



February 23, 2021

Dear Members of the House of Representatives and Senate:

I urge you to reject any and all efforts to undermine the Federal Trade Commission's (FTC) Contact Lens Rule. Blocking the FTC's Contact Lens Rule would undermine patient freedom for the 45 million contact lens users across the country. Passing legislation now, during a pandemic, also threatens to increase costs and reduce healthcare choice and access.

In recent months and years, some lawmakers have proposed blocking, delaying, or watering down the rule. Last Congress, lawmakers in the House of Representatives included legislative language in the Fiscal Year 2021 Financial Services and General Government Appropriations Bill that delayed implementation of the Contact Lens Rule. Lawmakers also pushed several pieces of legislation.

In the House, H.R. 3975, the "Contact Lens Prescription Verification Modernization Act," was introduced to ban automated phone prescription verification, ending the most effective and efficient prescription verification option that currently exists. In the Senate, several lawmakers pushed S. 4613, the "Contact Lens Modernization Act," and unsuccessfully attempted to rush through a markup in the Senate Commerce Committee on November 18, 2020.

Fortunately, efforts to pass proposals that undermine the rule failed. Moving forward, these proposals should continue to be rejected.

The FTC's contact lens rule was issued on a unanimous, 5-0 bipartisan basis. It was released on June 23, 2020 after an extensive five-year process that carefully considered the viewpoints of varying stakeholders. The rule ensures that consumers have the freedom to purchase contact lenses from wherever they want, whether that is from their optometrists or from a third party.

This built on the Fairness to Contact Lens Consumers Act (FCLCA), signed by President George W. Bush in 2003, which was enacted to ensure consumers had the freedom to purchase contact lenses from wherever they choose without interference.

The new rule builds on the FCLCA by requiring optometrists to obtain signed acknowledgement from patients that they have received a copy of their prescription. The FTC provides flexibility for optometrists by giving them four different options for patients to acknowledge prescription receipts, including printing the acknowledgment on the receipt where they pay for their exam.

The FTC rule also continues to allow automated phone prescription verification, which is one of the most effective ways to preserve competition and consumer freedom. Rather than forcing a third-party retailer to wait indefinitely for a prescriber to verify the prescription, this requires the retailer to wait a full business day (eight hours) before fulfilling a consumer's order.

These reasonable requirements were adopted because of cases where bad actors attempted to infringe on the freedom of consumers to fill their prescription wherever they choose to, whether that be through the optometrist directly or through a third party.

While lawmakers should support proposals that lower the regulatory burden and reduce red tape, there should not be concerns that the FTC rule adds to an optometrist's regulatory burden. The requirements set forth by the rule are modest and easy to comply with as optometrists are already required to maintain detailed records on their patients.

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Optometrists differ from other healthcare professionals in that they both prescribe and sell the product to patients. While there should be no restriction on an optometrist selling contact lenses, there should also be no barriers or restrictions placed on the ability of consumers to purchase from a third party.

In fact, [according](#) to the College of Optometrists, optometrists must keep full records to “facilitate the clinical management of the patient and continuity of care” and to protect against complaints. This includes keeping records on patient visits, the patient’s personal details, any health conditions, and any clinical examination.

Efforts to undermine or delay the FTC Contact Lens Rule should be rejected. Blocking the rule will only make it more difficult and more costly for Americans to fill their prescriptions, creating unnecessary financial and healthcare burdens on the American people during the pandemic.

It would undermine patient freedom by chipping away at their right to purchase contact lenses from optometrists or a third party, increasing and reducing healthcare choice and access for Americans across the country.

Onward,

Grover Norquist
President, Americans for Tax Reform