

Jun 14

## Former FTC chairman warns against race to plant flag on Google

 PaRR Strong evidence

The European Commission's (EC) search-bias investigation of Google will receive a great deal of deference in other jurisdictions, but regulators in Brazil and elsewhere may still be tempted to extract their own, unique concessions from the company, William Kovacic, former Federal Trade Commission (FTC) chairman, said.

The EC has accumulated political capital because of its "highly resource-intensive process" and "willingness to intervene when it is appropriate," Kovacic told *PaRR* in an interview. As a result, other jurisdictions will likely defer to the final agreement between the EC and Google, he added.

"I think there will be a tendency to look at the solution that the commission receives and say, 'I'm not really going to tamper with that. I'm going to assume they made the right call,'" Kovacic said.

Still, regulators in some jurisdictions may be tempted to go further than the EC, as distinctive action against Google might allow Brazilian CADE or another body to look tough and "stand in the spotlight a bit," he noted to *PaRR*.

In remarks at an antitrust conference hosted by the Searle Center at the Northwestern University School of Law, Kovacic warned against confusing regulatory action with accomplishment, particularly with respect to climbing "the new summit" in abuse of dominance cases.

"For a long time it was Microsoft – it's Google now. Everybody is trying to plant the flag on Google," said Kovacic. "There will be others in the future, but if that is the norm, you have a bias toward intervention that does not necessary take account of economic outcomes."

The EC is in the process of market testing remedies for Google's alleged abuse of dominance in Internet search, as previously reported by *PaRR*.

CADE could also undertake a case against Google but would likely wait until the EC's process has ended, it is understood.

According to Kovacic, agreements in Europe can be delayed because third parties are able to sue the EC for insufficiently resolving an investigation. The FTC has immunity from such lawsuits, he noted.

by Ryan Lynch in Chicago