

Response to Written Questions Submitted by Chairman John Thune to Rebecca Kelly Slaughter

Question 1. Do you believe the current FTC-DOJ Merger Guidelines are sufficiently stringent to protect against anticompetitive mergers? If not, what specifically would you change?

Response. There has been bipartisan concern raised in recent years about increasing concentration in a variety of markets. As you note, the Better Deal agenda represents the Congressional Democrats' proposal for legislative changes to antitrust law. If confirmed to the FTC, my role will be to enforce the laws as they are written today based on fact-specific inquiries in particular cases. The nominee to be the Chair of the FTC, Mr. Simons, has proposed merger retrospectives that will analyze whether the Commission's past actions in merger review have had their intended effects on the promotion of competition. I strongly support Mr. Simons's approach as a good first step in analyzing whether there are any changes that need to be made to how the FTC, in partnership with DOJ, approaches merger analysis.

Question 2. In the "A Better Deal" platform, Congressional Democrats mention specific industries for careful scrutiny and enforcement: airlines, telecom, beer, agriculture, and eyeglass industries. The resume you submitted to the Committee indicates that you contributed to the antitrust elements of the platform. Why did Congressional Democrats decide not to mention the tech sector as an industry in need of careful scrutiny and enforcement in its antitrust agenda when discussing industry-specific impacts?

Response. In my capacity as a Senate staff member, I provided substantive and technical advice on the Better Deal platform, which represents the Congressional Democrats' proposal for legislative changes to antitrust law. If confirmed, my role as an FTC Commissioner will be to enforce the laws as they are written today based on fact-specific inquiries in particular cases. Our antitrust laws are not industry specific; they do not exempt or excuse technology companies from enforcement. I believe the law must be applied fairly and without fear or favor to all industries within the FTC's jurisdiction. As I noted in my testimony before the Committee, there are several areas within the broad universe of technology where markets are particularly concentrated, and sectors with high levels of concentration merit scrutiny because they are where anticompetitive conduct and effects may be more likely to occur. If confirmed, I will work with my fellow Commissioners and the expert staff at the agency to closely monitor heavily concentrated markets within our jurisdiction, including in the technology industry, and to investigate and enforce the law.

Response to Written Questions Submitted by Honorable Roy Blunt to Rebecca Kelly Slaughter

Question 1. Over the past few decades, access to increasingly large amounts of information has enabled growth in industry in just about every sector. Data has become a commodity, but I do not believe that American citizens understand the volume of data that is harvested from the digital ecosphere, or how valuable of a commodity their data has become. For this reason, some of the current industry data collection efforts concern me, including those efforts related to cross-device tracking.

In January 2017, the FTC issued a staff report which outlined benefits and concerns specific to cross-device tracking. If confirmed, will you direct the FTC to continue committing resources to analyze industry data collection methods?

Response. Yes. Control over data, and related control over online advertising markets, may be an important factor in considering competition and consumer protection issues, because citizens (and their data) are often the product rather than the consumers. If confirmed, I will work with my fellow Commissioners and the expert staff at the Commission to ensure that our competition as well as our consumer protection efforts keep pace with technological innovations, including data issues, in rapidly changing markets.

Question 2. The Network Advertising Initiative (NAI) and Digital Advertising Alliance (DAA) are self-regulatory bodies that establish privacy practices across the digital advertising industry. In the past, the FTC has worked with these bodies to help provide transparency and privacy for consumers.

If confirmed, will you continue to work with the DAA and NAI to ensure that intra-industry guidance meets consumers' best interests?

Response. Yes. I believe that constructive engagement and partnership with industry self-regulatory bodies can be an effective complement to the FTC's enforcement authority, helping to ensure best practices are adopted across industries.

Response to Written Questions Submitted by Honorable Jerry Moran to Rebecca Kelly Slaughter

Question 1. In 2016, Congress enacted the Better Online Ticket Sales (BOTS) Act to empower the FTC and state attorneys general to go after people who use computer programs – called “bots”-- to seize up large portions of ticket inventories for live events, and re-sell them on the secondary market. Your work in Senator Schumer’s office was critical to the development and progress of this law, and I appreciated your leadership on this issue. As you know, this committee voted unanimously to advance that legislation, to help our constituents access quality tickets at face value. However, laws are not effective unless they are enforced. We have provided the FTC with a tool, which we believe should be used rigorously to protect consumers. Should you be confirmed, will you commit to using this enforcement tool that Congress provided?

Response. Yes, absolutely. Working on this issue with your office as a Senate staffer was both a privilege and a pleasure, and as a result of that work I am particularly invested in seeing the law enforced as intended. If confirmed, I look forward to continuing to work with you and your staff to ensure consumers are adequately protected from manipulation by bots.

Question 2. I am also a member of the Senate Appropriations Subcommittee that is responsible for the discretionary funding of the FTC. As you are likely aware, the White House’s FY2019 budget included \$309.7 million for the FTC, which is about \$3 million more than the enacted level for FY2018. As Congress attempts to appropriate the necessary resources to the agency for the following fiscal year, do you have any recommendations for this committee and appropriators related to resources necessary to complete the agency’s mission, including staff support?

Response. At this point, I do not have any particular recommendations. However, if I am confirmed, I am committed to working with my fellow Commissioners and the expert staff at the agency to steward our allocated resources responsibly and to communicate where and how those resources could be enhanced or better tailored.

Question 3. This committee held a joint hearing with the Senate Judiciary Committee to discuss Facebook’s data collection practices and how the company did or did not comply with a consent order that it reached with the FTC in 2011. While I understand that you will not be able to comment on an ongoing investigation, how do FTC enforcement actions that challenge the data security practices of companies impact the commission’s ability to protect consumers?

Response. Without commenting on any particular case, I will note that enforcement actions are a key tool for the Commission in carrying out its obligations to protect consumers.

Response to Written Questions Submitted by Honorable Dan Sullivan to Rebecca Kelly Slaughter

Question. Anticompetitive consolidation has been a hot topic recently, especially in regards to the enormous market capitalization of tech companies. Recent calculations value the four largest tech companies' capitalization at \$2.8 trillion dollars, which is a staggering 24% of the S&P 500 Top 50, close to the value of every stock traded on the Nasdaq in 2001, and to give a different perspective, approximately the same amount as France's current GDP. Press reports have also noted allegations of increased anti-competitive behavior by some of these companies. Is there a point at which these companies are simply too big from an antitrust standpoint?

Response. Our law does not treat size alone as a basis for antitrust enforcement. However, size is often correlated with market share. Companies that acquire or maintain their size and market share through anticompetitive conduct are and must be subject to the scrutiny of our antitrust laws and enforcement agencies. If confirmed, I will work closely with my fellow Commissioners and the expert staff at the agency to ensure that we are carefully monitoring allegations of anticompetitive conduct and robustly enforcing our laws.