

Competition and Markets Authority
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Dear Sirs

Response to the CMA's online platforms and digital advertising market study

Introduction

1. [An ICSS provider] provides information, call connection and signposting services ('ICSS'). ICSS is a service which provides a practical and cost effective alternative to the well-known voice directory information services. ICSS are web based. Consumers are only able to access ICSS via online searches. The business is almost totally dependent on digital search engine service providers for its access to the market.
2. In an era where many UK corporations are channelling customer contact away from the phone to alternative digital channels — online ticket support, live chat, email and social media — we offer this service to enable consumers to have voice-based contact with organisations who provide them with services. We have been operating in this market since [§<]. ICSS are regulated by the Phone-paid Services Authority ('PSA'), the regulator for content, goods and services charged to a consumer's phone bill. Our services are fully compliant with the Code of Practice for premium rate services ('PRS') and the ICSS Special Conditions.¹
3. This regulatory regime is comprehensive and effective. Numerous provisions in the PSA Code and ICSS Special Conditions are designed to protect consumers by specifically ensuring they are given sufficient information about the identity, nature and cost of the ICSS to make that informed decision.

[An ICSS provider] welcomes the market study

4. [An ICSS provider] is pleased to be able to provide a view on the CMA market study. We are a small business that is almost entirely dependent on the online advertising market. It is appropriate that the CMA focuses on this industry sector given its massive growth and the almost total take up of access to the internet by the population of the UK. [An ICSS provider] believes this is an important market study given the increased role online platforms take in people's lives and the economy of the country. Business expenditure on paid search advertising on Google, Bing and other search engines amounted to £5.8bn in 2017.²

¹ PSA Code of Practice 2016 14th edition, available at: https://psauthority.org.uk/-/media/Files/PSA/For-Businesses/Your-phone-paid-service/Code-of-Practice/PSA_Code_of_Practice_14th_Digital.ashx?la=en

² Online advertising in the UK, a report compiled by Plum Consulting for DCMS, dated January 2019, available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/777996/Plum_DCMS_Online_Advertising_in_the_UK.pdf

5. The outcome of the study has the potential to shape the market in a way that encourages healthy competition on a level playing field and to deliver positive outcomes for consumers. It is therefore of particular importance that the CMA gets this market study right, and we hope this response will be taken into account in establishing the CMA's findings and its design of the remedies.
6. Digital advertising is not only the cornerstone of major online platforms whose business models rely on the billions of pounds of revenue they receive from advertisers; it is also of particular importance to businesses of all sizes who rely on, and pay search engine companies, such as Google, to ensure our services are visible to consumers who search for them online.
7. [An ICSS provider] is supportive of the scope of this study which captures the correct areas where potential issues can arise, namely:
 - the increasing market power of online platforms;
 - consumer control over data collection practices; and
 - competition concerns in this sector and remedies.
8. This response focuses in particular on the first and third bullet points, as illustrated by our business relationship with Google and the effect it has on our business and our customers. In summary, [an ICSS provider] believes Google's lack of transparency and the lack of regulatory oversight has harmed our business significantly and has also limited the benefits of a competitive marketplace to consumers.

ICSS and Online Digital advertising — the market context:

9. It has been apparent for a number of years that many businesses operating in the consumer mass market, retail and information space have adopted a preference for customer contact to be through online ticket support, live chat, email and social media rather than by phone. This may be beneficial for the organisations — who can save significant staffing and operational costs by not operating call centres at scale — but may not always be quite so helpful to consumers. 96% of UK households have at least one mobile phone, with 79% of UK adults personally using a smart phone.³ There can be no escaping the fact that picking up the phone and speaking to an organisation about an issue, such as a customer service problem, can be the most efficient means of communication in a number of circumstances.
10. We live in a fast-paced environment; there is no doubt that the explosion of digital communications has encouraged society to expect near instantaneous responses and resolution to problems. Smartphones have become the primary device for accessing the internet; however, we should not forget that a smartphone is very much a phone and not merely a handheld computer. The average mobile phone user makes 169 minutes of voice calls a month.⁴
11. Mobile phone users on the go are not always able to make use of the non-verbal communication options provided by the end organisation that they want to contact and often feel that a voice call

³ Ofcom, Communications Market Report 2019, page 4, published 4 July 2019, available at: https://www.ofcom.org.uk/_data/assets/pdf_file/0028/155278/communications-market-report-2019.pdf

⁴ Ofcom, Communications Market Report 2019, Summary of UK telecoms metrics, published 4 July 2019, available at: <https://www.ofcom.org.uk/research-and-data/multi-sector-research/cmr/cmr-2019>

would be more efficient. Communicating with end organisations by means of a conventional phone call may be the preferred option for elderly users, those who are less tech-savvy, or where the matter the customer wishes to discuss with the relevant organisation is complex and detailed. ICSS provides consumers with the information they require in a generally easily accessible form and at a price that is competitive compared to the more traditional directory information services. Many customers prize the convenience of finding a number quickly using ICSS over continued searching for the number on the web.

12. An ICSS, however, is totally dependent on online advertising methods and thus ultimately search engine providers. Google is the search engine of choice for the vast majority of UK consumers and [X] of our customers access our landing pages via Google. Those businesses, like [an ICSS provider], that rely on online advertising have no market power whatsoever to direct consumers to use search engine alternatives to Google and therefore have no choice but to contract with Google for the AdWords service.

Google's market power and how it provides an essential input to [an ICSS provider's] business model

13. As the CMA found, Google's market power for the supply of digital advertising is significant⁵. For a company like ours, Google has become an unavoidable trading partner since most customers carry out searches on their search engine. As such, Google's ability to impact our business is becoming increasingly pronounced.
14. When our customers carry out a search on Google, looking for an organisation's phone number, they will enter search terms and be offered several results on the results page. The results comprise both 'organic' search results, forming the main body of the results, and paid AdWords ads which are displayed in the most prominent positions — either at the right-hand side of the organic listings, or directly above the organic listings. ICSS providers can buy an AdWords campaign for the relevant search term(s) or variations of them. Google harnesses competition between organisations that buy AdWords for the same search terms. Put simply, the higher the price paid by an organisation for the AdWords, the more likely it is that their Google Ad will appear in the search results when an end user carries out a Google search for the relevant search term.
15. When a customer clicks on our advert, they will be directed to [an ICSS provider's] landing page which provides information about the end organisation and functionality enabling them to (i) click through to the end organisation's web page where they can find and call directly the organisation themselves, or (ii) choose to connect using our service by calling our PRS number. The latter option is how we generate revenue and simplify the experience for customers who do not want to carry out those steps themselves, or look elsewhere for the contact details they are seeking (such as from competing ICSS and DQ providers, traditional printed directories, or elsewhere on the web).
16. So long as the increased visibility, visits to our landing pages and a corresponding increase in turnover was maintained, [an ICSS provider] did not feel the impact of Google's significant market

⁵ See paragraphs 5 and 31 of the CMA's Online platforms and digital advertising market study, statement of scope, available at:
https://assets.publishing.service.gov.uk/media/5d1b297e40f0b609dba90d7a/Statement_of_Scope.pdf

power in the supply of digital advertising services. However, the flipside of this state of affairs is that [an ICSS provider] has very few and limited alternatives to achieve this level of growth. Moreover, the viability of [an ICSS provider's] business is almost entirely at the mercy of Google's decisions — particularly in relation to any unilateral changes Google makes to the contract terms for their AdWords service and the accompanying policies, as well as the increasing capriciousness of the Google AdWords policy team responsible for administering the service. In addition, the lack of choice in this market can only degrade, as Google continues to consolidate its position.

The market power of online platforms in consumer-facing markets (Theme 1)

17. Google's market power has a profound impact on [an ICSS provider], insofar as Google controls the online relationship with our customers who rely on Google to display our adverts in the results of their searches. Consistent with the network effect, the more users rely on Google to carry out searches, the more behavioural data is available to Google to make AdWords a valuable input; and the more users rely on Google, all the more essential AdWords become as an input to our business. Google has become an unavoidable trading partner. Therefore, [an ICSS provider] is at the mercy of Google, being the only platform capable of delivering the level of visibility [an ICSS provider] needs to exist as a business.

Google's business practice and its direct impact on [an ICSS provider]

18. [An ICSS provider] has had a business relationship with Google since [X]. After an initial good experience with AdWords between [X] and [X], which involved our dedicated Google account manager working with us to create the model for our landing pages, since [X], we have frequently been subject to arbitrary and unexplained suspensions of our AdWords account(s). Google's AdWords team prove very difficult to contact, and at times when we were able to communicate, they only cited unspecified alleged breaches of the Google AdWords terms/policies without ever particularising them to us. This has a major impact not only our business, but on the ability of consumers to undertake searches.
19. This lack of transparency and seemingly discriminatory behaviour by Google is severely impacting our business, which in our early stages invested on the assumption that the AdWords service would work as intended (which it did, for a brief period). [An ICSS provider] does not understand Google's motivation for their change in attitude to our business, as their conduct must, in some cases, have the effect of depriving them of further revenue. In addition, we are not even able to remedy the alleged breaches our landing pages are said to contain, as Google refuses to explain these to us and relies instead on unspecified breaches to their policy. When we try to do our own research as to identify why our landing pages are falling foul of Google policies, we draw a blank as the landing pages of our competitors appear to follow the format we had adopted. In summary, there is no rhyme or reason to the suspensions that Google has imposed.
20. [An ICSS provider's] only incentive is compliance with Google AdWords because, as explained above, it has become such a vital and unavoidable input to our business. We are therefore more than willing to remedy whatever perceived faults our landing pages contain, but Google will not even allow us to do that anymore, because they will not engage with us — despite our ongoing contractual relationship.

21. As mentioned at the start of this submission, the ICSS business is highly regulated. The PSA is our regulator and ICSS providers are subject to the PSA Code of Practice with additional Special Conditions. The PSA investigates alleged breaches of the Code and Special Conditions and takes action against individual ICSS where breaches of the code or Conditions are found to have occurred.⁶ In our view, Google's behaviour amounts to an attempt at unauthorised regulation; Google is essentially regulating our services, albeit not in a fair, proper, transparent or balanced way, tempered by the usual checks, balances and safety measures associated with genuine regulatory conduct. This is not Google's role and it should not be allowed to use its significant market power in this way.
22. [REDACTED].
23. We note that the CMA has considered a number of international studies. Whilst we understand that the French Autorité de la concurrence may have different powers than the competition authorities in the UK, it is interesting to note that it is investigating Google following a complaint and application for interim measures from Amadeus.⁷ In the main, this complaint mirrors precisely the issues that [an ICSS provider] has encountered in its business relationship with Google and it is clear from the Autorité de la concurrence publication that Amadeus uses the same business and operating model as [an ICSS provider] in terms of digital advertising. This demonstrates that [an ICSS provider] is not the only advertiser (and in this case ICSS provider) suffering these business-affecting problems at the hands of Google.

Indirect impacts on consumers

24. Our experience is that some [REDACTED] of our customers use the Google search engine rather than any other readily available search engine (such as Bing, Yahoo, or DuckDuckGo). To enable [an ICSS provider] to access the end user customer, it is necessary for [an ICSS provider] to operate a Google AdWords account. Every time Google unilaterally and without explanation suspends our account there is an immediate impact on consumers who are unable to access our landing pages, forcing them to use alternative services (and potentially much more expensive services such as directory enquiry 118 services).

View on potential remedies

25. The CMA's proposed remedies to address the imbalance of market power would be a welcome change to the digital advertising sector.
26. In particular, the CMA's proposal to have ex ante regulation, including '*rules on the terms on which platforms transact with different digital advertisers, such as limitations on the reasons by which large platforms can discriminate between customers*'⁸ would assist digital advertisers immeasurably. If there were clear rules for companies (such as Google) to follow, then an advertiser would not end up in the situation that [an ICSS provider] has found itself in, whereby

⁶ The PSA's Tribunal – Adjudications page can be found here: <https://psauthority.org.uk/tribunal-adjudications>

⁷ Autorité de la Concurrence, Decision 19-MC-01 of 31 January 2019 on the request by Amadeus for interim measures.

⁸ CMA, Online platforms and digital advertising market study: Statement of Scope, page 27.

accounts have been arbitrarily suspended without clear, upfront reasoning, and without a clear and formalised way for the advertiser to challenge the suspension. Transparency of contract terms is key to an effective functioning of the market.

27. We can also see merit to the recommendation of the ACCC that suppliers of internet browsers should be required to provide consumers with options for search engines. The majority of customers conduct searches using Google. This is compounded by the fact that Google operates the world's most used web browser, Google Chrome⁹, which itself uses the Google search engine by default. If different search engine options were provided more prominently and easily to customers, they might be more inclined to explore and use these alternatives and have more choice available to them.

Conclusion

28. [An ICSS provider] is fully supportive of the CMA in its market study. Competition policy in digital advertising must evolve to enable and protect the promotion of competition and innovation to improve outcomes for consumers and businesses. It is clear that the market power of online platforms, which have a clear strategic market status, has grown unchallenged for a number of years. It is essential that action is taken now to correct the 'tipping' effect that has happened in the market towards a single provider with unchecked market power.
29. We will maintain a keen interest in the progress of the market study and would be happy to provide more detailed input into the study that the CMA may require.

Yours faithfully,

[An ICSS provider]

⁹ See <https://www.techadvisor.co.uk/test-centre/software/best-web-browsers-3635255/>