

Responses of Spencer Weber Waller to Questions for the Record from Representative Cliff Bentz Regarding Hearing on Collusion in the Global Alliance for Responsible Media Held July 10, 2024

**As I indicated in my previous written and oral testimony, my primary expertise is antitrust law and policy. I am not an expert in Constitutional Law or the First Amendment. In my experience as an antitrust teacher, scholar, and practitioner, First Amendment issues primarily apply in the antitrust context as a defense or immunity to conduct that may otherwise raise antitrust concerns.**

1. Do you agree that antitrust law can and should protect (promote) commercial speech? It appears that the economy has evolved such that firms and consumers depend on information, ideas, and speech, even when traded at zero prices – known as “information economy”.

**I do not understand the way the question and comment are phrased. Subject to my general disclaimer set forth above, I would agree that information can be an element of non-price competition.**

2. Should antitrust treat commercial speech as a “virtue of competition” given that first the nature of competition generates market information valued by consumers and second anti-competitive conduct can suppress it?

**I do not understand the way the question and comment are phrased and therefore cannot comment.**

3. Do you agree that it is now common for firms to compete over issues of quality, speech, innovation, privacy, and selection rather than prices thus implying that antitrust fidelity to price must loosen?

**I would agree that non-price competition is a relevant consideration in antitrust law and policy.**

4. Since a firm can employ anti-competitive tactics, resulting in compressed commercial speech without producing higher prices, is it critical that the quality of information reaching market actors reflect a non-price element of consumer welfare? In other words, “non-price competition is most important. . . Where price competition lacks vigor.”

**I do not understand the way the question and comment are phrased. Subject to my general disclaimer set forth above, I would agree that information can be an element of non-price competition.**

Respectfully submitted,

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