

## **Statement for the Record**

**Submitted by**

**The Premier Inc. healthcare alliance**

***Safeguarding American Consumers: Fighting Fraud and Scams During the Pandemic***

**House Energy and Commerce**

**Subcommittee on Consumer Protection and Commerce**

**February 4, 2021**

The Premier healthcare alliance appreciates the opportunity to submit a statement for the record on the House Energy and Commerce Subcommittee on Consumer Protection and Commerce hearing titled “Safeguarding American Consumers: Fighting Fraud and Scams During the Pandemic” scheduled for February 4, 2021. We applaud the leadership of Chairs Pallone and Schakowsky, and Republican Leaders Rodgers and Bilirakis and members of the Subcommittee for holding this hearing in an effort to protect Americans from falling victim to frauds and scams during the pandemic.

### **Premier’s Reflections & Learnings From COVID-19 Response Efforts**

Premier is a leading healthcare improvement company, uniting an alliance of more than 4,100 U.S. hospitals and health systems and approximately 200,000 non-acute providers to transform healthcare. With integrated data and analytics, collaboratives, supply chain solutions, consulting and other services, Premier enables better care and outcomes at a lower cost.

From the beginning of the COVID-19 pandemic, Premier has been at the forefront of response efforts working around the clock to identify and implement innovative solutions that ensure hospitals, health systems, and alternate site providers across the country had access to the necessary PPE, medical supplies and pharmaceuticals to treat COVID-19 patients.

Premier has spent significant time reflecting on the experience of the healthcare industry during COVID-19 response efforts to determine elements that worked well as well as areas for improvement for the future. The COVID-19 outbreak underscores what Premier has been advocating for the better part of a decade – that the U.S. must be more forward-looking and strategic about our supply chain. During the pandemic, a legitimate surge in demand and the fear of product shortages that spurred panic buying and hoarding put unprecedented stress on the normal supply chain. In response, distributors began allocating product based on historic volume, rather than need. While effective in preventing hoarding, allocation left providers experiencing a legitimate surge with an inadequate source of supply. In desperation, providers turned to the rampant gray market filled with “pop up” brokers selling illegitimate products. Throughout the pandemic, Premier has vetted thousands of vendors for our members. Still, providers remain vulnerable to these predatory and costly practices, which jeopardize patient and worker safety.

Premier divides the gray market into two categories:

- Alternative suppliers → Legitimate product but not acquired through traditional entity in the supply chain at an elevated price. For example, N95 masks being sold at \$3-\$5 per piece whereas they normally cost \$0.30-\$0.40 per piece.
- Black market → Fraudulent, adulterated or counterfeit products at an elevated price. For example, quantities of product being offered that are physically unable to be legitimate such as an offer for 2 billion medical grade N95 masks that would normally require 10+ years to manufacture.

The emergence and continued presence of the gray market is directly related to supply chain stresses adding complexity and confusion for supply chain experts and clinicians questioning if their PPE is adequate to protect them, their patients, and their families. Premier has noted an increase in gray market actors with increasingly sophisticated plans rendering themselves nearly undetectable.

Throughout the pandemic response, Premier has been diligent in warning healthcare providers of the risks associated with gray market purchases and has been prudent in our response which includes vetting over 2000 gray market solicitations through 1) review of submitted documentation to evaluate business and clinical certifications; 2) clinical evaluation of the product including raw materials, production facilities, and documented integrity of their supply chain; and 3) evaluation of the business itself. To date, less than 15% of gray market solicitations have passed Premier's stringent vetting process and were considered legitimate alternate suppliers.

As House Energy and Commerce Committee leaders [called out](#) last year, the e-Commerce marketplace is particularly ripe for illicit marketeers. Premier's online marketplace, [stockd.](#), however, is built by providers for providers, stockd has:

- Robust security settings to prevent the selling of "gray market" goods, or those that are sold outside of the brand owner's approved distribution channels.
- Stringent vetting policies that safeguards buyers and ensures that they're purchasing from verified manufacturers and distributors, not third-party sellers who may price gouge or make suspect product claims based on market demand.

### **Premier's Recommendations to Ensure Supply Chain Integrity**

To help strengthen and maintain the integrity of the supply chain during this and future pandemics, Premier recommends the creation of a centralized clearing house to vet gray market offers and test products to ensure integrity. The clearing house should:

- Hold all payments in escrow until testing is validated;
- Test lot samples through a certification process;
- If the product is validated, it should be permitted for sale;
- If the product is not validated; it should be confiscated, and appropriate action be taken against the gray market actor.

To further combat the gray market and ensure supply chain integrity, Premier recommends:

- Requiring entities associated with the distribution of critical medical supplies and pharmaceuticals to implement checks and balances systems, similar to suspicious order monitoring requirements for controlled substances, to identify potential diversion to the gray market.
- Promoting the reporting of gray market offers to the FDA Office of Criminal Investigations and share reported incidents with the Federal Trade Commission (FTC).
- Implementing civil monetary penalties (CMPs) for entities selling critical medical supplies and pharmaceuticals to the gray market.
- Establishing best practices for security to minimize diversion from sites.

## **Conclusion**

In closing, the Premier healthcare alliance appreciates the opportunity to submit a statement for the record on the House Energy and Commerce Subcommittee on Consumer Protection and Commerce hearing aimed at protecting Americans from COVID-19-related fraud and scams. As an established leader in the healthcare supply chain, Premier is available as a resource and looks forward to working with Congress as it considers policy options to continue to address this very important issue.

If you have any questions regarding our comments or need more information, please contact Soumi Saha, Vice President of Advocacy, at [soumi\\_saha@premierinc.com](mailto:soumi_saha@premierinc.com) or 732-266-5472.