



**EUROPEAN COMMISSION**

**[CHECK AGAINST DELIVERY]**

**Joaquín ALMUNIA**

Vice President of the European Commission responsible for Competition Policy

## **Statement on the Google investigation**

Press conference

**Brussels, 5 February 2014**

I am here to announce an important step forward in the ongoing Google investigation.

When we opened our investigation in November 2010, four types of business practices by Google raised concerns from a competition point of view.

Our first two concerns relate to specialised search services, such as product, hotel, restaurant or flight search engines – or so-called "vertical" search. On its web search results, Google was displaying its own specialised search services in a more prominent manner than services of competitors. Google was also using content from competing specialised search services without their consent.

The two other concerns relate to online advertising. On the one hand, Google imposed exclusivity agreements on publishers who wanted to use its advertising programmes, and on the other hand it imposed restrictions on advertisers who were using those programmes.

During the last 3 years, we have been discussing with Google whether the Commission's concerns could be removed through binding commitments.

Why did I prefer to explore this route, and not to advance from the beginning on the more adversarial path?

As you know, since 2004 it has been possible for the Commission to adopt decisions based on either of these two different routes. Both routes are able to eliminate competition concerns.

We also cannot forget that the purpose of antitrust enforcement should be to allow consumers and users to benefit from competition on the merits as soon as possible.

My clear preference since the beginning of the Google case has been to reach a legally binding commitments decision which addresses our concerns.

After a careful analysis of the last proposals we received from Google last month, and intense negotiations that managed to further improve what Google sent to us in mid-January, I believe that Google's new proposals are capable of addressing the competition concerns I set out to them. Therefore, from now on we will move forward towards a decision based on commitments.

The alternative of adversarial proceedings would take many years, with many uncertainties, and would not have the same immediate impact. It would also not necessarily deliver a better outcome for consumers given the specific characteristics of this market.

As you know, I rejected Google's previous proposals twice, and I told them that the third try should be the last one. If the proposals were again unsatisfactory, we will be obliged to go in a different direction.

The latest round of negotiations over the last weeks focused on how Google would ensure that rival specialised search services can fairly compete with Google's services.

Our concern was that, given the favourable treatment of Google's own services on its page, competitors' results which are potentially as relevant to the user as Google's own services – or even more relevant – could be significantly less visible or not directly visible, leading to an undue diversion of internet traffic.

In this context, three issues have been of critical importance to me in the most recent discussions with Google.

First, given the importance of the choice of visual formats in attracting user clicks, it is essential that the presentation of rival links is comparable to that of the Google services.

Secondly, given the speed with which Google develops its services, that comparability of presentation of rival links has to be ensured dynamically over time. This means that if Google improves the presentation of its services, so must the presentation of rival links.

Finally, in a fast-moving market, any commitments must retain their relevance throughout their lifetime. This means that any new vertical search services developed by Google must also be subject to the commitments.

To address these concerns, Google has finally accepted to guarantee that whenever it promotes its own specialised search services on its page, the services of rivals will also be displayed in a comparable way.

In practice, this means that when Google promotes one of its own specialised search services, there will be three rival services also displayed prominently on the page, in a way that is clearly visible to users.

These alternatives will also be attractive: for instance, if Google has a picture to promote its services, which is a key element in attracting users, rival services will also have such a picture. The experiments we received during the market test showed the importance of pictures in attracting user click-through.

And this principle will apply not only for existing specialised search services, but also for future ones: if tomorrow Google decides to display videos, rivals will also be able to display videos.

Let me now show [some examples](#) of what the situation is today and what Google has now proposed.

In this first slide, you see the current situation for a search for a gas grill. At the top of the page, you can see only the Google specialised search service with associated pictures.

The second slide shows how this would change with Google's proposal. There are now links to three rivals next to the three Google specialised results. These now have pictures of the same size and quality as Google's own. What is more, the rivals would have full control of how their links look and where they take the user. This is therefore a significant improvement.

The third slide shows what would happen under Google's new proposal on mobile. The size of the screen obviously constrains how many results can be shown overall. Nevertheless, you can see that next to Google's specialised search results, there is now one rival link which is displayed directly with a picture. There are also a number of additional Google and rival results if the user chooses to scroll across the screen. This is a significant improvement compared to Google's previous proposal where rivals were only accessible after going through an intermediary screen and where even at that point, they did not have the possibility to display a picture.

The fourth slide shows the current situation for a local search, namely for cafés in Paris. You can see that the page is primarily taken up by Google's specialised results. The fifth slide shows Google's new proposal. Here, there are no pictures because Google's own results do not have that feature. However, what is significant is that the three rival links, which have a logo and descriptive text, are in fact prominently displayed on top of the Google specialised results. The final slide shows this situation in tablets, where you can again see the high degree of prominence that the rival links have.

Of course, for all these situations, it is not possible to show all rivals, in the same way that that could not happen on Google's general web search results. There therefore has to be a selection and Google's proposal provides an objective mechanism for all scenarios.

Where Google does not charge for inclusion in its specialised search service, such as in local search, rivals will not be charged to participate in the rival links. Instead, they will be chosen based on their ranking in natural search.

Where Google charges merchants for inclusion in its specialised search service, such as in Shopping, the three rivals will be chosen on the basis of a dedicated and transparent auction mechanism.

This will give users a real choice between different options. It will then be for users – and only for them – to choose the one they like best. This way, both Google and its rivals will be able and encouraged to innovate and improve their offerings.

Certain stakeholders consider that Google should not automatically be allowed to show its own specialised search services. I disagree. The objective of the Commission is not to interfere in Google's search algorithm. It is to ensure that Google's rivals can compete fairly with Google's own services. Google should not be prevented from trying to provide users with what they're looking for. What Google should do is also give rivals a prominent space on Google's search results, in a visual format which will attract users.

Some complainants or competitors have expressed the view that Google should not require them to pay to feature prominently on Google's page. Google's proposals do not require payment for all forms of rival links. It is only required for the commercial categories such as shopping comparators, where Google charges for inclusion in its own specialised search service. For these commercial categories I consider the auction mechanism an efficient way to select rival links.

In the three other areas of concern we had also achieved significant concessions:

- Google will give content providers an extensive opt-out from the use of their content in Google's specialised search services if they so wish, without fear of retaliation. Up until now, Google was able to copy content from rivals without restriction.
- Google will remove exclusivity requirements in its agreements with publishers for the provision of search advertisements; and
- Google will remove restrictions on advertisers being able to run their search advertising campaigns across Google's and competing search advertising platforms.

Let me now draw your attention to one crucial point of Google's proposal. Google's compliance with this package of commitments would be supervised by an independent monitoring trustee who would play an active role in advising the Commission in how Google would implement the commitments.

Another point is the subject of much discussion these days: should we again submit the new proposals to a market test?

We have sought feedback from interested parties twice on Google's previous proposals.

These two exercises - with a consultation of more than one hundred stakeholders each time - have proved extremely useful for our analysis, although some concerns by market players were of course different from ours. The mission of the Commission is to protect competition to the benefit of consumers, not competitors.

The relevant opinions of stakeholders - and the information we needed from them - are already well-known to the Commission. So I consider that at this point we do not need a new market test. There is no requirement to do so as the structure of the commitments remains unchanged.

Rather, we will now engage with all the 18 formal complainants in this case by outlining transparently and in detail in pre-rejection letters the reasons why we believe Google's final offer can now address the competition concerns that have been identified. Those letters will also explain why we do not believe that other issues raised by complainants are founded.

I will analyse thoroughly the feedback they will provide and only after that will I propose to the College of Commissioners to adopt a final decision. This process will take a number of months.

I would also like to stress that, once the next steps in the procedure are completed and the Commission in the next months adopts - as I hope - a final decision making legally binding the commitments, this would not imply that we will not investigate other business practices by Google. In fact, we are already doing so, since we are currently looking at allegations relating to the Android operating system and in the Motorola case we are dealing with Standard Essential Patents.

To sum up, the concessions we extracted from Google in this case are far-reaching and have the clear potential to restore a level playing-field in the important markets of online search and advertising. No antitrust authority in the world has obtained such concessions. Remember that our colleagues from the FTC in the US investigated the same issues. Whilst it is true that they faced a different market situation, they did not require such far-reaching action from Google.

Moreover, these commitments are forward-looking and enforceable. They would ensure competitive conditions are guaranteed for the years to come. I am convinced this would help avoiding that in this fast-evolving sector the problems we've seen in the past are repeated in the future.