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June 14, 2023

The Honorable
Cathy McMorris Rodgers
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable
Frank Pallone, Jr.
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, D.C. 20515

Dear Chair Rodgers and Ranking Member Pallone:

I am writing in regard to H.R. 2748, the Contact Lens Prescription Verification Modernization Act, introduced by Reps. Michael Burgess (R-TX) and Lisa Blunt Rochester (D-DE). This bill would unnecessarily restrict tens of millions of contact lens users' access to more affordable and convenient options to fill their prescriptions.

For over two decades, I have been involved in helping to educate policymakers on the importance of consumer choice in contact lens purchases. In 2002, I authored an analysis supporting the Fairness to Contact Lens Consumers Act (FCLCA), legislation that made it easier for contact lens users to purchase their lenses from any outlet, provided they had a prescription from a licensed optometrist. In 2020, I testified before the Federal Trade Commission voicing support for its Contact Lens Rule.[1]

That new FTC rule laid out how contact lens prescriptions must be released, with obligations on both prescribers and other sellers. The rule includes strong protections to make sure that consumers know they have a right to their prescription and a right to purchase their lenses from any licensed seller. For example, among other requirements, it requires sellers to request that a patient sign a prescriber-retained copy of the prescription with a statement confirming the patient has received it; to provide the patient with a digital copy of the prescription; and to retain evidence that the patient received it.

No surprise, optometrists oppose consumer choice. They would rather not face competition in filling prescriptions. But knowing they don't have the votes to repeal the FCLCA, they are now lobbying to weaken

[1] Robert D. Atkinson, "The Contact Lens Rule and the Evolving Contact Lens Marketplace," March 8 2018, https://itif.org/events/2018/03/08/contact-lens-rule-and-evolving-contact-lens-marketplace/; Federal Trade Commission, "The Contact Lens Rule: A Guide for Prescribers and Sellers," June 2020, updated December 2021 and February 2023, https://www.ftc.gov/business-guidance/resources/contact-lens-rule-guide-prescribers-sellers.

the FTC's rule, particularly by making it harder and more expensive for third-party lens sellers to get approval to sell lenses.

ITIF respectfully urges you and your Energy and Commerce Committee colleagues to defend the FTC's decision and protect the rights of contact lens users and sellers. Especially in a time of high inflation, consumers' interests should come first.

Sincerely,

Dr. Robert D. Atkinson
President and Founder, ITIF