

Federal Trade Commission  
Office of the Secretary  
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Washington, DC 20580

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"Competition and Consumer Protection in the 21st Century Hearing, Project Number P181201"

**Comment from Freedom from Facebook.**

We thank the Federal Trade Commission (FTC) for requesting comments on this important set of topics. Freedom from Facebook is a diverse coalition of organizations asking the FTC to break up Facebook's monopoly on American social media by imposing structural remedies on the corporation and monetary penalties commensurate with its abuses of user privacy and democracy.

There are many reasons for taking these steps. First, a fair reading of the facts will show that Facebook did not uphold its 2011 consent decree with the commission, in which it pledged to disclose the ways user data would be shared with third parties. The Cambridge Analytica incident, for instance, caused at least 87 million violations of the consent decree, and was, as future reports showed, not an isolated occurrence.

We agree with Commissioner Rohit Chopra that "FTC orders are not suggestions." Therefore, the FTC should seek severe monetary penalties, including penalties directly on Facebook executives.

But that can't be the end of discussion. Facebook's market dominance and blatant disregard for consumer protection mean that financial penalties alone are an insufficient remedy for its transgressions. Data privacy practices are also not the only way in which the company violates the public trust.

Therefore, the commission should also investigate Facebook's dominance in social networking and online advertising; assess the hazards that this dominance poses to commerce and competition, democratic institutions, foreign interference in our politics, and censorship, especially of vulnerable communities; and take steps to implement structural remedies -- outlined below -- designed to reduce Facebook's ability to monopolize the flow of information.

This is vital work, because Facebook has become indispensable for communications that shape private relationships, public society, and commerce. Ensuring the neutral functioning of these platforms is essential to the proper functioning of markets.

A Facebook account is often a requirement for a job, maintaining a social life, or staying connected to a child's school. Asking Americans to forego Facebook is like asking them to forego a cell phone; it's possible, but doing so would make their day-to-day life much more difficult.

However, there is growing evidence that social media tools, especially when largely monopolized by a single company, are causing extraordinary harms, including but not limited to: undermining the free press, encouraging coercive consumer-producer relationships, and allowing political discourse to be manipulated by foreign influence and internet hucksters. Case in point, Facebook admitted this month that foreign campaigns meant to influence the 2018 midterm elections are already underway.

Facebook Inc. enjoys social-networking market dominance, with strong majorities of Americans using at least one of its desktop or mobile products, which now include Facebook, Instagram, WhatsApp, and Messenger, following a series of FTC-approved acquisitions. Currently, Facebook and its subsidiaries account for more than three-quarters of mobile social networking traffic in the U.S.

Relatedly, Facebook holds a dominant market position in online advertising due in part to the unregulated collection of user activities through its social-media and tracking products and through data-sharing agreements with other aggregators.

As the way in which a significant portion of Americans get at least some of their news, Facebook also plays a key role in democracy through its ability to amplify or bury certain publications and messages. It has cast itself as a regulator of political speech through its decisions regarding which political ads it runs and which accounts it bars from its platform. One company has placed itself in a position as both publisher and censor -- with the impact of its decisions often weighing most heavily on vulnerable communities.

The FTC has a Congressional mandate to remedy Facebook's past damages -- including its flouting of the consent decree -- and to prevent the emergence of future harms. Given its commanding position, we strongly believe that fulfilling that mandate requires structural solutions to reduce Facebook's ability to dominate the marketplace.

These remedies should include:

- (1) Spinning off WhatsApp, Instagram, and Messenger to establish greater competition and support market-based accountability;

(2) emplacement on Facebook of social-media interoperability standards, similar to conditions the FTC imposed on AOL Messenger in the AOL-Time Warner merger settlement in 2001; and

(3) imposition of strict privacy rules on Facebook.

Without such structural remedies, Facebook -- as the company has proven in recent years, when it has repeatedly apologized for its transgressions without fixing the underlying problems posed by its business model -- will simply return to its standard operating procedure, buying up competitors and entrenching itself as the social media network on which nearly all social media networking must occur.

At a minimum, breaking off WhatsApp, Instagram, and Messenger and establishing them as independent competitors will give consumers more meaningful options. Currently, more than 60% of Americans aren't even aware that Instagram is owned by Facebook, and therefore aren't aware of how much of their online activity is actively being monitored and monetized by Facebook. Facebook also stifles competition in the social media space by acquiring smaller companies before they can threaten its position -- and in some cases shutting them down, rather than keeping them in the marketplace.

Customers also deserve the freedom to prevent future lock-in effects from market-dominant positions, so that users can communicate between, not just within, social media networks, akin to how Verizon is unable to prevent its customers from only calling other Verizon users. A practical precedent for such action exists: In 2001 the Federal Communications Commission put a requirement on America Online, Inc. for instant-messaging interoperability for AOL Instant Messenger as a condition for AOL's merger with Time Warner Inc, meaning AOL had to make Instant Messenger compatible with rival Internet providers.

Users and advertising customers of Facebook's product suite currently enjoy the advantages of interoperability between Facebook, WhatsApp, Instagram, Messenger, and other Facebook services; these benefits should be a market standard, not a single company's market advantage.

The agency should also establish rigorous privacy rules for Facebook that include active, real-time public oversight of its activities. Facebook has repeatedly violated user expectations of privacy, both from an ethical standard as well as in the specific terms of its contractual obligations with users and its obligations under the 2011 consent order. The existing regulatory regime is *prima facie* insufficient.

The majority of Facebook users do not understand the scale, scope, and purpose of Facebook's data collection and sharing; they are not providing "informed consent." The European Union is now enacting new privacy standards known as the General Data Protection Regulation, "to protect and empower all EU citizens data privacy and to reshape

the way organizations across the region approach data privacy;" we believe U.S.-based users deserve the same rights.

Breaking up Facebook constitutes a market-based solution to the problem of its social media dominance. By giving users the option to use alternative networks without fear of being cut off from their friends and family on Facebook, they will be able to encourage competition based on serving users, not on which company most efficiently sells user data to the highest bidder.

The current structure of the social media market is radical; no one company should control news and information flows for billions of people and be able to blithely expose the data of millions of users without regulatory consequence because its size and scope prevent users from going elsewhere. Breaking up Facebook would begin to introduce fairness and market-based competition to the sector.

To be sure, these remedies would not solve the entirety of America's Facebook problem. But they constitute important initial steps toward reducing its monopoly power and giving Americans a real choice in the social media market. The FTC has an opportunity to do concrete good for Facebook's billions of users. It should seize the opportunity.

Thank you for your attention to this important matter.

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