

Old emails haunt Mark Zuckerberg in high-stakes trial

Meta founder's antitrust defence rests on showing that TikTok is rapidly expanding in his main market

A critical part of Mark Zuckerberg's defence in the most serious antitrust challenge in Meta's history this week had little to do with the technology giant and much to do with TikTok.

In testimony across three days, the billionaire tech founder repeatedly told a US federal court in Washington that the video platform owned by Chinese parent ByteDance had grown to become a tremendous competitor.

The plaudits of his rival had a goal: quashing US Federal Trade Commission allegations that [Meta](#) retained an illegal monopoly, charges that, if proven, could potentially have more far-reaching consequences for Zuckerberg's business than any commercial threat it faces.

Lose the case, and Meta could be forced to break up its \$1.5tn group and spin off its Instagram and WhatsApp apps — an outcome [Zuckerberg](#) has previously vowed to “go to the mat and fight”. Win, and it will have scored a decisive victory over a regulator that has long had Big Tech in its sights, more recently suing retail giant Amazon.

The trial comes after Zuckerberg failed to negotiate away the proceedings in the first place. According to a person familiar with the matter, the FTC had demanded \$30bn as a potential settlement; Meta lowballed at \$450mn then raised its proposal to \$1bn after the regulator had set a floor of \$18bn. The parties then decided to move to court.

Boxes of documents are brought out of the court on Wednesday © Alex Wong/Getty Images
At the heart of the FTC suit is an allegation that Meta employed a “systematic strategy” to eliminate competitors, including by acquiring rivals Instagram and WhatsApp in 2012 and 2014 for \$1bn and \$19bn respectively.

FTC lawyers this week presented evidence of Zuckerberg seeing these nascent applications as a threat, including a host of uncomfortable emails. Zuckerberg in 2012 agreed to suggestions that the Instagram deal might help “neutralise a competitor” and also said he wanted Meta to “use M&A to build a competitive moat around us on mobile and ads”.

But such tactics would only potentially be deemed illegal if the FTC can first prove that Meta retains a monopoly, an argument some antitrust experts say will be harder to stack up. It is a point Zuckerberg and former Meta chief operating officer Sheryl Sandberg have focused on in their testimonies, stressing TikTok's explosive growth to serve more than 1bn users globally.

"What they said and thought in the past is not a great look but it does not have much probative value — if any — for whether Meta maintains a monopoly now," said Paul Swanson, head of the antitrust and competition practice at Holland & Hart.

"Zuckerberg and Sandberg did a good job explaining why that is a current reality — [that] TikTok and Meta do have attrition from each other and are substitutes for each other in most users' minds."

In antitrust challenges, the FTC must also prove there has been consumer harm, which typically would be a monopolist driving up prices. With Meta offering its services for free, the agency is instead arguing that consumers suffered a degraded user experience due to the platform's dominance — feeds filled with adverts and poor privacy protections.

The key challenge for the FTC will be convincing James Boasberg, the presiding judge, that Meta has dominated — in part via acquisitions — a "personal social-networking" market focused on friends-and-family connections, which does not include TikTok or Google's YouTube.

Former Meta chief operating officer Sheryl Sandberg testified at the trial this week © John Lamparski/Getty Images

A person close to the earlier settlement negotiations, which were first reported by the Wall Street Journal, said that Meta's lowball offer showed how weak it considered the FTC's case to be. The FTC declined to comment.

"We haven't been shy about explaining why it doesn't make sense for the FTC to bring a case to trial that requires it to prove something every 17-year-old in America knows is absurd — that Instagram doesn't compete with TikTok. We are prepared to win at trial," Meta spokesperson Dani Lever said in a statement.

But some experts argue that Boasberg, who has uttered few words all week, may be receptive to the FTC's arguments.

"The court is clearly open to the possibility that there is a personal social networking market," said Kenneth Dintzer, partner in the antitrust and competition group at Crowell & Moring. He referenced a 2024 filing in which Boasberg said the FTC had "met its burden to show that other applications are not reasonable substitutes" for friends-and-family sharing.

Zuckerberg rejected this notion in court, pointing to the group rushing to develop Reels — short-form videos — in response to TikTok's meteoric rise. TikTok's offering had "probably [been] the highest competitive threat against Instagram and Facebook in the last few years", Zuckerberg said.

The Meta boss also argued WhatsApp and Instagram had been acquired to accelerate their growth, pointing to the dramatic jump in users following the deals.

The FTC countered with a 2013 email, in which Zuckerberg argued ahead of the WhatsApp deal that “the biggest competitive vector for us is for some company to build out a messaging app for communicating with small groups of people, and then transform that into a broader social network”.

After offering to teach Sandberg the board game The Settlers of Catan, Zuckerberg said in a 2012 email: “[Facebook] Messenger isn’t beating WhatsApp, Instagram was growing so much faster than us that we had to buy them for \$1 billion . . . That’s not exactly killing it.”

“The confounding part of Mark’s testimony is that he’s trying to contradict statements today that he made a decade ago as these acquisitions were being contemplated in real time,” said Lee Hepner, senior legal counsel for the anti-monopoly non-profit American Economic Liberties Project.

Perhaps the most striking evidence came in the form of a Zuckerberg email in 2018, where he [considered spinning off Instagram](#) — citing exactly the kind of threat from antitrust enforcement he faces today.

As “calls to break up the big tech companies grow”, he wrote, “there is a non-trivial chance that we will be forced to spin out Instagram and perhaps WhatsApp in the next five to 10 years”.