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# Competition Law and Search Engines: Theories of Harm

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1. Search Services and Related Markets
2. European Commission (EC) Google Search case
3. Theories of Harm
4. Arguments of Defense



- Search services
  - Organic search (unpaid)
  - Paid search
  - Vertical search engines (e.g. travel, restaurants, shopping, finance)
- Two-side platform: two categories of customers
  - Users of search services
  - Advertisers



# European Commission (EC) Google Search case

- 30 November 2010: opening EC investigation (case 39740 Google Search)
  1. Search bias
  2. “Scraping”
  3. Advertising exclusivity
  4. Undue restrictions on advertisers
- 2013: proposed commitments (3 versions) and market test
  - Speech former Competition Commissioner Almunia: Statement on the Google investigation
  - November 2014: appointment new Commissioner Margrethe Vestager
- 27 November 2014: European Parliament (non-legislative) resolution on supporting consumer rights in the digital single market (paragraphs 15-18)
- 15 April 2015: Statement of Objections (Google shopping)
  - Continue to investigate on other 3 concerns
  - Extension to other specialized (vertical) search services (e.g., restaurants, travel, mapping)?
  - *[new investigation on Android]*

# EC Preliminary Conclusions on Google Shopping

- Alleged **more favourable treatment** of «Google Shopping» search results (and its predecessor) compared to competing shopping services
  - e.g., systematically positions and prominently displays irrespective of merits; different system of penalties
- Resulted in **higher rates of growth** of Google shopping
- Negative impact on **consumers** and **innovation**
- Need to «treat its own comparison shopping service and those of rivals **in the same way**»
  - Same underlying processes and methods in deciding positioning and display of results
  - Same display features
  - No interference with **Google algorithms** or **design of its search result pages**

- Discrimination leading to:
  - Harm to **customers** and **innovation** vs. anticompetitive **foreclosure**
- Google search capability is an **essential facility** (impossible to replicate by competitors in vertical search services)?
  - High up-front costs of indexing trillions of web pages
  - Benefits of scale
  - Superior algorithm?
- To what extent Google can legitimately use its dominance in search, to the benefit of its related business?



# Google's Arguments of Defense

- “Competition is just one click away”
  - Consumers have easy access to rival services (e.g., apps)
- Consumers “love” Google (i.e., no alleged harm to consumers)
- Google search algorithm save time to consumers
- Search results refined to exclude low-quality sites and give users the best experience



Thank you!