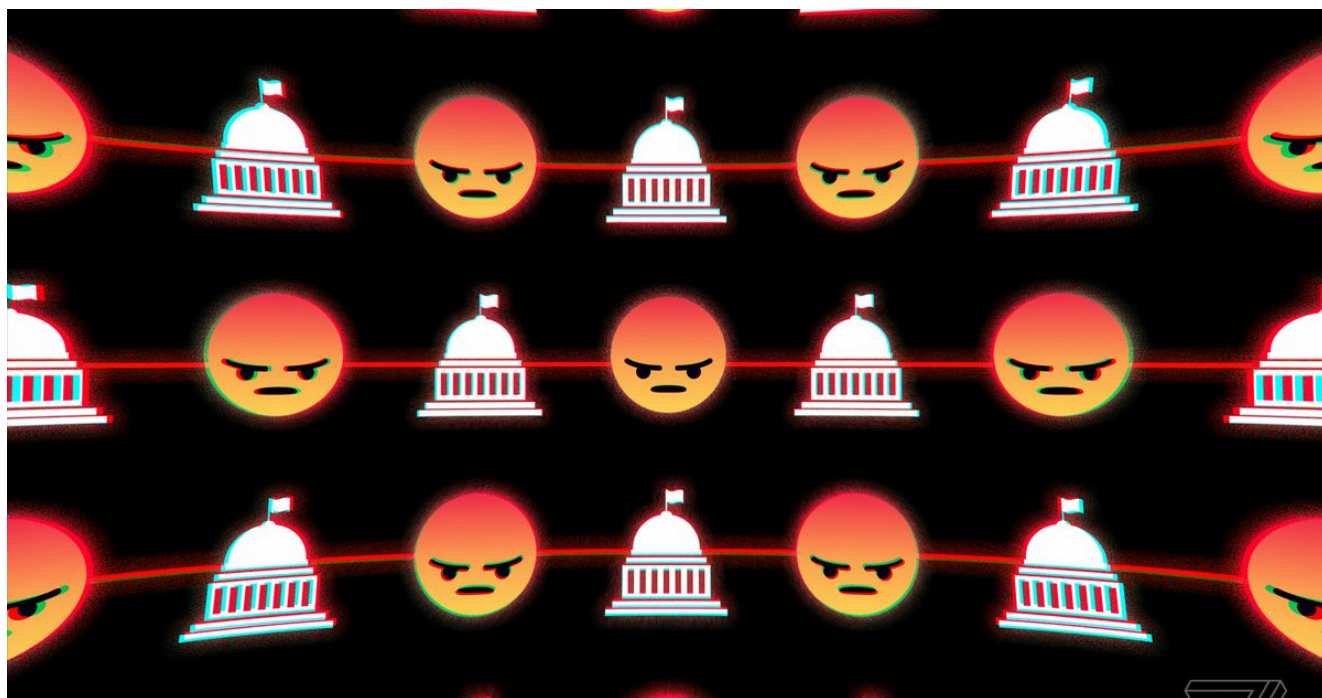


Dems push for federal probe of alleged ad collusion between Google and Facebook



Four Democratic members of Congress are calling for an investigation into whether an alleged secret 2018 agreement between Google and Facebook concerning digital advertising violated federal antitrust law. Sens. Elizabeth Warren (D-MA) and Richard Blumenthal (D-CT) and Reps. Pramila Jayapal (D-WA) and Mondaire Jones (D-NY) wrote a letter to Attorney General Merrick Garland and Acting US Attorney General Nicholas Ganjei of Texas asking them to determine whether federal charges might be warranted.

“If the reports are accurate, the behavior appears to be a clear violation of Section 1 of the Sherman Antitrust Act (Sherman Act), which criminalizes “mak[ing] any contract” “in restraint of trade or commerce,” the letter states.

“The behavior appears to be a clear violation of... the Sherman Antitrust Act”

Attorneys General in ten states filed suit against Google in

December over a program reportedly nicknamed “Jedi Blue,” according to an unredacted draft version viewed by the *Wall Street Journal*. The Texas attorney general’s office led the suit, alleging that Facebook and Google worked to sabotage “header bidding,” which allows advertisers, including competitors, to bypass Google’s ad auctions. Google “repeatedly used its monopolistic power to control pricing,” according to the complaint.

The Jedi Blue agreement allegedly guaranteed that Facebook would receive a fixed percentage of advertising bids on Google. In return, Facebook agreed to curtail its involvement with header bidding in ad auctions, the complaint states.

In February, the parent company of a West Virginia newspaper chain filed an antitrust suit against the two companies, alleging that they were siphoning digital ad revenue away from news organizations. HD Media alleged in its complaint that the Jedi Blue agreement was an illegal quid pro quo.

Now the members of Congress want the Justice Department to investigate whether Google and Facebook should be subject to sanctions, including possible criminal penalties.

Both companies strenuously deny any wrongdoing, and have issued detailed rebuttals to the charges. In response to a request for comment from *The Verge*, a Google spokesperson referred to a January blog post written by Adam Cohen, the company’s director of economic policy. Titled “AG Paxton’s misleading attack on our ad tech business,” the post states that Facebook is one of more than 25 partners in its Open Bidding program, and that having the Facebook Audience Network’s participation actually helps publishers, by increasing the demand for publishers’ ad space, which allows the publishers to earn more revenue.

“AG Paxton inaccurately claims that we manipulate the Open Bidding auction in FAN’s favor. We absolutely don’t,” Cohen

writes in the post. "FAN must make the highest bid to win a given impression. If another eligible network or exchange bids higher, they win the auction. FAN's participation in Open Bidding doesn't prevent Facebook from participating in header bidding or any other similar system. In fact, FAN participates in several similar auctions on rival platforms."

A Facebook spokesperson declined to comment on the letter, but pointed to the company's December statement on the matter, in which the company said that such partnerships are common in digital ad markets. "Any suggestion that these types of agreements harm competition is baseless," the previous statement reads.

Still, the specific allegations in the Texas case have been enough to spark further action. In the letter, members of Congress are particularly interested in the claim that the Jedi Blue deal was signed by Google senior vice president Philipp Schindler and Facebook COO Sheryl Sandberg. The two may have been aware they were violating antitrust laws, as suggested by "a provision governing the parties' options to terminate the agreement in the event of certain government investigations of the agreement," which could be evidence of criminal intent, according to the letter.

The Jedi Blue deal amounts to bid rigging, the letter suggests, in violation of the Sherman Act which states that a "contract ... or conspiracy, in restraint of trade or commerce ... is declared to be illegal." Criminal penalties could range up to \$100 million for a company found in violation and up to \$1 million in fines and ten years in prison if an individual is found guilty.

<https://www.theverge.com/2021/9/1/22650550/facebook-google-antitrust-congress-democrats-ad-collusion-jedi-blue>