

Thursday, April 9, 2020

The Honorable Michael R. Pence
Vice President of the United States of America
Chair, White House Coronavirus Task Force
1650 Pennsylvania Avenue, NW
Washington, DC 20502

RE: COVID-19 Highlights the Importance of Evidence-Based Interventions and Top-Down Leadership to Combat Fraud, Patient Harms

Dear Vice President Pence:

On behalf of the 42 undersigned organizations, we write to thank you and your colleagues for your dedication in responding to the global COVID-19 pandemic and to recommend further critical steps to be taken now to protect the American public against frauds, scams, and disinformation regarding the pandemic and the economic and social dislocations it has caused.

The leadership displayed by the White House Coronavirus Task Force and other national officials is a critical component of a comprehensive response to this pressing public health crisis. With infection and mortality rates rising daily, we further encourage the Administration to take swift, science-based actions to help flatten the curve and save lives.

Since day one of the coronavirus crisis, bad actors have been exploiting public fear and confusion to launch thousands of COVID-themed global scams and phishing attacks. Peddling pseudoscience and false hopes, bad actors online and offline are using the coronavirus crisis to profit at patients' expense. Indeed, in the past few weeks, more than 100,000 website domain names have been registered containing terms like "covid," and "corona," most of which have been found to be outright dangerous.¹ The risk here, however, is that illegal actors are not confined to a single domain name or search term; rather, illegal activity is occurring across various online marketplaces and social media platforms.

We applaud the Department of Justice (DOJ), Food and Drug Administration (FDA), Federal Trade Commission (FTC), Department of Homeland Security (DHS) and state attorneys general for their recent actions to combat COVID-19 misinformation, financial and healthcare fraud, and sales of counterfeit medicines. Amongst many other actions, notable examples include:

- DOJ's swift enforcement against *coronavirusmedialkit.com*;²
- FDA and FTC's issuance of numerous warning letters to individuals and companies found offering for sale fraudulent COVID-19 products;³
- Commissioner Hahn's *USA Today* op-ed raising awareness of coronavirus-related scams online;⁴

¹ <http://interisle.net/sub/DomainRegistrationData.pdf>

² <https://www.justice.gov/opa/pr/justice-department-files-its-first-enforcement-action-against-covid-19-fraud>

³ <https://www.fda.gov/news-events/press-announcements/coronavirus-update-fda-and-ftc-warn-seven-companies-selling-fraudulent-products-claim-treat-or>

⁴ <https://www.usatoday.com/story/opinion/2020/03/17/fda-chief-stop-using-unapproved-products-claiming-prevent-coronavirus-column/5041971002/>

- U.S. Attorney for the Central District of California’s arrest of an individual on federal fraud charges stemming from an illegitimate investment scheme based on bogus claims of a COVID-19 cure;⁵
- New York State Attorney General Letitia James’ multiple efforts raising visibility and taking action against fraudulent COVID-19 treatment marketing⁶ and “coronavirus-killing device;”⁷
- The FDA, FTC, and State Attorneys General from New York and Missouri taking action against televangelist Jim Bakker for unfounded claims that “Silver Sol Liquid” could cure COVID-19; and⁸
- U.S. Customs and Border Protection’s seizures of multiple shipments of counterfeit COVID-19 testing kits, including at Los Angeles International Airport⁹ and O’Hare International Airport.¹⁰

We sincerely thank you for your attention to these and other COVID-19 related scams.

Sadly, these COVID-19 scams were entirely predictable. We have long called for increased regulation and enforcement against analogous illegal acts that result in public health harm. Like canaries in a coalmine, the illegal marketing of alleged CBD products fraudulently claiming to cure and mitigate disease without scientific evidence or, when appropriate, FDA-approval, the illegal online sales of opioids and other prescription drugs on the open web, and the consumer financial frauds related to these illegal acts sounded the alarm and provided the model for the COVID-19 frauds of today. In recent weeks, the FDA and FTC have issued multiple joint warning letters to companies for offering products containing CBD “intended to mitigate, prevent, treat, diagnose, or cure COVID-19,” in clear violation of the Federal Food, Drug and Cosmetic Act.¹¹

The current situation was also largely preventable. No-cost solutions to better protect consumers already exist. Now the Administration, States, and Congress must step-up to enact and enforce these policies. In response to the COVID-19 pandemic, we urge you to double-down against scams and fraud by focusing on the following recommendations:

1. STAY CENTERED IN SCIENCE: REMEMBER, CURES TAKE TIME; FRAUD IS FAST.

During the COVID-19 pandemic, consumers need to hear evidence-based information from our leaders, and they need to hear it often as false hope and fraud thrives on fear. This truth has been made poignantly clear in recent days, as Americans have been hurt or killed from actions taken in response to unsubstantiated statements regarding coronavirus treatments.¹² To combat pseudoscience, we recommend:

- **Repeat evidence-based messages:** Until science proves otherwise, we urge our leaders to repeat the message “there are currently no vaccines or drugs approved to treat or prevent COVID-19. Access to certain treatments is limited to those under FDA-approved Emergency Use Authorization or expanded access programs.” Government warnings and alerts, such as FDA’s recent *Beware of Fraudulent Coronavirus Tests, Vaccines and Treatments* are important and impactful.¹³ As allies in

⁵ <https://www.justice.gov/usao-cdca/pr/southland-man-arrested-federal-charges-alleging-fraudulent-investment-scheme-featuring>

⁶ <https://ag.ny.gov/press-release/2020/attorney-general-james-orders-tv-host-stop-marketing-bogus-coronavirus-treatments>

⁷ <https://ag.ny.gov/press-release/2020/ag-james-orders-companies-stop-selling-bogus-coronavirus-killing-devices>

⁸ FDA/FTC: <https://www.fda.gov/inspections-compliance-enforcement-and-criminal-investigations/warning-letters/jim-bakker-show-604820-03062020>; NY AG: https://ag.ny.gov/sites/default/files/bakker_cease_and_desist_letter_notification.pdf; MO AG: <https://ago.mo.gov/home/news/2020/03/10/ag-schmitt-files-suit-against-jim-bakker-for-selling-fake-coronavirus-cure>

⁹ <https://www.cbp.gov/newsroom/national-media-release/cbp-officers-seize-fake-covid-19-test-kits-lax>

¹⁰ <https://www.cbp.gov/newsroom/local-media-release/cbp-officers-o-hare-seize-prohibited-medical-test-kits>

¹¹ <https://www.fda.gov/inspections-compliance-enforcement-and-criminal-investigations/warning-letters/neuroxpf-606236-03312020>

¹² <https://www.cnn.com/2020/03/23/health/arizona-coronavirus-chloroquine-death/index.html>

¹³ <https://www.fda.gov/consumers/consumer-updates/beware-fraudulent-coronavirus-tests-vaccines-and-treatments>

this cause, we (the undersigned) pledge to repeat and amplify your evidence-based messages to reach as broad an audience as possible. The more you do, the more we will do too.

- **Incentivize research for FDA-approved therapies.** Pseudoscience must not be tolerated; it prevents patients from getting the evidence-based therapies they quite literally need to survive. Now more than ever, we need policymakers to proclaim and produce public policy that prioritizes research, clinical evidence, and FDA-approved tests and treatments. COVID-19 has made all-too-clear just how essential it is to have FDA-approved medicines we can trust.

2. ADDRESS SYSTEMIC, STRUCTURAL INTERNET POLICY PROBLEMS THAT ENABLE COVID-19 SCAMS ONLINE.

We appreciate the efforts many internet commerce companies have taken to mitigate COVID-19 related consumer harms, including price gouging, the sale of counterfeit products, and related financial crimes.¹⁴ Still, more needs to be done as these frauds persist and will proliferate as consumers' reliance on the internet for goods and services increases as a consequence of social distancing and stay-at-home orders. Websites, social media, and online marketplaces will remain constant sources of healthcare scams unless policymakers take concrete action to address structural issues have enabled online frauds to proliferate. These scams will particularly impact senior citizens, who are often successfully targeted in Internet scams.

We recommend policymakers address a root cause of today's online fraud problem: the complete lack of domain name registrar accountability. In response to COVID-19 scams, U.S. Attorney for the Western District of Texas observed that domain name registrars have the unique ability to "quickly and effectively shut down websites designed to facilitate these scams."¹⁵ We agree, but voluntary enforcement is not enough. Despite the clarion calls of FDA and Drug Enforcement Administration (DEA),¹⁶ voluntary action has not stopped illegal online drug crime. We urge government leaders to require – not ask – for registrars to do more against online scams.

Two well-vetted policy solutions would have an immediate impact in reducing COVID-19 scams:

- **Require transparency to stop internet fraud at scale.** As Rep. Bob Latta (R-OH) called for in a February 2020 House Resolution¹⁷, Congress should require registrars to validate domain name registration information and make registration data accessible.¹⁸ The U.S. DOJ, FTC, FDA, Department of Commerce, Europol, cybersecurity experts, public health leaders, and others agree that access to domain registration information is the essential for "tracking down cybercrooks and/or for disrupting their operations."¹⁹
- **Stop companies from profiting from domains used for public health scams.** While leaders at DOJ, FTC, FDA and in governments take action to monitor and stop COVID-19 scams, Congress could strengthen these efforts by requiring U.S.-based domain name registrars to immediately lock and suspend any domain name used to facilitate coronavirus and other public health scams. Especially during a global pandemic, there is simply no reason that domain name registrars should be able to

¹⁴ Google: <https://www.blog.google/inside-google/company-announcements/coronavirus-covid19-response/>; Facebook: <https://about.fb.com/news/2020/03/coronavirus/>; Twitter: https://blog.twitter.com/en_us/topics/company/2020/An-update-on-our-continuity-strategy-during-COVID-19.html; eBay: <https://community.ebay.com/t5/Announcements/COVID-19-Coronavirus-Important-reminder-about-our-listing/ba-p/30716958>; Amazon: <https://blog.aboutamazon.com/company-news/price-gouging-has-no-place-in-our-stores>

¹⁵ *Id.* See Source 2.

¹⁶ <https://www.fda.gov/drugs/news-events-human-drugs/online-opioid-summits>

¹⁷ https://latta.house.gov/uploadedfiles/latta_whois_house_resolution.pdf

¹⁸ <https://latta.house.gov/news/documentsingle.aspx?DocumentID=402281>

¹⁹ See <https://secureandtransparent.org/policy-and-advocacy/>

profit from the sale of domains used for COVID-19-related frauds and phishing attacks.

3. PREPARE FOR A WAVE OF SCAMS TARGETING THE COVID-19 RELATED ECONOMIC DOWNTURN.

As we saw in the 2008-09 economic crisis, scammers come out of the woodwork to take advantage of consumers facing economic hardship. We have already seen a [dramatic uptick](#) in consumer complaints regarding coronavirus-related scams. We anticipate that those numbers will only go up in the weeks and months to come. To combat this coming wave of financial fraud, we urge you to consider the following recommendations:

- **Launch a nationwide public service campaign to educate consumers about common scams targeting the economically vulnerable.** Over the next several weeks, most consumers will receive checks of \$1,200 or more because of the recently-enacted CARES Act. Scammers are already defrauding consumers by claiming they can expedite the receipt of these funds. The FTC and IRS should dramatically increase their efforts to educate consumers about these scams, and the Department of Justice should prioritize investigation and prosecution of the criminals behind them.
- **Focus on cracking down on phishing campaigns leveraging consumers' fears about the economy.** The COVID-19 emergency is an [unprecedented opportunity](#) for scammers to trick consumers and businesses into giving up sensitive personal information via sophisticated phishing schemes. The FTC and Department of Justice should focus enforcement efforts on bringing the perpetrators of these schemes to justice.
- **Stop counterfeits before they reach Americans.** Department of Homeland Security (including CBP and ICE-HIS) must be provided with necessary resources to ensure that they are able to effectively interdict illicit shipments of counterfeit pharmaceuticals, medical devices, and personal protective equipment.

The COVID-19 pandemic makes your work against healthcare and financial fraud more important now than ever. As you marshal resources to protect consumers, please consider the undersigned organizations as resources and allies in this fight. Please reach out to Libby Baney (Libby.Baney@FaegreDrinker.com) with any follow-up to this letter.

Sincerely,

ACT | The App Association

Aimed Alliance

Alliance for Safe Online Pharmacies (ASOP Global)

Alliance for Safe Online Pharmacy in the EU

American Apparel & Footwear Association

American Pharmacists Association

American Society of Health-System Pharmacists

AppDetex

BeMedWise Program at NeedyMeds

Biotechnology Innovation Organization (BIO)

Bridge the Gap: SYNGAP Education & Research Foundation

Coalition for a Secure & Transparent Internet
Coalition for Online Accountability
Collaborative for CBD Science & Safety
Consumer Brands Association
Consumer Health Information Corporation
Council for Responsible Nutrition
CV Sciences
DomainTools
Eli Lilly and Company
Entertainment Industries Council, Inc.
Gilead Sciences
Global Brand Owner and Consumer Protection Coalition
International Anti-Counterfeiting Coalition
International Safety Equipment Association
KnujOn
Kroll
LegitScript
National Association of Chain Drug Stores
National Association of County Behavioral Health and Developmental Disability Directors
National Association for Rural Mental Health
National Consumers League
National Cyber Forensics Training Alliance
NeedyMeds
Partnership for Safe Medicines
Professor Timothy K. Mackey
S-3 Research
The Gerontological Society of America
Transnational Alliance to Combat Illicit Trade
USP
Verisk Financial | G2
Young People in Recovery

cc: The Honorable Robert S. Adler, *Acting Chairman, U.S. Consumer Product Safety Commission*
The Honorable Alex M. Azar, II, *Secretary, U.S. Department of Health and Human Services*
The Honorable William P. Barr, *United States Attorney General, Department of Justice*
Dr. Deborah Birx, *Response Coordinator, White House Coronavirus Task Force*
Dr. Anthony Fauci, *Director, National Institute on Allergy and Infectious Diseases, NIH*

The Honorable Tim Fox, *Montana Attorney General and President, National Association of Attorneys General*

The Honorable Stephen M. Hahn, MD, *Commissioner of Food and Drugs, U.S. Food and Drug Administration*

The Honorable Kevin McCarthy, *Minority Leader, United States House of Representatives*

The Honorable Mitch McConnell, *Majority Leader, United States Senate*

The Honorable Nancy Pelosi, *Speaker, United States House of Representatives*

The Honorable Chuck Schumer, *Minority Leader, United States Senate*

The Honorable Joseph J. Simons, *Chairman, U.S. Federal Trade Commission*