



# BBC Studios, Premier League and Sky response to CMA's invitation to comment on the SMS investigation into Google's general search and search advertising services

## 1. Introduction

We (BBC Studios, Premier League and Sky) welcome the CMA's invitation to comment on the SMS investigation into Google's general search and search advertising services. This response makes recommendations for narrowly tailored Conduct Requirements (CRs) relating to the way in which those services facilitate piracy. We believe that the CRs we propose will help ensure the continued growth of the UK's creative industries and their contribution to the wider economy.

As noted in the Government's *Invest 2035* strategy<sup>1</sup>, the UK is a global centre for screen production with £4.23 billion in production spend in 2023, with the wider creative industries accounting for 67% of the UK's digital exports in 2021. Independent modelling has also found that the UK media and entertainment sectors have the potential to be worth an additional £10 billion a year by 2033 – rising from £43 billion in 2021 to £53 billion in 2033<sup>2</sup>. However, this growth can only happen with a supportive regulatory environment that ensures the UK sector remains globally competitive. Nowhere is this more important than in the protection of Intellectual Property (IP).

## 2. Google search's role in enabling piracy

Search engines provide a quick and easy route for consumers to discover pirated content. Google search returns organic and paid results that lead consumers directly and indirectly (for example via review sites) to infringing content and services.

Rights holders regularly engage with Google on ways they can prevent consumers finding pirated materials on their search platform. Google has taken some measures to address misuse of their search services, but copyright-infringing services remain easily accessible in both search and search advertising results. The size and reach of Google's search platform means that pirate services are widely propagated and legitimised, and rights owners do not have the ability, absent regulation, to compel Google to deliver controls that would be more effective.

Specific challenges include, in relation to search services, the fact that delisting of infringing content happens only at a page level, not at a whole domain level<sup>3</sup>, which means there is

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<sup>1</sup> Invest 2035: the UK's modern industrial strategy (accessible here: [Invest 2035: the UK's modern industrial strategy](https://www.gov.uk/government/consultations/invest-2035-the-uk-s-modern-industrial-strategy) - GOV.UK)

<sup>2</sup> Sky's economic impact in 2022, carried out by Public First and Oxford Economics (accessible here: [Economic-Impact-Report-2022-Web.pdf](#))

<sup>3</sup> URL (or page) refers to a single page on the internet, while a domain refers to many web pages that connect to form an entire website. For example, in "https://www.example.com", the domain of this web address is "example.com", while "www.example.com/services" is a URL. By only banning URLs (i.e. individual pages), the domain can continue to operate and be promoted, and the site owner can continue to

limited impact on demotion of illegitimate websites. Even if a rights owner can prove that the content is illegal, the whole domain will not be delisted without obtaining a court order, which is expensive and time consuming.

With search advertising, although Google has introduced checks designed to prevent pirate misuse, there is as yet no demonstrable reduction in prominence of pirate advertising within Google search advertising. We believe the answer to this challenge is stronger and tighter identification and verification on those using such services, together with a transparent and regularly enforced policy on banning advertising accounts that breach the policy.

### 3. Proposed interventions

In line with the DMCC's overarching legislative objectives to promote fairer dealing, trust and transparency, we recommend two conduct requirements to effectively address serial misuse of Google's search, and particularly search advertising, services: (i) Know-Your-Customer (KYC) rules and (ii) transparent repeat infringer policies.

It is currently too easy for those promoting pirate services via Google search advertising to commit repeat infringements. Although Google has introduced some verification controls for users of search advertising services, repeated and prominent advertising of pirate services from the same ad accounts remains commonplace. We believe the following measures are necessary:

#### i. Know-Your-Customer (KYC) rules

To deter misuse of the services, Google should implement robust and enforceable KYC rules, including requirements for users of search ad services to supply identification and verification documents. Where bad actors who do supply identification and verification evidence, Google would be able to identify those individuals behind infringing accounts and act on repeat infringements.

#### ii. Transparent Repeat Infringer policy

Our second suggested conduct requirement is that Google should adopt and enforce a transparent repeat infringer policy, removing advertisers who consistently breach policies, significantly reducing the use of search advertising by pirate services.

Legislators in the EU have implemented rules similar to those suggested here. The EU Digital Services Act (DSA)<sup>4</sup> has made strides in requiring platforms to implement accessible and transparent notice and takedown procedures for removing illegal content. KYC obligations have also been introduced in the DSA in relation to online marketplaces.

### 4. Conclusion

We urge the CMA to seize the opportunity to use the tools provided by the DMCC to combat digital piracy in the UK by implementing focussed Conduct Requirements. Doing so will help ensure fair dealing, open choices, and trust and transparency in UK digital markets and will enable the UK to both continue leading the way in protecting British IP and safeguarding the continued growth of the creative industries and the wider economy.

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create and promote new web pages under the existing domain. The only situation in which Google will delist at a domain level is if there is a court order against the site in question, which has been served on Google.

<sup>4</sup> Accessible here: [Europe fit for the Digital Age: New online rules for businesses - European Commission](#).

Last year, we submitted detailed evidence to the CMA outlining the significant economic impact piracy has on major rights holders. We welcome the opportunity to engage further with the CMA on remedies and stand ready to discuss any of the points above further.

**BBC Studios  
Premier League  
Sky UK Limited**

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