



NEWS FROM

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Statement by the Honorable Bobby L. Rush, Chairman Subcommittee on Commerce, Trade and Consumer Protection

for the hearing on

“The Proposed Consumer Financial Protection Agency: Implications for Consumers and the FTC”

Wednesday, July 8, 2009

WASHINGTON — “Good morning. I would like to thank all my colleagues and the witnesses who diligently worked to prepare testimony over the July 4th holiday weekend so that today’s hearing would be as meaningful as possible as we commence our examination of the Administration’s proposal to create a new Consumer Financial Protection Agency.

“My view on the matter is fairly straightforward. I believe that the FTC should remain intact as it is currently constituted, and that this Committee and subcommittee should continue to oversee and authorize the FTC.

“The Commission, which was established in 1914 during our nation’s progressive era, was designed to be a regulatory agency with disinterested expertise to ensure competition and to promote free enterprise. That mission and those prescient concerns are as vital today as they were almost a century ago.

“The Commission operates best as a lone hawk. From high above, the agency can survey the marketplace and swoop down on predators that deceive unsuspecting and misinformed consumers. The higher and farther away that the FTC is from other agencies and the entities it regulates, the better it is

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at spotting unfair commercial and trading practices, and at isolating those practices that cast the longest shadows. Similarly, by staying at a distance, the agency can keep would-be captors at bay, while staying on course to achieve its critical mission of protecting consumers.

“Looking at all reliable indicators, the Commission has performed commendably with a small and scrappy staff and abridged powers. Working along with a five-person, bi-partisan Commission are approximately 1100 dedicated employees spread out across three bureaus (Competition, Consumer Protection and Economics). Although its expertise is deep and broad, the FTC’s statutory tools under the FTC Act consist of an antiquated and cumbersome form of rulemaking under the Magnusson-Moss Act paired with anemic litigation authority. These tools may be successful at landing glancing blows but they fail to pack the full punch of deterrence that businesses will respect and consumers deserve.

“Currently at the FTC’s disposal are its expertise and its agency-crafted instruments of research, public policy & study development, consumer complaint and education, competition, legal analyses and economics. What the FTC does well it has done without peer relative to its sister agencies. And, what it hasn’t done particularly well is well in the process of being fixed.

“Just a few weeks ago, our subcommittee worked intently to mark up HR 2309, the Credit and Debt Protection Act, which directs the FTC to adopt rules using APA rulemaking authority that would address rampant, unfair and deceptive acts and practices in the areas of payday lending, automotive finance, mortgage and foreclosure rescue and debt settlement.

“Our subcommittee’s objective in passing HR 2309 was to confer more authority upon the FTC and equip it with sufficient resources so that it could adopt rules faster in the areas of credit and debt, through APA rulemaking proceedings, and bring enforcement actions carrying the threat of civil penalties.

“Our Committee has also worked devotedly in the past—more than a few times with members from the Financial Services Committee—to bolster the FTC’s shortcomings, hold out the FTC’s best practices for banking agencies to emulate in protecting consumers, and improve the ability of bank regulatory agencies to protect consumers by issuing unfair and deceptive rules under the FTC Act.

“I have witnessed the respective Chairs of the Committees on Energy and Commerce and Financial Services jointly introduce H.R. 3525 to tackle some of these challenges. Further, I offered a friendly amendment to H.R. 3526, which was introduced by the Chair of the Financial Services

Committee, in the 110th Congress, to require a GAO report investigating federal banking and credit union regulations and the perpetration of unfair and deceptive acts and practices by the depository institutions.

“Importantly, this “push and pull” between our respective committees has pressured the providers of financial services and products, including banks and depository institutions, to balance the allure of profits and determinations of “safety and soundness” against the needs of consumers.

“This collaborative working relationship between committees has produced good and sensible consumer protection bills to safeguard consumers of financial services and consumer credit products. It is a viable example for the independent agencies that would be affected by the Administration’s proposal to follow as it would allow each of them to maintain their independent and respective biases, experience, and expertise when addressing serious problems that cut across industry sectors and affect market suppliers and consumers.

“I thank the witnesses for being here today and I look forward to their testimony. With that, I yield back the balance of my time.”

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