

Jeffrey Kessler Discusses Recent Decision in Antitrust Case Against Google with *InformationWeek*

AUGUST 13, 2024

Winston & Strawn partner Jeffrey Kessler spoke with *InformationWeek* to discuss a recent Google antitrust case and how traditional antitrust principles are being applied to the technology industry. The decision from a U.S. District Court judge stated that Google held its dominance in the market by unfairly blocking competitors through lucrative exclusive contracts for its search engine with Apple and Android devices, which constituted a violation of Section 2 of the Sherman Act.

Jeffrey said while the case outcome is a big deal for the technology sector, the ruling was not a far stretch from previous decisions on antitrust. “The Google decision itself is pretty much traditional antitrust principles and precedents,” he said. “I don’t view it as breaking any big new legal ground or changing legal rules ... What is new is that this administration is applying these principles to the technology industry.”

He noted that the court case originated under the Trump administration. “So, it’s not even a product of the Biden Administration’s approach to antitrust. It’s a continuation of this idea that antitrust should come to bear on the tech industry.”

More likely than a breakup of Google’s parent company into smaller companies, Jeffrey said the injunctive relief may be more narrow because the case was focused on the contractual agreements. “So, to me, that’s the logical focus of what the relief is likely to be,” he said. “The goal is not to harm Google. The goal of any relief is to make it possible for other search engines to compete fairly.”

Jeffrey stated that he thinks the appeal is likely to take more than a year, and could be further delayed if taken up by the Supreme Court. “And it’s always possible that Google and the government could sit down and settle and agree on a remedy,” he said.

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