

**Questions for the Record**  
**Honorable Mary Gay Scanlon**  
**Online Platforms and Market Power Part 2: Innovation and**  
**Entrepreneurship**  
**July 16, 2019**

Questions for Adam Cohen, Director of Economic Policy, Google

1. CreativeFuture—a coalition representing 555 organizations and more than 250,000 people in the creative rights community—has raised concerns about the effect of copyright theft on Facebook and Google on the competitive process. As Ruth Vitale, the CEO of CreativeFuture, notes in a submission for the record, “unfair methods of competition often facilitated and sometimes practiced by the massive internet platform providers results in less creative content than otherwise would exist, fewer new voices, and harm to legitimate sources of distribution.”
  - What is your response to the concern of people in the creative rights community that YouTube has little economic incentive to combat widespread copyright theft, and that this has distorted the market for online streaming of movies and television?
2. CreativeFuture also reports that Google and Facebook’s failure to adequately address piracy and infringement is posing an existential threat to the independent film and TV industry. It seems that Google and Facebook’s market power in online distribution means they face no real ramifications for this failure. YouTube receives 900 million takedown notices over a year, many of times for the same content.
  - a. What processes does Google have in place to adequately protect content producers?
3. Dozens of websites have reported that Google has copied their content without attribution to build out Google’s own competing products and to keep users within Google’s ecosystem. The Federal Trade Commission investigated this conduct in 2012 and concluded that the “natural and probable effect of Google’s conduct is to diminish the incentives of vertical websites to invest in, and to develop, new and innovative content.”

The Commission’s staff also recommended that the FTC bring an antitrust lawsuit against Google for this conduct. Although Google agreed to voluntary changes to settle the Commission’s investigation of this conduct, it appears that Google still engages in scraping for its information box, the panel that Google uses to highlight its own content.

  - Mr. Cohen, does it remain Google policy to systematically copy the content of third-parties for its information boxes?

4. Recently, the founders of Genius—a website dedicated to producing accurate song lyrics—publicly shared that for two years Google has been displaying, or “scraping”, lyrics copied from Genius in its information box, which takes up 40% of a desktop results page and 80% of a mobile results page. As they noted, this appropriation of third-party content makes it unlikely that users will ever leave Google in favor of the site that actually produces the content.

In fact, the founders of Genius approached Google about copying their product, but Google did nothing to address the issue for over two years. It was only after Genius shared its account with the Wall Street Journal that Google sprung into action and fixed the problem.

- Mr. Cohen, in response to this report, Google stated that it does not scrape or crawl third-party websites for lyrics. But what process does Google have in place for content producers to report widespread copying of their content?
  - Is it Google’s policy to only address the concerns of content producers when they go public?
5. In addition to the lack of consequences for the market power Google and YouTube have over the film and television industry, their platforms also compete with these industries – specifically YouTube. Google produced a report titled *How Google Fights Piracy* that discusses the efforts you all have made to de-rank pirated content on your site, but I’m concerned that these efforts may not be uniform across the board.

When Googling original shows produced by YouTube Premium for pirated versions, nothing comes up. However, when you search for pirated versions of shows like *Game of Thrones*, or even far less popular shows like Netflix’s *Russian Doll* or HBO’s *Barry*, a litany of torrented versions comes up.

- This discrepancy in the availability of pirated content suggests that Google is offering preferential treatment for their content to the detriment of other content producers – a practice which at best could be an oversight but at worst could be an attempt to dilute web traffic for competing content providers. Can you explain this discrepancy?
- Can you provide details on how you decide which pirated content to take down and when?
- Can you provide information on how pirated content is taken down?