S U B M I S S I O N

TO: U.S. Senate Committee on the Judiciary, Subcommittee on Antitrust, Competition Policy and Consumer Rights

FROM: Jeremy Stoppelman, Cofounder and CEO, Yelp! Inc.

DATE: September 21, 2011

RE: The Power of Google: Serving Consumers or Threatening Competition?

I. ABOUT YELP

My name is Jeremy Stoppelman, and I am the CEO of Yelp! Inc., a company I co-founded in 2004 with my former colleague from PayPal, Russell Simmons.

At Yelp, our mission is to connect consumers with great local businesses. The site allows people throughout the country to share detailed and passionate reviews about businesses in their neighborhoods. In turn, businesses that provide great service and good value are able to establish and promote themselves online. [See Exhibit A]

Today, Yelp employs more than 800 people throughout the country. More than 60 million consumers use Yelp every month to decide how and where to spend their hard earned money. And on the flip side, job growth in this country relies on small, but fast growing and successful businesses. Yelp helps them reach new customers by amplifying their positive word-of-mouth, online.

This hearing is important because it examines issues that go to the heart of innovation: whether new ideas can compete fairly against expanding monopolies. In our case, I wonder if we would have been able to start Yelp today given Google's recent actions.

II. ABOUT GOOGLE

Google is no longer in the business of sending people to the best sources of information on the web. It now hopes to be a destination site itself for one vertical market after another, including news, shopping, travel, and now, local business reviews. It would be one thing if these efforts were conducted on a level playing field, but the reality is they are not.

The experience in my industry is telling: Google forces review websites to provide their content for free to benefit Google's own competing product – not consumers. Google then gives its own product preferential treatment in Google search results.

III. GOOGLE LOCAL

Google's destination site for local business reviews is dubbed Google Local. In its original form, Google Local looked like little more than an online version of the phonebook, featuring names, addresses, and phone numbers, but little in the way of rich, social, qualitative information. [See Exhibit B]

Perhaps recognizing this deficiency, Google Local sought a license from Yelp in 2005 to use portions of Yelp's rating and review content, a relationship which ended in 2007 after Google Local began soliciting ratings and reviews from its own users. In 2009, the media reported that Google tried to acquire Yelp and its consumer review content outright, though the reported acquisition never came to pass, and Yelp remained an independent company.

Google Local remained relatively threadbare during these years, and services like Yelp remained better positioned than Google itself to provide the sort of information that users were seeking about local businesses. In 2010, Google appointed a new executive to lead Google Local, and they launched a series of anticompetitive initiatives designed to shore up the threat posed by partial substitutes like Yelp.

A. Google Uses its Dominant Position to Force Services Like Yelp to Contribute their Content to Benefit Google Local

Websites typically allow search engines like Google to crawl and index their sites so that links to their sites can appear in response to relevant search engine queries. For example, if you search for "antitrust law", Google will display a relevant link to the FTC website as its fifth search result because the FTC has allowed Google to crawl and index that portion of its website.

In 2010, Google began incorporating the content that it indexed from its competitors into Google Local without permission. Although Google had previously acknowledged that it needed a license to use Yelp's content, it was now using it without permission to prop up its own, less effective product. In some instances, Google even presented this content to its users as if it were its own. [See Exhibit C]

1. Google's Offers a False Choice

In response to our objections, Google informed us that it would cease the practice only if we agreed to be removed from Google's web search index, thereby preventing Yelp from appearing anywhere in Google web search results. This, of course, was a false choice. Google's dominant position in the market prevents services like Yelp from exercising any sort of meaningful choice in the matter: it is a choice between allowing Google to co-opt one's content and not competing at all.

Google's private position with companies like Yelp was in stark contrast to its public position, which curried the public's favor. For example, in the wake of a lawsuit relating to Google News, a Google spokesman insisted: "We wouldn't demand that anyone include their content in any of our services at risk of being removed from search."[1] For whatever reason, this message clearly had not yet made its way to the executives in charge of Google Local.

2. Google Backtracks Under Public Scrutiny, But Privately Reprises the False Choice

Shortly after the FTC announced its investigation into Google's practices, and shortly after Yelp publicly presented its concerns at the Conference of Western Attorneys General in July 2011, Google announced that it would cease misappropriating content from its competitors.

The victory was short-lived, however. Just one week later, it was revealed that Google Local was continuing to use content from services like Yelp in order to power its own local business search product, driving traffic to its own pages. [See Exhibit D]

We again asked that Google cease its practice of co-opting content from Yelp for its own benefit. Google responded by removing Yelp links from portions of Google's web search product, providing a new twist on the same old false choice: if we chose not to help power Google Local, we could not appear in the "merged" portions of Google's web search results.[2] To date, consumers cannot find links to Yelp in Google's merged results, belying Google's public pronouncements that "the competition is just one click away."[3] [See Exhibit E]

B. Forget the Algorithm: Google Favors its Own Sites by Design

Google favors its own Google Local product in web search results, too. Rather than favoring them algorithmically, however, Google simply favors them as a matter of design.

For example, when users search for a barber in Madison, Wisconsin, Google will always present links to its own consumer review website in the most prominent position regardless of whether the algorithm has actually determined that it has the most relevant content. Put differently, it is impossible for any of Google's competitors to be displayed as prominently as Google itself, even if Google's own algorithm rates them higher. In some instances, Google simply excludes competitor results as a matter of design, not as a matter of objective, algorithmically-driven analysis. [See Exhibit F]

Is a consumer (or a small business, for that matter) well served when Google artificially promotes its own properties regardless of merit? This has nothing to do with helping consumers get to the best information; it has everything to do with generating more revenue. [See Exhibit G]

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[1] Source: Simon Morrison of Google, July 18, 2011 (http://allthingsd.com/20110718/after-copiepresse-boycott-google-restores-search-of-news-sites/).

[2] The "merged" portion of Google search results have effectively replaced organic search results for local searches.

[3] Source: Google Public Policy Blog, May 8, 2009 (http://googlepublicpolicy.blogspot.com/2009/05/googles-approach-to-competition.html).

IV. CONCLUSION

I live and work in San Francisco which sits on the border of Silicon Valley, a place that has participated in the development of some of the most amazing products and services over the last few decades – including Google.

Today represents a rare opportunity for the government to protect innovation. Allowing a search engine with monopoly market share to exploit and extend its dominance hampers entrepreneurial activity. Ensuring open and equal competition will sustain and foster innovation and job growth. It will also ensure that the price of internet advertising paid by small businesses will be set by the market, and not by a monopolist.

When one company controls the market, it ultimately controls consumer choice. If competition really were just "one click away" as Google suggests, why have they invested so heavily to be the default choice on web browsers and mobile phones? Clearly they are not taking any chances.

I thank the Subcommittee for its time and interest, and I look forward to assisting in any way that I can.