

Federal Court Endorses Behavioral Remedies, Rejects Structural Relief, in Google Search Antitrust Litigation

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On September 2, 2025, the U.S. District Court for the District of Columbia released its [remedies decision](#) in *United States v. Google*, an antitrust case involving Google’s conduct in certain markets related to online search and search advertising. In the decision, the court rejected the plaintiffs’ proposals for an [immediate divestiture](#) of Google’s Chrome web browser and a contingent divestiture of the Android operating system, but ruled that Google will be subject to [several behavioral remedies](#), including a prohibition of exclusive contracts relating to the distribution of Google Search, the Chrome browser, and certain artificial-intelligence (AI) products.

This Legal Sidebar provides an overview of the court’s remedies decision. The Sidebar is divided into three parts. First, the Sidebar provides background on the *Google* litigation, including the court’s liability decision. Next, the Sidebar discusses the court’s remedies decision. The Sidebar concludes with considerations for Congress.

Background

The *Google* litigation [began](#) in October 2020, when the Department of Justice (DOJ) and 11 states filed a complaint accusing Google of unlawful monopolization under [Section 2 of the Sherman Act](#). The plaintiffs [alleged](#) that Google had monopolized certain markets related to online search and search advertising through various contracts with browser developers, mobile device manufacturers, and wireless carriers. Under the contracts, Google’s counterparties [agreed](#) to preinstall Google Search as the default general search engine at certain search access points. The DOJ [argued](#) that the challenged contracts were appropriately analyzed as exclusive agreements because they strongly disincentivized Google’s distribution partners from preinstalling rival search engines. Because of the resulting exclusivity, the DOJ [alleged](#), Google’s distribution contracts foreclosed (i.e., denied rivals access to) significant shares of the relevant markets and deprived competitors of the scale needed to improve their search engines. Roughly two months after the DOJ filed its complaint, 38 additional states and territories [filed](#) a similar lawsuit against Google, which was ultimately consolidated with the DOJ case. At the parties’ request, the district

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court **bifurcated** the liability and remedies phases of the litigation. The court **conducted** a trial in the liability phase of the case between September 2023 and November 2023.

In August 2024, the district court **held** that Google had unlawfully monopolized the markets for general search services and general search text ads. The court **concluded** that Google had **monopoly power** in both markets based on its dominant market share and the presence of significant entry barriers. The court also **agreed** with the plaintiffs that the challenged contracts were exclusive in practice even in cases where they did not mandate formal exclusivity. Although the court **recognized** that exclusive contracts are not per se illegal even for a monopolist, it **determined** that Google's distribution contracts had **produced** a variety of anticompetitive effects, including significant foreclosure of the relevant markets, denial of scale to rivals, and reductions in rivals' incentives to invest and innovate. After **rejecting** several procompetitive justifications for the contracts that Google had offered, the court **concluded** that Google had **engaged** in unlawful monopolization.

During the remedies phase of the litigation, the plaintiffs and Google **submitted** proposed remedies for the court's consideration. Between April 2025 and May 2025, the court **held** an evidentiary hearing to evaluate the proposals, followed by extensive briefing from both sides. The plaintiffs **sought** structural relief in the form of an immediate divestiture of Google's Chrome web browser, in addition to a contingent divestiture of Google's Android operating system, which would be triggered by a showing that initial remedies had failed to restore competition five years after the entry of judgment. The plaintiffs also **requested** a range of behavioral remedies, including a near-total prohibition on Google making search-related payments to distribution partners and a requirement that Google share various categories of data with rivals. Google **proposed** narrower remedies—principally, an injunction prohibiting Google from entering contracts that prevent counterparties from preinstalling or otherwise promoting alternative general search engines.

The Remedies Decision

In its remedies decision, the court **rejected** the plaintiffs' proposals for structural relief, but ruled that Google will be subject to several behavioral remedies that are discussed below.

- **Prohibition of Certain Exclusive Contracts.** The court will **bar** Google from entering or maintaining any exclusive contract relating to the distribution of Google Search, the Chrome browser, and two AI products, Google Assistant and the Gemini app. Google will be **permitted**, however, to pay distributors for default placement, as long as the payments are not conditioned on exclusivity and the relevant agreements have a term of **one year or less**. In rejecting the plaintiffs' proposal for a broader payment ban, the court **reasoned** that such a ban would pose a "substantial risk of harm" to device manufacturers, wireless carriers, and browser developers. According to the court, under a broad payment ban, those counterparties would face a choice **between** continuing to place Google Search as a default without receiving payments or entering less lucrative distribution agreements with other search engines. The resulting loss or reduction of payments, the court **determined**, might reduce innovation and investment on the part of Google's distribution partners, harm the competitive prospects of smaller browser developers who depend on the payments, and lead to higher prices for mobile devices.
- **Data-Sharing.** The court will require Google to make available to "**Qualified Competitors**" certain search-index and user-interaction data. A **search index** is "a database of publicly available web pages that can be returned in response to a user query." According to the court, a "comprehensive and current index is **critical** to returning high-quality search results." The court **reasoned** that requiring Google to make certain search-index data available to Qualified Competitors will help improve the quality of

rival search engines and mitigate the consequences of Google's illegal conduct. The user-interaction data that Google will be required to share with Qualified Competitors **includes** information regarding the links that users click and how long users hover over links. This type of "click-and-query" data, the court explained, is the "**raw material** that Google uses to improve search services" and "the **bread and butter** of Google's scale advantage." The court **concluded** that some of this data represents a fruit of Google's anticompetitive conduct and that compelled sharing is a reasonable method of eliminating the consequences of that conduct.

- **Syndication.** The court will **require** Google to provide search results and certain other content from its search engine results page (SERP) to Qualified Competitors. These syndication remedies are **intended** to allow upstart search engines time to "get[] off the ground" by enabling them to deliver high-quality search results while they develop and improve their products. The court's decision indicates that the relevant syndication licenses will have a **duration of five years**, involve "**ordinary commercial terms**" that are consistent with Google's current syndication services, and face certain limitations, including a rule capping a Qualified Competitor's use of Google's syndication services at **40% of queries** in the first year. In addition to search syndication services, Google will be required to syndicate **general search text ads** that appear on its SERP to Qualified Competitors under **five-year licenses**.
- **Disclosure of Material Changes to Ad Auctions.** The court will **require** Google to publicly disclose material changes to its ad auctions to promote greater transparency in search text ads pricing and prevent Google from increasing prices by secretly fine-tuning its ad auctions. In its liability decision, the court **found** that Google had adjusted its ad auctions in ways that led to higher ad prices that escaped notice by advertisers. In the court's view, mandatory disclosure of such changes **will** "increase the flow of information to advertisers, allowing them to make more educated decisions about their ad spend."

To assist with the implementation of these requirements, the court will establish a **technical committee** composed of experts in various fields, including software engineering, AI, and data privacy. The **technical committee** will, among other tasks, advise the plaintiffs about potential Qualified Competitors, recommend reasonable data security standards applicable to Qualified Competitors, and audit Qualified Competitors' use of search syndication services. The term of the final judgment will be **six years**.

The court rejected the plaintiffs' proposals for structural relief, along with their requests for additional behavioral remedies. The plaintiffs had **requested** that the court order Google to divest the Chrome browser because of Chrome's importance as a search access point. They **contended** that a divestiture of Chrome—which accounts for 20% of all searches in the United States and uses Google Search as a default—would open a critical access point to rival search engines.

The court declined to order the divestiture of Chrome on several grounds. First, the court **cited** case law advising that divestiture should be imposed "only with great caution" and (aside from cases involving monopolies formed by acquisition) only after a determination that other remedies would prove insufficient. Applying these principles, the court **explained** that the plaintiffs failed to establish the inadequacy of behavioral remedies, meaning structural relief was unwarranted. Second, the court **concluded** that the plaintiffs failed to show a "significant causal connection" between Google's conduct and the creation or maintenance of monopoly power, which is a requirement for structural relief under D.C. Circuit precedent. While the court **rejected** Google's effort to equate a "significant causal connection" with but-for causation, it held that the plaintiffs had not established the requisite "**proportionality** between the strength of the evidence of the causal connection and the severity of [a structural] remedy." In particular, the court deemed structural relief **inappropriate** given "ample evidence that lawful conduct"—including "best-in-class search quality, consistent innovations, investment in

human capital, strategic foresight, and brand recognition”—played an “important role” in Google’s maintenance of its monopoly. Third, the court [reasoned](#) that divestiture of Chrome would extend beyond the conduct that the plaintiffs sought to redress because the Chrome search access point was not foreclosed by Google’s unlawful contracts. In addition, the court [indicated](#) that the vast majority of Chrome’s users are located outside the United States, while the plaintiffs had alleged a geographic market limited to the United States. Fourth, the court [concluded](#) that divestiture of Chrome would be “incredibly messy and highly risky,” citing Chrome’s reliance on Google’s technical systems, infrastructure, back-end systems, engineering personnel, and application programming interfaces.

The court [rejected](#) the plaintiffs’ proposal for contingent divestiture of the Android operating system for similar reasons, explaining that the plaintiffs had not alleged that Google’s ownership of Android caused anticompetitive effects in the relevant product markets, that the plaintiffs had failed to satisfy the causation standard for structural relief, and that a sale of Android would reach beyond the U.S. market.

The court also declined to order several other behavioral remedies proposed by the plaintiffs, including a requirement that Google display “[choice screens](#)” allowing users to select their own default search engines on Google devices and browsers, remedies related to Google’s dealings with [advertisers](#) and [ad publishers](#), an [investment reporting requirement](#), and prohibitions of various types of “[self-preferencing](#)” involving online search, Android, and Google’s AI products.

Considerations for Congress

Reactions to the court’s remedies decision have been mixed. While the DOJ [celebrated](#) the ruling for embracing “significant” remedies, the Assistant Attorney General (AAG) for the Antitrust Division said that the government will “continue to review the opinion” to consider “next steps regarding seeking additional relief.” The AAG’s comments leave open the possibility that the DOJ will appeal aspects of the remedies opinion—a course of action that some [advocacy groups](#) have [endorsed](#). Google has [said](#) it plans to appeal the court’s liability decision.

Some Members of Congress have [criticized](#) the court’s remedies decision, arguing that it provides insufficient relief. Several of these Members have [announced](#) plans to pursue [legislation](#) to combat what they deem to be anticompetitive conduct by large tech companies. In past Congresses, legislation directed at these concerns has involved some of the issues the court considered in the *Google* litigation. For example, the American Innovation and Choice Online Act (AICOA), [versions](#) of which were introduced in the [117th](#) and [118th](#) Congresses, would have prohibited certain large tech platforms from engaging in various forms of self-preferencing. In *Google*, some of the plaintiff states brought [claims](#) based on a theory of anticompetitive self-preferencing. The plaintiffs also [sought](#) prohibitions of specific types of self-preferencing during the remedies phase of the case. The court rejected both the self-preferencing [liability theory](#) and the plaintiffs’ [request](#) for injunctive relief targeting self-preferencing. The AICOA would have altered the legal regime governing such conduct by large tech platforms. Its supporters [argued](#) that, in doing so, the [legislation](#) would have filled gaps in the antitrust laws. Opponents contended that the AICOA would have deterred [innovation](#) and [compromised](#) platforms’ ability to promote user security and privacy. It remains to be seen whether the AICOA will be reintroduced in the 119th Congress.

Another bill from the 117th Congress, the [Ending Platform Monopolies Act](#) (H.R. 3825), would have gone further than the AICOA by imposing structural separation requirements on certain large tech platforms. The bill would have made it [unlawful](#) to operate both a covered platform and any business that (1) utilizes the covered platform for the sale of products or services, (2) offers a product or service that business users must purchase in order to access the covered platform, or (3) gives rise to a “conflict of interest.” Structural separation regimes seek to respond to the same concerns regarding self-preferencing as the neutrality rules in the AICOA, but do not require a court or regulator to [engage](#) in case-specific inquiries into whether individual practices constitute prohibited self-preferencing. They are thus a [blunter](#)

tool than neutrality mandates, offering possible administrability advantages but posing heightened risks of prohibiting benign or beneficial conduct.

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