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Newsroom

AG Racine Joins Multistate Lawsuit Seeking to End Facebook’s Illegal Monopoly



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Bipartisan Coalition of 48 Attorneys General Allege Facebook Thwarted Competition and Reduced Consumer Privacy for Profits

WASHINGTON, D.C. – Attorney General Karl A. Racine today joined a bipartisan coalition of 48 Attorneys General in filing a lawsuit against Facebook Inc., alleging that the company has illegally stifled competition to maintain its overwhelming market dominance and boost profit, harming consumers, competitors, and advertisers. The lawsuit alleges that, over the last decade, the social networking giant illegally acquired competitors and cut possible rivals off from accessing its platform to eliminate competitive threats. As a result, Facebook was able to deprive users of the benefits of competition and increase advertising revenue while reducing privacy protections and service quality. The Attorneys General are seeking a host of potential remedies that would ensure Facebook stop its anticompetitive behavior and illegal acquisitions.

“Our bipartisan investigation has revealed that Facebook cemented its market dominance by stifling competition and unlawfully eliminating would-be competitors, thereby, depriving consumers of choice and reducing quality and privacy on its platform,” said AG Racine. **“State Attorneys General across the country are sending a clear message: we will investigate and take action when we find evidence that market-dominant companies, such as Facebook, have used their power to unlawfully enrich themselves at the expense of consumers and competition.”**

Facebook, Inc., headquartered in Menlo Park, California, is a personal social networking service founded in 2004 that allows users to share content online. Every day, more than half of the U.S. population over the age of 13 uses Facebook services. Facebook does not charge a cash price for its services, but instead provides them in exchange for users’ time, attention, and personal data. The company makes money selling targeted advertising. The more data Facebook accumulates by surveilling users, and the more time the company convinces users to spend on Facebook services, the more money the company makes through its advertising business.

While Facebook initially won users by outcompeting rivals—for example, by offering a higher-quality user experience and better privacy protections than other social networking services did at the time—it has maintained market dominance by harming competition rather than improving its own products or services. Over the last decade, Facebook cemented its monopoly power by eliminating or impeding companies that could pose a competitive threat rather than by outperforming or out-innovating them. It also made billions of dollars while degrading the quality of its services, including by reducing privacy protections and increasing the number of ads users see.

The Attorneys General seek to halt Facebook’s anticompetitive practices and hold the company accountable for harm to consumers, advertisers, and the marketplace under the Sherman Act and the Clayton Act, federal antitrust laws. Specifically, the coalition alleges that Facebook:

- **Eliminated competition by acquiring rivals, including Instagram and WhatsApp:** From 2012 to 2020, Facebook demonstrated a pattern of acquisitions aimed at eliminating competition rather than improving its own services. Facebook used unique data-gathering tools to identify new apps gaining traction among users, then attempted to acquire those perceived as the greatest threats. Facebook offered the heads of the smaller companies vast amounts of money—often greatly in excess of their own valuations—to guarantee sales and avoid either direct competition or the threat of these companies falling into the hands of other potential challengers. The acquisitions of Instagram, an innovative photo sharing app, and WhatsApp, a fast-growing messaging service, are the most prominent examples of this pattern.

- **Unlawfully disadvantaged competitors:** Facebook disadvantaged apps it identified as potential competitors by cutting them off from access to its platform and development tools. First, Facebook invited third-party developers to build apps that could be used on Facebook or in connection with a Facebook account. Facebook benefitted from the new functionality these third-party apps provided to its users and from the valuable additional data Facebook could gather. However, after years of promoting open access to its platform, starting in 2011, Facebook rescinded access and blocked apps it viewed as actual or potential competitive threats. Facebook understood that an abrupt termination of established access to the site could devastate apps, not only by cutting off functionality (like sending app invitations to Facebook friends), but also because that loss of functionality could suggest to users that an app is low-quality or unstable. Some companies cut off by Facebook experienced almost overnight drop-off in user engagement and downloads, and their growth stalled.
- **Deprived consumers of choices:** Facebook exerts significant control over how consumers engage with their contacts, what content they see when they do, and deprives them of choices in the marketplace. Because of Facebook's unlawfully maintained monopoly power, users have nowhere else to go. As a result, the company is able to make decisions about how to curate content on the platform and use the personal information it collects from users to further its business interests, even if those choices conflict with the interests and preferences of Facebook users. Additional competition would enable users to select a social networking platform that suits their preferences, including preferences regarding the content shown to them, amount and type of advertising, and the availability, quality, and variety of data protection and privacy options for users.
- **Increased profits while lowering the quality of services:** Facebook has expanded its advertising business and makes billions of dollars annually while the user experience on its platform has been degraded. Many of Facebook's privacy controls and protections have been eliminated, while the company continues to amass even more personal data from users. Facebook has also steadily increased the number of ads consumers see on the platform each year since at least 2015. The insertion of more ads into a user's feed means that content from friends and family—the core reason users come to Facebook—is interrupted more frequently. Consumers are forced to put up with this degraded user experience if they want to remain in touch with family and friends because they do not have access to meaningful alternatives to Facebook.
- **Stifled innovation in social networking:** Facebook acquired several apps with innovative social networking features that Facebook itself lacked. After acquiring these apps, Facebook shuttered them. Facebook's conduct deprived users of additional attractive features and quality improvements that would have been developed to attract and retain users in a truly competitive marketplace.

The coalition of Attorneys General is asking the court to halt Facebook's illegal, anticompetitive conduct and block the company from continuing this behavior in the future. Additionally, the coalition asks the court to restrain Facebook from making further acquisitions valued at or in excess of \$10 million without advance notice to the plaintiff states. Finally, the court is asked to provide any additional relief it determines is appropriate, including the divestiture or restructuring of illegally acquired companies, or current Facebook assets or business lines.

The redacted complaint, filed in the U.S. District Court for the District of Columbia, is available at:

<https://oag.dc.gov/sites/default/files/2020-12/Facebook-Complaint.pdf> (<https://oag.dc.gov/sites/default/files/2020-12/Facebook-Complaint.pdf>).

The lawsuit is being led by New York Attorney General Letitia James and an executive committee made up of the Attorneys General of California, Colorado, the District of Columbia, Florida, Iowa, Nebraska, North Carolina, Ohio, and Tennessee. The executive committee is joined by the attorneys general of Alaska, Arizona, Arkansas, Connecticut, Delaware, Hawaii, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, and the territory of Guam.

Separately, but in coordination with the multistate coalition, the Federal Trade Commission (FTC) also today filed a complaint against Facebook in the U.S. District Court for the District of Columbia. The coalition wishes to thank the FTC for its close working relationship and collaboration during this investigation.

In December 2018, AG Racine [filed suit against Facebook](https://oag.dc.gov/release/ag-racine-sues-facebook-failing-protect-millions) (<https://oag.dc.gov/release/ag-racine-sues-facebook-failing-protect-millions>) for failing to protect its users' data, enabling abuses like one that exposed nearly half of all District residents' data to manipulation for political purposes during the 2016 election. In the lawsuit, OAG alleged Facebook's lax oversight and misleading privacy settings allowed, among other things, a third-party application to use the platform to harvest the personal information of millions of users without their permission and then sell it to a political consulting firm. The case is currently in discovery.