

15<sup>th</sup> February, 2019  
ACCC  
Digital Platforms Inquiry  
Level 2 | 23 Marcus Clarke Street  
Canberra ACT 2601.

Dear ACCC,

I have briefly read the preliminary results from your inquiry and ask that your investigation be broadened to the impact the power Google and Facebook has to the survival of small businesses.

In July last year I made the decision to close my business, Flowers by Fruit after 12.5 years because I could no longer fight Google and FB.  
In short my advertising spend was increasing however my sales were decreasing.

Issues that need to be addressed:

- 1) Trademark Breaches via Google Shopping: google would use my trademark Flowers by Fruit to promote competitors under this name. See attached pictures. The images underneath the term Flowers by Fruit were my competitor product. The impact this had on my business was huge. Moreover it created confusion for my customers. At an increasing rate I would receive calls from my loyal customers who were familiar not only with my products but my website, and express their frustration at their inability to find my website. Every time they clicked on a link that they thought was mine, it would transfer them to a competitor website. If a new customer did this, they wouldn't know the difference; this meant I probable lost a sale.

I spoke with someone from IP Australia after I emailed my intention to not renew my trademark Flowers by Fruit in 2018. During my conversation with the IP Australia representative I explained to him my reasons why I felt that a trademark useless. Unfortunately the IP Australia Representative told me that in fact the actions as appeared on the Google Shopping pages and Google Ads were in fact breaches of trademarks and that I would need to engage a Barrister to defend my brand. I could not afford the time or the money to take on Google and I knew that I had no chance of winning.

- 2) Dynamic Numbering: This is a tool used by Google whereby they can change the number on your website in order to collect data to analyse how a customer found their way to my website.

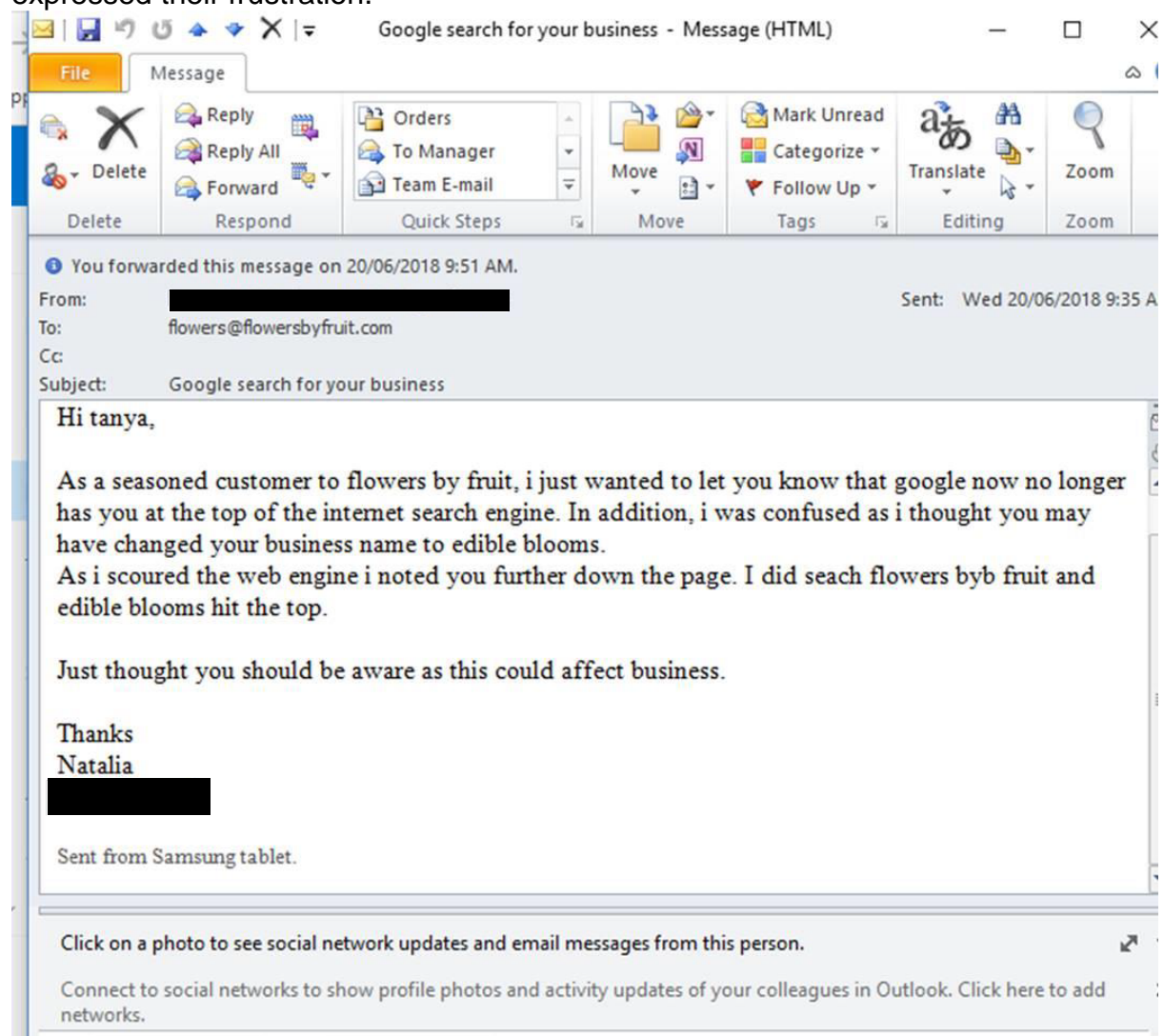
This did not work and more often than not the phone number that Google placed on my website would direct customers to a completely different business. This not only

lost me a sale but potentially harmed my business reputation, for a number that is "dodgy" on a website means the business must not be legitimate.  
Click on link to view video footage

<https://www.facebook.com/tharoulis/videos/10156474591569198/>

### 3) How paid advertisers work and how it needs to change.

Allowing competitors to outbid businesses using their name needs to change. Customers who are looking for a specific business need to know that the website that appears first and foremost in the one people are searching for and not the one with the biggest marketing spend. This creates confusion (see email below). This example is one of many phone calls and emails I received where customer expressed their frustration.



Simply put, if someone is looking for a specific business and knows their name, and types this business into the search, then this business **MUST APPEAR FIRST AND FOREMOST** in the search results and not a paid Ad that appears Organic.

If a person is looking for a product or service under a category type (for example: Chocolate Strawberries), then "may the best man" win. Let those with the biggest advertising dollar win.

It is highly destructive if a small business has to bid on its own name.

It's like they are being penalised for building a solid reputation. This is why the old fashioned Yellow Pages was a far more fair system. Regardless of your spend a business knew that for that 12 months your ad would be in the exact same spot for a pre-determined fee. That fee also determined the size and placement of your ad. With Google and Facebook, you don't know where or when your business will be promoted online as apparently your competitors may deliberately click on your ad to exhaust your daily spend limit quickly. This leaves those with a smaller advertising budget at a disadvantage.

Refer to the picture below, Google states "See Flowers by Fruit" yet none of the products presented belonged to my business. That is misleading and deceptive behaviour.

4) Constant Algorithm changes by Google and Facebook. I noticed significant changes to my business around April 2018, whereby it was becoming harder and harder to predict sales. On a couple of occasions we had trading days where our sales had dipped by at least 80%. Considering we had a very high customer satisfaction rate, we had lost competitors; these dramatic dips in sales did not make sense. Trying to ascertain the cause of these large fluctuations in sales, we were advised by our web developer and another digital agency that it was due to some (alleged) Algorithm changes Google had implemented in March 2018 that had impacted thousands of Businesses (either negatively or positively) but this adjustment period would end and everything would return to normal. Unfortunately it didn't. In a desperate attempt to try to understand why my business was so badly affected, I called a Google Support line. Their customer service representative listened to my concerns and responded that he understood that some business were affected by the recent changes Google had implemented but everything would return to normal soon. I asked what was soon, the Google Service Representative chuckled and said "I'm not sure maam, but it will be soon".

After this conversation, I made the decision to close my business.

5) Facebook Issue: One of my best selling products was blocked by Facebook as it was deemed as an "x rated" product. I made several attempts to reverse this, however, the links to do so as offered by Facebook failed. I had no other contact points to challenge the decision made by Facebook, so I had to remove it from the range that I was promoting on my businesses Facebook Page.

## Timeline Photos


Orders / Sales X Flowers By Fruit X Kris Katsanis X Business Man X Flowers by Fruit X Mail - tharouli X LinkedIn X Contact the AC X

Secure | <https://business.facebook.com/commerce/products/2323438727681614/>

Pages Flowers by Fruit

**Deluxe Berry Assortment**

Edit Share Product Insights (1 week) 0 Views 0 Clicks



your item should be approved, fill out this form.  
It looks like we didn't approve your item because we don't allow the sale of adult items or services (ex: sexual enhancement items, adult videos).

**Deluxe Berry Assortment**  
Flowers by Fruit  
\$95.00

[Check Out on Website](#)

This will take you to [www.flowersbyfruit.com](http://www.flowersbyfruit.com)

**Product Details**  
Never get bored with chocolate strawberries again with this wonderful assortment!  
Featuring white, milk, dark and pink Belgian chocolate, either cover...  
[Show More](#)

Like Comment

Type here to search

Regards,

Tania Katsanis

Images:

- 1) Trademark Breaches: Please note that images depicted below are not Flowers by Fruit.

Google search results for "flowers by fruit".

Search results show three sponsored items:

- Choc-Dipped Strawberry Bloom by Edible Blooms \$69.00 Edible Blooms Special offer
- Strawberry Bouquet with Melon and Pineapple by Edible Blooms \$179.00 Edible Blooms Special offer
- Chocolate Dipped Strawberry Bouquet by Edible Blooms \$139.00 Edible Blooms Special offer

Business listing for Flowers by Fruit:

- Address: 5/328 King Georges Rd, Beverly Hills NSW 2209
- 5.0 stars, 23 Google reviews
- Your past visits: You visited yesterday · Editing

Search results for "flowers by fruit" (About 17,300,000 results (0.55 seconds)):

Shop for flowers by fruit on Google

Sponsored items:

- Strawberry Bouquet with... \$179.00 Edible Blooms Special offer
- Choc-Dipped Strawberry Bouquet... \$69.00 Edible Blooms Special offer
- Chocolate Dipped Strawberry... \$139.00 Edible Blooms Special offer
- Fresh Edible Fruit Bouquet with... \$49.00 Edible Blooms Special offer
- Edible Fresh Fruit Bouquet with... \$549.00 Edible Blooms Special offer

Flowers By Fruit | The Perfect Gift to WOW

Ad: [www.flowersbyfruit.com/FruitBouquets](http://www.flowersbyfruit.com/FruitBouquets)

Same day delivery Edible Fruit Bouquets for Someone Special. Order Now! Same Day Delivery.

Gifts for Her  
Perfect Presents For Mothers  
Or Wives, Try Something new

Messages on a Berry  
Personalised & Perfect Gifts  
Make it Special, Make it Count

Search URL: [https://www.google.com/search?q=flowers+by+fruit&source=univ&tbm=shop&itbo=u&sa=X&ved=0ahUKEwi544a\\_k5HcAhVBE6YKHebpBzlQsxlKA](https://www.google.com/search?q=flowers+by+fruit&source=univ&tbm=shop&itbo=u&sa=X&ved=0ahUKEwi544a_k5HcAhVBE6YKHebpBzlQsxlKA)