Related rights: the Autorité fines Google €250 million

Published on March 20, 2024

Related rights: the *Autorité* fines Google €250 million for non-compliance with some of its commitments made in June 2022

The *Autorité de la concurrence* has fined Alphabet Inc., Google LLC, Google Ireland Ltd and Google France (hereafter "Google") €250 million for failing to comply with some of the commitments made binding by Decision 22-D-13 of 21 June 2022.

This is the fourth decision issued by the *Autorité* in this case in four years. These decisions come against the backdrop of the adoption of the French law of 24 July 2019 on related rights (transposing the EU directive on copyright and related rights of 17 April 2019), aiming to create the necessary conditions for balanced negotiations between press agencies, publishers and digital platforms. This legislative framework aimed to redefine, to the benefit of players in the press sector, the sharing of value between these players and to address the profound changes affecting the press sector for several years, in particular the growth of digital audiences, concomitant with the decline in print circulation, and the fact that a significant share of advertising value is now held by the major digital platforms.

After ordering interim measures in the form of injunctions in April 2020 (Decision 20-MC-01 of 9 April 2020/see press release), the *Autorité* found that Google had not complied with these injunctions and imposed a fine of €500 million, as well as ordering Google to comply, under penalty payment, with the initial injunctions (Decision 21-D-17 of 12 July 2021/see press release).

Subsequently, ruling on the merits of the case, in Decision 22-D-13 (see press release) of 21 June 2022, the *Autorité* accepted, for a period of five years, renewable once, the commitments proposed by Google to put an end to the competition concerns expressed. In this context, the *Autorité* approved the appointment of Accuracy as monitoring trustee to monitor and oversee the implementation of Google's commitments.

In this latest decision, the *Autorité* has fined Google for breaching its commitment to cooperate with the monitoring trustee and failing to comply with four of its seven commitments, the aim of which was to guarantee the following principles:

- negotiate in good faith, based on transparent, objective and non-discriminatory criteria, within three months (Commitments 1 and 4);
- provide press agencies and publishers with the information needed to transparently assess their remuneration for related rights (Commitment 2);
- take the necessary measures to ensure that negotiations do not affect other economic relationships between Google and press agencies and publishers (Commitment 6).

With regard to "Bard", the artificial intelligence service launched by Google in July 2023, the *Autorité* found in particular that Bard had used content from press agencies and publishers to train its foundation model, without notifying either them or the *Autorité*. Google subsequently linked the use by its artificial intelligence service of the content concerned to the display of protected content, by failing to propose a technical solution for press agencies and publishers to opt out of the use of their content by Bard without affecting the display of content protected by related rights on other Google services, thus obstructing the ability of press agencies and publishers to negotiate remuneration.

In view of these breaches, the *Autorité* has imposed a fine of €250 million on Alphabet Inc., Google LLC, Google Ireland Ltd and Google France. As Google undertook not to contest the facts, it was able to benefit from the settlement procedure. Google has also proposed a series of corrective measures to address certain breaches identified by the *Autorité de la concurrence*.

PRESS RELEASE OF 20 MARCH 2024

Related rights: the Autorité fines Google €250 million for non-compliance with some of its commitments made in June 2022

See the press release