

## **The FTC's Facebook Suit: Q&A**

### **1. What have you sued Facebook for and why?**

We have sued Facebook for illegal monopolization. Section 2 of the Sherman Act, which the FTC enforces through Section 5 of the FTC Act, prohibits companies from using anticompetitive means to acquire or maintain monopoly power. The FTC's complaint alleges that Facebook has for many years been unlawfully stifling competition and strengthening its monopoly. Facebook's unlawful practices include acquisitions of two major competitive threats—Instagram and WhatsApp—and practices relating to API access that deter and hinder competition, and contribute to the maintenance of Facebook's personal social networking monopoly.

### **2. What relief are you seeking?**

We have asked the court to provide whatever relief is necessary to restore competition. That could include divestiture of Instagram and WhatsApp, as well as injunctive relief preventing Facebook from pursuing anticompetitive practices like the use of anticompetitive conditions on API access. The court has broad remedial powers, and as litigation proceeds we will develop our understanding of what an appropriate remedial package would look like.

### **3. What comes next?**

Facebook must now either answer our complaint or move to dismiss it.

### **4. Doesn't Facebook compete with many other online companies? Isn't competition just a click away?**

No. Our lengthy investigation revealed—and the Complaint alleges—that there is a distinct market for personal social networking: that is, online services that enable and are used by people to maintain personal relationships and share experiences with friends, family, and other personal connections in a shared social space. Facebook holds monopoly power in that personal social networking market. Other online services are not reasonably substitutable for personal social networking services.

### **5. Didn't you already examine and approve these deals?**

Our enforcement action challenges more than just the acquisitions: we are challenging a multi-year course of conduct that constituted monopolization of the personal social networking market. And while both the Instagram and WhatsApp acquisitions were subject to the statutory Hart-Scott-Rodino ("HSR") notification process, that does not affect our power to take enforcement action.

### **6. These acquisitions both already closed. Can the FTC challenge consummated transactions?**

Yes, the FTC can—and often does—challenge consummated transactions when they violate the law. For example, the Commission's recent complaint in the *Otto Bock / Freedom Innovations* matter involved such a challenge. In fact, identifying anticompetitive consummated transactions has been a key part of the mandate of the Technology Enforcement Division since its [formation in February 2019 as the Technology Task Force](#).

### **7. Are you aiming to break Facebook up?**

If we prevail in showing that Facebook has broken the law, we will ask the court to provide full and adequate relief to restore competition. We currently expect that that will include divestiture of Instagram and WhatsApp. (For context, divestiture is the standard remedy in our merger cases.) But it's too early to say definitively what would be necessary and appropriate to restore competition here. Bureau Director Ian Conner described our remedial toolkit in detail in [a recent speech](#).

**8. Is this connected to any other actions against Facebook by any other branches of federal government, such as last week's suit against Facebook filed by the DOJ?**

No. We are an independent agency. This complaint is the result of an investigation by FTC staff (in cooperation with the Attorneys General of 46 states, the District of Columbia, and Guam), and a vote by the FTC Commissioners.

**9. What kind of harms does this suit focus on?**

This is an antitrust case. It challenges harm to competition from Facebook's anticompetitive conduct.