

Online Platforms and Digital Advertising market study

Competition and Markets Authority

25 Cabot Square

London E14 4QZ

To Whom It May Concern,

The CMA is reviewing Online platforms and digital advertising requesting businesses to contribute to the same.

Our small advertising company Marker Lab LTD has been impacted and suffered severe disturbances due to Google's failure to deliver an Ads service as advertised on its site, which continued for the last 12 months. On top of that its exhibition of arbitrary and aggressive behaviour resulted in the arbitrary suspension of our account.

This is results in causing serious disruption to our business and clients who rely on Google's Ads service. This also impacted our client's trust and company credibility. As there is no competition and alternatives available, we cannot advertise on alternative search platforms and have thus discontinued delivery of our services to clients.

Attempting to resolve the matter amicably with Google has been nigh on impossible, given its lack of seriousness in resolving matters, standard canned answers in response to queries and rejection of all and any liability for all and any mistakes incorporated in its terms and conditions which were unilaterally imposed upon us. Given the substantive legal costs involved in taking Google to court, we are unable to pursue this matter further.

Key Questions for the case study

In fact, I conducted research and in general, I agree with your summary of markets within your scope and market investigation. However, in relation to your initial findings and concerns under each theme, along with further work you propose to do over the second half of the study, I observed based on my company experience working with Google Ads:

1. The French Competition Authority's recent findings must be reviewed and incorporated into your concerns as they fully mirror the issues we and our clients have suffered as small businesses.
2. Google policies are confusing in their formulation and interpretation and which, moreover, are subject to numerous and arbitrary modifications and interpretations almost always to the advantage of Google:
 - 2.1. Google is required to define its clearly its policies in an objective, transparent and non-discriminatory manner. However, policy wording on several policies is not based on any clear definition, which gives Google full latitude to interpret them according to its advantage. This includes the " Sale of Free Items" policy and " Reseller trademark policy".
 - 2.2. The French Competition Authority noted in September 2014, Google considered the paid site directories-inverse.net complied with its policies relating to the sale of normally free services. However, in January 2015, without the site having changed its economic model, Google suspended the site.
 - 2.3. Google's application of its policies does not follow objective coherent or consistent principles
 - 2.4. Google's support teams struggle to understand Google policies themselves often providing conflicting advice which specialist teams often contradict.
 - 2.5. Google frequently changes its position on the interpretation of its policies, creating uncertainty for small businesses like us

2.6. Our ads have been routinely suspended by Google Bots with generic policies cited without particularisation or any assistance in resolving matters, canned answers referring to vague policies at best. Google failed to deliver the service for most of our ads that comprised over 50,000. Ads were shown sporadically

2.7. Google takes the approach of suspending ads and/or the account refusing to elaborate further regardless of appeals, requests or threats and failed to answer.

3. Google applies its policies inconsistently and arbitrarily, visible in competitors with similar services and content continuing to run on their platform whilst our services are suspended or banned

4. Given its dominant position with no serious alternatives, reinforced by the existence of very high barriers to entry, small businesses reliant on online traffic usually die – this is what has happened to us and some of our clients

5. Google promotes its own alternative services to ours thus it seeks to marginalise its competitors; it was fined in the Commission Decision in Case AT.39740 Google Search (Shopping), 27/06/2017.

Google and EU battle in court over €2.4 billion anti-trust fine <https://www.france24.com/en/20200212-google-and-eu-battle-in-court-over-%E2%82%AC2-4-billion-anti-trust-fine>

My company Marker Lab LTD have also experienced what the French Competition Authority previously noted in its 4-year investigation, namely Google temporarily suspended Gibmedia's site(s) and its Google Ads account several times, before suspending them definitively in 2015, for violation of various policies. Simultaneously, Google continued to run similar ads for others. While it has, for example, suspended the accounts attached to the reverse directory sites published by Gibmedia, it has, at the same time, maintained those of its sister company with similar content whilst even supporting its development.

In relation to the merits and challenges of potential interventions identified, we believe your proposed interventions are inadequate and will have marginal if any real effect on the current environment and practices. This is visible in the past decade where multibillion-pound fines have been applied to Google with little effect – similar egregious behaviour continues apace.

Conclusion

The CMA must consider breaking up Google to fight market dominance and allow more competition. Anything less than this maintains the status quo with Google dominance and continues to hurt small businesses. This approach needs to be supplemented with serious and criminal sanctions similar to the French Competition Authority's penalty of EUR 150 million, if not greater than the one that should be used to compensate companies that have suffered Google practices.

The CMA should also review Google's procedures for suspended accounts, suspended accounts, small business complaints, and the clarity and legitimacy of its terms and conditions. Google should be called upon to report to CMA for complaints filed against it, suspended accounts and violations of policies, as well as for alternative dispute resolution mechanisms.

We will continue to be keenly interested in the progress of market research and will be happy to provide a more detailed contribution to the research that CMA may require.

Yours faithfully,

Nadeem Malik
Director
Marker Lab LTD

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