



## **Antitrust: Commission takes further steps in investigations alleging Google's comparison shopping and advertising-related practices breach EU rules\***

Brussels, 14 July 2016

**The Commission has sent two Statements of Objections to Google. The Commission has reinforced, in a supplementary Statement of Objections, its preliminary conclusion that Google has abused its dominant position by systematically favouring its comparison shopping service in its search result pages.**

**Separately, the Commission has also informed Google in a Statement of Objections of its preliminary view that the company has abused its dominant position by artificially restricting the possibility of third party websites to display search advertisements from Google's competitors.**

Commissioner Margrethe **Vestager**, in charge of competition policy, said: "*Google has come up with many innovative products that have made a difference to our lives. But that doesn't give Google the right to deny other companies the chance to compete and innovate. Today, we have further strengthened our case that Google has unduly favoured its own comparison shopping service in its general search result pages. It means consumers may not see the most relevant results to their search queries. We have also raised concerns that Google has hindered competition by limiting the ability of its competitors to place search adverts on third party websites, which stifles consumer choice and innovation.*

*Google now has the opportunity to respond to our concerns. I will consider their arguments carefully before deciding how to take both cases forward. But if our investigations conclude that Google has broken EU antitrust rules, the Commission has a duty to act to protect European consumers and fair competition on European markets."*

The supplementary Statement of Objections on comparison shopping follows a Statement of Objections issued in the same case in April 2015. Both Statements of Objections are addressed to Google and its parent company, Alphabet. Sending a Statement of Objections does not prejudge the outcome of the investigation.

### **Comparison shopping**

Following the [Statement of Objections](#) issued in April 2015 and Google's response in August 2015\*, the Commission has carried out further investigative measures. Today's supplementary Statement of Objections **outlines a broad range of additional evidence and data that reinforces the Commission's preliminary conclusion** that Google has abused its dominant position by systematically favouring its own comparison shopping service in its general search results. The additional evidence relates, amongst other things, to the way Google favours its own comparison shopping service over those of competitors, the impact of a website's prominence of display in Google's search results on its traffic, and the evolution of traffic to Google's comparison shopping service compared to its competitors. The Commission is concerned that users do not necessarily see the most relevant results in response to queries - this is to the detriment of consumers, and stifles innovation.

In addition, the Commission has examined in detail Google's argument that comparison shopping services should not be considered in isolation, but together with the services provided by merchant platforms, such as Amazon and eBay. The Commission continues to consider that comparison shopping services and merchant platforms belong to separate markets. In any event, today's supplementary Statement of Objections finds that even if merchant platforms are included in the market affected by Google's practices, comparison shopping services are a significant part of that market and **Google's conduct has weakened or even marginalised competition from its closest rivals.**

By sending a supplementary Statement of Objections the Commission has reinforced its preliminary conclusion whilst at the same time protecting Google's rights of defence by giving it an opportunity to respond formally to the additional evidence. Google and Alphabet have **8 weeks** to respond to the supplementary Statement of Objections.

### **AdSense**

The Commission has also sent a Statement of Objections to Google on restrictions that the company

has placed on the ability of certain third party websites to display search advertisements from Google's competitors.

The Commission's preliminary view set out in today's Statement of Objections is that these practices have enabled Google to **protect its dominant position in online search advertising**. It has prevented existing and potential competitors, including other search providers and online advertising platforms, from entering and growing in this commercially important area.

Google places search ads directly on the Google search website but also as an intermediary on third party websites through its "AdSense for Search" platform ("*search advertising intermediation*"). These include websites of online retailers, telecoms operators and newspapers. The websites offer a search box that allows users to search for information. Whenever a user enters a search query, in addition to the search results, also search ads are displayed. If the user clicks on the search ad, both Google and the third party receive a commission.

The Commission considers at this stage that Google is dominant in the market for search advertising intermediation in the European Economic Area (EEA), with market shares of around 80% in the last ten years. A large proportion of Google's revenues from search advertising intermediation stems from its agreements with a limited number of large third parties, so-called "Direct Partners". The Commission has concerns that in these agreements with Direct Partners, Google has breached EU antitrust rules by imposing the following conditions:

- **Exclusivity:** requiring third parties not to source search ads from Google's competitors.
- **Premium placement of a minimum number of Google search ads:** requiring third parties to take a minimum number of search ads from Google and reserve the most prominent space on their search results pages to Google search ads. In addition, competing search ads cannot be placed above or next to Google search ads.
- **Right to authorise competing ads:** requiring third parties to obtain Google's approval before making any change to the display of competing search ads.

The Commission takes the preliminary view that the practices, which have been in place for ten years, **hinder competition on this commercially important market**. The Statement of Objections takes issue with the exclusivity practice as from 2006. This was gradually replaced from 2009 in most contracts by the requirement of premium placement/minimum ads and the right for Google to authorise competing ads. The Commission is concerned that the practices have artificially reduced choice and stifled innovation in the market throughout the period. They have artificially reduced the opportunities for Google's competitors on this commercially important market, and therefore the ability of third party websites to invest in providing consumers with choice and innovative services.

The Commission takes note that, in the context of its antitrust proceedings, Google has recently decided to change the conditions in its AdSense contracts with Direct Partners to give them more freedom to display competing search ads. The Commission will closely monitor these changes in Google's practices to assess how they will impact the market.

Google and Alphabet have **10 weeks** to respond to the Statement of Objections.

## **Background**

Google's flagship product is general internet search. This provides search results to consumers, including online ads which respond to search queries. Google generates a significant proportion of its revenue from search ads. Google therefore has an interest to maximise the number of users that see the ads it places, either on its own websites or those of third parties.

The Commission considers that Google has a dominant position in providing general internet search services as well as in placing search advertising on third party websites throughout the EEA, with market shares above 90% and 80%, respectively. Dominance is, as such, not a problem under EU competition law. However, dominant companies have a responsibility not to abuse their powerful market position by restricting competition, either in the market where they are dominant or in neighbouring markets.

The Commission had [opened proceedings in November 2010](#) on Google's favourable treatment of its own comparison shopping service as well as restrictions it placed on the ability of certain third party websites to display search advertisements from Google's competitors. Today's Statements of Objections outline the Commission's preliminary views that the way in which Google has sought to maximise traffic to its own websites and limit the ability of competitors to place search ads on third party websites is in breach of EU antitrust rules.

The Commission has at the time also opened proceedings and it will continue to investigate the favourable treatment by Google in its general search results of its other specialised search services, and concerns with regard to copying of rivals' web content (known as 'scraping'), and undue

restrictions on advertisers.

Furthermore, today's Statements of Objections are independent of the Commission's ongoing antitrust investigation in relation to Google's Android operating system and certain mobile applications. In this regard, in April 2016, the Commission addressed a [Statement of Objections](#) to Google and Alphabet

### **Procedural background**

Today, the Commission decided to initiate proceedings also against Alphabet, Google's parent company, which was created after the Commission had initiated proceedings against Google. Both Statements of Objections summarised above are addressed to Google and Alphabet. In addition, the April 2015 Statement of Objections has been notified to Alphabet.

Article 102 Treaty on the Functioning of the European Union (TFEU) prohibits the abuse of a dominant position which may affect trade and prevent or restrict competition. The implementation of this provision is defined in the Antitrust Regulation (Council Regulation No 1/2003), which can be applied by the Commission and by the national competition authorities of EU Member States.

A statement of objections is a formal step in Commission investigations into suspected violations of EU antitrust rules. The Commission informs the company concerned in writing of the objections raised against them. The company can then examine the documents in the Commission's investigation file, reply in writing and request an oral hearing to present their comments on the case before representatives of the Commission and national competition authorities.

A supplementary statement of objections allows the Commission to reinforce its preliminary conclusions and address points the company has raised in its reply to the first Statement of Objections. They also protect the company's rights of defence by giving it an opportunity to respond formally to additional evidence.

Sending a (supplementary) statement of objections does not prejudice the outcome of the investigation, as the Commission takes a final decision only after the parties have exercised their rights of defence.

There is no legal deadline for the Commission to complete antitrust inquiries into anticompetitive conduct. The duration of an antitrust investigation depends on a number of factors, including the complexity of the case, the extent to which the undertaking concerned cooperates with the Commission and the exercise of the rights of defence.

More information is available on the Commission's competition website, in the public case register under the case numbers [39740](#) (Google comparison shopping) and 40411 (Google AdSense).

\*updated on 14/07/2016, 17:30 CET: replacing "September 2015" by "August 2015"

IP/16/2532

Press contacts:

[Ricardo CARDOSO](#) (+32 2 298 01 00)

[Yizhou REN](#) (+32 2 299 48 89)

General public inquiries: [Europe Direct](#) by phone [00 800 67 89 10 11](#) or by [email](#)