

North America**Bork and Sidak defend Google against critics**Faaez Samadi • Monday, 8th October 2012 (*Yesterday*)

Two leading competition experts have released a report commissioned by Google dismissing the many complaints against the company alleging anti-competitive practices in the online search market.



Judge Robert Bork

US appeals court Judge Robert Bork and Gregory Sidak, professor of law and economics at Tilburg University in the Netherlands and chairman of Criterion Economics, say Google's search and ranking algorithms are not anti-competitive, but rather an innovative product improvement in the search market that has allowed Google to gain significant market share

Their report, entitled *What Does the Chicago School Teach About Internet Search and the Antitrust Treatment of Google?*, WAS released last Friday amid the company's

investigation by global competition authorities for abuse of dominance.

"Punishing Google for being the most effective search competitor would harm consumers and thus contradict the recognised purpose of antitrust law," say Bork and Sidak. They also cite Judge Frank Easterbook, who said that all successful competitive practices create victims, and questioning every practice that does so would be counterproductive.

Bork and Sidak also dismiss complaints that Google's specialised search function unfairly promotes its own rankings above those of its competitors.

"Google would employ a particular ranking methodology only if it helps to attract and retain search engine users," they say in the report. "Google's competitors do the same thing, including offering specialised search. Antitrust intervention that would prohibit or circumscribe Google's practices would punish and therefore deter the same welfare-enhancing innovations that have made Google an effective competitor."

John Taladay, at Baker Botts in Washington, DC, says the paper is based on an "axiomatic premise" that the antitrust laws are designed to protect consumers, not competitors.

"That is certainly reflective of Judge Bork's longstanding contributions to competition policy," Taladay says. "But the devil is in the detail, and the agencies

– while recognising that the complaints against Google are sponsored by competitors and should be suspect – are likely to focus on whether the exclusionary potential of Google’s specialised search results will harm consumers. That is a very fact-intensive inquiry that goes beyond the scope of the Bork/Sidak paper.”

Google did not respond to a request for comment.

The company is in discussions with the European Commission over a potential settlement, while the US Federal Trade Commission’s investigation continues.

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