

October 21, 2025

Council of the District of Columbia
Committee on Public Works and Operations
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Re: Bill 26-0174
Enhancing Consumer Protection Procedures Amendment Act of 2025
Public Hearing October 22, 2025

Dear Chairperson Nadeau and Councilmembers:

We appreciate the opportunity to submit testimony in support of Bill No. 26-0174, which would ensure that the District's Consumer Protection Procedures Act (CPPA) is modernized to mirror those in other states and that it is durable going forward in a rapidly changing economy with emerging threats. The bill would also ensure that the Office of the Attorney General has the tools it needs to effectively protect residents of the District from unscrupulous actors and audacious schemes, and to ensure that honest businesses do not suffer a competitive disadvantage.

Prohibited Conduct

We fully support Bill No 26-174's proposals to update and clarify the CPPA and the prohibited conduct listed in the statute. On such update is the bill's proposal to ensure that the CPPA explicitly prohibits abusive conduct by mirroring the language in the federal Dodd-Frank [Consumer Financial Protection Act](#) (CFPA). Abusive conduct generally includes (1) obscuring important features of a product or service or (2) leveraging certain circumstances—including gaps in understanding, unequal bargaining power, or consumer reliance—to take unreasonable advantage of consumers. There are multiple reasons to support a ban on abusive conduct in the CPPA. First, the federal CFPA only applies to financial products, and the District's CPPA would expand this definition to all consumer-merchant transactions. Second, a ban on abusiveness covers conduct that unfairness and deception do not. When Congress added the tool of abusiveness to the CFPA, it did so in part because it acknowledged that the gaps left by federal bans only on deception and unfairness contributed to an economic meltdown. Abusiveness is distinct from deception, because it is not rooted in a misrepresentation to the consumer. It is also distinct from unfairness because it does not require proof of a substantial injury or a balancing test of the conduct's effects on competition. Adding a prohibition against abusive conduct would ensure that the CPPA can be used to target the use of dark patterns, set-up-to-fail business models, profiteering off captive customers, and kickbacks and self-dealing.

The CFPB has used its abusiveness authority to address the following types of misconduct:

- [Schools](#) that refused to release students' official transcripts if they were delinquent or in default on their debts to the school;
- [For-profit colleges](#) guiding students into temporary loans that they could not repay and then, once those became due, coercing them into taking out dangerous longer-term loans;
- [Banks](#) that employed counter-intuitive, complex transaction processing, such that consumers did not understand or expect to incur over \$140 million in overdraft fees; and
- An [auto lender](#) that harassed military borrowers who defaulted on their loans by repeatedly threatening to contact their chain of command, lying about the military and legal consequences of failure to pay, and illegally threatening to garnish servicemember wages that would be protected from garnishment.

The bill would also specifically cover “free” services by ensuring that any company that supplies goods and services is a covered entity even in the absence of a monetary payment. This clarification would codify the position of the Attorney General's Office, which has been repeatedly adopted by the Superior Court, bringing clarity to businesses and efficiency to enforcement and litigation. Clearly, fraudulent actors can still commit unfair, deceptive and abusive conduct even in the absence of a monetary payment. Recent examples include [Facebook](#), whose free social networking platform deceived consumers about how it would use their personal data; [Credit Karma](#), which marketed “pre-approved” credit offers and misled consumers into hard credit checks (all without an exchange of payment); and [Edmodo](#), which offered a free learning platform for teachers and students but monetized children's personal data without consent.

Relatedly, the bill brings a sorely needed update to ensure that the CPPA's definition of consumer covers individuals who donate or would donate money for charitable purposes. The practice of lying to individuals about what their donations will be used for is overwhelmingly common and grotesquely exploitative. A recent enforcement action by the Federal Trade Commission and 19 states against [Kars-R-Us](#) and its executives revealed that its claims that vehicle donations would pay for breast cancer screenings were alarmingly false. In reality, a mere 0.28% –or \$126,000 of the \$45 million raised– was actually used to provide the advertised breast cancer screenings. Exploitative conduct like this should be addressed by the CPPA.

We also support the bill's clarification that the standard of proof in CPPA cases is preponderance of the evidence, similarly codifying existing case law and the position of the Attorney General. This would make the CPPA consistent with virtually every other civil statute the Attorney General enforces—including civil rights laws, workers' rights laws, and the False Claims Act. Most courts in other states recognize this standard of proof, primarily because state UDAP statutes are clearly distinct from common law fraud, which requires proof of heightened elements. This standard of proof is also consistent with the general principle within the CPPA that it shall be construed and applied liberally to promote its purpose to protect consumers.

Improving Investigative Tools

We also fully support the bill's proposals to improve the Attorney General's investigative tools. Law enforcement agencies like the D.C. Attorney General grapple with the issue of limited resources to address ever-growing misconduct in the marketplace. It is imperative that the Attorney General be provided with the statutory tools to ensure that its investigations and prosecutions are efficient and consistent, and that it can quickly and effectively stop illegal conduct before the harm spreads. Many of these tools are available to other attorney general offices, and these updates would facilitate the ability of D.C. to work closely with other states and share resources. Finally, given the [abandonment](#) of consumer protection enforcement happening at the federal level, a robust investigation program has never been more important.

The improved tools included within the bill would allow the Attorney General to:

- **Demand written, sworn answers to questions in the form of interrogatories during the investigative phase**, rather than only obtaining documents or arranging for testimony. Written answers to questions can allow the Attorney General to efficiently decide how to dispose of a case, or where to look next in the investigation. This can also be more efficient for businesses responding to an investigation, as written answers can facilitate more targeted document requests and are less burdensome than arranging for in-person testimony.
- **Freeze assets or otherwise restrict entities from dissipation while they are under investigation**. One of the paramount goals in any enforcement proceeding is to ensure that a lawbreaker cannot retain its ill-gotten gains so that consumers receive restitution. Allowing the Attorney General to freeze a company's assets gives it a critical tool to preserve potential consumer restitution payments when it becomes appropriate to do so.
- **Impose penalties for failure to comply with investigative subpoenas**. Enforcing compliance with subpoenas and investigative tools takes time and resources, and when bad actors are ignoring these obligations or engaging in gamesmanship to evade liability, fees and penalties are wholly appropriate.
- **Allow for information sharing with other offices that have similar confidentiality restrictions**. The ability to work efficiently with other agencies—both within and outside of the District—can be extremely beneficial and efficient. Illegal conduct frequently spans multiple jurisdictions, and sharing information can reduce duplicitous efforts and facilitate a faster recovery for consumers.

Finally, the bill provides critical retaliation protections for consumers who file complaints or assist in investigations. Enforcement of the CPPA is nearly impossible without hearing from and working with harmed consumers or whistleblowers, and the brave individuals who are testifying against their landlord, a local business, or a company who has access to their sensitive personal data should receive the utmost protection from retaliation, enforceable through the CPPA.

Conclusion

We urge you to pass Bill 26-0174. These changes to the CPPA will ensure that the District has one of the most robust consumer protection statutes in the nation, and that it is fully equipped to address the forward trajectory of our economy.

Thank you for your consideration of these comments.

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