

Press Conference of 24 October 2019

PUBLISHERS' ANSWER TO GOOGLE

Press release

The publishers of the Alliance of the Presse d'Information Générale (APIG), joined by those of the Syndicat des Editeurs de la Presse Magazine (SEPM) and of the Fédération Nationale de la Presse d'information Spécialisée (FNPS) held today a press conference to mark their strong opposition towards Google's behaviour, which refuses to implement in good faith the press publishers' neighboring right, and to announce the legal actions that they intend to pursue.

The European Copyright Directive 2019/790, which entered into force on 6 June 2019, ratifies the creation of a neighboring right for press publishers. This right relates to the online use of their press publications by information society service providers, such as Google. It allows press publishers to grant licenses – against remuneration – in exchange for the reproduction or the communication of the content of all, or part of their articles by these service providers.

This European Directive has recently been transposed in France through the law of 24 July 2019. The entry into force of this French legal regime was set by the legislator to 24 October 2019.

On 25 September 2019, under the pretense of complying with this law, Google announced a series of changes in the way its search engine displays search results regarding press publications.

Indeed, as of 24 October 2019, Google will by default no longer display in France, in all its services, thumbnail-images and text extracts (previews), but only the title and the hyperlink towards European press publishers' contents. For the preview to continue to be displayed in the search results, publishers will have to expressly request it through the new display of settings imposed by Google, which unilaterally conditions this request to the prior waiver by publishers of any compensation for the display of these previews. Publishers received an automatic message instructing them to set the display modalities for their contents on the search engine before 24 October 2019, or to be imposed by default by Google downgraded modalities of displays in the search results.

By announcing its refusal to pay for the reproduction of press content, contrary to the democratically endorsed French and European law, Google challenges national and European sovereignty by circumventing the legislator's will.

Therefore, Google unilaterally modifies its service in order not to respect the law.

It proposes the press an impossible alternative, which consists of:

- either to continue to be visible in the search results, but to waive the remuneration provided by the neighboring right;
- or to accept a downgraded display on the engine that represents 90% of uses in France, with immediate economic impact and a long-term disappearance of the search results.

Yet, none of these options is acceptable. Google tries to make us believe that publishers have a choice. However, this is false: publishers who are in a state of economic dependence towards Google cannot do without Google for the dissemination of their contents. Google, which is in a quasi-monopoly position, is thus abusing of its dominant position by imposing completely unbalanced conditions on publishers who have no other alternative and are therefore almost forced to give up to the remuneration in order to avoid certain and immediate losses that would result from a reduction of the exposure of their contents.

It is under such conditions that the vast majority of publishers could be constrained to choose the first option: in the name of their democratic role first, in order to maintain users' access to a pluralist and quality press; and secondly, for the sake of their economic equilibrium, as a downgraded display by Google, the most dominant search engine in France, can carry significant financial consequences,

But this choice under the constraint of an ultimatum with catastrophic financial consequences does not constitute a waiver of the principle of a fair remuneration.

The press sector claims the full exercise of its neighboring right in accordance with the French law. As any rightsholder, it wants to choose freely the modalities of its exploitation and, consequently, asks to be fairly remunerated for the reproduction and the communication of its contents by Google, whose economy relies to a large extent on the use of press contents.

This is the meaning of the complaints publishers will file towards the French Competition Authority, in support of the investigation it has decided to undertake on its own.

Publishers are united in France as in Europe. This unity goes beyond economic competition and cleavages as the future of a free, diversified and pluralist press is at stake.

Faced with the power of dominant platforms like Google, the neighboring right is an essential first step.

A real competitive regulation at EU level must be put in place. This is the purpose of the proposals of European press publishers gathered within European publishers' associations: the European Union must put an end to the competitive imbalances European press publishers suffer face to these dominant platforms.