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# Google is Under the Spotlight Once Again

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In August, President Donald Trump criticised technology firms including Google, Facebook and Twitter claiming that they could "*represent a very antitrust situation*". He tweeted that Google's news search function favoured liberal over conservative outlets, without adducing any evidence. The allegations about Google went on through the Twitter account of President Trump, where it was argued that Google censors search results and controls what people could see, read and learn. It was further argued Google presented "*rigged search results*". Google stated that the searching tools are designed to show the most similar results based on the users' search and the results are not biased or political.<sup>1</sup>

It should be reminded here that Donald Trump heavily criticized the recent Android decision of the European Commission<sup>2</sup> where a record fine of approximately \$5 billion was imposed on Google. President Trump blamed the EU for taking advantage of the United States by sanctioning one of its "*great*" companies.<sup>3</sup>

Although, one may argue that Google's falling from favour within a two months period is slightly unexpected, Google has always been a usual suspect in the US due to its stranglehold over data. In an earlier statement, the chairman of the Federal Trade Commission ("**FTC**"), Joseph Simons mentioned that the agency was very interested with the record fine of Google imposed by the EU and they were closely following the case. Simons also indicated that assessing whether technology companies such as Google, Facebook and Amazon are involved in anti-competitive practices will be a priority of the agency.<sup>4</sup>

In 2013 the FTC has investigated Google in order to determine whether Google changed its search results to exclude competitors and inhibit the competitive process.<sup>5</sup> In the 2013 investigation, the FTC primarily focused on the allegation that Google search engine favoured its content in the downstream markets (i.e. Google's proprietary content) and that the search algorithms were manipulated to demote the websites that competed against Google's subsidiaries in the downstream markets. The FTC concluded that Google generally made these alterations to improve the quality of its search results and its analyses shown that the users benefited from these changes. After Google accepted to terminate certain practices, the case was closed without any sanctions being imposed on Google.

It seems that after five years Google may once again be portrayed as a target for the antitrust watchdog. Following Trump's recent statements, Republican Senator Orrin Hatch of Utah expressed that although Google defended that its conduct was procompetitive, a considerable time has passed and much has changed regarding Google's conduct in relation to online search and digital advertising since then.<sup>6</sup> Hatch has asked FTC to investigate the anti-competitive impacts of Google's

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search and digital advertising practices and sent a letter to the FTC chairman Joseph Simons on August 30 regarding this matter.<sup>7</sup> He argued that Google has been removing legitimate businesses that it does not approve from its platform. Hatch claimed that Google has been blocking gun sales web-sites from its shopping platform, blocking advertisements of discredited drug and alcohol treatment centres and banning YouTube channels.<sup>8</sup>

About a year ago, Senator Hatch has drawn attention to the Google Shopping Decision<sup>9</sup>, where European Commission decided to impose a €2.42 billion fine and defended Google's conduct against the Commission contrary to his current position. In this regard, Senator Hatch made the following remarks; "*The ultimate inquiry should be whether consumers are better off as a result of Google's actions*"<sup>10</sup>. The Google Shopping Decision mainly focused on abuse of dominance allegations regarding Google's leveraging its position in the general internet search market to favour its own its shopping comparison services. The focus of the decision was quite similar with the FTC's 2013 investigation.

Soon after the request of Senator Hatch, the FTC chairman Simons stated that the FTC will closely follow these big-tech companies which dominate online markets.<sup>11</sup> Along with the individual efforts of President Trump and Senator Hatch, a series of hearings have been commenced to address the concerns over foreign interference to last elections in the US as well as those related with antitrust and data-protection issues. Recently, [Facebook](#)'s COO Sheryl Sandberg and [Twitter](#)'s CEO Jack Dorsey was questioned before the Senate Select Committee on Intelligence whereas the representative of Google did not show up since Google has offered to send its lawyer instead of its top executives and this request was rejected by the Committee.<sup>12</sup> In response to the discontent articulated by the Committee Members<sup>13</sup>, Google issued a statement indicating that it has met with "*dozens of Committee Members and briefed major Congressional Committees numerous times*" over the past 18 months.<sup>14</sup> Such behaviour of Google apparently had a negative influence on the Committee and Google seems to sail close to the wind.

After the hearing, the Department of Justice ("**DoJ**") announced that it could examine these companies with state attorneys general.<sup>15</sup> The DoJ stated that the attorney general has scheduled a meeting with a number of state attorneys in September in order to discuss concerns regarding tech companies' anti-competitive conducts and their hindering the free exchange of ideas on their platforms.<sup>16</sup>

Makan Delrahim, the assistant attorney general for the DoJ's Antitrust Division, mentioned that he supports the DoJ meeting but emphasised that antitrust enforcers should provide "*credible evidence*" regarding anticompetitive conduct of the companies. Delrahim further stated "*big is not bad but behaving badly is bad*", signalling that the DOJ might take a prudent position on the current political commotion.<sup>17</sup>

It could be concluded that the recent conduct of Google is being closely followed by different authorities lately. The fact that the European Commission has just fined Google due to its anti-competitive practices might lead to new investigations in other jurisdictions as it raises competition

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law related concerns among political figures and institutions. However, there seems to be a love-hate relationship between the US and Google. While Trump protects US based tech companies when investigations initiated by the EU Commission are at stake, claiming they compete fairly, he seems to adopt a different approach when it comes to his political outlet's concerns. Although such an approach is questionable, there are serious signals that Google could be under investigation in the US soon. If an investigation is initiated, it could lead to a landmark decision which discusses whether "the protection of freedom of ideas" may be deemed as an antitrust policy goal along with "consumer welfare" and how the antitrust authorities should assess market power stemming from a stranglehold over data.

## Footnotes

1. Please see; <https://www.bloomberg.com/news/articles/2018-08-30/google-under-fire-again-on-search-as-hatch-calls-for-ftc-probe> last date of visit 11.09.2017.
2. Please see; [http://europa.eu/rapid/press-release\\_IP-18-4581\\_en.htm](http://europa.eu/rapid/press-release_IP-18-4581_en.htm) last date of visit 11.09.2017.
3. Please see; <https://www.reuters.com/article/us-eu-google-antitrust-trump/trump-slams-eu-over-5-billion-fine-on-google-idUSKBN1K91YC> last date of visit 11.09.2017.
4. Please see; <https://www.bloomberg.com/news/articles/2018-07-18/ftc-chair-says-commission-very-interested-in-eu-s-google-fine> last date of visit 11.09.2017.
5. Please see; [https://www.ftc.gov/sites/default/files/documents/public\\_statements/statement-commission-regarding-googles-search-practices/130103brillgooglesearchstmt.pdf](https://www.ftc.gov/sites/default/files/documents/public_statements/statement-commission-regarding-googles-search-practices/130103brillgooglesearchstmt.pdf) last date of visit 11.09.2017.
6. Please see; <https://www.bloomberg.com/news/articles/2018-08-30/google-under-fire-again-on-search-as-hatch-calls-for-ftc-probe> last date of visit 11.09.2017.
7. Please see; <https://www.competitionpolicyinternational.com/us-senator-wants-ftc-to-investigate-google-after-trumps-bias-comments/> last date of visit 11.09.2017.
8. Please see; <https://www.competitionpolicyinternational.com/us-senator-wants-ftc-to-investigate-google-after-trumps-bias-comments/> last date of visit 11.09.2017.
9. Please see; [http://europa.eu/rapid/press-release\\_IP-17-1784\\_en.htm](http://europa.eu/rapid/press-release_IP-17-1784_en.htm) last date of visit 11.09.2017.
10. Please see; <https://www.washingtonpost.com/technology/2018/08/30/sen-orrin-hatch-wants-ftc-investigate->

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[google/?utm\\_term=.330bb9cd977c](https://www.google.com/search?q=google/?utm_term=.330bb9cd977c) last date of visit 11.09.2017.

11. Please

see; <https://www.competitionpolicyinternational.com/us-senator-wants-ftc-to-investigate-google-after-trumps-bias-comments/> last date of visit 11.09.2017.

12. Please

see;

<https://www.cnbc.com/2018/09/05/senate-intelligence-committee-shaming-google-alphabet-empty-chair.html> last date of visit 11.09.2017.

13. Please

see; <https://www.theverge.com/2018/9/5/17822826/google-hearing-foreign-influence-operations-absent-facebook-twitter> last date of visit 11.09.2017.

14. Please

see; <http://www.foxnews.com/tech/2018/09/05/google-gets-empty-chair-treatment-at-senate-intel-hearing.html> last date of visit 11.09.2017.

15. Please

see; <https://www.bloomberg.com/news/articles/2018-09-06/trump-antitrust-chief-says-big-is-not-bad-for-tech-companies> last date of visit was 11.09.2017.

16. Please

see; <https://www.bloomberg.com/news/articles/2018-09-06/trump-antitrust-chief-says-big-is-not-bad-for-tech-companies> last date of visit 11.09.2017.

17. Please

see; <https://www.competitionpolicyinternational.com/us-big-is-not-bad-for-tech-companies-says-delrahim/> last date of visit 11.09.2017.