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Federal Trade Commission
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**Prepared Opening Statement of
Commissioner Rohit Chopra**

**Before the United States House of Representatives
Committee on Energy and Commerce
Subcommittee on Consumer Protection and Commerce**

**Hearing on
“Transforming the FTC: Legislation to Modernize Consumer Protection”**

July 28, 2021

Chair Schakowsky, Ranking Member Bilirakis, and Members of the Subcommittee, thank you for holding this hearing today. It is an honor to be here with you and my fellow Commissioners.

The pandemic created the conditions for a wide range of market abuses that harmed so many Americans, including millions of small businesses. Many small businesses in America didn’t just find their financial futures in peril – they also found themselves completely under siege against unfair, deceptive, and anticompetitive practices by dominant firms.

Local restaurant owners were worried about food delivery apps that used coercive practices to force them into paying massive fees. Franchisees faced new onerous requirements that national franchisors were imposing on them, even as they struggled to stay afloat. Independent pharmacists, who played a critical role in the response to the pandemic, found themselves at the mercy of so-called pharmacy benefit managers using tactics that are driving many local pharmacy and clinics out of business. And the list goes on and on. It was crystal clear that small businesses across the country needed the FTC’s help, but many felt ignored.

I appreciate your work to increase the effectiveness of the Federal Trade Commission. As you pursue these efforts, I would also encourage you to consider other reforms to ensure that the FTC is more responsive to small businesses, including examining laws related to ethics and financial conflicts of interest.

Small businesses have expressed concern that the FTC gives favorable treatment to large, powerful firms, such as Big Tech and Big Pharma giants, while ignoring pleas for action to address practices harming small players. And when Big Tech companies egregiously violate our privacy and the law, the FTC has shown it is willing to be lax and forgiving. But when small businesses violate these laws, the FTC brings down the hammer on them, wiping out revenues and even shutting them down. This two-tier approach doesn’t make sense.

Congress should explore whether our laws should be amended to reduce favoritism toward dominant market actors, crack down on financial conflicts of interest, and increase responsiveness to local businesses and startups.

First, Congress should examine whether to revisit laws regarding post-employment restrictions for senior FTC officials. While senior officials cannot immediately appear before the agency on behalf of clients, many are able to quickly work behind the scenes, leveraging their intimate knowledge of non-public agency deliberations on law and policy. This gives them an enormous advantage on how to help large firms escape meaningful accountability when they break the law and how to advise large firms seeking specific FTC actions.

Small businesses and startups simply do not have the resources or ability to hire former FTC Commissioners and Bureau Directors, who regularly appear before the agency on behalf of dominant firms. This creates an unlevel playing field for small businesses engaging with the FTC seeking action or a fair resolution.

Congress should assess whether existing post-employment restrictions and standards regarding financial conflicts of interest in our laws are adequate. While some argue that tougher restrictions will deter some from considering government service, our experience at the FTC reveals a different story, with many of our most talented officials devoting the vast majority of their career to working in public service.

In addition, Congress should also determine whether existing law regarding so-called sponsored travel needs to be updated. Under existing law, senior government officials can be sponsored by non-federal sources to travel to conferences and retreats largely attended by – and indirectly paid for – by those representing dominant firms, especially Big Tech. These events sometimes include closed-door panel discussions that are not open to the media or the public, giving conference organizers and their patrons a chance to gather intelligence about emerging policies and priorities.

This non-public information can also be exploited by investment funds that can trade on and profit from these closed-door panels. Small businesses, startups, and the general public can't easily access these private panel junkets and don't have the resources to organize their own.

To ensure equal access and fairness for small businesses, it will be important to examine whether laws and regulations need to be amended to guard against real or perceived conflicts of interest when it comes to sponsored travel by non-federal sources.

In closing, it is clear that honest businesses need the FTC more than ever. I am confident that we can work together to fairly administer the law and promote a marketplace free of fraud and anticompetitive abuses.

Thank you and I look forward to your questions.