

The Role of the States in Protecting Affordability
Joint Colorado Senate and House Judiciary Committees
Testimony of Seth Frotman
Senior Fellow, Towards Justice
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Thank you Chairwoman Gonzalez, Chairman Mabrey, and members of the Committees. My name is Seth Frotman, and until about a month ago, I was General Counsel and Senior Advisor to Director Rohit Chopra at the Consumer Financial Protection Bureau.

The CFPB was created by Congress nearly fourteen years ago as the most direct response to the 2008 Financial Crisis and the rampant fraud that caused it – decimating communities here in Colorado and across our country, and precipitating a global recession on a scale not seen in generations.

Since that time, the CFPB has been a lifeline for working families – a watchdog they could turn to when they got cheated – by banks, student lenders, debt collectors, credit reporting agencies, and all the financial service providers that everyday Americans are forced to deal with – because that is the only way they can put a roof over their families' heads, or send their kids to college, or just make their way through the day given how financial products – and trillions of dollars of consumer debt – have grown ever more ubiquitous. The CFPB fights on behalf of American families to make sure they don't get ripped off, and it conducts vigilant oversight of risky financial products so that a similar crisis never happens again.

I know that there are so many deeply disturbing events emanating almost every hour out of Washington that it is easy to lose track or turn away. So I think it is important to recount where we find ourselves: Donald Trump, Elon Musk, and Russell Vought have ignored Congress's directives and illegally shut down the CFPB. The inspectors who were spread out across the country, making sure that companies follow the law, were sent home and told to not work. The complaint system that helped people get answers when their bank gave them the runaround has been broken. The offices tasked by Congress to look after students, older Americans, and military families were told to stand down. The signs were literally torn off the building, and the people who stood between Colorado families and companies ripping them off were told they could pick up their personal items in fifteen minute intervals at a loading dock.

The work the CFPB was doing to make life more affordable for working families has been halted or destroyed: from cracking down on junk fees that make it impossible to comparison shop for what's most affordable for your family, to tackling the anti-competitive practices that facilitate soaring credit card rates, to removing barriers and

spiraling costs in the housing market by taking on shady tenant screening reports and mounting mortgage fees.

Day after day, we see the current leaders of the CFPB literally taking money from working people and giving it to the rich. They have permanently dropped nearly a dozen enforcement actions where the CFPB was fighting to get back billions of dollars that large corporations and executives stole from everyday people. Big banks that tricked their customers out of interest on deposits in their savings accounts. Student loan companies that collected on discharged debt. Shady lenders who put new spins on age-old loan-sharking schemes. The list goes on and on. Now that these cases have been dropped, people may never see the return of their hard-earned money, which could have been used to pay for groceries, or a car, or to help cover rent. We are witnessing shameless pardon after shameless pardon for corporate malfeasance.

In a sad summation of where we find ourselves, at a judicial hearing a few weeks ago, a federal judge asked a lawyer representing the current CFPB Director if protecting consumers from unfair, deceptive, and abusive practices is a policy of the Trump administration. And, I kid you not, the attorney from the United States Department of Justice said he did not know.

The CFPB is just one agency, and what is going on there is just one of the parade of horrors for everyday working people. Agency after agency has been “disrupted” and dismantled: from those that protect us from nuclear explosions to those that protect us from exploding mortgages. Any institution that provides a check against Big Banks or Big Tech or Billionaires is on the list. Just yesterday, in a brazenly illegal act, the President purported to fire two commissioners of the FTC – for standing up for workers, and small-town grocers and pharmacists, and all of the regular people this Administration drips with disdain for. This has nothing to do with “efficiency.” And it will do nothing to help with affordability. It is clear what is happening in Washington right now will do nothing to make working people’s lives better or easier.

So where does that leave us? The lawlessness that the Trump administration is stoking, and the abuse of everyday people that continues to rain down on so many, can be counteracted at least in part by ensuring that states have comprehensive, powerful laws and enforcement mechanisms to protect their citizens.

Today’s hearing is about affordability. To me, that translates into questions like: How do we make working people’s lives in this state a little easier? A little cheaper? How do we

ensure that people aren't taken advantage of when they buy the things they need? How do we ensure that markets are transparent, so that firms compete on price and quality, instead of tricks and traps buried in fine print? And what should a state do when the federal government seems hell bent on ensuring the exact opposite?

One of the reasons that people feel like they are constantly pushing a boulder up the hill is that too many companies' core business model is built on pushing that boulder down. We have seen health care providers steer people into inherently deceptive and usurious credit cards loaded with debt "time bombs." We have seen unscrupulous landlords charge fees to apply for an apartment that's already been promised to someone else, or to simply pay rent, or for running water. We have seen big-money startups imposing interest of 300% – or more – just so people can get money they've already earned a little bit faster.

Prices go down when innovative companies compete for customers in fair and transparent markets. Instead, people too often face a barrage of back-end pricing, junk fees, illegally manipulated lead generation sites, "dark patterns" duping them into paying for stuff they don't want, dubious subscription models, usurious lending products, private equity's ever-more-dubious ways to extract water from a stone, and companies abusing their market power to increase prices across the board. The list goes on and on. Companies' unscrupulous practices drive up costs for working families and ensure already short paychecks run out before the month does.

Americans know intuitively that these practices contribute significantly to the crisis of affordability. And they are right. Their elected officials need to catch up.

We will not solve the affordability crisis that so many families find themselves in without being clear-eyed about these abuses, and without a government equipped with the tools and capabilities to do aggressive enforcement in response. If everyday people are going to enjoy the benefits of an abundant society – if things are actually going to become affordable for them – we will need expanded and vigilantly enforced protections against unfair dealing and unfair methods of competition. It is not abundant or affordable when people are targeted with junk fees that steal the last dollar in their bank account or force them to "pay-to-pay" every time they put money on their kids' school lunch card. It is not abundant or affordable when online platforms peddle high cost loans, squeeze out extra fees, and design elaborate kickback schemes to prey on the small businesses on their sites, while spying on every movement of the people who stock their warehouses. It is not abundant or affordable when large corporations use surveillance pricing and algorithmic wage-setting to charge as much as possible while paying their workers as little as the black box says they can.

In the age of Big Tech, gigantic Wall Street banks, and ever-growing monopolies, we need law enforcement and regulators – at all levels, but especially now in states such as this one – to be equipped with ample tools and resources to actually stand up for people. To achieve the “abundance” and affordability that they so desperately yearn for – a house and mortgage they can actually afford, reasonable car payments for them to get to work, an education for their kid without being dragged down by an anchor of debt, a fair loan to start a business, decent pay for a day’s work. Government should be a check against the cavalcade of companies that tack on ever more creative junk fees. A check on a mentality that laws are suggestions for people who prefer to “move fast and break things.” A check on the mindset that every pain point for working families is a possibility to seek leverage and supercharge profit margins.

So yes, we should all embrace a discussion of what is working in government and what isn’t. It was never lost on us at the CFPB that our building formerly housed an agency that failed so catastrophically that Congress shut it down. But that discussion must necessarily include how to ensure that our consumer protection laws are strong enough, and deployed vigorously enough, to deal forcefully with the many risks and threats that people face today. Our antitrust enforcers must be equipped with powerful tools to confront Big Tech, Big Ag, and Big Everything Else. Our financial regulators must be able to deal with a world where everybody wants to be a bank, and social media companies race to become payment “super apps.” Our government must have the tools and resolve to stand up for working people, regardless of who is trying to push the boulder back down on them, or how they’re trying to do it.

That is why this hearing and this work is tremendously important. This is a conversation we must kick off not just in Colorado, but nationwide. Because that is the only way we truly tackle affordability. The only sensible way to think about abundance. The only path to charting an alternative to the chaos and lawlessness oozing out of Washington. Government must be strong and capable enough to make markets work for people. That means being able to deliver protection from corporate abuses alongside building housing and infrastructure. We need both. I fear anything else does a disservice to those it purports to help, and risks continuing the same faux promises we see coming out of Washington today.

Thank you again for holding this important hearing, and I look forward to answering any questions.