

Helping Business Bear the New Financial Consumer Protection Regime

Remarks of FTC Chairman Jon Leibowitz as Prepared for Delivery

United States Chamber of Commerce

Center for Capital Markets Competitiveness

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Thank you, and special thanks to David Hirschmann, for the opportunity to speak about the FTC – our nation’s primary agency protecting consumers and markets – as we enter a new era of financial reform regulations, fiscal challenges, and divided government.

In preparing for this speech last week, I caught your CEO, Tom Donohue, on PBS’s Nightly Business Report. He was expressing concern that the change in leadership in the House would lead to the Obama administration relying more on its regulatory powers to get things done. Tom said, “The resulting regulatory tsunami poses, in our view, the single biggest challenge to jobs, our global competitiveness, and the future of American enterprise.”

But later I heard Tom call Bill Daley, President Obama’s new chief of staff, “a man of stature and extraordinary experience” who the Chamber “looks forward to working with...to accelerate our recovery, grow the economy, create jobs, and tackle America’s global challenges.”

Some might call Tom’s take on the Administration incongruous. I like to think of it as evolving.

The Chamber’s ambivalence over the coming regulatory environment for business – especially in light of last year’s massive overhaul of our financial laws – is understandable.

I had hoped that, this afternoon, you would greet me as a fellow warrior in the battle to bolster the confidence of the American consumer – weeding out the crooks and scam artists who divert dollars from legitimate businesses – opening markets so any honest business, regardless of size, can compete – and, as a result, create jobs.

But it seems you might see instead the head of a federal government bureaucracy, a hindrance to your struggle to

But you invited me today, not just to talk about the FTC, but to address the new agency soon to be on the beat, the Consumer Financial Protection Bureau. And though its organization and the FTC's collaboration with it have just begun, we do know a few things about what the CFPB will be like.

The CFPB will be an untested entity with enormous power. The Bureau will have a substantial budget almost entirely out of the control of Congress, receiving 10 percent of the Federal Reserve's budget outside the appropriation process, which gives every other government agency – including mine – budget envy.

It plans to hire hundreds of new employees beyond the consumer protection staff that it will inherit from other agencies. It will have rulemaking authority far broader than the FTC's over those who offer financial services to consumers, including banks and their service providers.

So while I don't share your concerns, I understand why there is some anxiety about the new CFPB. But having said that, my sense is that your fears will turn out to be unfounded. Let me tell you why.

On the rulemaking side, the Dodd-Frank Act requires that rules not be duplicative or conflicting. My sense is that the new Bureau's rules will be reasonable and that the Bureau will be particularly mindful of small business concerns. Under the reform bill, a panel consisting of staff of the OMB, the SBA and the CFPB will review CFPB rules – before they are proposed to the public – to assess the proposed rules' impact on small businesses. The panel can recommend changes to a proposed rule to make it friendlier to small businesses, and its report has to be made public.

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Moreover, just look what has come out of the Administration in the past few weeks: a new pro-business chief of staff for President Obama in Bill Daley, a new pro-business chief of staff for Vice-President Biden in Bruce Reed. Elizabeth Warren went to Maine last week to meet Senator Snowe and her constituents. And this week the President issued a new Executive Order encouraging regulatory approaches that reduce burdens on businesses and maintain flexibility, such as through disclosures of information.

All of this is not a coincidence: these actions signal where the Executive Branch is going.

By the way, we are also pleased that the CFPB has embraced one of the FTC's priorities: simplifying disclosures made to consumers when they purchase a mortgage. Anyone who has tried to read the RESPA and TILA forms knows how difficult they are.

The FTC is not – and I believe the CFPB will not be – bureaucratic agencies devising new hoops for your already stressed businesses to jump through; rather, we'll be the cops on the beat, driving out the business equivalents of pick pockets, sidewalk scam artists, and thieves so your customers feel comfortable coming into your store.

The FTC may not be a for-profit enterprise, but our work produces a terrific return on the investment taxpayers make: For every dollar spent by the FTC, we provide a return on investment of \$5.00 – or over 500 percent – to American consumers and businesses. I'm hopeful that the CFPB will be just as productive.

Let me elaborate on how the FTC has been an effective cop during

new regulations prevent companies from receiving their fees until they have performed the promised services and require them to make certain key disclosures, such as that they are not affiliated with a government assistance program.

We are also working with a number of federal agencies, including the Treasury Department, the banking agencies, and HUD, coordinated by the Financial Fraud Enforcement Task Force at Justice, to investigate and respond to the reports of harms from foreclosure document robo-signing and other servicing abuses. For its part, the FTC currently is monitoring mortgage servicers under our existing orders to confirm that their servicing and foreclosure processes are proper.

This is all good, pro-business policy: it restores consumer confidence, redirects dollars to legitimate business, and thus helps bolster the economy.

It also reflects the attitude the FTC brings to all our work – an approach described best in Jack London novels and those brochures they hand out in the Western National Parks: When facing a bear, one must remain calm, no fancy moves, no complicated escape strategies. At the FTC, we follow that advice; we understand that markets need a steady, apolitical, intelligible, and certain set of rules to work most smoothly for consumers and businesses alike.

That should give you confidence that, as we move forward with the CFPB and in all our other work, we will continue in a nonpartisan, pro-consumer, pro-business bent – because that is

dietary supplements and devices that give false hope to those with cancer and other serious conditions.

We are the agency that protects small businesses from scammers who cram charges on businesses' phone bills for products never ordered – from web design services to Internet directory lists.

We are the agency helping to rid cyberspace of identity thieves, spammers, child pornographers, data hackers, and all the other criminals that ma