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November 26, 2012

The Honorable Jon Liebowitz
Chairman
Federal Trade Commission
600 Pennsylvania Ave NW 20580

Dear Chairman Liebowitz:

I am growing increasingly concerned by the way in which the Federal Trade Commission (FTC) is conducting itself with regards to questions about Google's commercial practices. The FTC is tasked by Congress to play a critical role in correcting market failures and ensuring that companies do not engage in monopolistic practices that stifle competition, innovation, and economic growth. For the FTC to effectively and credibly do this job, its actions must be viewed as fair and impartial. The FTC's credibility is eroded when confidential details of internal discussions are revealed to the media as has continually been the case in the investigation of Google.

It is also alarming that these leaks indicate that the FTC is focusing on allegations of monopoly in the online search industry. The Internet economy is the most highly competitive, innovative, and dynamic in this nation. A little more than a decade ago the most popular web search engine was Yahoo!, whose share of the market was over 46 percent, three times larger than its closest competitor, Excite. Unfortunately for consumers, all major search services offered paid results that obscured the value and popularity of the non-paying websites. When Google came on the scene it offered clean search results, clearly separating paid results, and actively combating gaming by sites that often sought attention for anti-consumer purposes. That over the course of the last several years Google has rapidly taken market share away from its competitors is not an indication that the search industry is uncompetitive, but evidence that Google is better meeting consumer preferences for a search engine.

Compared to almost any other market in the history of antitrust regulation, online search has effectively zero barriers to entry. In response to Google's use of obscured personal information to offer additional services, new search engines like DuckDuckGo have entered the market to offer fully untracked search services. There is no question that the market is continuing to ensure the full range of consumer choice without government intervention.

Lastly, according to the troubling press accounts that I described above, I understand that the FTC is considering using its Section 5 authority in ways it has not previously. It would be troubling if the FTC sought to expand the use of its authority to target a company for simply being popular rather than engaging in unfair or deceptive practices that harm consumers.

Sincerely,



Ron Wyden
United States Senator

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