

**Statement of Ranking Member Frank Pallone, Jr.
House Energy and Commerce Committee
Committee on Energy and Commerce
Markup of H.R. 5510, FTC Process and Transparency Reform Act of
2016; H.R. 5111, Consumer Review Fairness Act;
H.R. 5092, Reinforcing American Made Products Act;
H.R. 5104, Better Online Ticket Sales (BOTS) Act, H.R. 1301, Amateur
Radio Parity Act of 2015; HR 3299, Strengthening Public Health
Emergency Response Act of 2015; H.R. 921, Sports Medicine Licensure
Clarity Act of 2015; and
H.R. 670, Special Needs Trust Fairness Act of 2015.**

July 12-13, 2016

Thank you Mr. Chairman. This is our last chance to move meaningful legislation through the committee process before the extended July-August recess. Unfortunately, instead of working together to help our constituents, we are faced today with the majority's systematic attempt to dismantle the one agency, the Federal Trade Commission, whose mission is to protect consumers from unscrupulous actors in the marketplace.

The GOP's process bill, H.R. 5510, does not help innovation; instead, it makes consumers less confident that they are being protected and therefore less likely to trust the newest technologies. This morning, at our FCC

Oversight hearing, I pointed to a recent study by the National Telecommunications and Information Administration that found 84 percent of Americans are worried about their privacy and security online. Half of the households surveyed are so worried about their privacy that they limit their online activities.

It's not only Democrats who have voiced concerns. Last month, at a hearing on privacy and internet service providers, the lead Republican witness raised concerns about this bill.

That hearing also highlighted the majority's unique ability to speak out of both sides of its mouth at the same time. During the hearing, we heard my Republican colleagues and the Republican witnesses continually praise FTC's enforcement and oversight. Now, this month, the majority seeks to move a bill that undermines the FTC's enforcement abilities. It's ironic that my colleagues would praise the FTC and its expertise, while at the same time advancing a bill through the Committee that would cut the FTC's legs out from under it.

The Republican process bill before us today would gut the FTC of *even* its limited authorities. Among its numerous deficiencies, this bill would weaken FTC's major enforcement tool by capping consent orders at eight years. It also would create major loopholes that allow bad actors to avoid enforcement by relying on outdated or irrelevant guidance or by using stall tactics to force automatic closures of investigations.

Mr. Chairman, marking up this bill today is frankly a waste of this committee's time. We should be focusing on bills that have bipartisan support and can be signed into law, not those that are election-year schemes that may not make it to the House floor, let alone make through the Senate.

Today we are also considering seven other bills, including H.R. 5111, the Consumer Review Fairness Act, a bill that would protect the free speech of online reviewers. I support this bill. Companies should not be including non-disparagement clauses in their terms-of-service agreements.

I also support H.R. 5104, the Better Online Tickets Act that prohibits bots, sophisticated ticket-buying software that can buy up hundreds of tickets in a matter of minutes or even seconds, long before a consumer even gets around to looking at the ticket selling website. However, as we heard in testimony, bots are only a small part of the ticketing challenges facing consumers. That is why I supported moving Mr. Pascrell's Better Oversight of Secondary Sales and Accountability in Concert Ticketing, or the BOSS Act, which seeks to address a number of transparency issues.

Regarding H.R. 5092, the Reinforcing American Made Products Act, I am sympathetic to the calls for a national standard for what is "Made in the U.S.A" but I do not want to diminish state enforcement tools. Therefore, I can only support final passage if it includes the amendment that Mr. Kennedy will offer to ensure that states can enforce the national standard.

We also are considering H.R. 1301, the Amateur Radio Parity Act. Amateur radio provides essential services in times of emergency. I support the bipartisan amendment in the nature of a substitute negotiated by Chairman

Walden and Ranking Member Eshoo. It addresses concerns raised by stakeholders, while providing amateur radio services with better access to build facilities.

As to the health bills, while I support the intent of H.R. 3299, I have serious concerns about creating a new, permanent priority review voucher program absent evidence that this incentive is needed or works. GAO has conducted only one study of an existing priority review voucher program. To date, we have not seen evidence that the program works as intended – but we are aware of serious and unresolved issues with existing PRV programs. These issues have allowed certain manufacturers to receive this valuable incentive without any new research or the requirement to make the product available to those in need. Making such an incentive permanent will only perpetuate known failures in existing PRV programs. It will also further devalue this incentive for other important development areas such as neglected tropical and rare pediatric diseases.

I also have serious concerns with delegating contracting authority directly to the BARDA Director. As the Acting BARDA Director made clear at the hearing, the data does not support the need for this change and this structure raises program integrity issues.

I support H.R. 921, the Sports Medicine Licensure Clarity Act that will ensure that sports medicine professionals are covered by their liability insurance while they are traveling with their teams. This is a commonsense bill that solves a problem unique to sports medicine professionals since they travel around the country with their teams. The bill does not allow these providers to practice beyond the scope of their license or to treat athletes off the field. I'm pleased that the sponsors were able to work with the Committee and stakeholders to ensure that the bill achieves the right balance.

H.R. 670, the Special Needs Trust Fairness Act, is bipartisan legislation that would allow individuals to set up special needs trusts for themselves without a court petition. This is also a commonsense, policy that will help individuals with disabilities. I have championed this legislation for multiple

Congresses and believe that it should be enacted into law. However, this bipartisan bill has been amended by policies that have not been considered by our members. This is not transparent, and circumvents a process that is in place for a reason. I do not believe these policies have been thoroughly reviewed and therefore I simply cannot vote in favor of this legislation moving forward if these extraneous policies are adopted. I hope that we can work together to make the necessary changes.

Thank you, I yield back.