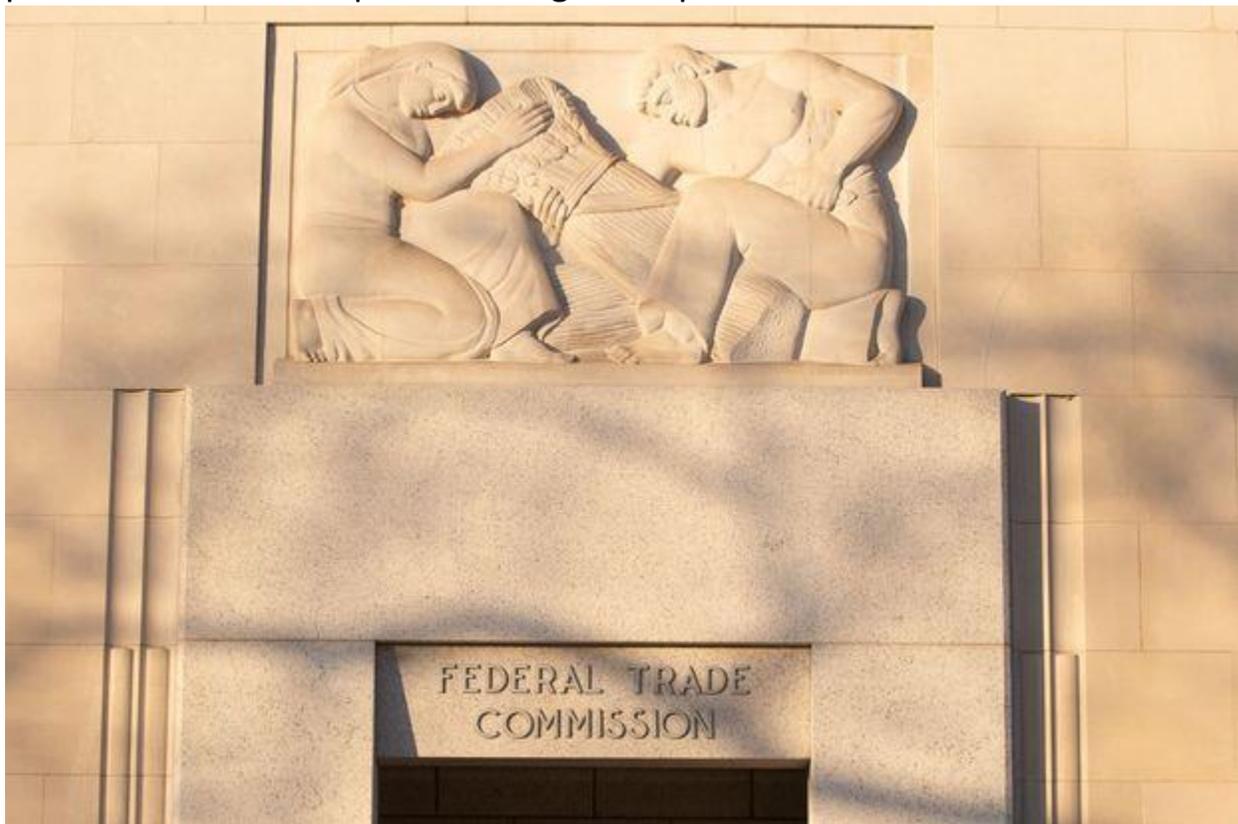


President Biden's Executive Order Opens New Front in Battle With Big Tech

White House looks to regulatory agencies like the FTC to adopt tougher policies to rein in the power of large tech platforms



The Federal Trade Commission already has tech giants including Amazon, Google, and Facebook in its sights.

PHOTO: MICHAEL REYNOLDS/SHUTTERSTOCK

By

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July 10, 2021 5:30 am ET

WASHINGTON—President Biden's sweeping [new competition order](#) targets big tech companies in ways that could fundamentally alter how they do business.

But it will fall to government agencies to carry out the order, and they could take years to put its ideas into action. The Federal Trade Commission that [already has Big Tech companies in its sights](#) is [likely to become a particular battleground](#).

A core thrust of the order is to encourage regulatory agencies such as the FTC to adopt new [rules and policies to rein in the growing size and power of large tech platforms](#) such as [Amazon.com](#) Inc., [Alphabet](#) Inc.'s [Google](#) and [Facebook](#) Inc. That could prove to be a tall order for the FTC, the principal federal regulator of internet commerce. Some observers say the agency—which had its sails trimmed by Congress in the deregulatory era of the 1970s and 1980s—has struggled to keep up with unfair practices online, particularly in the areas of user privacy, big data and tech mergers.

As the White House detailed its executive order, one Democratic FTC commissioner, Rebecca Kelly Slaughter, said in a tweet, “So excited about @POTUS’s EO on competition; it is an ambitious agenda that will help our markets work better and create a more equitable economy for all people - esp workers, marginalized communities, entrepreneurs, small biz.”

Gary Shapiro, chief executive of the Consumer Technology Association that counts [Apple](#) Inc., Facebook and Google among its members, defended the tech industry as competitive and vibrant and took issue with the White House’s action. “Elements of this executive order threaten our global leadership and hard-won success,” he said, taking aim, in particular, at scrutiny of past mergers and acquisitions. “Prohibiting these acquisitions will dry up venture capital, harm entrepreneurs and small businesses and make our economy less competitive.”



FTC Chair Lina Khan, testifying in the Senate in April, has signaled the agency will give more scrutiny to mergers in the tech sector and their effects on data accumulation and privacy.

PHOTO: POOL/REUTERS

America’s biggest tech companies, Microsoft Corp. Google, Amazon, Facebook and Apple, declined to comment or didn’t immediately respond to a request for comment. They have, in the past, defended their business practices and said they don’t harm consumers.

One of the most far-reaching parts of the order encourages the FTC to establish new rules on online surveillance and the accumulation of users’ data. That could have significant effects on all the big platform companies. A White House fact sheet says that “many of the large platforms’ business models have depended on the accumulation of [extraordinary] amounts of sensitive personal information and related data.”

The executive action also pushes the FTC to establish rules barring “unfair methods of competition on internet marketplaces.” The directive doesn’t call out individual

companies, but [Amazon](#), [Apple](#) and [Google](#) have been in the crosshairs of lawmakers or regulators for the power they wield over parts of their business.

The White House said that companies that run retail marketplaces “can see how small businesses’ products sell and then use the data to launch their own competing products,” and can also “display their own copycat products more prominently than the small businesses’ products.”

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President Biden signed an executive order Friday that he says will promote competitive markets by limiting corporate concentration that hurts consumers, workers and small businesses. Photo: Evan Vucci/Associated Press

The Biden administration also is taking aim at deal making by platforms it views as dominant and trying to fend off future competition. Over the past decade, the White House said, “the largest tech platforms have acquired hundreds of companies—including alleged ‘killer acquisitions’ meant to shut down a potential competitive threat.”

Proposed deals will now undergo tighter scrutiny, particularly in cases such as those involving a nascent competitor. The policy also aims to focus more scrutiny on mergers involving the accumulation of data, competition through free products and effects on user privacy.

FTC Chair Lina Khan and the head of the Justice Department’s antitrust division, Richard A. Powers, in a joint statement said, “We plan soon to jointly launch a review of our merger guidelines with the goal of updating them to reflect a rigorous analytical approach consistent with applicable law.”

TechNet, a network of tech executives and investors, said in a statement that the order’s provisions could [discourage innovation and harm consumers](#).

“They put at risk free services that consumers use to message and call loved ones, get directions, connect with healthcare professionals, consume online content—including news and educational content—and much more,” said TechNet Senior Vice President Carl Holshouser.

The White House also encourages the FTC to adopt rules against anticompetitive restrictions on using independent repair shops or making do-it-yourself repairs of devices. That could have a particular impact on device manufacturers such as Apple that limit who can fix devices such as iPhones without voiding warranties.

Other parts of the order focus on how users are treated by telecommunications companies that provide internet service. The order notes that more than 200 million

U.S. residents live in [areas with only one or two reliable high-speed internet providers](#), leading to much higher prices than in markets with more options.

Developing rules to implement the executive order is likely to be a “a long, contentious process that would ultimately end in litigation,” said Robert Kaminski of policy research firm Capital Alpha Partners.

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