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. Kohl

1. What happened to your business in Europe when you were subject to "search penalties"? Are you concerned the same thing could happen in the United States?

Google imposes substantial penalties on sites, and in particular competitors like Nextag, without warning or explanation. For example, we experienced substantial and unexplained decreases in Google natural traffic to our UK and German sites, which were our second and third largest sites.

We are very concerned that a penalty will be applied to our U.S. site. We are particularly concerned that Google may apply a penalty in the U.S. or in another country, such as France, which is now our second largest site, to retaliate for our participation in the Senate hearings or for our other actions to discuss concerns about Google's monopoly power.

2. Do you think that these "search penalties" were imposed simply because Nextag was trying to compete with Google?

We have dedicated considerable time and expense to analyzing these sites and have not been able to identify any reason for the penalties. We can only conclude that the penalties were applied for reasons relating to Google's competitive positioning, either to remove competition or to retaliate for our raising questions about Google's actions.

3. Do you believe the experience of Nextag and similar companies could deter new, innovative web companies from entering the market and competing with Google?

The experience of Nextag and similar companies does deter new, innovative web companies from entering the market and competing with Google. More broadly, these companies' experience deters new companies from entering not only direct competition with Google as it is today but also from entering markets that *could in the future* be of interest to Google – in short, any service where a company needs to reach users through search. Nobody knows what areas Google may move into in the future, but the experience of Nextag, Yelp and others shows that Google will attempt to control lucrative vertical search businesses. Any company that finds success based on search should expect that Google will eventually attempt to take that vertical by manipulating the search results.

Not only does Google deter new companies with the risk of harming the companies' businesses, but the Google risk also significantly limits these companies' opportunities to achieve desirable liquidity. Investors understand that Google may penalize competing businesses or divert users away, and that an investment in a potential competitor of Google may be worth a small fraction of the investment value. Clearly, any entrepreneur or investor who wishes to achieve a desirable outcome for a company will look at an area that is far from Google's possible expansion zone.

4. The Federal Trade Commission and several state attorneys general are currently pursuing an antitrust investigation against Google. Should they conclude the law has been violated, are there any specific remedies you believe they should pursue?

The only sure remedy is to separate Google as content provider from Google as content distributor. As noted by Sen. Blumenthal, Google runs the racetrack and provides some of the horses. The only way to ensure a fair and level playing field is to divest the Google content sites so that the motivation for bias is removed.

Other remedies should be focused on ensuring that Google provides a level playing field for all competitors. While we are not best positioned to evaluate specific ways to accomplish this, the key is that Google should provide a level playing field and not rig the results in their own favor. If they have one algorithm for their results, or put their results at the top, they should do the same for competitors. If they use a better format and appearance for their services, they should do the same for competitors. If they have new ad formats, they should make them available to all advertisers. If they banish a competitor to the deepest bowels of the search results, they should tell the competitor what they have done wrong.

Most importantly, you can't simply tell Google to go forth and sin no more. Don't underestimate the damage that Google has done already, and the advantage they have taken. Google's wants to start the marathon from mile 15 while making us run 30. Google needs to be at the starting line with everyone else.