

March 9, 2018

The Honorable Paul Ryan
Office of the Speaker
United States House of Representatives
H-232, The Capitol
Washington, D.C. 20515

The Honorable Nancy Pelosi
Office of the Democratic Leader
United States House of Representatives
H-204, The Capitol
Washington, DC 20515

**RE: Public interest opposition to including Moolenaar pyramid scheme rider
in the omnibus appropriations bill**

Dear Speaker Ryan and Leader Pelosi,

Last year, the undersigned consumer advocacy organizations, civil rights groups, and academic experts wrote you to express our strong opposition to an amendmentⁱ sponsored by Congressman John Moolenaar (R-MI) which was included in the Financial Services and General Government appropriations bill.ⁱⁱ In addition to the undersigned organizations, the Moolenaar amendment is opposed by a broad and bipartisan coalition, including current and former FTC chairmen, commissioners, and bureau chiefs^{iiiiv} and leading members of the direct selling industry itself.^{v vi vii} We understand that this amendment may now be considered for possible inclusion in the FY18 omnibus spending bill. We urge you to oppose its inclusion.

The Moolenaar amendment, modeled after H.R. 3409, the so-called “Anti-Pyramid Scheme Promotion Act of 2016,”^{viii} would severely weaken the Federal Trade Commission’s ability to police pyramid scheme activity in the multi-level marketing (MLM) industry. Under the guise of consumer protection, the amendment would blur the line between legitimate direct selling opportunities and illegal pyramid schemes.

For more than forty years, the courts have consistently stated that the critical difference between a legitimate MLM business and a pyramid scheme is that a legitimate MLM’s revenues must come primarily from the sale of products and services to retail customers unaffiliated with the business opportunity. By contrast, a pyramid scheme generates its revenue primarily from the recruitment of new members into an endless chain business opportunity. The FTC recently reiterated this concept to the MLM industry in an updated guidance report.^{ix} As the FTC has clearly communicated to Congress, the agency already has sufficient legislative authority to effectively protect consumers from pyramid schemes operating in the MLM industry. As Commissioner McSweeney has pointed out, the

Moolenaar amendment would fundamentally weaken the FTC's ability to police fraudulent conduct by MLMs.^x

Given these serious concerns, we urge you to oppose the inclusion of this language in the appropriations bill when it is considered by the House of Representatives.

Sincerely,

Consumer Action

Consumer Federation of America

Consumers Union

Consumer Watchdog

MANA, A National Latina Organization

National Association of Consumer Advocates

National Consumer Law Center (on behalf of its low income clients)

National Consumers League

U.S. PIRG

William W. Keep, PhD, The College of New Jersey School of Business

Peter J. Vander Nat, PhD, Senior Economist (retired), Federal Trade Commission

cc: The Honorable Rodney Frelinghuysen
The Honorable Nita Lowey
The Honorable Tom Graves
The Honorable Mike Quigley
The Honorable Greg Walden
The Honorable Frank Pallone
The Honorable Bob Latta
The Honorable Jan Schakowsky
The Honorable Mitch McConnell
The Honorable Charles Schumer
The Honorable Thad Cochran
The Honorable Patrick Leahy
The Honorable Shelley Moore Capito
The Honorable Christopher Coons
The Honorable Bill Nelson
The Honorable Jerry Moran
The Honorable Richard Blumenthal

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- ⁱ House Committee on Appropriations. "AMENDMENTS ADOPTED TO THE FINANCIAL SERVICES APPROPRIATIONS BILL FOR HY 2018," July 13, 2017. Pg. 37. Online: <http://docs.house.gov/meetings/AP/AP00/20170713/106248/HMKP-115-AP00-20170713-SD005.pdf>
- ⁱⁱ National Consumers League. "Consumer groups call on House to oppose pyramid scheme promotion amendment," press release. July 18, 2017. Online: http://www.nclnet.org/moolenaar_amendment
- ⁱⁱⁱ McSweeney, Terrell. "Congress should crack down on predatory 'pyramid schemes,' not look away," *The Hill*. August 3, 2017. Online: <http://thehill.com/blogs/pundits-blog/finance/345073-congress-should-crack-down-on-predatory-pyramid-schemes-not-look>
- ^{iv} National Consumers League. "Former senior FTC officials call on Congress to oppose pyramid scheme promotion bill," press release. September 13, 2017. Online: http://www.nclnet.org/ftc_alumni_moolenaar
- ^v Vandersloot, Frank. "Anti-pyramid measure is really a pro-pyramid bill," *The Hill*. September 6, 2017. Online: <http://thehill.com/blogs/congress-blog/politics/349537-anti-pyramid-measure-is-a-step-in-the-wrong-direction-for>
- ^{vi} Rosen, Eric. Letter from Herbalife to the Honorable Marsha Blackburn and the Honorable Marc Veasey. July 28, 2017. Online: <https://www.scribd.com/document/356458302/Blackburn-Veasey-072817>
- ^{vii} Bell, Jeff. "Direct Sales Industry Should Commit To Consumer Protection," Law360. October 26, 2017. Online: <https://www.law360.com/articles/977942/direct-sales-industry-should-commit-to-consumer-protection>
- ^{viii} Online: <https://www.congress.gov/bill/114th-congress/house-bill/5230?q=%7B%22search%22%3A%5B%22hr+5230%22%5D%7D&r=1>
- ^{ix} Federal Trade Commission. "Business Guidance Concerning Multi-Level Marketing," January 2018. Online: <https://www.ftc.gov/tips-advice/business-center/guidance/business-guidance-concerning-multi-level-marketing>
- ^x McSweeney, Terrell. "Congress should crack down on predatory 'pyramid schemes,' not look away," *The Hill*. August 3, 2017. Online: <http://thehill.com/blogs/pundits-blog/finance/345073-congress-should-crack-down-on-predatory-pyramid-schemes-not-look>