



EUROPEAN COMMISSION

MEMO

Brussels, 5 February 2014

Antitrust: Commission obtains from Google comparable display of specialised search rivals- Frequently asked questions

A) The Commission's investigation and Google's proposal

What is the Commission objective in this investigation?

The Commission's objective is to address the four competition concerns it has identified during its investigation. The aim is to restore quickly the conditions for competition on the merits in the areas of specialised search and search advertising to the benefit of consumers. In the field of specialised search, the Commission's aim is not to artificially send traffic to sites that compete with Google, but to ensure that users are well informed of the existence of these competing sites and of their relevance to the user's queries, and are given the possibility to access them.

The advantage of a decision that would turn Google's proposed commitments into legally binding obligations is that it would have a material impact in the market sooner than if the Commission were to pursue adversarial proceedings. Commitments are carefully monitored by the Commission and non-compliance with them can lead to significant fines.

What are the Commission's competition concerns and what does Google propose to address them?

The commitments proposal covers the four concerns raised by the Commission.

1) The first concern relates to **the way Google displays specialised search services (such as hotel, restaurant or flight search engines)** on its own web search results pages. Within its web search results, Google displays its own specialised search services more favourably than competing services. In many instances, relevant competing services are as a consequence more difficult for the user to find. Users are not informed of this favourable treatment of Google's own services.

To address this concern, Google proposes to implement a threefold remedy for all its current and future specialised search services and for all search entry points (i.e. irrespective of how the search query is made).

- Users will be informed by a label of the fact that Google's own specialised search services are promoted.
- These services will be graphically separated from other search results, so the distinction with normal web search results will be clear.
- For relevant specialised search services, Google will display prominent links to three rival specialised search services in a format which is visually comparable to that of links to its own services. For instance, if the Google links have images, the rival links will have images as well, including on mobile devices.

Rivals will have control of how they want to present their offerings and hence their business model.

In instances where Google does not charge for inclusion in its specialised search service, rivals will not be charged to participate in the rival links. The three displayed rivals will be chosen from a pool of eligible specialised search competitors using Google's normal web search algorithm.

In instances where Google charges for inclusion in its specialised search service, the three rivals will be chosen from a pool of eligible specialised search competitors based on a dedicated auction mechanism.

Illustrations of how the remedy would apply can be seen in the following screenshots:

2) The second concern relates to **the way Google uses content from competing specialised search services** in its own offerings. Google uses on its own specialised search sites material such as user reviews from the websites of its competitors, thereby benefiting from the investments of competitors without their prior authorisation - and sometimes even against their explicit will. The Commission has not expressed a concern about the appropriate remuneration for copyright-protected material.

To address this concern, Google proposes to allow third parties to opt out from the use of their content in Google's specialised search services without undue impact on their ranking in Google's general search results or on their ranking in Google's AdWords programme. A general opt-out will be open to all web sites, on a subdomain by subdomain basis. A more specific opt-out with finer granularity and more control over content will be accessible to news publishers only, for the control of the use of their content in Google News.

3) The third concern relates to Google imposing **exclusivity requirements in agreements with publishers for the provision of Google search advertisements** displayed on their web sites. Google's agreements with publishers result in (de facto) exclusivity. This means that these agreements require publishers to obtain all or most of the search advertisements displayed on their web sites from Google. Google's competitors therefore have only limited access to those publishers.

To address this concern, Google proposes no longer to include in its agreements with publishers any written or unwritten obligations that would require them to source online search advertisements exclusively from Google.

4) The fourth concern relates to the **portability of online search advertising campaigns from Google's AdWords to platforms of competitors**. Google does not allow software developers to offer software tools that make it easy to manage and transfer search advertising campaigns across AdWords and other search advertising platforms such as Microsoft's AdCenter.

To address this concern, Google proposes no longer to impose obligations that would prevent advertisers from porting or managing search advertising campaigns across competing advertising platforms.

B) Process and next steps

What process has the Commission followed?

The Commission opened proceedings in November 2010 (see [IP/10/1624](#)). It began the investigation of the case with a wide consultation which involved the sending of questionnaires to about one thousand market participants, and the analysis of over six hundred replies.

Following this analysis, the Commission set out its competition concerns publicly in May 2012 (see [SPEECH/12/372](#)). Google then proposed a first set of commitments that was

market tested in April 2013 (see [MEMO/13/383](#)). After having analysed the feedback from that market test, the Commission took the view that substantial improvements of the commitments were necessary to address its competition concerns adequately. Google submitted a revised proposal in October 2013. The Commission asked feedback on that second proposal from all parties who had replied to the market test, and in addition all complainants and all other parties showing an interest in the case. After having analysed that second set of feedback, the Commission took the view that more improvements of the commitments were necessary as regards the competition concerns related to specialised search. Google has now made a new proposal.

What are the next steps?

All complainants will be formally informed of the reasons why the Commission is of the preliminary view that this new version of the commitments can address its competition concerns adequately. Complainants will have a reasonable period to comment and inform the Commission of their own view. The Commission will look at these comments before it takes any final decision on whether to make Google's proposal legally binding.

Is it common for the Commission to end antitrust investigations by accepting commitments?

The possibility for a company subject to an antitrust investigation to propose commitments which the Commission can decide to make legally binding was established in 2004 by Article 9 of the EU Antitrust Regulation (Regulation 1/2003). Since this possibility was established, the Commission has taken 30 decisions making such commitments legally binding on companies.

Using this possibility may be particularly useful to swiftly restore competitive conditions on a market, for example in fast-moving markets in the IT sector. In particular, the Commission has accepted commitments by Microsoft (see [IP/09/1941](#)), Apple (see [IP/12/1367](#)) and IBM (see [IP/11/1539](#)) and turned them into legally binding obligations.

If the commitments are made legally binding, does this mean the Commission will stop investigating Google?

If the commitments are made legally binding, the Commission would not further investigate the matters covered by the commitments. However, this does not mean that it would provide Google immunity against any antitrust investigation by the Commission. Firstly, the Commission would monitor the implementation of any commitments by Google. Secondly, the Commission would continue, where appropriate, to investigate issues which are not related to the four concerns covered by the commitments. For instance, the Commission is continuing its investigation concerning Google's alleged abuse of a dominant position in relation to Android.

What would be the role of the monitoring trustee?

The proposed commitments foresee a monitoring trustee. The monitoring trustee would assist the Commission in ensuring that Google faithfully implements any commitments. Monitoring trustees cannot legally take decisions on behalf of the Commission, but they can provide the Commission with technical advice on any aspect related to the implementation of commitments. For instance, third parties would have the opportunity to raise potential compliance issues with the monitoring trustee.

The monitoring trustee would also provide the Commission with reports on the implementation of the commitments on a periodic basis, as well on an ad hoc basis when necessary. In particular, the monitoring trustee would analyse all new implementations of Google's specialised search services and check whether they comply with the principles set out in the commitments.

C) Google screenshots

1) Shopping

The Google page today:

Google

Web Shopping Maps Images Videos More Search tools

About 8,240,000 results (0.20 seconds)

[Shop for gas grills on Google](#)

				
GP-Grill Gas Grill - black/... £141.96 www.Ambient...	Falcon Dominator ... £888.00 Catering Appl...	Outback Omega 250 ... £129.00 Outback Direct	Blue Seal Cobra CS9 ... £897.60 Carlton Sales	Burco 444449459 ... £850.50 e-tradecounter

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Google Shopping results





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Alternatives





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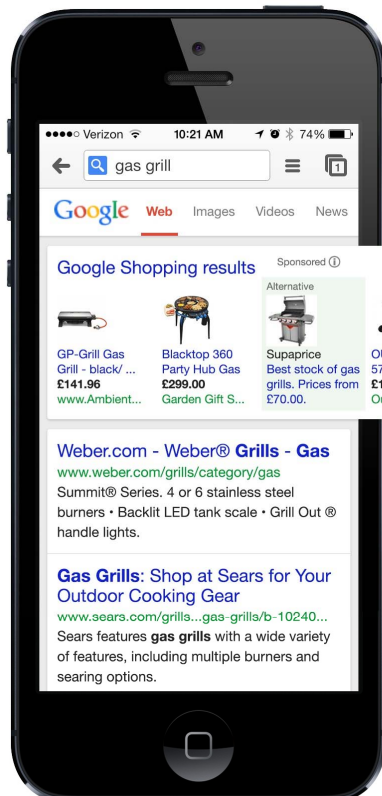
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Natural Gas Grills - Home Depot
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Natural **Gas Grills** - **Gas Grills** - Grills & Grill Accessories - Outdoors at The Home Depot.



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Google

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Web

Images

Maps

Vidéos

Actualités

Plus ▾

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Café de Paris
plus.google.com
3,8 ★★★★★ 25 avis de Google

Café de la Paix
www.cafedelapaix.fr
3,9 ★★★★★ 624 avis de Google

Les Deux Magots
www.lesdeuxmagots.fr
3,8 ★★★★★ 625 avis de Google

Delaville Café
www.delavillecafe.com
3,6 ★★★★★ 91 avis de Google

Café Beaubourg
www.beaumarly.com
3,6 ★★★★★ 163 avis de Google

Le café A
www.facebook.com
3,9 ★★★★★ 61 avis de Google

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10 Rue de Buci
Paris, France
+33 1 46 34 84 11

5 Place de l'Opéra
Paris, France
+33 1 40 07 36 36

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Paris, France
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34 Boulevard de Bonne Nouvelle
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6

Screenshots with implementation of commitments:

Google

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Search for highly rated Paris cafes

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Les Deux Magots
www.lesdeuxmagots.fr
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Café de Paris
plus.google.com
3.8 ★★★★★ 25 Google reviews

Café Beauvourg
www.beaumarly.com
3.6 ★★★★★ 163 Google reviews

Le Procope
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des Près
Paris, France
+33 1 45 48 55 25

C 10 Rue de Buci
Paris, France
+33 1 46 34 84 11

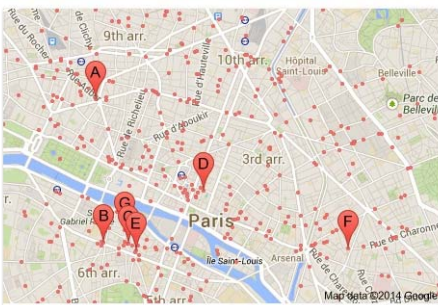
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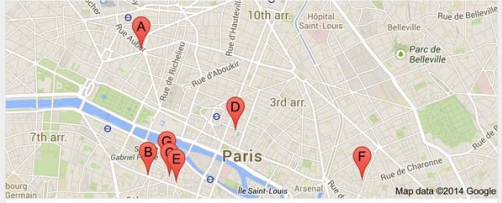
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