

HIGHLIGHTS

2025 Cumulative Supplement

The federal government and 17 states brought an antitrust action against Google LLC, the defendant, in which they claim that the defendant has monopolized three digital advertising technology markets in violation of Section 2 of the Sherman Act and has tied its products in these markets together in violation of Sections 1 and 2 of the Sherman Act. The defendant engaged in unlawful tying of its publisher ad server (DFP) to its ad exchange (AdX), violating both Section 1 and Section 2 of the Sherman Act. Applying the four-element test for proving an unlawful tying claim under Section 1, the court determined that DFP and AdX are separate products that are not reasonably interchangeable. The defendant conditioned the purchase of AdX on the purchase of DFP, and it is not economically feasible for publishers to use more than one publisher ad server. AdX's real-time bidding feature is essential for publishers, and non-DFP ad servers did not have access to that feature. The defendant had sufficient economic power in the ad exchange market to restrain competition in the publisher ad server market. AdX charges supracompetitive prices, is nine times larger than the closest competitor, and is protected by high barriers to entry. Further, the defendant derives much of its monopoly power on the buy-side of digital advertising from its dominant search function. The tying had a substantial impact on interstate commerce. And this tying conduct contributed significantly to the defendant's maintenance of monopoly power in the publisher ad server market, violating Section 2 of the Sherman Act. The court also found that the tie violated Section 2 by contributing to the defendant's maintenance or creation of monopoly power, including by increasing its dominance in the publisher ad server market to 90% from 2018 to 2022, despite customer acknowledgment that it was not the best ad server in the market. See § 84