

# NATIONAL REVIEW

## Making It up as They Go along: Regulators’ Concocted Case against Facebook

The case for antitrust action against Facebook is rife with contradictions.

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September 17, 2021

In late June, when the D.C. District Court threw out the Federal Trade Commission’s (FTC) first complaint against Facebook, Senator Elizabeth Warren tweeted, “Anybody on the internet knows that Facebook has monopoly power. They control 85% of social network traffic, bulldoze competition, and undermine our democracy. We need stronger antitrust laws to #BreakUpBigTech.”

Putting aside the irony of using Twitter to rant against an alleged social-media monopoly, Warren’s reaction highlighted a recurring theme of Big Tech antitrust debates. Proponents of trustbusting have predetermined the conclusion — they just know that these businesses are monopolies and engaged in anticompetitive conduct. And if the FTC or other competition agencies cannot provide evidence of that to the necessary standards of current law? Then the laws must be wrong!

Until new legislation is passed, though, the FTC must prove that Facebook has broken existing statutes. That means showing that Facebook is a monopoly in its relevant product market and then proving its exclusionary conduct. Sadly, a similar conclusion-first, evidence-second approach is forcing the agency into all sorts of contortions: first, narrowly defining Facebook’s market to prove its monopoly, then claiming that Facebook’s mergers with firms outside that very market snuffed out competition.

Take the FTC’s revised definition of Facebook’s relevant market: “Personal Social Networking (PSN) services in the United States.” This apparently comprises “online services that enable and are used by people to maintain personal relationships and share experiences with friends, family, and other personal connections in a shared social space.”

To prove Facebook’s monopoly, the FTC needs to explain why other social-media companies are not direct competitors to Mark Zuckerberg’s business. Specialist networking services such as LinkedIn or dating apps, it says, operate in a different market because they provide communication with a narrower range of connections. YouTube and TikTok are said to be

different too because consumers passively absorb video content produced for those beyond their personal networks. Twitter, Reddit, and Pinterest, too, supposedly aren't competing in Facebook's market either, because they don't focus on "connecting friends and family." By this definition, Facebook's only meaningful competitor is Snapchat.

To anyone familiar with the process of using social media on a cellphone, such arbitrary distinctions are clearly bogus. Facebook competes with YouTube, Twitter, and TikTok for a user's time, with engagement driving advertising revenue. But acknowledge that, and Facebook ceases to be a monopoly — so the FTC can't.

This leads the FTC to try having it both ways, by first claiming that Facebook is not in the same market as messaging apps or more specialized social-media content, and then also claiming that Facebook's acquisitions of Instagram and WhatsApp — companies that would have been in different markets according to the "PSN" definition at that time — have harmed competition.

These contradictory claims might fit together if WhatsApp and Instagram were *potential* competitors to Facebook. But if they were indeed potential competitors, then what about TikTok, Twitter, and YouTube, which also offer different services with high user engagement? It's difficult not to conclude that the definitions are being twisted to fit the conclusion.

Across the pond, in fact, the U.K.'s Competition and Markets Authority (CMA) has stretched the idea of potential competition to its limits by arguing that Facebook's merger with GIPHY, a GIF repository, has significant competition impacts in the digital-advertising market.

It's difficult to take this concern seriously, intellectually at least, but, again, if GIPHY is a potential competitor, then what about similar adjacent products with high user numbers, such as GIPHY's major competitor, Google's Tenor, or, again, social-media companies such as TikTok, with 100 million U.S. monthly users?

What we see continually from competition agencies is the same sort of motivated reasoning Warren expressed. The FTC believes that Facebook is a threat to competition, wants to cut it down to size, and is determined to nail it however it can within the framework of existing law. In fact, critics are so convinced that Facebook is too large that even its product innovations that benefit users are viewed as somehow nefarious.

The authors of one recent study, for example, claimed that Facebook-owned Instagram's introduction of Instagram Reels, a direct response to rival TikTok's short video clips, was indicative of Facebook's power to "steer" the market, because Reels diverted attention from the platform's own advertisers.

In any other world, reducing adverts to promote user content for free would be viewed as evidence of consumer-welfare-enhancing competition, not something to lament. But there's a bigger point here: If TikTok isn't a competitor to Facebook and Instagram, why would Facebook bother responding to TikTok's service? The obvious answer is that they do compete for users'

time, making a mockery of the FTC's narrow market definition in claiming Facebook's monopoly.

That's the key problem with the Facebook antitrust crusade. Agencies and academics are convinced that Facebook is an anticompetitive monopoly. Once you start from the conclusion, proving it requires shoehorning the company into absurdly narrow market definitions. And you begin to even start seeing benign competition as evidence of harmful behavior. This won't end well for consumers.

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