

TECH

# State Attorneys General, Antitrust Experts Mull Legal Grounds for Building Facebook Case

New York attorney general hosted a meeting that could lead to strategies for possible legal action against the social media giant



New York Attorney General Letitia James said in September that her office is organizing a bipartisan, multistate antitrust probe into whether Facebook has stifled competition. PHOTO: MARY ALTAFER/ASSOCIATED PRESS

*By Jeff Horwitz, John D. McKinnon and Deepa Seetharaman*

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State attorneys general and federal investigators gathered Monday with public policy and antitrust experts to explore the legal grounds on which they could build an antitrust case against social media giant Facebook Inc., [FB 2.09% ▲](#) according to people familiar with the matter.

New York Attorney General Letitia James, who has emerged as a lead figure in investigations of Facebook by more than 40 attorneys general, organized the event at her office. A spokesman for Ms. James declined to discuss it with The Wall Street Journal.

Representatives of at least 10 state attorneys general attended the meeting, according to a person familiar with it. Current and former Justice Department and Federal Trade Commission staffers, as well as academics, were also present, according to a meeting agenda viewed by the Journal.

There is no formal working relationship between the attorneys general and the speakers who were at the meeting.

A similar event focused on Alphabet Inc. 's Google is being planned, according to people familiar with Monday's gathering.

Law-enforcement officials around the country formally launched an investigation into Google and Facebook in September to determine whether the large tech companies engaged in behavior aimed at stifling competition and harmed consumers. But given the scope of their operations and the many potentially interested parties, including advertisers, users and content creators, the direction of the probes is still being hammered out.

The nearly six-hour event on Monday included discussions on theories of economic harm that could be used to bring antitrust suits against tech platforms as well as the potential to bring cases based on so-called practical harms caused by their dominance. Facebook-owned platforms have more than 2.5 billion users world-wide and it has emerged as one of the few dominant players in the U.S. digital advertising market.

Other topics on the agenda included the specifics of applying antitrust law to social-media platforms and a panel on what antitrust enforcers should require of Facebook in the event they succeeded in bringing an antitrust case against the company.

Figuring out what remedies might be required could be a key sticking point in any eventual case. Earlier this year, the FTC was bogged down by a split between Democrats and Republicans in a \$5 billion settlement with Facebook over consumer-privacy missteps.

Facebook didn't immediately respond to inquiries from the Journal about Monday's meeting, however the company has been bracing for antitrust scrutiny in recent months as states, political figures and federal authorities have made concerns about the tech giants known.

The FTC declined to comment.

People who attended the meeting described it as a broad listening session for the states from which no firm conclusions were reached. But there was general agreement that there was worthy material to pursue not only Facebook's past acquisitions and the interoperability of its services, but also how Facebook deals with potential harm to advertisers and consumers as a result of its market power, according to people who attended the meeting.

Facebook has resisted calls to break up the company, saying that a separation of WhatsApp and Instagram from its core Facebook social media application are both unwarranted and

impractical.

Among the former government attendees listed at Monday's event were Stanford Law School professor Doug Melamed, who helped build the Justice Department's antitrust case against Microsoft Corp. roughly two decades ago while working there, and Yale University professor Fiona Scott Morton, a deputy assistant attorney general for economics within the Justice Department's antitrust division during the Obama administration.

Jason Kint, the chief executive officer of Digital Content Next, a trade group for online publishers, was on the meeting's list of speakers, as was Gene Kimmelman of digital consumer advocacy group Public Knowledge. Dina Srinivasan, who has championed the idea that Facebook has used its dominance to erode its users' privacy, and former FTC technologist Ashkan Soltani were also among the speakers.

**Write to John D. McKinnon at [john.mckinnon@wsj.com](mailto:john.mckinnon@wsj.com) and Deepa Seetharaman at [Deepa.Seetharaman@wsj.com](mailto:Deepa.Seetharaman@wsj.com)**

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