

# **Written Testimony of David Heinemeier Hansson CTO & Cofounder, Basecamp**

**Before the Committee on the Judiciary,  
Subcommittee on Antitrust, Commercial, and  
Administrative Law U.S. House of  
Representatives**

**Hearing on:  
Online Platforms and Market Power,  
Part 5: Competitors in the Digital Economy**

**January 17th, 2020**

My name is David Heinemeier Hansson, and I'm the CTO and co-founder of Basecamp, a small internet software company founded twenty years ago, in Chicago, Illinois, that today employs 56 team members across the US, and in a few international locations. We sell a project-management and team-collaboration tool to mostly other small- and medium-sized businesses and teams.

I'm here to provide testimony on what it's like to run that business in the shadow of big tech today. I can tell you that it is not easy. And every year it becomes harder. I'm grateful to this committee for listening to this testimony, and for seriously considering how we might reverse the dominance that big tech is exerting over technology and all of our lives.

Beyond cofounding Basecamp, I'm the creator of an open-source software toolkit called Ruby on Rails. It has provided the technical foundation for companies like Shopify, Airbnb, Hulu, Twitter, and Square, and been used to make literally a million other applications, creating billions of dollars in value. I've provided this toolkit to the world for free, and none of the aforementioned companies have ever had to pay a dime to use it, because I believe in a strong, shared, and open commons.

It is this same belief that was so appealing about the internet when we launched Basecamp as a software service back in 2004. A truly free and open marketplace that was largely unencumbered by big tech companies, like those that reign supreme today. Back then, there was excitement about the likes of Google and Facebook, and the better tools and services they provided us. Today that excitement is primarily replaced by a mixture of fear and loathing. We live in their shadow, and constantly have to worry about whether our business, and other businesses, will get wiped out by frequently changing and often capricious whims.

The central problem for a small software business like ours is that the once open internet has been colonized by the big tech giants, and they're erecting tollbooths everywhere. Tollbooths that restrict our access to customers, induce us to compromise our ethics, erode our self-determination, and ultimately threaten to suffocate us entirely.

The power that these big tech companies wield over small tech companies is terrifying. If your presence ends up displeasing any of these conglomerates, they can make you essentially disappear from the marketplace with the press of a button -- by relegating your position in their search engine to page 42, or by banning your application from their app stores altogether. The threat is very real,

and all of us small tech operators instinctively internalize it, which often stifles dissent.

Furthermore, many small online businesses are so utterly dependent on being in the good graces of the internet giants that they develop a form of Stockholm's Syndrome, thanking their captors for the few crumbs they're allowed to keep. At Basecamp, we started our business before these giants consolidated their dominance and their monopolies, and we remember what the internet was like before they ruled. We also had a chance to build a customer base prior to the tollbooths appearing. So we speak to that experience, and that's what I hope to do here as well.

In this testimony, I will give three broad examples of how this has affected us directly at Basecamp. I am only including three in the service of time and space. There are many more.

## **#1 Google's monopoly in search**

Google's search engine is not just a place consumers go to find stuff; it's become the front door of the internet. It's the start page for millions. It's a basic form of navigation around the internet. People these days rarely bother to remember the specific internet address of a company they want to do business with, they just google it.

When Google started, this was not a problem. In fact, Google was the solution. They created an amazing search engine that was not only simpler to use than the competition, it was simply better at finding what people were looking for. But that was then.

Today Google is less of a search engine and more of an ad engine. The monopoly that Google has captured and cemented in internet search is being exploited in the crudest and most abusive ways to shake down small businesses like ours, and to pit businesses against each other in ad bidding wars where the only winner is the company selling the rifles: Google.

I'm sure you've already heard testimony to the extent of Google's monopoly in search, so I won't bother repeating the general statistics, but rather just focus on the numbers that are unique to Basecamp.

Upwards of 40% of all our marketing traffic comes from the result of a Google search. And that number is probably low for our industry, because we've spent

the past twenty years cultivating our own audience. For many businesses, Google is the overwhelming source of traffic for their site. They live or die by whether Google allows customers to find their business through search.

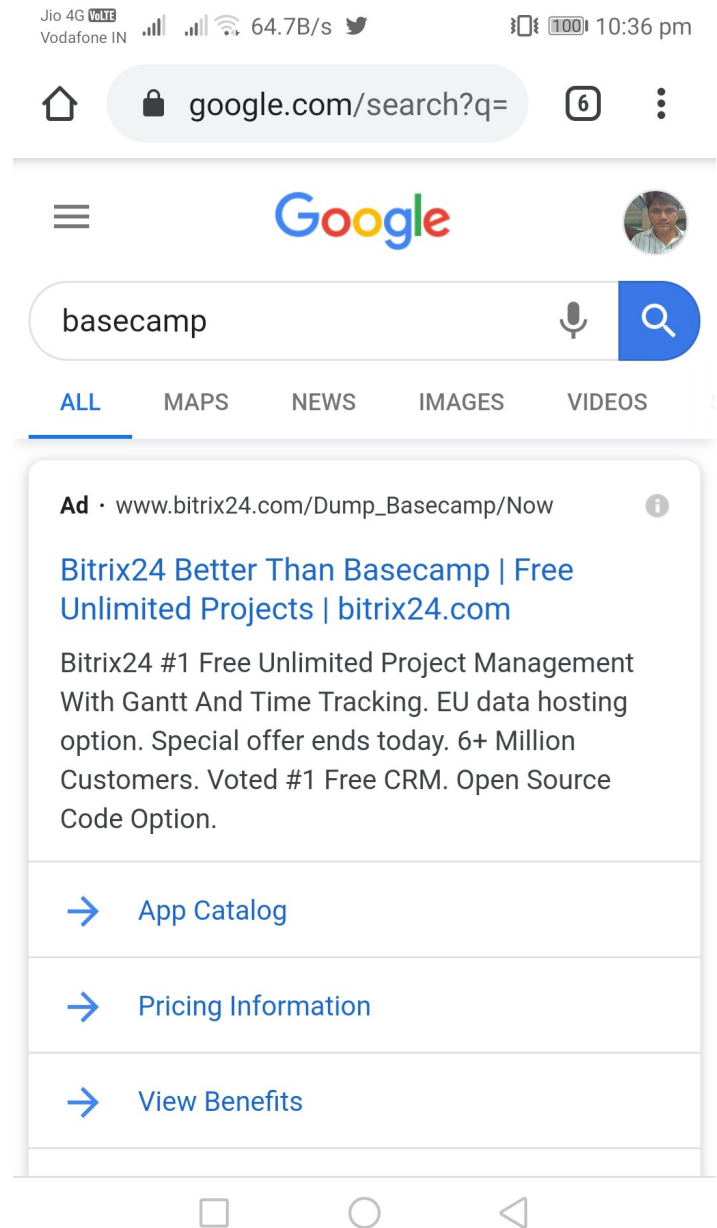
Compared to that 40%, every other search engine you can think of – Yahoo, Microsoft’s Bing, or DuckDuckGo – rarely break even 1%! All those search engines could drop us from their listings tomorrow, and we’d barely notice. If Google dropped us, we’d be in dire straits.


This monopoly in search, which amounts to controlling the front door of the internet, allows Google to shake us down for protection money with ease.







For years, we’ve been dealing with the problem that Google allows competitors to purchase ads on our trademark, blocking and misdirecting consumers from reaching our site. This problem is particularly egregious on mobile, as shown in screenshot A:

A consumer searches for Basecamp, and all they see is an ad that blocks the entire screen, with some competitor telling consumers to “Dump Basecamp Now”, using our trademark in the ad copy.



The problem is scarcely any better if you search with a desktop browser. Often times it’s even worse. See screenshot B:








basecamp 


 All  News  Videos  Maps  Images  More Settings Tools

About 15,600,000 results (0.59 seconds)

**Better Than Base Camp | Try monday.com™ (Recommended)**  
 [www.monday.com/Basecamp/alternative](http://www.monday.com/Basecamp/alternative)   
Collaborate And Track Projects & Time. Get Results. Start Now For Free. A Powerful Projects & Tasks Management Tool. Get Started In Less Than 2 Minutes. Reminders & notifications. Dashboards.

**Before choosing BCamp | Compare vs Smartsheet | smartsheet.com**  
 [www.smartsheet.com/basecamp](http://www.smartsheet.com/basecamp)   
The results just might surprise you. Try It Free! Make Collaboration Work. Enterprise-Ready Security. HIPAA, SOC2, & GDPR.  
[Apps & Integrations](#) · [Get More Project Views](#) · [Built-In Work Automation](#) · [Take Our Product Tour](#)

**What Makes Asana Better? | Manage Any Project End-to-End**  
 [www.asana.com/compare/basecamp](http://www.asana.com/compare/basecamp)   
From kickoff to signoff and beyond, plan and manage team projects with Asana. Try free.  
[Why Teams Choose Asana](#) · [Take a Product Tour](#) · [Asana Integrations](#) · [Pricing & Plans](#)  
[Asana Premium](#) - from \$9.99/mo - More power and features · [More](#) 

**Basecamp: Project Management & Team Communication Software**  
<https://basecamp.com/>   
Trusted by millions, **Basecamp** puts everything you need to get work done in one place. It's the calm, organized way to manage projects, work with clients, and ...

Google’s solution to this interference and obstruction is two-fold:

a) They have rules in place that bars advertisements from using trademarked terms, like our Basecamp trademark. But they leave all enforcement of these rules to the victims, and they impose no sanctions on the perpetrators. Why would they? Every ad sold is money in Google’s coffers. They make no money when consumers simply find what they were looking for in the organic search results.

We have opened multiple trademark infringement investigations with Google. Their process is onerous and slow: we must notice the infringing advertisement, share a screenshot, and provide an exact link to the ad for Google to even begin an investigation. It takes weeks of persistent follow-up until Google's Legal Support Team gives a response. If an investigation results in any ad restrictions, those restrictions only apply to the specific reported ads. In our experience, this has meant that just two months after Google took down one trademark-

infringing ad, another one appeared, by the same perpetrator. It's like a game of Whac-A-Mole.

The proof that the process needn't be so onerous is revealed by the fact that Google tolerates absolutely zero infringement of their own trademarks. If you try to use any variation of "Google" in your advertisement, the platform automatically denies the ad. In other words: Google Ads treats Google differently than any other company.

b) If you get tired of playing the Whac-A-Mole game you're structurally designed to lose, you can instead opt to simply pay the protection money. Google will happily take your money for ads against your own trademarked term, even if you're already the top organic result. Doing so can force the ads that squat on your trademark off, because consumers of course are more likely to click the ad for the thing they were looking for in the first place, but it's expensive.

We currently run a campaign that can cost us upwards of \$72,000/year (\$200 per day) to defend our trademark, but it's like standing alone with a bucket trying to empty water out of a sinking ship -- incredibly frustrating, and ultimately not very effective. So, at least we try to note our disgust in the ad copy, see screenshot C:

[Basecamp.com | We don't want to run this ad.](#) ⓘ

Ad [www.basecamp.com](http://www.basecamp.com)

We're the #1 result, but this site lets companies advertise against us using our brand. So here we are. A small, independent co. forced to pay ransom to a giant tech company.

We can't even compute how much it would cost to do a complete campaign that would prevent all squatting ads from appearing, and Google won't tell us. It's all part of their proprietary bidding algorithm.

Paying Google protection money such that consumers who are deliberately looking for our product can easily find us is infuriating. But what is a small business like ours going to do?

And that's just talking about the US market, where Google at least pays lip service to respecting trademarked business names. If you search for Basecamp in India, Google, an American corporation, will not respect our American trademarks. Because we do not have a trademark for Basecamp registered in India, Google considers it fair game to violate our American one there for Indian users.

Google's monopoly on internet search must be broken up for the sake of a fair marketplace. Google would never be able to get away with such a user-hostile design as showing a full-page ad for something other than what you were searching for, if it had real competition. They would never have been able to establish their monopoly if this had been the design from the get-go. These are the monopoly spoils of complete domination.

I submit the following policy ideas:

a) Take inspiration from the DOJ ruling that required Microsoft to offer consumers a choice of browser when installing Windows. Users of the Chrome browser, the Firefox browser, the Android operating system, and the iOS operating system should be given a clear, upfront choice of which search engine they want to use. Google should not be able to pay \$10+ billion/year to Apple to cement their search monopoly.

b) Ban Google from selling advertisement on trademarked keywords to direct competitors. Google is able to extract enormous sums from the marketplace when competitors engage in ad wars, buying ads on each other's trademarked terms. The only winner is Google.

## #2 Apple's half of the duopoly in mobile application distribution

When Basecamp got started in 2004, providing our application over the open web was the best way to reach consumers. Today, the walled gardens of mobile application app stores are at least as important as that open web, and for many businesses and people, even more so.

Whereas the web is a free and open marketplace – you don't have to ask any tech company for permission to sell your services! – the mobile app stores are not. Google and Apple have captured an almost perfect duopoly between the Android and iOS operating systems, and have in effect been able to collude to keep prices exorbitantly high for application makers (who then often pass on these fees to consumers).

These stores are not optional, if you want to offer a modern software package like ours. We could not continue to be competitive in our market, if we did not offer Android and iOS applications along with our web-based system.

But in order to sell software through this duopoly, businesses are required to hand over 30% of their revenue for the privilege! 30%! Most mobsters would not be so brazen as to ask for such an exorbitant cut, but this has been the going rate that Google and Apple have settled on, and it has been stable for years.

Contrast this to the fees that Basecamp must pay to transact in the highly competitive market of credit card processing. There we basically pay around 2% to process a payment, and there are countless competitors constantly trying to win our business by offering lower rates. Credit card processing is a competitive market, and the rates show. Mobile application stores are not a competitive market, and the rates show.

In the case of Apple's App Store, the indignity does not end with the exorbitant cut they ask to process payments. If you choose to opt out of this regime (as we have done at Basecamp, despite it putting us at a competitive disadvantage and being less customer friendly), you are subject to a truly draconian set of rules as to how you can talk about your business.

Apple denies us the ability to sign up trial customers through our iOS app, since we've chosen to take our payment processing to the competitive market of credit card processors. The application essentially has to appear as a speakeasy bar, where you're only let in, if you're already a member.



And if we dare to mention that it's possible to sign up for our service using the open web, Apple's retaliation is swift and brutal. They will simply ban our app from the App Store, until we comply. We've had this happen to us, and it's happened to countless other software makers as well.

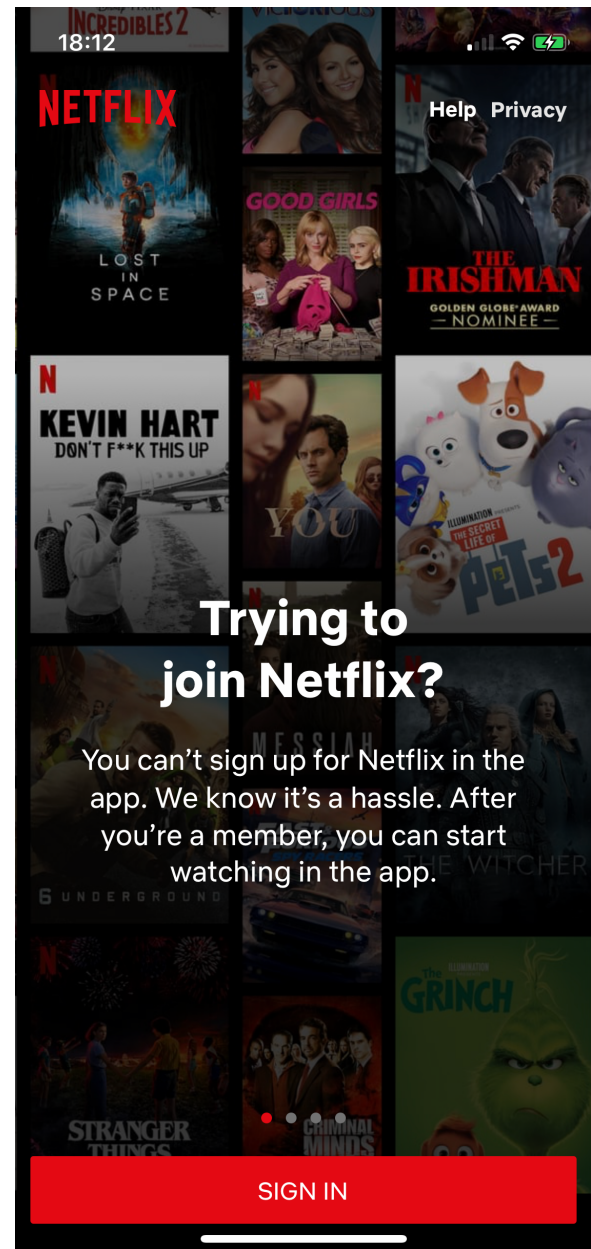
The trick is to walk the thinnest possible line, contorting the language to nudge and to wink at customers that it's possible to sign up on the web, without actually telling them outright. This is more art than science, and your ability to get away with such winks and nudges is largely determined by which App Store reviewer you're assigned, and whether you're a small or a large company. As an example, see the language that Netflix ended up using in screenshot D:

It's a complete tyranny, and the rules are often interpreted differently by different reviewers, because they're intentionally left vague. So we live in constant fear we may have violated these vague rules, and that the next update to our applications will be blocked by Apple. There are countless examples where developers large and small have been denied access to publish their applications without explanation for days or even weeks at a time. It's insufferable.

I submit the following policy ideas:

a) Deny Apple the ability to discriminate against app developers who choose to go to a competitive market for payment processing. Allow them to clearly tell their customers what they're doing and direct them accordingly.

b) Bring down the exorbitant fees for payment processing in the app stores to match what would have been the case in a competitive market. Reduce the rates from 30% to, say, 3%. We would be thrilled to give customers the most convenient way to buy our products if the rates were competitive.



### **#3 Facebook's half of the duopoly in targeted internet advertisement**

Facebook and Google have captured a duopoly on all growth in internet advertisement spending over the last several years. In a report on the growth in internet advertisement from 2016<sup>1</sup>, it was revealed that 99% of all growth that year was captured by just these two companies: Google took 54%, Facebook took 45%, and everyone else was left with the last 1%. This is as clear an example of market failure as they come.

It's not exactly hard to surmise why. These two companies hold the most detailed profiles of people online today, which gives them the greatest opportunity to target ads based on personal data, thus rendering their ads the most effective. They also control the most popular destinations online, and the most popular gateways to all other content on the internet (Google's search engine and Facebook's Newsfeed).

Basecamp saw this first-hand when we experimented with targeted advertising back in 2017. We ended up spending tens of thousands of dollars with Facebook, primarily on targeted ads using the audience look-alike matching feature. These ads performed better than any other type of internet advertisement we tried at the time. Facebook's targeting capability is crushingly effectively, and therefore truly terrifying.

At Basecamp, we ultimately ended up swearing off the use of targeted advertisement based on the exploitation of personal data<sup>2</sup>. Facebook's record of protecting people's privacy, and gathering their consent in the exploitation of their data for advertisement purposes, is atrocious, and we decided that we wanted no part of it.

But choosing to opt out of targeted advertisement on the internet is like competing with one arm behind your back. It is very clear why most companies feel compelled to do this kind of advertisement, even if it's a violation of their ethics. If their competitors are doing it, they're at a significant disadvantage if they don't. And the same is true for us. We have undoubtedly given up growth to competitors because we've refrained from pursuing targeted ads.

---

<sup>1</sup> <https://fortune.com/2017/01/04/google-facebook-ad-industry/>

<sup>2</sup> <https://m.signalnoise.com/become-a-facebook-free-business/>

It feels very much like operating an industrial company in a world without any environmental regulations. If it costs us \$100 to produce our product, while handling toxic waste in a responsible manner, but our competitors can produce the same product for \$50, by dumping their waste in the water supply, well, we're probably going to have a hard time competing! When businesses do not have to account for the negative externalities they cause, it's a race to the bottom.

The industrial-scale exploitation of privacy online is much the same. Facebook and Google have built comprehensive dossiers on almost everyone, and they can sell incredibly targeted advertisement on that basis. When Facebook knows you're pregnant, or worse, thinks it knows when you're pregnant<sup>3</sup>, they can target ads for baby clothes or strollers with striking efficiency<sup>4</sup>. But doing so represents an inherent violation of the receiver's privacy.

Every ad targeted using personal information gathered without explicit, informed consent is at some level a violation of privacy. And Facebook and Google are profiting immensely by selling these violations to advertisers. Advertisers who may well feel that purchasing these violations go against their ethics, but see no choice to compete without participating.

What's more, the fact that Facebook in particular has managed to divorce the targeting of ads from the content next to which those ads appear is fueling the rise of the most extreme content. To Facebook, the most successful content is purely that which keeps people looking and clicking. It doesn't matter if that's conspiracy theories, extremist content, or misinformation. As long as people are clicking, the targeted ads can be served. They've finally found the alchemist's dream: how to turn arsenic into gold.

I submit the following policy ideas:

a) Ban the practice of targeting ads based on personal information, unless each piece of personal information used in the ads was specifically obtained with the voluntary, optional, and informed consent that it be used for marketing purposes. As in the pregnancy example, "Yes, I give permission to Facebook to sell the fact that I'm pregnant to companies that want to advertise to pregnant women".

---

<sup>3</sup> <https://www.washingtonpost.com/lifestyle/2018/12/12/dear-tech-companies-i-dont-want-see-pregnancy-ads-after-my-child-was-stillborn/>

<sup>4</sup> <https://www.quora.com/How-do-I-target-pregnant-women-living-in-US-on-my-Facebook-ads>

b) Require Facebook and Google to disclose to people the complete dossier that's being used to target ads against them, and give people the option to flush that dossier.

## **Conclusion**

These are just the three biggest examples from our lived experience as a small tech company in a world of big tech giants that feels increasingly fraught and distraught. They are examples that point to the same fundamental problem: that the big tech companies all, in different ways, have used their market dominance to hamstring small businesses.

Are they all evil with malicious intent behind every design and business choice? No. It is undeniable that each of these companies have created industry-changing services. It is also undeniable that they each now have too much power and too many conflicts of interest to remain as unregulated as they have been.

We cannot rely on the benevolence of big tech corporate leaders to do the right thing. They have repeatedly failed to self regulate. It is well past due that legislative action is taken to ensure the means for fair competition, through meaningful regulation and enforcement.

Thank you.

## #4 Amazon's monopoly of book sales in the US

I know I promised to give just three examples, but I'm including this fourth one as a bonus appendix, in respect to the curious fact that Jeff Bezos bought a minority stake in Basecamp back in 2006 – when Amazon was 1/50th the size it is now, and we were all just excited about free two-day shipping.

Jason Fried, my business partner at Basecamp, and I have written three major books published by major US publishers. Our first book, *REWORK*, was released in 2010, and became a New York Times bestseller. Back then, Amazon was certainly an important outlet for selling books, but it was just one amongst several.

In 2013, we released *REMOTE: Office Not Required*, and in just those three years, the share of book sales that happened via Amazon had increased dramatically. I remember thinking it was incredible how large the share was, and that it scarcely could go any higher.

But I was wrong. In 2018, we released *It Doesn't Have To Be Crazy At Work*, and Amazon was no longer just the biggest seller of our book, it was essentially the only one! Amazon accounted for a combined 90% of sales across all formats. In audio books and ebooks, the share was above 95%.

When it turned out that Amazon had ordered too few copies of our book to satisfy demand, and our publisher was slow to reprint (due to manufacturing backlogs), it was as if the book essentially did not exist. No other retailer mattered. It was shocking.

No single retailer should be responsible for 90% of the sales of a mainstream book in America.