



May 24, 2013

European Commission
Directorate-General for Competition
Antitrust Registry
B-1049 Bruxelles/Brussel
Via Email & FAX

Re: Response to Google's Proposed Commitments, Case COMP/C-3/39.740
Reference Number AT.39.740-Google

To Whom It May Concern:

I am writing on behalf of Consumer Watchdog, a U.S. public interest group, to call upon the Commission to reject the proposed Commitments put forward by Google in response to the Commission's antitrust investigation and the Commission's concerns about Google's illegal, unfair and anticompetitive business practices. The supposed remedies offered by the Internet giant would in fact continue to harm consumer welfare, stifle innovation and restrict competition in Internet search services.

Google has long held itself out as presenting search results that were neutral and objectively generated. In fact this is not the case. Since 2007, if not earlier, Google has favored its own services – particularly its specialized “vertical search” services – over the services of competitors. Google has both promoted its own services in its search results and demoted and penalized the results of its competitors.

We have closely examined the proposed Commitments that the Commission has made available for market testing. One obvious failure is the limited number of Google domains to which the Commitments would apply. The proposal only covers European Economic Area domains such as www.googl.at, www.google.be, www.google.cz, etc. It is important to note that the home page of each of these EEA Google search domains has a clear link to www.google.com. Many Europeans click on this link and use www.google.com for their searches, yet the proposed Commitments do not apply to this important part of Google's business.

The fundamental flaws in the Commitment, however, dwarf that concern. The proposed remedy is based on two principles. First is labeling – Google must identify its own results that it is favoring. Second is the idea of presenting links to rival services. Neither of these proposed solutions gets to the heart of the problem. They will not restore a competitive search marketplace that will serve the interests of consumers. Google's conduct has severely damaged competition, leaving consumers with less choice and facing higher prices. Merely stopping Google from continuing its wrongful anticompetitive conduct will not restore a vigorous market place. The Commission must insist on remedies that as much as possible restore the market position of Google's rivals – one possibility could be requiring the preferencing for some period of time the search result listings of rivals over Google Shopping or Google Places.

Ultimately the solution must be based on the non-discrimination principle. Because Google is the gateway to the Internet for so many people, it has an obligation to honor the concept of search neutrality. Google must hold all services – especially its own – to exactly the same standards, using the same web crawling, indexing, ranking, display and penalty algorithms. A demand for this even-handed treatment of all services including Google's in the display of search results has a precedent in the regulation of Computerized Reservation Systems, which were prevented from favoring the parent air carrier on the system.

Allowing Google to continue promoting its own services and demoting those of rivals, but requiring Google to label its own services does nothing but enshrine the uncompetitive status quo. In fact the results manipulation would continue and labeling could well have the undesired outcome of making Google's services even more prominent and attractive to consumers. Consumers would have a far less effective choice of other services because these services would be less visible. The Commission must insist on true objectivity and search neutrality in Google's results.

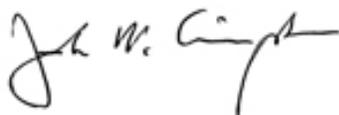
Google's proposal to show at least three links to rival services solves nothing. Under the proposed Commitments, Google would decide which of its rival vertical search providers would be qualified to be included in the pool from which rival service links would be drawn. This gives Google more power to exert its dominance in the market, not less.

Google has developed a substantial conflict of interest. It no longer has an incentive to steer users to other sites, but rather to its own services. It is becoming even more effective at this and has a greater incentive to engage in manipulation now that it is merging data collected across all its services. The only way to deal with this conflict is to remove it. There needs to be a separation of Google's different services and assets. At a minimum any remedy must insist that Google use an objective, nondiscriminatory mechanism to rank and display all search results – including links to Google products.

Consumer welfare is the ultimate test of any antitrust settlement. Google's proposed Commitments fail to meet this standard. Approval of the Commitments would essentially legitimize Google's anticompetitive practices and give the company more tools to strengthen its dominance. Labeling does nothing but obscure the results of Google's anticompetitive abuses. It does not resolve the fundamental issue of search manipulation.

If the Commission cannot obtain through a settlement with Google a commitment to end search manipulation and to practice search neutrality, then the Commission must file a Statement of Objections and commence antitrust proceedings.

Sincerely,



John M. Simpson
Privacy Project Director