

Antitrust: Commission fines Google €2.42 billion for abusing dom

The company must now end the conduct within 90 days or face penalty payments of up to 5% of the average daily worldwide turnover of Alphabet, Google's parent company.

Commissioner Margrethe **Vestager**, in charge of competition policy, said: *"Google has come up with many innovative products and services that have made a difference to our lives. That's a good thing. But Google's strategy for its comparison shopping service wasn't just about attracting customers by making its product better than those of its rivals. Instead, Google abused its market dominance as a search engine by promoting its own comparison shopping service in its search results, and demoting those of competitors."*

What Google has done is illegal under EU antitrust rules. It denied other companies the chance to compete on the merits and to innovate. And most importantly, it denied European consumers a genuine choice of services and the full benefits of innovation."

Google's strategy for its comparison shopping service

Google's flagship product is the Google search engine, which provides search results to consumers, who pay for the service with their data. Almost 90% of Google's revenues stem from adverts, such as those it shows consumers in response to a search query.

In 2004 Google entered the separate market of comparison shopping in Europe, with a product that was initially called "Froogle", re-named "Google Product Search" in 2008 and since 2013 has been called "Google Shopping". It allows consumers to compare products and prices online and find deals from online retailers of all types, including online shops of manufacturers, platforms (such as Amazon and eBay), and other re-sellers.

When Google entered comparison shopping markets with Froogle, there were already a number of established players. Contemporary evidence from Google shows that the company was aware that Froogle's market performance was relatively poor (one internal document from 2006 stated *"Froogle simply doesn't work"*).

Comparison shopping services rely to a large extent on traffic to be competitive. More traffic leads to more clicks and generates revenue. Furthermore, more traffic also attracts more retailers that want to list their products with a comparison shopping service. Given Google's dominance in general internet search, its search engine is an important source of traffic for comparison shopping services.

From 2008, Google began to implement in European markets a fundamental change in strategy to push its comparison shopping service. This strategy relied on

Google's dominance in general internet search, instead of competition on the merits in comparison shopping markets:

- **Google has systematically given prominent placement to its own comparison shopping service:** when a consumer enters a query into the Google search engine in relation to which Google's comparison shopping service wants to show results, these are displayed at or near the top of the search results.
- **Google has demoted rival comparison shopping services in its search results:** rival comparison shopping services appear in Google's search results on the basis of Google's generic search algorithms. Google has included a number of criteria in these algorithms, as a result of which rival comparison shopping services are demoted. Evidence shows that even the most highly ranked rival service appears on average only on page four of Google's search results, and others appear even further down. Google's own comparison shopping service is not subject to Google's generic search algorithms, including such demotions.

As a result, Google's comparison shopping service is much more visible to consumers in Google's search results, whilst rival comparison shopping services are much less visible.

The evidence shows that consumers click far more often on results that are more visible, i.e. the results appearing higher up in Google's search results. Even on a desktop, the ten highest-ranking generic search results on page 1 together generally receive approximately 95% of all clicks on generic search results (with the top result receiving about 35% of all the clicks). The first result on page 2 of Google's generic search results receives only about 1% of all clicks. This cannot just be explained by the fact that the first result is more relevant, because evidence also shows that moving the first result to the third rank leads to a reduction in the number of clicks by about 50%. The effects on mobile devices are even more pronounced given the much smaller screen size.

This means that by giving prominent placement only to its own comparison shopping service and by demoting competitors, Google has given its own comparison shopping service a significant advantage compared to rivals.

Breach of EU antitrust rules

Google's practices amount to an abuse of Google's dominant position in general internet search by stifling competition in comparison shopping markets.

Market dominance is, as such, not illegal under EU antitrust rules. However, dominant companies have a special responsibility not to abuse their powerful market position by restricting competition, either in the market where they are dominant or in separate markets.

- Today's Decision concludes that **Google is dominant in general internet search markets throughout the European Economic Area (EEA)**, i.e. in all 31 EEA countries. It found Google to have been dominant in general

internet search markets in all EEA countries since 2008, except in the Czech Republic where the Decision has established dominance since 2011. This assessment is based on the fact that Google's search engine has held very high market shares in all EEA countries, exceeding 90% in most. It has done so consistently since at least 2008, which is the period investigated by the Commission. There are also high barriers to entry in these markets, in part because of network effects: the more consumers use a search engine, the more attractive it becomes to advertisers. The profits generated can then be used to attract even more consumers. Similarly, the data a search engine gathers about consumers can in turn be used to improve results.

- **Google has abused this market dominance by giving its own comparison shopping service an illegal advantage.** It gave prominent placement in its search results only to its own comparison shopping service, whilst demoting rival services. It stifled competition on the merits in comparison shopping markets.

Google introduced this practice in all 13 EEA countries where Google has rolled out its comparison shopping service, starting in January 2008 in Germany and the United Kingdom. It subsequently extended the practice to France in October 2010, Italy, the Netherlands, and Spain in May 2011, the Czech Republic in February 2013 and Austria, Belgium, Denmark, Norway, Poland and Sweden in November 2013.



The effect of Google's illegal practices

Google's illegal practices have had a significant impact on competition between Google's own comparison shopping service and rival services. They allowed Google's comparison shopping service to make significant gains in traffic at the expense of its rivals and to the detriment of European consumers.

Given Google's dominance in general internet search, its search engine is an important source of traffic. As a result of Google's illegal practices, traffic to Google's comparison shopping service increased significantly,

whilst rivals have suffered very substantial losses of traffic on a lasting basis.

- Since the beginning of each abuse, Google's comparison shopping service has increased its traffic 45-fold in the United Kingdom, 35-fold in Germany, 19-fold in France, 29-fold in the Netherlands, 17-fold in Spain and 14-fold in Italy.
- Following the demotions applied by Google, traffic to rival comparison shopping services on the other hand dropped significantly. For example, the Commission found specific evidence of sudden drops of traffic to certain rival websites of 85% in the United Kingdom, up to 92% in Germany and 80% in France. These sudden drops could also not be explained by other factors. Some competitors have adapted and managed to recover some traffic but never in full.

In combination with the Commission's other findings, this shows that Google's practices have stifled competition on the merits in comparison shopping markets, depriving European consumers of genuine choice and innovation.

Evidence gathered

In reaching its Decision, the Commission has gathered and comprehensively analysed a broad range of evidence, including:

- 1) contemporary documents from both Google and other market players;
- 2) very significant quantities of real-world data including 5.2 Terabytes of actual search results from Google (around 1.7 billion search queries);
- 3) experiments and surveys, analysing in particular the impact of visibility in search results on consumer behaviour and click-through rates;
- 4) financial and traffic data which outline the commercial importance of visibility in Google's search results and the impact of being demoted; and
- 5) an extensive market investigation of customers and competitors in the markets concerned (the Commission addressed questionnaires to several hundred companies).

Consequences of the Decision

The Commission's fine of €2 424 495 000 takes account of the duration and gravity of the infringement. In accordance with the [Commission's 2006 Guidelines on fines](#) (see [press release](#) and [MEMO](#)), the fine has been calculated on the basis of the value of Google's revenue from its comparison shopping service in the 13 EEA countries concerned.

The Commission Decision requires Google to stop its illegal conduct within 90 days of the Decision and refrain from any measure that has the same or an equivalent object or effect. In particular, the Decision orders Google to comply with the simple principle of giving **equal treatment** to rival comparison shopping services and its own service:

Google has to apply the same processes and methods to position and display rival comparison shopping services in Google's search results pages as it gives to its own comparison shopping service.

It is Google's sole responsibility to ensure compliance and it is for Google to explain how it intends to do so. Regardless of which option Google chooses, the Commission will monitor Google's compliance closely and Google is under an obligation to keep the Commission informed of its actions (initially within 60 days of the Decision, followed by periodic reports).

If Google fails to comply with the Commission's Decision, it would be liable for non-compliance payments of up to 5% of the average daily worldwide turnover of Alphabet, Google's parent company. The Commission would have to determine such non-compliance in a separate decision, with any payment backdated to when the non-compliance started.

Finally, Google is also liable to face civil actions for damages that can be brought before the courts of the Member States by any person or business affected by its anti-competitive behaviour. The new EU [Antitrust Damages Directive](#) makes it [easier for victims of anti-competitive practices to obtain damages](#).

Other Google cases

The Commission has already come to the preliminary conclusion that Google has abused a dominant position in two other cases, which are still being investigated. These concern:

- 1) the [Android operating system](#), where the Commission is concerned that Google has stifled choice and innovation in a range of mobile apps and services by pursuing an overall strategy on mobile devices to protect and expand its dominant position in general internet search; and
- 2) [AdSense](#), where the Commission is concerned that Google has reduced choice by preventing third-party websites from sourcing search ads from Google's competitors.

The Commission also continues to examine Google's treatment in its search results of other specialised Google search services. Today's Decision is a precedent which establishes the framework for the assessment of the legality of this type of conduct. At the same time, it does not replace the need for a case-specific analysis to account for the specific characteristics of each market.

Background

See also [Factsheet](#).

Today's Decision is addressed to Google Inc. and Alphabet Inc., Google's parent company.

Article 102 of the Treaty on the Functioning of the European Union (TFEU) and Article 54 of the EEA Agreement prohibit abuse of a dominant position.

Today's Decision follows two Statements of Objections sent to Google in [April 2015](#) and [July 2016](#).

More information on this investigation is available on the Commission's [competition](#) website in the public [case register](#) under the case number [39740](#).

Statement by Commissioner Vestager on Commission decision to fine Google €2.42 billion for abusing dominance as search engine by giving illegal advantage to own comparison shopping service

Please check against delivery

Today, the Commission has decided to fine Google €2.4 billion for breaching EU antitrust rules. Google has abused its market dominance as a search engine by giving illegal advantages to another Google product, its comparison shopping service. Google must end the conduct within 90 days or face penalty payments.

The EU's antitrust rules apply to all companies that operate in the European Economic Area, no matter where they are based. Their purpose is to ensure competition and innovation for the benefit of European consumers.

Google has come up with many innovative products and services that have made a difference to our lives. That's a good thing.

But Google's strategy for its comparison shopping service wasn't just about attracting customers. It wasn't just about making its product better than those of its rivals. Instead, Google has abused its market dominance as a search engine by promoting its own comparison shopping service in its search results, and demoting those of competitors.

What Google has done is illegal under EU antitrust rules. It has denied other companies the chance to compete on the merits and to innovate. And most importantly, it has denied European consumers the benefits of competition, genuine choice of services and innovation.

Facts of the case

So, what happened in this case?

Google's flagship product is the Google search engine. It provides search results to consumers, who pay for the service with their data. Every year, Google makes almost 80 billion US dollars worldwide from adverts, such as those it shows consumers in response to search queries. So the more consumers see and click on those adverts, the more revenue Google generates.

In 2004, Google entered the separate market for comparison shopping with a product called "Froogle". Essentially, Froogle allowed consumers to compare products and prices online and find deals from retailers of all types. Over the years, Google re-named its comparison shopping service twice, first to "Google Product Search" in 2008 and then "Google Shopping" in 2013.

Froogle was not the first in this market. A number of established players were already competing in the same space. Froogle, on the other hand, did not perform well. As Google itself put it in an internal document from 2006 – *"Froogle simply doesn't work"*.

By contrast, Google's search engine worked very well. And it was also a significant source of traffic for comparison shopping services.

So, in 2008, Google made a fundamental change to its strategy. Google started to give its own product a significantly better treatment than rivals. In search results, Google systematically gave prominent placement only to its own product. Google also demoted rival comparison shopping services, which means a lower ranking in generic search results.

So, what does this mean in practice? Imagine, you want to look for a product online. You type the product into the Google search engine. What you will see right at the top of the page is a box with Google Shopping's results, with pictures and a selection of deals from different retailers. They are placed above the results that Google's generic search algorithms consider most relevant. This happens whenever Google wants to present comparison shopping results in response to a search query. Sometimes, results are also displayed in a reserved place on the right-hand side.

At the same time, Google has demoted rival comparison shopping services in its search results. The evidence shows that even the most highly ranked rival appears on average only on page four of Google's search results. Others appear even further down.

This means that Google Shopping is much more visible and other comparison shopping services are much less visible to consumers. As a result, competitors are much less likely to be clicked on. The Commission found evidence of sudden drops in clicks on certain rival websites of more than 90%, after Google applied demotions. Some of them adapted and managed to recover some traffic, but never in full.

Even on desktops, 95% of all user clicks are on the first page of Google's search results. In fact, the top generic search result receives about 35% of all clicks. This tendency is even stronger on mobile devices. Furthermore, we found evidence that the top generic search result, when moved to the third rank, is likely to receive about 50% less clicks.

In short, visibility and traffic are two sides of the same coin. And I mean “coin” in the literal sense – the more consumers click on comparison shopping results, the more money Google makes. Google’s practices have therefore allowed Google Shopping to make significant gains in traffic at the expense of its competitors.

Breach of EU antitrust rules

Our investigation assessed whether these practices breach EU antitrust rules.

Market dominance is, as such, not a problem under EU antitrust rules. However, a market that is already dominated by one company needs extra vigilance to ensure competition on the merits. And we also have to avoid that this dominance affects competition on the merits in other markets.

That’s why EU antitrust rules put special responsibilities on dominant companies. They cannot abuse their strong market position to hinder competition in the market they dominate or in any other market. In other words, they are not allowed to abuse their power in one market to give themselves an advantage in another.

Our investigation proved that Google has done exactly that.

First, we concluded that Google is dominant in general internet search markets in all 31 countries of the European Economic Area – even if Google continues to dispute this.

We have shown that the Google search engine holds very high market shares of over 90% in most European countries. This has been the case since at least 2008, which is the period we investigated. There are high barriers to entry in the market: the more consumers use a search engine, the more attractive it becomes to advertisers. The profit generated can in turn be used to attract even more consumers. Similarly, the more data a search engine gathers from consumers, the better equipped it is to improve its results.

Second, our decision found that Google has abused this dominance and seriously harmed competition in comparison shopping markets. Google gave an illegal advantage to its comparison shopping service by promoting it in its search results and demoting rivals.

Google has implemented these illegal practices in Europe everywhere it offers comparison shopping services. It started from as early as 2008 in Germany and the United Kingdom, followed by France, Italy, the Netherlands, Spain, then the Czech Republic and finally Austria, Belgium, Denmark, Norway, Poland and Sweden. 418 million citizens live in these 13 countries. So, Google’s practices have deprived millions of European consumers of the full benefits of competition, genuine choice and innovation.

Consequences from this decision

The fine of €2.4 billion reflects the serious and sustained nature of Google’s violations of EU antitrust rules.

The decision requires Google to stop its illegal conduct within 90 days. Google must respect a simple principle:

It has to give **equal treatment** to rival comparison shopping services and to its own. It has to apply the same methods and processes to position and display its own and rival comparison shopping services in its search results.

This means that Google cannot simply stop doing what it is doing now and replace it with other practices that have the same or equivalent anti-competitive effect.

It is Google's sole responsibility to ensure compliance and it is for Google to explain how it intends to do so. I have no reason to believe that Google will not comply.

But regardless of which option Google chooses, we will monitor Google's compliance closely. This means that this issue will remain on our desks for some time. If Google doesn't comply with its obligations under the decision, it would be subject to a penalty. That would have to be established in a separate Commission decision. We can impose fines of up to 5% of the average daily worldwide turnover of Alphabet, Google's parent, for each day of non-compliance. And it's backdated from the date of that decision to when the non-compliance started.

In addition, anyone who has suffered damage from Google's illegal behaviour can claim compensation from Google before national courts.

So, this decision requires Google to change the way it operates and face the consequences of its actions.

Process

Since I took office in November 2014, I have given high priority to this case. Because various attempts to find a negotiated solution with Google had failed, I chose to take the case forward in a different way. My services first updated the information in the files. In April 2015 we then sent our Statement of Objections to Google, followed by a supplementary one in July 2016.

Before reaching our conclusions we have analysed huge quantities of data. This includes 5.2 Terabytes of actual search results from Google. That's the equivalent of 1.7 billion search queries, or about 460 million copies of my statement here today. It would take me more than 17,000 years to read them out.

Our decisions have to be based on firm evidence. We have to prove our points, even if they seem intuitive. Let's take, for example, the impact of prominent placement in Google's search results on traffic. First, we analysed studies on user click behaviour, which indicated that there is a link. But we did not stop there. We also accounted for the possibility that there may be good reasons why users click on the top result more often – namely, because they are more relevant. So, we simulated what happens if you swap the ranking of generic search results. This confirmed that the same result receives

significantly more traffic, when ranked higher up.

Our investigations never take place in isolation. We had many exchanges with Google to hear its views. And we had many exchanges with its customers and competitors. Some of them, including US companies, were actively involved as complainants or interested third parties. And hundreds of companies took the time to reply to our questionnaires and to provide the Commission with essential information.

So, we took this decision after a thorough investigation that respected Google's rights of defence. We will publish the decision for all to see, as soon as we agree with Google and third parties on any confidential business secrets that need to be removed.

Next steps

We are also making good progress with our two other pending inquiries into certain Google practices concerning Android as well as search advertising. Our preliminary conclusion in relation to both practices is that they breach EU antitrust rules.

Finally, a few words on concerns that Google may have abused its dominance as a search engine to give an illegal advantage to Google products other than its comparison shopping service. We have been looking into these. And today's decision is a precedent, which can be used as a framework to analyse the legality of such conduct. At the same time, we would have to take account of the characteristics of each market and the facts in a specific case.

Conclusion

But most importantly, what today's decision shows is that, in Europe, companies must compete on the merits, regardless of whether they operate online or on the high street, if they are European or not. We invite you to make the most of our European market with more than 500 million citizens, so 500 million potential customers. And, we congratulate you for being successful.

But the applause stops when you stop competing on the merits. You will never get a free pass to stop competing on the merits, neither in the market you dominate nor in other markets.

Google has given its comparison shopping service an illegal advantage by abusing its dominance in general internet search. It has promoted its own service and demoted rival services. It has harmed competition and consumers. That is illegal under EU antitrust rules.

And that's why we have taken today's decision. So that European consumers can enjoy the full benefits of competition, genuine choice and innovation.

Report: Protectionism on the Rise, EU Successful in Countering B

European exporters reported a 10% increase in the number of trade barriers they encountered in 2016 alone. 372 such barriers were in place at the end of last year in over 50 trade destinations across the world. The 36 obstacles created in 2016 could affect EU exports that are currently worth around €27 billion.

According to the Report on Trade and Investment Barriers released today by the European Commission, thanks to its effective Market Access Strategy, the Commission succeeded last year in removing as many as 20 different obstacles hindering European exports.

Commenting on the report, EU Trade Commissioner Cecilia **Malmström** said: *"We clearly see that the scourge of protectionism is on the rise. It affects European firms and their workers. It is worrying that G20 countries are maintaining the highest number of trade barriers. At the upcoming G20 summit in Hamburg, the EU will urge leaders to walk the talk and resist protectionism. Europe will not stand idly by and will not hesitate to use the tools at hand when countries don't play by the rules."*

The Trade and Investment Barriers Reports are published annually since the beginning of the 2008 economic crisis. This year's edition is fully based on concrete complaints received by the Commission from European companies. They concern a wide range of products covering everything from agri-food to shipbuilding industries.

G20 members figure prominently among countries having created the highest number of import obstacles. Russia, Brazil, China and India top the list. Most of the new protectionist measures reported in 2016 appeared also in Russia and India, followed by Switzerland, China, Algeria and Egypt.

The Commission strongly defends European businesses against rising protectionist tendencies. Its efforts brought tangible results in 2016. The Commission managed to restore normal trading conditions in 20 various cases affecting EU exports worth €4.2 billion. South Korea, China, Israel and Ukraine top the list of countries where the EU succeeded in tackling barriers.

The EU food and drink, automotive and cosmetics sectors are those who benefited the most from the recent EU action. To give a few examples, following an EU intervention, China suspended labelling requirements that would otherwise affect the €680 million-worth EU cosmetics exports; Korea agreed to bring its rules for the size of car seats in line with international rules and Israel enabled companies from the whole of the EU to request market authorisation and export their pharmaceutical products.

All this was made possible thanks to the effective cooperation between the

Commission, EU Member States and European business representatives through the EU Market Access Strategy and improved relations with trading partners under the recent EU's trade agreements.

The Market Access Strategy is a pivotal part of the EU's efforts to create the best possible conditions for European firms to export around the world and to ensure an effective enforcement of international trade rules.

The measures targeted in the report do not cover the trade defence measures. Anti-dumping or anti-subsidy duties, imposed in line with WTO requirements, are tools that serve to restore fair trading conditions. They are used by the EU and many of its partners to ensure a level-playing field.

For More Information

[Commission report on trade and investment barriers](#)

[Speech by Commissioner Malmström at Press Conference](#)

[Market Access Strategy](#)

[2016 success stories](#)

[Trade barriers complaints register](#)

[Factsheet](#)

[Guidelines on calibration of circuit breakers and publication of trading halts under MiFID II](#)

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