Google

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 Mike Lee Questions for the Record for Eric Schmidt

1. **Are Google products and services subject to the same search-ranking algorithmic process as all other organic search results?**

Before addressing your question let me first offer a little background. 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 thematic 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

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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.

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.

2. **Does the algorithm used to produce organic search results place a Google product or service higher than it would an identical page owned by another business?**

As mentioned in response to Question 1, we view our thematic search results as part of our search results, not as a separate product or service. With respect to a page on a Google-owned site such as YouTube that is crawled and ranked within our search results, such a page is not placed higher because it is on a site owned by Google than an identical page would be if it were owned by another business.

3. **Does Google favor sites that display Google AdSense advertisements in its natural or organic search results?**

Google does not give preference to sites that advertise with Google, via our AdWords program, or to sites that accept Google ads via our AdSense program. Ranking in natural search results is not affected by payment or financial benefit to Google.

4. **You will recall that during the hearing I displayed and described to you results of a study that compared Google's search rankings of three popular price comparison sites with the search ranking for Google Shopping results (displayed as a "OneBox" result using "Universal Search").**

   In response to evidence that Google consistently ranks and displays Google Shopping results higher than competing price comparison sites, you responded that it was "an apples to oranges comparison" because the Google Shopping results are "answers" that take users directly to the websites of companies that sell the product in question.

   a. **On September 28, 2011, a search query on Google for "UK product search" returned Google Product Search as the first result, described as "Google's UK price comparison service." Is Google Product Search a price comparison service?**

Google product search is a type of thematic search that allows consumers to compare prices and see which websites are selling a particular product.

   b. **Does Google Product Search compete with other price comparison services?**

As mentioned in response to Question 1, we view our thematic search results as part of our search results, not as a separate Google product or service. Google's search service competes with stand-alone price comparison services to provide consumers with relevant product-related information, and also competes with other websites, such as Amazon and eBay, as well as competing search engines, such as Microsoft's Bing and Yahoo!, that include comparative product information.

c. The Google 2009 Annual Report reads, in part, as follows:

> **We face competition from [v]ertical search engines and e-commerce sites, such as WebMD (for health queries), Kayak (travel queries), Monster.com (job queries), and Amazon.com and eBay (commerce). We compete with these sites because they, like us, are trying to attract users to their web sites to search for product or service information, and some users will navigate directly to those sites rather than go through Google.**

Does Google compete with vertical search engines?

Yes. Google competes with all of the methods for accessing information on the Internet. Users seek answers to their questions, and Google, along with specialized search engines, social networks, mobile apps, and other websites, is competing to provide users with the most relevant information available. Unlike technologies of the past, on the Internet competition is one click away. The history of the technology industry shows that technologies often get supplanted by completely new models, thus creating a robust and competitive market within which consumer demand drives innovation. For many commentators, specialized search services operate according to this new model with which Google will now have to compete. As Jeffrey Rayport from Businessweek observed,

> Google's . . . real threat is not from such Goliaths as Microsoft, but from a myriad of Davids—specialized search engines tailored to conduct "vertical" search tasks. Examples of these include restaurant reservations by OpenTable . . . job hunting at Simply Hired, and online travel with sites like Orbitz . . . and Priceline . . . . These sites are not promoted explicitly as "search engines," but that's what they are; they also happen to execute transactions.[2]

You do not have to take Google's word for it, either. Every one of the companies that Google lists as a competitor in its 10-K, including Amazon, WebMD, Monster, and eBay also list Google or search engines generally as their competitors.[3] Unfortunately, the conventional general search query share figures released by comScore and Hitwise do not reflect the reality that Google competes against all of these specialized sites, plus social networks, mobile apps, and now voice-activated search like Apple's Siri when it comes to accessing information.

d. Is the information displayed when a user clicks on a Google Shopping result often similar to the information provided by competing price comparison sites?

Google believes that our shopping results are more comprehensive and current than most comparison shopping sites. In addition to crawled content, we have direct feeds that allow more than 200,000 online

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[2] Jeffrey F. Rayport, "Google's Search Gold Mine Could Tap Out", Bloomberg Businessweek, February 13, 2011, http://www.businessweek.com/technology/content/feb2011/tc20110211_680322.htm.

[3] *See e.g.*, Amazon 2010 10-K, WebMD Health Corp. 2010 10-K, Monster Worldwide, Inc. 2010 10-K, and eBay 2010 10-K at http://www.sec.gov/edgar/searchedgar/companysearch.html. Kayak is not publicly owned and therefore does not file 10-K forms with the Securities and Exchange Commission.

merchants to publicize their inventory and prices—in real time—to interested shoppers searching Google. Currently, more than one billion products are available for sale through these partners' websites.

e. Does Google display Google Shopping results within its natural search results without any label identifying them as Google results or as otherwise distinct from true "search results"?

As stated in my response to Question 1, universal search results are *not* separate "products and services;" they *are* our "true" results.

f. Does clicking on various links within a Google Shopping result take the user to another Google page and not always, as you suggested in your testimony, directly to the site of a company that sells the product in question?

Depending on the specificity of the user's query, clicking on a shopping result will either take a user to a page where they can compare the prices of many different merchants, or directly to a merchant's site. For example, a search for a specific camera model might show shopping results that link directly to merchant sites, but a broader query like [sony digital camera] might yield broader shopping results that the user can then refine in order to find the product he wants.

g. Is it possible that consumers consider competing price comparison sites as potential substitutes for Google Shopping results?

As stated above, Google product search is a type of thematic search that allows consumers to compare prices and see which websites are selling a particular product. In that sense, Google product search competes with stand-alone price comparison services and also competes with other websites, such as Amazon and eBay, as well as competing search engines, such as Microsoft's Bing and Yahoo!, that include comparative product information.

h. Is it possible that Google's practice of preferencing its own Google Shopping results may deprive competing price comparison sites of user traffic and thus decrease competition from such sites?

As stated in my response to Question 1, universal search results that integrate conventional and thematic search results are not different "results." The suggestion that Google "preferences" Google shopping results is thus based on an inaccurate premise.

Google was built to benefit users, not any website or group of websites. As I said above, our primary goal is to give users answers, and if, for any reason, we do not provide the best answers for our users, they can and will switch to another source of information. For example, users can go to websites by directly navigating to the website (i.e., entering the address in their browsers), through advertisements on other websites, through mobile apps, or through their social networks. Google does not prevent users from reaching other shopping comparison sites.

Consumer research has confirmed that users prefer the incorporation of thematic and conventional search results, which is why all of the largest general search engines today provide such blended results. In fact, an October 2010 analysis by comScore showed that Microsoft's Bing displays thematic results as part of its search results 54% of the time, while Google displays them 33% of the time.[4] Indeed, as I mentioned in my

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[4] Eli Goodman, "Universal Search: Not All Blends Are Created Equal," comScore Voices blog, October 26, 2010, http://blog.comscore.com/2010/10/universal_search.html.

answer to Question 1, general search engines have been providing such blended results since at least the late 1990s.

i. Do customers normally believe that the first few results are the most relevant?

While we have not surveyed customers' beliefs on this issue, we hope that the better job we do of providing useful and interesting information, the more they will find that information relevant and helpful.

We hope that we continue to improve our ability to discern user intent. We believe that we are able to provide superior search results because our ranking algorithms allow us to identify the most useful material and present it to the user first. We make over 500 changes to the algorithms every year to improve search and fight malicious websites. Search has become more than just providing links to relevant information; users want search engines to give them answers. Sometimes the best answer is a list of links, but sometimes it is a map, a stock quote, a sports score, or shopping results, which both Google and our competitors sometimes incorporate into search results to better serve consumers. As Microsoft's president of its online services division, Qi Lu, observed: "Search is a means to an end. We want our product to go substantially beyond just finding information, go all the way to help the user make decisions and complete tasks."[5]

5. **You testified that you were "not sure Google is a rational business trying to maximize its own profits" in every respect. But more specifically, does Google have a financial incentive to preference its own secondary pages, many of which include advertisements that may generate revenue, above those of its competitors?**

As we stated in our 2004 IPO letter, "Google is not a conventional company."[6] 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."

Google's financial incentive is to do a good job in connecting users to the information they seek, and thematic search results are intended to connect users to information they seek. Users can easily compare our search results with information available from other websites; and they can and will switch to other sources if we do a poor job. Google's thematic search results frequently contain extensive specific information of the kind understood to be sought by a user, such as natural links to merchants selling a particular product, or links to the site of a restaurant listed in a Places page; Google receives no revenue when a user clicks on one of these links.

6. **When asked at the hearing whether Google's own services "are . . . subject to the same test, the same standard as all the other results" in Google's non-sponsored search results, you said, "I believe so. . . . I'm not aware of any unnecessary or strange boosts or biases." Please provide the Subcommittee with a direct, definitive, and precise answer to this question.**

As mentioned in response to Question 1, we view our thematic search results as part of our search results, not as a separate product or service. With respect to a page on a Google-owned site such as YouTube that is

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[5] Qi Lu, Comments at Microsoft Financial Analyst Meeting, Anaheim, California, September 14, 2011, http://www.microsoft.com/investor/downloads/events/09142011_FAM_Qi.docx (downloads Word document).

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

ranked within our search results, such a page does not appear higher on our search results page because it is on a site owned by Google than an identical page would be if it were owned by another company.

7. **At the May 2007 Seattle Conference on Sustainability, Marissa Mayer stated the following:**

   [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, because of Finance. So for Google Maps again, it's the first link.

   Is this statement accurate?

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.

8. **What has Google done to let its users know that its natural search algorithm gives preference to Google's own products and services?**

As described in my response to Question 1 above, I believe that the premise of this question is incorrect.

9. **Do you find anything problematic with respect to the way in which Google prioritizes the search rankings and enhances the display of its own products and services?**

As I said in response to Question 1, thematic 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 "prioritize" 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" that can be "prioritized."

10. **In April of this year, Google's Chief Financial Officer, Patrick Pichette, when asked on an investment community call to discuss Google's investment in its Chrome Browser, stated that "everybody that uses Chrome is a guaranteed locked-in user for us…" (See http://www.zdnet.com/blog/btl/why-is-chrome-so-important-to-google-its-a-locked-in-user/47295.)**

    a. **Do you agree with Mr. Pichette's statement?**

Mr. Pichette's comment is not correct. Chrome users are not in any way "locked-in" for Google. Chrome users can easily change the browser's default search engine to any competing search engine.[7] It is as easy as selecting the "Preference" menu in Chrome and selecting your desired search engine from the drop-down menu. In addition, a user who downloads Chrome actually has to select the search engine he or she wants; Google is not set as the default.

On the other hand, Microsoft's Internet Explorer—the web browser with the largest share of users (with a 40-50% market share)—includes Microsoft's Bing as the default search engine, and we believe that it is cumbersome to switch to another search engine as the default.

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[7] *See* Chrome Help, Setting Your Default Search Engine, accessed November 1, 2011, http://www.google.com/support/chrome/bin/answer.py?answer=95426.

b. **Given your testimony at the hearing that Google lives by the principle of "loyalty, not lock in," will Google commit to ensuring that its Chrome Browser, Toolbar, and other software applications make it easy for users to switch from the default Google search engine to other offerings?**

As described above, in response to Question 10a, Google already makes it easy for users to switch from Chrome and other software applications.

11. **At IBM's Business Partner Leadership Conference in 2008, you said: "If it's not searchable by Google, it's not open, and open is best for the consumer." You have a long personal history as a leading advocate for open-source software and a reputation for creating and participating in open movements such as OpenSocial and the Open Handset Alliance.**

    In your written testimony, you stated that "[a]t Google we believe that open is better than closed" and that "open sourcing software has real benefits in the marketplace." You also said:

    > **"Open" also means supporting features that have been approved by formal standards bodies, and, if none exist, working to create standards that improve the entire ecosystem. And "open" means releasing the source code to numerous projects that were developed by Google so that third parties can utilize these technologies to build their own products without having to reinvent the wheel, thereby speeding up the innovation cycle and providing consumers with even more choices.**

    It appears to some that Google's "open" initiatives have centered on areas where Google lags behind competitors in a market. Conversely, many claim that Google seems to avoid open initiatives in areas where it is a market leader, as with Google Books, YouTube, and its own search index.

    Some commentators, such as Danny Sullivan, editor-in-chief of Search Engine Land, advocate for Google's participation in an open index project. This is an example of an area in which Google is a clear industry leader and could foster innovation and marketplace growth by allowing others access to its index, without requiring Google to reveal trade secrets such as its search algorithm. Will Google commit to lead a search-index open initiative?

I am not familiar with Mr. Sullivan's proposed initiative. I do know that Google has made a number of our key innovations available as open source software, including Android (mobile operating system), WebM (video codec), Chromium (desktop/mobile OS), and Tesseract (optical character recognition software). We do not limit our open source projects to areas where we lag behind competitors. Google's open source projects have spurred innovation and competition in several markets. Some of Google's open source initiatives have been hailed as the most significant open source initiatives in the software industry.

12. **There have been reports that Google has acted to obstruct access to some of its substantive content, preventing competing search engines from offering results that include a full index of that content. In the case of YouTube, rival search engines claim to have been granted access only to some of YouTube's video content. Reports also suggest that Google attempted to settle litigation surrounding Google Books by signing an agreement that would give Google exclusive control over who may index its digitized copyrighted books. It would come as a surprise to many users that a company so vocal in its dedication to openness might be attempting to block some of its content from competitors. Will Google commit to**

ensure that other search engines may fully crawl and index all non-secure Google content, now and in the future?

Google has not restricted legitimate third-party search engines from accessing YouTube to index the site. However, to prevent the wholesale copying of videos from YouTube in violation of existing partner agreements, Google has placed automated restrictions on bots' ability to access YouTube. Any legitimate search engines, including Microsoft's Bing, Yahoo!, and China's Baidu, that wish to crawl and index YouTube, are given an exception to the bot restrictions.

Google is aware that Microsoft has complained that, for a time, it was unable to crawl YouTube. Google believes that Microsoft was unable to do so because Microsoft changed the name of its web crawler from "MSNBot," which was allowed to crawl and index YouTube, to "Bingbot" without informing Google of that name change. Thus, when Microsoft's newly-named Bingbot attempted to crawl YouTube, it was denied access because Google's automated systems believed that the newly-named crawler was not a legitimate search engine. The first time Microsoft made us aware of the problem was through their antitrust complaint in the EU. We promptly granted an exemption for Bingbot so that it could crawl and index YouTube. Google has been committed, and remains committed, to allowing third-party search engines to index YouTube content.

Google does not allow third parties to crawl our book content. First, because of copyright laws, Google does not allow third parties unfettered access to scan and reproduce Google Books content that is under copyright, including that which Google has licensed from third parties for our own use. Second, Google has invested many millions of dollars in our scanning project because we believe that users benefit from getting access to out-of-print and public domain books. Google's competitors, including Microsoft, could have done the same, but chose not to because they believed that the cost of doing so was not worth the benefit. Indeed, as an example, Microsoft began scanning the same corpus of books but abandoned its efforts, deciding to concentrate on other areas that it believed were more profitable, like travel search.[8] Nothing in the proposed Google Books settlement agreement would have prevented third parties from scanning and indexing books.

13. **In both your written and oral testimony, you stated that Google believes in "loyalty, not lock-in." You also testified that Google has a team of engineers whose sole goal is "to help our users move their data in and out of Google's products." On the day of the hearing, Google spokespeople were quoted in the press saying that Google "place[s] no restrictions on advertisers transferring their own ad campaign data to other platforms." Google's own AdWords API Terms and Conditions, however, purport to impose restrictions on advertisers' use of this data, including by restricting the tools that advertisers may use to manage their ad campaigns (see, e.g., section III.2.c). Some claim that the tools Google prohibits would allow businesses, particularly small businesses, to run ad campaigns on multiple ad platforms more easily and efficiently.**

    a. **Does the current version of the AdWords API Terms and Conditions (http://code.google.com/apis/adwords/docs/terms.html) permit advertisers to use their data on other platforms "without restriction," including use of third-party tools for this purpose?**

A number of resources exist to make it as easy as possible for AdWords users to export their data out of AdWords and use it for any purpose, including uploading it to another platform. In fact, Google is a leading proponent of data portability, and our Data Liberation Front provides step by step instructions to guide

[8] *See* Betsy Schiffman, "Microsoft Gives Up on Book Search", Wired Magazine, May 23, 2008, http://www.wired.com/epicenter/2008/05/microsoft-cans/.

advertisers.[9] Competitors such as Microsoft also provide advertisers with simple instructions to import their Google ad data into their advertising platforms.[10]

Google provides a free tool, AdWords Editor, that make it easy for advertisers (and agencies or resellers acting on their behalf) to move their ad campaign from Google to a competing platform. Using AdWords Editor, advertisers or their agents can download their full campaign structure to a CSV file.[11] Thereafter advertisers are free to use the data as they deem appropriate, including uploading it onto competing platforms and using third-party tools to manage it.

Google also makes an AdWords API available that enables advertisers to build their own tools, and allows third-party developers to build tools for advertisers and agencies to use. The AdWords API Terms and Conditions impose minimal restrictions on advertisers in the creation or use of their own tools, and they can build most any functionality they deem necessary with AdWords API. In fact, Google specifically exempts advertisers from the requirements of Section III.2.c (referenced in your question).[12] There are modest limitations on the programmatic bulk input and direct copying of data through the use of AdWords API-based third-party tools. In fact, bulk input restriction is not applicable to all fields, and a number of such fields can be uploaded simultaneously across platforms. This is reflected by the extremely high level of advertiser multi-homing on numerous advertising platforms.

b. If not, will Google commit to remove this and all other restrictions in the API Terms and Conditions on advertisers' use of ad campaign data?

As stated above, every advertiser—big or small—can export their ad campaign data and easily move it in and out themselves with no restrictions.

14. Among the concerns raised about Google's relationship with specialized search engines is scraping. "Scraping" refers to the unauthorized use of content that is collected, or "scraped," when a site is crawled and indexed by a search engine. Both Trip Advisor and Yelp, whose reviews appeared without permission on Google Places and whose CEO also testified at the hearing, have made such complaints. It is my understanding that Google has recently discontinued the practice of scraping reviews for use on its Places page.

a. Will Google commit to preventing any future occurrence of unauthorized scraping?

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[9] Brian Fitzpatrick, "Yes You Can Export Data From AdWords, Too", Google Public Policy Blog, October 8, 2009, http://googlepublicpolicy.blogspot.com/2009/10/yes-you-can-export-data-from-adwords.html.

[10] adCenter Desktop, "Import Google AdWords Campaigns to Microsoft adCenter using adCenter Desktop (video)", http://www.youtube.com/watch?v=MyWBPOS8dVM&feature=mfu_in_order&list=UL; Microsoft Advertising, "Import a Google campaign by using Microsoft Advertising adCenter Desktop (Beta)", http://advertising.microsoft.com/small-business/product-help/adcenter/topic?query=MOONSHOT_PROC_ImportGoogleCampaignsUsingDesktopTool.htm (5-step process); *see also* Amber, "Upload Your Google AdWords Campaigns Into Yahoo and MSN adCenter in a Flash!", PPC Hero, March 17, 2009, http://www.ppchero.com/upload-your-google-adwords-campaigns-into-yahoo-and-msn-adcenter-in-a-flash/ (3-step process).

[11] AdWords Editor Help, "How Do I Export a Spreadsheet from AdWords Editor," accessed November 1, 2011, http://www.google.com/support/adwordseditor/bin/answer.py?answer=38657.

[12] Google, AdWords API Terms and Conditions, accessed November 1, 2011, http://code.google.com/apis/adwords/docs/terms.html (In Section III(2)(c), Google explicitly notes that this section "does not apply to End-Advertiser-Only AdWords API Clients.").

b. **There is, of course, a great benefit that Google has already received as a result of scraping reviews from sites like Yelp and Trip Advisor. Users tend to visit sites that have amassed numerous reviews. As a result, companies invest substantial time and resources in developing robust databases of user reviews. Google Places was able to attract traffic and generate its own reviews on the basis of content—one might even say intellectual property—it took from competing sites. What does Google plan to do to address the problems caused by your prior scraping policy and the manner in which it has disadvantaged competing user review sites?**

Google believes strongly in protecting copyright and other intellectual property rights. Google relies, as does every other major search engine, on the established doctrine of fair use in order to display snippets of text in our search results, giving users a preview of the type of content they can find for a given link. Indeed, snippets are an important feature of search generally, and they drive traffic to websites. Google previously displayed review snippets from sites such as Yelp and TripAdvisor in our thematic local search results. Google's practice of displaying review snippets did not disadvantage review sites—in fact, quite the opposite. Google sends millions of clicks a month to Yelp, TripAdvisor, and other review sites. Google facilitates free traffic to both Yelp and TripAdvisor, and each of the sites has reaped the benefits of this free user exposure.

Yelp has aired numerous concerns in the press over the past few years, and although Google tries to act responsibly in response to website concerns, ultimately Google builds our search results and search-related products 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 or any other site with just one click.

15. **According to a Nielsen report from this month, 40 percent of U.S. mobile consumers now use smartphones, and Google's Android is the fastest growing and most popular mobile operating system. Some have expressed concern that Google may be using Android "compatibility issues" as a means of excluding competitors. For example, Skyhook, a company that produces geolocation software for mobile devices, claims that Google, a direct competitor, informed both Samsung and Motorola that handsets loaded with Skyhook software could not be shipped due to incompatibility issues between Skyhook software and the Android platform.**

a. **Does Google ask or require handset manufacturers that contract with you to ship mobile phones with only software that you approve?**

No. Google does not require handset manufacturers to ship mobile phones with only software that we approve. 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.

b. Does Google ask or require manufacturers to preload phones with Google applications?

No. Google does not require that smartphone manufacturers preload phones with Google applications.

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.[13] 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 manufacturers' 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 Android Market.[14] 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.[15]

c. Will Google commit to removing its own view of "compatibility" with Android as a prerequisite to the shipment or sale of handsets?

As noted in our answers to Questions 15a and b, 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

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

[14] 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.

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

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.

16. **In 2003, you were quoted in the New York Times as stating that "[m]anaging search at our scale is a very serious barrier to entry."**

    a. **Why is scale a "very serious barrier to entry" in search?**

I made that statement to the New York Times over eight years ago, and I was probably talking about search in a more narrow way than I view competition today. That same New York Times article emphasizes that Google's advantage in 2003 was that we had amassed a large number of data centers to handle a sizable volume of queries.[16] But today, data centers have been reduced to a commodity that any company can buy or rent. Moreover, both Microsoft's Bing and Yahoo! today handle *millions more queries* than Google did in 2003. In two short years, Microsoft's Bing has already reached the size that Google was in 2007.

Scale is not the key to our success. Google is not successful because of the number of queries we process. Competition on the Internet is just one click away and that disciplines Google into concentrating on making our users happy. To this end, Google makes tremendous investments in research and development and in hiring the best engineers, who are extremely talented, have a huge depth of experience, and are focused like a laser on thinking of ways to deliver better services to our users. We believe we are better not because we are bigger but because our technology is better.

Google does not believe that scale is a barrier to entry. The Internet provides a level playing field for competition; Google's size has not changed that fact. Indeed, recent entry into the general search business by start-ups such as Blekko, venture capital investments in search startups like DuckDuckGo, and Microsoft's Bing's success after only two years demonstrate that entry is not only possible but real.

A lack of scale did not deter companies like Facebook, Twitter, and LinkedIn from starting, finding an audience, and achieving widespread prominence, recognition, and ultimately success. At the same time, the large size of many Internet companies like MySpace did not prevent them from losing their audience and ultimately faltering. Given the nature of the Internet, websites, and services can and do get supplanted by completely new models. So the relevant question may not be, "Who will beat Google in search?" but rather, "What new model might take the place of search?"

    b. **Given that scale constitutes such a serious barrier to entry, do you agree that search engines lacking Google's scale are unable to offer as comprehensive and relevant results as those provided by Google, regardless of whether such search engines are "one click away" for users?**

As explained above, Google does not believe that scale constitutes a barrier to entry. Google's size has not prevented competitors from reaching audiences and achieving success. Indeed, in just two short years, Microsoft's Bing has grown to the same volume of queries that Google had in 2007. Google believes that Microsoft's Bing and Yahoo! achieved the scale necessary to compete with Google long ago.

Google offers better results than Microsoft's Bing or Yahoo! not because we are bigger but because our engineers are better, our technology is better, and our indexing and crawling solutions are more sophisticated. A comprehensive crawl is the first ingredient to precise query matching, and Google devotes significant resources and manpower to constructing, updating, and maintaining a highly sophisticated crawling and

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[16] John Markoff and G. Pascal Zachary, "In Searching the Web, Google Finds Riches", New York Times, April 13, 2003, http://www.nytimes.com/2003/04/13/business/in-searching-the-web-google-finds-riches.html?pagewanted=all&src=pm.

indexing system. Independent analysts have confirmed the superiority of Google's index; as reported in June 2011, "the experts at SMX [a conference for search marketing experts] seemed to believe that Google's crawler is currently much better at discovering content than Microsoft Bing's search bot (undoubtedly part of why Google is still the No. 1 search engine in the market, by comScore's latest measure)."[17]

17. **During the hearing, some Senators suggested a panel to oversee changes in your company's algorithm. I want to state clearly and for the record that I oppose subjecting a company's core intellectual property to such regulation. Please describe the problems that could result from opening Google's algorithm to regulatory oversight.**

In the open world of the Internet where competition is a click away, innovation happens at a feverish pace. In this rapidly changing industry, Google has evolved to operate at lightning speed; our engineers test more than ten thousand changes per year and ultimately make more than 500 changes a year to our search algorithms, or one to two changes *per day*. Each change focuses on improving the user experience, with the understanding that if Google does not deliver the best search results, someone else will.

Google's engineers also work tirelessly to modify the algorithms to protect users from spam, malware, viruses, and scams. Purveyors of these fraudulent devices are always looking for ways to get around Google's algorithms to entrap consumers. Having a government panel oversee each change to the algorithms would tie Google's hands, and make it impossible for our engineers to react quickly and effectively to improve user experience and keep users safe. This would severely harm consumers.

Having a government panel oversee algorithm changes raises other serious concerns. There is no "correct" search result. Results are generated in response to user queries. For example, a search for [President Obama address] could be asking for the location of the President's residence or a speech that the President made. Google's formulation of search results is a type of "scientific opinion"—a prediction of what the user might be looking for. Those results have been deemed by several courts to be a protected form of free speech under the First Amendment.[18] Just as a government panel could not dictate to the New York Times, the Drudge Report, or the Huffington Post what stories they could publish on their websites without infringing their freedom of speech, so too would government-mandated results likely violate Google's freedom of speech.

A government oversight panel for search would also enable firms that compete with Google to file spurious complaints in an effort to slow down Google's innovations. This would hurt consumers.

The purpose of the antitrust laws is to protect competition (not competitors) for the benefit of consumers. To this end, the openness of the Internet and the ability of users to switch easily between rival websites ensure robust competition and consumer welfare. Where users can effectively inform Google which changes they like by clicking away from Google, there is no need for a government panel to ensure changes are made for the benefit of consumers.

18. **While under review by the Justice Department for the acquisition of ITA Software, Google said on its website that "our goal will be to refer people quickly to a site where they can actually purchase flights, and that we have no plans to sell flights ourselves," specifying that "Google does not plan to sell airline tickets directly."**

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[17] "SEO Case Study: Sites See More Pages Indexed by Google Than Bing -- Even Post Panda," Brafton News, June 9, 2011, http://www.brafton.com/news/seo-case-study-sites-see-more-pages-indexed-by-google-than-bing-even-post-panda-800527170.

[18] *See Kinderstart.com, LLC v. Google, Inc.*, Case No. C 06-2057 JF (RS) (N.D. Ca., March 16, 2007); *Search King, Inc. v. Google Technology, Inc.*, Case No. Civ-02-1457-M (W.D. Okla., Jan. 13, 2003).

a. Does this remain Google's position in regard to travel transactions?

We do not currently plan to sell airline tickets directly, and the first version of Google flight search contains links to airline websites where you can buy a ticket.

b. Please update the Subcommittee on Google's current and future plans to be involved in facilitating the sale of travel services, including booking flights and hotels.

We've been excited about the opportunity to work with ITA to build extraordinary tools for flight search. We continue to look for areas where we can offer users compelling travel services. At present, we have no plans to offer flight or hotel bookings.