



The Daily Dish

The EC Fines Google

DOUGLAS HOLTZ-EAKIN | JULY 19, 2018

Eakinomics: The EC Fines Google

The European Commission [has fined Google €4.34 billion](#) (or [\\$5.1 billion](#)), which is a lot of money in either currency. Just how did Google violate European Union (EU) antitrust rules? The EC brought this case because they claimed Google has:

1. required manufacturers to pre-install the Google Search app and browser app (Chrome), as a condition for licensing Google's app store (the Play Store);
2. made payments to certain large manufacturers and mobile network operators on the condition that they exclusively pre-install the Google Search app on their devices; and
3. prevented manufacturers wishing to pre-install Google apps from selling even a single smart mobile device running on alternative versions of Android that were not approved by Google.

Ok, but none of those statements reveals the really important EC decision. An Apple phone comes with the Apple iOS operating system. Manufacturers of other phones have a choice as to which operating system to install on the phone. But because phone purchases are “independent from the mobile operating system,” the EC treats handsets and operating systems as separate markets and excludes Apple from the analysis. In effect, the EC charged Google with dominating the market for mobile search on the Android. It never stood a chance.

Turning to the three specific charges, it is an open question whether “pre-installation can create a status quo bias” stifles competition as the EC claims. Handset manufacturers can freely add apps, including those that compete with Google apps. Does requiring the Search app and Chrome browser as a condition of adding the app (it is not part of the operating system) known as “Play Store” really lead to dominance in search? Moreover, the Commission has done little to explain how consumers have been harmed, the true test for good competition policy.

As for the second, those payments might have given manufacturers a leg up, but they still haven't made a dent in [Apple's share of the market](#). It has 19 percent of total shipments, 51 percent of revenue, but 87 percent of the profit.

The last charge quickly turns pretty technical, but the key is that developers can take the open-source Android operating system and make changes to it. These changes produce compatible versions — based on the Android Open Source Project, complying with the Android Compatibility Definition Document, and passing the Compatibility Test Suite — and incompatible ones. It makes sense that Google would want to stop fragmentation of the platform because everyone suffers if apps don't run on every device.

The debate will continue, but given the way the investigation was framed, it is hard to see how Google could have avoided the conclusion. Nor does this decision provide a playbook for U.S. policymakers. It is a thoroughly confusing policy that doesn't focus on consumers.