

Technology | Quicktake

## Could Antitrust Ruling Against Google Bring Breakup of the Company?



The Google logo on a smartphone. *Photographer: Gabby Jones/Bloomberg*

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Alphabet Inc.'s Google lost the biggest antitrust challenge it has faced when a US judge found Aug. 5 that it illegally monopolized the search market. It was a major win for the US Justice Department and state attorneys general and could result in the breakup of the 25-year-old company.

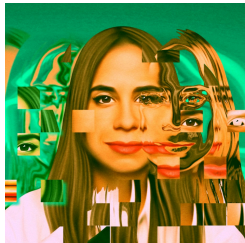
Judge Amit Mehta of the US District Court for the District of Columbia ruled that \$26 billion in payments that Google made to other companies to make its search engine the default option on smartphones and web browsers effectively blocked any other competitor from succeeding in the market. Mehta's ruling came after a 10-week trial in 2023 – the first on monopolization charges to pit the federal government against a US technology company in more than two decades.

The case is one of several antitrust actions against big tech companies being pursued by the administration of President Joe Biden, which has

made promoting competition in commerce central to its economic policy.

## 1. What was the case against Google?

The Justice Department and attorney generals alleged that Google, whose search engine controls nearly 90% of online queries, has paid billions of dollars to maintain a monopoly over the search market via agreements with tech rivals, smartphone manufacturers and wireless providers. In exchange for a cut of advertising revenue, those companies, including Apple Inc. and Samsung Electronics Co., agreed to set Google as the default on browsers and mobile devices. The deals locked up key access points, the plaintiffs alleged, preventing rival search engines such as DuckDuckGo or Microsoft Corp.'s Bing from gaining the volume of data they need to improve their products and challenge Google.



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Mehta's decision found that Google illegally monopolized the market for general search services and search text advertising – the ads that appear at the top of the search results page. “Google’s distribution agreements foreclose a substantial portion of the general search services market and impair rivals’ opportunities to compete,” Mehta said. As a result of its monopoly, Google has been able to increase prices for text advertising without constraints, he found.

## 2. What happens now?

Mehta's decision focuses solely on whether Google broke antitrust laws. He plans to hold a separate trial on how to remedy Google's illegal conduct.

The Justice Department hasn't yet said what changes it will seek. The agency could demand the separation of Alphabet's search business from other products, such as Android or Chrome. If the judge orders such a separation, it would mark the biggest forced breakup of a US company since AT&T was dismantled in 1984.

The judge could also stop short of ordering a full breakup and chose to unwind the exclusive search deals. Another option could be to require Google to license its search index, which is the data that it uses to build its search results.

### 3. What has Google said in response to the decision?

Google said it plans to appeal Mehta's ruling. The company noted that Mehta's decision states that Google is "the best search engine in the US" and has "superior product quality" because of its investments in innovation.



The Google logo on a smartphone. *Photographer: Gabby Jones/Bloomberg*

While the company acknowledges that it pays for its search engine to be pre-installed on mobile phones and browsers, it says those deals are benign, likening them to deals that cereal companies make with grocery stores for prime shelf space. Google's representatives have repeatedly said that competition is just "one click away."

### 4. What are antitrust laws?

They are meant to protect competition in commerce. In the US, it's not illegal to be big and powerful; gaining a monopoly position from superior products or better management is considered a reward for success in the marketplace. However, it's illegal for a monopoly to take predatory steps

to stop rivals that might threaten its dominance. Any attempts to illegally maintain a monopoly is fair game for antitrust enforcers and could result in penalties or a forced breakup.

## 5. What other antitrust cases does Google face?

- Led by Texas, 16 states plus Puerto Rico sued Google in 2020, saying it monopolizes the technology underlying online advertising. A trial has been scheduled for next March.
- The Justice Department filed a separate antitrust suit against Google over its advertising technology business in January 2023. That case is headed for trial in September.
- A federal jury found that Google illegally sought to maintain a monopoly over app distribution through its Google Play store on mobile devices. Epic Games, the *Fortnite* video-game publisher that brought the lawsuit, has asked a court to order Google to allow consumers to download apps from wherever they choose and allow developers the freedom to choose how to accept payments. Google opposes the proposed remedy, and the judge in the case has yet to rule.
- Three dozen state attorneys general sued Google in July 2021, saying it illegally abused its power over the sale and distribution of apps through the Google Play store on mobile devices. Google tentatively settled that case for \$700 million, but a federal judge has yet to approve the deal amid concerns it doesn't resolve the allegedly anticompetitive conduct.

## 6. Where else are Google's business practices under scrutiny?

Europe, mainly. Since 2010, when the European Commission received its first formal complaint against Google's competitive practices, the company has received a trio of penalties totaling more than €8 billion (\$8.6 billion). Google continues to fight those fines, including a landmark €4.34 billion penalty for how it runs its Android mobile operating system, in the courts. In June, the EU made additional charges against Google, accusing it of favoring its advertising technology business to the detriment of adtech rivals, advertisers and online publishers, and told it to divest the entire division.

In March, the EU's Digital Markets Act went into effect on Google and other designated "gatekeepers" of the online economy. Under the act, they won't be allowed to favor their own services over those of rivals on their platforms, will be barred from combining personal data across their different services, and will be prohibited from using data they collect from third-party merchants to compete against them. The European Commission, the EU's executive arm, has opened a probe into whether Google is complying with the new rules in connection with its app store and search engine.

## **7. What other antitrust cases is the Biden administration pursuing?**

Biden's administration has accelerated an anti-monopoly crackdown that began under then-President Donald Trump. In the final months of the Trump administration, the Justice Department filed the first lawsuit against Google, and the Federal Trade Commission filed a suit against Facebook, accusing it of illegally maintaining a monopoly on personal social networking in part by acquiring rivals Instagram and WhatsApp; the FTC seeks the breakup of Facebook parent Meta Platforms Inc.

Those actions, continued by Biden officials, are the biggest antitrust moves against tech giants since the US sued Microsoft in the 1990s, leading to an eventual settlement in which the company curtailed some business practices.

Last year, the FTC sued Amazon.com Inc. for monopolizing online marketplace services by degrading quality for shoppers and overcharging sellers. In March, the Justice Department filed suit against Apple for blocking rivals from accessing hardware and software features on its popular devices.

## **The Reference Shelf**

- Related QuickTakes explore the question of whether big tech companies are monopolies, and the EU's two-track approach to policing the Silicon Valley giants.
- The antitrust complaint against Google by the Justice Department and 14 states, and their press release.
- The complaint against Google by 35 states, Washington DC, Guam and Puerto Rico, plus their press release.

- Google's blog post on the case.

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