Via Email

The Hon. Greg Abbott
Attorney General
300 W. 15th Street
Austin, TX 78701

Feb. 13, 2014

**Re: Google anti-trust investigation**

Dear Attorney General Abbott:

I am writing on behalf of Consumer Watchdog, a nonprofit nonpartisan public interest group to urge you to press the antitrust investigation against Googlethat Texas is leading on behalf of a number of states. I believe that action by the state attorneys general against the Internet giant has been more or less on hold while the European Commission investigated Google. As you know, The EU's Competition Commissioner, Vice President Joaquin Almunia, recently announced that he had reached a settlement with Google. The full 28-member "College of Commissioners" must still approve settlement. Since some members have voiced concerns about the deal, approval is not certain. Nor, has Vice President Almunia made Google's commitments to the Commission public.

Nonetheless, given what is known about the proposed settlement's terms, it is essential that the state attorneys general under your leadership redouble your efforts in the case. After the Federal Trade Commission failed to end Google's unfair manipulation of search and other anticompetitive practices, many observers hoped that the European antitrust investigation would end Google's greatest abuses. While consumer groups on both sides of the Atlantic – BEUC and Consumer Watchdog – have said Google's third settlement proposal as described by Vice President Almunia does not adequately remedy Google's abuses, there is cause for even greater concern in the United States.

Google's commitments in Europe – as inadequate as they are – would not apply at all in the United States. The heart of Google's European settlement proposal is that while it would continue to manipulate search results and unfairly favor its own products and services, it would label them and display links to three competing services. Perversely, it would charge competitors to appear, thus creating another revenue stream for Google giving it even more power over competitors and ultimately limiting customer choice. But as bad as the settlement is, if consummated it would only apply to Google's European domains such as Google.ie, Google.uk.co, Google.fr, Google.de, etc. It would not apply to Google.com. There will be no benefit to consumers in the United States from the European antitrust action.

Since the Federal Trade Commission walked away from the case without adequately solving the problem, it is now more clear than ever that the state attorneys general must act. 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 state attorneys general must insist on remedies that

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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.

The heart of the problem is that 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. In November a Consumer Watchdog study found that Google is taking advantage of its monopoly position in search to charge merchants more for placement in Google Shopping, causing higher prices for consumers. Google used classic monopolistic tactics to largely clear the field of competitors and then changed its business model to maximize its profits by charging merchants for placement. Merchants then charge consumers more for the product to cover their payment to Google. I am enclosing a copy of our study with this letter.

Google's abuse of its monopolistic position is hurting competitors, limiting consumer choice and increasing prices for consumers. Federal regulators failed to act in a meaningful way and the European settlement, if finally approved, does nothing for the United States. It is incumbent upon the state attorneys general under your leadership to act decisively to protect consumers.

Sincerely,

John M. Simpson
Privacy Project Director

Enclosure: *Consumers Charged More As Result Of Google*'s *Search Monopoly*