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From the New York Times, I'm Serena Tavernisi, and this is The Daily.
For years, the government has been trying to rein in big tech, pursuing some of the biggest
and most powerful companies on the internet.
This week, the government takes on one of those companies,
in the first monopoly trial of the internet era.
Today, my colleague, David McCabe, on the government's case against Google,
and what it might mean for the future if it wins.
It's Monday, September 11th.
So, David, this week in a federal court in Washington, D.C.,
the Justice Department is making its case against Google.
What's this all about?
The government has become increasingly obsessed with this question
of whether the tech giants, including Google, got so big by breaking laws
that were designed to rein in corporations more than a century ago.
And by doing that, have they hurt consumers?
Have they hurt other companies, smaller companies, that are coming up with innovative ideas?
And this week, government lawyers are going to walk into courtroom
and begin to make the case that Google has broken the law.
And this is the first time the Justice Department is trying to do this with a tech giant
in decades. The last time was when they took Microsoft to court in 1998.
And then the tech industry changed.
The internet created these giant companies that built big platforms
for how we access information and culture and communicate.
And Google is probably more emblematic of that era of the internet
than any other company.
Its name literally became a verb synonymous with what it does.
Indeed.
And this case isn't just going to be about the last era of technology.
It's also going to be about the next era of technology
because hanging over this case are developments like artificial intelligence
and questions about whether companies like Google
are poised because they have been so dominant
to also dominate the next era of technology.
So what is the actual case here?
I mean, what exactly is the government's argument here
about how Google is hurting consumers?

I mean, usually you think monopolies are bad because they raise consumer prices, but Google, of course, is free. You're right. And that makes this case unusual. But the government says that basically three groups of people are being harmed here. That Google has this monopoly over online search and crucially that it's illegally abused that monopoly first to shut out its rivals, think startups or even companies like Microsoft that make rival search engines. And that that's led to this absence of choice that when people go to search that Google is really the main clear option for them to use. And the Justice Department says that is her two other groups of people. That it's her advertisers who do pay to use Google's advertising services. That Google is able because they don't have much of a choice to charge them potentially higher prices. And then the Justice Department is also saying that consumers, you and me, who do use Google for free have been hurt in ways that can't necessarily be quantified by price. That they're potentially hurt when it comes to the quality of search results. And that they're potentially hurt when it comes to the policies that Google is able to impose upon them. Google, of course, hoovers up personal data from anyone who uses the service in order to target advertisements because that's how they make money. And the Justice Department is saying that one of the reasons they're able to so aggressively collect the personal data of their users is because they have all of this power. And there aren't that many other choices if you want to use Google and you're concerned about your privacy. So basically, they're saying that Google has kind of blotted out other companies that could be providing the marketplace with products that would ultimately be better for us. Like taking away our choice, essentially. That's exactly right. And it gets at the core of what these antitrust laws are about because the government believes that if there's a fair competition on the merits that consumers end up with more choice. They end up with better products. They end up paying less money for products because companies are incentivized to offer something better to consumers to treat other people in the marketplace fairly. It's actually not illegal in the United States to simply have a monopoly. If consumers were just choosing Google because they had access to a number of really good options and they just thought Google was the best

and Google had a monopoly as a result, that would be fine under the law. What is illegal in the United States is getting that monopoly or keeping that monopoly by illegally excluding your competitors. And that is exactly what the government says Google has done here.

In other words, that Google is dominant not because they offer the best product, but because they used their weight and their dominance to suppress their competitors.

Okay. So walk me through what the government is alleging that Google did to suppress competition.

So to understand the core of the government's case, it's helpful to think about your smartphone.

Okay.

So I have an iPhone.

Often when I'm searching for information, I open the browser on my iPhone, which is the default browser.

The one that Apple makes is called Safari and I open Safari.

And there's that little bar at the top of the browser, where you usually write in mytimes.com.

I just search, I put my search query there.

And that by default goes to Google.

And actually this is true on a lot of different smartphones.

And the reason why is that Google has these contracts, these agreements with Apple, with Mozilla, which makes Firefox, with people who make smartphones, even with wireless carriers,

to be in different ways the default search engine on the smartphone.

Like you don't have to decide which search engine you use, right?

It's just there. It's Google.

By default, it's Google.

And what the Justice Department says is that this web of contracts, which consumers don't think about.

Definitely not.

These contracts actually were an illegal means of maintaining its power in search because they so powerfully drive consumers to use Google rather than other search engines.

So how exactly did Google come to be this default search engine in so many other products that aren't Google products?

Like walk me through what they did to get these deals.

First of all, they pay billions of dollars.

These deals are thought to be incredibly valuable.

And there's a number of different ways that this works.

The most prominent at the trial will probably be its agreements

with Apple and Mozilla because so many people use their browser.

Apple, of course, is its own giant company with a big profile.

But Google also has these other agreements with smartphone makers that use its Android operating system to be basically pre-installed as an app on those phones.

So maybe some phones have a search bar on the home screen.

That could, by default, be Google.

So there are a lot of different ways that people search across their mobile devices.

But what the government is alleging is that in all these cases, whether it's your browser, whether it's an app on the home screen of your smartphone, that Google has used these contracts to basically lock up that real estate if you think about it as like the best real estate on Main Street.

That they have locked up that real estate using these contracts.

Google has that fancy corner office.

Google has every one of those stores, the ones that you want to just walk into.

Exactly.

And the ones that it's importantly easiest to walk into, right?

It's the one next to your parking spot.

So it's the one you're most likely to go into because it's right there.

And that a lot of consumers, when they search for information, they just go with the default and as a result, these agreements, the Justice Department has said, are by far the best way to get search queries.

Okay, but David, hold on.

Why should I care whether Google is the default search engine on my phone?

I mean, just speaking for myself here, but in general, I like Google's search engine.

And I'd imagine a lot of other people feel the same way.

So how does this move by Google represent the harm to me, like Jane consumer, that the government is alleging?

This is where we get back to that idea of choice.

So the Justice Department says that there's a really pernicious cycle at play here, that Google has so many users that it's able to collect more data than anyone else it competes with to make its search results better.

And that because it can make its search results better than anybody else, that users come to Google even more often, continuing the cycle.

And what the Justice Department is saying is that these agreements to make Google the default, on a smartphone, put that process like on speed, on overdrive, and only contribute to increasing Google's scale and size, which in turn, it's able to use to be more valuable to users and elbow out competitors.

So basically, they're the default on all of our products.

We use it without really choosing or thinking about it.

And the fact that we all use it means that their dominance is multiplied, right?

Exponentially, like as you say, it puts it on speed, making it harder and harder for other companies to compete with them.

That's right. That's exactly what the Justice Department is arguing here.

They're saying that because Google has this compounded dominance, that's in part the results of agreements that they say break the law, that has allowed them to suppress other competitors that might actually offer consumers options that they want more than Google.

So take, for example, there's a company called DuckDuckGo, and they make a search engine that's whole sort of value proposition, is that it collects less data than Google does about them. Now, the Justice Department is arguing that companies like DuckDuckGo could offer benefits to consumers, could offer choices to consumers about how much their data is collected, but that that gets short circuited by this cycle of dominance juiced by illegal agreements that Google has engaged in.

Got it. So what does Google say to all of this?

I mean, what do you expect its defense to be based on your reporting?

So do you remember how you said that you like using Google, people like using Google, that you like because the product's good?

That is Google's defense.

That people who use Google choose Google because they find it helpful, not because they've used illegal agreements to force their way to the front of the line.

We're just good, guys.

Yeah, that they are winning because they've made the best product and that it's a product that people find helpful, that people choose to come to Google because it's a high quality product. And that's why these companies, Apple, Samsung, Mozilla, choose to partner with Google to make the search engine the default because Google says they're the best. But they also say that people do have other choices, that they can change the default search engines with only a few taps on their smartphone, so that these agreements at the heart of the case aren't even exclusive at all.

And they say that they're not even as dominant as DOJ claims in the first place.

How's that?

So the Justice Department says that Google has around a 90% market share.

When you define their competition as what is called general search, so that means like Bing or DuckDuckGo, basically DOJ says one-stop-shop search engines where you might go for a whole variety of things. But Google is saying we have a smaller share of the search engine market because we compete not just with the one-stop shops, but we compete with Amazon when it comes to searching for a product online. We compete with TikTok or Reddit when it comes to answering other queries. We compete with Spotify or ChatGPT. So the Justice Department basically says Google is a big fish in a small pond. And Google says it's not a pond, it's a giant ocean.

Google's saying you got the wrong body of water.

Exactly, yeah. Google is saying you're looking at the wrong universe.

And if the judge comes to agree with that idea, it's going to be really hard for the Justice Department to make its case. Because the judge in this trial first has to decide, is Google a monopoly year at all? Do they have monopoly power? And that will hinge on how big or small the world of competitors it has is. If you're a small dot in a big C of competitors, it's a lot harder to have monopoly power than if you are the same size dot in a tiny puddle of competitors. And once the judge figures out where he falls on that question, if Google does have monopoly power, then he'll have to figure out, did these agreements

break the law? Did they step over the line from aggressive growth in the business to an illegal and unreasonable restraint on its competition? In other words, did they kind of cheat their way to the front of the pack? So in no way is the DOJ's case a slam dunk. It's going to be tough. It's going to be tough. And these cases are significant. There are millions of documents that have been turned over as part of the evidence process. There are going to be witnesses that include corporate executives from Google, but also from competitors from these companies that it signs agreements with. There's going to be testimony from economists who get paid sometimes as much as lawyers in these cases to provide expert analysis to a judge. And the judge in this case is going to have to look at all of that and figure out where to draw the line on, does Google have the power that the Justice Department says it does? And did they step over into illegal territory in how they maintain it? And what's really new about this is that it's the first time they tried to bring one of these cases in this era of the modern internet platforms. Google, Meadow, which owns Facebook, WhatsApp and Instagram, Amazon, Apple, they all operate big online platforms. And the government has never before had a trial like this where they've aired out their concerns about how those platforms got so powerful in public and in the kind of minute detail that we'll see over the next 10 weeks. So the judge is going to have to roll one way or another. But whether Google wins or the Justice Department wins, it's going to be a big deal for the technology industry. We'll be right back.

The community around my favorite New York Times games is just incredible. The whole world is kind of playing together. Wordle has united my family and we live across four different time zones. My favorite way to do the crossword is with you. I am carrying the team a little bit. I play spelling bee every single day. I'm on a text thread with my mother and my cousins to see who can hit genius first and can anybody get queen bee? Sometimes I have to use the community hints, but you don't feel like you're cheating when you use them. You still feel like you worked for it. Doing a New York Times crossword puzzle with someone else is one of my favorite activities. Sometimes I'll put it on the TV and we'll play it together as a family. Daddy, can we play spelling bee? Join us and play all New York Times games at [nytimes.com slash games](https://www.nytimes.com/games).

So David, this is a big and novel case and totally unclear what the outcome is going to be. Let's talk about the possible scenarios here. So what would it mean if the judge sides with Google? Yeah, so the devil will be in the details of his ruling. It's a complex case. He's going to have to make a lot of individual calls that will add up to a decision, but broadly I think there's sort of two lenses through which a Google victory would be viewed. The first is from sort of a Silicon Valley perspective. If the judge rules for Google, it's possible that he'll find that these harms that DOJ has described, that they say happened as a result of Google's kind of rapacious and illegal growth, that those harms weren't there. And that could send a message to Google and other Silicon Valley companies that this increased government oversight in recent years is really more bark than bite. And that gets us to the second lens, which is how does Washington view a Google victory? I think if Google wins, one thing you may hear in Washington from people who are skeptical of the tech companies is that it proves that these antitrust laws, which have been interpreted in the last several decades as being very narrowly focused on instances where consumers are harmed, particularly through price, that that interpretation of these laws really is not suited to taking on

Silicon Valley, and that that understanding of the law fails to capture potential ways that consumers might be harmed when it comes to the collection of their data, the quality of the product they use, and the choices they have available to them. Right. We live in a data world now, and that's essentially the currency. That's exactly right. We are now in an economy where some of the biggest and most prominent companies give their product to consumers for free, but collect a lot of their personal data. And the question is, can the laws handle that?

Okay. So what about the other side of things? So say the government wins the case. What happens to Google? So that is the big question. And it's one that the judge won't even consider until he's decided whether or not Google has broken the law. But if he does find that Google broke the law, the DOJ was right. If he rules in the government's favor, there are a couple different routes that the government has traditionally taken to try and address concerns about corporations that have broken antitrust laws. The most radical option available to a judge is breaking up a company. Like actually breaking up Google? Well, this has happened before. So in the 80s, AT&T agreed to break itself up into seven regional companies under pressure from the Justice Department. They were known as mob bell. These companies were known as the baby bells. And there are people who really believe that that was successful in introducing competition to what had been an extremely concentrated phone business. But is that the right analogy? I mean, that was a phone company with regional carriers. This is an internet company. Is that apples to apples?

It's not. And Google's search business isn't necessarily something you could split up like AT&T, like Standard Oil at the turn of the century along regional lines. And it will be a tough question for the court of how you would use a kind of structural change in order to stop the behavior and harms that the Justice Department has identified in its lawsuit. Okay. So what's the other potential fix in the event that the government wins?

So a court could also basically demand that Google change its behavior. So the Justice Department has not said a lot about what kind of fixes they want in this case, but they have asked the court to stop Google from just doing the things it describes in the lawsuit. So that could mean new restrictions on the kinds of agreements that Google can enter to be these default search providers on a smartphone. Meaning those agreements with Apple and with other companies, the ones that give Google that prime real estate right next to the parking spot, those would either disappear or change to make competition more fair.

That's exactly right. And one other thing that's been tried in Europe is presenting some smartphone users with a screen that allows them to choose their search engine. So there's not the same kind of hard and fast default. Okay. But if all of this boils down to just a few more clicks on a setup screen, like what was it all for? I mean, does it really solve what the government was saying is an issue here, which is tech is too big? And by definition, that is a problem.

Ultimately, the question will be after all the legal wrangling is done after the judge decides on a fix in this case, did it change Google's behavior? Did it change the way they approach building their business? And the stakes for that become a lot bigger when you think about the future and especially when you think about the future of artificial intelligence, where Google is already a major player. What do you mean, explain that?

So Google has a lot of information.

Google search is one of the biggest compendiums of information on the planet. And information is like rocket fuel for artificial intelligence.

So the question is, does their dominance in search lead to potential future dominance in artificial intelligence? And does the court's fix, if it rules in favor of the Justice Department, ripple outward to the rest of the industry? Does it make Silicon Valley more competitive at a time when companies across Silicon Valley are in this heating up battle to define the next era of the internet?

David, thank you. Thank you.

We'll be right back.

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Here's what else you need to know. Over the weekend, a powerful earthquake struck Morocco, killing more than 2,000 people, and setting off frantic rescue efforts through rubble-strewn city streets and remote rural areas. The hardest hit settlements were in the high Atlas Mountains outside the city of Marrakesh, where the few roads were blocked by debris. The death toll was expected to rise because many homes in the area are made of mud bricks, a construction method highly vulnerable to earthquakes. The quake, which had a magnitude of 6.8 on the Richter scale, was the strongest to hit the area in a century.

And a pair of champions were crowned at the U.S. Open Tennis Major over the weekend, one, a prodigy announcing her arrival on the scene, and the other, an all-time great, cementing his status in the record books. In the women's final on Sunday, 19-year-old American Coco Goff chased and lunged toward the ball, rattling Arena Sabalenka of Belarus and sending Arthur Ashe Stadium in Queens into a state of delirium. The remarkable win established Goff as the new face of women's tennis in America. Meanwhile, Novak Djokovic solidified his reputation as the greatest player of the modern era by defeating Daniel Medvedev of Russia in the men's singles final. The win, the 24th major title of Djokovic's career, moves him one pass the record held by Serena Williams for the most career single grand slams.

Today's episode was produced by Olivia Natt, Moosh Zady, Diana Wynn, and Shannon Lin.

It was edited by Mark George with help from Paige Cowett, contains original music by Dan Powell, Alicia Beytupe, and Marion Lazano, and was engineered by Alyssa Moxley. Our theme music is by Jim Rumber and Ben Lansford of Wonder League. That's it for the Daily. I'm Serena Tavernisi. See you tomorrow.

The show is supported by better help online therapy. The lights are out, it's quiet, it's time to sleep, but your mind is going a mile a minute stressing about everything in your life. Sound familiar? Whenever they strike, racing thoughts distract you from what you need to focus on. Therapy can give you a place to work through them so they don't keep you up at night. Get a break from your racing thoughts with better help. Visit [betterhelp.com slash](https://betterhelp.com) The Daily to get 10% off your first month.