

EU action on Google marks divergence with Washington

April 15 2015, by Rob Lever



Google could be fined more than \$6 bn after the EU charged the firm with abusing its dominant market position

The EU antitrust complaint filed Wednesday against Google represents a sharp divergence with Washington, which dropped a similar investigation two years ago, citing a lack of evidence against the Internet giant.

In early 2013, the US Federal Trade Commission said it lacked a legal basis to bring a case against Google on allegations of abusing its

dominance in Internet searches, but it won commitments from the tech titan to end its "most troubling" practices.

Then-FTC chairman Jon Leibowitz said at the time the regulatory agency had "exhaustively investigated" allegations that Google unfairly manipulated its [search engine results](#) to harm its competitors, but found the evidence did not support a formal action.

To settle the US case, Google agreed to stop misappropriating or "scraping" snippets of content from rivals to make it appear as if it were from Google.

Google also promised to drop contractual restrictions that limit the ability of small businesses to advertise on competing search engines.

Critics of Google said the US settlement amounted to a mere slap on the wrist. But the debate was reignited last month following reports that a confidential FTC staff report recommended a lawsuit be filed in the case.

After the staff report was leaked, some critics called for the FTC to reopen its investigation.

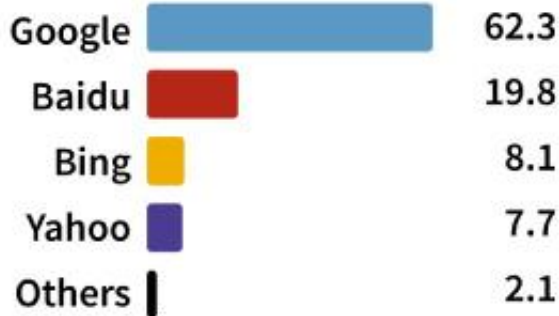
John Simpson of the activist group Consumer Watchdog said it was "unfathomable that the FTC declined to sue the Internet giant in the face of pervasive and persuasive evidence."

Search engines

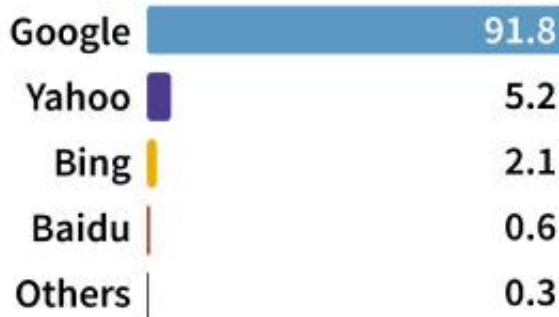
Market share in the world

March 2015, in %

Desktops



Smartphones and tablets



Source: netmarketshare



Search engines' market share in the world in March 2015

No second thoughts

But FTC chairwoman Edith Ramirez said last month there should be no cloud over the decision, and that all five commissioners "agreed that there was no legal basis for action with respect to the main focus of the investigation—search."

"As we stated when the investigation was closed, the Commission concluded that Google's search practices were not, 'on balance, demonstrably anticompetitive.'"

Even though Google is the overwhelmingly dominant search engine used in both Europe and the US, legal experts say it would be difficult to prove manipulation and even more complicated to enforce changes by overseeing Google's complex algorithmic formulas.

But Scott Cleland, a consultant and chairman of the business group NetCompetition, said Google faces a tough task with the European Union complaint.

The case is "highly problematic for Google because EU competition law is much tougher than America's; Google's relative 90 percent market dominance in Europe is much greater than in the US; and Google doesn't have the dominant political influence over Europe that it does with the US executive branch."

The trade group FairSearch, which includes US firms Microsoft and TripAdvisor as well as Europe's Nokia and Twenga, welcomed the EU move as "significant steps toward ending Google's anti-competitive practices, which have harmed innovation and consumer choice."



The EU formally charged Google with abusing its dominant position as Europe's top search engine

But the Washington-based technology lobby group TechFreedom said the EU is "myopic."

"Rather than celebrate the technological evolution of the market, Europe's regulators are still fighting the last war," said Geoffrey Manne, a TechFreedom senior fellow.

"In the nearly four years it has taken the EU to bring this lawsuit, traditional search engines have lost their central relevance, especially for comparison shopping. Today, consumers can and do use mobile apps like Amazon, Facebook and Yelp to find products, restaurants and more."

Until now, Google has managed to fend off most of its major legal challenges in the United States with minimal impact.

Last year, Google agreed to issue at least \$19 million in refunds to consumers whose children made app purchases from its Google Play store without parental consent, as part of a settlement with the FTC over its mobile practices.

In 2013, a US judge threw out a long-running challenge to Google's massive book-scanning project, dismissing copyright challenges from authors and publishers.

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