



04/04/2007

LMARASCO

Law Violation:

**Consumer**

Complaining  
Company/Org.:

Last name:

(b)(6)

First:

(b)(6)

Address:

City: SAN JOSE

State: CA Zip:

(b)(6)

Country: UNITED STATES

Work phone ()

Ext:

Fax Number: ()

Home Number:

(b)(6)

Email:

Age Range:

**Company**

Company: Google Inc.

Address: 1600 Amphitheatre Parkway

City: Mountain View

State: CA Zip: 94043

Country: UNITED STATES

Email:

URL:

Phone: (650) 2530000

Ext:

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

### Transaction

Ref No.: 9418346 Contact Type: Complaint Source: Consumer TCS? Y

Comments: (Product Name: Google Groups Beta and Library Project) Google cannot gather information from public chat services, nor books from public libraries for business, millions of books that have copyright. Google attacks public sources, and uses information for their business that are private.

I can say they can't do it, everybody knows they do it, help. Its not only unethical what Google does, its black and white criminal. Nobody has millions to sue them.

Created By: JXHEINY

Created Date: 11/28/06

Updated By:

Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested:

Amt Paid:

Payment Method:

Agency Contact: Internet

Complaint Date: 11/25/06

Initial Contact: Internet (Other)

Transaction Date:

Initial Response:

Product/Service: Internet Access Services

Statute/Rule: General Privacy

Law Violation: Company does not provide any opportunity for consumer to opt out of information sharing

### Consumer

Complaining

Company/Org.:

Last name:

(b)(6)

First:

(b)(6)

Address:

City: Highlands Ranch

State: CO Zip:

(b)(6)

Country: UNITED STATES

Work phone

()

Ext:

Fax Number:

()

Home Number:

(b)(6)

Email:

Age Range: 30 - 39





04/04/2007

LMARASCO

**Company**

Company: Google, Inc.

Address:

City:

State: NR Zip:

Country: LOCATION NOT REPORTED

Email:

URL:www.google.com

Phone: ()

Ext:

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

### Transaction

Ref No.: 9766696 Contact Type: Complaint Source: Consumer TCS? Y

Comments: CONTACT SENTINEL@FTC.GOV FOR MORE COMMENT INFORMATION. ALSO, TO PREVENT INTERFERENCE WITH PENDING ACTIONS, PRIOR TO ANY INVESTIGATIVE ACTION CONTACT THE IFCC AT SEARCH@IFCCFBI.GOV. ICC Ref # I0611281849280781: on 21Nov2006 i purchased a downloadable product for \$64.95 from Google Checkout through a reseller, bluewave hosting. After getting the download link on 28Nov2006 i tried to download the product. While installing the product (Adobe Photoshop CS2) i was given a number of invalid serial numbers. I called an adobe hotline and they told me the product was more than likely a fraud because the normal sales price is around \$650. After trying to contact bluewave hosting several times i was unable to talk to any customer service representatives, even after leaving several messages.

Created By: IFCC

Created Date: 11/28/06

Updated By:

Updated Date:

Org Name: Internet Fraud Complaint Center

Amt Requested:

Amt Paid: 64.95

Payment Method: Not Reported

Agency Contact: External Agency

Complaint Date: 11/28/06

Initial Response:

Product/Service: Shop-at-Home\Catalog Sales

Statute/Rule:

Law Violation:

### Consumer

Complaining

Company/Org.:

Last name:

(b)(6)

First:

(b)(6)

Address:

City: SAN DIEGO

State: CA Zip:

(b)(6)

Country: UNITED STATES

Work phone

()

Ext:

Fax Number:

()

Home Number:

(b)(6)

Email:

Age Range:



04/04/2007

LMARASCO

**Company**

Company: Google and BlueWave Hosting

Address:

City:

State: NR Zip:

Country: LOCATION NOT REPORTED

Email:

URL:

Phone: ()

Ext:

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

### Transaction

Ref No.: 9413242 Contact Type: Complaint Source: Consumer TCS? Y

Comments: Consumer's girlfriend called in the complaint. Consumer has a complaint against Google Nike Shoes.com. Consumer states he ordered 30 pairs of shoes from Google Nike Shoes.com, but did not receive them within the promised 7-10 day period. Consumer states he has not been notified of a late shipment. Consumer states he has yet to receive a refund. Transaction date is approximate.

Created By: MRALEY Created Date: 11/27/06

Updated By: Updated Date:

Org Name: TOLL FREE NUMBER AND CONSUMER SENTINEL

Amt Requested: 1,000.00

Amt Paid: 1,000.00 Payment Method: Wire Transfer

Agency Contact: Phone Complaint Date:

Initial Contact: Internet Web Site Transaction Date: 09/25/06

Initial Response: Internet/E-mail

Product/Service: Shop-at-Home\Catalog Sales

Statute/Rule: Mail or Telephone Merchandise Order Rule



04/04/2007

LMARASCO

Law Violation: Never Received Merchandise  
Prompt Refund Not Received  
Not Notified About Late Shipment

**Consumer**

Complaining  
Company/Org.:

Last name:

Address:

City: Donaldsonville

Country: UNITED STATES

Work phone

Fax Number:

Home Number:

Email:

Age Range: 20 - 29

Complaining  
Company/Org.:

Last name:

Address:

City: Donaldsonville

Country: UNITED STATES

Work phone

Fax Number:

Home Number:

Email:

Age Range: 20 - 29

**Company**

Company: Google Nike Shoes.com

Address:

City:

Country: LOCATION NOT REPORTED

Email:

Phone: ()

**Company Representative**

**Associated Company**

First: (b)(6)

State: LA Zip: (b)(6)

Ext:

First: (b)(6)

State: LA Zip: (b)(6)

Ext:

State: NR Zip:

URL:

Ext:



04/04/2007

LMARASCO

### Transaction

Ref No.: 9411670 Contact Type: Complaint Source: Consumer TCS? Y

Comments: (Product Name: Shirts) I initially went on Google to buy four Lacoste shirts. I selected my items and bought them using my mother's credit card, with her permission of course. The total was 143.80 which was billed to her Visa. After about four minutes I received an email saying to wait 2-3 weeks to let my shipment arrive. Today I received the shipment, and was extremely angry to find out that I only received one shirt, and it was a fake. I contacted google and told them about it, they refused to listen and told us it was our fault we had bought these items. This is clearly a corporate scam. Please Help

Created By: DBRAHLEK

Created Date: 11/27/06

Updated By:

Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested: 143.80

Amt Paid: 143.80

Payment Method: Visa Credit Card

Agency Contact: Internet

Complaint Date: 11/22/06

Initial Contact: Internet/E-mail

Transaction Date:

Initial Response:

Product/Service: Internet Information & Adult Services

Statute/Rule: FTC Act Sec 5 (BCP)

Law Violation: Deception/Misrepresentation

### Consumer

Complaining  
Company/Org.:

Last name: (b)(6)

First: (b)(6)

Address:

City: Buffalo Grove

State: IL Zip:

Country: UNITED STATES

Work phone: (b)(6)

Fax Number:

Home Number:

Email:

Age Range: 18 - 19



04/04/2007

LMARASCO

**Company**

Company: Google

Address: On the internet

City:

State: NR Zip:

Country: LOCATION NOT REPORTED

Email:

URL:

Phone: ()

Ext:

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

**Transaction**

Ref No.: 9763312 Contact Type: Complaint Source: Consumer TCS? Y

Comments: CONTACT SENTINEL@FTC.GOV FOR MORE COMMENT INFORMATION. ALSO, TO PREVENT INTERFERENCE WITH PENDING ACTIONS, PRIOR TO ANY INVESTIGATIVE ACTION CONTACT THE IFCC AT SEARCH@IFCCFBI.GOV. ICC Ref # I0611251823400461: (Product Name: Google Groups Beta and Library Project) Google cannot gather information from public chat services, nor books from public libraries for business, millions of books that have copyright. Google attacks public sources, and uses information for their business that are private. I can say they can't do it, everybody knows they do it, help. Its not only unethical what Google does, its black and white criminal. Nobody has millions to sue them. And if its criminal, the FBI better do something. Google scanned millions of books from libraries without copyright verification. Why the FBI did nothing? Is this a corruption? Of course the FBI is corrupt since it does nothing when millions of copyright piracies are done and the robbers run free. Screw this whole country of corruption. The FBI is probably interested in bigger crimes. Never mind. Fight the Arabs, who cares, be busy.

Created By: IFCC

Created Date: 11/25/06

Updated By:

Updated Date:

Org Name: Internet Fraud Complaint Center

Amt Requested:

Amt Paid: .00

Payment Method: Not Reported

Agency Contact: External Agency

Complaint Date: 11/25/06

Initial Response:

Product/Service: Other (Note in Comments)

Statute/Rule:





04/04/2007

LMARASCO

Law Violation:

**Consumer**

Complaining

Company/Org.: (b)(6)

Last name:

First: (b)(6)

Address:

City: HIGHLANDS RANCH

State: NR Zip

Country: LOCATION NOT REPORTED

Work phone () Ext:

Fax Number: ()

Home Number: (b)(6)

Email:

Age Range:

**Company**

Company: Google, Inc.

Address:

City: Mountain View

State: CA Zip:

Country: UNITED STATES

Email:

URL:

Phone: () Ext:

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

## Transaction

Ref No.: 9758865 Contact Type: Complaint Source: Consumer TCS? Y

Comments: CONTACT SENTINEL@FTC.GOV FOR MORE COMMENT INFORMATION. ALSO, TO PREVENT INTERFERENCE WITH PENDING ACTIONS, PRIOR TO ANY INVESTIGATIVE ACTION CONTACT THE IFCC AT SEARCH@IFCCFBI.GOV. ICC Ref # I0611201733010272: Dear FBI crime center, I have reported this mass piracy crime several times to the FBI in the past year or more, but never heard back after my complaint. This crime is a real crime, but ignored by the FBI because this is not a copyright piracy crime committed by a small organization, but by one of the larger ones: Google Inc. Google Inc. has been criminally abusing the Internet, setting invalid contracts between their company and users, and have been looting millions of copyrighted properties illegally from major Libraries across the country for their financial interests. FBI warnings are on videos, but obviously mean nothing when millions of items are pirated by large famous firms. Sure piracies have victims, sure the victims can sue, but why the FBI warnings on videos or other copyright-protected items if the FBI does nothing. Why I don't even get a reply if contacting the FBI? Even if showing proof, I am accustomed to not getting replies. I am sure your department is filled with millions of complaints, about more important violent crimes, which I understand has much higher priorities than investigating a mega software corporation's copyright crimes. Here are the crimes Google commits: They treat everything as theirs. I am sure this disorder has a name. They take millions of copyrighted materials, and expect those who disagree to come forward. Copyright laws protect from piracy, and ensure business agreements to copied materials. Google copies millions of copyrighted materials (are still copying all books in the world into their library system) and with the use of their advertising system Google profits from their scanned books. Google did not

Created By: IFCC Created Date: 11/20/06

Updated By: Updated Date:

Org Name: Internet Fraud Complaint Center

Amt Requested:

Amt Paid: .00 Payment Method: Not Reported

Agency Contact: External Agency Complaint Date: 11/20/06

Initial Response:

Product/Service: Other (Note in Comments)

Statute/Rule:



04/04/2007

LMARASCO

Law Violation:

**Consumer**

Complaining

Company/Org.: (b)(6)

Last name:

First: (b)(6)

Address:

City: HIGHLANDS RANCH

State: NR Zip:

Country: LOCATION NOT REPORTED

Work phone () Ext:

Fax Number: ()

Home Number:

Email:

Age Range:

**Company**

Company: Google, Inc.

Address: 1600 Amphitheater Parkway

City: MOUNTAIN VIEW

State: CA Zip:

Country: UNITED STATES

Email:

URL:

Phone: () Ext:

**Company Representative**

Rep Name: Page, Larry

Title:

**Associated Company**



04/04/2007

LMARASCO

### Transaction

Ref No.: 9758875 Contact Type: Complaint Source: Consumer TCS? Y

Comments: CONTACT SENTINEL@FTC.GOV FOR MORE COMMENT INFORMATION. ALSO, TO PREVENT INTERFERENCE WITH PENDING ACTIONS, PRIOR TO ANY INVESTIGATIVE ACTION CONTACT THE IFCC AT SEARCH@IFCCFBI.GOV. ICC Ref # I0611201740258761: UNAUTHORIZED PURCHASES WERE MADE ON 11/01/06

Created By: IFCC

Created Date: 11/20/06

Updated By:

Updated Date:

Org Name: Internet Fraud Complaint Center

Amt Requested:

Amt Paid: 19.99

Payment Method: Not Reported

Agency Contact: External Agency

Complaint Date: 11/20/06

Initial Response:

Product/Service: Other (Note in Comments)

Statute/Rule:

Law Violation:

### Consumer

Complaining  
Company/Org.:

Last name:

(b)(6)

Address:

City: MOBILE

Country: UNITED STATES

Work phone: ()

Ext:

Fax Number: ()

Home Number:

(b)(6)

Email:

Age Range:

First:

(b)(6)

State: AL Zip:

(b)(6)



04/04/2007

LMARASCO

**Company**

Company: GOOGLE RUNESCAPE GOOGLE.COM

Address:

City:

State: NR Zip:

Country: LOCATION NOT REPORTED

Email:

URL:

Phone: () Ext:

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

# **Transaction**

Ref No.: 9758971 Contact Type: Complaint Source: Consumer TCS? Y

Comments: CONTACT SENTINEL@FTC.GOV FOR MORE COMMENT INFORMATION. ALSO, TO PREVENT INTERFERENCE WITH PENDING ACTIONS, PRIOR TO ANY INVESTIGATIVE ACTION CONTACT THE IFCC AT SEARCH@IFCCFBI.GOV. ICC Ref # I0611201842073202: Do you know that feeling that its easier to give advice than to find help? I just gave advice to someone online who complained about people hurting each other. I wrote: "If you fear coming online, you probably have a stalker. There are also privacy abuses by companies like Google that may worry people. Both cases should be honestly reported to the FBI. www.fbi.gov" So I did just that. I am reporting Google for taking too much of people's information, and keeping people scared to come online. Google builds profiles on people, when most who come don't even have their own webpages. Its very scary to see one's hobbies, chats, especially chats organized for all to see. Its debilitating, and scary and they shouldn't do that. Its haunting people's lives forever. Its scary. They have no rights for that. I wrote on a large piracy crime about Google today, and am disagreeing with that kind of piracies that has only selfishness and robs people of their will, abuses people of their human dignities. I've been saying this for years. They cannot do that. The net is full of stalkers who excessively go bully and follow people and build hate campaigns on people, who become absolute victims of these bullies in chat rooms, and the net is full of marketing piracies, that take private information from chat rooms or newsgroups, and use this information for commercial soliciting that financially benefit these companies like Google, but build a hallucinating haunting ground that tortures people. Google also went for millions of copyrighted materials recently, by acquiring copies for their business of millions of copyrighted books that the FBI did nothing about, th

Created By: IFCC Created Date: 11/20/06

Updated By: Updated Date:

Org Name: Internet Fraud Complaint Center

Amt Requested:

Amt Paid: 300,000.00 Payment Method: Not Reported

Agency Contact: External Agency Complaint Date: 11/20/06

Initial Response:

Product/Service: Other (Note in Comments)

Statute/Rule:



04/04/2007

LMARASCO

Law Violation:

**Consumer**

Complaining

Company/Org.: (b)(6)

Last name:

Address:

City: HIGHLANDS RANCH

Country: LOCATION NOT REPORTED

Work phone () Ext:

Fax Number: ()

Home Number: (b)(6)

Email:

Age Range:

**Company**

Company: Google, Inc.

Address: 1600 Amphitheater Parkway

City: MOUNTAIN VIEW

Country: UNITED STATES

Email:

Phone: () Ext:

**Company Representative**

Rep Name: Page, Larry

**Associated Company**

First:

State: NR Zip:

State: CA Zip:

URL:

Title:



04/04/2007

LMARASCO

### Transaction

Ref No.: 9422097 Contact Type: Complaint Source: Consumer TCS? Y

Comments: THE COMPLAINANT RECEIVED AN E-MAIL FROM THE SUSPECT COMPANY TELLING HIM THAT HE WON A LOTTERY. HIS NAME WAS DRAWN AND HE WON IN THE FIRST CATEGORY. HE DID MAKE CONTACT WITH THEM AND WAS CALLED BY THE SUSPECTS FOR A FEW DAYS. HE WAS SENT A CHEQUE FOR \$58,420 CDN FROM ASPEN FINANCE INC DRAWN ON THE LAURENTIAN BANK IN HIS NAME. THE SUSPECTS WANT SOME MONEY SENT BACK TO JAPAN BY BANK WIRE TRANSFER SO HE CAN GET HIS PRIZE. THE SUSPECTS HAVE BEEN CONTACTING HIM EVERYDAY LOOKING FOR THE MONEY. HE DID NOT CASH IT AND WILL NOT. HE ALSO RECEIVED OTHER JUNK E-MAILS.

Created By: PHNB Created Date: 11/10/06

Updated By: Updated Date:

Org Name: Ontario Provincial Police, Anti Rackets (Phonebusters)

Amt Requested:

Amt Paid: Payment Method:

Agency Contact: External Agency Complaint Date: 11/10/06

Initial Contact: Internet Web Site Transaction Date: 11/10/06

Initial Response: Internet/E-mail

Product/Service: Prizes\Sweepstakes\Gifts

Statute/Rule:

Law Violation:

### Consumer

Complaining

Company/Org.:

Last name:

Address:

City: OAKVILLE

Country: CANADA

Work phone

()

Ext:

Fax Number:

Home Number:

Email:

Age Range: 30 - 39

First:

State: ON Zip:





04/04/2007

LMARASCO

**Company**

Company: GOOGLE PROMOTION & PRIZE AWARD DEPARTMENT

Address: MONTREAL QC

City: LONDON

State: ZZ Zip:

Country: UNITED KINGDOM

Email:

URL:

Phone: (514) 4323095

Ext:

**Company Representative**

Rep Name: TURNER,

Title:

Rep Name: CHAMBERS,

Title:

Rep Name: UNKNOWN,

Title:

**Associated Company**



04/04/2007

LMARASCO

### Transaction

Ref No.: 9286977 Contact Type: Complaint Source: Consumer TCS? Y

Comments: The consumer wants to report deception by Google. When the consumer researches the Republican party on Google it refers consumers to negative websites steering people away from being Republican. When the consumer researches the Democratic party it refers people to extremely helpful websites set up to tell voters what to do on election day. The consumer reports that this is sabotaging the Republican party. No home ph# or email address.

Created By: LANDREWS Created Date: 11/02/06

Updated By: PBLUNT Updated Date: 11/02/06

Org Name: TOLL FREE NUMBER AND CONSUMER SENTINEL

Amt Requested: .00

Amt Paid: .00 Payment Method: Unknown

Agency Contact: Phone Complaint Date:

Initial Contact: Internet Web Site Transaction Date: 08/01/06

Initial Response: Unknown

Product/Service: Internet Information & Adult Services

Statute/Rule: FTC Act Sec 5 (BCP)

Law Violation: Deception/Misrepresentation

### Consumer

Complaining  
Company/Org.:

Last name:

(b)(6)

First:

(b)(6)

Address:

City: Friendswood

State: TX Zip:

Country: UNITED STATES

Work phone

(b)(6)

Ext:

Fax Number:

Home Number: ()

Email:

Age Range: 50 - 59



04/04/2007

LMARASCO

**Company**

Company: Google

Address:

City:

State: NR Zip:

Country: LOCATION NOT REPORTED

Email:

URL:

Phone: ()

Ext:

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

## Transaction

Ref No.: 9756413 Contact Type: Complaint Source: Consumer TCS? Y

Comments: CONTACT SENTINEL@FTC.GOV FOR MORE COMMENT INFORMATION. ALSO, TO PREVENT INTERFERENCE WITH PENDING ACTIONS, PRIOR TO ANY INVESTIGATIVE ACTION CONTACT THE IFCC AT SEARCH@IFCCFBI.GOV. ICC Ref # I0611021111229341: The below named web site owners are in clear precise breach of the copyright law, making a mockery of copyright law by illegal criminal display of endless numbers copyright material after its legal removal from other web sites. Google, Inc. Attn: Google Legal Support, DMCA Complaints 1600 Amphitheatre Parkway Mountain View, CA 94043 Wendy Seltzer -- wendy@seltzer.com Visiting Assistant Professor of Law, Brooklyn Law School Fellow, Berkman Center for Internet & Society <http://cyber.law.harvard.edu/seltzer.html> I wish this brought to justice and answered fully in a court of law for this matter reflects on literally billion of cases where the copyright law is abused and misused as such. Will the FBI White Collar Crime Division please ensure this reaches the appropriate department who can liase with me and deal with this fully in a court of law. Its clear the sole intent of promoting the copyright law is indeed a good thing, but to have material removed from one site and then knowingly illegally placed on chillingeffects.org web site means the original notice sent was merely a waste of time and absolute mockery and abuse of the law. Its quite clear that copyright notice should be displayed at chillingeffects.org without the said copyright materials inclusion in full or part. The entire reason for Chilling Effects doing this is to use the same copyright material to solicit ranking in search engines and NOT as falsely stated and claimed to promote the copyright law. I have sent endless countless notices to chilling effects with full legal reason why they are in breach of the law, not one has been answered heard or acknowledged clearly showing the

Created By: IFCC Created Date: 11/02/06

Updated By: Updated Date:

Org Name: Internet Fraud Complaint Center

Amt Requested:

Amt Paid: .00 Payment Method: Not Reported

Agency Contact: External Agency Complaint Date: 11/02/06

Initial Response:

Product/Service: Other (Note in Comments)

Statute/Rule:



04/04/2007

LMARASCO

Law Violation:

**Consumer**

Complaining  
Company/Org.:

Last name:

(b)(6)

First:

(b)(6)

Address:

City: NEWCASTLE UPON TYNE

State: ZZ Zip:

Country: UNITED KINGDOM

Work phone () Ext:

Fax Number: ()

Home Number: (b)(6)

Email:

Age Range:

**Company**

Company: Google.com and Chillingeffects.org

Address:

City:

State: NR Zip:

Country: LOCATION NOT REPORTED

Email:

URL:

Phone: () Ext:

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

### Transaction

Ref No.: 9280213 Contact Type: Complaint Source: Consumer TCS? Y

Comments: Consumer has a complaint regarding an upgrade in his Internet Explorer by the firm that caused him to be blocked from reaching his desired homepage. He can not reach the Google homepage either. He has sent this letter of complaint to both companies regarding the lack of accessing the search engines.

Created By: EANDERSON Created Date: 11/01/06

Updated By: EANDERSON Updated Date: 01/16/07

Org Name: Office of the Chairman

Amt Requested: .00

Amt Paid: .00 Payment Method: Unknown

Agency Contact: Mail Complaint Date: 10/31/06

Initial Contact: Internet Web Site Transaction Date: 10/17/06

Initial Response: Mail

Product/Service: Internet Access Services

Statute/Rule: Internet Access Related Services Violations

Law Violation: Lack of Access\Cannot Connect

### Consumer

Complaining

Company/Org.: (b)(6)

Last name:

Address:

City: Charleston

Country: UNITED STATES

Work phone: () Ext:

Fax Number: ()

Home Number: (b)(6)

Email:

Age Range:

First:

State: SC Zip:

(b)(6)



04/04/2007

LMARASCO

**Company**

Company: Microsoft

Address: One Microsoft Way

City: Redmond

State: WA Zip: 34684

Country: UNITED STATES

Email:

URL:

Phone: ()

Ext:

Company: Google

Address: 1600 Amphitheatre Parkway

City: Mountain View, CA

State: CA Zip: 94043

Country: UNITED STATES

Email:

URL:

Phone: ()

Ext:

**Company Representative**

**Associated Company**

Company: Google

Address: 1600 Amphitheatre Parkway

City: Mountain View, CA

State: CA Zip: 94043

Country: UNITED STATES

Phone: ()

Ext:

Reason: Other



04/04/2007

LMARASCO

# Transaction

Ref No.: 9625737 Contact Type:Complaint Source:Consumer TCS? Y

Comments: CONTACT SENTINEL@FTC.GOV FOR MORE COMMENT INFORMATION. ALSO, TO PREVENT INTERFERENCE WITH PENDING ACTIONS, PRIOR TO ANY INVESTIGATIVE ACTION CONTACT THE IFCC AT SEARCH@IFCCFBI.GOV. ICC Ref # I0610242006448492:On October 21, I was reviewing my checking account online and noticed two erroneous charges, one was from Softbuyweb.com in the amount of \$222.45 and the other was from Google.ubid in the amount of \$686.37. I went to my bank and filed a report and closed down my bank card. I filed a claim with my bank, Wells Fargo, my claim number is (b)(6) They suggested I report this to you. The fraud investigator also told me it was good I acted so quickly and closed the card because there were five other efforts made from someone trying to use this card. The evening of October 20th, I visited ticket master where I have an account, however they did not have tickets for the event I was looking for. I am wondering if this is how they got mu bank card number. I thought ticketmaster is a secure site and have purchased tickets several times in the past. I sure feel violated and sure will rethink any online purchases this holiday season. Thank you, (b)(6)

Created By: IFCC

Created Date: 10/24/06

Updated By:

Updated Date:

Org Name: Internet Fraud Complaint Center

Amt Requested:

Amt Paid: 908.82

Payment Method: Not Reported

Agency Contact: External Agency

Complaint Date: 10/24/06

Initial Response:

Product/Service: Other (Note in Comments)

Statute/Rule:





04/04/2007

LMARASCO

Law Violation:

**Consumer**

Complaining

Company/Org.: (b)(6)

Last name:

Address:

First:

City: LAKEWOOD

State: CO Zip:

Country: UNITED STATES

Work phone () Ext:

Fax Number: ()

Home Number:

Email:

Age Range:

**Company**

Company: Google

Address:

City:

State: NR Zip:

Country: LOCATION NOT REPORTED

Email:

URL:

Phone: () Ext:

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

### Transaction

Ref No.: 9620139 Contact Type: Complaint Source: Consumer TCS? Y

Comments: CONTACT SENTINEL@FTC.GOV FOR MORE COMMENT INFORMATION. ALSO, TO PREVENT INTERFERENCE WITH PENDING ACTIONS, PRIOR TO ANY INVESTIGATIVE ACTION CONTACT THE IFCC AT SEARCH@IFCCFBI.GOV. ICC Ref # I0610141057131162: My gmail e-mail account (asif.samad@gmail.com) has been shutdown by Gmail without any explanation. I was never involved in advertising spam, innapropriate or illegal activity. The last time I was able to access the account was Thursday Oct. 8, 2006. After that my account was disabled, any e-mails sent to asif.samad@gmail.com return 'User Unknown Address'. Gmail in its bylaws is suppose to respect he privacy and confidentiality of its users. My privacy and confidentiality have been violated under Gmail bylaws. Gmail support refuses to give any explanation as to what happened. Although I have not experienced any monetary loss yet, I dot have the following in my account: 1) A \$1076 itenary flight receipt I need for a refund with my company. 2) Job information. 3) Vital contacts. Again my account was never used for advertise spamming, illegal or innapropriate activity nor was I ever filed for abuse reports. Gmail has done this to many peoples accounts (through a quick search on the internet). Large corporations can not getaway with invading the privacy and these discrimminatory practices.

Created By: IFCC Created Date: 10/14/06

Updated By: Updated Date:

Org Name: Internet Fraud Complaint Center

Amt Requested:

Amt Paid: .00 Payment Method: Not Reported

Agency Contact: External Agency Complaint Date: 10/14/06

Initial Contact: Internet/E-mail Transaction Date:

Initial Response:

Product/Service: Other (Note in Comments)

Statute/Rule:



04/04/2007

LMARASCO

Law Violation:

**Consumer**

Complaining

Company/Org.: (b)(6)

Last name:

Address:

City: COLLEGE PARK

Country: UNITED STATES

Work phone () Ext:

Fax Number: ()

Home Number: (b)(6)

Email:

Age Range:

First: (b)(6)

State: MD Zip: (b)(6)

**Company**

Company: Google Inc.

Address: 1600 Amphitheatre Parkway

City: Mountain View

State: CA Zip: 94043

Country: UNITED STATES

Email: mail-support@google.com

URL:

Phone: (650) 2530000 Ext:

**Company Representative**

Rep Name: none, none

Title:

**Associated Company**



04/04/2007

LMARASCO

### Transaction

Ref No.: 9134028 Contact Type: Complaint Source: Consumer TCS? Y

Comments: Consumer said that Google News posted a topless picture of Jessica Simpson in their front page. Consumer said that it was wrong and that it was offensive. No email address or work ph # was provided.

Created By: MRITZ Created Date: 10/06/06

Updated By: Updated Date:

Org Name: TOLL FREE NUMBER AND CONSUMER SENTINEL

Amt Requested:

Amt Paid: Payment Method:

Agency Contact: Phone Complaint Date:

Initial Contact: Internet Web Site Transaction Date: 10/06/06

Initial Response: Internet/E-mail

Product/Service: Internet Information & Adult Services

Statute/Rule: Media Violence

Law Violation: MV: Other Complaints regarding Entertainment Media (Language, Sex, Not Related to Children, Etc.)

### Consumer

Complaining  
Company/Org.: (b)(6)

Last name: (b)(6)

Address: (b)(6)

City: Monterey Park

Country: UNITED STATES

Work phone: () Ext:

Fax Number: (b)(6)

Home Number: (b)(6)

Email:

Age Range: 50 - 59

First: (b)(6)

State: CA Zip: (b)(6)



04/04/2007

LMARASCO

**Company**

Company: Google News

Address:

City:

State: NR Zip:

Country: LOCATION NOT REPORTED

Email:

URL:<http://news.google.com>

Phone: ()

Ext:

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

### Transaction

Ref No.: 9126388 Contact Type: Complaint Source: Consumer TCS? Y

Comments: (Product Name: Google.com search engine) Google once your home page prevents you from entering in another address or to re-set your home page away from google. This is effectively a virus since it takes control of a program on the end users computer.

Created By: DBRAHLEK Created Date: 10/05/06

Updated By: Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested: .00

Amt Paid: .00 Payment Method: Unknown

Agency Contact: Internet Complaint Date: 10/04/06

Initial Contact: Internet Web Site Transaction Date:

Initial Response:

Product/Service: Internet Information & Adult Services

Statute/Rule: FTC Act Sec 5 (BCP)

Law Violation: Deception/Misrepresentation

### Consumer

Complaining

Company/Org.:

Last name:

(b)(6)

First:

(b)(6)

Address:

City: Roseville

State: CA Zip:

(b)(6)

Country: UNITED STATES

Work phone ()

Ext:

Fax Number: ()

Home Number:

(b)(6)

Email:

Age Range: 30 - 39



04/04/2007

LMARASCO

**Company**

Company: Google

Address: 1600 Amphitheatre Pkwy.

City: Mountain View

State: CA Zip: 94043

Country: UNITED STATES

Email:

URL:www.google.com

Phone: (650) 253-0000 Ext:

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

## Transaction

Ref No.: 9111056      Contact Type:Complaint      Source:Consumer      TCS? N

Comments: I signed up for an email discussion group that I understood to be private for [www.sudburyvalley.org](http://www.sudburyvalley.org). Someone alerted me that a personal email with my personal information on it(email address & cell phone number) was on Google as the first link when you googled my full name. This was a private email for the members of the discussion group - not the entire world. I contacted Google and they said that the page was public and that I would have to contact the webmaster, which I have. I do not believe that the webmaster of Sudbury Valley had any idea that these pages were going to be public. It's a private email discussion group! You have to have a name & password to join. Google should remove a person's personal contact information and emails AT ONCE UPON REQUEST and SHOULD NOT put people's personal emails & information on their site in the first place. They should have some ethics & discretion and sense! I do not appreciate being told that Google will not remove the page until the webmaster "blocks" them from being able to use it! This is personal information! Please help as I am extremely dissatisfied with Google's unethical practices. They assigned my email the case number #75672046. Thank you.

Created By: RLOPER      Created Date: 10/03/06

Updated By:      Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested:

Amt Paid:      Payment Method:

Agency Contact: Internet      Complaint Date: 10/02/06

Initial Contact: Internet/E-mail      Transaction Date:

Initial Response:

Product/Service: Other (Note in Comments)

Statute/Rule: General Privacy





04/04/2007

LMARASCO

Law Violation: Other privacy violation

**Consumer**

Complaining  
Company/Org.:

Last name:

Address:

City: Los Angeles

Country: UNITED STATES

Work phone:

Fax Number:

Home Number:

Email:

Age Range: 20 - 29

**Company**

Company: Google

Address:

City:

Country: LOCATION NOT REPORTED

Email: help@google.com

Phone: ()

Ext:

**Company Representative**

**Associated Company**

First:

State: CA Zip:

(b)(6)



04/04/2007

LMARASCO

# Transaction

Ref No.: 9109576 Contact Type:Complaint Source:Consumer TCS? Y

Comments: (Product Name: GOOGLE SEARCH RESULT AND GOOGLE IMAGE SEARCH RESULT) Google the famous search engine is peddling hard core porn by hiding it inside the search results list for innocent websites that have nothing to do with porn. 2 yrs ago Google sneaked the most obscene porn site imaginable into their (b)(6) GOOGLE SEARCH RESULTS PAGE as "Adam and Eve Store" website. After numerous complaints, even to Google CEO that were totally ignored, I had the Mountain View CA police ask them to remove it. But somebody at Google had already informed "Adam and Eve Store" to tone it down so it wouldn't look so bad when the police see it. In revenge against me, Google eliminated all of my 105 articles from my own WWW.ANGELAFAIRMEADOW.COM site from its search results, and never reinstated them. Then Google sneaked more obscene porn featuring totally nude sex orgies onto the (b)(6) WWW.ANGELAFAIRMEADOW.COM GOOGLE SEARCH RESULTS page under the name: Yahoo! Travel Love Park Philadelphia website. All one had to do was type in my initials (AF) into the Yahoo! Travel Love Park search box to bring up the hard core porn. Google ignored my request to remove the site from their search results for www.angela fairmeadow.com, but my complaint to Yahoo! seems to have worked. Recently Google sneaked the Yahoo! Travel Love Park Philadelphia hard core porn site back onto my (b)(6) SEARCH RESULTS page. All one has to do is type in initials (AF) into the Love Park search box and a photo of a totally nude sex orgy appears for surfers to click on. I complained to Google and Yahoo, with no results yet.

Created By: JKIGHT Created Date: 10/03/06

Updated By: Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested:

Amt Paid: Payment Method:

Agency Contact: Internet Complaint Date: 10/01/06

Initial Contact: Internet (Other) Transaction Date:

Initial Response:

Product/Service: Internet Information & Adult Services

Statute/Rule: FTC Act Sec 5 (BCP)



04/04/2007

LMARASCO

Law Violation: Deception/Misrepresentation

**Consumer**

Complaining

Company/Org.:

Last name:

Address:

City:

Country:

Work phone

Fax Number:

Home Number:

Email:

Age Range:

(b)(6)

San Antonio

UNITED STATES

(b)(6)

50 - 59

First:

State: TX Zip:

(b)(6)

(b)(6)

**Company**

Company: Google

Address: Google Headquarters

1600 Amphitheatre Parkway

City: Mountain View

State: CA Zip: 94043

Country: UNITED STATES

Email:

URL:Google

Phone: (650) 2530000

Ext:

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

## Transaction

Ref No.: 9103855 Contact Type: Complaint Source: Consumer TCS? Y

Comments: (Product Name: AdWords) I am writing to you because in the District of Columbia, and possibly other jurisdictions, physicians' businesses are being adversely impacted by Google's discriminatory advertising practices. Specifically, Google, the world's most widely employed search engine, is not permitting physicians to use particular language in their AdWords' advertising campaigns, which may address products or services rendered or offered by physicians; however, Google permits pharmacists to use exactly this same proscribed language in their AdWords' advertisements. I believe that Google's conduct violates federal and state constitutional guarantees of free speech, prevents and destroys competition by placing a restraint on trade in violation of antitrust laws, and unlawfully grants a monopoly over internet advertising to Google. Accordingly, I am asking the Commission to launch an immediate investigation into this matter. MAIL: UPDATE: 10/13/06 The consumer sent a written copy of this complaint. BSturm

Created By: RLOPER Created Date: 10/02/06

Updated By: BSTURM Updated Date: 10/13/06

Org Name: PUBLIC USERS - CIS

Amt Requested: .00

Amt Paid: .00 Payment Method: Unknown

Agency Contact: Internet Complaint Date: 09/29/06

Initial Contact: Unknown Transaction Date:

Initial Response: Unknown

Product/Service: Internet Access Services

Statute/Rule: FTC Act Sec 5 (BCP)



04/04/2007

LMARASCO

Law Violation: Deception/Misrepresentation

**Consumer**

Complaining

Company/Org.:

Last name:

(b)(6)

First:

(b)(6)

Address:

City:

Washington

State: DC Zip:

(b)(6)

Country:

UNITED STATES

Work phone

(b)(6)

Fax Number:

Home Number:

Email:

Age Range: 40 - 49

**Company**

Company: Google

Address: 1600 Amphitheatre Parkway

City: Mountain View

State: CA Zip: 94043

Country: UNITED STATES

Email: [http://services.google.com/ads\\_inquiry/en](http://services.google.com/ads_inquiry/en) URL: <http://www.google.com/>

Phone: (650) 253-0000 Ext:

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

## Transaction

Ref No.: 9093205 Contact Type:Complaint Source:Consumer TCS? Y

Comments: (Product Name: Advertising) Back in July 2006, I registered for an account with Google AdSense (b)(6). As part of this account, it was agreed that I would host ads for Google, and only Google on my website (b)(6). In return, I would receive monies when these ads were visited through my website. After 2 months of hosting ads for Google, my account reached a total of \$419.09. I have not received ANY money from Google. Instead, on September 27, 2006, they notified me that my account had been terminated. I have tried on several occasions, to obtain an explanation and all I receive is "your account is cancelled, please do not contact us again". They are also refusing to pay me the \$419.09 they owe me for hosting their ads on my website. I am a small business owner and cannot afford to give someone like Google 2 months of free advertising. Any help you can give me would be deeply appreciated.

Thank you,

(b)(6)

Created By: RLOPER

Created Date: 09/29/06

Updated By:

Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested:

Amt Paid:

Payment Method:

Agency Contact: Internet

Complaint Date: 09/28/06

Initial Contact: Internet Web Site

Transaction Date:

Initial Response:

Product/Service: Internet Access Services

Statute/Rule: FTC Act Sec 5 (BCP)



04/04/2007

LMARASCO

Law Violation: Deception/Misrepresentation

**Consumer**

Complaining

Company/Org.:

Last name:

Address:

City:

islip

Country:

UNITED STATES

Work phone

Fax Number:

Home Number:

Email:

Age Range:

40 - 49

First:

State: NY Zip:

**Company**

Company: Google

Address:

City:

Country: LOCATION NOT REPORTED

Email:

Phone:

()

Ext:

State: NR Zip:

URL:www.google.com

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

### Transaction

Ref No.: 9093192 Contact Type: Complaint Source: Consumer TCS? Y

Comments: (Product Name: Pornography; harrassment) Maine Attorney General said to report this to you: I was told, and confirmed, that when you search my name, (b)(6) on the internet, google search lists a pornography site called Housewives@Saco, ME with my name in bold type and a misleading description stolen from another nearby site "activists, individuals and groups." I want this removed immediately and whoever did this prosecuted.

Created By: RLOPER Created Date: 09/29/06

Updated By: Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested:

Amt Paid: Payment Method:

Agency Contact: Internet Complaint Date: 09/28/06

Initial Contact: Internet Web Site Transaction Date:

Initial Response:

Product/Service: Internet Access Services

Statute/Rule: General Privacy

Law Violation: Other privacy violation

### Consumer

Complaining  
Company/Org.:

Last name:

Address:

City: Saco

Country: UNITED STATES

Work phone ( ) Ext:

Fax Number:

Home Number:

Email:

Age Range: 60 - 64

First:

State: ME Zip:





04/04/2007

LMARASCO

**Company**

Company: Google Search listing

Address:

City:

State: NR Zip:

Country: LOCATION NOT REPORTED

Email: Housewives@Saco, ME

URL:realdating-  
maine.info/inf/Saco/Housewives

Phone: ()

Ext:

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

### Transaction

Ref No.: 9084610 Contact Type: Complaint Source: Consumer TCS? Y

Comments: (Product Name: AdSense) On 9/22/2006 I received an email stating I was guilty of clickfraud and my account was canceled and all money (including that not generated from clicks) was seized by Google. I appealed and received a generic response back stating my appeal was ignored. I have repeatedly contacted the company asking for further information and have not received a response. There are numerous cases out there and I believe that Google only returns money for clicks and keeps the other revenue.

Created By: WFRIDAY Created Date: 09/28/06

Updated By: Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested: .00

Amt Paid: .00 Payment Method:

Agency Contact: Internet Complaint Date: 09/27/06

Initial Contact: Internet/E-mail Transaction Date: 09/24/06

Initial Response:

Product/Service: Internet Information & Adult Services

Statute/Rule: FTC Act Sec 5 (BCP)

Law Violation: Deception/Misrepresentation

### Consumer

Complaining

Company/Org.:

Last name:

Address:

City: Downers Grove

Country: UNITED STATES

Work phone:

Fax Number:

Home Number:

Email:

Age Range:

First:

State: IL Zip:

(b)(6)



04/04/2007

LMARASCO

**Company**

Company: Google AdSense

Address: 1600 Amphitheatre Pkwy

City: Mountain View

State: CA Zip: 94043

Country: UNITED STATES

Email:

URL: [www.google.com/adsense](http://www.google.com/adsense)

Phone: (650) 330-0100 Ext:

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

### Transaction

Ref No.: 9083453 Contact Type: Complaint Source: Consumer TCS? Y

Comments: Consumer complains that Merchant Circle.com, a business rating service, left a phone message regarding negative consumer ratings for her business. Consumer was prompted to call and retrieve the ratings and sign-up for more services. In order to delete the consumer ratings, consumer was required to provide personal info. Also, the website has ratings of people who live in consumer's area, but own no business to rate. Consumer believes that this is fraudulent. The Merchant Circle.com could be accessed by consumer only through Google. Consumer is calling on behalf of Scanlon Excavating and Trucking, her business.

Created By: JFLACK Created Date: 09/28/06

Updated By: Updated Date:

Org Name: TOLL FREE NUMBER AND CONSUMER SENTINEL

Amt Requested: .00

Amt Paid: .00 Payment Method: Unknown

Agency Contact: Phone Complaint Date:

Initial Contact: Phone Transaction Date: 09/28/06

Initial Response: Internet/E-mail

Product/Service: Internet Information & Adult Services

Statute/Rule: FTC Act Sec 5 (BCP)

Law Violation: Deception/Misrepresentation

### Consumer

Complaining  
Company/Org.:

(b)(6)

Last name:

Address:

City: Lavina

State: MT Zip:

(b)(6)

Country: UNITED STATES

Work phone:

(b)(6)

Fax Number:

Home Number:

Email:

Age Range: 50 - 59



04/04/2007

LMARASCO

**Company**

Company: Google

Address:

City:

State: NR Zip:

Country: LOCATION NOT REPORTED

Email:

URL:merchantcircle.com

Phone: () Ext:

Company: merchant Circle.com

Address:

City:

State: NR Zip:

Country: LOCATION NOT REPORTED

Email:

URL:merchantcircle.com

Phone: () Ext:

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

## Transaction

Ref No.: 9609647 Contact Type: Complaint Source: Consumer TCS? Y

Comments: CONTACT SENTINEL@FTC.GOV FOR MORE COMMENT INFORMATION. ALSO, TO PREVENT INTERFERENCE WITH PENDING ACTIONS, PRIOR TO ANY INVESTIGATIVE ACTION CONTACT THE IFCC AT SEARCH@IFCCFBI.GOV. ICC Ref # I0609271611296401: Google sent me an email on 9/22/2006 stating I was guilty of clickfraud and that all money owed to me would be returned to the customers. The email they sent me was generic and, as I have discovered, sent to countless others. I filed an appeal and received another generic email denying my appeal. Google does not give any contact information on their site except a form. I was owed money from them for ad impressions and that money should not have been lost. Secondly, I do not feel it is fair that they should be able to keep money owed to customers without either (a) warning customers of suspect activity on their account or (b) giving detailed information on what the "crime" was, thus enabling the customer to better explain and justify the actions if they can.

Created By: IFCC Created Date: 09/27/06

Updated By: Updated Date:

Org Name: Internet Fraud Complaint Center

Amt Requested:

Amt Paid: 35.00 Payment Method: Not Reported

Agency Contact: External Agency Complaint Date: 09/27/06

Initial Contact: Internet/E-mail Transaction Date:

Initial Response:

Product/Service: Other (Note in Comments)

Statute/Rule:



04/04/2007

LMARASCO

Law Violation:

**Consumer**

Complaining  
Company/Org.:

Last name:

Address:

City: DOWNERS GROVE

Country: UNITED STATES

Work phone () Ext:

Fax Number: ()

Home Number: (b)(6)

Email:

Age Range:

First:

State: IL Zip:

**Company**

Company: Google AdSense

Address: 1600 Amphitheatre Pkwy

City: Mountain View

State: CA Zip: 94043

Country: UNITED STATES

Email:

URL:

Phone: (650) 3300100 Ext:

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

**Transaction**

Ref No.: 9064005 Contact Type: Complaint Source: Consumer TCS? Y

Comments: (Product Name: Google Adwords) On 09/03/2006 Google Inc. billed my credit card (American Express) \$546.56. I noticed that the charge was higher than it should have been. I use Google Adwords advertising. There are 2 types of Adwords advertising. I signed up for and agreed to pay as much as 20 cents per click for "search based" advertising. I agreed to pay nothing for content based ads or ads that are served on individuals web sites. I followed Googles instructions on setup of my ad and set the amount we would pay per click for that type of advertising to \$0.00 per click. Google made suggestions after I complained on how I could have avoided this, but I contend that I was very careful when I set up the ad and followed the instructions and information in help menus they provide nearly to the letter. I agreed to pay \$0.00 per click for the content advertising ads. I think that any reasonable person could choose to set it up the way I did and I think that my intent was clear. They decided to instead, charge me about \$0.20 per click, the amount I agreed to pay only for search engine advertising. The way Google is trying to do business is a desepptive practice. If they intend this to be policy, they have ommitted important details from the setup instructions that would allow a reasonable person to know that they intend to charge more per click than you specifically type into the input box.

I can provide paper documentation with screen shots etc if needed. Overall Google has billed me, \$1119.16 for the ad. Only \$153.52 was authorized by me, representing an overbilling of \$965.64. They have already collected via my credit card, \$546.56 and they intend to collect the remaining balance soon.

Created By: SWOODSON Created Date: 09/26/06  
Updated By: Updated Date:  
Org Name: PUBLIC USERS - CIS  
Amt Requested: 153.52  
Amt Paid: 1,119.16 Payment Method: American Express Credit Card  
Agency Contact: Internet Complaint Date: 09/22/06  
Initial Contact: Internet Web Site Transaction Date:  
Initial Response:  
Product/Service: Internet Information & Adult Services  
Statute/Rule: FTC Act Sec 5 (BCP)





04/04/2007

LMARASCO

Law Violation: Deception/Misrepresentation

**Consumer**

Complaining

Company/Org.: (b)(6)

Last name:

Address:

City: Leesburg

Country: UNITED STATES

Work phone: (b)(6)

Fax Number:

Home Number:

Email:

Age Range: 30 - 39

First:

State: IN Zip:

**Company**

Company: Google Inc.

Address: 1600 AMPHITHEATRE PKWY

City: MOUNTAIN VIEW

State: CA Zip: 94043-1351

Country: UNITED STATES

Email: adwords-support@google.com

URL:google.com

Phone: () Ext:

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

**Transaction**

Ref No.: 9610982 Contact Type: Complaint Source: Consumer TCS? Y

Comments: CONTACT SENTINEL@FTC.GOV FOR MORE COMMENT INFORMATION. ALSO, TO PREVENT INTERFERENCE WITH PENDING ACTIONS, PRIOR TO ANY INVESTIGATIVE ACTION CONTACT THE IFCC AT SEARCH@IFCCFBI.GOV. ICC Ref # I0609230135286182: First of all, I'd like to state that this is NOT a request for advertisement, it is to express a concern I have about Yahoo ([www.yahoo.com](http://www.yahoo.com)) and Google ([www.google.com](http://www.google.com)). My name is (b)(6) I am the President of a small start-up firm, UGHS, Inc. We have just introduced a new application on the Internet, Ultimate Greyhound Handicapping System, [www.ughsystems.com](http://www.ughsystems.com) Three days ago I contacted Yahoo and Google and requested a Sponsored Ad. I was told by Yahoo that they would get back to me within 48 hours. My application to Google appeared to have been accepted. Having not heard anything today from Yahoo, I called them back. To my amazement, Yahoo informed me that my request was being denied, because my Web site had to do with 'gambling'. My Web site only provides my clients with information, you can not gamble from it. I do have 2 links to gambling Web sites, Link2Bet and PayDog, but you must use those sites to place wagers. I was told by Yahoo, that Yahoo would reconsider my application if I removed those links. This afternoon, I received a message from Google indicating that my ad request was being denied (they specified the same reason as Yahoo). It amazes me that Yahoo and Google will accept Sponsored Ads from the porno industry (on second thought, it doesn't amaze me, over half of the internet traffic is related to porno and I'm sure they reap billions of dollars in revenue per day from these sites), but will not accept my ad (gambling is small potatoes compared to porno). Their social conscience seems to be somewhat ass-backward, as gambling is legal in many states in the United States and porno is not. I would lik

Created By: IFCC Created Date: 09/23/06

Updated By: Updated Date:

Org Name: Internet Fraud Complaint Center

Amt Requested:

Amt Paid: .00 Payment Method: Not Reported

Agency Contact: External Agency Complaint Date: 09/23/06

Initial Contact: Internet/E-mail Transaction Date:

Initial Response:

Product/Service: Other (Note in Comments)

Statute/Rule:



04/04/2007

LMARASCO

Law Violation:

**Consumer**

Complaining

Company/Org.: (b)(6)

Last name:

Address:

First:

City: MURPHY

State: NC Zip:

Country: UNITED STATES

Work phone ()

Ext:

Fax Number: ()

Home Number: (b)(6)

Email:

Age Range:

**Company**

Company: Google Inc & Yahoo Inc

Address:

City:

State: CA Zip:

Country: UNITED STATES

Email:

URL:

Phone: ()

Ext:

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

## Transaction

Ref No.: 9610049 Contact Type: Complaint Source: Consumer TCS? Y

Comments: CONTACT SENTINEL@FTC.GOV FOR MORE COMMENT INFORMATION. ALSO, TO PREVENT INTERFERENCE WITH PENDING ACTIONS, PRIOR TO ANY INVESTIGATIVE ACTION CONTACT THE IFCC AT SEARCH@IFCCFBI.GOV. ICC Ref # I0609221030143121: On 09/03/2006 Google Inc. billed my credit card (American Express) \$546.56. I noticed that the charge was higher than it should have been. I use Google Adwords advertising. There are 2 types of adwords advertising. I signed up for and agreed to pay as much as 20 cents per click for "search based" advertising. I agreed to pay nothing for content based ads or ads that are served on individuals web sites. I followed Googles instructions on setup of my ad and set the amount we would pay per click for that type of advertising to \$0.00 per click. It is still set to that now. Google claims that I needed to opt out my entire ad campaign from this type of advertising, but we had other ads that we were willing to do content advertising for \$0.01 per click. They made these and many other suggestions after the fact; after I complained. They say now that if only I had set it up differently, I would not have had these charges. I contend that I was very careful when I set up the ad and followed the instructions and information in help menus they provide nearly to the letter. I agreed to pay \$0.00 per click for the content advertising ads. I think that any reasonable person could choose to set it up the way I did and I think that my intent was clear. They decided to instead, charge me about \$0.20 per click, the amount I agreed to pay only for search engine advertising. The way Google is trying to do business is a desepative practice. If they intend this to be policy, they have ommitted important details from the setup instructions that would allow a reasonable person to know that they intend to charge more per click than you specifically typ

Created By: IFCC Created Date: 09/22/06  
Updated By: Updated Date:

Org Name: Internet Fraud Complaint Center

Amt Requested:

Amt Paid: 965.64 Payment Method: Not Reported

Agency Contact: External Agency Complaint Date: 09/22/06

Initial Response:

Product/Service: Other (Note in Comments)

Statute/Rule:



04/04/2007

LMARASCO

Law Violation:

**Consumer**

Complaining  
Company/Org.:

Last name:

Address:

City:

LEESBURG

Country:

UNITED STATES

Work phone

()

Ext:

Fax Number:

()

Home Number:

(b)(6)

Email:

Age Range:

First:

(b)(6)

State: IN Zip:

(b)(6)

**Company**

Company: Google Inc.

Address: 1600 AMPHITHEATRE PKWY

City: MOUNTAIN VIEW

State: CA Zip: 94043

Country: UNITED STATES

Email:

URL:

Phone:

()

Ext:

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

### Transaction

Ref No.: 8945484 Contact Type: Complaint Source: Consumer TCS? Y

Comments: (Product Name: search engine) I subscribed to a private group for people afflicted with health issues. This information is made public with a google search of my name. I am concerned about how this information will affect my young children, my job and my ability to obtain support for my health issue. The participation with the support group should be private.

Created By: DBRAHLEK Created Date: 09/06/06

Updated By: Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested:

Amt Paid: Payment Method:

Agency Contact: Internet Complaint Date: 09/04/06

Initial Contact: Internet Web Site Transaction Date:

Initial Response:

Product/Service: Internet Information & Adult Services

Statute/Rule: FTC Act Sec 5 (BCP)

Law Violation: Deception/Misrepresentation

### Consumer

Complaining  
Company/Org.:

Last name:

(b)(6)

First: (b)(6)

Address:

City: waldorf

State: MD Zip:

Country: UNITED STATES

Work phone () Ext:

Fax Number: ()

Home Number: (b)(6)

Email:

Age Range: 30 - 39



04/04/2007

LMARASCO

**Company**

Company: GOOGLE.COM

Address:

City:

State: NR Zip:

Country: LOCATION NOT REPORTED

Email:

URL:google.com

Phone: ()

Ext:

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

### Transaction

Ref No.: 8939305 Contact Type: Complaint Source: Consumer TCS? Y

Comments: The consumer did have an email account through a division of Google named gmail. The consumer reports that when he gets online to check his email it will tell him he has no access and that his account has been disabled. The consumer reports that his complaint is that the company refuses to speak to customers over the phone, when he calls their ph# they refer him to an FAQ page on their website. The consumer has not been able to get his account up and running yet. UPDATE: 09/05/2006 Consumer states that he called the corporate number for Google. The company will not talk to anyone unless the consumer has a first and last name of someone within the company. etinker

Created By: LANDREWS Created Date: 09/05/06

Updated By: ETINKER Updated Date: 09/05/06

Org Name: TOLL FREE NUMBER AND CONSUMER SENTINEL

Amt Requested: .00

Amt Paid: .00 Payment Method: Unknown

Agency Contact: Phone Complaint Date:

Initial Contact: Internet Web Site Transaction Date: 09/02/06

Initial Response: Internet/E-mail

Product/Service: Internet Information & Adult Services

Statute/Rule: FTC Act Sec 5 (BCP)

Law Violation: Deception/Misrepresentation

### Consumer

Complaining

Company/Org.:

Last name:

Address:

City:

Brandon

Country:

UNITED STATES

Work phone

Fax Number:

Home Number:

Email:

Age Range:

60 - 64

First:

State: SD Zip:





04/04/2007

LMARASCO

**Company**

Company: Google

Address:

City:

State: CA Zip:

Country: UNITED STATES

Email:

URL:

Phone: (650) 6234000

Ext:

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

### Transaction

Ref No.: 8904487 Contact Type: Complaint Source: Consumer TCS? Y

Comments: Consumer has a website for her small business and entered into a contract with Google AdSense the ability to place third party advertisers on her website. Consumer was told she can check out and object to any website they place if it is a competitor. Consumer made up a list of companies she wanted removed after they placed them, but Google never removed them. Consumer was then told they were cancelling her for violating their policy by clicking on the websites they placed which caused her to be paid for them. Consumer states Google went into her corporate email account and deleted all correspondence.

Created By: EMC Mann Created Date: 08/29/06

Updated By: Updated Date:

Org Name: TOLL FREE NUMBER AND CONSUMER SENTINEL

Amt Requested: .00

Amt Paid: .00 Payment Method: Unknown

Agency Contact: Phone Complaint Date:

Initial Contact: Internet Web Site Transaction Date: 07/01/06

Initial Response: Internet/E-mail

Product/Service: Internet Web Site Design\Promotion

Statute/Rule: FTC Act Sec 5 (BCP)

Law Violation: Deception/Misrepresentation

### Consumer

Complaining

Company/Org.:

Last name:

Address:

City:

Country:

Work phone

Fax Number:

Home Number:

Email:

Age Range:

(b)(6)

Washington

UNITED STATES

()

()

(b)(6)

60 - 64

First:

(b)(6)

State: DC Zip:

(b)(6)



04/04/2007

LMARASCO

**Company**

Company: Google

Address:

City:

State: NR Zip:

Country: LOCATION NOT REPORTED

Email:

URL:

Phone: () Ext:

Company: Google AdSense

Address:

City:

State: NR Zip:

Country: LOCATION NOT REPORTED

Email:

URL:

Phone: () Ext:

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

### Transaction

Ref No.: 8887011 Contact Type: Complaint Source: Consumer TCS? Y  
Comments: When you type failure in the search box the President George Bush's website is appears. It's a disgrace!  
Created By: WFRIDAY Created Date: 08/25/06  
Updated By: Updated Date:  
Org Name: PUBLIC USERS - CIS  
Amt Requested:  
Amt Paid: Payment Method:  
Agency Contact: Internet Complaint Date: 08/24/06  
Initial Contact: Unknown Transaction Date:  
Initial Response:  
Product/Service: Internet Access Services  
Statute/Rule: FTC Act Sec 5 (BCP)  
Law Violation: Deception/Misrepresentation

### Consumer

Complaining  
Company/Org.:

Last name:

(b)(6)

Address:

City:

Astoria

Country:

UNITED STATES

Work phone

()

Ext:

Fax Number:

()

Home Number:

(b)(6)

Email:

Age Range:

30 - 39

First:

(b)(6)

State: NY Zip:

(b)(6)



04/04/2007

LMARASCO

**Company**

Company: Google

Address:

City:

State: NR Zip:

Country: LOCATION NOT REPORTED

Email:

URL:

Phone: ()

Ext:

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

### Transaction

Ref No.: 8877413      Contact Type: Complaint      Source: Consumer      TCS? Y

Comments: Consumer has a complaint against Google.com. Consumer states that when the word Failure is entered into the search engine President George Bush comes up. Consumer states that he notified the company of the issue. Consumer states that the company should remove the info off the website. No email.

Created By: LLAWRENCE      Created Date: 08/24/06

Updated By: LLAWRENCE      Updated Date: 08/24/06

Org Name: TOLL FREE NUMBER AND CONSUMER SENTINEL

Amt Requested: .00

Amt Paid: .00      Payment Method: Unknown

Agency Contact: Phone      Complaint Date:

Initial Contact: Internet Web Site      Transaction Date: 08/23/06

Initial Response: Internet/E-mail

Product/Service: Internet Information & Adult Services

Statute/Rule: FTC Act Sec 5 (BCP)

Law Violation: Deception/Misrepresentation

### Consumer

Complaining  
Company/Org.: (b)(6)

Last name: (b)(6)      First: (b)(6)

Address: (b)(6)

City: Fort Walton Beach      State: FL Zip: (b)(6)

Country: UNITED STATES

Work phone: (b)(6)      Ext:

Fax Number: (b)(6)

Home Number: (b)(6)

Email: (b)(6)

Age Range: (b)(6)



04/04/2007

LMARASCO

**Company**

Company: GOOGLE.COM

Address:

City:

State: NR Zip:

Country: LOCATION NOT REPORTED

Email:

URL:

Phone: ()

Ext:

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

### Transaction

Ref No.: 8860751 Contact Type: Complaint Source: Consumer TCS? Y

Comments: (Product Name: Exposed personal information without my approval) Personal bankruptcy legal information is posted on Google under my personal name without my approval and Google won't remove it unless I have a court order. Where is my "privacy act" now? I want my personal information removed off Google. My personal telephone number is also listed under a "bogus" company name and I am receiving phone calls for that business at all hours of the day and night. I want my number removed off that website. I tried to contact the company at the address on the web but there is no business under that name at that address. Please help, I am being harrassed without cause.

Created By: DBRAHLEK

Created Date: 08/22/06

Updated By:

Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested:

Amt Paid:

Payment Method:

Agency Contact: Internet

Complaint Date: 08/18/06

Initial Contact: Unknown

Transaction Date:

Initial Response:

Product/Service: Internet Information & Adult Services

Statute/Rule: FTC Act Sec 5 (BCP)

Law Violation: Deception/Misrepresentation

### Consumer

Complaining

Company/Org.:

Last name:

(b)(6)

First:

(b)(6)

Address:

City:

Granite Bay

State: CA Zip:

(b)(6)

Country:

UNITED STATES

Work phone:

(b)(6)

st:

Fax Number:

Home Number:

Email:

Age Range:

40 - 49





04/04/2007

LMARASCO

**Company**

Company: Googles

Address: 1600 Amphitheatre Parkway

City: Mountain View

State: CA Zip: 94043

Country: UNITED STATES

Email: Google.com

URL:Google.com

Phone: (650) 2530000

Ext:

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

### Transaction

Ref No.: 8853775 Contact Type: Complaint Source: Consumer TCS? Y

Comments: (Product Name: search engine results) I want the website for whitehouse.gov removed from the search engine site when the words 'failure' are typed in. This is so sad that someone would stoop so low as to list our current administration as a failure. This email is being proliferated throughout the nation so everyone will go to the website and see that Google and Michael Moore consider our President a failure. I am appalled that such a thing could be allowed - and don't give me that 'free speech' stuff.

Created By: JKIGHT

Created Date: 08/21/06

Updated By:

Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested:

Amt Paid:

Payment Method:

Agency Contact: Internet

Complaint Date: 08/17/06

Initial Contact: Internet (Other)

Transaction Date:

Initial Response:

Product/Service: Internet Access Services

Statute/Rule: FTC Act Sec 5 (BCP)

Law Violation: Deception/Misrepresentation

### Consumer

Complaining

Company/Org.: (b)(6)

Last name:

Address:

City: Blytheville

Country: UNITED STATES

Work phone: (b)(6)

Fax Number:

Home Number:

Email:

Age Range: 50 - 59

First:

State: AR Zip:



04/04/2007

LMARASCO

**Company**

Company: Google

Address:

City:

State: NR Zip:

Country: LOCATION NOT REPORTED

Email:

URL:<http://www.google.com>

Phone: ()

Ext:

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

### Transaction

Ref No.: 8838820      Contact Type: Complaint      Source: Consumer      TCS? Y

Comments: Consumer called the CRC to file a complaint against Google a search engine. Consumer states that they list her telephone number listed on a companies name. Consumer states that there isn't a company at the address listed. Consumer states that she was contacting google to remove it and they told her the only way to remove it is through a court order.

Created By: BHENDERSON      Created Date: 08/17/06

Updated By:      Updated Date:

Org Name: TOLL FREE NUMBER AND CONSUMER SENTINEL

Amt Requested: .00

Amt Paid: .00      Payment Method: Unknown

Agency Contact: Mail      Complaint Date:

Initial Contact: Unknown      Transaction Date:

Initial Response: Unknown

Product/Service: Internet Information & Adult Services

Statute/Rule: General Privacy

Law Violation: Other privacy violation

### Consumer

Complaining  
Company/Org.: (b)(6)

Last name: (b)(6)      First: (b)(6)

Address: (b)(6)

City: Grana Bay      State: CA Zip: (b)(6)

Country: UNITED STATES

Work phone: (b)(6)      Ext:

Fax Number: (b)(6)

Home Number: (b)(6)

Email: (b)(6)

Age Range: 40 - 49



04/04/2007

LMARASCO

**Company**

Company: Google

Address:

City:

State: NR Zip:

Country: LOCATION NOT REPORTED

Email:

URL:google.com

Phone: ()

Ext:

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

### Transaction

Ref No.: 8837898 Contact Type: Complaint Source: Consumer TCS? Y

Comments: (Product Name: Search Engine) Google is supposed to be a search engine for the internet but they are playing the dirtiest form of politics. If you enter "failure" on a google search page, the first site listed is that of President George W. Bush. That stinks and I find it insulting.

Created By: RLOPER Created Date: 08/17/06

Updated By: Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested:

Amt Paid: Payment Method:

Agency Contact: Internet Complaint Date: 08/16/06

Initial Contact: Internet Web Site Transaction Date:

Initial Response:

Product/Service: Internet Access Services

Statute/Rule: FTC Act Sec 5 (BCP)

Law Violation: Deception/Misrepresentation

### Consumer

Complaining

Company/Org.: (b)(6)

Last name:

Address:

City: Oakland Park

Country: UNITED STATES

Work phone () Ext:

Fax Number: ()

Home Number: (b)(6)

Email:

Age Range: 50 - 59

First: (b)(6)

State: FL Zip: (b)(6)



04/04/2007

LMARASCO

**Company**

Company: Google

Address:

City:

State: NR Zip:

Country: LOCATION NOT REPORTED

Email: google.com

URL:Google.com

Phone: ()

Ext:

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

### Transaction

Ref No.: 8820000 Contact Type:Complaint Source:Consumer TCS? Y

Comments: A Google search of my name had a search result which was on a graphic porn site with minor children content (obtained from the Google search choices cache view).

I do not want my good name associated with this repugnant, exploiting content.

Google's cache selection shows content which you may determine to have you contact Google and ask that Google remove this search engine result for my name and perhaps everything from the originating server (which Google has obtained the Google cache from).

Created By: RLOPER

Created Date: 08/15/06

Updated By:

Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested:

Amt Paid:

Payment Method:

Agency Contact: Internet

Complaint Date: 08/13/06

Initial Contact: Internet Web Site

Transaction Date:

Initial Response:

Product/Service: Internet Information & Adult Services

Statute/Rule: Media Violence





04/04/2007

LMARASCO

Law Violation: MV: Other Complaints regarding Entertainment Media  
(Language, Sex, Not Related to Children, Etc.)

**Consumer**

Complaining  
Company/Org.:

Last name: Not Provided

First:

Address:

City:

State: NR Zip:

Country: LOCATION NOT REPORTED

Work phone () Ext:

Fax Number: ()

Home Number: ()

Email: re123@usa.com

Age Range:

**Company**

Company: Google

Address:

City:

State: NR Zip:

Country: LOCATION NOT REPORTED

Email: URL:

Phone: () Ext:

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

### Transaction

Ref No.: 8803314 Contact Type: Complaint Source: Consumer TCS? Y

Comments: (Product Name: cancellation service - is not being completed)  
we had our web designer/ hosting company cancell services  
with Google/Adword in May and they are continually charging  
of Business MC. I have emailed cancellations with no  
response. I have started filing disputes with our credit card  
company. They can not block this vendor, we would have to  
cancel our CC and we do not want to at this time. Please  
Help me. (b)(6)

Created By: RLOPER Created Date: 08/11/06  
Updated By: Updated Date:  
Org Name: PUBLIC USERS - CIS  
Amt Requested: 500.00  
Amt Paid: 300.00 Payment Method: MasterCard Credit Card  
Agency Contact: Internet Complaint Date: 08/10/06  
Initial Contact: Internet/E-mail Transaction Date:

Initial Response:

Product/Service: Internet Web Site Design\Promotion

Statute/Rule: FTC Act Sec 5 (BCP)

Law Violation: Deception/Misrepresentation

### Consumer

Complaining  
Company/Org.: (b)(6)

Last name:

Address:

City: Atlanta

Country: UNITED STATES

Work phone:

Fax Number:

Home Number:

Email:

Age Range: 40 - 49

First:

State: GA Zip:



04/04/2007

LMARASCO

**Company**

Company: Google-Adwords

Address:

City:

State: NR Zip:

Country: LOCATION NOT REPORTED

Email:

URL:

Phone: ()

Ext:

**Company Representative**

Rep Name: May, Tedi

Title:

**Associated Company**



04/04/2007

LMARASCO

## Transaction

Ref No.: 8785082      Contact Type: Complaint      Source: Consumer      TCS? Y

Comments: (Product Name: Search Advertising) A suggestion that may help Google and others save \$90 million or more before they get sued again by advertisers:

Don't count clicks through to advertisers' sites until it is the last click done on that search by that user (by IP address). This way, advertisers won't have to pay for clicks when the searcher just hits the back button and clicks on another ad instead. Many people click multiple ads before they find what they are looking for and Google and it's partners (and others) shouldn't benefit from fruitless searches.

The FTC should be able to enforce this and I have suggested this to Yahoo! and MSN and Google so they are aware of it as well.

Created By: SWOODSON      Created Date: 08/09/06

Updated By:      Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested: .00

Amt Paid: .00      Payment Method: Not Reported

Agency Contact: Internet      Complaint Date: 08/07/06

Initial Contact: Internet (Other)      Transaction Date:

Initial Response:

Product/Service: Internet Information & Adult Services

Statute/Rule: FTC Act Sec 5 (BCP)



04/04/2007

LMARASCO

Law Violation: Deception/Misrepresentation

**Consumer**

Complaining

Company/Org.:

Last name: Not Provided by Org

First:

Address:

City:

State: NR Zip:

Country: LOCATION NOT REPORTED

Work phone () Ext:

Fax Number: ()

Home Number: ()

Email:

Age Range:

**Company**

Company: Google, Yahoo!, MSN, and others

Address:

City:

State: NR Zip:

Country: LOCATION NOT REPORTED

Email:

URL:

Phone: () Ext:

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

## Transaction

Ref No.: 9575928 Contact Type: Complaint Source: Consumer TCS? Y

Comments: CONTACT SENTINEL@FTC.GOV FOR MORE COMMENT INFORMATION. ALSO, TO PREVENT INTERFERENCE WITH PENDING ACTIONS, PRIOR TO ANY INVESTIGATIVE ACTION CONTACT THE IFCC AT SEARCH@IFCCFBI.GOV. ICC Ref # I0608081240595321: I was hired June 5, 2006. to work for Google through their contractor ABE/Workforce logic as a remote worker 40 hours a week through August 27 after working for them in a part time capacity effective March 21, 2006. The agreement was vacated effective June 22 with 12 hours notice without review for "planned changes." As a result of this work my computer was damaged with the Masakur Trojan Horse and potentially other unknown "bugs." The remaining 9 weeks and 1 day on the contract has not been paid. Furthermore, ABE/Workforce logic, as an internet operator, clearly believes the are operating in a lawless vacuum with respect to their accountability for performing on their worker agreements & responsibilities. Sincerely, (b)(6) MSES/MPA (513) 751-3591 HERE IS A COPY OF COMMUNICATION between us: (b)(6) From the desk of (b)(6) Cincinnati, OH (b)(6) August 4, 2006 Dear Co-Founder & President Larry Page, Would you please have someone follow up with this from the company. I have not been paid in 6 weeks. Of course that is not to say that nothing has occurred. I have had the wonderful opportunity of having my integrity attacked by your contractor ABE/Wokforce Logic and then subsequently threatened by them for sharing this information with Google. Any assistance you can provide is genuinely appreciated. Sincerely, (b)(6) MSES/MPA (b)(6) (b)(6) Enclosures about the author: http://draftpaulhackett.org/abouttheauthor.htm From the desk of (b)(6) Cincinnati, OH (b)(6) July 19, 2006

Created By: IFCC Created Date: 08/08/06  
Updated By: Updated Date:

Org Name: Internet Fraud Complaint Center

Amt Requested:

Amt Paid: Payment Method:

Agency Contact: External Agency Complaint Date: 08/08/06

Initial Response:

Product/Service: Other (Note in Comments)

Statute/Rule:



04/04/2007

LMARASCO

Law Violation:

**Consumer**

Complaining

Company/Org.: (b)(6)

Last name:

Address:

City: CINCINNATI

Country: UNITED STATES

Work phone () Ext:

Fax Number: (b)(6)

Home Number:

Email:

Age Range:

First:

State: OH Zip:

**Company**

Company: Google & ABEWorkforce Logic

Address: 1600 Amphitheatre Parkway

City: MOUNTAINVIEW

State: CA Zip: 94043

Country: UNITED STATES

Email:

URL:

Phone: (650) 6234000 Ext:

**Company Representative**

Rep Name: Page, Larry

Title:

**Associated Company**



04/04/2007

LMARASCO

## Transaction

Ref No.: 8701323 Contact Type: Complaint Source: Consumer TCS? Y

Comments: (Product Name: GoogleTalk) GoogleTalk is incompetent. After numerous e-mails sent, GoogleTalk has yet to correct problem, to get and set "forgot password retrieval" as a new user. All they sent out are run -arounds while ignoring the problem. What happens next, Google has not replied like this new user account can be taken off(deleted) and a new one created? ps The USA is supposed to be the richest country in the world yet its actions are the most backward!! Rights-Individual-Privacy

Date: Thu, 15 Jun 2006 13:01:49 -0700 (PDT)  
From: (b)(6) Subject: Re:Fwd: Re: [#61783389]  
Google Talk: setup, Re: [#62536220] Google Talk: setup  
To: Google Team talk-feedback@google.com

Hi, Sick and tired of run-arounds from Google; no info has been sent to me on the present status of Google Talk account-- been canceled, inactive yet remains available, maybe google and others use it?! Will I be able to sign-in? I can't because of unable to get 'forgot password'(note: LOOOOOOOOK through past e-m complaints sent to Google more than a month.) ps Not using a mobile/cell phone pps faq(frequently-asked questions) are useless.

Created By: RBROWN1 Created Date: 07/26/06  
Updated By: Updated Date:  
Org Name: PUBLIC USERS - CIS  
Amt Requested:  
Amt Paid: Payment Method:  
Agency Contact: Internet Complaint Date: 07/23/06  
Initial Contact: Internet/E-mail Transaction Date:

Initial Response:

Product/Service: Internet Information & Adult Services

Statute/Rule: FTC Act Sec 5 (BCP)





04/04/2007

LMARASCO

Law Violation: Deception/Misrepresentation

**Consumer**

Complaining

Company/Org.:

Last name: Not Provided by Org

First:

Address:

City:

State: NR Zip:

Country: LOCATION NOT REPORTED

Work phone () Ext:

Fax Number: ()

Home Number: ()

Email:

Age Range:

**Company**

Company: Google (Internet)

Address:

City:

State: NR Zip:

Country: LOCATION NOT REPORTED

Email: google.com

URL:

Phone: () Ext:

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

# Transaction

Ref No.: 9654653 Contact Type: Complaint Source: Consumer TCS? Y

Comments: CONTACT SENTINEL@FTC.GOV FOR MORE COMMENT INFORMATION. ALSO, TO PREVENT INTERFERENCE WITH PENDING ACTIONS, PRIOR TO ANY INVESTIGATIVE ACTION CONTACT THE IFCC AT SEARCH@IFCCFBI.GOV. ICC Ref # I0607242345132191: Google, the search engine company, uses a technology called "robots" (also known as "bots" or "spiders") to index and collect information from web sites around the world. My company maintains a web site and web based forums for the use of our registered members, and the general public. Recently, within the past few months, we noticed a very serious slowdown on our web servers. Investigating this, we discovered that the problem was being caused by the way that the "Googlebot" was interacting with our web site. Our log records show that on an average day, this "Googlebot" has been accessing our site in excess of 2,500 times, and collecting more than 2.5 gigabytes of data from us in a single month. At times, there have been as many as 70 or more Googlebots logged in to our web site, rendering it unusable by our members, putting a severe load on our servers, and using excess amounts of bandwidth that we end up paying for. Most recently, on July 20th, 2006, this became such a serious problem that we were forced to shut down our site to our members while we attempted to get Google to restrict their activities on our server. Logs and screen captures from that date show that at one point there were 78 Googlebots logged into our site at a single time, and our server logs for that date show that Google logged in to our site 2,712 times, and that portion of our log files that contain only the data related to these accesses is over 600kb in size. We have tried contacting Google, and requested that they reduce or otherwise restrict their accessing of our site. The acknowledge that their Googlebot "has

Created By: IFCC Created Date: 07/24/06  
Updated By: Updated Date:

Org Name: Internet Fraud Complaint Center

Amt Requested:

Amt Paid: 1,000.00 Payment Method: Not Reported

Agency Contact: External Agency Complaint Date: 07/24/06

Initial Response:

Product/Service: Other (Note in Comments)

Statute/Rule:



04/04/2007

LMARASCO

Law Violation:

**Consumer**

Complaining

Company/Org.: (b)(6)

Last name:

Address:

City: BALTIMORE

Country: UNITED STATES

Work phone () Ext:

Fax Number: (b)(6)

Home Number:

Email:

Age Range:

First:

State: MD Zip:

**Company**

Company: Google, Inc.

Address: 1600 Amphitheatre Parkway

City: Mountain View

State: CA Zip: 94043

Country: UNITED STATES

Email:

URL:

Phone: (640) 2530000 Ext:

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

### Transaction

Ref No.: 8660004 Contact Type: Complaint Source: Consumer TCS? Y

Comments: (Product Name: Google AdWords Advertising Program) Company arbitrarily RAISED COST PER CLICKS per keyword used in most cases by 4,000 percent. While other advertisers are at .10 cents.. Our charges have increased arbitrarily to \$1.00/\$5.00/\$10.00 and HIGHER in many cases. They used the guise of Quality Landing page.. when in reality.. there's NO TRUTH TO THAT.. and they are unfairly jacking up prices.. unfairly. Why should we bid MORE than anyone else.. just at Googles request? is that Fair. This is either Unfair Practices, Fraud.. or an outright criminal offense. I'm not an attorney.. so I do not know. What I do know is.. Google is favoring others.. while making Hotelocity.com pay more !

Created By: BSTURM Created Date: 07/19/06

Updated By: Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested: 1,920.00

Amt Paid: 1,920.00 Payment Method: Visa Credit Card

Agency Contact: Internet Complaint Date: 07/17/06

Initial Contact: Internet Web Site Transaction Date: 07/14/06

Initial Response:

Product/Service: Internet Information & Adult Services

Statute/Rule: FTC Act Sec 5 (BCP)

Law Violation: Deception/Misrepresentation

### Consumer

Complaining

Company/Org.: (b)(6)

Last name:

Address:

City: Carlsbad

Country: UNITED STATES

Work phone:

Fax Number:

Home Number:

Email:

Age Range: 60 - 64

First:

State: CA Zip:

(b)(6)



04/04/2007

LMARASCO

**Company**

Company: GOOGLE.COM

Address: 1600 Amphitheatre Parkway

City: Mountain View, CA 94043

State: CA Zip: 94043

Country: UNITED STATES

Email: adwords-support@google.com

URL:www.google.com

Phone: (866) 2466453 Ext:

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

### Transaction

Ref No.: 8647575 Contact Type: Complaint Source: Consumer TCS? Y

Comments: (Product Name: Google Ad Service) The google's new policy "inactive keyword for search" make an unfiar deals with all existing and new customers using its Google Ad Service.

The new policy breaks a simple and common rule - " pay more for bidding hottest keyword, pay less for bidding uncommon keyword ". It forces his customers to pay an unreasonable high minimum amount for bidding some uncommon keyword and forces others to pay more to bid hottest keywords. Especially, google is a leading company in this market. Customers with no choice cannot use its service even through the deals is unfair. It costs 50% more for all company to use Google Ad Services.

Created By: RBROWN1

Created Date: 07/18/06

Updated By:

Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested:

Amt Paid:

Payment Method:

Agency Contact: Internet

Complaint Date: 07/15/06

Initial Contact: Internet Web Site

Transaction Date:

Initial Response:

Product/Service: Internet Information & Adult Services

Statute/Rule: FTC Act Sec 5 (BCP)

Law Violation: Deception/Misrepresentation

### Consumer

Complaining  
Company/Org.:

Last name:

(b)(6)

First:

(b)(6)

Address:

City:

Fremont

State: CA Zip:

(b)(6)

Country:

UNITED STATES

Work phone

(b)(6)

Fax Number:

Home Number:

Email:

Age Range:

30 - 39



04/04/2007

LMARASCO

**Company**

Company: Google

Address: 1600 Amphitheatre Parkway

City: Mountain View

State: CA Zip: 94043

Country: UNITED STATES

Email:

URL:www.google.com

Phone: (650) 2530000

Ext:

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

## Transaction

Ref No.: 8647118      Contact Type: Complaint      Source: Consumer      TCS? Y

Comments: (Product Name: Adwords online advertising service.) Google appears to be selling the exact same adspace, via their Adwords program for a few cents to large companies, and up to \$10 for small companies - forcing the smaller out of business.

Smaller companies cannot afford to pay \$10 per visitor.

This is especially unfair and anti-competitive because google have been lying about the reasons for the sudden 3000% selective price hikes, claiming the targeted companies ads are not so relevant.

In which case why can companies like ask.com and ebay.com can run advertisements for 'buy heroin' or 'buy monkey' when they likely don't sell either?

See [http://www.webmasterworld.com/google\\_adwords/3003366.htm](http://www.webmasterworld.com/google_adwords/3003366.htm)

Many companies, at a time when Google has thrown them into financial crisis, have been running themselves ragged trying to increase their 'relevance' and 'quality'. All to no avail - and Google knows this, but sent them on this cruel wild goose chase anyway.

Created By: WFRIDAY      Created Date: 07/18/06

Updated By:      Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested:

Amt Paid:      Payment Method:

Agency Contact: Internet      Complaint Date: 07/16/06

Initial Contact: Internet Web Site      Transaction Date:

Initial Response:

Product/Service: Internet Access Services

Statute/Rule: FTC Act Sec 5 (BCP)





04/04/2007

LMARASCO

Law Violation: Deception/Misrepresentation

**Consumer**

Complaining

Company/Org.:

Last name:

(b)(6)

First:

(b)(6)

Address:

City:

london

State: ZZ Zip:

Country:

UNITED KINGDOM

Work phone

()

Ext:

Fax Number:

()

Home Number:

()

Email:

(b)(6)

Age Range:

40 - 49

**Company**

Company: Google/Adwords

Address:

City:

State: NR Zip:

Country: LOCATION NOT REPORTED

Email:

URL:

Phone:

()

Ext:

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

## Transaction

Ref No.: 8647106 Contact Type: Complaint Source: Consumer TCS? Y

Comments: (Product Name: Adwords) Google did not contact me about this. That's part of the problem. Google raised the minimum cost of their Adwords advertising for my keywords to \$1, \$5 and \$10. Our company was experiencing fairly decent sales growth, but after this move by Google, we are hurting. Obviously, customers were getting what they wanted from our website, www.integrityreviews.com, because we were getting a significant number of sales. They would not have bought if they had not liked the products on the site. But after Google's change in prices, we are not able to afford the keywords we need anymore. We can't pay \$5 per keyword in most cases unless 30-50% of the potential customers actually buy. This kind of customer response is unrealistic in any market.

Please conduct an investigation into Google's recent actions. Thank you.

Created By: WFRIDAY Created Date: 07/18/06

Updated By: Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested:

Amt Paid: Payment Method:

Agency Contact: Internet Complaint Date: 07/16/06

Initial Contact: Internet (Other) Transaction Date:

Initial Response:

Product/Service: Internet Access Services

Statute/Rule: FTC Act Sec 5 (BCP)



04/04/2007

LMARASCO

Law Violation: Deception/Misrepresentation

**Consumer**

Complaining

Company/Org.: (b)(6)

Last name:

Address:

City: Plano

Country: UNITED STATES

Work phone:

Fax Number:

Home Number:

Email:

Age Range: 40 - 49

First:

State: TX Zip:

**Company**

Company: Google, Inc.

Address:

City:

State: NR Zip:

Country: LOCATION NOT REPORTED

Email:

URL:www.adwords.com

Phone: ()

Ext:

**Company Representative**

Rep Name: Marlow, Scott

Title:

**Associated Company**



04/04/2007

LMARASCO

## Transaction

Ref No.: 8647087 Contact Type:Complaint Source:Consumer TCS? Y

Comments: (Product Name: Advertising on Adwords) Since December I believe that Google is charging me more for pay per click (AdWords) advertising service than they charge other companies in a blatant effort to leave my company unable to compete. Several support representatives have told me that my website is "exactly what we are looking for" and it should not affect the price they are requiring me to bid. I was bidding \$0.06 to \$0.10 per click, now they are asking me for \$5.00 to \$10.00 per click. I can NOT afford that. BUT ... for the "Right Price" they will show it anyway. It seems as if they are willing to forego their high standards for the right price. They say they have made these changes to create better search results for their customers (searchers) yet they will still show the same ads for the right price. When a company like Google that sells advertising uses its position to eliminate competition in the market place it is definitely a degree of monopoly and should not be allowed.

Created By: WFRIDAY Created Date: 07/18/06

Updated By: Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested:

Amt Paid: Payment Method:

Agency Contact: Internet Complaint Date: 07/16/06

Initial Contact: Internet Web Site Transaction Date:

Initial Response:

Product/Service: Internet Access Services

Statute/Rule: FTC Act Sec 5 (BCP)



04/04/2007

LMARASCO

Law Violation: Deception/Misrepresentation

**Consumer**

Complaining  
Company/Org.: (b)(6)  
Last name:  
Address:

First: (b)(6)

City: Aurora  
Country: UNITED STATES  
Work phone () Ext:  
Fax Number: ()  
Home Number: (b)(6)  
Email:  
Age Range: 40 - 49

State: OH Zip: (b)(6)

**Company**

Company: Google Adwords  
Address: 1600 Amphitheatre Parkway

City: Mountain View  
Country: UNITED STATES  
Email: support@google.com  
Phone: (866) 2466453 Ext:

State: CA Zip: 94043

URL: http://adwords.google.com

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

## Transaction

Ref No.: 8646407 Contact Type: Complaint Source: Consumer TCS? Y

Comments: (Product Name: Adwords keywords arbitrary price setting)  
Google's attempt to set the arbitrary keyword prices breaks the rules of market economy where market determines the prices of the goods and services. In some cases the prices are set so high, they are un-imaginable. Google has created a monopoly on the web search engines and now setting the prices as it is in a position to stick it. We as a public would loose big if Google is not controlled right away.

I hope the government will take serious action to control this monopoly behaviour of Google. This may just be the begining as Google my try this approach on its other services if Google is not taught a lesson now. Please SAVE the Public from this illegal and inappropriate behaviour.

Regards

Created By: WFRIDAY Created Date: 07/18/06

Updated By: Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested:

Amt Paid: .00 Payment Method:

Agency Contact: Internet Complaint Date: 07/16/06

Initial Contact: Internet Web Site Transaction Date:

Initial Response:

Product/Service: Internet Access Services

Statute/Rule: FTC Act Sec 5 (BCP)



04/04/2007

LMARASCO

Law Violation: Deception/Misrepresentation

**Consumer**

Complaining  
Company/Org.:

Last name:

(b)(6)

First:

(b)(6)

Address:

City: East Brunswick

State: NJ Zip:

(b)(6)

Country: UNITED STATES

Work phone:

(b)(6)

Fax Number:

Home Number:

Email:

Age Range: 50 - 59

**Company**

Company: Google

Address:

City:

State: NR Zip:

Country: LOCATION NOT REPORTED

Email:

URL:adwords.google.com

Phone: ()

Ext:

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

### Transaction

Ref No.: 8631296      Contact Type: Complaint      Source: Consumer      TCS? Y

Comments: (Product Name: google adwords) Google is charging me more for pay per click (AdWords) advertising service than they charge other companies in a blatant effort to leave my company unable to compete with my competition.

Created By: JHART      Created Date: 07/17/06

Updated By:      Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested: 42,000.00

Amt Paid: 42,000.00      Payment Method: Bank Account Debit

Agency Contact: Internet      Complaint Date: 07/14/06

Initial Contact: Internet/E-mail      Transaction Date:

Initial Response:

Product/Service: Internet Information & Adult Services

Statute/Rule: FTC Act Sec 5 (BCP)

Law Violation: Deception/Misrepresentation

### Consumer

Complaining  
Company/Org.:

Last name:

Address:

City: las vegas

Country: UNITED STATES

Work phone: ()      Ext:

Fax Number:

Home Number:

Email:

Age Range: 30 - 39

(b)(6)

First:

(b)(6)

State: NV Zip:

(b)(6)





04/04/2007

LMARASCO

**Company**

Company: Google

Address: 1600 Amphitheatre Parkway

City: Mountain View

State: CA Zip: 94043

Country: UNITED STATES

Email: adwords-support@google.com

URL:www.google.com

Phone: (650) 253-0000 Ext:

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

## Transaction

Ref No.: 9650199 Contact Type: Complaint Source: Consumer TCS? Y

Comments: CONTACT SENTINEL@FTC.GOV FOR MORE COMMENT INFORMATION. ALSO, TO PREVENT INTERFERENCE WITH PENDING ACTIONS, PRIOR TO ANY INVESTIGATIVE ACTION CONTACT THE IFCC AT SEARCH@IFCCFBI.GOV. ICC Ref # I0607161538569842: A HUGE SUPREME BUSINESS VIOLATION OF HUMAN RIGHTS. Google victimized millions around the world with infringing on public properties and commercializing the contents of general communication and general properties. Why is what Google does illegal? Can someone go to book libraries, copy books and profit from those copies? Google is scanning as many as 15 million books from public libraries for their profit ambitions. What makes them special to intrude on humanity and rob, pirate it freely? The illegal acts are based on Google's beliefs that materials in public properties can be taken freely for commercial reason. The act represents a superior crime involving illegal piracy. This is not the only product where Google unilaterally acquired mass information sources on illegitimate business grounds. Google sells all content of usenet discussions. These discussions are of general communication, and profiting specifically on the content of general discussion on public territories cannot have legitimate grounds of profiting. The violation is of supreme human rights violations. In both of these cases Google infringed on public property and culture with illegitimate business grounds of MASS piracy. Illegitimate business grounds based on mass business piracies falls under the FBI's responsibility to stand up against to prevent criminalization of masses. Google lives freely over their corrupted materials, and as corrupt grounds they do endless counts of human rights violations involving building profiles on people's chats, chats made from people's homes, while those people may not have their own webpages. Google runs others' lives and business

Created By: IFCC Created Date: 07/16/06

Updated By: Updated Date:

Org Name: Internet Fraud Complaint Center

Amt Requested:

Amt Paid: .00 Payment Method: Not Reported

Agency Contact: External Agency Complaint Date: 07/16/06

Initial Response:

Product/Service: Other (Note in Comments)

Statute/Rule:



04/04/2007

LMARASCO

Law Violation:

**Consumer**

Complaining

Company/Org.: (b)(6)

Last name:

Address:

First: (b)(6)

City: HIGHLANDS RANCH

State: CO Zip: (b)(6)

Country: UNITED STATES

Work phone () Ext:

Fax Number: (b)(6)

Home Number:

Email:

Age Range:

**Company**

Company: Google, Inc

Address: 1600 Amphitheatre Parkway

City: Mountain View

State: CA Zip: 94043

Country: UNITED STATES

Email:

URL:

Phone: () Ext:

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

## Transaction

Ref No.: 8579864 Contact Type: Complaint Source: Consumer TCS? Y

Comments: I filed a legally valid complaint with Google inc. in order to remove libelous messages from Google groups. Google inc. omitted to act on my request/complaint although they promised to do so. This is their confirmation that they promised to act on my request/complaint:  
FROM: noreply@googlegroups.com TO: ervali@list.ru,  
We have received your request to remove the messages below from the Google Groups archive. To accept the removal request, visit:  
[http://groups.google.com/groups/msgs\\_remove?vt=po760ggAAABpyjZmFHqBRS5uwPQ8BXEe](http://groups.google.com/groups/msgs_remove?vt=po760ggAAABpyjZmFHqBRS5uwPQ8BXEe)  
Messages selected for removal:  
<http://groups.google.com/groups?selm=13f6c615.8775375560.50ccf384@posting.google.com>  
<http://groups.google.com/groups?selm=75d6d473.5101355753.2bafclb@posting.google.com>  
<http://groups.google.com/groups?selm=73f5d521.4078715866.0ffeb6a@posting.google.com>  
<http://groups.google.com/groups?selm=11f0b822.0040305050.486740cc@posting.google.com>  
<http://groups.google.com/groups?selm=63e7e330.6732314532.45edf513@posting.google.com>  
<http://groups.google.com/groups?selm=74a5c685.8655253588.34deb351@posting.google.com>  
<http://groups.google.com/groups?selm=57f0b005.2535674810.55863lcc@posting.google.com>  
<http://groups.google.com/groups?selm=57e2f167.6550423400.16cbe270@posting.google.com>  
<http://groups.google.com/groups?selm=85d8a513.5640131621.2fca d5d@posting.google.com>  
<http://groups.google.com/groups?selm=50f4f611.4256613128.66eca464@posting.google.com>  
<http://groups.google.com/groups?selm=47f1c408.3358374213.3eefdlf@posting.google.com>  
<http://groups.google.com/groups?selm=44e2b332.4552062615.6ddfd2e@posting.google.com>

Created By: MHORN

Created Date: 07/10/06

Updated By:

Updated Date:

Org Name: ECONSUMER.GOV

Amt Requested:

Amt Paid:

Payment Method:

Agency Contact: Internet

Complaint Date: 07/03/06

Initial Contact: Internet Web Site

Transaction Date: 01/01/00

Initial Response:

Product/Service: Internet Access Services



04/04/2007

LMARASCO

Statute/Rule:

Law Violation: Failure to Honor Warranty or Guarantee  
Merchandise or Service Never Received

**Consumer**

Complaining  
Company/Org.:

Last name:

(b)(6)

First:

(b)(6)

Address:

City:

State: ZZ Zip: (b)(6)

Country: BELGIUM

Work phone: ()

Ext:

Fax Number: ()

Home Number: ()

Email:

(b)(6)

Age Range:

**Company**

Company: Google Inc.

Address: 1600 Amphitheatre Pkwy

City: Mountain View, CA 94043

State: CA Zip: 94043

Country: UNITED STATES

Email:

URL: <http://www.google.com>

Phone: ()

Ext:

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

## Transaction

Ref No.: 8579863 Contact Type: Complaint Source: Consumer TCS? Y

Comments: I filed a legally valid complaint with Google inc. in order to remove libelous messages from Google groups. Google inc. omitted to act on my request/complaint although they promised to do so. This is their confirmation that they promised to act on my request/complaint:

FROM: noreply@googlegroups.com TO: evlint@bk.ru

We have received your request to remove the messages below from the Google Groups archive. To accept the removal request, visit the following URL:

[http://groups.google.com/groups/msgs\\_remove?vt=vilw5ggAAABdTtSAEMck6RIvqjZccJKr](http://groups.google.com/groups/msgs_remove?vt=vilw5ggAAABdTtSAEMck6RIvqjZccJKr) Messages selected for removal:

<http://groups.google.com/groups?selm=70c296d3.0409142016.4f12c39@posting.google.com>

<http://groups.google.com/groups?selm=70c296d3.0409111213.6c7813ac@posting.google.com>

<http://groups.google.com/groups?selm=70c296d3.0409111141.6f3a4bcb@posting.google.com>

<http://groups.google.com/groups?selm=70c296d3.0409092204.25703fca@posting.google.com>

<http://groups.google.com/groups?selm=70c296d3.0409142053.394170d8@posting.google.com>

<http://groups.google.com/groups?selm=70c296d3.0409092206.58c450b4@posting.google.com>

<http://groups.google.com/groups?selm=70c296d3.0409092236.5b9cb5a0@posting.google.com>

<http://groups.google.com/groups?selm=70c296d3.0409092207.6fc7cec2@posting.google.com>

<http://groups.google.com/groups?selm=70c296d3.0409092211.1a680a59@posting.google.com>

<http://groups.google.com/groups?selm=70c296d3.0409092206.4f4172d0@posting.google.com>

<http://groups.google.com/groups?selm=70c296d3.0409092204.3850fa09@posting.google.com> Request ID: 20766 The Google Groups Team

### Desired Resolution:

I want Google inc. to act on my request and do as they promised by removing these libelous messages.

Created By: MHORN

Created Date: 07/10/06

Updated By:

Updated Date:

Org Name: ECONSUMER.GOV

Amt Requested:

Amt Paid:

Payment Method:

Agency Contact: Internet

Complaint Date: 06/30/06

Initial Contact: Internet Web Site

Transaction Date: 01/01/00

Initial Response:



04/04/2007

LMARASCO

Product/Service: Internet Access Services

Statute/Rule:

Law Violation: Failure to Honor Warranty or Guarantee  
Merchandise or Service Never Received  
Merchandise or Service Not in Conformity with Order

**Consumer**

Complaining  
Company/Org.:

Last name:

(b)(6)

First:

(b)(6)

Address:

City: Leuven

State: ZZ Zip:

Country: BELGIUM

Work phone ()

Ext:

Fax Number: ()

Home Number:

(b)(6)

Email:

Age Range:

**Company**

Company: Google Inc.

Address: 1600 Amphitheatre Parkway

City: Mountain View, CA 94043

State: CA Zip: 94043

Country: UNITED STATES

Email:

URL: <http://www.google.com>

Phone: ()

Ext:

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

## Transaction

Ref No.: 8542550 Contact Type: Complaint Source: Consumer TCS? Y

Comments: I filed a legally valid complaint with Google inc. in order to remove libelous messages from Google groups. Google inc. omitted to act on my request/complaint although they promised to do so. This is their confirmation that they promised to act on my request/complaint:  
FROM: noreply@googlegroups.com TO: ervali@list.ru,  
We have received your request to remove the messages below from the Google Groups archive. To accept the removal request, visit:  
[http://groups.google.com/groups/msgs\\_remove?vt=po760ggAAABpyjZmFHqBRS5uwPQ8BXEe](http://groups.google.com/groups/msgs_remove?vt=po760ggAAABpyjZmFHqBRS5uwPQ8BXEe)  
Messages selected for removal:  
<http://groups.google.com/groups?selm=13f6c615.8775375560.50ccf384@posting.google.com>  
<http://groups.google.com/groups?selm=75d6d473.5101355753.2bafclb@posting.google.com>  
<http://groups.google.com/groups?selm=73f5d521.4078715866.0ffeb6a@posting.google.com>  
<http://groups.google.com/groups?selm=11f0b822.0040305050.486740cc@posting.google.com>  
<http://groups.google.com/groups?selm=63e7e330.6732314532.45edf513@posting.google.com>  
<http://groups.google.com/groups?selm=74a5c685.8655253588.34deb351@posting.google.com>  
<http://groups.google.com/groups?selm=57f0b005.2535674810.55863lcc@posting.google.com>  
<http://groups.google.com/groups?selm=57e2f167.6550423400.16cbe270@posting.google.com>  
<http://groups.google.com/groups?selm=85d8a513.5640131621.2fca d5d@posting.google.com>  
<http://groups.google.com/groups?selm=50f4f611.4256613128.66eca464@posting.google.com>  
<http://groups.google.com/groups?selm=47f1c408.3358374213.3eefdlf@posting.google.com>  
<http://groups.google.com/groups?selm=44e2b332.4552062615.6ddfd2e@posting.google.com>

Created By: MPHILLIPS

Created Date: 07/05/06

Updated By:

Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested:

Amt Paid:

Payment Method:

Agency Contact: Internet

Complaint Date: 07/03/06

Initial Contact: Internet Web Site

Transaction Date:

Initial Response:

Product/Service: Internet Information & Adult Services





04/04/2007

LMARASCO

Statute/Rule: FTC Act Sec 5 (BCP)  
Law Violation: Deception/Misrepresentation

**Consumer**

Complaining  
Company/Org.:

Last name:

(b)(6)

First:

(b)(6)

Address:

City: Leuven

State: ZZ Zip:

Country: BELGIUM

Work phone ()

Ext:

Fax Number: ()

Home Number: ()

Email:

(b)(6)

Age Range: 50 - 59

**Company**

Company: Google Inc.

Address: 1600 Amphitheatre Pkwy

City: Mountain View, CA 94043

State: NR Zip:

Country: LOCATION NOT REPORTED

Email:

URL: <http://www.google.com>

Phone: ()

Ext:

**Company Representative**

**Associated Company**



04/04/2007

LMARASCO

## Transaction

Ref No.: 8535752 Contact Type: Complaint Source: Consumer TCS? Y

Comments: (Product Name: Google groups) I filed a legally valid complaint with Google inc. in order to remove libelous messages from Google groups. Google inc. omitted to act on my request/complaint although they promised to do so. This is their confirmation that they promised to act on my request/complaint:

FROM: noreply@googlegroups.com TO: evlint@bk.ru

We have received your request to remove the messages below from the Google Groups archive. To accept the removal request, visit the following URL:

[http://groups.google.com/groups/msgs\\_remove?vt=vilw5ggAAABdTtSAEMck6RIvqjZccJKr](http://groups.google.com/groups/msgs_remove?vt=vilw5ggAAABdTtSAEMck6RIvqjZccJKr) Messages selected for removal:

<http://groups.google.com/groups?selm=70c296d3.0409142016.4f12c39@posting.google.com>

<http://groups.google.com/groups?selm=70c296d3.0409111213.6c7813ac@posting.google.com>

<http://groups.google.com/groups?selm=70c296d3.0409111141.6f3a4bcb@posting.google.com>

<http://groups.google.com/groups?selm=70c296d3.0409092204.25703fca@posting.google.com>

<http://groups.google.com/groups?selm=70c296d3.0409142053.394170d8@posting.google.com>

<http://groups.google.com/groups?selm=70c296d3.0409092206.58c450b4@posting.google.com>

<http://groups.google.com/groups?selm=70c296d3.0409092236.5b9cb5a0@posting.google.com>

<http://groups.google.com/groups?selm=70c296d3.0409092207.6fc7cec2@posting.google.com>

<http://groups.google.com/groups?selm=70c296d3.0409092211.1a680a59@posting.google.com>

<http://groups.google.com/groups?selm=70c296d3.0409092206.4f4172d0@posting.google.com>

<http://groups.google.com/groups?selm=70c296d3.0409092204.3850fa09@posting.google.com> Request ID: 20766 The Google Groups Team

### Desired Resolution:

I want Google inc. to act on my request and do as they promised by removing these libelous messages.

Created By: RBROWN1

Created Date: 07/03/06

Updated By:

Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested: .00

Amt Paid: .00

Payment Method:

Agency Contact: Internet

Complaint Date: 06/30/06

Initial Contact: Internet Web Site

Transaction Date:



04/04/2007

LMARASCO

Initial Response:

Product/Service: Internet Information & Adult Services

Statute/Rule: FTC Act Sec 5 (BCP)

Law Violation: Deception/Misrepresentation

**Consumer**

Complaining

Company/Org.: (b)(6)

Last name:

Address:

City: Leuven

Country: BELGIUM

Work phone: ()

Ext:

Fax Number: ()

Home Number: ()

Email: (b)(6)

Age Range: 50 - 59

First:

State: ZZ Zip:

**Company**

Company: Google Inc.

Address: 1600 Amphitheatre Parkway

City: Mountain View, CA 94043

State: CA Zip: 94043

Country: UNITED STATES

Email:

URL:

Phone: ()

Ext:

**Company Representative**

**Associated Company**

**2,834 Record(s) Found |****Records Per Page:** 20 ▼ **| Search Date:** 9/20/2013 11:50:14 AM

**Search Criteria:** Primary Subject Name:Google; Associated Subject Name:Google; Primary Subject Company Name:Google; Contact Type: Complaint; Created Date:1/1/2010 to 12/31/2010; Selected Complaint Types:Identity Theft, Do Not Call, Fraud and Other Complaints, and All Other Record Types ; Name Variations Included [Modify Search Criteria](#)

[Add/Delete Fields](#) ?  
[Save Search Criteria](#)  
[Schedule Search](#)  
[Save Results](#)  
[Download](#)  
[FOIA Download](#)  
[Litigation Hold](#) ?

[VIEW SELECTED RECORD\(S\)](#)[UNCHECK SELECTED RECORD\(S\)](#)[VIEW SIMILAR COMPLAINTS](#)**Pages:** | [1](#) | [2](#) | [3](#) | [4](#) | [5](#) | [6](#) | [7](#) | [8](#) | [9](#) | [10](#) | > >>

**5,974 Record(s) Found |****Records Per Page:** 20 ▼ **| Search Date:** 9/20/2013 11:54:24 AM

**Search Criteria:** Primary Subject Name:Google; Associated Subject Name:Google; Primary Subject Company Name:Google; Contact Type: Complaint; Created Date:1/1/2011 to 12/31/2011; Selected Complaint Types:Identity Theft, Do Not Call, Fraud and Other Complaints, and All Other Record Types ; Name Variations Included [Modify Search Criteria](#)

[Add/Delete Fields](#) ?  
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**Pages:** | [1](#) | [2](#) | [3](#) | [4](#) | [5](#) | [6](#) | [7](#) | [8](#) | [9](#) | [10](#) | > >>

**15,837 Record(s) Found |****Records Per Page:** 20 ▼ **| Search Date:** 9/20/2013 11:58:07 AM

**Search Criteria:** Primary Subject Name:Google; Associated Subject Name:Google; Primary Subject Company Name:Google; Contact Type: Complaint; Created Date:1/1/2012 to 12/31/2012; Selected Complaint Types:Identity Theft, Do Not Call, Fraud and Other Complaints, and All Other Record Types ; Name Variations Included [Modify Search Criteria](#)

[Add/Delete Fields](#)   
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## 13,742,445 Search Results

**Search Criteria:** Created Date: 1/1/2010 to 12/31/2012; Selected Complaint Types: Identity Theft, Do Not Call, Fraud and Other Complaints, and All Other Record Types ; Name Variations Included

**Print Date:** 9/19/2013 1:50:40 PM

Rank	Subject Name	Count
1	Credit Card Services	321,496
2	Cardholder Services	130,605
3	Card Member Services	84,803
4	Publishers Clearing House Imposter	74,218
5	Toll Free Call	53,315
6	800 Services	51,305
7	Unavailable	48,089
8	Account Services	47,979
9	T Mobile	46,392
10	Bank of America	45,262
11	Credit Services	38,181
12	Lower Interest	38,136
13	DirecTV, Inc.	29,221
14	Verizon Wireless	27,850
15	Dish Network LLC	27,274
16	AT&T Mobility	24,805
17	Wells Fargo Bank	23,159
18	Capital One Bank	21,785
19	Home Security Group	21,478
20	Portfolio Recovery Associates	21,403
	<b>Total</b>	<b>1,176,756</b>





## 24,134 Search Results

**Search Criteria:** Primary Subject Name:"Google, Inc."; Primary Subject Company Name:"Google, Inc."; Created Date:1/1/2010 to 12/31/2012; Selected Complaint Types:Identity Theft, Do Not Call, Fraud and Other Complaints, and All Other Record Types ; Name Variations Included

**Print Date:**6/10/2013 10:25:50 AM

Rank	Subject Name	Count
1	Google	10,809
2	Google Checkout	527
3	Google Dental	377
4	Google Plus	280
5	Google Listing	246
6	Google Ads	202
7	Google Advertising	193
8	Google Search	191
9	Top Google Pages	191
10	Google Directory	171
11	Google Search Engine	157
12	Google 411	154
13	Google Search Directory	148
14	Google Maps	133
15	Google Business	128
16	Google Marketing	125
17	Google Local Search Directory	114
18	Google Listings	103
19	Google Places	99
20	Google Business Directory	96
	<b>Total</b>	<b>14,444</b>





	2004	2005	2006	First 6 Months of 2007
Google	53	74	133	176

## Bajorek, Rosemary

---

**From:** Blank, Barbara  
**Sent:** Tuesday, June 12, 2012 3:11 PM  
**To:** (b)(6),(b)(7)(C)  
(b)(6),(b)(7)(C) Westman-Cherry, Melissa  
**Subject:** FW:  
**Attachments:** (b)(5)

Hi everyone,

(b)(5)

BB

-----Original Message-----

**From:** Blank, Barbara  
**Sent:** Thursday, June 07, 2012 4:36 PM  
**To:** (b)(6),(b)(7)(C)

(b)(6),(b)(7)(C) Westman-Cherry, Melissa

**Subject:**

Everyone,

(b)(5)

(b)(5)

Everyone's assignments are written in **BOLDED RED**. (b)(5)

(b)(5)

(b)(5)

(b)(5)

(b)(5)

(b)(5) We can talk more on Tuesday for anyone that has concerns about this. (b)(5)

(b)(5)

(b)(5) so thanks so much for continuing to work your butts off on this. Hopefully we're on the home stretch.....

(b)(5)



Thanks so much!

BB

(b)(5)



## **Bajorek, Rosemary**

---

**From:** Renner, Christopher  
**Sent:** Wednesday, January 02, 2013 11:44 PM  
**To:** JDL  
**Cc:** Bumpus, Jeanne; Vandecar, Kim; Levitas, Pete; Feinstein, Richard; Shelanski, Howard; Prewett, Cecelia; Kaplan, Peter P.; Clark, Donald S.; Tritell, Randolph W.; Kraus, Elizabeth; Lupovitz, Joni; Matties, Deborah J.; Harwood, Charles A.  
**Subject:** RE: Google update

Not Responsive

(b)(5)

Not Responsive

**Bajorek, Rosemary**

---

**From:** JDL  
**Sent:** Friday, December 21, 2012 10:43 AM  
**To:** Rosch, Tom  
**Subject:** RE: Nominations, including for FTC and FCC, to skip Senate Commerce

Hi,

I will always honor my commitments to you but let's work through each issue:

Google—I want to get this done January 2<sup>nd</sup> or 3<sup>rd</sup>. Not Responsive

Not Responsive

Jon

---

**From:** Rosch, Tom  
**Sent:** Friday, December 21, 2012 8:26 AM  
**To:** JDL  
**Subject:** Re: Nominations, including for FTC and FCC, to skip Senate Commerce

(b)(5), Not Responsive

---

**From:** JDL  
**Sent:** Friday, December 21, 2012 12:52 AM  
**To:** Rosch, Tom

**Subject:** RE: Nominations, including for FTC and FCC, to skip Senate Commerce

Hi Tom,

I am expecting votes on both Google matters just after the first of the year

Not Responsive

Not Responsive

Jon

---

**From:** Rosch, Tom

**Sent:** Thursday, December 20, 2012 9:21 PM

**To:** JDL

**Subject:** Fw: Nominations, including for FTC and FCC, to skip Senate Commerce

Dear Jon, You should now plan on getting votes on

Not Responsive

and both Google matters before the

7th and advising the other Commissioners to prepare accordingly. I am ready now. All the best, Tom.

---

Not Responsive

Not Responsive

**From:** Renner, Christopher

**Sent:** Thursday, January 03, 2013 8:24 AM

**To:** Tucker, Darren; Luib, Gregory; Kimmel, Lisa; Slater, Abigail A.

**Cc:** Clark, Donald S.; Wagman, Jillian

**Subject:** Motion To Close Investigation and To Approve and Issue Closing Letter In Google Inc., File No. 111 0163

The Chairman moves that the Commission close the investigation in this matter and approve and issue the attached closing letter. Please register the vote of your Commissioner on this motion by sending a reply email message to me, with a copy to Don Clark.

The Chairman respectfully requests a vote ASAP.

March 28, 2013

Via Electronic Mail

Donald S. Clark  
Secretary  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, DC 20580  
[dclark@ftc.gov](mailto:dclark@ftc.gov)

***Re: Update on Initial Compliance Report of Google Inc., (closed File No. 111-0163)***

Dear Don:

In Google's December 27, 2012 letter to the Federal Trade Commission ("Commitments Letter"), Google Inc. ("Google") committed to provide the FTC with a Compliance Report 60 days after the effective date of the Commitments Letter and annually thereafter for the term of the commitments. Google submitted its initial Compliance report on February 25, 2013. Although an update to its initial Compliance Report at this time is not contemplated by the Commitments Letter, Google provides this update to report the further steps Google has taken to implement its commitments regarding the display of third party content.

The Commitments Letter provides that within 90 days of the letter, Google give website owners the option to prevent crawled content from their websites from being displayed on Google Covered Pages (as defined in the Commitments Letter). On March 25, consistent with its commitments, Google launched functionality that provides webmasters with the ability to opt out of having content that Google has crawled from their sites from being displayed on Google Shopping, Advisor, Flights, Hotels, and Google+ Local search. Webmasters are able to access this option within Google's Webmaster Tools (<https://www.google.com/webmasters/tools/opt-out>).<sup>1</sup> When webmasters exercise this option, any content Google has crawled that may currently be displayed on Google Shopping, Advisor, Flights, Hotels, or Google+ Local search pages will be removed within 30 days. Webmasters who opt-out also have the ability to opt the content from their websites back into display on these pages.

---

<sup>1</sup> See also

<http://support.google.com/webmasters/bin/answer.py?hl=en&answer=3035947&topic=1724262&ctx=topic>.



Donald S. Clark  
March 28, 2013  
Page 2

Google released a blog post, at <http://googlewebmastercentral.blogspot.com/2013/03/a-new-opt-out-tool.html>, announcing the availability of the opt-out to webmasters.

Respectfully submitted,

WILSON SONSINI GOODRICH & ROSATI



By: \_\_\_\_\_

Susan A. Creighton  
1700 K Street, NW, 5<sup>th</sup> Flr  
Washington, DC 20006  
*Counsel for Google Inc.*

cc: Barbara Blank, Esq.  
Jeffrey Blattner, Esq.  
Franklin M. Rubinstein, Esq.  
David Drummond, Esq.  
Kent Walker, Esq.  
John Schmidtlein, Esq.

Susan A. Creighton  
Direct Dial: (202) 973:8855  
Internet: [screighton@wsgr.com](mailto:screighton@wsgr.com)

February 25, 2014

Via Electronic Mail

Donald S. Clark  
Secretary  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, DC 20580  
[dclark@ftc.gov](mailto:dclark@ftc.gov)

***Re: Updated Compliance Report of Google Inc., (closed File No. 111-0163)***

In accordance with the commitments made by Google in its December 27, 2012 letter to the Federal Trade Commission ("Commitments Letter" or "CL"), Google Inc. ("Google") submits this Updated Compliance Report, documenting the steps Google has taken to comply with its commitments since the submission of its Initial Compliance Report, dated February 25, 2013.

**I. Google's Display of Third-Party Content.** Google has designed and implemented the technical changes required for the opt-out mechanism and ensured that the opt-out form is published on Google's website in an easily accessible location. A screenshot of the opt-out page is attached as **Exhibit A**. Google has published information describing the opt-out mechanism at: <https://support.google.com/webmasters/answer/3035947>.

**II. Google's AdWords API Terms and Conditions.** As described previously in the Initial Compliance Report, Google has removed the AdWords API Input and Copying restrictions (Sections III(2)(c)(I and ii)) from its AdWords API Terms and Conditions. The current AdWords API Terms and Conditions, reflecting the removal of the relevant provisions, are available at: <https://developers.google.com/adwords/api/docs/terms>.

February 25, 2014

Page 2

Respectfully submitted,

WILSON SONSINI GOODRICH & ROSATI



By: \_\_\_\_\_

Susan A. Creighton  
1700 K St., NW  
Fifth Floor  
Washington, DC 20006

*Counsel for Google Inc.*

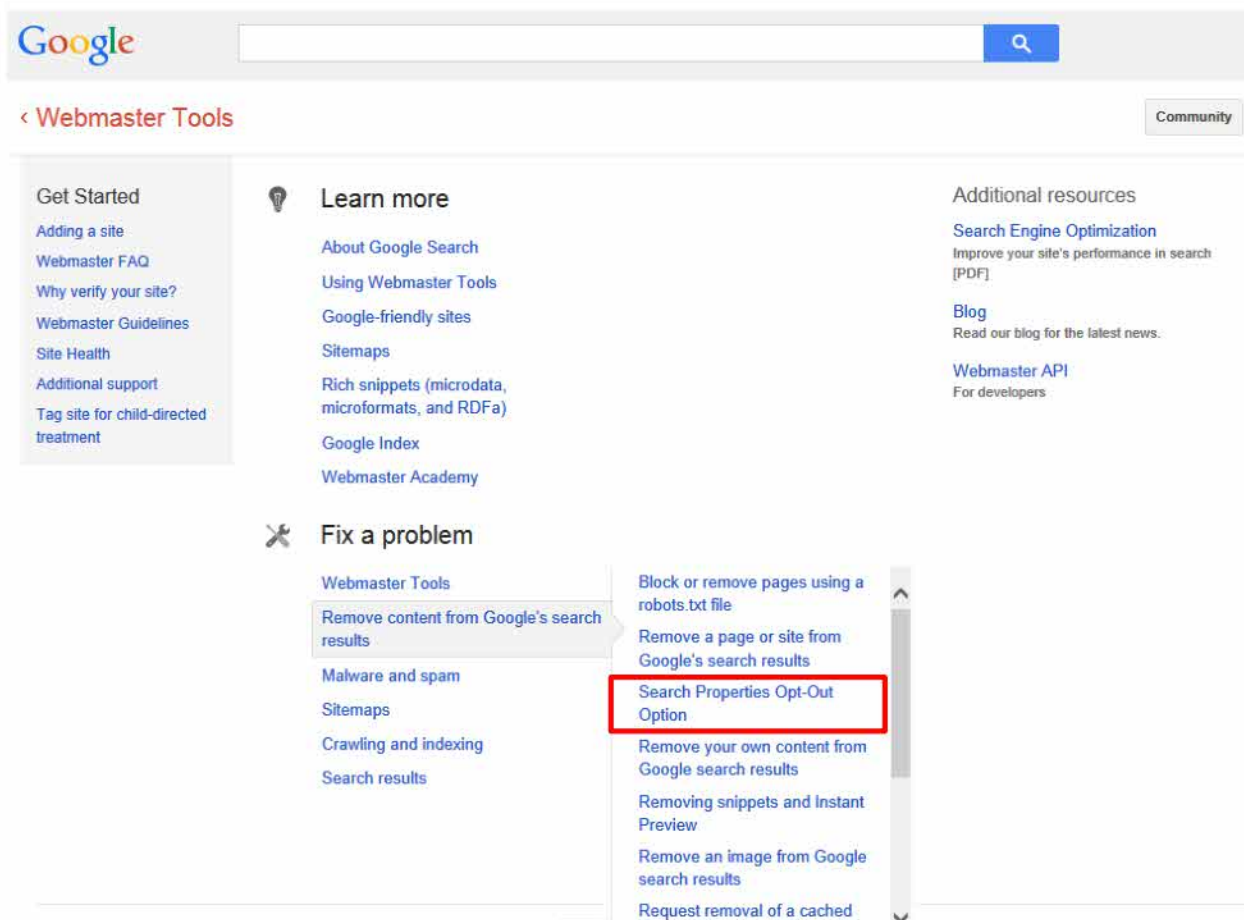
CC: Barbara Blank, Esq.  
Jeffrey Blattner, Esq.  
Franklin M. Rubinstein, Esq.  
David Drummond, Esq.  
Kent Walker, Esq.  
John Schmidtlein, Esq.

## EXHIBIT A

### Google Search Properties Out-Out Option



**Step 1:** Go to <https://support.google.com/webmasters/?hl=en>.

- Select **Remove content from Google's search results**
- Then select **Search Properties Opt-Out Option**



- You will be redirected to [https://support.google.com/webmasters/answer/3035947?hl=en&ref\\_topic=1724262](https://support.google.com/webmasters/answer/3035947?hl=en&ref_topic=1724262).

## Step 2: Select **View or change this opt-out setting in Webmaster Tools**.



[Webmaster Tools](#)[Help](#)[Community](#)

Fix a problem

Remove content from Google's search results

Block or remove pages using a robots.txt file

Remove a page or site from Google's search results

**Search Properties Opt-Out Option**

Remove your own content from Google search results

Removing snippets and Instant Preview

Remove an image from Google search results

Request removal of a cached page

Contact a site's webmaster

### Search Properties Opt-Out Option

Webmasters can now opt out of having content that Google has crawled from their site displayed on:

- [Google Shopping](#)
- [Google+ Local](#)
- [Google Flights](#)
- [Google Hotels](#)
- [Google Advisor](#)

After choosing this option, content crawled and sourced from your site via Googlebot will not be displayed on any of the properties listed above. Content currently being displayed on any of these properties will be removed within 30 days of opting out. Note: this opt-out option currently applies only to services hosted on google.com and won't apply to other Google domains.

[View or change this opt-out setting in Webmaster Tools.](#)

8+1

35

**How helpful is this article:**

Not at all helpful	Not very helpful	Somewhat helpful	Very helpful	Extremely helpful
--------------------	------------------	------------------	--------------	-------------------

Related

[Search Engine Optimization](#)  
Improve your site's performance in search [PDF]

[Blog](#)  
Read our blog for the latest news.

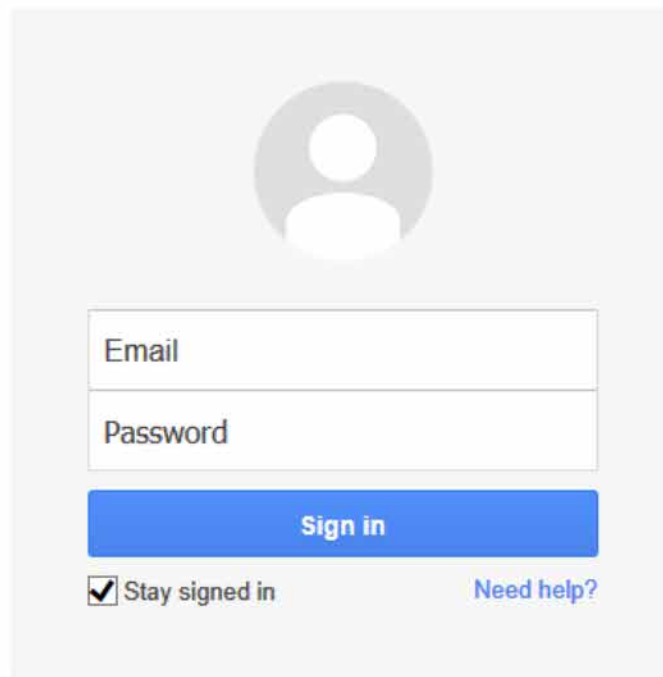
[Webmaster API](#)  
For developers

**Step 3:** Sign in to continue to Google Webmaster Tools.



# One account. All of Google.

Sign in to continue to Google Webmaster Tools

A sign-in form with a light gray background. At the top is a large, light gray circular icon representing a person. Below it are two white input fields: the first is labeled "Email" and the second is labeled "Password". Below the fields is a blue button with the text "Sign in" in white. At the bottom left is a checkbox with a checkmark and the text "Stay signed in". At the bottom right is a blue link that says "Need help?".

Email
Password
<a href="#">Sign in</a>
<input checked="" type="checkbox"/> Stay signed in <a href="#">Need help?</a>

[Create an account](#)

One Google Account for everything Google



- You will be redirected to <https://www.google.com/webmasters/tools/opt-out>.

**Step 4:** Opt out from having content from your site displayed in certain Google properties.



Webmaster Tools

## Opt out from certain Google properties

You can opt out of having content from your site displayed in [certain Google properties](#).  
Within thirty days of opting out, content that Google has crawled from your site will be removed from [certain Google properties](#).  
[Learn more](#)

**OPT OUT**

Show History



February 25, 2013

Via Electronic Mail

Donald S. Clark  
Secretary  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, DC 20580  
[dclark@ftc.gov](mailto:dclark@ftc.gov)

***Re: Initial Compliance Report of Google Inc., (closed File No. 111-0163)***

In accordance with the commitments made by Google in its December 27, 2012 letter to the Federal Trade Commission ("Commitments Letter" or "CL"), Google Inc. ("Google") submits this Initial Compliance Report, documenting the steps Google has taken to comply with its commitments as of the end of the 60-day period following the submission of the Commitments Letter.

**I. Google's Display of Third-Party Content.** The CL provides that Google give website owners the option to prevent Google from displaying content from their websites on certain Google Covered Pages, including on Shopping, Google+ Local, Flights, Hotels and Advisor webpages. The opt-out provision must be implemented within 90 days of the CL. Google has formed a committee charged with ensuring compliance with the opt-out requirements in the CL. The committee will design and implement the technical changes required and also ensure that the opt-out form is published on Google's website in an easily accessible location. Google plans to implement the opt-out mechanism within the next thirty days as set forth in the CL.

**II. Google's AdWords API Terms and Conditions.** The CL provides that Google remove from its AdWords API Terms and Conditions the AdWords API Input and Copying restrictions (Section III(2)(c)(i-ii)) for AdWords API licensees with a primary billing address in the United States. Google has removed the AdWords API Input and Copying restrictions from its AdWords API Terms and Conditions.

Consistent with the CL, Google has made changes to the AdWords API Terms and Conditions that do not prevent an AdWords API client from inputting or copying campaign management data. The changes require AdWords API licensees to (1) disclose the name of each network that the data are transmitted to by the API Client, (2) explain the reason for and nature of any incompatibilities (i.e., data that cannot faithfully be transformed or where the action's result may not be what the user reasonably expected), and (3) give the user the opportunity to cancel the transmission, edit the transmission to resolve any incompatibilities, or proceed with the transmission. Notifications to the user may be aggregated in a reasonable manner so long as



Feb. 25, 2013

Page 2

the user is appropriately informed as to the nature, quantity and impact of the actions being taken.

These changes are announced to the public by blog post found at <http://googleadsdeveloper.blogspot.com/>.

Respectfully submitted,

WILSON SONSINI GOODRICH & ROSATI



By: \_\_\_\_\_

Susan A. Creighton  
1700 K St., NW  
Fifth Floor  
Washington, DC 20006

*Counsel for Google Inc.*

CC: Barbara Blank, Esq.  
Jeffrey Blattner, Esq.  
Franklin M. Rubinstein, Esq.  
David Drummond, Esq.  
John Schmidlein, Esq.

----- Original Message -----

From: JDL [<mailto:JDL@ftc.gov>]

Sent: Sunday, January 06, 2013 09:08 PM Eastern Standard Time

To: Cohen, Bruce (Judiciary-Dem)

Subject: Hi Bruce,

Hope you had a wonderful recess and new year's.

Congrats, as well, that Chairman Leahy is staying on Judiciary. (Good for our Democracy and good for our Bruce Cohen!)

Two quick items:

1) on Google, I saw that PJL had put out a balanced statement but one that expressed "disappointment" for not codifying certain problematic practices in an order. I agree you almost always want orders but there was a reason we couldn't get one here--staff is briefing Aaron but let me know if you want me to call you.

2) Can I come by for coffee at some point in the next couple of weeks?

Best to ML, etc.

Jon

Sent by Jon Leibowitz from his BlackBerry



Office of the Secretary

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

January 23, 2012

The Honorable Herb Kohl  
Chairman  
Subcommittee on Antitrust, Competition Policy  
and Consumer Rights  
Committee on the Judiciary  
United States Senate  
Washington, D.C. 20510

Dear Mr. Chairman:

Thank you for the December 19, 2011, letter from you and Senator Lee to the Federal Trade Commission concerning the Commission investigation of certain practices of Google, Inc. We appreciate receiving the information that you have provided, including the discussion of several concerns raised at the September 21, 2011 Antitrust Subcommittee hearing on Google's business practices. You have asked the Commission to carefully review all that information, and have urged us to conduct a thorough investigation to determine whether Google may have violated the federal antitrust laws.

Your correspondence has been forwarded to the Commissioners and to appropriate members of the Commission staff for review. Although a number of statutory prohibitions and the Rules of the Commission prevent me from disclosing the contours of any nonpublic investigation, I am able to confirm that the Commission is conducting an investigation of Google because Google has publicly disclosed that fact.<sup>1</sup> I can also assure you that the information and concerns which you have forwarded are receiving careful consideration, and that the Commission is committed to conducting a thorough investigation, and to considering all pertinent information and views gathered, as we do in all our investigations.

Thank you again for your interest in these important issues. Protecting consumers from anticompetitive acts and practices in the marketplace is vital to our nation's economic health, and your ongoing vigilance is greatly appreciated. Members of the Commission staff will promptly publicize any public action which the Commission or its staff may take with respect to the Commission investigation. If you or your staff have any questions or wish to provide

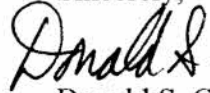
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<sup>1</sup> See *Federal Trade Commission Policy Concerning Disclosures of Nonmerger Competition and Consumer Protection Investigations: Notice of Revised Policy*, 63 Fed. Reg. 63477 (Nov. 13, 1998); see also *Federal Trade Commission Notice of Policy of Disclosing Investigations of Announced Mergers: Notice of Revised Policy*, 62 Fed. Reg. 18630 (Apr. 16, 1997).

The Honorable Herb Kohl – Page 2

additional information or comments, please feel free to call or have your staff call Ms. Jeanne Bumpus, the Director of our Office of Congressional Relations, at (202) 326-2195. More generally, please let us know whenever we may be of service with respect to any other matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Donald S. Clark". The signature is written in a cursive, flowing style with a large initial "D".

Donald S. Clark  
Secretary of the Commission



Office of the Secretary

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

January 23, 2012

The Honorable Mike Lee  
Ranking Member  
Subcommittee on Antitrust, Competition Policy  
and Consumer Rights  
Committee on the Judiciary  
United States Senate  
Washington, D.C. 20510

Dear Senator Lee:

Thank you for the December 19, 2011, letter from you and Chairman Kohl to the Federal Trade Commission concerning the Commission investigation of certain practices of Google, Inc. We appreciate receiving the information that you have provided, including the discussion of several concerns raised at the September 21, 2011 Antitrust Subcommittee hearing on Google's business practices. You have asked the Commission to carefully review all that information, and have urged us to conduct a thorough investigation to determine whether Google may have violated the federal antitrust laws.

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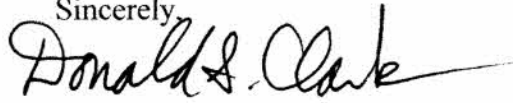
Thank you again for your interest in these important issues. Protecting consumers from anticompetitive acts and practices in the marketplace is vital to our nation's economic health, and your ongoing vigilance is greatly appreciated. Members of the Commission staff will promptly publicize any public action which the Commission or its staff may take with respect to

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<sup>1</sup> See *Federal Trade Commission Policy Concerning Disclosures of Nonmerger Competition and Consumer Protection Investigations: Notice of Revised Policy*, 63 Fed. Reg. 63477 (Nov. 13, 1998); see also *Federal Trade Commission Notice of Policy of Disclosing Investigations of Announced Mergers: Notice of Revised Policy*, 62 Fed. Reg. 18630 (Apr. 16, 1997).

the Commission investigation. If you or your staff have any questions or wish to provide additional information or comments, please feel free to call or have your staff call Ms. Jeanne Bumpus, the Director of our Office of Congressional Relations, at (202) 326-2195. More generally, please let us know whenever we may be of service with respect to any other matter.

Sincerely,

A handwritten signature in black ink, reading "Donald S. Clark". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Donald S. Clark  
Secretary of the Commission

### Correspondence Referral

Today's Date: 12/30/11

LOG

[illegible]

# EXPEDITE

PATRICK J. LEAHY, VERMONT, CHAIRMAN

HERB KOHL, WISCONSIN  
DIANNE FEINSTEIN, CALIFORNIA  
CHARLES E. SCHUMER, NEW YORK  
RICHARD J. DURBIN, ILLINOIS  
SHELDON WHITEHOUSE, RHODE ISLAND  
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JON KYL, ARIZONA  
JEFF SESSIONS, ALABAMA  
LINDSEY O. GRAHAM, SOUTH CAROLINA  
JOHN CORNYN, TEXAS  
MICHAEL S. LEE, UTAH  
TOM COBURN, OKLAHOMA

# United States Senate

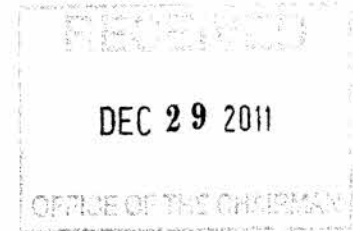
COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

BRUCE A. COHEN, *Chief Counsel and Staff Director*  
KOLAN L. DAVIS, *Republican Chief Counsel and Staff Director*

December 19, 2011

The Honorable Jonathan D. Leibowitz  
Chairman  
Federal Trade Commission  
600 Pennsylvania Ave., N.W.  
Washington, D.C. 20580



Dear Chairman Leibowitz:

We are writing to you regarding our examination of competition concerns arising from the business practices of the world's leading Internet search engine, Google Inc. ("Google"). On September 21, 2011, we held an Antitrust Subcommittee hearing to examine allegations that Google's search engine is biased in favor of its own secondary products and services, undermining free and fair competition among e-commerce websites. While we take no position on the ultimate legality of Google's practices under the antitrust laws and the FTC Act, we believe these concerns warrant a thorough investigation by the FTC. We detail below a number of concerns raised at the hearing, in the course of our Subcommittee inquiry, and by a number of industry participants that we believe deserve careful review.

The Internet is a driving force of the American economy. Today, approximately 240 million people throughout the United States regularly use the Internet, and last year their activity generated nearly \$170 billion in commerce. Recent studies show that 92% of adults online use search engines to access information on over one trillion websites.<sup>1</sup> Experts estimate that the number of Internet websites will continue to grow, making the role of Internet search engines ever more important for those seeking information or engaging in commerce online. In July 2011 alone, there were 17.1 billion search queries in the United States, up 3 percent from the previous month. Google is dominant in general Internet searches, with a 65 to 70 percent market share in computer-based Internet search, and a market share of at least 95 percent for Internet searches done on mobile devices.<sup>2</sup> Indeed, in response to Senator Kohl's question at our Subcommittee hearing to Google's Executive Chairman Eric Schmidt as to whether Google is a monopolist in online search, he responded, "I would agree, Senator, that we're in that area."<sup>3</sup>

<sup>1</sup> Kristin Purcell, Pew Internet and American Life Project, Pew Research Center, *Search and Email Still Top the List of Most Popular Online Activities*, (2011), [http://www.pewinternet.org/~media/Files/Reports/2011/PIA\\_Search\\_and-Email.pdf](http://www.pewinternet.org/~media/Files/Reports/2011/PIA_Search_and-Email.pdf).

<sup>2</sup> StatCounter Global States, *Top Search Engines in the U.S. from Oct. 3 to Nov. 1, 2011*, [http://gs.statcounter.com/#search\\_engine-US-daily-20111003-20111101](http://gs.statcounter.com/#search_engine-US-daily-20111003-20111101) (last visited Nov. 2, 2011).

<sup>3</sup> *The Power of Google: Serving Consumers or Threatening Competition? Before the Subcomm. on Antitrust, Competition Policy and Consumer Rights of S. Comm. on the Judiciary, 112<sup>th</sup> Cong., 1<sup>st</sup> Sess.* (September 21, 2011) (continued...)

FEDERAL TRADE COMMISSION  
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Google faces competition from only one general search engine, Bing, a partnership of Microsoft and Yahoo!, which is a distant second in market share and is losing an estimated \$2 billion annually.<sup>4</sup> Given the scope of Google's market share in general Internet search, a key question is whether Google is using its market power to steer users to its own web products or secondary services and discriminating against other websites with which it competes.

Google began as a general Internet search engine, whose mission was simply to identify the web pages most relevant to user queries. Google's stated goal was to transfer users from its search results page to the websites listed on that page as soon as possible. As Google co-founder and current CEO Larry Page said at the time of its Initial Public Offering in 2004, "We want you to come to Google and quickly find what you want. Then we're happy to send you to the other sites. In fact, that's the point."<sup>5</sup> At that time, Google had very little, if any, web content or products of its own.

Google's business model has changed dramatically in recent years. Google now seeks not only to link users to relevant websites, but also to answer user queries, provide a variety of related services, and direct customers to additional information on its own secondary web pages. To do so, Google has made numerous acquisitions in recent years, purchasing a large amount of web-based content and various e-commerce products and services,<sup>6</sup> as well as developing such offerings on its own. Google now owns a large and growing array of search-dependent products and services (what are commonly known as "vertical search sites"), including Google Places/Local, Google Finance, Google News, YouTube, Google Maps, Google Travel, Google Flight Search, and Google Product Search. Google has been very successful in many of these areas, often replacing previous market leaders in short periods of time. Many question whether it is possible for Google to be both an unbiased general or "horizontal" search engine and at the same time own this array of secondary web-based services from which the company derives substantial advertising revenues.

Google's critics argue that given its acquisitions and development of these varied web products and services, Google has a strong incentive to bias its search results in favor of its own offerings. Rather than act as an honest broker of unbiased search results, Google's search results

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(hereinafter "*September 2011 Senate Antitrust Subcommittee Google Hearing*") (testimony of Eric Schmidt, Executive Chairman, Google). The precise question Mr. Schmidt was asked was "do [you] recognize that . . . your market share constitutes monopoly . . . dominant firm, monopoly firm? Do you recognize you're in that area?" Schmidt replied that he "would agree." However, in response to written questions for the record following the hearing, Mr. Schmidt revised this answer, stating: "[i]nferred that Google is in any way 'dominant' in search would be incorrect." (*September 2011 Senate Antitrust Subcommittee Google Hearing*) (response to post hearing question for the record from Sen. Richard Blumenthal to Eric Schmidt, Executive Chairman, Google, p. 2).

<sup>4</sup> David Goldman, *Microsoft's plan to stop Bing's \$1 billion bleeding*, CNNMoney, Sept. 20, 2011, [http://money.cnn.com/2011/09/20/technology/microsoft\\_bing/index.htm](http://money.cnn.com/2011/09/20/technology/microsoft_bing/index.htm).

<sup>5</sup> Google Inc. Amendment 7 to SEC Form S-1, Appendix B, p. B-5, filed August 13, 2004. In the same document, Mr. Page re-emphasized this, contrasting his vision for Google at the time with the way web portals operated, stating "Most portals show their own content above other content elsewhere on the web. We feel that's a conflict of interest, analogous to taking money for search results. Their search engine doesn't necessarily provide the best results, it provides the portal's results. Google conscientiously tries to stay away from this. We want to get you out of Google and to the right place as fast as possible. It's a very different model." *Id.*, p. B-6.

<sup>6</sup> Google has made over 100 acquisitions since 2001, including: Motorola Mobility (2011) (still under Justice Department review), Zagat's (2011), Like.com (2010), ITA Software (2010), AdMob (2009), DoubleClick (2007), YouTube (2006), and Android (2005).

appear to favor the company's own web products and services.<sup>7</sup> Given Google's dominant market share in Internet search, any such bias or preferencing would raise serious questions as to whether Google is seeking to leverage its search dominance into adjacent markets, in a manner potentially contrary to antitrust law.

As discussed at our Subcommittee hearing, Marissa Mayer, Google's Vice President of Local, Maps, and Location Services, admitted in a 2007 speech that Google did in fact preference its own websites. She acknowledged that, in the past, Google ranked links "based on popularity . . . but when we roll[ed] out Google Finance, we did put the Google link first. It seems only fair, right? We do all the work for the search page and all these other things, so we do put it first. . . . That has actually been our policy, since then . . . So for Google Maps again, it's the first link, so on and so forth. And after that it's ranked usually by popularity."<sup>8</sup> In response to written follow-up questions asking whether her statement was an accurate statement of Google policy, Eric Schmidt stated that "it is my understanding that she was referring to the placement of links within a onebox . . . and her description was accurate."<sup>9</sup> While the basis for Mr. Schmidt's "understanding" is not clear, even if her statement was in fact limited to the "onebox" result, this is a clear admission of preferencing Google results. As consumer surveys show that 88 percent of consumers click on one of the first three links, these statements appear significant when analyzing Google's potentially anti-competitive practices.<sup>10</sup>

Also at our Subcommittee hearing, Yelp! CEO Jeremy Stoppelman and Nextag CEO Jeffrey Katz testified that Google's practice of favoring its own content harms them directly by depriving their sites of user traffic and advertising revenue. Mr. Stoppelman testified that 75 percent of Yelp!'s web traffic consists of consumers who find its website as a result of Google searches, and Mr. Katz testified that 65 percent of Nextag's traffic originates from Google searches.<sup>11</sup> They testified that losing this traffic would threaten the continued viability of their companies, which would have to spend much more on advertising to make up for lost traffic coming from Google queries. Indeed, both CEOs testified that they would not attempt to launch

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<sup>7</sup> Google critics also argue that the very layout of the Google search results first page is biased in favor of its own products and services. They point to the amount of the "real estate" in the search result page devoted to Google content, including paid advertising at the top and on the right of the page, and the Google "places" or "onebox" results, which are not designated as Google results separate from the algorithmic results. Consumers have no way of knowing that these one box results are not part of the algorithmic results. We believe, under the FTC's mandate to protect consumers from misleading and deceptive practices, the FTC should seriously consider requiring Google to label its "onebox" or "places" listing (or other similar listings), as Google products, just as it labels paid search results.

<sup>8</sup> Marissa Mayer, Google VP of Local, Maps, and Location Services Address at the Google Seattle Conference on Scalability (June 23, 2007), <http://video.google.com/videoplay?docid=-6304964351441328559#docid=-7039469220993285507>.

<sup>9</sup> *September 2011 Senate Antitrust Subcommittee Google Hearing* (response to post hearing question for the record from Sen. Herb Kohl to Eric Schmidt, Executive Chairman, Google, question 1(a), p. 2).

<sup>10</sup> See SEO Scientist, *Google Ranking and CTR – How Clicks Distribute Over Different Rankings on Google* (July 12, 2009), <http://www.seo-scientist.com/google-ranking-ctr-click-distribution-over-serps.html>.

<sup>11</sup> *September 2011 Senate Antitrust Subcommittee Google Hearing* (testimony of Jeremy Stoppelman, CEO of Yelp!, and Jeremy Katz, CEO of Nextag).

their companies today given Google's current practices, raising serious concerns about the impact of these practices on innovation.<sup>12</sup>

Mr. Katz and others also allege that Google sometimes subjects websites to "search penalties" that drastically lower where links to these websites are found on Google searches. Although there are valid reasons for instituting such penalties—such as for websites that promote illegal activities, or for sites that are fraudulent or pornographic—observers suggest that some sites are penalized only because they compete with Google. According to Mr. Katz, Google informed him that Nextag's sites in Europe were penalized mainly because they offered links to other sites and search functionality. Of course, websites that link to other sites and allow users to perform searches have an almost identical function as the Google search engine. If these allegations are true, they raise serious questions as to whether Google is penalizing these competing websites simply in order to maintain its dominant market share in Internet search.

The importance of Google search result rankings for competing web-based products and services is underscored when one considers the market share of Google's search engine on mobile devices. Google has a 97 percent market share of Internet searches done on mobile devices (such as smart phones, tablet computers and the like).<sup>13</sup> Given the exploding consumer demand for these devices, it is projected that over half of all Internet searches will be done on mobile devices by 2014.<sup>14</sup> Additionally, Google owns the popular Android operating system for smart phones and in September 2011 announced its acquisition of Motorola Mobility, a leading mobile phone manufacturer. The Android operating system has grown rapidly in a few short years and is now installed in 43 percent of these smart phones, with expectations of further increases in market share in the near future.<sup>15</sup> Industry observers have raised concerns that Google may, as a condition of access to the Android operating system, require phone manufacturers to install Google as the default search engine. In response to written questions after our hearing, Google denied that it presently makes this demand, suggesting that manufacturers are free to install any search engine they wish.<sup>16</sup> Yet Google has been unwilling to provide any assurance that it will not adopt such a policy in the future. We urge that your investigation consider all avenues necessary to ensure robust competition in the mobile Internet search market.

In sum, it appears the issues raised at our Subcommittee hearing merit serious scrutiny by the FTC. It is important to note that the concerns expressed in this letter are not an effort to protect any specific competitor. Rather, our interest is to ensure robust competition in this vital market. We recognize that the Internet is fast evolving and subject to rapid technological change. We are motivated by a strong desire to protect the Internet's openness, competitiveness, and capacity for innovation. Critics contend that Google's efforts to favor its own secondary

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<sup>12</sup> *Id.*

<sup>13</sup> Greg Sterling, *Google Controls 97% of the Mobile Paid Search: Report*, Search Engine Land (Mar. 7, 2011).

<sup>14</sup> Morgan Stanley, *The Mobile Internet Report*, [http://www.morganstanley.com/institutional/techresearch/mobile\\_internet\\_report122009.html](http://www.morganstanley.com/institutional/techresearch/mobile_internet_report122009.html).

<sup>15</sup> Don Kellogg, *40 Percent of U.S. Mobile Users Own Smartphones; 40 Percent are Android*, NielsenWire (Sept. 1, 2011), [http://blog.nielsen.com/nielsenwire/online\\_mobile/40-percent-of-u-s-mobile-users-own-smartphones-40-percent-are-android/](http://blog.nielsen.com/nielsenwire/online_mobile/40-percent-of-u-s-mobile-users-own-smartphones-40-percent-are-android/).

<sup>16</sup> *September 2011 Senate Antitrust Subcommittee Google Hearing* (response to post hearing question for the record from Sen. Herb Kohl to Eric Schmidt, Executive Chairman, Google, p. 10).

offerings threaten to retard the development of new innovative products and services on the Internet. They argue that if new web products and services are downgraded on Internet search listings, they will not receive the traffic or advertising revenues necessary to survive, and venture capitalists will not invest in developing innovative alternatives. According to Tom Barnett, the Assistant Attorney General for Antitrust in the administration of President George W. Bush, the ultimate result of Google's practices will be an Internet with fewer choices for consumers and businesses, higher prices, and less innovation.

Google strongly denies the arguments of its critics. Google claims it has done nothing to harm competition and that it merely seeks to serve consumers with the best Internet search results. Competition, it contends, is just "one click away," and Google does nothing to impede consumers' access to this competition.

Nonetheless, for the reasons explained above and from the testimony at our Subcommittee hearing, we believe these allegations regarding Google's search engine practices raise important competition issues. We are committed to ensuring that consumers benefit from robust competition in online search and that the Internet remains the source of much free-market innovation. We therefore urge the FTC to investigate the issues raised at our Subcommittee hearing to determine whether Google's actions violate antitrust law or substantially harm consumers or competition in this vital industry.<sup>17</sup>

Thank you for your attention to this matter.

Sincerely,



HERB KOHL  
Chairman, Subcommittee on  
Antitrust, Competition Policy  
and Consumer Rights



MIKE LEE  
Ranking Member, Subcommittee on  
Antitrust, Competition Policy  
and Consumer Rights

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<sup>17</sup> In this regard, we note that several state antitrust regulators have begun investigating allegations that Google is engaged in anti-competitive practices. In the fall of 2010, Texas was the first state to formally begin an investigation; and more recently, attorneys general in New York, California, Ohio, Mississippi, and Oklahoma have opened full-scale investigations. Overseas, the European Commission is in its second year of its investigation, saying it is looking into whether Google might be giving its web services "preferential placement" in search results.

**Remember to Designate  
FOIA Status**  
Today's Date: 12/11/12

# EXPEDITE





## United States Senate

WASHINGTON, DC 20510-0504

<http://feinstein.senate.gov>

December 11, 2012

The Honorable Jon Leibowitz  
Chairman, Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580

Dear Chairman Leibowitz:

I write to express my deep concern that possible actions by Federal Trade Commission against Google, Inc. are consistently being leaked to the press. As I hope you know, the Commission's Operating manual provides in Chapter 3.1.2.3 that:

Unless otherwise directed by the Commission, all investigations are nonpublic. Accordingly, the existence of the investigation, the identity of the parties or practices under investigation, [and] the facts developed in the investigation . . . can be disclosed only in accordance with the Commission's directives and procedures for the disclosure of information . . .

However, notwithstanding this prohibition, there appears to have been a lengthy series of leaks coming from the Commission about what should be, according to the policy above, a nonpublic investigation of Google, including:

- A June 29, 2012 Bloomberg article that discusses a Commission probe of Google subsidiary Motorola Mobility's handling of "standard essential patents", including allocation of responsibility between the Justice Department and the FTC for handling investigations of Samsung Electronics and Google, respectively. The "person familiar with the matter" that was the source did not know the status of the Justice investigation, but did know the FTC's status.
- An August 30, 2012 Bloomberg article relied on "four people familiar with the matter" of an FTC antitrust investigation of Google, who discussed the

timing of a presentation by FTC staff to the commissioners, and the staff's probable recommendation. Three of these people also spoke of the FTC's awareness of Google's proposal to European Commission antitrust authorities.

- An October 1, 2012 Mlex article states that Commissioner Rosch and yourself are pushing for a conclusion of the investigation of Google. The article describes a staff briefing the commissioners received in mid-September, and the commissioners' directions back to the Bureau of Competition.
- An October 12, 2012 Reuters article reported that four of the five FTC commissioners support bringing an antitrust case against Google, and that the fifth is "skeptical"; the story cites "three people familiar with the matter."
- An October 13, 2012 Bloomberg article discusses "an internal draft memo that recommends suing Google Inc." regarding search-related issues that FTC investigators are circulating. It describes the length and content of this memo. It further relays that "A majority of commissioners, including FTC Chairman Jon Leibowitz, have expressed concerns internally about Google's practices, and are deciding how to proceed, two of the [unnamed] people said." The article also discusses various possible bases for action against Google that the commission is considering, civil investigative demands that were issued to Google, and the FTC's purpose in issuing these demands.
- On October 18, 2012, the New York Post reported about charges that the FTC soon will bring against Google, citing "a source close to the situation." The source discusses the direction of the investigation, the basis for the charges, and the likely FTC action.
- A November 2, 2012 Bloomberg article reported on FTC staff recommendations to the commissioners about the Motorola Mobility patent issues, and that "A majority of the agency's five commissioners are inclined to sue," citing "four people familiar with the matter."
- Finally, a November 14, 2012 article in the Policy and Regulatory Report/Financial Times explicitly cites "two FTC lawyers" among other sources in reporting on the FTC's strategy in the "Big Google" case. These

FTC lawyers are explicitly (although anonymously) cited in discussions of various strategies for and bases for a case against Google.

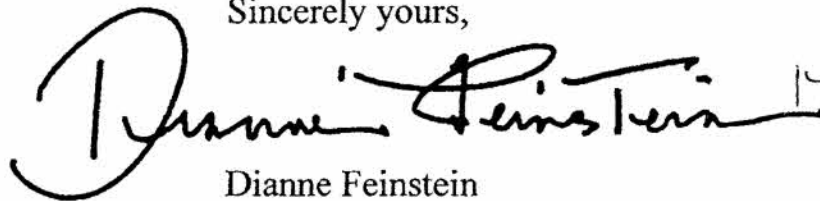
There is a belief that competitors of Google are in the process of manipulating legislative and regulatory actions against Google, to try to gain advantages against the company that they have been unable to obtain in the free marketplace. I have no way of knowing whether this is true or not, but it is a concern that I wanted to relay to you.

Google is a major California company, that employs thousands of Californians. They are subject to fierce competition in the marketplace, most or all of which is accessible with the click of a mouse. It is important that they be treated fairly in a government investigation, and not be subjected to a constant, one-sided assault of selective leaks to the press.

According to these media reports, this investigation has been going on for a year and a half. I hope that, out of fairness to the company, any investigation can be wrapped up and resolved one way or another in a reasonable time, and that the leaks will stop.

Thank you for your attention, and may I take this opportunity to wish you and your family a wonderful holiday season.

Sincerely yours,

A handwritten signature in black ink, reading "Dianne Feinstein". The signature is fluid and cursive, with a large initial "D". To the right of the signature, the number "14007580" is handwritten.

Dianne Feinstein  
United States Senator





UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Office of the Secretary

December 5, 2011

The Honorable Herb Kohl  
Chairman  
Subcommittee on Antitrust, Competition Policy and Consumer Rights  
Committee on the Judiciary  
United States Senate  
Washington, DC 20510-6275

Dear Chairman Kohl:

Thank you for your letter dated November 18, 2011, requesting a confidential staff briefing on the agency's investigation into Google, Inc.'s search engine practices. The Commission is responding to your request as an official request of a Congressional Subcommittee, *see* Commission Rule 4.11(b), 16 C.F.R. § 4.11(b), and has authorized its staff to provide the requested briefing.

Most of the information that the Commission attorneys will discuss during the briefing is nonpublic and statutorily protected from public disclosure by the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 41 *et seq.*, as well as exempt from mandatory disclosure under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. In particular, some of the information would be protected under Section 6(f) of the FTC Act, 15 U.S.C. § 46(f), as confidential commercial or financial information. The Commission is prohibited from disclosing such information publicly, and it would be exempt from disclosure under FOIA Exemption 3, 5 U.S.C. § 552(b)(3). Because disclosure of this information is likely to result in substantial competitive harm to the submitters, or is clearly not of a kind that submitters would customarily make available to the public, it would be exempt from disclosure under FOIA Exemption 4, 5 U.S.C. § 552(b)(4). *See Critical Mass Energy Project v. NRC*, 975 F.2d 871, 877-80 (D.C. Cir. 1992) (*en banc*), *cert. denied*, 507 U.S. 984 (1993) (exempt status accorded to information submitted voluntarily); *National Parks & Conservation Ass'n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974) (exempt status accorded to information submitted under compulsion).

Most of the information that the Commission attorneys will discuss was obtained by compulsory process or provided voluntarily in lieu thereof in a law enforcement investigation. Such information is protected from public disclosure under Section 21(f) of the FTC Act, 15 U.S.C. § 57b-2(f). By virtue of that section, such information is also exempt from public disclosure under FOIA Exemption 3(B), 5 U.S.C. § 552(b)(3)(B). *McDermott v. FTC*, 1981-1 Trade Cas. (CCH) ¶ 63,964 at 75,982-3 (D.D.C. April 13, 1981); *Dairymen, Inc. v. FTC*, 1980-2

Trade Cas. (CCH) ¶ 63,479 (D.D.C. July 9, 1980). Moreover, third party submitters provided their materials and information with a specific request for confidential treatment under Section 21 (c) of the FTC Act, 15 U.S.C. § 57b-2(c)). Under Commission Rule 4.10(d), 16 C.F.R. § 4.10(d), the Commission has waived its discretion to release to the public materials submitted pursuant to compulsory process or materials submitted voluntarily in lieu of process that have been marked confidential by the submitting parties.<sup>1</sup>

Additional information that may be discussed during the briefing was submitted in response to the Hart-Scott-Rodino premerger notification requirements of the Clayton Act, 15 U.S.C. § 18a. Section 7A(h) of the Act prohibits public disclosure of such documents or information. By virtue of this statutory prohibition, this information is also exempt from disclosure under Freedom of Information Act (FOIA) Exemption 3A, 5 U.S.C. § 552(b)(3)(A).<sup>2</sup>

Further, information discussed during the briefing would reveal the existence of, and information concerning, an ongoing, nonpublic law enforcement investigation. Disclosure of this information could reasonably be expected to interfere with law enforcement proceedings, and this information is therefore protected from mandatory public disclosure by FOIA Exemption 7(A), 5 U.S.C. § 552(b)(7)(A). *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 232 (1978); *Ehringhaus v. FTC*, 525 F. Supp. 21, 24 (D.D.C. 1980).

Finally, some of the information that will be discussed during the briefing will include internal staff analyses and recommendations, which are predecisional, deliberative materials exempt from mandatory public disclosure under FOIA Exemption 5, 5 U.S.C. § 552(b)(5). *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132 (1975); *Coastal States Gas Corp. v. Department of Energy*, 617 F.2d 854, 866 (D.C. Cir. 1980). Some of this information may also be protected from mandatory public disclosure under FOIA Exemption 5 as attorney work product prepared in anticipation of litigation. *FTC v. Grolier, Inc.*, 462 U.S. 19, 28 (1983); *Martin v. Office of Special Counsel, Merit Systems Protection Board*, 819 F.2d 1181, 1187 (D.C. Cir. 1987).

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<sup>1</sup> The Commission is required to notify persons who submitted information pursuant to compulsory process in a law enforcement investigation, or voluntarily in lieu thereof on a confidential basis, if the Commission receives a request from a Congressional Committee or Subcommittee for that information. See 15 U.S.C. §§ 57b-2(b)(3)(C), 57b-2(d)(1)(A); Commission Rule 4.11(b), 16 C.F.R. § 4.11(b). Staff is providing the requisite notice.

<sup>2</sup> The Commission has instructed its staff to provide reasonable notice, when possible, of the release to Congress of information submitted pursuant to HSR. See *Statement of Basis and Purpose of HSR Rules and Regulations*, 43 Fed. Reg. 33519 (July 31, 1978). Staff has provided notice to submitters pursuant to this policy.

Notwithstanding the protected status of most of the responsive information, the FTC Act, 15 U.S.C. § 57b-2(d)(1)(A), the Clayton Act, 15 U.S.C. § 18a(h), and the FOIA, 5 U.S.C. § 552(d), provide no authority to withhold such information from this Congressional Subcommittee, and the Commission has authorized staff to provide the requested briefing to Subcommittee staff. Because the confidential information would not be available to the public under the FOIA or otherwise, the Commission requests that the Subcommittee maintain its confidentiality.

By direction of the Commission.

A handwritten signature in black ink, appearing to read "Donald S. Clark", with a long horizontal flourish extending to the right.

Donald S. Clark  
Secretary

Office of the Secretary  
**Correspondence Referral**

Remember to Designate  
FOIA Status  
Today's Date: 11/21/11

**Reference Number:** 14005166

**Type of Response (or) Action:**

Complaint

**Date Forwarded:**

11/21/11

**Action:** Secretary's Signature

**Subject of Correspondence:**

confidential briefing about FTC's antitrust investigation into Google's search engine practices

**Author:**

Senator Herb Kohl

**Representing:**

**Copies of Response To:**

**Copies of Correspondence To:**

Office of Commissioner Kovacic

Office of Commissioner Rosch

Office of Commissioner Brill

Office of Commissioner Ramirez

Office of Public Affairs (Press Office)

Office of Congressional Relations - (0309)

Office of the Chairman

Office of the Executive Director

Office of the General Counsel

Office of the Secretary

**Deadline:**

12/06/11

**Organization Assigned:**

Policy and Coordination - BC

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**ACTION LOG**

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<b><u>Date Received</u></b>	<b><u>FTC Org Code</u></b>	<b><u>Assignment To:</u></b>	<b><u>Date Assigned</u></b>	<b><u>Action Required</u></b>
	1039	Alan J. Friedman		

**EXPEDITE**

14005166

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TOM COBURN, OKLAHOMA

## United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

BRUCE A. COHEN, *Chief Counsel and Staff Director*  
KOLAN L. DAVIS, *Republican Chief Counsel and Staff Director*

November 18, 2011

The Honorable Jon Leibowitz  
Chairman, Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Suite 444  
Washington, DC 20580

Dear Chairman Leibowitz:

I am writing to request that knowledgeable members of the FTC staff provide our Subcommittee staff with a confidential briefing about the FTC's antitrust investigation into Google's search engine practices.

I understand the sensitivity of discussing pending investigations. Therefore, my staff and I will ensure that any non-public information that your staff provides during the briefing will not be shared with anyone outside the Subcommittee. If you require further confidentiality assurances, we will do our best to accommodate you.

Thank you very much for your assistance in this matter.

Respectfully yours,



HERB KOHL

Chairman

Subcommittee on Antitrust, Competition Policy and  
Consumer Rights

FEDERAL TRADE COMMISSION  
2011 NOV 21 AM 9:58  
CONG. CORRES. BRANCH



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Office of the Secretary

October 19, 2012

The Honorable Herb Kohl  
Chairman  
Subcommittee on Antitrust, Competition Policy  
and Consumer Rights  
Committee on the Judiciary  
United States Senate  
Washington, DC 20510-6275

Dear Chairman Kohl:

Thank you for your letter dated October 17, 2012, requesting a confidential staff briefing on the agency's investigations into allegations that Google, Inc. has been engaged in anticompetitive conduct. The Commission is responding to your request as an official request of a Congressional Subcommittee, *see* Commission Rule 4.11(b), 16 C.F.R. § 4.11(b), and has authorized its staff to provide the requested briefing.

Most of the information that the Commission attorneys will discuss during the briefing is nonpublic and statutorily protected from public disclosure by the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 41 *et seq.*, as well as exempt from mandatory disclosure under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. In particular, some of the information would be protected under Section 6(f) of the FTC Act, 15 U.S.C. § 46(f), as confidential commercial or financial information. The Commission is prohibited from disclosing such information publicly, and it would be exempt from disclosure under FOIA Exemption 3, 5 U.S.C. § 552(b)(3). Because disclosure of this information is likely to result in substantial competitive harm to the submitters, or is clearly not of a kind that submitters would customarily make available to the public, it would be exempt from disclosure under FOIA Exemption 4, 5 U.S.C. § 552(b)(4). *See Critical Mass Energy Project v. NRC*, 975 F.2d 871, 877-80 (D.C. Cir. 1992) (*en banc*), *cert. denied*, 507 U.S. 984 (1993) (exempt status accorded to information submitted voluntarily); *National Parks & Conservation Ass'n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974) (exempt status accorded to information submitted under compulsion).

Most of the information that the Commission attorneys will discuss was obtained by compulsory process or provided voluntarily in lieu thereof in a law enforcement investigation. Such information is protected from public disclosure under Section 21(f) of the FTC Act, 15 U.S.C. § 57b-2(f). By virtue of that section, such information is also exempt from public



disclosure under FOIA Exemption 3(B), 5 U.S.C. § 552(b)(3)(B). *McDermott v. FTC*, 1981-1 Trade Cas. (CCH) ¶ 63,964 at 75,982-3 (D.D.C. April 13, 1981); *Dairymen, Inc. v. FTC*, 1980-2 Trade Cas. (CCH) ¶ 63,479 (D.D.C. July 9, 1980). Moreover, third party submitters provided their materials and information with a specific request for confidential treatment under Section 21 (c)) of the FTC Act, 15 U.S.C. § 57b-2(c)). Under Commission Rule 4.10(d), 16 C.F.R. § 4.10(d), the Commission has waived its discretion to release to the public materials submitted pursuant to compulsory process or materials submitted voluntarily in lieu of process that have been marked confidential by the submitting parties.<sup>1</sup>

Additional information that may be discussed during the briefing was submitted in response to the Hart-Scott-Rodino premerger notification requirements of the Clayton Act, 15 U.S.C. § 18a. Section 7A(h) of the Act prohibits public disclosure of such documents or information. By virtue of this statutory prohibition, this information is also exempt from disclosure under Freedom of Information Act (FOIA) Exemption 3A, 5 U.S.C. § 552(b)(3)(A).<sup>2</sup>

Further, information discussed during the briefing would reveal the existence of, and information concerning, ongoing, nonpublic law enforcement investigations. Disclosure of this information could reasonably be expected to interfere with law enforcement proceedings, and this information is therefore protected from mandatory public disclosure by FOIA Exemption 7(A), 5 U.S.C. § 552(b)(7)(A). *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 232 (1978); *Ehringhaus v. FTC*, 525 F. Supp. 21, 24 (D.D.C. 1980).

Finally, some of the information that will be discussed during the briefing will include internal staff analyses and recommendations, which are predecisional, deliberative materials exempt from mandatory public disclosure under FOIA Exemption 5, 5 U.S.C. § 552(b)(5). *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132 (1975); *Coastal States Gas Corp. v. Department of Energy*, 617 F.2d 854, 866 (D.C. Cir. 1980). Some of this information may also be protected from mandatory public disclosure under FOIA Exemption 5 as attorney work product prepared in anticipation of litigation. *FTC v. Grolier, Inc.*, 462 U.S. 19, 28 (1983); *Martin v. Office of Special Counsel, Merit Systems Protection Board*, 819 F.2d 1181, 1187 (D.C. Cir. 1987).

---

<sup>1</sup> The Commission is required to notify persons who submitted information pursuant to compulsory process in a law enforcement investigation, or voluntarily in lieu thereof on a confidential basis, if the Commission receives a request from a Congressional Committee or Subcommittee for that information. See 15 U.S.C. §§ 57b-2(b)(3)(C), 57b-2(d)(1)(A); Commission Rule 4.11(b), 16 C.F.R. § 4.11(b). Staff is providing the requisite notice.

<sup>2</sup> The Commission has instructed its staff to provide reasonable notice, when possible, of the release to Congress of information submitted pursuant to HSR. See *Statement of Basis and Purpose of HSR Rules and Regulations*, 43 Fed. Reg. 33519 (July 31, 1978). Staff has provided notice to submitters pursuant to this policy.

Notwithstanding the protected status of most of the responsive information, the FTC Act, 15 U.S.C. § 57b-2(d)(1)(A), the Clayton Act, 15 U.S.C. § 18a(h), and the FOIA, 5 U.S.C. § 552(d), provide no authority to withhold such information from this Congressional Subcommittee, and the Commission has authorized staff to provide the requested briefing to Subcommittee staff. Because the confidential information would not be available to the public under the FOIA or otherwise, the Commission requests that the Subcommittee maintain its confidentiality.

By direction of the Commission.

A handwritten signature in cursive script, appearing to read "Donald S. Clark".

Donald S. Clark  
Secretary



Office of the Secretary  
**Correspondence Referral**

**Remember to Designate  
FOIA Status**

Today's Date: 10/17/12

**Reference Number:** 14007131

**Type of Response (or) Action:**

Complaint

**Date Forwarded:**

09/21/12

**Action:** Secretary's Signature

**Subject of Correspondence:**

Request for Confidential Staff Briefing on Google's Anticompetitive Practices

**Author:**

Senator Herb Kohl

**Representing:**

**Copies of Response To:**

Office of Public Affairs (Press Office)

Office of Congressional Relations - (0309)

Office of the General Counsel

Office of the Secretary

**Copies of Correspondence To:**

Office of the Chairman

Office of Commissioner Ohlhausen

Office of Commissioner Rosch

Office of Commissioner Brill

Office of Commissioner Ramirez

Office of the Executive Director

**Deadline:**

10/05/12

**Organization Assigned:**

Policy and Coordination - BC

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**ACTION LOG**

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<b><u>Date Received</u></b>	<b><u>FTC Org Code</u></b>	<b><u>Assignment To:</u></b>	<b><u>Date Assigned</u></b>	<b><u>Action Required</u></b>
	1039	Alan J. Friedman		

**EXPEDITE**

HERB KOHL  
WISCONSIN

WASHINGTON OFFICE:  
330 HART SENATE OFFICE BUILDING  
WASHINGTON, DC 20510  
(202) 224-5653  
<http://kohl.senate.gov/>

# United States Senate

WASHINGTON, DC 20510-4903

COMMITTEES:  
APPROPRIATIONS  
JUDICIARY  
SPECIAL COMMITTEE  
ON AGING

October 17, 2012

The Honorable Jon Leibowitz  
Chairman, Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Suite 444  
Washington, DC 20580

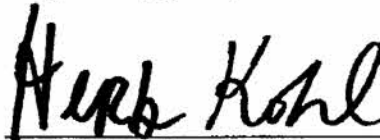
Dear Chairman Leibowitz:

I am writing to request that knowledgeable members of the FTC staff provide our Subcommittee staff with a confidential briefing about the FTC's antitrust investigations into allegations that Google has been engaged in anticompetitive conduct.

I understand the sensitivity of discussing pending investigations. Therefore, my staff and I will ensure that any non-public information that your staff provides during the briefing will not be shared with anyone outside the Subcommittee. If you require further confidentiality assurances, we will do our best to accommodate you.

Thank you very much for your assistance in this matter.

Respectfully yours,



HERB KOHL

Chairman

Subcommittee on Antitrust, Competition Policy and  
Consumer Rights

MILWAUKEE OFFICE:  
310 WEST WISCONSIN AVENUE  
SUITE 950  
MILWAUKEE, WI 53203  
(414) 297-4451  
T.T.Y. (414) 297-4485

MADISON OFFICE:  
14 WEST MIFFLIN STREET  
SUITE 207  
MADISON, WI 53703  
(608) 264-5338

EAU CLAIRE OFFICE:  
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EAU CLAIRE, WI 54701  
(715) 832-8424

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APPLETON, WI 54914  
(920) 738-1640

LA CROSSE OFFICE:  
205 5TH AVENUE SOUTH  
SUITE 216  
LA CROSSE, WI 54601  
(608) 796-0045



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Office of the Secretary

September 13, 2011

The Honorable Herb Kohl  
Chairman  
Subcommittee on Antitrust, Competition Policy and Consumer Rights  
Committee on the Judiciary  
United States Senate  
Washington, DC 20510-6275

Dear Chairman Kohl:

Thank you for your letter dated September 7, 2011, requesting a confidential staff briefing on the agency's investigation into Google, Inc.'s search engine practices. The Commission is responding to your request as an official request of a Congressional Subcommittee, *see* Commission Rule 4.11(b), 16 C.F.R. § 4.11(b), and has authorized its staff to provide the requested briefing.

Most of the information that the Commission attorneys will discuss during the briefing is nonpublic and statutorily protected from public disclosure by the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 41 *et seq.*, as well as exempt from mandatory disclosure under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. In particular, some of the information would be protected under Section 6(f) of the FTC Act, 15 U.S.C. § 46(f), as confidential commercial or financial information. The Commission is prohibited from disclosing such information publicly, and it would be exempt from disclosure under FOIA Exemption 3, 5 U.S.C. § 552(b)(3). Because disclosure of this information is likely to result in substantial competitive harm to the submitters, or is clearly not of a kind that submitters would customarily make available to the public, it would be exempt from disclosure under FOIA Exemption 4, 5 U.S.C. § 552(b)(4). *See Critical Mass Energy Project v. NRC*, 975 F.2d 871, 877-80 (D.C. Cir. 1992) (*en banc*), *cert. denied*, 507 U.S. 984 (1993) (exempt status accorded to information submitted voluntarily); *National Parks & Conservation Ass'n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974) (exempt status accorded to information submitted under compulsion).

Most of the information that the Commission attorneys will discuss was obtained by compulsory process or provided voluntarily in lieu thereof in a law enforcement investigation. Such information is protected from public disclosure under Section 21(f) of the FTC Act, 15 U.S.C. § 57b-2(f). By virtue of that section, such information is also exempt from public disclosure under FOIA Exemption 3(B), 5 U.S.C. § 552(b)(3)(B). *McDermott v. FTC*, 1981-1 Trade Cas. (CCH) ¶ 63,964 at 75,982-3 (D.D.C. April 13, 1981); *Dairymen, Inc. v. FTC*, 1980-2

Trade Cas. (CCH) ¶ 63,479 (D.D.C. July 9, 1980). Moreover, third party submitters provided their materials and information with a specific request for confidential treatment under Section 21(c) of the FTC Act, 15 U.S.C. § 57b-2(c). Under Commission Rule 4.10(d), 16 C.F.R. § 4.10(d), the Commission has waived its discretion to release to the public materials submitted pursuant to compulsory process or materials submitted voluntarily in lieu of process that have been marked confidential by the submitting parties.<sup>1</sup>

Additional information that may be discussed during the briefing was submitted in response to the Hart-Scott-Rodino premerger notification requirements of the Clayton Act, 15 U.S.C. § 18a. Section 7A(h) of the Act prohibits public disclosure of such documents or information. By virtue of this statutory prohibition, this information is also exempt from disclosure under Freedom of Information Act (FOIA) Exemption 3A, 5 U.S.C. § 552(b)(3)(A).<sup>2</sup>

Further, information discussed during the briefing would reveal the existence of, and information concerning, an ongoing, nonpublic law enforcement investigation. Disclosure of this information could reasonably be expected to interfere with law enforcement proceedings, and this information is therefore protected from mandatory public disclosure by FOIA Exemption 7(A), 5 U.S.C. § 552(b)(7)(A). *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 232 (1978); *Ehringhaus v. FTC*, 525 F. Supp. 21, 24 (D.D.C. 1980).

Finally, some of the information that will be discussed during the briefing will include internal staff analyses and recommendations, which are predecisional, deliberative materials exempt from mandatory public disclosure under FOIA Exemption 5, 5 U.S.C. § 552(b)(5). *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132 (1975); *Coastal States Gas Corp. v. Department of Energy*, 617 F.2d 854, 866 (D.C. Cir. 1980). Some of this information may also be protected from mandatory public disclosure under FOIA Exemption 5 as attorney work product prepared in anticipation of litigation. *FTC v. Grolier, Inc.*, 462 U.S. 19, 28 (1983); *Martin v. Office of Special Counsel, Merit Systems Protection Board*, 819 F.2d 1181, 1187 (D.C. Cir. 1987).

---

<sup>1</sup> The Commission is required to notify persons who submitted information pursuant to compulsory process in a law enforcement investigation, or voluntarily in lieu thereof on a confidential basis, if the Commission receives a request from a Congressional Committee or Subcommittee for that information. See 15 U.S.C. §§ 57b-2(b)(3)(C), 57b-2(d)(1)(A); Commission Rule 4.11(b), 16 C.F.R. § 4.11(b). Staff is providing the requisite notice.

<sup>2</sup> The Commission has instructed its staff to provide reasonable notice, when possible, of the release to Congress of information submitted pursuant to HSR. See *Statement of Basis and Purpose of HSR Rules and Regulations*, 43 Fed. Reg. 33519 (July 31, 1978). Staff has provided notice to submitters pursuant to this policy.

Notwithstanding the protected status of most of the responsive information, the FTC Act, 15 U.S.C. § 57b-2(d)(1)(A), the Clayton Act, 15 U.S.C. § 18a(h), and the FOIA, 5 U.S.C. § 552(d), provide no authority to withhold such information from this Congressional Subcommittee, and the Commission has authorized staff to provide the requested briefing to Subcommittee staff. Because the confidential information would not be available to the public under the FOIA or otherwise, the Commission requests that the Subcommittee maintain its confidentiality.

By direction of the Commission.

A handwritten signature in black ink, reading "Donald S. Clark", with a long horizontal line extending to the right.

Donald S. Clark  
Secretary

Office of the Secretary  
**Correspondence Referral**

Remember to Designate  
FOIA Status

Today's Date: 09/09/11

**Reference Number:** 14004739

**Type of Response (or) Action:**

Complaint

**Date Forwarded:**

09/09/11

**Action:** Chairman's Signature

**Subject of Correspondence:**

Nonpublic Briefing Request Re Google Investigation

**Author:**

Senator Herb Kohl

**Representing:**

**Copies of Response To:**

Office of the Chairman

Office of the Executive Director

Office of the General Counsel

Office of the Secretary

**Copies of Correspondence To:**

Office of Commissioner Kovacic

Office of Commissioner Rosch

Office of Commissioner Brill

Office of Commissioner Ramirez

Office of Public Affairs (Press Office)

Office of Congressional Relations - (0309)

**Deadline:**

09/15/11

**Organization Assigned:**

Policy and Coordination - BC

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**ACTION LOG**

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<b><u>Date Received</u></b>	<b><u>FTC Org Code</u></b>	<b><u>Assignment To:</u></b>	<b><u>Date Assigned</u></b>	<b><u>Action Required</u></b>
	1039	Alan J. Friedman		
.....				
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.....				

**EXPEDITE**

PATRICK J. LEAHY, VERMONT, CHAIRMAN

HERB KOHL, WISCONSIN  
DIANNE FEINSTEIN, CALIFORNIA  
CHARLES E. SCHUMER, NEW YORK  
RICHARD J. DURBIN, ILLINOIS  
SHELDON WHITEHOUSE, RHODE ISLAND  
AMY KLOBUCHAR, MINNESOTA  
AL FRANKEN, MINNESOTA  
CHRISTOPHER A. COONS, DELAWARE  
RICHARD BLUMENTHAL, CONNECTICUT

CHARLES E. GRASSLEY, IOWA  
ORRIN G. HATCH, UTAH  
JON KYL, ARIZONA  
JEFF SESSIONS, ALABAMA  
LINDSEY O. GRAHAM, SOUTH CAROLINA  
JOHN CORNYN, TEXAS  
MICHAEL S. LEE, UTAH  
TOM COBURN, OKLAHOMA

## United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

BRUCE A. COHEN, *Chief Counsel and Staff Director*  
KOLAN L. DAVIS, *Republican Chief Counsel and Staff Director*

September 7, 2011

The Honorable Jon Leibowitz  
Chairman, Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Suite 444  
Washington, DC 20580

Dear Chairman Leibowitz:

I am writing to request that knowledgeable members of the FTC staff provide our Subcommittee staff with a confidential briefing about the FTC's antitrust investigation into Google's search engine practices.

I understand the sensitivity of discussing pending investigations. Therefore, my staff and I will ensure that any non-public information that your staff provides during the briefing will not be shared with anyone outside the Subcommittee. If you require further confidentiality assurances, we will do our best to accommodate you.

Thank you very much for your assistance in this matter.

Respectfully yours,



HERB KOHL

Chairman

Subcommittee on Antitrust, Competition Policy and  
Consumer Rights

HERB KOHL  
WISCONSIN

WASHINGTON OFFICE:  
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## United States Senate

WASHINGTON, DC 20510-4903

COMMITTEES:  
APPROPRIATIONS  
JUDICIARY  
SPECIAL COMMITTEE  
ON AGING

September 21, 2012

The Honorable Jon Leibowitz  
Chairman, Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Suite 444  
Washington, DC 20580

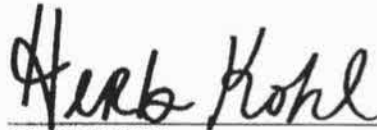
Dear Chairman Leibowitz:

I am writing to request that knowledgeable members of the FTC staff provide our Subcommittee staff with a confidential briefing about the FTC's antitrust investigation into allegations that Google has been engaged in anticompetitive conduct with respect to Internet search, and related issues.

I understand the sensitivity of discussing pending investigations. Therefore, my staff and I will ensure that any non-public information that your staff provides during the briefing will not be shared with anyone outside the Subcommittee. If you require further confidentiality assurances, we will do our best to accommodate you.

Thank you very much for your assistance in this matter.

Respectfully yours,



HERB KOHL

Chairman

Subcommittee on Antitrust, Competition Policy and  
Consumer Rights

14007131

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EAU CLAIRE OFFICE:  
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SUITE 206  
EAU CLAIRE, WI 54701  
(715) 832-8424

APPLETON OFFICE:  
4321 WEST COLLEGE AVENUE  
SUITE 370  
APPLETON, WI 54914  
(920) 738-1640

LA CROSSE OFFICE:  
205 5TH AVENUE SOUTH  
SUITE 216  
LA CROSSE, WI 54601  
(608) 796-0045



## Blank, Barbara

---

**From:** Levitas, Pete  
**Sent:** Friday, November 04, 2011 12:37 PM  
**To:** Blank, Barbara  
**Subject:** FW: 09-21-11 Google Hearing -Schmidt Responses  
**Attachments:** Schmidt Responses to Blumenthal.pdf; Schmidt Responses to Cornyn.pdf; Schmidt Responses to Franken.pdf; Schmidt Responses to Grassley.pdf; Schmidt Responses to Kohl.pdf; Schmidt Responses to Lee.pdf

---

**From:** Bloom, Seth (Judiciary-Dem) [mailto:Seth\_Bloom@Judiciary-dem.senate.gov]  
**Sent:** Friday, November 04, 2011 10:20 AM  
**To:** JDL; Levitas, Pete  
**Subject:** FW: 09-21-11 Google Hearing -Schmidt Responses

FYI, attached are Eric Schmidt's answers to the Subcommittee's written follow-up questions from our hearing.



Response of Eric Schmidt, Executive Chairman, Google Inc.  
Before the Senate Committee on the Judiciary  
Subcommittee on Antitrust, Competition Policy, and Consumer Rights

Hearing on “The Power of Google: Serving Consumers or Threatening Competition?”  
September 21, 2011

Questions For the Record for Eric Schmidt from Sen. Blumenthal

Questions about Google’s Market Power:

1. For 100 years, federal antitrust law and competition law have existed to protect consumers from the potential negative effects of highly concentrated market power. The bigger a company gets, the more danger there is that the company will abuse its monopoly position to stifle innovation and raise prices.

Justice Scalia noted this fundamental principle in his opinion in *Eastman Kodak Co. v. Image Technical Services*, where he said:

“Where a defendant maintains substantial market power, his activities are examined through a special lens: Behavior that might otherwise not be of concern to the antitrust laws – or that might even be viewed as precompetitive – can take on exclusionary connotations when practiced by a monopolist.”

Google is clearly the dominant provider of web search services worldwide. In the United States, 65% or more of all general Internet searches take place on Google. In Europe, Google has 94% of this market. The explosion of smartphones has provided a new search market – and in that space, Google processes a whopping 97% of all searches.

Ten years ago, there were many competing search engines – AltaVista, Lycos, Ask.com, AOL Search, just to name a few. Now, there are really only two – Google, and Microsoft, which provides the underlying software for both the Bing and Yahoo search engines. Microsoft does not appear to have a sustainable alternative – they hold 30% of the market, but are losing over \$2 billion a year on search services, while Google is made \$29 billion in 2010.

**Q:** Mr. Schmidt, your company is overwhelmingly dominant – it really has only one rival, and that rival is losing incredible sums of money each year. Given the tremendous market power of your company, do you believe it’s fair to characterize Google as a monopoly?

First, I would disagree that Google is dominant. By investing smartly, hiring extremely talented engineers, and working very, very hard (and with some good luck), Google has been blessed with a great deal of success. But given the rapid pace of change in the technology industry, we take nothing for granted.

As I acknowledged during the Committee hearing, Google is “in the area” of 65% of queries in the U.S., if you look only at Google’s general search competitors, such as Microsoft’s Bing and Yahoo!. In fact, we find

that the monthly general search query figures released by comScore and Hitwise don't reflect the reality of how many sites Google competes with in search. Google has many competitors that are not general search engines, including specialized search engines, social networks, and mobile apps. So inferring that Google is in any way "dominant" in search would be incorrect.

At the hearing, I noted that the question of whether such a market share, if accurate, would constitute a monopoly, is a legal determination; Ms. Creighton is more qualified to speak to those points. At a minimum, though, I am confident that Google competes vigorously with a broad range of companies that go well beyond just Microsoft's Bing and Yahoo!, and that Google has none of the characteristics that I associate with market power. The technology industry is one of the most competitive and dynamic spaces in the entire economy, with small companies as well as larger companies competing hard against each other in lots of areas. Google has many strong competitors. We compete against a broad array of companies, including, for example, general search engines (e.g., Microsoft's Bing, Yahoo!), specialized search engines (e.g., Kayak, Amazon, WebMD, eBay), social networks (e.g., Facebook, Twitter), mobile apps, and voice-activated search tools like Apple's Siri. The Internet is incredibly competitive, and new forms of accessing information are being utilized every day.

Unlike technologies of the past, on the Internet, competition is one click away. In addition, the history of the technology industry shows that technologies usually get supplanted by completely new models. Therefore, the question is not necessarily, "Who is going to beat Google in search?" but also, "What new model might take the place of search?"

2. Google frequently argues that it is not a monopoly because it provides its service for free and competition is "one-click away." This argument sounds appealing. Consumers are not forced to use Google, and anyone can start a website. The problem is that Google, like all search engines, serves consumers and advertisers. Consumers are really just a means to an end – Google generates nearly all of its revenue from advertisers, through advertisements on its own website and through ads it places across the internet.

This is not a "new" model. It's similar to broadcast TV. TV shows cost millions to produce, but consumers get them for free – because they're funded by advertisers. Millions of people watch ABC, so ABC can charge advertisers high costs, are re-invested into new million-dollar TV shows. But the difficulty in building ad revenue is a significant barrier to entry into this market. You can only fund new shows if you have advertisers. You can only get advertisers if you have viewers. And you can only get viewers if you have new shows. It's great if you already have all of the viewers – but good luck starting from scratch. These markets tend to move toward concentration and monopoly – there are only a few national broadcast networks.

Google has all the "viewers" on the internet. Since most consumers use Google's search engine, most advertisers need to advertise through the company. – Google controls 80% of the online search advertising market. Ad revenue means better products, which means more users. This "network effect" makes it hard to push Google from its dominant position.

Jonathan Rosenberg, Google's own VP of Product Management and Marketing, actually gave the best explanation of this in 2008. He said:

"Google is really based on this. Users go where the information is so people bring more information to us. Advertisers go where the users are, so we get more advertisers. We get more users because we have more advertisers because we can buy distribution on sites that understand that our search engine monetizes better. So more users more information,

more information more users, more advertisers more users, it's a beautiful thing, lather, rinse, repeat, that's what I do for a living. So that's ... the engine that can't be stopped."

**Q: Mr. Schmidt, please indicate on an company by company basis how much revenue was shared with each of your top 100 internet advertisers in the prior fiscal year, at whatever level of specificity is appropriate. If you were running most internet businesses, do you think it would be practical to refuse to advertise with Google?**

Google does not share revenue with advertisers. They pay Google, through our AdSense program, to advertise on website publishers websites.

Google does share revenue with our publishing partners through Google AdSense. Publishers, such as the New York Times, that use AdSense receive a revenue share when a user clicks on a Google-hosted ad on their site.

Google's specific revenue share agreements with our publishing partners are confidential, proprietary information that is never shared publicly. I can, however, offer the information requested through more general numbers. Google's AdSense has two main types of publisher contracts: AdSense for Content and AdSense for Search. AdSense for Content publishers, who make up the vast majority of our AdSense publishers, typically earn a 68% revenue share. AdSense for Search partners typically earn 51% revenue share.<sup>1</sup> The precise revenue sharing arrangement can be subject to a negotiated agreement, however.

Advertisers use the combination of advertising channels that gives them the best return on their investment. While some advertisers may only use Google, our experience shows that almost all advertisers use multiple means of advertising to reach the greatest number of customers. Additionally, there are many businesses that choose not to advertise with Google at all and instead spend their ad dollars on TV, radio, newspapers, magazines, and online banner ads. That is why we need to offer the best services for our advertisers, because if we do not, competition is just a click or a phone call away.

3. **In your testimony before the committee, you suggested that Google's market share is not a significant barrier to entry because competition is "one-click away." This seems inconsistent you're your statement in 2003, when you told the New York Times that "[m]anaging search at our scale is a very serious barrier to entry."**

**Q: Mr. Schmidt, please explain why "[m]anaging search at our scale is a very serious barrier to entry" and how this can be reconciled with your claim that competition is "one-click away."**

I made that statement to the New York Times over eight years ago, and I was probably talking about search in a more narrow way than I view competition today. That same New York Times article emphasizes that Google's advantage in 2003 was that we had amassed a large number of data centers to handle a sizable volume of queries.<sup>2</sup> But today, data centers have been reduced to a commodity that any company can buy or rent. Moreover, both Microsoft's Bing and Yahoo! today handle *millions more queries* than Google did in 2003. In two short years, Microsoft's Bing has already reached the size that Google was in 2007.

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<sup>1</sup> Neal Mohan, "The AdSense Revenue Share", Inside AdSense Blog, May 24, 2010, <http://adsense.blogspot.com/2010/05/adsense-revenue-share.html>.

<sup>2</sup> John Markoff and G. Pascal Zachary, "In Searching the Web, Google Finds Riches", New York Times, April 13, 2003, <http://www.nytimes.com/2003/04/13/business/in-searching-the-web-google-finds-riches.html?pagewanted=all&src=pm>.



Scale certainly plays a role in Google's success, but it is not the key to our success. Google is not successful because of the number of queries we process. Competition on the Internet is just one click away and that disciplines Google into concentrating on making our users happy. To this end, Google makes tremendous investments in research and development and in hiring the best engineers, who are extremely talented, have a huge depth of experience, and are focused like a laser on thinking of ways to deliver better services to our users. We believe we are better not because we are bigger but because our technology is better.

Google does not believe that scale is a barrier to entry. The Internet provides a level playing field for competition; Google's size has not changed that fact. Indeed, recent entry into the general search business by start-ups such as Blekko, venture capital investments in search startups like DuckDuckGo, and Microsoft's Bing's success after only two years demonstrate that entry is not only possible but real.

A lack of scale did not deter companies like Facebook, Twitter, and LinkedIn from starting, finding an audience, and achieving widespread prominence, recognition, and ultimately success. At the same time, the large size of many Internet companies like MySpace did not prevent them from losing their audience and ultimately faltering. Given the nature of the Internet, websites and services can and do get supplanted by completely new models. So the relevant question may not be, "Who will beat Google in search?" but rather, "What new model might take the place of search?"

4. **When Google argues that it is not anticompetitive, the company sometimes points to its efforts to allow consumers to easily move away from Google Products. Google actually runs an organization called the "Data Liberation Front" to help you "move your data in and out of Google Products." The group's mission statement is this:**

**"Users should be able to control the data they store in any of Google's products. Our team's goal is to make it easier to move data in and out."**

**Of course, it's the advertisers who are actually generating profits for Google. Google's products are free so that they can gain additional consumers, making their platform more attractive to advertisers. It's what economists call a classic example of a "two-sided market" – a business that provides value to two separate but related groups of customers. Consumers could choose not to use Google. But advertisers certainly can't.**

**Economists have noted allowing advertisers to move easily and cheaply between platforms helps to deter the market concentration and monopoly effects that are a natural result of markets that generate increasing value from large networks.**

**If a small company has to invest the resources to compete in an effective internet advertising auction, it's going to invest in Google's ads, not Microsoft's. If the company could easily export its data to Microsoft, it could advertise in both places with no additional cost. But if it has to choose one, it's going to choose the dominant player.**

**In your testimony before the committee, you indicated that advertisers have the same freedom to move data in and out of Google's advertising platform as users. Some companies, however, have complained that it is not easy to move advertising data they have compiled for Google's ad auctions to competing advertising platforms, like Microsoft's Bing or Yahoo.**

**Q: Mr. Schmidt, please explain precisely what advertising data can and cannot be exported from Google's ad services and imported into online advertising auctions on competing platforms.**

A number of resources exist to make it as easy as possible for AdWords users to export their data out of AdWords and use it for any purpose, including uploading it to another platform. In fact, Google is a leading proponent of data portability, and our Data Liberation Front provides step-by-step instructions to guide advertisers.<sup>3</sup> Competitors such as Microsoft also provide advertisers with simple instructions to import their Google ad data into their advertising platforms.<sup>4</sup>

Google provides a free tool, AdWords Editor, that make it easy for advertisers (and agencies or resellers acting on their behalf) to move their ad campaign from Google to a competing platform. Using AdWords Editor, advertisers or their agents can download their full campaign structure to a CSV file.<sup>5</sup> Thereafter advertisers are free to use the data as they deem appropriate, including uploading it onto competing platforms and using third-party tools to manage it.

Google also makes an AdWords API available that enables advertisers to build their own tools, and allows third-party developers to build tools for advertisers and agencies to use. The AdWords API Terms and Conditions impose minimal restrictions on advertisers in the creation or use of their own tools, and they can build most any functionality they deem necessary with AdWords API. In fact, Google specifically exempts advertisers from the requirements of Section III.2.c (referenced in your question).<sup>6</sup> There are modest limitations on the programmatic bulk input and direct copying of data through the use of AdWords API-based third-party tools. In fact, bulk input restriction is not applicable to all fields, and a number of such fields can be uploaded simultaneously across platforms. This is reflected by the extremely high level of advertiser multi-homing on numerous advertising platforms.

#### **Questions about Google's Use of Its Market Power:**

- 5. It's not a crime to be a big. Google's explosive growth over the last decade is a great American success story. Federal law is concerned with the responsibilities that a big company has not abuse that dominance. One classic legal concern is when a dominant company uses its market power to push into new markets and unfairly hurt competitors. This is the chief complaint that other online companies have about Google. In 2007, Google's VP Marissa Mayer said that Google favors its own content:**

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<sup>3</sup> Brian Fitzpatrick, "Yes You Can Export Data From AdWords, Too", Google Public Policy Blog, October 8, 2009, <http://googlepublicpolicy.blogspot.com/2009/10/yes-you-can-export-data-from-adwords.html>.

<sup>4</sup> adCenter Desktop, "Import Google AdWords Campaigns to Microsoft adCenter using adCenter Desktop (video)", [http://www.youtube.com/watch?v=MyWBPOS8dVM&feature=mfu\\_in\\_order&list=UL](http://www.youtube.com/watch?v=MyWBPOS8dVM&feature=mfu_in_order&list=UL); Microsoft Advertising, "Import a Google campaign by using Microsoft Advertising adCenter Desktop (Beta)", [http://advertising.microsoft.com/small-business/product-help/adcenter/topic?query=MOONSHOT\\_PROC\\_ImportGoogleCampaignsUsingDesktopTool.htm](http://advertising.microsoft.com/small-business/product-help/adcenter/topic?query=MOONSHOT_PROC_ImportGoogleCampaignsUsingDesktopTool.htm) (5-step process); *see also* Amber, "Upload Your Google AdWords Campaigns Into Yahoo and MSN adCenter in a Flash!", PPC Hero, March 17, 2009, <http://www.ppchero.com/upload-your-google-adwords-campaigns-into-yahoo-and-msn-adcenter-in-a-flash/> (3-step process).

<sup>5</sup> AdWords Editor Help, "How Do I Export a Spreadsheet from AdWords Editor," accessed November 1, 2011, <http://www.google.com/support/adwordseditor/bin/answer.py?answer=38657>.

<sup>6</sup> Google, AdWords API Terms and Conditions, accessed November 1, 2011, <http://code.google.com/apis/adwords/docs/terms.html> (In Section III(2)(c), Google explicitly notes that this section "does not apply to End-Advertiser-Only AdWords API Clients.").

**“[When] we roll[ed] out Google Finance, we did put the Google link first. It seems only fair, right? ... That actually has been our policy, since then.... So for Google Maps, again, it’s the first link, so on and so forth. And after that it’s ranked usually by popularity.”**

Google calls this practice of directing users to its own products at the top of its search page “Universal Search” – and says it’s an effort to provide a better consumer experience. But if Google’s product always wins, there’s little incentive to make it the best consumer option.

**“Google Product Search” is an online shopping comparison product. Originally called “Froogle,” it was seen as a failure for its first five years, with few users—until December 2007, when Google started putting Google Product Search first. Over the next two years, Product Search traffic grew by over 1,200 percent. In 2008, an online retail consultant noted:**

**“Previously, Google Product Search struggled to get more than 2% of Google users... [but now] Google Product Search has become the largest and most important specialty shopping search engine in existence.... Yet their shopping product itself is still inferior in its presentation and usability to some other leading shopping search engines.”**

**Q: Mr. Schmidt, how can consumers be assured of a better experience if they are always directed to Google software first?**

Before addressing your question let me first offer a little background. Google’s search results seek to achieve one fundamental thing: to connect users to the information they seek. We do this in two key ways. First, we started with conventional search—the traditional ten blue links—which involved crawling and indexing the web and returning results based on general responsiveness. Second, starting in 2001, we began to incorporate search results designed to respond to signals that a user is looking for specific types of information—a map, an image, a local business, a product, a news update, etc. We sometimes call these “thematic” search results.

When presenting thematic results, Google displays them in a way that is designed to make them user friendly. Prior to the launch of universal search in 2007, Google’s thematic results like news were displayed, when relevant, at the top of the search results page. With the introduction of “universal search,” we began to allow these thematic results to “float” from the top position to positions in the middle and bottom of the page, based on our assessment of how relevant conventional and thematic results were to the user’s query.

Other major search engines also incorporate thematic and conventional search results on their search results pages. In fact, the first efforts at blending thematic and conventional search results by other general search engines date back to the late 1990s. It reflects the effort to achieve what one industry expert described in 2001 as the “Holy Grail” of search: “The real Holy Grail of all this will be when search engines can detect the type of search we are doing and feed out more targeted results from appropriate databases.”<sup>7</sup>

But what is crucial to understand is that thematic search results are *not* separate “products and services” from Google. Rather, the incorporation of thematic and conventional results in universal search reflects Google’s effort to connect users to the information that is most responsive to their queries. Because of this, the question of whether we “favor” our “products and services” is based on an inaccurate premise. These

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<sup>7</sup> Danny Sullivan, “Being Search Boxed to Death”, Search Engine Watch, March 4, 2001, <http://searchenginewatch.com/article/2065235/Being-Search-Boxed-To-Death>.

universal search results *are* our search service—they are not some separate “Google content” that can be “favored.”

That said, in keeping with our focus on quality and delivering the most relevant results for consumers, Google constantly experiments with new ways to provide the most relevant information in response to a user’s query. For example, for certain queries, where Google is highly confident that the user wants a specific answer, Google will provide that answer prominently on the page. These direct answers are known as “oneboxes.” Oneboxes are generally displayed to convey an answer that is clear and straightforward, for example, movie showtimes, weather forecasts, mathematical calculations, stock prices, sports scores, and so on. Microsoft’s Bing and Yahoo! display similar “oneboxes” prominently in their results as well, demonstrating their belief that these results are useful for consumers.

The decision whether to display a onebox is determined based on Google’s assessment of user intent. Contrary to what some of Google’s critics suggest, Google does not make money when users click on oneboxes. In fact, the opposite is true: oneboxes that are responsive to what users are looking for may draw users away from the ads displayed on the page. Nonetheless, because oneboxes help Google deliver a satisfying experience to users, Google believes that by displaying them we are enhancing user satisfaction, which is in the long-term best interest of the company.

In some instances, Google has licensed data from third parties for use in our oneboxes. In other instances, we have developed this data ourselves. In either case, whether users are searching for a weather forecast, a mathematical calculation (e.g., [pounds to grams]), or a stock price, Google’s user studies confirm that users seeking this type of information generally do not want to click through to multiple options, whether in the form of ads or more natural links. Rather, users want a quick, direct answer that they can trust is correct. Oneboxes provide fast, accurate answers in response to this user demand.

6. **Google’s effort to build its own local business reviews product provides a good example of where Google’s dominance may cause problems. Yelp.Com and TripAdvisor.Com grew into significant businesses based on user-generated reviews of hotels, restaurants, and stores. Google wanted to enter this market with a competing product – “Google Places.” But “Google Places” had low traffic because it had no reviews.**

Of course, Google had all of Yelp and TripAdvisor’s reviews saved in its search servers. So the company took a shortcut – they “scraped” those reviews from its competitors, and pasted them on “Google Places” pages. TripAdvisor and Yelp cried foul. Those reviews are the heart of their businesses. But Google said if they didn’t like it, they could just withdraw from the search engine entirely. That is totally impractical. When Microsoft tried to do the same thing to Yelp, Yelp threatened to withdraw from Bing, and Microsoft backed down. Google, however, generates most of the traffic to TripAdvisor and Yelp. Those companies would lose half their revenue if they left Google. As TripAdvisor’s CEO has said, “I don’t feel like it’s fair to force me to provide information to a site that’s trying to compete with me.” Google announced just this past July that it would no longer scrape third party reviews and put them up on Google Places pages.

**Q: Mr. Schmidt, please indicate with as much specificity as is possible why Google decided to change its policy on scraping competitor content.**

Google developed Place pages to help users to access information about a local business. When Google first launched Place pages, Google displayed snippets—a few lines of text—from various review sites for each local business listed, and required that users click through to read the full review. The ultimate goal of Place pages, along with Google’s other thematic local results, was to help users locate local information on the web.



Google entered a two-year licensing agreement with Yelp in 2005 to display the full text of Yelp’s reviews in our conventional search results and our thematic local search results. Two years later, Yelp chose not to renew its agreement with Google. With the expiration of the license, Google no longer displayed the full text of Yelp’s reviews. Thus, we returned to simply showing snippets of third-party reviews within our conventional results as well as our thematic local search results, a practice permitted under the long-established fair use doctrine of copyright law. Snippets generally display about two or three lines of text. For users to access the full text, they must select a link that directs them to the review site. Showing snippets of websites is an important part of search; it enables users to determine whether the site in question is responsive to their queries. It also drives traffic to websites.

If, at any point, Yelp (or any other site owner) wishes to be excluded from Google’s (or any other search engine’s) index, it can—with relative ease—block search engine crawlers using a very simple and common protocol. Specifically, every site owner has the option to use the robots exclusion protocol, also referred to as robots.txt, to signal to Google or any other search engine that they do not want particular webpages, or even an entire site, to be crawled and indexed.<sup>8</sup> Site owners can easily exclude certain sites or portions of sites from being indexed, and can also specify different protocols for different search engines. The robots.txt protocol—which has been in place for over 17 years—can be utilized either by writing a new robots.txt file,<sup>9</sup> or by accessing one of many publicly available robots.txt files.<sup>10</sup>

As Google continued to develop our thematic local search results, Yelp began voicing concerns regarding how and where, exactly, within Google’s search results its snippets appeared. It’s worth noting that by 2009, search competitors Microsoft Bing, Yahoo!, and Ask.com all integrated third-party review snippets in essentially the same exact way within their respective local search results.

Yelp subsequently requested that Google remove snippets of Yelp reviews in Google’s local search results but continue providing links to Yelp. After a series of business conversations with Yelp in an attempt to address Yelp’s numerous concerns, Google agreed to comply with Yelp’s request. After the requested changes were implemented, snippets from Yelp’s website continued to appear in conventional search results, and no longer appeared in the thematic local search results.

In July 2011, Google redesigned Place pages. One of the major changes, implemented after careful thought about the future direction of Place pages and feedback from third-party review sites, was removing snippets of reviews from sites like Yelp, TripAdvisor, and CitySearch. Instead, Google chose to feature reviews from our own users, with links to third-party review sites. In addition, the “star rating” and “total review count” were modified to reflect only those ratings and reviews that have been submitted by Google users.

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<sup>8</sup> robots.txt is an industry standard that allows a site owner to control how search engines access their web site. Access can be controlled at multiple levels – the entire site, through individual directories, pages of a specific type, or even individual pages. Basically, robots.txt is a structured text file that can indicate to web-crawling robots that certain parts of a given server are off-limits. This allows search engines such as Google to determine which parts of a website a site owner wants to display in search results, and which parts to keep private and non-searchable. Dan Crow, “Controlling How Search Engines Access and Index Your Website”, The Official Google Blog, January 26, 2007, <http://googleblog.blogspot.com/2007/01/controlling-how-search-engines-access.html>.

<sup>9</sup> There are a number of resources available online that provide users with information on coding robots.txt files. See e.g. About/robots.txt, August 23, 2010, <http://www.robotstxt.org/robotstxt.html>.

<sup>10</sup> A non-comprehensive list of robots.txt files submitted by independent programmers is available here: <http://www.robotstxt.org/db.html>.

Commentators like Frank Reed of Marketing Pilgrim noted that these changes “essentially . . . gives Yelp and TripAdvisor their wish,” while TechCrunch noted that “this should be a welcome change to third-party source of reviews like Yelp and TripAdvisor.”<sup>11</sup>

Yelp has aired numerous concerns in the press over the past few years, and although Google has tried to act responsibly in addressing some of those concerns, ultimately Google builds our search results for the benefit of users, not websites. At all times, Google’s primary motivation has been improving the search experience for our users by providing the most relevant and useful information in response to their queries. In the end, if users are unhappy with the answers Google provides, the openness of the web ensures that they can easily switch to Yelp or any other site with just one click.

### **Questions about Google’s Market Power in Smartphone Operating Systems**

- 7. Google’s dominant position in the smartphone market is under increasing scrutiny. Google’s Android operating system now runs on over 50% of all smartphones. Nearly a half million new Android phones are activated daily. The growth of Android’s smartphone market share raises questions around whether Google’s market power is being unfairly leveraged to promote its other products – like its search engine, which runs on all Android phones, or its “Places” application, which seems to ship with every Android phone.**

**Q: Mr. Schmidt, does Google occupy a dominant position in the smartphone operating system market?**

Google does not have a dominant position in the smartphone market. According to comScore, Android operates on only 34.1% while Apple’s iOS runs on 43.1%.<sup>12</sup> Moreover, competition in the market for mobile software platforms is fierce. Innovation in the mobile space is frenetic; competitors are racing to introduce new devices which have the potential to radically change mobile market dynamics.

Furthermore, Android is a joint effort among many members of the mobile market including OEMs, carriers, application developers and chipset manufacturers. As a joint endeavor, Android’s success depends on the success of these partners—not just Google’s success.

One of the greatest benefits of Android is that it fosters competition at every level of the mobile market—including among application developers. Google respects the freedom of manufacturers to choose which applications should be pre-loaded on Android devices. Google does not condition manufacturers’ access to or use of Android on pre-installation of any Google applications or on making Google the default search engine. Google also does not condition Android compatibility determinations on pre-installation of Google applications or making Google the default search engine.

- 8. The most prominent claim of Google unfairly leveraging its market power is the case of Skyhook Wireless, who recently filed suit against Google arguing that the company pressured Motorola and other manufacturers into dropping Skyhook’s mobile location**

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<sup>11</sup> Frank Reed, “Google Places Update Puts Focus on Google”, Marketing Pilgrim, July 22, 2011, <http://www.marketingpilgrim.com/2011/07/google-places-update-puts-focus-on-google.html>. Erick Schonfeld, “Google Places Stops Stealing Reviews”, TechCrunch, July 21, 2011, <http://techcrunch.com/2011/07/21/google-places-stops-stealing-reviews/>.

<sup>12</sup> “Smartphones and Tablets Drive Nearly 7 Percent of Total U.S. Digital Traffic,” comScore press release, October 10, 2011, [http://www.comscore.com/Press\\_Events/Press\\_Releases/2011/10/Smartphones\\_and\\_Tablets\\_Drive\\_Nearly\\_7\\_Percent\\_of\\_Total\\_U.S.\\_Digital\\_Traffic](http://www.comscore.com/Press_Events/Press_Releases/2011/10/Smartphones_and_Tablets_Drive_Nearly_7_Percent_of_Total_U.S._Digital_Traffic).

service in favor of Google's. Emails from within Google made public as part of that lawsuit showed significant concern over Motorola's decision to go with Skyhook instead of Google's software. One email from Steve Lee, an Android product manager, speculates that Skyhook may have beaten out Google because it's "a hungry start-up" – or because Skyhook's location accuracy was superior to Google's.

Google ultimately forced Motorola and others to drop Skyhook's technology from their phones, arguing that it violated the company's Android "compatibility" requirements. But Dan Morrill, a manager in the Android group, noted at the time that it was obvious to manufacturers that in general, "we are using compatibility as a club to make them do things we want." Last month, Google announced that it intends to buy Motorola outright.

**Q: Mr. Schmidt, does Google have an obligation to ensure that it does not abuse its smartphone market position to favor its own products, and if so, what policies are in place to ensure that such abuse does not occur?**

Google's dispute with Skyhook is the subject of pending litigation, so I cannot comment extensively. However, as is reflected in publicly available filings, Google did not force either Motorola or Samsung to remove Skyhook software from their devices to receive certification as an Android compatible device. Google merely requested that these manufacturers use a version of the Skyhook software that was consistent with the Android Compatibility Definition Document ("CDD"). Skyhook possessed such a version of its software but refused to provide it to Motorola and Samsung. Thus, Google never was given a copy of the compliant software to review, which is why the Skyhook software was ultimately never deemed compatible by Google.

As to Mr. Morrill's remarks, reviewed in their full context express they reflect his belief that Google's efforts to maintain compatibility across different devices *could be misperceived* as a way for Google to improperly influence manufacturers. Google does not in fact use compatibility in this way. Mobile operating system competition is fierce—Apple, RIM (Blackberry), and Microsoft are very significant competitors—and carriers and handset manufacturers have many options other than Android. Google is committed to Android's success and to maintaining our strong partnerships with device manufacturers.

Google designed Android as an open source platform to foster customization by manufacturers of mobile software and hardware. In contrast to closed, proprietary operating systems, Android allows manufacturers to modify their own implementations of Android to create their own unique features and user interfaces. Android is also particularly adaptable to new hardware configurations and chipsets. By allowing broader differentiation in software and hardware, Android enhances competition and consumer choice. There are more than 500 models of Android devices on the market.

Google has undertaken extensive efforts to protect consumers and application developers to ensure their applications run seamlessly on all Android devices. Google, with the support of our Android partners, has identified certain specifications, such as minimum screen size and security features, that help ensure applications run flawlessly across device models. These specifications are reflected in the Android CDD, which is published on Android Open Source Project's website. Google and our partners believe that this baseline preserves the maximum amount of manufacturer freedom to customize Android, while simultaneously protecting Android developers, who need consistency and rely on minimum elements appearing on all Android devices, and Android customers, who may legitimately expect that Android applications will run on their Android devices.

#### **Questions about Google's Market Dominance and Facilitation of IP Infringement**

9. As discussed during the September 21, 2011 hearing, on August 24, 2011, the Department of Justice announced that Google had been fined \$500 million for allowing online Canadian

pharmacies to place advertisements through its AdWords program, resulting in the unlawful importation of controlled and non-controlled prescription drugs into the United States. The Department's press release noted that "Google was aware as early as 2003, that generally, it was illegal" to ship pharmaceuticals into the U.S.

Based upon the questions, and your responses to those questions, Google is also well aware that online copyright infringement online occurs on a massive scale and that it is a "problem that [Google] takes very seriously."

In light of the Department of Justice's statement that it "will continue to hold accountable companies who in their bid for profits violate federal law," Google's approach to ensuring it does not profit from intellectual property theft should not only be of great interest to the Committee, but Google as well.

**Q: Mr. Schmidt, to what extent does Google take steps to ensure that it does not profit from the violation of federal copyright or trademark laws?**

Google believes strongly in protecting copyright and other intellectual property rights. We understand that despite the overwhelmingly positive and legitimate uses of Internet services and technologies, there will be some who misuse these for infringing purposes. Google has been an industry leader in developing innovative measures to protect copyright and help rightsholders control their content online. For example, Google has expended more than 50,000 engineering hours and more than \$30 million to develop Content ID, our cutting-edge copyright protection tool that is helping rightsholders make money on YouTube. This powerful technology scans the more than 48 hours of video uploaded to YouTube every minute and, within seconds, compares it against more than six million references files provided by participating rightsholders. Content ID has proven to be an enormous success and is being used by a long list of content owners worldwide to make their own choices about how, where, when, or whether they want their content to appear on YouTube.

As is true for all Internet companies, the critical foundation for Google's anti-piracy efforts remains the Digital Millennium Copyright Act ("DMCA"), the seminal law Congress passed in 1998 to address copyright protection online and promote the worldwide expansion of e-commerce. Congress rightly understood that some material posted by the millions of people who use online services will infringe copyright, and that online service providers in the ordinary course of their operations engage in copying and other acts that expose them to potential copyright liability. Congress also recognized that requiring online providers to engage in pre-screening of every user-posted text, picture, and video would inhibit free expression and stifle the growth of the Internet.

At the request of copyright owners, Google in 2010 took action against approximately three million allegedly infringing items across all our products, which accounts for far less than 1% of all the materials hosted and indexed by Google. We received takedown notices by letter, fax, email, and web forms from all sorts of copyright owners (including movie studios, record labels, adult entertainment vendors, and needlepoint pattern publishers) from 70 countries and in a wide variety of languages. Hundreds of Google employees work on copyright and combating infringement online, including a growing team of employees dedicated to receiving, reviewing, and responding to DMCA notices. We check to make sure that the notices are complete and are not attempts by competitors or others to use invalid copyright claims to censor speech with which they disagree.

Last December, Google announced that we were designing new tools to enable us to act on reliable copyright takedown requests within 24 hours. We are happy to report that our average turnaround time for DMCA notices received from those using our new tools is now less than seven hours. Moreover, submissions using our new tools now account for more than 75% of all URLs identified to us for web search.



In addition, Google has (in compliance with the DMCA) implemented repeat infringer policies on all relevant products. In each of these products, repeat infringer terminations constitute far fewer than 1% of the total subscriber accounts.

We also employ a wide array of procedures and expend considerable financial resources to prevent our advertising products from being used to monetize material that infringes copyright. For example, our AdSense program enables website publishers to display ads alongside their content. Our policies prohibit the use of this program for infringing sites, and we use automated and manual review to weed out abuse. In 2010, we took action on our own initiative against nearly 12,000 sites for violating this policy. And in 2011, we have already taken action against more than 12,000 sites. We also respond swiftly when notified by rightsholders. We recently agreed to improve our AdSense anti-piracy review procedures and are working together with rightsholders on better ways to identify websites that violate our policies.

We also committed last year to prevent terms that are closely associated with piracy from appearing in autocomplete. We have begun working to prevent several piracy-related terms from appearing in autocomplete, and have asked content industry representatives to suggest other terms for consideration that won't overly restrict legitimate speech.

We are also helping to lead industry-wide solutions through our work with the Interactive Advertising Bureau ("IAB"), comprised of more than 460 leading media and technology companies. The IAB has established quality assurance guidelines through which participating advertising companies will take standardized steps to enhance buyer control over the placement and context of advertising and build brand safety. Google has certified our compliance with these guidelines.

Google also expends great effort to fight the challenge of counterfeit goods. Just as in the offline world, people misuse legitimate online services to try to market counterfeit goods. This abuse hurts our users and our business; combating it is central to Google's operations. The integrity and quality of the sponsored links displayed alongside Google search results are of paramount importance to our overall success. A Google user duped by a fake good is less likely to click on another Google ad in the future. For this reason, Google undertakes enormous efforts to root out ads for sites that sell counterfeit goods.

Google has clear policies against advertising counterfeit goods, and we expend considerable resources to enforce those policies. In the last year, we shut down approximately 95,000 accounts for attempting to use sponsored links to advertise counterfeit goods, and more than 95% of these accounts were discovered through our own detection efforts. Even more ads themselves were blocked on suspicion of policy violations. Our automated tools analyze thousands of signals to help prevent bad ads from being shown in sponsored links. Last year alone we invested \$60 million in efforts to prevent violations of our ad policies.

Despite the best efforts of the online advertising industry, proactive measures will never be a complete solution. Some publishers deliberately take steps to evade detection systems, meaning bad sites will invariably slip through. Technologically sophisticated players use tactics like "cloaking" (showing one version of their site to the public and a different version to Google) to evade the protections that Google and other companies put in place. Because of these tactics, coupled with the sheer volume of ads served per day, finding a particular ad on the web that has circumvented our systems may always be possible. While the industry is aggressively going after this abuse, it is clearly a cat-and-mouse game to stay ahead of the bad actors, and Google is committed to being an industry leader in eradicating this behavior.

We also believe that making high-value content available in authorized forms is a crucial part of the battle against online infringement. With 800 million people per month coming to YouTube, we have expanded our movie rental services, made it easier for indie labels to become YouTube partners and share revenue when their music is played (even for user-generated content), and launched a feature to enable fans to buy artists' merchandise, music downloads, and concert tickets. And we've launched the Google eBookstore, featuring a wide array of books from authors and publishers. We also continue to improve YouTube's Content ID

system to help more copyright owners (including songwriters and music publishers) to monetize their works and we are working with WIPO on a rights registry that will help African musicians license their works.

In addition to launching our own authorized services, we also launched Music Rich Snippets, which allow other legitimate music sites to highlight content in the snippets that appear in Google's conventional web search results. Rhapsody and MySpace are among the first to implement this feature, which has been developed using open web markup standards, and we are looking forward to more sites and search engines marking up their pages. We hope that authorized music sites will take advantage of Music Rich Snippets to make their preview content stand out in search results.

- 10. The DOJ announcement mentions that the \$500 million forfeiture, one of the largest ever in the United States, represents, "the gross revenue received by Google as a result of Canadian pharmacies advertising" through Google services.**

**Q: Mr. Schmidt, what are the gross revenues received by Google as a result of advertising the company has placed on websites that have been identified by law enforcement, copyright owners, or Google itself as a venture that offers unauthorized copies of copyrighted materials?**

As described above, Google believes strongly in protecting copyright and undertakes enormous efforts to root out publisher sites who violate our policies against using AdSense for sites that infringe copyright. Google has no interest in making or keeping any revenue from infringement and therefore our target revenues are zero.

We employ a wide array of procedures to prevent infringing sites from using our ads products, and we expend considerable financial resources to find and eject advertisers and publishers who violate our policies. For example, publishers who want to join the AdSense program are vetted upon joining for their compliance with program policies. In addition, automated systems monitor the pages on which AdSense ads appear, and bring potentially problematic material to the attention of human reviewers. Finally, Google responds swiftly when notified by a rightsholder that our AdSense program is being used to monetize infringing or counterfeit sites, and we have policies in place to terminate the accounts of repeat offenders. The volume of complaints in this regard is not high, and represents far less than 1% of all our AdSense partner sites.

Perhaps contrary to perceptions, in many ways we lose revenue opportunities from the actions of bad actors who traffic in counterfeit goods or infringing content. Often stolen credit cards are involved, and we don't collect on accounts that are terminated for counterfeit violations. Infringing or counterfeit ads also cost us space that we could have used for a legitimate ad. And a Google user duped by a fake good is less likely to click on another Google ad in the future.

Lastly, it is important to note that the DOJ announcement you referenced states that the figure "represents the gross revenue received by Google as a result of Canadian pharmacies advertising through Google's AdWords program, *plus gross revenue made by Canadian pharmacies from their sales to U.S. consumers*" (emphasis added).

- 11. The August 24, 2011 release stated that, "this investigation is about the patently unsafe, unlawful, importation of prescription drugs by Canadian on-line pharmacies, with Google's knowledge and assistance, into the United States, directly to U.S. consumers... It is about taking a significant step forward in limiting the ability of rogue on-line pharmacies from reaching U.S. consumers, by compelling Google to change its behavior." As you know, I am a cosponsor of the PROTECT IP Act, which gives the government the ability – after an investigation by federal prosecutors and review by a federal judge – to cut-off a foreign-based website that profits by facilitating the online theft of works from the U.S. marketplace. This proposal was unanimously approved by the Senate Judiciary Committee earlier this year.**

**Q: Mr. Schmidt, to what extent are you aware of Ads by Google, AdSense, DoubleClick or any other Google advertising service on offshore websites that are not authorized to make available the copyrighted music or movies that are the heart of those websites?**

Google employs a wide array of procedures and expends considerable financial resources to prevent our advertising products from being used to monetize material that infringes copyright. Our policies prohibit the use of our advertising services on infringing sites, and we use automated and manual review to weed out abuse. For example, last year, we took action on our own initiative against nearly 12,000 sites for violating this policy. And in 2011, we have already taken action against more than 12,000 sites. We also respond swiftly when notified by rightsholders. For AdSense, our current average response time is 24 hours.

Google supports the PROTECT IP Act's goal of targeting foreign "rogue" websites that are dedicated to copyright infringement or counterfeiting. Google could support a "follow the money" legislative approach, which would choke off revenue to "rogue" sites who are dedicated to providing infringing access to copyrighted material and/or counterfeit goods. Consistent with our policies, this means payment services (e.g., Google Checkout) and advertising networks (e.g., Google AdSense) would not be allowed to provide services to rogue sites. We are also mindful that the Internet is key to American economic growth, and we have serious concerns about certain proposed legislative provisions that not only stifle innovation and threaten the Internet economy, but also jeopardize the millions of small businesses that rely on the web everyday.

As you know, one of the most discussed provisions of the PROTECT IP Act has been the definition of an "[i]nternet site dedicated to infringing activities," and earlier versions of this legislation raised serious concerns for legitimate U.S. businesses. Distinguishing whether, for example, a given video is "authorized" to be made available on a given site is not a simple task. It is the rightsholders who know what material they own the rights to, where in the world, and for what purpose. That is why the structure of the shared responsibility of the DMCA works effectively to take down the content that rightsholders have specified. For search engines, the DMCA process already enables rightsholders to remove infringing material that is located on foreign rogue sites.

**12. Q: Mr. Schmidt, to what extent have you been contacted by property owners regarding the presence of ads that enable such rogue websites to reap financial gain?**

Google employs a wide array of procedures to prevent infringing sites from using our ads products, and we expend considerable financial resources to find and eject advertisers and publishers who violate our policies. For example, publishers who want to join the AdSense program are vetted upon joining for their compliance with program policies. In addition, automated systems monitor the pages on which AdSense ads appear, and bring potentially problematic material to the attention of human reviewers. Finally, Google responds swiftly when notified by a rightsholder that our AdSense program is being used to monetize infringing or counterfeit sites, and we have policies in place to terminate the accounts of repeat offenders. The volume of complaints in this regard is not high, and represents far less than 1% of all our AdSense partner sites. We get lots of different types of complaints, and it can take time to investigate various claims, such as a claim that a given product is being distributed without authorization.

**13. Q: Mr. Schmidt, how does Google respond when contacted by a property rights owner or advertiser regarding Google advertising on a site offering or distributing its content or product without authorization? On average, how long does it take Google to respond to such a complaint?**

We employ a wide array of procedures and expend considerable financial resources to prevent our advertising products from being used to monetize material that infringes copyright. For copyright, as noted above, last year we took action on our own initiative against nearly 12,000 sites for violating our policies against using

AdSense for sites that infringe copyright, and we have certified our compliance with IAB's guidelines. As we also noted above, though, proactive measures will never be a complete solution, even with the best efforts of the online advertising industry. We respond swiftly when notified of violations of our AdSense policies by rightsholders and recently agreed to improve our AdSense anti-piracy review procedures. Our current average response time is 24 hours. We are working together with rightsholders on better ways to identify websites that violate our policies.

Google also has clear policies against advertising counterfeit goods, and we expend considerable resources to enforce those policies. We work with over one million advertisers in 190 countries. In the second half of 2010, we received legitimate complaints about less than 0.25% of advertisers. In the last year, we shut down approximately 95,000 accounts for attempting to use sponsored links to advertise counterfeit goods, and more than 95% of these accounts were discovered through our own detection efforts. Even more ads themselves were blocked on suspicion of policy violations. Our automated tools analyze thousands of signals to help prevent bad ads from being shown in sponsored links. Last year alone we invested \$60 million in efforts to prevent violations of our ad policies.

But there is no silver bullet. It's a whack-a-mole problem, as we constantly work to improve our practices against sophisticated entities trying to game our protections. While Google's tools are quite effective, it is incredibly difficult for Google to identify a counterfeit product being advertised. This is a challenging task, even for brand owners. Online advertising companies, which do not take possession of physical goods, cannot know for sure whether any particular item out of millions advertised is indeed a counterfeit. As has always been the case with newspapers and offline advertising platforms, it is essentially impossible for Google to block all attempted abuse.

**14. Q: Mr. Schmidt, what technologies is Google developing to ensure that its companies do not place ads on sites engaged in piracy and counterfeiting?**

Google has committed significant resources to developing technology that enables detection of content that violates our copyright and counterfeit policies. We use sophisticated automated tools, which analyze thousands of signals along every step of the advertising process. We devote significant engineering and machine resources to prevent violations of our ad policies including our anti-counterfeiting policy. In fact, we invested over \$60 million last year alone in these efforts. Google also regularly refers to and cooperates with law enforcement on fraud and abuse investigations, including those relating to counterfeit goods.

**15. The FDA stated that it will hold "all contributing parties accountable for conduct that results in vast profits at the expense of the public health." While the theft of music and movies does not endanger the public health, it does endanger consumers who patronize professional looking websites that are validated and made to feel legitimate with "Ads by Google." It endangers consumers because it exposes them to liability for the theft of copyrighted materials. It endangers consumers who provide credit card and other personal information to criminal organizations. It exposes their computers to malware, viruses and spam, and, is not only wrong, but also a drain on the US economy. Equally important, it allows criminal operations – and your company – to profit from crime.**

**Q: Mr. Schmidt, what can you and others in the online advertising sector do to devise a workable plan that holds all parties accountable for conduct that results in vast profits for those operating online criminal enterprises predicated on the theft of American-made intellectual property?**

Google supports developing effective policy and technology tools to combat large-scale commercial infringement. Google has dedicated tens of millions of dollars in engineering and other resources to help weed out notorious bad actors.



Our policies prohibit the use of our AdSense and AdMob programs on web pages (AdSense) or apps (AdMob) that include infringing materials or seek to sell counterfeit goods. We employ a wide array of procedures to prevent infringing sites from using our ads products, and we expend considerable financial resources to find and eject advertisers and publishers who violate our policies. For example, publishers who want to join the AdSense program are vetted upon joining for their compliance with program policies. In addition, automated systems monitor the pages on which AdSense ads appear, and bring potentially problematic material to the attention of human reviewers. Finally, Google responds swiftly when notified by a rightsholder that our AdSense program is being used to monetize infringing or counterfeit sites, and we have policies in place to terminate the accounts of repeat offenders. The volume of complaints in this regard is not high, and represents far less than 1% of all our AdSense partner sites.

Moreover, Google has long enabled advertisers directly to control where their ads appear. Using available exclusion tools for our ad programs, Ads by Google advertisers can exclude domains of their choosing from displaying their ads (whether because of infringement or any other concern). Similarly, if an advertiser discovers its ads running on an objectionable site that it had not previously been aware of, that advertiser can use the tools to prevent any future appearances on that site.

While we are proud of the policies and procedures we have in place to prevent improper use of our ads products, we are always striving to improve. As mentioned above, we will continue to work with rightsholders to identify, and, when appropriate, expel violators from the AdSense program.

In addition, Google is helping to lead industry-wide solutions to prevent legitimate ads from appearing on illegitimate sites through our work with the IAB, comprised of more than 460 leading media and technology companies. The IAB has established quality assurance guidelines through which participating advertising companies will take standardized steps to enhance buyer control over the placement and context of advertising and build brand safety. Despite the best efforts of the online advertising industry, however, technologically sophisticated players use tactics like “cloaking” (showing one version of their site to users and a different version to Google) to evade the protections that Google and other companies put in place. While the industry is aggressively going after those who abuse online advertising programs, it is clearly a cat-and-mouse game and efforts to legislate in this area must be careful not to target ad platforms for abuses of their systems that could not reasonably be prevented.



Response of Eric Schmidt, Executive Chairman, Google Inc.  
Before the Senate Committee on the Judiciary  
Subcommittee on Antitrust, Competition Policy, and Consumer Rights

Hearing on "The Power of Google: Serving Consumers or Threatening Competition?"  
September 21, 2011

Questions for the Record – Senator Cornyn to Mr. Schmidt

1. At the hearing, you referenced Google's Non-Prosecution Agreement ("NPA") with the U.S. Department of Justice. As you may recall, I asked you about that agreement and provided you the opportunity to provide a complete and accurate picture of Google as a corporate citizen. There appeared to be some confusion as to whether you could discuss the NPA. You stated that you had been advised by your lawyers not to "speak about the details" or "comment" on the NPA.

- a. Did you know before your testimony that the agreement explicitly states that you are "prohibited from contradicting" the factual statements?

Under the terms of the NPA, Google and its management have to be mindful of the NPA's limitations on making public statements about the facts or the investigation to avoid any breach of our obligations under it. For this reason, I was very measured in my remarks at the hearing, but as you state and as I understand better now, I can restate the facts stipulated in the NPA and could have restated those facts with you at the hearing. I apologize for my confusion.

- b. Do you agree that Google is expressly permitted to defend any litigation or investigation or proceeding as long as you do not contradict the factual statements?

Yes. Of course, the Department of Justice is the arbiter of what contradicts the factual statements in the NPA, and Google intends to be very careful not to breach our obligations. The NPA's provisions regarding public statements permissible by Google speak for themselves. That being said, it is also true that Google must at all times be incredibly mindful of the very limitation you reference, that Google not contradict, intentionally or unintentionally, any of the factual statements in the NPA.

2. I would like to provide you an opportunity to clarify the record with regard to one of my questions. I asked, regarding Google's conduct set forth in the NPA: *"Was it ... the result of oversight or inadvertence or were there some employees in the company that were doing this without your knowledge..."* I believe that you responded as follows: *"Well, certainly not without my knowledge. Again, I have been advised, unfortunately, I'm not allowed to go into any of the details and I apologize, Senator, except to say that we're very regretful and it was clearly a mistake."*

Your answer would seem to suggest that you did indeed have knowledge of the conduct set forth in paragraph 2 of the NPA. I understand that you may not have heard my question accurately and that sometimes answers can be misconstrued. I would like to give you an opportunity to clarify your answer to my question and answer some related questions.

- a. **Did you know that Canadian online pharmacies were advertising prescription drugs for sale in the U.S. using Google's AdWords or other Company advertising platforms between 2003 and 2009?**
- b. **When did you learn of this conduct?**
- c. **How did you learn of this conduct?**
- d. **Did you alert others in the company about this conduct? Who did you alert? When did you do so? What did you say or write in alerting others in the company regarding this conduct?**

As I'm sure you can appreciate, Google has a wide variety of policies governing ads in many different countries. I do not recall the specifics of when these particular policies first came to my attention. Sometime around 2004, it was brought to management's attention generally that there were some potential issues to consider regarding pharmacies advertising via AdWords, in violation of Google's policies, and I believe I first learned of this issue around that time through meetings and internal discussions. The company's policy did not block licensed Canadian pharmacies certified by SquareTrade and later PharmacyChecker to advertise in the United States. SquareTrade verified whether online pharmacies seeking to advertise through AdWords were licensed in at least one state in the United States or in Canada. SquareTrade required pharmacies seeking to advertise through AdWords to self-certify that they would act in accordance with applicable U.S. laws and regulations. As for PharmacyChecker, although it did not certify online pharmacies that shipped controlled prescription drugs, Canadian or otherwise, it did certify advertisers of non-controlled prescription drugs, including distributors of non-controlled prescription drugs located in Canada. Some advertisers did not qualify for certification by either SquareTrade or PharmacyChecker, but nonetheless were able to circumvent Google's certification requirements by, for example, setting up advertising campaigns intended for audiences outside the U.S., thus not requiring certification, and then later changing the geo-targeting of those campaigns to include the U.S. Some advertisers also circumvented Google's manual review of ads, for example, by not including pharmaceutical terms triggering manual review by Google's systems in the text of the ads. The NPA—specifically paragraphs 2(j) and 2(l) through 2(n)—sets forth the pertinent facts about the timing and duration of that advertising. Google is not in a position to comment further on the matter for the reasons explained above.

3. **As I noted during the hearing, one of the reasons I asked you about this topic is because I believe that it speaks directly to the issue of trust. I understand from your testimony that the conduct that was covered in the NPA has nothing to do with the company's current advertising practices or policies. Because the issue of trust is so important, I would like to give you the opportunity to describe in more detail just how those practices have changed and when they did so.**

- a. **The NPA, paragraph 2(q), states that Google became aware of the government's investigation in 2009. When in 2009?**

Google became aware of the government's investigation at the end of May 2009.

- b. **What steps has Google taken to prevent this sort of thing from happening again?**

We agree that complying with the law and maintaining the trust of our users is essential. Google changed our policy regarding Canadian pharmacies in March 2010. Since that time, the AdWords program allows only online pharmacies based in the United States to run ads appearing in the United States. Further, Google became the first online search provider to require these U.S. online pharmacies to be accredited by the National Association Boards of Pharmacy VIPPS program. The VIPPS certification is stringent and fewer

than 20 online pharmacies nationwide are currently certified by VIPPS. Google also continues to improve our existing automated screening programs and developed new tools to enhance our ability to enforce and monitor advertisers' compliance with these policies. As part of this enforcement effort, Google contracted with an independent company with knowledge of online pharmacies to conduct regular "sweeps" of ads running via AdWords to find any drug- or online-pharmacy-related advertisements from advertisers who manage to evade Google's screening programs. The NPA itself notes the changes Google has made to our policy and to our enforcement efforts. Google also took a lead role in a cross-industry effort to collaborate with government bodies to attempt to stop the problems of online pharmacy advertising at the source.

**c. What, if any, disciplinary measures has Google taken against any of its executives or employees who allowed the Canadian pharmacies to illegally sell drugs in the U.S.?**

**d. Was anyone terminated? Who? When?**

The failure to block U.S.-focused advertisements from licensed Canadian pharmacies that were certified by SquareTrade and then PharmacyChecker to advertise in the United States came as the result of a number of company decisions. Accordingly, Google has not taken any disciplinary action against any employees based on the existence of ads by Canadian pharmacies certified by SquareTrade and then PharmacyChecker. Of course, Google does discipline and even terminate employees for violations of Google policies, including our policies against various types of ads. In the course of our investigation into online pharmaceutical advertisements, we disciplined or terminated several employees who had violated our policies.

**e. Are you confident that the steps the company has taken will prevent the sale of illegal drugs through ads placed via Google?**

The steps Google has taken to prevent pharmacies from unlawfully advertising on Google, described above, are robust and significant, and our experience with these steps since implementing them over a year ago shows very good results. History has shown that some rogue pharmacies find ways to circumvent Google's safeguards, but we are constantly evolving our practices to meet these challenges. One way we are addressing these rogue actors is by contracting with an independent company with knowledge of online pharmacies to conduct regular "sweeps" of ads running via AdWords to find any drug- or online-pharmacy-related advertisements from advertisers who manage to evade Google's screening programs. Upon receipt of those reports, offending advertisements are removed, and the advertiser accounts for these rogue pharmacies are terminated. Of course, this is a continuing arms race, involving millions of ads every day covering a wide range of products and services, that faces us and other online platforms. We use a variety of sophisticated filters, scans, and tools for human review to identify ads that may be for illegal products or that otherwise violate our policies, and we regularly update our policies to address new categories of ads. Bad actors in many countries around the world are constantly working to circumvent these barriers, and Google is actively improving our detection and deterrence tools.

**4. I remain concerned about the reasons behind the conduct that became the subject of the DOJ investigation into Google's advertising practices. I understand that you cannot make any statements contradicting the facts set forth in paragraph 2 of the NPA. Without contradicting any statements in paragraph 2 of the NPA, please provide answers to the following questions:**

**a. Who at Google would have been in a position to prevent the conduct that led to the government's investigation and the Statement of Facts in the NPA?**

Not blocking licensed Canadian pharmacies certified by SquareTrade and PharmacyChecker from advertising in the United States was the result of a continuing discussion involving a variety of policy and implementation



questions over several years. In hindsight it is possible that any of a number of individuals might have been able to influence those policies and practices.

- b. Whose responsibility was it to respond to the two letters sent to Google in 2003 and 2008 by the National Association of Boards of Pharmacy warning Google that it was illegal to import prescription drugs from Canada? Did you ever see those letters? Did Google respond to them? See NPA, Para 2(f)**

Google receives numerous inquiries and correspondence from many different parties about our products and services every day. We do our best to review correspondence and take appropriate action, which may or may not include a response to the sender. I understand that the National Association of Boards of Pharmacy (“NABP”) sent Google the 2003 letter after we requested from it information regarding online pharmacies and the VIPPS program. Google considered the information provided by the NABP as we reviewed and updated our online pharmacy policies in 2003 and 2004. I myself do not recall seeing either letter.

- c. What ultimately caused the conduct that is described in paragraph 2 of the NPA to cease?**

Google disallowed Canadian pharmacies from advertising in the United States, and took the other steps described in response to Question 3b above, as a result of the government’s investigation and our ongoing efforts to improve our policies and enforcement tools.

- d. Who were the members of the Company's policy group in 2003 through 2009?**

Google’s advertising policy team had numerous members throughout this time period, many of whom no longer work at Google or on the policy team. As I noted earlier, not blocking licensed Canadian pharmacies certified by SquareTrade and PharmacyChecker from advertising in the United States was the result of a continuing discussion involving a variety of policy and implementation questions over several years, and involved many employees in the company beyond those on the policy team.



**Response of Eric Schmidt, Executive Chairman, Google Inc.  
Before the Senate Committee on the Judiciary  
Subcommittee on Antitrust, Competition Policy, and Consumer Rights**

**Hearing on “The Power of Google: Serving Consumers or Threatening Competition?”  
September 21, 2011**

**Questions for the Record from Senator Al Franken for Eric Schmidt**

- 1. In your testimony you stated that you are not aware of “any unnecessary or strange boosts or biases” in Google’s algorithms for Google’s own products and services. Can you confirm that Google does not give its own services an unfair advantage in its organic search results?**

Google’s search results seek to achieve one fundamental thing: to connect users to the information they seek. We do this in two key ways. First, we started with conventional search—the traditional ten blue links — which involved crawling and indexing the web and returning results based on general responsiveness. Second, starting in 2001, we began to incorporate search results designed to respond to signals that a user is looking for specific types of information—a map, an image, a local business, a product, a news update, etc. We sometimes call these “thematic” search results.

Other major search engines also incorporate thematic and conventional search results on their search results pages. In fact, the first efforts at blending thematic and conventional search results by other general search engines date back to the late 1990s. It reflects the effort to achieve what one industry expert described in 2001 as the “Holy Grail” of search: “The real Holy Grail of all this will be when search engines can detect the type of search we are doing and feed out more targeted results from appropriate databases.”<sup>1</sup>

These universal search results are not separate “products and services” from Google. Rather, the incorporation of thematic and conventional results in universal search reflects Google’s effort to connect users to the information that is most responsive to their queries. Because of this, the question of whether we give an “unfair advantage” to our “products and services” is based on an inaccurate premise. These universal search results *are* our search service—they are not some separate “Google content” that can be “favored.”

That said, in keeping with our focus on quality and delivering the most relevant results for consumers, Google constantly experiments with new ways to provide the most relevant information in response to a user’s query. For example, for certain queries, where Google is highly confident that the user wants a specific answer, Google will provide that answer prominently on the page. These direct answers are known as “oneboxes.” Oneboxes are generally displayed to convey an answer that is clear and straightforward, for example, movie showtimes, weather forecasts, mathematical calculations, stock prices, sports scores, and so on. Microsoft’s Bing and Yahoo! display similar “oneboxes” prominently in their results as well, demonstrating their belief that these results are useful for consumers.

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<sup>1</sup> Danny Sullivan, “Being Search Boxed to Death”, Search Engine Watch, March 4, 2001, <http://searchenginewatch.com/article/2065235/Being-Search-Boxed-To-Death>.

The decision whether to display a onebox is determined based on Google's assessment of user intent. Contrary to what some of Google's critics suggest, Google does not make money when users click on oneboxes. In fact, the opposite is true: oneboxes that are responsive to what users are looking for may draw users away from the ads displayed on the page. Nonetheless, because oneboxes help Google deliver a satisfying experience to users, Google believes that by displaying them we are enhancing user satisfaction, which is in the long-term best interest of the company.

In some instances, Google has licensed data from third parties for use in our oneboxes. In other instances, we have developed this data ourselves. In either case, whether users are searching for a weather forecast, a mathematical calculation (e.g., [pounds to grams]), or a stock price, Google's user studies confirm that users seeking this type of information generally do not want to click through to multiple options, whether in the form of ads or more natural links. Rather, users want a quick, direct answer that they can trust is correct. Oneboxes provide fast, accurate answers in response to this user demand.

In sum, we view our thematic search results as part of our search results, not as a separate product or service. With respect to a page on a Google-owned site such as YouTube that is crawled and ranked within our search results, such a page is not placed higher than an identical page would be if it were owned by another company.

- 2. Please explain why Google's products (such as Google Places and Shopping) are not clearly labeled as Google products in your organic search results. Would Google consider clearly labeling these items so consumers understand these products are owned by Google?**

As I explained in answer to Question 1, thematic search results (such as Places and Shopping) incorporated in universal search results are not separate "products" from Google. Rather, the incorporation of thematic and conventional results in universal search reflects Google's effort to connect users to the information that is most responsive to their queries. These universal search results *are* our search service—they are not separate "Google content."

In response to a query seeking local information, for example, Google may either group local results together, or may distribute local results throughout our search results. Either way, Google is simply trying to organize and display local business results so as to save users time by displaying local information in the most effective manner, in order to eliminate the need to conduct multiple searches. As with any of Google's search results, local business listings are ranked according to likely relevance. For example, typing in a query for [shoe repair 22203] will typically return local business listings organized by geographic proximity to that zip code. The ranking of local business results is not affected by payment.

- 3. What factors does Google consider in making the decision when and where to rank "answers" above "links" (such as to a metasearch site like Nextag)? Has Google considered providing search "answers" that are not owned or controlled by Google, for example pointing to products listed on a different product comparison service other than Google Shopping?**

Thematic search results for particular types of content (video, images, news articles, products, and so on) are incorporated when our consumer testing and data analysis shows that those results algorithms are most likely to deliver the results sought by our users. As I noted in my response to Question 1, oneboxes are displayed when Google believes it is likely that a user is seeking a specific answer, and they often contain information or data that are licensed from third parties.

- 4. During his testimony, Nextag CEO Jeffrey Katz stated that Google offers "unique ad placements, which competitors such as [Nextag] can't even purchase." Does Google prevent companies from purchasing certain ads? If so, what process does Google use to determine who is eligible to bid for certain ads?**

NexTag is a valued customer of Google's that advertises extensively through our traditional AdWords system. What Mr. Katz was referring to was a discrete ad format where users see a specific product's picture and price. Our user studies have found that users expect to be able to purchase a product when they click on advertisements containing a product's picture and price. Accordingly, we require advertisers that use this format to direct their advertisement to a page where the product can be sold. As of this past September, we were working with NexTag to set up Product Listing Ads for the products sold directly through the site.

**5. During Mr. Stoppelman's testimony, he indicated that Yelp had difficulty removing its content from Google Places's reviews, and he was told Google would only remove Yelp content from its site if Yelp "de-indexed" its website.**

**a. Please describe, in detail, the official process for a company to challenge Google's use of its content in a manner which the company believes is inappropriate?**

Every site owner has the option to use the robots exclusion protocol, also referred to as robots.txt, to indicate to Google or any other search engine that they do not want particular webpages, or even an entire site, to be crawled and indexed.<sup>2</sup> Site owners can easily exclude certain sites or portions of sites from being indexed, and can also specify different protocols for different search engines. The robots.txt protocol, which has been in place for over 17 years, can be utilized either by writing a new robots.txt file,<sup>3</sup> or by accessing one of many publicly available robots.txt files.<sup>4</sup>

In addition, Google regularly engages in business conversations with people in the search industry, from industry pundits to local businesses to SEO firms to site owners of websites both large and small. When Yelp raised issues with the way Google indexed Yelp content in Google's local search results, Google willingly engaged in a series of business conversations with Yelp in an attempt to address Yelp's numerous concerns.

**b. Does Google "scrape" content from other websites? If so, please list the websites where Google is appropriating content and indicate whether any of these companies have complained to Google about this practice.**

Google believes strongly in protecting copyright and other intellectual property rights. Google relies, as does every other major search engine, on the established doctrine of fair use in order to display snippets of text in our search results, giving users a preview of the type of content they can find for a given link. Indeed, snippets are an important feature of search generally, and they drive traffic to websites. Google previously displayed review snippets from sites such as Yelp and TripAdvisor in our thematic local search results.

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<sup>2</sup> robots.txt is an industry standard that allows a site owner to control how search engines access their web site. Access can be controlled at multiple levels – the entire site, through individual directories, pages of a specific type, or even individual pages. Basically, robots.txt is a structured text file that can indicate to web-crawling robots that certain parts of a given server are off-limits. This allows search engines such as Google to determine which parts of a website a site owner wants to display in search results, and which parts to keep private and non-searchable. Dan Crow, "Controlling How Search Engines Access and Index Your Website", The Official Google Blog, January 26, 2007, <http://googleblog.blogspot.com/2007/01/controlling-how-search-engines-access.html>.

<sup>3</sup> There are a number of resources available online that provide users with information on coding robots.txt files. See e.g. About/robots.txt, August 23, 2010, <http://www.robotstxt.org/robotstxt.html>.

<sup>4</sup> A non-comprehensive list of robots.txt files submitted by independent programmers is available here: <http://www.robotstxt.org/db.html>.



Google's practice of displaying review snippets did not disadvantage review sites—in fact, quite the opposite. In fact, Google sends millions of clicks a month to Yelp, TripAdvisor, and other review sites. Google facilitates free traffic to both Yelp and TripAdvisor, and each of the sites has reaped the benefits of this free user exposure.

Yelp has aired numerous concerns in the press over the past few years, and although Google tries to act responsibly in response to website concerns, ultimately Google builds our search results and search-related products for the benefit of users, not websites. At all times, Google's primary motivation has been improving the search experience for our users by providing the most relevant and useful information in response to their queries. In the end, if users are unhappy with the answers Google provides, the openness of the web ensures that they can easily switch to Yelp or any other site with just one click.

- 6. Many small businesses depend upon the Internet for customers to find them. I have heard from a number of Minnesota businesses that are concerned that the quality assessment measures Google rolled out in “Panda” will prevent them from competing with larger companies that can invest more in “search engine optimization.” What is Google doing to address this concern and ensure that small businesses are not unfairly impacted by these changes?**

Google's ongoing aim is to ensure that we return search results that provide users with best answers. We developed the Panda algorithm in response to feedback from our users who wanted more relevant answers and a better user experience. While Google aims to provide users with websites that are likely to be the most useful for our users, over the past few years, websites with low-value content have learned how to game Google's algorithms so that they often outranked better websites. The Panda algorithm simply more adeptly ranks high-quality sites—sites with original content and information such as research, in-depth reports, thoughtful analysis, etc.—regardless of the size of the business in question.

Panda was a set of algorithm changes intended to improve the quality of search results and make it harder for poor quality sites to rank highly in Google's search algorithms. Panda does not prevent small businesses from competing with larger companies. We work hard to make sure that all companies' websites are ranked according to their usefulness to queries, and we continually keep small businesses in mind when we test out new algorithms and evaluate possible improvements to the algorithms.

- 7. In your testimony, you estimated that just over two-thirds of Android phones were shipped with Google products pre-installed. Please confirm the exact percentage of Android phones that are shipped with Google products pre-installed, and please specify which apps are pre-loaded or bundled, including Google Maps; Google Places; Google +; Google Shopping; Gmail; Latitude, etc..**

As I mentioned in my testimony, my estimate of the number of phones that come with Google products pre-installed was “not too precise.” It was, in fact, an educated guess. Android's code is open-sourced, meaning that manufacturers are free to obtain the Android source code and create Android phones without Google's knowledge or involvement.<sup>5</sup> Because Google does not know the total number of Android-powered phones, it is not possible to confirm the percentage of Android phones that ship with Google products pre-installed.

Google does not demand that smartphone manufacturers make Google the default search engine as a condition of using the Android operating system. Android is a free, open source platform for mobile devices. The complete Android source code is available for download for free from the Android Open Source Project

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<sup>5</sup> See Android Open Source Project, “Downloading the Source Tree”, <http://source.android.com/source/downloading.html>.

website.<sup>6</sup> Any developer or manufacturer can use, modify, and distribute the Android operating system without Google's permission or any payment to Google. For example, Amazon recently announced the Kindle Fire—its new tablet device—using the Android source code without Google's involvement. This is one of the exciting and innovative aspects of Android that will help foster innovation and competition in the smartphone market.

One of the greatest benefits of Android is that it fosters competition at every level of the mobile market—including among application developers. Google respects the freedom of manufacturers to choose which applications should be pre-loaded on Android devices. Google does not condition access to or use of Android on pre-installation of any Google applications or on making Google the default search engine.

Manufacturers can choose to pre-install Google applications on Android devices, but they can also choose to pre-install competing search applications like Yahoo! and Microsoft's Bing. Many Android devices have pre-installed the Microsoft Bing and Yahoo! search applications. No matter which applications come pre-installed, the user can easily download Yahoo!, Microsoft's Bing, and Google applications for free from the Android Market.<sup>7</sup> In addition, Android gives manufacturers the freedom to pre-install third-party app stores, like the Amazon Appstore for Android, where a user can download a variety of apps, including Microsoft's Bing.<sup>8</sup>

**8. I have heard complaints that it is difficult to delete pre-loaded apps from Android phones. Please explain the process to delete pre-loaded apps, and how it compares to the process for deleting other apps that are not pre-installed on a phone.**

During the manufacturing process, a manufacturer typically loads a mobile device with a complete system image consisting of the operating system and pre-loaded applications. The system image is loaded into read-only memory, which for technical reasons cannot be modified by the user. Because Android devices are manufactured in this manner, the user cannot alter the Android platform itself or any pre-loaded applications. As a result, any application that is pre-installed and part of the system image cannot be deleted. This is not an issue limited to Android; both Apple's iOS and Microsoft's Windows Phone are loaded as system images that prevent modifying the operating system or removing pre-loaded applications.

But Android is designed, more than any other mobile operating system, to allow users to fully personalize their mobile devices. Users are given ample freedom to modify the user interface and features of their Android devices. Users can easily move any applications they do not wish to use away from the home screen or into folders, can easily install one of over 300,000 applications available in the Android Market and other applications sources, and can use these applications to the exclusion of any pre-loaded software.

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<sup>6</sup> See Android Open Source Project, "Downloading the Source Tree", accessed on November 1, 2011, <http://source.android.com/source/downloading.html>.

<sup>7</sup> Users can access the Microsoft Bing Search application here: [https://market.android.com/details?id=com.microsoft.bing&feature=search\\_result](https://market.android.com/details?id=com.microsoft.bing&feature=search_result); the Yahoo! Search application here: [https://market.android.com/details?id=com.yahoo.mobile.client.android.yahoo&feature=search\\_result](https://market.android.com/details?id=com.yahoo.mobile.client.android.yahoo&feature=search_result); and the Google Search application here: [https://market.android.com/details?id=com.google.android.googlequicksearchbox&feature=search\\_result](https://market.android.com/details?id=com.google.android.googlequicksearchbox&feature=search_result).

<sup>8</sup> Amazon makes the Microsoft Bing Search application available here: <http://www.amazon.com/Microsoft-Corporation-Bing/dp/B004T54Y2M/>

Furthermore, the new version of the Android platform (Android 4.0: Ice Cream Sandwich) allows the user to disable pre-loaded applications. Although the application cannot truly be deleted for the reasons described above, a disabled application is hidden from view and cannot be launched unless the user re-enables it.

**9. How does Google define whether an application is “compatible” with the Android operating system? What steps has Google taken to help application developers to understand how applications are assessed for compatibility so they are not barred from the Android market?**

Google does not define whether applications are “compatible” with the Android operating system. Google has, however, undertaken extensive efforts to protect consumers and application developers to ensure their applications run seamlessly on all Android devices. Google, with the support of our Android partners, has identified certain specifications, such as minimum screen size and security features, that help ensure applications run flawlessly across device models. These specifications are reflected in the Android Compatibility Definition Document (“CDD”), which is published on Android Open Source Project’s website. Google and our partners believe that this baseline preserves the maximum amount of manufacturer freedom to customize Android, while simultaneously protecting Android developers, who need consistency and rely on minimum elements appearing on all Android devices, and Android customers, who may legitimately expect that Android applications will run on their Android devices.

Application developers seeking to create an application that runs on the Android operating system can use the Android application programming interfaces (“APIs”) that are made available through the Android operating system. Developers can also download the Android software development kit (“SDK”), and Android native development kit (“NDK”), which are all available for free on the Android developer website.<sup>9</sup> These tools allow anyone to create rich, innovative applications that can be distributed on Android devices.

**10. If a copyright or trademark owner alerts Google that a website or application is operating illegally, what process does Google take against those sites and applications? Is there a way to expedite this process?**

When we are notified by a rightsholder of infringing activity or material, we act promptly to address the issue. The nature of our response depends on the Google product that is involved—if we are hosting the content in question, we can remove it; if it involves advertising on an infringing site, we can remove the ads and terminate the site’s account; if infringing material is appearing in search results, we can prevent those links from appearing in future search results.

For example, on YouTube, we don’t even wait to be notified—we proactively employ our Content ID tools to match every video against our database of “claimed” audio and video before it appears on the site. This powerful technology scans the more than 48 hours of video uploaded to YouTube every minute and, within seconds, compares it against more than six million references files provided by participating rightsholders. This is possible because YouTube is a video hosting service, which means the videos reside on servers that we control. Content ID has proven to be an enormous success and is being used by a long list of content owners worldwide to make their own choices about how, where, when, or whether they want their content to appear on YouTube. In addition to our Content ID system, we also have developed a sophisticated Digital Millennium Copyright Act (“DMCA”) takedown system, the Content Verification Program (“CVP”), for reliable, high-volume submitters. The response time for those using our CVP system is effectively immediate.

In contrast, where web search is concerned, Google has no ability to “take down” the sites that exist on the web, because we don’t control the web. Instead, when copyright owners notify us of infringing material appearing in search results, we remove it from future results. While we have always processed takedown

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<sup>9</sup> Android Developers, Download the Android SDK, accessed November 1, 2011, <http://developer.android.com/sdk/index.html>.

notices expeditiously, over the past several months, we have dramatically improved our turnaround time for DMCA notices for web search. We did this by building new tools for reliable, high-volume submitters. These tools are now being successfully used by more than a dozen content industry partners who together account for more than 75% of all URLs submitted in DMCA takedowns for web search. Our goal was to reduce average response time for these notices to less than 24 hours. In fact, we've exceeded that goal. Current average response time is now less than seven hours.

We also employ a wide array of procedures and expend considerable financial resources to prevent our advertising products from being used to monetize material that infringes copyright. For example, our AdSense program enables website publishers to display ads alongside their content. Our policies prohibit the use of this program for infringing sites, and we use automated and manual review to weed out abuse. Last year, we took action on our own initiative against nearly 12,000 sites for violating this policy. And in 2011, we have already taken action against more than 12,000 sites.

We also respond promptly when we are notified that our advertising products are being used by infringing sites. We recently agreed to improve our AdSense anti-piracy review procedures and are working together with rightsholders on better ways to identify websites that violate our policies.

Google also expends great effort to fight the challenge of counterfeit goods. Just as in the offline world, people misuse legitimate online services to try to market counterfeit goods. This abuse hurts our users and our business; combating it is central to Google's operations. In the last year, we shut down approximately 95,000 accounts for attempting to use sponsored links to advertise counterfeit goods, and more than 95% of these accounts were discovered through our own detection efforts. Even more ads themselves were blocked on suspicion of policy violations. Our automated tools analyze thousands of signals to help prevent bad ads from being shown in sponsored links. Last year alone we invested \$60 million in efforts to prevent violations of our ad policies.

We also have a fast and easy complaint form for brand owners to notify us of ads for potentially counterfeit goods. Earlier this year, Google announced that for brand owners who use this form responsibly, we will commit to an average response time of 24 hours or less. Brand owner feedback is an important way in which we improve our systems—as we get more data about bad ads, we get better at counteracting the new ways that bad actors try to game the system.

- a. **If a property holder alerts Google that a new incarnation of the website or application has become available, how quickly does Google take action against this new site or application?**

As mentioned above, the response time for DMCA notices varies depending on the Google product that is involved. For DMCA takedown notices submitted through our new tools, which together account for more than 75% of all URLs submitted in DMCA takedowns for web search, we are happy to announce that we've exceeded our goal of reducing average response time to less than 24 hours. Current average response times are now less than seven hours.

- b. **Does Google have a system in place to screen out applications that appear to advertise intellectual property infringement in the title or description of the application (i.e. – a “Freemusicdownload” app) before these applications are listed in the Android marketplace?**

Android Market provides a platform for independent developers to distribute software applications (“apps”). Our policies on Android Market are clear: applications that infringe copyrights, or otherwise violate the law, are prohibited. All Android Market developers must agree to the Developer Distribution Agreement (“DDA”) before submitting any apps. Section 7.2 of the DDA provides, “if Google is notified by you or otherwise becomes aware and determines in its sole discretion that a Product . . . violates the intellectual



property rights or any other rights of any third party . . . Google may remove the Product from the Market.”<sup>10</sup> Further, the Android Market Developer Program Policies (the “Content Policy”), incorporated by reference into the DDA, provide:

**Intellectual Property:** Don’t infringe on the intellectual property rights of others, including patent, trademark, trade secret, copyright, and other proprietary rights. We will respond to clear notices of alleged copyright infringement. For more information or to file a DMCA request, please visit our copyright procedures.

**Illegal Activities:** Keep it legal. Don’t engage in unlawful activities on this product.<sup>11</sup>

The Content Policy also states: “Serious or repeated violations of the Developer Distribution Agreement or this Content Policy will result in account termination. Repeated infringement of intellectual property rights, including copyright, will also result in account termination.”<sup>12</sup> Correspondingly, we take steps to terminate the accounts of developers who are repeat infringers. Furthermore, we attempt to detect and terminate other accounts created by developers who have been previously terminated for repeat infringement and other policy violations. We also require all developers to register with Google Checkout and pay \$25. This basic authentication step acts as a filter to keep out spammers and other bad actors. Typically, after three policy violations of any kind, we terminate the developer account. In addition, we also ban related accounts whether or not those accounts have directly incurred any policy violations.

Our practice is to remove an application pursuant to the Content Policy if we become aware, through formal DMCA complaints or otherwise, that such application violates those policies.

We offer a web form designed to enable rightsholders to submit DMCA notices electronically for Android Market. During 2010, Google removed 1,026 applications through our DMCA copyright process for Android Market. Through September 2011, Google has removed 1,960 applications through our DMCA copyright process for Android Market.

Our response time for DMCA copyright notices for Android Market has varied depending on the incoming volume of notices and the app in question. Currently, our average response time is less than 48 hours for notices submitted electronically through our web form.

**11. What measures does Google take to make sure that its ads are not placed on websites engaged in copyright or trademark infringement? Please explain if these policies are consistent across all Google advertising products, including AdSense, DoubleClick, and AdMob.**

Our policies prohibit the use of our AdSense and AdMob programs on web pages (AdSense) or apps (AdMob) that include infringing materials or seek to sell counterfeit goods. DoubleClick is an ad management and ad serving platform. As with our other advertising tools, we are prepared to take appropriate action, including account termination, where DoubleClick publishers are shown to be using our product to serve ads on infringing content.

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<sup>10</sup> Android, “Android Market Developer Distribution Agreement”, accessed November 1, 2011, <http://www.android.com/us/developer-distribution-agreement.html>.

<sup>11</sup> Android, “Android Market Developer Program Policies”, accessed November 1, 2011, <http://www.android.com/us/developer-content-policy.html>.

<sup>12</sup> *Id.*

It is generally through the AdSense program that Google places ads on other websites. We employ a wide array of procedures to prevent infringing sites from using our ads products, and we expend considerable financial resources to find and eject advertisers and publishers who violate our policies. For example, publishers who want to join the AdSense program are vetted upon joining for their compliance with program policies. In addition, automated systems monitor the pages on which AdSense ads appear and bring potentially problematic material to the attention of human reviewers. Finally, Google responds swiftly when notified by a rightsholder that our AdSense program is being used to monetize infringing or counterfeit sites and we have policies in place to terminate the accounts of repeat offenders. The volume of complaints in this regard is not high and represents far less than 1% of all our AdSense partner sites.

Moreover, Google has long enabled advertisers directly to control where their ads appear. Using available exclusion tools for our ad programs, advertisers can exclude domains of their choosing from displaying their ads (whether because of infringement or any other concern). Similarly, if an advertiser discovers its ads running on an objectionable site that it had not previously been aware of, that advertiser can use the tools to prevent any future appearances on that site.

While we are proud of the policies and procedures we have in place to prevent improper use of our ads products, we are always striving to improve. We continue to work with rightsholders to identify, and, when appropriate, expel violators from the AdSense program.

In addition, Google is helping to lead industry-wide solutions to prevent legitimate ads from appearing on illegitimate sites through our work with the Interactive Advertising Bureau ("IAB"), comprised of more than 460 leading media and technology companies. The IAB has established quality assurance guidelines through which participating advertising companies will take standardized steps to enhance buyer control over the placement and context of advertising and build brand safety. Despite the best efforts of the online advertising industry, however, technologically sophisticated players use tactics like "cloaking" (showing one version of their site to users and a different version to Google) to evade the protections that Google and other companies put in place. While the industry is aggressively going after those who abuse online advertising programs, it is clearly a cat-and-mouse game, and efforts to legislate in this area must be careful not to target ad platforms for abuses of their systems that could not reasonably be prevented.

**12. How many copyright and trademark violators have been expelled from AdSense and other Google advertising services in 2010 and 2011? What measures has Google adopted to prevent violators from re-joining these services using a new account? Does Google have a system in place to pre-screen websites prior to them signing up with one of Google's advertising services?**

For copyright, last year we took action on our own initiative against nearly 12,000 sites for violating our policy against using AdSense for sites infringing copyright. In 2011, we have already taken action against more than 12,000 sites, and we have certified our compliance with IAB's guidelines. As described above, we employ a wide array of procedures to prevent infringing sites from using our ads products, and we expend considerable financial resources to find and eject advertisers and publishers who violate our policies. For example, publishers who want to join the AdSense program are vetted upon joining for their compliance with program policies. In addition, automated systems monitor the pages on which AdSense ads appear, and bring potentially problematic material to the attention of human reviewers. Finally, Google responds swiftly when notified by a rightsholder that our AdSense program is being used to monetize infringing or counterfeit sites and we have policies in place to terminate the accounts of repeat offenders.

Google also has clear policies against advertising counterfeit goods, and we expend considerable resources to enforce those policies. In the last year, we shut down approximately 95,000 accounts for attempting to use sponsored links to advertise counterfeit goods, and more than 95% of these accounts were discovered through our own detection efforts. Even more ads themselves were blocked on suspicion of policy

violations. Our automated tools analyze thousands of signals to help prevent bad ads from being shown in sponsored links. Last year alone we invested \$60 million in efforts to prevent violations of our ad policies.



Response of Eric Schmidt, Executive Chairman, Google Inc.  
Before the Senate Committee on the Judiciary  
Subcommittee on Antitrust, Competition Policy, and Consumer Rights

Hearing on “The Power of Google: Serving Consumers or Threatening Competition?”  
September 21, 2011

Senator Grassley’s Written Questions for Eric Schmidt

1. Some Iowans question whether “Google promotes fairness, competition and transparency in the online search business.” What can you tell them about this? Do Google’s business practices promote fairness, competition and transparency? How?

Google is proud of its business practices. The open web of high-quality publishers is important to Google’s success. Through Google Webmaster Central, the company has made substantial investments in tools and transparency for websites. In addition to building industry-leading tools to help websites diagnose problems and improve performance, Google provides more information about how our rankings work than any other major search engine.

In order to continue to provide good results, however, some aspects of search algorithms need to be kept secret. Otherwise spammers would game their way to the top of search result rankings with tricks and gimmicks. Because spammers consistently try to game Google’s search algorithms, Google has published detailed quality guidelines for webmasters. In addition to providing constructive advice for improving website performance on Google, these guidelines clearly articulate spam tactics that are against the rules and could lead to a site being demoted or removed from our index.

Competition is just one click away. Google does not—and cannot—make it more difficult for users to switch to Microsoft’s Bing, Yahoo!, Blekko, or any specialized search engine such as Amazon (for products), Yelp (for local reviews), or OpenTable (for restaurant reviews). As Microsoft researcher Ryen White observed this year in summarizing his research findings, “The barrier to switching Web Search engines is low and multiple engine usage is common.”<sup>1</sup> In fact, according to multiple studies, including one from Microsoft,<sup>2</sup> it is clear that a majority of searchers use more than one search engine in any given month (what the industry refers to as “multi-homing”).<sup>3</sup> Multi-homing is evidence that there is no lock-in: if there were, the studies should demonstrate no multi-homing because users are locked-in to a single search engine.

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<sup>1</sup> Qi Guo, Ryen W. White, Yunqiao Zhang, Blake Anderson, and Susan T. Dumais, “Why Searchers Switch: Understanding and Predicting Engine Switching Rationales”, SIGIR 2011, July 24-28, 2011, <http://research.microsoft.com/en-us/um/people/ryenw/papers/GuoSIGIR2011.pdf>.

<sup>2</sup> *Id.*

<sup>3</sup> See Jake Loechner, “Websearchers Are Tenacious”, Center for Media Research, October 4, 2010, <http://www.mediapost.com/publications/article/136907/> (reporting on 2010 Performics Study that found 79% of Internet searchers will try a different site if they do not initially find what they seek); see also Jacqui Cheng, “Nielsen: Fickle Search Engine Users Could Benefit Bing”, Ars Technica, June 2, 2009, <http://arstechnica.com/web/news/2009/06/nielsen-fickle-search-engine-users-could-benefit-bing.ars>



2. In the 1990's when Microsoft added enhanced desktop search to Windows, Google took the position that it was an illegal tying of the dominant Windows platform. Today, many competitors are concerned that Google is illegally tying services to Google's dominant Search and Search advertising businesses in a similar way. For example, Google Maps and Google Places have been given priority placing in Google search results at the expense of competitors like MapQuest, Yelp or Trip Advisor. How is tying like this acceptable, but Microsoft's was not?

The manner in which Google and other search engines (including Microsoft's Bing) display their search results does not "tie" one kind of result to another. There is one product—search—and numerous means of displaying information that may be useful and responsive to queries. Users are not coerced in any way; they can click on what they want or navigate to an entirely different information source.

3. Some Iowans have expressed concerns that because of Google's dominance in the online search market, it "can easily pick winners and losers based on some arbitrary and undisclosed system." Another Iowan wrote, "Over the past few years, Google has ratcheted up competition with established websites by developing its own products and often promoting them above regular search results. . . . How will a startup compete with a giant like Google that has essentially monopolized the Internet?" Are these valid concerns?

Google's efforts to deliver responsive results to our users in no way harm competition or deter innovators from entering the market. To the contrary, Google actually provides free promotion to millions of innovative websites through our search results. Indeed, innovation on the Internet is happening at an unprecedented rate. As the CEO of Blekko (a relatively new firm that offers a general search engine and recently attracted \$30 million in additional financing) noted last month: "We don't need federal intervention to level the playing field with Google. Innovation and competition are far more powerful instruments."<sup>4</sup>

The Internet is incredibly dynamic and new companies with tremendous ideas are being created every day. Facebook, Twitter, and LinkedIn all achieved extraordinary success long after Google began integrating thematic algorithms into our search results—and all are changing the way in which users think about finding information online. Already, many users utilize these sites, and others like them, to find the information they need. The New York Times, for example, receives only 16% of its web traffic from Google.<sup>5</sup> Similarly, ComedyCentral.com receives more traffic from Facebook than it does from Google.<sup>6</sup> Amazon, Travelocity, and Expedia, among others, provide thematic search results and do not need Google to find an audience—they are quite successful in finding an audience on the Internet.

Moreover, history shows that popular technology is often supplanted by entirely new models. Even in the few weeks since the hearing, Apple has launched an entirely new approach to search technology with Siri, its voice-activated search and task-completion service built into the iPhone 4S. As one respected technology site

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(finding that 72 percent of all heavy Internet searchers use more than three different search engines in a month).

<sup>4</sup> Rich Skrenta (co-founder and CEO of Blekko), "Blekko's not afraid of Google, why is Washington?", Skrentablog, September 20, 2011, [http://www.skrenta.com/2011/09/blekkos\\_not\\_afraid\\_of\\_google\\_w.html](http://www.skrenta.com/2011/09/blekkos_not_afraid_of_google_w.html).

<sup>5</sup> Compete.com, September 2011. Site Analytics Data for The New York Times, accessed October 27, 2011, <http://siteanalytics.compete.com/nytimes.com/>.

<sup>6</sup> Compete.com, September 2011. Site Analytics Data for Comedy Central, accessed October 27, 2011, <http://siteanalytics.compete.com/comedycentral.com/>.

reported: “[E]veryone keeps insisting that Apple will eventually get into the search engine business. Well they have. But not in the way that everyone was thinking. Siri is their entry point.”<sup>7</sup> Another commentator has described Siri more simply as intended to be a “Google killer.”<sup>8</sup>

Finally, we do not have to speculate as to whether there are new entrants in vertical search services such as comparison shopping and local search and review sites. There are new entrants in these market segments all the time. A new comparison shopping site, FindTheBest, launched by the co-founder of DoubleClick last year, just raised \$6 million in venture funding over the summer. Cheapism is a comparison shopping site that launched in 2009, dedicated to bargain hunters on the Internet and was recognized in the New York Times and on CBS New York. More recently, a new entrant called Centzy launched a website that combines both local search and comparison shopping functionality. Centzy’s CEO used to work at SnapFish and is currently seeking funding following its successful launch for New York and San Francisco. Unlike Yelp, Centzy integrates pricing information for goods and services on its site so that users can comparison shop for local services. Barefootfloors.com is a comparison shopping site that launched in January that is focused on home goods and “is now helping online shoppers to educate themselves on everything related to the home and to save money on a wide variety of products for the home.”<sup>9</sup> In February of this year, the travel comparison shopping site, Hipmunk, received \$4.6 million in venture funding, even as Google continues to expand its own flight search and hotel search functionality.

These are just a few of the many recent entrants in local and comparison shopping that are entering the market even as Google continues to innovate. While they may not all succeed, venture capitalists and entrepreneurs alike continue to believe they can compete with Google, Yelp, Nextag, and other established competitors.

#### **4. How would you characterize Google’s view of intellectual property and its role in the economy?**

Google believes in a strong and balanced approach to protecting copyright and other intellectual property rights, in line with the Constitution’s goal of promoting “the progress of science and useful arts.” We understand that despite the overwhelmingly positive and legitimate uses of Internet services and technologies, there will be some who misuse these for infringing purposes. Google invests millions of dollars in engineering and other resources to help rightsholders fight this misuse.

Google adheres to the takedown process Congress established under the Digital Millennium Copyright Act (“DMCA”), which provides copyright owners with expeditious recourse when they discover infringement online while also giving online service providers like Google the certainty necessary to invest in the services that millions of Americans rely on each day. Across our search engine and hosted products, we remove or disable access to millions of infringing items each year at the request of copyright owners. We voluntarily take several steps well beyond our legal obligations, and we regularly cooperate with a wide array of law enforcement authorities.

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<sup>7</sup> MG Siegler, “Why So Siri-ous?”, TechCrunch, October 16, 2011, <http://techcrunch.com/2011/10/16/iphone-siri/>.

<sup>8</sup> Eric Jackson, “Why Siri Is a Google Killer”, Forbes, October 28, 2011, <http://www.forbes.com/sites/ericjackson/2011/10/28/why-siri-is-a-google-killer/2/>.

<sup>9</sup> Tanya Tymoshuk, “BarefootFloor.com: New Price Comparison Engine Helps Consumers Shop Smartly for Home Goods”, Yahoo! News, January 11, 2011, <http://news.yahoo.com/barefootfloor-com-price-comparison-engine-helps-consumers-shop-20110111-070000-289.html>.

With the explosive growth of the Internet and skyrocketing demand for Internet-enabled devices, it is innovation-friendly copyright limitations and exceptions, principally fair use and the DMCA safe harbors, that have directly led to the creation of entirely new marketplaces for promoting and monetizing content. Online platforms like YouTube, Facebook, and Twitter in turn have unleashed new sources of creativity, economic development, and jobs. It is no exaggeration to note that the DMCA set the legal foundation for e-commerce. The Computer and Communications Industry Association has found that industries that rely on fair use and other limitations generate \$4.7 trillion in revenue, represent one sixth of total U.S. GDP, and support 17 million jobs. While online piracy remains a serious enforcement problem, we should not lose sight of the overall balance of our nation's copyright laws, which continue to spur a broad array of American-bred creativity and innovation.

Google also works closely with rightsholders to make authorized content more accessible on the Internet. We realize that providing users with access to legitimate content is critical to addressing the problem of copyright infringement online. From its startup phase in 2005, YouTube is now monetizing for content owners over three billion video views per week. We create revenue for more than 20,000 partners. Record labels are now making millions of dollars a month on YouTube. Hundreds of YouTube users make six figures a year. Today over 2,000 media companies—including every major U.S. network broadcaster, movie studio, and record label—use the copyright protection tools that YouTube offers, and a majority of them choose to monetize rather than block their content online.

5. **I've heard complaints from a number of rights holders regarding Google's approach to intellectual property rights. In the opinion of many of Google's critics, Google has taken a cavalier attitude toward the intellectual property of others. The issues that are being raised are not insignificant, considering the ease in which a site engaged in counterfeiting or piracy can be found with a search, the profits earned from advertising on such sites, and the large number of mobile applications on the Android platform that facilitate piracy. After reading about the recent Google \$500 million settlement with the Department of Justice regarding the placement of ads on rogue pharmaceutical sites, I'm interested in hearing about Google's approach to ensuring the protection of intellectual property rights. As you know, a few months ago the Senate Judiciary Committee favorably reported the PROTECT-IP Act that is intended to address the rampant problem of online infringement. I believe that Google as a company should do more voluntarily to protect intellectual property rights. How does Google plan to do better?**

Google understands that despite the overwhelmingly positive and legitimate uses of Internet services and technologies, there will be some who misuse these for infringing purposes. Google has been an industry leader in developing innovative measures to protect copyright and help rightsholders control their content online. For example, Google has expended more than 50,000 engineering hours and more than \$30 million to develop Content ID, our cutting-edge copyright protection tool that is helping rightsholders make money on YouTube. This powerful technology scans the more than 48 hours of video uploaded to YouTube every minute and, within seconds, compares it against more than six million references files provided by participating rightsholders. Content ID has proven to be an enormous success and is being used by a long list of content owners worldwide to make their own choices about how, where, when, or whether they want their content to appear on YouTube.

As is true for all Internet companies, the critical foundation for Google's anti-piracy efforts remains the DMCA, the seminal law Congress passed in 1998 to address copyright protection online and promote the worldwide expansion of e-commerce. Congress rightly understood that some material posted by the millions of people who use online services will infringe copyright, and that online service providers in the ordinary course of their operations engage in copying and other acts that expose them to potential copyright liability. Congress also recognized that requiring online providers to engage in pre-screening of every user-posted text, picture, and video would inhibit free expression and stifle the growth of the Internet.

At the request of copyright owners, Google in 2010 took action against approximately three million allegedly infringing items across all our products, which accounts for far less than 1% of all the materials hosted and indexed by Google. We received takedown notices by letter, fax, email, and web forms from all sorts of copyright owners (including movie studios, record labels, adult entertainment vendors, and needlepoint pattern publishers) from 70 countries and in a wide variety of languages. Hundreds of Google employees work on copyright and combating infringement online, including a growing team of employees dedicated to receiving, reviewing, and responding to DMCA notices. We check to make sure that the notices are complete and are not attempts by competitors or others to use invalid copyright claims to censor speech with which they disagree.

Last December, Google announced that we were designing new tools to enable us to act on reliable copyright takedown requests within 24 hours. We are happy to report that our average turnaround time for DMCA notices received from those using our new tools is now less than seven hours. Moreover, submissions using our new tools now account for more than 75% of all URLs identified to us for web search.

In addition, Google has (in compliance with the DMCA) implemented repeat infringer policies on all relevant products. In each of these products, repeat infringer terminations constitute far fewer than 1% of the total subscriber accounts.

We also employ a wide array of procedures and expend considerable financial resources to prevent our advertising products from being used to monetize material that infringes copyright. For example, our AdSense program enables website publishers to display ads alongside their content. Our policies prohibit the use of this program for infringing sites, and we use automated and manual review to weed out abuse. In 2010, we took action on our own initiative against nearly 12,000 sites for violating this policy. And in 2011, we have already taken action against more than 12,000 sites. We also respond swiftly when notified by rightsholders. We recently agreed to improve our AdSense anti-piracy review procedures and are working together with rightsholders on better ways to identify websites that violate our policies.

We also committed last year to prevent terms that are closely associated with piracy from appearing in autocomplete. We have begun working to prevent several piracy-related terms from appearing in autocomplete and have asked content industry representatives to suggest other terms for consideration that won't overly restrict legitimate speech.

We are also helping to lead industry-wide solutions through our work with the Interactive Advertising Bureau ("IAB"), comprised of more than 460 leading media and technology companies. The IAB has established quality-assurance guidelines through which participating advertising companies will take standardized steps to enhance buyer control over the placement and context of advertising and build brand safety. Google has certified our compliance with these guidelines.

Google also expends great effort to fight the challenge of counterfeit goods. Just as in the offline world, people misuse legitimate online services to try to market counterfeit goods. This abuse hurts our users and our business; combating it is central to Google's operations. The integrity and quality of the sponsored links displayed alongside Google search results are of paramount importance to our overall success. A Google user duped by a fake good is less likely to click on another Google ad in the future. For this reason, Google undertakes enormous efforts to root out ads for sites that sell counterfeit goods.

Google has clear policies against advertising counterfeit goods, and we expend considerable resources to enforce those policies. In the last year, we shut down approximately 95,000 accounts for attempting to use sponsored links to advertise counterfeit goods, and more than 95% of these accounts were discovered through our own detection efforts. Even more ads themselves were blocked on suspicion of policy violations. Our automated tools analyze thousands of signals to help prevent bad ads from being shown in sponsored links. Last year alone we invested \$60 million in efforts to prevent violations of our ad policies.



Despite the best efforts of the online advertising industry, proactive measures will never be a complete solution. Some publishers deliberately take steps to evade detection systems, meaning bad sites will invariably slip through. Technologically sophisticated players use tactics like “cloaking” (showing one version of their site to the public and a different version to Google) to evade the protections that Google and other companies put in place. Because of these tactics, coupled with the sheer volume of ads served per day, finding a particular ad on the web that has circumvented our systems may always be possible. While the industry is aggressively going after this abuse, it is clearly a cat-and-mouse game to stay ahead of the bad actors, and Google is committed to being an industry leader in eradicating this behavior.

We also believe that making high-value content available in authorized forms is a crucial part of the battle against online infringement. With 800 million people per month coming to YouTube, we have expanded our movie rental services, made it easier for indie labels to become YouTube partners and share revenue when their music is played (even for user-generated content), and launched a feature to enable fans to buy artists’ merchandise, music downloads, and concert tickets. And we’ve launched the Google eBookstore, featuring a wide array of books from authors and publishers. We also continue to improve YouTube’s Content ID system to help more copyright owners (including songwriters and music publishers) to monetize their works, and we are working with WIPO on a rights registry that will help African musicians license their works.

In addition to launching our own authorized services, we also launched Music Rich Snippets, which allow other legitimate music sites to highlight content in the snippets that appear in Google’s conventional web search results. Rhapsody and MySpace are among the first to implement this feature, which has been developed using open web markup standards, and we are looking forward to more sites and search engines marking up their pages. We hope that authorized music sites will take advantage of Music Rich Snippets to make their preview content stand out in search results.

- 6. With so many people now using smart phones, one of my constituents wonders what sort of data Google is collecting from smart phone users. Do you track more than Google searches? Are you able to track text messages and the use of applications? She is concerned about the amount of personal information that Google may have access to, and if there are any privacy issues that are implicated by Google’s practices.**

Google respects our users’ privacy. The ordinary phone and text messaging features of mobile devices are not handled by Google, but rather by the mobile network operator. Therefore, Google does not track these user phone calls or text message.

The Google search service, as well as other Google applications and Google web services (such as Gmail and YouTube) are available to users on mobile devices, whether they use Android or another operating system. The Google Mobile Privacy Policy (<http://www.google.com/mobile/privacy.html>) and Google Privacy Policy (<http://www.google.com/intl/en/privacy/privacy-policy.html>) describe the types of information collected by Google from mobile devices.



Response of Eric Schmidt, Executive Chairman, Google Inc.  
Before the Senate Committee on the Judiciary  
Subcommittee on Antitrust, Competition Policy, and Consumer Rights

Hearing on "The Power of Google: Serving Consumers or Threatening Competition?"  
September 21, 2011

Sen. Kohl's Follow-Up Questions for the Record for Eric Schmidt

1. At the hearing, we discussed the 2007 statement of Google senior executive (currently Vice President for Location and Local Services) Marissa Mayer that Google used to rank links "based on popularity, but when we roll[ed] out Google Finance, we did put the Google link first. It seems only fair, right? We do all the work for the search page and all these other things, so we do put it first... That has actually been our policy, since then . . . So for Google Maps again, it's the first link, so on and so forth. And after that it's ranked usually by popularity."
  - a. At the hearing, I asked you whether Ms. Mayer's statement was an accurate statement of Google policy. You replied, "I wasn't there [when Ms. Mayer made the statement], so maybe I should use my own voice on this question," and later added, "I'll let Marissa speak for herself on her quote." You never stated whether Ms. Mayer correctly described Google's policy in 2007. However, in answering Senator Blumenthal's question, "As I understand it, certain Google properties – Maps, for example – are at the top of the search results regardless of the algorithm or formula or methodology," you responded "Right. Sure." So does Ms. Mayer's quote accurately describe Google's policy regarding Google content (not only Google Finance) at the time she said it 2007? Did this policy change at any time? If so, when, and what was the change(s)? In general, does Google put the Google Finance and other Google content, such as Google Maps, Local Search, Shopping, etc., results at or near the top of non-sponsored search results on the search results page (or above the search results), regardless of its popularity?

Before I address Ms. Mayer's statements, let me first address some questions of terminology. To begin with, Google's search results seek to achieve one fundamental thing: to connect users to the information they seek. We do this in two key ways. First, we started with conventional search—the traditional ten blue links—which involved crawling and indexing the web and returning results based on general responsiveness. Second, starting in 2001, we began to incorporate search results designed to respond to signals that a user is looking for specific types of information—a map, an image, a local business, a product, a news update, etc. We sometimes call these "thematic" search results.

When presenting thematic results, Google displays them in a way that is designed to make them user friendly. Prior to the launch of universal search in 2007, Google's thematic results like news were displayed, when relevant, at the top of the search results page. With the introduction of "universal search," we began to allow these thematic results to "float" from the top position to positions in the middle and bottom of the page, based on our assessment of how relevant conventional and thematic results were to the user's query.

Other major search engines also incorporate thematic and conventional search results on their search results pages. In fact, the first efforts at blending thematic and conventional search results by other general search engines date back to the late 1990s. It reflects the effort to achieve what one industry expert described in 2001 as the “Holy Grail” of search: “The real Holy Grail of all this will be when search engines can detect the type of search we are doing and feed out more targeted results from appropriate databases.”<sup>1</sup>

But what is crucial to understand is that universal search results are *not* separate “products and services” from Google. Rather, the incorporation of thematic and conventional results in universal search reflects Google’s effort to connect users to the information that is most responsive to their queries. Because of this, the question of whether we “favor” our “products and services” is based on an inaccurate premise. These universal search results *are* our search service—they are not some separate “Google content” that can be “favored.”

That said, in keeping with our focus on quality and delivering the most relevant results for consumers, Google constantly experiments with new ways to provide the most relevant information in response to a user’s query. For example, for certain queries, where Google is highly confident that the user wants a specific answer, Google will provide that answer prominently on the page. These direct answers are known as “oneboxes.” Oneboxes are generally displayed to convey an answer that is clear and straightforward, for example, movie showtimes, weather forecasts, mathematical calculations, stock prices, sports scores, and so on. Microsoft’s Bing and Yahoo! display similar “oneboxes” prominently in their results as well, demonstrating their belief that these results are useful for consumers.

The decision whether to display a onebox is determined based on Google’s assessment of user intent. Contrary to what some of Google’s critics suggest, Google does not make money when users click on oneboxes. In fact, the opposite is true: oneboxes that are responsive to what users are looking for may draw users away from the ads displayed on the page. Nonetheless, because oneboxes help Google deliver a satisfying experience to users, Google believes that by displaying them we are enhancing user satisfaction, which is in the long-term best interest of the company.

In some instances, Google has licensed data from third parties for use in our oneboxes. In other instances, we have developed this data ourselves. In either case, whether users are searching for a weather forecast, a mathematical calculation (e.g., “pounds to grams”), or a stock price, Google’s user studies confirm that users seeking this type of information generally do not want to click through to multiple options, whether in the form of ads or more natural links. Rather, users want a quick, direct answer that they can trust is correct. Oneboxes provide fast, accurate answers in response to this user demand.

With regard to Ms. Mayer’s quote, it is my understanding that she was referring to the placement of links within a onebox (but not the ranking of other thematic results within search results), and her description was accurate.

- b. If your answer is that Ms. Mayer did accurately describe Google’s policy, doesn’t ranking Google’s sites automatically first in this manner give Google an unfair competitive advantage over non-Google web sites? And doesn’t this policy deter new innovative services from entering the market?**

For certain types of queries, such as stock quotes and weather forecasts, our studies show that users like direct answers. As stated above, it is my understanding that Ms. Mayer was referring to the placement of links within a onebox (but not the ranking of other thematic results within search results), and her description was accurate.

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<sup>1</sup> Danny Sullivan, “Being Search Boxed to Death”, Search Engine Watch, March 4, 2001, <http://searchenginewatch.com/article/2065235/Being-Search-Boxed-To-Death>.



Google's primary goal is to give users the information they seek, and if for any reason we do not succeed in providing the best answers for our users, they can and will quickly switch to another source of information.

With respect to the second question, Google's efforts to deliver responsive results to our users in no way harm competition or deter innovators from entering the market. To the contrary, Google actually provides free promotion to millions of innovative websites through our search results. Indeed, innovation on the Internet is happening at an unprecedented rate. As the CEO of Blekko (a relatively new firm that offers a general search engine and recently attracted \$30 million in additional financing) noted last month: "We don't need federal intervention to level the playing field with Google. Innovation and competition are far more powerful instruments."<sup>2</sup>

The Internet is incredibly dynamic and new companies with tremendous ideas are being created every day. Facebook, Twitter, and LinkedIn all achieved extraordinary success long after Google began integrating thematic algorithms into our search results—and all are changing the way in which users think about finding information online. Already, many users utilize these sites, and others like them, to find the information they need. The New York Times, for example, receives only 16% of its web traffic from Google.<sup>3</sup> Similarly, ComedyCentral.com receives more traffic from Facebook than it does from Google.<sup>4</sup> Amazon, Travelocity, and Expedia, among others, provide thematic search results and do not need Google to find an audience—they are quite successful in finding an audience on the Internet.

Moreover, history shows that popular technology is often supplanted by entirely new models. Even in the few weeks since the hearing, Apple has launched an entirely new approach to search technology with Siri, its voice-activated search and task-completion service built into the iPhone 4S. As one respected technology site reported: "[E]veryone keeps insisting that Apple will eventually get into the search engine business. Well they have. But not in the way that everyone was thinking. Siri is their entry point."<sup>5</sup> Another commentator has described Siri more simply as intended to be a "Google killer."<sup>6</sup>

Finally, we do not have to speculate as to whether there are new entrants in vertical search services such as comparison shopping and local search and review sites. There are new entrants in these market segments all the time. A new comparison shopping site, FindTheBest, launched by the co-founder of DoubleClick last year, just raised \$6 million in venture funding over the summer. Cheapism is a comparison shopping site that launched in 2009, dedicated to bargain hunters on the Internet and was recognized in the New York Times and on CBS New York. More recently, a new entrant called Centzy launched a website that combines both local search and comparison shopping functionality. Centzy's CEO used to work at SnapFish and is currently seeking funding following its successful launch for New York and San Francisco. Unlike Yelp, Centzy integrates pricing information for goods and services on its site so that users can comparison shop for local

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<sup>2</sup> Rich Skrenta (co-founder and CEO of Blekko), "Blekko's not afraid of Google, why is Washington?", Skrentablog, September 20, 2011, [http://www.skrenta.com/2011/09/blekkos\\_not\\_afraid\\_of\\_google\\_w.html](http://www.skrenta.com/2011/09/blekkos_not_afraid_of_google_w.html).

<sup>3</sup> Compete.com, September 2011 Site Analytics Data for The New York Times, accessed October 27, 2011, <http://siteanalytics.compete.com/nytimes.com/>.

<sup>4</sup> Compete.com, September 2011 Site Analytics Data for Comedy Central, accessed October 27, 2011, <http://siteanalytics.compete.com/comedycentral.com/>.

<sup>5</sup> MG Siegler, "Why So Siri-ous?", TechCrunch, October 16, 2011, <http://techcrunch.com/2011/10/16/iphone-siri/>.

<sup>6</sup> Eric Jackson, "Why Siri Is a Google Killer", Forbes, October 28, 2011, <http://www.forbes.com/sites/ericjackson/2011/10/28/why-siri-is-a-google-killer/2/>.



services. Barefootfloors.com is a comparison shopping site that launched in January that is focused on home goods and “is now helping online shoppers to educate themselves on everything related to the home and to save money on a wide variety of products for the home.”<sup>7</sup> In February of this year, the travel comparison shopping site, Hipmunk, received \$4.6 million in venture funding, even as Google continues to expand its own flight search and hotel search functionality.

These are just a few of the many recent entrants in local and comparison shopping that are entering the market even as Google continues to innovate. While they may not all succeed, venture capitalists and entrepreneurs alike continue to believe they can compete with Google, Yelp, Nextag, and other established competitors.

- c. If your answer is that Ms. Mayer did not accurately describe Google’s policy, why did Ms. Mayer say it was in 2007? And what is Google’s policy?**

As described above in response to Questions 1a and 1b, I do not believe that Ms. Mayer’s quote was inaccurate.

- d. Google’s recently announced its plans to purchase the restaurant review service Zagat. Does Google intend to place Zagat’s results ahead of Yelp, OpenTable, or other sites that currently compete with Zagat’s?**

Google wants to provide users with high-quality information about local businesses. Zagat provides survey-based aggregate ratings of businesses and curated user reviews. Acquiring Zagat is part of our efforts to ensure that we can provide high-quality information about and ratings of local businesses.

After acquiring Zagat, we are likely to include Zagat ratings in Google’s local results in some way, but we have not yet determined exactly how. Nonetheless, we will continue to rely on our user feedback and testing to provide guidance about how Zagat can enhance the answers we provide our users.

- e. How do you respond to Mr. Stoppelman’s charge that he would not start Yelp today given Google’s practice of putting its local search at or near the top of search results and as a result taking so much “real estate” on the search results page? How can a new start up expect to compete with Google’s own content in search results?**

Yelp has many means of promoting its service, including advertising, promotion, and mobile apps. I would note that Mr. Stoppelman, when previously asked about Yelp’s competitors, said “I worry about neither [Google nor Groupon].”<sup>8</sup>

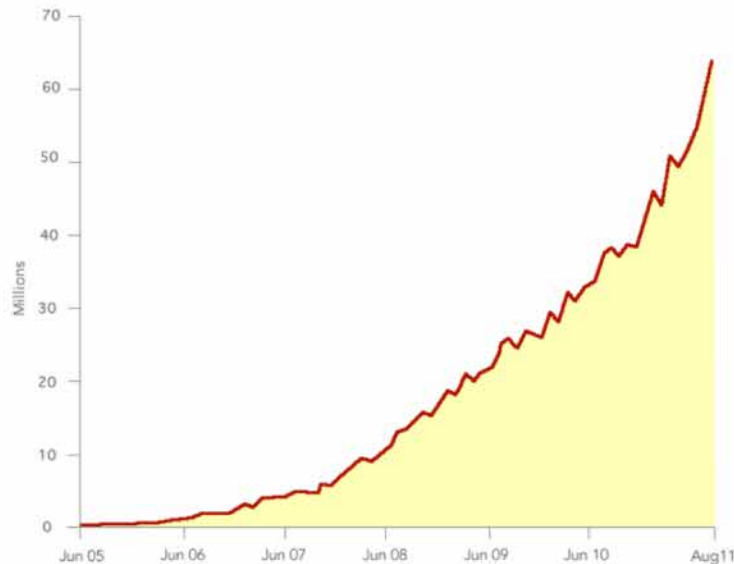
Despite Mr. Stoppelman’s statement, Yelp’s continuing growth demonstrates that new web services have many means of attracting users. This chart, from Yelp’s own web site, illustrates how Yelp has continued to thrive during the period covering Yelp’s complaints:<sup>9</sup>

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<sup>7</sup> Tanya Tymoshuk, “BarefootFloor.com: New Price Comparison Engine Helps Consumers Shop Smartly for Home Goods”, Yahoo! News, January 11, 2011, <http://news.yahoo.com/barefootfloor-com-price-comparison-engine-helps-consumers-shop-20110111-070000-289.html>.

<sup>8</sup> Jeremy Stoppelman, “Interview at TechCrunch Disrupt SF 2011”, September 13, 2011, <http://www.ustream.tv/recorded/17252745> (“I worry about neither [Google nor Groupon]... We’re doing something that is very unique... Google doesn’t have the content. They just have people starting web searches... We actually have people that are coming to our site everyday that are saying, ‘I trust you to steer me to the right business.’ I think that’s a very special place to be.”).

## More Than 63 Million Monthly Visitors



What I can comment on is that the Internet remains a very vibrant and innovative space. As I noted earlier, we do not have to speculate as to whether there are new entrants in vertical search services such as local search and comparison shopping sites. There are new entrants in these market segments all the time. A new comparison shopping site, FindTheBest, launched by the co-founder of DoubleClick last year, just raised \$6 million in venture funding over the summer. Cheapism is a comparison shopping site that launched in 2009, dedicated to bargain hunters on the Internet and was recognized in the New York Times and on CBS New York. More recently, a new entrant called Centzy launched a website that combines both local search and comparison shopping functionality. Centzy's CEO used to work at SnapFish and is currently seeking funding following its successful launch for New York and San Francisco. Unlike Yelp, Centzy integrates pricing information for goods and services on its site so that users can comparison shop for local services. Barefootfloors.com is a comparison shopping site that launched in January that is focused on home goods and "is now helping online shoppers to educate themselves on everything related to the home and to save money on a wide variety of products for the home."<sup>10</sup> In February of this year, the travel comparison shopping site, Hipmunk, received \$4.6 million in venture funding, even as Google continues to expand its own flight search and hotel search functionality.

These are just a few of the many recent entrants in local and comparison shopping that are entering the market even as Google continues to innovate. While they may not all succeed, venture capitalists and entrepreneurs alike continue to believe they can compete with Google, Yelp, Nextag, and other established competitors.

- 2. Have you put in place any safeguards at Google to insure search results do not favor Google products and services merely because they are owned by Google? If so, what are they, and if not, why not?**

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<sup>9</sup> Yelp, "An Introduction to Yelp: Metrics as of August 2011", accessed on November 1, 2011, [http://www.yelp.com/html/pdf/Snapshot\\_August\\_2011\\_en\\_US.pdf](http://www.yelp.com/html/pdf/Snapshot_August_2011_en_US.pdf).

<sup>10</sup> Tanya Tymoshuk, "BarefootFloor.com: New Price Comparison Engine Helps Consumers Shop Smartly for Home Goods", Yahoo! News, January 11, 2011, <http://news.yahoo.com/barefootfloor-com-price-comparison-engine-helps-consumers-shop-20110111-070000-289.html>.

As mentioned in Question 1a, universal search results are not separate “products and services” from Google. Rather, the incorporation of thematic and conventional results in universal search reflects Google’s effort to connect users to the information that is most responsive to their queries. Because of this, the question of whether we “favor” our “products and services” is based on an inaccurate premise. These universal search results *are* our search service—they are not some separate “Google product or service” that can be “favored.”

The fundamental openness of the Internet places powerful competitive pressure on Google to ensure that our search results are those that are most responsive to what users are looking for. As Microsoft researcher Ryen White observed this year in summarizing his research findings, “The barrier to switching Web Search engines is low and multiple engine usage is common.”<sup>11</sup> There are even sites that allow Internet users to simultaneously compare Google’s results against those of our competitors. If Google stops delivering the most relevant results to users, they can and will switch away. That is what we mean by competition being “one click away,” and it is that reality that drives Google’s constant effort to improve the results we deliver to users.

- 3. At the hearing, you argued that Google now seeks to provide consumers with the best answers, not just links to websites with the answers. While we understand your desire to provide answers and not just links, why are the answers always provided by Google products and services rather than any other website? And, if you contend that your products and services are “better,” please provide with any objective criteria or consumer studies you believe demonstrate this contention?**

As I noted in my response to Question 1a, oneboxes are displayed when Google believes it is likely that a user is seeking a specific answer, and they often contain information or data that are licensed from third parties. And as also noted previously, universal search results are not separate “Google products and services” distinct from Google’s search results. Rather, as I said in response to Question 1a, these *are* Google’s search results. Thematic search results for particular types of content (video, images, news articles, products, and so on) are incorporated when our consumer testing and data analysis shows that those results algorithms are most likely to deliver the results sought by our users. This analysis is reinforced by research conducted by Microsoft, which indicates that 58% of heavy users want to complete tasks inside the search engine.<sup>12</sup>

- 4. At the hearing, you stated that as opposed to merely providing links to websites, “there’s a category of queries which are not well served by the 10 links answer.” Please list all such categories of searches for which Google believes the search is either not “well served by the 10 links answer” or in which Google modifies search results to provide a “one box” or presumed superior answer to the search.**

Google currently provides specialized search results or onebox answers for the following types of queries: videos, images, products, news, maps, books, local businesses, flights, finance, sports scores, weather, math results, among others.

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<sup>11</sup> Qi Guo, Ryen W. White, Yunqiao Zhang, Blake Anderson, and Susan T. Dumais, “Why Searchers Switch: Understanding and Predicting Engine Switching Rationales,” SIGIR 2011, July 24-28, 2011, <http://research.microsoft.com/en-us/um/people/ryenw/papers/GuoSIGIR2011.pdf>.

<sup>12</sup> Robert Andrews, “Interview: Microsoft’s ‘Not Walking Away From Search’”, paidContent.org, August 2, 2011, <http://m.paidcontent.org/article/419-interview-microsofts-not-walking-away-from-search/> (interviewing Stefan Weitz, Microsoft Bing’s Director).

5. In 1998 at the same time they were founding Google, its co-founders Larry Page and Sergey Brin wrote a thesis at Stanford University which addressed search engine bias. They wrote that

[Search] bias is much more insidious than advertising, because it is not clear who ‘deserves’ to be there, and who is willing to pay money to be listed...For example, a search engine could add a small factor to search results from ‘friendly’ companies, and subtract a factor from results from competitors. This type of bias is very difficult to detect but could still have a significant effect on the market.

They added that they expected that advertising-funded search engines “will be inherently biased towards advertisers and away from the needs of consumers.”

Do you disagree with their view then that search engine bias is “insidious” and “difficult to detect”? Or that advertising funded search engines are “inherently biased”?

Larry and Sergey’s thesis, which was written 13 years ago, addressed industry practices prevailing at that time. During the time they were students at Stanford, most search engines operated under a “paid inclusion” model. Specifically, search engines like Yahoo! integrated paid advertising among the conventional search results without labeling them as ads. This practice continued to be sufficiently prevalent that it was the subject of a complaint filed with the Federal Trade Commission in 2001 that named eight search engine companies as engaging in this practice, including Lycos, MSN.com, Altavista, and HotBot. Google was not among the companies accused of engaging in this practice.

Many websites today continue to use this kind of “pay to play” placement model, including sites that have complained about Google (for example, Nextag and Foundem). Obviously, those sites may pursue such a business model, but one of Google’s founding principles has been that advertiser payment should not affect advertiser’s search result rankings.

Google recognizes the importance of advertising to the search business, but we believe that ads should always be clearly labeled. Indeed, paid inclusion in search results—without labeling—was the subject of Larry and Sergey’s thesis. In our opinion, advertisements and natural results both serve to create a positive user experience. This is similar to a well-run newspaper, where the advertisements are clear and the articles are not influenced by the advertisers’ payments.

6. At the hearing, in answering my question as to whether Google had an incentive to favor its own products and services in search results because in doing so it would be behaving as we would expect as a rational business would to maximize its profits, you replied that “I’m not sure Google is a rational business trying to maximize its own profits.” Is it really your position that Google does not conduct itself as rational business trying to maximize its profits? If so, can you point to any SEC disclosure which supports this view?

As we stated in our 2004 IPO letter, “Google is not a conventional company.”<sup>13</sup> From the very beginning, we have sought to protect Google’s ability to innovate because we were confident that, in the long run, this would benefit Google and our shareholders. Indeed, we told our potential shareholders in 2004 that in pursuing our goal of “developing services that significantly improve the lives of as many people as possible, . . . we may do things . . . even if the near term financial returns are not obvious.”

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<sup>13</sup> Larry Page and Sergey Brin, 2004 Founders’ Letter, August 18, 2004, <http://investor.google.com/corporate/2004/ipo-founders-letter.html>.



We often work on projects that do not have an immediate revenue model, e.g., Google Translate, because we anticipate that they will ultimately contribute to a positive user experience, which will maximize the company's returns in the long run. As we stated in the 2004 IPO letter, "if opportunities arise that might cause us to sacrifice short term results but are in the best long-term interest of our shareholders, we will take those opportunities." Thus, Google sometimes foregoes short-term profits in order to provide users with the best experience in the belief that such a strategy will benefit our shareholders in the long run.

7. **Google has argued that one cannot merely examine Google's market share as a search engine in determining whether it is a dominant firm, because it allegedly competes with Facebook and, further, that consumers can go directly to websites.**
  - a. **As to Facebook, it is primarily a social-networking site and its Internet Search is powered by Bing. In other words, to search the Internet on Facebook, one must use Bing. So Facebook is not an additional competitor for Internet search beyond Bing, isn't that correct?**

That is not correct. Social networks have become a significant, potentially game-changing competitor. When consumers search for information online, they are looking for answers to their questions. Google seeks to provide answers to users' queries, and social networking sites like Facebook and Twitter also allow users to leverage their social networks to find answers to their questions. Google is therefore competing with all methods available to access information on the Internet, not just other general search engines. The source of Facebook's competition with Google is not only through using Bing to search the Internet but, also, by offering users a fundamentally different way to discover and connect with information on the Internet.

Consumers have a lot of options for accessing information, and recent statistics show that they are using them. Users can use general search engines and, at the same time or in lieu of online search, they can use social search to access information. The Internet is a robust and dynamic environment where new modes of thinking and technological innovation are constantly changing the way we view the competitive marketplace.

Outside experts agree with this assessment. One tech analyst explained that "the nascent search behaviors we see developing on Facebook right now suggest it not only has the potential to become a viable search engine, but in fact has a chance to help redefine the way we currently think of search."<sup>14</sup> Another noted that Facebook's "treasure trove of distinctive data . . . could put Google out of business."<sup>15</sup> Facebook agrees as well; an executive recently said that search in its current form "just didn't work," and it would have to "go social."<sup>16</sup>

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<sup>14</sup> Eli Goodman, "What History Tells Us About Facebook's Potential as a Search Engine," comScore Voices Blog, June 3, 2010, [http://blog.comscore.com/2010/06/facebook\\_search\\_engine.html](http://blog.comscore.com/2010/06/facebook_search_engine.html).

<sup>15</sup> Ben Elowitz, "How Facebook Can Put Google Out of Business," TechCrunch, June 3, 2011, <http://techcrunch.com/2011/06/03/facebook-google-out-of-business/>.

<sup>16</sup> Emma Barnett, "Google and other search engines are 'failing' says top Facebook executive," The Telegraph, October 25, 2011, <http://www.telegraph.co.uk/technology/facebook/8846314/Google-and-other-search-engines-are-failing-says-top-Facebook-executive.html> (quoting Ethan Beard, Director of the Facebook Platform).

Some sites already get a significant portion of their traffic from social networks. Comedy Central gets almost one-third of its visits from Facebook and only 15% from Google.<sup>17</sup> Twenty-four percent of Twitter's traffic comes from Facebook, and only 10% comes from Google.<sup>18</sup>

- b. In September 2010, you were quoted as saying, referring to Facebook and Apple, "We consider neither to be a competitive threat . . . our competitor is Bing." Do you stand by that quote, or do you contend that Google does compete with Facebook? If the latter, why were your views different in September 2010?**

As I noted this past June, my statement last September was clearly wrong.<sup>19</sup> The Internet is dynamic and has changed significantly. The importance of social networking to consumers' online experience has changed remarkably—even over the past year. Consumers are looking for answers when they conduct searches online, and social search has become a serious competitor in helping people find those answers online. Similarly, Apple's Siri is a significant development—a voice-activated means of accessing answers through iPhones that demonstrates the innovations in search. The tech industry is one of the most competitive and dynamic spaces in the entire economy, with small companies as well as larger companies competing hard against each other in lots of areas. Google has many strong competitors and we sometimes fail to anticipate the competitive threat posed by new methods of accessing information. We compete against a broader array of companies than most people realize, including general search engines (Microsoft's Bing, Yahoo!), specialized search engines (Kayak, Amazon, WebMD, eBay), social networks (Facebook, Twitter), commercial software companies (Apple, Microsoft), mobile apps, and even direct navigation. The Internet is incredibly competitive, and new forms of accessing information are being utilized every day.

- c. Doesn't the fact that survey data shows that 92% of adults use search engines to find information on the Internet belie the contention that Google competes with other websites that are not search engines?**

Having not seen this study, I cannot speak directly to the statistic mentioned. This survey data, however, does not seem to indicate that consumers that use search engines do not also use other means of finding information on the Internet. For example, a consumer looking for a restaurant could start a Google search. But increasingly consumers might, instead or in addition, ask their friends on Facebook or Twitter for restaurant recommendations, or search their Yelp mobile application for restaurants. Users have a plethora of options to access information on the Internet, including general and specialized search engines, mobile apps, and social networks. They can use all of these methods, including search, to find answers to their questions.

Indeed, surveys have shown that users resort to various methods to access information online. Consumers have driven the demand for these multiple access points and Google competes vigorously with all of the other methods for accessing information over the Internet. As David Balto, the former policy director of the Federal Trade Commission, recently observed:

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<sup>17</sup> Compete.com, September 2011 Site Analytics Data for Comedy Central, accessed October 27, 2011, <http://siteanalytics.compete.com/comedycentral.com/>.

<sup>18</sup> Compete.com, September 2011 Site Analytics Data for Twitter, accessed October 27, 2011 <http://siteanalytics.compete.com/twitter.com/>.

<sup>19</sup> As I mentioned during the D9: All Things Digital Conference this past June, people want to know what their friends are interested in. This is just as true in the online world as it is in the physical one. See Geoffrey Fowler and Ian Sherr, "Google Missed the 'Friend Thing'", The Wall Street Journal, June 1, 2011, <http://online.wsj.com/article/SB10001424052702303745304576358343688967086.html>.

Google has consistently led the industry in innovations, and has played an important role in the evolution of search. But complacency would lead to certain obscurity. Websites such as Facebook, Amazon, eBay, Expedia, and Wikipedia all aggregate and organize information, steering users away from traditional search providers such as Google, Bing and Yahoo. Facebook is a particularly dangerous threat to the traditional search providers because it not only takes traffic away from Google, Bing, and Yahoo, but it also a growing source of redirected traffic for original content providers.<sup>20</sup>

8. **Millions of consumers now search the Internet using mobile devices like smartphones rather than on their computers. According to a leading industry expert, by 2014 the number of users accessing the Internet through mobile devices will exceed those doing so through desktop computers. Google's Android phones are now the most popular smartphones, with a 40% market share and growing. And just a few weeks ago Google announced it was purchasing Motorola, a major smartphone manufacturer.**

**Your critics fear that Google could demand from phone manufacturers that Google be made the default search engine for all Android smartphones, and in that way lock in your dominance on mobile devices. This is very similar to the tactic that Microsoft used in the 1990s when it demanded that computer manufacturers install Internet Explorer as the default web browser as a condition of using the Windows computer operating system.**

- a. **Has Google demanded that smartphone manufacturers make Google the default search engine as a condition of using the Android operating system? Will you pledge that Google will not do this in the future?**

Google does not demand that smartphone manufacturers make Google the default search engine as a condition of using the Android operating system. Android is a free, open source platform for mobile devices. The complete Android source code is available for download for free from the Android Open Source Project website.<sup>21</sup> Any developer or manufacturer can use, modify, and distribute the Android operating system without Google's permission or any payment to Google. For example, Amazon recently announced the Kindle Fire—its new tablet device—using the Android source code without Google's involvement. This is one of the exciting and innovative aspects of Android that will help foster innovation and competition in the smartphone market.

One of the greatest benefits of Android is that it fosters competition at every level of the mobile market—including among application developers. Google respects the freedom of manufacturers to choose which applications should be pre-loaded on Android devices. Google does not condition access to or use of Android on pre-installation of any Google applications or on making Google the default search engine.

Manufacturers can choose to pre-install Google applications on Android devices, but they can also choose to pre-install competing search applications like Yahoo! and Microsoft's Bing. Many Android devices have pre-installed the Microsoft Bing and Yahoo! search applications. No matter which applications come pre-installed, the user can easily download Yahoo!, Microsoft's Bing, and Google applications for free from the

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<sup>20</sup> David Balto, "Internet Search Competition: Where is the Beef?", June 23, 2011, <http://www.dcantitrustlaw.com/assets/content/documents/googlesearchfinal-Balto.pdf>.

<sup>21</sup> See Android Open Source Project, "Downloading the Source Tree", accessed on November 1, 2011, <http://source.android.com/source/downloading.html>.

Android Market.<sup>22</sup> In addition, Android gives manufacturers the freedom to pre-install third-party app stores, like the Amazon Appstore for Android, where a user can download a variety of apps, including Microsoft's Bing.<sup>23</sup>

- b. New York magazine reports that an email from one of your executives, Dan Morrill, was disclosed in a lawsuit. In this email, Mr. Morrill suggested that Google was using compatibility with Android “as a club to make [phone manufacturers] do things we want.” Could you explain what he meant? Further, if the Department of Justice decides not to block Google’s proposed acquisition of Motorola Mobility, will Google commit not to use the patents it acquires through that acquisition “as a club” against other companies in the mobile space? Specifically, will Google commit to license these patents to competitors and others on reasonable and non-discriminatory terms?

As to the New York Magazine article, Mr. Morrill’s remarks reviewed in their full context express his belief that Google’s efforts to maintain compatibility across different devices *could be misperceived* as a way for Google to improperly influence manufacturers. Google does not in fact use compatibility in this way. Mobile operating system competition is fierce—Apple, RIM (Blackberry), and Microsoft are very significant competitors—and carriers and handset manufacturers have many options other than Android. Google is committed to Android’s success and to maintaining our strong partnerships with device manufacturers.

Google designed Android as an open source platform to foster customization by manufacturers of mobile software and hardware. In contrast to closed, proprietary operating systems, Android allows manufacturers to modify their own implementations of Android to create their own unique features and user interfaces. Android is also particularly adaptable to new hardware configurations and chipsets. By allowing broader differentiation in software and hardware, Android enhances competition and consumer choice. There are more than 500 models of Android devices on the market.

Google has undertaken extensive efforts to protect consumers and application developers to ensure their applications run seamlessly on all Android devices. Google, with the support of our Android partners, has identified certain specifications, such as minimum screen size and security features, that help ensure applications run flawlessly across device models. These specifications are reflected in the Android Compatibility Definition Document (“CDD”), which is published on Android Open Source Project’s website. Google and our partners believe that this baseline preserves the maximum amount of manufacturer freedom to customize Android, while simultaneously protecting Android developers, who need consistency and rely on minimum elements appearing on all Android devices, and Android customers, who may legitimately expect that Android applications will run on their Android devices.

One of the most significant benefits of Android is that it is free. This has significantly reduced Android device costs and has helped drive down handset prices across the wireless industry.<sup>24</sup> But Android and our

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<sup>22</sup> Users can access the Microsoft Bing Search application here: [https://market.android.com/details?id=com.microsoft.bing&feature=search\\_result](https://market.android.com/details?id=com.microsoft.bing&feature=search_result); the Yahoo! Search application here: [https://market.android.com/details?id=com.yahoo.mobile.client.android.yahoo&feature=search\\_result](https://market.android.com/details?id=com.yahoo.mobile.client.android.yahoo&feature=search_result); and the Google Search application here: [https://market.android.com/details?id=com.google.android.googlequicksearchbox&feature=search\\_result](https://market.android.com/details?id=com.google.android.googlequicksearchbox&feature=search_result).

<sup>23</sup> Amazon makes the Microsoft Bing Search application available here: <http://www.amazon.com/Microsoft-Corporation-Bing/dp/B004T54Y2M/>



partners have recently come under significant fire by firms attempting to use patent infringement suits to drive up the cost of Android phones and jeopardize the Android platform. Google's intent in acquiring Motorola Mobility is to provide a defense against these suits. Google hopes that Motorola Mobility's patent portfolio will deter other companies from suing to limit the distribution of Android or from attempting to burden it with unreasonable licensing fees.

9. **Prior to its acquisition of ITA, Google gave several assurances that Online Travel Agencies (OTAs) would be included in its flight search products. Google's statements included the following:**

The "acquisition will benefit passengers, airlines and online travel agencies by making it easier for users to comparison shop for flights and airfares and by driving more potential customers to airlines' and online travel agencies' websites."

"Our goal is to build tools that drive more traffic to airline and online travel agency sites where customers can purchase tickets."

"Google does not plan to sell airline tickets directly; our goal is to build a tool that drives more traffic to airline and online travel agency sites where customers can purchase tickets."

It is my understanding that Google's new Flight Search tool shows a list of flights and links only to airlines where flights can be booked; there are no links to online travel agencies. How is this consistent with Google's promises that the ITA acquisition would drive more traffic to online travel agencies? Why is there no link to OTAs on Google's new Flight Search tool? Is this because Google now competes with OTAs for advertising revenues?

We're excited about the initial positive reaction to our new flight search tools. But like any other partner, Google needs to honor the airline's distribution decisions. With the flight search feature, that means we continue to explore opportunities to showcase online travel agents ("OTAs") and metasearch firms further. In fact, Expedia CEO Dara Khosrowshahi recently observed, "We are happy to see OTA links at the bottom of the Google Flight result. . . ."<sup>25</sup>

The ITA transaction was approved by the Department of Justice with conditions that are incorporated into a consent decree. Google has carefully adhered to the decree.

10. **Various companies that offer consumer reviews such as our witness Yelp have accused Google "scraping" its user reviews of restaurants, hotels and other services, and using these reviews on the Google own "places" page, which also contains reviews. Yelp testify at the hearing that Google was doing this without Yelp's permission, and instead offered them a Hobson's choice of Yelp allowing this practice, or Yelp's website would not be listed on Google search results. This past summer, Google changed this practice and ceased**

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<sup>24</sup> Dan Nystedt, "They're Here: Cheap Android Smartphones", PC World, February 26, 2010, [http://www.pcworld.com/article/190271/theyre\\_hereCheap\\_android\\_smartphones.html](http://www.pcworld.com/article/190271/theyre_hereCheap_android_smartphones.html) ("A new group of companies, electronics contract manufacturers, are starting to make high-end mobile phones, including smartphones, for mobile network operators around the world, and these are companies adept at slashing prices.").

<sup>25</sup> Dennis Schaal, "Expedia Sees Hotel Improvements, But Still Admires Booking.com From Afar", Tnooz, October 28, 2011, <http://www.tnooz.com/2011/10/28/news/expedia-sees-hotel-improvements-but-still-admires-booking-com-from-afar/>.

**including Yelp content in Google places pages. Why did Google change its policy this summer? Prior to the policy being changed, did Google use Yelp and other similar review sites content without their permission?**

Google developed Place pages to help users to access information about a local business. When Google first launched Place pages, Google displayed snippets—a few lines of text—from various review sites for each local business listed, and required that users click through to read the full review. The ultimate goal of Place pages, along with Google’s other thematic local results, was to help users locate local information on the web.

Google entered a two-year licensing agreement with Yelp in 2005 to display the full text of Yelp’s reviews in our conventional search results and our thematic local search results. Two years later, Yelp chose not to renew its agreement with Google. With the expiration of the license, Google no longer displayed the full text of Yelp’s reviews. Thus, we returned to simply showing snippets of third-party reviews within our conventional results as well as our thematic local search results, a practice permitted under the long-established fair use doctrine of copyright law. Snippets generally display about two or three lines of text. For users to access the full text, they must select a link that directs them to the review site. Showing snippets of websites is an important part of search; it enables users to determine whether the site in question is responsive to their queries. It also drives traffic to websites.

If, at any point, Yelp (or any other site owner) wishes to be excluded from Google’s (or any other search engine’s) index, it can—with relative ease—block search engine crawlers using a very simple and common protocol. Specifically, every site owner has the option to use the robots exclusion protocol, also referred to as robots.txt, to signal to Google or any other search engine that they do not want particular webpages, or even an entire site, to be crawled and indexed.<sup>26</sup> Site owners can easily exclude certain sites or portions of sites from being indexed, and can also specify different protocols for different search engines. The robots.txt protocol—which has been in place for over 17 years—can be utilized either by writing a new robots.txt file,<sup>27</sup> or by accessing one of many publicly available robots.txt files.<sup>28</sup>

As Google continued to develop our thematic local search results, Yelp began voicing concerns regarding how and where, exactly, within Google’s search results its snippets appeared. It’s worth noting that by 2009, search competitors Microsoft Bing, Yahoo!, and Ask.com all integrated third-party review snippets in essentially the same exact way within their respective local search results.

Yelp subsequently requested that Google remove snippets of Yelp reviews in Google’s local search results but continue providing links to Yelp. After a series of business conversations with Yelp in an attempt to address Yelp’s numerous concerns, Google agreed to comply with Yelp’s request. After the requested changes were

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<sup>26</sup> robots.txt is an industry standard that allows a site owner to control how search engines access their web site. Access can be controlled at multiple levels – the entire site, through individual directories, pages of a specific type, or even individual pages. Basically, robots.txt is a structured text file that can indicate to web-crawling robots that certain parts of a given server are off-limits. This allows search engines such as Google to determine which parts of a website a site owner wants to display in search results, and which parts to keep private and non-searchable. Dan Crow, “Controlling How Search Engines Access and Index Your Website”, The Official Google Blog, January 26, 2007, <http://googleblog.blogspot.com/2007/01/controlling-how-search-engines-access.html>.

<sup>27</sup> There are a number of resources available online that provide users with information on coding robots.txt files. See e.g. About/robots.txt, August 23, 2010, <http://www.robotstxt.org/robotstxt.html>.

<sup>28</sup> A non-comprehensive list of robots.txt files submitted by independent programmers is available here: <http://www.robotstxt.org/db.html>.

implemented, snippets from Yelp's website continued to appear in conventional search results, and no longer appeared in the thematic local search results.

In July 2011, Google redesigned Place pages. One of the major changes, implemented after careful thought about the future direction of Place pages and feedback from third-party review sites, was removing snippets of reviews from sites like Yelp, TripAdvisor, and CitySearch. Instead, Google chose to feature reviews from our own users, with links to third-party review sites. In addition, the "star rating" and "total review count" were modified to reflect only those ratings and reviews that have been submitted by Google users.

Commentators like Frank Reed of Marketing Pilgrim noted that these changes "essentially . . . gives Yelp and TripAdvisor their wish," while TechCrunch noted that "this should be a welcome change to third party source of reviews like Yelp and TripAdvisor."<sup>29</sup>

Yelp has aired numerous concerns in the press over the past few years, and although Google has tried to act responsibly in addressing some of those concerns, ultimately Google builds our search results for the benefit of users, not websites. At all times, Google's primary motivation has been improving the search experience for our users by providing the most relevant and useful information in response to their queries. In the end, if users are unhappy with the answers Google provides, the openness of the web ensures that they can easily switch to Yelp.com or any other site with just one click.

**11. Vertical search companies, companies that help consumers search for a specific product or service – such as Nextag and the British product comparison site Foundem -- have complained they have been the subject of "search penalties" on the Google search engine. They allege that they are dropped down in the search rankings by these penalties by among other things, the fact that they have their own search functionality on their sites, and that they contain links to other sites. Allegedly, these search penalties occur whether or not these websites are popular with consumers.**

**a. A web site that has search functionality and offer links to other sites resembles Google itself. What do you say to your critics who would argue that Google deliberately penalizes websites that resemble Google in order to defeat your competition and maintain your dominant share in search?**

We never take actions to hurt specific websites for competitive reasons. Our search quality and ad quality systems assess the quality of webpages and ads without regard to whether a site competes with Google, only on the basis of what is most likely to be useful for consumers.

We rank search results to deliver the best answers to users. We built Google for consumers, not websites. To achieve this result, we consistently rank high-quality sites with original content in the highest position regardless of whether they compete with Google. While we understand that there is no objective right answer to most search queries and that the answer is a "scientific opinion," we also recognize that if we do not give users the best possible search results, they are likely to click away to one of our competitors. This necessarily means that not every website can come out on top, or even appear on the first page of our results, so there will almost always be website owners who are unhappy about their rankings. The most important thing is that we satisfy our users.

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<sup>29</sup> Frank Reed, "Google Places Update Puts Focus on Google", Marketing Pilgrim, July 22, 2011, <http://www.marketingpilgrim.com/2011/07/google-places-update-puts-focus-on-google.html>. Erick Schonfeld, "Google Places Stops Stealing Reviews", TechCrunch, July 21, 2011, <http://techcrunch.com/2011/07/21/google-places-stops-stealing-reviews/>.

**b. Do you deny that Google has the ability to manually alter the ranking of websites in its search results?**

Ideally, we would never have to manually intervene with the search results returned by our algorithms. Search, however, is still in its infancy, and our algorithms are still learning how to rank certain types of results. There are a few, limited instances in which we may utilize manual controls—spam, security, legal requirements (copyright, child pornography), and exception lists for results that are improperly excluded by the algorithms. However, we do not manually elevate specific sites in the search results.

When we manually intervene in our conventional search rankings, we do so to enhance the general user experience. As many Internet users are aware, the worldwide web contains many poor quality sites that range from annoying (webspam) to destructive (malware). Without manual intervention, unwitting users might accidentally access such a site through a Google search result. Rather than finding the answers they seek, these users will instead have their search derailed or, much worse, their computer infected. Similarly, displaying content from certain websites can violate the law. Finally, Google's algorithms are not infallible. To account for this, we use exception lists to reintegrate results that should not have been removed by the algorithms from the search results.

I should also note that this is standard industry procedure. Microsoft's Bing, Yahoo!, and other search engines have acknowledged that they also utilize manual controls.<sup>30</sup>

**12. Google has stated that consumers prefer to go to sites offering products directly for sale rather than product comparison sites like Nextag that compare prices, offer product reviews, and themselves contain links to retailers. Does Google sell products on its Shopping results page or does it provide links to websites that sell the product? And, please provide the factual basis for this assertion, including the results of any consumer studies that support this assertion.**

Google does not sell merchandise through Google product search. Rather, we provide links to merchants who sell merchandise. These links can include inventory and price information provided by those merchants via a dynamic feed. More than 200,000 merchants participate in this program, providing us with information for more than one billion products.

Google product search results can float within the search results page, based on our assessment of the nature of the user's search. Search is about answers, and we have found that when a user submits a query about a specific product, there is a high probability that he expects to see shopping results. This expectation has been validated by our testing process, which is driven by user feedback. For example, a few years ago, we started thinking that when our users search for products, like [sony digital camera prices], they would likely find shopping results useful. So we conducted a test with our user raters, and asked them whether they preferred a results page with shopping results, or without. Users overwhelmingly preferred the page with shopping results. This is consistent with research conducted by Microsoft indicating that 58% of heavy users want to

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<sup>30</sup> See e.g., "How Bing Delivers Search Results", Microsoft Bing Help, accessed October 28, 2011, <http://onlinehelp.microsoft.com/en-us/bing/ff808447.aspx>. ("In limited cases, to comply with applicable laws and/or to address public policy concerns such as privacy, intellectual property protection, and the protection of children, we might remove particular resources from the index of available information. In each case where we are required to do so by law, we try to limit our removal of search results to a narrow set of circumstances so as to comply with applicable law but not to overly restrict access of Bing users to relevant information.").



complete tasks inside the search engine.<sup>31</sup> Further, our own research conducted through user studies, independent rater evaluations, and click data consistently show that consumers like a mixture of retailer, review, and manufacturer sites like Amazon.com, CNET, or Sony.

In addition, in the course of our testing process, Google has found that users prefer results that are distinct and diversified. Users do not want sites that provide duplicative and unoriginal content. Google's search results provide consumers with product prices from different merchants so that our users can make the most informed decision about the products they want to purchase. Our rankings are driven by consumer signals about what sites they find useful. Consumers can easily switch from Google to a competing site if they disagree with our rankings or believe we are not providing the best possible results.

**13. Please explain why Google Shopping results appear near the top of Google search results when users enter a query for consumer products, and why, as alleged by Nextag, other product comparison sites are not generally placed in the same favorable position.**

Search is about answers, and we have found that when a user submits a query about a specific product, there is a high probability that he wants to go directly to a page featuring detailed information about the product, including where it can be purchased and at what price. This expectation has been validated by our testing process, which is driven by user feedback. For example, a few years ago, we started thinking that when our users search for products, like [sony digital camera prices], they would likely find shopping results of this kind useful. So we conducted a test with our user raters, and asked them whether they preferred a results page with shopping results, or without. Users overwhelmingly preferred the page with shopping results. This is consistent with research conducted by Microsoft indicating that 58% of heavy users want to complete tasks inside the search engine.<sup>32</sup>

That said, it would not be accurate to suggest that Google product search results are always displayed at the top of the search results page. Thematic search results may be displayed at the top, middle, or bottom of the search results page—or may not be displayed at all—based on our assessment of the likelihood that the user wants shopping results of this kind. Notably, Google is significantly more conservative in deciding whether to trigger thematic search results than some of our competitors. Bing, for example, triggers thematic results within its search results approximately 50% more frequently than Google does.

**14. Please explain why the Google “Places” listing for local searches such restaurants, hotels, and other local products and services are typically placed in the first Google results page, near the top of the results, but without any designation that the “Places” results is a Google product and not an organic search result? How can a consumer be expected to know this is a Google product, not an organic search result? Would Google agree to label its “Places” listing as a Google product, and set it off with a different color background?**

As explained previously, thematic search results (such as Places) incorporated in universal search results are *not* separate “products and services” from Google. Rather, the incorporation of thematic and conventional results in universal search reflects Google's effort to connect users to the information that is most responsive to their queries. These universal search results *are* our search service—they are not some separate “Google product” that can be “favored.”

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<sup>31</sup> Robert Andrews, “Interview: Microsoft’s ‘Not Walking Away From Search’”, paidContent.org, August 2, 2011, <http://m.paidcontent.org/article/419-interview-microsofts-not-walking-away-from-search/> (interviewing Stefan Weitz, Microsoft Bing’s Director).

<sup>32</sup> Robert Andrews, “Interview: Microsoft’s ‘Not Walking Away From Search’”, paidContent.org, August 2, 2011, <http://m.paidcontent.org/article/419-interview-microsofts-not-walking-away-from-search/> (interviewing Stefan Weitz, Microsoft Bing’s Director).

Depending on the search query, Google may either group local results together, or may distribute local results throughout our search results. Either way, Google is simply trying to organize and display local business results so as to save users time by displaying local information in the most effective manner, in order to eliminate the need to conduct multiple searches. As with any of Google's search results, local business listings are ranked according to likely relevance. For example, typing in a query for [shoe repair 22203] will typically return local business listings organized by geographic proximity to that zip code. The ranking of local business results is not affected by payment.

We are always assessing how we can provide a better service to our users and are always open to suggestions about how to improve the user experience.

- 15. How is it determined which establishments are listed in the Google Places listing, and in which order? Is a different method used than used for ordering in Google organic search results, and if so how is it different? Does advertising or a commercial relationship with Google play any role in which businesses are listed in Google Places, and in which order?**

Please see answer above. Advertising or commercial relationships are irrelevant with respect to what order business listings are displayed in search results.

- 16. At the hearing, you stated several times that because Google is in the business of ranking, when one website's ranking goes up, another's necessarily has to go down. But competition concerns arise when Google consistently ranks its *own* websites (such as shopping, local search, maps, etc.) in the top few search results, pushing competing websites down. Such a strategy seems to financially benefit Google in two ways: (1) Google captures advertising revenue by keeping users on its own websites rather than its competitors'; and (2) in order to be found by consumers, companies who are pushed further down the screen or onto subsequent search results pages need to invest more in advertising in order to show up in a prominent place on Google's search results page. Do you agree that Google benefits financially when competitors' websites are found further down the search results page?**

Google benefits financially in the long term when we help users find the information they are looking for. Consumers can easily compare the results they get from Google with information provided by other websites. If we do not do a good job of connecting users to the information they seek, they can and will look elsewhere. It is not in our interest to frustrate our users by making it more difficult to find information they want.

- 17. At the hearing in answer to a question from Senator Klobuchar, you were asked about Google's participation in advertising auctions. You said that Google participates in auctions, but that you limit your participation for "obvious reasons." Can you explain those reasons? And, if the concerns about your participation are obvious, why do you participate in them even in a limited way?**

Online marketing is a great tool by which we can connect with users; therefore, we sometimes use AdWords to promote our own products and new product features ("house ads"). On rare occasions, Google also uses AdWords to provide information to our users on specific issues of public interest, e.g., ongoing crises or disasters such as earthquakes. Google's house ads may appear on Google sites and on AdSense for Search and AdSense for Content partner sites.

Google's participation in AdWords auctions is commercially appropriate, but we have limited our participation as follows. Google has established an internal review committee that monitors our compliance with house ad policies and processes. First, Google's house ads are not guaranteed to display in any given

position. Second, our house ads must comply with the same advertising policies that apply to any other AdWords advertiser. Third, only quality ads that are directly relevant to a user's query will appear (based on the same criteria applicable to all other AdWords advertisers). Thus, when Google's house ads are triggered, it is because Google is acting as any other rational advertiser would.

It is also important to note that Google's participation in an auction has no impact on the price paid by external advertisers. The AdWords system has been set up so that advertisers who compete with house ads in auctions pay as if the house ad were not participating in the auction.



**Response of Eric Schmidt, Executive Chairman, Google Inc.  
Before the Senate Committee on the Judiciary  
Subcommittee on Antitrust, Competition Policy, and Consumer Rights**

**Hearing on “The Power of Google: Serving Consumers or Threatening Competition?”  
September 21, 2011**

**Senator Mike Lee Questions for the Record for Eric Schmidt**

- 1. Are Google products and services subject to the same search-ranking algorithmic process as all other organic search results?**

Before addressing your question let me first offer a little background. Google’s search results seek to achieve one fundamental thing: to connect users to the information they seek. We do this in two key ways. First, we started with conventional search—the traditional ten blue links—which involved crawling and indexing the web and returning results based on general responsiveness. Second, starting in 2001, we began to incorporate search results designed to respond to signals that a user is looking for specific types of information—a map, an image, a local business, a product, a news update, etc. We sometimes call these “thematic” search results.

When presenting thematic results, Google displays them in a way that is designed to make them user friendly. Prior to the launch of universal search in 2007, Google’s thematic results like news were displayed, when relevant, at the top of the search results page. With the introduction of “universal search,” we began to allow these thematic results to “float” from the top position to positions in the middle and bottom of the page, based on our assessment of how relevant conventional and thematic results were to the user’s query.

Other major search engines also incorporate thematic and conventional search results on their search results pages. In fact, the first efforts at blending thematic and conventional search results by other general search engines date back to the late 1990s. It reflects the effort to achieve what one industry expert described in 2001 as the “Holy Grail” of search: “The real Holy Grail of all this will be when search engines can detect the type of search we are doing and feed out more targeted results from appropriate databases.”<sup>1</sup>

But what is crucial to understand is that thematic search results are *not* separate “products and services” from Google. Rather, the incorporation of thematic and conventional results in universal search reflects Google’s effort to connect users to the information that is most responsive to their queries. Because of this, the question of whether we “favor” our “products and services” is based on an inaccurate premise. These universal search results *are* our search service—they are not some separate “Google content” that can be “favored.”

That said, in keeping with our focus on quality and delivering the most relevant results for consumers, Google constantly experiments with new ways to provide the most relevant information in response to a user’s query. For example, for certain queries, where Google is highly confident that the user wants a specific answer, Google will provide that answer prominently on the page. These direct answers are known as “oneboxes.” Oneboxes are generally displayed to convey an answer that is clear and straightforward, for

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<sup>1</sup> Danny Sullivan, “Being Search Boxed to Death”, Search Engine Watch, March 4, 2001, <http://searchenginewatch.com/article/2065235/Being-Search-Boxed-To-Death>.



example, movie showtimes, weather forecasts, mathematical calculations, stock prices, sports scores, and so on. Microsoft's Bing and Yahoo! display similar "oneboxes" prominently in their results as well, demonstrating their belief that these results are useful for consumers.

The decision whether to display a onebox is determined based on Google's assessment of user intent. Contrary to what some of Google's critics suggest, Google does not make money when users click on oneboxes. In fact, the opposite is true: oneboxes that are responsive to what users are looking for may draw users away from the ads displayed on the page. Nonetheless, because oneboxes help Google deliver a satisfying experience to users, Google believes that by displaying them we are enhancing user satisfaction, which is in the long-term best interest of the company.

In some instances, Google has licensed data from third parties for use in our oneboxes. In other instances, we have developed this data ourselves. In either case, whether users are searching for a weather forecast, a mathematical calculation (e.g., [pounds to grams]), or a stock price, Google's user studies confirm that users seeking this type of information generally do not want to click through to multiple options, whether in the form of ads or more natural links. Rather, users want a quick, direct answer that they can trust is correct. Oneboxes provide fast, accurate answers in response to this user demand.

**2. Does the algorithm used to produce organic search results place a Google product or service higher than it would an identical page owned by another business?**

As mentioned in response to Question 1, we view our thematic search results as part of our search results, not as a separate product or service. With respect to a page on a Google-owned site such as YouTube that is crawled and ranked within our search results, such a page is not placed higher because it is on a site owned by Google than an identical page would be if it were owned by another business.

**3. Does Google favor sites that display Google AdSense advertisements in its natural or organic search results?**

Google does not give preference to sites that advertise with Google, via our AdWords program, or to sites that accept Google ads via our AdSense program. Ranking in natural search results is not affected by payment or financial benefit to Google.

**4. You will recall that during the hearing I displayed and described to you results of a study that compared Google's search rankings of three popular price comparison sites with the search ranking for Google Shopping results (displayed as a "OneBox" result using "Universal Search").**

In response to evidence that Google consistently ranks and displays Google Shopping results higher than competing price comparison sites, you responded that it was "an apples to oranges comparison" because the Google Shopping results are "answers" that take users directly to the websites of companies that sell the product in question.

**a. On September 28, 2011, a search query on Google for "UK product search" returned Google Product Search as the first result, described as "Google's UK price comparison service." Is Google Product Search a price comparison service?**

Google product search is a type of thematic search that allows consumers to compare prices and see which websites are selling a particular product.

**b. Does Google Product Search compete with other price comparison services?**

As mentioned in response to Question 1, we view our thematic search results as part of our search results, not as a separate Google product or service. Google's search service competes with stand-alone price comparison services to provide consumers with relevant product-related information, and also competes with other websites, such as Amazon and eBay, as well as competing search engines, such as Microsoft's Bing and Yahoo!, that include comparative product information.

**c. The Google 2009 Annual Report reads, in part, as follows:**

**We face competition from [v]ertical search engines and e-commerce sites, such as WebMD (for health queries), Kayak (travel queries), Monster.com (job queries), and Amazon.com and eBay (commerce). We compete with these sites because they, like us, are trying to attract users to their web sites to search for product or service information, and some users will navigate directly to those sites rather than go through Google.**

**Does Google compete with vertical search engines?**

Yes. Google competes with all of the methods for accessing information on the Internet. Users seek answers to their questions, and Google, along with specialized search engines, social networks, mobile apps, and other websites, is competing to provide users with the most relevant information available. Unlike technologies of the past, on the Internet competition is one click away. The history of the technology industry shows that technologies often get supplanted by completely new models, thus creating a robust and competitive market within which consumer demand drives innovation. For many commentators, specialized search services operate according to this new model with which Google will now have to compete. As Jeffrey Rayport from Businessweek observed,

Google's . . . real threat is not from such Goliaths as Microsoft, but from a myriad of Davids—specialized search engines tailored to conduct “vertical” search tasks. Examples of these include restaurant reservations by OpenTable . . . job hunting at Simply Hired, and online travel with sites like Orbitz . . . and Priceline . . . . These sites are not promoted explicitly as “search engines,” but that’s what they are; they also happen to execute transactions.<sup>2</sup>

You do not have to take Google's word for it, either. Every one of the companies that Google lists as a competitor in its 10-K, including Amazon, WebMD, Monster, and eBay also list Google or search engines generally as their competitors.<sup>3</sup> Unfortunately, the conventional general search query share figures released by comScore and Hitwise do not reflect the reality that Google competes against all of these specialized sites, plus social networks, mobile apps, and now voice-activated search like Apple's Siri when it comes to accessing information.

**d. Is the information displayed when a user clicks on a Google Shopping result often similar to the information provided by competing price comparison sites?**

Google believes that our shopping results are more comprehensive and current than most comparison shopping sites. In addition to crawled content, we have direct feeds that allow more than 200,000 online

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<sup>2</sup> Jeffrey F. Rayport, “Google's Search Gold Mine Could Tap Out”, Bloomberg Businessweek, February 13, 2011, [http://www.businessweek.com/technology/content/feb2011/tc20110211\\_680322.htm](http://www.businessweek.com/technology/content/feb2011/tc20110211_680322.htm).

<sup>3</sup> See e.g., Amazon 2010 10-K, WebMD Health Corp. 2010 10-K, Monster Worldwide, Inc. 2010 10-K, and eBay 2010 10-K at <http://www.sec.gov/edgar/searchedgar/companysearch.html>. Kayak is not publicly owned and therefore does not file 10-K forms with the Securities and Exchange Commission.

merchants to publicize their inventory and prices—in real time—to interested shoppers searching Google. Currently, more than one billion products are available for sale through these partners' websites.

- e. Does Google display Google Shopping results within its natural search results without any label identifying them as Google results or as otherwise distinct from true “search results”?**

As stated in my response to Question 1, universal search results are *not* separate “products and services;” they *are* our “true” results.

- f. Does clicking on various links within a Google Shopping result take the user to another Google page and not always, as you suggested in your testimony, directly to the site of a company that sells the product in question?**

Depending on the specificity of the user's query, clicking on a shopping result will either take a user to a page where they can compare the prices of many different merchants, or directly to a merchant's site. For example, a search for a specific camera model might show shopping results that link directly to merchant sites, but a broader query like [sony digital camera] might yield broader shopping results that the user can then refine in order to find the product he wants.

- g. Is it possible that consumers consider competing price comparison sites as potential substitutes for Google Shopping results?**

As stated above, Google product search is a type of thematic search that allows consumers to compare prices and see which websites are selling a particular product. In that sense, Google product search competes with stand-alone price comparison services and also competes with other websites, such as Amazon and eBay, as well as competing search engines, such as Microsoft's Bing and Yahoo!, that include comparative product information.

- h. Is it possible that Google's practice of preferencing its own Google Shopping results may deprive competing price comparison sites of user traffic and thus decrease competition from such sites?**

As stated in my response to Question 1, universal search results that integrate conventional and thematic search results are not different “results.” The suggestion that Google “preferences” Google shopping results is thus based on an inaccurate premise.

Google was built to benefit users, not any website or group of websites. As I said above, our primary goal is to give users answers, and if, for any reason, we do not provide the best answers for our users, they can and will switch to another source of information. For example, users can go to websites by directly navigating to the website (i.e., entering the address in their browsers), through advertisements on other websites, through mobile apps, or through their social networks. Google does not prevent users from reaching other shopping comparison sites.

Consumer research has confirmed that users prefer the incorporation of thematic and conventional search results, which is why all of the largest general search engines today provide such blended results. In fact, an October 2010 analysis by comScore showed that Microsoft's Bing displays thematic results as part of its search results 54% of the time, while Google displays them 33% of the time.<sup>4</sup> Indeed, as I mentioned in my

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<sup>4</sup> Eli Goodman, “Universal Search: Not All Blends Are Created Equal,” comScore Voices blog, October 26, 2010, [http://blog.comscore.com/2010/10/universal\\_search.html](http://blog.comscore.com/2010/10/universal_search.html).

answer to Question 1, general search engines have been providing such blended results since at least the late 1990s.

**i. Do customers normally believe that the first few results are the most relevant?**

While we have not surveyed customers' beliefs on this issue, we hope that the better job we do of providing useful and interesting information, the more they will find that information relevant and helpful.

We hope that we continue to improve our ability to discern user intent. We believe that we are able to provide superior search results because our ranking algorithms allow us to identify the most useful material and present it to the user first. We make over 500 changes to the algorithms every year to improve search and fight malicious websites. Search has become more than just providing links to relevant information; users want search engines to give them answers. Sometimes the best answer is a list of links, but sometimes it is a map, a stock quote, a sports score, or shopping results, which both Google and our competitors sometimes incorporate into search results to better serve consumers. As Microsoft's president of its online services division, Qi Lu, observed: "Search is a means to an end. We want our product to go substantially beyond just finding information, go all the way to help the user make decisions and complete tasks."<sup>5</sup>

**5. You testified that you were "not sure Google is a rational business trying to maximize its own profits" in every respect. But more specifically, does Google have a financial incentive to preference its own secondary pages, many of which include advertisements that may generate revenue, above those of its competitors?**

As we stated in our 2004 IPO letter, "Google is not a conventional company."<sup>6</sup> From the very beginning, we have sought to protect Google's ability to innovate because we were confident that, in the long run, this would benefit Google and our shareholders. Indeed, we told our potential shareholders in 2004 that in pursuing our goal of "developing services that significantly improve the lives of as many people as possible, . . . we may do things . . . even if the near term financial returns are not obvious."

Google's financial incentive is to do a good job in connecting users to the information they seek, and thematic search results are intended to connect users to information they seek. Users can easily compare our search results with information available from other websites; and they can and will switch to other sources if we do a poor job. Google's thematic search results frequently contain extensive specific information of the kind understood to be sought by a user, such as natural links to merchants selling a particular product, or links to the site of a restaurant listed in a Places page; Google receives no revenue when a user clicks on one of these links.

**6. When asked at the hearing whether Google's own services "are . . . subject to the same test, the same standard as all the other results" in Google's non-sponsored search results, you said, "I believe so. . . . I'm not aware of any unnecessary or strange boosts or biases." Please provide the Subcommittee with a direct, definitive, and precise answer to this question.**

As mentioned in response to Question 1, we view our thematic search results as part of our search results, not as a separate product or service. With respect to a page on a Google-owned site such as YouTube that is

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<sup>5</sup> Qi Lu, Comments at Microsoft Financial Analyst Meeting, Anaheim, California, September 14, 2011, [http://www.microsoft.com/investor/downloads/events/09142011\\_FAM\\_Qi.docx](http://www.microsoft.com/investor/downloads/events/09142011_FAM_Qi.docx) (downloads Word document).

<sup>6</sup> Larry Page and Sergey Brin, 2004 Founders' Letter, August 18, 2004, <http://investor.google.com/corporate/2004/ipo-founders-letter.html>.

ranked within our search results, such a page does not appear higher on our search results page because it is on a site owned by Google than an identical page would be if it were owned by another company.

**7. At the May 2007 Seattle Conference on Sustainability, Marissa Mayer stated the following:**

**[When] we roll[ed] out Google Finance, we did put the Google link first. It seems only fair, right? We do all the work for the search page and all these other things, so we do put it first . . . That has actually been our policy since then, because of Finance. So for Google Maps again, it's the first link.**

**Is this statement accurate?**

It is my understanding that Ms. Mayer was referring to the placement of links within a onebox (but not the ranking of other thematic results within search results), and her description was accurate.

**8. What has Google done to let its users know that its natural search algorithm gives preference to Google's own products and services?**

As described in my response to Question 1 above, I believe that the premise of this question is incorrect.

**9. Do you find anything problematic with respect to the way in which Google prioritizes the search rankings and enhances the display of its own products and services?**

As I said in response to Question 1, thematic search results are *not* separate “products and services” from Google. Rather, the incorporation of thematic and conventional results in universal search reflects Google’s effort to connect users to the information that is most responsive to their queries. Because of this, the question of whether we “prioritize” our “products and services” is based on an inaccurate premise. These universal search results *are* our search service—they are not some separate “Google product” that can be “prioritized.”

**10. In April of this year, Google's Chief Financial Officer, Patrick Pichette, when asked on an investment community call to discuss Google's investment in its Chrome Browser, stated that “everybody that uses Chrome is a guaranteed locked-in user for us...” (See <http://www.zdnet.com/blog/btl/why-is-chrome-so-important-to-google-its-a-locked-in-user/47295>.)**

**a. Do you agree with Mr. Pichette's statement?**

Mr. Pichette’s comment is not correct. Chrome users are not in any way “locked-in” for Google. Chrome users can easily change the browser’s default search engine to any competing search engine.<sup>7</sup> It is as easy as selecting the “Preference” menu in Chrome and selecting your desired search engine from the drop-down menu. In addition, a user who downloads Chrome actually has to select the search engine he or she wants; Google is not set as the default.

On the other hand, Microsoft’s Internet Explorer—the web browser with the largest share of users (with a 40-50% market share)—includes Microsoft’s Bing as the default search engine, and we believe that it is cumbersome to switch to another search engine as the default.

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<sup>7</sup> See Chrome Help, Setting Your Default Search Engine, accessed November 1, 2011, <http://www.google.com/support/chrome/bin/answer.py?answer=95426>.



- b. Given your testimony at the hearing that Google lives by the principle of “loyalty, not lock in,” will Google commit to ensuring that its Chrome Browser, Toolbar, and other software applications make it easy for users to switch from the default Google search engine to other offerings?

As described above, in response to Question 10a, Google already makes it easy for users to switch from Chrome and other software applications.

11. At IBM’s Business Partner Leadership Conference in 2008, you said: “If it’s not searchable by Google, it’s not open, and open is best for the consumer.” You have a long personal history as a leading advocate for open-source software and a reputation for creating and participating in open movements such as OpenSocial and the Open Handset Alliance.

In your written testimony, you stated that “[a]t Google we believe that open is better than closed” and that “open sourcing software has real benefits in the marketplace.” You also said:

“Open” also means supporting features that have been approved by formal standards bodies, and, if none exist, working to create standards that improve the entire ecosystem. And “open” means releasing the source code to numerous projects that were developed by Google so that third parties can utilize these technologies to build their own products without having to reinvent the wheel, thereby speeding up the innovation cycle and providing consumers with even more choices.

It appears to some that Google’s “open” initiatives have centered on areas where Google lags behind competitors in a market. Conversely, many claim that Google seems to avoid open initiatives in areas where it is a market leader, as with Google Books, YouTube, and its own search index.

Some commentators, such as Danny Sullivan, editor-in-chief of Search Engine Land, advocate for Google’s participation in an open index project. This is an example of an area in which Google is a clear industry leader and could foster innovation and marketplace growth by allowing others access to its index, without requiring Google to reveal trade secrets such as its search algorithm. Will Google commit to lead a search-index open initiative?

I am not familiar with Mr. Sullivan’s proposed initiative. I do know that Google has made a number of our key innovations available as open source software, including Android (mobile operating system), WebM (video codec), Chromium (desktop/mobile OS), and Tesseract (optical character recognition software). We do not limit our open source projects to areas where we lag behind competitors. Google’s open source projects have spurred innovation and competition in several markets. Some of Google’s open source initiatives have been hailed as the most significant open source initiatives in the software industry.

12. There have been reports that Google has acted to obstruct access to some of its substantive content, preventing competing search engines from offering results that include a full index of that content. In the case of YouTube, rival search engines claim to have been granted access only to some of YouTube’s video content. Reports also suggest that Google attempted to settle litigation surrounding Google Books by signing an agreement that would give Google exclusive control over who may index its digitized copyrighted books. It would come as a surprise to many users that a company so vocal in its dedication to openness might be attempting to block some of its content from competitors. Will Google commit to

**ensure that other search engines may fully crawl and index all non-secure Google content, now and in the future?**

Google has not restricted legitimate third-party search engines from accessing YouTube to index the site. However, to prevent the wholesale copying of videos from YouTube in violation of existing partner agreements, Google has placed automated restrictions on bots' ability to access YouTube. Any legitimate search engines, including Microsoft's Bing, Yahoo!, and China's Baidu, that wish to crawl and index YouTube, are given an exception to the bot restrictions.

Google is aware that Microsoft has complained that, for a time, it was unable to crawl YouTube. Google believes that Microsoft was unable to do so because Microsoft changed the name of its web crawler from "MSNBot," which was allowed to crawl and index YouTube, to "Bingbot" without informing Google of that name change. Thus, when Microsoft's newly-named Bingbot attempted to crawl YouTube, it was denied access because Google's automated systems believed that the newly-named crawler was not a legitimate search engine. The first time Microsoft made us aware of the problem was through their antitrust complaint in the EU. We promptly granted an exemption for Bingbot so that it could crawl and index YouTube. Google has been committed, and remains committed, to allowing third-party search engines to index YouTube content.

Google does not allow third parties to crawl our book content. First, because of copyright laws, Google does not allow third parties unfettered access to scan and reproduce Google Books content that is under copyright, including that which Google has licensed from third parties for our own use. Second, Google has invested many millions of dollars in our scanning project because we believe that users benefit from getting access to out-of-print and public domain books. Google's competitors, including Microsoft, could have done the same, but chose not to because they believed that the cost of doing so was not worth the benefit. Indeed, as an example, Microsoft began scanning the same corpus of books but abandoned its efforts, deciding to concentrate on other areas that it believed were more profitable, like travel search.<sup>8</sup> Nothing in the proposed Google Books settlement agreement would have prevented third parties from scanning and indexing books.

**13. In both your written and oral testimony, you stated that Google believes in "loyalty, not lock-in." You also testified that Google has a team of engineers whose sole goal is "to help our users move their data in and out of Google's products." On the day of the hearing, Google spokespeople were quoted in the press saying that Google "place[s] no restrictions on advertisers transferring their own ad campaign data to other platforms." Google's own AdWords API Terms and Conditions, however, purport to impose restrictions on advertisers' use of this data, including by restricting the tools that advertisers may use to manage their ad campaigns (see, e.g., section III.2.c). Some claim that the tools Google prohibits would allow businesses, particularly small businesses, to run ad campaigns on multiple ad platforms more easily and efficiently.**

**a. Does the current version of the AdWords API Terms and Conditions (<http://code.google.com/apis/adwords/docs/terms.html>) permit advertisers to use their data on other platforms "without restriction," including use of third-party tools for this purpose?**

A number of resources exist to make it as easy as possible for AdWords users to export their data out of AdWords and use it for any purpose, including uploading it to another platform. In fact, Google is a leading proponent of data portability, and our Data Liberation Front provides step by step instructions to guide

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<sup>8</sup> See Betsy Schiffman, "Microsoft Gives Up on Book Search", Wired Magazine, May 23, 2008, <http://www.wired.com/epicenter/2008/05/microsoft-cans/>.



advertisers.<sup>9</sup> Competitors such as Microsoft also provide advertisers with simple instructions to import their Google ad data into their advertising platforms.<sup>10</sup>

Google provides a free tool, AdWords Editor, that make it easy for advertisers (and agencies or resellers acting on their behalf) to move their ad campaign from Google to a competing platform. Using AdWords Editor, advertisers or their agents can download their full campaign structure to a CSV file.<sup>11</sup> Thereafter advertisers are free to use the data as they deem appropriate, including uploading it onto competing platforms and using third-party tools to manage it.

Google also makes an AdWords API available that enables advertisers to build their own tools, and allows third-party developers to build tools for advertisers and agencies to use. The AdWords API Terms and Conditions impose minimal restrictions on advertisers in the creation or use of their own tools, and they can build most any functionality they deem necessary with AdWords API. In fact, Google specifically exempts advertisers from the requirements of Section III.2.c (referenced in your question).<sup>12</sup> There are modest limitations on the programmatic bulk input and direct copying of data through the use of AdWords API-based third-party tools. In fact, bulk input restriction is not applicable to all fields, and a number of such fields can be uploaded simultaneously across platforms. This is reflected by the extremely high level of advertiser multi-homing on numerous advertising platforms.

**b. If not, will Google commit to remove this and all other restrictions in the API Terms and Conditions on advertisers' use of ad campaign data?**

As stated above, every advertiser—big or small—can export their ad campaign data and easily move it in and out themselves with no restrictions.

**14. Among the concerns raised about Google's relationship with specialized search engines is scraping. "Scraping" refers to the unauthorized use of content that is collected, or "scraped," when a site is crawled and indexed by a search engine. Both Trip Advisor and Yelp, whose reviews appeared without permission on Google Places and whose CEO also testified at the hearing, have made such complaints. It is my understanding that Google has recently discontinued the practice of scraping reviews for use on its Places page.**

**a. Will Google commit to preventing any future occurrence of unauthorized scraping?**

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<sup>9</sup> Brian Fitzpatrick, "Yes You Can Export Data From AdWords, Too", Google Public Policy Blog, October 8, 2009, <http://googlepublicpolicy.blogspot.com/2009/10/yes-you-can-export-data-from-adwords.html>.

<sup>10</sup> adCenter Desktop, "Import Google AdWords Campaigns to Microsoft adCenter using adCenter Desktop (video)", [http://www.youtube.com/watch?v=MyWBPOS8dVM&feature=mfu\\_in\\_order&list=UL](http://www.youtube.com/watch?v=MyWBPOS8dVM&feature=mfu_in_order&list=UL); Microsoft Advertising, "Import a Google campaign by using Microsoft Advertising adCenter Desktop (Beta)", [http://advertising.microsoft.com/small-business/product-help/adcenter/topic?query=MOONSHOT\\_PROC\\_ImportGoogleCampaignsUsingDesktopTool.htm](http://advertising.microsoft.com/small-business/product-help/adcenter/topic?query=MOONSHOT_PROC_ImportGoogleCampaignsUsingDesktopTool.htm) (5-step process); *see also* Amber, "Upload Your Google AdWords Campaigns Into Yahoo and MSN adCenter in a Flash!", PPC Hero, March 17, 2009, <http://www.ppchero.com/upload-your-google-adwords-campaigns-into-yahoo-and-msn-adcenter-in-a-flash/> (3-step process).

<sup>11</sup> AdWords Editor Help, "How Do I Export a Spreadsheet from AdWords Editor," accessed November 1, 2011, <http://www.google.com/support/adwordseditor/bin/answer.py?answer=38657>.

<sup>12</sup> Google, AdWords API Terms and Conditions, accessed November 1, 2011, <http://code.google.com/apis/adwords/docs/terms.html> (In Section III(2)(c), Google explicitly notes that this section "does not apply to End-Advertiser-Only AdWords API Clients.").

- b. **There is, of course, a great benefit that Google has already received as a result of scraping reviews from sites like Yelp and Trip Advisor. Users tend to visit sites that have amassed numerous reviews. As a result, companies invest substantial time and resources in developing robust databases of user reviews. Google Places was able to attract traffic and generate its own reviews on the basis of content—one might even say intellectual property—it took from competing sites. What does Google plan to do to address the problems caused by your prior scraping policy and the manner in which it has disadvantaged competing user review sites?**

Google believes strongly in protecting copyright and other intellectual property rights. Google relies, as does every other major search engine, on the established doctrine of fair use in order to display snippets of text in our search results, giving users a preview of the type of content they can find for a given link. Indeed, snippets are an important feature of search generally, and they drive traffic to websites. Google previously displayed review snippets from sites such as Yelp and TripAdvisor in our thematic local search results. Google's practice of displaying review snippets did not disadvantage review sites—in fact, quite the opposite. Google sends millions of clicks a month to Yelp, TripAdvisor, and other review sites. Google facilitates free traffic to both Yelp and TripAdvisor, and each of the sites has reaped the benefits of this free user exposure.

Yelp has aired numerous concerns in the press over the past few years, and although Google tries to act responsibly in response to website concerns, ultimately Google builds our search results and search-related products for the benefit of users, not websites. At all times, Google's primary motivation has been improving the search experience for our users by providing the most relevant and useful information in response to their queries. In the end, if users are unhappy with the answers Google provides, the openness of the web ensures that they can easily switch to Yelp or any other site with just one click.

15. **According to a Nielsen report from this month, 40 percent of U.S. mobile consumers now use smartphones, and Google's Android is the fastest growing and most popular mobile operating system. Some have expressed concern that Google may be using Android "compatibility issues" as a means of excluding competitors. For example, Skyhook, a company that produces geolocation software for mobile devices, claims that Google, a direct competitor, informed both Samsung and Motorola that handsets loaded with Skyhook software could not be shipped due to incompatibility issues between Skyhook software and the Android platform.**

- a. **Does Google ask or require handset manufacturers that contract with you to ship mobile phones with only software that you approve?**

No. Google does not require handset manufacturers to ship mobile phones with only software that we approve. In contrast to closed, proprietary operating systems, Android allows manufacturers to modify their own implementations of Android to create their own unique features and user interfaces. Android is also particularly adaptable to new hardware configurations and chipsets. By allowing broader differentiation in software and hardware, Android enhances competition and consumer choice. There are more than 500 models of Android devices on the market.

Google has undertaken extensive efforts to protect consumers and application developers to ensure their applications run seamlessly on all Android devices. Google, with the support of our Android partners, has identified certain specifications, such as minimum screen size and security features, that help ensure applications run flawlessly across device models. These specifications are reflected in the Android Compatibility Definition Document ("CDD"), which is published on Android Open Source Project's website. Google and our partners believe that this baseline preserves the maximum amount of manufacturer freedom to customize Android, while simultaneously protecting Android developers, who need consistency

and rely on minimum elements appearing on all Android devices, and Android customers, who may legitimately expect that Android applications will run on their Android devices.

**b. Does Google ask or require manufacturers to preload phones with Google applications?**

No. Google does not require that smartphone manufacturers preload phones with Google applications.

Android is a free, open source platform for mobile devices. The complete Android source code is available for download for free from the Android Open Source Project website.<sup>13</sup> Any developer or manufacturer can use, modify, and distribute the Android operating system without Google's permission or any payment to Google. For example, Amazon recently announced the Kindle Fire—its new tablet device—using the Android source code without Google's involvement. This is one of the exciting and innovative aspects of Android that will help foster innovation and competition in the smartphone market.

One of the greatest benefits of Android is that it fosters competition at every level of the mobile market—including among application developers. Google respects the freedom of manufacturers to choose which applications should be pre-loaded on Android devices. Google does not condition manufacturers' access to or use of Android on pre-installation of any Google applications or on making Google the default search engine.

Manufacturers can choose to pre-install Google applications on Android devices, but they can also choose to pre-install competing search applications like Yahoo! and Microsoft's Bing. Many Android devices have pre-installed the Microsoft Bing and Yahoo! search applications. No matter which applications come pre-installed, the user can easily download Yahoo!, Microsoft's Bing, and Google applications for free from the Android Market.<sup>14</sup> In addition, Android gives manufacturers the freedom to pre-install third-party app stores, like the Amazon Appstore for Android, where a user can download a variety of apps, including Microsoft's Bing.<sup>15</sup>

**c. Will Google commit to removing its own view of "compatibility" with Android as a prerequisite to the shipment or sale of handsets?**

As noted in our answers to Questions 15a and b, Google has undertaken extensive efforts to protect consumers and application developers to ensure their applications run seamlessly on all Android devices. Google, with the support of our Android partners, has identified certain specifications, such as minimum screen size and security features, that help ensure applications run flawlessly across device models. These specifications are reflected in the Android Compatibility Definition Document ("CDD"), which is published on Android Open Source Project's website. Google and our partners believe that this baseline preserves the maximum amount of manufacturer freedom to customize Android, while simultaneously protecting Android

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<sup>13</sup> See Android Open Source Project, "Downloading the Source Tree", accessed on November 1, 2011, <http://source.android.com/source/downloading.html>.

<sup>14</sup> Users can access the Microsoft Bing Search application here: [https://market.android.com/details?id=com.microsoft.bing&feature=search\\_result](https://market.android.com/details?id=com.microsoft.bing&feature=search_result); the Yahoo! Search application here: [https://market.android.com/details?id=com.yahoo.mobile.client.android.yahoo&feature=search\\_result](https://market.android.com/details?id=com.yahoo.mobile.client.android.yahoo&feature=search_result); and the Google Search application here: [https://market.android.com/details?id=com.google.android.googlequicksearchbox&feature=search\\_result](https://market.android.com/details?id=com.google.android.googlequicksearchbox&feature=search_result).

<sup>15</sup> Amazon makes the Microsoft Bing Search application available here: <http://www.amazon.com/Microsoft-Corporation-Bing/dp/B004T54Y2M/>

developers, who need consistency and rely on minimum elements appearing on all Android devices, and Android customers, who may legitimately expect that Android applications will run on their Android devices.

**16. In 2003, you were quoted in the New York Times as stating that “[m]anaging search at our scale is a very serious barrier to entry.”**

**a. Why is scale a “very serious barrier to entry” in search?**

I made that statement to the New York Times over eight years ago, and I was probably talking about search in a more narrow way than I view competition today. That same New York Times article emphasizes that Google’s advantage in 2003 was that we had amassed a large number of data centers to handle a sizable volume of queries.<sup>16</sup> But today, data centers have been reduced to a commodity that any company can buy or rent. Moreover, both Microsoft’s Bing and Yahoo! today handle *millions more queries* than Google did in 2003. In two short years, Microsoft’s Bing has already reached the size that Google was in 2007.

Scale is not the key to our success. Google is not successful because of the number of queries we process. Competition on the Internet is just one click away and that disciplines Google into concentrating on making our users happy. To this end, Google makes tremendous investments in research and development and in hiring the best engineers, who are extremely talented, have a huge depth of experience, and are focused like a laser on thinking of ways to deliver better services to our users. We believe we are better not because we are bigger but because our technology is better.

Google does not believe that scale is a barrier to entry. The Internet provides a level playing field for competition; Google’s size has not changed that fact. Indeed, recent entry into the general search business by start-ups such as Blekko, venture capital investments in search startups like DuckDuckGo, and Microsoft’s Bing’s success after only two years demonstrate that entry is not only possible but real.

A lack of scale did not deter companies like Facebook, Twitter, and LinkedIn from starting, finding an audience, and achieving widespread prominence, recognition, and ultimately success. At the same time, the large size of many Internet companies like MySpace did not prevent them from losing their audience and ultimately faltering. Given the nature of the Internet, websites, and services can and do get supplanted by completely new models. So the relevant question may not be, “Who will beat Google in search?” but rather, “What new model might take the place of search?”

**b. Given that scale constitutes such a serious barrier to entry, do you agree that search engines lacking Google’s scale are unable to offer as comprehensive and relevant results as those provided by Google, regardless of whether such search engines are “one click away” for users?**

As explained above, Google does not believe that scale constitutes a barrier to entry. Google’s size has not prevented competitors from reaching audiences and achieving success. Indeed, in just two short years, Microsoft’s Bing has grown to the same volume of queries that Google had in 2007. Google believes that Microsoft’s Bing and Yahoo! achieved the scale necessary to compete with Google long ago.

Google offers better results than Microsoft’s Bing or Yahoo! not because we are bigger but because our engineers are better, our technology is better, and our indexing and crawling solutions are more sophisticated. A comprehensive crawl is the first ingredient to precise query matching, and Google devotes significant resources and manpower to constructing, updating, and maintaining a highly sophisticated crawling and

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<sup>16</sup> John Markoff and G. Pascal Zachary, “In Searching the Web, Google Finds Riches”, New York Times, April 13, 2003, <http://www.nytimes.com/2003/04/13/business/in-searching-the-web-google-finds-riches.html?pagewanted=all&src=pm>.



indexing system. Independent analysts have confirmed the superiority of Google's index; as reported in June 2011, "the experts at SMX [a conference for search marketing experts] seemed to believe that Google's crawler is currently much better at discovering content than Microsoft Bing's search bot (undoubtedly part of why Google is still the No. 1 search engine in the market, by comScore's latest measure)."<sup>17</sup>

**17. During the hearing, some Senators suggested a panel to oversee changes in your company's algorithm. I want to state clearly and for the record that I oppose subjecting a company's core intellectual property to such regulation. Please describe the problems that could result from opening Google's algorithm to regulatory oversight.**

In the open world of the Internet where competition is a click away, innovation happens at a feverish pace. In this rapidly changing industry, Google has evolved to operate at lightning speed; our engineers test more than ten thousand changes per year and ultimately make more than 500 changes a year to our search algorithms, or one to two changes *per day*. Each change focuses on improving the user experience, with the understanding that if Google does not deliver the best search results, someone else will.

Google's engineers also work tirelessly to modify the algorithms to protect users from spam, malware, viruses, and scams. Purveyors of these fraudulent devices are always looking for ways to get around Google's algorithms to entrap consumers. Having a government panel oversee each change to the algorithms would tie Google's hands, and make it impossible for our engineers to react quickly and effectively to improve user experience and keep users safe. This would severely harm consumers.

Having a government panel oversee algorithm changes raises other serious concerns. There is no "correct" search result. Results are generated in response to user queries. For example, a search for [President Obama address] could be asking for the location of the President's residence or a speech that the President made. Google's formulation of search results is a type of "scientific opinion"—a prediction of what the user might be looking for. Those results have been deemed by several courts to be a protected form of free speech under the First Amendment.<sup>18</sup> Just as a government panel could not dictate to the New York Times, the Drudge Report, or the Huffington Post what stories they could publish on their websites without infringing their freedom of speech, so too would government-mandated results likely violate Google's freedom of speech.

A government oversight panel for search would also enable firms that compete with Google to file spurious complaints in an effort to slow down Google's innovations. This would hurt consumers.

The purpose of the antitrust laws is to protect competition (not competitors) for the benefit of consumers. To this end, the openness of the Internet and the ability of users to switch easily between rival websites ensure robust competition and consumer welfare. Where users can effectively inform Google which changes they like by clicking away from Google, there is no need for a government panel to ensure changes are made for the benefit of consumers.

**18. While under review by the Justice Department for the acquisition of ITA Software, Google said on its website that "our goal will be to refer people quickly to a site where they can actually purchase flights, and that we have no plans to sell flights ourselves," specifying that "Google does not plan to sell airline tickets directly."**

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<sup>17</sup> "SEO Case Study: Sites See More Pages Indexed by Google Than Bing -- Even Post Panda," Brafton News, June 9, 2011, <http://www.brafton.com/news/seo-case-study-sites-see-more-pages-indexed-by-google-than-bing-even-post-panda-800527170>.

<sup>18</sup> See *Kinderstart.com, LLC v. Google, Inc.*, Case No. C 06-2057 JF (RS) (N.D. Ca., March 16, 2007); *Search King, Inc. v. Google Technology, Inc.*, Case No. Civ-02-1457-M (W.D. Okla., Jan. 13, 2003).

**a. Does this remain Google's position in regard to travel transactions?**

We do not currently plan to sell airline tickets directly, and the first version of Google flight search contains links to airline websites where you can buy a ticket.

**b. Please update the Subcommittee on Google's current and future plans to be involved in facilitating the sale of travel services, including booking flights and hotels.**

We've been excited about the opportunity to work with ITA to build extraordinary tools for flight search. We continue to look for areas where we can offer users compelling travel services. At present, we have no plans to offer flight or hotel bookings.

**Kelly, Andrea**

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**From:** Blank, Barbara  
**Sent:** Wednesday, October 10, 2012 4:18 PM  
**To:** Lippincott, Victoria  
**Cc:** Green, Geoffrey; Sabo, Melanie; Harrison, Lisa M.; Vaytsman, Olga; Vandecar, Kim  
**Subject:** Emailing: 2012-9-21 Briefing Request.pdf, 2012-10-10 Memo re Request for Briefing.wpd, 2012-10-10 Response Letter for Briefing Request.wpd  
**Attachments:** 2012-9-21 Briefing Request.pdf; 2012-10-10 Memo re Request for Briefing.wpd; 2012-10-10 Response Letter for Briefing Request.wpd

Hi Victoria,

Revised memo attached (with the rest of the package). The description of the case has been revised as follows:

(b)(5)



Hope this addresses the issue we discussed. Let me know if you need anything else.

Best Regards,

Barbara



**Kelly, Andrea**

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**From:** Blank, Barbara  
**Sent:** Tuesday, October 23, 2012 12:17 PM  
**To:** Sabo, Melanie; Bayer Femenella, Peggy  
**Subject:** FW: Google Hill briefing on Thursday  
**Attachments:** 2012-10-23 Google notice.pdf; 2012-10-23 (b)(7)(D) notice.pdf

Do you mean you have separate notices for both matters?

This is the notice I was planning on sending today to (b)(7)(D) and Google. Should we send both in one email?

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**From:** Sabo, Melanie  
**Sent:** Tuesday, October 23, 2012 12:17 PM  
**To:** Blank, Barbara; Harrison, Lisa M.; Vaytsman, Olga  
**Cc:** Green, Geoffrey; Vandecar, Kim  
**Subject:** RE: Google Hill briefing on Thursday

We have letters for both matters, and Peggy and/or Nick plan to attend. I think Pete is consider attending too.

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**From:** Blank, Barbara  
**Sent:** Tuesday, October 23, 2012 12:14 PM  
**To:** Harrison, Lisa M.; Vaytsman, Olga  
**Cc:** Green, Geoffrey; Sabo, Melanie; Vandecar, Kim  
**Subject:** RE: Google Hill briefing on Thursday

It was our understanding that this briefing is only addressing the Google Search investigation. I don't think anyone on the SEP side has been informed, unless I'm mistaken. And our memo to the Commission seeking permission for this briefing didn't address SEPs.

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**From:** Harrison, Lisa M.  
**Sent:** Tuesday, October 23, 2012 12:08 PM  
**To:** Blank, Barbara; Vaytsman, Olga  
**Subject:** RE: Google Hill briefing on Thursday

Thanks. I assume we are sending one letter covering both search engine and SEP investigations? Perhaps the letter needs to be addressed to both lead counsel for Google on search and lead counsel for Google on the SEP investigation.

The sentence referencing search engine practices needs to be changed because we got the revised incoming letter with an expanded request. Olga, can you send language based on what we said in the Commission letter authorizing the briefing?

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**From:** Blank, Barbara  
**Sent:** Tuesday, October 23, 2012 11:57 AM  
**To:** Vaytsman, Olga; Harrison, Lisa M.  
**Subject:** Google Hill briefing on Thursday

Olga and Lisa,

Should I go ahead and send the standard notices today to Google and (b)(7)(D) about the upcoming briefing Thursday? Sample attached here.

Best Regards,

Barbara

**Kelly, Andrea**

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**From:** Blank, Barbara  
**Sent:** Monday, September 26, 2011 4:10 PM  
**To:** (b)(7)(C); Felten, Edward; (b)(7)(C);  
(b)(7)(C);  
(b)(7)(C); Wu, Timothy; (b)(7)(C)  
**Subject:** FW: Google Senate  
**Attachments:** Summary of Senate Antitrust Hearing on Google.pdf  
**Categories:** Red Category

FYI

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**From:** (b)(7)(C)  
**Sent:** Monday, September 26, 2011 4:08 PM  
**To:** Blank, Barbara  
**Subject:** Google Senate

From a friend on the Hill.

## A Summary of The Senate Antitrust Subcommittee's Hearing on Google, Competition, and Antitrust

On September 21, the Senate Subcommittee on Antitrust, Competition Policy and Consumer Rights held a hearing on “The Power of Google: Serving Consumers or Threatening Competition?” Witnesses included representatives of Google and of companies that claim to have been harmed by Google’s anticompetitive practices. This paper briefly summarizes the hearing, highlights key exchanges, and identifies key questions raised.

### Opening Statements

**Chairman Kohl’s** opening statement noted that, with “65 to 70% of all US Internet searches on computers and 95% on mobile devices,” Google, “as the dominant firm in Internet search, . . . has special obligations under antitrust law to not deploy its market power to squelch competition.” Although Google’s original mission was “to get the user off Google’s home page and onto [other] web sites” as quickly as possible, he noted that, as Google “has grown ever more dominant and powerful, . . . it appears its mission has changed.” Chairman Kohl added that Google’s recent “acquisition binge” has “transformed Google from a mere search engine to a major Internet conglomerate. And these acquisitions raise a very fundamental question -- is it possible for Google to be both an unbiased search engine and at the same time own a vast portfolio of web-based products and services? Does Google’s transformation create an inherent conflict of interest which threatens to stifle competition?”

**Ranking Member Lee**, echoing the market share figures cited by Chairman Kohl, quoted the head of Google’s search ranking team who described Google as “the biggest king-maker on earth.” He added that, given Google’s “ability to steer e-commerce and the flow of online information, Google is in a position to help determine who will succeed and who will fail on the Internet.” Senator Lee listed a litany of “growing concerns” that had been raised about Google’s practices, including that it uses its search algorithms to advantage itself and disadvantage other businesses; that it “impedes competing search engines from crawling, indexing, and returning [search] results [from its] YouTube content and book scans”; that it “imposes exclusivity restrictions” on partners; and that it has imposed “limits on advertisers’ ability to transfer data associated with Google’s advertising platform to any other platform using third-party tools that would make the process simple and automatic.” He concluded that, “[i]n this instance, I believe that preserving competitive markets through antitrust principles can forestall the imposition of burdensome government regulation.”

### Panel 1

The sole witness on the first panel was **Eric Schmidt**, who served as Google’s CEO from 2001 to April 2011 and since then as its Chairman. Mr. Schmidt, testifying under oath, said Google has “absorbed the lessons” of earlier antitrust cases and that “We get it. . . . We also get [that] it’s natural for you to have questions about our business . . . . What we ask is that you help us to ensure that the Federal Trade Commission’s inquiry [into possible antitrust violations by Google] is a fair and focused process, which I’m sure you’ll do.” Mr. Schmidt then listed various principles that, in his view, guide Google’s actions and described recent Google investments in employment and mobile, among other issues.

At the conclusion of this testimony, Senators asked questions on a number of issues, including:

- *Does Google have market power?*

Several Senators asked Mr. Schmidt for his views on whether Google has market power. **Senator Blumenthal**, for instance, noted that, with a “65 or 70 percent” share of search and “an even higher share” of search advertising revenue, “there’s no question about the fact that Google is really the behemoth in the search market these days.” **Senator Kohl** added, “Does Google recognize that as a monopoly or dominant power, special rules apply that there is conduct that must be taken and conduct that must be refrained from?”

Mr. Schmidt first disputed claims that Google has market power, stating that “We argue we’re in a highly competitive market.” When **Senator Kohl** pressed Mr. Schmidt on whether Google was “in [the] area” of monopoly power, Mr. Schmidt responded, “I would agree, Senator, that we’re in that area.” With respect to what special responsibilities come with such power, however, Mr. Schmidt explained that, in his view, “we have a special responsibility to debate all the issues that you’re describing to us.” He added that Google is “satisfied the things we’re doing are in the legal and philosophical balance of what we’re trying to do.”

➤ *Does Google favor its own services in search results?*

Several Senators invited Mr. Schmidt to comment on whether Google favors itself in its organic search results. **Senator Lee** asked whether Google’s own services “are . . . subject to the same test, the same standard as all the other results” in organic search. Mr. Schmidt responded, “I believe so. . . . I’m not aware of any unnecessary or strange boosts or biases.” **Senator Lee** then pointed to a study reflecting that, in a test of hundreds of searches for products on Google, Google’s own result (for Google Shopping) “ranked third [place] in virtually every single instance.” He added, “when I see you magically coming up third every time, that seems to me, I don’t know whether you call this a separate algorithm or reversed engineered, but either way you cooked it so you’re always third.” Mr. Schmidt disagreed, insisting that “we have not cooked anything.”

**Senator Franken** expressed concern that Mr. Schmidt’s response on this issue was “fuzzy” and asked, “If you don’t know [whether Google favors itself in search results], who does? That really bothers me, because that’s the crux of this, isn’t it? . . . [W]e’re trying to have a hearing here about whether you favor your own stuff and you’re asked that question and you admittedly don’t know the answer.” In a later exchange, Mr. Schmidt conceded that “[w]e have a product called universal search and universal search chooses how to organize the page . . . . So the answer is, we give preference, but we give preference in the context of our best judgment of the sum of what the person wants to do.”

**Senator Blumenthal** summarized Members’ concerns on this issue by way of an analogy: “You run the race track, you own the race track. For a long time, you had no horses. Now you have horses and you have control over where those horses are placed and your horses seem to be winning. And, you know, I think what a lot of these questions raise is the potential conflict of interest . . .”

➤ *Did Google Executive Marissa Meyer accurately describe the company’s practice of placing Google’s own services at the top of search results?*

**Senator Kohl** quoted Google Executive Marissa Meyer’s 2007 statement that, although Google ranks non-Google services in its search results based on their popularity,

“When we rolled out Google Finance, we did put the Google link first. Seems only fair, right? We do all the work for the results page and all those other things so we do it, put it first. This has actually been our policy since then.”



He asked Mr. Schmidt how he could square that statement with Mr. Schmidt's own testimony, which suggested that Google's results are not discriminatory. Mr. Schmidt replied, "I wasn't there [when Ms. Meyer made the statement], so maybe I should use my own voice on this question," and later added, "I'll let Marissa speak for herself on her quote."

➤ *Does Google's control over both information and user access to information create conflicts of interest?*

Several Senators raised concerns that Google was extending beyond its traditional role of being a neutral arbiter of providing access to information and increasingly was moving into being a source of that information. **Senator Franken**, for instance, noted that he was "skeptical of big companies that simultaneously control both information and the distribution channels to that information, and for me, that is at the heart of the problem here." **Senator Kohl** added, "As a rational business trying to make the most profit, wouldn't we expect Google to favor its products and services in providing these answers?"

Mr. Schmidt responded, "I'm not sure Google is a rational business trying to maximize its own profits." He later sought to clarify his position by assuring Members that "Google does nothing to block access to any of the competitors and other sources of information"--to which **Senator Blumenthal** responded that no one was claiming that Google excluded competing services from its search results, only that it directed users to its own services over those of competitors.

➤ *Was Mr. Schmidt aware of Google's illegal practices that recently led to a \$500 million criminal settlement with the Department of Justice?*

**Senator Cornyn** referenced Google's recent \$500 million payment to settle criminal charges that for several years it actively helped rogue online pharmacies sell potentially counterfeit and tainted drugs to U.S. consumers through Google ads. He invited Mr. Schmidt to comment, and specifically asked, "were there some employees in the company that were doing this without your knowledge?" Mr. Schmidt responded, "Certainly not without my knowledge," which suggests that Mr. Schmidt was aware of this activity. It is possible, however, that Mr. Schmidt misspoke and meant to say that the activity happened without his knowledge.

Attempts to clarify what Mr. Schmidt knew or did not know were frustrated when Mr. Schmidt refused to answer further questions. Mr. Schmidt claimed, "I have been advised very clearly by our lawyers that we have an agreement with the Department of Justice that we are not to speak about any of the details of" the settlement. When Senator Cornyn explained that the DoJ agreement in fact permits Google to comment on the agreement, just not to contradict it, Mr. Schmidt conferred briefly off the record with his counsel, after which, while not disagreeing with Senator Cornyn's characterization of the agreement, he refused to answer more questions, saying "Again, I'm not allowed to go into the details or characterize it beyond the -- beyond what has been stated in the agreement."

➤ *Will Google take voluntary steps to address the competition concerns that have been raised?*

**Senator Blumenthal** asked whether Google, "drawing on the lessons that presumably you have learned" from earlier antitrust cases, could "suggest measure to be taken voluntarily at this point to promote competition" in light of the various concerns that had been raised. Mr. Schmidt responded, "I

would argue that the levers . . . that are necessary to guarantee the outcome you're looking for are largely already in place." When Senator Blumenthal asked whether "eliminating that preference" [of Google services in search results pages] might be "a step in the right direction," Mr. Schmidt disagreed, in part on the ground that Google's competitors would still be able to do so.

## Panel 2

The first witness on Panel 2 was **Thomas Barnett**, a partner at Covington & Burling LLP who served as Assistant Attorney General for Antitrust at the DoJ from 2005 to 2008. Testifying on behalf of Expedia, Mr. Barnett observed that both the DoJ and FTC had determined that Google has market power, and that even Mr. Schmidt himself, in a 2003 statement, acknowledged that Google's large scale advantage in search "is a very serious barrier to entry." Mr. Barnett noted that Google is expanding its market power into new areas, in part by giving its own services preferential placement in natural search results without disclosing this to users. Google "has a direct financial interest in placing [its own services] above the natural search results, and by failing to disclose what they are doing to users, they can mislead them into going to a [Google] site."

The second witness was **Jeff Katz**, CEO at comparison shopping company **Nextag**. Although Nextag began working with Google in 2002, believing that Google would "live up" to its promise to "treat others fairly," Google has since "abandoned those core principles when they started interfering with profit growth." In Mr. Katz's words, "Today, Google doesn't play fair. Google rigs its results, biasing in favor of Google Shopping and against competitors like us." Mr. Katz observed that "Google is not a search engine anymore"--instead of presenting "the information that users want," Google "presents the information Google wants you to see based on its commercial interest."

Next to testify was **Jeremy Stoppelman**, chairman, CEO, and co-founder of review website **Yelp**. Mr. Stoppelman noted that "Google is no longer in the business of sending people to the best sources of information on the web" and instead "now hopes to be a destination site itself"--but has used its dominance in search to tilt the playing field in its favor. Google gave Yelp "an ultimatum that only a monopoly can give: in order to appear in web search, you must allow us to use your content to compete against you." Because not being on Google "is equivalent to not existing on the Internet," Yelp had "no choice" but to accept. Mr. Stoppelman also noted that Google calls "special attention" to its own properties in its search results "through larger text, great graphics, isolated placement" and by "pushing objectively ranked websites down the page," with the result that "websites in Google search results now take a back seat to Google's own competing products."

The final speaker was **Susan Creighton**, a partner at Wilson Sonsini Goodrich & Rosati, PC, a former director of the FTC's Bureau of Competition who now serves as competition counsel to Google. She argued that the government should "exercise extreme caution before acting" and that "extraordinary care must be taken to assure that government intervention in the market is truly essential." Ms. Creighton warned that government action to remedy search manipulation by Google would "turn Google's search service into a regulated utility."

At the conclusion of these statements, Senators asked the witness about several of the same issues raised in Panel 1, as well as a few new ones, including:

- *Would entrepreneurs today be able to launch services such as Nextag and Yelp, given Google's dominance and current practices?*



In response to a question from **Senator Franken**, Mr. Stoppelman stated that he “absolutely” would not consider starting fresh in the local review space now that Google is “taking up more of the real estate.” Mr. Katz expressed a similar opinion, that it “would be impossible” to launch Nextag with “the Google that exists today where roughly the top half of the page is dominated by Google-related product interests” and the right half of the page is filled with “unique ad placements which competitors such as [Nextag] can’t even purchase.”

➤ *Did Google coerce smaller companies into allowing it to use their content in competition with them--or face being excluded from Google search results?*

In Panel 1, Mr. Schmidt testified that, when Google learned that Yelp objected to Google’s scraping of Yelp’s content and using it in Google’s competing “Places” service, Google removed that content. In response to a question from **Senator Franken**, Mr. Stoppelman stated that, in fact, Google had continued to scrape and use Yelp’s content against it and did not stop “until there was some interest from the government side.” In response to a question from **Senator Kohl**, Mr. Barnett explained that his client, **Trip Advisor**, suffered a similar experience. He added, “I completely agree with Mr. Stoppelman, the only reason that changed at all . . . was this year, after the FT opened up an investigation, there were presentations made to the national state attorneys general, and within weeks, if not days, Google started to back down.” When **Senator Blumenthal** asked Ms. Creighton whether Google had ever scraped or co-opted content, as Mr. Stoppelman had testified, she replied:

“Senator, to the best of my knowledge, what Google has done and what Mr. Stoppelman is describing, he wanted to have -- Google’s experience has been that people like a line or two being written about them because that’s what drives traffic to the site. What Mr. Stoppelman is describing is micro-management . . . [he] was asking Google to engage in extra engineering to be able to make that possible.”

➤ *Could Google’s actions harm consumers?*

In response to a question from **Senator Lee** on whether Google’s actions could harm consumers, Mr. Barnett identified two specific harms. First, he noted that Google made roughly \$30 billion last year in advertising and, “given that they are dominant in advertising, a good portion of that is already monopoly rents. . . . [T]hat’s money that advertisers have to spend that ultimately consumers pay for because it’s going to flow through in the cost of goods and services.” The more “fundamental” problem, he added, was that if only Google is innovating, consumers “lose the benefit of competition in innovation, and that’s what’s really going to drive and promote consumer welfare in the long run.”

➤ *What voluntary actions could Google take to address competition concerns?*

Several Senators asked what actions Google could take voluntarily to address the competition concerns that had been raised. Mr. Stoppelman responded that “the key would be separating out [Google’s] distribution from its own properties” so that it no longer preferenced its own services in search results. Mr. Katz noted that “the guiding principle is really having a level playing field,” including by making all spots on the search results page accessible to all. Mr. Barnett responded that the first thing Google should do is to “acknowledge they are a dominant company and have a special responsibility.” Google should also ensure that its display of search results “is not misleading or deceptive to consumers” and should “refrain from using content from other sites without their permission.” They should also ensure

that “their algorithm really is based on objective criteria and not penalizing sites because they are competitors.”

**Senator Blumenthal** then posed the same question to Ms. Creighton, who responded, “I would want to go to the provisions that are preventing consumer choice.” Ms. Creighton declined to answer Senator Blumenthal’s question about what remedies would be appropriate if a court found that Google engages in anticompetitive conduct, stating that his question had “so many hypotheticals in it, [she] wouldn’t be able to answer it.” When **Senator Franken** asked whether Google might be willing to voluntarily accept a Technical Committee to assist the company in addressing these issues, Ms. Creighton responded, “I would be extremely concerned that’s just another word for regulation.” When Senator Franken reiterated that this would be voluntary, Ms. Creighton maintained her opposition, arguing that “I think a Technical Committee would be too slow to keep up with the changes in the market.”

**Kelly, Andrea**

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**From:** Blank, Barbara  
**Sent:** Monday, December 05, 2011 4:34 PM  
**To:** Sabo, Melanie  
**Subject:** FW: Official Request for Staff Briefing on Google investigation, File No. 111-0163  
**Attachments:** 2011-9-14 Letter to Sher.pdf

**From:** Blank, Barbara  
**Sent:** Wednesday, September 14, 2011 9:12 AM  
**To:** Sher, Scott  
**Cc:** Harrison, Lisa M.; Watts, Marianne R.  
**Subject:** Official Request for Staff Briefing on Google investigation, File No. 111-0163

Scott,

Per my VM, I'm attaching a letter here that lays out the request from Senator Kohl's office. I'm tied up in meetings this morning, but should be around this afternoon if you want to chat about this.

Best Regards,

Barbara

Barbara R. Blank, Esq.  
Federal Trade Commission, Bureau of Competition  
Anticompetitive Practices Division  
601 New Jersey Avenue, N.W.  
Washington, D.C. 20580  
Tel. (202) 326-2523  
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UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

September 14, 2011

**VIA EMAIL**

Scott A. Sher, Esq.  
Wilson Sonsini Goodrich & Rosati PC  
1700 K Street, N.W.  
Fifth Floor  
Washington, D.C. 20006  
[ssher@wsgr.com](mailto:ssher@wsgr.com)


Dear Scott:

This notifies you of an official request for information that the Federal Trade Commission has received from Chairman Herb Kohl of the Senate Judiciary Subcommittee on Antitrust, Competition Policy and Consumer Rights. The Subcommittee has requested a staff briefing on the agency's investigation into Google, Inc.'s search engine practices. Certain information that Google Inc. has submitted may be responsive to this request.

The Commission routinely receives official requests for confidential information from congressional committees and subcommittees. Neither the Freedom of Information Act, 5 U.S.C. § 552(d), nor the Federal Trade Commission Act, 15 U.S.C. § 57b-2(d)(1)(A), authorizes the Commission to withhold such information from congressional committees or subcommittees. The Commission, of course, requests that the responsive information and materials be kept confidential by the congressional committees and subcommittees.

If you have any questions about the congressional inquiry or handling of the requested information, please direct them to subcommittee staff at (202) 224-3406. Questions about the Commission's response may be directed to me at (202) 326-2523.

Sincerely,

  
Barbara R. Blank

cc: Office of General Counsel

**Kelly, Andrea**

---

**From:** Blank, Barbara  
**Sent:** Monday, December 05, 2011 4:34 PM  
**To:** Sabo, Melanie  
**Subject:** FW: Official Request for Staff Briefing on Google investigation, File No. 111-0163  
**Attachments:** 2011-9-14 Letter To (b)(7)(D) pdf

Melanie, here's what I sent to both (b)(7)(D) and Scott. I cc'd OGC on it at their request.

---

**From:** Blank, Barbara  
**Sent:** Wednesday, September 14, 2011 9:07 AM  
**To:** (b)(7)(D)  
**Cc:** Harrison, Lisa M.; Watts, Marianne R.  
**Subject:** Official Request for Staff Briefing on Google investigation, File No. 111-0163

(b)(7)(D)

Per my VM, I'm attaching a letter here that lays out the request from Senator Kohl's office. I'm tied up in meetings this morning, but should be around this afternoon if you want to chat about this.

Best Regards,

Barbara

Barbara R. Blank, Esq.  
Federal Trade Commission, Bureau of Competition  
Anticompetitive Practices Division  
601 New Jersey Avenue, N.W.  
Washington, D.C. 20580  
Tel. (202) 326-2523  
Fax (202) 326-3496  
[bblank@ftc.gov](mailto:bblank@ftc.gov)



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

September 14, 2011

**VIA EMAIL**

(b)(7)(D)

(b)(7)(D)

This notifies you of an official request for information that the Federal Trade Commission has received from Chairman Herb Kohl of the Senate Judiciary Subcommittee on Antitrust, Competition Policy and Consumer Rights. The Subcommittee has requested a staff briefing on the agency's investigation into Google, Inc.'s search engine practices. Certain information that (b)(7)(D) has submitted may be responsive to this request.

The Commission routinely receives official requests for confidential information from congressional committees and subcommittees. Neither the Freedom of Information Act, 5 U.S.C. § 552(d), nor the Federal Trade Commission Act, 15 U.S.C. § 57b-2(d)(1)(A), authorizes the Commission to withhold such information from congressional committees or subcommittees. The Commission, of course, requests that the responsive information and materials be kept confidential by the congressional committees and subcommittees.

If you have any questions about the congressional inquiry or handling of the requested information, please direct them to subcommittee staff at (202) 224-3406. Questions about the Commission's response may be directed to me at (202) 326-2523.

Sincerely,

A handwritten signature in cursive script, appearing to read "B. R. Blank", is written over a horizontal line.

Barbara R. Blank

cc: Office of General Counsel

**Kelly, Andrea**

---

**From:** Clark, Donald S.  
**Sent:** Tuesday, December 06, 2011 12:43 PM  
**To:** Sabo, Melanie; Vandecar, Kim  
**Cc:** Thompson, Patricia V.; Bumpus, Jeanne; Runco, Philip; Caditz-Peck, Russell  
**Subject:** Original and Signed Copy of Commission Letter Authorizing Nonpublic Briefing Re Operation of Google Search Engine, File No. 1110163  
**Attachments:** The Honorable Herb Kohl Ltr. re Google Inc .pdf

Everyone, Pat has now delivered the signed original of this letter to OCR (thanks, Pat!), and I've attached a signed copy; good luck with the briefing!

..... Don





UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Office of the Secretary

December 5, 2011

The Honorable Herb Kohl  
Chairman  
Subcommittee on Antitrust, Competition Policy and Consumer Rights  
Committee on the Judiciary  
United States Senate  
Washington, DC 20510-6275

Dear Chairman Kohl:

Thank you for your letter dated November 18, 2011, requesting a confidential staff briefing on the agency's investigation into Google, Inc.'s search engine practices. The Commission is responding to your request as an official request of a Congressional Subcommittee, *see* Commission Rule 4.11(b), 16 C.F.R. § 4.11(b), and has authorized its staff to provide the requested briefing.

Most of the information that the Commission attorneys will discuss during the briefing is nonpublic and statutorily protected from public disclosure by the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 41 *et seq.*, as well as exempt from mandatory disclosure under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. In particular, some of the information would be protected under Section 6(f) of the FTC Act, 15 U.S.C. § 46(f), as confidential commercial or financial information. The Commission is prohibited from disclosing such information publicly, and it would be exempt from disclosure under FOIA Exemption 3, 5 U.S.C. § 552(b)(3). Because disclosure of this information is likely to result in substantial competitive harm to the submitters, or is clearly not of a kind that submitters would customarily make available to the public, it would be exempt from disclosure under FOIA Exemption 4, 5 U.S.C. § 552(b)(4). *See Critical Mass Energy Project v. NRC*, 975 F.2d 871, 877-80 (D.C. Cir. 1992) (*en banc*), *cert. denied*, 507 U.S. 984 (1993) (exempt status accorded to information submitted voluntarily); *National Parks & Conservation Ass'n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974) (exempt status accorded to information submitted under compulsion).

Most of the information that the Commission attorneys will discuss was obtained by compulsory process or provided voluntarily in lieu thereof in a law enforcement investigation. Such information is protected from public disclosure under Section 21(f) of the FTC Act, 15 U.S.C. § 57b-2(f). By virtue of that section, such information is also exempt from public disclosure under FOIA Exemption 3(B), 5 U.S.C. § 552(b)(3)(B). *McDermott v. FTC*, 1981-1 Trade Cas. (CCH) ¶ 63,964 at 75,982-3 (D.D.C. April 13, 1981); *Dairymen, Inc. v. FTC*, 1980-2

Trade Cas. (CCH) ¶ 63,479 (D.D.C. July 9, 1980). Moreover, third party submitters provided their materials and information with a specific request for confidential treatment under Section 21 (c) of the FTC Act, 15 U.S.C. § 57b-2(c)). Under Commission Rule 4.10(d), 16 C.F.R. § 4.10(d), the Commission has waived its discretion to release to the public materials submitted pursuant to compulsory process or materials submitted voluntarily in lieu of process that have been marked confidential by the submitting parties.<sup>1</sup>

Additional information that may be discussed during the briefing was submitted in response to the Hart-Scott-Rodino premerger notification requirements of the Clayton Act, 15 U.S.C. § 18a. Section 7A(h) of the Act prohibits public disclosure of such documents or information. By virtue of this statutory prohibition, this information is also exempt from disclosure under Freedom of Information Act (FOIA) Exemption 3A, 5 U.S.C. § 552(b)(3)(A).<sup>2</sup>

Further, information discussed during the briefing would reveal the existence of, and information concerning, an ongoing, nonpublic law enforcement investigation. Disclosure of this information could reasonably be expected to interfere with law enforcement proceedings, and this information is therefore protected from mandatory public disclosure by FOIA Exemption 7(A), 5 U.S.C. § 552(b)(7)(A). *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 232 (1978); *Ehringhaus v. FTC*, 525 F. Supp. 21, 24 (D.D.C. 1980).

Finally, some of the information that will be discussed during the briefing will include internal staff analyses and recommendations, which are predecisional, deliberative materials exempt from mandatory public disclosure under FOIA Exemption 5, 5 U.S.C. § 552(b)(5). *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132 (1975); *Coastal States Gas Corp. v. Department of Energy*, 617 F.2d 854, 866 (D.C. Cir. 1980). Some of this information may also be protected from mandatory public disclosure under FOIA Exemption 5 as attorney work product prepared in anticipation of litigation. *FTC v. Grolier, Inc.*, 462 U.S. 19, 28 (1983); *Martin v. Office of Special Counsel, Merit Systems Protection Board*, 819 F.2d 1181, 1187 (D.C. Cir. 1987).

---

<sup>1</sup> The Commission is required to notify persons who submitted information pursuant to compulsory process in a law enforcement investigation, or voluntarily in lieu thereof on a confidential basis, if the Commission receives a request from a Congressional Committee or Subcommittee for that information. See 15 U.S.C. §§ 57b-2(b)(3)(C), 57b-2(d)(1)(A); Commission Rule 4.11(b), 16 C.F.R. § 4.11(b). Staff is providing the requisite notice.

<sup>2</sup> The Commission has instructed its staff to provide reasonable notice, when possible, of the release to Congress of information submitted pursuant to HSR. See *Statement of Basis and Purpose of HSR Rules and Regulations*, 43 Fed. Reg. 33519 (July 31, 1978). Staff has provided notice to submitters pursuant to this policy.

Notwithstanding the protected status of most of the responsive information, the FTC Act, 15 U.S.C. § 57b-2(d)(1)(A), the Clayton Act, 15 U.S.C. § 18a(h), and the FOIA, 5 U.S.C. § 552(d), provide no authority to withhold such information from this Congressional Subcommittee, and the Commission has authorized staff to provide the requested briefing to Subcommittee staff. Because the confidential information would not be available to the public under the FOIA or otherwise, the Commission requests that the Subcommittee maintain its confidentiality.

By direction of the Commission.

A handwritten signature in black ink, appearing to read "Donald S. Clark", with a long horizontal flourish extending to the right.

Donald S. Clark  
Secretary

**Kelly, Andrea**

---

**From:** Blank, Barbara  
**Sent:** Wednesday, October 10, 2012 1:03 PM  
**To:** (b)(7)(C)  
**Cc:**  
**Subject:** RE: Google Update

(b)(5)

**From:** Blank, Barbara  
**Sent:** Wednesday, October 10, 2012 11:54 AM  
**To:** (b)(7)(C)  
(b)(7)(C)  
**Subject:** Google Update

Hi everyone,

(b)(5)

(b)(5)

I think that's everything for now. Thanks very much (and apologies for the ridiculous length of this email).

Best,

BB

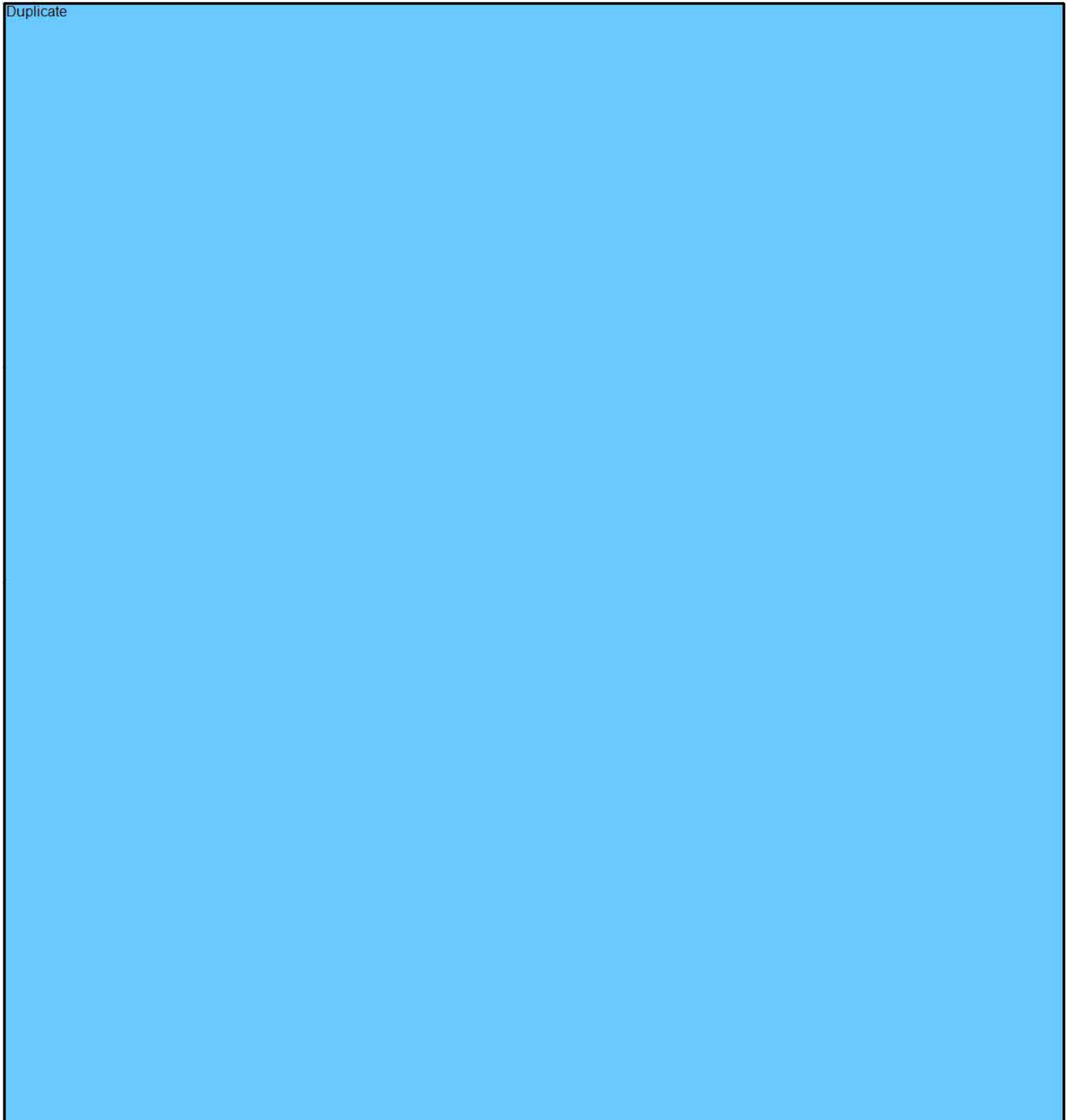
**Kelly, Andrea**

---

**From:** Shonka, David C.  
**Sent:** Tuesday, October 30, 2012 9:32 AM  
**To:** Cohen, William E.; Grimm, Karen  
**Subject:** Fw: (b)(5)

And the rest of the story . . . .

Duplicate



**Kelly, Andrea**

---

**From:** Shonka, David C.  
**Sent:** Tuesday, October 30, 2012 9:31 AM  
**To:** Cohen, William E.; Grimm, Karen  
**Subject:** Fw: (b)(5)  
**Attachments:** (b)(5)

Here's more of it.

Duplicate



## Kelly, Andrea

---

**From:** Cohen, William E.  
**Sent:** Tuesday, November 06, 2012 10:46 AM  
**To:** Shonka, David C.; Daly, John F.  
**Cc:** Grimm, Karen  
**Subject:** FW: (b)(5)

Tracking:	Recipient	Delivery	Read
	Shonka, David C.	Delivered: 11/6/2012 10:46 AM	Read: 11/6/2012 11:51 AM
	Daly, John F.	Delivered: 11/6/2012 10:46 AM	Read: 11/6/2012 11:05 AM
	Grimm, Karen	Delivered: 11/6/2012 10:46 AM	Read: 11/13/2012 10:22 AM

I am now back and able to open the attachment, and I see that my prior e-mail probably created confusion. (b)(5)

(b)(5)

---

**From:** Cohen, William E.  
**Sent:** Tuesday, October 30, 2012 4:01 PM  
**To:** Shonka, David C.; Daly, John F.  
**Cc:** Grimm, Karen  
**Subject:** Re: (b)(5)

Thanks, but I am getting a message that my Blackberry cannot open (b)(5) (I am in Spain and dependent on Blackberry.) (b)(5)

(b)(5)

---

**From:** Shonka, David C.  
**Sent:** Tuesday, October 30, 2012 09:27 AM  
**To:** Cohen, William E.  
**Subject:** Fw: (b)(5)

Thought you should see this.

Duplicate

**Kelly, Andrea**

---

**From:** Sieradzki, David L.  
**Sent:** Thursday, September 06, 2012 1:13 PM  
**To:** Renner, Christopher; Lehner, Mary; Su, Henry; Tucker, Darren; Kimmel, Lisa; Slater, Abigail A.; Vedova, Holly L.; Luib, Gregory; Feinstein, Richard; Levitas, Pete; Seidman, Mark; Sabo, Melanie; Green, Geoffrey; Blank, Barbara; (b)(6),(b)(7)(C) Westman-Cherry, Melissa; (b)(6),(b)(7)(C) Shelanski, Howard; Heyer, Kenneth; (b)(6),(b)(7)(C) Gavil, Andrew I.; Koslov, Tara Isa; Bellovin, Steven M.; Brunell, Richard; Ohm, Paul  
**Cc:** Tom, Willard K.; Shonka, David C.; Daly, John F.; Cohen, William E.; Grimm, Karen  
**Subject:** (b)(5)  
**Attachments:** (b)(5)

I'm enclosing (b)(5) Will Tom is out of the office, but is doing his best to respond to emails via BlackBerry, and will be participating in tomorrow's meeting via videoconference. In his absence, please contact me or Karen Grimm (x2904) if you have any questions or would like to discuss this.

Thanks.

David L. Sieradzki  
Attorney, Office of General Counsel  
**Federal Trade Commission**  
600 Pennsylvania Ave., NW  
Washington, DC 20580  
office: 202.326-2092  
fax: 202.326.2477  
mobile: (b)(6),(b)(7)(C)

**Kelly, Andrea**

---

**From:** Tom, Willard K.  
**Sent:** Wednesday, September 05, 2012 10:15 PM  
**To:** Sieradzki, David L.; Daly, John F.; Cohen, William E.; Shonka, David C.; Grimm, Karen  
**Subject:** Re: Google

I'm on a plane with wireless turned off, so I can't read the whole message. (b)(5)

(b)(5)

---

**From:** Sieradzki, David L..  
**Sent:** Wednesday, September 05, 2012 03:12 PM  
**To:** Daly, John F.; Cohen, William E.; Tom, Willard K.; Shonka, David C.; Grimm, Karen..  
**Subject:** RE: Google ..

(b)(5)

--David

## Kelly, Andrea

---

**From:** Cohen, William E.  
**Sent:** Tuesday, September 04, 2012 3:57 PM  
**To:** Tom, Willard K.; Shonka, David C.; Daly, John F.; Sieradzki, David L.; Grimm, Karen  
**Subject:** RE: Google

<b>Tracking:</b>	<b>Recipient</b>	<b>Delivery</b>	<b>Read</b>
	Tom, Willard K.	Delivered: 9/4/2012 3:57 PM	
	Shonka, David C.	Delivered: 9/4/2012 3:57 PM	Read: 9/4/2012 4:11 PM
	Daly, John F.	Delivered: 9/4/2012 3:57 PM	Read: 9/4/2012 4:21 PM
	Sieradzki, David L.	Delivered: 9/4/2012 3:57 PM	Read: 9/4/2012 4:01 PM
	Grimm, Karen	Delivered: 9/4/2012 3:57 PM	Read: 9/4/2012 5:26 PM

(b)(5)



-----Original Message-----

**From:** Tom, Willard K.  
**Sent:** Tuesday, September 04, 2012 8:33 AM  
**To:** Shonka, David C.; Daly, John F.; Sieradzki, David L.; Grimm, Karen; Cohen, William E.  
**Subject:** Google

Here's a draft of a memo I thought I'd send to the Commission in advance of the meeting. It was written on a BBerry, so it has little formatting and may or may not be coherent. I'd be interested in your thoughts.

(b)(5)



**Kelly, Andrea**

---

**From:** Sieradzki, David L.  
**Sent:** Tuesday, September 04, 2012 9:52 AM  
**To:** Shonka, David C.; Daly, John F.; Cohen, William E.  
**Subject:** RE: Google  
**Attachments:** Talking Points on Google's Allegedly Anticompetitive Conduct 8-29-12 (2).docx

I'm not sure whether or not I cc'd you when I sent the attached to Will and Karen last week, but for whatever it's worth, I'm attaching the "bullet point memo" I put together for Will.

--David

Duplicate

**Kelly, Andrea**

---

**From:** Woodward, Mark  
**Sent:** Wednesday, November 17, 2010 12:35 PM  
**To:** Armstrong, Norman  
**Subject:** RE: Google

But has not been cleared to either agency as of today?

(b)(5)



Thanks,  
Mark W., x2754

---

**From:** Armstrong, Norman  
**Sent:** Wednesday, November 17, 2010 12:32 PM  
**To:** Woodward, Mark  
**Subject:** Re: Google

It does. But, we actually have not formally put in for clearance. It has been the subject of discussion between the agencies for awhile.

---


**From:** Woodward, Mark  
**To:** Armstrong, Norman  
**Sent:** Wed Nov 17 12:20:53 2010  
**Subject:** RE: Google

(b)(5)



Thanks,  
Mark W., x2754

Not Responsive





**Kelly, Andrea**

---

**From:** Feinstein, Richard  
**Sent:** Friday, July 01, 2011 11:32 AM  
**To:** Armstrong, Norman  
**Subject:** FW: Google Clearance

This is the language that captures the deal.

(b)(5)

(b)(5)

---

**From:** Berg, Karen E.  
**Sent:** Friday, July 01, 2011 9:25 AM  
**To:** Feinstein, Richard  
**Cc:** Jones, Robert L.  
**Subject:** RE: Google Clearance

Okay, here are the notes on that one:

(b)(5)

---

**From:** Feinstein, Richard  
**Sent:** Friday, July 01, 2011 9:19 AM  
**To:** Berg, Karen E.  
**Cc:** Jones, Robert L.  
**Subject:** RE: Google Clearance

Yes.

---

**From:** Berg, Karen E.  
**Sent:** Friday, July 01, 2011 9:18 AM  
**To:** Feinstein, Richard  
**Cc:** Jones, Robert L.  
**Subject:** RE: Google Clearance

Okay, is that the one Barbara Blank is doing in ACP?

---

**From:** Feinstein, Richard  
**Sent:** Friday, July 01, 2011 9:17 AM  
**To:** Berg, Karen E.

**Cc:** Jones, Robert L.  
**Subject:** RE: Google Clearance

Karen—

The other place to look might be in the comments section (b)(5)

(b)(5)

(b)(5) Thanks for checking.

Rich

---

**From:** Berg, Karen E.  
**Sent:** Friday, July 01, 2011 9:12 AM  
**To:** Feinstein, Richard  
**Cc:** Jones, Robert L.  
**Subject:** RE: Google Clearance

Rich, I checked in the comments section on (b)(5) and below is let me know.  
(b)(5)

K

(b)(5)

From: Seldin, Kathy (b)(6)  
Sent: Tuesday, May 03, 2011 3:47 PM  
To: Jones, Robert L.  
Cc: Hughes, Jared A.  
Subject: RE: Google/Nortel add on clearance request

(b)(5)

From: Jones, Robert L. [mailto:RJONES@ftc.gov]  
Sent: Tuesday, May 03, 2011 2:50 PM  
To: Seldin, Kathy  
Cc: Hughes, Jared A.  
Subject: FW: Google/Nortel add on clearance request

Kathy,

(b)(5)

Bob

From: Brink, Patricia (b)(6)  
Sent: Tuesday, May 03, 2011 11:53 AM  
To: Feinstein, Richard; Shelanski, Howard  
Cc: Kimmelman, Gene; Forrest, Katherine; Seldin, Kathy; Hughes, Jared A.; Tierney, James  
Subject: Google/Nortel add on clearance request


Howard and Rich

(b)(5)



Patty Brink  
Director of Civil Enforcement  
Antitrust Division  
202/514-2562

Not Responsive



**Kelly, Andrea**

---

**From:** Brink, Patricia (b)(6)  
**Sent:** Friday, January 07, 2011 4:25 PM  
**To:** Armstrong, Norman; Kimmelman, Gene; Boast, Molly; Forrest, Katherine  
**Subject:** Re: Google

OK. Can you ask Rich to call Gene Kimmelman? His number is 514-2408. Thanks.

---

**From:** Armstrong, Norman  
**To:** Brink, Patricia; Jones, Robert L.  
**Cc:** Seldin, Kathy  
**Sent:** Fri Jan 07 14:41:43 2011  
**Subject:** RE: Google  
Patty-  
Rich will be calling Molly later today to discuss. Thanks

---

**From:** Brink, Patricia (b)(6)  
**Sent:** Friday, January 07, 2011 2:25 PM  
**To:** Armstrong, Norman; Jones, Robert L.  
**Cc:** Seldin, Kathy  
**Subject:** Re: Google

(b)(5)

---

**From:** Brink, Patricia  
**To:** 'Armstrong, Norman' ; 'Jones, Robert L.'  
**Cc:** Seldin, Kathy  
**Sent:** Thu Jan 06 16:29:20 2011  
**Subject:** FW: Google

Norm and Bob –

(b)(5)

We'd appreciate your prompt attention...

Patty

---

**From:** Seldin, Kathy  
**Sent:** Thursday, January 06, 2011 11:56 AM  
**To:** 'Jones, Robert L.'

**Cc:** Wallace, Shana M.; Hughes, Jared A.

**Subject:** Google

(b)(5)



**Kelly, Andrea**

---

**From:** Jones, Robert L.  
**Sent:** Monday, December 13, 2010 11:49 AM  
**To:** Armstrong, Norman  
**Subject:** Fw: Google Section Two Investigation

---

**From:** Brink, Patricia <(b)(6)>  
**Sent:** Monday, December 13, 2010 11:29 AM  
**To:** Jones, Robert L.; Armstrong, Norman  
**Cc:** Forrest, Katherine <(b)(6)>; Boast, Molly <(b)(6)>; Seldin, Kathy <(b)(6)>; Wallace, Shana M. <(b)(6)>  
**Subject:** Google Section Two Investigation

Bob,

(b)(5)

We would greatly appreciate a prompt response.

Thanks,  
Patty

---

**From:** Brink, Patricia <(b)(6)>  
**Sent:** Friday, December 03, 2010 5:03 PM  
**To:** Jones, Robert L.  
**Cc:** Seldin, Kathy; Wallace, Shana M.  
**Subject:** RE: Not Responsive

Bob -

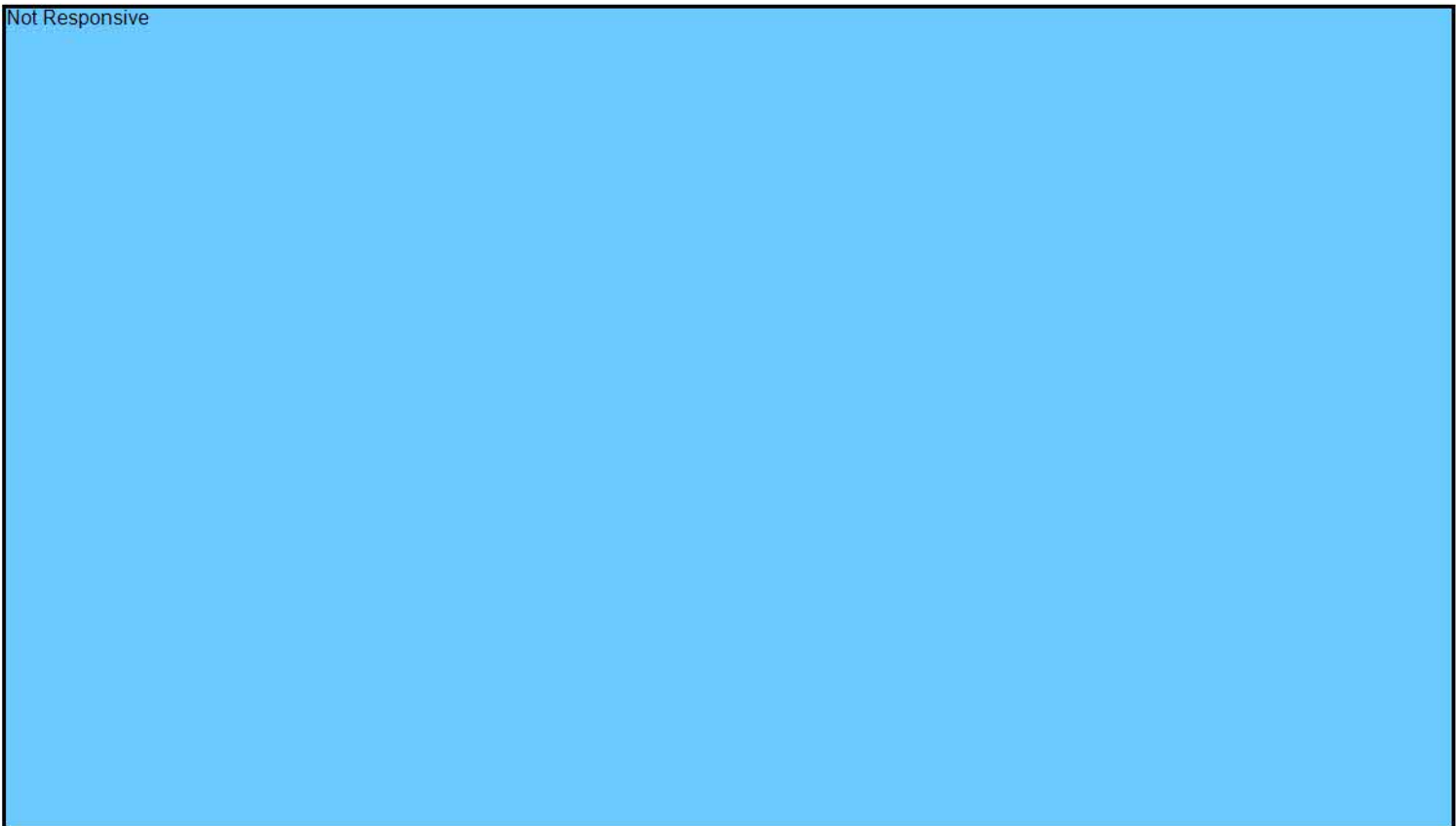
(b)(5), Not Responsive

(b)(5)



Thanks, Patty

Not Responsive



From: Seldin, Kathy (b)(6)  
Sent: Monday, November 08, 2010 3:13 PM  
To: Jones, Robert L.



Cc: Wallace, Shana M.  
Subject: Google/ITA and Google Inc.

Bob,

I know you have been doing some "housekeeping" recently, and checking-in on outstanding matters in clearance. [Redacted]

[Redacted]

[Redacted]

[Redacted] Let me know if you have any questions.

Thanks,  
Kathy

---

From: Wallace, Shana M. [Redacted]  
Sent: Friday, October 22, 2010 5:07 PM  
To: Seldin, Kathy; Jones, Robert L.  
Subject: [Redacted]

Bob,

Patty has asked that I forward the below message on her behalf.

Thanks so much,  
Shana

\*\*\*\*

Bob -

[Redacted]

Thanks,

Patty Brink  
Deputy Director, Office of Operations  
Antitrust Division  
202/514-2562

Patty Brink  
Director of Civil Enforcement  
Antitrust Division  
202/514-2562

## Kelly, Andrea

---

**From:** Armstrong, Norman  
**Sent:** Friday, April 01, 2011 5:48 PM  
**To:** Feinstein, Richard  
**Subject:** FW: Google

Additional relevant emails.

-----Original Message-----

From: Jones, Robert L.  
Sent: Friday, December 03, 2010 7:03 PM  
To: Armstrong, Norman  
Cc: Feinstein, Richard  
Subject: Re: Google

Understood.

----- Original Message -----

From: Armstrong, Norman  
Sent: Friday, December 03, 2010 06:48 PM  
To: Jones, Robert L.  
Cc: Feinstein, Richard  
Subject: Re: Google

(b)(5)



----- Original Message -----

From: Jones, Robert L.  
Sent: Friday, December 03, 2010 06:31 PM  
To: Armstrong, Norman  
Subject: Re: Google

Yep. Here's the response from Patty on their position:

(b)(5)



**Kelly, Andrea**

---

**From:** Feinstein, Richard  
**Sent:** Wednesday, January 09, 2013 9:24 AM  
**To:** Levitas, Pete  
**Subject:** RE: Google Clearance

(b)(5)

---

**From:** Levitas, Pete  
**Sent:** Wednesday, January 09, 2013 9:23 AM  
**To:** Feinstein, Richard  
**Subject:** RE: Google Clearance

(b)(5)

**From:** Feinstein, Richard  
**Sent:** Wednesday, January 09, 2013 9:21 AM  
**To:** Jones, Robert L.  
**Cc:** Armstrong, Norman; Levitas, Pete  
**Subject:** RE: Google Clearance

Thanks, Bob. I now recall several of those.

---

**From:** Jones, Robert L.  
**Sent:** Wednesday, January 09, 2013 9:15 AM  
**To:** Feinstein, Richard  
**Cc:** Armstrong, Norman; Levitas, Pete  
**Subject:** RE: Google Clearance

Not Responsive

(b)(5)

---

**From:** Feinstein, Richard  
**Sent:** Wednesday, January 09, 2013 8:57 AM  
**To:** Jones, Robert L.  
**Cc:** Armstrong, Norman; Levitas, Pete  
**Subject:** RE: Google Clearance

Thanks.

(b)(5)

(b)(5)

(b)(5)

---

**From:** Jones, Robert L.  
**Sent:** Wednesday, January 09, 2013 8:52 AM  
**To:** Feinstein, Richard  
**Subject:** RE: Google Clearance

Here it is:

(b)(5)



---

**From:** Feinstein, Richard  
**Sent:** Tuesday, January 08, 2013 6:08 PM  
**To:** Jones, Robert L.  
**Subject:** RE: Google Clearance

Yep. That's fine.

---

**From:** Jones, Robert L.  
**Sent:** Tuesday, January 08, 2013 5:46 PM  
**To:** Feinstein, Richard  
**Subject:** Re: Google Clearance

Absolutely. First thing tomorrow if that's okay.

---

**From:** Feinstein, Richard  
**Sent:** Tuesday, January 08, 2013 05:07 PM  
**To:** Jones, Robert L.  
**Subject:** Google Clearance

Bob—

(b)(5)



(b)(5)



Rich

Richard A. Feinstein  
Director  
Bureau of Competition  
Federal Trade Commission

202-326-3658  
[rfeinstein@ftc.gov](mailto:rfeinstein@ftc.gov)

## Kelly, Andrea

---

**From:** Signs, Kelly  
**Sent:** Wednesday, May 01, 2013 2:53 PM  
**To:** Frost, James  
**Subject:** 3 questions on Google  
**Attachments:** QFRs for Ramirez.docx; Antitrust Oversight 4.16.13.pdf; Antitrust Hearing Issue Summaries 3.29.13.pdf; Antitrust Hearing Q&As 3.29.13.pdf

Tracking:	Recipient	Delivery	Read
	Frost, James	Delivered: 5/1/2013 2:53 PM	Read: 5/1/2013 2:55 PM

Actually, it's only three. They are highlighted in yellow on the QFR document. Also attached is the transcript, and a final version of the briefing materials, which unfortunately don't contain much on Google. That's because her staff said she was fine with answering those on her own.

(b)(5)



Thanks!



**Questions and Answers**  
**Antitrust Oversight Hearing**  
**April 16, 2013**

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**Prepared: March 22, 2013**

**\* Denotes content added on March 29, 2013**

## Kelly, Andrea

---

**From:** Gray, Joshua Barton  
**Sent:** Friday, May 03, 2013 11:39 AM  
**To:** Kraus, Elizabeth  
**Cc:** Signs, Kelly  
**Subject:** RE: Couple of points on QFRs

(b)(5)



---

**From:** Kraus, Elizabeth  
**Sent:** Friday, May 03, 2013 10:45 AM  
**To:** Gray, Joshua Barton  
**Cc:** Signs, Kelly  
**Subject:** Fw: Couple of points on QFRs

Possible to coordinate with Kelly, with the proviso, short is very sweet.

(b)(5)



---

**From:** Signs, Kelly  
**Sent:** Friday, May 03, 2013 10:36 AM  
**To:** Kraus, Elizabeth  
**Subject:** Couple of points on QFRs

Hi Liz,

I'm looking for your input on the front-end of drafting. (b)(5)

(b)(5)



**Kelly, Andrea**

---

**From:** Blank, Barbara  
**Sent:** Friday, May 03, 2013 10:17 AM  
**To:** Signs, Kelly  
**Subject:** RE: Google - 2-sided markets

Looks fine to me. (b)(5)

(b)(5)

---

**From:** Signs, Kelly  
**Sent:** Friday, May 03, 2013 10:11 AM  
**To:** Blank, Barbara  
**Subject:** RE: Google - 2-sided markets

See what you think (FWIW, I like it.)

(b)(5)

---

**From:** Blank, Barbara  
**Sent:** Friday, May 03, 2013 9:50 AM  
**To:** Signs, Kelly  
**Subject:** Google - 2-sided markets

Hi Kelly,

Here's the excerpt, and I'm also attaching the entire document (I tried to respond to all the major criticisms in this document):



## Kelly, Andrea

---

**From:** Signs, Kelly  
**Sent:** Friday, May 03, 2013 3:40 PM  
**To:** Green, Geoffrey  
**Cc:** Ducore, Daniel P.  
**Subject:** RE: voluntarycommitments\_draft.docx

Tracking:	Recipient	Delivery	Read
	Green, Geoffrey	Delivered: 5/3/2013 3:40 PM	Read: 5/3/2013 3:45 PM
	Ducore, Daniel P.	Delivered: 5/3/2013 3:40 PM	Read: 5/3/2013 4:04 PM

Works for me. I'll put that in and then the draft is off to Pete.

Thanks to both of you for your help.

---

**From:** Green, Geoffrey  
**Sent:** Friday, May 03, 2013 3:35 PM  
**To:** Signs, Kelly  
**Cc:** Ducore, Daniel P.  
**Subject:** RE: voluntarycommitments\_draft.docx

Alternative:

(b)(5)



**From:** Signs, Kelly  
**Sent:** Friday, May 03, 2013 2:18 PM  
**To:** Green, Geoffrey  
**Cc:** Ducore, Daniel P.  
**Subject:** RE: voluntarycommitments\_draft.docx

Good, thanks. And I have a couple of follow ups.

(b)(5)



(b)(5)



**From:** Green, Geoffrey.  
**Sent:** Friday, May 03, 2013 2:08 PM  
**To:** Signs, Kelly  
**Cc:** Ducore, Daniel P.  
**Subject:** voluntarycommitments\_draft.docx

## Kelly, Andrea

---





**From:** Signs, Kelly  
**Sent:** Friday, May 03, 2013 11:09 AM  
**To:** Mongoven, James F.  
**Subject:** Draft answers  
**Attachments:** QFRs for Ramirez\_OPResponses.docx

Tracking:	Recipient	Delivery	Read
	Mongoven, James F.	Delivered: 5/3/2013 11:09 AM	Read: 5/3/2013 11:14 AM

---

Kelly Signs

Office of Policy and Coordination • Bureau of Competition • Federal Trade Commission  
601 New Jersey Avenue, N.W., Washington D.C. 20580

 (202) 326-3191    (202) 326-3394    [ksigns@ftc.gov](mailto:ksigns@ftc.gov)    [www.ftc.gov](http://www.ftc.gov)

---



## Kelly, Andrea

---

**From:** Signs, Kelly  
**Sent:** Friday, May 03, 2013 4:16 PM  
**To:** Feinstein, Richard; Levitas, Pete  
**Cc:** Mongoven, James F.; Bumpus, Jeanne  
**Subject:** Draft responses to (some) QFRs  
**Attachments:** QFRs for Ramirez\_OPResponses.docx

Rich and Pete,

So here they are, the answers assigned to BC for drafting. As you can see, I've deleted questions that others will be responding to. Hopefully, you'll get a look at those answers on Monday.

This has been a joint effort by several folks from Health Care, ACP and Compliance as well as OPC. The good news is that we've got pretty good answers for the majority of questions. The bad news is that we have two questions that still need draft answers—and they are really hard. (b)(5)

(b)(5)

(b)(5) With direction, I'm happy to try to draft something, but maybe you prefer to try to write down what you think the Chairwoman should say in response.

Lots to read, and there will be more. When you're done, others would like to review these answers, so you can send edits back to me and I'll keep them moving.

Have a good weekend. ~Kelly

## Kelly, Andrea

---

**From:** Signs, Kelly  
**Sent:** Monday, May 06, 2013 2:27 PM  
**To:** Levitas, Pete  
**Cc:** Mongoven, James F.  
**Subject:** FW: Emailing: QFRs for Ramirez\_OPResponses.docx  
**Attachments:** antitrust oversight QFRs prelim inj draft answers.docx; QFRs for Ramirez\_OPResponses.docx

Tracking:	Recipient	Delivery	Read
	Levitas, Pete	Delivered: 5/6/2013 2:27 PM	Read: 5/6/2013 2:27 PM
	Mongoven, James F.	Delivered: 5/6/2013 2:27 PM	Read: 5/6/2013 2:30 PM

Pete, Rachel Dawson took a look at the draft I sent you and has some suggestions (in parens in this draft). I suspect you will address many of these in your edits. Also, OGC took a first crack at the questions on preliminary injunction standards (see attached).

Also, per Mary's email, I think you will be getting draft answers from OPP and OIA, probably sometime today.

Let me know what I can do to help you. ~Kelly

-----Original Message-----

From: Dawson, Rachel Miller  
Sent: Monday, May 06, 2013 1:43 PM  
To: Signs, Kelly  
Subject: Emailing: QFRs for Ramirez\_OPResponses.docx

Did this work?

## Kelly, Andrea

---

**From:** Signs, Kelly  
**Sent:** Tuesday, May 07, 2013 9:46 AM  
**To:** Levitas, Pete  
**Subject:** FW: QFR's: Use this version when you start again!  
**Attachments:** QFRs for Ramirez may6pm.docx

Tracking:	Recipient	Delivery	Read
	Levitas, Pete	Delivered: 5/7/2013 9:46 AM	Read: 5/7/2013 9:47 AM

Sorry—the caption of Jeanne’s email was the same so I didn’t want you to be confused. Jeanne made a few (good) edits so start with this.

---

**From:** Bumpus, Jeanne  
**Sent:** Monday, May 06, 2013 5:54 PM  
**To:** Signs, Kelly; Levitas, Pete  
**Cc:** Mongoven, James F.  
**Subject:** RE: QFR's: Use this version when you start again!

I have suggested some changes to the answers Pete’s already edited, as well as to Rachel’s responses. Not Responsive

Not Responsive

---

**From:** Signs, Kelly  
**Sent:** Monday, May 06, 2013 4:29 PM  
**To:** Levitas, Pete  
**Cc:** Mongoven, James F.; Bumpus, Jeanne  
**Subject:** QFR's: Use this version when you start again!

Not Responsive

---

**From:** Levitas, Pete  
**Sent:** Monday, May 06, 2013 2:46 PM  
**To:** Bumpus, Jeanne; Signs, Kelly  
**Cc:** Vandecar, Kim; Runco, Philip  
**Subject:** RE: Jon and Mary don't need QFRs until Thursday morning

My suggestions – I’ll pick up where I left off tomorrow and send around a revised document starting w the qs I haven’t gotten to yet. thanks

---

**From:** Bumpus, Jeanne  
**Sent:** Monday, May 06, 2013 2:27 PM  
**To:** Levitas, Pete; Signs, Kelly

**Cc:** Vandecar, Kim; Runco, Philip

**Subject:** Jon and Mary don't need QFRs until Thursday morning

Edith has said she doesn't need them until Friday morning, and Mary just told me she and Jon only need them Thursday morning. A little more time for all.

## Kelly, Andrea

---

**From:** Feinstein, Richard  
**Sent:** Wednesday, May 01, 2013 3:50 PM  
**To:** Signs, Kelly; Levitas, Pete  
**Cc:** Mongoven, James F.  
**Subject:** RE: 4-16-13 Antitrust Hearing - Questions for the Record (Ramirez)

Yes (as to OPP contributions), if time permits.

I will be traveling to New York on Monday morning, but will be able to review at NERO in the afternoon and/or on train coming back Tuesday.

---

**From:** Signs, Kelly  
**Sent:** Wednesday, May 01, 2013 3:47 PM  
**To:** Feinstein, Richard; Levitas, Pete  
**Cc:** Mongoven, James F.  
**Subject:** RE: 4-16-13 Antitrust Hearing - Questions for the Record (Ramirez)

Okay, we're going to try this piecemeal. What I want to avoid is collecting a batch on Friday afternoon and dumping it on you over the weekend. We'll no doubt have some for you to review on Friday, and the rest will come Monday.

BTW, OPP is drafting on a number of questions about FRAND, SEPs, PAEs and GPOs. (I know, it's just alphabet soup.) Would you like a chance to review their responses if there's time?

---

**From:** Feinstein, Richard  
**Sent:** Wednesday, May 01, 2013 3:38 PM  
**To:** Levitas, Pete; Signs, Kelly  
**Cc:** Mongoven, James F.  
**Subject:** RE: 4-16-13 Antitrust Hearing - Questions for the Record (Ramirez)

That works for me. Thanks.

---

**From:** Levitas, Pete  
**Sent:** Wednesday, May 01, 2013 3:37 PM  
**To:** Signs, Kelly  
**Cc:** Mongoven, James F.; Feinstein, Richard  
**Subject:** RE: 4-16-13 Antitrust Hearing - Questions for the Record (Ramirez)

I'd like to review them and I'm guessing Rich will too, but given the timing it may be difficult -I'm in and out of the office a bit next week. Maybe the best way to do this is for you guys to send over drafts on a rolling basis so we can turn them around a few at a time? adding Rich for his thoughts.

---

**From:** Signs, Kelly  
**Sent:** Wednesday, May 01, 2013 2:23 PM  
**To:** Levitas, Pete  
**Cc:** Mongoven, James F.  
**Subject:** FW: 4-16-13 Antitrust Hearing - Questions for the Record (Ramirez)

Pete,



Just FYI for now, but we've received the QFRs from last month's antitrust oversight hearing. OPC is coordinating the drafting, and shipping questions out to different offices. There are many questions, but we have briefing materials for most topics.

The bigger problem is timing. The Chairwoman would like to see draft responses by next Wednesday, May 8. We are hoping to have drafts to you by Monday sometime, but I wanted to check with you about your preference on reviewing the BC-generated responses.

Give me a call to discuss.

~Kelly (x3191)

---

**From:** Bumpus, Jeanne

**Sent:** Tuesday, April 30, 2013 6:00 PM

**To:** Clark, Donald S.

**Cc:** Signs, Kelly; Vandecar, Kim; Runco, Philip; Nathan, Jon J.; Kimmel, Lisa; Hipsley, Heather; Dawson, Rachel Miller; Shonka, David C.; Kraus, Elizabeth; Koslov, Tara Isa

**Subject:** FW: 4-16-13 Antitrust Hearing - Questions for the Record (Ramirez)

Attached please find the post hearing questions. Replies are due May 14. The questions are quite extensive, particularly from Senator Lee. I have copied all of the Bureaus/Offices I anticipate will need to be involved in preparing draft responses for the Chairwoman. The questions cover the following topics:

**Sen. Grassley**

PFD

**Sen. Leahy**

GPOs

PAEs

Various aspects of Google and agency technical expertise.

**Sen. Lee**

Section 2 guidance

Section 5

Differences in standards/procedures between FTC and DoJ

Voluntary commitments

Standard used in Google

Coordination with states on Google

Clearance

SEPs and Bosch

PFD

PAEs and 6(b) study

Mandatory IP licensing by foreign authorities

Eyeglass prescriptions

International transparency

Use of advocacy resources

**Sen. Klobuchar**

Role of antitrust

Clearance

SEPs

**From:** Slater, Abigail A.  
**Sent:** Thursday, August 30, 2012 11:45 AM  
**To:** Brill, Julie  
**Cc:** Vedova, Holly L.; Weinman, Yael  
**Subject:** Google Recommendation Memos/Summary

(b)(5)





**From:** JDL  
**Sent:** Monday, October 29, 2012 4:31 PM  
**To:** Brill, Julie  
**Subject:** RE: (b)(5)

(b)(5)

Jon

---

**From:** Brill, Julie  
**Sent:** Monday, October 29, 2012 4:18 PM  
**To:** JDL  
**Subject:** FW: (b)(5)

Hi, Jon. (b)(5)

(b)(5) -- j

---

**From:** Tucker, Darren  
**Sent:** Monday, October 29, 2012 04:06 PM  
**To:** Levitas, Pete; Renner, Christopher; Slater, Abigail A.; Vedova, Holly L.; Luib, Gregory; Kimmel, Lisa  
**Cc:** Seidman, Mark; Feinstein, Richard; Sabo, Melanie; Green, Geoffrey; Blank, Barbara; Westman-Cherry, Melissa; Shelanski, Howard; Hever, Kenneth; (b)(6),(b)(7) Shonka, David C.; Daly, John F.; Koslov, Tara Isa; (b)(6),(b)(7)(C)  
(b)(6),(b)(7)(C) Tucker, Darren  
**Subject:** Re: (b)(5)

(b)(5)

Darren

Duplicate

**From:** Brill, Julie  
**Sent:** Thursday, November 01, 2012 10:55 PM  
**To:** Slater, Abigail A.  
**Subject:** RE: (b)(5)

Thanks much for this summary, Gail, and for going through (b)(5)

(b)(5)

(b)(5)

**From:** Slater, Abigail A.  
**Sent:** Tuesday, October 30, 2012 2:06 PM  
**To:** Brill, Julie  
**Subject:** RE: (b)(5)

Not Responsive

(b)(5)

**From:** Brill, Julie  
**Sent:** Tuesday, October 30, 2012 1:42 PM  
**To:** Slater, Abigail A.  
**Subject:** RE: (b)(5)

Not Responsive

(b)(5)

Not Responsive

(b)(7)(E)

6/4/2013

Not Responsive

Thanks much. -- j

**From:** Slater, Abigail A.  
**Sent:** Tuesday, October 30, 2012 9:56 AM  
**To:** Brill, Julie  
**Subject:** Fw: (b)(5)

Julie, attached is (b)(6),(b)(7)(C) I will review for you.

Not Responsive

Keep you posted.

**From:** (b)(6),(b)(7)(C)  
**Sent:** Tuesday, October 30, 2012 09:25 AM  
**To:** Levitas, Pete; Renner, Christopher; Slater, Abigail A.; Vedova, Holly L.; Luib, Gregory; Tucker, Darren; Kimmel, Lisa  
**Cc:** Seidman, Mark; Feinstein, Richard; Sabo, Melanie; Green, Geoffrey; Blank, Barbara; Westman-Cherry, Melissa; Shelanski, Howard; Heyer, Kenneth; Shonka, David C.; Daly, John F.; Koslov, Tara Isa; (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5)

Thank you for the opportunity to review (b)(5)

(b)(5),(b)(7)(C)

**From:** Levitas, Pete  
**Sent:** Monday, October 29, 2012 3:28 PM  
**To:** Renner, Christopher; Slater, Abigail A.; Vedova, Holly L.; Luib, Gregory; Tucker, Darren; Kimmel, Lisa  
**Cc:** Seidman, Mark; Feinstein, Richard; Sabo, Melanie; Green, Geoffrey; Blank, Barbara; (b)(6),(b)(7)(C) Shelanski, Howard; Heyer, Kenneth; (b)(6),(b)(7)(C) Shonka, David C.; Daly, John F.; Koslov, Tara Isa; (b)(6),(b)(7)(C)  
**Subject:** (b)(5)

Hello everyone – attached please find (b)(5)

(b)(5)

(b)(7)(E)

6/4/2013

(b)(5)

Please provide your feedback as soon as possible, but in any event by Friday morning if you can. We will incorporate any changes and set up a time to discuss soon after that. Also, if I have missed anyone on this email please forward. Thanks Pete

(b)(7)(E)

**Kelly, Andrea**

---

**From:** Nikhil Shanbhag <nshanbhag@google.com>  
**Sent:** Tuesday, January 01, 2013 11:46 AM  
**To:** Feinstein, Richard; Renner, Christopher; Kent Walker; Donald Harrison  
**Subject:** Full Google Letter  
**Attachments:** Google Letter to Chairman Leibowitz.pdf

Dear Rich,

I understand that Kent has sent you the signature page of the Google letter with David Drummond's signature. I attach here a PDF of the entire letter on Google letterhead (of which David signed the third page).

Thanks,  
Nikhil

Nikhil Shanbhag | Senior Competition Counsel | Google Inc.  
[nshanbhag@google.com](mailto:nshanbhag@google.com) | 650-214-5313



December 27, 2012

The Honorable Jon Leibowitz  
Chairman  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, DC 20580

**Re: Google Inc., File No. 111-0163**

Dear Chairman Leibowitz:

We understand that the Federal Trade Commission ("FTC" or the "Commission") has decided to close the above-captioned investigation of the business practices of Google Inc. ("Google"). Google is confident that our practices are entirely consistent with all applicable laws and regulations. However, in connection with the closing of the FTC's investigation, Google is making the commitments described below with respect to its display of content from third-party websites and with respect to its AdWords API Terms and Conditions. Google will honor these commitments for a period of five years from the date of this letter.

Google will publish the commitments on our website in a location easily accessible to the relevant audiences. Google understands that these commitments are important; and Google agrees that a material violation of these commitments would be actionable by the FTC under Section 5 of the FTC Act, 15 U.S.C. §45, and that the jurisdictional elements of such an action by the Commission would be satisfied. As more fully described below, Google will cooperate with the FTC to ensure that Google is complying with its commitments under this letter.

## **I. GOOGLE'S DISPLAY OF THIRD-PARTY CONTENT**

Within 90 days, Google will make available a web-based notice form that provides website owners with the option to opt out from display on Google's Covered Webpages<sup>1</sup> of content from their website that has been crawled by

---

<sup>1</sup> "Covered Webpages" means only Google's (i) current Shopping, G+ Local, Flights, Hotels, and Advisor webpages, and any successors unless such successors do not have the primary purpose of connecting users with merchants in a manner substantially similar to Google's current Shopping, G+ Local, Flights, Hotels, and Advisor webpages; and (ii) future or modified non-experimental specialized webpages launched within three years of the date of this letter that are linked to from the google.com search results page and that have the primary purpose of connecting users with merchants in a manner substantially similar to Google's current Shopping, G+ Local, Flights, Hotels, and Advisor webpages. All other Google



Google.<sup>2</sup> When a website owner exercises this option, Google will cease displaying crawled content from the domain name designated by the website owner on Covered Webpages on the google.com domain in the United States.

Website owners will be able to exercise the opt-out described above by completing a web-based notice form. Google will implement the opt-out within 30 business days of receiving a properly completed notice form.

Exercise of this option will not (1) prevent content from the website from appearing in conventional search results on the google.com search results page, or (2) be used as a signal in determining conventional search results on the google.com search results page.

Beyond these specific commitments, nothing described above will impact Google's ability to (i) display content that it has sourced or derived independently even if it is the same as or overlaps with content from the opting-out web site, or (ii) otherwise crawl, organize, index and display information from the Internet or innovate in search.

## **II. ADWORDS API TERMS AND CONDITIONS**

Within 60 days, Google will remove from its AdWords API Terms and Conditions the AdWords API Input and Copying Restrictions currently contained within Section III(2)(c)(i-ii) of the AdWords API Terms and Conditions for all AdWords API licensees with a primary billing address in the United States.<sup>3</sup> In addition, Google will not add any new provisions to its AdWords API Terms and Conditions, or adopt new technical requirements in connection with use of the AdWords API, that prevent an AdWords API client from (a) showing input fields for the collection or transmission of AdWords API campaign management data in the same tab or screen with (i) the content of third party ad networks or (ii) input fields for the collection or transmission of campaign management data to third party ad

---

webpages (including but not limited to Google's current News, Image Search, Video Search, Maps, Book Search, Finance, and future or modified Google webpages falling outside of the parameters in (ii) above) are not Covered Webpages.

<sup>2</sup> Website owners will be permitted to exercise the opt-out on a domain name basis. For instance, a website owner may designate [[www.example.com](http://www.example.com)] to subject all content on that domain name to the opt-out. A website owner may not designate only individual sub-domains (such as [[sub.example.com](http://sub.example.com)]) or individual directories within a domain (such as [[www.example.com/sub](http://www.example.com/sub)]) for the opt-out. Google may use reasonable authentication measures to ensure that website owners selecting the opt-out are the legitimate owners of the website that is the subject of the web form notice.

<sup>3</sup> The current version of the AdWords API Terms and Conditions is located at <https://developers.google.com/adwords/api/docs/terms>.



networks; or (b) offering functionality that copies campaign management data between AdWords and a third party ad network. Google will not treat AdWords API licensees differently from similarly situated licensees with respect to the provision or administration of the AdWords API as a result of their development or distribution of AdWords API clients that implement the functionality currently prohibited by Section III(2)(c)(i-ii) of the AdWords API Terms and Conditions.

Nothing in the foregoing will prevent or otherwise restrict Google from maintaining minimum functionality requirements as they currently exist or as they may be modified in the future as part of Google's AdWords API Terms and Conditions or in any other provisions governing the use of the AdWords API, so long as such modifications do not have the effect of reinstating the restrictions described above.

\* \* \*

Within 60 days, Google will file with the Secretary of the FTC, with a copy to the Bureau of Competition's Compliance Division, a report describing in reasonable detail how Google has complied with its commitments, and Google will file an update to this report annually during the duration of its commitments.

If Google receives written notice from the Commission that the Commission believes Google has acted contrary to its commitments on the display of third-party content or the AdWords API Terms and Conditions, Google will, within 60 days, address the Commission's concerns or explain to the Commission why it believes that it has acted in a manner consistent with its commitments.

In addition, if the FTC has reason to suspect that Google has violated its commitments and with reasonable prior written notice from FTC staff, subject to claims of any legally recognized privilege, Google will (1) make available electronic and paper documents related to compliance with the above commitments, and (2) in the presence of Google's legal counsel, Google will permit FTC staff to interview its officers, directors, employees and agents on subjects related to Google's compliance with these commitments.

Sincerely,

David Drummond  
Google Inc.  
Senior Vice President of Corporate Development  
and Chief Legal Officer

**Kelly, Andrea**

---

**From:** Proscia, Jacqueline <JProscia@wsgr.com> on behalf of Creighton, Susan <screighton@wsgr.com>  
**Sent:** Wednesday, November 07, 2012 11:32 AM  
**To:** Leibowitz, Jonathan D.; Brill, Julie; Ramirez, Edith; Rosch, Tom; Ohlhausen, Maureen  
**Cc:** Feinstein, Richard; Shelanski, Howard; Levitas, Pete; Blank, Barbara; Renner, Christopher; Tucker, Darren; Luib, Gregory; Slater, Abigail A.; Kimmel, Lisa; Creighton, Susan; Rubinstein, Franklin; Sher, Scott  
**Subject:** Google, FTC File No. 111-0163 | PRIVILEGED ATTORNEY CLIENT COMMUNICATION  
**Attachments:** (b)(3),6(f),(b)(4)

All,

Per Susan Creighton, attached is a letter dated November 7 addressed to The Honorable Jon Leibowitz.

Jacki Proscia  
*Assistant to Susan Creighton*  
*Wilson Sonsini Goodrich & Rosati*  
*1700 K Street, NW, 5th Floor*  
*Washington, DC 20006*

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## Kelly, Andrea

---

**From:** Creighton, Susan <screighton@wsgr.com>  
**Sent:** Wednesday, November 07, 2012 12:49 PM  
**To:** Leibowitz, Jonathan D.; Brill, Julie; Ramirez, Edith; Rosch, Tom; Ohlhausen, Maureen  
**Cc:** Feinstein, Richard; Shelanski, Howard; Levitas, Pete; Blank, Barbara; Renner, Christopher; Tucker, Darren; Luib, Gregory; Slater, Abigail A.; Kimmel, Lisa  
**Subject:** Re-sending letter re Google  
**Attachments:** (b)(3),6(f),(b)(4)

With apologies, the letter we sent earlier today was copied twice in the pdf. Attached is a corrected version. Apologies again, and best regards, Susan Creighton

This email and any attachments thereto may contain private, confidential, and privileged material for the sole use of the intended recipient. Any review, copying, or distribution of this email (or any attachments thereto) by others is strictly prohibited. If you are not the intended recipient, please contact the sender immediately and permanently delete the original and any copies of this email and any attachments thereto.

## Kelly, Andrea

---

**From:** Harrison, Lisa M.  
**Sent:** Wednesday, October 17, 2012 4:28 PM  
**To:** Vandecar, Kim; Vaytsman, Olga; Renner, Christopher  
**Subject:** RE: Google Letter

I think just the more recent one, since I believe it is intended as a substitute.

---

**From:** Vandecar, Kim  
**Sent:** Wednesday, October 17, 2012 4:28 PM  
**To:** Vaytsman, Olga; Harrison, Lisa M.; Renner, Christopher  
**Subject:** RE: Google Letter

Good catch. Probably just the more recent one?

---

**From:** Vaytsman, Olga  
**Sent:** Wednesday, October 17, 2012 4:27 PM  
**To:** Harrison, Lisa M.; Renner, Christopher  
**Cc:** Vandecar, Kim  
**Subject:** RE: Google Letter

Will do. But it occurs to me that we should change to date, too. Should we reference the old and new letters, or just the more recent one?

---

**From:** Harrison, Lisa M.  
**Sent:** Wednesday, October 17, 2012 4:26 PM  
**To:** Vaytsman, Olga; Renner, Christopher  
**Cc:** Vandecar, Kim  
**Subject:** RE: Google Letter

(b)(5)



Olga, can you send a new version to Chris?

---

**From:** Vaytsman, Olga  
**Sent:** Wednesday, October 17, 2012 4:09 PM  
**To:** Renner, Christopher  
**Cc:** Harrison, Lisa M.  
**Subject:** RE: Google Letter

Of course. I've revised it in the first paragraph and later in the letter.  
Thanks,  
Olga

---

**From:** Renner, Christopher  
**Sent:** Wednesday, October 17, 2012 4:04 PM  
**To:** Vaytsman, Olga  
**Cc:** Harrison, Lisa M.  
**Subject:** RE: Google Letter

Thanks, Olga – sorry to be a pain, but can “investigations” be in the plural? Thanks.

---

**From:** Vaytsman, Olga  
**Sent:** Wednesday, October 17, 2012 4:00 PM  
**To:** Renner, Christopher  
**Cc:** Harrison, Lisa M.  
**Subject:** Google Letter

Chris,

Please find attached the revised letter to Sen. Kohl (redlined and clean versions).

Olga Vaytsman  
Attorney, Office of the General Counsel  
Federal Trade Commission  
600 Pennsylvania Avenue N.W.  
Washington D.C. 20580  
Tel: 202-326-3626  
Email: [ovaytsman@ftc.gov](mailto:ovaytsman@ftc.gov)



**Kelly, Andrea**

---

**From:** Sabo, Melanie  
**Sent:** Tuesday, October 23, 2012 1:04 PM  
**To:** Renner, Christopher; Harrison, Lisa M.; Vandecar, Kim; Vaytsman, Olga  
**Subject:** RE: Google Hill briefing on Thursday

Good, thanks. We'll finalize the letters to the parties and get those out.

---

**From:** Renner, Christopher  
**Sent:** Tuesday, October 23, 2012 12:45 PM  
**To:** Harrison, Lisa M.; Vandecar, Kim; Sabo, Melanie; Vaytsman, Olga  
**Subject:** Re: Google Hill briefing on Thursday

Lisa is correct on all counts.

---

**From:** Harrison, Lisa M.  
**Sent:** Tuesday, October 23, 2012 12:31 PM  
**To:** Vandecar, Kim; Sabo, Melanie; Vaytsman, Olga  
**Cc:** Renner, Christopher  
**Subject:** RE: Google Hill briefing on Thursday

It has been circulated to the Commission for a vote, and I believe Commission has already approved it. The email train below relates to the separate notices staff send to Google informing them of the briefing.

---

**From:** Vandecar, Kim  
**Sent:** Tuesday, October 23, 2012 12:30 PM  
**To:** Harrison, Lisa M.; Sabo, Melanie; Vaytsman, Olga  
**Cc:** Renner, Christopher  
**Subject:** Re: Google Hill briefing on Thursday

Has this not been circulated to the Commission for a vote? Briefing is Thurs at 11.

---

**From:** Harrison, Lisa M.  
**Sent:** Tuesday, October 23, 2012 12:20 PM  
**To:** Blank, Barbara; Sabo, Melanie; Vaytsman, Olga  
**Cc:** Green, Geoffrey; Vandecar, Kim  
**Subject:** RE: Google Hill briefing on Thursday

No problem. Can you coordinate with ACP to either send two notices to google, or just one combined one? Olga sent Barbara what could be used for a combined letter.

---

**From:** Blank, Barbara  
**Sent:** Tuesday, October 23, 2012 12:19 PM  
**To:** Harrison, Lisa M.; Sabo, Melanie; Vaytsman, Olga  
**Cc:** Green, Geoffrey; Vandecar, Kim  
**Subject:** RE: Google Hill briefing on Thursday

My apologies for the confusion, I wasn't aware. We will straighten this out on our end and send the correct notice to (b)(7) and Google.  
(D)

---

**From:** Harrison, Lisa M.  
**Sent:** Tuesday, October 23, 2012 12:18 PM  
**To:** Sabo, Melanie; Blank, Barbara; Vaytsman, Olga  
**Cc:** Green, Geoffrey; Vandecar, Kim  
**Subject:** RE: Google Hill briefing on Thursday

OGC worked with Chairman's office to revise the Commission letter and advise the Commission via motion that briefing would also cover SEPs.

---

**From:** Sabo, Melanie  
**Sent:** Tuesday, October 23, 2012 12:17 PM  
**To:** Blank, Barbara; Harrison, Lisa M.; Vaytsman, Olga  
**Cc:** Green, Geoffrey; Vandecar, Kim  
**Subject:** RE: Google Hill briefing on Thursday

We have letters for both matters, and Peggy and/or Nick plan to attend. I think Pete is consider attending too.

---

**From:** Blank, Barbara  
**Sent:** Tuesday, October 23, 2012 12:14 PM  
**To:** Harrison, Lisa M.; Vaytsman, Olga  
**Cc:** Green, Geoffrey; Sabo, Melanie; Vandecar, Kim  
**Subject:** RE: Google Hill briefing on Thursday

It was our understanding that this briefing is only addressing the Google Search investigation. I don't think anyone on the SEP side has been informed, unless I'm mistaken. (b)(5)

(b)(5)

---

**From:** Harrison, Lisa M.  
**Sent:** Tuesday, October 23, 2012 12:08 PM  
**To:** Blank, Barbara; Vaytsman, Olga  
**Subject:** RE: Google Hill briefing on Thursday

Thanks. I assume we are sending one letter covering both search engine and SEP investigations? Perhaps the letter needs to be addressed to both lead counsel for Google on search and lead counsel for Google on the SEP investigation.

The sentence referencing search engine practices needs to be changed because we got the revised incoming letter with an expanded request. Olga, can you send language based on what we said in the Commission letter authorizing the briefing?

---

**From:** Blank, Barbara  
**Sent:** Tuesday, October 23, 2012 11:57 AM  
**To:** Vaytsman, Olga; Harrison, Lisa M.  
**Subject:** Google Hill briefing on Thursday

Olga and Lisa,

Should I go ahead and send the standard notices today to Google and (b)(7)(D) about the upcoming briefing Thursday? Sample attached here.

Best Regards,



Barbara

**Kelly, Andrea**

---

**From:** Tucker, Darren  
**Sent:** Friday, October 19, 2012 1:20 PM  
**To:** Renner, Christopher  
**Subject:** RE: Google briefing for Senate Judiciary

Yes. Thanks.

---

**From:** Renner, Christopher  
**Sent:** Friday, October 19, 2012 1:20 PM  
**To:** Tucker, Darren  
**Subject:** FW: Google briefing for Senate Judiciary

Hi Darren – please let me know if this works. Thanks...

---

**From:** Levitas, Pete  
**Sent:** Friday, October 19, 2012 1:15 PM  
**To:** Renner, Christopher  
**Subject:** RE: Google briefing for Senate Judiciary

Yes, that will certainly be the case. thanks

---

**From:** Renner, Christopher  
**Sent:** Friday, October 19, 2012 1:14 PM  
**To:** Levitas, Pete  
**Subject:** FW: Google briefing for Senate Judiciary

(b)(5)

A large rectangular area of the document is redacted with a solid blue fill.

---

**From:** Tucker, Darren  
**Sent:** Friday, October 19, 2012 11:13 AM  
**To:** Renner, Christopher  
**Subject:** RE: Google briefing for Senate Judiciary

Chris,

(b)(5)

A rectangular area of the document is redacted with a solid blue fill.

Darren

---

**From:** Renner, Christopher  
**Sent:** Wednesday, October 17, 2012 3:47 PM  
**To:** Tucker, Darren; Slater, Abigail A.; Kimmel, Lisa; Luib, Gregory; Okuliar, Alexander  
**Cc:** Clark, Donald S.; Harrison, Lisa M.; Levitas, Pete; Sabo, Melanie  
**Subject:** Google briefing for Senate Judiciary

Hi –

On October 10 BC circulated a recommendation to authorize a non-public briefing for the Senate Judiciary Subcommittee on Antitrust of the Commission's Google search investigation. Now, the Subcommittee has requested a broader briefing, including Google SEP. If there are no objections, we will circulate a motion to authorize the broader (Google search and Google SEP) non-public briefing by COB on Friday, October 19. Please let me know if that timing does not work.

Thanks,

Chris

---

**From:** Clark, Donald S.

**Sent:** Wednesday, October 17, 2012 2:23 PM

**To:** Taylor, Susan; Cornish, Alexis CTR

**Cc:** Clark, Donald S.; Vaytsman, Olga; Sabo, Melanie; Levitas, Pete; Renner, Christopher; Patton, Andrew; Runco, Philip; Vandecar, Kim

**Subject:** Request To Replace DocSmart File For CMS # 14007131

Sue and Alexis, please replace the version of this letter currently in the DocSmart file with the attached version from Kim. Thanks!

Don

## Kelly, Andrea

---

**From:** Vandecar, Kim  
**Sent:** Thursday, October 25, 2012 2:26 PM  
**To:** Levitas, Pete; Feinstein, Richard; Renner, Christopher  
**Cc:** Sabo, Melanie  
**Subject:** non public briefing

The non public briefing on Google, with Senate Judiciary Committee this morning went very well.. Our staff did an excellent job (and I probably can't say enough how impressive Barbara Banks is, although everyone was great), and the hill staff was very engaged. Staff for Kohl, Lee, Franken and Schumer attended. They were interested in the SEP case, but seemed slightly disappointed (particularly Seth) that the Google search case did not appear to be likely to happen. ..

Happy to chat further if you like...

**Kelly, Andrea**

---

**From:** Vandecar, Kim  
**Sent:** Wednesday, October 17, 2012 2:19 PM  
**To:** Clark, Donald S.; Vaytsman, Olga; Sabo, Melanie; Levitas, Pete; Renner, Christopher  
**Cc:** Patton, Andrew; Runco, Philip  
**Subject:** FW: Request for Google briefing  
**Attachments:** Request for FTC briefing on Google 10.17.12.pdf

Please replace the September 21 letter from Chairman Kohl with the attached.

HERB KOHL  
WISCONSIN

WASHINGTON OFFICE:  
330 HART SENATE OFFICE BUILDING  
WASHINGTON, DC 20510  
(202) 224-5653  
<http://kohl.senate.gov/>

## United States Senate

WASHINGTON, DC 20510-4903

COMMITTEES:  
APPROPRIATIONS  
JUDICIARY  
SPECIAL COMMITTEE  
ON AGING

October 17, 2012

The Honorable Jon Leibowitz  
Chairman, Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Suite 444  
Washington, DC 20580

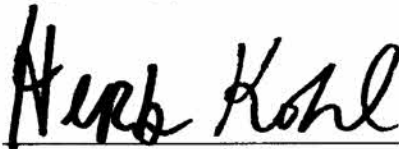
Dear Chairman Leibowitz:

I am writing to request that knowledgeable members of the FTC staff provide our Subcommittee staff with a confidential briefing about the FTC's antitrust investigations into allegations that Google has been engaged in anticompetitive conduct.

I understand the sensitivity of discussing pending investigations. Therefore, my staff and I will ensure that any non-public information that your staff provides during the briefing will not be shared with anyone outside the Subcommittee. If you require further confidentiality assurances, we will do our best to accommodate you.

Thank you very much for your assistance in this matter.

Respectfully yours,



HERB KOHL

Chairman

Subcommittee on Antitrust, Competition Policy and  
Consumer Rights

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MILWAUKEE, WI 53203  
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APPLETON, WI 54914  
(920) 738-1640

LA CROSSE OFFICE:  
205 5TH AVENUE SOUTH  
SUITE 216  
LA CROSSE, WI 54601  
(608) 796-0045

## Kelly, Andrea

---

**From:** Vaytsman, Olga  
**Sent:** Wednesday, October 17, 2012 4:32 PM  
**To:** Harrison, Lisa M.; Renner, Christopher  
**Subject:** RE: Google Letter  
**Attachments:** 2012-10-17 Response Letter for Briefing Request - CLEAN.wpd; 2012-10-17 Response Letter for Briefing Request -REDLINE.wpd

Further revised drafts attached.

---

**From:** Harrison, Lisa M.  
**Sent:** Wednesday, October 17, 2012 4:26 PM  
**To:** Vaytsman, Olga; Renner, Christopher  
**Cc:** Vandecar, Kim  
**Subject:** RE: Google Letter

(b)(5)



Olga, can you send a new version to Chris?

---

**From:** Vaytsman, Olga  
**Sent:** Wednesday, October 17, 2012 4:09 PM  
**To:** Renner, Christopher  
**Cc:** Harrison, Lisa M.  
**Subject:** RE: Google Letter

Of course. I've revised it in the first paragraph and later in the letter.  
Thanks,  
Olga

---

**From:** Renner, Christopher  
**Sent:** Wednesday, October 17, 2012 4:04 PM  
**To:** Vaytsman, Olga  
**Cc:** Harrison, Lisa M.  
**Subject:** RE: Google Letter

Thanks, Olga – sorry to be a pain, but can “investigations” be in the plural?. Thanks.

---

**From:** Vaytsman, Olga  
**Sent:** Wednesday, October 17, 2012 4:00 PM  
**To:** Renner, Christopher  
**Cc:** Harrison, Lisa M.  
**Subject:** Google Letter



Chris,

Please find attached the revised letter to Sen. Kohl (redlined and clean versions).

Olga Vaytsman  
Attorney, Office of the General Counsel  
Federal Trade Commission  
600 Pennsylvania Avenue N.W.  
Washington D.C. 20580  
Tel: 202-326-3626  
Email: [ovaytsman@ftc.gov](mailto:ovaytsman@ftc.gov)

## Kelly, Andrea


---

**From:** JDL  
**Sent:** Monday, December 17, 2012 10:32 PM  
**To:** Renner, Christopher; Feinstein, Richard; Shelanski, Howard; Lupovitz, Joni; Levitas, Pete; DeLorme, Christine Lee  
**Cc:** Prewett, Cecelia; Bumpus, Jeanne  
**Subject:** RE: Google and COppa

Also: Senator Kohl said he would put out a supportive statement (no matter where we ended up with our Google investigation!), which was very nice.

Best,  
Jon

Not Responsive



**Kelly, Andrea**

---

**From:** Vaytsman, Olga  
**Sent:** Wednesday, October 17, 2012 4:12 PM  
**To:** Renner, Christopher  
**Subject:** RE: Google Letter  
**Attachments:** 2012-10-17 Response Letter for Briefing Request -REDLINE.wpd

[Here you go.](#)

---

**From:** Renner, Christopher  
**Sent:** Wednesday, October 17, 2012 4:09 PM  
**To:** Vaytsman, Olga  
**Subject:** RE: Google Letter

[Thanks – could you send a redline?](#)

---

**From:** Vaytsman, Olga  
**Sent:** Wednesday, October 17, 2012 4:09 PM  
**To:** Renner, Christopher  
**Cc:** Harrison, Lisa M.  
**Subject:** RE: Google Letter

[Of course. I've revised it in the first paragraph and later in the letter.](#)

[Thanks,](#)  
[Olga](#)

---

**From:** Renner, Christopher  
**Sent:** Wednesday, October 17, 2012 4:04 PM  
**To:** Vaytsman, Olga  
**Cc:** Harrison, Lisa M.  
**Subject:** RE: Google Letter

[Thanks, Olga – sorry to be a pain, but can “investigations” be in the plural? Thanks.](#)

---

**From:** Vaytsman, Olga  
**Sent:** Wednesday, October 17, 2012 4:00 PM  
**To:** Renner, Christopher  
**Cc:** Harrison, Lisa M.  
**Subject:** Google Letter

[Chris,](#)

[Please find attached the revised letter to Sen. Kohl \(redlined and clean versions\).](#)

Olga Vaytsman  
Attorney, Office of the General Counsel  
Federal Trade Commission  
600 Pennsylvania Avenue N.W.  
Washington D.C. 20580  
Tel: 202-326-3626

Email: [ovaytsman@ftc.gov](mailto:ovaytsman@ftc.gov)

## Kelly, Andrea

---

**From:** Kaplan, Peter P.  
**Sent:** Thursday, December 20, 2012 10:05 PM  
**To:** Levitas, Pete; Shelanski, Howard; JDL; Renner, Christopher; Feinstein, Richard; Gavil, Andrew I.  
**Cc:** Katz, Mitchell J.; Prewett, Cecelia  
**Subject:** RE: Google validators

OK, glad to hear about Kovacic. There is no way of telling what reporters will ask them once they get on the phone. Ideally, they would be prepared to talk about either one. But of course they're free to take a pass on questions they don't feel like they can answer. What we really want them to say in general terms is that the Commission is acting reasonably and impartially in a way that is good for competition and consumers, although of course we can't prescribe what they say.

---

**From:** Levitas, Pete  
**Sent:** Thursday, December 20, 2012 6:05 PM  
**To:** Kaplan, Peter P.; Shelanski, Howard; JDL; Renner, Christopher; Feinstein, Richard; Gavil, Andrew I.  
**Cc:** Katz, Mitchell J.; Prewett, Cecelia  
**Subject:** RE: Google validators

Peter – Jon wanted us to add Bill Kovacic as a validator – they spoke and he is willing to be part of this. (b)(5)

(b)(5)

---

**From:** Kaplan, Peter P.  
**Sent:** Thursday, December 20, 2012 3:01 PM  
**To:** Levitas, Pete; Shelanski, Howard; JDL; Renner, Christopher; Feinstein, Richard; Gavil, Andrew I.  
**Cc:** Katz, Mitchell J.; Prewett, Cecelia  
**Subject:** Google validators

Hi all. Here's the list I've got reflecting our previous discussions on validators. (b)(5)

(b)(5)

## Kelly, Andrea

---

**From:** Renner, Christopher  
**Sent:** Monday, November 26, 2012 5:50 PM  
**To:** Levitas, Pete; Feinstein, Richard  
**Subject:** Re: As you think about Google . . .

This is great; makes me feel prescient. Ten bucks says the dude in the last paragraph is Balto..

---

**From:** Levitas, Pete  
**Sent:** Monday, November 26, 2012 05:40 PM  
**To:** Renner, Christopher; Feinstein, Richard  
**Subject:** Fw: As you think about Google . . .

---

**From:** Bloom, Seth (Judiciary-Dem) [[mailto:Seth\\_Bloom@Judiciary-dem.senate.gov](mailto:Seth_Bloom@Judiciary-dem.senate.gov)]  
**Sent:** Monday, November 26, 2012 05:35 PM  
**To:** JDL; Levitas, Pete  
**Subject:** As you think about Google . . .

Consider that they can't even let poor little DuckDuckGo alone. Google bought the company that owns the domain duck.com, and now when someone enters duck.com they get directed to Google!

Sometimes the little things say a lot.

See the Reuters story -

19:17 21Nov12 -Google competitor DuckDuckGo says it's getting shut out

By Diane Bartz

WASHINGTON, Nov 21 (Reuters) - Upstart Internet search engine DuckDuckGo, which promotes itself as a Google Inc <GOOG.O> rival which does not track users' personal information, says it is being hurt by the search giant which is being investigated by U.S. regulators.

The Federal Trade Commission has been examining allegations by Google critics that the company breaks antitrust laws by using its power in the market to smother competitors.

Many of the complaints are similar to assertions made by Gabriel Weinberg, a Massachusetts Institute of Technology graduate who started DuckDuckGo.com five years ago.

In an interview on Wednesday, Weinberg said it is difficult to make his DuckDuckGo the default search site in Google's Chrome web browser, and that Google disadvantages his company in the Android mobile operating system as well.

Google denies any wrongdoing and says it allows its users to choose alternative search engines across platforms.

Companies, including travel site operators and consumer reviews website Yelp <YELP.N>, have accused Google of manipulating search results to steer traffic to Google products.

There have also been complaints about Google blocking access by rivals to its Android wireless phone operating system and about inappropriately asking for injunctions for infringing on standard essential patents, which ensure interoperability.

FTC commissioners are wrestling with whether they have enough evidence to file a complaint against Google on manipulating search results. But the agency is more confident that it could litigate the other issues, according to two people familiar with the FTC's deliberations.

Weinberg, who met with the FTC recently but declined to describe the talks, said that the Android wireless phone comes with Google as the phone's standard search mechanism.

DuckDuckGo can be added as an app to a mobile device, which is less convenient than being the default search engine, said Weinberg.

He also said his company had tried to buy the duck.com domain from its previous owner, On2 Technologies, but was rejected. Google eventually acquired the domain when it bought the entire company, and redirects duck.com traffic to Google.com.

"It only started redirecting after we inquired about (buying the domain name)," said Weinberg. "It causes confusion."

A Google spokeswoman said the company acquired On2 in 2010 and then pointed duck.com to Google's homepage, "just as we have for many domains we've gotten through acquisitions."

Weinberg told Reuters that Google's Chrome browser also made it difficult to change the instant search feature at the top of the browser to DuckDuckGo.

"It's one-click to get onto Firefox and it's five steps on Chrome and people generally fail," he said.

The Google spokeswoman said popular search alternatives were offered on its Chrome browser in a dropdown menu, such as Yahoo <YHOO.O> and Microsoft's <MSFT.O> Bing, but any search engine could be easily added.

A former antitrust enforcer, who asked not to be named, said the actions that Weinberg complained about were unexciting taken individually but, as a cluster, could be worrisome.

"It's relevant. It's what antitrust enforcers call monopoly soup," said the enforcer.



## Kelly, Andrea

---

**From:** Renner, Christopher  
**Sent:** Friday, October 19, 2012 8:48 AM  
**To:** Wagman, Jillian  
**Subject:** Fw: Request To Replace DocSmart File For CMS # 14007131  
**Attachments:** Request for FTC briefing on Google 10.17.12.pdf

[The new Kohl letter for the Google package.](#)

---

**From:** Clark, Donald S.  
**Sent:** Wednesday, October 17, 2012 02:22 PM  
**To:** Taylor, Susan; Cornish, Alexis CTR  
**Cc:** Clark, Donald S.; Vaytsman, Olga; Sabo, Melanie; Levitas, Pete; Renner, Christopher; Patton, Andrew; Runco, Philip; Vandecar, Kim  
**Subject:** Request To Replace DocSmart File For CMS # 14007131

Sue and Alexis, please replace the version of this letter currently in the DocSmart file with the attached version from Kim. Thanks!

Don

HERB KOHL  
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WASHINGTON OFFICE:  
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# United States Senate

WASHINGTON, DC 20510-4903

COMMITTEES:  
APPROPRIATIONS  
JUDICIARY  
SPECIAL COMMITTEE  
ON AGING

October 17, 2012

The Honorable Jon Leibowitz  
Chairman, Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Suite 444  
Washington, DC 20580

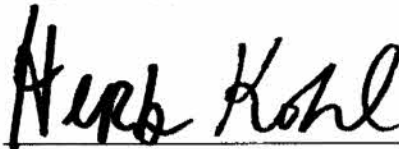
Dear Chairman Leibowitz:

I am writing to request that knowledgeable members of the FTC staff provide our Subcommittee staff with a confidential briefing about the FTC's antitrust investigations into allegations that Google has been engaged in anticompetitive conduct.

I understand the sensitivity of discussing pending investigations. Therefore, my staff and I will ensure that any non-public information that your staff provides during the briefing will not be shared with anyone outside the Subcommittee. If you require further confidentiality assurances, we will do our best to accommodate you.

Thank you very much for your assistance in this matter.

Respectfully yours,



HERB KOHL

Chairman

Subcommittee on Antitrust, Competition Policy and  
Consumer Rights

MILWAUKEE OFFICE:  
310 WEST WISCONSIN AVENUE  
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MILWAUKEE, WI 53203  
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T.T.Y. (414) 297-4485

MADISON OFFICE:  
14 WEST MIFFLIN STREET  
SUITE 207  
MADISON, WI 53703  
(608) 264-5338

EAU CLAIRE OFFICE:  
402 GRAHAM AVENUE  
SUITE 206  
EAU CLAIRE, WI 54701  
(715) 832-8424

APPLETON OFFICE:  
4321 WEST COLLEGE AVENUE  
SUITE 370  
APPLETON, WI 54914  
(920) 738-1640

LA CROSSE OFFICE:  
205 5TH AVENUE SOUTH  
SUITE 216  
LA CROSSE, WI 54601  
(608) 796-0045

## Kelly, Andrea

---

**From:** Renner, Christopher  
**Sent:** Wednesday, October 17, 2012 3:51 PM  
**To:** Wagman, Jillian  
**Subject:** FW: Request To Replace DocSmart File For CMS # 14007131  
**Attachments:** Request for FTC briefing on Google 10.17.12.pdf

[Let's talk](#)

---

**From:** Clark, Donald S.  
**Sent:** Wednesday, October 17, 2012 2:23 PM  
**To:** Taylor, Susan; Cornish, Alexis CTR  
**Cc:** Clark, Donald S.; Vaytsman, Olga; Sabo, Melanie; Levitas, Pete; Renner, Christopher; Patton, Andrew; Runco, Philip; Vandecar, Kim  
**Subject:** Request To Replace DocSmart File For CMS # 14007131.

Sue and Alexis, please replace the version of this letter currently in the DocSmart file with the attached version from Kim. Thanks!

Don

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WISCONSIN

WASHINGTON OFFICE:  
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# United States Senate

WASHINGTON, DC 20510-4903

COMMITTEES:  
APPROPRIATIONS  
JUDICIARY  
SPECIAL COMMITTEE  
ON AGING

October 17, 2012

The Honorable Jon Leibowitz  
Chairman, Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Suite 444  
Washington, DC 20580

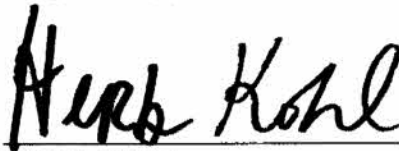
Dear Chairman Leibowitz:

I am writing to request that knowledgeable members of the FTC staff provide our Subcommittee staff with a confidential briefing about the FTC's antitrust investigations into allegations that Google has been engaged in anticompetitive conduct.

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Thank you very much for your assistance in this matter.

Respectfully yours,



HERB KOHL

Chairman

Subcommittee on Antitrust, Competition Policy and  
Consumer Rights

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(920) 738-1640

LA CROSSE OFFICE:  
205 5TH AVENUE SOUTH  
SUITE 216  
LA CROSSE, WI 54601  
(608) 796-0045

## Kelly, Andrea

---

**From:** Vladeck, David  
**Sent:** Tuesday, November 13, 2012 11:08 AM  
**To:** Shonka, David C.; JDL; Feinstein, Richard; Kraus, Elizabeth; Gray, Joshua Barton; Shelanski, Howard  
**Cc:** Young, June; Renner, Christopher; Lupovitz, Joni; Gorman, Frank; Harwood, Charles A.; Prewett, Cecelia; Kaplan, Peter P.; Heyer, Kenneth; Dafny, Leemore; Levitas, Pete; Lehner, Mary; Matties, Deborah J.  
**Subject:** Re: State of Play Meeting on Google--can everyone meet tomorrow at, say, 2:30 after the senior staff meeting? If that won't work, how about 4:30?

(b)(5)

---

**From:** Shonka, David C.  
**Sent:** Tuesday, November 13, 2012 10:49 AM  
**To:** Vladeck, David; JDL; Feinstein, Richard; Kraus, Elizabeth; Gray, Joshua Barton; Shelanski, Howard  
**Cc:** Young, June; Renner, Christopher; Lupovitz, Joni; Gorman, Frank; Harwood, Charles A.; Prewett, Cecelia; Kaplan, Peter P.; Heyer, Kenneth; Dafny, Leemore; Levitas, Pete; Lehner, Mary; Matties, Deborah J.  
**Subject:** RE: State of Play Meeting on Google--can everyone meet tomorrow at, say, 2:30 after the senior staff meeting? If that won't work, how about 4:30?

(b)(5)

**From:** Vladeck, David  
**Sent:** Tuesday, November 13, 2012 10:44 AM  
**To:** Shonka, David C.; JDL; Feinstein, Richard; Kraus, Elizabeth; Gray, Joshua Barton; Shelanski, Howard  
**Cc:** Young, June; Renner, Christopher; Lupovitz, Joni; Gorman, Frank; Harwood, Charles A.; Prewett, Cecelia; Kaplan, Peter P.; Heyer, Kenneth; Dafny, Leemore; Levitas, Pete; Lehner, Mary; Matties, Deborah J.  
**Subject:** Re: State of Play Meeting on Google--can everyone meet tomorrow at, say, 2:30 after the senior staff meeting? If that won't work, how about 4:30?

(b)(5)

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**From:** Shonka, David C.  
**Sent:** Tuesday, November 13, 2012 10:32 AM  
**To:** Vladeck, David; JDL; Feinstein, Richard; Kraus, Elizabeth; Gray, Joshua Barton; Shelanski, Howard  
**Cc:** Young, June; Renner, Christopher; Lupovitz, Joni; Gorman, Frank; Harwood, Charles A.; Prewett, Cecelia; Kaplan, Peter P.; Heyer, Kenneth; Dafny, Leemore; Levitas, Pete; Lehner, Mary; Matties, Deborah J.  
**Subject:** RE: State of Play Meeting on Google--can everyone meet tomorrow at, say, 2:30 after the senior staff meeting? If that won't work, how about 4:30?

(b)(5)

(b)(5)



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**From:** Vladeck, David

**Sent:** Tuesday, November 13, 2012 7:03 AM

**To:** Shonka, David C.; JDL; Feinstein, Richard; Kraus, Elizabeth; Gray, Joshua Barton; Shelanski, Howard

**Cc:** Young, June; Renner, Christopher; Lupovitz, Joni; Gorman, Frank; Harwood, Charles A.; Prewett, Cecelia; Kaplan, Peter P.; Heyer, Kenneth; Dafny, Leemore; Levitas, Pete; Lehner, Mary; Matties, Deborah J.

**Subject:** Re: State of Play Meeting on Google--can everyone meet tomorrow at, say, 2:30 after the senior staff meeting? If that won't work, how about 4:30?

(b)(5)



(b)(5)

**From:** Shonka, David C.

**Sent:** Tuesday, November 13, 2012 06:50 AM

**To:** Vladeck, David; JDL; Feinstein, Richard; Kraus, Elizabeth; Gray, Joshua Barton; Shelanski, Howard

**Cc:** Young, June; Renner, Christopher; Lupovitz, Joni; Gorman, Frank; Harwood, Charles A.; Prewett, Cecelia; Kaplan, Peter P.; Heyer, Kenneth; Dafny, Leemore; Levitas, Pete; Lehner, Mary; Matties, Deborah J.

**Subject:** Re: State of Play Meeting on Google--can everyone meet tomorrow at, say, 2:30 after the senior staff meeting?  
If that won't work, how about 4:30?

(b)(5)

**From:** Vladeck, David

**Sent:** Tuesday, November 13, 2012 01:15 AM

**To:** Shonka, David C.; JDL; Feinstein, Richard; Kraus, Elizabeth; Gray, Joshua Barton; Shelanski, Howard

**Cc:** Young, June; Renner, Christopher; Lupovitz, Joni; Gorman, Frank; Harwood, Charles A.; Prewett, Cecelia; Kaplan, Peter P.; Heyer, Kenneth; Dafny, Leemore; Levitas, Pete; Lehner, Mary; Matties, Deborah J.

**Subject:** Re: State of Play Meeting on Google--can everyone meet tomorrow at, say, 2:30 after the senior staff meeting?  
If that won't work, how about 4:30?

(b)(5)

**From:** Shonka, David C.

**Sent:** Monday, November 12, 2012 10:35 PM

**To:** Vladeck, David; JDL; Feinstein, Richard; Kraus, Elizabeth; Gray, Joshua Barton; Shelanski, Howard

**Cc:** Young, June; Renner, Christopher; Lupovitz, Joni; Gorman, Frank; Harwood, Charles A.; Prewett, Cecelia; Kaplan, Peter P.; Heyer, Kenneth; Dafny, Leemore; Levitas, Pete; Lehner, Mary; Matties, Deborah J.

**Subject:** RE: State of Play Meeting on Google--can everyone meet tomorrow at, say, 2:30 after the senior staff meeting?  
If that won't work, how about 4:30?

(b)(5)



(b)(5)



**From:** Vladeck, David

**Sent:** Monday, November 12, 2012 4:37 PM

**To:** JDL; Shonka, David C.; Feinstein, Richard; Kraus, Elizabeth; Gray, Joshua Barton; Shelanski, Howard

**Cc:** Young, June; Renner, Christopher; Lupovitz, Joni; Gorman, Frank; Harwood, Charles A.; Prewett, Cecelia; Kaplan, Peter P.; Heyer, Kenneth; Dafny, Leemore; Levitas, Pete; Lehner, Mary; Matties, Deborah J.

**Subject:** Re: State of Play Meeting on Google--can everyone meet tomorrow at, say, 2:30 after the senior staff meeting? If that won't work, how about 4:30?

(b)(5)



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**From:** JDL

**Sent:** Monday, November 12, 2012 03:58 PM

**To:** Vladeck, David; Shonka, David C.; Feinstein, Richard; Kraus, Elizabeth; Gray, Joshua Barton; Shelanski, Howard

**Cc:** Young, June; Renner, Christopher; Lupovitz, Joni; Gorman, Frank; Harwood, Charles A.; Prewett, Cecelia; Kaplan, Peter P.; Heyer, Kenneth; Dafny, Leemore; Levitas, Pete; Lehner, Mary; Matties, Deborah J.

**Subject:** State of Play Meeting on Google--can everyone meet tomorrow at, say, 2:30 after the senior staff meeting? If that won't work, how about 4:30?

(b)(5)



**Kelly, Andrea**

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**From:** Renner, Christopher  
**Sent:** Thursday, December 06, 2012 5:24 PM  
**To:** Bayer Femenella, Peggy  
**Cc:** Widnell, Nicholas; Seidman, Mark; Levitas, Pete; Munck, Suzanne  
**Subject:** RE: Commission Consent Statement -- Google MMI 12 6 12PBF.docx

(b)(5)

Not Responsive

**Kelly, Andrea**

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**From:** Freedman, Bruce  
**Sent:** Monday, May 06, 2013 4:55 PM  
**To:** Dawson, Rachel Miller; Shonka, David C.; White, Christian S.  
**Cc:** Harrison, Lisa M.  
**Subject:** RE: Draft responses to (some) QFRs

(b)(5)



-----Original Message-----

**From:** Dawson, Rachel Miller  
**Sent:** Monday, May 06, 2013 4:26 PM  
**To:** Freedman, Bruce; Shonka, David C.; White, Christian S.  
**Cc:** Harrison, Lisa M.  
**Subject:** RE: Draft responses to (some) QFRs

(b)(5)



-----Original Message-----

**From:** Freedman, Bruce  
**Sent:** Monday, May 06, 2013 4:21 PM  
**To:** Dawson, Rachel Miller; Shonka, David C.; White, Christian S.  
**Cc:** Harrison, Lisa M.  
**Subject:** RE: Draft responses to (some) QFRs

(b)(5)



(b)(5)



-----Original Message-----

From: Freedman, Bruce

Sent: Monday, May 06, 2013 2:34 PM

To: Dawson, Rachel Miller; Shonka, David C.; White, Christian S.

Cc: Harrison, Lisa M.

Subject: RE: Draft responses to (some) QFRs

I looping in Lisa, who was also involved in these issues. Here are some ideas:

(b)(5)



-----Original Message-----

From: Dawson, Rachel Miller

Sent: Monday, May 06, 2013 1:20 PM

To: Shonka, David C.; White, Christian S.; Freedman, Bruce

Subject: Fw: Draft responses to (some) QFRs

(b)(5)



(b)(5)

Timing : Bc is trying to get all the responses to the ch's office by cob tomorrow, and would appreciate comments today if possible to allow this.

Many thanks.

From: Signs, Kelly  
Sent: Friday, May 03, 2013 04:17 PM  
To: Dawson, Rachel Miller  
Subject: FW: Draft responses to (some) QFRs

Rachel,

Here is a batch from BC. You can send edits back to me. I think I'm holding the pen for now.

Have a great weekend. Kelly

From: Signs, Kelly  
Sent: Friday, May 03, 2013 4:16 PM  
To: Feinstein, Richard; Levitas, Pete  
Cc: Mongoven, James F.; Bumpus, Jeanne  
Subject: Draft responses to (some) QFRs

Rich and Pete,

So here they are, the answers assigned to BC for drafting. As you can see, I've deleted questions that others will be responding to. Hopefully, you'll get a look at those answers on Monday.

This has been a joint effort by several folks from Health Care, ACP and Compliance as well as OPC. The good news is that we've got pretty good answers for the majority of questions. The bad news is that we have two questions that still need draft answers (b)(5)

(b)(5)

(b)(5)



Lots to read, and there will be more. When you're done, others would like to review these answers, so you can send edits back to me and I'll keep them moving.

Have a good weekend. ~Kelly

## Kelly, Andrea

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**From:** Dawson, Rachel Miller  
**Sent:** Monday, May 06, 2013 2:41 PM  
**To:** Shonka, David C.; Freedman, Bruce; White, Christian S.  
**Cc:** Harrison, Lisa M.  
**Subject:** RE: Draft responses to (some) QFRs

Fyi I have just heard that the final draft answers don't have to go to the ch's office till Thursday am, which gives bc (and us) some more time to figure out answers.

-----Original Message-----

From: Shonka, David C.  
Sent: Monday, May 06, 2013 2:36 PM  
To: Freedman, Bruce; Dawson, Rachel Miller; White, Christian S.  
Cc: Harrison, Lisa M.  
Subject: RE: Draft responses to (some) QFRs

Lisa and Bruce, we are going to get together to discuss this at 5:00. Want to join chris, Rachel and me?

-----Original Message-----

From: Freedman, Bruce  
Sent: Monday, May 06, 2013 2:34 PM  
To: Dawson, Rachel Miller; Shonka, David C.; White, Christian S.  
Cc: Harrison, Lisa M.  
Subject: RE: Draft responses to (some) QFRs

I looping in Lisa, who was also involved in these issues. Here are some ideas:

(b)(5)



-----Original Message-----

From: Dawson, Rachel Miller  
Sent: Monday, May 06, 2013 1:20 PM



To: Shonka, David C.; White, Christian S.; Freedman, Bruce  
Subject: Fw: Draft responses to (some) QFRs

(b)(5)



Timing : Bc is trying to get all the responses to the ch's office by cob tomorrow, and would appreciate comments today if possible to allow this.

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(b)(5)

(b)(5)

Lots to read, and there will be more. When you're done, others would like to review these answers, so you can send edits back to me and I'll keep them moving.

Have a good weekend. ~Kelly

**Kelly, Andrea**

---

**From:** Dawson, Rachel Miller  
**Sent:** Monday, May 06, 2013 2:03 PM  
**To:** White, Christian S.; Shonka, David C.; Freedman, Bruce  
**Subject:** RE: Draft responses to (some) QFRs

Ok here

---

**From:** White, Christian S.  
**Sent:** Monday, May 06, 2013 1:57 PM  
**To:** Shonka, David C.; Dawson, Rachel Miller; Freedman, Bruce  
**Subject:** RE: Draft responses to (some) QFRs

OK.

---

**From:** Shonka, David C.  
**Sent:** Monday, May 06, 2013 1:56 PM  
**To:** Dawson, Rachel Miller; White, Christian S.; Freedman, Bruce  
**Subject:** RE: Draft responses to (some) QFRs

Can we meet at 5:00 to discuss? Thanks

---

**From:** Dawson, Rachel Miller  
**Sent:** Monday, May 06, 2013 1:20 PM  
**To:** Shonka, David C.; White, Christian S.; Freedman, Bruce  
**Subject:** Fw: Draft responses to (some) QFRs

(b)(5)



Timing : Bc is trying to get all the responses to the ch's office by cob tomorrow, and would appreciate comments today if possible to allow this.

Many thanks.

---

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**Sent:** Friday, May 03, 2013 04:17 PM  
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**Subject:** FW: Draft responses to (some) QFRs

Rachel,

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---

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**Sent:** Friday, May 03, 2013 4:16 PM  
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**Cc:** Mongoven, James F.; Bumpus, Jeanne  
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So here they are, the answers assigned to BC for drafting. As you can see, I've deleted questions that others will be responding to. Hopefully, you'll get a look at those answers on Monday.

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(b)(5)



Lots to read, and there will be more. When you're done, others would like to review these answers, so you can send edits back to me and I'll keep them moving.

Have a good weekend. ~Kelly

Not Responsive

----- Original Message -----

From: JDL [<mailto:JDL@ftc.gov>]

Sent: Sunday, January 06, 2013 09:08 PM Eastern Standard Time

To: Cohen, Bruce (Judiciary-Dem)

Subject: Hi Bruce,

Hope you had a wonderful recess and new year's.

Congrats, as well, that Chairman Leahy is staying on Judiciary. (Good for our Democracy and good for our Bruce Cohen!)

Two quick items:

1) on Google, I saw that PJL had put out a balanced statement but one that expressed "disappointment" for not codifying certain problematic practices in an order. I agree you almost always want orders but there was a reason we couldn't get one here--staff is briefing Aaron but let me know if you want me to call you.

2) Can I come by for coffee at some point in the next couple of weeks?

Best to ML, etc.

Jon

Sent by Jon Leibowitz from his BlackBerry

**Kelly, Andrea**

---

**From:** David Drummond <ddrummond@google.com>  
**Sent:** Friday, November 09, 2012 6:21 PM  
**To:** JDL

Jon  
Thanks for the time today. Am traveling back home, but had a quick question. . Do you have 5 min to chat over the weekend?  
Best  
David

## Kelly, Andrea

---

**From:** JDL  
**Sent:** Friday, December 07, 2012 10:59 AM  
**To:** 'ddrummond@google.com'  
**Subject:** Re: Coming in?

Not a problem

Sent by Jon Leibowitz from his BlackBerry

---

**From:** David Drummond [<mailto:ddrummond@google.com>]  
**Sent:** Friday, December 07, 2012 10:53 AM  
**To:** JDL  
**Subject:** Re: Coming in?

Will do. May be a minute or two late.

On Dec 7, 2012 10:41 AM, "JDL" <[JDL@ftc.gov](mailto:JDL@ftc.gov)> wrote:

Come over at 11:15. Thx.

Jon

Sent by Jon Leibowitz from his BlackBerry

---

**From:** David Drummond [<mailto:ddrummond@google.com>]  
**Sent:** Friday, December 07, 2012 10:06 AM  
**To:** JDL  
**Subject:** Re: Coming in?

I'm free from 11:00 on.

On Dec 7, 2012 9:10 AM, "JDL" <[JDL@ftc.gov](mailto:JDL@ftc.gov)> wrote:

I have a 2:00 Congressional that I can't reschedule and we would be better off for a variety of reasons to have this conversation sooner than 4:00. Do you have any availability mid to late morning? If so, I can move things around.

Best,

Jon

Sent by Jon Leibowitz from his BlackBerry

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**From:** David Drummond [<mailto:ddrummond@google.com>]  
**Sent:** Friday, December 07, 2012 08:55 AM  
**To:** JDL  
**Subject:** Re: Coming in?

Hi Jon

I heard 2:00, then heard it was moved to 4:00. Both work for me, though 2:00 works better. Thanks, David

On Dec 7, 2012 8:19 AM, "JDL" <[JDL@ftc.gov](mailto:JDL@ftc.gov)> wrote:



Hi David,

Have we worked out a time for you to come in today? (Not on my schedule yet but might have been worked out, anyway.)

If not, I am happy to juggle meetings to accommodate you.

Best and hope you didn't have to come in on the redeye this time,

Jon

Sent by Jon Leibowitz from his BlackBerry

## Kelly, Andrea

---

**From:** JDL  
**Sent:** Tuesday, January 01, 2013 10:21 PM  
**To:** 'ddrummond@google.com'  
**Subject:** Re: Hi,

Got it.  
Aloha.  
Jon.

Sent by Jon Leibowitz from his BlackBerry

---

**From:** David Drummond [<mailto:ddrummond@google.com>]  
**Sent:** Tuesday, January 01, 2013 10:14 PM  
**To:** JDL  
**Subject:** Re: Hi,

Hi Jon

Happy new year to you too. I'm 5 hours behind east coast but rise pretty early.

Best  
David

(b)(7)(A)



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**From:** JDL  
**Sent:** Saturday, December 29, 2012 05:08 PM  
**To:** '[ddrummond@google.com](mailto:ddrummond@google.com)' <[ddrummond@google.com](mailto:ddrummond@google.com)>  
**Subject:** Re: Call with Chairman Leibowitz

Just had exactly the same issue calling you. (You might be beyond coverage now just as I was before.)  
In any event, I'm available for the next several hours so hopefully we'll be able to catch up.

Yours,  
Jon

Sent by Jon Leibowitz from his BlackBerry

---

**From:** David Drummond [<mailto:ddrummond@google.com>]  
**Sent:** Saturday, December 29, 2012 02:16 PM

**To:** JDL

**Subject:** Re: Call with Chairman Leibowitz

Tried you but wouldn't go through. Not sure if it's me or you. Will be out of coverage for a few hours but will try you then. Best, David

On Dec 29, 2012 5:13 AM, "JDL" <[JDL@ftc.gov](mailto:JDL@ftc.gov)> wrote:

Hi David,

Have moved from tropical rainforests to snow covered mountains (Virginia), where cell service is much spottier.

But my afternoon will be spent in a town at a bowling alley and a gym, so just call me when you get a chance. (If you get my vm, pls shoot me an email and I'll call you back.)

Best,

Jon

Sent by Jon Leibowitz from his BlackBerry.

---

**From:** David Drummond [mailto:[ddrummond@google.com](mailto:ddrummond@google.com)]

**Sent:** Friday, December 28, 2012 09:11 PM

**To:** JDL

**Subject:** Re: Call with Chairman Leibowitz

Jon

Sorry I missed you. Wanted to touch base on one item. Thanks. David

On Dec 28, 2012 11:37 AM, "JDL" <[JDL@ftc.gov](mailto:JDL@ftc.gov)> wrote:

Mr. Drummond,

Chairman Leibowitz has tried to return your call but he is having trouble getting through (he wonders whether you are on the beach?). He is currently driving, and his cell phone (b)(6) should have reception for the next few hours.

If you are having trouble reaching the Chairman, please call the main office at [\(202\) 326-3400](tel:(202)326-3400).

## Kelly, Andrea

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**From:** JDL  
**Sent:** Monday, December 24, 2012 9:57 AM  
**To:** 'ddrummond@google.com'  
**Subject:** Re: Next Steps

I'll wait until it's at least 9:00 AM on the Big Island (and various smaller ones).

Jon

Sent by Jon Leibowitz from his BlackBerry

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**From:** David Drummond [<mailto:ddrummond@google.com>]  
**Sent:** Sunday, December 23, 2012 10:26 PM  
**To:** JDL  
**Subject:** Re: Next Steps

Just tried you. Am in much more pedestrian Hawaii, so it sounds like we're in the same time zone. Am on my cell so any time works for me too.

Best

David

On Dec 23, 2012 4:52 PM, "JDL" <[JDL@ftc.gov](mailto:JDL@ftc.gov)> wrote:

Hi,

Actually, I am in Costa Rica, which is only two hours behind CA time.

(b)(6)

Cell phone service is generally good--feel free to call any time.

Best,

Jon

Sent by Jon Leibowitz from his BlackBerry

(b)(7)(A)



(b)(6),(b)(7)(A)

**From:** JDL  
**Sent:** Tuesday, December 18, 2012 12:31 PM  
**To:** 'David Drummond' <[ddrummond@google.com](mailto:ddrummond@google.com)>  
**Subject:** RE: Re:

Just tried reaching you but, as you know, you are a hard person to track down! Call me when you get a chance.

Jon

**From:** David Drummond [mailto:[ddrummond@google.com](mailto:ddrummond@google.com)]  
**Sent:** Monday, December 17, 2012 11:42 PM  
**To:** JDL  
**Subject:** RE: Re:

Hi Jon

Thanks for the note. I'll try you tomorrow. I can understand how frustrating the current environment must be. At your service to close this out.

Best  
David

On Dec 17, 2012 6:05 PM, "JDL" <[JDL@ftc.gov](mailto:JDL@ftc.gov)> wrote:

Hi David,

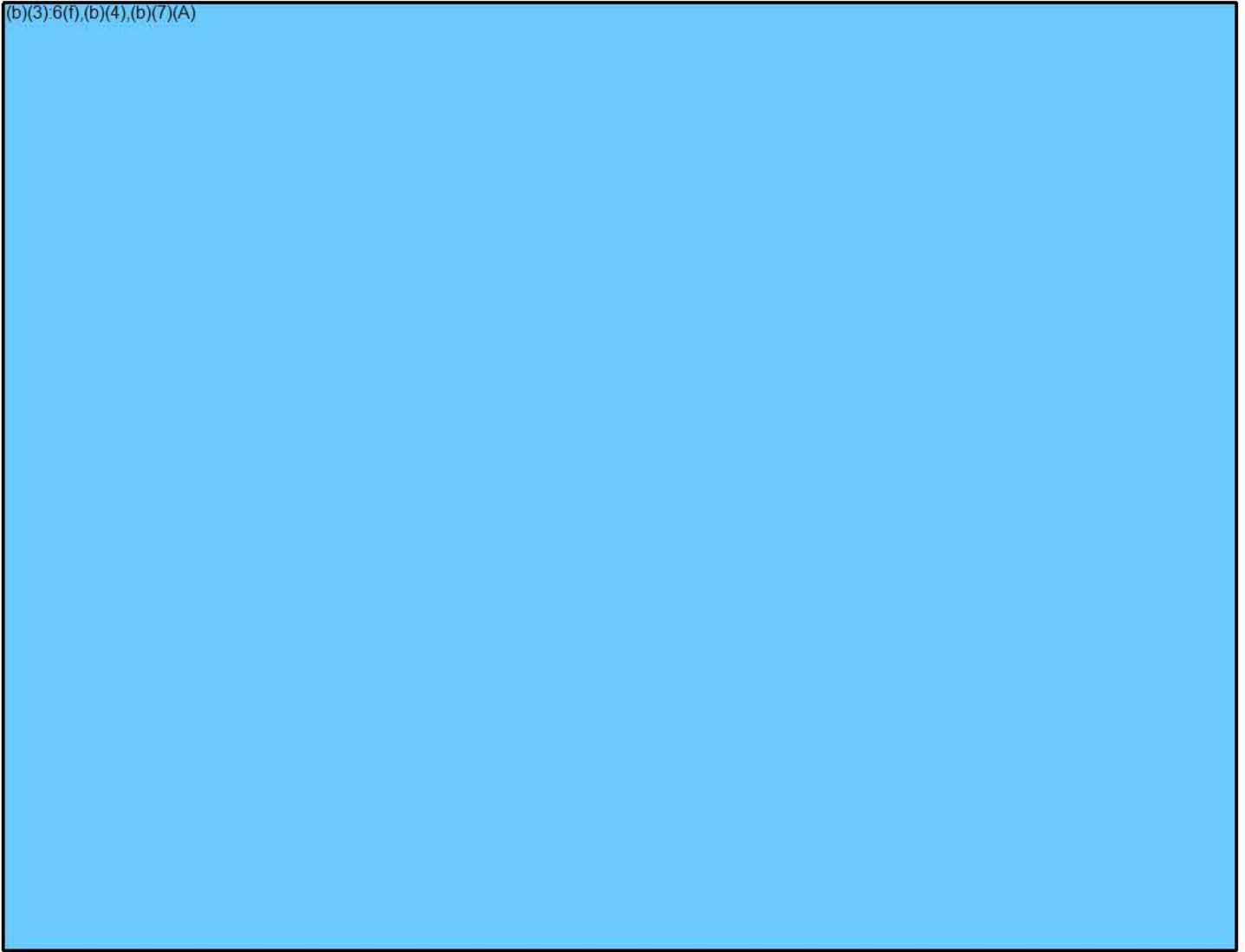
Thanks, just left you a vm in response to yours—and very much appreciate your note. Just give me a call when you get a chance: (b)(6) (c) tonight or [\(202\) 326-2533](tel:202-326-2533) (o) tomorrow.

Best,

Jon

(b)(7)(C)

(b)(3)-6(f),(b)(4),(b)(7)(A)



**From:** David Drummond [mailto:[ddrummond@google.com](mailto:ddrummond@google.com)]  
**Sent:** Monday, December 17, 2012 2:35 PM  
**To:** JDL  
**Subject:**

Hi Jon-

Sounds like it might make sense to chat. Do you have a free moment today?

Thanks,

David







Office of the Secretary

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

January 23, 2012

The Honorable Herb Kohl  
Chairman  
Subcommittee on Antitrust, Competition Policy  
and Consumer Rights  
Committee on the Judiciary  
United States Senate  
Washington, D.C. 20510

Dear Mr. Chairman:

Thank you for the December 19, 2011, letter from you and Senator Lee to the Federal Trade Commission concerning the Commission investigation of certain practices of Google, Inc. We appreciate receiving the information that you have provided, including the discussion of several concerns raised at the September 21, 2011 Antitrust Subcommittee hearing on Google's business practices. You have asked the Commission to carefully review all that information, and have urged us to conduct a thorough investigation to determine whether Google may have violated the federal antitrust laws.

Your correspondence has been forwarded to the Commissioners and to appropriate members of the Commission staff for review. Although a number of statutory prohibitions and the Rules of the Commission prevent me from disclosing the contours of any nonpublic investigation, I am able to confirm that the Commission is conducting an investigation of Google because Google has publicly disclosed that fact.<sup>1</sup> I can also assure you that the information and concerns which you have forwarded are receiving careful consideration, and that the Commission is committed to conducting a thorough investigation, and to considering all pertinent information and views gathered, as we do in all our investigations.

Thank you again for your interest in these important issues. Protecting consumers from anticompetitive acts and practices in the marketplace is vital to our nation's economic health, and your ongoing vigilance is greatly appreciated. Members of the Commission staff will promptly publicize any public action which the Commission or its staff may take with respect to the Commission investigation. If you or your staff have any questions or wish to provide

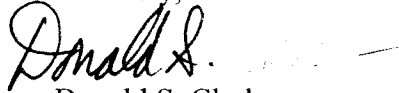
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<sup>1</sup> See *Federal Trade Commission Policy Concerning Disclosures of Nonmerger Competition and Consumer Protection Investigations: Notice of Revised Policy*, 63 Fed. Reg. 63477 (Nov. 13, 1998); see also *Federal Trade Commission Notice of Policy of Disclosing Investigations of Announced Mergers: Notice of Revised Policy*, 62 Fed. Reg. 18630 (Apr. 16, 1997).

The Honorable Herb Kohl – Page 2

additional information or comments, please feel free to call or have your staff call Ms. Jeanne Bumpus, the Director of our Office of Congressional Relations, at (202) 326-2195. More generally, please let us know whenever we may be of service with respect to any other matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Donald S. Clark", followed by a horizontal line.

Donald S. Clark  
Secretary of the Commission



Office of the Secretary

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

January 23, 2012

The Honorable Mike Lee  
Ranking Member  
Subcommittee on Antitrust, Competition Policy  
and Consumer Rights  
Committee on the Judiciary  
United States Senate  
Washington, D.C. 20510

Dear Senator Lee:

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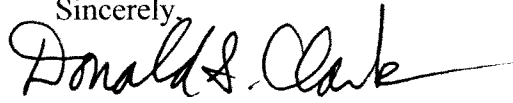
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<sup>1</sup> See *Federal Trade Commission Policy Concerning Disclosures of Nonmerger Competition and Consumer Protection Investigations: Notice of Revised Policy*, 63 Fed. Reg. 63477 (Nov. 13, 1998); see also *Federal Trade Commission Notice of Policy of Disclosing Investigations of Announced Mergers: Notice of Revised Policy*, 62 Fed. Reg. 18630 (Apr. 16, 1997).

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Sincerely,

A handwritten signature in black ink, reading "Donald S. Clark". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Donald S. Clark  
Secretary of the Commission

Office of the Secretary  
**Correspondence Referral**

Remember to Designate  
FOIA Status  
Today's Date: 12/30/11

**Reference Number:** 14005402

**Type of Response (or) Action:**

Complaint

**Date Forwarded:**

12/30/11

**Action:** Secretary's Signature

**Subject of Correspondence:**

Google's search engine

**Author:**

Senator Herb Kohl

Senator Mike Lee

**Representing:**

**Copies of Response To:**

Office of Public Affairs (Press Office)

Office of the Executive Director

Office of the General Counsel

Office of the Secretary

**Copies of Correspondence To:**

Office of the Chairman

Office of Commissioner Kovacic

Office of Commissioner Rosch

Office of Commissioner Brill

Office of Commissioner Ramirez

Office of Congressional Relations - (0309)

**Deadline:**

01/13/12

**Organization Assigned:**

Policy and Coordination - BC

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<b><u>Date Received</u></b>	<b><u>FTC Org Code</u></b>	<b><u>Assignment To:</u></b>	<b><u>Date Assigned</u></b>	<b><u>Action Required</u></b>
	1039	Alan J. Friedman		

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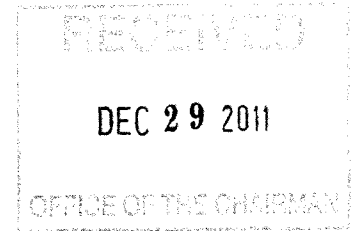
COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

BRUCE A. COHEN, *Chief Counsel and Staff Director*  
KOLAN L. DAVIS, *Republican Chief Counsel and Staff Director*

December 19, 2011

The Honorable Jonathan D. Leibowitz  
Chairman  
Federal Trade Commission  
600 Pennsylvania Ave., N.W.  
Washington, D.C. 20580



Dear Chairman Leibowitz:

We are writing to you regarding our examination of competition concerns arising from the business practices of the world's leading Internet search engine, Google Inc. ("Google"). On September 21, 2011, we held an Antitrust Subcommittee hearing to examine allegations that Google's search engine is biased in favor of its own secondary products and services, undermining free and fair competition among e-commerce websites. While we take no position on the ultimate legality of Google's practices under the antitrust laws and the FTC Act, we believe these concerns warrant a thorough investigation by the FTC. We detail below a number of concerns raised at the hearing, in the course of our Subcommittee inquiry, and by a number of industry participants that we believe deserve careful review.

The Internet is a driving force of the American economy. Today, approximately 240 million people throughout the United States regularly use the Internet, and last year their activity generated nearly \$170 billion in commerce. Recent studies show that 92% of adults online use search engines to access information on over one trillion websites.<sup>1</sup> Experts estimate that the number of Internet websites will continue to grow, making the role of Internet search engines ever more important for those seeking information or engaging in commerce online. In July 2011 alone, there were 17.1 billion search queries in the United States, up 3 percent from the previous month. Google is dominant in general Internet searches, with a 65 to 70 percent market share in computer-based Internet search, and a market share of at least 95 percent for Internet searches done on mobile devices.<sup>2</sup> Indeed, in response to Senator Kohl's question at our Subcommittee hearing to Google's Executive Chairman Eric Schmidt as to whether Google is a monopolist in online search, he responded, "I would agree, Senator, that we're in that area."<sup>3</sup>

<sup>1</sup> Kristin Purcell, Pew Internet and American Life Project, Pew Research Center, *Search and Email Still Top the List of Most Popular Online Activities*, (2011), [http://www.pewinternet.org/~media/Files/Reports/2011/PIA\\_Search\\_and-Email.pdf](http://www.pewinternet.org/~media/Files/Reports/2011/PIA_Search_and-Email.pdf).

<sup>2</sup> StatCounter Global States, *Top Search Engines in the U.S. from Oct. 3 to Nov. 1, 2011*, [http://gs.statcounter.com/#search\\_engine-US-daily-20111003-20111101](http://gs.statcounter.com/#search_engine-US-daily-20111003-20111101) (last visited Nov. 2, 2011).

<sup>3</sup> *The Power of Google: Serving Consumers or Threatening Competition? Before the Subcomm. on Antitrust, Competition Policy and Consumer Rights of S. Comm. on the Judiciary, 112<sup>th</sup> Cong., 1<sup>st</sup> Sess.* (September 21, 2011) (continued...)

FEDERAL TRADE COMMISSION  
2011 DEC 30 AM 11:09  
CONG. CORRESP. BRANCH

Google faces competition from only one general search engine, Bing, a partnership of Microsoft and Yahoo!, which is a distant second in market share and is losing an estimated \$2 billion annually.<sup>4</sup> Given the scope of Google's market share in general Internet search, a key question is whether Google is using its market power to steer users to its own web products or secondary services and discriminating against other websites with which it competes.

Google began as a general Internet search engine, whose mission was simply to identify the web pages most relevant to user queries. Google's stated goal was to transfer users from its search results page to the websites listed on that page as soon as possible. As Google co-founder and current CEO Larry Page said at the time of its Initial Public Offering in 2004, "We want you to come to Google and quickly find what you want. Then we're happy to send you to the other sites. In fact, that's the point."<sup>5</sup> At that time, Google had very little, if any, web content or products of its own.

Google's business model has changed dramatically in recent years. Google now seeks not only to link users to relevant websites, but also to answer user queries, provide a variety of related services, and direct customers to additional information on its own secondary web pages. To do so, Google has made numerous acquisitions in recent years, purchasing a large amount of web-based content and various e-commerce products and services,<sup>6</sup> as well as developing such offerings on its own. Google now owns a large and growing array of search-dependent products and services (what are commonly known as "vertical search sites"), including Google Places/Local, Google Finance, Google News, YouTube, Google Maps, Google Travel, Google Flight Search, and Google Product Search. Google has been very successful in many of these areas, often replacing previous market leaders in short periods of time. Many question whether it is possible for Google to be both an unbiased general or "horizontal" search engine and at the same time own this array of secondary web-based services from which the company derives substantial advertising revenues.

Google's critics argue that given its acquisitions and development of these varied web products and services, Google has a strong incentive to bias its search results in favor of its own offerings. Rather than act as an honest broker of unbiased search results, Google's search results

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(hereinafter "*September 2011 Senate Antitrust Subcommittee Google Hearing*") (testimony of Eric Schmidt, Executive Chairman, Google). The precise question Mr. Schmidt was asked was "do [you] recognize that . . . your market share constitutes monopoly . . . dominant firm, monopoly firm? Do you recognize you're in that area?" Schmidt replied that he "would agree." However, in response to written questions for the record following the hearing, Mr. Schmidt revised this answer, stating: "[i]nferred that Google is in any way 'dominant' in search would be incorrect." (*September 2011 Senate Antitrust Subcommittee Google Hearing*) (response to post hearing question for the record from Sen. Richard Blumenthal to Eric Schmidt, Executive Chairman, Google, p. 2).

<sup>4</sup> David Goldman, *Microsoft's plan to stop Bing's \$1 billion bleeding*, CNNMoney, Sept. 20, 2011, [http://money.cnn.com/2011/09/20/technology/microsoft\\_bing/index.htm](http://money.cnn.com/2011/09/20/technology/microsoft_bing/index.htm).

<sup>5</sup> Google Inc. Amendment 7 to SEC Form S-1, Appendix B, p. B-5, filed August 13, 2004. In the same document, Mr. Page re-emphasized this, contrasting his vision for Google at the time with the way web portals operated, stating "Most portals show their own content above other content elsewhere on the web. We feel that's a conflict of interest, analogous to taking money for search results. Their search engine doesn't necessarily provide the best results, it provides the portal's results. Google conscientiously tries to stay away from this. We want to get you out of Google and to the right place as fast as possible. It's a very different model." *Id.*, p. B-6.

<sup>6</sup> Google has made over 100 acquisitions since 2001, including: Motorola Mobility (2011) (still under Justice Department review), Zagat's (2011), Like.com (2010), ITA Software (2010), AdMob (2009), DoubleClick (2007), YouTube (2006), and Android (2005).



appear to favor the company's own web products and services.<sup>7</sup> Given Google's dominant market share in Internet search, any such bias or preferencing would raise serious questions as to whether Google is seeking to leverage its search dominance into adjacent markets, in a manner potentially contrary to antitrust law.

As discussed at our Subcommittee hearing, Marissa Mayer, Google's Vice President of Local, Maps, and Location Services, admitted in a 2007 speech that Google did in fact preference its own websites. She acknowledged that, in the past, Google ranked links "based on popularity . . . but when we roll[ed] out Google Finance, we did put the Google link first. It seems only fair, right? We do all the work for the search page and all these other things, so we do put it first. . . . That has actually been our policy, since then . . . So for Google Maps again, it's the first link, so on and so forth. And after that it's ranked usually by popularity."<sup>8</sup> In response to written follow-up questions asking whether her statement was an accurate statement of Google policy, Eric Schmidt stated that "it is my understanding that she was referring to the placement of links within a onebox . . . and her description was accurate."<sup>9</sup> While the basis for Mr. Schmidt's "understanding" is not clear, even if her statement was in fact limited to the "onebox" result, this is a clear admission of preferencing Google results. As consumer surveys show that 88 percent of consumers click on one of the first three links, these statements appear significant when analyzing Google's potentially anti-competitive practices.<sup>10</sup>

Also at our Subcommittee hearing, Yelp! CEO Jeremy Stoppelman and Nextag CEO Jeffrey Katz testified that Google's practice of favoring its own content harms them directly by depriving their sites of user traffic and advertising revenue. Mr. Stoppelman testified that 75 percent of Yelp!'s web traffic consists of consumers who find its website as a result of Google searches, and Mr. Katz testified that 65 percent of Nextag's traffic originates from Google searches.<sup>11</sup> They testified that losing this traffic would threaten the continued viability of their companies, which would have to spend much more on advertising to make up for lost traffic coming from Google queries. Indeed, both CEOs testified that they would not attempt to launch

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<sup>7</sup> Google critics also argue that the very layout of the Google search results first page is biased in favor of its own products and services. They point to the amount of the "real estate" in the search result page devoted to Google content, including paid advertising at the top and on the right of the page, and the Google "places" or "onebox" results, which are not designated as Google results separate from the algorithmic results. Consumers have no way of knowing that these one box results are not part of the algorithmic results. We believe, under the FTC's mandate to protect consumers from misleading and deceptive practices, the FTC should seriously consider requiring Google to label its "onebox" or "places" listing (or other similar listings), as Google products, just as it labels paid search results.

<sup>8</sup> Marissa Mayer, Google VP of Local, Maps, and Location Services Address at the Google Seattle Conference on Scalability (June 23, 2007), <http://video.google.com/videoplay?docid=-6304964351441328559#docid=-7039469220993285507>.

<sup>9</sup> *September 2011 Senate Antitrust Subcommittee Google Hearing* (response to post hearing question for the record from Sen. Herb Kohl to Eric Schmidt, Executive Chairman, Google, question 1(a), p. 2).

<sup>10</sup> See SEO Scientist, *Google Ranking and CTR – How Clicks Distribute Over Different Rankings on Google* (July 12, 2009), <http://www.seo-scientist.com/google-ranking-ctr-click-distribution-over-serps.html>.

<sup>11</sup> *September 2011 Senate Antitrust Subcommittee Google Hearing* (testimony of Jeremy Stoppelman, CEO of Yelp!, and Jeremy Katz, CEO of Nextag).

their companies today given Google's current practices, raising serious concerns about the impact of these practices on innovation.<sup>12</sup>

Mr. Katz and others also allege that Google sometimes subjects websites to "search penalties" that drastically lower where links to these websites are found on Google searches. Although there are valid reasons for instituting such penalties—such as for websites that promote illegal activities, or for sites that are fraudulent or pornographic—observers suggest that some sites are penalized only because they compete with Google. According to Mr. Katz, Google informed him that Nextag's sites in Europe were penalized mainly because they offered links to other sites and search functionality. Of course, websites that link to other sites and allow users to perform searches have an almost identical function as the Google search engine. If these allegations are true, they raise serious questions as to whether Google is penalizing these competing websites simply in order to maintain its dominant market share in Internet search.

The importance of Google search result rankings for competing web-based products and services is underscored when one considers the market share of Google's search engine on mobile devices. Google has a 97 percent market share of Internet searches done on mobile devices (such as smart phones, tablet computers and the like).<sup>13</sup> Given the exploding consumer demand for these devices, it is projected that over half of all Internet searches will be done on mobile devices by 2014.<sup>14</sup> Additionally, Google owns the popular Android operating system for smart phones and in September 2011 announced its acquisition of Motorola Mobility, a leading mobile phone manufacturer. The Android operating system has grown rapidly in a few short years and is now installed in 43 percent of these smart phones, with expectations of further increases in market share in the near future.<sup>15</sup> Industry observers have raised concerns that Google may, as a condition of access to the Android operating system, require phone manufacturers to install Google as the default search engine. In response to written questions after our hearing, Google denied that it presently makes this demand, suggesting that manufacturers are free to install any search engine they wish.<sup>16</sup> Yet Google has been unwilling to provide any assurance that it will not adopt such a policy in the future. We urge that your investigation consider all avenues necessary to ensure robust competition in the mobile Internet search market.

In sum, it appears the issues raised at our Subcommittee hearing merit serious scrutiny by the FTC. It is important to note that the concerns expressed in this letter are not an effort to protect any specific competitor. Rather, our interest is to ensure robust competition in this vital market. We recognize that the Internet is fast evolving and subject to rapid technological change. We are motivated by a strong desire to protect the Internet's openness, competitiveness, and capacity for innovation. Critics contend that Google's efforts to favor its own secondary

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<sup>12</sup> *Id.*

<sup>13</sup> Greg Sterling, *Google Controls 97% of the Mobile Paid Search: Report*, Search Engine Land (Mar. 7, 2011).

<sup>14</sup> Morgan Stanley, *The Mobile Internet Report*, [http://www.morganstanley.com/institutional/techresearch/mobile\\_internet\\_report122009.html](http://www.morganstanley.com/institutional/techresearch/mobile_internet_report122009.html).

<sup>15</sup> Don Kellogg, *40 Percent of U.S. Mobile Users Own Smartphones; 40 Percent are Android*, NielsenWire (Sept. 1, 2011), [http://blog.nielsen.com/nielsenwire/online\\_mobile/40-percent-of-u-s-mobile-users-own-smartphones-40-percent-are-android/](http://blog.nielsen.com/nielsenwire/online_mobile/40-percent-of-u-s-mobile-users-own-smartphones-40-percent-are-android/).

<sup>16</sup> *September 2011 Senate Antitrust Subcommittee Google Hearing* (response to post hearing question for the record from Sen. Herb Kohl to Eric Schmidt, Executive Chairman, Google, p. 10).

offerings threaten to retard the development of new innovative products and services on the Internet. They argue that if new web products and services are downgraded on Internet search listings, they will not receive the traffic or advertising revenues necessary to survive, and venture capitalists will not invest in developing innovative alternatives. According to Tom Barnett, the Assistant Attorney General for Antitrust in the administration of President George W. Bush, the ultimate result of Google's practices will be an Internet with fewer choices for consumers and businesses, higher prices, and less innovation.

Google strongly denies the arguments of its critics. Google claims it has done nothing to harm competition and that it merely seeks to serve consumers with the best Internet search results. Competition, it contends, is just "one click away," and Google does nothing to impede consumers' access to this competition.

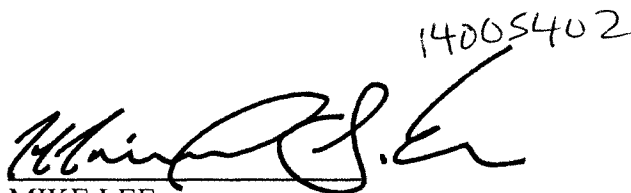
Nonetheless, for the reasons explained above and from the testimony at our Subcommittee hearing, we believe these allegations regarding Google's search engine practices raise important competition issues. We are committed to ensuring that consumers benefit from robust competition in online search and that the Internet remains the source of much free-market innovation. We therefore urge the FTC to investigate the issues raised at our Subcommittee hearing to determine whether Google's actions violate antitrust law or substantially harm consumers or competition in this vital industry.<sup>17</sup>

Thank you for your attention to this matter.

Sincerely,



HERB KOHL  
Chairman, Subcommittee on  
Antitrust, Competition Policy  
and Consumer Rights



MIKE LEE  
Ranking Member, Subcommittee on  
Antitrust, Competition Policy  
and Consumer Rights

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<sup>17</sup> In this regard, we note that several state antitrust regulators have begun investigating allegations that Google is engaged in anti-competitive practices. In the fall of 2010, Texas was the first state to formally begin an investigation; and more recently, attorneys general in New York, California, Ohio, Mississippi, and Oklahoma have opened full-scale investigations. Overseas, the European Commission is in its second year of its investigation, saying it is looking into whether Google might be giving its web services "preferential placement" in search results.



Office of the Secretary

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

October 22, 2012

The Honorable Jared Polis  
United States House of Representatives  
Washington, D.C. 20515

Re: FTC Reference No. 14007264

Dear Representative Polis:

Thank you for your October 9, 2012 letter to the Federal Trade Commission concerning the Commission investigation of certain practices of Google, Inc. We appreciate receiving the information and views that you have provided, and your correspondence has been forwarded to the Commissioners and to appropriate members of the Commission staff for review. Although a number of statutory prohibitions and the Rules of the Commission prevent me from disclosing the details of any nonpublic investigation, I am able to confirm that the Commission is conducting an investigation of Google because Google has publicly disclosed that fact.<sup>1</sup> I can also assure you that the information you have provided and the concerns you have expressed are receiving careful consideration. In addition, I can assure you that the Commission and the Commission staff thoroughly consider all relevant information in Commission investigations, and that the Commission takes law enforcement action only as appropriate to protect consumers and competition.

Thank you again for forwarding your views on this important subject. If you or your staff have any questions or wish to provide additional information or comments, please feel free to call or have your staff call Ms. Jeanne Bumpus, the Director of our Office of Congressional Relations, at (202) 326-2195. More generally, please let us know whenever we may be of service with respect to any other matter.

Sincerely,

Donald S. Clark  
Secretary of the Commission

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<sup>1</sup> See *Federal Trade Commission Policy Concerning Disclosures of Nonmerger Competition and Consumer Protection Investigations: Notice of Revised Policy*, 63 Fed. Reg. 63477 (Nov. 13, 1998); see also *Federal Trade Commission Notice of Policy of Disclosing Investigations of Announced Mergers: Notice of Revised Policy*, 62 Fed. Reg. 18630 (Apr. 16, 1997).

Office of the Secretary  
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Today's Date: 10/16/12

**Reference Number:** 14007264

**Type of Response (or) Action:**

Complaint

**Date Forwarded:**

10/16/12

**Action:** Secretary's Signature

**Subject of Correspondence:**

Google's Business Practices

**Author:**

Representative Jared Polis

**Representing:**

**Copies of Response To:**

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10/29/12

**Organization Assigned:**

Policy and Coordination - BC

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**ACTION LOG**

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<b><u>Date Received</u></b>	<b><u>FTC Org Code</u></b>	<b><u>Assignment To:</u></b>	<b><u>Date Assigned</u></b>	<b><u>Action Required</u></b>
	1039	Alan J. Friedman		

**EXPEDITE**

JARED POLIS  
2ND DISTRICT, COLORADO

REGIONAL WHIP

COMMITTEES:  
COMMITTEE ON RULES  
STEERING AND POLICY



## Congress of the United States House of Representatives

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October 9, 2012

Jon Leibowitz  
Chairman  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580

Dear Chairman Leibowitz:

I have read several recent press reports that the Federal Trade Commission is entering the final stages of its investigation of Google's business practices; by one account the Commission is considering bringing an antitrust complaint against Google. As a high-tech entrepreneur and someone who has actually used Google's advertising tools to grow my businesses, I encourage the Commission to tread carefully and not undertake action that would compromise the important service provided by Google, reduce Google's ability to rapidly innovate and improve its products, or make search engine results less useful for consumers or businesses.

Before coming to Congress, I founded several technology startups. After co-founding American Information Systems, an Internet Service Provider in 1994, I helped establish Bluemountain.com, an online greeting card site, and in the late 1990s I founded the online florist ProFlowers.com. When I started ProFlowers, the concept of selling flowers online instead of through local floral shops was a radical one, but thanks to the democratizing power of the Internet online florists have now become commonplace.

ProFlowers, like many small businesses, uses Google's advertising tools to help grow our business and reach new customers around the world, generating hundreds of new jobs. I've seen firsthand Google's economic impact on my state: in 2011, Google helped generate \$1.4 billion of economic activity for Colorado businesses, website publishers and nonprofits. We take it for granted now, but search engines have democratized access to information and made it possible for consumers to find information and services from the other side of the world. Search engines have also helped businesses tap new markets and new customers.

At a time when the national economy continues to stagnate, it's not clear to me why the FTC should be focusing on a product that consumers seem very happy with, search engines.

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303 287 4159

While Google is surely a big company and an important service in people's lives, my constituents also use a variety of competing services, including Amazon.com for shopping, iTunes for music and movies, Facebook for social networking and recommendations, and mobile apps like Yelp for finding local businesses. Competition is only a click away and there are no barriers to competition; if I created a better search algorithm I could set up a server in my garage and compete globally with Google. To even discuss applying anti-trust in this kind of hyper-competitive environment defies all logic and the very underpinnings of anti-trust law itself.

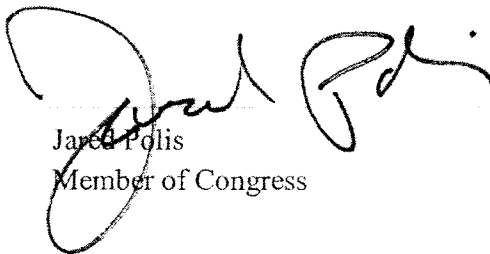
I have never heard one of my constituents say that they don't feel like they have enough choices online, or that they feel locked in to using any of these services. Competition among these services is leading to lots of great services for consumers -- and consumers aren't asking Congress or the FTC to protect them. Quite to the contrary consumers demand the rapid pace of progress and change that has become the norm on the internet.

Earlier this year, we saw during the PIPA/SOPA debate what happens when policymakers try to overregulate Internet content; consumers revolted and made their voices clearly. By the same token, the FTC should tread carefully when reviewing Google, Facebook, Twitter or any other tech company, given the dynamism of our tech industry and the potential for making things worse through regulation. Today's giant can be tomorrow's failure without any government intervention; market forces drive obsolescence at a break neck pace which should only further abrogate the need for government intervention. I believe that application of anti-trust against Google would be a woefully misguided step that would threaten the very integrity of our anti-trust system, and could ultimately lead to Congressional action resulting in a reduction in the ability of the FTC to enforce critical anti-trust protections in industries where markets are being distorted by monopolies or oligopolies.

Several years ago, we called firms like AOL, MySpace and Yahoo "dominant" -- but those firms have struggled to retain consumers online. Given how easily consumers can switch to a new service with just one click, regulators should be wary of intervening in the tremendous competition online.

Thank you for your attention to this matter as the FTC continues its review.

Yours truly,

A handwritten signature in black ink, appearing to read "Jared Polis", is written over a faint horizontal line.

Jared Polis  
Member of Congress





UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Office of the Secretary

November 20, 2012

The Honorable Lamar Smith  
Chairman  
Committee on the Judiciary  
United States House of Representatives  
Washington, DC 20515-6216

Dear Chairman Smith:

Thank you for your letter dated November 16, 2012, requesting a confidential staff briefing on the agency's investigations into Google, Inc. The Commission is responding to your request as an official request of a Congressional Committee, *see* Commission Rule 4.11(b), 16 C.F.R. § 4.11(b), and has authorized its staff to provide the requested briefing.

Most of the information that the Commission attorneys will discuss during the briefing is nonpublic and statutorily protected from public disclosure by the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 41 *et seq.*, as well as exempt from mandatory disclosure under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. In particular, some of the information would be protected under Section 6(f) of the FTC Act, 15 U.S.C. § 46(f), as confidential commercial or financial information. The Commission is prohibited from disclosing such information publicly, and it would be exempt from disclosure under FOIA Exemption 3, 5 U.S.C. § 552(b)(3). Because disclosure of this information is likely to result in substantial competitive harm to the submitters, or is clearly not of a kind that submitters would customarily make available to the public, it would be exempt from disclosure under FOIA Exemption 4, 5 U.S.C. § 552(b)(4). *See Critical Mass Energy Project v. NRC*, 975 F.2d 871, 877-80 (D.C. Cir. 1992) (*en banc*), *cert. denied*, 507 U.S. 984 (1993) (exempt status accorded to information submitted voluntarily); *National Parks & Conservation Ass'n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974) (exempt status accorded to information submitted under compulsion).

Most of the information that the Commission attorneys will discuss was obtained by compulsory process or provided voluntarily in lieu thereof in a law enforcement investigation. Such information is protected from public disclosure under Section 21(f) of the FTC Act, 15 U.S.C. § 57b-2(f). By virtue of that section, such information is also exempt from public disclosure under FOIA Exemption 3(B), 5 U.S.C. § 552(b)(3)(B). *McDermott v. FTC*, 1981-1 Trade Cas. (CCH) ¶ 63,964 at 75,982-3 (D.D.C. April 13, 1981); *Dairymen, Inc. v. FTC*, 1980-2 Trade Cas. (CCH) ¶ 63,479 (D.D.C. July 9, 1980). Moreover, third party submitters provided their materials and information with a specific request for confidential treatment under Section 21(c) of the FTC Act, 15 U.S.C. § 57b-2(c). Under Commission Rule 4.10(d), 16 C.F.R. § 4.10(d), the Commission has waived its discretion to release to the public materials submitted

pursuant to compulsory process or materials submitted voluntarily in lieu of process that have been marked confidential by the submitting parties.<sup>1</sup>

Additional information that may be discussed during the briefing was submitted in response to the Hart-Scott-Rodino premerger notification requirements of the Clayton Act, 15 U.S.C. § 18a. Section 7A(h) of the Act prohibits public disclosure of such documents or information. By virtue of this statutory prohibition, this information is also exempt from disclosure under Freedom of Information Act (FOIA) Exemption 3A, 5 U.S.C. § 552(b)(3)(A).<sup>2</sup>

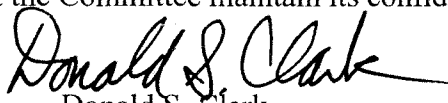
Further, information discussed during the briefing would reveal the existence of, and information concerning, an ongoing, nonpublic law enforcement investigation. Disclosure of this information could reasonably be expected to interfere with law enforcement proceedings, and this information is therefore protected from mandatory public disclosure by FOIA Exemption 7(A), 5 U.S.C. § 552(b)(7)(A). *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 232 (1978); *Ehringhaus v. FTC*, 525 F. Supp. 21, 24 (D.D.C. 1980).

Finally, some of the information that will be discussed during the briefing will include internal staff analyses and recommendations, which are predecisional, deliberative materials exempt from mandatory public disclosure under FOIA Exemption 5, 5 U.S.C. § 552(b)(5). *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132 (1975); *Coastal States Gas Corp. v. Department of Energy*, 617 F.2d 854, 866 (D.C. Cir. 1980). Some of this information may also be protected from mandatory public disclosure under FOIA Exemption 5 as attorney work product prepared in anticipation of litigation. *FTC v. Grolier, Inc.*, 462 U.S. 19, 28 (1983); *Martin v. Office of Special Counsel, Merit Systems Protection Board*, 819 F.2d 1181, 1187 (D.C. Cir. 1987).

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Notwithstanding the protected status of most of the responsive information, the FTC Act, 15 U.S.C. § 57b-2(d)(1)(A), the Clayton Act, 15 U.S.C. § 18a(h), and the FOIA, 5 U.S.C. § 552(d), provide no authority to withhold such information from this Congressional Committee, and the Commission has authorized staff to provide the requested briefing to Committee staff. Because the confidential information would not be available to the public under the FOIA or otherwise, the Commission requests that the Committee maintain its confidentiality.

By direction of the Commission.

  
Donald S. Clark  
Secretary

---

<sup>1</sup> The Commission is required to notify persons who submitted information pursuant to compulsory process in a law enforcement investigation, or voluntarily in lieu thereof on a confidential basis, if the Commission receives a request from a Congressional Committee or Subcommittee for that information. See 15 U.S.C. §§ 57b-2(b)(3)(C), 57b-2(d)(1)(A); Commission Rule 4.11(b), 16 C.F.R. § 4.11(b). Staff is providing the requisite notice.

<sup>2</sup> The Commission has instructed its staff to provide reasonable notice, when possible, of the release to Congress of information submitted pursuant to HSR. See *Statement of Basis and Purpose of HSR Rules and Regulations*, 43 Fed. Reg. 33519 (July 31, 1978). Staff has provided notice to submitters pursuant to this policy.

Office of the Secretary  
**Correspondence Referral**

Remember to Designate  
FOIA Status  
Today's Date: 11/16/12

**Reference Number:** 14007481

**Type of Response (or) Action:**

Complaint

**Date Forwarded:**

11/16/12

**Action:** Secretary's Signature

**Subject of Correspondence:**

Request for Nonpublic Briefing Re Google

**Author:**

Representative Lamar Smith

**Representing:**

**Copies of Response To:**

Office of Congressional Relations - (0309)

Office of the Executive Director

Office of the General Counsel

Office of the Secretary

**Copies of Correspondence To:**

Office of the Chairman

Office of Commissioner Ohlhausen

Office of Commissioner Rosch

Office of Commissioner Brill

Office of Commissioner Ramirez

Office of Public Affairs (Press Office)

**Deadline:**

11/19/12

**Organization Assigned:**

Policy and Coordination - BC

---

**ACTION LOG**

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<b><u>Date Received</u></b>	<b><u>FTC Org Code</u></b>	<b><u>Assignment To:</u></b>	<b><u>Date Assigned</u></b>	<b><u>Action Required</u></b>
	1039	Alan J. Friedman		

**EXPEDITE**

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ONE HUNDRED TWELFTH CONGRESS

# Congress of the United States

## House of Representatives

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JARED POLIS, Colorado

November 16, 2012

The Honorable Jon Leibowitz  
Chairman  
Federal Trade Commission  
600 Pennsylvania Ave NW  
Washington, D.C. 20580

Dear Chairman Leibowitz,

I write to request a confidential staff briefing to provide an update on the Commission's activities related to Google Inc., including any investigations, projects, and reports. I hope to schedule such a briefing at your earliest possible convenience.

The Committee recognizes the sensitivity of discussing such matters, and the non-public character of the information that your staff will provide during the briefing. Non-public information will be afforded the highest level of protection and will not be discussed or used in any way that breaches the confidentiality of the Commission's work.

Thank you for your assistance in this matter.

Sincerely,

*Lamar Smith* 14007481

Lamar Smith  
Chairman

Office of the Secretary  
**Correspondence Referral**

Remember to Designate  
FOIA Status

Today's Date: 12/12/12

**Reference Number:** 14007594

**Type of Response (or) Action:**

Complaint

**Date Forwarded:**

12/12/12

**Action:** Secretary's Signature

**Subject of Correspondence:**

Google

**Author:**

Representative Sheila Jackson Lee

**Representing:**

**Copies of Response To:**

Office of the Chairman

Office of Public Affairs (Press Office)

Office of the Executive Director

Office of the General Counsel

**Copies of Correspondence To:**

Office of Commissioner Ohlhausen

Office of Commissioner Rosch

Office of Commissioner Brill

Office of Commissioner Ramirez

Office of Congressional Relations - (0309)

Office of the Secretary

**Deadline:**

12/28/12

**Organization Assigned:**

Policy and Coordination - BC

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**ACTION LOG**

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<b><u>Date Received</u></b>	<b><u>FTC Org Code</u></b>	<b><u>Assignment To:</u></b>	<b><u>Date Assigned</u></b>	<b><u>Action Required</u></b>
	1039	Alan J. Friedman		
.....				
.....				
.....				
.....				
.....				
.....				

**EXPEDITE**

SHEILA JACKSON LEE  
18TH DISTRICT, TEXAS

WASHINGTON OFFICE:  
2160 Rayburn House Office Building  
Washington, DC 20515  
(202) 225-3816

DISTRICT OFFICE:  
1919 SMITH STREET, SUITE 1180  
THE GEORGE "MICKEY" LELAND FEDERAL BUILDING  
HOUSTON, TX 77002  
(713) 655-0050

ACRES HOME OFFICE:  
6719 WEST MONTGOMERY, SUITE 204  
HOUSTON, TX 77019  
(713) 691-4882

HEIGHTS OFFICE:  
420 WEST 19TH STREET  
HOUSTON, TX 77008  
(713) 861-4070

FIFTH WARD OFFICE:  
3300 LYONS AVENUE, SUITE 301  
HOUSTON, TX 77020

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

14007594

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JUDICIARY

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IMMIGRATION, CITIZENSHIP, REFUGEES, BORDER  
SECURITY, AND INTERNATIONAL LAW

CRIME, TERRORISM AND HOMELAND SECURITY

CONSTITUTION, CIVIL RIGHTS, AND CIVIL LIBERTIES

**HOMELAND SECURITY**

SUBCOMMITTEES

CHAIR

TRANSPORTATION SECURITY AND INFRASTRUCTURE  
PROTECTION

BORDER, MARITIME, AND GLOBAL COUNTERTERRORISM

**FOREIGN AFFAIRS**

SUBCOMMITTEES

AFRICA AND GLOBAL HEALTH

MIDDLE EAST AND SOUTH ASIA

TERRORISM, NONPROLIFERATION, AND TRADE

SENIOR WIFE

DEMOCRATIC CAUCUS

December 12, 2012

The Honorable Jon Leibowitz  
Chairman  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580

Dear Chairman Leibowitz,

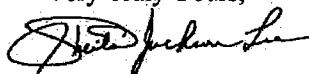
I have read with increasing concern recent reports of information leaks from those inside the Federal Trade Commission's (FTC) antitrust investigation of Google. These reports suggest that the Commission is preparing to use Section 5 of the FTC Act to avoid proving some of the elements of a claim required under Section 2 of the Act. It is my belief that such an expansive reading of FTC jurisdiction would be gratuitous, disruptive, and could have pernicious implications for our nation's economy.

The FTC has a duty and responsibility to remain fair, neutral, and impartial while protecting the confidentiality of internal discussions among the parties involved, in matters touching and concerning Google. If true, the release of sensitive details from an internal draft FTC staff report is irresponsible, reckless, and potentially compromises an investigation that has yet to be voted on by the full Commission.

There may be sound legal precedent and logic for the Commission to pursue matters under Section 5, though expanding the FTC's Section 5 powers to include antitrust matters could lead to overbroad authority that amplifies uncertainty and stifles growth. These effects may be most acutely felt among online services, a crucial engine of job creation, where technological advancement and small business innovation are dynamic. If the FTC indeed intends to litigate under this interpretation of Section 5, suitable guidance and precedent would be useful.

However the FTC concludes its investigation, I am hopeful that it will be done swiftly, fairly, and within the appropriate limits of the FTC's authority. Thank you for your attention to this important matter.

Very Truly Yours,



Sheila Jackson Lee  
Subcommittee on Intellectual Property, Competition, and the Internet  
Judiciary Committee

FEDERAL TRADE COMMISSION  
2012 DEC 12 PM 4:10  
CONG. CORRES. BRANCH

cc: The Honorable J. Thomas Rosch, Commissioner, Federal Trade Commission  
The Honorable Edith Ramirez, Commissioner, Federal Trade Commission  
The Honorable Julie Brill, Commissioner, Federal Trade Commission  
The Honorable Maureen K. Ohlhausen, Commissioner, Federal Trade Commission

FEDERAL TRADE COMMISSION  
2012 DEC 12 PM 4:10  
CONG. CORRES. BRANCH





Office of the Secretary

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

OCT 06 2011

The Honorable Spencer Bachus  
U.S. House of Representatives  
1900 International Park Drive, Suite 107  
Birmingham, AL 35243  
Attn: Cindy Pate

Re: FTC Ref. No. 14004878

Dear Representative Bachus:

Thank you for your letter on behalf of your constituent, Mrs. (b)(6) of Birmingham, regarding her concern over a derogatory internet entry regarding her firm on internet search engine, Google.

As you know, the Commission has been directed by Congress to act in the interest of all consumers to prevent deceptive or unfair acts or practices, pursuant to the Federal Trade Commission Act, 15 U.S.C. §§ 41-58, and complaints from consumers provide valuable information that is frequently used to develop or support Commission enforcement initiatives. Your constituents can file complaints by using our online complaint form on the Commission Website, or by contacting our Consumer Response Center at 877-FTC-HELP (877-382-4357). The Commission receives a very large number of complaints. While the agency is not able to intervene in individual disputes, our attorneys and investigators regularly review the complaint database to look for law enforcement targets, evaluate the need for consumer education, and make policy recommendations. We may also share information in the complaint database with law enforcement, regulatory, and other government agencies, to assist them in their investigations. I should also note that your constituents can find free educational materials on a variety of consumer topics, press releases, and other important information on the Commission Website at [www.ftc.gov](http://www.ftc.gov).

We appreciate receiving your correspondence and learning of your constituent's concerns. Under the Federal Trade Commission Act, an act or practice is *deceptive* if (1) it is likely to mislead consumers acting reasonably under the circumstances, and (2) it is material; that is, likely to affect a consumer's purchase decision.<sup>1</sup> An act or practice is *unfair* if it causes

---

<sup>1</sup> *Novartis Corp.*, 127 F.T.C. 580, 679 (1999), *aff'd and enforced*, 223 F.3d 783 (D.C. Cir. 2000); *Stouffer Foods Corp.*, 118 F.T.C. 746, 798 (1994); *Kraft, Inc.*, 114 F.T.C. 40, 120 (1991), *aff'd and enforced*, 970 F.2d 311 (7th Cir. 1992), *cert. denied*, 113 S. Ct. 1254 (1993); *Removatron Intl Corp.*, 111 F.T.C. 206, 308-09 (1988), *citing, e.g., Southwest Sunsites, Inc. v. FTC*, 785 F.2d 1431, 1436 (9th Cir.), *cert. denied*, 107 S. Ct. 109 (1986); *International Harvester Co.*, 104 F.T.C. 949, 1056 (1984); *Cliffdale Assocs.*, 103 F.T.C. 110, 164-65 (1984); *see generally Federal Trade Commission Policy Statement on Deception, appended to Cliffdale*

or is likely to cause substantial injury to consumers that is not reasonably avoidable by consumers themselves and is not outweighed by countervailing benefits to consumers or to competition.<sup>2</sup> In determining whether a particular act or practice satisfies these standards and warrants enforcement or other action, the Commission may consider a number of factors -- including the type of violation alleged; the nature and amount of consumer injury at issue and the number of consumers affected; and the likelihood of preventing future unlawful conduct -- and correspondence from your constituents provide valuable information in making that determination.

The foregoing statutory provisions and law enforcement criteria provide a comprehensive framework for preventing the use of unfair or deceptive acts or practices, but the situation you have described does not appear to violate any specific law or regulation administered by the Federal Trade Commission. Furthermore, the Commission does not, as a matter of policy, intervene in individual legal disputes. Although I sympathize with your concerns, the FTC is unable to take any action at this time. (b)(6) may want to contact the Attorney General of Alabama to determine whether Alabama state law can provide her with any remedy.

We hope that the foregoing information is of assistance in addressing your constituent's concerns. Please let us know whenever we can be of service with respect to any other matter.

Sincerely,



Donald S. Clark  
Secretary of the Commission

---

*Assocs.*, 103 F.T.C. at 174-83.

<sup>2</sup> Section 5(n) of the FTC Act, 15 U.S.C. § 45(n); *see generally Orkin Exterminating Company*, 108 F.T.C. 263, 362 (1986); *Federal Commission Policy Statement on Unfairness, appended to International Harvester*, 104 F.T.C. at 1070-76.



SPENCER BACHUS  
6TH DISTRICT, ALABAMA

*Reedus 2  
detrimental  
google entry  
4004878*

2246 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515  
(202) 225-4921  
1900 INTERNATIONAL PARK DRIVE  
SUITE 107  
BIRMINGHAM, AL 35243  
(205) 969-2296  
703 SECOND AVENUE NORTH  
P.O. BOX 502  
CLANTON, AL 35046  
(205) 280-0704  
<http://www.house.gov/bachus>

**Congress of the United States**  
**House of Representatives**  
**Washington, DC**

FACSIMILE COVER SHEET

TO: Ms. Jeanne Bumpus

FACSIMILE NUMBER: 202-326-3585

FROM: U.S. Congressman Spencer Bachus

DATE: Sept. 30, 2011

We are transmitting 5 pages including this cover sheet. If the transmission is incomplete, please call 205-969-2296 or fax 205-969-3958.

COMMENTS: \_\_\_\_\_

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**FEDERAL TRADE COMMISSION**  
**2011 OCT -3 PM 3:08**  
**CONG. CORRES. BRANCH**

SPENCER BACHUS  
6TH DISTRICT, ALABAMA

COMMITTEE:  
FINANCIAL SERVICES  
CHAIRMAN

**Congress of the United States**  
**House of Representatives**  
**Washington, DC**

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BIRMINGHAM, AL 35243  
(205) 969-2296

703 SECOND AVENUE NORTH  
P.O. BOX 502  
CLANTON, AL 35046  
(205) 280-0704  
<http://bachus.house.gov>

September 30, 2011

Ms. Jeanne Bumpus  
Director Congressional Relations  
Federal Trade Commission  
Sixth Street and Pennsylvania Avenue NW  
Room 404  
Washington, DC 20580

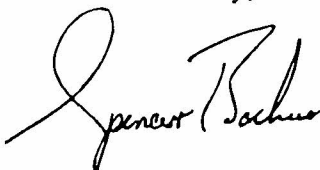
Dear Ms. Bumpus,

Mrs. (b)(6) is a constituent of mine in the Sixth Congressional District of Alabama.

Mrs. (b)(6) has contacted me about her concerns with Google. She states in her letter to me that their 32 year old CPA firm, (b)(6) have had a damaging entry on Google made about their firm and they have done everything possible to have the entry removed, but have not been successful. She further explains to me that they compete in the marketplace just like every other business and have lost potential lucrative clients due to this situation. Enclosed is a copy of (b)(6) letter to me explaining the problems they have experienced for your review.

Please look into this matter and give (b)(6) request and concerns every consideration. Send your response to Cindy Pate in my Birmingham office at 1900 International Park Drive, Suite 107, Birmingham, Alabama 35243 or by fax at (205) 969-3958. Thank you very much.

Sincerely,



Spencer Bachus  
Member of Congress

STB/cp



(b)(6)

## E-Mail Viewer

FTC

Message

Details

Attachments

Headers

Source

HTML

From: "Write your representative" &lt;writerep@heoc-t2kwww1.house.gov&gt;

Date: 9/21/2011 11:01:01 AM

To: "AL06IMA" &lt;imal06@mail.house.gov&gt;

Cc:

Subject: WriteRep Responses

&lt;WRP&gt;

&lt;DTTM&gt;September 21, 2011 10:45 AM&lt;/DTTM&gt;

&lt;PREFIX&gt;Mrs.&lt;/PREFIX&gt;

&lt;FIRST&gt;(b)(6)&lt;/FIRST&gt;

&lt;LAST&gt;&lt;/LAST&gt;

&lt;ADDR1&gt;(b)(6)&lt;/ADDR1&gt;

&lt;ADDR2&gt;(b)(6)&lt;/ADDR2&gt;

&lt;ADDR3&gt;(b)(6)&lt;/ADDR3&gt;

&lt;CITY&gt;Birmingham, AL 35242&lt;/CITY&gt;

&lt;STATE&gt;Alabama&lt;/STATE&gt;

&lt;ZIP&gt;(b)(6)&lt;/ZIP&gt;

&lt;PHONE&gt;(b)(6)&lt;/PHONE&gt;

&lt;EMAIL&gt;(b)(6)&lt;/EMAIL&gt;

&lt;MSG&gt;

Mr. Bachus - Please see the attached information regarding Google.

Our 32 year old CPA firm, (b)(6) located (b)(6) in Birmingham has been the victim of Google. We have had a damaging entry on Google made about our firm and we have done everything possible to have the entry removed with no luck. We compete in the marketplace just like every other business and have lost potential lucrative clients do to the (b)(6) owned by (b)(6) of Dallas Texas. We have corrected any mistakes noted and have moved ahead with our best poicys and pracitces in place. To no avail, (b)(6) and Google who have been contacted by our representatives numerous times will not remove this damageing article on Google. If there is anything you could do to help us with this we would be most grateful. Please "google" (b)(6) and you will see Quass Enforcement Actions - this is over 5 years old!

Thank you for any assistance you can lend to us,

(b)(6)

Google Takes the Hot Seat in WashingtonBy STEVE LOHR and CLAIRE CAIN MILLER  
WASHINGTON — In Google's most public antitrust hearing to date, Eric E. Schmidt, the company's chairman, is expected to testify before a Senate panel Wednesday about how Google produces its search results, and whether it favors its own businesses, thwarts competition and hurts consumers.

The hearing, which begins at 2 p.m., is one of several ongoing inquiries into Google's behavior,

including a broad-reaching investigation by the Federal Trade Commission.

Antitrust scrutiny has intensified since Google has expanded into new businesses, like comparison shopping, local business reviews and travel search, where it competes with the same Web sites it indexes in its search engine.

After Mr. Schmidt testifies, three Google rivals will speak. They are Jeffrey G. Katz, chief executive of Nextag, a comparison shopping site; Jeremy Stoppelman, chief executive of Yelp, a site where users review local businesses; and Thomas O. Barnett, a lawyer for Expedia, the travel site. Susan A. Creighton, a lawyer representing Google, is also expected to testify.

Wednesday's hearing, held by the Judiciary subcommittee on antitrust, competition policy and consumer rights, was not intended as a step in building a case, but to raise policy questions and explore the arguments on both sides of the antitrust debate about Google, said Senator Herb Kohl, Democrat of Wisconsin and chairman of the panel.

"Google has enormous influence on consumers and businesses in America — how they find information on the Internet, what they see and the commercial choices they are presented," Mr. Kohl said in an interview before the hearing.

Google's dominance of search and search advertising is not an antitrust issue, he said, but there is cause for concern if Google is abusing its market power.

"Does it bias its search results in favor of its own business offerings and services?" he said. "That's the crux of what we're looking at."

In written testimony to the Senate panel, Mr. Schmidt described the search giant as a company facing fierce competition on many fronts and as a relentless innovator in a dynamic industry. He emphasized the open Internet, where consumers can easily switch to competing services.

Mr. Schmidt made the case that Google has been making for months as its business practices have come under increasing scrutiny from antitrust regulators in the United States, Europe and South Korea. But he presented the company's defense of its actions and motivations in a document that is pointed and succinct, yet comprehensive.

Google's success, Mr. Schmidt wrote, is a byproduct of its corporate ethos of putting consumer interests first.

"Keeping up requires constant investment and innovation," he wrote, "and if Google fails in this effort users can and will switch. The cost of going elsewhere is zero, and users can and do use other sources to find the information they want."

Google has generated \$64 billion in economic activity for small businesses, he wrote. Google has said that comes from enabling online sales for businesses, sharing ad revenue with Web site publishers and grants to nonprofits.

He said the F.T.C. investigation, with which Google is cooperating, is largely the result of complaints by disgruntled competitors.

In his oral testimony, which will likely differ somewhat from the written version, Mr. Schmidt was expected to talk about his personal history in Silicon Valley and how it has shaped his point of view



on these issues, and to emphasize the ways in which technology companies cooperate and compete at the same time.

Google's rivals are expected to make the case that it has abused its dominance in search.

"Unfortunately for consumers, there are strong indications that Google is, in fact, foreclosing competition rather than simply competing on the merits of its own products," Mr. Barnett, who is a former head of the Justice Department's antitrust division, wrote in his prepared testimony.

Google's products, like Google Maps, have often beaten out incumbents like Mapquest, he said, and Google has the incentive to steer Internet users to its own pages because it can then earn additional advertising revenue. While Google identifies ads, it does not identify links to its own products. Its practices are even more worrisome on mobile phones, Mr. Barnett said, where it almost completely dominates search.

Mr. Stoppelman has said that Google lists its own local review product, Google Places, above Yelp results, and until recently used Yelp's reviews in Places without its permission.

The Senate hearing will have no direct consequences for the investigations under way in the United States and Europe. But the testimony could influence policy makers and the public by articulating the potential threat to consumer welfare, competition and innovation if a corporate giant overreaches.

In 1998, for example, soon after Bill Gates of Microsoft was challenged by senators and competitors at hearing, the federal government and 20 states filed an antitrust suit against Microsoft.

As antitrust scrutiny has intensified, Google has ramped up its lobbying efforts in Washington and its communications campaigns nationwide. The company has shown television ads in some markets, including in Wisconsin, Mr. Kohl's home state, that trumpet Google's role in helping small businesses and creating jobs.

</MSG>

</WRP>

Close

LAMAR S. SMITH, Texas  
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ONE HUNDRED TWELFTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON THE JUDICIARY

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<http://www.house.gov/judiciary>

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JARED POLIS, Colorado

December 17, 2012

The Honorable Jon Leibowitz, Chairman  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580

Dear Chairman Leibowitz:

As the Ranking Members of the Committee and Subcommittee with jurisdiction over antitrust policy, we have read with great interest reports suggesting that the Federal Trade Commission (FTC) will soon conclude its investigation into Google's business practices. The outcome of this investigation undoubtedly will have important implications for Google and its competitors and for consumers.

Recently, some have expressed concern that the FTC may exceed its authority in applying a Section 5 "standalone" theory to the issues raised in the Google investigation. While we do not take a position on the merits of the claims alleged against Google, we do believe that concerns about the use of Section 5 are unfounded.<sup>1</sup> Well established legal principles set forth by the Supreme Court provide ample authority for the FTC to address potential competitive concerns in the relevant market, including search.<sup>2</sup>

We believe that competition in the key markets that allow consumers to navigate the Internet promotes consumer welfare by facilitating the free flow of information, directing consumers to accurate information, and enhancing consumer choice. Evaluating whether the conduct being examined by the FTC harms the competitive process, is squarely within the authority and responsibility of the FTC.<sup>3</sup>

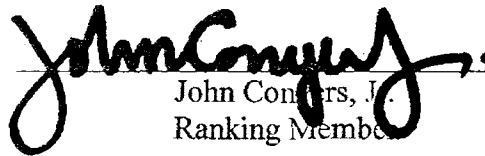
<sup>1</sup> See *FTC v. Sperry & Hutchinson Co.*, 405 U.S. 304, 310 (1934) (The FTC is authorized to "consider[ ] public values beyond simply those enshrined in the letter or encompassed in the spirit of the antitrust laws."); *FTC v. Indiana Federation of Dentists*, 476 U.S. 447, 454 (1986) (The unfairness standard under Section 5 "encompass[es] not only practices that violate the Sherman Act and other antitrust laws, but also practices that the Commission determines are against public policy for other reasons.").

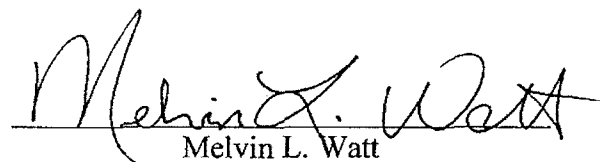
<sup>2</sup> See *Aspen Skiing v. Highlands*, 472 U.S. 585 (1985); *Otter Tail Power Co. v. U.S.*, 410 U.S. 366 (1973); *Lorain Journal Co. v. U.S.*, 342 U.S. 143 (1951).

<sup>3</sup> *U.S. v. Microsoft*, 253 F.3d 34, 79 (D.C. Cir. 2001) ("[I]t would be inimical to the purpose of the Sherman Act to allow monopolists free reign to squash nascent, albeit unproven, competitors at will – particularly in industries marked by rapid technological advance and frequent paradigm shifts").

We urge you and your fellow Commissioners to follow the facts and law in this regard as you deem fit without regard to outside influence or pressure. We further urge the Commission, regardless of the outcome of the current investigation, to continue to monitor the existing and emerging markets within the Internet ecosystem to ensure robust competition and protection for consumers.

Sincerely,

  
John Conyers, Jr.  
Ranking Member

  
Melvin L. Watt  
Ranking Member  
Subcommittee on Intellectual Property,  
Competition, and the Internet

cc: The Honorable Lamar Smith, Chairman, House Committee on the Judiciary  
The Honorable Bob Goodlatte, Chairman, Subcommittee on Intellectual Property,  
Competition, and the Internet

Office of the Secretary  
**Correspondence Referral**

Remember to Designate  
FOIA Status

Today's Date: 11/19/12

**Reference Number:** 14007484

**Type of Response (or) Action:**

Complaint

**Date Forwarded:**

11/19/12

**Action:** Secretary's Signature

**Subject of Correspondence:**

Google investigation

**Author:**

Representative Anna Eshoo

Representative Zoe Lofgren

**Copies of Correspondence To:**

Office of Commissioner Ohlhausen

Office of Commissioner Rosch

Office of Commissioner Brill

Office of Commissioner Ramirez

Office of Public Affairs (Press Office)

Office of Congressional Relations - (0309)

**Organization Assigned:**

Policy and Coordination - BC

**Representing:**

**Copies of Response To:**

Office of the Chairman

Office of the Executive Director

Office of the General Counsel

Office of the Secretary

**Deadline:**

12/04/12

LOG

<b><u>Date Received</u></b>	<b><u>FTC Org Code</u></b>	<b><u>Assignment To:</u></b>	<b><u>Date Assigned</u></b>	<b><u>Action Required</u></b>
	1039	Alan J. Friedman		

# EXPEDITE

U. S. House of Representatives  
Washington, D. C. 20515

November 19, 2012

14007484

The Honorable Jon Leibowitz, Chairman  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580

Dear Chairman Leibowitz,

We have read with great concern recent reports of information leaks from those inside the Federal Trade Commission's (FTC) antitrust investigation of Google. These reports suggest that the FTC is preparing to use Section 5 of the FTC Act to avoid proving some of the elements of a claim required under Section 2 of the Act. Such a massive expansion of FTC jurisdiction would be unwarranted, unwise, and likely have negative implications for our nation's economy.

The FTC has a responsibility to remain fair and impartial while protecting the confidentiality of internal discussions among the parties involved. The release of sensitive details from an internal draft FTC staff report is irresponsible and potentially compromises an investigation that has yet to be voted on by the full Commission.

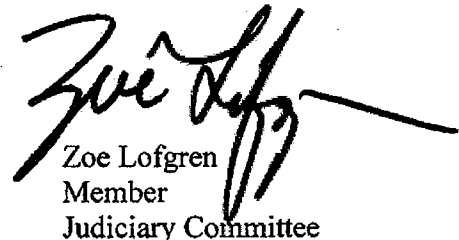
Expanding the FTC's Section 5 powers to include antitrust matters could lead to overbroad authority that amplifies uncertainty and stifles growth. These effects may be most acutely felt among online services, a crucial engine of job creation, where technological advancement and small business innovation are rapid. If the FTC indeed intends to litigate under this interpretation of Section 5, we strongly urge the FTC to reconsider.

However the FTC concludes its investigation, we are hopeful that it will be done swiftly, fairly, and within the appropriate limits of the FTC's authority. Thank you for your attention to this important matter.

Sincerely,



Anna G. Eshoo  
Ranking Member  
Communications and Technology Subcommittee  
Energy and Commerce Committee



Zoe Lofgren  
Member  
Judiciary Committee

cc: The Honorable J. Thomas Rosch, Commissioner, Federal Trade Commission  
The Honorable Edith Ramirez, Commissioner, Federal Trade Commission  
The Honorable Julie Brill, Commissioner, Federal Trade Commission  
The Honorable Maureen K. Ohlhausen, Commissioner, Federal Trade Commission

**Remember to Designate  
FOIA Status**  
Today's Date: 12/11/12

# EXPEDITE



## United States Senate

WASHINGTON, DC 20510-0504

<http://feinstein.senate.gov>

December 11, 2012

The Honorable Jon Leibowitz  
Chairman, Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580

Dear Chairman Leibowitz:

I write to express my deep concern that possible actions by Federal Trade Commission against Google, Inc. are consistently being leaked to the press. As I hope you know, the Commission's Operating manual provides in Chapter 3.1.2.3 that:

Unless otherwise directed by the Commission, all investigations are nonpublic. Accordingly, the existence of the investigation, the identity of the parties or practices under investigation, [and] the facts developed in the investigation . . . can be disclosed only in accordance with the Commission's directives and procedures for the disclosure of information . . .

However, notwithstanding this prohibition, there appears to have been a lengthy series of leaks coming from the Commission about what should be, according to the policy above, a nonpublic investigation of Google, including:

- A June 29, 2012 Bloomberg article that discusses a Commission probe of Google subsidiary Motorola Mobility's handling of "standard essential patents", including allocation of responsibility between the Justice Department and the FTC for handling investigations of Samsung Electronics and Google, respectively. The "person familiar with the matter" that was the source did not know the status of the Justice investigation, but did know the FTC's status.
- An August 30, 2012 Bloomberg article relied on "four people familiar with the matter" of an FTC antitrust investigation of Google, who discussed the

timing of a presentation by FTC staff to the commissioners, and the staff's probable recommendation. Three of these people also spoke of the FTC's awareness of Google's proposal to European Commission antitrust authorities.

- An October 1, 2012 Mlex article states that Commissioner Rosch and yourself are pushing for a conclusion of the investigation of Google. The article describes a staff briefing the commissioners received in mid-September, and the commissioners' directions back to the Bureau of Competition.
- An October 12, 2012 Reuters article reported that four of the five FTC commissioners support bringing an antitrust case against Google, and that the fifth is "skeptical"; the story cites "three people familiar with the matter."
- An October 13, 2012 Bloomberg article discusses "an internal draft memo that recommends suing Google Inc." regarding search-related issues that FTC investigators are circulating. It describes the length and content of this memo. It further relays that "A majority of commissioners, including FTC Chairman Jon Leibowitz, have expressed concerns internally about Google's practices, and are deciding how to proceed, two of the [unnamed] people said." The article also discusses various possible bases for action against Google that the commission is considering, civil investigative demands that were issued to Google, and the FTC's purpose in issuing these demands.
- On October 18, 2012, the New York Post reported about charges that the FTC soon will bring against Google, citing "a source close to the situation." The source discusses the direction of the investigation, the basis for the charges, and the likely FTC action.
- A November 2, 2012 Bloomberg article reported on FTC staff recommendations to the commissioners about the Motorola Mobility patent issues, and that "A majority of the agency's five commissioners are inclined to sue," citing "four people familiar with the matter."
- Finally, a November 14, 2012 article in the Policy and Regulatory Report/Financial Times explicitly cites "two FTC lawyers" among other sources in reporting on the FTC's strategy in the "Big Google" case. These



FTC lawyers are explicitly (although anonymously) cited in discussions of various strategies for and bases for a case against Google.

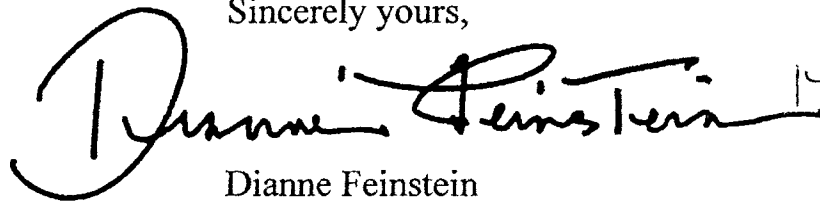
There is a belief that competitors of Google are in the process of manipulating legislative and regulatory actions against Google, to try to gain advantages against the company that they have been unable to obtain in the free marketplace. I have no way of knowing whether this is true or not, but it is a concern that I wanted to relay to you.

Google is a major California company, that employs thousands of Californians. They are subject to fierce competition in the marketplace, most or all of which is accessible with the click of a mouse. It is important that they be treated fairly in a government investigation, and not be subjected to a constant, one-sided assault of selective leaks to the press.

According to these media reports, this investigation has been going on for a year and a half. I hope that, out of fairness to the company, any investigation can be wrapped up and resolved one way or another in a reasonable time, and that the leaks will stop.

Thank you for your attention, and may I take this opportunity to wish you and your family a wonderful holiday season.

Sincerely yours,

A handwritten signature in black ink, reading "Dianne Feinstein". The signature is fluid and cursive, with a large initial "D". To the right of the signature, the number "14007580" is handwritten.

Dianne Feinstein  
United States Senator



Office of the Secretary

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

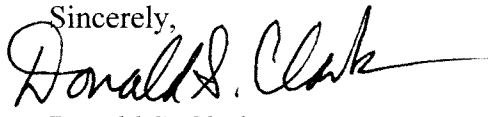
January 23, 2012

Mr. Lead Wey  
220 East Flamingo Road, Unit 126  
Las Vegas, Nevada 89169

Dear Mr. Wey:

Thank you for your letter to The Honorable Harry Reid – which has been forwarded to the Federal Trade Commission for response – concerning the Commission investigation of certain practices of Google, Inc.<sup>1</sup> Your correspondence has been forwarded to appropriate members of the Commission staff for review. Although a number of statutory prohibitions and the Rules of the Commission prevent me from disclosing the contours of any nonpublic investigation, I can assure you that the information you have provided and the concerns you have expressed are receiving careful consideration.

We appreciate your interest in this matter, and hope that the foregoing information is of assistance. Thank you again for your correspondence.

Sincerely,  
  
Donald S. Clark  
Secretary of the Commission

cc: The Honorable Harry Reid  
United States Senate  
Washington, D.C. 20510

---

<sup>1</sup> I am able to confirm publicly that the Commission is conducting an investigation of Google because Google “has publicly disclosed . . . that it is the subject” of a Commission investigation. See *Federal Trade Commission Policy Concerning Disclosures of Nonmerger Competition and Consumer Protection Investigations: Notice of Revised Policy*, 63 Fed. Reg. 63477 (Nov. 13, 1998); see also *Federal Trade Commission Notice of Policy of Disclosing Investigations of Announced Mergers: Notice of Revised Policy*, 62 Fed. Reg. 18630 (Apr. 16, 1997).

Today's Date: 12/15/11

[illegible]

Laura DeMartino  
14005332

# United States Senate

WASHINGTON, DC 20510-7012

November 1, 2011

Ms. Jeanne Bumpus  
Director, Office of Congressional Relations  
Federal Trade Commission  
600 Pennsylvania Avenue, NW, Room 404  
Washington, DC 20580

Dear Ms. Bumpus:

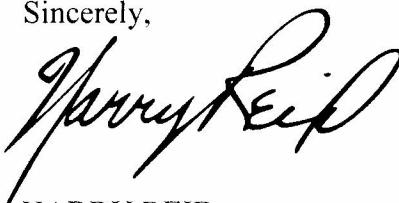
Enclosed is a letter I have received from (b)(6)

I would appreciate your reviewing this situation and providing answers to my constituent's concern. Please send your reply directly to (b)(6) and send a copy of your response to me.

Thank you for your cooperation and assistance.

My best wishes to you.

Sincerely,



HARRY REID  
United States Senator  
Nevada

HR:db

FEDERAL TRADE COMMISSION  
2011 DEC 14 AM 11:12  
CONG. CORRES. BRANCH

(b)(6)

CF MAIL

(b)(6)

(b)(6)

</ADDRESS2>  
<CITY>Las Vegas</CITY>  
<STATE>NV</STATE>  
<ZIP>(b)(6)/ZIP>

(b)(6)

<SUBJECT>BK</SUBJECT>

<MESSAGEBODY>In the past month, Google suddenly decided to suspend my ability to advertise on its Google Adwords platform without providing me any recourse. I have since been unable to reach anyone within Google with decision making authority to resolve my issues. Google is a monopoly and they hurt small businesses like me. As your constituent, I am writing to express my concern that Google is leveraging its enormous power in search and search advertising to maintain and extend its dominance at the expense of competition and consumers. Not only does Google's anti-competitive behavior threaten innovation and economic growth online, it also limits consumer choice and often leads to higher prices. Now, more than ever, I believe Google's business practices deserve close scrutiny. Consumers are depending on enforcers and policymakers like you to ensure that Google abides by existing antitrust laws. I urge you to act now to protect fair search so that competition and innovation can thrive.</MESSAGEBODY>

<AddressTo>General</AddressTo>



Office of the Secretary

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

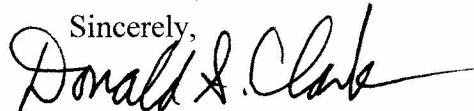
January 23, 2012

The Honorable Harry Reid  
United States Senate  
Washington, D.C. 20510-7012

Dear Senator Reid:

Thank you for your letter to the U.S. Department of Justice on behalf of your constituent, (b)(6) of Reno, Nevada -- which has been transferred to the Federal Trade Commission for response -- concerning the Commission investigation of certain practices of Google, Inc.<sup>1</sup> Your correspondence has been forwarded to appropriate members of the Commission staff for review. Although a number of statutory prohibitions and the Rules of the Commission prevent me from disclosing the contours of any nonpublic investigation, I can assure you that the information which (b)(6) has provided, and the concerns she has expressed, are receiving careful consideration.

We appreciate your interest in this matter, and hope that the foregoing information is of assistance. Thank you again for your correspondence.

Sincerely,  
  
Donald S. Clark  
Secretary of the Commission

---

<sup>1</sup> I am able to confirm publicly that the Commission is conducting an investigation of Google because Google "has publicly disclosed . . . that it is the subject" of a Commission investigation. See *Federal Trade Commission Policy Concerning Disclosures of Nonmerger Competition and Consumer Protection Investigations: Notice of Revised Policy*, 63 Fed. Reg. 63477 (Nov. 13, 1998); see also *Federal Trade Commission Notice of Policy of Disclosing Investigations of Announced Mergers: Notice of Revised Policy*, 62 Fed. Reg. 18630 (Apr. 16, 1997).





*Alan Friedman* 14005164  
U. S. DEPARTMENT OF JUSTICE  
Antitrust Division

Office of the Assistant Attorney General

RFK Main Justice Building  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530-0001  
(202) 514-2401 / (202) 616-2645 (Fax)

OCT 31 2011

Mr. Donald S. Clark  
Secretary  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, D.C. 20580

Dear Secretary Clark:

Enclosed is a letter from a constituent of Senator Harry Reid regarding Google's potentially anticompetitive conduct in the search and search advertising markets. Since this matter has been cleared to the Federal Trade Commission, we are referring the letter to you for consideration.

Thank you for your cooperation.

Sincerely,

Jamillia P. Ferris  
Deputy Chief of Staff  
and Counsel

Enclosure

FEDERAL TRADE COMMISSION  
2011 NOV 17 PM 1:07  
CONG. CORRES. BRANCH



# United States Senate

WASHINGTON, DC 20510-7012

October 11, 2011

Mr. Ronald H. Weich  
Assistant Attorney General for Office of Legislative Affairs  
Office of Legislative Affairs  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW, Room 1145  
Washington, DC 20530

Dear Mr. Weich:

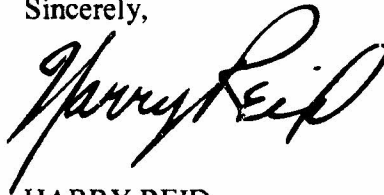
Enclosed is a letter I have received from (b)(6)

I would appreciate your reviewing this situation and providing answers to my constituent's concern. Please send your reply directly to (b)(6) and send a copy of your response to me.

Thank you for your cooperation and assistance.

My best wishes to you.

Sincerely,



HARRY REID  
United States Senator  
Nevada

HR:db

(b)(6)

## CF MAIL

(b)(6)

</ADDRESS2>  
<CITY>Reno</CITY>  
<STATE>NV</STATE>  
<ZIP>(b)(6)</ZIP>  
<HOMEPHONE>(b)(6)</HOMEPHONE>  
<WORKPHONE>(b)(6)</WORKPHONE>  
<EMAIL>(b)(6)com</EMAIL>  
<SUBJECT>BK</SUBJECT>  
<MESSAGEBODY>As your constituent, I am writing to express my concern that Google is leveraging its enormous power in search and search advertising to maintain and extend its dominance at the expense of competition and consumers. Not only does Google's anti-competitive behavior threaten innovation and economic growth online, it also limits consumer choice and often leads to higher prices. Now, more than ever, I believe Google's business practices deserve close scrutiny. Consumers are depending on enforcers and policymakers like you to ensure that Google abides by existing antitrust laws. I urge you to act now to protect fair search so that competition and innovation can thrive.</MESSAGEBODY>  
<AddressTo>General</AddressTo>



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Office of the Secretary

December 5, 2011

The Honorable Herb Kohl  
Chairman  
Subcommittee on Antitrust, Competition Policy and Consumer Rights  
Committee on the Judiciary  
United States Senate  
Washington, DC 20510-6275

Dear Chairman Kohl:

Thank you for your letter dated November 18, 2011, requesting a confidential staff briefing on the agency's investigation into Google, Inc.'s search engine practices. The Commission is responding to your request as an official request of a Congressional Subcommittee, *see* Commission Rule 4.11(b), 16 C.F.R. § 4.11(b), and has authorized its staff to provide the requested briefing.

Most of the information that the Commission attorneys will discuss during the briefing is nonpublic and statutorily protected from public disclosure by the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 41 *et seq.*, as well as exempt from mandatory disclosure under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. In particular, some of the information would be protected under Section 6(f) of the FTC Act, 15 U.S.C. § 46(f), as confidential commercial or financial information. The Commission is prohibited from disclosing such information publicly, and it would be exempt from disclosure under FOIA Exemption 3, 5 U.S.C. § 552(b)(3). Because disclosure of this information is likely to result in substantial competitive harm to the submitters, or is clearly not of a kind that submitters would customarily make available to the public, it would be exempt from disclosure under FOIA Exemption 4, 5 U.S.C. § 552(b)(4). *See Critical Mass Energy Project v. NRC*, 975 F.2d 871, 877-80 (D.C. Cir. 1992) (*en banc*), *cert. denied*, 507 U.S. 984 (1993) (exempt status accorded to information submitted voluntarily); *National Parks & Conservation Ass'n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974) (exempt status accorded to information submitted under compulsion).

Most of the information that the Commission attorneys will discuss was obtained by compulsory process or provided voluntarily in lieu thereof in a law enforcement investigation. Such information is protected from public disclosure under Section 21(f) of the FTC Act, 15 U.S.C. § 57b-2(f). By virtue of that section, such information is also exempt from public disclosure under FOIA Exemption 3(B), 5 U.S.C. § 552(b)(3)(B). *McDermott v. FTC*, 1981-1 Trade Cas. (CCH) ¶ 63,964 at 75,982-3 (D.D.C. April 13, 1981); *Dairymen, Inc. v. FTC*, 1980-2

Trade Cas. (CCH) ¶ 63,479 (D.D.C. July 9, 1980). Moreover, third party submitters provided their materials and information with a specific request for confidential treatment under Section 21 (c) of the FTC Act, 15 U.S.C. § 57b-2(c)). Under Commission Rule 4.10(d), 16 C.F.R. § 4.10(d), the Commission has waived its discretion to release to the public materials submitted pursuant to compulsory process or materials submitted voluntarily in lieu of process that have been marked confidential by the submitting parties.<sup>1</sup>

Additional information that may be discussed during the briefing was submitted in response to the Hart-Scott-Rodino premerger notification requirements of the Clayton Act, 15 U.S.C. § 18a. Section 7A(h) of the Act prohibits public disclosure of such documents or information. By virtue of this statutory prohibition, this information is also exempt from disclosure under Freedom of Information Act (FOIA) Exemption 3A, 5 U.S.C. § 552(b)(3)(A).<sup>2</sup>

Further, information discussed during the briefing would reveal the existence of, and information concerning, an ongoing, nonpublic law enforcement investigation. Disclosure of this information could reasonably be expected to interfere with law enforcement proceedings, and this information is therefore protected from mandatory public disclosure by FOIA Exemption 7(A), 5 U.S.C. § 552(b)(7)(A). *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 232 (1978); *Ehringhaus v. FTC*, 525 F. Supp. 21, 24 (D.D.C. 1980).

Finally, some of the information that will be discussed during the briefing will include internal staff analyses and recommendations, which are predecisional, deliberative materials exempt from mandatory public disclosure under FOIA Exemption 5, 5 U.S.C. § 552(b)(5). *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132 (1975); *Coastal States Gas Corp. v. Department of Energy*, 617 F.2d 854, 866 (D.C. Cir. 1980). Some of this information may also be protected from mandatory public disclosure under FOIA Exemption 5 as attorney work product prepared in anticipation of litigation. *FTC v. Grolier, Inc.*, 462 U.S. 19, 28 (1983); *Martin v. Office of Special Counsel, Merit Systems Protection Board*, 819 F.2d 1181, 1187 (D.C. Cir. 1987).

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<sup>1</sup> The Commission is required to notify persons who submitted information pursuant to compulsory process in a law enforcement investigation, or voluntarily in lieu thereof on a confidential basis, if the Commission receives a request from a Congressional Committee or Subcommittee for that information. See 15 U.S.C. §§ 57b-2(b)(3)(C), 57b-2(d)(1)(A); Commission Rule 4.11(b), 16 C.F.R. § 4.11(b). Staff is providing the requisite notice.

<sup>2</sup> The Commission has instructed its staff to provide reasonable notice, when possible, of the release to Congress of information submitted pursuant to HSR. See *Statement of Basis and Purpose of HSR Rules and Regulations*, 43 Fed. Reg. 33519 (July 31, 1978). Staff has provided notice to submitters pursuant to this policy.

Notwithstanding the protected status of most of the responsive information, the FTC Act, 15 U.S.C. § 57b-2(d)(1)(A), the Clayton Act, 15 U.S.C. § 18a(h), and the FOIA, 5 U.S.C. § 552(d), provide no authority to withhold such information from this Congressional Subcommittee, and the Commission has authorized staff to provide the requested briefing to Subcommittee staff. Because the confidential information would not be available to the public under the FOIA or otherwise, the Commission requests that the Subcommittee maintain its confidentiality.

By direction of the Commission.

A handwritten signature in black ink, reading "Donald S. Clark", followed by a long horizontal flourish line extending to the right.

Donald S. Clark  
Secretary

Office of the Secretary  
**Correspondence Referral**

**Remember to Designate  
FOIA Status**  
Today's Date: 11/21/11

**Reference Number:** 14005166

**Type of Response (or) Action:**

Complaint

**Date Forwarded:**

11/21/11

**Action:** Secretary's Signature

**Subject of Correspondence:**

confidential briefing about FTC's antitrust investigation into Google's search engine practices

**Author:**

Senator Herb Kohl

**Representing:**

**Copies of Response To:**

**Copies of Correspondence To:**

Office of Commissioner Kovacic

Office of Commissioner Rosch

Office of Commissioner Brill

Office of Commissioner Ramirez

Office of Public Affairs (Press Office)

Office of Congressional Relations - (0309)

Office of the Chairman

Office of the Executive Director

Office of the General Counsel

Office of the Secretary

**Deadline:**

12/06/11

**Organization Assigned:**

Policy and Coordination - BC

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**ACTION LOG**

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<b><u>Date Received</u></b>	<b><u>FTC Org Code</u></b>	<b><u>Assignment To:</u></b>	<b><u>Date Assigned</u></b>	<b><u>Action Required</u></b>
	1039	Alan J. Friedman		

**EXPEDITE**

14005166

PATRICK J. LEAHY, VERMONT, CHAIRMAN

HERB KOHL, WISCONSIN  
DIANNE FEINSTEIN, CALIFORNIA  
CHARLES E. SCHUMER, NEW YORK  
RICHARD J. DURBIN, ILLINOIS  
SHELDON WHITEHOUSE, RHODE ISLAND  
AMY KLOBUCHAR, MINNESOTA  
AL FRANKEN, MINNESOTA  
CHRISTOPHER A. COONS, DELAWARE  
RICHARD BLUMENTHAL, CONNECTICUT

CHARLES E. GRASSLEY, IOWA  
ORRIN G. HATCH, UTAH  
JON KYL, ARIZONA  
JEFF SESSIONS, ALABAMA  
LINDSEY O. GRAHAM, SOUTH CAROLINA  
JOHN CORNYN, TEXAS  
MICHAEL S. LEE, UTAH  
TOM COBURN, OKLAHOMA

## United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

BRUCE A. COHEN, *Chief Counsel and Staff Director*  
KOLAN L. DAVIS, *Republican Chief Counsel and Staff Director*

November 18, 2011

The Honorable Jon Leibowitz  
Chairman, Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Suite 444  
Washington, DC 20580

Dear Chairman Leibowitz:

I am writing to request that knowledgeable members of the FTC staff provide our Subcommittee staff with a confidential briefing about the FTC's antitrust investigation into Google's search engine practices.

I understand the sensitivity of discussing pending investigations. Therefore, my staff and I will ensure that any non-public information that your staff provides during the briefing will not be shared with anyone outside the Subcommittee. If you require further confidentiality assurances, we will do our best to accommodate you.

Thank you very much for your assistance in this matter.

Respectfully yours,



HERB KOHL

Chairman

Subcommittee on Antitrust, Competition Policy and  
Consumer Rights

FEDERAL TRADE COMMISSION  
2011 NOV 21 AM 9:58  
CONG. CORRES. BRANCH



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Office of the Secretary

October 19, 2012

The Honorable Herb Kohl  
Chairman  
Subcommittee on Antitrust, Competition Policy  
and Consumer Rights  
Committee on the Judiciary  
United States Senate  
Washington, DC 20510-6275

Dear Chairman Kohl:

Thank you for your letter dated October 17, 2012, requesting a confidential staff briefing on the agency's investigations into allegations that Google, Inc. has been engaged in anticompetitive conduct. The Commission is responding to your request as an official request of a Congressional Subcommittee, *see* Commission Rule 4.11(b), 16 C.F.R. § 4.11(b), and has authorized its staff to provide the requested briefing.

Most of the information that the Commission attorneys will discuss during the briefing is nonpublic and statutorily protected from public disclosure by the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 41 *et seq.*, as well as exempt from mandatory disclosure under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. In particular, some of the information would be protected under Section 6(f) of the FTC Act, 15 U.S.C. § 46(f), as confidential commercial or financial information. The Commission is prohibited from disclosing such information publicly, and it would be exempt from disclosure under FOIA Exemption 3, 5 U.S.C. § 552(b)(3). Because disclosure of this information is likely to result in substantial competitive harm to the submitters, or is clearly not of a kind that submitters would customarily make available to the public, it would be exempt from disclosure under FOIA Exemption 4, 5 U.S.C. § 552(b)(4). *See Critical Mass Energy Project v. NRC*, 975 F.2d 871, 877-80 (D.C. Cir. 1992) (*en banc*), *cert. denied*, 507 U.S. 984 (1993) (exempt status accorded to information submitted voluntarily); *National Parks & Conservation Ass'n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974) (exempt status accorded to information submitted under compulsion).

Most of the information that the Commission attorneys will discuss was obtained by compulsory process or provided voluntarily in lieu thereof in a law enforcement investigation. Such information is protected from public disclosure under Section 21(f) of the FTC Act, 15 U.S.C. § 57b-2(f). By virtue of that section, such information is also exempt from public



disclosure under FOIA Exemption 3(B), 5 U.S.C. § 552(b)(3)(B). *McDermott v. FTC*, 1981-1 Trade Cas. (CCH) ¶ 63,964 at 75,982-3 (D.D.C. April 13, 1981); *Dairymen, Inc. v. FTC*, 1980-2 Trade Cas. (CCH) ¶ 63,479 (D.D.C. July 9, 1980). Moreover, third party submitters provided their materials and information with a specific request for confidential treatment under Section 21 (c)) of the FTC Act, 15 U.S.C. § 57b-2(c)). Under Commission Rule 4.10(d), 16 C.F.R. § 4.10(d), the Commission has waived its discretion to release to the public materials submitted pursuant to compulsory process or materials submitted voluntarily in lieu of process that have been marked confidential by the submitting parties.<sup>1</sup>

Additional information that may be discussed during the briefing was submitted in response to the Hart-Scott-Rodino premerger notification requirements of the Clayton Act, 15 U.S.C. § 18a. Section 7A(h) of the Act prohibits public disclosure of such documents or information. By virtue of this statutory prohibition, this information is also exempt from disclosure under Freedom of Information Act (FOIA) Exemption 3A, 5 U.S.C. § 552(b)(3)(A).<sup>2</sup>

Further, information discussed during the briefing would reveal the existence of, and information concerning, ongoing, nonpublic law enforcement investigations. Disclosure of this information could reasonably be expected to interfere with law enforcement proceedings, and this information is therefore protected from mandatory public disclosure by FOIA Exemption 7(A), 5 U.S.C. § 552(b)(7)(A). *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 232 (1978); *Ehringhaus v. FTC*, 525 F. Supp. 21, 24 (D.D.C. 1980).

Finally, some of the information that will be discussed during the briefing will include internal staff analyses and recommendations, which are predecisional, deliberative materials exempt from mandatory public disclosure under FOIA Exemption 5, 5 U.S.C. § 552(b)(5). *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132 (1975); *Coastal States Gas Corp. v. Department of Energy*, 617 F.2d 854, 866 (D.C. Cir. 1980). Some of this information may also be protected from mandatory public disclosure under FOIA Exemption 5 as attorney work product prepared in anticipation of litigation. *FTC v. Grolier, Inc.*, 462 U.S. 19, 28 (1983); *Martin v. Office of Special Counsel, Merit Systems Protection Board*, 819 F.2d 1181, 1187 (D.C. Cir. 1987).

---

<sup>1</sup> The Commission is required to notify persons who submitted information pursuant to compulsory process in a law enforcement investigation, or voluntarily in lieu thereof on a confidential basis, if the Commission receives a request from a Congressional Committee or Subcommittee for that information. See 15 U.S.C. §§ 57b-2(b)(3)(C), 57b-2(d)(1)(A); Commission Rule 4.11(b), 16 C.F.R. § 4.11(b). Staff is providing the requisite notice.

<sup>2</sup> The Commission has instructed its staff to provide reasonable notice, when possible, of the release to Congress of information submitted pursuant to HSR. See *Statement of Basis and Purpose of HSR Rules and Regulations*, 43 Fed. Reg. 33519 (July 31, 1978). Staff has provided notice to submitters pursuant to this policy.

Notwithstanding the protected status of most of the responsive information, the FTC Act, 15 U.S.C. § 57b-2(d)(1)(A), the Clayton Act, 15 U.S.C. § 18a(h), and the FOIA, 5 U.S.C. § 552(d), provide no authority to withhold such information from this Congressional Subcommittee, and the Commission has authorized staff to provide the requested briefing to Subcommittee staff. Because the confidential information would not be available to the public under the FOIA or otherwise, the Commission requests that the Subcommittee maintain its confidentiality.

By direction of the Commission.

A handwritten signature in black ink, appearing to read "Donald S. Clark". The signature is written in a cursive, flowing style.

Donald S. Clark  
Secretary

Office of the Secretary  
**Correspondence Referral**

**Remember to Designate  
FOIA Status**

Today's Date: 10/17/12

**Reference Number:** 14007131

**Type of Response (or) Action:**

Complaint

**Date Forwarded:**

09/21/12

**Action:** Secretary's Signature

**Subject of Correspondence:**

Request for Confidential Staff Briefing on Google's Anticompetitive Practices

**Author:**

Senator Herb Kohl

**Representing:**

**Copies of Response To:**

Office of Public Affairs (Press Office)

Office of Congressional Relations - (0309)

Office of the General Counsel

Office of the Secretary

**Copies of Correspondence To:**

Office of the Chairman

Office of Commissioner Ohlhausen

Office of Commissioner Rosch

Office of Commissioner Brill

Office of Commissioner Ramirez

Office of the Executive Director

**Deadline:**

10/05/12

**Organization Assigned:**

Policy and Coordination - BC

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**ACTION LOG**

---

<b><u>Date Received</u></b>	<b><u>FTC Org Code</u></b>	<b><u>Assignment To:</u></b>	<b><u>Date Assigned</u></b>	<b><u>Action Required</u></b>
	1039	Alan J. Friedman		
.....				
.....				
.....				
.....				
.....				
.....				

**EXPEDITE**

HERB KOHL  
WISCONSIN

WASHINGTON OFFICE:  
330 HART SENATE OFFICE BUILDING  
WASHINGTON, DC 20510  
(202) 224-5653  
<http://kohl.senate.gov/>

# United States Senate

WASHINGTON, DC 20510-4903

COMMITTEES:

APPROPRIATIONS

JUDICIARY

SPECIAL COMMITTEE  
ON AGING

October 17, 2012

The Honorable Jon Leibowitz  
Chairman, Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Suite 444  
Washington, DC 20580

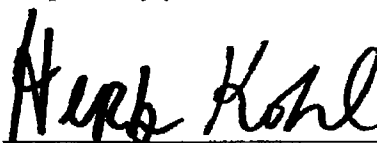
Dear Chairman Leibowitz:

I am writing to request that knowledgeable members of the FTC staff provide our Subcommittee staff with a confidential briefing about the FTC's antitrust investigations into allegations that Google has been engaged in anticompetitive conduct.

I understand the sensitivity of discussing pending investigations. Therefore, my staff and I will ensure that any non-public information that your staff provides during the briefing will not be shared with anyone outside the Subcommittee. If you require further confidentiality assurances, we will do our best to accommodate you.

Thank you very much for your assistance in this matter.

Respectfully yours,



HERB KOHL

Chairman

Subcommittee on Antitrust, Competition Policy and  
Consumer Rights

MILWAUKEE OFFICE:  
310 WEST WISCONSIN AVENUE  
SUITE 950  
MILWAUKEE, WI 53203  
(414) 297-4461  
T.T.Y. (414) 297-4485

MADISON OFFICE:  
14 WEST MIFFLIN STREET  
SUITE 207  
MADISON, WI 53703  
(608) 264-5338

EAU CLAIRE OFFICE:  
402 GRAHAM AVENUE  
SUITE 206  
EAU CLAIRE, WI 54701  
(715) 832-8424

APPLETON OFFICE:  
4321 WEST COLLEGE AVENUE  
SUITE 370  
APPLETON, WI 54914  
(920) 738-1640

LA CROSSE OFFICE:  
205 5TH AVENUE SOUTH  
SUITE 216  
LA CROSSE, WI 54601  
(608) 796-0045



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Office of the Secretary

September 13, 2011

The Honorable Herb Kohl  
Chairman  
Subcommittee on Antitrust, Competition Policy and Consumer Rights  
Committee on the Judiciary  
United States Senate  
Washington, DC 20510-6275

Dear Chairman Kohl:

Thank you for your letter dated September 7, 2011, requesting a confidential staff briefing on the agency's investigation into Google, Inc.'s search engine practices. The Commission is responding to your request as an official request of a Congressional Subcommittee, *see* Commission Rule 4.11(b), 16 C.F.R. § 4.11(b), and has authorized its staff to provide the requested briefing.

Most of the information that the Commission attorneys will discuss during the briefing is nonpublic and statutorily protected from public disclosure by the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 41 *et seq.*, as well as exempt from mandatory disclosure under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. In particular, some of the information would be protected under Section 6(f) of the FTC Act, 15 U.S.C. § 46(f), as confidential commercial or financial information. The Commission is prohibited from disclosing such information publicly, and it would be exempt from disclosure under FOIA Exemption 3, 5 U.S.C. § 552(b)(3). Because disclosure of this information is likely to result in substantial competitive harm to the submitters, or is clearly not of a kind that submitters would customarily make available to the public, it would be exempt from disclosure under FOIA Exemption 4, 5 U.S.C. § 552(b)(4). *See Critical Mass Energy Project v. NRC*, 975 F.2d 871, 877-80 (D.C. Cir. 1992) (*en banc*), *cert. denied*, 507 U.S. 984 (1993) (exempt status accorded to information submitted voluntarily); *National Parks & Conservation Ass'n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974) (exempt status accorded to information submitted under compulsion).

Most of the information that the Commission attorneys will discuss was obtained by compulsory process or provided voluntarily in lieu thereof in a law enforcement investigation. Such information is protected from public disclosure under Section 21(f) of the FTC Act, 15 U.S.C. § 57b-2(f). By virtue of that section, such information is also exempt from public disclosure under FOIA Exemption 3(B), 5 U.S.C. § 552(b)(3)(B). *McDermott v. FTC*, 1981-1 Trade Cas. (CCH) ¶ 63,964 at 75,982-3 (D.D.C. April 13, 1981); *Dairymen, Inc. v. FTC*, 1980-2

Trade Cas. (CCH) ¶ 63,479 (D.D.C. July 9, 1980). Moreover, third party submitters provided their materials and information with a specific request for confidential treatment under Section 21(c) of the FTC Act, 15 U.S.C. § 57b-2(c). Under Commission Rule 4.10(d), 16 C.F.R. § 4.10(d), the Commission has waived its discretion to release to the public materials submitted pursuant to compulsory process or materials submitted voluntarily in lieu of process that have been marked confidential by the submitting parties.<sup>1</sup>

Additional information that may be discussed during the briefing was submitted in response to the Hart-Scott-Rodino premerger notification requirements of the Clayton Act, 15 U.S.C. § 18a. Section 7A(h) of the Act prohibits public disclosure of such documents or information. By virtue of this statutory prohibition, this information is also exempt from disclosure under Freedom of Information Act (FOIA) Exemption 3A, 5 U.S.C. § 552(b)(3)(A).<sup>2</sup>

Further, information discussed during the briefing would reveal the existence of, and information concerning, an ongoing, nonpublic law enforcement investigation. Disclosure of this information could reasonably be expected to interfere with law enforcement proceedings, and this information is therefore protected from mandatory public disclosure by FOIA Exemption 7(A), 5 U.S.C. § 552(b)(7)(A). *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 232 (1978); *Ehringhaus v. FTC*, 525 F. Supp. 21, 24 (D.D.C. 1980).

Finally, some of the information that will be discussed during the briefing will include internal staff analyses and recommendations, which are predecisional, deliberative materials exempt from mandatory public disclosure under FOIA Exemption 5, 5 U.S.C. § 552(b)(5). *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132 (1975); *Coastal States Gas Corp. v. Department of Energy*, 617 F.2d 854, 866 (D.C. Cir. 1980). Some of this information may also be protected from mandatory public disclosure under FOIA Exemption 5 as attorney work product prepared in anticipation of litigation. *FTC v. Grolier, Inc.*, 462 U.S. 19, 28 (1983); *Martin v. Office of Special Counsel, Merit Systems Protection Board*, 819 F.2d 1181, 1187 (D.C. Cir. 1987).

---

<sup>1</sup> The Commission is required to notify persons who submitted information pursuant to compulsory process in a law enforcement investigation, or voluntarily in lieu thereof on a confidential basis, if the Commission receives a request from a Congressional Committee or Subcommittee for that information. See 15 U.S.C. §§ 57b-2(b)(3)(C), 57b-2(d)(1)(A); Commission Rule 4.11(b), 16 C.F.R. § 4.11(b). Staff is providing the requisite notice.

<sup>2</sup> The Commission has instructed its staff to provide reasonable notice, when possible, of the release to Congress of information submitted pursuant to HSR. See *Statement of Basis and Purpose of HSR Rules and Regulations*, 43 Fed. Reg. 33519 (July 31, 1978). Staff has provided notice to submitters pursuant to this policy.

Notwithstanding the protected status of most of the responsive information, the FTC Act, 15 U.S.C. § 57b-2(d)(1)(A), the Clayton Act, 15 U.S.C. § 18a(h), and the FOIA, 5 U.S.C. § 552(d), provide no authority to withhold such information from this Congressional Subcommittee, and the Commission has authorized staff to provide the requested briefing to Subcommittee staff. Because the confidential information would not be available to the public under the FOIA or otherwise, the Commission requests that the Subcommittee maintain its confidentiality.

By direction of the Commission.

A handwritten signature in black ink, reading "Donald S. Clark", with a long horizontal line extending to the right.

Donald S. Clark  
Secretary

Office of the Secretary  
**Correspondence Referral**

Remember to Designate  
FOIA Status

Today's Date: 09/09/11

**Reference Number:** 14004739

**Type of Response (or) Action:**

Complaint

**Date Forwarded:**

09/09/11

**Action:** Chairman's Signature

**Subject of Correspondence:**

Nonpublic Briefing Request Re Google Investigation

**Author:**

Senator Herb Kohl

**Representing:**

**Copies of Response To:**

Office of the Chairman

Office of the Executive Director

Office of the General Counsel

Office of the Secretary

**Copies of Correspondence To:**

Office of Commissioner Kovacic

Office of Commissioner Rosch

Office of Commissioner Brill

Office of Commissioner Ramirez

Office of Public Affairs (Press Office)

Office of Congressional Relations - (0309)

**Deadline:**

09/15/11

**Organization Assigned:**

Policy and Coordination - BC

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**ACTION LOG**

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<b><u>Date Received</u></b>	<b><u>FTC Org Code</u></b>	<b><u>Assignment To:</u></b>	<b><u>Date Assigned</u></b>	<b><u>Action Required</u></b>
	1039	Alan J. Friedman		

**EXPEDITE**



PATRICK J. LEAHY, VERMONT, CHAIRMAN

HERB KOHL, WISCONSIN  
DIANNE FEINSTEIN, CALIFORNIA  
CHARLES E. SCHUMER, NEW YORK  
RICHARD J. DURBIN, ILLINOIS  
SHELDON WHITEHOUSE, RHODE ISLAND  
AMY KLOBUCHAR, MINNESOTA  
AL FRANKEN, MINNESOTA  
CHRISTOPHER A. COONS, DELAWARE  
RICHARD BLUMENTHAL, CONNECTICUT

CHARLES E. GRASSLEY, IOWA  
ORRIN G. HATCH, UTAH  
JON KYL, ARIZONA  
JEFF SESSIONS, ALABAMA  
LINDSEY O. GRAHAM, SOUTH CAROLINA  
JOHN CORNYN, TEXAS  
MICHAEL S. LEE, UTAH  
TOM COBURN, OKLAHOMA

## United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

BRUCE A. COHEN, *Chief Counsel and Staff Director*  
KOLAN L. DAVIS, *Republican Chief Counsel and Staff Director*

September 7, 2011

The Honorable Jon Leibowitz  
Chairman, Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Suite 444  
Washington, DC 20580

Dear Chairman Leibowitz:

I am writing to request that knowledgeable members of the FTC staff provide our Subcommittee staff with a confidential briefing about the FTC's antitrust investigation into Google's search engine practices.

I understand the sensitivity of discussing pending investigations. Therefore, my staff and I will ensure that any non-public information that your staff provides during the briefing will not be shared with anyone outside the Subcommittee. If you require further confidentiality assurances, we will do our best to accommodate you.

Thank you very much for your assistance in this matter.

Respectfully yours,



HERB KOHL

Chairman

Subcommittee on Antitrust, Competition Policy and  
Consumer Rights



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Office of the Secretary

November 8, 2012

The Honorable John D. Rockefeller IV  
Chairman  
Committee on Commerce, Science, and Transportation  
United States Senate  
Washington, DC 20510-6125

Dear Chairman Rockefeller:

Thank you for your letter dated November 6, 2012, requesting a confidential staff briefing on the agency's investigations into Google, Inc. The Commission is responding to your request as an official request of a Congressional Committee, *see* Commission Rule 4.11(b), 16 C.F.R. § 4.11(b), and has authorized its staff to provide the requested briefing.

Most of the information that the Commission attorneys will discuss during the briefing is nonpublic and statutorily protected from public disclosure by the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 41 *et seq.*, as well as exempt from mandatory disclosure under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. In particular, some of the information would be protected under Section 6(f) of the FTC Act, 15 U.S.C. § 46(f), as confidential commercial or financial information. The Commission is prohibited from disclosing such information publicly, and it would be exempt from disclosure under FOIA Exemption 3, 5 U.S.C. § 552(b)(3). Because disclosure of this information is likely to result in substantial competitive harm to the submitters, or is clearly not of a kind that submitters would customarily make available to the public, it would be exempt from disclosure under FOIA Exemption 4, 5 U.S.C. § 552(b)(4). *See Critical Mass Energy Project v. NRC*, 975 F.2d 871, 877-80 (D.C. Cir. 1992) (*en banc*), *cert. denied*, 507 U.S. 984 (1993) (exempt status accorded to information submitted voluntarily); *National Parks & Conservation Ass'n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974) (exempt status accorded to information submitted under compulsion).

Most of the information that the Commission attorneys will discuss was obtained by compulsory process or provided voluntarily in lieu thereof in a law enforcement investigation. Such information is protected from public disclosure under Section 21(f) of the FTC Act, 15 U.S.C. § 57b-2(f). By virtue of that section, such information is also exempt from public disclosure under FOIA Exemption 3(B), 5 U.S.C. § 552(b)(3)(B). *McDermott v. FTC*, 1981-1 Trade Cas. (CCH) ¶ 63,964 at 75,982-3 (D.D.C. April 13, 1981); *Dairymen, Inc. v. FTC*, 1980-2 Trade Cas. (CCH) ¶ 63,479 (D.D.C. July 9, 1980). Moreover, third party submitters provided

their materials and information with a specific request for confidential treatment under Section 21(c) of the FTC Act, 15 U.S.C. § 57b-2(c). Under Commission Rule 4.10(d), 16 C.F.R. § 4.10(d), the Commission has waived its discretion to release to the public materials submitted pursuant to compulsory process or materials submitted voluntarily in lieu of process that have been marked confidential by the submitting parties.<sup>1</sup>

Additional information that may be discussed during the briefing was submitted in response to the Hart-Scott-Rodino premerger notification requirements of the Clayton Act, 15 U.S.C. § 18a. Section 7A(h) of the Act prohibits public disclosure of such documents or information. By virtue of this statutory prohibition, this information is also exempt from disclosure under Freedom of Information Act (FOIA) Exemption 3A, 5 U.S.C. § 552(b)(3)(A).<sup>2</sup>

Further, information discussed during the briefing would reveal the existence of, and information concerning, an ongoing, nonpublic law enforcement investigation. Disclosure of this information could reasonably be expected to interfere with law enforcement proceedings, and this information is therefore protected from mandatory public disclosure by FOIA Exemption 7(A), 5 U.S.C. § 552(b)(7)(A). *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 232 (1978); *Ehringhaus v. FTC*, 525 F. Supp. 21, 24 (D.D.C. 1980).

Finally, some of the information that will be discussed during the briefing will include internal staff analyses and recommendations, which are predecisional, deliberative materials exempt from mandatory public disclosure under FOIA Exemption 5, 5 U.S.C. § 552(b)(5). *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132 (1975); *Coastal States Gas Corp. v. Department of Energy*, 617 F.2d 854, 866 (D.C. Cir. 1980). Some of this information may also be protected from mandatory public disclosure under FOIA Exemption 5 as attorney work product prepared in anticipation of litigation. *FTC v. Grolier, Inc.*, 462 U.S. 19, 28 (1983); *Martin v. Office of Special Counsel, Merit Systems Protection Board*, 819 F.2d 1181, 1187 (D.C. Cir. 1987).

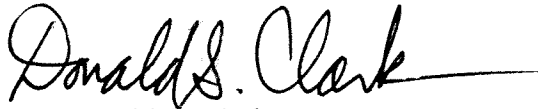
---

<sup>1</sup> The Commission is required to notify persons who submitted information pursuant to compulsory process in a law enforcement investigation, or voluntarily in lieu thereof on a confidential basis, if the Commission receives a request from a Congressional Committee or Subcommittee for that information. *See* 15 U.S.C. §§ 57b-2(b)(3)(C), 57b-2(d)(1)(A); Commission Rule 4.11(b), 16 C.F.R. § 4.11(b). Staff is providing the requisite notice.

<sup>2</sup> The Commission has instructed its staff to provide reasonable notice, when possible, of the release to Congress of information submitted pursuant to HSR. *See Statement of Basis and Purpose of HSR Rules and Regulations*, 43 Fed. Reg. 33519 (July 31, 1978). Staff has provided notice to submitters pursuant to this policy.

Notwithstanding the protected status of most of the responsive information, the FTC Act, 15 U.S.C. § 57b-2(d)(1)(A), the Clayton Act, 15 U.S.C. § 18a(h), and the FOIA, 5 U.S.C. § 552(d), provide no authority to withhold such information from this Congressional Committee, and the Commission has authorized staff to provide the requested briefing to Committee staff. Because the confidential information would not be available to the public under the FOIA or otherwise, the Commission requests that the Committee maintain its confidentiality.

By direction of the Commission.

A handwritten signature in black ink that reads "Donald S. Clark". The signature is fluid and cursive, with a long horizontal line extending from the end of the name.

Donald S. Clark  
Secretary

Office of the Secretary  
**Correspondence Referral**

Remember to Designate  
FOIA Status  
Today's Date: 11/06/12

**Reference Number:** 14007436

**Type of Response (or) Action:**

Complaint

**Date Forwarded:**

11/06/12

**Action:** Secretary's Signature

**Subject of Correspondence:**

Request for Confidential Staff Briefing Relating to Google

**Author:**

Senator John Rockefeller

**Representing:**

**Copies of Response To:**

Office of Congressional Relations - (0309)

Office of the Executive Director

Office of the General Counsel

Office of the Secretary

**Copies of Correspondence To:**

Office of the Chairman

Office of Commissioner Ohlhausen

Office of Commissioner Rosch

Office of Commissioner Brill

Office of Commissioner Ramirez

Office of Public Affairs (Press Office)

**Deadline:**

11/08/12

**Organization Assigned:**

Policy and Coordination - BC

---

**ACTION LOG**

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<b><u>Date Received</u></b>	<b><u>FTC Org Code</u></b>	<b><u>Assignment To:</u></b>	<b><u>Date Assigned</u></b>	<b><u>Action Required</u></b>
	1039	Alan J. Friedman		

**EXPEDITE**



Office of the Secretary  
**Correspondence Referral**

Remember to Designate  
FOIA Status

Today's Date: 11/26/12

**Reference Number:** 14007506

**Type of Response (or) Action:**

Complaint

**Date Forwarded:**

11/26/12

**Action:** Secretary's Signature

**Subject of Correspondence:**

Google

**Author:**

Senator Ron Wyden

**Representing:**

**Copies of Response To:**

Office of the Chairman

Office of Public Affairs (Press Office)

Office of Congressional Relations - (0309)

Office of the Executive Director

**Copies of Correspondence To:**

Office of Commissioner Ohlhausen

Office of Commissioner Rosch

Office of Commissioner Brill

Office of Commissioner Ramirez

Office of the General Counsel

Office of the Secretary

**Organization Assigned:**

Policy and Coordination - BC

**Deadline:**

12/10/12

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**ACTION LOG**

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<b><u>Date Received</u></b>	<b><u>FTC Org Code</u></b>	<b><u>Assignment To:</u></b>	<b><u>Date Assigned</u></b>	<b><u>Action Required</u></b>
	1039	Alan J. Friedman		

**EXPEDITE**

RON WYDEN  
ORIGIN

224 DICKINSON SENATE OFFICE BUILDING  
WASHINGTON, DC 20510  
(202) 224-1244  
(202) 224-1244 (TDD)

United States Senate  
WASHINGTON, DC 20510-3703

COMMITTEES:

COMMITTEE ON THE BUDGET  
COMMITTEE ON ENERGY AND NATURAL RESOURCES  
SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS  
SPECIAL COMMITTEE ON AGING  
SELECT COMMITTEE ON INTELLIGENCE  
COMMITTEE ON FINANCE

November 26, 2012

14007506

The Honorable Jon Liebowitz  
Chairman  
Federal Trade Commission  
600 Pennsylvania Ave NW 20580

Dear Chairman Liebowitz:

I am growing increasingly concerned by the way in which the Federal Trade Commission (FTC) is conducting itself with regards to questions about Google's commercial practices. The FTC is tasked by Congress to play a critical role in correcting market failures and ensuring that companies do not engage in monopolistic practices that stifle competition, innovation, and economic growth. For the FTC to effectively and credibly do this job, its actions must be viewed as fair and impartial. The FTC's credibility is eroded when confidential details of internal discussions are revealed to the media as has continually been the case in the investigation of Google.

It is also alarming that these leaks indicate that the FTC is focusing on allegations of monopoly in the online search industry. The Internet economy is the most highly competitive, innovative, and dynamic in this nation. A little more than a decade ago the most popular web search engine was Yahoo!, whose share of the market was over 46 percent, three times larger than its closest competitor, Excite. Unfortunately for consumers, all major search services offered paid results that obscured the value and popularity of the non-paying websites. When Google came on the scene it offered clean search results, clearly separating paid results, and actively combating gaming by sites that often sought attention for anti-consumer purposes. That over the course of the last several years Google has rapidly taken market share away from its competitors is not an indication that the search industry is uncompetitive, but evidence that Google is better meeting consumer preferences for a search engine.

Compared to almost any other market in the history of antitrust regulation, online search has effectively zero barriers to entry. In response to Google's use of obscured personal information to offer additional services, new search engines like DuckDuckGo have entered the market to offer fully untracked search services. There is no question that the market is continuing to ensure the full range of consumer choice without government intervention.

Lastly, according to the troubling press accounts that I described above, I understand that the FTC is considering using its Section 5 authority in ways it has not previously. It would be troubling if the FTC sought to expand the use of its authority to target a company for simply being popular rather than engaging in unfair or deceptive practices that harm consumers.

Sincerely,



Ron Wyden  
United States Senator

911 NE 11TH AVENUE  
SUITE 630  
PORTLAND, OR 97232-4169  
(503) 326-7525

405 EAST 8TH AVE.  
SUITE 2025  
EUGENE, OR 97401  
(541) 431-0229

SAC ANNEN BUILDING  
105 FIRST ST  
SUITE 201  
LA GRANDE, OR 97850  
(541) 962-7691

U.S. COURTHOUSE  
310 WEST 6TH ST  
ROOM 118  
MEDFORD, OR 97501  
(541) 858-5122

THE JAMISON BUILDING  
131 NW HAWTHORNE AVE  
SUITE 107  
BEND, OR 97701  
(541) 330-9142

707 17TH ST SE  
SUITE 285  
SALM, OR 97301  
(503) 589-4555

[HTTP://WYDEN.SENATE.GOV](http://wyden.senate.gov)  
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FEDERAL TRADE COMMISSION  
2012 NOV 26 PM 5:20  
CONG. CORRES. BRANCH



Office of the Secretary  
**Correspondence Referral**

Remember to Designate  
FOIA Status

Today's Date: 12/11/12

**Reference Number:** 14007573

**Type of Response (or) Action:**

Complaint

**Date Forwarded:**

12/11/12

**Action:** Secretary's Signature

**Subject of Correspondence:**

Section 5 of FTC Act

**Author:**

Representative Betty Mccollum

**Representing:**

**Copies of Response To:**

Office of Public Affairs (Press Office)

Office of Congressional Relations - (0309)

Office of the General Counsel

Office of the Secretary

**Copies of Correspondence To:**

Office of the Chairman

Office of Commissioner Ohlhausen

Office of Commissioner Rosch

Office of Commissioner Brill

Office of Commissioner Ramirez

Office of the Executive Director

**Organization Assigned:**

Policy and Coordination - BC

**Deadline:**

12/28/12

---

**ACTION LOG**

---

<b><u>Date Received</u></b>	<b><u>FTC Org Code</u></b>	<b><u>Assignment To:</u></b>	<b><u>Date Assigned</u></b>	<b><u>Action Required</u></b>
	1039	Alan J. Friedman		

**EXPEDITE**

BETTY McCOLLUM  
4TH DISTRICT, MINNESOTA

1714 LONGWORTH HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515  
(202) 225-6631  
FAX: (202) 225-1968

165 WESTERN AVENUE NORTH  
SUITE 17  
ST. PAUL, MN 55102  
(651) 224-9191  
FAX: (651) 224-3056

[www.house.gov/mccollum](http://www.house.gov/mccollum)



UNITED STATES  
HOUSE OF REPRESENTATIVES

COMMITTEE ON APPROPRIATIONS  
SUBCOMMITTEE ON INTERIOR,  
ENVIRONMENT, AND RELATED AGENCIES  
SUBCOMMITTEE ON MILITARY CONSTRUCTION,  
VETERANS AFFAIRS, AND RELATED AGENCIES

COMMITTEE ON THE BUDGET

SENIOR DEMOCRATIC WHIP

CONGRESSIONAL GLOBAL  
HEALTH CAUCUS, CO-FOUNDER

December 3, 2012

The Honorable Jon Leibowitz  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580

Dear Chairman Leibowitz:


I am writing about my concern regarding recent reports indicating that the Federal Trade Commission (FTC) is preparing to use Section 5 of the FTC Act to avoid proving some elements of a claim required under Section 2 of the Act. In my view, this would be an unwarranted expansion of FTC jurisdiction that could have negative implications on the broader economy.

More specifically, expanding FTC's Section 5 powers to include antitrust matters could have the most detrimental effect on online services, which is a core driver of innovation and small business job growth. If reports that the FTC intends to litigate under this interpretation of Section 5 are true, I hope the FTC reconsiders. Antitrust law is designed to protect consumers, not competitors and Google's primary objective is to give consumers information quickly, not to deliver traffic to websites.

I respectfully urge the FTC to conduct their investigation in a fair manner and within the appropriate limit of the FTC's authority.

Thank you for your attention to this important matter.

Sincerely,

  
Betty McCollum  
Member of Congress

14007573

**Kelly, Andrea**

---

**From:** Westman-Cherry, Melissa  
**Sent:** Wednesday, August 15, 2012 5:00 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5) date

That works. Thanks a million.

Not Responsive

Not Responsive

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Wednesday, August 15, 2012 4:58 PM  
**To:** Westman-Cherry, Melissa  
**Subject:** RE: (b)(5) date

Sorry for the late response, I was pestering Matt.

(b)(5)

(b)(5)

---

**From:** Westman-Cherry, Melissa  
**Sent:** Wednesday, August 15, 2012 4:20 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** (b)(5) date

(b)(5)

Melissa Westman-Cherry, Esq.  
Anticompetitive Practices Division  
U.S. Federal Trade Commission  
202-326-2338  
[mwestman@ftc.gov](mailto:mwestman@ftc.gov)

**Kelly, Andrea**

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Tuesday, August 14, 2012 1:26 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: I'm On

Yeah, just wanted to make sure. Thanks!

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Tuesday, August 14, 2012 12:45 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: I'm On

Yes I am- is that ok?

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Tuesday, August 14, 2012 12:44 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: I'm On

(b)(5)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, August 13, 2012 5:45 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: I'm On

(b)(5)

Thanks,

(b)(6),(b)(7)(C)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, August 13, 2012 5:43 PM  
**To:** (b)(6),(b)(7)(C)  
**Cc:** (b)(6),(b)(7)(C)  
**Subject:** RE: I'm On

Ready whenever you are

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, August 13, 2012 10:54 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: I'm On

(b)(3);21(f),(b)(5)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Thursday, August 09, 2012 10:28 PM  
**To:** (b)(6),(b)(7)(C)  
**Cc:**  
**Subject:** RE: I'm On

(b)(5)



Thanks,

(b)(6),  
(b)(7)(C)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Thursday, August 09, 2012 5:34 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: I'm On

(b)(5)



Thanks,

(b)(6),  
(b)(7)(C)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Thursday, August 09, 2012 5:16 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** I'm On

Hey (b)(6),(b)(7)(C)

I'm on whenever you're ready.

Thanks,

(b)(6),  
(b)(7)(C)

**Kelly, Andrea**

---

**From:** Blank, Barbara  
**Sent:** Thursday, July 19, 2012 3:12 PM  
**To:** (b)(6),(b)(7)(C)  
(b)(6),(b)(7)(C)  
**Subject:** Re: (b)(5)

(b)(5)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Thursday, July 19, 2012 02:59 PM  
**To:** Blank, Barbara; (b)(6),(b)(7)(C)  
(b)(6),(b)(7)(C)  
(b)(6),(b)(7)(C) Westman-Cherry, Melissa  
**Subject:** RE: (b)(5)

(b)(5)

Thanks,

(b)(6),(b)(7)(C)

---

**From:** Blank, Barbara  
**Sent:** Wednesday, July 18, 2012 5:51 PM  
**To:** (b)(6),(b)(7)(C)  
(b)(6),(b)(7)(C)  
(b)(6),(b)(7)(C) Westman-Cherry, Melissa  
**Subject:** (b)(5)

Hi everyone,

Thanks so much (b)(5) (b)(5)

(b)(5)

I am out of the office tomorrow and (b)(5)

(b)(5)


A few big notes: (b)(5)

(b)(5)

(b)(5) – if you can fill in what you’ve already done tomorrow, that would be great.

(b)(5)

(b)(6),(b)(7)(C)



THANKS SO MUCH!

BB

(b)(7)(E)



(b)(5)



---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Wednesday, July 18, 2012 10:08 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** work

(b)(6),(b)  
(7)(C)

What would you like me to get started on today?

(b)(6),(b)(7)  
(C)



**Kelly, Andrea**

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, July 16, 2012 4:41 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5) Questions

Feel free to come in earlier and leave earlier if you want. I'll send you something tonight.

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, July 16, 2012 4:32 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5) Questions

Ok sounds good. In that case, I will probably hang around here until 5:30 just to get myself organized and do any small tasks that come up.

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, July 16, 2012 4:30 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5) Questions

When you can. How about 8?

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, July 16, 2012 4:29 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5) Questions

I can come in early- what time would you prefer?

(b)(5)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, July 16, 2012 4:19 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5) Questions

(b)(5)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, July 16, 2012 3:55 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5) Questions

(b)(6),(b)(7)(C)

What would you like me to work on at the moment?

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, July 16, 2012 1:47 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5) Questions

(b)(5)



Thanks!

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, July 16, 2012 11:20 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** (b)(5) Questions

(b)(5)



**Kelly, Andrea**

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Friday, July 13, 2012 12:20 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5)

**Tracking:** **Recipient**  
Viswanath, Priya

**Delivery**  
Delivered: 7/13/2012 12:20 PM

No worries – just wanted to make sure.

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Friday, July 13, 2012 12:20 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5)

(b)(5)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Friday, July 13, 2012 12:18 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** (b)(5)

(b)(6),(b)(7)(C)

(b)(5)

(b)(6),(b)(7)(C)

**Kelly, Andrea**

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Tuesday, July 10, 2012 10:22 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: work

**Tracking:**

**Recipient**

(b)(6),(b)(7)(C)

**Delivery**

Delivered: 7/10/2012 10:22 AM

(b)(5)



---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Tuesday, July 10, 2012 10:07 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** Re: work

(b)(6),(b)(7)(C)

If you are done with the (b)(5) then the (b)(5) is next.  
Thanks!

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Tuesday, July 10, 2012 09:44 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** work

(b)(6),(b)(7)(C)

Would you like me to start doing searches for (b)(5) or is there another more-pressing assignment?

Thanks,

(b)(6),(b)  
(7)(C)

**Kelly, Andrea**

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, July 09, 2012 4:31 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** (b)(5)  
**Attachments:** (b)(5)

<b>Tracking:</b>	<b>Recipient</b>	<b>Delivery</b>
	(b)(6),(b)(7)(C)	Delivered: 7/9/2012 4:31 PM

This is what I have thus far.

(b)(5)

(b)(5)

**Kelly, Andrea**

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, July 09, 2012 1:07 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** Re: (b)(5)

(b)(5)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, July 09, 2012 01:05 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5)

How would you like me to go about (b)(5) (b)(5)

(b)(5)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, July 09, 2012 12:07 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5)

Please call my cell.

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, July 09, 2012 12:06 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, July 09, 2012 12:06 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** (b)(5)

(b)(6),(b)(7)(C)

Attached is my latest (b)(5)

Can you call me on my cell to discuss?

(b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

Westman-Cherry, Melissa

Subject: FW: Google

Other thoughts?

-----Original Message-----

From: Blank, Barbara

Sent: Monday, July 09, 2012 9:30 AM

To: Levitas, Pete; Green, Geoffrey; Sabo, Melanie; Seidman, Mark

Subject: RE: Google

Hi Pete, since you left a VM last week wanting to chat about this, (b)(5) and we can chat further if you'd like -

(b)(5)



**Kelly, Andrea**

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, July 09, 2012 10:25 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5)  
**Attachments:** (b)(5)

**Tracking:**

Recipient	Delivery	Read
(b)(6),(b)(7)(C)	Delivered: 7/9/2012 10:25 AM	Read: 7/9/2012 10:38 AM

(b)(6),(b)(7)(C)

I apologize for the omission- please let me know if the (b)(5) are sufficient.

(b)(6),(b)(7)(C)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, July 09, 2012 12:03 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5)

(b)(6),(b)(7)(C)

Thank you, (b)(5) Can you send me those (b)(5) as well asap?

(b)(6),(b)(7)(C)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Friday, July 06, 2012 4:14 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5)

Please let me know if you would like me to look for more (b)(5)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Thursday, July 05, 2012 10:48 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** Re: (b)(5)

(b)(6),(b)(7)(C)

I've been working on (b)(5)

(b)(6),(b)(7)(C)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Thursday, July 05, 2012 10:45 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** (b)(5)

**Kelly, Andrea**

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Thursday, July 05, 2012 10:40 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(3);21(f),(b)(5)

Tracking:	Recipient	Delivery	Read
	(b)(6),(b)(7)(C)	Delivered: 7/5/2012 10:40 AM	
		Delivered: 7/5/2012 10:40 AM	Read: 7/5/2012 11:57 AM

(b)(5) The main folder is [here](#).

Thanks,

(b)(6),(b)(7)(C)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Tuesday, July 03, 2012 6:33 PM  
**To:** (b)(6),(b)(7)(C)  
**Cc:** (b)(6),(b)(7)(C)  
**Subject:** (b)(3);21(f),(b)(5)

(b)(5),(b)(6),(b)(7)(C) He is going to send you a link to them  
Thursday morning.

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Tuesday, July 03, 2012 05:22 PM  
**To:** Blank, Barbara  
**Cc:** (b)(6),(b)(7)(C)  
**Subject:** RE: VERY VERY VERY VERY (b)(5)

(b)(5)

**From:** Blank, Barbara  
**Sent:** Tuesday, July 03, 2012 12:30 PM  
**To:** (b)(6),(b)(7)(C)  
(b)(6),(b)(7)(C) Westman-Cherry, Melissa  
**Cc:** (b)(6),(b)(7)(C)  
**Subject:** VERY VERY VERY VERY (b)(5)

I mean VERY VERY rough. (b)(5)

(b)(5)

**Kelly, Andrea**

---

**From:**

(b)(6),(b)(7)(C)

**Sent:**

Tuesday, July 03, 2012 6:02 PM

**To:**

(b)(6),(b)(7)(C)

**Subject:**

(b)(5)

**Attachments:**

**Tracking:**

**Recipient**

**Delivery**

(b)(6),(b)(7)(C)

Delivered: 7/3/2012 6:02 PM

(b)(5)

great Fourth!

Thursday. Have a

(b)(6),(b)(7)(C)

**Kelly, Andrea**

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Tuesday, July 03, 2012 5:21 PM  
**To:** Blank, Barbara  
**Subject:** (b)(5) question

<b>Tracking:</b>	<b>Recipient</b>	<b>Delivery</b>	<b>Read</b>
	Blank, Barbara	Delivered: 7/3/2012 5:21 PM	Read: 7/3/2012 5:30 PM

Barbara,

Is there a specific way in which I should (b)(5) (b)(5)

(b)(5)

Thank you and have a good Fourth!

(b)(6),(b)(7)(C)

**Kelly, Andrea**

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Friday, August 10, 2012 8:47 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: 2 docs

Hey (b)(6),(b)(7)(C)

I was just letting you know for (b)(5) purposes.

Thanks,

(b)(6),(b)(7)(C)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Wednesday, August 08, 2012 4:47 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: 2 docs

Okay , sorry I couldn't be of more help. Thanks.

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Wednesday, August 08, 2012 4:46 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** 2 docs

Hey (b)(6),(b)(7)(C)

I could not find (b)(5) I spent about 30 minutes but still could not locate them. I just want to give you a heads up. All of the other docs should be in my staff folder..

Best Regards,

(b)(6),(b)(7)(C)

**Kelly, Andrea**

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Thursday, August 09, 2012 12:25 PM  
**To:** Blank, Barbara  
**Subject:** RE: (b)(5)

**Tracking:**                      **Recipient**  
Blank, Barbara

**Delivery**  
Delivered: 8/9/2012 12:25 PM

Great.

---

**From:** Blank, Barbara  
**Sent:** Thursday, August 09, 2012 12:25 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5)

Nope.

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Thursday, August 09, 2012 12:12 PM  
**To:** Blank, Barbara  
**Subject:** (b)(5)

(b)(5)

**Kelly, Andrea**

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Wednesday, August 08, 2012 10:37 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: Ready to Help Out

Hey (b)(6),(b)(7)(C)

(b)(5)

Thanks,

(b)(6),  
(b)(7)(C)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Wednesday, August 08, 2012 5:45 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: Ready to Help Out

Hey (b)(6),(b)(7)(C)

(b)(5)

Thanks,

(b)(6),(b)(7)(C)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Wednesday, August 08, 2012 5:40 PM  
**To:** (b)(6),(b)(7)(C)  
**Cc:** (b)(6),(b)(7)(C)  
**Subject:** Ready to Help Out

(b)(6),(b)(7)(C)

(b)(5)

(b)(6),(b)(7)(C)

**Kelly, Andrea**

---

**From:** Blank, Barbara  
**Sent:** Wednesday, August 08, 2012 12:13 PM  
**To:** (b)(6),(b)(7)(C)  
**Cc:**  
**Subject:** RE: linking to (b)(5)

Yup, (b)(5)  
(b)(5) Thanks!

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Wednesday, August 08, 2012 12:12 PM  
**To:** Blank, Barbara  
**Cc:** (b)(6),(b)(7)(C)  
**Subject:** linking to (b)(5)

(b)(5)

Thanks,

(b)(6),(b)(7)(C)



**Kelly, Andrea**

---

**From:** Blank, Barbara  
**Sent:** Wednesday, August 08, 2012 11:57 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5)

(b)(6),  
(b)(7)(C)  
(b)(5)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Wednesday, August 08, 2012 11:55 AM  
**To:** Blank, Barbara; (b)(6),(b)(7)(C)  
**Subject:** FW: (b)(5)

(b)(5)

Thanks for being on standby (b)(6),(b)(7)(C)!!!!

(b)(6),(b)(7)(C)

---

**From:** Seidman, Mark  
**Sent:** Wednesday, August 08, 2012 11:12 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5)

(b)(5)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Wednesday, August 08, 2012 10:32 AM  
**To:** Seidman, Mark  
**Subject:** (b)(5)

Good morning Mark,

(b)(5)

Thanks,

(b)(6),(b)(7)(C)

**Kelly, Andrea**

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Wednesday, August 08, 2012 11:57 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5)

<b>Tracking:</b>	<b>Recipient</b>	<b>Delivery</b>	<b>Read</b>
	(b)(6),(b)(7)(C)	Delivered: 8/8/2012 11:57 AM	Read: 8/8/2012 12:01 PM

No problem (b)(6), (b)(7)(C) – Just let me know if I can be of any assistance.

Thanks,  
(b)(6),(b)(7)(C)

Duplicate

**Kelly, Andrea**

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Wednesday, August 08, 2012 10:52 AM  
**To:** Blank, Barbara  
**Cc:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5)

(b)(5)

---

**From:** Blank, Barbara  
**Sent:** Wednesday, August 08, 2012 9:18 AM  
**To:** (b)(6),(b)(7)(C)  
**Cc:**  
**Subject:** RE: (b)(5)

(b)(5)

---

**From:** Blank, Barbara  
**Sent:** Wednesday, August 08, 2012 9:17 AM  
**To:** (b)(6),(b)(7)(C)  
**Cc:**  
**Subject:** (b)(5)

Hi (b)(6),  
(b)(7)

(b)(5)

Thanks very much!

BB

(b)(7)(E)

**Kelly, Andrea**

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Wednesday, August 08, 2012 10:41 AM  
**To:** Blank, Barbara  
**Cc:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5)

e-mailed Mark – waiting for his response.

---

**From:** Blank, Barbara  
**Sent:** Wednesday, August 08, 2012 10:30 AM  
**To:** (b)(6),(b)(7)(C)  
**Cc:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5)

(b)(5)

(b)(3)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Wednesday, August 08, 2012 10:17 AM  
**To:** Blank, Barbara  
**Cc:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5)

Barbara – (b)(5)

---

Duplicate

**Kelly, Andrea**

---

**From:** Blank, Barbara  
**Sent:** Wednesday, August 08, 2012 9:25 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** (b)(5)

(b)(5)

Thanks guys!

(b)(7)(E)

**Kelly, Andrea**

---

**From:** Blank, Barbara  
**Sent:** Tuesday, August 07, 2012 3:30 PM  
**To:** (b)(6),(b)(7)(C)  
**Cc:**  
**Subject:** (b)(5)

Hi (b)(6),(b)(7)(C)

(b)(5)

I'll email you in the morn.

Thanks very much!

BB

## Kelly, Andrea

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Tuesday, August 07, 2012 1:03 PM  
**To:** Blank, Barbara  
**Subject:** does this look okay?  
**Attachments:** (b)(5)

### Tracking:

#### Recipient

Blank, Barbara

#### Delivery

Delivered: 8/7/2012 1:03 PM

**Kelly, Andrea**

---

**From:** Blank, Barbara  
**Sent:** Tuesday, August 07, 2012 12:56 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: Rich is working from home this morning

This looks FANTASTIC. Yes, please, swing by and let's get a new number on (b)(5) Thank you!

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Tuesday, August 07, 2012 12:55 PM  
**To:** Blank, Barbara  
**Subject:** RE: Rich is working from home this morning

(b)(5)

---

**From:** Blank, Barbara  
**Sent:** Tuesday, August 07, 2012 12:33 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: Rich is working from home this morning

(b)(5)

(b)(5)

Thanks again!!

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Tuesday, August 07, 2012 12:31 PM  
**To:** Blank, Barbara  
**Subject:** RE: Rich is working from home this morning

Barbara,

(b)(5)

(b)(5)

Just tell me what you would like me to do.

Thanks!

(b)(6),(b)(7)(C)



---

**From:** Blank, Barbara  
**Sent:** Tuesday, August 07, 2012 11:40 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** FW: Rich is working from home this morning

FYI....

---

**From:** Seidman, Mark  
**Sent:** Tuesday, August 07, 2012 11:36 AM  
**To:** Blank, Barbara  
**Subject:** Rich is working from home this morning

So I won't be able to get (b)(5) from him until later. Sorry.

**Kelly, Andrea**

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Tuesday, August 07, 2012 11:22 AM  
**To:** (b)(6),(b)(7)(C)  
**Cc:**  
**Subject:** RE: (b)(5)

**Tracking:**

**Recipient**

(b)(6),(b)(7)(C)

**Delivery**

Delivered: 8/7/2012 11:22 AM

Delivered: 8/7/2012 11:22 AM

Ok, sorry to create a stir.

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Tuesday, August 07, 2012 11:21 AM  
**To:** (b)(6),(b)(7)(C)  
**Cc:**  
**Subject:** RE: (b)(5)

(b)(6),(b)(7)(C) found the document so no need to search.

(b)(5)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Tuesday, August 07, 2012 11:16 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5)

I'm sorry, (b)(6),(b)(7)(C) – at the time of my email I had not looked through your folder. (b)(5)

(b)(5)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Tuesday, August 07, 2012 9:27 AM

To: (b)(6),(b)(7)(C)

Subject: RE: (b)(5)

(b)(6),(b)(7)(C)

(b)(5)

---

From: (b)(6),(b)(7)(C)

Sent: Monday, August 06, 2012 6:42 PM

To: (b)(6),(b)(7)(C)

Subject: RE: (b)(5)

Sorry, slightly confused. Is (b)(6), (b)(7)(C) CC'd or do you want me to ask him?

---

From: (b)(6),(b)(7)(C)

Sent: Monday, August 06, 2012 6:38 PM

To: (b)(6),(b)(7)(C)

Subject: Re: (b)(5)

(b)(6),(b)(7)(C)

I don't know. (b)(6), (b)(7)(C) do you know? Or could you provide (b)(5)

Thanks!

(b)(6),(b)(7)(C)

---

From: (b)(6),(b)(7)(C)

Sent: Monday, August 06, 2012 04:49 PM

To: (b)(6),(b)(7)(C)

Subject: (b)(5)

(b)(6),(b)(7)(C)

(b)(5)

**Kelly, Andrea**

---

**From:** Blank, Barbara  
**Sent:** Tuesday, August 07, 2012 9:17 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: update

(b)(5)

A large rectangular area of the document is redacted with a solid light blue fill.

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, August 06, 2012 7:55 PM  
**To:** Blank, Barbara  
**Subject:** update

Barbara,

(b)(5)

A large rectangular area of the document is redacted with a solid light blue fill.

Sorry again for the delay,

(b)(6),(b)(7)(C)

**Kelly, Andrea**

---

**From:** Blank, Barbara  
**Sent:** Monday, August 06, 2012 8:31 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** Re: update

Thank you so much, (b)(6),(b)(7)(C)

(b)(5)

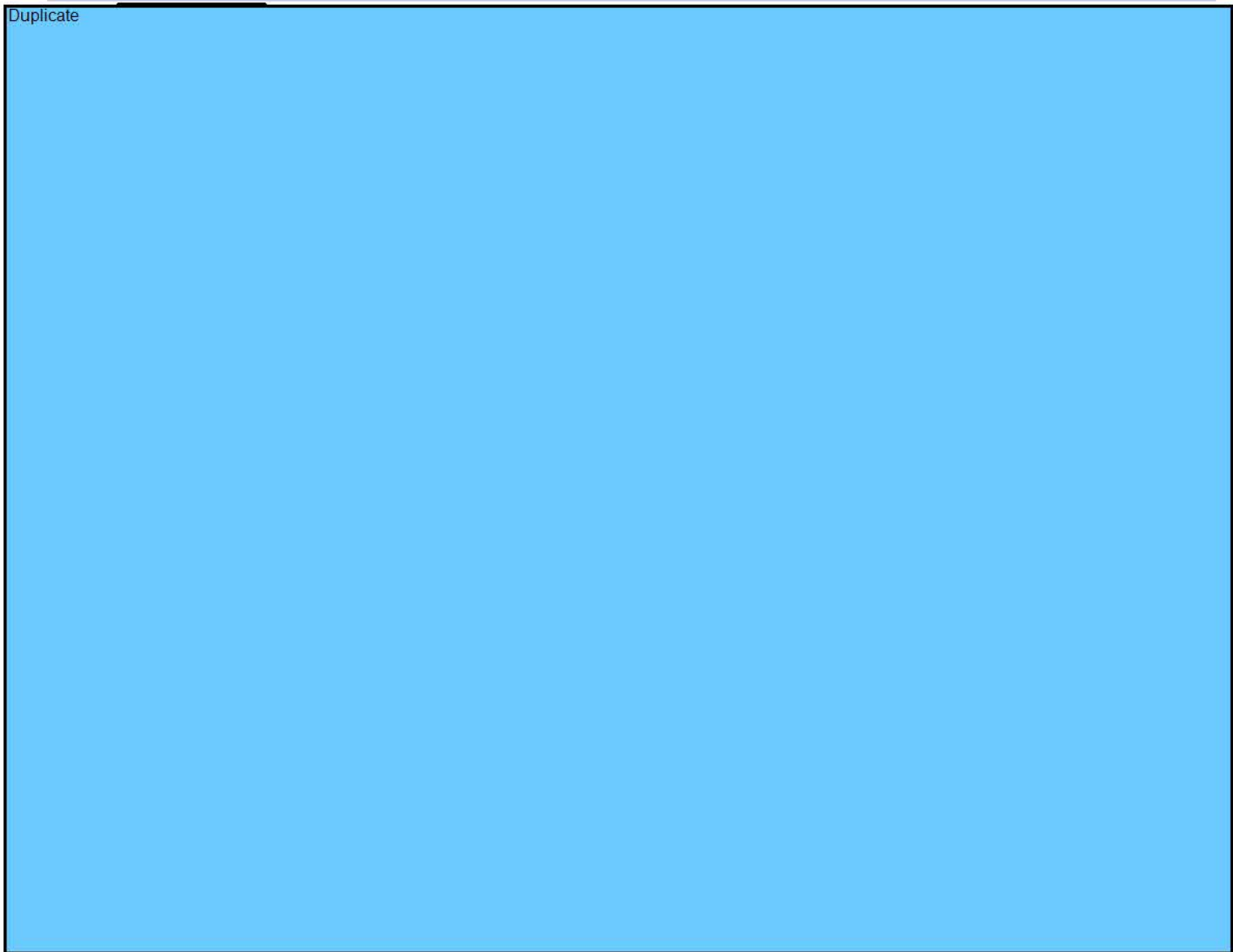


(b)(5)

Later this week I'm taking you to lunch!

Thanks again!

Duplicate



**Kelly, Andrea**

---

**From:** Blank, Barbara  
**Sent:** Wednesday, August 15, 2012 12:51 PM  
**To:** (b)(6),(b)(7)(C)  
**Cc:**  
**Subject:** (b)(5)

Hi (b)(6),(b)(7)(C)

(b)(6),(b)(7)(C) (b)(5)

(b)(5)

I'm linking the folders here

(b)(7)(E)

**Kelly, Andrea**

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, August 06, 2012 7:23 PM  
**To:** Blank, Barbara  
**Subject:** RE: (b)(5)

Tracking:	Recipient	Delivery	Read
	Blank, Barbara	Delivered: 8/6/2012 7:23 PM	Read: 8/6/2012 7:24 PM

Great! Just reread my question, sorry I phrased it so poorly.

---

**From:** Blank, Barbara  
**Sent:** Monday, August 06, 2012 7:22 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** Re: (b)(5)

Yup, thanks. (b)(5)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, August 06, 2012 06:47 PM  
**To:** Blank, Barbara  
**Subject:** (b)(5)

Are you aware of what the (b)(5) Can it be left like this?

Thanks,

(b)(6),(b)(7)(C)

**Kelly, Andrea**

---

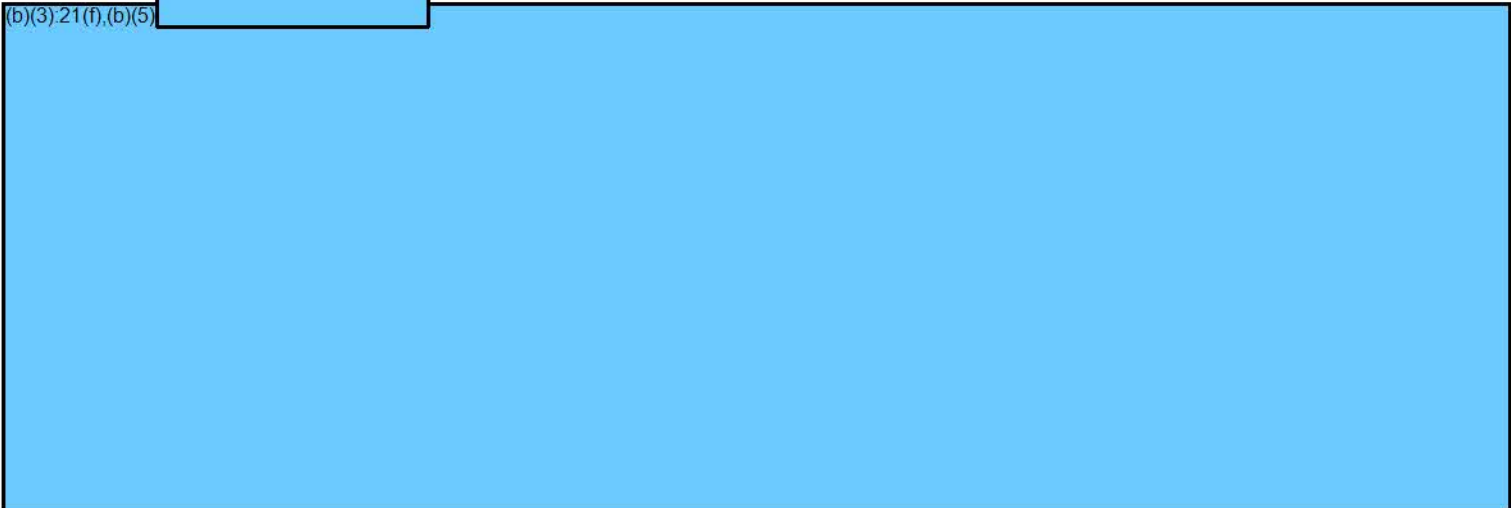
**From:** Blank, Barbara  
**Sent:** Monday, August 06, 2012 6:12 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** Re: (b)(5)

Keep as is, thanks (b)(6)(C)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, August 06, 2012 06:10 PM  
**To:** Blank, Barbara  
**Subject:** (b)(5)

(b)(3),21(f),(b)(5)





**Kelly, Andrea**

---

**From:** Blank, Barbara  
**Sent:** Monday, August 06, 2012 4:39 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** Re: (b)(5) on shuttle

Thanks (b)(6),(b)(7)(C)

----- Original Message -----

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, August 06, 2012 03:52 PM  
**To:** Blank, Barbara; Seidman, Mark  
**Subject:** RE: (b)(5) on shuttle

I picked up the (b)(5) - they are now on your desk, Barbara.

-----Original Message-----

**From:** Blank, Barbara  
**Sent:** Monday, August 06, 2012 3:43 PM  
**To:** Seidman, Mark  
**Cc:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5) on shuttle

Thanks very much, Mark; (b)(6),(b)(7)(C) will pick them up and confirm that he got them.

-----Original Message-----

**From:** Seidman, Mark  
**Sent:** Monday, August 06, 2012 3:42 PM  
**To:** Blank, Barbara  
**Subject:** (b)(5) on shuttle

**Kelly, Andrea**

---

**From:** Blank, Barbara  
**Sent:** Monday, August 06, 2012 4:39 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** Re: (b)(5) question

(b)(5)

A large rectangular area of the document is redacted with a solid blue fill.

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, August 06, 2012 04:11 PM  
**To:** Blank, Barbara  
**Subject:** (b)(5) question

How should this (b)(5) read?

(b)(5)

A large rectangular area of the document is redacted with a solid blue fill.

**Kelly, Andrea**

---

**From:** Blank, Barbara  
**Sent:** Monday, August 06, 2012 3:37 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: fyi

Thanks (b)(6),(b)(7)(C) Gotta run.

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, August 06, 2012 3:32 PM  
**To:** Blank, Barbara  
**Subject:** RE: fyi

Ok, sounds good.

---

**From:** Blank, Barbara  
**Sent:** Monday, August 06, 2012 3:31 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: fyi

Forgot to add – can you please leave them on my desk? (b)(5)  
(b)(5)

---

**From:** Blank, Barbara  
**Sent:** Monday, August 06, 2012 3:30 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: fyi

Hi (b)(6),(b)(5)  
(b)(7)(C)  
(b)(5)

(b)(5) Thank you (b)(6),(b)(7)(C)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, August 06, 2012 2:58 PM  
**To:** Blank, Barbara  
**Subject:** RE: fyi

That's great news – I'm afraid I might have to bother you one or two more times with questions- (b)(5)  
(b)(5)

---

**From:** Blank, Barbara  
**Sent:** Monday, August 06, 2012 2:51 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: fyi

(b)(5)

---

**From:** Blank, Barbara  
**Sent:** Monday, August 06, 2012 2:50 PM.  
**To:** (b)(6),(b)(7)(C)  
**Subject:** fyi

(b)(5)

(b)(5) Thank you. ☺

**Kelly, Andrea**

---

**From:** Blank, Barbara  
**Sent:** Monday, August 06, 2012 2:58 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: fyi

It's no bother at all, although I'll be taking off in about half-an-hour; you can reach me by email, though. Thanks again

(b)(6),(b)(7)(C)

Duplicate

**Kelly, Andrea**

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, August 06, 2012 11:51 AM  
**To:** Blank, Barbara  
**Subject:** (b)(5)

<b>Tracking:</b>	<b>Recipient</b>	<b>Delivery</b>
	Blank, Barbara	Delivered: 8/6/2012 11:51 AM

Is this (b)(5) of some sort? Can this be left as is – I’ve seen it in a few places?

(b)(5)

**Kelly, Andrea**

---

**From:** Noble, Danica  
**Sent:** Monday, August 06, 2012 10:41 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** Re: (b)(5)

**Categories:** Red Category

Ok- I understand what you need better and we will get you a (b)(5)

(b)(6),(b)(7)(C)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, August 06, 2012 10:32 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5)

Thank you (b)(6),(b)(7)(C) that does help (b)(5)

(b)(5) Thanks again-  
sorry to bother you.

(b)(6),(b)(7)(C)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Sunday, August 05, 2012 10:20 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** Re: (b)(5)

(b)(5)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Sunday, August 05, 2012 02:38 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** (b)(5)

Sorry to bother you (b)(6),(b)(7)(C) (b)(5)

(b)(5)

**Kelly, Andrea**

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, August 06, 2012 9:23 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** FW: (b)(5)

Disregard my last email. Got this from Barbara.

---

**From:** Blank, Barbara  
**Sent:** Monday, August 06, 2012 8:34 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** Re: (b)(5)

Thanks (b)(6),  
(b)(7)(C)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, August 06, 2012 08:32 AM  
**To:** Blank, Barbara  
**Subject:** RE: (b)(5)

Hello Barbara,

That sounds great. I have pulled most of the (b)(5)

(b)(5)

(b)(7)(E)

Thanks,

(b)(6),(b)(7)(C)

---

**From:** Blank, Barbara  
**Sent:** Monday, August 06, 2012 8:22 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** Re: (b)(5)

We are not starting this project (b)(5)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, August 06, 2012 04:51 AM  
**To:** Blank, Barbara  
**Subject:** (b)(5)

Hello Barbara,

When is the (b)(5) supposed to be complete? Or should I talk to (b)(6),(b)(7)(C)

Best Regards,

(b)(6),(b)(7)(C)



## Kelly, Andrea

---

**From:** Blank, Barbara  
**Sent:** Wednesday, August 15, 2012 12:45 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: We're Set with the (b)(5)

Nope, that's fine, thanks (b)(6),(b)(7)(C)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Wednesday, August 15, 2012 12:45 PM  
**To:** Blank, Barbara  
**Subject:** RE: We're Set with the (b)(5)

I saved a new copy in the requested folder and checked a few (b)(5) on each page. The ones that I checked are fine. I can examine this more rigorously if you would like...

---

**From:** Blank, Barbara  
**Sent:** Wednesday, August 15, 2012 12:25 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: We're Set with the (b)(5)

Sure, thanks (b)(6),(b)(7)(C)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Wednesday, August 15, 2012 12:24 PM  
**To:** Blank, Barbara  
**Subject:** RE: We're Set with the (b)(5)

I think (b)(6) is traveling today; do you want me to give it a shot?

---

**From:** Blank, Barbara  
**Sent:** Wednesday, August 15, 2012 12:19 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: We're Set with the (b)(5)

(b)(6),(b)(7)(C) — can this be moved or does it have to stay in your staff folder? I don't want to screw up any (b)(5)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Wednesday, August 15, 2012 12:15 PM  
**To:** Blank, Barbara  
**Subject:** RE: We're Set with the (b)(5)

[Here](#) it is. Sorry for the problems.

---

**From:** Blank, Barbara  
**Sent:** Wednesday, August 15, 2012 10:15 AM  
**To:** (b)(6),(b)(7)(C)  
**Cc:** (b)(6),(b)(7)(C)  
**Subject:** RE: We're Set with the (b)(5)

Fantastic, can one of you please send me a link to where it is so I can check it out? Thank you!

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Wednesday, August 15, 2012 3:15 AM  
**To:** Blank, Barbara  
**Cc:** (b)(6),(b)(7)(C)  
**Subject:** We're Set with the (b)(5)

Barbara,

We're set with everything! (b)(6), (b)(5)  
(b)(7)(C)

(b)(5)

Not Responsive

Thanks,

(b)(6),  
(b)(7)

**Kelly, Andrea**

---

**From:** Blank, Barbara  
**Sent:** Monday, August 06, 2012 8:49 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: update

Thanks so much, (b)(6),(b)(7)(C) (b)(5)

(b)(5)

**From:** (b)(6),(b)(7)(C)  
**Sent:** Sunday, August 05, 2012 7:54 PM  
**To:** Blank, Barbara  
**Subject:** update

(b)(5)

Thanks,

(b)(6),(b)(7)(C)

**Kelly, Andrea**

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, August 06, 2012 3:25 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** (b)(5)

Hello (b)(6),(b)(7)(C)

I am still pulling docs, but what I have done can be found in my staff folder. If you have any questions please let me know.

(b)(5)

(b)(6),(b)(7)(C)

Best Regards,

(b)(6),(b)(7)(C)

**Kelly, Andrea**

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Friday, August 03, 2012 5:58 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** Re: sorry about the additional interruption

(b)(5)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Friday, August 03, 2012 05:51 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** Re: sorry about the additional interruption.

Yes, looks good

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Friday, August 03, 2012 04:58 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** sorry about the additional interruption.

Does this look okay?

(b)(5)

**Kelly, Andrea**

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Friday, August 03, 2012 11:27 AM  
**To:** Blank, Barbara  
**Subject:** RE: (b)(5)

Tracking:	Recipient	Delivery	Read
	Blank, Barbara	Delivered: 8/3/2012 11:27 AM	Read: 8/3/2012 11:29 AM

Fixed it. (b)(5)

---

**From:** Blank, Barbara  
**Sent:** Friday, August 03, 2012 11:20 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5)

(b)(5)

(b)(5) Can you correct this when you get a chance? Thanks!

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Friday, August 03, 2012 10:55 AM  
**To:** Blank, Barbara  
**Subject:** RE: (b)(5)

No problem- Thanks Barbara.

---

**From:** Blank, Barbara  
**Sent:** Friday, August 03, 2012 10:54 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** (b)(5)

Hi (b)(6),  
(b)(7)(C)

(b)(5)

(b)(5) Thanks again!!

(b)(5)

(b)(7)(E)

**Kelly, Andrea**

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Thursday, August 02, 2012 7:54 PM  
**To:** Blank, Barbara  
**Subject:** RE:

Tracking:	Recipient	Delivery	Read
	Blank, Barbara	Delivered: 8/2/2012 7:54 PM	Read: 8/2/2012 9:58 PM

Ok, that's great news. I hope I didn't come off the wrong way - I'm just trying to plan out my next few nights (I couldn't dodge cooking responsibilities forever).

-----Original Message-----

From: Blank, Barbara  
Sent: Thursday, August 02, 2012 7:51 PM  
To: (b)(6),(b)(7)(C)  
Subject: Re:

(b)(5) So  
nothing that should (b)(5)  
(b)(5)

----- Original Message -----

From: (b)(6),(b)(7)(C)  
Sent: Thursday, August 02, 2012 07:28 PM  
To: Blank, Barbara  
Subject: RE:

(b)(5)

Thanks!

(b)(6),(b)(7)(C)

-----Original Message-----

From: Blank, Barbara  
Sent: Thursday, August 02, 2012 6:59 PM  
To: (b)(6),(b)(7)(C)  
Subject:

(b)(5)

**Kelly, Andrea**

---

**From:** Blank, Barbara  
**Sent:** Wednesday, August 15, 2012 12:22 PM  
**To:** (b)(6),(b)(7)(C)  
**Cc:**  
**Subject:** RE: We're Set with the (b)(5)

(b)(6), (b)(5)  
that's OK.

(b)(7)(E)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Wednesday, August 15, 2012 12:21 PM  
**To:** Blank, Barbara  
**Subject:** RE: We're Set with the (b)(5)

I'm not sure- (b)(6), (b)(5)  
(b)(5)

---

**From:** Blank, Barbara  
**Sent:** Wednesday, August 15, 2012 12:19 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: We're Set with the (b)(5)

(b)(6), (b)(5)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Wednesday, August 15, 2012 12:15 PM  
**To:** Blank, Barbara  
**Subject:** RE: We're Set with the (b)(5)

(b)(5) Sorry for the problems.

---

**From:** Blank, Barbara  
**Sent:** Wednesday, August 15, 2012 10:15 AM  
**To:** Ramon, Cristobal  
**Cc:** (b)(6),(b)(7)(C)  
**Subject:** RE: We're Set with the (b)(5)

Fantastic, can one of you please send me a link to where it is so I can check it out?. Thank you!

Duplicate



**Kelly, Andrea**

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Thursday, August 02, 2012 6:22 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5)

Tracking:	Recipient	Delivery	Read
	(b)(6),(b)(7)(C)	Delivered: 8/2/2012 6:22 PM	Read: 8/2/2012 6:23 PM

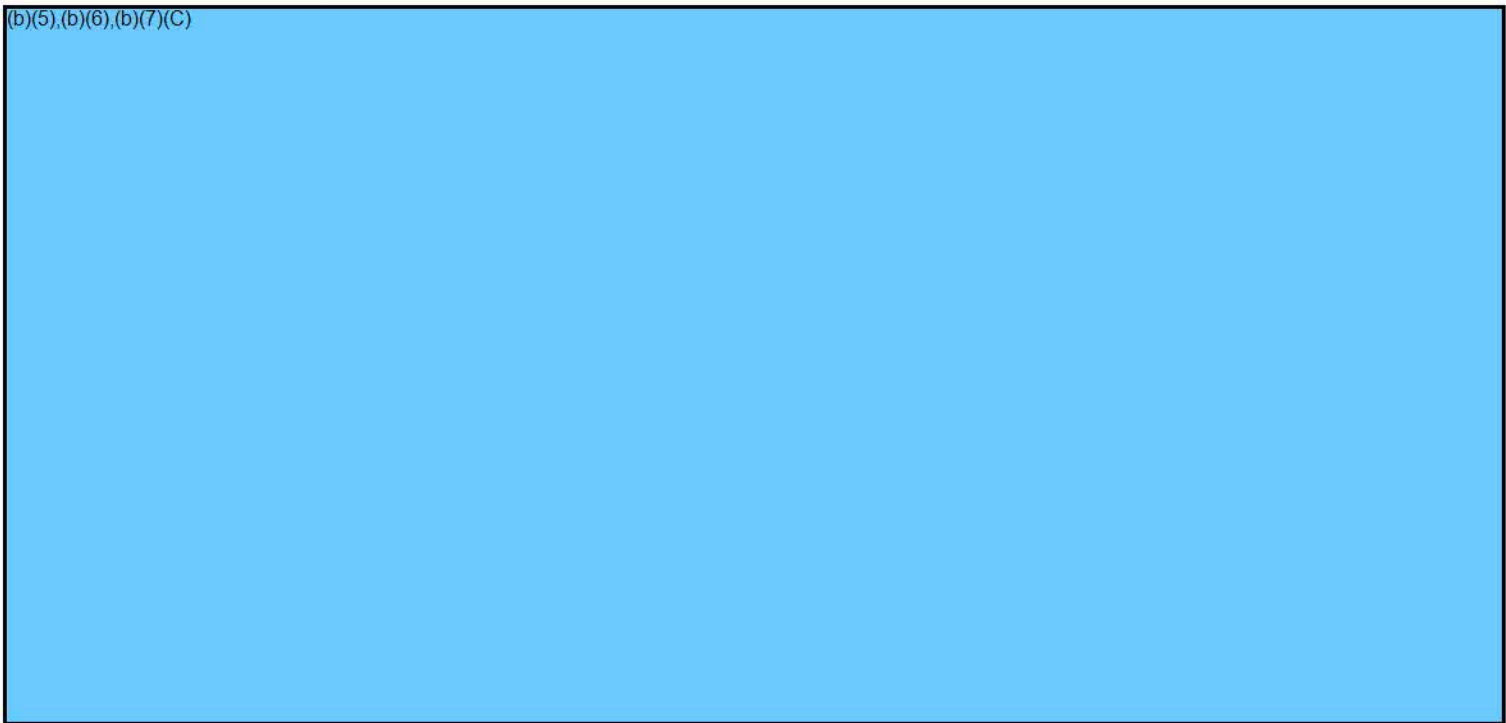
No, that makes perfect sense. Thank you!

(b)(6),(b)(7)(C)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Thursday, August 02, 2012 6:21 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5)

(b)(5),(b)(6),(b)(7)(C)



**From:** (b)(6),(b)(7)(C)  
**Sent:** Thursday, August 02, 2012 3:13 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5)

Ok, thank you.

No rush- I will be here for a while.

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Thursday, August 02, 2012 6:09 PM

**Kelly, Andrea**

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Thursday, August 02, 2012 10:48 AM  
**To:** Blank, Barbara  
**Subject:** RE: (b)(5)

**Tracking:**                      **Recipient**  
Blank, Barbara

**Delivery**  
Delivered: 8/2/2012 10:48 AM

No worries-

(b)(5)

---

**From:** Blank, Barbara  
**Sent:** Thursday, August 02, 2012 10:48 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5)

Oops, (b)(5) Thanks. ☺

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Thursday, August 02, 2012 10:47 AM  
**To:** Blank, Barbara  
**Subject:** RE: (b)(5)

Almost-

(b)(5)

(b)(5)

---

**From:** Blank, Barbara  
**Sent:** Thursday, August 02, 2012 10:41 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5)

(b)(5),(b)(6),(b)(7)(C)

**Kelly, Andrea**

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Thursday, August 02, 2012 10:44 AM  
**To:** Blank, Barbara  
**Subject:** RE: (b)(5)

**Tracking:**                      **Recipient**  
Blank, Barbara

**Delivery**  
Delivered: 8/2/2012 10:44 AM

yes

---

**From:** Blank, Barbara  
**Sent:** Thursday, August 02, 2012 10:44 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5)

(b)(5)

Duplicate

**Kelly, Andrea**

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Thursday, August 02, 2012 10:45 AM  
**To:** Blank, Barbara  
**Subject:** RE: (b)(5)

<b>Tracking:</b>	<b>Recipient</b>	<b>Delivery</b>
	Blank, Barbara	Delivered: 8/2/2012 10:45 AM

ok

---

**From:** Blank, Barbara  
**Sent:** Thursday, August 02, 2012 10:44 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5)

(b)(5)

Duplicate



**Kelly, Andrea**

---

**From:** Blank, Barbara  
**Sent:** Wednesday, August 01, 2012 5:37 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** Re: (b)(5)

No prob, you wouldn't have known!

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Wednesday, August 01, 2012 05:25 PM  
**To:** Blank, Barbara  
**Subject:** RE: (b)(5)

Thanks Barbara- sorry for the time drain.

---

**From:** Blank, Barbara  
**Sent:** Wednesday, August 01, 2012 5:20 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** Re: (b)(5)

(b)(5)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Wednesday, August 01, 2012 05:14 PM  
**To:** Blank, Barbara  
**Subject:** RE: (b)(5)

I could be looking in the wrong places, but I couldn't find it..

---

**From:** Blank, Barbara  
**Sent:** Wednesday, August 01, 2012 5:09 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** Re: (b)(5)

It wasn't in concordance.

---

**From:** Blank, Barbara  
**Sent:** Wednesday, August 01, 2012 05:07 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** Re: (b)(5)

Check the (b)(5)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Wednesday, August 01, 2012 05:01 PM  
**To:** Blank, Barbara  
**Subject:** RE: (b)(5)

(b)(5)

---

**From:** Blank, Barbara  
**Sent:** Wednesday, August 01, 2012 4:55 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5)

Yes, I have seen this (b)(5)  
(b)(5) if not I will hunt tomorrow morn.

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Wednesday, August 01, 2012 4:53 PM  
**To:** Blank, Barbara  
**Subject:** (b)(5)

I can't seem to find this (b)(5) (b)(5)  
(b)(5)

**Kelly, Andrea**

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Wednesday, August 01, 2012 3:38 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** Re: (b)(5)  
**Categories:** Red Category

not at all. Good catch.

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Wednesday, August 01, 2012 03:37 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5)


Ok, sounds great. Sorry to be a pain.

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Wednesday, August 01, 2012 3:34 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** Re: (b)(5)

We can change it to:

(b)(5),(b)(6),(b)(7)(C)



---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Wednesday, August 01, 2012 3:31 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** Re: (b)(5)

What does the (b)(5)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Wednesday, August 01, 2012 03:30 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5)

All I have found is this. (b)(5)

(b)(5)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Wednesday, August 01, 2012 2:33 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** Re: (b)(5)

please let (b)(6), know if you need help finding (b)(5)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Wednesday, August 01, 2012 02:30 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5)

Ok, will he be handling it or do you need me to find different (b)(5) (b)(5)

(b)(5)

---

(b)(5),(b)(6),(b)(7)(C)



**Kelly, Andrea**

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Wednesday, August 01, 2012 11:54 AM  
**To:** Blank, Barbara  
**Subject:** RE:

<b>Tracking:</b>	<b>Recipient</b>	<b>Delivery</b>
	Blank, Barbara	Delivered: 8/1/2012 11:54 AM

Ok, I will probably not be in for another 45 minutes if anything needs to get shuffled around.

---

**From:** Blank, Barbara  
**Sent:** Wednesday, August 01, 2012 11:53 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:**

I am out of the (b)(5)

**Kelly, Andrea**

---

**From:** Blank, Barbara  
**Sent:** Wednesday, August 01, 2012 10:54 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE:

Yup, you can swing by but it's pretty straight-forward, (b)(5)

(b)(5) - I can run through an example with you.

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Wednesday, August 01, 2012 10:53 AM  
**To:** Blank, Barbara  
**Subject:** RE:

Okay, (b)(5)

(b)(5)

---

**From:** Blank, Barbara  
**Sent:** Wednesday, August 01, 2012 10:51 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:**

All of the (b)(5) have now been filled in (b)(5)  
(b)(5). I'm making some quick changes to (b)(5) now but will out in about 5 minutes.

**Kelly, Andrea**

---

**From:** Blank, Barbara  
**Sent:** Wednesday, August 01, 2012 8:34 AM  
**To:** (b)(6),(b)(7)(C)  
**Cc:**  
**Subject:** RE: checking (b)(5)

Sorry I missed this yesterday! Just delete slide when you come across it. Thank you!

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Tuesday, July 31, 2012 3:44 PM  
**To:** Blank, Barbara  
**Cc:** (b)(6),(b)(7)(C)  
**Subject:** RE: checking (b)(5)

Hey Barbara,

I have a quick question:

(b)(5)

(b)(5)

and want to know which format we should use as

Thanks!

(b)(6),(b)(7)(C)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Tuesday, July 31, 2012 11:03 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** checking (b)(5)

Hey guys,

(b)(5)

Thanks,

(b)(6),(b)(7)(C)

**Kelly, Andrea**

---

**From:** Blank, Barbara  
**Sent:** Tuesday, July 31, 2012 4:42 PM  
**To:** (b)(6),(b)(7)(C)

**Cc:**  
**Subject:** (b)(5)

**Categories:** Red Category

Hi everyone,

(b)(5)

If (b)(6),(b)(7)(C) contacts you, please help him as quickly as possible!

(b)(5) — so THANK YOU!

BB

(b)(5)

(b)(5) Thanks so much!!

(b)(7)(E)

**Kelly, Andrea**

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Tuesday, July 31, 2012 4:06 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** (b)(5)

(b)(6),(b)(7)(C)

I saw you in a suit today so you may be otherwise occupied, but I want to get some eyes on (b)(5)

(b)(5) Let me know when you have a minute to chat.

Thanks,

(b)(6),(b)(7)(C)

**Kelly, Andrea**

---

**From:** Blank, Barbara  
**Sent:** Tuesday, July 31, 2012 2:29 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5)

Nope don't worry about it

---

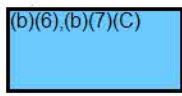
**From:** (b)(6),(b)(7)(C)  
**Sent:** Tuesday, July 31, 2012 1:29 PM  
**To:** Blank, Barbara  
**Subject:** edit minutia

Up to this point, I have not been paying much attention to:

(b)(5)



(b)(6),(b)(7)(C)



**Kelly, Andrea**

---

**From:** Blank, Barbara  
**Sent:** Tuesday, July 31, 2012 10:28 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** Re: (b)(5) questions

I am walking back now - swing by in 10

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Tuesday, July 31, 2012 10:27 AM  
**To:** Blank, Barbara  
**Subject:** (b)(5) questions

I have a few questions (b)(5) These are certainly not pressing issues, but if you have a spare moment, I would really appreciate it...

Thanks,

(b)(6),(b)(7)(C)

**Kelly, Andrea**

---

**From:** Blank, Barbara  
**Sent:** Monday, July 30, 2012 7:48 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** Re: (b)(5)

Same goes for tomorrow - do not sit around waiting until night time, please! :)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, July 30, 2012 07:46 PM  
**To:** Blank, Barbara  
**Subject:** RE: (b)(5)

Ok ☺ Goodnight.

---

**From:** Blank, Barbara  
**Sent:** Monday, July 30, 2012 7:46 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** Re: (b)(5)

I didn't mean to have you wait for (b)(5) Go home!! We will chat tomorrow!

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, July 30, 2012 07:37 PM  
**To:** Blank, Barbara  
**Subject:** (b)(5)

Barbara,

(b)(5)

(b)(6),(b)(7)(C)



**Kelly, Andrea**

---

**From:** Blank, Barbara  
**Sent:** Monday, July 30, 2012 7:47 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** Re: sorry for the follow up

All dates but this is not a task for tonight - tomorrow, wednesday will be fine!

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, July 30, 2012 07:45 PM  
**To:** Blank, Barbara  
**Subject:** sorry for the follow up

Please disregard my last question- (b)(5)

(b)(5)

(b)(5) Sorry again.

---

**From:** (b)(6),(b)(7)(C)

**Sent:** Monday, July 30, 2012 5:20 PM

**To:** (b)(6),(b)(7)(C)

**Subject:** RE: (b)(5)

(b)(5)

---

**From:** (b)(6),(b)(7)(C)

**Sent:** Monday, July 30, 2012 5:14 PM

**To:** (b)(6),(b)(7)(C)

**Subject:** RE: (b)(5)

Thanks.

Can you give me (b)(5) for this?

(b)(5)

---

(b)(3);21(f),(b)(5),(b)(6),(b)(7)(C)

**Kelly, Andrea**

---

**From:** Blank, Barbara  
**Sent:** Monday, July 30, 2012 12:24 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** FW: (b)(5)  
**Attachments:** (b)(5)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Friday, July 27, 2012 4:44 PM  
**To:** Blank, Barbara  
**Subject:** RE: (b)(5)

(b)(5) (5)  
(b)(5)

---

**From:** Blank, Barbara  
**Sent:** Friday, July 27, 2012 2:55 PM  
**To:** (b)(6),(b)(7)(C)  
**Cc:** (b)(5)  
**Subject:** Re: (b)(5)

(b)(5)

---

**From:** Blank, Barbara  
**Sent:** Friday, July 27, 2012 02:54 PM  
**To:** (b)(6),(b)(7)(C)  
**Cc:** (b)(5)  
**Subject:** Re: (b)(5)

(b)(5),(b)(6),(b)(7)(C) When you are done please drop off with (b)(6) who will scan in - thank you!

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Friday, July 27, 2012 02:51 PM  
**To:** Blank, Barbara  
**Subject:** RE: (b)(5)

Barbara,

(b)(5) (b)(5)

Thanks!

(b)(6),  
(b)(7)(C)

---

**From:** Blank, Barbara  
**Sent:** Friday, July 27, 2012 11:22 AM

To: (b)(6),(b)(7)(C)  
Subject: RE: (b)(5)

Great, thanks so much (b)(6)

---

From: (b)(6),(b)(7)(C)  
Sent: Friday, July 27, 2012 11:21 AM  
To: Blank, Barbara  
Subject: RE: (b)(5)

Hey Barbara,

I wanted to let you know that I'm going to (b)(5) by COB today.

Thanks!

(b)(6)

(b)(5),(b)(6),(b)(7)(C)

**To:** Blank, Barbara

**Subject:** RE: (b)(5)

(b)(5)

---

**From:** Blank, Barbara

**Sent:** Monday, July 23, 2012 1:57 PM

**To:** (b)(6),(b)(7)(C)

**Subject:** (b)(5)

Hi guys,

(b)(5)

(b)(5),(b)(6),(b)(7)(C)

(b)(5)

Let me know if you have Qs! Thank you!

BB

**Kelly, Andrea**

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Wednesday, August 15, 2012 9:58 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5)

Tracking:	Recipient	Delivery
	(b)(6),(b)(7)(C)	Delivered: 8/15/2012 9:58 AM

Okay, shoot. I wish I had come across this sooner (b)(5)

(b)(5)

Sorry for being vague in my question. Thank you for being so helpful.

(b)(6),(b)(7)(C)

(b)(5),(b)(6),(b)(7)(C)

(b)(5),(b)(6),(b)(7)(C),(b)(7)(D)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Tuesday, August 14, 2012 5:27 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5)

(b)(5)

Thank you,

(b)(6),(b)(7)(C)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Tuesday, August 14, 2012 4:51 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** Re: (b)(5)

I don't know. I can look when I'm in the office tomorrow.

(b)(5)

---

(b)(5),(b)(6),(b)(7)(C)

**Kelly, Andrea**

---

**From:** Blank, Barbara  
**Sent:** Monday, July 30, 2012 10:26 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** swing by when you have a minute and i can explain my email

(b)(5)



**Kelly, Andrea**

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, July 30, 2012 10:22 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: What's left to do

**Tracking:**

**Recipient**

**Delivery**

(b)(6),(b)(7)(C)

Delivered: 7/30/2012 10:22 AM

(b)(6),  
(b)(7)(C)

I got in late this morning- my apologies (b)(5)

(b)(6),(b)(7)(C)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, July 30, 2012 9:37 AM  
**To:** (b)(6),(b)(7)(C)  
**Cc:** (b)(6),(b)(7)(C)  
**Subject:** Re: What's left to do

(b)(6),(b)(7)(C)

(b)(5)

I am working at home and can be reached on my cell.

Thank you!

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Sunday, July 29, 2012 04:38 PM  
**To:** (b)(6),(b)(7)(C)  
**Cc:** (b)(6),(b)(7)(C)  
**Subject:** What's left to do

(b)(5)

**Kelly, Andrea**

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Friday, July 27, 2012 5:53 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: WORK for today

**Tracking:**

**Recipient**

(b)(6),(b)(7)(C)

**Delivery**

Delivered: 7/27/2012 5:53 PM

Sorry this isn't that much- I got caught up. I will continue (b)(5)

(b)(5),(b)(7)(D)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Friday, July 27, 2012 12:09 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** Re: work for today

That's great (b)(6), (b)(7)(C) I can use help finding some (b)(5)

(b)(5) (b)(5)

(b)(5)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Friday, July 27, 2012 12:06 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** work for today

Do you need help with anything today? My workload is pretty light at the moment.

Thanks,

(b)(6),  
(b)(7)(C)

**Kelly, Andrea**

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Friday, July 27, 2012 12:04 PM  
**To:** Blank, Barbara  
**Subject:** RE: (b)(5)

Tracking:	Recipient	Delivery
	Blank, Barbara	Delivered: 7/27/2012 12:04 PM

Ok, sounds good.

---

**From:** Blank, Barbara  
**Sent:** Friday, July 27, 2012 12:03 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5)

(b)(5)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Friday, July 27, 2012 12:01 PM  
**To:** Blank, Barbara  
**Subject:** (b)(5)

I tried out both- they seem to work

(b)(5)

(b)(6),(b)(7)(C)

**Kelly, Andrea**

---

**From:** Blank, Barbara  
**Sent:** Thursday, July 26, 2012 12:47 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5)

Hi (b)(6), (b)(5) Thanks!

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Thursday, July 26, 2012 10:22 AM  
**To:** Blank, Barbara  
**Subject:** RE: (b)(5)

Of course!

---

**From:** Blank, Barbara  
**Sent:** Thursday, July 26, 2012 10:21 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5)

(b)(5)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Thursday, July 26, 2012 10:20 AM  
**To:** Blank, Barbara  
**Subject:** RE: cite checking

(b)(5)

---

**From:** Blank, Barbara  
**Sent:** Wednesday, July 25, 2012 8:53 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** Re: (b)(5)

Wow, thanks so much, (b)(6), (b)(5) thanks!!  
(b)(7)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Wednesday, July 25, 2012 08:22 PM  
**To:** Blank, Barbara  
**Subject:** (b)(5)

Barbara,

(b)(5) (b)(5)  
(b)(5)

I will continue to look but here are the (b)(5) I couldn't find:

**Kelly, Andrea**

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Tuesday, August 14, 2012 10:05 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: Ready whenever you are

We're set. I'm going to do a quick run through tonight but I think we're good to go. I'll confirm later.

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Tuesday, August 14, 2012 5:54 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: Ready whenever you are

(b)(5)



Sorry for the long and disappointing e-mail. Thanks for being awesome- both in teaching me and in doing a ton of the (b)(5)

(b)(6),(b)(7)(C)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Tuesday, August 14, 2012 5:42 PM  
**To:** (b)(6),(b)(7)(C)  
**Cc:** (b)(6),(b)(7)(C)  
**Subject:** Ready whenever you are

**Kelly, Andrea**

---

**From:** Blank, Barbara  
**Sent:** Thursday, July 26, 2012 10:21 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5)

Thanks (b)(6) – can you please bring me a printout?

Duplicate

**Kelly, Andrea**

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Tuesday, July 24, 2012 10:36 AM  
**To:** (b)(6),(b)(7)(C)  
**Cc:** (b)(6),(b)(7)(C)  
**Subject:** FW: (b)(5)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Tuesday, July 24, 2012 10:21 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** FW: (b)(5)

---

**From:** Blank, Barbara  
**Sent:** Friday, June 08, 2012 2:21 PM

(b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

Westman-Cherry, Melissa

**Subject:** (b)(5)

(b)(5) should be in the following format (b)(5)

(b)(5)

Thanks!!

**Kelly, Andrea**

---

**From:** Blank, Barbara  
**Sent:** Tuesday, July 24, 2012 10:20 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5)

Make a note of it for now; we'll get back to it later.

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Tuesday, July 24, 2012 10:12 AM  
**To:** Blank, Barbara  
**Subject:** (b)(5)

(b)(5)

(b)(6),(b)(7)(C)



**Kelly, Andrea**

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, July 23, 2012 3:45 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** (b)(5)

**Tracking:**

**Recipient**

(b)(6),(b)(7)(C)

**Delivery**

Delivered: 7/23/2012 3:45 PM

Just talked to Barbara about (b)(5) (b)(5) Thank  
you so much for the help!

(b)(6),(b)(7)(C)

**Kelly, Andrea**

---

**From:** Blank, Barbara  
**Sent:** Monday, July 23, 2012 3:43 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5)

(b)(6), just pointed something that reminds me to add this: (b)(5)

(b)(5),(b)(7)(D)

(b)(5),(b)(7)(D)

For any other specific Qs, feel free to call/email/swing by.

Thanks again!

Duplicate

**Kelly, Andrea**

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, July 23, 2012 2:57 PM  
**To:** 1041DL  
**Cc:** Blank, Barbara  
**Subject:** (b)(5)

Hi everyone,

Please reply to this email if you have time to (b)(5)

Thanks!

(b)(6),  
(b)(7)(C)

**Kelly, Andrea**

---

**From:** Sieradzki, David L.  
**Sent:** Wednesday, October 31, 2012 2:00 PM  
**To:** Grimm, Karen  
**Cc:** Shonka, David C.  
**Subject:** RE: (b)(5)

Dave:

Could we get together some time this afternoon for a discussion of (at least preliminary) reactions and ideas about how to respond (b)(5)

(b)(5)

Thanks.  
DLS

Duplicate

**Kelly, Andrea**

---

**From:** Sieradzki, David L.  
**Sent:** Wednesday, October 31, 2012 11:50 AM  
**To:** Grimm, Karen  
**Cc:** Shonka, David C.; Daly, John F.  
**Subject:** RE: (b)(5)

Will do.

---

**From:** Grimm, Karen  
**Sent:** Wednesday, October 31, 2012 11:49 AM  
**To:** Sieradzki, David L.  
**Cc:** Shonka, David C.  
**Subject:** FW: (b)(5)

David,

Could you please review this and forward any comments you have to Dave Shonka? I will be out of the office and generally out of Blackberry reach from tomorrow through Nov. 11.

Thanks so much.

Karen

---

**From:** Shonka, David C.  
**Sent:** Tuesday, October 30, 2012 9:31 AM  
**To:** Cohen, William E.; Grimm, Karen  
**Subject:** Fw: (b)(5)

Here's more of it.

Duplicate



**Kelly, Andrea**

---

**From:** Grimm, Karen  
**Sent:** Wednesday, October 31, 2012 11:35 AM  
**To:** Shonka, David C.  
**Subject:** RE: (b)(5)

Dave,

May I forward the (b)(5) who was working with Will on the non-SEP portions (b)(5) or is the intent to keep the distribution limited?

Thanks.

Karen

Duplicate

**Kelly, Andrea**

---

**From:** Cohen, William E.  
**Sent:** Tuesday, October 30, 2012 4:01 PM  
**To:** Shonka, David C.; Daly, John F.  
**Cc:** Grimm, Karen  
**Subject:** Re: (b)(5)

Thanks, but I am getting a message that my Blackberry cannot open the (b)(5) (I am in Spain and dependent on Blackberry.) (b)(5)

(b)(5)

(b)(5)

---

**From:** Shonka, David C...  
**Sent:** Tuesday, October 30, 2012 09:27 AM  
**To:** Cohen, William E.  
**Subject:** Fw: (b)(5)

Thought you should see this.

Duplicate

## Kelly, Andrea

---

**From:** Sieradzki, David L.  
**Sent:** Tuesday, August 21, 2012 11:30 AM  
**To:** Tom, Willard K.; Daly, John F.; Grimm, Karen; Dawson, Rachel Miller  
**Subject:** FW: Google investigation (No. 111-0163)

FYI – see below.

---

**From:** Blank, Barbara  
**Sent:** Tuesday, August 21, 2012 8:36 AM  
**To:** Sieradzki, David L.  
**Subject:** RE: Google investigation (No. 111-0163)

Hi David,

Responses below; feel free to give me a call if you have any other questions.

Best Regards,

Barbara

---

**From:** Sieradzki, David L.  
**Sent:** Monday, August 20, 2012 5:26 PM  
**To:** Blank, Barbara; Westman-Cherry, Melissa; (b)(7)(C)  
**Subject:** Google investigation (No. 111-0163)

I'm working on this matter for OGC, and have a few questions:

(b)(5)



Thanks.  
--David

David L. Sieradzki  
Attorney, Office of General Counsel  
**Federal Trade Commission**  
600 Pennsylvania Ave., NW  
Washington, DC 20580  
office: 202.326-2092  
fax: 202.326.2477  
(b)(6),(b)(7)(C)



**Kelly, Andrea**

---

**From:** Tom, Willard K.  
**Sent:** Wednesday, August 22, 2012 4:21 PM  
**To:** Sieradzki, David L.; Grimm, Karen  
**Subject:** FW: Google

What do you think?

---

**From:** Renner, Christopher  
**Sent:** Wednesday, August 22, 2012 4:07 PM  
**To:** Tom, Willard K.  
**Subject:** Google

(b)(5)



What do you think?

**Kelly, Andrea**

---

**From:** Sieradzki, David L.  
**Sent:** Thursday, September 06, 2012 1:16 PM  
**To:** DeLuca, Nancy F.  
**Cc:** Tom, Willard K.; Shonka, David C.  
**Subject:** FW: Memo from OGC re Google Search Investigation  
**Attachments:** OGC memo re (b)(5)

Nancy,

Could you please make the necessary arrangements to have the attached memo from Will distributed formally through the Secretary's office? The file number is 111-0163.

Thanks very much – I appreciate your help.  
David

---

**From:** Sieradzki, David L.  
**Sent:** Thursday, September 06, 2012 1:13 PM  
**To:** Renner, Christopher; Lehner, Mary; Su, Henry; Tucker, Darren; Kimmel, Lisa; Slater, Abigail A.; Vedova, Holly L.; Luib, Gregory; Feinstein, Richard; Levitas, Pete; Seidman, Mark; Sabo, Melanie; Green, Geoffrey; Blank, Barbara; (b)(6),(b)(7)(C) Westman-Cherry, Melissa; (b)(6),(b)(7)(C) Shelanski, Howard; Heyer, Kenneth; (b)(6),(b)(7)(C) Gavil, Andrew I.; Koslov, Tara Isa; Bellovin, Steven M.; Brunell, Richard; Ohm, Paul  
**Cc:** Tom, Willard K.; Shonka, David C.; Daly, John F.; Cohen, William E.; Grimm, Karen  
**Subject:** Memo from OGC re Google Search Investigation

I'm enclosing OGC's memo regarding the recommendation (b)(5) Will Tom is out of the office, but is doing his best to respond to emails via BlackBerry, and will be participating in tomorrow's meeting via videoconference. In his absence, please contact me or Karen Grimm (x2904) if you have any questions or would like to discuss this.

Thanks.

David L. Sieradzki  
Attorney, Office of General Counsel  
**Federal Trade Commission**  
600 Pennsylvania Ave., NW  
Washington, DC 20580  
office: 202.326-2092  
fax: 202.326.2477  
mobile: (b)(7)(C)

**Kelly, Andrea**

---

**From:** Sieradzki, David L.  
**Sent:** Wednesday, September 05, 2012 6:31 PM  
**To:** Blank, Barbara  
**Cc:** Green, Geoffrey  
**Subject:** (b)(5)

Barbara,

(b)(3)-21(f),(b)(5)

I appreciate it – thanks!

--David

David L. Sieradzki  
Attorney, Office of General Counsel  
**Federal Trade Commission**  
600 Pennsylvania Ave., NW  
Washington, DC 20580  
office: 202.326-2092  
fax: 202.326.2477  
mobile: 202.641.8847

**Kelly, Andrea**

---

**From:** Daly, John F.  
**Sent:** Friday, August 17, 2012 8:53 AM  
**To:** Sieradzki, David L.  
**Cc:** Tom, Willard K.; Melman, Leslie R.; Shonka, David C.  
**Subject:** New assignment

David --

We have something new for you to look into, although the exact nature of the assignment is a bit vague. The Google case (I guess I should say one of the potential Google cases) is going to the Comm'n for discussion at a Sept 7 meeting. (I don't know whether they will actually vote that day.) (b)(5)

(b)(5)

(b)(5)

(b)(5)

Over the next couple of weeks, Will may have particular questions for you to look into further, and there could questions from Commissioners. It could get very interesting.

Thanks.

**Kelly, Andrea**

---

**From:** Grimm, Karen  
**Sent:** Wednesday, October 31, 2012 2:39 PM  
**To:** Sieradzki, David L.  
**Subject:** RE: (b)(5)

Sure. (b)(5)

---

**From:** Sieradzki, David L.  
**Sent:** Wednesday, October 31, 2012 2:00 PM  
**To:** Grimm, Karen  
**Cc:** Shonka, David C.  
**Subject:** RE: (b)(5)

Dave:

(b)(5)

Thanks.  
DLS

---

**From:** Grimm, Karen  
**Sent:** Wednesday, October 31, 2012 11:51 AM  
**To:** Sieradzki, David L.  
**Cc:** Shonka, David C.  
**Subject:** FW: (b)(5)

David,

Here is the (b)(5)

Karen

---

**From:** Shonka, David C.  
**Sent:** Tuesday, October 30, 2012 9:29 AM  
**To:** Grimm, Karen  
**Subject:** Fw: (b)(5)

Fyi

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Tuesday, October 30, 2012 09:25 AM  
**To:** Levitas, Pete; Renner, Christopher; Slater, Abigail A.; Vedova, Holly L.; Luib, Gregory; Tucker, Darren; Kimmel, Lisa  
**Cc:** Seidman, Mark; Feinstein, Richard; Sabo, Melanie; Green, Geoffrey; Blank, Barbara; Westman-Cherry, Melissa; Shelanski, Howard; Heyer, Kenneth; Shonka, David C.; Daly, John F.; Koslov, Tara Isa; Brunell, Richard; Wilkinson, Beth; Hassi, Edward; Kraus, Elizabeth; Gray, (b)(6),(b)(7)(C)  
**Subject:** RE: (b)(5)

Thank you for the opportunity to review (b)(5)

(b)(5)

---

**From:** Levitas, Pete

**Sent:** Monday, October 29, 2012 3:28 PM

**To:** Renner, Christopher; Slater, Abigail A.; Vedova, Holly L.; Luib, Gregory; Tucker, Darren; Kimmel, Lisa

**Cc:** Seidman, Mark; Feinstein, Richard; Sabo, Melanie; Green, Geoffrey; Blank, Barbara; Westman-Cherry, Melissa; Shelanski, Howard; Heyer, Kenneth; (b)(6),(b)(7) Shonka, David C.; Daly, John F.; Koslov, Tara Isa; Brunell, Richard; Wilkinson, Beth; Hassi, Edward; Kraus, Elizabeth; (b)(6),(b)(7)(C)

**Subject:** (b)(5)

---

Hello everyone – attached please find (b)(5)

(b)(5)

Please provide your feedback as soon as possible, but in any event by Friday morning if you can. We will incorporate any changes and set up a time to discuss soon after that. Also, if I have missed anyone on this email please forward. Thanks Pete

**Kelly, Andrea**

---

**From:** Tom, Willard K.  
**Sent:** Wednesday, August 29, 2012 2:20 PM  
**To:** Sieradzki, David L.; Grimm, Karen  
**Subject:** RE: First Draft (b)(5)

Sure.

Will

**Willard K. Tom**

General Counsel  
Federal Trade Commission  
600 Pennsylvania Avenue, NW. Rm. H-570  
Washington, DC 20580  
(202) 326-3020  
Fax: (202) 326-3198  
[wtom@ftc.gov](mailto:wtom@ftc.gov)

---

**From:** Sieradzki, David L.  
**Sent:** Wednesday, August 29, 2012 1:32 PM  
**To:** Tom, Willard K.; Grimm, Karen  
**Subject:** RE: First Draft (b)(5)

Would somewhere in the range of 3 - 4 pm work?

---

**From:** Tom, Willard K.  
**Sent:** Wednesday, August 29, 2012 1:06 PM  
**To:** Grimm, Karen  
**Cc:** Sieradzki, David L.  
**Subject:** RE: First Draft (b)(5)

Thanks.. David, what's your timing on that?

Will

**Willard K. Tom**

General Counsel  
Federal Trade Commission  
600 Pennsylvania Avenue, NW. Rm. H-570  
Washington, DC 20580  
(202) 326-3020  
Fax: (202) 326-3198  
[wtom@ftc.gov](mailto:wtom@ftc.gov)

---

**From:** Grimm, Karen  
**Sent:** Wednesday, August 29, 2012 11:01 AM  
**To:** Tom, Willard K.  
**Cc:** Sieradzki, David L.  
**Subject:** RE: First Draft (b)(5)



Will,

I have shared my thoughts with David, and he is revising the draft.

Karen

---

**From:** Tom, Willard K.  
**Sent:** Tuesday, August 28, 2012 10:22 PM  
**To:** Sieradzki, David L.; Grimm, Karen  
**Subject:** Re: First Draft (b)(5)

Thanks, David. I will think about this when my mind is fresh tomorrow, and of course will welcome Karen's thoughts.

---

**From:** Sieradzki, David L.  
**Sent:** Tuesday, August 28, 2012 08:28 PM  
**To:** Grimm, Karen  
**Cc:** Tom, Willard K.  
**Subject:** First Draft (b)(5)

Karen,  
Here's my first draft (b)(5)

(b)(5)

Will,  
This draft is in reasonable shape and ready for your review; please feel free to look at if you'd like; but if you'd prefer, you could also wait until I incorporate any feedback Karen may have. Up to you...!

David L. Sieradzki  
Attorney, Office of General Counsel  
**Federal Trade Commission**  
600 Pennsylvania Ave., NW  
Washington, DC 20580  
office: 202.326-2092  
fax: 202.326.2477  
mobile: (b)(6),(b)(7)(C)



**Kelly, Andrea**

---

**From:** Sieradzki, David L.  
**Sent:** Tuesday, September 04, 2012 7:15 PM  
**To:** Cohen, William E.; Tom, Willard K.; Shonka, David C.; Daly, John F.; Grimm, Karen  
**Subject:** RE: Google  
**Attachments:** OGC comments on (b)(5) - DLS edits to WT draft 9-04-2012.docx

I pasted Will's draft into a Word document, and then began editing using Track Changes (my revisions are shown as redlining in the attached draft). (b)(5)

(b)(5)

(b)(5) I'll be interested in your reactions.

Thanks.  
David

(b)(5)

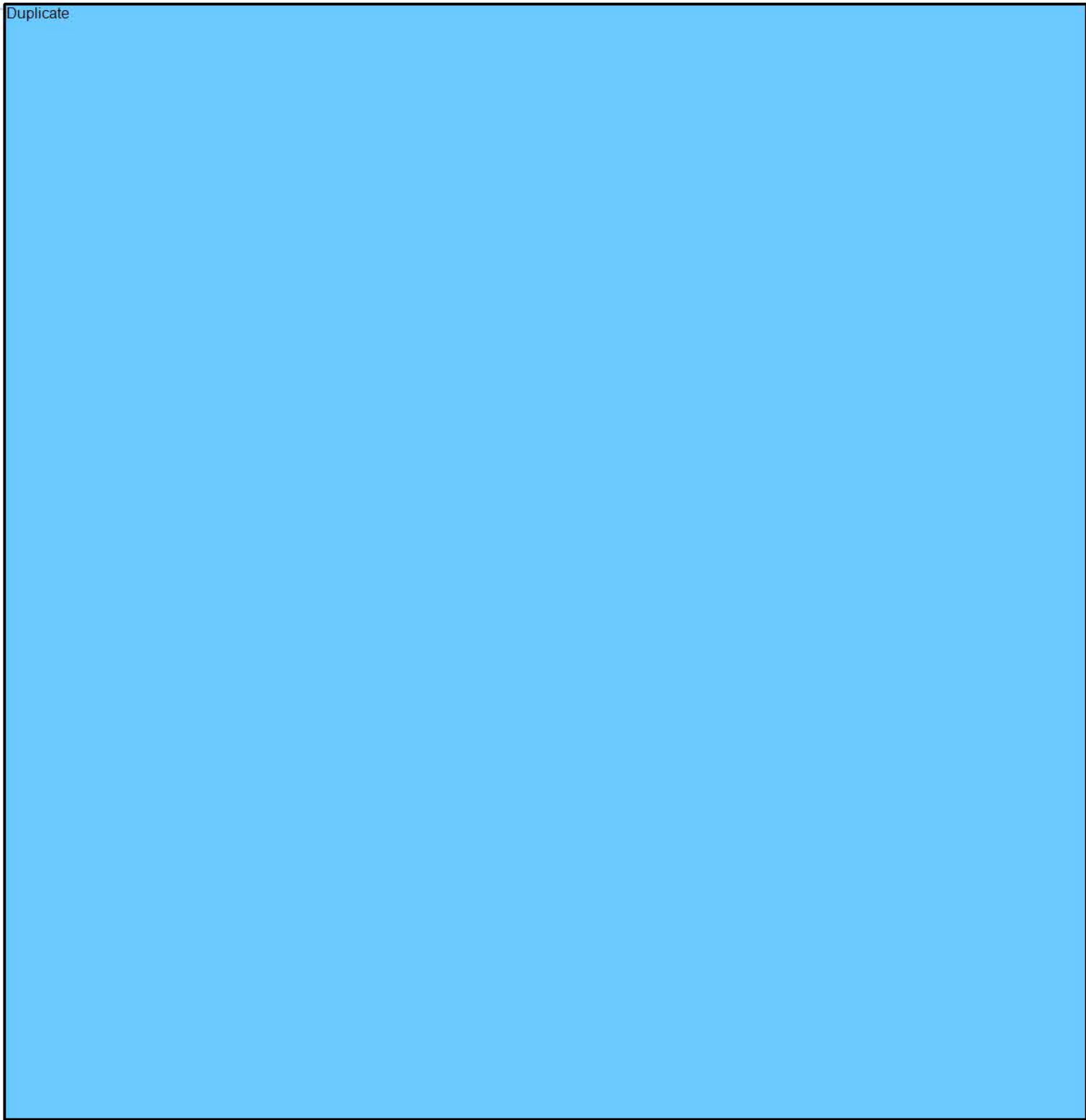
**Kelly, Andrea**

---

**From:** Tom, Willard K.  
**Sent:** Wednesday, September 05, 2012 9:58 AM  
**To:** Sieradzki, David L.; Cohen, William E.; Shonka, David C.; Daly, John F.; Grimm, Karen  
**Subject:** RE: Google  
**Attachments:** OGC comments on (b)(5) - WT draft 9-05-2012.docx

Attached is a redline off of David's version. If you're all comfortable with it, go ahead and send it up; otherwise, I'm willing to wait an additional day and send it up on Thursday.

Duplicate



**Kelly, Andrea**

---

**From:** Daly, John F.  
**Sent:** Wednesday, September 05, 2012 10:48 AM  
**To:** Cohen, William E.; Tom, Willard K.; Sieradzki, David L.; Shonka, David C.; Grimm, Karen  
**Subject:** RE: Google

(b)(5)



---

**From:** Cohen, William E.  
**Sent:** Wednesday, September 05, 2012 10:46 AM  
**To:** Tom, Willard K.; Daly, John F.; Sieradzki, David L.; Shonka, David C.; Grimm, Karen  
**Subject:** RE: Google

(b)(5)



---

**From:** Tom, Willard K.  
**Sent:** Wednesday, September 05, 2012 10:41 AM  
**To:** Daly, John F.; Sieradzki, David L.; Cohen, William E.; Shonka, David C.; Grimm, Karen  
**Subject:** Re: Google

Many thanks.

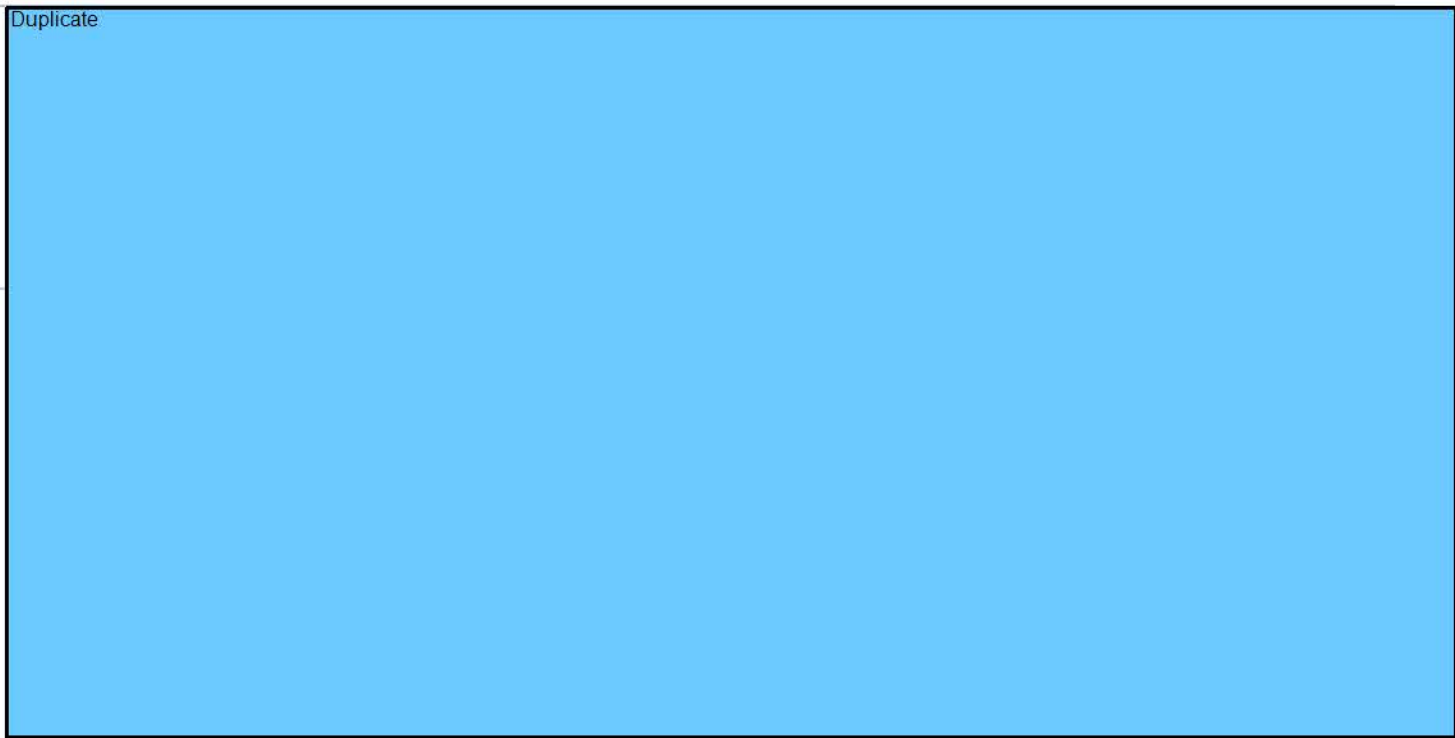
---

**From:** Daly, John F.  
**Sent:** Wednesday, September 05, 2012 10:38 AM  
**To:** Tom, Willard K.; Sieradzki, David L.; Cohen, William E.; Shonka, David C.; Grimm, Karen  
**Subject:** RE: Google

(b)(5)



Duplicate



**Kelly, Andrea**

---

**From:** Sieradzki, David L.  
**Sent:** Wednesday, September 05, 2012 3:12 PM  
**To:** Daly, John F.; Cohen, William E.; Tom, Willard K.; Shonka, David C.; Grimm, Karen  
**Subject:** RE: Google  
**Attachments:** OGC memo re (b)(5) 9-05-2012.docx

Here's a "prettied-up" version, complete with footnotes, but with no substantive changes from the version Will circulated earlier today.


(b)(5)



Thanks very much for your willingness to entertain these suggestions; and of course, if that's not where you want to take this written piece, I will be sure the memo "as is" gets distributed as promptly as possible.

--David

Duplicate



**Kelly, Andrea**

---

**From:** Tom, Willard K.  
**Sent:** Thursday, September 06, 2012 8:41 AM  
**To:** Sieradzki, David L.; Daly, John F.; Cohen, William E.; Shonka, David C.; Grimm, Karen  
**Subject:** Re: Google

(b)(5)

**From:** Tom, Willard K.  
**Sent:** Thursday, September 06, 2012 08:05 AM  
**To:** Sieradzki, David L.; Daly, John F.; Cohen, William E.; Shonka, David C.; Grimm, Karen  
**Subject:** RE: Google

Turns out I'm much tireder than I thought I would be so I won't read another draft.

(b)(5)

(b)(5)

**From:** Tom, Willard K.  
**Sent:** Wednesday, September 05, 2012 10:24 PM  
**To:** Sieradzki, David L.; Daly, John F.; Cohen, William E.; Shonka, David C.; Grimm, Karen  
**Subject:** Re: Google

I'm now off the plane and see your Q re

(b)(5)

(b)(5)

(b)(5) If you happen to turn a draft before I go to bed, I'll try to look at it once more, but otherwise you can send it off whenever you're ready Thurs am. Don't go past Thurs am, tho -- I'd rather have it go than to get it perfect.

Duplicate

**Kelly, Andrea**

---

**From:** Daly, John F.  
**Sent:** Thursday, September 06, 2012 1:19 PM  
**To:** Shonka, David C.; Sieradzki, David L.  
**Subject:** RE: Google

Thanks to both Davids for moving this forward. Non Responsive

-----Original Message-----

**From:** Shonka, David C.  
**Sent:** Thursday, September 06, 2012 12:41 PM  
**To:** Sieradzki, David L.; Tom, Willard K.; Daly, John F.; Cohen, William E.; Grimm, Karen  
**Subject:** RE: Google

"Yes" on all counts. Send it to all the people so far identified and give it to Nancy for circulation.

-----Original Message-----

**From:** Sieradzki, David L.  
**Sent:** Thursday, September 06, 2012 12:38 PM  
**To:** Tom, Willard K.; Daly, John F.; Cohen, William E.; Shonka, David C.; Grimm, Karen  
**Subject:** RE: Google

(b)(5)

Dave, John, and Bill: Who should be the recipients of this memo when I email it out?

(b)(5)

(b)(5)

(b)(5)

Anyone else?

In addition to emailing this out, should I give it to Nancy for formal distribution through the Secretary's office?

Duplicate

**Kelly, Andrea**

---

**From:** Sieradzki, David L.  
**Sent:** Friday, September 07, 2012 8:45 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: Google

Great ... I really appreciate it.

David

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Friday, September 07, 2012 8:44 AM  
**To:** Sieradzki, David L.  
**Subject:** FW: Google

David,

Please see attached.

Chris

---

**From:** Heyer, Kenneth  
**Sent:** Saturday, September 01, 2012 2:03 PM  
**To:** JDL; Rosch, Tom; Ramirez, Edith; Brill, Julie; Ohlhausen, Maureen  
**Cc:** Shelanski, Howard; Feinstein, Richard; Levitas, Pete; Silvia, Louis; Sabo, Melanie; Green, Geoffrey; Blank, Barbara; Yun, John; Adams, Christopher P.; Deyak, Timothy A.; Luib, Gregory; Okuliar, Alexander; Renner, Christopher; Tucker, Darren; Slater, Abigail A.; Kimmel, Lisa; Seidman, Mark  
**Subject:** Google

Commissioners and others,

Attached please find (b)(5)

Unfortunately, due to a previously scheduled commitment that needs to take priority (b)(6),(b)(7)(C)

(b)(6), I will not be able to attend the September 7<sup>th</sup> Commission briefing. (b)(5)

(b)(5)

Ken...

**Kelly, Andrea**

---

**From:** Sieradzki, David L.  
**Sent:** Tuesday, August 21, 2012 11:29 AM  
**To:** Blank, Barbara  
**Subject:** RE: Google investigation (No. 111-0163)

OK – thanks very much.

Duplicate





**Kelly, Andrea**

---

**From:** Sieradzki, David L.  
**Sent:** Friday, September 07, 2012 8:42 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: Memo from OGC re Google Search Investigation

Would it be possible for you to send (b)(5) as well?

Thanks again.

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Friday, September 07, 2012 8:39 AM  
**To:** Sieradzki, David L.; Shelanski, Howard  
**Cc:** Heyer, Kenneth; (b)(6),(b)(7)(C)  
**Subject:** RE: Memo from OGC re Google Search Investigation

---

**From:** Sieradzki, David L.  
**Sent:** Friday, September 07, 2012 8:01 AM  
**To:** Shelanski, Howard  
**Cc:** Heyer, Kenneth; (b)(6),(b)(7)(C)  
**Subject:** RE: Memo from OGC re Google Search Investigation

Howard,

I apologize for troubling you with this request, but I haven't been able to track down (b)(5) and wonder if you or someone in your office could send it to me.

Thanks. By the way, we should find some time after the dust settles to get together and catch up.

David

David L. Sieradzki  
Attorney, Office of General Counsel  
Federal Trade Commission  
600 Pennsylvania Ave., NW  
Washington, DC 20580  
office: 202.326-2092  
fax: 202.326.2477  
mobile (b)(6),(b)(7)(C)

Duplicate

## Kelly, Andrea

---

**From:** Sieradzki, David L.  
**Sent:** Friday, August 17, 2012 2:33 PM  
**To:** Tom, Willard K.  
**Subject:** RE: New assignment

I'll see what I can find out.

-----Original Message-----

From: Tom, Willard K.  
Sent: Friday, August 17, 2012 2:29 PM  
To: Sieradzki, David L.  
Subject: RE: New assignment

(b)(5)

A large rectangular area of the document is redacted with a solid light blue fill.

Will

Willard K. Tom  
General Counsel  
Federal Trade Commission  
600 Pennsylvania Avenue, NW Rm. H-570  
Washington, DC 20580  
(202) 326-3020  
Fax: (202) 326-3198  
[wtom@ftc.gov](mailto:wtom@ftc.gov)

-----Original Message-----

From: Sieradzki, David L.  
Sent: Friday, August 17, 2012 10:36 AM  
To: Daly, John F.  
Cc: Tom, Willard K.; Melman, Leslie R.; Shonka, David C.  
Subject: Re: New assignment

Great! I've actually started to read into (one of) the Google case(s), and am really looking forward to digging in more deeply. Thanks!

David

Duplicate

A large rectangular area at the bottom of the document is redacted with a solid light blue fill.

**Kelly, Andrea**

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Thursday, September 06, 2012 12:44 PM  
**To:** Sieradzki, David L.  
**Subject:** RE: Request for Materials  
**Attachments:** (b)(5)

My apologies.

---

**From:** Sieradzki, David L.  
**Sent:** Thursday, September 06, 2012 12:35 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: Request for Materials

Actually, I couldn't access the link to the (b)(3);21(f) because I don't have access to the BC/ACP area on the K drive. Could you please send the document as an attachment? I really appreciate it.

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Thursday, September 06, 2012 9:58 AM  
**To:** Sieradzki, David L.  
**Subject:** Request for Materials

Mr. Sieradzki,

In response to your request of Barbara Blank, (b)(3);21(f),(b)(5)  
(b)(3);21(f),(b)(5),(b)(7)(D)

Thank you,

(b)(6),(b)(7)(C)

**Kelly, Andrea**

---

**From:** Sieradzki, David L.  
**Sent:** Wednesday, August 29, 2012 4:50 PM  
**To:** Tom, Willard K.; Grimm, Karen  
**Subject:** RE: Second Draft (b)(5)  
**Attachments:** Talking Points on Google's Allegedly Anticompetitive Conduct 8-29-12 (2).docx

Here's the next draft. Unfortunately, it's not shorter; but I think it *is* better. (Thanks, Karen!)

--David

Duplicate

**Kelly, Andrea**

---

**From:** Goosby, Consuella  
**Sent:** Friday, August 17, 2012 10:40 AM  
**To:** Daly, John F.  
**Cc:** Dawson, Rachel Miller; (b)(6),(b)(7)(C) DeLuca, Nancy F.; Sieradzki, David L.  
**Subject:** RE: Sunshine Motion for 9/7/12 @1:00 pm

I have one hard copy. I am working on getting an electronic copy.

---

**From:** Daly, John F.  
**Sent:** Friday, August 17, 2012 8:55 AM  
**To:** Goosby, Consuella  
**Cc:** Dawson, Rachel Miller; (b)(6),(b)(7)(C) DeLuca, Nancy F.; Sieradzki, David L.  
**Subject:** Re: Sunshine Motion for 9/7/12 @1:00 pm

Connie --

David Sieradzki will be working on this please get him copies of the memos. Assuming you have them electronically, I would like a copy as well. Thanks.

---

**From:** Goosby, Consuella  
**Sent:** Thursday, August 16, 2012 06:04 PM  
**To:** Daly, John F.  
**Cc:** Dawson, Rachel Miller; (b)(6),(b)(7)(C); DeLuca, Nancy F.  
**Subject:** Sunshine Motion for 9/7/12 @1:00 pm

I have received a Sunshine Motion to schedule a Commission meeting for September 7, 2012 @ 1:00 pm for Google, Inc., File No. 111-0163. (b)(5)

(b)(5)

(b)(5)

Has anyone in your shop been assigned to this?

**Kelly, Andrea**

---

**From:** Lewis, Tina M.  
**Sent:** Friday, August 17, 2012 5:49 PM  
**To:** Daly, John F.; Sieradzki, David L.  
**Cc:** Smith, James R.; Dawson, Rachel Miller; Goosby, Consuella  
**Subject:** UPDATED: RE: Background Papers for Google, Inc., 111-0163; Commission meeting on 9/7/12

**These background papers replace the papers sent to you earlier today. Please see this link.**

**GOOGLE BACKGROUND**

**Tina Lewis**  
**Office of the General Counsel**  
**Room H-576**  
**(202) 326-2465**

---

**From:** Goosby, Consuella  
**Sent:** Friday, August 17, 2012 11:38 AM  
**To:** Daly, John F.; Sieradzki, David L.  
**Cc:** Smith, James R.; Dawson, Rachel Miller; Lewis, Tina M.  
**Subject:** Background Papers for Google, Inc., 111-0163; Commission meeting on 9/7/12

Attached are the background papers (staff memos) for Google, Inc., 111-0163, which has been put one for Commission the meeting on September 7, 2012 @ 1:00 pm.



**Kelly, Andrea**

---

**From:** Sieradzki, David L.  
**Sent:** Monday, September 10, 2012 3:31 PM  
**To:** Tom, Willard K.  
**Cc:** Shonka, David C.  
**Subject:** FW: Google - contacts with Commissioners' attorney advisors

Will,

I got a follow-up call from Lisa Kimmel: her boss, Commissioner Ramirez, would like to speak with you about this case as soon as we can arrange a call. (b)(5)

(b)(5) and she'd like to explore the issues with you in further detail.

Is there a time you might be available for a call?

Thanks.  
David

David L. Sieradzki  
Attorney, Office of General Counsel  
**Federal Trade Commission**  
600 Pennsylvania Ave., NW  
Washington, DC 20580  
office: 202.326-2092  
fax: 202.326.2477  
mobile: (b)(6)

---

**From:** Sieradzki, David L.  
**Sent:** Friday, September 07, 2012 9:37 AM  
**To:** Shonka, David C.; Tom, Willard K.; Grimm, Karen  
**Subject:** RE: Google - contacts with Commissioners' attorney advisors

At Dave Shonka's request, I called the attorney-advisors in all five Commissioners' offices to sound them out on any questions they may have about Will's memo, and to find out whether to expect them to ask Will any questions during the open meeting. I spoke with Chris Renner in the Chairman's office, Henry Su in Commissioner Rosch's office, Lisa Kimmel in Commissioner Ramirez's office, and Greg Luib in Commissioner Ohlhausen's office. All of them had read the memo and appreciated the counsel provided.

(b)(5)

(b)(5)



David

David L. Sieradzki  
Attorney, Office of General Counsel  
**Federal Trade Commission**  
600 Pennsylvania Ave., NW  
Washington, DC 20580



office: 202.326-2092

fax: 202.326.2477

mobile: (b)(6)

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**From:** Shonka, David C.

**Sent:** Thursday, September 06, 2012 1:40 PM


**To:** Sieradzki, David L.

**Subject:** google

David,

Sometime this afternoon would you please check in with the attorney advisors who are assigned to this matter in the Commissioner's offices and ask each of them whether his or her Commissioner will have any specific questions for OGC. Then let me know if they do? thanks.

(b)(3)-6(f),(b)(4)



The Honorable Jon Leibowitz  
Chairman  
Federal Trade Commission  
601 New Jersey Avenue, N.W.  
Washington, DC 20580

**Re: Google Inc., File No. 111-0163**

Dear Chairman Leibowitz:

We understand that the Federal Trade Commission ("FTC" or the "Commission") has decided to close the above-captioned investigation of the business practices of Google Inc. ("Google"). Google is confident that our practices are entirely consistent with all applicable laws and regulations. However, in connection with the closing of the FTC's investigation, Google is making the commitments described below with respect to its display of content from third-party websites and with respect to its AdWords API Terms and Conditions. Google will honor these commitments for a period of five years from the date of this letter.

Google will publish the commitments on our website in a location easily accessible to the relevant audiences. Google understands that these commitments are important; and Google agrees that a material violation of these commitments would be actionable by the FTC under Section 5 of the FTC Act, 15 U.S.C. §45, and that the jurisdictional elements of such an action by the Commission would be satisfied. As more fully described below, Google will cooperate with the FTC to ensure that Google is complying with its commitments under this letter.

## **I. GOOGLE'S DISPLAY OF THIRD-PARTY CONTENT**

Within 90 days, Google will make available a web-based notice form that provides website owners with the option to opt out from display on Google's Covered Webpages<sup>1</sup> of content from their website that has been crawled by

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<sup>1</sup> "Covered Webpages" means only Google's (i) current Shopping, G+ Local, Flights, Hotels, and Advisor webpages, and any successors unless such successors do not have the primary purpose of connecting users with merchants in a manner

Google.<sup>2</sup> When a website owner exercises this option, Google will cease displaying crawled content from the domain name designated by the website owner on Covered Webpages on the google.com domain in the United States.

Website owners will be able to exercise the opt-out described above by completing a web-based notice form. Google will implement the opt-out within 30 business days of receiving a properly completed notice form.

Exercise of this option will not (1) prevent content from the website from appearing in conventional search results on the google.com search results page, or (2) be used as a signal in determining conventional search results on the google.com search results page.

Beyond these specific commitments, nothing described above will impact Google's ability to (i) display content that it has sourced or derived independently even if it is the same as or overlaps with content from the opting-out web site, or (ii) otherwise crawl, organize, index and display information from the Internet or innovate in search.

## **II. ADWORDS API TERMS AND CONDITIONS**

Within 60 days, Google will remove from its AdWords API Terms and Conditions the AdWords API Input and Copying Restrictions currently contained within Section III(2)(c)(i-ii) of the AdWords API Terms and Conditions for all AdWords API licensees with a primary billing address in the United States.<sup>3</sup> In

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substantially similar to Google's current Shopping, G+ Local, Flights, Hotels, and Advisor webpages; and (ii) future or modified non-experimental specialized webpages launched within three years of the date of this letter that are linked to from the google.com search results page and that have the primary purpose of connecting users with merchants in a manner substantially similar to Google's current Shopping, G+ Local, Flights, Hotels, and Advisor webpages. All other Google webpages (including but not limited to Google's current News, Image Search, Video Search, Maps, Book Search, Finance, and future or modified Google webpages falling outside of the parameters in (ii) above) are not Covered Webpages.

<sup>2</sup> Website owners will be permitted to exercise the opt-out on a domain name basis. For instance, a website owner may designate [[www.example.com](http://www.example.com)] to subject all content on that domain name to the opt-out. A website owner may not designate only individual sub-domains (such as [[sub.example.com](http://sub.example.com)]) or individual directories within a domain (such as [[www.example.com/sub](http://www.example.com/sub)]) for the opt-out. Google may use reasonable authentication measures to ensure that website owners selecting the opt-out are the legitimate owners of the website that is the subject of the web form notice.

<sup>3</sup> The current version of the AdWords API Terms and Conditions is located at <https://developers.google.com/adwords/api/docs/terms>.

addition, Google will not add any new provisions to its AdWords API Terms and Conditions, or adopt new technical requirements in connection with use of the AdWords API, that prevent an AdWords API client from (a) showing input fields for the collection or transmission of AdWords API campaign management data in the same tab or screen with (i) the content of third party ad networks or (ii) input fields for the collection or transmission of campaign management data to third party ad networks; or (b) offering functionality that copies campaign management data between AdWords and a third party ad network. Google will not treat AdWords API licensees differently from similarly situated licensees with respect to the provision or administration of the AdWords API as a result of their development or distribution of AdWords API clients that implement the functionality currently prohibited by Section III(2)(c)(i-ii) of the AdWords API Terms and Conditions.

Nothing in the foregoing will prevent or otherwise restrict Google from maintaining minimum functionality requirements as they currently exist or as they may be modified in the future as part of Google's AdWords API Terms and Conditions or in any other provisions governing the use of the AdWords API, so long as such modifications do not have the effect of reinstating the restrictions described above.

\* \* \*

Within 60 days, Google will file with the Secretary of the FTC, with a copy to the Bureau of Competition's Compliance Division, a report describing in reasonable detail how Google has complied with its commitments, and Google will file an update to this report annually during the duration of its commitments.

If Google receives written notice from the Commission that the Commission believes Google has acted contrary to its commitments on the display of third-party content or the AdWords API Terms and Conditions, Google will, within 60 days, address the Commission's concerns or explain to the Commission why it believes that it has acted in a manner consistent with its commitments.

In addition, if the FTC has reason to suspect that Google has violated its commitments and with reasonable prior written notice from FTC staff, subject to claims of any legally recognized privilege, Google will (1) make available electronic and paper documents related to compliance with the above commitments, and (2) in the presence of Google's legal counsel, Google will permit FTC staff to interview its officers, directors, employees and agents on subjects related to Google's compliance with these commitments.



## **b. Search Advertising**

We conclude that search advertising constitutes a properly defined relevant market. As discussed earlier, search advertising is displayed in response to specific keyword queries entered by the user. Search advertising is distinguishable from other forms of online advertising, such as display advertising, contextual advertising, behavioral advertising, and social media advertising due to its “inherent scale, targetability, and control.”<sup>320</sup> According to Google, “[t]hey are such different products that you do not measure them against one another and the technology behind the products is different.”<sup>321</sup> Display and contextual advertisements are placed on a publisher’s web pages based on (in the case of display) the estimated demographic profile of the publisher’s audience or (in the case of contextual) the content of a particular web page (e.g., placing advertisements for tents next to a New York Times article about camping). With both display and contextual advertising, advertisers are often more interested in branding than in eliciting a direct response from the consumer, whereas the primary attraction of search advertising is its propensity to generate direct responses.<sup>322</sup> Behavioral advertising is more easily targeted and thus is able to produce some direct responses. Social media advertising is immature as of yet, but for the most

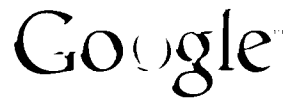
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share below 50% is rarely evidence of monopoly power, a share between 50% and 70% can occasionally show monopoly power, and a share above 70% is usually strong evidence of monopoly power . . . the jury should not be told that it must find monopoly power lacking below a specified share or existing above a specified share”); *Yoder Bros., Inc. v. Cal.-Fla. Plant Corp.*, 537 F.2d 1347, 1367 n.19 (5<sup>th</sup> Cir. 1976) (rejecting “rigid rule require 50% of the market for a monopolization offense without regard to any other factors”). However, “it would be rare indeed to find that a firm with half of a market could individually control price over any significant period.” Areeda & Hovenkamp, *ANTITRUST LAW* (“Areeda & Hovenkamp”) ¶ 532c.

<sup>320</sup> **GOOG-ITA-20-0165245-55, at 48 (2010)**

<sup>321</sup> **Wojcicki Tr. 60:20-61:16** (“They are such different products that you do not measure them against one another and the technology behind the products is different.”); *but see*, **GOOG-ITA-20-0165251-54, at 51-52 (2009)** there is an ongoing desire by Google and others to compare media effectiveness across platforms, such comparisons are not available yet.

<sup>322</sup> Cite interviews, fox, Schmidt.



December 27, 2012

The Honorable Jon Leibowitz  
Chairman  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, DC 20580

**Re: Google Inc., File No. 111-0163**

Dear Chairman Leibowitz:

We understand that the Federal Trade Commission (“FTC” or the “Commission”) has decided to close the above-captioned investigation of the business practices of Google Inc. (“Google”). Google is confident that our practices are entirely consistent with all applicable laws and regulations. However, in connection with the closing of the FTC’s investigation, Google is making the commitments described below with respect to its display of content from third-party websites and with respect to its AdWords API Terms and Conditions. Google will honor these commitments for a period of five years from the date of this letter.

Google will publish the commitments on our website in a location easily accessible to the relevant audiences. Google understands that these commitments are important; and Google agrees that a material violation of these commitments would be actionable by the FTC under Section 5 of the FTC Act, 15 U.S.C. §45, and that the jurisdictional elements of such an action by the Commission would be satisfied. As more fully described below, Google will cooperate with the FTC to ensure that Google is complying with its commitments under this letter.

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<sup>1</sup> “Covered Webpages” means only Google’s (i) current Shopping, G+ Local, Flights, Hotels, and Advisor webpages, and any successors unless such successors do not have the primary purpose of connecting users with merchants in a manner substantially similar to Google’s current Shopping, G+ Local, Flights, Hotels, and Advisor webpages; and (ii) future or modified non-experimental specialized webpages launched within three years of the date of this letter that are linked to from the google.com search results page and that have the primary purpose of connecting users with merchants in a manner substantially similar to Google’s current Shopping, G+ Local, Flights, Hotels, and Advisor webpages. All other Google

Google.<sup>2</sup> When a website owner exercises this option, Google will cease displaying crawled content from the domain name designated by the website owner on Covered Webpages on the google.com domain in the United States.

Website owners will be able to exercise the opt-out described above by completing a web-based notice form. Google will implement the opt-out within 30 business days of receiving a properly completed notice form.

Exercise of this option will not (1) prevent content from the website from appearing in conventional search results on the google.com search results page, or (2) be used as a signal in determining conventional search results on the google.com search results page.

Beyond these specific commitments, nothing described above will impact Google's ability to (i) display content that it has sourced or derived independently even if it is the same as or overlaps with content from the opting-out web site, or (ii) otherwise crawl, organize, index and display information from the Internet or innovate in search.

## **II. ADWORDS API TERMS AND CONDITIONS**

Within 60 days, Google will remove from its AdWords API Terms and Conditions the AdWords API Input and Copying Restrictions currently contained within Section III(2)(c)(i-ii) of the AdWords API Terms and Conditions for all AdWords API licensees with a primary billing address in the United States.<sup>3</sup> In addition, Google will not add any new provisions to its AdWords API Terms and Conditions, or adopt new technical requirements in connection with use of the AdWords API, that prevent an AdWords API client from (a) showing input fields for the collection or transmission of AdWords API campaign management data in the same tab or screen with (i) the content of third party ad networks or (ii) input fields for the collection or transmission of campaign management data to third party ad

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webpages (including but not limited to Google's current News, Image Search, Video Search, Maps, Book Search, Finance, and future or modified Google webpages falling outside of the parameters in (ii) above) are not Covered Webpages.

<sup>2</sup> Website owners will be permitted to exercise the opt-out on a domain name basis. For instance, a website owner may designate [[www.example.com](http://www.example.com)] to subject all content on that domain name to the opt-out. A website owner may not designate only individual sub-domains (such as [[sub.example.com](http://sub.example.com)]) or individual directories within a domain (such as [[www.example.com/sub](http://www.example.com/sub)]) for the opt-out. Google may use reasonable authentication measures to ensure that website owners selecting the opt-out are the legitimate owners of the website that is the subject of the web form notice.

<sup>3</sup> The current version of the AdWords API Terms and Conditions is located at <https://developers.google.com/adwords/api/docs/terms>.

networks; or (b) offering functionality that copies campaign management data between AdWords and a third party ad network. Google will not treat AdWords API licensees differently from similarly situated licensees with respect to the provision or administration of the AdWords API as a result of their development or distribution of AdWords API clients that implement the functionality currently prohibited by Section III(2)(c)(i-ii) of the AdWords API Terms and Conditions.

Nothing in the foregoing will prevent or otherwise restrict Google from maintaining minimum functionality requirements as they currently exist or as they may be modified in the future as part of Google's AdWords API Terms and Conditions or in any other provisions governing the use of the AdWords API, so long as such modifications do not have the effect of reinstating the restrictions described above.

\* \* \*

Within 60 days, Google will file with the Secretary of the FTC, with a copy to the Bureau of Competition's Compliance Division, a report describing in reasonable detail how Google has complied with its commitments, and Google will file an update to this report annually during the duration of its commitments.

If Google receives written notice from the Commission that the Commission believes Google has acted contrary to its commitments on the display of third-party content or the AdWords API Terms and Conditions, Google will, within 60 days, address the Commission's concerns or explain to the Commission why it believes that it has acted in a manner consistent with its commitments.

In addition, if the FTC has reason to suspect that Google has violated its commitments and with reasonable prior written notice from FTC staff, subject to claims of any legally recognized privilege, Google will (1) make available electronic and paper documents related to compliance with the above commitments, and (2) in the presence of Google's legal counsel, Google will permit FTC staff to interview its officers, directors, employees and agents on subjects related to Google's compliance with these commitments.

Sincerely,

A handwritten signature in black ink, appearing to read "David Drummond", written over a horizontal line.

David Drummond  
Google Inc.  
Senior Vice President of Corporate Development  
and Chief Legal Officer



Not Responsive

**From:** Matthew Bye [mailto:matthewbye@google.com]

**Sent:** Wednesday, October 31, 2012 04:41 PM

**To:** (b)(7)(C)

**Subject:** Re: Possible meeting

(b)(7)(C) Kent Walker, Stewart Jefferies, John Harkrider and I will be joining from Google tomorrow.

Cheers,  
Matthew

On Wed, Oct 31, 2012 at 6:43 AM, (b)(7)(C)@ftc.gov> wrote:

Matthew – Good morning. Do you happen to know which Google representatives will be attending tomorrow morning's meeting with Commissioner Ohlhausen?

Thanks,

(b)(7)(C)

---

(b)(7)(C)

Attorney Advisor

Office of Commissioner Maureen K. Ohlhausen

Federal Trade Commission

600 Pennsylvania Avenue, NW

(b)(7)(C)

Washington, DC 20580

(b)(7)(C)

**From:** Matthew Bye [mailto:[matthewbye@google.com](mailto:matthewbye@google.com)]

**Sent:** Monday, October 22, 2012 6:46 PM

**To:** (b)(7)(C)

**Subject:** Re: Possible meeting

(b)(7)(C)

- yes, that would be perfect. Thank you!

On Mon, Oct 22, 2012 at 2:46 PM, (b)(7)(C) <[@ftc.gov](mailto:(b)(7)(C)@ftc.gov)> wrote:

Matthew – Can we schedule the meeting for 9:00 am on Thursday, November 1?

Thanks,

(b)(7)(C)

---

(b)(7)(C)

Attorney Advisor

Office of Commissioner Maureen K. Ohlhausen

Federal Trade Commission

600 Pennsylvania Avenue, NW

(b)(7)(C)

Washington, DC 20580

(b)(7)(C)

**From:** Matthew Bye [mailto:[matthewbye@google.com](mailto:matthewbye@google.com)]

**Sent:** Friday, October 19, 2012 6:16 PM

**To:** (b)(7)(C)

**Subject:** Re: Possible meeting

(b)(7)(C) - yes, I'm on (b)(6)

Cheers,

Matthew

On Fri, Oct 19, 2012 at 2:22 PM, (b)(7)(C)@ftc.gov> wrote:

Matthew – Do you have a number I can reach you at? It might be easier to schedule this over the phone.

Thanks,

(b)(7)(C)

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(b)(7)(C)

Attorney Advisor

Office of Commissioner Maureen K. Ohlhausen

Federal Trade Commission

600 Pennsylvania Avenue, NW

(b)(7)(C)

Washington, DC 20580

(b)(7)(C)

**From:** Matthew Bye [mailto:[matthewbye@google.com](mailto:matthewbye@google.com)]

**Sent:** Friday, October 19, 2012 1:14 PM

**To:** (b)(7)(C)

**Subject:** Possible meeting

Hi (b)(7)(C) - the best day for us to meet would be Monday 10/29 (anytime except 4pm, which is when we're meeting with Commissioner Ramirez). Tuesday 10/30 could also work -- with a preference for the morning, if possible.

Cheers,

Matthew

-----Original Message-----

From: Creighton, Susan [mailto:[screighton@wsgr.com](mailto:screighton@wsgr.com)]

Sent: Tuesday, December 18, 2012 10:32 PM

To: Ohlhausen, Maureen

Subject: RE: Free to talk tomorrow?

perfect. what # should I call?

---

From: Ohlhausen, Maureen [mailto:[mohlhausen@ftc.gov](mailto:mohlhausen@ftc.gov)]

Sent: Tuesday, December 18, 2012 10:30 PM

To: Creighton, Susan

Subject: Re: Free to talk tomorrow?

Yes. Is 9:30 good for you?

Maureen

---

From: Creighton, Susan [mailto:[screighton@wsgr.com](mailto:screighton@wsgr.com)]

Sent: Tuesday, December 18, 2012 08:25 PM

To: Ohlhausen, Maureen

Subject: Free to talk tomorrow?

Sent with Good ([www.good.com](http://www.good.com))

This email and any attachments thereto may contain private, confidential, and privileged material for the sole use of the intended recipient. Any review, copying, or distribution of this email (or any attachments thereto) by others is strictly prohibited. If you are not the intended recipient, please contact the sender immediately and permanently delete the original and any copies of this email and any attachments thereto.

Not Responsive

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**From:** Creighton, Susan [<mailto:screighton@wsgr.com>]  
**Sent:** Wednesday, November 14, 2012 1:04 PM  
**To:** Ohlhausen, Maureen  
**Subject:** RE: Google update

202-973-8855.

---

**From:** Ohlhausen, Maureen [<mailto:mohlhausen@ftc.gov>]  
**Sent:** Wednesday, November 14, 2012 12:40 PM  
**To:** Creighton, Susan  
**Subject:** Re: Google update

Susan: I can call you after 1 today. What number is best?

Maureen

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**From:** Creighton, Susan [<mailto:screighton@wsgr.com>]  
**Sent:** Wednesday, November 14, 2012 12:24 PM  
**To:** Ohlhausen, Maureen  
**Subject:** Google update

Commissioner: I was hoping I might have a chance to update you on things going on in this matter. I am out of pocket until about 1, but after that I'm free any time that is convenient for you for the rest of the day. Many thanks, and with best regards, Susan

This email and any attachments thereto may contain private, confidential, and privileged material for the sole use of the intended recipient. Any review, copying, or distribution of this email (or any attachments thereto) by others is strictly prohibited. If you are not the intended recipient, please contact the sender immediately and permanently delete the original and any copies of this email and any attachments thereto.



Not Responsive

-----Original Message-----

From: Creighton, Susan [mailto:screighton@wsgr.com]  
Sent: Thursday, November 15, 2012 12:42 PM  
To: Ohlhausen, Maureen  
Subject: RE: Google conduct matter

that would be great. my number is (b)(6)

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From: Ohlhausen, Maureen [mohlhausen@ftc.gov]  
Sent: Thursday, November 15, 2012 12:33 PM  
To: Creighton, Susan  
Subject: RE: Google conduct matter

I can call you at around 5:00.

Maureen

-----Original Message-----

From: Creighton, Susan [mailto:screighton@wsgr.com]  
Sent: Thursday, November 15, 2012 11:07 AM  
To: Ohlhausen, Maureen  
Subject: Google conduct matter

Commissioner: Might you have a block of 20 minutes or so some time late this afternoon or tomorrow? I'm free pretty much any time after 4:30 today, or any time tomorrow. With best regards, Susan Creighton

This email and any attachments thereto may contain private, confidential, and privileged material for the sole use of the intended recipient. Any review, copying, or distribution of this email (or any attachments thereto) by others is strictly prohibited. If you are not the intended recipient, please contact the sender immediately and permanently delete the original and any copies of this email and any attachments thereto.

**Kelly, Andrea**

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**From:** Blank, Barbara  
**Sent:** Wednesday, September 05, 2012 4:30 PM  
**To:** (b)(6),(b)(7)(C)

**Subject:** FW: brief overview - Olhausen-Google mtg

FYI.... Commissioner Olhausen met with Susan Creighton today (at Susan's request). It was an informal meeting. (b)(6) and I got to be flies on the wall, along with Commissioner Olhausen's AAs. No one else attended.

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**From:** Blank, Barbara  
**Sent:** Wednesday, September 05, 2012 4:25 PM  
**To:** Green, Geoffrey  
**Subject:** brief overview - Olhausen-Google mtg

Just came back from Google's briefing with Commissioner Olhausen; feel free to pass this along (wasn't sure who would be interested). (b)(5)

(b)(5)



## Kelly, Andrea

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**From:** Harrison, Lisa M.  
**Sent:** Tuesday, May 07, 2013 6:31 PM  
**To:** Signs, Kelly  
**Cc:** Shonka, David C.; Dawson, Rachel Miller  
**Subject:** QFRs

Tracking:	Recipient	Delivery	Read
	Signs, Kelly	Delivered: 5/7/2013 6:31 PM	Read: 5/7/2013 9:06 PM
	Shonka, David C.	Delivered: 5/7/2013 6:31 PM	
	Dawson, Rachel Miller	Delivered: 5/7/2013 6:31 PM	Read: 5/7/2013 6:31 PM

Kelly,

I thought you were sending a new draft but I just went ahead and wrote out the changes, based on an earlier OGC version. Let us know if you need any guidance in how these would fit into the current draft.

(b)(5)





**Kelly, Andrea**

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**From:** Lehner, Mary  
**Sent:** Wednesday, October 10, 2012 6:46 PM  
**To:** Feinstein, Richard; Kaplan, Peter P.; JDL; Levitas, Pete; Renner, Christopher  
**Cc:** Prewett, Cecelia; Katz, Mitchell J.  
**Subject:** Re: Ryan Lynch's Google story in parr global

As do I. For the record, I believe JDL's comments, quoted by Lynch, were off the record. And of course we didn't schedule then cancel three meetings with this guy. We tried to accommodate him as he requested, but the timing didn't work.

---

**From:** Feinstein, Richard  
**Sent:** Wednesday, October 10, 2012 06:13 PM  
**To:** Kaplan, Peter P.; JDL; Levitas, Pete; Renner, Christopher; Lehner, Mary  
**Cc:** Prewett, Cecelia; Katz, Mitchell J.  
**Subject:** RE: Ryan Lynch's Google story in parr global

(b)(5)



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**From:** Kaplan, Peter P.  
**Sent:** Wednesday, October 10, 2012 6:00 PM  
**To:** JDL; Feinstein, Richard; Levitas, Pete; Renner, Christopher; Lehner, Mary  
**Cc:** Prewett, Cecelia; Katz, Mitchell J.  
**Subject:** Ryan Lynch's Google story in parr global

FYI thought I should note for you that Ryan Lynch did in fact file a story in this publication policy and regulatory report. It is an incoherent jumble of old junk that is, ultimately, inconsequential. If anyone hears from Ryan again, feel free to send him our way.

Tks

Peter



**INTELLIGENCE ROUND-UP**

## OCTOBER 10 - PROPRIETARY INTELLIGENCE

### **Can the FTC handle 'Big Google'?**

The US antitrust investigation of Google (NASDAQ: GOOG) has renewed concerns over the Federal Trade Commission's (FTC) ability to handle innovation issues and the decision-making process used to assign probes to either the commission or the Department of Justice (DoJ), according to several sources close to the investigation.

The two agencies do not appear to be cooperating with each other in the case, which the regulators call "Big Google" to differentiate it from Google merger reviews, according to a person familiar with the matter. The person said there would be no reason for the agencies to cooperate, because the DoJ has no experience with the issues involved in the current investigation.

However, the DoJ has been available to the FTC "to chat or to share expertise", even if the FTC has not taken advantage of that availability, said one of the sources close to the process.

"It's not a question of being cooperative; it's a question of splitting the work," the first source close explained.

Former government attorneys differed in their assessment of the decision to divide the cases.

"The agencies reached an accommodation on Google, where the FTC would take the non-merger case and Justice would look at the merger matters involving Google," former FTC Chairman Bill Kovacic told PaRR.

Kovacic said it would make "enormous sense" for one agency to handle all issues in a specific field or involving a particular company.

"You would never, in a rational world, subdivide experience," he explained.

However, Spencer Weber Waller, a law professor at Loyola University Chicago and former antitrust trial attorney at the DoJ, said that dividing cases between the agencies simply reflects the realities of the US clearance process.

"We have dual enforcement," he said. "Agencies have to allocate out matters. It's just a fact of life when you have two agencies."

Others told PaRR the binary approach is ineffective, particularly in complex areas such as technology and innovation.

"To me it makes no sense for one agency to be thinking about how acquisitions by Google may lessen competition, and the other agency to be doing an after-the-fact analysis of the same issue," said Allen Grunes, a former DoJ antitrust litigator and currently an attorney at Brownstein Hyatt Farber Schreck.

This point is further exemplified by recent revelations that the FTC investigation has expanded to include Google's handling of standard essential patents which it received in its acquisition of Motorola Mobility.

The DoJ had studied the pool of patents and cleared the transaction only after Google made assurances to abide by fair, reasonable and non-discriminatory (FRAND) standards. Yet DoJ misgivings persist, and it

appears the agencies will concurrently monitor the same issue.

"In light of the importance of this industry to consumers and the complex issues raised by the intersection of the intellectual property rights and antitrust law ... the division continues to monitor the use of SEPs (standard essential patents) in the wireless device industry, particularly in the smartphone and computer tablet markets. The division will not hesitate to take appropriate enforcement action to stop any anticompetitive use of SEP rights," the DoJ said in a letter concluding its review of the Motorola buy.

The clearance process "is really kind of a mess", said an industry attorney who formerly worked at one of the agencies.

"There's really no clear structure to it," the attorney said. "Because the FTC uses a different process than the DoJ does, especially because it's not clear in advance who is going to be handling your case, you don't necessarily know how to handicap it before it gets there."

Kovacic drew an analogy to baseball in explaining his concerns about the clearance process.

"There's a theory of hitting that if you don't get a minimum number of at-bats, you're not sharp. You've got to hit enough to be good," the former chairman said. "To know whether you're the guy who should be playing, I've got to see you hit enough times.

"I think there's a similar notion in other fields, that there's a critical mass of activity that is essential to really being good at what you're doing. I think that's true for competition analysis, and especially these sectors, which are the hardest to understand.

"It's crazy to subdivide the activity. You can have two groups that have an inadequate knowledge of what they're doing, instead of focusing that activity on one. That's one of the bizarre sorts of trades that come under the existing framework," Kovacic said.

### **FTC versus DoJ**

Justification for the FTC's jurisdiction over "Big Google" may lie in the different legal powers of the two antitrust bodies.

Specifically, Section 5 of the FTC Act, passed in 1914, granted the FTC power to prohibit "unfair or deceptive acts or practices in or affecting commerce". The DoJ has no such authority.

Section 5 gives the FTC "some wiggle room beyond the literal rulings under Section 2 of the Sherman Act", Waller explained.

According to FTC Chairman Jon Leibowitz, the agency's track record in using its Section 5 power in cases against N-Data and Intel (NASDAQ: INTC) reflects the agency's increasing regulatory authority to determine competition fairness.

"I think certainly since [Commissioner] Rosch came to the commission there has been a bipartisan majority for using Section 5," Leibowitz recently commented during an American Bar Association antitrust conference.

The industry attorney argued that Leibowitz, who holds a Democratic seat on the commission, and Rosch, who holds a Republican seat, had helped steer the Google case toward the FTC.

"It's very clear that Leibowitz and Rosch want to use this case to bolster their Section 5 power. I bet they tried really hard to get this in part because this would be useful for that function," the attorney said.

The first source close disagreed, saying there was no "hidden agenda or hidden reason" why the FTC got "Big Google".

"It's a series of discussions about who wants to do it, who has the resources, what's the most appropriate at a particular time," the same source added.

It remains unclear whether the FTC plans to bring a pure Section 5 case or if the agency will bring any case at all.

"There continues to be a bipartisan majority for using Section 5 and I think you will be seeing – over the next let's say, year, 18 months, or perhaps even sooner – some matters brought by the commission using Section 5 either as a separate count in addition to monopolization or standing on its own," said Leibowitz.

A spokesperson for the DoJ declined to comment when asked about Google, saying only that as a general matter investigations are divided between the agencies "based on previous cases and expertise".

An FTC spokesperson said the agency had no comment on anything related to Google, and instead provided PaRR with a list of cases, workshops, and reports detailing the FTC's experience handling innovation issues.

Through his staff, Chairman Leibowitz arranged and subsequently cancelled interviews with PaRR on 4 October, 5 October, and 9 October.

### **Instagram-Facebook review raised questions**

The list of experience provided by the FTC included Section 5 cases such as N-Data and Intel, as well as the agency's previous Google-related work, such as the AdMob-Google and Doubleclick-Google deals.

Yet the spokesperson also listed Instagram-Facebook (NASDAQ: FB), a review that multiple sources said never should have received a second request.

"I can't think of any justification for the FTC to have spent several months reviewing that deal," said Grunes.

"Maybe they wanted to look like they were doing a really thorough job," the industry attorney suggested. "And by virtue of taking their time with a case like that, they got the experience. It may be that they took a long time because they knew people thought they didn't have the capacity."

"You really don't know unless you're inside, and I just don't know. I don't know what the motives were," said Kovacic.

The FTC and the DoJ are sometimes forced to issue second requests to compensate for time lost to protracted clearance battles between the agencies.

However, a source familiar with the Instagram-Facebook review said the DoJ was happy to let the FTC take the case. The DoJ "didn't think it was worth ... trying to grab", the source explained, because the agency did not view the acquisition as raising issues of market concentration.

### **Concerns over the FTC's capacity**

In conversations with PaRR, sources offered different perspectives on the FTC's capacity to review issues of technology and innovation.

Grunes said that past experience should have favored the DoJ in the "Big Google" case.



"DoJ has far more experience with advertising-supported media than the FTC has," he wrote in an emailed response to PaRR. "DoJ reviews radio, television and newspapers, among other such businesses. Google is an advertising-supported media company and the nature of advertising markets is an important part of the Google review. That is squarely a DoJ issue."

However, the industry attorney argued the agencies are approximately equal in their capacity, and there is no reason the FTC would be in a worse position than the DoJ.

The first source close to the process agreed, saying, "Both agencies have expertise in tech areas, and I don't think either agency would claim to have a particular advantage over the other in terms of expertise on any of these matters."

The second source provided a more nuanced view, arguing the agencies "have different strengths and weaknesses at different times".

According to the second source close, the FTC regulators have been strong on hospital cases, but the commission has failed to capitalize on other opportunities, such as the Medco-Express Scripts (NASDAQ: ESRX) and EMI-Universal mergers. Universal is a subsidiary of Vivendi (EN Paris: VIV).

The FTC cleared Medco-Express Scripts in April without restrictions, and in September the commission allowed the EMI-Universal deal to proceed without imposing any conditions beyond those specified by the European Commission.

These two mergers "were the highlight cases of the last six months", the second source said, and the FTC "did pretty much nada on antitrust enforcement".

The second source gave credit to the FTC for strong enforcement of privacy issues related to Google, but said regulators at the commission have been significantly weaker in addressing antitrust concerns.

"I think the jury is still out on where they are and their recent past on antitrust enforcement," the second source close argued.

If the FTC hopes to address questions over its antitrust capabilities, "Google would be it," the second source added.

by Ryan Lynch in Washington DC

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**Kelly, Andrea**

---

**From:** Prewett, Cecelia  
**Sent:** Tuesday, October 09, 2012 10:28 AM  
**To:** JDL  
**Subject:** FW: standard-essential patents

See thread I told you about earlier...

-----Original Message-----

From: Kaplan, Peter P.  
Sent: Tuesday, October 09, 2012 10:21 AM  
To: Prewett, Cecelia; Shelanski, Howard  
Subject: RE: standard-essential patents

This reporter has a MO that centers on trying to play everyone off each other. Last week he asked for FTC comment on anonymous statements to the effect that DOJ knew more about innovation cases than FTC. We declined to comment on anything relative to Google or any comparisons regarding DOJ. Our only comment was to point out the long list of FTC innovation and technology related cases/reports/workshops, and that FTC has hired two highly respected chief technologists.

I spoke to DOJ press about this guy last week, and I plan to call them again today for a follow-up conversation. (b)(5)

(b)(5)

Howard, let me know what you think and feel free to call when you become available.

-----Original Message-----

From: Prewett, Cecelia  
Sent: Tuesday, October 09, 2012 9:16 AM  
To: Shelanski, Howard; Kaplan, Peter P.  
Subject: RE: standard-essential patents  
Importance: High

Peter? Didn't you just deal with this reporter on this story? Can you call Howard and debrief him? Thanks!

-----Original Message-----

From: Shelanski, Howard  
Sent: Monday, October 08, 2012 10:16 PM  
To: Prewett, Cecelia; Kaplan, Peter P.  
Subject: Fw: standard-essential patents

FYI. I really don't like this. I think the particular quote comparing me and Fiona is silly and I think this kind of story is bad for both agencies. (b)(5)

(b)(5)

Thanks.

----- Original Message -----

From: Scott-Morton, Fiona [mailto:Fiona.ScottMorton@usdoj.gov]

Sent: Monday, October 08, 2012 04:53 PM

To: Shelanski, Howard

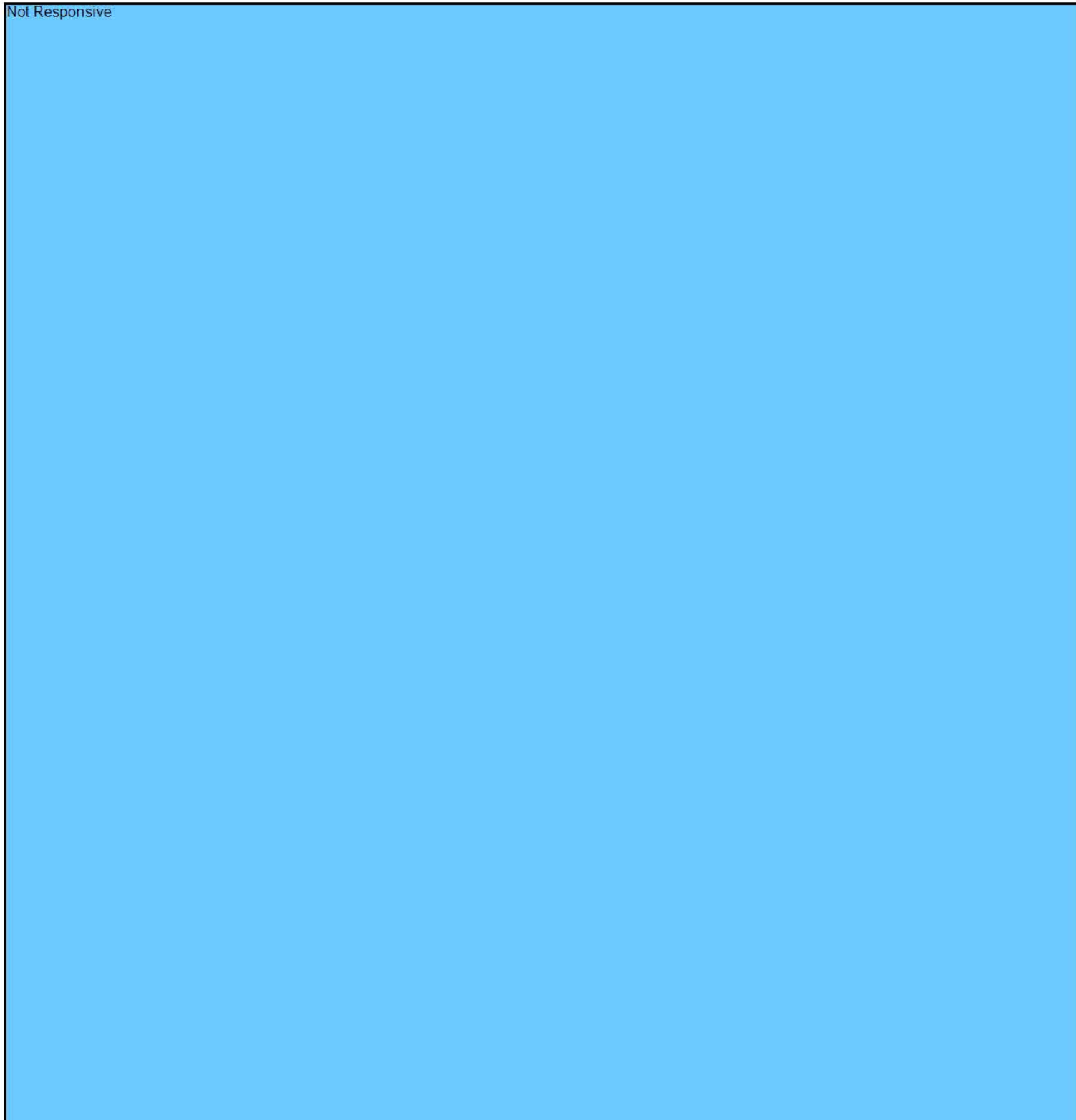
Subject: Fw: standard-essential patents

See below. Apparently the story is broader than us: quotes from ftc about politicization at doj. Ridiculous. Anyway, I thought you might want to know an article like this could turn up.

I am not replying but others are talking to this guy.

He sent a second message fixing the typo in your name.

Not Responsive



**Kelly, Andrea**

---

**From:** Rosch, Tom  
**Sent:** Thursday, December 06, 2012 12:04 PM  
**To:** JDL  
**Subject:** RE: Media Reports of Meetings with DOJ re Google

Thanks a million, Jon. All the best, Tom.

---

**From:** JDL  
**Sent:** Thursday, December 06, 2012 9:45 AM  
**To:** Rosch, Tom  
**Subject:** Re: Media Reports of Meetings with DOJ re Google

Agree, agree, agree.

Saw the first story yesterday (b)(5),(b)(6) He informed me in an email that (b)(6)  
told him these were all ginned up by (b)(6) (b)(5)  
(b)(5)

I see Rich at 10:30 and will follow up for more detail.

Jon

Sent by Jon Leibowitz from his BlackBerry

---

**From:** Rosch, Tom  
**Sent:** Thursday, December 06, 2012 09:40 AM  
**To:** JDL  
**Subject:** Media Reports of Meetings with DOJ re Google

Dear Jon, I read with interest this morning's early clips. The last one is a Post article about multiple meetings with the DoJ by anti-Google activists who have "given up" on our willingness to seek meaningful relief by Google. (b)(5)

(b)(5)

**Kelly, Andrea**

---

**From:** Heyer, Kenneth  
**Sent:** Monday, October 15, 2012 5:17 PM  
**To:** JDL; Rosch, Tom; Ramirez, Edith; Brill, Julie; Ohlhausen, Maureen  
**Cc:** Shelanski, Howard; Feinstein, Richard; Levitas, Pete; Silvia, Louis; Sabo, Melanie; Green, Geoffrey; Blank, Barbara; (b)(6),(b)(7)(C) Luib, Gregory; Okuliar, Alexander; Renner, Christopher; Tucker, Darren; Slater, Abigail A.; Kimmel, Lisa; Seidman, Mark; Dafny, Leemore  
**Subject:** (b)(5)  
**Attachments:** (b)(5)

All,

Attached please find a short memo (b)(5)

(b)(5)

Ken

**Kelly, Andrea**

---

**From:** JDL  
**Sent:** Tuesday, January 01, 2013 10:21 PM  
**To:** 'ddrummond@google.com'  
**Subject:** Re: Hi,

Got it.  
Aloha.  
Jon

Sent by Jon Leibowitz from his BlackBerry

---

**From:** David Drummond [<mailto:ddrummond@google.com>]  
**Sent:** Tuesday, January 01, 2013 10:14 PM  
**To:** JDL  
**Subject:** Re: Hi,

Hi Jon

Happy new year to you too. I'm 5 hours behind east coast but rise pretty early.

Best  
David

(b)(7)(A)



---

**From:** JDL  
**Sent:** Saturday, December 29, 2012 05:08 PM  
**To:** '[ddrummond@google.com](mailto:ddrummond@google.com)' <[ddrummond@google.com](mailto:ddrummond@google.com)>  
**Subject:** Re: Call with Chairman Leibowitz

Just had exactly the same issue calling you. (You might be beyond coverage now just as I was before.)  
In any event, I'm available for the next several hours so hopefully we'll be able to catch up.

Yours,  
Jon

Sent by Jon Leibowitz from his BlackBerry

---

**From:** David Drummond [<mailto:ddrummond@google.com>]  
**Sent:** Saturday, December 29, 2012 02:16 PM

**To:** JDL

**Subject:** Re: Call with Chairman Leibowitz

Tried you but wouldn't go through. Not sure if it's me or you. Will be out of coverage for a few hours but will try you then. Best, David

On Dec 29, 2012 5:13 AM, "JDL" <[JDL@ftc.gov](mailto:JDL@ftc.gov)> wrote:

Hi David,

Have moved from tropical rainforests to snow covered mountains (Virginia), where cell service is much spottier. But my afternoon will be spent in a town at a bowling alley and a gym, so just call me when you get a chance. (If you get my vm, pls shoot me an email and I'll call you back.)

Best,

Jon

Sent by Jon Leibowitz from his BlackBerry

---

**From:** David Drummond [mailto:[ddrummond@google.com](mailto:ddrummond@google.com)]

**Sent:** Friday, December 28, 2012 09:11 PM

**To:** JDL

**Subject:** Re: Call with Chairman Leibowitz

Jon

Sorry I missed you. Wanted to touch base on one item. Thanks. David

On Dec 28, 2012 11:37 AM, "JDL" <[JDL@ftc.gov](mailto:JDL@ftc.gov)> wrote:

Mr. Drummond,

Chairman Leibowitz has tried to return your call but he is having trouble getting through (he wonders whether you are on the beach?). He is currently driving, and his cell phone (b)(6) should have reception for the next few hours.

If you are having trouble reaching the Chairman, please call the main office at [\(202\) 326-3400](tel:(202) 326-3400).



## Kelly, Andrea

---

**From:** JDL  
**Sent:** Monday, December 24, 2012 9:57 AM  
**To:** 'ddrummond@google.com'  
**Subject:** Re: Next Steps

I'll wait until it's at least 9:00 AM on the Big Island (and various smaller ones).

Jon

Sent by Jon Leibowitz from his BlackBerry

---

**From:** David Drummond [<mailto:ddrummond@google.com>]  
**Sent:** Sunday, December 23, 2012 10:26 PM  
**To:** JDL  
**Subject:** Re: Next Steps

Just tried you. Am in much more pedestrian Hawaii, so it sounds like we're in the same time zone. Am on my cell so any time works for me too.

Best  
David

On Dec 23, 2012 4:52 PM, "JDL" <[JDL@ftc.gov](mailto:JDL@ftc.gov)> wrote:

Hi,

Actually, I am in Costa Rica, which is only two hours behind CA time. (b)(6)

(b)(6)

Cell phone service is generally good--feel free to call any time.

Best,

Jon

Sent by Jon Leibowitz from his BlackBerry

(b)(7)(A)



(b)(7)(A)

**From:** JDL  
**Sent:** Tuesday, December 18, 2012 12:31 PM  
**To:** 'David Drummond' <[ddrummond@google.com](mailto:ddrummond@google.com)>  
**Subject:** RE: Re:

Just tried reaching you but, as you know, you are a hard person to track down! Call me when you get a chance.

Jon

**From:** David Drummond [mailto:[ddrummond@google.com](mailto:ddrummond@google.com)]  
**Sent:** Monday, December 17, 2012 11:42 PM  
**To:** JDL  
**Subject:** RE: Re:

Hi Jon

Thanks for the note. I'll try you tomorrow. I can understand how frustrating the current environment must be. At your service to close this out.

Best  
David

On Dec 17, 2012 6:05 PM, "JDL" <[JDL@ftc.gov](mailto:JDL@ftc.gov)> wrote:

Hi David,

Thanks, just left you a vm in response to yours—and very much appreciate your note. Just give me a call when you get a chance. (b)(6) tonight or [\(202\) 326-2533](tel:202-326-2533) (o) tomorrow.

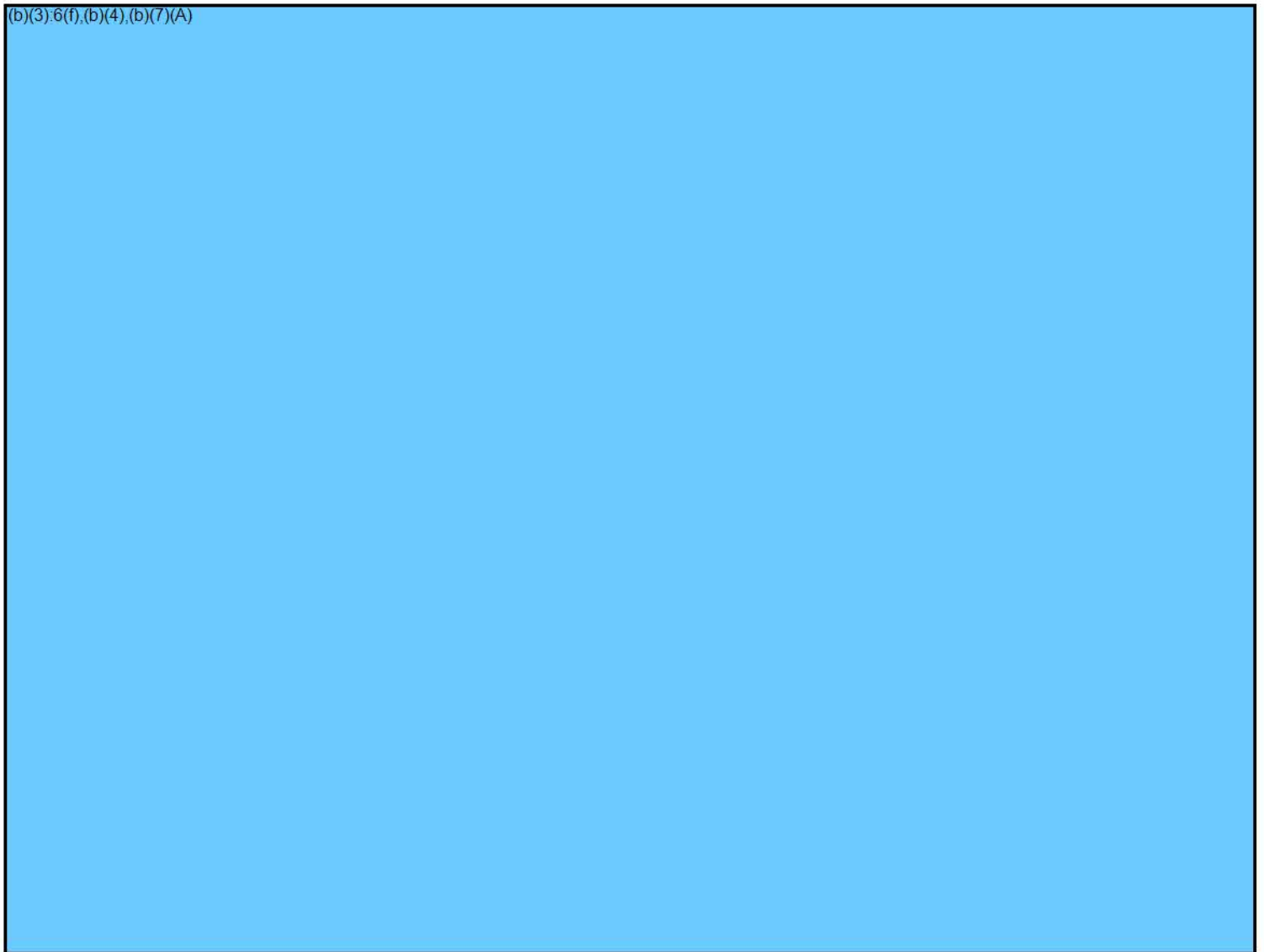
Best,

Jon

(b)(7)(A)



(b)(3):6(f),(b)(4),(b)(7)(A)



**From:** David Drummond [mailto:[ddrummond@google.com](mailto:ddrummond@google.com)]  
**Sent:** Monday, December 17, 2012 2:35 PM  
**To:** JDL  
**Subject:**

Hi Jon-

Sounds like it might make sense to chat. Do you have a free moment today?

Thanks,

David



## Kelly, Andrea

---

**From:** Harrison, Lisa M.  
**Sent:** Thursday, October 04, 2012 5:31 PM  
**To:** Blank, Barbara; Vandecar, Kim  
**Cc:** Vaytsman, Olga  
**Subject:** Dec 2011 Google package

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Here is what was sent to the Commission. Let me see if I have the word versions.



---

ASSIGNMENT

The attached document is assigned to  
Chairman Leibowitz  
for review and presentation to the Commission.

---

Assignment Date: 11/30/2011

Document Number: 557500

Matter Name: Google, Inc.

Matter Number: 1110163      Issue Number: 6

Staff Contact: SABO, MELANIE

Document Title: RECOMMENDATION TO GRANT THE REQUEST OF THE SENATE  
COMMITTEE ON THE JUDICIARY, SUBCOMMITTEE ON  
ANTITRUST, COMPETITION POLICY AND CONSUMER  
RIGHTS, FOR A CONFIDENTIAL STAFF BRIEFING ON THE  
COMMISSION'S INVESTIGATION OF THE SEARCH ENGINE  
PRACTICES OF GOOGLE, INC.

In the transfer of information from this sheet to a Commission  
circulation form, please note that the document number shown above  
should be entered on the Commission circulation form as the RELATED  
DOCUMENT NUMBER. In addition, please note that the document title  
shown above should NOT be identical to the document title on the  
circulation form. Instead, the document title on the circulation  
form should begin with one of the following three phrases:

"Motion to"

"For Information Circulation of"      OR

Donald S. Clark

---

Target Motion Date: 01/17/2012



UNITED STATES OF AMERICA  
**FEDERAL TRADE COMMISSION**  
WASHINGTON, D.C. 20580

**MEMORANDUM**

**TO:** Commission

**FROM:** Melanie Sabo

**DATE:** November 30, 2011

**SUBJECT:** Request from Chairman Kohl for a Confidential Staff Briefing on the Commission's Antitrust Investigation into Google, Inc.'s Search Engine Practices Matter No. 111-0163<sup>1</sup>

FEDERAL TRADE COMMISSION  
2011 NOV 30 PM 4:09  
MINUTES SECTION

**RECOMMENDATION:** To Authorize Staff to Provide the Requested Non-Public Briefing

By letter dated November 18, 2011, Chairman Herb Kohl of the Senate Judiciary Subcommittee on Antitrust, Competition Policy and Consumer Rights has requested a confidential staff briefing on the Agency's antitrust investigation into Google, Inc.'s search engine practices.<sup>2</sup> Subject to Commission approval, the briefing is tentatively scheduled for Wednesday, December 7, 2011. We recommend that the Commission authorize staff to provide the requested non-public briefing in response to this official Subcommittee request. *See* Commission Rule 4.11(b), 16 C.F.R. § 4.11(b).

This briefing request is a follow-up request to one that Chairman Kohl directed to the Commission back in September. He and his staff primarily are interested in a status update and a discussion of any changes that might have occurred in the investigation. (b)(5)

(b)(5)



(b)(5)

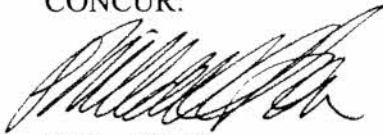
A draft response letter for the Secretary's signature is attached. The draft response includes a discussion of the confidential status accorded the responsive information, and further requests that the Subcommittee maintain the information's confidential status. Notwithstanding the confidential status of most of the responsive information, the FTC Act, 15 U.S.C. § 57b-2(d)(1)(A), the Clayton Act, 15 U.S.C. § 18a(h), and the Freedom of Information Act, 5 U.S.C. § 552(d), provide no authority to withhold such information from a Congressional Subcommittee. Accordingly, we recommend that the Commission authorize staff to provide the requested non-public briefing in response to this official Subcommittee request. *See* Commission Rule 4.11 (b), 16 C.F.R. § 4.11 (b ).

APPROVED:



Richard A. Feinstein  
Director

CONCUR:



Willard K. Tom  
General Counsel



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Office of the Secretary

The Honorable Herb Kohl  
Chairman  
Subcommittee on Antitrust, Competition Policy and Consumer Rights  
Committee on the Judiciary  
United States Senate  
Washington, DC 20510-6275

Dear Chairman Kohl:

Thank you for your letter dated November 18, 2011, requesting a confidential staff briefing on the agency's investigation into Google, Inc.'s search engine practices. The Commission is responding to your request as an official request of a Congressional Subcommittee, *see* Commission Rule 4.11(b), 16 C.F.R. § 4.11(b), and has authorized its staff to provide the requested briefing.

Most of the information that the Commission attorneys will discuss during the briefing is nonpublic and statutorily protected from public disclosure by the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 41 *et seq.*, as well as exempt from mandatory disclosure under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. In particular, some of the information would be protected under Section 6(f) of the FTC Act, 15 U.S.C. § 46(f), as confidential commercial or financial information. The Commission is prohibited from disclosing such information publicly, and it would be exempt from disclosure under FOIA Exemption 3, 5 U.S.C. § 552(b)(3). Because disclosure of this information is likely to result in substantial competitive harm to the submitters, or is clearly not of a kind that submitters would customarily make available to the public, it would be exempt from disclosure under FOIA Exemption 4, 5 U.S.C. § 552(b)(4). *See Critical Mass Energy Project v. NRC*, 975 F.2d 871, 877-80 (D.C. Cir. 1992) (*en banc*), *cert. denied*, 507 U.S. 984 (1993) (exempt status accorded to information submitted voluntarily); *National Parks & Conservation Ass'n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974) (exempt status accorded to information submitted under compulsion).

Most of the information that the Commission attorneys will discuss was obtained by compulsory process or provided voluntarily in lieu thereof in a law enforcement investigation. Such information is protected from public disclosure under Section 21(f) of the FTC Act, 15 U.S.C. § 57b-2(f). By virtue of that section, such information is also exempt from public disclosure under FOIA Exemption 3(B), 5 U.S.C. § 552(b)(3)(B). *McDermott v. FTC*, 1981-1 Trade Cas. (CCH) ¶ 63,964 at 75,982-3 (D.D.C. April 13, 1981); *Dairymen, Inc. v. FTC*, 1980-2 Trade Cas. (CCH) ¶ 63,479 (D.D.C. July 9, 1980). Moreover, third party submitters provided their materials and information with a specific request for confidential treatment under Section

21 (c)) of the FTC Act, 15 U.S.C. § 57b-2(c)). Under Commission Rule 4.10(d), 16 C.F.R. § 4.10(d), the Commission has waived its discretion to release to the public materials submitted pursuant to compulsory process or materials submitted voluntarily in lieu of process that have been marked confidential by the submitting parties.<sup>1</sup>

Additional information that may be discussed during the briefing was submitted in response to the Hart-Scott-Rodino premerger notification requirements of the Clayton Act, 15 U.S.C. § 18a. Section 7A(h) of the Act prohibits public disclosure of such documents or information. By virtue of this statutory prohibition, this information is also exempt from disclosure under Freedom of Information Act (FOIA) Exemption 3A, 5 U.S.C. § 552(b)(3)(A).<sup>2</sup>

Further, information discussed during the briefing would reveal the existence of, and information concerning, an ongoing, nonpublic law enforcement investigation. Disclosure of this information could reasonably be expected to interfere with law enforcement proceedings, and this information is therefore protected from mandatory public disclosure by FOIA Exemption 7(A), 5 U.S.C. § 552(b)(7)(A). *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 232 (1978); *Ehringhaus v. FTC*, 525 F. Supp. 21, 24 (D.D.C. 1980).

Finally, some of the information that will be discussed during the briefing will include internal staff analyses and recommendations, which are predecisional, deliberative materials exempt from mandatory public disclosure under FOIA Exemption 5, 5 U.S.C. § 552(b)(5). *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132 (1975); *Coastal States Gas Corp. v. Department of Energy*, 617 F.2d 854, 866 (D.C. Cir. 1980). Some of this information may also be protected from mandatory public disclosure under FOIA Exemption 5 as attorney work product prepared in anticipation of litigation. *FTC v. Grolier, Inc.*, 462 U.S. 19, 28 (1983); *Martin v. Office of Special Counsel, Merit Systems Protection Board*, 819 F.2d 1181, 1187 (D.C. Cir. 1987).

Notwithstanding the protected status of most of the responsive information, the FTC Act, 15 U.S.C. § 57b-2(d)(1)(A), the Clayton Act, 15 U.S.C. § 18a(h), and the FOIA, 5 U.S.C. § 552(d), provide no authority to withhold such information from this Congressional Subcommittee, and the Commission has authorized staff to provide the requested briefing to Subcommittee staff. Because the confidential information would not be available to the public under the FOIA or otherwise, the Commission requests that the Subcommittee maintain its confidentiality.

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<sup>1</sup> The Commission is required to notify persons who submitted information pursuant to compulsory process in a law enforcement investigation, or voluntarily in lieu thereof on a confidential basis, if the Commission receives a request from a Congressional Committee or Subcommittee for that information. See 15 U.S.C. §§ 57b-2(b)(3)(C), 57b-2(d)(1)(A); Commission Rule 4.11(b), 16 C.F.R. § 4.11(b). Staff is providing the requisite notice.

<sup>2</sup> The Commission has instructed its staff to provide reasonable notice, when possible, of the release to Congress of information submitted pursuant to HSR. See *Statement of Basis and Purpose of HSR Rules and Regulations*, 43 Fed. Reg. 33519 (July 31, 1978). Staff has provided notice to submitters pursuant to this policy.



By direction of the Commission.

Donald S. Clark  
Secretary

PATRICK J. LEAHY, VERMONT, CHAIRMAN

HERB KOHL, WISCONSIN  
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MICHAEL S. LEE, UTAH  
TOM COBURN, OKLAHOMA

## United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

BRUCE A. COHEN, *Chief Counsel and Staff Director*  
KOLAN L. DAVIS, *Republican Chief Counsel and Staff Director*

November 18, 2011

The Honorable Jon Leibowitz  
Chairman, Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Suite 444  
Washington, DC 20580

Dear Chairman Leibowitz:

I am writing to request that knowledgeable members of the FTC staff provide our Subcommittee staff with a confidential briefing about the FTC's antitrust investigation into Google's search engine practices.

I understand the sensitivity of discussing pending investigations. Therefore, my staff and I will ensure that any non-public information that your staff provides during the briefing will not be shared with anyone outside the Subcommittee. If you require further confidentiality assurances, we will do our best to accommodate you.

Thank you very much for your assistance in this matter.

Respectfully yours,



---

HERB KOHL

Chairman

Subcommittee on Antitrust, Competition Policy and  
Consumer Rights

**Kelly, Andrea**

---

**From:** Bayer Femenella, Peggy  
**Sent:** Tuesday, October 23, 2012 1:47 PM  
**To:** John D. Harkrider (JDH@avhlaw.com)  
**Cc:** Holler, John A.; Widnell, Nicholas; Harrison, Lisa M.; Vaytsman, Olga  
**Subject:** Google SEP Investigation  
**Attachments:** Letter to Google 10.23.12.PDF

John,

Attached, please find a letter relating to a request from Senator Kohl's office for a briefing on the Commission's investigation into Google. Please let me know if you have any questions.

Thanks very much.

Best Regards,  
Peggy

Peggy Bayer Femenella  
Bureau of Competition  
Federal Trade Commission  
601 New Jersey Avenue, N.W.  
Washington, D.C. 20001  
Tel. 202.326.3086  
Fax. 202.326.3496  
[pbayer@ftc.gov](mailto:pbayer@ftc.gov)



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

October 23, 2012

**VIA EMAIL**

Mr. John Harkrider  
Axinn, Veltrop & Harkrider LLP  
114 West 47<sup>th</sup> Street  
New York, NY 10036  
jdh@avhlaw.com

Dear John:

This notifies you of an official request for information that the Federal Trade Commission has received from Chairman Herb Kohl of the Senate Judiciary Subcommittee on Antitrust, Competition Policy and Consumer Rights. The Subcommittee has requested a staff briefing on the agency's investigations into allegations that Google, Inc. has engaged in anticompetitive conduct. Certain information that Google Inc. has submitted may be responsive to this request.

The Commission routinely receives official requests for confidential information from congressional committees and subcommittees. Neither the Freedom of Information Act, 5 U.S.C. § 552(d), nor the Federal Trade Commission Act, 15 U.S.C. § 57b-2(d)(1)(A), authorizes the Commission to withhold such information from congressional committees or subcommittees. The Commission, of course, requests that the responsive information and materials be kept confidential by the congressional committees and subcommittees.

If you have any questions about the congressional inquiry or handling of the requested information, please direct them to subcommittee staff at (202) 224-3406. Questions about the Commission's response may be directed to me at (202) 326-3086.

Sincerely,

A handwritten signature in blue ink that reads "Peggy Femenella".

Peggy Bayer Femenella

cc: Office of General Counsel

**Kelly, Andrea**

---

**From:** Blank, Barbara  
**Sent:** Tuesday, October 23, 2012 1:49 PM  
**To:** Sher, Scott  
**Cc:** Harrison, Lisa M.; Vaytsman, Olga  
**Subject:** Official Request for Staff Briefing on Google investigations  
**Attachments:** 2012-10-23 Letter to Sher.pdf

Scott,

Attached, please find a letter relating to the most recent request from Senator Kohl's office for a briefing on the Commission's investigations into Google. Please let me know if you have any questions.

Thanks very much.

Best Regards,

Barbara

Barbara R. Blank, Esq.  
Bureau of Competition  
Federal Trade Commission  
601 New Jersey Avenue, N.W.  
Washington, D.C. 20001  
Tel. 202.326.2523  
Fax. 202.326.3496  
[bblank@ftc.gov](mailto:bblank@ftc.gov)



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

October 23, 2012

**VIA EMAIL**

Scott A. Sher, Esq.  
Wilson Sonsini Goodrich & Rosati PC  
1700 K Street, N.W.  
Fifth Floor  
Washington, D.C. 20006  
[ssher@wsgr.com](mailto:ssher@wsgr.com)

Dear Scott:

This notifies you of an official request for information that the Federal Trade Commission has received from Chairman Herb Kohl of the Senate Judiciary Subcommittee on Antitrust, Competition Policy and Consumer Rights. The Subcommittee has requested a staff briefing on the agency's investigations into allegations that Google, Inc. has engaged in anticompetitive conduct. Certain information that Google Inc. has submitted may be responsive to this request.

The Commission routinely receives official requests for confidential information from congressional committees and subcommittees. Neither the Freedom of Information Act, 5 U.S.C. § 552(d), nor the Federal Trade Commission Act, 15 U.S.C. § 57b-2(d)(1)(A), authorizes the Commission to withhold such information from congressional committees or subcommittees. The Commission, of course, requests that the responsive information and materials be kept confidential by the congressional committees and subcommittees.

If you have any questions about the congressional inquiry or handling of the requested information, please direct them to subcommittee staff at (202) 224-3406. Questions about the Commission's response may be directed to me at (202) 326-2523.

Sincerely,

A handwritten signature in blue ink, appearing to read "Barbara R. Blank".

Barbara R. Blank

cc: Office of General Counsel

**Kelly, Andrea**

---

**From:** Blank, Barbara  
**Sent:** Tuesday, October 23, 2012 1:49 PM  
**To:** (b)(7)(D)  
**Cc:** Bayer Femenella, Peggy; Harrison, Lisa M.; Vaytsman, Olga  
**Subject:** Official Request for Staff Briefing on Google investigations  
**Attachments:** 2012-10-23 Letter to (b)(7)(D).pdf

(b)(7)(D)

Attached, please find a letter relating to the most recent request from Senator Kohl's office for a briefing on the Commission's investigations into Google. Please let me or Peggy know if you have any questions.

Thanks very much.

Best Regards,

Barbara

Barbara R. Blank, Esq.  
Bureau of Competition  
Federal Trade Commission  
601 New Jersey Avenue, N.W.  
Washington, D.C. 20001  
Tel. 202.326.2523  
Fax. 202.326.3496  
[bblank@ftc.gov](mailto:bblank@ftc.gov)





UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

October 23, 2012

**VIA EMAIL**

(b)(7)(D)

(b)(7)(D)

This notifies you of an official request for information that the Federal Trade Commission has received from Chairman Herb Kohl of the Senate Judiciary Subcommittee on Antitrust, Competition Policy and Consumer Rights. The Subcommittee has requested a staff briefing on the agency's investigations into allegations that Google, Inc. has engaged in anticompetitive conduct. Certain information that (b)(7)(D) has submitted may be responsive to this request.

The Commission routinely receives official requests for confidential information from congressional committees and subcommittees. Neither the Freedom of Information Act, 5 U.S.C. § 552(d), nor the Federal Trade Commission Act, 15 U.S.C. § 57b-2(d)(1)(A), authorizes the Commission to withhold such information from congressional committees or subcommittees. The Commission, of course, requests that the responsive information and materials be kept confidential by the congressional committees and subcommittees.

If you have any questions about the congressional inquiry or handling of the requested information, please direct them to subcommittee staff at (202) 224-3406. Questions about the Commission's response may be directed to me at (202) 326-2523 or to Peggy Bayer Femenella at (202) 326-3086.

Sincerely,

A handwritten signature in blue ink, appearing to read "Barbara R. Blank", is written over a horizontal line.  
Barbara R. Blank

cc: Office of General Counsel



**Kelly, Andrea**

---

**From:** Harrison, Lisa M.  
**Sent:** Friday, October 19, 2012 4:55 PM  
**To:** Vaytsman, Olga  
**Subject:** FW: 111 0163 & 121 0120 - Google, Inc. & Google/Motorola

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

[Briefing authorized.](#)

---

**From:** Swenson, Robert  
**Sent:** Friday, October 19, 2012 3:16 PM  
**To:** Blank, Barbara  
**Cc:** OSBC  
**Subject:** 111.0163 & 121 0120 - Google, Inc. & Google/Motorola

On October 19, 2012, a motion to grant the request of the Senate Judiciary Subcommittee on Antitrust, Competition Policy and Consumer Rights for a confidential staff briefing concerning the agency's investigation into Google, Inc.'s search engine practices and Standard Essential Patents was approved by a vote of 5-0.

Please contact the Minutes Section, at x2521, or Donald Clark, at x2514, if you need additional information.

*Robert F. Swenson*  
*Paralegal Specialist*  
*Office of the Secretary*  
*(202) 326-2676*  
[rswenson@ftc.gov](mailto:rswenson@ftc.gov)

**Kelly, Andrea**

---

**From:** Harrison, Lisa M.  
**Sent:** Wednesday, October 17, 2012 4:27 PM  
**To:** Vandecar, Kim; Vaytsman, Olga  
**Subject:** FW: Google briefing for Senate Judiciary  
**Attachments:** Request for FTC briefing on Google 10.17.12.pdf

FYI.

---

**From:** Renner, Christopher  
**Sent:** Wednesday, October 17, 2012 3:47 PM  
**To:** Tucker, Darren; Slater, Abigail A.; Kimmel, Lisa; Luib, Gregory; Okuliar, Alexander  
**Cc:** Clark, Donald S.; Harrison, Lisa M.; Levitas, Pete; Sabo, Melanie  
**Subject:** Google briefing for Senate Judiciary

Hi –

On October 10 BC circulated a recommendation to authorize a non-public briefing for the Senate Judiciary Subcommittee on Antitrust of the Commission's Google search investigation. Now, the Subcommittee has requested a broader briefing, including Google SEP. If there are no objections, we will circulate a motion to authorize the broader (Google search and Google SEP) non-public briefing by COB on Friday, October 19. Please let me know if that timing does not work.

Thanks,

Chris

---

**From:** Clark, Donald S.  
**Sent:** Wednesday, October 17, 2012 2:23 PM  
**To:** Taylor, Susan; Cornish, Alexis CTR  
**Cc:** Clark, Donald S.; Vaytsman, Olga; Sabo, Melanie; Levitas, Pete; Renner, Christopher; Patton, Andrew; Runco, Philip; Vandecar, Kim  
**Subject:** Request To Replace DocSmart File For CMS # 14007131

Sue and Alexis, please replace the version of this letter currently in the DocSmart file with the attached version from Kim. Thanks!

..... Don

HERB KOHL  
WISCONSIN

WASHINGTON OFFICE:  
330 HART SENATE OFFICE BUILDING  
WASHINGTON, DC 20510  
(202) 224-5653  
<http://kohl.senate.gov/>

## United States Senate

WASHINGTON, DC 20510-4903

COMMITTEES:  
APPROPRIATIONS  
JUDICIARY  
SPECIAL COMMITTEE  
ON AGING

October 17, 2012

The Honorable Jon Leibowitz  
Chairman, Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Suite 444  
Washington, DC 20580

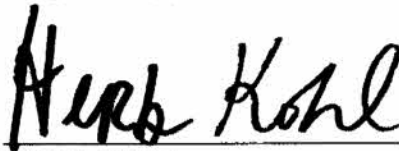
Dear Chairman Leibowitz:

I am writing to request that knowledgeable members of the FTC staff provide our Subcommittee staff with a confidential briefing about the FTC's antitrust investigations into allegations that Google has been engaged in anticompetitive conduct.

I understand the sensitivity of discussing pending investigations. Therefore, my staff and I will ensure that any non-public information that your staff provides during the briefing will not be shared with anyone outside the Subcommittee. If you require further confidentiality assurances, we will do our best to accommodate you.

Thank you very much for your assistance in this matter.

Respectfully yours,



HERB KOHL

Chairman

Subcommittee on Antitrust, Competition Policy and  
Consumer Rights

MILWAUKEE OFFICE:  
310 WEST WISCONSIN AVENUE  
SUITE 950  
MILWAUKEE, WI 53203  
(414) 297-4451  
T.T.Y. (414) 297-4485

MADISON OFFICE:  
14 WEST MIFFLIN STREET  
SUITE 207  
MADISON, WI 53703  
(608) 264-5338

EAU CLAIRE OFFICE:  
402 GRAHAM AVENUE  
SUITE 206  
EAU CLAIRE, WI 54701  
(715) 832-8424

APPLETON OFFICE:  
4321 WEST COLLEGE AVENUE  
SUITE 370  
APPLETON, WI 54914  
(920) 738-1640

LA CROSSE OFFICE:  
205 5TH AVENUE SOUTH  
SUITE 216  
LA CROSSE, WI 54601  
(608) 796-0045

## Kelly, Andrea

---

**From:** Vandecar, Kim  
**Sent:** Wednesday, October 17, 2012 2:19 PM  
**To:** Clark, Donald S.; Vaytsman, Olga; Sabo, Melanie; Levitas, Pete; Renner, Christopher  
**Cc:** Patton, Andrew; Runco, Philip  
**Subject:** FW: Request for Google briefing  
**Attachments:** Request for FTC briefing on Google 10.17.12.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Please replace the September 21 letter from Chairman Kohl with the attached...

HERB KOHL  
WISCONSIN

WASHINGTON OFFICE:  
330 HART SENATE OFFICE BUILDING  
WASHINGTON, DC 20510  
(202) 224-5653  
<http://kohl.senate.gov/>

# United States Senate

WASHINGTON, DC 20510-4903

COMMITTEES:  
APPROPRIATIONS  
JUDICIARY  
SPECIAL COMMITTEE  
ON AGING

October 17, 2012

The Honorable Jon Leibowitz  
Chairman, Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Suite 444  
Washington, DC 20580

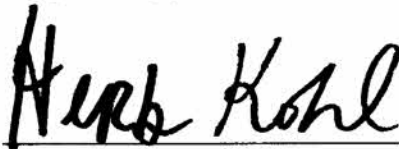
Dear Chairman Leibowitz:

I am writing to request that knowledgeable members of the FTC staff provide our Subcommittee staff with a confidential briefing about the FTC's antitrust investigations into allegations that Google has been engaged in anticompetitive conduct.

I understand the sensitivity of discussing pending investigations. Therefore, my staff and I will ensure that any non-public information that your staff provides during the briefing will not be shared with anyone outside the Subcommittee. If you require further confidentiality assurances, we will do our best to accommodate you.

Thank you very much for your assistance in this matter.

Respectfully yours,



HERB KOHL

Chairman

Subcommittee on Antitrust, Competition Policy and  
Consumer Rights

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(920) 738-1640

LA CROSSE OFFICE:  
205 5TH AVENUE SOUTH  
SUITE 216  
LA CROSSE, WI 54601  
(608) 796-0045

**Kelly, Andrea**

---

**From:** Harrison, Lisa M.  
**Sent:** Wednesday, October 17, 2012 3:28 PM  
**To:** Vaytsman, Olga  
**Subject:** Google nonpublic

And FYI, here is the actual Commission circulation.



The attached document is assigned to  
Chairman Leibowitz  
for review and presentation to the Commission.

---

Assignment Date: 10/11/2012

Document Number: 562382

Matter Name: Google, Inc.

Matter Number: 1110163

Issue Number: 18

Staff Contact: BLANK, BARBARA

Document Title: RECOMMENDATION TO GRANT THE REQUEST OF THE SENATE  
JUDICIARY SUBCOMMITTEE ON ANTITRUST, COMPETITION  
POLICY AND CONSUMER RIGHTS FOR A CONFIDENTIAL  
STAFF BRIEFING CONCERNING THE AGENCY'S  
INVESTIGATION INTO GOOGLE INC.'S SEARCH ENGINE  
PRACTICES

In the transfer of information from this sheet to a Commission circulation form, please note that the document number shown above should be entered on the Commission circulation form as the RELATED DOCUMENT NUMBER. In addition, please note that the document title shown above should NOT be identical to the document title on the circulation form. Instead, the document title on the circulation form should begin with one of the following three phrases:

.... "Motion to"  
.... "For Information Circulation of" .. OR

Donald S. Clark

---

Target Motion Date: N/A



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

OCT 11 2012

**MEMORANDUM**

**TO:** Commission

**FROM:** Barbara R. Blank, Attorney

**DATE:** October 10, 2012

**SUBJECT:** Request from Chairman Kohl for a Confidential Staff Briefing on the Commission's Antitrust Investigation into Google, Inc.'s Search Engine Practices Matter No. 111-0163<sup>1</sup>

**RECOMMENDATION:** To Authorize Staff to Provide the Requested Non-Public Briefing

By letter dated September 21, 2012, Chairman Herb Kohl of the Senate Judiciary Subcommittee on Antitrust, Competition Policy and Consumer Rights has requested a confidential staff briefing on the Agency's antitrust investigation into Google, Inc.'s search engine practices.<sup>2</sup> Subject to Commission approval, the briefing is tentatively scheduled for Wednesday, October 24, 2012. We recommend that the Commission authorize staff to provide the requested non-public briefing in response to this official Subcommittee request. *See* Commission Rule 4.11(b), 16 C.F.R. § 4.11(b).

This briefing request is a follow-up request to requests that Chairman Kohl directed to the Commission in September and November of 2011. He and his staff primarily are interested in a status update and a discussion of any changes that might have occurred in the investigation.

(b)(5)

A large blue rectangular redaction box covers the majority of the page content, starting below the text "(b)(5)" and extending to the bottom of the page. The box is solid blue with a thin black border.



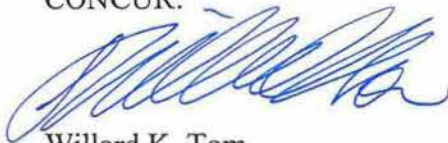
A draft response letter for the Secretary's signature is attached. The draft response includes a discussion of the confidential status accorded the responsive information, and further requests that the Subcommittee maintain the information's confidential status. Notwithstanding the confidential status of most of the responsive information, the FTC Act, 15 U.S.C. § 57b-2(d)(1)(A), the Clayton Act, 15 U.S.C. § 18a(h), and the Freedom of Information Act, 5 U.S.C. § 552(d), provide no authority to withhold such information from a Congressional Subcommittee. Accordingly, we recommend that the Commission authorize staff to provide the requested non-public briefing in response to this official Subcommittee request. *See* Commission Rule 4.11 (b), 16 C.F.R. § 4.11 (b ).

APPROVED:



Richard A. Feinstein  
Director

CONCUR:



Willard K. Tom  
General Counsel

HERB KOHL  
WISCONSIN

WASHINGTON OFFICE:  
330 HART SENATE OFFICE BUILDING  
WASHINGTON, DC 20510  
(202) 224-5653  
<http://kohl.senate.gov/>

## United States Senate

WASHINGTON, DC 20510-4903

COMMITTEES:  
APPROPRIATIONS  
JUDICIARY  
SPECIAL COMMITTEE  
ON AGING

September 21, 2012

The Honorable Jon Leibowitz  
Chairman, Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Suite 444  
Washington, DC 20580

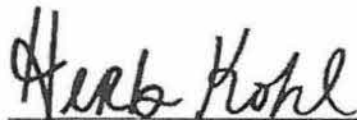
Dear Chairman Leibowitz:

I am writing to request that knowledgeable members of the FTC staff provide our Subcommittee staff with a confidential briefing about the FTC's antitrust investigation into allegations that Google has been engaged in anticompetitive conduct with respect to Internet search, and related issues.

I understand the sensitivity of discussing pending investigations. Therefore, my staff and I will ensure that any non-public information that your staff provides during the briefing will not be shared with anyone outside the Subcommittee. If you require further confidentiality assurances, we will do our best to accommodate you.

Thank you very much for your assistance in this matter.

Respectfully yours,



HERB KOHL

Chairman

Subcommittee on Antitrust, Competition Policy and  
Consumer Rights

14007131

MILWAUKEE OFFICE:  
310 WEST WISCONSIN AVENUE  
SUITE 950  
MILWAUKEE, WI 53203  
(414) 297-4451  
T.T.Y. (414) 297-4485

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(920) 738-1640

LA CROSSE OFFICE:  
205 5TH AVENUE SOUTH  
SUITE 218  
LA CROSSE, WI 54601  
(608) 796-0045



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Office of the Secretary

The Honorable Herb Kohl  
Chairman  
Subcommittee on Antitrust, Competition Policy and Consumer Rights  
Committee on the Judiciary  
United States Senate  
Washington, DC 20510-6275

Dear Chairman Kohl:

Thank you for your letter dated September 21, 2012, requesting a confidential staff briefing on the agency's investigation into Google, Inc.'s search engine practices. The Commission is responding to your request as an official request of a Congressional Subcommittee, *see* Commission Rule 4.11(b), 16 C.F.R. § 4.11(b), and has authorized its staff to provide the requested briefing.

Most of the information that the Commission attorneys will discuss during the briefing is nonpublic and statutorily protected from public disclosure by the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 41 *et seq.*, as well as exempt from mandatory disclosure under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. In particular, some of the information would be protected under Section 6(f) of the FTC Act, 15 U.S.C. § 46(f), as confidential commercial or financial information. The Commission is prohibited from disclosing such information publicly, and it would be exempt from disclosure under FOIA Exemption 3, 5 U.S.C. § 552(b)(3). Because disclosure of this information is likely to result in substantial competitive harm to the submitters, or is clearly not of a kind that submitters would customarily make available to the public, it would be exempt from disclosure under FOIA Exemption 4, 5 U.S.C. § 552(b)(4). *See Critical Mass Energy Project v. NRC*, 975 F.2d 871, 877-80 (D.C. Cir. 1992) (*en banc*), *cert. denied*, 507 U.S. 984 (1993) (exempt status accorded to information submitted voluntarily); *National Parks & Conservation Ass'n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974) (exempt status accorded to information submitted under compulsion).

Most of the information that the Commission attorneys will discuss was obtained by compulsory process or provided voluntarily in lieu thereof in a law enforcement investigation. Such information is protected from public disclosure under Section 21(f) of the FTC Act, 15 U.S.C. § 57b-2(f). By virtue of that section, such information is also exempt from public disclosure under FOIA Exemption 3(B), 5 U.S.C. § 552(b)(3)(B). *McDermott v. FTC*, 1981-1 Trade Cas. (CCH) ¶ 63,964 at 75,982-3 (D.D.C. April 13, 1981); *Dairymen, Inc. v. FTC*, 1980-2 Trade Cas. (CCH) ¶ 63,479 (D.D.C. July 9, 1980). Moreover, third party submitters provided their materials and information with a specific request for confidential treatment under Section

21 (c)) of the FTC Act, 15 U.S.C. § 57b-2(c)). Under Commission Rule 4.10(d), 16 C.F.R. § 4.10(d), the Commission has waived its discretion to release to the public materials submitted pursuant to compulsory process or materials submitted voluntarily in lieu of process that have been marked confidential by the submitting parties.<sup>1</sup>

Additional information that may be discussed during the briefing was submitted in response to the Hart-Scott-Rodino premerger notification requirements of the Clayton Act, 15 U.S.C. § 18a. Section 7A(h) of the Act prohibits public disclosure of such documents or information. By virtue of this statutory prohibition, this information is also exempt from disclosure under Freedom of Information Act (FOIA) Exemption 3A, 5 U.S.C. § 552(b)(3)(A).<sup>2</sup>

Further, information discussed during the briefing would reveal the existence of, and information concerning, an ongoing, nonpublic law enforcement investigation. Disclosure of this information could reasonably be expected to interfere with law enforcement proceedings, and this information is therefore protected from mandatory public disclosure by FOIA Exemption 7(A), 5 U.S.C. § 552(b)(7)(A). *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 232 (1978); *Ehringhaus v. FTC*, 525 F. Supp. 21, 24 (D.D.C. 1980).

Finally, some of the information that will be discussed during the briefing will include internal staff analyses and recommendations, which are predecisional, deliberative materials exempt from mandatory public disclosure under FOIA Exemption 5, 5 U.S.C. § 552(b)(5). *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132 (1975); *Coastal States Gas Corp. v. Department of Energy*, 617 F.2d 854, 866 (D.C. Cir. 1980). Some of this information may also be protected from mandatory public disclosure under FOIA Exemption 5 as attorney work product prepared in anticipation of litigation. *FTC v. Grolier, Inc.*, 462 U.S. 19, 28 (1983); *Martin v. Office of Special Counsel, Merit Systems Protection Board*, 819 F.2d 1181, 1187 (D.C. Cir. 1987).

Notwithstanding the protected status of most of the responsive information, the FTC Act, 15 U.S.C. § 57b-2(d)(1)(A), the Clayton Act, 15 U.S.C. § 18a(h), and the FOIA, 5 U.S.C. § 552(d), provide no authority to withhold such information from this Congressional Subcommittee, and the Commission has authorized staff to provide the requested briefing to Subcommittee staff. Because the confidential information would not be available to the public under the FOIA or otherwise, the Commission requests that the Subcommittee maintain its confidentiality.

---

<sup>1</sup> The Commission is required to notify persons who submitted information pursuant to compulsory process in a law enforcement investigation, or voluntarily in lieu thereof on a confidential basis, if the Commission receives a request from a Congressional Committee or Subcommittee for that information. See 15 U.S.C. §§ 57b-2(b)(3)(C), 57b-2(d)(1)(A); Commission Rule 4.11(b), 16 C.F.R. § 4.11(b). Staff is providing the requisite notice.

<sup>2</sup> The Commission has instructed its staff to provide reasonable notice, when possible, of the release to Congress of information submitted pursuant to HSR. See *Statement of Basis and Purpose of HSR Rules and Regulations*, 43 Fed. Reg. 33519 (July 31, 1978). Staff has provided notice to submitters pursuant to this policy.

By direction of the Commission.

Donald S. Clark  
Secretary

**Kelly, Andrea**

---

**From:** Harrison, Lisa M.  
**Sent:** Wednesday, October 17, 2012 3:40 PM  
**To:** Vandecar, Kim  
**Cc:** Vaytsman, Olga  
**Subject:** Google nonpublic

I talked to Chris. He is going to revise the Commission letter as we discussed. The motion package Don circulates will (1) include the revised Kohl letter (2) include the revised Commission letter and (3) indicate in the motion that the scope of the nonpublic has broadened.

## Kelly, Andrea

---

**From:** Blank, Barbara  
**Sent:** Wednesday, October 10, 2012 12:12 PM  
**To:** Harrison, Lisa M.; Vandecar, Kim; Vaytsman, Olga  
**Subject:** FW: Senate Subcommittee briefing package - Google  
**Attachments:** 2012-10-10 Response Letter for Briefing Request.wpd; 2012-9-21 Briefing Request.pdf; 2012-10-10 Memo re Request for Briefing.wpd

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

FYI

-----Original Message-----

From: Blank, Barbara  
Sent: Wednesday, October 10, 2012 11:20 AM  
To: Seidman, Mark; Lippincott, Victoria  
Cc: Sabo, Melanie; Green, Geoffrey  
Subject: Senate Subcommittee briefing package - Google

Hi Mark and Victoria,

Here is the package for the upcoming Senate Subcommittee briefing - it includes a short memo to the Commission, a draft response to Senator Kohl, and the original briefing request. These drafts are essentially unchanged from the last briefing (December 2011) but for being updated to reflect the dates and acknowledgement of the prior briefings. Please let me know if you need anything else.

Thanks very much.

Best Regards,

Barbara

## Kelly, Andrea

---

**From:** Harrison, Lisa M.  
**Sent:** Friday, October 05, 2012 8:48 AM  
**To:** Blank, Barbara  
**Cc:** Vaytsman, Olga  
**Subject:** google nonpublic  
**Attachments:** Kohl Second Briefing Request on Google Search Investigation - Memo to the Commn2.wpd; Kohl Second Briefing Request on Google Investigation - Response Letter.wpd

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Barbara,

I think these are the final wp versions for the December briefing. (you can match them against the pdf I sent you yesterday)



## Kelly, Andrea

---

**From:** Kraus, Elizabeth  
**Sent:** Monday, May 20, 2013 3:56 PM  
**To:** Tritell, Randolph W.; Heimert, Andrew J.; Gray, Joshua Barton; O'Brien, Paul  
**Subject:** Questions for the Record Of for Chairwoman Edith Ramirez compare.docx  
**Attachments:** Questions for the Record Of for Chairwoman Edith Ramirez compare.docx

This should be a compare to our the earlier OIA/BC version

Not Responsive

**Kelly, Andrea**

---

**From:** Gray, Joshua Barton  
**Sent:** Monday, May 20, 2013 4:04 PM  
**To:** Kraus, Elizabeth; O'Brien, Paul; Heimert, Andrew J.; Tritell, Randolph W.  
**Subject:** RE: QFRs - the latest (close to final) draft

Not Responsive

Not Responsive

(b)(5)

(b)(5)

JG

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**From:** Kraus, Elizabeth  
**Sent:** Monday, May 20, 2013 1:24 PM  
**To:** O'Brien, Paul; Heimert, Andrew J.; Gray, Joshua Barton; Tritell, Randolph W.  
**Subject:** FW: QFRs - the latest (close to final) draft

Any edits?

---

**From:** Lehner, Mary  
**Sent:** Monday, May 20, 2013 1:23 PM  
**To:** Koslov, Tara Isa; Seidman, Mark; Tabas, Matthew; Gavil, Andrew I.; Levitas, Pete; Dawson, Rachel Miller; Kraus, Elizabeth; Bumpus, Jeanne; Vandecar, Kim  
**Cc:** Kimmel, Lisa; Nathan, Jon.J.  
**Subject:** QFRs - the latest (close to final) draft

All,

I have attached the latest draft, which incorporates Edith's edits and feedback. There may still be a few tweaks from our office (particularly with respect to Section 5 – Edith is still reviewing the revised draft responses to Lee 2 and 4), but (fingers crossed) I think we are getting there. Could everyone do a last look on substance to make sure you are comfortable? **Feedback by cob today would be ideal.** And, Jeanne, could your office put the responses in the appropriate form to send in? Thanks so much –

Mary

## Kelly, Andrea

---

**From:** Tritell, Randolph W.  
**Sent:** Tuesday, March 26, 2013 4:58 PM  
**To:** Kraus, Elizabeth  
**Subject:** RE: Testimony draft points  
**Attachments:** International Topics - redline.docx

Thanks, Liz. See attached suggested edits. As Jeanne asked for “no more than 1 ½ to 2 pages of Qs and As (in the form of very short talking points instead of the format we previously used below),” please reformat into short bulleted points, reduce to two pages absolute maximum, and make sure Jeanne gets by the end of her day tomorrow. Let me know if you’d like to discuss anything.

Randy

---

**From:** Kraus, Elizabeth  
**Sent:** Monday, March 25, 2013 7:10 PM  
**To:** Tritell, Randolph W.  
**Subject:** Testimony draft points

**Kelly, Andrea**

---

**From:** Kraus, Elizabeth  
**Sent:** Monday, March 25, 2013 7:10 PM  
**To:** Tritell, Randolph W.  
**Subject:** Testimony draft points  
**Attachments:** International Topics (2).docx

**Kelly, Andrea**

---

**From:** Kraus, Elizabeth  
**Sent:** Wednesday, March 27, 2013 8:24 PM  
**To:** Bumpus, Jeanne  
**Cc:** Tritell, Randolph W.  
**Subject:** International Topics - For 2013 Testimony  
**Attachments:** International Topics - 2013.docx

Jeanne,

The international antitrust points are attached

Not Responsive

Liz

## Kelly, Andrea

---

**From:** Kraus, Elizabeth  
**Sent:** Thursday, May 09, 2013 2:32 PM  
**To:** Tritell, Randolph W.  
**Subject:** FW: Draft QFRs from Antitrust Oversight Hearing  
**Attachments:** QFRs for Ramirez\_may8.docx

[Here you go.](#)

---

**From:** Signs, Kelly  
**Sent:** Thursday, May 09, 2013 2:31 PM  
**To:** Kraus, Elizabeth  
**Subject:** FW: Draft QFRs from Antitrust Oversight Hearing

Sorry, I never know which people are relieved to never see it again.

---

**From:** Signs, Kelly  
**Sent:** Wednesday, May 08, 2013 5:59 PM  
**To:** Nathan, Jon J.; Kimmel, Lisa; Lehner, Mary  
**Cc:** Bumpus, Jeanne; Levitas, Pete; Gavil, Andrew I.; Vandecar, Kim  
**Subject:** Draft QFRs from Antitrust Oversight Hearing

Jon, Lisa and Mary,

Attached is a set of proposed answers for the questions received from four senators as a follow-up to last month's hearing.

Not Responsive



Not Responsive

Not Responsive

Also note that I've kept some of the comments from various editors in the draft for your consideration. Hopefully, you can distinguish comments from Pete, Andy or Suzanne.

Please let me know if there is anything else you need.

---

Kelly Signs  
Office of Policy and Coordination • Bureau of Competition • Federal Trade Commission  
601 New Jersey Avenue, N.W., Washington D.C. 20580  
 (202) 326-3191  (202) 326-3394  [ksigns@ftc.gov](mailto:ksigns@ftc.gov)  [www.ftc.gov](http://www.ftc.gov)

---

Not Responsive

**From:** Kraus, Elizabeth  
**Sent:** Wednesday, May 01, 2013 5:09 pm  
**To:** O'Brien, Paul; Heimert, Andrew J.; Gray, Joshua Barton  
**Cc:** Tritell, Randolph W.  
**Subject:** FW: 4-16-13 Antitrust Hearing - Questions for the Record (Ramirez)

The FTC received follow-up questions from Edith's testimony, attached. I've reviewed the various questions and three address international:

Not Responsive

Leahy 4(d) – on European approach to Google.

Jeanne's note below provides that replies are due on May 14<sup>th</sup>. Apparently, we are asked to have responses to Jeanne by May 6. I'm confirming this. Our work is pretty easy

Not Responsive

Not Responsive

Josh, BC will be handling the response to

Leahy question 4, but I've asked for us to have a review of it (notably for the response to 4(d) before it goes up).

If the May 6<sup>th</sup> deadline is correct, would it be possible to get anything that we're responsible for drafting to Randy and me by COB Friday or at least before start of business on Monday?

Liz

-----  
Attached please find the post hearing questions. Replies are due May 14. The questions are quite extensive, particularly from Senator Lee. I have copied all of the Bureaus/Offices I anticipate will need to be involved in preparing draft responses for the Chairwoman. The questions cover the following topics:

**Sen. Grassley**  
PFD

**Sen. Leahy**  
GPOs  
PAEs  
Various aspects of Google and agency technical expertise

**Sen. Lee**



Section 2 guidance  
Section 5  
Differences in standards/procedures between FTC and DOJ  
Voluntary commitments  
Standard used in Google  
Coordination with states on Google  
Clearance  
SEPs and Bosch  
PFD  
PAEs and 6(b) study  
Mandatory IP licensing by foreign authorities  
Eyeglass prescriptions  
International transparency  
Use of advocacy resources

**Sen. Klobuchar**

Role of antitrust  
Clearance  
SEPs

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**From:** Kartzmer, Melanie (Judiciary) [[mailto:Melanie\\_Kartzmer@judiciary-dem.senate.gov](mailto:Melanie_Kartzmer@judiciary-dem.senate.gov)]  
**Sent:** Tuesday, April 30, 2013 2:35 PM  
**To:** Bumpus, Jeanne  
**Cc:** Holland, Caroline (Judiciary-Dem); Ross, Halley (Judiciary)  
**Subject:** 4-16-13 Antitrust Hearing - Questions for the Record (Ramirez)

Dear Ms. Jeanne Bumpus:

Attached please find a letter from Chairman Leahy as well as questions submitted for the record to Chairwoman Ramirez from Senator Leahy, Senator Klobuchar, Senator Grassley and Senator Lee.

Please do not hesitate to contact me should you have any questions or need any additional information....

Best,

Melanie

Melanie Kartzmer  
Hearing Clerk  
Committee on the Judiciary  
<http://judiciary.senate.gov/>



**Kelly, Andrea**

---

**From:** Kraus, Elizabeth  
**Sent:** Tuesday, May 14, 2013 7:04 PM  
**To:** Lehner, Mary  
**Subject:** QFRs look good to us

Thanks for asking.

## Kelly, Andrea

---

**From:** Gray, Joshua Barton  
**Sent:** Friday, May 31, 2013 4:05 PM  
**To:** Kelly, Andrea  
**Subject:** FW: Draft on Sec 5 -- Thoughts, edits, etc.?

Hi,

This is all I still have from our drafting of the answers to the Judiciary Questions... Josh

---

**From:** Signs, Kelly  
**Sent:** Friday, May 03, 2013 2:55 PM  
**To:** Gray, Joshua Barton  
**Subject:** RE: Draft on Sec 5 -- Thoughts, edits, etc.?

Terrific, thanks. I'm going to graft this onto the other paragraph that deals with this multi-part question.

I appreciate the quick help.

---

**From:** Gray, Joshua Barton  
**Sent:** Friday, May 03, 2013 2:47 PM  
**To:** Signs, Kelly  
**Subject:** Draft on Sec 5 -- Thoughts, edits, etc.?

(b)(5)



**From:** Signs, Kelly  
**Sent:** Friday, May 03, 2013 12:05 PM  
**To:** Gray, Joshua Barton  
**Subject:** RE: Couple of points on QFRs

Sure. I'm around if you want to give me a call and loop in anyone else from OIA.

---

**From:** Gray, Joshua Barton  
**Sent:** Friday, May 03, 2013 12:04 PM  
**To:** Signs, Kelly  
**Subject:** FW: Couple of points on QFRs

Should we discuss today? Not Responsive

---

**From:** Kraus, Elizabeth  
**Sent:** Friday, May 03, 2013 10:45 AM  
**To:** Gray, Joshua Barton  
**Cc:** Signs, Kelly  
**Subject:** Fw: Couple of points on QFRs

Possible to coordinate with Kelly, with the proviso, short is very sweet.

Not Responsive

**From:** Signs, Kelly  
**Sent:** Friday, May 03, 2013 10:36 AM  
**To:** Kraus, Elizabeth  
**Subject:** Couple of points on QFRs

Hi Liz,

I'm looking for your input on the front-end of drafting. (b)(5)

(b)(5)

## Kelly, Andrea

---

**From:** Feinstein, Richard  
**Sent:** Monday, May 06, 2013 12:00 PM  
**To:** Signs, Kelly; Levitas, Pete  
**Cc:** Mongoven, James F.; Bumpus, Jeanne  
**Subject:** Re: Draft responses to (some) QFRs

Thanks, Kelly. I think these are in good shape. I have not coordinated with Pete on this, so I assume that he is conveying his reaction separately (or perhaps has already done so). There is a typo at the bottom of page 10 ("care" should be "case").

---

**From:** Signs, Kelly  
**Sent:** Friday, May 03, 2013 04:16 PM  
**To:** Feinstein, Richard; Levitas, Pete  
**Cc:** Mongoven, James F.; Bumpus, Jeanne  
**Subject:** Draft responses to (some) QFRs

Rich and Pete,

So here they are, the answers assigned to BC for drafting. As you can see, I've deleted questions that others will be responding to. Hopefully, you'll get a look at those answers on Monday.

This has been a joint effort by several folks from Health Care, ACP and Compliance as well as OPC. The good news is that we've got pretty good answers for the majority of questions. The bad news is that we have two questions that still need draft answers (b)(5)

(b)(5)



Lots to read, and there will be more. When you're done, others would like to review these answers, so you can send edits back to me and I'll keep them moving.

Have a good weekend. ~Kelly

**Kelly, Andrea**

---

**From:** Widnell, Nicholas  
**Sent:** Monday, January 14, 2013 4:55 PM  
**To:** Levitas, Pete  
**Subject:** RE: public briefing on Google w/Senate Judiciary staff Leahy

Pete,

Any thoughts about what we should do to prepare?

-----Original Appointment-----

**From:** Vandecar, Kim  
**Sent:** Monday, January 14, 2013 4:02 PM  
**To:** Levitas, Pete; Blank, Barbara; Widnell, Nicholas  
**Subject:** public briefing on Google w/Senate Judiciary staff Leahy  
**When:** Tuesday, January 15, 2013 11:00 AM-12:00 PM (GMT-05:00) Eastern Time (US & Canada).  
**Where:** tbd

Car will leave HQ at 10:40 and pick up staff at 601 at 10:45. See you tomorrow.

## Kelly, Andrea

---

**Subject:** public briefing on Google w/Senate Judiciary staff Leahy  
**Location:** tbd

**Start:** Tue 1/15/2013 11:00 AM  
**End:** Tue 1/15/2013 12:00 PM  
**Show Time As:** Tentative

**Recurrence:** (none)

**Meeting Status:** Not yet responded

**Organizer:** Vandecar, Kim  
**Required Attendees:** Levitas, Pete; Blank, Barbara; Widnell, Nicholas

## Kelly, Andrea

---

**Subject:** public briefing on Google w/Senate Judiciary staff Leahy  
**Location:** tbd

**Start:** Tue 1/15/2013 11:00 AM  
**End:** Tue 1/15/2013 12:00 PM  
**Show Time As:** Tentative

**Recurrence:** (none)

**Meeting Status:** Not yet responded

**Organizer:** Vandecar, Kim  
**Required Attendees:** Levitas, Pete; Blank, Barbara; Widnell, Nicholas

Car will leave HQ at 10:40 and pick up staff at 601 at 10:45. See you tomorrow.

**Kelly, Andrea**

---

**From:** Dawson, Rachel Miller  
**Sent:** Sunday, May 05, 2013 10:25 PM  
**To:** Levitas, Pete; Bumpus, Jeanne; Signs, Kelly  
**Subject:** RE: Antitrust Oversight Hearing Transcript 4.16.13  
**Attachments:** antitrust oversight QFRs prelim inj draft answers.docx

Not Responsive

**From:** Levitas, Pete  
**Sent:** Thursday, May 02, 2013 6:52 PM  
**To:** Dawson, Rachel Miller  
**Cc:** Signs, Kelly  
**Subject:** Re: Antitrust Oversight Hearing Transcript 4.16.13

Thanks.

---

**From:** Dawson, Rachel Miller  
**Sent:** Thursday, May 02, 2013 06:39 PM  
**To:** Levitas, Pete  
**Cc:** Signs, Kelly  
**Subject:** RE: Antitrust Oversight Hearing Transcript 4.16.13

Not Responsive

I would appreciate seeing the other answers as soon as I can, no need to wait till they're standardized. Thanks.

---

**From:** Levitas, Pete  
**Sent:** Thursday, May 02, 2013 12:16 PM  
**To:** Lehner, Mary; Bumpus, Jeanne; Hipsley, Heather; Feinstein, Richard; Armstrong, Norman; Signs, Kelly; Shonka, David C.; Koslov, Tara Isa; Kraus, Elizabeth; Dawson, Rachel Miller  
**Cc:** Nathan, Jon J.; Kimmel, Lisa  
**Subject:** RE: Antitrust Oversight Hearing Transcript 4.16.13

Thanks Mary – to the extent everyone can send these over on a rolling basis that would be helpful. Also, we're trying to get these finished and in to Mary and Jon and Lisa by cob Tuesday, so if you can send things either over the weekend if they are ready or as early on Monday as possible that will make things easier. Thanks

---

**From:** Lehner, Mary  
**Sent:** Wednesday, May 01, 2013 6:29 PM  
**To:** Bumpus, Jeanne; Hipsley, Heather; Feinstein, Richard; Armstrong, Norman; Signs, Kelly; Shonka, David C.; Koslov, Tara Isa; Kraus, Elizabeth; Dawson, Rachel Miller  
**Cc:** Levitas, Pete; Nathan, Jon J.; Kimmel, Lisa  
**Subject:** RE: Antitrust Oversight Hearing Transcript 4.16.13

All,



For ease of administration, Pete has graciously agreed to review and standardize the responses before they come to Jon and me on Tuesday evening. Please coordinate timing with Pete, so that he knows when to expect drafts of the responses you are working on. Thanks so much, everyone –

Mary

---

**From:** Kimmel, Lisa

**Sent:** Wednesday, May 01, 2013 9:06 AM

**To:** Bumpus, Jeanne; Nathan, Jon J.; Hippsley, Heather; Feinstein, Richard; Armstrong, Norman; Levitas, Pete; Signs, Kelly; Shonka, David C.; Koslov, Tara Isa; Kraus, Elizabeth; Dawson, Rachel Miller; Lehner, Mary

**Subject:** Re: Antitrust Oversight Hearing Transcript 4.16.13

Thanks Jeanne. Adding Mary Lehner. Please include her on circulation list re testimony. Thanks.

---

**From:** Bumpus, Jeanne

**Sent:** Wednesday, May 01, 2013 09:04 AM

**To:** Nathan, Jon J.; Kimmel, Lisa; Hippsley, Heather; Feinstein, Richard; Armstrong, Norman; Levitas, Pete; Signs, Kelly; Shonka, David C.; Koslov, Tara Isa; Kraus, Elizabeth; Dawson, Rachel Miller

**Subject:** FW: Antitrust Oversight Hearing Transcript 4.16.13

Attached please find the transcript of the 4/16 hearing. Some of the Chairwoman's statements are quoted or referred to in to the QFRs.

**Kelly, Andrea**

Not Responsive

**From:** Levitas, Pete  
**Sent:** Monday, May 06, 2013 2:46 PM  
**To:** Bumpus, Jeanne; Signs, Kelly  
**Cc:** Vandecar, Kim; Runco, Philip  
**Subject:** RE: Jon and Mary don't need QFRs until Thursday morning

My suggestions – I'll pick up where I left off tomorrow and send around a revised document starting w the qs I haven't gotten to yet. thanks

---

**From:** Bumpus, Jeanne  
**Sent:** Monday, May 06, 2013 2:27 PM  
**To:** Levitas, Pete; Signs, Kelly  
**Cc:** Vandecar, Kim; Runco, Philip  
**Subject:** Jon and Mary don't need QFRs until Thursday morning

Edith has said she doesn't need them until Friday morning, and Mary just told me she and Jon only need them Thursday morning. A little more time for all.

**Kelly, Andrea**

---

**From:** Dawson, Rachel Miller  
**Sent:** Tuesday, May 07, 2013 7:17 PM  
**To:** Signs, Kelly  
**Subject:** Fw: QFRs

(b)(5)

A large rectangular area of the document is redacted with a solid light blue fill.

**From:** Harrison, Lisa M. .  
**Sent:** Tuesday, May 07, 2013 06:30 PM  
**To:** Signs, Kelly  
**Cc:** Shonka, David C.; Dawson, Rachel Miller  
**Subject:** QFRs

Kelly,

I thought you were sending a new draft but I just went ahead and wrote out the changes, based on an earlier OGC version. Let us know if you need any guidance in how these would fit into the current draft.

(b)(5)

A very large rectangular area of the document is redacted with a solid light blue fill, covering the majority of the lower half of the page.



## Kelly, Andrea

---

**From:** Dawson, Rachel Miller  
**Sent:** Tuesday, May 07, 2013 1:53 PM  
**To:** Shonka, David C.  
**Cc:** Harrison, Lisa M.  
**Subject:** FW: revised Google

**Importance:** High

Bruce liked it and chris made a few minor changes which I included. any more comments or can I go ahead and send it to bc? Thx.

---

**From:** White, Christian S.  
**Sent:** Tuesday, May 07, 2013 1:16 PM  
**To:** Dawson, Rachel Miller  
**Subject:** RE: revised Google

(b)(5)



(b)(5)



**From:** Freedman, Bruce

**Sent:** Tuesday, May 07, 2013 12:50 PM

**To:** Dawson, Rachel Miller; Shonka, David C.; White, Christian S.; Harrison, Lisa M.

**Subject:** Re: revised google

Revisions look good.

(b)(5)



**Kelly, Andrea**

---

**From:** Dawson, Rachel Miller  
**Sent:** Monday, May 06, 2013 2:47 PM  
**To:** Shonka, David C.; Harrison, Lisa M.  
**Subject:** heads up on another issue in antitrust questions for the record

(b)(5)



## Kelly, Andrea

---

**From:** Dawson, Rachel Miller  
**Sent:** Tuesday, May 07, 2013 3:35 PM  
**To:** Signs, Kelly  
**Subject:** antitrust oversight QFRs prelim inj draft answers.full set.new rmd  
**Attachments:** antitrust oversight QFRs prelim inj draft answers.full set.new rmd.docx

Aside from the current issue of Leahy staff's study question, and the possibility that Shonka may want to tweak the Google questions further, this seems to be all our comments and edits.



## Kelly, Andrea

---

**From:** Signs, Kelly  
**Sent:** Tuesday, May 07, 2013 12:34 PM  
**To:** Dawson, Rachel Miller  
**Subject:** RE: current qfrs

Yeah, I suspect the formatting will need a redo once we're all done. I'll make sure it all gets put back together.

Not Responsive



**From:** Signs, Kelly  
**Sent:** Tuesday, May 07, 2013 11:12 AM  
**To:** Levitas, Pete; Gavil, Andrew I.; Koslov, Tara Isa; Dawson, Rachel Miller; Harrison, Lisa M.; Watts, Marianne R.; Bumpus, Jeanne  
**Subject:** RE: current qfrs

Please send edits back to me and I will incorporate them into one document for final review.

---

**From:** Levitas, Pete  
**Sent:** Tuesday, May 07, 2013 10:54 AM  
**To:** Signs, Kelly; Gavil, Andrew I.; Koslov, Tara Isa; Dawson, Rachel Miller; Harrison, Lisa M.; Watts, Marianne R.; Bumpus, Jeanne  
**Subject:** current qfrs

When this is final I think that I'd like bc staff to see this again just for google and pfd certainty. I'll start to work on opp stuff soon. Thanks

## Kelly, Andrea


---

**From:** Kraus, Elizabeth  
**Sent:** Tuesday, May 07, 2013 2:30 PM  
**To:** Levitas, Pete; Signs, Kelly; Gavil, Andrew I.; Koslov, Tara Isa; Dawson, Rachel Miller; Harrison, Lisa M.; Watts, Marianne R.; Bumpus, Jeanne  
**Subject:** RE: current qfrs

These changes are fine with OIA. Thanks Pete.

Liz

Not Responsive



**From:** Signs, Kelly  
**Sent:** Tuesday, May 07, 2013 11:12 AM  
**To:** Levitas, Pete; Gavil, Andrew I.; Koslov, Tara Isa; Dawson, Rachel Miller; Harrison, Lisa M.; Watts, Marianne R.; Bumpus, Jeanne  
**Subject:** RE: current qfrs

Please send edits back to me and I will incorporate them into one document for final review.

---

**From:** Levitas, Pete  
**Sent:** Tuesday, May 07, 2013 10:54 AM  
**To:** Signs, Kelly; Gavil, Andrew I.; Koslov, Tara Isa; Dawson, Rachel Miller; Harrison, Lisa M.; Watts, Marianne R.; Bumpus, Jeanne  
**Subject:** current qfrs

When this is final I think that I'd like bc staff to see this again just for google and pfd certainty. I'll start to work on opp stuff soon. Thanks

## Kelly, Andrea

---

**From:** Levitas, Pete  
**Sent:** Tuesday, May 07, 2013 12:58 PM  
**To:** Signs, Kelly; Gavil, Andrew I.; Koslov, Tara Isa; Dawson, Rachel Miller; Harrison, Lisa M.; Watts, Marianne R.; Bumpus, Jeanne  
**Subject:** RE: current qfrs  
**Attachments:** QFRs OPP pjl.docx

A few from opp thx

---

**From:** Signs, Kelly  
**Sent:** Tuesday, May 07, 2013 11:12 AM  
**To:** Levitas, Pete; Gavil, Andrew I.; Koslov, Tara Isa; Dawson, Rachel Miller; Harrison, Lisa M.; Watts, Marianne R.; Bumpus, Jeanne  
**Subject:** RE: current qfrs

Please send edits back to me and I will incorporate them into one document for final review.

---

**From:** Levitas, Pete  
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**To:** Signs, Kelly; Gavil, Andrew I.; Koslov, Tara Isa; Dawson, Rachel Miller; Harrison, Lisa M.; Watts, Marianne R.; Bumpus, Jeanne  
**Subject:** current qfrs

When this is final I think that I'd like bc staff to see this again just for google and pfd certainty. I'll start to work on opp stuff soon. Thanks

**Kelly, Andrea**

---

Not Responsive

**From:** Dawson, Rachel Miller  
**Sent:** Tuesday, May 07, 2013 2:02 PM  
**To:** Harrison, Lisa M.  
**Subject:** FW: current qfrs

This one shows pete's edits (not mine)

---

**From:** Levitas, Pete  
**Sent:** Tuesday, May 07, 2013 10:54 AM  
**To:** Signs, Kelly; Gavil, Andrew I.; Koslov, Tara Isa; Dawson, Rachel Miller; Harrison, Lisa M.; Watts, Marianne R.; Bumpus, Jeanne  
**Subject:** current qfrs

When this is final I think that I'd like bc staff to see this again just for google and pfd certainty. I'll start to work on opp stuff soon. Thanks

## Kelly, Andrea

---

**From:** Dawson, Rachel Miller  
**Sent:** Friday, May 03, 2013 4:20 PM  
**To:** Signs, Kelly  
**Subject:** RE: Draft responses to (some) QFRs

Many thanks.

---

**From:** Signs, Kelly  
**Sent:** Friday, May 03, 2013 4:17 PM  
**To:** Dawson, Rachel Miller  
**Subject:** FW: Draft responses to (some) QFRs

Rachel,

Here is a batch from BC. You can send edits back to me. I think I'm holding the pen for now.

Have a great weekend. Kelly

---

**From:** Signs, Kelly  
**Sent:** Friday, May 03, 2013 4:16 PM  
**To:** Feinstein, Richard; Levitas, Pete  
**Cc:** Mongoven, James F.; Bumpus, Jeanne  
**Subject:** Draft responses to (some) QFRs

Rich and Pete,

So here they are, the answers assigned to BC for drafting. As you can see, I've deleted questions that others will be responding to. Hopefully, you'll get a look at those answers on Monday.

This has been a joint effort by several folks from Health Care, ACP and Compliance as well as OPC. The good news is that we've got pretty good answers for the majority of questions. The bad news is that we have two questions that still need draft answers. (b)(5)

(b)(5)

Lots to read, and there will be more. When you're done, others would like to review these answers, so you can send edits back to me and I'll keep them moving.

Have a good weekend. ~Kelly

## Kelly, Andrea

---

**From:** Freedman, Bruce  
**Sent:** Monday, May 06, 2013 2:54 PM  
**To:** Shonka, David C.; Dawson, Rachel Miller; White, Christian S.  
**Cc:** Harrison, Lisa M.  
**Subject:** RE: Draft responses to (some) QFRs

Yes definitely.

-----Original Message-----

From: Shonka, David C.  
Sent: Monday, May 06, 2013 2:36 PM  
To: Freedman, Bruce; Dawson, Rachel Miller; White, Christian S.  
Cc: Harrison, Lisa M.  
Subject: RE: Draft responses to (some) QFRs

Lisa and Bruce, we are going to get together to discuss this at 5:00. Want to join chris, Rachel and me?

-----Original Message-----

From: Freedman, Bruce  
Sent: Monday, May 06, 2013 2:34 PM  
To: Dawson, Rachel Miller; Shonka, David C.; White, Christian S.  
Cc: Harrison, Lisa M.  
Subject: RE: Draft responses to (some) QFRs

I looping in Lisa, who was also involved in these issues. Here are some ideas:

(b)(5)



-----Original Message-----

From: Dawson, Rachel Miller

Sent: Monday, May 06, 2013 1:20 PM  
To: Shonka, David C.; White, Christian S.; Freedman, Bruce  
Subject: Fw: Draft responses to (some) QFRs

(b)(5)



Timing : Bc is trying to get all the responses to the ch's office by cob tomorrow, and would appreciate comments today if possible to allow this.

Many thanks.

From: Signs, Kelly  
Sent: Friday, May 03, 2013 04:17 PM  
To: Dawson, Rachel Miller  
Subject: FW: Draft responses to (some) QFRs

Rachel,

Here is a batch from BC. You can send edits back to me. I think I'm holding the pen for now.

Have a great weekend. Kelly

From: Signs, Kelly  
Sent: Friday, May 03, 2013 4:16 PM  
To: Feinstein, Richard; Levitas, Pete  
Cc: Mongoven, James F.; Bumpus, Jeanne  
Subject: Draft responses to (some) QFRs

Rich and Pete,

So here they are, the answers assigned to BC for drafting. As you can see, I've deleted questions that others will be responding to. Hopefully, you'll get a look at those answers on Monday.



This has been a joint effort by several folks from Health Care, ACP and Compliance as well as OPC. The good news is that we've got pretty good answers for the majority of questions. The bad news is that we have two questions that still need draft answers—

(b)(5)

(b)(5)

Lots to read, and there will be more. When you're done, others would like to review these answers, so you can send edits back to me and I'll keep them moving.

Have a good weekend...~Kelly



## Kelly, Andrea

---

**From:** Signs, Kelly  
**Sent:** Monday, May 06, 2013 2:20 PM  
**To:** Dawson, Rachel Miller  
**Subject:** RE: Draft responses to (some) QFRs

Good, okay.

Not Responsive

**From:** Dawson, Rachel Miller  
**Sent:** Monday, May 06, 2013 12:55 PM  
**To:** Signs, Kelly  
**Subject:** Fw: Draft responses to (some) QFRs

Kelly - I hope I've managed to attach the docs-to-go version w my comments. They are all in parentheses. Lisa supplied the (few) comments on pfd.

(b)(5)

**From:** Signs, Kelly  
**Sent:** Friday, May 03, 2013 04:17 PM  
**To:** Dawson, Rachel Miller  
**Subject:** FW: Draft responses to (some) QFRs

Rachel,

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---

**From:** Signs, Kelly  
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**To:** Feinstein, Richard; Levitas, Pete  
**Cc:** Mongoven, James F.; Bumpus, Jeanne  
**Subject:** Draft responses to (some) QFRs

Rich and Pete,

So here they are, the answers assigned to BC for drafting. As you can see, I've deleted questions that others will be responding to. Hopefully, you'll get a look at those answers on Monday.

This has been a joint effort by several folks from Health Care, ACP and Compliance as well as OPC. The good news is that we've got pretty good answers for the majority of questions. The bad news is that we have two questions that still need draft answers—

(b)(5)

(b)(5)

Lots to read, and there will be more. When you're done, others would like to review these answers, so you can send edits back to me and I'll keep them moving.

Have a good weekend. ~Kelly

## Kelly, Andrea

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**From:** Signs, Kelly  
**Sent:** Monday, May 06, 2013 1:06 PM  
**To:** Dawson, Rachel Miller  
**Subject:** RE: Draft responses to (some) QFRs

Rachel, I think this is what I sent you. I don't see any comments on this version.

---

**From:** Dawson, Rachel Miller  
**Sent:** Monday, May 06, 2013 12:55 PM  
**To:** Signs, Kelly  
**Subject:** Fw: Draft responses to (some) QFRs

Kelly - I hope I've managed to attach the docs-to-go version w my comments. They are all in parentheses. Lisa supplied the (few) comments on pfd.

(b)(5)

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**From:** Signs, Kelly  
**Sent:** Friday, May 03, 2013 04:17 PM  
**To:** Dawson, Rachel Miller  
**Subject:** FW: Draft responses to (some) QFRs

Rachel,

Here is a batch from BC. You can send edits back to me. I think I'm holding the pen for now.

Have a great weekend. Kelly

---

**From:** Signs, Kelly  
**Sent:** Friday, May 03, 2013 4:16 PM  
**To:** Feinstein, Richard; Levitas, Pete  
**Cc:** Mongoven, James F.; Bumpus, Jeanne  
**Subject:** Draft responses to (some) QFRs

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(b)(5)

(b)(5)

## Kelly, Andrea

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**From:** Harrison, Lisa M.  
**Sent:** Monday, May 06, 2013 11:10 AM  
**To:** Dawson, Rachel Miller  
**Subject:** RE: Draft responses to (some) QFRs

I don't think you sent this to me earlier.

Not Responsive

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**From:** Dawson, Rachel Miller  
**Sent:** Monday, May 06, 2013 10:51 AM  
**To:** Harrison, Lisa M.  
**Subject:** Fw: Draft responses to (some) QFRs

Did I send this to you? Some are yours. Thx

---

**From:** Signs, Kelly  
**Sent:** Friday, May 03, 2013 04:17 PM  
**To:** Dawson, Rachel Miller  
**Subject:** FW: Draft responses to (some) QFRs

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