



Consumer Federation of America

Testimony of

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“The Impacts of the Government Shutdown on Our Economic
Security”

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Chairman Rockefeller, Ranking Member Thune, and members of the Commerce, Science and Transportation. I am Rachel Weintraub, Legislative Director and Senior Counsel at Consumer Federation of America (CFA). The Consumer Federation of America is an association of nearly 300 nonprofit consumer organizations that was established in 1968 to advance the consumer interest through research, advocacy, and education. I offer this testimony on behalf of Consumer Federation of America as well as Consumers Union, Consumer Action, National Consumers League, National Consumer Law Center, Public Citizen, National Association of Consumer Advocates, and U.S. PIRG.

I. Introduction

As organizations dedicated to working to protect consumers and advance consumer interests, I offer today's testimony to help articulate the impact of the current United States government shutdown on consumers. My focus will be aimed at the practical implications that the closure is having and could have on average American consumers.

We all expect that the air, food, and products we use every day are going to be safe. We don't expect to be ripped –off by a bank, a lender, or a telemarketer. We expect that we can provide information to and find information on government web sites. We expect that government agencies will investigate concerns and enforce existing law. Part of our security as consumers can be directly linked to the work conducted by the employees of many different government agencies. During the government shutdown, however, many of the consumer protections we depend upon have been significantly curtailed. Things could get worse if the shutdown continues much longer.

In this testimony, I am relying upon information that has proven to be fluid, and in some cases has changed throughout the day. I am including, what I hope to be the most current information, but acknowledge changes may have occurred since preparing this testimony.

I will highlight what is happening at a few key agencies devoted to consumer protection.

II. Impact of Shutdown on Key Government Agencies

A. Health and Safety Agencies

1. Federal Aviation Administration

The Federal Aviation Administration (FAA) has reportedly furloughed 15,514 of its 46,070 employees. While the FAA has deemed air traffic controllers and baggage screeners essential, many of the staffers that support the air traffic controllers have been furloughed. Virtually the entire safety inspection force has been sent home, with only one manager at every office across the country left to answer the phones. This is unprecedented in U.S. aviation history; even during the 1996 government shutdown, most safety inspectors remained on the job. Earlier this week, FAA announced plans to bring

back 800 inspectors, oversight staff, and others. But that is only about 15% of the FAA's furloughed airline safety personnel.

2. National Highway Traffic Safety Administration

Consider the impact of the shutdown on the National Highway Traffic Safety Administration (NHTSA). This agency, which is responsible for the safety of millions of people on our roads and highways, has furloughed 333 workers out of a total of 597. The impact of this is that NHTSA is not able to alert consumers about safety recalls. Rulemakings, defect investigations, research, and testing are also on hold. NHTSA's own web site states that "Due to a lapse of Federal Government funding, NHTSA is unable to process safety defect complaints after close of business September 30, 2013. Consumers can continue to file complaints via this website, but they will not be evaluated by NHTSA staff until funding and services are restored." Unfortunately, any auto safety defects that emerge during the shutdown will not be investigated properly, leaving consumers and our highways at risk.

A practical example of what this means occurred on October 1st outside of Seattle when a fire started in a Tesla Model S vehicle. This fire is not being investigated by NHTSA. According to a statement the agency gave to ABC News, "During the federal government shutdown, some key agency functions have been discontinued until funding is restored. Functions funded by annual appropriations are suspended, including safety defect investigations, field crash investigations, review of consumer complaints and notification of new vehicle and equipment recalls."

3. Consumer Product Safety Commission

The impact of the shutdown on the Consumer Product Safety Commission (CPSC) is significant. CPSC, an independent agency charged with protecting the public from unreasonable risks of injury or death associated with the use of the thousands of types of consumer products. Four percent of the CPSC's total workforce remains on the job – that translates into 23 employees (including its 5 commissioners) out of 540 full-time employees. None of the employees currently working are field investigators or port inspectors. This means that CPSC does not have port inspectors evaluating products as they come into the ports, especially during this pre-holiday season. The CPSC is conducting only business that "protects against imminent threats to human safety, and protect government property" and rulemakings, recalls, and civil penalty negotiations are suspended unless they rise to this level of threat. Saferproducts.gov, the CPSC's consumer incident data base, is receiving reports but will not be publishing them. This will deny consumers the opportunity to learn about potentially dangerous products.

This cutback at the CPSC also has very real implications. Last Monday, a two year old girl in San Diego, California was killed when a chest of drawers with a television on top of it, tipped over and fell on her, crushing her to death. Last week, a one year old boy from Hitterdal, Minnesota, swallowed part of a laundry pod last week and has been hospitalized due to his injuries. He was just moved out of intensive care and is breathing

on his own. Because of the shutdown, the CPSC is unable to investigate these serious incidents and is unable to work to educate consumers about how to avoid these serious and preventable safety hazards.

4. Food and Drug Administration

Food safety is in jeopardy as well. According to the Health and Human Services' shutdown plan: "FDA will be unable to support the majority of its food safety, nutrition, and cosmetics activities." This means that FDA will not conduct routine food safety inspections, some compliance and enforcement activities and will not be monitoring imports. Much of the laboratory and scientific research necessary to inform public-health decision making will also not be conducted.

5. The Center for Disease Control and Prevention

The Centers for Disease Control and Prevention (CDC) has 68% of its staff furloughed, which means that CDC is at significantly reduced capacity to identify and respond to foodborne illness outbreaks, and is unable to support state and local partners in disease surveillance. PulseNet, CDC's national network of public health laboratories that detects multi-state food-borne illness outbreaks was non-functioning as a result of the shutdown. This hampered CDC's capacity to track the recent Salmonella outbreak linked to poultry that sickened close to 300 people. The employees who run PulseNet are now back to work since the CDC determined that PulseNet was vital to protecting the public from "imminent threats." Still, consultation with states and laboratory work to link outbreaks that might cross state borders will remain at reduced capacity during the shutdown.

6. United States Department of Agriculture

Most Department of Agriculture (USDA) inspectors of meat and poultry continue to work. The USDA's Food Safety Inspection Service will continue manning every meat production facility with full-time inspectors. However, a meat and poultry hot line consumers can call for information about food safety or to report problems is closed. The agency has said that "A lengthy hiatus would affect the safety of human life and have serious adverse effects on the industry, the consumer and the Agency."

7. Environmental Protection Agency

The shutdown has had an impact on the air we breathe and water we drink. The Environmental Protection Agency (EPA) furloughed 96% or 16,205 employees, leaving 613 workers on the job. Most EPA operations have come to a halt. EPA programs to protect public health, air quality, and safe drinking water and to regulate pesticides and pollution are mainly longer-term in nature and therefore are not considered essential to prevent imminent risk to human health. Clean up at 505 Superfund sites (property contaminated by toxic chemicals) in 47 states is suspended. Some laboratory staff is continuing to work as are emergency responders (responding to environmental emergencies). Some limited enforcement activities will continue, but with skeletal staff.

EPA's Energy Star program for certifying energy efficient appliances and electronics is currently closed. EPA will not be updating its FuelEconomy.gov website with new vehicle fuel-economy ratings. The consequence is that there will be no EPA oversight of the accuracy of new fuel economy ratings.

B. Agencies that Ensure a Fair Marketplace

In addition to the work of agencies that protect the health and safety of consumers, the work of agencies that seek to ensure that consumers are treated fairly in the marketplace is also being compromised.

1. Federal Trade Commission

Less than 20% of Federal Trade Commission (FTC) employees (approximately 241 of its 1,178 workers) are exempt from furloughs. Employees responsible for protecting life and property through the prosecution of enforcement actions are working. Most legal actions have been stayed, for those few cases where the court has not granted stays, agency work continues. However, the agency expects no rulemakings during the shutdown, and staffers overseeing the Do Not Call registry, Consumer Response Center, and spam database have suspended work. Consumers who are identity theft victims cannot access information that the FTC provides about the steps they should take or how to report the problem.

The FTC's website is not functional—on the FTC's home page, it states, “Unfortunately, the Federal Trade Commission is closed due to the government shutdown: the FTC Premerger Notification Office will be open to accept HSR filings; consumers may file FOIA requests, but they will not be processed; consumers cannot file complaints or register for Do Not Call; all public workshops, roundtables, hearings and conferences are postponed until further notice.”

The Justice Department's Antitrust Division is similarly affected. Sixty-three percent of its workforce has been furloughed. That could significantly impair its merger enforcement activities, including its pending challenge to the American Airlines/US Airways merger, and other important enforcement activities that protect consumers against harm from anticompetitive business conduct.

2. Federal Communications Commission

According to the FCC's shutdown plan, approximately 30 FCC employees – or less than 2% of its approximately 1,750 employees – have been deemed essential and exempt from the furlough. Among those deemed essential are the three Commissioners (though not their legal advisors), the inspector general, and a small number of employees who are tasked with critical functions such as the protection of life and property, disaster response operations, and integral national security functions. Some of the FCC activities that will cease under the shutdown include: merger reviews, responses to consumer complaints, consumer protection, local competition enforcement, licensing of broadcast, wireless, and

management of radio spectrum, and equipment authorizations (which bring new electronic devices to the American public). Work has been delayed on the highly anticipated spectrum auctions, and could affect the timing of the first of these auctions, which were supposed to take place in January. Finally, the FCC has ceased maintaining its online systems, leaving the public unable to access to the resources, public comments, and consumer education materials available on its website.

3. Financial Regulators

The Federal Reserve, FDIC and the OCC are self-funded and not subject to the appropriations process. All will remain open and operational. Since the CFPB is funded through the Federal Reserve, it will also remain open and operational. However, according to news reports, mortgage loans may be delayed because the Internal Revenue Service and the Social Security Administration (which are impacted by the shutdown) will not be able to provide important documentation to loan officers in a timely manner.

The Securities and Exchange Commission (SEC) and the Commodity Futures Trading Commission (CFTC) are both funded through the appropriations process and thus, are directly affected by the shutdown. The CFTC, which oversees the commodity market and the bulk of the derivatives markets, was immediately forced to furlough the vast majority of its 700 employees, leaving only 28 employees working at the agency. This comes at a time when both agencies are struggling under enormous workloads to implement the Dodd-Frank Wall Street Reform and Consumer Protection Act and, in the case of the SEC, the JOBS Act. That process has virtually ground to a halt at the CFTC, where key rules to protect against risks in the derivatives market were just beginning to take effect. It also leaves the CFTC with only a few people to police the markets for fraud and manipulation, less than 5 of the 50 individuals who normally perform this function. The SEC has reported that they have enough carry-over funding to allow it to operate essentially normally for “a few weeks.” But that funding will run out if the shutdown continues for an extended period of time.

4. Housing Finance

The mortgage market is operated primarily by nongovernmental entities in the private sector, but the shutdown is having an impact in this area. Mortgage loans may be delayed because the Internal Revenue Service (impacted by the shutdown) is not in a position to verify income for borrowers. In addition, the Federal Housing Administration (FHA) is operating with only a skeleton staff and is unable to do full quality control reviews of loans receiving FHA mortgage insurance through delegated underwriters. Over time, this could reduce the quality of the FHA portfolio and lead to higher losses for the insurance fund.

In the affordable rental housing field, the Department of Housing and Urban Development (HUD) has funded current contracts with public housing agencies to provide rental subsidies for very low income renters. But very shortly current funding

will expire, and agencies responsible for paying landlords on behalf of very low income tenants or for directly operating housing for such tenants may be unable to meet their obligations. Assistance for homeless families and single individuals, typically provided by private, nonprofit operators using federal funds, is also at risk if the shutdown extends further. Similarly, affordable housing developers are reporting that projects in their pipeline are on hold because officials at HUD and USDA's Rural Housing Service are unable to respond to questions, process applications for assistance, or sign off on proposed or final development deals.

III. Conclusion

The government shutdown that we are in the midst of is having a broad impact on consumers. Numerous consumer protections that consumers expect the government to ensure are not being provided due to this shutdown, placing consumers at potential risk.