Google monopoly case by US sets stage for multiprongedattack

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The U.S. Justice Department sued Alphabet Inc.'s Google in the most significant antitrust case against an American company in two decades, kicking off what promises to be a volley of legal actions against the search giant for allegedly abusing its market power.

Google, which controls about 90% of the online search market in the U.S., is the "unchallenged gateway" to the internet and engaged in a variety of anticompetitive practices to maintain and extend its monopoly, the government said in a complaint filed Tuesday in Washington. The company has used exclusive deals costing billions of dollars to dominate search and lock out competition from rivals, the U.S. said.

"No one can feasibly challenge Google's dominance in search and search advertising," Attorney General William Barr said. "If we let Google continue its anticompetitive ways, we will lose the next wave of innovators and Americans may never get to benefit from the 'next Google.'"

The complaint is the first phase of what's shaping up as a multipronged attack against Google. Texas Attorney General Ken Paxton is preparing a complaint against the company over its conduct in the digital-advertising market, where it controls much of the technology used by advertisers and publishers to buy and sell display ads across the web. A separate group of states, including Colorado and Iowa, is investigating Google's search practices and said their probe will conclude in the coming weeks. A wave of private lawsuits is likely to follow the government's case.

Investors brushed off the complaint, which has been expected for weeks. Alphabet shares rose 1.4% to close at $1,551.08 in New York trading. Mark Shmulik, an analyst at Sanford C. Bernstein, told investors that the firm sees "limited risk" to Google from the suit.

Google's search business generates most of the company's revenue and has funded its expansion into email, online video, smartphone software, maps, cloud computing, autonomous vehicles and display advertising. The search engine influences the fates of thousands of businesses online, which depend on Google to get in front of users.

Google called the government's case "deeply flawed" and said it would actually hurt consumers because it would "artificially prop up" lower-quality search options and raise phone prices.

"People use Google because they choose to, not because they're forced to, or because they can't find alternatives," Google Chief Legal Officer Kent Walker said in a blog post in response to the complaint.

Walker likened Google's distribution agreements with phone makers and wireless carriers to the way a cereal brand would pay a supermarket to stock its products on a shelf at eye level. Other search engines are able to compete with Google for those deals, he said. Users can also easily switch to other search engines on desktops and phones, Walker wrote.

"This isn't the dial-up 1990s, when changing services was slow and difficult, and often required you to buy and install software with a CD-ROM," he said. "Today, you can easily download your choice of apps or change your default settings in a matter of seconds—faster than you can walk to another aisle in the grocery store."

Google began dominating online search 20 years ago with an algorithm that delivered better results than those of its rivals. Since then it has also relied on its own products, like its Android mobile operating system, and exclusive agreements with device makers and mobile carriers to be the default search option for millions of users. That's given it an insurmountable advantage over rivals, according to the government.

The exclusive agreements with phone makers like Apple Inc. and wireless carriers like Verizon Communications Inc. deny rivals the scale and distribution they need to compete against Google in search, the U.S. said. Google monetizes its dominance in search by selling advertising, which it uses to pay for the exclusive deals. Those payments create a strong disincentive for distributors to switch to another service, according to the complaint.

"Through these exclusionary payoffs, and the other anticompetitive conduct described below, Google has created continuous and selfreinforcing monopolies in multiple markets," the U.S. said.

In a briefing with reporters, Justice Department officials declined to discuss what specific remedies the government would seek. It would be up to a federal court judge to decide what remedy to impose, including whether to order a breakup of Google's businesses.

"At a minimum this would require stopping that conduct, but additional relief may be necessary," said Alex Okuliar, the department's deputy for civil antitrust.

The Justice Department's case, which Texas and 10 other states joined, is the first to emerge from an investigation of some of the largest technology companies initiated by Barr 15 months ago. It's the most significant antitrust lawsuit since the U.S. filed a case against Microsoft Corp. in 1998 and marks a seismic shift away from the government's mostly laissez-faire approach toward America's tech giants.

While it's not illegal to be a monopoly under U.S. law, it's a violation for a dominant company to engage in exclusionary conduct to protect or strengthen its market power.

Barr had championed the Google case by giving it a high priority and assigning his No. 2 to oversee it. Yet as his department filed the long-awaited lawsuit in federal court, Barr was off preparing to speak on law and order in Marco Island, Florida. Barr has taken a low profile since President Donald Trump, starting about two weeks ago, began pushing him to prosecute his political enemies. On Tuesday, Trump demanded that Barr investigate Hunter Biden.

The Google cases by the Justice Department and the state attorneys general could be followed by a Federal Trade Commission case later this year against Facebook Inc. joined by state attorneys general. In

Congress, Representative David Cicilline intends to push legislation to curb the dominance of tech giants following findings of an investigation that Google, Facebook, Apple and Amazon.com Inc. abused their power as gatekeepers in the digital economy.

Cicilline, the Rhode Island Democrat who led the House's investigation of competition in big tech, called the action "long overdue." Sen. Elizabeth Warren said the case against Google "is clear" and could have gone further with its allegations against the company. Republican Sen. Josh Hawley of Missouri praised the lawsuit.

"Three years ago, I couldn't get a single fellow state attorney general to join me in my antitrust investigation of Google," said Hawley, who was Missouri's attorney general before becoming a U.S. senator. "So this is a major, major development. It is a chance to show that antitrust law is still relevant. It is still very much alive, and it has an important role to play in this era and the 21st century."

The combined challenges could upend how the companies do business. If the government prevails, one or more of the tech goliaths could even be broken up—reminiscent of the way the antitrust crusades of the early 20th century led to the breakup of Standard Oil in 1911.

Trump has repeatedly railed against U.S. tech firms, exposing the Justice Department to criticism that the case against Google is politically motivated. Trump economic adviser Larry Kudlow said Tuesday the White House has been "consulting" with the Justice Department about the Google case.

It will likely be more than a year before the lawsuit goes to trial—if it's not settled first. That could mean a Joe Biden administration will be responsible for continuing the case if the former vice president defeats Trump in November. While Biden has yet to detail his thinking on antitrust, his campaign is talking to proponents of more aggressive enforcement than existed under former President Barack Obama. Many Democratic lawmakers are also concerned about the need for stepped-up antitrust enforcement of large technology companies.

Google is expected to put up a fight and will be able to spare no expense with its defense. Its parent, Alphabet, is one of the world's wealthiest companies with a market value of about $1 trillion and projected 2020 sales of $142 billion.

In hearings and court filings, the company has said it faces robust rivals in all its markets. It has argued that competition has helped lower the cost of online ads in recent years, and it has highlighted the money it makes for publishers and small businesses.

The House antitrust report found that Google has been able to build barriers to competition by becoming the default search engine on desktop and mobile internet browsers. In desktop browsers, Google search has default placement on Google Chrome, Apple's Safari and Mozilla Corp.'s Firefox, amounting to 87% of the market, according to the report.

In mobile, Google search controls essentially the entire market because it's the default search on its Android operating system and Apple's iOS operating system. It pays Apple roughly $8 billion a year for the privilege, according to estimates by analysts at Sanford C. Bernstein & Co. And that's not the only such agreement. Google also has deals with Mozilla's Firefox as well as phone makers including Samsung Electronics Co.

While Europe has aggressively targeted the U.S.'s tech champions, particularly Google, for anticompetitive behavior, American enforcers have largely given them free rein. The FTC closed a previous Google inquiry in 2013 after two years without taking action. Google, Facebook, Amazon, Apple and Microsoft have completed hundreds of acquisitions over the last decade, none of which have been blocked by merger cops.

The case against Microsoft, which accused the software giant of illegally monopolizing the market for computer operating systems, was brought under former president Bill Clinton and nearly led to the company's breakup.

A federal district court judge ruled that Microsoft should be split up for having tied its internet browser to its Windows operating system—strangling competitors. But an appeals court reversed that ruling and the Justice Department settled the case under the George W. Bush administration.

Still, legal experts have said that by pinning Microsoft down for several years with the investigation and ensuing litigation, the U.S. made it possible for a new crop of tech companies like Google to emerge and thrive.

There are parallels between today's widespread anti-big-tech sentiment and the Progressive Era push that lead to the breakup of Standard Oil. Oil was to the industrial base of the economy in the early 20th century, what data is to the 21st century economy.

The John D. Rockefeller empire began as a small refinery, but grew through acquisitions to control 90% of U.S. oil production, refining and transportation. Along the way, Rockefeller amassed huge amounts of economic power, as did steel and railroad magnates. That also led to the passage of the Sherman Antitrust Act of 1890 and ultimately Standard Oil's dissolution.

Google, likewise, began as a small search engine and grew quickly through acquisitions such as YouTube in 2006 and the DoubleClick digital advertising company in 2007 to control vast swaths of the digital advertising ecosystem. Google also stockpiled immense troves of data—decades' worth of consumer and business buying preferences and surfing habits—deepening its economic grip and making it harder for new entrants to challenge it.