

U.S. House of Representatives

Committee on the Judiciary

Washington, DC 20515–6216
One Hundred Sixteenth Congress

July 7, 2020

The Honorable Jerrold L. Nadler
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Nadler:

On July 1, 2020, Representative David Cicilline, Chairman of the Subcommittee on Antitrust, Commercial, and Administrative Law, announced in an interview that the chief executive officers of Alphabet, Amazon, Apple, and Facebook would testify before the Subcommittee as part of the Committee’s ongoing investigation into the adequacy of current antitrust law.¹ Although Republicans look forward to this hearing, we were surprised to learn it would not occur at the full Committee—the venue that makes the most sense given the scope of the Committee’s investigation, the broad interest from Members of both parties who do not serve on the Subcommittee, and the significance of the witnesses who will testify. Therefore, on behalf of Republican Members who you propose to exclude from participating in this hearing, I respectfully request that you reconsider this matter and convene the hearing at the full Committee so that all Members may participate fully and equally.

When the Committee launched this investigation last year, you indicated that the investigation would examine “key arteries of online commerce, content, and communications” and invoked the Committee’s “rich tradition of conducting studies and investigations” in the area of antitrust law.² You described the investigation as “vital,”³ and at least one news organization has described the upcoming hearing as “potentially a landmark moment in the regulatory battle between Washington and Silicon Valley.”⁴

We agree that the Committee’s investigation touches on significant questions and companies. The companies under examination employ hundreds of thousands of individuals,

¹ Kara Swisher (@karaswisher), TWITTER (Jul. 1, 2020), <https://twitter.com/karaswisher/status/1278432076476428292>; Kara Swisher (@karaswisher), TWITTER (Jul. 1, 2020), <https://twitter.com/karaswisher/status/1278432457944072195>.

² Press Release, House Committee on the Judiciary, House Judiciary Committee Launches Bipartisan Investigation into Competition in Digital Markets (Jun. 3, 2019), <https://judiciary.house.gov/news/documentsingle.aspx?DocumentID=2051>.

³ *Id.*

⁴ Dylan Byers & Emily Pandise, *CEOs of Amazon, Apple, Google, and Facebook agree to appear in House antitrust hearing, lawmakers say*, NBC NEWS (Jul. 1, 2020), <https://www.nbcnews.com/tech/tech-news/ceos-amazon-apple-google-facebook-agree-appear-house-antitrust-hearing-n1232717>.

The Honorable Jerrold L. Nadler

July 7, 2020

Page 2

generate hundreds of billions of dollars in annual revenue, and have been central to the establishment of the United States as a leader in technological innovation and investment. In doing so, these companies have competed in the free market and delivered considerable benefits that have materially advanced the welfare of consumers across the country and the world. The nature of the Committee's investigation and the companies under examination suggest that this hearing deserves more thorough treatment than simply being confined to examination by a subset of Antitrust Subcommittee Members. This issue simply demands a hearing before the full Committee.

We have strived to work on the Committee's investigation in a bipartisan manner. Recent actions by Chairman Cicilline, however, have given us pause about whether the Democrat majority shares this commitment. Last week, Democrat Antitrust Subcommittee staff contacted the lawyers for two of the companies under Committee examination to request a call to discuss "format for the hearing later this month."⁵ As has been standard practice during this investigation, Republican staff was included on these communications.⁶ Approximately one hour later, Democrat Subcommittee staff notified the Republican staff that the emails had been sent "prematurely" and asked the Republican staff to "[p]lease disregard" the request for calls.⁷ We subsequently learned that not only did these calls occur, but also that Democrat Subcommittee staff appear to have misrepresented the positions of Committee Republicans to lawyers for the companies.

We hope that this incident was simply a misunderstanding and not an intentional Democrat effort to exclude Republicans and then misrepresent our views to the companies. We nonetheless remain committed to conducting this investigation in a bipartisan manner and we are optimistic that you will be open to our ideas. In that spirit, I urge you to convene this hearing at the full Committee level so that the important issues involved may be thoroughly examined and participation by all Committee Members is not artificially limited. Thank you for your prompt attention to this request.

Sincerely,

A handwritten signature in blue ink that reads "Jim Jordan". The signature is written in a cursive, flowing style.

Jim Jordan
Ranking Member

⁵ Email from Subcommittee on Antitrust, Commercial, and Administrative Law Majority Staff to Robert Kelner, Partner, Covington & Burling LLP, Angelle Smith Baugh, Special Counsel, Covington & Burling LLP, and Perrin Cooke, Associate, Covington & Burling LLP (Jul. 2, 2020, 10:58 AM ET) (on file with the Committee); Email from Subcommittee on Antitrust, Commercial and Administrative Law Majority Staff to Emily M. Loeb, Partner, Jenner & Block LLP, and Thomas J. Perrelli, Partner, Jenner & Block LLP (Jul. 2, 2020, 10:58 AM ET) (on file with the Committee).

⁶ *Id.*

⁷ Email from Subcommittee on Antitrust, Commercial and Administrative Law Majority Staff to House Committee on the Judiciary Republican Staff (Jul. 2, 2020, 11:59 AM ET) (on file with the Committee); Email from Subcommittee on Antitrust, Commercial and Administrative Law Majority Staff to House Committee on the Judiciary Republican Staff (Jul. 2, 2020, 11:59 AM ET) (on file with the Committee).