




County of Fairfax, Virginia

MEMORANDUM

DATE: May 11, 2021

TO: Consumer Protection Commission

FROM: Michael S. Liberman, Director 
Department of Cable and Consumer Services

SUBJECT: Consumer Protection Commission Meeting for May 18, 2021

Please find attached the Consumer Protection Commission meeting package. The next scheduled meeting is **Tuesday, May 18, 2021, 7:30 p.m.** This meeting will be held via a video connection due to the COVID-19 pandemic.

To join the meeting:

Click:

<https://us02web.zoom.us/j/82891284748?pwd=T0YvWmoyQ2g4MHBwRmZiWWhRalQ0UT09>

Enter Password: 058965

Audio-only participation:

Dial: 888-270-9936

Enter Code: 584548

Please RSVP with your attendance to Susan Jones by COB on Monday, May 17, 2021, at susan.jones@fairfaxcounty.gov or 703-324-5877.

Enclosures

cc: Joseph M. Mondoro, Chief Financial Officer
Office of the County Executive

Rebecca L. Makely, Director
Consumer Services Division, DCCS



**FAIRFAX COUNTY
CONSUMER PROTECTION COMMISSION
May 18, 2021 AGENDA**

Call to Order by the Chairman (7:30 PM)

Minutes

- Draft of the April 20, 2021, meeting minutes attached.

Report of the Chairman

Report of the Director

Commission Matters

Old Business

New Business

- Fairfax Area Agency on Aging
- One Fairfax Policy Acknowledgement

General Interest

- Consumer Protection Commission Calendar
- Consumer Protection Commission Membership
- Consumer Affairs Statistics
- Community Outreach
- Consumer Resources

Minutes of the Fairfax County Consumer Protection Commission

April 20, 2021

7:30 PM
Zoom Video Meeting
Chairman Fee presiding

Attendance:

Commissioners: Belkowitz, Callender, Fee,
Gulakowski, Hargraves, Hine, Kirk, Kratovil,
Roark, Rosier

Absent:

Commissioners: Javed

Staff:

Michael S. Liberman, Director
Cable and Consumer Services
(Fairfax)
Rebecca L. Makely, Director
Consumer Services Division
(Suite 433)
John W. Burton, Assistant County Attorney
Office of the County Attorney
(Suite 549)
Susan C. Jones, Branch Chief
Consumer Affairs Branch
(Springfield)
Carl Newcomb, Branch Chief
Regulation and Licensing Branch
(Burke)

The electronic meeting was called to order at 7:31 PM by Chairman Fee.

Quorum, Location, and Audibility of Members' Voices

Chairman Fee conducted a Roll Call to verify that a quorum of members were participating; and that each member's voice was clear, audible, and at appropriate volume for all of the other members; and the location from which each member was participating. The roll call was as follows:

Chairman Fee, Burke
Commissioner Belkowitz, Fairfax City
Commissioner Callender, Great Falls
Commissioner Gulakowski, Burke
Commissioner Hargraves, Kingstown
Commissioner Hine, Fairfax
Commissioner Kirk, Falls Church
Commissioner Kratovil, Mount Vernon
Commissioner Rosier, Great Falls

Chairman Fee passed the virtual gavel to Vice Chairman Gulakowski. A motion was made by Chairman Fee that each member's voice was adequately heard by each member of the Consumer Protection Commission (Commission.) This motion was seconded by Commissioners Kirk and Callender. This motion passed 9-0, with Commissioner Roark absent from the vote.

Need for an Electronic Meeting

A motion was made by Chairman Fee that the State of Emergency caused by the COVID-19 pandemic made it unsafe for the Commission to physically assemble and unsafe for the public to physically attend any such meeting, and that as such, FOIA's usual procedures, which require the physical assembly of the Commission and the physical presence of the public, could not be implemented safely or practically. Chairman Fee further moved that the Commission conduct the meeting electronically through a dedicated audio-conferencing line, and that the public can access the meeting by calling 1-888-270-9936 and entering access code 584548. The motion was seconded by Commissioner Kirk. The motion passed 9-0, with Commissioner Roark absent from the vote.

Need to Dispense with FOIA's Usual Procedures to Assure Continuity in Government/Continue Operations

A motion was made by Chairman Fee that all of the matters addressed on the agenda addressed the Emergency itself, were necessary for continuity in Fairfax County government, and/or were statutorily required or necessary to continue operations and the discharge of the Commission's lawful purposes, duties, and responsibilities. This motion was seconded by Commissioner Kirk. This motion passed 10-0.

Minutes

The minutes for the March 16, 2021, meeting were approved without objection.

Report of the Chairman

Chairman Fee had no matters to bring before the Commission.

Report of the Director

Director Liberman stated the Board of Supervisors (BOS) held budget public hearings on April 13, 14, and 15, 2021, with approximately 150 participants speaking. On Friday, April 23, the BOS will conduct a pre-budget mark-up. On Tuesday, April 27, 2021, the annual budget mark-up for FY 2022 will be conducted at the BOS meeting.

Commission Matters

Commissioner Belkowitz had no matters to bring before the Commission.

Commissioner Callender had no matters to bring before the Commission.

Commissioner Gulakowski mentioned an article in the *Washington Post* on a survey from the Insurance Institute for Highway Safety regarding emergency room accidents involving pedestrians, cyclists, and e-scooters. The article highlighted the frequency rates of accidents for e-scooters.

Commissioner Hargraves stated he was appointed to the Police Civilian Review Panel. He noted the vaccine are now opened to persons 16 years old and above.

Commissioner Hine had no matters to bring before the Commission.

Commissioner Kirk had no matters to bring before the Commission.

Commissioner Kratovil had no matters to bring before the Commission.

Commissioner Roark had no matters to bring before the Commission.

Commissioner Rosier was encouraged by the County stepping up to provide COVID-19 vaccines. The Lord and Taylor building in Tysons Corner will be a location where vaccines are offered. Commissioner Rosier mentioned speaking to a senior citizen on a billing issue with Verizon. This person continued to receive zero billing invoices. Staff investigated the issue and found the person attempted to open an additional telephone line account. The person did not follow through, but Verizon kept the account open which caused the zero billing invoices. Verizon has closed the account. Commissioner Rosier expressed concern over the traffic construction on Interstate 66 into Fairfax County. Commissioner Rosier contacted Virginia Department of Transportation about the access to Nutley Street and Route 123 interchange that is not clearly marked and could lead to accidents.

Chairman Fee mentioned seeing an article involving an insurance scam where scammers were following the obituaries and contacting survivors claiming premiums were not paid. To receive the insurance payout, the person needed to pay off the premium.

Old Business

Rebecca Makely, Director, Consumer Services Division, reviewed the CPC attendance calendar. It was noted Commissioner Javed had been absent from Commission meetings since January 2020.

A discussion ensued on term expiration, Bylaw authority, quorum issues, and contact efforts. The Commission requested staff contact Commissioner Javed and inform the Clerk to the Board regarding his attendance.

New Business

1. Appeal Hearing: Massage Therapist Permit Denial

Present: Appellant Isabel Middleton, legal counsel Barry Schneiderman, and translator Kay Simmons.

Chairman Fee read the following statement of Commission Responsibility. All hearings or other public proceedings conducted by the Commission shall be conducted in an informal manner. The Commission shall have the discretion to admit all evidence which may be of probative value even if that evidence is not in accord with formal rules of legal practice and procedure.

Applicants and appellants may appear, either by personal appearance, legal counsel, or other representation, to present argument and evidence on their behalf. In addition, the Commission may establish rules of procedure for the conduct of hearings which are consistent with law. Any interested party may record all public proceedings of any hearing in any manner which will not impede the orderly conduct of the hearing.

Mr. Schneiderman delivered the Appellant's presentation on behalf of his client, Isabel Middleton. He stated Ms. Middleton was re-appealing the denial of her massage license from the end of 2019. The facts and evidence were presented at the last hearing and Ms. Middleton has not performed any massages since that time. The single offense of residing in a bawdy house in 2018 in Arlington County should not operate to automatically lead to the denial of Ms. Middleton's license. Ms. Middleton was only employed in the establishment for two days and was not aware of any illegal activity. Ms. Middleton did not engage in an improper activity or prostitution and was not charged with that offense. The customer, an undercover Arlington County Police Officer, was clothed, and was not improperly touched or offered services. Ms. Middleton did plead guilty to resolve the issue. In 2019, the Commission discussed their discretion to reverse or modify the decision of the Director. The decision was split, and the denial was upheld. The denial affected Ms. Middleton's livelihood which caused financial hardship. The Commission invited and encouraged Ms. Middleton to reapply for her massage therapist license after one year. We respectfully urge the Commission to mitigate her 10-year ineligibility under these circumstances and approve her license. Ms. Middleton's prior good record and subsequent good record should come into play. The Commission should exercise their right to reverse the Director's decision or substantially reduce the penalty to one year which Ms. Middleton has served and issue the massage therapist license.

Rebecca Makely with the Department of Cable and Consumer Services delivered the County's presentation. Chapter 28.1 of the Fairfax County Code provides for the permitting and regulation of massage therapists and massage establishments operating in the County for the protection of health, safety, and general welfare of its citizens. In Fairfax County, for any person to offer or administer a massage, a valid massage therapist permit must be issued by the Department of Cable and Consumer Services Regulation and Licensing Branch (RALB.)

On December 18, 2020, Isabel Middleton filed an application with RALB for a massage therapist permit. Pursuant to Fairfax County, the completed application shall contain, among other items, the applicant's criminal record and consent to allow the Department to obtain a search of the Central Criminal Records Exchange.

The Virginia State Police record dated December 21, 2020, on Ms. Middleton, obtained through the Central Criminal Records Exchange as part of the criminal background check process performed by RALB, found a criminal conviction in Arlington County General District Court on October 5, 2018, of the Code of Virginia Section 18.2-347: Misdemeanor, Prostitution: Keep Reside in Bawdy Place. Ms. Middleton pled guilty to the charge and received a sentence of sixty (60) days, suspended. This is a violation of Chapter 28.1-1-3(1) which states:

Conviction, plea of nolo contendere or a forfeiture on a charge of violating any provision of §§ 18.2-346, 18.2-347 through 18.2-349, 18.2-355 through 18.2-358, 18.2-361, 18.2-368, 18.2-370, 18.2-370.1, 18.2-371, 18.2-386.1 or 18.2-387 of the Code of Virginia, which laws relate to sexual offenses, or any provision of an ordinance of the

County or a law or ordinance of another jurisdiction which prohibits the same conduct, within the past ten (10) years.

When making the decision regarding issuance or denial of Ms. Middleton's massage therapist permit, staff deferred to Fairfax County Code Section 28.1-2-3(c) which states:

*"If the Director determines from the information contained in the permit application and from the Director's investigation that the applicant has committed one or more disqualifying offenses or is otherwise unqualified under this Chapter to administer massage therapy in the County, the Director **shall** deny the application."*

As a result of the information contained in the permit application and from the Director's investigation, the applicant had committed a disqualifying offense. Pursuant to Fairfax County Code Section 28.1-2-3(c) the Director denied the application.

On February 8, 2021, via Certified Mail Return Receipt Requested, County staff notified Ms. Middleton that based on the disqualifying offense her application was denied.

On February 22, 2021, Ms. Middleton's legal counsel Barry A. Schneiderman of Kincheloe & Schneiderman Attorneys at Law, filed a Notice of Appeal and Request for Hearing.

On March 12, 2021, Fairfax County sent Mr. Schneiderman and Ms. Middleton a letter confirming the appeal hearing for Tuesday, April 20, 2021, 7:30 p.m. to be held virtually due to the pandemic.

As a reminder for the Commission, Ms. Middleton's application was previously denied on September 30, 2019, for the same conviction previously noted.

Ms. Middleton appealed the September 30, 2019, application denial to the Consumer Protection Commission (CPC) and a hearing was held on December 17, 2019.

At the conclusion of that appeal hearing, the CPC voted 9-2 to uphold staff's denial of Ms. Middleton's application.

Subsequent to that motion and vote, further discussion ensued by the Commission. A motion was made that the CPC will uphold staff's decision for one year from that day December 17, 2019. That motion also passed 9-2.

Ms. Middleton has acted in accordance with the CPC December 17, 2019, motion and waited until December 18, 2020, to apply for a massage therapist permit.

Given the conviction of the Code of Virginia Section 18.2-347, which relates to sexual offenses, and Ms. Middleton's immediately related business, staff denied Ms. Middleton's application due to a disqualifying offense and in the interest of the health, safety, and welfare of the public.

After review and consideration, the CPC can make a motion to affirm, modify, or reverse the decision of the Director.

Questions ensued on the County's position in 2019 that the applicant must reapply for a massage therapist permit after one year; did staff update the criminal background search on the applicant; does the applicant have a license in another jurisdiction; did the applicant disclose prior record on the September 2019 application; police report indicating sexual contact; did the applicant admit to the offense; provision in the code that gives the CPC the ability to modify or amend the ten year threshold on a case by case basis; how does the CPC work around the code to be able to modify or reverse staff's denial; applicant's ability to support family without a license; was appellant represented by counsel when pleading guilty to the misdemeanor; Director's discretion to review charges if the application is denied again; has the commission modified a decision in the past; and is the license on a 12-month renewable schedule.

Further questions ensued on the applicant's state license, whether the state follows the same licensing guidelines, would the criminal charge be reviewed every year by staff, is the code subjective and the enforcement of its provisions flexible, how the 10-year charge can affect the livelihood of the applicant and whether the applicant understands why she is at the appeal hearing, and whether Fairfax County Code Section 31.2-14 (E) which states if the Commission reverses the decision of the director, the Commission shall direct the Director to issue or restore the license in accordance with it orders would allow the Director the ability not to deny the license in the future. Staff and counsel responded to the questions.

Barry Schneiderman presented a closing statement that the Commission sees a basis for mitigating the harsh penalty that was imposed and based on the discussions found a way to mitigate that penalty. The Commission's ruling last year did deny Ms. Middleton her license but gave Ms. Middleton the option to reapply this year and that the Commission would be willing to take a fair look at the issue.

Ms. Middleton did not have any further incidents. Ms. Middleton is asking the Commission to reverse this penalty and allow her to practice her profession.

Rebecca Makely presented the County's closing statement stating while staff are respectful and mindful of the discussion by the Commission and the presentation by the Appellant; staff continues to defer to the County Code in this regard.

Chairman Fee made the motion to grant the Appellant's application for a massage therapist license effective December 18, 2020. Commissioner Hargraves seconded the motion.

Commissioner Belkowitz made a motion to amend the Chairman's motion to not make the license retroactive from December 18, 2020, but to make it effective today, April 20, 2021, and to also direct the department to exclude this offense from future application for massage therapist license filed by the Appellant. Chairman Fee agreed to the first part of the motion as a friendly amendment but felt the second part was directed to staff and a different matter. Commission Belkowitz restated in accordance with Fairfax County Code Section 31-2-14(A)-(E) it is applicable. A request was made to read the sections of Code which read if the Commission reverses the decision of the Director, the Commission shall direct the Director to issue or restore the license in accordance with its orders. Commissioner Kirk spoke on the regulatory authority of the Director and that the offense would have to appear each year on the appellant's application. Commissioner Rosier stated she would second both parts of the motion once the verbiage was clear.

After further discussion on the main motion and subsequent motion, Chairman Fee withdrew his main motion.

Commissioner Kratovil stated he believes it is problematic that the Commission is reversing a decision made by the Director and puts the Commission and, therefore, the Director at odds with the Code. He understands the Commission has the authority do that and would suggest staff figure a way to revise the proceeding rules for the Commission to note that what we are doing tonight is a permissible role and authority of the Commission. A plain reading of the code should make the Commission's decision crystal clear.

After further discussion, Commissioner Belkowitz made the following motion:

Motion to reverse the decision of the Director, to include directing staff to issue Ms. Middleton's Massage Therapist permit effective April 20, 2021, provided that she is otherwise eligible for a Massage Therapist permit. Further the CPC directs staff not to automatically deny future Massage Therapist permit applications and/or renewals by Ms. Middleton on the grounds of the October 5, 2018, conviction alone.

The motion was seconded by Commissioner Rosier. The motion passed 6-4 with Commissioners Belkowitz, Callender, Hargraves, Kratovil, Rosier, and Fee voting in support of the motion and Commissioners Gulakowski, Hine, Kirk, and Roark voting in opposition of the motion.

Chairman Fee made a motion to adjourn. Commissioner Gulakowski seconded the motion. The motion passed unanimously. The meeting adjourned at 9:07 PM.

CPC Calendar

Fairfax County
Consumer Protection Commission
2021 Yearly Planning Calendar
May 18, 2021

- January 19 | Election of Officers
- February 16 | Bylaws
| COVID-19 Scams Presentation
- March 16 | Bylaws Approval
| Legislative Update
- April 20 | Appeal Hearing-Massage Therapist Permit Denial
- May 18 | Fairfax Area Agency on Aging
| One Fairfax Policy Acknowledgement
- June 15
- July 20
- August 17
- September 21
- October 19
- November 16
- December 21

CPC Membership

Name

Staff

Harold G. Belkowitz
Appt. Expires 7/31/2021

Wes Callender
Appt. Expires 7/31/2021

John Fee (Chairperson)
Appt. Expires 7/31/2021

Denis Gulakowski (Vice-Chairperson)
Appt. Expires 7/31/2021

Dirck A. Hargraves
Appt. Expires 7/31/2023

Scott Hine
Appt. Expires 7/31/2021

Dennis D. Kirk
Appt. Expires 7/31/2022

Jason J. Kratovil
Appt. Expires: 7/31/2021

Michael J. Roark
Appt. Expires 7/31/2023

Jacqueline Rosier (Secretary)
Appt. Expires 7/31/2022

Michael S. Liberman, Director
Department of Cable and Consumer Services
michael.liberman@fairfaxcounty.gov

Rebecca L. Makely, Director
Consumer Services Division
703-324-5947
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Susan Jones, Chief
Consumer Affairs Branch
703-324-5877
susan.jones@fairfaxcounty.gov

Main number: 703-222-8435
Fax number: 703-653-1310
consumer@fairfaxcounty.gov

CAB Statistics



Consumer Affairs Branch
Monthly Summary - All Activities
April 2021

	Current Month		Fiscal Year-to-Date		Prior Fiscal YTD	
Cases Received	75		751		824	
Cases Closed	53		652		697	
Favorable	26	49%	361	55%	422	61%
Unfavorable	4	8%	52	8%	49	7%
Invalid	0	0	23	4%	38	5%
Other	23	43%	216	33%	188	27%
Advice Inquires (closed)	422		4053		7227	
Case Inquires over 90+days (open)	23		192		299	
Amount Received	\$8,549.00		\$330,111.00		\$524,546.00	

CLOSED COMPLAINT CATEGORIES

FISCAL YEAR-TO-DATE	% FYTD	PRIOR FISCAL YTD	% PRIOR FYTD
Tenant Landlord	26%	Tenant Landlord	31%
Cable Television (Regulated)	15%	Cable Television (Regulated)	11%
Housing	13%	Housing - Service	10%
Automotive	13%	Automotive - Towing	9%
Retail	6%	Retail Stores	5%
Other	27%	Other	34%

Community Outreach

OUTREACH EVENT CALENDAR

May 2021

DATE	EVENT	LOCATION	# of Guests	Event Time	Staff
5/3/2021	YCYC: Association Communication	Fairfax County Government Center 12000 Fairfax County Parkway Fairfax, VA		8:00 a.m. - 8:30 a.m.	MLT
5/12/2021	Setting Financial Goals	Financial Empowerment Center (virtual) 8350 Richmond Highway Alexandria, VA		1:00 p.m. - 2:00 p.m.	VFJ
5/17/2021	Consumer Connection: Funeral Planning	Fairfax County Government (virtual) 12000 Government Center Parkway Fairfax, VA		10:00 a.m. - 10:20 a.m.	SCJ/ WWS
5/19/2021	How to Block Unwanted Calls	George Mason Regional Library (virtual) 7001 Little River Turnpike Annandale, VA		10:00 a.m. - 11:00 a.m.	MLT

OUTREACH EVENT CALENDAR

June 2021

DATE	EVENT	LOCATION	# of Guests	Event Time	Staff
6/9/2021	Building a Better Credit Report	Financial Empowerment Center (virtual) 8350 Richmond Highway Alexandria, VA		1:00 p.m. - 2:00 p.m.	VFJ
6/23/2021	Employee Financial Fitness	Fairfax County Government (virtual) 12000 Government Center Parkway Fairfax, VA		10:00 a.m. - 12:00 p.m.	VFJ
6/24/2021	Consumer Connection: Tenant-Landlord 101	Fairfax County Government (virtual) 12000 Government Center Parkway Fairfax, VA		10:00 a.m. - 10:30 a.m.	SCJ/ VFJ

Consumer Resources

Resource Items

Fairfax County Department of Cable and Consumer Services

<https://www.fairfaxcounty.gov/cableconsumer>

Fairfax County Consumer Affairs Branch

<https://www.fairfaxcounty.gov/cableconsumer/csd/consumer>

Fairfax County Consumer Affairs Facebook

<https://www.facebook.com/fairfaxcountyconsumer/>

Fairfax County Coronavirus (COVID-19) Updates

[Fairfaxcounty.gov/covid19/](https://www.fairfaxcounty.gov/covid19/)

Ways to Stay Informed About Coronavirus (COVID-19)

<https://fairfaxcountyemergency.wpcomstaging.com/>

Ways to Donate and Help During COVID-19

<https://fairfaxcountyemergency.wpcomstaging.com/2020/03/25/ways-to-donate-and-help-during-covid-19/>

What to Know About Tenant-Landlord Rights During COVID-19

<https://fairfaxcountyemergency.wpcomstaging.com/2020/11/17/what-to-know-about-tenant-landlord-rights-during-covid-19/>

DCCS Operating Status

<https://www.fairfaxcounty.gov/cableconsumer/status>,

Consumer Connection: Medical Billing (April 20, 2021)

<https://fb.watch/5c254a84H2/>

Your Community, You're Connected: Consumer Disclosure During Resale (May 3, 2021)

<https://www.fairfaxcounty.gov/cableconsumer/channel-16/your-community-youre-connected>

Scam Jam 2021 (April 23, 2021)

[Scam Jam - Zoom](#)

Passcode: 05c8A^gi

Information Items

Emergency Broadband Benefit

The Emergency Broadband Benefit is an FCC program to help families and households struggling to afford internet service during the COVID-19 pandemic. This new benefit will connect eligible households to jobs, critical healthcare services, virtual classrooms, and so much more. [[More](#)]

13 Costco Scams Warehouse Shoppers Should Beware

Joan, 79, a widow in Myrtle Beach, South Carolina, got an email inviting her to take an online survey about Costco Wholesale. A former customer, she didn't hesitate, thinking it was a way to entice her to return. She was promised a gift for answering the survey and chose "a little, tiny, one-ounce bottle of CBD oil, because I never tried it." [[More](#)]

Dark patterns, the tricks websites use to make you say yes, explained

If you're an Instagram user, you may have recently seen a pop-up asking if you want the service to "use your app and website activity" to "provide a better ads experience." At the bottom there are two boxes: In a slightly darker shade of black than the pop-up background, you can choose to "Make ads less personalized." A bright blue box urges users to "Make ads more personalized."

[\[More\]](#)

Amazon is bringing palm-scanning payment system to Whole Foods stores

Amazon will initially roll out Amazon One at the Whole Foods in Seattle's Capitol Hill neighborhood, not far from the company's headquarters.

[\[More\]](#)

Emergency Broadband Benefit

The Emergency Broadband Benefit is an FCC program to help families and households struggling to afford internet service during the COVID-19 pandemic. This new benefit will connect eligible households to jobs, critical healthcare services, virtual classrooms, and so much more.

"We need to use all available tools to get 100% of us connected in this country and this program is an essential part of making that happen." Acting Chairwoman Jessica Rosenworcel

About the Emergency Broadband Benefit

The Emergency Broadband Benefit will provide a discount of up to \$50 per month towards broadband service for eligible households and up to \$75 per month for households on qualifying Tribal lands. Eligible households can also receive a one-time discount of up to \$100 to purchase a laptop, desktop computer, or tablet from participating providers if they contribute more than \$10 and less than \$50 toward the purchase price.

The Emergency Broadband Benefit is limited to one monthly service discount and one device discount per household.

Who Is Eligible for the Emergency Broadband Benefit Program?

A household is eligible if a member of the household meets *one* of the criteria below:

- Has an income that is at or below 135% of the Federal Poverty Guidelines or participates in certain assistance programs, such as SNAP, Medicaid, or Lifeline;
- Approved to receive benefits under the free and reduced-price school lunch program or the school breakfast program, including through the USDA Community Eligibility Provision in the 2019-2020 or 2020-2021 school year;
- Received a Federal Pell Grant during the current award year;
- Experienced a substantial loss of income due to job loss or furlough since February 29, 2020 and the household had a total income in 2020 at or below \$99,000 for single filers and \$198,000 for joint filers; or
- Meets the eligibility criteria for a participating provider's existing low-income or COVID-19 program.

When Can I Sign Up for the Benefit?

As of May 12, 2021, eligible households will be able to enroll in the program to receive a monthly discount off the cost of broadband service from an approved provider. Eligible households can enroll through an approved provider or by visiting <https://getemergencybroadband.org>.

Check out the Broadband Benefit Consumer FAQ for more information about the benefit and please continue to check this page for program updates.

Which Broadband Providers Are Participating in the Emergency Broadband Benefit?

Various broadband providers, including those offering landline and wireless broadband, are participating in the Emergency Broadband Benefit. Find broadband service providers offering the Emergency Broadband Benefit in your state or territory.

13 Costco Scams Warehouse Shoppers Should Beware

The real Costco is not behind the pervasive cons that co-opt its name

by Marie Rohde, AARP, April 5, 2021



XINHUA NEWS AGENCY / GETTY IMAGES

Joan, 79, a widow in Myrtle Beach, South Carolina, got an email inviting her to take an online survey about Costco Wholesale. A former customer, she didn't hesitate, thinking it was a way to entice her to return. She was promised a gift for answering the survey and chose "a little, tiny, one-ounce bottle of CBD oil, because I never tried it."

A retired postal worker, Joan used a debit card to pay a \$5.95 fee for shipping and handling. Instead, she was charged \$95 — more than she had in her checking account — and slapped with a \$35 overdraft fee.

Aghast at the CBD oil's price tag, Joan used certified mail to return the package to the company and records show it arrived Jan. 7. She's called a toll-free number for the company multiple times for a refund, to no avail. "I have spoken to 11 different customer service guys," she says, and "received 11 different excuses."

AARP is not naming the business. Its address is a UPS Store near Los Angeles; it is not registered with California; and a call to its phone number went to a call center, where a

supervisor, “Marco,” when asked about the potential fraud, said he did not want to be rude, but was hanging up. And he did.

13 Costco scams to avoid

1. Fraudulent satisfaction survey
2. Fraudulent Facebook post
3. Fraudulent survey
4. Texts regarding loyalty reward
5. Overcharge reimbursement texts
6. Survey with exclusive offers
7. Free television
8. Coronavirus stimulus
9. Exclusive giveaway
10. Fake interview confirmation
11. Fraudulent Executive Rewards redemption
12. Citi Rewards direct deposit scam
13. Redeem your gift card!

Source: Costco

Scams add up to a baker's dozen

Joan is not alone in having been ripped off by crooks who hijack Costco's name — and hide behind it — to steal cash and personal data. These criminals reach out in emails, texts, phone calls and posts on social media.

"It is an unfortunate fact of the Internet that at any given time there are numerous illegitimate pop-up ads, surveys, websites, emails, social media posts and advertisements that purport to be from or authorized by Costco," the retailer says on its website. "It is unlikely that Costco is affiliated with these promotions." The site lists 13 "currently known scams" including:

- A fake Facebook post showing a photo of Costco CEO Craig Jelinek who promises a "free Christmas food box" with \$250 in groceries plus a \$35 Costco "voucher" delivered straight to the door of every person who shared the post within 24 hours.
- A sham offer of a free Samsung 4K television — providing you complete a survey — as a way to "personally thank you for always paying your Costco Companies Inc. bills on

time.”

- A phony offer of a \$500 Costco Travel credit or Shop Card for completing a survey or a reduced-price travel package in exchange for giving up personal information. (A Costco Shop Card is a reloadable card used to pay for items.) This scam starts in phone calls to both members and nonmembers, the site says, and some calls are “spoofed” so that the number on CallerID looks local.

Giant global footprint

Costco has 559 warehouse stores in the U.S. and 247 in other countries. Why are its no-frills megastores popular? They may not be Arlo Guthrie's Alice's Restaurant of film and song, but you can get almost anything you want at Costco: a hot dog and soda for \$1.50; organic fare and junk food; flowers and wine; dog chow and diamond rings; clothing, appliances and electronics; a vacation and, for one's final journey, a casket.

People pay an annual fee starting at \$60 to shop at Costco, which reports 108.3 million cardholders worldwide.

Anti-scam advice online

Costco posts lengthy anti-scam guidance online. Richard A. Galanti, executive vice president, chief financial officer and a company director, said this in a short phone call: “We handle it, and the less said about it, the better from the standpoint we don't want to send others out to do it.”

Costco is based in Issaquah, Washington, outside Seattle, and in 2019, Galanti spoke to *The Seattle Times* about a Costco scam that went viral on Facebook. It seemed so real that his sister reached out to him to ask if it was true: Was the company offering a \$75 coupon for its “50th anniversary”? (Costco was about 36 years old then.)

Scams “come and they go periodically,” Galanti told The Times. “We've all clicked on something and afterwards realized we shouldn't have.”

Last year, the National Retail Federation ranked Costco as the nation's fourth-largest retailer after Walmart, Amazon and the Kroger Co. Amazon, too, warns people about fraudulent emails, web pages, calls and texts that exploit its name.

Hit your pause button

AARP's Amy Nofziger, who oversees its Fraud Watch Network Helpline, 877-908-3360, tells people that if they are evaluating a suspicious offer they should pause and talk to a trusted friend. “Ask yourself, Why would Costco be giving away a \$500 gift card for filling out a survey? Does that seem reasonable? They seem to be doing really well on their own,” she adds.

Here's more advice from Costco's website:

- Unsolicited electronic communications from Costco do not ask for information such as username, password, credit card number, birth date or Social Security number.
- If you receive an order confirmation for something you didn't order from Costco.com, do not click on links or open attachments.
- If you receive a communication that looks like it's from Costco, check who sent it. Check for typos, misspellings and email addresses that do not end in "@costco.com." When in doubt, don't respond.
- Be aware of an email campaign advising people that Costco is offering them a job. The emails may request a sham "processing fee" of several hundred dollars, which the company says it never charges job hopefuls.
- If downloading the Costco app, make sure it is genuine.

Joan, like plenty of other consumers, says she had never read any of that online advice before ordering the CBD oil. Today she wishes she'd used a credit card for its stronger fraud protections. The worst part, she says, was the "chaos" at her bank, where she had to freeze her account, close it and open a new one, creating red tape over her direct deposits and automatic payments. Still, she doesn't blame the retailer, saying the fraudsters are at fault since they stole Costco's name — before disappearing with her cash. "I'm speaking out," she says now, "in the hope that I can save at least one person all this grief."

Dark patterns, the tricks websites use to make you say yes, explained

How design can manipulate and coerce you into doing what websites want.

By [Sara Morrison](#) Apr 1, 2021, 11:20am EDT

If you're an Instagram user, you may have recently seen a pop-up asking if you want the service to "use your app and website activity" to "provide a better ads experience." At the bottom there are two boxes: In a slightly darker shade of black than the pop-up background, you can choose to "Make ads less personalized." A bright blue box urges users to "Make ads more personalized."

This is an example of a dark pattern: design that manipulates or heavily influences users to make certain choices. Instagram uses terms like "activity" and "personalized" instead of "tracking" and "targeting," so the user may not realize what they're actually giving the app permission to do. Most people don't want Instagram and its parent company, Facebook, to know everything they do and everywhere they go. But a "better experience" sounds like a good thing, so Instagram makes the option it wants users to select more prominent and attractive than the one it hopes they'll avoid.

There's now a growing movement to ban dark patterns, and that may well lead to consumer protection laws and action as the Biden administration's technology policies and initiatives take shape. California is currently tackling dark patterns in its evolving privacy laws, Washington state's latest privacy bill includes a provision about dark patterns.

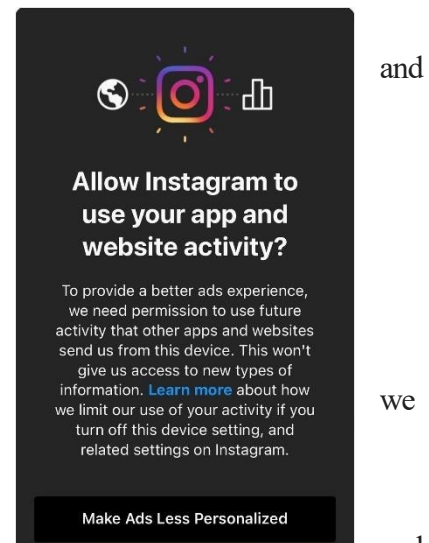
"When you look at the way dark patterns are employed across digital engagement, generally, [the internet allows them to be] substantially exacerbated and made less visible to consumers," Rebecca Kelly Slaughter, acting chair of the Federal Trade Commission (FTC), told Recode.

"Understanding the effect of that is really important to us as craft our strategy for the digital economy."

Dark patterns have for years been tricking internet users into giving up their data, money, and time. But if some advocates regulators get their way, they may not be able to do that for much longer.

Dark patterns, briefly explained

Although you may not have heard the term dark patterns before, you've surely seen countless examples of them — and experienced their effects:

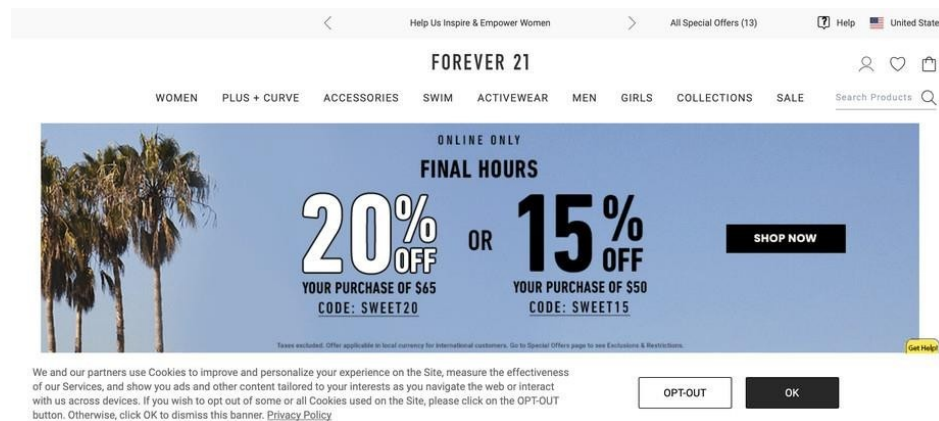


A "better ads experience" is subjective.

- The trial streaming service you signed up for, only to be automatically charged when the trial expired
- The app interstitial ad you can't figure out how to get out of because the "X" on the top right-hand corner is too small and faint to see ...
- ... or the "X" is so small that you accidentally click on the ad itself and are redirected to the ad's website
- The drugstore account you have to create to get a vaccine appointment but can't easily cancel
- The marketing email that commands you to respond within the next five minutes or else, and includes a fake countdown timer
- The big pop-up window urging you to sign up for a website's newsletter with a big red "Sign Me Up" button, while the opt-out button is much smaller and passive-aggressively implies that anyone who clicks is a bad person who doesn't care about saving money or staying informed

But there are also the effects that may not be as obvious. Dark patterns are used by websites to trick users into granting consent to being tracked, or having their data used in ways they didn't expect and didn't want. Or sites will claim they offer users ways to opt out of being tracked (usually because they legally have to do so), but use misleading language or make it especially difficult to actually do it.

For example: cookie consent pop-ups. Websites will tell you that their sites use cookies and then ask you to "accept" them, usually by clicking on a big, prominent, brightly colored icon. But if you want to refuse the cookies, you'll have to search for and click through to a menu of settings and disable them manually. Most people don't have the time or desire to do this for every single website they visit, if they even understand what's being requested in the first place. Companies whose revenue relies heavily on user data don't want to make it easy for those users to refuse to provide it.



If you don't want Forever 21 to put cookies on your browser, you'll have to hit "opt-out" and turn off each category manually. *Forever 21*

Harry Brignull coined the term "dark patterns" in 2010 and has been keeping tabs on them ever since on his website (he also wrote about them for The Verge back in 2013). Dark patterns

existed in the physical world long before the internet came along: '90s kids will remember the mail-order music club Columbia House's amazing deal to buy 12 CDs for just one penny (plus shipping and handling), which then automatically opted them in to a CD-a-month club that was almost impossible to cancel. But the internet has made dark patterns so much more ubiquitous and powerful. Websites can refine their methods using the very specific feedback their visitors provide, optimizing their manipulation at a scale that the physical world could never in its wildest dreams achieve.

"I think the internet has made it easier to industrialize the way in which we persuade and, in turn, manipulate and deceive each other," Brignull told Recode.

Some of the more obvious and scammy dark patterns — sneaking extra items into shopping baskets or tacking on hidden fees — have been made illegal in some places, and the FTC has gone after some of the most egregious offenders. But the law isn't so cut and dried when it comes to privacy, data, and consent.



Some websites will use guilt or shaming tactics to convince you to hand over your personal information. *Florsheim*

It's hard to know what's an actionable deceptive act or practice when there's no privacy law in the first place. And it's hard for consumers to know what they're giving away unintentionally or how it might be used against them when it all happens behind the scenes.

"It's a bit like invisible health effects from breathing in fumes or getting a radiation dose: At the time, you might not realize it, but it has a hidden impact on you," Brignull said. "With privacy, it's quite difficult to think through and understand what the long-term implications are for you. You're constantly leaking information about yourself to data brokers, and you don't really know how they're using it to market to you."

Because of this, Brignull and a growing number of advocates, regulators, and lawmakers feel that legislation is necessary to stop these dark patterns so consumers can use the internet without constantly being manipulated into spending money, signing up for services they don't need, or giving up their data.

“Regulation works,” Brignull said. “It can really turn the internet into somewhere that’s nice to be instead of like a complete Wild West environment. And we need it.”

How laws and regulations can stop the worst dark patterns

If you live in California, you already have it. One of state Attorney General Xavier Becerra’s last acts before leaving office to run the Department of Health and Human Services was to add regulations around dark patterns to the state’s Consumer Privacy Act (CCPA). This banned dark patterns designed to make it difficult for consumers to exercise some of the rights that the law provides, like opting out of the sale of their data. Banned dark patterns include forcing users to click through multiple screens, scroll through lengthy privacy policies, urging them not to opt out, or using confusing language.

Washington state’s third attempt to pass a privacy law, currently making its way through the legislature, says that dark patterns may not be used to obtain user consent to sell or share their data — a provision that was echoed in California’s recently passed Privacy Rights Act (CPRA), an expansion of its CCPA.

Federal lawmakers are also paying attention to dark patterns. At a recent House Energy and Commerce Committee hearing about social media and disinformation, Rep. Lisa Blunt Rochester (D-DE) asked Big Tech CEOs Mark Zuckerberg, Sundar Pichai, and Jack Dorsey if they would oppose legislation that banned dark patterns that tricked users into giving away their data. This data, she said, was often used in algorithms that targeted people who are especially susceptible to misinformation.

“Our children ... seniors, veterans, people of color, even our very democracy is at stake here,” Blunt Rochester said. “We must act. And we will assure you, we will act.”

Late last year, the Congress member introduced the DETOUR (Deceptive Experience To Online Users Reduction) Act, the House version of the bill of the same name that Sens. Deb Fischer (R-NE) and Mark Warner (D-VA) introduced in 2019.

“I introduced the DETOUR Act to address common tactics tech companies use that are used to get as much personal data as possible,” Blunt Rochester told Recode. “They are intentionally deceptive user interfaces that trick people into handing over their data.”

The bills target online services with more than 100 million monthly active users — Twitter, Facebook, and YouTube, for example — and forbid them from designing user interfaces that manipulate users into consenting to give their personal data. The platforms also wouldn’t be able to run design change experiments on users without their consent.

Blunt Rochester and Warner told Recode that they plan to reintroduce the DETOUR Act this session.

“I’m committed to working with my colleagues in Congress to ban the use of these intentionally manipulative practices, designed to extract personal information from users,” Blunt Rochester said.

Sen. Fischer did not respond to a request for comment, but she rolled the DETOUR Act into the SAFE DATA Act, the Senate Commerce Committee Republicans’ version of a federal privacy law that they may reintroduce this session.

Finally, the FTC, which would likely be in charge of regulating any legislation about dark patterns, is also taking a hard look at the practice.

“This is a behavior we take seriously,” Slaughter, of the FTC, said.

The FTC plans to hold a workshop on the subject at the end of April, where it will discuss how dark patterns manipulate consumers, which groups may be especially vulnerable or harmed by this manipulation, what rules are in place to stop them, and if additional rules are needed and what they should be.

“I think about this issue much more as one of data abuses than just data privacy,” Slaughter said. “The first step of collecting your data may not be the immediate harm. But how is that data then aggregated, used, transferred to manipulate your purchases, target advertising, create this surveillance economy that has a lot of downstream harms for users in a way that is less visible to the user or the public?”

The FTC’s authority here comes from its mandate to enforce laws against deceptive or unfair trade practices. The agency has gone after violators who use dark patterns where it can. Tricking people into signing up for and paying for subscriptions or services and intentionally making it difficult to cancel them is an obvious and actionable example. Making people think they’re buying something for a set price without making any additional charges clear is another one.

One of the few federal privacy laws we do have — the Children’s Online Privacy Protection Act — gives the FTC authority over many privacy violations against children under 13, and many dark patterns are included in that law. But no such law exists for adults, so confusingly worded privacy policies and opt-outs that lead to data abuses may need legislation explicitly forbidding them before the FTC is empowered to act.

That legislation won’t be easy to write, either. The line between deliberate deception and legally urging a user to make a choice that materially benefits a company can be blurry.

“Part of the challenge with regulating dark patterns are the gray areas: the instances where users of a technology are being constrained in such a way that they can’t exercise complete autonomy, but that they may not be experiencing full manipulation, or perhaps they are being coerced but with a light touch,” Jennifer King, privacy and data policy fellow at the Stanford University Institute for Human-Centered Artificial Intelligence, told Recode.

In lieu of a federal privacy law, Slaughter says she hopes to use Section 18 of the FTC Act to exercise the commission's rulemaking authority.

"The FTC should have clearer, more direct Administrative Procedure Act rulemaking authority to address these kinds of things," Slaughter said. "But in the meantime, I'm very excited to use all the tools that we have, including our Section 18 authority, to tackle it. Is it easy? No. Is it fast? No. Is it worth the effort? Yes. Because if we're just waiting around for Congress to act, we could be waiting for a long time."

Amazon is bringing palm-scanning payment system to Whole Foods stores

April 21, 2021, 8:19 AM EDT / Updated April 21, 2021, 8:37 AM EDT / Source: CNBC.com
By Annie Palmer, CNBC

Amazon will initially roll out Amazon One at the Whole Foods in Seattle's Capitol Hill neighborhood, not far from the company's headquarters.



Amazon will be bringing its Amazon One palm scanning payment system to its Whole Foods stores.

Amazon is expanding its palm-scanning payment system to a Whole Foods store in Seattle, the company announced Wednesday, the first of many planned rollouts at other locations.

Amazon One, which debuted in September and is currently in use at about a dozen Amazon physical stores, allows shoppers to pay for items by placing their palm over a scanning device. The first time shoppers use the kiosk, they have to insert a credit card to link it with their palm print. But after that, shoppers can pay simply by holding their hand over the kiosk.

Amazon One is distinct from the company's Just Walk Out technology, which allows shoppers to pick up items and walk out of the store without going through a checkout line. However the two technologies can work together, and Amazon employs them both at its cashierless Amazon Go stores.

Amazon will initially roll out Amazon One at the Whole Foods in Seattle's Capitol Hill neighborhood, not far from the company's headquarters, before launching the system at seven Seattle-area Whole Foods in coming months.

The palm-scanning technology will be offered as just one of many payment options at participating Whole Foods stores, Amazon said, and won't impact store employees' job responsibilities.

Amazon acquired the grocery chain in 2017 for more than \$13 billion

Amazon has said it hopes to sell the palm-scanning technology to other companies like retailers, stadiums and office buildings. Last September, Amazon said it was in "active discussions with several potential customers."

It's unclear whether Amazon has signed any agreements with third parties interested in using the system. The company says thousands of people have signed up to use it at Amazon stores.

As Amazon has sought to expand and validate palm-scanning technology as a form of payment, privacy and security experts have also raised concerns around the dangers of shoppers' handing over biometric data to companies.

Amazon has maintained that it designed the system to be "highly secure" and that it considers palm-scanning technology to be more private than other biometric alternatives like facial recognition.