

## INTERPRETATIVE NOTES IN RELATION TO THE FAIR RANKING CONDUCT REQUIREMENT

1. The following Interpretative Notes explain the Competition and Markets Authority (**CMA**)’s interpretation of the Fair Ranking Conduct Requirement it has imposed on Google.<sup>1</sup>
2. In accordance with the [Digital Markets Competition Regime Guidance](#) (the **Guidance**), the CMA may publish interpretative notes to accompany a conduct requirement or combination of conduct requirements to provide additional information about the conduct requirement(s).<sup>2</sup>
3. The purpose of these Interpretative Notes is to provide greater clarity about the CMA’s interpretation of the Fair Ranking Conduct Requirement, including the conduct the CMA expects would likely comply with the Fair Ranking Conduct Requirement and the conduct the CMA expects would be unlikely to comply with the Fair Ranking Conduct Requirement, for the benefit of both Google and other industry participants.
4. Although these Interpretative Notes provide information about the CMA’s interpretation of the Fair Ranking Conduct Requirement, it will be open to Google to take a different approach where it is able to demonstrate to the CMA that its approach complies with the terms of the Fair Ranking Conduct Requirement.<sup>3</sup>
5. As set out in the Fair Ranking CR Compliance Reporting Notice, as part of its compliance and reporting obligations Google must report on the extent to which Google has applied the CMA’s interpretation of the Fair Ranking Conduct Requirement, as set out in these Interpretative Notes.<sup>4</sup>
6. The CMA may update these Interpretative Notes as appropriate while the Fair Ranking Conduct Requirement is in force, for example to reflect changing circumstances, including changes to technology.

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<sup>1</sup> See the Fair Ranking Conduct Requirement Notice: available on the [Fair Ranking CR page](#) and can also be accessed via the [case page](#).

<sup>2</sup> See paragraphs 3.59 to 3.64 of the Guidance.

<sup>3</sup> See paragraph 3.61 of the Guidance.

<sup>4</sup> See the [Fair Ranking CR Compliance Reporting Notice](#).

## Scope

1. As set out in paragraph 2 of the Fair Ranking Conduct Requirement, the Fair Ranking Conduct Requirement applies to the following, shown to any natural or legal person located in the UK through any of Google's products within the scope of its designation as having strategic market status in general search services:<sup>5</sup>
  - a. the ranking and presentation of organic search results (which includes, for the avoidance of doubt, results such as web results (blue link feed), including when displayed within a search feature, such as People Also Ask, Top Stories, and Google Discover);
  - b. the ranking and presentation of organic search results within content generated through Google's search generative AI features (which currently include AI Overviews and AI Mode), which may be technically distinct from the ranking of other organic search results; and
  - c. the ranking of organic search results relative to (i) features containing organic search results; (ii) Google's search generative AI features; and (iii) other search features (which is expected to include in-set maps and integrated links to Google's related products (eg specialised search services and YouTube)).
2. For the avoidance of doubt, the Fair Ranking Conduct Requirement does not apply to:
  - a. the design and presentation of other search features (as described in paragraph 1.c. of these interpretative notes);
  - b. any of Google's testing and development activities in relation to general search pre-launch (being the period before Google takes a formal launch decision), provided this is limited to a small subset of general search traffic in the UK; or
  - c. the ranking, design and presentation of paid-for (sponsored) content, including the placement of, or amount of space on the search results page allocated to, paid-for (sponsored) content.
3. Paragraph 2 of the Fair Ranking Conduct Requirement explains that the obligations in the Fair Ranking Conduct Requirement apply in relation to results shown to any natural or legal persons located in the UK. The CMA considers that it would be reasonable to assume that a person is located in the UK on the basis of the location reported by their device.
4. The Fair Ranking Conduct Requirement sets out a series of requirements on Google intended to ensure that its relevant decisions lead to search results that are non-discriminatory and objective, transparent, and non-distortive.

## Non-discrimination and objectivity

5. Google's relevant ranking decisions should be based on objective and non-discriminatory factors that provide users with the most relevant and high-quality results to their specific query. Google should therefore not take account of any of the irrelevant considerations set out in paragraph 4.a. of the Fair Ranking

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<sup>5</sup> See the [SMS Decision Notice](#) for the description of general search services from time to time.

Conduct Requirement when making any decisions that fall within the scope of the Fair Ranking Conduct Requirement.

6. Paragraph 4.b. of the Fair Ranking Conduct Requirement requires Google to take decisions that fall within the scope of the Fair Ranking Conduct Requirement in relation to its own products on the basis of the same objective and non-discriminatory criteria (eg relevance, quality, and user context) as it applies to equivalent third-party content. For the avoidance of doubt, and in the context of paragraph 2.c. of the Fair Ranking Conduct Requirement and the explanation of scope at paragraph 1.c. above, the fact that a search feature (eg the Flights Module) might be designed and presented to only include Google inputs would not be relevant to paragraph 4.b. of the Fair Ranking Conduct Requirement, but Google's decision on how that search feature is ranked relative to organic search results and other features would be.
7. The CMA recognises that the introduction of new search features or search generative AI features is likely to require live testing and development. Paragraph 5 of the Fair Ranking Conduct Requirement therefore provides an exemption from paragraph 4.b. of the Fair Ranking Conduct Requirement, strictly limited to what is necessary to allow Google to introduce and test such new features. In order for paragraph 5 of the Fair Ranking Conduct Requirement to apply, we expect Google to demonstrate that:
  - a. it has limited the time it is relying on the exemption (ie the time that it is not complying with its obligations under paragraph 4.b. of the Fair Ranking Conduct Requirement) to the minimum strictly necessary, up to a maximum of six months. If strictly necessary, Google can apply to the CMA in advance for approval of an extension of this period (or for an existing feature to benefit from the exemption to the extent it is necessary to further test a material improvement to that feature). In any such application, Google should explain why it is necessary, including any unexpected issues that have arisen and the extent to which the new feature has been launched and tested in other jurisdictions prior to being launched in the UK; and
  - b. it has limited the extent to which it is not complying with its obligations under paragraph 4.b. of the Fair Ranking Conduct Requirement to the minimum strictly necessary in order to produce robust results to determine the feature's utility and relevance within Google's organic search results and collect the data necessary to apply the relevant ranking criteria and policies.
8. For the avoidance of doubt, paragraph 5 of the Fair Ranking Conduct Requirement only applies in relation to paragraph 4.b. of the Fair Ranking Conduct Requirement. Google must continue to comply with all other aspects of the Fair Ranking Conduct Requirement in relation to any new search feature or search generative AI feature.

## **Transparency**

9. The information that Google is required to provide about its ranking of relevant results pursuant to paragraph 6.a. of the Fair Ranking Conduct Requirement must be sufficiently detailed to allow publishers to understand how ranking decisions are made and to identify possible instances of discrimination or distortion. We would expect this to, at a minimum, cover:

- a. the ranking criteria relevant to the matters described in paragraph 2 of the Fair Ranking Conduct Requirement; and
  - b. the ranking policies and procedures involved in the matters described in paragraph 2 of the Fair Ranking Conduct Requirement.
10. Paragraph 6.b (and paragraphs 7 and 8) of the Fair Ranking Conduct Requirement applies in relation to any material change, which is defined as any actionable change or significant and explainable change. The CMA expects:
- a. an actionable change to involve a change in response to which publishers can take action, where such action is specific and discrete and could be taken within a reasonable period of time;
  - b. a significant and explainable change to involve a change that is not minor, inconsequential, every day or general ranking improvements for which Google can provide an explanation of both what is changing and why; and
  - c. For the purpose of paragraph 6.b. of the Fair Ranking Conduct Requirement, a change will be introduced in the UK at the beginning of its rollout in the UK after Google has taken a formal decision to launch.
11. The information Google is required to provide pursuant to paragraph 6.b. of the Fair Ranking Conduct Requirement must be sufficiently detailed to allow, so far as is reasonably foreseeable by Google at the time such information is provided, publishers to understand how material changes to Google's key ranking criteria, policies and procedures are likely to affect ranking, and to identify possible instances of discrimination or distortion. The CMA would therefore expect Google to provide, at a minimum:
- a. for changes to policies and procedures: the nature of the change, its purpose (including key specifications) and, where possible, the types of potential publishers that may be affected by the change; and
  - b. for changes to key ranking criteria: the outcome or objective of an intended change, but not any proxy signals relied on to inform ranking scores.
12. However, the obligation to provide sufficient information pursuant to paragraph 6.b. of the Fair Ranking Conduct Requirement would not include:
- a. information about minor everyday ranking improvements;
  - b. information that could lead to manipulation of search results or otherwise undermine the legitimate aim of the material change; or
  - c. commercial information where its disclosure might significantly harm Google's legitimate business interests. If Google excludes any information on a material change on this basis, it must inform the CMA of that information and explain why it has been excluded.

### **Non-distortion and complaints**

13. The obligation in paragraph 7.a. of the Fair Ranking Conduct Requirement is not intended to capture feedback that relates:
- a. to the express purpose of, or policy behind, the material change itself (as articulated by Google as part of its transparency obligations); or
  - b. solely to an individual publisher's content's change in ranking relative to another publisher's content as a result of the material change.
14. Paragraph 7.b of the Fair Ranking Conduct Requirement relates to independent reconsideration requests from publishers following manual actions taken by Google, pursuant to which Google is required to maintain its existing processes. Further, for all such processes, the CMA expects Google to introduce a service

level standard to provide a substantive response within 14 business days from receipt for all such reconsideration requests; however, the CMA recognises that there may be exceptional circumstances (eg complex factual, legal or technical issues) in which the 14 business days standard cannot be met.

15. The CMA expects the processes provided pursuant to paragraphs 7.a. and 7.b. of the Fair Ranking Conduct Requirement to build and expand on existing complaints channels and provide publishers with a good user experience.
16. Google must report to the CMA pursuant to paragraph 8 of the Fair Ranking Conduct Requirement if it receives feedback on a material change from 50 different publishers within the first 30 business days after it becomes effective in the UK. The CMA considers that:
  - a. a material change becomes effective in the UK once its rollout in the UK is complete; and
  - b. multiple pieces of feedback from the same publisher shall only be counted as one, but distinct publisher brands and sites should be counted as different publishers, even if they fall within the same overall corporate group.
17. Pursuant to paragraph 8 of the Fair Ranking Conduct Requirement, where Google must provide sufficient details of feedback to the CMA, this should include at least the following:
  - a. a description of the material change to which the feedback relates;
  - b. an explanation of Google's rationale for the introduction of the material change, including a link to where Google has published information about the material change and any additional information which may be required for the CMA to understand fully the purpose of the material change;
  - c. a summary of all feedback received in relation to the relevant material change, including the number of publishers that submitted feedback and the material adverse impacts each publisher identified in the feedback as resulting, or potentially resulting, from the relevant material change; and
  - d. copies of the individual feedback submissions.
18. Following receipt of a report pursuant to paragraph 8 of the Fair Ranking Conduct Requirement, if the CMA identifies that a material change may be having a material adverse impact on the functioning of any market in the UK, it expects to engage in regulatory dialogue with Google to examine further:
  - a. whether the identified policies or procedures are having a material adverse impact on the functioning of any market in the UK; and
  - b. if so, what steps (if any) Google may adopt to reduce or remove any such material adverse impact.
19. In addition, the CMA may raise any other material change (or policies, procedures and ranking criteria that would have been material changes had they been introduced after this conduct requirement had come into force) of its own initiative and engage in regulatory dialogue with Google as set out in paragraph 18 above.
20. In addition to providing the processes required by paragraph 7 of the Fair Ranking Conduct Requirement, Google is also required to improve the effectiveness of its existing complaints process to allow publishers to complain when Google makes manual decisions to exclude a publisher from its web index pursuant to paragraph 9 of the Fair Ranking Conduct Requirement. The CMA

considers that Google may comply with this obligation by extending the measures it offers to comply with Article 6(12) of the Digital Markets Act to the UK.<sup>6</sup>

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## **Competition and Markets Authority**

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<sup>6</sup> Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828.