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UK Competition and Markets Authority Consultation on Google's General Search Services: Proposed Conduct Requirements

Knight-Georgetown Institute Comments

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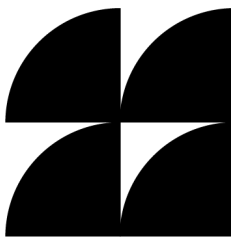

About the Knight-Georgetown Institute

The Knight-Georgetown Institute (KGI) is dedicated to connecting independent research with technology policy and design. KGI serves as a central hub for the growing network of scholarship that seeks to shape how technology is used to produce, disseminate, and access information. KGI is designed to provide practical resources that policymakers, journalists, and private and public sector leaders can use to tackle information and technology issues in real time. Georgetown University and the Knight Foundation came together to launch the institute in 2024. Learn more about KGI at https://kgi.georgetown.edu.

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I. Introduction

The Knight-Georgetown Institute (KGI) welcomes the opportunity to provide input on the proposed Conduct Requirements (CRs) issued by the United Kingdom Competition and Markets Authority (CMA) addressing Google's general search services. This comment discusses the package overall in Section II, the Publisher CR in Section III, and the User Choice CR in Section IV.

As a whole, evidence suggests that the proposed CRs will fail to promote fair dealing and open choices among providers of general search services in the UK because the CRs do not address the underlying causes of Google's substantial and entrenched market power. The CRs that the CMA has proposed related to publisher controls and user choice would be strengthened by clarifying definitions, scope, and guidance for Google.

II. General Comments

The CMA proposes a package of conduct requirements that address data portability, fair ranking, publisher controls, and user choice. Evidence suggests that as a package, the proposed CRs are unlikely to advance the objectives of the Digital Markets, Competition, and Consumers Act (DMCCA) because they are not designed to meaningfully lower barriers to entry in general search services, which have been well documented by the CMA through multiple investigations.[1]

Google's payments to third parties for default status are not addressed by the CRs. If these payments are not restricted, it is very likely that Google will remain the search default across third-party browsers and devices and will thereby continue to dominate distribution channels in general search services.[2] While the rise of generative AI has received much attention throughout the CMA's Strategic Market Status (SMS) investigation, the company's dealings for exclusive default status now extend to the market for AI assistants. Google and Apple recently signed a deal whereby the former's flagship large language model (LLM), Gemini, will power the AI-enabled features of iPhones.[3] As a result, Google's exclusive control of distribution channels will continue to impede the ability of smaller search engines and developers of AI assistants to raise their quality by reaching and gaining users, especially on mobile devices.

The failure to address distribution is merely one shortcoming of the proposed CRs. The CMA's own investigations into Google's general search services make clear that CRs related to distribution, data sharing, and syndication are needed to lower entry barriers.[4] However, the current slate of CRs would do little to open up distribution channels, make critical data available, or create syndication offerings that search competitors could use to furnish more choices of general search services in the UK.

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[1] Competition and Markets Authority, "Appendix I"; Competition and Markets Authority, "Final Decision."
[2] Hovenkamp and Melamed, "Appraising the Google Search Antitrust Remedies"; Sharma, "US Court's Remedies Not Enough Given Google Can Continue to Pay for Search Defaults."
[3] Kachwala and Soni, "Apple, Google strike Gemini deal for revamped Siri in major win for Alphabet."
[4] Competition and Markets Authority, "Appendix V."

The consensus of the empirical literature is that remedies aimed at enabling user choice, such as choice screens, have failed on their own to alter market conditions in Europe.[5] Moreover, recent empirical analysis found that choice screens required for Google Search and Chrome under the European Union's Digital Markets Acts (DMA) resulted in a less than 2% decline in their market shares.[6] And while similar empirical analysis of data portability requirements is sparser, research has documented how businesses struggle to process unstructured data that is ported by consumers.[7] By including interventions that are known to have weak competitive effects and omitting interventions for which the CMA's own analysis demonstrated a significant need, the proposed package of CRs cannot be expected to drive more than marginal changes in market shares within the UK's general search services market.

III. Publisher Conduct Requirement

Given that the CRs as a package are unlikely to spur entry in the search market, the Publisher CR is an important tool for addressing the downstream effects of Google's substantial and entrenched market power on publishers. Google search serves as a critical information gateway for internet users, and Google has leveraged its market position to constrain the choices that content creators, owners, and publishers have about how their content appears when Google responds to search queries. This section discusses the implications of the broad potential impact of the Publisher CR and definitional and scoping improvements that should be considered.

A. Potential for Broad Global Impact

The proposals included in the Publisher CR have the potential to be highly consequential and precedent-setting for the web. Crafting these conduct requirements to be both meaningful and effective is therefore critical, as the effects are likely to extend far beyond this single SMS proceeding and may shape the trajectory of crawling and indexing for the web as a whole.

There are three reasons why the Publisher CR is likely to make an impact outside the confines of DMCCA enforcement in the UK: (1) the CMA has scoped the applicability of the Publisher CR broadly; (2) Google is unlikely to develop UK-specific solutions; and (3) Google's crawling is of paramount significance for the large volume of publishers who drive traffic to their sites through Google search and other Google products.

First, the CMA has scoped the applicability of the Publisher CR to all "publishers," defined as "any party that makes content available on the web to any natural or legal persons located in the UK using Google's general search services."[8] Effectively this means that the controls the CMA proposes would

[5] Decarolis et al., "Competition and Defaults in Online Search"; Vasquez Duque, "Active Choice vs. Inertia?"
[6] Vasquez Duque, *The Magical Number 2*.
[7] Nicholas and Weinberg, *Data Portability and Platform Competition*.
[8] Competition and Markets Authority, "Publisher Conduct Requirement," 15.

be available to any creator, content owner, publisher, or rightsholder making content available to UK users and to Google for crawling and indexing.

Second, the controls that Google will implement to comply with the CR may extend globally. It is likely to be neither desirable nor practical for Google to offer controls that only apply to search and generative AI services offered to UK users, or to offer different controls in different jurisdictions. The UK could be the first jurisdiction that requires Google to adopt enhanced controls, which would make the details of their design significant globally.

Finally, because of the dominant position that Google Search occupies in many jurisdictions, inclusion in Google's search index is critical for a large proportion of site owners and publishers. Empirical evidence collected in recent years demonstrates that the proportion of sites that disallow Googlebot from crawling is quite low, in the very low single digits or less than 1% in some samples.[9] As a result, any changes that Google makes to the behavior of its Googlebot family of crawlers will not only have wide-ranging effects in isolation, but will also have the potential to set precedents that may be adopted more broadly by other entities engaged in large-scale web crawling.

The potential for this broad applicability means that the requirements the CMA puts in place need to reflect the needs of diverse content providers across the web beyond commercial publishers, including noncommercial sites, research and scientific repositories, libraries, archives, and other sources designed to provide factual information in the public interest. The Publisher CR will impact these publishers, many of whom have no bargaining power over Google and no commercial interest in competing with Google, but nonetheless exist in a world where the Google search engine results page (SERP) and Google's AI products play a significant role in mediating access to their content for many or most of their users. The CMA should be mindful of the risk of narrowly resolving the concerns of the largest commercial publishers to the detriment of the much broader population of publishers and creators on the web. The comments in the rest of this section attempt to take account of the needs of this broader set of publishers.

B. Definitions and Scope

As the CMA has identified, the development of this CR is far from the only venue in which enhanced publisher controls over web crawling are being discussed. In addition to the UK Government's consultation concerning its AI and Copyright framework, publisher control (or lack thereof) has formed part of the basis of claims in ongoing litigation and investigations against Google related to both antitrust and copyright claims in the UK, US, and EU.[10] The inclusion of provisions in the EU AI Act Code of Practice requiring signatories to comply with machine-readable protocols used to express websites' rights[11] was one catalyst for the creation of the Internet Engineering Task Force (IETF) AI

[9] Dinzinger and Granitzer, "A Longitudinal Study of Content Control Mechanisms"; Longpre et al., "Consent in Crisis."
[10] United States District Court for the District of Columbia, "Complaint (*PMC v. Google*)"; United States District Court for the District of Columbia, "Complaint (*Chegg v. Google*)"; Foxglove, "NEW CASE"; European Commission, "Commission opens investigation into possible anticompetitive conduct Google in the use of online content for AI purposes."
[11] European Commission, "General-Purpose AI Code of Practice: Copyright Chapter."

Preferences (AIPREF) working group,[12] a process which began in 2024. The AIPREF working group is chartered to define a vocabulary for sites to express AI-related preferences and to attach those preferences to content, including via robots.txt files and HTTP header fields.[13] Several other industry initiatives are examining approaches to a related set of problems,[14] and the EU is consulting about machine-readable protocols for rights reservations.[15]

While industry and standardization initiatives may not be specifically designed to address the downstream effects of Google's market power, the lessons learned through these processes are still highly applicable to assessing the CR, because the design of effective controls over Google's web crawling is orthogonal to its market position. In other words, how to design mechanisms that all publishers (from individual creators to large conglomerates) can meaningfully use is a central question raised by the CMA's proposals, and it is also a key question that the AIPREF working group has been seeking to address over the last year.

While the Publisher CR has started down the path of requiring more meaningful controls, the definitions and requirements need updates in order to match the market and technical realities of search, AI, and web crawling. As written, they could cause confusion among publishers and may leave many of them without effective controls over how Google uses their content. The sections that follow discuss how the lessons of the AIPREF process can be brought to bear on definitional and scoping questions related to the controls themselves and their usability.

1. Outcome-Based Controls

One of the key lessons of the AIPREF effort thus far is that drawing strict boundaries around different uses of crawled web content is difficult. This was the case long before the mass deployment of generative AI, with decades-long debates about the meanings of various attributes, tags, and rules included in different web content control mechanisms (meta tags, HTML link relations, HTTP headers, and robots.txt rules). Publisher concerns about Google disintermediating them from their audiences existed long before the advent of generative AI. But the widescale deployment of generative AI has created additional layers of definitional complexity. In part this is because modern web search incorporates many uses of AI. Search already includes generative AI features and functionality beyond AI Overviews and AI Mode, and this feature set may continue to expand rapidly in the future. Furthermore, even definitions of AI-specific functions, such as training, fine-tuning, and grounding, are highly contested and evolving over time.

For the purposes of designing an effective set of conduct requirements, the lesson to be drawn from this lack of definitional clarity is to focus controls on outcomes – uses of publisher content that publishers themselves can objectively discern – to the greatest extent possible. This would give

[12] Internet Engineering Task Force, "AI Preferences."
[13] Alliance for Responsible Data Collection, "Data Collection Guidelines"; Koster et al., "Robots Exclusion Protocol."
[14] RSL, "Really Simple Licensing"; Interactive Advertising Bureau, "IAB Releases Draft Legislation"; Internet Engineering Task Force, "Web Bot Auth."
[15] European Commission, "Commission launches consultation on protocols for reserving rights from text and data mining under the AI Act and the GPAI Code of Practice."

publishers control over the aspects of search that matter the most to them: how their content appears on the SERP. And it would also provide brighter lines to allow the vast majority of publishers to understand the implications of choosing to opt in or out of a particular use of their crawled data. For uses of publisher content that cannot be objectively discerned by publishers, such as training, fine-tuning, and grounding, it is an open question as to whether a set of controls can be offered that achieve a coherent, meaningful set of outcomes that publishers can both understand and trust. Given the black-box nature of these AI use cases, far more detailed ongoing oversight than what is provided by existing systems would be required for publishers to be able to trust that Google is following publishers' directives.

A number of different outcomes-based approaches have been proposed as part of the AIPREF effort. For example, the current version of the working group's vocabulary for AI usage preferences scopes a "search" category of usage to those cases where a reference (link) to the original content is provided and where only verbatim excerpts from the original content may accompany the link.[16] A more expansive proposal made in the group would support publishers expressing preferences about a wider array of display-related outcomes on the SERP: whether text can be reproduced verbatim, the length of text that can be displayed, whether a link back to the source is required, whether image and video previews can be displayed, and more.[17] These and other related proposals are works-in-progress that will continue to be debated, but even in their current form they demonstrate the value of outcomes-based approaches. Usage categories like "verbatim text excerpting" and "linking back to the original source" require some amount of work to define precisely, but among publishers their meaning is already broadly understood. If the CR were to require Google to offer publishers controls for these kinds of usage categories, their decision set would be fairly clear.

The usage categories the CMA proposes are not explicitly outcome-based, but rather focused on specific techniques involved in the development and deployment of AI models: training and grounding. The core of the CMA control requirement is as follows:

> Google shall provide publishers with effective controls to withhold their Search Content from being used in:
>
> a. the training and grounding of its broader generative AI services; and
> b. the grounding of its search generative AI features.[18]

Neither "training" nor "grounding" are defined in the CR. This leaves ambiguity about which uses of publisher content are covered by the controls, because these categories cannot be neatly delineated in practice.

[16] Keller and Thomson, "A Vocabulary For Expressing AI Usage Preferences."
[17] Madhavan et al., "A Vocabulary for Controlling Usage of Content Collected by Search and AI Crawlers."
[18] Competition and Markets Authority, "Publisher Conduct Requirement," 3.1(2).

For example, "training" may include every technique that affects model weights (including all forms of fine-tuning), or it may only include only a subset.[19] Many existing techniques blur the boundary between tasks that historically occurred at training time versus as inference time, combining document retrieval with learning or parameter updates.[20] These techniques may not be commonly used to support search generative AI features today, but the field is evolving rapidly.

The "grounding" category is also ambiguous. Does it include all forms of retrieval-augmented generation? If web data fetched for grounding is cached or added to memory in a given model instance and reused for later queries, is that later re-use covered by the control? The only definition of "grounding" mentioned in the CR is Google's definition: "providing content from the Google Search index to the model at prompt time to improve factuality and relevancy."[21] If web data is fetched from the index to respond to a particular prompt or query, and the response contains inaccuracies (commonly referred to as hallucinations), does that count as grounding, under this definition? These questions would need precise answers in order for publishers to understand what choice they are making when using the proposed controls. In the absence of clear definitions, and with the only required control for search limited to grounding, Google may be incentivized to claim grounding-style uses as "training," outside the scope of applicability of the search control.

The CMA has tasked Google with clarifying the scope of what its existing Google-Extended crawler covers, but it is not clear whether the CR would then adopt whatever definitions of "training" and "grounding" Google offers. And it would still leave a void where publishers lack controls over important outcomes they can objectively observe on the SERP while providing the semblance of control over AI techniques whose use they cannot directly observe or verify.

Overall, the focus on techniques rather than outcomes, the omission of definitions of key terms, and the fact that these techniques exist on a spectrum rather than in distinct categories will make it difficult for publishers to understand the choices they are being offered. The ambiguity about the meaning of key terms could also be exploited by Google to scope out specific functions over which it does not wish to provide individual controls for publishers. It is already clear from evidence presented in the *U.S. v. Google* search antitrust trial that Google has the incentive and will to do this.[22]

Focusing controls on outcomes that publishers can observe would also provide them with better choices over how their content appears wherever it appears across the user's search experience,

[19] The CR also does not include any definition of "fine-tuning," and provides Google's unrebutted view that "[t]here is no realistic prospect of harm to publishers in respect of training/fine-tuning of AI models for search and search generative AI features." This seems false on its face, given the breadth of publisher objections to this use of their content and ongoing litigation. It also overlooks the harm that arises if Google is able to benefit from fine-tuning on publisher content without any consequent benefit to the publisher.

[20] Examples include low-rank adaptation (LoRA), in-context learning, and retrieval-augmented fine-tuning.

[21] Competition and Markets Authority, "Publisher Conduct Requirement," 4.14.

[22] An internal Google presentation from 2024 obtained through document discovery shows a spectrum of potential control options for publishers, with a recommendation to pursue a control that bundles together multiple usages under a single control and avoids providing control over grounding to allow for Google's future monetization of grounding. See Department of Justice, "Ex. No. PXR0026."

rather than scoping controls to "search generative AI features," which as proposed is a problematic term. The CMA defines search generative AI features as "Google's generative AI-dependent features offered within general search, such as AI Overviews and AI Mode." The AIPREF working group has discussed at some length how Google already makes use of generative AI to support a variety of features in search aside from AI Overviews and AI Mode. Some of these have been experimentally deployed, such as Web Guide which reorganizes page layouts and summarizes sources,[23] and headline rewriting in Google Discover.[24] More will surely come in the future.

Lumping all "search generative AI features" together means that a publisher will have a single choice to make about potentially many different features that use content very differently. For example, a given publisher may be excited to have content appear in a reorganized page layout if its content is excerpted verbatim, but not about having its content used to create summaries in AI Mode without attribution. Outcome-based controls would let publishers orient around the user experience of their content rather than Google's choices about where it decides to use generative AI on the SERP. Defining "search generative AI features" as the CMA does also incentivizes Google to include features in the category that publishers highly value together with features that disintermediate them, potentially recreating the exact exercise of market power that this CR is designed to address.

2. Controls Usable by All Publishers

The CR seems to assume that Google will leverage existing crawler control mechanisms, including robots.txt, HTML meta tags, and/or HTTP headers, to effectuate the new requirements. Yet many of the entities considered "publishers" under the CMA's broad definition do not have the access or ability to alter the existing control mechanisms that are expected to be used. Individual content creators or any kind of publisher using third-party web hosting may not have the means or permissions to update their robots.txt file, page HTML, or web server software to make use of the new controls. For the controls to be accessible to the full swath of "publishers" covered by the CMA's definition, the CMA would need to require Google to ensure that it provides mechanisms that are usable by creators or owners of content regardless of their content hosting arrangements.

These controls need to be provided in a generic way that is usable by all publishers covered by the CMA's definition. Moreover, there is an acute need to provide controls on Google's own hosted properties, particularly YouTube. Currently, by default Google blocks third-party AI model developers from using individual YouTube videos for model training, and provides a setting whereby creators and rightsholders must opt in if they want to allow third-party model developers to use their content.[25] However, they have no ability to opt out of Google using their videos for training or other purposes for its own AI models. They also have no way to opt out of Google indexing their videos for search without hiding the videos from public view altogether. YouTube creators cannot edit their robots.txt file, page HTML, or HTTP server settings.

[23] Wu, "Web Guide."
[24] Deck, "Discover isn't the only place Google is experimenting with AI-generated snippets."
[25] Google, "Your content & third-party training."

These facts demonstrate how Google uses its market power in search to advantage itself over its AI competitors and constrain the choices that (video) publishers have over how their content gets used. YouTube likely hosts more than 10 billion videos,[26] and YouTube content is viewed as a valuable source of data for AI model development.[27] Any solution that fails to provide effective controls for YouTube creators over how Google uses their data for search and AI would be highly incomplete.

The fact that different parties in the content publication supply chain have different levels of control over page content and web server infrastructure naturally creates questions about what to do in situations where multiple different parties affiliated with a single site communicate different preferences or rules. This issue has arisen in the AIPREF working group discussions and led to proposals specifying how to combine multiple preferences, following the rule that if any preference expression disallows a particular usage, then the usage will be disallowed.[28] As part of its transparency obligations, Google should be required to explain the rules that it applies for combining preferences and resolving conflicts between preferences. Ideally, Google would be using standardized mechanisms where the rules for combining preferences are also specified in a standardized way across the industry.

3. Scoping Out Agentic Browsing

Finally, the CR would benefit from explicitly ruling agentic browsing out of scope. The definition of "Search Content" is clear that it is limited to crawled content. But given how rapidly agentic browsing is evolving, it is worth making explicit that content Google collects via agentic browsing in Chrome is not considered to be Search Content.

IV. User Choice Conduct Requirement

Given that the User Choice CR's coverage only extends to products owned by Google, the CMA should anticipate that, similar to the EU Android choice screen, its overall impact on market conditions will be limited. Google does not own or control every access point through which users encounter default search providers, and users of third-party access points (e.g., the Safari browser) will not benefit from the kinds of choice features required under the CR. This limitation means many users of digital products in the UK will still be defaulted to Google's general search service without having to make a proactive choice.

Google's implementation of the User Choice CR will involve many important design decisions. The CMA should thus expect to have to conduct detailed oversight of Google's product design changes

[26] McGrady et al., "Dialing for Videos."
[27] Gilbertson and Reisner, "Apple, NVIDIA and Anthropic Reportedly Used YouTube Transcripts"; Vallese, "Google Is Using YouTube Videos to Train Its Gemini, Veo 3 AI Models."
[28] Keller and Thomson, "A Vocabulary For Expressing AI Usage Preferences," sec. 5.1; Madhavan et al., "A Vocabulary for Controlling Usage of Content Collected by Search and AI Crawlers," sec. 5.4.

and to obtain regular input from affected parties in order for the CR to operate effectively.[29] This reality mirrors the experience of competition authorities implementing choice remedies in other jurisdictions.[30]

With respect to the new choice features – the Search Choice Screen, Device-Level Default Setting, and "Test-drive" function[31] – evidence from independent research supports the CMA's creative requirement of such features. The CMA's assessment is sound that Google's existing tooling is too limited in scope and provides too limited contextual information.[32]

The following sections discuss considerations related to eligibility for competing providers, feature-level design guidance, the limits of public education, and considerations for implementation.

A. Eligibility

For the User Choice CR to be effective, it will have to feature a large and inclusive set of competing general search services. However, Google is inherently incentivized to limit the scope of Eligible Providers.

The proposed CR outlines four criteria Google must use in its selection of Eligible Providers.[33] The providers must:

i. Adequately address the full range of use cases of a general search engine on a wide range of subjects by searching the web.
ii. Provide the expected general search experience for affected search access points.
iii. Be considered by a significant proportion of UK users to provide a general search service.
iv. Be operated and marketed with general search as a core and central part of the service.

Several of these criteria are imprecise and subject to discriminatory interpretation by Google. For instance, what Google considers to be "the expected general search experience"[34] may diverge from what its competitors consider this to be, especially given the rapid and continuing integration of generative AI features within general search services.

Google's past behavior in analogous settings in other jurisdictions raises questions about whether it can be trusted to make eligibility determinations. In the EU, Google is required under Article 6(11) of the Digital Markets Act to share click-and-query data with "online search engines."[35] The European Commission recently initiated specification proceedings in part to determine whether AI chatbots fall

[29] Cooper et al., *Considerations for Effective Search Competition Remedies*, 2-10; Hoppner, "Antitrust remedies in digital markets"; Ostrovsky, "Choice Screen Auctions"; van den Boom and Hinck, "The idealo-founder speaks."
[30] Ibid.
[31] Competition and Markets Authority, "User Choice Conduct Requirement," 18-19.
[32] Ibid., 12-14.
[33] Ibid., 18.
[34] Ibid.
[35] European Union, "Digital Markets Act," Article 6(11).

under this category, indicating the possibility that Google has been taking a narrow interpretation of what counts as a search engine.[36]

Permitting Google to interpret eligibility requirements and adjudicating applications from competitors means that the SMS-designated firm will be responsible for defining the boundaries of its own market. This role is more appropriate for the CMA, not for Google.

B. Assessment of Feature-Level Design Guidance

In practice, users encounter a collection of design elements that together determine whether choice is meaningful. The User Choice CR reflects this reality by introducing a set of mechanisms—the Information Screen, Search Choice Screen, Device-Level Default Setting, and Test-drive function—through which user selection of defaults is expected to occur.[37]

In prior work, KGI synthesized 10 principles from the research and implementation literature for effective design of choice screens and related remedies.[38] These principles govern the various dimensions along which design choices are made, including the information shared with users, the visual presentation of options, the scope and completeness of choices, and the ease with which choice features are accessed and reversed.[39] They are derived from independent research on the design and implementation of choice screens in other jurisdictions,[40] and overlap to a significant extent with the CMA design principles but involve more granular design expectations.

In what follows, this section assesses the User Choice CR in light of the applicable principles synthesized from independent research.[41]

1. **The nature of the choice requested and all available options should be clear and comprehensible. Any descriptive text used should be extensive, include branded visuals, and face no undue constraints.**

Research indicates that users are generally comfortable with, and often prefer, receiving relatively extensive information about available options when selecting defaults.[42] The CMA's recognition that users benefit from contextual information about alternatives is therefore well grounded.[43]

[36] European Commission, "Commission opens proceedings to assist Google in complying with interoperability and online search data sharing obligations under the Digital Markets Act."
[37] Competition and Markets Authority, "User Choice Conduct Requirement," 18-25.
[38] Cooper et al., *Considerations for Effective Search Competition Remedies*, 20-23.
[39] Ibid.
[40] See, e.g., Akesson et al., *Can browser choice screens be effective?*; BEUC, *Examining the Design of Choice Screens in the Context of the Digital Markets Act*; DuckDuckGo, "Search Preference Menu Immediately Increases Google Competitors' Market Share by 300-800%"; Fletcher, *Choice Architecture for End Users in the DMA*; Petrie, *Beyond Choice Screens*.
[41] Cooper et al., *Considerations for Effective Search Competition Remedies*, 20-23.
[42] Akesson et al., *Can browser choice screens be effective?*
[43] Competition and Markets Authority, "User Choice Conduct Requirement," 20.

However, the User Choice CR provides insufficient detail regarding how the Information Screen will operate in practice. In particular, it is unclear what role Eligible Providers themselves will have in shaping the content of the Information Screen, or how the "key features" of each service will be selected and described in the Information Screen created by Google.[44] Absent further guidance from the CMA or structured input from Eligible Providers, there is a risk that an Information Screen curated by Google will provide incomplete or strategically framed information. The CMA could explicitly require that Information Screens include detailed descriptive text and branded visuals supplied through a formal process by each Eligible Provider.[45]

2. Options should be presented and framed neutrally and fairly.

As currently constructed, the User Choice CR lacks sufficiently comprehensive guidance governing how options are described and displayed on both the Information Screen and the Search Choice Screen. Neutrality in presentation requires attention to placement, ordering, emphasis, and framing, all of which are known to materially affect user choice.

For example, research shows that visual prominence—such as positioning, font size, color, or use of branded visuals—can influence default selection even when all options are displayed.[46] Yet the CMA's interpretive notes do not meaningfully address these design elements with respect to either the Information Screen or the Search Choice Screen.[47]

3. Choices should cover all access points with a single choice.

As proposed, it remains unclear whether the Device-Level Default Setting will permit only granular toggling access-point-by-access-point or will also enable users to switch defaults system-wide in a single action.[48] This ambiguity is concerning given the CMA's suggestion within the interpretive notes that "Google should retain the existing User journey to change default settings across access points" and that the Device-Level Default Setting might "for example, mirror the default browser setting that is present on Android Devices."[49] The CMA analyzed this existing user journey and found it to be ineffective and burdensome.[50] Moreover, the default browser setting on Android Devices requires users to tap through multiple screens before the default browser can be toggled.[51]

The CR could resolve this ambiguity by explicitly requiring that Google provide a system-wide setting that can be changed with a single click or tap. The CMA could require "one click to switch" for both the Device-Level Default Setting and the Search Choice Screen.[52]

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[44] Ibid., 24.
[45] Fletcher, *Choice Architecture for End Users in the DMA*.
[46] Ibid.
[47] Competition and Markets Authority, "User Choice Conduct Requirement," 22-25.
[48] Ibid., 20.
[49] Ibid., 24
[50] Ibid., 14.
[51] See Google, "Make Chrome your default browser."
[52] Cooper et al., *Considerations for Effective Search Competition Remedies*, 22.

4. Choices should be tested before and after roll out.

The CMA fails to require *any* market testing requirements in the User Choice CR, merely stating that it "may be desirable that design choices are tested with consumers before they are implemented."[53] This falls far short of establishing a clear expectation or obligation for market testing.

The CMA has a wide range of tools at its disposal to require and support high-quality testing and user experience design, including concept testing, usability testing, and behavioral experiments, all of which can help validate and improve choice features.[54] Previous attempts to implement choice screens failed in part because they did not make systematic use of these methods.[55]

The User Choice CR could build upon previous efforts by directing Google to employ these testing methods and to document them within its implementation plan, subject to audit and review by the CMA and relevant external stakeholders.[56] These requirements are necessary to detect and deter design choices that undermine the quality and effectiveness of choice features.

C. Limits of Public Education

The CMA has noted that creating a "search default API" and standardizing the timing of Search Choice Screen display each year may give Eligible Providers an opportunity to advertise to users and increase awareness of alternative search options.[57] These measures could help coordinate outreach efforts and reduce uncertainty about when users will encounter choice features.

However, given the substantial advantages Google continues to enjoy as a result of unaddressed barriers to entry, this advertising alone is unlikely to meaningfully expose users to alternative search offerings.[58] Without stronger requirements aimed at barriers to entry, marketing efforts by competitors may not translate into sustained user adoption of their services.

D. Considerations for Implementation

Implementation choices—particularly around data reporting and performance assessment—will play a central role in determining whether the User Choice CR helps to promote fair dealing, open choices, and trust and transparency within the market for general search services.

1. Data Reporting Requirements

The CMA's announced intention to require implementation plans, collect key data, monitor engagements with external stakeholders, and potentially conduct behavioral audits are all useful steps

[53] Competition and Markets Authority, "User Choice Conduct Requirement," 22.
[54] Petrie, *Designing Better Digital Competition Remedies*.
[55] Cooper et al., *Considerations for Effective Search Competition Remedies*, 2-10; Ostrovsky, "Choice Screen Auctions."
[56] Competition and Markets Authority, "User Choice Conduct Requirement," 43-45.
[57] Ibid., 23.
[58] Allcott et al., *Sources of Market Power in Web Search*.

toward effective oversight of the User Choice CR.[59] The current data reporting requirements could be expanded to help assess whether the User Choice CR is operating as intended. At present, required metrics include the number of devices eligible to see the Search Choice Screen, devices shown the Search Choice Screen and Prompts, users who selected the Test-drive feature, users who have changed defaults for devices, Chrome, and search widgets, and breakdowns of user selections in settings.[60]

The CMA could consider expanding these requirements to include additional metrics that better capture user experience and points of failure in the default selection process. Google could be required to report rates of "breakage"—that is, instances in which users attempt to initiate a choice but ultimately fail to complete it—for both the Device-Level Default Setting and the Test-drive function.[61]

2. Performance Benchmarks

As provided for by the DMCCA, the CMA "must keep under review…whether to impose, vary, or revoke a conduct requirement."[62] In its review of the User Choice CR, the CMA could consider articulating a set of performance benchmarks to explicitly define what success under the CR means. In the event that these benchmarks are not met over time, the CMA should alter the User Choice CR to improve its effectiveness.

Explicit performance benchmarks can help ensure that the CMA's review remains focused on outcomes rather than process. Enforcement of regulation often emphasizes whether obligations have been formally met, rather than whether regulation is having its intended effect, and performance benchmarks can more effectively link implementation back to the objectives of the DMCCA.[63]

In crafting performance benchmarks, the CMA should make clear that increased awareness of alternative search engine options alone is not an indicator of success. Awareness without switching behavior or increased adoption of alternatives does not create "sharper incentives for innovation and investment in high-quality services that consumers value."[64] Implementation should be evaluated based on whether choice features actually generate meaningful levels of switching.

[59] Competition and Markets Authority, "User Choice Conduct Requirement," 43.
[60] Ibid., 44.
[61] In the *Epic Games v. Apple* litigation, "breakage" was the term used by Apple to describe its internal analysis of the rate at which users would cease their efforts to use alternative payment processors. Apple was found to have imposed design restrictions on developers who sought to steer users toward cheaper payment processing outside of iOS, which Apple calculated would raise the rate of breakage. See United States District Court for the Northern District of California, "Order Granting Epic Games, Inc.'s Motion to Enforce Injunction." Google will likely face similar incentives with respect to the User Choice CR, so it may be prudent for the CMA to proactively monitor breakage as consumers attempt to use the Device-Level Default Setting and Test-drive function.
[62] United Kingdom, "Digital Markets, Competition, and Consumer Act," s 25.
[63] Cooper et al., *Considerations for Effective Search Competition Remedies*, 31-32.
[64] Competition and Markets Authority, "User Choice Conduct Requirement," 17.

V. Conclusion

The CMA's proposed conduct requirements represent an effort toward addressing the downstream effects of Google's substantial and entrenched market power in general search services. As currently constructed, the package misses a key opportunity to spur competition in the UK search market. By leaving Google's default agreements unaddressed, the CRs fail to confront the most significant barrier to entry that search competitors face.

The Publisher CR will likely have consequences beyond this proceeding, potentially shaping broader norms around web crawling and AI-related uses of content. For this reason, the CR should reflect the needs of the full range of publishers on the web, including noncommercial publishers. Controls should focus as much as possible on outcomes – uses of publisher content that publishers themselves can objectively discern – while providing for detailed, ongoing oversight if controls are introduced for black-box functions like AI training, fine-tuning, and grounding. The Publisher CR should also address the gap in controls for individual creators, including YouTube creators, whose inability to limit Google's use of their content for its own search results and AI product development is among the most concrete examples of how Google's market power advantages itself over competitors.

The User Choice CR reflects sound intuitions about the limits of Google's existing default-switching mechanisms, but its impact will depend heavily on how it is implemented. The CMA should provide more prescriptive guidance on neutral presentation, one click to switch, and mandatory pre- and post-deployment testing. Expanded data reporting requirements and explicit performance benchmarks would facilitate assessments of whether the CR is achieving competitive effects, rather than of formal compliance alone.

Stronger interventions are likely necessary to create the conditions for genuine competition in UK general search services. The CMA's SMS investigation has established a robust evidentiary foundation for such interventions. Absent these steps, the conduct requirements would be rendered more effective by strengthening their definitions, scope, and implementation guidelines.

Bibliography

Akesson, Japser, Michael Luca, Gemma Petrie, and Kush Amlani. *Can browser choice screens be effective? Experimental analysis of the impact of their design, content, and placement*. Mozilla, 2023. https://research.mozilla.org/browser-competition/choicescreen/.

Allcott, Hunt, Juan Camilo Castillo, Matthew Gentzkow, Leon Musolff, and Tobias Salz. *Sources of Market Power in Web Search: Evidence from a Field Experiment*. National Bureau of Economic Research, January 2025. https://www.nber.org/papers/w33410.

Alliance for Responsible Data Collection. "Data Collection Guidelines." Accessed February 21, 2026. https://responsibledatacollection.org/data-collection-guidelines/.

BEUC. *Examining the Design of Choice Screens in the Context of the Digital Markets Act*. BEUC, October 2023. https://www.beuc.eu/sites/default/files/publications/BEUC-X-2023-132_Examining_the_Design_of_Choice_Screens_in_the_Context_of_the_Digital_Markets_Act.pdf.

Competition and Markets Authority. "Appendix I: search quality and economies of scale." March 25, 2022. https://www.gov.uk/find-digital-market-research/online-platforms-and-digital-advertising-market-study-appendix-i-search-quality-and-economies-of-scale-2020-cma.

———. "Appendix V: assessment of pro-competitive interventions in general search." July 3, 2019. https://assets.publishing.service.gov.uk/media/5fe36a18d3bf7f08a02c87f6/Appendix_V_-_assessment_of_pro-competition_interventions_in_general_search_1.7.20.pdf.

———. "Consultation: Publisher Conduct Requirement." January 28, 2026. https://assets.publishing.service.gov.uk/media/6979d0bf75d44370965520a0/Publisher_conduct_requirement.pdf.

———. "Consultation: User Choice Conduct Requirement." January 28, 2026. https://assets.publishing.service.gov.uk/media/6979d0f35da1fd4ddea98c75/_User_choice_conduct_requirement_v2.pdf.

———. "Strategic market status investigation into Google's general search services: Final Decision." October 10, 2025. https://assets.publishing.service.gov.uk/media/68e8b643cf65bd04bad76724/Final_decision_-_strategic_market_status_investigation_into_Google_s_general_search_services.pdf.

Cooper, Alissa, Jasper van den Boom, and Zander Arnao. *Considerations for Effective Search Competition Remedies*. Knight-Georgetown Institute, November 4, 2024. https://kgi.georgetown.edu/wp-content/uploads/2024/12/KGI-Considerations-for-Effective-Search-Competition-Remedies.pdf.

Decarolis, Francesco, Muxin Li, and Filippo Paternollo. "Competition and Defaults in Online Search." *American Economic Journal: Microeconomics* 17, no. 3 (2025): 369-414. https://www.aeaweb.org/articles?id=10.1257/mic.20230193.

Deck, Andrew. "Discover isn't the only place Google is experimenting with AI-generated snippets." *Nieman Lab*, January 2026. https://www.niemanlab.org/2026/01/discover-isnt-the-only-place-google-is-experimenting-with-ai-generated-snippets/.

Department of Justice. "Ex. No. PXR0026." Last modified April 12, 2024. https://www.justice.gov/atr/media/1399381/dl?inline.

Dinzinger, Michael, and Michael Granitzer. "A Longitudinal Study of Content Control Mechanisms." In *Companion Proceedings of the ACM Web Conference 2024* (2024): 1382-1387, https://doi.org/10.1145/3589335.3651893.

Dixit, Pranav. "Apple, NVIDIA and Anthropic Reportedly Used YouTube Transcripts without Permission to Train AI Models." *Engadget*, July 16, 2024. https://www.engadget.com/apple-nvidia-and-anthropic-reportedly-used-youtube-transcripts-without-permission-to-train-ai-models-170827317.html.

DuckDuckGo. "Search Preference Menu Immediately Increases Google Competitors' Market Share by 300-800%." 2019. https://spreadprivacy.com/search-engine-preference-menu/.

European Commission. "Commission launches consultation on protocols for reserving rights from text and data mining under the AI Act and the GPAI Code of Practice." December 1, 2025. https://digital-strategy.ec.europa.eu/en/consultations/commission-launches-consultation-protocols-reserving-rights-text-and-data-mining-under-ai-act-and.

———. "Commission opens investigation into possible anticompetitive conduct by Google in the use of online content for AI purposes." December 8, 2025. https://ec.europa.eu/commission/presscorner/detail/da/ip_25_2964.

———. "Commission opens proceedings to assist Google in complying with interoperability and online search data sharing obligations under the Digital Markets Act." January 27, 2026. "https://digital-markets-act.ec.europa.eu/commission-opens-proceedings-assist-google-complying-interoperability-and-online-search-data-sharing-2026-01-27_en.

———. "The General-Purpose AI Code of Practice." July 10, 2025. https://digital-strategy.ec.europa.eu/en/policies/contents-code-gpai.

European Union. "Digital Markets Act." https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2022.265.01.0001.01.ENG&toc=OJ%3AL%3A2022%3A265%3ATOC.

Fletcher, Amelia. *Choice Architecture for End Users in the DMA*. Centre on Regulation in Europe, January 2024. https://cerre.eu/wp-content/uploads/2024/01/Choice-Architecture-for-End-Users-in-the-DMA_FINAL.pdf.

Foxglove. "NEW CASE: Foxglove launches international legal challenge to Google's worldwide theft of news!" April 7, 2025. https://www.foxglove.org.uk/2025/07/04/legal-challenge-google-theft-of-news/.

Gilbertson, Anne, and Alex Reisner. "Apple, NVIDIA and Anthropic Reportedly Used YouTube Transcripts." *WIRED*, July 16, 2024. https://www.wired.com/story/youtube-training-data-apple-nvidia-anthropic/.

Google. "Make Chrome your default browser." Accessed February 24, 2026. https://support.google.com/chrome/answer/95417?hl=en&co=GENIE.Platform%3DAndroid.

———. "Your Content & Third-Party Training." YouTube Help. Accessed February 21, 2026. https://support.google.com/youtube/answer/15509945.

Hoppner, Thomas. "Antitrust remedies in digital markets: lessons for enforcement authorities from non-compliance with EU Google decisions." Hausfeld, November 19, 2020. https://www.hausfeld.com/en-us/what-we-think/competition-bulletin/antitrust-remedies-in-digital-markets-lessons-for-enforcement-authorities-from-non-compliance-with-eu-google-decisionhttps://www.hausfeld.com/en-us/what-we-think/competition-bulletin/antitrust-remedies-in-digital-markets-lessons-for-enforcement-authorities-from-non-compliance-with-eu-google-decision.

Hovenkamp, Erik, and Douglas Melamed. "Appraising the Google Search Antitrust Remedies." *ProMarket*, September 23, 2025. https://www.promarket.org/2025/09/23/appraising-the-google-search-antitrust-remedies/.

Interactive Advertising Bureau. "IAB Releases Draft Legislation to Address AI Content Scraping." February 2, 2026. https://www.iab.com/news/iab-releases-draft-legislation-to-address-ai-content-scraping-and-protect-publishers/.

Internet Engineering Task Force. "AI Preferences (aipref)." Datatracker. Accessed February 21, 2026. https://datatracker.ietf.org/wg/aipref/about/.

———. "Web Bot Auth (webbotauth)." Datatracker. Accessed February 21, 2026. https://datatracker.ietf.org/wg/webbotauth/about/.

Kachwala, Zaheer, and Aditya Soni. "Apple, Google strike Gemini deal for revamped Siri in major win for Alphabet." *Reuters*, January 13, 2026. "https://www.reuters.com/business/google-apple-enter-into-multi-year-ai-deal-gemini-models-2026-01-12/.

Keller, P., and M. Thomson. "A Vocabulary For Expressing AI Usage Preferences." December 1, 2025. https://www.ietf.org/archive/id/draft-ietf-aipref-vocab-05.html.

Koster, M., G. Illyes, H. Zeller, and L. Sassman. "Robots Exclusion Protocol." Internet Engineering Task Force, September 2022. https://www.rfc-editor.org/rfc/rfc9309.html.

Longpre, Shayne, Robert Mahari, Ariel Lee, et al. "Consent in Crisis: The Rapid Decline of the AI Data Commons." *Proceedings of the 38th International Conference on Neural Information Process*

Systems (2024): 108042-108087, https://papers.nips.cc/paper_files/paper/2024/file/c3738949a80306cc48a8ea8ba0560f9d-Paper-Datasets_and_Benchmarks_Track.pdf.

Madhavan, K., F. Canel, J. Gimbel, and S. Cooper. "A Vocabulary for Controlling Usage of Content Collected by Search and AI Crawlers." September 21, 2025. https://www.ietf.org/archive/id/draft-madhavan-aipref-displaybasedpref-01.html.

McGrady, Ryan, Kevin Zheng, Robert Curran, Jonathan Baumgartner, and Ethan Zuckerman. "Dialing for Videos: A Random Sample of YouTube." *Journal of Quantitative Description: Digital Media* 3 (2023), https://journalqd.org/article/view/4066/3766.

Nicholas, Gabriel, and Michael Weinberg. *Data Portability and Platform Competition: Is User Data Exported From Facebook Actually Useful to Competitors?* Engelberg Center for Innovation Law & Policy, November 2019. https://www.law.nyu.edu/sites/default/files/Data%20Portability%20and%20Platform%20Competition%20-%20Is%20User%20Data%20Exported%20From%20Facebook%20Actually%20Useful%20to%20Competitors.pdf.

Ostrovsky, Michael. "Choice Screen Auctions." *American Economic Review* 113, no. 9 (2023): 2486-2505, https://www.aeaweb.org/articles?id=10.1257/aer.20220699.

Petrie, Gemma. *Beyond Choice Screens: Exploring browser choice design interventions*. Mozilla, 2024. https://research.mozilla.org/browser-competition/remedyconcepts/.

———. *Designing Better Digital Competition Remedies: Lessons from User Research*. Knight-Georgetown Institute, February 2025. https://kgi.georgetown.edu/wp-content/uploads/2024/12/GPetrie_Designing-Better-Remedies.pdf.

RSL. "RSL: Really Simple Licensing." RSL Standard. Accessed February 21, 2026. https://rslstandard.org/.

Sharma, Sumit. "US Court's Remedies Not Enough Given Google Can Continue to Pay for Search Defaults." *Tech Policy Press*, September 12, 2025. https://www.techpolicy.press/us-courts-remedies-not-enough-given-google-can-continue-to-pay-for-search-defaults/.

United Kingdom. "Digital Markets, Competition, and Consumer Act." Accessed February 24, 2026. https://www.legislation.gov.uk/ukpga/2024/13/part/1.

United States District Court for the District of Columbia. "Complaint (*Chegg v. Google*)." February 24, 2025. https://storage.courtlistener.com/recap/gov.uscourts.dcd.277735/gov.uscourts.dcd.277735.1.0.pdf.

———. "Complaint (*PMC v. Google*)." September 12, 2025. https://storage.courtlistener.com/recap/gov.uscourts.dcd.284823/gov.uscourts.dcd.284823.1.0.pdf.

United States District Court for the Northern District of California. "Order Granting Epic Games, Inc.'s Motion to Enforce Injunction; Denying Apple Inc.'s Motion to Set Aside Judgment; Denying Apple Inc.'s Motion Under Federal Rule of Evidence 502(d); Denying Apple Inc.'s Motion for Entry of Judgment on Its Indemnification Counterclaim Without Prejudice; and Referral to the United States Attorney re Criminal Contempt." April 30, 2025. https://storage.courtlistener.com/recap/gov.uscourts.cand.364265/gov.uscourts.cand.364265.1508.0_2.pd.

Vallese, Zach. "Google Is Using YouTube Videos to Train Its Gemini, Veo 3 AI Models." *CNBC*, June 19, 2025. https://www.cnbc.com/2025/06/19/google-youtube-ai-training-veo-3.html.

van den Boom, Jasper, and Sarah Hinck. "The idealo-founder speaks: Google Shopping, the DMA, and the future of the Internet – Interview with Albrecht von Sonntag." SCiDA, August 10, 2024. https://scidaproject.com/2024/10/08/the-idealo-founder-speaks-google-shopping-the-dma-and-the-future-of-the-internet-interview-with-albrecht-von-sonntag/.

Vasquez Duque, Omar. "Active Choice vs. Inertia? An Exploratory Assessment of the European Microsoft Case's Choice Screen." *Journal of Competition Law & Economics* 19, no. 1 (2023): 60-74, https://academic.oup.com/jcle/article-abstract/19/1/60/6672805?redirectedFrom=fulltext.

———. *The Magical Number 2 (Minus Two): An Empirical Assessment of the Efficacy of Choice Screens to Increase Competition in Digital Markets*. Last modified July 17, 2025. Knight-Georgetown Institute. https://kgi.georgetown.edu/wp-content/uploads/2026/01/The-Magical-Number-2-Minus-Two_Vasqez-Duque_3.pdf.

Wu, Austin. "Web Guide: An Experimental AI-Organized Search Results Page." *The Keyword*, July 24, 2025. https://blog.google/products-and-platforms/products/search/web-guide-labs/.