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6 PROPOSALS TO ENHANCE PRODUCT SAFETY

7 AND TRANSPARENCY FOR AMERICANS

8 Wednesday, September 27, 2023

9 House of Representatives,

10 Subcommittee on Innovation, Data, and Commerce,

11 Committee on Energy and Commerce,

12 Washington, D.C.

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16 The subcommittee met, pursuant to notice, at 10:33 a.m.,

17 in Room 2322, Rayburn House Office Building, Hon. Gus

18 Bilirakis, [chairman of the subcommittee] presiding.

19

20 Present: Representatives Bilirakis, Walberg, Bucshon,

21 Duncan, Dunn, Lesko, Pence, Armstrong, Allen, Fulcher,

22 Harshbarger, McMorris Rodgers (ex officio); Schakowsky,

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23 Castor, Dingell, Kelly, Soto, Trahan, Clarke, and Pallone (ex
24 officio).

25

26 Also Present: Representative Balderson.

27

28 Staff Present: Sarah Burke, Deputy Staff Director;
29 Michael Cameron, Professional Staff Member; Sydney Greene,
30 Director of Operations; Jessica Herron, Clerk; Peter Kielty,
31 General Counsel; Emily King, Member Services Director; Tim
32 Kurth, Chief Counsel; Brannon Rains, Professional Staff
33 Member; Teddy Tanzer, Senior Counsel; Mallampati Viswajith,
34 Intern; Hannah Anton, Minority Policy Analyst; Keegan
35 Cardman, Minority Staff Assistant; Waverly Gordon, Minority
36 Deputy Staff Director and General Counsel; Daniel Greene,
37 Minority Professional Staff Member; Lisa Hone, Minority Chief
38 General Counsel, Innovation, Data, and Commerce; and Joe
39 Orlando, Minority Junior Professional Staff Member.

40

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41 *Mr. Bilirakis. The subcommittee will come to order.

42 The chair recognizes himself for an opening statement.

43 Good morning, everyone. Welcome to today's legislative
44 hearing on proposals that represent the bread and butter of
45 our jurisdiction on the safety and consumer products and
46 services our constituents rely on.

47 I want to thank all the bill sponsors with legislation
48 on our agenda today, and we have got quite a few. I
49 appreciate all of their work aimed to help save lives and
50 protect consumers from dangerous products, provide
51 transparency regarding event tickets and lodging
52 accommodations, disclose important information to consumers
53 related to product claims, and raise awareness about the
54 information and tools needed to get their vehicles repaired.

55 I am particularly excited to be moving forward with the
56 TICKET Act, a bill that I have sponsored along with my
57 colleague and friend, Ranking Member Schakowsky, that will
58 bring up-front price transparency to consumers as it relates
59 to event tickets.

60 Live event tickets have long been plagued by hidden fees
61 at the end of the checkout transaction, but I am glad that
62 the industry has recognized the need to change the process to

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63 bring ticket price transparency to the market.

64 In the other chamber, in the Senate Commerce Committee,
65 bipartisan companion legislation sponsored by my friends,
66 Senator Cruz and the chair, Senator Cantwell, has moved out
67 of committee. We are going to get this done.

68 I am certainly mindful of a broader discussion though on
69 other consumer harms to address, which is why we have
70 included the discussion draft on the docket today that
71 addresses the issue of speculative ticketing.

72 I look forward to diving into these proposals further
73 and to continuing my partnership with Ranking Member
74 Schakowsky on this particular initiative.

75 A few additional bills that I want to give a special
76 acknowledgement to are Representative Wasserman Schultz and
77 Dr. Burgess' pool safety reauthorization; Dr. Bucshon's draft
78 on cleaning product labeling; and Representative Curtis'
79 Reinforcing American-Made Products Act.

80 Representative Wasserman Schultz and Dr. Burgess'
81 Virginia Graeme Baker Pool and Spa Safety Reauthorization Act
82 will provide States and local governments with assistance for
83 education, training, and enforcement of pool safety
84 requirements.

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85 This program, which is named in memory of Virginia, who
86 drowned while entrapped by a hot tub drain in 2002, and was
87 enacted into law in 2008, has been well administered by CPSC.

88 I look forward to reauthorizing this program again.

89 I am also pleased we will be able to discuss
90 Representative Bucshon's proposal on ingredient labeling for
91 cleaning products. This draft will ensure that we have one
92 consistent and clear standard on cleaning product ingredient
93 labels throughout the country.

94 Consumers should know exactly what to expect when they
95 purchase their favorite disinfectant, scrubbing spray, or
96 other supplies needed to clean their homes. That should not
97 change if they cross State lines.

98 We also cannot overlook Representative Curtis' bill,
99 H.R. 5556, the Reinforcing American-Made Products Act, which
100 will ensure that we have one national standard for Made in
101 America labels on American products. This commonsense
102 measure provides certainty for businesses, manufacturers, and
103 consumers alike to ultimately ensure we keep our incentives
104 to companies to make their products here at home.

105 I know this has historically been a bipartisan
106 initiative, and I am very hopeful it will remain that way as

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107 we go forward.

108 As anyone who remembers the old School House Rock video,
109 and I do remember it, just a bill, right, on how a bill
110 becomes law, there are a lot that do not ultimately make it
111 to the finish line. So, yes, I am old enough to remember
112 that one.

113 [Laughter.]

114 *Mr. Bilirakis. Again, some of these proposals are
115 surely ready for prime time while others are not, but this
116 hearing represents an important step to review these bills,
117 find areas for improvement and consensus, and move forward
118 through the regular order.

119 And I look forward to the discussion, and again, thank
120 you to our panelists for their testimony, which will begin
121 soon, and I will yield back the balance of my time if I have
122 any.

123 Thank you very much.

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

125

126 *****COMMITTEE INSERT*****

127

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128 *Mr. Bilirakis. And now I am going to recognize the
129 gentlelady from Illinois, my friend, Ms. Schakowsky, for her
130 five minutes for an opening statement.

131 *Ms. Schakowsky. Thank you so much, Mr. Chairman.

132 And today I join my colleagues in bipartisan issues,
133 mostly working together, and I really appreciate that and
134 working with my chairman.

135 Five of the bills that we are going to be talking about
136 today deal with product safety from pools to batteries, a
137 wide variety, and several of them are about this issue of
138 junk fees.

139 And we know that consumers are so frustrated right now
140 because they see them, and I am so proud to co-sponsor, along
141 with the chairman, our legislation, the TICKET Act, that will
142 really, I think, make it much more comfortable and fair for
143 consumers.

144 Right now I actually have a constituent who said that
145 she was having a -- what do we call it? -- her dance recital,
146 and she was getting tickets for it, and by the end of the
147 contract to get the tickets, she had to pay 20 percent more
148 in a hidden fee.

149 But 20 percent is at the low end of some of these junk

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150 fees. It can go up to even 60 percent that you find out at
151 the end.

152 So our TICKET Act, I think, will absolutely make it more
153 possible for our constituents.

154 And as the chairman said, we are also going to be
155 looking at the issue of what we call speculative ticketing,
156 which is that sometimes the people who are selling the
157 tickets really do not even have the tickets, and we have to
158 deal with that.

159 So I am going to continue to work with all parties to
160 make sure make sure that we can address this issue.

161 Today we are also going to deal with the issue of the
162 Right to Repair. So I have also heard a lot from the people
163 who in our communities repair cars, and they are right to be
164 able to get the information that they need to be able to do
165 those repairs and not to have restrictions on who actually
166 has the information that is needed in order to do the
167 repairs.

168 So this issue is really, really important, I think, for
169 many people, for car owners, and we want to make sure that if
170 you are able to fix the car and you should have the
171 qualifications to do that, you should be able to do that.

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172 So that is another piece of legislation, the Right to
173 Repair, and I am very much supportive of that.

174 So I just want everybody to note here we are in the
175 Energy and Commerce Committee on this subcommittee. I was
176 the chair last time. Gus Bilirakis was the ranking member.
177 Now he is the chair. I am the ranking member, and we are
178 getting things done. We work together.

179 And it is ironic to me that we are standing in a moment
180 where we may be on the verge of a collapse of government that
181 we are going to see a shutdown, and one of the things that we
182 are seeing from many of the Republicans is the idea that we
183 should not have the funding that many of these agencies need
184 in order to protect consumers in every way.

185 So I am just hoping that we can get to a point where all
186 of us can agree on the kinds of things that we are talking
187 about today in this subcommittee and work with the same
188 collegial manner that we have done for such a long time.

189 And with that I yield back.

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

191

192 *****COMMITTEE INSERT*****

193

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194 *Mr. Bilirakis. Thank you.

195 I appreciate very much, and I will tell you what. We
196 are getting things done here in the Energy and Commerce
197 Committee, and we have great leaders here, Mrs. Rodgers and,
198 of course, Mr. Pallone, the full committee chairs.

199 So I am proud of the work, and we will just keep moving
200 forward.

201 Now I would like to recognize Mrs. Rodgers for her five
202 minutes for her opening statement.

203 *The Chair. Thank you, Mr. Chairman.

204 Good morning, everyone. Welcome to our witnesses who
205 are advocating for people that we depend on every day, from
206 those fixing our cars to protecting us from fraud, to
207 ensuring the products and services we use are what they claim
208 to be.

209 This hearing also serves as an appropriate follow-up to
210 last week's legislative hearing on the supply chain
211 management issues. We know that losing control of our supply
212 chains can limit the availability of critical goods, harm
213 production quality, and weaken the security and integrity of
214 products and services being sold to American families and
215 businesses.

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216 This subcommittee is leading to ensure people are not
217 getting ripped off and, even more importantly, that families
218 and communities are safe.

219 My colleague, and the ranking member of the
220 subcommittee, Jan Schakowsky, has been a tremendous leader
221 for us on all of these product safety topics, and working
222 with her as ranking member was a pleasure, and I appreciate
223 her continued efforts now with subcommittee chair Gus
224 Bilirakis on all of these issues.

225 We have an ambitious docket today. Much of the work
226 still lies ahead of us on these bills. I do hope that we can
227 build bipartisan consensus and stakeholder support as we move
228 forward. This committee, as has been mentioned, has a rich
229 history of coming together on behalf of those that we serve.

230 And many of these bills address issues that we have all
231 heard about directly from people in our communities to make
232 products safer.

233 Rep. David Valadao's proposal would combat romance scams
234 by going after con artists who prey on lonely people,
235 particularly adults over 60 who were scammed for nearly \$140
236 million in 2020 alone.

237 Representative Young Kim's proposal will help travelers

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238 distinguish the good actors from the bad in the lodging
239 industry by ensuring that they know the full price of
240 accommodations, including things like resort fees, up front.

241 And a bill by Reps. Ritchie Torres, Andrew Garbarino,
242 and Yvette Clarke would ensure that rechargeable batteries
243 used to power products like e-scooters do not explode because
244 of their inferior quality.

245 This is the people's House, and as the Representatives
246 of the people, it is our responsibility to ensure their
247 concerns are being addressed.

248 It is part of why I do remain concerned about agencies
249 like the FTC that I see losing sight of their mission of
250 consumer protection and fighting fraud scams.

251 Surely we can all agree the FTC should not be diverting
252 resources to force a political agenda on job creators and
253 family businesses; should not be abusing its power to
254 threaten small businesses with fines for actions they have
255 not done; and should not be initiating rulemaking proceedings
256 that go far beyond the scope authorized by Congress, or
257 weaponizing an extreme green agenda in order to ban
258 affordable cars and home appliances that people rely on every
259 day.

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260 Sadly, all of these have been on display, and many of
261 the actions can be attributed to a lack of accountability. I
262 was pleased to see Republican nominees for the FTC and
263 Consumer Product Safety Commission finally considered by the
264 Senate Commerce Committee last week.

265 These nominees are needed to move to the Senate floor
266 and be confirmed expeditiously in order to start returning
267 the agencies to core missions. Until bipartisan input is
268 restored, these agencies' credibility and integrity will
269 continue to be eroded.

270 I hope to see fully bipartisan and operational FTC and
271 CPSC soon in both people and practice, where input is welcome
272 by both sides, extremes are rejected, and the law is
273 implemented as mandated by Congress.

274 Thanks again to all the members on both sides of the
275 aisle off and on this committee for your work on these bills.
276 I look forward to the witness testimony.

277 And I yield back.

278 [The prepared statement of the Chair follows:]

279

280 *****COMMITTEE INSERT*****

281

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282 *Mr. Bilirakis. I thank the Chair.

283 I now recognize my friend from New Jersey, the ranking
284 member of the full committee, for five minutes for his
285 opening statement.

286 *Mr. Pallone. Thank you, Chairman Bilirakis.

287 This hearing is an acknowledgement of what countless
288 Americans across the country already know. Threats to
289 consumers and commerce are pervasive and on the rise.
290 Consumer product related injuries rose by nearly eight
291 percent in 2022, totaling over 12.5 million injuries.

292 The Consumer Product Safety Commission responded that
293 year by increasing product recalls by 33 percent.
294 Nevertheless, approximately 50,000 deaths associated with
295 consumer products occur every year.

296 In 2022, the Federal Trade Commission received over five
297 million reports of fraud, identity theft, and other scams, a
298 nearly twofold increase from pre-pandemic levels. Senior
299 citizens, veterans, small businesses, and everyday consumers
300 reported nearly \$8.8 billion of losses to fraud. That is a
301 \$2.6 billion increase over 2021 levels.

302 So we have a duty to protect the public from hazardous
303 and defective products, to combat unfair and deceptive acts

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304 and practices, and create a level playing field for American
305 businesses, entrepreneurs, and innovators.

306 That is why Congress has empowered the FTC to protect
307 Americans against scam artists, privacy thieves, unlawful
308 robocallers, and others who target consumers and small
309 businesses, and it is why we have charged the CPSC with
310 protecting the public from unsafe consumer products, paying
311 special attention to protecting infants and children from
312 products that cause injury or death.

313 It is also why we have commissioned the National Highway
314 Traffic Safety Administration, or NHTSA, to improve fuel
315 efficiency and save lives on our Nation's roads.

316 And it is why today this subcommittee is continuing its
317 long tradition of focusing on legislation to strengthen
318 consumer protections.

319 And I am particularly pleased that we are considering
320 the BOSS and SWIFT Act, legislation that I introduced with
321 Representative Pascrell. Consumers deserve to enjoy their
322 favorite artist and other live entertainment without breaking
323 the bank.

324 This bill will restore fairness and transparency to the
325 live events ticket marketplace. It will ensure that the true

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326 ticket price is clearly displayed, preserve ticket
327 transferability, and clamp down on unauthorized speculative
328 ticket sales.

329 Now, as we discuss all of these bills today, we should
330 be mindful that we are asking these already small agencies to
331 do more at a time when House Republicans are demanding
332 drastic cuts to each of them. House Republicans have
333 proposed slashing the FTC's budget by 33 -- I think it is
334 actually \$53 million, a 12.5 percent cut from last year's
335 funding levels.

336 The FTC has 40 percent fewer full-time staff than it did
337 40 years ago. These budget cuts would jeopardize the FTC's
338 ability to protect consumer and competition while benefitting
339 big tech, unlawful robocallers, and all varieties of scam
340 artists.

341 And House Republicans want to cut the CPSC's budget by
342 nine percent, which would cripple the agency's ability to
343 address dangerous and defective consumer products and
344 establish lifesaving safety standards. Children's safety
345 would be put at risk and unscrupulous actors would win.

346 And even worse, House Republicans continue to cave to
347 the extreme elements in their party who want to shut down the

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348 government if they do not get their way. We are four days
349 away from governing funding running out, and extreme House
350 Republicans are making radical demands, fighting with each
351 other, and driving our Nation into a reckless shutdown that
352 will hurt families, damage our economy, and threaten our
353 safety.

354 I just have to reiterate that these draconian spending
355 cuts and government shutdowns will not protect consumers,
356 promote competition, or strengthen American competitiveness.

357 And so, again, I urge my colleagues to abandon this
358 dangerous strategy.

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

360 [The prepared statement of Mr. Pallone follows:]

361

362 *****COMMITTEE INSERT*****

363

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364 *Mr. Bilirakis. Thank you very much. I appreciate it.

365 Our first witness is Mr. Steven Michael Gentine, counsel
366 at Arnold & Porter.

367 So, sir, you are recognized for five minutes. I
368 appreciate it.

369

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370 STATEMENT OF STEVEN MICHAEL GENTINE, COUNSEL, ARNOLD &
371 PORTER, LLP

372

373 *Mr. Gentine. Thank you, Chairman Bilirakis and Ranking
374 Member Schakowsky and members of the subcommittee. Thank you
375 for the opportunity to appear before you again today.

376 I am an attorney at Arnold & Porter. My practice
377 focuses largely on matters to do with consumer product and
378 motor vehicle safety, including practice before the CPSC.

379 But I should note my testimony today is in my personal
380 capacity and may not represent the opinions of Arnold &
381 Porter or any clients.

382 The five CPSC-related topics before you today all touch
383 on critical areas of CPSC policy, and the stakeholder
384 community appreciates the subcommittee's continued engagement
385 and leadership on these vital issues.

386 I would like to take this opportunity to focus on two of
387 these bills, the Consumer Safety Technology Act and the
388 Virginia Graeme Baker Pool and Spa Safety Reauthorization
389 Act.

390 CPSC is one of the best bargains in the Federal
391 Government. With a fiscal year 2023 budget of just over \$150

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392 million and just 569 FTEs, the agency oversees the safety of
393 thousands of categories of consumer products, ranging from
394 strollers to ATVs, from cribs to adult portable bedrails.

395 The agency's core mission is to protect American
396 consumers from unreasonable risks of injury associated with
397 products across that sweeping jurisdiction. However, its
398 mission also includes assisting consumers in evaluating the
399 comparative safety of products, developing uniform safety
400 standards, and promoting research and investigation.

401 That is an awful lot of crucial work across an awfully
402 big space and more so for a relatively small agency.
403 Identifying opportunities to maximize the efforts of CPSC's
404 talented, dedicated staff of public servants is essential to
405 each of these missions and the Consumer Safety Technology Act
406 is well poised to help CPSC do just that.

407 CPSC was created in 1972, and many of its core
408 information gathering tools have been serving the agency for
409 much of that time and serving well. However, CPSC is
410 developing new tools to gather and analyze the breadth and
411 depth of data that are available in the modern digital
412 economy, which is essential to helping CPSC to adapt to a
413 consumer product marketplace that is almost unrecognizably

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414 different than the market that existed 50 years ago.

415 In recent years, CPSC has taken important steps in this
416 direction under the leadership of Commissioner Feldman and
417 others. CPSC has added crucial staff leadership roles, such
418 as the Chief Data Analyst, the Data Analytics Officer, and a
419 Chief Technologist.

420 Bringing these skill sets to the service of consumer
421 safety was a significant step toward tomorrow's CPSC. The
422 pilot program envisioned in the Consumer Safety Technology
423 Act would be another such step.

424 Title 1 of the Act directs CPSC to conduct a pilot
425 program to evaluate the use of artificial intelligence in one
426 or more areas of CPSC activity. Developing additional,
427 sophisticated, automated tools to assist CPSC staff in
428 gathering and analyzing information would be invaluable,
429 allowing the agency to direct more of its resources toward
430 acting on that information.

431 For example, one of the CPSC's current data tools, the
432 Retailer Reporting Program, was created as its own pilot
433 program in 2004. Participants in that program provide
434 regular, generally weekly updates of consumer reports that
435 use any of a variety of safety related key words.

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436 For an agency whose key data sources frequently suffer
437 substantial lag time, the near real time stream of data from
438 the Retailer Reporting Program stands apart.

439 In addition, its key word based reporting criteria may
440 help CPSC identify trends among reported incidents that
441 individually might not otherwise come to the agency's
442 attention.

443 However, in recent years the Retailer Reporting Program
444 has languished in large part because sifting the mountain of
445 data the program generates has been a largely manual process.
446 Developing and implementing modern AI technologies to help
447 narrow the program's data stream could be helpful to CPSC
448 staff to help them better operationalize the real time
449 information the program provides.

450 The VGBA, first enacted nearly two decades ago, the VGBA
451 sought not only to address tragic incidents related to pool
452 drains, but also to reduce drowning and near drowning
453 incidents in public and residential pools.

454 As part of its pursuit of this worthy goal, the VGBA
455 enacted a grant program whereby States that had or enacted
456 laws requiring certain safety features in and around pools
457 could receive Federal funds to hire personnel to enforce

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458 these laws, as well as to conduct educational campaigns to
459 reduce drowning risk.

460 That grant program was later expanded to include local
461 and tribal governments.

462 Despite this historic effort, including the awarding of
463 millions of dollars in grants and the creation of CPSC's Pool
464 Safely Campaign, drowning remains the leading cause of death
465 among children ages one to four and, even more troubling,
466 2020 saw a ten percent increase in such failed drownings.

467 The reauthorization before this subcommittee not only
468 continues but builds upon the work the VGBA has done over the
469 last two decades. Most notably, the reauthorization adds
470 qualified nonprofit organizations to the list of eligible
471 entities.

472 While State, local, and tribal governments are essential
473 partners in drowning prevention, expanding the universe of
474 potential grant recipients to include nonprofits with proven
475 experience in this space will bring new and skilled allies to
476 bear.

477 And on a personal note, I just wanted to note that, Mr.
478 Chairman, I was a journalist in Tallahassee when both you and
479 Ms. Wasserman Schultz were in the Florida House. I admired

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480 you both then and continue to do so for your spirit of
481 service, and it is wonderful to see the Florida delegation's
482 continued leadership on these vital public safety issues.

483 I appreciate the opportunity to address the subcommittee
484 and look forward to any questions.

485 [The prepared statement of Mr. Gentine follows:]

486

487 *****COMMITTEE INSERT*****

488

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489 *Mr. Bilirakis. And I remember we actually passed the
490 pool safety bill, and I was one of the few on my side of the
491 aisle that did support it. You remember that, do you not?

492 Okay. The next witness is Mr. John Breyault, Vice
493 President of Public Policy, Telecommunications, and Fraud, at
494 the National Consumers League.

495 You are recognized for five minutes, sir. Thank you.

496

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497 STATEMENT OF JOHN BREYALT, VICE PRESIDENT OF PUBLIC POLICY,
498 TELECOMMUNICATIONS, AND FRAUD, NATIONAL CONSUMERS LEAGUE
499

500 *Mr. Breyault. Good morning, Chairman Bilirakis,
501 Ranking Member Schakowsky, and members of the subcommittee.
502 My name is John Breyault, and I am the Vice President of
503 Public Policy, Telecommunications, and Fraud at the National
504 Consumers League.

505 Founded in 1899, NCL is the Nation's oldest consumer
506 advocacy organization. For more than 124 years, our
507 nonprofit mission has been to promote social and economic
508 justice for consumers and workers in the United States and
509 abroad.

510 Thank you for giving me the opportunity to speak today
511 on behalf of the millions of consumers that NCL represents in
512 support of legislation promoting transparency, fairness, and
513 safety in the marketplace.

514 In November 2022, tens of millions of fans went online
515 at once to try and purchase tickets to Taylor Swift's Eras
516 Tour. Demands placed by the megastar's legions of fans as
517 well as armies of ticket brokers overwhelmed Ticketmaster's
518 systems. Two million tickets were reportedly sold in a

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519 single day, but millions of her fans were left without
520 tickets, driving prices into the ether on secondary ticket
521 markets.

522 Outraged Swifties took to the Internet, filed lawsuits,
523 and demonstrated on Capitol Hill. Congress responded calling
524 Ticketmaster before the Senate Judiciary Committee to answer
525 for the implosion of their supposedly sophisticated ticketing
526 systems.

527 And while the Taylor Swift meltdown may have been an
528 anomaly, it exposed the ugly under-ability of a live event
529 industry that is rigged to maximize profits of a select few
530 at the expense of the frustration of millions of fans.

531 Three bills before the subcommittee today seek to reform
532 that industry, an industry that lacks checks and balances and
533 advantages ticketing companies at the expense of average
534 customers. Each of these bills has NCL's support.

535 First the BOSS and SWIFT Act of 2023 sponsored by
536 Representatives Pascrell, Pallone, Brownly, and Delegate
537 Holmes Norton, is the single most pro fan and pro competition
538 ticketing legislation currently before Congress.

539 This comprehensive reform bill will let consumers see
540 total ticket prices up front instead of having to click

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541 through multiple screens and provide personal information
542 just to find out what a ticket will actually cost.

543 This bill also requires better disclosure of important
544 information, like ticket refund policies, sheds daylight on
545 ticket hold-backs that siphon tickets to a privileged few at
546 the expense of average fans and helps protect consumers from
547 Ticketmaster's anticompetitive efforts to extend its monopoly
548 into the secondary ticket market.

549 Though less ambitious than the BOSS and SWIFT Act, NCL
550 also supports H.R. 3950, the TICKET Act, which has been
551 sponsored by you, Chairman Bilirakis, and Ranking Member
552 Schakowsky.

553 The TICKET Act addresses one of fans' biggest pain
554 points when it comes to ticketing, the out of control fees
555 that add an average of 27 to 31 percent to the cost of the
556 ticket on primary and secondary markets, respectively.

557 Like the BOSS and SWIFT Act, the bill would mandate all-
558 in pricing allowing fans to more easily compare the prices of
559 live event tickets, including fees, without having to go
560 through lengthy checkout processes that are designed to make
561 comparison pricing more difficult.

562 The bill would also crack down on the controversial and

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563 often deceptive practice known as speculative ticketing by
564 requiring ticket sellers to disclose clearly and
565 conspicuously that they do not have tickets in hand when
566 speculative sales occur.

567 Finally, we support the goal of the speculative
568 ticketing ban discussion draft which would go a step further
569 than the BOSS and SWIFT Act and the TICKET Act by banning
570 speculative ticket sales outright while carving out buying
571 services that are designated separately from traditional
572 ticket resell listings.

573 In addition to these three ticketing bills, NCL supports
574 Representative Kim's No Hidden Fees on Extra Expenses for
575 Stays Act, which would mandate all-in pricing in the hotel
576 and short-term lodging industries.

577 We are also pleased to support Representatives McClain's
578 and Peltola's bipartisan and bicameral WIPPES Act, which
579 would require "do not flush" labels on cleaning wipes,
580 potentially saving consumers from incurring hundreds or even
581 thousands of dollars in unexpected plumbing repair bills.

582 Finally, we applaud Representative Valadao for
583 introducing the Online Dating Safety Act of 2023. Consumers
584 reported losing \$8.8 billion to fraud in 2022, an increase of

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585 nearly 2.6 billion over 2021.

586 Romance scams are particularly costly for the victims,
587 with median losses of \$4,400 last year, and that is just the
588 financial cost. The emotional toll on romance scam victims
589 we hear from every day at NCL, and let me tell you it is
590 heartbreaking to hear their stories.

591 Representative Valadao's bill would better protect users
592 of online dating services by requiring data Websites to
593 proactively notify users when an account is banned for
594 fraudulent activity.

595 In closing, I would like to again thank you, Chairman
596 Bilirakis and Ranking Member Schakowsky, for the invitation
597 to testify on these important consumer protection issues. I
598 look forward to answering your questions.

599 [The prepared statement of Mr. Breyault follows:]

600

601 *****COMMITTEE INSERT*****

602

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603 *Mr. Bilirakis. Thank you very much.

604 Our next witness is Mr. David Touhey, Principal at
605 Connett Consulting.

606 And I will tell you what. These issues are really --
607 that is why we are here, because these particular issues
608 impact people directly. So I really appreciate all your
609 testimony.

610 But, sir, Mr. Touhey, you are recognized for five
611 minutes.

612

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613 STATEMENT OF DAVID TOUHEY, CERTIFIED VENUE EXECUTIVE,
614 PRINCIPAL, CONNETT CONSULTING, AND ADJUNCT PROFESSOR OF
615 SPORTS MANAGEMENT, GEORGETOWN UNIVERSITY AND GEORGE
616 WASHINGTON UNIVERSITY

617

618 *Mr. Touhey. Chairman Bilirakis, Ranking Member
619 Schakowsky, and members of the subcommittee, thank you for
620 inviting me to testify about legislative proposals to address
621 ticket abuses in the live event industry on behalf of the
622 International Association of Venue Managers.

623 Representing public venues, IAVM's 7,200-plus active
624 members include managers and senior executives from
625 auditoriums, arenas, convention centers, exhibit halls,
626 stadiums, performing arts centers, university complexes,
627 amphitheaters, and fairgrounds.

628 IAVM's venues are the face and place fans associate with
629 an event. We field their calls of concern and do our best to
630 resolve their issues, many of which you will hear are out of
631 our control.

632 IAVM is a member of the Fix the Tix Coalition working
633 with our colleagues in the music, sports, and other live
634 event industries to stop abuses in ticket sales that harm

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635 consumers, frustrate fans, and artificially inflate the price
636 of admission to live events.

637 Members of the Fix the Tix Coalition make shows happen.
638 We are on the front line, and our number one goal is to
639 ensure that fans have a memorable experience at every live
640 event.

641 We applaud you, Mr. Chairman and Ranking Member
642 Schakowsky, for recognizing that problems exist in ticketing
643 and your work to fix them, especially with the bills you are
644 considering today.

645 The TICKET Act, the BOSS and SWIFT Act, and the
646 Speculative Ticketing Draft collectively contain provisions
647 that would strike at the most pressing of the current
648 problems in the ticket market, but not one bill goes far
649 enough.

650 I started in the venue management industry 30 years ago,
651 and throughout my career there have been huge changes in the
652 ticket business. Today most tickets are purchased online.
653 Ticket scalping is fueled by computer programs, including
654 bots.

655 Indeed, this process has given rise to a now called
656 secondary ticket market that preys on consumers desperate to

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657 see their favorite artist or teams.

658 Due to deceptive Websites, paid sponsor links, and
659 search engine optimization, buyers often do not even realize
660 they are not on the Website of the actual venue or artist,
661 nor are they aware that tickets may still be available from
662 the primary seller on the official Website at a lower face
663 value price or that they may be buying a ticket that the
664 reseller does not even possess, called speculative tickets.

665 Let me be clear. Speculative tickets are fake tickets
666 and should be considered fraud.

667 The two main problems consumers face today when
668 attempting to purchase tickets are high resell prices and
669 scarcity of availability. Speculative or fake tickets and
670 deceptive reseller Websites contribute to the inflated cost
671 and lack of inventory.

672 As I prepared this testimony, I did an Internet search
673 for tickets at the Capital One Arena here in Washington,
674 D.C., a venue that I managed. When I clicked on the first
675 selection that appeared, I was taken to a Website that uses
676 the image of Capital One Arena and makes itself appear to be
677 associated with the venue, which it is not.

678 An average fan trying to quickly score tickets might

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679 assume that they had landed on the Web page for the arena and
680 think they were purchasing tickets directly from the venue.

681 I found a listing for two tickets to Wu Tang Clan who
682 played at the arena last night in Section 2, Row P for \$1,503
683 all in but with no seat location. That is always an
684 indication it is not an official sale site and often a sign
685 the tickets are speculative, meaning the reseller does not
686 have possession of the tickets.

687 At the same time, on the venue's actual site two seats
688 in Section 2, Row P, Seats 15 and 16 were listed for an all
689 in cost of \$637.40.

690 The large reseller markup of \$865.60 between the two
691 sites is not uncommon and is what fuels the use of deceptive
692 Websites and speculative tickets. Only the ticket reseller
693 benefits from this large markup. No one associated with the
694 event does, not the artist, not the venue, not the promoter.

695 The TICKET Act, the BOSS and SWIFT Act and the
696 Speculative Ticketing Draft, collectively contain provisions
697 that begin to fix these problems, but they all need further
698 consideration.

699 In fact, the disclosure requirements for primary ticket
700 sellers in the BOSS and SWIFT Act could have unintended

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701 consequences of making it easier for ticket brokers to drive
702 up costs and inject more fake and speculative tickets in the
703 market.

704 The All in Pricing Disclosure and the TICKET Act is a
705 good first step, but it needs to go farther and ban
706 speculative tickets as well.

707 The provision to prevent deceptive URLs in the BOSS and
708 SWIFT Act is a great start, but it must be strengthened.
709 Speculative tickets and deceptive URLs must be properly
710 addressed in any legislation.

711 There are additional policy changes the Fix the Tix
712 Coalition recommends, and I would welcome the opportunity to
713 discuss them.

714 Please know that IAVM and the Fix the Tix Coalition
715 stand ready to work with you to find commonsense solutions to
716 cure problems in the ticket industry and provide a safer,
717 more positive consumer experience.

718 Our members are committed at all levels to ensuring fans
719 have a great experience from the moment they begin the
720 process to purchase tickets until they leave our doors after
721 an event.

722 On behalf of IAVM and its 7,200 members, thank you for

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723 your time and consideration. I look forward to answering any
724 questions you may have.

725 [The prepared statement of Mr. Touhey follows:]

726

727 *****COMMITTEE INSERT*****

728

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729 *Mr. Bilirakis. Thank you so very much. I appreciate
730 it.

731 Our next witness is Mr. Scott Benavidez. I hope I
732 pronounced that right. Chairman of the Automotive Service
733 Association.

734 You are recognized for five minutes, sir.

735

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736 STATEMENT OF SCOTT BENAVIDEZ, CHAIRMAN, AUTOMOTIVE SERVICE

737 ASSOCIATION

738

739 *Mr. Benavidez. Good morning, Chairman Bilirakis,
740 Ranking Member Schakowsky, and members of the subcommittee.
741 Thank you for providing me the opportunity to testify before
742 you today.

743 My name is Scott Benavidez, and I am here today on
744 behalf of the Automotive Service Association.

745 ASA has been a steadfast advocate for right to repair
746 principles, the right of car owners and independent repair
747 shops to access vehicle service information needed to
748 diagnose and repair vehicles for decades.

749 In the fall of 2002 after a Senate Commerce Committee
750 hearing on right to repair, ASA signed an agreement with
751 automakers stipulating that independent automotive repair
752 shops would have access to the same emissions and non-
753 emission service information provided to the manufacturer's
754 franchise dealerships.

755 Emissions and non-emission service information access
756 for independent shops works today through automaker Websites
757 and third party information providers. Since 2002, the

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758 vehicles Americans rely on have become increasingly
759 sophisticated, and we know that rate of innovation will only
760 accelerate.

761 The way vehicle issues are diagnosed and repaired
762 evolves in tandem with technological advancements. Although
763 today automotive repairs have access to vehicle data
764 necessary for repairs, our industry has been concerned about
765 the path forward for obtaining data for vehicles moving into
766 the marketplace.

767 Newer vehicle technologies with an increasing number of
768 sensors will present challenges to our shops without access
769 to repair data. That is why in July of this year ASA proudly
770 announced that it had reached a landmark agreement with
771 automakers that ensure independent repair shops can diagnose
772 and repair their customers' vehicles without hindrance from
773 telematics nor any other innovation.

774 We want to express our appreciation to U.S. Congressmen
775 Buddy Carter of Georgia and Darren Soto of Florida for their
776 efforts to bring stakeholders together through the bipartisan
777 Vehicle Data Access Caucus. Their efforts encourage repair
778 shops and automakers to work together to determine a path
779 forward on issues of vehicle data access.

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780 The agreement ensures independent repair shops shall
781 continue to have access to the same diagnostic and repair
782 information that auto manufacturers make available to
783 authorized dealer networks.

784 This includes telematic data needed to diagnose and
785 repair vehicles of not otherwise available and all vehicle
786 technologies and power trains, including gasoline, diesel,
787 fuel cell, electric battery, hybrid, and plug-in hybrid
788 electric power trains.

789 Important for our industry, the agreement contains an
790 education and training component. Our agreement encourages
791 collaboration with the auto manufacturers on training. We
792 have cosponsored education and training opportunities in the
793 past and will continue in the future, thanks to the 2023
794 agreement.

795 The agreement acknowledges the importance of assuring we
796 have the same sources for data in the future that we do
797 today, directly through automakers' repair sites, shared
798 access points like OEM One Stop, and via third party
799 information providers' softwares and tools.

800 With the volume of data and thousands of independent
801 shops and technicians, how will gaps in policy issues be

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802 addressed?

803 The agreement establishes a vehicle data access panel to
804 identify issues a party may have with respect to access as
805 pledged in the agreement.

806 Our 2023 agreement also establishes a data access
807 working group to consider any technological advances that may
808 alter the vehicle repair marketplace.

809 Most importantly, the agreement safeguards a competitive
810 repair market that yields the fairest prices for drivers and
811 the highest quality safety outcomes. We believe the
812 agreement ASA reached with the Alliance for Automotive
813 Innovation and SCRS nullifies the need for the REPAIR Act.

814 In a 2002 hearing, members of the U.S. Senate Commerce
815 Committee challenged the aftermarket and automobile
816 manufacturers to try to work out their differences on the
817 right to repair issue or the committee would pursue
818 legislation.

819 At the Commerce hearing, ASA had testified in support of
820 right to repair legislation. Following the hearing, we held
821 a series of meetings with the automakers and established the
822 2002 service information agreement.

823 For more sophisticated technologies as of July 2023, we

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824 are pleased to now have an agreement in place to address
825 independent shops' needs for service and repair data. We
826 hope that Congress will again allow and encourage the
827 industry solution to a very complex issue.

828 Thank you, again, Chairman Bilirakis and Member
829 Schakowsky, for convening this important hearing and allowing
830 me to share the perspective of ASA and repair shops.

831 I look forward to answering your questions today.

832 [The prepared statement of Mr. Benavidez follows:]

833

834 *****COMMITTEE INSERT*****

835

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836 *Mr. Bilirakis. Thank you, sir.

837 Our final witness is Ms. Kathleen Callahan, owner of
838 Xpertech Auto Repair.

839 You are recognized for five minutes. Thank you.

840

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841 STATEMENT OF KATHLEEN CALLAHAN, OWNER, XPERTECH AUTO REPAIR

842

843 *Ms. Callahan. Thank you, Chairman Bilirakis, Ranking
844 Member Schakowsky, and members of the subcommittee.

845 My name is Kathleen Callahan, and I am owner of Xpertech
846 Auto Repair in Englewood, Florida. I am a member of the Auto
847 Care Association, the national trade association that
848 represents the independent aftermarket and over 200,000
849 repair shops.

850 I am also the incoming vice chair of Women in Auto Care,
851 another national organization dedicated to engaging,
852 educating, and empowering women in the auto care industry.

853 Thank you for allowing me to be here today to discuss
854 H.R. 906, the REPAIR Act.

855 Xpertech is a woman-owned business with eight employees
856 delivering professional repair and maintenance on multiple
857 vehicle makes and models. As a Gold certified NAPA auto
858 care center, we provide our clients with a three-year
859 national parts and labor warranty, while maintaining the
860 personal touch of a family-owned local business.

861 The independent aftermarket is nearly a \$4 billion
862 industry with over four million employees. In addition to

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863 shops like mine, there are manufacturers of parts,
864 accessories, tools and supplies, as well as names you see
865 everywhere like NAPA, O'Reilly, AutoZone, and Advanced Auto
866 Parts.

867 When you hear someone say, "My car needs some work,"
868 the response is usually, "Do not worry. I have got a guy,"
869 or a gal. Most often they are talking about us.

870 My industry is an economic engine for the Nation and
871 essential to keeping America's 292 million registered motor
872 vehicles on the road.

873 I am here today because my shop and every other
874 independent repair shop in the country faces an existential
875 threat to our future. As technology advances, terabytes of
876 data are being transmitted wirelessly from your vehicle to
877 the servers of original equipment manufacturers, OEMs. This
878 wireless transmission process is called telematics.

879 Did you know that your car knows exactly how much you
880 weigh, to the ounce? So does the manufacturer.

881 You may remember a time when your trusted independent
882 technician would plug a tool in under the dashboard to
883 analyze the data needed to diagnose and eventually repair
884 your vehicle. The data was accessible through the onboard

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885 diagnostic port, OBD.

886 Those days will soon be far behind us as the data I need
887 to diagnose the complex computer network of modern vehicles
888 is inaccessible through our scan tools, and we must send our
889 clients to a dealership for answers and often a much higher
890 repair bill.

891 The OEMs have complete control of this data and decide
892 who can access it and how. In the OEM's view of the world,
893 franchise dealerships will have access to repair data and the
894 capability to use it to service the customer's car
895 wirelessly, while my customer would have to drive their car
896 to my shop for that same service that I have to deliver
897 through the OBD port, and that is only if I can access the
898 data at all.

899 This month I paid a brand new fee to Stellantis to see
900 basic data related to a check engine light in a long-time
901 client's Jeep. We previously had access to this information
902 through our current scan tool subscription services without
903 additional paywalls.

904 Supposed vehicle manufacturers keep the exclusive right
905 to diagnostic and repair data. In that case, my shop's
906 ability to provide our award winning service will be delayed,

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907 compromised, or eliminated.

908 The independent aftermarket is at the whim of the
909 vehicle manufacturers who plan to make billions of dollars
910 from vehicle generated data. Recently, Stellantis, formerly
911 Chrysler, announced that they are adding an entire division
912 for collecting and selling data from software related
913 services they project by 2030 will generate \$20 billion in
914 incremental revenue.

915 Selling this data is big business, and we do not have to
916 wonder why such time, effort, and resources are devoted to
917 monopolizing it.

918 The REPAIR Act allows the free market to work by
919 prohibiting competition-busting barriers that vehicle
920 manufacturers use to protect their competitive advantage. It
921 will guarantee that our shops chosen by the vehicle owner can
922 access the data they need to safely diagnose and repair
923 vehicles today and in the future.

924 If the dealership is their preferred shop, that is their
925 right. They should also have that right guaranteed to come
926 to my shop. It is your car. It should be your data, and
927 right now it is not.

928 Something worth adding. If only one company

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929 manufactures something, there is no reason to improve upon
930 it. With a vibrant aftermarket of multiple companies
931 competing for market share, we promote innovation, safety
932 enhancement, lower costs, better accessibility, and more
933 jobs.

934 Additionally, the average age of a passenger vehicle on
935 the road is nearly 13 years old. OEMs stopped producing
936 parts for those cars after ten years.

937 Aftermarket availability last long beyond that. Our
938 cars are the second largest investment we make, and often
939 symbolize independence, especially for most of my clients who
940 are well past retirement age.

941 This issue has broad bipartisan support and cosponsors
942 in the House led by fellow Floridian Congressman Neal Dunn.
943 Thank you, sir, for your hard work on this legislation.

944 The REPAIR Act is supported by numerous organizations
945 that represent 90 percent of the aftermarket. A list is in
946 my written testimony.

947 All of you who have given your support in Congress
948 realize that the only way to protect affordable and
949 accessible repair is to have an enforceable statute that
950 protects the rights of the vehicle owner to choose their

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951 repair shop.

952 Congress should act to codify this right to preserve
953 consumer choice in vehicle repair, and today's hearing is the
954 start of that process.

955 Thank you for taking this first step.

956 [The prepared statement of Ms. Callahan follows:]

957

958 *****COMMITTEE INSERT*****

959

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960 *Mr. Bilirakis. Thank you very much for your testimony.

961 I will begin the questioning and recognize myself for
962 five minutes.

963 We have assembled the great panel today to voice their
964 opinions on these proposals, including, again, my fellow
965 Floridian here, Kathleen.

966 I want to ensure that one voice is not overlooked in
967 these important discussions on event ticketing, and that is
968 the voice of the artist, the athlete, and performer. These
969 are the people who drive the sales of all these vents.

970 I hope stakeholders here today will also commit to
971 including them in the process for broader ticketing reform.
972 So we need to speak to them as well.

973 And I know they are invited, but the response was late,
974 but we want to hear from them as well.

975 No one should be left out of these deliberations, and
976 the Ranking Member said she agrees as well, including the
977 people's House, which is so important because we represent
978 our constituents.

979 And these issues, again, affect them directly.

980 I know myself and Ranking Member Schakowsky are
981 committed to moving our legislation, expanding our group of

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982 stakeholders to address event ticketing and what consumers
983 deserve.

984 We have spent months talking with stakeholders and will
985 not be distracted by a proposal they have not been able to
986 build a consensus or have yet to face the public scrutiny. I
987 am pleased that we are instead working through a bipartisan
988 committee process here that can pass the House and provide
989 heightened transparency and protection for artists, venues,
990 ticketing companies, and most of all, the fans and consumers.

991 Keeping on the issue of ticketing, a topic so important
992 to our small, local venues across the nation, such as Ruth
993 Eckerd Hall. That is not very far from you, Kathleen. It is
994 in the Tampa Bay area, a small venue. They get national
995 awards.

996 So anyway, let me ask this question of Mr. Touhey. I
997 have heard from venues that the BOSS and SWIFT Act require a
998 ticketed reseller to disclose if they are selling a ticket
999 not in their possession.

1000 Do you think a reseller should ever be able to sell a
1001 ticket not in their possession? Mr. Touhey?

1002 *Mr. Touhey. No.

1003 *Mr. Bilirakis. Okay. Would simply disclosing that the

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1004 ticket is not in their possession go far enough in your
1005 opinion?

1006 *Mr. Touhey. In my opinion, no, it would not.

1007 *Mr. Bilirakis. Okay. What would you recommend?

1008 *Mr. Touhey. Banning speculative tickets altogether.

1009 *Mr. Bilirakis. Okay. Thank you.

1010 Mr. Touhey, currently State ticketing laws differ across
1011 the country, as you know. How does that impact an artist on
1012 a tour visiting different markets or venue manager operating
1013 venues across the State?

1014 And then I have a follow-up if you could respond to
1015 that.

1016 *Mr. Touhey. Sure. It makes it more difficult on the
1017 artist and venue management companies because they have to
1018 conform to different laws and do different things in
1019 different States, and sometimes they many choose not to play
1020 a market based on some of those.

1021 *Mr. Bilirakis. Okay. So here is the follow-up
1022 question, which is obvious.

1023 Would having one Federal standard help how tickets are
1024 sold for tours with stops in more than one State?

1025 *Mr. Touhey. Yes, it would.

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1026 *Mr. Bilirakis. Okay. Very good. I know those are
1027 tough questions, but thank you very much.

1028 Why don't I go ahead and yield back the balance of my
1029 time? But I will tell you this is a tremendous hearing, and
1030 you know, this is why we are here, to hear from the
1031 representatives of the people. So I appreciate you
1032 participating.

1033 All right. Why don't I yield five minutes to the
1034 ranking member, Ms. Schakowsky? Thank you.

1035 *Ms. Schakowsky. Well, thank you so much.

1036 I really appreciate this panel. I think we are all
1037 pretty much on the same page.

1038 I want to thank Mr. Gentine for talking about the
1039 Consumer Product Safety Commission. I think it is a small
1040 but mighty agency that needs the funding to be able to really
1041 protect consumers and on the issues that I had raised on the
1042 Right to Repair and on the TICKET Act.

1043 I certainly want to thank all of you so much, including
1044 Mr. Touhey, your recommendations on how to make it better.

1045 But I do want to ask Mr. -- is it Breyault? -- a
1046 question and ask you what do you think are the best ways that
1047 hidden junk fees, that we can protect against those.

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1048 *Mr. Touhey. So thank you for the question,
1049 Congresswoman.

1050 The best way to protect consumers from junk fees is to
1051 pass all-in pricing requirements. Junk fees are pervasive
1052 and pernicious, and consumers hate them. They add 27 to 31
1053 percent to the cost of every ticket.

1054 I understand that putting on a concert or sporting event
1055 costs money and that those costs have to be recouped, but
1056 consumers just want to know what it is they are going to pay
1057 when they are going to get in.

1058 Not only would all-in pricing address frustration. We
1059 think it would also promote competition because right now
1060 what happens in far too many instances is that consumers see
1061 one price in one place, say, Ticketmaster, and see another
1062 price on a secondary site, and then they do not actually know
1063 what that cost is until they get to the very end.

1064 So it is harder for those entities compete with each
1065 other, and you know, we have actually heard on the record
1066 from all the stakeholders in the community, from Ticketmaster
1067 and secondary sellers as well, that they all want to do all-
1068 in pricing, and some of them have committed to do so to the
1069 White House.

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1070 But none of them want to be first. They are all afraid
1071 of losing market share. That to me is a sick sign of a
1072 market failure and why we believe that Congress should step
1073 in with bills like the BOSS and SWIFT Act and the TICKET Act,
1074 to mandate that kind of all-in pricing that helps consumers.

1075 *Ms. Schakowsky. Well, I also want to talk to you about
1076 speculative pricing, and, Mr. Touhey, you mentioned something
1077 about that and how it actually does in real life harm
1078 consumers.

1079 *Mr. Breyault. Right. So the term "speculative
1080 ticketing" or "speculative ticket" is a bit of a misnomer
1081 because what is being sold is not actually tickets at all.
1082 It is more akin to an option to buy, and unfortunately, the
1083 way that they are sold is often deceptive to consumers.

1084 Speculative tickets may be intermingled with tickets
1085 that resellers actually have in hand.

1086 *Ms. Schakowsky. Are they going to look though the same
1087 to the consumer?

1088 *Mr. Breyault. Well, what the consumer actually
1089 receives when they buy one of these speculative tickets is
1090 usually just some confirmation that they have purchased
1091 something, and the ticket may not actually be delivered until

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1092 much closer to the event.

1093 So in the meantime, the consumer thinks they are going
1094 to see Taylor Swift or Bruce Springsteen or another artist.
1095 They start doing things like booking hotel rooms or airfare
1096 or babysitters so that they can go to the show.

1097 And what happens too often is that the person who was
1098 selling that option or ticket to them finds out later on that
1099 they cannot actually acquire the ticket at the price that
1100 they sold it for, and so they simply say, "Sorry. You are
1101 out of luck.'" They give them their money back, but in the
1102 meantime, the consumer is out all of these other costs.

1103 That is why speculative ticketing is so controversial,
1104 and we think that reforms like the BOSS and SWIFT Act and the
1105 TICKET Act and the ones considered in the speculative
1106 ticketing discussion draft will go after that problem.

1107 *Ms. Schakowsky. So, Mr. Touhey, you just think it
1108 should just be prohibited altogether, that there be this kind
1109 of "maybe we will have a ticket for you" policy?

1110 *Mr. Touhey. Correct. A speculative ticket should be
1111 banned completely. They are fraud and serve no good to the
1112 consumer.

1113 *Ms. Schakowsky. Thank you.

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

1114 I also just want to thank those of you representing the
1115 right to repair, and I appreciate your personal story about
1116 what happens to you as a person involved in those
1117 transactions.

1118 And so I am hoping that working together that we are
1119 going to be able to achieve what all of you have represented
1120 today. What a great panel. Thank you.

1121 I yield back.

1122 *Mr. Bilirakis. Thank you very much.

1123 Let me quickly -- well, let me do this after the
1124 chairperson, but I want to ask a couple of questions.

1125 But let me go ahead and recognize the chairperson for
1126 her five minutes of questioning.

1127 *The Chair. Thank you, Mr. Chairman.

1128 Mr. Benavidez, I am aware there is a commitment amongst
1129 the Automotive Service Association, the Society of Collision
1130 Repair Specialists, and the Alliance for Automotive
1131 Innovation, and this agreement is meant to ensure consumer
1132 choice in vehicle repair decisions and acts as a commitment
1133 from the automakers to provide for sale, diagnostic, and
1134 repair information.

1135 I am curious how this commitment would be enforced if

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1136 one party, such as an automaker, failed or chose not to
1137 comply with it. What is the guarantee that all parties will
1138 abide by this commitment?

1139 And how would this agreement be implemented, such as how
1140 expensive it could be to repair EVs in the future?

1141 *Mr. Benavidez. Thank you for that question,
1142 Congresswoman.

1143 We have been working with the automakers now since 2002,
1144 and we set up or the new 2023 agreement set up access panels
1145 to help in that regard. We have one access panel to get
1146 together to see if we have problems in the future, and then
1147 we set up the other panel to see cars in the future.

1148 So we have worked with them very well, and it is not in
1149 their best interest to go back on any of our agreements with
1150 them. They want their consumer's vehicle fixed fast. They
1151 want it fixed efficiently and repaired correctly. So they
1152 want us to have that information to do that. It is in their
1153 best interest to have it repaired efficiently.

1154 *The Chair. Okay. And so if these are long-term
1155 commitments, what would be the objection to codify these into
1156 law so there is no question for the owner as to what their
1157 rights are?

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1158 *Mr. Benavidez. We do not see that as necessary because
1159 we have worked with them so well. We do not foresee us
1160 having to have legislation on that.

1161 If it got to that point where we would support it, we
1162 would support it, but at this point, we are working together.
1163 They have been very up front of what they are offering us,
1164 and they are willing to set up these panels to help make sure
1165 it is correct for us.

1166 *The Chair. Okay. Thank you.

1167 Ms. Callahan, I appreciate you being here and the tone
1168 of your testimony, and as a small business owner and a woman-
1169 owned business, I just applaud what you are doing.

1170 You are the backbone of our economy, and we must ensure
1171 regulation does not hamper the ability to provide service to
1172 our communities.

1173 So I wanted to ask you with the commitment these
1174 associations have in place, what is the obstacle that you are
1175 facing in servicing vehicles in your shop?

1176 And what are the unintended consequences that could
1177 happen should you try to repair someone's vehicle without
1178 this diagnostic information?

1179 We have heard this term "bricking.'" Can you explain

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1180 this?

1181 *Ms. Callahan. Thank you for the questions,
1182 Congresswoman.

1183 So the first question as I understand is why would we
1184 want to codify it. Currently many of the European auto
1185 manufacturers do not participate in the MOUs that we have had
1186 in place since 2002 and with modification. So this would be
1187 me entrusting the future and my legacy of my business and
1188 those businesses around me to the economy and to my future
1189 and my children's future.

1190 I am not willing to risk on a handshake, you know, where
1191 they could back out at any time.

1192 As far as the "bricking" term, I am a professional, and
1193 I employ professionals. So without the proper information, I
1194 am not going to risk harming a client's vehicle, and I am
1195 going to have to send them back to the dealership in order to
1196 perform a proper repair if I cannot be guaranteed the
1197 information is correct.

1198 *The Chair. You mentioned the European models. Would
1199 you speak to what obstacles you are facing in servicing the
1200 vehicles manufactured in the U.S.?

1201 *Ms. Callahan. I would say the first obstacle that I am

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1202 seeing is additional paywalls that were never there before.
1203 As I mentioned in my testimony, Stellantis, I recently within
1204 the last three weeks had to pay yet another fee to get in to
1205 access basic code information to figure out why their check
1206 engine light was on.

1207 These are not complicated repairs that I am trying to
1208 address, you know, deep in the computer systems where we
1209 could cause "bricking" and all of the things, but this is a
1210 simple thing to see if your gas cap is loose or if you have a
1211 misfire or which cylinder is misfiring, and I had an
1212 additional paywall to get to it.

1213 *The Chair. Thank you.

1214 We obviously have an ambitious agenda here today and
1215 lots of bills. I do have further questions, but I will
1216 follow up in writing.

1217 But, Mr. Breyault, I thank you for being here and for
1218 your advocacy on so many of these issues. Certainly one of
1219 the themes today is that we need to ensure that consumers
1220 know what they are getting and what they are paying for, and
1221 several of the bills address that and more to come.

1222 I will yield back, Mr. Chairman.

1223 *Mr. Bilirakis. Thank you. I thank the chair.

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1224 And I will submit my questions in writing as well in the
1225 interest of time.

1226 So what we will do is I will actually recognize the
1227 ranking member, Mr. Pallone for his five minutes of
1228 questioning.

1229 *Mr. Pallone. Thank you, Chairman Bilirakis.

1230 I have already said that I am proud to be an original
1231 cosponsor of Representative Pascrell's BOSS and SWIFT Act,
1232 which will help protect consumers when they buy tickets from
1233 primary ticket sellers and resellers. Sports fans and
1234 concern goers shopping online for tickets should be told the
1235 total price of a ticket up front, not find themselves facing
1236 service fees, processing fees, delivery fees, and other junk
1237 fees at checkout.

1238 So let me start with Mr. Breyault.

1239 Why is it so important that all ticket sellers disclose
1240 the total cost of a ticket up front?

1241 *Mr. Breyault. Thank you for the question, Mr.
1242 Chairman.

1243 And thank you for your sponsorship of the BOSS/SWIFT.
1244 Going all the way back to the BOSS Act of 2016, you have been
1245 a leader on this, and we appreciate it.

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1246 *Mr. Pallone. You should know that many New Jersey fans
1247 are not happy with the fact that it was changed from just
1248 BOSS to BOSS and SWIFT.

1249 [Laughter.]

1250 *Mr. Pallone. But go ahead.

1251 *Mr. Breyault. With all due respect to New Jersey's
1252 fans, all-in pricing at the time is a concept that all
1253 members of the live event ticketing ecosystem, including
1254 consumer groups like mine, believe should be mandated.

1255 There was a ticketing workshop in front of the FTC a few
1256 years ago, and they were all on the record saying that they
1257 want to do it, but none of them want to be first. It is a
1258 competitive market, and when one company institutes all-in
1259 pricing but others do not, the competitor's offerings seem
1260 cheaper and so you lose market share.

1261 This happened to StubHub several years ago where they
1262 made the decision to begin offering an all-in price on
1263 secondary tickets, and their new customers started flocking
1264 to SeatGeek and to Vivid Seats and others, and StubHub had to
1265 walk that back.

1266 So a pro consumer reform that they wanted to do
1267 voluntarily the market punished them by.

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1268 We think that that is a symptom of market failure. We
1269 think that an all-in price would allow consumers to easily
1270 compare the price of a ticket no matter where they shop,
1271 whether they are buying on the primary from Ticketmaster or
1272 on secondary markets.

1273 That is the way that consumers should shop. They should
1274 not have to click through multiple screens, provide personal
1275 information, log into an account just to see the price. That
1276 seems to me to be a way to try and hide the ball and make it
1277 harder for consumers to comparison shop.

1278 So we applaud you for including all-in pricing
1279 requirements in the BOSS and SWIFT Act. We applaud you,
1280 Ranking Member Schakowsky and Chairman Bilirakis, for
1281 including in the TICKET Act, and we hope to see those become
1282 law.

1283 *Mr. Pallone. Thank you.

1284 So the BOSS and SWIFT Act prohibits ticket tellers from
1285 imposing restrictions on consumers who are unable to use
1286 tickets they have purchased and, therefore, want to transfer
1287 or sell them.

1288 So let me ask you, Mr. Breyault. Why is it so important
1289 that consumers retain the ability to transfer or sell a

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1290 ticket that they purchased and rightfully own?

1291 *Mr. Breyault. Sure. So there are several reasons for
1292 this. First of all, the modern ticket buying experience for
1293 a concert, say, consumers typically have to buy the tickets
1294 months ahead, months in advance of the event. That is
1295 because that is when they are put on sale.

1296 In the intervening months life happens. You lose a job.
1297 Your kid gets sick. Other things happen and you cannot go to
1298 the event.

1299 So rather than lose the investment that they have in
1300 tickets, which can be hundreds or thousands of dollars,
1301 depending on the event, we think the consumer should have the
1302 right to resell, to donate, to give away that ticket without
1303 interference by the event organizer.

1304 Unfortunately, what we have seen is increasing efforts
1305 by companies like Ticketmaster and others to restrict
1306 consumers' ability to do that. We think that the unintended
1307 consequences of that are, number one, that consumers are
1308 harmed when life happens and they cannot go to the show, but
1309 also unfortunately, it also has the unintended consequence of
1310 too often reinforcing the market power of the dominant
1311 player, Ticketmaster.

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1312 If tickets' resale is restricted, for example, to only
1313 exchanges that Ticketmaster runs, then they are the ones who
1314 set the fees and other limitations on resale.

1315 One of the things that often does not get talked about
1316 in this space is that Ticketmaster is actually one of the
1317 dominant players in the ticket resale marketplace. Last year
1318 they made more than four and half billion dollars off of
1319 ticket resale.

1320 They have every incentive to want to monopolize this
1321 market just the way they have for primary ticketing as well
1322 as event ownership and operation, artist management, and
1323 event promotion.

1324 So we think that consumers should have the ability to
1325 decide who they want to use to transfer their tickets, and
1326 that should not be interfered with by the dominant player.

1327 *Mr. Pallone. All right. Thank you so much.

1328 Thank you, Mr. Chairman.

1329 *Mr. Bilirakis. Thank you.

1330 I will recognize Dr. Bucshon for his five minutes of
1331 questioning.

1332 *Mr. Bucshon. Thank you, Chairman Bilirakis for calling
1333 today's hearing on a variety of bills involving product

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1334 safety and transparency.

1335 I am glad that my discussion draft for legislation has
1336 standardized the ingredients disclosed on cleaning product
1337 labels is under consideration.

1338 Labeling standards exist for a variety of other products
1339 that we use and our constituents across the country use every
1340 day. From the milk and cereal we ate for breakfast this
1341 morning to the medications and vitamins we took. Yet no such
1342 standard exists for cleaning products.

1343 California got it right in 2017. I do not say that very
1344 often, but it began requiring ingredient and usage
1345 information for cleaning products to be included on the label
1346 and available online at the manufacturer's Website.

1347 My discussion draft would mirror this labeling regime
1348 and create a Federal standard for cleaning products.
1349 Establishing clear guidelines would better protect American
1350 consumers and producers and also would prevent States from
1351 having a variety of different laws affecting the economy and
1352 compliance from the companies that the companies have to
1353 comply with.

1354 So I encourage my colleagues across the aisle to work
1355 with me on fine tuning and introducing legislation that is

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1356 currently a discussion draft.

1357 Another bill before the committee today that I believe
1358 warrants careful examination is the REPAIR Act. The Alliance
1359 for Automotive Innovation says that over 70 percent of
1360 repairs done nationwide are completed at independent repair
1361 facilities.

1362 That number can be even higher in rural areas like
1363 Indiana's 8th District, where a dealership may not be easily
1364 accessible.

1365 That is why I am glad that automakers and the auto
1366 repair industry have signed a new memorandum of understanding
1367 this summer to protect access to necessary diagnostic and
1368 repair information to consumers and repair shops.

1369 The legislation before us, however, is about further
1370 preserving consumer's ability to get their vehicle serviced
1371 at a location that is convenient and appropriate for them.

1372 I support that conceptually, but I have some questions
1373 about this particular piece of legislation that I would like
1374 to ask our witnesses.

1375 Mr. Benavidez, is that how you pronounce your name?

1376 *Mr. Benavidez. Yes, sir.

1377 *Mr. Bucshon. Benavidez. The current text of the

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1378 REPAIR Act allows the FTC to require access to data, and I
1379 quote, "regardless of whether those types of data are related
1380 to motor vehicle repair."

1381 Might this kind of requirement give FTC too much leeway
1382 to require all kinds of unnecessary data sharing?

1383 *Mr. Benavidez. Yes, sir. That is the data that we are
1384 not concerned about, right? We want the repair data. We
1385 want the data to repair vehicles correctly. We want the data
1386 to repair them safely. That is the repair data we want.

1387 The other data that that covers, we do not care where
1388 the local Starbucks is around the corner. That does not
1389 matter to us. We just want the information to fix them
1390 right, correctly.

1391 *Mr. Bucshon. Understood.

1392 And also as a follow-up, this bill would require vehicle
1393 manufacturers to make vehicle generated data available
1394 directly and wirelessly through a, and I quote, "standardized
1395 access platform."

1396 The National Highway Traffic Safety Administration,
1397 NHTSA, has told automakers to not comply with State laws that
1398 have similar provisions, saying that malicious actors, and I
1399 quote, "could utilize such open access to remotely command

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1400 vehicles to operate dangerously. In addition to creating
1401 vulnerabilities for drivers, it is unclear who would be
1402 responsible for the safety of vehicle systems if such an
1403 attack would occur.''

1404 So I guess, you know, opening the whole system,
1405 particularly wirelessly, would create maybe a cyber risk.

1406 So under the bill if a third party sent a command to a
1407 vehicle and it resulted in a safety failure, who would be
1408 responsible for that?

1409 *Mr. Benavidez. We do not know that. In I think it was
1410 early 2000 -- turn this on -- John Eagle got sued in Texas
1411 for not repairing a vehicle correctly.

1412 I am a second generation shop owner also, and we are a
1413 small business, and if we do not have access to that data, it
1414 was a \$42 million lawsuit and I think everybody got sued in
1415 that instance.

1416 That scares us small business people to death about that
1417 much access to that vehicle. Even when they come to my shop,
1418 we just do not need that. We do not need that much data,
1419 right? We just need the data enough to fix the vehicles
1420 correctly.

1421 *Mr. Bucshon. Yes. I want to make clear. I mean, like

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1422 I said, rural America, you know, 70 percent of people get
1423 their vehicles repaired. It seems to me that data
1424 specifically related to repair is important, but other
1425 extraneous data that could be under the purview of the FTC
1426 under the current language in the law does not sound like it
1427 is the right thing to do potentially.

1428 Thank you very much. I yield back.

1429 *Mr. Bilirakis. Thank you, Dr. Bucshon.

1430 Now I will recognize Representative Castor for her five
1431 minutes of questioning. I know she has quite a few venues,
1432 small venues in her district, large venues as well that I
1433 have frequented.

1434 So anyway, we will recognize you for five minutes. I
1435 appreciate it.

1436 *Ms. Castor. Well, thank you, Mr. Chairman, my partner
1437 from the Tampa Bay region. Thank you very much, and the Rep.
1438 Schakowsky for organizing this hearing. Good, bipartisan
1439 work here.

1440 And thank you to the panel. Your testimony has been
1441 very strong and persuasive.

1442 Junk fees are just out of control. They are
1443 aggravating. I hear about it all of the time. You do not

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1444 just have to have been interested in buying Taylor Swift
1445 tickets or Beyonce tickets or Bruce Springsteen tickets this
1446 summer. It is just out of control. It is everything you try
1447 to buy on the Internet now you are not really sure. Are you
1448 really buying it from the originator or not?

1449 It also applies to hotels and motel bookings that there
1450 are a lot of scam artists out there. So it is good to see a
1451 bill on that as well.

1452 But I also want to thank President Joe Biden because he
1453 has kind of elevated the issue as well, and I think this is
1454 an area where we can work together in a bipartisan way to get
1455 something done.

1456 Now also on Right to Repair, Ms. Callahan, thank you
1457 very much for coming up from the Sunshine State.

1458 Since the election of another auto repair shop owner,
1459 Congresswoman Marie Gluesenkamp Perez, she has really taken
1460 this issue to the next level. You cannot sit down with her
1461 on the floor of the House without hearing about Right to
1462 Repair. So it is good to see that maybe we can work in a
1463 bipartisan way on that, too.

1464 And I also want to highlight the Baker Pool and Spa
1465 Safety Act, which needs to be reauthorized by this committee.

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1466 It saves lives. It helps educate consumers about how to keep
1467 their kids safe especially when it comes to pools.

1468 But there is kind of an elephant in the room here today,
1469 and you all have highlighted it. And, Mr. Breyault, you
1470 highlighted the importance, and Mr. Gentine, of the Federal
1471 Trade Commission. It is our agency that keeps consumers safe
1472 from battling fraudsters and scam artists.

1473 The Consumer Product Safety Commission is vital for
1474 families to ensure they are buying safe strollers and cribs
1475 and toys.

1476 We are now faced with shutting down these agencies
1477 because of what is going on in kind of the feud in the
1478 Republican Party, and Chairman Bilirakis started with School
1479 House Rock, the old, nostalgic I am just a bill. I am
1480 sitting here on Capitol Hill.

1481 So they want to just take the bill and light it on fire
1482 unfortunately, and we just cannot. This is so costly, and it
1483 just upends people's lives.

1484 Mr. Breyault, I noticed in the FTC shutdown plan, they
1485 say they are not going to be able to pursue the vast bulk of
1486 its competition and consumer protection investigations or
1487 prosecutions.

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1488 I mean, this is a recipe for fraudsters and scam artists
1489 must be celebrating. They are like, "Yeah, take the cops off
1490 the beat."

1491 So tell us what folks should anticipate if you shut down
1492 the Federal Trade Commission and Consumer Product Safety
1493 Commission, if they are not able to conduct the
1494 investigations and go after scam artists?

1495 What is going to happen?

1496 *Mr. Breyault. Thank you for the question,
1497 Congresswoman.

1498 The Federal Trade Commission has a vast authority to
1499 police unfair and deceptive action practices throughout the
1500 U.S. economy, and consumers depend on them to protect them
1501 from those practices.

1502 At NCL, I run a project called Fraud.org, which is all
1503 about protecting consumers from scammers, and we take
1504 complaints from consumers directly. Last year we sent about
1505 5,000 of those complaints to the Federal Trade Commission and
1506 its consumer sentinel database.

1507 Those submissions, along with millions of others that
1508 the commission receives, inform the agency's ability to
1509 identify trends and to go after the worst of the worst, the

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1510 people who are out there to take consumers' last dollars.

1511 And we hear heartbreaking stories from consumers every
1512 day, many of whom have lost their life savings because of
1513 fraud. So the FTC is a critical consumer protection agency
1514 to protect them from these scammers.

1515 And these are not just sort of people in their basement.
1516 These are organized criminals who are located around the
1517 world and are incredibly savvy and good at what they do.

1518 I do not think it is hyperbole. No one is safe from
1519 fraud. Even if you think that you are too smart to fall for
1520 the next scam, let me tell you. There is this scammer out
1521 there who has a pitch designed to entrap just someone like
1522 you.

1523 And so the FTC is the most important cop on the beat
1524 there is to protect consumers from those scams. Without the
1525 funding and the people there to do that work, consumers are
1526 going to be vulnerable to fraudsters who are out there to
1527 steal their information and steal every last dime from them.

1528 So we think it is critical that the agency be allowed to
1529 do that work.

1530 The same goes for the CPSC. I underlined my colleague
1531 here that said it is the best bargain in the Federal

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1532 Government. I could not agree more.

1533 It is the agency that takes complaints from consumers,
1534 that finds out if products within the most important place in
1535 most of our existence, our homes, are safe or not, if they
1536 are going to harm our children.

1537 And let me tell you not having an agency like that be
1538 able to do its job should keep every consumer up at night.
1539 So we absolutely think that these agencies should have the
1540 funding that they need to do the job that they do because it
1541 is so important.

1542 *Ms. Castor. An important message to everyone.

1543 Thank you very much. I yield back.

1544 *Mr. Walberg. [Presiding] Thank you.

1545 The gentlelady's time has expired, and I now recognize
1546 myself for my five minutes of questioning.

1547 And also, I would follow up in saying that should the
1548 Democrat-controlled Senate and the President shut down the
1549 government ultimately, FTC has three weeks of funding beyond
1550 the 30th.

1551 Also CPSC has significant fund sources that are still
1552 available to be used beyond the end of our fiscal period.

1553 I would like to begin on a different subject and then

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1554 get back to some of my bread and butter questions as well.

1555 We are also discussing H.R. 2964, the WIPPES Act,
1556 introduced by my friend and colleague from Michigan, probably
1557 promoted by one of our former colleagues, Representative
1558 Candice Miller, who is the Director of Public Works in Macomb
1559 County and is a tiger on this issue of wipes getting into the
1560 system and the challenges with that.

1561 The legislation requires manufacturers to clearly label
1562 whether baby wipes, cleaning wipes, and the like are truly
1563 non-flushable.

1564 Mr. Chairman -- I guess I am in that spot right now -- I
1565 would ask unanimous consent to include four related documents
1566 in the record.

1567 And without objection, they will be submitted.

1568 [The information follows:]

1569

1570 *****COMMITTEE INSERT*****

1571

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1572 *Mr. Walberg. Mr. Breyault, briefly, how will the
1573 legislation which is supported by the wipe manufacturers and
1574 the Nation's clean water agencies help save consumers and
1575 communities money?

1576 *Mr. Breyault. Mr. Vice Chair, thank you for the
1577 question.

1578 Cleaning wipes are big business. In North America in
1579 2019, they generated an estimated two and a half billion
1580 dollars in sales. Unfortunately, many consumers flush those
1581 wipes down the toilet.

1582 *Mr. Walberg. And I have seen those big balls at the
1583 water treatment plants.

1584 *Mr. Breyault. Yes, sir. And those are not cheap to
1585 clean.

1586 The estimated annual cost to clean water utilities is
1587 \$441 million that the flushing of cleaning wipes plays, and
1588 that translates into \$7.65 in added annual cost per household
1589 because of this.

1590 In other States like Illinois, it is estimated that the
1591 cost can be as much as \$25 per year, and those costs are
1592 undoubtedly passed along to every one of us, even if flushing
1593 cleaning wipes or not, in the form of higher utility bills.

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1594 But particularly for consumers who live in rural areas
1595 who depend on septic systems, flushable wipes and the damage
1596 that they cause to plumbing systems can be incredibly costly.

1597 We were talking about saving consumers from junk fees.
1598 How about saving consumers from the \$1,775 average cost to
1599 fix a broken septic system?

1600 I will tell you I grew up in a house that had one, and I
1601 would probably be in the doghouse for many months if
1602 something I did broke our septic system.

1603 So we think the WIPPES Act is commonsense legislation
1604 that will give consumers the information they need to
1605 hopefully save on some of those bills.

1606 *Mr. Walberg. Yes. Having a septic system myself, I
1607 would like to wipe out this problem.

1608 [Laughter.]

1609 *Mr. Breyault. Well said.

1610 *Mr. Walberg. Forgive me.

1611 Michigan is the auto State, and we are home to a robust
1612 auto ecosystem, regardless of strikes and things that go on.
1613 With OEMs, auto shops, dealerships, and aftermarket
1614 manufacturers that each serve the consumer in their own way,
1615 we want to make sure that consumers continue to have that

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1616 wide range of choices.

1617 To that effect, I ask for unanimous consent to include a
1618 letter from the President of the Special Equipment
1619 Manufacturers Association into the record.

1620 Without objection, that will be submitted.

1621

1622 [The information follows:]

1623

1624 *****COMMITTEE INSERT*****

1625

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1626 *Mr. Walberg. Mr. Benavidez, your testimony indicates
1627 an openness to legislation. Would you be supportive of a
1628 Federal preemptive standard that addresses Right to Repair?

1629 *Mr. Benavidez. No, sir, not at this moment. We feel
1630 that this agreement, this MOU, is going to be in great effect
1631 with the automakers, and starting on Friday, they are
1632 starting to set up the panels. So at this moment we do not
1633 see them.

1634 *Mr. Walberg. Ms. Callahan, how would you navigate a
1635 multi-State ecosystem related to consumers or independent
1636 repair shops addressing diagnostic information?

1637 And secondly, would one preemptive standard be preferred
1638 so that there is a consistent rule across the country?

1639 *Ms. Callahan. Thank you for the question, Congressman.

1640 I believe that one standard across the country would
1641 make it simpler for consumers to understand their rights to
1642 repair, whether they are in Maine or California. We are a
1643 society of people that, you know, move from State to State
1644 and travel from State to State. So having to navigate
1645 different laws for simply having your vehicle repaired, I
1646 think a standardization would be necessary.

1647 I had an example this morning. I had a client that was

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1648 driving through South Carolina, and they were unable to get
1649 service on their Infinity by a small local shop and had to be
1650 towed 90 miles to North Carolina in order to have their car
1651 serviced, and it took four days, and it was \$7,000.

1652 *Mr. Walberg. Yes. Well, I appreciate that.

1653 I have some questions relative to the fact I co-chair
1654 the Motorcycle Caucus and just bought a brand new 1970 trail
1655 bike so I could have something to fill massive amount of free
1656 time with and working on.

1657 *Ms. Callahan. Congratulations.

1658 *Mr. Walberg. But I am concerned about this very thing
1659 and will submit these questions for further answer.

1660 With that I yield and recognize Representative Kelly for
1661 her five minutes of questioning.

1662 *Ms. Kelly. Thank you, Mr. Chair.

1663 And I want to thank Chair Bilirakis and Ranking Member
1664 Schakowsky for holding this important hearing this morning.
1665 I also want to thank the five witnesses for your testimony.

1666 Consumer safety and protection is vital to all citizens.
1667 It is a duty of Congress to protect the public from unfair,
1668 harmful business practices and assure that consumer products
1669 are safe.

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1670 As a member of this subcommittee, I have worked hard to
1671 defend consumers and provide oversight. Just last August the
1672 President signed Reese's Law legislation I was proud to
1673 sponsor, which helped protect children from ingesting button
1674 cell batteries.

1675 I am committed to continuing that fight. I will soon
1676 reintroduce a Consumer Equity Protection Act, which will
1677 create a task force within the Federal Trade Commission's
1678 Bureau of Consumer Protection to advise the commission on
1679 matters related to equity in consumer protection.

1680 And I will soon be reintroducing my Protecting Senior
1681 from Emergency Scams Act, which will require the FTC to
1682 report on and increase awareness of scams targeting older
1683 adults.

1684 However, this work is only beneficial if the government
1685 agencies tasked with protecting consumers remain sufficiently
1686 funded. House Republicans have proposed to cut the Consumer
1687 Product Safety Commission's budget by over nine percent.

1688 Mr. Gentine, how would such severe budget cuts affect
1689 the ability of the CPSC to carry out its vital mission?

1690 *Mr. Gentine. Thank you very much for the question,
1691 Congresswoman.

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1692 And CPSC's budget has long been probably lower than it
1693 should be and only in recent years have the numbers started
1694 to tick up. So in some sense I guess it would only be a
1695 couple years' worth of rollback. They were at those sorts of
1696 levels very recently, but I think we all saw the stakeholder
1697 community in general would agree that those levels were not
1698 sufficient.

1699 I obviously work mostly with the industry side, with
1700 manufacturers and retailers in the space, and my clients do
1701 not benefit when CPSC is underfunded and things take too
1702 long. When we have reports that we do not believe should be
1703 recalls, we want to see those resolved quickly.

1704 When we do have recalls, we want to get them out. You
1705 know, it is not in businesses' interest to hurt consumers and
1706 when a problem needs to be taken care, we want it taken care
1707 of quickly, and CPSC at the funding levels it was at a few
1708 years ago, at the kinds of levels you are talking about they
1709 simply did not have the bandwidth no matter how deeply the
1710 folks there care about their mission, and they do. There
1711 just are not enough of them and are not enough hours in the
1712 day.

1713 *Ms. Kelly. Thank you.

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

1714 There are several bills being considered on today's
1715 legislative hearing that will require CPSC to take certain
1716 steps like setting mandatory safety standards for lithium-ion
1717 batteries using AI in a pilot program and providing Federal
1718 funding to improve pool safety.

1719 Should Congress provide the CPSC with the resources
1720 needed to handle these tasks?

1721 *Mr. Gentine. In general, certainly. I think there are
1722 bills you mentioned. The lithium-ion bill, to the extent I
1723 have a criticism of that bill, it is on the timeline. It is
1724 a six-month timeline for a complicated issue of lithium-ion
1725 batteries in a complicated usage scenario in micro mobility
1726 products.

1727 That is going to take a lot of work, and it is going to
1728 take longer than six months, candidly, and would take an
1729 amount of work that I think would distract from other CPSC
1730 priorities. So I would say that bill probably does need
1731 resources to go with it.

1732 *Ms. Kelly. So I am guessing from what you are saying
1733 that a government shutdown would affect CPSC's ability to
1734 both carry out its mission and that also you believe that
1735 they need to be funded at a higher level than last fiscal

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1736 year.

1737 *Mr. Gentine. Yes, to both of those.

1738 *Ms. Kelly. All right. I would now like to discuss
1739 quickly the Online Dating Safety Act that this committee is
1740 considering.

1741 In short, this discussion draft would require online
1742 dating services to provide, an online service provide this
1743 issue of fraud band notification to members of the online
1744 dating services when the member had received and responded to
1745 a message from a band member of the online dating service.

1746 Mr. Breyault, am I saying that correctly?

1747 *Mr. Breyault. Yes.

1748 *Ms. Kelly. Can you speak to the harms caused to
1749 consumer by online scams and, more specifically, romance
1750 scammers and how do perpetrators of these scams attempt to
1751 evade monitoring?

1752 *Mr. Breyault. Yes. Thank you for the question,
1753 Congresswoman.

1754 Fraud, there's \$8.8 billion in fraud losses reported to
1755 the Federal Trade Commission in 2022. That was an increase
1756 of nearly 2.6 billion over 2021, and most fraud experts that
1757 I work with agree that that number represents a significant

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1758 under-count. It is only the fraud that gets reported, and we
1759 know that fraud is a very underreported crime.

1760 Romance scams are particularly devastating to their
1761 victims. Because of the nature of the scam, they are also
1762 incredibly costly. At Fraud.org, these types of scams are
1763 usually the most expensive type of scam for their victims
1764 that we hear from on a consistent basis.

1765 The Trade Commission last year reported that median
1766 losses were \$4,400 to these scams, but I will tell you we
1767 hear stories all the time from consumers who lose their
1768 entire life savings to romance scammers. So it is definitely
1769 a significant problem.

1770 The online dating bill attempts to go after that by
1771 going after one of the favorite MOs that romance scammers
1772 use. They often first contact potential victims on online
1773 dating Websites through the messaging services that those
1774 sites and apps provide.

1775 The MO we see is that victims of these scams are quickly
1776 advised to try and get off of these messaging platforms onto
1777 insecure platforms like Female, Instant Message, or -- sorry.

1778 *Ms. Kelly. My time is up. So I do not want to be
1779 inconsiderate. Can you send us a response?

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1780 *Mr. Breyault. I will be happy to, yes.

1781 *Ms. Kelly. Thank you.

1782 I yield back.

1783 *Mr. Bilirakis. [Presiding.] Thank you. I appreciate
1784 it.

1785 I will recognize Representative Duncan from the State of
1786 South Carolina for his five minutes of questioning.

1787 *Mr. Duncan. Thank you, Mr. Chairman.

1788 As I stated in an EV hearing we had a couple of weeks
1789 back, my main concern in the automotive marketplace is
1790 maintaining consumer choice. That means internal combustion
1791 engines as well as EVs, cars that we drive and cars that
1792 drive themselves, and the ability to use independent repair
1793 and after-market shops as well as the dealership.

1794 The free market actually works. I thank Dr. Dunn for
1795 the legislation he has brought today.

1796 Ms. Callahan, and I hate that that incidence happened in
1797 South Carolina that you mentioned, but thanks for being here
1798 today as the owner of Xpertech Auto Repair.

1799 What would you say the ratio is to auto dealerships and
1800 independent repair shops?

1801 I know in my county it is probably five independent,

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1802 small business repair shops to every one dealership. What do
1803 you think across the Nation?

1804 Is it ten to one, five to one, three to one? Just
1805 guess.

1806 *Ms. Callahan. A good question, Congressman. I have to
1807 be honest. I am not sure of that answer. I know dealerships
1808 own about 30 percent of the bays across the country, and in
1809 my particular market, we have within our small area one
1810 dealership to 15 independent repair shops.

1811 *Mr. Duncan. Yes. These are small, independent,
1812 privately owned small businesses usually, for the most part.
1813 I take mine to an independent mechanic, a friend of mine, but
1814 I have the choice to take it to a dealership if I want to.

1815 Unfortunately, I had a 1967 Ford F-150 Sport Ranger
1816 pickup. I think I had a 302. I could climb in and work on
1817 it it was so big and the engine was so simple, but anyway.

1818 What are the specific issues you are seeing right now
1819 with the ability to repair?

1820 *Ms. Callahan. Immediately, most recently, as I said, I
1821 am seeing paywalls that have never been there before, which
1822 creates an accessibility issue for basic information, not
1823 being able to reach certain modules in the computer through

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1824 our scan tools. They are just blocked out where we cannot
1825 diagnose basic misfire repairs sometimes with certain
1826 manufacturers.

1827 So, you know, as a small business owner, I have made a
1828 decision to stop servicing certain vehicle makes and models
1829 completely so that I do not look like unprofessional to my
1830 client.

1831 *Mr. Duncan. Thank you.

1832 Are there automakers that you dealt with who are not
1833 operating within the memorandum of understanding?

1834 *Mr. Hunt. As I said earlier, we have seen historical
1835 data with most of the European manufacturers consistently. I
1836 will say the Stellantis Group is probably of the U.S.
1837 automakers one of the worst offenders. They make it very,
1838 very difficult to do business with and service their
1839 vehicles, especially when it comes to electronics.

1840 *Mr. Duncan. Yes. Thank you for that.

1841 And I have a 2006 Chevy Duramax diesel. I am having
1842 some code issues on the glow plugs. So anyway, I would love
1843 to talk to you.

1844 I am going to shift gears. Mr. Touhey, I know you have
1845 the venue perspective on this ticketing issue. I wonder if

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1846 we had the artist perspective, how would that differ?

1847 For instance, does Bruce Springsteen support the BOSS
1848 Act that is named for him?

1849 *Mr. Touhey. I cannot speak to Bruce Springsteen
1850 himself, but in general the venues support the artist
1851 perspective. The venues serve two customers, in general, the
1852 customer that is buying the ticket and the customer that is
1853 coming to perform.

1854 *Mr. Duncan. Yes.

1855 *Mr. Touhey. So our interests align typically with the
1856 artist.

1857 *Mr. Duncan. I think it does.

1858 Taylor Swift, does she support the BOSS Act and the
1859 SWIFT Act or is this just another piece of covert narcissism
1860 to quote one of her lyrics?

1861 [Laughter.]

1862 *Mr. Breyault. I think, as I stated in my testimony,
1863 there are good aspects to the BOSS and SWIFT Act, but there
1864 are improvements needed to really make it effective.

1865 *Mr. Duncan. Yes. I would note that the Recording
1866 Academy has noted its strong opposition to BOSS and SWIFT
1867 while supporting a ban on speculative ticketing and the

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1868 provision in Chairman Bilirakis' TICKET Act.

1869 And I will echo my support for their position here.

1870 Artists should be able to choose how their music performances
1871 are sold. It is their music, and I hope that as we move
1872 forward, Mr. Chairman, on this issue we will always keep the
1873 artist perspective in mind.

1874 I have opinions on song writers. I have opinions on
1875 artists and how money flows through it. Protecting those
1876 actually creates the product that the performers sing.

1877 And with that I yield back.

1878 *Mr. Bilirakis. Good questions.

1879 I now recognize my friend Mr. Soto from the State of
1880 Florida for his five minutes of questions.

1881 *Mr. Soto. Thank you, Chairman.

1882 And may I say you are a great Floridian?

1883 You know, the Consumer Protection Safety Commission and
1884 Federal Trade Commission do great work. I am exited to hear
1885 that there is a bipartisan continuing resolution coming over
1886 from the Senate. It is something worthy for us to all
1887 consider as we make sure to keep the government open and
1888 serve the American people.

1889 And speaking of bipartisanship, thank you, Chair

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1890 Bilirakis and Ranking Member Schakowsky, as well as my co-
1891 introducers, Representatives Burgess, Trahan, and Guthrie for
1892 helping to introduce the Consumer Safety Technology Act, H.R.
1893 4814, and thank you, Mr. Gentine, for your positive
1894 testimony.

1895 We know that the crooks, they already are using AI. So
1896 the cops on the beat definitely need to harness the power of
1897 artificial intelligence to be able to protect consumers,
1898 especially when -- and Mr. Gentine, you talked about the vast
1899 amounts of data that they have to sort through.

1900 We are talking now about a pilot program that would
1901 track trends and injuries from products, identifying product
1902 hazards, monitoring sale of recalled products, identifying
1903 products that do not meet important requirements for product
1904 safety.

1905 So walk us through a little further how much, based upon
1906 the number of folks we have at the FTC, how could they
1907 possibly do this job anymore without having the use of AI to
1908 assist them across the Internet?

1909 *Mr. Gentine. And, Congressman, thank you. It is a
1910 great question.

1911 And, unfortunately, to some extent the answer is they

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1912 cannot. The economy that exists today, the amount of
1913 information flowing through the economy that exists today,
1914 the number of sellers, resellers, et cetera, is just orders
1915 of magnitude different than it was in 1972.

1916 The agency has certainly grown since then, but I think
1917 an evolution in the ability of those 569 FTEs to sort of
1918 force multiply and do more with one person is absolutely
1919 critical.

1920 I mention in my testimony the Retailer Reporting
1921 Program. I think that is vital. You know, you are talking
1922 about things that are offered for sale. The biggest chunk of
1923 data CPSC has to deal with is actually the ports, the
1924 products that are coming in. They surveil I think it is
1925 roughly two percent of in jurisdiction products that come in
1926 through the ports.

1927 You know, you are never going to have enough port
1928 inspectors to inspect everything, and we do not want
1929 everything to be inspected. That would create delays we do
1930 not need. What we need is the ability to identify before
1931 products come off the boat which ones we should be looking at
1932 and which ones we do not need to spend our time on.

1933 And the use of tools like artificial intelligence to

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1934 better refine that sort of targeting would be absolutely
1935 essential.

1936 *Mr. Soto. So the bill would also keep supply chains
1937 moving by ensuring we are still protecting consumers, and
1938 this has been really important to this committee.

1939 Also, as we talk about having a bipartisan budget and
1940 trying to find efficiencies, so this would make the FTC more
1941 efficient and potentially either save us money or limit the
1942 amount of additional funding that may be needed.

1943 Would you say that is correct?

1944 *Mr. Gentine. Oh, I would say that is absolutely true.
1945 If your people can do more, then fewer people or fewer new
1946 people at least are needed. I do not think the agency should
1947 be shrinking any.

1948 *Mr. Soto. Thank you.

1949 I am also proud to be cochair of the Vehicle Data Access
1950 Caucus. You know, this is a dizzying issue because there are
1951 really good arguments on both sides.

1952 Both of you have represented your positions well.

1953 Mr. Benavidez, do owners own their own data under the
1954 MOUs?

1955 Is there any friction because of the MOU system right

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1956 now and car owners owning the data and being able to work
1957 with different repair shops?

1958 *Mr. Benavidez. So right now we do not see any issues
1959 in gathering data, and do customers own it? I think that is
1960 the big question, you know, through the auto manufacturers,
1961 through the Google accessors, through everybody. Who owns
1962 that data, right?

1963 That is always the big question.

1964 *Mr. Soto. Well, I can tell you this committee believes
1965 it is the owners that own the data, the owners of the
1966 vehicles.

1967 And then, Ms. Callahan, I know there is a lot of
1968 discussion of a memorandum of understanding as an option for
1969 repair shops. Where do you think that falls short? Because
1970 you had talked about it a little bit in your testimony.

1971 *Ms. Callahan. Thank you for the question, Congressman.

1972 I believe that where it falls short is that the
1973 memorandum of understanding is optional, and original
1974 equipment manufacturers can back out at any time, and there
1975 is no consequence.

1976 *Mr. Soto. So if it was either mandatory or the
1977 industry contract was more enforceable, would that be

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1978 helpful, too?

1979 *Ms. Callahan. As the MOU is written, there is some
1980 language in there that says -- I have made a note here -- it
1981 says, "This also applies to telematic data needed to diagnose
1982 and repair a vehicle if not otherwise available."

1983 So in that instance the data could be available by the
1984 OBD port to me but available wirelessly to the dealership of
1985 the manufacturer's choice, and they could repair it
1986 essentially wirelessly when the client would have to bring
1987 their car back to me physically for the repair.

1988 *Mr. Soto. A lot of us are paying close attention, and
1989 it is appreciated, both of your testimonies today.

1990 And I yield back.

1991 *Ms. Callahan. Thank you.

1992 *Mr. Bilirakis. Thank you, sir. I appreciate it very
1993 much.

1994 Now I will recognize Dr. Dunn for his five minutes of
1995 questions. I think I know what he is going to focus on.

1996 *Mr. Dunn. Thank you very much, Mr. Chairman.

1997 You know, when I buy a product, a house, a motorcycle,
1998 an airplane, it belongs to me. When you buy a product, it
1999 belongs to you.

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2000 Currently when we buy vehicles, our options to repair or
2001 service those vehicles, our property, is being increasingly
2002 restricted. Now, I think this should be simple. Either I
2003 buy a car, in which case I own it, or I lease a car and then
2004 we just come to a contractual agreement about who actually
2005 controls repairs and maintenance.

2006 Now, as technology continues to develop faster than
2007 consumer protection laws, it is essential for an update, and
2008 I believe my bill, H.R. 906, the REPAIR Act, does that.

2009 I am grateful for the support of Representatives
2010 Davidson, Gluesenkamp Perez, Boyle, and 42 other cosponsors,
2011 including Mr. Walberg who just spoke, and I thank the ranking
2012 member of the committee for her endorsement earlier this
2013 morning.

2014 As vehicle data becomes more important to make repairs,
2015 it is unacceptable for the vehicle manufacturers to exclude
2016 independent repair shops from accessing that data, especially
2017 if they are the owners, as my colleague, Mr. Soto, said.

2018 If I have a pickup truck, I need to get the thing
2019 repaired. It is the right of owners to repair their
2020 equipment, their vehicles, and to choose where it is
2021 repaired. I think forcing auto owners back into dealership

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2022 repairs not only leaves a huge existing industry behind. It
2023 veers towards vertical integration and monopolistic behavior.

2024 The REPAIR Act fixes this just like the hard working
2025 mechanics who fix our cars.

2026 Lastly, MOUs absolutely do not go far enough to protect
2027 the consumers and the consumer choice. They are
2028 unenforceable, as has been said here, whereas a law
2029 guaranteeing that actually defines what ownership of the
2030 vehicle or whatever the product is means.

2031 Chairman Bilirakis, I would like to submit an op-ed for
2032 the record entitled "REPAIR Act Will Guarantee the Right to
2033 Safe, Affordable, Accessible Vehicle Repair."

2034 *Mr. Bilirakis. Without objection, so ordered.

2035 [The information follows:]

2036

2037 *****COMMITTEE INSERT*****

2038

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2039 *Mr. Dunn. Thank you very much.

2040 I wrote this piece, published it in the Hill in response
2041 to that MOU we mentioned earlier that I think fails to be
2042 representative of the industry at large.

2043 Mr. Chair, another submission for the record, this is an
2044 outtake from the Auto Care Service Retail Outlets, the 2024
2045 Fact Book on auto repair shops.

2046 *Mr. Bilirakis. Without objection, so ordered.

2047 [The information follows:]

2048

2049 *****COMMITTEE INSERT*****

2050

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2051 *Mr. Dunn. Thank you.

2052 What this shows is that there are over 263,000
2053 independent repair shops in the United States. However, in
2054 that MOU we represent 12,000 independent repair shops. That
2055 amounts to less than one-half of one percent of the repair
2056 shops in the country, and I do not think that an MOU that is
2057 unenforceable, that only includes less than one-half of one
2058 percent of an industry is representative of that industry's
2059 choices.

2060 Ms. Callahan, you have an extensive list of
2061 accomplishments and awards in your history. You have some
2062 first-hand experience in auto repair and the challenges that
2063 your shops face with the emerging technology and the threat
2064 of vertical integration.

2065 I would like to know why you came. You have a small
2066 business. You came here all the way from Florida to testify.
2067 Why did you spend the time, money, and effort to come up here
2068 and advocate for this side?

2069 *Ms. Callahan. Thank you for the question.

2070 The simple answer is if I do not fight for my shop and
2071 my legacy and for my children or whoever my predecessor,
2072 hopefully my daughter, who is going to do it?

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2073 *Mr. Dunn. Yes. No, I feel the same way about
2074 medicine.

2075 Also, you live in a fairly rural part of Florida, as I
2076 do. Without the REPAIR Act, should rural vehicle owners be a
2077 little concerned about getting their car repaired?

2078 *Ms. Callahan. I believe 100 percent they should be
2079 worried. You know, the example that I said earlier about the
2080 couple that broke down in South Carolina, they did, by the
2081 way, say they were the nicest people that took care of them.

2082 [Laughter.]

2083 *Ms. Callahan. But that was surprising to me and came
2084 through in email just yesterday that they were unable to get
2085 their car repaired in South Carolina by a small --

2086 *Mr. Dunn. I want to go ahead to another topic you
2087 mentioned, too, the data. So the OEMs already have a whole
2088 lot of data on our cars. What do they do with this data?

2089 Do they sell it to people?

2090 *Ms. Callahan. That is my understanding, that
2091 Stellantis has created an entire division to monetize it.

2092 *Mr. Dunn. Oh, goodness. But you cannot have the data
2093 to repair it.

2094 Can you tell us what you foresee would happen to your

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2095 shop in the next five years if the REPAIR Act does not become
2096 law?

2097 *Ms. Callahan. I foresee that I will have a very
2098 limited capability of working on cars more and more as the
2099 technological advancements continue. I will be able to do
2100 tires and maybe some brakes, but anything electronic and
2101 anything safety related will be locked out.

2102 *Mr. Dunn. Well, thank you for your testimony.

2103 This is an enormous industry out there. Everybody who
2104 has ever bought a tool at Home Depot to try to fix his car,
2105 you know, all like this.

2106 Thank you so much, Mr. Chair. I yield back.

2107 *Mr. Bilirakis. Thank you very much.

2108 Now, I recognize Mrs. Dingell for her five minutes of
2109 questioning.

2110 *Mrs. Dingell. Thank you, Mr. Chairman.

2111 This is an extremely important subject, and I think I
2112 have talked to a lot of people on all sides. As you may
2113 know, there is robust competition within the automotive
2114 repair sector. Consumers have a range of options when
2115 looking to have their cars serviced or repaired, including a
2116 dealer repair facility, a national chain repair, or an

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2117 independent repair facility.

2118 Independent repair facilities currently perform most of
2119 the diagnostic and repair work, especially out of warranty
2120 repair work.

2121 Mr. Benavidez, and I am going to ask you to be quick or
2122 shorten your answers because I have a lot of questions.

2123 Can you describe what tools and information automakers
2124 currently make available to independent repair facilities to
2125 diagnose, repair, and maintain vehicles?

2126 And is this the same data they provide to the
2127 dealerships?

2128 *Mr. Benavidez. They offer multitudes of scan
2129 equipment, and yet, they provide it to us and the same that
2130 they have.

2131 *Mrs. Dingell. So is there evidence that the consumers
2132 are being harmed by the current state of competition in
2133 automotive repair?

2134 *Mr. Benavidez. Not to our knowledge, as our
2135 association.

2136 *Mrs. Dingell. In July 2023, the trade association
2137 representing nearly all automobile manufacturers entered into
2138 an agreement with your organization to ensure that the

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2139 aftermarket continues to have parity with the dealers.

2140 Mr. Benavidez, can you go into more details about this
2141 agreement that my colleague was just talking about?

2142 *Mr. Benavidez. So this agreement, it started in 2002
2143 when we signed the first one. It has worked up until this
2144 point, but because of the innovation now with vehicles, they
2145 have added electric vehicle, electric hybrid vehicles, and
2146 then even so, Tesla and Rivian came onboard to the MOU. So
2147 that was very important to us, to see them jump on the MOU
2148 also because they know it should work, right?

2149 If they give us a seat at the table and we are able to
2150 talk to them about the issues, they are going to get solved,
2151 and they want them solved. That is the issue. The
2152 dealerships want them solved.

2153 There is no way dealerships can repair all of these
2154 vehicles out there. There is no way. They need the
2155 independent shops. They need us to fix them correctly. They
2156 need us to fix them properly so that someone does not say,
2157 "Well, I do not want to buy that vehicle anymore because it
2158 is too hard to fix."

2159 They want us to have this information. They need us to
2160 have this information, and they need us to help repair these

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2161 vehicles.

2162 *Mrs. Dingell. My colleague raised another issue that
2163 is very important to me, privacy consideration. It is not
2164 this committee that does not have bipartisan agreement. It
2165 is the larger institution.

2166 But, Mr. Benavidez, are there privacy and data security
2167 issues with providing independent repair facilities access to
2168 the tools and information needed to perform vehicle
2169 diagnostics and repairs?

2170 And as vehicle information is increasingly in electronic
2171 format, is there a risk that adversaries can obtain access to
2172 vehicle data of customers?

2173 *Mr. Benavidez. Yes, that is a very big concern, and it
2174 is a big concern in my industry, especially in the collision
2175 industry when we bring these vehicles in because we scan
2176 them. That is the first thing we do when they come into
2177 these shops. We scan them before and after repairs.

2178 There is a lot of information in those vehicles that can
2179 scare the heck out of us independent shop owners.

2180 Can it happen? Yes. There is a lot of information,
2181 including doctors, where you live, where you shop,
2182 everything, and that access is very scary.

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2183 And, again, we just need the repair data. That is what
2184 we need and that is what we are looking for, and that is what
2185 the MOU guaranteed us.

2186 *Mrs. Dingell. So let me follow up on that. Do
2187 independent repair shops have robust cybersecurity
2188 protections in place to combat these cyber threats and
2189 attacks?

2190 *Mr. Benavidez. Yes, we are learning about it.

2191 *Mrs. Dingell. You are learning about it, but how do we
2192 ensure that every independent repair shop has that?

2193 Because the customer becomes at risk, and as you were
2194 talking, I mean, it is what we have got to deal with someday
2195 in our privacy legislation, is the kind of information that
2196 could easily become available about any individual customer.

2197 *Mr. Benavidez. Right, and, Congresswoman, we are
2198 learning about it. We are dealing with it. It is a very
2199 complex issue, especially for shops like mine that in the
2200 past did not have to worry about that, and now we do.

2201 And so in shops educated like mine and through ASA shops
2202 that are educated, yes, there are cybersecurity issues and
2203 things in place. For rural places out in the middle of
2204 nowhere, I do not know that answer.

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2205 *Mrs. Dingell. Okay. I am going to have one more
2206 question because I am running out of time, but I could keep
2207 going.

2208 Who will be held liable? Who is liable and otherwise
2209 accountable for the handling of vehicle data?

2210 *Mr. Benavidez. I think it is all of us. I think
2211 everybody involved. I think anybody who touches that car
2212 last is liable for that data. Anybody who sells that
2213 equipment is liable for that data.

2214 There are a lot of people responsible for that data.

2215 *Mrs. Dingell. And how do you know where it got leaked
2216 and who it was?

2217 It is a real issue we have got to deal with.

2218 I yield back, Mr. Chairman.

2219 *Mr. Bilirakis. Thank you. I appreciate it.

2220 And that is why we are having these hearings. The
2221 process actually works, does it not?

2222 *Mrs. Dingell. Yes.

2223 *Mr. Bilirakis. Okay. Very good. So it is good to
2224 hear both sides.

2225 All right. Now we are going to ask Mrs. Lesko to go
2226 ahead and question the panel.

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2227 Thank you. Five minutes.

2228 *Mrs. Lesko. Thank you, Mr. Chair.

2229 Thank you all for being here today.

2230 My first question is for Mr. Benavidez.

2231 I am on your Website, your association's Website. It
2232 says you are dedicated to and governed by independent service
2233 and repair professionals.

2234 And so you said you do not think the REPAIR Act is
2235 needed, but then you have a person sitting next to you, Ms.
2236 Callahan, who thinks it is needed, and so I am trying to
2237 figure out why she thinks that and why your group, which
2238 represents independent repair shops, does not.

2239 I was wondering if you wanted to address some of her
2240 concerns. I think her concerns, what she said, if I am not
2241 mistaken, is it cost her money to get this data; two, that
2242 European car manufacturers are not part of this agreement;
2243 and that the agreement is a handshake and she does not want
2244 to rely on it.

2245 I think that is kind of summing it up, and so is this
2246 agreement that you have with the car manufacturers, they are
2247 still allowed to charge money, right?

2248 And the one thing she said that I would like you to

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2249 clarify, that Ms. Callahan said was that -- now I lost my
2250 train of thought.

2251 So if you could just reference what her concerns are, I
2252 would be interested to understand the difference.

2253 *Mr. Benavidez. So and it is interesting to hear that
2254 person that could not get their vehicle serviced in that
2255 area. Was it because the shop did not have access to that
2256 information?

2257 We do not think that is the case. They probably did not
2258 either want to pay for that information, did not know how to
2259 gather that information, or did not have the tools and
2260 equipment to repair that vehicle.

2261 If we have those, we have all the information, right?
2262 We are able to gather that information. Sometimes it is hard
2263 for us to find, but we find it and it is accessible, right?

2264 Sometimes you have to pay for it; sometimes you do not.
2265 And that is just the nature of where we work.

2266 Is it easier for OEMs to get that information? Yes,
2267 because they are dealing with one specific vehicle, right?
2268 Sometimes we have to go searching for it longer or pay a
2269 subscription fee, but we can gather that information.

2270 And the other question was?

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2271 *Mrs. Lesko. European car manufacturers are not part of
2272 the agreement. I do not know if Toyota and Honda are or not.

2273 *Mr. Benavidez. They are not.

2274 *Mrs. Lesko. Okay.

2275 *Mr. Benavidez. But we are in talks with them, and
2276 hopefully they will come soon. Like I said, Tesla and Rivian
2277 just came on, which is a big step for us on the electrical
2278 cars, and they understand the importance of that MOU. So
2279 they jumped onboard as well.

2280 *Mrs. Lesko. All right. And just so that I get a
2281 better understanding of why there is a difference of an
2282 opinion, especially since she is an independent repair owner
2283 and you represent independent repair shops, are you funded at
2284 all by the car manufacturers or car dealers or anything like
2285 that?

2286 *Mr. Benavidez. No, ma'am. You have to understand that
2287 I am also an independent repair shop.

2288 *Mrs. Lesko. Okay.

2289 *Mr. Benavidez. I have been an independent repair shop
2290 since 1978. My dad opened the business. Second generation
2291 owner, we have been in the independent repair facility, and
2292 every one of our board of directors on our association is an

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2293 independent shop owner, either mechanical or collision.

2294 So we are all in the vested interest of the independent
2295 shops. That is what we do, and that is what I have done all
2296 my life.

2297 *Mrs. Lesko. And I do remember the other question. Ms.
2298 Callahan said she thinks that the car owner should own the
2299 car data. What are your thoughts on that? Like why should
2300 they not?

2301 *Mr. Benavidez. I think they should, but it is a
2302 complex issue because there is a lot of data, right? Like
2303 Mrs. Dingell said, where does that data go and whoever worked
2304 on it last, where does it go and who owns it, right?

2305 And we are fighting that with our collision industry
2306 conference. I am on the data program, and that is what we
2307 are fighting with. How do we protect that data? How do we
2308 keep that data?

2309 Ultimately it is the customer's data. It is just
2310 sometimes scary of where it goes.

2311 *Mrs. Lesko. Okay. Thank you.

2312 And my second question is for Mr. Breyault. Research
2313 out of Brigham Young University found 14 percent of rapes
2314 happen during the first meet-up arranged through a dating

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2315 app.

2316 What steps should these apps take to protect their users
2317 from this type of violence?

2318 *Mr. Breyault. Thank you for the question,
2319 Congresswoman.

2320 And for those victims, no amount of action that a dating
2321 app takes can solve, can undo that crime, but what they can
2322 do to reduce the risk of that is to be more proactive in
2323 warning their users about fraudulent activity on the app.

2324 So the online dating app that we are talking about today
2325 would let them know when someone they have messaged has been
2326 banned from that dating app for fraudulent activity.

2327 Most of these apps and Websites have things in place to
2328 monitor them. We want to make sure that the people are being
2329 notified when someone is banned to hopefully prevent horrible
2330 incidences like the one you just described.

2331 *Mrs. Lesko. If they are banned, how are they on it?

2332 *Mr. Breyault. Well, so they are not banned
2333 immediately. A scam will create multiple accounts.

2334 *Mrs. Lesko. Right.

2335 *Mr. Breyault. They will message a bunch of people, try
2336 and get them off onto email or text or something else so that

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2337 when they are banned by the service, they already have a
2338 number of potential victims on the hook.

2339 *Mrs. Lesko. How do they identify them if they just
2340 keep changing their persona?

2341 *Mr. Breyault. Right. So I am not entirely familiar
2342 with every anti-scam technology that the dating Websites use,
2343 but there are certainly signals, messaging lots of different
2344 people, more than anyone normally would for an online dating
2345 Website user.

2346 I would anticipate that that is probably one of the
2347 signals that they rely on.

2348 *Mrs. Lesko. All right. Thank you.

2349 And I yield back.

2350 *Mr. Bilirakis. Thank you very much.

2351 Now, I will recognize Representative Armstrong, the vice
2352 chairman of the full committee, for his five minutes of
2353 questions.

2354 *Mr. Armstrong. A sports team can break your heart.
2355 The best movie in the world can leave you shattered when you
2356 walk out of it. You could read a novel over the course of a
2357 weekend and want to cry your eyes out for two days straight.

2358 Live music is significantly different. When you go to a

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2359 concert, I do not care if it is in the biggest venue in the
2360 world, our first have in Minneapolis. People come together,
2361 and at a time where we as a bifurcated as possible as a
2362 society, it is one of those few places where everybody agrees
2363 and gets along.

2364 I never saw the Wu Tang Clan. I saw a Tribe Called
2365 Quest open up for the Beastie Boys in 1998 in Minneapolis,
2366 and eight months ago, the Pilgrimage Music Festival in
2367 Nashville, Tennessee tickets came on sale. It happened to be
2368 Yom Kapur weekend. My daughter's favorite band is the
2369 Lumineers. My son's favorite band is Zach Bryan.

2370 We were the first people in line for two days straight
2371 this weekend so my kids could run up to the front of the
2372 stage and sit there from noon until 8:00 p.m. My daughter is
2373 short. She is going to be in the front of the line.

2374 But we continue to go down these misguided legislative
2375 policies. BOSS Act has a private right of action which has
2376 total damages \$1,000 for each violation and attorney's fees,
2377 and these private rights of action attach to technical
2378 violations.

2379 There is also this weird preemption where the FTC has
2380 jurisdiction but States have preemption. I use this as an

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2381 example.

2382 I was sitting in D.C., bought tickets to Nashville.

2383 They were delivered to North Dakota, and I guarantee you

2384 somewhere in the disclaimer it says Delaware law controls.

2385 I do not think anybody thinks when we are talking about

2386 ticket pricing and the outrageous gouging of consumers that

2387 they think we should make more money for trial lawyers. I

2388 just do not think that is where people think this belongs.

2389 And we have the TICKET Act, which is a transparency

2390 bill, but it does nothing to cap the price of tickets. It

2391 does nothing to reduce the fees. It does nothing to actually

2392 reduce any of this, and Live Nation agreed to it in July.

2393 So we have broad bipartisan support to codify something

2394 that the biggest perpetrator in this industry has already

2395 dealt with.

2396 And, Mr. Touhey, in your testimony you said the average

2397 customer does not understand or care about what is on

2398 disclosures on a Website. And I will give you a real world

2399 example.

2400 We are trying to buy tickets for a concert in August in

2401 North Dakota, and they come on sale. My wife is on a pre-

2402 sale fan-only Website, and I am on another Website, and

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2403 because we have bad Internet at our house, she gets kicked
2404 off, and I am watching these prices go up in real time as we
2405 are trying to buy tickets.

2406 Does anything in any of this legislation do anything for
2407 fan-based Websites in actually dealing with the people who
2408 are trying, that the artist significantly wants to
2409 communicate with?

2410 *Mr. Touhey. Thank you for the question.

2411 Banning speculative tickets is the closest thing you get
2412 to --

2413 *Mr. Armstrong. I hope so, but do we do anything about
2414 the URLs and the bots, and the legal?

2415 I mean, we have legalized scalping at a technological
2416 level that used to exist with some guy in a Cubs jersey
2417 trying to sell you two tickets which you did not know were
2418 real or not in an alley next to Wrigley Field.

2419 *Mr. Touhey. Exactly right. No bill, as I said in my
2420 testimony, no bill goes far enough because nothing protects
2421 the consumer enough. The bad URLs, the deceptive URLs where
2422 you do not know if you are on the correct Website, you do
2423 not know, those need to be addressed.

2424 *Mr. Armstrong. I mean, we are on the Website in real

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2425 time. Tickets went on sale at two o'clock. I am in
2426 Congress. My wife is a lawyer for a company in Minneapolis.
2427 We dropped everything we are doing. She is on the fan
2428 Website. I am on who knows which Website trying to buy
2429 tickets in real time.

2430 But this is the problem. The reseller market does not
2431 go to the artist. It does not go to the song writer, does
2432 not go to the venue. It harms the consumer. It is digital
2433 scalping, and the people who can be allowed to manipulate the
2434 system are parasites in this ecosystem.

2435 They literally feed off the talent of others. They
2436 drive up the cost to consumers without providing any benefit
2437 to the people who actually create what we all want to see.

2438 I have been to a lot of concerts. I have never seen a
2439 Ticketmaster tee shirt. I have never seen one. I have seen
2440 a lot of Pearl Jam tee shirts. I have seen a lot of Zach
2441 Bryan, Tyler Childers. I have seen all of them.

2442 But we provide no benefit, and any system that allows to
2443 maximize profit to go to the one group in the entire food
2444 chain who does not create any of it. They do not create any
2445 of it. There is no benefit to anybody else anywhere.

2446 I mean, we have YouTube and Snapchat, and digital.

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2447 These people are making a name for themselves outside of the
2448 system because the system crushes them, and you can have
2449 Taylor Swift, and you can have Zach Bryan, and you can have
2450 these guys who try and fight it, and even they cannot do it
2451 well.

2452 But what about a band like Tigirlily Gold who opened, by
2453 the way, at Pilgrimage. They are from North Dakota. They do
2454 not have the resources. They need live music.

2455 And when you get into these systems where they are
2456 moving back and forth, we should not celebrate doing
2457 something that is actually doing nothing. We should tear
2458 this system down, and we should rebuild it because right now
2459 the people who make the most money create none of the things
2460 that people want to see.

2461 And with that I yield back.

2462 *Mr. Bilirakis. Thank you. I thank the gentleman and I
2463 welcome his suggestions on how we can improve the bills.

2464 All right. Next, we have Representative Allen from the
2465 State of Georgia.

2466 *Mr. Allen. Thank you, Chair Bilirakis, for convening
2467 this legislative hearing.

2468 And thank you to our witnesses for being here today.

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2469 You know, back in my day, it was the Temptations and the
2470 Supremes, and they will perform pretty much anywhere, you
2471 know, in this day and time.

2472 But I would like to first commend Congressman Bucshon
2473 for his draft legislation to create a national standard for
2474 how ingredients are communicated to consumers. This is a
2475 commonsense bill which would bring labeling standards for
2476 cleaning products in line with the food, drug, and cosmetic
2477 industries.

2478 In my home State of Georgia, the cleaning product
2479 industry is responsible for nearly 3,000 jobs, \$2.2 billion
2480 in economic output, and I am glad that you have brought this
2481 important issue before this committee.

2482 I am also pleased that today we are considering
2483 Congressman Dunn's REPAIR Act. As vehicles develop from
2484 analog to digital-based models, I know how challenging it can
2485 be for independent repair shops to have the data access
2486 needed to repair them.

2487 I love that commercial where the car will not crank, and
2488 he says, "I will take care of this.'" He gets out, and he
2489 says, "Boy, these things have really changed.'"

2490 And I, you know, grew up on a farm and participated in

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2491 being a mechanic most of the time.

2492 During my time on the House Agriculture Committee I
2493 became familiar with this problem and I heard from countless
2494 farmers in my district. These farmers would sometimes be
2495 placed in the impossible situation of having to wait for the
2496 next available John Deere dealership repair team, sometimes
2497 for days, to fix a tractor before it could be used to plant
2498 or harvest.

2499 Thankfully, a memorandum of understanding was agreed to
2500 by John Deere and the American Farm Bureau this year to
2501 address the farmers' concerns.

2502 I would like to see an agreement like this also reached
2503 by the car manufacturers and repair shops, but I remain open-
2504 minded to this bill and look forward to learning more about
2505 it today.

2506 Mr. Benavidez, is that correct?

2507 *Mr. Benavidez. Yes.

2508 *Mr. Allen. Good. In your testimony, you discuss your
2509 previous agreement with the automakers as providing service
2510 information in 2002. Do you believe this agreement worked
2511 for mechanical and collision repair shops?

2512 *Mr. Benavidez. Yes, sir, it worked, and it worked

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2513 well. And we have actually asked all of our members if they
2514 are having access or problems with access of data, and we do
2515 not have it.

2516 So, yes, sir, it was working.

2517 *Mr. Allen. For the new data access agreement, are
2518 there sufficient safeguards for repair shops if issues arise?

2519 *Mr. Benavidez. Absolutely. With the data access panel
2520 that should start up this Friday, we will be able to ask
2521 them, talk to them, and fix those problems right on the spot.
2522 So it is kind of nice.

2523 *Mr. Allen. Good. Ms. Callahan, could you explain why
2524 the data access agreement is not comprehensive enough to
2525 allow a shop like yours to be able to continue business as
2526 usual?

2527 *Ms. Callahan. I will reiterate that I feel like I am
2528 not willing to risk that, given the billions of dollars that
2529 are at stake for data.

2530 Like Mr. Benavidez said, I just want the repair
2531 maintenance data. I do not want know how often you go to
2532 Starbucks or Dunkin' and which fan you are. I just want to
2533 be able to professionally and safely fix cars, and I want to
2534 ensure that right for generations to come.

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2535 *Mr. Allen. Yes, and our adversaries can get that
2536 information as well.

2537 I would like to state for the record that what I do not
2538 want to see is any corporation gaining unnecessary access to
2539 car data that can be used to bother my constituents with even
2540 more intrusive advertisements than they already must deal
2541 with.

2542 Ms. Callahan, do you need access to be able to upload
2543 data to cars in order to make repairs?

2544 *Ms. Callahan. I am unsure of the question.

2545 *Mr. Allen. Okay. Do you need access to be able to
2546 upload data to cars?

2547 *Ms. Callahan. If I am programming computer modules of
2548 the vehicle, yes. If I am doing basic repair work, I need to
2549 be able to access information to see how the system is wired
2550 or what system talks to what system, to trace diagrams and,
2551 you know, basically what filter fits a car.

2552 So the maintenance and repair data I would need on a
2553 regular basis. The programming data is something that we are
2554 seeing a bigger increase in. My biggest concern is the
2555 difference between plugging it in and the wireless
2556 transmission.

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2557 *Mr. Allen. And four, on the TICKET issue, I would like
2558 to say that the Master's Golf Tournament does a pretty good
2559 job of dealing with the speculative issue, and I am going to
2560 tell you if you try to do anything and they have a way of
2561 catching you, you lose your ticket, and I think that is the
2562 best way to control it, is for the organization to say, "We
2563 are not going to allow this to happen."

2564 And like I said, the Augusta National does a great job
2565 with that.

2566 Thank you very much, and I yield back.

2567 *Mr. Bilirakis. I thank the gentleman.

2568 I will recognize the gentlewoman from Tennessee, from
2569 East Tennessee, and from Johnson City, Tennessee, home of the
2570 greatest Gator, University of Florida football Gator of them
2571 all, Steve Spurrier.

2572 I recognize you for five minutes.

2573 *Mrs. Harshbarger. Thank you so much, Mr. Chairman.

2574 I have told you not to bring that up.

2575 *Mr. Bilirakis. I know it. I cannot help it.

2576 *Mrs. Harshbarger. Okay. You are on my list. You are
2577 on my list.

2578 *Mr. Bilirakis. Oh, I do not want to do that. I will

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2579 give you more time.

2580 *Mrs. Harshbarger. Thanks. I appreciate that, ten more
2581 seconds.

2582 I appreciate that, and thank you for being here, to the
2583 witnesses.

2584 The REPAIR Act is combatting a growing problem in the
2585 world of auto repairs, and we all know that vehicles have
2586 become computerized. More information is shared via
2587 telematics between the manufacturer and the vehicle, but not
2588 accessible to these independent repair shops.

2589 So, Ms. Callahan, if Xpertech had access to telematics,
2590 do you have confidence in your technicians' ability to
2591 properly repair a vehicle the same as a dealer would?

2592 *Ms. Callahan. The simple answer, and thank you for the
2593 question, is yes.

2594 *Mrs. Harshbarger. Yes.

2595 *Ms. Callahan. I provide a lot of training that I bring
2596 to my technicians that are cross-platform. We work on all
2597 makes and models instead of just one singular one. So, yes,
2598 I do believe that my technicians would be just as
2599 professional, if not more.

2600 *Mrs. Harshbarger. So those technicians have to be

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2601 certified to work on that particular manufacturer's vehicle?

2602 *Ms. Callahan. There is no national certification
2603 required for a technician in our industry at all. As a shop
2604 owner, I require my technicians to be ASE certified. That is
2605 the Institute for Automotive Service Excellence.

2606 So that is something that in an independent aftermarket,
2607 I do require as an owner.

2608 *Mrs. Harshbarger. Very good. So even if you get an
2609 outside technician to work on that vehicle, it does not void
2610 or invalidate a warranty?

2611 *Ms. Callahan. Absolutely not.

2612 *Mrs. Harshbarger. Very good. And I ask you that
2613 because if the only place we had to get our vehicles repaired
2614 was a dealer, we would have an awful long wait time, and I
2615 would look at that as vertical integration, the auto
2616 industry.

2617 And I truly believe that consumers should have the right
2618 to their vehicle's data, especially when access to that data
2619 is needed to get their vehicle back up and running.

2620 And that being said, I think there are fair concerns
2621 that have been shared regarding the REPAIR Act, and I know
2622 that because vehicle manufacturers have voiced their concerns

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2623 with cybersecurity risks with allowing telematic data to be
2624 shared at a distance from the vehicle because in
2625 Massachusetts, when a State-level version of this policy was
2626 adopted, the National Highway Traffic Safety Administration
2627 told manufacturers not to comply with the law initially due
2628 to cybersecurity concerns and affiliated safety risks
2629 associated with long-distance access to telematics.

2630 But NHTSA was ultimately able to solve the cybersecurity
2631 concerns when they adopted a plan to share those telematics
2632 with repair shops through Bluetooth technology or similar
2633 short-range interaction.

2634 So I would love to work with Dr. Dunn to put a few
2635 improvements on the legislation and hopefully get it toward
2636 markup so we could solve that issue.

2637 I know there are opponents of this bill, but we need to
2638 address this issue, and while I do not expect manufacturers
2639 to love it, I firmly believe there is a pathway for this bill
2640 being more palatable for any company not expressly
2641 benefitting from a monopoly on service.

2642 And personally, I would be more inclined, I guess, to
2643 purchase a vehicle from a manufacturer who gives me, the
2644 consumer, the freedom to take my vehicle where I want to take

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2645 it to get it serviced.

2646 And, Ms. Callahan, I do not like the fact that the
2647 vehicle knows how much I weigh.

2648 [Laughter.]

2649 *Mrs. Harshbarger. There was no payroll. I did not get
2650 reimbursed, and I do not even tell my husband that. So you
2651 take that back.

2652 Mr. Chairman, with that, we are going to have to fix
2653 that. With that I yield back.

2654 *Mr. Bilirakis. Okay. Thank you.

2655 Well, you know what? I am going to -- well, that is all
2656 right. I will ask the question at the end.

2657 All right. Let's go to Mrs. Clarke and she is
2658 recognized for five minutes for questioning.

2659 *Ms. Clarke. Thank you. Thank you very much, Mr.
2660 Chairman, and I thank Ranking Member Schakowsky for holding
2661 this hearing today.

2662 And just for the record, Mrs. Clarke is my mom.

2663 [Laughter.]

2664 *Mr. Bilirakis. Oh, okay, okay. Now I know.

2665 *Ms. Clarke. I also want to thank our witnesses as well
2666 for being here today and testifying, bringing your expertise

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2667 to bear.

2668 I am so glad to see this committee considering
2669 meaningful legislation to address some of the most pressing
2670 challenges facing consumers today, including my own bill
2671 alongside Congressman Ritchie Torres and Congressman Peter
2672 Garbarino, the Setting Consumer Standards for Lithium-ion
2673 Batteries Act.

2674 This commonsense, bipartisan bill would require that the
2675 CSPC establish a mandatory safety standard for lithium-ion
2676 batteries in micro mobility products, like electric bicycles
2677 and scooters.

2678 Fires caused by lithium-ion batteries in e-bikes and
2679 other devices have already killed 14 people and injured 98
2680 others in New York City this year. Since 2021, unsafe micro
2681 mobility devices have been linked to hundreds of fires and
2682 over two dozen fatalities.

2683 My office has received letters of support for this
2684 legislation from Consumer Reports, the International
2685 Association of Fire Chiefs, the International Association of
2686 Fire Fighters, People for Bikes, Grubhub, and DoorDash.

2687 And I would like to ask for unanimous consent that these
2688 letters be entered into the record.

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2689 *Mr. Bilirakis. Without objection, so ordered.

2690 [The information follows:]

2691

2692 *****COMMITTEE INSERT*****

2693

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2694 *Ms. Clarke. While I know fire departments and
2695 emergency response professionals are working to upgrade their
2696 technology and training to respond to these new types of
2697 fires, setting standards to prevent these incident is
2698 critical.

2699 One of the clearest ways we can protect consumers from
2700 fires linked to micro mobility devices is to require them to
2701 meet the mandatory safety standards.

2702 So my first question is a consumer should not need to
2703 evaluate complex electrical engineering to determine whether
2704 the product they purchase is safe for them to use.

2705 Just last week, a new law went into effect in New York
2706 City requiring e-bikes to meet certain safety standards, but
2707 the dangers presented by unsafe batteries being sold are not
2708 unique to my district in Brooklyn.

2709 Mr. Gentine, could you speak to the importance of having
2710 a Federal safety standard for products like micro mobility
2711 devices?

2712 *Mr. Gentine. Absolutely, Congresswoman, and thank you
2713 for the question and for your leadership on the issue.

2714 Yes, the issues of lithium-ion batteries across the
2715 consumer product marketplace have been a high profile issue

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2716 for CPSC for some time, and obviously the use of these
2717 products brings added complexity.

2718 I think creating a standard is certainly important and
2719 getting compliance to that standard is important, but I would
2720 also say one of the issues, there are a couple of issues that
2721 go beyond that standard.

2722 We have a huge problem with counterfeit batteries,
2723 whether in these products or others, and that is something
2724 that a standard will not address because obviously those
2725 actors are not really concerned about what the law is since
2726 they are breaking it already.

2727 And then, you know, we are talking about repair here.
2728 At at least one of the fires involved here there was a very
2729 unlicensed repair shop being operated, and so I think because
2730 of the complexity of the issues, my only concern is a six-
2731 month timetable, quite frankly, because these are very big,
2732 very complex issues.

2733 That said, I understand the desire certainly on your
2734 part to signal to CPSC, to signal to the regulated community
2735 that this is an issue that needs to move forward and needs to
2736 move forward with as much speed as we can safely bring to
2737 bear.

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2738 So I think creating a standard, creating a mandatory
2739 standard is absolutely an important piece, and then there is
2740 other work that CPSC and others need to continue to do.

2741 *Ms. Clarke. Very well. My office has received
2742 feedback suggesting that mandatory safety standards should
2743 apply not only to internal and external batteries, but
2744 chargers and components connecting batteries to the device as
2745 well.

2746 Mr. Gentine, in your opinion, would it be helpful to
2747 expand the scope of the bill to include battery-related
2748 equipment?

2749 *Mr. Gentine. I have not given thought to whether in
2750 this specific legislation that would be advisable, but
2751 certainly that is an entire ecosystem, and again, a lot of
2752 complexity involved.

2753 So, you know, it might be useful in that situation
2754 rather than adding something to the bill, to add a request to
2755 CPSC to deliver a report on what other components they think
2756 are critical links in this chain that need to be addressed at
2757 a standards level.

2758 But I think we would not want to just add something in
2759 at a legislative level. But at the same time, yes, the

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2760 charging systems are a key component of this. Frankly, the
2761 wiring in the house is a key component of this. There are
2762 fires that have been associated with issues there.

2763 So that, again, I think goes to why I think six months
2764 might be a little ambitious given just the inordinate level
2765 of complexity and the resource constraints that CPSC faces.

2766 *Ms. Clarke. Yes, and my colleagues, you may hear
2767 oftentimes in lights, they are asking people that have
2768 lithium batteries within their carry-ons. These lithium
2769 batteries can be quite volatile.

2770 So it is important that we step up and move into the
2771 21st Century.

2772 Finally, let me just add that while I am dedicated to
2773 passing vital legislation to protect consumers, our laws can
2774 only be effective if the Federal agencies charged with
2775 implementing them are funded and operational.

2776 So I urge my colleagues to stop holding the Federal
2777 Government hostage in hopes of extracting draconian funding
2778 cuts to these central programs and agencies. No one wins in
2779 a shutdown, lest of all the American people.

2780 With that, Mr. Chairman, I yield back the balance of my
2781 time.

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2782 *Mr. Bilirakis. Thank you very much.

2783 I will now recognize Mrs. Trajan for her five minutes of
2784 questioning.

2785 *Mrs. Trahan. Terrific. Thank you, Chairman Bilirakis
2786 and Ranking Member Schakowsky, for calling this hearing.

2787 I am glad that the committee is looking at thoughtful
2788 options to protect consumers and ensure a competitive market
2789 in the ticketing and the auto repair industries.

2790 I am credited with two bills that I have led, the Youth
2791 Poisoning Protection Act, or YPPA, and the Consumer Safety
2792 Technology Act are also being considered.

2793 YPPA will unequivocally start saving lives as soon as it
2794 is passed, and I urge the committee to rapidly mark it up.

2795 I want to thank my co-leads, Reps. Carey, Porter, and
2796 Stewart and all the medical experts, consumer advocates, and
2797 most of all, the parents and families whose passion and
2798 advocacy have helped this critically important bill moved
2799 forward today.

2800 Also being considered is the Consumer Safety Technology
2801 Act, which will position the CPSC and the FTC to leverage and
2802 respond to technological advances to better fulfill their
2803 missions, including by commissioning a study on the use of

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2804 artificial intelligence by the CPSC.

2805 Mr. Gentine, the CPSC is charged with tracking
2806 companies' compliance with recalls to prevent the sale of
2807 dangerous products to consumers. How does the CPSC
2808 accomplish that today when products are being sold on
2809 countless different online market places?

2810 And how could artificial intelligence help with that?

2811 *Mr. Gentine. Sure, and thank you very much for the
2812 question and for your leadership on the issue.

2813 And right now CPSC certainly does use some automated
2814 tools. They are mostly just an automated gathering tool,
2815 just sweeping vast amounts of data into an agency that does
2816 not have enough people to process them and could never, based
2817 on the volume of information that is out there, the number of
2818 places that products are sold.

2819 Obviously, manufacturers can sell directly. Well known
2820 retailers can sell directly, but then you have sales channels
2821 through social media that become almost impossible to
2822 monitor.

2823 And so automated tools do not only bring in more of that
2824 information but help CPSC staff understand what out of all
2825 this data is the thing I actually need to look at.

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2826 Sophisticated data analytics tools can help to do that,
2827 can help refine the targeting and make sure that the limited
2828 hours there are in the day are best spent identifying these
2829 recalled products that are for sale.

2830 *Mrs. Trahan. Thank you.

2831 And to follow up, could you speak a little bit about how
2832 a government shutdown would affect CPSC's ability to take
2833 dangerous and deadly products off the market and how bad
2834 actors could exploit any lapses in CPSC enforcement?

2835 *Mr. Gentine. Sure. And I would say in the CPSC space,
2836 the bad actors are the ones I am actually least concerned
2837 about in a shutdown because they are acting badly anyway. My
2838 concern in a shutdown is twofold.

2839 One, on the rulemaking side things just get backed up,
2840 and we have seen that CPSC is just now catching up to where
2841 it might have been had the 2019 shutdown not occurred.

2842 In the defect space, the recall space, you are talking
2843 about, you know, the CPSC may shut down or mostly shut down.
2844 Companies' obligations do not shut down, and certainly
2845 product incidents do not stop.

2846 And so companies are left in a position where they may
2847 file a report to CPSC, as required under Section 15 of the

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2848 Act, and then that report is not opened, is not read. The
2849 company does not get the benefit of CPSC staff's expertise
2850 and engagement and evaluating whether or not something
2851 actually does need action.

2852 And then in situations where companies have already
2853 identified that they see something that concerns them in the
2854 marketplace, they want to take action and recall a product.
2855 They do not have the benefit of CPSC there to help spread the
2856 words, spread the message about that recall.

2857 And we saw that in the last shutdown. There were
2858 recalls that had to be re-announced months later because they
2859 had been announced while CPSC was dark.

2860 And I think in that situation, not only, again, the bad
2861 actors are going to act badly, but the good actors and the
2862 consumers are harmed because CPSC is not there to play its
2863 role.

2864 *Mrs. Trahan. Thank you.

2865 I am glad the committee is also tackling the critical
2866 issue of Right to Repair, and during the pandemic, the cost
2867 of automotive repair rose faster than even the cost of health
2868 care, and the people in Massachusetts responded in 2020.
2869 They voted in the first Statewide automotive Right to Repair

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2870 law with 75 percent in favor.

2871 Modern vehicles can be diagnosed and repaired remotely,
2872 but that innovation should decrease the cost of repair and
2873 should not be used as a way to limit the choices for
2874 consumers or cut independent repair shops out of the market.

2875 Ms. Callahan and Mr. Benavidez, what data do you and
2876 other independent repair shop owners need to do your jobs?

2877 And how do we ensure that you can access that data
2878 securely while respecting consumers' privacy?

2879 *Ms. Callahan. Basically what we need -- thank you very
2880 much for the question, Congresswoman -- we need repair and
2881 maintenance data. All of the rest of the information that
2882 your vehicle is collecting, we do not need access to.

2883 Mr. Benavidez and I do not differ in almost anything
2884 except for making this codified. We want to be able to
2885 safely and professionally repair people's vehicles outside of
2886 the dealership, and frankly, we would like the dealerships to
2887 be able to repair other makes and models as well as freely as
2888 we do.

2889 *Mrs. Trahan. Thank you.

2890 Mr. Chairman, I yield back. Thanks so much.

2891 *Mr. Bilirakis. I will give Mr. Benavidez the

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2892 opportunity to respond as well.

2893 *Mr. Benavidez. I agree exactly with what she said.

2894 Right now we have that information. We have access to the

2895 information. We have all the access we need to that

2896 information, and that is really what the MOU kind of helped

2897 us with.

2898 *Mr. Bilirakis. Thank you, thank you.

2899 Yes, and now I am going to give Mr. Balderson, who is

2900 waiting, he is on the full committee, and I will recognize

2901 him for his five minutes of questioning.

2902 *Mr. Balderson. Thank you, Mr. Chairman, and I

2903 appreciate the ability to waive on this committee.

2904 And thank you all for being here.

2905 I am going to direct my question to you, Mr. Benavidez,

2906 the two I have.

2907 The first question I have is critics of H.R. 906 claim

2908 that the bill undermines intellectual property rights and the

2909 integrity of the auto supply chain by compelling automakers

2910 to provide any aftermarket parts manufacturer the information

2911 necessary to produce or offer compatible aftermarket parts.

2912 What is your response to those that say this bill is

2913 primarily benefitting importers of aftermarket parts, not

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2914 necessarily vehicle owners?

2915 *Mr. Benavidez. As far as aftermarket parts, I know
2916 this SMART Act is different than the REPAIR Act, and as far
2917 as parts are concerned. The aftermarket in my industry is
2918 different than the aftermarket in her industry.

2919 In my industry, we do not like aftermarket parts. We do
2920 not like the way they are built. We do not like the safety
2921 concerns they promote.

2922 But in her industry, they are a little bit different,
2923 and that is what is different with ASA, is we represent both
2924 sides, and that is probably the biggest split we have in our
2925 association, is aftermarket parts on both sides.

2926 *Mr. Balderson. Okay. Thank you for your response. I
2927 appreciate that.

2928 So I am here today just because I want to do a little
2929 background here, and the 24-page bill basically. We will
2930 forget about the dealer again, and even during this strike
2931 that we are dealing with right now, in 2007, 2008, I lost a
2932 lot of good friends, good dealer friends that were eliminated
2933 in the auto industry back in the day.

2934 So my family has owned a new car dealership. We were
2935 for 48 years, and I ran the shop. I was a mechanic, worked

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2936 on the cars myself, did everything.

2937 And it is tough. It is tough to work on these cars
2938 anymore, and the technology since I have been out of it for
2939 25 years is even more challenging, but I communicate with a
2940 lot of my friends still.

2941 So I just want you to understand where we are coming
2942 from as a dealership, a small business owner. We are small
2943 business owners.

2944 We pay franchise fees. We pay. I mean, we have a
2945 monthly fee based upon the volume of cars, new cars, that you
2946 sell, that we pay to the manufacturers, and I think that gets
2947 forgotten. A lot of people do not know that.

2948 I understand the concerns of independent repair shops.
2949 I mean, I can give you scenarios since I have five minutes
2950 where running the shop, if my neighbor down the street, and I
2951 get my car today serviced at an independent shop more so than
2952 I do the dealership, but in the day if my friend down the
2953 street, independent shop, needed a tech manual, needed a
2954 special tool, I gave it to him.

2955 And why is that? Because there is a relationship
2956 building. We are a small community. I do not want the big,
2957 bad actors to set a precedence for everybody else, and that

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2958 is kind of what we do when we make laws and do government.
2959 We eliminate the people that are good actors about it and do
2960 share the information, you know, as needed on that basis.

2961 But I just want to make sure everyone understands the
2962 importance of automobile dealerships in the communities. In
2963 several meetings I have had, I have brought that up. You
2964 know, we are important to the communities.

2965 How do we ensure that the dealer-owned shops, who are
2966 also facing pressures from the manufacturers for different
2967 reasons, completely different reasons sometimes, remain
2968 competitive and are not undercut on prices that are out of
2969 their control?

2970 For you, sir. I am sorry. Mr. Benavidez.

2971 *Mr. Benavidez. We do not see that going on in my neck
2972 of the woods, right, where we are trying to undercut a
2973 dealership or any of that nature. Everybody is trying to get
2974 the car repaired at a fair price. That is all we want, is we
2975 want the car repaired accurately, safely, and at a fair
2976 price. Everybody is trying to do that.

2977 I do not see their competition with the dealers and us.
2978 I think everybody wants the car fixed for the consumer
2979 correctly. It is in the best interest of the manufacturers

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2980 to have that vehicle repaired correctly.

2981 We do not see that in ours.

2982 *Mr. Balderson. Seventy percent of the aftermarket
2983 facilities now do most of the maintenance on automobiles. I
2984 did not know if you were aware of that.

2985 Ms. Callahan, did you have a response to that or
2986 anything? Do you want to add anything?

2987 *Ms. Callahan. Thank you for the opportunity.

2988 My response is the same. We have a very robust
2989 coexistence with dealers that we have locally, and I would
2990 love to see that continue.

2991 My big concern is the ones that do not have local dealer
2992 representation. How are they going to best serve their
2993 markets?

2994 *Mr. Balderson. I am going to give you a famous quote
2995 from my father, and I lost him two years ago, and I know,
2996 Chairman, I only have 15 seconds, but it is a great quote.

2997 As I told you I ran the shop and worked on the cars. A
2998 gentleman walked into the dealership with a FRAM oil filter.
2999 FRAM is not really around anymore, but back in the day they
3000 were great. I mean, they were a fine product.

3001 He comes into the dealership. My father, if he did not

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3002 get past his office without him seeing you, you were good,
3003 but if he saw you, you were in trouble.

3004 And the gentleman walked by with the FRAM oil filter.
3005 My dad got up and said, "Hey, what have you got in your hand
3006 there?"

3007 He said, "It's an oil filter. Troy is going to change
3008 the oil in my car."

3009 And he said, "Our oil filters in the back are not good
3010 enough for you?"

3011 And he said, "Well, no, Bill, it is not that. It is
3012 just I like FRAM oil filters and Troy said he would do it."

3013 He said, "Well, let me put this into you." Across the
3014 street from our dealership was McDonald's. My dad said,
3015 "Does McDonald's let you bring your own hamburger in to fry
3016 it?"

3017 So in remembrance of my father, thank you, Mr. Chairman.

3018 *Mr. Bilirakis. Thank you, Mr. Balderson.

3019 And I want to recognize and I am glad you recognize the
3020 dealers because they are under a lot of pressure these days,
3021 and there are a lot of requirements and mandates.

3022 I went to a dealership just the other day. They told me
3023 they had to spend \$750,000 getting chargers for their

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3024 electric vehicles. They are not doing very well in sales.

3025 So I appreciate that.

3026 Okay. I am going to yield myself a couple of minutes,
3027 five minutes. I will not take the five minutes, and then I
3028 want to yield to the ranking member as well because she has a
3029 couple of questions, too.

3030 All right. My first question is for Mr. Benavidez.

3031 You mentioned that the automakers or that some
3032 automakers are not part of this agreement that we have been
3033 discussing. Can you elaborate on that?

3034 Clarify that point please for us.

3035 *Mr. Benavidez. So it is 90 percent of the sales of the
3036 vehicles. So it is all major U.S. vehicles, Toyota, Honda,
3037 and European, and now, again, Rivian and Tesla just came
3038 onboard. So there are some good manufacturers in there that
3039 we are glad to see.

3040 *Mr. Bilirakis. Okay. Thank you very much.

3041 I have a question for Mr. Touhey with regard to the
3042 ticketing.

3043 You know, I am concerned about people my age and older
3044 who do not use the handheld devices or the computers or what
3045 have you.

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3046 First of all, access to traditional box office to
3047 purchase a ticket. How difficult is it and how many people
3048 still do that as opposed to purchasing through a Ticketmaster
3049 online or what have you, using other brokers?

3050 Can you elaborate on that? I appreciate it.

3051 *Mr. Touhey. Certainly. Thank you for the question.

3052 You know, the box office still exists, and every venue
3053 still has a box office and box office staff there. A
3054 majority, the vast majority of people now move to purchase
3055 their tickets online and show up at the box office to do
3056 that.

3057 But they are still staffed. They are still there, and
3058 they do still service the customers, especially on the day of
3059 show.

3060 They may not be open as much as they used to, where they
3061 were the central point. Now they are more of a service and a
3062 troubleshooting.

3063 *Mr. Bilirakis. But there is access online or through
3064 the telephone if somebody wanted to purchase; is that
3065 correct? I mean through the box office.

3066 *Mr. Touhey. There is some access through phone. The
3067 box office itself, in some venues they do. Smaller venues

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3068 still have some phone rooms open, but the majority have
3069 closed phone rooms with Internet access.

3070 *Mr. Bilirakis. Okay. Thank you very much.

3071 I am going to yield back, and I am going to yield five
3072 minutes to the gentlelady from Illinois.

3073 *Ms. Schakowsky. So, Mr. Breyault, I wanted to talk a
3074 little bit more about speculative, or whatever they really
3075 are, tickets.

3076 And first of all, is there a reason that most people,
3077 the people who rely on it, do rely on it?

3078 Why are people going to these speculative rather than
3079 just getting the ticket?

3080 *Mr. Breyault. Thank you, Congresswoman.

3081 You know, I cannot speak for everyone who buys
3082 speculative tickets about why they would choose to go that
3083 way. What I can tell you is that far too many consumers are
3084 deceived when they are buying speculative tickets. That is
3085 because speculative tickets may be intermingled with tickets
3086 that are not speculative, and sometimes they are offered
3087 before tickets are actually made available at all.

3088 That is why I recommended the Congress look into doing
3089 something about exactly what these things are called. The

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3090 discussion draft, for example, would ban speculative
3091 ticketing but allow a ticket buying service to be offered.
3092 Think of it as a DoorDash for tickets, for example.

3093 We think that that makes a lot of sense. If a consumer
3094 wishes to have someone else go through the trouble of
3095 clicking through multiple screens and signing up for an
3096 account on Ticketmaster to acquire a ticket and they want to
3097 pay them to do it, you know, I think that is something that
3098 consumers can do.

3099 What we do not want is a confusing and deceptive
3100 experience where consumers do not know what they are getting
3101 into and where what they think they are buying is actually a
3102 ticket that is definitely 100 percent going to get them in
3103 the door.

3104 If a consumer wants to buy this option or have someone
3105 else shop for them, you know, we think they should be able to
3106 have the ability to do so.

3107 But I agree with the premise of your question, I think,
3108 which is that as it currently happens, speculative ticketing
3109 has a very high potential for deception of consumers.

3110 *Ms. Schakowsky. So for the reason of waiving that
3111 option, is that why you are reluctant to say, as Mr. -- what

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3112 is it? -- said, to ban the idea of speculative ticketing?

3113 *Mr. Breyault. Well, Congresswoman, I think we do
3114 support the discussion draft that would outright ban
3115 speculative ticketing. We think that is one option to go
3116 after this problem, particularly in the cases of speculative
3117 tickets that are sold prior to a public on sale. The
3118 practice is just indefensible.

3119 *Ms. Schakowsky. Okay. Mr. Touhey, I cannot see your
3120 full name written out there.

3121 I wondered if you wanted to comment on that.

3122 *Mr. Touhey. Certainly. I mean, speculative tickets,
3123 to be clear, it is deception because there is no way to
3124 differentiate if you are on a site to know that it is a
3125 speculative ticket or not.

3126 As I mentioned in my testimony, I knew from being in the
3127 industry that if I do not see specific seats in a sale
3128 process that it is likely speculative tickets because in a
3129 legitimate sale, you buy the specific seat, but if it is just
3130 listed as a section and a row, it is generally a speculative
3131 ticket.

3132 But there is no hard ticket way to differentiate, and a
3133 lot of the times it is an email confirmation and then a

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3134 follow-up later that you may get a different ticket for a
3135 different row or different section or you may get no ticket
3136 at all.

3137 *Ms. Schakowsky. Well, we want to work to get language
3138 that will really protect the consumers in the best way. So
3139 thank you very much.

3140 *Mr. Bilirakis. Okay. Very well. I do not think there
3141 is anyone else here on the panel. So I appreciate it very
3142 much.

3143 I ask unanimous consent to insert in the record the
3144 documents included on the staff hearing documents list.

3145 Without objection, so ordered.

3146 [The information follows:]

3147

3148 *****COMMITTEE INSERT*****

3149

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3150 *Mr. Bilirakis. I remind members that they have ten
3151 business days to submit questions for the record, and I ask
3152 the witnesses to respond to the questions promptly.

3153 Members should submit their questions, and I know there
3154 will be, by the close of business on October 12th.

3155 And I will tell you what. This has been a very
3156 informative hearing, and I really thank all of you for
3157 staying and answering these questions. So I think it was
3158 very productive. I believe the ranking member would agree
3159 with me.

3160 Thank you very much.

3161 Again, without objection, the subcommittee is adjourned.

3162 [Whereupon, at 1:09 p.m., the subcommittee was
3163 adjourned.]