



September 15, 2020

The Honorable Mike Lee
Chairman
Subcommittee on Antitrust, Competition
Policy, and Consumer Rights
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Amy Klobuchar
Ranking Member
Subcommittee on Antitrust, Competition
Policy, and Consumer Rights
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Chairman Lee and Ranking Member Klobuchar:

Consumer Reports appreciates the Subcommittee's holding this hearing to continue its examination of the state of competition in the online marketplace, focusing here on the impact of Google's practices on competition for advertising.

Throughout our 80+ year history, Consumer Reports has emphasized the fundamental importance of competition for ensuring a marketplace that works for consumers. Competition gives consumers choice, a source of powerful leverage against the power of the corporations that manufacture and sell the products and services that consumers need and want. And this leverage – the ability of consumers to go elsewhere for a better deal – forces manufacturers and sellers to pay more attention to serving the interests of consumers.

This has been true since marketplaces were created many centuries ago. But it has taken on a new importance in our era, as the ever-increasing use of the internet to connect us all for commerce and communication has led to widespread dependence on a handful of powerful giant online platforms for those connections.

The internet has ushered in breathtaking technological change that has revolutionized commerce and communication, in extraordinarily beneficial ways. But a principal promise of the internet is being only partially realized. Many hoped the internet would dramatically open the marketplace, empowering consumers to more conveniently and widely comparison shop among sellers from across the country and around the world. And it has. Unfortunately, the full promise of the open internet and online marketplace is being undermined by the use of often

opaque digital algorithms reducing market transparency and a few online platforms with large market shares setting rules for markets that they also supply and compete in.

Online advertising has undoubtedly revolutionized the capabilities for sellers to reach customers with advertising, and to target that advertising more effectively. Just as the medium of television brought new capabilities, and radio before that, and newspapers and periodical magazines before that. From a competition policy standpoint, the fact that sellers are attracted to these new capabilities is inevitable. But indeed, that is the starting point for examining the issues raised. Online advertising also enables the provision of highly valuable services at no direct cost to consumers. Google search and Facebook are two examples of such services.

Nevertheless, if competition in online advertising markets is not working then consumers will suffer a variety of harms. These might include the lack of new innovative services, higher prices for products and services that use online advertising (reflecting the higher costs of online advertising), and less control over how consumer and citizen data are used.

The large market share, access to and control of vast quantities of data, vertical integration and control of technologies and exchanges that serve online advertising, and incumbency advantages put enormous power in the hands of online platforms, such as Google, Facebook, and Amazon, that provide the forum, and the avid audience, for online advertising. These platforms are in a position to exploit this power to determine whose ads are accepted, where and how often they will appear, and how much they will cost. The platforms can go further, and structure the terms offered so as to incentivize, or force, a seller to reduce its advertising in other outlets. Google's dominating presence at all critical points in the pipeline connecting sellers to online advertising outlets gives it immense power to control the online advertising marketplace.¹

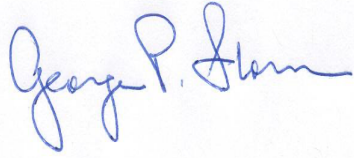
While the immediate brunt of such restrictive practices would be on the other outlets, such as newspapers, magazines, radio, and television, the cost is also borne by consumers who are denied the ability to receive this information from accustomed sources.

The traditional means for assessing these competition concerns are complicated by the vast troves of data that these platforms have collected and accumulated on many millions of consumers and many thousands of sellers, and potentially billions of transactions and interactions between them – as well as additional troves of consumers' personal information harvested from other sources. Google, in addition to its dominant online search engine, offers a variety of its own popular apps that also collect this data on users. This information has the potential to be exploited and abused in ways that we are still in the process of coming to fully comprehend. In addition to harming competition, consumers are vulnerable to direct harm and exploitation. All these potential harms warrant the Subcommittee's assessment.

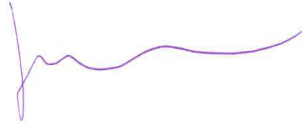
¹ See, e.g., Fiona M. Scott Morton and David C. Dinielli, Roadmap for a Digital Advertising Monopolization Case Against Google, Omidyar Network, May 2020, <https://omidyar.com/wp-content/uploads/2020/09/Roadmap-for-a-Case-Against-Google.pdf>; Dina Srinivasan, Why Google Dominates Advertising Markets, 23 Stanford Tech Law Rev. (2020), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3500919.

We appreciate opportunity to present our perspective on this important issue for competition and consumers.

Sincerely,



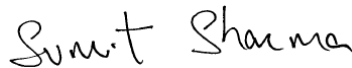
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cc: Members, Subcommittee on Antitrust, Competition Policy, and Consumer Rights