

May 18, 2020

Makan Delrahim
Assistant Attorney General for Antitrust
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Assistant Attorney General Delrahim,

Public Knowledge urges you to consider the attached research paper by Professor Fiona Scott Morton of the Yale School of Management and David Dinielli of the Omidyar Network as you proceed to investigate the tech sector. The paper describes a broad set of business practices that Google has engaged in over many years that appear to be designed to control the digital advertising ecosystem to the exclusion of competitors. If the Division finds confirming facts, the analysis provided in this paper should serve as a guide to what a comprehensive antitrust case against Google in the digital advertising market should look like.

It would be hard to deny that Google wields market power across the digital advertising market.¹ It acquired advertising technology companies, then used superior data access in ways that disadvantage its remaining rivals. Google withheld data in ways that discourage publishers and advertisers from working with alternative ad tech providers *concurrently* with Google, by limiting interoperability between Google services and those of competitors. It also withheld data in ways that discouraged publishers and advertisers from working with alternative ad tech providers *instead* of Google, by limiting access to effectiveness and fraud data so that competitors could not show that their service was better than Google's. Google used its control over a wide variety of user-facing services, such as Chrome and Android, both for the data gleaned from them, which informs the advertising technology, as well as to favor those services and collect an even greater share of the total ad spend. Google also competes directly with publishers through its own advertising inventory in the form of Search and YouTube, giving it the incentive and ability to steer advertisers to those properties instead of others it doesn't own.

Recent news stories indicate that the Antitrust Division may be preparing for litigation against Google for anticompetitive conduct in its digital advertising and search businesses. As part of that investigation, the Division surely has access to facts and data unavailable to the authors or the public. The best evidence publicly available comes from the United Kingdom's Competition and Markets Authority (CMA) in their Interim Digital Report, and it is largely this evidence on which the paper is based. The analysis should be

¹ According to the UK CMA, Google controls an estimated 90% of the publisher ad server market, 40 to 60% of the supply side platform market, 50 to 70% of the demand side platform market.

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highly probative for the Division's assessment of Google's conduct in the U.S., since it appears that Google's market positioning and conduct have been similar in the U.S. and the U.K.

If the facts support a comprehensive case along the lines described in this paper, the Division should proceed to file a monopolization complaint that includes the full variety of troubling conduct. The paper enumerates many components of a strategy to block competition, and it will be necessary to address the entirety of that strategy in order to address the harms. Enforcing our nation's antitrust laws here would not interfere with the technology that fuels the internet's enormous potential. We believe Google is capable of delivering digital ads and its other services in a way that does not harm competition. Traditional antitrust remedies such as divestitures, data sharing, interoperability, and contractual limitations can provide meaningful market corrections.

Thank you for your attention to this important new research and analysis. We welcome the opportunity to discuss these issues with you.

Sincerely,

Gene Kimmelman
Senior Advisor
Public Knowledge

Charlotte Slaiman
Competition Policy Director
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