



Formerly The Foundation for Taxpayer & Consumer Rights

1750 Ocean Park Boulevard, #200, Santa Monica, CA 90405-4938 • Tel: 310-392-0522 • Fax: 310-392-8874 • www.consumerwatchdog.org

The Honorable Thomas O. Barnett
Assistant Attorney General
U.S. Department of Justice
950 Pennsylvania Ave., NW, Room 3190
Washington, DC 20530-0001

Oct. 2, 2008

Re: Google-Yahoo advertising deal

Dear Assistant Attorney General Barnett:






The proposed advertising deal under study by your office between Google and Yahoo poses substantial anti-competitive issues with negative repercussions for content providers, advertisers and particularly consumers. Google already has a market share in paid search advertising on the Internet of 70 to 80 percent. The combined market share of Google and Yahoo is expected to exceed 90 percent. Such market domination is dangerous on its own terms, but would also position Google to have a monopoly over the future of computer usage, given new trends. Long-term, these companies need to be separated, not set on a road to combination.

The situation for consumers is demonstrably worse than even the first impression when you consider the new world of Internet-based functions and storage – where a computer user’s software, documents, data and personal information exist not on the consumer’s hard drive but on Google’s servers on the Internet. This is the computing model that Google has created and espouses as an alternative to Microsoft’s desktop model, through Google’s dominant search engine, web analytics business (which tracks and traps user data), software (like Google docs), email program G-mail, and its new browser Chrome. In this corner of “cloud computing,” which is likely to become dominant, Yahoo is Google’s only true competitor. Despite both parties’ assurances of separation, the proposed advertising deal raises the long-term possibility of concentrating computer users’ data in one alliance.

Before the introduction of the Chrome browser, Google was the world leader in search and web user information aggregations and analysis. Google received data, aggregated it and analyzed it for companies, advertisers and websites that paid handsomely, as well as for individuals who received customized information and services. Yet Google was primarily on the outside looking in. With Chrome’s release, Google is now also on the inside sending information out. With this software installed on individuals’ computers, Google’s role as sender *and* receiver of data has become uniquely powerful and threatening to the privacy of users.

The chart below shows Google's unparalleled dominance on the Internet in this unique sender/receiver role. Google is the only major Internet Company that controls a web analytics enterprise and has a browser with asynchronous communications (through an "auto suggest" function it conducts an unnoticed "conversation" with the user even before the search button is clicked). Google does not offer transparency about or easy opt-out for these communications. Google is therefore more equipped to trap personal data about computer users than ever before. (A video that demonstrates the pre-click communication function is viewable at <http://www.consmerwatchdog.org/google>)

As the chart below shows, Yahoo is Google's main rival in this multiple function world (Microsoft does not deploy asynchronous communication in this way, nor does it have a major analytics business.) The approval of this advertising deal could create conditions where, in the longer term, web user information and analysis would be controlled by a single player. Should the relationship between these two companies deepen, if their master databases were commingled, few individuals could escape that web.

				 Apple	 Mozilla
Major Web Analytics Business	YES Market Leader	NO Minor System	YES	NO	NO
Browser	YES Chrome	YES Internet Explorer	NO	YES Safari	YES Firefox
Major Search Engine	YES Market Leader	YES MSN & Live.com	YES	NO	NO Google Deal
Asynchronous Auto-Suggest In Address Bar	YES	NO	N/A	NO	YES
Software Triggers communication with Company	YES	NO	YES	NO	NO
Hidden & Difficult To Opt Out of Auto-Suggest in Search Engine	YES	N/A	NO	N/A	YES Google Engine

Our fear is that if the Google-Yahoo advertising deal is approved, Google will use its near-monopolistic power to gain full control of user data analysis on the Internet and all but eradicate the ability of individual consumers desiring cloud computing storage and functions to opt out of Google's web.

The Chrome tool bar's suggestion function (like the Google Search engine's suggestion function) fundamentally alters the typical request-response pattern of the Internet. By merely typing, without clicking "Search" on either the tool bar or the search page, a user in Google's default mode has shared information with Google. This asynchronous acquisition of user information appears innocuous and helpful to most Chrome and

Google Search engine patrons, who do not mentally link the auto-suggest feature to the fact that Google is monitoring and responding to every keystroke, not just every search.

Even for users who seek out and use “Incognito” mode, some information is shared with Google. “Incognito” is not really incognito. (Our video explains this more.)

It does protect a user from leaving information about visited sites on the computer. This kind of privacy is important when multiple users share a computer. Yet despite users’ reasonable belief that they can surf the web anonymously when they select Incognito, Chrome continues to send some information back to Google. In Incognito mode, we assume, and Google should too, that the user doesn’t want anyone watching or having a record of their computing, including searches.

Google’s success in developing appealing functions for cloud computing must not be allowed to morph into monopoly power over user information and personal privacy. We call on the Justice Department to protect consumers and block the proposed advertising deal between Google and Yahoo.

Please feel free to contact us should you require more information.

Sincerely,

Jamie Court

John Simpson



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The Honorable Edmund G. Brown Jr.
Attorney General's Office
California Department of Justice
Public Inquiry Unit, P.O. Box 9442255
Sacramento, CA 94144-2550

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The Honorable Michael Mukasey
Attorney General of the United States
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