

**Statement of Senator Patrick Leahy (D-Vt.)
Chairman, Senate Judiciary Committee
Hearing before the Senate Committee on the Judiciary
Subcommittee on Antitrust, Competition Policy and Consumer Rights
on “Oversight of the Enforcement of the Antitrust Laws”**

April 16, 2013

Our Nation’s antitrust laws play a vital role in protecting hardworking Americans. By ensuring vibrant competition in our markets, the antitrust laws increase consumer choice, lower prices, and promote innovation. I am pleased that the Antitrust Subcommittee is conducting its regular oversight of the Federal agencies that enforce these important laws on behalf of American consumers.

Today, the subcommittee convenes its first such oversight hearing with our new chair. I welcome Chair Klobuchar, the new Assistant Attorney General for the Antitrust Division, Bill Baer, and the recently-elevated Chair of the Federal Trade Commission, Chairwoman Edith Ramirez. Senator Klobuchar comes to this work with an extensive background in law enforcement and consumer protection. Both of the witnesses have had distinguished careers in the field of antitrust and consumer protection before entering Government service, and both were confirmed by the Senate with widespread, bipartisan support. I look forward to their leadership on these important issues.

The antitrust enforcement agencies must work in an environment that is increasingly complex, and constantly evolving. Fortunately, the antitrust laws were designed to adapt to an innovative economy. As new technologies and new business models emerge, the antitrust laws and those who enforce them must welcome innovation while preserving the core principles of promoting consumer welfare that have allowed the American economy to thrive. The commitment to competition that drove our Nation’s success in the 19th and 20th centuries remains important in the global economy we face today.

I am particularly interested in how the antitrust laws may be applied to prevent the misuse of patents – or patent trolling behavior – in our changing economy. Last July, I chaired a hearing at which then-Commissioner Ramirez and then-Assistant Attorney General Wayland testified regarding the intersection of patent and competition law. While a patent grants a limited monopoly, patent trolls often seek to extend their monopoly rights beyond the limited contours of the patent, and thereby harm competition. I asked whether this form of trolling behavior could constitute an antitrust violation. Assistant Attorney General Wayland responded: “Any effort by a patent owner to harm competition by improperly extending the exclusionary scope of its patent . . . may violate the antitrust laws, and allegations of such actions merit investigation.”

I agree, and I was pleased that after the hearing the Justice Department and FTC convened a public workshop to consider when patent misuse may violate the competition laws. I look forward to hearing from our witnesses whether further action, including enforcement actions, are being considered.

The Antitrust Division and FTC have important roles to play in protecting American competition and consumers. I welcome our distinguished witnesses, and look forward to their testimony.

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