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Florida Attorney General's Office News Release

AG Moody Leads Action to End Facebook's Monopoly Control

TALLAHASSEE, Fla.—Attorney General Ashley Moody today took action against Facebook, Inc. for its anticompetitive business practices. The court action alleges that the company has and continues today to illegally stifle competition to protect its monopoly power. 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 from the benefits of competition and reducing privacy protections and services along the way. This conduct is alleged to have all been done in an effort to boost its bottom line through increased advertising revenue. Attorney General Moody is joined by a bipartisan coalition of 47 other state attorneys general in filing the lawsuit against Facebook.

Attorney General Ashley Moody said, “One of the greatest benefits to owning a business in the United States is having the ability to operate and innovate in a free and fair marketplace. The stifling of competition and predatory actions of Facebook are inexcusable, and as a result, its users, innovation and competition have all suffered. I am proud to work with a bipartisan coalition of attorneys general to take action against Facebook for its unlawful, anticompetitive business practices and end the social media giant’s monopoly control.”

Since 2004, Facebook has operated as a personal social networking service that facilitates sharing content online without charging users a monetary fee. Instead, the company provides these services in exchange for a user’s time, attention and personal data. Facebook then monetizes its business by selling advertising to firms that attach immense value to the user engagement and highly-targeted advertising that Facebook can deliver due to the vast trove of data it collects on users.

In an effort to maintain its market dominance in social networking, 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 before they could threaten Facebook’s dominance and to suffocate and squash third-party developers that Facebook invited to utilize its platform—allowing Facebook to maintain its monopoly over the social networking market and make billions 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 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 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 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.

Additionally, while consumers initially turned to Facebook and other apps now owned by the company seeking privacy protection and control over their data, many of those protections are now gone.

Acquisition of Competitive Threats

The harm to consumers over the last decade comes as a direct result of Facebook's acquisition of smaller firms that pose competitive threats. Facebook employs unique data-gathering tools to monitor new apps all in an effort to see what is gaining traction with users. That data helps Facebook select acquisition targets that pose the greatest threats to Facebook's dominance. Once selected, Zuckerberg and Facebook offer the heads of these companies vast amounts of money—that greatly inflate the values of the apps—all in hopes of avoiding any competition for Facebook in the future.

When it came to startups, Zuckerberg has stated that if these companies were not inclined to sell, "they'd have to consider it" if Facebook offered a "high enough price."

The elimination of competitive alternatives 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 posed a unique and dire threat to Facebook's monopoly.

Cutting Competitors Off from Facebook Overnight

As laid out in today's complaint, the bipartisan coalition argues that Facebook targets competitors with a buy or bury approach: if they refuse to be bought out, Facebook tries to squeeze every bit of oxygen out of the room from these companies. To facilitate this goal, Facebook has used an open first–closed later strategy to stop competitive threats, or deter them from competing, at the inception.

Facebook opened its platform to apps created by third-party developers in an effort to increase functionality on the site and, subsequently, increase the number of users on Facebook. Facebook also drove traffic to third-party sites by making it easier for users to sign in, so that Facebook could capture valuable data about its users' off-Facebook activity and enhance its ability to target advertising.

Not only did Facebook benefit monetarily through the third-party developers' revenue, but Facebook's services were expanded, as Facebook did not have the capacity to create and develop all the useful social features offered through third-party developers.

After years of promoting open access to its platform, in 2011, Facebook began to rescind and block access to the site to apps that Facebook viewed as actual or potential competitive threats. Facebook understands that an abrupt termination of established access to the site can be devastating to an app—especially one still relatively new to the market. An app that suddenly

loses access to Facebook is hurt not only because its users can no longer bring their friend list to the new app, but also because a sudden loss of functionality—which creates broken or buggy features—suggests to users that an app is unstable. In the past, some of these companies experienced almost overnight drop-off in user engagement and downloads and their growth stalled.

Facebook's response to competitors also serves as a warning to other apps that if they encroach on Facebook's territory, Facebook will end their access to crucial integrations. Facebook's actions also deter venture capitalists from investing in companies that Facebook might, in the future, see as competitors.

Advertising

As a consequence of Facebook's expansive user base and the vast trove of data it collects from its users and users' connections, Facebook is able to sell highly-targeted advertising that firms greatly value.

The volume, velocity and variety of Facebook's user data give it an unprecedented, virtually 360-degree view of users and their contacts, interests, preferences and activities. The more users Facebook can acquire and convince to spend additional time on its platforms, the more data Facebook can accumulate by surveilling the activities of its users and thereby increase its revenues through advertising—reaping the company billions of dollars every month.

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 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 state of Florida and other 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.

To view the complaint, click here.

Separately, but in coordination with the multistate coalition, the Federal Trade Commission 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 addition to Florida, the executive committee is made up of the attorneys general of California, Colorado, Iowa, Nebraska, New York, 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.