OPENAI'S RESPONSE TO CMA CONSULTATION OF 28 JANUARY 2026

PUBLIC VERSION

Proposal for conduct requirements

Public consultation

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6 MARCH 2026

1. INTRODUCTION

1.1. OpenAI welcomes the opportunity to provide input on the CMA's public consultation of 28 January 2026 and to comment on the proposed conduct requirements. While we view the proposals as a positive step toward promoting competition, we believe more precision and guidance may be necessary to ensure the effectiveness of the CMA's conduct requirements.

1.2. This submission focuses mainly on the User Choice Conduct Requirement ("**User Choice CR**").[1] **Section 2** covers Eligibility Criteria.[2] **Section 3** addresses the design of the Search Choice Screen and the selection of Eligible Providers. **Section 4** examines the scope of application, including search access points and functionalities. **Section 5** focuses on technical selectability and interoperability. **Section 6** covers procedural points. Finally, **Section 7** will address the Publisher Conduct Requirement ("**Publisher CR**").[3]

2. ELIGIBILITY CRITERIA

2.1. The User Choice CR proposes that "Eligible Providers" must meet specified Eligibility Criteria. Providers are expected to (a) address the full range of use cases of a general search engine, (b) provide the expected general search experience for affected search access points, (c) be considered by a significant proportion of UK users, and (d) operate and market general search as a core and central part of the service.[4]

OpenAI's concerns

2.2. The proposed Eligibility Criteria appear to replicate elements of Google's EU Search Choice Program requirements. Terms such as "full range of use cases", "expected general search experience," and "operate and market general search as a core and central part of the service" are reminiscent of Google's choice screen implementation in the EU which includes Google's stipulation that a search provider must operate as a distinct service and brand rather than as a sub-feature or sub-brand of another product. These elements go beyond the requirements set out in the Digital Markets Act ("**DMA**") and risk importing into the UK regime Google's discretionary limitations that will undermine the effectiveness and impact of a UK choice screen.

2.3. Given the nature of the CMA process for putting in place conduct requirements, it will also be important to ensure that the CMA has designed these requirements to be sufficiently forward-looking and broad enough to capture how people's search habits are evolving, including search that incorporates AI and AI that incorporates search. In simpler terms, it would be a bad outcome if Google can point to innovative AI chatbots as their most capable competitors and substitutes for general search services - as well as have Google's own search service prominently use an AI interface and AI models – while also excluding these innovate AI chatbots that have search functionality from a choice screen which facilitates consumer choice.

2.4. More specifically, OpenAI's concerns with the proposed Eligibility Criteria are the following:

2.4.1. First, the criteria are framed around traditional conceptions of search and this risks excluding or disadvantaging innovative AI chatbots that offer search functionality. Like search engines, some chatbots enable broad information discovery through conversational or multimodal responses. And consumers increasingly are using these

[1] Consultation: User Choice Conduct Requirement, Google's general search services, 28 January 2026.
[2] All terms used in this submission are as defined in the Consultation on conduct requirements of 28 January 2026, unless otherwise indicated.
[3] Consultation: Publisher Conduct Requirement, Google's general search services, 28 January 2026.
[4] User Choice CR, p. 16.

services to conduct a wide range of searches.[5] Services such as ChatGPT are functionally very similar to both Google Search's AI Overviews and AI Mode in how an AI model incorporates search results into the response to a query prompt[6] (and both of these features have been considered by the CMA to be part of general search services[7]).

2.4.2. Second, the criteria include broad, discretionary and open terms. Simplicity is important – the more qualifiers added, the more complex it will be for rivals to participate in the Search Choice Screen.

OpenAI's recommendations

2.5. To address these concerns, OpenAI recommends the following:

2.5.1. **Clear standards**. The criteria should be defined in a way that leaves no room for reinterpretation, narrowing, or inconsistent application in practice. The User Choice CR should provide clear guidance on the types of providers that fall within scope, including indicative examples of services that would qualify as Eligible Providers and those that would not. Clear delineation will reduce ambiguity, limit the scope for dispute, and support timely implementation. For example, the User CR could specify that it includes both general purpose search engines and chatbots that offer search functionality (via a search engine that retrieves from the web) and function as competitive substitutes for Google Search.

2.5.2. **Avoiding over-inclusion**. OpenAI's clear criteria above should by definition exclude vertical search services or niche, specialised chatbots focused on narrow categories, because they do not have general search functionality.

2.6. OpenAI recommends that the Eligibility Criteria should explicitly include a clear reference to AI chatbots that include search functionality, and competing offerings of a "search generative experience", and exclude "vertical search services or niche, specialised search services focused on narrow categories". Framing the criteria in relation to 'services' rather than products ensures that inclusion is linked to the relevant functions offered by a provider or product.

3. SEARCH CHOICE SCREEN DESIGN / SELECTION OF ELIGIBLE PROVIDERS

3.1. The User Choice CR proposes that approximately twelve Eligible Providers be displayed on the Search Choice Screen, with five selected based on popularity and seven chosen at random.[8] Eligible Providers not included in the initial display would remain accessible via a secondary list. OpenAI understands that the selection and ordering of providers would be updated every six months.[9]

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5 *See*, for example, Which?'s study showing that half of its sample of UK users use AI search tools and about a quarter use such tools for general search. Source: Consumer use and attitudes towards AI search tools. The CMA's own survey highlighted that while most consumers still use traditional search services, two-thirds of the consumers that use AI had used it to search the web for simple or less simple information. Source: Figure 4: Consumer_survey_report_1.pdf.

6 *See*, for example, Ofcom's report that considers both AI search chatbots and AI search summaries as "GenAI search". Source: Generative AI Search Qualitative Research Report

7 Google described AI Mode as providing "AI-powered response that really understands [their] question, gives [them] the information [they]'re looking for and helps [them] dig deeper into the topic". Final decision, paragraph 4.49(b). "*Google launched AI Overviews in the UK in 2024 as a search feature which provides a quick answer on the SERP in response to a user's query that is created by generative AI algorithms*". Final decision, paragraph 4.49(b).

8 User Choice CR, para. 4.26.

9 User Choice CR, p. 20.

OpenAI's concerns

3.2. OpenAI's concerns with the proposed Search Choice Screen Design are the following:

3.2.1. First, placement inside the "popular" tier depends entirely on how popularity is defined.

3.2.2. Second, the User Choice CR does not specify if the top five of the approximately twelve Eligible Providers will be the top five most popular Eligible Providers. Thus, popular Eligible Providers risk being buried as users are unlikely to scroll to a second page or "below the fold" if having approximately a dozen Eligible Providers means a number of Eligible Providers will be relegated to a second page or "below the fold."

OpenAI's recommendation

3.3. To address these concerns, OpenAI recommends the following:

3.3.1. **Inclusion methodology**. The User Choice CR should adopt inclusion of providers based on popularity only and be reassessed at least every six months to avoid entrenchment. Popularity metrics should be dynamic (i.e., updated using recent data, rather than reliant purely on historic metrics or legacy sources like StatCounter), transparent, meaningful, and grounded in objective measures such as weekly or daily active users of an Eligible Provider's search functionality, or search query volume.

4. SCOPE OF APPLICATION

Devices

4.1. The User Choice CR provides that, on Android devices, the Search Choice Screen is displayed only where Google Search has been pre-installed and/or set as the default during OEM factory setup.[10] It also proposes applying the Search Choice Screen to Google Pixel devices and to Chrome on iOS/iPadOS and desktop devices where Google Search is pre-installed and/or set as the default.[11]

OpenAI's concerns

4.2. As noted above, OpenAI is concerned that layering the obligation with multiple qualifiers will narrow the User Choice CR's application in practice. The proposed scope is overly restrictive because it applies only where Google Search is pre-installed or set as the default.

OpenAI's recommendations

4.3. To address these concerns, OpenAI recommends the following:

4.3.1. **Initial trigger**. The Search Choice Screen be displayed the first time a user accesses Google's search services on an Android device or within Chrome, irrespective of whether Google Search was pre-installed, set as default, or placed on the home screen by the OEM.

4.3.2. **Ongoing visibility**. After this initial display, the Search Choice Screen should reappear at each reassessment of Eligible Providers (as described above). This would strengthen

[10] User Choice CR, para. 4.12.
[11] User Choice CR, para. 4.13.

user engagement, ensure continued visibility of alternatives, and allow newly eligible providers to benefit immediately from inclusion. This proposal strikes a balance between the regularity of offering choice (and the benefits this brings) and the frequency of prompting users. In contrast, only surfacing the choice screen once – or as the User Choice CR proposes once every year - risks entrenching consumer choice, and could restrict the ability for new disruptive search entrants to compete effectively against existing traditional search providers.

Search access points

4.4. The User Choice CR considers that the Search Choice Screen should apply only to the key Google-owned access points on Android devices which represent a significant proportion of on-Android device searches, namely the Search widget and Chrome app.[12]

OpenAI's concerns

4.5. OpenAI's concerns with the proposed access points and underlying considerations are the following:

4.5.1. First, limiting access points - or permitting them to be locked exclusively to Google (e.g., Circle to Search / long-press of of home or navigation bar, Google Lens, other triggers of search on the Android device that are locked, or default, to Google Search) - risks entrenching Google at a critical juncture in the evolution of search. If access points are foreclosed now, Google's advantages will compound before rivals have a meaningful opportunity to compete, depriving consumers of choice. Competition in search and AI develops dynamically; early restrictions can shape long-term market structure. Presenting a Search Choice Screen at every search access point, including any new and emerging search access points such as but not limited to voice or visual searches, is therefore essential to prevent the cementing of Google's dominance before genuine competitive pressure can emerge and to ensure consumers can exercise meaningful choice.

4.5.2. Second, low current search activity at a particular access point does not justify exclusion. User behaviour evolves rapidly, particularly in digital markets shaped by rapid innovation. Features that may initially generate modest usage (e.g., voice search or visual search) can scale quickly once users understand their value. In a similar vein, consumer habits can form quickly and once set are more difficult to change. AI-native search experiences, integrated directly into operating systems, messaging apps, or device-level features, may shift demand away from traditional browser-based entry points. Judging competitive significance solely on present usage risks underestimating future growth and locking in outdated assumptions about how consumers access information.

4.5.3. Third, technical complexity is not a valid basis for foreclosing an access point. Allowing Google to opt out of implementing a choice screen on the grounds of engineering burden would undermine the effectiveness of the User Choice CR and create scope for delay or partial compliance. It should be technically feasible for Google to expose the necessary entry points and make the relevant entry hooks available so that users are given the ability to select a search functionality provider as their preferred default.

4.5.4. Fourth, uncertainty about whether alternative providers can support search functionality at a particular access point should not justify foreclosing that access

[12] User Choice CR, para. 4.20.

point. Indeed, opening up search access points to active choice, can also strengthen incentives for competing search providers to offer such capabilities and use them to create new, innovative tools.

OpenAI's recommendations

4.6. To address these concerns, OpenAI recommends the following:

4.6.1. **No limitation of access points**. The Search Choice Screen should not be limited to the Search widget and Chrome app but appear at every Google-owned or controlled access points on both Android devices and desktop where a search functionality is available (e.g., the home screen widget on Pixel devices, home screen widget on third party OEM devices, Discover on the -1 screen on Android OEM devices, Web Search (Android), long-pressing home button (Circle to Search on Pixel and Samsung devices), Omnibox (Chrome), new tab page (Chrome), Web Search (Chrome), and Search with Google Lens (Chrome), and any future search access points that will be locked or default to Google Search).

4.6.2. **Provider engagement**. Questions about which providers are capable of delivering search functionality across specific access points should be resolved transparently by Google through direct engagement with providers and with oversight from the CMA.

Search functionalities

4.7. The User Choice CR appears to focus primarily on traditional typed search and is silent on newer or emerging modalities (e.g., voice search, assistant search, visual search, or AI-assisted search).

OpenAI's concerns

4.8. OpenAI is concerned that (implicitly) limiting the scope of the User Choice CR to typed queries would leave significant and growing areas of search functionality outside its reach.

4.8.1. First, if users encounter the Search Choice Screen only when conducting traditional typed searches, other newer, emerging search tools would remain effectively Google-dominated. As user behaviour increasingly shifts toward multimodal, assistant, and AI-enabled interactions, this would narrow the practical impact of the remedy and means it will not be sufficiently forward-looking, particularly when there is increasing use of such newer methods.[13]

4.8.2. Second, Google could introduce or prioritise new search functionalities without offering users the opportunity to select alternative providers.

OpenAI's recommendation

[13] *See*, for example, research from YouGov showing that three in 10 UK adults use digital assistants at least once a day and that 44% use this to check the web for an answer. Source: https://yougov.com/en-gb/articles/51221-30-of-brits-use-digital-assistants-daily-heres-what-theyre-doing?utm_source=chatgpt.com. Google itself has highlighted that visual searches on its platforms are growing steadily. According to CEO Sundar Pichai, searches through Google Lens, Google's multimodal AI-powered search technology, have increased by 5 billion since October. The number of people shopping on Lens was up over 10% in Q1, meanwhile. Source: https://techcrunch.com/2025/04/25/googles-ai-search-numbers-are-growing-and-thats-by-design/?utm_source=chatgpt.com.

4.9. To address these concerns, OpenAI recommends the following:

4.9.1. **Scope of coverage**. To avoid ambiguity and prevent circumvention, the User Choice CR should explicitly apply to any search functionality and to Google Search "however it is accessed"[14] – including voice search, assistant search, visual search, and AI-assisted search. This should ensure the requirement is future-proof which is necessary given the rapid and continuous evolution of search technologies.

5. TECHNICAL SELECTABILITY AND INTEROPERABILITY

5.1. The User Choice CR is silent on who bears responsibility for ensuring that Eligible Providers are technically selectable within the Search Choice Screen and interoperable with relevant search access points.

OpenAI's concerns

5.2. The lack of specificity on who bears responsibility creates ambiguity over whether technical feasibility is guaranteed by Google or implicitly becomes an obligation on Eligible Providers. Without clear assignment of responsibility, "technical selectability" and interoperability could undermine the effectiveness of the CR.

OpenAI's recommendations

5.3. To address these concerns, OpenAI recommends the following:

5.3.1. **Google is responsible for interoperability**. Responsibility for technical selectability and interoperability should sit primarily with Google – not with eligible providers – as the controller of search access points, with appropriate oversight by the CMA. Google should implement and maintain open, well-documented interfaces (e.g., APIs, URI schemes/intents, default-setting hooks) so Eligible Providers can plug into all relevant access points.

5.3.2. **Clear interoperability requirements**. The User Choice CR should clearly set out how interoperability must be implemented in practice. Requirements should be explicit, non-discriminatory, and technology-neutral, and developed with input from AI-native service providers.

5.3.3. **No proxy eligibility test**. Technical selectability must not become a proxy eligibility test or a mechanism that favours Google's own services (e.g., through deeper integration, better latency, or privileged access to certain surfaces).

6. PROCEDURAL

6.1. The User Choice CR proposes that it comes into force within six months following imposition. During this period Google should, within one month of imposition, submit an implementation plan and engage constructively with the CMA and third parties to develop and implement changes to comply with the requirement.[15]

[14] Strategic market status investigation into Google's general search services, Final Decision, 10 October 2025, paragraph 4.9.

[15] User Choice CR, para. 4.69.

OpenAI's recommendations

6.2. OpenAI recommends the following:

6.2.1. **Implementation timeframe**. It should be feasible for Google to implement the Search Choice Screen within a shorter timeframe than six months (e.g., four months), without compromising quality or compliance. These choice screens are not novel, given interventions in the EU and Japan. A shorter period would accelerate opening up competition for general search services – allowing consumers to benefit more quickly – by ensuring that the benefits of the conduct requirement are realised promptly.

6.2.2. **Complaint and appeal mechanism**. There should be a formal complaint and appeal mechanism for providers to raise technical or procedural issues with the CMA if Google fails to comply with the User Choice CR. This would provide an effective safeguard, allowing issues to be escalated and resolved quickly.

7. PUBLISHER CONDUCT REQUIREMENT

7.1. The Publisher CR proposes that Google should provide publishers with effective controls to withhold their Search Content from being used for (i) the training and grounding of its broader generative AI services, and (ii) the grounding of its search generative AI features.[16]

OpenAI's concern

7.2. OpenAI's concern with the proposed Publisher CR is the following:

7.2.1. The proposed control is too narrow in scope as it is limited to specific, enumerated uses (e.g., training and grounding), which risks gaps in coverage and interpretive disputes. It also draws unnecessary distinctions between AI services, seemingly based on Google's existing framework (e.g., Google-Extended control).

OpenAI's recommendations

7.3. To address this concern, OpenAI recommends the following:

7.3.1. **Simplification and broader coverage**. Google should provide publishers with effective controls to withhold their Search Content from use in Google's AI services. A broader formulation would avoid debates over the scope of particular use cases and ensure comprehensive coverage, including uses such as fine-tuning, which some publishers have indicated are of concern.[17]

7.3.2. **No differentiation between AI services**. There is no principled basis to distinguish between Google's broader generative AI services (e.g., Gemini) and its core generative AI search features (e.g., AI Overviews). These services operate on closely related model architectures, and Google has confirmed to the CMA that AI Overviews rely on models derived from the Gemini foundation model family.[18]

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[16] Publisher CR, p. 15.
[17] Publisher CR, fn. 40.
[18] Publisher CR, fn. 37.