



United States & Co-Plaintiff States v. Google LLC

Plaintiffs' Opening Statement

Ex. No.
UPXD001
1:20-cv-03010-APM

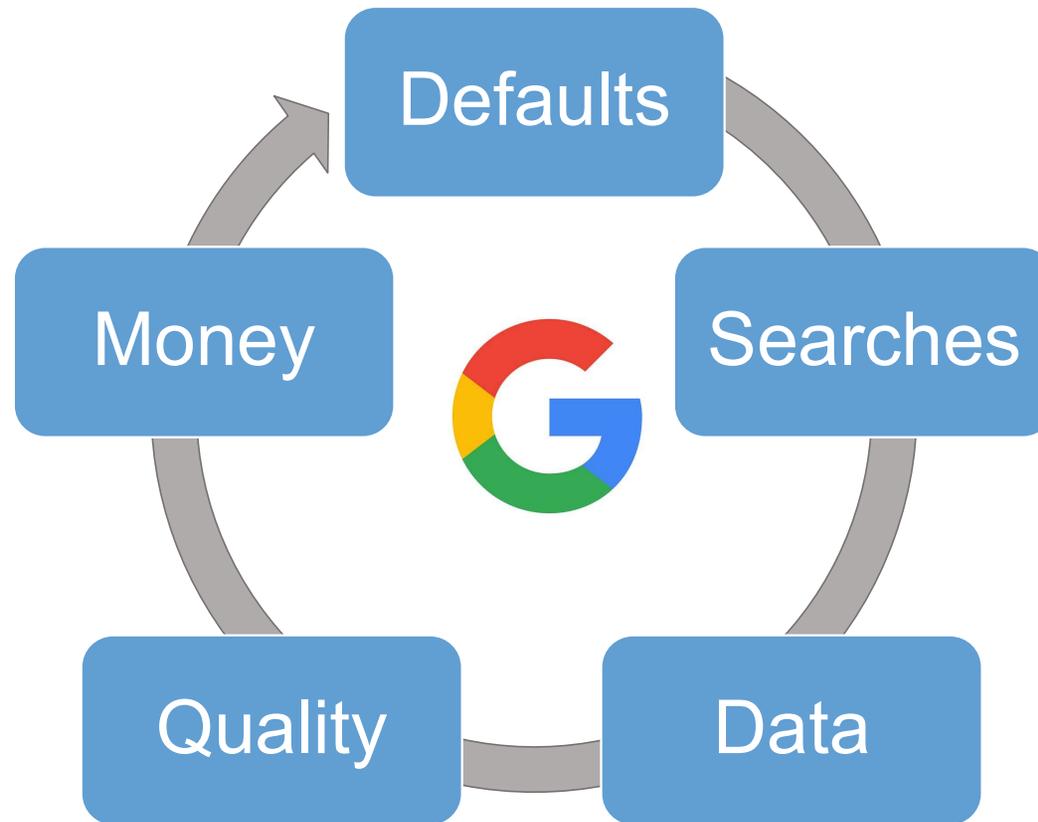
REDACTED PUBLIC VERSION

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The Future

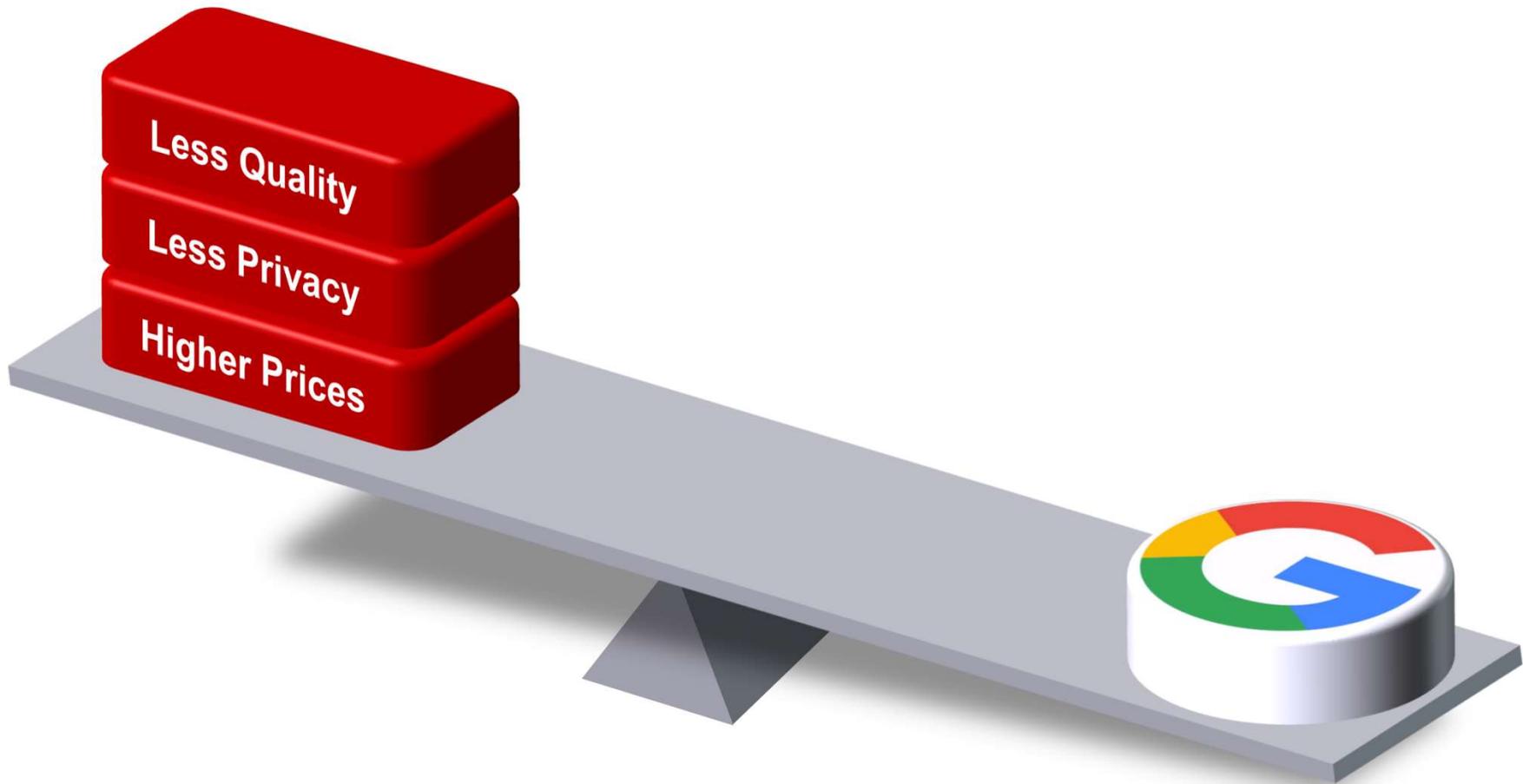


Feedback Loop





Enormous Public Cost



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What Did Google Do?



Agenda

1 Industry Background

2 Sherman Act

3 Preview Evidence



Agenda

1 Industry Background

- a. General Search
- b. Search Distribution
- c. Defaults
- d. Scale

2 Sherman Act

3 Preview Evidence

General Search

One-Stop Shopping



General Search



Search Distribution

Search Access Points

Defaults

“Power of Defaults”



Google's Expected Losses

Default Search Recover Assumptions

[REDACTED] Safari Default Revenue Recovery

- **iOS Recovery:** [REDACTED] based on...
 - **Apple Maps:** Google Maps lost [REDACTED] of active users following Apple Maps launch
 - **Mobile Defaults:** Defaults have more prominence in mobile due to screen size and UI
- **MacOS Recovery:** [REDACTED] based on [REDACTED] revenue loss following Firefox US default switch, adj for WW MacOS Google Share
- **Total Recovery:** [REDACTED] weighted average based on iOS-MacOS revenue mix

Google

Confidential - Proprietary

[REDACTED] Safari Default Revenue Recovery

- **iOS and MacOS Recovery:** Assumes all revenue subject to [REDACTED] recovery based on:
 - Worst case assumption that all defaults observe similar losses and same organic recovery as Maps

Google's Expected Losses:

iPhone



[REDACTED]

Loss Rate

Mac



[REDACTED]

Loss Rate

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Antonio Rangel, PhD

Professor of Neuroscience,
Behavioral Biology, and
Economics, Caltech

- Defaults affect choices
- People tend to accept defaults

Scale

“Data can improve search quality”



Agenda

1 Industry Background

2 Sherman Act

3 Preview Evidence



Nat'l Soc'y of Prof'l Eng'rs v. United States

NATIONAL SOC. OF PROFESSIONAL ENGINEERS v. U. S. 695

679

Opinion of the Court

it prohibits unreasonable restraints on competition. Petitioner's ban on competitive bidding prevents all customers from making price comparisons in the initial selection of an engineer, and imposes the Society's views of the costs and benefits of competition on the entire marketplace. It is this restraint that must be justified under the Rule of Reason, and petitioner's attempt to do so on the basis of the potential threat that competition poses to the public safety and the ethics of its profession is nothing less than a frontal assault on the basic policy of the Sherman Act.

The Sherman Act reflects a legislative judgment that ultimately competition will produce not only lower prices, but also better goods and services. "The heart of our national economic policy long has been faith in the value of competition." *Standard Oil Co. v. FTC*, 340 U. S. 231, 248. The assumption that competition is the best method of allocating resources in a free market recognizes that all elements of a bargain—quality, service, safety, and durability—and not just the immediate cost, are favorably affected by the free opportunity to select among alternative offers. Even assuming occasional exceptions to the presumed consequences of competition, the statutory policy precludes inquiry into the question whether competition is good or bad.

The fact that engineers are often involved in large-scale projects significantly affecting the public safety does not alter our analysis. Exceptions to the Sherman Act for potentially dangerous goods and services would be tantamount to a repeal of the statute. In our complex economy the number of items that may cause serious harm is almost endless—automobiles, drugs, foods, aircraft components, heavy equipment, and countless others, cause serious harm to individuals or to the public at large if defectively made. The judiciary cannot

individual purchaser's decision not to seek lower prices through competition does not authorize the vendors to conspire to impose that same decision on all other purchasers.

“[C]ompetition is the best method of allocating resources in a free market.”



Agenda

1 Industry Background

2 Sherman Act

3 Preview Evidence

a. Monopoly Maintenance in General Search

b. Monopoly Maintenance in Advertising Markets

Monopoly Maintenance in General Search

General Search Is A Relevant Market



General Search Providers

Independent General Search Services



Syndicated General Search Services



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Monopoly Maintenance in General Search

Dominant Market Shares



Google Calculates Market Share

	Search									
	Avg Score	vs LY/L Q	Desktop Search Query Share	vs LY	Mobile Search Query Share	vs LY	"Searchness" (Android)	vs LY	GApp queries in % of	vs LY
US	[REDACTED]									
CA	[REDACTED]									
GB	[REDACTED]									
DE	[REDACTED]									
FR	[REDACTED]									
JP	[REDACTED]									
AU	[REDACTED]									
BR	[REDACTED]									
IN	[REDACTED]									
MX	[REDACTED]									
PL	[REDACTED]									
TR	[REDACTED]									
RU	[REDACTED]									

Financials Fact Pack
Q3 2019

[REDACTED] %
Mobile Query Share

[REDACTED] %
Desktop Query Share

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Monopoly Maintenance in General Search

Persistent Barriers to Entry



Mark Israel, PhD

Google Expert
Compass Lexecon

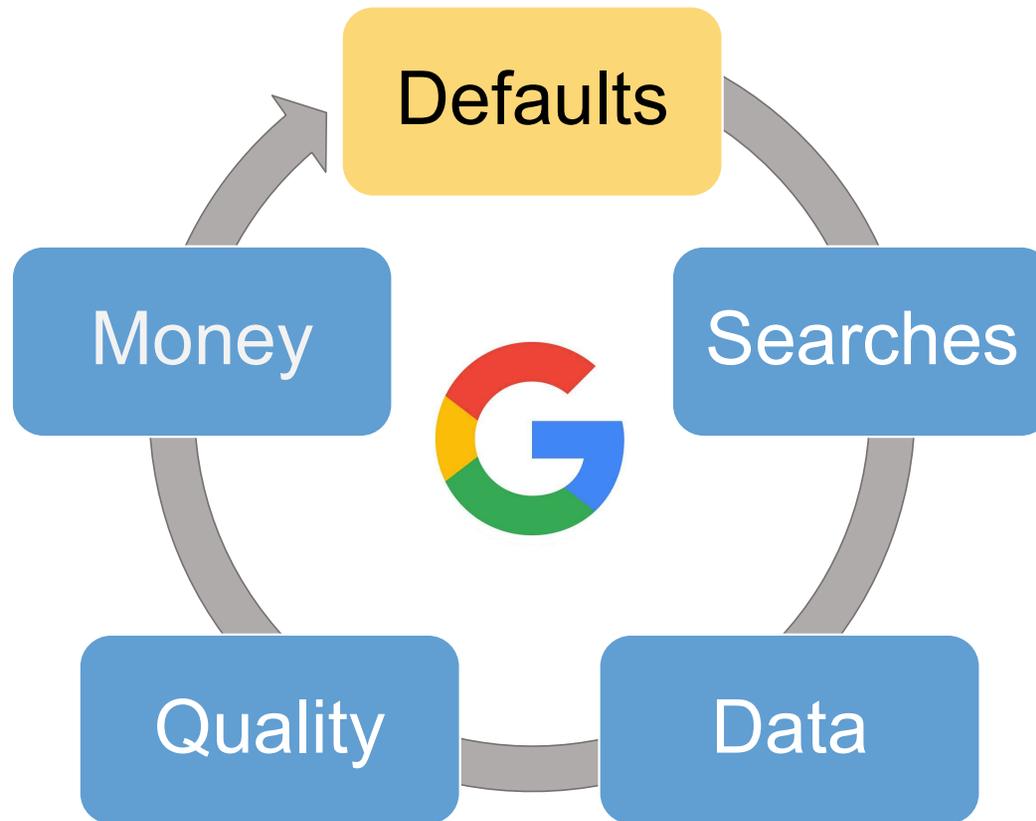
- No search product market
- “[S]earch competition happens query by query”

Monopoly Maintenance in General Search

Google's Anticompetitive Conduct



Feedback Loop





Google's Default Analysis

On Strategic Value of Default Home Page to Google

PMetrics Team

Implications

- Data suggests that:

- Users do not always make an active, deliberate choice of a SE
 - Choice seems influenced by handy access to search box, often determined by the default home page
 - Most users stay with pre-configured home page settings
- Product quality/brand seems to temper the effect of default hp
 - Google still preferred even if hp is not Google
 - Yahoo, MSN strongly dependent on hp setting for search share
- Default home page can be a powerful strategic weapon in the Search battle
 - Could be an easy way to grow and defend market share for Google
 - Could be the Achilles heel for Yahoo and MSN
 - Biggest opportunity in APAC and North Am

19

Google

- “– Default home page can be a **powerful strategic weapon** in the Search battle
- Could be an **easy way to grow and defend** market share for Google
 - Could be the **Achilles heel** for Yahoo and MSN”



Default Most Important Factor

Message
From: Sridhar Ramaswamy [Redacted@google.com]
Sent: 3/24/2007 12:58:35 AM
To: Diane Tang [Redacted@google.com]
CC: Redacted [Redacted@google.com]
Subject: Re: [Ads-quality-leads] Fwd: [Metrics] Friday (tomorrow) -- Nitin on home pages

This study is very cool! We should definitely put some marketing push behind it. Will make some inquiries.

--Sridhar

On 3/23/07, Diane Tang [Redacted@google.com] wrote:
> again, trying to make sure that you guys stay up-to-speed on what the
> metrics team is doing. Sridhar -- some of the last slides answer your
> question of "what can we do?" -- I think promos might be one possibility,
> etc.

> Nick / Daniel / pe's -- what are your thoughts with regards to taking some
> of this to folks who actually make decisions on promos / etc?

> TH,

> --D

>

> ----- Forwarded message -----

> From: Nitin Sharma [Redacted@google.com]
> Date: Mar 23, 2007 9:04 AM
> Subject: Re: [Metrics] Friday (tomorrow) -- Nitin on home pages
> To: Diane Tang [Redacted@google.com]
> CC: Redacted@google.com

> The slides are here:

> <http://www/~nitins/home-page.ppt>

> thanks

> -n

>

> On 3/22/07, Diane Tang [Redacted@google.com] wrote:

> > You guys have seen most of this, sez Nitin, so should be about half an

> > hour, and then the rest of the time for discussion.

> >

> > --D

> >

> >

> > Title: On the Strategic Value of Default Home Page to Google

> > Abstract:

> >

> > One of the most fundamental questions about web search, on which

> > rests the \$198 search business, is: what influences the choice of a

> > search engine? Several factors are believed to affect the choice,

> > including quality of search results, brand strength, search features,

> > quality of user experience, presence of local competitors etc.

> >

> > In this talk, we present some evidence that seems to suggest that

> > one factor surprisingly trumps them all: the default home page setting.

> > Using data from Google logs, we show that users who have home page set

> > to Google do 50% more searches on Google compared to those that

> > don't. Google's market share by region seems directly correlated

> > with the share of default home page in those regions.

> >

> > We also show that users search more on Google after their home page

> > is set to Google. Furthermore, their searches on Google drop significantly

> > if the home page is unset. The effect seems to be much stronger than that

“Several factors are believed to affect the choice, including quality of search results, brand strength, search features, quality of user experience, presence of local competitors etc.

In this talk, we present some evidence that seems to suggest that **one factor surprisingly trumps them all: the default home page setting.**”

Ex. No.
UPX0093
1:20-cv-03010-APM

GOOG-DOJ-20476904

Redacted



Google's Default Exclusivity

Apple Defaults

ISA



Android Defaults

MADA
RSA



Browser Defaults

RSA





Google's Default Exclusivity

Apple Defaults

ISA



Android Defaults

MADA
RSA



Browser Defaults

RSA



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Google Restricts Apple

Apple Cannot:

- Offer search choice screen
- Offer different default in Safari's private browsing mode
- Offer different defaults by device
- Offer different defaults in U.S. versus rest-of-world
- Substantially increase its own suggestions for users



Original Apple ISA

2002

2003

2004

2005

2006

2007

2008

2009

2010

2011

2012

2013

2014

2015

2016

2028



REDACTED FOR PUBLIC FILING



Google Restricts Apple

2002

2003

2004

2006

2007

2008

2009

2010

2011

2012

2013

2014

2015

2016

2028



REDACTED FOR PUBLIC FILING



Google Restricts Apple

2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2017 2018 2019 2020 2021 2022 2023 2024 2025 2026 2027 2028



Apple's 30(b)(6)

“Q. Did Apple ask for an ad revenue share from Google when it negotiated the 2002 ISA?

A. We did not.

* * *

Q. When did it cross Apple's mind that they should raise a revenue share term with Google?

A. When Google came to us and suggested it.”



**Kevin M.
Murphy, PhD**

Google Expert
Professor of Economics, University
of Chicago

“No evidence suggests that Apple has (or has ever had) any interest in implementing a second search box or choice screen on Safari.”



Google Restricts Apple

2002

2003

2004

2005

2006

2008

2009

2010

2011

2012

2013

2014

2015

2016

2028



REDACTED FOR PUBLIC FILING



Google Restricts Apple

2002

2003

2004

2005

2006

2008

2009

2010

2011

2012

2013

2014

2015

2016

2028

To: Jeff Shardell [REDACTED]

From: Brian Croll [REDACTED]

Subject: Google/Safari Amendment

Received(Date): Fri, 1 Jun 2007 17:40:49 -0700

Attachment: Amndmt2.6.1.07.doc

Date: Fri, 01 Jun 2007 17:40:49 -0700

Hello Jeff,

Here is our proposed amendment to the contract which allows end-users the option to choose their search default in Safari...

Look forward to hearing from you on Monday.

Have a great weekend,

- Brian



Google Restricts Apple

2002 2003 2004 2005 2006 2008 2009 2010 2011 2012 2013 2014 2015 2016 2028

Message

From: Joan Braddi Redd@exchange.corp.google.com
 Sent: 6/6/2007 12:33:59 AM
 To: Sergey Brin Redd@google.com; Omid Kordestani Redd@google.com; Eric Schmiel Redact@google.com
 CC: Jeff Shandell Redd@google.com
 Subject: FW: Apple update

I left another message for Phil (we have been playing phone tag). Here is the message Jeff communicated to their team yesterday based on our discussion at Deal Review.

Joan

From: Jeff Shandell [mailto:Redd@google.com]
 Sent: Monday, June 04, 2007 4:30 PM
 To: Omid Kordestani
 CC: Joan Braddi
 Subject: Re: Apple update

Omid,

Regarding what I communicated to Apple (Brian Croll), I first spent time explaining the concept of incremental revenue and wanted him to understand it was important for us to determine how much ADDITIONAL revenue we were making because of this deal. I explained how many of the people using their browser would already be typing in www.google.com so this uptick/incremental number was very important to us and could be determined by a trial.

I then told him we have two options, depending on whether or not Apple will give us default placement:

- 1) No default placement - no revenue share on Safari/Windows.
- 2) Yes default placement - we will share in revenue under the current contract. We wanted to see the end of the year so we could see how it performs and see how the renewal should be structured. To ensure they give us default placement, absolutely nothing needs to happen with regard to the existing Agreement so both parties are covered.

Let me know if you have any other questions.

Jeff

On 6/4/07, Omid Kordestani Redd@google.com wrote:
 Hi Jeff,

Please send me a few bullets on what exactly you communicated so that I can keep everyone on the same page.

Thanks

Omid

----- Original Message -----
 From: Jeff Shandell Redd@google.com
 To: Sundar Pichai; Sergey Brin; Omid Kordestani; Redd@google.com AIM:jbraddi <Redd@google.com AIM:jbraddi>

“No default placement - no revenue share”

Ex. No. UPX0072
120-cv-03010-APM

Redacted

GOOG-DOJ-03518216



Google Restricts Apple

2002

2003

2004

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2028

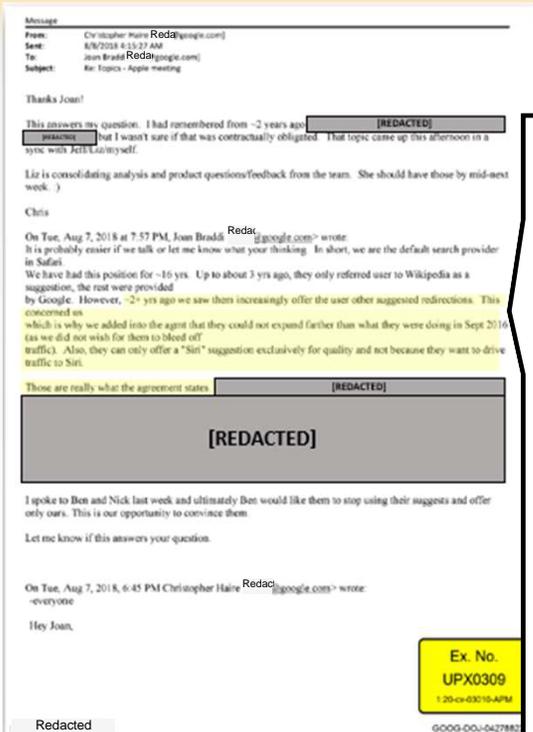


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Google Restricts Apple

2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2028



“~2+ [years] ago we saw them increasingly offer the user other suggested redirections. This concerned us **which is why we added into the [agreement] that they could not expand farther than what they were doing in Sept 2016 (as we did not wish for them to bleed off traffic)**. Also, they can only offer a ‘Siri’ suggestion exclusively for quality and not because they want to drive traffic to Siri. Those are really what the agreement states.”

What Did Google Do?



Google's Default Exclusivity

Apple Defaults

ISA



Android Defaults

MADA
RSA



Browser Defaults

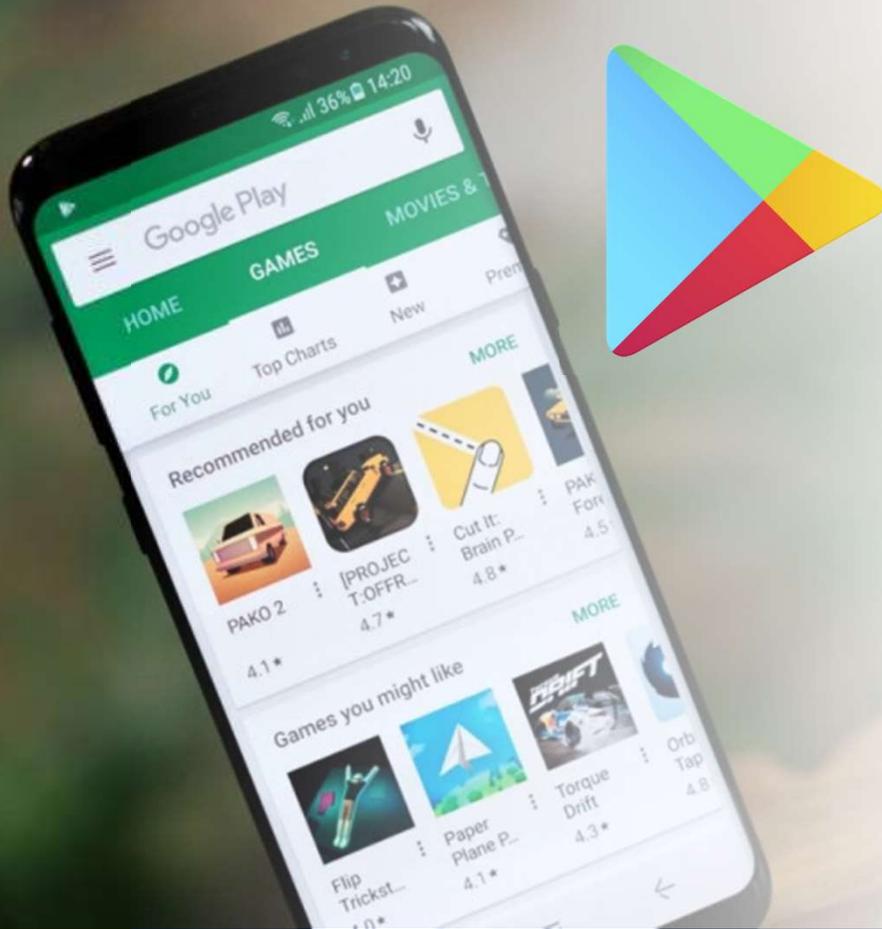
RSA



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Google Play Store



- Largest Android app collection
- Must-have app
- Only available through MADA

Mobile Application Distribution Agreement (MADA)

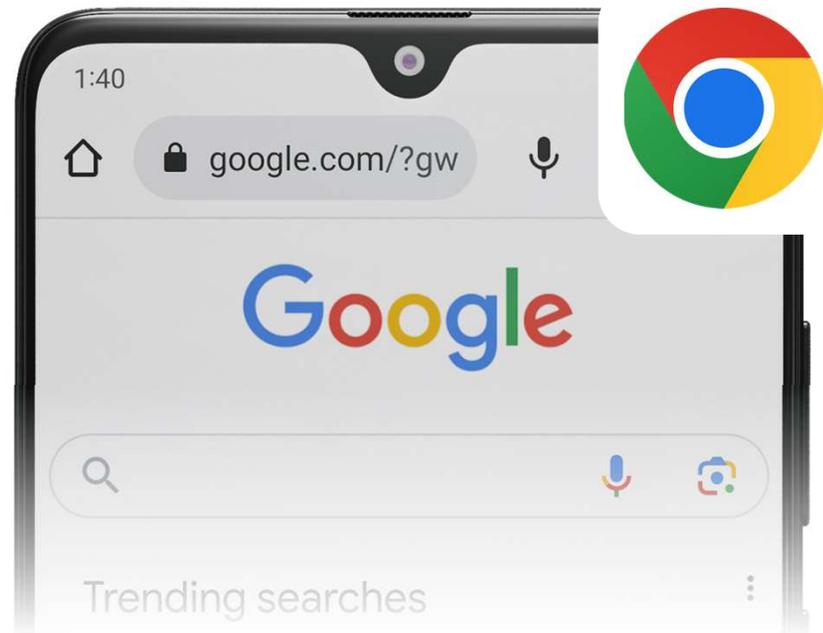


Google's Beachhead

Google Search Widget



Google Browser



REDACTED FOR PUBLIC FILING



MADA Excludes Rivals

Message

From: Anna Kartasheva [Redacted@google.com]
Sent: 11/5/2020 4:28:11 PM
To: Jamie Rosenberg [Redacted@google.com]
CC: Adrienne McCalister [Redacted@google.com]; Rosie Lipscomb [Redacted@google.com]; Kate Lee [Redacted@google.com]; Yuki Richardson [Redacted@google.com]
Subject: Re: Carrier RSAs

A/C Privileged and Confidential

Rosie, I would appreciate your advice on the below, as well as outside counsel perspective on this.

Thank you Jamie! I have been thinking about this a lot, and making sure we are not exposing Search/Assistant unnecessarily, and here is my argument in defense of [REDACTED] revenue share. I looked at all the sources of traffic on the device, and what protections we have. I am working with Shuting on Yuki's team to develop this better, but here is where we were landing roughly:

1) MADA protects the widget on the device [REDACTED]
[REDACTED] RSA ensures Chrome is in hotspot/set as default browser on carrier devices as well [REDACTED]

3) Rest of the traffic is [REDACTED] which would be not protected on carrier devices in the absence of RSA

This leaves, in the pretty generous case, only about [REDACTED] of the search revenue of the device to any rival who wants to buy us out. Even if the rival monetizes as well as Google, it will be hard for them to overcome our [REDACTED] rev share offer as they would have to give up at the minimum [REDACTED] of their monetization.

We also have a similar slide in the older DC decks, that also adds assistant considerations here, but still comes to the conclusion that at [REDACTED] we are offering the most attractive deal to the carriers.

Please let me know if this makes sense

Thank you
Anna

“I looked at all the sources of traffic on the device, and what protections we have.

* * *

MADA protects the widget on the device [REDACTED]”



MADA Excludes Rivals

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AMENDMENT NO. 1

This Amendment No. 1 ("Amendment") is entered into by:

Google LLC, whose principal place of business is at 1600 Amphitheatre Parkway, Mountain View, California 94043, USA ("Google"); and

Motorola Mobility LLC and Affiliates ("Motorola") and Lenovo Group Ltd ("Lenovo") and, together with Motorola, "Company" with offices at 222 W. Merchandise Mart, Suite 1800 Chicago, Illinois, 60654, USA.

This Amendment is effective on the date it is signed by Google ("Amendment Effective Date").

INTRODUCTION

(A) Company and Google are parties to the Mobile Application Distribution Agreement with an effective date of January 1, 2018 (the "Agreement").

(B) The parties wish to amend the Agreement.

AGREED TERMS

* * *

DocuSign Envelope ID: 3E8DD1F5-0FC9-4D2E-86C9-F2754848DF84

2.5 The following is added as Section 2.3(r) of the Agreement: "(r) implement a Launcher that after the initial boot up or a subsequent power up of a Device, is not in compliance with this Agreement, including Section 4 (Device Implementation Requirements); or"

[REDACTED]



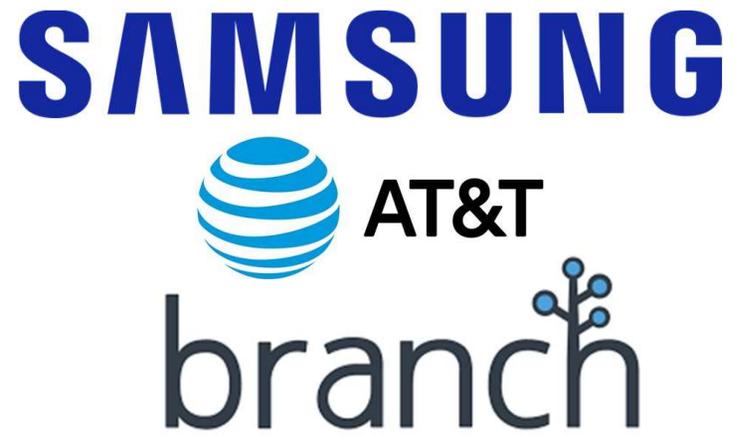
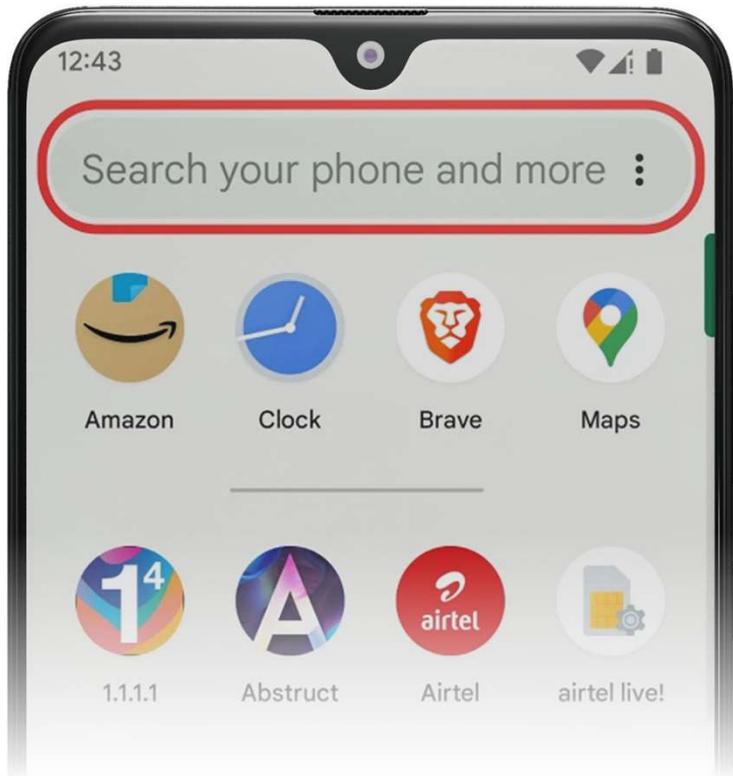
[REDACTED]

Revenue Share Agreements (RSA)

What Did Google Do?



Branch Innovation





Branch Innovation

On Wed, Jun 10, 2020 at 5:58 PM Jon Dreyfus <Redacted@google.com> wrote:

+Emily Moxley for visibility.

Hi Anna,

Thanks for the note -- this is clearly an important question to look into. Please feel free to schedule some time with me and [Ella Beres](#) so we can discuss options.

Thanks!
Jon

On Wed, Jun 10, 2020 at 10:59 AM Anna Kartashev <Redacted@google.com> wrote:
Privileged -- EUOC // Rosie and Kate please advise

Hi Jon,

I am not sure who is the right person to help with this - but figured I will start with you and would appreciate it if you could point us in the right direction.

It was brought to Android BD team attention recently that Samsung partnered with Branch i.o - for building out Samsung Finder. Samsung finder is an on-device search that appears at the top of a screen and looks like a generic search box with a magnifying glass when user swipes up from any screen.

It started couple of years ago as on-device search across contacts, settings, photos in the gallery, and we have allowed it everywhere, even on devices covered by search res. share deals because Samsung pointed to gaps in what Google Search was able to do with this type of search. Now, with Branch partnership, Samsung Finder has grown into search experience across multiple apps through deep linking. So for example now when you look for "pizza", it will show you Yelp recommendations for restaurants, or if you look for "shoe" it will show you recommendations from Amazon or Ebay.

We believe this goes beyond the scope of what we originally allowed Samsung (and US carriers) and have started pushing back on them, and were wondering - does Google Search do something similar

to this, and can we pivot the conversation with Samsung and carriers from asking them to take it down, to seeing if Google could power this experience.

Attaching couple of screenshots to illustrate the issue at hand:

Screenshot #1: User is alerted that their info and Google advertising ID will be shared with Branch

Screenshot #2: Samsung Finder experience when phone is connected to the internet (showing off-device search in web catalogs)

Screenshot #3: Samsung Finder experience when phone is in airplane mode (showing scope of what we have originally approved for this product)

Please let me know how I should proceed.

Thank you
Anna

“[W]ith Branch partnership, Samsung Finder has grown into search experience across multiple apps through deep linking. So for example when you look for ‘pizza,’ it will show you Yelp recommendations for restaurants[.]”



Google Excludes Branch

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Please let me know how I should proceed.

Thank you
Anna

“We believe this goes beyond the scope *of what we originally allowed* Samsung (and U.S. carriers) and have started pushing back on them[.]”



Google's Default Exclusivity

Apple Defaults

ISA



Android Defaults

MADA
RISA



Browser Defaults

RSA





Playing Field Not Level

Defaults Matter:

- Google lost [REDACTED] search revenue on Firefox



No Level Playing Field:

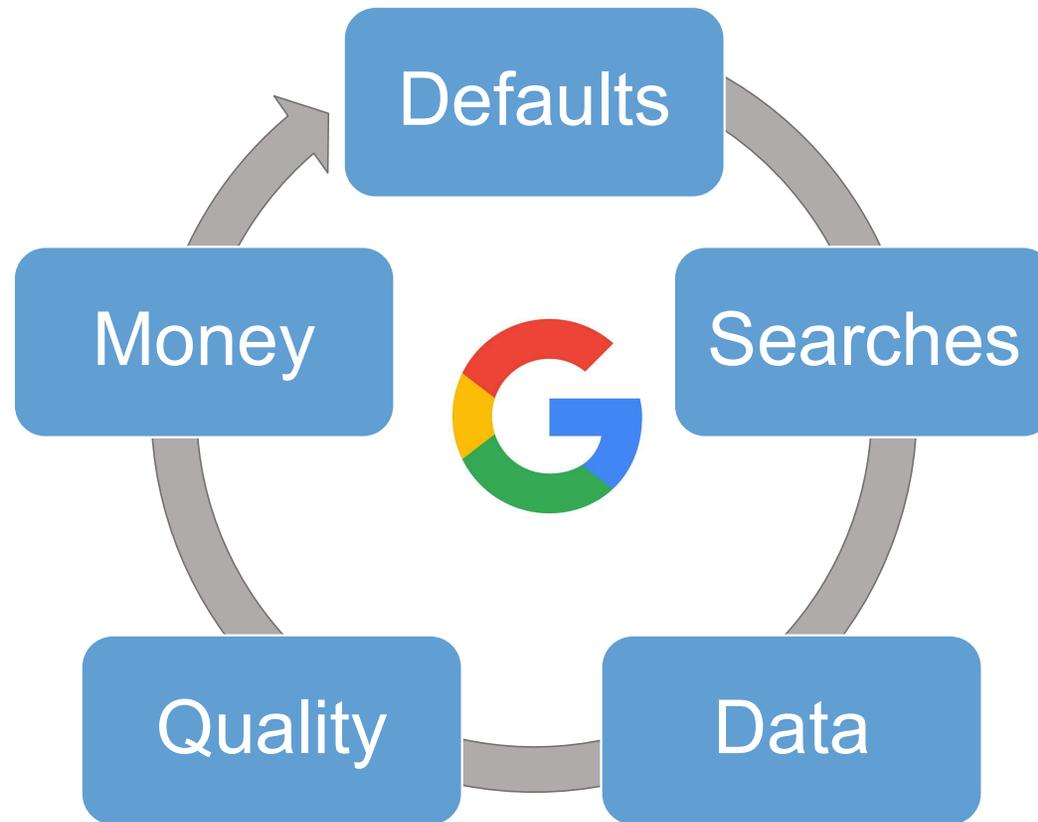
- Yahoo paid [REDACTED] more than Google offered
- Ran more ads to make payments
- Yahoo's quality dropped

Monopoly Maintenance in General Search

Google's Anticompetitive Conduct



Feedback Loop





Agenda

1 Industry Background

2 Sherman Act

3 Preview Evidence

a. Monopoly Maintenance in General Search

b. Monopoly Maintenance in Advertising Markets

Monopoly Maintenance in Ad Markets

- (1) General Search Text Ads
- (2) Search Ads



Advertisers & Ad Agency

J.P.Morgan



REDACTED FOR PUBLIC FILING



**Kinshuk
Jerath, PhD**

Professor of Free and Competitive
Enterprise; Chair of the Marketing
Division, Columbia University

- Different ad channels accomplish different goals
- Search ads are unique
 - Query: real-time statement of intent



Text Ads & Search Ads

Shopping Ads

Text Ads

The screenshot shows a Google search for "vitamix blender" with approximately 11,800,000 results. The search results are divided into two main sections: Shopping Ads and Text Ads.

Shopping Ads: A row of eight product listings is displayed, each with a product image, name, price, and seller. The products include Vitamix E310, Vitamix Commercial, Vitamix Blender, Vitamix A3500 Ascent Series, Breville Fresh & Furious, and another Vitamix Blender. Prices range from \$199.95 to \$1,135.34. Sellers include Williams-Sonoma, KaTom, and Best Buy.

Text Ads: Two text ads are visible. The first is from "Serious Eats" with the headline "Vitamix Blender Should You Buy? We Compared (Almost) All of..." and a sub-headline "The Best VITAMIX BLENDERS Of 2023 For Any Budget. We Lab Tested The Top VITAMIX BLENDERS. Reviews & Rankings." The second is from "Williams-Sonoma" with the headline "Vitamix Blenders - Inspiring Cooks Everywhere" and a sub-headline "Vitamix Performance Blenders Are Designed For the Ultimate In Precision and Durability. Get High-Performance Vitamix Blenders With Smart Program Settings."



Agenda

1 Industry Background

2 Sherman Act

3 Preview Evidence

a. Monopoly Maintenance in General Search

b. Monopoly Maintenance in Advertising Markets

Monopoly Maintenance in Ad Markets

Dominant Market Shares



**Michael
Whinston, PhD**

Professor of Economics
and Management, M.I.T.

- Google has 89% market share in search
- **88%** market share in general search text ads market
- **74%** market share in search ads market

Monopoly Maintenance in Ad Markets

Google's Anticompetitive Conduct

Monopoly Maintenance in Ad Markets

Anticompetitive Effects



Market Power in Ads

Google's 30(b)(6)

“Q. To your experience, has Google ever raised its price [REDACTED] in one swoop, any time?”

A. [REDACTED] possibly for a subset of queries.”





Market Power in Ads

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Ads Quality BiWeekly

July 26, 2018

go/aqteamdory-2018

*But we have an auction
designed to set prices... why
do we need more?*



Market Power in Ads

CONFIDENTIAL - DO NOT SHARE

When Vanilla pricing may not be sufficient

Second Pricing works great most of the time, but there are failure scenarios

- **Weak or lack of Auction Pressure**
 - When no competition is present, or when competition is of inferior quality
- **Reserve pricing**
 - Reserve prices are generally lower than their second price counterparts

We need a way to extract value more directly

→ We need *pricing mechanisms with pricing knobs*

“We need a way to extract value more directly . . . We need ***pricing mechanisms with pricing knobs.***”



Market Power in Ads

[REDACTED]

“We also directly affect pricing through tunings of our auction mechanisms . . . We’ll call this *‘intentional’* pricing.”

HIGHLY CONFIDENTIAL

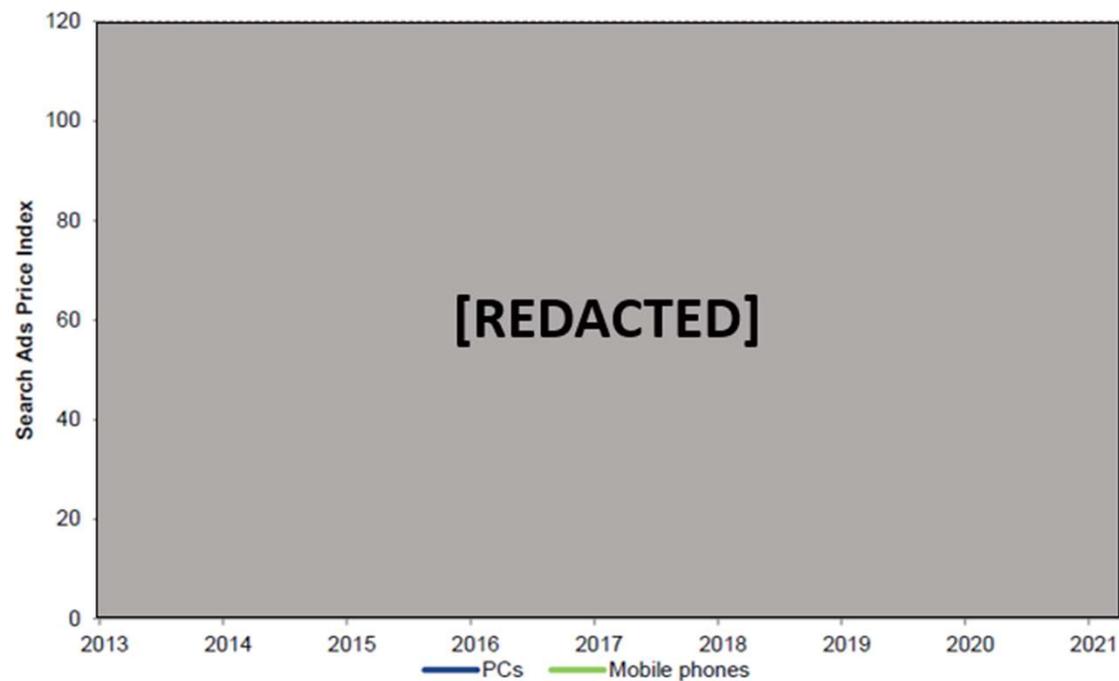
GOOG-DOJ-11452869



Michael Whinston, PhD

Professor of Economics and Management, M.I.T.

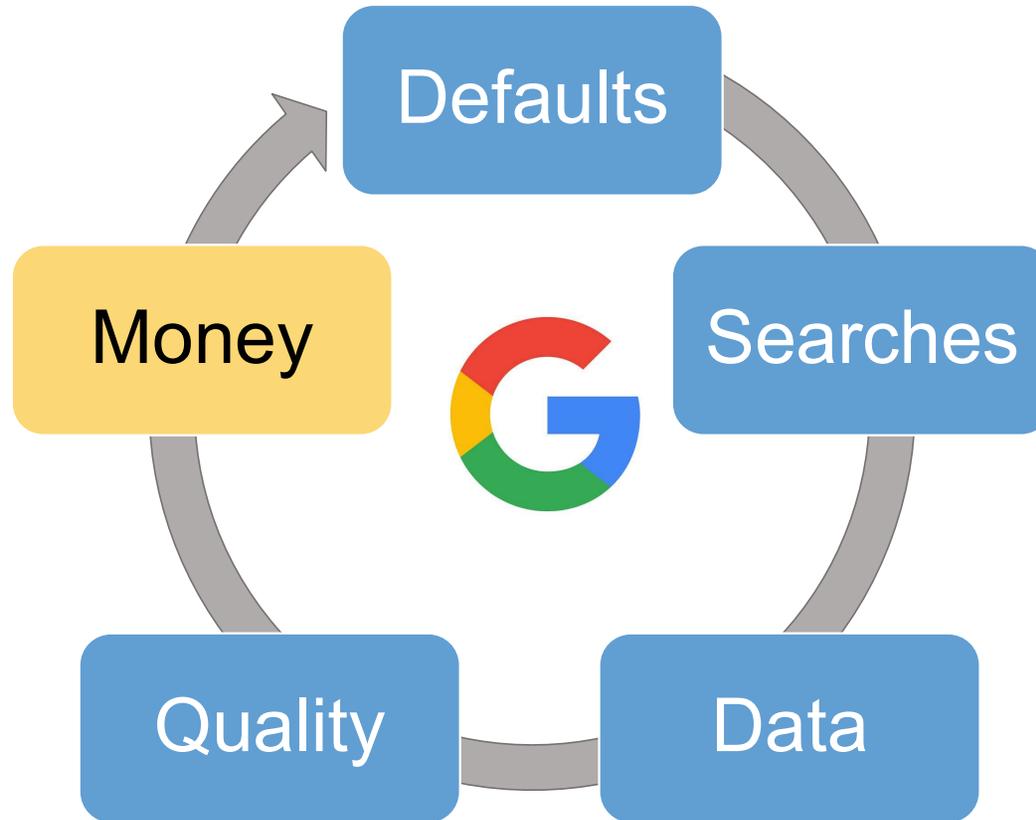
Figure 11. Google's search ads price index, PCs and mobile phones (US)



Sources: Google search ads price index data (RFP 5.14.a), GOOG-DOJ-03372983, at -999.



Feedback Loop



Google's Burden

Destruction of Evidence

“Communicate With Care”



Google Hid Documents

Android Mobile
Search & Assistant
Revenue Share Agreement
Training

Google

REMINDER OF CONFIDENTIALITY

Everything shared in this training is strictly confidential and proprietary

Additionally any written communication regarding Rev Share and MADA should include Legal (include Redacted @ or Redacted @ and request guidance, mark content as "Confidential - Attorney Client Privileged")

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Sundar Pichai
CEO

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Subject: AAAARxi46TM-MBI-THREADED:SBgcVRDjcBQ%%2021-10-11T09:53:16.093967

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Need the link for my leaders circle tomorrow

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thanks

Good Enough



United States v. United Shoe Mach. Corp

“[W]hat appears to the outsider to be a sensible, prudent, nay even a progressive policy of a monopolist, may in fact reflect a lower scale of adventurousness and less intelligent risk-taking than would be the case if the enterprise were forced to respond to a stronger industrial challenge.”

Questions Can't Answer

- If defaults don't matter, why pay billions for them?
- If scale isn't valuable, why store and use so much data?
- If the ads market is competitive, how can Google raise prices at will?
- If Google's actions are procompetitive, why systematically hide and destroy significant documents?

What Google Did...

The End