



AG FERGUSON FILES FEDERAL ANTITRUST LAWSUIT AGAINST TECHNOLOGY GIANT GOOGLE



FOR IMMEDIATE RELEASE:

Dec 17 2020

Bipartisan coalition asserts Google's exclusionary conduct unlawfully stifles competition

OLYMPIA — Attorney General Bob Ferguson today partnered with a bipartisan coalition of 38 attorneys general to file a federal antitrust lawsuit against Google. The lawsuit asserts that the technology giant illegally leverages its dominance in the online search and search advertising markets to stifle competing platforms, drive advertisers away from rival search engines, and limit competing specialized sellers' ability to bring customers directly to their sites from general Google search results.

The lawsuit (https://agportal-s3bucket.s3.amazonaws.com/uploadedfiles/Another/News/Press_Releases/GoogleREDACTED_FILED_Complaint.pdf), filed today in U.S. District Court for the District of Columbia, asserts that Google and its parent company Alphabet Inc. used exclusionary contracts and unlawful self-preferencing business practices to protect its monopoly, harming consumers, undermining competition and squelching innovation that could threaten its dominance in the market for general internet search and related search advertising.

"Corporations that form illegal monopolies cripple competition and harm individual consumers," Ferguson said. "We will continue holding powerful interests accountable when they engage in unfair, anticompetitive conduct that harms Washingtonians."

Google annually provides billions of dollars in financial incentives to pre-install Google Search as the default or exclusive search program on established and emerging internet-connected devices ranging from computers and smart phones to voice-based home speakers and internet-connected vehicles. The bipartisan lawsuit asserts that this is an anticompetitive practice intended to protect Google's monopoly, and, consequently, unlawful.

The lawsuit also asserts that Google is unlawfully stifling competitors by using its universal advertising tool to steer advertisers away from competing search engines.

Moreover, the lawsuit asserts that Google's search engine unlawfully drives consumers away from specialized sellers, such as airline ticket sellers, that provide a similar service.

Ferguson's lawsuit seeks to stop Google's anticompetitive conduct and void any contracts that illegally block competitors to Google's services and provide additional relief to restore competition, including, if necessary, requiring the company to divest from portions of its business that facilitate its monopoly.

Google's dominance in online search fuels its ad business

Nearly 90 percent of all internet searches in the United States run through Google's search engine. No other competing search engine has more than 7 percent of the market.

Google closely tracks and analyzes virtually every search and click by consumers — people whom Google's chief economist describes as the "great unwashed" — and then leverages that user data to strengthen its position in the extremely lucrative search-based advertising market.

In the last decade, Google's revenue from search advertising has grown 300 percent. In 2019, search advertising accounted for \$98 billion in revenue for Google — more than the gross domestic product of 129 countries and the budgets of 46 states, the lawsuit notes.

Losing searches and clicks — and the opportunity to collect valuable user data — means losing revenue.

Exclusionary contracts designed to stifle competition

The lawsuit alleges that Google uses its massive financial resources to exclude its competitors.

For example, the company uses restrictive contracts to limit general search competition on devices that run the Android operating system — which Google also owns. Google pursues similar strategies with other devices, such as desktop computers, voice assistants and internet-connected cars.

Google also uses its vast financial resources to maintain its exclusivity. For instance, Google pays Apple Inc. between \$8 billion and \$12 billion per year to ensure that Google is the default search engine on Apple devices.

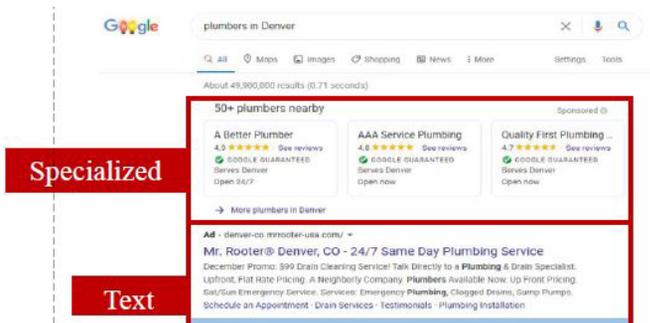
Using its own ad tool to drive advertisers to Google

Google developed a search advertising management tool used by many of the world's most sophisticated advertisers. In order to attract big-ticket advertisers to its tool, SA 360, Google marketed that tool as offering objective information about advertising performance on its platform and other search platforms. In other words, Google marketed that SA 360 was not skewed to favor Google. However, the lawsuit asserts, SA 360 provides a skewed portrayal of ad performance that favors Google and makes potential competitors look far less effective.

For example, Google's tool offers real-time granular analysis of advertising effectiveness on its own platform, but does not support it for advertisements on Bing — despite the fact that Bing offers such data. Instead, SA 360 offers only delayed data analysis for ads on Bing. Bing has asked Google to support the better analysis method for its ads, but Google has refused, making ads on Google look much more effective on its advertising tool.

As a result, SA 360 unfairly steers ad revenue away from rival platforms and to Google, the lawsuit asserts.

Google restricts specialized sellers to keep consumers on its pages



The lawsuit also asserts that Google limits the ability of specialized sellers to bring consumers directly to their sites from general Google search results, because those sites compete with similar services available through Google and threaten to take “clicks” away.

Specialized sellers are typically companies that offer consumers ways to find merchants — such as airline ticket sellers or local electricians or plumbers — and often complete transactions with those merchants.

Google sells ads to specialized sellers, such as plumbers or airline ticket sellers, so they can appear at the top of

search results. However, Google prohibits these sellers from displaying links to bring consumers directly to their websites. Instead, clicking on the result at the top of the search is designed to bring users to another Google marketplace site.

Specialized sellers rely on Google searches for at least 30 to 40 percent of their traffic. In internal documents, Google executives recognized the danger to its general search and data collection dominance if specialized sellers are able to attract consumers directly to their sites.

What we're seeking

The lawsuit asserts that Google's exclusionary conduct violates the Sherman Antitrust Act by illegally blocking competition to its dominance in online search and advertising markets, harming consumers, advertisers and competitors.

The states ask the court to void Google's exclusionary contracts, block Google's anticompetitive use of its advertising tool and bar the company from conduct that unlawfully restricts specialized sellers' ability to compete with Google's services.

Arizona, Colorado, Iowa, Nebraska, New York, North Carolina, Tennessee and Utah are leading the multistate coalition. In addition to Washington, Alaska, Connecticut, Delaware, Hawaii, Idaho, Illinois, Kansas, Maine, Maryland, Massachusetts, Minnesota, Nevada, New Hampshire, New Jersey, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Vermont, Virginia, West Virginia, Wyoming, the District of Columbia, and the territories of Guam and Puerto Rico are participating in the case.

Today's lawsuit against Google is separate from a similar case the U.S. Department of Justice (DOJ) filed in October, joined by 11 other states. The states' lawsuit today expands on the claims included in the DOJ lawsuit.

Assistant Attorneys General Amy Hanson and Linh Tran with the office's Antitrust Division are leading the case for Washington.

The Office of the Attorney General's Antitrust Division is responsible for enforcing the antitrust provisions of Washington's Unfair Business Practices-Consumer Protection Act and federal antitrust laws. The division investigates and litigates complaints of anticompetitive conduct and reviews potentially anticompetitive mergers. The division also brings actions in state and federal courts to enforce antitrust laws. It receives no general fund support, funding its own actions through recoveries made in other cases.

For information about filing a complaint about potential anticompetitive activity, visit <https://fortress.wa.gov/atg/formhandler/ago/AntitrustComplaint.aspx> (<https://fortress.wa.gov/atg/formhandler/ago/AntitrustComplaint.aspx>).

Other actions against Google

In 2018, Google paid Washington state \$217,000 (<https://www.atg.wa.gov/news/news-releases/google-facebook-pay-more-400k-washington-state-campaign-finance-cases>) to resolve Ferguson's lawsuit accusing the company of violating Washington campaign finance disclosure laws that require political advertisers to maintain information about those who purchase advertising and make that information available to the public. In October, Ferguson announced his intention to file a second lawsuit against Google after a referral from the state Public Disclosure Commission, accusing the company of continuing to violate campaign finance disclosure laws.

In 2013, Google paid Washington state more than \$600,000 (<https://www.atg.wa.gov/news/news-releases/google-pay-washington-state-610600-settle-consumer-tracking-allegations>) over alleged data privacy violations involving tracking consumers. The payment to Washington was part of a total of \$17 million split between 37 states and the District of Columbia. Google also paid Washington state more than \$135,000 (<https://www.atg.wa.gov/news/news-releases/google-pay-7-million-multistate-settlement-over-street-view>) the same year for unauthorized data collection through its Street View service. This payment to Washington was part of a \$7 million settlement split between 38 states and D.C.

The Office of the Attorney General is the chief legal office for the state of Washington with attorneys and staff in 27 divisions across the state providing legal services to roughly 200 state agencies, boards and commissions. Visit www.atg.wa.gov (<http://www.atg.wa.gov>) to learn more.

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