

VIA ELECTRONIC TRANSMISSION

December 28, 2020

Mr. Jack Dorsey
Chief Executive Officer
Twitter, Inc.
1355 Market St #900
San Francisco, CA 94103

Dear Mr. Dorsey:

We write to express our disappointment in Twitter’s refusal to provide a witness for the Senate Judiciary Committee Subcommittee on Intellectual Property’s December 15, 2020 hearing on “The Role of Private Agreements and Existing Technology in Curbing Online Piracy” and its incomplete responses to written questions sent by Chairman Tillis in advance of the hearing.

Online piracy is a massive problem. According to a 2019 study by the U.S. Chamber of Commerce, global piracy costs the U.S. economy between \$29.2 billion and \$71 billion in lost revenue each year and leads to the loss of as many as 560,000 jobs annually.

According to testimony at the hearing, Twitter has contributed to the piracy problem. Recording Industry Association of America (“RIAA”) CEO Mitch Glazier testified that his organization was forced to send “nearly 9000 [DMCA] notices for the same sound recording to Twitter over a ten-month period.” He further testified that “over the past two years, the music industry has sent Twitter notices of over 3 million infringements for over 20,000 works.”

We also heard testimony that Twitter denies some creators access to tools that would allow them to efficiently search Twitter for infringements; charges other creators large fees to do so; and makes reporting infringement through its web form unnecessarily onerous.

In the face of this public testimony—offered under oath—Twitter’s responses to Chairman Tillis’s written questions were disappointing. For example, in response to one question, Twitter minimized the potential for copyright infringement on its platform, describing itself as “a text-first service” upon which media is shared mainly “in the service of commentary or criticism.” This characterization stands in marked contrast to detailed testimony describing Twitter as enabling piracy “at an industrial massive scale.” Indeed, Twitter’s own Transparency Report shows that Twitter removed nearly 825,000 pieces of infringing media between July 2019 and December 2019 alone. It further ignores the way online pirates use Twitter to promote their services through text-based links to infringing content.

In another example, Twitter described itself as having “an ongoing dialogue and working relationships with the content industry to protect copyrighted material.” But, if Twitter is truly

working with the creative community to address copyright infringement, one would expect the company to jump at the chance to send a witness to testify before Congress about its efforts. That you declined the subcommittee's request raises serious questions. As Keith Kupferschmid of the Copyright Alliance testified: "if Twitter will not respond to even . . . a senator or to a chairman of a subcommittee's request to show up and listen, how are we going to get them to listen to us or listen to the wedding photographer or the songwriter?"

We take intellectual property protections seriously. We take allegations that Twitter is not addressing copyright infringement on its platform equally seriously. Accordingly, we ask you to provide detailed and substantive responses to the following questions no later than January 20, 2021.

1. We have heard that locating all instances of infringing content on your platform without access to Twitter's API is difficult if not impossible. Does Twitter make access to its API available to content creators for purposes of enforcement of their intellectual property rights? If so, under what terms? If not, why not?
2. Does Twitter charge for access to its API for purposes of enforcing intellectual property rights? If so, please provide a schedule of fees charged by Twitter.
3. We heard testimony that "over the past two years, the music industry has sent Twitter notices of over 3 million infringements for over 20,000 works." What steps has Twitter taken to ensure no unlicensed music is made available through its platform? Does Twitter employ any software—similar to YouTube's ContentID or Facebook's Rights Manager—to screen for copyrighted content? If so, please describe the software and its role in identifying, blocking, or notifying content owners about infringing material.
4. Does Twitter seek licenses for the use of music on its platform? If so, under what circumstances? Has Twitter made efforts to negotiate license agreements with music publishers and record labels to ensure songwriters and artists are compensated?
5. Please describe the processes available for submitting a takedown notice to Twitter. How many pieces of infringing content can be included in a single takedown notice? To the extent there are limits, please explain why.
6. In response to Chairman Tillis's questions, Twitter wrote that it has received 822,125 takedown notices since 2012. Please provide the number of takedown notices received and the number of tweets identified in those notices as including allegedly unauthorized content by year since 2012, including the number of notices received and tweets identified in 2020, if available.
7. On average, how long does it take Twitter to remove infringing content in response to a takedown notice?
8. In response to a question posed by Chairman Tillis regarding voluntary agreements Twitter has entered into with copyright owners to help combat copyright piracy on its

platform, Twitter wrote that it “has many discussions with industry partners, some of which result in successful partnerships.” Please identify all such voluntary agreements Twitter entered into with copyright owners to help combat copyright piracy on its platform.

9. Please provide our offices with a copy of Twitter’s repeat infringer policy.
10. How many human content moderators does Twitter employ to address claims of copyright infringement on its platform?
11. Does Twitter employ *any* proactive measures to combat copyright infringement on its platform? If it does, please describe those measures.
12. We have learned of Twitter accounts dedicated to the distribution of leaks of pre-release media in the form of 20-30 second segments of audio or video recordings. These segments serve as advertisements for the availability of the full-length, unauthorized pre-release content on a pirate service. Do such accounts and tweets violate the Twitter Rules? Why or why not?

We hope that you will work productively with us and outside stakeholders to significantly reduce—if not end—online copyright piracy on your platform. We look forward to your reply and to working with you in 2021 to build a healthier, more effective, and more secure online marketplace for creative works.

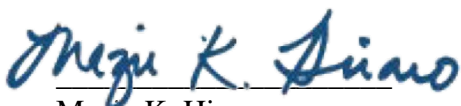
Sincerely,



Thom Tillis
United States Senator



Christopher A. Coons
United States Senator



Mazie K. Hirono
United States Senator