



February 23, 2026

Harvey Epstein, Chair
Committee on Consumer and Worker Protection
New York City Council
New York, NY 10007

Dear Chair Epstein and Members of the Committee on Consumer and Worker Protection:

The National Association of Consumer Advocates (NACA) is a nonprofit organization actively engaged in promoting a fair and open marketplace that forcefully protects the rights of consumers. We appreciate this opportunity to appear before you to share our views on the oversight and enforcement of consumer protection law in New York City. As the global center for business and commerce, New York City should also serve as a model for protecting and empowering individual consumers, particularly the most vulnerable among us, in the marketplace.

New York tackles unfair, deceptive and abusive business practices

In January 2025, as the Consumer Financial Protection Bureau prepared to transition to the current administration's control, the federal agency under the former administration issued a recommendation to states to "refresh" their decades-old UDAP statutes.¹ In December 2025, New York Gov. Kathy Hochul signed into law Senate Bill 8416, the Fostering Affordability and Integrity through Reasonable Business Practices Act (FAIR Act), an update to New York's consumer protection statute in Section 349 of New York's General Business Law. In light of the federal government's actions over the past year to quash consumer protections and incapacitate regulators, New York and now New York City's move to modernize its laws and boost safeguards for working families and small businesses is not only timely, but crucial.

Before the FAIR Act, the state consumer law prohibited *deceptive* business practices, and it authorized the attorney general and private consumers to bring legal action to enforce it. The new law, which expands the state's consumer protections to prohibit *unfair* and *abusive* business acts or practices, brings New York on par with other states that combat unfair practices, and aligns it with federal standards against abusive practices.²

While New York's updated UDAP law represents a significant and positive step for consumer protection, it leaves an unmistakable enforcement gap that will obstruct the state's ability to achieve its goals. According to the FAIR Act, *only* the attorney general, and not harmed individuals, will be able to bring legal claims against bad actors that commit unfair or abusive practices against the state's residents.

¹ Consumer Financial Protection Bureau, *Strengthening State-Level Consumer Protections, Promoting Consumer Protection Federalism*, Jan. 2025, https://files.consumerfinance.gov/f/documents/cfpb_strengthening-state-level-consumer-protections_2025-01.pdf.

² The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 prohibits unfair, deceptive, or abusive acts or practices (UDAAP).

For decades, laws that prohibit unfair, deceptive, and abusive acts and practices, or UDAAP laws, have been crucial for enabling state governments and individual consumers to confront and stop harmful business practices that affect consumers' everyday lives. State and federal officials, and private individuals have enforced UDAAP laws to tackle misconduct, including in the marketing of products and services, such as identity theft protection, bank overdraft programs and credit card account practices.³ UDAAP also covers insidious practices such as hidden up-front fees and charges without consumer consent in services such as debt settlement and subscriptions; unauthorized tracking and data collection in online applications; bait-and-switch tactics in auto sales; delayed or withheld disclosures in sectors, such as mortgage servicing.⁴ These days, consumers also face unfair and deceptive schemes connected to the purported use of artificial intelligence and other evolving technology.⁵

Public and private: the 'complementary relationship' for enforcing consumer protections

As products and services evolve, state and federal consumer protection statutes have combatted a wide range of misconduct due to the "complementary relationship among federal, state, and private enforcement."⁶ Federal agencies such as the Federal Trade Commission and the Consumer Financial Protection Bureau exercise their UDAP/UDAAP authority and enforce consumer laws under their respective jurisdictions. State governments through their attorneys general and other public offices also initiate lawsuits against perpetrators to protect their residents.

It is also important to note that most federal consumer protection statutes and many states rely on consumer-led private enforcement, that is, affected consumers file individual legal actions against wrongdoers. These laws empower harmed consumers to act as "private attorneys general," and give them "direct access to adequate remedies."⁷ To ensure continuous enforcement and to make legal help accessible and affordable to everyday families, many state and federal consumer protection and civil rights laws also include provisions that allow consumers to recover their legal fees directly from the wrongdoer after successful resolution of their cases. Under these provisions, people who cannot afford to pay for legal help upfront can still enforce important rights. It also assures legislators that the protective laws they pass are enforceable by the persons they were meant to protect.

These private enforcement provisions serve multiple purposes. First, harmed individuals bear the brunt of the costs that unfair and deceptive practices impose. When companies break the law, an individual's private right of action to seek remedies ensures that at least a portion of the cost of the misconduct will transfer back to the wrongdoer that compensates victims. Second,

³ See, OCC, Comptroller's Handbook, *Unfair or Deceptive Acts or Practices and Unfair, Deceptive, or Abusive Acts or Practices Version 1.1*, December 2024, <https://www.occ.gov/publications-and-resources/publications/comptrollers-handbook/files/unfair-deceptive-act/pub-ch-udap-udaap.pdf>.

⁴ See, also, Myriam Gilles, *The Private Attorney General In A Time Of Hyper-Polarized Politics*, <https://arizonalawreview.org/pdf/65-2/65sarizlrev337.pdf>.

⁵ See, e.g. Federal Trade Commission, *FTC Announces Crackdown on Deceptive AI Claims and Schemes*, September 25, 2024, <https://www.ftc.gov/news-events/news/press-releases/2024/09/ftc-announces-crackdown-deceptive-ai-claims-schemes>.

⁶ See Pridgen, *The Dynamic Duo of Consumer Protection: State and Private Enforcement of Unfair and Deceptive Trade Practices Laws* (2018). Faculty Articles, https://scholarship.law.uwyo.edu/faculty_articles/13.

⁷ Pridgen, https://scholarship.law.uwyo.edu/cgi/viewcontent.cgi?article=1012&context=faculty_articles.

consumer-led enforcement or a private right of action is a smart and prudent strategy to deter companies from breaking the law, imposing little cost to the public or the government, while benefitting both. Third, as political winds change, consumer-led private enforcement allows for consistent and predictable administration of laws, with the judicial system as its anchor.⁸

Fourth, consumer-led enforcement supplements our limited public resources. New York City, like other federal, state and local jurisdictions, lacks sufficient resources to pursue every act of misconduct impacting every consumer.⁹ Public enforcement activity is structured to pursue cases that would have the largest impact, rather than smaller or individual disputes that private individuals or groups of individuals can address. And fifth, consumer-initiated enforcement, which stops and deters illegal conduct, also provides an indirect remedy for law-abiding businesses damaged by the unlawful practices of their competitors. These provisions, that authorize attorney general and private consumer-led enforcement, carry out the fundamental purposes of our consumer laws.

NYC can close the enforcement gap in its consumer laws

New York City has an opportunity to implement long-established and proven consumer protections and to facilitate broad and vigorous enforcement of its laws. We recommend that the New York City Council take the following steps to enhance its residents' rights:

- Grant a right of action, through individual and class actions, and access to damages and injunctive relief to its millions of residents, which would allow and encourage them to enforce the City's consumer protections;
- Require companies to pay the legal fees of the consumers who win cases against them;
- Permit public interest organizations to act on behalf of consumers in appropriate circumstances;
- Make these rights and remedies unwaivable in consumer contracts to prevent companies from using their outsized bargaining power to suppress them in the fine print.¹⁰

These consumer rights will empower everyday consumers; deter predatory tactics, deception, and fraud in consumer transactions; level the playing field for law-abiding businesses; and bolster the City's reputation as a leader in commerce as well as consumer protection.

We appreciate your time and consideration of our views.

Sincerely,

Christine Hines
Senior Policy Director

⁸ Myriam Gilles, *The Private Attorney General In A Time Of Hyper-Polarized Politics*, <https://arizonalawreview.org/pdf/65-2/65arizrev337.pdf>.

⁹ See, e.g. Deirdre Sullivan, *Taking Matters into Your Own Hands; Using the Private Rights of Action in UDAP Statutes to Hold Businesses Accountable for Data Breaches*, 2 Student J. Info. Priv. L. (2024), <https://digitalcommons.maine.gov/sjip/vol2/iss1/5/>.

¹⁰ Andrea J. Boyack, *Abuse of Contract: Boilerplate Erasure of Consumer Counterparty Rights*, 110 Iowa L. Rev. 497 (2025), <https://ilr.law.uiowa.edu/volume-110-issue-2/abuse-contract-boilerplate-erasure-consumer-counterparty-rights>.