

West Virginia Newspaper Company Accuses Google, Facebook of Digital Advertising Antitrust Violations

U.S. District Court for the Southern District of West Virginia case number 3:21-cv-00077

By [Chris Dickerson](#)

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The state’s largest newspaper company has filed a federal antitrust lawsuit against Google and Facebook alleging the tech giants have monopolized the digital advertising market.

The complaint was filed January 29 by HD Media Company LLC against Google and Facebook in federal court in Huntington.

HD Media claims Google has such a monopoly on the digital advertising market that it has secured a “supracompetitive share” of the company’s advertising revenues, affecting the company’s ability to effectively monetize its content. HD Media also says Google and Facebook are violating antitrust laws with a secret agreement codenamed “Jedi Blue” to manipulate online auctions.

“We invite every other newspaper in America to join this cause,” Doug Reynolds, HD Media managing partner, said in a statement. “We are fighting not only for the future of the press but also the preservation of our democracy.”

HD Media owns The (Huntington) Herald-Dispatch, the Charleston Gazette-Mail and several smaller newspapers.

“HD Media, and other newspapers across the country, compete for revenue in the digital advertising market,” the complaint states. “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.”

It says Google has vertically integrated itself, through hundreds of mergers and acquisitions, to enable dominion over all sellers, buyers, and middlemen in the marketplace.

“It (Google) has absorbed the market internally and consumed most of the revenue,” the complaint states. “Google’s unlawful anticompetitive conduct is directly stripping newspapers across the country, including plaintiff, of their primary revenue source.

“The freedom of the press is not at stake; the press itself is at stake.”

The complaint also explains how “Jedi Blue” allegedly works.

“Google and Facebook, archrivals in the digital advertising market, conspired to further their worldwide dominance of the digital advertising market in a secret agreement,” the complaint explains. “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.”

HD Media says this agreement “closed a growing threat to Google’s primacy and has since further cemented its stranglehold on the marketplace.”

“These actions are illegal and directly caused newspapers across the country, including the plaintiff, enormous financial harm in the form of loss of revenue sources,” the complaint alleges. “This is a per se violation of Section 1 of the Sherman Act which declares “every ... conspiracy, in restraint of trade or commerce among the several states” to be illegal.”

HD Media says the harm to it was intentional and intended.

“The harm is of a type that Congress sought to redress in providing a private remedy for violations of the antitrust laws,” the complaint claims. “The loss of revenue streams can be directly tied to the antitrust conduct of the defendants.

“Plaintiff is a direct victim of the alleged antitrust injury as a competitor in the digital advertising market. Damages can be quantified and apportioned among those directly and indirectly harmed.”

Since 2000, almost 1,800 newspapers have closed. More than 60 percent (more than 30,000) of newspaper jobs have been lost since 1990. Since 2006, newspaper ad revenue has fallen from \$49 billion annually to \$16.5 billion in 2017.

HD Media seeks an order declaring the actions of Google and Facebook violate the law and to have the defendants and their affiliate companies from adopting or following any practice, plan, program or device having a similar purpose or effect. It also seeks treble (triple actual compensatory) damages, punitive damages, pre- and post-judgment interest, court costs, attorney fees, expenses and other relief.

HD Media is being represented by Paul T. Farrell Jr. and Michael J. Fuller Jr. of Farrell & Fuller PLLC in San Juan, Puerto Rico; John C. Herman and Serina M. Vash of Herman Jones in Atlanta; Paul J. Geller and Stuart A. Davidson of Robbins Geller Rudman & Dowd in Boca Raton, Florida; David W. Mitchell and Steven M. Jodlowski of Robbins Geller Rudman & Dowd in San Diego; and Robert P. Fitzsimmons and Clayton J. Fitzsimmons of Fitzsimmons Law Firm in Wheeling.

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