Response of Jeffrey Katz, Chief Executive Officer, Nextag, Inc.
Before the Senate Committee on the Judiciary, Subcommittee on Antitrust, Competition Policy and Consumer Rights

Hearing on "The Power of Google: Serving Consumers or Threatening Competition?"
September 21, 2011

Questions for the Record from Sen. Grassley

1. Some Iowans tell me that "at this time of economic uncertainty, the wrong choice for government would be to take steps that impede innovation and job creation. Tying up pro-consumer companies like Google in endless legal oversight and penalizing them for their success will not help the economy grow – not in [the Council Bluffs] community and not nationally. Instead, allowing the market to continue to work successfully and consumers to freely choose which online services they use is a better way to nurture additional entrepreneurship and job growth." Do you agree? Why or why not?

We agree that allowing the market to work successfully is the most effective way to promote innovation. However, Google is thwarting normal free market competition mechanisms by using its monopoly power to make it difficult for consumers and merchants to choose against Google and in favor of a competitor. For example, Google rigs its results in favor of its own services and blocks competitors from even bidding on many of the best advertising placements. The impediments that Google erects prevent consumers from freely choosing the online services that they will use. Google is hardly behaving in a "pro-consumer" manner as this question states.

Google frankly admits that it possesses and wields the power to pick winners in every market in the country -- this is contrary to free market principles and no better than having the government pick winners. Indeed, there are demonstrable examples of Google killing local merchants by arbitrarily picking against them. Merchants certainly should have the prerogative to work with Google, but in a free market economy, others should be able to make different choices and Google is using its power to make that difficult.

In addition, the value created by Google is only half the equation and fails to consider the value generated by the competitors that Google targets with its monopoly power. By limiting the opportunities for these competitors, Google harms merchants by restricting the value that they can receive from these competitors. Nextag's services are a powerful source of sales and growth for thousands of merchants across the United States, and a valuable tool for consumers to find products at great prices from outstanding merchants. Consumers who visited merchants from the Nextag sites purchased more than $1 billion of products in 2010[1] and saved millions of dollars. Thousands of merchants have registered with Nextag and listed their products on our sites –merchants benefit from working with us and recognize the value of our services in growing their customer relationships, sales and businesses.

[1] Source: Nextag internal estimates based on merchant sales data.

Nextag is one of several vertical or specialty search engines that help consumers find in-depth information about a specific topic. In addition to product shopping sites like Nextag, other vertical search engines provide information on local services (e.g., Yelp) and travel (e.g., Kayak or Expedia). These specialized search engines help consumers find the best prices, services and products and generate tremendous sales and job growth for merchants and service providers.

Unfortunately, the market for online search is distorted by Google's use of its monopoly power to restrict competitors. Google's vertical services, such as Google Shopping, are largely immune to the forces of competition – Google promotes Google Shopping not by winning in the marketplace but by rigging the search results in its favor.

2. One of my constituents praised Google's services, saying it gives him "the tools to help my business grow, supporting business across [Iowa], and fueling our national economy." He urged that "Government should not be picking winners and losers – it should allow successful companies like Google to continue to empower small business and promote entrepreneurial growth across our country." What is your opinion on this?

As noted above, Google uses its monopoly power to pick winners and losers and to insulate itself from competition. Google uses preferences and penalties to make it difficult for consumers and merchants to choose another service over Google. Rather than Google picking the winners, the winners should be picked by the market, based on fair and robust competition. Google faces no meaningful competition in "horizontal" or general search, but the competition from these specialized search companies has driven Google to innovate, and has been a driving force in development of the tools that your constituent notes.

Nextag's services are a powerful driver of sales and growth for thousands of merchants across the United States. Merchants choose to list their products with us because we provide them with exceptional value and services. The same is true for the other specialty search companies in product shopping, travel and local services, and together we provide billions of dollars of sales for merchants and service providers across the country.

3. How do you respond to the Iowan who asked "why [should] the government . . . impose regulation on a company and industry that is creating jobs here in Iowa and helping local businesses not only compete in the global marketplace, but also thrive there?"

As noted above, specialized search companies are valuable partners for small businesses in Iowa and across the country and generate billions of dollars of sales, allowing Iowa businesses to reach consumers from Portland, Oregon to Portland, Maine, and to grow their businesses and workforces in ways that would be unimaginable for companies who only sell locally. Iowans, and consumers across the country, save money and time through Nextag, allowing them to make the most with their hard-earned money. The sales and jobs generated by specialized search companies in product shopping, local search, travel, and other verticals is very significant. The most effective way to ensure that merchants receive the best prices and the best, most innovative services to allow them to generate the most growth and sales is to promote and protect robust competition in these specialized areas of search.

Without debating whether our service is better than Google's, competition clearly is the most effective driver of innovation. We simply desire a level playing field so that consumers and merchants have a full opportunity to choose the services that they prefer.

4. Google often responds to its critics by saying that "Competition is just one click away." Do you agree with that statement? Why or why not?

Although this slogan is catchy, it is simply a distraction from the real question of whether Google should be able to use its monopoly power to make it more difficult for merchants and consumers to find and use competitors like Nextag. The premise of the question is that Google can engage in anticompetitive actions, and can make it much more difficult for consumers to find competitors like Nextag, as long as Google does not completely foreclose all routes to reach the competitors. This is simply the wrong question, and a focus on it will inevitably allow Google to strangle competitors, eliminate competition and remove innovative drive. As Google notes, "Search is critical. If you are not found, the rest cannot follow."[2]

This question also reflects a lack of understanding of how consumers use the internet. People remember very few web sites – rather than entering a company name into the navigation bar, most people access the internet through search. In short, search is the front door to the internet. Shopping users generally enter the internet by searching for a product or a service, and expecting to find the best quality information in the search results. Relying on consumers to type into the navigation bar the name of many different websites across multiple verticals is like saying that barring the front door is ok because consumers can still climb in the unlocked second floor window around back. While this may provide theoretical comfort, the real-world result of allowing Google to disadvantage competitors is inevitably and unavoidably that the competitors will be severely minimized, and that Google will leverage its horizontal search monopoly into a position of overwhelming strength in specialized, vertical search as well, which will limit the options available to consumers and merchants and the innovative drive that is fostered by competition.

For Iowa merchants who wish to find customers, competition is not just a click away. Alternatives to Google are very limited, and Google's actions are further reducing merchants' choices. Merchants cannot switch to other online marketing providers even if they wished – Google has such a dominant position that merchants do not have substitutes.

5. Are you concerned that government intervention in the online market will impact innovation?

We believe that the greatest threat to innovation in specialty search is Google's anticompetitive actions. As noted above, the best driver of innovation is a competitive market, and monopoly power reduces the need for innovation. Google uses its monopoly power to attract users to its own services and to create difficulty for users who might otherwise choose another service. As a result, Google creates a tremendous advantage for its own sites that is unrelated to the quality or innovativeness of those sites.

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[2] Kevin J. O'Brien and Eric Pfanner, Europe Divided on Google Book Deal, *The New York Times*, Published: August 23, 2009, available at http://www.nytimes.com/2009/08/24/technology/internet/24iht-books.html?pagewanted=all

On the other hand, Nextag has dedicated very significant resources to innovation across our business. However, if we are not able to attract sufficient users to justify the effort, this innovation will not happen. By eliminating user traffic to competitors, Google has the ability to eliminate innovation.

Because a free and competitive market is the key force in driving quality and innovation in online search and advertising, the government may in rare cases be required to act to protect fair competition. We believe that enforcing the antitrust laws to protect competition is fundamentally different than government regulation. While the latter would slow innovation and divert resources to non-regulated areas, protecting fair competition will reward and encourage innovation by allowing entrepreneurs a fair chance to succeed and to reap the benefits of their work.