



**National Association of
Optometrists and Opticians**

Professionalism Consumerism Education

November 13, 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

Re: Opposition to S. 4613 (Boozman)

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

On behalf of the National Association of Optometrists and Opticians (NAOO), a national organization representing the retail optical industry and its thousands of employed and affiliated optometrists and opticians, I write today to express our strong opposition to S. 4613, which is scheduled for markup next week, and in support of the Federal Trade Commission's updated Contact Lens Rule, which went into effect on October 13, 2020. The Rule was finalized after five plus years of careful consideration and work by the FTC and their staff, with the unanimous support of all five of the FTC's Commissioners. The Rule includes new requirements for both contact lens prescribers and sellers. S. 4613 attempts to undo that hard and valuable work.

The NAOO is consumer-service oriented, dedicated to the proposition the consumer's visual care needs are met most completely and economically by the free market, in the tradition of the American business system. NAOO members collectively represent over 9000 co-located eye care offices and optical dispensaries with over 15,000 affiliated optometrists serving millions of patients and eyewear customers each year.

In 2003, Congress passed the Fairness to Contact Lens Consumers Act (FCLCA) on a bipartisan basis to enhance prescription portability for contact lens users. The FCLCA imposes obligations on contact lens prescribers and sellers and requires the Federal Trade Commission (FTC or Commission) to issues rules to implement the Act. In 2004, the FTC issued the Contact Lens Rule, which set requirements regarding the availability of contact lens prescriptions for patients and the verification of contact lens prescriptions by prescribers.

The law and its associated rules were designed to address the anticompetitive and anti-consumer behavior of prescribers (mostly optometrists) who sold the contact lenses (and eyeglasses) that they prescribed. Many optometrists would withhold or restrict access to prescriptions in order to sell more contact lenses and eyeglasses. For decades, out of financial self-interest, some optometrists and optometric organizations have fought the idea that consumers should

- be able to learn where and at what price they could buy corrective eyewear and
- get a copy of their prescription immediately after an eye exam is completed and at no extra cost.

The NAOO has strongly supported the approach that Congress and the FTC have taken to ensure that consumers get their contact lens prescriptions. The Rule also ensures that consumers have a safe and effective process to be able to use their prescription to buy contact lenses from a seller of their choice. As a result of the efforts of Congress and the FTC, contact lenses are sold outside of the prescribers' offices at very competitive prices and are easily accessible to consumers. There is no evidence of any health or safety concerns as a result of the Contact Lens Rule.

We write today in strong support of the recently finalized amendments to the FTC's Contact Lens Rule, which were approved by the Commissioners on a 5-0 vote and address new concerns over the lack of prescription release and compliance by sellers with their requirements under the Rule. These amendments are the result of years of hearings and thousands of pages of written comments testimony and are well-thought out. The Commission determined that the changes that are being made will impose only a very small cost on optometric practices around the country and we agree. The rules impose modest requirements on both prescribers and sellers, so the rules are balanced in their approach to solving the problems of a lack of access to prescriptions and in ensuring that sellers only dispense on valid prescriptions. The FTC also added new enforcement tools to aid in compliance by both prescribers and sellers.

With that, we strongly oppose the efforts in S. 4613 to overturn the good work of the FTC. We urge its defeat in that it 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. It will also eliminate the most accurate and efficient prescription verification option created within the FCLCA by banning automated phone prescription verification. Such calls are not "robocalls" and are a critical and foundational part of the FCLCA. The FTC added requirements on sellers to ensure they provide full and clear information to prescribers to aid in the verification process and add to the effectiveness and ease of processing of such calls by prescribers. In the experience of the NAOO members, there are no issues with the use of automated calls, which tend to be infrequent to any particular prescriber's office and reiterate that such calls are an efficient method of verification, which has now been enhanced by the new rules.

Thank you for your attention to this matter. We encourage you to act in the interests of the contact lens consumers who are facing uncertainty and perhaps unemployment in this time of the COVID-19 pandemic and join us in opposing the passage of S. 4613.

Sincerely,



Joseph B. Neville
Executive Director