

Committee on Energy and Commerce

**Opening Statement as Prepared for Delivery
of**

Subcommittee on Consumer Protection and Commerce Chair Janice D. Schakowsky

Hearing on “The Consumer Protection and Recovery Act: Returning Money to Defrauded Consumers”

April 27, 2021

Today, this subcommittee acts urgently to ensure the Federal Trade Commission can put money back in the pockets of consumers who have been the victims of fraud or scams. This authority was stripped from the FTC last week by a decision of the United States Supreme Court. Only criminals and scammers benefit from this decision, while consumers lose. The Supreme Court has mandated that we fix this, so we are here today to right this wrong.

For decades, the FTC used section 13(b) of the Federal Trade Commission Act to get money back for consumers harmed by unfair and deceptive practices. Companies that committed violations of the FTC Act could be made to not only stop committing bad acts, but to pay back the money they duped from their customers. Since just 2018, the FTC has recovered over \$1 billion for 6.8 million American consumers. One of their largest recent cases, against the multi-level marketing scheme Herbalife, resulted in total relief of nearly \$200 million for more than 260 thousand people who had been lured into running Herbalife businesses by deceptive earnings claims.

Deceptive business schemes can ensnare unwitting Americans across the country. In my own home state of Illinois, the FTC recovered \$9.6 million for more than 10 thousand residents who were defrauded by Herbalife. Since 2018, the Commission has put more than \$49 million back in the pockets of over 255 thousand Illinois residents. None of this relief would have happened without the use of section 13(b). The Supreme Court’s decision deprives the FTC of a critical tool. While some will argue that the FTC has other tools, like section 19, those are hardly a replacement. They require years of process and by the time the cases are concluded, the money is long gone, leaving consumers out in the cold. The Supreme Court has made it clear that Congress needs to act.

Scammers and fraudsters must be held accountable. We must make consumers whole when they’ve been victimized. That is why we are moving forward today with legislation to give the FTC back its authority. The Consumer Protection and Recovery Act, introduced by Vice Chair Cárdenas, with the support of all the Democratic members of this subcommittee, confirms the authority of the Federal Trade Commission to seek equitable relief, including monetary relief, for consumers in Federal Court.

Let me be clear, this is not the only reform that I would like to do to the FTC’s authority. I think that the agency should have civil penalty authority, rulemaking authority that works, as well as other tools to better protect consumers. But I understand what the loss of section 13(b)

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authority means for consumers and am willing to work with my colleagues to move quickly to address the immediate need. Vice Chair Cardenas' legislation is a necessary and urgent step that Congress must take to protect American consumers. As the stresses of the pandemic make consumers vulnerable to new scams and fraud, we should not allow criminals to victimize the American public with impunity. They must pay, literally, what they owe.

I hope my colleagues will work with us to put consumers first.

Thank you to the witnesses for joining us today. I now recognize Ranking Member Bilirakis for 5 minutes.