

## County of Fairfax, Virginia

## MEMORANDUM

**DATE:** January 12, 2021

**TO:** Consumer Protection Commission

FROM: Michael S. Liberman, Director

Department of Cable and Consumer Services

**SUBJECT:** Consumer Protection Commission Meeting for January 19, 2021

Please find attached the Consumer Protection Commission meeting package. The next scheduled meeting is **Tuesday**, **January 19**, **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/81219081781?pwd=WmI2ZzZOTmJJM1RCTGxWTTEzUkxkdz09

Enter Password: 668899

Audio-only participation: Dial: 888-270-9936

Enter Code: 584548

Please RSVP with your attendance to Susan Jones by COB on Monday, January 18, 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 January 19, 2021 AGENDA

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

## **Minutes**

• Draft of the December 15, 2020, meeting minutes attached.

Report of the Chairman

Report of the Director

**Commission Matters** 

## Old Business

• Bylaws

## **New Business**

• Election of Officers

## 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**

December 15, 2020 7:30 PM

Zoom Video Meeting Chairman Fee presiding

Attendance: Commissioners: Belkowitz, Callender, Fee,

Hine, Kratovil, Kirk, Roark, Rosier

Absent: Commissioners: Gulakowski, Hargraves, Javed,

Lynch

Staff: Michael S. Liberman, Director

Cable and Consumer Services

(Office Suite 433)

Rebecca L. Makely, Director Consumer Services Division

(Office Suite 433)

Susan C. Jones, Branch Chief Consumer Affairs Branch

(Springfield)

The electronic meeting was called to order at 7:32 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 member was participating. The roll call was as follows:

Chairman Fee, Burke
Commissioner Belkowitz, City of Fairfax
Commissioner Callender, Great Falls
Commissioner Hine, Fairfax
Commissioner Kirk, Mason District
Commissioner Kratovil, Mount Vernon
Commissioner Roark, Lorton
Commissioner Rosier, Great Falls

Chairman Fee passed the virtual gavel to Secretary Rosier. 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 Commissioner Kirk. This motion passed 7-0 with Commissioner Callender not present for 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 access the meeting by calling 1-888-270-9936 and entering access code 584548. The motion was seconded by Commissioner Kirk. The motion passed 8-0.

## 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. The motion was passed 8-0.

## **Minutes**

A motion was made by Chairman Fee and the minutes from the November 17, 2020, were approved without objection.

### **Report of the Chairman**

The Chairman had no matters to bring before the Commission.

## **Report of the Director**

Director Liberman stated the Board of Supervisors, Planning Commission, and Board of Zoning Appeals meetings have moved from in-person to electronic meetings. The budget season will begin soon, and details will be provided at the February 2021 meeting.

## **Commission Matters**

Commissioner Belkowitz reviewed a news Web site about the first COVID-19 vaccine and possible vaccine scams for consumers.

Commissioner Callender had no matters to bring before the Commission.

Commissioner Hine had no matters to bring before the Commission.

Commissioner Kirk thanked staff for information to address the leak in his basement.

Commissioner Kratovil had no matters to bring before the Commission.

Commissioner Roark had no matters to bring before the Commission.

Commissioner Rosier received a letter from Dominion Energy to disconnect the water heater from the junction box. Commissioner Rosier questioned if the letter was a scam. Staff will follow-up on the issue.

Chairman Fee had no matters to bring before the Commission.

## **Old Business**

There was no old business before the Commission.

## **New Business**

**Officer Nominations.** Chairman Fee selected Commissioner Kirk to serve as the Nominating Committee for the January 2021 Elections.

Chairman Fee mentioned the Trespass Towing Advisory Board (TTAB) is meeting this week to nominate the next Chair, which according to County and state code, a tow operator representative will be selected next in the rotation. TTAB is made up of two tow operators, two Fairfax County Police representatives, and one citizen member.

A discussion ensued on conflict of interest, Chair rotation, and possible legislation changes.

Director Liberman stated Fairfax County General Assembly Delegation's Pre-2020 Session Public Hearing will be held on Saturday, January 9, 2021.

Commissioner Belkowitz made a motion to adjourn. Commissioner Kirk seconded the motion. The motion passed unanimously.

The meeting adjourned at 7:59 PM.

## **CPC Calendar**

## Fairfax County Consumer Protection Commission

2021 Yearly Planning Calendar January 19, 2021

January 19	• Election of Officers
February 16	
March 16	
April 20	
May 18	
June 15	
July 20	
August 17	
September 21	
October 19	
November 16	
December 21	

## **CPC Membership**

## NAME & ADDRESS

## CONTACT INFORMATION

### STAFF

Harold G. Belkowitz 9203 Cross Oaks Court Fairfax Station, VA 22039

Appt. Expires 7/31/2021

Wes Callender 1088 Manning Street Great Falls, VA 22066 *Appt. Expires 7/31/2021* 

John Fee (Chairman) 5511 Landmark Place Fairfax, VA 22032 *Appt. Expires 7/31/2021* 

Denis Gulakowski (Vice-Chair) 6208 Falcon Landing Ct Burke VA 22015 Appt. Expires 7/31/2021

Dirck A. Hargraves 7659 Shuttington Drive Alexandria, VA 2231 Appt. Expires 7/31/2020

Scott Hine 11410 Octagon Court Fairfax, VA 22030 Appt. Expires 7/31/2021

Umair Javed 2738 Shawn Leigh Drive Vienna, VA 22181 Appt. Expires 7/31/2021

Dennis D. Kirk 6315 Anneliese Drive Falls Church, VA 22044 Appt. Expires 7/31/2022 703-690-9640 (home) 703-989-7986 (cell) 703-246-9273 (office)

hbelkowitz@belkowitzlaw.com

703-759-2382 (home) 202-285-3946 (cell) wesitoc@gmail.com

703-278-8200 (home) 703-408-8266 (cell) <u>JTFee@aol.com</u>

703-503-3225 hawkeye15@earthlink.net

703-924-0625 (home) 202-374-3355 (cell) <u>mrhargraves@yahoo.com</u>

202-586-9744 (office) 703-278-1793 (home) <u>hskat@cox.net</u>

202-418-2409 (office) 703-801-0419 (cell) <u>uj8m17@gmail.com</u>

703-609-3006 (cell) 703-536-2286 (home) 703-536-2286(fax) KIRKLAWFAC@gmail.com

1

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

michael.liberman@fairfaxcounty.gov

Rebecca L. Makely, Director Consumer Services Division 703-324-5947 rebecca.makely@fairfaxcounty.gov

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

## Name & Address

## **Contact Information**

Jason J. Kratovil 9200 Forest Haven Drive Alexandria, VA 22039 Appt. Expires: 7/31/2021 703-919-5324 jjkdc1@yahoo.com

Daton Lynch 3406 Brightfield Court Herndon, VA 20171 Appt. Expires 7/31/2021 301-247-4182 (cell) datonlynch@gmail.com

Michael J. Roark 7352 Ardglass Drive Lorton, VA 22079 Appt. Expires 7/31/2020 703-604-9187 (office) 703-981-0084 (cell) Mjr 06@yahoo.com

Jacqueline Rosier (Secretary) 1117 Leigh Mill Road Great Falls, VA 22066 Appt. Expires 7/31/2022 703-407-5311(cell) akarosier@gmail.com

## **CAB Statistics**

## **Consumer Affairs Branch**



## Monthly Summary - All Activities **December 2020**

	Current Month		Fiscal Year-to-Date		Prior Fiscal YTD	
Cases Received	62		483		498	
Cases Closed	64		406		445	
Favorable	27	42%	223	55%	272	61%
Unfavorable	6	9%	34	8%	35	8%
Invalid	6	9%	19	5%	26	6%
Other	25	39%	130	32%	112	25%
	64	100%	406	100%	445	100%
Advice Inquires (closed)	375		2480		4618	
Case Inquires over 90+days (open)	30		101		196	
Amount Received	\$16,529.00		\$227,837.00		\$400,381.00	

## **CLOSED COMPLAINT CATEGORIES**

FISCAL YEAR-TO-DATE	% FYTD	PRIOR FISCAL YTD	% PRIOR FYTD
Tenant Landlord	20%	Cable Television (Regulated)	28%
Automotive - Towing	14%	Tenant Landlord	28%
Housing- Service	9%	Housing - Service	6%
Automotive - Service	6%	Automotive - Towing	6%
Retail	6%	Automotive - Service	6%
Other	45%	Other	26%

# Community Outreach

## OUTREACH EVENT CALENDAR January 2021

DATE	EVENT	LOCATION # of Guests		Event Time	Staff
1/12/2021	Online Shopping	Lifetime Learning (Virtual)		1:30 p.m 3:00 p.m.	MP
1/12/2021	YCYC: Board Leadership in 2021	Fairfax County Government Center 12000 Fairfax County Parkway Fairfax, VA		7:00 p.m 8:00 p.m.	MLT/ MM
1/14/2021	Consumer Connection Facebook Live	Fairfax County Government 12000 Government Center Parkway Fairfax, VA		9:00 a.m 9:30 a.m.	SCJ/ MM
1/14/2021	Department of Treasury Unclaimed Property	Virtual Richmond, VA		9:00 a.m 5:00 p.m.	SCJ
1/14/2021	Setting Financial Goals	Financial Empowerment Center (Zoom) 8350 Richmond Highway Alexandria, VA		1:00 p.m 2:00 p.m.	VFJ
1/26/2021	Employee Fitness: Taxes, Credits and Deductions	Fairfax County Government (Virtual) 12000 Government Center Parkway Fairfax, VA		10:00 a.m 12:00 p.m.	VFJ
1/28/2021	Building a Better Credit Report	Financial Empowerment Center (Zoom) 8350 Richmond Highway Alexandria, VA		1:00 p.m 2:00 p.m.	VFJ

## OUTREACH EVENT CALENDAR February 2021

DATE	EVENT	LOCATION	# of Guests	Event Time	Staff
2/4/2021	Financial Fitness Managing Finances During Covid-19	Financial Empowerment Center (Virtual) 8501 Richmond Highway Alexandria, VA (Virtual)		10:00 a.m 12:00 p.m.	VFJ
2/22/2021	Consumer Connection Facebook Live NCPW	Fairfax County Government 12000 Government Center Parkway Fairfax, VA		10:00 a.m 10:30a.m.	SCJ MM

## 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/

## 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/

## 4 Things 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: Holiday Scams (December 15, 2020)

https://m.facebook.com/fairfaxcountyconsumer/videos/826797194786681/

## Your Community, You're Connected: Maintaining a Sense of Community (September 8, 2020)

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

## **Information Items**

## Customers fight surprise charges as online subscriptions surge

Businesses try to push back when customers cancel subscriptions they didn't know they signed up for. [More]

## What Does Hypoallergenic Really Mean?

An allergist takes a deep dive into whether there really is such thing as a hypoallergenic product or pet. [More]

## Customers fight surprise charges as online subscriptions surge

Businesses try to push back when customers cancel subscriptions they didn't know they signed up for.

Dec. 23, 2020, 3:27 PM EST By April Glaser

When Jolene Stewart placed an order online for lingerie from Rihanna's line, Fenty X Savage, this year, she unwittingly signed up for a subscription that charged her bank account every month in exchange for credits to buy more bras and underwear.

"It was part of a deal, and I guess I didn't read the fine print close enough," said Stewart, 22, a recent college graduate.

As soon as Stewart realized that she had been charged, she canceled the subscription and opted to use the credits she had already paid for. Three months later, Stewart discovered that Fenty X Savage had been charging her \$49.95 a month for a subscription she was sure she had canceled — the company restarted her subscription when she used the credits, she said, sharing screenshots of the three payments with NBC News.

When Stewart asked that her card be refunded and that her subscription be canceled, the company refunded her for only one month, she said. The ordeal cost her close to \$150 that she had never intended to spend.

"I love Rihanna and her products," she said. "So I was really surprised and was like I guess won't be shopping there anymore."

Savage X Fenty, which declined to comment, is far from the only company drawing in new customers with online subscription programs. As online retailers look for new revenue sources, more companies are introducing subscription models to lock in customers. The subscription-based services automatically deduct money from customers' accounts without consumers realizing they've made the purchases.

"Everything's become a subscription these days," said Patrick Campbell, the CEO of ProfitWell, which makes software for merchants to manage online subscriptions and tracks over 23,000 subscription e-commerce companies. "Anyone under the sun has realized the subscription-based models are a better revenue stream."

But customers are catching on and complaining more volubly that they're being charged for things they say they never meant to buy. Because of the prevalence of fraud in online shopping, banks and credit card companies have long had customer-friendly policies that make it

relatively easy to contest suspicious or unwanted charges and get refunds. The cost of the refunds traditionally has fallen on merchants.

So merchants are pushing back and making it even more difficult for customers to get their money back. Online retailers have even created a special advocacy group within the Merchant Risk Council, an e-commerce industry association, to focus on ways to protect merchants from taking more financial hits from customers who dispute subscription charges.

An estimated 75 percent of all returned payments for merchants in the online subscription space can be chalked up to customers who paid for services but then claimed that they hadn't intended to and contested the charges, according to a study by the research company Aite, which was sponsored by a Mastercard company.

## **Friendly Fraud**

Subscription services have been on a roller coaster through the pandemic as more shoppers have ordered goods online and then realized that they were paying for things they didn't want.

Online merchants that sell goods and services that require recurring payments grew by 70 percent in June and then quickly dropped by about 40 percent in October. That means the industry's monthly recurring revenue grew by only 30 percent, according to data from ProfitWell. People simply decided that they didn't want or use the services they'd signed up for or, in some cases, didn't realize that they had signed up for subscriptions at all, prompting them to contest the charges on their accounts as fraudulent, Campbell said.

The practice of canceling unwanted subscriptions has become so common that e-commerce analysts call it "friendly fraud," because it's a customer saying the charge was unintentional and therefore incorrect, even if the customer signed up for the service but forgot to cancel. Banks have streamlined contesting charges even more in recent years by adding simple ways to dispute unwanted recurring payments within their mobile apps, which customers have been taking advantage of, according to the study by Aite. It also found that dispute volumes double with every new method for customers to challenge unwanted charges.

The disputes cost e-commerce companies billions of dollars a year in returned revenue, in addition to the cost of customer support and bank fees for undoing the transactions, said Julie Fergerson, the CEO of the Merchant Risk Council. For online subscription services, 60 percent to 80 percent of fraud claims by customers can be chalked up to customers' contesting charges for services, Fergerson said.

"It's been increasing every year, and it's gotten out of control. Everyone's been trained to just call their bank and that the bank will take care of you. It comes from the whole zero-liability model from card issuers that gave people the confidence to buy online years ago," Fergerson said.

That puts the onus to repay disputed claims on merchants, and it makes it relatively easy for customers to call their banks to contest serial charges, even if technically they did sign up for the services and simply forgot to cancel.

Card issuers, like Visa and Mastercard, instituted new rules this year requiring merchants to send notifications before they charge customers who went from free trials to subscriptions, along with clearer instructions about how to cancel.

## **New tricks**

In response, businesses are coming up with enticing ways to draw in customers with free trials. Then, when customers try to end unwanted subscriptions, they're discouraged through arduous cancellation processes.

"Before the pandemic, Hulu allowed you to finish your free trial, even if you canceled. Now, when you cancel your free trial, you lose immediate access to their services, even if you still have time left," said Joshua Browder, the founder of Do Not Pay, a company that specializes in helping consumers cancel and contest unwanted subscriptions. "This recent introduction is a dark pattern designed to nudge consumers away from canceling by hoping they forget. Netflix, meanwhile, has ended all free trials."

Hulu didn't respond to requests for comment. Netflix spokesperson Ebony Turner said in a statement, "We're looking at different marketing promotions in the U.S. to attract new members and give them a great Netflix experience."

Companies are also raising the prices on recurring charges. The average price of subscriptions during the pandemic rose by 18 percent, according to data from over 100,000 subscriptions that Do Not Pay monitored and shared exclusively with NBC News.

The combined variables make it far more difficult and costly to get out of subscriptions. It's not a deceptive practice, said Ryan Calo, a law professor at the University of Washington who studies manipulation in digital markets, because merchants usually aren't misrepresenting that customers will be charged monthly. But the fact that a practice isn't deceptive doesn't mean it's fair.

"When companies make it hard to cancel or promise savings from a subscription and then have the price creep back up, those practices would begin to cross into deceptive territory," Calo said.

## **Getting results**

Some customers are finding that the only way to get answers is to complain on Twitter. Tanya Janca signed up for a monthly subscription to Adobe Acrobat Pro this year to make materials

for the online security training courses she offers through her business, We Hack Purple Academy. After she tried the service, Janca quickly realized it wasn't a tool she wanted to use again.

But like so many other people who sign up for subscriptions, Janca forgot that she had subscribed. That is, until months later, when her accounting software reminded her that Adobe was charging her \$14.99 a month, in total costing \$119 for a service she used once and forgot about.

Janca said that when she called to cancel her subscription, Adobe told her it would cost her \$30. She said that when she tried to cancel the automatic renewal setting on her account, there was no online way to do it. So she went to the customer service chat option, which took 45 minutes. She said she was told that, even though she had canceled her subscription, she couldn't turn the auto-renewal off until the subscription period officially ended, meaning she'd have to remember to cancel months later.

Frustrated, Janca took to Twitter, where she complained about the ordeal to her over 32,000 followers. Someone from Adobe saw her tweets, and the company canceled her subscription completely.

Asked for clarification about the fee Janca was told she would have to pay to end her subscription and her attempt to cancel auto-renewal on her account, Adobe provided a link to its subscription policy and declined to comment further. The written policy permits cancellation with a termination fee, and it says customers can cancel at any time.

"This solves this for me personally, but not other users," Janca tweeted after the issue was resolved, acknowledging that she might not have been so lucky if she had a smaller social media following to whom she could vent her complaints.

## **Avoiding charges**

Experts advise customers who don't have influential Twitter followings to keep a close eye on bank accounts and use a bank with a mobile app that informs them any time a deduction is made. Otherwise, one forgotten subscription could easily add up like it did for Stewart, the Savage X Fenty customer.

"At least I was able to warn my friends," Stewart said, adding that she has become wary of all retailers online selling subscriptions. "I've found that with a lot of the subscription services, you have to go through, like, 20 pages to cancel."

## What Does Hypoallergenic Really Mean?

## An allergist takes a deep dive into whether there really is such thing as a hypoallergenic product or pet.

By Michael Blaiss, M.D., Contributor Jan. 4, 2021, at 11:23 a.m.

Have you ever seen the word "hypoallergenic" in front of a product or animal, and wondered what it really meant? For example: Does the label mean it's safe to put on your skin, come in contact with or be able to pet?

Let's take a deeper dive and find out what this word means and why it's important to your health.

If we break down the word, we first get the prefix "hypo," which means under, beneath or less than normal. The word "allergenic" means "other, different, strange." This word was coined by the Austrian pediatrician Clemens Von Pirquet to describe what we now know as an immunologic reaction that can include hives, swelling of the skin, sneezing, asthma and life-threatening <u>anaphylaxis</u>. Putting the prefix "hypo" with "allergenic" implies a less-than-normal (or below average) allergic reaction.

Does this imply that objects labeled "hypoallergenic" are safe and less likely to trigger a reaction? One of the most common products for which we see the term "hypoallergenic" on the label is cosmetics. The implication is that these beauty aids will produce fewer <u>allergic reactions</u> in people with hypersensitive or even normal skin. The label makes it sound like these are "gentler" for your skin. Is this absolutely true? In one word, no.

In the U.S., there is no standard from the Food and Drug Administration that requires a cosmetic to prove it's hypoallergenic. It's up to the manufacturer to use the term if they want to, but they don't have to perform any clinical studies to validate their claim. In the 1970s, there was a court case initiated by manufacturers to reverse an FDA regulation mandating companies that make cosmetics to prove their claim of "hypoallergenic" on the label. The FDA lost the case in the U.S. Court of Appeals in the District of Columbia. The ruling, which still stands today, allows manufacturers to continue to advertise their cosmetics as being hypoallergenic. But we as consumers have no way of knowing if that's true. If you purchase one of these products, you need to carefully read the label to make sure there's no ingredient to which you're allergic before buying.

This isn't just an issue with cosmetics. You may see "hypoallergenic" applied to other items such as toys, baby products and clothing. Just like cosmetics, there is no federal government standard for the term when applied to these items. Buyer beware!

So what about pets? You might have heard someone say, "I'm allergic to dogs, but I got a hypoallergenic one, so I won't have a reaction." You see advertisements boasting that a particular breed of cat or dog is hypoallergenic. You may have heard that if a dog doesn't shed, it's hypoallergenic.

However, the bottom line is that there is no such thing as a <u>hypoallergenic cat or dog.</u> According to the American College of Allergy, Asthma and Immunology, the proteins from pets that cause people to develop allergies are found not only on the hair, but also in the animal's saliva and urine. Even though you may think an Egyptian hairless cat can't trigger allergies, that's not true.

Depending on the seriousness of the person's allergy to an animal, they could suffer a life-threatening reaction around a "hypoallergenic" pet. It's very important to know this if you have <u>cat or dog allergy</u>, as there is no truly safe cat or dog. An allergist can test you to find out what your level of allergy is, and offer advice on what you should do to avoid symptoms.

Of course, there are many wonderful products that have the label "hypoallergenic." But it doesn't mean that they've met rigorous scientific studies to prove their claim. Remember the famous quote from the movie "The Princess Bride."

"You keep using that word. I do not think it means what you think it means."