

March 21, 2019

Via U.S. and Electronic Mail

Ms. Dawn Hudson
Chief Executive Officer
Academy of Motion Picture Arts and Sciences
8949 Wilshire Boulevard
Beverly Hills, CA 90211

Re: Potential Eligibility Rule Changes for the Academy Awards

Dear Ms. Hudson:

The Antitrust Division of the U.S. Department of Justice (the “Division”) has learned through news reporting that the Academy of Motion Picture Arts and Sciences (the “Academy”) may consider proposed rules changes limiting eligibility for the Academy Awards (the “Oscars”). The Division writes to draw your attention to its concerns that may arise if the Academy implements certain restrictions in a way that tends to suppress competition.

In the event that the Academy—an association that includes multiple competitors in its membership—establishes certain eligibility requirements for the Oscars that eliminate competition without procompetitive justification, such conduct may raise antitrust concerns. Section 1 of the Sherman Act, 15 U.S.C. § 1, prohibits anticompetitive agreements among competitors. Accordingly, agreements among competitors to exclude new competitors can violate the antitrust laws when their purpose or effect is to impede competition by goods or services that consumers purchase and enjoy but which threaten the profits of incumbent firms. *See Nw. Wholesale Stationers, Inc. v. Pac. Stationery & Printing Co.*, 472 U.S. 284, 294-97 (1985) (agreements to expel a competitor from a cooperative association may violate the Sherman Act).

If the Academy adopts a new rule to exclude certain types of films, such as films distributed via online streaming services, from eligibility for the Oscars, and that exclusion tends to diminish the excluded films’ sales, that rule could therefore violate Section 1.

The Division is committed to enforcing the nation’s antitrust laws on behalf of American consumers, and appreciates your attention to the Division’s concerns as you consider any changes to the eligibility requirements for the Oscars.