



February 13, 2026

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To whom it may concern:

News Media Canada represents 550 trusted news titles in Canada. We are pleased to respond to the Competition and Markets Authority's (CMA) Consultation about *Google's general search services: proposed conduct requirements*.

News publishers should be compensated for the use of their copyright-protected content. In Canada, under the Online News Act, Google is now providing C\$100 million in monetary compensation annually to news businesses. These funds are being re-invested in newsrooms, and we are seeing publishers hire journalists after years of job losses.

Since the passage of the Online News Act in 2023, generative AI has emerged as a major threat to news businesses. Large language models (LLMs) are harming publishers in two ways. First, AI companies are scraping and summarizing copyright-protected content directly from published news articles via retrieval-augmented generation. Second, because AI overviews are significantly more comprehensive than the snippets associated with traditional links, users may feel they have no reason to click through to the source article on a publisher's website. With the user staying within Big Tech's increasingly tall-walled garden, rather than being directed electronically to news websites via links, publishers are deprived of audience, and their ability to sell advertising and subscriptions is significantly diminished. Zero clicks mean zero cash for news businesses. Yet AI companies are selling ads against publishers copyrighted – and often paywalled – content as well as subscriptions for their premium products.

Readers are being harmed too. There are numerous examples of AI overviews serving up slop – inaccurate, irrelevant, outdated and even harmful information. That is because the LLMs do not

adhere to journalistic standards. If publishers cannot monetize their valuable content, they cannot reinvest in the accurate and authoritative journalism that readers rely on to make informed decisions, thereby empowering them to participate effectively in democratic processes.

To halt the cannibalizing of proprietary content on an industrial scale and the strip-mining of journalism reasonable guardrails are needed to protect news publishers and consumers of news. First, intellectual property should be protected. Second, platforms should provide fair compensation to publishers. Third, platforms should provide clear attribution to source content. Fourth, publishers should be allowed to “opt-out” of AI overviews without their content being removed from search. Fifth, platforms should not discriminate or affect organic search ranking and reduce publisher traffic.

Like other AI companies, Google is crawling publisher content without consent or providing compensation. What makes the hyperscaler unique is its dominance in search. Just like in Canada, Google search accounts for more than 90 per cent of all general search queries in the UK. Google has embedded AI-generated summaries directly into its search interface without providing publishers with an effective “opt-out” mechanism. Based on the evidence the CMA has seen, “Google’s existing controls do not provide publishers with sufficient choice over how their content, provided for general search (Search Content), is used by Google.”

Having raised similar concerns with the Competition Bureau here in Canada, we were pleased to see the CMA taking action to improve competition in search services in the UK. The CMA’s proposal to make sure news publishers get a fairer deal by allowing us to “opt-out” of publisher content being used to power AI Overviews or to train AI models outside of Google search, while ensuring Google ranks search results fairly, including in its AI Overviews and AI Mode, is welcome.

But it doesn’t go far enough.

We agree with Owen Meredith, CEO of the UK-based News Media Association, who said, “We’re skeptical about a remedy that relies on Google to separate data for AI Overviews versus search after it has been scraped — this is a behavioral remedy, whereas the cleanest solution would be a structural remedy, requiring Google to separate its crawlers for specific purposes.”

Therefore, we recommend that Googlebot be split up into separate crawlers — for AI and for search — to ensure publishers can continue to attract traffic via crawling for traditional search indexing, while allowing them to block unauthorized access for the use of their content in generative AI services.

As the CMA has noted, crawler separation “would allow publishers to block or allow each type of crawler independently, without needing to rely on controls provided by Google within its existing search crawler.”

A full structural remedy with mandatory crawler separation is a pro-competitive safeguard needed to level the playing field between publishers and Google. It will effectively drive Google into more content licensing agreements with news publishers for its AI services. This, in turn, will lead other AI companies, who have been reluctant to pay for content when Google is getting it for free, to enter into more content licensing agreements with news publishers. Simply put, suing AI companies is slow and expensive.

AI has tremendous potential. Its development and adoption depend on access to original high-quality content created by humans, but the market for that content must be fair, transparent, and competitive. News publishers around the world are carefully following the CMA’s work in this area. We thank you for your leadership, and we appreciate the opportunity for participate in this Consultation.

Respectfully submitted,

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