

# Google's review by FTC nearing critical point

November 12 2012, by Brandon Bailey

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After an 18-month investigation into Google's business practices, the Federal Trade Commission is nearing a critical decision on allegations that the Internet giant has unfairly tweaked its popular search engine to tout some of its online services over those of competing firms.

The outcome, however, is far from certain.

Depending on what [antitrust regulators](#) have found, experts say, the commission might pursue legal action that could lead to a massive, epic and expensive court trial. In theory, the FTC could try to force Google to sell or close parts of its business or cough up millions in past profits. Or regulators might negotiate a less drastic settlement, such as an agreement that obliges Google to change the way it labels search results.

The legal and technical issues are complex, said Albert Foer, an attorney and president of the American Antitrust Institute. But with Google having "so much control over what people are going to see" when they search the Internet, he added, "the outcome is of great importance to the entire world."

Google has denied [wrongdoing](#), and an FTC spokesman declined to comment this week. But in recent weeks, [Bloomberg](#) and Reuters news reports citing unnamed sources have said the FTC staff is recommending that the agency file a lawsuit charging Google with anti-competitive behavior. With the presidential election over, many expect the five-member commission will decide how to proceed by the end of this year.

The FTC has focused on claims that Google's search results have emphasized its own products, such as online shopping or travel services, while giving less prominence to smaller competitors in those fields. Officials also reportedly have contacted gadget-makers who use Google's Android [mobile software](#), asking if Google pressured them to block programs that interfere or compete with Google services.

The commission also is looking at whether Google's Motorola Mobility division has complied with legal obligations to let other companies use its patented mobile technology for a reasonable fee.

But it's the search allegations that strike at the core of Google's business, by questioning the elaborate and finely tuned systems that Google employs to answer more than 3 billion queries from the world's Internet users each day.

"This is their heart and soul," said Harry First, a New York University law professor and antitrust expert. "So it would not surprise me if they fight these allegations very vigorously."

For now, Google has taken a low-key approach. While generally declining to comment, the company has pledged to answer regulators' questions.

"We've taken an approach to work with them," Google CEO Larry Page told a tech audience last month. "I'm hopeful that will continue to work well."

Still, he added: "I do think that overregulation of the Internet and restriction of what people can do is a big risk for us."

Google handles more than two-thirds of all Internet search queries posed in the United States, according to research firm comScore. Critics -

including online review site Yelp and shopping service Nextag - have claimed their business suffered because Google tweaked its search functions in ways that gave higher prominence to Google services that compete with those companies.

"Google has become a brand killer," Nextag CEO Jeffrey Katz charged in a guest column for The Wall Street Journal.

In response, Google Senior Vice President Amit Singhal wrote in a blog post that, while the company is constantly fine-tuning its criteria, "we don't make changes to our algorithms to hurt competitors." He added, "We know that if we don't give users the best results, people can and will switch to another search engine."

Given the complexity of Google's search engine, several experts said it's probably not practical for the FTC to dictate changes in the technical algorithms. And on a legal basis, Google has argued that its determination of the best search results is a "scientific opinion" and thus a form of free speech.

As an alternative, Foer said, the government could try to force Google to close or sell some of its online services, to eliminate concerns about favoritism. But he said regulators face high legal barriers to such a drastic move.

Another option involves changing the way Google displays search results - for example, by clearly separating and labeling listings for Google-owned services or items that are paid advertisements. Google already identifies paid listings, although critics say it could make those labels more prominent.

Google has also been in talks with European antitrust authorities over issues similar to those raised by the FTC. Without giving details,

European officials praised Google over the summer for what they described as progress toward an agreement that would resolve those concerns.

One prominent critic is pushing for legal action in the United States, arguing that a trial would force Google to account for its methods in open court.

"We don't like the whole notion of secret negotiations and then a settlement, because that produces worthless results," said Gary Reback, a Silicon Valley antitrust attorney advising several companies that have complained about Google.

But antitrust expert David Balto said a trial would be "a tremendous waste of resources." Balto, a former FTC policy director who has done research sponsored by [Google](#), said the commission could achieve better results by issuing guidelines for all [search](#) engines, rather than dictate the actions of one company.

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