

1527 Last year I sent a letter to the Federal Trade
1528 Commission, asking how they use WHOIS to stop consumer fraud
1529 related to COVID-19. The FTC made it clear in their response
1530 that, since the implementation of GDPR, they can no longer
1531 quickly and easily obtain the information they need to combat
1532 fraud. This has been particularly harmful during the COVID-
1533 19 pandemic, as the FTC works to monitor the marketplace for
1534 unsubstantiated health claims, robocall scams, and other
1535 deceptive practices.

1536 To effectively combat consumer scams we need to develop
1537 a solution that allows our federal agencies to access WHOIS.
1538 I appreciate that the Internet Corporation for Assignment of

1539 Names and Numbers, ICANN, recognizes the importance of WHOIS,
1540 and is working to find a pathway that provides this data for
1541 legitimate, lawful needs. But it is taking far too long to
1542 make this information accessible.

1543 As we discuss COVID-19 scams today, I ask my colleagues
1544 on this committee to consider how helpful WHOIS information
1545 would be to stop criminal schemes, and to work with me to fix
1546 this issue.

1547 I ask the chair unanimous consent to enter into the
1548 record the written response I received from the FTC on July
1549 the 30th of 2020.

1550 [No response.]

1551 *Mr. Latta. Getting to the questions, through the
1552 course of the pandemic scammers have preyed upon Americans'
1553 concerns about the COVID-19 virus. We have seen this through
1554 phone calls, social media posts, phishing schemes, and
1555 counterfeit products. Senior citizens, especially those in
1556 Ohio, were hit hard by these scams. And in just a short
1557 period of time, 578 scams targeted individuals 60 and older.

1558 Most recently in my district county health departments
1559 have been warning citizens of scammers pretending to be
1560 health department officials. These bad actors are telling
1561 residents about coronavirus test results, contact tracing,
1562 and vaccine scheduling, and asking for personal information
1563 such as credit card numbers and Social Security numbers.

1564 So, Ms. Ponto, if I could start my first question with
1565 you, again, while we know that the FTC is taking action
1566 against many scammers who are using the pandemic to defraud
1567 consumers, how are law enforcement agencies taking action at
1568 the local level?

1569 And how can we better -- again, I know you brought it up
1570 a couple of times, but how can we better educate our
1571 consumers, especially our seniors, to identify these
1572 potential scams?

1573 *Ms. Ponto. Thank you. Before COVID we were able to do
1574 a lot of our tablings. We had town hall meetings. Now we do
1575 everything by Zoom, much like what we are doing here today.
1576 We are still getting that information out in those forums.
1577 We divvy that information out to our neighborhood council, to
1578 our city councils who have their own social media platforms.

1579 Our C.O.P.S. program is very good. Again, we are all
1580 situated in the different neighborhoods. And a lot of that
1581 comes filtered through our C.O.P.S. shops. We have
1582 pamphlets, we do the brochures. And we able to talk to
1583 people on the phone. We have all kinds of elderly folks who
1584 give us a call to confirm that the, you know, "The police
1585 organization is giving us a call, and they want money for
1586 their emergency fund. Is this a scam, or do I give them
1587 money?" You know, and we are able to talk them through
1588 these things.

1589 We will continue to educate in these different platforms
1590 the best that we can. But really, the C.O.P.S. shops is a
1591 great alternative for being right there in the neighborhood
1592 and serving that liaison between the police department and
1593 the community.

1594 *Mr. Latta. Also your testimony, you talk about the
1595 unemployment scams, and that a lot of people don't realize
1596 their information is being used for fraudulent unemployment
1597 claims until much later. Are there systems in place to help
1598 these individuals to sort of protect their information and
1599 recover from this theft?

1600 *Ms. Ponto. At this time I do not believe so, but I am
1601 not confident on that.

1602 *Mr. Latta. Okay. Well, thank you very much.

1603 And Madam Chair, my time is expired, and I yield back.

1604 *Ms. Schakowsky. I thank the gentleman. And next we
1605 have Congressman McNerney for 5 minutes of questions.

1606 *Mr. McNerney. Well, I thank the chair for holding this
1607 hearing, and the ranking member. Good luck with the
1608 Buccaneers this Sunday, Gus, but I don't think you are going
1609 to win it.

1610 Say, I want to thank the witnesses. Your testimony has
1611 been very stark and effective, and it will motivate us, I
1612 think, to -- into action. So it is a very good hearing in
1613 that regard.

1614 As already noted here, we have seen a sharp increase
1615 during the pandemic in scammers targeting unemployment
1616 benefits. And in recent years we have also seen numerous
1617 data breaches where consumers' personal information was
1618 stolen.

1619 Ms. Rich, how do you -- how do these pervasive data
1620 breaches increase the risks that consumers' information can
1621 be used to target the consumers later on, like going out to
1622 their unemployment benefits?

1623 *Ms. Rich. The data breaches are very harmful. The
1624 whole purpose of a data breach, it is usually to steal
1625 consumers' information so it can be used to rip them off at
1626 later times. If they don't get financial information enough
1627 to directly defraud consumers, they can use the information
1628 they obtain for phishing. You know, they know something
1629 about the consumer, so they can then send them emails about
1630 -- that look authentic, come from some place the consumer is
1631 expecting to get an email, and then get more information from
1632 them. So data breaches are very harmful, and that is an area
1633 where I am hopeful Congress will act to give the FTC more
1634 authority to take action.

1635 *Mr. McNerney. Good, that is a great segue to my next
1636 question to you, Ms. Rich. What additional tools and
1637 resources does the Federal Trade Commission need to help stop
1638 these breaches from happening in the first place?

1639 *Ms. Rich. A special law authorizing the FTC, in
1640 particular, not just to address breaches, but to address the
1641 underlying core security that causes these breaches. And it
1642 would be very important to give the FTC civil -- first civil
1643 penalties for first violations as part of this law, which has
1644 been discussed it lacks. And as Professor Kovacic discussed,
1645 to fill in some of the gaps in jurisdiction that the FTC has
1646 -- for example, common carriers, telecom companies, and non-
1647 profits. So that is an area that Congress can really make a
1648 difference.

1649 *Mr. McNerney. Well, thank you. I am also concerned
1650 that, once consumers fall victim to identity theft, they
1651 aren't getting the help they need to clean up their data and
1652 prevent the same thing from happening repeatedly to them.
1653 Ms. Rich, do you think more cooperation is needed from all
1654 stakeholders involved in helping consumers in such cases,
1655 including consumer reporting agencies?

1656 *Ms. Rich. Yes, it is a real problem, as Ms. Ponto
1657 discussed. I think she talked about local police not
1658 necessarily taking the action they need to on -- to follow up
1659 on identity theft schemes. So it involves the credit
1660 reporting agencies, it involves the FTC referring complaints,
1661 it -- and it involves local law enforcement. And they all
1662 really need to step up.

1663 *Mr. McNerney. Thank you. Well, my district includes

1664 the city of Stockton, California. It is perhaps the most
1665 racially and ethnically diverse city in the country. So it
1666 also has a large low-income population. Many folks are just
1667 struggling to put food on the table and pay their bills.

1668 Ms. Rich, do you think more outreach needs to be done to
1669 help consumers who fall victim to identity theft in
1670 communities like Stockton?

1671 And what could the FTC be doing to help, to be more
1672 helpful?

1673 *Ms. Rich. The FTC's strategy has been to try to
1674 partner with trusted sources of information in various -- but
1675 I don't know how successful it has been in your community. I
1676 don't know whether FTC has been able to invest the resources
1677 it needs to really reach out and partner with those
1678 communities. But that is the strategy I know it has tried to
1679 use, and it even encourages local enforcement to rebrand FTC
1680 materials so that they can be trusted materials. So that is
1681 a very important thing the FTC needs to continue to do.

1682 *Mr. McNerney. Well, my last comment is about price
1683 gouging. Many of my constituents have raised concerns about
1684 price gouging during the pandemic. I am sure everyone on the
1685 dais has had the same issue. I think it is important that we
1686 pass strong federal legislation like H.R. 675 to protect
1687 consumers against these practices.

1688 Thank you, and I yield back.

1689 *Ms. Schakowsky. The gentleman yields back, and now I
1690 call on Mr. Guthrie.

1691 *Mr. Guthrie. Thank you. Thank you, Madam Chair, I
1692 really appreciate you and Republican Leader Bilirakis for
1693 holding this hearing, and thank all the witnesses for their
1694 testimony.

1695 Since the COVID-19 pandemic began nearly a year ago,
1696 deceptive marketing, counterfeit products, and scammers
1697 targeting America's most vulnerable have been on the rise.

1698 In order to help protect Americans and stop this trend,
1699 I introduced my bill, the Safeguarding Therapeutics Act,
1700 working with our former colleague, Eliot Engel. I hope he is
1701 doing well. It was signed into law last month. This
1702 legislation gives the FDA the authority to seize and destroy
1703 counterfeit medical devices and products such as counterfeit
1704 vaccines and other combination devices that could harm
1705 patients. So proud that that was work signed before -- last
1706 session.

1707 So my question, starting with Ms. Patten, in your
1708 testimony you mentioned multiple misleading health products,
1709 such as unapproved treatments and cures for the coronavirus
1710 that are continually advertised to susceptible populations
1711 around -- across the country. So my question is how is that
1712 truthinadvertising.org -- how does it successfully work with
1713 businesses and government agencies to combat fraudulent

1714 marketing schemes, to protect these consumers from these
1715 harmful products, and what resources are available to help
1716 consumers identify these products?

1717 *Ms. Patten. Thank you. So one of our goals is to
1718 always get information to consumers as quickly as possible.
1719 So we immediately put things on our website, TINA.org, and on
1720 social media platforms to try and educate consumers about
1721 inappropriate health products.

1722 Moreover, when we do find a company that is violating
1723 the law, FTC law, we will immediately contact the company and
1724 ask them to stop it. Sometimes we find that we are educating
1725 the uneducated, and that they just don't know better. And in
1726 other instances, where we are either ignored or we feel that
1727 they have not done a good job, we will not hesitate to go to
1728 state and federal agencies to try and stop the inappropriate
1729 health claims from being marketed.

1730 *Mr. Guthrie. Okay, thanks. And does TINA have --
1731 TINA.org have the resources to help these consumers?

1732 *Ms. Patten. We try and do as much as we can. We are a
1733 small organization. But we have thousands of posts on our
1734 website, a lot of them dealing with the wellness industry and
1735 inappropriate health claims. And we try and guide consumers
1736 to where they can get help at the local, state, and federal
1737 level when appropriate.

1738 *Mr. Guthrie. Okay, thank you very much. And now I

1739 will switch to Ms. Ponto.

1740 Can you explain how your organization assists victims of
1741 scams?

1742 And do you direct victims to file complaints with the
1743 FTC, or any law enforcement agencies?

1744 And if so, can you walk us through the process once a
1745 report is filed?

1746 *Ms. Ponto. Yes, absolutely. Thank you. So we end up
1747 getting -- well, we have been in a proactive, active manner.
1748 We have this vehicle, prowling victim callbacks, where we get
1749 these daily reports from the police department that talk
1750 about victims who have been prowled, maybe their purse was
1751 stolen, maybe credit cards were stolen. Our C.O.P.S. shops
1752 do these callbacks, and so we are very proactive.

1753 We reach out to the folks and find out, "Do you have any
1754 personal identification in there at all that would lead to
1755 identity theft?" If they do, we have been following this
1756 recovery plan very well. This is a wonderful source of
1757 information for us.

1758 One thing that I did notice, though, is some of these
1759 larger banks and corporations, when they are talking to --
1760 the victims usually go to their bank first to say, "Hey, I am
1761 a victim of fraud," to see what they need to do next -- the
1762 banks have been pretty good about starting that fraud alert.
1763 And that is what we would say, is let's go and get a fraud

1764 alert started for you.

1765 The larger banks are not -- I am not hearing anyone that
1766 says from the larger banks are telling them to go to the FTC
1767 and file a report. And that is really odd to me. We do. I
1768 ask them -- you know, this might be a new phone number that
1769 they don't have, or at least update the phone number that is
1770 most currently used. But we got to get it in there, because,
1771 just like report writing, if it is not down in a report, it
1772 didn't happen.

1773 And so we need all of these to go through the FTC, just
1774 so that you have that information, and that you can get it
1775 out there to other --

1776 *Mr. Guthrie. Great. Thank you to both of you. My
1777 time is about --

1778 *Ms. Ponto. -- social security numbers, we point them
1779 in that direction there, and start really following this
1780 bible right here, as far as helping our victims.

1781 So thank you for this, this is a beautiful piece of
1782 work. I have it framed in my office.

1783 *Mr. Guthrie. Well, thank you. My time is expired. I
1784 appreciate your answers, and I yield back.

1785 *Ms. Schakowsky. I thank the gentleman, and now I
1786 recognize Mr. Cardenas for his 5 minutes.

1787 *Mr. Cardenas. Thank you very much, and thank you,
1788 Traci, for expressing how you put your heart and soul into

1789 your work, and for framing that document.

1790 It is very concerning to me that we hear these stories
1791 over and over, and during the worst pandemic we have seen in
1792 over 100 years. It appears that over hundreds of millions of
1793 dollars have been stolen from Americans, and it is very
1794 important for us to understand that this is not a nebulous
1795 thing. This is going on every day and affecting the most
1796 vulnerable people in our community.

1797 For example, grandparents being told that their Social
1798 Security payments will be withheld if they don't make an
1799 urgent payment. They are your neighbor who is struggling to
1800 get consistent work because of the pandemic, and they have
1801 lost their job, and they fall into this fraudulent investment
1802 coaching scam.

1803 For years, the FTC has sent a strong message to people
1804 who would prey on consumers to make money off of people
1805 illegally. And the message is simply this: you will face
1806 consequences, and you will be held accountable, and you will
1807 pay. Now, more than ever, it is critical that we ensure that
1808 the FTC has the tools it needs to continue doing its job and
1809 protecting American consumers.

1810 Jessica -- I am sorry, Ms. Rich, during the past year
1811 consumers reported losing more than \$300 million to
1812 fraudulent activities related to the pandemic. In general,
1813 how often is the FTC able to recover money lost to fraud and

1814 scams?

1815 *Ms. Rich. I don't know that I could put a particular
1816 number on it, but whenever the FTC takes actions, its goal is
1817 to get money back for consumers. That is the top priority,
1818 which is why this, the 13(b) threat, is so urgent, and why I
1819 am sure everybody at the FTC watching this hearing right now
1820 is very thankful to you for taking the leadership to try to
1821 solve that issue.

1822 But that is the top goal. Frequently the money is gone,
1823 and that will be more and more the case if this authority
1824 goes away.

1825 *Mr. Cardenas. Thank you. Yes, 13(b) is critical, and
1826 I hope that we can legislatively put that right once and for
1827 all.

1828 Is it fair to say that bad actors who are taking
1829 advantage of people with these schemes related to the
1830 pandemic would be emboldened, should the FTC lose its power
1831 to return the money back to the American people when they
1832 have been scammed?

1833 *Ms. Rich. They already are. And as I mentioned, the
1834 FTC can't pursue this relief in two circuits already, and
1835 others are watching that and saying, "Oh, look, the Supreme
1836 Court may take this authority away, let's delay'', or, "Let's
1837 not pay.''

1838 And as we also discussed, the FTC lacks civil penalty

1839 authority in many cases. And so, between the two of those,
1840 it is going to embolden fraudsters a lot.

1841 *Mr. Cardenas. Thank you.

1842 Bill, Mr. Kovacic, as a former small business owner
1843 myself, I know that it is even -- it is hard to run a
1844 business, even in the best of times. The overwhelming
1845 majority of small business owners are honest Americans who
1846 want to do things the right way. How are small businesses
1847 who are playing by the rules harmed when they have to compete
1848 in a marketplace with actors who break the rules and who are
1849 not brought to justice?

1850 Why is section 13(b) so important to the FTC's work to
1851 make sure that we have a fair playing field out there?

1852 *Mr. Kovacic. I think, as we are all painfully aware,
1853 the businesses you are talking about already are suffering a
1854 horrible period of distress, and there is a good question
1855 about how many of them will survive this process.

1856 In your own district, how many small businesses that
1857 were fully operational 12 months ago will be operational 12
1858 months hence? And my guess is the denominator is a lot
1859 bigger than the numerator there.

1860 You add to that the additional concern that, you know, I
1861 play by the rules, I pay my employees fairly, I give my
1862 customers a fair deal. I think one of the most damaging
1863 things is that, when you have the bad guys -- and again,

1864 these are cynical, bad guys -- it gives the sense that the
1865 whole neighborhood of commerce is corrupt. It creates a
1866 sense of doubt about the legitimacy of other transactions.
1867 That is, if I am the hardworking, small businessman that you
1868 describe, how do I persuade people that I am clean?

1869 So one taint of this process is that it raises questions
1870 about the legitimacy of the entire market system. But the
1871 other is that it -- again, it damages the individuals in the
1872 short term in that it diverts trade away from people who are
1873 playing by the rules. So it is -- in addition to this
1874 horrible scourge that small businesses face, now you see a
1875 diversion of trade away, you see a loss of confidence, and
1876 you see the possibility that people just don't trust the
1877 market.

1878 *Mr. Cardenas. Thank you, Mr. Kovacic. My time has
1879 expired.

1880 And we are a country of laws. And the FTC needs to do
1881 -- be able to do its part. And hopefully we, as Congress,
1882 will restore that, clearly.

1883 Thank you so much, I yield back the balance of my time.
1884 Thank you, Madam Chair.

1885 *Ms. Schakowsky. Thank you. Thank you. And now I want
1886 to welcome Mr. Bucshon for his time, and just say we were
1887 able to pass at least the -- a first step, the COVID-19
1888 Consumer Protection Act. But, obviously, we have learned

1889 today we have to do much more. So, Mr. Bucshon, it is yours.

1890 *Mr. Bucshon. Thank you, Chair Schakowsky, for holding
1891 this very important hearing. And it is -- I think sometimes
1892 you have hearings in Congress that don't get a lot of media
1893 attention. I hope this one does, because the level of scams
1894 that are out there has probably grown exponentially during
1895 COVID-19, shamefully, unfortunately. So this is an important
1896 hearing.

1897 I was proud to work alongside you, Chair Schakowsky, to
1898 help introduce and include the COVID-19 Consumer Protection
1899 Act in the end-of-the-year funding bill to put real teeth
1900 behind the FTC's enforcement efforts in combating COVID-19
1901 scams by allowing them to seek civil penalties for first-time
1902 offenders throughout the duration of the pandemic. But as
1903 you mentioned, this is the tip of the iceberg of the work
1904 that we need to do.

1905 But I also believe that promoting education and
1906 awareness of these scams is critical in reducing harm to
1907 Americans. A lot of people, particularly seniors, just
1908 aren't well aware of these scams. My mother is 80, and I can
1909 tell you that she calls me all the time and says, "Hey, I got
1910 this call," or, "I got this email."

1911 And I am like, "Mother, that is a scam." So this is
1912 real, and it hits home for everyone.

1913 I also know, as a surgeon, that using appropriate and

1914 approved medical equipment is critical in achieving positive
1915 outcomes during the pandemic for both patients and health
1916 care providers. So I am going to focus a little bit on that.

1917 Ms. Ponto, have warnings of fraudulent personal
1918 protective equipment obtained in scams been part of the
1919 Spokane C.O.P.S. community outreach when promoting the proper
1920 usage of various personal protective equipment?

1921 *Ms. Ponto. Thank you. To be honest with you, we are
1922 not seeing a large number of fraudulent vaccinations, or
1923 remedies, or personal protective devices. We are not seeing
1924 that really in the Spokane area too much.

1925 *Mr. Bucshon. Well, that is good to hear, because
1926 across the country, you know, this has been a pretty
1927 substantial problem, where products that are supposed to be
1928 protective are not. Or, as you mentioned, now we are seeing
1929 fraudulent vaccines and other things as it relates to COVID-
1930 19.

1931 As you mentioned earlier in this hearing, falling victim
1932 to a scam also causes serious mental health concerns, and
1933 victims may be too embarrassed to admit they were scammed.
1934 And I know that is true. They won't even admit it to family
1935 members. My -- as I mentioned, my mother, she was a victim
1936 of a scam. And fortunately, it wasn't that significant. But
1937 she -- I didn't know about it until I went to her house, and
1938 I am like -- and I won't get in detail, but I am like, "Well,

1939 how did -- where did you get this thing?''

1940 "Well, somebody called me.'' So I know that. And, you
1941 know, she was embarrassed, and also it causes mental health
1942 concerns.

1943 Can you speak to some of the issues you have seen, and
1944 how we can best address providing support in this area for
1945 victims?

1946 *Ms. Ponto. You know, we really need to be stepping up
1947 as communities and taking care of our elderly population.
1948 You know, a lot of the folks, you know, especially in their
1949 seventies, eighties, they don't have WiFi, they don't have
1950 laptops, they don't have smartphones. And so they really are
1951 feeling the isolation. They might get something in the mail.
1952 And, you know, these folks have good hearts, they want to
1953 send money to these different agencies to help, you know,
1954 support whatever mission they are on. And so it is more
1955 difficult.

1956 And I almost think that it falls heavily on family
1957 members being educated and having those hard conversations
1958 with their mothers and their fathers. We don't want to
1959 disrespect our mothers and fathers, you know. We want to
1960 have them keep their independence. We do not want them to
1961 feel foolish and those things. So it really is important
1962 that our adult children really do that follow-up and get that
1963 information to their mothers and fathers.

1964 Churches, churches is another great forum because a lot
1965 of this population do go to their local churches. Town
1966 halls, senior community centers, places like that, places
1967 that they go and frequent, assisted living centers. So those
1968 are areas that would benefit from brochures and education.

1969 *Mr. Bucshon. Ms. Patten, do you have any comments on
1970 that, or anyone else on the panel want to comment on this --
1971 the PPE situation, where the fraudulent -- stuff related
1972 specifically to COVID, and what you are seeing, and what we
1973 can do.

1974 *Ms. Patten. Yes, TINA.org has received numerous
1975 complaints from consumers that have ordered PPE on the
1976 Internet and failed to get it.

1977 We have also seen many advertisers, putting the FDA
1978 logo, or saying that they are FDA approved, when obviously
1979 that is not the case, on Amazon and eBay. So it has been a
1980 huge issue.

1981 *Mr. Bucshon. Okay, well, I am out of time, so I will
1982 yield back. Thank you, Chair Schakowsky.

1983 *Ms. Schakowsky. Thank you. I think Congresswoman
1984 Dingell is not back yet. I am going to move on, then, to my
1985 Illinois sister, Congresswoman Robin Kelly, for 5 minutes.

1986 *Ms. Kelly. Thank you so much, Madam Chair, and welcome
1987 to the ranking member. As much as I love Kathy Castor, I say
1988 ABB, anybody but Brady on Sunday. But anyway, thank you to

1989 the witnesses.

1990 The coronavirus pandemic has been ripe territory for
1991 scammers, as we all know. Criminals have taken advantage and
1992 have profited from confusion and hardship. Seniors, in
1993 particular, have been targeted during this pandemic.

1994 Ms. Patten, many seniors struggle with technology and
1995 lack of digital literacy skills. Due to the coronavirus
1996 pandemic, many are now having to rely on the Internet more
1997 than ever, including for booking COVID-19 vaccine
1998 appointments. In some states vaccine appointments need to be
1999 booked online, leaving those who can't navigate the Internet
2000 at risk of falling prey to fake vaccine appointment websites.

2001 Have you seen seniors targeted during the pandemic?

2002 And what did they keep in mind to guard against falling
2003 victim to a scam?

2004 *Ms. Patten. Absolutely. I mean, I don't think it is a
2005 coincidence that one of the largest scams that seniors fall
2006 victim to is tech support scams, right, on the computer,
2007 because they do struggle. So it has been a huge issue. And,
2008 you know, it is hard to stop.

2009 I think that seniors also are primarily scammed using
2010 the telephone. And while there is an ability for local,
2011 state, and federal agencies to find scams on the Internet or
2012 in print, it is much harder when the scam is perpetrated over
2013 the telephone. So it is a huge issue, and I know one that is

2014 being examined by agencies at every governmental level.

2015 *Ms. Kelly. Thank you. Ms. Rich. When you were the
2016 bureau director, you created the Every Community program to
2017 ensure the FTC was reaching a diverse set of communities.

2018 What were the major -- and what were the obstacles you ran --

2019 [Audio malfunction.]

2020 *Ms. Rich. Well, it was an incredibly important
2021 program, and we had ambitious plans for it. It was not only
2022 outreach to different communities, but research to see how
2023 successful we were doing in reaching out to different
2024 communities, and enforcement to make sure that -- enforcement
2025 in the areas where we saw problems.

2026 And one of the challenges we have -- in the data that we
2027 did collect at the time, it turned out that certain
2028 populations, specifically African-American and Latino
2029 populations, were disproportionately targeted by fraud, but
2030 were under-reporting fraud, that weren't reporting fraud in
2031 as great numbers to the FTC, showing that the FTC was not
2032 capturing the complaints it needed, and had a lot more work
2033 to do.

2034 I am -- I don't know exactly what the agency has been
2035 doing since I left. I know, in their outreach, that they do
2036 a lot to reach out to different communities. But I think
2037 this program really needs to be scaled up now with additional
2038 research, with more resources devoted to this, to making sure

2039 that all these communities are represented, and with
2040 everybody at the agency working on this goal.

2041 *Ms. Kelly. And how do you think the FTC should
2042 prioritize its resources toward combating scams?

2043 I mean, you know, there are so many different ones
2044 targeted toward consumers.

2045 *Ms. Rich. The -- I would say, based on past experience
2046 -- I don't have access to the details now -- that the fraud
2047 program is at least 50 percent of what the FTC does, between
2048 its headquarters and regional offices. And, given the
2049 pervasiveness of scams, I think that is appropriate, that it
2050 be such a large program. And it should continue to invest
2051 those kind of resources.

2052 *Ms. Kelly. Thank you so much.

2053 I want to let my colleagues know that I have
2054 reintroduced the bipartisan Protecting Seniors from Emergency
2055 Scams Act, and I hope my colleagues will join me as
2056 cosponsoring this very important legislation to protect
2057 seniors.

2058 So thank you so much, and I yield back, Madam Chair.

2059 *Ms. Schakowsky. Is Mr. Dunn here?

2060 [No response.]

2061 *Ms. Schakowsky. No? Give me a signal if you are.

2062 Otherwise, I am going to move on to Representative Lesko for
2063 5 minutes.

2064 [No response.]

2065 *Ms. Schakowsky. Representative Lesko, are you here?

2066 Dunn, are you here?

2067 Okay, you are recognized. You are recognized for 5
2068 minutes.

2069 [No response.]

2070 *Ms. Schakowsky. Unmute, unmute.

2071 [No response.]

2072 *Mr. Dunn. Is that to me, or to Representative Lesko?

2073 *Ms. Schakowsky. No, it is -- no, if you are there, Mr.
2074 Dunn, and that is you --

2075 *Mr. Dunn. Oh, okay, I am sorry. I thought you --

2076 *Ms. Schakowsky. You got recognized. Okay.

2077 *Mr. Dunn. I apologize. Thank you, Madam Chair. I am
2078 grateful that we are here today discussing this important
2079 topic of fighting back against the scams and frauds during
2080 the COVID-19.

2081 What is new is the fraud now carries a new risk, not
2082 just a financial toll, but an increased potential for damage
2083 to their health and well-being, as well. For that reason
2084 this is more important than ever.

2085 I am particularly concerned with scams targeted towards
2086 veterans, seniors, and those living in rural communities like
2087 the ones I represent in Florida's 2nd congressional district.
2088 To date we have seen a commendable effort by our local

2089 partners, who are raising awareness and preventing these
2090 scams.

2091 Ms. Patten, during the COVID-19 pandemic we have seen a
2092 lot of groups impacted. Specifically, though, I am concerned
2093 right in this question about our military veterans. And can
2094 you speak toward the work that TINA.org is doing with groups
2095 to represent those communities?

2096 *Ms. Patten. Right. Well, TINA.org provides a platform
2097 for consumers to come to complain to us about issues. And we
2098 have received multiple complaints from military veterans that
2099 have been finding products, especially wellness products,
2100 supplements that are claiming to either prevent, cure, or
2101 mitigate the symptoms of COVID-19.

2102 And I should note that one of the issues we are finding
2103 is that the supplements and the products, they are not new.
2104 What is new is the marketing. There is -- they pivoted. So
2105 before they were targeting military veterans with these same
2106 products, saying they could cure, prevent, or treat PTSD.
2107 And now they are COVID cures and --

2108 *Mr. Dunn. What remedies do the military -- are you
2109 directing our veterans, the military, towards particular
2110 remedies?

2111 *Ms. Patten. Right. So on TINA.org we have listed
2112 state, federal, and local agencies that they can complain to
2113 and share their issues with.

2114 *Mr. Dunn. Thanks so very much.

2115 Ms. Ponto, our local law enforcement has been a very
2116 valuable resource in terms of education on scams, especially
2117 for frauds that originate outside our region. What helpful
2118 tools can Congress provide -- you or whoever -- in order to
2119 help local law enforcement on scams that originate remotely?

2120 *Ms. Ponto. You know, one of the things, when I was
2121 talking to a detective about fraud investigations, is that
2122 she is having a difficult time getting this information for
2123 investigations. And it would be helpful if, when the time
2124 comes, Federal Trade Commission could step up or step in, and
2125 help get that information to our law enforcement, so they can
2126 look at getting convictions, and maybe, you know, put
2127 somebody in jail over this.

2128 They are very good, too, about getting the education out
2129 there. Most of the education for identity theft and fraud
2130 really does come from our C.O.P.S. shops. We get a lot of
2131 referrals, and we are able to walk them through this process
2132 of reporting, plus provide them with brochures and just
2133 firsthand knowledge. I think they like talking to a live
2134 person, versus having something in their hand at times and
2135 reading something online. So we provide that.

2136 *Mr. Dunn. So I thank you, I thank you specifically for
2137 bringing in the role of the shops, who have been very
2138 helpful, honestly, in our community on that, as well.

2139 Ms. Patten, once again, the pandemic certainly has
2140 created isolation for so many people that used to get their
2141 advice and kind of guidance from their friends and their
2142 workplaces, community events, churches, et cetera. Could you
2143 walk us through some of the details of how your organization
2144 reaches the people in more rural communities in our current
2145 situation of isolation?

2146 *Ms. Patten. Right. So I think it is important that
2147 you have to reach consumers where they are, and where they
2148 are now is social media. So TINA.org is very active on
2149 Facebook. We actually take out ads to warn consumers about
2150 scams and schemes that are on Facebook or on the Internet.
2151 And we also are very active on Twitter to try and educate
2152 consumers, and get the word out as much as possible.

2153 *Mr. Dunn. Thank you for that comment. I see my time
2154 has expired.

2155 I too see a face of the social media out there in the
2156 rural communities.

2157 Thank you, Madam Chair. I yield back.

2158 *Ms. Schakowsky. Thank you. I am -- you may have
2159 noticed the witnesses that were in and out. That is because
2160 votes are happening.

2161 Is Mr. Pallone here to -- I am -- okay, Frank, I am
2162 going to announce the next person. I think Debbie Dingell is
2163 not back.

2164 So, Congressman Soto, you are next.

2165 And Frank, I am going to go vote.

2166 *The Chairman. Okay.

2167 *Ms. Schakowsky. Thank you.

2168 *Mr. Soto. Thank you, Madam Chair. We all understand
2169 that American families are in crisis. They are losing loved
2170 ones, losing their jobs and small businesses, facing home
2171 insecurity, and food insecurity. So it is understandable
2172 that they are desperate for solutions to these problems that
2173 they face, which makes them more vulnerable to scams. COVID-
2174 19 scams kick people while they are down. And we must put an
2175 end to this scamster carnival barkery that runs rampant
2176 throughout the United States.

2177 According to the Florida attorney general office, we
2178 have seen several rampant themes of scams. Common COVID
2179 scams in Florida include unsubstantiated disinfectant claims,
2180 treatment, vaccine, and cure false claims, sham at-home
2181 testing kits, federal stimulus scams, fraudulent products,
2182 charity scams, unsolicited calls, texts, and emails, and
2183 phone solicitations. The latest scam in Florida, as of this
2184 January, are vaccination scams, suspicious texts or emails
2185 claiming to have info about the vaccine in exchange for
2186 personal information. This is disgraceful.

2187 So the question becomes how can we protect consumers
2188 without penalties, without restitution for victims? This

2189 would render the FTC a toothless tiger feared by no one, and
2190 leaving scammed consumers defenseless. It is clear we have
2191 to act on 13(b) to ensure that the FTC can continue to obtain
2192 restitution for victims.

2193 Ms. Patten, we recently passed in December the COVID-19
2194 Consumer Protection Act. My question to you is, is this
2195 being sufficiently used already by the FTC?

2196 Do you anticipate gaps in this law, realizing it just
2197 was passed?

2198 *Ms. Patten. To my knowledge, the FTC has not yet used
2199 that Act, but that is the only information I know, that there
2200 is no public -- on their website.

2201 It does have gaps. It does -- you cannot target work-
2202 from-home scams using this, because it is really focused
2203 primarily on government benefit scams and health care scams.

2204 But what I would say is that, while it is absolutely
2205 critical to have an Act like this at this time during the
2206 pandemic, I would warn you that it doesn't provide for
2207 coverage for the next disaster, for the next earthquake, for
2208 the next fire, what have you. There aren't -- unfortunately,
2209 will always be a segment of our population that is in a
2210 devastating event. And so I think that legislation is
2211 necessary that covers all such events, and not just focused
2212 on the pandemic.

2213 *Mr. Soto. Thank you, Ms. Patten. And I hope the FTC

2214 is on notice we want them to start utilizing this Act, and we
2215 are certainly paying attention, and thank you for your
2216 comments on additional ways we could fill these gaps.

2217 Mr. Kovacic, you have called upon, in your initial
2218 statement, a billion dollars for the FTC budget. If we were
2219 able to secure these funds, what important items do you think
2220 the funding should be used for to protect consumers?

2221 *Mr. Kovacic. I think we can go through the list of
2222 items that have been mentioned.

2223 One is a major expansion of law enforcement. That is,
2224 bring more cases, bring more visible cases.

2225 Second, much deeper collaboration, as I have mentioned
2226 before, with criminal enforcement authorities to build the
2227 criminal cases. I think we would have a much greater raising
2228 of public awareness, certainly among wrongdoers, who are
2229 geographically mobile, they are technologically proficient,
2230 they understand gaps in the law, and they have been building
2231 experience, going from one scam to another. So bring visible
2232 criminal prosecutions, and spend money on that.

2233 I would spend money on the outreach effort that we have
2234 been referring to, to build better networks with a collection
2235 of government and non-government institutions to develop the
2236 capacity to analyze complaints in real time, and target
2237 attention on vulnerable communities.

2238 I would spend the money to learn more about how commerce

2239 and fraud take place in historically disadvantaged
2240 communities.

2241 I would spend the money on doing the better public
2242 education that we have been speaking with (sic).

2243 I would spend the money on building better networks with
2244 public and non-government organizations, civic organizations.

2245 I would spend the money on the capital investment to
2246 build up the technological capacity to analyze and build
2247 databases and use them effectively.

2248 That would be my short list of what to do. And I would
2249 think ahead about the moment when we are going to have new
2250 privacy legislation. The FTC is being asked to bring big
2251 cases against big tech companies across the board. None of
2252 this is cheap to do. This is how I would use my billion
2253 dollars.

2254 And, of course, were I in your position, I would say, "I
2255 am going to come back regularly to see what the return is to
2256 this kind of effort.'" But notice how many times you have
2257 been saying in the past 2 hours plus, "We are going to do
2258 more, more outreach, more education, more cases, more, more,
2259 more.'" It costs.

2260 *Mr. Soto. Thank you, Mr. Kovacic. My time has
2261 expired.

2262 *The Chairman. [Presiding] Okay, I thank you, Mr. Soto.
2263 We now go to the gentleman from Indiana, Mr. Pence,

2264 recognized for 5 minutes.

2265 [No response.]

2266 *The Chairman. Greg, you have got to unmute, I think.

2267 [No response.]

2268 *The Chairman. Mr. Pence?

2269 *Mr. Pence. All right, I apologize. I always --

2270 *The Chairman. Oh, that is all right.

2271 *Mr. Pence. -- everybody when they do that.

2272 *The Chairman. Start the clock.

2273 *Mr. Pence. Sorry about that.

2274 Chair Schakowsky and Ranking Member Bilirakis, thanks
2275 for calling this meeting today. Thank you to the witnesses.
2276 It has been very interesting listening to you today. Thanks
2277 for coming here to engage on the topic of COVID frauds and
2278 scams, which we have heard a lot about, and we have all
2279 experienced a lot about.

2280 From fake stimulus checks to phony pet adoption sites,
2281 scammers are seizing the opportunities during the pandemic to
2282 prey on vulnerable Americans. Like Congressman Bucshon, my
2283 mother and stepfather have had the same problems. Thank God
2284 they call us and ask us first. Not everybody has that
2285 opportunity, or that luxury.

2286 Unfortunately, many Hoosiers are not immune from these
2287 scams. Over the past year alone, Indiana has reported almost
2288 4,400 scams to the FTC, accounting for an estimated loss of

2289 \$1.9 million.

2290 Many of the fraud schemes have shadowed the evolution of
2291 the COVID-19 response. In April, hospitals in my district
2292 raised the issue many times of not -- of non-traditional
2293 medical suppliers engaging in deceptive price gouging of
2294 scarce PPEs, as much as \$50 sometimes for some of that
2295 equipment.

2296 Then, with the passage of the CARES Act, scammers took
2297 advantage of critical relief intended for individuals and
2298 families. Now we are seeing fraudulent claims around vaccine
2299 distribution all over the country. But recently, the Indiana
2300 governor highlighted how pandemic unemployment relief
2301 programs in the state have become a target of fraudsters and
2302 scammers.

2303 Similar to the situation you highlighted in your
2304 testimony, Ms. Ponto, criminals are gathering personal
2305 information from websites and social media to apply for
2306 benefits in their victims' names. I think we talked about
2307 the IRS dollars showing up on some people's returns. The
2308 state uncovered a fake website scam that closely mimicked the
2309 Indiana Department of Workforce Development webpage to trick
2310 individuals into giving up their information for
2311 unemployment. Not only does this result in a loss of
2312 resources for the state; it is creating significant delays in
2313 the ongoing verification process for Hoosiers out of work and

2314 seeking that assistance as quickly as they can get it.

2315 Ms. Ponto, have you seen this type of scam increase?

2316 And how would you recommend we stay ahead of the curve
2317 to prepare for these schemes so that Hoosier relief programs
2318 are not obstructed or delayed?

2319 *Ms. Ponto. Thank you. I did. This spring, when it
2320 first came about, I got hit hard with companies -- I mean
2321 universities and companies, not individuals -- that got
2322 hacked over this unemployment security department scam. And
2323 I don't know what the question is. That should have been
2324 very secure, in my opinion. The Department of Corrections
2325 was struck. That is a huge entity.

2326 So I am not sure what the answer is. I just know that
2327 we all have a role to play, and we have got to all work
2328 together to figure that out.

2329 One of the things I did find interesting was one of the
2330 detectives I talked to said that she has a daughter who is a
2331 minor that has Social Security disability. And within a
2332 week, the detective herself actually started receiving AARP
2333 paperwork applications, because they thought that the Social
2334 Security disability was from her, not this minor. So
2335 somewhere along the lines we have got this sale of personal
2336 information that is going back and forth. And that probably
2337 needs to stop, too, because of what all is in that
2338 information that is going elsewhere and out there.

2339 So I don't know what the answer is, as far as the
2340 unemployment benefits. I fear with this newest hack that is
2341 just coming about with the auditor's office, that this is
2342 just the tip of the iceberg. They are getting so smart, and
2343 they work all day on doing this. So I don't know what the
2344 answer is.

2345 *Mr. Pence. Thank you for what you do, Ms. Ponto.
2346 I yield back.

2347 *The Chairman. I thank the gentleman. Next -- Mrs.
2348 Dingell is not here, so we will go to the gentlewoman from
2349 New York, Ms. Rice.

2350 Kathleen?

2351 *Ms. Rice. Thank you, Mr. Chairman. At the epicenter
2352 of the initial coronavirus outbreak in the U.S., state and
2353 local officials in my state of New York, and in my district
2354 on Long Island, were also the first to deal with the issue of
2355 price gouging.

2356 So at the start of the pandemic, a pharmacy in my
2357 district, for instance, was selling N95 masks for \$5 each
2358 from open boxes of 20. And then, in another part of town, we
2359 had hand sanitizer going for all different amounts for tiny
2360 sizes, ounce sizes of -- you know, up to \$10 for a four-ounce
2361 bottle at -- and this was all within, you know, three
2362 different locations within a 10-minute drive apart from each
2363 other.

2364 Nassau County, which my district sits in, made a little
2365 bit of history when federal prosecutors brought the first
2366 case in the nation under the Defense Protection Act against
2367 the owner of a warehouse store who was hoarding more than
2368 four tons of personal protective equipment, and marking up
2369 items by as much as 1,328 percent.

2370 So Ms. Rich, if I could start with you, in my district
2371 we were able to overcome these challenges because we had
2372 strong local leadership, and we mobilized our department of
2373 consumer affairs. Can you just talk a little bit about how
2374 the FTC has or hasn't responded to price gouging complaints
2375 during the pandemic?

2376 *Ms. Rich. Yes. So I am not an expert on price
2377 gouging, because it was -- it is typically handled on the
2378 competition side of things, rather than consumer protection.
2379 But I understand that when the FTC looks at this issue, it
2380 looks at it through its unfairness authority, which requires
2381 a detailed cost benefit analysis of price changes, of the
2382 reasons behind it, of the effect on consumers and
2383 competition.

2384 Its unfairness authority is not a nimble way to respond
2385 to a fast-moving problem. A better way, which would be more
2386 similar to what happens with the states, would be for
2387 Congress to decide to set forth legislation establishing
2388 standards for price gouging, but similar to what happens in

2389 the states, where they define it either by a percentage or
2390 fluctuations that happen within a certain period of time
2391 compared to the prices, you know, 5 days ago or whatever.

2392 Clearer standards would allow for much more nimble
2393 enforcement than unfairness. And then the FTC could enforce
2394 those standards in the way that you want.

2395 *Ms. Rice. So do you think it is one of the -- that is
2396 one of those issues that should be handled at the local
2397 level?

2398 *Ms. Rich. I -- 34 states have legislation. You were
2399 just talking about how effectively it was done at the local
2400 level. But there may be companies that operate nationwide,
2401 which would make it appropriate for the FTC to handle
2402 something like that.

2403 *Ms. Rice. Well, certainly, you know, with the increase
2404 in various e-commerce platforms, it has made it harder for
2405 local officials to go after price gougers who are on the
2406 other side of the country, or on the other side of the
2407 planet. So I guess that is a specific role for the FTC to
2408 play.

2409 You know, so I think it is really important, you know,
2410 if you talk about section 13(b), and what I am hearing from
2411 every single witness here today is that Congress needs to act
2412 forthwith. So I just want to maybe have, you know, Ms. Rich
2413 or Mr. Kovacic, anyone who has an opinion about this -- so it

2414 is one thing in terms of what the Supreme Court is going to
2415 rule on, in terms of recouping stolen money. But maybe talk
2416 a little bit more about what additional penalties -- I think
2417 it was Mr. Kovacic who was talking about the lack of -- I
2418 mean, if you look at what happened with the, you know,
2419 stealing the tips from taxi -- or delivery drivers, I mean,
2420 that is just absurd that, you know, you call -- we call it a
2421 victory, just because we got the money back, and we are going
2422 to distribute it to the victims.

2423 But -- so maybe just talk a little bit more about what
2424 Congress should look at, in terms of additional penalties,
2425 other than just recouping -- allowing the FTC fraud
2426 jurisdiction to recoup lost money.

2427 *Ms. Rich. Yes, the penalties are a very important
2428 area, too. And certain -- you know, most -- many agencies,
2429 like the CFPB and many state AG's offices, have the capacity
2430 to impose penalties in a way the FTC doesn't, even though the
2431 FTC has this enormous jurisdiction and mission to deter this
2432 behavior. So the -- I think Congress should consider giving
2433 FTC penalties across the board, but at the very least in
2434 certain key areas like privacy.

2435 Like, you know, the gig economy was another -- was an
2436 area that we just talked about with what just happened with
2437 Amazon. And that was something that the acting chair is
2438 supporting in certain areas of fraud where they can't get

2439 penalties at this point. That would be very important, as
2440 well.

2441 *The Chairman. Thank you.

2442 *Ms. Rice. Thank you, Mr. Chairman. I yield back.

2443 *The Chairman. Next we go to -- I thought I saw Mr.
2444 Armstrong. Is he there? Oh, yes. The gentleman from North
2445 Dakota, Mr. Armstrong, recognized for 5 minutes.

2446 *Mr. Armstrong. Thank you. Mr. Cardenas referenced a
2447 13(b) proposal by Senator Wicker. I believe that that was
2448 part of the Senator's privacy proposal, so I think we would
2449 all be pleased to see it move as part of a broader effort.

2450 Given that, I would just like to ask our two FTC
2451 veterans on the panel this: If we are going to address 13(b)
2452 and consider first-offense penalties for privacy violations
2453 and rulemaking authority, does it -- it doesn't make sense
2454 for individual states to add conflicting rules and allow
2455 private rights of action, correct?

2456 [No response.]

2457 *Mr. Armstrong. It is easier in person, you can just do
2458 it, but -- yes, please.

2459 *Ms. Rich. Preemption and private right of action are
2460 some of the key issues that are subject to the debate. If
2461 state laws -- if there is any discussion of preempting state
2462 laws, at the very least the states should be able to enforce
2463 the law, any law that gets passed at the federal level.

2464 *Mr. Kovacic. First, I applaud the sense of urgency
2465 with which you and your colleagues, Congressman, are
2466 approaching the development of a comprehensive, nationwide
2467 privacy policy. At the moment, our national privacy policy
2468 is being set in California and Brussels, and we don't have
2469 one at the national level. So I think it certainly deserves
2470 your attention.

2471 My intuition on private rights is that I would perhaps
2472 begin by creating the robust public enforcement framework,
2473 which is the collaboration between the federal and state
2474 authorities. I would see how that works for a while, and I
2475 would take stock of that in 5 years, and decide what kind of
2476 private enforcement I want to develop. Maybe you develop
2477 private enforcement that is a follow-on to the state and
2478 federal enforcement. But I think you have a great deal of
2479 room to maneuver and to shape the program in a way that
2480 reflects the competing interests that have been brought to
2481 bear in the fruitful debate you are having about private
2482 rights.

2483 On the preemption, I would like to preserve, in general,
2484 a framework that promotes coherence at the national level.
2485 Because the states, in a number of instances, have had very
2486 useful additions to the framework, by way of experimentation
2487 I would like to preserve some capacity on their part to
2488 perhaps go beyond provisions of the national coverage, and to

2489 experiment with new techniques that could be adopted and
2490 brought into the federal scheme.

2491 I confess I don't have an excellent administrative
2492 mechanism to do that, and I hesitate a bit because I see the
2493 benefits of the broad coherence. But I also see benefits
2494 that states have brought to the process by being able to do
2495 things that the federal system has not done at the moment.
2496 So I would like a mechanism that incorporates both of those
2497 elements and policy-making.

2498 *Mr. Armstrong. Well, I appreciate that. As a former
2499 chair of a state senate judiciary committee, I can tell you
2500 two things: we like to have state authority, and I don't --
2501 with all due respect to my good friend, Congresswoman Castor,
2502 North Dakota politics and California politics are pretty
2503 significantly just distinct and different. But we sure seem
2504 to get a lot of uniform laws that are based out of
2505 California.

2506 So just as we go through this, I want to just point out
2507 a couple of things, and one, I am excited to be on this
2508 committee. No offense to all of my colleagues on Judiciary
2509 and Oversight, but we have made it well into 2 hours, and
2510 nobody is yelling at each other yet. So that is -- it is
2511 very different.

2512 And two, I just -- just so -- as we are doing in the
2513 actual COVID thing, according to the FTC, North Dakota has

2514 had over 270 COVID-related scams. And we are actually really
2515 lucky. We have a great attorney general who has been on top
2516 of these things, and also -- and has started warning our
2517 consumers about it as early as last April.

2518 But I just want to be clear real quick that product
2519 liability is actually almost always primarily a state law
2520 function, and it is a principle that manufacturers, sellers
2521 -- strict liability and defective consumer products. I do
2522 think we have to have a broader -- I am glad people were
2523 asking questions about section 230, and how it applies as
2524 people -- as online retailers become part of the entire
2525 distribution chain, and the distinction between an online
2526 retailer and that.

2527 And then I would also just say we have to be careful in
2528 anything we do that doesn't further entrench the big guys and
2529 decrease competition.

2530 And with that, I will yield back.

2531 *The Chairman. I thank the gentleman. And now we are
2532 going to move to the gentlewoman from Minnesota, Ms. Craig.

2533 You are recognized for 5 minutes.

2534 *Ms. Craig. Thank you so much, Chairman. Thanks for
2535 yielding, and thanks for having me on this committee and on
2536 this subcommittee. I am super excited to be here.

2537 I want to expand on the conversation in my question to
2538 you, and highlight the work on COVID-19 that I began in the

2539 last Congress on scams related to COVID-19 with my fellow
2540 Minnesota Congressman, Pete Stauber. Together we introduced
2541 a bill called the Stop Coronavirus Scams Act of 2020, which
2542 would double the applicable forfeiture penalty, criminal
2543 fine, and term of imprisonment for anyone who provides
2544 misleading or inaccurate caller information in an attempt to
2545 defraud, cause harm, or wrongfully obtain anything of value
2546 by using false information related to COVID-19.

2547 While this bill primarily deals with the FCC's existing
2548 authorities under the Communications Act, I wanted to bring
2549 it up in the context of the comment you made about fraud not
2550 occurring in a bubble, and how it relates to other entities,
2551 individuals, and systems to function, including the platforms
2552 and conduits through which scam artists disseminate
2553 fraudulent information.

2554 You note in your testimony that among the warning
2555 letters that the FTC sent regarding COVID-19 scams were
2556 letters to Voice Over Internet Protocol providers and other
2557 companies, warning them that routing and transmitting illegal
2558 robocalls related to COVID-19 is against the law. In one of
2559 those joint letters sent by the FTC and FCC, the agencies
2560 noted that these unwanted robocalls included messages
2561 alleging that recipients have been charged almost \$400 for
2562 tech support services, but may receive a refund by responding
2563 to the robocall. They also included robocalls falsely

2564 claiming to come from the United States Social Security
2565 Administration, threatening cutoff of SSA benefits.

2566 Clearly, these activities have the potential to inflict
2567 harm on consumers. Given the severity of the ongoing crisis,
2568 do you feel these bad actors would be less willing to engage
2569 in fraudulent activities if the fines and penalties were
2570 increased for covered communications related to COVID-19?

2571 And are there any other actions, including legislative
2572 fix to 13(b), that Congress should be contemplating in this
2573 area?

2574 *Ms. Rich. I think that strong fines and penalties -- I
2575 haven't reviewed your Act, but it sounds like there is
2576 criminal penalties. It would be very important to deter
2577 these, you know, terrible acts.

2578 But I also think the responsibility of platforms is
2579 very, very important. And 230, of course, is a very complex
2580 undertaking and beyond the -- 230 reform -- and beyond the
2581 subject matter of this hearing.

2582 But I do think that this subcommittee could be thinking
2583 of other responsibilities to impose on these platforms and
2584 large hosts of other content, short of 230 reform, along the
2585 lines of the Informed Consumers Act that would actually spell
2586 out duties, as opposed to imposing -- just imposing strict
2587 liability and have everybody wonder what it is they are
2588 supposed to do. It would impose specific duties on the

2589 platforms to screen out some of this content.

2590 *Ms. Craig. Ms. Rich, I really appreciate you and all
2591 of the panelists being here today.

2592 And Mr. Chairman, with that, I yield back.

2593 *The Chairman. Thank you. So now we go to the
2594 gentlewoman from Arizona, Mrs. Lesko, for 5 minutes.

2595 *Mrs. Lesko. Thank you very much, Mr. Chairman. It is
2596 an honor to be a new member of this committee. And I thank
2597 all of the witnesses for their testimony.

2598 Earlier on in the testimony, Ms. Ponto, you had said you
2599 need -- you would suggest we need more help from the FTC.
2600 And so can you give examples of where you needed help from
2601 the FTC, and it was possibly a little bit lacking?

2602 Like, could you give us concrete examples of how you
2603 could get more help from the FTC? What specifically?

2604 *Ms. Ponto. Thank you. So I reached out to detectives
2605 at the Spokane Police Department, just to find out more about
2606 the fraud that they were seeing, because they are the ones
2607 who are going to put the bad guys in jail. And my opinion,
2608 that is what we need to be doing.

2609 What she gave me, an example, was -- is that there was a
2610 particular case where we had an elderly victim, and she lived
2611 in an assisted living center. Her adult son was her power of
2612 attorney, and he was in charge of all of her finances. One
2613 of the caregivers at the assisted living center started

2614 stealing credit cards from multiple residents.

2615 And so, in an effort for the adult son, the power of
2616 attorney, to go and get the evidence from his elderly mom's
2617 accounts, he had all of his documentation, he had his
2618 paperwork, and he went to the first credit card company.
2619 They declined to help him, or give him the information he
2620 needed. So then he went to the bank, and they helped him get
2621 information on her accounts. But if his name was not on a
2622 credit card, then he did not get that information.

2623 He then went to the detective and signed all the
2624 paperwork, all the authorization forms, showed the power of
2625 attorney. She ended up having to write three different
2626 search warrants, because she kept coming up with roadblocks.
2627 At the first business they claimed that they had contracted
2628 out to someone else, so really you need to do a search
2629 warrant at the second place. So she goes to the second
2630 place. They played a game of, well, you know what? This is
2631 not really our business address, this one is. So she ended
2632 up writing three warrants by the time it was said and done.

2633 Two months it took for her to get the account
2634 information, 2 months. And in that time that she got that
2635 paperwork -- she only got a third of it, she didn't even get
2636 everything that she needed to possibly bring charges against
2637 this caregiver.

2638 What -- she wanted to specifically address that, under

2639 the Fair Credit Reporting Act, businesses are required to
2640 provide this information. And the FTC wants to hear if we
2641 are not getting that kind of cooperation. But the problem is
2642 that she did not feel like there was any teeth from the FTC,
2643 that maybe it was a, you know, a threat, or get it done, but
2644 there was nothing that caused them to make sure that she got
2645 all the information that she needed. And so it really would
2646 have been quite helpful if they would have stepped in at that
2647 stage and be able to help get our detectives the information
2648 they need from these different financial institutions or
2649 credit card places, so they can bring charges to these folks,
2650 put them in jail.

2651 *Mrs. Lesko. Well, thank you very much, Ms. Ponto.

2652 And maybe that -- maybe I will go to Ms. Rich next,
2653 then, since you used to work at the FTC, and see if you have
2654 any comments about what Ms. Ponto said.

2655 I mean, one of the other witnesses said the pay is lower
2656 at the FTC, and found that as a problem. Do you need more
2657 staff there?

2658 Why are these things falling through the cracks, in your
2659 opinion?

2660 *Ms. Rich. I don't know why that, you know, particular
2661 issue fell through the cracks.

2662 I also don't -- to be honest, I don't recall whether
2663 this particular provision of the FCRA is enforceable and has

2664 teeth. I can assure you that the FTC is watching this
2665 hearing today, and is taking this very seriously, what Ms.
2666 Ponto was talking about, because working with partners on
2667 identity theft is hugely important.

2668 The FTC desperately does need more resources. They are
2669 paid less than other agencies, but I don't think that stops
2670 the commitment to work diligently to help consumers. So many
2671 people there are already working for much less than they
2672 would in other places they could be working. But the number
2673 of staff -- I mean, sure, give them what they deserve to be
2674 paid, but the issue is more the strain on the number of
2675 staff.

2676 The -- you think about -- you on this subcommittee know
2677 more than anyone the broad mission of the agency, and what it
2678 is tasked to do, and how it is very small compared to other
2679 agencies, but its mission is huge.

2680 *Mrs. Lesko. Thank you, Madam Chairman, and I yield
2681 back.

2682 *Ms. Schakowsky. [Presiding] Great, and I am back. And
2683 so let me catch up. Has Congresswoman Trahan -- have you
2684 asked your questions yet, or is it your turn?

2685 *Ms. Trahan. I think it is my turn. Thank you.

2686 *Ms. Schakowsky. Okay, you have 5 minutes.

2687 *Ms. Trahan. Thank you, Chairwoman Schakowsky and
2688 Ranking Member Bilirakis.

2689 And for the record, as New England sits on the sidelines
2690 watching the Super Bowl this year, I, for one, will happily
2691 take the goat back. So, go Bucs.

2692 Hey, so first, thanks to all the witnesses for testing
2693 -- testifying today on behalf of the many victims of fraud
2694 who have been cheated with phony letters about COVID
2695 treatments and cures. I really appreciate you hanging for
2696 the duration.

2697 Ms. Rich, I want to focus my question on what more the
2698 FTC can be doing to protect consumers and deter bad behavior
2699 by fraudsters. And, like my colleague from Minnesota, I was
2700 compelled by your observation that, "fraud does not happen in
2701 a bubble, it relies on other systems to function."

2702 And this very point was raised by Consumer Reports with
2703 the FTC last summer in comments about the need for clearer
2704 guidance on online reviews and endorsements. And they wrote,
2705 "Social media sorting algorithms tend to prioritize posts
2706 that receive more engagement from users with higher
2707 followers, providing further incentives for marketers to use
2708 deceptive tactics to augment those numbers.'" I am convinced
2709 that they have put their finger on the heart of this issue,
2710 and the broader challenge of social media misinformation and
2711 disinformation, the faulty incentive structures involved in
2712 these algorithms.

2713 Now, recognizing that you are no longer with Consumer

2714 Reports, I would like to ask your thoughts on how we can
2715 better rein in these practices used by scammers to make
2716 products look more popular than they are. How else can the
2717 FTC update the endorsement guides to keep pace with these
2718 manipulation strategies in the online marketplace and social
2719 media?

2720 *Ms. Rich. Well, I am no longer with the FTC or with
2721 Consumer Reports. But I was in both places, so I am very
2722 sympathetic to everything that you are talking about.

2723 Deceptive endorsements are a horrible problem. The FTC
2724 has comprehensive guides, and it -- for a lot of enforcement,
2725 actually. But this is pervasive, and the enforcement hasn't
2726 been able to make at all a dent in this problem. And, of
2727 course, because of the rapid development on social media, it
2728 just -- it changes its format all the time. And while the
2729 deceptive -- the endorsement guides have specific examples,
2730 when the FTC only updates its rules and guides, like, every
2731 10 years, it is just not enough to keep pace. So I am very
2732 sympathetic to all those points that have been made by
2733 Consumer Reports and you.

2734 This may be an area where more teeth are needed because
2735 of the pervasiveness of this problem. Maybe a rulemaking.
2736 And I think this is something that Commissioner Chopra raised
2737 when the comments went out, that -- and I know Consumer
2738 Reports also mentioned maybe there need to be more bright

2739 lines here. And if there was a rule enacted, then there
2740 could be civil penalties for it.

2741 So, of course, the best way to get this done would be
2742 for Congress to authorize rulemaking, and the Commission to
2743 pass a rule, because otherwise it is going to use its
2744 cumbersome Magnuson Moss procedures. But I really do think
2745 there needs to be more, more teeth in what the FTC can do in
2746 this area because it can't make a dent.

2747 *Ms. Trahan. Great. That is super helpful.

2748 Ms. Patten, following up with Ms. Rich's comments, I
2749 would love to hear your thoughts, as well. I mean, you went
2750 straight after section 230 in your testimony, but you also
2751 noted that narrower approaches are on the table, like Senator
2752 Baldwin's COOL Online Act. With respect to the specific
2753 issue of endorsement guides, do you see room for improvement
2754 at the FTC, as well?

2755 *Ms. Patten. Absolutely. I mean, I think, you know, we
2756 can't ask the FTC to do more, unless we -- they have more
2757 resources available to them. And, of course, you know, we
2758 have seen a change in, you know, endorsements from
2759 influencers. It started out with clothing and private jets,
2760 but now, you know, we are getting into serious issues when it
2761 comes to treatments and preventions for COVID.

2762 So, obviously, that is an area where the FTC is
2763 incredibly concerned, but they don't have the resources. I

2764 mean, if you look at Instagram alone, and you search the
2765 hashtag COVID-19, you are going to come up with more than 20
2766 million hits. No human can go through that. So they need
2767 the technology and resources to really address this issue.

2768 And I absolutely agree that updated endorsement guides
2769 are needed, and that penalty authority for first-time
2770 offenders on social media influencers would be incredibly
2771 helpful.

2772 *Ms. Trahan. Thank you. I will try to squeeze in my
2773 last one, but if I get cut off, that is fine.

2774 You know, Mr. Kovacic, I was intrigued by your
2775 recommendation that the FTC borrow some of the lessons from
2776 UK's Competition and Markets Authority, particularly its
2777 establishment of a data unit. As one of our panel's insider
2778 experts on the FTC, can you expand upon your reasoning that
2779 the FTC should adopt something similar?

2780 And if I have out of -- if I am out of time, I am happy
2781 to submit that question for the record.

2782 *Mr. Kovacic. Notice that just a moment ago,
2783 Congresswoman, you were referring to algorithms and the
2784 ability to understand what goes on inside these systems.

2785 Part of the rationale for the UK development of a data
2786 unit, which has 40 people, mostly technologists, not lawyers
2787 and economists, but real technologists, is, one, to
2788 understand what is going on inside those processes; two, to

2789 do searches, intelligence searches that allow you to figure
2790 out what is in that mass of 20 million hits, what is going on
2791 there; and to distill some lessons about what is taking place
2792 in the marketplace.

2793 During COVID this group was doing almost real-time
2794 assessments with respect to complaints, patterns in
2795 complaints, identifying within a couple of days where the
2796 hotspots were with wrongdoers, repeated indications you could
2797 focus attention. And now they have a major program that they
2798 have just launched to use their new study in algorithms on
2799 both the competition and consumer side to get a better idea
2800 of how firms use algorithms to target individual vulnerable
2801 consumers and to prey upon them. And --

2802 *Ms. Schakowsky. Okay, I am going to have to -- we are
2803 over a minute over, and I am going to have to cut you --

2804 *Ms. Trahan. My first subcommittee meeting, and I went
2805 over. I apologize. Thank you so much to the witnesses.

2806 *Ms. Schakowsky. And, you know, you can put something
2807 in writing, or reach out to him personally. And I understand
2808 that Debbie Dingell is there.

2809 Congresswoman Dingell, are you there?

2810 *Mrs. Dingell. I am, thank you.

2811 *Ms. Schakowsky. Okay, it is your turn for 5 minutes.

2812 *Mrs. Dingell. Thank you. Sorry, I was over voting.

2813 And thank you for holding this hearing today. It is a very

2814 important one, and we have learned a lot, listening to every
2815 -- all of the questions on both sides of the aisle.

2816 You know, this pandemic has made us more isolated than
2817 ever, which leaves people, as we have all been talking about,
2818 turning to the Internet, social media, and other resources in
2819 search of community. They just want to talk to somebody,
2820 help and comfort.

2821 And many of the scams that my colleagues have been
2822 talking about today, and the witnesses highlighted, prey on
2823 people's loneliness and fear during this unprecedented time,
2824 and can originate and do originate and proliferate on the --
2825 these platforms. Scams have affected -- we have heard the
2826 stories from some of you -- struggling families, people then
2827 embarrassed to tell somebody something happened, individuals
2828 seeking employment during the crisis, and seniors who are
2829 just plain scared and desperate, trying to protect themselves
2830 and those around them from the virus.

2831 It is unconscionable that, during this unprecedented
2832 time, individuals and families cannot be certain of what is
2833 real and what is not real of the products and services that
2834 -- the victims of these scams cannot receive the compensation
2835 for -- they deserve.

2836 And just for the record, I have started -- I have got a
2837 file that thick of ones that I have gotten. In some days I
2838 don't even know. You know, I will get a, "Hey, your Yahoo!

2839 Mail is about to be cut off. Give us this to'' -- or the
2840 Amazon, it is -- and I have hearings like this, and you teach
2841 me, and it is pretty scary.

2842 So FTC guidelines and authorities need to meet the
2843 demands of evolving technology and tactics, and reflect our
2844 continuing priority of protecting consumers. So that is what
2845 we have been talking about.

2846 So let's start by discussing social media consumption
2847 habits and its impact on consumers' vulnerability to frauds
2848 and scams. Last August there was a new report that
2849 discriminatory ads are still appearing on Facebook, even
2850 after the landmark settlement in 2019 that Facebook violated
2851 federal anti-discrimination laws. It appears that
2852 advertisers are able to use Facebook's platform to
2853 microtarget populations based on their identities of age and
2854 race.

2855 Ms. Rich and/or Ms. Patten, could tools that Facebook
2856 provides to microtarget ads be used by scammers to target and
2857 exploit vulnerable populations, exasperating these harms?

2858 And what steps are social media companies and the FTC
2859 taking to prevent such abuses?

2860 *Ms. Rich. Well, the settlement you discussed between
2861 Facebook and the civil rights groups was Landmar, and it gave
2862 the civil rights groups -- it prohibited advertising that
2863 would enable discriminatory ads on Facebook. And Facebook,

2864 in implementing its response to the settlement, announced
2865 changes to its platforms that would cut off certain
2866 demographic information to advertisers.

2867 It also, the settlement, gave the civil rights groups
2868 certain rights to access and test the platforms to see if
2869 they were going to -- working now better, and complying with
2870 the settlement. And one question I have is whether this --
2871 how effective that is. You know, the civil rights groups
2872 don't have subpoena authority. They don't have law
2873 enforcement authority. And so it doesn't compare to a
2874 federal investigation.

2875 So one thing I wondered when I was thinking about this
2876 is whether there should be a role given to the FTC here to
2877 look at this type of violation. The privacy bills from last
2878 year, both from this subcommittee and on the Senate side,
2879 Cantwell and Wicker, did give a role to the FTC in examining
2880 the use of algorithms and discrimination based on those
2881 algorithms. So I wonder if that should be revisited to give
2882 the FTC a role to help the civil rights groups to supplement
2883 what the civil rights groups are doing to try to solve this
2884 problem.

2885 *Mrs. Dingell. Well, I would like to follow up after
2886 this with more -- to see if there is something we should
2887 pursue. And that -- with the chair, we would look at.

2888 Ms. Patten, since I only have 23 seconds, did you want

2889 to add anything? And I will do the rest of my questions for
2890 the record. Ms. Patten, any comments?

2891 *Ms. Patten. No, I think Ms. Rich did a wonderful job
2892 of covering it. Thank you.

2893 *Mrs. Dingell. Thank you. Madam Chair, with 7 seconds
2894 left, I have never been known to talk for a short period of
2895 time. I yield back.

2896 *Ms. Schakowsky. Well, thank you. I want to be sure --
2897 is Congresswoman Fletcher still here?

2898 *Mrs. Fletcher. Yes, Madam Chair.

2899 *Ms. Schakowsky. Okay, then you are recognized for 5
2900 minutes.

2901 *Mrs. Fletcher. Terrific. Well, thank you so much,
2902 Chairwoman Schakowsky and Ranking Member Bilirakis, for
2903 organizing today's hearing. I appreciate the opportunity to
2904 hear from these witnesses about protecting consumers from
2905 fraud during this health and economic crisis. I appreciate
2906 the insights and share so many of the information, the
2907 perspectives that many of my colleagues have shared about the
2908 damage that this fraud is creating in their own communities,
2909 and my community in Houston is no different. But I want to
2910 get to a couple of questions, just right off the bat.

2911 Ms. Patten, in your testimony you mentioned that there
2912 was a need for the civil penalty fund to compensate consumers
2913 who have been monetarily harmed. And can you expand on the

2914 potential for this type of fund, and how it would interact
2915 with settlements from individual cases?

2916 How can we ensure that this type of fund will be well-
2917 funded enough to provide meaningful compensation?

2918 *Ms. Patten. Yes, thank you. So as it currently
2919 stands, when the FTC is able to use its penalty authority --
2920 for example, in the Facebook example, where it violated an
2921 order and they got billions of dollars, that money went into
2922 the general treasury.

2923 I would propose that what is absolutely needed is if
2924 that money was put into a fund that could reimburse victims
2925 of fraud and scams. So often the FTC, using 13(b) authority,
2926 comes upon a defendant that doesn't have the resources to
2927 reimburse victims. And so, if it had a fund, it could use
2928 that money to make victims whole that have been, you know,
2929 scammed from their money.

2930 *Mrs. Fletcher. Thank you. That is helpful.

2931 And following up on that question, I think, Ms. Rich,
2932 you also mentioned Chairwoman Schakowsky's leadership in
2933 allowing the FTC to impose fines on perpetrators related to
2934 COVID-19 fraud for the duration of the public health crisis.
2935 Other than this issue of 13(b), is there additional short-
2936 term legislative action needed to address the COVID fraud
2937 effectively?

2938 *Ms. Rich. Oh, COVID fraud, specifically?

2939 *Mrs. Fletcher. Sorry, yes.

2940 *Ms. Rich. No, that is okay. I think -- I am not sure
2941 about the -- as Ms. Patten noted, there are gaps in the
2942 December legislation, but I -- other than 13(b), I really am
2943 focused on the broader picture, too, of civil penalties more
2944 broadly.

2945 I would agree with Ms. Patten, that a civil penalty fund
2946 would be enormously helpful, and it is something that the
2947 CFPB already has, so there is a model there that another
2948 consumer agency is already using. That also would help
2949 during this -- certainly would help during this period, as
2950 well as afterwards.

2951 *Mrs. Fletcher. And I apologize. As Chairwoman
2952 Schakowsky noted, we have run back and forth to vote, so you
2953 may have answered this already, and I may have missed it.
2954 And if so, I apologize. But in putting together that fund,
2955 and in terms of there is a model at the CFPB, how would you
2956 imagine would be sort of the most effective way, if we were
2957 to design this kind of program, for that to be administered?

2958 *Ms. Rich. The CFPB model allows you to take money that
2959 is obtained in a civil penalty case, and use it to distribute
2960 redress to consumers in another case involving civil
2961 penalties. Now, I don't know why it is designed that way,
2962 maybe because to allow too much crossover between redress and
2963 civil penalty cases violates something. But the more

2964 flexibility that the FTC could have in using the money from
2965 these funds to compensate consumers, the better.

2966 *Mrs. Fletcher. And is there any other -- if this
2967 committee were to draft legislation to address this
2968 challenge, is there any other information or power you think
2969 the FTC would need to be granted legislatively to make this
2970 possible?

2971 *Ms. Rich. I think you could enact it, and give -- and
2972 it would happen in the same way that the Dodd-Frank Act gave
2973 this power to the CFPB.

2974 *Mrs. Fletcher. Okay. Well, thank you very much, Ms.
2975 Rich, for that.

2976 I have only got 22 seconds, but if I can go to Mr.
2977 Kovacic very quickly, given your experience with the United
2978 Kingdom's Competition Markets Authority, can you speak a
2979 little bit to the ability of the FTC to protect and fairly
2980 compensate Americans from international scams and fraud?

2981 And since I am running out of time, perhaps I will ask
2982 you that question for the record and get a written response
2983 from you following the hearing.

2984 *Mr. Kovacic. That is great. Short answer, the safe
2985 web renewal is a very important part of that infrastructure.
2986 So thank you for doing that.

2987 *Mrs. Fletcher. Thank you.

2988 *Mr. Kovacic. I am happy to answer your questions, too.

2989 *Mrs. Fletcher. Thank you. And Madam Chairman, I yield
2990 back.

2991 *Ms. Schakowsky. Thank you.

2992 So I see that Congresswoman Clarke is still here, and I
2993 want to thank you for that. And you are recognized for 5
2994 minutes.

2995 *Ms. Clarke. Let me thank you, Madam Chair, and let me
2996 also thank my classmate, the new ranking member for the
2997 subcommittee, Mr. Bilirakis, for holding this very important
2998 and timely hearing on scams and fraud.

2999 During the public health and economic crisis, we must
3000 ensure that consumers are not taken advantage of by malicious
3001 actors -- not only taken advantage of, but severely harmed.
3002 It is deeply troubling to me that, throughout COVID -- the
3003 COVID-19 pandemic there have been ongoing reports of
3004 coronavirus-related scams across the nation. These
3005 fraudulent acts range from price gouging on essential
3006 products to scams that take advantage of struggling small
3007 businesses. This simply cannot continue. During this time
3008 of crisis we must band together to stop these efforts to
3009 defraud the American people.

3010 I am particularly concerned about the disproportionate
3011 impact of these scams on vulnerable communities, communities
3012 who have already been struggling with the combined impacts of
3013 COVID-19 and economic crisis, and the deep systemic

3014 inequities that are pervasive in our civil society.
3015 According to the FTC's own research, folks who are Black and
3016 Latino are more likely than their White peers to be victims
3017 of fraud. And yet that suggests that there is also a serious
3018 under-reporting of fraud from these very same communities.

3019 As my colleague, Congresswoman Kelly, mentioned earlier,
3020 the FTC launched its Every Community initiative to address
3021 underlying disparities of fraud. The FTC also released a
3022 report in 2016 that set forth comprehensive -- a
3023 comprehensive framework to specifically tackle fraud in Black
3024 and Latino communities.

3025 So, Ms. Rich, one of the report's recommendations was to
3026 bolster fraud prevention strategies in Black and Latino
3027 communities through targeted education and awareness
3028 campaigns. What steps do you think the FTC could take to
3029 better implement these fraud prevention strategies in
3030 minority communities?

3031 *Ms. Rich. Well, you are right that we had a very
3032 comprehensive plan. And I think the pandemic, if not other
3033 things, seriously impaired the ability to do that, because
3034 one part of the plan was meeting and connecting with
3035 different communities. And sometimes you really have to do
3036 that face to face. And so much of this is developing trusted
3037 relationships with different community organizations.

3038 And then they, in turn, can interact with their

3039 communities to encourage more information about fraud, and
3040 they can relay that back to the FTC. So I really do think it
3041 is time, even before the -- even while we are still in a
3042 pandemic, we have got the videos, we have got all sorts of
3043 channels we can use to really ramp that initiative up.

3044 And it costs money, because it involves materials. It
3045 should involve more research because of those findings that
3046 you just referenced. That was about the Black and Latino
3047 communities. It was a small set of findings. There is a lot
3048 more research that needs to be done to figure out more
3049 effective ways to reach out into these communities. So --

3050 *Ms. Clarke. I look forward to further discussing this.

3051 *Ms. Rich. Yes.

3052 *Ms. Clarke. And looking at ways that we can be nimble
3053 and creative in penetrating those communities that are most
3054 vulnerable. I would like to also add native lands to that,
3055 as well.

3056 *Ms. Rich. Yes.

3057 *Ms. Clarke. The FTC's 2016 report also highlighted law
3058 enforcement actions that can be taken to address these
3059 disparities, including bringing more cases against entities
3060 that intentionally target or disproportionately impact
3061 vulnerable communities, Black and Latino. Can you briefly
3062 provide some examples of how scammers target minority
3063 communities?

3064 *Ms. Rich. Yes. Well, you know, one thing that is
3065 certain is that scams do target everybody. But especially
3066 during this pandemic, when we are seeing that minority
3067 communities and people of color are being harder hit by
3068 COVID-19, we are seeing a corresponding exponential growth in
3069 scams targeting people that are suffering the most,
3070 economically and health-wise. And unfortunately, that means
3071 that many people of color and in minority communities are
3072 taking the brunt of a lot of the scams and schemes that are
3073 targeting these populations.

3074 *Ms. Clarke. Well, thank you.

3075 And Madam Chair, I appreciate the time. I have
3076 additional questions that I would like to submit and get
3077 responses for.

3078 But this is an area that is very -- it is very important
3079 that we drill down and come up with strategies for combating.
3080 With that, Madam Chair, I yield back, and I thank our
3081 witnesses for their expert testimony today. Thank you.

3082 *Ms. Schakowsky. Thank you. There are two people that
3083 have waived on to the committee. I am going to first call on
3084 my buddy, Buddy Carter, for 5 minutes.

3085 The floor is yours.

3086 *Mr. Carter. Thank you, Madam Chair, for allowing me to
3087 waive on. And let me add also that this is my favorite
3088 subcommittee that I am no longer on. So I appreciate it very

3089 much.

3090 Ms. Ponto, I wanted to ask you. I passed legislation --
3091 bipartisan legislation, by the way -- that was signed into
3092 law in January. It is called Combating Pandemic Scams Act.
3093 And it really instructs Health and Human Services, as well,
3094 to work with the Postal Service, as well as with the FTC to
3095 come up with a user-friendly website so that people can go to
3096 it and read about these type of scams, and also to actually
3097 enter into these -- the website their experiences with scams,
3098 so that they can become better educated as to what is going
3099 on here.

3100 Obviously, with your experience in the -- in your area,
3101 you have seen a lot of scams and other issues that have come
3102 up like this. And I was just going to ask you, could you
3103 tell us or share with me very quickly what are some of the
3104 most egregious scams that you have noticed?

3105 And how have they been -- have they been Internet-based,
3106 have they been phone-based, or what?

3107 *Ms. Ponto. Thank you for that question. One of the --
3108 this is my first year. I just retired last year and took
3109 this position. So I am still kind of learning this whole
3110 game with identity theft and fraud.

3111 But I had a gentleman come in. He was a truck driver.
3112 And he had come in, he had purchased a security camera system
3113 online. He had gotten the equipment. It didn't work. It

3114 took him a couple of months, but he ended up with somebody
3115 reaching out to him and trying to walk him through the
3116 service of getting it fixed.

3117 When they were not able to get it fixed, they said that
3118 he qualified for a refund in the amount of \$400. They put
3119 \$4,400 into his account. He actually got online, looked at
3120 his bank account. So he had to have shared routing numbers
3121 for them to make this refund. There it is, \$4,400, kind of a
3122 generic name. He prints it out.

3123 And then, of course, that is when it starts. You know,
3124 "Oops, we accidentally sent you too much money. So you keep,
3125 you know, X dollar amount, and we would like you to go and
3126 get the rest of the refund in gift cards. We suggest you
3127 going to Fred Meyer's and Target.'" And again, it is this
3128 gift card scams that we are seeing, and we are not
3129 understanding where -- how do reasonable people think this
3130 sounds right? Why are we missing the flags?

3131 And so that is what he did. And he ended up losing X
3132 amount of dollars, because it was his own money that he was,
3133 you know, putting into these gift cards, scratching off the
3134 numbers, and giving it to the gentleman right over the phone,
3135 and done. This guy was calling him easily a dozen times a
3136 day.

3137 You see a lot of these scams coming in. And it is very
3138 alarming, because there is an online portion to that.

3139 He showed me his bank account. When he went to the
3140 bank, the bank told him that money had never been in there in
3141 the first place. And yet here we are, looking at his bank
3142 account, and there it is.

3143 *Mr. Carter. Right.

3144 *Ms. Ponto. So there is a sophistication level that we
3145 are not understanding. But common sense, people. This
3146 doesn't look right, these are so many red flags, and so how
3147 do we --

3148 *Mr. Carter. Right.

3149 *Ms. Ponto. -- get that out to our folks?

3150 *Mr. Carter. And really, this was the reason for my --
3151 and for the -- and the impetus, if you will, behind the
3152 legislation was to educate people as to these type of scams,
3153 and to help them understand and learn from this. Not only
3154 that, but have them have the opportunity to share.

3155 Now, it was primarily aimed at scams during the
3156 pandemic, which we have seen: advertised ineffective PPE, we
3157 have seen advertised false cures and false preventions for
3158 the virus. That is primarily what was aimed at.

3159 Just wondering if you -- what do you think is the best
3160 line of defense?

3161 What do you -- Ms. Ponto, can you share with me very
3162 quickly what -- how can we help people the most?

3163 *Ms. Ponto. I truly believe in the service that we

3164 provide, this Community Oriented Policing Services. Like I
3165 said, we have nine C.O.P.S. shops throughout our city of
3166 Spokane. They are in the neighborhoods. The neighbors, when
3167 they don't get the response that they are looking for from
3168 the police, or the police are unable to help them, they come
3169 to us because we are within blocks of them walking, and we
3170 are a fantastic first line to help them. And then we can
3171 actually walk them through the process of identity theft
3172 reporting. And I think that is a huge tool that other cities
3173 really need to take a look at.

3174 *Mr. Carter. Good. Well, thank you very much for your
3175 help and for your testimony -- for all of the witnesses.

3176 And again, it is the Combating Pandemic Scams Act, and
3177 it is a good piece of legislation. It is good law now that
3178 hopefully will help people to educate people, and help them
3179 to share their experiences.

3180 And again, Madam Chair, thank you for allowing me to
3181 waive on, and I yield back.

3182 *Ms. Schakowsky. Thank you. Well, I miss you,
3183 Representative Carter, on the committee. And I also really
3184 miss Congresswoman Rochester on the subcommittee.

3185 And I yield to you 5 minutes, and welcome both of you
3186 any time to waive on.

3187 *Ms. Blunt Rochester. Thank you so much, Chairwoman
3188 Schakowsky, for allowing me to waive on to this vital

3189 subcommittee, and especially for your vision for the 21
3190 Century Consumer Rights Agenda, a powerful, powerful vision.

3191 And I, too, want to congratulate Ranking Member
3192 Bilirakis for his new appointment.

3193 And thank you to the witnesses for testifying. As we
3194 all know, we are in the middle of the worst public health
3195 crisis in a century, and a crippling recession. The last
3196 thing my constituents should be worried about is a fraud and
3197 scams. Sadly, the stories we heard at our last hearing have,
3198 unfortunately, not stopped.

3199 Thankfully, at the end of the last Congress, we took
3200 action, and I was proud to co-lead the Combating Pandemic
3201 Scams Act, and proud to support the COVID-19 Consumer
3202 Protection Act. I will soon reintroduce my bill, the Fraud
3203 and Scams Reduction Act, which will continue to make
3204 important reforms to empower the FTC and key stakeholders.
3205 We need to take action to address the prevalence of scamming
3206 in the U.S. And in that regard I would like to begin my
3207 questions with Ms. Rich, and I would like to follow up on Ms.
3208 Kelly's questions earlier.

3209 In your testimony you identified the importance of
3210 reaching every community. Yet you mentioned a lack of
3211 demographic data in the FTC's current complaint database.
3212 From your experience, what kind of demographic data does the
3213 FTC currently collect, and what kind of data should they be

3214 able to collect that you believe is not being collected?

3215 *Ms. Rich. Thank you. This is a very important issue.
3216 Well, I haven't been there for 4 years, and I know they are
3217 doing a lot with data. You can go to the website and now see
3218 all sorts of breakdowns, including by state and locality, et
3219 cetera.

3220 But when I was there, we did not collect the kind of
3221 demographic data that you need to figure out whether scams --
3222 or how scams are saturating different communities. And the
3223 findings that had been cited in this committee that scams --
3224 that people in African-American and Latino communities
3225 complained, but they are disproportionately victimized by
3226 fraud, was that -- that analysis was done through work-
3227 arounds using general fraud data and census data. And it was
3228 painstaking, and it was very time consuming. And -- but much
3229 more of that work is needed.

3230 And so, you know, it is very sensitive to collect
3231 demographic data, so -- and maybe the FTC has, you know, been
3232 giving this some thought since then. So I really encourage
3233 you to engage directly with the FTC to figure out how they
3234 can get this done, because we cannot -- they cannot figure
3235 out what is going on on the ground without it. So it is very
3236 important.

3237 *Ms. Blunt Rochester. Yes, I think one of the follow-up
3238 questions that we will have is about what authorities they

3239 would need to successfully expand this program.

3240 My next question is following up on Ms. Trahan's line of
3241 questioning, as well. We were in -- pretty similar questions
3242 regarding -- this is to Mr. Kovacic.

3243 In your testimony you suggested that the FTC could
3244 benefit from better data analytics. Can you give us some
3245 examples of the trends that the UK watchdog identified that
3246 we would not be identified -- that you would not have
3247 identified without the better data tools that -- and would
3248 have taken too long to identify?

3249 *Mr. Kovacic. Yes, they were able to spot trends and
3250 patterns in episodes of misconduct and complaints within 2 or
3251 3 days, instead of taking a month to sort through
3252 information.

3253 They were able to process, at least week by week, a very
3254 accurate profile of where the complaints were coming from,
3255 who the firms were so that, when you started your combination
3256 of warnings, lawsuits, and other publicity -- publicity
3257 going out to consumers saying, "Here are the problems."
3258 That is, "Last week we saw this problem. It is happening
3259 right now. Watch out for this problem." They were able to
3260 compress that kind of analysis, outreach, enforcement,
3261 education into a couple of days, instead of it taking maybe a
3262 month.

3263 And on your question, Congresswoman, about doing the

3264 research, you can use -- you can start to use this kind of
3265 capability as a platform to work with researchers who do this
3266 kind of analysis -- academic institutions, intellectual hubs
3267 -- to build a better understanding of how commerce and
3268 misconduct take place in disadvantaged communities. And you
3269 can build this capability to use those tools to get a better
3270 idea of what is going on. That is a useful partnership
3271 between the public agencies and academia.

3272 *Ms. Blunt Rochester. Thank you. We would like to
3273 follow up with you on the lessons learned by the UK that
3274 Congress can learn, as well as the FTC.

3275 Thank you so much, Chairwoman, and I yield back.

3276 *Mr. Kovacic. Thank you.

3277 *Ms. Schakowsky. Well, thank you. I really appreciate
3278 the incredible testimony, and the Q, and especially the A,
3279 the answers that we got. I think it is obvious, I hope, to
3280 all the witnesses that this is one of the most popular
3281 hearings that I have been at, and I think one of the most
3282 revealing, in terms of the suggestions that we got. That is
3283 always so important.

3284 So thank you. Thank you for what you have done. And I
3285 am sure you are going to get some follow-up questions, and I
3286 hope that you will -- and expect that you will -- answer them
3287 promptly.

3288 And without objection, I want to add into the record

3289 letters from -- for the record, a letter from USTelecom; a
3290 letter from the FTC; a letter from the Coalition of Online
3291 Accountability; and a letter from the FTC to Representative
3292 Latta.

3293 And without objection, so ordered,

3294 [The information follows:]

3295

3296 *****COMMITTEE INSERT*****

3297

3298 *Ms. Schakowsky. I remind members that, pursuant to
3299 committee rules, they have 10 business days to submit
3300 additional questions to the record to be answered by the
3301 witnesses who have appeared. And, as I said before, I ask
3302 each witness to respond promptly to any question that they
3303 may receive.

3304 And at this time, with enormous gratitude, the
3305 subcommittee is adjourned. Thank you.

3306 [Whereupon, at 3:22 p.m., the subcommittee was
3307 adjourned.]