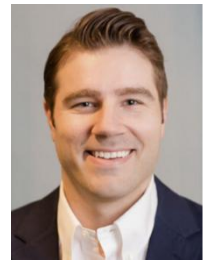
# AI's Role In Google Antitrust Suit May Reshape Tech Markets

By **Graham Dufault** (November 10, 2025, 4:52 PM EST)



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By the time the U.S. antitrust lawsuit against Google LLC's general search business **reached** the remedies stage in September, the foundations for the U.S. District Court for the District of Columbia suit had shifted significantly.

Initially filed in 2020, the original complaint **defined** a market that included only "general search engines" almost exactly like Google's. Five years later, the introduction, growth and significant market penetration of generative artificial intelligence with powerful distribution channels has called into question the U.S. Department of Justice's carefully crafted market definition.

This fundamental shift in the market stands to benefit small business innovators and consumers alike. But overly narrow market definitions in antitrust cases could lead to misguided fixes that would make it harder for these advantages to reach the smallest competitors in the app economy.

A recent order from a federal judge recognizes this issue. U.S. District Court Judge Amit Mehta's remedies order extensively addressed generative AI's challenge to Google's search market share,[1] and therefore the dimensions of the relevant market for antitrust purposes.[2]

As Judge Mehta noted, AI had "changed the course of this case" and courts must proceed with a "healthy dose of humility" when intervening in rapidly changing tech markets.

Judge Mehta's recognition is consistent with the body of work from the recent trio of Nobel Economics laureates Joel Mokyr, Philippe Aghion and Peter Howitt.[3] They argue that focusing on concentration and market structure alone mistakenly ignores the contestability of a given defendant's market position in technology markets.

Manifestly, Google's search business is highly contestable, despite its appearance on paper as having hegemony among GSE facsimiles.

Both the evolution of AI technologies in a range of markets and the court's willingness to account for it in antitrust analyses should fundamentally alter the future of tech antitrust cases.

**What This Means For FTC v. Amazon**

One such case is the Federal Trade Commission's lawsuit **challenging** Amazon.com Inc.'s marketplace offerings and management practices. In its 2023 complaint in the U.S. District Court for the Western District of Washington, the FTC alleged a market definition that was already precariously narrow, including only eBay Inc., along with Target Inc.'s and Walmart Inc.'s online storefronts, and excluding all of the other retail businesses that compete with Amazon.

As the DOJ describes in the 2023 merger guidelines listed on its website, "the outer boundaries of a relevant product (or service) market are determined by the 'reasonable interchangeability of use or the cross-elasticity of demand between the product itself and substitutes for it.'"[4]

In this case, a salient question for the court is whether the services offline retailers provide for shoppers are "reasonably interchangeable" with those Amazon provides through its online marketplace. Whether or not this is true is an empirical question, and one that must be explored, even though the FTC wants the court to ignore it.

As described in the article "Antitrust and eMarkets," by Herbert Hovenkamp in the Stanford Law and Policy Review, Amazon's online sale prices closely tracked 70% of Walmart's sale prices for a wide range of goods, signaling direct price competition between the outlets.[5]

Similarly, the author also notes Amazon's track record of challenging offline retail markets — resulting in local consumers treating the online retailer as interchangeable with offline alternatives — offering viable competition where previously only a couple of offline stores may have existed.

As we noted in an Aug. 26 article on our website titled, "The Gerrymandering Happening Below the Fold," the burden is on the plaintiff to show convincing empirical evidence sufficient for a court to accept their proposed market definition.[6]

The credible competitive threat offline retail poses to Amazon, along with the development of social media and AI retail services, greatly complicates the FTC's job in defending its line-drawing. For example, TikTok Shop — the social media platform's relatively new e-commerce marketplace — has rapidly emerged as a viable retail competitor, skyrocketing from just $1 billion in gross merchandise value in 2021 to $33 billion in 2024.[7]

Meanwhile, the role of agentic AI has quickly evolved from potentially affecting online experiences in undefined ways to posing specific competitive challenges and opportunities for online retailers and shoppers. OpenAI is now processing transactions directly, allowing users searching for a product or service to buy it without leaving the platform.[8]

How does this directly challenge Amazon's marketplace? OpenAI now has a valuable offering for retail: a conduit to high-propensity consumers in a trusted environment with low friction. In fact, it has already forged a partnership with Amazon's chief rival — supercharging Walmart's challenge to Amazon both on- and offline. It is not difficult to see where partnerships like this will go, as retailers like Walmart consider investing in options that would feature their own offerings over others on ChatGPT.

Thus, AI's adoption in the retail context has already altered the competitive landscape in ways that are highly relevant to how the FTC should evaluate the contours of the relevant market and whether there is truly an antitrust problem to address.

**What This Means for Small Businesses**

When antitrust enforcers challenge conduct in fast-evolving markets, small businesses benefit most when courts accept the messy reality of these markets and the contestability of incumbents as Judge Mehta began to do in the Google search remedies order.

In the FTC's case against Amazon, for example, the FTC seeks to restrict Amazon's offering of two-day shipping via Amazon's fulfillment service and prohibit featuring low prices in the buy box feature presented to consumers.

The fulfillment service's two-day shipping is a key offering that especially benefits small sellers, because smaller firms lack the resources to create their own fast-shipping fulfillment networks, and alternative networks are far more expensive and time-consuming to deal with.

Similarly, Amazon's practice of featuring guaranteed low prices helps ensure consumers are willing to come back and shop again on Amazon's marketplace. Here again, small businesses benefit especially from having some assurance that their chosen distribution channel can make an argument for itself and be a trusted destination for consumers. These factors underscore the importance of marketplace flexibility for small businesses in particular.

In the app store context, for example, developers pay the stores in exchange for a set of services including offloading overhead costs, instantaneous global distribution, and all of the management activities that make the stores a trusted space for consumers.

If antitrust enforcers and other plaintiffs are allowed to portray these markets as narrower than they actually are (e.g., a market for Android apps) and subject to virtually no competition, these benefits would be snatched away by inappropriate antitrust remedies.[10]

Likewise, the FTC's plan to restrict Amazon's flexibility only makes sense if Amazon lacks competition and uses its market power to harm competition and consumers. Its proposed, narrow market definition could allow the FTC to succeed in this endeavor.

**Conclusion**

The emergence of AI services and the existence of credible retail competitors across the spectrum illustrates that overly narrow market definitions like the FTC's "online superstore" construct fail to account for how consumers and competitors actually behave.

The proof is in the pudding for small business innovators leveraging these platforms and marketplaces. The last thing they want is for their favorite channels or their next launchpad — will it be OpenAI's operating system? — to be completely prevented or discouraged from providing the complementary and vertically integrated services that small businesses demand.

As the 2025 Nobel Economics laureates point out, history has borne this out over and over again, with seemingly unassailable and perpetual dominance in tech — think AOL, BlackBerry, Myspace, and the list goes on — quickly dissolved and promptly forgotten.

Small businesses hope for the FTC and other enforcers to learn from history as well as the recent Google search remedies approach and see the marketplace management functions at the center of so many of these cases for what they are: products of vigorous competition that small business innovators want more of — not less.

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[1] https://storage.courtlistener.com/recap/gov.uscourts.dcd.223205/gov.uscourts.dcd.223205.1436.0_1.pdf.

[2] https://actonline.org/2025/08/06/d-c-bar-association-hosts-timely-discussion-on-potential-remedies-in-the-landmark-google-search-case/.

[3] https://truthonthemarket.com/2025/10/13/nobel-committee-rewards-explorations-of-why-growth-happens/.

[4] https://www.justice.gov/atr/merger-guidelines/tools/market-definition.

[5] https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1584&context=faculty_articles.

[6] https://actonline.org/2025/08/21/the-gerrymandering-happening-below-the-fold/&ust=1762879800000000&usg=AOvVaw0KZffw_gGDi6RFgqFJaVjh&hl=en&source=gmail.

[7] https://www.statista.com/topics/11075/e-commerce-on-tiktok/.

[8] https://openai.com/index/buy-it-in-chatgpt/.

[9]https://www.bloomberg.com/news/articles/2025-10-14/walmart-partners-with-openai-to-offer-shopping-on-chatgpt?.

[10] https://actonline.org/2025/04/28/apps-are-businesses-not-items-on-the-shelf/.

[11] https://x.com/OpenAI/status/1975261587280961675?.