



**News/Media Alliance Comments Regarding the Competition And Markets Authority’s
Consultation On Proposed Google Conduct Requirements
Publisher, Fair Ranking, and User Choice CRs**

The News/Media Alliance (“N/MA”) welcomes the opportunity to provide these comments to the Competition and Markets Authority (“CMA”) regarding the proposed conduct requirements following the CMA’s designation of Google as having Strategic Market Status (SMS) in general search and search advertising services (published on January 28, 2026). These comments focus mainly on the proposed Publisher and Fair Ranking conduct requirements.

N/MA is a nonprofit organization headquartered in Washington, D.C., United States, representing the newspaper, magazine, and digital media industries. N/MA represents over 2,200 diverse publishers in the United States and internationally, ranging from the largest news and magazine publishers to hyperlocal newspapers, and from digital-only outlets to papers who have printed news for centuries. While many of N/MA’s members are based in the United States, we also represent publishers based in and with significant operations, and UK readership amounts to a significant market for a large number of N/MA’s member publications.

High-quality, trustworthy newspapers, magazines, and digital media play an important role in the communities they serve by fostering an informed public and the public trust necessary for democracy. Publishers invest considerable time and resources to produce journalism and original creative content that combats misinformation, encourages democratic engagement, strengthens community ties, and supports the free flow of ideas and information.

Google, meanwhile, controls approximately 90 percent of the global search market,¹ serving as the *de facto* search engine for billions of people. Inclusion in Google’s search results and products is vital for the survival of practically any business, especially website publishers. For decades, Google and publishers have operated under the fundamental understanding that being included in search results should help both parties – publishers benefit from visibility that drives monetizable traffic while Google has access to a comprehensive catalogue of web content to deliver more accurate results. To appear in search results in response to relevant

¹ Seb Murray, *Why Google Dominates the Search Engine Market*, KNOWLEDGE AT WHARTON (Mar. 17, 2025), <https://knowledge.wharton.upenn.edu/article/why-google-dominates-the-search-engine-market/>.

queries, publishers generally allow Google to crawl their sites and include them in an index that powers the search engine.

History shows, however, that Google has consistently abused its dominant market position, forcing publishers and others to accept its terms and conditions, ranking criteria, and policy changes without providing website owners with effective controls or complaint methods, and using publisher content indiscriminately in products, features, and use purposes that go well beyond those imagined by publishers in the first place. All the while, publishers have no option but to accept these practices or risk their visibility in search. Through this investigation, the CMA is uniquely well-positioned to level the playing field by setting standards that address Google's most egregious business practices. The conduct requirements may have significant ripple effects on publishers and Google across jurisdictions for years to come, and it is vital that the CMA gets them right in a way that provides meaningful and actionable protections to publishers across the digital ecosystem.

The proposed conduct requirements and the consultation come at a critical juncture with the rise of artificial intelligence (AI) models and services as well as increased concerns over Google's anticompetitive conduct in markets around the world. The massive proliferation of AI models, applications, and developers in the last three years presents potential benefits and substantial risks to publishers, users, and society alike. While AI can have a positive impact in many areas and industry sectors, unregulated AI development can also lead to a broad range of societal harms, including the erosion of the creative industries through unauthorized use of rightsholder content by AI developers. The demand for online publisher content is fierce. For example, a recent study by TollBit estimated that the ratio of AI to human visitors to websites increased from 1 to 200 in the first quarter of 2025 to 1 in 31 by the end of the year. This uptick in crawling activity is not delivering value to publishers and does not return traffic to publishers sites. At the same time, websites without direct AI licensing deals saw their click-through rates from AI applications drop by nearly threefold, from 0.8 percent in the second quarter of 2025 to 0.27 percent at the end of the year (a similar trend was noticeable even for publishers with AI licensing deals).²

N/MA commends the CMA for this important investigation and strongly supports the intent behind the proposed conduct requirements. While the proposed requirements get many things right, material gaps remain that threaten the sustainability of high-quality journalism. The CMA must provide publishers with meaningful and effective control and transparency over the use of their content for AI purposes given that such uses are driving down the value of content, and require Google to allow publishers to effectively challenge unjustified ranking and moderation decisions that can have a significant negative effect on publisher business models. As a general matter, we are concerned the requirements contain unwitting loopholes that threaten their effectiveness and that the CMA accepts too readily Google's assertions about the feasibility of alternative solutions that amount to no more than Google's own design choices, not material technical limitations. History shows the risk in relying too much on Google developing its own

² TollBit, State of the Bots 2025 Q3 & Q4: The Leaky Pipes (2026), <https://tollbit.com/state-of-the-bots/q3-q4-2025/>.

practices and self-monitoring its own conduct, rather than setting clear prescriptive obligations, backed by independent, third-party processes to ensure compliance.

To that end, N/MA proposes several ways to strengthen the conduct requirements so as to achieve the CMA's stated goals, ensure meaningful benefits to publishers, and to avoid Google circumventing or undermining the requirements. The proposed changes include:

- Requiring Google to use separate scrapers, or functional equivalent, one for each use purpose, providing more certainty to publishers;
- Ensuring that any behavioral remedies can be effectively monitored, implemented and enforced in a way that provides publishers to regain a degree of the economic certainty and control that Google has usurped through its dominant position, including by:
 - Standardizing controls across features, products, and services;
 - Ensuring any controls are sufficiently granular, providing publishers with page- and feature-level controls for search, training, grounding, and fine-tuning;
 - Prohibiting unauthorized downstream uses, including sub-licensing, reselling, and making available of publisher content;
 - Providing separate controls for all future technologies, products, features, and services;
 - Establishing an oversight board with publisher participation to work with Google to develop and evolve publisher controls;
 - Pushing back on Google's assertions regarding fine-tuning and providing publishers with meaningful control over it;
 - Closing loopholes that would allow Google to circumvent publisher controls and acquire content from elsewhere;
 - Ensuring that Google cannot delay or defer its obligations through shifting the focus to group standard setting processes;
 - Bringing forward the implementation timeline to require Google to provide new controls within three months;
- Adding an effects-based test to avoid Google circumventing Publisher conduct requirement 3(b)(1) not to "intentionally" rank lower publishers who exercise their opt-out rights;
- Providing more descriptive requirements on fair ranking transparency and complaint handling processes in order to ensure that reputable publishers are not downranked in search through Google's blunt application of its content quality policies; and
- Allowing users to opt-out of AI experiences and switch back to traditional search if wanted.

These changes are important for publishers and the digital ecosystem as a whole. Today, the digital marketplace is characterized by distinct imbalances, where publishers are forced to accept Google's terms, products, uses, and conditions to remain visible in search, while Google uses publisher content in ever-evolving ways, including for undisclosed future products and features, further entrenching its dominant market position. Google's assertions as outlined in the consultation documents stem at least partly from Google's refusal to incur costs that its

competitors already bear or to make changes to its traditional, established operational practices that are only logical and proportionate in light of its monopoly status – including related to the operation of separate crawlers and indexes for search and AI features. Routine costs of doing business in the AI industry should not be considered disproportionate or overly burdensome in the CMA’s assessment of whether to impose specific conduct requirements. Google’s SMS designation is a nod to its scale and power, which to a large extent also means that changes that Google implements will likely entail a cost. The proportionality requirement should not be interpreted in a manner that enables Google to avoid effectively implementing Conduct Requirements in the most optimal manner, simply because its size and power means that changing the way it operates will not be cost-neutral.

The CMA should balance the asserted onerousness of meaningful changes against their effectiveness at increasing competition in the digital marketplace – after all, the Digital Markets, Competition and Consumers Act 2024 is aimed at improving competition and protecting consumers, not avoiding all inconvenience to Google. We urge the CMA to ensure that no dominant company is allowed to both set the rules and controls, and to establish conditions for effective oversight. Allowing Google to be both the judge and the executioner risks further warping the digital marketplace and creating permanent dependencies.

I. Publisher CR

The fundamental imbalances and issues in publishers’ relations with Google stem from the special place Google Search occupies in the digital ecosystem. Due to its market share and importance to publishers’ visibility, publishers cannot block Googlebot, which does the crawling not only for Search but for other Google Search AI features, such as AI Overviews and AI Mode, as well. Blocking Googlebot would remove publishers from search results and, therefore, to stay visible in search, publishers must accept Google’s terms and allow all its requested uses, even those undisclosed or yet to be developed. Publishers lack transparency on the purpose Googlebot scrapes their websites for on any given instance, but make no mistake, such scraping is rampant. According to Cloudflare, Googlebot accesses individual pages “almost two times more than ClaudeBot and GPTBot, three times more than Meta-ExternalAgent, and more than three times more than Bingbot” as well as “167 times more unique pages than PerplexityBot.”³ Meanwhile, the current ostensible levers of control offered to publishers are woefully inadequate, even according to Google. Google’s NOINDEX and NOSNIPPET tags are equally unrealistic options for many publishers, with NOINDEX having the same effect as blocking Googlebot, and NOSNIPPET removing short extracts from Google search results, severely affecting referral traffic. As noted by Google’s President of Global Affairs, displaying only the title, URL, and thumbnails, NOSNIPPET would lead to a 45 percent reduction in clickthrough traffic, making this an unacceptable option for publishers.⁴

³ Maria Palmieri & Sebastian Hufnagel, *Google’s AI Advantage: Why Crawler Separation Is the Only Path to a Fair Internet*, THE CLOUDFLARE BLOG (Jan. 30, 2025), <https://blog.cloudflare.com/uk-google-ai-crawler-policy/>.

⁴ Kent Walker, *Now Is the Time to Fix the EU Copyright Directive*, THE KEYWORD BLOG (Feb. 7, 2019), <https://blog.google/around-the-globe/google-europe/now-time-fix-eu-copyright-directive/>.

Google's abuse of its market position to force publishers to provide their content for free for purposes unrelated to information location services significantly affects publishers' business models, including advertising, subscriptions, and licensing activities. It also hinders competition among AI developers, most of whom have dedicated crawlers for different use purposes instead of using a single crawler for various, undisclosed purposes.⁵ Ultimately, it is consumers who suffer from Google's dominant abuse of its positions vis a vis publishers as well as other AI developers.

To mitigate Google's damaging business practices, it is vital for the CMA to set strong and meaningful conduct requirements on Google regarding publisher control, transparency, and attribution when it comes to Google's unauthorized use of publisher content for its AI features and services.

a. Control

N/MA appreciates the proposed conduct requirements' goal of providing publishers with controls that enable them to withhold the use of their content for Google's generative AI services and features without affecting their position or display in search. Effective controls are imperative to level the digital playing field and protect publishers' ability to monetize their content and continue investments in high quality journalism and content production.

i. Crawler Separation

The most effective means of proportionally achieving its stated goals would be for CMA should require splitting up Googlebot, that is, by requiring Google to separate crawling for search indexing from collecting content for its generative AI search products. These crawlers should be combined with granular feature- and purpose-level controls that map directly to the use of the data, including search, base model training, and post-training uses such as Retrieval Augmented Generation (RAG).

Publisher Benefits

The current proposal offers clear goals but vague requirements to reach them, risking the outcome being a distinction without difference compared to current practices. Publishers would still have to allow Googlebot to scrape their site, while relying on Google's internal processes to silo the data collected based on publisher preferences and respect publisher choices. Such a solution would provide publishers with minimal transparency over internal or downstream uses, and would impose disproportionate enforcement costs on publishers who are not as well positioned as Google to identify how Google is using their content. Should Google be allowed to

⁵ It is worth noting, however, that while many AI developers do not use a single crawler for many different use purposes, some do not respect publisher rights reservations and scrape publisher content for AI uses without authorization in violation of copyright law, and still more do not identify each of their crawlers with sufficient transparency or accuracy.

continue to use just one crawler, publishers would continue to be severely hampered in trying to determine the reasons behind Google’s scraping, whereas separate crawlers would increase transparency over such activities.⁶

While trust issues remain even with a separated crawler framework, the use of multiple crawlers would enable publishers to monitor Google’s scraping for different use purposes in real-time, allowing them to take more timely action in case of undesired or unforeseen effects or bot behavior. Combined with a strict data siloing requirement, preventing Google from combining datasets collected by each of the crawlers would provide publishers with more certainty as to Google’s compliance.

Crawler separation would also bring multiple compliance efficiencies, allowing publishers to monitor and control compliance in almost real time and on an ongoing basis using third parties that they already contract with for bot management purposes. Publishers would see immediately if Google is complying with publisher limitations, rather than relying on periodic audits and information received from Google. The internet operates in real time, and monitoring plays an important role in license agreement compliance, while also enabling publishers to swiftly identify and react to shifts in content fetched for specific purposes. Without crawler separation, publishers would also be less able to apply time-based controls, deciding access conditions based on time sensitivity, including whether the content is recently published material still within the “news window period” or evergreen content. Publishers must be able to make real-time choices in order to protect high-value early-life traffic while still allowing long-term visibility.

The market for publisher content in the generative AI space is evolving quickly. The CMA’s approach requires the notion of “control” to be considered at a moment in time, which prevents the evolution of market-based notions of control which evolve in ways that address what publishers need and what Google values. These are not static factors. A crawler-separation obligation would mean that Google’s unfair advantage (towards publishers and its competitors) is mitigated, and would allow terms for use to be set on a more equitable and flexible basis, where Google cannot bully publishers with its scale.

Feasibility and Burdens

In addition to being more efficient, splitting up Google crawler is feasible both technologically and financially. First, the consultation assumes that separation would require duplication of crawling for traditional search functions and generative AI features. We believe, however, that there are technical ways of structuring an effective crawler separation, which would not require an unreasonable duplication of crawling activities.

Certainly, any suggestions by Google that it would need to entirely duplicate its crawling infrastructure or apparatus down to the data center hugely overstate any added complexity,

⁶ This is especially important given a recent report finding that up to up to 30 percent of scrapers fail to respect robots.txt permissions. TollBit, State of the Bots 2025 Q3 & Q4: The Leaky Pipes (2026), <https://tollbit.com/state-of-the-bots/q3-q4-2025/>.

demonstrated by the popularity of separate crawlers by Google's competitors as well as Google itself for different uses. To suggest one approach, without technically multiplying its crawlers, or an unacceptable increase in server loads, Google could feasibly achieve the same result by simply explicitly identifying the reason they are crawling for, such as potentially by using distinct user agent headers. This solution would have the same effect for publishers, enabling them to immediately identify what they are allowing or blocking, instead of relying on Google's internal controls. Subject to safeguards to ensure Google does not misrepresent its crawling purposes, Google could continue to rely on Googlebot, indicating to publishers clearly the purpose for which Googlebot is crawling, and allowing publishers to block it from collecting for specific use cases easily as needed. Similarly, if Google would allow publishers to make their crawler choices through Google Search Console or another similar graphic interface, instead of machine crawlable solutions like robots.txt, Google would assumedly develop a database of which uses each publisher allows, minimizing the need for Google to attempt to crawl each website separately for different use purposes.

Second, the burden on publishers and their server bandwidth resulting from crawler separation would be minimal. With the number of AI bots having expanded exponentially in recent years, the addition of a limited number of additional bots by Google would be unlikely to increase publisher server loads significantly. In fact, the ability to block Google's bots for unwanted products and use purposes may decrease the server load as Google's bots would be allowed to scrape the website less frequently. Further, Google already operates over 20 crawlers and fetchers for different use purposes,⁷ suggesting there is little technical limitation to Google's operation of separate crawlers. Publishers also have access to various existing services and technical solutions to manage responsible bot traffic based on easy-to-manage publisher preferences, including bot paywall services like TollBit and CDN-assisted bot management systems offered by Cloudflare, Akamai, and Fastly, to mention a few. These solutions are both efficient and scalable, and their popularity has increased substantially in recent years in response to the rise of agentic internet traffic.⁸

⁸ See, e.g., Fortune Business Insights, Bot Security Market Overview (Feb. 9, 2026), <https://www.fortunebusinessinsights.com/bot-security-market-107185> ("Cloud-native bot security platforms are increasingly preferred due to scalability and ease of deployment. Integration with content delivery networks and edge computing environments improves response times and reduces attack surface exposure. Zero-trust security frameworks further influence bot security architecture design. Customer experience protection has become a key priority. Enterprises seek bot mitigation solutions that block malicious traffic without impacting legitimate users. Real-time adaptive challenges and invisible bot detection are gaining popularity."); Adam Clark, *Cloudflare Stock Surges After Earnings Beat. Why It's Set to Win From a 'Dead Internet'*, BARRON'S (Feb. 11, 2026), <https://www.barrons.com/articles/cloudflare-earnings-stock-price-b7c0bea8> ("Cloudflare shares were up 14% at \$205.89 in premarket trading after its earnings topped expectations and it gave an annual revenue outlook ahead of Wall Street forecasts. The company's cloud-based networking and cybersecurity services are in high demand as AI drives an increasing amount of internet traffic."); Reinhardt Krause, *Fastly Stock Surges 75% On Earnings Beat. Rival Akamai Advances*, INVESTOR'S BUSINESS DAILY (Feb. 12, 2026), <https://www.investors.com/news/technology/fastly-stock-soars-fsly-fastly-earnings-q42025/> ("Fastly delivered a stellar quarter driven by rising contribution from agentic AI traffic, which we believe is still in its infancy. At the same time, customers signed larger deals with Fastly reflecting broader commitments across network delivery, security, and compute.").

Lastly, as for costs to Google, even accepting Google's estimated £150m annual cost to split the crawler, this expense is immaterial when compared against Google's 2025 revenue of over \$400 billion and should be considered a standard cost of doing business as both a search engine and a provider of AI products and services.⁹ The effectiveness benefits to publishers clearly outweigh such potential monetary costs to Google. The claims of high opportunity costs also fail to account for the lost revenue publishers face due to substitutional AI products by dominant developers like Google, who already act as gatekeepers to publisher content.

By contrast, the proposed approach – while a significant improvement over the *status quo* – would require publishers to assume the majority of the costs, including time and resource burdens. Rather than blocking Google crawlers through established content delivery networks and other third-party vendors, publishers would be required to navigate potentially exceedingly technical and obtuse controls and keep up to date on Google's changes to its controls, products, and use cases, while being largely reliant on Google for transparency regarding the use of their content. History shows that the likelihood of this turning out fair to publishers is very slim. At a minimum, we strongly urge the CMA to keep structural remedies as an option for rapid adoption in case of non-compliance or suspected breaches.

When considering the submissions received in response to this consultation, we urge the CMA to err on the side of publishers who have severely limited transparency when it comes to key metrics and Google's internal processes and technical solutions needed to properly evaluate Google's uses of publisher content. This is required to offset existing and historic market imbalances and information asymmetries resulting from Google's strategic market status, and to achieve the stated goals of the proposed conduct requirements.

ii. Improvements to Make Proposed Conduct Requirements More Effective and Meaningful

N/MA supports changes to the control conduct requirements to make them more effective and meaningful for publishers. In particular, we believe the CMA could strengthen the proposals by addressing issues related to future-proofing, compliance and circumvention prevention, granularity, fine-tuning, technical measures, and timing.

First, any conduct requirements should require standardized controls so that publishers are not required to manage different technical signals or standards for every feature, product, or service Google already has or may develop in the future. The exercise of any opt-out controls should be both easy to use and locate, in addition to being well promoted, based on the same principles as the GDPR cookie banner that provides users with clear and informed choices, while being opt-out by default. Ideally, Google should be required to provide and publicize a simple interface, for example in Google Search Console, allowing publishers to make simple choices such as using toggles or other easy-to-understand controls. Without such controls, if only a

⁹ Emma Roth, *Google's Annual Revenue Tops \$400 Billion for the First Time*, THE VERGE (Feb. 4, 2026), <https://www.theverge.com/news/874161/google-400-billion-revenue-q4-2025-earnings>.

small number of large publishers exercise the control while smaller publishers remain opted in, all publishers will still lack meaningful bargaining leverage, as Google can continue relying on smaller publishers that often rewrite or replicate publishers' original journalism. To strengthen publishers' collective bargaining position, it is important that as many publishers as possible exercise fair choice. In addition to general search, search AI features, and broader AI services, the controls should also cover any other organic search feature offered by Google, such as Top Stories, Shopping, Discover, and others. This approach is superior to allowing Google to require publishers to use specific technical standards, like robots.txt, that many smaller publishers may be unfamiliar with or have limited technical expertise to adjust. In other words, using robots.txt should not be a prerequisite for benefiting from the new controls – Google should allow for the option of exercising them regardless of whether robots.txt is deployed or not.

Second, for the proposed controls to be effective in reaching the CMA's stated goals and meaningful for publishers, they need to be sufficiently granular to allow publishers to fully control the use and display of their works. N/MA supports providing publishers with page- and feature-level controls for both Google's Search AI features and broader AI services alike. The controls should include specific and separate choices for different use cases – including training, fine-tuning, grounding, and search – in addition to all current and future Google AI technologies and features. Even while publishers may not generally prefer to prevent certain uses or technologies, they should be offered the option to do so, instead of allowing Google to be the arbiter of which controls are valuable and necessary for publishers.

The availability of granular and page- and feature-level controls is particularly important as many publications may not sublicense rights for all of the content they publish. Publishers may be liable for contractual violations if they authorize the AI-related use and reproduction of articles, photographs, or illustrations by third-parties or freelancers licensed for online publication only. A lack of granular controls could therefore create liability for publishers, or incentivize over-blocking, ultimately decreasing the journalistic content available to Google and the public alike. Given the long tradition of Google providing page-level controls in other use contexts, the CMA should assume that such granular controls would also be technically feasible to Google.

The granularity requirements should also extend to Google-Extended, allowing publishers to control both grounding and training for Gemini separately. This is particularly important as Gemini-powered chatbots are increasingly integrated in and benefiting from Google Search. Page-level Google-Extended controls would also allow publishers to protect time-sensitive content, while allowing access to evergreen material.

As part of ensuring sufficient granularity, Google should not be allowed to provide a catchall bucket for "other uses," that allows Google to use content harvested for any uses outside of other, narrowly defined purposes. Publishers are especially concerned that an "other uses" bucket might cover fine-tuning, as discussed below. Allowing ambiguities risks publishers inadvertently allowing the use of their content for future, unintended uses that are highly substitutional or otherwise harm publisher business models. Publishers must have the ability to

opt-out of each use separately. Traditional general search should always remain its own category, with no other use cases, including fine-tuning underlying AI models, allowed under that control option.

Third, for similar reasons, the CMA should require Google to provide publishers controls to limit downstream uses of their content, including Google’s potential sub-licensing, reselling, or otherwise making available said content to third-parties, for example by selling access to the Google search index through its Search and Grounding APIs. Allowing these practices can enable AI developers to access publisher content through a backdoor. Such practices have the potential to both entrench Google’s dominant position in the digital marketplace by reinforcing Google’s position as the gatekeeper of access to online content while lining its own pockets, as well as impact publisher revenues. While the presumption should be that the use of scraped content for such uses is not allowed, we call on the CMA at a minimum to allow publishers to be excluded from such downstream uses, either from being included in the shared index in the first place or, at a minimum, by requiring Google to communicate any usage limitations to their downstream clients.

Fourth, while we agree that controls should evolve with technology, effective publisher choice requires there to be separate controls for each new product and technology, instead of bundling them under one control for AI features. These controls must be designed and adapted for the specific use purpose, and cannot be tied to each other, forcing publishers again to make involuntary Faustian bargains. Bringing new technologies under the same controls or allowing Google to determine which products or technologies the controls will apply may increase the complaints or investigation requests exponentially as publishers probe Google’s determinations and the sufficiency of the controls. To be clear, we are not suggesting that controls be separated for each incremental iteration of a given generative AI search product – but rather that where material differences exist, such as the case with AI Overviews and AI Mode, publishers should be able to determine for which they wish to permit their content to be used. The importance of this is evidenced by the evolution of Google’s existing AI features. While AI Overviews currently constitutes the majority of usage compared to AI Mode, Google is more aggressively implementing features which “push” users into AI Mode, where presumably they are less likely to navigate back to the original sources.¹⁰

Fifth, the control conduct requirements must be supported by strong engagement, oversight, monitoring, and compliance mechanisms. These mechanisms should meaningfully involve publisher voices and representatives, and advise on the controls offered to publishers as well as monitor compliance. The current proposal does not envisage any role for publishers in the design of the initial controls or their future iterations in response to technological changes – or a clear process for publishers to communicate concerns with how the obligations are being implemented in line with the CMA’s goals. This is especially concerning given the limited transparency available to publishers now, and the CMA should set up a future-proof way to ensure continued feedback as the requirements are implemented.

¹⁰ Sarah Perez, *Google Tests Merging AI Overviews with AI Mode*, TECHCRUNCH (Dec. 2, 2025), <https://techcrunch.com/2025/12/02/google-tests-merging-ai-overviews-with-ai-mode/>.

With regards to Google's design of the initial and future controls, including ensuring adequate granularity, we urge the CMA to require the establishment of an oversight committee, composed of representative stakeholders, including for example publisher trade associations and qualified technical experts, who can serve as independent monitors and make sure publisher controls respond adequately and effectively to new technologies. It is necessary and appropriate for the CMA to provide news publishers a seat at the table to ensure that Google's controls are effective and meaningful, and that Google refrains from adopting ambiguous, inadequate, or self-serving controls. It is well-documented that Google has abused its dominant market position over the years to force news publishers into giving away their content for Google's profit, including through AMP, Discover, Google News app, and Google Assistant.¹¹ Google's use of news content has necessitated various regulatory interventions across the world, ranging from the European Union's Directive on Copyright in the Single Market to the Australian News Media Bargaining Code and multiple Congressional antitrust hearings in the United States. It is vital, then, that news publishers have an effective mechanism to help the CMA ensure Google's controls are adequate and meaningful. A committee-based approach would also enable the pressure testing of Google's own self-incentives to demonstrate compliance by drawing from publishers' expertise, among others. Alternative processes, such as inspecting after-the fact periodic compliance reports or petitioning the CMA to investigate concerns would likely be resource-heavy, time-consuming, and insufficiently nimble to react to feature changes, significantly reducing their effectiveness when it comes to addressing Google's actions and impact on publishers.

As for compliance monitoring, while we support the CMA's aims, the proposed mechanisms are ineffective in protecting publisher interests and preventing Google's abuse of its strategic market status. While the term "skilled person" in relation to the baseline compliance audit is defined elsewhere, it would benefit from further clarification in this context, considering the considerable leeway the statute provides with regards to their appointment. In particular, to ensure comprehensiveness and technical expertise, the CMA should make it clear that the auditor will not be appointed by Google, in addition to which, the "skilled person" should consist of a group of independent experts with relevant technical and industry expertise to properly evaluate Google's adherence to the conduct requirements as a whole. In addition to reporting back to the CMA, the audit should also be made available to publishers and the public alike. In addition to the initial baseline audit, the six-monthly compliance reporting should be led by independent experts, not by Google itself. It is vital that there exists an autonomous compliance monitoring mechanism throughout the designation cycle, not just in the beginning with the baseline compliance audit. In both cases, the experts should be appointed by the CMA and not left to Google, although Google should be required to bear the costs of all compliance reports. The reporting should include information on "zero-click searches" and investigate in detail whether Google has engaged in any sort of internal data merging post-collection.

¹¹ See, e.g., News/Media Alliance, *How Google Abuses Its Position as a Market Dominant Platform to Strong-Arm News Publishers and Hurt Journalism* (Sep. 2022), https://www.newsmediaalliance.org/wp-content/uploads/2022/09/NMA-White-Paper_REVISED-Sept-2022.pdf.

Sixth, the consultation document fails to adequately provide remedies for Google’s use of publisher content for fine-tuning purposes. The document confirms that “the models underlying AI Overviews derive from the Gemini foundation model family” and that Google-Extended “does not enable [publishers] to opt-out of Search Content being used to fine-tune the AI models within Search.”¹² The proposal also notes Google’s assertions that “there is no realistic prospect of harm to publishers in respect of training/fine-tuning of AI models for search and search generative AI features” as fine-tuning “helps the model learn how to process information rather than what current information to display,” in addition to keeping the model up-to-date and reducing hallucinations.¹³ Google argues that allowing publishers to prevent fine-tuning would be “counterproductive” as fine-tuned models support query understanding and ranking, and opted-out content may be downranked or mis-ranked in organic search results.¹⁴ According to Google:

Scoping a control to cover the fine-tuning of “generative” models but not “ranking” models presents a false dichotomy that would be impractical and restrict Google’s ability to innovate, as models are not static and can evolve beyond their initial purpose. If Google were to try to maintain the hard distinction between generative and ranking models, it would likely need to develop and maintain duplicative models to achieve the same quality improvements.¹⁵

These arguments discount any publisher benefits derived from such controls, exemplify the need for an ability to opt out of such uses, and are based solely on Google’s desire to preserve its dominant market position.

Publishers should be provided with the right to opt out of fine-tuning in all instances. The benefit of doing so would be to ensure that Google does not reap the value of publishers’ content for bolstering a service that is the single biggest threat to the sustainability of high-quality journalism. Google’s arguments regarding the importance of fine-tuning for the quality of Google’s products, services, and features highlights the value publisher content adds to Google’s services. Google admits that fine-tuning is used for “text generation” and not just ranking. Given this value proposition, there should be a fair exchange of value. Google should not be allowed to take publisher content simply because it is convenient and it has traditionally done so. The tying of Google’s search and AI features and models is an unfair business decision – as is the resultant down-ranking and mis-ranking of opted out publisher content – that Google can and should be required to change. In essence, Google’s comments concede that it is able to minimize negative effects on publishers by separating fine-tuning of generative and ranking models, but is refusing to do so due to cost considerations related to maximizing value extraction from publisher content.

¹² Competition and Markets Authority, Consultation: Publisher Conduct Requirement, fn. 37 at 24 (2026).

¹³ Competition and Markets Authority, Consultation: Publisher Conduct Requirement at 25 (2026).

¹⁴ *Id.*

¹⁵ *Id.*

For publishers, the effects can be significant – especially on the burgeoning markets for licensing real-time AI uses of publisher content. Combining “fine-tuning” with “training” devalues content used for RAG. If Google’s models are continuously and regularly fine-tuned using publisher content, this may undermine the use cases for real-time access for grounding, reducing publishers’ ability to license their content for RAG purposes and undermining any grounding controls provided to publishers. In addition, by making the information stored in the models fulsome and up-to-date (again, through deliberate copying of journalistic content), fine-tuned outputs are more likely to negatively affect clickthrough rates to publisher properties, while keeping readers within Google’s walled garden. As a result, publishers must be given the ability to opt out of generative AI fine-tuning without negatively impacting their rankings in organic search results. Excluding fine tuning from the scope of the CMA’s conduct requirements gives Google enormous latitude to shrink the footprint of control it offers for both training via Google-Extended and RAG via the future controls it plans to develop. Google essentially gets a free-ride to continuously retrain and refine its models on valuable publisher content, while offering the window dressing of control for training. Tying fine-tuning and ranking would also have potentially considerable negative effects on competing providers of generative AI services as Google would be allowed to leverage its dominance in Search to solidify its position in the AI race. It could also severely undermine the proposed attribution conduct requirements by incentivizing Google to avoid explicitly using publisher content in an effort to avoid mandatory attribution, instead generating generic outputs supported by fine-tuning.

Seventh, while we appreciate CMA’s intent to prevent Google from circumventing publisher controls by acquiring the content elsewhere – especially with many AI developers paying third-party scrapers to access publisher content¹⁶ – N/MA strongly requests that the CMA close the loophole that would allow Google to circumvent publisher controls by acquiring opted-out data from other sources such as third-party datasets, regardless of their legal status. Unless the CMA issues a contrary directive, Google may acquire and use, for example, Common Crawl’s dataset in ways contrary to specific publisher directives provided to Google that would severely water down publisher controls and make their choice significantly less impactful or measurable. Opting out of AI training, by using Google-Extended, does not matter much if Google can just turn around and get the content elsewhere. It would also enable Google to venue shop for training and grounding purposes, going to territories with the laxest protections. We call on the CMA to remove this accommodation and eliminate this loophole. Regardless of where Google acquires the content from, Google should be required to clearly respect and signify canonical links and sourcing information when displaying content to users.

The CMA has also traditionally chosen to remain on the sidelines of the copyright debate when it comes to text and data mining, but by endorsing access to open source datasets, it effectively

¹⁶ TollBit, State of the Bots 2025 Q3 & Q4: The Leaky Pipes (2026), <https://tollbit.com/state-of-the-bots/q3-q4-2025/> (“AI developers and many large companies building or using AI apps are paying third-party web scrapers for access to the internet instead of paying publishers directly for their content. ... We’ve documented nearly 40 of these web scraping actors and built a tool for publishers and website owners to test whether their sites are being scraped. Many of these scrapers list Fortune 1000 customers & AI companies, and explicitly advertise cybersecurity evasion and human-mimicking tooling on their sites.”)

takes a copyright-related position that Google should be given the benefit of access based on a flawed notion that open-source datasets mean that rights for usage have been cleared. This is not the case. Under UK copyright law, all rights are held by the copyright holder, except for those that it elects to license, and it is important to N/MA and its member publishers that the CMA act in accordance with this foundational premise. Closing the loophole would allow the CMA to remain removed from the copyright debate. In particular, we would suggest the following edit to the proposed CR:

Paragraph 3.c. of the conduct requirement requires Google not to actively attempt to circumvent a publisher's choice. The CMA expects Google not to, for example, pay a third party to crawl the website of a publisher that has opted out of its Search Content being used by Google through these controls. **The CMA also expects, in relation to a particular publisher's content and without affecting a publisher's remaining rights under UK copyright law, Google to not use any third-party dataset, regardless of its commercial or open-source nature, origin, or legal status, for any purposes for which that publisher has exercised its opt-out rights with Google.** ~~However, the CMA considers that it would be reasonable for Google to acquire such content through open source datasets, where these datasets have obtained content legally, given the nature of such sources.~~

Eighth, with regards to the proposed conduct requirements' consistency with existing and expected laws and standards, the CMA should exercise caution when it comes to any references to the Internet Engineering Task Force's (IETF) AI Preferences (AIPREF) Working Group. N/MA is monitoring the AIPREF Working Group, which is an ongoing process with limited progress and a small number of publisher voices competing with other loud voices – and no clear or foreseeable end date. Google should not delay its implementation of any controls by hitching its obligations to the development of standards like those being discussed in the IETF. The conduct requirements should, therefore, make no reference to AIPREF or other standard setting processes.

Ninth, as for the implementation timeline, N/MA supports a shorter window – potentially even three rather than six months – taking into account the urgency of the need, and the impact Google's actions, including the unauthorized collection and use of publisher content for AI purposes, have on publishers big and small. Google's failure to provide similar controls earlier is inexcusable, and the CMA should ensure the conduct requirements enter into force as soon as possible to minimize market harm to publishers. We also support calls for the CMA to consider payment-for-content requirements in parallel, instead of waiting for 12 months to observe the impact of the proposed conduct requirements.

Tenth, the conduct requirement in paragraph 3(b)(i) prohibiting Google from maintaining or introducing ranking signals whose "purpose" is to downrank opted-out Search Content is not sufficient. "Purpose" or "intention" are vague concepts that are impossible to monitor from the outside or via compliance reports, allowing Google to use opaque algorithm changes to justify changes in search ranking (fraud prevention, site quality etc.). After each Google algorithm

update, myriads of SEO experts attempt to best-guess the changes made by Google and their effects on ranking. As noted by the CMA several times, publisher insecurity about how controls affect their ranking in general search results prevents effective exercise of such controls. Limiting the requirement on Google to not “intentionally” affect search ranking risks undermining publishers’ ability to make meaningful choices because of the insecurity regarding the effects of such choices. The requirement should therefore be broadened to categorically prohibit Google from affecting how a publisher’s Search Content appears in organic search results if they opt out of that content being used in generative AI services. Google’s compliance with this requirement should be tested by Google providing data to the CMA and the public on changes in ranking position of publishers exercising and not exercising their rights. If negative ranking effects occur, there should be a presumption that Google is violating this requirement unless Google provides evidence that the ranking effects are unrelated to the publisher exercising its choice control.

Overall, with regards to the conduct requirements concerning publisher control, N/MA urges the CMA to reject Google’s delineation of its products and use cases – tying content discovery and use together, making them an inseparable whole. This unilateral and artificial conflation is a policy and design choice on Google’s side, not a neutral fact that the CMA should accept or base any remedies on. The basic principle should be that general search is always treated separately from other use cases, and that publishers should have the opportunity to control the use of their content for these additional products and uses one-by-one. We believe that the most efficient and effective means of doing so, that adequately address Google’s strategic market status in search, meaningful structural changes should be paired with strong remedies for non-compliance, based on the principles discussed above.

b. Transparency

The publisher controls envisioned by the proposed conduct requirements are only effective if paired with meaningful transparency requirements – these requirements must be in place to increase trust that will empower publishers to exercise their controls in the first place. Today, Google effectively and purposefully blinds publishers, preventing them from being able to accurately and adequately ascertain the impact of Google’s AI services and features on publisher traffic and engagement. Traffic originating from these features and services is bundled with other data, making it impossible for publishers to make informed decisions on blocking, licensing, and content optimization. To make things worse, Google is seemingly misrepresenting its practices by stating that its search generative AI features do not have negative traffic repercussions,¹⁷ while having evidence from internal experiments that show the opposite.¹⁸

¹⁷ Liz Reid, *AI in Search Is Driving More Queries and Higher Quality Clicks*, THE KEYWORD BLOG (Aug. 6, 2025), <https://blog.google/products-and-platforms/products/search/ai-search-driving-more-queries-higher-quality-clicks/>.

¹⁸ Competition and Markets Authority, Consultation: Publisher Conduct Requirement at 8 (2026).

The basic principles when it comes to the transparency conduct requirements should require Google to separately provide the same type and scope of information for its generative AI features and services as it does for Google Search in the Search Console. This information should be product agnostic, close to real-time, feature- and page-level, and include information about Google Discover, considering that it is already experimenting in the UK with providing summaries of publisher content. Parity of transparency across generative AI services is particularly essential as Google increasingly provides AI answer machines to Google's users, often becoming the first point of contact for many users and heavily using publisher content. Obtaining such information would enable publishers to better understand and adjust to traffic gains and losses in marketing, SEO, and content monetization. For certain brands, meanwhile, growing subscription revenue is a vital means of weathering the impact of drop in referral traffic, making sufficient transparency that enables them to identify and respond to high-impact search and Google Discover traffic, which can support subscription growth, vital. For similar reasons, transparency is also needed with regard to Google's broader generative AI services, not just search AI features, in case search and AI services are to merge further in the future, something seemingly envisioned by Google.

The proposed transparency conduct requirements create a strong foundation for improvements in this area. However, N/MA urges the CMA to make the requirements more prescriptive by explicitly adopting the below requirements so as to minimize Google's ability to design and operate the requirements to their benefit. We also have concerns over the concept of "click quality" that has the potential to enable Google's circumvention of effective transparency measures. Click quality when it comes to traffic from AI features is suspect as it only provides an incomplete picture, reflecting only those users who want to access publisher content once they have already been provided with a summary of it, and are therefore likely to be of the type to stay on publisher websites longer than the average user in the first place. Further publishers value all human traffic, not just "quality" visits as defined by Google or other third-parties, and all traffic should be subject to the same transparency measures. In general, publishers should be provided with all the relevant data to enable them to evaluate "click quality" themselves, using criteria most relevant to the specific property. Google should be required to provide all traffic data in a manner easily understandable to publishers so as to make it as accessible as possible to all publishers, regardless of their resources or technical know-how.

N/MA strongly supports feature-level reporting parity in the Search Console, similar to the section-by-section rankings that have historically enabled publishers to make informed business decisions. Element- and feature-level information would help publishers to better make decisions on the types of content to publish or not to publish, when, and to which audience, in addition to helping detect misattributions and track accuracy.

In particular, we support the inclusion of:

- Aggregate metrics such as total clicks, total impressions, and average clickthrough rates coming from Generative AI features, and metrics allowing publishers to compare

clickthrough rates between traditional organic search result links and AI features such as AI Overviews;

- Metrics related to output-adjacent advertising;
- Information about the types of prompts used by users in queries that resulted in publisher content;
- Data on the recipient of the query in question, whether human or an AI agent;
- Separate referral sources for AI Mode, AI Overviews and any other Generative AI features;
- Individual and aggregate metrics for citations and mentions for generative AI tools (e.g. number of unique citations by URL; total number of citations for domain; total number of mentions with or without citations for domain) and pixel depth (valuable for organic search to understand how far down a citation is from the top of the page, which permits gauging if features are pushing traditional search results further down the page);
- Information on where and how other publishers are showing up, in order to help understand adjacency and share of voice;
- Insights into what consumers are searching for via Google’s generative AI features and services, similar to the data received on traditional search via Trends;
- Length of visit, including instances when a user clicks and bounces back to SERP (“short click versus long click”);
- Downstream site interactions, including where the user clicks before and after clicking on the publisher link; and
- Information on whether the query had an AI Overviews, or similar feature, response during the reporting period and, if so, for how long and how often.

c. Attribution

With regards to the attribution of publisher content used in AI features and services, N/MA believes that attributions should be prominent enough to identify publisher brands and to avoid consumer confusion about the source of the output. To effectuate this, the CMA should require Google to employ non-aggregated attribution, with the attribution provided in a granular fashion rather than simply as a list of sources provided in bulk. For any sentence or clause in AI responses that materially relies on a publisher’s content, the text span should include a direct, visible hyperlink to that publisher’s page. There is also a strong need for linking to a publisher website whenever they are quoted or mentioned by name. These linking requirements should persist across follow-up prompts, expansions, or format changes (e.g., voice to text). Meanwhile, if a review site is the primary source for a product recommendation in an AI Overview or summary in any generative AI experience, the link to the product should maintain the publisher’s attribution and/or the publisher’s affiliate link. We also support calls for strengthening the obligations by requiring “prominent” instead of “sufficient” attribution to ensure publisher brands, referral traffic, and reader trust are protected to the extend possible.

Publishers should also be provided with sufficient data on citation rates and attribution rates relative to grounding scores in order to enable them to determine whether Google’s attribution policies and practices are effective. We support features similar to the “Highly Cited” label in

traditional search to credit original reporting. Any original reporting should be given favorable positioning and features to encourage click-throughs and credit the publisher appropriately. N/MA supports requiring Google to allow publishers to report inaccurate or misleading AI-generated statements that cite their reporting. Publishers should have the option to disable these summaries from appearing in AI search in real time to prevent the spread of misinformation during a rapidly unfolding news event.

Furthermore, the CMA should consider extending the attribution requirement to Google's broader generative AI services (including Gemini AI assistant). We note that the CMA hopes that competition from other providers will incentivize Google to attribute content effectively in its broader generative AI services.¹⁹ We fear that this hope will be in vain. Google is set to win the AI race also in broader AI services by using the same abusive tactics Google has used to conquer new markets in the past. The recent agreement between Google and Apple regarding Apple using Gemini models to fuel its AI assistants or the recent agreement between Google and Samsung regarding Gemini becoming the default AI service on Samsung mobile devices clearly show that Google uses the same leveraging and tying behaviors it has always used to gain market dominance in new markets.²⁰ Competition from other AI providers will therefore not act as a meaningful constraint on Google's behavior.

II. Fair Ranking CR

The proposed Fair Ranking conduct requirements form a strong foundation for balancing the digital marketplace, although room for improvement remains. It is reassuring that the scope of the fair ranking requirements includes not only organic search results but also organic search results as used within Google's generative AI features, and organic search results relative to features containing organic search results, generative AI features, and other search features. N/MA supports the requirement that Google is prohibited from considering a publisher's advertising or business ties, or lack thereof, with Google, or whether a publisher has opted out of AI uses or exercised any contractual or statutory rights against Google, in ranking decisions.

As a general matter, in order to make the fair ranking principles effective and sustainable in the longer term, there is a strong need for safeguards to ensure that Google cannot and does not prioritize its AI search features over traditional organic search results in the design and placement of their search services. The Publisher and Fair Ranking conduct requirements are closely linked, and without such a prohibition, as Google develops new products or features – or changes how it displays non-AI results – search results from publishers who have opted out of AI uses will be pushed so far down the page so as to render their opt-out detrimental and therefore unfeasible. We understand that these issues may be considered under potential Category 2 conduct requirements but we urge the CMA to take them up now and expand the

¹⁹ Competition and Markets Authority, Consultation: Publisher Conduct Requirement, fn. 69 at 35 (2026).

²⁰ See Joint statement from Google and Apple, The Keyword Blog (Jan. 12, 2026), <https://blog.google/company-news/inside-google/company-announcements/joint-statement-google-apple/>; Wes Davis, *Google Is Paying Samsung an "Enormous Sum" to Preinstall Gemini*, THE VERGE (Apr. 26, 2025), <https://www.theverge.com/news/652746/google-samsung-gemini-default-placement-antitrust-trial>.

scope of the Category 1 fair ranking conduct requirements to cover page placement of AI features relative to traditional search results, rather than waiting until a later date to address the issue when the markets will already be destroyed by Google using its typical playbook of self-preferencing its own services at the top of the search engine results page.

In addition to concerns over the effect on publisher choice and ranking, the conduct requirements should also include stronger and more prescriptive protections against Google's application of its content quality policies on reputable publishers. In particular, N/MA recently witnessed significant harms from Google's application of its site reputation abuse and scaled content policies that seriously undermine publishers' ability to monetize their content on their own websites that compete with Google. Introduced in March 2024, these policies have resulted in de-ranking, and in some instances full delisting, of publisher properties, or parts thereof, including websites providing coupons and other promotional material, as well as editorial sports betting, lottery, and gaming content – content that provides valuable resources to millions of consumer and tools to local businesses. While the proposed conduct requirements are designed to provide publishers affected by the site reputation abuse policy with stronger transparency and complaint mechanisms – and they create a good baseline for doing so – they lack meaningful actionable measures that would prohibit Google from engaging in such discriminatory conduct without consequences.

Adopted ostensibly to reduce “spam” from the search results pages, Google implemented both policies by fiat, without notice or meaningful opportunity to cure. Affected N/MA members have had significant and long-standing sections of their web properties or, in some cases, their entire websites de-ranked, in at least one case effectively eliminating Google referral traffic and resulting in 75 percent drop in total reader traffic overnight. Google's decision to block access to these publisher properties was not an accident; Google instead acknowledged that at least in the beginning, the selection of the affected sections was manual and not algorithmic.²¹ At the same time as it de-ranked competitors' properties, Google's AI Overviews began showing promo codes in response to some queries.

In November 2024 (conveniently coinciding with the American “Black Friday” shopping period, a significant driver of advertising revenue), the site reputation abuse policy was further amended to impact properties that incorporate third-party or affiliate content, even when such content is overseen and controlled, written, or edited by dedicated staff – sometimes hired specifically to comply with Google's original policy and its exemption for sites with editorial oversight or involvement. In one case, a publisher hired more than 30 reporters to ensure its published content complied with Google's Site Reputation Abuse policy. Despite best attempts to abide by Google's policies, the publisher still received manual actions for three of their sites, one of which had a reference to a partnership that was subsequently removed. Once de-ranked, even in error, it can take Google weeks or months to remove manual actions applied against a site and return the website to its proper position in search results.

²¹ See, e.g., Matt G. Southern, *Google Confirms: No Algorithmic Actions for Site Reputation Abuse Yet*, SEARCH ENGINE JOURNAL (May 23, 2024), <https://www.searchenginejournal.com/google-confirms-no-algorithmic-actions-for-site-reputation-abuse-yet/517337/>.

Efforts by publishers to find out more about the manual actions or to resolve issues with Google are hampered by Google's intransigence, failure to provide adequate transparency, or to resolve issues in good faith and expeditiously. In the blog post announcing the policy change, Google noted that "[w]hen evaluating for policy violations, we take into account many different considerations (and we don't simply take a site's claims about how the content was produced at face value) to determine if third-party content is being used in an abusive way."²² But in doing so, Google abuses its dominant market position to make itself an arbiter of acceptable content and to degrade, demonetize, and de-rank sites and content by competitors based on opaque criteria.

N/MA supports the underlying purpose of the Site Reputation Abuse and Scaled Content Abuse policies in reducing the amount of spam and low-quality websites appearing in search and diluting the market for quality content. However, these policies must be applied consistently and transparently. Google should give deference to a publisher's certification and description of its editorial processes, and content that is subject to first-party editorial curation and has a history of providing users with valuable content should not be downranked simply because Google decides that such content is of lower quality or it cannot independently verify its editorial processes. Consequently, there should be a requirement for Google to work individually with publishers who have received manual notices and are applying for reconsideration to identify why the policy was applied in any given circumstances, whether it was appropriate, and how to remedy any potential issues. There must be meaningful transparency regarding Google's decisions to apply its policies in individual cases. This is particularly important for many publishers who, even with advance notice, have no reason to believe that the noticed change would affect their content or web properties. As one N/MA member noted, even if they had received 180 days' notice of the Scaled Content Abuse policy, they would not have had any reason to believe that Google would have applied it to their website – it was only after they had been issued a manual notice and their traffic had plummeted that they became concerned and needed to resolve it quickly.

While we agree with the CMA that "Google's existing processes do not effectively allow publishers to raise and resolve concerns about the way in which Google's ranking systems and policies apply to their content," stronger complaint process conduct requirements are required to remedy this harm. In particular, the requirements should establish prescriptive complaint handling requirements that provide publishers with clear, meaningful, and timely recourse in case their website is downranked or de-listed due to Google's manual actions. It is arguable to what extent the complaint mechanisms envisioned by the conduct requirement would apply to sites affected by manual actions or whether they would be limited to the alternative dispute resolution mechanism. This could be clarified and any complaint handling mechanisms made to apply to all instances of Google's unfair or unjustified application of ranking criteria or content policies. Currently, Google processes reconsideration requests in a black box – a situation which leaves publishers guessing regarding the reasons for the initial manual action, the

²² Google, *Updating Our Site Reputation Abuse Policy*, GOOGLE SEARCH CENTRAL BLOG (Nov. 19, 2024), <https://developers.google.com/search/blog/2024/11/site-reputation-abuse>.

reconsideration process, and the timing of the decision. The design and operation of the complaints process should not be left completely up to Google, even with reporting obligations envisioned by the conduct requirements, as such self-policing is exactly what created the current issue in the first place.

The conduct requirements do not give us confidence that the complaint handling process or the alternative dispute resolution mechanism for manual actions would provide publishers with any more transparency over the process or the reasons behind a manual action, require Google to accept publisher evidence instead of supplanting it with its own uninformed determinations, or obligate Google to resolve disputes quickly within a timeframe that meets publisher business demands. While Google has no incentives to resolve complaints or reconsideration requests quickly, a process that takes weeks or months can be devastating for publishers. Similarly, with regards to the alternative dispute settlement mechanism, simply requiring Google to extend the measures it offers under Article 6(12) of the EU's Digital Markets Act (DMA) is too high-level and permissive, especially considering how untested the regime under the DMA remains, allowing Google again to design its own processes, without incentivizing Google to make processes actually responsive to UK publisher and marketplace demands. Relatedly, to minimize negative effects on publishers and other UK markets, including irreversible traffic loss, the CMA should also consider requiring Google to pause the application of its content quality policies to a publisher website affected by a manual action while an appeal is pending.

III. User Choice CR

While N/MA does not have a position on many of the issues discussed in the User Choice conduct requirements, we wish to highlight our strong support for requiring Google to provide a clear and easy way for users to opt-out of or disable generative AI experiences in Google Search and navigate back to traditional organic search. Such a requirement would facilitate competition, increase consumer choice, and protect publisher's ability to reach demographics less receptive to Google's AI services.

We also share concerns over the inclusion of AI assistants and chatbots within the Search Choice Screen, especially as Gemini remains outside the scope of the designation. At this moment, the inclusion of AI assistants in a choice screen would risk undermining the other content requirements by referring traffic to third-party AI services who are not subject to the conduct requirements.

IV. Conclusion

The N/MA commends the CMA for undertaking this investigation. The proposed conduct requirements represent a significant improvement over the current situation, and are aimed at improving publishers' ability to control the use of their content online and at minimizing the detrimental effects Google's unjustified manual actions may have on publishers. However, there are substantial improvements that can be made to the proposed conduct requirements in an effort to render them more useful, efficient, and less onerous on publishers. The CMA has the

opportunity to set the global standard when it comes to Google's market abusive business practices, and it is important to get them right. When comparing the submissions, and considering the long-standing market imbalances and the information asymmetry between publishers and Google, we strongly urge the CMA to err on the side of publishers, while also prioritizing a continued and robust role for publishers to weigh in on emerging developments as the CMA oversees the implementation of the conduct requirements. N/MA welcomes this opportunity to provide these comments, and stands ready to answer any questions you may have.