

Response to Written Questions Submitted by Chairman John Thune to Rohit Chopra

Question 1. The FTC is responsible for enforcing the nation's antitrust laws. While I appreciate that you are not an antitrust attorney, do you nevertheless have any experience in this area? For example, have you worked on any antitrust or competition policy issues during your professional career? If not, what aspects of your professional experience do you believe make you qualified to consider and render decisions in antitrust matters, should you be confirmed?

Response. Yes, I have been involved in competition issues in my professional career.

For example, I helped to develop the Consumer Financial Protection Bureau's market monitoring function that included monitoring of competitive intensity. This function aggregated publicly-available data to provide a range of evidence-based insights, including where consumer welfare might be enhanced through more competition.

Specifically, the analysis identified that net interest margins for private student loan products were not narrowing, unlike margins for other products. I led an effort to engage capital markets participants and industry innovators to remove perceived regulatory barriers to private student loan refinancing. Market participants have noted that this work helped to provide greater certainty and incubate more competition and shopping by borrowers, helping them to achieve better products at lower prices.

I was also involved in law enforcement efforts that asserted claims of alleged violations of "unfair or deceptive acts and practices," pursuant to the Consumer Financial Protection Act (CFPA). The CFPA is modeled after Section 5 of the Federal Trade Commission Act. As a policy leader for the student loan market vertical, I was closely involved in analysis to determine whether any alleged practices could be justified by countervailing benefits to competition.

In another example of competition advocacy, I was closely involved in the development of the Financial Aid Shopping Sheet, an effort to help make costs and risks of borrowing for college more transparent, while also facilitating more competition between institutions of higher education in the financial aid process. I drafted the original prototype made available for public comment. The CFPB and the Department of Education released a final version of the Shopping Sheet, which was voluntarily adopted by thousands of institutions of higher education.

While serving at Special Adviser to the Secretary of Education, I served as an agency representative to the interagency process seeking to implement Executive Order 13725, signed in 2016 by President Obama to promote competition across sectors of the economy. While at the Education Department, I was also involved in policy development on how the agency should consider changes in control and changes in ownership (mergers and acquisitions), which required the Secretary's approval with respect to institutions of higher education.

In my private sector career, I advised both large companies and small investment firms on strategic acquisitions. Analyzing these potential acquisitions included extensive empirical work on how new technologies and software could be integrated into existing product lines. This analysis also considered the complexity of cross-border competition issues. This experience, in particular, gave me a deep appreciation for the importance of providing market participants with

rapid determinations about whether an acquisition might be challenged, since long, drawn-out deliberations can impose significant costs.

At the same time, while I have deep experience in consumer protection enforcement, I have not been directly involved in antitrust law enforcement. I will draw on the expertise of the Bureaus of Competition and Economics, as well as these professional experiences, including my formal training in finance, accounting, and applied economics, to contribute to the agency's mission.

Question 2. According to media reports, a former employee at the Consumer Financial Protection Bureau (CFPB) has alleged that the agency systematically identified and rejected Republican job applicants. Did you participate in any effort at CFPB to reject Republican or conservative-leaning job applicants? If so, please describe these efforts in detail.

Response. Without qualification, I did not participate in or observe any efforts to reject applicants based on political beliefs.

Question 3. According to media reports, a former CFPB employee revealed that there were weekly hiring meetings at CFPB in which interviewers summarized the qualifications and attributes of applicants, and any attendee could voice an opinion before each candidate's verdict was rendered. Note-taking was strictly forbidden, and interviewers reportedly destroyed their records after the meetings.

Did you attend these weekly hiring meetings at CFPB?

If so, did you ever summarize the backgrounds of any applicants for jobs at CFPB? Provide a list of applicants whose backgrounds you summarized for jobs at CFPB.

Did you ever voice an opinion about job applicants at CFPB? If so, provide a list of each applicant on which you opined.

Did you engage in destruction of records regarding applicants for jobs at CFPB during your tenure there? If so, please explain why you destroyed these records.

Response. No, I did not attend these Office of Enforcement weekly hiring meetings, provide applicant summaries, voice opinions about job applicants directly or indirectly for these meetings, nor engage in any destruction of records.

I did serve as hiring manager over certain positions at the CFPB. Notably, none of these positions were filled using a non-competitive hiring authority. I chose to publicly post all vacancies for positions under my supervision and subject applications to third-party review to determine whether an applicant met the technical qualifications in order to be advanced for further consideration.

I was proud to hire and supervise veterans eligible for hiring preference, including those with a service-connected disability. Other than veterans' preference, which is explicitly authorized

under federal law, all candidates were evaluated on a competitive basis in accordance with OPM and agency policy, which forbids consideration of political affiliation in competitive hiring.

Question 4. A Freedom of Information Act investigation last year revealed that you coordinated a meeting between CFPB Director Richard Cordray and Eileen Mancera, a longtime Democratic fundraiser and lobbyist. Please explain the circumstances regarding your coordination of this meeting. Why were you engaging in apparent political activity in your capacity as a federal employee?

Response. I did not arrange a meeting between CFPB Director Richard Cordray and Eileen Mancera.

The senior leadership team at the CFPB regularly referred incoming inquiries from current and prospective market participants in the student loan industry to me.

While I engaged in hundreds of calls and meetings with prospective market participants in an effort to be responsive to the marketplace, I do recall that Director Cordray suggested I reach out to Ms. Mancera, who worked for an investment firm.

I further recall that she and I had a brief conversation about the private student loan market, an area where her firm was exploring activity. We had no further communication after this brief conversation.

Written Questions Submitted by Honorable Roger F. Wicker to Rohit Chopra

Question 1. Many online companies are engaging in targeted advertising. Using consumer data, companies can target what they deem to be the most relevant ads to consumers. Should there be more transparency into how the algorithms behind targeted advertising work so that consumers can see how they are being targeted for certain messages?

Response. Many consumers may be unaware that a wide variety of data is collected on them and combined for the purposes of marketing and advertising. I read with interest the Federal Trade Commission's 2016 report entitled "Big Data: A Tool for Inclusion or Exclusion?" The report outlines some of the public policy implications with respect to the use of algorithms.

As a general matter, transparency contributes to a properly-functioning marketplace. I look forward to consulting closely with the FTC's staff on this issue, which requires careful attention, given its impact on consumer protection, privacy, and competition.

Question 2. Would third party audits of algorithms be a reasonable way to ensure the algorithms are doing what companies claim and not harming competition or consumer choice? Is this something the FTC might consider looking into?

Response. Some companies that rely on algorithms and machine-learning do engage in third-party audits to determine whether they are in compliance with law and regulation. This is particularly true for companies that offer services related to the offering of credit, housing, and employment, given existing statutory protections against non-discrimination. However, this is certainly not the norm.

I look forward to engaging with policy experts at the FTC, industry stakeholders, and consumer and privacy advocates to better understand these issues and determine how the FTC might best add value to advance its consumer protection and competition mission.

Written Questions Submitted by Honorable Dan Sullivan to Rohit Chopra

Question 1. As a former Attorney General of Alaska, I always appreciated coordination with federal agencies where appropriate, and the opportunity to communicate solutions that made the most sense for Alaskans. Given the importance of state attorneys general to the FTC's antitrust enforcement, please describe your views on the working relationship between the FTC and state attorneys general.

Response. I am fortunate to have developed working relationships with a bipartisan group of state Attorneys General and their staffs. As I noted in the hearing, state Attorneys General are key partners to federal law enforcement. I have direct experience in partnering with state Attorneys General on investigations and consumer education.

I have regularly addressed participants at conferences and meetings hosted by the National Association of Attorneys General. In 2016, I served as the keynote speaker for a conference hosted by the Conference of Western Attorneys General (CWAG), which includes among its members the Attorney General of Alaska.

State Attorneys General and other state officials are invaluable partners, and I hope to build on my existing relationships and work with these offices for the benefit of Alaskans and all Americans.

Question 2. As you know, the state I represent is unique which means its problems are unique and require unconventional solutions. In a highly rural state like Alaska, many communities are not connected by roads, challenging weather conditions prohibit timely delivery of mail and other essential services, and quality connectivity is considered a luxury. One of your objectives at the Commission is consumer protection and education. How will you ensure that rural constituents like mine have the tools they need to make informed decisions and in cases of abuse that require follow up, for example data breaches or identity theft, the information necessary to mitigate risks and resolve the issue?

Response. In my previous service as a government official, I noted that traditional methods employed by federal agencies to engage and educate consumers were often ineffective, particularly when quality connectivity was a barrier. I learned a great deal from visiting rural areas to understand how to best partner with state and local government to reach consumers in an efficient and effective manner. I am committed to soliciting feedback from elected officials, including Members of Congress, to gain insight on how to ensure that the FTC is reaching Americans in rural areas.

Question 3. In your prepared statement, you discuss anticompetitive consolidation, which immediately called to mind 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. While I appreciate this concern, existing law and regulation generally does not establish specific caps or size triggers with respect to market capitalization, assets, revenue, or profits.

However, as I noted in my responses to questions in the hearing, the technology sector competes with firms in a broad range of sectors, not just firms that are seen as technology firms. In addition, the technology sector has contributed an increasing share of economic activity and growth in the US economy. Therefore, it will be critical for the FTC to carefully analyze market dynamics in the technology sector to ensure that the law is being followed and that competition is robust.

Written Questions Submitted by Honorable Dean Heller to Rohit Chopra

Question. When Congress passed the Fairness to Contact Lens Consumers Act in 2003, it was a pro-consumer measure that ensured consumers automatically receive a copy of his or her prescription after an eye exam – without having to ask for it, pay an additional fee, or sign a waiver. Do you agree that consumers should receive copies of their prescriptions as Congress intended so that they can use the prescription to purchase their contact lenses from a source of their choosing?

Response. The Fairness to Contact Lens Consumers Act explicitly provides for patients to obtain a copy of a prescription from a prescriber whether or not the patient requests one. I agree that there are benefits to competition of the Act, and the FTC should carefully consider all points of view to ensure that the implementation of this law creates the benefits to the marketplace as Congress intended.