

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

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In the Matter of:	)	
	)	
Preserving the Open Internet	)	GN Docket No. 09-191
	)	
Broadband Industry Practices	)	WC Docket No. 07-52
	)	
	)	
	)	
_____	)	

**COMMENTS OF FOUNDEM**

Foundem<sup>1</sup> hereby submits reply comments in response to the Commission’s *Preserving the Open Internet* Notice of Proposed Rulemaking in GN Docket No. 09-191 and WC Docket No. 07-52.

**Introduction**

Foundem welcomes the Commission’s commitment to seeking fact-based answers in determining whether to adopt rules that support Internet openness.

Foundem recently outlined its case for search neutrality, arguing that the scope of the FCC’s proposed Open Internet rules should be expanded to apply to search engines as well as to ISPs (Search But You May Not Find, *New York Times*<sup>2</sup>).

Search engines have become the Internet’s gatekeepers and are arguably as essential a component of its infrastructure as the network itself. Google’s overwhelming dominance of search and search advertising, coupled with its ability to arbitrarily penalise rivals and systematically favor its own services, makes the need for search neutrality particularly pressing.

Foundem’s present submission describes in more detail why Google’s Universal Search mechanism poses an immediate threat to healthy competition and innovation.

**Universal Search: Google’s Unassailable Competitive Advantage**

In May 2007, Google introduced what it calls “Universal Search”—a mechanism for automatically inserting its own services into prominent positions within its natural search results.

The following screenshot shows an example of Google’s own price comparison service, Google Product Search, inserted at the top of Google’s search results:

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<sup>1</sup> <http://www.foundem.co.uk/>  
<sup>2</sup> <http://www.nytimes.com/2009/12/28/opinion/28raff.html> 28 December 2009.

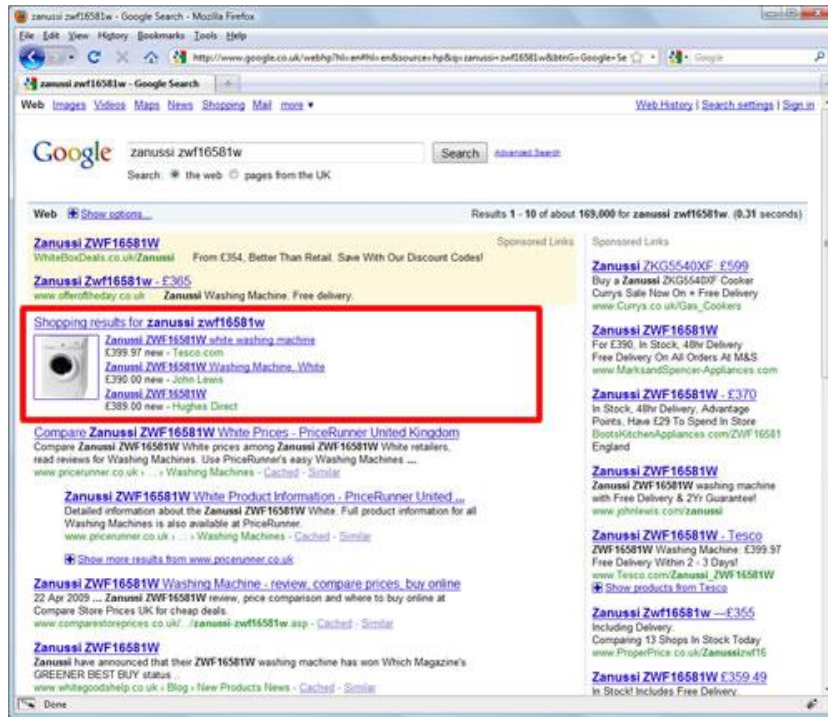


Figure 1: Google search results for the query “zanussi zwf16581w” showing a prominently placed Universal Search result from Google’s own price comparison service, Product Search, as the top result (outlined in red for emphasis).

The following two screenshots show examples of three of Google’s own services inserted near the top of Google’s search results, illustrating how little of the page can remain available “above the fold” for actual search results:

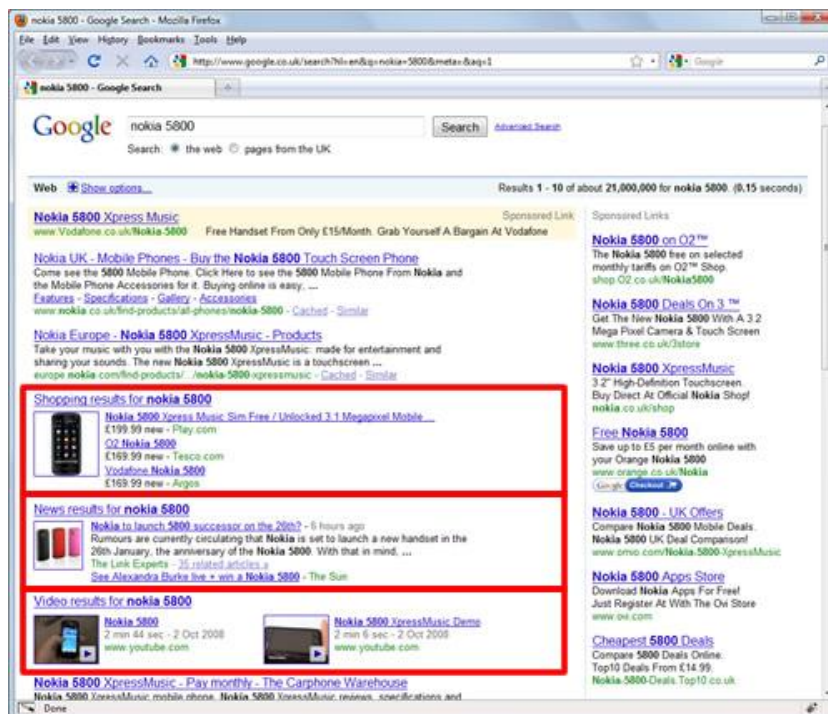
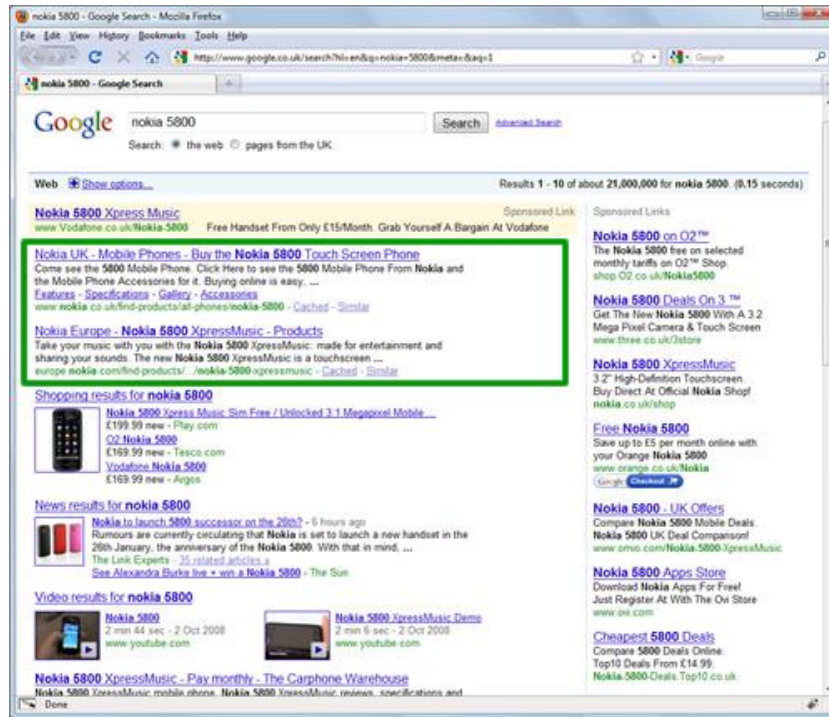


Figure 2: Google search results for the query “nokia 5800” showing three of Google’s own services (Google Product Search, Google News, and Google’s YouTube) placed third, fourth, and fifth (outlined in red).



**Figure 3: Google search results for the query “nokia 5800” illustrating how little of the page can be left available “above the fold” for actual search results (outlined in green) after Google has inserted its own services and sponsored links.**

Crucially, Google determines the exact placement of its own services independently of the ranking algorithms it uses to determine the relative placement of all other results.<sup>3</sup> The degree of favoritism—whether they appear first or third, for example—is therefore entirely at Google’s discretion. Google calls this process of merging its own services with actual search results “blending” (others have justifiably called it “bundling”<sup>4</sup>).

*“Over several years...we've built the infrastructure, search algorithms, and presentation mechanisms to provide what we see as just the first step in the evolution toward universal search...using it to blend content from [Google] Images, [Google] Maps, [Google] Books, [Google] Video, and [Google] News into our web results.”* Marrison Mayer, VP Search Products, May 2007<sup>5</sup>

Universal Search transforms Google’s ostensibly neutral search engine into an immensely powerful marketing channel for Google’s other services. When coupled with Google’s 85% share of the global search market<sup>6</sup>, this gives Google an unparalleled and virtually unassailable competitive advantage, reaching far beyond the confines of search. Universal Search allows Google to leverage its search engine monopoly into virtually any field it chooses. Wherever it does so, competitors will be

<sup>3</sup> “This universal ranking system borrows heavily from our core expertise in web ranking, but also has new elements to leverage special signals pertinent to some of the verticals and to manage the page layout when results ought to be grouped.” David Bailey, Head of Development for Universal Search, August 2007. <http://searchengineland.com/an-insiders-view-of-google-universal-search-12059>

<sup>4</sup> <http://nyls.mediasite.com/mediasite/SilverlightPlayer/Default.aspx?peid=bc9182b40a2d422194adaacc2ef5a201> Gary Reback speaking at the *D Is For Digitise* conference

<sup>5</sup> <http://googleblog.blogspot.com/2007/05/universal-search-best-answer-is-still.html>

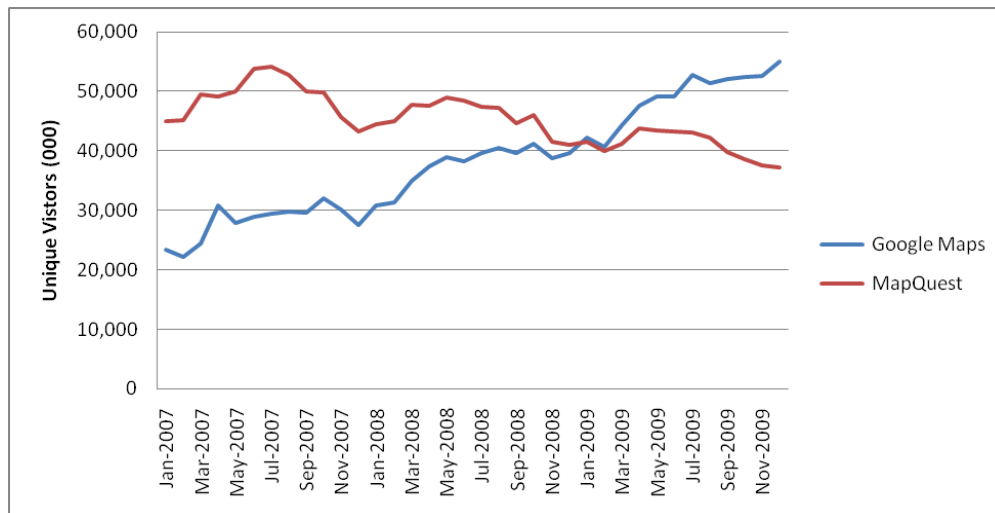
<sup>6</sup> <http://marketshare.hitslink.com/search-engine-market-share.aspx?qprid=5>

harmful, new entrants will be discouraged, and innovation will inevitably be suppressed.

These are not hypothetical risks. Although Universal Search is still in its infancy, there are already compelling examples of the harm it has done to competitors across a range of markets.

### Example 1: Online Mapping

The preferential placement of Google Maps at the top of Google's search results, which began in May 2007, played a significant role in unseating MapQuest from its position as the US's leading online mapping service.



**Figure 4: Unique monthly US visitors to Google Maps and MapQuest between January 2007 and November 2009 (Source: ComScore<sup>7</sup>).**

Some will suggest that the rapid rise of Google Maps can be attributed to superior functionality. But an analysis by Heather Hopkins of Hitwise found that many more users were still actively searching for MapQuest than for Google Maps at the time when Google Maps' traffic was surpassing MapQuest's; she concluded that Google Maps' rising traffic was the direct result of its preferential placement in Google's search results:

*"The ascent of Google Maps is a result of the [Universal Search] shortcut in the search results on Google... Google Maps received visits from 72,074 unique search terms in the past four weeks, compared to 11,466 for MapQuest.*

*MapQuest receives most of its search traffic from searches for its brand name - in other words from people actively searching for MapQuest. In the past four weeks 8 of the top 10 search terms sending visits to MapQuest were queries for the brand name, such as "mapquest", "map quest" and "mapquest driving directions". These 8 terms accounted for 62% of visits from search to the MapQuest website. Contrast that to Google Maps for which only 2 of the top 10 terms were branded and these only accounted for 4.2% of the site's search traffic.*

*As long as Google dominates search, MapQuest will face a tough battle for visits."*<sup>8</sup>

<sup>7</sup> The raw data used in this and ensuing figures attributed to ComScore is drawn from a Long Term Media Trends report commissioned by Foundem from ComScore in January 2010

Visitor numbers to the UK's leading online mapping services show a similar pattern of erosion:

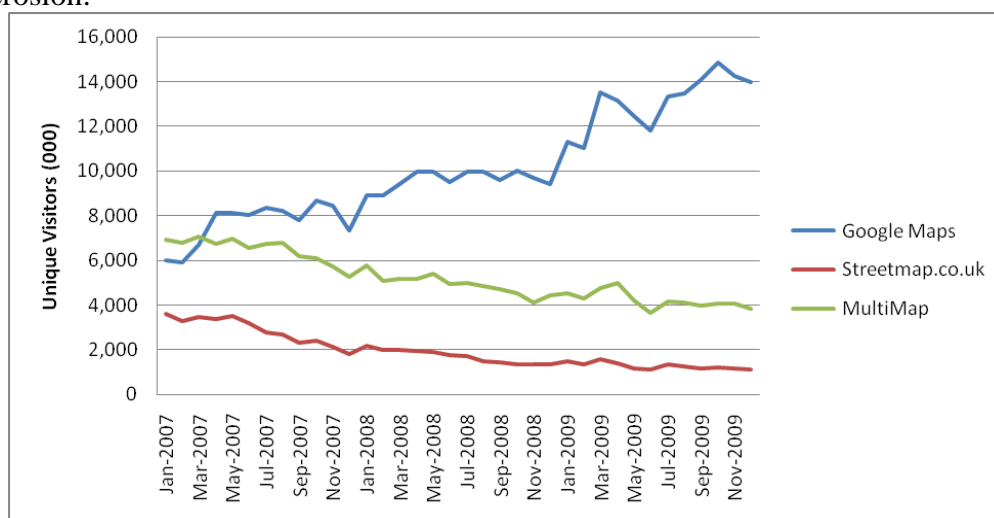


Figure 5: Unique monthly UK visitors to Google Maps, StreetMap, and MultiMap between January 2007 and November 2009 (Source: ComScore).

### Example 2: Product Price Comparison

Striking evidence of the anti-competitive effects of Universal Search can also be found in the product price comparison market. This example is particularly compelling, not least because Google's own service, Google Product Search (formerly Froogle), has been around since 2002 and was largely unsuccessful until its promotion through Universal Search:

*“Traffic to Google Product Search...has plummeted in the last year, while competing services from rivals...have grown or held steady...But Google Product Search, so far, represents for the Internet juggernaut a not particularly rare failure...Google Product Search...saw its October [2007] unique visitor count decline a huge 79% from October 2006, according to market tracker ComScore.”* Google's Pitch So Far Failing With Shoppers, CNN Money, December 13 2007<sup>9</sup>

*“Traffic to Google Product Search -- formerly Froogle -- fell by 73.26%. This isn't too surprising, because it's not very good.”* Jack Schofield, The Guardian, 23 December 2007<sup>10</sup>

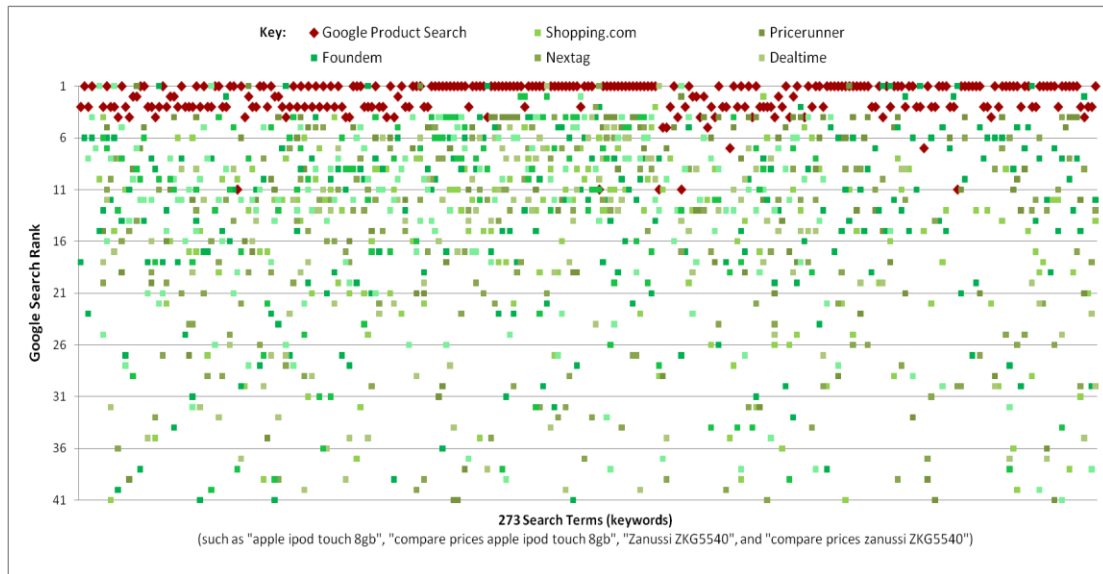
In December 2007, ironically just days after these articles were written, Google began promoting its beleaguered Product Search service through Universal Search. At the flick of a switch, this immediately placed Google's own price comparison service at or near the top of Google's search results for the vast majority of product-related shopping searches.

<sup>8</sup> <http://weblogs.hitwise.com/us-heather-hopkins/2009/02/google-maps-edges-closer-to-ma-1.html>

<sup>9</sup> <http://money.cnn.com/news/newsfeeds/articles/newstex/IBD-0001-21631837.htm>

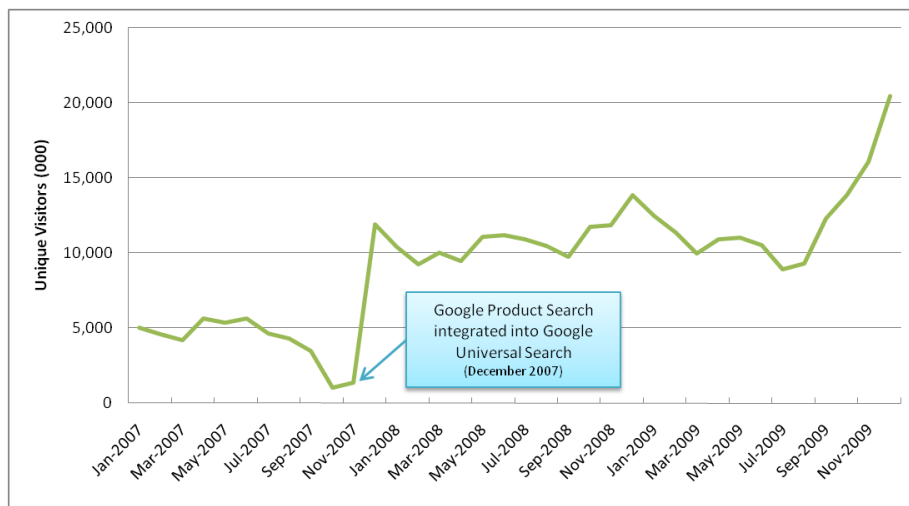
<sup>10</sup> <http://www.guardian.co.uk/technology/blog/2007/dec/23/googlesgrowthbycomscorenum>

Foundem's analysis of Google search results across a broad sample of product- and price-comparison-related search terms reveals the jaw-dropping scale and breadth of Google's preferential placement of its own price comparison service:



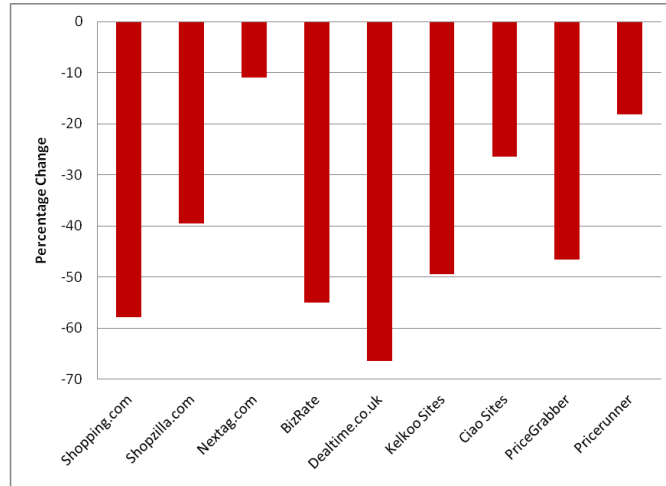
**Figure 6: Google ranking of leading UK price comparison sites across a broad sample of product-price-comparison-related search terms, as of 29 January 2010. Google Product Search results are shown in red; other price comparison service results are shown in shades of green.**

To assess the impact of such comprehensive self-promotion, Foundem commissioned Long Term Media Trends data from ComScore for the leading players in this market. Not surprisingly, the data reveals a dramatic turnaround in Google Product Search's fortunes:



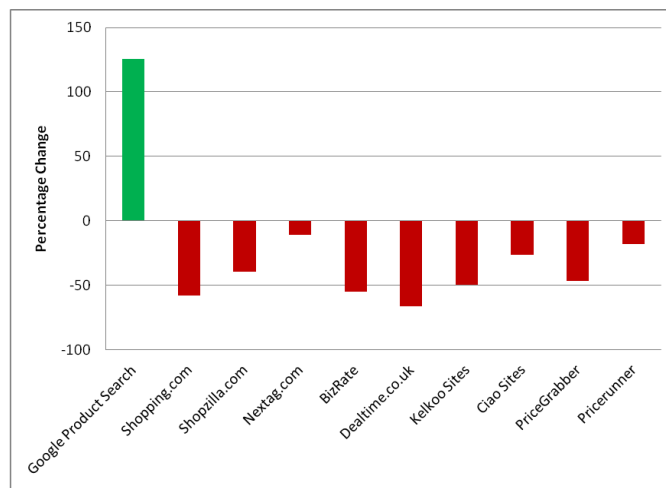
**Figure 7: Unique monthly US visitors to Google Product Search between January 2007 and November 2009 (Source: ComScore).**

This significant increase in traffic to Google Product Search seems to have been largely at the expense of competing services. The following chart shows the percentage change in the number of unique monthly visitors to leading UK price comparison services between October 2007 (shortly before Google started to incorporate its price comparison service into Universal Search) and October 2009 (by which time, Google’s price comparison results were being displayed for the vast majority of product-related shopping searches):



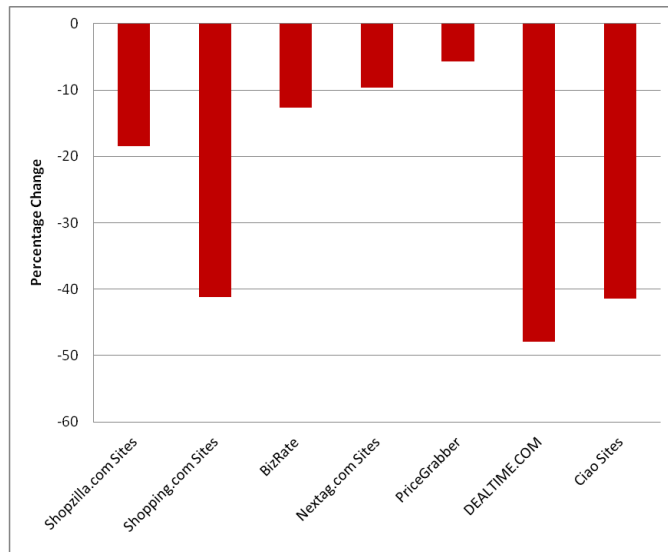
**Figure 8: Percentage change in number of unique monthly visitors to the UK’s leading price comparison sites from October 2007 to October 2009 (Source: ComScore).**

Whereas visitors to the UK’s leading product price comparison services fell by an average of 41% over this period, UK visitors to Google Product Search grew by 125%:



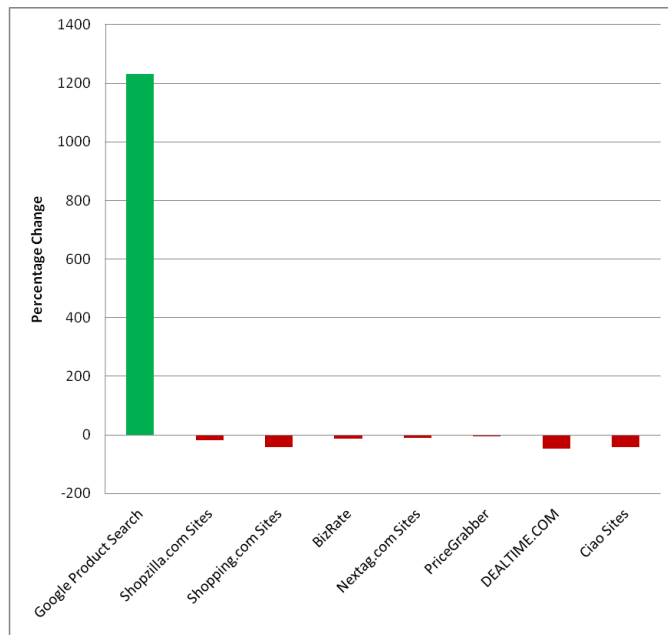
**Figure 9: Percentage change in number of unique monthly visitors to the UK’s leading price comparison sites (including Google Product Search) from October 2007 to October 2009 (Source: ComScore).**

Visitor numbers to the US's leading product price comparison services show a similar pattern of erosion over the same period:



**Figure 10: Percentage change in number of unique monthly visitors to other US Price Comparison sites from October 2007 to October 2009 (Source: ComScore).**

By contrast, during this period, US visitors to Google Product Search grew by a remarkable 1,232%:



**Figure 11: Percentage change in number of unique monthly visitors to US Price Comparison sites (including Google Product Search) from October 2007 to October 2009 (Source: ComScore).**

*“[Previously], Google product search struggled to get used by more than 2% of Google users...[Since its inclusion in Universal Search,] Google Product Search has become the largest and most important specialty shopping search engine in existence...Google is the king for now and the foreseeable future in this space... yet their shopping product itself is still inferior in its presentation*

*and usability to some of the other leading shopping search engines.”*  
InstantROI, 26 November 2008<sup>11</sup>

## Conclusion

Through Universal Search, Google can divert traffic from its competitors to its own services largely at will.

The rollout of Universal Search has been gradual, and, to a large extent, unnoticed by users. Google already gives preferential placement to its own Map, News, YouTube, Book, and Product Search services, and it has made it clear that it plans to continue expanding this practice into new services.

The two examples considered here illustrate the discriminatory market power of an overwhelmingly dominant search engine allowed to systematically favor its own services. But these examples are just the tip of the iceberg. Similar harm to competition and innovation is inevitable when Google extends this strategy into new domains, such as financial search, travel search, property search, job search, social networking, browsers, operating systems, mobile, and so on.

There is an urgent need to constrain Google’s domination—either through competition or through regulation. Despite the recent US and European approval of the search alliance between Yahoo! and Bing, competition in search is unlikely to be sufficient, at least in the short term. Carefully considered regulation is therefore needed to codify the Network and Search Neutrality principles of non-discrimination and transparency and apply them equally across the entire Internet ecosystem.

*Respectfully Submitted,*

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*Shivaun Raff*

*Co-founders of Foundem and SearchNeutrality.org<sup>12</sup> (a Foundem initiative).*

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*cc: The Honorable Christine Varney, Assistant Attorney General for Antitrust,  
U.S. Department of Justice,  
The Honorable John Liebowitz, Chairman, U.S. Federal Trade Commission,  
The Honorable J. Thomas Rosch, Commissioner, U.S. Federal Trade  
Commission,  
The Honorable William E. Kovacic, Commissioner, U.S. Federal Trade  
Commission.*

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<sup>11</sup> <http://instantroi.com/index.php/2008/11/26/google-product-search-shopping-optimization/>

<sup>12</sup> <http://www.searchneutrality.org/>