

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF THE ADMINISTRATIVE LAW JUDGES**

<p>In the Matter of</p> <p>IQVIA Holdings Inc., a corporation,</p> <p>and</p> <p>Propel Media, Inc., a corporation.</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>DOCKET NO. 9416</p> <p>PUBLIC</p>
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MOTION TO EXTEND SCHEDULING ORDER DEADLINES

On November 28, 2023, the Chief Administrative Law Judge encouraged the parties to move for a continuance and advised that—absent a continuance—opening statements will be heard on December 20, 2023, but “[t]rial will then recess until January 4, 2024.” Respondents IQVIA Holdings Inc. and Propel Media, Inc. accordingly move this Court to extend the current deadlines in the Scheduling Order by two weeks. This would keep the deadlines aligned with the updated Part 3 trial schedule, given the 15-day difference between the anticipated commencement of proceedings on December 20, 2023, and the adjusted date of January 4, 2024 for trial testimony to begin. Complaint Counsel opposes this motion. *See* Exhibit A.

The evidentiary hearing in the federal court proceeding is currently underway, *see FTC v. IQVIA Holdings Inc.*, No. 1:23-cv-06188-ER (S.D.N.Y. 2023), with witness testimony concluding on December 1, 2023, and closing arguments scheduled for December 8, 2023. The Court has entered a temporary restraining order preventing the consummation of the proposed acquisition until after December 29, 2023 or the third business day after the district court issues its decision on the FTC’s preliminary injunction, whichever occurs earlier. *Id.*, ECF No. 154. The federal

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court advised the parties that a decision on the FTC's preliminary injunction request is expected by December 29, 2023.

In this proceeding, all deadlines in the Scheduling Order are keyed off of December 20, 2023 being the date trial testimony would occur at the hearing. It now appears that the evidentiary phase will begin no earlier than January 4, 2024. (Respondents intend to move for a continuance following closing arguments in the federal court proceeding and remain hopeful that Complaint Counsel will join the motion, as Complaint Counsel has done in prior proceedings, so the hearing could occur even later.)

Accordingly, Respondents respectfully request a two-week extension of all deadlines in the Scheduling Order. A proposed amended scheduling order is attached as Exhibit B.¹ All provisions of the current Scheduling Order would remain in place, except for the dates identified in Exhibit B. Adopting this amended schedule will align the Part 3 schedule with the anticipated commencement of trial testimony. It will also avoid confusion for non-parties many of whom have already been burdened by the federal court litigation, regarding the date trial testimony will begin. Finally, it will alleviate the burden on the Court, on the parties, and on non-parties alike, should the Part 3 hearing be continued or withdrawn from adjudication before January 4. As this Court's November 28 correspondence indicated, continuances are appropriate and routinely granted in circumstances such as these, and Respondents anticipate filing a motion to continue the Part 3 trial.

¹ As reflected in Exhibit B, Respondents suggest that any deadlines that would fall on December 25, 2023, or January 1, 2024, as a result of the 14-day extension be extended to December 26, 2023, and January 2, 2024, respectively. Respondents also suggest that the pretrial conference be scheduled for the day prior to the beginning of trial testimony, January 3, 2024.

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For these reasons, Respondents respectfully request that the Court extend the current deadlines in the Scheduling Order for 14 days.

Dated: November 30, 2023

Respectfully submitted,

/s/ Chantale Fiebig

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Counsel for Respondent Propel Media, Inc

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**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF THE ADMINISTRATIVE LAW JUDGES**

_____)	
In the Matter of)	
)	
IQVIA Holdings Inc.,)	
a corporation,)	DOCKET NO. 9416
)	
and)	PUBLIC
)	
Propel Media, Inc.,)	
a corporation.)	
_____)	

[Proposed] Order Extending Scheduling Order Deadlines

Having considered Respondents’ motion to extend the Scheduling Order’s deadlines by 14 days, the motion is hereby GRANTED.

ORDERED:

D. Michael Chappell
Chief Administrative Law Judge

Date: _____, 2023

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CERTIFICATE OF SERVICE

I hereby certify that, on November 30, 2023, I caused the foregoing document to be electronically filed with the Secretary of the Commission using the Federal Trade Commission's e-filing system, causing the document to be served on all of the following registered participants:

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Secretary of the Federal Trade Commission
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The Honorable D. Michael Chappell
Administrative Law Judge
FEDERAL TRADE COMMISSION
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OALJ@ftc.gov

I also certify that I caused the foregoing document to be served via email to:

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CERTIFICATE FOR ELECTRONIC FILING

I certify that the electronic copy sent to the Secretary of the Commission is a true and correct copy of the original filing, and that I possess a paper original of the signed document that is available for review by the parties and the adjudicator.

/s/ Chantale Fiebig

Chantale Fiebig

EXHIBIT A
(CORRESPONDENCE WITH
COMPLAINT COUNSEL)

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From: [Moy, Jessica](#)
To: [Sullivan, Luke](#); [Fleury, Jennifer](#); [Andrew, Jordan S.](#); tmartin@ftc.gov; [Allen, Devon](#); [Wint, Corene](#); [Mohr, Stephen A.](#)
Cc: [Tulumello, Drew](#); [Fiebig, Chantale](#); kreinker@cgsh.com; [Hoffman, D. Bruce](#); AOkuliar@mofo.com; [Shaw, David J.](#); [DiCunzolo, Alexa Rae](#); [Kleinwaks, Jason](#); [Malm, Larry](#); [De Marchi Sleigh, Lisa](#)
Subject: RE: In re IQVIA Holdings Inc. & Propel Media, Inc., Docket 9416
Date: Thursday, November 30, 2023 4:40:40 PM

Thank you for your suggestion to delay deadlines in the Part 3 evidentiary hearing. The FTC cannot agree to this extension as it will not only confuse third parties about the dates when they must file their motions for in camera treatment of confidential materials, but it will push those deadlines to December 25, a federal holiday. It also moves other deadlines to the week between federal holidays, which creates burden on all parties involved, including Judge Chappell and his staff.

Jessica

From: Sullivan, Luke <Luke.Sullivan@weil.com>
Sent: Wednesday, November 29, 2023 7:58 PM
To: Fleury, Jennifer <jfleury@ftc.gov>; Andrew, Jordan S. <jandrew@ftc.gov>; Moy, Jessica <jmoy@ftc.gov>; Martin, Teresa <TMARTIN@ftc.gov>; Allen, Devon <dallen1@ftc.gov>; Wint, Corene <cwint@ftc.gov>; Mohr, Stephen A. <smohr@ftc.gov>
Cc: Tulumello, Drew <Drew.Tulumello@weil.com>; ChantaleFiebig-contact <Chantale.Fiebig@weil.com>; kreinker@cgsh.com; Hoffman, D. Bruce <bhoffman@cgsh.com>; AOkuliar@mofo.com; Shaw, David J. <DShaw@mofo.com>; DiCunzolo, Alexa Rae <ADiCunzolo@mofo.com>; Kleinwaks, Jason <Jason.Kleinwaks@weil.com>; Malm, Larry <lmalm@cgsh.com>
Subject: FW: In re IQVIA Holdings Inc. & Propel Media, Inc., Docket 9416

Counsel –

Judge Chappell's email below states that, besides opening statements, the evidentiary hearing will not begin until January 4, 2024. In light of this two-week delay, Respondents intend to ask Judge Chappell to issue a corresponding two-week extension for all deadlines in the Part 3 Scheduling Order. This will align the Part 3 schedule with the adjusted date for the trial testimony to begin. It will also avoid confusion from non-parties—many of whom have already been burdened by the federal court litigation—based on the fact that the Scheduling Order assumes trial testimony will begin on December 20, when it in fact is now scheduled to begin at the earliest on January 4. Moreover, in the event the Part 3 hearing is continued or withdrawn from adjudication before January 4 in light of the federal court's decision, moving the deadlines back two weeks could alleviate the burden on Judge Chappell and his staff, non-parties, and the parties.

It is important to receive prompt relief from Judge Chappell because, under the current Scheduling Order, notices to third parties whose information may be introduced at the hearing must be sent on December 1, 2023. There are also numerous additional deadlines the week of December 4. Accordingly, please let us know the FTC's position by 12:00 PM ET tomorrow.

Best,
Luke

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**Luke Sullivan**

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From: Gross, Dana <DGROSS@ftc.gov>
Sent: Tuesday, November 28, 2023 3:01 PM
To: Sullivan, Luke <Luke.Sullivan@weil.com>
Cc: Fleury, Jennifer <jfleury@ftc.gov>; Andrew, Jordan S. <jandrew@ftc.gov>; Moy, Jessica <jmoy@ftc.gov>; Tulumello, Drew <Drew.Tulumello@weil.com>; Fiebig, Chantale <Chantale.Fiebig@weil.com>; kreinker@cgsh.com; Hoffman, D. Bruce <bhoffman@cgsh.com>; AOkuliar@mofo.com; Shaw, David J. <DShaw@mofo.com>; DiCunzolo, Alexa Rae <ADiCunzolo@mofo.com>; tmartin@ftc.gov; Allen, Devon <dallen1@ftc.gov>; Wint, Corene <cwint@ftc.gov>; Kleinwaks, Jason <Jason.Kleinwaks@weil.com>; OALJ <OALJ@ftc.gov>
Subject: RE: In re IQVIA Holdings Inc. & Propel Media, Inc., Docket 9416

Dear Mr. Sullivan:

In response to the question below regarding scheduling, per Judge Chappell, given that a decision on the pending PI is not expected until December 29, 2023, and the administrative trial is scheduled to begin on December 20, 2023, the parties may wish to seek a continuance of the administrative trial until 2 or 3 weeks after a final decision in the pending PI case. A continuance or extension of the administrative trial date will conserve the resources of the parties, and nonparties, and promote efficient judicial administration. The Commission has routinely granted continuances in similar circumstances. *In re Meta*, Docket 9411, 2023 WL 621507 (Jan. 11, 2023) (citing cases).

Absent an order by the Commission extending the trial date, the final prehearing conference will be held on December 19 at 1:00 and trial will begin on December 20 at 10:00. Opening statements will be heard on December 20. Trial will then recess until January 4, 2024.

Regards,
Dana

From: Sullivan, Luke <Luke.Sullivan@weil.com>
Sent: Monday, November 27, 2023 7:41 AM
To: Gross, Dana <DGROSS@ftc.gov>
Cc: OALJ <OALJ@ftc.gov>; Fleury, Jennifer <jfleury@ftc.gov>; Andrew, Jordan S. <jandrew@ftc.gov>;

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Moy, Jessica <jmoy@ftc.gov>; Sullivan, Luke <Luke.Sullivan@weil.com>; Tulumello, Drew <Drew.Tulumello@weil.com>; ChantaleFiebig-contact <Chantale.Fiebig@weil.com>; kreinker@cgsh.com; Hoffman, D. Bruce <bhoffman@cgsh.com>; AOkuliar@mofo.com; Shaw, David J. <DSHAW@mofo.com>; DiCunzolo, Alexa Rae <ADiCunzolo@mofo.com>; Martin, Teresa <TMARTIN@ftc.gov>; Allen, Devon <dallen1@ftc.gov>; Wint, Corene <cwint@ftc.gov>; Kleinwaks, Jason <Jason.Kleinwaks@weil.com>

Subject: In re IQVIA Holdings Inc. & Propel Media, Inc., Docket 9416

Dear Ms. Gross:

On behalf of Respondent IQVIA Holdings, Inc., I write with an update for Judge Chappell on the federal court preliminary injunction proceeding in the above-captioned matter. An evidentiary hearing regarding the FTC's preliminary injunction motion began before Judge Ramos on November 20, 2023. The hearing is expected to conclude on December 1, 2023. Closing arguments are scheduled for December 8, 2023.

The Court has entered a temporary restraining order preventing the consummation of the transaction until December 29, 2023 or three business days after Judge Ramos issues a decision, whichever is earlier. Judge Ramos has indicated that he expects to issue a decision by December 29, 2023.

While the evidentiary hearing in the Part 3 administrative proceeding is scheduled to begin on December 20, 2023, Respondents share this update in the interest of judicial economy and will provide any additional updates bearing on the hearing date as they develop. If Judge Chappell has any guidance for the parties regarding scheduling, Respondents welcome receiving that.

Best,
Luke



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EXHIBIT B
([PROPOSED] AMENDED SCHEDULING
ORDER)

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proposed witness and exhibit lists, the basis of admissibility for each proposed exhibit, and a brief summary of the testimony of each witness, including expert witnesses.

- December 19, 2023 - Complaint Counsel to identify rebuttal expert(s) and provide rebuttal expert report(s). Any such reports are to be limited to rebuttal of matters set forth in Respondents' expert report(s). If material outside the scope of fair rebuttal is presented, Respondents will have the right to seek appropriate relief (such as striking Complaint Counsel's rebuttal expert report(s) or seeking leave to submit surrebuttal expert report(s) on behalf of Respondents).
- December 20, 2023 - Opening statements, to begin at 10:00 a.m. ET.
- December 21, 2023 - Deadline for depositions of experts (including rebuttal experts) and exchange of expert related exhibits.
- December 21, 2023 - Exchange and serve courtesy copy on ALJ objections to final proposed witness lists and exhibit lists. The parties are directed to review the Commission's Rules on admissibility of evidence before filing objections to exhibits and raise only objections that are necessary and valid.
- December 26, 2023 - Complaint Counsel files pretrial brief supported by legal authority.
- December 26, 2023 - Deadline for filing motions *in limine* to preclude admission of evidence. *See* Additional Provision 15.
- December 26, 2023 - Deadline for filing motions for *in camera* treatment of proposed trial exhibits. *See* Additional Provision 14.
- December 29, 2023 - Deadline for filing responses to motions *in limine* to preclude admission of evidence.
- December 29, 2023 - Deadline for filing responses to motions for *in camera* treatment of proposed trial exhibits.
- December 29, 2023 - Exchange proposed stipulations of law, facts, and authenticity.
- January 2, 2024 - Respondents' Counsel files pretrial brief supported by legal authority.
- January 3, 2024 - Final prehearing conference to begin at 1:00 p.m. ET.

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The parties shall meet and confer prior to the prehearing conference regarding trial logistics and proposed stipulations of law, facts, and authenticity of exhibits. To the extent the parties have agreed to stipulate to any issues of law, facts, and/or authenticity of exhibits, the parties shall prepare a list of such stipulations and submit a copy of the stipulations to the ALJ one business day prior to the conference. At the conference, the parties' list of stipulations shall be marked as "JX1" and signed by each party, and the list shall be offered into evidence as a joint exhibit. No signature by the ALJ is required. Any subsequent stipulations may be offered as agreed by the parties.

Counsel may present any objections to the final proposed witness lists and exhibits. All trial exhibits will be admitted or excluded to the extent practicable. To the extent the parties agree to the admission of each other's exhibits, the parties shall prepare a list identifying each exhibit to which admissibility is agreed, marked as "JX2" and signed by each party, which list shall be offered into evidence as a joint exhibit. No signature by the ALJ is required.

January 4, 2024 - Commencement of Hearing Testimony.