

Judge Punts FTC Suit Over Meta's Instagram, WhatsApp Buys

By **Bryan Koenig**

Law360 (November 18, 2025, 1:20 PM EST) -- A federal antitrust campaign against major technology platforms suffered a significant blow Tuesday with a D.C. federal judge's rejection of a Federal Trade Commission suit accusing Meta Platforms of illegally monopolizing social media through its purchases of WhatsApp and Instagram.



A D.C. federal judge's ruling in favor of Meta represents the first loss on the merits for antitrust enforcers pursuing a string of monopolization cases against Big Tech. (Photo by Klaudia Radecka/NurPhoto via AP)

U.S. District Judge James E. Boasberg didn't let the FTC get past the threshold question of whether the Facebook successor has a monopoly, finding that Meta Platforms Inc. competes widely in a crowded field of social media companies, a field he said has been heavily redrawn in recent years, especially by TikTok.

"With apps surging and receding, chasing one craze and moving on from others, and adding new features with each passing year, the FTC has understandably struggled to fix the boundaries of Meta's product market. Even so, it continues to insist that Meta competes with the same old rivals it has for the last decade, that the company holds a monopoly among that small set, and that it maintained that monopoly through anticompetitive acquisitions," Judge Boasberg said. "Whether or not Meta enjoyed monopoly power in the past, though, the agency must show that it continues to hold such power now. The court's verdict today determines that the FTC has not done so."

Judge Boasberg rejected FTC efforts to paint Meta into a narrow corner for personal social networking connecting friends and family, a field where it says Meta's only competitors are Snap and MeWe, while excluding TikTok and other social media companies.

"While it once might have made sense to partition apps into separate markets of social networking and social media, that wall has since broken down," Judge Boasberg said in the 89-page ruling.

Meta welcomed the decision and its recognition that the company "faces fierce competition."

"Our products are beneficial for people and businesses and exemplify American innovation and economic growth. We look forward to continuing to partner with the administration and to invest in America," a Meta spokesperson said in a statement. The company did not immediately respond to a follow-up question asking if the reference to the Trump administration is an attempt to curry favor and avoid an appeal.

The FTC turned more explicitly to politics in its own statement, referencing **the push** by Republican lawmakers to **impeach Judge Boasberg**, driven by ire over his orders against Alien Enemies Act deportations and on subpoenas for the records of GOP lawmakers as part of the investigation into Trump's alleged efforts to overturn the 2020 election.

"We are deeply disappointed in this decision. The deck was always stacked against us with Judge Boasberg, who is currently facing articles of impeachment. We are reviewing all our options," FTC spokesperson Joseph Simonson said in a statement.

FTC Chairman Andrew Ferguson has previously voiced **full-throated support** for the litigation.

The ruling represents the first loss on the merits for antitrust enforcers pursuing **a string of monopolization cases** against Big Tech.

The U.S. Department of Justice has so far won both its cases targeting Google's search and advertising placement technology businesses. Google is expected to appeal **the search case**, where it managed to avoid the DOJ's most sweeping remedies, and it is expected to similarly contest its **ad tech loss** after the Virginia federal judge imposes remedies. In the wings is a DOJ case against Apple and **an FTC case** against Amazon.com Inc. And an aggressive posture adopted by antitrust enforcers during the first Trump administration has materialized in an array of other major cases against the likes of Live Nation, Visa, RealPage, Agri Stats, John Deere, Southern Glazer's Wine and Spirits LLC and pesticide giants Syngenta and Corteva.

The FTC case against Meta was the second to be filed in the new wave of monopolization lawsuits that followed a roughly two-decade hiatus in enforcer actions brought under Section 2 of the Sherman Act.

Filed **in December 2020**, two months after the DOJ targeted Google search, the FTC suit accused Meta of buying Instagram in 2012 and WhatsApp in 2014 in order to head off direct competition with Facebook. According to the FTC, Meta feared the juggernauts the companies would become. It allegedly worried WhatsApp would expand from its messaging app roots into a direct rival to Facebook, and the social media giant allegedly deliberately stifled the growth of both companies to keep them from cannibalizing Facebook. But because his decision came down entirely to market definition, in a market where both sides agree WhatsApp does not now compete, Judge Boasberg said Tuesday that "WhatsApp is not relevant to what follows and will now disappear from the case."

To try to prove that case, the FTC **spent six weeks** in the spring of 2025 questioning a series of Meta executives, starting with CEO **Mark Zuckerberg** and former Chief Operating Officer **Sheryl Sandberg**, alongside **expert witnesses** and representatives of **social media companies**. The agency's main goal was to show that sharing with friends and family remains a prime use case for Facebook, Instagram and WhatsApp, one that distinguishes the Meta apps from ostensibly more entertainment-focused social media companies like TikTok, YouTube and X Corp. From there, the agency tried to show that Meta deliberately stifled its properties. But Judge Boasberg noted that the time users spend on friends and family content has declined precipitously over the years, down to 17% for Facebook and 7% for Instagram, meaning "friends' content has withdrawn from the main feature to a smaller ingredient in a blend." That content has been replaced by short-form videos, the judge said, pointing in particular to Meta's Reels feature, where content is based entirely on "unconnected" accounts that users haven't friended or followed.

"The FTC contends that Facebook, Instagram, and Snapchat form a distinct market that can be identified

by those apps' unique features. While those apps certainly show some distinct markings, they mostly resemble two other social-media apps that the FTC insists must be excluded: TikTok and YouTube," he said. "Their dominant features are identical, people mostly use all four to watch unconnected content that they can send in direct messages, industry participants agree that the apps belong in the same competitive market, they use similar resources and technologies, and they charge the same [free] price to the same customers."

A key FTC witness was New York University School of Law professor C. Scott Hemphill. But Judge Boasberg said Tuesday that it "seems unlikely" the agency's **lead economics expert** "could have approached his task with an open mind," given his lobbying for antitrust enforcers to pursue Meta in the first place.

"Once Hemphill was brought on, the court doubts that he weighed the evidence objectively. Instead, it was almost as if the FTC had put one of its own lawyers on the stand," Judge Boasberg said. The judge nevertheless did not reject Hemphill's testimony outright. Instead, he said Hemphill's opinions "do not persuade on the merits."

Meta had argued at trial that it's **done nothing to shortchange the apps** but instead gave them the resources they needed to grow to the powerhouses they are today. And it repeatedly argued that Meta, TikTok and YouTube all see one another as **rivals and competitive constraints**. Judge Boasberg agreed, concluding that TikTok "put enormous competitive pressure on Meta" soon after its U.S. launch in 2018, including by driving the addition of Reels on Facebook and Instagram, "copying TikTok to keep users on Meta's apps."

Judge Boasberg also referenced the "convergence" of Meta, TikTok and YouTube as they met somewhere in the middle between entertainment and connecting with friends and family, with mobile apps that look virtually identical and provide virtually identical sharing options.

"The possibilities opened by technology, the responses by users, and the competitive choices of the apps have combined to push Facebook, Instagram, TikTok, and YouTube into similar social-media experiences," he said.

In rejecting the FTC's claims of monopoly, and thus short-circuiting an effort to force the divestiture of WhatsApp and Instagram, Judge Boasberg also rejected the FTC's bid to argue it doesn't matter if Meta has a monopoly right now. Where the FTC had argued in its post-trial briefing that it can seek an injunction as long as Meta violated the law in the past and that violation continues to harm competition, Judge Boasberg said the FTC Act only allows the agency to pursue "current or imminent legal violation."

Judge Boasberg additionally rejected FTC claims of direct evidence of monopoly based on Meta's enormous profit margins, its alleged ability to impose a high "cost" in the form of a high volume of ads and reduced quality, and its alleged ability to differentiate that ad load.

Judge Boasberg said there are alternative explanations for Meta's high profits, which the FTC's experts never analyzed. "The agency did not even show that Meta's profits are greater than other successful tech firms," he said.

He also said that "Meta's apps have continuously improved," even as ad load has increased, so it's "not clear that the company has reduced quality overall," and he said increases in ad quality may offset assertions that those ads hurt the user experience. The judge also wrote off claims of user dissatisfaction as having more to do with brand perception than user experience. And he similarly said that the idea that Meta has degraded quality by reducing the amount of friends and family content people see "makes no sense," because people are overall doing less sharing as social media use evolves.

The FTC's claims of indirect evidence fared no better as Judge Boasberg looked to the market of today, not the past in which he said the FTC was anchored. According to Judge Boasberg, Meta cannot exercise monopoly power because the evidence "resoundingly" demonstrates that "consumers treat TikTok and YouTube as substitutes for Facebook and Instagram," especially at times when Meta or TikTok became unavailable or in an experiment where Meta paid users not to use its apps and tracked where they went instead.

"When consumers cannot use Facebook and Instagram, they turn first to TikTok and YouTube. When they cannot use TikTok or YouTube, they turn to Facebook and Instagram. That evidence leaves the court with no doubt that TikTok and YouTube compete with Meta's apps," he said.

And that competition, Judge Boasberg said, is fierce, and enough to "prevent the defendant from exercising monopoly power," including based on the billions Meta has spent to compete with TikTok and YouTube, especially through the development of Reels.

"When the evidence implies that consumers are reallocating massive amounts of time from Meta's apps to these rivals and that the amount of substitution has forced Meta to invest gobs of cash to keep up, the answer is clear: Meta is not a monopolist insulated from competition," he said. "The court finds the evidence favoring Meta on this issue both credible and convincing."

Judge Boasberg based his calculation of market share on time spent on the various apps, ultimately concluding that Meta could not have a monopolistic share — the number itself was redacted, but the opinion quoted a Ninth Circuit opinion in asserting that "market share under 50% is 'below any accepted benchmark for inferring monopoly power from market share.'" The number changes when excluding YouTube, whose inclusion in the market "is concededly more debatable," Judge Boasberg said. But it still didn't put Meta into monopoly territory.

The FTC is represented in-house by Daniel J. Matheson, Krisha Cerilli, Nathan Brenner, Patricia Galvan, Maria M. DiMoscato, Robert Zuver, Peter Taylor, David Brunfeld, Ario Fazli, Erin Frake, Melissa Ihnat, Alicia Loh, Gary Mitchell London, Justin Lorber, Karen Goff, Owen Masters, Noel Miller, Njeri Mugure, Danica Noble, Stephen Pearson, Benjamin Rashkovich, Michael Smith, Jennifer Tarr, Oren Vitenson, Barrett Anderson and Nicholas Widnell.

Meta is represented by Mark C. Hansen, Aaron M. Panner, Geoffrey M. Klineberg, Ana Nikolic Paul, Lillian V. Smith, Aaseesh P. Polavarapu, Hannah D.C. DePalo, Hilary M. Weaver, Evan T. Leo, Kevin B. Huff, Kevin J. Miller, Leslie V. Pope and Alex A. Parkinson of Kellogg Hansen Todd Figel & Frederick PLLC, James P. Rouhandeh and Michael Scheinkman of Davis Polk & Wardwell LLP, and Sonal N. Mehta and David Z. Gringer of WilmerHale.

The case is Federal Trade Commission v. Meta Platforms Inc., case number 1:20-cv-03590, in the U.S. District Court for the District of Columbia.

--Additional reporting by Lauren Berg. Editing by Daniel King.

Update: This story has been updated with additional information.