

Spielberg proposal to ban streaming from Oscars may be illegal, DOJ warns

Enlarge / *Roma* Director Alfonso Cuarón after winning Oscars for Best Director, Best Foreign Language Film, and Best Cinematography at the 91st Annual Academy Awards on February 24, 2019.

Getty Images | Dan MacMedan

reader comments

136 with 85 posters participating

Share this story

US antitrust regulators have warned the Academy of Motion Picture Arts and Sciences that banning Netflix and other streaming platforms from the Oscars may violate federal competition law.

Legendary filmmaker and multiple-Oscar-winner Steven Spielberg has backed an effort to ban films primarily distributed via streaming platforms from the Academy Awards. The effort gained steam after Netflix movie *Roma* won Best Director, Best Foreign Language Film, and Best Cinematography and was nominated for other Academy Awards including Best Picture. *Roma* was shown in some theaters, but only for a few weeks.

The US Department of Justice's antitrust division learned of the anti-streaming proposal from news reports and decided to warn the Academy in a letter before the awards organization makes any decisions at a meeting later this month. Spielberg is a member of the Academy's Board of Governors and reportedly

intends to push for a streaming ban at the upcoming meeting.

“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,” DOJ antitrust chief Makan Delrahim wrote in a March 21 letter to Academy CEO Dawn Hudson, which was obtained by *Variety*.

Section 1 of the Sherman Act “prohibits anticompetitive agreements among competitors,” the DOJ wrote. “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.”

An Academy decision to exclude streaming films could therefore violate US law, the letter said.

“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 DOJ wrote.

The letter concluded by saying that the DOJ’s antitrust division “appreciates your attention to the Division’s concerns as you consider any changes to the eligibility requirements for the Oscars.”

If the Academy does ban streaming movies from the Oscars, the DOJ could file an antitrust lawsuit against the Academy.

Academy meets April 23

The Academy told *Variety* and other news organizations that it has received the letter and “responded accordingly,” but it

did not say what its response was.

“The Academy’s Board of Governors will meet on April 23 for its annual awards rules meeting, where all branches submit possible updates for consideration,” the Academy also said.

Spielberg said in a recent interview that “once you commit to a television format, you’re a TV movie. You certainly—if it’s a good show—deserve an Emmy. But not an Oscar.”

Netflix responded indirectly to anti-streaming sentiment in a tweet on March 3, saying that streaming provides film access “for people who can’t always afford, or live in towns without, theaters,” “let[s] everyone, everywhere enjoy releases at the same time,” and “giv[es] filmmakers more ways to share art.”

<https://arstechnica.com/?p=1485563>