

As feds loom, states hit Facebook, Google with new probes

September 6 2019, by Marcy Gordon And Matt O'brien



This Thursday, Jan. 3, 2013, file photo shows Google's headquarters in Mountain View, Calif. Two bipartisan groups of state attorneys general are launching separate antitrust investigations into Facebook and Google, Friday, Sept. 6, 2019, adding to regulatory scrutiny of two of the world's largest and most ubiquitous tech companies.(AP Photo/Marcio Jose Sanchez, File)

Two groups of states are targeting Facebook and Google in separate antitrust probes, widening the scrutiny of Big Tech beyond sweeping federal and congressional investigations into their market dominance.

Facebook and Google are two of the world's largest and most ubiquitous tech companies. The billions who use their services for making social media posts, uploading videos or searching ads are targeted by the tech companies for their personal data—a prized asset that enhances the companies' power. Regulators are examining whether the companies have used their market power to crimp competition, potentially raising prices and hurting consumers.

Dissatisfaction with what federal authorities have done so far may be pushing some states to band together to run their own investigations, possibly eyeing more aggressive sanctions. The Federal Trade Commission's recent \$5 billion fine against Facebook over privacy violations, for example, was criticized by consumer advocates and a number of public officials as being too lenient.

"The states see it as part of their role to fill a vacuum," said Jay Himes, an antitrust lawyer in New York. Himes, a former head of the antitrust bureau in the New York attorney general's office, worked on the states' antitrust case against Microsoft about 20 years ago.

New York Attorney General Letitia James said Friday her probe will look into Facebook's dominance and any resulting anticompetitive conduct.

A separate group of state attorneys general is announcing Monday in Washington the launch of an investigation into "whether large tech companies have engaged in anticompetitive behavior that stifled competition, restricted access and harmed consumers," an advisory from Texas Attorney General Ken Paxton said Friday. The Washington Post

and The Wall Street Journal, citing sources they didn't identify, have reported that target will be Google.

Both groups of state attorneys general include Democrats and Republicans. Joining James, a Democrat, in the Facebook investigation are the attorneys general of Colorado, Florida, Iowa, Nebraska, North Carolina, Ohio, Tennessee and the District of Columbia.



In this Tuesday, April 18, 2017, file photo, a conference worker passes a demo booth at Facebook's annual F8 developer conference, in San Jose, Calif. New York Attorney General Letitia James says a bipartisan coalition of state attorneys general is investigating Facebook for alleged antitrust issues. James said Friday, Sept. 6, 2019 the probe will look into whether Facebook's actions endangered consumer data, reduced the quality of consumers' choices or increased the price of advertising. (AP Photo/Noah Berger, File)

With some 2.4 billion users around the globe and a huge social media presence, Facebook has sparked outrage with a series of privacy scandals and its use by Russian operatives in the 2016 presidential campaign.

"Even the largest social media platform in the world must follow the law and respect consumers," James said.

Critics worry that Facebook can squash competitors either by buying them or using its enormous resources to mimic services they offer. That ultimately could reduce viable alternatives for consumers looking, for instance, for comparable services that do less tracking for targeted advertising. Businesses, including mom and pop shops, might have to pay more for ads if they have fewer choices to reach consumers online.

The U.S. Justice Department opened a sweeping antitrust investigation of big tech companies this summer, looking at whether their online platforms have hurt competition, suppressed innovation or otherwise harmed consumers. The Federal Trade Commission has been conducting its own competition probe of Big Tech, as has the House Judiciary subcommittee on antitrust.

The lawmaker leading that investigation, Rep. David Cicilline, D-R.I., said Friday the states' probe of Facebook is "completely appropriate."

"Facebook has proven time and time again that it cannot be trusted to regulate itself," Cicilline said.

The states have the power to make big changes to the tech industry—especially if enough of them band together, said Matt Stoller, a fellow at the Open Markets Institute, a group that advocates for the breakup of corporate monopolies. Though states have limited

jurisdictions, he said, once a few of the bigger states get involved, changes can come that can affect most of the country.



In this June 11, 2019 file photo, New York Attorney General Letitia James speaks during a news conference in New York. James says a bipartisan coalition of state attorneys general is investigating Facebook for alleged antitrust issues. James said Friday, Sept. 6, the probe will look into whether Facebook's actions endangered consumer data, reduced the quality of consumers' choices or increased the price of advertising. (AP Photo/Mary Altaffer, File)

"You really have to break their power, and I think the states are more likely to do that than anyone else," Stoller said in an interview.

Facebook said it plans to "work constructively" with the state attorneys general and welcomes a conversation with policymakers about competition.

"People have multiple choices for every one of the services we provide," said Will Castleberry, a vice president of state and local policy. "We understand that if we stop innovating, people can easily leave our platform. This underscores the competition we face, not only in the U.S. but around the globe."

Google said it welcomes government oversight to make sure companies comply with the law. The company said it has already responded to many government agencies around the world on how it conducts its businesses and expects state attorneys general to ask similar questions.

"We look forward to showing how we are investing in innovation, providing services that people want, and engaging in robust and fair competition," Kent Walker, a senior vice president for global affairs, said in a blog post.

Big Tech won't be an easy target. Current interpretations of U.S. law against monopolies don't obviously apply to companies offering inexpensive goods or free online services.

Traditional antitrust law focuses on dominant businesses that harm consumers, typically through practices that raise prices for consumers. But many tech companies offer free products that are paid for by a largely invisible trade in the personal data gleaned from those services. Others like Amazon offer consistently low prices on a wide array of merchandise.

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