

November 15, 2016

An Open Letter to Congress: Protect Contact Lens Users and the Free Market – Reject the Contact Lens Consumer Health Protection Act of 2016

Dear Member of Congress:

We the undersigned organizations, representing millions of taxpayers and consumers, urge you to reject the “Contact Lens Consumer Health Protection Act of 2016” – S. 2777, introduced by Sens. Cassidy (R-LA), Boozman (R-AR), and Perdue (R-GA) as well as its companion, H.R. 6157, introduced by Reps. Olson (R-TX) and Castor (D-FL). Whether as a standalone bill or appended to other upcoming legislation, this type of medical care protectionism impedes greater access to eye care by unnecessarily raising costs for patients and taxpayers, expanding government regulation, and erecting barriers to competition for providers.

While the Federal Trade Commission (FTC) has often stood in the way of greater economic freedom and choice for consumers, it has a commendable history when it comes to deregulatory efforts in the area of eyewear. In the late 1970s, the FTC issued the “Eyeglass Rule” which helped lift states’ restrictions on advertising for eyeglasses. This served consumers well by expanding choice and lowering costs.

In 2003, Congress extended this type of flexibility through the Fairness to Contact Lens Consumers Act, which the FTC subsequently implemented through its Contact Lens Rule in 2005. Today, contact lens prescribers are required to give a copy of the prescription free of charge to the patient after a fitting. In addition, prescribers are also required to verify the patient’s prescription to anyone, including contact lens providers, authorized by the patient. The result is less market distortion and more competition.

Regrettably, S.2777/H.R. 6157 would undo much of this progress. Our analysis of the legislation indicates that eye examiners could more easily block requests from lens retailers to verify patient prescriptions; bureaucratic divisions at the Department of Health and Human Services would have an expanded role in investigating contact lenses; and startup online or mail-order outlets hoping to compete with established retailers would have more trouble entering a narrower market. Furthermore, as civilian government employees or military service people pay higher costs or lose productivity because of new purchasing regulations that restrict their choices, pressure would increase on taxpayer-backed insurance programs to cover them.

While additional expenses and a loss of economic freedom are obviously concerning, the adverse precedent set by S.2777/H.R. 6157 for other convenient, cost-effective services that have evolved with the Internet, is



equally troubling. Furthermore, the FTC has just proposed amendments to the 2005 rule that would enhance consumer choice; the legislation in Congress would take several steps backward.

The Senate's Financial Services and General Government Appropriations Bill already contains harmful language that could help clear a future path for S. 2777, and should be modified. In either case, S. 2777/H.R. 6157 attempts to "solve" a problem that does not exist; we urge you to oppose this legislation, in whatever form it may appear.

Sincerely,

Pete Sepp, President
National Taxpayers Union

Grover Norquist, President
Americans for Tax Reform

Gregory Conko, Executive Director
Competitive Enterprise Institute

Andrew F. Quinlan, President
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Chuck Muth, President
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Wayne Brough, Chief Economist and Vice President of Research
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Allen Gutierrez, National Executive Director
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