



**Testimony of
Sally Greenberg
Executive Director
National Consumers League**

on

**“Consumers Beware: Increased Risks During
the COVID-19 Pandemic”**

**Before the
United States House of Representatives
Committee on Energy and Commerce
Subcommittee on Consumer Protection and Commerce**

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Summary

The COVID-19 pandemic has opened the door to a tsunami of scams and frauds. The National Consumers League (NCL) is seeing the results of this unprecedented wave of fraud first-hand. At our Fraud.org website, consumers share heart-breaking stories of being scammed on practically a daily basis.

Consumer are telling us about scammers stealing stimulus or unemployment checks, price gouging for in-demand items such as protective masks and gloves, sales of fake health care products claiming to treat or cure or vaccinate against COVID-19, and companies refusing consumer refunds for concerts or sporting events that have been cancelled. As one headline put it the COVID-19 pandemic has been “pure hell” for far too many consumers.¹

While we are encouraged by the whole-of-government approach to fighting back against COVID-19 scams,² more needs to be done to protect the public from the torrent of fraud and unfair and deceptive marketplace practices that threaten to overwhelm millions of consumers. In particular, we believe that steps by Congress to address how scammers are abusing new payment systems could augment stepped-up enforcement and consumer education efforts.

We applaud you, Chairwoman Schakowsky and members of the subcommittee for bringing attention to this important issue.

¹ Popper, Nathaniel. “Pure Hell for Victims’ as Stimulus Programs Draw a Flood of Scammers,” *New York Times*. April 22, 2020. Online: <https://www.nytimes.com/2020/04/22/technology/stimulus-checks-hackers-coronavirus.html>

² National Consumers League. “NCL praises AG Barr for crackdown on COVID-19 scammers.” Press release. March 25, 2020. Online: https://www.nclnet.org/barr_crackdown

Introduction

The National Consumers League appreciates the opportunity to provide the subcommittee with our views on the increased risk of consumer fraud stemming from the COVID-19 pandemic.

Founded in 1899, the National Consumers League (“NCL”) is the nation’s pioneering consumer and worker advocacy organization. Our non-profit mission is to advocate on behalf of consumers and workers in the United States and abroad.³ For more than twenty years, NCL has worked, via our Fraud.org campaign, to educate consumers about the warning signs of fraud and promote public policies that protect the American public from scams of all kinds.

The COVID-19 Pandemic Is an Unprecedented Opportunity for Criminals to Defraud American Consumers

The COVID-19 pandemic has created extremely fertile ground for consumers to be defrauded on a scale unprecedented in living memory. A combination of rampant fear and misinformation about the virus combined with an economic catastrophe make consumers more vulnerable than ever to scams.

Since the beginning of 2020, the Federal Trade Commission (“FTC”) has received more than 120,000 complaints about scams, identity theft, and other types of fraud linked to COVID-19. Of those complaints, nearly half (48.7%) indicated a monetary loss of more than \$78 million dollars.⁴ The FTC data is just the tip of the iceberg when it comes to the scale of fraud related to the COVID-19 pandemic.

³ For more information, visit www.nclnet.org.

⁴ Federal Trade Commission. “FTC COVID-19 and Stimulus Reports (January 1-July 5, 2020),” July 5, 2020. Online: https://public.tableau.com/views/COVID-19andStimulusReports/Map?:language=en&:display_count=y&:origin=viz_share_link

In April alone, Google announced that it was tracking more than 18 million malware and phishing emails related to COVID-19 *per day*. Secret Service Assistant Director Michael D’Ambrosio testified last month before the Senate Judiciary Committee that that at least \$30 billion – around 1% of stimulus funds - will end up in the hands of criminals.⁵

Organized fraud rings, many operating from overseas, are deluging state unemployment commissions with bogus applications. These criminals aim to hide their fraudulent claims in the flood of applications that are being submitted due to COVID-related layoffs in order to collect the benefits.⁶ Because of massive data breaches and identity theft, fraudsters often have all the information they need to make such bogus unemployment claims. As important as the CARES Act was in adding an extra \$600 a week to successful claims, it also expanded eligibility to self-employed and similar workers who may not be not subject to the same employment verifications that typically apply. This has created fertile ground for identity thieves.

The Department of Labor’s Inspector General, Scott Dahl, recently estimated that there could be at least \$26 billion in wasted unemployment insurance funds paid out with a “large portion” attributable to fraud.⁷ In Washington State alone, criminals reportedly collected as much as \$650 million in such benefits and 71,000

⁵ Miller, Maggie. “Senior official estimates \$30 billion in stimulus funds will be stolen through coronavirus scams,” *The Hill*. June 9, 2020. Online: <https://thehill.com/policy/cybersecurity/501936-senior-official-estimates-30-billion-in-stimulus-funds-will-be-stolen>

⁶ Bernard, Tara Siegel. “Fraudulent Jobless Claims Slot Relief to the Truly Desperate,” *New York Times*. July 2, 2020. Online: <https://www.nytimes.com/2020/07/02/your-money/coronavirus-unemployment-fraud.html>

⁷ Dahl, Scott (Inspector General, U.S. Department of Labor). “Testimony on Unemployment Insurance during COVID-19: The CARES Act and the Role of Unemployment Insurance during the Pandemic before the U.S. Senate Committee on Finance,” June 9, 2020. Online: <https://www.oig.dol.gov/public/testimony/20200609.pdf>

workers who applied for unemployment in March have still not received their payments because their applications were erroneously flagged for potential fraud.⁸

The COVID-19 pandemic has also been a boon to scammers seeking to sell consumers bogus coronavirus “cures,” “vaccines,” “testing kits,” and “immunity-boosting” products. At best, these products are ineffective. At worst, they can be dangerous or even deadly, particularly if consumers rely on quack medicines instead of taking steps to reduce the risk of catching the virus or seeking treatment when COVID-19 symptoms appear. Since March, the U.S. Food and Drug Administration (FDA) has sent 80 warning letters to purveyors of fraudulent COVID-19 treatment products.⁹ The FTC has warned more than 250 companies for similar conduct.¹⁰

For example, one of the companies that received an FDA warning letter was marketing a “CBD tincture” as a “a major game changer for people who want to feel great again and build the immune system.”¹¹ Another company that received an FDA warning letter states the following on its website:

“Are you worried about viruses that are going around right now especially the Coronavirus?? . . . Why not take precautions Spray Curativa base Hypochlorous Skin Spray around your face and eyes and hands as many

⁸ Bernard, Tara Siegel. “Fraudulent Jobless Claims Slot Relief to the Truly Desperate,” New York Times. July 2, 2020. Online: <https://www.nytimes.com/2020/07/02/your-money/coronavirus-unemployment-fraud.html>

⁹ U.S. Food & Drug Administration. “Fraudulent Coronavirus Disease 2019 (COVID-19) Products,” July 6, 2020. Online: <https://www.fda.gov/consumers/health-fraud-scams/fraudulent-coronavirus-disease-2019-covid-19-products#Warning%20Letter%20Table>

¹⁰ Federal Trade Commission, FTC Coronavirus Warning Letters to Companies, (www.ftc.gov/coronavirus/enforcement/warning-letters)

¹¹ U.S. Food & Drug Administration. “Warning Letter to Project 1600 Inc.” June 19, 2020. Online: <https://www.fda.gov/inspections-compliance-enforcement-and-criminal-investigations/warning-letters/project-1600-inc-608349-06182020>

times as you need to during the day and this will provide a good extra line of protection against many things that we all fear today.”¹²

While such claims may seem patently ridiculous to you and me, the current climate of rampant misinformation about the coronavirus leaves consumers at risk of falling victims to such scams. While social media networks can and do monitor their platforms for such abuse, the sheer scale of the fraud makes it difficult to control. Researchers at the University of California San Diego analyzed a data set of 80 million tweets and Instagram posts advertising fake COVID-19 products, many asking for payment in Bitcoin or other non-traditional payment methods.¹³

Consumers’ Vulnerability to Unfair and Deceptive Practices has Been Exacerbated by COVID-19

We are also concerned about the conduct of large companies in industries such as live event ticketing and air travel where consumers pay in advance for services to be performed at a later date. More than 17,000 consumers filed complaints with the U.S. Department of Transportation (DOT) in April alone complaining they were refused refunds for flights canceled due to COVID-19.¹⁴ Instead of offering consumers refunds, as required by DOT regulations, major airlines have pushed consumers to accept vouchers for future travel.¹⁵

¹² U.S. Food and Drug Administration. “Warning letter to Curativa Bay Corporation,” June 26, 2020. Online: <https://www.fda.gov/inspections-compliance-enforcement-and-criminal-investigations/warning-letters/curativa-bay-corporation-608406-06252020>

¹³ Heilweil, Rebecca. “Coronavirus scammers are flooding social media with fake cures and tests,” Vox. April 17, 2020. Online: <https://www.vox.com/recode/2020/4/17/21221692/digital-black-market-covid-19-coronavirus-instagram-twitter-ebay>

¹⁴ Consumer Reports. “DOT reports huge number of consumer complaints against airlines over failure to provide refunds for canceled flights,” June 26, 2020. Online: https://advocacy.consumerreports.org/press_release/dot-reports-huge-number-of-consumer-complaints-against-airlines-over-failure-to-provide-refunds-for-canceled-flights/

¹⁵ McCartney, Scott. “The 19 Airlines Making Refunds a Headache,” *Wall Street Journal*. April 29, 2020. Online: <https://www.wsj.com/articles/after-the-coronavirus-bailout-all-i-got-was-this-lousy-airline-voucher-11588170599>

The airlines received more than \$50 billion in government stimulus money. We would like to see that assistance premised on the industry providing refunds for cancelled flights. This is one reason NCL supports H.R. 6965, the *Cash Refunds for Coronavirus Cancellations Act of 2020*. The bill, sponsored by Congressman Cohen, which would require major airlines and third-party ticket sellers to offer full cash refunds for all cancelled tickets during the coronavirus pandemic, regardless of whether the airline cancelled an entire flight or the passenger cancelled their individual ticket.¹⁶ Madame Chair, we appreciate your and Congressman Rush's co-sponsorship of this important bill.

Consumers holding tickets to concerts or sporting events have found themselves in similarly dire straits. With virtually all such events canceled, consumers who paid hundreds or even thousands of dollars for tickets are often unable to obtain refunds.¹⁷ While large ticketing companies such as Ticketmaster have taken some steps to provide refunds, consumers are still often required to jump through unnecessary hoops in order to get their money back, particularly for postponed events.¹⁸ While ticketing companies took some modestly pro-consumer steps to address ticket buyers' concerns, such action only occurred after thousands of consumer complaints led to significant media coverage and investigations by regulators and legislators.

Price gouging has been another large source of consumer complaints during the COVID-19 crisis. We have spoken to attorneys general in Iowa, Pennsylvania and the District of Columbia in recent weeks and each have identified this as a top consumer

¹⁶ H.R. 6965. Online: <https://www.congress.gov/bill/116th-congress/house-bill/6965>

¹⁷ Sisario, Ben and Bowley, Graham. "Angry Fans Say First the Concerts Were Canceled, Then the Refunds," *New York Times*. April 8, 2020. Online: <https://www.nytimes.com/2020/04/08/arts/music/ticketmaster-refunds-coronavirus.html>

¹⁸ Sisario, Ben and Bowley, Graham. "Live Nation Closes Gap in Refunds Policy After Fan Complaints," *New York Times*. April 25, 2020. Online: <https://www.nytimes.com/2020/04/25/arts/music/live-nation-ticketmaster-refunds.html>

concern.¹⁹ For example, Pennsylvania Attorney General Josh Shapiro reported that his office typically receives 27,000 consumer complaints annually across all topics. Since the start of the pandemic, his office has received more than 5,000 complaints about price gouging alone.²⁰ “To get 5,000 in basically what’s been two months on one specific topic is extraordinary,” Shapiro noted.

While e-commerce platforms such as Amazon and eBay have devoted significant resources to cracking down on gouging of in-demand products such as personal protective equipment, bleach, and hand sanitizer,²¹ we think more could be done. For example, work-at-home supplies like webcams and summer recreation equipment like inflatable pools have been subject to gouging, often in combination with extremely high shipping fees to evade automated anti-gouging technology.²²

In the early days of the pandemic, there were also serious problems with hoarding, including a now-famous example of two Tennessee brothers buying up 17,000 bottles of hand sanitizer from local stores and trying to flip them for profit on Amazon. Amid a public backlash, they donated their supplies and reached a settlement with the state attorney general to avoid prosecution and a fine.²³ It should not require public shaming to address such conduct in times of crisis.

¹⁹ See, e.g. Office of the Attorney General for the District of Columbia. “AG Racine Releases COVID-19 Consumer Complaint Report.” Press Release. May 15, 2020. Online: <https://oag.dc.gov/release/ag-racine-releases-covid-19-consumer-complaint>

²⁰ Pennsylvania Attorney General. “AG Shapiro: Price Gouging Complaints Top 5,000 Tips. Press release. June 5, 2020. Online: <https://www.attorneygeneral.gov/taking-action/covid-19/ag-shapiro-price-gouging-complaints-top-5000-tips/>

²¹ Gartenberg, Chaim. ‘Amazon asks Congress to pass a law against price gouging during national crisis,’ *The Verge*. May 13, 2020. Online: <https://www.theverge.com/2020/5/13/21257780/amazon-open-letter-congress-pass-law-price-gouging-masks-hand-sanitizer-covid-19>

²² Rubin, Ben Fox. “Three months into the pandemic, price gouging is still a real problem,” CNET. June 18, 2020. Online: <https://www.cnet.com/news/three-months-into-the-pandemic-price-gouging-is-still-a-real-problem/>

²³ *Ibid.*

COVID-19 Is Increasing the Threat of Unsafe Household Products

Millions of consumers and their children are spending more time in the home due to stay-at-home and safer-at-home orders. Unfortunately, this has increased the threat that unsafe household products pose. As the subcommittee has noted, child drownings, calls to poison control, and other hazards related to in-home products have all increased during the COVID-19 pandemic.

An average of one child in the U.S. is injured every 43 minutes due to a TV or furniture tip-over incident.²⁴ Someone dies, on average, every 12 days when a television, a piece of furniture or an appliance falls on him.²⁵ Mounting and securing furniture is critically important for preventing these tragic incidents.

Unfortunately, the ability of the Consumer Product Safety Commission (CPSC) to regulate and of companies that are the subject of recalls to follow through has been impacted by the pandemic. For example, Modus Furniture, a company that sold dressers through Costco and which are the subject of a recall in June, has indicated that it will be unable to provide in-home installation of tip-over restraint kits. Owners of these dressers are currently being advised to keep children away from the dresser until tip-over restraints can be installed.²⁶ With children at home due stay-at-home orders and the closures of many child care centers, the difficulty for consumers to heed this advice is self-evident. This is not an isolated case. The CPSC is currently featuring a prominent notice on its home page notifying consumers that other remedies identified in its recall alerts may not be available due to the

²⁴ AnchorIt.gov. "Why Anchor It." Accessed July 8, 2020. Online: <https://www.anchorit.gov/>

²⁵ *Ibid.*

²⁶ Consumer Product Safety Commission. "Modus Furniture Recalls Dressers Due to Tip-Over and Entrapment Hazards: In-Home Remedy May be Delayed Due to COVID-19 Restrictions; Keep Product Away from Children (Recall Alert)." June 18, 2020. Online: <https://www.cpsc.gov/Recalls/2020/modus-furniture-recalls-dressers-due-to-tip-over-and-entrapment-hazards-recall-alert>

pandemic.²⁷ The pandemic is also temporarily preventing companies from accepting back recalled items because the company itself may be shut down.²⁸

Addressing Financial Choke Points Could Reduce COVID-19 Fraud Risks

We are encouraged that the Trump Administration has devoted significant resources across many agencies to cracking down on scams related to COVID-19.²⁹ We are also pleased to see consumer protection agencies like the Federal Trade Commission working hard to educate consumers about fraud linked to the pandemic.³⁰ However, the scourge of coronavirus fraud will not be significantly reduced by enforcement and consumer education alone.

In particular, policy steps to address scammers' reliance on vulnerable payment systems are needed to augment enforcement and education efforts. For example, the Electronic Fund Transfer Act (EFTA) and Fair Credit Billing Act (FCBA) provide consumers with important liability protections when credit and debit cards are used fraudulently. We believe that protections modeled after the EFTA and FCBA should be extended to other payment mechanisms that fraudsters rely on, such as wire transfers, gift cards and bank account debit (also known as ACH fraud).

At NCL's Fraud.org website we are also receiving a steady stream of reports of scammers using so-called P2P payment services like PayPal's "friends and family" service, Venmo, Zelle and Cash App to defraud consumers. We recently met with

²⁷ Consumer Product Safety Commission. ("Important: CPSC Recall Remedy Notice Due to COVID-19 - Due to the extraordinary circumstances surrounding COVID-19, some of the remedies identified in recall press releases may not be available at this time. Consumers should check with recalling firms for further details.") Accessed July 8, 2020. Online: <http://www.cpsc.gov>

²⁸ Campbell, Susan. "Coronavirus complicating company recalls," AZFamily.com. Online: https://www.azfamily.com/news/continuing_coverage/coronavirus_coverage/coronavirus-complicating-company-recalls/article_2b739f4e-b6ee-11ea-b9f4-8b78976e7deb.html

²⁹ National Consumers League. "NCL praises AG Barr for crackdown on COVID-19 scammers." Press release. March 25, 2020. Online: https://www.nclnet.org/barr_crackdown

³⁰ See, e.g. Federal Trade Commission. "Coronavirus (COVID-19) Pandemic: The FTC in Action." Online: <https://www.ftc.gov/coronavirus>

PayPal to discuss how users of their services could be better protected. While these initial meetings have been encouraging, we would urge the members of the subcommittee to work with colleagues on the Financial Services Committee and other committees of jurisdiction to develop policies that better protect users of P2P payment services from fraud of all kinds, particularly scams linked to COVID-19.

Conclusion

Chairwoman Schakowsky and the members of the subcommittee, we thank you for your continuing work to protect consumers and for holding this hearing. On behalf of the National Consumers League, thank you for including the consumer perspective as you consider these important issues.