

February 1, 2022

The Honorable Maria Cantwell
Chair
Committee on Commerce, Science,
and Transportation
United States Senate
Washington, DC 20510

The Honorable Roger Wicker
Ranking Member
Committee on Commerce, Science,
and Transportation
United States Senate
Washington, DC 20510

Dear Chair Cantwell and Ranking Member Wicker:

The undersigned organizations support S. 3410, “The Consumer Protection and Due Process Act,” sponsored by Senator Mike Lee. We believe this legislation would provide the Federal Trade Commission (FTC) appropriate tools to bring enforcement actions against frauds and scams with proper safeguards.

The United States Supreme Court ruled unanimously in *AMG Capital Management LLC v. FTC* that that Section 13(b) of the Federal Trade Commission Act does not authorize the FTC to seek, or a court to reward, equitable monetary relief. Congress should take a holistic look at this statute and should not rush to grant or expand authority.

There is strong support for the FTC to have authority to seek and collect monetary damages on behalf of consumers. However, we are concerned by the overbreadth of other legislative proposals to expand FTC’s authorities. Congress has a chance to finally grant FTC proper authority with appropriate safeguards.

S. 3410 would strike a balance and provide tools for the FTC to collect monetary damages and safeguards for businesses. It would allow the FTC to take action more swiftly against unscrupulous businesses without reverting back to an uncertain regulatory environment.

The legislation would take elements of Section 19 of the Federal Trade Commission Act of 1914, which provides clear statutory authority for the FTC to collect monetary relief in fraud cases that have occurred within the last three years. Additionally, the Commission would demonstrate to a court that a reasonable person should have known that they were violating the law. This approach is the correct one for FTC to protect consumers.

A bipartisan solution that would allow the FTC to collect monetary damages for consumers from frauds and scams is possible. We think S. 3410 is that solution. We

look forward to working with offices on both sides of the aisle to support legislation with appropriate safeguards that will protect consumers.

Sincerely,

U.S. Chamber of Commerce
American Financial Services Association
Council for Responsible Nutrition
Direct Selling Association
Electronic Transactions Association
Insights Association
National Retail Federation
Professional Association for Customer Engagement
Real Estate Services Providers Council
Software & Information Industry Association

cc: Members of the Senate Committee on Commerce, Science, and Transportation