Facebook fights to “shield Zuckerberg” from punishment in US privacy probe

Enlarge / Facebook CEO Mark Zuckerberg leaving the Merrion Hotel in Dublin after meeting with Irish politicians to discuss regulation of social media on Tuesday, April 2, 2019.
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Federal Trade Commission officials are discussing whether to hold Facebook CEO Mark Zuckerberg personally accountable for Facebook’s privacy failures, according to reports by The Washington Post and NBC News. Facebook has been trying to protect Zuckerberg from that possibility in negotiations with the FTC, the Post wrote.

Federal regulators investigating Facebook are “exploring his past statements on privacy and weighing whether to seek new, heightened oversight of his leadership,” the Post reported, citing anonymous sources who are familiar with the FTC discussions.

“The discussions about how to hold Zuckerberg accountable for Facebook’s data lapses have come in the context of wide-ranging talks between the Federal Trade Commission and Facebook that could settle the government’s more than year-old probe,” the Post wrote.

According to NBC, FTC officials are “discussing whether and how to hold Facebook Chief Executive Mark Zuckerberg personally accountable for the company’s history of mismanaging users’ private data.” However, NBC said its sources “wouldn’t elaborate on what measures are specifically under consideration.”

According to the Post, one idea raised during the probe “could require [Zuckerberg] or other executives to certify the company’s privacy practices periodically to the board of directors.”

But it’s not clear how likely the FTC is to target Zuckerberg in a final settlement, and “Facebook has fought fiercely to shield Zuckerberg as part of the negotiations, one of the sources familiar with the probe said,” the Post wrote.

Facebook dismisses “recycled” storyline

When contacted by Ars, Facebook said, “These storylines have been recycled for some time.” The company cited an April 2 Politico story as an example. But the Politico story was more speculative: it said the FTC could use its authority to seek “new, more aggressive privacy auditors; or even management changes, up to the level of Chairman and CEO Mark Zuckerberg.” And unlike the new Post and NBC stories, Politico’s article merely discussed the FTC targeting Zuckerberg as a theoretical possibility and didn’t assert that FTC investigators themselves are considering a punishment for Zuckerberg.

As for the FTC investigation, Facebook told Ars that it hopes “to reach an appropriate and fair resolution” with the commission.

The FTC reached a settlement with Facebook in 2011 over charges that it deceived users by failing to keep privacy

promises. During the lead-up to that settlement, the FTC "considered, then backed down, from putting Zuckerberg directly under order," the Post wrote. "Had it done so, Zuckerberg could have faced fines for future privacy violations."

The FTC's current investigation began in March 2018, after revelations that up to 87 million users' information was improperly shared with Cambridge Analytica. The FTC investigation focuses on whether Facebook violated the terms of its 2011 settlement with the FTC. That settlement prohibited Facebook from misrepresenting the privacy or security of user information, and it required Facebook to get consumers' express consent before making changes that override their privacy settings.

Republicans hold a 3-2 majority on the FTC. Democratic Commissioner Rohit Chopra wrote in a May 2018 memo that "the FTC should hold individual executives accountable for order violations in which they participated, even if these individuals were not named in the original orders."

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