



ATTORNEY GENERAL OF MISSOURI  
ANDREW BAILEY

July 20, 2023

Mark Zuckerberg  
Chief Executive Officer  
1 Hacker Way  
Menlo Park, California 94025  
*Via email: ncllegg@fb.com*

Dear Mr. Zuckerberg:

I write to notify you of your legal obligation to preserve all documents and electronically stored information under Rule 34 of the Federal Rules of Civil Procedure and under Missouri Supreme Court Rule 58.01 with respect to your recent product called “Threads.” As the chief legal officer in Missouri in charge of enforcing antitrust laws, I have grave concerns that your creation of a Twitter clone may amount to an unlawful “attempt to monopolize” under the Sherman Antitrust Act and Missouri law. *E.g.*, 15 U.S.C. § 2; Mo. Rev. Stat. § 416.031.2.

Threads has all the appearances of a copy-paste project meant solely to bring Twitter’s audience under Facebook’s control. The Wall Street Journal, the Washington Post, and NPR, among others, have all described Threads as a “Twitter clone.”<sup>1</sup> Forbes noted your company’s “long history of shamelessly copying products.”<sup>2</sup> And the design similarities—parts of Threads are nearly identical to Twitter—are impossible to deny.

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<sup>1</sup> See, e.g., Salvador Rodriguez, *Mark Zuckerberg Looks to Deliver Hit to Elon Musk with Upcoming Twitter Clone Named Threads*, Wall Street Journal (July 3, 2023), <https://www.wsj.com/articles/mark-zuckerberg-looks-to-deliver-hit-to-elon-musk-with-upcoming-twitter-clone-4a464407>; Geoffrey A. Fowler and Naomi Nix, *What We Love and Hate about Threads, Meta’s New Twitter Clone*, Washington Post (July 5, 2023), <https://www.washingtonpost.com/technology/2023/07/05/threads-meta-instagram-twitter-alternative/>; Steve Inskeep and Bobby Allyn, *Meta’s Threads, which is Basically a Twitter Clone, Minimizes News and Politics*, National Public Radio (July 13, 2023), <https://www.npr.org/2023/07/13/1187435445/metats-threads-which-is-basically-a-twitter-clone-minimizes-news-and-politics>.

<sup>2</sup> Sergei Revzin and Vadim Revzin, *The Meteoric Rise of Threads and its Future as a Twitter Clone*, Forbes (July 10, 2023), <https://www.forbes.com/sites/sergeirevzin/2023/07/10/the-meteoric-rise-of-threads-and-its-future-as-a-twitter-clone>.

As the chief legal officer for the State of Missouri and a champion of the free market, I have no problem with companies trying to compete with Twitter. But subsuming Twitter’s audience under your control would do the opposite. Already, the Facebook empire covers a suite of apps that collectively have 3 billion monthly active users. Adding Twitter’s user base to your control has serious potential to harm competition. At least from the information available now, it appears to be nothing less than an attempt to monopolize, which is expressly forbidden by federal and state law.

I am especially concerned about the antitrust implications of Threads given your previous anticompetitive conduct in acquiring Instagram. Internal Facebook emails, since made public, reveal that you purchased Instagram to—in the words of you and your CFO—“neutralize a potential competitor.” You explained “that what we’re really buying is time. Even if some new competitors springs [sic] up, buying Instagram ... now will give us a year or more to integrate their dynamics before anyone can get close to their scale again.” After successfully acquiring Instagram, you bragged that Facebook “can likely always just buy any competitive startups.”<sup>3</sup> Your persistent desire to control nearly all social media harms, not helps, competition.

Attempts by Facebook to monopolize social media have serious harms. As Facebook has acquired an ever greater control over social media, privacy has deteriorated, and a mental health crisis—especially among young girls—has skyrocketed. Central control of social media harms more than just competition in the abstract; every day it harms real, living, breathing Americans.

Central control also harms free speech. My office recently obtained a landmark preliminary injunction against dozens of officials in the federal government, prohibiting them from continuing to collude with Big Tech companies like yours to censor the speech of millions of Americans. *Missouri v. Biden*, 3:22-CV-01213, 2023 WL 4335270, \*73 (W.D. La. July 4, 2023). As I discovered in this litigation, it is much easier for the federal government to censor speech when there are only a few tech executives they need to pressure. Indeed, your company has featured prominently in the evidence we obtained showing illegal collusion between the federal government and tech companies. Your attempt to further consolidate the social media universe under your thumb threatens the free speech of millions of Americans.

In addition to speech censored because of the federal government’s unconstitutional coercion, your company has voluntarily censored the speech of millions of Americans. Your attempt to further consolidate social media raises serious concerns about harm under the consumer welfare standard. Greater centralized control of social media means greater opportunity for censorship. And because “network effects entrench” companies like yours, your attempt to further centralize social media is likely to create “substantial barriers to entry” that prohibit free-speech platforms from thriving. *See, e.g., Biden v. Knight First Amend. Inst. at Columbia U.*, 141 S. Ct. 1220, 1224 (2021) (Thomas, J., concurring).

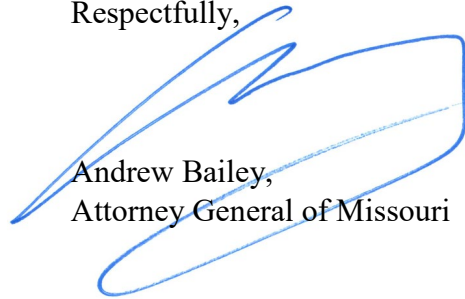
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<sup>3</sup> Clay Newton and Nilay Patel, ‘Instagram Can Hurt Us’: Mark Zuckerberg Emails Outline Plan to Neutralize Competitors, *The Verge* (July 29, 2020), <https://www.theverge.com/2020/7/29/21345723/facebook-instagram-documents-emails-mark-zuckerberg-kevin-systemrom-hearing>.

I am committed to preserving free speech and competition. For that reason, I hereby notify you that you must preserve all documents contemplated by Rule 34 of the Federal Rules of Civil Procedure and Missouri Supreme Court Rule 58.01 in relation to your company's decision to create Threads. This information is valuable and irreplaceable for any potential investigation.

If you have any questions, please do not hesitate to contact my office.

Respectfully,

A handwritten signature in blue ink, consisting of several fluid, overlapping strokes that form a stylized representation of the name Andrew Bailey.

Andrew Bailey,  
Attorney General of Missouri