



The Department of Justice's Proposed Remedies for the Google Search Lawsuit: Implications for Innovation and Consumer Welfare

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Key Takeaways

- A forced divestment of Chrome would disrupt its current role as a key component of the Google ecosystem, raising concerns about its ability to thrive independently or under new ownership.
- Most of the other proposed remedies are unlikely to benefit consumers, and several could harm user experience and exacerbate privacy and data security risks.
- Requiring Google to share user query data with third parties would add some competition benefits, but such benefits could readily be outweighed by more significant privacy and data security concerns.

Introduction

In November 2024, the Department of Justice filed its proposed final [judgment](#), outlining a series of remedies that include the divestment of the Chrome browser and potentially the Google-owned Android operating system. These proposed remedies follow a court [ruling](#) earlier this year that found Google in violation of U.S. antitrust law. Most of the proposed [remedies](#) are unlikely to benefit consumers, and several could harm user experience and exacerbate privacy and data security risks. Rather than acquiescing to these proposals, Google should challenge the DOJ's remedies and the earlier court decision, which largely overlooked the evolving dynamics of the online search market and the pro-competitive justifications for Google's business strategies.

Background

In August 2024, the Court of the District of Columbia [determined](#) that Google had unlawfully maintained monopoly power in two relevant markets: general search services and search text advertising. Under Section 2 of the Sherman Act, possessing monopoly power alone is not a per se violation of antitrust law; however, the law [restricts](#) practices that sustain such power through anticompetitive means. The District Court concluded that Google's default search engine [agreements](#) with other platforms reinforced its dominance, violating U.S. antitrust law. In 2025, the court is expected to deliver structural and behavioral remedies to address the alleged anticompetitive behavior, which prompted the DOJ to file proposed remedies.

More specifically, the DOJ's proposed remedies [include](#):

- i) Divesting the Google-owned Chrome browser,
- ii) Forbidding "exclusionary agreements" with third parties that set Google to be the default search engine on non-Google devices, browsers, or platforms;
- iii) Requiring Google to display a choice screen on all browsers unless a customer explicitly consents to a default search engine
- iv) Prohibiting the pre-installation of Google search access points on new Google devices and banning distribution agreements where third parties receive payments for pre-installing accent points on non-Google devices;
- v) Banning the self-preferencing of Google search engine results on Google-owned applications and platforms (e.g., Android, Google Maps, YouTube, and Gemini);
- vi) Requiring Google to share its search index and related data with third parties at reasonable costs; and
- vii) Imposing transparency conditions for advertisement-related data.

For now, the DOJ has [withheld](#) calling for a divestment of Google's Android operating system, noting instead that it should remain an option in case Google fails to rectify other behavioral changes as requested in the proposed judgment.

The proposed judgment—which is unusually [bold](#) for the scope and novelty of its proposed remedies—represents what could be the last significant move by antitrust regulators under the Biden administration, whose muscular approach to antitrust enforcement marks a [departure](#) from the more restrained, consumer welfare-focused competition policy of the previous four decades.

Although increasingly improbable, there is still the perceived risk that an emboldened Trump administration might continue or expand the Biden administration's approach to competition policy.

Against this backdrop of heightened regulatory risk, Google might face pressure to negotiate a deal with the DOJ that accepts some of these remedies—but that would be a mistake.

First, the original decision by the district court [overlooked](#) rapidly evolving market dynamics and the pro-competitive [justifications](#) offered by Google, which should become more evident as the technological benefits for consumers of combining generative AI and general search become clearer. While the court's initial ruling largely ignored these aspects of the case, such arguments could easily find a more sympathetic hearing from the U.S. Court of Appeals for the District of Columbia—as was the case for the *United States v. Microsoft* [case](#) in 2001, where the appeals court took a broader view of market dynamics and overturned the lower court's ruling.

Second, as [pointed out](#) by Jeffrey Westling of the American Action Forum, the DOJ's proposed remedies, in many ways, go beyond the scope of the specific competition concerns identified by the District Court's August ruling. Likewise, the likely consumer benefit of most proposed [remedies](#)—like the requirement to install a choice screen on new Google devices—remains unclear since consumers can already switch to other search engines easily. Likewise, with Google devices representing slightly less than [5%](#) of the U.S. smartphone market, such a requirement would affect only a small fraction of U.S. cellphone users. On the contrary, proposals like [requiring](#) Google to share search data with third parties raise significant data privacy and security concerns, especially in the absence of a comprehensive U.S. data privacy legislation (in contrast, many advanced economies, including the EU, the UK, Canada, and Japan, have enacted such laws).

The District Court and DOJ Overlooks the Rapidly Evolving Internet Search Engine Landscape

While narrowly defining relevant markets as those for general search and search text advertisement, the District Court largely overlooked the rapidly evolving market dynamics and growing competition that search engines face from generative AI tools.

In antitrust lawsuits, a fundamental issue is establishing a specific product's market share within a specific market defined by regulators. Since such definitions are often subjective, there is a risk of narrowly defining markets in a way that overstates a specific product's true market share.

While regulatory caution and deliberation are needed in defining relevant markets for any products, they are particularly important in industries undergoing significant changes. In the 2000s, Internet Explorer (IE) was the most popular browser worldwide, with a [34.3%](#) market share as late as January 2012. However, IE and other earlier browsers like Opera were optimized for desktop and laptop use and struggled to [adapt](#) to the smartphone era. Newer entrants with strengths in the cellphone market—like Google's Chrome and Apple's Safari—gained a competitive edge in a market increasingly shaped by the growing popularity of smartphones and tablets. With growing competition from such browsers, IE and Opera's market [shares](#) in both desktop and mobile-based browser markets plummeted—with IE and Opera now [representing](#) only 2.15% and 0.16%, respectively, of the global market as of August 2024.

Like earlier internet [browsers](#), today's search engines and browsers face growing [competition](#) from a range of AI-enabled question-answering systems and chatbots, which provide users with a more conversational, context-aware approach to finding information online. Some chatbots, like ChatGPT (with web-browsing [capabilities](#)) and Perplexity (for real-time contextual [answers](#)), have added advanced search functionality. Other AI-based tools specialize in domain-specific searches, such as Semantic Scholar and Scite for academic research and citations and PubMed for biomedical

research. Meanwhile, traditional search engines and browsers have responded by incorporating large language models and offering AI-assisted search and chat functionalities—examples include Microsoft’s Bing AI and Edge Browser and Google’s Bard and Gemini chatbots. While it remains to be seen whether newer AI-based [tools](#) will replace or enhance traditional search engines, a growing share of users use chatbots and search engines interchangeably for specific types of search tasks, such as conversational queries or domain-specific research.

These shifts highlight the need for regulators to account for changing market structure and dynamics when defining relevant markets. As more search engines incorporate chat features and generative AI chatbots integrate search functionalities, Google’s dominance in the broader relevant markets could diminish—similar to how earlier browsers [lost](#) ground to mobile-focused competitors. By overlooking these trends while narrowly focusing on general search and text ad markets, U.S. regulators risk overstating Google’s dominance while failing to recognize the growing competition that Google products face from new entrants. Rather than mandating an irreversible regulatory decision based on a static understanding of market structure, regulators should seek to foster competition between established players and newer competitors in a rapidly changing landscape.

The District Court and DOJ Fail to Consider Fully Pro-Competitive Justifications for Google’s Continued Ownership of Chrome and Android Operating System

The DOJ and the District Court fail to consider fully the pro-competitive justifications for Google’s continued ownership of Chrome and Android, as well as the broader benefits of its product ecosystem for consumers and businesses. While the DOJ [contends](#) that Google’s horizontal integration of different related products contributes to monopolistic power, this perspective neglects consumer benefits offered by such integration. Google’s [ecosystem](#)—comprising its search engine, browser, office suite, cloud storage, applications, and Android operating system, among others—is a significant factor in its appeal to consumers and businesses alike. This integration offers notable benefits that merit closer consideration, as they can outweigh competition concerns, especially when the search engine and browser landscapes are facing significant changes due to the growing [incorporation](#) of large language models in online searches.

First, Google users derive significant benefits from the seamless experience enabled by Google’s integrated [suite](#) of products. This seamless functionality and interoperability is a key factor in attracting users to the Google ecosystem. A comparable but more limited example can be seen in the Apple ecosystem, where users appear to value the integrated experience that Apple provides through products such as the iPhone, iPad, MacBook, and associated applications. Likewise, Google’s integration—of which Chrome and Android are an important part—enables users to access various applications across different computer and mobile devices, contributing to greater convenience and a more streamlined, improved overall user experience.

Second, horizontal integration enables Google to leverage complementary capabilities to improve the user experience. For example, Chrome plays an important role in helping refine relevance for Google’s search results, while the availability of Google Translate means that it can be integrated into the Chrome browser for in-browser translations. Such aspects underscore how integration provides a better user experience and thus improves consumer welfare.

Third, Google’s advertising model—from which the company derives around [78%](#) of its revenue—allows it to focus on advertising revenue streams while offering many products at reduced costs. For example, unlike Microsoft Office, Google Office suite products, such as Google Docs and Sheets, do not require a [paid subscription](#). Other services—such as Gmail, Google Photos, and

Google Drive—offer free users a more generous storage allowance than competitors. By partially subsidizing such products through advertising, Google can offer a broader suite of cost-effective tools to consumers.

Finally, in many cases, Google's strategy improves competition in markets beyond search engines. For example, developing secure and efficient search engines, browsers, and operating systems are cost-intensive enterprises that only a few companies worldwide can undertake. Unlike Apple, Google allows third-party companies to install its open-source operating system and Google Mobile Services (GMS) applications—which includes the Google Play Store and other essential apps like Google Maps, YouTube, and Gmail. This arrangement [enables](#) companies to use Google's platform and applications without investing resources to develop such tools in-house. Emerging manufacturers [benefit](#) from lower entry barriers, allowing them to compete with established players like Apple and Samsung in the cellphone, tablet, and smartwatch markets. Consequently, this access promotes competition between established and emerging players within the Android ecosystem and between the Android and Apple ecosystems.

However, mandating the divestiture of Android and Chrome would jeopardize this business model, diminishing the associated user benefits while increasing costs for manufacturers and consumers. It would also affect the overall security of the Chrome browser and the Android ecosystem. More broadly, efforts to break Google's integrated model could significantly disrupt the more seamless user experience today, weaken the quality of Google's offering, and hamper its ability to cross-subsidize different products—potentially harming consumers through higher prices and lower quality for a range of affected products. These concerns must be carefully considered and evaluated against any potential competition benefits from the remedies that the DOJ proposes.

Google Chrome Divestment and Acquisition Faces Major Regulatory Hurdles and Commercial Challenges

A forced divestment of Chrome would disrupt its current [role](#) as a key component of the Google ecosystem, raising critical questions about its ability to thrive independently or under new ownership.

In the event of divestment, Chrome could seek to survive as an independent entity. However, the browser has historically [operated](#) as a strategic tool, helping calibrate the relevance of search results, direct traffic to Google's search engine, and support revenue generation through advertising. As a result, it would need to develop alternative ways to [monetize](#) traffic flows and build its advertisement business from scratch—a lengthy process whose success is far from guaranteed.

A more likely situation involves the [sale](#) of Chrome to an interested U.S. or foreign tech company that seeks to expand into the search engine market. However, in light of the ongoing antitrust scrutiny of major U.S. tech companies, it is [improbable](#) that U.S. regulators would approve the acquisition of Chrome by firms like Amazon, Meta, or Microsoft. Likewise, given the growing protectionist [sentiment](#) in Washington, the preponderance of national security considerations, and the scarcity of large technology companies in allied nations, it is unlikely that a foreign firm would be permitted to acquire a significant U.S.-owned technology asset like Chrome.

That would leave emerging but smaller U.S. tech [actors](#), particularly AI startups like OpenAI and Perplexity, whose acquisition of Chrome would provide a foothold in the search engine market. Emerging players would be more likely to [receive](#) regulatory approval for a potential purchase than large tech companies. However, with the potential value of Chrome being [estimated](#) between \$15 and \$20 billion, the acquisition costs might be prohibitive for such entities.

Therefore, a suitable acquisition is not guaranteed, although the probability would rise if the next administration were to adopt a more permissive and less protectionist approach. Nevertheless, even with a successful acquisition, the long-term viability of Chrome’s business model and commercial success, divorced from Google, remains highly uncertain.

Chrome Divestment and Proposed Remedies Would Likely Benefit U.S. Rivals But Harm Consumers

If Google Chrome’s quality were to suffer, or if it were to flounder due to the proposed remedies, the question arises: who would stand to lose and gain?

In the short term, the most apparent losers from such a development are likely Google and Chrome users, who risk facing a decline in the quality of their online browsing experience. Additionally, they would also be exposed to increased data privacy and security risks if proposed remedies [lead](#) to a less secure search environment. Ultimately, with only a small fraction of Google search and Chrome users based in the United States, such a development would also have global implications. Any reduction in consumer quality and choice will be felt not only by American users but by users in most countries, as Chrome [remains](#) the world’s most commonly used browser.

Another group of actors who stand to lose, at least in the short term, include third parties that receive revenue from Google’s default search engine partnerships. These include [Apple](#), which currently receives 36% of Google’s search engine revenues through Safari—three times the percentage share allocated to the highest tier of search engine revenues for Android devices. Some smaller platforms and search engines, such as the non-profit browser Mozilla [Firefox](#), would be more significantly affected, as over 80% of the browser’s revenues come from its Google partnership.

In contrast, the groups that stand to gain the most are primarily large U.S. tech companies seeking to compete with Google in the browser and search engine market. To a lesser extent, Chrome divestment could benefit AI startups and smaller browsers (e.g., [DuckDuckGo](#)) aiming to establish a stronger foothold in the search engine market. However, the impact of the proposed remedies on some smaller and medium-sized tech competitors, such as Firefox and DuckDuckGo—which both compete with Google and benefit from its partnerships—would likely vary substantially by company and the specific business strategies they adopt. In the short term, the impact on such firms will depend on whether additional revenues from potential increases in market share can offset the loss of revenues from Google partnerships.

While some U.S. politicians might assert that Chrome’s divestment might “benefit China,” any such direct benefits to Google’s Chinese counterparts are likely overstated. That is the case because, unlike Chinese cellphone and computer manufacturers, Chinese [search engines](#) and [browsers](#)—most notably Baidu (百度), Shenma (神马), Sogou, (搜狗), and QQ—have a limited presence in international markets. Even Yandex, the most popular search engine in the Russian-speaking world, has a higher international market [share](#) than Baidu, the most widely used Chinese search engine. In short, the popularity of Chinese search engines remains limited to domestic PRC [markets](#), where U.S. competitors remain effectively banned or face heavy restrictions.

To the extent that there will be such direct effects, it would likely be limited to the Chinese [browser](#) market. Although U.S. search engines face restrictions, U.S. search engines [remain](#) largely popular in China. Chrome (48.4%), Safari (14.3%), and Edge (12.6%) have the most significant [shares](#) of the Chinese browser market, followed by three Chinese browsers (UC, 360 Safe, and QQ), each of which has a market [share](#) of less than 10%. If Chrome’s quality suffers due to regulatory action, it could benefit Chinese browsers—but it could also benefit U.S. browsers like Safari and Edge. In any event, unlike PRC hardware firms, Chinese browsers and search engines do not represent

any meaningful rivals to U.S. competitors in the international markets. Therefore, in international markets beyond the PRC, Chrome divestment is more likely to benefit other U.S. competitors of Google than any Chinese search engines and browsers.

Consumer Benefits of Many Less Restrictive Proposed Measures Remain Unclear¹

The DOJ's proposals also [include](#) remedies that are less burdensome than Chrome's divestment, such as ending default search contracts with third parties and self-preferencing of search results in Google-owned products. However, while the consumer benefits of such measures are unclear, some of these proposals risk harming consumers.

For example, the DOJ has [proposed](#) to end Google's ability to sign contracts that allow third parties to receive payments for pre-installing Google as the default search engine in mobile devices and browsers. While such agreements allow Google to remain the default search engine on such devices, consumers benefit from accessing Google's search tool and its broader suite of products. Using Google-provided applications and the Android operating system also [enables](#) partner companies, such as cellphone and tablet manufacturers, to save costs and focus their commercial efforts on improving other aspects of their product offerings—ultimately benefitting consumers through more affordable prices and improved quality.

There are, of course, circumstances where exclusive agreements can restrict choice. For example, in the past, several broadband companies have been [scrutinized](#) for signing exclusive agreements with apartment building owners, preventing rival companies from providing services to residents and limiting consumer choice to a single provider. Likewise, Apple's previous exclusive contract with AT&T was the subject of a class-action [lawsuit](#) in 2010. While iPhones can be purchased through any major carrier now, that was not the case between 2007 and 2010. Under the terms of an exclusive agreement between Apple and AT&T, new consumers could only [purchase](#) iPhones under a new two-year contract with AT&T.

In response to the lawsuit, Apple [argued](#) that consumers could switch to a different carrier by paying an early termination fee. However, the early termination [fee](#) set at \$175 for new consumers, which was ultimately raised to \$325 in 2010—not an insignificant sum relative to the cost of purchasing an iPhone in those years—represented a relatively high switching cost, deterring consumers from switching to a different carrier. Indeed, a Government Accountability Report study in 2010 estimated that [42%](#) of Americans who wanted to change their current cellphone service provider did not do so because of early termination fees. Ultimately, until the lawsuit led to a settlement in 2011, U.S. consumers could not [purchase](#) new iPhone devices through any other carriers, such as Sprint and Verizon, between 2007 and 2010.

However, the facts and circumstances of these cases bear a marked difference in relation to Google's third-party agreements and consumer choice. Whereas exclusive agreements between apartment complexes and cable companies [restrict](#) the choice of internet providers for residents, Google's default search agreements do not place any restrictions that prevent consumers from installing other search engines or browsers on their devices. In the case of Apple's contract with AT&T, new consumers faced high switching costs of up to \$325. In contrast, under Google's default search agreements with Apple and other third parties, switching [costs](#) are effectively zero, as consumers can easily switch to another search engine (or browser) at no cost and with minimal effort.

¹ This section is based on the author's independent analysis of several prior cases related to exclusive agreements. This analysis do not necessarily represent the views or institutional positions of NTU and NTUF on those cases and related issues.

That many consumers choose not to switch to alternatives appears due to a [preference](#) for Google search results and Chrome vis-à-vis their competitors—rather than the third-party platforms (e.g., Apple, Samsung, or Firefox) not allowing consumers to install any other alternatives. Recent evidence from the European Union also appears to suggest the existence of such preference. Following a European Commission decision that resulted in the placement of a search engine selection screen in Android devices—similar to the DOJ’s proposal—[97%](#) of European users still choose Google.

Given that consumers can easily [switch](#) to another search engine or browser at no cost and with minimal effort, even in the absence of a default screen, any consumer benefit of banning Google’s default search engine contracts will likely be minimal. In the short to medium term, companies could continue to offer Google by default even if they can no longer receive payments for doing so.

Another option entails the placement of a selection screen for search engines during installation. While the DOJ proposes that new Google devices be required to install such a screen, the U.S. market [share](#) of such devices remains only around 5%. While the court can prevent Google from offering payments to third parties, it cannot impose binding remedies on entities that are not parties to the lawsuit. As a result, the court’s ability to influence the decision of leading cellphone [manufacturers](#)—such as Apple, Samsung, and Motorola—from installing such a screen might be limited. Even if that were possible under U.S. law, the consumer benefits of such a requirement might be minimal—as evidence from the EU suggests—particularly given minimal switching [costs](#) and high levels of consumer [preference](#) for Google’s search engine and browser.

Proposed Remedies, Such As Requiring Google to Share User Data with Third Parties, Would Pose Significant Privacy and Security Risks

In an effort to restore competition, the DOJ has [proposed](#) that Google be required to make its search index available to competitors and potential competitors at marginal costs. Additionally, Google would also be required to share user and advertisement-related data at no cost for ten years.

While the DOJ [states](#) that such data should be shared with “proper privacy safeguards in place,” the scale and sensitivity of search query [data](#) of all Google users —combined with the increased availability of tools to deanonymize and analyze anonymized information—mean that these requirements could pose significant risks to user privacy and security. Requiring Google to make such data accessible to any potential rival [increases](#) the risk that nefarious state-sponsored and non-state actors could more easily collect sensitive search data of American users for criminal or malicious purposes.

With the proper deanonymization and data analysis techniques, it could be feasible to identify critical assets or gather highly sensitive information, such as personal habits and problems of U.S. elected officials, military leaders, and civil society leaders, as Brandon Pugh of R Street [points out](#). These risks, of course, are not limited to U.S. users—non-American users in third countries may likewise be subject to such risks by using Google under such circumstances.

While leading tech platforms like Amazon, Microsoft, and Google—which are also leaders in cloud computing and data storage business—have faced data protection [investigations](#) like many large companies, protecting data against third-party attacks remains core to their business model. These companies not only tend to possess the technological expertise to defend against cybersecurity

incidents and data breaches, but they also have a strong incentive to do so, given the high risk of crippling regulatory [sanctions](#) and declining consumer trust.

However, as sensitive user data is shared with various well-intentioned firms of different sizes and industries with widely varying cybersecurity capabilities, the attack surface for unauthorized data access [increases](#). In other words, the increased exposure [increases](#) the probability that nefarious actors can successfully access sensitive data by targeting companies with less advanced data security infrastructure. Likewise, forcing Google to create mechanisms to facilitate third-party access to such data easily could make Google's data infrastructure unduly vulnerable to cybersecurity risks.

Likewise, the transparency [requirements](#) in the proposed judgment might appear to be a positive step for competition. However, complying with requirements would mean that Google would have to collect *more* user data—which would then be shared with third parties.

On the margin, these requirements would add some competition benefits, but such benefits could readily be outweighed by more significant privacy, data security, and national security concerns. As a result, it is not surprising that both center-right and progressive groups like the [R Street Institute](#) and [Progressive Policy Institute](#) have voiced significant privacy and data security concerns over the DOJ's proposals.

Conclusion

Google has until mid-December to respond to the DOJ's proposed remedies. Against the backdrop of an uncertain regulatory environment, there is a risk that Google could negotiate a deal with the DOJ to accept some of the proposed remedies to avoid a protracted lawsuit.

Yet, as this policy brief argues, that would be a mistake. Given the facts of the case, the overly narrow and static view of the relevant markets, and the disproportionate nature of remedies, Google should instead challenge both the original decision and the proposed remedies. The company's position has [indicated](#) that it will file a challenge to the DOJ's proposals this month. Therefore, Google might remain [embroiled](#) in antitrust proceedings for several years, especially as it faces a separate competition lawsuit for digital advertisement.

Notwithstanding the long road ahead, Google must challenge the August ruling and the DOJ's proposed remedies. Failing to do so would be a disservice not only to American consumers but also to consumers worldwide, who stand to benefit from the intense competition and innovation shaping the future of information access through generative AI-enabled chatbots and search engines.



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