— CIVIL RIGHTS · ADMINISTRATIVE LAW · PRIVATE ENFORCEMENT · PRIVATE ATTORNEY GENERAL · PARENS PATRIAE · ENFORCEMENT DISCRETION · STATUTORY DAMAGES · CUMMINGS V. PREMIER REHAB KELLER · DISABILITY DISCRIMINATION · ACCESSIBILITY · SEPARATION OF POWERS · COOPERATIVE FEDERALISM

The Check That Cannot Collect

Disability Rights, Remedial Retrenchment, and the Limits of the Federal Executive

> Nobody closed the courthouse door. They emptied the till behind it, and then pointed at the open door as proof that everything still works.

Travis Gilly, *The Check That Cannot Collect: Disability Rights, Remedial Retrenchment, and the Limits of the Federal Executive*, August 2026 (v0.6).

Travis Gilly
Real Safety AI Foundation

16 JUNE 2026

A family files a complaint into a system where nobody has to read it

The Department of Education announced it would move its special education and rehabilitation work to Health and Human Services, and hand the investigating side of its civil rights office to the Department of Justice. The administration called it housekeeping that changed no rights.

Before that day, the civil rights office had bound itself to evaluate every complaint it received. The promise guaranteed nothing about the outcome. It guaranteed that a filing would be read, measured against the office's jurisdiction, and answered.

The Civil Rights Division at Justice runs on enforcement discretion, which the Supreme Court has held is presumptively beyond review. Nothing in the paperwork carried the old duty across. Nobody took a right away. What went was an obligation to look.

SOURCES U.S. Dep't of Educ. press release (June 16, 2026); OCR Case Processing Manual § 101; Heckler v. Chaney, 470 U.S. 821, 831 (1985); United States v. Texas, 599 U.S. 670 (2023).

A SEASON, NOT AN INCIDENT

Three levers, one quarter, one direction

1 Intake

June 2026. A mandatory duty to evaluate every complaint is traded for prosecutorial discretion, through interagency agreements rather than legislation.

2 Regulation

April 2026. Seven days before the first comprehensive web accessibility standard ever issued under the ADA was due to take effect, the deadline moved by a year, through an interim rule that skipped notice and comment and took effect immediately.

3 Interpretation

June 2026. A legal opinion from inside the department asserts that neither the ADA nor its funding-condition cousin makes unnecessary institutionalisation unlawful, describing the courts as having misread the 1999 decision that said otherwise.

SOURCES 89 Fed. Reg. 31,320 (Apr. 24, 2024); 2026 Interim Final Rule (Apr. 20, 2026); Off. of Legal Couns. op. (June 18, 2026); Olmstead v. L.C., 527 U.S. 581, 600 (1999).

THE ANSWER SEPARATION OF POWERS SCHOLARSHIP HAS READY

The President never held a monopoly on enforcing federal law

There is a good response to all of this, recently developed by Ernest Young. The alarm over the end of agency independence assumes something that was never true. Congress has always handed the implementation and enforcement of national law to actors sitting outside Article II altogether: to the states, through cooperative programmes and express authorisations, and to the people, through private rights of action.

Those handings-over survive the ruling that took removal protection from officers wielding executive power, since neither a state official nor a person suing on her own behalf holds the executive power of the United States. The essay ends by reassuring the reader. Should Congress do nothing further, the states and the lawyers acting for private clients already possess wide authority to enforce national law against an executive that has stopped.

This paper takes that answer seriously enough to test it, and tests it where it should be strongest.

SOURCES Young, *The Unitary Executive and Congress's Options in Delegating Power to Enforce Federal Law* (Aug. 6, 2026); Trump v. Slaughter, 146 S. Ct. 2283 (2026).

PART ONE

The Showcase Field

if the residual enforcers can hold anywhere, they should hold here

I

A right to sue under every title, fees written in to pay for using it, and a government enforcer that was always the lesser partner.

WHERE THE PRIVATE ATTORNEY GENERAL WAS BORN

Named in 1968, built across the civil rights code, carried into every disability statute

When the Supreme Court held that a winning civil rights plaintiff ordinarily recovers her lawyer's fees, it explained that somebody obtaining an injunction under the statute does so not for herself alone but as a private attorney general, vindicating a policy Congress ranked among the highest.

Congress then generalised the design. A fee-shifting act spread across the civil rights code, and both major disability statutes carry their own fee provisions. The right to sue arrived by the same era's reasoning, with one decision finding a private right inside a funding condition and another supplying the presumption that where a right of action exists, every appropriate remedy comes with it unless Congress says otherwise.

When writers later set about defining what a private attorney general is, the cases they built the definition from came from here.

SOURCES Newman v. Piggie Park Enters., 390 U.S. 400, 402 (1968); 42 U.S.C. § 1988(b); 29 U.S.C. § 794a(b); 42 U.S.C. § 12205; Cannon v. Univ. of Chi., 441 U.S. 677 (1979); Franklin v. Gwinnett Cnty. Pub. Schs., 503 U.S. 60, 66 (1992).

THE DRAFTING TECHNIQUE THAT DECIDES EVERYTHING LATER

Four statutes, one remedial root, and remedies written as cross references

The funding-condition statute bans disability discrimination in any programme taking federal money, and gives private plaintiffs the remedies of the 1964 racial discrimination provision by incorporation. Title II of the ADA reaches every public body whatever its funding, and takes its remedies from that funding statute, which is to say the 1964 remedies at one further remove. Title III reaches private businesses and takes the remedies of a different 1964 title, which are preventive: an injunction, and fees if you win.

The education statute completes the set with an express civil action after an administrative process that parents may run and litigate without a lawyer, and whose requirement to go through that process first does not block a claim for something the statute itself cannot give.

That way of drafting needs a sentence to itself, because it drives everything to come. Give four statutes a common remedial ancestor and one ruling about the ancestor reaches all four, with three of them never construed by anybody. The same structure that spread private enforcement further here than in any other field is what let the field be emptied in a single stroke.

SOURCES 29 U.S.C. §§ 794(a), 794a(a)(2); 42 U.S.C. §§ 12133, 12188(a)(1); 20 U.S.C. § 1415(i)(2)(A); Winkelman v. Parma City Sch. Dist., 550 U.S. 516 (2007); Perez v. Sturgis Pub. Schs., 598 U.S. 142 (2023).

THE PUBLIC ENFORCER WAS NEVER THE ENGINE

The courts of appeals describe the enforcement market without euphemism

The federal disability rights apparatus has been small against its portfolio for as long as anybody has counted it, and the scholarship urging a bigger public role framed itself, revealingly, as a corrective to a field running almost entirely on private suits.

Judges say the same thing from the bench. Because private plaintiffs under Title III cannot recover money, most enforcement arrives through a small population of repeat filers, and whatever compliance the statute produces rides on their persistence.

Set the pieces beside one another and you have the account's best example. A right to sue under every title. Fees written in to pay for using it. A path through the courts a parent can take without a lawyer. And a public enforcer that was always the lesser partner, now openly pulling back. Whatever fields the leftover enforcers can hold when the executive stops, this ought to be one of them.

SOURCES Bagenstos, 54 UCLA L. Rev. 1, 9 (2006); Waterstone, 92 Minn. L. Rev. 434 (2007); Molski v. Evergreen Dynasty Corp., 500 F.3d 1047, 1061–62 (9th Cir. 2007).

PART TWO

The Instrument That Reads Green

how the account measures whether a channel is healthy

II

Standing measures who gets in. It says nothing about what the winner collects.

TWO CHANNELS OUTSIDE ARTICLE II

What the account says holds the line when the centre withdraws

The states

Almost every consequential federal programme runs on state agencies implementing federal law under federal parameters, with real discretion and officials the President cannot touch. Sometimes Congress goes further and hands states the sword directly, letting an attorney general sue under a federal statute on behalf of residents. The constitutional answer to the objection is that a state officer enforcing federal law exercises her own state's executive power, granted by her own state's constitution, and never the federal executive power at all.

The people

Federal law leans everywhere on private rights of action to enforce public schemes, in securities, antitrust, environmental law and civil rights. Private suits multiply resources, move the cost of regulation off public budgets, use information only private parties hold, and insure a statute against its public enforcer being captured or simply walking away. The constitutional answer here is that somebody vindicating her own concrete injury is not exercising executive power, however much the public interest travels alongside.

Together they are offered as the answer to the dilemma. If accountability requires presidential control and presidential control invites overreach, then enforcement lodged outside Article II supplies accountability through other electorates and checks through other hands.

SOURCES Lemos, 86 N.Y.U. L. Rev. 698 (2011); Bulman-Pozen & Gerken, 118 Yale L.J. 1256 (2009); Claflin v. Houseman, 93 U.S. 130 (1876); Testa v. Katt, 330 U.S. 386 (1947); Lujan v. Defs. of Wildlife, 504 U.S. 555 (1992).

THE DIAGNOSTIC

Every certification needs an instrument, and this one uses standing

The threat to private attorneys general gets framed as the constitutional critique running from Justice Scalia's standing opinions through the modern literature, and the answer given is that the critique only reaches plaintiffs with no private injury. The leading standing cases require concrete harm, concrete harm is what most private enforcers can show, and so the channel survives.

On its own terms that answer is correct, and nothing here quarrels with it. A disabled person denied access holds a paradigm injury.

But the choice of instrument has a consequence. Standing measures who may enter the building. It says nothing about what the statute pays the person who wins, and the payment schedule is precisely how Congress builds private enforcement and precisely where the courts have lately taken it apart.

SOURCES Lujan, 504 U.S. 555 (1992); TransUnion LLC v. Ramirez, 594 U.S. 413 (2021); Lemos, 95 Minn. L. Rev. 782, 784–90 (2011); Burbank & Farhang, *Rights and Retrenchment* (2017).

PART THREE

Remedial Retrenchment

III

nobody narrowed who may sue

Every one of these decisions narrowed what a winning plaintiff collects.

IT STARTS WITH A METAPHOR

Spending legislation is much in the nature of a contract

The figure was coined in 1981 for a question about whether obligations existed at all: take the money and you agree to the conditions, provided you knew what you were agreeing to. Twenty years on it was put to work on a different question, about what things cost. Punitive damages went, on the reasoning that somebody taking federal funds is on notice only of the remedies traditionally available for breaking a contract.

Justice Souter concurred with a warning that now reads as prophecy. The analogy should not be pushed past the point where it holds, because legislation of this kind is unlike a contract in ways that matter. The majority itself declined to suggest that cases of this kind are contract cases, or that contract law settles every issue arising in them.

It was extended anyway.

SOURCES Pennhurst State Sch. & Hosp. v. Halderman, 451 U.S. 1, 17 (1981); Barnes v. Gorman, 536 U.S. 181, 189 & n.2 (2002) (Souter, J., concurring).

2022

She is deaf and legally blind. She asked for an interpreter. She won nothing.

She asked a physiotherapy practice that takes federal money to provide a sign language interpreter. It said no. She sued for the humiliation and distress that refusal caused her, which was the whole of her injury.

The Court held that damages for emotional distress are unavailable, because a funding recipient had no clear warning it might have to pay them. Justice Breyer, dissenting, made the obvious point: what discrimination characteristically does to a person is humiliate them, strip their dignity and leave them distressed, so a rule that removes emotional harm removes the very thing these statutes were written about.

Nobody in the majority argued with that account of the harm. They held that the price had never been written into the bargain. Look at what sort of ruling this is. Nothing about who counts as disabled moved. No test of causation shifted. No pleading standard rose. Anybody able to sue on Monday could still sue on Tuesday. The change is that the ordinary claimant, whose injury is being shut out and the shame of it rather than a bill she can produce, now wins something worth nothing.

SOURCES Cummings v. Premier Rehab Keller, P.L.L.C., 596 U.S. 212 (2022); id. (Breyer, J., dissenting); Sossamon v. Texas, 563 U.S. 277 (2011).

THEN THE CROSS REFERENCES DID THEIR WORK

Two years, three published opinions, and none of them weighed anything

Because Title II's remedies are the funding statute's, and the funding statute's are the 1964 provision's, a holding about spending legislation travels into a statute Congress passed under different powers with no funding condition attached to it at all. Plaintiffs pressed exactly that objection and lost uniformly. The courts answered that the cross reference makes the older statute's ceiling Title II's own, whatever power Congress was using.

The Second Circuit held it first, affirming a district court that had noted every federal court to consider the question agreeing. The Eleventh followed, reasoning that one provision makes the 1964 remedies the measure for both statutes alike. The Ninth finished the job, carrying the rule into Title II while keeping open one route the others had left unstated, namely money for schooling a person lost out on, treated as financial loss and so inside the contract measure.

Not one of the three set out to decide what Title II ought to pay for. Each followed a run of cross references, got it right, and handed the subtraction along. How much was subtracted shows in what stood before: the Eleventh Circuit, having surveyed its sister courts, had allowed damages for emotional harm under the funding statute, and that ruling no longer holds.

SOURCES Doherty v. Bice, 101 F.4th 169 (2d Cir. 2024); A.W. v. Coweta Cnty. Sch. Dist., 110 F.4th 1309 (11th Cir. 2024); Payan v. L.A. Cmty. Coll. Dist., 169 F.4th 971, 977–79 (9th Cir. 2026); Sheely v. MRI Radiology Network, 505 F.3d 1173 (11th Cir. 2007).

TAKE INVENTORY

What a plaintiff still holds, and what a contingent fee market makes of it

1. **Compensatory damages, for economic loss only**
   And any money at all passes a second gate, since the claimant must prove intentional discrimination, which the circuits measure as deliberate indifference.

2. **Nominal damages**
   Which will at least keep a completed injury alive in court after the 2021 decision.

3. **An injunction**
   Which the person may no longer need by the time it arrives.

4. **Fees, if you are a prevailing party**
   But prevailing was defined to require a judgment or a consent decree, so a defendant who complies once sued extinguishes the fee. And the fee can be bargained away, since a defendant may condition settlement on waiving it and ethical counsel may have to accept.

SOURCES Liese v. Indian River Cnty. Hosp. Dist., 701 F.3d 334, 345 (11th Cir. 2012); Uzuegbunam v. Preczewski, 592 U.S. 279 (2021); Buckhannon Bd. & Care Home v. W. Va. Dep't of Health & Hum. Res., 532 U.S. 598 (2001); Evans v. Jeff D., 475 U.S. 717 (1986).

PUBLIC ACCOMMODATIONS

Here nothing had to be taken away, because it was never given

Title III's private enforcement section takes the remedies of a 1964 provision that offers prevention: an injunction, and fees for the winner. Money appears under Title III only where the federal Attorney General brings the case, and even then it is paid at that officer's choice, next to civil penalties. The design was the price of passage. Damages were traded away in 1990 to hold the coalition together, a compromise the literature called fragile from the day it was struck.

So the entire monetary weight of Title III rests on the public enforcer now in retreat.

The geography completes the proof. Repeat litigation concentrates where state law supplies what federal law withholds, above all in California, whose civil rights act makes an ADA violation a violation of state law too and attaches a statutory minimum of four thousand dollars, funding the enforcement market Congress declined to fund. Where a federal civil right is worth something different depending on your address, nothing national is enforcing it. What is enforcing it is whichever states decided to put money behind it.

SOURCES 42 U.S.C. §§ 12188(a)(1), 12188(b)(2)(B)–(C), 12205; Colker, 21 Berkeley J. Emp. & Lab. L. 377 (2000); Cal. Civ. Code §§ 51(f), 52(a); Molski, 500 F.3d at 1062.

RUNNING THE ACCOUNTS

A stabiliser nobody paid for is a flywheel with no weight in it

Everything private enforcement is praised for, in the literature the account itself quotes, depends on what a winner is paid. More enforcement resources, but only where a case can be run at a profit. Regulatory cost moved off the public books, but only where a lawyer in private practice can carry it. Hidden violations surfaced, but only where the person who knows has a reason to speak. Cover against a public enforcer abandoning the statute, but only where the policy pays out on the day of the abandonment.

Congress knows this and drafts accordingly, and the record shows fees and enlarged damages used on purpose to construct private enforcement wherever public enforcement was not trusted. Taking such a scheme apart, as forty years of research shows, happens through exactly these tools: what counts as winning, what a remedy covers, and procedure. Never by repeal.

The account's stability claim is that steady private incentives smooth enforcement across changes of administration. In securities and antitrust, where treble damages and aggregation keep the private bar capitalised, that is plausible, and those are where its examples come from. Disability rights ran the experiment in 2026. Inside three months the public enforcer stepped back from the front desk, from the rulebook and from the reading of the statute. Nothing on the private side could rise to meet it, because rising costs money and the money had been taken out.

SOURCES Burbank, Farhang & Kritzer, 17 Lewis & Clark L. Rev. 637, 662 (2013); Farhang, *The Litigation State* (2010); Burbank & Farhang (2017); Karlan, 2003 U. Ill. L. Rev. 183; Alexander v. Sandoval, 532 U.S. 275 (2001).

BACK TO THE INSTRUMENT

The lights are wired to the wrong circuit

Put the account's instrument over this field and nothing registers as wrong. A right to sue in every direction. Standing established, since these harms are the specific, personal, long-recognised sort: kept out of a building, refused a service, treated as lesser in a way you felt yourself. When the Supreme Court recently brushed against tester standing here it resolved nothing, dismissing the case as moot.

Getting in is what standing measures. All of this operated on the way out. The 2022 ruling has nothing to do with standing. Neither does the ruling about fees. Neither does the provision setting Title III's remedies. None of them turns up in an analysis treating a failed constitutional objection as evidence that the channel works.

Which is exactly how the reassurance goes wrong. The account is correct that the private attorney general came through the fights over standing. It never asks whether she came through the fights over what she can recover, and that is where this field was lost.

SOURCES TransUnion, 594 U.S. 413 (2021); Allen v. Wright, 468 U.S. 737, 755 (1984); Acheson Hotels, LLC v. Laufer, 601 U.S. 1 (2023).

PART FOUR

The State Channel Unbuilt

IV

Congress knows how to do this, and did it everywhere else

Federal inaction is the unlocked position in the consumer protection code. In the ADA there is no lock and no door.

THE MODEL ALREADY DRAFTED

In the consumer code, a regulator standing down is what opens the state's path

Where Congress means for a state's chief lawyer to enforce national law, it writes that down, and it has written it down more and more often over forty years. Antitrust, children's online privacy, health privacy, consumer finance, unsolicited email, telemarketing: each carries the deputisation.

The children's privacy statute is the cleanest template, and the detail that matters is how it handles a federal enforcer who stops enforcing. The state must give notice, the federal agency may intervene, and the only bar on the state action is a federal proceeding already pending against the same defendant for the same violation. Federal inaction is the unlocked position.

So the announcement in February 2026 that the agency would use its discretion under the children's privacy rule took nothing from anybody. It opened the way for fifty state enforcers whose power turns on one thing only, which is the federal enforcer not being in court. That is what a statute drafted for a world of unreviewable discretion looks like.

SOURCES 15 U.S.C. §§ 15c(a)(1), 6103(a), 6504(a)–(d), 7706(f)(1); 42 U.S.C. § 1320d-5(d); 12 U.S.C. § 5552(a)(1); FTC Policy Statement on COPPA Rule Enforcement Discretion (Feb. 25, 2026).

AND IN THE ADA

The public enforcement sections name one officer and stop

Title III's public enforcement runs to the Attorney General of the United States: consultations, pattern or practice suits, penalties, discretionary damages, all federal. Title II routes complaints to designated federal agencies under departmental coordination. The funding statute runs through each agency's own machinery. Nowhere in that architecture does a state attorney general appear.

A few district courts have entertained state suits on general quasi-sovereign standing, and others have refused for want of authorisation. The qualification does not disturb the point. Standing of that sort brings no damages authority for residents, changes nothing in the remedy set, and must be relitigated defendant by defendant. Standing is a doorway. Deputisation is a budget.

These statutes were built on the two-channel pattern of the 1960s, a government enforcer plus people suing for themselves, and nobody ever went back and added the state provisions Congress was writing into consumer law over the same decades. When the federal enforcer steps back, the statute has nobody behind it.

SOURCES 42 U.S.C. §§ 12133, 12188(b); 28 C.F.R. pt. 35; 29 U.S.C. § 794a(a)(2); New York ex rel. Vacco v. Mid Hudson Med. Grp., 877 F. Supp. 143 (S.D.N.Y. 1995).

ONE EXCEPTION, AND IT PROVES THE DESIGN

The duty that vanished federally in June is still running in fifty states

The special education statute was built the other way. A state takes the money, files a plan, and answers for the oversight of every programme serving disabled children within its borders. Its regulations then do something no other disability instrument does: they oblige the state agency to adjudicate.

Anyone at all may file a complaint alleging a violation, and the state agency must resolve it within sixty days, through investigation where warranted, a chance for both sides to put material in, an independent determination, and a written decision addressing every allegation. Extensions are confined to exceptional circumstances or agreed mediation.

Hold that against June 2026. Federally, a duty that had to be performed became a matter of choice. At state level the duty stayed, because it lives in a regulation that binds fifty agencies whose staff no President appoints, instructs or dismisses, and whose obligations came attached to money already taken. A parent filing with the Justice Department in August 2026 has a discretionary hope. The same parent filing with her state agency has a clock.

SOURCES 20 U.S.C. § 1412(a)(11); 34 C.F.R. §§ 300.152(a)–(b), 300.153(a) (2026); Printz v. United States, 521 U.S. 898, 922 (1997).

PART FIVE

Repair

each one legislative, each with a working model already in the code

V

The account's own logic, carried into the field where its channels were never built.

THREE STATUTES CONGRESS COULD WRITE

A price term, a deputisation, and a number

1 A clear statement remedies act

The 2022 decision is, by its own reasoning, an invitation. It rests on notice: recipients cannot be charged with remedies they had no clear warning of. Notice is something Congress can give. Pass a statute saying that taking federal money means agreeing to pay compensation, and saying in terms that this covers distress, humiliation and loss of dignity, and the missing price is supplied in precisely the currency the Court demanded. Since the remedies move by cross reference, one act closes the entire chain.

2 A parens patriae provision

Amend both statutes so any state's chief lawyer may sue for injured residents, seeking orders, money and penalties, on notice to Washington, with a federal right to join in, and with a bar that bites only while a federal case is already running against the same defendant over the same conduct. Fifty enforcers with independent electorates would then stand behind statutes currently backed by one whose discretion is unreviewable and whose posture is withdrawal.

3 Repricing Title III

A federal statutory minimum for Title III, on the model of the state law currently funding the only working enforcement market in the country. Somebody will say this invites abusive litigation, and the answer has sat in the scholarship for twenty years. That pattern is what the present remedies produce, since they favour whoever can file in bulk for very little outlay, no other approach paying its way. A damages remedy calibrated to real encounters makes the meritorious individual case viable and changes the character of the docket.

SOURCES Cummings, 596 U.S. 212 (2022); Sossamon, 563 U.S. 277 (2011); Landor v. La. Dep't of Corr., 609 U.S. 1 (2026); 15 U.S.C. § 6504(a)–(d); Cal. Civ. Code §§ 52(a), 55.56(g); Smith v. Robinson, 468 U.S. 992 (1984); Handicapped Children's Protection Act of 1986, Pub. L. No. 99-372.

A RECORD WORTH PUTTING IN FRONT OF A COURT

In 2012 the executive told the Senate this remedial scheme was already adequate

The disability rights convention obliges parties to ensure effective access to justice for disabled people on an equal basis with others. When it reached the Senate in 2012, what the executive branch told senators rested on a single claim: that American law as it stood, with these statutes and what they paid at the centre of it, already satisfied that obligation, so agreeing to the treaty would ask nothing further of anybody.

Those representations were made a decade before the 2022 decision, and they describe a scheme in which the characteristic injury of discrimination could be compensated.

Read the funding statute so that a deaf and blind patient refused treatment goes home with nothing, and the reading sits badly against the sufficiency the government itself certified. This is an argument about meaning, not obligation, since the treaty was never agreed to. But it is evidence from the time, given by the executive, about what everyone understood these remedies to cover, and it tells against stretching the loss any further.

SOURCES Convention on the Rights of Persons with Disabilities art. 13; Senate Foreign Relations Comm. hearing (112th Cong. 2012); 158 Cong. Rec. S7365–80 (Dec. 4, 2012) (ratification failing 61 to 38).

WHERE THIS LEAVES US

The residual enforcers are real. They have been handed a judgment they cannot cash.

About the architecture the account is right. About what powers it, the account stops early. Enforcers outside Article II have always existed, and the removal ruling cannot touch them. On that much this paper agrees without reservation.

But whether a channel works is settled by what it pays out, and that question never gets asked. Put it to this field and the answers arrive with dates on them. One route emptied of the very remedy that fitted its characteristic injury. A second route Congress never drafted at all. A third that gave up its obligation to look, in favour of discretion, over one June. And a single cooperative exception, sixty days wide, showing what the design does when somebody builds it.

Congress wrote the cheque and Congress can put money behind it. A price the 2022 ruling itself asked for. A deputisation the consumer statutes have already drafted. And a Title III remedy the country's one functioning enforcement market has already tried out. When the centre steps back the edges have to be able to step forward, and stepping forward costs money these statutes do not supply.

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