

# THE LEGAL EAGLE

A LEGAL NEWSPAPER FOR KIDS  
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## Tech Companies Under Fire for Anticompetitive Practices

by Michael Barbella

Advances in the technology industry have made leaps and bounds in a short period of time. Google, founded in 1998 by two Stanford graduate students in a garage, now employs more than 135,000 employees. In January 2020, Alphabet Inc., Google's parent company, was estimated to be worth \$1 trillion. Facebook, founded in 2004 by Harvard College students in a dorm room, is now worth an estimated \$800 billion and has nearly 59,000 employees.

Both Google and Facebook dominate in their respective technology areas. But what happens when a company becomes too dominant? Lawsuits brought against these tech companies will attempt to answer that question.



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### Sherman Antitrust Act

Adopted in 1890, the Sherman Antitrust Act was enacted to prevent monopolies and protect economic competition. It was the first piece of legislation that Congress passed prohibiting trusts. A **trust** is the joining of several businesses in the same industry. By

## Blowing the Whistle on Criminal Activity

by Maria Wood

Throughout history, many crimes have been uncovered, not by law enforcement, but by ordinary citizens with a sense of civic responsibility. These citizens are sometimes called whistleblowers. A whistleblower is someone within a private organization or government agency who spots unlawful or unethical activity and reports it to the proper authorities, despite the possible consequences they may face.

The term whistleblower was coined in the 1970s. In a symbolic sense, these individuals "blow the whistle" to stop the wrongdoing, an act that has been likened to a policeman who blows a whistle to stop a crime in progress, or when a referee blows a whistle to stop the action on the field.

Because whistleblowers can face repercussions in the workplace for reporting crimes, numerous federal and state laws protect them against retaliation. Whistleblowers can act as the eyes and ears of the government when the government does not have the resources or the ability to discover wrongdoing within an organization.



## Combatting "Fake News" with Media Literacy

by Jodi L. Miller

In this era of "fake news," the likelihood of coming across misinformation and disinformation while searching the Internet is high. Whether it's a news story, a photo or a video, it's hard to determine what's true and what's not. That is why many in the education field advocate teaching media literacy in school.



"Media literacy is the ability to think critically about the media we consume—from television commentary to social media posts to online news and information," Jinnie Spiegler, the director of curriculum and training at

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"Behind closed doors, particularly at big corporations, it may be difficult for the government to fully understand what might be going on, particularly when actions may be taken to defraud the government," says Jason S. Kanterman, an attorney and adjunct professor at Rutgers Law School—Camden. "Whistleblower laws allow people with information that may not otherwise be public to come forward and report that information to help the government enforce its laws and protect society."

Without whistleblowers, many of America's greatest scandals might not have come to light. For example, in 1974, then President Richard Nixon was forced to resign after a whistleblower provided evidence of his involvement in a break-in at the Democratic National Committee

headquarters. The ensuing scandal was called Watergate because the break-in occurred at the Watergate Office Building in Washington, DC. In 1971, Daniel Ellsberg, a former U.S. military analyst and government contractor, became a well-known whistleblower after he released what became known as the Pentagon *Papers to The New York Times* and *The Washington Post*. The papers revealed that the government was lying about the Vietnam War, which led to the war's escalation and more death. More recently, a data manager for the Florida Department of Health went public with her concerns that the state was manipulating COVID-19 statistics, under-reporting the number of cases.

### Whistleblowing goes way back

The concept of whistleblowing is far from a modern-day phenomenon. In fact, while the term would not be coined until centuries later, "whistleblower" laws date back to medieval England. Lacking a national police force, the king depended on ordinary citizens to report illegal activity. The legal concept is known as *Qui tam pro domino rege quam pro se ipso in hac parte sequitur*, which is a mouthful and is Latin for: "He who sues on behalf of our Lord the King and on his own behalf." Today, whistleblower laws are often referred to as "*qui tam*" laws.

Ben Franklin is credited with being the first American whistleblower. In 1773, he exposed the corruption of Thomas Hutchinson, the royally appointed governor of Massachusetts. Franklin revealed that the governor was misleading Parliament about the tensions in the colonies and that he had plans to reorganize the American government.

The first national whistleblower law was enacted during the Revolutionary War. In 1777, 10 sailors petitioned the Continental Congress detailing the ruthless and dishonest actions of their

ship's captain, Esek Hopkins, including his mistreatment of British prisoners.

Hopkins was relieved of his command a year later, but sued his accusers—Richard Marven and Samuel Shaw—for **libel** and the two men were jailed. Marven and Shaw asked the Continental Congress to **overturn** their punishment, arguing they were only doing their duty.

The Continental Congress agreed, and in 1778 passed a law to protect whistleblowers like Marven and Shaw. The law read: "It is the duty of all persons in the service of the United States, as well as all other inhabitants thereof, to give the earliest information to Congress or any other proper authority of any misconduct, frauds or misdemeanors committed by any officers or persons in the service of these states, which may come to their knowledge."

This first law offering protection to whistleblowers was passed on July 30, 1778. In July 2020, more than 240 years later, the U.S. Senate passed a resolution proclaiming July 30th as National Whistleblower Appreciation Day. The resolution states that all U.S. agencies should "implement the intent of the Founding Fathers, as reflected in the legislation passed on July 30, 1778" by "informing employees, contractors working on behalf of the taxpayers of the United States, and members of the public about the legal right of a United States citizen to 'blow the whistle' to the appropriate authority by honest and good faith reporting of misconduct, fraud, misdemeanors, or other crimes..."



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## Blowing the Whistle CONTINUED FROM PAGE 2

### False Claims Act provides incentives

The most well-known and often-cited whistleblower law is the False Claims Act, which was enacted during the Civil War in 1863. The Union Army learned it was being provided sub-standard supplies by wartime contractors, including poorly made uniforms and artillery shells loaded with sawdust instead of gunpowder. President Abraham Lincoln signed a measure into law that enabled private citizens to report fraud to the government and receive an award for doing so. The False

Claims Act, sometimes called the Lincoln Law, still stands today.

Under the False Claims Act, the person who reports the wrongful activity, known as the relator, is eligible for up to 30 percent of the fine or recovered funds if the government is successful in prosecuting the fraudster.

"The government found that once they empowered people who were observing the fraud to come forward and expose it, it does cut down on the corruption that may be taking place in government contracts," explains Sharon Eubanks, chief counsel of the National Whistleblower Center, a nonprofit,

**nonpartisan** advocacy organization that supports whistleblowers in their efforts to bring illegal activity to light. "The thought being the government would not have known the details to be able to stop the fraudsters without that individual coming forward."

### Whistleblower Protection Act

In 1989, Congress passed the Whistleblower Protection Act (WPA), which laid out a process where federal government employees can report fraud and wrongdoing in their agency to members of Congress. The law's

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## When Whistleblowing Leads to Moviemaking

There have been countless whistleblowers throughout U.S. history. In most of these cases the public will probably never know their names, or if they do will soon forget them.

Most whistleblowers don't make headlines let alone have their stories made into films. Here are examples of three whistleblowers that did.

### Police corruption

Frank Serpico was serving as a plainclothes police officer when he blew the whistle on police corruption within the New York City Police Department. In 1967, Serpico first reported evidence of corruption to his superiors in the NYPD, but nothing was done about it. In April 1970, Serpico contributed to a front-page article in *The New York Times* detailing widespread and systemic police corruption, which drew national attention. As a result, the mayor of New York at the time appointed what would become the Knapp Commission, a five-member panel charged with investigating accusations of police corruption.

In 1971, Serpico testified before the Commission, saying, "Police corruption cannot exist unless it is at least tolerated...at higher levels in the department." His testimony came eight months after he was shot during a drug arrest, which would end his law enforcement career. His fellow officers refused to make what is known as a 10-13 call, which would have signaled that an officer had been shot.

Al Pacino starred as Serpico in the 1973 film of the same name. Serpico still speaks out about police corruption and in 2017 gave a speech, which was broadcast on Facebook live, in support of Colin Kaepernick and his efforts to shine a light on police brutality by taking a knee before football games. Standing at the foot of the Brooklyn Bridge, along with other NYPD officers, Serpico said, "I am here to

support anyone who has the courage to stand up against injustice and oppression anywhere in this country and the world."

### Whistleblowing goes nuclear

In 1983, Meryl Streep starred as Karen Silkwood in the film *Silkwood*. Karen Silkwood worked as a chemical technician at Kerr-McGee, a nuclear plant in Oklahoma. She was also a labor union activist in the Oil, Chemical and Atomic Workers International Union. In her role as a member of the union's bargaining committee, she was assigned to investigate safety issues and discovered numerous violations ranging from faulty equipment to workers being exposed to contamination.

In 1974, Silkwood testified before the U.S. Atomic Energy Commission regarding her concerns about the safety of workers at her plant. She relayed her own experience with being contaminated and alleged that safety standards had slipped due to a focus on speeding up production. Later that year, Silkwood was killed in a car crash on her way to a meeting with a *New York Times* reporter. She reportedly had gathered evidence that Kerr-McGee was acting negligently in regard to the safety of its workers. Foul play was speculated with regard to the car crash but it was never proven.

On behalf of her estate, Silkwood's father sued Kerr-McGee for negligence. After a 10-month trial a jury awarded \$505,000 in damages and an additional \$10 million in **punitive damages**. A federal court reduced the judgment to \$5,000 and eliminated the punitive damages. In 1984, the U.S. Supreme Court restored the original verdict, but ultimately Kerr-McGee settled out of court for \$1.38 million but admitted no **liability**.

— Jodi L. Miller

## Fake News CONTINUED FROM PAGE 1

the Anti-Defamation League, wrote in an opinion piece for *EdWeek*. “It is an essential skill for informed civic engagement.”

### In the states

In 2020, according to advocacy organization Media Literacy Now, 14 states were addressing media literacy through legislation, whether by requiring instruction, making resources available or forming a media literacy committee to explore the issue. For its part, the Garden State has five bills pending in the New Jersey State Legislature that deal with media literacy education for grades K-12.

Sam Wineburg, a history professor at Stanford University, says there is a danger when media literacy is not taught in schools correctly and cautions that it should not be a one-off lesson taught by the school librarian. Professor Wineburg says it needs to be part of everyday curriculum and “as soon as students have a smart phone or are put in front of a computer keyboard, they need media literacy tools.”

“Media literacy is civic online reasoning. It is the ability to make informed decisions about social and political issues that inform your life your community your nation and your world,” says Professor Wineburg. “When it is well-taught media literacy can be ennobling and empowering.”

It is a common misperception that students today, who have grown up in the digital age, know how to evaluate sources they come across on the Internet. A 2019 national survey of nearly 3,500 high school students, conducted by the Harvard Kennedy School, dispelled that notion. The students were shown a Facebook video that claimed to show ballot stuffing during the 2016 U.S. Democratic primary. The survey found that 52 percent of the students thought that the video provided “strong evidence” of U.S. voter fraud. The video actually depicted ballot stuffing in Russia, which would have been easy to detect if the students had done a simple search for “2016 voter fraud video.”

Media literacy encourages people to question what they see, hear and read, considering the sources of information and whether there is an underlying bias in the material. Essentially, it provides citizens the tools they need to recognize when they are being manipulated.

In 2018, the Stanford History Education Group (SHEG), a research and development group at Stanford University, released its findings after assessing more than 7,800 students on their ability to judge the reliability of information on the Internet. The students came from 12 different states and were in grade levels ranging from middle school through college. The study found that students across all grade levels struggled to distinguish news articles

from paid advertisements. Among middle school students, more than 80 percent identified a piece of content as news when it was “sponsored content,” in other words, an ad.

Professor Wineburg, who is the founder and executive director of SHEG, points out that all media sources have a bias. He says he teaches students what the markers are that make a source credible. One of those markers is whether the media source has a safeguard in place to issue corrections when something has been reported incorrectly. A Columbia Journalism Review report revealed that many online news outlets don’t have corrections policies or even a way for people to report incorrect information.

### Fact or Fiction?

A 2018 study from the Massachusetts Institute of Technology (MIT) revealed that fake news spreads faster on social media, particularly Twitter, than real news. Researchers at MIT wrote that lies “are more novel than true news” and provoke “fear, disgust and surprise,” which gets social media users more likes, shares and comments.

So, how do you avoid spreading false information? SHEG produced media literacy curriculum in December 2019 and offers it free to schools. The curriculum helps students develop the skills needed to navigate the current digital landscape and evaluate online content. SHEG suggests that students, or anyone reading information online, should ask themselves three questions: Who is behind the information?; What is the evidence?; and What do other sources say?

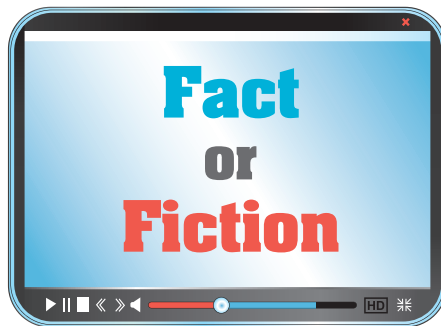
SHEG also advocates teaching students lateral reading, a technique used by professional fact checkers. In lateral reading you leave the site you’re on to open a new tab where you consult other sources to determine whether the information you’re reading is credible.

There are other strategies for discerning what is fake and what’s not. For example, if you come across an Internet photo that you think may have been doctored, you can do a

reverse image search, which will uncover the original photo for comparison. A simple Google search will show you the steps, which can take under a minute. In addition, Factcheck.org offers eight steps to spot fake news, including reading beyond the headline. Sometimes news outlets draw you in with a sensational headline, causing you to share the story immediately. On second look, however, you might find that the story has little to do with the headline and was just a way to grab your attention.

### Who is doing the misleading?

A 2020 study by researchers at Princeton University that





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was published in the journal *Nature: Human Behavior*, found that “fake news” is spread the most on Facebook, which refers users to “untrustworthy news sources more than 15 percent of the time and authoritative news sites only six percent of the time.” The researchers of this study also determined that on average people spend 64 seconds consuming a fake news article and 42 seconds on a verified news story.


Professor Wineburg says media literacy should be a **bipartisan** issue. “Egregious things are done on the right and the left,” he says. “This is an issue that sane Americans of all political persuasions have to be concerned with. If we can’t agree on the nature of facts then we can’t have an informed discussion on policy.”

A paper published in the journal *Human Communication Research* by researchers at the University of Colorado Boulder found that those people on the far ends of both the liberal and conservative spectrum were more likely to share and spread fake news stories. For example, in a sample of more than 1,100 pieces of fake news that were shared on Facebook, researchers found that 26 percent of them were shared by those self-identifying as conservative and 17.5 percent were shared by those self-identifying as liberal. Those who identified as being in the ideological middle and who had a high level of media trust were less likely to share fake news.

“We found that certain types of people are disproportionately responsible for sharing the false, misleading, and hyper-partisan information on social media,” the paper’s lead author Tobias Hopp said in a press statement. “If we can identify those types of users, maybe we can get a better grasp of why people do this and design interventions to

stem the transfer of this harmful information.”

So, why is it so important to be able to distinguish fake information from real facts? In an article for the *Journal of Adolescent & Adult Literacy*, Professor Wineburg, along with Abby Reisman, a professor at the University of Pennsylvania, wrote, “In a democracy, the ill-informed hold just as much power in the ballot box as the well-informed.” The authors went on to quote James Madison who wrote in an 1822 letter, “Knowledge will forever govern ignorance: And a people who mean to be their own Governors, must arm themselves with the power which knowledge gives.”

Hopp is in agreement. He noted in his statement, “We can disagree, but when we have fundamentally different views about what information is true and what is not, democracy becomes very difficult to maintain.” 

### DISCUSSION QUESTIONS



1. How do you feel about media literacy?  
What strategies do you currently use when coming across questionable information on the Internet or through social media?
2. One of the sources in the article described media literacy as “an essential skill for informed civic engagement.” In what ways would democracy benefit from citizens thinking critically about information on the Internet?
3. What are the possible harms in sharing false information through social media or other means?  
Explain your answer.

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purpose was to “strengthen and improve protection for the rights of federal employees, to prevent reprisals, and to help eliminate wrongdoing within the government.” The law has been strengthened several times since its inception.

Kanterman, whose law practice includes False Claims Act litigation, says there is a key difference between the WPA and the Federal Claims Act. “The WPA seeks to protect federal employees who report fraud, whereas the False Claims Act is geared more toward the private sector, such as suppliers who provide some sort of private service or good to the government.”

In 1998, Congress enacted a separate whistleblower law for the intelligence community or those who work in national security. Known as the Intelligence Community Whistleblower Protection Act (ICWPA), the law allows intelligence community staffers to report wrongdoing to the agency’s Inspector General even if it involves classified information, according to the Brennan Center for Justice. The Brennan Center points out that the ICWPA does not protect whistleblowers from retaliation.

In addition to federal law, states can have separate whistleblower protection laws. One Massachusetts whistleblower law, dating back to 1686, rewards

inspectors with one-third of collected fines for reporting fraud. In 1986, New Jersey passed the New Jersey Conscientious Employee Protection Act, which protects employees from being fired, demoted or harassed because they objected to a legal violation within their company. In 2008, New Jersey passed the New Jersey False Claims Act, which allows private individuals to bring a *qui tam* case on behalf of the state.

“If a local contractor accepts state funds to do a project and then misuses those funds, a whistleblower could come forward under the New Jersey False Claims Act and report

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joining forces, these companies can control production and distribution of a particular product or service, limiting competition. Trusts can lead to a **monopoly** of a certain industry, giving total control over pricing.

In 1882, John D. Rockefeller established the first American monopoly with the Standard Oil Company. Cornering the market on oil, Rockefeller was able to charge whatever he wanted for his product. While this inspired Congress to take action, passing the Sherman Antitrust Act, which made trusts and monopolies illegal, it would not be until 1911 that the government would break up Standard Oil into 34 smaller and separate companies.

In 1914, Congress passed the Clayton Antitrust Act to strengthen the Sherman Antitrust Act. The 1914 Act prohibits anticompetitive mergers, **predatory** and **discriminatory pricing**, as well as other unethical corporate behavior. In addition, protections were expanded with the Clayton Antitrust Act allowing individuals to sue companies and seek triple damages; upholding the right for labor to organize and protest; and mandating that all mergers must receive permission from the Federal Trade Commission (FTC).

More than 100 years later, the Sherman Antitrust Act would be used to prosecute Microsoft on claims it created a monopoly with its internet browser. The Act was also used in the case against AT&T when the company was broken up in 1984 and it is cited in the lawsuits brought against Google and Facebook in 2020.

### **Congressional hearings**

In July 2020, the CEOs of four major tech giants, including Apple, Amazon, Google and Facebook, gave congressional testimony before the House of Representatives Judiciary Committee's Antitrust Subcommittee. These four tech companies have a combined net worth of almost \$5 trillion.

In one exchange during the five-hour long hearing, Congressman Jerrold Nadler confronted Facebook CEO Mark Zuckerberg with an email he wrote regarding acquiring Instagram, which the company purchased in 2012 for \$1 billion. The email suggested that Facebook wanted to acquire the photo-sharing app because it could "meaningfully hurt us [Facebook] later."

"Mergers and acquisitions that buy off potential competitive threats violate the antitrust laws," Congressman Nadler said. "In your own words, you purchased Instagram to neutralize a competitive threat."

During the hearing, Zuckerberg said that Facebook "tries to be the best" but competes fairly.

After a 15-month long investigation, in October 2020 the House released a 450-page report detailing how these four companies solidified their dominance

in their respective tech fields.

"To put it simply, companies that once were scrappy, underdog startups that challenged the status quo have become the kinds of monopolies we last saw in the era of oil barons and railroad tycoons," the report said. "Although these firms have delivered clear benefits to society, the dominance of Amazon, Apple, Facebook and Google has come at a price."

### **The case against Google**

In October 2020, the U.S. Justice Department filed a complaint against Google, which was joined by 11 states. The lawsuit accuses the company of unlawfully maintaining a monopoly in the online search and search advertising markets through various means, but mainly by excluding rivals from key distribution channels. The suit claims Google locks up distribution through exclusive contracts with Apple and Android vendors to ensure its search engine is the premiere web browser. The lawsuit cites Google's 2018 strategy document, which states: "People are much less likely to change [the] default search engine on mobile."

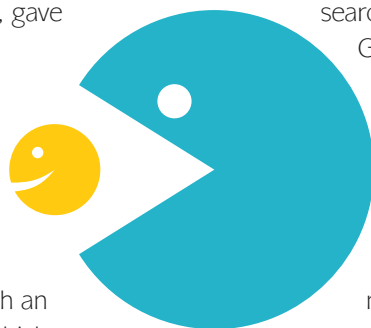
Another anti-competitive tactic allegedly employed by Google involves denying opportunities to potential adversaries. According to the suit, phone manufacturers using Google's operating system have limited ability to sell Android devices that do not comply with the company's standards. While manufacturers are provided access to Google's "vital proprietary apps," they must accept several other Google apps as well and make those apps undeletable.

In its quest to become a "monopoly gatekeeper of the Internet," Google has foreclosed competition for online search, the suit contends. It also alleges that Google's anticompetitive practices have harmed consumers by lowering the quality of digital search services, reducing choice, and thwarting innovation. Google, however, contends the lawsuit is flawed and insists that consumer use is driven by choice not force.

"People use Google because they choose to, not because they're forced to, or because they can't find alternatives," Kent Walker, Google's chief legal officer and senior vice president of Global Affairs, wrote in a blog post after the DOJ filed its lawsuit. "This lawsuit would do nothing to help consumers. To the contrary, it would artificially prop up lower-quality search alternatives, raise phone prices, and make it harder for people to get the search services they want to use."

Walker also likened Google's promotional techniques to paying for prime shelf space in a grocery store.

"Yes, like countless other businesses, we pay to promote our services, just like a cereal brand might pay a supermarket to stock its products at the end of a row or on a shelf at eye level," Walker wrote. "So, we negotiate agreements with many



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of those companies for eye-level shelf space. But let's be clear—our competitors are readily available too, if you want to use them. Our agreements with Apple and other device makers and carriers are no different from the agreements that many other companies have traditionally used to distribute software.”

In December 2020, more than 30 states brought another suit against Google, alleging anti-competitive business practices. The states fault Google for the way it structures internet search results and its alleged self-serving advertising search tools. Google maintains 90 percent of market dominance in search, making it hard for a smaller competitor to break through.

### **Unfriending Facebook**

The U.S. government is using some of the same core arguments against Google in its lawsuit against Facebook. Complaints filed in December 2020 by the FTC, 46 states, as well as Guam and the District of Columbia, claim the firm maintains a global social networking monopoly by eliminating, suppressing and deterring new competition.

To ensure market domination, Facebook either purchases its rivals or destroys them through limited data, systems and network access, according to the lawsuit. That approach, according to the FTC, led to Facebook's takeover of Instagram and WhatsApp, deals the agency approved in 2012 and 2014 respectively, but are now being scrutinized for their anti-competitive nature. The FTC wants Facebook to sell both Instagram and WhatsApp to level the playing field.

“Facebook's illegal course of conduct has been driven, in part, by fear the company has fallen behind in important new segments and that emerging firms were ‘building networks that were competitive with’ Facebook's and could be ‘very disruptive’ to the company's dominance,” the states' complaint alleges.

The complaint also directly quotes the emails of Facebook's CEO. The lawsuit states, “As Facebook's founder and CEO Mark Zuckerberg observed ‘one thing about startups...is you can often acquire them,’ indicating at other times that such acquisitions would enable Facebook to ‘build a competitive moat’ or ‘neutralize a competitor.’”

Facebook accused the states and the FTC of attempting to punish companies for protecting their investments and technology.

“Both acquisitions [Instagram, WhatsApp] were reviewed by relevant antitrust regulators at the time,” Jennifer Newstead, Facebook's vice president and general counsel, wrote in an online rebuttal after the lawsuit was filed. “Now,

many years later, with seemingly no regard for settled law or the consequences to innovation and investment, the agency [FTC] is saying it got it wrong and wants a do-over.”

### **Legal arguments and dragging on**

Antitrust lawsuits are complicated and tend to go on for a long time. For example, the AT&T antitrust case lasted seven years. Legal experts say the lawsuits against Google and Facebook are likely to endure for years as well. The DOJ's lawsuit against Google, for instance, isn't scheduled to go to trial until 2023.

One question that will need to be addressed in these cases is how consumers have been harmed, something that the government will need to show, according to Michael A. Carrier, a professor at Rutgers Law School—Camden and an authority in antitrust law.

“For example, even if Big Tech harmed competitors, how exactly have consumers been hurt? That will be a challenge the government needs to meet,” Professor Carrier says.

Another challenge the government must overcome is defining the market in which these companies operate, which can be tricky for the high-tech sector. In the Facebook case, John E. Lopatka, a professor at Penn State Law School, says the government will try to prove that a social media advertising market is economically relevant.

“A challenge the government will have in all of these cases is that the **defendant**, as a tech platform, operates in a two-sided or multi-sided market,” Professor Lopatka says. “For example, Facebook provides services to users and to advertisers, two distinct groups of customers. The value of Facebook to advertisers increases as the number of Facebook users increases. This condition, which involves what economists call indirect network effects, tends to push a market toward a dominant firm.”

Professor Lopatka, who is one of the nation's leading antitrust scholars, believes a breakup of either Facebook or Google would result in a significant loss for consumers, but doesn't see such an outcome happening in these cases.

“In most of these cases, I'm skeptical the government will be able to prove that the bulk of the relevant defendant's monopoly power was caused by illicit conduct,” Professor Lopatka says. “Some conduct may be found unlawful, and that conduct may have contributed to the defendant's market position. But I suspect the effect of the condemned conduct will be found to be marginal. That does not mean that the companies will therefore be exonerated. But it does mean the remedy for any



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that misappropriation of state funds,” Kanterman notes.

Some federal laws also have whistleblower protection provisions written into them. For instance, the Dodd-Frank Act, passed in 2010 to improve securities and trading practices on Wall Street, contains a whistleblower protection section.

### Substantial awards...and risks

During 2020, the Department of Justice recovered more than \$2.2 billion under the False Claims Act, according to data published on its website. Of that money, \$1.6 billion was recovered with the help of whistleblowers. Those whistleblowers received a total of \$309 million in awards.

False Claims Act cases are filed under seal, meaning the general public cannot view the lawsuit. When filed, only the government, the judge assigned to the case, the relator and their lawyer know of the complaint. The subject of the case is not alerted.

“The reason for that is the allegations in the complaint may be sensitive, so they leave them under seal,” Kanterman explains. “It gives the

government an opportunity to talk to the whistleblower and conduct its own investigation to see if there is any validity to the charges.”


Existing whistleblower laws make it easier for people to come forward, protecting them from workplace retaliation such as firing, demotion or harassment; however, Eubanks says whistleblowers still take a risk in exposing fraud. A Marist poll conducted in 2020 revealed that more than 80 percent of Americans believe Congress should pass stronger laws to protect employees who report corporate or government fraud.

### Blowing the whistle

In his book, *Crisis of Conscience: Whistleblowing in an Age of Fraud*, author Tom Mueller interviewed more than 200 whistleblowers and revealed to Time Magazine that the “overwhelming majority” of them could not find work in their respective industries because they were blackballed.

“It’s an act of courage when people come forward and report knowing

that they might still face retaliation,” Eubanks says.

“We shouldn’t need a special word [whistleblower], some weird legal status, for doing the right thing, for doing our jobs,” Mueller told *Time*. “Whistleblowing is democracy. It’s freedom of speech. It’s independence of conscious—the kinds of things the framers had in mind.” 


### DISCUSSION QUESTIONS



1. How do you feel about whistleblowers? If you saw wrongdoing or corruption, would you be a whistleblower? Why or why not?
2. How would our country be different if the law did not provide some protection for whistleblowers?
3. Should whistleblowers be rewarded for coming forward? Why or why not?

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violation is likely to be modest.”

At press time, no lawsuits have been filed against Apple or Amazon; however, both companies have been under investigation for possible antitrust violations. 

### DISCUSSION QUESTIONS



1. How do you feel about antitrust laws? Do they protect consumers or stifle innovation? Explain your answer.
2. As consumers, we have come to rely on the products and services from many tech companies. What have been the benefits and drawbacks of those relationships?
3. What are some technical services or devices that you could not live without? Explain why?

## GLOSSARY

**bipartisan** — supported by two political parties.

**defendant** — in a legal case, the person accused of civil wrongdoing or a criminal act.

**discriminatory pricing** — not charging customers a set amount but the maximum amount they will pay.

**liability** — an obligation of responsibility for an action or situation, according to the law.

**libel** — something that is published (that is untrue) which damages a person’s reputation.

**monopoly** — exclusive possession or control of the supply/trade in a particular industry.

**nonpartisan** — not adhering to any established political group or party.

**overturned** — in the law, to void a prior legal precedent.

**predatory pricing** — a strategy used to drive out competition by undercutting prices.

**punitive damages** — damages that exceed simple compensation and usually awarded to punish a defendant in a civil case.

**trust** — the joining of several businesses in the same industry.