



Google, Microsoft Assume Roles of Judge, Jury and Executioner on the Web

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Google, Yahoo! and Bing have suspended their accounts with hundreds of advertisers and agents associated with mortgage programs under federal investigation. The move by Google and Microsoft (Microsoft powers Bing and Yahoo!) has basically shut down these businesses: Without the vehicle of the search engines, these sites cannot effectively generate traffic.

Why did Google and Microsoft cut the cord of these companies, and is there anything the companies can do? Google and Microsoft (we'll call them the Government's "Judge, Jury, and Executioner" or the "Enforcers") acted upon the request of SIGTARP, a federal agency charged with preventing fraud, waste, and abuse under TARP's Home Affordable Modification Program. ([The pressure started a while back, as we wrote last March.](#))

SIGTARP is investigating mortgage programs that it believes have been wrongly charging "struggling homeowners a fee in exchange for false promises of lowering the homeowner's mortgage."

According to a source at SIGTARP, the agency handed Google and Microsoft a list of some 125 mortgage "schemes." Apparently, the Enforcers then took that list, identified advertisers and agents associated with those mortgage programs, and opted to suspend relations with those companies (about 500 advertisers and agents for Google and about 400 for Microsoft). (SIGTARP's announcements on these actions can be found [here](#) and [here](#).)

So it looks as if these companies have been penalized through government action without any adjudicative process, merely through government pressure on private companies, i.e. Google and Microsoft. (More analysis from us on this to come.)

It's easy to understand why the Enforcers would feel pressure. Google just settled with the Department of Justice and agreed to pay more than \$500 million for its role in publishing prescription drug ads from Canada. Those familiar with that settlement may see Google's recent actions for SIGTARP as follow-on. Likely Google is more apt to buckle to the Feds quickly because of the costly settlement, but the matters are not directly related. In fact, the [prescription drug settlement agreement](#) relates to prescription drug ads only.



While the SIGTARP investigation is “ongoing,” and Google and Microsoft are continuing to cooperate with the agency, what can companies who have been caught up in this firestorm do? The Enforcers do, fortunately, have grievance processes (see, for instance, [Google’s grievance process here](#)).

Either on their own, or with some added strength through legal representation, the companies can try to make their cases regarding the content and nature of the ads at issue.

What is the next step going to be? If the Federal Trade Commission identifies, say, a group of websites that it believes are promoting bogus weight-loss schemes, will the Enforcers simply move to shut off their access to the Web, without further ado?

FTC Beat is authored by the Ifrah Law Firm, a Washington DC-based law firm specializing in the defense of government investigations and litigation. Our client base spans many regulated industries, particularly e-business, e-commerce, government contracts, gaming and healthcare.

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