

JOAQUÍN ALMUNIA  
VICE-PRESIDENT OF THE EUROPEAN COMMISSION

*Brussels, 31 March 2014  
Ares(2014)*

*Dear Mr. Simpson,*

*Thank you for your letter of March 26 2014 to President Barroso regarding Google's proposed commitments. President Barroso has asked me to reply on his behalf.*

*In your letter, you express significant concern that under its proposal, Google is not obliged to reply to or comply with requests from the Monitoring Trustee.*

*Let me first assure you that I regard an effective Monitoring Trustee mechanism as an integral component of any commitments. The Trustee would be fully independent of Google and would report to the Commission on Google's compliance. Any commitments would be legally binding on Google and as such, compliance with them would be of paramount importance and something which I take very seriously - as you know, last year the Commission imposed a fine of €561 million on Microsoft for non-compliance with legally binding commitments entered into in 2009.*

*I can also assure you that the proposed commitments fully safeguard the effectiveness of the Trustee mechanism - paragraph 67 (which you cite) specifies that "the Commission reserves the right to exercise its powers of investigation set out in Section V of Council Regulation (EC) No 1/2003 should Google decline any request made by the Monitoring Trustee". This means that the Commission can require, if necessary, Google to provide the information enabling the Monitoring Trustee to carry out its tasks.*

*.../.*

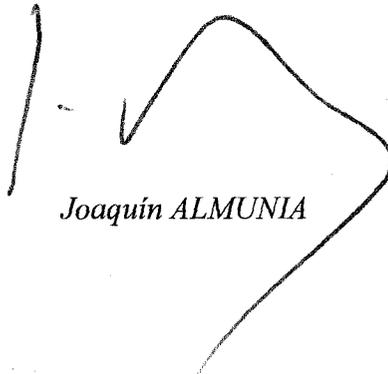
*Mr John M. Simpson, Privacy Project Director  
Consumer Watchdog*

*Email: [john@consumerwatchdog.org](mailto:john@consumerwatchdog.org)*

*This provision relates to the fact that as regards the specific point that you raised, under EU law, the European Commission cannot delegate competition enforcement powers of its own to a third party. This was confirmed in the 2007 judgment of the European Court of First Instance relating to Microsoft<sup>1</sup> (see paragraphs 1251-1279).*

*There is therefore no legal basis under which a Monitoring Trustee in any case can be granted powers which would legally oblige a company to respond or provide information in response to a request. As such, the clauses relating to the Monitoring Trustee to which you refer simply reflect this point, but do not affect the effectiveness of the Trustee mechanism.*

*Yours sincerely,*



Joaquín ALMUNIA

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<sup>1</sup>

<http://curia.europa.eu/juris/document/document.jsf?jsessionid=9ea7d0f130d63e9438014d654b0b92e2bf8b26431a19.e34KaxiLc3eQc40LaxqMbN4OaN8Qe0?text=&docid=62940&pageIndex=0&doclanq=EN&m ode=lst&dir=&occ=first&part=1&cid=306614>