

D0J reportedly launches its own Facebook probe at AG Barr's urging



Enlarge / U.S. Attorney General William Barr speaks at an event at the Robert F. Kennedy Main Justice Building in Washington, DC, in May 2019.

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Facebook, it seems, is continuing to shatter records of all sorts. Usually, regulators at the Federal Trade Commission and Department of Justice agree to conduct antitrust probes against a company one at a time, deciding in advance who should take the lead and run with it. According to a new

report, though, the US attorney general has decided that one federal investigation just isn't enough.

"Prodding" from US Attorney General William Barr has led the DOJ to launch its own antitrust investigation of Facebook, sources tell Bloomberg News. The DOJ will reportedly focus on conduct that is not included in the FTC's current investigation.

The FTC's Bureau of Competition and the DOJ's Antitrust Division share authority for antitrust enforcement in the United States. When a specific case arises, such as a high-stakes proposed merger or a complaint against a single company such as Facebook, the two agencies generally work out an agreement between them that will put that particular ball in one court or the other—not both.

Facebook confirmed in July that it is the target of an antitrust investigation by the FTC. The commission is reportedly looking into anticompetitive actions Facebook allegedly took to quash, intimidate, or outright acquire potential competition in the market.

Competition among regulators

Facebook might be unfairly stifling competition, but competition among regulators to investigate Facebook—and some of its digital brethren—certainly seems robust.

Media reports surfaced in June indicating that the FTC and DOJ had settled on a kind of divide-and-conquer approach to Big Tech antitrust probes: The FTC would take on Amazon and Facebook, and the DOJ would delve into Google and Apple.

Bloomberg's sources said that something of a territorial dispute has now emerged between the two agencies, the heads of which have been exchanging letters on the topic. Senators pressed FTC Chairman Joseph Simons and Antitrust Division head

Makan Delrahim about the turf war in a hearing earlier this month, wondering aloud if the agencies were simply wasting resources by doubling up their efforts.

The DOJ confirmed in July that its antitrust division was actively investigating widespread concerns that “consumers, businesses, and entrepreneurs have expressed” about “market-leading online platforms.” The agency didn’t name names, but that list of “market-leading” platforms is generally considered to include Amazon, Apple, Facebook, and Google. “Social media” was, however, mentioned as a target.

The federal regulators, however they resolve the issue between them, have a whole lot of company.

Attorneys general for several states launched their own antitrust probe into Facebook earlier this month. New York Attorney General Letitia James, leading the coalition, said the probe would determine “whether their actions endangered consumer data, reduced the quality of consumers’ choices, or increased the price of advertising.”

Congress, too, has jumped into the fray. The House Antitrust Subcommittee launched an investigation in June probing “abusive conduct by platform gatekeepers” including Apple, Amazon, Facebook, and Google. The committee recently sent a massive data request to all four firms seeking a decade’s worth of records. The letter to Facebook (PDF) seeks records relating to several of Facebook’s prior acquisitions, including of Onavo, WhatsApp, and Instagram, as well as other analyses, communications, and legal filings.

International regulators are also hard at work. Media reports indicate the EU’s competition regulator has its own antitrust probe of Facebook in progress, and member states such as Germany are also taking action.

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