

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HD MEDIA COMPANY, LLC

Plaintiff,

vs.

**GOOGLE, LLC and
FACEBOOK, INC.**

Defendants.

CIVIL ACTION NO. 3:21-cv-00077

COMPLAINT AND JURY DEMAND

INTRODUCTION

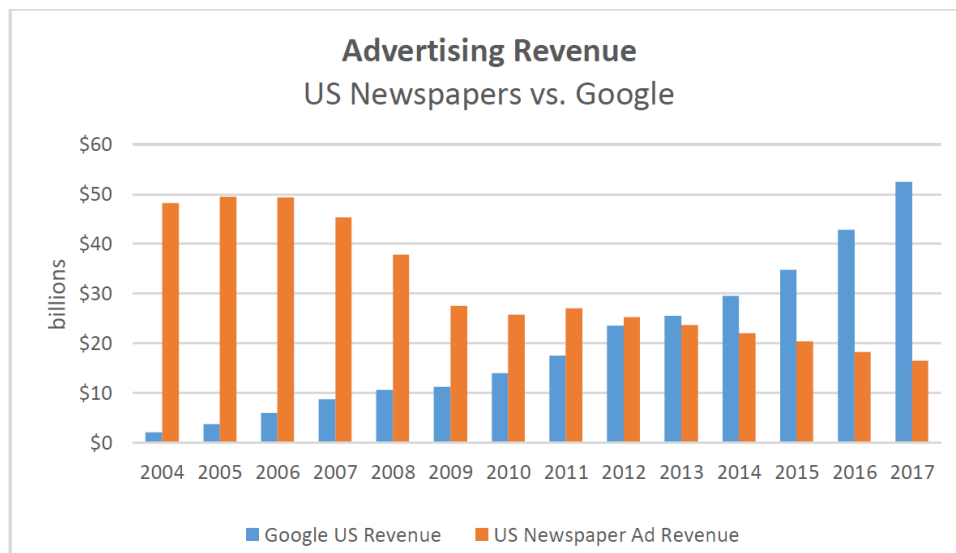
1. “The basis of our governments being the opinion of the people, the very first object should be to keep that right; and were it left to me to decide whether we should have a government without newspapers, or newspapers without a government, I should not hesitate a moment to prefer the latter.” Thomas Jefferson, Letter to Edward Carrington, Paris, Jan. 16, 1787, PrC (DLC), Published in PTJ, 11:48–50.

2. The U.S. House Judiciary Committee, Subcommittee on Antitrust, Commercial, and Administrative Law, recently concluded its antitrust investigation into the **digital advertising market** with a 470-page report entitled “*Investigation of Competition in Digital Markets: Majority Staff Report and Recommendations*” (“House Judiciary Report”) on October 6, 2020. See also Hearing, “*Stacking the Tech: Has Google Harmed Competition in Online Advertising?*,” U.S. Senate Judiciary Committee, Antitrust, Competition Policy, and Consumer Rights Subcommittee (September 15, 2020).

3. As set forth in the House Judiciary Report, Defendants’ anticompetitive and monopolistic practices have had a profound effect upon our country’s free and diverse press, particularly the newspaper industry. Since 2006, newspaper advertising revenue, which is critical

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for funding high-quality journalism, fell by over 50%. Newspaper advertising has declined from \$49 billion in 2006 to \$16.5 billion in 2017. As a result of these falling revenues, the existence of the newspaper industry is threatened. Nearly 30,000 newspaper jobs disappeared—a 60% industrywide decline — from 1990 to 2016, according to the Bureau of Labor Statistics. Almost 20% of all newspapers have closed in the past 15 years, and “countless others have become shells — or ‘ghosts’ — of themselves,” according to the recent report by the University of North Carolina. The reduction in revenues to newspapers across the country, including Plaintiff, were directly caused by Defendants’ conduct as set forth herein and went directly into Google’s coffers:



See David Chavern, Written Statement, *Online Platforms and Market Power, Part 1: The Free and Diverse Press*, Committee on the Judiciary Subcommittee on Antitrust, Commercial, and Administrative Law, United States House of Representatives (June 11, 2019).

4. These hearings launched antitrust complaints filed by the Federal Trade Commission, the Department of Justice, and more than forty State Attorneys General against Google, LLC and Facebook, Inc. See U.S. et al. v. Google LLC, U.S. District Court for the {00222429-2}

District of Columbia (Case 1:20-cv-03010) (Filed 10/20/20) (“DOJ v. Google case”); State of Texas et al. v. Google LLC, U.S. District Court for the Eastern District of Texas, Sherman Division (Case 4:20-cv-00957) (Doc. 1) (Filed 12/16/20) (“AGs v. Google case”); State of New York et al. v. Facebook, Inc., U.S. District Court for the District of Columbia (Case 1:20-cv-03589-JEB) (Filed 12/09/20) (“AGs v. Facebook case”); FTC v. Facebook, Inc., U.S. District Court for the District of Columbia (Case 1:20-cv-03590-JEB) (Filed 12/09/20) (“FTC v. Facebook case”).

5. The allegations set forth herein are taken from the public record in the proceedings referenced above. If proven to be true, Google and Facebook have monopolized the digital advertising market thereby strangling a primary source of revenue for newspapers across the country. This antitrust action is brought to seek all remedies afforded under law.

PARTIES

6. Plaintiff, HD MEDIA COMPANY LLC (“HD Media” or “Plaintiff”), is a West Virginia limited liability company with its principal office address at 946 Fifth Avenue, Huntington, Cabell County, WV 25701. HD Media owns and operates several newspapers in West Virginia, including *The Herald-Dispatch* in Huntington and Cabell County, the *Charleston Gazette-Mail*, *The Wayne County News*, *The Putnam Herald*, the *Williamson Daily News*, *The Logan Banner*, the *Coal Valley News* in Boone County, and *The Independent Herald* in Pineville.

7. These newspapers have roots dating back to the 1870s and serve as the primary source of news journalism throughout West Virginia covering such events as the Monongah coal mine disaster (1909) (the deadliest in America), Mother Jones and the coal wars including the Matewan Massacre and Battle of Blair Mountain, the Great Flood of the Ohio River (1937), the

Marshall University plane crash (1970), the Buffalo Creek Disaster (1971), and the Sago Mine disaster (2006), as well as the statewide opioid epidemic which won The Pulitzer Prize for Investigative Journalism (2017).

8. Plaintiff has the largest newspaper circulation in the State of West Virginia under one ownership. Plaintiff's newspapers provide an important and integral function of reporting and publishing news to the citizens of West Virginia. In many instances, Plaintiff's papers are the major source of news for the West Virginia citizens they serve and are a primary source of community news and commentary. As a direct result of the Defendants' antitrust violations described herein, and as set forth in more detail below, the newspapers in West Virginia are currently under a very real existential threat to their existence. Without redress, these newspapers, and hence the citizens of West Virginia, may well end up in the "news desert" described below.

9. Defendant, GOOGLE LLC ("Google"), is a limited liability company organized and existing under the laws of the State of Delaware, and is headquartered in Mountain View, California. Google is an online advertising technology company providing internet-related products, including various online advertising technologies, directly and through subsidiaries and business units it owns and controls. Google is owned by Alphabet Inc., a publicly traded company incorporated and existing under the laws of the State of Delaware and headquartered in Mountain View, California.¹

10. Defendant, FACEBOOK, INC. ("Facebook"), is a Delaware corporation with its principal office or place of business situated in Menlo Park, California. At all times relevant to

¹ See DOJ v. Google case at ¶18; AGs v. Google case at ¶21.

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this Complaint, Facebook has operated its social-networking service through its website, www.facebook.com, and mobile applications that connect users with Friends on Facebook.²

NATURE OF THIS ACTION

11. H.D. Media, and other newspapers across the country, compete for revenue in the *digital advertising market*. Google monopolizes the market to such extent that it threatens the extinction of local newspapers across the country. There is no longer a competitive market in which newspapers can fairly compete for online advertising revenue. Google has vertically integrated itself, through hundreds of mergers and acquisitions, to enable dominion over all sellers, buyers, and middlemen in the marketplace. It has absorbed the market internally and consumed most of the revenue. Google's unlawful anticompetitive conduct is directly stripping newspapers across the country, including Plaintiff, of their primary revenue source.

12. The freedom of the press is not at stake; the press itself is at stake. Plaintiff has suffered an "antitrust injury" under Sections 1 and 2 of the Sherman Act. 15 U.S.C. § 2.

13. Google and Facebook, archrivals in the digital advertising market, conspired to further their worldwide dominance of the *digital advertising market* in a secret agreement codenamed "Jedi Blue." The two archrivals, who are sometimes referenced as operating a duopoly in the market, unlawfully conspired to manipulate online auctions which generate digital advertising revenue. Facebook and Google agreed to avoid competing with another in September 2018. The quid-pro-quo was as follows—Facebook would largely forego its foray into header bidding and would instead bid through Google's ad server. In exchange, Google agreed to give Facebook preferential treatment in its auctions.

² See AGs v. Facebook case at ¶21; *Complaint, U.S. et al. v. Facebook Inc.*, United States District Court for the District of Columbia (Case 1:19-cv-02184-TJK) (Doc. 1) (Filed 07/24/19).

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