



Intercultural school
Talents pour le monde

**ÉPREUVES D'ADMISSION
EN QUATRIEME ANNEE
STRATEGIE DIGITALE INTERCULTURELLE**

SESSION D'AOUT 2017

ANGLAIS

Google's fine is big news but the company faces a far bigger threat

The Canadian supreme court ruled that Google can be forced to pull results worldwide, not just the Canadian version of its search engine



Google has come face to face with two of its greatest nightmares this week. The first garnered enormous attention worldwide, and will be an expensive period regardless of how it shakes out; but the second flew below the radar, despite the fact that it could eventually be far more damaging to the company's operating model.

Hitting the headlines was the European Union's record €2.4bn fine of Google for anticompetitive practices relating to its shopping service. At the heart of the issue is the fact that the company treats its shopping search engine – Google Shopping – differently from those of competitors, placing it at the top of searches for products by default, and relegating similar services like price comparison site Kelkoo far down the results.

The EU's competition commissioner, Margrethe Vestager, has given the company 90 days to comply, though left the nature of that compliance up to Google. In practice, the company is forced to pick between two unpalatable options: either opening up an API (Application Programming Interface) so that other shopping services can put their own comparisons in the same, incredibly valuable slot (unlikely), or removing Google Shopping results from the top of the search, and forcing users to deliberately switch over to the shopping site if they want to use its functionality.

Unless it succeeds in an appeal, it seems like the latter option is the one Google will pick. The €2.4bn fine may be a drop in the ocean for the company, coming in at just 3% of its \$92bn cash hoard. But it's not the only fine that the company faces: if it doesn't comply within 90 days, the EU maintains the right to start imposing a daily fine of 5% of revenues. That would be rather harder to shake off.

What's more, Google is keeping its eye on two other investigations from Vestager's commission. One, into Android, threatens Google's presence on more than a billion phones worldwide, as the EU investigates whether it is forcing handset manufacturers' hands over which apps and services to include when they build an Android phone. The other, into AdSense, looks at whether the company "has reduced choice by preventing third-party websites from sourcing search ads from Google's competitors", and poses an even greater risk: AdSense is Google's crown jewel, the single most profitable service it owns.

If Google does scrap Google Shopping's advantageous placement (in the EU, at least), it probably won't have the effect desired by Vestager and other litigants. Although it may seem like services such as Kelkoo are the natural competitors hurt by Google shopping – and Kelkoo certainly thinks that, saying that it "expects Google to present a solution that is effective in bringing the vertical search industry back to life" – the likely beneficiary is just another US mega-corporation: Amazon.

Even today, with Google Shopping still occupying its slot at the top of searches, Amazon already captures more shopping "searches" than Google. Yes, those searches all result in purchases from one marketplace, but for the typical consumer, that doesn't matter: the Everything Store sells everything, so why go anywhere else? And unlike Google Shopping, purchases from Amazon also use your saved payment information, don't require you to set up a new user account from whichever Amazon Marketplace merchant you buy from, and have a simple, unified experience.

Shopping, which was relaunched in 2012 from the service previously called "Google Product Search" – itself launched in 2002 as Froogle before being relaunched in 2007 – was Google's major attempt to fight that trend. If it has to shut it down, Amazon's domination seems all but guaranteed.

At the same time, however, Amazon was already fairly dominant. A bigger concern for Google in the long run comes, not from the EU, but from Canada, where the country's supreme court has ruled, in a 7-2 decision, that Google can be forced to pull results worldwide – not just from Canadian versions of its search engine.

"The internet has no borders – its natural habitat is global," the court wrote in its judgment. "The only way to ensure that the interlocutory injunction attained its objective was to have it apply where Google operates – globally." Google will now have to remove search results about a particular network device manufacturer, accused in Canada of intellectual property theft, from all its search pages.

The company argued that the global reach of the order was unnecessary and that it raised concerns over freedom of expression. But it's not the first time it has faced these concerns: in France, the data protection regulator has made a similar claim, arguing that the European "right to be forgotten" is not sufficiently carried out unless it, too, is applied worldwide. Unlike the Canadian judgement, Google still has the prospect of winning in France on appeal, and the case has been worming its way to the Conseil d'État, the country's highest court.

Google has strong ideological reasons to fight such rulings. As the company said in the French case, such orders “could lead to a global race to the bottom, harming access to information that is perfectly lawful to view in one’s own country ... We have received demands from governments to remove content globally on various grounds – and we have resisted, even if that has sometimes led to the blocking of our services.” Laws such as Thailand’s rules against insulting the king are often brought up, and with good reason. It would indeed be disastrous if such rules were applied globally.

Of course, one country does get to apply its rules globally: the US. Perhaps the best example of this can be seen in the way Google’s copyright procedures hew to the American Digital Millennium Copyright Act, wherever in the world a user is: regardless of what fair use rules are in your particular country, if you want to get a video taken down from YouTube, Google will apply US law in working out whether it is infringing.

Copyright protections are internationally accepted in a way most other censorship is not, of course. The Berne convention, which sets international standards for intellectual property protection, has 171 signatories.

But they still get to Google’s real fear at the heart of its opposition to courts claiming global jurisdiction: it poses the risk of an end to its policy of divide and rule.

Tech companies, the received wisdom goes, are too big to regulate. They operate internationally, and countries are competing in a marketplace of 192 competitors; if any one becomes too onerous, technology firms will just pull out and redirect their efforts elsewhere.

But both the events this week pose a risk to that regime. The EU, in throwing its weight around, has shown that a consortium of 28 countries can be big enough that companies have to sit up and pay attention (and will still be big enough when it’s 27). And Canada’s judiciary, in refusing to be cowed, forces Google to put its money where its mouth is: would it really pull out of a mid-sized developed nation over a point of principle?

If not ... would it ever?

Alex Hern, The Guardian Online, Thursday 29 June 2017 16.19 BST

Exercise 1

Translate the following passage from the text into ITALIAN:

If Google does scrap Google Shopping's advantageous placement (in the EU, at least), it probably won't have the effect desired by Vestager and other litigants. Although it may seem like services such as Kelkoo are the natural competitors hurt by Google shopping – and Kelkoo certainly thinks that, saying that it “expects Google to present a solution that is effective in bringing the vertical search industry back to life” – the likely beneficiary is just another US mega-corporation: Amazon.

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Exercise 2

Read the following quote taken from the article:

“The internet has no borders – its natural habitat is global [...] The only way to ensure that the interlocutory injunction attained its objective was to have it apply where Google operates – globally.”

Do you think that Google should be subject to a form of “global jurisdiction” or do you agree with the view that such a situation could lead to a “global race to the bottom”? You can examples from the article or other examples to answer this question. Your answer should be **no longer than 300 words**.