

**Questions from Senator Tillis  
for Sarah Myers West**

**Witness for the Senate Committee on the Judiciary Subcommittee on Competition Policy, Antitrust,  
and Consumer Rights Hearing on “The New Invisible Hand? The Impact of Algorithms on  
Competition and Consumer Rights”**

- 1. The AMERICA Act would prohibit large digital advertising companies from owning more than one part of the digital ad ecosystem. In your opinion, should this take effect today do you see any unintended consequences?**

We need to strengthen our regulatory toolkit to more effectively tackle the market structure and gatekeeper power of dominant digital platforms, including the prevalence of cross-ownership across key components of the digital economy. As outlined in my written testimony, proposals already on the table, including the AMERICA Act, are instructive for how to do so: preparing our regulatory and enforcement capabilities to meet the needs of the moment by tackling concentrated power in the tech industry is an urgent challenge, one which will have beneficial and wide-reaching effects for the public, for businesses and for our democracy.

- 2. Development of AI will only continue to grow and as a result more and more sophisticated AI tools will become available and the use of AI tool more prevalent. What can Congress do now to better to plan for the impact on competition, without stifling AI innovation?**

At present, the necessary ingredients for AI development, including data and the computational infrastructure needed to process it, are heavily concentrated in the hands of only a few firms. This heavily tilts the playing field in their favor - while new ‘AI startups’ abound, as a rule these new entrants must establish some kind of relationship with one of the bigger players in order to participate in AI development. This creates numerous ancillary harms, incentivizing toxic competition in the market, an overabundance of economic power in only a few hands, and stifling innovation.

There are a number of measures Congress can take now to ensure fair competition in AI, starting by robustly resourcing the agencies responsible for enforcement of our existing laws, which include a range of pleasures that can be applied to anticompetitive uses of AI. We also need bright line rules to curb AI use where there are demonstrated harms to consumers and competition - as I mentioned in my testimony, the passage of a federal data privacy law should be an urgent priority given its importance to addressing AI-enabled harms: in particular, inclusion of a strong data minimization mandate would be an effective measure to address harms to competition. And regulation that addresses the gatekeeper power of dominant tech firms is likewise critical to curbing the unprecedented amount of economic and political power concentrated in their hands.

- 3. Can algorithms be manipulated by bad actors to censor free speech, specifically during an election cycle? And if so, how?**

The central role of large tech firms that utilize algorithmic systems to mediate our information ecosystem grants them an enormous amount of power, which is particularly concerning in the context of an election. But the current opacity of algorithmic systems makes it difficult to definitively answer the question: we lack key information we need as a public to understand and deliberate on whether algorithmic decisions - whether that be the decision to serve a particular piece of content or charge a price or make a recommendation - are accurate, let alone to seek remedy or push back. This is precisely why the kinds of measures I describe in my answer to Question 4 are particularly needed.

**4. Groups with different viewpoints have weighed in on algorithms. Some suggest that more transparency is needed, while others want more privacy. Can you provide your perspective on whether more or less transparency is needed when it comes to algorithms?**

We strongly need greater algorithmic transparency: algorithmic systems are in widespread use across the economy, and are used to make decisions that significantly impact the public, whether by setting prices, determining access to resources, or shaping our information environment. Algorithmic transparency offers a step toward addressing information asymmetries that give dominant firms significant power: but it won't be enough. In addition to strong transparency mandates, we need to consider the contexts in which algorithmic systems are used: in workplaces, in schools, in our healthcare systems, algorithms are deployed frequently by those with greater power on those with comparatively less power, and simply knowing more about the algorithmic system used does not necessarily mean members of the public have the capacity to opt out, or to seek remedy when a system is in error. This is why bright line rules crafted to protect consumers and competition are a necessary complement to mandates for transparency.

**5. Do you believe that large companies and platforms can use algorithms to stifle innovation or small businesses?**

Yes; we have significant evidence that they already do across at least three fronts. For one, algorithmic systems enable large firms to deal with increased amounts of complexity: they can more effectively coordinate using large amounts of data across highly differentiated products, and this extends their capacity for collusion into places where it otherwise would be impossible to execute with practice. Second, the sprawling ownership of large tech companies and their platform ecosystems offers them significant scope to use algorithmic systems to preference their own goods and services, stifling innovation and harming small businesses that try to compete. Third, the utilization of algorithmic systems often acts to reinforce the existing network effects of large companies, creating incentives for firms to extract as much out of consumers as possible, collecting and retaining significant amounts of data and shoring up their dominant position. This exacerbates the surveillance business model that has led to considerable downstream harms.

**6. What do you believe is the role of government in regulating algorithms? What, if any, unintended consequences would there be if Congress gets involved?**

Strong intervention by government in this market is long overdue: the behavior of the biggest firms indicates a willingness to disregard existing law and essentially experiment in the wild. Given the significant impact of these systems on the public there's no excuse for companies to release tools when they can't assure they're compliant with existing law, but many of the systems already in widespread commercial deployment have not been adequately evaluated before being deployed. This is most harmful to the public, which bears the brunt of the impact, but it's also harmful for the businesses that procure AI systems for use: it means that enterprise firms who are users of algorithms often lack the information needed to verify whether these tools work as intended, whether they are adequately secure, and whether they introduce ancillary harms. Regulatory intervention is not only appropriate, it's sorely needed to protect the public and the economy at large.