

Note to the Commission: This is a more comprehensive version of our answers that we provided through the web form. Answers in the webform were limited to 5000 characters and some of our replies were slightly longer (around 7000 characters). Thus we were obliged to cut some links to the resources we referred to in our replies and some useful examples and case studies which are included in this document. Sections that we were obliged to cut in the web form include:

- **Meaning of Ranking (Article 2(8)), the following question:** *“What elements within this definition would benefit from additional clarity?”*
- **Meaning of presentation and accessibility, the following question:** *“How practically could the obligation to make notices available for inspection (Article 5(4) applicable for general search engines only) work?”*
- **Main parameters/ relative importance, the following questions:** *“Meaning of ‘main parameters’, illustrative examples that you can share?” and “How are these ‘main parameters’ affected by other factors? (E.g. personalisation, default settings, filtering mechanisms, cross-platform presence, experiments/tests, external factors (e.g. changes required due to legal obligations)). Are these factors equally ‘main parameters’?”*
- **Adequate understanding, the following question:** *“Are you aware of any tools (public or private) that can help businesses monitor variations and changes in parameters that affect ranking or self-verify, such as technical tools or experiments currently being used or developed? Are there any industry initiatives or best practices?”*

In this document you’ll find more comprehensive answers to the above questions including links and additional case studies and examples (f.ex. of industry best practices)

## **Ranking Transparency Guidelines - Article 5(7) of Regulation (EU) 2019/1150 of the European Parliament and of the Council of 20 June 2019 on promoting fairness and transparency for business users of online intermediation services**

[Let's start the survey](#)

### **Meaning of Ranking (Article 2(8))**

Objective: To elaborate on the legal definition of 'ranking' and consider the practical application for providers of online intermediation services and search engines.

Recital 24 states, "*Ranking refers to the relative prominence of the offers of business users or relevance given to search results as presented, organised or communicated by providers of online intermediation services or by providers of online search engines, resulting from the use of algorithmic sequencing, rating or review mechanisms, visual highlights, or other saliency tools, or combinations thereof.*"

QUESTIONS RELATED TO THIS SECTION:

*What elements within this definition would benefit from additional clarity?*

As regards online intermediation services, the guidelines should clarify that relative prominence should be considered against the entirety of the relevant service, rather than against particular features or aspects of that service, given the range of ways that goods and services may be displayed and merchandised on online intermediation services. An interpretation along these lines is supported by the wording in Article 2(8) of the Regulation which makes general reference to relative prominence of "the goods or services offered through online intermediation services;" as well as by the wording in Recital 24 of the Regulation which makes general reference to "the offers of business users" on online intermediation services. A different approach would not only be overly burdensome for online intermediation services, each of which has a different business model; it would also be overly confusing for business users.

As regards online search engines, the guidelines should clarify that Article 5 is concerned only with the ranking of organic search results - and not with search ads or non-search results that are integrated from other services (e.g. maps). An interpretation along these lines is supported by the wording in Article 1(3) of the Regulation which provides that the Regulation "shall not apply to...online advertising tools or online advertising exchanges, which are not provided with the aim of facilitating the initiation of direct transactions and which do not involve a contractual relationship with consumers." It is also supported by the wording in

Article 2(8) of the Regulation which provides that ranking means “the relevance given to search results by online search engines.”

The following elements would also benefit from additional clarity:

- Do the terms “relative prominence” (used for goods or services offered through online intermediation services) and “relevance” (used for search results rendered by online search engines) concern the mere sequence in which different pieces of content appear on the relevant service? Or do they also refer to other aspects - such as, for example, the visual manner in which a piece of content may appear on that service?
- Does the answer to the question immediately above differ as between online intermediation services and online search engines?
- What does the term “visual highlights” under Recital 24 of the Regulation refer to?

Are you aware of any industry standards or best practices that could/should be taken into account?

Google aims to provide users and websites with a good understanding of how its services operate. For example:

- Google provides extensive information on the operation of its online search engine and how content is ranked, including through: a dedicated How Search Works website (available at <https://www.google.com/search/howsearchworks/>); its Webmaster Help Center (available at <https://www.google.com/webmasters/>); and a YouTube channel with thousands of webmaster videos (available at [https://www.youtube.com/channel/UCWf2ZINsCGDS89VBF\\_awnvA](https://www.youtube.com/channel/UCWf2ZINsCGDS89VBF_awnvA)). Google also publishes Search Quality Rater Guidelines which define goals for Search algorithms and are publicly available for anyone to see (available at <https://static.googleusercontent.com/media/guidelines.raterhub.com/en//searchqualityevaluatorguidelines.pdf>). Google offers help from experts, for example through the Webmaster Forum (available at <https://support.google.com/webmasters/community/?hl=de&gpf=%23!forum%2Fwebmaster-de>) and Online Help Chats with Google employees (available at <https://www.google.com/intl/de/webmasters/connect/#attend-events>) in more than 15 languages. Finally, information on bug fixing is available to webmasters at the Search Console (available at [https://search.google.com/search-console/welcome?hl=de&utm\\_source=wm&utm\\_medium=deprecation-pane&utm\\_content=home](https://search.google.com/search-console/welcome?hl=de&utm_source=wm&utm_medium=deprecation-pane&utm_content=home)).
- Google just published the How Google Play Works report (available at [https://play.google.com/store/books/details/Google\\_Play\\_How\\_Google\\_Play\\_Works?id=vC2-DwAAQBAJ](https://play.google.com/store/books/details/Google_Play_How_Google_Play_Works?id=vC2-DwAAQBAJ)) and website (available at

<https://www.android.com/play/how-google-play-works/>). The report provides a behind the scenes look at how the Google Play Store works with millions of developers and billions of users around the world to provide high quality safe experiences daily. Among other things it summarizes the app review and approval processes. The availability of the new information package was broadly announced with a blogpost (available at <https://www.blog.google/how-play-works/>). Furthermore, developer policies are listed on the Play Developer website (available at <https://developer.android.com/docs/quality-guidelines/core-app-quality>), where Google describes the objective technical standards that developers should meet to maintain a quality user experience and that influence ranking. Google also provides developers with guidance (available at <https://developer.android.com/distribute/google-play/>) and support (available at <https://support.google.com/googleplay/android-developer/answer/1295940>) on how to improve discoverability of their apps, including by periodically releasing blogs (such as at <https://android-developers.googleblog.com/2019/06/improved-app-quality-and-discovery-on.html> and <https://android-developers.googleblog.com/2017/02/welcome-to-google-developer-day-at-game.html>) and YouTube videos (such as at <https://www.youtube.com/watch?v=j33M5BqoLul&feature=youtu.be&t=1248>) on this matter.

*Are there any particular concerns arising from voice, visuals, presentation, future trends?*

The terms “relative prominence” and “relevance” may become harder to understand where the online service at issue does not involve a static, but rather a dynamic, presentation of content. For example, a piece of content may be further down when scrolling through a webpage, but still form part of a larger banner; or there may be a moving carousel of images.

The guidelines should take this into account. As it is not apparent that there are concerns arising from voice searches or other future trends, the guidelines should reserve sufficient flexibility to allow for innovative product solutions.

*Would sector-specific guidance be valuable? If so, on what topics (e.g. the use of editors in app stores, the importance of personalisation in social media, the link to offline elements on ecommerce marketplaces)?*

Depending on the online intermediation service at issue, ranking dynamics might be similar to or differ in some ways from those on online search engines. For example, where an online intermediation service offers a search function, there are likely to be similarities with ranking

dynamics on online search engines. Accordingly, the guidelines should be flexible enough to adequately cover both sets of services.

### **Meaning of presentation and accessibility**

Objective: To elaborate on the meaning of 'to set out in terms and conditions' (Article 5(1) - online platforms - and the meaning of 'easily and publicly available description' (Article 5(2) and the obligation for notices to be inspected (Article 5(4) - general search engines).

QUESTIONS RELATED TO THIS SECTION:

#### *What elements in these Articles would benefit from additional clarity?*

The guidelines should clarify that there are various communication methods through which a provider of an online intermediation service or an online search engine may provide easily and publicly available information to business users and website operators.

In this context, the reference to "terms and conditions" under Article 5(1) of the Regulation should be interpreted flexibly and not encompass only the terms and conditions *stricto sensu*. Limiting the virtual location or means through which the provider could clarify the elements indicated under Article 5(1) (or Article 5(2) for that matter) of the Regulation would be unreasonable, unjustified and in contrast with the very objective of the Regulation, which is to provide clarity and enhance transparency in the most effective manner in the relations between business users and online intermediation service and online search engine providers.

In fact, precisely because ranking determinations are a complex matter, it may be useful to use different means and information to provide relevant information. As explained above, for example, Google provides key information on its search engine on a dedicated How Search Works section of its website and its Webmaster Help Center. It supplements this information through a range of additional channels, including its Search Quality Rater Guidelines, a dedicated YouTube channel and a Webmaster Forum. Google also releases information through its Twitter channels and hundreds of research papers.

#### *What practically can be done to ensure that the explanations are written in plain and intelligible language, changes can be identified and previous versions saved for future reference?*

The guidelines should acknowledge that Article 5 of the Regulation concerns elements of a highly technical nature that may not be explained in an overly simplistic manner. In fact,

overly simplistic explanations will not achieve the aim of providing clarity and transparency, but may cause confusion instead.

The guidelines should clarify that the “plain and intelligible” nature of the language used should be determined on the basis of whether the language is written in a manner that is understandable to professional users. A number of national authorities use this threshold, as the diligence of professional users is expected to be higher than that of non-professional users, and professional users are generally accustomed to running their businesses on the Internet.

In order to accommodate the varying levels of knowledge that different professional users may have on highly technical elements, the guidelines may even encourage the adoption of a multilayered approach to communicating information. Under such an approach, information may be communicated gradually through a sequence of webpages connected through links, and ranking from the less technical (for those professional users who are less accustomed to dealing with technical terminology) to the more technically comprehensive (for those professional users wishing to delve more into the technical details).

Inspiration for such a multilayered approach to communicating information to professional users may be drawn from the explanation page for the functioning of Google Search (available at <https://support.google.com/webmasters/answer/70897?hl=en>). Whereas the landing webpage provides a basic but still very comprehensive explanation of the service, users interested to delve into the more technical details may access additional linked webpages (for example at <https://support.google.com/webmasters/answer/7451184> and <https://support.google.com/webmasters/answer/35769>).

*Are you aware of any industry standards or best practices that could/should be taken into account?*

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*Are there any illustrative examples from business-to-consumer relationships, which could be used as inspiration?*

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*Are there any particular concerns arising from voice, visuals, presentation, future trends?*

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Are you aware of any industry standards or best practices that could/should be taken into account for the obligation to make notices available for inspection (Article 5(4) applicable to general search engine only).

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How practically could the obligation to make notices available for inspection (Article 5(4) applicable for general search engines only) work?

Article 5(4) of the Regulation would benefit from additional clarity:

- The guidelines should also clarify what is meant in Article 5(4) of the Regulation by “altering the ranking order.” This wording makes little technical and juridical sense. Third party notifications normally concern the delisting of a given piece of content (e.g. in relation to a specific keyword in right to be forgotten cases).
- Finally, the guidelines should clarify that Article 5(4) of the Regulation does not oblige online search engine providers to proactively identify and liaise with all users that manage websites. Rather, online search engine providers are merely required to provide for the possibility to inspect, if and when the user approaches the online search engine provider asking for this information. Any other interpretation would make little sense, given that many websites do not provide sufficient or easily accessible information on the webmaster. This would make it practically impossible for online search engine providers to identify and liaise with all users who manage websites that may be subject to delisting following a notification.

In terms of practical implementation of the obligation under Article 5(4) of the Regulation to make the notifications received available for inspection, Google’s practices may be referred to as an inspiration:

- Google facilitates the process of making notifications available to users managing websites through the Google Search Console tool (available at <https://search.google.com/search-console/welcome>). Google Search Console is a free service offered by Google that helps those users monitor, maintain and troubleshoot their websites’ presence in Google Search results, including receiving alerts when Google encounters indexing, spam or other issues on the website in question. For example, when Google takes a manual action against a website for breaching the Webmaster Quality Guidelines (available at [https://support.google.com/webmasters/answer/35769#quality\\_guidelines](https://support.google.com/webmasters/answer/35769#quality_guidelines)) because of spam content, it provides a message to the webmaster through the Google Search Console, including the possibility to address the problem raised and request a review.

- A copy of each legal notice that Google receives may be sent to the Lumen project for publication and annotation (available at <https://www.lumendatabase.org/>). Lumen is a joint project among US law schools that seeks to provide resources about free speech online and intellectual property law. It is also a database of requests to remove content from the Internet.

A feasible solution that the guidelines should consider could be for online search engine providers to allow users managing websites to inspect the notifications that lead to the delisting of their websites through a publicly and easily accessible system such as Lumen. Online search engine providers could make available on it a list of websites delisted, the reasons for delisting and also allow users to inspect those notifications related to their websites.

In this regard, the guidelines should however also acknowledge the obligations that the online search engine provider has to ensure that the disclosures of personal data contained in the notifications are compliant with data protection legislation. A few principles that are likely to arise:

- For a notification to be useful to the webmaster, it must disclose the legal or other basis for the intervention taken (e.g. the delisting took place due to the invocation of copyright law). That basis may in some circumstances require the disclosure of information about an individual (e.g. the identity of the copyright owner who complained).
- A useful notification should normally identify the actual content that was delisted, by reference to a unique identifier such as a URL where applicable.
- At the same time, the online search engine provider must be able to ensure that any personal data that is not necessary to understand the basis for the notification and what content was affected (e.g. the contact information of the submitting agent) is not disclosed. In other words, the online search engine provider must be permitted a margin of discretion on what data in the notifications to disclose to ensure that they are not caught between two potentially competing obligations: their obligation to disclose third-party notifications under the Regulation, and their obligation to process personal data in those notifications in accordance with the principles set out under data protection law.

*Would specific sector specific guidance be valuable? If so, on what topics?*

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**Main parameters/ relative importance**

Objective: To elaborate on the meaning of ‘main parameters’ and ‘relative importance’ (Article 5(1) and 5(2) applicable to online platforms and general search engines respectively) and to explain in more detail the balance between giving meaningful transparency and not disclosing algorithms or impairing providers’ ability to act against bad faith manipulation of ranking.

Recital 25 states, *“The indicators used for measuring the quality of goods or services of business users, the use of editors and their ability to influence the ranking of those goods or services, the amplitude of the impact of remuneration on ranking as well as elements that do not or only remotely relate to the good or service itself, such as presentational features of the online offer, could be examples of main parameters.”*

Recital 27 states: *“Providers of online intermediation services or of online search engines should not be required to disclose the detailed functioning of their ranking mechanisms, including algorithms, under this Regulation. Their ability to act against bad faith manipulation of ranking by third parties, including in the interest of consumers, should equally not be impaired. A general description of the main ranking parameters should safeguard those interests, while providing business users and corporate website users with an adequate understanding of the functioning of ranking in the context of their use of specific online intermediation services or online search engines. To ensure that the objective of this Regulation is achieved, consideration of the commercial interests of providers of online intermediation services or online search engines should, therefore, never lead to a refusal to disclose the main parameters determining ranking.”*

QUESTIONS RELATED TO THIS SECTION:

*Meaning of ‘main parameters’, illustrative examples that you can share?*

The obligation to disclose the main parameters determining ranking is explicitly delimited in the Regulation by the obligation to protect intellectual property. In light of this and of the objectives of the Regulation, the disclosure of the main parameters should, generally speaking:

- By definition only concern a subset of the entirety of parameters involved in the ranking.
- Exclude any obligation to provide too much detail on the parameters or the precise interplay between different parameters. Ranking algorithms are subject to constant improvements and can change thousands of times per year. It would therefore be impractical to offer detailed disclosure of ranking operations.

- Exclude any mandatory action that could hamper the service provider's trade secrets or know-how through the publication of commercially-valuable information. It should be emphasised that the details of ranking is a core part of a provider's business. Disclosing these details may allow competitors to copy innovations, free-ride on investments and intellectual property and ultimately undermine providers' incentives to make improvements and further innovate.

As regards online intermediation services in particular, as already mentioned further above, the disclosure of the main parameters determining ranking should be considered against the entirety of the relevant service, rather than against particular features or aspects of that service, given the range of ways that goods and services may be displayed and merchandised on online intermediation services.

As regards online search engines (as well as search functions on some online intermediation services) there are different sets of main parameters for defining search results: user related parameters, query related parameters and website characteristics.

User related parameters are, for example, location and time of the search query, as well as the individual settings chosen by the user on his/her device.

Query related parameters are, for example, wording, syntax and language of the query.

Website related characteristics can be divided into primary and secondary ones:

- Primary website characteristics are features that matter to users and which relate directly to the quality of the website as a search result. Examples include how well the content of a website matches a user's query, the quality of the content, how authoritative a website is for a particular topic, the richness of its functionality, load speed, or whether it is optimised for mobile devices.
- Secondary website characteristics refer to proxy signals that online search service providers use to evaluate how a query should be answered. Proxy signals measure the design characteristics of a website and serve as an indirect means to evaluate the primary characteristics. These indirect, proxy signals are typically not criteria that users directly notice. They provide indicators for the user's experience. Google's PageRank signal is a good example. PageRank is a proxy signal that examines the number and quality of links that a website receives from other websites. A user does not as such notice the number of links that a website receives, nor do they directly prefer many links as such. However, if a website receives a lot of links from other websites, that indicates that the website likely provides useful content for users.

In terms of the obligation to disclose the main parameters determining ranking under Article 5 of the Regulation, the distinction between primary and secondary website characteristics is critical. The guidelines should clarify that the main parameters that an online search engine provider is required to disclose refer to the primary website characteristics that an online

search engine provider considers to be important, as well as elements such as remuneration. Article 5 of the Regulation should not be understood as requiring disclosure of the proxy signals that an online search engine uses to measure these primary characteristics.

Disclosure of proxy signals would have serious adverse consequences for the quality of a search service. It would also be inconsistent with Article 5(6) of the Regulation because it would create serious consumer harm where sites would manipulate rankings regardless of actual quality.

Google learned this the hard way, when it disclosed the use of links as a primary parameter, in discussing its PageRank system (see <http://infolab.stanford.edu/~backrub/google.html>). This led to certain website operators trying to game Google by paying each other for links, rather than genuinely improving their websites. For example, they would buy incoming links or engage in link exchange schemes so that they appear to Google's algorithms to be of greater quality than they really were. In response, Google has had to develop a policy on link schemes (available at [https://support.google.com/webmasters/answer/66356?hl=en&visit\\_id=637110646749370667-2232721618&rd=1](https://support.google.com/webmasters/answer/66356?hl=en&visit_id=637110646749370667-2232721618&rd=1)). Still, Google's internal statistics show that hundreds of thousands of sites engage in this practice every year. The negative experience with revealing the details of PageRank is the reason why, historically, Google has not published similar underlying details for newer search ranking signals.

To meet the objectives of Article 5 and help websites understand what a search service expects from them, it is not necessary to know the proxy signals that search services use to assess websites. What matters is that websites understand what primary design characteristics a search service expects from a website. For example, it is sufficient for a website to understand that a search service considers mobile-friendliness to be a relevant parameter for ranking, along with some basic ideas around what the search service considers to be mobile-friendly. It is not necessary for websites to know the specific proxy signals that the search service presently uses to assess whether the website is mobile friendly. Disclosure of the proxy signals would have the counterproductive effect of website optimizing for those proxy signals, then chasing the ranking algorithm as the search service improves and refines it over time, rather than directly focusing on genuinely improving their mobile-friendliness in a way that makes their site better for mobile users.

It would therefore be useful for the guidelines to distinguish between primary website design characteristics and the proxy signals that a search service uses to measure these primary characteristics, and to make clear that disclosure of proxy signals is not required. This would ensure consistency among Articles 5(2), 5(5) (referring to the "design characteristics of the website") and 5(6) (recognising that online search engine providers are not required to disclose information that would expose them to manipulation of their search results) of the Regulation. It would also ensure consistency with Recital 27 of the Regulation (confirming that

disclosing the detailed functioning of the ranking mechanism could impair the ability of the online search engine to act against manipulation of ranking to the detriment of consumers).

To ensure that the guidelines are as practical as possible, they could identify examples of search manipulation and make clear that the proxy signals targeted by these practices are not the main parameters that have to be disclosed. Google provides examples in its quality guidelines (available at [https://support.google.com/webmasters/topic/6001971?hl=en&ref\\_topic=9456575](https://support.google.com/webmasters/topic/6001971?hl=en&ref_topic=9456575)), such as automatically generated content (see at [https://support.google.com/webmasters/answer/2721306?hl=en&ref\\_topic=6001971](https://support.google.com/webmasters/answer/2721306?hl=en&ref_topic=6001971)), hidden text and links (see at [https://support.google.com/webmasters/answer/66353?hl=en&ref\\_topic=6001971](https://support.google.com/webmasters/answer/66353?hl=en&ref_topic=6001971)), irrelevant keywords (see at [https://support.google.com/webmasters/answer/66358?hl=en&ref\\_topic=6001971](https://support.google.com/webmasters/answer/66358?hl=en&ref_topic=6001971)) and link schemes (discussed further above). Future disputes about whether a feature qualifies as a primary website characteristic or a proxy signal (and therefore whether it is a main parameter) could be addressed and added to the guidelines incrementally.

#### *What would you consider when deciding the 'relative importance' of ranking parameters?*

Disclosing the relative importance of ranking parameters encounters practical difficulties because there is no uniform standard to be applied. Instead, the relationship of the various signals processed by the algorithm is dynamic and depends on the individual search query, for different reasons.

First of all, the content available on the Internet is dynamic. A good example is the term "European Parliament". In general, it can be assumed that websites in which this term occurs, are rather "static" and that the most relevant results of a corresponding search will be websites which explain the role and function of the European Parliament. The situation is different, however, if the European Parliament is involved in an event that has current news value, for example immediately after a European election. In this case, the search term "European Parliament" will appear in a significant amount of content with current news. When a considerable amount of current news content is produced for a certain search term, the search algorithm concludes that it is a search query with news reference and shows the so-called Top Stories Carousel, a prominent display of news results that shows particularly topical results at the top of search results. Static websites about the European Parliament are displayed below, because in this case the algorithm weights the topicality, the "novelty" of the page significantly higher.

Equally dynamic is the relative importance of different signals with regard to different types of search queries. An illustrative example is the different treatment of short vs. long and detailed search queries. To achieve high quality search results, it is important to treat long queries such as "is Pluto a moon or a planet?" differently from short queries such as "Pluto". In the case of a long query, the search algorithm will assign higher importance to the signal

"synonym", i.e. the identification of synonyms for the terms mentioned in the query, than in case of a short query. This is because the long query is much more complex due to its level of detail and is therefore unlikely to match any one website precisely.

Similarly, the category of content that is relevant to a particular search query also has an influence on the assignment of relative importance. For example, a search query such as "Pizza" will focus on local results - pizza restaurants, delivery services, etc. -, whereas this will not be the case for search queries such as "pizza recipe". In this case, too, the algorithm will assign different relevance to the signals and produce different results for the respective, individual user requests.

Given the dynamics of these varying assignments of relative importance and the huge amount of input processed by algorithms such as Google Search (Google processes trillions of searches a year), the relative importance of main parameters can only be described in general terms, as explained in the examples. Any attempt at describing "relative importance" in a static way would not achieve greater transparency, but rather hamper it because business users would be less able to understand the function of the algorithm.

The same also holds true for online intermediation services. Once more, the relationship of the various signals processed by the algorithm is dynamic and depends on the specific situation at hand.

Where the online intermediation service has a search function, an important factor will be how specific the query is. For example, searching for Instagram on an app store will likely mean that the title match is most important; whereas searching for 'photo editor' will likely mean that any apps which allow a user to photo edit may be relevant to the query, so factors such as app quality and popularity may matter more.

Where the online intermediation service offers recommendations for content, an important factor will be what other content the user has previously installed or engaged with. If the user has installed and engaged with a lot of titles, these will likely factor in any future recommendations; whereas if the user has not installed or engaged with any titles or only very few, such as search history, may matter more.

As shown, compiling a list of "relative importance" is difficult. It's also potentially harmful to consumers, because it can cause content owners to fixate on only a few factors and lose track of the overall goal of having quality content overall" or something like that.

*How are these 'main parameters' affected by other factors? (E.g. personalisation, default settings, filtering mechanisms, cross-platform presence, experiments/tests, external factors (e.g. changes required due to legal obligations)). Are these factors equally 'main parameters'?*

To meet the objectives of Article 5 and help websites understand what a search service expects from them, business users need to understand the main principles that govern the operation of the service. However, it is not necessary for businesses to have insight into the detailed technical operation of the service. Transparency about the main ranking parameters can help website owners to build sites that are good for users and show up well in Google Search and other search engines. Google provides such information on its search engine on a dedicated How Search Works (<https://www.google.com/search/howsearchworks/>) section of its website and its Webmaster Help Center (<https://support.google.com/webmasters/?hl=en#topic=9128571>). It supplements this information through a range of additional channels, including its Search Quality Rater Guidelines (<https://static.googleusercontent.com/media/guidelines.raterhub.com/en//searchqualityevaluatorguidelines.pdf>), a dedicated YouTube channel ([https://www.youtube.com/channel/UCWf2ZINsCGDS89VBF\\_awnvA](https://www.youtube.com/channel/UCWf2ZINsCGDS89VBF_awnvA)) and a Webmaster Forum (<https://support.google.com/webmasters/community?hl=en>). Google also releases information through its Twitter channels and hundreds of research papers. These resources provide information on how such factors as relevance, content quality, usability of webpages, context and settings may help determine which results are returned for a user's query, as well as explaining our approach to legal removal requests. These extensive tools and resources help webmasters understand how their content can be discovered in Google Search.

*Personalization:* There is very little personalisation in Search based on users' inferred interests or Search history before their current session. It doesn't take place often and generally doesn't significantly change Search results from one person to another. Most differences that users see between their Search results and those of another user typing the same Search query are better explained by other factors such as a user's location, the language used in the search and the distribution of Search index updates throughout our data centers. For example, if a user in Chicago searches "football", Google will most likely show results about American football and the Chicago Bears first. Whereas if the user searches "football" in London, Google will rank results about soccer and the Premier League higher.

A number of studies have been conducted on the significance (and effects) of personalised search. One of those was a study conducted around the German national elections as a project of NGO "Algorithm Watch" by a renowned informatics professor and funded by a consortium of state media authorities (available at <https://www.mabb.de/uber-die-mabb/aktuelles/neuigkeiten-details/datenspende-abschlussbericht-des-forschungsprojekts-veroeffentlicht.html>). That study came to the conclusion that personalization is minimal, and that the assumption that users find themselves trapped in filter bubbles created by algorithms guessing what information the users want based on their information (location, search history) is overstated. Other studies (such as the 2017 report from the Quello Center of the Michigan State University, available at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2960697##](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2960697##), as well as the 2017 and

2019 studies of the renowned German Hans-Bredow-Institute, available at <https://www.hans-bredow-institut.de/de/publikationen/zur-relevanz-von-online-intermediaeren-fuer-die-meinungsbildung> and <https://chrismon.evangelisch.de/nachrichten/47135/medienwissenschaftler-kein-beleg-fuer-filterblasen-bei-jugendlichen>) demonstrate that Internet users encounter diverse information across multiple media, which challenges their viewpoints.

*Search settings:* Search settings are an important indicator of which results a user is most likely to find useful, such as if the user set a preferred language or opted in to SafeSearch (a tool that helps filter out explicit results).

*Search quality testing:* To measure whether people continue to find our results relevant and reliable, we have a rigorous process that involves extensive testing and thousands of independent people around the world who rate the quality of Search.

Search has changed over the years to meet the evolving needs and expectations of the people who use Google. From innovations like the Knowledge Graph, to updates to our ranking algorithms that ensure we're continuing to highlight relevant content, our goal is always to improve the usefulness of our results. We put all possible changes to Search through rigorous testing and evaluation. If that testing shows a change brings less useful results, we won't launch it. We rely on extensive testing and have a rigorous evaluation process to analyze metrics and decide whether to implement a proposed change. Data from these evaluations and experiments go through a thorough review by experienced engineers and search analysts, as well as other legal and privacy experts, who then determine if the change is approved to launch. In 2018, we ran over 654,680 experiments, with trained external Search Raters and live tests, resulting in more than 3234 improvements to Search.

We work with external Search Quality Raters to measure the quality of search results on an ongoing basis. Raters assess how well a website gives people who click on it what they are looking for, and evaluate the quality of results based on the expertise, authoritativeness and trustworthiness of the content. These ratings do not directly impact ranking, but they do help us benchmark the quality of our results and make sure these meet a high bar all around the world. To ensure a consistent approach, we publish Search Quality Rater Guidelines to give these Raters guidance and examples for appropriate ratings.

In addition to the Search quality tests, we conduct live traffic experiments to see how real people interact with a feature, before launching it to everyone. We enable the feature in question to just a small percentage of people, usually starting at 0.1%. After we collect enough data, we compare the experiment group to a control group that did not have the feature enabled. We look at a very long list of metrics, such as what people click on, how many queries were done, were queries abandoned, how long did it take for people to click on a result, and so on. We use these results to measure whether engagement with the new

feature is positive, to ensure that the changes we make are increasing the relevance and usefulness of our results for everyone.

Finally, every single proposed change to Search goes through a review by our most experienced engineers and data scientists, who carefully review the data from all the different experiments to decide if the change is approved to launch. Of the proposed changes this past year, many never went live, because unless we can show a change actually makes things better for people, we don't launch it.

*Legal requirements:* Sometimes we remove content or features from our Search results for legal reasons. For example, we'll remove content if we receive valid notification under the US Digital Millennium Copyright Act (DMCA), or under data protection law in the EU. We also remove content from local versions of Google consistent with local law, when we're notified that content is an issue. For example, we'll remove content that illegally glorifies the Nazi party from our German service or that unlawfully insults religion from our Indian service. We scrutinize these requests to ensure that they are well-founded, and we frequently refuse to remove when there is no clear basis in law to do so. When possible, we display a notification that results have been removed and report these removals to [lumendatabase.org](http://lumendatabase.org), a project run by the Berkman Center for Internet and Society, which tracks online restrictions on speech. We also disclose certain details about legal removals from our Search results through our Transparency Report.

Given the above whether these factors may constitute main parameters depends on the nature of the factor, the strength of its effect on ranking and the content in which it is used.

*How to balance giving meaningful transparency and not disclosing algorithms (disclosure-v-preventing gaming)?*

Article 5(6) of the Regulation recognises that online intermediation services and online search services are not required to disclose algorithms or any information that would expose them to manipulation of their search results. Recital 27 confirms that disclosing the “*detailed functioning of their ranking mechanisms*” could impair the ability of online intermediation services and online search engines to act against bad faith manipulation of ranking to the detriment of consumers. These two provisions also make clear that the disclosure obligations under Article 5 of the Regulation are without prejudice to the protection of trade secrets pursuant to Directive (EU) 2016/943.

It would be useful if the guidelines:

- Confirmed that both the interest to prevent ranking manipulation and the interest to protect trade secrets are legitimate reasons for online intermediation services and online search services to limit disclosure of information.

- Provided for a standard manner in which the disclosure of the “main parameters” should take place. For example, the Commission could consider compiling (in consultation with industry) a list of possible main parameters, which online intermediation services and online search engines might refer to when disclosing information.

Are you aware of any industry standards or best practices that could/should be taken into account?

As noted further above, for Search Google has developed the comprehensive How Search Works website. Using text, examples and videos, this website explains in detail the mission of Google Search, how Google finds websites and builds its library, what the main parameters of Search are and what, in general, their relative importance is for ranking search results. The quality control system is described in detail, including links to the guidelines for evaluators. “How search works” is easily accessible via Google’s home page. The offering is aimed at users in general and has a separate, public section for webmasters. In addition, Google offers support via its Webmaster Help Center. A large library of YouTube tutorials expands the information on How Search Works. As regards Google Play, Google uses websites to provide developers with information about how to improve the discoverability of their apps. It also periodically provides helpful blogs and presentations to give developers a deeper dive into topics such as improving app discoverability.

Are there any particular concerns arising from voice, visuals, presentation, future trends?

The basic principles outlined above also apply to Google Assistant (a voice-based system for different devices). A key consideration in this regard is that voice assistants and other non-traditional forms of user interface are often much more limited in the amount of information they can present to the user, and the art of presenting this kind of information to users is still evolving. The guidelines should encourage a diversity of approaches rather than an over-prescriptive set of rules that may be more challenging for novel user interfaces to comply with.

At the macro-level, it is important to ensure that the guidelines are general enough to cover not just voice queries, but also future forms of interaction that have not yet been designed.

Would specific sector specific guidance be valuable? If so, on what topics?

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## **Direct & Indirect remuneration**

Objective: To elaborate on the meaning of ‘direct remuneration’ and ‘indirect remuneration’ (Article 5(3)).

Recital 25 states, “Remuneration could, in this respect, refer to payments made with the main or sole aim to improve ranking, as well as indirect remuneration in the form of the acceptance by a business user of additional obligations of any kind which may have this as its practical effect, such as the use of services that are ancillary or of any premium features.”

QUESTIONS RELATED TO THIS SECTION:

What is your understanding of ‘direct remuneration’ and ‘indirect remuneration’? What examples can you share?

Article 5(3) and Recital 25 of the Regulation provide for a differentiation between the notions of “direct” and “indirect” remuneration.

Direct remuneration makes reference to “payments”, and encompasses all “cash payments” made to improve ranking. With regard to Google Search, it is important to note that business users cannot buy a ranking place in the organic search results. Business users can only buy – against cash payment (direct remuneration) – ads that are clearly marked as such and are distinguished from the organic search results. Google doesn't accept payment to crawl a site more frequently, or rank it higher in search results. Similarly, on Google Play, business users can only buy ads that appear throughout the store (related apps section and homepages) and on search result pages, and which are clearly identified to consumers as ads. It is not possible to buy a ranking place in the organic search results.

Indirect remuneration refers to the acceptance by a business user of “additional obligations of any kind” which may have the improvement of ranking as a “practical effect.” This wording suggests that anything which doesn’t constitute “direct remuneration” can be interpreted to constitute “indirect remuneration”. The guidelines should clarify that a causal link is required between obligations assumed by a business user and the improvement of ranking of the product or service of the business user.

Are you aware of any industry standards or best practices that could/should be taken into account?

Ads are always individually and clearly marked on Google products. Google informs business users where ads appear, how they are matched and how they are ordered.

A separation of search results and ads is necessary to ensure that the user can distinguish between the two:

- Ads on Google Search typically appear along the edge of the page (like the top, side, or bottom). Google matches ads to a user's search based on how closely the search matches the advertiser's keywords and campaign settings. The ads are ordered based on a combination of cost-per-click (CPC) bid and relevance. Google also provides further specific and transparent information about ad position and ad rank to its users.
- Search results usually appear in the middle of the page. Google matches webpages to a person's search using information like text on it and links to it. Results are ordered on the page based on factors like relevance to the search term and popularity. In addition to links to webpages, a user may also see relevant results on a map that lists local business locations, contact information and driving directions. All search results aim at providing the best information to respond to the request of the user. Business users cannot influence the ranking in search results against direct or indirect remuneration.

While a search query might inform which ads should be displayed alongside the search results as relevant for the user, Google's search results are strictly independent of Google's advertising programs.

Are there any particular concerns arising from voice, visuals, presentation, future trends?

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Would specific sector specific guidance be valuable? If so, on what topics?

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### **Adequate understanding**

Objective: To elaborate on what would give businesses the required 'adequate understanding' of the ranking mechanism (Article 5(5)).

Recital 24 states that *"This reasoned description should help business users to improve the presentation of their goods and services, or some inherent characteristics of those goods or services."*

Article 5(5) states: *"The descriptions referred to in paragraphs 1, 2 and 3 shall be sufficient to enable the business users or corporate website users to obtain an adequate understanding*

*of whether, and if so how and to what extent, the ranking mechanism takes account of the following:*

*(a) the characteristics of the goods and services offered to consumers through the online intermediation services or the online search engine;*

*(b) the relevance of those characteristics for those consumers;*

*(c) as regards online search engines, the design characteristics of the website used by corporate website users.”*

QUESTIONS RELATED TO THIS SECTION:

*What type of explanation/main parameters would enable businesses to have an ‘adequate understanding’?*

Article 5 of the Regulation requires online intermediation service and online search engine providers to provide businesses that operate websites (“business users or corporate websites”) with information of how they rank their products or websites. Recitals 24 and 26 of the Regulation indicate that the purpose of Article 5 is to help businesses understand what an online intermediation service or online search engine expects from their products to rank and what they need to do to meet these expectations. On that basis, businesses may improve their products and websites to rank better.

Consistent with this purpose, Article 5(5) of the Regulation states that online intermediation services and online search engines should provide businesses with an “adequate understanding” of the product and website design characteristics that they consider in their ranking. Recital 26 of the Regulation provides as an example whether a website is optimised for mobile devices. If a business knows that an online search engine takes into account mobile-friendliness, then the business can improve its website for mobile devices to meet the online search engine’s expectations.

To understand what online intermediary services and online search engines expect from business users and what business users need to do to meet these expectations, it is not necessary for businesses to have insight into the detailed technical operation of the service. Rather, it is sufficient for businesses to understand the general principles that govern the operation of the service, including whether remuneration influences ranking and what main characteristics of their products an online intermediation service or an online search engine consider to be important.

As outlined above, a solution that might amount to a smart compromise between the complexity of the matter and the need to guarantee clarity and transparency is for the guidelines to:

- Clarify that the “plain and intelligible” nature of the language used should be determined on the basis of whether the language is written in a manner that is understandable to professional users. A number of national authorities use this threshold, as the diligence of professional users is expected to be higher than that of non-professional users, and professional users are generally accustomed to running their business on the Internet.
- Encourage the adoption of a multilayered approach to communicating information, in order to accommodate the varying levels of knowledge that different professional users may have on technical elements. Under such an approach, information may be communicated gradually through a sequence of webpages connected through links, and ranking from the less technical (for those professional users who are less accustomed to dealing with technical terminology) to the more technically comprehensive (for those professional users wishing to delve more into the technical details).

*Are you aware of any industry standards or best practices that could/should be taken into account?*

Please refer to our response further above, as regards the ways in which Google provides users and websites with a good understanding of how Google Search and Google Play operate.

*Are you aware of any tools (public or private) that can help businesses monitor variations and changes in parameters that affect ranking or self-verify, such as technical tools or experiments currently being used or developed? Are there any industry initiatives or best practices?*

As noted further above, Google Search Console is a free service offered by Google that allows webmasters monitor, maintain and troubleshoot their websites’ presence in Google Search results, including receiving alerts when Google encounters indexing, spam or other issues on the website in question. Some prominent Search Console features which help webmasters do better in Google’s search results include:

- Understanding how Google Search sees webpages through its URL inspection tool which provides detailed crawl, index, and serving information about the webpages, directly from the Google index.

- Helping webmasters get their content on Google and review their index coverage by submitting sitemaps and individual URLs for crawling. This is to make sure that Google has the freshest view of the websites.
- Optimising and enhancing websites to improve their visibility on Google, e.g. through loading speed tests (see at [https://developers.google.com/speed/docs/insights/v5/about?hl=EN-EN&utm\\_source=PSI&utm\\_medium=incoming-link&utm\\_campaign=PSI](https://developers.google.com/speed/docs/insights/v5/about?hl=EN-EN&utm_source=PSI&utm_medium=incoming-link&utm_campaign=PSI)), testing mobile friendliness (see at <https://support.google.com/webmasters/answer/6352293>), etc.
- Optimising content with Search Analytics. Google helps webmasters discover which queries bring users to their websites and analyse the websites' impressions, clicks, and position on Google Search.
- Alerting webmasters about issues on their websites. When Google identifies such issues, it notifies them via email. Through the console webmasters may see which URLs are affected by these issues and be able to tell Google when they are fixed.
- Allowing webmasters to test any structured data they include on their website through the Structured Data Testing Tool (available at <https://developers.google.com/search/docs/guides/prototype>). Such structured data enables Google to better understand the content of their webpages, which can help their site display richer features in search results and rank better.

The free website that Google provides webmasters to help them troubleshoot common problems helps answer questions such as:

- Why did my site traffic drop (see at [https://support.google.com/webmasters/answer/9079473?hl=en&ref\\_topic=9163961](https://support.google.com/webmasters/answer/9079473?hl=en&ref_topic=9163961))? The troubleshooting site provides the top reasons for traffic drops and helps websites diagnose the problem and find a fix.
- Why is my page missing from Google Search (see at [https://support.google.com/webmasters/answer/7474347?hl=en&ref\\_topic=9163961](https://support.google.com/webmasters/answer/7474347?hl=en&ref_topic=9163961))? The troubleshooting site helps webmasters troubleshoot and fix the most common problems when their page is missing from Google Search results.
- Why is my site blocked from Google Search (see at [https://support.google.com/webmasters/answer/6347750?hl=en&ref\\_topic=9163961](https://support.google.com/webmasters/answer/6347750?hl=en&ref_topic=9163961))? The troubleshooting site helps webmasters to understand why their site may have been blocked from Google Search (for example, because it shows dangerous or spammy material) and to fix that problem.
- Why does my search result look wrong (see at [https://support.google.com/webmasters/answer/9079920?hl=en&ref\\_topic=9163961](https://support.google.com/webmasters/answer/9079920?hl=en&ref_topic=9163961))? Google allows websites to show special features like snippets or sitelinks in search

results. The troubleshooting site helps webmasters if the appearance or text of their Google search results look different than they expect.

Another tool which allows to better understand Google Search ranking is a dedicated free site called Web Fundamentals (available at <https://developers.google.com/web/fundamentals/>), which sets out detailed advice for webmasters on how to build a site valued by users that is likely to rank well in Google's results. The Web Fundamentals site provides detailed information, resources, videos, code labs, and samples to help websites create a web experience that is (a) fast, (b) integrated, (c) reliable, and (d) engaging. These are factors that will allow a website to rank well in Google's results.

Google Play Console (available at <https://support.google.com/googleplay/android-developer/answer/139628?co=GENIE.Platform%3DDesktop&hl=en>) is a web service which enables app developers to publish their apps, manage their representation on Google Play and associated properties, and access statistics and metrics to understand their performance on the platform. Specifically, these metrics enable developers to explore and optimize:

- Acquisition performance (see at <https://support.google.com/googleplay/android-developer/answer/6263332?hl=en>): How users find apps (if they come from links, advertising, tracked links, or discovery via Google Play), what search terms they use, and if they retained or purchased an item in-app.
- Store listing experiments (see at <https://support.google.com/googleplay/android-developer/answer/6227309?hl=en>): These are developer-initiated experiments served on Google Play that enable optimisation of developers' store presence to help them drive more successful conversions.
- Overall statistics (see at <https://support.google.com/googleplay/android-developer/answer/139628?co=GENIE.Platform%3DDesktop&hl=en>): These are key metrics for apps, including the number of people or devices which an app is installed on; acquisitions; churn and uninstalls; acquisitions via Android Instant or Pre-registration on Google Play; install size; and top-line revenue and quality metrics.
- Revenue and subscription performance (see at <https://support.google.com/googleplay/android-developer/answer/7391949?hl=en>): This is the amount of revenue generated from in-app items, subscriptions, and user-behaviour that influence this (eg. subscription initiations and cancellations).
- App quality and user ratings & reviews (see at <https://support.google.com/googleplay/android-developer/answer/7385505?hl=en> and <https://support.google.com/googleplay/android-developer/answer/138230?hl=en>): This is the quality of the user-experience as measured automatically via device-side

feedback including crashes, battery usage and rendering performance; and via direct user-feedback methods in Google Play Store (submitting a rating or a review).

Google Play also makes available the Playbook app for developers (available at [https://docs.google.com/document/d/1ScBgP\\_wY0ECRGwIDQ0m0ENbZpY1Lma9GnaEnHD3wGO4/edit](https://docs.google.com/document/d/1ScBgP_wY0ECRGwIDQ0m0ENbZpY1Lma9GnaEnHD3wGO4/edit)), a reading resource to help them understand the best practices needed to grow a successful business on Google Play.

*Are there any particular concerns arising from voice, visuals, presentation, future trends?*

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*Would specific sector specific guidance be valuable? If so, on what topics?*

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### **Interplay with complementary and other EU legislation**

Objective: To identify and discuss the relationship between the proposed guidelines and existing EU legislation, co-regulatory initiatives and industry-led initiatives.

Examples include the complementarity and interplay between the proposed guidelines and the Consumer Protection Framework (UCPD), Consumer Rights Directive (CRD) and the E-commerce Directive (ECD). In addition, voluntary measures taken to fight illegal content online.

QUESTIONS RELATED TO THIS SECTION:

*Are you aware of any existing sectoral rules that could affect how Article 5 works in practice? For example, Directive 82/2001 on the distance marketing of pharmaceutical products, Regulation 80/2009 on computerised reservation systems.*

The following laws partially overlap with Article 5 of the Regulation and may affect how it works in practice:

- Directive (EU) 2016/943 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure. As provided under Article 5(6) and Recital 27 of the Regulation, this Directive forbids any disclosure of know-how and trade secrets under Article 5 of the Regulation. As such, it limits both the information that might be subject to a disclosure obligation and the manner in which that information may be disclosed.

- The Directive on the better enforcement and modernisation of EU consumer protection rules (so-called “Omnibus Directive”), which has been adopted and will be published on 18 December 2019. This Directive introduces comparable transparency requirements for traders (excluding online search engines) with regard to the main parameters determining ranking, but towards consumers instead of business users. While Article 5 of the Regulation focuses on the terms and conditions of defined online intermediation services, similar guidelines might also bring legal clarity as regards the scope of the Omnibus Directive’s transparency requirements which broadly apply to searches “for products offered by different traders or by consumers on the basis of a query in the form of a keyword, phrase or other input, irrespective of where transactions are ultimately concluded.”
- Regulation (EU) 2016/679 on the protection of personal data. Online search engine providers must be permitted a margin of discretion on what data in the notifications to disclose to ensure that they are not caught between two potentially competing obligations: their obligation to disclose third-party notifications under Article 5(4) of the Regulation, and their obligation to process personal data in those notifications in accordance with the principles set out under data protection law.

*Are there any specific concerns about how the proposed guidelines will interplay with existing EU legislation, co-regulatory initiatives and industry-led initiatives?*

There is a specific concern with regard to a draft law in Germany, called the “States’ Media Treaty” (“MStV”) which is planned to be voted on in German states’ parliaments in the beginning of 2020. This draft (current version dates 5 December 2019) aims at implementing Directive (EU) 2018/1808 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities. At the same time, however, the draft MStV creates new obligations for “intermediaries” and “media platforms”.

Under the draft MStV, intermediaries such as search engines and video-sharing-platforms shall bear specific transparency obligations, including being transparent about the basic principles for sorting, arranging and presenting content (§ 93 MStV).

In addition, whereas Article 7 of the Regulation obliges providers of online intermediation services and search engines to provide information about any differentiated treatment, the draft MStV declares inadmissible any differentiated treatment without legitimate reasons (§ 94 MStV), subject to supervisory measures by the responsible media authority.

The coexistence of these rules gives rise to legal uncertainty with regard to a double regulation on the same issues.

Are you working on any solutions that provide a simple and consistent approach that could serve as a best practice?

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Are there any particular concerns arising from voice, visuals, presentation, future trends?

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Would specific sector specific guidance be valuable? If so, on what topics?

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### **Relationship between ranking and other obligations**

Objective: To explore your suggestions and ideas on the relationship between ranking and other obligations in the Regulation (e.g. differentiated treatment) and the Regulation's co-regulatory obligations (e.g. specialised mediators and codes of conduct).

In particular:

- The relationship between ranking and other obligations in the Regulation such as the relationship with differentiated treatment (Article 7(3)(b))

QUESTIONS RELATED TO THIS SECTION:

What is your understanding of how Article 5 relates to Article 7(3)(b)?

To our understanding, Article 7 of the Regulation provides for additional disclosure obligations that complement those under Article 5 of the Regulation. But unlike Article 5, Article 7 does not provide for additional guidance. It would be useful for the guidelines to make clear that the principles of Article 5 of the Regulation, including the protection of the provider's interests against manipulation of results and disclosure of know-how or trade secrets, also apply to Article 7 of the Regulation.

What type of explanations are necessary to enable businesses to have an 'adequate understanding'?

Please refer to our comments further above. It is not necessary for businesses to have insight into the detailed technical operation of the service in order to get an “adequate understanding.” Rather, it is sufficient for businesses to understand the general principles that govern the operation of the service. For example, it would therefore be useful for the guidelines to distinguish between primary website design characteristics and the proxy signals that an online search engine uses to measure these primary characteristics and to make clear that disclosure of proxy signals is not required.

As outlined above, a solution that might amount to a smart compromise between the complexity of the matter and the need to guarantee clarity and transparency is for the guidelines to:

- Clarify that the “plain and intelligible” nature of the language used should be determined on the basis of whether the language is written in a manner that is understandable to professional users. A number of national authorities use this threshold, as: (1) the diligence of professional users is expected to be higher than that of non-professional users; and (2) professional users are accustomed to running their business on the Internet.
- Encourage the adoption of a multilayered approach to communicating information, in order to accommodate the varying levels of knowledge that different professional users may have on technical elements. Under such an approach, information may be communicated gradually through a sequence of webpages connected through links, and ranking from the less technical (for those professional users who are less accustomed to dealing with technical terminology) to the more technically comprehensive (for those professional users wishing to delve more into the technical details).

In addition, the guidelines should clarify that differentiated treatment might be owed to unlawful conduct by business users (e.g. in case a business user commits an unfair commercial practice against consumers and is consequently downgraded in the ranking). In such cases, it might not be in the general interest to fully disclose the reason behind the differentiated treatment. Doing so might provide information on the way in which the provider discovered the fraud (e.g. by identifying a fake review), thus enabling the fraudulent business user to circumvent the anti-fraud systems put in place.

*Are you working on any solutions that provide a simple and consistent approach, which could serve as a best practice?*

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- The encouragement for industry to set up organisations that provide specialist mediators to facilitate out of court settlement of disputes (Article 13) and the creation of Codes of Conduct (Article 17).

Are you aware of any industry standards or best practices that could/should be taken into account?

In 2005, the German Association for Voluntary Self-Regulation of Digital Media Service Providers (FSM) developed a code of conduct for online search engine providers (available at [https://www.fsm.de/en/voluntary-commitments#A4\\_2](https://www.fsm.de/en/voluntary-commitments#A4_2)), which includes commitments by the providers to ensure a transparent structuring and display of search results.

What could the Commission do to encourage industry (e.g. stakeholder events, workshops)?

The Commission could clarify its expectations with regard to Codes of Conduct. It would also be helpful to understand if online intermediation services or online search engines which participate in code of conduct systems would benefit from doing so and, if yes, in what ways.

In addition, it would be helpful if the Commission monitored relevant regulatory developments in the Member States, in particular with regard to transparency requirements for intermediaries (e.g. the transparency provisions under the MStV mentioned further above). Transparency requirements imposed by the Member States should not diverge from requirements imposed at EU level. Otherwise, providers of online intermediation services or online search engines would find it difficult to comply with the various requirements and users might end up with less, rather than more, transparency about the services. The Commission should keep this in mind in the course of notification procedures for national laws at EU level.