UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: OpenAI, Inc., COPYRIGHT INFRINGEMENT LITIGATION This Document Relates To: 1:23-cv-11195-SHS-OTW 1:24-cv-01515-SHS-OTW 1:24-cv-03285-SHS-OTW	25-md-3143 (SHS) (OTW)

MOTION OF OPEN MARKETS INSTITUTE
FOR LEAVE TO PARTICIPATE AS *AMICUS CURIAE*

The Open Markets Institute ("OMI") respectfully moves for leave to file a brief as *amicus curiae* in support of the news plaintiffs in compliance with this Court's Order, Document No. 1663. OMI is a non-profit organization dedicated to promoting fair and competitive markets. It does not accept any funding or donations from for-profit corporations. Its mission is to safeguard our political economy from concentrations of private power that undermine fair competition and threaten liberty, democracy, and prosperity. It regularly provides expertise on competition policy to Congress, federal agencies, courts, journalists, and members of the public. Likewise, its research and policy section, the Center for Media and Digital Governance, has expertise in competition policy and is dedicated to

investigating concentrated power over digital infrastructure, AI systems, and information markets.

OMI's proposed amicus brief would assist the Court by providing a competition policy perspective regarding OpenAI's and Microsoft's ("Defendants") claim that they are entitled to a fair use defense under the copyright laws. The brief explains that because the Defendants have (1) copied the news plaintiffs' works without permission, (2) competed with them in the same market (i.e., proving news to the public), and (3) engaged in conduct that is negatively effecting the potential market for and the value of the copyrighted works, their defense must fail. The proposed brief further explains that the Defendants' conduct threatens the emerging and active market for LLMs to license copyrighted material and harms their LLM rivals of all sizes who aquire licenses before copying protected works.

Therefore, OMI respectfully requests that this Court grant leave to file an *amicus curiae* brief in this case. The brief is attached as an exhibit to this motion

Dated: October 30, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I caused a true and accurate copy of the foregoing to be served to counsel of record for all parties via ECF.

Dated: October 30, 2026

s/ Bryan G. Faubus
Bryan G. Faubus