

Mr. Joaquín Almunia
Vice-President
European Commission
1049-Brussels

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Brussels, 31 October 2012

Dear Vice-President Almunia,

Subject: Google antitrust investigation

I write on behalf of The European Consumer Organisation (BEUC) to express our views on the investigation of potential abuse by Google of its dominant market position in online search and the ongoing settlement discussions.

In our letter of March 19, 2012, we expressed concerns that Google may have abused its dominant position in the online search market by directing users primarily to its own services and secondly by reducing the visibility of competing websites and services. If substantiated by the investigation of your services, Google's practices have harmed competition, misled European consumers and reduced consumer choice.

Consumer associations across Europe may be directly affected by Google's practices. They operate price comparison websites providing consumers with accurate, independent and complete information on products and services. Such services are in direct competition with Google's own services and therefore subject to Google's algorithm ranking for natural search results.

As discussions on a possible settlement with Google are at an advanced stage, we would like to convey our concerns as regards the remedies under consideration. We do share your view that, whenever possible, swift and effective solutions are preferable to lengthy procedures. However it is important that the remedies focus on consumer welfare and are effective in terminating an anti-competitive behaviour and restoring competition.

In this context, any remedy which is based on labelling would fail to pass such a triple test. Simply requiring Google to label its own vertical search services would not prevent the company from manipulating the search results and from discriminating against competing services. Although the labelling of Google's own services is crucial in order to enable consumers to make informed choices, it cannot be the sole solution. Infringements of competition rules call for strong and rigorous remedies which go beyond the field of consumer information.

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Google's own services must be submitted to the same algorithm as competing services. Consumers have a right to receive impartial results based exclusively on their relevance to their queries and without manipulation according to Google's own commercial interests.

We would urge you to go as far as enacting structural remedies given the substantial risk of repeated infringements considering Google's structure and constant expansion of services and products. Structural remedies are essential for restoring competition and promoting innovation in the online environment.

We would also like to draw your attention to the parallel investigation by EU Data Protection Authorities into Google's new privacy policy and its impact on maintaining online search market dominance. Despite the call of consumer associations in both the EU and the US for time to assess the changes' compliance with Data Protection legislation, Google decided to press ahead with no consideration of consumers' concerns. Google's market dominance is largely fuelled by its access to users' personal data.

A key component of Google's policy in order to maintain its dominance of online search is to increase the scale of data it collects via its different services. Search engines can make their results more effective as their scale - including the volume of user data and search queries - increases. With Google's ever-increasing breadth of online services, a particular user's online activities will be traceable on a much more continuous and universal level than ever before. Such unprecedented visibility of consumer behaviour will allow Google to build user profiles which are much more complete. The privacy policy of Google is directly linked to its dominance in the online search and should therefore be considered as an aggravating factor in your analysis.

We expect the European Commission to take a strong stance and protect consumers by exercising its powers under the Treaties to sanction dominant companies who abuse their dominance to the detriment of consumer welfare. Net and search neutrality are the guiding principles that must be preserved in order to protect the open Internet. It is the duty of the European Commission to keep this vital infrastructure accessible, competitive and open and put an end to existing discriminatory practices. The remedies must leave no loopholes for circumvention and safeguard the open internet to the benefit of consumers, competition and innovation.

We remain at your disposal to further discuss our concerns.

Yours sincerely,



Monique Goyens
Director General

Cc:

Vice-President Reding, responsible for Justice, Fundamental Rights and Citizenship

Vice-President Neelie Kroes, responsible for Digital Agenda

Commissioner Michel Barnier, responsible for Internal Market and Services

Commissioner Maroš Šefčovič, responsible for Consumer Policy