

June 17, 2024

Amb. Chair David Huebner  
Vice Chair Xochitl Carrion  
California Law Revision Commission  
c/o Legislative Counsel Bureau  
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Ambassador Huebner, Vice Chair Carrion, and Commissioners:

It has come to the attention of the undersigned organizations that a representative from Google has been invited to present at the June 20th meeting of the California Law Revision Commission (“the Commission”) on the subject of technology platforms. We are deeply concerned by the Commission’s choice to elevate the voice of a confirmed illegal monopolist - one with a history of using its resources to cynically distort antitrust policy debates - in a conversation about reforming California’s antitrust law. We urge the Commission to retract its invitation for Google - or any other entity that receives funding from Google - to present at the meeting.

Google is a confirmed illegal monopolist that has already been found liable for violating federal and California state antitrust law. In *Epic Games v. Google*, video game developer Epic presented evidence that Google had used a wide variety of anticompetitive deals to kill competition and lock software developers into its Play Store, where Google collects anticompetitive fees on app purchases and in-app purchases.<sup>1</sup> These included billions of dollars in de-facto bribes Google paid out to major developers to discourage them from creating competing app stores, and revenue sharing agreements with phone makers to prevent them from pre-installing other app stores in their devices. In December of last year, a jury unanimously ruled against Google on all eleven counts.

The *Epic* verdict is just the first domino to fall in the current reckoning against Google’s far-reaching monopoly. Google’s alleged monopoly in the market for search services is being challenged by the Department of Justice and California Attorney General. At the time California joined the lawsuit, Attorney General Rob Bonta remarked, “Google’s market dominance leaves consumers and small businesses with little choice when it comes to internet search engines.” By using exclusionary agreements to dominate the market, Google has stifled competition and

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<sup>1</sup> Meghan Bobrowsky, Miles Kruppa, “Google Loses Antitrust Case Brought by Epic Games,” *Wall Street Journal* (Dec. 2024), <https://www.wsj.com/tech/google-loses-antitrust-case-brought-by-epic-games-651f5987>; Lee Hepner, “A Judge Can Break Up Google Right Now. Will He?” *The Big Newsletter* (April 2024) <https://www.thebignewsletter.com/p/monopoly-round-up-a-judge-can-break>

rigged the advertising market.”<sup>2</sup> Trial proceedings revealed Google paid over \$26 billion to be the exclusive default search engine on Apple devices, undermining competition and allowing Google to become complacent on privacy<sup>3</sup> and quality.<sup>4</sup> California has also joined the Justice Department in a lawsuit<sup>5</sup> alleging Google’s illegal monopolization of the digital advertising technology stack through serial acquisitions and auction manipulation, allowing the company to extract more than 30 cents of each dollar<sup>6</sup> spent on its products and starving media publishers of revenue.

Just as it would be inappropriate to invite a bank robber to recommend reforms to laws against robbing banks, we believe it is wholly inappropriate for Google to have a privileged voice in shaping the Commission’s recommendations regarding antitrust law. Google will certainly use this opportunity to recommend proposals that allow them to perpetuate their monopoly power, and discourage reforms necessary to facilitate a more fair economy.

Google’s historical engagement with antitrust policymaking is instructive. A major *Wall Street Journal* exposé<sup>7</sup> published this month revealed that Google paid millions to disgraced George Mason University law professor Joshua Wright to undermine Obama-era antitrust actions against Google in academic and popular writings that often failed to disclose Google’s funding. Google’s financial support for Wright included hundreds of thousands of dollars it donated to GMU’s Law and Economics Center, which published Wright’s research, while Wright served as a commissioner on the Federal Trade Commission. During that time, Wright led a successful push to limit the FTC’s authority to police unfair and deceptive business practices.

According to the *Wall Street Journal*, Google was informed of a Title IX complaint against Wright in June 2022. But Wright continued to produce academic and popular work advocating for Google’s interests on regulatory issues, signing a new six-month, \$430,000 contract with the

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<sup>2</sup> “Attorney General Becerra Moves to Join Federal Lawsuit Against Google for Anticompetitive Actions,” State of California Department of Justice (Dec. 2020) <https://oag.ca.gov/news/press-releases/attorney-general-becerra-moves-join-federal-lawsuit-against-google>

<sup>3</sup> Thomas Brewster, “Google’s Privacy Chief is Out and Will Not Be Replaced,” *Forbes* (June 2024) <https://www.forbes.com/sites/thomasbrewster/2024/06/04/googles-privacy-chief-is-out-and-will-not-be-replaced/?sh=4bc0219a7fc8>

<sup>4</sup> Thomas Germain, “You’re Not Imagining It: Google Search Results Are Getting Worse, Study Finds,” *Gizmodo* (Jan. 2024) <https://gizmodo.com/google-search-results-are-getting-worse-study-finds-1851172943>

<sup>5</sup> “Justice Department Sues Google for Monopolizing Digital Advertising Technologies,” U.S. Department of Justice (Jan. 2024) <https://www.justice.gov/opa/pr/justice-department-sues-google-monopolizing-digital-advertising-technologies>

<sup>6</sup> Emma Roth, “Google is being sued by the US government and eight states over online advertising,” *The Verge* (Jan. 2024) <https://www.theverge.com/2023/1/24/23569127/google-advertising-monopoly-antitrust-lawsuit-federal-government>

<sup>7</sup> Brody Mullins, “The Hidden Life of Google’s Secret Weapon,” *Wall Street Journal* (June 2024) [https://www.wsj.com/us-news/law/google-lawyer-secret-weapon-joshua-wright-c98d5a31?mod=article\\_relatedinline](https://www.wsj.com/us-news/law/google-lawyer-secret-weapon-joshua-wright-c98d5a31?mod=article_relatedinline)

firm in June 2023. Google did not cut ties with Wright until the allegations of sexual misconduct began to circulate widely online.

The company's willingness to break ethical norms to tip the scales of antitrust debates reveals its fundamental contempt for public interest governance. If given a privileged seat at the Commission, Google will cynically cast its own interests as the interests of consumers and the public. The success of this strategy in shaping Obama-era policy decisions has resulted in clear harms to consumers, honest businesses, the entire media industry and our democracy, as revealed by today's antitrust suits.

Furthermore, we believe the Commission's decision is misguided in light of who is excluded. The constrained format of Commission meetings means Google has a seat at the table while representatives of the many constituencies affected by platform monopolies like Google are excluded: software developers and startups, journalists, consumers, labor organizations, and many more. This is a puzzling prioritization given the Commission's mandate to outline a path to reform and modernize California's antitrust laws in the broader public interest, following examples like the 21st Century Antitrust Act in New York.

In summary, the Commission's decision to elevate a confirmed illegal monopolist and antitrust policy saboteur over other stakeholders at its meeting on technology platforms does not communicate an earnest commitment to reinvigorating California's antitrust laws. We respectfully recommend the Commission rescind its invitation for Google to provide a public oral presentation to the Commission, and, further, to require all other presenters to fully disclose any relevant sources of funding.

Sincerely,

The American Economic Liberties Project  
Institute for Local Self-Reliance  
Rise Economy