

QUESTIONS FOR THE RECORD
MAKAN DELRAHIM
NOMINEE TO BE ASSISTANT ATTORNEY GENERAL
OF THE ANTITRUST DIVISION

QUESTIONS FROM SENATOR LEAHY

1. You served as Senator Hatch's Staff Director on the Judiciary Committee from December 2000 until July 2003. In that role, you hired the staff who hacked into the Democrats' computer system, including Mr. Manuel Miranda. For months during your tenure as Staff Director, Mr. Miranda and others engaged in continuing theft of the Judiciary Democratic staff's files, including over 4,000 confidential strategy memoranda. These unconscionable actions were eventually discovered after a number of leaks by Mr. Miranda. While the Sergeant at Arms investigation did not begin until November 2003, as early as February 2003 some of Mr. Miranda's leaks made it into the media. Since you were Staff Director during this period, I would request that you answer the following questions for the record:
 - a. Did you have any knowledge of the illegal accessing of Democratic computer systems and theft of documents, which took place over the course of several years?
 - b. Did Mr. Miranda ever give you any indication where he sourced his intelligence on Democrats' strategy? If so, when? If not, did you wonder or question how he accessed such information?
 - c. Do you feel responsible for the actions of your subordinates on this matter?

RESPONSE: I had no knowledge or role in the hacking by Senate Republican Staff of Democratic files between 2001 and 2003. The first I learned of the activity was through public reporting after I had left the Senate Judiciary Committee staff. At that time, I fully cooperated and assisted the Senate Sergeant-at-Arms in the investigation into the conduct. I would also like to note that to the best of my knowledge, Mr. Miranda's activities accessing the documents occurred while he was on Senator Frist's staff and not on the Senate Judiciary Committee staff.

2. As a lobbyist for Anthem, you worked to have Anthem's proposed merger with Cigna approved. Will you recuse yourself from any Justice Department involvement in this matter?

RESPONSE: Yes. I would also note that it is my understanding, according to press reports, that Anthem announced on May 12 that it was abandoning further efforts to complete the contemplated merger with Cigna.

3. When a reporter filed a FOIA request with the Antitrust Division for communications between you and the Antitrust Division during your time as a lobbyist, he reportedly received a *Glomar* response.
 - a. While working for Anthem, did you contact anyone at the Antitrust Division, in particular regarding the proposed merger with Cigna?
 - b. If confirmed, will you ensure that the Division fully complies with FOIA, including the presumption of openness that was codified last year by the FOIA Improvements Act?

RESPONSE: To the best of my recollection, my only communications with federal government with respect to this matter were with Congress and I had none with the Department of Justice. The Freedom of Information Act promotes transparency and accountability in the government. If confirmed, I will strive to ensure that the Antitrust Division complies with all laws and regulations, including FOIA laws. I will respect any decision made by FOIA officials with respect to this request under FOIA.

4. Last week, President Trump cited the FBI's investigation into Russian interference in the 2016 election as a basis for dismissing Director Comey. The Deputy White House Press Secretary said, "We want this to come to its conclusion . . . And we think that we've actually by removing Director Comey, taken steps to make that happen." President Trump himself admitted that "I was gonna fire [Comey] regardless of [Mr. Rosenstein's] recommendation. . . . And in fact when I decided to just do it, I said to myself, I said you know, this Russia thing with Trump and Russia is a made up story." Should those statements and justifications for FBI Director Comey's dismissal raise concerns?

RESPONSE: As the nominee for the position of Assistant Attorney General for the Antitrust Division, I believe it is essential that all investigations conducted by the Antitrust Division are initiated and conducted in a fair, professional, and impartial manner, without regard to political considerations. In light of the confidentiality interests that attach to executive branch and White House decision-making, I am unable to comment further.

5. Is it proper for the President to pressure a law enforcement official to terminate an ongoing investigation into one of the President's associates?

RESPONSE: I believe it is essential that all investigations conducted by the Antitrust Division are initiated and conducted in a fair, professional, and impartial manner, without regard to political considerations. Contacts from the President or the White House must comply with Department policies, including a 2009 memorandum by Attorney General Eric Holder. It is important that all antitrust investigations comply with Department policies, and that political considerations do not influence the handling of particular cases.

6. If confirmed, will you be loyal to the Constitution or to President Trump? Do you believe there is a difference? If so, will you put your obligation to uphold the Constitution above any personal loyalty to President Trump?

RESPONSE: If confirmed, I will adhere to my oath of office, which obligates me to support and defend the Constitution of the United States.

7. If anyone from the White House contacts you about a matter pending before the Antitrust Division, how would you respond? Would such contact violate Justice Department guidelines governing contacts between Department officials and the White House?

RESPONSE: I believe it is essential that all investigations conducted by the Antitrust Division are initiated and conducted in a fair, professional, and impartial manner, without regard to political considerations. Contacts from the President or the White House must comply with Department policies, including a 2009 memorandum by Attorney General Eric Holder. It is important that all antitrust investigations comply with Department policies, and that political considerations do not influence the handling of particular cases.

8. Several large mergers are pending or were pending before the Justice Department's Antitrust Division, including Bayer/Monsanto, Anthem/Cigna, and AT&T/Time Warner.
 - a. Have you had any communication with anyone in the Trump administration or Trump transition team involving any such matters before the Antitrust Division and, if so, specify the nature of that communication and the identity of any administration or transition team official you communicated with?

RESPONSE: I have discussed my potential recusals with Justice Department and Administration ethics officials. I was not asked, nor have I provided, any commitments or assurances regarding any potential enforcement actions or pending matters before the Antitrust Division. In light of the confidentiality interests that attach to executive branch and White House decision-making, I am unable to comment further.