EPC European Publishers Council

Response from European Publishers Council

to the CMA Consultation on Proposed Conduct Requirements for Google

Executive Summary

The European Publishers Council (EPC) welcomes the CMA's proposed Publisher Conduct Requirements as an important step towards addressing the structural imbalance created by Google's Strategic Market Status in general search. The CMA has correctly identified that publishers' dependence on Google for visibility is being leveraged into adjacent AI-driven uses that risk materially reducing referral traffic, weakening publisher monetisation, and undermining long-term investment in high-quality journalism.

However, the effectiveness of the proposed framework will depend on whether publisher choice is genuinely operational, enforceable, and resistant to circumvention. As currently framed, several material gaps risk limiting the Conduct Requirements' ability to restore contestability and protect the sustainability of independent editorial media.

In particular, the CMA should strengthen the proposal to ensure:

1. **Effective and enforceable controls**, including a credible escalation pathway to structural remedies if behavioural measures prove insufficient.
2. **Granular publisher choice** across distinct AI uses, including grounding, training and fine-tuning, at both directory and page level.
3. **Robust safeguards against circumvention**, including via open-source datasets, secondary scraping, or downstream commercialisation.
4. **Transparency parity** between traditional search and AI-driven features, including feature-level reporting and monetisation visibility.
5. **Prominent and measurable attribution** that supports user trust and meaningful click-through.
6. **Ranking neutrality backed by effects-based monitoring**, to ensure publishers are not indirectly penalised for exercising their rights.
7. **Accessible publisher control tools**, so that meaningful choice is available to publishers of all sizes.

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Absent these improvements, there is a significant risk that AI Overviews and AI Mode will accelerate structural disintermediation of publishers, with adverse consequences for media plurality, consumer choice, and the broader information ecosystem.

The CMA has a timely opportunity to establish an internationally credible framework that restores bargaining balance while preserving innovation. EPC stands ready to support the Authority with further technical and economic evidence.

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1. Introduction

The European Publishers Council (EPC) represents leading European news media and publishing organisations. Our members operate extensively throughout Europe, including within the United Kingdom, serving millions of readers through professionally produced, editorially controlled journalism.

Google's search and AI products operate on a global scale. The CMA's proposed conduct requirements will therefore have implications beyond the UK market and could establish an international reference point for the governance of dominant search and AI systems.

Authorities worldwide are examining Google's conduct in search and AI-related markets. The European Publishers Council has filed a formal complaint with the European Commission alleging that Google LLC and Alphabet Inc. are abusing their dominant position in general search services through the deployment of AI Overviews and AI Mode within Google Search. The concerns raised in that complaint are directly relevant to the CMA's assessment of effective and proportionate remedies. This complaint complements the Commission's own enforcement action announced on 9 December 2025.

Search has progressively evolved from a referral engine directing users to third-party sources into an "answer engine" that substitutes those sources within Google's own interface. AI Overviews and AI Mode represent a step change in that evolution. Rather than facilitating discovery, they increasingly replace it.

While EPC supports the objectives of the proposed conduct requirements, the framework relies excessively on Google's internal technical design choices and self-certification mechanisms. The Digital Markets, Competition and Consumers Act 2024 is intended to restore contestability and protect consumers, not to defer to incumbent design preferences. However, significant gaps remain which, if left unaddressed, risk entrenching dependency and undermining the economic sustainability of high-quality journalism.

2. Structural and Irreversible Harm

The harm at issue is not merely transactional or price-based. The integration of AI-generated summaries and conversational search interfaces into Google's dominant search product risks structurally disintermediating publishers from their readers. AI Overviews take up significant space in the interface. In addition to diverting traffic by providing answers directly within the overview instead of directing users to websites, the prominence of these overviews — particularly on mobile — pushes traditional search results further down the page, requiring users to scroll to access the first organic results.

Once direct relationships with audiences are severed, referral traffic collapses, subscription conversion weakens, brand recognition erodes, and publishers lose access to user data necessary to compete effectively. Tollbit's latest State of the Bots report confirms that referral traffic from chatbots is actually declining, even as crawls are growing. This can be extrapolated to Google's use of AI.

These effects cannot be restored *ex post* through financial transfers alone. Even substantial licensing payments cannot replace lost reach, diminished brand presence, and foreclosed downstream markets for reader attention and advertising.

The likely trajectory is progressive foreclosure. SMEs, regional, specialist and investigative publishers are most exposed. Over time, these risks diminishing the independent press sector, reducing media pluralism and weakening consumer choice.

The CMA's intervention must therefore be assessed not only in terms of immediate compliance burdens, but in terms of long-term market structure and the future financial sustainability of independent news media and publishing organisations.

3. Publisher Controls and Googlebot

3.1 Structural imbalance

Publishers currently lack meaningful choice. In order to remain visible in Google Search, they must permit Googlebot access under conditions set unilaterally by Google. Blocking Googlebot is not commercially viable for most publishers.

Google combines discovery, indexing, training, grounding and generative uses within a single crawling infrastructure. These bundling forces publishers to accept present and future uses of their content, including uses not yet clearly defined.

Such an arrangement creates structural imbalance and limits meaningful consent or the potential for licensing agreements.

3.2 Illusory opt-out

Existing technical mechanisms do not provide meaningful control:

- Blocking Googlebot removes a publisher entirely from search visibility.
- "No Snippet" materially reduces click-through rates and ranking visibility.
- Google-Extended does not prevent use within AI Overviews because AI Overviews rely on the search index.

The result is a coercive choice: permit generative reuse of content or effectively exit search.

Internal materials disclosed in litigation indicate that more granular controls were technically feasible but not implemented. This underscores that the present architecture reflects policy choice rather than technical inevitability. One example of how a lack of granularity around controls could adversely impact publishers, is the ability to differentiate access based on the recency of content. The nature of publishing, particularly news, is that dynamic controls are needed to avoid AI generated outputs cannibalizing high-value "early life" content. Publishers also need AI feature-level control (and transparency). AI Overview and AI Mode- users have different intent when it comes to content search and discovery, with users of AI Mode less likely to go beyond the chatbot-like environment to dive deeper on their query. Publishers need to understand the usage patterns and control use by Google accordingly.

3.3 Crawler separation

EPC strongly supports structural separation of crawling functions. Separate crawlers for search indexing and AI-related uses would provide clarity, legal certainty and enforceability. The EPC appreciates the proportionality implications that need to be taken into account, but the cost to Google should not be the sole factor, particularly where the norm within the market for AI-powered search by Google's AI competitors is characterised by the separation of bots by purpose. The goal to remediate Google's conduct should be to avoid entrenching its ability to leverage indexing for AI-powered search. Google's choice to combine its crawling activities provides it with this structural advantage, and it is therefore difficult to see how refraining from undoing this decision will not permit Google to continue to benefit from this unfair, anti-competitive privilege.

AI bots continue to ignore robots.txt (Section 5 of the latest Tollbit Report State of the Bots). 30% of scrapes did not abide by robots.txt permissions. If there is only one crawler, it is

almost impossible to check what Google is doing on our sites. If there are separate crawlers, we have at least some ability to follow their activity.

Crawler separation would make the remedy more effective and more efficient as it would allow publishers to monitor compliance in real time using customary third parties service providers for bot management. Publishers would see immediately if Google is complying with publisher limitations, rather than relying on periodic audits and information received from Google. Monitoring via established service providers for bot management plays an important role in license agreement compliance.

Google's recent assertion that meaningful publisher controls constitute a "huge engineering project" should be viewed in context. The current lack of granularity is the result of Google's own product integration strategy, not an inherent technical barrier. Dominant platforms routinely adapt complex systems to meet commercial objectives; they must be expected to do the same to ensure fair treatment of the publishers whose content underpins AI-driven search experiences. Allowing self-created technical complexity to delay effective controls would risk entrenching the very imbalance regulators are seeking to address.

If structural separation is not mandated, the CMA should require:

a) Standardised, codified controls on a feature by feature basis
b) Strict limitations on future, undefined uses (Publishers cannot be required to consent to open-ended "other uses" categories)
c) Clear prohibitions on combining datasets obtained under different consent pathways
d) Escalation procedure if behavioural remedies prove ineffective

While EPC recognises the CMA's preference to begin with proportionate behavioural measures, effectiveness must be demonstrated in practice. The CMA should therefore make explicit that, if publisher controls do not deliver meaningful and verifiable choice, it will move swiftly to more robust remedies, including structural measures such as crawler separation.
A credible escalation pathway is essential to ensure that compliance is not merely formal but effective in restoring contestability and bargaining balance.

Meaningful choice must be available to publishers of all sizes, including smaller and regional publishers that may lack specialised technical resources. The CMA should therefore require Google to provide an accessible, user-friendly publisher control interface, for example through Search Console, enabling publishers to view, manage and verify their preferences across AI use cases. Google should also be required to provide clear and repeated

communications to ensure publishers are aware of and able to exercise these controls effectively.

While the current CMA proposal focuses on Google providing effective controls to publishers, we believe that it is also vital to specify that Google must honour existing and evolving web standards. This provides publishers a choice between using web standards or Google's controls. However, the specific controls that the CMA is requiring Google to develop, must not be delayed by waiting to align these with what standard settings bodies like the IETF are doing. Google must fulfil its obligations towards publishers without delay, and should not be held back by multi-party processes that might be underway. What Google does can of course inform those processes, as they evolve.

4. Fine-Tuning and Generative Use

The proposed conduct requirements insufficiently address fine-tuning:

a) Google argues that fine-tuned models are necessary for search quality. However, ranking and generative architecture are design choices. If separating generative and ranking models requires duplication, this reflects product strategy rather than technical constraint, and
b) Continuous fine-tuning using publisher content risks blurring the distinction between training and RAG. If publisher content is internalised into models through ongoing fine-tuning, the practical need for retrieval-based grounding diminishes and publisher controls become ineffective. Fine tuning is recognized for reducing hallucinations by updating the model's parameters with high quality data. It improves Google's product in a way that risks diluting and eroding the link of trust between Publishers and their audiences. While it is different from RAG which is more "in the moment", it is a form of creeping value-extraction.
c) Allowing Google to continue implementing its design choice of joining generative and ranking models will also have negative repercussions on the competition between Google and other providers of generative AI services who cannot leverage a quasi-monopoly in search (and the resulting dependency of publishers on ranking models) to tie in their generative models.
d) Publishers must be able to opt out of generative fine-tuning without adverse ranking consequences. Controls must extend beyond initial training to ongoing model updates.

5. Closing loopholes to Prevent Circumvention and Value Leakage

The CMA's proposed publisher conduct requirement contains several large loopholes which threaten to render the requirement ineffective:

a) The CMA considers that it would be reasonable to allow Google to acquire Search Content through open-source datasets. Publisher opt outs will be meaningless if Google can simply acquire the same content elsewhere. Given Google's global scale, this would also enable forum shopping, allowing content to be sourced from jurisdictions with the lowest levels of protection. Google should be required to respect publisher choices expressed towards Google, period. If Google is permitted to ignore publisher restrictions by acquiring the same content through alternative channels, publisher choice becomes illusory.

b) The findings in Section 1 of the latest Tollbit Report, State of the Bots, regarding third-party scrapers provide evidence that this loophole already exists and is developing into an industry in its own right.

c) There is a further risk of secondary-source leakage via Google-controlled interfaces. The effectiveness of publisher controls would be undermined if third parties are able to scrape or otherwise extract publisher content from Google surfaces, including search results pages and AI-generated outputs. The CMA should therefore require Google to take reasonable and proportionate technical measures to prevent systematic third-party extraction of publisher content from its services where such extraction would circumvent publisher choices. Absent such safeguards, publisher controls risk being diluted through downstream data leakage.

d) The CMA should also clarify that publisher content obtained through crawling may not be sold, licensed, disclosed, or otherwise made available to third parties without the publisher's explicit and informed consent. The competitive and economic implications of downstream commercialisation are materially different from use within Google's own services. Without this safeguard, publisher choice would be incomplete and the value of controls significantly weakened.

e) As the CMA has recognised, the effectiveness of publisher choice is also seriously undermined if publishers have no certainty about the effects of their decisions on ranking in general search results. Nevertheless, the current proposal would only prohibit Google from ranking publishers lower "on purpose" or "intentionally" based on their use of controls. Given the opacity of Google's ranking systems, an intent-based standard risks allowing discriminatory outcomes to be justified on alternative grounds such as site quality or fraud prevention. To close this loophole and alleviate publisher uncertainty, the CMA should introduce an effects-based test requiring Google to provide data comparing ranking outcomes for publishers that opt out and

those that do not. Evidence of systematic downranking should give rise to a rebuttable presumption of breach.

6. Data Advantage and Optimisation Asymmetry

Google possesses granular ecosystem-wide engagement data revealing when users click through to publisher sites and when they do not.

This industry-wide visibility enables Google to optimise:

a) The placement of AI Overviews
b) The prominence of links
c) The design of conversational features
d) The positioning of organic results

This optimisation is informed by data derived from publishers themselves. Publishers however, have no reciprocal access to comparable cross-market data. Nor do rival AI providers. The deployment of AI features is therefore informed by asymmetric data access that reinforces Google's structural advantage.

Effective transparency obligations must therefore address not only traffic reporting but also feature-level performance and citation data sufficient to identify systematic diversion.

7. Transparency and Reporting Parity

Google provides detailed reporting for traditional search via Search Console but far less transparency for AI-generated features.

The governing principle should be parity.

Equivalent reporting must be provided for:

1. AI summaries
2. AI Mode
3. Discover summaries
4. Future generative search integrations

There should be an obligation that they be provided on a regular basis by Google and/or that they be made available upon request by publishers. Publishers require:

a) Feature-level reporting
b) Comparison of click-through rates between organic links and AI summaries

c) Citation frequency and attribution rates
d) Restoration of URL referrer data
e) Clear differentiation between AI-driven and organic traffic

The CMA's concept of "Quality Clicks" is problematic. Publishers value all human traffic. Filtering traffic through proprietary quality metrics risks obscuring access to publisher sites. We need the following:

1. Referrer transparency - (critical for personalization & monetization strategies) in the form of feature level reporting - to understand whether traffic from AIO/AI Mode may be lower-value. If AIM or AIO offer higher quality clicks then we can tailor the user experience once they click. High-intent verticals (e.g. travel) require deep funnel understanding. Users of AI mode and AIO may have different intent when it comes to the likelihood of whether they are looking to navigate to the source, or just stay within the Generative search experience. Each feature should have its own tab.
2. "Long click" vs. "short click" - i.e. when a user clicks and bounces back to SERP - "Click-backs" from the search link. These are important indicators of content quality, relevance and user satisfaction.
3. Downstream site interactions - Where the user clicks before they click on us, and after. Sequencing of their search journey is important to help us to better optimize our content.
4. Noting that keywords appear/disappear from AIO unpredictably. Google's reporting must show: Whether a query had an AIO during the period, for how long and how often - because presence/absence determines both click-through-rate and revenue potential.

Transparency is essential for advertising optimisation and subscription strategies in a context of declining referral traffic. Therefore, transparency should also include whether advertising is displayed adjacent to or within AI-generated outputs that rely on publisher content. The presence of advertising materially affects the value extraction dynamic and the commercial impact on publishers.

Publishers require sufficient visibility to assess whether their content is contributing to monetised AI experiences within Google's services.

Reporting should clearly distinguish between traffic generated by human users and traffic mediated by automated agents or AI assistants.

As agentic search and AI intermediaries evolve, this distinction will become increasingly important for publishers' monetisation, audience measurement, and fraud detection capabilities.

8. Attribution

EPC considers that attribution of publisher content in AI features and services must be sufficiently prominent to clearly identify the publisher's brand and avoid user confusion about the source of the output. The CMA should, therefore, require Google to provide non-aggregated, granular attribution rather than listing sources in bulk. Any sentence or clause in an AI response that materially relies on a publisher's content should contain a direct, visible hyperlink to the relevant page. Linking should also be mandatory where a publisher is quoted or mentioned by name, and must persist across follow-up prompts, expansions, or format changes (e.g., voice to text). Where a review site is the primary source for a product recommendation in an AI Overview or other generative AI output, the product link should preserve the publisher's attribution and/or affiliate link.

Publishers should receive sufficient data on citation and attribution rates, including in relation to grounding scores, to assess the effectiveness of Google's attribution practices. We support features similar to the "Highly Cited" label in traditional search to credit original reporting, with preferential positioning to encourage click-throughs. Google should also provide a mechanism enabling publishers to report inaccurate or misleading AI-generated statements that cite their content, and to disable such summaries in real time during rapidly developing news events.

Finally, the CMA should consider extending attribution requirements to Google's broader generative AI services, including Gemini. The CMA's reliance on competition from other providers is unlikely to ensure effective attribution. Recent agreements to integrate Gemini into major platforms (like Apple/Siri or Gemini becoming the default assistant on Samsung mobile devices) indicate a continuation of leveraging and tying strategies by Google to conquer new markets, suggesting that competitive pressure alone will not meaningfully constrain Google's attribution practices.

9. Licensing Market Distortion

Google's refusal to establish a transparent and fair licensing framework distorts the emerging AI content licensing market.

This creates competitive asymmetry not only vis-à-vis publishers, but also vis-à-vis rival AI providers who must compete while bearing content acquisition costs.
Effective remedies should not entrench this distortion.

10. Fair Ranking Conduct Requirement

Recent application of the Site Reputation Abuse policy has resulted in significant traffic losses for long-established publishers exercising full editorial control, while similar content formats appear within Google's own AI features.

Fair ranking must ensure that Google does not:

1. Prioritise its own AI features over organic web links
2. Demote links below the fold in a manner that effectively suppresses referral traffic
3. Apply spam or quality policies inconsistently

Publishers need clear explanations for ranking decisions and meaningful appeal processes, otherwise publishers cannot ensure compliance or protect their visibility.
Complaint and dispute resolution mechanisms must be:

a) Time-bound
b) Transparent, and
c) Capable of preventing irreversible traffic loss

11. Scale Differential and Proportionality

The competitive impact of Google's conduct cannot be equated with the deployment of generative AI by standalone providers. A dominant firm such as Google cannot be permitted to define its own technical and compliance framework without perpetuating dependency rather than restoring contestability.

Google processes billions of searches daily. Standalone chatbots operate at a fraction of this scale.

The integration of generative AI into a dominant general search engine fundamentally alters competitive effects. At this scale, generative responses are not incremental innovation but systemic traffic diversion.

The harm flows from leverage of dominance, not from generative AI as such. The CMA's proportionality assessment must therefore consider:

1. The negligible nature of compliance costs relative to Google's revenues
2. The structural and irreversible harm to publishers
3. The distortion of emerging licensing markets, and
4. The foreclosure risk to independent journalism

The CMA should also ensure that publisher controls cannot be circumvented through geographic arbitrage, including by using publisher content obtained in the UK to support AI systems deployed in other jurisdictions.

Given the global nature of Google's infrastructure, the effectiveness of the Publisher Conduct Requirement depends on controls applying irrespective of where downstream model training, fine-tuning, or deployment occurs.

12. Conclusions

The proposed conduct requirements represent an important and welcome step towards addressing the structural imbalance in search and AI markets. However, without further strengthening, the framework risks falling short of its objectives in practice.

In particular, the CMA should ensure:

1. Structural crawler separation or genuinely enforceable and verifiable publisher controls
2. Robust safeguards covering fine-tuning and ongoing model updating
3. Effective anti-circumvention protections, including in relation to open-source datasets, secondary leakage, and downstream commercialisation
4. Independent and ongoing compliance oversight, supported by a credible escalation pathway where behavioural remedies prove insufficient
5. Full transparency parity across search and AI features
6. Ranking neutrality backed by effects-based monitoring
7. Accessible and granular publisher control tools available to publishers of all sizes

If properly calibrated, the Conduct Requirement can play a pivotal role in restoring contestability, supporting media plurality, and safeguarding the financial sustainability of independent journalism in the AI-mediated information environment.

The CMA has a timely opportunity to establish a durable international reference framework in this area. The European Publishers Council stands ready to engage further and to provide additional technical and economic evidence as required.

The effectiveness of the regime will ultimately be judged not by formal compliance but by whether publishers can exercise real and enforceable choice in practice.

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