Decision 24-D-03 of March 15, 2024

regarding compliance with the commitments in Decision 22-D-13 of 21 June 2022 of the Autorité de la concurrence regarding practices implemented by Google in the press sector

Posted on: March 26, 2025 | Sector(s) :

DIGITAL

PRESS / MEDIA

Presentation of the decision

Summary

Under the terms of this decision, the *Autorité de la concurrence* (hereinafter the " *Autorité*") is fining Alphabet Inc., Google LLC, Google Ireland Limited and Google France (hereinafter "Google") €250 million for failing to comply with the commitments made binding by Decision 22-D-13 of 21 June 2022 (hereinafter the "Commitments Decision"). These commitments concern Google's application of French law 2019-775 of 24 July 2019, which aims to establish a related right for press agencies and publishers. The aim of these commitments is to restore the balance of power between the various players in the press sector and Google, by establishing a binding negotiating framework tailored to the specific features of the sector.

In this decision, the *Autorité* concludes that Google did not comply with Commitments 1, 2, 4 and 6 of the Commitments Decision.

Firstly, the *Autorité* considers that Google did not comply with its obligation to negotiate remuneration offers for the use of protected press content on its

services based on transparent, objective and non-discriminatory criteria within three months (Commitments 1 and 4) and did not provide press agencies and publishers with all the information needed to negotiate with Google (Commitment 2).

In this respect, the *Autorité* notes that Google not only failed to meet its obligations with regard to the provision of its methodology notes, but also that these notes were opaque and did not enable the negotiating parties to understand how Google determined its financial offers. Moreover, Google did not provide all the information that should have been provided to the negotiating parties under the Commitments Decision. As a result of this series of breaches, Google kept the negotiating parties in a situation of information asymmetry, thereby hampering their ability to negotiate, whereas the commitments were intended to do precisely the opposite.

In addition, the *Autorité* considers that Google reduced the remuneration base for press agencies and publishers, in breach of the principles of the Commitments Decision:

- On the one hand, Google undervalued the indirect revenues derived from the attractiveness brought to its services through the display of protected press content. The *Autorité* notes, in this regard, that Google limited indirect revenues to a marginal share in the calculation of its financial offers, while the Commitments Decision found that indirect revenues represented the biggest share of revenues derived from the display of protected press content on Google's services.

- On the other hand, Google excluded any form of remuneration for the display of press article headlines, which is not consistent with the previous decisions issued by the *Autorité* or with the Court of Appeal case law referred to in the Commitments Decision.

The *Autorité* also notes that Google gave no contractual expression to the commitment to update and, where appropriate, regularise remuneration in the majority of the contracts signed with publishers since the commitments came into force, or has done so only in part.

Secondly, the *Autorité* found several other breaches by Google following the launch of its artificial intelligence service Bard, now called Gemini.

The *Autorité* notes that Google, by not informing press agencies and publishers of the use of their content by Bard, failed to comply with its obligation of transparency under Commitment 1.

Moreover, the *Autorité* considers that Google did not comply with Commitment 6 concerning the obligation to ensure that negotiations on related rights did not affect any other economic relationships between Google and press agencies and publishers. The *Autorité* notes that Google did not propose any technical solution for press agencies and publishers to opt out of the use of their content by Bard. Press agencies and publishers wanting to opt out had to insert an instruction opposing any crawling of their content by Google, including on the Search, Discover and Google News services, which were the subject of negotiation for the remuneration of related rights. In doing so, Google linked the use of press agencies' and publishers' content by its artificial intelligence service to the display of protected content, thus obstructing the ability of press agencies and publishers to negotiate remuneration under Commitment 1.

Thirdly, the *Autorité* considers that Google, by failing to share all the information necessary for the monitoring trustee to monitor the commitments, did not comply with its obligation to cooperate with the monitoring trustee.

In accordance with its decision-making practice, the *Autorité* considers the breaches identified to be serious, as commitments are proposed and made at the initiative of the parties involved.

Google asked the *Autorité* to apply the settlement procedure, pursuant to Article L. 464-2 III of the French Commercial Code (*Code de commerce*). In accordance with this procedure, Google did not contest the alleged breaches. A settlement report was drawn up following the implementation of this procedure (*procès-verbal de transaction*), setting the maximum and minimum amounts of the fine that could be imposed by the *Autorité*.

Google has also presented corrective measures to remedy the breaches identified by the Investigation Services.

These measures, of which the *Autorité* takes note, do not modify the commitments and in no way exempt Google from complying in full with the Commitments Decision.

After examining all the facts of the case, the *Autorité* has decided to impose a fine on Google in an amount within the range set out in the settlement report, i.e. €250 million.

Information about the decision

Origin of the case	Ex officio
Decision	Failure to comply with the commitments Financial penalty
Company(ies) involved	Alphabet Inc., Google LLC, Google Ireland Limited et Google France

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Read

Full text of the decision (in French)
1.03 MB

Full text of the decision (in English)
755.11 KB

Corrective measures (in French)

238.4 KB

Press release