

ne News Page

Cases COMP/AT.39740 - Google

Response to the Request for Information
on Google's revised proposed commitments text of 21 October 2013

by Dr. Marc Pinter-Krainer, Founder & CEO, One News Page Ltd.

Dated 22 November 2013

General Comments

Our business has suffered and continues to suffer great damage due to Google's ongoing anti-competitive business practices. In particular, Google's leverage of its dominant position in search to promote its own service in the news vertical, Google News, leaves us as a competing news portal in a systematically disadvantaged position. It is our hope that once your current investigation comes to a conclusion, Google will be held responsible for its anti-competitive behaviour and forced to put an end to the abusive practices such that a fair marketplace can be re-established, allowing online providers such as ourselves to compete fairly on the merit of our products and services, and for greater choice to be re-established for consumers.

Unfortunately, the extend of our hope is currently but a small glimmer as it is our assessment that Google's revised proposals offer no means to restore fair competition, and in fact could be seen as making matters worse. We're also very concerned that the news vertical is at present excluded from the proposed measure of introducing "rival links".

More importantly, however, is the overriding fact that neither labelling nor the introduction of rival links will do much at all to put an end to Google's abusive practices and restore any fairness in the market place. The proposed rival links, almost by definition, lack the essential approach of "equal treatment" which in our view is absolutely essential to restore fair competition.

An even-handed approach which applies equal treatment to Google's own products and third party products when it comes to displaying them on Google's search results pages is required - and disappointingly missing from Google's proposals, in our view rendering them insufficient and unacceptable.

In our view, the current proposals do nothing to restore fair competition online and any acceptance of them would hand Google a license to extend its abusive behaviour for years to come. What is required, is a rejection of the current proposals and an imposed solution which puts an end to the unfair practices by Google treating and displaying competitor's vertical services in the same way as it treats and displays its own.

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III. Questions

4. Based on the provisions of paragraphs 1 to 9 and the definitions of paragraph 25 of the revised proposed commitments, do you consider that there are entry points for searches on Google which are not covered by the revised proposed commitments? If so, please explain and give concrete examples.

Yes there are.

Indeed there are important entry points for searches on Google which are not covered. The proposed measures relate to Google General Search Results Pages from Google EEA Search Domains only. It is therefore our understanding that the important google.com domain is excluded from the proposed measures. Given that across member countries of the EEA, the google.com search domain is of great importance due to its popularity, we feel it must be included within the scope of the proposed measures. According to Alexa (source: <http://www.alexa.com>), the google.com search domain ranks as the highest-traffic domain in Ireland (Alexa rank: 1), and the second-highest in the UK, Spain, and in France. In Germany, google.com is the 4th most visited domain according to Alexa. These are but a few examples illustrating the popularity of the google.com domain across Europe and it should therefore not be excluded from any of Google's proposed measures.

5. Based on the provisions of paragraphs 1 to 9 and the definitions of paragraph 25 of the revised proposed commitments, do you consider that there are specialised web search services of Google which are not covered by the revised proposed commitments, in part or whole? If so, please explain and give concrete examples.

Whilst it is not immediately clear whether any current specialised web services are omitted from the proposed coverage, we are concerned that the news vertical appears to be excluded from the enhanced measures including the display of rival links proposed for other verticals such as mapping or shopping. The distinction of whether a specialised web service generates revenue for Google by displaying paid specialised search results or not seems artificial and unnecessary from our standpoint. Consumer choice is restricted and competition unfairly harmed by Google's current unfair preferential treatment of its own specialised web services - regardless of whether paid results are displayed on the page. We strongly recommend the omission of this superfluous distinction and for all proposed measures - currently including rival links - to apply to all verticals, including news.

As alluded to above, the overriding, more important, issue is the lack of equal treatment in the proposed measures which renders them ineffective in restoring a fair level playing field for all market participants.

Please reply to questions 6 to 14 if you operate one or several specialised web search services in the EEA.

6. Please provide an analysis of the visibility of rival links as defined in paragraphs 2(c) and 3(c) of the revised proposed commitments and displayed in Annex 3 thereof, as compared to the visibility of rival links in the version of the proposed commitments that was market tested on 26 April 2013.

In our view, the visibility of rival links is not the issue when it comes to identifying an effective means to restore fair competition. It is the nature of rival links that competing services are not treated equally but in fact demoted to a lesser “rival” link position. To make matters even worse, the proposed solution implies that most rival links will be paid for - resulting in Google extracting money from its competitors in return for treating them unfairly. What is fundamentally required, but not present in the current proposals, is an even-handed fair approach whereby Google’s search engine would apply the same ranking algorithm and display treatment to competing providers as it does to its own vertical services.

7. In your experience, does the presence of additional text describing the content of a search result affect the click-through rate on that result compared to the situation when such additional text is not present? Please substantiate your answer.

Whilst the presence of additional descriptive text may increase the click-through rate for a search result, we are concerned that the proposed concept of rival links to restore fair competition is flawed and ineffective for the reasons given above.

8. In your experience, does the shading of search results affect the click-through rate on that result? Please substantiate your answer.

See our answer to question 7 above - rival links will not restore fair competition, however they are shaded. Even if the click-through rate on them was to increase, this would only further play to Google’s unfair advantage as money is extracted from competing providers. Rival links lack the required even-handed principle.

9. Would your specialised web search service(s) be eligible for participation in the Vertical Sites Pools provided for in Annex 1, article 1(a), of the revised proposed commitments? If so, please specify which ones. If not, please explain why. In particular, if you consider that your service(s) would not be eligible because it does not meet all eligibility criteria listed in Annex 1, paragraphs 3 and 4, of the revised proposed commitments, please specify which criteria and why you consider that your service(s) would not meet them. Please also specify whether, in your opinion, the relevant competing Google specialised search service(s) meet(s) these criteria.

Whilst our sites may be eligible as far as the traffic threshold criteria are concerned, the overriding factor here is the choice of traffic threshold criteria which seem to be designed to introduce an unreasonable and indefensible barrier of entry, particularly for innovative new services which do not reach the required traffic threshold. We are also concerned that the news vertical is not included amongst the specialised search services where enhanced measures such as rival links are proposed.

10. Please provide an estimate of the rank of each your specialised search services for each of the Traffic thresholds listed in Annex 1, paragraph 4(b), of the revised proposed commitments.

The current Alexa traffic rank for our domains is as follows (as of 22 November 2013):

onenewspage.com	Global Alexa Rank: 56,256	UK: 28,839
onenewspage.co.uk	Global Alexa Rank: 148,771	UK: 10,143
newsdeutschland.com	Global Alexa Rank: 134,991	Germany: 8,196
paginanoticias.es	Global Alexa Rank: 504,170	Spain: 22,335

11. Annex 1, paragraphs 12 and 14, of the revised proposed commitments provide that Google will display next to Rival Links text up to a maximum length of two lines of 13 "m" characters each.

With regard to industry practice, how does this maximum size compare with the typical maximum size for text displayed next to free and/or commercial links within search results or search advertisements?

Whilst the answer to this specific question should imply that the accompanying text as proposed is shorter than the length provided for Google's Adwords ad descriptions, the length of this text seems quite irrelevant when it comes to seeking a proposed solution that effectively restores fair competition. Rival links lack the even-handed principle that is vitally important for such a solution.

If you operate in the EEA one or several specialised web search services which are in your opinion covered by the provisions of paragraph 3 of the revised proposed commitments, please reply to question 12.

12. Annex 1, paragraph 12, of the revised proposed commitments provides that Google will display together with Rival Links dynamically generated snippet text derived from the Vertical Search Sites.

In your opinion, would static text, provided by the Vertical Search Sites but independent of the query, be more relevant for the user than generated snippet text derived by Google from the Vertical Search Site as proposed in the revised proposed commitments? Please substantiate your answer.

The provisions in paragraph 3 appear to exclude the news vertical - see above. If the news vertical was included, we would state that the proposed snippet text would relate to free rival links only, which in our view will only form a small minority of rival links displayed as the majority will be paid rival links.

If you operate in the EEA one or several specialised web search services which are in your opinion covered by the provisions of paragraph 2 of the revised proposed commitments, please reply to questions 13 to 14.

13. Please provide the average revenue per visit on each of your specialised web search services for traffic coming from Google. Please split this per EEA country where your service is active, and distinguish between natural search traffic and paid search traffic.

Again, it appears that the news vertical is excluded here. The issue with considering revenue rather than profit is that most companies that use any type of paid-search for traffic generation consider it as commercially ineffective in contributing to profit - all affordable profits tend to be efficiently absorbed by the auction-based system behind paid search, or indeed the proposed paid rival links.

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14. Annex 1, paragraphs 15 to 22, of the revised proposed commitments describe the mechanism that Google will use in order to select and rank Rival Links showing the best relevance as well as exclude Rival Links of low quality from showing in the Rival Links space.

In your opinion, does this mechanism appropriately select between high and low quality Rival Links? Please elaborate (please provide concrete examples) on (i) the machine-learning regression model to calculate the pCTR of a Rival Link, (ii) the minimum cost-per-click threshold and (iii) the minimum pCTR threshold.

In your opinion, is this mechanism objective, neutral and non-discriminatory or can it be subject to manipulation? Please elaborate. If your answer is no, could you describe alternative mechanisms that reduce the risk of potential manipulation?

In our view the proposed mechanism is likely to rank those links that pay Google the highest revenue within a given auction higher than the most relevant links. It should therefore not be considered to qualify as a mechanism to display and rank the most relevant links. Again, we emphasise that in our view rival links are not a solution to restoring fair competition as they lack the event handed approach required.

15. In your opinion, will the opt out possibilities provided for in paragraphs 10 to 22 of the revised proposed commitments, including in particular the provisions of paragraphs 13 and 21, improve your bargaining power in discussions with Google concerning the use by Google of your web sites' content? Please explain.

Whilst the proposed opt-out measures may be useful for some content providers, we would not utilise them in the foreseeable future.

— end —