AMERICAN ECONOMIC LIBERTIES PROJECT

Google Search Trial Fact Sheet

United States v. Google LLC
US District Court, District of Columbia
Case No. 1:20-cv-03010-APM

Basics and Timeline

In October 2020, the Department of Justice (DOJ) and 11 State Attorneys General (AGs) filed a complaint against Google, alleging it had illegally monopolized the market for general internet search.

- The DOJ alleges that Google uses pay-to-play agreements – paying billions of dollars to manufacturers like Motorola and Samsung, wireless carriers like Verizon and AT&T, and browser developers like Apple Safari and Mozilla Firefox – to feature its search engine on their devices and platforms and force users into using its search engine.
- These agreements forbid the preinstallation of any competing search engine, denying any potential competitors to Google from entering the market. Would-be competitors who can't afford to cut billion-dollar checks to make their search engines accessible face an insurmountable barrier to entry.

Parties to the Case

- The case was brought by Trump AG Bill Barr and 11 Attorneys General. It is now proceeding under the leadership of AG Merrick Garland and is joined by 49 states and additional territories.
- The trial is scheduled to start on September 12, 2023, before Judge Ahmit Mehta of the DC District Court. The trial is anticipated to last 8 weeks
- Named third parties to the case include corporations with whom Google maintains default search agreements and would-be competitors, including AT&T, Microsoft, Sonos, Oracle, T-Mobile, DuckDuckGo, Amazon, GroupM, Apple, Verizon, Samsung, and Yelp.

The Claims

Google has illegally maintained a monopoly over Internet search by purchasing default search status.

- Google is a monopoly with a 90%+ share of the market for general search services. Because of its large market share in general search services, Google generates approximately 60% of its annual revenue (>$162B in 2022) came from various search-related advertising markets.
- Google is accused of illegally maintaining this monopoly by paying other companies to keep Google as the default search engine.
- Specifically, Google enters into exclusionary default search agreements across nearly every distribution channel, including web browsers (Apple Safari[1] and Mozilla Firefox), Android device manufacturers (Samsung, LG, and Motorola), and wireless carriers (AT&T, T-Mobile, and Verizon). One estimate suggests Google paid over $48 billion in 2022 for these agreements.
- Through these agreements, Google has illegally excluded rival search engines from improving their own products, principally through the advantages of scale and threshold access to users. Smaller players in the market include Yahoo!, DuckDuckGo, Brave, Ecosia, and Neeva.

Google's tactics deny rivals the ability to compete with Google and stifle innovation.

- For example, DuckDuckGo provides something extremely valuable and desirable to consumers that Google cannot: real privacy. But due to Google's anti-competitive behavior, they cannot compete fairly.
- In June 2023, rival upstart Neeva (co-founded by Google's former head of Google's ad business) shut down its search engine, despite claiming that they had created a better search product than Google by emphasizing human-created information and creating a more visual page. The company cited Google's search engine defaults as a key barrier.

Google's Bad Behavior

Google has defied court orders and is accused of illegally destroying evidence in both this case and the separate Google Play Store lawsuit

- In March 2023, a multistate coalition of State AGs secured a court order sanctioning Google for its destruction of evidence in a separate lawsuit alleging Google Play Store illegally maintained a monopoly over smartphone app distribution.
- The DOJ has filed a similar motion for sanctions in this case (Dkt. No. 512), alleging that Google violated court orders by conducting sensitive business on platforms that auto-delete records. That motion is still pending before the Court.

[1] A separate federal class action lawsuit alleges that, in addition to paying Apple for default search status, Google is also illegally paying Apple to not develop its own search engine. C.C.S.I. v Google LLC, U.S. District Court, N.D. Cal., Case No. 5:21-cv-10001.

Google is facing several other major trials over the next 6 months, including:

- The Google Privacy lawsuit, a class action alleging deceptive and illegal collection of users' private information while using Google Chrome's "incognito" mode (also scheduled for trial on November 6, 2023); and
- Two Google Ad Tech lawsuits brought by the DOJ and State AGs, respectively, alleging Google's illegal monopolization of advertising technologies.

Potential Remedies[2]

The DOJ's Complaint has requested, broadly, both structural and behavioral remedies.

- The Court has split the proceedings, so that evidence in support of remedies will be presented at a separate proceeding from the pending liability trial.

Structural remedies could include:

- The separation of various Google products from parent company Alphabet, including breakouts of Google Chrome, Android, Waze, or Google's artificial intelligence lab Deepmind.

Behavioral remedies could include:

- An "out-of-the-box choice" remedy, which would allow consumers to choose their default search engine among a list of rival search engines;
- A mandatory license for fair market value of Google's web crawling tech, which would allow rivals to access Google's illegally-acquired benefits of scale;
- Restrictions on Google's ability to self-preference its own products or services; or
- Restrictions on the prioritization of advertised links in search engine result pages (SERPs).

[2] It is not presently known what remedies will be sought by the Department of Justice, and those remedies will likely be proposed in proceedings separate from the pending liability trial. These potential remedies are proposals of the American Economic Liberties Project.