

FTC to Use 6(b) Authority to Examine Tech Companies' Data Practices

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FTC Chairman Joe Simons recently acknowledged the Commission's plan to use its authority under [Section 6\(b\)](#) of the FTC Act to examine the data practices of large technology companies. In written responses to questions from members of the U.S. Senate Commerce Committee following in-person testimony in November 2018, Chairman Simons confirmed that plans were underway to gather information from tech companies, though the specific targets or areas of focus remained under consideration.

As [described by the FTC](#), Section 6(b) of the FTC Act "plays a critical role in protecting consumers," and broadly authorizes the Commission to obtain information – or "special reports" – about certain aspects of a company's business or industry sector. Companies that are the focus of an FTC study pursuant to Section 6(b) must respond to a formal order issued by the Commission that, similar to a civil investigative demand, can include a series of information and document requests. The information obtained through the order may then be the basis for FTC studies and subsequent industry guidance or rulemaking.

The revelation of the pending 6(b) orders comes amid concerns from federal and state lawmakers and regulators about transparency relating to "Big Data" practices and online data collection, and the use of artificial intelligence and machine-learning algorithms in decision-making. In [remarks this week](#) to attendees of an Association of National Advertisers conference, Chairman Simons noted a potential lack of transparency in the online behavioral advertising context and "the fact that many of the companies at the heart of this ecosystem operate behind the scenes and without much consumer awareness."

