



COMPETITION COMMISSION OF INDIA

06.10.2022

Case No. 36 of 2022

In Re:

News Broadcasters & Digital Association

Informant

And

Alphabet, Inc.

Opposite Party No. 1

Google LLC

Opposite Party No. 2

Google India Private Limited

Opposite Party No. 3

Google Ireland Limited

Opposite Party No. 4

Google Asia Pacific Pte Ltd

Opposite Party No. 5

ORDER

1. The present Information has been filed by the Informant under Section 19 (1)(a) of the Competition Act, 2022 (Act) against the abovementioned Opposite Parties (collectively, referred to as, "Google") alleging contravention of the provisions of Section 4 of the Act.
2. The Informant is stated to be a not-for-profit company incorporated in 2008 under the Companies Act, 2013 consisting of leading national and regional private news and current affairs broadcasters and digital news media entities as its members.
3. In nutshell, the Informant has *inter alia* levelled the following allegations against Google:
 - 3.1. Members of the Informant are forced to provide their news content to Google in order to prioritise their weblinks in the Search Engine Result Page (SERP) of Google. Thus, Google free rides on the content of the members of Informant without giving them adequate compensation.
 - 3.2. Google exploited the dependency of the members of the Informant on the search engine offered by Google for referral-traffic to build services such as Google



News, Google Discover and Google Accelerated Mobile Pages (AMP), which utilize the value of content created by the members for its own economic benefit.

- 3.3. Google provides news content to the users (a) on Google Search, and (b) through its news aggregator vertical, *i.e.*, Google News. In Google Search, users can either search directly for news through News Tab or receive news through result in SERPs. Google incorporated news content in its SERPs through featured snippets including “Top Stories” carousels. However, the revenue distributed by Google to news publishers doesn’t compensate for the real contribution made by the members of the Informant to these platforms.
- 3.4. Google has abused its dominant position to dictate terms and conditions of the Terms of Service of the Agreement, which unilaterally favour Google over publishers. Members of the Informant have no negotiating or bargaining power while entering into any agreement with Google, as Google’s search engine owns 94% market share in the country.
- 3.5. As per the Informant, Google not only operates the largest ad exchange where advertisements are sold and purchased but also represents both “buy” and “sell” side in the transactions *i.e.*, both publishers and advertisers through a chain of third-party intermediaries (also called ad tech stack) to match supply and demand of digital advertisements. As per the Informant, due to the high degree of vertical integration of Google in the market for online digital advertising intermediation services in India and globally, the members of the Informant are heavily dependent/have no other alternative but to use Google’s publisher ad server and trade in Google’s exchange in order to receive bids from advertisers using Google’s buying tool, Google Ads/DV 360. As a result, Google is able to abuse its dominant position to restrict members of the Informant from routing ad inventory to multiple exchanges and by preferentially routing members inventory to Google’s exchange.



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- 3.6. Google abused its dominant position by encouraging members to disable header bidding, which is a programmatic technique that offers inventory to multiple advertisement exchanges at the same time and unites all members' header bidding demand sources into one unified auction which results in the highest bidder winning the impression.
- 3.7. Google also used its dominant position to force the members of the Informant into using AMP or lose their ranking in the mobile search result. Google is alleged to use AMP to subvert revenues of the members of the Informant by preventing them from forming a direct relationship with the user, as the readers/users spend more time on Google's site, seeing Google's advertisement as opposed to any paid advertising on the content provider's site. As per the Informant, the use of AMP standards, provides Google with exclusive insights into user engagement and thereby data, which results in a one-sided exchange, that does not create any equivalent advantage for the members of the Informant. AMP Pages can be monetized only through Google's AdSense and Ad Exchange as other advertisement networks and native/tech partners are not allowed to work on AMP.
4. Based on the above, the Informant has alleged that Google by way of its aforesaid conduct and actions, has violated the various provisions of Section 4 of the Act. The Informant has, *inter alia*, prayed the Commission to pass an order under Section 26(1) of the Act to inquire into the conduct of Google.
5. The Commission considered the Information and documents filed therewith in its ordinary meeting held today and noted that the subject matter of the allegations made in the instant Information is substantially the same, with the subject matter under examination before the Director General (DG) in the ongoing investigation in Case Nos. 41 of 2021 and 10 of 2022. Accordingly, in terms of *proviso* to Section 26(1) of the Act, the Commission decided to club the present matter with Case Nos. 41 of 2021 and 10 of 2022. Resultantly, the DG is directed to investigate the present matter also along with these cases and submit a consolidated investigation report in the matter.



6. The Secretary is directed to send a copy of this order along with the Information to the Office of the DG forthwith.

Sd/-
(Bhagwant Singh Bishnoi)
Member

Sd/-
(Ashok Kumar Gupta)
Chairperson

Sd/-
(Sangeeta Verma)
Member