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Europe Weighs Antitrust Case Against Google, Urging Search Changes

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BRUSSELS — Google may have abused its dominance in Internet search by promoting its own businesses at the expense of competitors, the [European Commission](#) said Monday. It warned the company to propose changes in “a matter of weeks” to its method of answering user queries, or possibly face an antitrust lawsuit.

Search is the crucial tool that sends consumers to new restaurants and hotels, cheap airplane flights, and local services as varied as plumbers or baby sitters. In issuing the ultimatum, European regulators sent their strongest signal yet that they believe Google, which has long said its search results are neutral, tips the scales in its favor.

“The Europeans are saying to Google: ‘Time’s up. Cave in or we’ll sue,’ ” said Keith N. Hylton, an antitrust expert at the Boston University School of Law.

A Google spokesman said the company disagreed with the commission’s conclusions and said “innovation online has never been greater.”

If Google decides to fight, the case could fuel a fledgling Federal Trade Commission investigation. United States regulators have been working closely with the European officials, speaking by phone at least weekly.

Google is the dominant search engine in the United States and holds even greater sway in Europe, accounting for four of every five searches on the Continent.

Joaquín Almunia, the European antitrust chief, said at a news conference here that regulators had identified “four concerns where Google business practices may be considered as abuses of dominance.”

He said Google might have unfairly exploited its market position by displaying links to its own services, like Google maps or images, when it answers a query, giving preference to them over those of competitors. He also said Google included material in its own search results that was copied from competitors’ Web sites.

“In this way they are appropriating the benefits of investments of competitors,” Almunia said, explaining that restaurant guides and travel sites were partici



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The other two areas of concern involve how Google conducts its advertising business, including how it delivers search ads on partner sites.

Thomas Vinje, a lawyer for FairSearch, a coalition of 17 companies including Microsoft, said the group was “pleased that the commission has identified some serious concerns with Google’s anticompetitive behavior.”

If Google does make concessions in Europe, computer users could notice a greater variety of Web services displayed on their computer screens besides those offered by Google, said Nicolas Petit, a law professor at the University of Liège in Belgium.

Mr. Petit drew a comparison with an earlier European requirement for Microsoft to include a raft of competing Web browsers as part of its operating system as a way of trying to curb Microsoft from promoting its own software products.

Antitrust fines in Europe can reach up to 10 percent of a company’s annual global revenue. Google’s revenue was nearly \$38 billion last year.

Mr. Almunia’s office also can demand far-reaching changes to the way companies run their businesses.

Antitrust experts expressed surprise at the rare public offer by the commission, which reflects the delicate balance regulators are trying to strike as they seek to fix problems in the fast-changing technology marketplace before proposed remedies lose their relevance.

Mr. Almunia’s move, some said, was a new phase in aggressive European antitrust enforcement.

There may be a need to act swiftly, said Paul Lugard, the former head of antitrust at Philips, the giant Dutch electronics company, and now an assistant professor at the Tilburg School of Economics and Management in the Netherlands.

But he said he was concerned that “this form of highly unusual public encouragement in the full glare of the media puts even more pressure on companies like Google to settle early rather than contest charges that they really do think are groundless.”

Neither Google nor Mr. Almunia described what kinds of offers or changes in search methods could lead to a settlement in the case. Instead, each side appeared to hold out the prospect that it was prepared to walk away from negotiations.

Both sides are likely to want to avoid the decade-long case the commission undertook against Microsoft, which ended up paying \$2 billion in penalties and fines.

“The Europeans are moving with the kind of speed you need to get these issues resolved,”

said David Balto, a former policy director at the Federal Trade Commission. “In five years, everyone might be searching through Facebook.”

Mr. Almunia declined to comment in any detail on potential concerns about Google’s [Android](#) operating system, which the company has used to move into the leading position among mobile phone operating systems.

“It’s an ongoing investigation,” Mr. Almunia said, referring to Android.

Ominously for Google, those comments suggest that the company could face yet more pressure from the European authorities to change its practices in another facet of its business.

Sources close to the United States investigation have said regulators may be focusing on whether Google has strong-armed phone manufacturers using the Android system to offer only Google search on their phones.

The F.T.C. last month hired a litigator to examine the evidence against Google and, if deemed sufficient, file charges against the company.

Long before that decision is made, weeks of hard discussions will take place behind closed doors in Brussels involving Mr. Almunia and his investigators, and lawyers, engineers and executives from Google.

Al Verney, a Google spokesman, said competition on the Web had increased sharply in the two years since the commission began examining the company’s practices. That highlights how “the competitive pressures Google faces are tremendous,” he said.

While Google has faced new rivals, most notably Microsoft, which has plowed billions of dollars into its Bing search engine, the company’s share of the market has been surprisingly durable in recent years. In the United States during March, Google accounted for 66.4 percent of searches, up slightly from 65.7 percent during the same month in 2011, and 65.1 percent for that month in 2010, according to comScore.

In Europe, Google accounted for 79.3 percent of searches in March, compared with 79.8 percent the same month a year earlier, comScore estimates. In most cases, any gains in market share that Google rivals make tend to come at the expense of other competitors in the search market, not Google.

Some experts said a settlement might be an attractive prospect for Mr. Almunia, partly because of the complexities of the way search engines operate.

“Google updates its algorithms so frequently that any proposal from the agency that regulates search algorithms probably would be ineffective and unworkable,” said Mr. Hylton

of Boston University.

James Kanter reported from Brussels, and David Streitfeld from San Francisco. Edward Wyatt contributed reporting from Washington and Nick Wingfield from Seattle.