

Committee on Energy and Commerce
Opening Statement as Prepared for Delivery
of
Chairman Frank Pallone, Jr.

Markup of “H.R. 2668”

May 27, 2021

We are here today to continue this Committee’s longstanding work to protect consumers by considering H.R. 2668, the Consumer Protection and Recovery Act. This legislation, led by Vice Chair Cárdenas, is urgently needed to ensure the Federal Trade Commission (FTC) can get Americans their money back from scammers and others engaged in illegal activity. This authority is necessary for the FTC’s consumer protection mission. As I said last month at our legislative hearing, what was a problem is now an emergency.

Last month’s Supreme Court decision on section 13(b) of the FTC Act has undermined, if not eliminated, the FTC’s ability to get restitution in fraud cases and other matters currently being investigated by the agency. As a result of this decision consumers are being left out in the cold, and it simply did not have to be this way.

For over two years, my colleagues and I have repeatedly sought to fix this problem in a bipartisan manner. But unfortunately, there has been little to no engagement from the Minority.

In a May 2019 FTC oversight hearing before this Subcommittee, the FTC Commissioners unanimously stressed the need for Congress to make sure the Commission could continue to get monetary relief for harmed consumers under 13(b) after challenges in circuit courts. Then-Chairman Joseph Simons was clear that those court rulings, if affirmed by the Supreme Court, would simply “take away” the FTC’s ability to make consumers whole.

During the hearing Vice Chair Cárdenas reached out to all members of this Subcommittee to work with him to draft legislation to clarify the FTC’s authorities. Over the years, we repeatedly asked our colleagues to work with us to fix 13(b). And we got no response.

Then-FTC Chairman Simons continued to reach out to Democratic and Republican members, but sadly, this did not convince my Republican colleagues to engage.

In this Subcommittee’s first hearing this Congress, we again talked about the need to fix section 13(b) and urged our Republican colleagues to work with us. But they encouraged us to wait for the Supreme Court to decide the issue first.

Well, that day has come. Last month’s decision turned a worst-case scenario into reality, producing an avoidable crisis. Following that decision, we held a hearing on the legislation before us today. But despite our repeated outreach, no specific changes to the bill were suggested until the amendments we received this morning.

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Such suggestions or feedback would have been more helpful before today, but we cannot wait any longer. According to Acting Chair Slaughter, delay threatens an estimated \$11 billion getting back to victims over the coming five years.

And let's be clear, the bill we are considering is about returning money stolen or otherwise illegally taken away from our constituents. It is about forcing companies that have broken the law to repay the consumers they have harmed or defrauded.

Over more than four decades, section 13(b) has been an essential tool for consumer protection. We have heard the numbers before, but they are worth repeating: \$11.2 billion returned to consumers in the last five years, and \$37.5 million returned to over 167,000 residents just in my home state of New Jersey since July 2018. New Jersey is no outlier. Millions of dollars were returned to residents of every state.

This money allows hard-working families to pay rent, feed their children, buy clothes, and make ends meet. Section 13(b) has helped thousands of veterans and others seeking a better life who were defrauded by for-profit colleges. It has provided relief to low-income families gouged by payday lenders.

No existing statutory authority can replace what the FTC lost. Other provisions are too weak, take too long to be able to get meaningful relief, or both.

This bill provides the legislative fix the FTC has unanimously sought for over two years, clarifying the authorities Congress and the courts held the FTC to possess for over 40 years.

I thank Vice Chair Cárdenas for his leadership on this issue, and I urge all of my colleagues to support this bill to put consumers first and to ensure the FTC is the consumer protection agency Americans deserve.

Thank you and I yield back.