



**Response of Eric Schmidt, Executive Chairman, Google 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**

Senator Grassley’s Written Questions for Eric Schmidt

- 1. Some Iowans question whether “Google promotes fairness, competition and transparency in the online search business.” What can you tell them about this? Do Google’s business practices promote fairness, competition and transparency? How?**

Google is proud of its business practices. The open web of high-quality publishers is important to Google’s success. Through Google Webmaster Central, the company has made substantial investments in tools and transparency for websites. In addition to building industry-leading tools to help websites diagnose problems and improve performance, Google provides more information about how our rankings work than any other major search engine.

In order to continue to provide good results, however, some aspects of search algorithms need to be kept secret. Otherwise spammers would game their way to the top of search result rankings with tricks and gimmicks. Because spammers consistently try to game Google’s search algorithms, Google has published detailed quality guidelines for webmasters. In addition to providing constructive advice for improving website performance on Google, these guidelines clearly articulate spam tactics that are against the rules and could lead to a site being demoted or removed from our index.

Competition is just one click away. Google does not—and cannot—make it more difficult for users to switch to Microsoft’s Bing, Yahoo!, Blekko, or any specialized search engine such as Amazon (for products), Yelp (for local reviews), or OpenTable (for restaurant reviews). As Microsoft researcher Ryen White observed this year in summarizing his research findings, “The barrier to switching Web Search engines is low and multiple engine usage is common.”¹ In fact, according to multiple studies, including one from Microsoft,² it is clear that a majority of searchers use more than one search engine in any given month (what the industry refers to as “multi-homing”).³ Multi-homing is evidence that there is no lock-in: if there were, the studies should demonstrate no multi-homing because users are locked-in to a single search engine.

¹ Qi Guo, Ryen W. White, Yunqiao Zhang, Blake Anderson, and Susan T. Dumais, “Why Searchers Switch: Understanding and Predicting Engine Switching Rationales”, SIGIR 2011, July 24-28, 2011, <http://research.microsoft.com/en-us/um/people/ryenw/papers/GuoSIGIR2011.pdf>.

² *Id.*

³ See Jake Loechner, “Websearchers Are Tenacious”, Center for Media Research, October 4, 2010, <http://www.mediapost.com/publications/article/136907/> (reporting on 2010 Performics Study that found 79% of Internet searchers will try a different site if they do not initially find what they seek); see also Jacqui Cheng, “Nielsen: Fickle Search Engine Users Could Benefit Bing”, Ars Technica, June 2, 2009, <http://arstechnica.com/web/news/2009/06/nielsen-fickle-search-engine-users-could-benefit-bing.ars>

2. **In the 1990's when Microsoft added enhanced desktop search to Windows, Google took the position that it was an illegal tying of the dominant Windows platform. Today, many competitors are concerned that Google is illegally tying services to Google's dominant Search and Search advertising businesses in a similar way. For example, Google Maps and Google Places have been given priority placing in Google search results at the expense of competitors like MapQuest, Yelp or Trip Advisor. How is tying like this acceptable, but Microsoft's was not?**

The manner in which Google and other search engines (including Microsoft's Bing) display their search results does not "tie" one kind of result to another. There is one product—search—and numerous means of displaying information that may be useful and responsive to queries. Users are not coerced in any way; they can click on what they want or navigate to an entirely different information source.

3. **Some Iowans have expressed concerns that because of Google's dominance in the online search market, it "can easily pick winners and losers based on some arbitrary and undisclosed system." Another Iowan wrote, "Over the past few years, Google has ratcheted up competition with established websites by developing its own products and often promoting them above regular search results. . . . How will a startup compete with a giant like Google that has essentially monopolized the Internet?" Are these valid concerns?**

Google's efforts to deliver responsive results to our users in no way harm competition or deter innovators from entering the market. To the contrary, Google actually provides free promotion to millions of innovative websites through our search results. Indeed, innovation on the Internet is happening at an unprecedented rate. As the CEO of Blekko (a relatively new firm that offers a general search engine and recently attracted \$30 million in additional financing) noted last month: "We don't need federal intervention to level the playing field with Google. Innovation and competition are far more powerful instruments."⁴

The Internet is incredibly dynamic and new companies with tremendous ideas are being created every day. Facebook, Twitter, and LinkedIn all achieved extraordinary success long after Google began integrating thematic algorithms into our search results—and all are changing the way in which users think about finding information online. Already, many users utilize these sites, and others like them, to find the information they need. The New York Times, for example, receives only 16% of its web traffic from Google.⁵ Similarly, ComedyCentral.com receives more traffic from Facebook than it does from Google.⁶ Amazon, Travelocity, and Expedia, among others, provide thematic search results and do not need Google to find an audience—they are quite successful in finding an audience on the Internet.

Moreover, history shows that popular technology is often supplanted by entirely new models. Even in the few weeks since the hearing, Apple has launched an entirely new approach to search technology with Siri, its voice-activated search and task-completion service built into the iPhone 4S. As one respected technology site

(finding that 72 percent of all heavy Internet searchers use more than three different search engines in a month).

⁴ Rich Skrenta (co-founder and CEO of Blekko), "Blekko's not afraid of Google, why is Washington?", Skrentablog, September 20, 2011, http://www.skrenta.com/2011/09/blekkos_not_afraid_of_google_w.html.

⁵ Compete.com, September 2011 Site Analytics Data for The New York Times, accessed October 27, 2011, <http://siteanalytics.compete.com/nytimes.com/>.

⁶ Compete.com, September 2011 Site Analytics Data for Comedy Central, accessed October 27, 2011, <http://siteanalytics.compete.com/comedycentral.com/>.

reported: “[E]veryone keeps insisting that Apple will eventually get into the search engine business. Well they have. But not in the way that everyone was thinking. Siri is their entry point.”⁷ Another commentator has described Siri more simply as intended to be a “Google killer.”⁸

Finally, we do not have to speculate as to whether there are new entrants in vertical search services such as comparison shopping and local search and review sites. There are new entrants in these market segments all the time. A new comparison shopping site, FindTheBest, launched by the co-founder of DoubleClick last year, just raised \$6 million in venture funding over the summer. Cheapism is a comparison shopping site that launched in 2009, dedicated to bargain hunters on the Internet and was recognized in the New York Times and on CBS New York. More recently, a new entrant called Centzy launched a website that combines both local search and comparison shopping functionality. Centzy’s CEO used to work at SnapFish and is currently seeking funding following its successful launch for New York and San Francisco. Unlike Yelp, Centzy integrates pricing information for goods and services on its site so that users can comparison shop for local services. Barefootfloors.com is a comparison shopping site that launched in January that is focused on home goods and “is now helping online shoppers to educate themselves on everything related to the home and to save money on a wide variety of products for the home.”⁹ In February of this year, the travel comparison shopping site, Hipmunk, received \$4.6 million in venture funding, even as Google continues to expand its own flight search and hotel search functionality.

These are just a few of the many recent entrants in local and comparison shopping that are entering the market even as Google continues to innovate. While they may not all succeed, venture capitalists and entrepreneurs alike continue to believe they can compete with Google, Yelp, Nextag, and other established competitors.

4. How would you characterize Google’s view of intellectual property and its role in the economy?

Google believes in a strong and balanced approach to protecting copyright and other intellectual property rights, in line with the Constitution’s goal of promoting “the progress of science and useful arts.” We understand that despite the overwhelmingly positive and legitimate uses of Internet services and technologies, there will be some who misuse these for infringing purposes. Google invests millions of dollars in engineering and other resources to help rightsholders fight this misuse.

Google adheres to the takedown process Congress established under the Digital Millennium Copyright Act (“DMCA”), which provides copyright owners with expeditious recourse when they discover infringement online while also giving online service providers like Google the certainty necessary to invest in the services that millions of Americans rely on each day. Across our search engine and hosted products, we remove or disable access to millions of infringing items each year at the request of copyright owners. We voluntarily take several steps well beyond our legal obligations, and we regularly cooperate with a wide array of law enforcement authorities.

⁷ MG Siegler, “Why So Siri-ous?”, TechCrunch, October 16, 2011, <http://techcrunch.com/2011/10/16/iphone-siri/>.

⁸ Eric Jackson, “Why Siri Is a Google Killer”, Forbes, October 28, 2011, <http://www.forbes.com/sites/ericjackson/2011/10/28/why-siri-is-a-google-killer/2/>.

⁹ Tanya Tymoshuk, “BarefootFloor.com: New Price Comparison Engine Helps Consumers Shop Smartly for Home Goods”, Yahoo! News, January 11, 2011, <http://news.yahoo.com/barefootfloor-com-price-comparison-engine-helps-consumers-shop-20110111-070000-289.html>.

With the explosive growth of the Internet and skyrocketing demand for Internet-enabled devices, it is innovation-friendly copyright limitations and exceptions, principally fair use and the DMCA safe harbors, that have directly led to the creation of entirely new marketplaces for promoting and monetizing content. Online platforms like YouTube, Facebook, and Twitter in turn have unleashed new sources of creativity, economic development, and jobs. It is no exaggeration to note that the DMCA set the legal foundation for e-commerce. The Computer and Communications Industry Association has found that industries that rely on fair use and other limitations generate \$4.7 trillion in revenue, represent one sixth of total U.S. GDP, and support 17 million jobs. While online piracy remains a serious enforcement problem, we should not lose sight of the overall balance of our nation's copyright laws, which continue to spur a broad array of American-bred creativity and innovation.

Google also works closely with rightsholders to make authorized content more accessible on the Internet. We realize that providing users with access to legitimate content is critical to addressing the problem of copyright infringement online. From its startup phase in 2005, YouTube is now monetizing for content owners over three billion video views per week. We create revenue for more than 20,000 partners. Record labels are now making millions of dollars a month on YouTube. Hundreds of YouTube users make six figures a year. Today over 2,000 media companies—including every major U.S. network broadcaster, movie studio, and record label—use the copyright protection tools that YouTube offers, and a majority of them choose to monetize rather than block their content online.

- 5. I've heard complaints from a number of rights holders regarding Google's approach to intellectual property rights. In the opinion of many of Google's critics, Google has taken a cavalier attitude toward the intellectual property of others. The issues that are being raised are not insignificant, considering the ease in which a site engaged in counterfeiting or piracy can be found with a search, the profits earned from advertising on such sites, and the large number of mobile applications on the Android platform that facilitate piracy. After reading about the recent Google \$500 million settlement with the Department of Justice regarding the placement of ads on rogue pharmaceutical sites, I'm interested in hearing about Google's approach to ensuring the protection of intellectual property rights. As you know, a few months ago the Senate Judiciary Committee favorably reported the PROTECT-IP Act that is intended to address the rampant problem of online infringement. I believe that Google as a company should do more voluntarily to protect intellectual property rights. How does Google plan to do better?**

Google understands that despite the overwhelmingly positive and legitimate uses of Internet services and technologies, there will be some who misuse these for infringing purposes. Google has been an industry leader in developing innovative measures to protect copyright and help rightsholders control their content online. For example, Google has expended more than 50,000 engineering hours and more than \$30 million to develop Content ID, our cutting-edge copyright protection tool that is helping rightsholders make money on YouTube. This powerful technology scans the more than 48 hours of video uploaded to YouTube every minute and, within seconds, compares it against more than six million references files provided by participating rightsholders. Content ID has proven to be an enormous success and is being used by a long list of content owners worldwide to make their own choices about how, where, when, or whether they want their content to appear on YouTube.

As is true for all Internet companies, the critical foundation for Google's anti-piracy efforts remains the DMCA, the seminal law Congress passed in 1998 to address copyright protection online and promote the worldwide expansion of e-commerce. Congress rightly understood that some material posted by the millions of people who use online services will infringe copyright, and that online service providers in the ordinary course of their operations engage in copying and other acts that expose them to potential copyright liability. Congress also recognized that requiring online providers to engage in pre-screening of every user-posted text, picture, and video would inhibit free expression and stifle the growth of the Internet.

At the request of copyright owners, Google in 2010 took action against approximately three million allegedly infringing items across all our products, which accounts for far less than 1% of all the materials hosted and indexed by Google. We received takedown notices by letter, fax, email, and web forms from all sorts of copyright owners (including movie studios, record labels, adult entertainment vendors, and needlepoint pattern publishers) from 70 countries and in a wide variety of languages. Hundreds of Google employees work on copyright and combating infringement online, including a growing team of employees dedicated to receiving, reviewing, and responding to DMCA notices. We check to make sure that the notices are complete and are not attempts by competitors or others to use invalid copyright claims to censor speech with which they disagree.

Last December, Google announced that we were designing new tools to enable us to act on reliable copyright takedown requests within 24 hours. We are happy to report that our average turnaround time for DMCA notices received from those using our new tools is now less than seven hours. Moreover, submissions using our new tools now account for more than 75% of all URLs identified to us for web search.

In addition, Google has (in compliance with the DMCA) implemented repeat infringer policies on all relevant products. In each of these products, repeat infringer terminations constitute far fewer than 1% of the total subscriber accounts.

We also employ a wide array of procedures and expend considerable financial resources to prevent our advertising products from being used to monetize material that infringes copyright. For example, our AdSense program enables website publishers to display ads alongside their content. Our policies prohibit the use of this program for infringing sites, and we use automated and manual review to weed out abuse. In 2010, we took action on our own initiative against nearly 12,000 sites for violating this policy. And in 2011, we have already taken action against more than 12,000 sites. We also respond swiftly when notified by rightsholders. We recently agreed to improve our AdSense anti-piracy review procedures and are working together with rightsholders on better ways to identify websites that violate our policies.

We also committed last year to prevent terms that are closely associated with piracy from appearing in autocomplete. We have begun working to prevent several piracy-related terms from appearing in autocomplete and have asked content industry representatives to suggest other terms for consideration that won't overly restrict legitimate speech.

We are also helping to lead industry-wide solutions through our work with the Interactive Advertising Bureau ("IAB"), comprised of more than 460 leading media and technology companies. The IAB has established quality-assurance guidelines through which participating advertising companies will take standardized steps to enhance buyer control over the placement and context of advertising and build brand safety. Google has certified our compliance with these guidelines.

Google also expends great effort to fight the challenge of counterfeit goods. Just as in the offline world, people misuse legitimate online services to try to market counterfeit goods. This abuse hurts our users and our business; combating it is central to Google's operations. The integrity and quality of the sponsored links displayed alongside Google search results are of paramount importance to our overall success. A Google user duped by a fake good is less likely to click on another Google ad in the future. For this reason, Google undertakes enormous efforts to root out ads for sites that sell counterfeit goods.

Google has clear policies against advertising counterfeit goods, and we expend considerable resources to enforce those policies. In the last year, we shut down approximately 95,000 accounts for attempting to use sponsored links to advertise counterfeit goods, and more than 95% of these accounts were discovered through our own detection efforts. Even more ads themselves were blocked on suspicion of policy violations. Our automated tools analyze thousands of signals to help prevent bad ads from being shown in sponsored links. Last year alone we invested \$60 million in efforts to prevent violations of our ad policies.

Despite the best efforts of the online advertising industry, proactive measures will never be a complete solution. Some publishers deliberately take steps to evade detection systems, meaning bad sites will invariably slip through. Technologically sophisticated players use tactics like “cloaking” (showing one version of their site to the public and a different version to Google) to evade the protections that Google and other companies put in place. Because of these tactics, coupled with the sheer volume of ads served per day, finding a particular ad on the web that has circumvented our systems may always be possible. While the industry is aggressively going after this abuse, it is clearly a cat-and-mouse game to stay ahead of the bad actors, and Google is committed to being an industry leader in eradicating this behavior.

We also believe that making high-value content available in authorized forms is a crucial part of the battle against online infringement. With 800 million people per month coming to YouTube, we have expanded our movie rental services, made it easier for indie labels to become YouTube partners and share revenue when their music is played (even for user-generated content), and launched a feature to enable fans to buy artists’ merchandise, music downloads, and concert tickets. And we’ve launched the Google eBookstore, featuring a wide array of books from authors and publishers. We also continue to improve YouTube’s Content ID system to help more copyright owners (including songwriters and music publishers) to monetize their works, and we are working with WIPO on a rights registry that will help African musicians license their works.

In addition to launching our own authorized services, we also launched Music Rich Snippets, which allow other legitimate music sites to highlight content in the snippets that appear in Google’s conventional web search results. Rhapsody and MySpace are among the first to implement this feature, which has been developed using open web markup standards, and we are looking forward to more sites and search engines marking up their pages. We hope that authorized music sites will take advantage of Music Rich Snippets to make their preview content stand out in search results.

- 6. With so many people now using smart phones, one of my constituents wonders what sort of data Google is collecting from smart phone users. Do you track more than Google searches? Are you able to track text messages and the use of applications? She is concerned about the amount of personal information that Google may have access to, and if there are any privacy issues that are implicated by Google’s practices.**

Google respects our users’ privacy. The ordinary phone and text messaging features of mobile devices are not handled by Google, but rather by the mobile network operator. Therefore, Google does not track these user phone calls or text message.

The Google search service, as well as other Google applications and Google web services (such as Gmail and YouTube) are available to users on mobile devices, whether they use Android or another operating system. The Google Mobile Privacy Policy (<http://www.google.com/mobile/privacy.html>) and Google Privacy Policy (<http://www.google.com/intl/en/privacy/privacy-policy.html>) describe the types of information collected by Google from mobile devices.