









MAY 2023

BIG TECH CRACKDOWN

WHAT'S AT STAKE



# We're seeing an influx in judicial cases and pending legislation aimed at regulating Big Tech and amending its impact on users

	Content Regulation	Anti-Trust	Data Privacy
Cases	 	 Microsoft  ACTIVISION®  Meta	 TikTok   Meta
Why are these cases important?	Determining the responsibility of digital & social platforms re: recommending and moderating content to users	Regulating the size and scope of leaders in the tech space to block anti-competitive practices	Holding platforms accountable for data privacy violations which could affect user safety and national security



# CONTENT REGULATION



Twitter v. Taamneh

# Alphabet

Google v. Gonzalez

## Key focus:

Determining if [Section 230](#), which protects platforms from legal liability for content published by third parties, still applies when platforms make targeted recommendations of content to users

## What was the spark:

Following 2 terrorism-related deaths, families of the victims argued that Google & Twitter should not be protected under Section 230 given their platforms were leveraged by terrorists to propagate terrorist ideologies

## Potential impact:

Increased liability would require platforms to rework the foundations of their platforms which thrive on UGC and tailored recommendations

Two possible strategies would be 1. removing far more content than is necessary, or 2. giving up on content moderation altogether given the scale of the moderation required

## Current status:

After hearing both cases in February, the U.S. Supreme Court decisions are still pending.

The ruling will likely uphold the current breadth of Section 230 considering the chaos that would follow if platforms assumed sudden responsibility for billions of daily posts, comments, etc.



# ANTI-TRUST



Meta v. FTC

## Key focus:

Assessing if Meta violated anti-competitive practices in the social networking market via anti-competitive mergers of Instagram and WhatsApp

## What was the spark:

In 2020, the FTC alleged that Meta holds monopolistic power in the US social networking market and sought to force the company to divest from Instagram and WhatsApp to break up the conglomerate.

In 2022, the FTC filed a separate antitrust case against Meta over the company's planned acquisition of VR company Within

## Potential impact:

These two cases showcase an FTC that is eager to check big tech, potentially discouraging other tech companies from expanding their reach and pursuing new complementary revenue streams

## Current status:

The FTC was unsuccessful in both cases.

But the scrutiny isn't over – Mark Zuckerberg and former COO Sheryl Sandberg will face questions in a new antitrust lawsuit that alleges the tech company deceived users and advertisers about data privacy to maintain market power





Microsoft v. FTC  
Microsoft v. EC

## Key focus:

Determining if Microsoft can acquire gaming giant Activision Blizzard amidst FTC, EC, and Sony/competitor allegations that the deal would enable Microsoft to suppress competitors to its Xbox gaming consoles and its rapidly growing subscription and cloud-gaming business

## What was the spark:

Microsoft announced the \$68.7 billion acquisition deal, turning the software giant into one of the largest global gaming companies and putting some of gaming's most lucrative intellectual properties under its umbrella

## Potential impact:

If the deal is blocked, Microsoft and Activision Blizzard will likely appeal. If blocked, Activision will work to protect its valuation by focusing on outperforming its competition with its upcoming game releases

## Current status:

The FTC hearings are scheduled to take place in May.

The UK's Competition and Markets Authority (CMA) officially ruled to block the deal in Britain.

Brazil, South Africa, Japan Saudi Arabia, Chile, and Serbia have approved the deal.

# DATA PRIVACY





## Key focus:

A potential TikTok ban at the hands of the pending RESTRICT Act – a law that would give the Secretary of Commerce power to regulate tech produced by China, Cuba, Iran, North Korea, Russia, and Venezuela

## What was the spark:

The growth of TikTok, owned by the Chinese company ByteDance, has sparked concern from federal officials and security experts that China could have unlimited access to sensitive data collected on its American users

## Potential impact:

While TikTok's future in the US is uncertain, it may be too big to ban successfully, especially with the influx of small businesses and creators using the app to promote products and services

TikTok might decouple itself from the Chinese government through a partial sale or partnership with a trusted entity

A permanent US TikTok ban would benefit Meta, YouTube, Snap, and other social media outlets that have lost out on ad revenue and attempted to co-opt TikTok's most popular features

## Current status:

The bill was introduced into Congress on March 7th, but whether it will be considered by a Senate committee or the full chamber is still pending.

There are smaller scale bans of TikTok that have taken effect, such as the ban of TikTok on government devices and on the UT Austin and Texas A&M campuses. Montana recently became the first state to approve a bill that would ban TikTok.



## Key focus:

Deciding if Apple violated the California Invasion of Privacy Act by recording users' private activity on mobile applications without consent and despite its privacy assurances

## What was the spark:

Apple was accused of having the ability to identify a specific user in its analytics via a unique identifier associated with a user's iCloud account

## Potential impact:

If accurate, this could raise questions about Apple's implementation of Apple Tracking Transparency (ATT) which Apple said would give users more control over how their app data was used in personalized advertising and weaken Apple's marketing/targeting efforts

ATT has already hurt the advertising businesses of major tech companies, like Meta and Snapchat, while Apple's own advertising business benefited

## Current status:

More than a dozen privacy-focused class action lawsuits have been filed against Apple and are awaiting rulings





Meta v. DPC  
Meta v. FTC

## Key focus:

Assessing if Meta violated users' data privacy rights across its suite of platforms including Facebook and Instagram

## What was the spark:

Various cases that examined Meta's list of alleged data privacy violations, including a Facebook data-scraping breach, Instagram's violation of children's privacy, and Facebook cookie consent violations, the illegal tracking of users' locations, and illegal use of facial recognition data

## Potential impact:

These rulings will majorly disrupt Meta's advertising revenue in the EU, on top of hefty fines that serve as a major financial blow for a platform who has already seen its value plummet over the past year.

## Current status:

In 2022, Meta settled for \$37.5 million for tracking users' locations without permission and for \$650 million for illegal use of facial recognition data.

This January, The Irish Data Protection Commission hit Meta with \$410M worth of fines for more assorted violations, and Meta will now have to ask users for their consent to run behavioral ads

The [FTC](#) has accused Meta of violating its 2020 privacy settlement, alleging the company improperly shared user data and failed to protect children.

# NBCUniversal

## Greater Big Tech Regulation Implications

	Content Regulation	Anti-Trust	Data Privacy
<b>Implications for Platforms</b>	<ul style="list-style-type: none"> <li>- Increase in lawsuits and financial/operational burden if liable for the consequences of recommended content</li> </ul>	<ul style="list-style-type: none"> <li>- Jeopardize leadership in non-endemic LOBs</li> <li>- Disrupt dominance in digital advertising market share &amp; revenue</li> </ul>	<ul style="list-style-type: none"> <li>- Limit ad revenue as platforms lose access to advanced targeting capabilities</li> </ul>
<b>Implications for Advertisers</b>	<ul style="list-style-type: none"> <li>- Increase in brand-safety on platforms for advertising</li> <li>- Impact CPMs depending on any shifts in # of users</li> </ul>	<ul style="list-style-type: none"> <li>- Complicate digital advertising logistics &amp; interoperability by breaking up media owners</li> </ul>	<ul style="list-style-type: none"> <li>- Increase challenges in reaching specific customer segments</li> </ul>
<b>Implications for Users</b>	<ul style="list-style-type: none"> <li>- Increased safety in digital content environments which may be encouraging or alienating depending on the user</li> </ul>	<ul style="list-style-type: none"> <li>- Increased options for users and potentially improved user experiences across platforms facing greater competition</li> </ul>	<ul style="list-style-type: none"> <li>- Provide users with tools &amp; options to safeguard personal information</li> </ul>





# Looking Ahead

While themes of anti-trust, content regulation, and data privacy underpin the lion's share of tech litigation, these brand examples are just a sample of the extensive list of regulatory challenges currently facing big tech.

Overall, the outcomes of big tech court cases could significantly diminish the profitability & dominance of Big Tech and ultimately shift how advertisers leverage tech platforms to reach their consumers







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**Thank  
You!**

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**For more information reach out to Dominique  
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