

---

# Knight-Georgetown Institute (KGI) Comments on the Proposed Measures for Google Search Data Sharing under Article 6(11) of the Digital Markets Act

## I. Introduction

The European Commission's specification proceedings regarding Alphabet's search data sharing obligations pursuant to Digital Markets Act (DMA) Article 6(11) represent a novel and comprehensive approach to sharing search data with third-party undertakings providing online search engines (OSEs).<sup>1</sup> The proposed measures will also serve as a useful model for other jurisdictions.<sup>2</sup>

Requiring Alphabet to share search data in compliance with its obligations under Article 6(11) should help to address scale and network effect barriers to competition in the search engine market, enabling competitors to offer search engines with more relevant results at lower cost. The Commission's proposals reflect AI-related changes in the market: explicit inclusion of AI chatbot services as potential recipients of search data and explicit permission to use the search data for grounding may both be helpful in improving contestability. Nevertheless, data sharing on its own is unlikely to significantly increase contestability in the search market, because Alphabet's entrenched advantages extend beyond search data (including its distribution deals for search defaults). Yet, they are an important first step.

These comments highlight areas where the proposed measures can be clarified and strengthened. They suggest targeted improvements to sharpen the Commission's specifications regarding: (1) the appropriate scope for data sharing; (2) the framework for anonymization; and (3) the operational sharing process.

---

<sup>1</sup> European Commission. "For Public Consultation in Case DMA.100209 – SP – Alphabet – Article 6(11)." April 16, 2026. [https://digital-markets-act.ec.europa.eu/document/download/b3aed7f6-c45c-4bfa-b032-b8975a48bb06\\_en?filename=DMA.100209%20-%20Preliminary%20measures.pdf](https://digital-markets-act.ec.europa.eu/document/download/b3aed7f6-c45c-4bfa-b032-b8975a48bb06_en?filename=DMA.100209%20-%20Preliminary%20measures.pdf).

<sup>2</sup> Cooper, Alissa. "Without a Payment Ban, What Can We Expect from the US v. Google Data Sharing Remedies?" Knight-Georgetown Institute, September 25, 2025. <https://kji.georgetown.edu/research-and-commentary/without-a-payment-ban-what-can-we-expect-from-the-us-v-google-data-sharing-remedies/>.

## II. Data Scope

The proposed measures carefully outline the scope of data to be shared. In particular, the parity principle should be expected to facilitate implementation by giving enforcers a real-world basis for comparison and assessment of the quality of data sharing (i.e., Alphabet's internal systems for sharing such data).<sup>3</sup>

In its Data Scope definition, the Commission should address ambiguities related to: (1) the application of the parity principle; (2) the role of AI prompts and outputs; (3) the definition of Click data, and (4) the definition of View data.

The Data Scope is governed by the parity principle:

Alphabet shall give any third-party undertakings providing OSEs access to all the Search Data on par with the data collected by Alphabet for the purpose of optimising its OSE services subject to anonymisation requirements. This parity principle shall determine, for example, the scope of data sharing and the conditions of sharing data with third-party OSEs.<sup>4</sup>

However, the technical measures require Alphabet to “share the Search Data daily.”<sup>5</sup> This creates an ambiguity about the extent to which the parity principle applies, because parity as defined in the Data Scope could imply more frequent than daily sharing. The Commission should clarify the application of the parity principle, and in particular how it interacts with the technical measures, since they are purposefully designed for privacy reasons that are certain to result in less-than-full parity with Alphabet.

The definition of Query data includes Gemini in the list of access points that Alphabet must disclose to third-party search engines.<sup>6</sup> However, the proposed measures include no explicit statement about whether Gemini prompts and outputs (or those of successor Google AI products) are within the Data Scope. The Commission should clarify whether it intends for them to be in scope, and specify what constituent elements of AI outputs must be shared. Furthermore, to future-proof the list of access points, the Commission should add “any potential future access points Alphabet may develop” to the list in paragraph 5(b)(5).<sup>7</sup>

The proposed definition of View data requires Alphabet to “share any URLs and visual content which are displayed on search engine results pages.”<sup>8</sup> As drafted, the proposed measures are unclear about what “visual content” encompasses. For example, it is unclear whether text snippets, AI Overviews, or

---

<sup>3</sup> European Commission, “For Public Comment,” § 2(3).

<sup>4</sup> *Ibid.*, § 2(3).

<sup>5</sup> *Ibid.*, § 3.1(20).

<sup>6</sup> *Ibid.*, § 2.1.1(5)(b)(5).

<sup>7</sup> *Ibid.*, § 2.1.1.

<sup>8</sup> *Ibid.*, § 2.1.2(6).

AI Mode outputs are considered “visual content.” The Commission should be explicit about what it considers to be “visual content.”

Similarly, in the definition of Click data,<sup>9</sup> the Commission should clarify whether clicks on links included in AI Overviews, AI Mode, and successor AI products are in scope.

## III. Anonymization

The technical measures contain the most detailed set of search data privacy protections that have been advanced by any regulator globally.<sup>10</sup> The Commission’s overall approach of using heuristic-based technical measures is sound. However, those heuristics should follow from clearly established design goals, and they should be empirically derived and continuously evaluated. This section recommends that the Commission make its privacy and data utility goals explicit and precise, that it establish a process for ongoing evaluation, and that it justify its design choices.

### A. Explicit and Precise Goals

The Commission should more explicitly specify the goals of the technical measures and what it considers to be acceptable performance against those goals. The stated reason for the technical measures is to “mitigate the risk of re-identification of end users to a residual level.”<sup>11</sup> It is not clear what “a residual level” means in this context. The Commission should specify what level of reidentification risk it considers to be acceptable.

The Commission should also state any other goals it has for the technical measures as a whole, including for data utility or contestability. Privacy engineering (and engineering more generally) typically begins with a set of specific design goals and then proceeds with system design to achieve those goals. The set of technical measures the Commission has proposed cannot be evaluated without knowing the goals of the system.

### B. Ongoing Evaluation

The Commission should establish a process for ongoing evaluation of the Search Data sharing against privacy and utility goals, preferably conducted by independent experts. Once implemented, the proposed measures will constitute the most comprehensive program for search data sharing anywhere in the world. It is unlikely that the consensus among interested parties would determine that the initial design proposed by the Commission is optimal in terms of both reidentification risk and data utility. Furthermore, as user search behavior changes over time and more beneficiaries obtain access to the data, performance against the privacy and utility goals of the technical measures may degrade or shift. The proposed measures include many absolute thresholds (e.g., user group thresholds, click-back bin

---

<sup>9</sup> Ibid., § 2.1.3.

<sup>10</sup> Ibid., § 3.1.

<sup>11</sup> Ibid., § 3(19)(a).

intervals, measurement time periods),<sup>12</sup> but user behavior is not static, implying a need to regularly reevaluate how the thresholds are set.

Ideally, the kinds of heuristics embedded in the proposed technical measures would have been derived through empirical analysis conducted by independent experts, as measured against transparent objectives. Given that the Commission has instead developed proposed heuristics itself, it should now establish a process whereby independent experts conduct ongoing evaluation of the reidentification risk inherent in the Search Data sharing as well as the utility of the shared data. This process would need to ensure that technical experts have the data access needed to evaluate the measures imposed and to suggest alternatives derived through empirical validation.

Independent experts are best suited to conduct these evaluations because both Alphabet and the beneficiaries have vested interests in seeing the results of ongoing evaluation turn out a certain way. Alphabet is incentivized to produce evaluation results that would lead to stricter technical measures, while beneficiaries are incentivized to produce evaluation results that would relax the technical measures. Evaluation should be conducted by neutral expert parties.

Evaluation and improvement of the technical measures can proceed in parallel as beneficiaries consume the Search Dataset, so that beneficiaries' access need not be delayed. An ongoing evaluation process for the technical measures would nicely complement the ongoing assurance requirements imposed as part of the contractual measures in Section 3.2.

### **C. Justification for Design Choices**

The Commission should explain the motivation and rationale that it used for the design of the technical measures, including the choice of each parameter specified in the technical measures. The technical measures appear to be broadly aimed at mitigating the risk of user reidentification while maintaining utility of the Search Data, but the proposed measures do not explain precisely why the Commission chose each measure nor the specific choices made in the design of each measure. The technical measures specify many parameters: timeframes, intervals, user thresholds, character thresholds, etc.<sup>13</sup> They appear to have been designed with implicit preferences with respect to utility and privacy, for example, related to location granularity and session groupings. The motivation and rationale for each design choice should be explained.

These justifications are important because the design decisions and parameters embody implicit preferences about inclusiveness in the Search Dataset. For example, if a burst of queries contains a piece of personal data that fails to get caught by the personal data detector, that entity will be on the allowlist for five years.<sup>14</sup> What justifies the choices of 50 signed-in users and five years, given this

---

<sup>12</sup> Ibid., § 3.1.

<sup>13</sup> Ibid., § 3.1.

<sup>14</sup> Ibid., § 3.1(22).

risk?<sup>15</sup> Similarly, with the shifts in user behavior towards writing longer prompt-like queries, what justifies the use of 95% for the length-based character threshold rather than a higher percentage, which could potentially eliminate fewer high-value prompt-style queries from the Search Dataset?<sup>16</sup> There are numerous such questions about how the Commission approached inclusiveness in the Search Dataset, none of which are addressed in the proposed measures.

## IV. Sharing Process

In order to effectively promote competition in practice, the sharing process must include clear requirements for dispute resolution and contractual arrangements.

### A. Dispute Resolution

The Commission should establish robust mechanisms for dispute resolution. Though the proposed measures are detailed in their requirements, they still leave Alphabet with discretion in many places, including in the processing of applications, pricing, the scope of contractual measures, and the design of the data transfer process. In each of these areas, Alphabet is incentivized to degrade the provision of data sharing in order to protect its gatekeeping power. A dispute resolution process is needed as a backstop in such cases.

### B. Contractual Arrangements

Once an undertaking is deemed eligible, it will need to negotiate contractual arrangements with Alphabet in order to receive access. The proposed measures currently envision the creation of template license agreements that would include the contractual measures.<sup>17</sup> However, aside from their basic structure, the proposed measures do not establish what role the templates will play in the contractual arrangements. For instance, it is not clear whether third-party search engines must agree to the template license agreements as such, or the extent to which they can be customized beyond requesting access to subsets of queries as outlined in paragraph 103.<sup>18</sup> The Commission should explicitly clarify whether and how template license agreements can be customized (e.g., by establishing a floor of customization rights for third-party search engines).

---

<sup>15</sup> Ibid., § 3.1(22)(c).

<sup>16</sup> Ibid., § 3.1(23).

<sup>17</sup> Ibid., § 5.3.

<sup>18</sup> Ibid., § 5.3.

# V. Conclusion

The Commission's proposed measures represent a serious and innovative effort to operationalize the Article 6(11) data-sharing obligations. They may shape how analogous obligations are implemented in jurisdictions beyond the European Union. The specifications for data sharing are precise, well-targeted, and responsive to the rise of generative AI. The framework for protecting user data represents a sound starting point in need of further refinement.

To strengthen this foundation, the Commission should clarify ambiguities and adopt targeted improvements identified in this comment. The final measures should address ambiguities related to data scope by explicitly defining the treatment of AI-enabled features, future-proofing the list of access points, and clarifying tensions between the parity principle and other technical requirements. Regarding anonymization, the Commission should specify explicit privacy and data utility goals, establish a process for ongoing independent evaluation of the technical measures, and provide rationales for all design choices and parameters. Finally, the sharing process should establish a clear dispute resolution mechanism and elaborate on the customization options for template contractual agreements.