

April 14th 2021

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Re: Feedback sought on choice and competition in internet search and web browsers

1. Introduction

- 1.1. Ecosia welcomes the ACCC's timely inquiry into Digital Platform Services and its specific interest in the experience of choice and competition in internet search and web browsers in the EU context.
- 1.2. Ecosia is the search engine that plants trees. A tech company that 'puts people and planet before profit', we dedicate 100% of our surplus revenue to climate action, with at least 80% financing tree-planting projects around the world. By offering our 15 million users a green alternative to search and browse online, we have been able to plant over 120 million trees in biodiversity hotspots in over 29 countries, in places around the world where they can have the biggest impact.
- 1.3. We started planting trees in Australia in 2020, after parts of the rainforest in the Byron Bay area were devastated by fires. The 100+ different native species Ecosia has planted in Northern New South Wales will clean the air, sequester carbon, bring down temperatures, support biodiversity, and attract rain in Australia for years to come, making the area more resilient to the future impacts of climate change.
- 1.4. Ecosia's search results and search ads are powered by Bing. As part of Bing's syndicated partner network, Ecosia uses Bing's search capabilities and technology enhanced with Ecosia's own algorithms to create a sustainable revenue stream with paid ads to fight climate change.

2. Executive Summary

- 2.1. As a European alternative search engine that has long advocated for regulation and the enforcement of rulings that could meaningfully improve the market share of alternative competitors for the benefit of consumers and innovation, we strongly believe that a search preference menu that delivers real consumer choice would be extremely effective in bringing competition into the market quickly and remains the best of all measures currently under consideration by regulatory authorities.
- 2.2. Despite this, our view is that the ineffectiveness of Google's choice screen roll out in Europe, a process which Ecosia initially boycotted, has had a detrimental impact on competition in the European search market.
- 2.3. We therefore urge the ACCC to continue to take evidence based and bold action to hold large tech companies to account and develop policies and regulations that have the potential to effectively restore fair competition, including creating a level playing field in the search market. We consider that the Australian Government's position with respect to big tech and news services should be seen as a blueprint for how governments globally should take a strong position when regulating big tech for the benefit of the individual.
- 2.4. We have explained in this paper the basis on which an effective choice screen remedy could be imposed upon Google and which would help create genuine competition in Australia. Ecosia would very much like to enter into a dialogue with the ACCC for the benefit of consumers.

3. Choice screen remedies

- 3.1. The ACCC is considering the merits of a choice screen remedy, that is, an obligation on Google to present users with a choice of search engines from a selection of alternative providers at a key point in time, such as during the device or browser set up, thereby ensuring that users can make an active choice of search engine. Certain web browsers already choose to make a choice screen available to users, and there are several examples of competition authorities successfully introducing choice screens to remedy competition problems in the web browser and search engine market. There are a number of examples of such choice screens being required by competition authorities with an effective outcome, including:
 - 3.1.1. The requirement for a choice screen to be introduced in Russia on Android-operated mobile devices following a settlement agreement between Google and the Federal Antimonopoly Service in August 2017.
 - 3.1.2. The commitments entered into by Microsoft with the European Commission in 2009 under which a choice screen was made available on Windows devices between 2010 and 2014. This gave users the opportunity to choose from a variety of web browsers, leading to a significant uptake in the downloading of non-Microsoft browsers.
- 3.2. Evidence given to the UK Competition and Markets Authority's (CMA) market study on *Online platforms and digital advertising* (July 2020) indicates that these choice screen remedies were successful. For example, since the settlement agreement referred to in 3.1.1, Yandex's market share on Android-operated devices in Russia has risen steadily and has surpassed Google's market share since January 2019.¹ DuckDuckGo's research also suggests that, a 'search preference menu increases Google competitors' market share by 300-800% with overall mobile search market share immediately changing by over 10%.²
- 3.3. Despite this, we understand that some respondents to the CMA's market study argue that Google's entrenched position in the market could also affect how effective such an intervention could be, especially in the short term. This is because most users would select Google from a choice screen. DuckDuckGo's testing showed that 80.8% of users selecting Google if it appeared on the first page of a choice screen and 75.8% of users selecting Google if it appeared on the last page³. Ecosia shares the view that as Google's dominant market position is so far reaching and entrenched, a handful of additional measures alongside a fair choice screen are needed to fully enable competition in the search market.

4. The effectiveness of Google's choice screen roll-out in Europe and whether it is fit for purpose in Australia

- 4.1. Google was fined €4.3bn in July 2018 by the European Commission for breaching EU competition laws by illegally requiring manufacturers to pre-install the Google Search app and browser app, Chrome, as a condition of using Google's Play Store and required it to change its practice of promoting its own search and browser default search service through Android devices.⁴

¹ CMA Report, Appendix V, paragraph 44.

² <https://spreadprivacy.com/search-engine-preference-menu/>

³ CMA Report, Appendix V, paragraph 49.

⁴ COMP/AT.40099 —Google Android.

- 4.2. Subsequently, we understand that Google announced that a choice screen of general search providers would be made available for all new Android phones and tablets in the European Economic Area, where the Google Search app is pre-installed.
- 4.3. This ‘remedy’, which involved a market-based auction under which competing search engines would bid for a place on the choice screen, was publicly criticized at the time by competitors such as Ecosia for being harmful for competition and at odds with the spirit of the EU’s decision as users are only able to choose from search engines who have *paid to play* (see attachments).
- 4.4. During the first auction cycle, from 1 March 2020 until 30 June 2020, users in the UK were offered a choice of Bing, DuckDuckGo and info.com, in addition to Google as the default search engine on the Chrome web browser. Subsequently, further auction cycles determining which search engines will be made available to users have taken place on a quarterly basis.
- 4.5. Ecosia questioned the auctioning of slots on the choice screen. As Microsoft submitted to the CMA, this is inappropriate because it allows Google to use its market power in Android to take search revenues from competitors. Rather, the identity of the alternative search engines to be made available through the choice screen should be determined by market share for each particular device or browser. This is how Microsoft selected browsers for the browser choice screen it committed to the European Commission to introduce in 2009, one of the two examples given above of when a choice screen remedy has been effective in significantly reducing a dominant company’s market share. The CMA concluded that “[t]he economies of scale associated with developing a search engine mean that new entrants will be at a disadvantage when seeking to participate in auctions and successfully acquire default positions, despite offering a service that certain customers view as attractive. In turn, this may harm outcomes for consumers who would rather make use of these search engines”.⁵
- 4.6. Four variables in the design and implementation of the choice screen remedy by Google significant blunted its impact:
 - 4.6.1. the number of choices made available – Google’s decision to limit the number of choices offered on its Android choice screen to four search engines created an artificial scarcity that limits the amount of potential competition to Google. Since Google itself participated in the auction and its ability to pay and incentive to win outstripped that of other participants, the number of alternatives to Google was limited to three;
 - 4.6.2. Google’s placement within the choice screen (that is whether Google is placed on the first or second screen);
 - 4.6.3. the descriptive text accompanying each choice since restrictions imposed by Google can (and did) limit the appeal of choices such as Ecosia to users; and
 - 4.6.4. the point at which users are presented with a choice screen which affects users’ willingness to engage with it.

⁵ Appendix V, paragraph 75(b). Although Google told the CMA that charging search engines to appear on its choice screen ‘help[s] us to continue to invest in developing and maintaining the Android platform’, the CMA concluded that, in the light of Google’s strong position in general search, it was concerned that funding the Android operating system in this manner is distorting competition.

- 4.7. DuckDuckGo submitted evidence to the CMA that demonstrates how the different choices made by Google in the design of the auction were reflected in the fact that Google's market share has remained very high and conversely shows how an auction can be designed that significantly increases competition in this market. See paragraphs 48 – 50 of Appendix V of the CMA Report and the links to DuckDuckGo's evidence in footnotes 20 and 21 of Appendix V.
- 4.8. In the light of its concerns, Ecosia initially boycotted the first two auction cycles (i.e. between March and October 2020) and called on the European Commission to hold Google to account for developing a harmful non-solution 'auction screen' that failed to comply with the European Commission's 2018 decision. Ecosia also publicly urged Google to redesign its auction model to protect consumer choice in line with the decision.
- 4.9. Nearly three years on from the decision, Ecosia's initial concerns have unfortunately been affirmed. An intentionally flawed auction model and 'choice screen' design, among other practices, pervasive throughout the process has meant that Google continues to enjoy a 97% market share in mobile search within Europe whilst pricing smaller competitors out of key markets, with detrimental impact on competition in the European search market.
- 4.10. The ineffectiveness of Google's choice screen roll out in Europe has not only had a detrimental impact on competition but served to undermine the EU's reputation for regulating default settings and anti-competitive behavior, enforcing its decisions and its aspiration to foster a level playing field and competitive business environment within the European search market.

5. Ecosia's experience with the Google choice screen remedy

- 5.1. Despite our efforts, Ecosia was eventually left with little choice but to participate in three rounds of the auction process. Throughout this process we continued to highlight the significant flaws that existed both within the design of the 'choice screen' default arrangements and the design of the auction model itself. The impact of such practices on both consumers and competition includes but is not limited to the following areas:
 - 5.2. Flawed auction model:
 - 5.2.1. *Purpose-driven competitors being priced out of key markets:*
 - 5.2.1.1. The auction demonstrates how such a remedy, which assumes that competitors such as Ecosia are able to *pay to play* in the first instance and that auction prices will remain low in the second, cannot enhance the competitive landscape in search.
 - 5.2.1.2. As predicted, the auction model has a severe impact on search engines with a social purpose. Increases in pricing favors larger competitors whilst viable search providers, including those that focus on privacy or specific social causes (such as Ecosia, among others), were eliminated from most markets, resulting in an effective duopoly in the search market.
 - 5.2.1.3. By limiting the number of slots available to bid for, the auction model creates artificial scarcity and has resulted in large sums being bid. In a form of 'paid advertising,' consumers are also only able see the 3 options of the companies

willing to *pay to play*, thus depriving consumers of the 6+ most credible choices to select from.

5.2.2. *Cannibalisation:*

5.2.2.1. Viable competitor search engines such as Ecosia are forced to pay for mobile installs that they would get anyway, whilst for-profit “arbitrage” players, with no existing EU market visibility have been able to bid high prices and win in a number of key markets.

5.2.3. *Intentionally opaque and untransparent process:*

5.2.3.1. The opacity of the auction process and lack of transparency, combined with the extreme requirements of the NDA, creates confusion and insecurity for auction participants and inhibits the ability of participants to make effective commercial decisions in the context of the auction.

5.3. Flawed design:

5.3.1. *Google’s UI/UX design prevents competitors from gaining market share:*

5.3.1.1. The choice screen design makes it harder than necessary for people to choose an alternative. The features of a fair choice screen as set out initially by DuckDuckGo (see Annex A) including a short description and randomized order among the more relevant options would serve to repair competition in line with the spirit of the European Commission’s 2018 decision, regain trust and improve market share for Google’s competitors which would be greatly welcomed by consumers.

6. **The impact of pre-installation and default settings on consumers and competition**

6.1. Pre-installation and default settings have a profound impact on consumers and competition. Firstly, they play an important role in influencing consumer usage:

6.1.1. Competition authorities have recognized that it is not easy for consumers to switch to different search engines, operating systems and browsers, including the CMA in its *Online platforms and digital advertising* market study.

6.1.2. In particular, one relevant factor is that consumers may be discouraged from switching due to markers (e.g. pop-up warnings). Alternatively, consumers may not have the technical skills or know-how to be able to switch, or the switching ‘cost’ to the consumer may be too high, e.g. if the consumer would lose data in transferring from one search engine or browser to another, or would have to learn how to use a different system. Finally, consumers may not be aware that they can change the default search engine on a device or in a browser.

6.1.3. Combined, this means that a pre-installed search engine or browser has a natural advantage, since it is either difficult for consumers to switch, or they are unaware as to the fact that they can switch. Google has implicitly acknowledged this position, as the CMA found, through the significant amounts of compensation it pays for default positions: in 2019, the

CMA found that Google paid around £1.2 billion for default positions in the UK alone, which was more than 17% of Google’s total annual search revenues.

- 6.2. Secondly, pre-installation and default settings (including the way in which choices are presented to consumers) have a strong influence on the ability of businesses to collect data about their users, and in turn, the ability of users to control the use of their data:
 - 6.2.1. Several competition authorities (including the European Commission and CMA) have advanced theories of harm on the basis of pre-installation, which allows firms to leverage and cement their dominant positions.
 - 6.2.2. In particular, by preventing rival search engines from collecting data, Google’s dominant market position is strengthened through the elimination of competition in search services. In addition, by preventing manufacturers from pre-installing competing search and browser apps and users’ incentives to download such apps, rivals cannot compete effectively. This results in consumers being denied access to further innovation through the reduction in the incentive for manufacturers to pre-install rival software applications which have been denied a platform from which they may have thrived.
 - 6.2.3. This is based on the following realities, which have been discussed above (and at length by authorities which have considered this position previously): (i) consumers are likely to stick to pre-installed applications causing a *status quo* bias; (ii) consumers do not download competing applications in numbers great enough to offset this advantage; and (iii) competitors cannot compensate manufacturers for loss of payments from dominant players because providing compensation for loss of payments across all devices is too expensive, rendering them unprofitable.
- 6.3. It is therefore unsurprising that, based on the evidence that it reviewed, the CMA concluded that “the high levels of compensation paid by search engines under default agreements further indicates that search defaults influence consumer search behavior and, in turn, search advertising revenues. In particular, it is striking that the largest search engine, with a strong brand and high and sustained shares of supply, makes such significant payments for default positions”.⁶
- 6.4. Finally, given the advantages of pre-installation and default settings, it is important to appreciate that the introduction of a choice screen on Android devices in Europe as a result of the Commission’s decision did not enable Microsoft to negotiate pre-installation of Bing search as the default on Android devices and no new deals were made possible by that decision.⁷

7. Other trends in digital ecosystems and supplier behavior in search services and web browsers

7.1. Web browsers:

- 7.1.1. A similar competition issue exists with regards to Google Chrome on desktop. In this case, a choice screen for browsers could also lead to enhanced competition. In much the same way that Microsoft was forced to install choice screen for browsers, Google should be encouraged to install a fair preference menu for search engines.

⁶ CMA Report, paragraph 3.111.

⁷ CMA Report, paragraph 3.121.

8. Summary

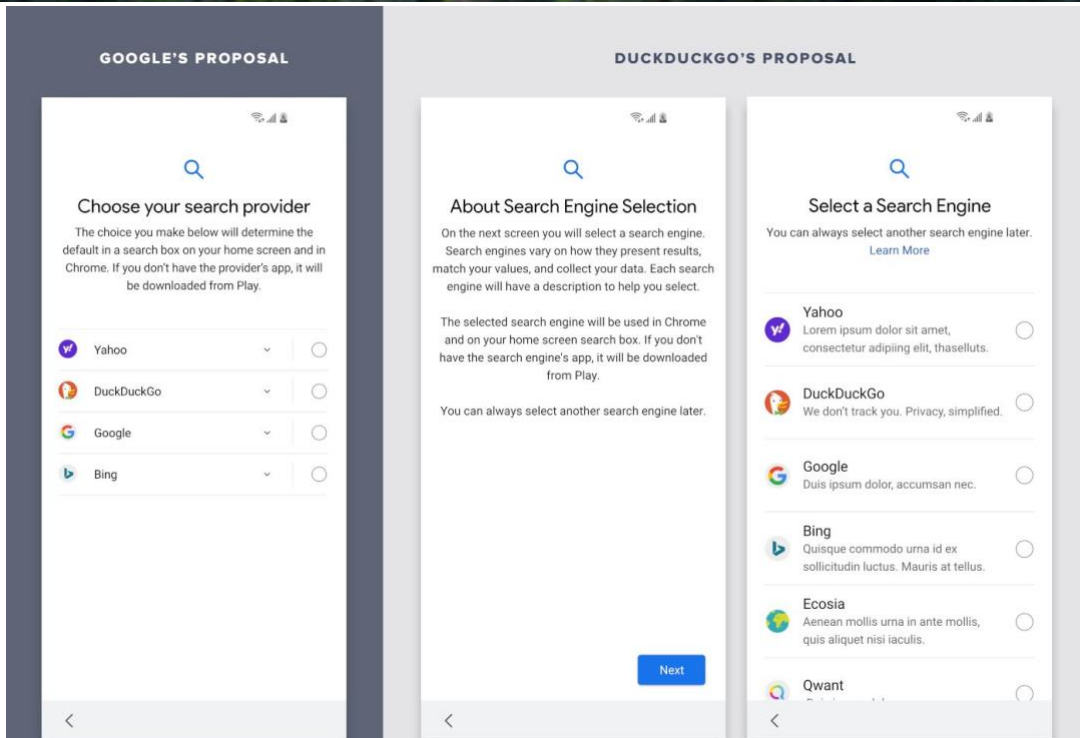
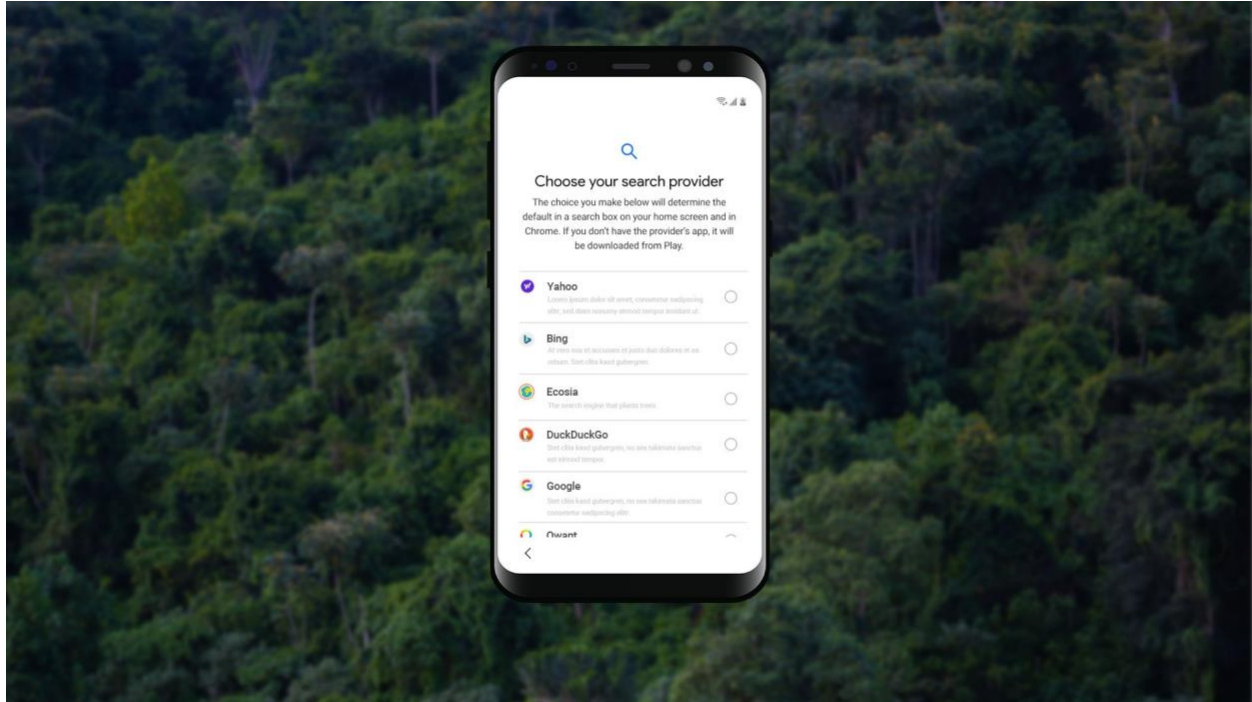
8.1. For the abovementioned reasons, we urge the ACCC to apply the learnings from the experience of Google's choice screen roll-out and subsequent impact of pre-installation and default settings on consumers and competition in Europe. We invite the ACCC to consider the following recommendations:

8.1.1. A 'fair' and free choice screen based on the 2010 Microsoft Explorer Choice Screen which provided a free choice of browsers to all users of Microsoft Windows and subsequently saw the number of downloads of the competitor browser, Opera Software's web browser, more than double, with a demonstrable and lasting impact on market share in the sector⁸.

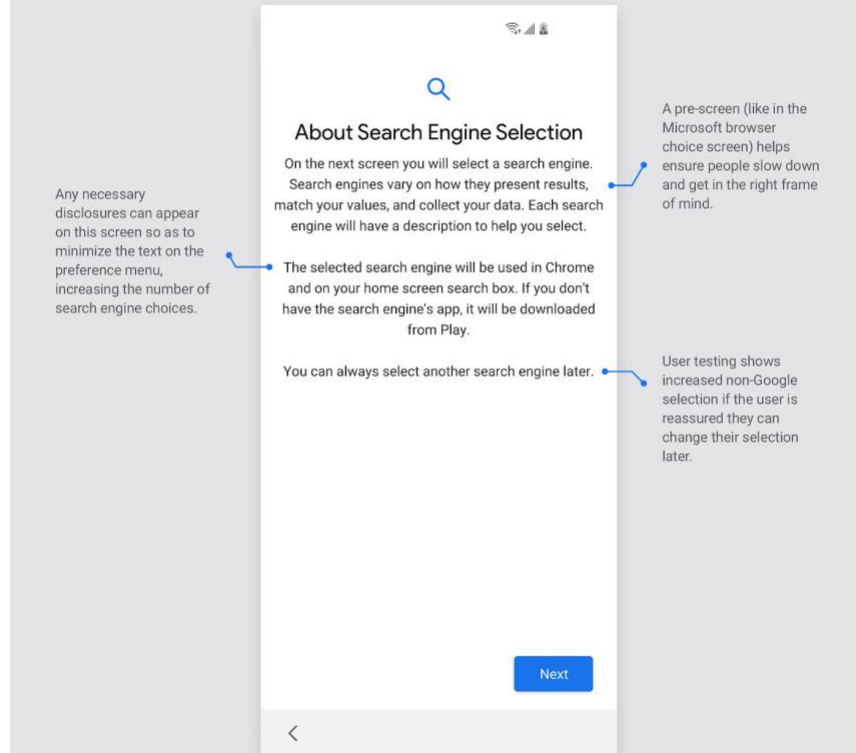
8.1.2. The proposed design features of a 'fair' choice screen (for example, the number and order of choices offered to consumers) for existing and new devices, as proposed by DuckDuckGo, a design which has been widely endorsed by alternative search engines and academics following the auction screen debate.

⁸ <https://web.stanford.edu/~ost/papers/csa.pdf>.

Annex A: Design Recommendations



DUCKDUCKGO PROPOSAL: AN INTRODUCTORY SCREEN



Europe's Android 'choice' screen keeps burying better options

Natasha Lomas@riptari / 5:29 PM GMT•March 8, 2021



Image Credits: Ecosia

It's been over a year since Google began [auctioning slots](#) for a search engine "choice" screen on Android in Europe, following a major antitrust intervention by the European Commission back in 2018. But despite hitting Google with a record-breaking fine over two years ago, almost nothing has changed.

The tech giant's search market share remains undented and the most interesting regional search alternatives are being priced out of a Google-devised "remedy" that favors those who can pay the most to be listed as an alternative to its own dominant search engine on smartphones running Google's Android OS.

Quarterly choice screen winners have been getting increasingly same-y. Alternatives to Google are expecting another uninspiring batch of "winners" to drop in short order.

The [results for Q1 2021](#) were dominated by a bunch of ad-targeting search options few smartphone users would likely have heard of: Germany's GMX; California-based info.com; and Puerto Rico-based PrivacyWall (which is owned by a company whose [website](#) is emblazoned with the slogan "100% programmatic advertising") — plus another, more familiar (ad)tech giant's search engine (Microsoft-owned) Bing.

Lower down the list: The Russian "Google" — Yandex — which won eight slots. And a veteran player in the Czech search market, Seznam.cz, which bagged two.

On the "big loser" side: Non-tracking search engine DuckDuckGo — which has been standing up for online privacy for over a decade yet won only one slot (in Belgium). It's come to be almost entirely squeezed out versus [winning a universal slot in all markets](#) at the start of the auction process.

Tree-planting not-for-profit search engine [Ecosia](#) was almost entirely absent in the last round too: Gaining only one slot on the screen showed to Android users in Slovenia. Yet back in December Ecosia was added as a default search option with Safari on iOS, iPadOS and macOS — having grown its global usage to more than 15 million users.

While another homegrown European search option — which has a privacy-focus — France’s Qwant, went home with just one slot. And not in its home market, either (in tiny Luxembourg).

If Europe’s regulators had fondly imagined that a Google-devised “remedy” for major antitrust breaches they identified would automatically restore thriving competition to the Android search market, they should feel rudely awakened indeed. The bald fact is Google’s market share has not even been scratched, let alone dented.

Statista data for Google’s search market share on mobile (across both Android and iOS; the latter where the tech giant pays Apple billions of dollars annually to be set as the default on iPhones) shows that in February 2021 its share in Europe stood at 97.07% — up from 96.92% in July 2018 when the Commission made the antitrust ruling.

Yes, Google has actually *gained* share running this “remedy”.

By any measure that’s a spectacular failure for EU competition enforcement — more than 2.5 years after its headline-grabbing antitrust decision against Android.

The Commission has also been promoting a goal of European tech sovereignty throughout the period Google has been running this auction. President Ursula von der Leyen links this overarching goal to her digital policy programming.

On the measure of tech sovereignty the Android choice screen must be seen as a sizeable failure too — as it’s not only failed to support (most) homegrown alternatives to Google (another, [Cliqz, pulled the plug on its search+browser effort entirely last year](#), putting part of the blame on the region’s political stakeholders for failing to understand the need for Europe to own its own digital infrastructure) — but it’s actively burying the most interesting European

alternatives by forcing them to compete against a bunch of ad-funded Google clones.

(And if Brave Search takes off it'll be another non-European alternative — albeit, one that will have benefitted from expertise and tech that was made-in-Europe...)

This is because the auction mechanism means only companies that pay Google the most can buy themselves a chance at being set as a default option on Android.

Even in the rare instances where European players shell out enough money to appear in the choice list (which likely means they'll be losing money per search click) they most often do so alongside other non-European alternatives *and Google* — further raising the competitive bar for selection.

It doesn't have to be this way. Nor was it wasn't initially; Google started with a choice screen based on market share.

However, it very quickly switched to a pay to play model — throttling at a stroke the discoverability of alternative business models that aren't based on exploiting user data (or, indeed, aren't profit-driven in Ecosia's case; as it uses ad-generated revenue to fund tree planting with a purely environmental goal).

Such alternatives say they typically can't afford to win Google's choice screen auctions. (It's worth noting that those who do participate in the game are restricted in what they can say as Google requires they sign an NDA.)

Clearly, it's no coincidence that the winners of Google's auction skew almost entirely to the track and target side of the tracks, where its own business sits; all data-exploiting business models banded together. And then, from a consumer point of view, why would you *not* pick Google with such a poorly

and artificially limited “choice” on offer — since you’re generally only being offered weaker versions of the same thing?

Ecosia tells TechCrunch it’s now considering pulling out of the auction process altogether — which would be a return to its first instinct; which was to boycott the auction before saying it felt it had to participate. A few months playing Google’s pay-to-play “no choice” (as [Ecosia dubs the auction](#)) game has cemented its view that the system is stacked against genuine alternatives.

Over two auction rounds when Ecosia has only ended up winning the one slot each time it says it’s seen no positive effect on user numbers. A decision on whether or not to withdraw entirely will be taken after the results of the next auction process are revealed, it said. (The next round of results are expected shortly, in early March.)

“We definitely realized it’s less and less ‘fun’ to play the game,” Ecosia founder Christian Kroll told us. “It’s a super unfair game — where it’s not only ‘David against Goliath’ but also Goliath gets to choose the rules, gets a free ticket, he can change the rules of game if he likes to. So it’s not amusing for us to participate in that.

“We’ve been participating now for nine months and if you look at overall market share in Europe nothing has changed. We don’t know the results yet of this round but I assume also nothing will change — the usual suspects will be there again... Most of the options that you see there now are not interesting to users.”

“Calling it a ‘choice’ screen is still a little bit ironic if you remove all the interesting choices from the screen. So the situation is still the same and it becomes less and less fun to play the game and at some point I think we might make the decision that we’re not going to be part of the game anymore,” he added.

Other alternative search engines we spoke to are continuing to participate for now — but all were critical of Google’s “pay-to-play” model for the Android “choice screen”.

DuckDuckGo founder Gabriel Weinberg told us: “We are bidding, but only to help further expose to the European Commission how flawed Google’s rigged process really is, in hopes they will help more actively take a role in reforming it into something that actually works for consumers. Due to our strict privacy policy, we expect to be eliminated, same as last time.”

He pointed to a [blog post](#) the company put out last fall, denouncing the “fundamentally flawed” auction model — and saying that “whole piece still stands”. In the blog post the company wrote that despite being profitable since 2014 “we have been priced out of this auction because we choose to not maximize our profits by exploiting our users”.

“In practical terms, this means our commitment to privacy and a cleaner search experience translates into less money per search. This means we must bid less relative to other, profit-maximizing companies,” DuckDuckGo went on, adding: “This EU antitrust remedy is only serving to further strengthen Google’s dominance in mobile search by boxing out alternative search engines that consumers want to use and, for those search engines that remain, taking most of their profits from the preference menu.”

“This auction format incentivizes bidders to bid what they can expect to profit per user selection. The long-term result is that the participating Google alternatives must give most of their preference menu profits to Google! Google’s auction further incentivizes search engines to be worse on privacy, to increase ads, and to not donate to good causes, because, if they do those things, then they could afford to bid higher,” it also said then.

France’s Qwant has been similarly critical and it told us it is “extremely dissatisfied” with the auction — calling for “urgent modification” and saying the 2018 Commission decision should be fully respected “in text and in spirit”.

“We are extremely dissatisfied with the auction system. We are asking for an urgent modification of the Choice Screen to allow consumers to find the search engine they want to use and not just the three choices that are only the ones that pay the most Google. We demand full respect for the 2018 decision, in text and in spirit,” said CEO Jean-Claude Ghinozzi.

“We are reviewing all options and re-evaluating our decision on a quarterly basis. In any case, we want consumers to be able to freely choose the search engine they prefer, without being limited to the only three alternative choices sold by Google. Consumers’ interests must always come first,” he added.

Russia’s Yandex confirmed it has participated in the upcoming Q2 auction. But it was also critical of Google’s implementation, saying it falls short of offering a genuine “freedom of choice” to Android users.

“We aim to offer high-quality and convenient search engine around the world. We are confident that freedom to select a search engine will lead to greater market competition and motivate each player to improve services. We don’t think that the current EU solution fully ensures freedom of choice for users, by only covering devices released from March 2020,” a Yandex spokeswoman said.

“There are currently very few such devices on the EU market in comparison with the total number of devices in users’ hands. It is essential to provide the freedom of choice that is genuine and real. Competition among service providers ultimately benefits users who will receive a better product.”

One newcomer to the search space — the anti-tracking browser Brave (which, as we mentioned above, just bought up some Cliqz assets to underpin the forthcoming launch of an-own brand Brave Search) — confirmed it will not be joining in at all.

“Brave does not plan to participate in this auction. Brave is about putting the user first, and this bidding process ignores users’ best interests by limiting their choices and selecting only for highest Google Play Store optimizing bidders,” a spokeswoman said.

“An irony here is that Google gets to profit off its own remedy for being found guilty of anti-competitive tying of Chrome into Android,” she added.

Asked about its strategy to grow usage of Brave Search in the region — outside of participation in the Android choice screen — she said: “Brave already has localized browsers for the European market, and we will continue to grow by offering best-in-class privacy showcased in marketing campaigns and referrals programs.”

Google’s self-devised “remedy” followed a [2018 antitrust decision by the Commission](#) — which led to a record-breaking \$5 billion penalty and an order to cease a variety of infringing behaviors. The tech giant’s implementation remains under active monitoring by EU antitrust regulators. However, Kroll argues the Commission is essentially just letting Google buy time rather than fix the abusive behavior it identified.

“The way I see this at the moment is the Commission feels like the auction screen isn’t necessarily something that they’ve requested as a remedy so they can’t really force Google to change it — and that’s why they also maybe don’t see it as their responsibility,” he said. “But at the same time they requested Google to solve the situation and Google isn’t doing anything.

“I think they are also allowing Google to get the credit from the press and also from users that it seems like Google is doing something — so they are allowing Google to play on time... I don’t know if a real choice screen would be a good solution but it’s also not for me to decide — it’s up to the European Commission to decide if Google has successfully remedied the damage... and has also compensated some of the damage that it’s done and I think that has

not happened at all. We can see that in the [marketshare] numbers that basically still the same situation is happening.”

“The whole thing is designed to remove interesting options from the screen,” he also argued of Google’s current “remedy”. “This is how it’s ‘working’ and I’m of course disappointed that nobody is stepping in there. So we’re basically in this unfair game where we get beaten up by our competitors. And I would hope for some regulator to step in and say this is not how this should go. But this isn’t happening.

“At the moment our only choice is to hang in there but at the moment if we really see there is no effect and there’s also no chance that regulators will ever step in we still have the choice to completely withdraw and let Google have its fun but without us... We’re not only not getting anything out of the [current auction model] but we’re of course also investing into it. And there are also restrictions because of the NDA we’ve signed — and even those restrictions are a little bit of a pain. So we have all the negative effects and don’t get any benefits.”

While limited by NDA in what he can discuss about the costs involved with participating in the auction, Kroll suggested the winners are doing so at a loss — pursuing reach at the expense of revenue.

“If you look at the bids from the last rounds I think with those bids it would be difficult for us to make money — and so potentially others have lost money. And that’s exactly also how this auction is designed, or how most auctions are designed, is that the winners often lose money... so you have this winner’s curse where people overbid,” he said.

“This hasn’t happened to us — also because we’re super careful — and in the last round we won this wonderful slot in Slovenia. Which is a beautiful country but again it has no impact on our revenues and we didn’t expect that to happen. It’s just for us to basically participate in the game but not risk our financial health,” he added. “We know that our bids will likely not win so the

financial risk [to Ecosia as it's currently participating and mostly losing in the auction] is not that big but for the companies who actually win bids — for them it might be a different thing.”

Kroll points out that the auction model has allowed Google to continue harvesting market share while weakening its competitors.

“There are quite a few companies who can afford to lose money in search because they just need to build up market share — and Google is basically harvesting all that and at the same time weakening its competitors,” he argued. “Because competitors need to spend on this. And one element that — at least in the beginning when the auction started — that I didn't even see was also that if you're a real search company... then you're building up a brand, you're building up a product, you're making all these investments and you have real users — and if you have those then, if there was really a choice screen, people would naturally choose you. But in this auction screen model you're basically paying for users that you would have anyway.

“So it's really putting those kind of companies at a disadvantage: DuckDuckGo, us, all kinds of companies who have a 'real USP'. Also Lilo, potentially even Qwant as well if you have a more nationalist approach to search, basically. So all of those companies are put at an even bigger disadvantage. And that's — I think — unfair.”

Since most winners of auction slots are, like Google, involved in surveillance capitalism — gathering data on search users to profit off of ad targeting — if anyone was banking on EU competition enforcement being able to act as a lever to crack open the dominant privacy-hostile business model of the web (and allow less abusive alternatives get a foot in the door) they must be sorely disappointed.

Better alternatives — that do not track consumers for ads, or, in the case of Ecosia, are on an entirely non-profit mission — are clearly being squeezed out.

The Commission can't say it wasn't warned: The moment the auction model was announced by Google [rivals decried it](#) as flawed, rigged, unfair and unsustainable — warning it would put them at a competitive disadvantage (exactly because they aren't just cloning Google's “track and target for ad profit model”).

Nonetheless, the Commission has so far shown itself unwilling or unable to respond — despite making a big show of [proposing major new rules for the largest platforms](#) which it says are needed to ensure they play fair. But that raises the question of why it's not better-enforcing existing EU rules against tech giants like Google?

When we raised criticism of Google's Android choice screen auction model with the Commission it sent us its standard set of talking points — writing that: “We have seen in the past that a choice screen can be an effective way to promote user choice”.

“The choice screen means that additional search providers are presented to users on start-up of every new Android device in every EEA country. So users can now choose their search provider of preference when setting up their newly purchased Android devices,” it also said, adding that it is “committed to a full and effective implementation of the decision”.

“We are therefore monitoring closely the implementation of the choice screen mechanism,” it added — a standard line since Google begin its “compliance” with the 2018 EU decision.

In a slight development, the Commission did also confirm it has had discussions with Google about the choice screen mechanism — following what it described as “relevant feedback from the market”.

It said these discussions focused on “the presentation and mechanics of the choice screen and to the selection mechanism of rival search providers”.

But with the clock ticking, and genuine alternatives to Google search being actively squeezed out of the market — leaving European consumers to be offered no meaningful choice to privacy-hostile search on Android — you do have to wonder what regulators are waiting for?

A pattern of reluctance to challenge tech giants where it counts seems to be emerging from Margrethe Vestager's tenure at the helm of the competition department (and also, since 2019, a key shaper of EU digital policy).

Despite gaining a reputation for being willing to take on tech giants — and hitting Google (and others) with a number of headline-grabbing fines over the past five+ years — she cannot claim success in rebalancing the market for mobile search nor smartphone operating systems nor search ad brokering, in just the most recent Google cases.

Nonetheless, she was content to green light Google's acquisition of wearable maker Fitbit [at the end of last year](#) — despite a multitude of voices raised against allowing the tech giant to further entrench its dominance.

On that she argued defensively that concessions secured from Google would be sufficient to address concerns (such as a promise extracted from Google not to use Fitbit data for ads for at least 10 years).

But, given her record on monitoring Google's compliance with a whole flush of EU antitrust rulings, it's hard to see why anyone other than Google should be confident in the Commission's ability or willingness to enforce its own mandates against Google. Complaints against how Google operates, meanwhile, just [keep stacking up](#).

“I think they are listening,” says Kroll of the Commission. “But what I am missing is action.”



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Five of Google's biggest search engine rivals want the EU to take fresh antitrust action

Martin Coulter 10 minutes ago



Yves Herman/Reuters

- **Five of Google's search engine rivals have teamed up to demand the EU police the tech giant's dominance better.**

- **In an open letter, major players like DuckDuckGo and Ecosia accuse Google of 'anticompetitive conduct' in the way it runs its Android choice screen in Europe.**

- **They claim they are disadvantaged by the current process, and want the EU to force improvements to the choice screen.**

- **Ecosia CEO Christian Kroll branded the firm 'one of the most monopolistic organisations in human history'.**

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Five of Google's biggest competitors have signed an open letter calling on the European Union to launch a fresh antitrust investigation into the search engine giant.

The five signatories include Google's domestic rival DuckDuckGo, Germany's Ecosia, French firms Lilo and Qwant, and the Czech search engine Seznam. Microsoft's Bing is not on the list of signatories.

In the letter, seen by Business Insider, signatories call for a "trilateral meeting" between themselves, EU officials, and Google to address what they call the latter's "anticompetitive

conduct".

The root of the argument is in the way Google allocates space for rival search engines on its Android "choice screen."

New Android phone owners in Europe are offered an on-screen choice over which search engine they may want to use as the primary search engine app on their phones. This doesn't happen anywhere else, and US users wouldn't see this screen.

That's after the EU [slapped Google with a \\$5 billion fine](#) for anti-competitive behavior in 2018, saying it had abused its dominant Android mobile operating system to cement the popularity of Google apps and services.

Google now holds quarterly, paid auctions for competing search app providers, such as Microsoft's Bing and privacy-focused DuckDuckGo. A maximum of four different search engines, including Google, are offered via the choice screen and different EU markets will see different search engine options.

Tensions mounted last month when [DuckDuckGo blasted the auction process as "rigged"](#). The firm won space on Android phones in just four markets — Bulgaria, Croatia, Iceland, and

Liechtenstein — down from the 31 EEA territories it secured in an auction six months earlier.

DuckDuckGo claimed it had been priced out of the auction "because we choose not to maximize our profits by exploiting our users", in reference to competitors' data harvesting practices.

Ecosia previously boycotted the auction process before relenting to take part in the most recent Q4 bid. It was awarded a slot in one territory, Slovenia.

In the letter, the five search engines suggest Google has misled Europe's regulators about the choice screen and say they want to thrash out improvements.

The letter states: "We are writing to request a trilateral meeting with your office, ourselves, and Google, with the goal of establishing an effective preference menu."

Christian Kroll, Ecosia's CEO, said in a statement: "Over the last decade, Google has become one of the most monopolistic organizations in human history.

"In no other industry would such dominance be tolerated by antitrust regulators."

He added: "A bilateral meeting between the European Commission, Google and alternative search players is now

needed, particularly in regards to the pay-to-play Android auction...

"We want to see EU-wide regulation that ensures that all players, no matter how much financial firepower they have, have equal visibility on all browsers and operating systems. Giving all players access and not just Google, will allow users to opt for whichever search engine they prefer most, which in the long-run will help to create fairer competition in our market."

Business Insider approached Google for comment.

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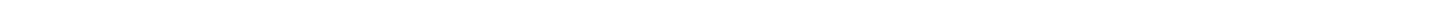
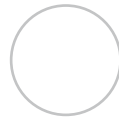
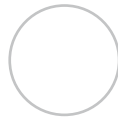
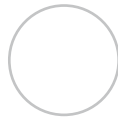
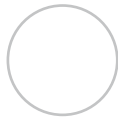
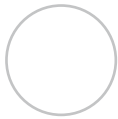
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Google faces fresh attacks from search engine rivals over its 'profit-sapping' Android choice screen in Europe

Martin Coulter 12 minutes ago



- **Google faces fresh criticism from search engine rivals after announcing the results of its latest Android 'choice screen' auction in Europe.**

- **Following a \$5 billion fine from the EU, Android users in Europe can decide which search engine they want to use primarily up front via a "choice screen."**

- **Google's search engine remains the default on Android phones for most non-EU users.**

- **But following choice screen results for the first quarter of 2021, German search rival Ecosia hit out at the tech giant's 'profit-sapping' practices and called on officials to ramp up its investigations.**

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Google is facing fresh criticism from smaller search engine rivals after announcing the results of its latest Android "choice screen" auction in Europe, in which competitors bid for space on Android devices.

Unlike anywhere else, new Android phone owners in Europe can decide which search engine they want to use primarily up front through a dedicated choice screen.

The development came after the EU [slapped Google with a \\$5 billion fine](#) for anti-competitive behavior in 2018, saying it had abused its dominant Android mobile operating system to cement the popularity of Google apps and services.

Google holds quarterly auctions for competing search app providers, such as Microsoft's Bing and privacy-focused DuckDuckGo. Each provider must state the price they'd be willing to pay each time they are selected by a user, with

Google choosing the highest bidders that meet or exceed its minimum threshold.

A maximum of four different search engines, including Google, are offered via the choice screen and different EU markets will see different search engine options.

But after announcing [the winners for the first quarter of 2021](#), German rival Ecosia blasted the tech giant's "profit-sapping" practices, and called on the EU to ramp up antitrust proceedings.

Ecosia's search engine is powered by Microsoft Bing, and the firm donates 80% of its search ad revenue to tree-planting projects.

Speaking to Business Insider, Sophie Dembinski, Ecosia's head of UK public policy, said it was "abundantly clear" that Google's auctions were pricing out smaller competitors from key markets in Europe.

"The process, engineered by Google, not only discourages smaller search alternatives from participating. Slots tend to be allocated to for-profit enterprises with significant financial backing," she said.

"Our mission is to fight climate change, not to get caught up in profit-sapping auctions where revenues are taken away from vital tree-planting projects and given to Google instead."

Ecosia recently joined US rival DuckDuckGo, French firms Lilo and Qwant, and the Czech search engine Seznam in [signing a joint letter to the EU](#), demanding officials launch a fresh antitrust investigation into the search engine giant.

Dembinski added: "The EU has now engaged positively to our open-letter and we're looking forward to future constructive discussions."

Google has shot back against previous accusations of anti-competitiveness, claiming to offer "unprecedented choice" for users deciding which applications they install, use and set as

default on their devices.

"The goal for the choice screen is to give all search providers equal opportunity to bid — not to give certain rivals special treatment," a spokesperson said.

Business Insider approached Google for further comment.

Get the latest Google stock price [here](#).

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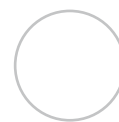
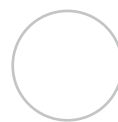
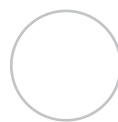
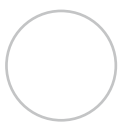
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TE Google to auction slots on Android default search 'choice screen' in Europe next year, rivals cry 'pay-to-play' foul

Natasha Lomas@riptari / 4:14 PM GMT+1•August 2, 2019

Comment



Starting early next year Google will present Android users in Europe with a search engine choice screen when handsets bundle its own search service by default.

In a [blog post](#) announcing the latest change to flow from the European Union's record-breaking \$5 billion antitrust enforcement against Android [last year](#), when the Commission found Google had imposed illegal restrictions on device makers (OEMs) and carriers using its dominant smartphone platform, it says new Android phones will be shown the choice screen once during set-up (or again after any factory reset).

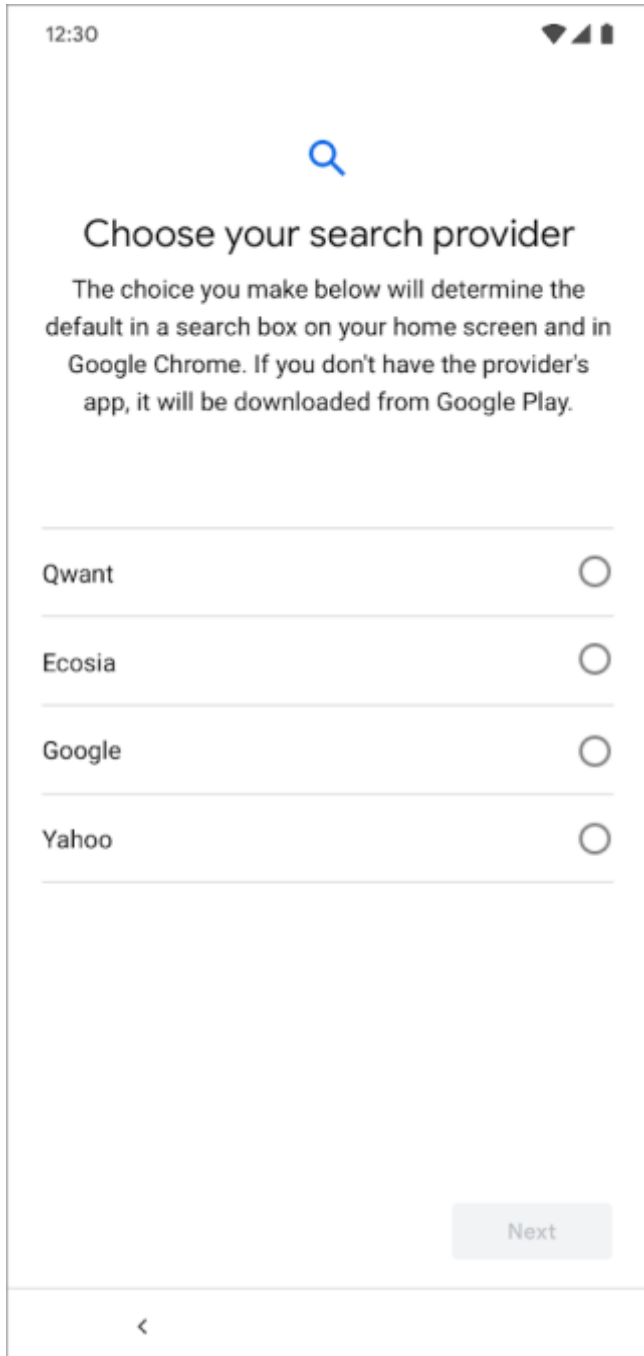
The screen will display a selection of three rival search engines alongside its own.

OEMs will still be able to offer Android devices in Europe that bundle a non-Google search engine by default (though per [Google's reworked licensing terms](#) they have to pay it to do so). In those instances Google said the choice screen will not be displayed.

Google says rival search engines will be selected for display on the default choice screen, per market, via a fixed-price sealed bid annual auction — with any winners (and/or eligible search providers) being displayed in a random order alongside its own.

Search engines that win the auction will secure one of three open slots on the choice screen, with Google's own search engine always occupying one of the four total slots.

“In each country auction, search providers will state the price that they are willing to pay each time a user selects them from the choice screen in the given country,” it writes. “Each country will have a minimum bid threshold. The three highest bidders that meet or exceed the bid threshold for a given country will appear in the choice screen for that country.”



If there aren't enough bids to surface three winners per auction then Google says it will randomly select from a pool of eligible search providers, which it is also [inviting to apply](#) to participate in the choice screen. (Eligibility criteria can be [found here](#).)

“Next year, we’ll introduce a new way for Android users to select a search provider to power a search box on their home screen and as the default in Chrome (if installed),” it writes. “Search providers can apply to be part of the new choice screen, which will appear when someone is setting up a new Android smartphone or tablet in Europe.”

“As always, people can continue to customize and personalize their devices at any time after set up. This includes selecting which apps to download, changing how apps are arranged on the screen, and switching the default search provider in apps like Google Chrome,” it adds.

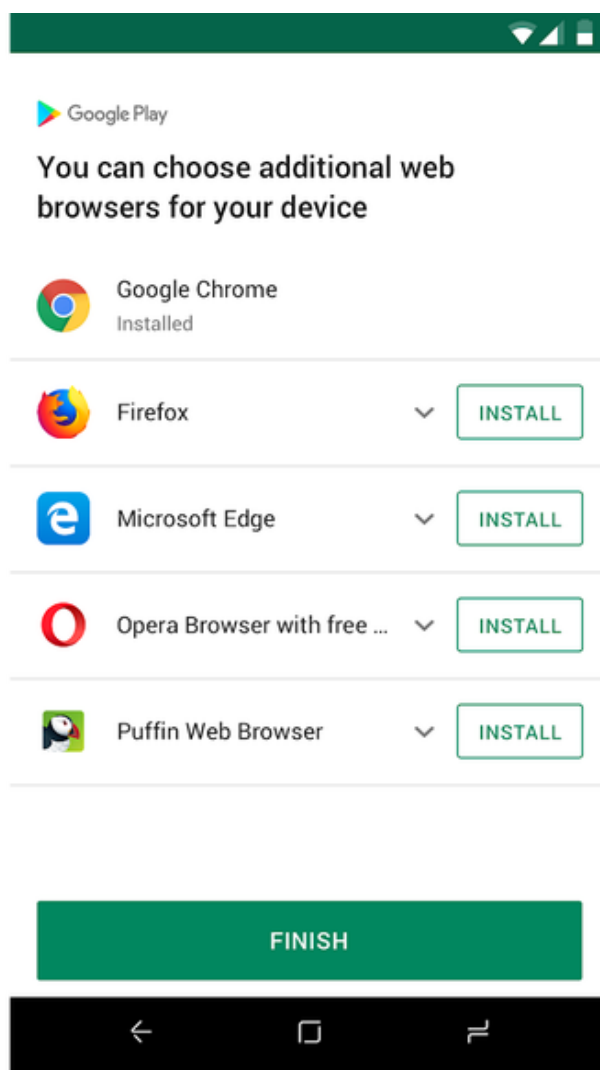
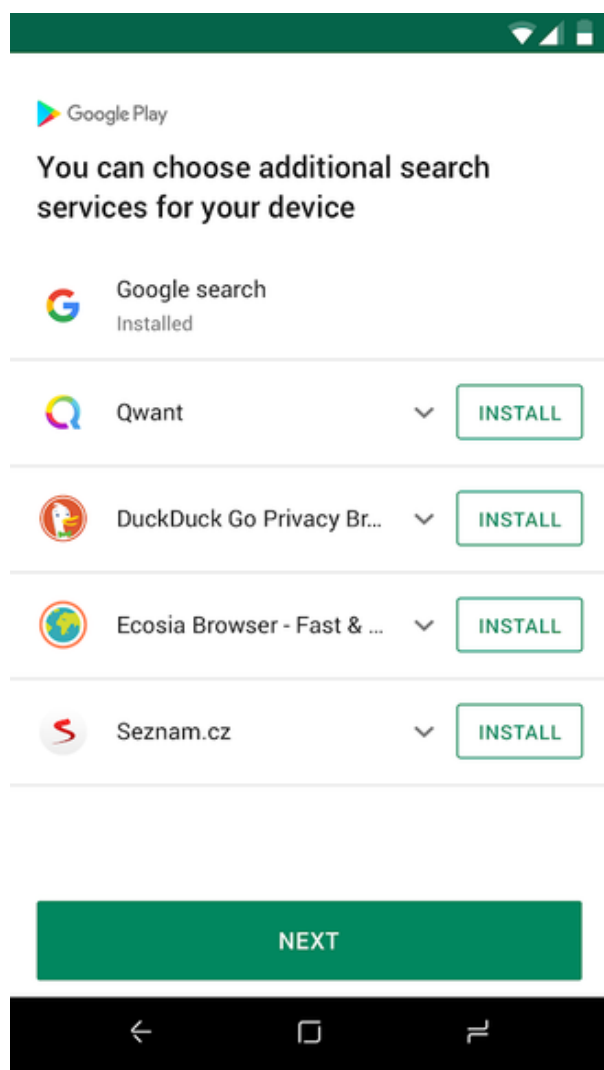
Google’s blog post makes no mention of whether the choice screen will be pushed to the installed base of Android devices. But a spokeswoman told us the implementation requires technical changes that means it can only be supported on new devices.

Default selections on a dominant platform are of course hugely important for gaining or sustaining market share. And it’s only since competition authorities dialed up their scrutiny that the company has started to make some shifts in how it bundles its own services in dominant products such as Android and Chrome.

Earlier this year Google quietly added rival pro-privacy search engine DuckDuckGo as one of the default choices offered by its Chrome browser, for example.

In **April** it also began rolling out choice screens to both new and existing Android users in Europe — offering a prompt to download additional search apps and browsers.

In the latter case, each screen shows five apps in total, including whatever search and browser is already installed. Apps not already installed are included based on their market popularity and shown in a random order.



French pro-privacy search engine Qwant told us that since the rollout of the app service choice screen to Android devices the share of Qwant users using its search engine on mobile has leapt up from around 2% to more than a quarter (26%) of its total user base.

Qwant co-founder and CEO Eric Léandri said the app choice screen shows that competing against Google on search is possible — but only “thanks to the European Commission” stepping in and forcing the unbundling.

However, he raised serious concerns about the sealed bid auction structure that Google has announced for the default search choice — pointing out that

many of the bidders for the slots will also be using Google advertising and technology; while the sealed structure of the auction means no-one outside Google will know what prices are being submitted as bids, making it impossible for rivals to know whether the selections Google makes are fair.

Even Google's own FAQ swings abruptly from claims of the auction it has devised being "a fair and objective method" for determining which search providers get slots, to a flat "no" and "no" on any transparency on bid amounts or the number of providers it deems eligible per market...

Why does Google use an auction to determine the search providers that appear in the choice screen?

An auction is a fair and objective method to determine which search providers are included in the choice screen. It allows search providers to decide what value they place on appearing in the choice screen and to bid accordingly.

Will the number of eligible search providers there are in each country be made public?

No.

Will what other providers are bidding be made public?

No.

"Even if Google is Google some people can choose something else if they have the choice. But now that Google knows it, it wants to stop the process," Léandri told TechCrunch.

"It is not up to Google to now charge its competitors for its faulty behavior and the amount of the fine, through an auction system that will benefit neither European consumers nor free competition, which should not be distorted by such process," Qwant added in an emailed press statement. "The proposed bidding process would be open to so-called search engines that derive their results and revenues from Google, thereby creating an unacceptable distortion and a high risk of manipulation, inequity or disloyalty of the auction."

"The decision of the European Commission must benefit European consumers by ensuring the conditions of a freedom of choice based on the intrinsic merits of each engine and the expectations of citizens, especially

regarding the protection of their personal data, and not on their ability to fund Google or to be financed by it,” it also said.

In a further complaint, Léandri said Google is requiring bidders in the choice screen auction to sign an NDA in order to participate — which Qwant argues would throw a legal obstacle in the way of it being able to participate, considering it is a complainant in the EU’s antitrust case (ongoing because Google is appealing).

“Qwant cannot accept that the auction process is subject to a non-disclosure agreement as imposed by Google while its complaint is still pending,” it writes. “Such a confidentiality agreement has no other possible justification than the desire to silence its competitors on the anomalies they would see. This, again, is an unacceptable abuse of its dominant position.”

We’ve reached out to the Commission with questions about Google’s choice screen auction. Update: A Commission spokesperson told us:

The decision provides rival search providers the possibility to strike exclusive pre-installation deals with smartphone and tablet manufacturers. This was not possible before.

In order to ensure the effective implementation of the decision, Google also agreed to implement a choice screen. We have seen in the past that a choice screen can be an effective way to promote user choice.

We will be closely monitoring the implementation of the choice screen mechanism, including listening to relevant feedback from the market, in particular in relation to the presentation and mechanics of the choice screen and to the selection mechanism of rival search providers. The Commission is committed to a full and effective implementation of the decision.

DuckDuckGo founder Gabriel Weinberg has also been quick to point to flaws in the auction structure — writing on [Twitter](#): “A ‘ballot box’ screen could be an excellent way to increase meaningful consumer choice if designed properly. Unfortunately, Google’s announcement today will not meaningfully deliver consumer choice.

“A pay-to-play auction with only 4 slots means consumers won’t get all the choices they deserve, and Google will profit at the expense of the competition. We encourage regulators to work with directly with Google, us, and others to ensure the best system for consumers.”

TE Google's 'no choice' screen on Android isn't working, says Ecosia — querying the EU's approach to antitrust enforcement

Natasha Lomas@riptari / 8:00 AM GMT+1•July 30, 2020



Image Credits: Ecosia

Google alternative [Ecosia](#) is on a mission to turn search clicks into trees. The Berlin-based not-for-profit reached a major milestone earlier this month, having used ad revenue generated by users of its [privacy-sensitive](#) search

engine to plant more than 100 million trees across 25 countries worldwide — targeted at biodiversity hotspots.

However, these good feels have been hit hard by the coronavirus pandemic. Ecosia has seen its monthly revenues slashed by half since COVID-19 arrived in Europe, with turnover falling from €2.6 million in February to just €1.4 million in June. It's worried that its promise of planting a tree every 0.8 seconds is at risk.

It has also suffered a knock to regional visibility as a result of boycotting an auction process that Android OS maker Google has been running throughout this year as a response to a 2018 Commission antitrust decision that found the tech giant had violated EU competition rules in how it operates the smartphone platform — including via conditions placed on phone makers to pre-load its own services (like Google search) as device defaults.

An auction process now determines which rival search engines appear on a [search “choice screen” Google began showing to Android users in Europe](#) in the wake of the Commission decision. Currently, Google offers three paid slots to non-Google search engines via the auction. Android users setting up a new device always see Google's own search engine as one of the four total options.

The tech giant's rivals have consistently argued this [“pay to play” model is no remedy](#) for its anti-competitive behavior with Android, the world's dominant smartphone OS. Although most (including [DuckDuckGo](#)) felt forced to participate in its auction process from the get-go. Forgoing the most prominent route to the Android search market isn't exactly a luxury most businesses could afford.

Ecosia, a not-for-profit, was the last major holdout. But now it says it's been forced to end its boycott in a bid to remain competitive in the region. This means it will participate in the next auction round for the Android choice screen — scheduled for the beginning of Q4. If it wins any per country slots it

will appear as a search choice option to those Android users in the future, though likely not til next year, given the length of the auction process.

It remains highly critical of Google's pay-to-play model, arguing it's no remedy for the antitrust violations identified by the Commission. It also laments that EU lawmakers are taking a "wait and see" approach to determining whether Google's "remedy" is actually restoring competition, given all the evidence to the contrary.

"The main reason why we boycotted the auction is because we think it's highly unfair and anti-competitive," says Ecosia CEO Christian Kroll, speaking to TechCrunch via video chat. "Not only do we think that fair competition shouldn't be sold off in an auction but also the way the auction is designed basically makes sure that only the least interesting options can win.

"Since we have a business model where we use most of our revenues to plant trees we basically can't really win in an auction model. If you're already a search engine that's quite well known... then you have a lot of cannibalization effects through this screen. So we're basically paying for traffic that we would get for free anyway... So it's just super unfair and anti-competitive."

Kroll expresses emphatic surprise that the Commission didn't immediately reject Google's auction model for the choice screen — saying it seems as if they've learned nothing from the EU's [earlier intervention](#) against Microsoft's tying of its Internet Explorer browser with its dominant desktop OS, Windows. (In that case the saga ended after Microsoft agreed to implement a ballot screen offering a choice of up to 12 browsers, which paved the road for Google to later gain share with its own Chrome browser.)

For a brief initial period last year Google did offer a fee-less choice screen in Europe, pushing this out to existing Android devices — with search rivals selected [based on their market popularity per country](#) (which, in some markets, included Ecosia).

However, the tech giant said then that it would be “evolving” its implementation over time. And a **few months later** an auction model was announced as incoming for new Android devices — with that “pay-to-play” approach kicking off at the start of this year.

Search rivals, including DuckDuckGo and Qwant, **immediately cried foul**. Yet the response from the Commission has been to kick the can — with regulators offering platitudes that said they would “closely monitor.” They also claimed to be “committed to a full and effective implementation of the decision.”

However, the missing adjective in that statement is “fast.” Google rivals would argue that for a remedy to be effective it needs to happen really fast, like *now* — or, for some of them, the risk really is going out of business. After all, the Commission’s Android antitrust decision (which, yes, **Google is appealing**) already **dates back two full years**.

“I find it very surprising that the European Commission hasn’t rejected [Google’s auction model] from the start because some of the key principles from what made the choice screen successful in the Microsoft case have just been completely disregarded and been turned around by Google to turn the whole concept of a choice screen to their advantage,” says Kroll. “We’re not even calling it the ‘choice screen’ internally, we just call it the ‘auction screen.’ And since we’re now stopping to boycott we call it the ‘no choice screen.’ ”

“It’s Google’s way to give the impression that there’s free choice, but there is no free choice,” he adds. “If Google’s objective here would be to create choice for the user then they would present the most interesting options, which are the search engines with the highest market shares — so definitely us, DuckDuckGo and maybe some other players as well. But that’s not what they’re trying to do.”

Kroll points out that another German search rival to Google, Cliqz, had to pull the plug on its anti-tracking alternative at the **start of this year** — meaning there’s now one less homegrown anti-tracking rival to Google in play. And

while Ecosia feels it has no choice but to participate in Google's auction game, Kroll says it also can't know whether or not participating will result in Ecosia overpaying Google for leads that then mean it generates less revenue and can't plant as many trees... Or, well, any trees if the worst were to happen.

(NB: Kroll was speaking to TechCrunch ahead of signing an NDA that Google requires participants of the auction to sign, which puts a legal limit on what they can say about the process once they're involved — which, in turn, is a problematic element that another European search rival, Qwant, has also [complained is unfair...](#))

“We don't have any choice left, other than to participate,” adds Kroll. “Because we want to have access to the Android platform. So basically Google has successfully bullied everyone to play to its own rules — and it's a game where Google is not only the referee but also they get a free ticket and they are also players...

“Somehow Google magically convinced the public but I think also the European Commission that they need to generate revenue in an auction because they have so many costs through the Android development and so on. It is of course true that they have costs... but they are also generating massive profit through the deals that they then make with the device makers and those profits are not at all shared.”

Kroll points out that Google shells out a ([reported](#)) \$12 billion per year to be the default search engine in Safari on Apple's iOS platform — even as it pays nothing to get in front of the vast majority of mobile searchers' eyeballs via Android (and does the same with Chrome).

“If they would pay the same amount of money for those platform they would soon be bankrupt,” he argues. “So they are getting all this for free and they are also getting other benefits for free — like having the Play Store preinstalled, like having Google Maps preinstalled, YouTube preinstalled and

so on — which are all revenue sources. But they're not sharing any of those revenue. They just try to outsource all of the costs that they have to their competitors, which is I think very unfair.”

While Alphabet, Google's parent entity, doesn't break out Google Play revenue specifically from within a generic “advertising” bucket when it reports its financials, data from [Sensor Tower](#) for the first half of 2020 suggests it generated \$17.3 billion in Play Store revenue alone over this six-month period, up 21% year-over-year. And Play is just one of the moneyspinners Google derives via “free” Android.

The Commission's antitrust 2018 decision against Android Kroll argues that nothing has changed for search competitors like Ecosia, which are trying to offer consumers a more interesting value exchange for their clicks.

“What Google is doing very successfully is they're just playing on time,” he suggests. “Our competitor, Cliqz, already went bankrupt because of that. So the strategy seems to work really well for Google. And we also can't afford to lose access to those platforms... I really hope that the European Commission will actually do something about this because it has been done successfully in the Microsoft case and we just need exactly the same.”

Kroll also flags DuckDuckGo's design suggestions for “a fair choice screen” — which [we covered here last year](#), but which Google (and the Commission) have so far simply ignored.

He suspects regulators are waiting to see how the market looks in another year or more. But of course by then it may be too late to save more alternative search engines from a Cliqz-style demise, thereby further strengthening Google's position. Which would obviously be the opposite of an antitrust remedy.

Commissioner Margrethe Vestager already conceded [last year](#) that another of her interventions against the tech giant — the [Google AdSense antitrust case](#) — is an example of “enforcement that hasn’t succeeded because it has failed to restore competition.” So if she’s not careful her record on failed remedies could dent her high-profile reputation for being an antitrust chief who’s at least willing to take on tech giants. Where competition is concerned, it must be all about outcomes — or what are you even doing as claimed law “enforcers?”

“I always fear that the point might come when big corporates are more powerful than our public institutions and I’m wondering if this point isn’t already reached,” adds Kroll, positing that it’s not clear whether the EU — as an economic and political project now facing plenty of its own issues — will have enough resilience to be able to enforce its own competition law in the near future. So really his key point is: If not now, when? (Or, well, how?)

It’s certainly true that there’s a growing disconnect between what the Commission is *saying* around competition policy and digital markets — where it’s alive to the critique that regulatory interventions need to be able to move much faster if they’re to prevent monopoly power irreversibly tipping these markets (it’s [currently consulting](#) on whether to give itself greater powers of intervention) — and its hands-off approach to how to remedy market failure. tl;dr: There’s no effective enforcement without effective remedies. So dropping the ball after the fact of a decision really defeats the whole operation.

Vestager clearly recognizes there’s a problem in the digital context — telling the EU parliament last year: “We have to consider remedies that are much more far reaching.” (Albeit, still not *committing* to having much more far-reaching remedies.) Yet in parallel she [preaches](#) “wait and see” as her overarching philosophy — a policy “push-pull,” which seems to be preventing the unit from even entertaining taking on a more agile, active and iterative role in supporting markets toward actual restoration of competition. At least not before a lengthy consultation exercise which further kicks the can.

If EU lawmakers can't learn the lessons from their own relatively recent digital antitrust history (Microsoft tying IE to Windows) to effectively enforce what is a pretty straightforwardly similar antitrust case (Google tying search and its other services to Android), you have to question why they think they need new antitrust tools to properly tackle digital monopolies now, given they don't seem able to effectively wield the tools they've already got.

It does rather look increasingly like the current crop of EU regulators have lost conviction — and/or fallen prey to risk aversion — in the face of platform power moves. (To wit: There are whispers the Commission is preparing to wave through [Google's acquisition of Fitbit](#), on [paper-thin promises from Google](#), despite [major concerns](#) raised about privacy and increased data consolidation — which, if true, would again mean the Commission [ignoring its own recent history of naively swallowing other similar tech giant claims.](#))

“My feeling is, what has happened in the Microsoft case... there was just somebody in the Commission crazy enough to say this is what the decision is and you have to do it... And maybe it just takes those kind of guts. That's then maybe a political question. Is Vestager willing to really pick those battles?” asks Kroll.

“My feeling is if people really understand the situation then they would care but you actually need to do a little bit of explaining that it's not good to have a dominant player that is in such an important sector like search, and that is basically shutting down the market for everybody else.”

Asked what his message is for the [U.S. lawmakers](#) now actively eyeing antitrust concerns around Google — and indeed [much of big tech](#) — Kroll says: “I'm a fan of competition and I also admire Google; I think Google is a very clever company, but I think there is a point reached where there's so much concentration of power that it gets dangerous for society... We've been suffering quite a lot from all the dominance that Google has in the various sectors. There are just things that Google are doing that are obviously anti-competitive.”

One specific thing he suggests regulators take a close look at is how much money Google pays Apple to be the default search option on Safari. “It’s paying more money than it can actually afford to win the Safari search volume — that I think is very anti-competitive,” he argues. “They already own two-thirds of the market and they basically buy whatever’s left over, so that they can just cement their dominance.

“The regulators should have a very close look at that and disallow Google to participate in any of those bids for default positions in other browsers in the future. I think that would even be beneficial for browsers because in the long term there would finally be competition for those spots again. Currently Google’s just winning them because they’re running out of options and there are not many other search providers left to choose from.”

He also argues they need to make Google repair “some of the damage they’ve done” — i.e. as a result of unfairly gaining market share — by enforcing what he calls “a really fair choice screen”; non-paid and based on relevance for users. And by doing so on Android and Chrome devices.

“I think until a year ago if you visited Google.com with your Safari browser or Firefox browser then Google would recommend to install Chrome. And for me that’s a clear abuse of one dominant position to support another part of your company,” he argues. “Google needs to repair that and that needs to happen very quickly — because otherwise other companies might [go out of business].”

“We’re still doing okay but we have been hit heavily by corona[virus] and we have a huge loss in revenue. Other companies might be hit even worse, I don’t know. And we don’t have the same deep pockets that the big players have. So other companies might disappear if nothing’s done soon,” he adds.

We reached out to Google and the European Commission for comment.

A Google spokesperson pointed us to its [FAQ](#) about the auction. In further remarks which they specified could not be directly quoted they claimed an auction is a fair and objective method of determining how to fill available slots, adding that the revenue generated via the auction helps Google continue to invest in developing and maintaining Android.

A spokeswoman for the Commission told us it has been “discussing” the choice screen mechanism with Google, following what she described as “relevant feedback from the market, in particular in relation to the presentation and mechanics of the choice screen and to the selection mechanism of rival search providers.”

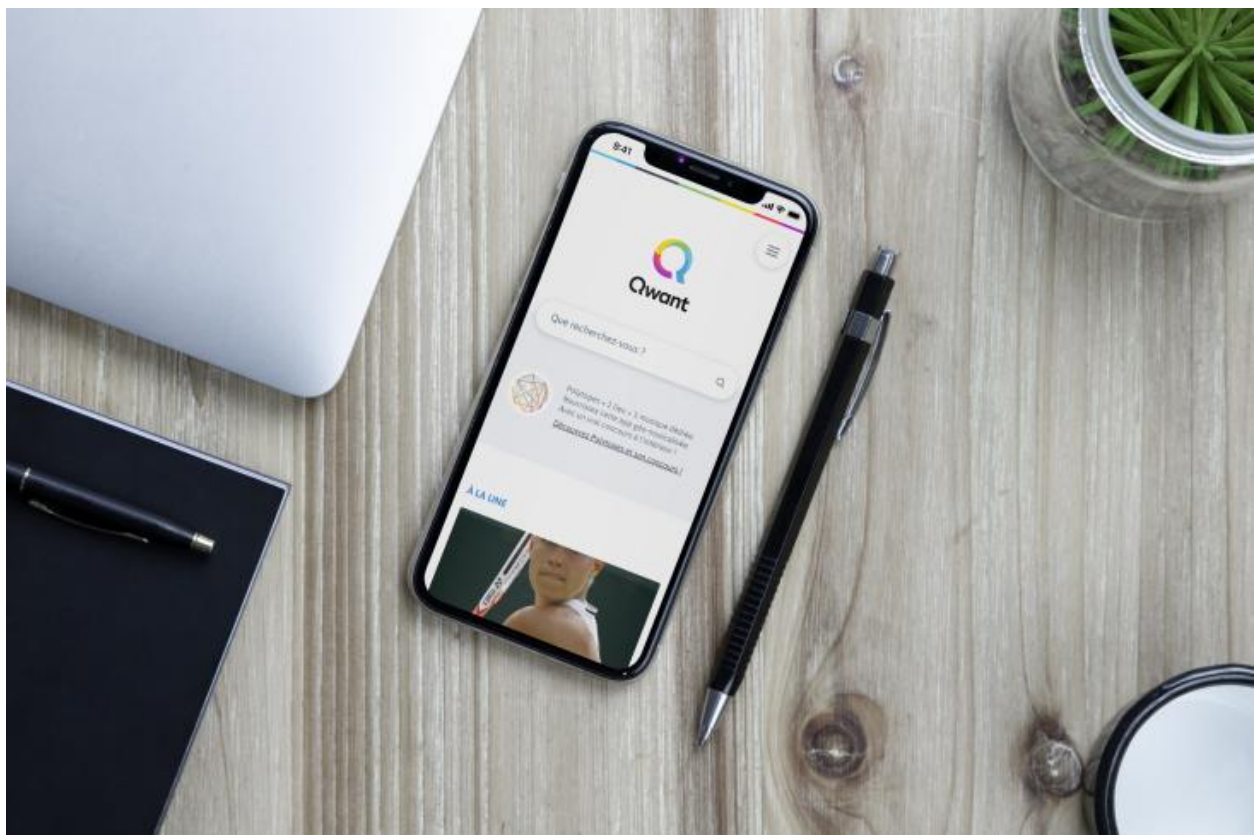
The spokeswoman also reiterated earlier comments that the Commission is continuing to monitor Google’s choice-screen implementation and is “committed to a full and effective implementation of the decision.”

However, a source familiar with the matter said EU lawmakers view paid premium placement for a few cents as far superior to what Google was offering rivals before — i.e. no visibility at all — and thus take the view that something is better than nothing.

TE Google's EU Android choice screen isn't working say search rivals, calling for a joint process to devise a fair remedy

Natasha Lomas@riptari / 8:59 PM GMT•October 27, 2020

Comment



Google search engine rivals have dialled up pressure on the European Commission over the tech giant's 'pay-to-play' choice screen for Android

users in Europe — arguing the Google-devised auction has failed to remedy antitrust issues identified by the European Commission more than two years ago.

The joint letter to the Commission, which has been signed by Ecosia, DuckDuckGo, Lilo, Qwant and Seznam, requests a trilateral meeting between the EU executive, Google, and the five search rivals — with “the goal of establishing an effective preference menu”.

“We are companies operating search engines that compete against Google. As you know, we are deeply dissatisfied with the so-called remedy created by Google to address the adverse effects of its anticompetitive conduct in the Android case,” they write. “We understand that Google regularly updates you regarding its pay-to-play auction, but it appears that you may not be receiving complete or accurate information.”

A Commission spokeswoman confirmed it’s received the letter and said it will respond in due course, adding that it’s “seen in the past that a choice screen can be an effective way to promote user choice”.

“We have been discussing the choice screen mechanism with Google, following relevant feedback from the market, in particular in relation to the presentation and mechanics of the choice screen and to the selection mechanism of rival search providers,” the spokeswoman also told us, adding that the Commission is “committed to a full and effective implementation of the decision” and “will continue monitoring closely the implementation of the choice screen mechanism”.

Back in 2018 the [EU’s antitrust division fined Google \\$5BN](#) for competition violations related to how it operates its smartphone platform and instructed the company to make good on the issues identified — leading it to offer Android users in Europe a search engine choice screen, rather than simply preloading its own.

Google initially offered a choice based on rivals' local market share but **quickly moved to a paid auction model**. This appears to benefit larger, commercial entities at the expense of privacy-focused, regional and not-for-profit alternatives.

Pro-privacy DuckDuckGo has, for example, lost out in recent auctions — while Microsoft-owned Bing has gained more slots. The former lowered how much it bids, saying it **believes it cannot profitably win a slot**.

European tech for good not-for-profit, Ecosia — which uses search click revenue to fund tree planting — has also **denounced the model as unfair**, going so far as to boycott it entirely at first. It gave in after seeing its revenue take a massive hit during the coronavirus crisis. (Though failed to gain a slot in almost every market in the **most recent auction**.)

Google, meanwhile, continue to enjoy a search marketshare in excess of 90% in the region.

The five rivals argue that Google is unfairly constraining the search market by limiting the number of available slots on the choice screen to three (Google's own search engine is a staple fourth option).

They want a collaborative process to devise a choice screen, rather than Google being allowed to continue to design its own 'solution' — favoring a non-paid choice screen with space for many more choices than the current three (non-Google) options, likely with selections based on multiple, pro-competition criteria.

The timing of the letter comes hard on the heels of a competition investigation in the US that's sparked a similar antitrust case against Google on home turf. The department of Justice filed a long-awaited case against it **earlier this month**, arguing the tech giant uses a web of exclusionary business agreements to shut out competitors.

Discussing how DuckDuckGo would like to see the Android choice screen evolve, founder Gabe Weinberg told TechCrunch: “We would like to see a properly designed search preference menu that gives people all the search engine options they expect, is free of all dark patterns, and enables search competition to sustainably flourish. Unfortunately, the current implementation meets none of these essential criteria, but we are hopeful that a more collaborative process could fix this failing remedy.”

Another signatory to the letter, France’s Qwant, also brings up the Commission’s goal of regional digital sovereignty — arguing that the Google-devised auction favors US tech giants at the expense of European alternatives, undermining the EU executive’s wider tech ambitions.

“After more or less three to four quarters of auction we are now in the situation where the auction system is seeing the price going up and up every quarter,” Qwant CEO Jean-Claude Ghinozzi told TechCrunch. “The prices are going up and up and competition moves to the large search engine and the global search engine — or the ones that have the ability to invest a lot in this search auction.”

The result is a return to “unfair competition”, argued Ghinozzi, because the cost of acquiring users via Google’s auction is simply too high for smaller European competitors to participate. With the cost per click to win a slot on the choice screen inflating he suggested the current model essentially amounts to Google outsourcing the cost of its EU antitrust penalty to rivals.

“That’s in this letter to the commissioner. We require an urgent opportunity to discuss — inviting potentially Google if they [wish to participate] — that this mechanism doesn’t work,” he said, adding: “We are just starting to pay the bill for Google because at the end of the day we are getting to a level where it is not acceptable anymore for us as a [smaller] search [engine] to pay such an amount to Google just to be listed.”

“The system should be open and not related to any auction or payment and with a much larger list of search being proposed and provided to the new Android phone users,” he added, calling on the EU’s competition commissioner to “urgently” review the mechanism — and “propose some solutions for opening the European search [market]”.

“After more or less a year of the auction system being active we see that definitely they should look again because it does not work. It does not create a fair market and an open market. So that’s the reason we are coming now with this proposition — we urgently need to totally reconsider.”

Auction participants are constrained in what they can say publicly given Google’s requirement that they sign an NDA. This is another reason why they’re asking for a tripartite meeting — with the rivals expressing concerns that not every stakeholder involved in Google’s auction process is seeing the same data as Google is.

“The problem is that we don’t really know what Google says to the European Commission and what we fear is that they say some things to us that they don’t say to the European Commission,” said Guillaume Champeau, Qwant’s chief ethics and legal affairs officer. “The idea behind the tripartite meeting would be to ensure that we all have around the table the same kind of information and the same kind of answers to our concerns.”

Asked about the letter’s reference to a concern that the Commission is not receiving complete and/or accurate information from Google, Champeau also told us: “It’s really a matter of being sure that all that’s being said is the same. And that it doesn’t change depending on who is on the other side of the table.

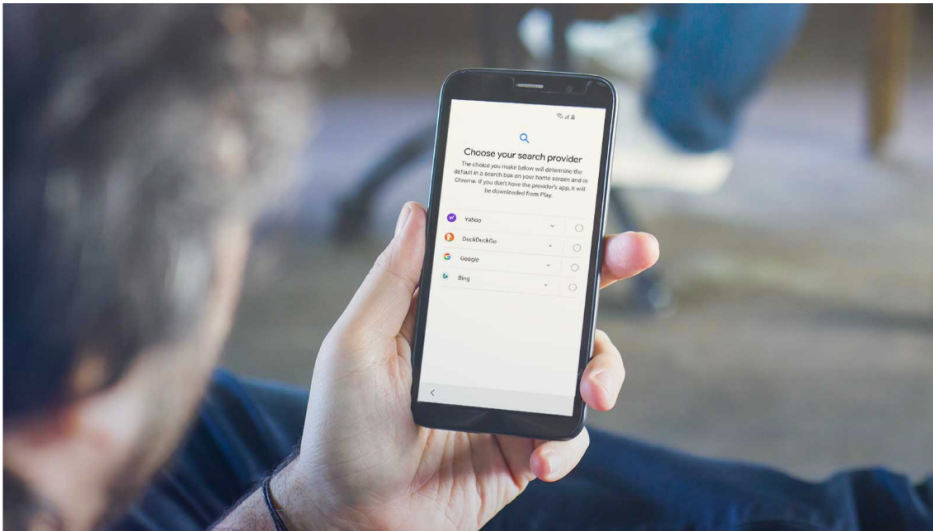
“We don’t understand why the European Commission wouldn’t ask for changes to the choice screen based on the information that we have. So the only guess that we have is that it’s based on information that is not accurate. Otherwise we would be probably sure that the European Commission would have required changes to the choice screen even sooner than today.”

“We need to design something that appeals, that resonates with Europeans in Europe,” added Ghinozzi, reiterating that the design of the mechanism shouldn’t be left to the same company that’s been fined for anticompetitive behavior and which maintains up to 90% marketshare in Europe.

We reached out to Google for a response to the complaints about the auction model and it sent us this statement, attributed to a spokesperson:

Android provides people with unprecedented choice in deciding which applications they install, use and set as default on their devices. The choice screen for Europe strikes a careful balance between giving users yet more choice and ensuring that we can continue to invest in developing and maintaining the open-source Android platform for the long-term. The goal for the choice screen is to give all search providers equal opportunity to bid — not to give certain rivals special treatment.

While the Commission has yet to offer any relief to the consistent complaints from Google’s search rivals that the paid choice screen doesn’t meaningfully reset the competitive landscape on Android it is set to introduce a legislation package next month which will update ecommerce regulations and introduce [a new set of obligations and requirements for so-called gatekeeper platforms](#) holding dominant market positions — a move that’s being widely interpreted as a push to clip the wings of US tech giants like Google.



Why you can't choose Ecosia on your new Android phone

03/03/2020

Update, September 29th 2020: *Ecosia won in one small market in the most recent Google led Android auction. We've long asserted that this pay-for-play model would force out purpose-driven businesses from the Android platform, and here is the proof of that. Ecosia is the biggest Europe-based search engine, yet users can barely access us in Android via the auction screen.*

Update, Jul 28th 2020: *We still believe Android users deserve the option to freely choose their search engine. However, due to the negative impacts of COVID-19 on our revenues, combined with no foreseeable regulation changes from the European Commission, we are left with no choice but to participate. We must protect our brand visibility and our ability to fund our tree planting projects.*

Google's so-called "choice screen" for Android just went live in Europe. This means that new Android devices will let their users choose their default search engine during the set-up process. This would be great if there wasn't a catch. Only search engines that pay Google will be displayed.

Android users deserve to choose their favorite search engine. Google's decision to sell that choice to the highest bidders is unethical and anti-competitive. Therefore, I announced that Ecosia would boycott this auction.

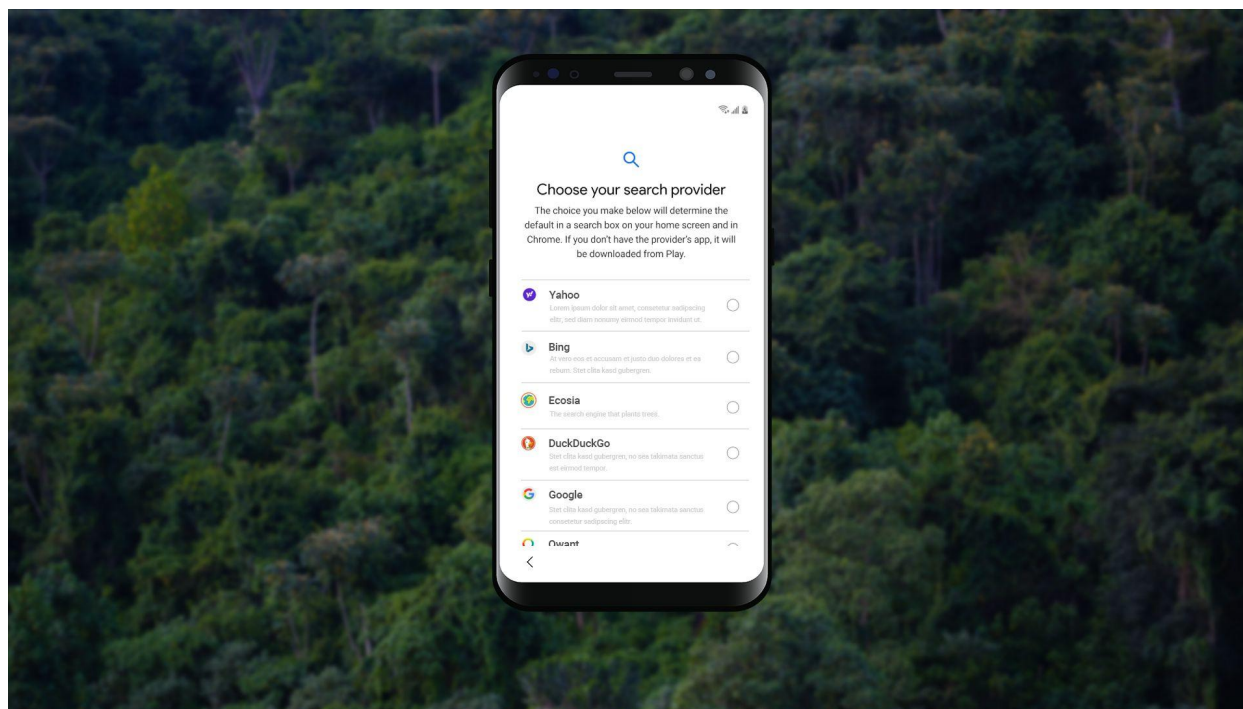
We didn't participate in the paid auction (and still don't) for various reasons.

Ecosia is a not-for-profit search engine. Taking part in Google's auction would force us to spend our income on an unnecessary bidding war with other (profit-oriented) search engines. We'd rather use it to plant trees on our endangered planet.

We also believe that it is unethical for a company with a dominant market position like Google to discriminate access to that market by artificially limiting user options, thereby creating scarcity where there is none.

In short, this "choice screen" is not a choice screen at all and is harmful for competition. So what should Google be doing instead?

Google should show a fair and open list, which ranks search engines based on their relevance to users, not on their willingness to pay to be seen. To be completely fair, this list should be unlimited and not preselected. Each search engine would have a description so users could make an informed decision based on their own preferences.



What the choice screen could look like

We, along with other alternative search engines, will continue to talk to the European Commission to advocate for fair competition in the search market. More news to come - watch this space!