**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**

**Sen. Kohl's Follow-Up Questions for the Record for Eric Schmidt**

1. **At the hearing, we discussed the 2007 statement of Google senior executive (currently Vice President for Location and Local Services) Marissa Mayer that Google used to rank links "based on popularity, but when we roll[ed] out Google Finance, we did put the Google link first. It seems only fair, right? We do all the work for the search page and all these other things, so we do put it first… That has actually been our policy, since then . . . So for Google Maps again, it's the first link, so on and so forth. And after that it's ranked usually by popularity."**

    a. **At the hearing, I asked you whether Ms. Mayer's statement was an accurate statement of Google policy. You replied, "I wasn't there [when Ms. Mayer made the statement], so maybe I should use my own voice on this question," and later added, "I'll let Marissa speak for herself on her quote." You never stated whether Ms. Mayer correctly described Google's policy in 2007. However, in answering Senator Blumenthal's question, "As I understand it, certain Google properties – Maps, for example – are at the top of the search results regardless of the algorithm or formula or methodology," you responded "Right. Sure." So does Ms. Mayer's quote accurately describe Google's policy regarding Google content (not only Google Finance) at the time she said it 2007? Did this policy change at any time? If so, when, and what was the change(s)? In general, does Google put the Google Finance and other Google content, such as Google Maps, Local Search, Shopping, etc., results at or near the top of non-sponsored search results on the search results page (or above the search results), regardless of its popularity?**

Before I address Ms. Mayer's statements, let me first address some questions of terminology. To begin with, Google's search results seek to achieve one fundamental thing: to connect users to the information they seek. We do this in two key ways. First, we started with conventional search—the traditional ten blue links—which involved crawling and indexing the web and returning results based on general responsiveness. Second, starting in 2001, we began to incorporate search results designed to respond to signals that a user is looking for specific types of information—a map, an image, a local business, a product, a news update, etc. We sometimes call these "thematic" search results.

When presenting thematic results, Google displays them in a way that is designed to make them user friendly. Prior to the launch of universal search in 2007, Google's thematic results like news were displayed, when relevant, at the top of the search results page. With the introduction of "universal search," we began to allow these thematic results to "float" from the top position to positions in the middle and bottom of the page, based on our assessment of how relevant conventional and thematic results were to the user's query.

Other major search engines also incorporate thematic and conventional search results on their search results pages. In fact, the first efforts at blending thematic and conventional search results by other general search engines date back to the late 1990s. It reflects the effort to achieve what one industry expert described in 2001 as the "Holy Grail" of search: "The real Holy Grail of all this will be when search engines can detect the type of search we are doing and feed out more targeted results from appropriate databases."[1]

But what is crucial to understand is that universal search results are *not* separate "products and services" from Google. Rather, the incorporation of thematic and conventional results in universal search reflects Google's effort to connect users to the information that is most responsive to their queries. Because of this, the question of whether we "favor" our "products and services" is based on an inaccurate premise. These universal search results *are* our search service—they are not some separate "Google content" that can be "favored."

That said, in keeping with our focus on quality and delivering the most relevant results for consumers, Google constantly experiments with new ways to provide the most relevant information is response to a user's query. For example, for certain queries, where Google is highly confident that the user wants a specific answer, Google will provide that answer prominently on the page. These direct answers are known as "oneboxes." Oneboxes are generally displayed to convey an answer that is clear and straightforward, for example, movie showtimes, weather forecasts, mathematical calculations, stock prices, sports scores, and so on. Microsoft's Bing and Yahoo! display similar "oneboxes" prominently in their results as well, demonstrating their belief that these results are useful for consumers.

The decision whether to display a onebox is determined based on Google's assessment of user intent. Contrary to what some of Google's critics suggest, Google does not make money when users click on oneboxes. In fact, the opposite is true: oneboxes that are responsive to what users are looking for may draw users away from the ads displayed on the page. Nonetheless, because oneboxes help Google deliver a satisfying experience to users, Google believes that by displaying them we are enhancing user satisfaction, which is in the long-term best interest of the company.

In some instances, Google has licensed data from third parties for use in our oneboxes. In other instances, we have developed this data ourselves. In either case, whether users are searching for a weather forecast, a mathematical calculation (e.g., "pounds to grams"), or a stock price, Google's user studies confirm that users seeking this type of information generally do not want to click through to multiple options, whether in the form of ads or more natural links. Rather, users want a quick, direct answer that they can trust is correct. Oneboxes provide fast, accurate answers in response to this user demand.

With regard to Ms. Mayer's quote, it is my understanding that she was referring to the placement of links within a onebox (but not the ranking of other thematic results within search results), and her description was accurate.

**b. If your answer is that Ms. Mayer did accurately describe Google's policy, doesn't ranking Google's sites automatically first in this manner give Google an unfair competitive advantage over non-Google web sites? And doesn't this policy deter new innovative services from entering the market?**

For certain types of queries, such as stock quotes and weather forecasts, our studies show that users like direct answers. As stated above, it is my understanding that Ms. Mayer was referring to the placement of links within a onebox (but not the ranking of other thematic results within search results), and her description was accurate.

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[1] Danny Sullivan, "Being Search Boxed to Death", Search Engine Watch, March 4, 2001, http://searchenginewatch.com/article/2065235/Being-Search-Boxed-To-Death.

Google's primary goal is to give users the information they seek, and if for any reason we do not succeed in providing the best answers for our users, they can and will quickly switch to another source of information.

With respect to the second question, 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."[2]

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.[3] Similarly, ComedyCentral.com receives more traffic from Facebook than it does from Google.[4] 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 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."[5] Another commentator has described Siri more simply as intended to be a "Google killer."[6]

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

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[2] 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.

[3] Compete.com, September 2011 Site Analytics Data for The New York Times, accessed October 27, 2011, http://siteanalytics.compete.com/nytimes.com/.

[4] Compete.com, September 2011 Site Analytics Data for Comedy Central, accessed October 27, 2011, http://siteanalytics.compete.com/comedycentral.com/.

[5] MG Siegler, "Why So Siri-ous?", TechCrunch, October 16, 2011, http://techcrunch.com/2011/10/16/iphone-siri/.

[6] 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/.

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."[7] 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.

**c. If your answer is that Ms. Mayer did not accurate describe Google's policy, why did Ms. Mayer say it was in 2007? And what is Google's policy?**

As described above in response to Questions 1a and 1b, I do not believe that Ms. Mayer's quote was inaccurate.

**d. Google's recently announced its plans to purchase the restaurant review service Zagat. Does Google intend to place Zagat's results ahead of Yelp, OpenTable, or other sites that currently compete with Zagat's?**

Google wants to provide users with high-quality information about local businesses. Zagat provides survey-based aggregate ratings of businesses and curated user reviews. Acquiring Zagat is part of our efforts to ensure that we can provide high-quality information about and ratings of local businesses.

After acquiring Zagat, we are likely to include Zagat ratings in Google's local results in some way, but we have not yet determined exactly how. Nonetheless, we will continue to rely on our user feedback and testing to provide guidance about how Zagat can enhance the answers we provide our users.

**e. How do you respond to Mr. Stoppelman's charge that he would not start Yelp today given Google's practice of putting its local search at or near the top of search results and as a result taking so much "real estate" on the search results page? How can a new start up expect to compete with Google's own content in search results?**

Yelp has many means of promoting its service, including advertising, promotion, and mobile apps. I would note that Mr. Stoppelman, when previously asked about Yelp's competitors, said "I worry about neither [Google nor Groupon]."[8]

Despite Mr. Stoppelman's statement, Yelp's continuing growth demonstrates that new web services have many means of attracting users. This chart, from Yelp's own web site, illustrates how Yelp has continued to thrive during the period covering Yelp's complaints:[9]

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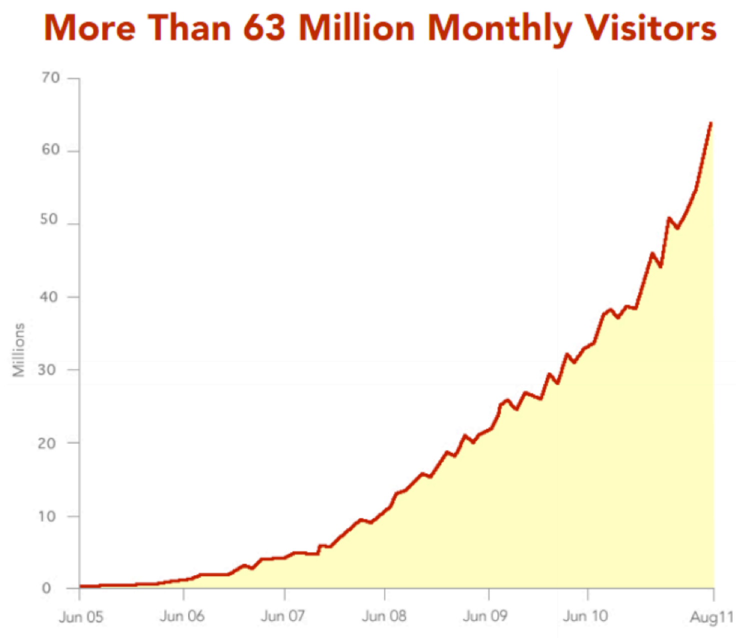
[7] Tanya Tymoshuk, "BarefootFloor.com: New Price Comparison Engine Helps Consumers Shop Smartly for Home Goods", Yahoo! News, January 11, 2011, http://news.yahoo.com/barefootfloor-com-price-comparison-engine-helps-consumers-shop-20110111-070000-289.html.

[8] Jeremy Stoppelman, "Interview at TechCrunch Disrupt SF 2011", September 13, 2011, http://www.ustream.tv/recorded/17252745 ("I worry about neither [Google nor Groupon]... We're doing something that is very unique... Google doesn't have the content. They just have people starting web searches... We actually have people that are coming to our site everyday that are saying, 'I trust you to steer me to the right business.' I think that's a very special place to be.").




What I can comment on is that the Internet remains a very vibrant and innovative space. As I noted earlier, we do not have to speculate as to whether there are new entrants in vertical search services such as local search and comparison shopping 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."[10] 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.

2. **Have you put in place any safeguards at Google to insure search results do not favor Google products and services merely because they are owned by Google? If so, what are they, and if not, why not?**

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[9] Yelp, "An Introduction to Yelp: Metrics as of August 2011", accessed on November 1, 2011, http://www.yelp.com/html/pdf/Snapshot_August_2011_en_US.pdf.

[10] 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.

As mentioned in Question 1a, universal search results are not separate "products and services" from Google. Rather, the incorporation of thematic and conventional results in universal search reflects Google's effort to connect users to the information that is most responsive to their queries. Because of this, the question of whether we "favor" our "products and services" is based on an inaccurate premise. These universal search results *are* our search service—they are not some separate "Google product or service" that can be "favored."

The fundamental openness of the Internet places powerful competitive pressure on Google to ensure that our search results are those that are most responsive to what users are looking for. 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."[11] There are even sites that allow Internet users to simultaneously compare Google's results against those of our competitors. If Google stops delivering the most relevant results to users, they can and will switch away. That is what we mean by competition being "one click away," and it is that reality that drives Google's constant effort to improve the results we deliver to users.

3. **At the hearing, you argued that Google now seeks to provide consumers with the best answers, not just links to websites with the answers. While we understand your desire to provide answers and not just links, why are the answers always provided by Google products and services rather than any other website? And, if you contend that your products and services are "better," please provide with any objective criteria or consumer studies you believe demonstrate this contention?**

As I noted in my response to Question 1a, oneboxes are displayed when Google believes it is likely that a user is seeking a specific answer, and they often contain information or data that are licensed from third parties. And as also noted previously, universal search results are not separate "Google products and services" distinct from Google's search results. Rather, as I said in response to Question 1a, these *are* Google's search results. Thematic search results for particular types of content (video, images, news articles, products, and so on) are incorporated when our consumer testing and data analysis shows that those results algorithms are most likely to deliver the results sought by our users. This analysis is reinforced by research conducted by Microsoft, which indicates that 58% of heavy users want to complete tasks inside the search engine.[12]

4. **At the hearing, you stated that as opposed to merely providing links to websites, "there's a category of queries which are not well served by the 10 links answer." Please list all such categories of searches for which Google believes the search is either not "well served by the 10 links answer" or in which Google modifies search results to provide a "one box" or presumed superior answer to the search.**

Google currently provides specialized search results or onebox answers for the following types of queries: videos, images, products, news, maps, books, local businesses, flights, finance, sports scores, weather, math results, among others.

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[11] 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.

[12] Robert Andrews, "Interview: Microsoft's 'Not Walking Away From Search'", paidContent.org, August 2, 2011, http://m.paidcontent.org/article/419-interview-microsofts-not-walking-away-from-search/ (interviewing Stefan Weitz, Microsoft Bing's Director).

5. **In 1998 at the same time they were founding Google, its co-founders Larry Page and Sergey Brin wrote a thesis at Stanford University which addressed search engine bias. They wrote that**

   **[Search] bias is much more insidious than advertising, because it is not clear who 'deserves' to be there, and who is willing to pay money to be listed…For example, a search engine could add a small factor to search results from 'friendly' companies, and subtract a factor from results from competitors. This type of bias is very difficult to detect but could still have a significant effect on the market.**

   **They added that they expected that advertising-funded search engines "will be inherently biased towards advertisers and away from the needs of consumers."**

   **Do you disagree with their view then that search engine bias is "insidious" and "difficult to detect"? Or that advertising funded search engines are "inherently biased"?**

Larry and Sergey's thesis, which was written 13 years ago, addressed industry practices prevailing at that time. During the time they were students at Stanford, most search engines operated under a "paid inclusion" model. Specifically, search engines like Yahoo! integrated paid advertising among the conventional search results without labeling them as ads. This practice continued to be sufficiently prevalent that it was the subject of a complaint filed with the Federal Trade Commission in 2001 that named eight search engine companies as engaging in this practice, including Lycos, MSN.com, Altavista, and HotBot. Google was not among the companies accused of engaging in this practice.

Many websites today continue to use this kind of "pay to play" placement model, including sites that have complained about Google (for example, Nextag and Foundem). Obviously, those sites may pursue such a business model, but one of Google's founding principles has been that advertiser payment should not affect advertiser's search result rankings.

Google recognizes the importance of advertising to the search business, but we believe that ads should always be clearly labeled. Indeed, paid inclusion in search results—without labeling—was the subject of Larry and Sergey's thesis. In our opinion, advertisements and natural results both serve to create a positive user experience. This is similar to a well-run newspaper, where the advertisements are clear and the articles are not influenced by the advertisers' payments.

6. **At the hearing, in answering my question as to whether Google had an incentive to favor its own products and services in search results because in doing so it would be behaving as we would expect as a rational business would to maximize its profits, you replied that "I'm not sure Google is a rational business trying to maximize its own profits." Is it really your position that Google does not conduct itself as rational business trying to maximize its profits? If so, can you point to any SEC disclosure which supports this view?**

As we stated in our 2004 IPO letter, "Google is not a conventional company."[13] From the very beginning, we have sought to protect Google's ability to innovate because we were confident that, in the long run, this would benefit Google and our shareholders. Indeed, we told our potential shareholders in 2004 that in pursuing our goal of "developing services that significantly improve the lives of as many people as possible, . . . we may do things . . . even if the near term financial returns are not obvious."

[13] Larry Page and Sergey Brin, 2004 Founders' Letter, August 18, 2004, http://investor.google.com/corporate/2004/ipo-founders-letter.html.

We often work on projects that do not have an immediate revenue model, e.g., Google Translate, because we anticipate that they will ultimately contribute to a positive user experience, which will maximize the company's returns in the long run. As we stated in the 2004 IPO letter, "if opportunities arise that might cause us to sacrifice short term results but are in the best long-term interest of our shareholders, we will take those opportunities." Thus, Google sometimes foregoes short-term profits in order to provide users with the best experience in the belief that such a strategy will benefit our shareholders in the long run.

7. **Google has argued that one cannot merely examine Google's market share as a search engine in determining whether it is a dominant firm, because it allegedly competes with Facebook and, further, that consumers can go directly to websites.**

    a. **As to Facebook, it is primarily a social-networking site and its Internet Search is powered by Bing. In other words, to search the Internet on Facebook, one must use Bing. So Facebook is not an additional competitor for Internet search beyond Bing, isn't that correct?**

That is not correct. Social networks have become a significant, potentially game-changing competitor. When consumers search for information online, they are looking for answers to their questions. Google seeks to provide answers to users' queries, and social networking sites like Facebook and Twitter also allow users to leverage their social networks to find answers to their questions. Google is therefore competing with all methods available to access information on the Internet, not just other general search engines. The source of Facebook's competition with Google is not only through using Bing to search the Internet but, also, by offering users a fundamentally different way to discover and connect with information on the Internet.

Consumers have a lot of options for accessing information, and recent statistics show that they are using them. Users can use general search engines and, at the same time or in lieu of online search, they can use social search to access information. The Internet is a robust and dynamic environment where new modes of thinking and technological innovation are constantly changing the way we view the competitive marketplace.

Outside experts agree with this assessment. One tech analyst explained that "the nascent search behaviors we see developing on Facebook right now suggest it not only has the potential to become a viable search engine, but in fact has a chance to help redefine the way we currently think of search."[14] Another noted that Facebook's "treasure trove of distinctive data . . . could put Google out of business."[15] Facebook agrees as well; an executive recently said that search in its current form "just didn't work," and it would have to "go social."[16]

[14] Eli Goodman, "What History Tells Us About Facebook's Potential as a Search Engine," comScore Voices Blog, June 3, 2010, http://blog.comscore.com/2010/06/facebook_search_engine.html.

[15] Ben Elowitz, "How Facebook Can Put Google Out of Business," TechCrunch, June 3, 2011, http://techcrunch.com/2011/06/03/facebook-google-out-of-business/.

[16] Emma Barnett, "Google and other search engines are "failing" says top Facebook executive," The Telegraph, October 25, 2011, http://www.telegraph.co.uk/technology/facebook/8846314/Google-and-other-search-engines-are-failing-says-top-Facebook-executive.html (quoting Ethan Beard, Director of the Facebook Platform).

Some sites already get a significant portion of their traffic from social networks. Comedy Central gets almost one-third of its visits from Facebook and only 15% from Google.[17] Twenty-four percent of Twitter's traffic comes from Facebook, and only 10% comes from Google.[18]

**b. In September 2010, you were quoted as saying, referring to Facebook and Apple, "We consider neither to be a competitive threat . . . our competitor is Bing." Do you stand by that quote, or do you contend that Google does compete with Facebook? If the latter, why were your views different in September 2010?**

As I noted this past June, my statement last September was clearly wrong.[19] The Internet is dynamic and has changed significantly. The importance of social networking to consumers' online experience has changed remarkably—even over the past year. Consumers are looking for answers when they conduct searches online, and social search has become a serious competitor in helping people find those answers online. Similarly, Apple's Siri is a significant development—a voice-activated means of accessing answers through iPhones that demonstrates the innovations in search. The tech industry is one of the most competitive and dynamic spaces in the entire economy, with small companies as well as larger companies competing hard against each other in lots of areas. Google has many strong competitors and we sometimes fail to anticipate the competitive threat posed by new methods of accessing information. We compete against a broader array of companies than most people realize, including general search engines (Microsoft's Bing, Yahoo!), specialized search engines (Kayak, Amazon, WebMD, eBay), social networks (Facebook, Twitter), commercial software companies (Apple, Microsoft), mobile apps, and even direct navigation. The Internet is incredibly competitive, and new forms of accessing information are being utilized every day.

**c. Doesn't the fact that survey data shows that 92% of adults use search engines to find information on the Internet belie the contention that Google competes with other websites that are not search engines?**

Having not seen this study, I cannot speak directly to the statistic mentioned. This survey data, however, does not seem to indicate that consumers that use search engines do not also use other means of finding information on the Internet. For example, a consumer looking for a restaurant could start a Google search. But increasingly consumers might, instead or in addition, ask their friends on Facebook or Twitter for restaurant recommendations, or search their Yelp mobile application for restaurants. Users have a plethora of options to access information on the Internet, including general and specialized search engines, mobile apps, and social networks. They can use all of these methods, including search, to find answers to their questions.

Indeed, surveys have shown that users resort to various methods to access information online. Consumers have driven the demand for these multiple access points and Google competes vigorously with all of the other methods for accessing information over the Internet. As David Balto, the former policy director of the Federal Trade Commission, recently observed:

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[17] Compete.com, September 2011 Site Analytics Data for Comedy Central, accessed October 27, 2011, http://siteanalytics.compete.com/comedycentral.com/.

[18] Compete.com, September 2011 Site Analytics Data for Twitter, accessed October 27, 2011http://siteanalytics.compete.com/twitter.com/.

[19] As I mentioned during the D9: All Things Digital Conference this past June, people want to know what their friends are interested in. This is just as true in the online world as it is in the physical one. *See* Geoffrey Fowler and Ian Sherr, "Google Missed the 'Friend Thing'", The Wall Street Journal, June 1, 2011, http://online.wsj.com/article/SB10001424052702303745304576358343688967086.html.

Google has consistently led the industry in innovations, and has played an important role in the evolution of search. But complacency would lead to certain obscurity. Websites such as Facebook, Amazon, eBay, Expedia, and Wikipedia all aggregate and organize information, steering users away from traditional search providers such as Google, Bing and Yahoo. Facebook is a particularly dangerous threat to the traditional search providers because it not only takes traffic away from Google, Bing, and Yahoo, but it also a growing source of redirected traffic for original content providers.[20]

8. **Millions of consumers now search the Internet using mobile devices like smartphones rather than on their computers. According to a leading industry expert, by 2014 the number of users accessing the Internet through mobile devices will exceed those doing so through desktop computers. Google's Android phones are now the most popular smartphones, with a 40% market share and growing. And just a few weeks ago Google announced it was purchasing Motorola, a major smartphone manufacturer.**

   **Your critics fear that Google could demand from phone manufacturers that Google be made the default search engine for all Android smartphones, and in that way lock in your dominance on mobile devices. This is very similar to the tactic that Microsoft used in the 1990s when it demanded that computer manufacturers install Internet Explorer as the default web browser as a condition of using the Windows computer operating system.**

   a. **Has Google demanded that smartphone manufacturers make Google the default search engine as a condition of using the Android operating system? Will you pledge that Google will not do this in the future?**

Google does not demand that smartphone manufacturers make Google the default search engine as a condition of using the Android operating system. Android is a free, open source platform for mobile devices. The complete Android source code is available for download for free from the Android Open Source Project website.[21] Any developer or manufacturer can use, modify, and distribute the Android operating system without Google's permission or any payment to Google. For example, Amazon recently announced the Kindle Fire—its new tablet device—using the Android source code without Google's involvement. This is one of the exciting and innovative aspects of Android that will help foster innovation and competition in the smartphone market.

One of the greatest benefits of Android is that it fosters competition at every level of the mobile market—including among application developers. Google respects the freedom of manufacturers to choose which applications should be pre-loaded on Android devices. Google does not condition access to or use of Android on pre-installation of any Google applications or on making Google the default search engine.

Manufacturers can choose to pre-install Google applications on Android devices, but they can also choose to pre-install competing search applications like Yahoo! and Microsoft's Bing. Many Android devices have pre-installed the Microsoft Bing and Yahoo! search applications. No matter which applications come pre-installed, the user can easily download Yahoo!, Microsoft's Bing, and Google applications for free from the

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[20] David Balto, "Internet Search Competition: Where is the Beef?", June 23, 2011, http://www.dcantitrustlaw.com/assets/content/documents/googlesearchfinal-Balto.pdf.

[21] *See* Android Open Source Project, "Downloading the Source Tree", accessed on November 1, 2011, http://source.android.com/source/downloading.html.

Android Market.[22] In addition, Android gives manufacturers the freedom to pre-install third-party app stores, like the Amazon Appstore for Android, where a user can download a variety of apps, including Microsoft's Bing.[23]

**b. New York magazine reports that an email from one of your executives, Dan Morrill, was disclosed in a lawsuit. In this email, Mr. Morrill suggested that Google was using compatibility with Android "as a club to make [phone manufacturers] do things we want." Could you explain what he meant? Further, if the Department of Justice decides not to block Google's proposed acquisition of Motorola Mobility, will Google commit not to use the patents it acquires through that acquisition "as a club" against other companies in the mobile space? Specifically, will Google commit to license these patents to competitors and others on reasonable and non-discriminatory terms?**

As to the New York Magazine article, Mr. Morrill's remarks reviewed in their full context express his belief that Google's efforts to maintain compatibility across different devices *could be misperceived* as a way for Google to improperly influence manufacturers. Google does not in fact use compatibility in this way. Mobile operating system competition is fierce—Apple, RIM (Blackberry), and Microsoft are very significant competitors—and carriers and handset manufacturers have many options other than Android. Google is committed to Android's success and to maintaining our strong partnerships with device manufacturers.

Google designed Android as an open source platform to foster customization by manufacturers of mobile software and hardware. In contrast to closed, proprietary operating systems, Android allows manufacturers to modify their own implementations of Android to create their own unique features and user interfaces. Android is also particularly adaptable to new hardware configurations and chipsets. By allowing broader differentiation in software and hardware, Android enhances competition and consumer choice. There are more than 500 models of Android devices on the market.

Google has undertaken extensive efforts to protect consumers and application developers to ensure their applications run seamlessly on all Android devices. Google, with the support of our Android partners, has identified certain specifications, such as minimum screen size and security features, that help ensure applications run flawlessly across device models. These specifications are reflected in the Android Compatibility Definition Document ("CDD"), which is published on Android Open Source Project's website. Google and our partners believe that this baseline preserves the maximum amount of manufacturer freedom to customize Android, while simultaneously protecting Android developers, who need consistency and rely on minimum elements appearing on all Android devices, and Android customers, who may legitimately expect that Android applications will run on their Android devices.

One of the most significant benefits of Android is that it is free. This has significantly reduced Android device costs and has helped drive down handset prices across the wireless industry.[24] But Android and our

[22] Users can access the Microsoft Bing Search application here: https://market.android.com/details?id=com.microsoft.bing&feature=search_result; the Yahoo! Search application here: https://market.android.com/details?id=com.yahoo.mobile.client.android.yahoo&feature=search_result; and the Google Search application here: https://market.android.com/details?id=com.google.android.googlequicksearchbox&feature=search_result.

[23] Amazon makes the Microsoft Bing Search application available here: http://www.amazon.com/Microsoft-Corporation-Bing/dp/B004T54Y2M/

partners have recently come under significant fire by firms attempting to use patent infringement suits to drive up the cost of Android phones and jeopardize the Android platform. Google's intent in acquiring Motorola Mobility is to provide a defense against these suits. Google hopes that Motorola Mobility's patent portfolio will deter other companies from suing to limit the distribution of Android or from attempting to burden it with unreasonable licensing fees.

9. **Prior to its acquisition of ITA, Google gave several assurances that Online Travel Agencies (OTAs) would be included in its flight search products. Google's statements included the following:**

   **The "acquisition will benefit passengers, airlines and online travel agencies by making it easier for users to comparison shop for flights and airfares and by driving more potential customers to airlines' and online travel agencies' websites."**

   **"Our goal is to build tools that drive more traffic to airline and online travel agency sites where customers can purchase tickets."**

   **"Google does not plan to sell airline tickets directly; our goal is to build a tool that drives more traffic to airline and online travel agency sites where customers can purchase tickets."**

   **It is my understanding that Google's new Flight Search tool shows a list of flights and links only to airlines where flights can be booked; there are no links to online travel agencies. How is this consistent with Google's promises that the ITA acquisition would drive more traffic to online travel agencies? Why is there no link to OTAs on Google's new Flight Search tool? Is this because Google now competes with OTAs for advertising revenues?**

We're excited about the initial positive reaction to our new flight search tools. But like any other partner, Google needs to honor the airline's distribution decisions. With the flight search feature, that means we continue to explore opportunities to showcase online travel agents ("OTAs") and metasearch firms further. In fact, Expedia CEO Dara Khosrowshahi recently observed, "We are happy to see OTA links at the bottom of the Google Flight result. . . ."[25]

The ITA transaction was approved by the Department of Justice with conditions that are incorporated into a consent decree. Google has carefully adhered to the decree.

10. **Various companies that offer consumer reviews such as our witness Yelp have accused Google "scraping" its user reviews of restaurants, hotels and other services, and using these reviews on the Google own "places" page, which also contains reviews. Yelp testify at the hearing that Google was doing this without Yelp's permission, and instead offered them a Hobson's choice of Yelp allowing this practice, or Yelp's website would not be listed on Google search results. This past summer, Google changed this practice and ceased**

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[24] Dan Nystedt, "They're Here: Cheap Android Smartphones", PC World, February 26, 2010, http://www.pcworld.com/article/190271/theyre_here_cheap_android_smartphones.html ("A new group of companies, electronics contract manufacturers, are starting to make high-end mobile phones, including smartphones, for mobile network operators around the world, and these are companies adept at slashing prices.").

[25] Dennis Schaal, "Expedia Sees Hotel Improvements, But Still Admires Booking.com From Afar", Tnooz, October 28, 2011, http://www.tnooz.com/2011/10/28/news/expedia-sees-hotel-improvements-but-still-admires-booking-com-from-afar/.

**including Yelp content in Google places pages. Why did Google change its policy this summer? Prior to the policy being changed, did Google use Yelp and other similar review sites content without their permission?**

Google developed Place pages to help users to access information about a local business. When Google first launched Place pages, Google displayed snippets—a few lines of text—from various review sites for each local business listed, and required that users click through to read the full review. The ultimate goal of Place pages, along with Google's other thematic local results, was to help users locate local information on the web.

Google entered a two-year licensing agreement with Yelp in 2005 to display the full text of Yelp's reviews in our conventional search results and our thematic local search results. Two years later, Yelp chose not to renew its agreement with Google. With the expiration of the license, Google no longer displayed the full text of Yelp's reviews. Thus, we returned to simply showing snippets of third-party reviews within our conventional results as well as our thematic local search results, a practice permitted under the long-established fair use doctrine of copyright law. Snippets generally display about two or three lines of text. For users to access the full text, they must select a link that directs them to the review site. Showing snippets of websites is an important part of search; it enables users to determine whether the site in question is responsive to their queries. It also drives traffic to websites.

If, at any point, Yelp (or any other site owner) wishes to be excluded from Google's (or any other search engine's) index, it can—with relative ease—block search engine crawlers using a very simple and common protocol. Specifically, every site owner has the option to use the robots exclusion protocol, also referred to as robots.txt, to signal to Google or any other search engine that they do not want particular webpages, or even an entire site, to be crawled and indexed.[26] Site owners can easily exclude certain sites or portions of sites from being indexed, and can also specify different protocols for different search engines. The robots.txt protocol—which has been in place for over 17 years—can be utilized either by writing a new robots.txt file,[27] or by accessing one of many publicly available robots.txt files.[28]

As Google continued to develop our thematic local search results, Yelp began voicing concerns regarding how and where, exactly, within Google's search results its snippets appeared. It's worth noting that by 2009, search competitors Microsoft Bing, Yahoo!, and Ask.com all integrated third-party review snippets in essentially the same exact way within their respective local search results.

Yelp subsequently requested that Google remove snippets of Yelp reviews in Google's local search results but continue providing links to Yelp. After a series of business conversations with Yelp in an attempt to address Yelp's numerous concerns, Google agreed to comply with Yelp's request. After the requested changes were

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[26] robots.txt is an industry standard that allows a site owner to control how search engines access their web site. Access can be controlled at multiple levels – the entire site, through individual directories, pages of a specific type, or even individual pages. Basically, robots.txt is a structured text file that can indicate to web-crawling robots that certain parts of a given server are off-limits. This allows search engines such as Google to determine which parts of a website a site owner wants to display in search results, and which parts to keep private and non-searchable. Dan Crow, "Controlling How Search Engines Access and Index Your Website", The Official Google Blog, January 26, 2007, http://googleblog.blogspot.com/2007/01/controlling-how-search-engines-access.html.

[27] There are a number of resources available online that provide users with information on coding robots.txt files. *See e.g.* About/robots.txt, August 23, 2010, http://www.robotstxt.org/robotstxt.html.

[28] A non-comprehensive list of robots.txt files submitted by independent programmers is available here: http://www.robotstxt.org/db.html.

implemented, snippets from Yelp's website continued to appear in conventional search results, and no longer appeared in the thematic local search results.

In July 2011, Google redesigned Place pages. One of the major changes, implemented after careful thought about the future direction of Place pages and feedback from third-party review sites, was removing snippets of reviews from sites like Yelp, TripAdvisor, and CitySearch. Instead, Google chose to feature reviews from our own users, with links to third-party review sites. In addition, the "star rating" and "total review count" were modified to reflect only those ratings and reviews that have been submitted by Google users.

Commentators like Frank Reed of Marketing Pilgrim noted that these changes "essentially . . . gives Yelp and TripAdvisor their wish," while TechCrunch noted that "this should be a welcome change to third party source of reviews like Yelp and TripAdvisor."[29]

Yelp has aired numerous concerns in the press over the past few years, and although Google has tried to act responsibly in addressing some of those concerns, ultimately Google builds our search results for the benefit of users, not websites. At all times, Google's primary motivation has been improving the search experience for our users by providing the most relevant and useful information in response to their queries. In the end, if users are unhappy with the answers Google provides, the openness of the web ensures that they can easily switch to Yelp.com or any other site with just one click.

11. **Vertical search companies, companies that help consumers search for a specific product or service – such as Nextag and the British product comparison site Foundem -- have complained they have been the subject of "search penalties" on the Google search engine. They allege that they are dropped down in the search rankings by these penalties by among other things, the fact that they have their own search functionality on their sites, and that they contain links to other sites. Allegedly, these search penalties occur whether or not these websites are popular with consumers.**

    a. **A web site that has search functionality and offer links to other sites resembles Google itself. What do you say to your critics who would argue that Google deliberately penalizes websites that resemble Google in order to defeat your competition and maintain your dominant share in search?**

We never take actions to hurt specific websites for competitive reasons. Our search quality and ad quality systems assess the quality of webpages and ads without regard to whether a site competes with Google, only on the basis of what is most likely to be useful for consumers.

We rank search results to deliver the best answers to users. We built Google for consumers, not websites. To achieve this result, we consistently rank high-quality sites with original content in the highest position regardless of whether they compete with Google. While we understand that there is no objective right answer to most search queries and that the answer is a "scientific opinion," we also recognize that if we do not give users the best possible search results, they are likely to click away to one of our competitors. This necessarily means that not every website can come out on top, or even appear on the first page of our results, so there will almost always be website owners who are unhappy about their rankings. The most important thing is that we satisfy our users.

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[29] Frank Reed, "Google Places Update Puts Focus on Google", Marketing Pilgrim, July 22, 2011, http://www.marketingpilgrim.com/2011/07/google-places-update-puts-focus-on-google.html. Erick Schonfeld, "Google Places Stops Stealing Reviews", TechCrunch, July 21, 2011, http://techcrunch.com/2011/07/21/google-places-stops-stealing-reviews/.

**b. Do you deny that Google has the ability to manually alter the ranking of websites in its search results?**

Ideally, we would never have to manually intervene with the search results returned by our algorithms. Search, however, is still in its infancy, and our algorithms are still learning how to rank certain types of results. There are a few, limited instances in which we may utilize manual controls—spam, security, legal requirements (copyright, child pornography), and exception lists for results that are improperly excluded by the algorithms. However, we do not manually elevate specific sites in the search results.

When we manually intervene in our conventional search rankings, we do so to enhance the general user experience. As many Internet users are aware, the worldwide web contains many poor quality sites that range from annoying (webspam) to destructive (malware). Without manual intervention, unwitting users might accidentally access such a site through a Google search result. Rather than finding the answers they seek, these users will instead have their search derailed or, much worse, their computer infected. Similarly, displaying content from certain websites can violate the law. Finally, Google's algorithms are not infallible. To account for this, we use exception lists to reintegrate results that should not have been removed by the algorithms from the search results.

I should also note that this is standard industry procedure. Microsoft's Bing, Yahoo!, and other search engines have acknowledged that they also utilize manual controls.[30]

**12. Google has stated that consumers prefer to go to sites offering products directly for sale rather than product comparison sites like Nextag that compare prices, offer product reviews, and themselves contain links to retailers. Does Google sell products on its Shopping results page or does it provide links to websites that sell the product? And, please provide the factual basis for this assertion, including the results of any consumer studies that support this assertion.**

Google does not sell merchandise through Google product search. Rather, we provide links to merchants who sell merchandise. These links can include inventory and price information provided by those merchants via a dynamic feed. More than 200,000 merchants participate in this program, providing us with information for more than one billion products.

Google product search results can float within the search results page, based on our assessment of the nature of the user's search. Search is about answers, and we have found that when a user submits a query about a specific product, there is a high probability that he expects to see shopping results. This expectation has been validated by our testing process, which is driven by user feedback. For example, a few years ago, we started thinking that when our users search for products, like [sony digital camera prices], they would likely find shopping results useful. So we conducted a test with our user raters, and asked them whether they preferred a results page with shopping results, or without. Users overwhelmingly preferred the page with shopping results. This is consistent with research conducted by Microsoft indicating that 58% of heavy users want to

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[30] *See e.g.*, "How Bing Delivers Search Results", Microsoft Bing Help, accessed October 28, 2011, http://onlinehelp.microsoft.com/en-us/bing/ff808447.aspx. ("In limited cases, to comply with applicable laws and/or to address public policy concerns such as privacy, intellectual property protection, and the protection of children, we might remove particular resources from the index of available information. In each case where we are required to do so by law, we try to limit our removal of search results to a narrow set of circumstances so as to comply with applicable law but not to overly restrict access of Bing users to relevant information.").

complete tasks inside the search engine.[31] Further, our own research conducted through user studies, independent rater evaluations, and click data consistently show that consumers like a mixture of retailer, review, and manufacturer sites like Amazon.com, CNET, or Sony.

In addition, in the course of our testing process, Google has found that users prefer results that are distinct and diversified. Users do not want sites that provide duplicative and unoriginal content. Google's search results provide consumers with product prices from different merchants so that our users can make the most informed decision about the products they want to purchase. Our rankings are driven by consumer signals about what sites they find useful. Consumers can easily switch from Google to a competing site if they disagree with our rankings or believe we are not providing the best possible results.

**13. Please explain why Google Shopping results appear near the top of Google search results when users enter a query for consumer products, and why, as alleged by Nextag, other product comparison sites are not generally placed in the same favorable position.**

Search is about answers, and we have found that when a user submits a query about a specific product, there is a high probability that he wants to go directly to a page featuring detailed information about the product, including where it can be purchased and at what price. This expectation has been validated by our testing process, which is driven by user feedback. For example, a few years ago, we started thinking that when our users search for products, like [sony digital camera prices], they would likely find shopping results of this kind useful. So we conducted a test with our user raters, and asked them whether they preferred a results page with shopping results, or without. Users overwhelmingly preferred the page with shopping results. This is consistent with research conducted by Microsoft indicating that 58% of heavy users want to complete tasks inside the search engine.[32]

That said, it would not be accurate to suggest that Google product search results are always displayed at the top of the search results page. Thematic search results may be displayed at the top, middle, or bottom of the search results page—or may not be displayed at all—based on our assessment of the likelihood that the user wants shopping results of this kind. Notably, Google is significantly more conservative in deciding whether to trigger thematic search results than some of our competitors. Bing, for example, triggers thematic results within its search results approximately 50% more frequently than Google does.

**14. Please explain why the Google "Places" listing for local searches such restaurants, hotels, and other local products and services are typically placed in the first Google results page, near the top of the results, but without any designation that the "Places" results is a Google product and not an organic search result? How can a consumer be expected to know this is a Google product, not an organic search result? Would Google agree to label its "Places" listing as a Google product, and set it off with a different color background?**

As explained previously, thematic search results (such as Places) incorporated in universal search results are *not* separate "products and services" from Google. Rather, the incorporation of thematic and conventional results in universal search reflects Google's effort to connect users to the information that is most responsive to their queries. These universal search results *are* our search service—they are not some separate "Google product" that can be "favored."

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[31] Robert Andrews, "Interview: Microsoft's 'Not Walking Away From Search'", paidContent.org, August 2, 2011, http://m.paidcontent.org/article/419-interview-microsofts-not-walking-away-from-search/ (interviewing Stefan Weitz, Microsoft Bing's Director).

[32] Robert Andrews, "Interview: Microsoft's 'Not Walking Away From Search'", paidContent.org, August 2, 2011, http://m.paidcontent.org/article/419-interview-microsofts-not-walking-away-from-search/ (interviewing Stefan Weitz, Microsoft Bing's Director).

Depending on the search query, Google may either group local results together, or may distribute local results throughout our search results. Either way, Google is simply trying to organize and display local business results so as to save users time by displaying local information in the most effective manner, in order to eliminate the need to conduct multiple searches. As with any of Google's search results, local business listings are ranked according to likely relevance. For example, typing in a query for [shoe repair 22203] will typically return local business listings organized by geographic proximity to that zip code. The ranking of local business results is not affected by payment.

We are always assessing how we can provide a better service to our users and are always open to suggestions about how to improve the user experience.

15. **How is it determined which establishments are listed in the Google Places listing, and in which order? Is a different method used than used for ordering in Google organic search results, and if so how is it different? Does advertising or a commercial relationship with Google play any role in which businesses are listed in Google Places, and in which order?**

Please see answer above. Advertising or commercial relationships are irrelevant with respect to what order business listings are displayed in search results.

16. **At the hearing, you stated several times that because Google is in the business of ranking, when one website's ranking goes up, another's necessarily has to go down. But competition concerns arise when Google consistently ranks its *own* websites (such as shopping, local search, maps, etc.) in the top few search results, pushing competing websites down. Such a strategy seems to financially benefits Google in two ways: (1) Google captures advertising revenue by keeping users on its own websites rather than its competitors'; and (2) in order to be found by consumers, companies who are pushed further down the screen or onto subsequent search results pages need to invest more in advertising in order to show up in a prominent place on Google's search results page. Do you agree that Google benefits financially benefits when competitors' websites are found further down the search results page?**

Google benefits financially in the long term when we help users find the information they are looking for. Consumers can easily compare the results they get from Google with information provided by other websites. If we do not do a good job of connecting users to the information they seek, they can and will look elsewhere. It is not in our interest to frustrate our users by making it more difficult to find information they want.

17. **At the hearing in answer to a question from Senator Klobuchar, you were asked about Google's participation in advertising auctions. You said that Google participates in auctions, but that you limit your participation for "obvious reasons." Can you explain those reasons? And, if the concerns about your participation are obvious, why do you participate in them even in a limited way?**

Online marketing is a great tool by which we can connect with users; therefore, we sometimes use AdWords to promote our own products and new product features ("house ads"). On rare occasions, Google also uses AdWords to provide information to our users on specific issues of public interest, e.g., ongoing crises or disasters such as earthquakes. Google's house ads may appear on Google sites and on AdSense for Search and AdSense for Content partner sites.

Google's participation in AdWords auctions is commercially appropriate, but we have limited our participation as follows. Google has established an internal review committee that monitors our compliance with house ad policies and processes. First, Google's house ads are not guaranteed to display in any given position. Second, our house ads must comply with the same advertising policies that apply to any other AdWords advertiser. Third, only quality ads that are directly relevant to a user's query will appear (based on the same criteria applicable to all other AdWords advertisers). Thus, when Google's house ads are triggered, it is because Google is acting as any other rational advertiser would.

It is also important to note that Google's participation in an auction has no impact on the price paid by external advertisers. The AdWords system has been set up so that advertisers who compete with house ads in auctions pay as if the house ad were not participating in the auction.