

Senator Grassley, Chairman
Questions for the Record
Ms. Abigail Slater
Nominee to be the Assistant Attorney General for the Antitrust Division of the DOJ
February 12, 2025

1. Please describe your general approach to antitrust enforcement.

RESPONSE: As I mentioned during the hearing, my enforcement philosophy can be understood by referencing President Trump’s announcement nominating me last December. He stated that the goal of the Justice Department’s Antitrust Division will be to ensure the law is enforced both vigorously and fairly, with clear rules. I believe that following this formula will help preserve economic liberty and help us progress toward the President’s goal of making America competitive again.

2. If confirmed, what industries or sectors do you see as top priorities for the Antitrust Division?

RESPONSE: The Antitrust Division should prioritize industries and sectors that impact the day-to-day lives of the American people. Industries like agriculture, healthcare, and tech are some of those key industries.

3. What are some points of agreement and disagreement you have with the previous Antitrust Division’s approach?

RESPONSE: I can’t speak to the Division’s approach specifically as I was not part of that office, but I think any Antitrust Division would agree that appropriate and warranted enforcement against anticompetitive practices is necessary to ensure our economy delivers liberty, opportunity, and prosperity to the American people. I look forward to working with Congress on implementation of the Merger Filing Fee Modernization Act, including ensuring that when parties pay filing fees for merger review, the Antitrust Division can use those fees to timely review their mergers without taxpayer expense or diversion of resources from non-merger enforcement matters.

I expect we may take a different approach than the prior Antitrust Division on settlements in merger cases where effective and robust structural remedies can be implemented without excessively burdening the Antitrust Division’s resources.

4. What can you do to ensure there aren’t any unnecessary turf wars between DOJ and FTC?

RESPONSE: Leadership at the DOJ and FTC should ensure communication across the board and at the highest levels of their agencies. I appreciate that Chairman Ferguson

attended my confirmation hearing, and intend to work closely with him to deliver on this Administration's stated policy of maximizing government efficiency and effectiveness.

5. For decades, I've been concerned about concentration and anti-competitive practices in various sectors of agriculture. The agriculture industry has consolidated so much that family farmers, independent producers, and other smaller market participants don't have equal access to fair and competitive markets. This has led to fewer choices, lower quality, and higher prices for American consumers.
 - a. If confirmed, can you assure me that agriculture antitrust issues will be a priority for the Antitrust Division?
 - b. Will you commit to working closely with the Department of Agriculture to monitor and prevent anti-competitive activity in the agriculture industry?
 - c. If confirmed, what would you do to limit anti-competitive practices that hurt farmers and impact consumer prices at the grocery store?

RESPONSE: As I recall, the Attorney General addressed this important issue with you recently as well, and I echo her sentiments. I too am concerned that anti-competitive behavior has negative effects on small and independent businesses, including those in agriculture. I will make agriculture antitrust issues a priority, and I look forward to working with the Department of Agriculture on these important issues.

6. I understand that the Department of Justice is investigating the US agricultural seeds sector. Will you commit to looking into competition in the agricultural seed sector to determine if farmers, plant breeders and small seed companies do not suffer from predatory or anticompetitive practices?

RESPONSE: As the nominee to lead the Antitrust Division, it would not be appropriate for me to comment on ongoing investigations. That said, I can assure you that any investigation handled under my leadership will be conducted fairly.

Senator Dick Durbin
Ranking Member, Senate Judiciary Committee
Written Questions for Abigail Slater
Nominee to be Assistant Attorney General for the Antitrust Division
February 13, 2025

1. Last fall, the Justice Department filed an antitrust lawsuit against Visa, accusing the company of using anticompetitive practices to illegally monopolize the debit card payments market. I authored the so-called “Durbin Amendment” that serves as the basis for many of the claims in the case. This legislation requires that debit card issuers must allow at least two payment networks to process transactions on their debit cards—giving businesses a choice and ensuring competition between payment networks. However, as the Justice Department noted in its lawsuit, Visa has used its market power to extract anticompetitive agreements to lock in payment volume and insulate itself from competition, allowing it to charge retailers over \$7 billion per year in fees.

If confirmed to lead the Antitrust Division, will you commit to litigating this case to its conclusion, and to securing an adequate remedy that ensures that businesses have real and competitive options for processing debit card payments, as required by the Durbin Amendment?

RESPONSE: As I am not currently at the Department, I am not familiar with the details of the Antitrust Division’s lawsuit against Visa. As I stated at my hearing, if confirmed, I will, in good faith, meet with the staff, familiarize myself with the case file, and “read into” all of the Division’s open litigation matters.

2. Big Tech companies like Amazon, Google, Meta, and Apple have amassed astonishing scale and power. The Justice Department is currently litigating antitrust suits against Google and Apple. Google recently donated \$1 million to President Trump’s inauguration, and Apple CEO Tim Cook donated the same amount. Google’s CEO, Sundar Pichai, sat in one of the first few rows at the inauguration.

If confirmed to serve as the Assistant Attorney General, will you commit to litigating these cases, seeking strong remedies, and continuing to aggressively police anticompetitive conduct by Big Tech companies?

RESPONSE: As I am not currently at the Department, I am not familiar with the details of the Antitrust Division’s lawsuits against Google and Apple. As I stated at my hearing, if confirmed, I will bring a deep understanding of technology markets to the Department as the common thread in my private sector work was technology. As I also stated at my hearing, if confirmed, I will, in good faith, meet with the staff, familiarize myself with the case files, and “read into” all of the Division’s open litigation matters.

3. President Trump regularly threatens companies when they take actions he doesn’t agree with. He has been known to act on these threats—including when it comes to antitrust enforcement. During his first term, President Trump pressured the Justice Department to

block AT&T's acquisition of Time Warner due to his complaints about the way he was covered by CNN.

How would you respond if President Trump were to ask you to bring an enforcement action against a company as a form of retaliation, to further his own political interests, or simply because he has a personal grudge against the company?

RESPONSE: As I stated at my hearing, I do not expect that President Trump would make such a request. Rather, as I also stated at my hearing, President Trump has said that the goal of the Antitrust Division will be to ensure that the law is enforced vigorously and with clear rules and, if confirmed, I am absolutely committed to doing that.

4. A recent poll showed that 67 percent of the American public agreed that “one of the biggest problems facing America today is that a handful of corporations have too much power.”

a. Do you agree with that statement?

RESPONSE: I share your concern in this important area. As I stated at my hearing, concentration of market power threatens both economic and personal liberty.

b. How would the Antitrust Division address this problem under your leadership?

RESPONSE: As I stated at my hearing, if confirmed, I am absolutely committed to making America competitive again by vigorously and fairly enforcing antitrust law.

Senator Cornyn

Questions for the Record – Gail Slater

Once confirmed, how do you plan to approach ongoing antitrust investigations and cases that were opened by the Biden administration?

RESPONSE: As I stated at my hearing, if confirmed, I will, in good faith, meet with the Division staff, familiarize myself with the case files, and “read into” all of the Division’s open litigation matters.

How do you plan to approach ongoing oversight of firms? In what circumstances do you consider ongoing oversight to be appropriate?

RESPONSE: If confirmed, I consult with Division staff to determine the circumstances under which ongoing oversight would be appropriate.

How do you plan to approach the issue of balancing appropriate enforcement and oversight with consumer benefit and welfare?

RESPONSE: Antitrust laws are meant to protect consumers, not harm them. I will view enforcement and oversight through this lens.

How will you ensure you do not take actions that result in consumer harm?

RESPONSE: If confirmed, I will consult with appropriate Department officials to evaluate potential harm that could result from Division actions and take that into consideration when pursuing enforcement.

How do you plan to approach selecting the appropriate remedy in an antitrust enforcement action?

RESPONSE: In each enforcement action, determining the appropriate remedy will involve evaluation of the relevant facts, law, and likely effects. These may include structural remedies, where appropriate.

How will you draw a line between enforcing the Sherman Act and picking winners and losers in the economy? Should antitrust remedies be punitive so that the antitrust violator will be at a disadvantage against other competitors?

RESPONSE: As President Trump stated when announcing my nomination, the Antitrust Division will apply the law “vigorously” but “fairly” and with “clear rules.” In pursuit of this mission, I will follow the lines drawn in the law between protecting competition and protecting competitors. Remedies for violations of the Sherman Act should restore competition rather than pick the winners and losers of that competition.

Senator Mike Lee
Questions for the Record for Gail Slater
Nominee for Department of Justice Assistant Attorney General
for the Antitrust Division
Senate Committee on the Judiciary

1. Under the Biden administration, confidential information regarding antitrust investigations were reportedly leaked to the press on multiple occasions, including one instance of an alleged criminal matter. Leaks from government agencies undermine the public trust in our institutions and can have a chilling effect on third-party cooperation and whistleblowers. If confirmed, will you address unauthorized leaks at the Department of Justice?

RESPONSE: Yes. Section 1-7.000 of the Justice Manual, titled “Confidentiality and Media Contacts Policy,” sets forth the proper protections and standards in this area. If confirmed, I will work to ensure that any Justice Department employee found to have violated those rules will be referred to the Office of the Inspector General and, where applicable, the Office of Professional Responsibility.

Senator Thom Tillis
Questions for the Record
Senate Judiciary Committee Hearing
for the Nomination of the
Abigail Slater to be
Assistant Attorney General of the United States

1. Government officials, commentators, and academics have criticized the prior Administration's merger review process. The Biden Department of Justice's Antitrust Division, on several occasions, used the merger review process to accomplish political goals and to extract broad sweeping concessions from companies seeking merger approval, including burdensome monitorships, paying off private class action litigants in unrelated matters, and complicated conduct remedies.

- a. Do you agree that the legality of a proposed merger should be examined under the standards imposed by Section 7 of the Clayton Act and not according to political priorities or special interest group lobbying?

RESPONSE: Yes.

- b. Do you pledge not to use merger review and enforcement as a mechanism to force companies to enter far-reaching consent decrees unrelated to the legality of a proposed merger?

RESPONSE: Yes.

- c. Do you believe it is appropriate for the DOJ to withhold consent to a merger unless the company agrees to a wide-ranging monitorship conducted by private attorneys at the expense of the company, over various aspects of its business that are unrelated to competitive concerns posed by the merger?

RESPONSE: No. I believe that merger remedies should protect the competition threatened by the merger. Merger enforcement decisions should only account for other types of conduct to the extent that those market realities inform the competitive assessment of the merger.

- d. Will your office review instances where the prior administration undertook such actions and forced unwarranted agreements on parties to a merger, and, where necessary, modify those agreements to restore competitive balance in the market?

RESPONSE: If I am fortunate enough to be confirmed, as to all of the Antitrust Division's matters it will be my responsibility to get up to speed on the file, discuss with staff, and proceed as appropriate under the facts and the law. In so doing it will be my aim to enforce the antitrust laws vigorously and fairly.

2. Will you commit to conduct an independent review of the propriety of DOJ Antitrust Division's pending enforcement actions, especially those filed in the final days of the Biden Administration?

RESPONSE: As I stated at my hearing, if confirmed, I will, in good faith, meet with the staff, familiarize myself with the case files, and get "read into" all of the Division's open litigation matters. If I were to find impropriety, I would take appropriate measures.

- a. If yes, do you commit to meet with those defending such enforcement actions to explore whether there is a basis for continuing to prosecute those enforcement actions?

RESPONSE: Please see my response to question 2.

- b. If your office determines that an enforcement proceeding was not appropriately brought by DOJ Antitrust Division, do you commit to withdraw the action?

RESPONSE: Please see my response to question 2.

3. The Biden DOJ Antitrust Division successfully challenged JetBlue Airways' \$3.3 billion proposed acquisition of financially struggling Spirit Airlines on the theory that the merger would result in less competition for airline consumers. Since the Biden DOJ's challenge, Spirit has filed for Chapter 11 bankruptcy, cut hundreds of jobs, and airline consumers are left worse off.

Will you commit to avoiding challenges that leave consumers worse off?

RESPONSE: Yes—I believe that merger enforcement should leave consumers in the relevant markets better off, not worse off.

4. I have been interested in encouraging greater investment in local media and preserving local news. With the advent of digital streaming technologies and new competitors such as internet based TV providers and other streaming services, competition in the media market has become more intense and fragmented and new digital advertising technologies allow for direct competition with local broadcasters for advertising dollars.

If you are confirmed as Assistant Attorney General, your office will review proposed transactions in the local broadcasting space. Would you agree that competition reviews should factor in the competitive forces from new digital competitors and they should be considered when assessing the competitive impact of a proposed transaction?

RESPONSE: I strongly believe in the importance of encouraging investment in local media and preserving local news. Local journalism is a pillar of our communities. The antitrust laws provide detailed frameworks for factoring in appropriate competitive forces in relevant markets that I will apply fairly and vigorously in particular cases in order to ensure that local broadcasting may continue benefitting the American people.

Senator Eric Schmitt
Senate Judiciary Committee
Written Questions for Gail Slater
Hearing on “The Nomination of Gail Slater to be an Assistant Attorney General of the
United States”
Wednesday, February 12, 2025

To determine where there is merit and where there was political prosecution, do you plan to take a fresh, de novo look at the antitrust cases that were started by a weaponized Biden DOJ?

RESPONSE: As I stated at my hearing, if confirmed, I will, in good faith, meet with the staff, familiarize myself with the case files, and get “read into” all of the Division’s open litigation matters.

**Nomination of Abigail Slater
To be Assistant Attorney General of the Antitrust Division
United States Department of Justice
Questions for the Record
Submitted February 13, 2025**

QUESTIONS FROM SENATOR WHITEHOUSE

Please answer each question individually and as specifically as possible.

1. If Donald Trump asks you to do something illegal, will you do it?

RESPONSE: I must respectfully reject your premise. If confirmed, I will always follow the law, as well as uphold my oath to support and defend the Constitution.

2. If Donald Trump asks you to investigate or sue his political enemies as retribution, even when there is no evidence of wrongdoing, will you do it?

RESPONSE: Please see my response to question 1.

3. If Donald Trump asks you to forgo investigating his political allies, even when there is clear evidence predicated an antitrust violation, will you forgo the investigation and prosecution?

RESPONSE: Please see my response to question 1.

4. We discussed the need to hold big tech accountable. Will you prioritize enforcement against big tech?

RESPONSE: Yes.

5. Would Elon Musk, as a close ally to the president, be exempt from antitrust enforcement against big tech?

RESPONSE: No individual would be exempt from appropriate antitrust enforcement.

6. We spoke in my office about oversight and significant delays in the Department's response time in answering oversight questions or providing technical assistance on proposed legislation. In my experience that response time gets even worse when the Senator is in the minority. Do you commit to providing prompt and forthright responses to requests from Senators on this committee, regardless of their party affiliation?

RESPONSE: If confirmed, I commit to working with the relevant personnel within the Antitrust Division and the Department's Office of Legislative Affairs to respond to requests from Senators on the Judiciary Committee, including ones from the minority.

Senate Judiciary Committee
Hearing on the Nomination of Abigail Slater
to be Assistant Attorney General for the Antitrust Division
February 12, 2025
Questions for the Record
Senator Amy Klobuchar

1. Along with Chairman Grassley, I lead legislation that would set common sense guardrails on dominant platforms that use their power to tilt the playing field to favor themselves against smaller competitors and to the detriment of consumers.
 - Will you commit to working with me and Chairman Grassley on this vital antitrust reform?

RESPONSE: As a pending nominee to lead the Antitrust Division, it would be inappropriate for me to endorse any legislation. However, if confirmed, I look forward to working with you and with officials within the Department of Justice, including the Office of Legislative Affairs, to discuss how we can best address these issues.

2. I have long been concerned about consolidation across our economy, whether in healthcare or homebuilding. I was pleased to see the Justice Department sue to block HP's acquisition of Juniper, which would result in two firms controlling more than 70% of the U.S. wireless networking market if allowed.
 - What will be your approach to merger enforcement and will you commit to stopping mergers that will hurt consumers and raise prices?

RESPONSE: I cannot comment about pending matters. In all cases, I will apply the law vigorously, fairly, and with clear rules. I will absolutely commit that my top priority will be to protect consumers.

3. In 2023, renters paid nearly \$4 billion more in rent because of anticompetitive algorithms. The Department sued RealPage for developing algorithms that help corporate landlords collude to increase rents.

- Do you agree that competition is lost and consumers harmed when competitors share information to set prices through an algorithm?

RESPONSE: I cannot comment on pending matters but look forward to learning about all of the Division's pending cases and working with the career staff to ensure they are appropriately pursued consistent with the facts and the law. I also look forward to learning more about the *Preventing Algorithmic Collusion Act* and working with your office as appropriate during its consideration.

- Will you commit to working with me to ensure companies cannot use algorithms to evade competition when the same conduct is clearly prohibited when done with a handshake?

RESPONSE: I cannot comment on pending matters but look forward to learning about all of the Division's pending cases and working with the career staff to ensure they are appropriately pursued consistent with the facts and the law. I also look forward to learning more about the *Preventing Algorithmic Collusion Act* and working with your office as appropriate during its consideration.

4. At your hearing, you noted concern that two large online platforms have the ability to remove voices from the internet. I have long been concerned that independent, often local journalism is one of the voices getting left behind as large technology platforms siphon off advertising dollars on which news organizations depend.

- How can antitrust enforcement support independent journalism?

RESPONSE: Local journalism is the lifeblood of our communities and our public discourse. Antitrust enforcement can help ensure local journalism benefits from competition.

- Will you work with me on potential reforms to ensure independent journalism has the ability to compete fairly in the online marketplace?

RESPONSE: Yes, I am happy to work with your office on this issue as appropriate and in accordance with relevant protocols for discussing legislation.

Nomination of Abigail Slater to be Assistant Attorney General (Antitrust Division)
U.S. Department of Justice
Questions for the Record
Submitted February 13, 2025

QUESTIONS FROM SENATOR COONS

1. If President Trump asked you to do something you judged to be illegal or unethical, would you resign? Please answer yes or no.

RESPONSE: I must respectfully reject your premise. If confirmed, I will always follow the law, as well as uphold my oath to support and defend the Constitution.

- a. If you would not resign, what would you do?

RESPONSE: Please see my response to question 1.

2. As a Justice Department lawyer, when is it appropriate to refuse to follow a directive of the President?

RESPONSE: Justice Department lawyers should always uphold their oaths to support and defend the Constitution, and act in accordance with applicable laws, regulations, and Department policies.

3. How would you respond if your role at the Department of Justice required you to follow a policy directive that was unconstitutional?

RESPONSE: Please see my response to question 1.

4. When is it appropriate for the Department of Justice to decide not to enforce a federal law?

RESPONSE: While I had not had occasion to consider the issue in depth, it is my understanding that 28 U.S.C. § 530D applies to situations in which the Department determines not to defend unconstitutional federal laws.

5. What is the remedy if the President violates his constitutional duty to faithfully execute the laws?

RESPONSE: In my career as an antitrust lawyer, I have not had occasion to study this issue in depth.

6. I believe that strong intellectual property protection promotes American innovation. At the same time, I have been concerned that our antitrust enforcement has not struck the

proper balance between promoting competition and incentivizing innovation. What is your view on how these two interests should be balanced?

RESPONSE: As I stated in my hearing, when properly conducted, antitrust enforcement should lead to more competition and freer markets, which in turn should drive new entry and increased innovation in those markets. Accordingly, I believe they can be complimentary goals.

7. In April 2023, the European Union announced a proposed regulation that would have given standard essential patent (SEP) regulatory power to the EU Intellectual Property Office (IPO). While the proposal may have increased transparency and predictability to SEP licensing, it may have also resulted in anticompetitive behavior. The EU proposal was withdrawn from consideration on February 11, 2025. Can you discuss your views on government regulation of SEPs?

RESPONSE: Antitrust law and intellectual property law work together to facilitate competition and innovation. Antitrust law enforcement should support procompetitive standards development activities while preventing harmful concerted action.

8. President Trump has made comments that raise concerns about the political independence of antitrust reviews.
 - a. How will you ensure that decisions regarding high-profile transactions are shielded from undue political influence?

RESPONSE: If confirmed, I will ensure that all antitrust reviews, regardless of how high-profile they may be, are based on the facts and the law, and I will work to guard against any improper influences.

- b. Have you made any assurances to the President, Vice President, or any administration officials that you will make determinations in line with the President's desired outcomes?

RESPONSE: No.

9. Do you agree that the Department of Justice has an independent obligation to evaluate the legality of the President's policy proposals?

RESPONSE: In my career as an antitrust attorney, I have not had occasion to consider this issue. If confirmed, I would consult with relevant Department personnel and ensure the Department is fulfilling applicable legal obligations, particularly where the Antitrust Division is implicated.

10. By law, the President must provide Congress with 30 days' notice before firing any inspector general. During his first week in office, President Trump fired 17 inspectors general. As of February 13, President Trump has only been in office for 24 days.

a. Is 24 more or less than 30?

RESPONSE: 24 is less than 30.

b. Is it possible for President Trump to give 30 days' notice in 24 days?

RESPONSE: It is my understanding that the recent terminations of Inspectors General are now the subject of litigation involving the Department of Justice. As a pending nominee, it would be inappropriate for me to comment on the Department's ongoing litigation.

c. Do you agree that President Trump violated the law by firing inspectors general without providing 30 days' notice to Congress?

RESPONSE: Please see my response to question 10.b.

Senator Mazie K. Hirono
Senate Judiciary Committee

Nominations Hearing | February 12, 2025
Questions for the Record for Gail Slater

1. Looking back at the tenure of the last two Senate-confirmed Antitrust Division heads—Jonathan Kanter and Makan Delrahim—what is one policy or focus you would continue from each of them and what is one thing you would change from each of them?

RESPONSE: There are clear through lines from the tenures of AAG Delrahim, to AAG Kanter, to the antitrust policies of this Administration, on issues such as the importance of protecting workers, the risks sometimes presented by vertical mergers and dominant firm acquisitions of nascent competitors, and the critical need to prevent the monopolization of digital markets. At the same time, I expect this Administration will be more open to settlements in merger cases when effective and robust structural remedies can be implemented without excessively burdening the Antitrust Division’s resources. And as compared to both of the last two Administrations, I hope we can continue to build the working relationship with the FTC to maximize both agencies’ efficiency and efficacy.

2. Antitrust enforcers assessing vertical mergers traditionally have presumed that vertical mergers create efficiencies and improve competition in a way that makes it hard to show harm arising from such mergers. Can you explain your opinion of that presumption’s validity?

RESPONSE: While the 2020 Vertical Merger Guidelines did not presume efficiencies, they considered those efficiencies of vertical mergers that the merging parties demonstrate to be merger specific and verified, among other criteria. 2020 Vertical Merger Guidelines, 11-12. The 2023 Merger Guidelines treat the issue similarly—allowing for consideration of those vertical merger efficiencies demonstrated by the merging parties without presuming them. 2023 Merger Guidelines, 32-33. Both documents also explain several risks to competition that vertical mergers can sometimes pose.

3. Courts have narrowed antitrust law to focus on easily quantifiable metrics like price. One area where that focus can be problematic is in so-called “zero-price” products, like many online services. How do you think the Antitrust Division should approach such products in assessing potential mergers?

RESPONSE: The consumer welfare standard encompasses any conduct that harms competition and thus consumers, and is not limited to easily quantifiable metrics of consumer harm like price. *See, e.g., National Society of Professional Engineers v. United States*, 435 U.S. 679, 695 (1978) (“all elements of a bargain—quality, service, safety, and durability—and not just the immediate cost, are favorably affected by the free opportunity to select among alternative offers”). In so-called “zero-price” markets, competition still protects other aspects of the bargain that matter to consumers, such as the protection of their privacy, the moderation (or censorship) of their speech, and the use of addictive or exploitative algorithms.

**Nomination of Gail Slater to be Assistant Attorney General for the Antitrust Division of the
United States Department of Justice
Questions for the Record
Submitted February 13, 2025**

QUESTIONS FROM SENATOR CORY A. BOOKER

1. In your opening statement you stated that “personal liberty and economic liberty are closely connected.” Please elaborate how the two are connected.

RESPONSE: As I stated at my hearing, concentration of market power threatens both economic and personal liberty, and the exercise of private power is connected to the economic power of the companies involved.

2. How will you work to ensure everyday Americans have the economic liberty to start new business, have freedom of choice as consumers, and the ability to freely choose their employer?

RESPONSE: As I stated at my hearing, concentration of market power threatens both economic and personal liberty, and the exercise of private power is connected to the economic power of the companies involved. As I also stated at my hearing, if confirmed, I am absolutely committed to making America competitive again by vigorously and fairly enforcing antitrust law.

3. I receive calls on a regular basis from New Jersey farmers, patient groups, actors and artists, about how consolidation across industries is harming them. This consolidation limits opportunities for small businesses, disempowers workers, and raises prices for consumers. Big Business believes opportunities for consolidation will increase profits under this new Administration. The CEO of Warner Bros. Discovery, David Zaslav, said on a recent earnings call, “We have an upcoming new administration. . . . It may offer a pace of change and opportunity for consolidation that may be quite different.”

- a. Do you agree that there will be a greater opportunity for corporate consolidation under this administration?

RESPONSE: I am not familiar with the bases for the statements in this question. As I stated at my hearing, President Trump has said that the goal of the Antitrust Division will be to ensure that the law is enforced vigorously and with clear rules and, if confirmed, I am absolutely committed to doing that.

- b. How would you respond to farmers, patient groups, actors and artists concerned about consolidation?

RESPONSE: As I stated at my hearing, President Trump has said that the goal of the Antitrust Division will be to ensure that the law is enforced vigorously and with clear rules and, if confirmed, I am absolutely committed to doing that.

c. Do you commit to tackling consolidation as Assistant Attorney General?

RESPONSE: Yes. As I stated at my hearing, if confirmed, I am absolutely committed to making America competitive again by vigorously and fairly enforcing antitrust law.

4. During President Trump's first term, it was widely alleged that he used his position to weaponize both the Antitrust Division of the Department of Justice (DOJ) and the Federal Trade Commission (FTC) for his personal benefit as an individual. This includes, but is not limited to, alleged politically motivated interference in the AT&T-Time Warner merger to punish CNN,¹ and allegedly pressuring the FTC to take action against Twitter for Trump's own political reasons.²

a. How do you view DOJ's independence from the president?

RESPONSE: The Antitrust Division is accountable to the President and works for the American people. Its Assistant Attorney General is not one of the president's personal lawyers.

b. If confirmed, do you believe you would enjoy independence to run the Antitrust Division?

RESPONSE: Please see my response to Question 4(a) above.

c. Can you commit that the Antitrust Division will act independently from the President's personal political and financial interests in bringing forward, or refusing to instigate, actions?

RESPONSE: Please see my response to Question 4(a) above.

d. What would you do if instructed by the President to investigate, prosecute, or file suit to personally benefit President Trump?

RESPONSE: As I stated at my hearing, I do not expect that President Trump would make such a request. Rather, as I also stated at my hearing, President Trump has said that the goal of the Antitrust Division will be to ensure that the law is enforced vigorously and with clear rules and, if confirmed, I am absolutely committed to doing that.

¹ See Colin Lecher, *Judge Rules AT&T Can't See Trump White House Communications About the Time Warner Merger*, THE VERGE (Feb. 20, 2018), <https://www.theverge.com/2018/2/20/17032956/att-white-house-justice-department-lawsuit>.

² See Leah Nylen et al., *Trump Pressures Head of Consumer Agency to Bend on Social Media Crackdown*, POLITICO (Aug. 21, 2020), <https://www.politico.com/news/2020/08/21/trump-ftc-chair-social-media-400104>.

- e. What would you do if you determined, after reviewing the facts and relevant law, that an action ordered by the President was baseless?

RESPONSE: Please see my response to Question 4(d) above.

- 5. During President Trump's 2024 campaign for president, on Inauguration Day, and his time in office during his second term, he has surrounded himself with the heads of some of America's largest tech companies. Americans are gravely concerned that these tech leaders could influence the President to use his power and direct agencies to their benefit. During Trump's first term, for example, there were allegations he weighed in on the Disney-Fox merger to potentially benefit his political ally.³

- a. What would you do if instructed by the President to investigate, prosecute, or file suit to benefit one of President Trump's Big Tech supporters?

RESPONSE: Please see my response to Question 4(d) above.

- b. What would you do if you determined, after reviewing the facts and relevant law, that an action ordered by the President was baseless?

RESPONSE: Please see my response to Question 4(d) above.

- c. The Antitrust Division maintains a Procurement Collusion Strike Force, which works to root out corrupt antitrust crimes and fraud in government procurement. Will you prevent big tech billionaires from gaining unfair financial advantages based on their friendships with President Trump?

RESPONSE: Please see my responses to Questions 4(a) and 4(d) above.

- 6. The DOJ is pursuing several antitrust cases, initiated in the previous Administration and during Trump's first term, cases that if successful would lead to more money in the pockets of hardworking American families. Examples include DOJ's case against Live Nation/Ticketmaster, which would lower ticket prices for fans and open venue doors for working musicians; DOJ's Agri Stats lawsuit, which pushes back on anticompetitive conduct that raises prices for chicken and pork; and DOJ's recently filed case against UnitedHealth, to block an acquisition that would reduce the quality of care for home health patients and raise healthcare prices for them and their families.

- a. Do you commit to maintaining the DOJ's litigation position on those and other important lawsuits that protect Americans' economic freedom?

RESPONSE: As I am not currently at the Department, I am not familiar with the details of the Antitrust Division's lawsuits against Live Nation/Ticketmaster, Agri Stats, and UnitedHealth. As I stated at my hearing, if confirmed, I will, in good faith,

³ See James B. Stewart, *The Disney-Fox Deal Has Friends in High Places*, N.Y. TIMES (Dec. 14, 2017), <https://www.nytimes.com/2017/12/14/business/media/antitrust-disney-fox.html>.

meet with the staff, familiarize myself with the case files, and “read into” all of the Division’s open litigation matters.

- b. Do you commit to, upon liability findings, pursuing structural remedies that will decrease the power of these monopolists and thus promote economic growth?

RESPONSE: As the pending nominee to lead the Antitrust Division, it would not be appropriate for me to commit to particular remedies in ongoing cases.

- 7. Pursuing the DOJ’s ongoing antitrust cases will take resources and personnel. During the hearing you responded that you “absolutely agree” to Senator Blumenthal’s statement that “antitrust is one of the resource intensive” aspects of the federal government. Currently, the Administration is attempting to shrink the federal workforce by offering resignation buyouts to all federal employees, including those in the Antitrust Division. The Division is already underfunded, hindering its ability to investigate and bring cases, especially non-merger related cases that are lengthier and are not funded by merger filing fees.

- a. How would losing employees impact the Antitrust Division’s ability to enforce antitrust statutes?

RESPONSE: If confirmed, I will consult with relevant Department personnel to evaluate the staffing necessary for the Antitrust Division to fully perform its mission.

- b. If the Division were to lose employees, how would you prioritize investigations?

RESPONSE: Successful management relies on proper prioritization regardless of the level of personnel. I will work through the caseload with staff and establish priorities that achieve operational effectiveness.

- c. Does Congress need to provide the Antitrust Division with additional resources to continue its important work? Is there anything in particular that we should consider in the immediate future?

RESPONSE: If confirmed, I will consult with personnel from the Antitrust Division, the Office of Legislative Affairs, and the Appropriations Liaison Office within the Justice Management Division to determine if additional resources are required from Congress and to communicate those needs to you.

- 8. During your testimony, you stated that it will be your “job to be the lead advocate for resources for the ... antitrust division.” I agree with you that funding for the division is critical. Last year, however, during the fiscal year 2024 appropriations drafting process, appropriation leaders limited the Division’s access to merger filing fees, despite already being underfunded. Do you believe that full access to merger filing fees is critical to support the Division’s work?

RESPONSE: I believe full access to merger filing fees would help support the Division's work in ways that minimize the need to use taxpayer funds.

9. State attorneys general are some of our nation's toughest antitrust enforcers. My home state of New Jersey, along with other states, regularly initiates critical antitrust litigation. States also join the DOJ and FTC in their antitrust cases. For example, New Jersey has joined the DOJ's Antitrust Division's lawsuits against Amazon, Google, Live Nation-Ticketmaster, and UnitedHealth, among others. How do you view the participation of state attorneys general in enforcing antitrust?

RESPONSE: As I mentioned in the hearing, the Attorney General has emphasized she will make it a priority for all Justice Department components to work with state law enforcers. This applies directly to the Antitrust Division, which currently has several cases before it in which both Republican and Democrat state attorneys general are parties. I am excited to work with the state attorneys general in pursuing these and future cases.

10. The Antitrust Division of the DOJ enforces antitrust not just civilly, but criminally as well. The Criminal Enforcement Program of the division "prosecutes individuals and corporate entities for collusion, monopolization, and other crimes that undermine the free market" in order to "promote[] competition and innovation while protecting consumers, workers, and taxpayers." There is a strong sense by Americans that corporations and their officials often escape prosecution when they commit criminal acts, while the law is applied to the fullest extent against everyday Americans. Do you believe that the Antitrust Division could increase its criminal enforcement of white collar crimes?

RESPONSE: The decision to open a criminal antitrust investigation should be made in keeping with the Justice Manual's requirements, including the factors set forth in the Manual's Antitrust section 7-3.100, "Standards for Initiating a Criminal Investigation." If confirmed, I will evaluate all potential criminal enforcement cases in light of the facts, the law, and the Justice Manual's standards.

Senator Peter Welch
Senate Judiciary Committee
Written Questions for Abigail Slater
Hearing on “Nominations”
Wednesday, February 12, 2025

The Antitrust Division at the Department of Justice has an indispensable role in reviewing mergers and consolidations. In 2023, the Department implemented new merger guidelines, which provided much needed improvement. The new Federal Trade Commission Chair, Andrew Ferguson, recently stated that he does not think the 2023 Merger Guidelines should be rescinded.

1. Do agree that the 2023 Merger Guidelines should not be rescinded?

RESPONSE: Chairman Ferguson has explained that the Merger Guidelines work best when there is stability across administrations, though he has also indicated that there may be some aspects he would be open to reforming. He further explained that much of what is in the current merger guidelines simply restates longstanding law. *See Flavia Fortes, Merger Guidelines Shouldn't be Rescinded, But Could Be Reformed, FTC Commissioner Ferguson Says*, Mlex, June 13, 2024. I agree with him. It is critical to the Antitrust Division's law enforcement mission that its guidelines reflect the original meaning of the applicable statutory text as interpreted by the binding rulings of the courts. The merger guidelines have been revised periodically when time and experience suggest changes are necessary, but when revisions are undertaken a careful and transparent process should be used to ensure our guidelines maintain the stability needed for rules of the road to serve their purpose.

2. Are there any reforms to the 2023 Merger Guidelines you would propose?

RESPONSE: If considering revisions to the guidelines is necessary, I would work with Chairman Ferguson to ensure a careful and transparent process that maintains the stability that rules of the road need in order to serve their purpose and that respects the original meaning of the applicable statutory text as interpreted by the binding rulings of the courts.

Strong oversight of merger enforcement is especially important in healthcare, where consolidation can lead to closing of private practices, small hospitals, and local pharmacies.

3. Can you please describe what your approach would be to investigating consolidation in the healthcare industry?

RESPONSE: I would follow the legal and economic framework described in the 2023 Merger Guidelines. Healthcare competition is a critical priority because of its impacts on patients, caregivers, and our local communities.

4. Can you please describe what your priorities will be when reviewing healthcare mergers and acquisitions when private equity is involved?

RESPONSE: Please see my response to question 3.

Over the last 50 years, we have seen lax antitrust enforcement in the agricultural sector, which has some of the highest degrees of concentration of any industry. Today, the top 6 grocery store chains conduct 65 percent of all grocery sales nationally. The four largest sellers of farm machinery take up 60 percent of the market. Just three companies make up 83 percent of milk sales in this country. The four largest pork companies control 70 percent of their market. For poultry, it's 60 percent, and for beef, it's between 80 and 85 percent.

5. How will you handle merger enforcement in the agricultural and grocery industries?

RESPONSE: I would follow the legal and economic framework described in the 2023 Merger Guidelines. I will treat agriculture and grocery competition as top priorities because they are critical to our farmers, to our local communities, and to consumers' ability to afford to put food on the table.

Landlords and property managers can't collude on rental pricing. Recently landlords and property managers have started to use software, including proprietary algorithms, to collude on rental pricing, which artificially drives up the cost of rent based on nonpublic competitor data.

6. How do you plan to address the issue of algorithmic collusion?

RESPONSE: I would be concerned with any anticompetitive conduct that deprives renters of competition and drives up the cost of housing.

7. What role do you see for the Antitrust Division in bringing down the cost of housing?

RESPONSE: Many factors impact the cost of housing, but competition is an important one. Renters depend on competition between landlords to keep their monthly payments low, while buyers depend on competition between realtors to limit their fees and closing costs. I will prioritize enforcement that helps homeowners and renters benefit from competition for their hard-earned dollars.

At the same time, excessive regulations can limit the supply side of the housing market and drive costs up for buyers and renters. The Antitrust Division has long had an important role as a competition advocate helping to identify and discourage anticompetitive regulations, and I plan to continue that work.

Under the Biden Administration's DOJ there were numerous antitrust cases initiated, filed, and brought to trial. Many of these cases are still pending, including some awaiting a verdict, some an initial complaint has been filed, and, presumably, there are ongoing investigations that are not public.

8. Do you plan to issue a blanket pause on antitrust investigations and cases that were initiated under the Biden Administration?

RESPONSE: No.

9. Are there any cases you believe need to be reviewed?

RESPONSE: If I am fortunate enough to be confirmed, as to all of the Antitrust Division's matters it will be my responsibility to get up to speed on the file, discuss with staff, and proceed as appropriate under the facts and the law. In so doing it will be my aim to enforce the antitrust laws vigorously and fairly.

I am also aware that the Division's resources are an important consideration in deciding which cases to bring, continue, and prioritize. Antitrust cases are exceptionally resource intensive and complex and I will not bring or continue cases that we do not have the capacity to zealously pursue. In this regard I look forward to working with Congress on implementation of the Merger Filing Fee Modernization Act, including ensuring that when parties pay filing fees for merger review, the Antitrust Division can use those fees to timely review their mergers without taxpayer expense or diversion of resources from non-merger cases.

Questions for the Record

**Abigail Slater – Nominee to be Assistant Attorney General for the Antitrust Division
Sen. Adam Schiff (CA)**

1. Given your work for the Internet Association, which previously included companies like Google, Meta, and Amazon, how will you handle any potential conflicts of interest that arise involving antitrust enforcement against those companies?

RESPONSE: In the event of any potential conflict of interest, I will consult with the appropriate Department of Justice ethics officials and act consistent with governing regulations.

2. Many of the industries driving costs up for Americans are outside of the technology sector. Basic needs like housing, food, and healthcare have become increasingly unaffordable for many Americans, even those who work full time.
 - a. Will you take the same approach to antitrust enforcement across all sectors, particularly in the real estate, agriculture, grocery, and healthcare sectors?

RESPONSE: Yes.

3. You reportedly led the Trump Administration’s search for FTC Chairman Andrew Ferguson. The DOJ and the FTC have traditionally worked collaboratively to police mergers and acquisitions on Wall Street, and you testified that you would continue to work collaboratively across agencies if confirmed.
 - a. As AAG for the Antitrust Division, how do you plan to work in partnership with Chairman Ferguson to ensure that companies are not merging in a way that eliminates competition?

RESPONSE: I appreciated Chairman Ferguson’s attendance at my hearing. I plan to work closely with him to ensure that we are quickly assigning merger filings between our agencies in order to avoid duplication and facilitate speedy and effective reviews. Doing so will also better equip both agencies to challenge those proposed mergers that threaten to substantially lessen competition. I will support collaboration between staff at all levels of the DOJ and FTC where appropriate to ensure consistency in practice and approach.

4. On February 12, 2025, on the same day as your confirmation hearing, the Department of Justice sent a letter to the Ranking Member of the Senate Judiciary Committee informing him “that the Department of Justice has determined that certain for-cause removal provisions that apply to members of the multi-member regulatory commissions are unconstitutional and the Department will no longer defend their constitutionality. Specifically, the Department has determined that the statutory tenure protections for members of the Federal Trade Commission (FTC), 15 U.S.C. 41, for members of the National Labor Relations Board (NLRB), 29 U.S.C. 153(a), and for members of the

Consumer Product Safety Commission (CPSC), 15 U.S.C. 2053(a), are unconstitutional. This letter sets the ground for President Trump to fire FTC commissioners in violation of federal law and long-standing Supreme Court precedent.

- a. Is it illegal for the President to fire an FTC commissioner without cause?

RESPONSE: I have not had occasion to consider the constitutionality of the for-cause removal provisions of 15 U.S.C. § 41, nor am I familiar with the Department of Justice letters you referenced.

- b. Do you believe that Senate-confirmed FTC commissioners should be protected from politically motivated removal?

RESPONSE: Please see my response to question 4.a.

5. The Department of Justice has already seen drastic changes under the Trump Administration. Many divisions within DOJ are gutting and reassigning career attorneys who have been there for years.

- a. Do you plan to reduce the number of career attorneys in the Antitrust Division? If so why and by how many?

RESPONSE: I am not yet at the Department but, if confirmed, I will consult with relevant Department personnel to evaluate the staffing necessary.

- b. Will you target career attorneys for termination because of their political views?

RESPONSE: No.