

AntitrustConnect Blog

Internet Search Competition: Where's the Beef?

David Balto (Law Offices of David A. Balto) · Friday, June 24th, 2011

Today Google announced that the FTC had opened an investigation of its search practices. This is an issue I have given considerable thought to. In an article I just released—*Internet Search Competition: Where's the Beef?*—I explain that while Google is the “target du jour in the antitrust community,” efforts to bring antitrust enforcement against Google or impose amorphous concepts of “search neutrality” are misguided. I explain why Google’s interests are strongly aligned with protecting and enhancing consumer sovereignty and that government regulation is unnecessary and would only stymie continued innovation. A synopsis of the article appears below. The complete paper is available [here](#).

Under the banner of “Search Neutrality,” Google’s critics claim that government intervention is needed in the search market because Google gives its own services preferential placement in its search results and that the practice is anticompetitive. In late 2010, the European Commission opened a [formal investigation](#) of Google’s activities, and Google recently announced it is facing similar scrutiny by the Federal Trade Commission. This paper offers the consumers’ perspective on Google’s alleged anticompetitive conduct and ultimately concludes that government regulation of search is both unnecessary and illogical.

Unnecessary Government Intervention

Government intervention in search is unnecessary because Google’s dominant position in the search market is solely and directly attributable to its continued innovation and adaptation to consumer demands, not any anticompetitive conduct. The product that search engine users demand is high-quality, relevant search results. Google’s conduct is unanimously consistent with providing that product. Google’s spam-fighting efforts, constant improvement of its search algorithm, and development of Universal Search all benefit consumers.

There are also many examples, such as Knol and Orkut, where Google does not give its own services preferential treatment over those of competitors precisely because doing so would be contrary to the goal of delivering high-quality, relevant search results. Google simply responds to the pressure to innovate and adapt to consumer preferences, which is both consistent with a properly functioning market and ultimately beneficial to consumers.

Illogical Remedies

The proposed remedies are as illogical as any regulation is unnecessary. First, “relevancy” is not an objective concept and by definition, determining relevancy requires discriminating against some

content in favor of other content. No one has a right to a top spot, and the fact that Google, in some cases, discriminates in favor of its own services over that of competitors is not in and of itself anticompetitive, especially since the motivation for doing so is delivering the information most relevant to consumers.

Second, because top spots in a search result list are scarce, any sort of adjudication system for ranking disputes is illogical because that would envelop search engines in a net of never-ending disputes over top rankings. Adjudication would also require disclosure of some or the entire algorithm, a remedy that even those in the Search Neutrality camp admit goes too far.

Self Regulation

Search engines currently self-regulate and should be allowed to continue to do so because there is no evidence of harm to consumers and any possible remedy entails greater costs than benefits. Allowing the currently competitive search market to continue unimpeded by government intervention will continue to drive innovation, which will consequently benefit consumers.

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