



CAXTON & CTP LIMITED
publishers & printers

Co. Reg No.: 1947/026616/06

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6 May 2024

Fasken (Bell Dewar Inc)
54 Wierda Road
Sandton
2196

Attention:
Kate Daniels
Per email- kdaniels@fasken.com

Dear Ms Daniels

Transparency and accountability

Your client ("**Google**") and you have sent us and other industry participants, a slew of what you referred to as "short" letters and emails dated 29 and 30 April 2024, as part of a clearly co-ordinated communications strategy. This letter is responsive to all of the above correspondence, which letter we request you to please pass on to Google.

Despite the bifurcated communications by your client and yourselves as lawyers for Google, the message you have collectively conveyed is that Google purportedly wishes to engage with the industry on its own self-determined terms but will provide no information whatsoever in response to our PAIA request. You and Google seek to justify this approach as beneficial and reasonable- but for the first time, it seems your client also seeks to avoid the South African Information Regulator's jurisdiction. We dispute your, and your client's assertions and our failure to respond fully is not an admission of the correctness of your and Google's position. Our rights are reserved.

The above communications do little to disguise the bad faith inherent in claiming an extension of the time period to respond our PAIA request. In Google's letter dated 1 April 2024, Google states that Caxton's request requires Google's "*diligent review and consideration*" before a response can be given and that Google needs to search through "*a large number of records*".¹ It is our view that it has all along been apparent to you and your client that your answer will be entirely non-responsive to any of our information requests.

Caxton has been active in the South African media industry since the 1980s. Our news businesses play a vital role in exposing unfair dealings and abuses of power in both the public and private spheres of South African life. Google and Caxton (and the news industry as a whole) are not and cannot be "*partners*" as your client seems to advocate, but are firms operating within a market that has failed and in which Google holds an entrenched dominant position- a position which in no small measure is perpetuated by the information asymmetry which our PAIA request seeks to remedy.

Your client on the other hand, seeks to perpetuate its dominance in this market, worldwide, and to avoid disclosure at all costs. After all, it is only in a secret and opaque information environment that

¹ Caxton denies that its PAIA request would unnecessarily interfere with Google's activities or that compliance with the request was for a large number of records.



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your client can egregiously continue to perpetuate the following untrue statements in the correspondence- namely-

“We want to be clear - the fact that news has limited commercial value to our business..... and our role in any solution needs to be grounded in the commercial reality of the value of news to our business.”

We are astounded that Google is of the view that Caxton will accept Google’s self-serving view of the value of news, or that any meaningful negotiations could ensue absent Caxton being in a position to make informed commercial decisions.

Caxton is determined to ensure that Google will not abuse its power to decide what information it finds convenient to provide (nothing) and that which it will unilaterally refuse providing (everything). Further, it is evident from Google's correspondence and various appearances at the MDPMI² public hearings that Google will attempt to dodge accountability, raise technical jurisdictional points and point to its complicated global structure and operations to avoid being fully transparent. Caxton will challenge any such attempts and arguments.

Yours sincerely

Paul Jenkins
Chairman
Caxton and CTP Publishers and Printers Limited

² Media and Digital Platforms Market Inquiry



29 April 2024

Su-Anne van der Merwe

Media 24

Paul Jenkins

Caxton

Anton Harber

Campaign for Free Expression

Dario Milo

Webber Wentzel

Engagements with the South African news media industry

Dear Su-Anne, Paul, Anton and Dario,

Ahead of responding to your requests under the Promotion of Access to Information Act ("PAIA"), we wanted to contextualise our approach so that you know what to expect and can understand our position.

Engaging with one another through formal PAIA requests and threatening litigation is, respectfully, not the path to achieving workable, sustainable solutions, and PAIA is not the correct process for obtaining the type of information that you may be interested in.

To be clear, this letter is not our response under PAIA - our PAIA responses will follow in due course and will provide further explanation of why we do not believe PAIA is applicable or appropriate in these circumstances. We understand from our South African counsel that PAIA provides express, recognised and justifiable grounds for refusal. PAIA also does not apply to companies located outside South Africa and does not contemplate forcing companies to create information to be provided to requestors in South Africa when the requested records do not exist.

We also wanted to reiterate our openness to continued engagement with you and the rest of the industry, as explained in the attached letter which we sent to the PSS (which we understand Media24 and Caxton still belong to).

This letter and its attachments are without prejudice to any rights we may have under PAIA and other applicable laws, and does not constitute a consent to jurisdiction or applicability of PAIA to any Google entities not located in South Africa.

Yours sincerely,

Google LLC



29 April 2024

Hoosain Karjieker
PSS

Kate Skinner
AIP

Sbu Ngalwa
SANEF

Styli Charalambous
Daily Maverick

Anton Harber
Campaign for Free Expression

Engagements with the South African news media industry

Dear Hoosain, Kate, Sbu, Styli and Anton

While we continue to engage with the Competition Commission in the MDPMI, we wanted to reach out to you directly to express our openness to continue working together on measures to support the news industry. Although we do not necessarily agree with the submissions that were made in the recent public hearings, we recognise that the issues being raised are important. We remain committed to playing our part in supporting South African publishers to successfully transition their businesses into the online environment.

We also wanted to address specifically the industry's calls for increased transparency. This may have a number of components, including that publishers want greater visibility of how frequently we link to their content and the value that is generated when our products display news results. Although we are under no obligation, we are willing to engage with you about precisely what information will be helpful for you, but subject to a few cautions.

- First, it will not be valuable to create and share data for use in populating any flawed methodology for determining the value of news to Google. For instance, we know that publishers are interested in applying the methodology developed by Fehr Advice on behalf of the Swiss Media Publishers Association. This methodology is understandably popular with publishers because it asserts that around 40% of Google's search revenue is attributable to news results and that 40% of such revenue ought to be paid out to news publishers under European copyright law. But the methodology itself is, unfortunately, deeply flawed in ways that make its results unreliable, and drastically inflate the true value of news to Google. Some of the flaws in the Fehr Advice study are explained in a recent analysis by Compass Lexecon, which we have attached as **Annex 1** and our response to the Commission's FSOI, which we have attached as **Annex 2**.
- Second, it is important to recognise that we have different perspectives on the position



of news in the online environment. We heard statements from participants in the public hearings that “*news is the cornerstone of the internet*”. This contrasts with the estimates cited by Oxford University’s Reuters Institute, that all news providers “*are estimated to provide for about 3% of the time that people spend online.*”¹ The latter position aligns broadly with the user behaviour we see on Google Search in South Africa, where only a small fraction of searches seek news information. This discrepancy in perspectives of the role of news in the internet ecosystem for users, advertisers and platforms can create a tendency for publishers to either mistrust the data that has been shared, or to continually seek different information in the hope that it will align with their preferred viewpoint. For example, we have previously shared a number of 2022 data points with you that we believe provide a reliable indication of the approximate value exchange between our businesses. The 2023 figures below provide a more up-to-date picture:

- In 2023, news queries comprised 0.95% of searches in South Africa. We earned just over \$900 000 (around ZAR 18 million) from advertising from clicks on ads displayed in response to these queries. We consider news queries for this purpose to be those queries that generate results with the Top Stories feature appearing in the top position on the results page. These are the circumstances where our systems detect that the primary intent of the query is to seek news.
- Google sent around 545 million clicks to South African publishers in 2023 from Google News, Search and Discover. According to the methodology used in a 2019 analysis by Deloitte, this traffic is understood to have created more than ZAR 350 million in estimated value for South African news publishers.²

Should it be helpful for you to further orientate the position of news results in our products, we would be happy to discuss what other data points would be relevant, representative and useful to you for us to create. For example:

- We heard representatives of Columbia University suggesting that, in their view, news-seeking queries could be identified as those where more than half of the results on the first page are news results. We would be willing to consider this methodology and share with you data on the share of news-seeking queries according to this definition.
- It may be useful to you to also look at the percentage of impressions on Google Search that were news results during a relevant, recent period.
- Information about how often ads are displayed, on Search results pages in response to news queries.

¹ See, for example, [this paper](#) which mentions that news makes up just 3% of all internet time – even during an election period.

² Calculated by using the lower end of the range estimated by Deloitte, and applying the average exchange rate of the euro and South African rand for 2019 (16.177 ZAR).



- The outcome of the calculations above would also depend on the list of domains included in the analyses - we would be happy to engage with you on this aspect, too.
- We also understand from the public hearings that publishers are interested in the Discover feature displayed on the landing page when using the Google Search app or the Chrome browser, as this feature creates valuable referral traffic. We would be willing to collate relevant impression and clicks data to help clarify the relative position of Discover relative to other products on which news publisher domains are linked, such as Google Search and Google News.

There is also substantial additional data relating to each publisher's position and performance available through our various tools, as well on some publicly available third party tools such as Similarweb. As one example, for more granular, publisher-specific data, we recommend using Search Console, a tool that gives webmasters the opportunity to access data about their website's performance in Google Search, Discover and Google News. Using Search Console, website operators can see (without the list being exhaustive):

- the number of clicks on a Google Search result which redirected the user to the press publisher or news agency's website;
- the number of impressions on Search (i.e., the number of links to a press publisher or news agency's website which are displayed in the search results in response to a user query);
- the click-through-rate (CTR) (number of clicks divided by number of impressions) on the publisher's website;
- the top queries which generated search result impressions of the press publisher or news agency's website; and
- the average position of the press publisher or news agency on Search.

Publishers can view that data for their site as a whole, for Discover, Google Search and Google News separately, and can sort further by device type, date ranges, and even specific search queries or pages on their sites. These data are subject to aggregation thresholds to protect the privacy of searching users. We would be happy to offer, at your convenience, either virtually or in person, any workshop or discussions that may assist publishers to optimise their use of the analytics tools we already make available, as these provide substantial transparency. We also invite you to consult the training resources we make available publicly through our various portals such as [The Search Console Training](#) video series.

Our continued openness to engage on solutions

We want to be clear - the fact that news has limited commercial value to our business does not detract from our willingness to support the South African news industry. We invest in the news industry because we recognise the importance of news to democracy, but also because our business does better in open societies, and open societies depend on vibrant news



ecosystems. But this is not unique to Google, and our role in any solution needs to be grounded in the commercial reality of the value of news to our business.

We continue to believe that the product partnership and funding measures we discussed last year with the PSS and the AIP, as representative bodies for a large part of the industry, will make a meaningful contribution.

Our proposed product partnership, Google News Showcase, is currently active in 25 countries. Through Showcase, Google pays participating publishers to curate quality journalistic content for an improved online news experience that benefits readers and publishers. Showcase helps publishers monetise their expertise and share their editorial voice through an enhanced storytelling experience and has already proved successful for many publishers globally. We are disappointed that some publishers have elected not to participate in Google News Showcase, as we need sufficient market coverage before we can roll out Showcase in South Africa for those publishers that do wish to participate.

We are also excited about our on-going work on the South African digital news transformation fund with the Association of Independent Publishers, which we believe will bring substantial benefits to local news publishers whose publications do not yet meet the eligibility criteria for Showcase, and for the publications of established publishers that similarly may not yet qualify for participation in Showcase.

Google remains committed to engaging with the South African news industry on providing the appropriate level of support to help publishers thrive in the online environment.

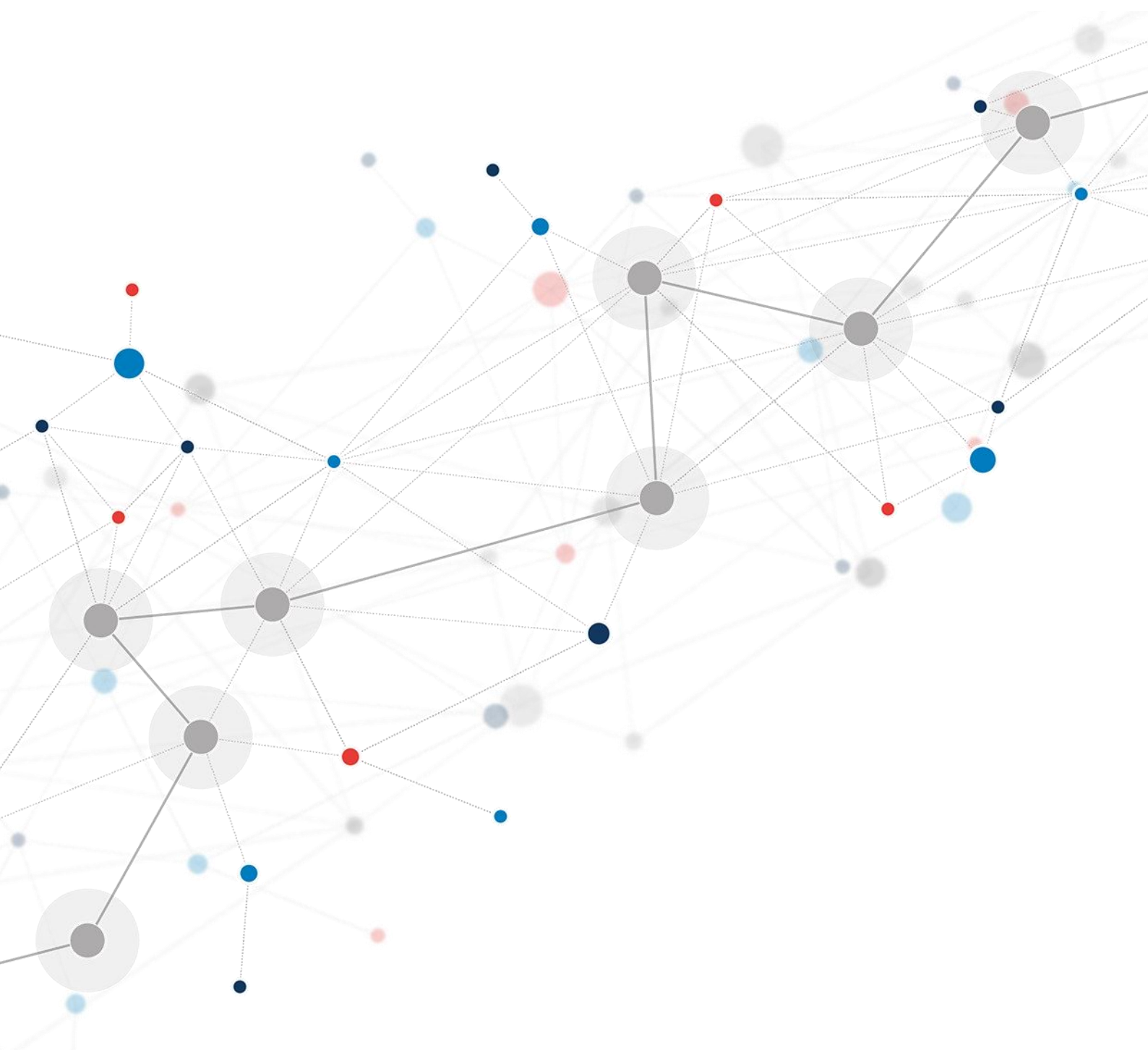
You are welcome to contact us if you would like to meet to discuss this further or if you have any questions.

Yours sincerely,

Google LLC

Assessment of proposals in the FehrAdvice and IPD Reports

Dr Jorge Padilla and Lau Nilausen
29 April 2024



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1 Introduction and executive summary

Background

- 1.1 News Publishers traditionally operate in a two-sided market in which they service users with content and advertisers with access to users.¹ The emergence of the internet has offered users new opportunities to find, access, and consume news content, and provided advertisers with new, alternative avenues to reach users. News Publishers in turn faced lower advertising volumes and prices.² Many consequently experienced a fall in revenue and profitability as particularly classifieds advertisements moved to other channels.³
- 1.2 This digital transformation process prompted News Publishers to seek remuneration from other sources. One specific proposal is that search engines be required to pay News Publishers based on the value they provide to the search engine.
- 1.3 This proposal has been supported in two recent and repeatedly quoted reports by FehrAdvice (the “FehrAdvice Report”)⁴ and the Initiative for Policy Dialogue (the “IPD Report”).⁵
 - a. The FehrAdvice Report seeks to determine a total “fair” compensation to News Publishers for appearing in Google search results. Whereas the FehrAdvice Report sets out its methodology in the context of demands from Swiss News Publishers, it presents its methodology as generally applicable.⁶ The FehrAdvice Report argues that such compensation should reflect News Publishers’ collective contribution to the value of Google search (the “FehrAdvice Approach”).⁷

¹ Rysman, Marc (2009) "The Economics of Two-Sided Markets", Journal of Economic Perspectives, 23 (3): 125-143. We refer to 'News Publishers' as a defined term as a matter of notational convenience. We are not aware of any universally accepted definition of News Publishers.

² See e.g. “Some Observations on Digital Advertising Prices” by Michael Mandel (09.20.2023): “the shift to digital advertising has generally been associated with a period of falling real prices for advertising, especially compared to the pre-digital period of rising real prices for newspaper advertising” (available at <https://www.progressivepolicy.org/blogs/some-observations-on-digital-advertising-prices/>).

³ See e.g., “Western Europe News Media Landscape Trends”, May 2021, Accenture: “The internet democratised how content is created and consumed, enabling new channels of communication between businesses and consumers”, and “These changes have significantly disrupted traditional newspaper revenues, which have fallen by 38% as the market for printed classifieds advertisements has all but disappeared” (available at https://newsmedia-analysis.com/wp-content/uploads/2021/07/accenture_analysis_WesternEuropeNewsMedia.pdf).

⁴ FehrAdvice & Partners (2023) “The value of journalistic content for the Google search engine in Switzerland”, report carried out by SWISS MEDIA publishers’ association.

⁵ Holder, P., H. Mateen, A. Schiffrin and H. Tabakovic (2023) “Paying for News: What Google and Meta Owe US Publishers”, Columbia University Initiative for Policy Dialogue (IPD), working paper.

⁶ FehrAdvice Report, page 37: “This derivation is limited to the value added in Switzerland but can also be carried out in other countries according to the same principle”. We understand that FehrAdvice has applied the same approach in reports for Denmark and Belgium.

⁷ FehrAdvice Report, page 37.

b. The IPD Report uses the FehrAdvice Approach to estimate the implied value transfer payable from Google to US News Publishers.⁸ Our discussion of the FehrAdvice Approach therefore carries over to the IPD Report.

1.4 This paper assesses the robustness of the specific assumptions on which the FehrAdvice Approach is based and implications for the need for and magnitude of the requested payments.

Main Conclusions

1.5 The FehrAdvice Report (and by extension the IPD Report) is vitiated by numerous critical issues.

1.6 The FehrAdvice Approach derives an estimate of “fair” charges payable to News Publishers for search results linking to their content by multiplying (i) an estimate of Google’s revenues from search advertising (CHF 999m), (ii) an estimate of the percentage of Google searches which are “Information Searches” (55%),⁹ (iii) an estimate of the percentage of Information Searches to which News Publishers add value (70%), (iv) a benchmark for the revenue split between content providers and sellers of advertisement (40%). Of these assumptions, only the 70% estimate of the share of searches to which News Publishers add value is based on a survey performed by FehrAdvice (the “FehrAdvice Survey”). The FehrAdvice Survey does not support any of the other inputs in FehrAdvice Approach. The FehrAdvice Approach instead bases these inputs on third-party sources.

1.7 It should be possible to reliably measure Google Search revenues if necessary for the calculation of any charges for the provision of search results linking to News Publishers. We therefore do not consider this further.

1.8 The FehrAdvice Approach’s quantification of the share of such revenues which is attributable to the provision of search results linking to News Publishers on Google’s Search Engine Results Pages (“SERP”) is based on two inputs that are individually and cumulatively flawed: the assumptions (i) that 55% of all searches are what FehrAdvice calls “Information Searches” (which include “searches relevant for journalistic content”),¹⁰ and (ii) that News Publishers add value for 70% of these.

1.9 We understand that Google does not operate with the concept of “Information Searches” or any equivalent categorisation during its normal course of business. However, we note that the set of “Information Searches” as defined in the FehrAdvice Report clearly includes searches other than searches seeking for news/journalistic content (e.g., it includes searches such as for recipes or searches such as ‘What is the capital of South Africa?’). Moreover, there is no basis for the FehrAdvice Report’s assumption that the search volume share of any type of search is proportionate to the share of revenue attributable to such searches.

1.10 The FehrAdvice Report’s assumption that 70% of the value that it assigns to Information Searches in turn is attributable to the provision of search results linking to News Publishers is also flawed as (i) it misinterprets the results of the FehrAdvice Survey, (ii) the FehrAdvice Survey relies on a flawed methodology to derive the 70% estimate, and (iii) the 70% estimate ignores associated costs to search engines and benefits to News Publishers. We summarise these points in turn.

⁸ IPD Report, pages 17 and 18.

⁹ We refer to Information Searches as a defined term in this paper to refer to the concept used in the FehrAdvice Report. We discuss the difficulties around the precise definition of this term further below.

¹⁰ FehrAdvice Report, page 38.

- 1.11 First, the FehrAdvice Report argues that 70% of internet search users in Switzerland place some positive value on the possibility that search engines may present search results linking to News Publishers on SERPs. The FehrAdvice Report then assumes that “70% could in turn migrate from Google as an answer engine for information searches if Google were to stop displaying media content”,¹¹ and that “70% is thus the share of revenue with information searches, where the media content makes a value contribution”.¹² This is an obviously inappropriate non-sequitur even at a conceptual level. A finding that 70% of users would like search engines to provide search results linking to News Publishers for free when responsive to their search queries evidently does not mean that 70% of Information Searches are related to, or in some other way attributable to, search results linking to News Publishers. The FehrAdvice Report’s reasoning and calculations therefore do not narrow down the universe of Information Searches to those directly or indirectly related to search results linking to News Publishers. By analogy, a finding that 70% of consumers value the possibility to find a particular product in a supermarket clearly does not mean that they would cease to use that supermarket altogether absent that product, that this product would account for 70% of the supermarket’s revenues, or that the suppliers of such product could reasonably demand a percentage of 70% of the supermarket’s revenues. The FehrAdvice Report’s logic would have the nonsensical implication that a company developing a product combining three features from different suppliers and each valued by 100% of the product’s users would pay 120% of its revenue as fair compensation to its suppliers.¹³
- 1.12 We further note that search engines are monetised by advertising and provided to users free of charge. The utility that users derive from search results is conceptually different from the value search engines derive from the inclusion of such results on the SERP. There is therefore no clear basis in economics for the FehrAdvice Approach seeking to infer a revenue transfer from search engines to News Publishers based on whether consumers place a value on search results linking to News Publishers.
- 1.13 Secondly, the FehrAdvice Survey (i) focused on news themed search terms only and thereby did not expose the respondents to a representative mix of searches, (ii) potentially biased respondents to focus on the importance of news themed searches before asking them about the importance of such searches, and (iii) attributed value to the unremarkable fact that a majority of users would rather enjoy a more comprehensive free search service including search results linking to News Publishers than an alternative less comprehensive free search service excluding such results. The FehrAdvice Survey is therefore based on methodological biases which exaggerate the importance of search results linking to News Publishers.
- 1.14 Thirdly, whereas the FehrAdvice Survey finds that 30% of survey participants placed a sufficiently *negative* value on search results linking to News Publishers to prefer not to receive these even for free, the FehrAdvice Approach makes no adjustment for how the inclusion of such search results may reduce the alleged value of the inclusion of search results linking to News Publishers to Google. The FehrAdvice Approach thereby includes the alleged benefits but none of the logically associated costs of providing search results linking to News Publishers.
- 1.15 News Publishers in turn only appear in search results because they find it beneficial to enable search engines to include them on their SERP due to the associated increase in traffic to their websites. If the premise of fairness is that stakeholders are entitled to a share of the value they

¹¹ FehrAdvice Report, page 38.

¹² FehrAdvice Report, page 38.

¹³ Under the FehrAdvice Report’s logic, each of the three suppliers could argue that they account for 100% of the relevant revenue and claim 40% of such revenue. Three times 40% equals 120% of revenues.

generate, then the value created by search engines for News Publishers ought to be offset against any claim of value raised by News Publishers. The FehrAdvice Approach is thereby based on an internally inconsistent definition of fairness whereby News Publishers are entitled to charge for any value that search results linking to News Publishers may generate for search engines, but search engines have no similar claim to any share which they generate for News Publishers the exact same way.

- 1.16 In relation to the FehrAdvice Report's 40% benchmark for a revenue share percentage, we note that this is based on an inappropriate benchmark and clearly is too high. First, there is no basis for benchmarking any value-add from search results linking to News Publishers against the value-add of advertisement technology providers. Secondly, it is common for content providers to sell advertisement space on their webpages to monetise the traffic which they generate. In the present context, it is the search engines that create the search results as their investments in search capabilities attract users to their services. The FehrAdvice Report's assumption therefore conflates the contributions of different stakeholders in the value chain providing fundamentally different services. Thirdly, this is *a fortiori* the case as News Publishers derive a benefit from being included in search results as this enables users to find their content when relevant.

Disclaimer

- 1.17 This report has been prepared at the request of Google. However, the opinions in this report are the exclusive responsibility of its authors and need not represent the views of other Compass Lexecon's experts and affiliates or its clients, including Google.

2 Assessing the FehrAdvice and IPD Reports

2.1 In this section, we first summarise the FehrAdvice Approach and then assess the robustness of its component parts and overall conclusions.

The FehrAdvice Approach at a glance

2.2 The FehrAdvice Report argues that it is “crucial that the platforms ensure fair and equitable treatment of all participants in the ecosystem and create a balance between their own profits and the benefits for others”.¹⁴ The FehrAdvice Report infers that “the ecosystem of the web search, as it is currently organised, does not offer the media fair participation or participation in the long term. In order to be able to set up the ecosystem sustainably in the interests of the users, a fair division of the value generated online by the journalistic content is therefore required”.¹⁵

2.3 The FehrAdvice Approach hence sets out to estimate a “fair” remuneration for content providers on the basis that they should benefit from part of any value realised by Google by bringing content to the attention of its users.¹⁶ The FehrAdvice Report estimates such remuneration for Switzerland, though it argues that the same approach could be adopted in other countries.¹⁷

2.4 The FehrAdvice Approach involves the following steps:

- a. calculation of Google’s search engine revenue (central estimate of CHF 999m);¹⁸
- b. estimation of the share of Information Searches in all searches (central estimate of 55%);¹⁹
- c. estimation of the share of Information Searches for which media content adds value (central estimate of 70%);²⁰
- d. estimation of the revenue share that should be awarded to News Publishers (central estimate of 40%);²¹ and
- e. multiplication of each step above to derive a central estimate of CHF 154m of “fair” total annual payment to News Publishers.

¹⁴ FehrAdvice Report, page 14.

¹⁵ FehrAdvice Report, page 36.

¹⁶ FehrAdvice Report, page 37.

¹⁷ For example, we understand that FehrAdvice has applied the same approach in reports for Denmark and Belgium.

¹⁸ FehrAdvice Report, page 37.

¹⁹ FehrAdvice Report, pages 6 and 38.

²⁰ FehrAdvice Report, pages 32, 38, and 39.

²¹ FehrAdvice Report, pages 40 and 41.

2.5 We detail each of these steps briefly in turn below.

Calculation of search engine revenue

2.6 The FehrAdvice Report estimates Google's search engine revenue in Switzerland to range between CHF 908 and 1,090 million with a central estimate of CHF 999 million.²² This is based on estimates of the market size and Google's share thereof as follows:

- a. an estimate of search engine advertising revenue generated in Switzerland of CHF 1.1 billion net annually (the midpoint between CHF 1.0 and 1.2 billion), based on data from the Interactive Advertising Bureau; and
- b. an estimate of Google's market share for online searchers of 90.8% in 2022, sourced from Statista.

Attribution of search engine revenue to Information Searches

2.7 The FehrAdvice Report notes that various sources indicate that "about 55% (between 50-60%) of searches on the internet are information searches".²³ The FehrAdvice Report defines Information Searches as those "used to find information about a certain topic".²⁴ The FehrAdvice Report distinguishes such Information Searches from "product searches and navigation searches".²⁵

2.8 The FehrAdvice Report estimates that Google's search engine revenue associated with Information Searches amounts to approximately CHF 549 million (CHF 454-654 million).²⁶ The Fehr Report thereby assumes that all searches on average are monetised equally.

Estimation of the share of Information Searches for which media content adds value

2.9 The FehrAdvice Report presents the results of the FehrAdvice Survey involving a sample of 1,573 participants. The FehrAdvice Survey presented some participants with one version of Google with real-life results, other participants with another version excluding media content, and asked all participants what variant they would prefer and how much they would be willing to pay for each version of Google.

2.10 According to the FehrAdvice Report, 70% (with a 95% confidence interval of 68% to 72.6%) of the survey participants stated that they preferred Google searches with media content. Respondents stated an average willingness to pay of CHF 0.50 per month more for Google Search with than without news content (CHF 3.53 versus CHF 3.03 respectively). The FehrAdvice Report infers from this that "this preference is related to changes in behaviour and other settings that demonstrate the added value of journalistic content for Google".²⁷

²² FehrAdvice Report, page 37.

²³ FehrAdvice Report, page 38.

²⁴ FehrAdvice Report, page 5.

²⁵ FehrAdvice Report, page 38.

²⁶ FehrAdvice Report, page 38.

²⁷ FehrAdvice Report, page 38.

- 2.11 The FehrAdvice Report then infers that “70% could in turn migrate from Google as an answer engine for information searches if Google were to stop displaying media content. 70% is thus the share of revenue with information searches, where the media content makes a value contribution”.²⁸
- 2.12 The FehrAdvice Report then applies the 70% share to the estimate of Google’s Information Search revenue to conclude that “Google’s media-relevant SEA revenue in Switzerland is CHF 385 million”.²⁹

Estimation of the revenue share for content providers

- 2.13 The FehrAdvice Report estimates “the fair and industry-standard division ratio” to be between 32% and 49% (on average 40%).³⁰ The FehrAdvice Report notes that Microsoft’s news aggregator MSN pays content providers a 60% revenue share.³¹ The FehrAdvice Report concludes that it would be fair for News Publishers to be paid 40% of “Google’s media-relevant SEA revenue”.

Estimation of fair value payment to News Publishers

- 2.14 The FehrAdvice Report multiplies through the ranges and midpoints of the estimates set out for each step above to derive a fair value payment for search results linking to News Publishers of between CHF 99 million and 233 million, with a primary estimate of CHF 154 million annually.³²

Assessment of the FehrAdvice Approach

- 2.15 The precise quantification of search revenue is a factual issue, which should not be conceptually problematic. We therefore do not comment further on this aspect of the FehrAdvice Approach.
- 2.16 We understand that Google does not operate with the concept of “Information Searches” or any equivalent categorisation during its normal course of business. We therefore cannot test the FehrAdvice Report’s assumptions around the share of searches falling into this category. Nonetheless, we note that a search category without a clear delineation represents a poor starting point for any computation of value.
- 2.17 The FehrAdvice Report’s allocation of revenue to Information Searches implicitly assumes that Information Searches account for search revenue in proportion to their share of volumes of searches. The FehrAdvice Report provides no basis for such an assumption. However, such an assumption does not hold. For example, searches about sports clothes provide clear advertisement opportunities whereas searches about recent geopolitical developments do not.
- 2.18 We agree in principle that any analysis of the sort proposed in the FehrAdvice Report will need to isolate news themed searches. We note that the FehrAdvice Report’s Information Search concept remains much broader than news themed searches (e.g., searches related to recipes, historical events, iconic buildings, travel inspiration, etc.) and that the FehrAdvice Report therefore separately estimates “the share of revenue with information searches, where the media content makes a value contribution”.³³ We address this adjustment further below.

²⁸ FehrAdvice Report, page 38.

²⁹ FehrAdvice Report, page 39.

³⁰ FehrAdvice Report, page 41.

³¹ FehrAdvice Report, page 41.

³² FehrAdvice Report, page 41.

³³ FehrAdvice Report, page 38.

- 2.19 Any assessment of the relevance of news content evidently requires a workable definition of such content. We note that this is notoriously difficult.³⁴ Whereas the precise definition of content and organisations in scope for any regulation ultimately would need to be resolved, this is not material to our analysis below.
- 2.20 The FehrAdvice Report relies on the FehrAdvice Survey to estimate “the share of revenue with information searches, where the media content makes a value contribution”.³⁵ The FehrAdvice Survey was organised as follows:
- a. participants selected one of three topics of interest: politics, the economy and society;³⁶
 - b. participants were provided specific terms to search related to their chosen topic and instructed to “search for relevant and current information on a specific topic”;³⁷
 - c. some participants performed these searches in a standard version of Google, whereas others did so in a different version without search results linking to “journalistic content”;³⁸ and
 - d. once presented with the search results, participants were free to decide whether to click the resulting links or stop their search without further action.³⁹
- 2.21 Participants were then asked a series of questions to capture their opinions about:
- a. their overall level of satisfaction with the search;⁴⁰
 - b. whether they were able to answer the question with the search;⁴¹
 - c. whether they preferred a version of “Google with [or] without media”;⁴² and
 - d. how much they would be willing to pay for Google search with and without search results linking to News Publishers.⁴³
- 2.22 Based on the participants’ responses, the FehrAdvice Report calculates:
- a. the share of participants who click through external links following the Google search;⁴⁴
 - b. the difference in participants’ satisfaction across the two versions of Google;⁴⁵

³⁴ The Cairncross Review, A Sustainable Future for Journalism, 12TH February 2019, page 16: “Ultimately, “high-quality journalism” is a subjective concept that depends neither solely on the audience nor the news provider. It must be truthful and comprehensible and should ideally - but not necessarily - be edited. You know it when you see it; but this is not a definition that justifies direct public support”.

³⁵ FehrAdvice Report, page 38.

³⁶ FehrAdvice Report, page 19.

³⁷ FehrAdvice Report, page 19. The specific search terms were: "Swiss National Bank loss" for politics, "Credit Suisse crisis" for the economy and "Marco Odermatt" for society (Fehr, page 20).

³⁸ FehrAdvice Report, page 17.

³⁹ FehrAdvice Report, page 19.

⁴⁰ FehrAdvice Report, pages 31 and 32.

⁴¹ FehrAdvice Report, pages 31 and 32.

⁴² FehrAdvice Report, page 32 and Appendix, question 5 (first section).

⁴³ FehrAdvice Report, page 33 and Appendix, question 5 (second section).

⁴⁴ FehrAdvice Report, page 28.

⁴⁵ FehrAdvice Report, page 31.

- c. the difference in the “search success” across the two versions of Google;⁴⁶
- d. the share of participants who “explicitly state that they want Google searches with media content” (which the FehrAdvice Report calculates without distinguishing between which version of Google the participant used);⁴⁷ and
- e. the difference in participants’ stated willingness to pay for a version of Google search with search results linking to News Publishers content compared to a version of Google search without search results linking to News Publishers (which is again calculated without distinguishing between which version of Google the participant used).⁴⁸

2.23 We address the survey design where relevant in the points below.

The FehrAdvice Survey was based on a biased design

2.24 The FehrAdvice Survey included several potential sources of bias.

2.25 First, its participants were explicitly and exclusively prompted to undertake news themed searches rather than a mix of Information Searches representative of the interests and habits of the participant. Search results linking to News Publishers are evidently more likely to be relevant for such searches than for the full range of Information Searches that users may undertake during their normal lives. Therefore, this inherently exaggerates the impact of search engines potentially providing search results linking to News Publishers on participants’ general user satisfaction and experience of search success across non-news themed searches.

2.26 Secondly, the FehrAdvice Survey’s exclusive focus on news themed queries may prime survey participants to place higher focus on news than they normally would.⁴⁹ This may in turn inflate their assessment of their hypothetical willingness to pay for inclusion of search results linking to News Publishers. This again biases the resulting estimate of willingness to pay in favour of News Publishers.

2.27 Thirdly, the FehrAdvice Survey participants were simply asked whether they preferred versions of Google with or without media content.⁵⁰ However, Google’s search engine is available to users for free. It is unremarkable that most users would prefer the most comprehensive free offering regardless of media content’s relative importance for the individual survey participant. The FehrAdvice Survey response to this question therefore conveys no relevant or reliable information about how much value different user segments place on the inclusion of search results linking to News Publishers and the relative size of such user segments.

The FehrAdvice Report’s attribution of value to media content is based on an incorrect interpretation of the FehrAdvice Survey results

2.28 The FehrAdvice Report argues that 70% of Google’s Information Search revenues are generated by news content. This is based on the FehrAdvice Survey showing that “70% of the respondents

⁴⁶ FehrAdvice Report, page 31.

⁴⁷ FehrAdvice Report, page 38.

⁴⁸ FehrAdvice Report, page 33.

⁴⁹ See e.g., OECD (2012), *Measuring Regulatory Performance: A Practitioner’s Guide to Perception Surveys*, OECD Publishing, Paris, page 24 on “Question priming” (available at <https://www.oecd.org/gov/regulatory-policy/48933826.pdf>).

⁵⁰ FehrAdvice Report, Appendix, Question 5.

opt for journalistic content in their search engine”.⁵¹ The FehrAdvice Report infers from this that “This 70% could in turn migrate from Google as an answer engine for information searches if Google were to stop displaying media content”,⁵² and that “70% is thus the share of revenue with information searches, where the media content makes a value contribution”.⁵³ The IPD Report also equates the above-mentioned 70% share of users with the share of additional value added by media content.⁵⁴

2.29 These inferences are incorrect, however. A finding that news content has some value to 70% of Google’s users does not imply that such content accounts for 70% of Google’s Information Search revenue. Rather, the FehrAdvice Survey response to this question is entirely uninformative about the revenue contribution of search results linking to News Publishers. By way of analogy, a finding that 70% of consumers value the ability to buy postage stamps in a supermarket clearly does not imply that postage stamps drive 70% of that supermarket’s revenues, that 70% of consumers would stop using the supermarket if it stopped offering this service, or that suppliers of postage stamps could reasonably demand a percentage of 70% of the supermarket’s revenues. This fallacy in the FehrAdvice Report’s reasoning in itself leaves the FehrAdvice Report’s findings unsupported and unreliable, even as a preliminary rough estimate. Moreover, the survey design does not allow to distinguish between users with marginal and material interest in news content or quantify how many users fall where on this spectrum.

2.30 The FehrAdvice Report assumes that the ability to provide search results linking to News Publishers represents a kind of pivotal value proposition on which the ability to attract users for other searches hinges. This assumption is inconsistent with how users historically have relied on a mix of specialized and general internet search. For example, there are specialized search alternatives for shopping (e.g., Amazon or eBay), travel (e.g., Expedia or Booking.com), recipes (e.g., allrecipes.com), and online learning (e.g., coursera or Udemy). General search has hence remained relevant and competitive despite users migrating part of their search requirements to such alternatives.

2.31 Taking the FehrAdvice Report’s other findings at face value (i.e., setting aside the fundamental fallacy and biases discussed above), it estimated (i) that survey participants with access to journalistic content in the search engine had a 5% higher “satisfaction score”⁵⁵ than those without such access, and (ii) that all survey participants had a 16% higher “willingness to pay” for Google search with than without access media content.⁵⁶ This is inconsistent with any presumption that search results linking to News Publishers accounts for 70% of Information Search revenues. Rather, the FehrAdvice Report’s findings that users retain 84% of their willingness to pay for Google even without search results linking to News Publishers clearly undermines any notion that such results are pivotal to the retention of users placing some value on news.

2.32 We further note that the satisfaction and willingness to pay metrics reported in the FehrAdvice Report are likely to overstate the value of journalistic content for Google. News themed queries

51 FehrAdvice Report, page 32.

52 FehrAdvice Report, page 38.

53 FehrAdvice Report, page 38.

54 IPD Report, page 34.

55 FehrAdvice Report, page 30. The difference was from 3.9 to 4.1 out of 5.

56 FehrAdvice Report, page 33. We note that FehrAdvice estimates users’ willingness to pay based on a simple survey question where participants are asked directly how much they would be willing to pay for each version of Google search (with or without search results linking to News Publishers). This “direct single question approach” has been found to suffer from bias (see for example, Hofstetter, et al. 2021, available at <https://www.sciencedirect.com/science/article/pii/S0167811620300422#bb0290>).

typically generate few advertisement opportunities. Any value that users place on the ability to perform news queries is therefore not representative of the value realised by search engines processing such queries.

- 2.33 We note that there is no basis in economics for any presumption that even a hypothetical monopolist supplier can appropriate users' full willingness to pay. Moreover, the present case concerns a market in which users do not pay at all as all revenue is generated from advertisers. Advertisement revenue in turn depends on the value that advertisers place on being presented to users in response to specific searches. These advertisers also do not appropriate the value that users experience from organic search results but are motivated by the separate value that advertisers can generate from facilitating an additional value exchange between the user and the advertiser (e.g., sale of a product or service). There is therefore no clear conceptual or practical link between the FehrAdvice Report's various measures of value to consumers and the revenue which the FehrAdvice Report seeks to apportion.

The FehrAdvice Report's interpretation of user valuation of news content is internally inconsistent

- 2.34 It follows from the discussion above that the FehrAdvice Survey remarkably indicates that 30% of its participants place a sufficiently *negative* value on search results linking to News Publishers for these users to prefer to *not* be presented with such results *even for free*. We note that search engines are unable to distinguish between users based on whether or not individual users place a positive or negative value on the inclusion of search results linking to News Publishers on SERPs. On the FehrAdvice Report's logic, though, including such search results to better cater to those users preferring such an approach would come at the cost of degrading the search quality as perceived by those users preferring not to receive such results, and *vice versa*. This highlights the following further problems with the FehrAdvice Report's interpretation of the FehrAdvice Survey.
- 2.35 On the one hand, the FehrAdvice Report assumes that all users with a preference for search results linking to News Publishers would abandon a search engine for all their Information Searches if they suffered alleged quality degradation in the form of exclusion of such results. On the other hand, the FehrAdvice Report assumes that users with an active dislike for such results nonetheless would be indifferent between receiving them or not. This is internally inconsistent; either users would be sensitive to this quality parameter or they would not.
- 2.36 This raises the following two scenarios depending on whether users would perceive a material quality difference (positive or negative) between search results with or without links to News Publishers:
- a. If no, then there is no value for which search engines may compensate News Publishers. The FehrAdvice Approach in that case becomes irrelevant.
 - b. If yes, the FehrAdvice Report only includes alleged benefits from increased quality perceived by some users but none of the costs associated with decreased quality perceived by other users in its estimate of the effects of including search results linking to News Publishers on SERPs. Based on its own assumptions, the FehrAdvice Approach thereby exaggerates the net benefit to search engines of providing search results linking to News Publishers.
- 2.37 Either way, the FehrAdvice Approach is incorrect.

The FehrAdvice Survey mistakes search results for journalistic content

2.38 Users value search engines because they provide links to websites that are potentially responsive to a query and users can click through to obtain further content.

2.39 The FehrAdvice and IPD Reports argue that News Publishers are undercompensated as News Publishers only monetize their content when users click through to their website. In fact, they implicitly assume that many, if not most, users consume news content directly in the search results without clicking through. This is the only way to rationalize why both reports aver that News Publishers are under-compensated without even attempting to quantify the remuneration they obtain when users click through their websites.

2.40 The FehrAdvice Report states:⁵⁷

“In today’s digital age, a majority of people use aggregators like Google as their first point of contact with the information ecosystem to search for relevant information. Often, people manage to find the answer to their search query directly on the platform without clicking further on the relevant source of the information []. As a result, a large part of the added value remains in the platforms and does not lead to the platforms of other stakeholders in the ecosystem”.

2.41 The IPD Report makes a similar claim:⁵⁸

“both Facebook and Google Search provide snippets and/or headlines from the news, reducing the likelihood of users clicking to access the original content on the publishers’ websites. For example, a user’s Facebook “feed,” the platform’s main source of content, might include a headline announcing the winner of a recent sporting event or awards ceremony. The user may be able to click on the headline—redirecting them to the news publisher’s website and generating advertising revenue for the publisher—or the user may enjoy some benefit from consuming only the headline, then opting to continue scrolling on Facebook without leaving the platform. In the latter case, Facebook benefits from the news publisher’s content without the publisher being compensated for that content”.

2.42 However, these inferences are unjustified for the following reasons.

2.43 First, the fact that users do not click links to news content clearly cannot be taken to imply that these links and any snippet responded in full to their queries. On the contrary, a more natural inference would be that the user either did not find the result responsive or found another result on the SERP more responsive. News Publishers similarly do not have the ability to charge consumers who glance at the front page of a printed publication at a news stand before choosing to either buy another publication or reaching the conclusion that none of the options available likely offers sufficient value-add to justify a purchase.

2.44 Secondly, search engines do not generate revenue from, and have no incentive to promote, zero-click searches.

2.45 Thirdly, users rely on snippets to identify relevant content rather than as a way to consume relevant content. The use of snippets thereby promotes rather than substitutes the content identified by search engines as responsive to users’ queries. While the inclusion of snippets in search results typically increases the rate of click-through, the FehrAdvice and IPD Reports do not account for the

⁵⁷ FehrAdvice Report, page 3.

⁵⁸ IPD Report, page 11.

value that News Publishers derive from increased traffic as a result of appearing in search results. If the premise of fairness is that stakeholders are entitled to a share of the value they generate, then the value created by search engines on News Publishers ought to be offset against any claim of value raised by News Publishers.

- 2.46 Furthermore, even if it were true that News Publishers do not benefit from snippets and headlines being included in search results, the way the FehrAdvice Survey is structured is bound to overestimate the extent of the alleged under-compensation. The FehrAdvice Report defines a snippet as follows:⁵⁹

“A snippet is an example of a search engine function used by Google and other search engines to give users in search results a short summary of the content of a website. As a result, users [sic] can see the search results directly in the search engine results without having to click on another website. This practice is referred to as “zero-click search”, because the required information is displayed directly on the Google search results page and the user does not have to make any additional clicks on an external website”.

- 2.47 As a purely practical point, we note that whereas the search engines provide the option for search results to include additional context to better enable users to assess search result relevance, it is the News Publishers that decide how much information to share in snippets. The use of snippets therefore by default serves the purposes of News Publishers rather than search engines.

- 2.48 We note that the FehrAdvice Survey removes all media content from the counterfactual scenario (i.e., the Google without media content scenario) and not only the snippets and thumbnails.⁶⁰ The FehrAdvice Survey therefore does not isolate any alleged value embedded in the snippets. Accordingly, it does not estimate the value of the news content in the search results that according to the FehrAdvice Report quote above allegedly dissuades users from clicking through to the underlying sources. Moreover, the FehrAdvice Survey does not isolate only news content, which it defines as “information with an up-to-dateness value”.⁶¹ As a result, the FehrAdvice Survey overestimates the value-add of News Publishers.

The FehrAdvice Approach applies an inappropriate revenue share benchmark

- 2.49 The FehrAdvice Report adopts a 40% revenue share to News Publishers based on “the market logic of fair revenue sharing between content providers and marketers”.⁶² However, this logic does not carry over to search results for the following reasons.

- 2.50 First, the FehrAdvice Report implicitly assumes that News Publishers in the case of 70% of Information Searches contribute to the same extent to the advertisement revenue generated by search engines on search engines’ sites as advertisement technology providers do for advertisement appearing on the News Publishers’ own sites. There is no conceptual basis for such a comparison: it conflates the contributions of different stakeholders in the value chain providing fundamentally different services.

⁵⁹ FehrAdvice Report, page 10.

⁶⁰ FehrAdvice Report, page 21: “The results that were classified as media content were removed from the first search page”. This is also clearly illustrated in the sample screenshots provided in section b of the Appendix to the FehrAdvice Report.

⁶¹ FehrAdvice Report, page 21.

⁶² FehrAdvice Report, page 41.

- 2.51 Secondly, a proper like-for-like comparison shows that there is no basis for the FehrAdvice Report's reliance on the abovementioned 40% revenue share benchmark. Specifically:
- a. Content providers receive a share of revenue for selling advertisement space on a particular webpage which they operate and for which they are responsible for the content. As the content provider creates the context and opportunity for a user to be exposed to the advertisement in question, the content provider can sell such advertisement space and extract a share thereof. The content provider remunerates the providers of advertisement technology out of the remaining share of revenue.
 - b. Users turn to search engines exactly because the users do not have a pre-existing notion of which websites may be relevant to their query. The response to the search query is the result of the investment and skill of the search engine operator. As the search engine creates the context and opportunity to expose the user to advertisement, the search engine can sell advertisements and extract a share of such sales. This share again reflects a split between the value-add from the search engine and advertisement technology.
- 2.52 Thirdly, search engines create value for News Publishers when identifying them as potentially responsive to users' queries. Such value is not reflected in the 40% benchmark. The proposed benchmark is therefore too high.

Locations

Europe

Berlin
Brussels
Copenhagen
Düsseldorf
Helsinki
London
Madrid
Milan
Paris

North America

Boston
Chicago
Houston
Los Angeles
Miami
New York
Oakland
Washington, DC

Asia Pacific

Beijing
Shanghai
Singapore

Latin America

Buenos Aires
Santiago

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9 February 2024

Media and Digital Platforms Market Inquiry

Competition Commission of South Africa

mdpmi@compcom.co.za

SUBMISSION OF GOOGLE LLC ON THE FURTHER STATEMENT OF ISSUES OF THE MDPMI

Dear James, Paula and Commission team,

The Further Statement of Issues raises a number of important questions. We welcome the opportunity to share our perspectives on these issues and have addressed each one below.

FSOI Issue: How to measure news and its benefit to search and social media platforms?

1. The Inquiry is right to ask about the value of news content to online platforms. This topic has been the subject of deeply flawed studies overstating the value of news to platforms (including Google Search).
2. Google Search seeks to find and rank relevant sources of information online in ways that help users find what they are looking for. This includes sources of news information. But while news information may form part of the overall information ecosystem on the open web, we do not consider news websites to have elevated or quantifiable value to Google. Google does not earn, or seek to earn, material revenue from news.
3. The business model of Google Search is to provide advertisers the opportunity to display relevant ads alongside a small portion of search queries. We do not earn revenue from clicks on organic results. If a user sees an ad but is not interested in it and doesn't click, the advertiser is charged nothing and Google makes no money. In short, Google Search only makes advertising revenue when users click on ads.
4. The clearest, most concrete and evidence-based method of determining the value of a particular category of queries to Google, such as news queries, is therefore to identify the revenue earned from clicks on ads displayed in response to such queries. In 2022, news queries accounted for less than 2% of people's search queries in South Africa. Search ads placed on news queries led to less than [Confidential] in revenue for Google in 2022.
5. On the other hand, we appreciate the Commission's recognition that platforms provide value to news publishers, in particular by sending free referral traffic to their websites. As the Brazilian CADE's Department of Economic Studies Department ("DEE") recently found, "*by generating more traffic to news media, Google would also be contributing to their increased revenue*"¹. This is an important part of the value we provide to publishers,

¹ DEE's Opinion (public version - SEI No. 1325801).n at page 79.

which some studies ignore entirely. In South Africa, Google sent more than 600 million free referral clicks directly to South African publishers in 2022 from Google Search and Google News. According to the methodology used in a 2019 analysis by Deloitte, this free traffic is understood to have created more than ZAR 370 million in estimated value for South African news publishers. Applying the Deloitte methodology means the value of this referral traffic significantly exceeds the revenue earned from showing ads in response to news queries during 2022 by more than ten times.

6. We are not aware of any demonstrable link between a user viewing news results on the SERP and then subsequently entering a separate, unrelated query with commercial intent that results in an ad click that would not otherwise have occurred. [Confidential]
7. There is no evidence of any link between news queries and searches with commercial intent. News queries comprise a very small portion of searches on Google, and generally do not monetise well. Our interest in high quality journalistic content and commitment to supporting a sustainable news ecosystem is rather driven by our overall mission, which is to organise the world's information and make it universally accessible, including news information.
8. Notionally, one may assert that some users would not use Google Search for their general search needs, including for searches with commercial intent, if Google Search did not display links to news websites. However, this theoretical assertion could be made about any category of information - some users may have a bad experience on Google Search if it did not display information about, for instance, sports, cooking, literature, weather, travel or history. The fundamental objective of a search engine is to crawl and index the information on the internet and display relevant results in response to a user's query in a way that benefits the user and the websites the user may visit as a result.
9. The FSOI asks whether, aside from financial value, there is additional value created by news content through usage levels, user engagement and user data, the ability to build the platform, including new platforms within the business and generative AI training. We have addressed each of these below.

Usage levels, user engagement and user data

10. Naturally, a user searching for news information benefits from the existence of publicly available news information online, which they can find using Google Search. But from Google's perspective, news is just like any other information available on the open web. Searches for news and user interactions with links to publisher's websites generate trivial usage, user engagement and user data, in line with the small fraction of queries on Google Search seeking news.
11. It has been suggested that the user data derived from news results provides value to Google through an improved ability to target advertising. This is not correct. Data on specific press publications accessed by users may be valuable for the purposes of providing better news results to those users. But the value of this data for the purposes of advertising is limited.

12. For the most part, it is the advertiser, and not Google, that determines how to target its ads. When setting up an ad campaign, advertisers may select particular topics or search query keywords on which to bid, and have a range of options for refining when their ads are displayed, including audience targeting. The news websites included in a user's browsing history is not a basis on which advertisers can filter or target who sees their Search ads.
13. In any event, [Confidential]. As explained previously, news results typically do not monetise well – user engagement on such results is not particularly helpful for the display of Search ads.
14. [Confidential] browsing history relating to news websites (including referrals from Google News) does not have any specific or quantifiable value for personalisation of display ads.

Building the platform and new features

15. Google has developed features that rank and display sources of news, such as the Top Stories feature and Google's news aggregation service - Google News. But the news results displayed on these features are not monetised. The purpose of including news information on Google Search is to help people find quality news content, which is in line with Google's overall mission to organise the world's information and make it universally accessible and useful. Similarly, the rationale for Google News is to provide users with links to a greater variety of news sources, in a format that helps users to find and engage with recent news articles. The benefits that Google News aims to deliver to users include:
 - A diversity of perspectives: Google News gathers news articles from a vast range of sources, including international outlets, local newspapers, and niche blogs. This provides users with a centralized platform to access diverse perspectives and stay informed about various topics.
 - Personalization: Google News uses algorithms to personalize news feeds based on users' interests, location, and past browsing habits. This allows users to quickly find relevant news updates without wading through irrelevant content.
 - Organization: Google News categorizes news into different topics, making it easier for users to navigate and find specific information they're looking for.
16. News information does not have any quantifiable value to Google for developing "non-news" innovations and features. To the extent that information about sites that users click on in the search results is used to inform the development of non-news innovations, the contribution of news information within user profile data can be expected to be trivial given the small fraction of queries on Google Search seeking news content.

Generative AI training

17. Training of the Large Language Models ("LLMs") underlying generative AI systems entails teaching the system to be able to identify patterns in language and use them to predict

the next probable word or words in a sequence. To these models, publicly available news information is simply text. Foundational models are neither information databases nor deterministic information retrieval systems.

18. [Confidential]
19. [Confidential]. Importantly, website owners can choose whether to allow our crawlers to access their sites for purposes of training, just like they can for Google Search and Google News, by using simple machine-readable instructions. Google publishes information for website owners to allow them to control what content we are able to crawl and index.
20. Therefore, news information has no discernable special value for the training of LLMs, and publishers have full control over whether and which portions of their websites can be crawled for use in training of LLMs. We understand that Media24, for instance, does not allow OpenAI to access its news content².

Studies commissioned by interested parties

21. In the absence of any evidence of additional or “indirect” value to Google of news results, beyond the value generated through ads, interested parties have come up with bold and creative methodologies that substantially overstate how Google might benefit from displaying news results. These studies are deeply flawed and are inconsistent with how we view our business. This December 2023 article provides a useful overview of some of the most obvious problems in many of these analyses: [Why Google and Facebook Don't Owe Publishers \\$14 Billion a Year - Public Knowledge](#).
22. The Commission makes reference to two studies that purportedly seek to quantify the value of news to Google. The first paper, by FehrAdvice & Partners AG, is entitled, “*The value of journalistic content for the Google search engine in Switzerland*” and was commissioned by the SWISS MEDIA Publishers’ Association (the “Fehr Paper”). The second paper is entitled “*Paying for News Media: What Google and Meta Owe US Publishers*” (the “Brattle Paper”), and relies on the underlying methodology of the Fehr Paper. The methodology, assumptions and conclusions of these studies are deeply flawed.

The FEHR Paper

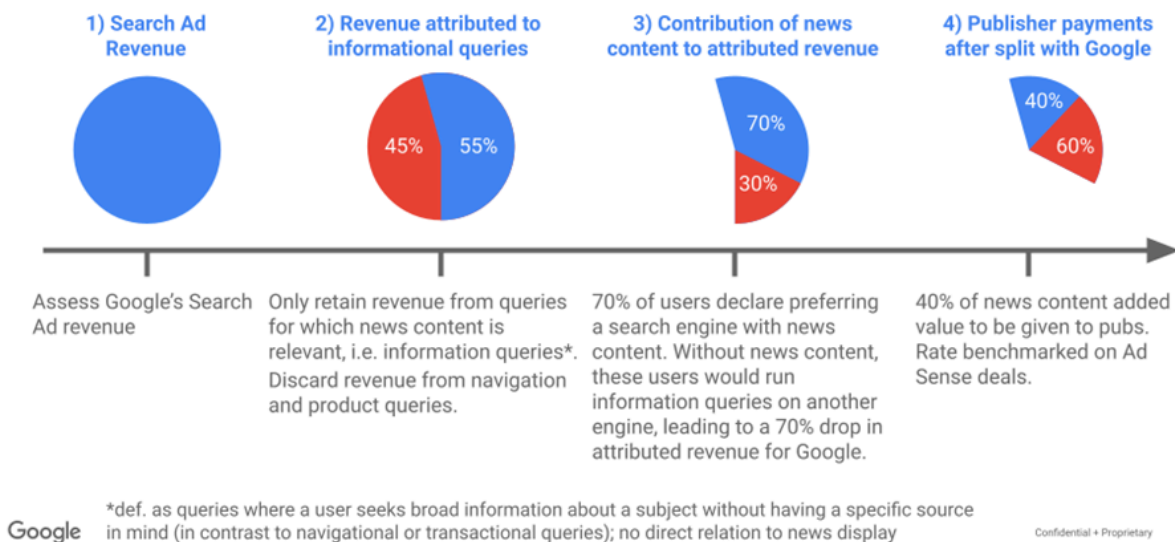
23. The FEHR Paper is based on an experiment where 1,500 participants searched during two weeks of January and February 2023 for topics in the fields of interest of politics, economics and society. A random sample of them was shown a search result with media content, the other a search result without media content. The study’s calculation is based on a four step approach to quantifying the supposed remuneration figure that Google should distribute to news publishers in Switzerland.

² See page 22 of their 8 December 2023 response to MDPMI RFI of 18 October 2023

- First, the researchers estimate that Google search ad revenue in Switzerland is around CHF1.1 billion annually.
- Second, they assert that 55% of searches are what they term as “information queries” (in contrast to navigation queries and product queries). To approximate the value of “information queries” to Google, they multiply the estimated search ad revenue by 55% - this gives CHF 549 million.
- Third, they refer to the outcome of a survey where around 70% of their sample indicated that they preferred Google Search with journalistic content, rather than without. On the assumption that, therefore, 70% of users would switch to an alternative search engine if news was removed from Google Search, they conclude that 70% of the value of information queries must derive from news. They therefore multiply the assumed value of information queries (CHF 549 million) by 70% to arrive at an approximate value of news to Google of CHF 385 million.
- Fourth, they assert that Google’s revenue share model applicable to AdSense (an entirely different product from Google Search), which they say awards 40% to publishers, is an appropriate proxy for a fair revenue share. They therefore multiply the “value of news” figure of CHF 385 million by 40% to arrive at an appropriate share of revenue to be paid to publishers - CHF 154 million.

24. This four step methodology is illustrated in Figure 1 below.

Figure 1 - The four step approach of the FEHR Paper



25. There are numerous problems with this methodology.

26. First, the Fehr Paper makes use of a broad definition of “information queries”, which are described as “a search which is used to find information about a certain topic”, that is

distinct from navigational searches where a user is searching to find a specific website or commercial searches where people are looking for products and services that individuals can use. While “information queries” are not given a precise definition in the study, they seem to refer to searches where a user seeks broad information about a subject without having a specific source in mind. This goes far beyond any reasonable concept of news queries or SERPs that would trigger news content.

27. Google does not apply any concept of “information” searches, and it is unclear why this concept is relevant to the study.
28. Step 2 of the study suggests that “information queries” as defined in the study comprise 55% of searches on Google Search. This figure is uncritically copied from Prof. Thomas Höppner and Tom Piepenbrock’s book³, with no analysis of why this figure should be adopted rather than others. For the Commission’s background, Höppner is a partner at plaintiffs’ law firm Hausfeld, which as part of its specialist claimants litigation business is routinely suing Google on behalf of various clients. Piepenbrock was a research assistant at Hausfeld at the time of writing the book.
29. The study then uncritically applies the 55% figure to Google’s assumed search revenue. But this overlooks the question of whether navigational or “transactional queries”, as defined by the FEHR paper, are more heavily monetised than information queries. There is no basis upon which to attribute all Google Search revenue to all queries equally. The FEHR Paper incorrectly assumes that Google’s total revenue should be apportioned to all queries equally even if most queries derive no revenue - this is logically incoherent.
30. Another fundamental flaw in the study is Step 3, which asserts that news content contributes 70% to the revenue generated by all information queries. This is based on the reasoning that since 70% of users declare preferring a search engine with news than a search engine without news, removing news from Google Search would result in these users switching to another search engine that does display news, triggering a 70% loss in revenue for Google. This reasoning is nonsensical. The logic determines the value of contribution of a service based on a simple binary user preference, regardless of how essential it is to the final product. More essential determinations would be, for example, in terms of revenue generation or user retention. In other words, the study assumes, without any foundation, that removing news content from Google Search would cause users preferring a search engine with news to switch away from Google for all of their search needs. They do not address the probability that removing news results from Google Search would simply cause users to seek news elsewhere (for example, by visiting a news publisher’s app or website directly), while continuing to use Google Search for the balance of their search needs (recall, news queries accounted for less than 2% of people’s search queries in South Africa and those queries typically do not earn material revenue for Google).

³ Höppner and Piepenbrock “Digitale Werbung und das Google ökosystem” (2022) at page 264

31. If one applied the same logic to the airline industry and 90% of air travelers declared preferring having access to a lunch on a flight, the logic of the FEHR Paper would imply that 90% of the value of a flight is generated by the lunch. If the logic was applied to all different types of content on Google Search, it would lead to an absurd situation where Google would be required to pay more money than it earns. For example, users could be asked whether they prefer a search engine with sport content, and then cinema content - which could lead to a conclusion that every type of content contributes to a large portion of the 'information query' revenue, and this would ultimately lead to information searches contributing more than 100% to Google's search revenue.
32. The study also conveniently overlooks their own astonishing finding that as much as 30% of participants using their adapted simulation of Google Search to explore topics of politics, economics and society would prefer a variant of Google Search without news on it, and fails to unpack the implications of that at all.
33. A further flaw relates to the payout rate of 40% in step four of the study. This figure of 40% is benchmarked on non-comparable cases. The study claims that a fair remuneration rate should be based on the revenue sharing model Google uses for its AdSense program because Google is not a monopolist in the advertising model. However, the interactions between Google and publishers are conceptually different from interactions with news content displayed on Search.
 - First, there is no direct causal relationship between news impressions on SERPs and ad revenue generated on mostly unrelated queries. In AdSense, there would be no revenue to be shared without the publisher's contribution of ad space.
 - Second, the display of news results in Search is based on a bidirectional value exchange, in which publishers receive free referral traffic which they can monetize on their sites, even without a revenue-sharing agreement. However, this is simply not the case in respect of AdSense. Overall it is clear that the findings pertaining to the remuneration owed to news publishers is grossly flawed, and accordingly, unhelpful in quantifying a supposed remuneration figure that Google should distribute to news publishers.
34. The FEHR Paper does not recognise at all the clear, demonstrable and quantifiable value that Google provides to news publishers through the free referral traffic generated from our services, or the significant direct monetary investments made in the publishing industry through the Google News Initiative.
35. The result of these numerous flaws is that the study's conclusion on the value of news to Google is drastically overstated.

The Brattle Study

36. The Brattle Group Study also contains a number of fundamental flaws and erroneous claims. Their methodology to arrive at a figure supposedly owed to news publishers in

the United States by Google also explicitly relies on FehrAdvice's remuneration model. It therefore suffers from many of the same fundamental errors.

- The methodology starts with an external estimate of Google's US search revenues of around \$60 billion.
 - Second, it relies on FehrAdvice's prior assertions in support of the point that so-called "information" searches make up between 50-60% of all searches with the authors "conservatively" taking the bottom end of the range (50%) for their calculations. They are then left with an amount of \$30 billion.
 - Third, the authors then point to "survey information" in the Fehr Study showing that *"the share of user demand for results coming from news media publishers is 70 percent"*.
 - Fourth, they advocate that 50% (from step 2) and the 70% (from step 3) should be multiplied together to get to the result that 35% of searches are *"related to news in some way"*.
 - Fifth, they reason that if 35% of searches are related to news, then 35% of Google's revenues identified in step 1 are now relevant - which amounts, in their quantification, to around \$21 billion.
 - Finally, they state that the last step is to split this in half between the news publishers and Google to get to the final figure of \$10-\$12 billion that is supposedly owed to news publishers. They state that the 50% value is benchmarked on six examples of publicly available revenue-sharing agreements between news publishers and licensees.
37. While the elements of the Fehr Paper that are carried through to the Brattle Group Study similarly taint this study in the ways described above, there are also additional, unique fundamental problems that will be explored below.
38. A prominent example of this is the foundational problem that the authors do not address the value publishers derive from being featured on Google, despite explaining that their intellectual framework is based around how best to split the "economic surplus" created jointly by Google and news publishers and seemingly knowing the value that Google gives to news publishers. Instead, the authors focus only on the value allegedly generated on Google and neglect the two-way nature of the exchange between Google and publishers. Beyond constituting a fundamental error, it makes the whole analysis one-sided and therefore invalid on this count alone. Moreover, in a similar vein, if the study is supposed to focus on "economic surplus", the best proxy would be to look at profits, rather than revenues. However, the study only concerns revenues.
39. In relation to the fourth step of the Brattle Study, multiplying 70% (presumably the number of people who prefer search results with journalistic content rather than without) and 50% (the share of informational searches) does not represent the share of

informational searches for which journalistic content actually appears or is even relevant in any way - it cannot result in a finding that 35% of searches are related to news.

40. The sixth step of the Brattle methodology is also problematic. The 50% revenue share is justified merely with a vague appeal to game theory elsewhere in the study as well as certain irrelevant historical benchmarks - that are all traditional media licensing agreements dated somewhere between 1997 and 2007.
41. There are also criticisms that can be leveled against the studies by FehrAdvice and the Brattle Group that fall outside of their quantified remuneration models. For example, it bears mentioning that it is concerning that the paper also states many facts which are plainly incorrect - for example that Google removed news content from search in Spain for a period of eight years. This is patently false as Google News alone was forced out of the market as a response to a Spanish law that required news aggregators to pay for showing links to publisher content - news content in Google Search was unaffected and continued to be displayed. In addition, the above is in no way exhaustive of all of the criticisms that can be leveled against the studies by FehrAdvice & Partners AG or Brattle Group Study.
42. The above studies do not serve as reliable models for the valuation of news to Google⁴.

Defining news results

43. The Commission is right to raise the complications that arise when trying to define news content. We have no single “source of truth” for how news content should be defined, and there are numerous difficulties with identifying the boundaries of “news”. For example, there may be debates on the degree of public importance that is required for a topic to constitute “news” - reporting on a local football match differs substantially from reporting on a natural disaster or an armed conflict in terms of the cost, risk and expertise required to produce original content, as well as the utility and relevance to the reader. Further, investigative journalism may be the subject of commentary and repurposing, entailing different skills and costs, while also fulfilling different purposes. News media companies may produce non-news content (such as book reviews by the Sunday times) and non-news organisations may produce content about recent events (such as a law firm publishing an update about a recent case). A particular topic may also be newsworthy only at a point in time, and thereafter become part of factual or historical information, making “news queries” change over time. The Commission should be cautious of accepting an overbroad definition of news.

FSOI Issue: Revenue share arrangements on certain digital platforms

44. YouTube makes use of revenue sharing arrangements for eligible content creators.

Eligibility and ease of participation

⁴ Our comments above are confined to the value of news to search engines. We do not have insights into the value of particular types of content to social media platforms, as Google does not operate any social media platforms.

45. The YouTube Partner Program (YPP) is a comprehensive partner program available to creators, delivering support and monetization opportunities. Once creators are in the program, they can start earning money from ads on long-form videos, ads between short-form videos and from YouTube Premium subscribers watching their content, earn revenue through Fan Funding revenue streams, including Super Chat, Super Thanks, Super Stickers and channel memberships. Creators in the program are guaranteed access to the Creator Support team with one-to-one help over email and chat and automatic copyright flags of reuploaded content through the Copyright Match Tool.⁵
46. Back when YPP began, YouTube had one creative format (the standard horizontal video) and one main source of revenue: ads. Today, creators have a wide variety of options available, e.g. from 15-second vertical Shorts, to 15-minute videos, to 15-hour live streams. YouTube is expanding the YPP to provide more creators and artists the opportunity to monetize on YouTube across different creative formats.⁶
47. YouTube's purpose when expanding the YPP was thus to make the YPP accessible to more creators globally with earlier access to monetization features, particularly to fan funding features like Channel Memberships, Super Chat and Super Stickers, and to Shopping features.⁷
48. The expanded YPP thus allows content creators to access fan funding features and Shopping features with (i) 500 subscribers, (ii) 3 valid public uploads and (iii) either 3,000 valid public watch hours or 3 M valid public Shorts views. Once content creators reach (i) 1,000 subscribers and (ii) either 4,000 valid public watch hours or 10 M valid public Short views, they will be able to also start earning ad revenue. YouTube's eligibility criteria are there to protect users and ensure credible, high quality content online. However they do not create any material impediment to participation for news content creators, including startups and smaller firms (as evidenced by the numerous small businesses who maintain successful YouTube channels). The YPP criteria are applied in a transparent, objective and non-discriminatory manner to all content creators.

YouTube's revenue sharing options

49. YouTube's revenue sharing options offer a fair and transparent channel for the millions of content creators enrolled in the YPP, and provide creators with the flexibility to control the types of monetisation that apply across different items of content and YouTube product features. Creators may elect to accept any or all of the available modules, depending on the type of content they are making available and their preferences - subject to certain eligibility thresholds.
50. The different modules themselves represent monetisation of the three main product features of YouTube. The Watch Page Monetisation Module governs advertising and

⁵ See YouTube Creators, "How to Make Money on YouTube" available [here](#)

⁶ See the blog post that YouTube made publicly available when it announced that it was extending the YPP, available [here](#)

⁷ See YouTube Help, "Overview of the expanded YouTube Partner Program" available [here](#)

subscription-based monetisation of video content displayed on the “watch” pages of the YouTube site/app, while the Shorts Monetisation Module covers content that creators choose to make available via the YouTube Shorts player. Separately, the Commerce Product Module enables transaction-based monetization at the channel level through ‘fan funding’ features like channel memberships, Super Chat, Super Stickers, and Super Thanks.

51. [Confidential]
52. If a partner turns on Watch Page Ads by reviewing and accepting the Watch Page Monetization Module, YouTube will pay them 55% of net revenues from ads displayed or streamed on their public videos on their content Watch Page. This revenue share rate also applies when their public videos are streamed within the YouTube Video Player on other websites or applications.
53. If a partner turns on Shorts Feed Ads by reviewing and accepting the Shorts Monetization Module, YouTube will pay them 45% of the revenue allocated to them based on their share of views from the Creator Pool allocation.
54. Revenues from monthly YouTube Premium memberships are shared with creators based on the time YouTube Premium members spend on their content as a proportion of total watch time across all content by YouTube Premium members. Generally, the more YouTube Premium members watch a creator’s content, the higher the share of Premium membership fees a content creator receives.⁸
55. If a partner turns on fan funding features by reviewing and accepting the Commerce Product Module, YouTube will pay them 70% of net revenues from channel memberships, Super Chat, Super Stickers, and Super Thanks.
56. This information is publicly available in the YouTube Help pages at [YouTube partner earnings overview](#), which explains that “[t]ransaction taxes such as sales tax, VAT, GST, etc. are not revenue to Google and are not included in the partner revenue share calculation”.
57. Content creators can also see their estimated YouTube revenue by using YouTube Analytics [Confidential], as well as their finalized earnings for the previous month, once the payments are added to their AdSense for YouTube account.⁹

YouTube’s service differs fundamentally from a search engine or news aggregator

58. The rationale for YouTube’s revenue sharing models are based on the fact that users watch video material on the platform provided and maintained by YouTube. That is the service that YouTube provides. By providing a safe and accessible platform for content creators to monetise their content, YouTube also benefits from the advertising and other revenue earned directly from the consumption of the creator’s content.

⁸ See YouTube Help, “YouTube Premium & support for creators” available [here](#)

⁹ See YouTube Help, “YouTube partner earnings overview” available [here](#).

59. The service provided by Google Search and Google News is fundamentally different to YouTube and other content sharing platforms. Google Search is a search engine that helps users to find information. It does not display full news articles, videos or audio. It is not a content sharing platform on which users consume content. The value exchange with the creators of content that is linked on the SERP is therefore fundamentally different. Unlike on YouTube where the content is consumed on the platform, Google Search creates opportunities for users to click on the link to the website containing the underlying information. This referral traffic can be monetised by publishers in various ways.
60. In our response to the Statement of Issues (“SOI”) we explained and referred to evidence demonstrating that claims that users consume news content on Google Search through viewing snippets relating to news results, are incorrect. Recently, CADE’s DEE has confirmed this position, finding in their 26 January 2024 report that, “*several pieces of the evidence collected indicate that the use of snippets tends to favor traffic to the respective sites, and there is not enough evidence to conclude that the use of snippets causes the consumer to not follow the link to news sites*”.¹⁰
61. Similarly, Google News is simply an aggregator of links to websites where news content can be consumed. Content is not consumed on the platform, but publishers nevertheless benefit substantially from the overall impact that Google News has on the news ecosystem by showing users a greater diversity of news sources and creating referral traffic to publishers’ websites. Google News is not monetised.

FSOI Issue: A consideration of the impact of mis- and disinformation

62. The issue of increased mistrust in the media is important to us and we are glad the Commission is considering it carefully. Google benefits from increased user trust when people use our products to find high quality information that is relevant and useful. Inaccurate information and misleading journalism accessed through our products leads to users having a bad experience and diminishing their trust in our service. As a result, we have a strong vested interest in combating mis- and disinformation online.
63. We are also glad that the Commission appreciates that this issue is impacted differently by different platform types. Whereas on social media platforms, news information may be posted from any sources, the objective of a search engine is to surface useful, relevant and credible information in response to a query. YouTube, similarly, seeks to show users the most relevant and up-to-date news information, whether in response to a query or on the various news-specific features that we have explained previously.
64. We invest significant time, effort and resources on supporting newsrooms with tools, training and joint initiatives that bolster the quality of journalism globally, and in South

¹⁰ Page 68 of DEE’s Opinion (public version - SEI No. 1325801).

Africa. But the most important way that our products promote and reward quality journalism is through our ranking systems, which are core to how our products work.

65. As we have explained, the quality of the information on a publisher’s website is an important factor that we use for ranking. Google’s ranking algorithms elevate authoritative, high-quality information. This means assessing things like whether the site’s main content takes significant effort, skill or originality, whether it is clear who is responsible for the website and content on the page, the reputation of the website and creator (determined by the opinion of experts and the experience of real users), amongst other factors. [Confidential] The way we evaluate the quality of a website, including a news site, is described in our public [Search Quality Rater Guidelines](#).
66. Our algorithms are also not designed to use the following factors to influence ranking:
- Point of view on issues - While some personalized news experiences are designed to connect users with stories they may be interested in, none of our systems endeavor to assess a publisher’s—or a user’s—ideological or political leanings.
 - Ad sales or commercial relationships - We take measures to ensure that Google’s commercial relationships do not impact the design of our news algorithms. Advertisers and partners do not receive special treatment with regard to how we surface news articles.
 - Personal information such as religious beliefs, age, health information, race, or other sensitive characteristics.
67. It should also be kept in mind that the business model of Google Search relies on the display of relevant ads in response to a small portion of queries, mostly those with a commercial intent. News queries are a small portion of searches and do not monetise well - most news results are organic results, and do not earn any revenue for Google. The ranking and display of news results is not driven by commercial incentives to any material degree. Rather, it is driven by our mission to find the most relevant, useful and high quality information available on the internet in response to a user’s query, which we consider to be critical in order to maintain our users’ trust.
68. We are always looking for new ways to improve our systems to prevent the spread of mis- and disinformation, and provide users more transparency about the sources we display. For example, in March 2021, Google introduced a new feature, About this Result,¹¹ which allows users to evaluate why a particular website appeared in their search result. This update allows users to check their sources more thoroughly, as after users tap the three dots on any search result they are shown additional information regarding the source of the link.

¹¹ See Google, “A quick way to learn more about your search results” available [here](#).

69. Google also has a tool called Fact Check Explorer, including image verification, which allows users to search different topics, images or stories against fact checks from reputable publishers around the world.¹²

Google News

70. The above principles apply equally to Google News, as they do for Google Search. Google News applies a number of policies, which can be accessed online¹³, that guard against misleading content. This includes a deliberate transparency policy, which requires that news articles include:

- Clear dates and bylines;
- Information about the authors, publication, and publisher;
- Information about the company or network behind the content, and
- Contact information.

Fact checking initiatives

71. Our incentives to display the most high quality information are demonstrated by the numerous internal and external initiatives we promote to combat mis- and disinformation online. The Google News Initiative has also partnered with a number of global organisations to combat disinformation including:

- Providing funding support to Africa Check to establish a coalition of South African news media to align on fact checking initiatives in the lead up to the 2024 South African elections. Initial coalition partners include fact-checking organisations Africa Check and AFP Fact Check, media outlets Daily Maverick, Mail & Guardian, Caxton Local Media, SABC News, Tuks FM 107.2, and civil society organisation SECTION27. [Confidential] More information about Africa Check is available [here](#). The 2 February 2024 media release announcing this initiative is available [here](#).
- Google has also supported other election coalitions across the globe. For example, recently during the Nigeria elections in 2023, Nigerian fact checkers were able to use new AI tools, which were developed by Full Fact with support from Google.org, to increase the speed, scale, and impact of fact checking.¹⁴ The feedback that was received from this initiative was that a particular consciousness was created within the mind of Nigerians, to the point that a presidential candidate reacted and started telling his supporters to “go and verify” after every statement he made thereafter in reaction to one of the fact-checks.

¹² See Google Fact Check Tools, “*Fact Check Explorer*” available [here](#), see also Google, “New Features coming to Fact Check Explorer” available [here](#) and Google, “3 new ways to check images and sources online” available [here](#) for more detail on the new image verification features available with Fact Check Explorer.

¹³ See Google News policies, available [here](#)

¹⁴ See Google, “Nigerian fact checkers fight election misinformation with Full Fact’s AI Tools” available [here](#)

- Helping to launch the First Draft Coalition, a nonprofit that convenes news organisations and technology companies to tackle the challenges around combating disinformation online – especially in the run-up to elections.
 - Participating in and providing financial support to the Trust Project, of which Google is a founding member, and which explores how journalism can signal its trustworthiness online. The Trust Project has developed eight indicators of trust that publishers can use to better convey why their content should be seen as credible, with promising results for the publishers who have trialled them.
 - Partnering with Poynter’s International Fact-Checking Network (“IFCN”), a nonpartisan organisation gathering together fact-checking organisations from Argentina, Brazil, Germany, India, South Africa, the United States and more. In November 2022 we announced a \$13.2 million grant to the IFCN to launch a new Global Fact Check Fund to support their network of 135 fact-checking organizations from 65 countries covering over 80 languages.
72. Google.org, Google’s philanthropic arm, has provided \$2 million in funding and seven Googlers pro-bono to Full Fact, an organisation that builds AI tools to help fact checkers detect the veracity of claims made by politicians. Full Fact now has the capacity to identify 100,000 checkable claims across online and broadcast media - over 1,000 times more than what they were able to check before Google’s involvement.
73. Jigsaw, a unit in Google, works to build new technology to combat disinformation campaigns, amongst other things.¹⁵ For example, Project Assembler was an experiment conducted by Jigsaw and Google Research, which aimed to advance and develop how new detection technology could help fact-checkers and journalists identify manipulated media¹⁶. Google has contributed €25 million to help launch the European Media and Information Fund to fight misinformation and support fact checking.
74. Google announced on 31 March 2022 that it was investing \$10 million to help fight misinformation about the “realities and facts of the war in Ukraine”. This includes partnerships with think tanks and civil society organisations to conduct region-specific research into misinformation and cash grants to support fact checking networks and non-profits.

Google News Showcase

75. We also mention that Google News Showcase provides an additional mechanism through which we promote and provide funding to quality journalism. Beyond topical focus on current event journalism, criteria for participation in Showcase include traffic and circulation/reach, adherence to recognized journalistic principles, and (as an indicator but not a mandatory requirement for participation) news industry association memberships. National, regional and local publications are eligible, to help ensure a diversity of

¹⁵ See Jigsaw, “Creating future-defining technology” available [here](#)

¹⁶ See “Project Assembler” available [here](#)

high-quality publications within Google News Showcase. In addition, there are technical capabilities which must be met, including the ability to deliver a minimum number of news panels required per day and the ability to meet other technical product requirements.

76. We do not have insight into how social media platforms filter and rank journalistic content that users post to their sites. We mention that social media is fundamentally different to search. Search applies a rigorous algorithmic analysis to information before displaying a link on the SERP, whereas social media sites can display information voluntarily posted by members of the public or by the producers of the information.

YouTube

77. YouTube also invests significantly in combatting mis- and disinformation, both through its product design, policies and and specific fact checking initiatives. As detailed in YouTube's Community Guidelines, YouTube does not allow misleading or deceptive content that poses a serious risk of egregious harm. YouTube's policies are developed in partnership with a wide range of external experts as well as YouTube Creators, and are enforced using a combination of content reviewers and machine learning to remove content that violates our policies as quickly as possible.
78. Specifically, content is prohibited from YouTube if it includes:
- Suppression of census participation: Content aiming to mislead census participants about the time, place, means, or eligibility requirements of the census, or false claims that could materially discourage census participation.
 - Manipulated content: Content that has been technically manipulated or doctored in a way that misleads users (usually beyond clips taken out of context) and may pose a serious risk of egregious harm.
 - Misattributed content: Content that may pose a serious risk of egregious harm by falsely claiming that old footage from a past event is from a current event.
79. We have also explained previously that YouTube's ranking algorithms place particular emphasis on high quality and authoritative information when displaying news content in the various dedicated panels and in ranking search results for news. In South Africa, YouTube also makes available a product feature called "information panels". [Confidential]. For well-established historical and scientific topics that are often subject to misinformation, general reference articles linking to third-party sources appear alongside related search results and videos. YouTube does this by surfacing contextual information from third-party publicly available sources including Encyclopedia Britannica and Wikipedia to provide more context.

FSOI Issue: Greater emphasis on Radio and TV broadcast news media, and particularly the public broadcaster

80. We have built strong and collaborative partnerships with numerous South African broadcasters over the years, who we support with monetisation opportunities through YouTube and our ad tech offerings, as well as with referral traffic through Google Search and Google News.
81. The internet has created new, additional ways for producers of news in either text, audio or video format to reach audiences and generate revenue. However, as the SOI points out, these formats should each be considered separately as they are consumed differently and face different market dynamics.
82. For example, the SOI points out that radio is the largest distribution channel for news content in audio format in South Africa. In addition to broadcasting content over AM and FM frequencies, radio broadcasters may reach additional audiences by streaming content through numerous competitive options online - on their own websites, on aggregator websites like radio.net or apps such as Radio South Africa, as well as through numerous well-known streaming services such as Spotify and Apple Music. News content can also be made available in audio format on YouTube, where broadcasters can earn additional revenue through the numerous monetisation modules we have explained above.
83. Similarly, television is the largest distribution channel for news in video format¹⁷. YouTube provides broadcasters of high quality, relevant news content with an additional platform to increase their reach and monetise their content online. YouTube offers various revenue sharing, which content creators can use in whatever combination they wish, including through various ads formats, channel memberships and by sharing in revenue earned through YouTube Premium - YouTube's ads-free subscription offering. These revenue-sharing options are competitive with the numerous alternatives that news media companies have online, and provide a simple and effective monetisation option for businesses of all sizes, including traditional producers of text-based news content who wish to diversify into a video format.

The SABC

84. Through YouTube, the SABC has an important additional avenue to reach new audiences.¹⁸ SABC has various channels on YouTube, including: SABC1 – 'Mzansi Fo Sho' with 833k subscribers,¹⁹ SABC2 – 'you belong' with 459k subscribers,²⁰ SABC3 – 105k subscribers,²¹ and SABC News with over 2 million subscribers and an advertised 1 billion views.²² SABC News also has sister channels on YouTube for a variety of African

¹⁷ Paragraph 64 of Google's Response to MDPMI Statement of Issues dated 15 November 2023

¹⁸ See SABC's YouTube channel available [here](#)

¹⁹ See SABC 1's YouTube channel available [here](#)

²⁰ See SABC 2's YouTube channel available [here](#)

²¹ See SABC 3's YouTube channel available [here](#)

²² See SABC News' YouTube channel available [here](#)

languages.²³ The SABC has explained its growth from partnering with YouTube in its most recent annual report, which states, “The year saw continued growth in traffic across all platforms, with YouTube video views peaking at 24 million and subscribers reaching the 1.8 million mark in March 2023. The period ended with a total of 82 livestreams on YouTube. The subscriber base of African-language channels increased with Afrikaans, IsiZulu, and IsiXhosa taking the lead”.²⁴

85. This presence on YouTube creates monetisation opportunities for the SABC, which are incremental to its commercial revenues earned through TV advertising and advertising on its website (where its channels are also live streamed). [Confidential].
86. On the question of whether the SABC’s public interest mandate places it in a unique position, it is important to keep in mind that the SABC’s mandate and corresponding revenue mix was a policy decision by parliament. Unlike its competitors, the SABC has access to state support in the form of TV licenses and state grants to compensate for its additional obligations.²⁵ However, it also faces a number of constraints arising from the governing legislation. For example, the SABC is currently mandated to comply with certain provisions of the Public Finance Management Act, which may stifle the SABC’s ability to compete with private broadcasters.²⁶ We also understand that billions of Rands in TV license fees owed to the SABC are unpaid.²⁷
87. Remedying these structural obstacles faced by the SABC is the preserve of parliament, and should not be taken into account for purposes of this Inquiry in our view. We understand that, in fact, the need to update the current legislative framework governing the SABC has been acknowledged²⁸ and the South African Broadcasting Corporation Bill

²³ For example, SABC Izindaba available [here](#); SABC Iindaba available [here](#); SABC Nuus available [here](#); SABC Ditaba_Dikgang available [here](#); SABC Tindzaba available [here](#); SABC Iindaba zesiNdebele available [here](#); SABC Mafhungo available [here](#); SABC Mahungu available [here](#)

²⁴ The SABC has, for example, acknowledged at page 33 of its 2023 Annual Report that “The year saw continued growth in traffic across all platforms, with YouTube video views peaking at 24 million and subscribers reaching the 1.8 million mark in March 2023. The period ended with a total of 82 livestreams on YouTube. The subscriber base of African-language channels increased with Afrikaans, IsiZulu, and IsiXhosa taking the lead”, available [here](#)

²⁵ Section 10(2) of the Broadcasting Act which reads “10(2) The public service provided by the Corporation may draw revenues from advertising and sponsorships, grants and donations, as well as licence fees levied in respect of the licensing of persons in relation to television sets, and may receive grants from the State.”

²⁶ For example on a meeting with NCOP Public Enterprises and Communication on 17 November 2021, the Minister stated, “The Department would support the SABC with regards to their requests for exemption from certain Public Finance Management Act (PFMA) clauses because the exemption would allow the SABC to turnaround quicker in terms of their supply chain processes but also to turnaround quicker in terms of the positioning of the entity, thus ensuring that the SABC is sustainable.” available [here](#)

²⁷ On 26 June 2023, the Minister of Communication and Digital Technologies stated that the “total amount owed by South Africans for television licences was a total of 9.2 million accounts has outstanding balances valued at R44.2 billion.” available [here](#)

²⁸ The SABC has, for example, acknowledged in its 2023 Annual Report that “The extremely slow pace of policy, legislative and regulatory change was not assumed. While there has been some movement in this regard, the absence of finalisation of the most significant of these required changes continues to cost the SABC dearly. The point has repeatedly been made – and continues to be made – that it is not possible for the SABC to hold on to the gains it has made in turning around, let alone achieve financial sustainability, without these policy, legislative, and regulatory change.”, available [here](#)

has been under consideration since 2021.²⁹ This is the appropriate way to address the structural challenges facing the SABC.

Community media

88. YouTube provides simple and easy-to-use options for small businesses to generate revenue. Smaller publishers can obtain free visibility by posting available video content on YouTube or having their website displayed on Google Search or Google News, for free, and they can quickly and easily start monetising their content without the significant investments that would be required to broadcast on television.
89. We mention that broadcasters are not precluded from displaying content on YouTube in any language. Vernacular language broadcasters are therefore not precluded in any way from posting content on YouTube.

FSOI Issue: Transparency and its role and importance in platform and AdTech markets

90. Google makes a vast amount of information available online about its ranking systems, revenue sharing methodologies and how businesses can optimize their use of its products and services. We also routinely and proactively engage with local news media companies and industry bodies to share information about our products that can help publishers reach greater audiences and improve revenue online. Our view is therefore that there is already considerable transparency regarding our products.
91. As the Commission correctly points out, we are constrained in certain respects in what information we can share, as we need to protect our legitimate business secrets, the commercially sensitive information of our commercial counter-parties and also aspects of our products, such as our algorithms, that would undermine their effectiveness if bad actors were able to manipulate their sites to “game the system”.

Transparency of Google’s Algorithm

92. Google works hard to facilitate the appropriate level of transparency with publishers regarding its algorithms, including communications (with appropriate notice) of any major actionable changes that may affect news content. In doing so, we need to balance our desire to be transparent against the risk of manipulation by bad actors that could diminish the effectiveness of our service, causing a poor user experience and undermining Google’s overall mission.
93. It is therefore important that proprietary information and intellectual property relating to Google’s algorithms, and the signals they rely on, are protected. Google’s algorithms are its most sensitive commercial secrets that are critical to its success and are the product of great investment and ongoing innovation.
94. To strike the optimal balance, Google provides as much guidance to publishers as possible without revealing its exact algorithms and systems. For example:

²⁹ See Parliamentary Monitoring Group, “*South African Broadcasting Corporation (SABC) Bill*” available [here](#)

- Google has created a Search Engine Optimization Starter Guide³⁰ to assist webmasters to improve a site's performance in organic search results.
 - We make publicly available our Search Rater Guidelines³¹, which describe in detail the methodology followed by our search raters to evaluate the outcomes that our algorithms are programmed to achieve.
 - We publish numerous additional clear and digestible sources that news publishers could use to further understand how the ranking in search works,³² including for news.³³
 - Google also offers online office hours during which webmasters can ask questions to Google employees and community experts³⁴ as well as Search Essentials, Content and Quality guidelines which explain best practices and the types of techniques news sites should avoid.³⁵
95. Google also promotes transparency of algorithm changes to publishers. As we have explained before, it is not feasible for Google to provide notice to publishers of every update because Google generally releases one or more updates each day.³⁶ In any case, these updates would not have a noticeable effect on publishers, so informing them would not be of much use. However, Google does inform publishers upon the release of a Core Update, an update that makes a major change to its algorithms to improve how Google systems assess content which typically only occurs several times a year, Google will give prior notice on the Google Blog and on the Google Search Central Blog.³⁷ For example, advanced notice and advice was given on the Google Blog almost six months before Google's "Speed Update" was rolled out.³⁸ We also give notice of updates on our list of Google Search ranking updates³⁹ and through the Search Console.⁴⁰
96. Google also provides ample information to news publishers in order for them to evaluate their performance on Google Search. For example, Google makes Search Console freely available to publishers to monitor their website's presence on Google Search, Google News and Discover by giving publishers data on the number of clicks, impressions, average CTR, average position on the SERP, among other things, over a specific period of time. Search Console can also be used by publishers to confirm that their content is eligible to appear on Google and to fix indexing problems and other issues.

³⁰ See Google, "SEO Starter Guide" available [here](#)

³¹ See Google, Search Rater Guidelines available [here](#)

³² See Google, "How Search works" available [here](#).

³³ See "How News Works" available [here](#); "Ranking within Google News" available [here](#); and "Ways to Succeed in Google News" available [here](#)

³⁴ See "What's new on Google's Search channel?" available [here](#).

³⁵ See "Overview of guidelines" available [here](#).

³⁶ See "What site owners should know about Google's core updates" available [here](#).

³⁷ See Google, "Google Search Central Blog" available [here](#)

³⁸ See Google, "Using page speed in mobile search ranking" available [here](#).

³⁹ See Google, "Google Search Status Dashboard" available [here](#)

⁴⁰ See Google, "AI & Machine Learning Products & Services" available [here](#).

97. Another free tool that Google makes available to news publishers is Realtime Content Insights, which simplifies the data in Google Analytics to assist news publishers with understanding user engagement and behaviour on their site. The information provided on Realtime Content Insights includes relevant daily information, such as real time readers, location of real time readers and top five referral sources of the day and how many users are returning or new. Realtime Content Insights also includes information to help news publishers understand the performance of a particular article or video in comparison to site average, such as ranking all news publishers' articles and videos by pageviews / views generated during a selected time frame (default of 30 days). This type of information on user behavior allows news publishers to assess whether their content is performing well on Google Search and accordingly how to adjust their content to improve performance.
98. Google has also hosted a dedicated News Publisher Workshop in March 2023, which included a session on optimising Core Web Vitals, and has also worked with two South African news publishers to implement a dedicated CWV audit and optimisation plan. If useful, Google would be happy to run additional workshops with news publishers on search engine optimization or adjacent topics in the future to facilitate further understanding.

Transparency of revenue sharing relating to ad tech products

99. The revenue share rates and pricing for news publishers choosing to use Google's ad tech products are communicated through a variety of means, including contracts, invoicing, reporting tools and online documentation on its help center.⁴¹
100. Information concerning Google's revenue sharing arrangements for ad tech products is made publicly available by Google. Publishers, using Google Ad Manager ("GAM") to sell display advertising purchased through Google Ads, keep over 69% of the total amount paid by advertisers.⁴² Similarly, when an advertiser uses Google's DSP (Display & Video 360) to buy inventory from a publisher that uses GAM, publishers also keep over 69% of the total amount paid by advertisers.⁴³ For news publishers specifically, a 2020 analysis conducted by Google of 100 global news publishers using GAM found that, on average, news publishers keep over 95% of the digital advertising revenues they generate. Indeed, the transparency of Google's ad tech pricing has been remarked upon by competition authorities worldwide. Following an in-depth market study, the UK's Competition and Markets Authority (the "CMA") found that Google's publication of average fees for its AdSense product "*could help bring a degree of confidence to market participants and could provide them with a starting point for assessing the scale of ad tech fees.*"⁴⁴ In the

⁴¹ See for example the long list of revenue report metrics available in Ad Manager: Ad Manager report metrics - Google Ad Manager Help available [here](#)

⁴² Note that this figure relates to 2019. See Google, "How our display buying platforms share revenue with publishers" available [here](#).

⁴³ See Google, "How our display buying platforms share revenue with publishers", available [here](#). See also "Updates to how publishers monetize with AdSense", available [here](#). For information about the revenue share for publishers using AdSense (which is 68% for display ads), see Google, "AdSense revenue share", available [here](#).

⁴⁴ See CMA, "*Online platforms and digital advertising: Market study final report*", paragraph 8.215, available [here](#).

context of the present MDPMI Inquiry, South African news media publishers have stated that they consider the terms and conditions of Google’s ad tech products to be fair.⁴⁵ In addition to Google’s high degree of public transparency concerning its revenue shares, the applicable revenue share between Google and a news publisher using its ad tech products will always be included in the bilateral agreement between both parties.

101. To further promote ad tech revenue transparency, in 2022, Google introduced “Confirming Gross Revenue”, a tool that provides buyers and publishers with a privacy-safe way to verify that no hidden fees are taken from digital advertising transactions. This solution only uses the data needed to confirm that no hidden fees have been taken, relying on aggregate gross revenue amounts rather than combining granular log-level data. Google recently expanded the availability of Confirming Gross Revenue to all publishers using GAM and all advertisers or agencies using DV360. Google is also increasing integration between this solution and interoperable ad tech providers such as Yahoo and Index Exchange, helping the industry raise the bar on trust in digital advertising.⁴⁶
102. As explained in response to the SOI, Google has long been involved in efforts to improve transparency for advertisers, publishers and consumers across the industry through various initiatives. For example, Google was an early adopter of ‘ads.txt’, which is an Internet Advertising Bureau (IAB) initiative that allows publishers to publicly declare who is authorised to sell their inventory, thereby making it less likely that advertisers will accidentally bid for counterfeit inventory by enabling buyers to cross-check ads.txt files to avoid dealing with unauthorised sellers. Google’s commitment to ensuring transparency and fairness is further evidenced by Google’s status as a board member of the Coalition for Better Ads, whose “Better Ads Standards” initiative prohibits ads that fall below a threshold of consumer acceptability, as well as the recent launch by Google of its Ads Transparency Center.⁴⁷

Transparency of revenue sharing relating to YouTube

103. Google offers content creators a variety of opportunities to monetize their content and channels, which are explained in paragraphs 49 to 57 above. Creators can find detailed guidelines on the criteria and revenue share percentages for each monetization module and feature in YouTube help center articles.⁴⁸ Creators may also monitor their estimated YouTube revenue in YouTube Analytics, where finalized earnings and a detailed breakdown of deductions are shown on a monthly basis.⁴⁹

Transparency of news content performance overall or contracting with news organisations

⁴⁵ See Media24’s submission to the Competition Commission on 8 December 2023, question 30, available [here](#).

⁴⁶ See Google, “Building towards greater transparency in media buying” available [here](#).

⁴⁷ See Coalition for Better Ads, “The Better Ads Standards”, available [here](#). See Google, “Announcing the launch of the new Ads Transparency Center”, available [here](#).

⁴⁸ See YouTube Help, “YouTube partner earnings overview” available [here](#)

⁴⁹ See YouTube Help, “YouTube partner earnings overview” available [here](#)

104. We make substantial information available to publishers regarding news content performance on the platform as a whole. We have already shared with South African publishers the portion of queries with a news intent (less than 2%), the Search Ads revenue we made from those queries (around [Confidential]) and the volume of clicks (600 million) sent to South Africa publishers in 2022.
105. Publishers also have access to their individual performance information through the Search Console, the Publisher Center and Realtime Content Insights, as well as any other measurement technology they choose to implement on their sites. This provides visibility of the concrete, demonstrable value exchange between publishers and Google Search. In addition, the IAB South Africa makes available an industry wide [measurement dashboard](#), using Google Analytics data, to reflect the total brand reach of the participating news media organisations.
106. [Confidential]. We have explained to eligible South African publishers the methodology for determining Showcase offers, which is in line with global methodologies.
107. In relation to agreements with individual publishers, we are mindful of the need to protect each firm's confidential information, in the interests of the publishers and healthy competition in the industry.⁵⁰

FSOI Issue: Incorporating a constitutional interpretation to the Inquiry

108. The Commission is right to acknowledge that the market inquiry potentially relates to certain constitutional rights. The Commission correctly identified that an effective and free press is important for democracy as one of the reasons for launching the inquiry. We agreed with this prioritisation, noting in our comments on the SOI that the Inquiry is timely and important.
109. To assist with the Inquiry's interpretation of the relevant legislation and its powers, we have set out our views on how the relevant provisions and rights interact. There are three dimensions to the constitutional interpretation and application of the market inquiry provisions of the Competition Act here.
110. First, in the context of the publishing or media markets being considered here, rapid digital innovation and the proliferation of publishers, media and sources of information advances the section 16 rights that create the Constitution's marketplace of ideas and exchange of information. While arguably each right contained in the Bill of the Rights could be linked to the digital media market, the market inquiry's outcomes should encourage and support the expansion and innovation of and freedom of contract in that market, and ensure that it remains a dynamic, contested and contestable market. Google's products have created tremendous gains in advancing the right to information and freedom of expression. This is in line with our mission, to organise the world's information and make it universally available and useful.

⁵⁰ [Confidential].

111. The second dimension to a constitutional understanding of this market inquiry is to ensure that the Commission interprets its powers through the entrenched constitutional approach of “text, context and purpose.” The Act’s provisions in the market inquiry sections remain closely tied to the economics and dynamics of competition within a defined product and geographic market, measured against a competitive counterfactual constructed using evidence. The proper focus of a market inquiry thus remains on competition and its desired outcomes on economic and commercial questions such as price, quality, innovation, choice and investment. The Act is clear that competition must be promoted and maintained first as it is the mechanism to achieve the Act’s purposes.
112. Finally, for interpretive purposes it should be kept in mind that the Commission as a creature of statute must exercise its powers and perform its functions as provided for in the Act. Fair administrative action, a constitutional right enjoyed by all market inquiry participants, requires that the Commission’s market inquiry process and procedures be fair, rational, reasonable and lawful. The rule of law – a supreme value in section 1(c) of the Constitution – requires that the Commission fulfill its market inquiry mandate with scrupulous fidelity to Act’s requirements. For example, the Commission’s mandate extends only to investigating the general state of competition, the levels of concentration and structure of a defined and relevant market. Section 43B is clear that the Commission may only undertake a market inquiry if the jurisdictional facts are first established, namely that it believes that there is a feature or combination of features in that market that impedes, distorts or restricts competition or in order to achieve the limited purposes of the Act set out in section 2. The Commission is required to follow the procedure provided in section 43C before exercising any power under sections 43D and 43E. This is not a purely constitutional assessment nor one focussed on “constitutional outcomes”, but one that the Act requires a factual and economic assessment based on evidence and sound analysis of market dynamics. To the extent that there are constitutional rights affected, any addressing of competition issues will naturally address any underlying constitutional principles. There is no additional test to be read into the Act, and the process, evidence gathering, findings and remedial actions should be unaffected.

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