

## WhatsApp:

06/2021-6675

The case and teaching note were generously financed by the James M. and Cathleen D. Stone Centre for the Study of Wealth Inequality.

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This document is authorized for use only by Kerui Wu in Intro to ITWS-S22 taught by RICHARD PLOTKA, Rensselaer Polytechnic Institute - Troy from Jan 2022 to Jul 2022.

## Lina Khan Appointed FTC Commissioner

Lina Khan was having her first latte at a café near her home in Larchmont, New York, when she got a call to say the Senate had confirmed her nomination by newly elected President Joe Biden to serve as one of five commissioners on the Federal Trade Commission. Established in 1914 in response to the rise of monopolies and trusts in the 19th century, the FTC is an independent U.S. government agency whose principal mission is to enforce antitrust law and promote consumer protection.

Responding to questions from senators at her nomination hearing in April 2021, she had told them she supported a more aggressive approach to protecting local journalism, which had been undermined by “gatekeepers” such as Google and Facebook.<sup>1</sup> But when asked why government officials had often declined to challenge acquisitions by tech giants in the past, she conceded that, “In certain cases there were missed opportunities for enforcement actions.”

As an FTC Commissioner, she wanted to review the complaint her predecessors had filed against the tech giant Facebook, in December 2020.<sup>2</sup> Former FTC chair Joseph Simons had singled out two of more than 80 acquisitions made since its founding in 2004: Instagram in 2012 and WhatsApp in 2014. She wondered if his intention was to unwind them from the parent.

Instagram, the photo and video-sharing app, had been the target of her colleague from Columbia University, Timothy Wu, a member of the White House National Economic Council since March 2021,<sup>3</sup> who, in an interview with *Wired* magazine in 2019, called it an “illegal transaction”.<sup>4</sup>

Was Facebook’s acquisition of WhatsApp, the world’s most popular mobile messaging app, designed to snuff out a competitor? Khan needed to explore that question.

## WhatsApp Updates its Terms of Service

Khan recalled an incident that summed up the dilemma of tarring WhatsApp with the same brush. On 4 January 2021, WhatsApp informed its two billion users of minor changes to its terms of services (ToS) regarding the sharing of metadata: they had until 8 February 2021 to click on ‘agree’ in the pop-up notification or their account would be deactivated. Confusion spread online about the update, some users mistakenly believing that their personal data would be shared.

The new privacy policy affected only a tiny minority of users who had begun to do business on the app as part of a new venture called WhatsApp Business, launched in 2018. WhatsApp updated its ToS to promote the shopping experience and better target business advertising. The January 2021 update would allow WhatsApp to share payment and transaction data of users who

1 *Lina Khan, a progressive trustbuster, displays get-tough approach to tech in confirmation hearing*, by Cecilia Kang, The New York Times, 21 April 2021, <https://www.nytimes.com/2021/04/21/business/lina-khan-ftc.html>

2 *FTC v. Facebook, Complaint for Injunctive and other Equitable Relief*, at <https://www.courthousenews.com/wp-content/uploads/2020/12/ftc-fb-dc.pdf>

3 *Biden to Name Antitrust Scholar Lina Khan for FTC Post*, by Ryan Tracy and John D. McKinnon, The Wall Street Journal, 9 March 2021, <https://www.wsj.com/articles/biden-to-name-antitrust-scholar-lina-khan-for-ftc-post-11615316987>

4 *Tim Wu Explains Why He Thinks Facebook Should Be Broken Up*, by Nicholas Thompson, *Wired*, 5 July 2019, <https://www.wired.com/story/tim-wu-explains-why-facebook-broken-up/>

conducted ecommerce via the app. Whether they knew it or not, WhatsApp users had allowed it to share metadata such as phone numbers with Facebook since 2016, except in the EU.<sup>5</sup>

When WhatsApp realized the backlash the upgrade had caused, the opt-in date was extended to mid-May 2021 and WhatsApp promised to improve awareness of its end-to-end encryption to assure users that the app was safe.<sup>6</sup> Despite its immediate measures to reassure users, two rival messaging apps benefitted from its missteps. In the week following the announcement, Telegram reached nearly 11.9 million downloads compared to 6.5 million the week before.<sup>7</sup> Signal had more than 8.5 million downloads compared to 246,000 the week before.<sup>8</sup>

If the competition in the mobile messaging sector was strong and getting stronger, why did Simons single out the WhatsApp acquisition, Khan wondered? She needed to look further.

Facebook generated almost all of its revenue from advertising—\$84.17 billion in 2020, of total sales of \$85.96 billion. But monetizing the vast WhatsApp's user base had always presented a challenge. This, she discovered, dated back to the values of the cofounders.

## Popular...but Not Lucrative

WhatsApp was cofounded by Jan Koum and Brian Acton. The pair were committed to the principle of providing an encrypted (secure), ad-free environment for messaging.<sup>9</sup> In a blog on 29 December 2012, Koum posted:

*Brian and I spent a combined 20 years at Yahoo!, working hard to keep the site working. And yes, working hard to sell ads, because that's what Yahoo! did. It gathered data and it served pages and it sold ads.*

*When we sat down to start our own thing together three years ago, we wanted to make something that wasn't just another ad clearinghouse. We wanted to spend our time building a service people wanted to use because it worked and saved them money, and made their lives better in a small way. We knew that we could charge people directly if we could do all those things. We knew we could do what most people aim to do every day: avoid ads.<sup>10</sup>*

Koum, the creative designer who built the OTT (over-the-top), internet-based, mobile messaging app from scratch, founded WhatsApp in February 2009. Within seven months an upgraded version was released by the App Store to iPhone owners and downloaded by 250,000 users. It achieved popularity almost overnight because WhatsApp offered more features and functionality than SMS

5 In 2016, the EU Commissioner for Competition imposed a fine of \$122 million on FB for providing “incorrect or misleading information” to the Commission about the 2014 acquisition. While the EU still stood by its decision to authorize the transaction, data sharing between WhatsApp and FB was stopped in the EU at this time.

[https://ec.europa.eu/commission/presscorner/detail/pl/IP\\_17\\_1369](https://ec.europa.eu/commission/presscorner/detail/pl/IP_17_1369)

6 [WhatsApp Delays Privacy Changes Amid User Backlash - The New York Times \(nytimes.com\)](https://www.nytimes.com/2021/05/04/technology/whatsapp-privacy-changes.html)

7 [WhatsApp: conflicting message | Financial Times \(ft.com\)](https://www.ft.com/content/2021/05/04/whatsapp-conflicting-message)

8 [WhatsApp fights back as users flee to Signal and Telegram | Financial Times \(ft.com\)](https://www.ft.com/content/2021/05/04/whatsapp-fights-back-as-users-flee-to-signal-and-telegram)

9 Most of the information in these two paragraphs about Brian Acton comes from a 16-page feature called *Exclusive: WhatsApp Cofounder Brian Acton Gives The Inside Story On #DeleteFB And Why He Left \$850 Million Behind*, by Parmy Olson, Forbes, 26 September 2018, <https://www.forbes.com/sites/parmyolson/2018/09/26/exclusive-whatsapp-cofounder-brian-acton-gives-the-inside-story-on-deletefb-and-why-he-left-850-million-behind/>

10 <https://blog.whatsapp.com/index.php/2012/01/it-is-a-hoax-really-it-is?page=6>

(short-message-service), the then dominant messaging protocol. A series of upgrades allowed users to send text messages, photos, videos, sound clips and GIFs to individuals and groups.

Viewed by the founders as more of a non-profit than a cash cow, their sole means of monetizing WhatsApp was to charge an annual fee of 99 cents after one year of use. Per-message fees were never levied, although Acton had supported a metered approach in the past. Acton joined WhatsApp as co-founder in October 2009 on the back of an investment of \$250,000 raised from five ex-Yahoo friends.

At first, WhatsApp was confined to the iOS operating system, but it soon became available for all smartphone operating systems including those on Android phones. All a user needed was a phone number to register for the app.

## WhatsApp Grows in Popularity

WhatsApp went through a period of explosive growth both in size and scale as the user base rapidly extended outwards from the United States to encompass markets in Europe and India, where mobile apps were growing fast. To some observers it seemed like a social networking platform, as users began to share photos, voice messages and videos. Yet the founders never developed a monetization strategy to build a costly social network. It would require more resources than they had simply to continue the growth rate.

In an attempt to create a rival app, 'Facebook Messenger' was launched in the fall of 2011. On the global launch date, the product director wrote to his team: "We have a great shot of competing with WhatsApp on being the app for serious mobile messaging users worldwide. WhatsApp has 15 million (registered?) users. Let's see how quickly can we get to 10 million daily actives."<sup>11</sup> But without a first-mover advantage, Facebook Messenger had a hard time keeping pace.

By the time of the WhatsApp acquisition, CEO Mark Zuckerberg was "disappointed" in the FB Messenger app. He came to the conclusion that WhatsApp was a far better product, more reliable, faster, with a bigger network outside of the United States. Nevertheless, as of January 2021, Facebook Messenger had 1.3 billion users (compared with WhatsApp's two billion).

Before the acquisition, key managers at Facebook expressed concern that Google might seek to buy WhatsApp with the aim of transforming it into a social networking platform. Responding to these fears and his disappointment with FB Messenger, Zuckerberg reached out to Koum in April 2012 about a potential acquisition. Nothing came of the conversation.

## Time to Buy WhatsApp

In early 2014, Facebook got wind that Google had invited the WhatsApp cofounders for talks at HQ in Mountain View. Afraid of losing out to a competitor, Zuckerberg called Koum back to the negotiating table on 9 February. Five days later, "Koum came over to Zuckerberg's home, crashing

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11 <https://www.courthousenews.com/wp-content/uploads/2020/12/ftc-fb-dc.pdf>, p. 34

the dinner Zuckerberg was sharing with his wife Priscilla Chan. They negotiated over a plate of chocolate-covered strawberries intended for Chan.”<sup>12</sup>

In a deal that both sides clearly wanted, Facebook paid \$4 billion in cash and \$12 billion for shares in WhatsApp. The total would rise to \$19 billion taking into account \$3 billion in restricted stock units for employees and the cofounders that would vest over the next four years.<sup>13</sup> At the time of the acquisition, WhatsApp had about 55 employees, almost all engineers, 450 million monthly active users worldwide, and over 320 million daily active users. According to one Facebook manager, the deal prevented “probably the only company which could have grown into the next Facebook purely on mobile.”<sup>14</sup>

Under Facebook, WhatsApp kept growing by leaps and bounds, from 450 million users in February 2014 to two billion users in 2021.<sup>15</sup> This perplexed Khan, since the parent company had obviously nurtured a barebones subsidiary to prosperity without smothering its ambitions. Acton and Koum became multi-billionaires overnight, selling a service that had never generated significant revenue since it had no advertising. Koum, who owned 45% of the company, made \$6.8 billion in cash and stock.<sup>16</sup> Acton, who owned 20%, was rewarded with \$3 billion in cash and stock.

At the beginning, it was understood that the cofounders would continue to run WhatsApp with complete independence. Koum was invited to join Facebook’s board – the sole founder of a company acquired by Facebook to serve on its board.

## A Competitor Emerges

About six months before the WhatsApp acquisition in February 2014, Russian brothers Nikolai and Pavel Durov founded Telegram Messenger, a similar messaging app to WhatsApp. Unbeknown to them, their app would benefit enormously from the Facebook acquisition.

Telegram was made available for iPhones in August 2013 and for Android in October 2013. Even if Facebook was not aware of its existence at the time, it is highly likely that the WhatsApp cofounders knew about it. The freeware app offered end-to-end encrypted voice and video calls – users could opt for end-to-end encrypted chats. Its structure was akin to WhatsApp – it was a for-profit company but did not sell advertising.

Soon after WhatsApp was acquired by Facebook, five million users signed up for Telegram in one day, 23 February 2014.<sup>17</sup> It suddenly became the number one downloaded iPhone app in 48 countries – an extraordinary influx as Telegram had a mere 100,000 daily active users in October 2013. Were WhatsApp users heading for the exit? Possibly, but downloads can be a deceptive metric, since a user can download a rival app but that does not necessarily mean they stop using WhatsApp.

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12 [Facebook Enters \\$16 Billion Deal for WhatsApp - The New York Times \(nytimes.com\)](https://www.nytimes.com/2014/02/19/technology/facebook-whatsapp-deal.html)

13 [Facebook Enters \\$16 Billion Deal for WhatsApp - The New York Times \(nytimes.com\)](https://www.nytimes.com/2014/02/19/technology/facebook-whatsapp-deal.html)

14 <https://www.courthousenews.com/wp-content/uploads/2020/12/ftc-fb-dc.pdf>, p. 37

15 Statista study\_id20494

16 <https://techcrunch.com/2014/02/21/whatsapp/>

17 <https://www.theguardian.com/technology/2014/feb/24/telegram-messaging-app-whatsapp-down-facebook>



The main difference between WhatsApp and Telegram was their views on exiting: the Telegram cofounders pledged not to accept outside investment nor to sell.

*We are not going to sell the company like the founders of WhatsApp. The world needs Telegram to stay independent as a place where users are respected and high-quality service is ensured. Telegram must continue to serve the world as an example of a tech company that strives for perfection and integrity. And, as the sad examples of our predecessors' show, that is impossible if you become part of a corporation.<sup>18</sup>*

Pavel Durov

Until December 2020, Durov had entirely supported Telegram from his own deep pockets. His estimated net worth was put at \$17.2 billion by Forbes.<sup>19</sup> Part of his wealth came from the sale of his stake in VK (VKontakte) in 2014, the most popular social networking site in Russia, which he founded in 2007. But with Telegram on track to grow exponentially in 2021-22, the need for a monetization strategy became crucial if it wanted to stay independent. Recognizing this, in January 2021 Durov raised over \$1 billion for Telegram through the sale of bonds.<sup>20</sup>

Following the WhatsApp acquisition, its cofounders continued making improvements to the app, especially in the area of privacy protection. Within two years WhatsApp could ensure that all conversations were end-to-end encrypted by embedding the Signal Protocol (see below) in the system, so that any third party intercepting those messages would not be able to read them, not even the creators of the software.<sup>21</sup> WhatsApp became the world's most popular messaging app, having 800 million monthly users within a year of the acquisition.

## Acton Says #Delete Facebook and Starts Non-Profit Signal

Within two years, however, disagreement broke out between the WhatsApp cofounders and Facebook over generating revenue from WhatsApp's user base. Citing differences of opinion, Acton unexpectedly left Facebook in September 2017, a year before his final tranche of shares would have vested, forfeiting \$850 million in potential stock earnings.

Six months later, Koum also resigned and stepped down from his position on the Facebook board. However, he did not forfeit his stock options having worked out a "rest and vest" deal to remain nominally employed until his shares vested.

It was around the time of Koum's resignation that the British consulting firm Cambridge Analytica and Facebook became embroiled in one of largest ever global scandals involving privacy protection. Partly in response, in March 2018 Acton posted a tweet: "It is time. #deletefacebook."<sup>22</sup> In a subsequent interview with *Forbes*, he appeared apologetic for having sold out: "At the end of

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18 Cited in Durov's channel on Telegram, 23 December 2020

19 <https://www.forbes.com/profile/pavel-durov/?sh=6604308c14c5>

20 Cited in Durov's channel on Telegram, 23 March 2021

21 <https://www.techradar.com/best/best-encrypted-messaging-app-android>

22 [WhatsApp CEO Jan Koum quits over privacy disagreements with Facebook | WhatsApp | The Guardian](#)

the day, I sold my company. I sold my users' privacy to a larger benefit. I made a choice and a compromise. And I live with that every day."<sup>23</sup>

Lina Khan wondered if this was a case of seller's remorse, since Acton did not have the resources to do otherwise before the sale.

For many observers it was no surprise that one of the first things that Acton did when he left Facebook was to start Signal, a non-profit rival of WhatsApp. Acton donated \$50 million to the Signal Foundation that owned the app. Signal was the brainchild of Moxie Marlinspike, inventor of the Signal protocol used by WhatsApp for end-to-end encryption since 2016. Marlinspike had been tinkering with the Signal messaging app since 2014, when Acton first collaborated with him.

Prior to Acton's donation, Marlinspike employed five engineers; soon after there were 50. Since its launch, Signal had steadily grown in popularity. It was this messaging app that whistle-blower Edward Snowden used to protect his communications. Jack Dorsey, founder of Twitter, was another supporter.<sup>24</sup> Elon Musk, CEO of Tesla, told his 42 million followers on Twitter to "Use Signal."<sup>25</sup>

## Is Consumer Encryption a Cause for Concern?

While encrypted messaging systems had grown in popularity among users all over the world, the future of consumer-based encryption was mired in controversy.<sup>26</sup> Law enforcement agencies were concerned about terrorists and criminals using encrypted telephones to plan illegal activities.

In early 2016, the FBI demanded that Apple unlock an iPhone of a slain terrorist involved in a mass killing in San Bernardino, California, which resulted in the deaths of 14 innocent people in December 2014.<sup>27</sup> Apple CEO Tim Cook refused to let the FBI in through the so-called 'back door'.<sup>28</sup> In 2015, FBI Director James Comey told a Senate hearing that law enforcement authorities could not break strong encryption, which he claimed was making it difficult to gather electronic information from criminals even with a court-order warrant.<sup>29</sup> In his testimony, Comey cited a number of criminal cases, from terrorism to child pornography to kidnapping, that could have been much worse had the criminals had access to consumer-related encrypted devices.

A proposed piece of legislation called the Lawful Access to Encrypted Data (LAED) Act was currently being considered by the United States Congress.<sup>30</sup> It would ban end-to-end encryption by large companies and require developers to break their own products at the request of law

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23 Cited in *Exclusive: WhatsApp Cofounder Brian Acton Gives The Inside Story On #DeleteFB And Why He Left \$850 Million Behind*, by Parmy Olson, Forbes, 26 September 2018, <https://www.forbes.com/sites/parmyolson/2018/09/26/exclusive-whatsapp-cofounder-brian-acton-gives-the-inside-story-on-deletefb-and-why-he-left-850-million-behind/>

24 <https://signal.org/en/>

25 <https://edition.cnn.com/2021/01/12/tech/signal-growth-whatsapp-confusion/index.html>

26 <https://www.npr.org/sections/thetwo-way/2015/07/08/421251662/fbi-director-says-agents-need-access-to-encrypted-data-to-preserve-public-safety>

27 <https://www.nytimes.com/interactive/2015/12/02/us/california-mass-shooting-san-bernardino.html>

28 *Building a Backdoor to the iPhone: An Ethical Dilemma*, by Tulsi Jayakumar and Suyah Tahora, Ivey Publishing, Version 2017-08-16, Ref W16245

29 <https://www.npr.org/sections/thetwo-way/2015/07/08/421251662/fbi-director-says-agents-need-access-to-encrypted-data-to-preserve-public-safety>

30 <https://www.documentcloud.org/documents/6956033-Lawful-Access-to-Encrypted-Data-Act.html>

enforcement agencies. Under the Act, law enforcement officers acting under a wiretap warrant could require Signal or WhatsApp to decrypt a conversation so they could read messages between users.<sup>31</sup> The bill was proposed by three Republican Senators on 23 June 2020.

## Data Breaches

Ironically, encryption of messaging apps had been driven in large part in response to the illegal sharing of consumer data. Hackers, possibly backed by state-funded conspirators, were accused of stealing data from large public and private organizations. It was estimated that “3.5 billion people saw their personal data stolen in the top two of 15 biggest breaches of this century alone.”<sup>32</sup> Hackers took advantage of IT systems that had not been updated, thus exposing the personal data of users. Many data breaches could have been avoided if companies had installed updated patches to their systems.

To prevent reoccurrences, regulators have pivoted to a preventive strategy by imposing heavy fines on organizations that do not take steps to protect their IT systems from hackers. Equifax, one of the three major credit reporting agencies, was fined at least \$575 million for a massive data breach in 2017, when the personal data and financial information of nearly 150 million people were compromised by hackers who took advantage of a lapse in Equifax’s security. The company had apparently failed to fix a critical vulnerability months after a patch had been issued and then failed to inform the public of the breach for weeks after it been discovered. Joseph Simons, chair of the Federal Trade Commission which imposed the fine, said, “Companies that profit from personal information have an extra responsibility to protect and secure that data.”<sup>33</sup>

## FTC Tacks onto Facebook

Facebook had paid a heavy price for violating the privacy protection of its users. In 2019, the FTC fined it \$5 billion for using deceptive disclosures and account settings to lure users into sharing their personal information with Cambridge Analytica. Simons demonstrated that the social networking platform had misled tens of millions of people into giving up their phone numbers to the British consulting firm.

In addition to the FTC fine, the U.S. Securities and Exchange Commission fined Facebook \$100 million after it discovered that data had been improperly transferred to Cambridge Analytica of an estimated 87 million users.<sup>34</sup> Zuckerberg was hauled before Congress to testify about the scandal in April 2018.<sup>35</sup>

But it was more than privacy violations that triggered the FTC complaint in December 2020. It was unveiled in tandem with lawsuits filed by 46 state attorney generals against Facebook, alleging it had engaged in antitrust behaviour by buying up or crushing rivals that threatened its monopoly power with the sole aim of shutting down competition.<sup>36</sup> Ian Conner, former Director of the FTC’s

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31 <https://protonmail.com/blog/usa-laed-act-anti-encryption/>

32 <https://www.csoonline.com/article/2130877/the-biggest-data-breaches-of-the-21st-century.html>

33 *Facebook Confronts a Crisis of Trust*, by William W. George and Amran Migdal, Harvard Business School, Case Study, Ref. 9-318-145, 13 June 2018

34 [FB to contact 87 million users affected by data breach | FB | The Guardian](https://www.theguardian.com/technology/2018/apr/11/mark-zuckerbergs-testimony-to-congress-the-key-moments)

35 <https://www.theguardian.com/technology/2018/apr/11/mark-zuckerbergs-testimony-to-congress-the-key-moments>

36 [Facebook Accused of Breaking Antitrust Laws - The New York Times \(nytimes.com\)](https://www.nytimes.com/2020/12/01/technology/facebook-antitrust-lawsuits.html)



Bureau of Competition, who resigned along with Simons in January 2021, said, “Our aim is to roll back Facebook’s anticompetitive conduct and restore competition so that innovation and free competition can thrive.”<sup>37</sup>

Sipping a second latte at the café, Khan re-read the FTC complaint more carefully this time. Her eye came to rest on the following lines:

*Unlike traditional SMS, WhatsApp offered a rich content-sharing ability akin to a social network and increased encryption for privacy-conscious users. With its “strong focus on the protection of user privacy. As a result, WhatsApp threatened a move or spin-off into the personal social networking market. ... Facebook’s acquisition and control of WhatsApp represents the neutralization of a significant threat to Facebook Blue’s personal social networking monopoly, and the unlawful maintenance of that monopoly ... deprives users of the benefits of competition from an independent WhatsApp (either on its own or acquired by a third party), which would have the ability and incentive to enter the U.S. personal social networking market.”*<sup>38</sup>

The words *unlawful maintenance of that monopoly* stuck in her mind. With Simons and much of his leadership team gone, it was up to the new team at the FTC to follow through on the lawsuit. Khan looked to see how her counterparts in the UK, the EU and India were reigning in social networking platforms.

## UK and EU Competition Authorities to Get Tough

Facebook was also the subject of multiple antitrust lawsuits and investigations ‘across the pond’. Andrea Coscelli, head of the UK’s Competition and Markets Authority, announced in February 2021 the launch of several investigations of American tech giants. The creation of a new UK ‘digital markets unit’ inside the authority was designed to prevent anti-competitive behaviour: “Only through a new pro-competition regulatory regime can we tackle the market power of tech giants like Facebook and Google and ensure that businesses and consumers are protected.”<sup>39</sup> Part of the reason for reinforcing its authority was Britain’s exit from the EU regulatory system.

The EU was investigating whether Facebook had used its dominant social media platform to distort the classified advertising market, in response to complaints from long-time operators of classified ad sites in the EU. Since 2016, Facebook Marketplace, a free advertising site, had allowed users to buy and sell everyday items. Competitors like Axel Springer, which operates online classified ads such as the French auto site *La Centrale*, were questioned about its impact on their business.<sup>40</sup> The EU Competition Commission was investigating all platforms judged to be “gatekeepers,” having the size and market power to promote their own platforms at the expense of smaller competitors.<sup>41</sup>

## India Updates IT Laws

37 <https://www.ftc.gov/news-events/press-releases/2020/12/ftc-sues-facebook-illegal-monopolization>

38 <https://www.jdsupra.com/legalnews/cybersecurity-2021-the-year-in-preview-89374/>

39 [UK digital watchdog planned to check Big Tech | Financial Times \(ft.com\)](#)

40 [EU focuses antitrust probe on Facebook’s online classifieds service | Financial Times \(ft.com\)](#)

41 [EU seeks to turbo-charge its ability to take on Big Tech | Financial Times \(ft.com\)](#)

In February 2021, India's Ministry of Electronics and Information Technology updated a 20-year-old law known as the 2000 Information Technology (IT) Act, which covered internet usage and ecommerce. Under the original law, tech platforms like Facebook had enjoyed a non-restrictive legal framework under which they could operate freely in the world's largest democracy.

As internet usage and mobile messaging grew in popularity, outpacing most other countries, internet users in India went from 302 million in 2015 to 700 million in 2020 (more than double in five years). India led the world with 340 million WhatsApp users in 2019, ahead of second-place Brazil with 99 million users. In the fourth quarter 2020, WhatsApp had 30.13 million downloads in India on the Google Play Store,<sup>42</sup> and 8.46 million downloads in Indonesia, the second-ranked country.

With the updated IT law, the government wanted more control over social networking platforms like Facebook and Twitter, and over political or social content that undermined national security, public order and traditional morals. Just after WhatsApp changed its ToS in January 2021, Telegram, and to a lesser extent Signal, experienced millions of downloads in India.<sup>43</sup>

## Question time

In rereading the FTC complaint once more, Khan wondered if Simons and his team had been wrong in directing their antitrust focus on the WhatsApp acquisition. She did not fully understand why they would want to unwind the acquisition if that indeed was their intention. One of the biggest competitors to WhatsApp was Telegram, currently domiciled in Dubai. Having reached 500 million users in January 2021, Durov believed that Telegram would have one billion users by 2022.<sup>44</sup> What would happen to WhatsApp if deprived of its deep-pocketed parent?

As she was about to put the FTC complaint away, Khan got her second important call of the day: President Biden had just named her as the chairwoman of the FTC, making the 32-year-old the youngest chair in the agency's history. She asked herself how she would use her power now that she had control over the FTC's agenda, staff and proceedings?

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42 WhatsApp, Statista, p. 5 figures

43 <https://gadgets.ndtv.com/apps/news/telegram-most-downloaded-app-january-2021-tiktok-whatsapp-facebook-signal-sensor-tower-report-2364622>

44 <https://www.businessofapps.com/data/telegram-statistics/>