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# United States Senate

WASHINGTON, DC 20510-2509

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AGING

March 10, 2020

The Honorable William P. Barr  
Attorney General  
Department of Justice  
950 Pennsylvania Ave. NW  
Washington, DC 20530

Dear Attorney General Barr:

We write to urge the Justice Department to ensure that its investigation into Google's anticompetitive practices includes online search and is not limited to Google's behavior in the online advertising market. While public reporting has for months indicated that the Department's Antitrust Division is undertaking a comprehensive investigation into Google's practices, recent reporting suggests that the probe has focused narrowly on the company's online advertising business.<sup>1</sup> Google enjoys market dominance in online advertising, but it has that dominance in substantial part because of its enormous search engine market share. Google's online advertising conduct is inextricably linked to Google's search activities. It is critical to remember that the company's primary function is supplying a search engine to users, producing billions of search results for Americans every week. Narrowing the investigation's focus such that Google's anticompetitive practices to dominate the online search market is not captured does a grave disservice to consumers.

How Google operates its search engine warrants close scrutiny. At more than 90 percent of the global market share for search, the opportunities for anticompetitive conduct are substantial. While there is nothing illegal about obtaining market share through innovation or efficiency, evidence suggests that Google obtained its market share through illicit means. For example, Google has long publicly professed that its search engine simply returns the most relevant, organic result. But three years ago, the European Union fined Google \$2.7 billion for manipulating search results to disfavor its competitors. And as early as 2012, the FTC discovered evidence that Google engaged in a pattern of similar search manipulation in the United States. In short, there is ample evidence that Google has a history of producing biased search results that

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<sup>1</sup> Keach Hagey and Rob Copeland, "Justice Department Ramps Up Google Probe, with Heavy Focus on Ad Tools," WALL STREET JOURNAL, Feb. 5, 2020, available at <https://www.wsj.com/articles/justice-department-ramps-up-google-probe-with-heavy-focus-on-ad-tools-11580904003>; Daniel Carnahan, "The DOJ's Antitrust Probe Into Google is Honing in on its Third-Party Advertising Business," BUSINESS INSIDER, Feb. 7, 2020, available at <https://www.businessinsider.com/doj-antitrust-probe-google-third-party-advertising-business-2020-2> ("Investigators are reportedly looking into two potentially anticompetitive decisions: Google's integration of its ad server, a tool for publishers selling ad space, and its ad exchange, the industry's largest ad marketplace; and second, Google's decision to require advertisers to use its tools to buy ad space on YouTube following its acquisition.")

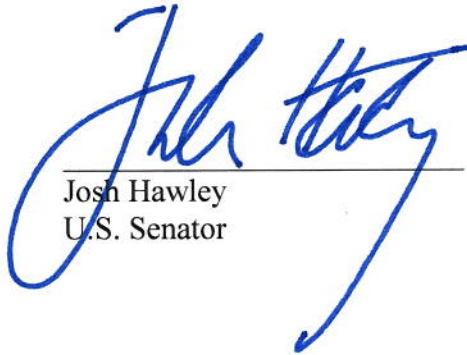
discriminate against its competitors to favor its own properties, a practice which is anticompetitive and warrants scrutiny.

Anticompetitive conduct in search engines is especially pernicious because it can ensure permanent, illicit dominance. Because of Google's market share, it receives far more data than other search engines—data that it can use to improve its algorithm. Once a search engine obtains dominance through anticompetitive means, it may never be possible for other companies to build a truly competitive product absent antitrust enforcement.

We have long thought that an antitrust investigation of dominant tech companies was overdue, and we were pleased to find out last year that the Department has launched an investigation. However, because Google's advertising operations are in many ways downstream of its search operations, an investigation that focuses only on online advertisements risks failing to address the primary source of anticompetitive conduct. We urge the Department, in its antitrust investigation into Google, to consider comprehensively Google's practices in the search market.

We look forward to a response.

Sincerely,



Josh Hawley  
U.S. Senator



Richard Blumenthal  
U.S. Senator