[FR] Neighbouring rights: competition authority fines Google EUR 500 million

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The *Syndicat des éditeurs de presse magazine* (Magazine Press Publishers' Union – SEPM), the *Alliance de Presse d'Information Générale* (General Press Alliance – APIG) and the AFP news agency have appealed to the French competition authority, accusing Google of infringing the interim measures imposed against it on 9 April 2020. The competition authority had found that, following the adoption of the Law of 24 July 2019 creating a neighbouring right for press publishers and agencies, Google had unilaterally decided to stop posting article excerpts, photographs and videos within its various services unless publishers allowed it to do so free of charge. The authority had considered this behaviour likely to constitute an abuse of a dominant position. Pending a decision on the merits, it had imposed a series of injunctions against Google. This decision was upheld by the Paris appeal court in a judgment on 8 October 2020.

In its decision, the competition authority considered that the companies Google LLC, Google Ireland Limited and Google France had ignored several injunctions contained in its decision, in particular the requirement to negotiate in good faith. It accused Google of unilaterally deciding that the negotiations should focus on a global partnership known as Showcase, which was mainly aimed at enabling publishers to offer new services and in which the neighbouring rights attached to current uses of protected content were merely an ancillary component without any distinct financial value. Google had also limited, without justification, the scope of the negotiations by refusing to include press agency content used in publications (images, for example) and press companies that did not publish "general and political information".

The authority also accused Google of failing to provide publishers and press agencies with the information they needed for a transparent assessment of how much money they were entitled to, as required under Article L. 218-4 of the Intellectual Property Code. The information it had provided had been either incomplete or late. Google had also violated its obligation to exercise neutrality in the negotiations, imposed under the decision of 9 April 2020, by linking negotiations on remuneration for current use of content protected by neighbouring rights with the conclusion of other partnerships that could have an impact on the posting and indexing of the content of publishers and press agencies.

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Taking into account the seriousness of the breaches, the authority fined Google EUR 500 million. It also ordered the American company to offer the publishers and press agencies that had lodged the appeal remuneration for current uses of their protected content, and to give them the information they needed to assess such an offer, or face daily fines if it failed to do so within two months.

Autorité de la concurrence, décision 21-D-17 du 12 juillet 2021 relative au respect des injonctions prononcées à l'encontre de Google dans la décision n° 20-MC-01 du 9 avril 2020

https://www.autoritedelaconcurrence.fr/sites/default/files/2021-07/20-mc-01.pdf

Competition authority decision 21-D-17 of 12 July 2021 on compliance with the injunctions imposed against Google in decision no. 20-MC-01 of 9 April 2020

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