

U.S. House of Representatives
Committee on the Judiciary

Washington, DC 20515-6216
One Hundred Sixteenth Congress

September 13, 2019

Ms. Mary Ghikas
CEO
American Library Association
50 E. Huron St.
Chicago, IL 60611

Dear Ms. Ghikas:

The House Judiciary Committee is investigating competition in digital markets.¹ The focus of this bipartisan investigation is to examine (1) competition problems in digital markets; (2) whether dominant firms are engaging in anti-competitive conduct online; and (3) whether existing antitrust laws, competition policies, and current enforcement levels are adequate to address these issues.²

Under the Rules of the House of Representatives, the Committee's jurisdiction includes the protection of trade and commerce against unlawful restraints and monopolies,³ as well as oversight of the antitrust laws and competition policy.⁴

As part of this work, we request that American Library Association (the "Company") provide a response to questions set forth in the Schedule regarding competition in digital markets in accordance with the attached Definitions and Instructions no later than October 14, 2019.

If the Company has concerns about producing confidential business information, you are encouraged to discuss the possibility of confidential treatment with the Committee.

¹ Press Release, H. Comm. on the Judiciary, House Judiciary Committee Launches Bipartisan Investigation into Competition in Digital Markets (June 3, 2019) (on file at <https://judiciary.house.gov/news/press-releases/house-judiciary-committee-launches-bipartisan-investigation-competition-digital>).

² *Id.*


³ RULES OF THE HOUSE OF REPRESENTATIVES, 116th Cong., 1st Sess., Rule X, cl. (1)(1)(16) (2019), available at <https://www.govinfo.gov/content/pkg/CPRT-116HPRT36537/pdf/CPRT-116HPRT36537.pdf>.

⁴ RULES OF PROCEDURE, HOUSE COMMITTEE ON THE JUDICIARY, 116th Cong., Rule VI, cl. (b) (2019), available at https://judiciary.house.gov/sites/democrats.judiciary.house.gov/files/documents/RulesofProcedureFinal.1_0.pdf.

If you believe that other information may be relevant to the Committee's investigation into competition in digital markets, you are encouraged to submit any relevant materials or information to the Committee.

Thank you for your prompt attention to these requests.

Sincerely,



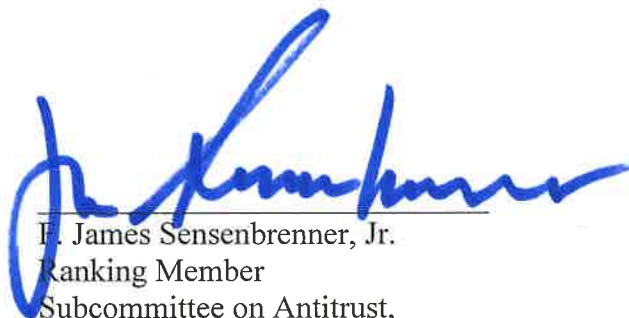
Jerrold Nadler
Chairman
Committee on the Judiciary
U.S. House of Representatives



Doug Collins
Ranking Member
Committee on the Judiciary
U.S. House of Representatives



David N. Cicilline
Chairman
Subcommittee on Antitrust,
Commercial, and Administrative Law
Committee on the Judiciary
U.S. House of Representatives



F. James Sensenbrenner, Jr.
Ranking Member
Subcommittee on Antitrust,
Commercial, and Administrative Law
Committee on the Judiciary
U.S. House of Representatives

SCHEDULE

Please submit the following:

- I. For each product or service listed below for which the Company is a customer or user in the U.S., provide a description of each product or service and the state of competition among the providers of each product or service. Also, for each of the Company's products and services that the Company offers or offered in the U.S. in any of the lines of business listed below, provide a description of each product or service, the state of competition, and barriers to entry:
 - a. Advertising;
 - b. Application Programming Interfaces (APIs);
 - c. App Stores;
 - d. Artificial Intelligence;
 - e. Autonomous Vehicles;
 - f. Browsers;
 - g. Cloud Computing (e.g., Software as a Service, Platform as a Service, and Infrastructure as a Service);
 - h. Content Aggregators;
 - i. Content Creation (e.g., video, music, and news);
 - j. Desktop Operating Systems;
 - k. Digital Assistants;
 - l. Digital Healthcare;
 - m. E-Commerce (e.g., third party marketplaces);
 - n. Maps;
 - o. Messaging;
 - p. Mobile Operating Systems;
 - q. Mobile Services;
 - r. Office Tools (e.g., workplace communication tools);
 - s. Search Engines;
 - t. Seller Logistics (e.g., shipping and warehousing services);
 - u. Social Media;
 - v. Social Networking;
 - w. Software Solutions;
 - x. Virtual Reality; and
 - y. Any other market that may be relevant to the Committee's investigation.

2. Identify the Company's top five providers for each of the Relevant Products and Services for which the Company is a customer or user and provide the following information for each provider for each year since January 1, 2016:
 - a. The type of products or services that the Company purchased or received;
 - b. The amount the Company paid for each product or service; and
 - c. Anything of value that the Company gave to the provider in exchange for each product or service.

3. Submit information sufficient to show for each of the Relevant Products and Services since January 1, 2016:
 - a. The U.S. market share and competitive position of the Relevant Providers for each year;
 - b. The projected U.S. market share and competitive position of the Relevant Providers; and
 - c. Any comparisons of quality, cost, price, variety, breadth of service, or consumer preference between or among the Relevant Providers.
4. Submit information sufficient to show for each of the Relevant Products and Services that the Company offers or offered in the U.S. since January 1, 2016:
 - a. The U.S. market share and competitive position of the Company and any of its competitors for each year;
 - b. The projected U.S. market share and competitive position of the Company and any of its competitors; and
 - c. Any comparisons of quality, cost, price, variety or breadth of service, or consumer preference between or among the Company and any of its competitors for the Relevant Products and Services.
5. All documents produced in any prior investigation or litigation involving a U.S. or foreign government entity, including U.S. state attorneys general offices, which were submitted to a U.S. or foreign government entity within the past ten years relating to any transaction that is reviewable under Section 7 of the Clayton Act or to allegations that any company participating in any of the lines of business identified in Request 1 engaged in anti-competitive practices or otherwise violated antitrust laws.
6. All memoranda, white papers, studies, reports, surveys, presentations, or other analyses submitted by or on behalf of the Company to the U.S. Department of Justice Antitrust Division, the Federal Trade Commission, or any other government entity within the past ten years, relating to any transaction that is reviewable under Section 7 of the Clayton Act or to allegations that any company participating in any of the lines of business identified in Request 1 engaged in anti-competitive practices or otherwise violated antitrust laws.
7. Describe any allegations that any company participating in any of the lines of business identified in Request 1, its employees, or any of its current or potential competitors is or was engaging in anti-competitive practices, including customer and competitor complaints; threatened, pending, or completed lawsuits; and federal, state, or international investigations.
8. Describe any conduct by the companies that participate in any of the lines of business identified in Request 1 that raises competition concerns and the impact of such conduct on the Company.

9. Describe the Company's views on whether market participants are able to compete on the merits of their goods or services in any of the lines of business identified in Request 1.
10. Describe the Company's views on whether antitrust enforcement in digital markets has been adequate regarding both merger review and anti-competitive conduct, the Company's reasoning, and suggested changes to improve enforcement.
11. Describe the Company's views on whether current antitrust law is adequate to address anti-competitive mergers and anti-competitive conduct in digital markets, including the Company's identification of any obstacles to enforcement under current law and any suggestions for changes, statutory or otherwise, to address current inadequacies.
12. Describe how the Company's business may be affected if its relationship with any of the Relevant Providers were to be severed or impaired.

DEFINITIONS

As used in the Schedule, the following terms shall be interpreted in accordance with these definitions:

1. “And” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of the request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa.
2. “Any” includes “all,” and “all” includes “any.”
3. “Communication(s)” means the transmittal of information by any means, whether oral, electronic, by document or otherwise, and whether in a meeting, or by telephone, facsimile, mail, releases, electronic message including electronic mail (“e-mail”), text message, instant message, MMS or SMS message, encrypted message, message application, social media, or otherwise.
4. “Company” means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business, or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
5. “Employee” means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
6. “Document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra-office communications, call records, e-mails, instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies, investigations, questionnaires, surveys, presentations, spreadsheets, and work sheets. The term “document” includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto.
7. “Documents in the Company’s possession, custody, or control” means: (a) documents that are in the Company’s possession, custody, or control, whether held by the Company

or the Company's past or present agents, employees, or representatives acting on the Company's behalf; (b) documents that the Company has a legal right to obtain, that the Company has a right to copy, or to which the Company has access; and (c) documents that have been placed in the possession, custody, or control of any third party. This includes but is not limited to documents that are or were held by the Company's attorneys.

8. "Each" shall be construed to include "every," and "every" shall be construed to include "each."
9. "Government" shall include any government's present and former agencies, branches, units, divisions, subdivisions, districts, public corporations, employees, elected and appointed officials, ambassadors, diplomats, emissaries, authorities, agents, assignees, and instrumentalities. This includes, but is not limited to, any government-controlled business entities, entities in which the government has a financial interest, and any person acting or purporting to act on the government's behalf.
10. "Including" shall be construed broadly to mean "including, but not limited to."
11. "Information" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: documents, memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra-office communications, call records, e-mails, instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies, investigations, questionnaires, surveys, presentations, spreadsheets, and work sheets.
12. "Person" or "persons" means natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business, or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.
13. "Relating to" or "regarding" shall mean discussing, describing, reflecting, containing, analyzing, studying, reporting, commenting, evidencing, constituting, comprising, showing, setting forth, considering, recommending, concerning, or pertinent to that subject in any manner whatsoever.
14. "Relevant Products and Services" refers to any products and services identified by the Company in response to Request 1 of the Schedule.

15. "Relevant Provider" refers to any provider or seller of the Relevant Products and Services.

INSTRUCTIONS

1. In responding to the request, the Company should produce all responsive documents in unredacted form that are in the Company's possession, custody, or control or otherwise available to the Company, regardless of whether the documents are possessed directly by the Company.
2. Documents responsive to the request should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.
3. In responding to the request, be apprised that, unless otherwise determined by the Committee, the Committee does not recognize: any purported non-disclosure privileges associated with the common law including, but not limited to the deliberative-process privilege, the attorney-client privilege, and attorney work product protections; any purported privileges or protections from disclosure under the Freedom of Information Act; or any purported contractual privileges, such as non-disclosure agreements.
4. All documents should be produced with Bates numbers affixed. The Bates numbers must be unique, sequential, fixed-length numbers and must begin with a prefix referencing the name of the producing party (e.g., ABCD-000001). This format must remain consistent across all productions. The number of digits in the numeric portion of the format should not change in subsequent productions, nor should spaces, hyphens, or other separators be added or deleted. All documents should be Bates-stamped sequentially and produced sequentially.
5. Produce electronic documents as created or stored electronically in their native format. Documents produced in electronic format should be organized, identified, and indexed electronically, in a manner comparable to the organization structure called for in Instruction 4 above.
6. Data may be produced on CD, DVD, memory stick, USB thumb drive, or hard drive, or via secure file transfer. Label all media with the following:
 - a. Production date;
 - b. Bates range; and
 - c. Disk number (1 of X), as applicable.
7. Two sets of each production shall be delivered, one set to the Majority Staff and one set to the Minority Staff. Production sets shall be delivered to the Majority Staff in Room 2138 of the Rayburn House Office Building and the Minority Staff in Room 2142 of the Rayburn House Office Building. The Company should consult with Committee Majority Staff regarding the method of delivery prior to sending any materials.
8. If the Company's response to the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.

9. A cover letter should be included with each production including the following information:
 - a. List of each piece of media (CD, DVD, memory stick, USB thumb drive, or hard drive) included in the production by the unique number assigned to it, and readily apparent on the physical media;
 - b. List of fields in the order in which they are listed in the metadata load file;
 - c. The paragraph(s) and/or clause(s) in the Committee's request to which each document responds;
 - d. Time zone in which e-mails were standardized during conversion (e-mail collections only); and
 - e. Total page count and Bates range for the entire production, including both hard copy and electronic documents.