

Competition and Markets Authority
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Consultation Response

Which? response to the CMA's proposed decision to designate Google's general search services as having Strategic Market Status

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Which? welcomes the invitation to comment on the CMA's proposed designation decision and **we support the CMA's decision to propose to designate Google as having Strategic Market Status in general search services.**

It is inarguable that Google has substantial and entrenched market power in this activity. While there is inevitable uncertainty about how markets will develop over a five year period, the CMA provides compelling evidence in its forward-looking assessment that Google's market power is likely to endure, even as the use of technology such as AI becomes more common. Similarly, it is indisputable that Google has a position of strategic significance with regard to this digital activity.

With regard to specific aspects of the designation decision:

- ***The omission of Gemini AI assistant from the scope of the relevant digital activity***

We support the CMA's decision not to include the Gemini AI assistant in the scope of the relevant digital activity at this time. AI assistants may access general search services, but their role in this ecosystem is still evolving.

As the market becomes more mature, AI assistants may more frequently become a substitute for other methods of accessing general search, while Google's many advantages may result in Gemini becoming the market leader. The CMA will need to regularly monitor this during the period of the designation, particularly to ensure Google's AI interfaces do not become a way for Google to circumvent any obligations that will flow from its SMS designation in general search services. Should the CMA need to consider changing the scope of the relevant digital activity to include Gemini AI then the factors it has identified as relevant to any such future decision seem appropriate.

- ***The use of evidence to assess the SMS conditions***

The CMA has used an appropriate range of quantitative and qualitative evidence in its assessment. The level of evidence is (more than) sufficient to determine that Google has substantial and entrenched market power, which is likely to persist over the next five years, and that it has a position of strategic significance in this digital activity.

Now that the formalities of designating Google as having SMS are concluding, the focus intensifies on what would be effective conduct requirements or pro-competitive interventions to tackle and mitigate the adverse effects of Google's market power. The CMA estimates that Google earned **excess profits** of at least £3-4 billion of profits in 2024 from its UK general search services. Since these higher advertising costs will be passed through to consumers, it implies that some households may be paying hundreds of pounds extra every year because of Google's market power. It is a stark reminder of the detriment that is ultimately borne by UK consumers.

To address this detriment, there must be interventions that will fundamentally change current market conditions. Unfortunately, we have noted with some concern that the CMA's roadmap indicates limited prospects for such interventions being implemented in the near future.

We have concerns that while the potential measures included in categories 1 and 2 of the prioritisation categorisation will be effective (and proportionate) in mitigating some of the detrimental effects of Google's SMS in general search services, the market also requires interventions that will level the playing field between Google and its competitors. Of the potential measures in categories 1 and 2, we believe the one most likely to open up the market to greater competition would be a choice screen obligation. However, it is likely that such an obligation would need to go further than that required in Europe for the Digital Markets Act. The measures that are yet to be prioritised, such as addressing competitive barriers resulting from Google's distribution agreements and data sharing obligations, may prove to be the most impactful for opening up the market. It is therefore concerning that there will be further delay before these measures are considered and that there even appears to be uncertainty about the CMA's ability to implement such measures.

We look forward to engaging with the CMA on these issues and to ensuring that the consumer voice is heard in this new regulatory regime.

About Which?

Which? is the UK's consumer champion, here to make life simpler, fairer and safer for everyone. Our research gets to the heart of consumer issues, our advice is impartial, and our rigorous product tests lead to expert recommendations. We're the independent consumer voice that works with politicians and lawmakers, investigates, holds businesses to account and makes change happen. As an organisation we're not for profit and all for making consumers more powerful.

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