



The Daily Dish

Remedies In Search of A Violation

DOUGLAS HOLTZ-EAKIN | NOVEMBER 22, 2024

As readers will recall, the Department of Justice (DOJ) successfully prosecuted Google for unlawfully maintaining a monopoly in general search - even though you and I can see that ChatGPT is quickly threatening to eat everyone's lunch in the search area. Now, as [explained](#) by Jeff Westling, DOJ filed its [proposed final judgment](#) against Google, asking the court to impose a variety of remedies. In particular, the DOJ asked the court to impose a divestment of its Chrome web browser, and perhaps its Android mobile operating system.

There were two parts to the logic of the search decision. The court found that Google had, in fact, acquired its monopoly position in general search through successful competition on the merits. Google was just better. Yet the court also found that it maintained that monopoly power: "through what the court described as exclusionary agreements that allowed Google to be the default search engine on web browsers and mobile operating systems. As such, the court must now impose remedies to address the harms and promote competition."

The problem is that the court appears to go too far. As Westling puts it:

[T]he remedies recommended by the DOJ could promote competition, much of the agency's proposal, especially the proposed structural remedies, go well beyond the conduct at issue and could ultimately harm competition. Google integrates search functionality into Chrome and in its Android devices to improve consumer experiences. This, in turn, allows Chrome to better compete with rival products such as Microsoft's Internet Explorer and Apple's iOS mobile operating system. The court has the authority to impose remedies to restore competition and prevent future harm, but in doing so, it should ensure that the remedies are actually designed to restore competition and not to simply punish Google for being successful.