



TECHNET
THE VOICE OF THE
INNOVATION ECONOMY

TechNet Central | Telephone 720.308.0842
P.O. Box 113, Littleton, CO 80160
www.technet.org | @TechNetCentral

March 22, 2023

The Honorable Julie Gonzales
Chair
Judiciary Committee
Colorado State Senate
200 E. Colfax Avenue
Denver, CO 80203

The Honorable Robert Rodriguez
Vice Chair
Judiciary Committee
Colorado State Senate
200 E. Colfax Avenue
Denver, CO 80203

Re: TechNet Written Testimony, Amend, HB23-1192 (Weissman) Additional Protections in Consumer Code

Dear Chair Gonzales, Vice Chair Rodriguez and Members of the Senate Judiciary Committee:

I am writing to thank you for your work on HB23-1192 and to outline some points of improvement that TechNet has identified on behalf of its Members in our work on this legislation. We thank the Committee and bill sponsors for the opportunity to comment on this bill, and respectfully ask the Committee to amend this bill before advancing it. TechNet weighed in on this bill in the House, and we continue to ask for the clarifying amendments that we proposed earlier in the process.

TechNet is the national, bipartisan network of technology CEOs and senior executives that promotes the growth of the innovation economy by advocating a targeted policy agenda at the federal and 50-state level. TechNet's diverse membership includes dynamic American businesses ranging from startups to the most iconic companies on the planet and represents more than five million employees and countless customers in the fields of information technology, e-commerce, the sharing and gig economies, advanced energy, cybersecurity, venture capital, and finance.

Generally speaking, TechNet is supportive of efforts to modernize legal frameworks that aim to sensibly regulate entities, products and services, so long as they continue to encourage, enable, and advance innovation and focus on prohibiting reckless or criminal conduct. Additions to regulatory frameworks must also avoid duplicating existing requirements or creating unclear overlap or conflicts with existing requirements. As such, have identified ways in which HB23-1192 can be narrowed or clarified.

Overall, we are concerned that unless amended, the proposed legislation establishes authority for a single elected enforcer to exercise broad discretion in challenging any

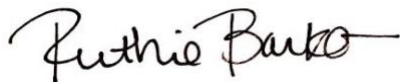
business conduct they – meaning the Colorado Attorney General – may find unsavory. We caution against moving Colorado to a more subjective standard of antitrust law. Establishing broad discretion for the Office of the Attorney General to challenge specific business practices without weighing competitive effect, as HB23-1192 currently does, would lead to substantial unintended consequences. The recently released Federal Trade Commission Section 5 policy statement (November, 2022) rejects established antitrust principles of the consumer welfare standard and rule of reason analysis for a 'we will know it when we see it' approach to competitive conduct, and we ask the Committee to narrow the standard in HB23-1192 to provide more regulatory certainty.

While there are other relevant terms that are not defined in the bill or elsewhere in state law, and hence could be interpreted to apply severe penalties to a wide breadth of normal business practices, we continue to ask as we did in the House that the Committee amend the bill to define "unfair methods of competition." Adding a definition to clarify that this term means 'acts or practices that substantially harm competition as demonstrated by increased prices, reduced quality, decreased innovation, and decreased output,' would help address the outlined issues above.

Additionally, we are concerned that the proposed language in 6-4-110 would seemingly allow the Office of the Attorney General the ability to release information provided to them by a party to an investigation. This raises concerns for us over the confidentiality of materials a company under investigation may present as part of a discovery process, and we ask that this is narrowed and clarified.

Thank you for allowing us the opportunity to weigh in on this important legislation, we look forward to continued dialogue on this issue through the process. Please reach out with any questions we can answer.

Best,



Ruthie Barko
Executive Director, Colorado & the Central U.S.
TechNet

Cc: Members of the Senate Judiciary Committee



My name is Austin Blumenfeld and I'm the Executive Director of Centennial State Prosperity supporting House Bill 1192. Centennial State Prosperity is a member-based organization of more than 11,000 Coloradans working towards greater economic security for hardworking Coloradans and their families. This includes addressing issues in health care, worker benefits and protections, strengthening our democracy, and the reason we're here today consumer protection.

Coloradans are working harder than ever to earn a good life and provide for their families but are struggling to afford living in our great state. When Coloradans fall victim to deceptive and unfair business practices, this challenge dramatically increases. Strong consumer protection laws play an important role creating a fair economy where Coloradans can trust they are being treated fairly and bad actors are held accountable. Colorado's code is one of the weakest in the nation according to the National Consumer Law Center and this bill will help put consumers first.

House Bill 1192 updates Colorado's consumer protection laws to give Coloradans greater protections while purchasing and using products and services and increases enforcement to bring justice on behalf of hardworking Coloradans. Centennial State Prosperity was proud to have helped pass HB-1414 in 2020 to prohibit price gouging following a declared emergency and strongly supports expanding the length of time it applies. No one should have to experience the hardship of price gouging especially after their community undergoes a disaster.

Thank you for considering this bill to put consumers first and we urge you to vote YES on House Bill 1192.

HB23-1192

Written testimony in **Support** of HB23-1192

Madam Chair Julie Gonzales and members of the Judiciary Committee. I want to thank you for giving me the opportunity to submit my testimony.

My name is Mona (Ramona) Moffatt, a Denver native, a 40-year resident of HD1 and a volunteer lobbyist. I am writing to request that you pass this bill in committee tomorrow 3/22/2023. I am hoping that there will NOT be any amendments. This is a great bill and will bring Colorado out of the dark ages in terms of consumer protection.

As you are aware much of Colorado's current consumer law does not adequately protect consumers. I find the current phrase "knowingly & recklessly" almost impossible to substantiate in a courtroom. That phrase of course has been deleted in this bill as has the current barrier requiring that requires a significant public impact data. It also increases fines and give the Colorado Attorney greater authority to investigate and prosecute offenders.

Thanks again for your time. I know how busy your schedules are.

Ramona (Mona) Moffatt

3833 S Golden Ct

Denver, Co 80235

Moffatt_b@msn.com