

## INTERPRETATIVE NOTES IN RELATION TO THE DATA PORTABILITY CONDUCT REQUIREMENT

1. The following Interpretative Notes explain the Competition and Markets Authority (**CMA**)’s interpretation of the Data Portability 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 Data Portability Conduct Requirement, including the conduct the CMA expects would likely comply with the Data Portability Conduct Requirement and the conduct the CMA expects would be unlikely to comply with the Data Portability 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 Data Portability 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 Data Portability Conduct Requirement.<sup>3</sup>
5. As set out in the Data Portability 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 Data Portability Conduct Requirement, as set out in these Interpretative Notes.<sup>4</sup>

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<sup>1</sup> See the Data Portability Conduct Requirement Notice: available on the [Data Portability 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 [Data Portability CR Compliance Reporting Notice](#).

6. The CMA may update these Interpretative Notes as appropriate while the Data Portability Conduct Requirement is in force, for example to reflect changing circumstances, including changes to technology.

1. The CMA would expect Specified Data to include both:
  - a. data that a UK End User provides directly through their use of Google's General Search Services; and
  - b. data that a UK End User provides and consents to be used by Google in the context of personalising its General Search Services.
2. The CMA would not expect Specified Data to include inferred or derived data (ie data that Google creates or infers based on data provided by the UK End User, such as a user profile).
3. The Data Portability Conduct Requirement does not require Google to provide data portability in relation to any sets of user data that fall outside of its obligations under Article 6(9) of the Digital Markets Act, as amended from time to time.
4. In order for Google's data portability tools to be effective for the purposes of the Data Portability Conduct Requirement, the CMA would expect Google to:
  - a. use all reasonable endeavours to:
    - i. maximise any data portability tool's uptime as assessed against objective industry benchmarks;
    - ii. ensure that data transfers under any data portability tools are successful;
    - iii. ensure that data ported under any data portability tool is complete, accurate and sufficient to enable any authorised third party to match it with the UK End User;
  - b. provide sufficient capacity to allow authorised third parties to access data at a frequency to meet their reasonable business needs;
  - c. provide appropriate and understandable error messages to authorised third parties if they are denied access to the underlying data. This should be provided at the time access is denied and include the reason for the denial of access. Google should be able to demonstrate that its error reporting is appropriate by reference to appropriate benchmarking of industry standard practice for equivalent services;
  - d. maintain its existing issues tracker or provide an alternative, sufficiently resourced, channel that enables authorised third parties to report issues;
  - e. address issues identified through the issues tracker or alternative channel established under the above subparagraph as quickly as practicable;
  - f. give sufficient notice to authorised third parties and UK End Users of any material changes to the data portability tools:
    - i. changes that do not affect the scope, functionality, or technical integration of the DMA Data Portability API (such as minor updates or bug fixes) should not be considered material changes; and
    - ii. notice is sufficient where it is proportionate in terms of technical significance and the time reasonably required for developers to assess and adapt their implementations;
  - g. ensure that UK End Users are presented with balanced, understandable and targeted choices across all data portability tools and, whilst

recognising that data portability is itself an important data protection right, that consent flows appropriately balance the ease of data portability with appropriate privacy and security considerations;

- h. ensure that, if requiring third-party applicants to undergo an approval and verification process to establish that they have adequate security arrangements in place to protect user data before accessing data portability tools:
  - i. any verification process can be undertaken in a timely and effective manner and Google does not impose unreasonable requirements on any third-party applicant or require payment of administrative or any other costs. Verification may be conducted by an external provider and may require a third-party applicant to make a payment to such an external provider for the verification process; and
  - ii. approval to use the data portability tools provided by Google, such as the DMA Data Portability API, is not conditional on any restrictions on the use of the data by the third-party applicant, and this is clearly communicated.

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**Competition and Markets Authority**

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