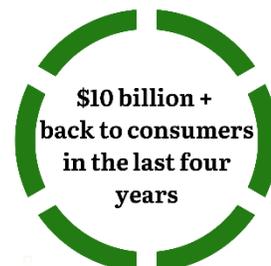


## H.R. 2668 Would Restore FTC's Powers to Stop Scams, Refund Victims

The Federal Trade Commission, the nation's chief consumer agency charged with protecting people against fraud and deception, monitors the marketplace, and investigates and identifies unfair, deceptive or fraudulent activities that may be cheating or ripping off families, students, veterans, older Americans or small businesses. The FTC's battle against scams has intensified recently, as it reported receiving 2.2 million fraud reports from consumers in 2020, in the midst of the COVID-19 crisis -- an almost 33% jump from the year before.

To stop fraud, unfair and deceptive practices, the FTC's most valuable tool has been to file cases and request court orders to stop misconduct and require full redress for harmed consumers in each case. For decades, the FTC has taken action under Section 13(b) of the Federal Trade Commission Act, returning [billions of dollars](#) to harmed consumers.



**With Section 13(b), the FTC fights unfair, deceptive and fraudulent practices that steal from consumers' pockets every day.** It has fought to combat misleading [advertising claims](#) to consumers. It has reimbursed [students and veterans](#) cheated by for-profit colleges and secured [refunds](#) to people who lost money to student loan debt relief schemes. It protected [small businesses](#) from deceptive merchant predatory lenders that overcharged and deceived them. And it has [protected seniors](#) from phony health cures and money-making schemes.



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### **Dramatic Shift in Court Decisions Guts FTC's Ability to Get Adequate Remedies**

In a recent interpretation of the law, [the U.S. Supreme Court](#) held that the FTC does not have the power through the court to require violators of the law to return their ill-gotten gains to harmed consumers. The decision wipes out the FTC's primary way of returning money to fraud victims.

Causing even more confusion, courts have also ruled recently that the FTC Act limits how and when the FTC can request a court order (injunction) to stop bad behavior. The FTC may not, for example, request an injunction against a scammer that had recently stopped its illegal conduct. This approach hurts consumers and honest business competitors because without an injunction, the scammer can easily restart its predatory practices.

In this new era, bad actors will be able to keep the profits they raked in from their illegal acts. Predatory lenders, tech monopolies, unscrupulous advertisers and others will be emboldened now that the FTC's power to catch, stop and deter rip-offs has been stifled.

## **Ongoing FTC Cases Potentially Affecting Millions of People are at Risk**

The Supreme Court limited the FTC's power in a case involving a payday lending scheme that charged undisclosed fees and threatened borrowers to collect. Ongoing cases are at risk:

- ❖ a scam that used fake rental property ads to trick people into buying credit monitoring services;
- ❖ a payment processor that actively assisted a business-opportunity scam that took millions from consumers by opening up 40+ merchant accounts;
- ❖ an online lender that marketed "no hidden fees" but charged hundreds of millions in hidden fees.

## **Congress Must Clarify FTC's Role in Stopping, Deterring Bad Actors, Refunding Victims**

The FTC needs clear authority to adequately fight scams and deceptive conduct. Defrauded and deceived consumers deserve compensation from bad actors that violate the law. In turn, the threat of restitution, injunctions and other penalties will deter potential wrongdoers.

Other FTC Act tools are not sufficient to get consumer relief, return stolen funds and to stop certain violations.

**Congress must amend the FTC Act to confirm clearly the FTC's authority to:**

- (a) stop ongoing, imminent or past violations of the law;
- (b) ensure deceptive and dishonest players do not profit off of their misconduct; and
- (c) provide full remedies, including cash refunds, to harmed consumers.

*The Consumer Protection and Recovery Act, H.R. 2668*, would amend section 13(b) of the FTC Act to explicitly provide the FTC with the powers that courts have taken away. It specifies that the FTC may pursue restitution for losses, money refunds, return of property and other remedies. It authorizes the FTC to seek court orders requiring bad actors to repay unjust gains from violating the law. As the country strives to overcome the fallout from the COVID-19 era, the bill would empower the FTC to go after fraudsters and provide refunds to harmed consumers.

## **FTC Needs More Resources to Do Its Job**

Fixing the FTC's enforcement authority is the bare minimum needed to restore its ability to enforce the law and make victims whole. The FTC also needs the right to obtain civil penalties directly; to issue rules under the Administrative Procedures Act like other federal agencies; and additional resources to fulfill its broad mission.