

An ICSS Provider – Response to Interim Report Consultation

Dear Sirs,

RE: CMA online platforms and digital advertising consultation

For a number of years we have been providing information, call connection and signposting services (ICSS) regulated by the UK Premium Services Authority (PSA), the regulator for content, goods and services charged to consumers' phone bills.

Many customers, especially the elderly or those on the move, need a way of finding an organisation's number quickly using ICSS over continued searching for a number on the web along with the ease of recording and transcribing calls should disputes arise.

The PSA Code and Conditions protect consumers ensuring they are provided clear information about the identity, nature and cost of the service.

Our online services are found via search engines and provide practical and cost-effective alternatives to directory information services.

As such we are dependent on search engine service providers to give us access to the market, which in effect amounts to a dependency on Google who dominate this space, so we are obliged to contract with their ads service.

The viability and visibility of our business is at the mercy of Google's decisions, particularly Google's interpretation of its terms and policies or unilateral changes it makes to its policies or contractual terms and conditions.

As a small business, we have faced repeated breaches, disruption and abuse by Google resulting significant disruption and losses that are difficult to recover via legal means given the aggressive nature of Google's lawyers, terms and conditions and absence of alternative dispute mechanisms.

Market power of online platforms

Google's market dominance has a significant impact on ourselves as Google controls the relationship with our customers as Google controls the display of our ads in response to customer searches.

With increased behavioural data Google is able to consolidate and increase the dominance of its Ads system making Google a necessary trading partner exposing us to the mercy of Google, its terms and policies and its interpretations thereof – with no alternatives to choose from.

Google's practices and their consequences

Google's account managers and support staff helped create the campaigns and ads on their system. We have however found that despite this we have been exposed to

repeated arbitrary, contradictory and unexplained suspensions of our ads and accounts.

Google's support teams never particularise the issues and alleged breaches always referring to generic policies and use of canned answers. This disrupts our business, makes decision making and planning impossible and limits the ability of customers to find us in searches.

Lack of transparency, cooperation and discriminatory behaviour by Google has hampered our business development and innovation.

The ICSS sector is regulated by the PSA and we are subject to its Code of Practice with additional Special Conditions. It investigates breaches of the Code, taking action where breaches have occurred. We have found throughout the years of working with Google they have been attempting to regulate our services in the place of PSA, in an unfair, improper, opaque and discriminatory fashion. It recognises no checks and balances as is seen with the PSA. This should not be Google's role nor should it be allowed to abuse its dominant market power in this way.

The French Competition Authority report also mirrors our findings in a case similar to ours. Whilst we accept their jurisdiction and powers differ to the CMA we would strongly recommend its findings are reviewed which detail experiences which are near identical to what we face in the UK and its recommendations in our opinion do not go far enough but are a helpful starting point:

- Rules confusing in their formulation and interpretation and which, moreover, are subject to numerous and arbitrary modifications
- Unilaterally imposed and Imprecise Terms, Conditions, Policies and Rules
- Changes in position in the interpretation of policies
- Changes to policies not transmitted to the sites
- Rules applied in a discriminatory manner: several sites were suspended while others, with similar content, were not
- Serious practices that may have discouraged the development of innovative sites

The French Competition Authority stated Google had been regularly alerted to the importance of respecting competition rules whilst the European Commission had penalised it for abusing a dominant position in the Google Shopping, Android and Search AdSense cases. We also note the U.S. DOJ is also now reviewing practices of market-leading online platforms following concerns about search and social media services online.

We would suggest the CMA requires Google to ensure its policies are much more objective, clarifies and works with advertisers to fix ads rather than suspending accounts, and oblige alternative means of dispute resolution be put in place should the above fail.

Importantly a breakup of Google would allow other entrants into the market to provide greater choice, competition and innovation. The Google ads system has innovated little over the past several years.

We look forward to and welcome your findings.