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Thank you for giving me the opportunity to testify on Senate Concurrent Resolution 12, which urges the Attorney General to file suit against RealPage, Inc. Ohio would not be alone as eight other states and the Department of Justice have already filed suit; you can read more about it here: <https://www.justice.gov/opa/pr/justice-department-sues-realpage-algorithmic-pricing-scheme-harms-millions-american-renters>. For further context, I have dropped SB 328 which clarifies Ohio's Valentine Act – analogous to the federal Sherman Anti-Trust Act, named after Ohio Republican Senator John Sherman – and helps facilitate lawsuits against algorithmic price-fixing. That legislation is based on legislation from Senator Amy Klobuchar of Minnesota, though I would be remiss if I didn't point out that the legislation isn't relegated to just real-estate and could just as easily address algorithmic wage suppression, for example.

So what is RealPage and how does the scheme allegedly work? Basically, it's an enormous database with non-public information regarding millions of rental units nationwide; more than sixteen million units as per the lawsuit. Algorithms, many of which use AI, are trained on this non-public data in order to maximize rental revenue for clients. For a fascinating discussion of the problem, have a look at this NPR link: <https://www.npr.org/transcripts/1197961038>.

The TLDR of that link is that RealPage allegedly uses algorithms and a database as the "hub" in a classic hub-and-spoke conspiracy in violation of anti-trust laws. In a free and competitive market, at least in theory, landlords have to compete with each other and that competition keeps rents low. In a monopolized market, prices are higher than they otherwise would be because there is far less competition and no incentive for a monopoly to lower prices.

Wouldn't adding housing supply make the case harder for RealPage? Not necessarily. For starters, adding supply is a slow process that is going to take time irrespective of anything policymakers do. However, RealPage has been accused of advising landlords to take units off the market. Why? Basic economics states that as supply increases prices decrease. By strategically taking units off the market, which is a much faster process than building a unit, price decreases may be avoided through manipulating the supply. To make matters worse, it is alleged that RealPage has an 80% market share of commercial revenue management software for multi-family dwellings in the United States. I suspect that many new units would ultimately be managed by RealPage, thus making monopoly pricing stronger. Thus, those who contend that literally all that is needed to address the housing crisis is to build more are dangerously naïve or paid to say so.

On a personal level, I'm amused that so many members reference Adam Smith and his "invisible hand" quote to justify avoiding governance as the solution to literally everything, or to blame government as the only problem, completely ignoring private sector abuse. Perhaps they might be surprised to come across the following from Adam Smith, also from *Wealth of Nations*:

"People of the same trade seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public, or in some contrivance to raise prices."

Every business would love to be able to eradicate their competition and corner a market, as it's more profitable and makes life easier for them, hence the thinking behind Smith's quote. Competition is hard and lowers prices to the benefit of consumers at the expense of business profits. Sadly, too many in government today are nominally pro-business and not pro-market; there is a world of difference between the two. Those opposed to going after price-fixing generally, and RealPage in particular, should be honest and stop calling themselves "free-market conservatives", and instead refer to themselves what they really are: monopolists.

Of course, SCR 12 is merely a resolution urging the Attorney General to act. Passage isn't strictly necessary, as the office is clearly aware of RealPage. However, I'm deeply concerned that the office of the Attorney General, irrespective of who occupies it, is highly susceptible to regulatory capture. Given that the office is a stepping stone to the governor's mansion, what Attorney General would compromise their chances for that office by publicly picking a fight with those who profit mightily from the status quo, and could easily help fund a more pliable challenger? Structural bottlenecks like this make it easier for special interests to ensure that they won't be sued, as they need only "capture" the office. The same is also true for a General Assembly composed of an alarming number of members who derive passive income, either directly or indirectly, from rental property and control part of the funding for the Attorney General's anti-trust efforts. This is why the Valentine Act, already on the books, and the Sherman Anti-Trust Act have private rights of action to get around the issue of regulatory capture: trial attorneys in private practice have the profit motive guiding them to file suit on behalf of injured parties, representing the true invisible hand in this case. With respect to the status quo in the General Assembly, Upton Sinclair put it best when he lamented:

"It is difficult to get a man to understand something, when his salary depends on his not understanding it."

Ultimately, I believe the Attorney General and the General Assembly will have to act on something like SCR 12 or SB 328. The damage inflicted upon the populace is too great, and it ultimately damages businesses not involved in real estate. Can Intel really succeed if higher and higher salaries are needed to justify living and working in the same area partially due to a price-fixing scheme on rent? States that do fix their housing issues and crack down on housing monopolies will have a lower cost of living that would, in a twist of irony, prove to be more business friendly than Ohio as their labor costs are lower. Can politicians really call themselves pro-market if they're willing to consistently look the other way on monopolies and price-fixing? The answer is no, and I'll leave you with a final quote often attributed to president Lincoln:

“You can fool some of the people all of the time, and all of the people some of the time, but you cannot fool all of the people all of the time.”

Thank you, madam Chairwoman, for allowing me to testify on SCR 12 and not-so-surreptitiously comment on SB 328.