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FTC Loses Challenge to Meta's Instagram and WhatsApp Deals: Agency Fails to Prove Monopoly in a Fast-Paced Landscape

By Jasmine Rosner and
Rebecca Jacobson

The Quick Read

A federal judge has ruled that Meta is not a monopolist. On November 18, 2025, Judge Boasberg of the District Court for the District of Columbia found that the Federal Trade Commission ("FTC") did not meet its burden of establishing that Meta Platforms, Inc. has monopoly power in the "personal social networking" market (the "PSN market").

In ruling for Meta, the Court held the FTC failed to prove that (1) the PSN market is an appropriate relevant market, as opposed to the broader "social media" market and (2) Meta *currently* has monopoly power in the relevant market. Throughout the opinion, the Court acknowledged the fast-paced and ever-changing nature of the social media industry, and noted that "[w]hether or not Meta enjoyed monopoly power in the past, ... the agency must show that it continues to hold such power now" in order to succeed in its challenge, and it failed to do so.

The Full Summary

In the early 2010s, Meta acquired Instagram and WhatsApp. Both transactions were reviewed and cleared by the FTC at the time. Then, at the end of 2020, the FTC sued Meta, alleging that the prior acquisitions violated Section 2 of the Sherman Act, and requesting a permanent injunction of Meta's allegedly anticompetitive conduct. The FTC claimed that Meta held a monopoly in the PSN market since 2011 and maintained this monopoly power, in part, by eliminating the competitive threats posed by Instagram and WhatsApp through acquisition.

From the beginning of the litigation, the Court seemed skeptical of the FTC's relevant market. In 2021, the Court dismissed the FTC's initial complaint on the basis that it failed to allege sufficient facts that Meta had monopoly power in the relevant market. At the time, the Court also expressed doubts about the boundaries of the FTC's alleged PSN market. After the FTC's amended complaint survived a motion to dismiss, the Court cautioned that the agency would likely "face a tall task" in proving its allegations. Then, at the summary judgment stage, the Court again warned that the FTC would face "hard questions about whether its claims could hold up in the crucible of trial."

This spring, the Court held a six-week bench trial involving extensive testimony and documentary evidence. Following trial, the Court entered judgment for Meta, holding (i) that the FTC's alleged PSN market is not a separate relevant product market from the social media market, and (ii) that Meta is not a monopolist in the market for social media. Below we provide key takeaways from this decision.

1. Direct Evidence of Monopoly Power is Elusive

At the outset of its opinion, the Court held that the FTC's burden was to prove that Meta *currently* has monopoly power in the relevant market. Relying on the statutory language of Section 13(b) of the FTC Act, the agency can seek to enjoin conduct that "currently violates the law or imminently will." This holding on *when* Meta held monopoly power colored the lens with which the Court viewed the evidence.

To find monopoly power, courts may consider both direct and indirect evidence. Direct evidence is typically straightforward evidence that a firm is acting like a monopolist, such as charging supracompetitive prices. Here, the FTC put forward three pieces of so-called direct evidence: Meta's large profits, alleged quality declines in Meta's apps (and therefore claimed quality-adjusted price increases), and price discrimination by Meta. The Court was unconvinced that any of these constituted direct evidence of Meta's monopoly power.

- **Large Profits:** While large profits may evidence monopoly power, they can also imply other, legitimate reasons that a firm is profitable. The FTC's argument that Meta had "long earned profits that exceeded its cost of capital" were unpersuasive, as the FTC did not show that Meta's profits were greater than any other successful tech firm.
- **Price Increases:** Because Meta's apps are free, the FTC argued that Meta had imposed quality-adjusted price increases by showing more ads to its users. When Meta did not lose users despite increased ads, the FTC alleged that users lacked options outside of Meta's apps and this was indicative of monopoly power. Quality-adjusted price increases may be used to prove monopoly power in some circumstances, however, the Court did not interpret Meta's increase in ads as a price increase because the FTC failed to account for simultaneous improvement in Meta's ad quality and other features of Meta's apps over the same period.
- **Price Discrimination:** The FTC argued that showing certain users more ads than others amounted to price discrimination that was indicative of monopoly power. The Court was skeptical that price discrimination could be evidence of *monopoly* power. Instead, it held that price discrimination is evidence only of *market* power, and that "in the real world, almost every business enjoys some degree of market power."

2. Market Definition Must Match Current Consumer Realities

The more conventional way to demonstrate market power is via indirect evidence: circumstantial evidence of a firm's dominant share of a relevant market that is protected by entry barriers. The FTC alleged that Meta had a dominant share of the PSN market, which it claimed had only four participants: Facebook, Instagram, Snapchat, and MeWe. It argued that these apps are distinguished from other social media apps since they are used to connect with friends and family members—thus, the "personal social network" market. Meta disagreed, arguing that it competes in a broader market that includes firms like TikTok and YouTube.

The Court found that the FTC's attempt to isolate only those social media products that feature a social graph of a user's friends and family was based on an outdated use for Meta's products. Relying on empirical evidence and natural experiments, the Court analyzed which social media apps compete with Meta's apps for users' time and was persuaded that users switch to YouTube and TikTok when Facebook or Instagram are not available. Moreover, looking at product characteristics and user engagement patterns, Facebook and Instagram most closely resemble TikTok and YouTube. The Court acknowledged that the relevant market evidence could have pointed to a different conclusion in another era, but Section 13(b) requires a finding on

currently existing monopoly power in a relevant market. Taken together, the Court concluded there was no separate PSN market that excluded TikTok and YouTube; instead, Meta competes in the social media market, containing TikTok, YouTube, Facebook, Instagram, Snapchat, and MeWe.

3. Monopoly Power Requires More Than Market Power

Having determined the broader social media market was the relevant market, the Court turned to whether the FTC proved Meta's monopoly power in that market. The Court cited numerous cases finding a market share of 64-80% insufficient for monopoly power. Although Meta's market share is redacted in the Court's public opinion, it noted that Meta's market share is falling and in evaluating monopoly power, "it is not market share that counts, but the ability to maintain market share."

4. Stay Tuned For More

Meta celebrated the victory, commenting that the Court's decision "recognizes that Meta faces fierce competition" and that it looks forward to "continuing to partner with the Administration and to invest in America." The FTC expressed deep disappointment in the decision and is reviewing its options, including potentially appealing to the DC Circuit.

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Meagan Bellshaw (Washington, D.C.)	View Bio	meagan.bellshaw@weil.com	+1 202 682 7140
Megan Granger (Washington, D.C./London)	View Bio	megan.granger@weil.com	+44 20 7903 1401
Adam Hemlock (New York)	View Bio	adam.hemlock@weil.com	+1 212 310 8281
Brianne Kucerik (Washington, D.C.)	View Bio	brianne.kucerik@weil.com	+1 202 682 7034
Michael Moiseyev (Washington, D.C.)	View Bio	michael.moiseyev@weil.com	+1 202 682 7235
Jeffrey Perry (Washington, D.C.)	View Bio	jeff.perry@weil.com	+1 202 682 7105
Jasmine Rosner (Washington, D.C.)	View Bio	jasmine.rosner@weil.com	+1 202 682 7150
Kristin Sanford (Washington, D.C.)	View Bio	kristin.sanford@weil.com	+1 202 682 7115
John Scribner (Washington, D.C.)	View Bio	john.scribner@weil.com	+1 202 682 7096
Mark Seidman (Washington, D.C.)	View Bio	mark.seidman@weil.com	+1 202 682 7090
Jeff White (Washington, D.C.)	View Bio	jeff.white@weil.com	+1 202 682 7059

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