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Senator Josh Hawley
Questions for the Record

Roger Lynch
CEO, Condé Nast

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1. Are Google, Meta, and other social media responsible for a great deal of your company's online traffic?

All digital publishers are heavily reliant on search engines to originate traffic to their sites. Increasingly that search is dominated by Google.

Depending on the platform, social media is of importance to our business for a variety of reasons. For some of the platforms our strategy is focused on building presence to grow brand awareness and consumer sentiment for our titles. For other social platforms, like Facebook, referral traffic from that platform, based on how that particular platform operates, has been an important monetization component to most digital publishing businesses, especially in the news space. When Facebook deprioritized news content in 2023, companies immediately saw their referral traffic decline, reportedly upwards of 80% for some, and with it, advertising revenue.

2. Does your company use Google's advertising technology services to buy or sell advertising space?

Google is the single largest buyer and seller of online advertising space, operating the largest exchange for digital advertising transactions. As such most digital publishers, including Condé Nast, use Google advertising technology services.

3. Does your company purchase advertising space on Meta's services?

Condé Nast purchases some brand advertising on Meta platforms to reach targeted audiences and support the growth of our brands.

4. Does your company allow Google bots to bypass paywalls to index your content?

Google's content discovery technology is essential for our content to be found and presented in Google search for consumers. Our technology allows Google's discovery bots to bypass paywalls so that we can build our audience and then sell advertising and subscriptions.

Separately, the Google bot associated with AI training is excluded from all our sites, both those open to the public and those behind a paywall. Unfortunately, we believe that

Google accessed mass amounts of our content for the purpose of training AI before making available any means of excluding this bot.

Google's consumer-facing AI blends both search and generative output, so the consumer may well see our content from behind the paywall in response to AI prompts even though we exclude the Google AI bot from our sites.

5. Do you believe the answers to the preceding three questions give Google, Meta, or other big tech companies an unfair advantage when it comes to bargaining for use of your company's content?

As you would expect, it is very difficult to negotiate with large tech companies that have the power and willingness to use our copyrighted content without permission or compensation, and which have the power to affect our traffic at will. We are always concerned that if we cannot reach an agreement, our business can be damaged by retaliation.

6. Have any of these companies approached Condé Nast to ask for permission to train their AI models on your content? Or did they simply do it without asking?

It is abundantly clear that these companies have trained their models on our content, without our consent, without a license, and without compensation. The models are already trained. We have had conversations with some of these companies, but regarding licensing, they have articulated to us that they believe they are entitled to our content that has trained their models for free. Some companies talk about offering training opt-outs for content owners, but given that the models are already trained, the opt-out is too late, and generally does not affect the use of content for search. The combination of search and generation called "RAG" makes it very difficult for a consumer to tell what is generated by a large language model and what is copied from the internet or other sources.

7. Do you believe the AI models developed by these companies will increase their market power?

Yes and this is why we are urging congress to take action. The issue is no longer just about market power - their power has been well established and is growing every year. Now, with generative AI and the misappropriation of our content to build this rapidly expanding technology, they are directly threatening the viability of the entire digital publishing ecosystem.

Today's Gen AI tools maintain copies of the works they train on, including our content, and output the substance – sometimes verbatim, sometimes paraphrased – while keeping 100% of the value for themselves. They are training consumers to use and stay on their platforms for information and content instead of the original sources of that information and content. Unlike traditional search, they are keeping consumers within their experiences, depriving us of the opportunity to connect with our audiences directly,

customize their content for them, and generate advertising and subscription revenue. By misappropriating our content in this way, they are directly threatening the viability of the entire media ecosystem.

8. From your experience with these companies in the past, do you think the increase in their market power will be good or bad for Condé Nast's readers?

In its current state, we are concerned with Generative AI's contribution to consumer confusion and misinformation. Condé Nast has established journalistic principles in place, honed over decades, to fact check and produce journalism and content that is accurate for consumers. Generative AI has proven it is incapable of providing accurate information consistently (audio, visual, written or otherwise) with appropriate source labeling.

For example, Gen AI can generate outputs that are customized for individuals, supporting the use of the technology to create misinformation and content that is often indiscernible from what is real. Even more troubling, Gen AI "hallucinates" and generates misstatements that are sometimes attributed to trusted publications like ours. And because these problems are well known, consumers can become distrustful of all published information, because they can't tell if the information they are receiving is truly coming from trusted sources. In comparison, our company and companies like ours depend on customer trust in us. It is critical to our enterprise that others do not undermine consumer trust and that we continue to have the revenue opportunities to support this journalism and fact-checking processes. The best way to fight disinformation and misinformation is robust professional journalism from sources that consumers trust.

9. Do you believe these companies could use generative AI technology to divert advertising dollars from Condé Nast?

We have already seen how the permissionless use of content causes harm to news, content creation and, ultimately, the public. Over sixty percent (60%) of all digital advertising revenue flows to three companies – Google, Amazon and Meta. Recent reporting has cited 8,000 journalism jobs were cut in 2023 alone in the US, UK, and Canada. Additionally, a recent economic study conducted by academic researchers and the Brattle Group sheds light on the reason, concluding that existing deals between news media companies and platforms do not come close to capturing the value generated by news content on the platforms. This report estimates that, under the framework of the Journalism Competition & Preservation Act, Facebook and Google Search would owe news publishers between $11.9 and $13.9 billion annually. And this was all before generative AI became a publicly accessible tool for information.

10. Could this affect Condé Nast's ability to publish its content?

Producing content and publishing information that adheres to standards of journalism, prioritizing consumer trust and accuracy, requires tremendous effort and resources. We

employ thousands to create and distribute our journalism. All our publications have specific rules for fact checking, attribution of quotes and other steps requiring human judgment before publication. We are now seeing that outputs from AI are making this work even harder, as publishers now need to expend resources to ensure images and other accounts aren't AI-generated fakes, for example. These efforts are paid for by revenue from subscriptions, advertising, e-commerce and licensing, all of which depend on consumer traffic - the very traffic threatened by Gen AI.

11. Please explain your view on why using published content for training AI models is not (or should not be) fair use.

Fair use is designed to allow uses such as criticism, parody, scholarship, research and news reporting which does not have an adverse effect on the market for the original copyrighted material. It is that market that creates the incentive to invest and innovate in content – and in a way the market supports journalism and innovation in the long run. Fair use is not intended simply to enrich technology companies that prefer not to pay. Content is the raw material of Gen AI and it should be licensed and compensated.

Currently deployed Gen AI tools have been built with stolen goods. Gen AI companies copy our copyrighted content without permission or compensation in order to build massive commercial businesses that use our content to directly compete with us. Such use is not permitted by copyright law and threatens the continued production of high-quality media content.

These companies argue that their machines are just "learning" from reading our content just as humans learn, and that no licenses are required for that. But this is a false analogy. Gen AI models do not learn like humans do. While they encode in new and unique ways, there are many examples where they output content plainly derived from the works they ingest. In effect they are mashing up copies at enormous scale and speed. Just as copyright law does not permit a human to replicate and regurgitate copyrighted material for the purpose of commercial gain without a license, it does not allow Gen AI companies to do so.

Litigation focusing on this question will take time and is prohibitively expensive, which benefits Gen AI companies and disadvantages right holders. We do believe that there is a solution here that is quite simple - Congress should clarify that Gen AI's use of copyrighted content is not protected as fair use. Technology companies have already proven their ability to license content. They have done it in music and have created their own music services. They have also done it in television, and created their own streaming TV services. This proves they have the ability and desire to license content when there is a framework that is clear that they have to. They need that clarity now.

12. OpenAI provides outlets the ability to request that their content not be used to train AI models. Do other AI companies provide Condé Nast with the same option?

See the answer to Question 4

13. OpenAI claims that regurgitation of published content is a "rare bug." Has Condé Nast content ever been, to your knowledge, regurgitated in such a "rare" occurrence?

Yes. We have many examples of this occurrence across multiple brands where content is "regurgitated" word for word, or is slightly paraphrased. We also have other examples where a prompt seeks suggestions or rankings association with one of our brands, and the "regurgitation" includes inaccurate information that undermines consumer trust in our brands. In both instances, the commercial damage is significant.

14. Does Condé Nast anticipate using generative AI to generate written copy in any of its publications?

Conde Nast has a policy in place that prohibits published content to be solely generated by AI unless that content's subject matter is AI and the content itself is to report on or make a point about the technology.

15. Does Condé Nast anticipate using generative AI to generate images for inclusion in any of its publications?

There are no plans to do so at this time. However, related to image generation, we are expending resources to ensure that non-sourced images and fakes do not appear in our publications or inform our reporting.

16. Does Condé Nast anticipate using generative AI in any other capacity in the production of its publications?

We may use generative AI for internal workflow uses and content ideation. We have no intention of turning away from our decades-long commitment to professionally gathered, fact-checked journalism.

17. Do you anticipate that generative AI models could replace any current Condé Nast employees?

Our talent is our greatest asset, and we have no such plans. New technologies have and will again cause our organization to adapt and may lead us to need new and different skills among our workforce.