

Antitrust law will not make Google pay for AI Overviews

In an opinion dated 30 September, Judge Amit Mehta threw out all five claims Penske Media and Chegg brought against Google over AI Overviews. He accepted that publishers are being hurt, but held that an expectation of search traffic is not an agreement, and pointed to legislators for a remedy. The ruling does not decide whether publishers should be paid for AI answers; it decides who sets the price. In the US, for now, that is Google.

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5 of 5 CLAIMS DISMISSED, RECIPROCAL DEALING TO UNJUST ENRICHMENT · SEARCH ENGINE JOURNAL, 1 OCT 2026	41 PAGES IN MEHTA'S MEMORANDUM OPINION, DATED 30 SEP 2026 · FORBES, 1 OCT 2026	8% vs 15% VISITS CLICKING A RESULT, WITH VS WITHOUT AI SUMMARY · PEW, JUL 2025
1% VISITS CLICKING A LINK INSIDE THE AI SUMMARY · PEW, JUL 2025	~100 PUBLISHERS IN GOOGLE'S PAID AI CONTRIBUTION PILOT · THE INFORMATION, SEP 2026	\$63.3bn GOOGLE SEARCH & OTHER REVENUE, Q2 2026, UP 17% · SEJ, JUL 2026

I. An expectation is not an agreement

In an opinion dated 30 September and reported on 1 October, US District Judge Amit Mehta dismissed the antitrust suits that Penske Media and Chegg brought against Google over AI Overviews, the generated summaries that sit above search results. Chegg filed in February 2025; Penske, owner of Rolling Stone, Variety and Billboard, followed on 12 September 2025.

The publishers' theory was a bargain. For two decades, they argued, sites let Google crawl their pages in exchange for referral traffic, and AI Overviews keep the content while cutting the referrals. Mehta rejected the premise. The plaintiffs had pleaded only an expectation of traffic, he wrote, and “an expectation is not an agreement”: it is simply how a general search engine works.

According to Search Engine Journal's reading of the opinion, every claim failed. Reciprocal dealing failed for lack of an agreement. Tying failed because search and AI Overviews were not shown to be separate products. Monopoly maintenance failed on antitrust standing. Attempted monopolisation failed for want of plausible publishing markets. A California unjust-enrichment claim went once the federal claims fell.

The judge did not find that publishers were unharmed. He found that antitrust law is the wrong tool. He wrote that the court did not treat the harms lightly, and that the antitrust statutes are no substitute for legislatures addressing economic dislocation from new innovation, as FourWeekMBA reported.

II. The US closed a courtroom route as Europe opened a regulatory one

Outside the US, the direction runs the other way. On 3 June 2026 the UK Competition and Markets Authority imposed conduct requirements on Google that let publishers keep their content out of AI search features, opt out of model fine-tuning, and receive attribution links. Google has nine months to comply and must report every six months in the first year.

In Brussels, the European Commission opened an investigation in December 2025 into whether Google used publisher and YouTube content for AI Overviews and AI Mode without appropriate compensation, and whether publishers can refuse without losing search visibility. That case remains open.

Google had already moved on money. It announced an [AI contribution pilot](#) in June, and by September participating sites were seeing a payout panel in Search Console. [The Information](#) reported about 100 publishers enrolled, with one earning over \$1 million a year and small sites earning under \$1,000 over several months. Google has not disclosed how payments are calculated, [Medianama](#) noted.

The map now reads three ways. In the US, compensation runs on Google's voluntary terms unless Congress acts. In the UK, a statutory opt-out gives publishers leverage. In the EU, an abuse-of-dominance case is still live.

III. The honest read: a pleading loss, not a verdict on AI search

Scope matters. This was a motion to dismiss. The court tested whether the complaints stated antitrust claims, not whether AI Overviews are lawful in every respect. Search Engine Journal reports the dismissal was without prejudice and the order final and appealable, so the plaintiffs can go to the DC Circuit. [TheWrap](#) reports Pense could refile. Copyright theories were not before the court.

The evidence of harm is real but contested. [Pew Research Center](#) tracked 68,879 searches by 900 US adults in March 2025. Users clicked a traditional result in 8% of visits that showed an AI summary, against 15% without one. They clicked a link inside the summary in 1% of visits, and ended their session 26% of the time against 16%. Pense's complaint cited an Ahrefs estimate of a 34.5% drop in click-through and said about 20% of searches returning its links carried an AI Overview, per [PPC Land](#).

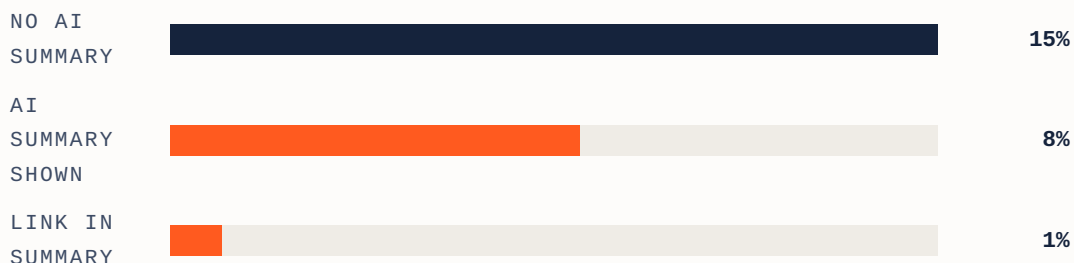
The skeptic case comes from Google, and it is not empty. In [August 2025](#) search head Liz Reid wrote that total organic clicks to websites were relatively stable year on year and that third-party studies relied on flawed methods. She published no figures to back the claim.

Chegg's decline also has more than one cause. When it sued, the company had lost about 90% of its market value since its 2013 listing, [Tech Startups reported](#). Its [May 2025 layoffs](#) were attributed to students switching to ChatGPT and Gemini as well as to Google's search changes.

Both readings can hold at once. Aggregate clicks can stay flat while specific categories, such as reference, homework help and entertainment explainers,

lose most of their search value. The court did not need to decide which, and it did not.

FIG. 1: WHAT USERS CLICK WHEN GOOGLE SHOWS AN AI SUMMARY



BARs SCALED TO THE LARGEST VALUE (15%). SHARE OF VISITS WITH A CLICK ON A TRADITIONAL RESULT (TOP TWO ROWS) OR ON A LINK INSIDE THE SUMMARY (BOTTOM ROW); 68,879 SEARCHES BY 900 US ADULTS, MARCH 2025. SOURCE: PEW RESEARCH CENTER, 22 JULY 2025.

IV. The buyer now sets the price of the content it summarises

Market structure. With the US antitrust route closed for now, pricing power over AI-answer content sits with the dominant buyer. Google's pilot has one buyer, many sellers and no published formula. For smaller sites, payments amount to less than one-tenth of 1% of advertising revenue, [AI Weekly reported](#), and declining payment does not stop Google using the content. That is a licensing market in name, with terms set unilaterally.

Capital. Google's search business is not shrinking while publishers lose referrals. Search and other revenue reached [\\$63.3 billion in Q2 2026, up 17% year on year](#). Advertiser spend stays on the results page; the discount shows up in publisher valuations instead.

Labour. The adjustment lands at publishers, not at Google. Chegg cut 22% of staff in [May 2025](#), after reporting 3.6 million subscribers in Q4 2024, down 21%, per [Tech Startups](#). Writers and editors in reference and explainer content are most exposed.

Sizing, as an estimate. Take Penske's figure that 20% of searches returning its links carry an AI Overview, and Pew's drop in click rate from 15% to 8% on those searches. Search referrals then fall roughly 9%, all else equal ($0.20 \times 7/15$). If AI Overview coverage of a site's queries reached 50%, the loss would be about 23%. These are illustrative numbers built on two assumptions. They ignore query mix and Google's stable-clicks claim.

Productivity and prices. Users get answers in fewer clicks, a real gain the court treated as product improvement. That surplus is not priced, so it flows to Google through ad inventory rather than to the sources the answers draw on.

The ruling does not decide whether publishers should be paid for AI answers. It decides who sets the price, and in the US, for now, that is the buyer.

ANALYTICAL SUMMARY. MEHTA DISMISSED ALL FIVE CLAIMS WITHOUT PREJUDICE IN AN OPINION DATED 30 SEPTEMBER 2026, TWO WEEKS AFTER REPORTS THAT GOOGLE'S PAID PILOT HAD ABOUT 100 PUBLISHERS.

V. Second-order: leverage moves to opt-outs, copyright and Congress

The opt-out becomes the bargaining chip. The UK rules let publishers withhold content from AI features without leaving search, which is the choice the US plaintiffs said they lacked. If uptake in the UK is meaningful, US publishers gain a working model to lobby for, and Google faces pressure to offer the same control globally rather than run two systems.

Copyright becomes the main US legal front. This ruling tested competition law only. Publishers' remaining claims over AI answers in US courts will turn on copyright and licensing, where the question is use of content rather than agreements over traffic.

Content strategy shifts toward what a summary cannot replace. Reid's own post said users increasingly choose forums, video, podcasts and original reviews. Reference pages lose most. Communities, events and first-hand reporting gain relative value.

VI. Precedent: the same court, the same answer

Mehta is the judge who found Google a search monopolist in 2024. In September 2025 he declined to order a Chrome divestiture in the remedies phase, writing that developments in AI had changed the course of the case.

In March 2026 he dismissed monopoly claims from local publishers Helena World Chronicle and Emmerich Newspapers, finding they lacked antitrust

standing and had not shown monopoly power in online news. He also rejected their tying theory as a sale conditioned on reciprocal supply, not a purchase conditioned on another purchase.

Three rulings, one pattern. Google's monopoly in search is established law. Turning that monopoly into a claim for publishers' lost traffic has failed three times in the same courtroom. Any change in that pattern now has to come from the appeals court or from legislation.

VII. How it plays out: three scenarios

Probabilities are our analytical judgment, not forecasts from a model, and they sum to 100%.

1 · Baseline: licensing on Google's terms ~55%

12-24 MONTHS ·
STEADY

The plaintiffs appeal or refile, but the dismissal stands through 2027. Google's pilot expands while its formula stays private, and US compensation runs through bilateral deals. Watch for a notice of appeal by late October, pilot enrolment well beyond 100 publishers, and Search revenue growth staying in double digits.

2 · Acceleration: regulators set the price ~20%

12-18 MONTHS ·
FAST

The European Commission moves toward a decision or commitments that require compensation, UK opt-out uptake forces Google into paid terms, and a US bill gains a hearing. Watch for a Commission statement of objections, a CMA compliance report showing material opt-out use, and congressional text citing the ruling.

3 · Stall: no compensation mechanism sticks ~25%

6-12 MONTHS ·
ABRUPT

The pilot stays token, few publishers use the UK opt-out because it costs visibility, and the appeal fails. Publishers consolidate or retreat behind paywalls. Watch for pilot payments staying below 0.1% of ad revenue, more publisher layoffs citing search, and Google narrowing or ending the pilot.

WHAT WOULD FALSIFY THIS THESIS

The claim is that US antitrust law is closed as a route to publisher compensation for now, and that payment will come through licensing on Google's terms or through legislation. It fails if the DC Circuit revives the claims, or a refiled complaint survives dismissal, within about 18 months. It also fails if independent data confirm Google's stable-clicks claim across publisher categories, which would remove the economic case for compensation. A third failure: Google ending the pilot with no regulatory pressure, which would show payment was never on the table outside regulation.

WHAT TO WATCH, IN ORDER

1. **Late October 2026 (expected)** — Alphabet's Q3 earnings. Search revenue growth, and any disclosure on the AI contribution pilot.
2. **About 30 October 2026** — 30-day window for a notice of appeal, assuming judgment was entered on 30 September. An appeal keeps the antitrust route open.
3. **December 2026 (expected)** — first CMA six-monthly compliance report on Google's publisher controls, six months after the 3 June requirement.
4. **Early March 2027** — end of the CMA's nine-month implementation window for the UK AI opt-out and attribution links.
5. **Through 2027** — the European Commission's next formal step in its AI Overviews investigation, the most likely source of a compensation obligation.

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