

European Commission v. Google 2010 – 20 ...?

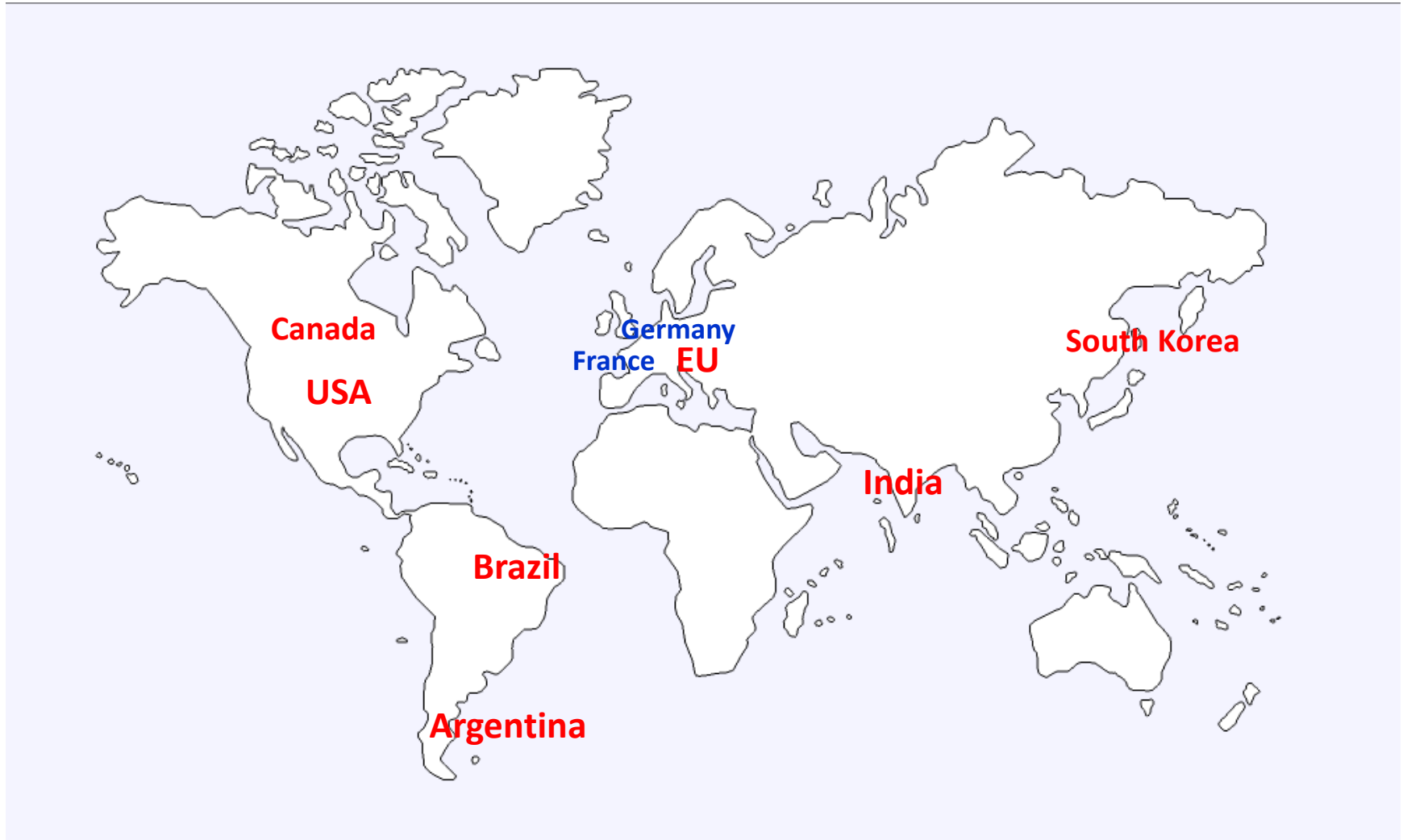
On-line Advertising Conference, Prag, April 2015



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Google antitrust investigations worldwide



Some figures ...

- Google search engine makes almost 59 Billions US-dollars with advertising. That is 90% of Google's turnover.
- That is more as double as all its nine competitors all together and a third of the world turnover in advertising
- Google dominates 70% of the search in the USA and 95% in Europe. Markets where it is not dominant are : Russia and China

Antitrust claim against Google

In January 2013, the Federal Trade Commission in the USA settled with Google enforcing minor changes

An antitrust decision from the European Commission(EC) is expected by Spring 2015

Google's dominance is up to 95% in the EU v. 70% in the US

The EC investigation is fuelled by 23 parties who filled well documented complaints

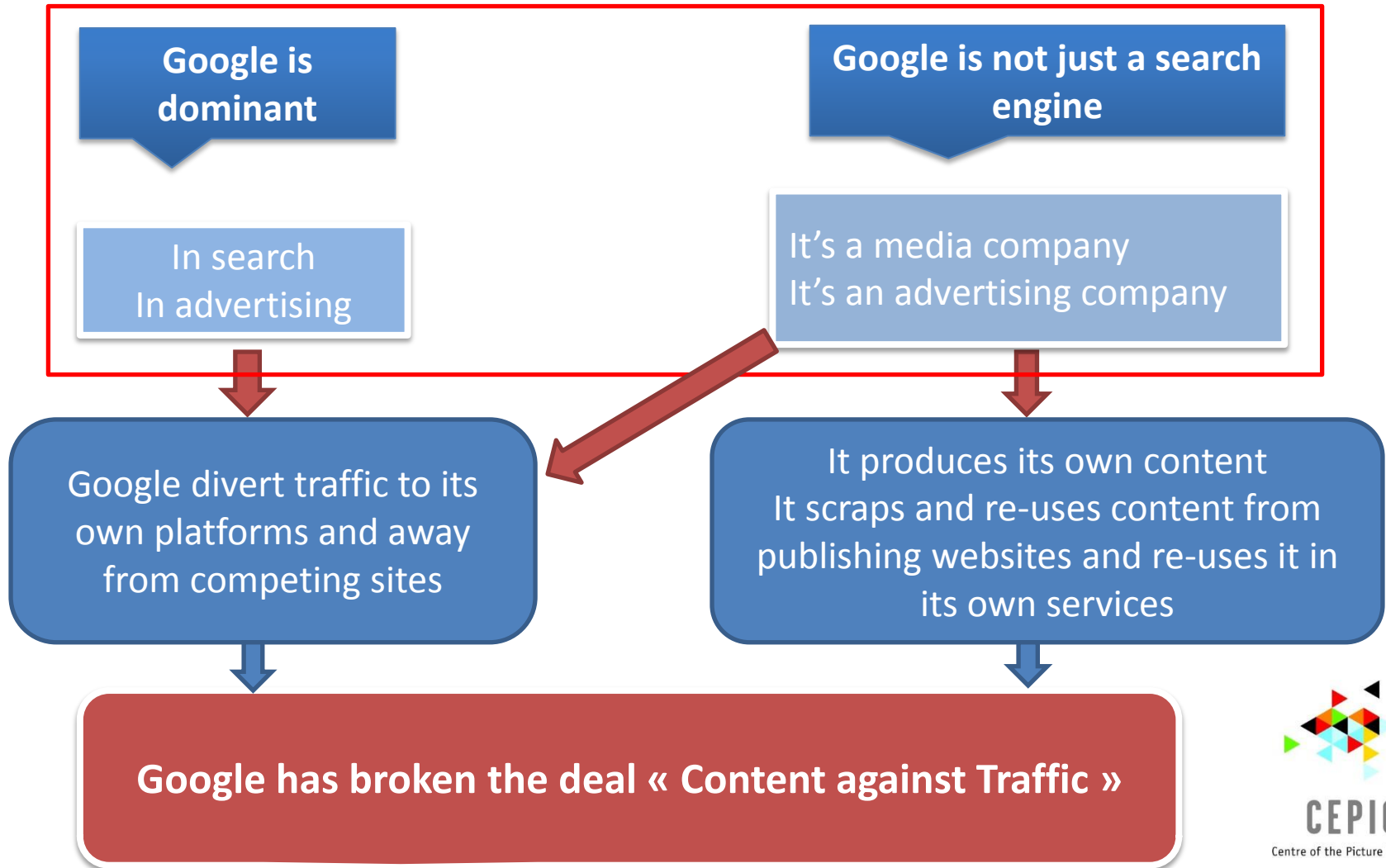
The FTC and the EC operate under very different legislative frameworks



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Why an antitrust claim?



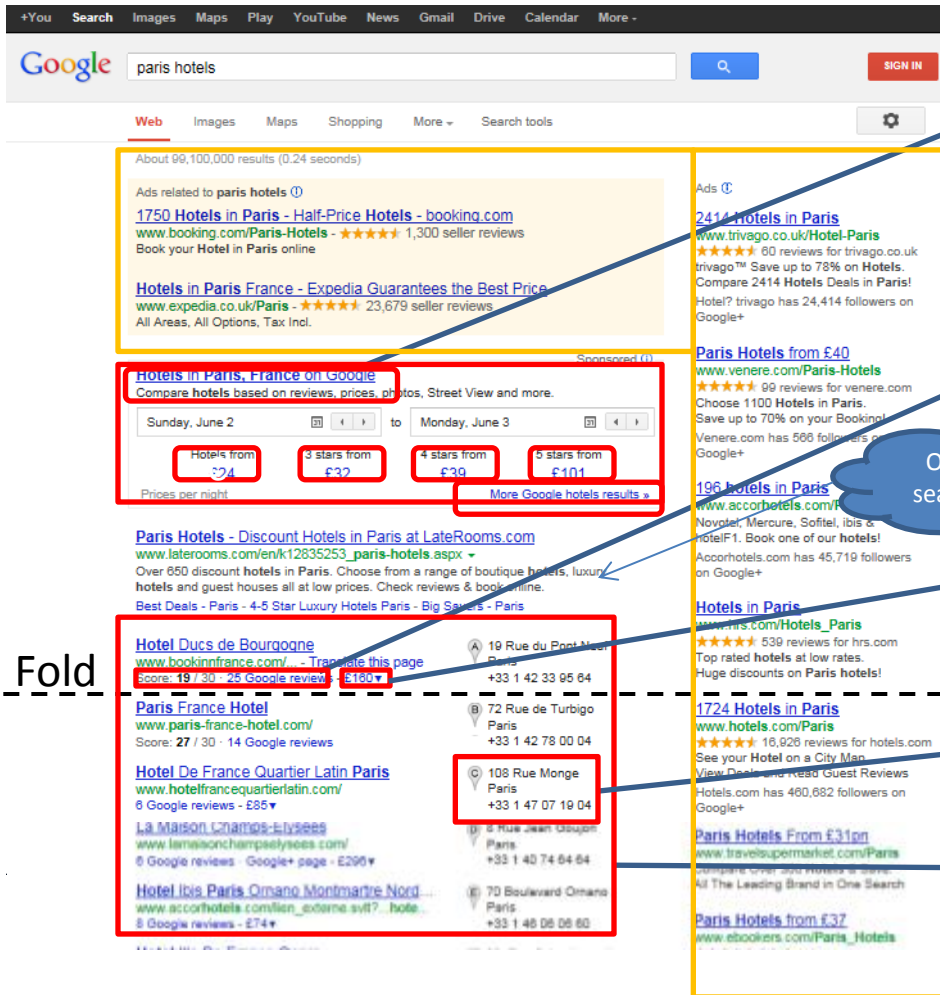
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Shows own results

Example provided by ETTSA at Hearing at European Parliament 01.October 2013

Google hotel search results show predominantly Google's verticals (and Google advertising)



Google.com/hotels

Google Advertising

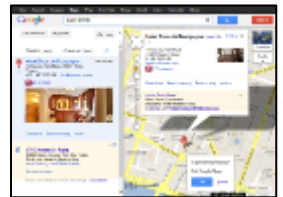
Plus.google.com

Only 1 organic search result left

Rollover ads

Maps.google.com

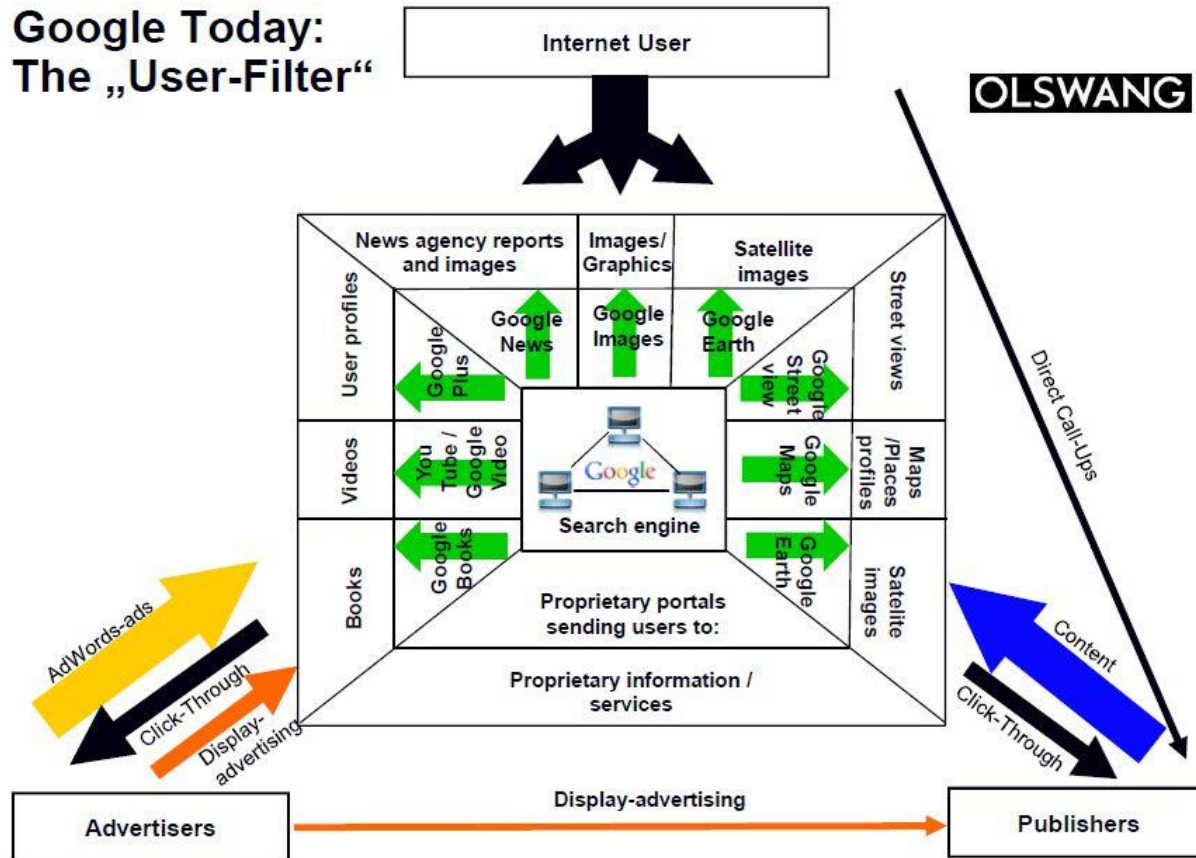
Google Plus Local, formerly places



Scraps copyrighted content

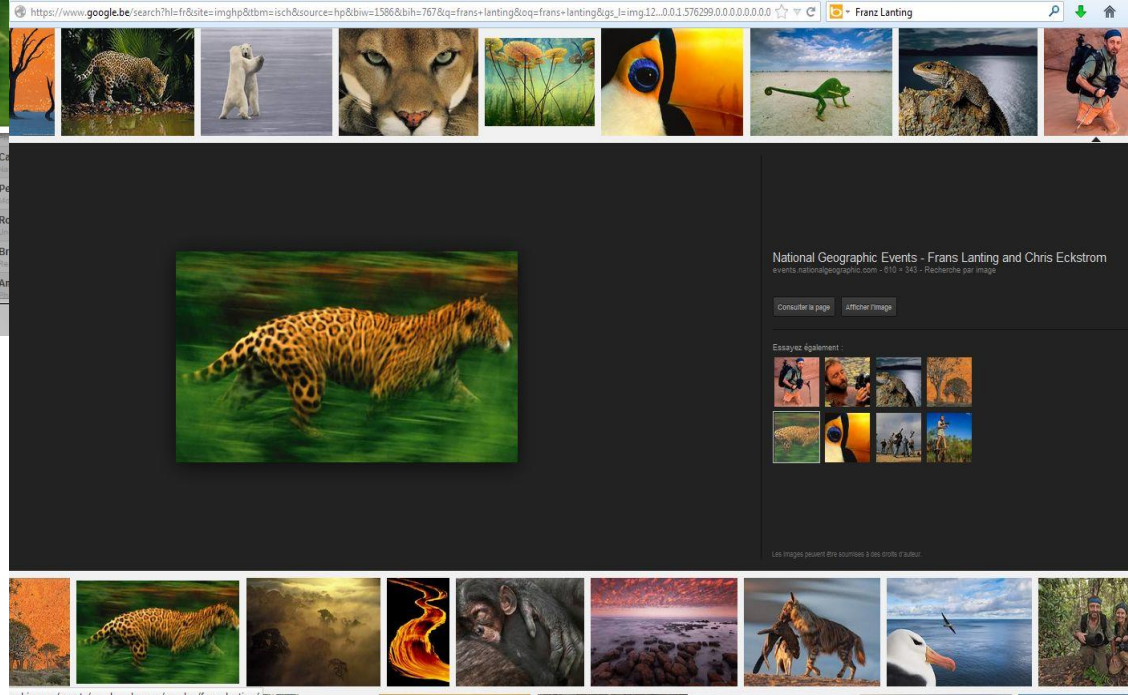
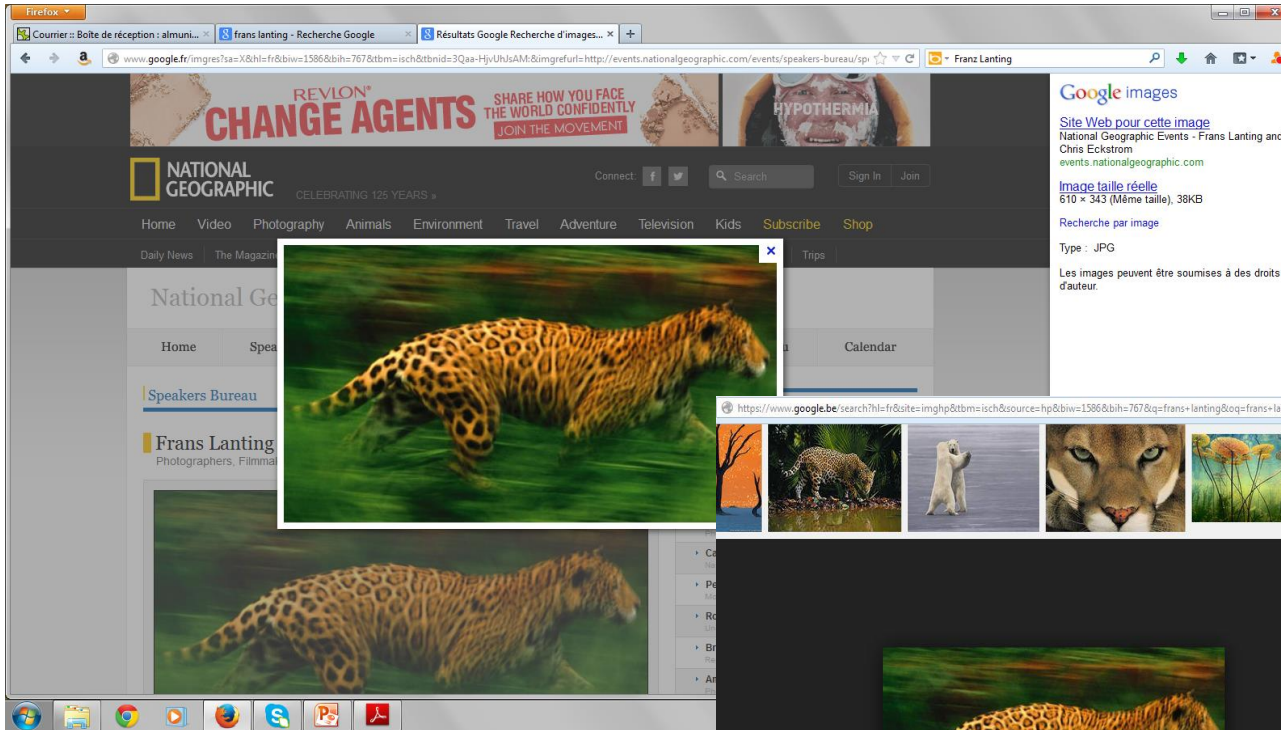
The Case for the Publishers

Graphic shown by OLSWANG on behalf of German Publishers Associations at Hearing at European Parliament 01.October 2013



Google Images

The Case for the Picture Industry



Google Images: harm to rightsholders



Vertical	Image Search Traffic, % Decrease
Fashion & Lifestyle Site	-78%
Entertainment Site	-78%
Fashion & Lifestyle Site	-78%
Fashion & Lifestyle Site	-77%
Entertainment Site	-77%
Entertainment Site	-76%
Fashion & Lifestyle Site	-76%
Photo Site	-74%
News Site	-74%

Source: <http://www.definemg.com/how-googles-image-search-update-killed-image-seo/>

The « Coalition »

- American Photographic Artists (APA), USA
- American Society of Media Photographers (ASMP), USA
- Asociacion Empresarial de Agencias de Prensa y Archivos Fotograficos - Spain (AEAPAF)
- Bildleverantörernas Förening, Huddinge - Sweden/Denmark/Norway (BLF)
- British Association of Picture Agencies and Libraries - United Kingdom (BAPLA)
- Bundesverband der Pressebild-Agenturen and Bildarchive - Germany (BVPA)
- Digital Media Licensing Association (PACA), USA
- European Alliance of News Agencies - Europe
- Fédération Nationale des Agences de Presse Photo & Information - France (FNAPPI)
- Graphic Artists Guild (GAG), USA
- National Press Photographers Association (NPPA), USA
- NImage - Netherlands
- Professional Photographers of America (PPA), USA
- Schweizerische Arbeitsgemeinschaft der Bild-Agenturen und-Archive - Switzerland (SAB), USA
- **Sdružení pro internetovou reklamu v ČR, z.s.p.o - Czech Republic (SPIR), Czech Republic**
- Société des auteurs des arts visuels et de l'image fixe (SAIF), France
- SvenskBildbyråförening - Sweden (SBF)
- Syndicat des Agences de Presse Photographiques d'Information et de Reportage - France (SAPHIR)
- Syndicat National des Agences Photographiques d'Illustration Générales — France (SNAPIG)
- Union des Photographes Professionnels (UPP), France

Google Images: harm to « consumers »

- . There is no competition when search is dominated at 95%
- . Opting out of Google is opting out of the Internet

Google:
« Competition is
one click away »

Google: « We built
Google for users
not websites »

Harm to users are:

- . More clicks to access the source
- . Rises unconscious piracy
- . Less choice resulting from less content



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To summarize ...

- Diversion of traffic from websites
- Scraping of third-party content
- Less choice results in less (quality) content for consumers
- New features encourage the « free economy » and piracy online
- Insufficiency of « exclusion robots » or other technical means
- Google is becoming the largest picture source in the world – using third-party content

All these issues are problematic considering the market dominance of Google in search: 95% in Europe

Legislation is ineffective as long as the competition issue is not solved: Google is in a position to impose its conditions!

Antitrust claim against Google

USA

EU

Non discrimination

Get traffic back to
websites!

Attribution



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New Commission Next Steps?



Competition



2010

2011

2012

2013

2014

2015?



Sylvie Fodor (s.fodor@ceplic.org), CEPIC, online advertising conference 2015

Timeline

2014

- In 2014 Commissioner Almunia ready to settle with Google
- Google's opponants very unsatisfied
- **Following political pressure/ campaign, college of Commissioners postpone vote on the commitments**

- **May 2014: New European Paliament elected**
- **July – October : New Commissioners appointed**
- **November 2014. New Commission takes office**

Google Images

France and Germany are the only EU countries where the « new » Google Images features have not rolled out



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Google.com

Google.com domain is available all over the world, also in countries like France and Germany (and in French and German)



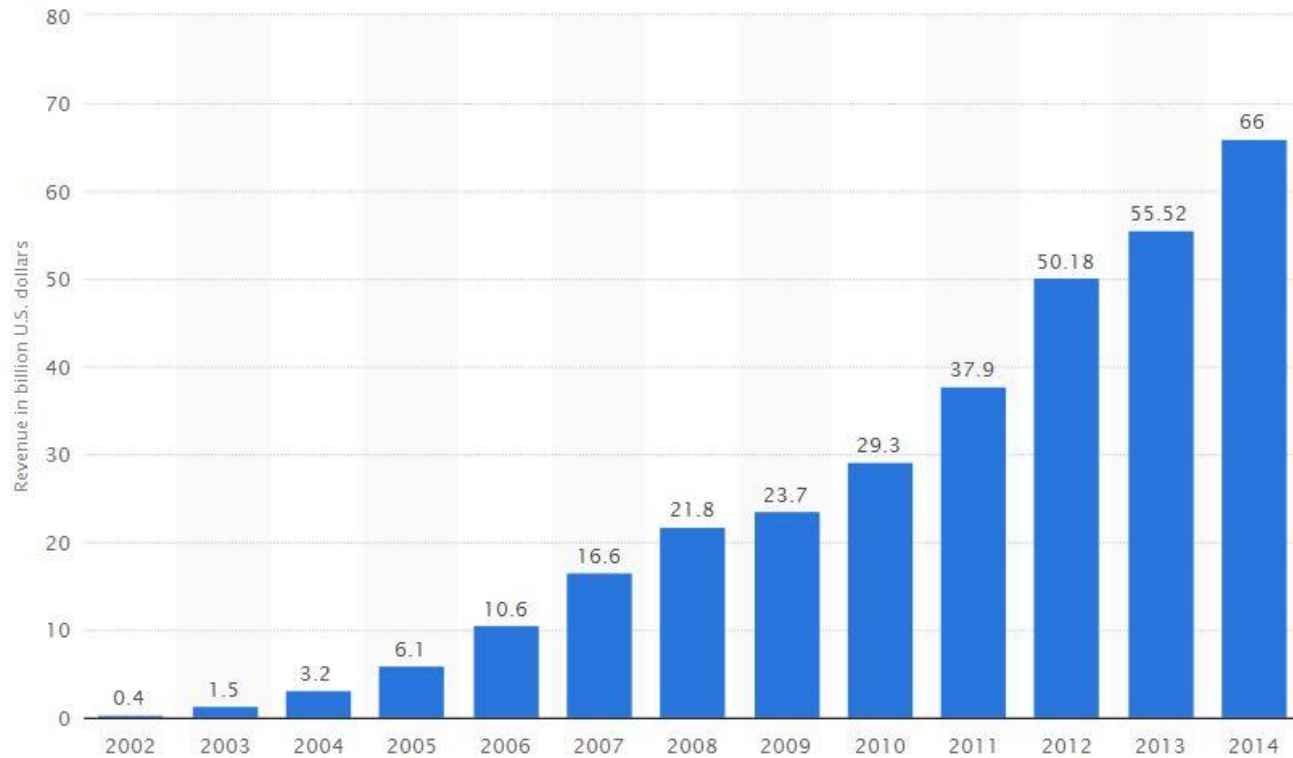
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What else may affect the outcome of the case?

- **Svensson decision (European Court of Justice, Feb. 2014)**: A mere hyperlink to predominantly text-based online publications is not a communication to the public under Article 3(1) of the 2001 Copyright (InfoSoc) Directive.
- **Bestwater (European Court of Justice, June 2014)**: Internet users have the right to browse online freely without the threat of copyright infringement.

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