



November 11, 2020

Chairman Roger Wicker (R-MS)  
Ranking Member Maria Cantwell (D-WA)  
Distinguished Members of the Senate Commerce Committee

United States Senate Commerce Committee  
512 Dirksen Senate Building  
Washington DC, 20510

Dear Chairman Wicker, Ranking Member Cantwell and distinguished members of the Senate Commerce Committee,

We are deeply concerned to hear you are planning a mark-up of S.4613, Senator Boozman's bill to undercut the FTC's Contact Lens Rule in the coming weeks. S. 4613, *The Contact Lens Rule Modernization Act*, will drive up prices and reduce competition and choice for forty-five million contact lens wearers at a time when they can least afford it. As the nation heads into a tough winter battling the pandemic and facing tough economic challenges, the last thing that Congress should be doing is second guessing years of research, surveys, and empirical evidence by passing legislation to make healthcare more expensive and difficult to access. Unfortunately, this is what will happen if Congress passes S. 4613. We strongly urge you to cancel any proposed mark-up and oppose this bill.

Thanks to bipartisan legislation passed by Congress in 2003, the *Fairness to Contact Lens Consumers Act (FCLCA)*, and a unanimous bipartisan update to the *Contact Lens Rule (CLR)* in June 2020, consumers now have a guaranteed, protected, and enforceable right to their prescriptions. This update, issued on a 5-0 basis by the FTC earlier this year, preserves the rights of consumers to shop around for the lowest prices and the opportunity to buy their lenses from sources other than their higher priced prescriber. Taxpayers, who help to fund government employee health insurance and other public programs, benefit from this competition as well.

These efforts protect consumers and taxpayers from the unique monopoly and market power that optometrists enjoy which is the ability to sell and profit from the products they prescribe. Senator Boozman, who is an optometrist, would undo these protections, thereby allowing optometrists to continue to refuse access to prescriptions and strong-arm consumers into purchasing contact lenses from them at excessively high prices.

Senator Boozman's bill severely undercuts vital consumer protections in two disturbing ways. First, if passed, S. 4613 would "rewrite" the FTC's Contact Lens Rule, which was issued with the full support of all five FTC Commissioners and 27 Attorneys General, after a five-year comprehensive and exhaustive review of the industry. The bill removes new protections for consumers that ensures they are guaranteed a copy of their prescription and educated about their rights. The FTC deemed these new protections necessary because so many optometrists refuse to provide customers with a copy of their contact lens prescription

Second, S.4613 would eliminate the most accurate and efficient prescription verification option created within the FCLCA by banning automated phone prescription verification. The automated phone

prescription verification system is a critical and foundational part of the FCLCA, as it has helped create robust competition in the contact lens marketplace by allowing consumers the opportunity to shop around for their lenses in instances where they have not been provided a copy of their prescription. Congress adopted this system after receiving evidence of widespread refusals by prescribers to verify prescriptions in order to prevent their patients from buying lenses from other lower priced retailers.

Senator Boozman's bill is nothing more than an attempt to turn back the clock to the days when optometrists had total control over a consumer's contact lens prescription and were free to charge exorbitant prices for contact lenses. The cost to the economy, and to taxpayers, would be intolerably high if this bill were to become law.

We urge you and your colleagues to side with taxpayers and consumers from across the political spectrum and residing in every state to stop S.4613. Now more than ever, as America adjusts to life during this pandemic, people who wear contact lenses need to be able to access and utilize their contact lens prescriptions. They deserve more options and choices when buying lenses, not fewer. They deserve lower prices, not higher. Forty-five million contact lens wearers are counting on you.

The Coalition for Contact Lens Consumer Choice

cc: Senate Majority Leader Mitch McConnell (R-KY)  
Democratic Leader Chuck Schumer (D-NY)  
Majority Whip John Thune (R-ND)  
Democratic Whip Dick Durbin (D-IL)  
Republican Conference Chair John Barrasso (R-WY)  
Assistant Democratic Leader Patty Murray (D-WA)

