

Meeting on Google antitrust case

Present: [redacted] [Expedia], [redacted] [Burson-Mersteller], [redacted]
[Clifford Chance], [redacted] [Cadwalder L.P.P]

DG CONNECT: Lucy Sioli, [redacted] [redacted]

- Fairsearch is a coalition of 15 companies [including Expedia, Foundem, TripAdvisor, Twenga, Microsoft...] who complaint in the current antitrust case
- <http://www.fairsearch.org/about-fairsearch/>
- According to Fairsearch Google ties its horizontal and vertical search services in way that constitutes an abuse of dominant position
- Fairsearch is dissatisfied with the 3rd set of commitments and wants to present their arguments to DG CONNECT. They want to avoid a quick decision by the current Commission.
- Their critics focus essentially to the proposed solution to the 1st competition concern related to the preferential treatment of Google's vertical services and the propose auction mechanism for 3 competitors.
- Contrary to the assessment of DG COMP - the auction will not be used by SME's and it will generate revenue to Google.
- The mechanism chooses eligible competitors on the basis of two criteria: level of bids and expected click-through rate. Newcomers cannot have high click-through rate (compared to established companies) because they are not known. Hence, they will not be able to meet the auction requirements.
- The argument that the auction used is a "second price" auction, where the winner pays only what the second-best bid offered, is irrelevant, since in markets where margins are low and the offer is similar – like travel – bids are very close to each other, hence the winner will pay very close to his own bid. As a result, all the profits of the suppliers are transferred to Google via the auctioning mechanism.
- In any case, Google will aim to maximise their profit on the new auction – the consumer will see the bids which are the most profitable for Google not necessarily the most relevant.
- Currently, for some searches, such as a hotel/place combination, the entire screen is paid-for content, with up to five different auctions for different segments of the screen.
- According to F., DG COMP has not undertaken any analysis to measure the economic effects of the 3rd set of commitments and did not take into account the latest evidence provided by stakeholders
- The commitment by Google to abolish the exclusivity requirement of its Adwords programme is undermined by new requirements which have the same effect (such as placing all of Google's ads in a block, not leaving any possibility for competing ad programmes).
- In general Fairsearch disagrees with the overall approach in the commitments and doesn't see the way to improve them. They support a principle-based approach either through commitments or through EC decision.