

Antitrust probe of Facebook may be first step against Big Tech

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A coalition of US states unveiled on Friday an antitrust investigation of Facebook, the first of what is expected to be a wave of action against dominant technology firms.

New York state Attorney General Letitia James announced the action on behalf of seven other states and the District of Columbia to probe "whether Facebook has stifled competition and put users at risk."

The case may be the first in a series of antitrust actions against Big Tech firms and highlights growing "techlash," based on worries about platforms which control the flow of online information and dominate key economic sectors.

"We will use every investigative tool at our disposal to determine whether Facebook's actions may have endangered consumer data, reduced the quality of consumers' choices, or increased the price of advertising," James said.

Joining the action were attorneys general of Colorado, Florida, Iowa, Nebraska, North Carolina, Ohio, and Tennessee, said James.

Earlier this year the US Department of Justice said it would launch a "review" of major online platforms to determine if they have stifled innovation or reduced competition.

It was not immediately clear if the states would be working in coordination with federal officials.

Rising fears

Facebook offered no immediate comment, but in the past it has claimed it is not a monopoly and that consumers have many choices for how to connect with people online.

The new probe "shows how unease with large tech companies is spreading beyond Congress and the federal government agencies to the states," said Michael Carrier, professor of antitrust law at Rutgers

University.

"With each passing day, there are greater fears about these companies controlling our online lives."

Yet the legal basis for an antitrust action remains unclear, said Eric Goldman, director of the High Tech Law Institute at Santa Clara University.

"It remains to be seen if the (attorneys general) have any merit to their complaints or if they will be conducting a fishing expedition hoping to find some damning evidence," Goldman said.

"Companies as large as Google or Facebook probably have minor problematic practices the AGs could target, but I'm still waiting for any evidence that would support more structural challenges to the internet giants' practices."

More on Monday

A separate coalition of states was set to launch another antitrust initiative, with Google reportedly a target.

The office of the Texas attorney general scheduled an event Monday in Washington with a "broad coalition of states" to unveil a probe into "whether large tech companies have engaged in anticompetitive behavior that stifled competition, restricted access, and harmed consumers."

Google confirmed Friday that the Department of Justice had asked for its records on previous antitrust probes.

"The DOJ has asked us to provide information about these past investigations, and we expect state attorneys general will ask similar

questions," Kent Walker, Google's senior vice president of global affairs, said in a blog post.

He stressed that Google was "one of America's top spenders on research and development, making investments that spur innovation" and pledged to work constructively with regulators.

What's the remedy?

Maurice Stucke, a University of Tennessee law professor, said he expects one of the areas being investigated will be online advertising markets, which are dominated by Google and Facebook.

"This is a great area to look at because the market has been criticized as being opaque," Stucke said.

Stucke said the investigations may go further by looking at how tech platforms control data, potentially examining "the intersection between competition law and privacy."

Amazon and Apple may also be in the crosshairs. Critics have complained that Amazon wields too much power in online retail, and that Apple may disadvantage rivals offering services in its [app store](#).

In the European Union, Google has faced a series of antitrust actions and Amazon is now being targeted by enforcers.

Democratic presidential candidate Elizabeth Warren has made a breakup of the big tech firms a part of her campaign platform.

But some analysts say the case against the tech firms faces challenges because the companies have in many cases provided services for free and brought prices down, making it hard to prove they harmed

"consumer welfare," a longstanding judicial precedent.

Jessica Melugin of the Competitive Enterprise Institute said the state officials are stretching the limits of antitrust.

"This sort of high-profile activism may benefit state AGs' political ambitions, but impose harmful costs on consumers, businesses, and the economy," she said in a statement.

But Stucke said it would be wrong to view antitrust law as solely focused on consumer prices, and that it may be applied to questions of competition and innovation.

The probes could end up with a variety of outcomes including fines, restrictions on conduct or a breakup, Stucke maintained.

"You'd have to show how the remedy would address the concerns," he said.

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