

Google to Pay \$8 M to Settle with Texas Over DJ Endorsements

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In January 2022, the Texas Attorney General [filed a lawsuit](#) against Google alleging that the company engaged iHeartMedia DJs to provide endorsements for its Pixel 4 phone, even though they had never used it. In November 2022, the FTC and several state attorneys general [announced settlements](#) with Google and iHeartMedia over the same conduct. Although Texas settled with iHeartMedia, it continued to separately pursue its case against Google. Last week, the parties agreed to a settlement.

According to the FTC and states, Google hired iHeartMedia and other radio networks in 2019 to have DJs read ads for the Pixel 4 phone. GooglePixel 4 provided scripts that included endorsements written in the first-person. For example: "It's my favorite phone camera out there, especially in low light, thanks to Night Sight Mode;" "I've been taking studio-like photos of everything;" and "It's also great at helping me get stuff done, thanks to the new voice activated Google Assistant that can handle multiple tasks at once."

Despite the first-person endorsements, the AG alleged that most of the DJs who made these statements had never used a Pixel 4 phone. Apparently, iHeartMedia recognized the problem and asked Google to provide phones for its DJs. According to the AG's [press release](#), "When confronted with the reality that Google's ad campaign violated the law, rather than take corrective action, Google continued its deceptive advertising, prioritizing profits over truthfulness." The ads were played more than 2,400 times in Dallas, Fort Worth, and Houston.

A notable aspect of the Texas settlement is the monetary payment by Google -- \$8 million is going to Texas alone, compared to the combined \$9 million Google paid when settling with the FTC and the states of Arizona, California, Georgia, Illinois, Massachusetts, and New York last November. Given the coordination of all the states and FTC on the settlement with iHeartMedia, it is notable that when it came to Google, Texas went at it alone, first by filing suit separate from the multistate effort and then reaching a separate settlement that included significantly more money for Texas than the other states received.

The phenomena of a state holding out from a multistate settlement to obtain a better result, especially when that state is currently in litigation, is not new. In rare situations (most recently in opioid and vaping settlements), Attorneys General have been persuaded to use "most favored nation" clauses in their multistate settlements to help discourage a state from holding out for more money later, but these have been few and far between. This is because ultimately each state is a sovereign entity - a fact that can sometimes be easily overlooked during the course of a multistate negotiation where a small group of states may seemingly be speaking for the whole. At the end of

the day, each state will do what is in the best interest of their office and their constituents, which may vary.

Here, Texas' motivation for holding out may be part of AG Paxton's efforts to reign in "Big Tech." While all states are actively engaged in the space, Texas has been a leader in these efforts. Indeed, the Texas AG website has a [page](#) devoted to "Big Tech," which explains why people should be concerned about big technology companies and what the AG is doing about it. And although it settled with Google over these endorsements, it still has at least three other pending lawsuits against Google – challenging its [dominance in the adtech chain](#), accusing it of [violating the state's biometrics laws](#), and alleging [deceptive practices related to location tracking](#) (another example where Texas sat out on a multistate settlement).

When faced with an investigation by multiple Attorneys General, it is critical to understand the objectives and priorities of each office involved, and recognize they may change from state to state. While getting true global peace may be an impossible challenge in some instances, having a deep understanding of each office involved is the best way to find a path to resolution.