

Answers to Questions for the Record
Confirmation Hearing of Christine A. Varney
Before the Senate Judiciary Committee
March 10, 2009

Questions from Senator Patrick Leahy

1. Competition law is increasingly a global issue. Businesses compete worldwide and face competition authorities, which often have different substantive and procedural rules, everywhere they operate. What role can the Department of Justice play in promoting antitrust policy convergence with the international community?

Answer: I certainly agree that competition law is a global issue. I also believe that the Antitrust Division can play a significant role in promoting antitrust policy around the world, and I will work to ensure that it does. We must continue our cooperation with worldwide antitrust authorities, discussing our differences with international enforcers respectfully and engaging with emerging antitrust regimes such as China and India as they implement new antitrust laws. If confirmed, I also plan to participate actively in those international organizations that have traditionally worked to ensure some level of convergence on process and substantive issues, as well as continue the Division's tradition of offering Technical Assistance to countries with emerging antitrust regimes.

2. I have expressed concern in the past about competition issues related to Internet governance. The Department of Commerce has an ongoing contractual relationship with the Internet Corporation for Assigned Names and Numbers ("ICANN"), which manages top-level domains on the Internet. The Antitrust Division last year provided advice to the Department of Commerce regarding competition issues presented by certain ICANN proposals. Will you continue to work with the Department of Commerce to ensure that competition issues are given proper attention in its relationship with ICANN?

Answer: Yes. I will continue to work with the Department of Commerce on this issue. As you know, I have devoted a significant portion of my career to issues related to technology and the Internet. I believe that competition in the Internet environment must be maintained. If confirmed, I look forward to reviewing with the Division staff all of its analysis of the management of top-level domains and further assisting the Department of Commerce on this issue.

3. Rural health care providers are usually smaller and potentially less stable than their non-rural counterparts. How can collaboration in some instances promote competition for health care in rural areas?

Answer: I believe legitimate collaboration in any industry is beneficial, particularly the healthcare industry, where quality and consistency in delivery of services is critical. If confirmed, I plan to ensure that the Antitrust Division continues to provide guidance on healthcare issues, including those involving rural health care providers, which are so important to communities across the United States.

4. Will you work with the new leadership of the Federal Trade Commission to improve the efficiency and transparency of the clearance process?

Answer: Yes. As I indicated during my confirmation hearing, the new Chairman of the FTC and I will work closely on a variety of issues, including the efficiency and transparency of the clearance process. In most cases, a transaction naturally falls under the purview of one agency that has considerable experience in evaluating similar deals. In cases where it is unclear which agency has more relevant expertise the DOJ or FTC may conduct a protracted negotiation—sometimes even exceeding the 30-day initial review period—to determine which agency will handle the investigation. As a private practitioner, I have seen firsthand how these unnecessary delays can postpone the procompetitive benefits of such transactions for consumers. The delay and uncertainty associated with the current process have a variety of costs, including an erosion of the agencies' credibility. I believe as a former FTC Commissioner, I am uniquely positioned to reduce the frequency of such delays.