

May 9, 2008

The Honorable Thomas O. Barnett  
Assistant Attorney General for Antitrust  
The U.S. Department of Justice  
10<sup>th</sup> and Pennsylvania, NW  
Washington, D.C. 20530

Dear Mr. Assistant Attorney General:

As civic organizations that rely heavily on online services and applications for fundraising, organizing and communicating with our members and the public, we write to express our strongest concerns over news reports that Google – fast becoming one of the largest media monopolies in America – may seek to acquire major operations of Yahoo! through an “auction-outsourcing” arrangement seemingly designed to circumvent antitrust laws and that could result in Google ominously possessing as much as 90% of the search market.

This combination threatens to undermine privacy and consumer choice, increase consumer prices, irreversibly damage online competition, and hurt small and medium businesses across the country.

This proposed combination is alarming as the search market has become the primary portal into the Internet and today directs hundreds of millions of online users to what it chooses as the most relevant information, news, entertainment, education and e-commerce. Search advertising revenue will soon exceed that of the major television networks – a chilling fact which underscores the power of the search gatekeepers.

With its near 70% market share, Google has already demonstrated a track record of violating consumer privacy, hiking advertising (and therefore consumer) prices, blocking competitors, and disfavoring political viewpoints with which it disagrees. Giving Google yet more market power would certainly worsen these anti-consumer and anti-competitive practices.

For example, Google’s Gmail service has already repeatedly violated basic tenets of consumer privacy by scanning the actual text of individual customer emails in order to extract information for its advertising. Numerous privacy experts also fear that Google may cross-reference “cookie” files across all of its applications, giving Google a rich dossier on all of its users. This contempt for privacy and individualism is the kind of practice we might expect from a totalitarian regime, but not from a U.S. firm seeking government blessing for even more market power.

Google has also shown a track record of limiting consumer choice by using its market power to leverage exclusive deals. For example, in 2006 Google leveraged its search monopoly with Sony Ericsson for an exclusive deal to integrate Google’s search

technology and “Blogger” application into mobile phones, leaving Sony Ericsson mobile phone customers with less choice. The company now wants to establish its own standard for serving ads to mobile phones and other devices.

Google also admitted to playing “viewpoint gatekeeper” by forcing online customers interested in public policy issues on technology to view so-called “PSAs” that favored Google’s public policy positions. And Google systematically leverages its monopoly search control to drive traffic primarily to its YouTube subsidiary as opposed to other video sites, effectively chilling fair competition in this space.

In short, we face a possible future in which no content could be seamlessly accessed without Google’s permission.

Small businesses have also made clear that Google’s dominance in the online advertising space hurts both consumers and online entrepreneurs. Small online entrepreneurs have complained that Google “almost destroyed our business – the amount of control that company has is frightening.” Analysts at Forrester Research predict that small businesses “may prefer to work with a player that doesn’t have as much power in the market” as Google wields today. This is not irrelevant to the constituents that we represent, and to consumers generally. Anti-competitive bottleneck control in online advertising will raise costs for American businesses and, ultimately, consumers.

Well over a century ago, Republican Senator John Sherman sought to protect consumers against the abusive oil, railroad and steel trusts which were run by barons who believed they were above the law. Like the owners of the 19<sup>th</sup> Century trusts, we are concerned that Google and Yahoo! are designing an alliance intended to circumvent antitrust oversight, posing dire consequences for consumers.

An article in Sunday’s *Washington Post* [“*Critics of Old Guard Take Black Activism Online,*” Sunday May 4<sup>th</sup>] featured the new online activism of many civic organizations like ours who depend on privacy and the respect for the basic standards of online fair play. The organizations that we represent want an Internet that is free from unreasonable interference for both private and commercial uses. No single gatekeeper should have unchecked control over critical segments of the market if that control can give that company “Big Brother” ability to inspect our emails or otherwise invade our privacy, silence what it considers disfavored viewpoints, increase consumer prices and hurt small businesses.

We urge you to open an investigation into the current market concentration in online search and to oppose any combinations that would result in undue market concentration.

Sincerely,

/s/ Clayola Brown  
President  
A. Philip Randolph Institute

/s/ Larry Matlack  
President  
American Agriculture Movement

/s/ Keith Bolin  
President  
American Corn Growers Association

/s/ Dr. E. Faye Williams  
National Chair  
National Congress of Black Women

/s/ Gary Flowers  
Executive Director & CEO  
Black Leadership Forum, Inc.

/s/ Roger Rivera  
President  
National Hispanic Environmental  
Council

/s/ Maritza del Toro  
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/s/ Alfred Placeres  
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/s/ Dr. Gabriela Lemus  
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/s/ Antonio Gonzalez  
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William C. Velasquez Institute (WCWI)

/s/ Jose Marquez  
President & CEO  
Latinos in Information Sciences and  
Technology Association (LISTA)

/s/ Niel Ritchie  
Executive Director  
League of Rural Voters

/s/ Anthony W. Robinson  
President  
Minority Business Enterprise Legal  
Defense and Educational Fund

/s/ Harry C. Alford, Jr.  
President & CEO  
National Black Chamber of Commerce

/s/ Melanie L. Campbell  
Executive Director & CEO  
National Coalition on Black Civic  
Participation

/s/ Rev. Miguel Rivera  
President  
National Coalition of Latino Clergy &  
Christian Leaders (CONLAMIC)