

Google loses appeal against EU's 2.4-billion-euro anti-trust fine

November 10 2021, by Marc Burleigh and Alex Pigman



The verdict centres on Google's shopping service and is one of three cases against the search engine giant currently moving through the EU's drawn-out appeals system.

Google lost an appeal on Wednesday against a 2.4-billion-euro

(\$2.8-billion) fine imposed by the European Union for abusing its search engine dominance—a big win for the bloc's anti-trust tussle with the tech titan.

The ruling by the Luxembourg-based General Court confirmed the landmark decision taken by the European Commission in 2017.

The matter could be challenged again, however, if Google decides to turn to the EU's highest court, the European Court of Justice, for a final say.

"Today's judgment delivers the clear message that Google's conduct was unlawful and it provides the necessary legal clarity for the market," the European Commission said in a statement.

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At the time, the fine was the EU's biggest ever. But it was later exceeded by a 4.3-billion-euro fine against Google over its Android smartphone operating system.

In its appeal, Google and its parent company Alphabet had argued the EU was "wrong on the law, the facts, and the economics" in the search engine case.

But the court said it dismissed "for the most part the action brought by the two companies, and upholds the fine imposed by the Commission".

It said that, by favouring its own Google Shopping service over rivals in its search result rankings and positioning, "Google departed from competition on the merits".

It rejected Google's argument that big online retailers had their own internet sites, saying that "those platforms are not on the same market" in which users go comparison shopping.

A Google spokesperson said the company will examine the ruling.

"This judgment relates to a very specific set of facts and while we will review it closely, we made changes back in 2017 to comply with the European Commission's decision," the spokesperson said.

"Our approach has worked successfully for more than three years, generating billions of clicks for more than 700 comparison shopping services."

While Google was dealt a setback in the EU, the company fended off a separate legal case in Britain on Wednesday as the Supreme Court blocked a \$4 billion class-action lawsuit accusing it of illegally tracking millions of iPhone users.

Big win for Brussels

The Luxembourg ruling is a win for the EU's anti-trust supremo Margrethe Vestager, who burst onto the scene in Brussels by scrapping her predecessor's more conciliatory approach to the US internet giant.

Vestager had lost in the same court in a different major case, against Apple and Ireland, in which her teams had ordered the iPhone maker to repay 13 billion euros plus interest to the Irish taxpayer. The EU has appealed that ruling.

The fine for Google came after seven years of investigation launched by complaints from other price-comparison services that saw traffic plummet against Google Shopping.

Experts believe that, if it is not overturned on later appeal, Google's similar forays into vacation rentals and job ads could be next in the EU commission's firing line.

Along with paying the fine, Google was told to remedy the problem identified by the EU case, even as the appeal moved forward.

The company tweaked its search display to give more prominence to rival shopping aggregators, as well as tourist and travel advice sites such as Tripadvisor and Yelp.

'Virtually invisible'

But many rivals are deeply dissatisfied with Google's fixes, believing they do nothing to guarantee fair competition in search results.

"What really matters... is stopping Google from repeating its behaviour in the future and protecting European consumers," said Richard Stables, from price-comparison site Kelkoo.

The European Consumer Organisation (BEUC) said Google's "misleading and unfair practices harmed millions of European consumers by ensuring that rival comparison shopping services were virtually invisible."

"In light of the ruling, we ask the European Commission to ensure that Google does not abuse its dominance as a search engine by giving its own services preference in other areas," said BEUC director general Monique Goyens.

The commission, the EU's anti-trust enforcer, is preparing legislation expected for next year that would impose tough rules on Big Tech.

One of the laws, the Digital Markets Act, sets a clear list of Do's and Don'ts for internet "gatekeepers" that includes drastic limits on how Google, or other giants, can squeeze out rivals on their platforms.

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