[DE] Cartels Office ends Google News Showcase proceedings

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In a press release published on 21 December 2022, the *Bundeskartellamt* (Federal Cartels Office), Germany's competition regulator, announced that the proceedings against *Google News Showcase* had been concluded after the company made a number of important adjustments to its service. The proceedings and the adjustments that have been made mainly concern the ancillary copyright of publishers in relation to Google's "*Google News Showcase*" news service, which the *Bundeskartellamt* thought might breach competition law by squeezing the news services of press publishers and similar editorial (including audiovisual) providers out of the market either now or in the future.

The proceedings against Google were launched in summer 2021 on the basis of new powers invested in the Cartels Office, under a 2021 legislative amendment. Under the new Article 19a of the *Gesetz gegen Wettbewerbsbeschränkungen* (Act against restrictions of competition, GWB), which entered into force in January 2021, the *Bundeskartellamt* can intervene earlier and more effectively, in particular against the practices of large digital companies, by prohibiting anti-competitive practices. The proceedings were launched after Corint Media lodged a complaint against the *Google News Showcase* service, which had been made available to selected German publishers in spring 2021 and offers them the possibility to present their news content in a prominent and more detailed way. Google pays licensing fees for the content and, in some cases, purchases paywalled articles and offers them to its readers free of charge. The main focus is on so-called "story panels", which were initially integrated in the Google News app and have also been found in Google News on the desktop since mid-2021. Story panels are showcase boxes in which photos, titles and other content appear in a condensed form under the highlighted publisher's logo. The Cartels Office and the publisher were mainly concerned that Google's hugely dominant market position could result in discrimination against non-participating publishers and that, by imposing unreasonable contractual conditions, Google might breach its copyright obligations towards press publishers in the context of the copyright system introduced at EU level in 2019. These concerns were exacerbated by Google's announcement that it was planning to integrate the service into its general search function, giving it even greater prominence.

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The proceedings were ended after Google made various adjustments to its service and promised to make further changes to the benefit of the publisher. Google has altered its contractual practice in such a way that publishers will not face difficulties in asserting their general ancillary copyright, which will now be completely independent of *Google News Showcase*. Google also promised to enable further publishers to participate in *Google News Showcase*, thereby taking into account potential discrimination against non-participating services. The plan to integrate *Google News Showcase* into the general Google search service has also been abandoned, which means that a publisher's participation will continue to be irrelevant for the ranking of search results.

Since the Cartels Office ended the proceedings without a formal decision declaring Google's commitments binding (Article 32b GWB), they may be reopened if circumstances change or new information comes to light in the future. In its FAQ concerning the proceedings, the *Bundeskartellamt* also mentions a separate procedure in which the German state media authorities are assessing Google's compliance with the state media treaty's provisions on non-discriminatory access to content on intermediary platforms.

Pressemitteilung des Bundeskartellamts, 04. Juni 2021

https://www.bundeskartellamt.de/SharedDocs/Meldung/DE/Pressemitteilungen/2021/04_06_2021_Google_Showcase.html?nn=3591568

Federal Cartels Office press release, 4 June 2021

Pressemitteilung des Bundeskartellamts, 21. Dezember 2022

https://www.bundeskartellamt.de/SharedDocs/Meldung/DE/Pressemitteilungen/2022/21_12_2022_Google_News_Showcase.html

Federal Cartels Office press release, 21 December 2022

FAQ – zum Verfahren „Google News Showcase", 21. Dezember 2022

https://www.bundeskartellamt.de/SharedDocs/Publikation/DE/Pressemitteilungen/2022/21_12_2022_FAQ_Google_News_Showcase.pdf;jsessionid=A8C393B379FB95A0F17C84A74DD21014.1_cid381?__blob=publicationFile&v=3

FAQ concerning the Google News Showcase proceedings, 21 December 2022

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