



EUROPEAN COMMISSION

***CASE DMA. 100193 – Alphabet –
Online Search Engine – Google Search –
Article 6(5)***

(Only the English text is authentic)

**Digital Markets Act
Regulation (EU) 2022/1925 of the European Parliament
and of the Council**

Article 20(1) Regulation (EU) 2022/1925

Date: 25.03.2024

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EUROPEAN COMMISSION

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PUBLIC VERSION

Alphabet Inc.
251 Little Falls Drive
Wilmington, DE, 19808
USA

Subject: Case DMA.100193 – Alphabet – Online Search Engine – Google Search – Article 6(5)

Commission decision opening a proceeding pursuant to Article 20(1) of Regulation (EU) 2022/1925 ⁽¹⁾ of the European Parliament and of the Council on contestable and fair markets in the digital sector

Only the English text is authentic

Dear Sir or Madam,

- (1) On 5 September 2023, the Commission adopted a decision designating Alphabet Inc. together with all legal entities directly or indirectly controlled by Alphabet, Inc. (hereinafter referred to as “Alphabet”) as a gatekeeper pursuant to Article 3 of Regulation (EU) 2022/1925 (the “Designation Decision”). ⁽²⁾ The Designation Decision lists the following core platform services (“CPSs”) that are provided by Alphabet and which individually constitute an important gateway for business users to reach end users: (i) Alphabet’s online intermediation services (“OIS”) Google Shopping, (ii) Alphabet’s OIS Google Play, (iii) Alphabet’s OIS Google Maps, (iv) Alphabet’s online search engine Google Search, (v) Alphabet’s video-sharing platform service YouTube, (vi) Alphabet’s operating system Google Android, (vii) Alphabet’s web browser Google Chrome, and (viii) Alphabet’s online advertising services (“OASs”).

⁽¹⁾ Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act).

⁽²⁾ C(2023) 6101.

- (2) Pursuant to Article 20(1) of Regulation (EU) 2022/1925, where the Commission intends to open proceedings with a view to the possible adoption of decisions pursuant to Articles 8, 29 and 30 of that Regulation, it shall adopt a decision opening proceedings.
- (3) Pursuant to Article 29(1), point (a) of Regulation (EU) 2022/1925, where the Commission finds that a gatekeeper does not comply with any of the obligations laid down in Article 5, 6 or 7 of that Regulation, it shall adopt an implementing act setting out its finding of non-compliance. In such an implementing act, the Commission may also impose a fine pursuant to Article 30(1), point (a) of Regulation (EU) 2022/1925. The Commission may also impose periodic penalty payments pursuant to Article 31(1), point (h) of Regulation (EU) 2022/1925 in order to compel a gatekeeper to comply with such an implementing act.
- (4) Pursuant to Article 3(10) of Regulation (EU) 2022/1925, within six months after a CPS has been listed in the designation decision, the gatekeeper shall comply with the obligations laid down in Articles 5, 6 and 7 of that Regulation. Consequently, within six months from the Designation Decision, Alphabet shall comply, *inter alia*, with the obligations laid down in Article 6(5) of Regulation (EU) 2022/1925 in relation to the CPSs listed in the Designation Decision.
- (5) According to Article 6(5) of Regulation (EU) 2022/1925, gatekeepers shall not treat more favourably, in ranking and related indexing and crawling, services and products offered by the gatekeeper itself than similar services or products of a third party.
- (6) Recital 51 of Regulation (EU) 2022/1925 explains that “[...] *[t]his can occur for instance with products or services, including other core platform services, which are ranked in the results communicated by online search engines, or which are partly or entirely embedded in online search engines results, groups of results specialised in a certain topic, displayed along with the results of an online search engine, which are considered or used by certain end users as a service distinct or additional to the online search engine.[...]’*”.
- (7) Recital 52 of Regulation (EU) 2022/1925 further clarifies that “[...] *the gatekeeper should not engage in any form of differentiated or preferential treatment in ranking on the core platform service, and related indexing and crawling, whether through legal, commercial or technical means, in favour of products or services it offers itself or through a business user which it controls. [...]*”
- (8) On 7 March 2024, Alphabet submitted to the Commission its compliance report pursuant to Article 11 of Regulation (EU) 2022/1925 (“Alphabet’s Compliance Report”). According to that report, ⁽³⁾ Alphabet has taken, among others, the following measures to comply with Article 6(5) of Regulation (EU) 2022/1925. Alphabet:

⁽³⁾ See p. 9-28 of the ‘Google Search’ chapter in Alphabet’s Compliance Report.

- a) introduced enhanced individual free web result formats for comparison services and merchants. This possibility is offered on an opt-in basis and requires comparison services and merchants to provide Google with data and technical specifications;
 - b) introduced a dedicated unit for comparison services linking directly to the websites of those services;
 - c) replaced the product ads unit to allow comparison shopping services to place product ads that lead to their websites alongside existing product ads (which are placed by comparison shopping services but lead to their merchant partners' websites);
 - d) introduced tabs that create the possibility for end users to filter search results in relation to either comparison services or merchants (trains, airlines, or products);
 - e) set up query shortcut chips through which end users can add search terms e.g., select specific features or focus on specific offers;
 - f) introduced a page preview. End users are directed to the page preview when clicking on an entity in the unit presented on the Search Engine Results Page ("SERP") of Alphabet's Google Search CPS. The page preview includes a list of comparison services with price information and reviews.
- (9) Following an initial examination of Alphabet's Compliance Report and of the information available to it, the Commission has decided to examine whether the measures referred to in recital (8) of this Decision in relation to Alphabet's Google Search CPS in the EEA comply with the obligation laid down in Article 6(5) of Regulation (EU) 2022/1925. The Commission's investigation will focus on whether those measures comply with the obligation on Alphabet not to rank its own services, in particular Google's vertical search services, on its SERP more favourably as compared to similar services of third parties.⁽⁴⁾ In this context, the Commission will also examine whether some of those measures can undermine effective compliance with the obligations of Article 6(5) of Regulation (EU) 2022/1925 within the meaning of Article 13(4) or (6) of that Regulation insofar as they do not fully address possible favourable treatment in ranking of Google's services on the SERP of its Google Search CPS.
- (10) In light of the above, the Commission has decided to open proceedings vis-à-vis Alphabet with a view to the possible adoption of a decision pursuant to Article 29 of Regulation (EU) 2022/1925 relating to potential non-compliance by Alphabet with Article 6(5), Articles 13(4), 13 (6) of that Regulation), alone or in conjunction, in relation to the obligation on Alphabet not to rank its own

⁽⁴⁾ Recital 51 of Regulation (EU) 2022/1925, see paragraph 5 above.

services, in particular Google's vertical search services more favourably, on the SERP of its Google Search CPS as compared to similar services of third parties.

- (11) The initiation of proceedings does not prejudice the outcome of the Commission's assessment regarding compliance. It merely indicates that the Commission will further pursue the case.
- (12) Pursuant to Article 38(7), second subparagraph, of Regulation (EU) 2022/1925, this opening of proceedings relieves the national competent authorities of the Member States enforcing the rules referred to in Article 1(6) of that Regulation of the possibility to conduct an investigation on their respective territories into the possible non-compliance of Alphabet's conduct referred to in recital (8) above with Article 6(5) of that Regulation, or ends it where it is already ongoing.
- (13) In accordance with Article 5(2) of Commission Implementing Regulation (EU) 2023/814⁽⁵⁾, the Commission will make public this opening of proceedings.

Done at Brussels,

For the Commission

Thierry Breton
Member of the Commission

⁽⁵⁾ Commission Implementing Regulation (EU) 2023/814 of 14 April 2023 on detailed arrangements for the conduct of certain proceedings by the Commission pursuant to Regulation (EU) 2022/1925 of the European Parliament and of the Council, OJ L 102, 17.4.2023, p. 6.