

Google's \$2.1 billion Fitbit acquisition is getting closer scrutiny from EU regulators



Antitrust regulators and consumer advocacy groups are increasing their scrutiny of Google's planned acquisition of fitness tracker firm Fitbit.

Google announced it was buying Fitbit last year for \$2.1 billion and said it hoped to complete the deal some time in 2020. But it's possible the acquisition will be delayed over fears about the search giant's increased access to sensitive data from Fitbit's hardware, including users' heart rates, their fitness activity, and their sleep patterns.

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The Financial Times reports that EU regulators have sent 60-page questionnaires to Google and Fitbit's rivals, asking them to assess how the acquisition will affect the digital healthcare space; whether it will disadvantage fitness tracking apps hosted in Google's Play Store; and how Google

might use the data to profile users for its search and advertising business.

EU regulators have set a deadline of July 20th for their next decision regarding the deal. The trading bloc can choose to approve the deal, or ask for concessions from Google (regarding how Fitbit's data is used, for example), or open a four-month investigation to fully explore concerns. The *FT* says the level of detail in the recent questionnaires sent to the companies' rivals suggests an extended investigation could be in the works.

The EU isn't the only party worried about the acquisition, either. Last month, Australia's Competition and Consumer Commission announced its own concerns. "Buying Fitbit will allow Google to build an even more comprehensive set of user data, further cementing its position and raising barriers to entry to potential rivals," said ACCC Chairman Rod Sims.

Worry from regulators has also been matched by consumer advocacy groups. This week, 20 consumer groups, from the US, EU, Mexico, Canada, and Brazil, wrote to regulators saying the deal was a "test case" to see if they could effectively reign in data monopolies.

Consumer advocacy groups say the acquisition is a "test case" for regulators

"Google could exploit Fitbit's exceptionally valuable health and location datasets, and data collection capabilities, to strengthen its already dominant position in digital markets such as online advertising," said the group, according to a report from *CNET*. "Google could also use Fitbit's data to establish a commanding position in digital and related health markets, depriving competitors of the ability to compete effectively."

Google has made some concessions to allay these fears, saying last year that "Fitbit health and wellness data will not be

used for Google ads.” In reaction to the letter from consumer groups, the company said the deal is “about devices, not data,” adding that the wearables space is “highly crowded” and that the acquisition of Fitbit will only increase competition.

This line of argument is likely to deter antitrust regulators from simply blocking the deal, reports *Fortune*, as Fitbit and Google aren’t direct competitors, and neither of them holds enough of the wearables market to make the argument that the deal creates a monopoly.

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“It would be extraordinarily difficult to bring a case,” antitrust attorney David Balto, who was policy director at the FTC during Microsoft’s antitrust trials, told *Fortune*. “There are no successful oppositions to vertical mergers like this.”

According to data from analysts IDC, Fitbit had less than 5 percent of the wearables market in 2019, while Apple, the largest player, had 32 percent. The next two biggest companies, Xiaomi and Samsung, have 12 percent and 9 percent market share respectively. None of these firms use Google’s software in their wearable devices.

However, concerns about data access might be more persuasive considering Google’s strong position in online advertising, where it controls 90 percent of the market for some specific tools, like those used by publishers to sell displays ads. This is a sensitive area for Google at the moment, as the US Justice Department is nearing the end of its own antitrust investigation against the company regarding alleged abuse of its advertising dominance.

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