In fact, Barnett has said as much before:

Because a Section 2 violation hurts competitors, they are often the focus of section 2 remedial efforts. But competitor well-being, in itself, is not the purpose of our antitrust laws.
Access remedies also raise efficiency and innovation concerns. By forcing a firm to share the benefits of its investments and relieving its rivals of the incentive to develop comparable assets of their own, access remedies can reduce the competitive vitality of an industry.

Not only has FairSearch not actually demonstrated that Google has preferenced its own products, the organization has also not demonstrated either harm to consumers arising from such conduct nor even antitrust-cognizable harm to competitors arising from it.

As an empirical study supported by the International Center for Law and Economics (itself, in turn, supported in part by Google, and of which I am the Executive Director) makes clear, search bias simply almost never occurs. And when it does, it is the non-dominant Bing that more often practices it, not Google. Moreover, and most important, the evidence marshaled in favor of the search bias claim (largely adduced by Harvard Business School professor, Ben Edelman (whose work is supported by Microsoft)) demonstrates that consumers do, indeed, have the ability to detect and counter allegedly biased results.

Recall what search bias means in this context. According to Edelman, looking at the top three search results, Google links to its own content (think Gmail, Google Maps, etc.) in the first search result about twice as often as Yahoo! and Bing link to Google content in this position. While the ICLE paper refutes even this finding, notice what it means: “Biased” search results lead to a reshuffling of results among the top few results offered up; there is no evidence that Google simply drops users’ preferred results. While it is true that the difference in click-through rates between the top and second results can be significant, Edelman’s own findings actually demonstrate that consumers are capable of finding what they want when their preferred (more relevant) results appears in the second or third slot.

Edelman notes that Google ranks Gmail first and Yahoo! Mail second in his study, even though users seem to think Yahoo! Mail is the more relevant result: Gmail receives only 29% of clicks while Yahoo! Mail receives 54%. According to Edelman, this is proof that Google’s conduct forecloses access by competitors and harms consumers under the antitrust laws.

But is it? Note that users click on the second, apparently more-relevant result nearly twice as often as they click on the first. This demonstrates that Yahoo! is not competitively foreclosed from access to users, and that users are perfectly capable of identifying their preferred results, even when they appear lower in the results page. This is simply not foreclosure — in fact, if anything, it demonstrates the opposite.

Among other things, foreclosure — limiting access by a competitor to a necessary input — under the antitrust laws must be substantial enough to prevent a rival from reaching sufficient scale that it can effectively compete. It is no more "foreclosure" for Google to "impair" traffic to Kayak's site by offering its own Flight Search than it is for Safeway to refuse to allow Kroger to sell Safeway's house brand. Rather, actionable foreclosure requires that a firm "impair[s] the ability of rivals to grow into effective competitors that erode the firm's position." Such quantifiable claims are noticeably absent from critic's complaints against Google.

And what about those allegedly harmed competitors? How are they faring? As of September 2012, Google ranks 7th in visits among metasearch travel sites, with a paltry 1.4% of such visits. Residing at number one? FairSearch founding member, Kayak, with a whopping 61% (up from 52% six months after Google entered the travel search business). Nextag.com, another vocal Google critic, has complained that Google's conduct has forced it to shift its strategy from attracting traffic through Google's organic search results to other sources, including paid ads on Google.com. And how has it fared? It has parlayed its experience with new data sources into a successful new business model, Wize Commerce, showing exactly the sort of "incentive to develop comparable assets of their own" Barnett worries will be destroyed by aggressive antitrust enforcement. And Barnett's own Expedia.com? Currently, it's the largest travel company in the world, and it has only grown in recent years.

Meanwhile consumers' interests have been absent from critics' complaints since the beginning. And not only do they fail to demonstrate any connection between harm to consumers and the claimed harms to competitors arising from Google's conduct, but they also ignore the harm to consumers that may result from restricting potentially efficient business conduct — like the integration of Google Maps and other products into its search results. That Google not only produces search results but also owns some of the content that generates those results is not a problem cognizable by modern antitrust.

FairSearch and other Google critics have utterly failed to make a compelling case, and their proposed remedies would serve only to harm, not help, consumers.