



PRESS RELEASE No 4/24

Luxembourg, 11 January 2024

Advocate General's Opinion in Case C-48/22 P | Google and Alphabet v Commission (Google Shopping)

Advocate General Kokott proposes that the Court of Justice confirm the fine of €2.4 billion imposed on Google for favouring its own comparison shopping service

Google, as found by the Commission and confirmed by the General Court, was leveraging its dominant position on the market for general search services to favour its own comparison shopping service by favouring the display of its results

In its decision of 27 June 2017¹, the Commission found that Google had given preference to the results of its own comparison shopping service over those of competing comparison shopping services on its general search results page. Google presented search results from its comparison shopping service at the top and – using attractive image and text information – highlighted them in so-called Shopping Units. The search results of competing comparison shopping services, on the other hand, appeared only lower down on that page as a blue link.

As a result, users clicked on the results of Google's comparison shopping service more frequently than those of its competitors. The concomitant diversion of data traffic from Google's general results page was not based on the better quality of Google's comparison shopping service. It resulted rather from the self-preferencing and leveraging effected through Google's general results page, in other words from the exploitation of its dominant position on the market for online general search services². However, competing price comparison services were dependent on data traffic from Google's general search results page in order to be economically successful and able to remain on the market for specialised product services.

The Commission came to the conclusion that Google had abused its dominant position on the markets for online general searches and for specialised product searches and therefore imposed a fine of €2,424,495,000 on Google, for which Alphabet as Google's sole shareholder is jointly and severally liable in the amount of €523,518,000.

Google and Alphabet challenged the Commission's decision before the General Court of the European Union. By judgment of 10 November 2021³, the General Court essentially dismissed the action and, in particular, confirmed the fine. By contrast, the General Court did not consider it proven that Google's disputed conduct had anticompetitive effects, even potential effects, on the market for general search services. It therefore annulled the decision in so far as the Commission had also found an infringement of the prohibition of abuse of a dominant market position in respect of that market.

Google and Alphabet then lodged an appeal with the Court of Justice, requesting that the judgment of the General Court be set aside in so far as it had dismissed their action and that the Commission's decision be annulled.

Advocate General Juliane Kokott proposes that the Court of Justice should dismiss the appeal and thus confirm the fine imposed on Google.

The self-preferencing of which Google is accused constitutes an **independent form of abuse through the**

application of unreasonable conditions of access to competing comparison shopping services, provided that it has at least potentially anticompetitive effects (as the Commission found in the present case in the form of an exclusionary effect on the market for specialised product searches). The strict criteria for the recognition of abuse through the *refusal* of access to an 'essential facility' (the so-called *Bronner* criteria ⁴) are not applicable to such a form of abuse.

The Commission and the General Court rightly noted that the unequal treatment of competitors was the result of self-preferencing by recourse to leveraging, whereby Google exploited its dominant position on the market for online general search services in order to gain a competitive advantage on the downstream market for specialised product search services, on which it did not (yet) hold such a position.

NOTE: The Advocate General's Opinion is not binding on the Court of Justice. It is the role of the Advocates General to propose to the Court, in complete independence, a legal solution to the cases for which they are responsible. The Judges of the Court are now beginning their deliberations in this case. Judgment will be given at a later date.

NOTE: An appeal, on a point or points of law only, may be brought before the Court of Justice against a judgment or order of the General Court. In principle, the appeal does not have suspensive effect. If the appeal is admissible and well founded, the Court of Justice sets aside the judgment of the General Court. Where the state of the proceedings so permits, the Court of Justice may itself give final judgment in the case. Otherwise, it refers the case back to the General Court, which is bound by the decision given by the Court of Justice on the appeal.

Unofficial document for media use, not binding on the Court of Justice.

The [full text](#) of the Opinion is published on the CURIA website on the day of delivery.

Press contact: Jacques René Zammit ☎ (+352) 4303 3355.

Images of the delivery of the Opinion are available on '[Europe by Satellite](#)' ☎ (+32) 2 2964106.

Stay Connected!



¹ [Decision C\(2017\) 4444 final](#) relating to a proceeding under Article 102 TFEU and Article 54 of the Agreement on the European Economic Area (EEA) (Case AT.39740 – Google Search (Shopping)); see also Commission Press Release [IP/17/1784](#).

² In Belgium, the Czech Republic, Denmark, Germany, Spain, France, Italy, the Netherlands, Austria, Poland, Sweden, the United Kingdom and Norway.

³ Judgment of the General Court of 10 November 2021, *Google and Alphabet v Commission (Google Shopping)*, [T-612/17](#); see also Press Release [No. 197/21](#).

⁴ Named after the judgment of the Court of Justice of 26 November 1998, *Bronner*, [C-7/97](#), see Press Release [No. 72/98](#).