

Future of Google search rests with judge who will strip away monopoly power: Q&A with antitrust expert

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Google's future as provider of the world's most dominant search engine rests in the hands of a federal court judge who last month ruled the company has a monopoly on internet search.

In a hearing in U.S. District Court for the District of Columbia, Judge Amit Mehta will start to strip Google of its monopoly power after previously finding Google's distribution deals with companies that make Google the default search engine on devices, including Apple, violated [federal antitrust law](#).

Federal government lawsuits against Silicon Valley's top three technology titans and Seattle-based Amazon, which all amassed colossal market dominance and riches with little pushback from authorities, signal a shift toward bipartisan and public mistrust of the role the companies play in society and the U.S. economy.

UC Berkeley law school adjunct professor and professional mediator Christopher Hockett, an antitrust expert who has closely followed the Google search case, answered questions in an interview last month about the Google search lawsuit by the U.S. Justice Department, and how it fits with the other court actions.

Q: What would search would look like if Google had competition?

A: Google has had a very high and very stable market share—since 2009 it's been over 80% in general search service. The assumption behind Judge Mehta's ruling is the world would be better.

Q: Why did this lawsuit come about after years of Google's dominance in search?

A: This case was brought in the waning months of the Trump administration, in October 2020. It kind of underlines the bipartisan interest in prosecuting these claims against at least Google if not the whole Big Tech world.

On the left, there's hostility toward the tech companies because they're led by tech moguls who have lots of money and seem to act with impunity, and at least according to that view, they are presiding over monopolies that don't have consumers' interests at heart.

On the right, the political narrative is that Big Tech players, especially social media players, are biased against conservative points of view and they're censoring them. Although the services of most of these companies remain extremely popular, the companies and the people that run them are, with the public, somewhat less popular.

Q: Do the Justice Department's antitrust cases against Google—over search and ads, and Apple over smartphones, and the U.S. Federal Trade Commission's antitrust cases against Amazon over e-commerce and Meta over its acquisitions of Instagram and WhatsApp—all signal a backlash against Big Tech?

A: At a broad level, yes. It's particularly salient in the case of social media companies where there's a souring public mood about their effects on society and how we get along with each other. But (the cases) are all going to run into antitrust precedent that is not particularly friendly to monopolization claims. The Supreme Court in particular has been very trusting of the market process in correcting any mistakes in under-enforcement of monopolization.

Q: What will happen Friday in the first hearing on remedies to Google's monopoly?

A: I'd be surprised if (Mehta) got into the ideas for remedies

substantively. He's going to set out a schedule for the parties to weigh in on.

Q: What are Mehta's options for remedies?

A: There's been a lot of talk about a breakup of some kind. We'll see soon, probably, whether that is something the judge is interested in and why. It could be divesting the Android operating system—he could say, "You need to sell that off, or split it off somehow"—or (divesting) Chrome or Google's web indexing capacity. The judge found a problem with Google's distribution agreements and it seems like it would be more straightforward to address those with . . . an injunction that says, "You can't pay for default status."

Q: What's the process after Friday?

A: The Justice Department (will) come forward with remedies that it thinks are in order, then Google will respond. I would assume it would take several months.

Q: How long will it take for Mehta to issue an order intended to end Google's monopoly?

A: My guess is a month or two. He'll take as long as he needs because it's an important case.

Q: Do you expect Google to appeal?

A: Yes. They won't argue everything—it won't be a kitchen-sink thing. One of the things they argued in the case . . . is that there was competition for the Apple default because Apple would open up that opportunity to providers like Google and Bing. Google got that

opportunity because it offered the highest prices. I assume that that argument is going to be reiterated on appeal.

This is a situation that raises the question, "Can you be liable for monopolization when 90% of users want your product because it's the best product, and the device makers want your product?" If Judge Mehta orders remedies that (Google) doesn't want to live with before the appeal, it will ask Judge Mehta to suspend the imposition of remedies. If he says no, they will ask the court of appeal for the same thing.

Q: How long would the appeal to the D.C. Circuit take, and could it go to the U.S. Supreme Court?

A: A year, probably. Then the D.C. circuit will take whatever time it takes. This kind of case is not guaranteed to get to the Supreme Court because they have a discretionary appeal system (but) it seems likely that unless they resolve the case by settlement while the proceedings are pending that it would go to the Supreme Court. They could reach an agreement on remedy at any point in these proceedings.

Q: If the case goes to the Supreme Court, when do you think a ruling would be issued?

A: Between two and three years from now.

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