

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

(202) 225-6906
judiciary.house.gov

May 5, 2023

Mr. Daniel C. Sale
King & Spalding LLP
1700 Pennsylvania Avenue NW, Suite 900
Washington, DC 20006

Re: World Federation of Advertisers

Dear Mr. Sale:

The Committee on the Judiciary is conducting oversight of the adequacy and enforcement of U.S. antitrust laws. Pursuant to the Rules of the House of Representatives, the Committee has jurisdiction to conduct oversight of matters concerning the “[p]rotection of trade and commerce against unlawful restraints and monopolies”¹ to inform potential legislative reforms, such as whether existing civil and criminal penalties are sufficient to deter anticompetitive collusion in the advertising industry.

The World Federation of Advertisers (WFA), an association for international marketers and national advertiser associations,² founded the Global Alliance for Responsible Media (GARM) in 2019 to “unite[] marketers, media agencies, media platforms, industry associations, and advertising technology solutions providers” in order to “reduc[e] the availability and monetization of harmful content online.”³ According to publicly available information, GARM and the WFA appear to facilitate collusion among their members in a manner that may violate U.S. antitrust law. To advance our oversight and inform potential legislation related to these collusive practices, the Committee must understand whether, how, and to what extent GARM and WFA facilitate collusion to prevent certain content from benefitting from advertising dollars and to reduce that content’s presence online.

To this end, on March 22, 2023, the Committee requested that GARM and WFA produce documents and communications related to how GARM and WFA act to demonetize and

¹ Rules of the House of Representatives R. X (2023).

² See WFA, WHO WE ARE, <https://wfanet.org/about-wfa/who-we-are>.

³ GARM: BRAND SAFETY FLOOR + SUITABILITY FRAMEWORK 1 (June 17, 2022), https://wfanet.org/l/library/download/urn:uuid:6a6092d3-f859-4117-81b4-4d46226e5de2/garm+brand+safety+floor+%2B+suitability+framework_june+2022.pdf.

Mr. Daniel C. Sale
May 5, 2023
Page 2

eliminate disfavored content online, in addition to other information, by April 5, 2023.⁴ Our letter also identified examples of documents created by GARM and WFA that are responsive to our requests.⁵ On April 5, your clients informed the Committee that they would not be able to respond by this deadline, but that they anticipated being able to do so by April 7.⁶

On April 7, 2023, GARM's Initiative Lead and Co-founder, Robert Rakowitz, provided a response, purporting to respond on behalf of both GARM and WFA.⁷ Your clients' letter stated that GARM and WFA "welcome the opportunity to provide information to the Committee and are committed to cooperating with [our inquiry]."⁸ Your clients' response also alluded to a proposal developed by WFA "around April 2019 that led to the creation of GARM"—a document that would appear to be responsive to our requests.⁹ Nevertheless, your clients did not produce this document or any others with their response.

On May 4, 2023, the Committee spoke with you, and you said that while WFA has initiated a document preservation hold, you were still "at the scoping phase" and in the process of understanding where responsive documents are located.

To date, more than six weeks after our initial letter, and despite your clients' assurances of cooperation, neither GARM nor WFA have produced a single document in response to our requests. GARM's and WFA's responses without compulsory process have been woefully inadequate.

Accordingly, please find enclosed a subpoena.¹⁰

Sincerely,



Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

⁴ See Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary to Robert Rakowitz & Raja Rajamannar (Mar. 22, 2023).

⁵ See *id.* (citing GARM: BRAND SAFETY FLOOR + SUITABILITY FRAMEWORK, *supra* note 3, GARM: 3 YEARS OF PROGRESS (June 20, 2022), GARM AGGREGATED MEASUREMENT REP. (Nov. 2022), WFA ANNUAL REP. 2021 (2022)).

⁶ E-mail from GARM to H. Comm. on the Judiciary Staff et al. (Apr. 5, 2023).

⁷ The cover e-mail accompanying Mr. Rakowitz's letter stated that he was "responding . . . on behalf of the WFA and GARM." E-mail from GARM to H. Comm. on the Judiciary Staff (Apr. 7, 2023).

⁸ Letter from Robert Rakowitz to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary 1 (Apr. 7, 2023).

⁹ *Id.*

¹⁰ The Committee is authorized to issue subpoenas pursuant to both the Rules of the House of Representatives and the Committee's Rules. See Rules of the House of Representatives R. XI (2023); Rules of the House Committee on the Judiciary R. IV (2023).

Mr. Daniel C. Sale
May 5, 2023
Page 3

Mr. Raja Rajamannar, President, WFA

Enclosure