

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 1:21-cv-02886-FYP

BERTELSMANN SE & CO., KGAA;
PENGUIN RANDOM HOUSE, LLC,
VIACOMCBS, INC., and SIMON &
SCHUSTER, INC.,

Defendants.

**STIPULATED MOTION FOR ENTRY OF JOINT PROPOSED
SCHEDULING AND CASE MANAGEMENT ORDER**

Pursuant to Federal Rules of Civil Procedure 7(b), 16(b), and 26(f), Plaintiff United States of America (“United States”) and Defendants Bertelsmann SE & Co. KGaA, Penguin Random House, LLC, ViacomCBS Inc., and Simon & Schuster, Inc. (collectively “Defendants”) respectfully move this Court to enter their jointly proposed Scheduling and Case Management Order, which is attached as Exhibit 1. The parties have met and conferred under Local Rule 16.3 and agreed to submit Exhibit 1.

The United States filed this complaint seeking to enjoin the proposed acquisition of Simon & Schuster, Inc. by Penguin Random House, LLC. The Defendants’ share purchase agreement provides that the agreement may be terminated if the transaction does not close by November

2022. The parties have proposed that trial begin on August 1, 2022, if this date works for the Court, with the goal of resolving the matter on a timeline consistent with the share purchase agreement.

The parties have premised the terms of the proposed order on a trial beginning on August 1, 2022, and if the Court is unable to schedule trial beginning on that date, the parties have agreed to meet and confer in good faith on a revised proposed order.

Dated: December 8, 2021

Respectfully submitted,

/s/ John R. Read

John R. Read (DC Bar #419373)
Sarah H. Licht (DC Bar #1021541)
Attorney for the United States
United States Department of Justice
Antitrust Division
450 Fifth Street, NW, Suite 4000
Washington, DC 20530
Telephone: (202) 725-0165
Fax: (202) 514-7308
Email: john.read@usdoj.gov

Attorneys for Plaintiff United States of America

/s/ Daniel M. Petrocelli

Daniel M. Petrocelli (appearing *pro hac vice*)
M. Randall Oppenheimer (appearing *pro hac vice*)
O'MELVENY & MYERS LLP
1999 Avenue of the Stars
Los Angeles, CA 90067
Telephone: (310) 553-6700
dpetrocelli@omm.com
roppenheimer@omm.com

Andrew J. Frackman (appearing *pro hac vice*)
Abby F. Rudzin (*pro hac vice* forthcoming)
O'MELVENY & MYERS LLP
Seven Times Square
New York, NY 10026

Telephone: (212) 326-2000
afrackman@omm.com
arudzin@omm.com

Courtney Dyer (D.C. Bar No. 490805)
Julia Schiller (D.C. Bar No. 986369)
O'MELVENY & MYERS LLP
1625 Washington, D.C. 20006
Telephone: (202) 383-5300
cdyer@omm.com
jschiller@omm.com

*Attorneys for Defendants Bertelsmann SE & Co. KGaA and
Penguin Random House, LLC*

/s/ Stephen Fishbein

Stephen Fishbein (appearing *pro hac vice*)
Jessica Delbaum (appearing *pro hac vice*)
SHEARMAN & STERLING LLP
599 Lexington Avenue
New York, NY 10022
Telephone: (212) 848 4000
sfishbein@shearman.com

Ryan Shores (D.C. Bar No. 500031)
Michael P. Mitchell (D.C. Bar No. 1531689)
SHEARMAN & STERLING LLP
401 9th Street, NW, Suite 800
Washington, D.C. 20004
Telephone: (202) 508-8108
ryan.shores@shearman.com

*Attorneys for Defendants ViacomCBS Inc. and Simon &
Schuster, Inc.*