



**PAYDAY LENDING
MARKET INVESTIGATION**

**RESPONSE TO THE CMA'S
PROVISIONAL DECISION ON REMEDIES**

October 31, 2014

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This Response is submitted on behalf of Google Inc. It responds to the CMA’s Provisional Decision on Remedies, published on October 9, 2014 (the “PDR”).

The Response is organised in two parts.

- First, it responds to the CMA’s specific request for further information on the costs that might be incurred by a price comparison website (a “PCW”) in establishing separate subdomains within its website to allow it to advertise both payday lending services and other services via Google AdWords.¹
- Second, it responds to a number of specific points of detail contained in the PDR.

I. GOOGLE’S CONSUMER ADVISORY AND INTERNET SUBDOMAINS

1. As recognised in the PDR, Google implemented a Consumer Advisory notice on payday lending in 2011. It was introduced in response to warnings issued by the US Federal Trade Commission, and other consumer organisations.² The Consumer Advisory applies only to Google AdWords; it does not have any impact on natural search results.
2. The effect of the Consumer Advisory is to protect users searching on Google from being exposed to advertisements for payday loans, unless they are specifically looking for that type of product, in order to ensure that vulnerable consumers are aware of other lending options before taking out a payday loan. For example, a user searching for “loans” would not see advertisements for payday loans on AdWords. By contrast, a user specifically searching for “payday loans” on Google is able to see advertisements for payday loans.
3. The Consumer Advisory complements the CMA’s proposal to offer accreditation to PCWs satisfying certain minimum criteria, further protecting vulnerable consumers who may not be aware of lending options other than payday loans. As noted in the PDR, the Consumer Advisory does not in any way hinder PCWs from seeking and obtaining accreditation under the CMA’s proposed remedy, nor does it hinder consumers from locating PCWs (including, in future, accredited PCWs) either through natural search or in Google AdWords.³

¹ The PDR, paragraph 3.102.

² The PDR itself notes (at paragraph 3.68) that consumer protection concerns could arise if consumers using PCWs are confronted by advertisements for payday loans products. This is reflected in the Consumer Advisory, which itself reflects warnings issued by consumer protection organisation. See: <https://support.google.com/adwordspolicy/answer/1314225?hl=en-GB>

³ The PDR, paragraphs 3.102 and 3.103. In addition, some respondents have apparently told the CMA that Google suspends advertisers’ AdWords accounts “*for not appropriately segregating payday comparison*”

4. The specific concern expressed by some respondents during the CMA’s investigation is that if a PCW begins offering price comparison services for payday loans, that PCW will be unable to advertise any of its other services via AdWords because of the Consumer Advisory. They argue that the Consumer Advisory would prevent any of their advertisements being displayed, other than in response to payday loan search queries.⁴
5. For the reasons set out in Google’s submission of September 11, 2014 and recognised in the PDR,⁵ this is incorrect. The Consumer Advisory applies to the domain, subdomain or folder to which the relevant advertisement is linked. It is therefore possible, and straightforward, for a PCW offering payday lending comparison services to advertise its full range of services via AdWords, simply by organising its website into two (or more) subdomains or folders. For PCWs that opt to use AdWords, payday lending content would be placed in one subdomain or folder and other content in another.
6. As previously submitted to the CMA, this possibility was specifically recognised in Google’s communications materials at the time the Consumer Advisory was introduced, in the following question and answer:

“My website includes more than just payday loans or penny auctions. How do I prevent ad restriction for the parts of my site that are not subject to a Consumer Advisory?”

To address this situation, you need to put all of the CAM related content under a separate subdomain or folder (i.e. if you ran a website called funstuff.com that included a penny auctions page, you would need to move that page to the subdomain penny.funstuff.com or folder funstuff.com/penny). This separate subdomain or folder should also be set as the visible URL for all of your adgroups that offer services subject to CAM. Google will then only restrict ads that link to your payday loan or penny auctions subdomain (i.e. ads pointing to penny.funstuff.com or funstuff.com/penny are restricted, and ads pointing to funstuff.com are no longer restricted).”

7. This approach not only gives advertisers the flexibility they seek, it also reinforces the benefit of the Consumer Advisory, *i.e.*, it ensures that consumers are not exposed to advertisements for payday loans (and potentially only those advertisements) when other products may be more appropriate to their needs.
8. The CMA cites the example of money.co.uk. This PCW offers price comparison services (but not payday lending services) under the domain <http://www.money.co.uk>. It offers the same range of services, plus payday lending services, under the subdomain <http://paydayloans.money.co.uk>. It is possible for a user to navigate between the two

tables” (the PDR, paragraph 3.97). Google does not suspend AdWords accounts in this way, other than in cases of egregious or repeated violations of its advertising policies.

⁴ The PDR, paragraph 3.97.

⁵ The PDR, paragraph 3.102.

subdomains. However, only users searching specifically for payday loans will see AdWords advertisements linking directly to the payday lending subdomain.

9. In its submission to the CMA of September 11, 2014, Google noted that other websites appeared to operate in the same way. Since then, Google has become aware of other similar examples:
 - “Knowyourmoney” uses the domain <http://www.knowyourmoney.co.uk/>. The site’s payday loan content, in the form of payday loan advice and information to consumers, is located in the following folder: <http://www.knowyourmoney.co.uk/paydayloans/>.
 - Uswitch.com uses the following folder for its payday loan content: <http://www.uswitch.com/loans/payday-loans/>.
10. Specifically, by including payday lending content in a distinct folder, it is possible for these websites to ensure that search results and AdWords advertisements link to their principal homepage, while also allowing users to navigate from that homepage to find payday lending content (*e.g.*, by searching the website for payday lending content). As far as Google understands, having subdomains or distinct folders in place does not have any other impact on the functioning of the website.
11. As far as Google is aware, the cost to a website operator of establishing and maintaining separate subdomains or folders is negligible. Indeed, many commercial websites are already organised along these lines for other reasons, such as ease of administration. As a result, web-hosting providers widely offer multiple and unlimited subdomain offerings to website operators who may want to organise their sites in this way. These include: Go Daddy, 1&1, HostGator, BlueHost, Just Host, and DreamHost, five of the largest providers in this space.⁶ Examples of such offerings are provided at [Annex 1](#).
12. Establishing and maintaining separate subdomains or folders would involve the following steps:
 - The website operator would need to decide which content to include in which parts of its website. This is a purely administrative task and, as stated, many do this in any event.
 - A website operator would not incur any additional registration costs. All website operators pay a fee to register their domain name. This is a small annual administrative fee. Subdomains and folders can be added to the registered domain name by the operator without further cost. For example, the technical support pages of web-hosting provider “HostGator” provide the following advice:

⁶ By way of further illustration, “Traffic Planet Hosting” advertises the fact that folders do not require any additional account space and therefore may be unlimited in respect of any given domain. See <https://trafficplanethosting.com/knowledgebase/article/15/do-subdomains---subfolders-use-up-hosting--slots--in-my-tph-account/>

“It is not always necessary to register a new domain name when the one you already own will work perfectly fine. Rather than registering a new domain name, you can always create a subdomain using a domain you already own.

*A subdomain is a second website, with its own unique content, but there is no new domain name. Instead, you use an existing domain name and change the www to another name. The subdomain name looks like *forums.domain.com, help.domain.com, help2.domain.com (assuming you already host domain.com).*”⁷*

- A website operator could decide to replicate content in one subdomain or folder. For example, as in the example of “Money” above, a PCW could choose to operate one version of its website in one subdomain and another all-but-identical version of the same site in another (with the exception of payday lending services).
 - No additional marketing costs would be incurred, since the two parts of the website could be operated under the same brand.
 - In order to advertise payday-lending services and non-payday-lending services via AdWords, the operator would simply need to ensure that its AdWords advertisements for non-payday-loan services linked to subdomains or folders without any payday lending content.
13. The costs that a PCW (or lender) would incur in organising its website into subdomains or folders would therefore be a fixed cost close to zero, and negligible at most.
14. Taken as a whole, the Consumer Advisory protects vulnerable consumers in a way that is consistent with the objectives of consumer protection organisations around the world. This benefit far outweighs any negligible cost that might in theory be imposed on PCWs choosing to advertise via AdWords.

II. OTHER COMMENTS ON THE PDR

A. Consumer Warnings in Advertising “Snippets”

15. The PDR considers whether and how lead generators should be required to display warning messages to consumers. In this context, it states:

“We also noted that it might be possible for information to be provided to potential borrowers using the page description or ‘snippet’ displayed by lead generators when advertising using paid search.”⁸

⁷ <http://support.hostgator.com/articles/cpanel/what-is-a-subdomain-name-how-do-i-create-and-delete-one>

⁸ The PDR, paragraph 3.241.

16. This is illustrated in the PDR with a screenshot of a Google AdWords advertisement submitted by www.beeloans.co.uk.
17. As previously explained to the CMA, Google does not create the advertisement descriptions displayed in AdWords advertisements. The text is provided by the advertiser. In order for the CMA's proposal to be effective, the requirement to display a consumer warning in advertising descriptions would have to rest on the lead generator, rather than the search provider.
18. Moreover, as a private entity, Google is not well-positioned to police the legal sufficiency of a website's disclosures in light of its business model. Advertisers are responsible for the content of their advertising and the burden of legal compliance should therefore fall on them.
19. Necessarily, the number of words that can be displayed in an advertising description is limited. AdWords advertisements are limited to two lines of description, with a maximum of 35 characters on each line.⁹ Other search providers have similar practical limitations. For example, Bing advertisement descriptions are limited to 71 characters in total.¹⁰ Any consumer warning that lead generators had to include in their advertisement descriptions would therefore have to be extremely short.
20. A more practical solution may therefore be for the CMA to require lead generators to display the required consumer warning message on any landing page linked to an online advertisement or the website of the lead generator, rather than in the advertisement itself. This approach would also be relatively straightforward for the CMA or FCA to monitor, since (under the CMA's proposals) one or other Authority would already need to check that lead generators were displaying appropriate consumer warnings on their websites.

B. Restrictions on Advertising on Payday Loan PCWs

21. The PDR suggests that PCWs should not be permitted to display advertisements for payday loans on payday lending price comparison webpages.¹¹
22. If the CMA is minded to pursue this remedy, it would seem more practicable for the requirement to comply with the remedy to rest with PCWs that choose to publish advertisements. The website operator (*i.e.*, the PCW) is better able to control the advertising published on its site. Further, the CMA may be better able to monitor compliance with its remedy if the obligation rests with website operator.
23. Google, as a private entity, is not well-positioned to monitor whether the advertising on a PCW fulfils all legal requirements. However, Google does require websites that enrol in its advertising network to comply with all applicable laws, and it responds

⁹ See: <https://support.google.com/adwords/answer/1704389?hl=en>

¹⁰ See: <http://advertise.bingads.microsoft.com/en-uk/editorial-style-guidelines>

¹¹ The PDR, paragraph 3.67.

expeditiously to any takedown request of law enforcement and consumer protection authorities of sites that are in violation of the law.

C. Other Comments about AdWords Reported in the PDR

24. One respondent, the Money Advice Trust, argues that Google AdWords should not accept advertisements from lenders or lead generators unless they are “*fully regulated lenders*”.¹²
25. This proposal would effectively make Google responsible for policing compliance with financial regulation, which Google believes should not be its, nor any other advertising service provider's, role. Moreover, Google already responds expeditiously to any takedown requests notified to it by law enforcement and consumer protection authorities, including the CMA, in relation to sites that are not properly licensed or otherwise in violation of the law (*e.g.*, if they have advertisements running on Google that violate the law). Further, Google requires advertisers to comply with all applicable laws, and has policies in place against misrepresentation.
26. The CMA’s proposal that lead generators should display consumer warnings on their websites would in any event address the concern apparently underlying this submission. Under the CMA’s proposal, any user clicking on an advertisement would see the appropriate consumer warning before agreeing to take out a loan. Any more intrusive remedy (*e.g.*, requiring advertising services providers to police lead generators) would therefore be disproportionate.

* * *



Google would be happy to provide any further information or clarification on the points raised in this Response that the CMA would find useful.

¹² The PDR, paragraph 235.

ANNEX 1

Examples of Web-Hosting Providers Offering Unlimited Subdomains

1. Go Daddy¹³

 	Economy	Deluxe	Ultimate
Core Features			
Free Domain with annual plan <small>Restrictions apply</small>	✓	✓	✓
Websites	1	Unlimited	Unlimited
Disk Space	100 GB	Unlimited	Unlimited
Monthly Bandwidth	Unlimited	Unlimited	Unlimited
FTP Users	50	50	Unlimited
Databases			
MySQL	10 x 1 GB	25 x 1 GB	Unlimited x 1 GB
Database Backup/Restore			
Direct Database Access			
Domains			
DNS Management	✓	✓	Premium DNS
Access without "www."	✓	✓	✓
External Domains	Unlimited	Unlimited	Unlimited
Subdomains	25	Unlimited	Unlimited
Multiple Web Sites	-	Unlimited ^{oo}	Unlimited ^{oo}
Alias Domains	Unlimited	Unlimited	Unlimited

¹³ <https://uk.godaddy.com/hosting/web-hosting.aspx?ci=57033&isc=gofduk24>

2. **1&1**¹⁴

Web Address Features ^				
Free Included Domains ?	-	1	1	1
Domain Types ?	-	.co.uk, .me.uk or .org.uk	.com, .net, .org, .co.uk, .me.uk or .org.uk	.com, .net, .org, .co.uk, .me.uk or .org.uk
Domain Contact Management ?	✓	✓	✓	✓
Subdomains ?	10	100	Unlimited	Unlimited
DNS Management ?	✓	✓	✓	✓
URL Masking and Domain Access with or without 'www'	✓	✓	✓	✓
Additional Domain Registration ?	From £2.99 per year	From £2.99 per year	From £2.99 per year	From £2.99 per year
Host External Domains ?	Unlimited	Unlimited	Unlimited	Unlimited
GeoTrust® Dedicated SSL Certificate with Dedicated IP ?	Optional	Optional	Optional	✓

¹⁴ http://www.1and1.co.uk/hosting-linux?__lf=Order-Tariff&linkOrigin=hosting&linkId=tariff-unlimited-plus.featuretable

3. BlueHost¹⁵

	starter	plus most popular	business pro
	normally \$5.99 \$3.49* per month	normally \$9.99 \$5.95* per month	normally \$19.99 \$13.95* per month
	select	select	select
websites	1	unlimited	unlimited
website space	100 GB	unlimited	unlimited
bandwidth	unlimited	unlimited	unlimited
included domains	1	1	1
parked domains	5	unlimited	unlimited
sub domains	25	unlimited	unlimited
email accounts	100	unlimited	unlimited
email storage	500 MB per account	unlimited	unlimited
marketing offers	\$50 included	\$200 included	\$200 included
	select	over \$24/yr in extras Global CDN 1 SpamExperts select	over \$180/yr in extras Global CDN 2 SpamExperts 1 SSL 1 Dedicated IP 1 Domain Privacy SiteBackup Pro High Performance select

¹⁵ <http://www.bluehost.com/shared>