

About the Google Shopping Case

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The speaker's firm (but not the speaker) represents Google in this case. All views and positions expressed here are personal and not attributable to the firm or any of its clients.



Some controversial issues

- market definition
- Causation
- Effects on competition
- Legal test of abuse

Product market definition online

- In an online environment, blurred distinctions between content providing, advertising, commercial transactions
- Compare with traditional media (two-sided market): tv must distinguish advertising, less interaction between viewers and contents
- Online: less regulation (e.g. advertising limits), ads and content mix up, click to ads leads to shopping
- Freedom to navigate also makes tying/bundling more difficult
- Enhanced complementarity of online services/contents (e.g., information or entertainment through online news, videos, search facilities on different websites, etc.)

The screenshot shows a Google search for "microwave oven". The search bar at the top contains the text "microwave oven". Below the search bar, there are navigation tabs: "Web", "Shopping", "Images", "Videos", "News", "More", and "Search tools". The search results indicate "About 37,200,000 results (0.24 seconds)".

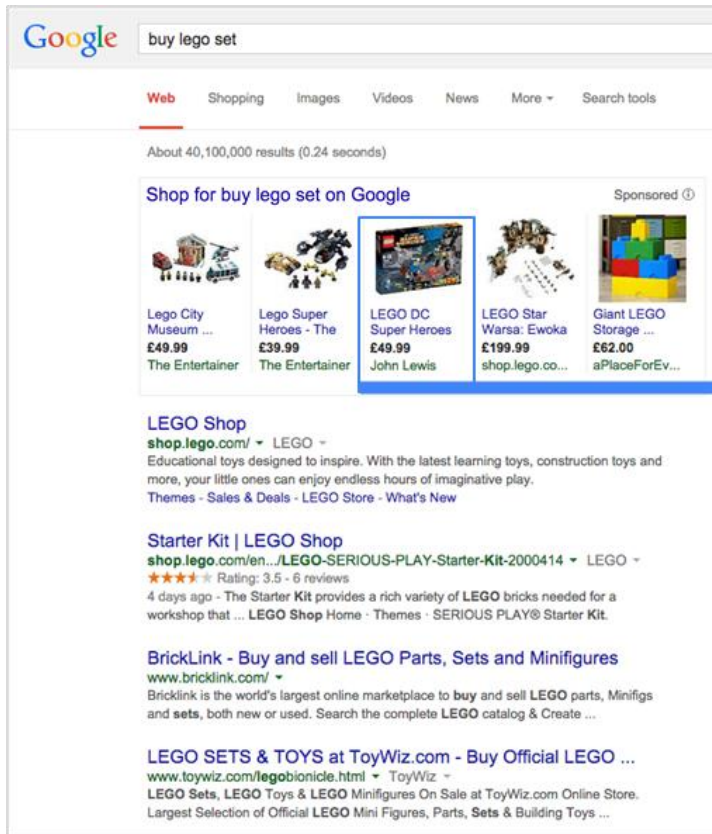
A section titled "Shop for microwave oven on Google" is circled in black. It contains five product listings, each with an image of a microwave oven, the product name, price, and the retailer's name and rating:

Product	Price	Retailer	Rating
Tesco Mmb09 17l Microwave	£30.00	Tesco.com	★★★★★ (467)
Tesco Mg2011 Microwave	£48.00	Tesco.com	★★★★★ (84)
Tesco Mm08 Value 17l Solo	£35.00	Tesco.com	★★★★★ (860)
Russell Hobbs Rhm2017 20l	£56.50	Tesco.com	
Buffalo GK643 Commercial ...	£201.60	Catering Appl...	

Below the circled section, there are three advertisements:

- Microwave Oven at Amazon - amazon.co.uk**
Ad www.amazon.co.uk/microwave+oven
Low Prices on Microwave Oven. Free UK Delivery on Eligible Orders
- Microwave Ovens - AO.com**
Ad appliancesonline.ao.com/Microwaves
Great Range Available, No Deposit Finance & Free Delivery
Recognised for excellent customer service – Google Certified Shops
Ratings: Prices 10/10 - Delivery cost 10/10 - Service 9.5/10
- Microwaves - Cheap Microwaves Deals | Currys**
www.currys.co.uk/gbuk/household.../microwaves/.../xx-criteria.html

Product market definition: Google Shopping case



Shopping Units appear in ad space, are marked as “Sponsored”, and clicks on them lead users to third-party advertisers

Because Shopping Units contain ads, they are ranked based on different mechanisms than apply to free results



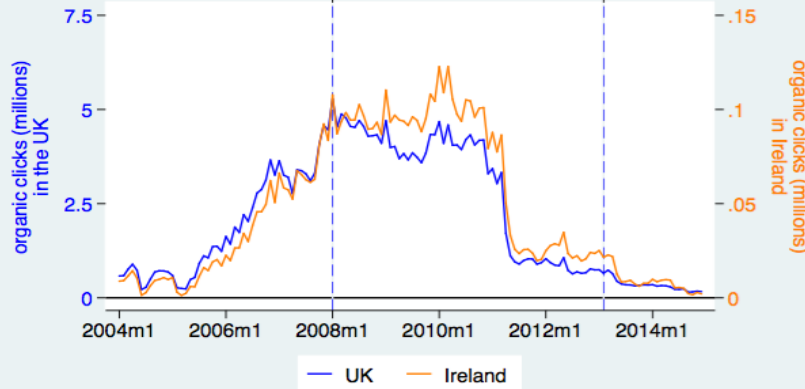
- To Google, Shopping Units (SUs) are ads: the revenue-generating side of generic search (GS).

Product market definition: Google Shopping case

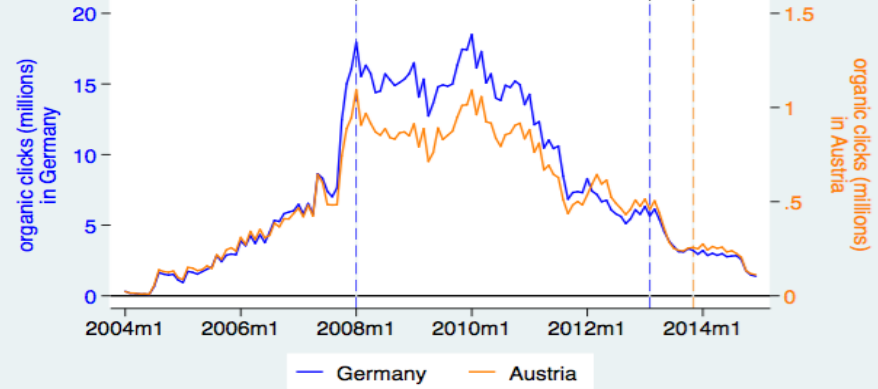
- To the Commission, SUs and price comparison websites are in a specialised search market for comparison shopping services (CSS), different from GS, online search advertising (OSA) and merchant platforms (MP).
- Pidgeon-holes, but with overlaps (complementarity/limited substitutability). Questions:
 - must GS not answer product searches? Must GS provide worst-quality answers than CSS to preserve market boundaries? Must GS cease to act as a proprietary business to provide CSS-grade answers?
 - are online ads like store windows and part of the shop? Or just improved ads (sponsored sales vs. plain tv spots)?
 - do merchant platforms (Amazon, e-Bay) not answer product searches? If ads are shops, then why are shops in a different market?
 - Disruptive innovation makes market definition less important (PCs vs. typewriters), should one look more at competitive constraints?

Causation (1): Showing SUs did not impact traffic to CSSs

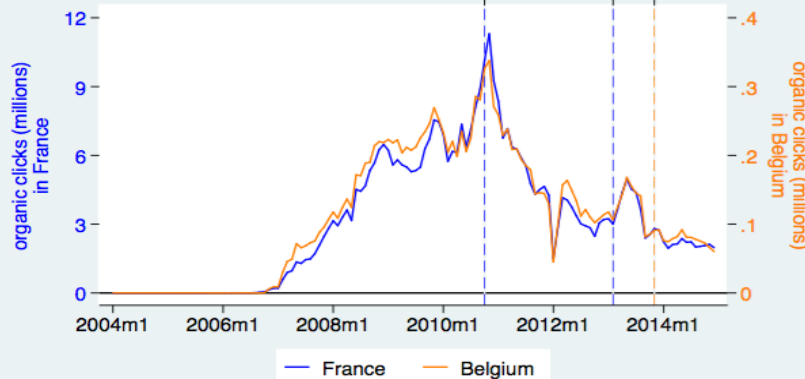
UK vs Ireland



Germany vs Austria



France vs Belgium

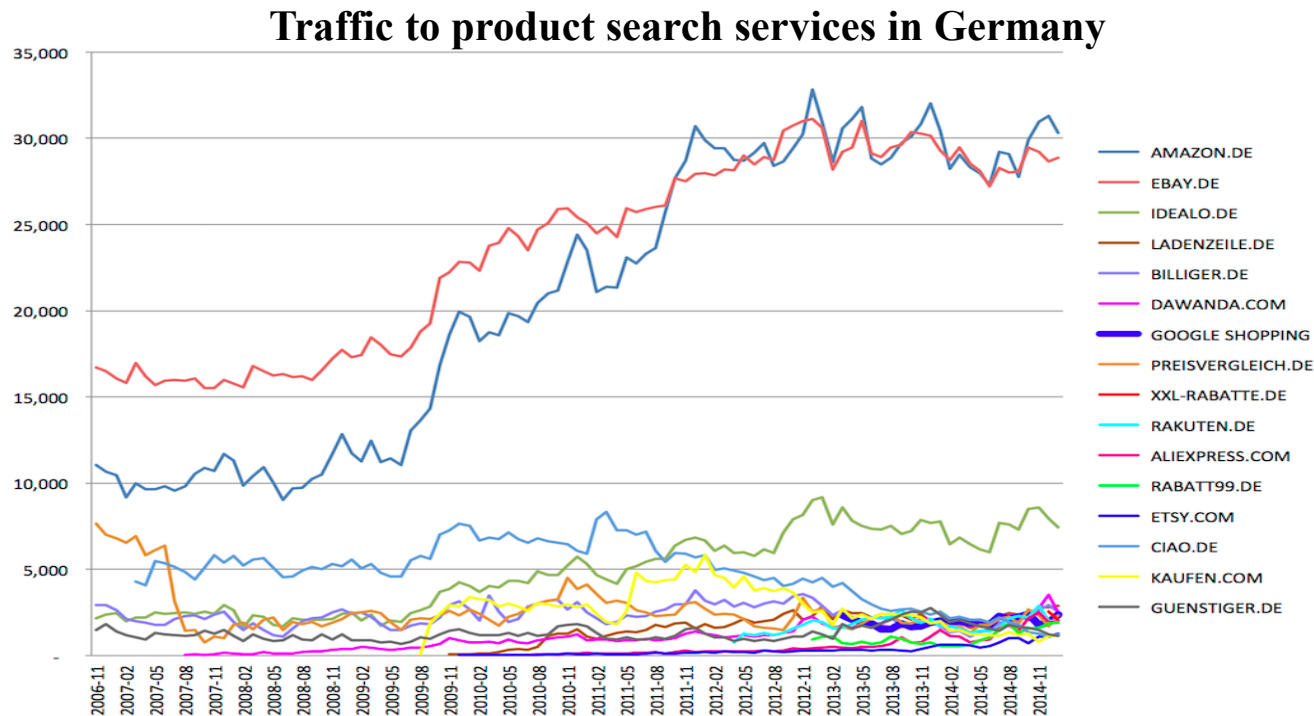


Blue line = country with Shopping Unit
Orange line = country without Shopping Unit (or only later)

Trends are the same. Shows that CSS traffic loss is not caused by Google showing Shopping Units

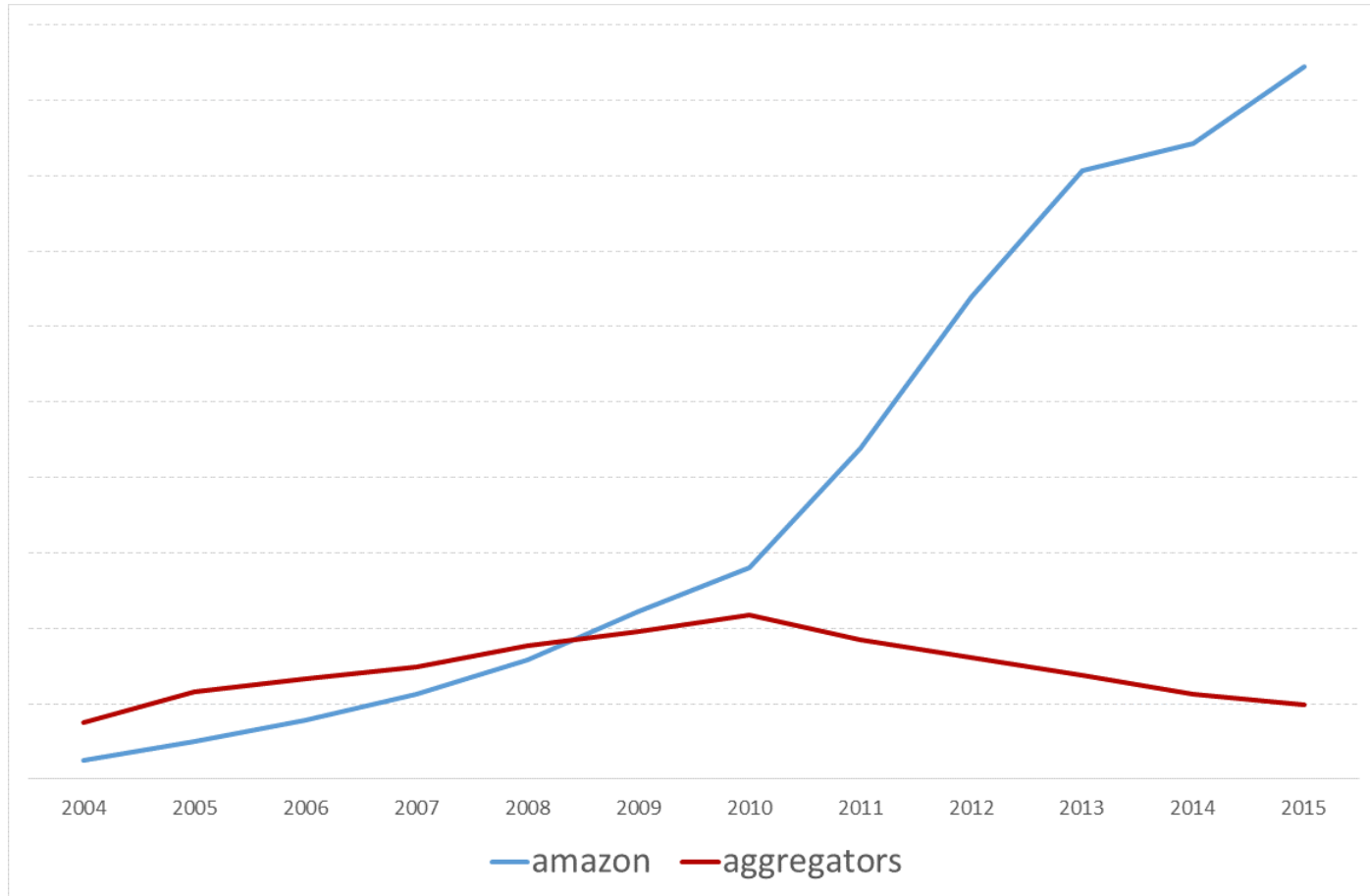
Causation (2): merchant platforms

- The EC says that Amazon and eBay do not compete with CSSs because, in addition to product search and comparison functionality, they also allow users to buy products on their websites
- But additional functionality (offered free of charge) is no reason to exclude players from the market (consider a SSNIP or SSNDQ test)



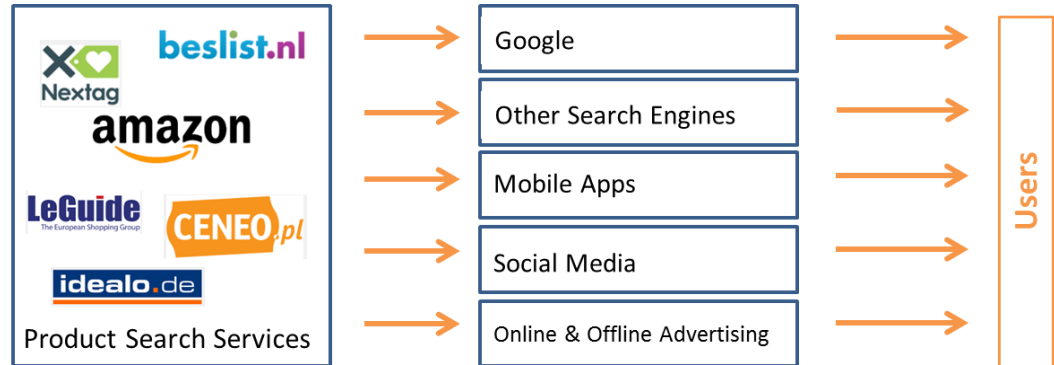
Causation (3): merchant platforms

Total Google Traffic: Aggregators vs. Amazon 2004-2016 (UK)

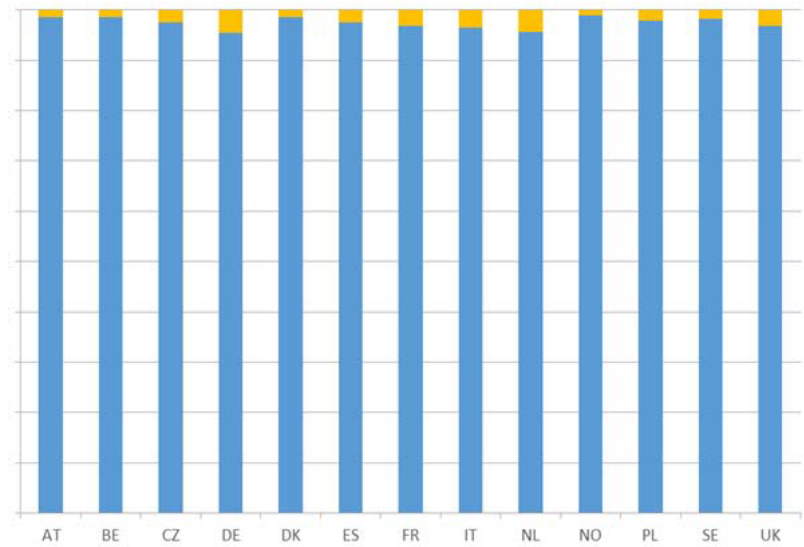


Effects on competition

- CSS continue to operate
- Different sources of traffic to CSS. GS traffic directed to SU not indispensable.



- Limited impact of SU traffic (yellow) on total traffic received by aggregators, as measured by Google (EU Commission takes issue with it)



Legal test of abuse

- Leverage without tying, discrimination without indispensability
- *Bronner* on refusal to supply watered down by *Teliasonera* in margin squeezes cases.
- *Slovak Telecom* (2014) applies *Teliasonera* doctrine to constructive refusal to supply:
 - input may not be essential, as long as it is important
 - but there must be a supply relationship between the dominant firm and customers/competitors in the downstream market where the dominant firm also operates
- In Google Shopping, CSS benefit from a free by-product of GS services. There is no disruption of supply. Product development or ads improvement – spurred also as a response to Amazon (and E-Bay)’s rise – leads to reduced spillover benefits for CSS. Is that an abuse?
- How does the “favouring” charge fit with vertically-integrated walled garden models of many big internet-based companies? More to come...



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