



FTC v. Meta Platforms, Inc.

Plaintiff's Opening Statement

April 14, 2025

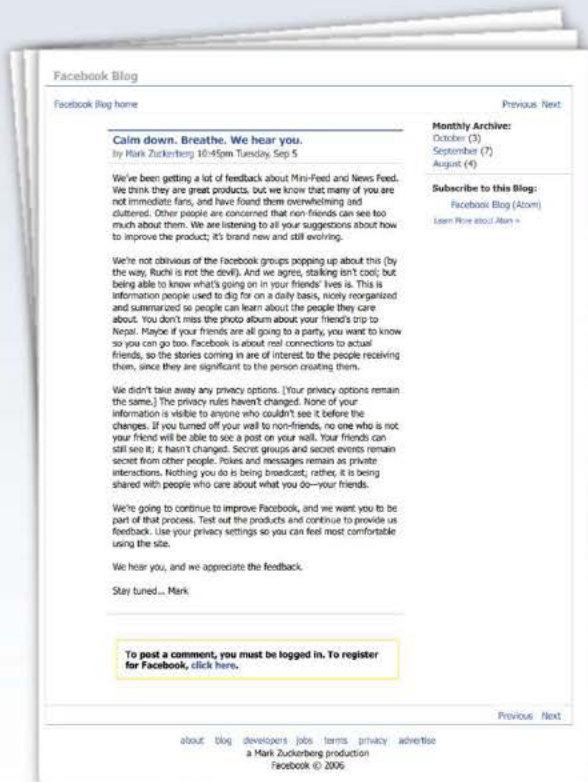
Meta's Conduct Reflects a Core Section 2 Violation



"[I]t is hard to imagine an action that better fits the definition of conduct with anticompetitive effects than a monopolist's buying out its rivals."

FTC v. Meta Platforms, Inc. (D.D.C. 2024)

Facebook = Friends and Family Social Networking Experience



"Facebook is about real connections to actual friends"

Blog Post from Mr. Zuckerberg,
CEO, Meta (Sept. 5, 2006)

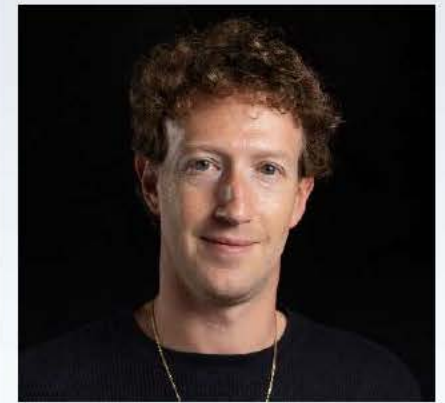
[illegible]

PX1204, Talking Points for Investor Call (May 2, 2012) at -003

Shift to Mobile = Threat to Meta



"[T]hese kinds of platform transitions, that's typically a very vulnerable and dangerous time for companies . . . through the years [2009 to 2014] was really, how do we come to grips with the fact that there is about to be this major platform transition, that it's not guaranteed that we even survive through that period."



Mr. Zuckerberg
(Testimony, Aug. 18, 2020)

Instagram Acquisition = Neutralize a Competitor

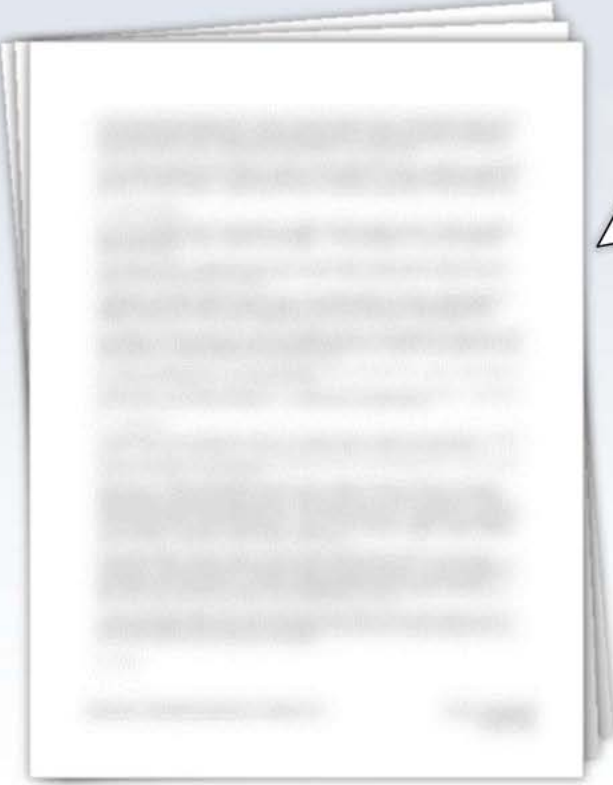


"One thing that may make (1) ['neutralize a potential competitor'] more reasonable here is that there are network effects around social products . . . "

"[W]hat we're really buying is time. Even if some new competitors springs up . . . those new products won't get much traction"

Email from Mr. Zuckerberg
(Feb. 28, 2012)

WhatsApp Acquisition = Competitive Moat



"[T]he biggest competitive vector for us is for some company to build out a messaging app for communicating with small groups of people, and then transform[] that into a broader social network . . . this is a big risk for us."

Email from Mr. Zuckerberg
(Feb. 11, 2013)

Meta's Dominance Continues



78% – Meta's market share of Monthly Active Users (MAU)



77% – Meta's market share of Daily Active Users (DAU)



85% – Meta's market share of Time Spent



“The key question in this case thus becomes whether Instagram and WhatsApp reasonably constituted nascent threats (or actual competitors) at the time Meta acquired them.”

FTC v. Meta Platforms, Inc. (D.D.C. 2024)



- 1. Instagram = Threat**
- 2. WhatsApp = Threat**
- 3. Meta Harmed Competition and Consumers**
- 4. Meta = Monopolist**
- 5. Meta's Arguments Fail**

Instagram = Mobile-First Competitor



Mr. Systrom, Instagram Founder
(Testimony, May 11, 2023)



1. Instagram = Threat

- **Meta's Words & Actions**
- **Well-Informed Industry Participants**
- **Resources & Capabilities**

Meta's Words & Actions

Instagram = Threat



Feb. 2011

“The photos team is now focused almost exclusively on a new mobile photo app as we gawk at Instagram’s simple photo-sharing app taking off.”

-Mr. Cox (Meta VP of Product Management)

Apr. 2012

Acquisition announced:

██████████ \$1 billion

-Mr. Krieger (Instagram Founder)

2010

2011

2012

Oct. 2010

Instagram founded



Instagram

Sept. 2011

“In the time it has taken us to get ou[r] act together on this Instagram has become a large and viable competitor to us on mobile photos”

-Mr. Zuckerberg (Meta CEO)

Instagram = Threat



Instagram "trying to build parallel network[]"

Email from Mr. Zuckerberg
(Mar. 26, 2012)

"[A]s Instagram grew, the balance could shift. I think we were starting to see: Hey well, some people might just share on Instagram now."

Mr. Zuckerberg
(Testimony, May 9, 2023)



Instagram = Threat



“[W]hy is mobile photos app development moving so slowly? We still are getting our ass kicked by Instagram.”

Email from Mr. Cox
(July 7, 2011)

“Instagram could hurt us meaningfully” and is “pretty threatening to us”

Messages from Mr. Zuckerberg
(Apr. 5, 2012)

Well-Informed Industry Participants

Instagram = Threat



"risk of the unthinkable happening – being eclipsed by another network with a 'parallel graph'"

Email from Mr. Parker
(Apr. 12, 2012)

Instagram = Threat



[REDACTED]

[REDACTED]

[REDACTED]



Mr. Botha, Partner,
Sequoia Capital
(Testimony,
Jan. 24, 2023)

Resources & Capabilities

Instagram = Threat



Instagram = Threat



"FB iPhone app is really not far ahead on Mobile"



Instagram



Facebook iPhone

Date: April 3/ 2012

Users

30M+ registered users

116M MAU iPhone users
55M MAU photo uploaders

Photo uploads

5M+ photo per day

20M photo per day

likes

50M likes per day

56M photo likes per day

comments

7M comments per day

54M photo comments per day

total photos uploaded

1B+ photos uploaded

5B photos uploaded



Email to Mr. Stoop, Product Manager, Meta
(Apr. 3, 2012)

Witnesses



Mr. Zuckerberg
(CEO, Meta)



Ms. Sandberg
(COO, Meta)



Mr. Stoop
(Product Manager,
Meta)



Mr. Botha
(Partner,
Sequoia Capital)



Mr. Systrom
(Instagram Founder,
Meta)



Mr. Schroeffer
(VP Engineering,
Meta)

Instagram = Threat



- “[I]f the acquiring firm itself . . . viewed the acquisition as a nascent competitor, that is likely to be highly probative evidence that the acquired firm constituted such a threat.”
- “Evidence that the acquired firm could not reasonably have matured into a real competitor must cut heavily against a monopolist’s subjective expectation that it would.”

FTC v. Meta Platforms Inc. (D.D.C. 2024)

Roadmap



- 1. Instagram = Threat**
- 2. WhatsApp = Threat**
- 3. Meta Harmed Competition and Consumers**
- 4. Meta = Monopolist**
- 5. Meta's Arguments Fail**

WhatsApp = Global Leader in Mobile Messaging



Sept. 2013 – Meta:
“WhatsApp is the clear leader in the market.”

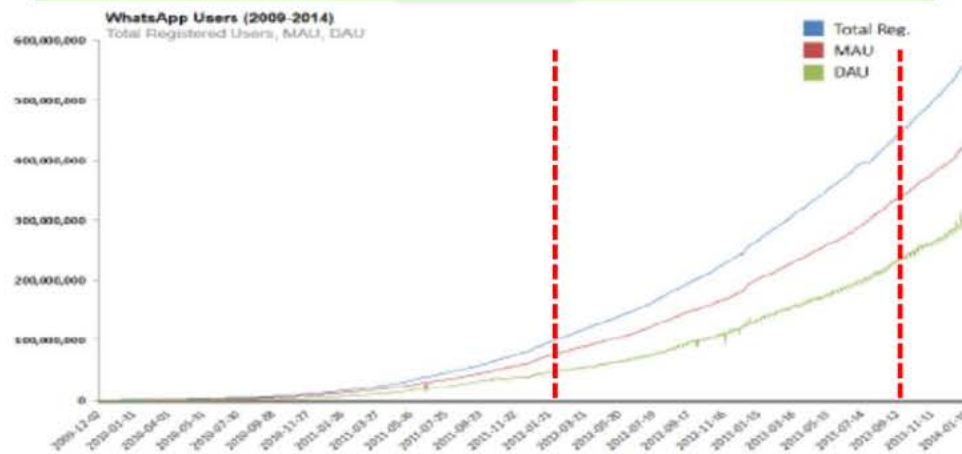
Mr. Deng (Director, Product Management, Meta)

facebook

Cobalt People Metrics

Over 600 Registered, 460M MAU, 325M DAU

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DRAFT



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PX10858-006

2. WhatsApp = Threat

- **Meta's Words & Actions**
- **Well-Informed Industry Participants**
- **Resources & Capabilities**

Meta's Words & Actions

WhatsApp = Threat



WhatsApp

2012

2013

2014

Apr. 2012

"Since we bought Instagram . . . I now feel like we're ahead in photos but falling increasingly behind in messages. In addition to WhatsApp, other messaging apps like KakaoTalk, Naver Line, and Tencent's WeChat are growing quickly and are all already bigger than us . . . With the exception of WhatsApp, all of these other messaging apps are using messages as a springboard to build more general mobile social networks."

Mr. Zuckerberg

WhatsApp = Threat



WhatsApp

Jan. 2013

"I think we block WeChat, Kakao, and Line ads. Those companies are trying to build social networks and replace us. The revenue is immaterial to us compared with the risk."

Mr. Zuckerberg

2012

2013

2014

Apr. 2012

"Since we bought Instagram . . . I now feel like we're ahead in photos but falling increasingly behind in messages . . . With the exception of WhatsApp, all of these other messaging apps are using messages as a springboard to build more general mobile social networks."

Mr. Zuckerberg

WhatsApp = Threat



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2012

2013

2014

Apr. 2012

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Mr. Zuckerberg

Feb. 2013

"all the ingredients for building a mobile-first social network"

Meta Mobile Messaging Presentation

WhatsApp = Threat



WhatsApp

Jan. 2013

"I think we block WeChat, Kakao, and Line ads. Those companies are trying to build social networks and replace us. The revenue is immaterial to us compared with the risk."
Mr. Zuckerberg

Aug. 2013

"that could be enough for [WhatsApp] to tip markets like the US where SMS is still the primar[y] platform"
Mr. Zuckerberg

2012

Apr. 2012

"Since we bought Instagram . . . I now feel like we're ahead in photos but falling increasingly behind in messages . . . With the exception of WhatsApp, all of these other messaging apps are using messages as a springboard to build more general mobile social networks."
Mr. Zuckerberg

2013

Feb. 2013

"all the ingredients for building a mobile-first social network"
Meta Mobile Messaging Presentation

2014

Feb. 19, 2014

Acquisition announced:
\$19 billion



Another WhatsApp Acquirer = Threat

From: Ben Davenport <@THEFACEBOOK/ADMINISTRATIVE GROUP (FYDHEBNF23SPOLTYC@RECIPIENTS@BEN DAVENPORT)>
To: Peter Deng, Jane Chou; Ben Davenport
Sent: 10/17/2012 2:32:23 PM
Subject: Message summary (0:125508304200410)

Benjamin Davenport:
[For my way of thinking, the case for Google acquiring WhatsApp has only gotten stronger in the past 2 months, so has since itself to be a failure, while at the same time, Asian competitors to WA have proven the model of taking a mobile communication network and leveraging it to bootstrap a social network can be successful. This is on top of the billions of people they would potentially have by making the WhatsApp network into the core of Android, making essentially a cross-platform message with a few larger network. Consequently, if he is acquirable at all, the odds to me are being the acquirer have gone. Thanks!

Daniel Olivan:
That is definitely what I would do if I was them...

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PX1297-001

"[T]he case for Google acquiring WhatsApp has only gotten stronger . . . Asian competitors to WA have proven the model of taking a mobile communication network and leveraging it to bootstrap a social network can be successful."

Mr. Davenport
(Software Engineer, Meta)

"That is definitely what I would do if I was them."

Mr. Olivan
(VP, Growth & Analytics, Meta)

Email between Mr. Davenport and Mr. Olivan (Oct. 17, 2012)

Acquisition = Threat



Well-Informed Industry Participants

WhatsApp = Threat



Another WhatsApp Acquirer = Threat



Resources & Capabilities

WhatsApp = Strong in U.S.



WhatsApp



September 2013

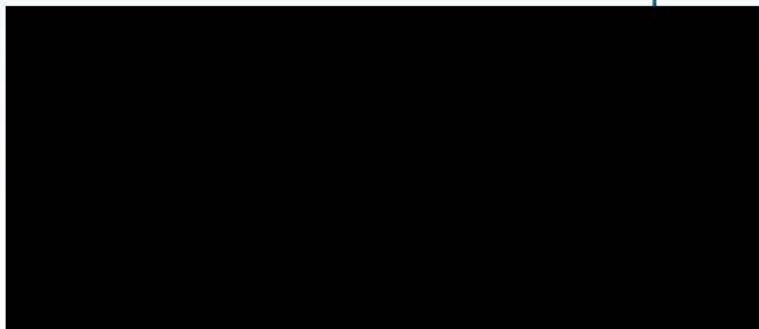
iOS penetration (Meta est.):
FBM (11%); WA (7%); LINE (2%);
WeChat (2%); KakaoTalk (1%)

Meta Spreadsheet

2012

2013

2014



February 2014

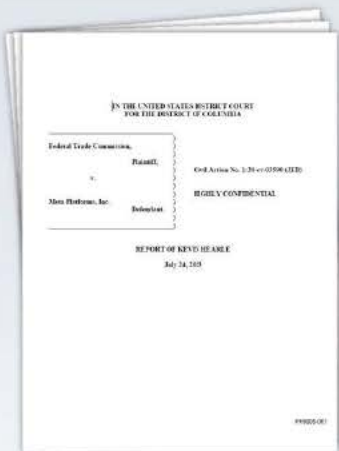
13 mm MAUs; 8 mm DAUs
~50,000 new users per day

WhatsApp Spreadsheet

PSN Entry = Clear Monetization Path



\$19 Billion = 11% of Meta



"[I]n signing the deal, Meta expected to spend about 11% of the wealth that its equity owners held in Meta's shares."

Mr. Hearle
(Financial Expert,
FTC)



"Why do you think this company is worth over 10% of Facebook's value? . . . how can you justify this valuation?"

Talking Points for
Facebook Investor Call
(Feb. 2014)

Witnesses



Mr. Zuckerberg
(CEO, Meta)



Mr. Goetz
(Partner, Sequoia
Capital)



Mr. Arora
(Chief Business
Officer, WhatsApp)



Prof. Rim
(Industry Expert,
FTC)



Mr. Hearle
(Financial Expert,
FTC)



Mr. Mehta
(Managing Partner,
DST Global)



Mr. Schroepfer
(Chief Technology
Officer, Meta)



Mr. Deng
(Director, Product
Management,
Meta)



Mr. Olivan
(VP, Growth and
Analytics, Meta)



Mr. Schultz
(Director,
Monetization
Analytics, Meta)



Mr. Cathcart
(Product Manager,
Meta)

WhatsApp = Threat



- “[I]f the acquiring firm itself . . . reasonably viewed the acquisition as a nascent competitor, that is likely to be highly probative evidence that the acquired firm constituted such a threat.”
- “Evidence that the acquired firm could not reasonably have matured into a real competitor must cut heavily against a monopolist’s subjective expectation that it would.”

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Roadmap



1. **Instagram = Threat**
2. **WhatsApp = Threat**
3. **Meta Harmed Competition and Consumers**
4. **Meta = Monopolist**
5. **Meta's Arguments Fail**

3. Meta Harmed Competition and Consumers

Competitive Harm = FB/IG Competitive Pressure Stops



"[A]s Mark [Zuckerberg] said . . . we shouldn't run any promotions that are in the tone of 'Try Instagram instead'."

Email from Mr. Systrom
(Oct. 25, 2012)



Competitive Harm = FB/IG Competitive Pressure Stops

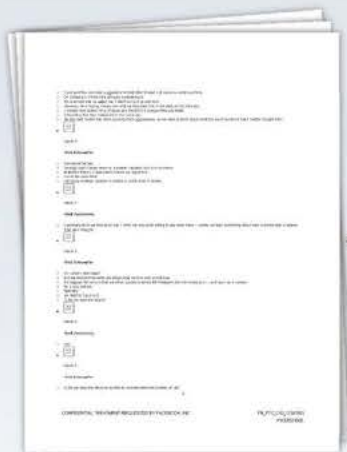
"Just so I can be completely clear on this, my advice would be to cancel every single one of these projects [including Facebook Camera] ..."

Message from Mr. Zuckerberg
(Apr. 22, 2012)

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PX1116-002

Competitive Harm = Moats to Prevent Entry



"[T]he biggest risk imho is that we either quickly or slowly kill Instagram [by] not investing in i[t] – and open up a window for a new entrant."

Mr. Schroepfer
(VP, Engineering, Meta)



"I'd just keep it running. Insurance."

Mr. Zuckerberg

Messages between Mr. Schroepfer and Mr. Zuckerberg (Mar. 9, 2012)



Consumer Harm = Significant Ad Load Increases

users. Apps like Netflix, Pinterest, BuzzFeed, Instagram, HBO, Twitter, Yahoo, Nike, Google and thousands more have integrated with Open Graph to provide better social experiences and grow their businesses. Already, people share more than a billion photos of content each day using Open Graph.

These Open Graph integrations enable Facebook users to share more of the content they want with their friends. This helps make our service more engaging overall since there is more content to consume. Additionally, we have found that our largest developers also become some of our largest advertisers as they look to further boost the distribution they're getting from us.

We're still in the early days of our Open Graph efforts and we're continuously working to improve how it works. A big focus for us right now is giving consumers more tools to control how they share their information using their integrations. We are also working on improving the distribution that apps get in exchange for the content they help consumers share. These are complex problems that will take time to work out, but you should expect us to make steady progress towards building this ecosystem.

Finally, I'd like to discuss our social ad initiatives.

The basic idea here is that advertising on Facebook works better for everyone when it's social in nature. Consumers don't come to Facebook to look at ads; they come to stay connected with their friends and family.

Currently, the reality of our ad ecosystem is that ads are put on the right hand side of our feeds. The reality is that these ads have a low click-through rate, mostly because people don't come to Facebook to look at ads. Instead, we've historically made up for this by having billions of pure views.

Going forward, we believe that if we can align our advertising with content from the people you care about, then we'll create advertising that actually adds to people's experiences on Facebook and has much higher engagement, and therefore higher ROI for our advertisers.

For example, if I like a restaurant I go to, then my friends might see that I like that place and that is likely a more convincing ad for that place than anything they would promote in their own. That's an example of aligning social activity and ads.

One important aspect of these ads is that since they're based on social activity, they fit cleanly into our News Feed product on both mobile and desktop. This is important because our right hand column ads have no clear home in mobile, so these social ads give us a clear path forward to build a strong business on mobile.

We are already at a point where about 20% of ads on Facebook have some social context from one of your friends. We know that these ads perform much better than non-social ads. Our job over the next few years is to increase the percentage of ads that are social from 20% to 80% — or as high as it will go. This will make the ads better for consumers, will help them perform better for advertisers and will help us build our business on mobile.

Sheryl will share more details about our social ads in a minute, but I wanted to touch on it here because it's an important area of investment for us.

Overall, I hope my comments here give you a good sense of our priorities around mobile, platform and social ads. We have a lot of interesting things going on here. There are lots of challenges but these are the types of problems we like to work on.

We've worked hard to staff up across the company — especially in the technical groups — to make sure that we make progress against these goals. We're pleased that the company will continue to make progress on building great products and our mission to make the world more open and connected.

Thanks for taking the time to be on the call with us today. We'd like to have it over to Sheryl.

"Consumers don't come to Facebook to look at ads; they come to stay connected with their friends and family."

Email from Mr. Zuckerberg
(July 21, 2012)

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PX15118-003

Consumer Harm = Significant Ad Load Increases



2018 Instagram Ad Load Increases



"this would be a terrible tradeoff"

Email from Mr. Systrom
(Feb. 21, 2018)



"Clearly [Mr. Zuckerberg] wants some painful tra[d]e offs . . . He wants to stick it to IG"

Messages from Mr. Mosseri
(Head of Instagram, Meta)
(Oct. 15, 2018)

Consumer Harm = Cannibalization Concerns and Ad Load



"Confidential -- do *not* share beyond this group."

"1. Cannibalization and Network Collapse"

"[T]here's a real chance we may be causing network collapse of the more engaging and more profitable product to replace it with one that is less engaging and less profitable."

Email from Mr. Zuckerberg
(May 3, 2018)

Consumer Harm = Reduced Investment in Friends & Family Sharing



"Friend sharing continues to be a big asset for Facebook, but we're not investing as much in it."

"We're underinvesting in Stories across all apps."

Meta Meeting Summary
(Jan. 19, 2022)

Consumer Harm = Reduced Investment in Friends & Family Sharing



"3 of the 4 top user pain points were related to friend content. The most recent [Feed Sentiment Survey] report from August 2021 confirms that these are still the top complaints on Feed."

"A 2020 survey found that 61% of users want more friend posts, and 66% want more friend actor diversity."

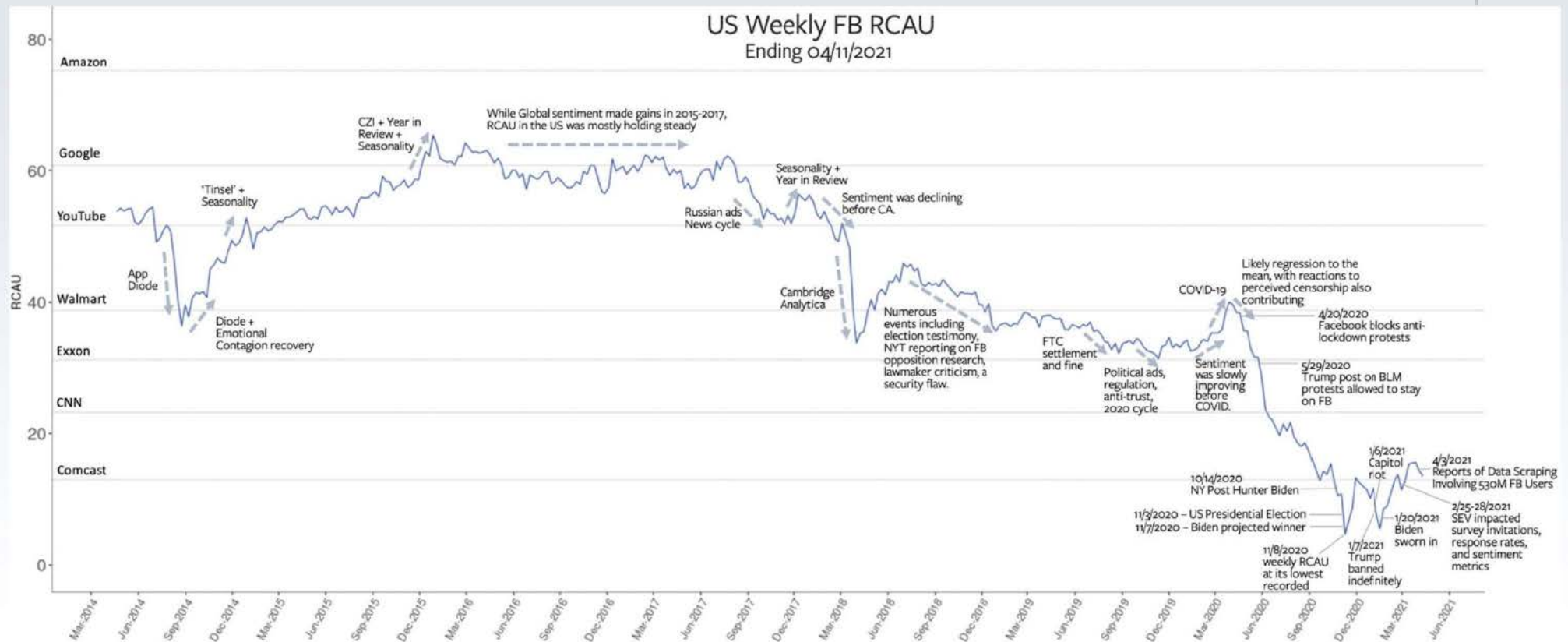
Meta Presentation
(Oct. 4, 2021)

Consumer Harm = Poor Privacy Practices



- **Significant user frustration with Meta's data collection and privacy practices**
 - "Privacy has consistently been the top-rated area users want Facebook to improve" (PX3774, 2016)
 - Consumers "express that their concerns about privacy and data collection outweigh any potential benefits" of targeted ads (PX3789, 2021)
- **Significant privacy breaches and penalties**
 - Cambridge Analytica breach (2018)
 - Record-breaking FTC penalty of \$5B (2019)
 - \$650M settlement over use of facial recognition (2020)
 - \$1.4B settlement over biometric data capture and use (2024)

Consumer Harm = Other Quality Reductions





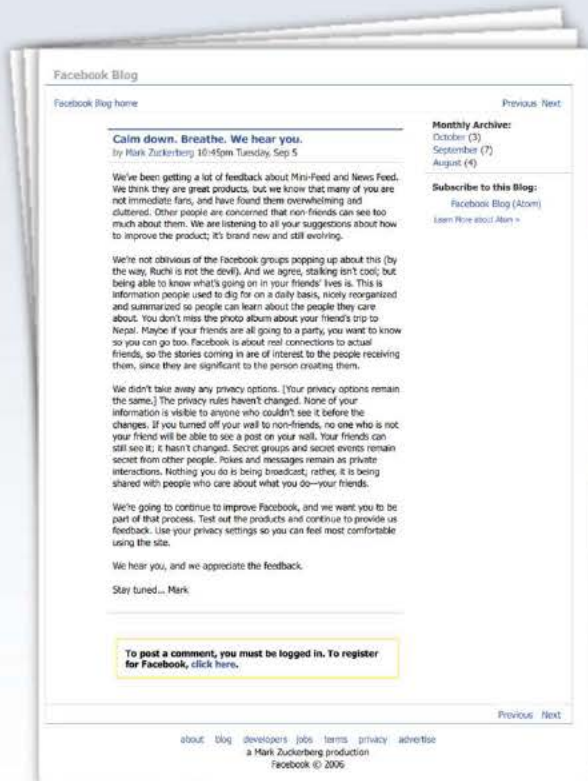
- 1. Instagram = Threat**
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- 4. Meta = Monopolist**
- 5. Meta's Arguments Fail**

4. Meta = Monopolist

- **Product Offering**
- **Direct Evidence**
- **Indirect Evidence**

Product Offering

Facebook = Friends and Family Social Networking Experience



"Facebook is about real connections to actual friends"

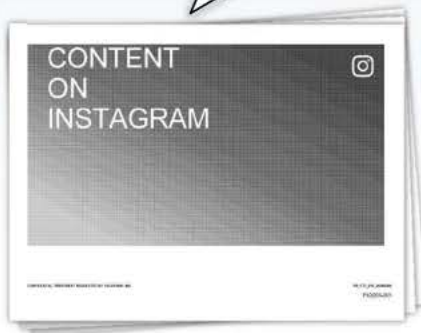
Blog Post from Mr. Zuckerberg
(Sept. 5, 2006)

Instagram = Friends and Family Social Networking Experience



"People come to Instagram first and foremost to connect with friends and family. These connections are core to the experience."

Meta Presentation: Content on Instagram
(Sept. 9, 2019)



"The two main jobs that people hire Instagram for are catching up with friends and being entertained. Our friend use case remains resilient . . ."

Meta Analytics Outline
(Oct. 10, 2022)





PSN Apps Are Distinct = Ordinary Course Recognition

When do Social Apps Coexist?

A key question is when two social apps can coexist among the same set of users. This section summarizes broad findings.

- Broadcast sharing apps typically succeed or fail either (1) among teens within a country; or (2) in the whole country.
- Sharing apps can coexist when strongly differentiated on (1) user-base; (2) features; or (3) graphs.
- There does not seem to be good evidence for apps coexisting if they are only differentiated in how they are used, but not on any of the other axes. — i.e., if two apps have similar user-bases, features, and graphs, then they are unlikely to be able to coexist.

Differentiation on Userbase

Social Networks do Not Typically Remain Limited to Demographic Subgroups, Apart from Teens. E.g., we do not typically find that adoption is tightly constrained along lines of gender, region, or social class. Instead, social apps typically are adopted at the level of a country as a whole, although adoption rates vary substantially. The one important exception is that teens often adopt a social app different from those around them (e.g., teens using Snapchat, Instagram).

Differentiation on Features

Facebook and Messenger coexist despite having identical graphs, because they have very strong differentiation in features (direct messaging vs. broadcast sharing).

Facebook and Instagram appear to be coexisting in part due to differentiation on features. Facebook has many features not available on Instagram — links, text groups, etc. — <https://fburl.com/9paz30z>. Execution quality of features on Instagram has been historically strong driver of its growth.

Difficult for Messaging Apps to Coexist. In most cases countries have a single messaging app with 50%+ daily reach. I.e. it is not possible for two messaging apps to be sufficiently differentiated such that they can both have high daily reach in the same country.

Differentiation on Graph (Edges)

WhatsApp-Status and Facebook coexist in Latin America. WA has a much smaller graph than FB (~100 friends vs. ~500), and so we suspect they are used for different audiences (narrow vs. broad) — <https://fburl.com/9paz30z>.

Facebook, LinkedIn, and Nextdoor coexist in the US with similar userbases but orthogonal graphs: Facebook connects friends and family, LinkedIn connects coworkers, Nextdoor connects neighbors.

Facebook & Instagram appear to be coexisting in part due to graph differentiation — IG typically has 50-100 friends, compared to 200 on Facebook ([Social Graph Overlap between FB and IG: Dissociation and Clusters](https://fburl.com/9paz30z)).

WhatsApp and Messenger partly coexist in Latin America. WA is the leading messaging app yet Messenger survives, with reduced reach, as a way of contacting people in a broader social circle.

Multiple accounts on Instagram. Around 10% of people on IG have a secondary account, and perhaps half of those use it to maintain a secondary audience. Graph overlap is quite low between primary and secondary accounts (<https://fburl.com/9paz30z>).

We see temporary coexistence of social apps when one app is replacing another: e.g. over the time that WhatsApp was replacing BBM there was a period when many people used both apps. See below for more detail.

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PX2389-006

"Facebook, LinkedIn, and Nextdoor coexist in the US with similar userbases but orthogonal graphs: Facebook connects friends and family, LinkedIn connects coworkers, Nextdoor connects neighbors."

Meta "End States" Memo
(Oct. 9, 2018)

Direct Evidence

High and Sustained Economic Profits



**Meta's Annual Weighted
Average Cost of Capital**

10%



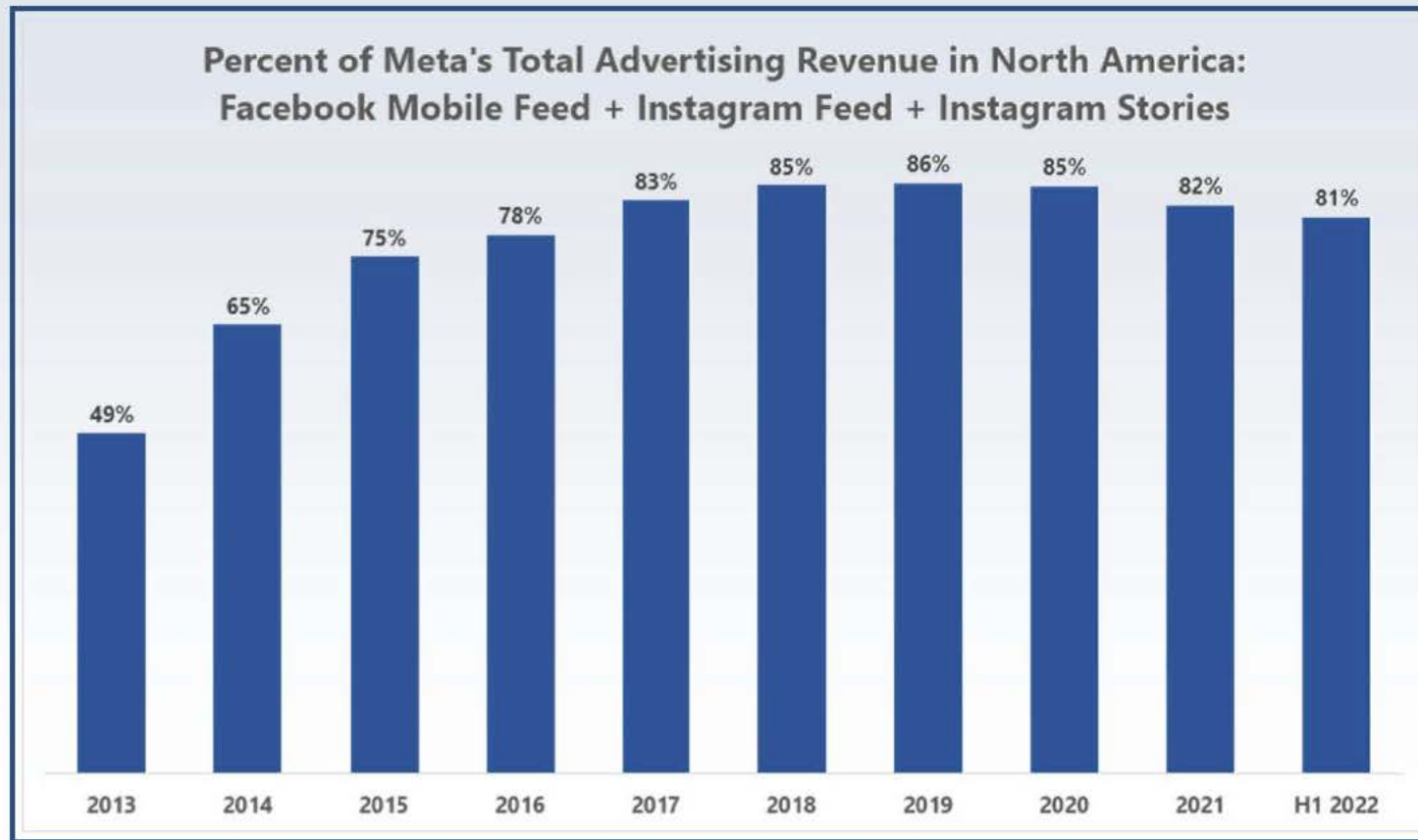
**Meta's Average Annual
Rate of Return**

36-41%

A firm is earning positive economic profits if its average rate of return is above a benchmarked weighted average cost of capital.

Mr. Hearle
(Financial Expert, FTC)

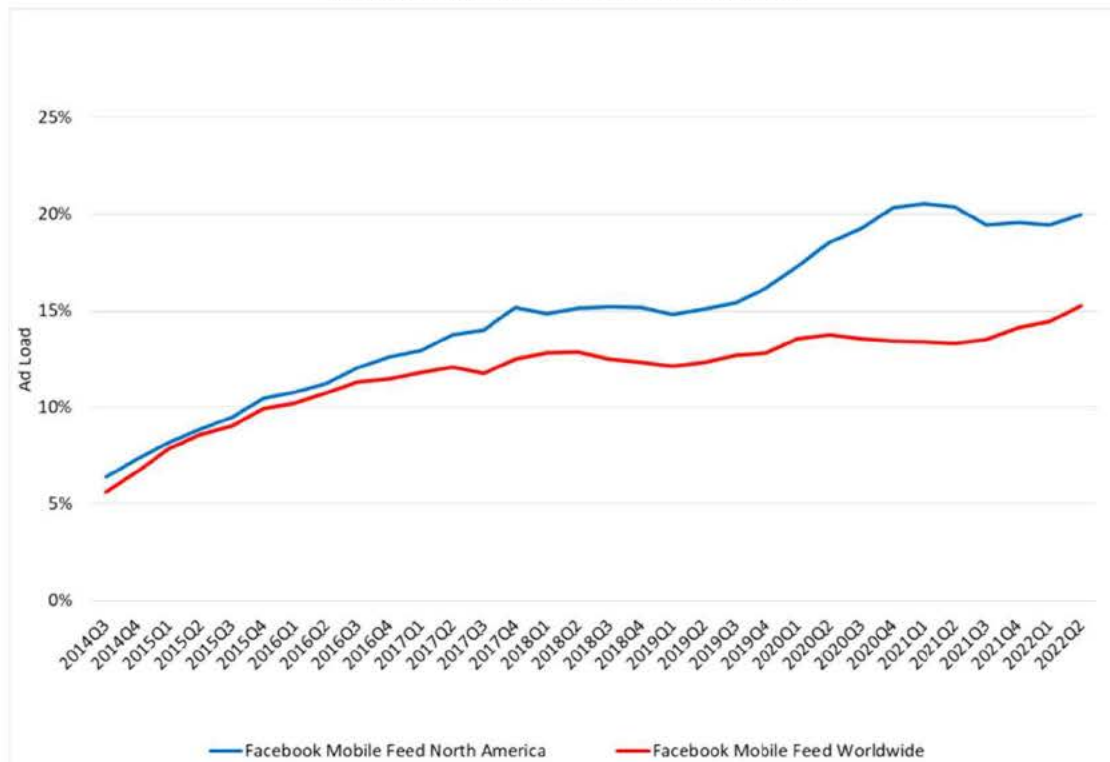
Feed and Stories = Vast Majority of Revenue and Profits



Ad Load = Significant Profitable Increases

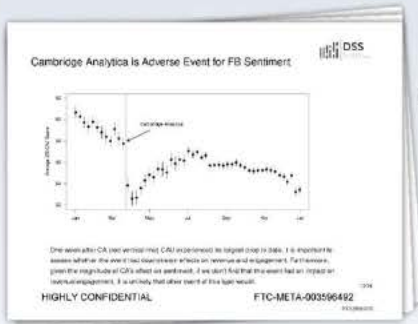


Exhibit 53: Facebook Mobile Feed Ad Load

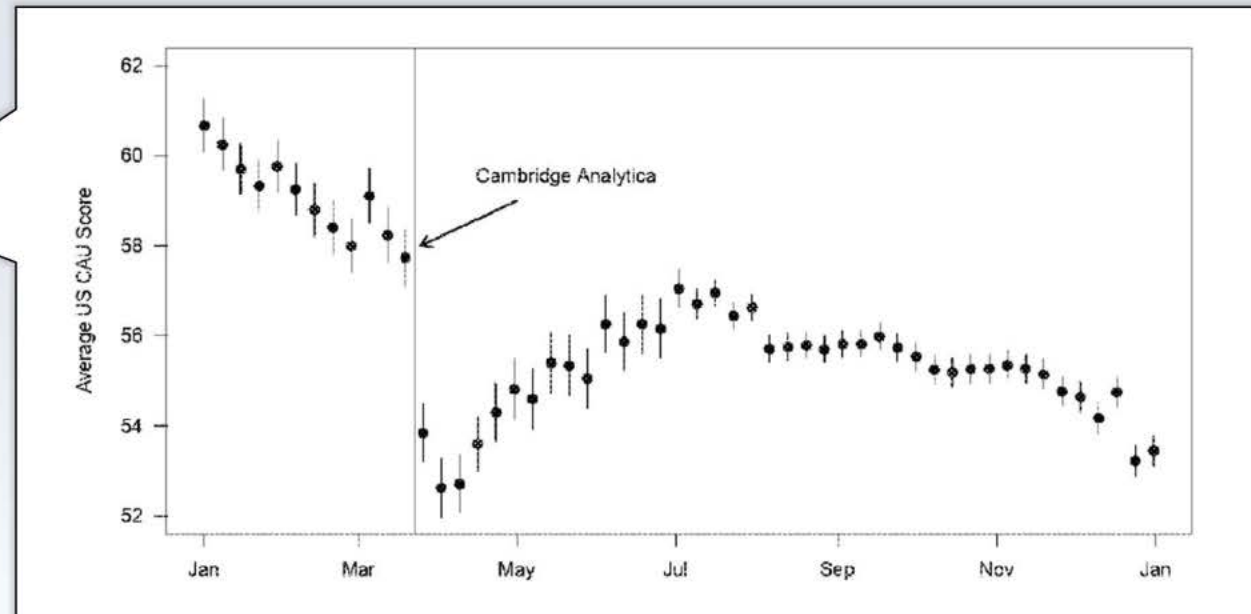




Cambridge Analytica = Inelastic Demand



Meta Presentation
(June 8, 2019)



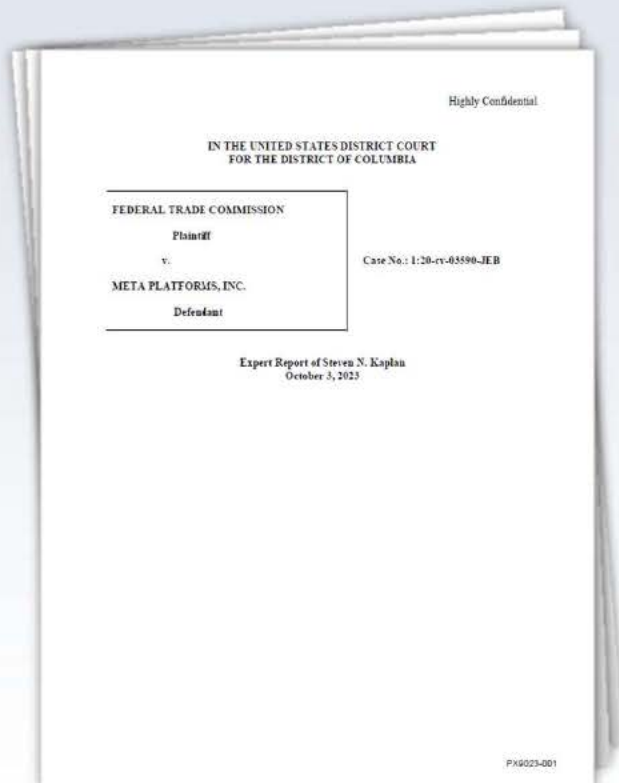
"[I]f we don't find that this event had an impact on revenue/engagement, it is unlikely that other event of this type would."

Price Discrimination



UNDER SEAL

“Power to Exclude”



Meta's ability to restrict Instagram's access to integrations with Facebook made it "speculative and unlikely" that Instagram would have successfully competed absent the acquisition.

Prof. Kaplan
(Industry Expert, Meta)

Indirect Evidence: Market Definition

Relevant Market Definition = Brown Shoe and HMT



- ***“Practical indicia” – evidentiary proxies for reasonable substitution***

Brown Shoe Co. v. United States, 370 U.S. 294, 325 (1962)

- ***“Hypothetical monopolist” test – would single firm controlling a product offering profitably raise price***

FTC v. Whole Foods Mkt., Inc., 548 F.3d 1028, 1038 (D.C. Cir. 2008)

Product Market = “same purposes”



“[T]he relevant market must include all products ‘reasonably interchangeable by consumers for the same purposes.’”

United States v. Microsoft Corp., 253 F.3d 34, 52 (D.C. Cir. 2001)

PSN Apps = Peculiar Use and Characteristics



- **Social graph of friends and family connections**
- **Enables users to locate and connect with friends and family members who are also on the service**
 - Norms: social norm of real-life identities
 - Design: friends-and-family social graph
- **Actually used for friends and family sharing**
 - Norms: social norm of personal sharing
 - Design: feed/stories for broadcast sharing

PSN Apps = Core Use and Functionality for Friends & Family Sharing



Prominent Market Participants



Facebook



Instagram



Snapchat

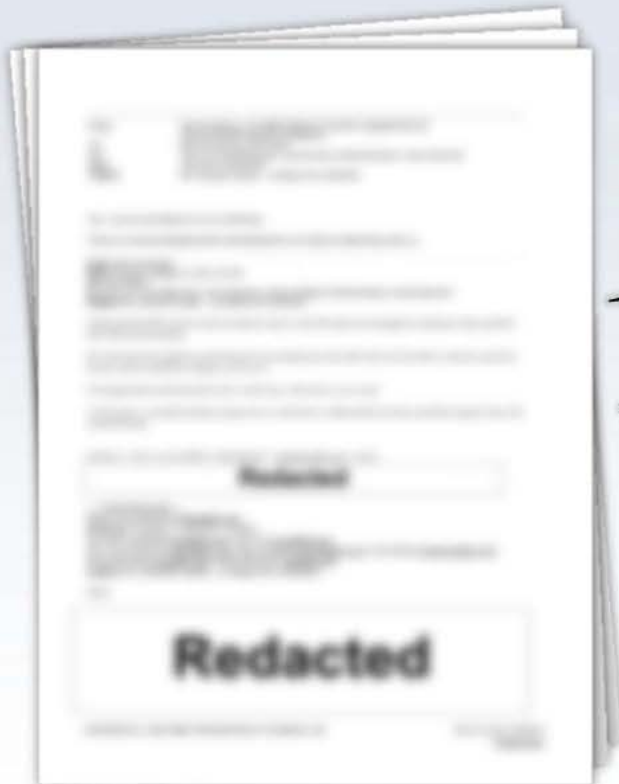
Smaller and Foreign PSN apps



Defunct Providers



PSN Apps = Meta Tried to Buy Snap Too



"I'm disappointed and frustrated by this."

"[W]e should probably prepare for it to leak that we offered \$6b for [Snap] and all the negative that will come from that."

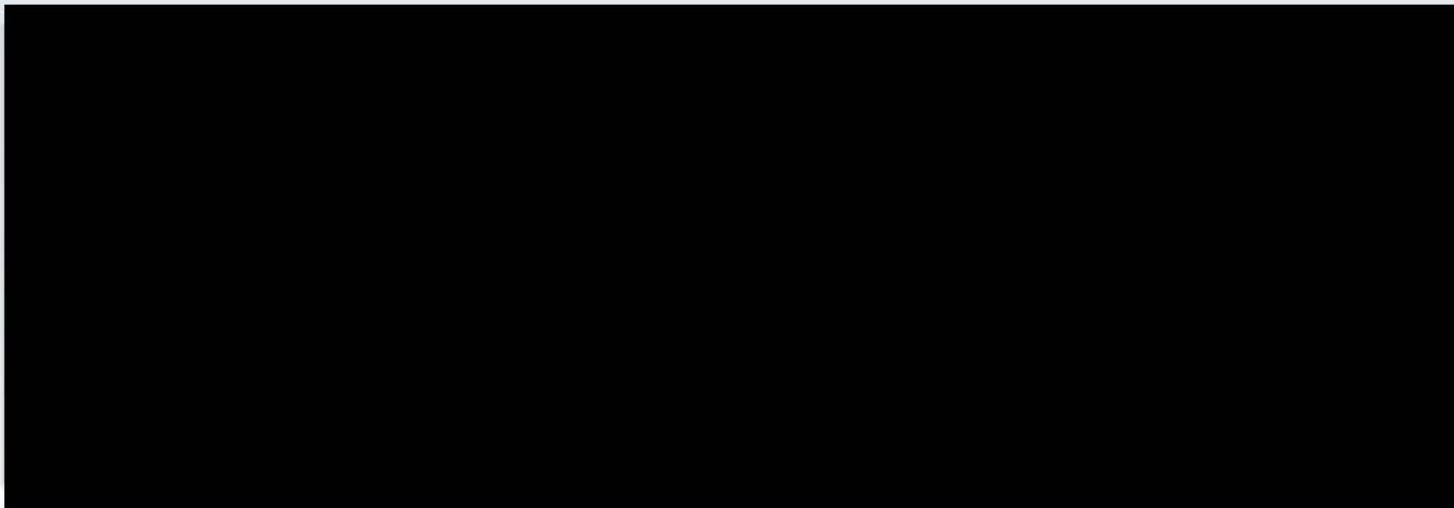
Email from Mr. Zuckerberg
(Oct. 31, 2013)

Other *Brown Shoe* Practical Indicia



- **Industry or public recognition**
- **Distinct customers, distinct prices, sensitivity to price changes**
- **Unique production facilities**

PSN Apps Are Distinct =



Mr. Pattabiraman,
Senior Director, LinkedIn
(Testimony, Apr. 23, 2023)

PSN Apps Are Distinct = Non-PSN App Testimony and Records



Mr. Presser
(Head of Operations,
TikTok)



Mr. Filner
(Live and Community,
YouTube)



Mr. Coleman
(VP Product,
X/Twitter)



Mr. Shah
(Director of Product
Management, Apple)



TikTok



YouTube



X (Twitter)



Apple



Pinterest



Reddit



Discord



Tumblr

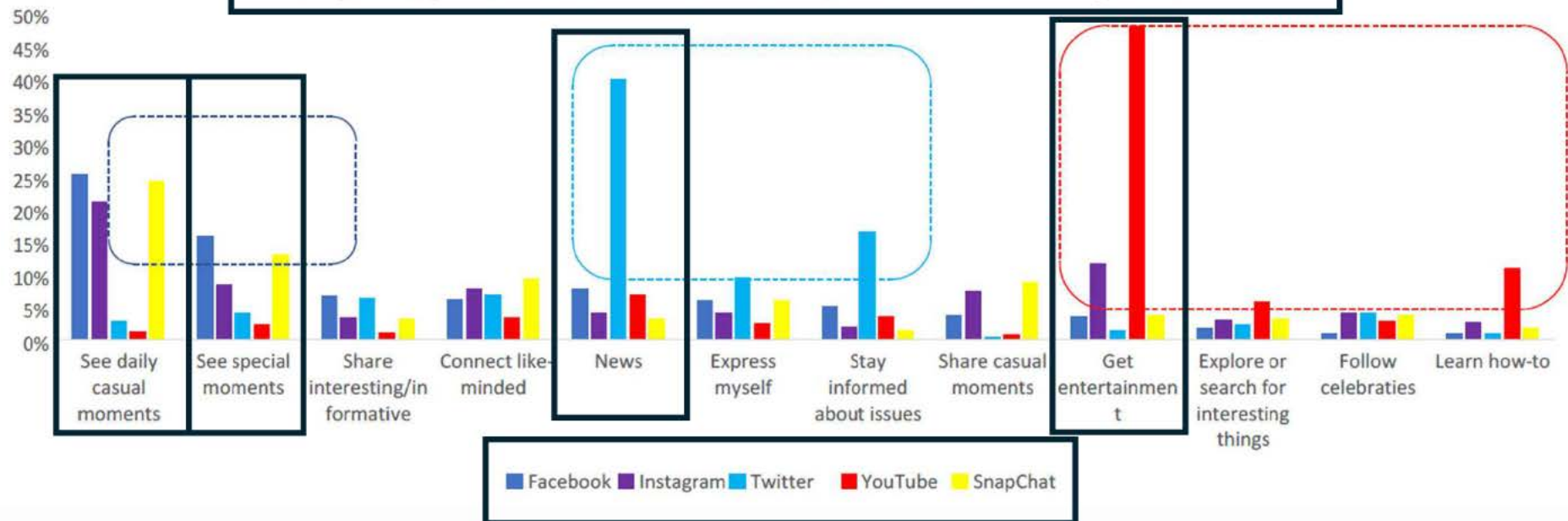


Strava

PSN Apps Are Distinct = Ordinary-Course Surveys



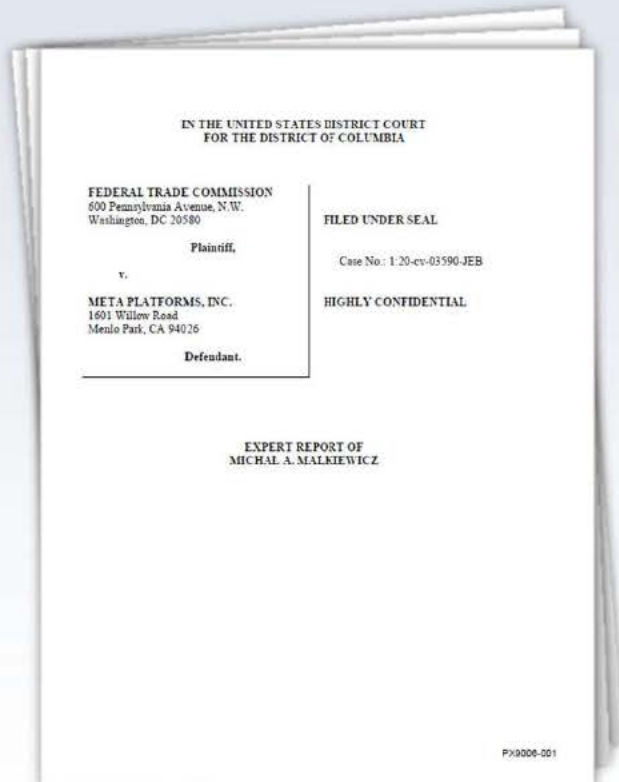
The primary use cases of Feed on FB,IG and other competitors in US



Meta Presentation: The Product Territories of the Family of Apps
(Aug. 22, 2018)



PSN Apps Are Distinct = Mr. Malkiewicz's Survey



Consumers most often selected "to keep up with [their] friends' and family's lives in one place" as the most important reason they use Facebook, Instagram, Snapchat, and MeWe.

Consumers did not commonly select "to keep up with [their] friends' and family's lives in one place" as the most important reason they use X (Twitter), LinkedIn, TikTok, or YouTube.

Mr. Malkiewicz
(Survey Expert, FTC)

PSN Apps Are Distinct = Quantitative Analysis



UNDER SEAL

"Real Competition" = Google+



"[F]or the first time, we have real competition and consumers have real choice."

Email from Ms. Sandberg
(July 15, 2011)



Google+

YouTube

twitter

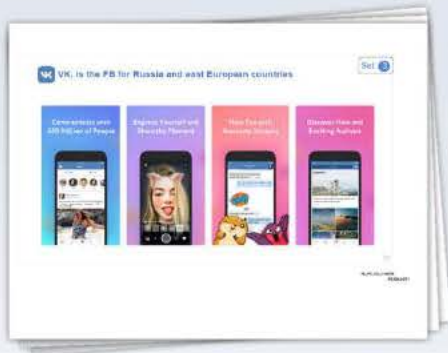
reddit

LinkedIn

Pinterest

tumblr.

Geographic Market = United States (Undisputed)



 **VK, is the FB for Russia and east European countries**



 **Launched 2.5 years after Facebook, VK was able to establish a dominant position that tops FB in Russia**

Meta Presentation
(July 19, 2018)

Indirect Evidence: Dominant Shares

Meta = Monopolist



78% – Meta’s market share of Monthly Active Users (MAU)



77% – Meta’s market share of Daily Active Users (DAU)



85% – Meta’s market share of Time Spent

Market Share Calculations = Standard Approach



- ***United States v. Google LLC* (D.D.C. 2024)**

- General Search Services provide commercial and non-commercial queries
- Specialized vertical providers (SVPs) provide commercial queries

- ***FTC v. Sysco Corp.* (D.D.C. 2015)**

- Broadline distributors provide broadline distribution
- Other distributors sold many of the same products

Meta = Monopolist No Matter How You Cut It



- **Share of broadcast posts**
- **Share of DAU and MAU excluding (few) users who do not spend time on Feed and Stories**
- **Share of Time Spent limited to Feed and Stories**
- **Share of MAU, DAU, Time Spent prorated by survey results**



Prof. Hemphill
(Economic Expert,
FTC)

Indirect Evidence: Barriers to Entry and Expansion

Barriers to Entry and Expansion



"People who are big fans of G+ are having a hard time convincing their friends to participate because 1/ there isn't yet a meaningful differentiator from Facebook and 2/ switching costs would be high due to friend density on Facebook."



Email to Meta Executives
(Dec. 14, 2011)

Witnesses

Meta Executives



Mr. Mosseri
(Head of Instagram,
Meta)



Mr. Alison
(VP of Facebook,
Meta)



Mr. Patel
(VP, Product
Strategy, Meta)



Mr. Cobb
(VP, Research,
Meta)



Mr. Hegeman
(Chief Revenue
Officer, Meta)

Non-PSN Apps



TikTok



YouTube



LinkedIn



X (Twitter)



Pinterest



Reddit



Discord



Tumblr



Strava



Apple

Other PSN Apps



Snapchat



Google+



MySpace

Expert Witnesses



Prof. Hemphill
(Economic Expert,
FTC)



Prof. Lampe
(Industry Expert,
FTC)



Mr. Malkiewicz
(Survey Expert,
FTC)



Mr. Hearle
(Financial Expert,
FTC)

Roadmap



- 1. Instagram = Threat**
- 2. WhatsApp = Threat**
- 3. Meta Harmed Competition and Consumers**
- 4. Meta = Monopolist**
- 5. Meta's Arguments Fail**

5. Meta's Arguments Fail

- **Flawed Market Definition Arguments**
- **"Procompetitive Justifications" Fail**

Meta's Market Definition Arguments



Meta emphasizes ...

- **Higher proportion of unconnected content on Facebook and Instagram**
- **Meta's incorporation of additional features**
- **Increase in messaging**

Additional Features ≠ Non-PSN Apps Are in Market



“Google developed verticals like shopping, flights, and hotels in part to provide users with topic-specific results much like SVPs. Still, the court is unpersuaded . . . an SVP may be reasonably interchangeable with a GSE for a discrete purpose but for not the ‘same purposes.’”

United States v. Google LLC (D.D.C. 2024)

Additional Features = Part of Friends & Family Sharing Experience



Dave Weinberg: Let me take the first one, I can take the first one on user growth rates. I think what we said about overall kind of user growth is we're certainly seeing an impact from strong competition, particularly with younger audiences. So that's true, and we're kind of seeing that globally.

If you look at kind of the overall user growth landscape for the fourth quarter, we're seeing MAU and DAU in the U.S. and Canada, sort of bounce around as sort of expected and indicated given our high level of penetration.

And then if you look at the rest of world, we've seen some headwinds there, kind of a little bit unique in the quarter in areas like India, where we saw data plan pricing increase lead to slower growth there. So that's another kind of some unique elements of the quarter on that front.

Mark Zuckerberg: Sure. And in terms of when there's some aspects to the Metaverse showing up, I mean I talked about avatars in my remarks at the beginning and how we're making it so you can have increasingly both expressive and eventually, and we've shown some demos around photorealistic avatars of yourself that you can show up in all the different apps and your avatar can show across Facebook and Instagram and Messenger as well in Quest, and we'll expand that further.

And I think I also commented before about our goal for 2022 to make it so that Horizon works not just in immersive VR but on 2D screens as well. So that you could potentially jump into those kinds of worlds from Facebook or Instagram or different apps as well. So I think you're seeing some of that stuff will -- it already there. Some of it will come over the course of this year.

Of course, the ability to message across apps is something that we've been working on for a while. You can already do that across Messenger and Instagram and there's more there that we'll roll out over time as well. So I think -- I think you are going to see this stuff work seamlessly across the family.

Operator: Our next question is from John Blackledge with Cowen. Please go ahead.

John Blackledge: Oh great, thanks. Two questions, maybe first one for Mark. How has Reels differentiated versus TikTok, YouTube shorts, and other short-form video services? And one for Cheryl, any further color on how SMAs are changing ad spend budget since the iOS changes? And is it slowing adoption of new SMO advertisers on Facebook? Thank you.

Mark Zuckerberg: Sure. So I can start with Reels. One of the things that I think we've seen is that there are some fundamental formats in social media like Feeds and Stories, and now I think this Reels short-form video format, that within the context of a different network or community, the same format will take on different characteristics.

So for example, the kind of discussions that you might have in a feed on Twitter or on Pinterest are different from what you would do in Facebook or Instagram, even given a relatively similar format. So I think, to some degree, even if a creator

"[T]here are some fundamental formats in social media like Feeds and Stories, and now I think this Reels short-form video format, that within the context of a different network or community, the same format will take on different characteristics . . . [Y]ou'll have different discussions with your friends across the different services based on who's there."

Mr. Zuckerberg
(Quarterly Earnings Call, Feb. 2, 2022)

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PX0545-016

Messaging is Complementary



1

Shared trends: Messaging and friend broadcast sharing are often closely integrated, signaling both play complementary roles in friend focused conversations

Most major friend-based platforms have in-app messaging



Meta Presentation
(July 19, 2018)

Facebook = Still a Core Use of Friends and Family Sharing



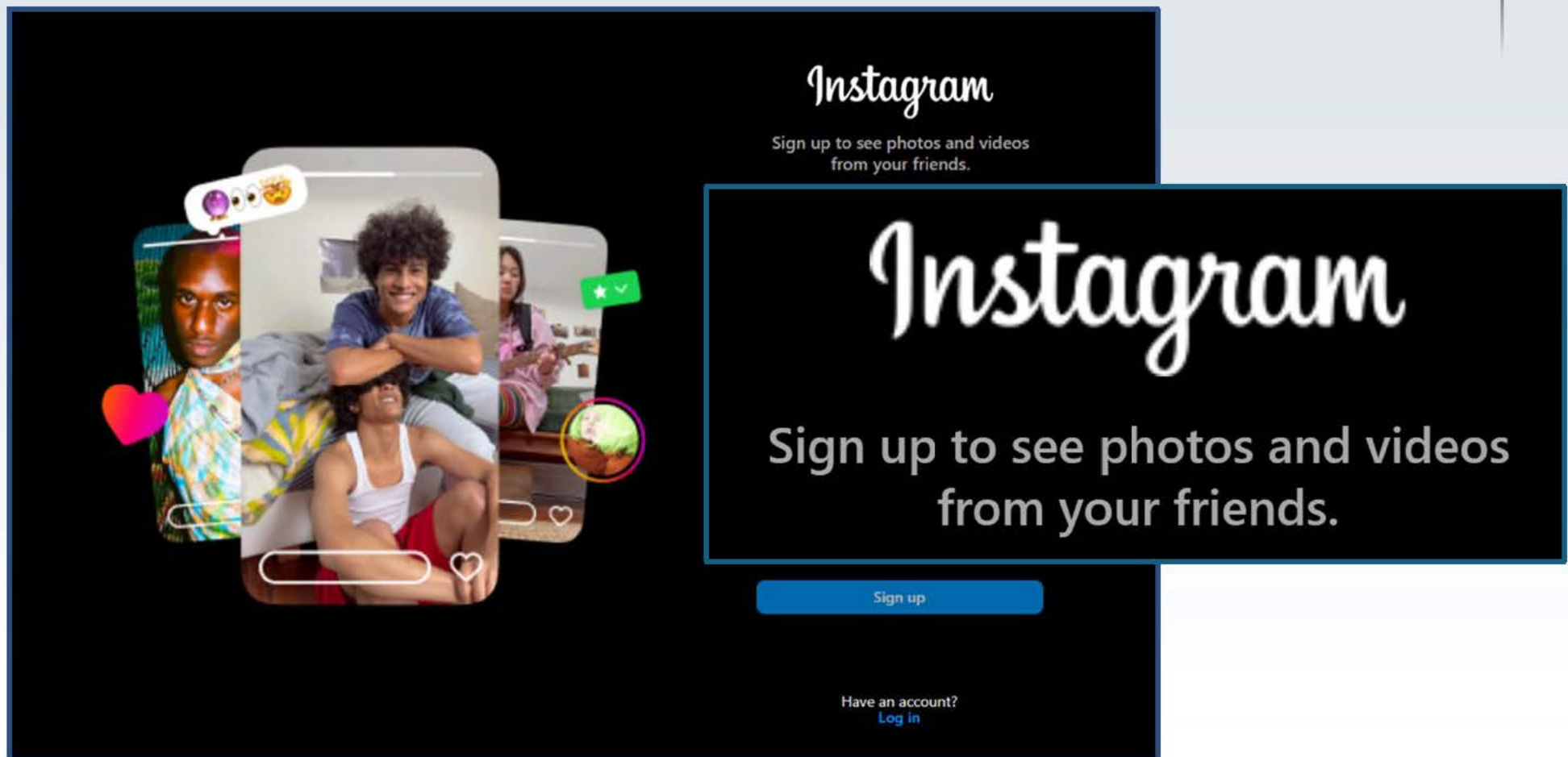
Log in or sign up for Facebook to connect with friends, family and people you know.

Log In

or

Create new account

Instagram = Still a Core Use of Friends and Family Sharing



“Procompetitive Justifications” Fail

Significant Hurdle Given Monopoly Maintenance Harms



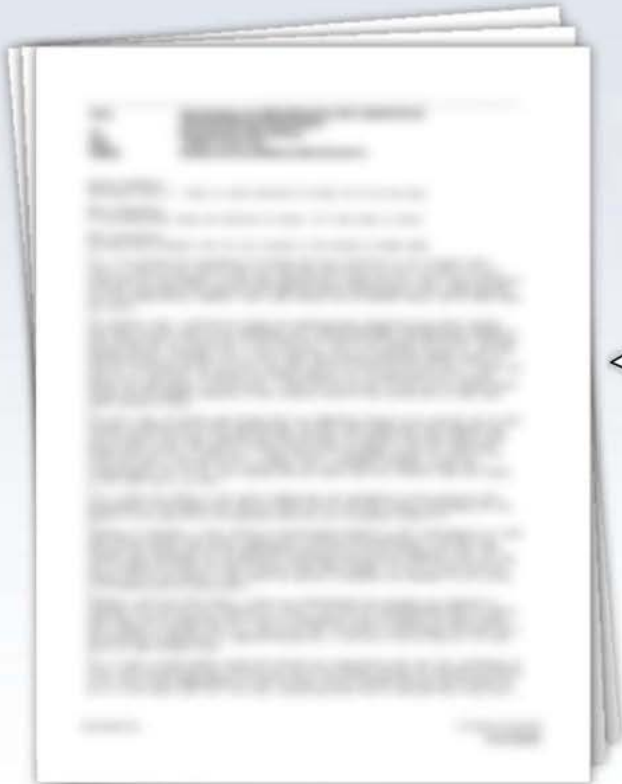
- A Section 2 procompetitive justification must be “a form of competition on the merits,” *Microsoft*, 253 F.3d at 59, but buying a competitive threat is not.
- “Efficiencies almost never justify a merger to monopoly or near monopoly.” *FTC v. H.J. Heinz Co.*, 246 F.3d 708, 720 (D.C. Cir. 2001)
- A monopolist’s acquisition of a nascent rival “bears a very strong presumption of illegality that should rarely be defeated.” *Antitrust Law*, ¶ 912a (2022)

Meta's Burden



- 1. “Competition on the merits”**
- 2. Not pretextual**
- 3. Merger-specific**
- 4. In the relevant market**
- 5. “Extraordinary” or “substantial”**

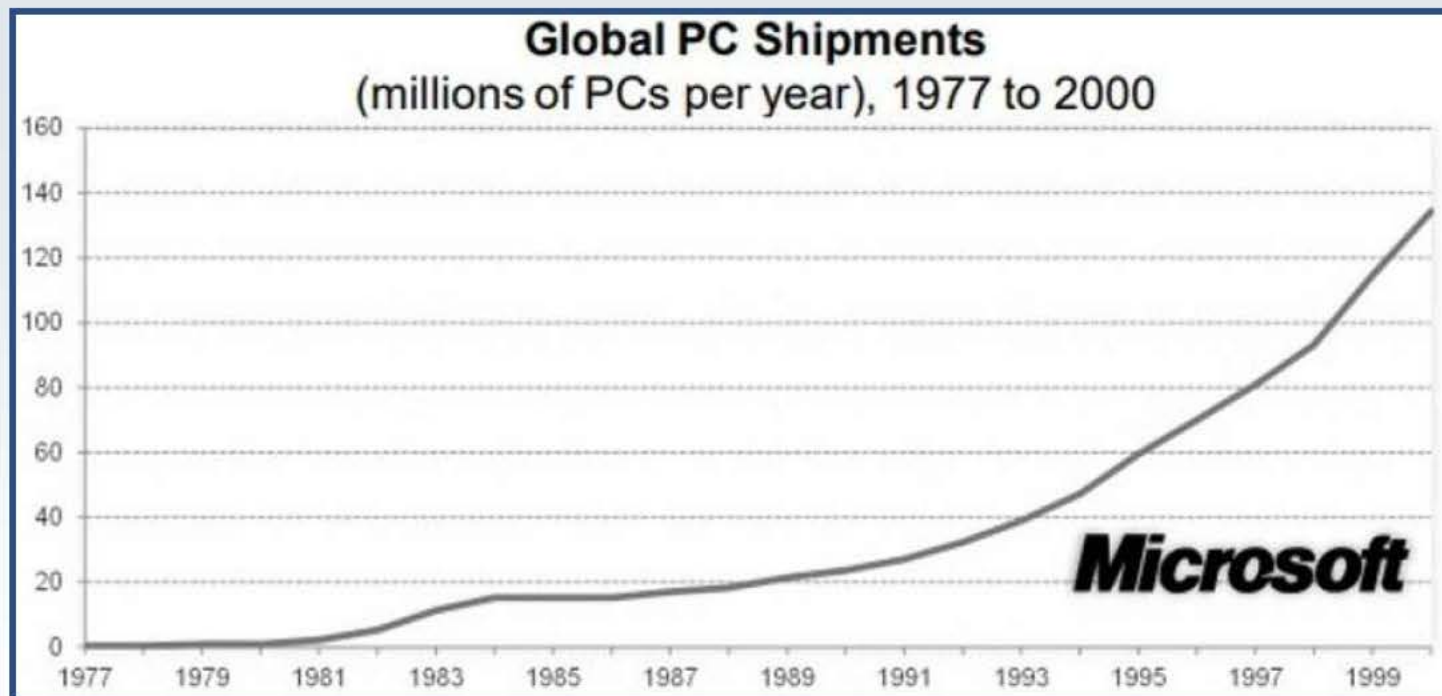
Meta's Justifications = Pretextual



"Messenger isn't beating WhatsApp, Instagram was growing so much faster than us that we had to buy them for \$1 billion . . . That's not exactly killing it."

Message from Mr. Zuckerberg
(Nov. 8, 2012)

“Increased Output” = Fail



Nancy F. Koehn, *Michael Dell: Winning on the Demand Side of the Information Revolution*,
Harvard Business School Case Study 23 (2004)

Monetization Justifications = Fail



- **Pretextual**
- **Meta Not Needed**
- **Benefits Not Shown**
- **Out of Market**



Prof. Aral
(Monetization Expert, FTC)

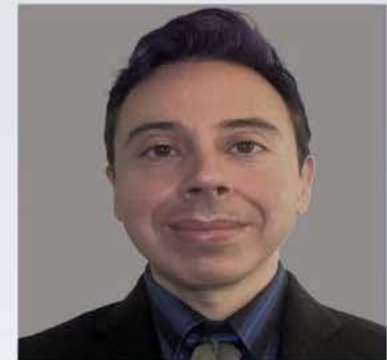


Mr. Botha
(Testimony, Jan. 24, 2023)

Integrity Justifications = Fail



- **Pretextual**
- **Meta Not Needed**
- **Benefits Not Shown**
- **Out of Market (WhatsApp)**



Prof. McCoy
(Integrity Expert, FTC)



Mr. Systrom
(Testimony, Sept. 15, 2020)

Infrastructure Justifications = Fail



- **Pretextual**
- **Meta Not Needed**
- **Benefits Not Shown**
- **Out of Market (WhatsApp)**



Mr. Bray
(Infrastructure Expert, FTC)



Mr. Jain,
Chief Information Officer, Snap
(Testimony, May 25, 2023)

Witnesses



Prof. McCoy
(Integrity Expert, FTC)



Mr. Bray
(Infrastructure Expert, FTC)



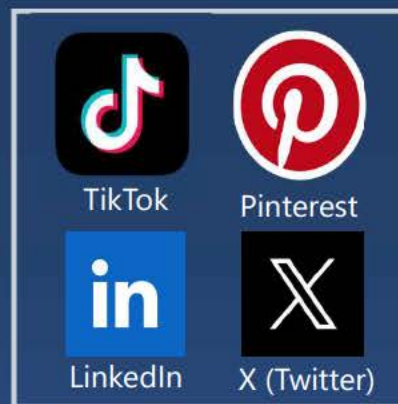
Prof. Aral
(Monetization Expert, FTC)



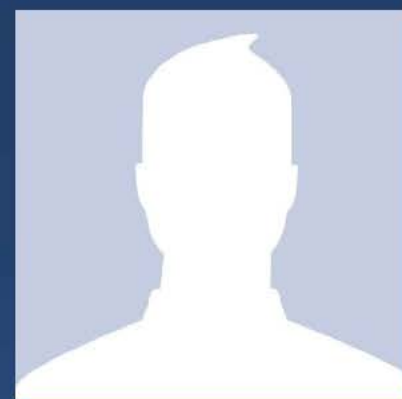
Mr. Jain (Snap)



Cloud Providers



Third-Party Apps



Meta Executives

Contemporaneous Records > Post-Hoc Testimony



"At trial, Plaintiffs repeatedly confronted Google's ad executives with company records containing their own statements, as well as statements of their colleagues . . . In many instances, the witness professed to lack an understanding of the record or sought to contextualize it in highly technical ways. In making these Findings of Fact, the court gives greater weight to the contemporaneous statements contained in the company's internal records, than later testimony in which Google employees declined to ratify those statements. "

United States v. Google LLC (D.D.C. 2024)

Questions?