

Press Release

German Federal Cartel Office classifies Google as a market dominator - implications also for press protection law

Alphabet/Google are application case for supervision of large digital groups (Section 19a GWB). This enables the German Federal Cartel Office (FCO) to intervene earlier and more effectively and to address specific conduct that is harmful to competition.

Again, the BKartA points at the investigation into Google News Showcase. Showcase is not intended to make the enforcement of press publishers' right disproportionately difficult.

Berlin, 5 January 2022. The German Federal Cartel Office (Bundeskartellamt, BKartA) has decided that Google and its parent company Alphabet fall under the extended abuse control by the antitrust authority. This categorisation, which follows the new provision of the Act against Restraints of Competition (Section 19a GWB), allows for *ex ante* and more effective intervention, and prohibition of anti-competitive practices emanating from companies with outstanding cross-market importance for competition.

The BKartA explains the background to this assessment by stating that Alphabet/Google has a "position of economic power that gives it scope for cross-market behavior that is not sufficiently controlled by competition. Due to its large number of services, it could be said to have the character of an "infrastructure". In this context, the BKartA designates Google as having paramount significance across markets.

In the press release, the **President of the Bundeskartellamt, Andreas Mundt**, explicitly points out that the BKartA is intensively looking into the topic of Google News Showcase, among others. This is particularly crucial for the enforcement of the press publishers' right, as the implementation of the law, which came into force in 2021, will be hindered by the comprehensive granting of rights under Showcase. The BKartA is thus following up on the announcement made in June 2021 to examine whether the contractual terms unreasonably disadvantage the participating publishers and make it disproportionately difficult for them to enforce the press publishers' ancillary copyright.

Google has stated that it will not appeal the decision. At the same time, the company notes that it does not necessarily agree with all the factual findings made by the Office in the decision and the conclusions drawn from them.

Commenting on the BKartA's decision, **Corint Media managing directors Markus Runde and Christoph Schwennicke** explain: *"Corint Media welcomes the Bundeskartellamt's determination of market dominance as a prerequisite for action against Google and, above all, Alphabet on the basis of Section 19a GWB, and at*

the same time the explicit statement that Google News Showcase and any related issues are also the subject of investigations by the Office. The Office is thus indicating that it may consider the contracts initiated by Google with publishers to compensate for press ancillary copyright to be market abuses, since conditions and low prices could only be enforced because of Google's outstanding market importance. By extending the investigation to Alphabet, the Federal Cartel Office is at the same time indicating that it is not impressed by the Alphabet Group's corporate and tax-optimized structures."

To the press release of the Bundeskartellamt

Corint Media, based in Berlin, is a European company in the private media industry. It represents the copyrights and ancillary copyrights of nearly all German and several international private television and radio stations, as well as of numerous press publishers.

The media companies represented by Corint Media include TV stations such as Sat.1, ProSieben, RTL, WELT, SPORT1, CNBC, Eurosport, VOX and CNN, radio stations such as ANTENNE BAYERN, radio ffn, Klassik Radio, Radio Hamburg, Hit Radio-FFH, RPR1 and RTL RADIO, as well as press publishers such as Axel Springer, Verlagsgesellschaft Madsack, Mediengruppe Pressedruck, Aschendorff Mediengruppe, Rheinische Post Mediengruppe, sh:z Schleswig-Holsteinischer Zeitungsverlag and Badischer Verlag.

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