ML STRATEGIES

DOJ Scraps Proposal to Require Google to Sell AI Investments — AI: The Washington Report

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VIEWPOINT TOPICS

- Artificial Intelligence
- AI: The Washington Report

- The Department of Justice (DOJ), along with 38 state attorneys general, has backed away from part of its proposed remedy in the Google antitrust case that would have required Google to divest its AI investments and forgo future investments in AI companies. Google had contended that national security dictated that it retain its AI investments.
- The DOJ instead asks the federal trial court to require Google to provide advance notice of its transactions involving AI; the DOJ continues to ask the court to require Google to sell off Chrome, among other changes.
- The trial court will hold a hearing on April 21 on what remedies should be imposed after the same court ruled in August 2024 that Google had illegally monopolized search markets.
- The decision by the DOJ under the Trump administration to abandon the initial AI divestment remedy — put forth by the DOJ under the Biden administration — is the first concrete sign of a divergence between the two administrations on how closely AI should be regulated and scrutinized by the DOJ.
- The current DOJ's position to allow Google to keep its AI investments is in line with the Trump administration's broader deregulatory and hands-off approach to AI.

The Department of Justice (DOJ), along with 38 state attorneys general, have backed away from part of its proposed remedy in the Google antitrust case that would have required Google (Alphabet, Inc.) to divest its AI investments and forgo future investments in AI companies. In its **revised proposed final judgment**, the DOJ is instead suggesting that Google be required to provide advance notice of transactions involving AI; the DOJ continues to ask the court to require Google to sell off Chrome, among other changes. The trial court will hold a hearing on April 21 on what remedies should be imposed after the same court ruled in August 2024 that Google had illegally monopolized search markets.

The decision by the DOJ under the Trump administration to abandon its initial proposed AI divestment remedy — put forth by the DOJ under the Biden Administration — is the first concrete sign of a divergence between the two administrations on how closely AI should be regulated and scrutinized by the DOJ. The current DOJ's move to allow Google to keep its AI investments, despite concerns that its AI investments could further entrench its monopoly, is in line with the Trump administration's broader deregulatory and hands-off approach to AI, which **we've written about**.

Google's Monopoly of Search Markets

In August 2024, a federal judge ruled that Google had illegally monopolized the general search services and general search text ads markets. As **we covered**, the court found that Google used exclusive agreements to control half the market for search and nearly half the market for general search text ads. The decision stemmed from a 2020 **complaint** against Google initiated by the DOJ's Antitrust Division during the first Trump administration. Notably, the court agreed to bifurcate the liability and remedy phases of the monopoly case, ruling in August only on Google's liability.

Initial Proposed Remedy: AI Divestments

In the remedy phase, the DOJ under the Biden administration initially proposed for Google to sell off its AI investments and forgo any future investments into "any company that controls a search access point or an AI product." In the DOJ's November 2024 **initial proposed final judgment**, the DOJ argued that such AI companies "are potential entrants into the GSE (general search engines) or Search Text Ads markets" — two markets that Google had monopolized — and are "reasonably anticipated competitive threats to GSEs." Thus, to DOJ, Google's investments in AI companies would allow it to further entrench its monopoly in the search engine markets.

In response to the initial proposed remedy, Google **said** the "proposal would hurt consumers and America's global technological leadership." It specifically argued that the proposal would "chill our

investment in artificial intelligence, perhaps the most important innovation of our time, where Google plays a leading role."

An AI company in which Google invests also told the federal court that the initial proposed remedy would harm competition in the AI space. In a February 2025 **filing**, the AI company argued that requiring Google to sell its stake in the company would depress the company's market value, "seriously impacting [its] ability to develop new products and remain competitive in the tight race at the AI frontier." Furthermore, the AI company argued that any damages to its own competitiveness would increase the market power of its much larger rivals, "creating the very injury to competition that Plaintiffs [i.e., DOJ and the States] seek to address."

Revised Proposed Remedy: Advanced Notification

In its March 2025 **revised proposed final judgment**, the DOJ explained its decision to back away from asking the court to require Google to divest from its AI investments: "Evidence gleaned from remedies discovery," according to the DOJ, "indicates a risk that prohibiting Google from owning or acquiring any investment or interest in any … rival query-based AI products or ads technology could cause unintended consequences in the evolving AI space."

In place of the divestment remedy, the DOJ proposed an "advance notification provision to permit a review of proposed transactions" by Google, requiring the technology giant to notify the DOJ of any transactions involving AI. The DOJ included the notification provision because of its concern "about Google's potential to use its sizable capital to exercise influence in AI companies."

DOJ Requests More AI Data from Google

The revised proposed final judgment would also require Google to share information with competitors about its use of user-side data deployed to train its AI models in search and ads. In a March 10 status hearing, the DOJ also requested that Google provide the DOJ with detailed information about the data used to train its AI models so that the DOJ can "create a remedy that works." Google is expected to argue against the data sharing provisions on the grounds that they would violate technical restrictions and raise concerns around privacy and national security.

The hearing on the proposed remedies is scheduled to begin on April 21 and conclude by May 9. We will continue to monitor, analyze, and issue reports on developments relating to the litigation.

Authors

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