30 June 2010 : Online advertising market

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The Autorité de la concurrence orders Google to implement in an objective, transparent and non discriminatory manner the content policy of its AdWords service

> Version française

The Autorité received a complaint against Google, coupled with a request for interim measures, from Navx. Navx markets online databases for GPS navigation devices. These databases include the localisation of fixed and mobile speed cameras as well as the fuel prices implemented by service stations. Navx alleged that Google was implementing anticompetitive practices on the online advertising market.

In its interim decision, the Autorité considers that Google holds a dominant position on the advertising market related to online searches. Its search engine enjoys a wide popularity and currently totals around 90% of the web searches made in France . Moreover, there are strong barriers to entry for this activity. Finally, its AdWords online advertising service, which is linked to its search engine, meets a specific demand from advertisers.

Pending a full investigation and a decision on the merits, the Autorité is also of the view that Google has implemented the content policy of its AdWords service in a way which lacks objectivity and transparency, resulting in a discriminatory treatment of speed camera database suppliers. The Autorité has therefore decided to grant interim measures.

Navx exclusively relies on the online sale of radar databases

Navx is a start-up created in 2005, which markets point of interest databases for GPS and smartphones, mainly in a package ("Navx Trio Pack") including the localisation of fixed and mobile speed cameras as well as the fuel prices implemented by service stations. It sells its products either directly to individual customers (two-thirds of its turnover) or to GPS manufacturers such as TomTom or Garmin, who integrate them into their own navigation devices (one-third of its turnover). For the sale of speed camera databases, Navx is in competition with GPS manufacturers and with other independent businesses.

85% of its communications expenses are related to online advertising via

1) It orders Google Ireland and Google Inc. to clarify, within a four months period following the notification of its decision, the scope and impact of the AdWords conditions applicable to devices aimed at evading traffic speed cameras:

- as regards behaviours forbidden to advertisers (keywords, text of the advertisement, destination pages, cross-references, etc.);
- as regards authorized or forbidden devices, in particular speed camera warning systems and databases.

These elements must be made available to advertisers in an objective, transparent and non discriminatory fashion. In addition, the date from which the modified conditions will be applicable to advertisers must be specified.

2) It orders Google Ireland and Google Inc. to clarify, within a four months period following the notification of its decision, the AdWords processes that may lead to an advertiser's account being suspended.

3) It orders Google Ireland and Google Inc. to restore, within a five days period following the notification of its decision, the AdWords account of Navx. Google may nevertheless apply in a non-discriminatory way to Navx the AdWords conditions and procedures as clarified according to the present decision.

(1) Unlike radar detectors or jammers, that are illegal, the solutions sold by manufacturers of navigation devices and speed camera databases do not violate the law. They may be either legal or illegal depending on whether or not they are likely to "reveal" or "jam" radars: detectors and database are only relying on information broadcasted by the State services and supplemented by the users. However, Google reserves the right to be more restrictive than the legislation.

(2) For the competitive of the discriminatory pratices, see § 181-186 of the decision

> For more informations, please consult the full text of the decision 10-MC-01

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