

Questions for the Record from Representative Pramila Jayapal

Online Platforms and Market Power, Part 4: Perspectives of the Antitrust Agencies, November 11, 2019

Question for DOJ AAG Makan Delrahim

1. Please explain whether and how the DOJ weighed the best interests of workers when choosing to file a brief in *Stigar v. Dough Dough* (WA Eastern District).
2. Please explain whether and how the DOJ weighed the best interests of consumers when choosing to file a brief in *Stigar v. Dough Dough* (WA Eastern District).
3. Please explain the reasoning behind the DOJ's exercise of prosecutorial discretion to file a brief in *Stigar v. Dough Dough* (WA Eastern District), given the DOJ's wide focus and limited resources.
4. Please detail any meetings, phone calls, emails or interactions that you or others at the DOJ had with the International Franchise Association, the U.S. Chamber of Commerce or Littler Mendelson P.C. regarding *Stigar v. Dough Dough* (WA Eastern District).
5. Please respond to the American Antitrust Institute's May 2, 2019 letter regarding your department's position in *Stigar v. Dough Dough* (WA Eastern District).
(<https://www.antitrustinstitute.org/wp-content/uploads/2019/05/AAI-No-Poach-Letter-w-Abstract.pdf>)

Questions for FTC Chairman Joe Simons:

1. What decision-making process does the FTC utilize to determine the appropriate consequences to impose on lawbreaking companies?
2. What factors does the FTC rely on to determine whether debarment is an appropriate consequence to impose on defendants that have engaged in anticompetitive behaviors?
3. What factors does the FTC rely on to determine whether defendant companies should be required to inform affected parties that they have been harmed?
4. What factors does the FTC rely on to determine whether defendants should be required to inform affected workers that they have been harmed by anticompetitive behaviors?
5. Where the FTC determines that companies made agreements that undermined competition in the labor market and harmed workers, why is the FTC not requiring that those companies provide notice to impacted workers?
6. In the case of *Your Therapy Source*, the FTC found clear evidence that Texas staffing agencies broke the law by secretly making agreements to set low wages for the hard-working therapists they employed and even inviting more agencies to engage in this illegal practice. However, the FTC did not require the defendant agencies to provide notice to impacted workers. Why did the FTC decline to require that affected parties be notified?
7. What criteria does the FTC use to determine that an admonishment alone is an appropriate consequence to impose on lawbreaking companies?
8. Does the FTC consider admonishments to be a sufficient deterrent to stop companies from engaging in anticompetitive behavior? On what basis has the FTC made that determination?
9. Where the FTC has imposed the power to impose broader consequences on lawbreaking companies, when does the FTC find it appropriate to impose only an admonishment?

10. Does the FTC commit to carefully scrutinizing each negotiated settlement to determine what remedy would best make the workers who have been harmed by anticompetitive behavior whole?
11. Does the FTC commit to carefully scrutinizing each negotiated settlement to determine what remedy would most effectively deter illegal and anticompetitive conduct by corporations?