GARM’S HARM: HOW THE WORLD’S BIGGEST BRANDS SEEK TO CONTROL ONLINE SPEECH

Interim Staff Report of the Committee on the Judiciary
U.S. House of Representatives

July 10, 2024
The Committee on the Judiciary has jurisdiction over the “[p]rotection of trade and commerce against unlawful restraints and monopolies.”\(^1\) In exercising oversight of the adequacy and sufficiency of existing U.S. antitrust laws, the Committee has been investigating apparent collusion within the World Federation of Advertisers (WFA) and specifically its Global Alliance for Responsible Media (GARM) initiative. Through GARM, large corporations, advertising agencies, and industry associations participated in boycotts and other coordinated action to demonetize platforms, podcasts, news outlets, and other content deemed disfavored by GARM and its members. This collusion can have the effect of eliminating a variety of content and viewpoints available to consumers.

Created by WFA in 2019,\(^2\) GARM quickly amassed tremendous market power in the advertising industry.\(^3\) Among other data points:

- WFA members represent roughly 90% of global advertising spend, or almost one trillion dollars annually.\(^4\)

- GARM includes every major advertising agency holding company in its ranks and includes the world’s largest media buying agency, GroupM, on its Steer Team.\(^5\)

- GARM’s Steer Team, which acts as a board of directors and is also closely involved in GARM’s day-to-day operations, includes four large corporations (Unilever, Mars, Diageo, and Procter & Gamble) that spend billions annually on advertising.\(^6\)

- GARM reports to the WFA Executive Committee, which must endorse GARM’s work and includes representatives from AB InBev, L’Oréal, Nestlé, IBM, as well as many more large corporations and household name brands.\(^7\)

GARM calls itself “an industry first effort that unites marketers, media agencies, media platforms, industry associations, and advertising technology solutions providers to safeguard the potential of digital media by reducing the availability and monetization of harmful content online.”\(^8\) GARM claims that it was created to drive transparency in policies to help companies achieve “brand safety,” or in other words “transparency on where ads [are] placed [to] mak[e] sure that [advertisers] don’t inadvertently support” certain content on social media platforms.\(^9\) To achieve this goal, GARM asserts that it works in the “content monetization” space, defined as

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\(^2\) Transcribed Interview of Robert Rakowitz, Initiative Lead, Global Alliance for Responsible Media (June 4, 2024) at 42:24 [hereinafter Rakowitz Testimony].
\(^3\) See infra section I.A.
\(^4\) Who We Are, WFA, https://wfanet.org/about-wfa/who-we-are.
\(^6\) Id. See also Rakowitz Testimony, supra note 2 at 63:5-6.
\(^7\) Our Leadership, WFA, https://wfanet.org/about-wfa/our-leadership. See also Rakowitz Testimony, supra note 2 at 7:21-23.
\(^8\) HJC-WFA-GARM-000001893.
\(^9\) Rakowitz Testimony, supra note 2 at 10:5-7.
“what content ads actually support and the practice of insertion of the ads online.”

GARM disclaims involvement in “content moderation,” which is the “practice and determination of what content is appropriate for hosting[,] recommend[ing] and [making] availab[le] on [a] platform.”

GARM admits, however, that “[c]ontent monetization and moderation are inextricably linked and lapses in moderation put advertising and advertisers at risk[.]” In other words, GARM’s monetization work has the effect of influencing what content appears online.

For an organization reliant on speech and persuasion in advertising, GARM appears to have anti-democratic views of fundamental American freedoms. In discussing his views on freedom of speech, GARM’s leader and co-founder, Rob Rakowitz, has expressed frustration with an “extreme global interpretation of the US Constitution” and complained about using “‘principles for governance’ and applying them as literal law from 230 years ago (made by white men exclusively).” With this worldview, GARM pushed what it called “uncommon collaboration” to “rise above individual commercial interest[.]”

Section 1 of the Sherman Act makes unreasonable restraints of trade illegal. Included in these illegal restraints are certain group boycotts and coordinated actions that harm consumers. Documents produced to the Committee suggest that GARM may have engaged in coordinated conduct that violates Section 1. GARM has undertaken various actions to eliminate the monetization, and in effect existence, of certain voices online. For example:

- **Twitter and Elon Musk:** According to one GARM member, GARM recommended that its members “stop[] all paid advertisement” on Twitter in response to Mr. Musk’s acquisition of the company. GARM’s internal documents show that GARM was asked by a member to “arrange a meeting and hear more about [GARM’s] perspectives about the Twitter situation and a possible boycott from many companies.” GARM also held “extensive debriefing and discussion around Elon Musks’ [sic] takeover of Twitter,” providing ample opportunity for the boycott to be organized. GARM bragged about “taking on Elon Musk” and “[s]ince then [Twitter was] 80% below revenue forecasts[].”

- **Spotify and The Joe Rogan Experience:** At the urging of its members, GARM and its Steer Team threatened Spotify over alleged misinformation on Joe Rogan’s podcast, *The Joe Rogan Experience*, because Mr. Rogan stated an opinion that young, healthy people

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10 Rakowitz Testimony, supra note 2 at 17:22-23.
11 Id. at 17:19-20.
12 HJC-WFA-GARM-000118620. See also Rakowitz Testimony, supra note 2 at 58:13-16.
13 See infra section I.B. See also HJC-WFA-GARM-000125324.
14 See infra section I.C. See also HJC-WFA-GARM-000016155.
17 See infra section II.A.
18 HJC-WFA-GARM-000054373, at -376.
19 HJC-WFA-GARM-000030950, at -951.
20 HJC-WFA-GARM-000030996, at -997.
need not receive the COVID-19 vaccine. GARM even admitted it was acting outside of the scope of its work on brand safety, explaining to one of its members that “[b]rand safety is somewhat separate on Spotify versus say Facebook Newsfeed because brands aren’t being slotted into” the podcast. In other words, the companies could easily choose whether to advertise on or avoid Mr. Rogan’s podcast and, therefore, GARM had no business interfering in Spotify’s decision. GARM even admitted the antitrust implications of getting caught, when Mr. Rakowitz told one GARM member that he “can’t publicly advise all clients to do X – that gets us into hot water by way of anticompetitive and collusive behaviors.” To get around this problem, Mr. Rakowitz offered to “help [brands] formulate a [point of view] 1:1.” In doing so, even as Mr. Rakowitz mistook his trade association members with “clients,” such a coordinated action implicates antitrust law.

- Candidates, platforms, and news outlets with opposing political views: GARM and its members discussed a strategy of blocking certain news outlets like Fox News, The Daily Wire, and Breitbart News. One GARM Steer Team member candidly wrote that although he “hated their ideology and bulls**t,” his company “couldn’t really justify blocking them for misguided opinion[s]” so the company “watched them very carefully and it didn’t take long for them to cross the line.” Additionally, GARM pushes its members to use news rankings organizations, like the Global Disinformation Index (GDI) and NewsGuard, that disproportionately label right-of-center news outlets as so-called misinformation. GARM and its Steer Team even participated in efforts to label a social media advertisement paid for by President Donald Trump as “misinformation.” When Facebook would not label the advertisement as misinformation, Mr. Rakowitz told a colleague that it was “[h]onestly reprehensible[.]” A GARM Steer Team member expressed concern about Mr. Musk exposing the truth regarding how Twitter was previously used to censor the Hunter Biden laptop and Biden family influence peddling story, describing Mr. Musk’s position as an “overtly partisan take[.]”

GARM’s plans for the future involve pushing its framework into artificial intelligence (AI) solutions. GARM’s partners are developing AI tools that will integrate GARM’s standards seamlessly across social media platforms. Such an automated censorship effort could result in the demonetization of any views or voices that GARM’s advertising cartel dislikes, potentially without any human involvement at all. Such concentrated market power is dangerous, and the implications of AI technology on advertising censorship are frightening.

21 See infra section II.B.
22 HJC-WFA-GARM-000025816, at -817.
23 Id.
24 HJC-WFA-GARM-000056644.
25 Id.
26 See infra section II.C. See also HJC-WFA-GARM-000022078, at -079.
28 HJC-WFA-GARM-000059383, at -386.
29 HJC-WFA-GARM-000054330. See infra section II.D.
30 See infra section III.
31 Id.
The extent to which GARM has organized its trade association and coordinates actions that rob consumers of choices is likely illegal under the antitrust laws and threatens fundamental American freedoms. The information uncovered to date of WFA and GARM’s collusive conduct to demonetize disfavored content is alarming. The Committee will continue its investigation into the companies that participate in this conduct to inform potential legislative reforms.
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Executive Summary</td>
<td>1</td>
</tr>
<tr>
<td>Table of Contents</td>
<td>5</td>
</tr>
<tr>
<td>I. GARM’s Market Power Comes From Global Organizations that Embrace Coordination</td>
<td>6</td>
</tr>
<tr>
<td>A. Powerful international organizations created GARM</td>
<td>6</td>
</tr>
<tr>
<td>B. GARM and its members embraced “uncommon collaboration” to demonetize disfavored content in the name of brand safety</td>
<td>9</td>
</tr>
<tr>
<td>II. GARM Violates Antitrust Laws by Using its Market Power to Demonetize Certain Viewpoints and Thereby Limit Consumer Choice</td>
<td>11</td>
</tr>
<tr>
<td>A. GARM members colluded to cut Twitter’s revenue after Elon Musk’s acquisition</td>
<td>12</td>
</tr>
<tr>
<td>B. GARM went beyond brand safety to silence disfavored voices like Joe Rogan</td>
<td>17</td>
</tr>
<tr>
<td>C. GARM attacked disfavored news sites to limit consumer choice</td>
<td>23</td>
</tr>
<tr>
<td>D. GARM focused on political ads and alleged misinformation to influence elections</td>
<td>27</td>
</tr>
<tr>
<td>i. GARM and Unilever fought to label a 2020 Trump campaign advertisement as misinformation</td>
<td>28</td>
</tr>
<tr>
<td>ii. GARM and Unilever took issue with Elon Musk exposing the truth about Twitter censoring the Hunter Biden laptop story</td>
<td>30</td>
</tr>
<tr>
<td>iii. GARM and Unilever wield the power of misinformation to censor negative product reviews</td>
<td>31</td>
</tr>
<tr>
<td>III. The planned work of GARM and its members extends into government censorship and artificial intelligence</td>
<td>33</td>
</tr>
<tr>
<td>A. GARM’s expanded initiatives will bring its biases and censorship to artificial intelligence</td>
<td>33</td>
</tr>
<tr>
<td>B. GARM’s partners are tied to CISA’s government censorship</td>
<td>37</td>
</tr>
<tr>
<td>Conclusion</td>
<td>38</td>
</tr>
</tbody>
</table>
I. GARM’S MARKET POWER COMES FROM GLOBAL ORGANIZATIONS THAT EMBRACE COORDINATION.

The Global Alliance for Responsible Media’s (GARM) power in the advertising industry derives from the web of corporations, advertising agencies, and associations that control GARM.32 Under a call for “uncommon collaboration,” organizations came together to align nearly all advertising power under one roof and “put[] aside competitive concerns.”33

A. Powerful international organizations created GARM.

GARM’s influence derives from the interwoven global organizations that established and created the group. The World Federation of Advertisers (WFA), which oversees GARM and endorses its work, is a global association of senior marketers representing over 150 of the world’s biggest brands and over 60 national advertiser associations from across the globe.34 WFA claims that its members account for roughly 90% of global advertising spend, or almost one trillion dollars annually.35 In June 2019, WFA and some of its members, including 17 leading advertisers, established GARM.36 GARM reports into the WFA Executive Committee,37 which is led by the WFA CEO, Stephan Loerke, the French advertiser association Union des Marques, Mastercard, and PepsiCo.38 The WFA Executive Committee membership also includes some of the largest corporations in the world such as AB InBev, L’Oreal, Nestle, Bank of Africa, IBM, and many more large corporations and household name brands.39

When creating GARM, WFA worked with other global organizations interested in influencing the massive flow of advertising dollars around the world. The same year it was created, GARM became a flagship partner of the World Economic Forum (WEF).40 Through the WEF partnership, GARM could “leverage” WEF’s “existing network.”41 Further, the Association of National Advertisers (ANA) Growth Council, which is composed of chief marketers from the world’s premier brands and has a seat on GARM’s Steer Team, joined the effort with WFA to help create GARM and avoid duplicating efforts under two separate organizations.42 The ANA Growth Council is led by Marc Pritchard, Chief Brand Officer at P&G, and includes Raja Rajamannar of Mastercard and Jane Wakely of PepsiCo, both of whom sit on the WFA Executive

32 See infra section 1.A.
33 See infra section 1.C.
34 Who We Are, WFA, https://wfanet.org/about-wfa/who-we-are.
35 Id.
39 Id.
42 Rakowitz Testimony, supra note 2 at 13:4-7.
Committee. In addition, the Growth Council has representatives from Shell, Lego, AB InBev, SC Johnson, Haleon, American Express, and Hyundai.44

GARM is led by Initiative Lead Rob Rakowitz.45 Mr. Rakowitz co-founded GARM with WFA while “still in [his] role as the Head of Global Media at Mars Incorporated.”46 Mr. Rakowitz is GARM’s co-founder and leader.47 He is part of every decision made by GARM as an organization.48 He is regularly included in conversations between platforms and brands, and often is asked for his advice by GARM members.49 GARM, with the coordinated action of its members, can influence the monetization, and in effect demonetization, of platforms, creators, and news outlets.50

Given GARM’s immense power to influence advertising decisions and dollars, the worldviews of GARM’s leader concerning free speech are revealing. In 2019, shortly after he co-founded GARM, Mr. Rakowitz explained his worldview pertaining to freedom of speech in an email to his WFA colleagues including WFA CEO Stephan Loerke.51 Mr. Rakowitz explained that for him, the “whole issue bubbling beneath the surface” of the advertising industry and digital platforms is the “extreme global interpretation of the US Constitution[].”52 Mr. Rakowitz wrote that he did not understand why “[p]eople are advocating for freedom of speech online” with anonymity and complained about people taking a so-called “radical interpretation[]” of freedom of speech.53 He also complained about “[t]aking US norms and applying them globally.”54 Mr. Rakowitz argued against using “‘principles for governance’ and applying them as literal law from 230 years ago (made by white men exclusively)[.]”55

GARM is governed by its Steer Team, which acts like a board of directors and plots the overall direction of the initiative.56 The Steer Team is composed of representatives from:

- **Four major advertisers:** Unilever, Mars, Diageo, and Procter & Gamble (including Mr. Pritchard, leader of the ANA Growth Council),57 which together own numerous household brands that Americans purchase every day.

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44 Leadership Team, ANA, https://www.ana.net/content/show/id/globalcmo-leadership.
46 HJC-WFA-GARM-000016155.
47 See Rakowitz Testimony, supra note 2 at 7:1-16.
48 See id. at 10:10-11:21.
49 See, e.g., infra sections II.A. & B.
50 See, e.g., infra section II.C.
51 HJC-WFA-GARM-000125324.
52 Id.
53 Id.
54 Id.
55 Id.
56 Rakowitz Testimony, supra note 2 at 63:5-6.
57 Alliance Members, GARM, https://wfanet.org/leadership/garm/members-governance.
• **The world's largest media buying agency:** GroupM, which owns four advertising agencies and represents some of the world’s biggest companies.\(^{58}\)

![GroupM Employees](image1.png)

- **Three trade associations:** The American Association of Advertising Agencies (The 4A’s, which represents advertising agencies), the Incorporated Society of British Advertisers (ISBA, which represents brands in the United Kingdom), and the Association of National Advertisers (ANA, which represents brands in the United States), which include the world’s biggest companies among its leadership and members.\(^{59}\)

  ![4A’s ISBA ANA](image2.png)

  GARM also includes the so-called “Big Six” as members.\(^{60}\) In the advertising industry, the “Big Six” refer to the “biggest ad agency holding companies around the world.”\(^{61}\) Together, these companies hold nearly every major advertising agency.\(^{62}\) In other words, nearly all major agencies that execute advertising campaigns for countless companies around the world fall under the GARM umbrella. With WFA accounting for roughly 90% of brand spend on advertising, and with GARM including almost every advertising agency and many of the world’s biggest brands, GARM holds considerable power over the advertising market.\(^{63}\)

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\(^{58}\) *About, GroupM*, [https://www.groupm.com/about/](https://www.groupm.com/about/); Seb Joseph & Krystal Scanlon, *The world’s biggest media buyer GroupM is telling advertisers that Twitter is a ‘high risk’ media buy*, DIGIDAY (Nov. 14, 2022).

\(^{59}\) *Alliance Members, GARM*, [https://wfanet.org/leadership/garm/members-governance](https://wfanet.org/leadership/garm/members-governance).

\(^{60}\) *HJC-WFA-GARM-000016155*.


\(^{62}\) *Id*.

\(^{63}\) *See infra section I. B.*

B. GARM and its members embraced “uncommon collaboration” to demonetize disfavored content in the name of brand safety.

According to GARM’s charter, GARM members use “uncommon collaboration to ensure that there are more positives from digital communications and commerce, and that [they] effectively reduce the availability and monetization of harmful content.” According to the charter, GARM “members acknowledge their collective power . . . and are identifying concrete initiatives, creating shared processes and common protocols for protecting people and brands.” GARM is “an industry first effort that unites marketers, media agencies, media platforms, industry associations, and advertising technology solutions providers to safeguard the potential of digital media by reducing the availability and monetization of harmful content online.”

When announcing the creation of GARM, GARM and its founding members stated that they were establishing a means by which brands may collaborate with “platforms to do more to

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64 HJC-WFA-GARM-000001911.
65 Id.
66 HJC-WFA-GARM-000001893.
address harmful and misleading media environments.”67 GARM and its brand members claim to collaborate on a “common understanding” of so-called “harmful and sensitive content” and identify dangerous placement on platforms “where ads should not appear.”68 GARM promised to “adopt common definitions to ensure that the advertising industry is categorizing harmful content in the same way across the board.”69 This promise was upheld when GARM launched its “Brand Safety Floor and Suitability Framework.”

GARM’s “Brand Safety Floor and Suitability Framework” creates a “common understanding of where ads should not appear” and “different risk levels for sensitive content[.]”70 GARM claims that it was created to drive transparency in policies to help companies achieve “brand safety”—or, in other words, “transparency on where ads [are] placed [to] mak[e] sure that [advertisers] don’t inadvertently support” certain content on social media platforms.71 To achieve this goal, GARM claims to work in the “content monetization” space, defined as “what content ads actually support and the practice of insertion of the ads online.”72 Meanwhile, GARM disclaims being involved in “content moderation,” which is the “practice and determination of what content is appropriate for hosting[,] recommend[ing] and [making] available[le] on [a] platform.”73 GARM acknowledges, however, that “[c]ontent monetization and moderation are inextricably linked and lapses in content moderation put advertising and advertisers at risk[.]”74 In other words, GARM’s monetization work has the effect of driving content moderation policies, which determines what content appears online.

Mr. Rakowitz developed the term “uncommon collaboration,” the key term defining the priorities outlined in GARM’s charter, to drive a change in the advertising agencies’ “value chain.”75 Prior to GARM’s creation and Mr. Rakowitz’s work pushing “uncommon collaboration,” advertisers and platforms had “point-to-point conversations” or, as Mr. Rakowitz described it in an email, “Mars having a conversation with YouTube separate from P&G; and P&G having a conversation with Facebook.”76 Uncommon collaboration, according to Mr. Rakowitz, has “competitors working together” and “all sides of the industry working together[.]”77 While competitors should be competing to reach customers, GARM’s express goal of uncommon collaboration is to “rise above individual commercial interest[.]”78 Mr. Rakowitz explained that “uncommon collaboration needs to be understood as the industry coming together and putting aside competitive concerns[.]”79

68 HJC-WFA-GARM-000001893.
69 Id.
70 Id.
71 Rakowitz Testimony, supra note 2 at 10:5-7.
72 Rakowitz Testimony, supra note 2 at 17:22-23.
73 Rakowitz Testimony, supra note 2 at 17:19-20.
74 HJC-WFA-GARM-000118620. See also Rakowitz Testimony, supra note 2 at 58:13-16.
75 Rakowitz Testimony, supra note 2 at 16:3-4; HJC-WFA-GARM-000016155.
76 HJC-WFA-GARM-000016155.
77 Id.
78 Id.
79 HJC-WFA-GARM-000032856, at -857.
Colluding to suppress voices and views disfavored by the leading marketers at the world’s largest companies and advertising agencies is core to GARM’s founding principles. As explained in section I of this report, GARM amassed power through the amount of money its members spend on advertising. In a December 2019 email, Mr. Rakowitz explained that GARM was founded to address “the 4C’s . . . 1) Carriage (presence on platforms), 2) Curation (recommendation to consumers), 3) Commercialization (revenue share with creators), 4) Coordination (works by platforms across their technology, and work with regulators, and law enforcement)[.]” Mr. Rakowitz explained in this email that the GARM charter focuses on “ensuring that we fund the voices we want to associate with, and close down the advertising ecosystem to bad actors.” In other words, what is online (carriage), how platforms show what is online to consumers (curation), and who gets money online (commercialization) were all a focus of GARM’s work. To achieve these ends, GARM would collude (coordination) or work with regulators and law enforcement.

Section 1 of the Sherman Act makes unreasonable restraints of trade illegal and punishable through both civil and criminal penalties. Federal courts have been clear that an unreasonable restraint of trade includes agreements that reduce output or limit choice. Direct or circumstantial evidence can be used to prove the existence of the commitment, scheme, or agreement. As the Supreme Court has explained, social justifications for an anticompetitive agreement are irrelevant. In addition, actions of a trade association can satisfy the concerted action requirement of Section 1 of the Sherman Act. Evidence obtained by the Committee shows that GARM and its members directly organized boycotts and used other indirect tactics to target disfavored platforms, content creators, and news organizations in an effort to demonetize and, in effect, limit certain choices for consumers.

Relevant case law suggests that GARM likely violated federal antitrust laws. Some of GARM’s conduct would be analyzed by a court as a per se unlawful restraint because it involves horizontal agreements to restrict output and consumer choice, and therefore, would not require

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80 See supra section I.
81 HJC-WFA-GARM-000016155.
82 HJC-WFA-GARM-000016155, at -156.
83 15 U.S.C. § 1. Sherman Act Section 1 is a felony. Convicted individuals may be imprisoned for up to 10 years and fined $1 million. Convicted corporations may be fined up to $100 million. Fines often exceed the statutory maximum under the theory that defendants are liable for twice the pecuniary loss. See 18 U.S.C. § 3571(d).
88 See supra section 2.A., 2.B., and 2.C.
an in-depth examination.\textsuperscript{89} Although an in-depth rule of reason analysis is likely not required,\textsuperscript{90} even under this more stringent review, the conduct of GARM and its members likely violates the antitrust laws.\textsuperscript{91} The high market share of GARM and its members in advertising campaigns and spending,\textsuperscript{92} combined with the direct evidence of demonetizing certain viewpoints to limit consumer choice, meet the initial burden of demonstrating harm to consumers.\textsuperscript{93} Although GARM could attempt to rebut this showing of harm, GARM has instead chosen to disclaim the plain language of its documents in testimony and written correspondence with the Committee.\textsuperscript{94} Additionally, despite some direct evidence of blatant agreements to restrain competitive activity, if GARM argues that there was only conscious parallelism among its members—that is, GARM members following each other’s lead with no alleged agreement—courts have explained that the involvement in a trade association where information is exchanged can serve as a plus factor in finding liability.\textsuperscript{95}

A. GARM members colluded to cut Twitter’s revenue after Elon Musk’s acquisition.

Documents obtained by the Committee show that GARM told its members to boycott advertising on Twitter\textsuperscript{96} after Mr. Musk’s purchase of the platform on October 28, 2022.\textsuperscript{97}

According to documents provided to the Committee, Ørsted, a Danish energy company and GARM member, contacted GARM as early as November 4, 2022, to “ask [GARM] if it’s possible to arrange a meeting and hear more about [GARM’s] perspectives about the Twitter situation and a possible boycott from many companies.”\textsuperscript{98} In a subsequent email exchange in May 2023, an employee of Ørsted discussed the company’s decision to “take off all of our paid advertisement on [Twitter] due to brand safety concerns” and asked GARM what it “would advise [Ørsted] to do. And what are other global advertisers doing – have they come back to the platform, or are they still off?”\textsuperscript{99} Documents provided to the Committee do not reflect whether GARM replied in writing to Ørsted. On April 14, 2023, however, an Ørsted employee sent another email to WFA employees, including Mr. Rakowitz, stating: “Based on your


\textsuperscript{92} See, e.g., Reazin v. Blue Cross & Blue Shield, 899 F.2d 951, 967 (10th Cir. 1990); Wilk v. American Med. Ass’n, 895 F.2d 352, 360 (7th Cir. 1990); Graphics Prods. Distrib. v. Itek Corp., 717 F.2d 1560, 1570-71 (11th Cir. 1983).

\textsuperscript{93} See Professional Eng’rs, 435 U.S. at 692; Continental T.V., Inc. v. GTE Sylvania Inc., 433 U.S. 36, 49; Brown Univ., 5 F.3d 658, 672.

\textsuperscript{94} See supra section 1.B.


\textsuperscript{96} The social media platform X, which was formerly called Twitter, is referred to as Twitter throughout this report because it is primarily referred to as Twitter in GARM’s documents and was named Twitter for the majority of the time period discussed in this report.

\textsuperscript{97} Anirban Sen & Tom Hals, Musk reverses course, again: he’s ready to buy Twitter, build ‘X’ app, REUTERS (Oct. 4, 2022); Clare Duffy & Donie O’Sullivan, Twitter confirms completion of Elon Musk’s $44 billion acquisition deal, CNN (Oct. 28, 2022).

\textsuperscript{98} HJC-WFA-GARM-000054373, at -376.

\textsuperscript{99} HJC-WFA-GARM-000026943, at -945.
recommendations, we have stopped all paid advertisement [on Twitter]. . . .”100 This Ørsted employee explained that it is “an important platform for us to reach our audience, so we would like to consider going back . . .”101 On April 18, 2023, Mr. Rakowitz replied to Ørsted denying that GARM or WFA made the recommendation to stop paid advertising on Twitter, as alleged by Ørsted, because those “are decisions that concern competitively sensitive information.”102

In a transcribed interview with the Committee, Mr. Rakowitz denied recommending that Ørsted stop advertising on Twitter and claimed to be unaware of anyone at GARM speaking to anyone at Ørsted during this period.103 Mr. Rakowitz’s denial of any wrongdoing, in the face of clear written evidence, is not credible for many reasons. First, the Committee initially contacted GARM about potentially anticompetitive conduct on March 22, 2023, between the date of Ørsted’s initial email to GARM seeking advice on ceasing paid advertising on Twitter and the date of Mr. Rakowitz’s subsequent denial.104 It is not surprising that Mr. Rakowitz sent an email disclaiming his recommendation for a boycott after being put on notice that GARM’s actions were of interest to the Committee.

In addition, Mr. Rakowitz provided the Committee with inaccurate information during his transcribed interview about his discussions with GARM members regarding Mr. Musk’s acquisition of the platform on monthly GARM “community calls” among GARM members. Specifically, during his transcribed interview, Mr. Rakowitz was asked whether “the Twitter acquisition [was] discussed on a community call?”105 Mr. Rakowitz denied that it was, testifying: “No. What was discussed was Twitter’s priorities.”106

However, documentary evidence provided to the Committee contradicts Mr. Rakowitz’s denial and shows that Mr. Musk’s acquisition of Twitter was discussed extensively with GARM members. In December 2022, in an email exchange with the subject line “[s]upport to Ørsted about the Twitter situation,” discussing a meeting between GARM and Mr. Musk, an employee at Ørsted asked WFA employees, including Mr. Rakowitz, for a meeting “to learn more about how the conversation went and how you see the situation now and expectations going

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100 Id., at -944.
101 Id.
102 HJC-WFA-GARM-000054373, at -376.
103 Rakowitz Testimony, supra note 2 at 26:2-11.
105 Rakowitz Testimony, supra note 2 23:16-17.
106 Id.
forward.” Mr. Rakowitz responded to the Ørsted employee that the meeting with Mr. Musk “is likely to come up and be discussed in the Community Call on Thursday next week. Can we discuss then and there?”

The next month, in January 2023, in an email to a company looking to join GARM, a WFA employee specifically highlighted Mr. Musk’s acquisition of Twitter as a topic of discussion among GARM members. This WFA wrote: “Being part of the community gives you access to our monthly community calls where we offer a round up of current work and tackle recent brand safety issues that may have occurred (recent example being extensive debriefing and discussion around Elon Musks’ [sic] takeover of Twitter) . . .

The evidence of an email by Mr. Rakowitz telling Ørsted that the “Twitter situation” would be discussed on a community call then the next month an email from a different WFA employee stating there was an “extensive debriefing and discussion around Elon Musks’ [sic] takeover of Twitter” fatally undercuts Mr. Rakowitz’s claim that the acquisition was not discussed on any community call.

In addition to merely discussing the acquisition, in November 2022, GARM conducted a survey of its members about their views of Mr. Musk’s acquisition of Twitter and shared this information in the context of a boycott on Twitter. During a transcribed interview with the Committee, Mr. Rakowitz was asked what he did with the survey results, and he testified that he “shared them only internally within the Steer Team and then also with Twitter to just help sort of frame some of the concerns, legitimate concerns, in making sure that it was a fact based conversation.” Documents received by the Committee, however, show that Mr. Rakowitz created material for the attendees of a WFA Executive Committee meeting that included some of the survey results. In addition, an email from Ørsted dated November 14—in which Ørsted...
asked for a meeting to “share [GARM’s] reflections and results” of the survey—suggests that GARM shared the survey results with Ørsted too. Documents suggest GARM and Ørsted did not discuss the survey results in this one-on-one meeting, but instead discussed “conversations [GARM] had with Twitter and details on future planning.” GARM informed Ørsted it would discuss the survey findings on a community call with all GARM members.

GARM’s documents suggest that the results of the survey—shared at least with the WFA Executive Committee, Ørsted, and on a GARM community call—would have signaled to members to pull their advertising from Twitter. In a document prepared for the WFA Executive Committee, the survey results showed that “86% of ad buyers feel that the change in [Twitter’s] ownership is a significant issue. Further, 71% of advertisers and agencies feel that change in ownership will have a negative or very negative impact on Twitter.” This type of information, coming with the imprimatur of GARM, would give advertisers the confidence to pull advertising campaigns without losing out to their competitors.

113 HJC-WFA-GARM-000051207, at -209.
114 HJC-WFA-GARM-000130655.
115 Id.
116 HJC-WFA-GARM-00003685.
In his transcribed interview, Mr. Rakowitz denied organizing a boycott or recommending that GARM members stop advertising on Twitter; however, he took credit for Twitter’s revenue decline in internal GARM documents produced to the Committee. Mr. Rakowitz testified that he did not “have any role in Twitter’s revenue decline” and he “did not know roughly how much [Twitter’s] revenue dropped.” In an internal email dated February 17, 2023, Mr. Rakowitz offered edits to an invitation for a closed-door meeting with the goal of “contextualizing who [GARM is] and what [GARM is] doing,” Mr. Rakowitz joked to his colleagues that he did not include the phrase “you may recognize my name from being the idiot who challenged Musk on brand safety issues. Since then they are 80% below revenue forecasts[.]”

Mr. Rakowitz testified in his transcribed interview that he was not actually taking credit for the revenue decline, but instead it was a “self-effacing joke” about a tweet he posted that “had gone sideways”—meaning, as he explained, “It had gotten visibility and . . . [that] was probably not in [Mr. Rakowitz’s] best interests.” Internal GARM documents, however, show that the tweet in question, posted on October 31, 2022, was not viewed by GARM as ill-advised. Instead, GARM celebrated the new coverage the next day, with Mr. Rakowitz writing, “This is awesome” and celebrating interviews with TV news stations and the Wall Street Journal. Mr. Rakowitz’s colleague replied approvingly, writing that “this is next level.”

In preparation for a meeting with Twitter after Mr. Musk’s acquisition of the company, documents show that GARM planned a potential strategy to expel Twitter from GARM and

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117 Rakowitz Testimony, supra note 2 at 32:10-18.
118 HJC-WFA-GARM-000030996, at -997.
119 HJC-WFA-GARM-000055362, at -363.
120 HJC-WFA-GARM-000055362.
attack the company in the press through a “reactive comms” strategy. One employee of WFA working with Mr. Rakowitz to prepare for the meeting suggested that GARM “set a timeline for written confirmation [that Twitter] can stick to the demands and indicate that failure to meet these will lead to expulsion from [GARM] and a public announcement.” Stephan Loerke, the CEO of WFA, suggested that GARM set “[d]etailed demands in writing to Twitter and a timeline,” explaining: “We send a detailed lists [sic] of requests and a timeline in writing to Twitter. If they don’t meet those requests in the timeline, GARM expels them[.]” Despite these contemporaneous documents about strategy to expel Twitter from GARM membership, Mr. Rakowitz denied during his transcribed interview the organization had ever considered ejecting any company from GARM.

B. GARM went beyond brand safety to silence disfavored voices like Joe Rogan.

In response to pressure from its members over COVID-19 statements made on Joe Rogan’s podcast, GARM pressured Spotify to punish Mr. Rogan by applying GARM’s standards on Mr. Rogan’s content. In late-January 2022, Spotify met with Joe Barone, Managing Partner Brand Safety Americas, of GroupM, a Steer Team member, to discuss so-called misinformation on Spotify. The alleged misinformation offered by Mr. Rogan was twofold. First, on the April 23, 2021, episode of his podcast, The Joe Rogan Experience, Mr. Rogan told his guest, comedian Dave Smith, his views about the COVID-19 vaccine: “You’re 21 years old and you say to me should I get vaccinated? I go, no. . . . Are you healthy? Are you a healthy person? Look, don't do anything stupid, but you should take care of yourself.” Second, on December 31, 2021, Mr. Rogan featured Dr. Robert Malone, an early mRNA researcher and COVID-19 vaccine skeptic, on his podcast. While YouTube removed the episode, Spotify refused to take it down. But the event that triggered GroupM’s outreach to Spotify was musician Neil Young’s decision to remove his music from the platform.

In an email dated January 27, 2022, GroupM accused Spotify of having a “disregard for spreading dangerous misinformation” and threatened Spotify’s “process of joining GARM” because Daniel Ek, Spotify’s CEO, commented in The New York Times supporting Mr. Rogan:

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121 See infra notes 122-125.
122 HJC-WFA-GARM-000051993, at -195.
123 Id.
124 Id. at -194.
125 Rakowitz Testimony, supra note 2 at 51:3-4. See also id. at 111:3-6.
126 HJC-WFA-GARM-000017926, at -927.
127 #1639 – Dave Smith, THE JOE ROGAN EXPERIENCE. See also Neil Young, Joe Rogan and Spotify's Balancing Act, WALL ST. J. (Jan. 28, 2022).
130 HJC-WFA-GARM-000056744, at -746. See also J. Clara Chan, Spotify to Pull Neil Young’s Music After Artist’s Objections to Joe Rogan, THE HOLLYWOOD REPORTER (Jan. 26, 2022); Neil Young, Joe Rogan and Spotify's Balancing Act, WALL ST. J. (Jan. 28, 2022).
131 HJC-WFA-GARM-000056744, at -747.
The company stood by its star podcaster, with Chief Executive Daniel Ek saying that the ambition to make Spotify the “largest audio platform in the world” involves embracing diverse voices and differing opinions as the company chases scale in podcasting.

“The most important thing for us is to have very clear policies in place,” he said in an interview a month after the town hall. “It doesn’t matter if you’re Joe Rogan or anyone else, we do apply those policies and they need to be evenly applied.”

Documents produced to the Committee show that GroupM’s concerns were not based on content monetization, where GARM asserts that its work resides, because GroupM does not place its advertisements on Mr. Rogan’s podcast. One method in which advertisers can place their advertisements is by buying an “audience.” In this method, advertisers provide a platform with certain information about the people the company hopes to target and the platform places the advertisement. In buying an audience, advertisers lose some transparency around where the advertisement appears and what content is around the advertisement. For example, advertisements on a Facebook, Instagram, or Twitter feed will also appear around unique content tailored to the individual using that platform. It is in this “audience buying” form of advertising that brand safety concerns arise because an advertisement might appear adjacent to content of which the company does not approve. Alternatively, companies may choose to advertise on a specific show, podcast, movie, website, or other form of media. It was in this context that GARM’s members were discussing Spotify and Mr. Rogan’s podcast—placement on a specific medium where brand safety concerns do not arise.

In his email on January 27, 2022, Mr. Barone informed his colleagues at GroupM that “GroupM does not buy Joe Rogan, and therefore we had no client exposure[.]” Nonetheless, Mr. Barone wrote to his colleagues that he notified Spotify that even if GroupM clients do not buy advertisements on Mr. Rogan’s podcast, the podcast’s content put all of Spotify’s advertising with GroupM clients at risk. Mr. Barone also told his colleagues that he warned Spotify that it would “conduct a complete Trust & Safety review of the Spotify platform and policies” and that GroupM “will begin that process immediately[.]” In other words, GroupM knew there was no brand safety concern because it did not buy advertisements on Mr. Rogan’s podcast, but it still sought to silence Mr. Rogan’s views anyway. On January 28, 2022, Mr. Barone forwarded this
email chain to Mr. Rakowitz and asked to discuss the issue with the entire Steer Team, to which Mr. Rakowitz agreed.142

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142 HJC-WFA-GARM-000056744-745.
On February 7, 2022, Mr. Rakowitz and Mr. Barone had a meeting with Spotify. Spotify repeatedly attempted to schedule the meeting. The sole sticking point for Spotify was that it wanted the meeting to be between Spotify and GARM, while Mr. Rakowitz wanted to invite the entire Steer Team. Eventually, Mr. Rakowitz told Spotify “this isn’t working,” complaining about Spotify’s “lack of seriousness” in scheduling the meeting. Mr. Rakowitz threatened to publicly criticize Spotify, writing that GARM had “held back on press commentary on this incident” but if “we’re unable to connect and discuss the issues we’ll only be able to comment with what we’re able to glean.” Mr. Rakowitz warned Spotify: “This is a statement backed by the Steer Team – which you will recall functions as a board of directors and brings together P&G, Unilever, Mars, Diageo, 4As, GroupM, ISBA, ANA[.]”

In an apparent celebration of his threatening email, Mr. Rakowitz forwarded the email to Ben Jankowski, an advertising consultant formerly at Mastercard, and to Mr. Barone at GroupM, commenting simply: “Throttled[.]” Mr. Jankowski replied, commenting about the Spotify

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143 HJC-WFA-GARM-000017651, at -657.
144 HJC-WFA-GARM-000017651, at -656.
145 HJC-WFA-GARM-000017651, at -653.
146 HJC-WFA-GARM-000017651, at -652.
147 HJC-WFA-GARM-000017651.
148 Id.
149 Id.
150 Id.
employee, “[T]his man needs a smack.”151 Mr. Rakowitz testified during his transcribed interview that when he wrote “throttled,” he really meant “frustrated” and that his email was related to the difficulty in scheduling the meeting.152 This after-the-fact rationalization defies common sense, as one definition of throttled is “to defeat,” which comports with the threatening nature of Mr. Rakowitz’s email.153 Mr. Rakowitz’s claim is especially incredible because he had earlier emailed Mr. Barone, writing “I’m about to throttle this guy[.]”154

151 Id.
152 Rakowitz Testimony, supra note 2 at 65:11-13.
154 HJC-WFA-GARM-000021654.
Mr. Rakowitz also claimed during his transcribed interview that the concerns with Mr. Rogan were about “hate speech” and that an “advertiser would take issue with their ads appearing next to said content, because that would create an issue for them from a reputation perspective.”\textsuperscript{155} Hate speech, however, is never raised in the documents produced to the Committee about Mr. Rogan, and GroupM specifically informed Mr. Rakowitz that they do not buy advertising on Mr. Rogan so advertisements would not appear “next to said content.”\textsuperscript{156} In other words, the issue was not alleged hate speech or concerns about brand safety, but instead the desire of powerful corporations using their marketing dollars to silence certain disfavored views.

GroupM was not the only GARM member to push for pressure on Spotify and Mr. Rogan. On February 10, 2022, Coca-Cola emailed Mr. Rakowitz regarding “evaluating Spotify to better access the Joe Rogan Experience” and noting that the “particular issue (misinformation) does not exactly fit cleanly into [Coca-Cola’s] policy.”\textsuperscript{157} On the same day, Mr. Rakowitz replied to Coca-Cola stating that Mr. Rogan and Spotify are “a major area of concern” for GARM but that “[b]rand safety is somewhat separate because brands aren’t being slotted into [Mr. Rogan’s podcast] by accident per say [sic].”\textsuperscript{158} As he explained to another Coca-Cola employee in a separate email on February 18, 2022, Mr. Rakowitz indicated that “[b]rand safety is somewhat separate on Spotify versus say Facebook Newsfeed because brands aren’t being slotted into” Mr. Rogan’s podcast.\textsuperscript{159} These emails provide compelling evidence of Mr. Rakowitz again admitting that GARM’s concerns about Mr. Rogan’s podcast do not amount to a brand safety issue, where GARM’s work resides, because advertisers may easily choose whether or not to advertise on Mr. Rogan’s podcast.

Mr. Rakowitz advised Coca-Cola on how to best direct the company regarding its advertising spend and pressure on Spotify. Mr. Rakowitz wrote to Coca-Cola that he “can’t publicly advise all clients to do X – that gets us into hot water by way of anticompetitive and collusive behaviors.”\textsuperscript{160} Instead, Mr. Rakowitz offered to “help [Coca-Cola] formulate a [point of view one-on-one].”\textsuperscript{161} In other words, Mr. Rakowitz indicated he could not collectively tell every GARM member what to do; instead, he advised GARM members individually what to do, effectively aligning all GARM members. Mr. Rakowitz mistakenly referred to GARM members as his “clients” that he could “advise.”\textsuperscript{162} But GARM members are not his clients; they are members of his trade association, and the antitrust laws still apply. Collusive behavior—whether directing concerted action publicly as a group or privately on an individualized basis—is still violative of antitrust laws.

\textsuperscript{155} Rakowitz Testimony, \textit{supra} note 2 at 59:1-7.
\textsuperscript{156} \textit{Id.}
\textsuperscript{157} HJC-WFA-GARM-000056644, at -645.
\textsuperscript{158} HJC-WFA-GARM-000056644.
\textsuperscript{159} HJC-WFA-GARM-000025816, at -817.
\textsuperscript{160} HJC-WFA-GARM-000056644.
\textsuperscript{161} \textit{Id.}
\textsuperscript{162} \textit{Id.}
C. GARM attacked disfavored news sites to limit consumer choice.

Internal GARM documents produced to the Committee show a clear bias that infiltrates GARM's work and favors left-leaning news sources. For example, in October 2021, when Mr. Rakowitz received a question about The Daily Wire, a conservative news organization and media company founded by commentator Ben Shapiro, he contacted two individuals from GroupM: Joe Barone, Managing Partner of Brand Safety Americas, and John Montgomery, Executive Vice of Global Brand Safety. Mr. Rakowitz asked about GroupM’s position on The Daily Wire.\(^{163}\) Mr. Rakowitz told the two men that GARM is “explicitly nonpartisan” and will not deplatform people that might be counter to GARM’s world view.\(^{164}\) Mr. Montgomery, however, explained to Mr. Rakowitz how GroupM monitors media it does not support, like The Daily Wire, to find something wrong.\(^{165}\) Specifically, Mr. Montgomery wrote to Mr. Rakowitz about how GroupM approaches disfavored news sources:

\(^{163}\) HJC-WFA-GARM-000022078, at -079.
\(^{164}\) Id. at -080.
\(^{165}\) Id. at -079.
There is an interesting parallel here with Breitbart. Before Breitbart crossed the line and started spouting blatant misinformation, we had long discussions about whether we should include them on our exclusion lists. As much as we hated their ideology and bullshit, we couldn’t really justify blocking them for misguided opinion. We watched them very carefully and it didn’t take long for them to cross the line.\textsuperscript{166}

In other words, GroupM’s strategy when it comes to news outlets offering disfavored views, even before the outlet might somehow “cross[] the line,” is to closely monitor the outlets until it finds something to justify placing the entire outlet on a list of websites on which GroupM clients cannot advertise, called an exclusion list.\textsuperscript{167}

Mr. Montgomery then went on to explain to Mr. Rakowitz his suggested strategy for The Daily Wire: “I don’t know Daily Wire that well . . . but we should watch them carefully to make sure they don’t stoop below the GARM floor.”\textsuperscript{168} He also suggested expanding the exclusion of disfavored new sources to also include Fox News: “If we block [The Daily Wire] – why wouldn’t we be blocking Fox News?”\textsuperscript{169} Mr. Barone ultimately weighed in to explain action GroupM had already taken, “[W]e have Daily Wire on our Global High Risk exclusion list, categorized as Conspiracy Theories.”\textsuperscript{170} However, when Mr. Rakowitz was asked by the Committee during his transcribed interview whether he discusses with GroupM its list of news outlets that are worthy of monetization, he denied doing so, claiming: “No. The only discussions is about how

\textsuperscript{166} Id.
\textsuperscript{167} Id.
\textsuperscript{168} Id.
\textsuperscript{169} Id.
\textsuperscript{170} HJC-WFA-GARM-000022078.
frequently they’re refreshed. . . . I won't get into those conversations to keep myself compliant with our competition law policy."171

One of GARM’s proposed solutions to control advertising on news outlets was to create a system in which only “legitimate news” received funding, and all advertising revenue was steered away from so-called “disinformation sites.”172 To classify “legitimate news,” GARM stepped outside the Steer Team and approached outside organizations such as the Global Disinformation Index (GDI) and NewsGuard.173 GDI is a British non-profit whose “core output” is its “Dynamic Exclusion List.”174 This GDI exclusion list can be used by platforms, brands, agencies, and others to inform their own exclusion lists. GDI’s website claims that it is neutral and independent, but documents reviewed by the Committee suggest otherwise. Based on a 2022 study conducted by GDI, the group identified the “Riskiest Sites,” or those that showed the “greatest level of disinformation risk.”175 Those ten sites included the New York Post, Reason Magazine, RealClearPolitics, The Daily Wire, TheBlaze, The American Conservative, The Federalist, and The American Spectator.176 On the contrary, the list of “Least risky sites” included left-leaning news sources such BuzzFeed News and HuffPost.177 NewsGuard has also come under scrutiny for using incorrect fact checking in its work—for example, flagging accurate stories about the COVID-19 lab leak theory and a Gaza hospital explosion from a

171 Rakowitz Testimony, supra note 2 at 103:20.
172 HJC-WFA-GARM-000100343, at -348.
173 Id.
176 Id.
177 Id.
misfired Hamas rocket as misinformation. NewsGuard regularly targets conservative media outlets with the alleged goal of limiting advertising revenue.

Documents show that GARM recommends that its members work with organizations such as GDI and NewsGuard. In April 2020, GARM attempted to create a system for grading news content with “white lists” and “black lists.” GARM’s solution would “include GDI [or] similar classification data” to determine if news content was not safe. GARM appears to have not gone forward with this project, and in testimony to the Committee Mr. Rakowitz stated he does not work with GDI other than “in the Code of Practice for Disinformation with the European Commission[.]”

When asked if GARM members work with GDI, Mr. Rakowitz testified that he made “made sure that we steer clear of those discussions.” According to documents reviewed by the Committee, however, Mr. Rakowitz’s testimony is not accurate. For example, one document shows that a GARM member contacted Mr. Rakowitz after reading the 2022 GDI study and claimed, “I’m also digging into this GDI report on US media, which has somehow placed the NYPost as ‘at most risk’ paper in the USA for disinformation. It’s bewildering and GDI is not responding to our emails.” Mr. Rakowitz then responded to the GARM member stating, “Yes, we know GDI . . . we do advise that platforms, ad-tech, agencies, use independent fact checkers to weed out mis-and-disinfo from supply chain and ad buys. GDI is one of many – NewsGuard, IFCN, etc.”

Additional internal GARM documents suggests that Mr. Rakowitz promotes GDI and NewsGuard to GARM members over other “independent fact checkers.” In an email to all GARM members providing best brand safety advertising practices related to the Ukraine war, Mr. Rakowitz wrote, “Also ensure you’re working with an inclusion and exclusion list that is informed by trusted partners such as NewsGuard and GDI – both partners to GARM and many of our members.” Further, documents show Mr. Rakowitz set up a meeting with GARM members and GDI in hopes that “GARM members (platforms) are provoked to work with you [GDI], and marketers and agencies map to partnerships you have[.]”

The push to have members work with GDI and NewsGuard, combined with the bias driven by these organizations, deprives news outlets that GARM dislikes of the ability to make money. Mr. Rakowitz was aware that GARM’s power could have a negative effect on the revenue of news outlets. GARM’s power—whether derived from its brand members, WFA’s

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180 HJC-WFA-GARM-000100343 at -348.
181 Id. at -344.
182 Id.
183 Rakowitz Testimony, supra note 2 at 103:6-8.
184 HJC-WFA-GARM-000058931.
185 Id.
186 HJC-WFA-GARM-000079936, at -940.
187 HJC-WFA-GARM-0000119679.
188 HJC-WFA-GARM-000007480 at -481.
90% of global advertising spend, or its relationship with all major advertising agency holding companies—has the ability to put specific news outlets out of business or greatly reduce the amount of content these outlets can create. The end result deprives consumers of a diverse choice of news outlets and viewpoints.

Finally, the demonetization of news sites that conflict with GARM’s purported worldview does not stop only at digital platforms or online news websites but also extends to television. One example included the case of Kyle Rittenhouse, who went to Kenosha, Wisconsin, “on a night of unrest in Kenosha sparked by the police shooting of Jacob Blake,” and shot and killed two people. Mr. Rittenhouse testified that he was chased and feared for his life when he fired his gun. The jury found Mr. Rittenhouse not guilty on all charges.

Documents suggest that GARM members and even people inside WFA pushed to attack Fox News for stating that Mr. Rittenhouse was not guilty of murder. GARM received outreach from one of its members asking WFA to condemn Fox News’s coverage. The member stated: “[W]e can have all the diversity initiatives in the world, but we are fatally undermined if we do not call these narratives on ‘mainstream’ broadcast media as well as on the platforms.” A consultant for WFA described Fox News in the email chain as “praising or calling for the murder of protestors,” even though Kyle Rittenhouse was found not guilty. Stephan Loerke, CEO of WFA, responded by stating, “From a brand-owner perspective, the reasoning which has led us to put pressure and hold to account platforms on hate speech and harmful content should also apply to a media owner. We’ve always made it clear that the standards which we (GARM) want to see platforms enforce should be valid irrespective of media (even if [the media] has widespread popular support).” Mr. Loerke agreed to discuss the issue—that is, condemning Fox News’s news gathering and reporting—with GARM’s Steer Team.

D. GARM focused on political ads and alleged misinformation to influence elections.

Documents also suggest that GARM and its members weaponized claims of misinformation to influence the 2020 presidential election. On October 6, 2020, Mr. Rakowitz emailed Stephan Loerke, WFA CEO, to prepare for a broad policy call with Facebook. Mr. Rakowitz suggested that Mr. Loerke tell Facebook it was “at a crossroads for the platform and fence sitting on content curation and moderation” and that it was “holding back from better safety and authoritative content – we felt you got this right for COVID – this playbook should be the North Star[.]” Mr. Rakowitz wrote that “this is a dress rehearsal for the electorals –

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189 Beck Sullivan, Kyle Rittenhouse is acquitted of all charges in the trial over killing 2 in Kenosha, AP (Nov. 19, 2021).
190 Id.
191 Id.
192 HJC-WFA-GARM-000044897 at -898.
193 Id.
194 Id.
195 HJC-WFA-GARM-000044897.
196 Id.
197 HJC-WFA-GARM-000022821.
198 Id.
COVID to BLM . . . " Mr. Rakowitz also noted “that each of the platforms operate independently . . . but we saw some harmonized responses for COVID” and suggested that Mr. Loerke ask, “Are you considering a coordinated response for BLM and/or electorals?" In other words, GARM pushed Facebook for coordinated action around the upcoming elections similar to the actions the platform took during the COVID-19 pandemic to censor speech.

One method by which GARM and its members weaponize their power to influence elections is through pressuring platforms to label content as misinformation. GARM added a definition of misinformation to its framework for brands and platforms to use in 2022. According to GARM, misinformation “is defined as the presence of verifiably false or willfully misleading content that is directly connected to user or societal harm[.]” GARM partnered with the European Union to develop this definition. GARM delayed launching its misinformation definition to align with the definition put out by European officials, and the definitions are currently identical.

Internal GARM documents demonstrate the vagueness of the definition and the ability for it to be weaponized against disfavored parties. For example, according to GARM, “medium risk” misinformation is a “[d]ramatic depiction of misinformation presented in the context of entertainment[.]” When developing this definition, an internal GARM document listed one possible example as “a sketch comedy show[.]” Mr. Rakowitz admitted during his transcribed interview that this was “a suggestion from one of the working group members” and “the reaction from the community call . . . [was] that that was a horrible example.” Although that example was eventually deleted, the medium risk definition remained the same, along with the possibility of “horrible” and broad claims by GARM members of what constitutes misinformation.

i. GARM and Unilever fought to label a 2020 Trump campaign advertisement as misinformation.

One example of how GARM and its members weaponized their influence and GARM’s guidelines regarding so-called misinformation to influence elections was by flagging a campaign advertisement paid for by President Trump’s campaign to check for possible policy violations. In an email on October 3, 2020, one month before the presidential election, Rob Master, Vice President of Media and Digital Engagement at Unilever, sent an email to Facebook employees asking whether a President Trump “paid ad violated any [Facebook] policies.” The advertisement in question was paid for by President Trump’s campaign and stated: “Joe’s
BEGGING for breaks during the debate! CHECK JOE’s EARS! HE REFUSED drug test & DECLINED an earpiece inspection! . . . STOP SLEEPY JOE[.] WHY WON’T SLEEPY JOE COMMIT TO AN EAR PIECE INSPECTION?”209 A Facebook employee explained to Unilever that Facebook had “reviewed this ad and it does not violate our ads policies. In addition, given this ad is from President Trump, it is considered candidate speech and is therefore not eligible for fact checking.”210 Luis Di Como, Executive Vice President of Global Media at Unilever, then added Mr. Rakowitz to the email chain and quoted a Facebook misinformation policy that stated, “[m]isinformation in ads results in a rejection of an ad—we prohibit ads that include claims debunked by third-party fact-checkers or, in certain circumstances, claims debunked by organizations with particular expertise.”211 Facebook replied:

While some may find the Biden [earpiece and drug test] ad objectionable, it doesn’t violate any of these stated Advertising Policies, which are heavily weighted to protecting people from real world harm. I want to emphasize that our Advertising Policies apply to everyone, including politicians. We have and we continue to remove ads that violate these policies, including ads from both presidential candidates.

It’s also important to note that this ad is from a presidential candidate, and therefore it is not eligible to be factchecked. We believe people should be able to see what politicians are saying so that they can hold their elected officials accountable and make informed decisions about who will lead them. Political ads from presidential candidates receive intense public scrutiny and are placed in our public Ad Library for seven years.212

Apparently unhappy with the policy. Mr. Rakowitz then wrote separately to Mr. Di Como, “Honestly reprehensible[.]”213

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209 Id.
210 Id. at -385.
211 Id. at -384.
212 Id. at -383.
213 Id.
When asked during his transcribed interview if “people should be able to see what politicians are saying so that they can hold their elected officials accountable and make informed decisions about who will lead them,” Mr. Rakowitz refused to directly answer and replied, “It’s not my position to take a stance on individual member policies.”

When asked why he wrote “honestly reprehensible” in response to Facebook’s response, Mr. Rakowitz testified that he was concerned about a lack of consistency on policies and “having different policies and not having a clear line[.]”

Mr. Rakowitz explained the “lack of consistency” as “having a separate set of policies and separate enforcement” and “[i]t’s having different policies and not having a clear line that is, you know, consistent.” Mr. Rakowitz explained there are “multiple levels or layers of policies, and it creates confusion” and that he didn’t “think that this [policy] is simple, and that’s, honestly, what my reaction is.”

Facebook’s policy on political advertisements, however, seems perfectly clear: Facebook does not fact check advertisements by political candidates because “people should be able to see what politicians are saying so that they can hold their elected officials accountable and make informed decisions about who will lead them.”

Mr. Rakowitz’s response, “Honestly reprehensible,” also seems perfectly clear: Mr. Rakowitz thought that Facebook should have labeled President Trump’s campaign advertisement as misinformation.

ii. GARM and Unilever took issue with Elon Musk exposing the truth about Twitter censoring the Hunter Biden laptop story.

Unilever, through GARM, also expressed issues with Mr. Musk exposing the truth about how Twitter, prior to Mr. Musk’s acquisition, censored the Hunter Biden laptop story. The story, first reported in the New York Post just a few weeks before the 2020 presidential election, reported that incriminating evidence about the Biden family’s influence peddling was found on Hunter Biden’s laptop. The story was initially rejected by mainstream media, and Twitter suppressed the story on its platform. The laptop and much of its contents have since been authenticated, and Twitter eventually admitted its treatment of the story was a mistake. After Mr. Musk bought Twitter, internal Twitter documents were released to journalists which exposed how and why Twitter suppressed the story.

On December 3, 2022, Mr. Rakowitz sent an email to his colleagues at WFA, including WFA CEO Stephan Loerke. Mr. Rakowitz was reporting to his colleagues about a meeting WFA held with Twitter following Mr. Musk’s acquisition of the company.

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214 Rakowitz Testimony, supra note 2 at 76:24-77:3.
215 Rakowitz Testimony, supra note 2 at 77:9-12 & 16-18.
216 Rakowitz Testimony, supra note 2 at 77:16-18.
218 HJC-WFA-GARM-000059383 at -383.
219 Brian Flood, Nikolas Lanum & Joseph A. Wulfsohn, Hunter Biden laptop re-emerges as media embarrassment as it becomes key evidence at gun trial, FOX NEWS (June 7, 2024).
220 Id.
221 Id.
222 Id.
224 HJC-WFA-GARM-000054330.
225 Id.
shared a press release and plan to comment on the meeting.\footnote{Id.} Mr. Rakowitz also wrote that he had “connected with” members of GARM’s Steer Team about Mr. Musk’s leadership of Twitter and Unilever has “issues with overtly partisan takes (e.g., Hunter Biden laptop exposé).”\footnote{Id.}

Unilever’s comments to Mr. Rakowitz demonstrate the partisan nature of GARM and how far GARM has drifted from brand safety and content monetization. Given the opportunity to discuss actual brand safety and monetization policies, Unilever instead chose to express “issues” with Mr. Musk’s handling of the Hunter Biden laptop story.\footnote{Id.} If Unilever believed that Mr. Musk was mishandling Twitter or that the platform was unsafe, Unilever was free to unilaterally stop spending its advertising money on the platform. Alternatively, Unilever could have made unilateral demands to Twitter about where and how Unilever’s advertisements would appear on the platform. Instead, Unilever chose to backchannel through Mr. Rakowitz concerns about Mr. Musk exposing the truth regarding the Hunter Biden laptop story. Unilever, through its seat on the Steer Team, knows the influence and power Mr. Rakowitz wields with his ability to speak with the backing of the full Steer Team and other GARM members. The threat Mr. Rakowitz can pose to an entire platform is enormous, evidenced by his taking credit for Twitter’s revenue decline.\footnote{Id.}

Mr. Rakowitz’s power comes from the members of GARM and their advertising dollars. Because power lies with the members, when members communicate an opinion to Mr. Rakowitz, he is likely to communicate that opinion on to the platforms. Ultimately, when platforms receive the message from Mr. Rakowitz, the companies have the choice to cede to his demands or risk losing their advertising revenue.

\textit{iii. GARM and Unilever wield the power of misinformation to censor negative product reviews.}

Unilever did not only use the sword of “misinformation” for partisan political purposes, but also to make money by attacking product reviews. Unilever, GARM, and GroupM participated in a discussion with representatives from TikTok about misinformation on the platform.\footnote{HJC-WFA-GARM-000030996, at -997.} The example that Unilever flagged to discuss with TikTok was a video in which a haircare influencer gave Unilever a negative product review.\footnote{Id.} Specifically, the influencer claimed that Unilever’s Suave brand shampoo “is straight dish soap[.]”\footnote{HJC-WFA-GARM-000092398, at -399.} GARM, GroupM, and Unilever then had discussions with TikTok about misinformation and discussed the video.\footnote{Id.}
This example shows the extent to which an allegation of misinformation can be weaponized by GARM and its members to harm consumers. Although foreign corporations like Unilever using the power of GARM to influence policies around political advertising should be of universal concern, the harm to consumers from using the power of GARM to silence product reviews is equally concerning from an antitrust perspective. If discussions among representatives of GARM, Unilever, GroupM, and social media platforms result in product reviews, even if exaggerated, being labeled as misinformation and disappearing from social media, consumers will be less informed about their purchases. The result, if GARM and its members are able to influence broad swaths of so-called misinformation policy across digital platforms, will be more control by corporations of what consumers can say about products, less-informed consumers, and reduced competition for customers.
III. The Planned Work of GARM and Its Members Extends into Government Censorship and Artificial Intelligence.

GARM works with advertising technology companies to seamlessly integrate GARM’s solutions, and consequently its biases, into advanced tools meant to deliver and monitor advertising on digital platforms. Known within GARM as its “ad-tech partners,” this group of companies offers solutions that help companies understand where their advertisements appear and around what content those advertisements appear, and aids brands in avoiding the placement of their advertisements near content that they do not want to support.\(^{234}\)

Documents reviewed by the Committee suggest that membership in GARM was conditioned on the fact that these ad-tech partners would “[a]gree[] to make commensurate changes to business operations in pursuit of GARM’s goals.”\(^{235}\) As seen throughout this report, GARM’s “goals” amount to attacking disfavored viewpoints under the guise of brand safety.\(^{236}\) In effect, GARM’s biases are baked directly into the solutions, allowing brands to seamlessly integrate GARM’s censorship. Further, documents reviewed by the Committee show that a GARM ad-tech partner assisted the Department of Homeland Security (DHS) and its Cybersecurity Infrastructure Security Agency (CISA) in the creation of tools to aid in the identification of dis- and misinformation.\(^{237}\)

A. GARM’s Expanded Initiatives Will Bring Its Biases and Censorship to Artificial Intelligence.

In an effort to more efficiently and consistently integrate GARM’s solutions into industry operations, GARM targeted a large group of brand safety providers to join its community.\(^{238}\) This partnership was designed to help GARM “enable the industry as a whole to drive GARM’s work forward.”\(^{239}\) Eleven ad-tech service providers (i.e., tools and software to deliver and measure digital advertising) were initially invited to join the GARM community.\(^{240}\) The providers invited were Double Verify (DV), Integral Ad Science (IAS), Oracle Data Cloud/Moat, Peer39, Channel Factory, Pixability, Zefr, OpenSlate, Grapeshot, The Hive, and Ebiquity.\(^{241}\) According to GARM, these providers were chosen due to these firms being “engaged with the following function: content detection and classification for the purposes of content moderation and/or monetization, content targeting for the purposes of media planning and buying, campaign reporting for the purposes of media buying.”\(^{242}\)


\(^{235}\) HJC-WFA-GARM-000023619.

\(^{236}\) See infra section II.

\(^{237}\) HJC-WFA-GARM-000076675. See also HJC-WFA-GARM-000076674.

\(^{238}\) HJC-WFA-GARM-000007676.

\(^{239}\) HJC-WFA-GARM-000057766.

\(^{240}\) HJC-WFA-GARM-000007848.

\(^{241}\) HJC-WFA-GARM-000057768.

\(^{242}\) Id.
Content detection and classification uses artificial intelligence (AI) or machine learning (ML) to detect and classify pieces of online content into specific risk-level categories. The pieces of content analyzed could be news articles, user-generated content (UGC) such as Tweets or posts, or even YouTube videos. This process of classifying content and then blocking ads from appearing near so-called “risky” content is known as pre-bid verification. For example, GARM ad-tech partner Peer39 offers brand suitability and safety solutions for advertisers that allow those advertisers to select a GARM risk tier, and the companies’ advertisements will automatically follow GARM’s framework.

Documents produced to the Committee suggest that GARM leadership intended to dictate the product offerings of these technology companies by “building [GARM solutions] into [the technology company’s] final product.” For example, GARM invited these companies into the community because, in the words of Mr. Rakowitz, “[h]aving these companies in GARM will help to ensure that GARM standards are acknowledged and implemented as part of these company solutions.” Further, documents outline GARM’s desire to oversee and dictate the work product of these companies. In notes created to brief GARM’s Steer Team, Mr. Rakowitz wrote, “After review by the GARM Steer Team, we feel that the timing of having these companies join GARM is critical, as independent targeting and reporting company work requires some level of oversight to ensure consistency in application.”

Members of the GARM Steer Team viewed these companies as the means to achieving GARM’s censorship. The Steer Team representative from ISBA, Phil Smith, forwarded an email from GARM ad-tech partner IAS, to Mr. Rakowitz and GroupM’s Mr. Barone asking, “[W]hen do we expect to see the verification companies echoing and amplifying GARM work?” In response, Mr. Barone outlined the progress of the ad-tech partners in creating products that incorporate the GARM solutions, detailing how many ad-tech partners had aligned their solutions with GARM’s safety floor and suitability framework. These documents suggest that GARM was actively incorporating its framework into a large group of technology companies’ products. By placing GARM’s standards in a large number of ad-tech companies, GARM created an illusion of choice—although it appears there are many different ad-tech companies competing, they are all implementing GARM’s framework.

Zefr, for example, is a GARM ad-tech partner that utilizes ML to uphold the GARM brand safety standards, such as the Brand Safety Floor and Suitability Framework. According to the Zefr website, Zefr’s brand suitability product offering provides advertisers and platforms

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244 Id.
245 Id.
247 HJC-WFA-GARM-000057768.
248 Id.
249 Id.
250 HJC-WFA-GARM-000092365, at -368.
251 Id.
with “GARM standard brand suitability for complex environments.” Zefr accomplishes this goal by incorporating GARM standards directly into its AI products, going as far as to claim that its “proprietary discriminative AI is powered by years of training data on platforms, and goes beyond keyword and text-based analyses, combining AI and ground truth data from global fact checking organizations that is mapped to the industry standards set by the Global Alliance for Responsible Media (GARM).”

Zefr openly acknowledges its close adherence to GARM in internal documents obtained by the Committee. In an email with the subject “GARM Misinformation Policy,” Senior Director of Content Policy at Zefr, Cameron Cramer, wrote to GARM: “I just wanted to say how insightful being on these GARM calls the last few months have been. It’s been so helpful in orchestrating our policies over here [Zefr].” In November 2022, Zefr announced its new product, Atrium, which can report back to advertisers with information that highlights where ads appeared on digital platforms. According to Zefr’s description of Atrium, the product was built “with full mapping to the GARM industry framework.”

YouTube incorporates Zefr-powered solutions that prevent advertisements from appearing next to content that violates GARM’s standards. Internal documents show that Mr. Rakowitz referred to this solution as “closed loop” due to its ability to both block certain content from advertising revenue by controlling where advertisements are placed and also allow advertisers to see the content around their advertisements. The reaction from GARM to this information can only be described as elation. Rakowitz responded to Zefr representatives stating, “OK dude – the story is CLOSED LOOP. F YEAH… I NEED SCREEN SHOTS FOR TRAINING – this is best-in-class execution.”

This “best-in-class execution” is subject to abuse by GARM and its ad-tech partners. For example, the GARM framework publicly claims that only two types of content related to guns and ammunition should be high risk: (1) the “glamorization” or “gratuitous depiction of illegal sale or possession of arms” or (2) “depictions of sale/use/distribution of illegal arms for inappropriate uses” or “harmful acts.” But GARM’s documents show that Zefr’s technology flagged as high-risk a YouTube video by a user that explained the history of the ten best lever action rifles ever made. The video did not include any content that should result in a categorization of the video as high risk. By combining GARM’s framework with secretive ad-tech solutions, however, this video would lose the opportunity to receive most advertising revenue, and the video creator would have no transparency as to why his revenue disappeared.

253 Id.
255 HJC-WFA-GARM-000008325.
257 Id.
258 HJC-WFA-GARM-000055220.
259 Id.
260 Id.
261 HJC-WFA-GARM-000001893.
262 HJC-WFA-GARM-000113035 at -036.
GARM was influential in bringing together Zefr and Meta, the parent company of Facebook and Instagram. In an email exchange between Mr. Rakowitz and WFA CEO Stephan Loerke, Mr. Rakowitz outlined forthcoming news that Zefr and Meta will be partnering to provide advertisers with “post-campaign transparency that will give brands and agencies reporting on where ads show up.”263 In the very next sentence, Rakowitz stated: “This is a big first step for [Meta] and should be acknowledged as a significant win [WFA/GARM] forced.”264 Mr. Loerke responded to Mr. Rakowitz’s email writing, “Good news. Makes sense to highlight the role that GARM played [in bringing the two together].”265 Mr. Rakowitz replied, “The stakeholder messaging from Meta is – ‘without GARM we wouldn’t have been able to make these moves’… This should be a message to the [WFA Executive Committee] . . . our demands are being met.”266 Rakowitz ended by comparing himself to President Theodore Roosevelt: “We need to get the [Executive Committee] to understand that we’re operating with a Roosevelt doctrine of ‘speaking softly and carrying a big stick’.”267

GARM’s work with its ad-tech partners does not stop at forcing its framework into the solutions of ad-tech companies and then pressuring platforms to adopt those solutions. GARM also utilized its network to collaborate on GARM’s Shared Source Program, which is a collection of content that would be scored for brand safety by GARM members.268 That collection of content would then be used to train AI and ML tools to detect and score similar pieces of content.269 In GARM’s own words, the Shared Source Program will “create a shared dataset that will inform technologies which categorize content suitable for monetization that can be used by members involved in content categorization, content targeting, and content measurement/reporting.”270 The program was designed to more consistently and holistically incorporate GARM solutions across the platforms and ad-tech partners.271 The dataset would be made available to all via the Interactive Advertising Bureau’s IAB TechLab.272

Repeatedly, Mr. Rakowitz testified to the Committee that the classification of content is a decision that is left to the platforms.273 He also testified that he could not identify misinformation because that is the role of the platforms; however, internal documents suggest GARM has every intention of standardizing how content is classified across the advertising industry, based entirely on GARM’s own biases and notions.274 And GARM has no intention of limiting its censorship to existing technologies. Products and technologies in their infancy such as generative AI and the metaverse have already received attention from GARM.275 Documents reviewed by the

263 HJC-WFA-GARM-000042863 at -864.
264 HJC-WFA-GARM-000042863.
265 Id.
266 Id.
267 Id.
268 HJC-WFA-GARM-000005465.
269 Id.
270 Id.
271 Id.
272 Id.
273 Rakowitz Testimony, supra note 2 at 37:1-6.
Committee show that GARM intends to “help the industry understand safety requirements before commercialization begins in the metaverse.”

B. GARM’s partners are tied to CISA’s government censorship.

The Committee and the Select Subcommittee on the Weaponization of the Federal Government have shown how the federal government, through the Department of Homeland Security’s (DHS) Cybersecurity and Infrastructure Security Agency (CISA), coerced and colluded with companies and other intermediaries to censor Americans’ speech. To the detriment of the American consumer, CISA’s censorship efforts relate to GARM and its ad-tech partners. CISA utilized GARM ad-tech partner Channel Factory to collaborate on a “common lexicon” to help discuss so-called mis- and disinformation. Although GARM documents are unclear as to whether GARM utilized Channel Factory’s lexicon, what is clear is that the Channel Factory lexicon was developed in conjunction with CISA. Global Chief Strategy Officer of Channel Factory, Phil Cowdell, shared the lexicon with Mr. Rakowitz, and wrote, “The industry will need a common lexicon and detailed definitions in order to make progress as an industry. Attached is the lexicon we developed with CISA/DHS… which may provide e [sic] useful start point.”

The lexicon shared by Cowdell detailed a series of definitions that contribute to or cause mis- or dis-information. For example, alleged “cheap fakes” or “malicious doctored videos where content is selectively or deceptively edited” is listed as a contributing force to the spread of mis- or dis-information. The methods by which these definitions can be abused, especially through GARM and its ad-tech partners, are clear. The Biden-Harris Administration, for example, has made unsupported claims that certain embarrassing videos of President Biden are so-called “cheap fakes.”

The tentacles of GARM’s ad-tech partners spread throughout online platforms. For example, Channel Factory is a member of YouTube’s YouTube Measurement Program or the YTMP. This program is a collection of companies that are “carefully vetted and meet[]

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276 GARM announces guidelines on misinformation, standards on ad placements, and expansion to cover the metaverse, GARM, https://wfanet.org/knowledge/item/2022/06/21/GARM-announces-guidelines-on-misinformation-standards-on-ad-placements-and-expansion-to-cover-the-metaverse.


278 HJC-WFA-GARM-000076774.

279 Id.

280 Id.

281 HJC-WFA-GARM-000076675.

282 HJC-WFA-GARM-000076675, at -678.


284 YouTube Measurement Program, YouTube, https://www.youtube.com/measurementprogram/.
[YouTube’s] standards. It also means [YouTube] consider [YTMP members] to be a trusted business partner in providing the capabilities you need to better drive and understand your marketing performance, inclusive of Google media.”

YouTube is one of the largest and most powerful social media platforms, yet it includes in its highly selective YTMP program a provider that collaborates with GARM and CISA on so-called misinformation.

CONCLUSION

Unilateral actions are not illegal under Section 1 of the Sherman Act. Although many liberal corporations have never hidden their bias against conservative Americans, these corporations are often unable to successfully silence conservative views. But what these corporations could not achieve unilaterally, they have worked extensively since 2019 to achieve by coordinating through GARM.

While each of these companies could legally choose to independently withhold advertising from any platform or news outlet it chooses, the power and purpose of collusion is obvious. In asking Mr. Rakowitz when the group boycott would end, Ørsted explained that Twitter “is an important platform for us to reach our audience, so we would like to consider going back . . . “ In other words, no single company can unilaterally pull its advertising dollars off of a platform or news outlet over the longer term because that company’s competitors will advertise and reach the audience. Collusion in the advertising space is therefore the only way to guarantee that no individual conspirator takes advantage of the artificial changes in what would otherwise be a free market for advertising space to reach consumers.

Twenty years ago, the Supreme Court described collusion as “the supreme evil of antitrust[.]” Today, this description remains true. If collusion among powerful corporations capable of collectively demonetizing, and in effect eliminating, certain views and voices is allowed to continue, the ability of countless American consumers to choose what to read and listen to, or even have their speech or writing reach other Americans, will be destroyed. Federal antitrust laws do not diminish because GARM or its members claim to have good intentions. And the antitrust laws are still enforceable even if GARM denies the plain language of it contemporaneous documents in testimony to Congress. The Committee will continue its oversight of GARM and the adequacy of existing antitrust laws to determine whether legislative reforms are necessary to address this dangerous, anticompetitive behavior.

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285 Id.
286 HJC-WFA-GARM-000056445, at -446.