

A Small Advertiser – Response to Interim Report

Dear Sirs,

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

We are a small advertising business who for over a year has suffered serious disruptions due to Google's failure to deliver an Ads service as advertised on its site, exhibited arbitrary and dominating behaviour having arbitrarily suspended our account, failed to particularise the reasons citing vaguely worded policies and terms it interprets in its favour, causing serious disruption to our business and clients who rely on Google's Ads service to access the online marketplace. With a lack of competition and alternatives, we cannot advertise on alternative search platforms and have thus ceased delivery of our services and may have to cease trading or look for an alternative business model.

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 and Google refuses to allow the matter to be furthered via alternative dispute resolution mechanisms.

Your Key Questions

- We are broadly in agreement with your summary of markets within your scope and market investigation.
- With regard to your initial findings and concerns under each theme, along with further work you propose to do over the second half of the study, we make the following observations based on our experience working with Google Ads:
 1. The French Competition Authority's recent findings should be reviewed and incorporated into your concerns as they fully mirror nearly all of the issues we and our clients have suffered as small businesses suffered by the French complainants.
 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:
 - a. Google is required to define 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".
 - b. 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. We have suffered the same decisions on similar facts.

- c. Google's application of their policies does not follow objective coherent or consistent principles leaving us stuck in planning and decision making as well as running our business as we don't know what stable framework we are meant to operate within.
 - d. Google's support teams struggle to understand Google policies themselves often providing conflicting advice which specialist teams often contradict. We have found this repeatedly.
 - e. Google frequently changes its position on the interpretation of its policies, creating uncertainty for small businesses like us, a new policy prohibiting premium number routing based Information, Connection and Signposting Services (ICSS) created in November and revised to prohibit all value add services related to ICSS added in December, killing an entire industry in one fell swoop that relied on Google to access the online marketplace. This limits consumer choice and kills all and any innovation.
 - f. Hundreds of thousands of our and our clients' ads have been routinely suspended by Google with generic policies cited without particularisation or any assistance in resolving matters, canned answers referring to vague policies at best – arbitrarily ads are approved on appeal to be disapproved by bots and disapproved by a different team of reviewers.
 - g. Google takes the approach of suspending ads and/or the account, refusing to elaborate further regardless of appeals, requests or threats – there is no independent mechanism to review these decisions and Google appears to act as judge and jury, and in many industries has hijacked the role of the industry regulator, the PSA role in the case of ICSS.
3. Google applies its policies inconsistently and arbitrarily, visible in competitors with similar services and content continuing to run on their platform whilst our or our clients' 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.
 6. We 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 multimillion, if not multibillion-pound fines have been applied to Google with little effect – similar egregious behaviour continues apace.
- The CMA must propose interventions that have teeth, consider breaking Google up to combat its market dominance and allow a space for the growth of competitors. Anything less than this maintains the status quo with Google's dominance continuing and harm to small businesses continuing. This approach needs supplementing with serious and punitive sanctions similar to, if not much greater than, the French competition authority's penalty of 150 million euros which should be used to compensate businesses that have suffered from Google's practices.
- The CMA should also review Google's procedures for suspended accounts, suspended accounts, small business complaints, and clarity and reasonableness of its terms and conditions and policies. Google should be made to report to the CMA in relation to complaints filed against it, accounts that are suspended and policies violated as well as mechanisms for alternate enforceable dispute resolution.

We await your findings in due course.