# Antitrust investigation abuse of dominance in Google vertical search - proposed settlement detrimental to consumers – Commission to issue formal statement of objections

**Letter sent to European Commissioners on February 24th, 2014**

Contact: **Augusta Maciuleviciute – consumerredress@beuc.eu**

Ref.: BEUC-X-2014-021 - 24/02/2014

**BUREAU EUROPÉEN DES UNIONS DE CONSOMMATEURS AISBL | DER EUROPÄISCHE VERBRAUCHERVERBAND**
Rue d'Arlon 80, B-1040 Brussels • Tel. +32 (0)2 743 15 90 • Fax +32 (0)2 740 28 02 • consumers@beuc.eu • www.beuc.eu
EC register for interest representatives: identification number 9505781573-45

BEUC The European Consumer Organisation

The Consumer Voice in Europe

Mr. José Manuel Barroso
President of the European Commission

B – 1049 Brussels

Ref.: BEUC-L-2014-073/MGO/AMA/cs

Brussels, 24 February 2014

**<u>Re</u>: Antitrust investigation abuse of dominance in Google vertical search – proposed settlement detrimental to consumers – Commission to issue formal statement of objections**

Dear President Barroso,

I write to you on behalf of Europe's consumer organisations to ask you to reject the proposed settlement of Google to DG Competition's investigation into abuse of dominance of the EU online search market.

BEUC has been following this case closely since its beginning and has been formally granted 3rd party status since April 2013 (together with our Spanish member organisation OCU). We submitted our views to the Commission regarding previous settlement proposals by Google and have repeatedly stated that they are inadequate and will neither solve competition concerns nor ensure consumer choice.

On February 5th, Vice-President Almunia announced that the Commission intends to accept Google's proposals and settle the case with Google following the company's 3rd set of commitments addressing the antitrust concerns identified by the Commission investigation.

We believe the settlement based on those commitments is unacceptable and will result in the continuing detriment of European consumers.

First and foremost, it is unacceptable Google is allowed to continue manipulating search results and displaying links to their own vertical services in preference to rival services which could be more relevant to consumers. There is no evidence to suggest Google's own vertical services are the best on merit or the most relevant to consumers.

**The proposed auction is a chimera of consumer choice**

The proposal to mitigate the discriminatory and anticompetitive impact of Google's abuse by more prominently displaying Google's rival services raises many questions.

Most important among these concerns is the use of an auction procedure. The site offering the highest bid in an auction will ensure the prominent place in the results page alongside Google. In effect, competitors will have the 'choice' either to pay Google in order to remain relevant or lose visibility and become irrelevant. Rivals who do not have the means to play by Google's rules or who are unilaterally judged as ineligible by Google will be driven out of the market.

We firmly believe that an auction is not a substitute for consumer choice, as the results will not be based on merit or consumer relevance. Consumers will not see the results which most correspond to their query, but the offer of a company who has paid more for display. This will present a chimera of choice which in fact is just a visualisation of Google's monetised dominance.

The auction system will also foreclose vertical search and stifle innovation, both as regards new entrants to the market and improving current vertical services.

The auction will erect two main barriers to new entrants in the vertical search market. No matter how good or relevant their services to consumer queries, to compete with Google and its main rivals they will firstly need the financial means to compete in the auction mechanism. This is exacerbated by the fact that only sites which have already achieved a significant minimum traffic threshold will be eligible to be added to the Vertical Sites Pool.

Finally, the auction system is likely to result in higher prices to consumers for goods and services they find through online search. As vertical search services will have to pay to be visible there is a high risk they will no longer place their cheapest offers at the top of their list for consumers, but rather the ones which secure the biggest revenue margin. So for instance a consumer searching for a particular camera would no longer see the cheapest offers for that camera, but rather the more expensive ones.

Furthermore, the raising of rivals' costs would logically exclude the lowest margin competitors, who often offer the lowest prices.

**The proposed settlement entitles Google to monetise anticompetitive behaviour**

The proposals will do nothing to prevent Google from using universal search to squeeze out competitive vertical services. On the contrary, Google will now be able to profit not only from the traffic it diverts from competitors, but also from new possibilities to charge for inclusion among Rival Links.

By requiring Google rivals to pay a price for their links, Google will be enabled to monetise its anticompetitive behaviour. It will have the incentive to provide links to those rivals who pay the most and not those who provide the best or most relevant results according to consumers' search queries.

The European Commission as a whole is accountable for the impact an antitrust settlement on the proposed remedies has on the online environment. A deal which harms consumer welfare, stifles innovation, endorses and indeed rewards anticompetitive behaviour cannot hope to stand up to close scrutiny by the European public.

Consumers should be able to expect neutral search results. Today this is not a reality due the nature of Google's business model and we expect the Commission to remedy this.

We call on the European Commission to side with Europe's consumers, reject this settlement and call on DG Competition to issue a formal Statement of Objections to Google.

Yours sincerely,

Monique Goyens
Director General