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TEXAS

United States Senate

COMMITTEES:
ARMED SERVICES
COMMERCE
JUDICIARY
RULES AND ADMINISTRATION
JOINT ECONOMIC COMMITTEE

July 17 2015

The Honorable Edith Ramirez
Chairman
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Dear Chairwoman Ramirez:

The emergence of peer-to-peer platforms and the sharing economy offers consumers enormous freedom and economic potential. According to a 2014 Nielsen global survey, 68 percent of respondents indicated they were willing to share their assets for financial gain and 66 percent affirmed they're likely to use or rent products or services from others in a sharing economy. The steady rise in smartphone ownership and growing interest in participating in a sharing economy allowed global sharing economy transactions to reach an estimated $26 billion in 2013 and some estimates predict that the sharing economy could soon generate as much as $110 billion annually in the near future.[1]

The sharing economy is a subject matter on which I have considerable familiarity with, having led public workshops while at the FTC exploring possible anticompetitive efforts to restrict competition on the Internet. Due to the success of these public workshops in the past and seeing the sharing economy's immense potential as an engine for commerce, I was pleased to see the FTC host a June 9, 2015 workshop on the sharing economy in which FTC Commissioner Maureen Ohlhausen stated that the FTC's interest in the sharing economy doesn't necessarily forebode regulatory intervention. Furthermore, I commend Commissioner Ohlhausen for stating, "Misguided government regulation can be the barrier to innovation that never falls, so regulators should tread carefully, particularly when considering hypothetical rather than demonstrated consumer harm," and hope that this sentiment is shared by the rest of the Commission.

However, the workshop also highlighted that an old pattern may be repeating itself in a number of states and municipalities. Over and over again, government is sought out as an ally of incumbent businesses to restrict competition from new entrants. In a number of instances, and in a number of states, pre-existing regulatory regimes have been extended to new entrants in ways that may ultimately deprive consumers of significant cost savings and convenience that would otherwise accompany an expanded sharing economy.

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[1] See Sarah Cannon & Lawrence H. Summers, How Uber and the Sharing Economy Can Win Over Regulators, HARV. BUS. REV. BLOG NETWORK (Oct. 13, 2014), https://hbr.org/2014/10/how-uber-and-the-sharing-economy-can-win-over-regulators/

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For example, in 1919 the Horse Association of America along with such allies as the Master Horseshoe National Protection Association and the National Hay Association campaigned against the use of automobiles and tractors in place of draft animals. In the 1920's, these groups lobbied, successfully in many places, for laws banning automobile parking on principal streets. With the emergence of the Internet by the late 1990's, existing brick and mortar business relied upon state legislatures and regulators to enact barriers to the online sales of wine, contact lenses, caskets, and real estate and financial services. Today, similar regulatory tactics are once again being invoked as regulators at California's Department of Motor Vehicles issued an advisory requiring commercial registration for ride-for-hire companies like Uber and Lyft while New York City has cracked down on Airbnb lodging listings which the New York State Attorney General has stated are in violation of the Multiple Dwelling Law and New York City Administrative Code.

While many of these regulations undoubtedly have pro-competitive and pro-consumer rationales, they may impose costs on consumers that exceed their benefits. These regulations may also have an adverse impact on innovation and job creation in urban communities. The United States Conference of Mayors highlighted in a 2013 resolution in support of policies for shareable cities that "Sharing Economy companies have proven to be engines of innovation and job creation, driving economic development in the hearts of American cities, where joblessness is still most pervasive." In addition, a 2015 New York University Stern School of Business research paper suggests that below-median income consumers will enjoy a disproportionate fraction of eventual welfare gains from this kind of 'sharing economy' through broader inclusion, higher quality rental-based consumption, and new ownership facilitated by rental supply revenues.[2]

To fully achieve the benefits of innovation and job creation in a new shared economy, I encourage the Commission to continue to embrace permissionless innovation and use its statutory authority to examine anticompetitive efforts to restrict competition within the sharing economy. In the past, the Commission has filed competition advocacy comments with the Department of Justice opposing proposals in North Carolina and Rhode Island requiring the physical presence of an attorney for every real estate closing and refinancing. The Commission has also filed staff comments opposing additional restrictions in Connecticut on out-of-state and Internet contact lens sellers. More recently, the Commission filed comments with the District of Columbia Taxicab Commission and the City of Chicago cautioning against unnecessarily inhibiting new models of business such as ridesharing companies.

I ask the Commission to reject requests from incumbent businesses or Members of Congress interested in applying additional regulations on the sharing economy and would instead strongly encourage the Commission to continue to promote competition within the sharing economy. This can best be achieved by continuing to file competition advocacy comments on behalf of sharing economy businesses facing anticompetitive regulations and business practices that could impede commerce and impose unnecessary costs on consumers.

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[2] See Fraiberger, Samuel P. and Sundararajan, Arun, Peer-to-Peer Rental Markets in the Sharing Economy (March 6, 2015). NYU Stern School of Business Research Paper. Available at SSRN: http://ssrn.com/abstract=2574337 or http://dx.doi.org/10.2139/ssrn.2574337

Sincerely,

Ted Cruz
United States Senator

Cc: The Honorable Julie Brill, Commissioner, Federal Trade Commission

The Honorable Maureen K. Ohlhausen, Commissioner, Federal Trade Commission

The Honorable Joshua D. Wright, Commissioner, Federal Trade Commission

The Honorable Terrell McSweeny, Commissioner, Federal Trade Commission