



Chairwoman Edith Ramirez  
Commissioner Julie Brill  
Commissioner Maureen K. Ohlhausen  
Commissioner Joshua D. Wright  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580

Dec. 3, 2013

**Re: Formal Complaint Regarding Google Shopping's Unfair and Deceptive Practices**

Dear Chairwoman Ramirez and Commissioners Brill, Ohlhausen and Wright:

I am writing on behalf of Consumer Watchdog, a nationally recognized nonprofit consumer education and advocacy organization, to formally lodge a complaint about Google's comparison shopping engine (CSE), Google Shopping. The way that the Internet giant is featuring results from Google Shopping without making it clear that the highlighted results are nothing more than advertisements for merchants who bid for placement is an unfair and deceptive act, violating Section 5 of the Federal Trade Commission Act. Moreover, consumers are actually being harmed because the featured results from Google Shopping more often than not return higher prices than can be found elsewhere, when consumers would reasonably expect Google's suggestions to be the best. Consumer Watchdog urges the Commission to use its Section 5 authority to end these unfair and deceptive practices.

Let me explain what is happening. Google has become most people's gateway to the Internet. Seventy percent of searches are on Google, so it's more than likely a consumer would start his or her online search for a particular product, say "digital cameras" in Google's search box.

Google responds with links to relevant websites, articles and clearly labeled ads. It also offers suggestions from its Google Shopping service, with photographs of specific camera models. Most people likely expect these to be Google's suggestions for best prices. However, if a person clicks on a pictured item, it takes them directly to the seller's website, although there is nothing to indicate it's an ad and that the seller pays Google and bids to be featured in Google Shopping.

A Consumer Watchdog study found that more often than not, the item featured in the Google Shopping result is not the lowest price. We compared the featured price of 14 items featured in Google Shopping and found that it was more on Google in eight cases than the same item on a competing CSE like Nextag, Shopzilla or Pricegrabber.

Take a look at our study here:

<http://www.consumerwatchdog.org/resources/googlereport112513.pdf>

The Financial Times also analyzed the situation from another perspective and found five out of every six items highlighted on a Google search are more expensive than the same items from other merchants hidden deeper in the Google Shopping service, with an average premium of 34

percent.

Read the Financial Times analysis here: <http://www.ft.com/cms/s/0/8c1f2e90-5501-11e3-86bc-00144feabdc0.html>

While consumers are likely being charged more than would otherwise be the case because of Google's unfair and deceptive practices, the fundamental problem as outlined above is that Google is selling advertisements featuring merchants' products based on what is bid and deliberately disguising the fact that they are advertisements. This is crystal clear when you examine the screenshot below of the Google Shopping results that were returned at 12:04 pm PT on Dec. 2 to the query "digital cameras."

The screenshot shows a Google search for "digital cameras". At the top, there are navigation tabs for Web, Images, Maps, Shopping, News, and More. Below the search bar, it indicates "About 216,000,000 results (0.30 seconds)".

The main content area is divided into two columns. The left column features a "Shop for digital cameras on Google" section, which is a sponsored shopping carousel. It displays five camera models with their respective prices and retailers:

Product	Price	Retailer
Canon - Powershot A...	\$69.99	Best Buy
Sony Cyber-Shot D...	\$129.99	Sony Store
Fujifilm - Finepix S480...	\$149.99	Best Buy
Canon EOS Rebel T3i Dig...	\$519.00	BuyDig.com
Canon Digital Camera Pow...	\$279.99	Canon

The right column contains several traditional advertisements, each labeled with "Ad" and a star rating:

- Camera Deals** (5 stars): www.hhgregg.com/Cameras. 2,167 seller reviews. Save Up To 30% + An Extra 11% Off. Shop Cyber Monday Deals Now!
- Amazon Camera at Amazon** (5 stars): www.amazon.com/Cameras. 378 reviews for amazon.com. Save on Amazon camera. Free Shipping Available with Amazon.
- Cyber Monday Camera Deals** (5 stars): www.dell.com/CyberMonday. 4,500 reviews for dell.com. Celebrate Cyber Monday w/ Deals On Electronics, Accessories, & More!
- Digital Cameras** (5 stars): www.target.com/. 92 reviews for target.com. Shop Digital Cameras. Over 500,000 Items Ship Free with \$50 Purchase. 3100 14th St NW, Ste 201, Washington (202) 777-3773.
- Digital Cameras at QVC** (5 stars): www.qvc.com/Cameras. 45,385 reviews for qvc.com.

Below the shopping carousel, there are more traditional search results, including "Digital Cam - BestBuy.com" (5 stars), "Canon@ Cyber Monday - Canon.com" (5 stars), "Digital cameras: compare digital camera reviews - CNET Reviews", and "Cameras: Digital Cameras & Accessories - Free Shipping - Best Buy".

The Google Shopping results, with photos of five suggestions, appear across the top of the main search results. Directly below them are two results clearly labeled as ads. Similarly on the right, where Google has traditionally returned most advertisements, are more results that are labeled as ads. Consumers understand what ads are.

Google's presentation of the Google Shopping results disguises the fact that the results are in fact advertisements. Clicking on any one of the Google Shopping suggestions takes the user directly to the merchant's page where the product can be purchased. Each suggestion is nothing more than an advertisement, however, there is no label that makes this clear. The omission of an ad

label is even more egregious when the Google Shopping results are presented surrounded by results that are marked as ads. Thus, the consumer can only conclude that the Google Shopping results are suggestions, not advertisements.

Here is another screenshot of the Google Shopping results taken at 2:57 pm PT on Dec 2, 2013 in response to the query “electric drills.”

The screenshot shows a Google search for "electric drill". The search bar is at the top with a magnifying glass icon. Below the search bar, there are navigation tabs for "Web", "Images", "Maps", "Shopping", "Patents", and "More". The search results are divided into two main sections. On the left, there are organic search results. The first result is from Home Depot, titled "Home Depot Power Drills - homedepot.com", with a star rating and a link to the website. Below it are two more organic results from Sears and PepBoys.com. On the right, there is a "Sponsored" section titled "Shop for electric drill on Google". This section contains a grid of eight product listings, each with an image of a drill, the brand and model name, and the price. The products include DEWALT 6-Amp, Black & Decker DR260BR, dewalt 1/2 in (13mm), "DeWALT 1/2" Brushless Cr..., Black and Decker 3/8" 5..., DEWALT 7.8-Amp 1/2-i..., Black & Decker 20v 20 Volt M..., and craftsman 17191 19 2 v... Below the sponsored results, there is an "Ads" section with a result for "Cord Drills at Amazon" from amazon.com, including a star rating and a link to the website.

This display returned more responses, so the Google Shopping results are positioned to the right of the screen. Again, advertisements are clearly marked to the left and below the Shopping results and there is nothing at all to suggest the Google Shopping results are in reality advertisements. Because they are surrounded by results that are specifically and clearly labeled, the only conclusion can be that Google Shopping results are not advertisements.

While the word “Sponsored” is barely discernable at the top of the Google Shopping results in both cases it does not make the situation clearer to the consumer, but rather obfuscates it. Many users undoubtedly conclude that the Shopping results are not ads, because if they were, they would be so labeled like those that surround the Google Shopping results. “Sponsored” must mean something different than “ad” would be the only logical conclusion and many users undoubtedly think this means the Google Shopping results are “sponsored” by Google. Both displays are designed to prompt users to click through to one of the merchants who have paid a premium to be featured.

If a user discovers he or she can click on the small icon next to the word “Sponsored” and does so this result is displayed (Screenshot taken at 3:11 pm PT, Dec. 2, 2013.):

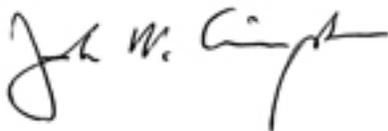
Based on your search query, we think you are trying to find a product. Clicking in this box will show you results from providers who can fulfill your request. Google may be compensated by some of these providers.

However, this hardly makes clear what is going on. It tells the user that the Google Shopping results were returned in response to the consumer's original entry in the search box "because we think you're trying to find a product." While it acknowledges that Google "may be compensated" by the product providers, it no way makes it clear that their very position as a featured item in Google Shopping is based on what the provider bid to be there. Moreover it understates the payment situation. It is not merely the case that "Google may be compensated by some of these providers." All providers listed on Google Shopping in fact pay Google.

Google originally offered Google Product Search, which did not charge for placement. Consumers relied upon it to use appropriate algorithms to offer the best suggestions in response to their product queries. Then Google used a classic bait and switch, getting consumers comfortable with its comparison shopping engine. It then changed the name to Google Shopping, but more importantly changed its business model to charge merchants to be featured.

Google Shopping results featured in Google Search are nothing more than ads that are highlighted based on what merchants bid to be there. Google deliberately disguises this fact in the way it presents Google Shopping results. This is clearly an unfair and deceptive practice and we call on the Commission to use its Section 5 authority to end this abuse.

Sincerely,



John M. Simpson  
Privacy Project Director

CC: Jessica L. Rich, Director Bureau of Consumer Protection