From: [redacted]
Sent: 13 December 2024 10:51
To: [redacted]
Cc: [redacted]
Subject: Ecosia Follow up: Prerequisites for a Contestable Search Market

Dear [redacted],

I hope this email finds you well. [redacted]

We hope the CMA will take these points onboard in consideration of its *Provisional Decision Report* and as the DMCC comes into force in Jan 2025.

Prerequisites for a Contestable Search Market

1. Default settings
   a. Much has been said about the fundamental importance of default settings in the Search market. Indeed, they are the key to market share given that users tend to keep them. Until recently, though, it has been largely underestimated what it takes to change them. The mere appearance of a single Choice Screen, for instance, did not bring about changes. The reasons for this are better understood today.
   b. Online services like Search are habit creation machines. They engage users into multiple micro-interactions per day delivering instant gratification. Most users have developed deep experience and familiarity with using gatekeeper services, so inertia will continue to guide their choice of search engine. These services also are 'experience goods', which means consumers may struggle to evaluate the quality of a search engine without direct exposure to it (Source: Georgetown 4/11/2024).
   c. Regulators must therefore improve on current remedies to effectively address the systemic advantages of default settings, existing habits and brand awareness ('google it') and build on recent findings from the DMA's choice screens, which have thus far failed to demonstrate any impact. These must include:
      i. *Choice screens 2.0:* Choice screens need to enable users to experience different providers and to explore different micro-habits. In practice, this could mean that gatekeepers are not present on choice screens and that the chosen service will remain in place for a period of e.g. one month. And, certainly, regulators should carefully study the DMA, how gatekeepers distorted choice contexts to their own advantage and how they subsequently went after users who did not choose their service.
      ii. *One-click switches:* Outside default settings, competitors are left to acquire new users by means of marketing and communication. Once a new user is convinced to change default settings, gatekeepers will initiate a set of micro- and macro-frictions to confuse, discourage and even intimidate users to do so. Regulators must enforce simple ways for competitors to offer new users to change their default settings without friction, in one click, across all access points.

2. Syndication of organic results

a. Syndication contracts for the provision of organic results and ads to smaller niche players have been a custom in the search market since its conception. This is not surprising given the fixed costs nature of the business and therefore it remains a regular practice in similar industries with higher level of competition. Unfortunately, the practice of engaging in these contracts has become more arbitrary and capricious along with the increasing market power of gatekeepers.
b. The barriers to enter the search market are prohibitively high: building a web index requires an enormous amount of fixed costs. Large parts of the web are difficult or impossible to access for non-gatekeepers and the chicken-and-egg problem persists that ranking algorithms are trained by users using the service, but users will not use your service if it is not properly trained. This is particularly problematic for long-tail queries. Therefore, new entrants in the search market have to start in niches and then gradually expand their capabilities and user base. And while they are doing so, they need to be able to complement their offering via syndication of organic search results. Today, these results go beyond the famous 'blue links' but also need to include autosuggest, images, videos, and rich answer features.
c. And while new entrants need to be able to complement their offering via syndication, they also require anonymous user click-and-query data from the dominant gatekeepers to train their own algorithms.
d. Access terms to both syndication and click-and-query data need to be on FRAND terms, of course, to prevent effective circumvention by gatekeepers. Prices need to be based on the cost of effective service provision..

3. <u>FRAND access to ad marketplaces</u>
a. Similar to other online marketplaces like stock markets, ad marketplace strongly benefit from scale and network effects and naturally tend to converge to very high levels of market concentration. But unlike stock market places, the dominant ad market platforms are not impartial. They arrange drastically better outcomes for their own services, like significantly better prices or very different allocation of SPAM ads.
b. In order for new entrants and smaller competitors to be able to compete, they must get access to these platforms on FRAND terms. That again includes access pricing to be based on the cost of effective service provision. The impact of the latter cannot be overestimated, given that gatekeepers today tend to enforce 'revenue share agreements' which leave most of the revenue to themselves.

Finally, the above 3 prerequisites for a contestable search market - remedying default settings, syndication of organic results, and FRAND access to advertising - should be implemented proportionately and according to thresholds which reflect the size revenues, market share, and systemic influence of the gatekeepers/firms in question so as to prevent simply transferring market power from one gatekeeper to another. The ultimate goal must be to create a competitive, diverse innovative ecosystem which benefits consumers and society, rather than shifting market concentration among a few dominant players.

I hope this is helpful. Please do not hesitate to let me know if you would like to discuss or have any additional questions with regards to these points.

Warm Regards,
[redacted]