

AG Slatery Joins Multistate Lawsuit Seeking to End Facebook's Illegal Monopoly

Bipartisan coalition alleges Facebook engaged in Anticompetitive Conduct, Thwarted Competition, and Reduced Consumer Privacy for Profits

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Nashville, TN- Attorney General Herbert H. Slatery III today joined a bipartisan coalition of 48 attorneys general in filing a lawsuit against Facebook Inc., alleging that the company illegally stifles competition to protect its monopoly.

The lawsuit alleges that, over the last decade, the social networking giant illegally acquired competitors in a predatory manner and cut services to smaller threats, depriving users of the benefits of competition and reducing privacy protections and services along the way — all in an effort to boost its bottom line through increased advertising revenue. This creates a significant barrier for innovative services to enter the social media market.

“This vast coalition of Democrats and Republicans agree - Facebook’s unlawful behavior is reducing choice, stifling innovation, and degrading privacy protections,” said General Slatery. “This lawsuit stands up for millions of Americans and small businesses that have been harmed by Facebook.”

Since 2004, Facebook has operated as a “free” personal social networking service. Facebook monetizes its business by selling advertising to firms that attach immense value to the highly targeted advertising Facebook can deliver due to the extensive data it collects on users, their friends, and their interests.

To maintain its market dominance, Facebook employs a variety of methods to impede competing services and — as Chairman, Chief Executive Officer, and controlling shareholder Mark Zuckerberg has stated — to “build a competitive moat” around the company.

The two most utilized strategies have been to acquire smaller rivals and potential rivals and suppress third-party developers Facebook invited to utilize its platform — allowing Facebook to maintain its monopoly over the social networking market and leverage the ensuing user data to make billions every month from advertising.

Reduced Privacy and Fewer Options

Facebook’s unlawful monopoly gives it broad discretion to set the terms for how its users’ private information is collected and used to further its business interests. When Facebook refuses or cuts off integration to third-party developers, users cannot easily move their own information — such as their lists of friends — to other social networking services. This

cannot easily move their own information — such as their lists of friends — to other social networking services. This decision forces users to either stay put or start their online lives from scratch if they want to try an alternative.

Because Facebook users have nowhere else to go, the company is now able to make decisions about what content users see and what users don't see, as well as how it uses the personal information it collects to further its business interests, even if those choices conflict with the interests and preferences of Facebook users.

Acquisition of Competitive Threats

Facebook employs unique data-gathering tools to monitor new apps gaining traction with users. The developers of these apps are offered vast amounts of money for their companies and products, all in hopes of avoiding any competition for Facebook in the future.

The elimination of potential rivals means users have no alternative to Facebook, fueling its unfettered growth without competition and further entrenching its position. The two most obvious examples of this successful strategy were Instagram and WhatsApp — both of which could have become significant competitors to Facebook.

Cutting Competitors Off from Facebook Overnight

When Facebook does not acquire potential rivals, it tries to squeeze every bit of oxygen out of the room for these companies. Facebook first opened its platform to apps created by third-party developers to increase functionality on the site and, subsequently, increase the number of users on Facebook. Facebook also persuaded apps to offer “sign in with Facebook,” allowing Facebook to capture valuable data about its users' off-Facebook activity.

After years of promoting open access to its platform, in 2011, Facebook began to rescind access and block integration with apps that Facebook viewed as competitive threats. Hobbling potential rivals also served as a warning to other apps that if they encroach on Facebook's territory, Facebook will end their access to crucial integrations. This not only stifles innovation and new ideas, but it also shuts the door to capital needed to start new businesses.

Specific Violations

Facebook is specifically charged with violating Section 2 of the Sherman Act, in addition to multiple violations of Section 7 of the Clayton Act.

Remedies

The coalition asks the court to halt Facebook's illegal, anticompetitive conduct and block the company from continuing this behavior. 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 complaint was filed in the U.S. District Court for the District of Columbia. <https://www.tn.gov/content/dam/tn/attorneygeneral/documents/pr/2020/pr20-58-complaint.pdf>

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.

The lawsuit is headed by New York and an executive committee of California, Colorado, Florida, Iowa, Nebraska, North Carolina, Ohio, Tennessee, and the District of Columbia.

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.

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