Google proposes to the European Commission, but hold the confetti

It’s taken nearly three years, but the European Commission and Google last week reached some form of agreement regarding alleged abuses of the search engine’s dominant position in the European Union.

Google’s competitors claim to be victims of anticompetitive behaviour, such as Google favouring its own products and pushing rival search engines’ results down the page.

Initial reports about the settlement leaked out in advance, but the Commission confirmed it on Thursday, releasing a statement inviting comments on the commitments offered by Google.

People have until May 25 to respond to Google’s proposals, after which the Commission may make them legally-binding for five years.

So what are the alleged abuses and the proposals - and, in the end, will Google be punished?

The “abuse”

The complaints about Google in the EU came principally from its competitors that operated “vertical” search engines.

Vertical services focus on a specific part of online content, and include price-comparison sites, sites offering legal and medical information, and travel and entertainment sites.

As well as Google’s “general” search engine, it also runs its own vertical search services, such as Google Maps, Google Flight Search, and mobile application Google Shopper.

Competing vertical search engines such as Microsoft’s Bing and British comparison site Foundem alleged Google was using its dominant position in online generic search and advertising to give it an unfair advantage in these other markets.

Specifically, they claimed Google was giving its vertical services higher and more prominent places in Google’s generic search results.

This would make users more likely to click through to use Google’s other services rather than the services of its competitors.

Google’s proposals

Communications from the Commission during the investigation indicated it viewed Google’s behaviour to amount to an abuse of its dominant position.

In response, Google has offered to label results from its own products and services when they come up in its generic search results.

Specifically, it will label promoted links to its other services and must separate these promoted links from the other search results.

This should mean that when a user sees Google’s search results page, the results for Google’s own services are
in a different part of the page and distinguished from the other results in some way (such as being surrounded by a frame).

Google will also display links to three of its rival vertical search operators close to its own services.

Yet it does not seem that Google has to move its own results to a less prominent position on the page.

**Why bother settling?**

**keso**

There is a very big incentive for Google to reach a settlement with the Commission.

If the case does not settle and goes to a full-blown investigation, a finding that Google has abused its position could result in a large fine: up to 10% of global turnover, which could mean US$5 billion for the search engine, based on its 2012 revenue.

In 2004, the Commission found Microsoft guilty of violating European competition law and fined it €497 million for anticompetitive behaviour.

The **largest fine** from the Commission, though, was just over €1 billion for Intel’s abuse of its dominant position last year.

**Benefits to competitors**

Google is the dominant search engine in the EU, with around **90% of the market**.

In the US, Google has a slightly smaller market share, of **around 75%**.

The Federal Trade Commission (**FTC**) in the US conducted an **investigation** into Google – similar to the one underway Europe – that was settled at the beginning of this year.

It found Google’s adoption of design changes to its search-results page – which displayed its own vertical search results more prominently than others and had the effect of pushing the links to its search competitors further down the page – was done primarily to:

> improve the quality of its search product and the overall user experience.

So, in short, Google was not forced to clearly label (in order to differentiate) its results or otherwise change the operation and format of its search results page.

The measures in the EU go beyond the FTC’s investigation.

**pennilyardmark**

Google’s offer of commitments, if approved by the Commission, will become legally-binding on Google, and will influence its future business plan - at least in Europe.

On the face of it, this is good news for the company’s competitors, but not all are rejoicing.

British price-comparison site Foundem responded by called Google’s offer to the Commission “**half-hearted**” because it did not address the deeper problem of how Google determined the “relevance” of links to search queries, especially when its competitors’ services were involved.

**Pleasing everyone all the time**
Having such a large market share for users means Google effectively operates as a privately-owned online information “gatekeeper” – and one that does so behind closed doors.

It reveals very little about the website-ranking algorithm which forms the basis of its search and advertising business.

Such secrecy also makes Google a target for accusations of bias and censorship, as well as a host of other problems over the interaction between Google and users’ privacy and data.

Some people have expressed concern that Google’s proposed labelling won’t change consumer behaviour at all, so won’t benefit rival search engines.

Will the company’s proposals penalise them in the end? We might have to wait five years to find out.