



February 22, 2022

Lina M. Khan, Chair
Federal Trade Commission
Office of the Secretary
600 Pennsylvania Avenue NW, Suite CC-5610 (Annex B)
Washington, DC 20580
Submitted electronically via www.regulations.gov

RE: Impersonation ANPR; FTC File No. R207000

Dear Chair Khan:

The Board of Directors of the National Association of State Charity Officials (NASCO) respectfully submits this letter in response to the Federal Trade Commission's (FTC) solicitation for written comments concerning the need for rulemaking to prevent persons, entities, and organizations from impersonating government agencies or staff and businesses or their agents. As described more fully below, we recommend that the FTC consider in any such rulemaking impersonation of charitable organizations by individual fundraisers and professional fundraisers.

NASCO is an association of state charity officials, including state Attorneys General offices, Secretaries of State offices, and other state offices charged with preventing fraudulent solicitations, the misuse of charitable assets, ensuring that trustees of charitable trusts fulfill their fiduciary duties, and enabling donors to make informed choices about which charitable causes to support.¹ NASCO members work toward the goal of upholding the integrity of the charitable sector through ensuring transparency and accountability.

The FTC and state regulators have enjoyed a highly successful partnership (noted in examples discussed below) to combat solicitation fraud and hold fraudulent charities and their leaders accountable for the harm they cause to donors and legitimate charitable causes. As you are aware, fraudsters impersonating charities or legitimate charitable purposes undermine the trust in the charitable sector and divert donor dollars from legitimate causes.

¹ This letter reflects the views of the NASCO Board of Directors. It does not necessarily reflect the views of any individual Attorney General, Secretary of State, or other state official.

Based on our experience, and in consideration of the harm noted above, we request that that the FTC address the following in its rulemaking to combat impersonation fraud:

1. Include fraudulent charitable solicitations in the description of unfair or deceptive acts or practices involving impersonation.

Bad actors who impersonate charities prey upon the good will and generosity of donors using well known causes such as cancer, veterans, and local firefighters. Using high pressure tactics to tug at the heart strings of consumers to compel a donation on the spot, these bad actors intend to leave no time for the consumer to research their claims before agreeing to donate. High volume soliciting using direct mail or telemarketing make these scams profitable and can result in millions of dollars in charitable assets lost to fraudulent charitable solicitations. In partnership with the FTC, NASCO regulators have worked to shut down scam charities that employ these fraudulent tactics. One well known example of such collaboration is the Cancer Fund of America case involving the FTC and all 50 states.² In addition, Operation Donate With Honor successfully shut down fraudulent charitable solicitations involving veterans and the military.³

That said, fraudulent practices of impersonating legitimate charitable causes and charitable organizations persist across the country. For example, in 2021, the California Attorney General prosecuted Donnelly Montenegro who posed as a staff member of the AIDS Research Alliance and led donors to believe the organization was still in operation. The AIDS Research Alliance had dissolved in 2015. Montenegro, and others, posed as the shuttered organizations to obtain and then launder hundreds of thousands of dollars in donations intended for AIDS research from 2015 to 2017.

In 2018 a Maryland-based cancer charity and its founder entered into an Assurance of Discontinuance with the State of Maryland to settle several violations of the Maryland Solicitations Act.⁴ The charity, a 501(c)(3) organization formerly called the Cancer Society of America, Inc., dba USA Cancer Foundation, Inc., masqueraded as the American Cancer Society online and on social media websites. The organization accepted and cashed over 150 donation checks expressly made out to the American Cancer Society. The donations came from across the country, and continued for several years before the scheme was brought to the attention of charity regulators. A federal rule prohibiting charity impersonation would serve as an effective deterrent against using domain names, the Internet, social media, and other tools intended to deceive consumers into believing a legitimate, well established charity is behind otherwise fraudulent charitable solicitations.⁵

² <https://www.ftc.gov/enforcement/cases-proceedings/122-3005-x150042/cancer-fund-america-inc>.

³ <https://www.ftc.gov/news-events/blogs/business-blog/2018/07/operation-donate-honor-law-enforcers-unite-challenge>. In addition to including over 100 enforcement actions against rogue veteran's charities, Operation Donate With Honor featured education for consumers on how to avoid falling victim to charity impersonation scams involving fraudulent charitable solicitations.

⁴ <https://www.marylandattorneygeneral.gov/press/2018/030918a.pdf>.

⁵ See Kansas Attorney General's action regarding fraudulent charity A Ride for the Wounded <https://ag.ks.gov/media-center/news-releases/2021/05/21/ag-derek-schmidt-fraudulent-charity-shut-down-ordered-to-pay-damages> and California Attorney General's action against individual impersonating a staff member of the

In another example, multiple states needed to act separately to prevent fictitious charities founded by the same individual from being used to target the donating public. Court documents and press releases demonstrate that Ian Richard Hosang formed charities in several states, many of which used variations on the names United Way, American Red Cross, and American Cancer Society. Attorneys General in Michigan, North Dakota, and Washington have taken action separately to dissolve the fictitious charities founded in their own states and help prevent confusion across the country among the donating public.⁶ That said, Hosang founded similarly named charities in several other states, which the Michigan, North Dakota, and Washington Attorneys General had no jurisdiction to address.⁷ A federal rule outlawing this type of fraudulent behavior—impersonating a legitimate charity—would be an effective deterrent against impersonation fraud, and it would also add an enforcement tool for scams that cross state boundaries and warrant nationwide relief.

2. Prohibit fraudulent charitable solicitations by individual and professional fundraisers.

The FTC should also ensure that any federal rule outlawing charity impersonation would hold both individuals and professional fundraisers accountable for such conduct. While the above examples cite to bad conduct of individuals impersonating legitimate charities, we have seen examples of professional fundraising organizations impersonating legitimate charitable causes, including in public safety solicitor scams.⁸ Just this past year, the FTC worked with 38 state charity regulators to shut down a nationwide telemarketing scheme that involved \$110 million donations lost to professional fundraisers impersonating legitimate charitable causes including support for children with cancer, veterans, and volunteer firefighters.⁹

In 2019, a local consumer protection agency in Maryland took action against a public safety solicitor scam involving telephone solicitations that appear to have been from a local volunteer fire department, but really were from an out of state organization with no affiliation to the local firefighters.¹⁰ One tactic used by the solicitors included spoofing local telephone numbers on the caller ID so that it appeared as though the caller was from the local area. A

AIDS Research Alliance <https://www.nasconet.org/2021/02/attorney-general-becerra-announces-sentencing-in-aids-research-alliance-fraud-scheme-state-of-california-department-of-justice-office-of-the-attorney-general/>.

⁶ See Michigan -- https://www.michigan.gov/ag/0,4534,7-359-92297_47203-538820--,00.html; North Dakota -- <https://attorneygeneral.nd.gov/sites/ag/files/documents/RecentActions/2018-10-31-Hosang-Judgment.pdf> Washington -- <https://www.nasconet.org/2018/08/washington-ag-ferguson-files-lawsuit-against-nonprofit-founder-with-ties-to-organized-crime/>; see also <https://nonprofitquarterly.org/a-made-man-and-his-six-nonprofits-an-ode-to-regulators/>.

⁷ According to the Washington Attorney General's 2018 complaint, Hosang registered fictitious nonprofits in California, Wisconsin, Ohio, Georgia, New York, Florida, and Maryland, all using the variations on the names United Way, American Red Cross, and American Cancer Society.

⁸ The FTC publishes guidance for consumers on how to avoid falling victim to these schemes, though these schemes persist. See <https://www.consumer.ftc.gov/articles/0085-fundraisers-calling-behalf-police-and-firefighters>.

⁹ <https://www.ftc.gov/news-events/press-releases/2021/03/ftc-38-states-dc-act-shut-down-massive-charity-fraud-telefunding>.

¹⁰ https://www2.montgomerycountymd.gov/mcgportalapps/Press_Detail.aspx?Item_ID=23648; see <https://www.npr.org/local/305/2019/11/21/781604869/a-double-scam-montgomery-county-residents-seek-refunds-after-donation-scheme>.

federal rule barring impersonation of this kind would act as a deterrent to those who seek to impersonate local first responders and volunteer firefighter organizations as in this example.

We appreciate the FTC's continued partnership in combatting charitable solicitation fraud and are grateful for these rulemaking efforts aimed at holding government and business (including charitable) impersonators accountable. Thank you for the opportunity to convey comments in response to the FTC's advanced notice of proposed rulemaking and request for public comment. We respectfully urge you to consider the issues outlined above in such rulemaking. Please feel free to reach out if you would like to discuss.

Sincerely,

Yael Fuchs

Yael Fuchs
President, National Association of State
Charity Officials (NASCO)