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May 18, 2020

The Honorable Makan Delrahim
Assistant Attorney General, Antitrust Division
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

The Honorable Joseph Simons
Chairman
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, D.C. 20580

Dear Assistant Attorney General Delrahim and Chairman Simons:

I write to bring your attention to a powerful and compelling new case for aggressive action to protect consumers from Google. A paper published on May 18, 2020 by Yale economist Fiona M. Scott Morton and former Department of Justice official David C. Dinielli provides overwhelming evidence that forceful and meaningful action by our federal antitrust enforcers is now critical to stop Google's ongoing anticompetitive practices. As I have said before, the Department of Justice (DOJ) and the Federal Trade Commission (FTC) should not, and cannot, wait any longer to protect consumers and competition from compounding and lasting harm. To that end, I write to urge both DOJ and the FTC to take strong and immediate enforcement action against Google to protect consumers and competition from Google's consistent anticompetitive behavior.

Google has repeatedly been caught exploiting its behemoth power and abusing its dominance—stifling innovators, crushing competitors, harming consumers. The company's monopolistic dominance in the digital advertising market is no exception. By driving up advertising costs and siphoning revenues that would otherwise go to publishers, Google is simultaneously taking money from consumers' pockets and undermining the marketplace of ideas.

Professor Scott Morton and Mr. Dinielli provide extensive evidence of Google's wrongdoing in their paper, entitled, "Roadmap for a Digital Advertising Monopolization Case Against Google."¹ The paper uses compelling and rigorous market and legal analysis to

¹ See FIONA M. SCOTT MORTON AND DAVID C. DINIELLI, ROADMAP FOR A DIGITAL ADVERTISING MONOPOLIZATION CASE AGAINST GOOGLE (May 2020), <https://www.omidyar.com/sites/default/files/Roadmap%20for%20a%20Case%20Against%20Google.pdf> [hereinafter ROADMAP FOR A DIGITAL ADVERTISING MONOPOLIZATION CASE AGAINST GOOGLE]. The Paper examines Google's role in the digital advertising market based on the interim facts found and findings made by the United Kingdom's Competition and Markets Authority (CMA) following the CMA's market study into online platforms and the digital advertising market. See generally

demonstrate that, over the last 10 years, Google has engaged in a deliberate pattern and practice to obtain, expand, and maintain power in the digital advertising market.² It concludes that there is “significant reason for concern that Google has violated U.S. antitrust law”³ because, “in the digital advertising market, virtually all roads lead through Google.”⁴

I know firsthand that our antitrust laws work, but only when enforced—and enforced strongly. We have reached a tipping point, and the dam is breaking. DOJ and the FTC must do more than wring hands and warn about abuse – you must end this cycle of impunity. Only DOJ and the FTC have the tools to do so—to demand structural change at Google and to hold Google accountable. DOJ and the FTC must be bold and fearless in protecting consumers and competition against anticompetitive tactics and excessive market power.

I urge you to heed this resounding call with the conviction and conscience to say that no one—not even the tech behemoth that is Google—is above the law. While I am encouraged by recent reporting that DOJ is likely to bring an antitrust case against Google for its anticompetitive practices in the digital advertising market,⁵ I remain concerned that unless and until a lawsuit is brought to hold it accountable under our antitrust laws, Google will only continue to strengthen its market power and cause further undue harm to consumers and competition. Professor Scott Morton and Mr. Dinielli’s paper appears to confirm just that. It is incumbent upon DOJ and the FTC to enforce our antitrust laws against Google accordingly.

Thank you for your consideration.

Sincerely,



Richard Blumenthal
United States Senate

COMPETITION AND MARKETS AUTHORITY, ONLINE PLATFORMS AND DIGITAL ADVERTISING: MARKET STUDY INTERIM REPORT (Dec. 2019), https://assets.publishing.service.gov.uk/media/5dfa0580ed915d0933009761/Interim_report.pdf. As the Paper explains, the CMA’s interim report “is the best and most complete source of information we have at this time.” ROADMAP FOR A DIGITAL ADVERTISING MONOPOLIZATION CASE AGAINST GOOGLE, at p. 1. “[T]he CMA appears to be further along in its fact-finding and analysis than any of the U.S. authorities, none of which has released any public findings resulting from [their] investigations.” *Id.* at p. 1.

² ROADMAP FOR A DIGITAL ADVERTISING MONOPOLIZATION CASE AGAINST GOOGLE, *supra* note 1, at p. 17. “[P]ublic sources and the CMA Report describe a wide variety of conduct that, individually and collectively, reflects a pattern that appears designed to expand Google’s occupation and control of [the digital advertising] market to the exclusion of competitors.”

³ *Id.* at p. 37.

⁴ *Id.* at p. 3.

⁵ Brent Kendall and John D. McKinnon, *Justice Department, State Attorneys General Likely to Bring Antitrust Lawsuits Against Google*, WALL STREET JOURNAL (updated May 15, 2020), <https://www.wsj.com/articles/justice-department-state-attorneys-general-likely-to-bring-antitrust-lawsuits-against-google-11589573622>.