

**Responses for the Record from the Honorable David N. Cicilline, Chairman,
Subcommittee on Antitrust, Commercial and Administrative Law of the Committee on the
Judiciary**

Responses from Sonos, Inc.

March 27, 2020

- 1. Sonos both depends on Google and Amazon but also finds itself in competition with their smart home products. Could you describe how this dynamic plays out and what it means for fair competition?**

Sonos depends on our partnerships with Amazon and Google because those companies are virtually indispensable to conducting our business. They control the two leading general voice assistants (Google Assistant and Amazon Alexa) on smart speakers, which are commercially significant features for our smart speakers. Certain functions and capabilities, including the ability to ask a question or search for product information, are important to have on smart speakers. As a result, Sonos believes that having Google Assistant and Amazon Alexa incorporated into our smart speakers is essential. In addition, Google and Amazon provide us with vital operating platforms (such as AWS), and are extremely important to the sales and marketing of our products as a result of their domination in search and e-commerce, respectively. In turn, Amazon and Google benefit from the access they receive to Sonos's growing customer base of over 10 million highly desirable households.

As discussed in our testimony before this Committee on January 17, 2020, Sonos is concerned that these companies are leveraging their dominance to conquer or destroy adjacent markets, especially markets that may one day pose a threat to their dominance. In addition, Sonos is concerned that these giants are exploiting their role as essential business partners to tilt the playing field in favor of their own products and services. When dominant companies use the scope of their platforms and their dominance in certain markets to distort competition, it unfairly disadvantages competitors and ultimately harms consumers. As a practical matter, the dominance of these companies manifests itself in their ability to extract unreasonable contract terms, including, for example, obtaining unwarranted termination rights and unreasonably early and detailed access to Sonos's product roadmap (information that can be particularly damaging if misused given the competitive dynamic between these companies and Sonos).

Lastly, Sonos is concerned about exclusionary behavior that can harm innovation. For example, Sonos invented the ability to use two voice assistants on the same smart speaker, which we call "concurrency". This innovation was considered an important value proposition by our customers. Initially, both companies felt threatened by the technology and sought to suppress it, although currently only one (Google) still opposes concurrency. By refusing to allow for concurrency, a user of a smart speaker is forced to pick a default voice assistant and changing default assistants is a time-consuming, multistep, manual process, making the default assistant "sticky."

The refusal to allow for concurrency deprives consumers of a valuable innovation, among other harms.

Our reliance upon Amazon and Google on their services also places us in a disadvantaged position. We partner on advertising, e-commerce, cloud services, and productivity suites, among other tools. Negotiating with these companies over the terms governing these services makes us vulnerable to retaliation with respect to our smart speakers.

2. What types of data do Amazon or Google collect through their partnership with Sonos? What are some ways that the platforms have used, or could use, this data to advantage their own business or disadvantage yours?

Amazon and Google have gained access to detailed, non-public data from our partnership, including upcoming product release information. Google and Amazon can use this proprietary information obtained from the partnership to make copycat products. For example, Google has released products incorporating proprietary technology Sonos shared pursuant to our business partnership. These companies would not have access to our non-public information if they were not essential to carry on our smart speakers. In addition, this is not a two-way arrangement, but one in which Amazon and Google receive data about voice assistant usage from our customers while providing little data to Sonos in return. This unequal data sharing is particularly important with respect to voice assistant usage, because our engineers need certain voice data to understand whether our smart speakers are functioning properly.

We also remain concerned about the quantity of information gathered by Amazon and Google through other commercial partnerships. Both companies glean data from Sonos with respect to our use of their cloud infrastructures (AWS and Apigee, respectively), our use of Amazon's e-commerce services, and our advertising on Google. These services all provide these companies with voluminous information about our products and business strategy.

3. You've noted that the dominant platforms will require Sonos to hand over detailed product roadmaps months and months in advance. Google and Amazon would probably say this early access is necessary for them to make sure they get the technical integration right and avoid hiccups down the road.

a. What is your response to that?

b. How necessary is this long lead time, and is there reason to think these companies could be using the guise of technical necessity to further their own business at the expense of Sonos?

Google and Amazon both demand an early look at our product roadmaps when integrating their voice assistants. This is part of their product certification processes, in which they approve -- or do not approve -- whether a product can include their voice assistant technology.

Sonos believes that Google has demanded seeing products unreasonably far in advance (over 1 year), beyond the few months necessary for certification. The information Google asks for is

extremely sensitive to Sonos and can allow Google to create copycat products. For example, the information may reveal Sonos's go-to-market strategy or allow Google to map our supply chain and sourcing. Finally, even after providing the detailed requirements, the certification "tests" can be vague or change at any time, allowing for any number of reasons to reject or delay a product. This creates uncertainty for Sonos as an innovator and allows for Google to control which products enter the market.

Amazon's ability to receive detailed information about our products from our partnership and sales on its marketplace also means that it is capable of developing copycat products despite a shorter certification lead time than Google.

4. In your written testimony, you discuss how Google and Amazon have subsidized their smart speakers by selling them at a loss. What effects does Google and Amazon selling their smart home products at a loss have on the market?

If Amazon and Google are persistently selling their entry-level products – in particular the various versions of the Google Home Mini (now Nest Mini) and Echo Dot – at artificially low prices, it can undermine the ability of companies like Sonos to compete, ultimately reducing consumer choice and innovation. Importantly, Sonos believes that Amazon and Google's costs do not account for marginal costs or royalties for valid intellectual property owned by Sonos and are therefore likely understated for purposes of assessing predatory pricing. In addition, only a handful of companies are similarly positioned to act as "loss leaders" in the medium to long term. Sonos's success is highly dependent upon the ability to deliver operating profit margins that reflect a healthy and sustainable organization that is able to deliver for consumers and investors alike and therefore it is not sustainable for us to act as a "loss leader."

- 5. You assert that while this pricing strategy may benefit consumers through lower prices in the short term, it poses competitive threats for the future.**
- a. Can you elaborate on the competitive threats you foresee and how consumers will be harmed in the long run?**
 - b. What kind of effect do you anticipate these practices might have on the likelihood that new competitors will enter the market?**

Several characteristics exhibited in digital markets create conditions that may lead to the long-term foreclosure of competitive threats resulting from predatory pricing. As described above, only a handful of companies are positioned to act as "loss leaders" in the smart speaker space. In addition, Amazon and Google have the ability to absorb their smart speaker losses by shifting them to other parts of their business and disguising the immediate impact of their losses from the market. Moreover, digital markets can exhibit strong network effects, which may lead investors to make long-term bets on products on companies. Amazon and Google each enjoy strong network effects which enable them to entrench or accelerate their dominant positions. Long-term, all of these factors will lead to reduced incentives to enter markets where big tech companies can engage in predatory pricing or other anticompetitive behavior, reducing innovation and customer choice.

6. You note in your testimony that “[v]oice activated speakers have the potential to dramatically alter the way that consumers interact with the internet.” Can you elaborate on this view?

Throughout history, inflection points in technology have brought about new market players and innovation. Personal computers displaced IBM’s monopoly in mainframe computing, just as smartphones displaced Microsoft’s monopoly in personal computer operating systems. Dominant market players most at risk are those in adjacent markets to the inflection point. They respond by using their dominance to squelch rising competitors. Sonos believes that, just as access to the internet has evolved from desktops to laptops to mobile, the next frontier for internet and e-commerce access is the voice assistant-powered smart speaker. Across a number of independent studies, the top uses of smart speakers are listening to music, setting an alarm, and finding out the weather. This means smart speakers act as a “Trojan Horse” into the smart home, and enable Amazon and Google to amass vast amounts of data from users in addition to promoting their suite of services to users. As a result, voice assistants on smart speakers are uniquely positioned to become the primary interface for promoting the associated suite of services offered by Amazon and Google, including search and voice commerce.

Without intervention, there is a risk that the smart speaker market will result in a single firm monopoly or stagnant duopoly. Worse, it will severely limit voice-activated smart speakers as a technology inflection point subject to disruption from non-Amazon and non-Google players.

7. These platforms, as you note in your testimony, are dominant across a broad portfolio of markets—from social networking to hardware to cloud services. They also are aggressively investing in emerging platform technologies. Can you elaborate on this business strategy? Why are these platforms so concerned with entering into adjacent sectors?

Adjacent sectors to search and e-commerce, such as smart speakers, pose both a unique threat and opportunity to Amazon and Google. First, voice-enabled smart speakers can influence customer behavior and introduce competing services to users; services that can potentially disrupt Amazon and Google’s business models. As a result, voice-enabled smart speakers have the potential to threaten Google’s dominance in search and Amazon’s dominance in e-commerce. Second, as voice assistants on smart speakers are used in more homes, Amazon and Google can simultaneously take advantage of the accompanying network effects to reinforce lock-in across their product and service offerings as well as gather more data.