

VIA ELECTRONIC TRANSMISSION

August 5, 2020

The Honorable Makan Delrahim
Assistant Attorney General for the Antitrust Division
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

The Honorable Joseph Simons
Chairman
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Dear Chairman Simons and Assistant Attorney General Delrahim:

We write you today regarding allegations of potentially anticompetitive practices and conduct by online platforms toward content creators and emerging competitors. With public venues of all kinds closed due to the ongoing COVID-19 pandemic, now, more than ever, content creators are dependent upon revenues from streaming and other online sources. Unfortunately, public reporting suggests that some online platforms are using their market dominance to provide preference to their own streaming services, skewing marketplace pricing and competition.

As both of you know, in the last several years, streaming services have become an increasingly preferred method by which audiences consume entertainment. From movies to music to audiobooks, our creative communities have embraced streaming, creating a wide range of options for audiences to access works digitally. This has become even more pronounced during COVID-19, as shelter-in-place orders have closed theaters and delayed new releases, making streaming services an even more vital part of consumers' lives. During this time, with so many filmmakers, musicians, and other artistic communities dependent on digital streaming services as their only sources of revenue, it is in the national interest to keep the streaming marketplace competitive, open, and fair.

Recently, *The Wall Street Journal* reported that Alphabet Inc., the parent company of Google and YouTube, has designed Google Search to specifically give preference to YouTube and other Google-owned video service providers.¹ There is no public insight into how Google designs its algorithms, which seem to deliver up preferential search results for YouTube and other Google video products ahead of other competitive services. While a company favoring its own products, in and of itself, may not always constitute illegal anticompetitive conduct, the *Journal* further reports that a significant motivation behind this action was to “give YouTube more leverage in

¹ Sam Schechner, Kirsten Grind & John West, *Searching for Video? Google Pushes YouTube Over Rivals*, *The Wall Street Journal* (July 14, 2020).

business deals with content providers seeking traffic for their videos....” This exact conduct was the topic of a Senate Antitrust Subcommittee hearing led by Senators Lee and Klobuchar in March this year.²

It is even more worrisome that this alleged conduct is occurring at a time when YouTube is bringing in record revenues from advertisements. According to information released earlier this year, YouTube received more than \$15 billion in advertising revenue last year alone—or approximately twelve percent of what advertisers pay across the entire Internet.³ In total, over the past three years YouTube received more than \$34 billion in advertising revenue.⁴

When viewed in the context of YouTube’s advertising revenue, the allegations raised by *The Wall Street Journal* are even more troubling. Accordingly, we ask that you thoroughly review this situation to determine whether Google’s algorithm is giving preference to YouTube and/or other Google owned video service providers, and whether such conduct violates the antitrust laws. We also ask that you inquire as to whether Alphabet/Google is using its resulting market dominance to gain leverage in business deals with content providers.

Of course, we do not presume that any such conduct has occurred or if it has that it automatically constitutes a violation of antitrust laws. However, given the concerns raised by this report, we ask that you review the allegations in question to determine whether there is anticompetitive conduct that should be addressed through potential antitrust enforcement.

Thank you for your prompt attention to this matter. If you have any questions, please do not hesitate to contact us. We stand ready and willing to work with you.

Sincerely,



Thom Tillis
United States Senator



Mike Lee
United States Senator

² “Competition in Digital Technology Markets: Examining Self-Preferencing by Digital Platforms,” March 10, 2020, <https://www.judiciary.senate.gov/meetings/competition-in-digital-technology-markets-examining-self-preferencing-by-digital-platforms>.

³ Internet Advertising Bureau, 2019 Internet Advertising Revenue Report (May 28, 2020), https://www.iab.com/wp-content/uploads/2020/05/FY19-IAB-Internet-Ad-Revenue-Report_Final.pdf.

⁴ Julia Alexander, *Creators finally know how much money YouTube makes, and they want more of it*, *The Verge* (2020).



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United States Senator



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United States Senator



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