January 23, 2012

Mr. Joaquin Almunia
Vice President of the European Commission
And Commissioner for Competition
DG Competition
rue Joseph II / Jozef II straat 70
1000 Bruxelles/Brussel
BELGIQUE/BELGIË

Dear Vice President Alumnia:

While in Brussels, I wanted to make a point of writing to you on behalf of Consumer Watchdog, a U.S. public interest group, about our concerns over Google's ongoing anticompetitive behavior. First, I must express our gratitude for the lead role the European Commission has taken in launching an antitrust investigation of Google's activities. As you know, our Federal Trade Commission finally started its own probe, which we believe came about largely because of the thorough and substantial EU effort.

But before the underlying substantial antitrust issues with Google's ongoing business practices can be addressed and resolved, the Internet giant has yet another acquisition under scrutiny by regulatory authorities on both sides of the Atlantic. This proposal, to acquire Motorola Mobility, requires immediate attention. We urge the Commission to block the proposed $12.5 billion deal.

Google's Android smartphone operating system dominates the mobile market with a 38 percent share and is growing. Apple's iPhone has 27 percent. Google controls 95 percent of the mobile search market. There is evidence it is pressuring handset manufacturers to favor Google applications when using the Android operating system. Google's earlier acquisition of AdMob gave the Internet Giant dominance in mobile ad sales. Allowing the Motorola Mobility deal would provide Google with unprecedented dominance in virtually all aspects of the mobile world – manufacturing, operating systems, search and advertising. It would be a virtually unstoppable juggernaut. We urge you to block the deal.

Once the proposed Motorola acquisition is dealt with, we hope the Commission will turn back to the underlying issue: the way Google uses search to unfairly promote its own properties and damage competitors. The recent announcement of Google's "Search, plus Your World" is but the latest example of how Google uses its monopolistic position in an uncompetitive way to promote its own services.

Search, plus Your World links Google+, Google's new social network, to search and its favorable placement of the social network in results, particularly in the query box, gives Google an advantage over other social services like Facebook and Twitter.

As you know Google exerts monopoly power over Internet searches, controlling more than 90 percent of the market in some European countries and around 70 percent of the U.S. market. For most people in the world, Google is the gateway to the Internet. Google's business practices to maximize its profits determine much of the Internet experience for most people by determining what they view.

We understand that the Commission is investigating this issue and applaud your efforts. In 2010 Consumer Watchdog's study, *Traffic Report: How Google is Squeezing out Competitors and Muscling Into New Markets* (http://insidegoogle.com/2010/06/google-using-search-engine-to-muscle-into-internet-

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businesses-study-finds-2/) demonstrated how with the launch of Universal Search Google favored its own properties and services in search results to the detriment of its competitors. One stark example was the dramatic drop-off in traffic that occurred on Mapquest's site after Google placed its Google Maps at the top of Universal Search.

Some observers had hoped that Google's arrogant anticompetitive behavior would change in the face of investigations by the Commission, the FTC and several U.S. state attorneys general. Clearly, as its recent linking of Google+ to search and favorable placement of Google+ social network in search results demonstrates, the Internet giant will continue its monopolistic abuses unless regulators act strongly.

We urge you to file a formal antitrust complaint against Google as soon as possible.

Information Is Power

Ultimately Google's monopoly power stems from its monopoly over personal information. Information is power and Google has amassed more data than anyone. How did Google gain this dominant position in consumer personal data? Very simply. The company tracked us all around the Internet and gave us no choice over whether our data was collected or not. Google tracks consumers around the Web, logs every search query and YouTube video watched and records the location of Android smartphone users.

Google's presence on the Internet is so pervasive that consumers cannot escape its reach even if they do not use its services. Google's ad network puts down tracking cookies and records consumers' activities as they surf the Internet. It is this immense database of consumer information, intentions and desires that gives the Internet giant its power.

Many people think of Google as a technology company. In actuality Google is an advertising business. Consumers make a Faustian bargain, often unknowingly, to provide personal information about their habits, desires and behaviors in return for Google's services. Google mines these massive digital dossiers and uses the information to sell ads, a lucrative business that accounts for 96 percent of its $30 billion annual revenue.

Every platform the company buys expands its database of information on individuals. More consumer data means more information to target individuals in the ad server market. Every piece of information that is added to that database makes Google's ad targeting that much more sophisticated – in turn making it a must have for companies seeking to target advertising. The better Google's data, the more advertisers will have to go to Google to reach their audience, thus increasing its dominance of the market. If Google's unfettered absorption of companies, and the consumer information that comes with them, continues, and Google is not required to give consumers the ability to opt out of this data collection, the ever-increasing consumer information database Google is compiling will only strengthen its dominance over the ad server market.

People who use Google aren't its customers. We are the Internet giant's product. The immense database about us, largely gathered without our informed consent, is used to target ads and bring Google billions in advertising profits.

Remedies

To counter the information monopoly we must be given effective control over our data – whether it's collected and how it's used. Article 29 Data Protection policies put Europeans in a far stronger position in this regard than we in the United States. We can only hope such strong protections ultimately find their way into U.S. law. In addition as a strong complement to data protection, strict antitrust regulation to prevent unfair practices with search is necessary. Here are some specific recommendations:

- Google's acquisition of Motorola Mobility should be blocked.

- Google could be broken into different companies devoted to different lines of business so there is no incentive to unfairly use search to promote other services. Search could be separated from advertising. Gmail and the new social networking service, Google +, could be spun off as a separate entity, as could YouTube, a Google acquisition that should have been denied at the time of merger. Enterprise applications could be another separate business.

- Google's search engine's importance as a gateway to cyberspace requires a maximum degree of openness and transparency. Google's monopoly position and importance to the Internet means that the company should be closely regulated. Regulations could be designed to open up Google's ad platform to enable other competitors to compete. Rules could be crafted to create greater transparency in the operation of Google's ad platform to enable parties to negotiate more effectively. For example: Providing greater visibility into the maximum amount of the highest bid, how many search terms are shown per page, and how Google's "quality score" is derived and applied. Little, if any, of this information is currently public and openness would contribute to consumer choice and options as well as foster competition.

- Another remedy could be to force Google to disgorge its monopolistic gains through the imposition of financial penalties. The payment would have to be significant enough to impact Google's future behavior. Google hardly blinked when it paid half a billion dollars to the United States to settle an illegal drug sales case. Perhaps the amount could be tied to paying back consumers for monetizing their private information and content without asking them permission or compensating them.

The Commission's role in keeping Google's abuses in check is essential. Its executives have close relationships with many U.S. officials and the company just spent a record $9.7 million in 2011 lobbying policymakers in Washington. We have faith the Commission will not succumb to such influence. The Internet is too important to allow an unregulated monopolist to dominate it. We call on you to take the steps necessary to prevent it: block the Motorola merger and file a formal antitrust complaint against Google.

Sincerely,

John M. Simpson
Privacy Project Director
Consumer Watchdog