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By email only

For the attention of: searchsms@cma.gov.uk

With a copy to: the European Commission (DMA and DG COMP teams)

Our Ref: TC/ADM838
9 October 2026

Dear CMA,

Re: Movement for an Open Web submission on the CMA's Proposed Conduct Requirement Google Search: User Choice

1. Introduction

We write on behalf of Movement for an Open Web ("**MOW**"), a not-for-profit organisation that is seeking to secure an open and decentralised web, representing a consortium of market players that benefit from anonymity and whistle-blower protections when helping authorities with their enquiries.

We have engaged with the CMA and other regulators on Google's conduct across search, browsers and advertising technology, and we welcome this opportunity to respond to the CMA's proposed Conduct Requirement on user choice of default search services ("**User Choice CR**"), issued following Google's designation as having Strategic Market Status ("**SMS**") in general search services and search advertising with effect from 10 October 2025.

The key points from this submission are as follows:

(a) A pro-competition conduct requirement which promotes digital competitiveness and levels the playing field, in the form of an output-based remedy, needs to be measured against outcomes on competition over time. The user choice remedy needs this measurement to take into account traffic to competing search engines and browsers (the primary markets) and publishers (the secondary markets), which are the appropriate parameters for assessing competition outcomes and to ultimately fulfil the goals of the DMCCA. A particular problem is created when Google shields evidence so that the market is unable to monitor how the remedy is working. The CMA needs to be in a position to receive data feeds to judge how the market is shifting to monitor compliance and discharge its duties under the DMCCA. The CMA should include a 6-week testing period requesting this information daily, weekly and monthly. Such regular reporting should continue after the testing period too (see Section 2).

(b) The CMA states that there is not enough evidence received to support expanding the scope of the CR to provide users with a choice to select how Google displays search results (AI

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Overviews vs organic links) and has also amended "search engine" to "search service" to potentially opening the door to LLMs being selects as an option in the choice screen (see Section 3). Please see **Annex 1** of evidence that shows that, from the consumer's side, users do not find AI Overviews helpful: removing them makes no measurable difference to users' satisfaction, a majority of consumers distrust AI-powered search results, and consumers consistently say they want to be able to switch them off. A consumer opt-out from AI Overviews should therefore be included in the User Choice CR. The divided user view on this point means the CMA should consider the issue as part of the User Choice CR.

(c) The decision of which business fulfils the criteria as an Eligible Provider is in the hands of Google whereas it should be in the CMA's or at the very least, the CMA should have visibility of the specific criteria that Google is using to fulfil the requirements of the User Choice CR. The proposed safeguards may still leave Google considerable discretion over timing, evidence and interpretation. The CMA should define precisely what good faith and timely action require of Google, and should itself set the deadlines (see Section 4).

(d) Eligible Providers should include search services and AI services with organic link visibility and attribution (akin to the requirements imposed on Google under the Fair Ranking CR) so that the choice screen promotes services that send users to the open web rather than keep them on the page (see Section 4).

(e) The current User Choice CR is not, and cannot alone support *"more competition in search and incentivis[e] innovation and investment in services that consumers value*."[1] It is one limb of the CMA's Conduct Requirement strategy and it reaches only the narrowest slice of the initial harm to competition that the designation exists to correct. The harm arises when there are device or browser defaults (see Sections 5 to 7).

(f) There are practical "positive friction" techniques that were found by BEUC's study on the DMA's user choice screen,[2] which had some useful findings[3] and concluded that positive friction pushes users to think about their choices and select other search engines. This includes (i) design for discomfort, (ii) introducing reflective pauses, (iii) Google Search appearing "below the fold", and (iv) to ensure that parties are able to keep their branding to build familiarity with users.[4]

The harms our members experience daily (e.g., self-preferencing of Google's own content in Google's search ranking, extraction and commercially substitutive use of publisher content on non-negotiable terms, and the slow foreclosure of the commercial mechanisms that fund the open web) cannot be addressed by user choice screens.

We ask the CMA to finalise User Choice CR only on terms that (a) genuinely close the loopholes identified in the appendix, and (b) are explicitly presented as one part of a larger package to address the totality of the harms to open web content and service distribution, discovery, access, and direct consumer interaction across the decentralized open web that our members need most.

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[1] CMA, Consultation: User Choice Conduct Requirement (23 September 2026), 2.3(b). https://assets.publishing.service.gov.uk/media/6ab29c76fe72ed1e2b02eebe/consultation_user_choice_conduct_requirement.pdf

[2] BEUC Research (October 2023) available at https://www.beuc.eu/sites/default/files/publications/BEUC-X-2023-132_Examining_the_Design_of_Choice_Screens_in_the_Context_of_the_Digital_Markets_Act.pdf

[3] Ibid. The research found that heatmaps highlight that Google cannot appear in top 5 entries just given eye to click distance optimization (see page and that "*Privacy was an essential concern **for some users** when selecting a Search Engine; however, it **was not the primary factor influencing their choice***" (see page 24/48).

[4] Ibid. Section 9 on page 32/48.

2. Need for measurement of output – Testing and Measuring the effectiveness of any changes

MOW supports the choice screen in principle, because greater choice and a less concentrated search market are desirable. The central issue, however, is that a choice screen is being treated as the remedy, when the CMA should be asking whether it produces effective competition over time.

Google has a pattern of non-compliance with remedies. See, for example, the French competition authority's fine on Google for failing to comply with the commitments regarding remuneration of press agencies and publishers,[5] and the European Commission's finding of non-compliance due to self-preferencing in Google Search under the Digital Markets Act 2022[6] (which is a continuation of the abuse found by the Commission in the *Google Search (Shopping)* 2017decision).

The User Choice CR as currently drafted does not commit to collecting the data needed to establish whether it is working. The relevant measures should be monitored to establish whether they lead to sustained switching, use of rival search providers, traffic reaching those providers and the downstream effect on publishers.

Currently, the CMA's metrics (para. 4.116 of the revised User Choice CR and para. 4.72 of the January 2026 User Choice CR) refers to input measures of the number of times the choice screen has been presented, rather than outcomes.

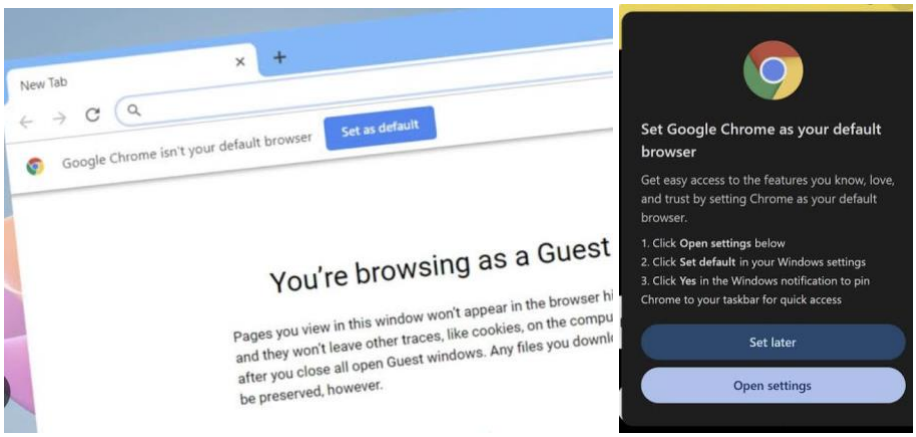
The CMA's own supporting analysis already anticipates that engagement will fall short of the ~1% literature benchmark associated with meaningful defaults switching. Effectiveness should be assessed against outcome metrics, not deployment counts.

Below are potential metrics to independently measure the success of the conduct requirements initially during a proposed testing period and thereafter, during the time when the conduct requirements are in force. We urge the CMA to use its powers to seek the below types of information.

- **Use of alternative search engines and browsers:**
  - **Rivals' growth and cost of growth**: Rival search engines' and browsers' UK monthly active users and query volumes, and their customer acquisition cost and install-to-active conversion can establish whether the cost of winning a UK user is actually falling.
  - **Alternative browser downloads**: the number of times alternative browsers have been downloaded via Google Play.
- **Traffic volume and clicks received by publishers:**
  - Number of clicks received by publishers from Google Search versus alternative search engines.
- **Value of traffic volume:**
  - The quality of traffic makes a difference to publishers who rely on "qualifying clicks" to earn ad revenue. A high number of low value traffic is thus not a good indicator of any change. Google should provide details of the clicks such as bounce rates, etc., to ensure that the clicks are of a high value.

[5] https://www.autoritedelaconcurrence.fr/en/article/related-rights-autorite-fines-google-eu250-million.
[6] https://digital-markets-act.ec.europa.eu/commission-fines-google-eur890-million-breaches-digital-markets-act-2026-07-23_en.

- **Choice screen exposure and presentation:**
  - **Exposure rate**: the share of UK users and their devices which are actually shown a choice screen, at initial setup and at each periodic re-presentation, audited rather than self-reported.
  - **Updates**: the number of updates that Google Chrome and Google Android are planning to undertake / have undertaken to assess how many times the choice screen will be shown to users.
  - **Selection counts**: shares of presentation and selection (clicks on each relevant Eligible Provider) within the choice screen itself, broken down between Google and named rivals (Bing, DuckDuckGo, Ecosia and others) to quantify the contestability at the moment of choice.
- **Persistence**: the share of users still on a chosen rival at the end of the initial test period, and the rate of reversion back to Google. This tests whether a choice screen produces durable switching.
- **Google's UK search query share over time**: The current ~91% share is the ultimate, if slow-moving, outcome metric for whether the reductions in Google's distribution barriers is designed to address.
- **Consumer surveys**: Unprompted consumer awareness and recall of alternative search engines, to test whether the underlying information asymmetry is eroding.
- **Extension to AI services**: whether or not AI services are brought within the choice architecture, the share of users selecting a non-Google AI services for those consumers using its Android OS and Chrome browser, tells the CMA whether the AI services markets are staying contestable or repeating the anticompetitive search-default story.
- **Google pushing for defaults**: the number of times Google has presented the following notifications to users as this would mean that Google has pushed users to already select their default. As per paragraph 3 of the User Choice CR, Google is not obliged to show a user choice notification where the user had made a deliberate decision to select or change its default search provider within the 6 months prior and it is our understanding that Google has been widely prompting users of Android and Chrome to set Chrome as their default.



Google-reported metrics should be supplemented by an independent behavioural audit, given the acknowledged conflict between Google's interest in minimising switching and its role in both reporting on, and partly designing, the mechanism meant to produce it.

The CMA has said itself in its 2020 Online Platforms and Digital Advertising Market Study, that its remedies need to be tested and trialled so testing for specific outcomes for competitors should be

included.[7] The Digital Markets Unit has been provided with dedicated resources and additional Government budget to construct remedies and keep them under review.

The User "Test Drive" is a halfway house that recognises the huge power of brand recognition but does little to address it, and does nothing to address use and measurement of use in terms of effectiveness on outcomes for competition over time.

Finally, the CMA's proposed compliance and monitoring period of 6 months followed by 12 months thereafter, is too long in fast-moving markets.

3. Search and AI-generated answers are two separate products

Google Search and AI Overviews are distinct products, even where they are presented together on the same results page.

The CMA needs to assess whether users are being offered genuinely comparable choices and whether Google is receiving the benefit of combining search and AI answers while competing services are assessed more narrowly.

The precise treatment of AI-based services within the choice architecture requires further consideration, and we ask the CMA to keep the issue under active review. In doing so, the CMA should assess services by the functions they perform for users, rather than allowing Google to determine the boundaries of the remedy through product labels. It should also examine whether Google is gaining an advantage by combining traditional search with AI answers while competing services are assessed more narrowly.

The direct value of the choice screen to publishers is less certain. For publishers, as competition in search is improved, the remedy could improve visibility and ultimately viability by giving publishers more routes to audiences and reducing their dependence on Google, but it does not itself give publishers meaningful bargaining power. If the CMA allows for other LLMs to be included as an Eligible Provider, the CMA should ensure that publishers have a fairer value exchange with the relevant LLM to increase publisher visibility though noting that such value exchange may go beyond the scope of the User Choice CR in particular. Fair value of publisher content can be calculated in accordance with established case law.[8]

Please see **Annex 2** and **Annex 3** to this letter for further reasoning on this point.

4. Eligibility of providers: good faith, timeliness and CMA oversight

The eligibility process creates a serious risk to the effectiveness of the remedy. Under the User Choice CR as drafted, Google will decide which providers meet the eligibility criteria (1.g; CR 12), and the proposed safeguards may still leave it considerable discretion over timing, the evidence it requires and the interpretation of the criteria.

This concern is reinforced by recent engagement between our members and Google. In those discussions, Google indicated that the CMA is, or will be, directing which providers it expects to be

[7] See the CMA Digital Advertising Market Study 2020 where the CMA states that the "*Fairness by Design duty would require platforms to design choice architecture in a way that encourages free and informed consumer choice.* ***It would be subject to rigorous trialling and testing*** *and monitoring regime, to ensure it provides the intended support for consumers in practice*" (para. 97)
[8] Pursuant to *CMA v Flynn Pharma Ltd* [2020] EWCA Civ 339, applying Case 27/76 *United Brands v Commission*, and as restated in *Pfizer Inc v CMA* [2026] EWCA Civ 765.

included in the choice screen, and that Google has no control over whether AI chatbots now used by some consumers for search (such as ChatGPT) will qualify. If that is correct, the selection of Eligible Providers is, in practice, a matter of negotiation between the CMA and Google rather than the application of a clear process against established criteria. In either case, the criteria, and who applies them, must be transparent to the market. As such, we would welcome clarification from the CMA on its role in selecting Eligible Providers.

Obligations on Google to act in good faith and in a timely manner are only meaningful if they are defined precisely. At a minimum, the CMA should require Google to:

- publish the eligibility criteria and evidential requirements in advance;
- apply them consistently to all applicants;
- not change the criteria, the evidential requirements or its interpretation of them once an application has been made;
- identify any missing information promptly, and in any event within [X] working days of receiving an application;
- give clear written reasons for each decision;
- meet fixed deadlines for each stage of the process;
- provide a rapid review process for applicants who dispute a decision;
- escalate disputed decisions to the CMA for determination; and
- report to the CMA on delays, disputes and any changes in its interpretation of the criteria.

These deadlines should be set by the CMA, not by Google. Google already enjoys a substantial structural advantage, and every delay in admitting rivals to the choice screen compounds it. The User Choice CR cannot repair every historical loss, but it must ensure that the eligibility process itself does not create further advantage for Google in future.

Consistency with the Fair Ranking CR. A condition of the Fair Ranking CR is that Google must give greater visibility to organic links within its search results pages (see the Scope of the Fair Ranking CR, which states that it applies to the ranking and *presentation* of organic search results).

To align the User Choice CR with the Fair Ranking CR, Google must be prohibited from using design choices or dark patterns to introduce unnecessary friction that impact how easily users can choose organic search links from the search results relative to other paid links or links annotating Gen AI outputs (e.g. currently branded "AI Overviews"). This ensures Google does not require extra clicks or scrolling to unfairly rank traditional organic links to rival online publishers' content or restrict from visibility and user interaction with these organic links relative to links to its own content, which benefit from cost-free distribution.

Eligible Providers for the choice screen should also include options that demonstrate that they meet equivalent expectations on organic link visibility and attribution (for example, the proportion of organic links displayed above the fold), whether they are general search services or AI-based services so that users have the full diversity of choice. For users that prefer navigation to underlying sources, search services or AI-based services that provide organic link visibility and attribution that send traffic to the open web should be available in the User Choice CR choice screen.

Consistency must apply in both directions. If Eligible Providers are held to these standards, the same standards must apply to the AI-generated answer features of providers already likely to be included, such as AI Overviews and AI Mode on Google Search and Copilot on Bing. For example, AI-generated content with a small organic link to the source or links at the very end of the AI-generated content

would not be a fair outcome for publishers. This reinforces the need for clear and consistent qualification criteria, defined by the CMA and applied to all Eligible Providers.

5. User Choice in the context of the CMA's other Conduct Requirements

Before turning to issues in the User Choice CR's proposed text, we set out how we understand the conduct requirements to relate to one another, and why the user choice screen cannot remedy the immediate harm Google is causing to rival publishers and to the ultimate detriment of consumers of information across the open web.

5.1. Fair Ranking CRs

The Fair Ranking CR is hoping to address the harm our members experience most directly. Google systematically favours its own online content and services (Maps/local, Shopping, YouTube, Flights, Hotels, Generative AI content) in the page design of its SERP (one-boxes, panels, special formats), pushes third-party organic links below the fold; demotes the ranking of rival vertical providers cutting off their traffic; the down ranking of rivals' content and services relative to its own content and services within organic results; and withholds the transparency that leaves third parties unable to tell whether they are being treated fairly or to contest their demoted vertical placement within the SERP real estate.

To understand the effectiveness of its conduct requirements, the CMA should measure and audit the impact of the Fair Ranking CR against SERP real-estate and click share for Google's own units versus third-party results across a fixed panel of vertical queries, rank-position movements before and after the CRs take effect, referral traffic to UK specialist verticals, and entry and investment by those verticals, rather than rely only on Google's self-reported data.

5.2. Publisher CR

The Publisher CR is hoping to address the bargaining imbalance at the heart of the open web's funding model. Given Google's Search dominance, consumers of information across the open web rely on Google's service for discovery of the links to navigate the open web and access content and services provided by those online publishers. These publishers' dependence on Google for their exposure and their traffic on take-it-or-leave-it terms for Google's is a core issue the CMA's Search SMS designation has identified.

While Google must crawl, index and display publisher links for its organic link Search service, that publishers depend upon, this does not provide any evidence that Google has received a license to repurpose their content for commercially substitutive purposes, such as training, refining, augmenting or enhancing its AI models or services (e.g., AI Overviews and Gemini). Publishers deserve transparency, control and fair payment for such use of their property. The chilling effect that fear of retaliation (demotion, visibility loss) has on publishers who might otherwise license content to rival AI search developers, with Google acting as a bottleneck on the discovery and navigation to their content; and publishers' persistently poor access to the click and query data they would need to optimise their own visibility are issues that need urgent remedial action.

To understand the effectiveness of its conduct requirements, the CMA should measure and audit the impact of the Publisher CR against aggregate Google-referred UK publisher traffic, the number and value of licensing deals UK publishers sign with Google and with rival AI developers, the share of major UK publishers licensing to at least one rival, opt-out signals to Google's use of rival publisher's

content for AI, and direct evidence of retaliatory traffic changes around those publishers who refuse to accept Google's terms or its decision to license elsewhere.

5.3. User Choice CR

The User Choice CR is hoping to address consumers' ability to discover and navigate online content and services offered by decentralized providers of that content and services (i.e. media owners and publishers). Media owners are not mere content creators. Media owners are publishers, which is why the effectiveness of the User Choice CR must address consumers' ability to search and navigate for information across the open web, rather than just receive content inside of Google's own interfaces. The metrics against which the User Choice CR should be measured, and the monitored first phase we propose, are set out in Sections 2 and 8.

The User Choice CR must also address the multibillion-pound annual payments to Apple (for Safari), Android OEMs and browser vendors that lock in default status and constitute the principal distribution barrier facing rivals. The User Choice CR does not provide for a choice screen on Safari browsers that have Google Search as their default setting on iOS/iPadOS and which represents a significant share of operating systems in the UK.[9]

Google Search's privileged and pre-installed position on Android devices causes user inertia (default distribution plus decades of brand strength) meaning most users never make an active choice at all. This situation poses a live risk that the same default mechanics now being used to entrench Google's dominant search position will be repurposed to entrench Google's new AI services (e.g., AI Overviews and Gemini) as the default AI services on Android, handing Google the next distribution chokepoint before any rival AI service has a fair chance to compete for it.

As described below, we suggest a testing period for the CMA to evaluate how well its Conduct Requirements are effecting the change they are hoping to implement from Google's new obligations. To understand the effectiveness of its conduct requirements, the CMA should measure and audit the impact of any choice-screen exposure and selection on shifts of market share data, the persistence of a chosen rival at after this initial testing period versus reversion to Google, Google's headline UK query share (currently around 91%) as the slow-moving but ultimate outcome metric, rival engines' monthly active users and query volumes, rivals' customer acquisition cost using search advertising, unprompted consumer awareness of alternatives, and whether AI services are brought within the choice architecture at all, and on what terms Google defaults its search and AI services on Android.

5.4. Cross-cutting indicators, and what is deliberately left out

Across all conduct requirements, we regard Google's UK query share trajectory as the single composite indicator of whether contestability is returning to this market. The CMA should track new entry (particularly by AI-native search services gaining UK traction) and consumer outcomes (quality-adjusted satisfaction, so that a remedy is not judged a success merely because it degrades the dominant incumbent's product), since Google's share may persist for reasons unconnected to the conduct being remedied.

We note that advertiser-side harms (e.g., multi-homing restrictions in its ad tech infrastructure tools (e.g., Google Ads) and supracompetitive ad prices passed through to consumers sit outside all three

[9] The CMA found that Apple and Google hold a duopoly in mobile device operating systems and that Apple's Safari accounts for 77% of mobile browsers on iOS – see CMA Final Decision Report in Mobile Browsers (12 March 2025) and Cloud Gaming Investigation.

buckets above and are, we understand, to be addressed through separate advertising-focused CRs within the same SMS designation. We support that separate work and reserve the right to comment on it when it is published.

With that context set, this submission addresses the proposed text of the User Choice CR to recap the harms it hopes to remedy, how its effectiveness should be measured, why we believe a live trial should precede finalization of the conduct requirements. In the appendix, we identify specific loopholes in Google's proposed text and how each should be closed, with the relevant CR clauses identified throughout.

6. Market harms and abuses the CMA has identified

The SMS investigation record identifies a cluster of related harms bearing on default search distribution, some already manifest and some the CMA treats as reasonably foreseeable absent intervention:

Service Distribution

- **Entrenchment of default search share through distribution, not merit**. Google's Search service reaches the large majority of UK queries substantially because it is pre-set as the default on Android devices, in Chrome, and via large payments to its partner Apple (in Safari and Siri), as well as to rival browsers such as Firefox and various OEM and mobile-operator deals. Default status, once acquired, self-perpetuates through consumer inertia rather than ongoing competition on quality.
- **Paid exclusivity and default arrangements foreclose rivals' access to distribution**. The multibillion-pound payments to Apple, account for >20% of Apple's net profits. This highlights how both companies materially benefit from choice architectures that continue this lucrative deal. Browser vendors and device manufacturers are, on the CMA's own theory, the principal channel through which Google makes it commercially unattractive for all distribution partners to default to, or prominently offer, any rival search engine irrespective of that rival's underlying quality.
- **Feared extension of dominance into adjacent, fast-growing query surfaces**. Google's position could be extended, largely unconstrained, into AI services (e.g., Google Search app's own query box, Circle to Search, Gemini/Assistant voice search, Discover and AI Mode/AI Overviews). More urgently for the open web, the same default mechanics now favouring Google Search risk handing Google an equivalent, unearned advantage in AI services through Gemini's bundling and default distribution on Android and Chrome.

User Choice

- **Lack of meaningfully informed consumer choice at the point defaults are set**. Where a default is pre-set at first use, or switching requires multiple buried steps, consent sludge or dark patterns to steer activity, consumers who would prefer a rival service never form or act on that preference. This consumer harm is suppressed switching choice, rather than this lack of selection being a signal of a meaningfully informed and revealed preference for Google.
- **Self-reinforcing incumbency in any eventual choice mechanism**. Usage share, app-store downloads and brand recognition are themselves products of [redacted] related to default-driven distribution. A remedy that measures "popularity" by reference to current share risks reproducing the entrenchment it is meant to correct.
- **Weak, gameable choice architecture as a harm in its own right**. Even where a choice mechanism nominally exists, design choices (e.g., pre-selection, unequal prominence, differential friction,

retention-optimised screen copy) can neutralise it in practice, producing the appearance of remedy without the substance.

Market Data Transparency

- **Asymmetric treatment of generative-AI content and services**. Google's own AI-driven answer content is not brought within the same scope obligations proposed for rivals' AI-generated or assisted content, distorting competition in the emerging AI-assisted content and services from the outset. As MOW has previously explained, Google downranks AI-generated content from rival media owners in its Search service yet prominently ranks its own AI-generated content ahead of all rivals' content, even when such rivals' content is human generated.

7. Which harms a User Choice remedy can address

A choice-screen remedy is a point-of-default-setting intervention. It is well suited to a specific subset of the harms, and poorly or entirely unsuited to the rest. We think the CMA should be explicit about this distinction, because it determines what User Choice CR can realistically be expected to fix, and what must instead be carried out by the fair-ranking and publisher CRs described in Section 5, or by the other advertiser-focused CRs.

7.1. Harms a choice screen can meaningfully address

- Consumer inertia and status-quo bias at the point a default is (re)set on Google-owned (e.g., Android device-level default, the Chrome browser default, and the Search app) or influenced services (e.g., iOS, OEM or browser defaults) by presenting a genuine, low-friction, balanced choice moment instead of a silent pre-set default.
- Lack of awareness that switching is possible or easy, addressed through periodic, sufficiently salient redisplay and a persistent one-tap re-access route in settings.

7.2. Harms a choice screen cannot address as drafted

- Paid distribution and TAC-funded exclusivity/default arrangements with third-party browsers, OEMs and mobile operators. These commercial agreements are untouched by User Choice CR as drafted; Safari remains the clearest example, since it is the default browser for the large majority of iPhone users and is entirely unaffected by a choice screen confined to Chrome.
- Cross-surface migration of query volume to uncovered access points (the Google Search app query box, Circle to Search, Gemini/Assistant, Discover, AI Mode). A choice screen bound to three narrowly named products cannot constrain Google's incentive, and ability, to shift query origination toward renamed surfaces the CR does not reach.
- Self-reinforcing incumbency baked into the choice screen's own design (e.g., a popularity metric keyed to Play Store downloads). Left uncorrected, the remedy can reproduce, rather than correct, the underlying entrenchment harm.
- Asymmetric AI service regulation. A choice screen governing default search engine selection does nothing, on its own, to correct unequal obligations between Google's and rivals' generative-AI content or services, or to stop the same default playbook being run again for AI services markets. This issue requires either an expanded User Choice CR scope (the Appendix, item 2) or a dedicated conduct requirement before Gemini's Android and Chrome adjacent market position is captured

through the dominance of Google Search and hardens the anticompetitive dynamics the way Google Search's has.

The practical implication, in our view, is that User Choice CR, even if perfectly designed and enforced, remedies only the default-setting and switching-friction slice of the harms set out in Section 6. Publishers and independent ad tech providers, the businesses we represent, will see comparatively little relief from User Choice CR alone. Their relief depends on the fair-ranking and publisher CRs being updated, monitored and adjusted to achieve the desired effects on an equally rigorous basis.

8. Recommendation: a six-week effectiveness trial before the CR is finalised

Given (a) the CMA's own acknowledgment that the proposed design is likely to under-perform the relevant engagement benchmark, (b) the number of design variables still governed by non-binding "principles" Google may depart from, and (c) the absence, in the current draft, of any pre-launch evidence base for calibrating tap-counts, screen salience, slot allocation or test-drive duration, we ask the CMA to require Google to run a live, time-boxed pilot before the CR is finalised in its current form.

Specifically, the CMA should require:

- A six-week live trial of the proposed choice screen, redisplay notification and test-drive mechanics, deployed to a representative, CMA-approved sample of UK Android devices and Chrome installations spanning both New Relevant Devices and a portion of the existing installed base.
- Full-funnel data collection throughout the trial (per Section 2), reported to the CMA weekly, with the sampling frame and methodology agreed with the CMA in advance.
- A pre-registered evaluation framework, agreed with the CMA before the trial begins, specifying the outcome thresholds (e.g., completed-choice rate, non-Google selection rate, test-drive retention rate) that will be treated as evidence the design needs revision.
- A binding obligation on Google to revise specific, CMA-identified design elements (e.g., banner-versus-full-screen redisplay, the default popularity metric, test-drive default-on-expiry) if the trial does not meet the pre-registered thresholds, before the CR is finalised and rolled out at full scale.
- Independent oversight of the trial's design and results, given the asymmetry of information and incentives between Google and the CMA that runs through this submission.

A short, evidence-generating pilot of this kind is materially less costly than discovering only after a full year of the CR's first scheduled review that the mechanism as deployed has failed to move query share, at which point both the CMA's proportionality analysis and the underlying competitive harm will have gone unaddressed for another full year.

9. Conclusion

A well-designed choice-screen remedy can meaningfully address consumer inertia and switching friction on the small set of surfaces it actually covers, and we support its finalisation on that basis. But it cannot, on its own, remedy the paid-distribution arrangements, cross-surface migration risk, or asymmetric AI-service treatment that the CMA has separately identified as sources of harm. Moreover, a choice screen will not address the fair-ranking and publisher harms from Google's conduct that matter most to the open web businesses and consumers we represent.

In our assessment, the four highest-leverage interventions require:

- closing the access-point and paid-distribution gaps and extending redisplay to the existing device base,
- ending silent test-drive reversion,
- removing Google's unilateral control over rival eligibility for distribution, visibility, navigation and interaction choice by consumers, and
- attaching a binding, outcome-based redesign trigger.

We ask the CMA to: (i) adopt the outcome-based, full-funnel measurement framework set out in Section 2, with independent audit; (ii) require the six-week pre-finalisation trial proposed in Section 8, with a binding redesign obligation if pre-registered thresholds are not met; (iii) close the loopholes identified in the Appendix, prioritising the four highest-leverage fixes identified above; (iv) apply similar testing to the AI services, on which the future of a competitive, open web most directly depends; and (v) define precisely Google's good faith and timeliness obligations in the eligibility process, with deadlines set by the CMA and disputed decisions escalated to it, as set out in Section 4.

Yours faithfully,

[redacted]

Preiskel & Co LLP

Enclosures:

Annex 1 – Sources showing Consumer Detriment of AIOs

Annex 2 – Paper titled "The Second Bride in the Bath:A Roadmap for a Monopolization Case Against Google in AI" by Fiona M. Scott Morton, Madhavi Singh & Nick Jacobson

Annex 3 – Paper titled "The AI Lock-in Why Europe has to take action against Google now" by Dr Liza Lovdahl Gormsen

Appendix 1: Loopholes and Proposed Fixes to Google's proposed Conduct Requirements

The table below sets out the most consequential loopholes we have identified in Google's proposed User Choice CR text. Loopholes are grouped first into

- Part A: substantive, definitional, scope and obligation issues, and
- Part B: process, timing and oversight issues.

In our assessment, the User Choice CR as drafted can be satisfied on its face while default search share barely moves, and a worse outcome for the open web than a delayed but effective CR.

A. Substantive, definitional, scope and obligation loopholes			
#	**CR clause(s)**	**Loophole**	**Proposed fix**
1	*4.41*	**Paid distribution outside scope**. The CR binds only Google-owned surfaces. Google-funded defaults in Safari, Samsung Internet, Firefox and OEM/operator deals and the multibillion-pound payments to Apple are the principal distribution barrier, currently left completely untouched. A Chrome-on-iOS choice screen is marginal while Safari remains Google-default for most iPhone users.	Prohibit payments conditioned on default status or exclusivity in Google's agreements affecting UK residents. Require disclosure of default-linked payments. Extend equivalent choice obligations to non-Google owned OS and browsers that Google does pay for default distribution.
2	*1.k; CR 7; 4.39, 4.41; CR 7.b(i)*	**Only a minority of Google Search access points are covered**: "Relevant Access Points" (1.k) relates to browser address bar, Search Widget, Chrome address bar. Circle to Search, the Google app query box, Gemini/Assistant, Discover and AI Mode are merely "monitored" (4.41). "Default search application" (CR 7.b(i)) is undefined, so the pre-installed Google Search app can keep serving Google queries regardless of the chosen default.	Technology-neutral clause binding every Google-operated, query-originating surface to the Device-Level Default. Define the term to include the Google Search app and automatic scope-expansion trigger once an uncovered surface reaches a set usage threshold of unique users per month.
3	*2.c; 4.54; 4.48(b)*	**The existing Android install base is excluded**. Redisplay and test-drive apply only to "New Relevant Devices" (2.c; 4.54). The great majority of UK search volume from the existing installed base is never exposed during the designation period.	Google-managed over-the-air redisplay on existing devices, with a phased deadline. OEMs have already told the CMA the device-side effort would be minimal (4.48(b)).

A. Substantive, definitional, scope and obligation loopholes			
#	**CR clause(s)**	**Loophole**	**Proposed fix**
4	*2.a.ii/2.c.ii; note 8; CR 18; 1.j; 5.52; fn 63/4.47(c); note 10*	**The annual redisplay is a dismissible banner**. This "choice" is "skippable and visually limited" (2.a.ii/2.c.ii; note 8) and the fairness duty (CR 18) does not apply because the "Prompt" definition (1.j) carves out these notifications. The CMA itself concedes engagement will fall below the ~1% literature benchmark (5.52). The six-month "deliberate decision" exemption (fn 63/4.47(c); note 10) is undefined and, on Google's own evidence, untrackable.	Full, prominent Search Choice Screen on an annual basis. Extend fairness duties to all default-related communications. Define the exemption exhaustively (settings-based changes only), place the tracking burden on Google, and sunset the exemption if it proves unworkable.
5	*1.l–1.m; 4.59*	**Coverage triggered by who set the default**. Definitions (1.l–1.m; 4.59) turn on Google or the OEM setting Google "from the outset," inviting restructured deals (no pre-set default, first-run "choice" instead) that fall outside scope.	Outcome-based coverage for any UK device or browser that ships with Google as the pre-set default on any surface is covered, regardless of mechanism. Add an express anti-circumvention clause.
6	*CR 8–9, 11; notes 17–20*	**The test-drive can silently revert**. Google sets the duration (floor: one week, note 18) as well as the end-state default is unspecified. The expiry notification is skippable and routes to settings (CR 9, note 19) rather than a screen, where silent reversion to Google would be compliant.	The trial provider remains the default unless the user actively reverts. Deep-link the expiry notice to a full choice screen and set a 6 week duration floor.
7	*notes 13–14; 4.83; 4.77(e)*	**Incumbency is hard-wired into the 12-slot screen**. Five reserved slots go to the "most popular" provider, measured first by Play Store downloads (notes 13–14; 4.83), which itself is a product of paid distribution and pre-installation, which stakeholders explicitly warned about (4.77(e)). Thereafter inclusion by unilateral Google choice is by self-reinforcing selection share basis.	Use a neutral popularity metric that excludes pre-installs and paid placement, or abandon stratification altogether and randomise all 12 slots.
8	*1.e; note 45; 4.96, 4.101; 4.58*	**Settings and chooser leakage**. The Device-Level Default Setting lists installed providers only (1.e), so rivals require a Play Store detour.	One-screen access with install-in-place deep linking. Ban non-Eligible entries from choosers, so all services must compete on a level playing field. Reinstate

A. Substantive, definitional, scope and obligation loopholes			
#	**CR clause(s)**	**Loophole**	**Proposed fix**
		Google may show non-Eligible providers, including its own, in the same lists (note 45). In-app prompting frequency caps were removed at Google's request (4.96, 4.101). The settings re-trigger obligation was dropped (4.58).	frequency caps symmetric with Google's own prompting cadence. Restore one-tap re-access to the choice screen from settings.
9	*no defined clause (gap across the CR)*	**No persistence or anti-circumvention duty**. Chosen defaults can reset on OS/app updates, profile sync or device migration, and this silent reversion that falls entirely outside any defined "Prompt."	Require chosen defaults to persist across updates and migrations unless the user affirmatively changes them. Treat any conduct with the effect of prompting reversion as a regulated Prompt.
10	*CR 4–6; notes 1–2; 3.2; CR 10; notes 21–25*	**Design obligations bind only randomisation and scroll order not presentation** (CR 4–6). Pre-selection, differential warnings, tap-count, framing and current-default labelling rest on non-binding "principles" (notes 1–2) Google may depart from on demonstration (3.2). The notes invite Google to user-test its own designs and to optimise for retention. The information screen is unilaterally Google authored (CR 10; notes 21–25).	Hard-code a ban on pre-selection or highlighting. Require equal prominence, identical tap-counts and confirmations across providers. Prohibit retention-optimising experimentation. Require CMA pre-approval of design, screen copy and any material change.

B. Process, timing and oversight loopholes			
#	**CR clause(s)**	**Loophole**	**Proposed fix**
11	*1.g; CR 12; notes 26–28; 4.32–4.34; note 37*	**Google is the eligibility gatekeeper**. "Eligible Providers" are "determined by Google" (1.g; CR 12); the CMA receives decisions and reasoning but has no veto, appeal or interim-listing power (4.32–4.34); Google also specifies rivals' security standards (note 37).	Give the CMA, or an independent panel, decision-making power or a binding veto; allow interim listing pending review; set standing application windows; set the security baseline with NCSC input, CMA sign-off and an equivalence obligation on Google's own services.
12	*notes 29–34; fn 17 (4.4(a))*	**The use-case test is completely Google-administered and self reported**. The CMA lists four use cases (notes 29–34), but Google argues for nine — including image	Bind the eligibility assessment to the CMA's four use cases in the CR text itself; require CMA pre-approval of Google's query test set.

B. Process, timing and oversight loopholes			
#	**CR clause(s)**	**Loophole**	**Proposed fix**
		search and "validation" (fn 17), that rival AI-services would likely fail. Google runs the test itself.	
13	*note 31; 2.5–2.7; note 39*	**Asymmetric and discriminatory rules**. Rivals' generative-AI outputs carry attribution duties (note 31). Google's AI Overviews and AI Mode sit outside the CR (scope expansion declined, 2.7). The "sufficiently distinct" test (note 39) can cap multi-product rivals while Google fields Search, AI Mode and Gemini in parallel.	Apply the attribution duty symmetrically, or park it pending evidence. Assess "distinctness" against Google's own portfolio practice and revisit scope once per-surface usage data is available.
14	*2.a.i; notes 5, 7*	**Rollout timing is Google-controlled**. The first non-skippable screen is tied to the undefined "first major update" (2.a.i), with no duty to alter the update calendar (note 7).	Set an outer deadline (e.g., within one month of the CR taking effect). Define "major update" by version cadence and require CMA approval of the rollout schedule.
15	*4.113–4.117; 4.110(c); 4.114*	**Monitoring misses the metrics that determine materiality**. Reporting (4.113–4.117) covers full-list accesses and per-position selections only, rather than notification impressions/dismissals, test-drive conversion/reversion, per-surface query volumes or post-choice retention. Reporting decays to annual after year one. There is no independent audit, notwithstanding stakeholder proposals for one (4.110(c)).	Require full-funnel metrics and quarterly reporting for the first two years. Order an independent behavioural audit, as Mozilla and Which? Proposed and provide public, non-confidential reporting (4.114).
16	*5.2(a), 5.3; 5.52*	**No outcome-based redesign trigger**. The CMA's own proportionality test requires effectiveness (5.2(a), 5.3), yet the dismissible banner and the installed-base exclusion make the ~1% engagement benchmark unlikely to be approached (5.52), which is a legal vulnerability as much as a policy gap.	If non-Google selection falls below a CMA-set benchmark at any annual event, require Google to implement a CMA-specified remedial redesign. Conduct a 12-month review against query-share outcomes rather than deployment counts.