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## FTC's trustbusting turn now (virtual) reality

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The activist chairwoman of the Federal Trade Commission has taken long-anticipated action against the tech industry. Overriding staff objections, Lina Khan filed a federal lawsuit that seeks to stop social media giant Meta — formerly known as Facebook, Inc. — from buying virtual reality company Within, the maker of a popular fitness app. Khan rose to fame in the progressive legal community by arguing for an expansion of antitrust enforcement to target what she says are the novel business arrangements and practices of large tech companies. The Meta suit comes more than a year into Khan's tenure at the helm of the FTC.

Several media reports have pointed out that the agency's staff recommended against challenging the acquisition, but Khan proceeded anyway.

Meta is a leader in the VR market with its Oculus headsets. Supernatural, the fitness app owned by Within that became a hit during the COVID-19 lockdowns, is designed for use with the Oculus. The app is a subscription-based fitness program with various workouts ranging from seven minutes to one hour for \$19 a month.

The FTC filed for a preliminary injunction to block the acquisition in the U.S. District Court for the Northern District of California, arguing the move could cause “less innovation, lower quality, higher prices, less incentive to attract and keep employees, and less consumer choice.” According to the suit, Meta is a “global technology behemoth” that is illegally trying “to expand its empire” into the VR world by buying an already successful app instead of creating its own. The government alleges that Meta is “already a key player at each level of the virtual reality sector.” Meta is fighting back, saying the agency's suit is “based on ideology and speculation, not evidence.”

“The idea that this acquisition would lead to anticompetitive outcomes in a dynamic space with as much entry and growth as online and connected fitness is simply not credible,” Nikhil Shanbhag, the company's vice president and associate general counsel, said in a statement. On the day of the court filing, Meta's VR division, Reality Labs, reported losing \$2.8 billion in the second quarter of this year.

Republican Commissioner Christine S. Wilson, who voted against the move along with fellow Republican Commissioner Noah Phillips, seemed to agree, tweeting that “the @FTC complaint against Meta notes four other Facebook acquisitions in the VR space since Biden was inaugurated that went unchallenged.” But Khan's progressive allies outside the administration

were quick to cheer the move. Open Markets Institute Legal Director Sandeep Vaheesan cast the move in urgent terms, saying in a press release that the “FTC correctly decided to block the acquisition and aims to prevent Zuckerberg from replicating in VR his acquisition-first strategy to dominance in the social networking market.” He added that the filing was a positive step toward “making building, not buying, the norm for Facebook and other large corporations.”

Hal Singer, managing director of Econ One, an economics consulting firm, told the *Washington Examiner*, “It’s a good thing these acquisitions by dominant platforms are being challenged. We want platforms to develop these ancillary capabilities organically rather than through acquisitions that reduce potential competition.” Some experts are skeptical.

Ryan Bourne of the free-market Cato Institute told the *Washington Examiner* that the commission’s economic claims are “quite extraordinary.”

“It first creates an absurdly narrow definition of the market affected, that of virtual reality fitness apps, and then just speculates that absent this acquisition, Meta would have built its own app, providing more competition,” Bourne said. “So they want us to believe that Meta, a company that doesn’t own a dedicated fitness app, is a competitor to Within but that Peloton and other dedicated nonvirtual reality fitness companies are not.”

The commission, however, took a much narrower view. John Newman, deputy director of the FTC’s Bureau of Competition, said in a press statement that “Meta ... had the capabilities to compete even more closely with Within’s popular Supernatural app. But Meta chose to buy market position instead of earning it on the merits. This is an illegal acquisition, and we will pursue all appropriate relief.”

Similar legislative efforts to expand antitrust enforcement and crack down on Big Tech are pending in Congress but are unlikely to pass this session. Time is limited on the legislative calendar, tech firms spent big lobbying against the measures, and polling shows the issue ranks low as a priority for voters. That means, for now, the progressive Left and anti-corporate Right are mostly dependent on Khan for antitrust activism.