JOINT SUBMISSION

Response to the Competition and Markets Authority's (CMA) Consultation on Google's general search services

Proposed user choice conduct requirement

This submission is made *jointly* on behalf of the following organisations:

Impress: the Independent Monitor for the Press (CIC)

The Independent Media Association

The Association of Online Publishers

The Independent Publishers Alliance

The Independent Community News Network

About the signatories

Impress

A not-for-profit independent press regulator approved under the Royal Charter on self-regulation of the press, as part of reforms designed to implement the recommendations of the Leveson Inquiry. It is recognised by the Press Recognition Panel and regulates the content and news-gathering activities of 150 publishers representing an audience of 20 million.

www.impressorg.com

The Independent Media Association

Promotes the work of independent media in the UK. Its members are financially independent, UK-based publishers producing high-quality public-interest information, many of them regulated by Impress.

www.ima.press

The Association of Online Publishers

An industry body representing digital publishing companies that create original, branded, quality content, from newspaper and magazine publishing, TV and radio broadcasting and pure online media.

www.ukaop.org



The Independent Publishers Alliance

A nonprofit community committed to championing, advocating for and interconnecting independent publishers.

www.the-alliance.co.uk



The Independent Community News Network

The UK's representative body for the independent community news sector and the voice of more than 120 UK local news organisations.

www.communityjournalism.co.uk

Summary

The coalition supports the CMA's objective of improving the ability of UK users to choose freely and easily between general search services. A less concentrated search market is desirable. It could give independent, local and specialist publishers more routes to audiences, reduce dependence on a single gatekeeper and support a more plural information environment.

We do not, however, regard a choice screen as a completed remedy. The Consultation proposes a design intervention whose success is to be assessed by inputs (how often screens are shown, in which position providers appear and how often they are selected) rather than by the outcome for which the intervention exists: effective and sustained competition against Google in general search, and the downstream benefits that follow for publishers and for the diversity of information available to UK consumers. A remedy that is not measured against its purpose cannot be shown to be either effective or proportionate.

Our principal concerns

Outcomes are not measured. The CMA identifies increased competition as the benefit it seeks (paragraph 5.33) but has not sought to measure it (paragraph 5.38), and the additional metrics proposed at paragraph 4.116 are input measures.

Google controls the decisions that determine the remedy's effect. Google decides which providers are eligible, on what evidence, on what timetable, by reference to which popularity metric and at which point in its own release cycle. The procedural safeguards at paragraph 12 leave Google with substantial discretion, do not entitle applicants to reasons for decision, and provide no review, appeal or CMA determination.

The proposals have been narrowed in ways that weaken them. Redisplay and the test-drive are limited to new Android devices; the ability to re-trigger the screen from settings has been removed; reporting becomes annualised after the first year; and important protections sit only in interpretative notes from which Google may depart.

The eligibility framework does not confront the like-for-like question. Google Search and AI-generated answers are distinct products even where they are presented together. Google,

which will decide who is eligible, has an evident interest in a framework in which its own combined offering is treated more favourably than rivals'.

The proportionality assessment omits the benefits that matter most to the UK. It does not assess traffic to competing search services, traffic to publishers or the plurality of sources available to users.

We therefore recommend that the CMA:

1. Adopt a binding good faith and best endeavours standard, with a positive duty on Google to evidence its own compliance
2. Assess the remedy against competition outcomes, including publisher traffic, and establish a baseline and a trial design before roll-out
3. Determine eligibility by the function a service performs for users, compare like with like, and apply equivalent standards to Google's own combined search and AI offering
4. Tighten Criteria 1 to 3 so that they cannot be applied opaquely or used to exclude emerging providers
5. Place eligibility decisions under CMA-set deadlines, reasoned decisions, rapid review; include CMA determination of disputes and independent audit
6. Move the protections that determine effectiveness out of the interpretative notes and into the text of the conduct requirement
7. Fix the timing of redisplay by reference to the CMA's requirements, extend it to the installed Android base, and retain the ability to re-trigger the screen from settings
8. Specify a minimum test-drive period and the end state of a trial in the conduct requirement, and measure conversion and retention
9. Require an independently verifiable popularity metric and guard against entrenchment in the selection of the twelve providers
10. Guarantee a neutral, accessible and measured route to the full list of Eligible Providers at every access point
11. Secure parity of access to default-status APIs and subject Google's own default-search prompts to CMA reporting
12. Require quarterly reporting for at least the first 24 months, outcome metrics, independent audit, publication and a commitment to modify the remedy
13. Widen the proportionality assessment to competition, publisher and plurality outcomes and revisit it as evidence emerges
14. Require the information screen to distinguish search results from AI answers, and set a timetable for reviewing user controls

1. Background: the choice screen and the news sector

Publishers depend on search as a referral pathway. Some of the publishers represented by the coalition rely on Google for up to 90 per cent of traffic to their website, which is the primary means by which they earn revenue. The CMA has itself recognised that Google Search is the principal gateway through which consumers reach publishers' websites, accounting for an estimated 37 per cent of referrals, more than all other third-party sources combined. Publishers have experienced sudden and unexplained losses of traffic following changes to Google's

systems, and Google holds more than 90 per cent of the UK general search market. In these circumstances, the health of competition in general search is directly relevant to the sustainability of UK news publishing and to the plurality of the information available to the public.

A choice screen could contribute to that objective by giving rival search services a route to users and, over time, giving publishers alternative routes to audiences. It does not, however, confer bargaining power on publishers, and it does not by itself increase traffic. Publishers may become less dependent on Google while remaining obliged to negotiate individually with several platforms. The User Choice Conduct Requirement (the User Choice CR) should therefore be treated as one part of a wider programme of intervention, and not as a substitute for effective publisher controls, fair ranking, attribution, fair value exchange and negotiation in good faith. Nothing in this response should be read as accepting the CMA's decision to defer the Category 2 conduct requirements, which we have opposed in our earlier submission.

2. The legal framework: special responsibility, information asymmetry and good faith

A conduct requirement may be imposed only if it is proportionate for the purposes of the statutory objectives (section 19(5) of the Digital Markets, Competition and Consumers Act 2024 (the Act)). The CMA relies on the open choices objective in section 19(7) and on the permitted type in section 20(2)(e), which allows obligations to present options or default settings in relation to general search services so that users can make informed and effective decisions in their own best interests. Two features of that framework are important. First, a conduct requirement that does not achieve its competition purpose cannot be proportionate, however modest its cost. Secondly, section 20(2)(e) is concerned with "options or default settings" in relation to general search services and is not confined to the identity of the default provider.

Google's designation with strategic market status confirms that it holds substantial and entrenched market power. That position carries a duty toward others (in substance a duty of care) which requires Google to make active and demonstrable efforts to comply. It follows that the work and effort of showing compliance should fall on Google. It should not fall on rivals, publishers or the CMA to demonstrate non-compliance.

This matters because Google holds all the relevant evidence: how often each provider is shown and selected, whether users retain their choice, and what happens to referral traffic afterwards. Third parties cannot monitor what they cannot see, and the CMA cannot judge compliance without the information on which to judge it. The conduct requirement should therefore be drafted as a set of duties on Google to provide data, to keep records and to evidence its own compliance. The same reasoning is the basis for our argument in section 3 that outcomes must be measured.

A requirement of good faith is not novel. In March 2024 the French Autorité de la concurrence fined Google €250 million for failing to comply with commitments it had given in 2022, including in relation to negotiations with publishers and the use of publishers' content to train its Bard

service. The lesson is that written commitments and procedural steps are not sufficient unless Google's conduct in operating them is itself the subject of a specific and enforceable standard. Google's record of compliance with remedies elsewhere, including the long dispute over the adequacy of its compliance with the Google Shopping remedy and the European Commission's preliminary findings in 2025 of non-compliance with the Digital Markets Act in relation to search, is a relevant reason for requiring a high level of effort here.

We propose that the User Choice CR include a general obligation that Google discharge every obligation under it in good faith and use best endeavours to ensure that it achieves its purpose. The CR should also state what good faith requires in the administration of the eligibility process, which we address in section 5.

We recommend therefore that the CMA should include in the User Choice CR an express obligation on Google to act in good faith and to use best endeavours and should provide that Google bears the burden of evidencing its compliance through records, data and reporting made available to the CMA.

3. The remedy must be judged by competition outcomes

A choice screen is a means, not an end. The CMA states that the benefit it seeks is increased competition in general search services, leading to better services for consumers (paragraph 5.33). Yet the CMA says that it has not sought to measure that benefit, and that Google contends the screen will not measurably increase competition (paragraph 5.38). The effect is that the CMA has declined to be assessed on the outcome for which the remedy is designed. Google may or may not be right. The point is that, on the CMA's approach, no one will know. This is unnecessary.

General search is one of the most heavily instrumented markets in the economy, and every impression, selection, query and referral is logged. If the problem is a lack of competition and the remedy is competition, the primary test of the remedy must be how far competition is restored. We propose that the CMA require measurement, against a pre-implementation baseline, of at least:

- the share of UK queries handled by rival providers on each relevant access point, and how that share develops at 30, 90, 180 and 365 days after a user's selection;
- switching and switching back, including reversion at the end of a test-drive, and the retention of rival providers as the default;
- traffic and query volume reaching rival search services, and changes in Google's UK share of general search;
- referral traffic to independent news publishers from Google and from rival services, including click-through from AI-generated answers;
- the range and diversity of sources reaching users; and
- whether Google's ability to disregard rivals and publishers is diminishing, evidenced by the pressure that rival providers exert on its product decisions.

For publishers the most important downstream outcome is traffic reaching them, as their viability depends on search referrals. We recognise that publisher traffic is affected by factors beyond the choice screen and that attribution requires care. That is a reason to design the measurement properly and not a reason to omit it.

The CMA has said in its own work, including its 2020 online platforms and digital advertising market study, that remedies in digital markets should be tested and trialled. We see no reason why the User Choice CR should be exempt. The six-month implementation period offers an opportunity to stage the roll-out so that its effects can be identified, and we invite the CMA to require a design that allows causal effects to be distinguished from background trends. Proceeding with an untested remedy, and one that is not measured against its purpose, would expose the CMA to challenge.

The usual objection to outcome monitoring is that it consumes the resources of authorities that conduct one-off inquiries. However, monitoring the effectiveness of remedies is a core function of the regime and should be resourced accordingly.

We therefore recommend that the CMA require Google to establish a pre-implementation baseline, adopt a staged roll-out that permits causal measurement, and report on outcome metrics including sustained use of rival providers, retention, traffic to rivals and traffic to independent publishers, and should treat those metrics as the primary measure of effectiveness.

4. Eligibility criteria (question (a)(i))

The CMA has chosen to leave decision as to which rivals may appear on a screen designed to remedy Google's market power with Google, citing Google's experience of running similar processes (paragraph 4.32). Experience in running a process is not a reason to entrust the same firm with discretion over the entry of its competitors. We address the safeguards in section 5, but the CMA should be clear that in the event of doubt it, and not Google, is the decision-maker.

Further, search and AI-generated answers are distinct products, even where they are presented together in a single interface. The CMA acknowledges that the line between them is "increasingly blurred" (paragraph 4.14), and its User Research found that many users regard generative AI services as different from traditional search while increasingly using them for search (paragraph 4.12). The CMA's technology-neutral approach is welcome insofar as it prevents Google from excluding AI-based rivals by reference to a 'product label'.

It nonetheless raises a difficulty the CMA has not resolved. If AI assistants are admitted, users will be asked to compare products that perform different functions. If they are excluded, Google, whose general search service now includes AI Overviews and AI Mode, will receive the benefit of combining search and AI answers while its rivals are assessed against a narrower conception of search. Since Google will decide, it can be expected to admit or exclude AI-based rivals according to its commercial interest, and to move the boundary as its own products develop. The outcome will be a process of catch me if you can, visible to users as a bias against Google's competitors.

The remedy for this is to assess services by the functions they perform for users, apply the criteria in the same way to every applicant, and require Google to demonstrate that its own combined offering is assessed against the same standard. There is a specific asymmetry which the CMA should address. Paragraph 31 of the interpretative notes requires that rivals' generative AI summaries attribute web content clearly and accurately and give users a clear means of reaching it. That is the right requirement, and it matters to publishers. But the User Choice CR imposes no equivalent condition on Google's own AI Overviews, which the CMA leaves to another conduct requirement (paragraph 4.18(b)). Rivals should not be held to a standard of attribution and accuracy to which Google is not held.

The individual criteria

Criterion 1 (use cases): The four use cases are a reasonable starting point. But the standard of "adequately" addressing them, the requirement that an error rate "must not be significant" (note 32), and the design of the test (notes 33 and 34, which observe, for instance, that adding the word "link" to a query may change a service's response) leave a considerable margin of judgment to whoever designs and scores the tests. Google should be required to publish the test protocol, the query sets, the scoring method and the pass thresholds in advance, to apply them identically to every applicant and to make them available for independent review.

Criterion 2 (functioning experience): The CMA's clarification that a "functioning" service is one that works at a technical level is helpful. But paragraph 4.21 and note 37 allow Google to specify minimum security requirements which "will necessarily need to evolve" and note 38 requires applicants to show credible plans to scale. In the hands of Google these are open-ended levers. The CMA should specify or approve the security requirements if these are so essential and require that any change be notified to it and to applicants in advance and require Google to provide the necessary technical specifications and APIs (note 36) within fixed deadlines.

Criterion 3 (user perception): The CMA accepts that evidence may be attitudinal or behavioural; that "significant proportion" means a non-trivial proportion; and that there is no threshold (paragraph 4.27). Because Google will decide, and because their assessments will not be subject to the disciplines of administrative decision-making or review, the criterion is vulnerable to arbitrary application. It also risks excluding emerging providers which, by definition, have not yet built a large user base (a concern raised by Mozilla and by Shaping Competition in the Digital Age, paragraph 4.9(c)). Google should be required to publish the method it will use, to accept different forms of evidence (including independent panel data and third-party research), and to operate a route for credible new entrants.

Criterion 4: We support its deletion. It would have invited Google to judge how a rival service is "operated and marketed", which is a further discretionary lever. The CMA should ensure that the same discretion is not reintroduced through the application of the remaining criteria.

Overall, we recommend that the CMA should require that eligibility be determined by the function a service performs for users, that criteria be applied identically to all applicants, and that Google demonstrate that its own combined search and AI offering is assessed against the same standards, including on attribution of web content.

Furthermore, the CMA should require Google to publish the test protocol, evidence requirements and scoring for each criterion in advance, should itself specify or approve the security requirements, and should require a route for credible new entrants to demonstrate eligibility.

5. Procedural safeguards for the eligibility process (question (a)(ii))

We welcome the CMA's recognition that a process run by Google needs explicit safeguards. Paragraph 12 of the draft CR requires notice two weeks before an application window, a window "open for an appropriate length of time", and final decisions within two months of the start of the window. In our view the safeguards remain inadequate for the following reasons.

Applicants are not entitled to reasons for decisions: Paragraph 12.c.ii.1 requires written confirmation of Google's decision to each applicant. The requirement of "detailed reasoning" for rejections applies only to the notification to the CMA (paragraph 12.c.ii.2). An applicant that is refused may not know why.

No review, appeal or CMA determination: The process contains no internal review, no route to the CMA for a disputed decision and no power for the CMA to direct inclusion. Because approvals occur every six months, an erroneous refusal may exclude a competitor for at least six months. In a market in which Google already has a very substantial structural advantage, delay of that kind compounds the advantage.

Removal is unregulated: Note 28 allows Google to reassess an existing Eligible Provider at any time. The safeguards in paragraph 12 do not apply to removal.

Independence and confidentiality: Google's Android and search teams have a commercial interest in the products they will assess, including AI services that compete with Gemini. The CR does not require the assessment function to be separated from those teams or prohibit the use of applicants' information for other purposes.

Google reports on itself: The CMA's monitoring of the process will rest on information provided by Google.

Instead, the good faith and timely action that the CMA should require is capable of precise definition. We propose that Google be required to:

- publish the criteria, evidence requirements and test protocol in advance, and apply them consistently to all applicants;
- not change the criteria, or its interpretation of them, during an application, and report any change in interpretation to the CMA;
- identify any missing information promptly, in a single consolidated request, and not ask again for information already supplied;
- give clear and complete written reasons for every decision, to the applicant as well as to the CMA if requested;
- meet deadlines fixed by the CMA for every stage, including applications, requests for information, decisions, review, technical testing and implementation after approval;

- provide a rapid internal review, and refer any disputed decision to the CMA, which should be empowered to determine the matter and remedy;
- extend the same safeguards, including notice and an opportunity to respond, to any proposal to remove or suspend an Eligible Provider;
- separate the assessment team from Google's search, Gemini and Android product teams and prohibit the use of applicants' information for any other purpose; and
- report to the CMA immediately when a deadline is missed, with reasons and a corrective timetable, and publish aggregate data on applications, approvals, refusals, delays, disputes and withdrawals, subject to independent audit.

The deadlines must be set by the CMA and not by Google. The CMA should also consider whether the six-month cycle is appropriate, or whether rolling assessment would prevent a refusal from excluding a provider for half a year.

In summary, we recommend that the CMA amend paragraph 12 to entitle every applicant to reasons; to provide for rapid review and escalation to the CMA, with CMA powers to direct inclusion; to apply the same safeguards to removals; to require a ring-fenced assessment function to ensure independence; and to provide for independent audit and publication of aggregate outcomes.

6. The role of the interpretative notes

The CMA's guidance states that an SMS firm may take a different approach from that in the interpretative notes where it can demonstrate to the CMA that its approach complies with the conduct requirement (paragraph 3.2 of the Consultation, referring to CMA194). Many of the provisions on which the effectiveness of the remedy depends appear only in the notes or as statements of expectation. They include the selection of the five most popular and seven randomly selected providers (note 13), the minimum test-drive period of one week (note 18), the content of the information screen (notes 22 to 24), the requirement that Google not use prompts to invite users to switch to Google (note 48), the protection of applicants' confidential information (note 27), and the three months' notice to Eligible Providers (paragraph 4.115). Google is left to determine the point of set-up or update at which screens appear, the order of competing choice screens and, in effect, the timing of redisplay (notes 5 to 7).

Where the effectiveness of the remedy turns on a provision, that provision should be in the conduct requirement. Where the CMA prefers to retain flexibility, any departure by Google from an interpretative note should require the CMA's prior written approval and be published.

We recommend that the CMA incorporate into the text of the conduct requirement the provisions on which effectiveness depends, including the selection method, the minimum test-drive period, the content standards for the information screen, the prompts restriction and the notice periods, and that it should require prior CMA approval of any departure from the interpretative notes.

7. Frequency and timing of display (question (a)(iii))

We welcome the non-skippable screen at the first major update to Chrome and on set-up of new browsers and devices (paragraph 2), which will reach existing Chrome users who have never seen a choice screen. The remaining proposals are weaker than those in January 2026 and in several respects are unlikely to be effective.

Redisplay is limited to new Android devices: The installed Android base, which is the great majority of devices in use, will not see the annual notification until its devices are replaced. The CMA cites technical difficulty raised by Google. Google should be required to evidence that difficulty. The CMA itself notes that OEMs generally indicated that implementation should be through Google-managed components (paragraph 4.48(b)) and that Google has greater control over Pixel devices (paragraph 4.47(c)). Redisplay should extend to all Pixel devices immediately, and to other existing devices through Google-managed components within a fixed period.

The annual prompt is skippable and "visually limited": We accept that a skippable prompt reduces disruption. But "visually limited" is undefined and can be satisfied by a prompt that is easily missed. The CMA should specify minimum standards for prominence and wording, require Google to report engagement and skip rates, and provide that the requirement will be tightened if engagement is low.

The ability to re-trigger the screen from settings has been removed: We regard this as a retrograde step. A user who wishes to reconsider a choice outside the annual window must be able to find and use it through their default settings. Google's concern about confusion is not supported by evidence, and the CMA's own User Research found that context and information, not the absence of a route, is what users need (paragraph 4.49). The CR should at least require a prominent link to the Search Choice Screen in the default settings.

Timing is controlled by Google: Redisplay is tied to Google's major updates and notes 5 to 7 leave Google to choose the point at which the screen appears and to determine the order when several choice screens are due. Google's ability to schedule around its own interests should be constrained. The CMA should require a published UK schedule, notified to the CMA and to Eligible Providers at least three months ahead, and should approve any change. This would allow for greater public awareness raising prior to the update incoming and afford users greater transparency and opportunity to exercise their choice.

The six-month exemption cannot be verified: Paragraph 3 permits Google to omit the notification where a user has deliberately changed their provider in the previous six months. Google says that it cannot reliably identify such users (paragraph 4.47(c)). Where an exemption is claimed, Google should log it and report the number of suppressed notifications.

We therefore recommend that the CMA should fix the schedule for redisplay and require notice to the CMA and Eligible Providers; extend redisplay to the installed Android base, starting with Pixel devices; set minimum standards for the prominence of the annual notification and require engagement reporting; retain a prominent route to the Search Choice Screen from settings; and require Google to log and report suppressed notifications.

8. The test-drive function

We support the use of test-drive as a requirement of this CR. The User Research found that it led users to choose a wider range of services and that they valued its reversibility (paragraph 4.66). The CMA has correctly required a confirmation screen (paragraph 11). We make the following observations.

First, the CR leaves the length of the trial to Google, and the minimum of one week appears only in note 18. The CMA records that respondents favoured two to four weeks (paragraph 4.65(b)) and itself accepts that a week is not long enough for a user to become accustomed to a new provider (paragraph 4.71(c)). Therefore, we consider that a minimum of 14 days, with an option for users to extend up to 28 days, should be stated in the CR.

Secondly, the CR does not say what happens at the end of a trial if the user skips the notification (paragraph 9). It should be clear that the trial provider remains the default until the user acts, and that Google may not revert the user to Google Search without an affirmative choice. Any reversion should be reported.

Thirdly, Google argued that the presence of a test-drive button might cause the "set as default" option to appear irreversible or high-stakes (paragraph 4.63(a)). Google should not be permitted to design the two options in a way that gives effect to that argument. The labelling and layout should be user-tested, submitted to the CMA in advance and reported.

Fourthly, the test-drive is limited to new Android devices and to a single trial (paragraph 4.72). Together with the limits on redisplay this reduces its reach. The CMA should measure the proportion of trials that convert into permanent selections, and the retention of trial providers after 90 and 180 days, and should extend the function if the evidence shows that it works.

9. Selection and ordering of Eligible Providers

We support fully random ordering (paragraph 4), the inclusion of all Eligible Providers where there are twelve or fewer (paragraph 5) and the requirement that users scroll through the list. The User Research found that attention is drawn to logos and familiar brands, and that scrolling was not consistently observed (paragraph 4.78). A forced scroll is therefore not a guarantee of exposure, and the design should be tested to confirm that users see the full list.

We are concerned about the method for selecting the twelve where there are more than twelve Eligible Providers. The CMA expects the five most popular providers, plus seven others chosen at random (note 13). The five will be determined initially by Google Play Store downloads (paragraph 4.83). That metric is produced by a store that Google controls, and reflects distribution and pre-installation as well as user preference. After six months the metric will be the rate at which each provider is selected when shown. That rate is sensitive to position and to brand familiarity, and it feeds back on itself: a provider that is chosen more often will be shown more often, which will entrench incumbents and disadvantage independent and emerging providers.

The CMA should require that the popularity metric be independently verifiable, for example by using third-party panel data, and that it be reviewed by the CMA. It should consider rotation of the five, or a larger randomly selected share, if the data show entrenchment. The "fair" selection required by paragraph 6.a should be defined in the CR and not only in the notes. The requirement in note 39 that services within a group be "sufficiently distinct at a technical level" should be applied by reference to the functional criterion, not Google's judgment alone.

We recommend that the CMA require that the popularity metric be independently verifiable and not derived from a Google-controlled store, define "fair" selection in the CR, require testing to confirm that users see the full list, and provide for adjustment of the 5+7 approach where the data show entrenchment.

10. The full list, default settings, APIs and prompts

We support the requirement that users be able to view and choose from all Eligible Providers wherever they cannot be chosen directly (paragraphs 6.b and 15). The link should be presented in the same neutral manner at every access point, the list should follow the same random ordering, and it should not be used to promote Google products. Note 45 suggests that a list in the Google Play Store may suffice; the CMA should require that any such list is not curated or ranked by Google. The measurement of use of the full list at paragraph 4.116(a) is welcome, but it should be accompanied by data on the selections that result.

We consider that the CMA should require that the route to the full list be equally accessible at every access point, neutrally presented and randomly ordered, and that Google report on its use and on the selections that result.

Third-party access to default setting and prompts

We support the APIs and the ability to take users directly to the relevant setting (paragraphs 16 and 17). They should be available to every Eligible Provider on terms equivalent to Google's own visibility of the same information, without throttling, and with a consent process that does not itself become a barrier.

The CMA's decision to make no change to the prompts requirement (paragraph 4.106) leaves an asymmetry. Eligible Providers may prompt users in their apps without limit, and the CMA has removed the reference to limits (paragraph 4.101). Google's own prompts touching default search, including the extension-based "switch-back" prompts to which respondents drew attention (paragraph 4.104) and the "search hijacking" dialogue that Google states is now neutral (paragraph 4.103), are subject only to a requirement that they be "fair and balanced" (paragraph 18).

We recommend that the CMA require Google to submit to it prompts relating to default search before use, to log and report every prompt shown, and to be subject to no less restrictive limits than those which apply to Eligible Providers.

11. Compliance and monitoring

The CMA proposes an implementation period of up to six months, reporting every six months in the first year after imposition and annually thereafter subject to the CMA being generally satisfied (paragraphs 4.112 and 4.113). The first report would therefore fall due at about the time the CR fully comes into force, leaving at most one report with any real data in the first year. Reduced reporting after the first year is a long time in which things may go wrong. Reporting should be more frequent, not less, in the early period when design and implementation defects are most likely to arise and can most easily be corrected.

The additional metrics in paragraph 4.116, namely the number of times users access the full list and the number and proportion of displays and selections by position, are input measures. They will help to establish whether the screen is being displayed and randomised as required. They will not show whether competition has improved. As we set out in section 3, outcome metrics should be added.

We propose that the CMA:

- require quarterly reporting for at least the first 24 months, and until there is evidence that the remedy is producing sustained competition (or not);
- require the outcome metrics in section 3, with a baseline taken before roll-out;
- require independent audit of Google's data and reports;
- publish its own findings quarterly, in addition to Google's non-confidential reports (paragraph 4.114);
- give accredited publisher bodies and Eligible Providers access, subject to confidentiality protections, to the data they need to assess the effects of the remedy on them;
- maintain active engagement with rival providers, publisher associations and affected publishers, and record complaints and their resolution; and
- commit in advance to modify the CR where the evidence shows that switching is negligible, users are not retaining rival providers, rivals are not gaining meaningful scale, publisher traffic is not improving, the remedy is being undermined by its design or implementation, or Google is using the eligibility process to delay or exclude competitors.

12. Proportionality

We agree with the CMA that the costs of the CR to Google and to users are modest. The CMA estimates the cost to Google at around £5 million for extending the screen to Chrome on desktop and iOS and up to £5 million for the test-drive over five years (paragraph 5.8), and the cost to users at a little under 14p per showing (paragraph 5.13). We also agree with the CMA that Google has produced no evidence that choice screens influence a user's choice of operating system or browser (footnote 149), and that Google's illustration of the experience of the Digital Markets Act does not establish otherwise.

Our concern is with the benefits side. The CMA's assessment considers whether the CR is effective at achieving its aim, and the aim is expressed at the level of users' awareness of, engagement with and ability to choose between providers (paragraph 2.1). That measure is close to circular: the CR is "effective" if it improves the things the CR is designed to improve. It does not test whether competition improves, and the benefit is assessed without measurement (paragraph 5.38). The result is that the benefits appear as a modest prospect of switching, weighed against the costs to Google.

The comparison should be made with the benefits to the UK of competition in search: better and more varied search services; investment and innovation by rivals; reduced dependence of downstream businesses on a single gatekeeper; and the plurality of sources reaching users, including traffic to independent publishers and to alternative search services. None of these is assessed. Nor is there any assessment of the downstream harm to publishers and to plurality if the remedy fails.

Proportionality is also dynamic. A remedy that is not effective is not proportionate, and the CMA always retains power to strengthen it. We invite the CMA to state in the final decision the outcome thresholds against which it will revisit its proportionality assessment, and the measures it will consider if they are not met, including extension to further access points, non-skippable annual screens or additional user controls.

We therefore do not agree with the updated proportionality assessment in its present form. We agree that the CR is not disproportionate in cost. We do not consider that its effectiveness has been shown, or that its benefits have been correctly identified.

We consider that the CMA should extend the assessment of benefits to include competition outcomes, traffic to rival search services and to publishers and the plurality of sources and publish the outcome thresholds and the measures it will consider if they are not met.

13. AI Overviews and the scope of the remedy

The CMA has said that it did not receive sufficiently strong evidence of the issues that an expanded scope would address, and that it will keep the case for further measures under review and is open to receiving further evidence (paragraph 2.7). Please consider this section as responding to that request. In the footnote to that paragraph, the CMA states that giving users control over AI Overviews would not achieve the aim of the CR, because it would give users control over aspects of Google's services and not choice between providers. We respectfully disagree, for three reasons.

First, the CMA's own analysis treats Google Search and its AI features as one service. Paragraph 4.14 acknowledges that Google Search incorporates AI models, AI interfaces and generative AI summaries. A user who keeps Google as the default receives, together with the search results, an AI-generated answer that Google has chosen to place above the links to original sources. The user has not been given a choice about that product configuration, and rivals may not be in the same position.

Secondly, the statutory framework is not as narrow as the CMA's formulation of the aim. The open choices objective concerns the ability of users to choose freely and easily between the services or digital content provided by Google and those provided by others (section 19(7)). Section 20(2)(e) permits obligations to present "options or default settings" in relation to general search services so as to enable informed and effective decisions. A control over whether AI-generated answers are displayed is an option in relation to a general search service. The aim is a matter for the CMA, and the CMA has said that it will keep it under review.

Thirdly, the CMA's own User Research suggests that users regard generative AI as different from traditional search but increasingly use it as a form of search (paragraph 4.12). A user cannot make an informed and effective choice if the choice screen does not tell them what the difference is.

We ask the CMA to do the following:

- Require the information screen (paragraph 10) to explain clearly the difference between a list of links to original sources and an AI-generated answer, and to state whether each service attributes and links to the sources on which its answers are based. The short description of each provider (note 15) should include this information.
- Require Google to keep, and to provide to the CMA on request, data on the frequency with which AI-generated answers are displayed, click-through to original sources and referral traffic to publishers, so that the CMA can decide the question on evidence.
- Commit to consult, no later than the first quarterly review after the CR takes effect, on a requirement that users be offered a persistent and easily accessible choice as to whether AI-generated answers are shown in Google Search, including in the default settings.

We also ask the CMA to ensure that the question whether Google is being advantaged by combining search and AI answers, while competing services are assessed more narrowly, remains under active review, and that services are assessed by their function and not by product labels.

Conclusion

The coalition supports the choice screen in principle. It is a useful, but limited, intervention. It is not by itself a remedy for the position of publishers, and its value depends on whether it produces sustained competition against Google.

The CMA's consultation asks whether the proposed changes are effective in achieving the aim of the User Choice CR. In their current form the CMA cannot say, because it does not propose to measure the outcome. The remedy leaves to Google a large number of decisions that will determine its effect, on a timetable and on evidence that Google controls, and we consider the narrowing of its scope since January reduces the likelihood that it will succeed.

We ask the CMA to require Google to act in good faith and to use best endeavours; to set tight deadlines and to accept direct regulatory oversight of eligibility and implementation; to

measure competition outcomes, including traffic to rival search services and to independent publishers; to widen its proportionality assessment accordingly; to keep AI-generated answers under active review on the basis of the evidence that we will provide; and to retain the power, and the willingness, to modify the remedy where the evidence shows that it is not working.