RESPONSE TO CONSULTATION

CCIA response to Invitation to comment: SMS investigation into Google's general search and search advertising services

About CCIA

CCIA is an international, not-for-profit trade association representing a broad cross section of communications and technology firms. For more than 50 years, CCIA has promoted open markets, open systems, and open networks. CCIA's members operate and distribute general and specific search functions as part of the digital services that they offer to UK consumers.

Q1: Do you have views on the proposed scope of our investigation and candidate descriptions of Google's general search services?

While it can be hard to establish boundaries in practice, Search and Search Advertising is an appropriate grouping that reflects the monetised service to advertisers and the associated media offering to consumers.

Including "search-related" AI services, such as Gemini AI Assistant, (para 25) would be inappropriate. It would mean applying interventions intended for Search as a more established service to a dynamic segment in which there is rapid innovation and competitive dynamics are evident with both adjacent services to search (e.g. chatbots such as ChatGPT) and more direct competitors (e.g. SearchGPT). While this new competition should be taken into account in understanding dynamics in search, intervention in this area would be premature and AI innovation in search should be allowed to mature.

Q2: Do you have submissions or evidence relevant to the avenues of investigation set out in paragraphs 26-28? Are there other issues we should take into account, and if so why?

Extent of competition (27 a-c)

Like many digital services, search represents a multi-sided product. The extent of competition is therefore best understood in terms of the conventional competition test updated to reflect that: if the quality-adjusted price of the service increased, what alternatives would each category of users find readily available?

In the case of search, the two main types of user are consumers, looking to find content, and businesses or other organisations, looking to share content (e.g. advertisers looking to reach consumers and sell goods and services).

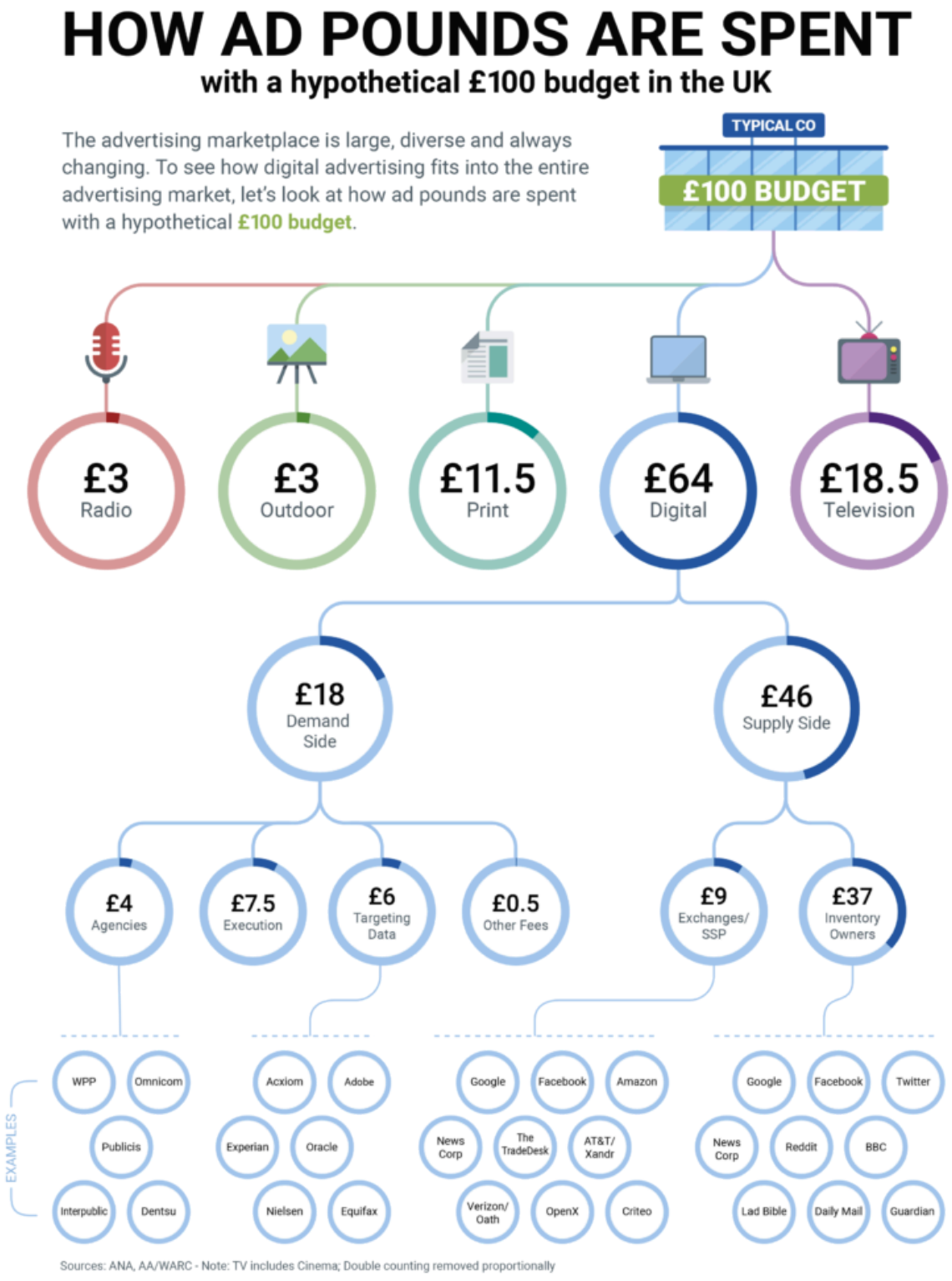
In the case of consumers, competitors include:

- Other general search engines - here there are alternatives provided by both new businesses and existing players with resources broadly equivalent to Google (i.e. Microsoft).
- Specific search engines - this will include major e-commerce platforms, reference sites (e.g. Wikipedia) and many others where someone might search for content.
- Direct - consumers will often be aware of brands and go direct to them instead of search. This is a crucial pro-competitive role for search and search advertising in particular, as it will often reflect an environment in which smaller brands can compete on a more even field with larger brands (e.g. larger news media organisations) which sometimes perceive search as purely a stepping stone to accessing their content.
- Social media - people will often ask friends, family and others for recommendations instead of searching (including in the kind of scenarios posed in the draft consumer survey shared by Competition and Markets Authority (CMA) for this investigation).
- AI services - these will often replicate other categories, e.g. chatbots which provide an automated response akin to asking a friend on social media; or new AI search services that aim to provide a more direct parallel to general search engines.

Businesses seeking to reach customers can interact with almost all of these services either through organic results or through advertising. In the case of AI services, even if they do not currently include an advertising component, they are likely to do so as the sector matures. However, businesses also have other options:

- Other forms of advertising which remain available including TV, print and out-of-home.
- Non-advertising customer acquisition - advertising often competes with other investments as a means to support revenue growth.

CCIA quantified this for an hypothetical UK ad budget in 2020, shown below and illustrating the large number of companies involved and roles played in what is a diverse and dynamic sector. Since the last CMA study on digital advertising, major players have entered the market, e.g. TikTok, which are now broadly comparable in scale to the very largest digital advertising platform.



Whether or not each of these services would be considered part of the same market in a market definition exercise, the DMCC's guidance argues strongly against drawing "arbitrary bright lines" and all of these are options that users would have available if quality-adjusted

prices rose (i.e. the quality of Google Search declined) and therefore represent competitive constraints at the margin for Google Search and/or search advertising.

The risk of an overly-narrow consideration of the competitive constraints is that it neglects the role that Google's search engine will often play as a challenger in many sectors. While it may be popular compared to other general search engines, its share for actual use cases is often far lower. In the case of news for example, Ofcom research suggests that Google (and this is explicitly considering the search engine) is 13th behind a diverse range of alternatives including linear TV (BBC is #1 and ITV is #2); social media; video sharing and instant messaging. Curbing the role of the Google search engine will reduce the competitive constraints on those alternatives and make it harder for consumers to discover other challengers (if someone searches for a story, they will be presented with a broader range of sources than if they go to a single source directly.)

Barriers to entry (27 d)

The CMA and others (e.g. the US Department of Justice) have found that Google delivers the best search results, reflecting a fairly won position in the market. New features (e.g. AI Overviews) represent continued investment in improving those results. If this ceased to be the case, under the status quo it is implausible that new specific and/or general competitors would not continue to emerge and grow.

First, there are limitations on the practical barriers to entry created by network effects, particularly for a service where consumers do not directly care if it is also used by their peers. There are advantages and disadvantages to being a general search engine with a relatively large number of uses. While the CMA articulates some of the advantages, larger search engines will also face – for example - attempts to manipulate their results. In many cases, the advantages of scale (e.g. more data) are needed to counteract those disadvantages (e.g. using that data to train a search engine algorithm that is harder to manipulate).

To establish meaningful barriers to entry for new competitors (which will not experience these negative network effects) is therefore not sufficient to establish that positive network effects exist, but that *net* network effects are positive to the extent that there is not a meaningful competitive constraint at the margin despite all of the alternatives described above.

Outside of network effects, the CMA describes a range of potential supply-side advantages for Google as a larger and/or more established search engine. There are again a number of limitations on this impact however:

- Many technological innovations (e.g. cloud ICT services, AI algorithms) will serve to reduce the cost of building a search engine, this has enabled the new search engines (e.g. Perplexity) that have launched in recent years.
- Many organisations that either compete in search or could compete in search have significant financial and technical resources and other routes to establish data that could accelerate the development of a search engine.

Again there is a risk that this process could be undermined by overly restrictive interventions to the extent that companies looking to build new search services (and mindful of the potential for SMS designation in the event they were successful) would differentiate their services less and be less able to justify investments in building new networks.

Extending market power

CMA should distinguish between extending market power from two trends that might be mischaracterised as such:

- Presenting search results in an appropriate form. It is inevitable that an effective general search engine will need to customise how it presents results in order to ensure they are effective. If someone searches for a place, for example, it is natural to share a map among responsive results. There is a clear consumer benefit to doing so and the fact that, outside of search, there are companies offering specialised search services does not mean that this behaviour on Google's part should be seen as extending purported market power.
- Investments in improving search results or advertiser outcomes. Innovations such as AI Overviews, for example, are a sign that the company is still investing to improve search results (responding to competitive pressures described above). As noted above, the CMA and others (e.g. the US Department of Justice) have found that Google delivers the best search results.

As noted above, there is a risk that limits in this area could protect incumbents where general search either acts as or enables competition in adjacent sectors.

Q3: Do you have views on how Google's general search services might be affected by the development of AI interfaces providing alternative means of returning information?

The development of AI services represents an example of the competitive constraints on Google's general services and a market dynamic that is expected and foreseeable over the next five years. These clearly have the potential scope, timeliness and impact to eliminate any purported substantial market power.

In terms of scope, AI services have the potential to create or strengthen a range of competitors for Google Search:

- General competitors from both well-resourced existing companies (e.g. OpenAI's SearchGPT) and new entrants (e.g. Perplexity).
- Specific competitors that serve user needs that are either responsible for a large number of searches, or a smaller number of searches that are commercially-important for advertisers.

In terms of timeliness, the Chinese AI service DeepSeek has been the most downloaded app in recent weeks. This is one of many recent examples of services addressing all or part of the sector in which Google search operates as a consumer service.

Finally in terms of impact, given that Google already competes with a wide range of services in different segments (as described above) improvements in the functionality of those services (for example, if specific search engines generally become more effective for valuable search segments) combined with new entrants clearly has the potential to entirely eliminate any purported substantial market power. This will particularly be the case to the extent that a finding of substantial market power is premised on network effects: any decline in usage could be compounded by a reduction in positive network effects (which might not proceed at the same pace as a decline in negative network effects, to the extent business practices such as search engine optimisation adapt more slowly), sharpening effective competitive constraints.

There is a broad consumer and competition interest in Google being able to compete alongside other businesses in a highly dynamic AI sector. Premature intervention is unwarranted and could hurt the interests of UK consumers and economic growth.

Q4: Do you have views on whether the issues outlined in this section are the right ones for the CMA to focus on, or whether there are others we should consider?

Some of the interventions considered have an obvious overlap with the work of other laws and regulators. The UK already has dedicated laws governing the collection and processing of personal data, revisions to which are being considered by Parliament, and a dedicated regulator in the Information Commissioner's Office (ICO). Several of the types of conduct requirements considered would duplicate and complicate that work, but particularly general interventions over data relationships between Google and its users (43b).

There would be similar concerns around the potential for this investigation to constrain the Government's policymaking process when it comes to AI and copyright (43d), which is currently subject to a live consultation. Ministers are both consulting on specific measures around AI and copyright, but also developing wider programmes to seize AI opportunities premised on the potential to attract AI investment which could be undermined by regulatory hurdles to training models in the UK.

The CMA needs to avoid a risk that a relationship with Google Search is used as a rationale to address wider concerns that are not the result of the Search function. This will particularly be the case for industries that are adjusting to technological and commercial changes unrelated to Google Search and search advertising.

The news industry is an important example where there are broad currents in the industry that this CMA investigation is not an appropriate means to address (43d). Declines in news media advertising revenue, for example, are driven in large part by increases in competition: first on the demand side, as many users have new sources for news (as noted above, Google Search is not a major example of this trend); and also on the supply side, as digital media enables new

competitors (e.g. Autotrader, Gumtree) for classified ads where newspapers had previously faced little competition. Attempts to use competition regulation in this context are likely to lead to disproportionate unintended consequences.

Q5: Do you have views on whether the potential interventions are likely to be effective, proportionate and have benefits for users, including consumers and business search users? Are there other measures the CMA should consider that would be more effective or proportionate, or that would deliver greater benefits for users?

In some cases, interventions proposed might be redundant as, for example, Google already allows companies to exclude web crawling for text and data mining purposes separate from search functions (42c). In other cases, however, many of the interventions seem likely to materially worsen the Google search experience, harming consumers overall. There are three broad risks with the interventions described, reflecting the competitive constraints described above and the likely impact on the quality of search now and, through curbs on innovation, in the future.

Making search less useful for consumers

Any weakening of the functioning of Google Search will mean costs for consumers and businesses, who benefit from its efficiency, for example the 17 million hours a week of worker time estimated to be saved by Google Search and Workspace.

- Restraints on including AI services in responses to search engine queries (42a) will prevent innovation and improvement in Google search, harming consumers. Given intense dynamic competition in AI services this is unlikely to increase competition and more likely to undermine the UK's adoption of AI, hurting consumers, innovation and economic growth.
- Restraints on Google adaptingits services to different use cases (42a), by offering maps in response to queries about places for example, will create friction in the user experience which at the aggregate will mean a significant time cost for dubious benefit (this seems borne out by the experience with the DMA, see below). It will also lead more consumers to go directly to the largest specific services, undermining competition in those adjacent sectors.
- Restrictions on sharing data between services (42b) risks creating duplication or outright conflicts with other regulatory requirements, including data protection regulation and investigatory powers requirements. If not very carefully specified it also has the potential to undermine the user experience as, for example, it drives a fragmentation in customer service functions (which can no longer respond as

effectively to users who may not fully understand to which services their problems relate).

- Restraints on market allocation of defaults for search services (41a) risks creating frictions for consumers and undermining innovation and competition in adjacent industries. Having defaults settled based on a financial exchange (open to other similarly-sized competitors) seems fairer in principle than other instances (e.g. Bing, Edge and Windows) where operating systems are open in theory, but in practice heavily promote their own services. Any device maker will need to choose between creating their own service (risking scrutiny over self–preferencing), creating friction in the user experience or developing other forms of relationship that are less open to other market participants.
- Requirements for specified choice architectures (41b) will require ongoing regulatory attention to the nature of the choice (for example, which options are included) and may ultimately create more friction than actual user choice (versus the alternative customer journeys available already).

Almost all digital services are to some extent a combination of different components, serving different user needs. Any restriction on Google Search doing the same (42a), particularly if overly-broad, is likely to hurt consumer value, innovation and overall competition. The evidence from the DMA (considered below) is that it does not produce helpful competition benefits.

Undermining the effective function of search:

- Restraints on search rankings (43b), which make it harder to prevent manipulation of the algorithm. If companies know, those looking to share lower value or even harmful content will have a greater ability to try and game the results.
- Restraints on operation of search advertising markets (43e), which in a similar way could make it harder to prevent less valuable or harmful adverts being promoted on the platform.
- Requiring Google to share search data (42c) risks undermining incentives to invest in improving search. As noted above, the evidence does not seem to be that establishing a functional search engine is impractical.

This would have implications for consumers using Google search and other businesses with higher-quality content that are displaced by those manipulating the results. Google has a strong incentive to present content that users find valuable enough that they use the search engine again in future (instead of the other options described above).

Diminishing competition and innovation in adjacent industries

- The CMA should also generally avoid the risk of “must carry / must pay” scenarios (43d). To the extent that it needs to regulate to ensure fair dealing it can do so by describing what fair negotiation involves, not price setting. This would be bad for competition and consumers. It is likely to create an amplified risk of services withdrawing from sectors in the UK entirely (as has been seen elsewhere) because of the lack of commercial discretion implied. This would have immediate consequences

for consumers and diminish competition (as smaller publishers would lose out in a market where consumers are more likely to discover content directly through news brands).

- Excessive restrictions on revenue-sharing agreements (41a) could also undermine incentives to invest and compete in adjacent hardware markets, where the revenue from such agreements supports entry and innovation.

Q6: What are the key lessons the CMA should draw from measures imposed in relation to general search services in other jurisdictions? Are there specific areas where imposing a similar measure in the UK is more or less important for their overall effectiveness?

Many of the concerns described above reflect the experience in other jurisdictions, including:

- Creating artificial boundaries between services creates a material inconvenience cost for users, without a compensating meaningful competition impact. Early academic research on the impact of Google Maps no longer being presented in response to searches suggests it mostly led to users searching for "maps" or "google maps" and then following the same process that they might have before, meaning "higher search costs for users without significantly boosting the discovery or adoption of alternative mapping services in the short run." More broadly, previous efforts to redistribute search traffic have been shown to create significant losers, while leaving 'winners' unsatisfied.
- AI innovation has been held up particularly by restrictions on the use of data (akin to 42b) which require time-consuming and often impractical restrictions internally. This has led to EU consumers and businesses not having access to the best digital tools, with implications for wider innovation and growth.
- Imposition of requirements for search and other digital services to subsidise news producers has led to some exiting the news market, removing a valuable service for consumers and smaller news brands in particular. This will be particularly challenging if the regulatory intervention is such that it is not possible, or there is not an appropriate incentive (which requires avoiding must carry / must pay scenarios as described above) to reach a reasonable agreement.