

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

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March 22, 2023

Mr. Robert Rakowitz
Initiative Lead and Co-founder
Global Alliance for Responsible Media
132 West 31st Street, 9th floor
New York, NY 10001

Mr. Raja Rajamannar
President
World Federation of Advertisers
132 West 31st Street, 9th floor
New York, NY 10001

Dear Mr. Rakowitz and Mr. Rajamannar:

The Committee on the Judiciary is conducting oversight of the adequacy and enforcement of U.S. antitrust laws.¹ We write because the Global Alliance for Responsible Media (GARM) and the World Federation of Advertisers (WFA) are potentially violating U.S. antitrust law by coordinating their members' efforts to demonetize and eliminate disfavored content online. Accordingly, to inform our oversight, we write to ask GARM and WFA to preserve and provide documents and information.

WFA is an association for international marketers and national advertiser associations.² In 2019, WFA founded GARM 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 GARM's members include more than sixty blue-chip advertisers and leading social media platforms such as Meta, YouTube, TikTok,

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

² See WORLD FED'N OF ADVERTISERS, WHO WE ARE, <https://wfanet.org/about-wfa/who-we-are>.

³ GLOBAL ALL. FOR RESPONSIBLE MEDIA, 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.

and LinkedIn.⁴ WFA claims to represent advertisers with “90% of global marketing communications spend – roughly US\$900 billion per annum.”⁵

GARM coordinates agreements among its members to prevent certain content from benefitting from advertising dollars and to reduce the content’s presence online. First, GARM determines what types of speech are disfavored, bragging that it now has “[e]stablish[ed] shared, common definitions on harmful content for advertising & media.”⁶ For example, GARM’s categories of supposedly “harmful and sensitive content” include “Misinformation,” “Debated Sensitive Social Issue[s],” “Arms & Ammunition,” “Death, Injury or Military Conflict,” and “Hate speech & acts of aggression.”⁷ Within each category, GARM has developed “suitability” levels for social media platforms to restrict this content, and a “safety floor” for “where ads should not appear” at all.⁸

Using these arbitrary standards, GARM works with its members to demonetize and eliminate disfavored content online. Indeed, GARM boasts that it “drove an agreement across advertisers, agencies and platforms to set a framework that limits advertising support” for disfavored content.⁹ GARM reinforces these collusive agreements not to advertise by “[d]riving mutual accountability, and independent verification and oversight.”¹⁰ Specifically, GARM’s aggregated reporting provides industry-wide data on how well social media platforms adhere to GARM’s standards.¹¹ GARM’s efforts ultimately mean that even breaking news or op-ed coverage related to disfavored content may receive limited advertising support, and important content such as “[l]ive action footage/photos of military actions” and supposedly “[i]nsensitive, irresponsible and harmful treatment of debated social issues” may receive none at all.¹² This collusive conduct reduces consumer choice and cuts off access to diverse coverage on matters of national interest.

Under the Sherman Act, these types of agreements harming competition are illegal¹³—whether or not there is “an effect on prices,”¹⁴ and regardless of “[t]he social justifications

⁴ GLOBAL ALL. FOR RESPONSIBLE MEDIA, GARM: 3 YEARS OF PROGRESS 2 (June 20, 2022), https://wfanet.org/l/library/download/urn:uuid:3a93beb9-ff45-4f2d-b94e-488b00ea7237/garm_3+years+of+progress_june+2022.pdf.

⁵ *Id.* at 9.

⁶ GLOBAL ALL. FOR RESPONSIBLE MEDIA, GARM AGGREGATED MEASUREMENT REP. 3 (Nov. 2022), <https://wfanet.org/l/library/download/urn:uuid:df73d819-273f-41d8-9c25-0106c0f9b90a/final+draft+agm+vol+4+november+2022+.pdf>.

⁷ GARM: BRAND SAFETY FLOOR + SUITABILITY FRAMEWORK, *supra* note 3, at 1, 3.

⁸ *See id.* at 1–5.

⁹ GARM: 3 YEARS OF PROGRESS, *supra* note 4, at 4.

¹⁰ GARM AGGREGATED MEASUREMENT REP., *supra* note 6, at 3.

¹¹ *See id.* at 3–7; WORLD FED’N OF ADVERTISERS, ANNUAL REP. 2021 16 (2022), <https://wfanet.org/about-wfa/annual-report-2021>.

¹² GARM: BRAND SAFETY FLOOR + SUITABILITY FRAMEWORK, *supra* note 3, at 3–5.

¹³ *See* 15 U.S.C. § 1; *NCAA v. Bd. of Regents*, 468 U.S. 85, 104 (1984).

¹⁴ *Klor’s, Inc. v. Broadway-Hale Stores, Inc.*, 359 U.S. 207, 213 n.7 (1959); *see Fashion Originators’ Guild of Am. v. FTC*, 312 U.S. 457 (1941).

proffered for [the] restraint of trade.”¹⁵ The harm that GARM causes to consumers is severe. Content creators lose revenue as “advertising investment is steered away from” content that GARM disfavors.¹⁶ Less content is then available as social media platforms remove disfavored material, and as creators and publishers lose income.¹⁷ Importantly, free speech “in the modern public square” online is suppressed¹⁸ as GARM decides the suitability of online speech.¹⁹

Accordingly, to help the Committee better understand GARM’s and WFA’s roles in demonetizing and eliminating disfavored content online, please produce the following documents and information for the period from January 1, 2019, to the present:

1. All documents and communications referring or relating to GARM’s creation, mission, goals, and founding;
2. All documents and communications referring or relating to how GARM and WFA developed GARM’s Brand Safety Floor and Suitability Framework, misinformation guidelines, and demonetization guidelines;
3. All documents and communications—including communications with WFA and GARM members—referring or relating to the categorization, demonetization, and elimination of disfavored content online;
4. All documents and communications—including communications with the Executive Branch of the United States Government—referring or relating to the categorization, demonetization, and elimination of disfavored content online; and
5. All documents and communications referring or relating to WFA’s and GARM’s “delicate balance” between freedom of speech and consumer protection.

Please produce the requested information as soon as possible, but no later than 5:00 p.m. EDT on April 5, 2023.

Furthermore, this letter serves as a formal request to preserve all existing and future records and materials relating to the topics addressed in this letter. You should construe this preservation notice as an instruction to take all reasonable steps to prevent the destruction or alteration, whether intentionally or negligently, of all documents, communications, and other information, including electronic information and metadata, that are or may be responsive to this congressional inquiry. This instruction includes all electronic messages sent using your official

¹⁵ *FTC v. Superior Ct. Trial Laws. Ass’n*, 493 U.S. 411, 424 (1990).

¹⁶ GARM: 3 YEARS OF PROGRESS, *supra* note 4, at 3.

¹⁷ See GARM: 3 YEARS OF PROGRESS, *supra* note 4, at 4 (GARM “is impacting how brands set strategies, how media agencies build media buys, and how platforms and ad tech partners structure their tools.”).

¹⁸ *Packingham v. N. Carolina*, 137 S. Ct. 1730, 1737 (2017); see *Reno v. Am. C.L. Union*, 521 U.S. 844, 870 (1997).

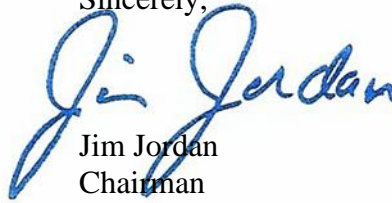
¹⁹ See ANNUAL REP. 2021, *supra* note 11, at 16; GARM: 3 YEARS OF PROGRESS, *supra* note 4, at 3.

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and personal accounts or devices, including records created using text messages, phone-based message applications, or encryption software.

If you have any questions about this request, please contact Committee staff at (202) 225-6906. Thank you in advance for your prompt attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Jim Jordan". The signature is written in a cursive style with a large, stylized "J" and "D".

Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member