

Ref.: BEUC-X-2019-020/MGO/ARE/cs

05 April 2019

**Ref.: Consumer concerns with Google's non-compliant remedy in Antitrust Shopping case (AT.39740)**

Dear Commissioner Vestager,

I am writing to express BEUC's concerns regarding Google's compliance with the Commission's prohibition decision of 26 July 2017 in the Google Shopping case (AT.39740).

While BEUC and our members have been wholeheartedly supportive of the European Commission's case and of your personal endeavour to bring this investigation forward, we want to ensure that the changes introduced by Google to comply with the Commission's decision have a meaningful and positive impact on the real life experience of consumers using their services. This, so far, has unfortunately not been the case.

We are therefore concerned that the Commission is providing signals that Google's recent changes in the way its own shopping services and rival Comparison Shopping Sites (CSS) are displayed seem to be compliant with the prohibition decision<sup>1</sup>. Please allow us to respectfully disagree.

A remedy in this case will be effective from a consumer viewpoint only when consumers are able to access a wider choice of CSS, merchants and better deals. However, as reported by the media<sup>2</sup> and our Danish member in a letter addressed to you<sup>3</sup> last November, the opposite seems to be rather true.

One of the essential elements for the success of the remedy is to ensure that consumers can easily access alternative CSSs. A pre-condition for this is that CSS are visible to consumers and this visibility is currently almost non-existent. When consumers search for a product online, they are presented with results displayed in the Google Shopping Unit that include links to the merchants' sites. However, because of the design of the Unit, consumers are far more likely to click on the merchant site rather than on the link referring to the CSS, labelled as a link provided "By \*rival CSS\*".

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<sup>1</sup> As reported by MLex on 27 March, the Commission stated at the ABA conference that the "remedy is working" and the Commissioner in the press conference when announcing the Commission's decision in the AdSense case on 20 March said that the Commission "has seen positive developments" in the implementation of the remedy.

<sup>2</sup> <https://news.sky.com/story/google-trying-to-circumvent-eu-ruling-with-price-comparison-sites-run-by-ad-agencies-11518376>

<sup>3</sup> <http://dokumentation.taenk.dk/dokumentation/breve/brev-til-eus-konkurrencekommissaer-om-google-search-shopping>



This is not devoid of consequences: by directing consumers to a merchant's site, Google retains the benefit of the consumer activity on its own site and prevents users from accessing competing sites. This means that CSS become de facto less relevant. The result is twofold, on one side, consumers are not able to benefit from innovative CSS and, on the other side, it creates an artificial race between large retailers who want to be placed prominently on Google's own CSS, consequently squeezing out smaller retailers that are featured in rival CSS.

On top of this, there is a proliferation of "fake" CSS that are getting visibility through the Shopping Unit, but which add nothing to consumers. On the contrary, it is a source of confusion and frustration when consumers cannot access what they were looking for.

It is worth highlighting that there are different models for comparison tools, varying according to the scope of products and services covered, geographical coverage, financing model, inclusion of consumers' ratings and reviews, non-financial parameters such as sustainability aspects of products, etc. This diversity is what allows consumers to access potentially relevant information from different sources and make an informed purchasing decision. And this diversity is continuously under threat by Google's conduct, that is pushing rival CSS and their models out of the market.

From a consumer perspective, ensuring that there is a competitive market for CSS is also important to stimulate competition between merchants. In order to reach more customers, merchants invest in displaying their products via CSS to attract consumers through promotions and cheaper prices. However, for merchants to invest in CSS they need to have the guarantee that their products are visible to consumers, something that is not possible if CSS do not get any traffic.

Considering the above, we respectfully ask you to urgently re-consider Google's compliance with the prohibition decision of 26 July 2017 and to ensure that any remedy adopted translates into more consumer choice regarding CSS and merchants and, ultimately, into healthier and more competitive ecommerce in Europe.

We remain at your and your services' disposal should you require any further information.  
Yours sincerely,

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Director General

C/c:

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