

Statement by Commissioner Vestager on Commission decision to fine Google €2.42 billion for abusing dominance as search engine by giving illegal advantage to own comparison shopping service

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Today, the Commission has decided to fine Google €2.4 billion for breaching EU antitrust rules. Google has abused its market dominance as a search engine by giving illegal advantages to another Google product, its comparison shopping service. Google must end the conduct within 90 days or face penalty payments.

The EU's antitrust rules apply to all companies that operate in the European Economic Area, no matter where they are based. Their purpose is to ensure competition and innovation for the benefit of European consumers.

Google has come up with many innovative products and services that have made a difference to our lives. That's a good thing.

But Google's strategy for its comparison shopping service wasn't just about attracting customers. It wasn't just about making its product better than those of its rivals. Instead, Google has abused its market dominance as a search engine by promoting its own comparison shopping service in its search results, and demoting those of competitors.

What Google has done is illegal under EU antitrust rules. It has denied other companies the chance to compete on the merits and to innovate. And most importantly, it has denied European consumers the benefits of competition, genuine choice of services and innovation.

Facts of the case

So, what happened in this case?

Google's flagship product is the Google search engine. It provides search results to consumers, who pay for the service with their data. Every year, Google makes almost 80 billion US dollars worldwide from adverts, such as those it shows consumers in response to search queries. So the more consumers see and click on those adverts, the more revenue Google generates.

In 2004, Google entered the separate market for comparison shopping with a product called "Froogle". Essentially, Froogle allowed consumers to compare products and prices online and find deals from retailers of all types. Over

the years, Google re-named its comparison shopping service twice, first to “Google Product Search” in 2008 and then “Google Shopping” in 2013.

Froogle was not the first in this market. A number of established players were already competing in the same space. Froogle, on the other hand, did not perform well. As Google itself put it in an internal document from 2006 – “*Froogle simply doesn’t work*”.

By contrast, Google’s search engine worked very well. And it was also a significant source of traffic for comparison shopping services.

So, in 2008, Google made a fundamental change to its strategy. Google started to give its own product a significantly better treatment than rivals. In search results, Google systematically gave prominent placement only to its own product. Google also demoted rival comparison shopping services, which means a lower ranking in generic search results.

So, what does this mean in practice? Imagine, you want to look for a product online. You type the product into the Google search engine. What you will see right at the top of the page is a box with Google Shopping’s results, with pictures and a selection of deals from different retailers. They are placed above the results that Google’s generic search algorithms consider most relevant. This happens whenever Google wants to present comparison shopping results in response to a search query. Sometimes, results are also displayed in a reserved place on the right-hand side.

At the same time, Google has demoted rival comparison shopping services in its search results. The evidence shows that even the most highly ranked rival appears on average only on page four of Google’s search results. Others appear even further down.

This means that Google Shopping is much more visible and other comparison shopping services are much less visible to consumers. As a result, competitors are much less likely to be clicked on. The Commission found evidence of sudden drops in clicks on certain rival websites of more than 90%, after Google applied demotions. Some of them adapted and managed to recover some traffic, but never in full.

Even on desktops, 95% of all user clicks are on the first page of Google’s search results. In fact, the top generic search result receives about 35% of all clicks. This tendency is even stronger on mobile devices. Furthermore, we found evidence that the top generic search result, when moved to the third rank, is likely to receive about 50% less clicks.

In short, visibility and traffic are two sides of the same coin. And I mean “coin” in the literal sense – the more consumers click on comparison shopping results, the more money Google makes. Google’s practices have therefore allowed Google Shopping to make significant gains in traffic at the expense of its competitors.

Breach of EU antitrust rules

Our investigation assessed whether these practices breach EU antitrust rules.

Market dominance is, as such, not a problem under EU antitrust rules. However, a market that is already dominated by one company needs extra vigilance to ensure competition on the merits. And we also have to avoid that this dominance affects competition on the merits in other markets.

That's why EU antitrust rules put special responsibilities on dominant companies. They cannot abuse their strong market position to hinder competition in the market they dominate or in any other market. In other words, they are not allowed to abuse their power in one market to give themselves an advantage in another.

Our investigation proved that Google has done exactly that.

First, we concluded that Google is dominant in general internet search markets in all 31 countries of the European Economic Area – even if Google continues to dispute this.

We have shown that the Google search engine holds very high market shares of over 90% in most European countries. This has been the case since at least 2008, which is the period we investigated. There are high barriers to entry in the market: the more consumers use a search engine, the more attractive it becomes to advertisers. The profit generated can in turn be used to attract even more consumers. Similarly, the more data a search engine gathers from consumers, the better equipped it is to improve its results.

Second, our decision found that Google has abused this dominance and seriously harmed competition in comparison shopping markets. Google gave an illegal advantage to its comparison shopping service by promoting it in its search results and demoting rivals.

Google has implemented these illegal practices in Europe everywhere it offers comparison shopping services. It started from as early as 2008 in Germany and the United Kingdom, followed by France, Italy, the Netherlands, Spain, then the Czech Republic and finally Austria, Belgium, Denmark, Norway, Poland and Sweden. 418 million citizens live in these 13 countries. So, Google's practices have deprived millions of European consumers of the full benefits of competition, genuine choice and innovation.

Consequences from this decision

The fine of €2.4 billion reflects the serious and sustained nature of Google's violations of EU antitrust rules.

The decision requires Google to stop its illegal conduct within 90 days. Google must respect a simple principle:

It has to give **equal treatment** to rival comparison shopping services and to its own. It has to apply the same methods and processes to position and display its own and rival comparison shopping services in its search results.

This means that Google cannot simply stop doing what it is doing now and replace it with other practices that have the same or equivalent anti-competitive effect.

It is Google's sole responsibility to ensure compliance and it is for Google to explain how it intends to do so. I have no reason to believe that Google will not comply.

But regardless of which option Google chooses, we will monitor Google's compliance closely. This means that this issue will remain on our desks for some time. If Google doesn't comply with its obligations under the decision, it would be subject to a penalty. That would have to be established in a separate Commission decision. We can impose fines of up to 5% of the average daily worldwide turnover of Alphabet, Google's parent, for each day of non-compliance. And it's backdated from the date of that decision to when the non-compliance started.

In addition, anyone who has suffered damage from Google's illegal behaviour can claim compensation from Google before national courts.

So, this decision requires Google to change the way it operates and face the consequences of its actions.

Process

Since I took office in November 2014, I have given high priority to this case. Because various attempts to find a negotiated solution with Google had failed, I chose to take the case forward in a different way. My services first updated the information in the files. In April 2015 we then sent our Statement of Objections to Google, followed by a supplementary one in July 2016.

Before reaching our conclusions we have analysed huge quantities of data. This includes 5.2 Terabytes of actual search results from Google. That's the equivalent of 1.7 billion search queries, or about 460 million copies of my statement here today. It would take me more than 17,000 years to read them out.

Our decisions have to be based on firm evidence. We have to prove our points, even if they seem intuitive. Let's take, for example, the impact of prominent placement in Google's search results on traffic. First, we analysed studies on user click behaviour, which indicated that there is a link. But we did not stop there. We also accounted for the possibility that there may be good reasons why users click on the top result more often – namely, because they are more relevant. So, we simulated what happens if you swap the ranking of generic search results. This confirmed that the same result receives significantly more traffic, when ranked higher up.

Our investigations never take place in isolation. We had many exchanges with Google to hear its views. And we had many exchanges with its customers and competitors. Some of them, including US companies, were actively involved as complainants or interested third parties. And hundreds of companies took the time to reply to our questionnaires and to provide the Commission with essential information.

So, we took this decision after a thorough investigation that respected

Google's rights of defence. We will publish the decision for all to see, as soon as we agree with Google and third parties on any confidential business secrets that need to be removed.

Next steps

We are also making good progress with our two other pending inquiries into certain Google practices concerning Android as well as search advertising. Our preliminary conclusion in relation to both practices is that they breach EU antitrust rules.

Finally, a few words on concerns that Google may have abused its dominance as a search engine to give an illegal advantage to Google products other than its comparison shopping service. We have been looking into these. And today's decision is a precedent, which can be used as a framework to analyse the legality of such conduct. At the same time, we would have to take account of the characteristics of each market and the facts in a specific case.

Conclusion

But most importantly, what today's decision shows is that, in Europe, companies must compete on the merits, regardless of whether they operate online or on the high street, if they are European or not. We invite you to make the most of our European market with more than 500 million citizens, so 500 million potential customers. And, we congratulate you for being successful.

But the applause stops when you stop competing on the merits. You will never get a free pass to stop competing on the merits, neither in the market you dominate nor in other markets.

Google has given its comparison shopping service an illegal advantage by abusing its dominance in general internet search. It has promoted its own service and demoted rival services. It has harmed competition and consumers. That is illegal under EU antitrust rules.

And that's why we have taken today's decision. So that European consumers can enjoy the full benefits of competition, genuine choice and innovation.