

## **Questions for the Record**

### **U.S. Senate Committee on Commerce, Science, and Transportation**

*“Nomination of Alvaro Bedoya, to be a Commissioner of the FTC”*

November 17, 2021

#### **Questions for the Record from the Hon. Kyrsten Sinema**

***Competition.*** As you know, in addition to its consumer protection mission, the Federal Trade Commission (FTC) also enforces antitrust law. This function protects Arizona families from anticompetitive practices that can result in higher prices and declining quality in goods and services.

***Question 1.*** Please describe your experience with antitrust law and your competition priorities if you are confirmed for this role.

I am committed to rigorous enforcement of antitrust laws, and believe that robust competition is critical to innovation and flourishing of small business.

As a general matter, I am acutely concerned with the level of concentration in the technology sector, and, if confirmed, plan to make antitrust enforcement on Big Tech a top priority. As I indicated in my confirmation hearing, I am also deeply concerned with anti-competitive practices affecting small businesses across all sectors.

As chief counsel to Senator Al Franken (D.-Minn.) I helped advise the Senator on his oversight of the Comcast-NBC merger. As a privacy scholar at Georgetown Law, I have also become attuned to the privacy impacts of concentration in the tech sector. Many mergers and acquisitions in the tech sector create ever-larger pools of data.

***Social Media.*** During the hearing, several committee members highlighted past statements you have posted or shared on social media and used those posts to ask whether you could serve as an unbiased, open-minded FTC commissioner.

***Question 2.*** Given the posts highlighted by committee members during the hearing, are there any social media posts for which you would like to provide additional context? If so, please provide that context.

I appreciate the opportunity to address this. I left the Senate in August 2014. From that time until this day, I have been a private citizen, law professor, and policy advocate.

In those capacities, I have spoken out against statements and actions by elected officials and political candidates, typically in circumstances where institutions or people I cared about were being harmed. This harm was not hypothetical. For example, during the 2016 presidential campaign my wife and other Muslim family members often asked me if they would have to “register” with the government. My daughter and son have never met their living great-grandmother and dozens of other relatives as a result of the travel ban.

That said, looking back there are many instances in which I said or shared things that I regret today. What's more, it could not be clearer to me that the role of commissioner is a law enforcement function that will require me to set aside all of my personal political beliefs and work across the aisle to protect American consumers and businesses.

***Question 3. Do you believe your social media posts or other past public statements negatively impact your ability to serve as an unbiased, open-minded commissioner?***

No. My bipartisan work as a Senate staffer, my research and advocacy at Georgetown Law, and statements of support from Republicans, including both Commissioner Noah Phillips and Commissioner Christine Wilson and various former Senate staff colleagues, speak to my commitment to impartiality and bipartisanship.

In the Senate, I worked across the aisle (1) to build a bipartisan coalition of Senators to press the FTC and the Department of Justice to investigate and prosecute stalking app developers; (2) with the office of Senator Mike Lee to protect small businesses in the 2013 comprehensive immigration reform bill; and (3) with the office of Senator Dean Heller to help negotiate and craft the transparency provisions that eventually became part of the USA FREEDOM Act.

At Georgetown Law, the Center on Privacy & Technology my team's research on the federal biometric exit program supported bipartisan oversight of Customs and Border Protection by Senators Ed Markey and Mike Lee. My team's research on DHS face recognition searches of DMVs led to a bipartisan and bicameral oversight letter led by Senator Ron Johnson and Gary Peters.

If confirmed, I am committed to serving as an unbiased and impartial commissioner.

## Question for the Record from the Hon. Gary Peters

***Topic.* Mr. Bedoya, in an Op Ed you wrote for the New York Times, you discussed the dangers of the improper use of personal data collected and distributed by Data Brokers. Specifically, you pointed out an instance where information from a data broker was used to defraud a 92-year-old Army Veteran and steal his life savings. My bill the Data Broker List Act would require Data Brokers to register with the Federal Trade Commission and provide information about the ways they use and share personal data.**

***Question.* Mr. Bedoya, how would the Data Broker List Act help the Federal Trade Commission to protect Americans fraud and improper use of their personal data?**

One of the key issues with data brokers is their ability to operate in an opaque manner. Another issue regards their ability to disclaim liability surrounding the downstream uses of the data they aggregate and sell. Two of the strengths of the Data Broker List Act lie in its requirement that data brokers register publicly, and in the bill's prohibition on sale of data where the data broker has reason to know that such sale will result in stalking, fraud, or discrimination. Both of these provisions are powerful steps forward in addressing the privacy and security concerns arising out of the data broker industry. If confirmed, I will look forward to working with you on this important issue.

## **Question for the Record from the Hon. Edward J. Markey**

***Made in USA.* As a Commissioner on the Federal Trade Commission, how will you think about the “Made in the USA” labeling program and ensure that the FTC sufficiently balances the need to protect consumers against modern supply chain realities and the important policy goal of encouraging investment in U.S. manufacturing?**

American consumers should be able to confidently buy products that are marked Made in the USA. If confirmed, I plan to continue the Commission’s long-term commitment to helping companies that create jobs in the United States promote the good work they do without deceiving consumers.

At the same time, in recognition of other agencies’ primary authority over origin labels for many products, particularly imported products, I will commit to communicating with other agencies and with you and other members of Congress to reduce confusion and maintain consistency.

## Questions for the Record from the Hon. Richard Blumenthal

*Anticompetitive nature of pharmaceutical rebate walls.* As a result of continued consolidation in the pharmaceutical industry, patients today face a number of hurdles in accessing innovative, affordable prescription drugs. In some circumstances, this access is foreclosed because of pharmaceutical “rebate walls” – a tactic that prevents healthcare plans from choosing the lowest cost and most efficacious drugs – leading to higher prices.

**Question 1.** If confirmed as FTC Commissioner, will you commit to supporting the full use of the FTC’s authorities to combat anticompetitive practices, including rebate walls, that limit patients’ choice and raise costs?

Yes, I do.

**Question 2.** If confirmed as FTC Commissioner, will you commit to engaging with the Center for Medicaid and Medicare Services, the Food and Drug Administration, and other relevant agencies to address rebate walls and other anticompetitive practices in health care?

Yes, I do.