



October 21, 2019

Chairman Frank Pallone, Jr. (D-NJ)
Ranking Member Greg Walden (R-OR)
Congressman Bobby Rush (D-IL)
Congressman Michael Burgess (R-TX)

United States House of Representatives Committee on Energy & Commerce
2125 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Pallone, Ranking Member Walden, Congressmen Rush and Burgess and distinguished members of the House Committee on Energy and Commerce,

The [Coalition for Contact Lens Consumer Choice](#) is made up of consumer focused groups, companies who compete in the contact lens marketplace and think tanks that weigh in on policy proposals in the marketplace of ideas. Our members include Consumer Action, Costco Wholesale, LULAC, Lens.com, Americans for Tax Reform, National Taxpayers Union, the National Hispanic Medical Association, Progressive Policy Institute, R Street Institute, 1-800 Contacts, Citizen Outreach, Institute for Liberty and the Taxpayers Protection Alliance. We stand united as the voice for the more than 41 million Americans who wear contact lenses. We write today in strong opposition to H.R. 3975, *The Contact Lens Prescription Verification Modernization Act*, recently introduced by Congressman Rush and Congressman Burgess.

The hallmark of our coalition is our overwhelming support for consumer protection laws and the Fairness to Contact Lens Consumers Act (FCLCA). We believe that H.R. 3975 would undercut the FCLCA, a vital consumer protection law, and severely harm consumers and competition in the contact lens marketplace. This proposed bill would depart from more than 15 years of policies and regulations that promote competition and affordable access to contact lenses and cost taxpayers and consumers millions of dollars.

The FCLCA was enacted in 2004 to promote competition and consumer choice in a marketplace that was uniquely saddled with state laws that protected optometrists' ability to profit from the products they prescribe. This profession has a market power unlike any other medical professional; their financial success is guaranteed by statute and regulation. It is in their best interests to protect their ability to sell what they prescribe and their aggressive actions certainly reflect these efforts.

Since the FCLCA first passed, the contact lens marketplace has been positively transformed. Now, consumers can shop for contact lenses wherever and whenever they choose -- at their optometrist's office, at their local big box store, neighborhood pharmacy, online vendors, over the phone or through an app. They have a wide variety of choices when it comes to buying contact lenses, but they need their prescription in order to take advantage of this competitive marketplace by comparison shopping.

Yet, since the day the FCLCA was signed into law more than a decade and a half ago, there have been continual efforts by optometric lobbyists to weaken or gut the law by rolling back vital consumer protections and rights at every turn. These lobbyists seek to preserve the optometrists' market share by eliminating prescription verification by phone which denies contact lens consumers the ability to take their prescription and shop where and when they want for contact lenses.

H.R. 3975, *The Contact Lens Prescription Verification Modernization Act*, is the optometric lobbyists' latest attempt to protect optometrists' ability to sell what they prescribe and upset the careful balance set out in the FCLCA to the detriment of consumers. This bill seeks to end the most effective and efficient prescription verification option created within the FCLCA by banning automated phone prescription verification.

The automated phone prescription verification system is a critical part of the FCLCA, as it has helped create robust competition in the contact lens marketplace and allowed consumers to shop around for their lenses in instances where they do not have a copy of their prescription.

This automated system requires a contact lenses retailer to wait eight business hours after contacting the prescriber before it may fulfill a consumer's order, instead of requiring the retailer to wait indefinitely for the prescriber to positively verify the prescription. Congress adopted this system after receiving evidence of widespread refusals by prescribers to verify prescriptions in the hopes of preventing their patients from buying their lenses from other retailers. This bill is a blatant attempt to turn back the clock to the days when optometrists had total control over a consumer's contact lens prescription and free rein to charge whatever they wanted for contact lenses.

H.R. 3975 weakens important consumer and taxpayer protections and returns the power to the optometrists by:

1. Mandating that retailers discontinue using technology that allows for the most efficient, effective and accurate verification of prescriptions by outlawing automated phone verification calls.
2. Ending the careful balance in the contact lens marketplace in favor of the prescriber by requiring that companies use live person verification calls or email, which are fraught with human error, costly, prone to spam filters, inefficient and unproven to be any more accurate or effective than the automated methods currently employed by contact lens sellers.

Consumers' rights and competition in the contact lens market will be greatly harmed if H.R. 3975 is passed by Congress. On behalf of the 41 million Americans who wear contact lenses in this country, we ask for your help in stopping this dangerous bill.

Sincerely,

The Coalition for Contact Lens Consumer Choice

cc: House Leadership and Members of the House Energy and Commerce

