CMA proposed conduct requirements in respect of Google's general search services

Response from [a publisher]

1. [CONFIDENTIAL].

2. [A publisher] appreciates the opportunity to respond to the CMA's consultation on the proposed conduct requirements for Google Search. [CONFIDENTIAL].

3. A particular concern of publishers, including [a publisher], is that AI Overviews and AI Mode increasingly answer queries directly within the search interface and reduce the need for users to click through to publishers' websites. As the CMA is aware, AI Overviews and AI Mode significantly decrease referral traffic, accelerating the rise of "zero-click" searches and placing publishers' revenue models and brand visibility at serious risk. This underlines the need for strong and timely interventions. [A publisher] has set out its views on the proposed CRs below.

Fair Ranking CR

Impact of exercising controls over content appearing in AI services on ranking

4. [A publisher] supports that Google should apply objective and non-discriminatory criteria. [A publisher] particularly supports CR 4(a)(iii), which states Google shall not take into account whether [a publisher] has chosen to opt out of its content being used for Google's search generative AI features or any Google service outside of general search.[1] This is a major concern for publishers such as [a publisher] and will heavily influence whether they utilise the controls to opt out of their content being used by Google's AI services. If it is not guaranteed that opting out will not affect general search link rankings, [a publisher] is extremely unlikely to adopt any controls. In order to increase trust on this point, the CMA will need to ensure rigorous monitoring. The obligation for Google to produce a six-monthly compliance report would be significantly strengthened if the reports are independently audited. The CMA has already recognised that there is "intrinsic value in a baseline report being carried out by an independent party".[2] Secondly, compliance with the Fair Ranking CR should be subject to adversarial testing. Given the complexity and opacity of ranking systems, proactive outcome-based testing would provide greater assurance than process-based reporting alone.

5. Separately, [a publisher] is concerned this provision is undermined by a parallel, weaker, provision in the Publisher CR 3(a), which provides that Google shall not

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[1] CMA's Fair Ranking CRs, 4(a)(iii)
[2] CMA's Fair Ranking CRs, para 4.32(b).

introduce ranking signals with the "purpose" to down-rank content opted-out content.[3] This seems to suggest a subjective test of Google's intentions, which are entirely unverifiable. In addition, the interpretive notes state that "*[t]he CMA recognises that Google may not be able to control for all possible second-order effects arising from the controls applied to its overall ranking algorithm*." We are concerned that this creates a loophole whereby Google introduces ranking signals which ostensibly do not appear to be connected to use of the controls, but indirectly have that effect. We do not accept that "second order effects" are beyond Google's control. The CR should simply state that exercising the controls cannot affect ranking. This should then be rigorously monitored, with the safeguards detailed in paragraph 4.

Transparency of Google's ranking practices

6. [A publisher] supports increased transparency around Google's ranking practices, as envisaged in CR 5(a).[4] [A publisher] is also supportive that ranking in AI Overviews and AI Mode is included in the scope of the Fair Ranking CR:[5] currently, [a publisher] has limited visibility on when an AI Overview will appear in response to a user query and, if it does, how the AI service has selected and ranked [a publisher's] content against any competing content.

7. However, [a publisher] considers the inclusion of defined minimum notice periods within the notification requirement in the Fair Ranking CR[6] would make the obligation more meaningful. [A publisher] also considers there should be a duty to consult in respect of major changes. To give an example of why this is necessary, as the CMA will know, Google introduced AI Mode in the UK on 28 July 2025 with no pre-warning. AI Mode is effectively an extended form of AI Overviews, covering the whole search results page and thus potentially having a far-reaching impact on the publishing industry. Google should provide transparency on major changes like this, such that publishers can invest their resources to prepare effectively. They should also consult with businesses on those changes. Changes to algorithms which affect rankings should also be conveyed, with notice, and businesses should be given an opportunity to make representations.

Publisher CR

Data transparency

8. [A publisher] supports greater transparency requirements on how users have engaged with content displayed in Google's AI services and how Google uses publishers'

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[3] CMA's Publisher CRs, CR3(a).
[4] CMA's Fair Ranking CRs, 5(a).
[5] CMA's Fair Ranking CRs, 2.
[6] CMA's Fair Ranking CRs, CR5(b).

content. [A publisher] considers the current Publisher CR[7] should be strengthened with respect to transparency in the following respects.

Google should provide per-feature data on user engagement

9. [A publisher] is very supportive of the requirement for Google to provide disaggregated performance data in respect of AI services. Currently, Google Search Console does not distinguish between AI Overviews and traditional search results, which can very much misrepresent performance. For example, reporting content as appearing at "position 0" previously meant top placement in search results; it may now indicate inclusion within AI Overviews, which typically generate fewer click-throughs.

10. However, [a publisher] would request that the AI Overviews and AI Mode data is provided on a per-feature basis. AI Overviews and AI Mode are used differently by consumers, for example in relation to the amount of time spent on the interface and the types of queries inputted. This means [a publisher] will have to optimise content for AI Overviews and AI Mode separately. If the data is not provided separately, (i) [a publisher] will not know with any certainty which product has higher referral rates and therefore which to invest more in optimising for; (ii) it will not be able to test different optimisation strategies on a per-feature basis (this will also mean greater expenditure in SEO teams and tools); and (iii) [a publisher] will not be able to know the pros or cons of opting into the controls without obtaining data on a per-feature basis.

11. Finally, if Google bundles controls for all search AI services together, it will have much more market power. [A publisher] (and presumably other publishers) are highly unlikely to blanket opt-out of all Google's search AI services and so may not opt-out at all without a per-feature delineation.

12. [A publisher] does not agree with Google's arguments in this respect:

    a. **That a per-feature reporting requirement would not be "future-proof" as individual features evolve.[8]** This argument is unpersuasive. While specific functionalities and underlying algorithms may evolve over time, the core consumer-facing products themselves are unlikely to change frequently. AI Overviews and AI Mode represent the first significant new Search interfaces introduced in decades. Even if additional products are launched, it is reasonable to expect that Google will limit these to a small number of distinct interfaces to avoid fragmenting the user experience. There is no practical impediment to Google providing separate data for each consumer-facing

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[7] CMA's Publisher CRs, 'Transparency' CR 4 and CR 5.
[8] CMA's Publisher CR Report, para 4.43(a).

product - whether that amounts to three, four or five discrete reporting categories.

b. **That Google has not historically provided engagement metrics at a per-feature level for non-generative AI search results.[9]** This is not a compelling justification. The absence of such transparency in the past reflects Google's longstanding market power and the lack of regulatory constraint - it does not demonstrate that more granular reporting is unnecessary or disproportionate. Indeed, the very purpose of the proposed conduct requirements is to address entrenched asymmetries and information imbalances. Reliance on past practice cannot justify maintaining insufficient transparency going forward. The feasibility of more granular reporting is further demonstrated by Microsoft's Bing, which has introduced an AI Performance dashboard in Bing Webmaster Tools. This provides webmasters with visibility over grounding queries and cited pages in AI-generated answers, enabling them to assess the performance of AI features separately from traditional organic search links.[10]

Google should report information about when and how Google is using [a publisher] *portfolio brands' content for its AI services*

13. Google should provide details of [a publisher's] content that it has scraped via web crawling, including web pages that have been viewed and whether the content was used for search indexing, training or fine-tuning of Google's AI services. It should also provide information on each instance in which a publisher's content has appeared in the AI service, including what content was cited and how it was attributed.

14. If the CMA implements a CR mandating FRAND payment terms for [a publisher's] content (see *Payment for content CR* below), or an effective content marketplace develops, the information above at paragraph [9] would enable [a publisher] to understand the full picture of how Google is accessing its content and assess the value of its content. Without such data, it will be much more difficult for [a publisher] to secure fair remuneration. It would also enable [a publisher] to monitor whether Google is respecting its preferences, particularly if the CMA has declined to separate Google's crawlers.

Publisher controls

The default should be that publishers are opted-out and positively opt-in

15. We do not consider publishers should have to opt-out of their content being used in Google's AI services. The default position should be that publishers are opted-out and

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9 CMA's Publisher CR Report, para 4.43(b).
10 Microsoft Bing Blogs, *Introducing AI Performance in Bing Webmaster Tools Public Preview* (10 February 2026), link here.

positively opt-in: Google should have to proactively request consent from publishers (for example via a consent banner). There may well be ignorance on the part of some content owners and, if those content owners do not opt out, this reduces the bargaining power of publishers as a whole. A requirement for positive opt-in will also incentivise Google to explain how it is using content (and therefore comply with CR4(a)[11]) without ongoing CMA monitoring. It also reflects the position for publishers under IAB Europe's framework to process user consent under GDPR, which is a system built around informed, proactive consent, with the burden on the publishers implementing the framework. There is no reason Google should be subject to lesser standards.

Publishers should be able to opt into AI features separately

16. Publishers should be able to opt into individual products separately, such as AI Mode and AI Overviews, to preserve flexibility and meaningful negotiating leverage. These services affect publishers in different ways, including (importantly) the amount of referral traffic.

Publishers should be able to opt into the training for search AI services

17. The option to positively opt into the grounding of search AI services, should also include the option to opt into the training for search AI services.[12] Publishers should have the choice to withhold their content which is valuable input data for the training of Google's search AI services.

Publishers should be able to opt into fine-tuning as a separate category of activity

18. The proposed CR does not separate the activity of *fine-tuning*. [A publisher] recommends that fine-tuning is added as a separate category and publishers are given the right to opt into fine-tuning for both non-search AI services and search AI services. This is essential because fine-tuning AI services is not the same as training or grounding them, but rather covers an intermediate process used to refine systems for specific outcomes. In addition, separating fine-tuning into its own category of activity would prevent the risk of Google circumventing the intention of the CRs by using fine-tuning to replicate the effects of grounding.

19. Google suggests that opting out of fine-tuning could adversely affect a publisher's general search ranking.[13] However, this is surely a controllable outcome which Google could avoid. Separating the effects of ranking from use of content in AI is what the conduct requirements were designed to address.

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[11] CMA's Publisher CRs, 'Transparency' CR 4(a).
[12] CMA's Publisher CR Report, 'Controls' CR 2.
[13] CMA's Publisher CR Report, para 4.10.

Google should be required to separate its crawlers by purpose

20. Under the current proposal, publishers would face significant difficulties in monitoring and verifying Google's compliance. [A publisher] suggests that Google is required to separate its crawlers by purpose (training, fine-tuning and grounding), for the following reasons:

    a. **Access to data**: Separate crawlers would give publishers clearer visibility over when and how their content is accessed for distinct purposes (e.g. training, fine-tuning, grounding). This data would be in real-time and not rely on updates from Google. This would enable [a publisher] to track usage through its own system and support informed negotiations relating to payment for content.

    b. **Ability to block**: Under a combined crawler model, [a publisher] would have no way of verifying what its data was used for and whether Google had complied with its preferences. Compliance would depend on Google internally separating data, which [a publisher] will not have insight into. By contrast, purpose-specific crawlers would allow [a publisher] to block access itself.

Attribution

21. The proposed attribution CR would be more effective if the above recommendations on a requirement for transparency as to how Google uses content are adopted (see paragraphs 9 and 10 above) because it would enable [a publisher] to know when its content has been used and therefore determine if it has been correctly attributed.[14]

22. The CMA has currently drafted that content should be "sufficiently" attributed. [A publisher] suggests that there should be additional detail on what would be "sufficient", for example the linking in AI Mode and AI Overviews should be clearly visible and placed adjacent to the relevant text.

Payment for content CR

23. [A publisher] urges the CMA to adopt an accelerated timeline for the CMA's action on payment for content. The CMA has indicated it will not pursue measures on payment for content for at least another year.[15] A payment for content remedy is essential in combination with the publisher controls envisaged. Appearing in Google's AI services is important for visibility for many of [a publisher's] brands and this is likely to become even more prevalent as the adoption of AI Overviews and AI Mode increases. We urge the CMA to take action now, rather than indefinitely delaying the design of such a remedy.

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[14] CMA's Publisher CR Report, 'Attribution' CR 6.
[15] CMA, *Improving the way Google delivers search services in the UK* (28 January 2026) link here.