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Congress of the United States
House of Representatives
Washington, DC 20515

July 22, 2019

CHAIR, DEMOCRATIC POLICY AND
COMMUNICATIONS COMMITTEE

COMMITTEE ON THE JUDICIARY

CHAIRMAN, SUBCOMMITTEE ON
ANTITRUST, COMMERCIAL
AND ADMINISTRATIVE LAW

SUBCOMMITTEE ON CRIME, TERRORISM
AND HOMELAND SECURITY

COMMITTEE ON FOREIGN AFFAIRS

SUBCOMMITTEE ON
EUROPE, EURASIA, ENERGY, AND
THE ENVIRONMENT

SUBCOMMITTEE ON MIDDLE EAST,
NORTH AFRICA, AND INTERNATIONAL
TERRORISM

SUBCOMMITTEE ON OVERSIGHT
AND INVESTIGATIONS

Jennifer Newstead
General Counsel, Facebook
1601 Willow Road
Menlo Park, CA 94025

Dear Ms. Newstead:

I write in regard to the oversight hearing held last week by the House Subcommittee on Antitrust, Commercial and Administrative Law as part of its broader investigation into competition issues in digital markets.¹ Matt Perault, head of global policy development at Facebook, testified on behalf of your company.

Although I appreciate Facebook's participation in the hearing, I was troubled by some of Mr. Perault's responses to questions from Members of the Subcommittee. In several instances, Mr. Perault claimed he was unfamiliar with basic facts about Facebook or the social media market or offered statements at odds with mainstream reporting. It is unclear whether Mr. Perault's inability to respond to these questions was due to a lack of preparation, purposeful evasion, or Facebook's selection of an inappropriate witness for the hearing.

In light of these concerns, I have attached several of the questions that Mr. Perault was unable or unwilling to fully answer during the hearing. This request is an opportunity for your company to supplement his responses; it does not relieve Facebook from complying with any Questions for the Record or additional requests for information.

Thank you for your prompt attention to this request.

Sincerely,

David N. Cicilline
Chairman
Subcommittee on Antitrust, Commercial
and Administrative Law
Committee on the Judiciary

¹ *Online Platforms and Market Power, Part 2: Innovation and Entrepreneurship: Hearing Before the Subcomm. on Antitrust, Commercial and Admin. Law of the H. Comm. on the Judiciary, 116th Cong. (2019).*

Please fill out and return this form no later than July 26, 2019. While you are free to attach additional materials, if a question asks you to check the appropriate box, please do so where indicated.

1. What is the world's largest social media network by the number of active users?²

2. On what date did Facebook last change its terms and conditions that apply to Facebook users?³ _____

3. Since July 16, 2018, how many times has Facebook changed the terms and conditions that apply to Facebook users?⁴ _____

If the precise number is unknown, please check the box that represents Facebook's best estimate:

- | | |
|--|---|
| <input type="checkbox"/> Between 1-10 | <input type="checkbox"/> Between 11-25 |
| <input type="checkbox"/> Between 26-50 | <input type="checkbox"/> Between 51-100 |
| <input type="checkbox"/> Between 101-150 | <input type="checkbox"/> Over 150 |

4. Does Facebook have an investment fund or venture capital fund?⁵
 Yes No

² *Online Platforms and Market Power, Part 2: Innovation and Entrepreneurship: Hearing Before the Subcomm. on Antitrust, Commercial and Admin. Law of the H. Comm. on the Judiciary, 116th Cong. 68 (2019) (unofficial transcript on file with Majority Staff for the Subcomm. on Antitrust, Commercial and Admin. Law) [hereinafter "Hearing Transcript"] (Mr. Perault responding to Mr. Neguse's question asking Mr. Perault to identify the world's largest social media network company by active users by stating, "I don't [know].")*

³ *Id.* at 61 (Mr. Perault responding to Mr. Johnson's question asking when Facebook last changed its terms and conditions by stating, "We evaluate our terms and conditions on a regular basis" and "We are constantly changing our terms and conditions to ensure that people have the best experience on our product.").

⁴ *Id.* (Mr. Perault responding to Mr. Johnson's question asking Mr. Perault to identify the number of times that Facebook has changed its terms and conditions over the last year by stating, "I don't have the specific data on that" and "I don't have the data.").

⁵ *Id.* at 47-48 (Mr. Perault responding to Mr. Armstrong's question asking about the extent to which Facebook uses venture capital funds to invest in start-ups by stating, "My understanding is that we do not engage in that practice, but I'd be happy to follow up with specifics.").

5. Does Facebook currently dedicate, or has it previously dedicated, any resources to identifying promising tech startups or innovative non-Facebook platforms and apps?⁶

Yes

No

6. What percentage of Facebook Messenger users do not use Facebook?⁷ _____

If the precise percentage is unknown, please check the box that represents Facebook's best estimate:

Between 1-25%

Between 26-50%

Between 51-75%

Between 76-100%

⁶ *Id.* at 41-42 (Mr. Perault responding to Ms. Jayapal's question asking whether Facebook devotes any resources to identifying promising tech start-ups or innovative non-Facebook platforms and apps by stating, "Not to my knowledge, no, Congresswoman" and "We certainly devote resources to understanding the competitive landscape in which we operate, but, no, I believe the answer to your question is no, not to my knowledge."). *But cf.* Deepa Seetharaman & Betsy Morris, *Facebook's Onavo Gives Social-Media Firm Inside Peek at Rivals*, WALL ST. J. (Aug. 13, 2017), <https://www.wsj.com/articles/facebooks-onavo-gives-social-media-firm-inside-peek-at-rivals-users-1502622003> (reporting that Facebook's 2013 purchase of Onavo was "crucial to helping Facebook track rivals and scope out new product categories" and information collected through Onavo "shapes Facebook's product and acquisition strategy"); Josh Constone, *Facebook pays teens to install VPN that spies on them*, TECHCRUNCH (Jan. 29, 2019), <https://techcrunch.com/2019/01/29/facebook-project-atlas/> ("Desperate for data on its competitors, Facebook has been secretly paying people to install a 'Facebook Research' VPN that lets the company suck in all of a user's phone and web activity, similar to Facebook's Onavo Protect app that Apple banned in June and that was removed in August"); Jacob Kastrenakes, *Facebook will pay you to let it track what you do on your phone*, THE VERGE (Jun. 11, 2019), <https://www.theverge.com/2019/6/11/18661595/facebook-study-app-monitor-phone-usage-pay> ("Facebook will once again begin paying people to monitor how they use their phone through a new app called Study. The app will monitor which apps are installed on a person's phone, the time spent using those apps, the country you're in, and additional app data that could reveal specific features you're using, among other things.").

⁷ Hearing Transcript, *supra* note 2, at 90 (Mr. Perault responding to Mr. Armstrong's question asking what percent of people that use Facebook Messenger do not use Facebook by stating, "I do not have that data.").

cc:

The Honorable Doug Collins, Ranking Member, Committee on the
Judiciary

The Honorable James F. Sensenbrenner, Jr., Ranking Member,
Subcommittee on Antitrust, Commercial and Administrative Law,
Committee on the Judiciary