

## **SCHEDULE**

Please submit the following:

Request A. General Information:

1. The most recent organization chart available for the Company as a whole and for each of the Company's U.S. divisions.
2. A description of each of the Company's products and services listed below:
  - a. Facebook;
  - b. Facebook Ads;
  - c. Facebook Messenger;
  - d. Instagram;
  - e. WhatsApp; and
  - f. Oculus.
3. All information—whether created by the Company or a third party—regarding the U.S. market share of the Company and each of the Company's competitors in any market in which the Company offers or sells the following products or services since January 1, 2016:
  - a. Facebook;
  - b. Facebook Ads;
  - c. Facebook Messenger;
  - d. Instagram;
  - e. WhatsApp; and
  - f. Oculus.
4. A list of the Company's top ten competitors for each of the products and services listed below and a description of why the Company views each of the companies identified as a competitor:
  - a. Facebook;
  - b. Facebook Ads;
  - c. Facebook Messenger;
  - d. Instagram;
  - e. WhatsApp; and
  - f. Oculus.
5. A list of the Company's top ten customers by revenue for each of the Company's products and services listed below:
  - a. Facebook Ads;
  - b. Facebook Payments; and

c. Oculus.

6. All financial statements or reports prepared on an annual or quarterly basis by or on behalf of the Company since January 1, 2016, including profit-and-loss reports for each of the Company's products and services listed below:

- a. Facebook;
- b. Facebook Ads;
- c. Facebook Messenger;
- d. Instagram;
- e. WhatsApp; and
- f. Oculus.

If the Company does not prepare or maintain financial statements, including profit-and-loss statements, for the above-listed products or services in the ordinary course of business, the Company should (i) submit the revenues, costs, and expenses for each product or service listed; and (ii) use its best efforts to provide a profit-and-loss statement for each product or service.

- 7. All documents produced in any prior investigation or litigation involving a U.S. or foreign government entity, including U.S. state attorneys general offices, which were submitted to the U.S. or foreign government entity within the past ten years relating to any transaction that is reviewable under Section 7 of the Clayton Act or to allegations that the Company engaged in anti-competitive practices or otherwise violated antitrust laws.
- 8. A list of all cases filed against the Company in U.S. federal or state court by a non-state entity within the past ten years relating to any allegations that the Company engaged in anti-competitive practices or otherwise violated antitrust laws, including the relevant court, a summary of the allegations, and current status of the case.
- 9. All memoranda, white papers, studies, reports, surveys, presentations, or other analyses submitted by or on behalf of the Company to the U.S. Department of Justice's Antitrust Division, the Federal Trade Commission, or any other government entity within the past ten years relating to any transaction that is reviewable under Section 7 of the Clayton Act or to allegations that the Company, or any other company, engaged in anti-competitive practices or otherwise violated antitrust laws.

Request B. Executive Communications:

For purposes of Requests B.1-3, the term "Relevant Executives" means: Mark Zuckerberg, Sheryl Sandberg, Jennifer Newstead, Javier Olivan, Chris Cox, Mike Schroepfer, David Wehner, Colin Stretch, Will Cathart, Adam Mosseri, Stan Chudnovsky, Fidji Simo, Chris Daniels, Erin Egan, and Kevin Martin.

- 1. All communications to or from the Relevant Executives relating to the following:

- a. Facebook's acquisition of Instagram, including but not limited to discussions regarding any competitive threat posed by Instagram, whether Facebook should acquire Instagram, the strategic value of acquiring Instagram, the amount Facebook should pay for Instagram, and any antitrust risks associated with acquiring Instagram.
- b. Facebook's acquisition of WhatsApp, including but not limited to discussions regarding any competitive threat posed by WhatsApp, whether Facebook should acquire WhatsApp, the strategic value of acquiring WhatsApp, the amount Facebook should pay for WhatsApp, and any antitrust risks associated with acquiring WhatsApp.
- c. Facebook's acquisition of Onavo, including but not limited to discussions regarding any competitive threat posed by Onavo, whether Facebook should acquire Onavo, the strategic value of acquiring Onavo, the amount Facebook should pay for Onavo, and any antitrust risks associated with acquiring Onavo.
- d. Facebook's decision to cut off the following apps from its social graph:
  - i. MessageMe;
  - ii. Phhphoto;
  - iii. Stackla;
  - iv. Tiiny;
  - v. Vine; and
  - vi. Voxer.<sup>1</sup>
- e. Spreadsheets, charts, or any documents tracking developer access to Application Programming Interfaces (APIs).<sup>2</sup>
- f. Facebook's decision to deny any specific app or any categories of apps access to Facebook's APIs.<sup>3</sup>
- g. Facebook's decision to require that any specific app or any categories of apps purchase ads on Facebook in order to maintain access to Facebook APIs or to maintain access to any user data.<sup>4</sup>

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<sup>1</sup> See, e.g., Kim-Mai Cutler, *Facebook Brings Down the Hammer Again: Cuts Off MessageMe's Access To Its Social Graph*, TECHCRUNCH (Mar. 16, 2013), <https://techcrunch.com/2013/03/15/facebook-messageme/>; Josh Constone, *Instagram Cuts Off Kevin Rose's Photo App Tiiny From Its Social Graph*, TechCrunch (Oct. 4, 2016), <https://techcrunch.com/2014/10/04/instagram-tiiny/>; Josh Constone, *Instagram Cuts Off Hot GIF App Phhphoto From Its Social Graph*, TECHCRUNCH (Apr. 24, 2015), <https://techcrunch.com/2015/04/24/nochill/>; Paul Smith, *Aussie IPO hopeful in limbo after sudden Facebook ban*, AUSTRALIAN FIN. REV. (Sept. 3, 2019), <https://www.afr.com/technology/aussie-ipo-hopeful-in-limbo-after-sudden-facebook-ban-20190901-p52mxb>.

<sup>2</sup> See e.g., Carole Cadwalladr & Emma Graham-Harrison, *Zuckerberg set up fraudulent scheme to 'weaponise' data, court case alleges*, GUARDIAN (May 24, 2018), <https://www.theguardian.com/technology/2018/may/24/mark-zuckerberg-set-up-fraudulent-scheme-weaponise-data-facebook-court-case-alleges>.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

- h. Spreadsheets, charts, or any documents tracking Onavo data on third-party apps, including but not limited to data relating to user usage patterns of third-party apps.<sup>5</sup>
  - i. Citation of Onavo data, including but not limited to discussions regarding any potential or actual competitors, any competitive threat, any features that Facebook should consider introducing, and any companies that Facebook should consider acquiring.<sup>6</sup>
  - j. Spreadsheets, charts, or any documents tracking developers involved in the FbStart Program.<sup>7</sup>
  - k. Facebook's Platform Policy section 4.1, including but not limited to Facebook's decision to adopt, modify, or eliminate the policy. Platform Policy 4.1 stated: "Add something unique to the community. Don't replicate core functionality that Facebook already provides."<sup>8</sup>
2. All communications to or from the Relevant Executives from January 1, 2009 to the present that discuss:
- a. Any prior investigation or litigation involving a U.S. or foreign government entity, including U.S. state attorneys general offices, within the past ten years relating to any transaction that is reviewable under Section 7 of the Clayton Act or to allegations that the Company engaged in anti-competitive practices or otherwise violated antitrust laws.
  - b. Any cases filed against the Company in U.S. federal or state court by a non-state entity within the past ten years relating to any allegations that the Company engaged in anti-competitive practices or otherwise violated antitrust laws.
  - c. Memoranda, white papers, studies, reports, surveys, presentations, or other analyses submitted by or on behalf of the Company to the U.S. Department of Justice's Antitrust Division, the Federal Trade Commission, or any other government entity within the past ten years relating to any transaction that is reviewable under Section 7 of the Clayton Act or to allegations that the Company, or any other company, engaged in anti-competitive practices or otherwise violated antitrust laws.
3. All communications to or from the Relevant Executives from January 1, 2009 to the present that discuss:

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<sup>5</sup> See, e.g., Deepa Seetharaman & Betsy Morris, *The New Copycats: How Facebook Squashes Competition From Startups*, WALL ST. J. (Aug. 13, 2017), <https://www.wsj.com/articles/the-new-copycats-how-facebook-squashes-competition-from-startups-1502293444>.

<sup>6</sup> *Id.*

<sup>7</sup> See e.g., Bill Goodwin & Sebastian Klovig Skelton, *Facebook's privacy game – how Zuckerberg backtracked on promises to protect personal data*, COMPUTERWEEKLY.COM (July 1, 2019), <https://www.computerweekly.com/feature/Facebooks-privacy-U-turn-how-Zuckerberg-backtracked-on-promises-to-protect-personal-data>.

<sup>8</sup> See e.g., Josh Constone, *Facebook ends platform policy banning apps that copy its features*, TECHCRUNCH (Dec. 4, 2018), <https://techcrunch.com/2018/12/04/facebook-allows-competitors>.

- a. The Clayton Act, the Sherman Act, the Hart-Scott-Rodino Act, the Robinson-Patman Act, or the Federal Trade Commission Act.
- b. Actual or potential actions by the Company or its officers or employees that were identified by the Company's officers or employees as raising issues concerning actual or potential violations of the Acts specified in Request B.3.a.

## **DEFINITIONS**

As used in the Schedule, the following terms shall be interpreted in accordance with these definitions:

1. “And,” and “or,” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of the request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa.
2. “Any” includes “all,” and “all” includes “any.”
3. “Communication(s)” means the transmittal of information by any means, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic message including email, text message, instant message, MMS or SMS message, encrypted message, message application, social media, or otherwise.
4. “Company” means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
5. “Employee” means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
6. “Document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra-office communications, call records, electronic mail (“e-mail”), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, power point presentations, spreadsheets, and work sheets. The term “document” includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto.
7. “Documents in the Company’s possession, custody, or control” means (a) documents that are in the Company’s possession, custody, or control, whether held by the Company or the Company’s past or present agents, employees, or representatives acting on the Company’s behalf; (b) documents that the Company has a legal right to obtain, that the Company has a right to copy, or

to which the Company has access; and (c) documents that have been placed in the possession, custody, or control of any third party. This includes but is not limited to documents that are or were held by the Company's attorneys.

8. "Each" shall be construed to include "every," and "every" shall be construed to include "each."
9. "Government" shall include any government's present and former agencies, branches, units, divisions, subdivisions, districts, public corporations, employees, elected and appointed officials, ambassadors, diplomats, emissaries, authorities, agents, assignees, and instrumentalities. This includes, but is not limited to, any government-controlled business entities, entities in which the government has a financial interest, and any person acting or purporting to act on the government's behalf.
10. "Including" shall be construed broadly to mean "including, but not limited to."
11. "Information" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: documents, memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra-office communications, call records, electronic mail ("e-mail"), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, power point presentations, spreadsheets, and work sheets.
12. "Person" or "persons" means natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units, thereof.
13. "Relating to" or "regarding" shall mean discussing, describing, reflecting, containing, analyzing, studying, reporting, commenting, evidencing, constituting, comprising, showing, setting forth, considering, recommending, concerning, or pertinent to that subject in any manner whatsoever.
14. "Communications to or from" includes communications on which a person was a direct addressee, copied addressee, or blind-copied addressee.
15. Any word or term that the Company considers vague or insufficiently defined has the meaning most frequently assigned to it by the Company in the ordinary course of business.

## **INSTRUCTIONS**

1. In responding to the request, the Company should produce all responsive documents in unredacted form that are in the Company's possession, custody, or control or otherwise available to the Company, regardless of whether the documents are possessed directly by the Company.
2. Documents responsive to the request should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.
3. If you disagree with the premise of how a request is phrased or structured, please respond to the request as written and then articulate both the premise about which you disagree and the basis for that disagreement.
4. In addition to the individuals listed as "Relevant Executives," each Party must also search (a) the files of any predecessors or successors of the individuals identified on the "Relevant Executives" list in B.1. that are responsive to the request; (b) the files of secretaries and other administrative personnel who support any of the individuals identified as "Relevant Executives"; and (c) any centralized hard-copy or electronic files, databases, data sets, or other shared repositories of potentially responsive information.
5. In the event that a document is withheld in full or in part on any basis, including a claim of privilege, the Company should provide a log containing the following information concerning every such document: (a) the reason the document is not being produced; (b) the type of document; (b) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) any other description necessary to identify the document and to explain the basis for not producing the document. For each document withheld under a claim that it constitutes or contains attorney work product, also state whether the Company asserts that the document was prepared in anticipation of litigation or for trial and, if so, identify the anticipated litigation or trial upon which the assertion is based. For each author, addressee, and recipient, state the Person's full name, title, and employer or firm and denote all attorneys acting in a legal capacity with an asterisk. Include a separate legend containing an alphabetical list (by last name) of each name on the privilege log identifying titles, company affiliations, the members of any group or email list on the log (e.g., the Board of Directors) and list all attorneys acting in a legal capacity with the designation ESQ after their name (include a space before and after the "ESQ"). If a claimed privilege applies to only a portion of any document, that portion only should be withheld and the remainder of the document should be produced. As used herein, "claim of privilege" includes, but is not limited to, any claim that a document either may or must be withheld from production pursuant to any law, statute, rule, policy or regulation. Produce the log and legend in electronic form that is both searchable and sortable.
6. In responding to the request, be apprised that (unless otherwise determined by the Committee) the Committee does not recognize: any purported non-disclosure privileges associated with the common law including, but not limited to the deliberative-process privilege, the attorney-client privilege, and attorney work product protections; any



purported privileges or protections from disclosure under the Freedom of Information Act; or any purported contractual privileges, such as non-disclosure agreements.

7. Any assertion of any such non-constitutional legal bases for withholding documents or other materials, shall be of no legal force and effect and shall not provide a justification for such withholding or refusal, unless and only to the extent that the Committee has consented to recognize the assertion as valid.
8. If any document responsive to the request was, but no longer is, in the Company's possession, custody, or control, or has been placed into the possession, custody, or control of any third party and cannot be provided in response to the request, the Company should identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in the Company's possession, custody, or control, or was placed in the possession, custody, or control of a third party, including, but not limited to (a) how the document was disposed of; (b) the name, current address, and telephone number of the person who currently has possession, custody, or control over the document; (c) the date of disposition; and (d) the name, current address, and telephone number of each person who authorized said disposition or who had or has knowledge of said disposition.
9. If any document responsive to the request cannot be located, describe with particularity the efforts made to locate the document and the specific reason for its disappearance, destruction or unavailability.
10. In the event that any entity, organization, or individual named in the request has been, or is currently, known by any other name, the request should be read also to include such other names under that alternative identification.
11. All documents should be produced with Bates numbers affixed. The Bates numbers should be unique, sequential, fixed-length numbers and should begin with a prefix referencing the name of the producing party (e.g., ABCD-000001). This format should remain consistent across all productions. The number of digits in the numeric portion of the format should not change in subsequent productions, nor should spaces, hyphens, or other separators be added or deleted. All documents should be Bates-stamped sequentially and produced sequentially.
12. Documents produced in response to the request should be produced in the order in which they appear in the Company's files and should not be rearranged. Any documents that are stapled, clipped, or otherwise fastened together should not be separated. Documents produced in response to the request should be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was issued. Indicate the office or division and person from whose files each document was produced.
13. Responsive documents should be produced regardless of whether any other person or entity possesses non-identical or identical copies of the same document.

14. Produce electronic documents as created or stored electronically in their native format. Documents produced in electronic format should be organized, identified, and indexed electronically, in a manner comparable to the organization structure called for in Instruction 11 above.
15. Responsive documents should be produced in color where necessary to interpret the document.
16. Data may be produced on CD, DVD, memory stick, USB thumb drive, hard drive, or via secure file transfer. Label all media with the following:
  - a. Production date;
  - b. Bates range; and
  - c. Disk number (1 of X), as applicable.
17. If a date or other descriptive detail set forth in the request referring to a document, communication, meeting, or other event is inaccurate, but the actual date or other descriptive detail is known to the Company or is otherwise apparent from the context of the request, the Company should produce all documents which would be responsive as if the date or other descriptive detail were correct.
18. The request is continuing in nature and applies to any newly discovered document, regardless of the date of its creation. Any document not produced because it has not been located or discovered by the return date should be produced immediately upon location or discovery subsequent thereto.
19. Two sets of each production shall be delivered, one set to the Majority Staff and one set to the Minority Staff. Production sets shall be delivered to the Majority Staff in Room 6240 O'Neill House Office Building and the Minority Staff in Room 2142 of the Rayburn House Office Building. The Company should consult with Committee Majority Staff regarding the method of delivery prior to sending any materials.
20. If the Company's response to the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
21. Upon completion of the document production, please submit a written certification stating that: (1) a diligent search has been completed of all documents in the Company's possession, custody, or control which reasonably could contain responsive documents; (2) documents responsive to the request have not been destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee since the date of receiving the Committee's request or in anticipation of receiving the Committee's request, and (3) all documents identified during the search that are responsive have been produced to the Committee, identified in a log provided to the Committee, or otherwise identified as provided herein.
22. A cover letter should be included with each production including the following information:

- a. List of each piece of media (hard drive, thumb drive, DVD or CD) included in the production by the unique number assigned to it, and readily apparent on the physical media;
- b. List of fields in the order in which they are listed in the metadata load file;
- c. The paragraph(s) and/or clause(s) in the Committee's request to which each document responds;
- d. Time zone in which emails were standardized during conversion (email collections only); and
- e. Total page count and bates range for the entire production, including both hard copy and electronic documents.