



COMPETITION COMMISSION OF INDIA

Case No. 23(2) of 2024

In Re:

Alliance of Digital India Foundation

... Informant

AND

Alphabet Inc.

... Opposite Party No. 1

Google LLC

... Opposite Party No. 2

Google Ireland Limited

... Opposite Party No. 3

Google Asia Pacific Pte Limited

... Opposite Party No. 4

Google India Private Limited

... Opposite Party No. 5

CORAM

Ravneet Kaur

Chairperson

Anil Agrawal

Member

Sweta Kakkad

Member

Deepak Anurag

Member

ORDER UNDER SECTION 26(2A) OF THE COMPETITION ACT, 2002

1. Information in Case No. 23 of 2024 has been filed by the Alliance of Digital India Foundation ('ADIF') under Section 19(1)(a) of the Competition Act, 2002 (the 'Act'), against Alphabet Inc., Google LLC, Google Ireland Limited, Google Asia Pacific Pte Limited and Google India Private Limited ('Google'), alleging contravention of the provisions of Section 4 of the Act.
2. ADIF is stated to be an alliance of individuals/ start-ups/ companies that aims to improve the start-up ecosystem in India and actively helps in identifying and dealing with issues concerning the growth and functioning of start-ups in India. ADIF, as a body, is stated to represent the interests of various stakeholders such as start-ups, app developers, *etc.* and espousing the objective of improving the start-up ecosystem of the country.



3. Alphabet Inc. is stated to be a US-based multi-national technology company engaged in the business of internet-related services and products. Google LLC, formerly Google Inc., is stated to be a Delaware limited liability company and wholly owned subsidiary of Alphabet Inc., its holding company. Google LLC provides a variety of information technology related services, with a principal focus on search, advertising, operating systems, platforms, and enterprise. It also offers an internet search service. Google Ireland Limited is stated to have been set up in 2003 as a subsidiary of Google LLC and is responsible for providing services to the company's users in the European Economic Area and Switzerland. Google India Private Limited is an Indian subsidiary of Google LLC and has been stated to be appointed by Google Asia Pacific Pte Ltd., Singapore as a non-exclusive authorised reseller of online advertisement space in India provided by Google Asia Pacific Pte Ltd., through Google Ads program to advertisers in India.
4. All five Google entities together are stated to be a 'group' in terms of clause (c) of the Explanation to Section 4 read with clause (b) of the Explanation to Section 5 of the Act.
5. The Commission considered the Information in its ordinary meeting held on 08.01.2025, and *vide* an order of even date, sought response from Google thereupon. Google filed its response to the Information on 09.04.2025.
6. Thereafter, *vide* order dated 11.06.2025, the Commission, upon consideration of the matter, decided to pass appropriate order(s) in due course.
7. The present is one of such order(s) passed.
8. At the outset, it is noted that allegations purporting to distinct markets and different products/ conducts of Google have been levelled in the Information filed in Case No. 23 of 2024.
9. As such, the Commission decides to segregate the said matter into three sub-cases *viz.*
 - (a) Case No. 23(1) of 2024 which shall deal with the allegations of abuse of dominance by Google in the Online Display Advertising services market through its Google AdTech Stack;
 - (b) Case No. 23(2) of 2024 which shall deal with the allegations of abuse of dominance by Google in the Online Search Advertising services market through its Google Ads Policies; and



- (c) Case No. 23(3) of 2024 which shall deal with the remaining miscellaneous allegations of abuse of dominance by Google of (i) leveraging its dominant position in the general search market to increase profits from online search advertising market by imposing unfair conditions (including pricing conditions), (ii) indulging in non-transparent ad review and ad redressal process under inconsistent Google policies, and (iii) removing third-party cookies from websites under its 'Privacy Sandbox' in Chrome browser.
10. Accordingly, in the present matter, the Commission shall analyse the allegations made by ADIF regarding abuse of dominance by Google in the Online Search Advertising services market through its Google Ads Policies.
 11. There are two forms of digital advertising, online search advertising and online display advertising. Online search advertising is when an advertiser pays for its advertisement to appear on the search engine results page ('SERP') with 'sponsored link' below the results, from a user's search on an internet search engine. The reason behind advertisers opting for search ads is because search-users generally tend to click mostly on the top few search results on the SERP. Google provides online search advertising services through its Google Ads, formerly known as Google AdWords.
 12. On the other hand, online display advertising refers to placement of visual ads (banners, images, videos) on websites, mobile apps, or other digital platforms. They are ads that appear in the advertisement space (or 'ad inventory') of a third-party website.
 13. As per ADIF, online advertising services are not substitutable with offline advertising services. Further, online search advertising is also not substitutable with online display advertising because the process of advertisement in online search advertisement is different from the online display advertising. Advertisers using online search advertising target in-market consumers who have already shown interest in their product or services. On the other hand, advertisers using online display advertising target out-market consumers through raising brand awareness. Search ads are considered 'pull' advertising while display ads are considered 'push' advertising.
 14. ADIF has hence, stated that Google holds a strong position in the online search advertising market. It has been able to leverage its dominant position in the wider



ecosystem into the search advertisement market through its vast reach among search users (both in general search and app store).

15. As per ADIF, Google has abused its dominant position in the market of 'online search advertising services' by imposing certain unfair and discriminatory terms and conditions upon the advertisers through its Google Ads Policies in India, which are non-negotiable and have to be accepted by the advertisers for placing an Ad on Google. ADIF has alleged that the terms and conditions imposed by Google are unfair because there is no reasonable justification behind imposing such restrictive trading conditions, and the same are discriminatory because these affect only a limited number of advertisers.
16. As per ADIF, Google Ads Policies say that Google Ads enable businesses around the world. Google operates globally, and thus, Google Ads Policies are applicable throughout the world. However, as per the local legal requirement, certain changes are undertaken by Google from place to place. For instance, some of the advertisement services not allowed in India are pre-natal gender determination, infant food products and prohibited medical services. ADIF has alleged that Google is abusing its dominant position in the online search advertising market in India by imposing additional restrictive terms even though there are no prohibitions in that regard under the Indian law.
17. ADIF has stated that all advertisers must explicitly agree to abide by the Google Policies, but these policies contain certain unfair and discriminatory terms forcing unfair rules to govern the interaction between search users and advertisers. As per ADIF, such conduct of Google by imposing unfair and discriminatory Google Ads Policies upon advertisers, is in violation of the provisions of Section 4(2)(a)(i) of the Act.
18. ADIF has cited four examples of unfair and discriminatory conditions, which form part of Google Ads Policies:
 - 18.1 Restriction on advertising of third-party technical support providers for certain products and services
 - 18.1.1 ADIF has stated that Google is prohibiting promotion of technical support by third-party providers for consumer hardware or software products and services on



Google Ads, without any reasonable commercial justification. ‘Other restricted businesses policy’ section of Google Ads Policies updated in October 2018 provides that *“prohibit promotion of technical support by third-party providers for consumer hardware or software products and services. Examples of services that can’t be advertised under this policy include remote, online, and offline technical support, such as troubleshooting, account and password support, and software setup, by third-party providers.”*

18.1.2 Further, Google in its Google Ads & Commerce Blog says that *“to continue to block ads for third-party tech support providers until we are more confident we have a solution that will better protect our users from harm. Note: We do allow advertising for the sale of consumer technology where the landing page might contain navigational features related to technical support... Today, we’re taking another step. We’ve seen a rise in misleading ad experiences stemming from third-party technical support providers and have decided to begin restricting ads in this category globally...”*

18.1.3 Google Policies also prohibit third-party technical support providers by saying, *“The following is not allowed:*
Technical support by third-party providers for consumer technology products and online services
Examples (non-exhaustive): Technical support for troubleshooting, security, virus removal, internet connectivity, online accounts (for example, password resets or login support), hardware support and repairs, or software installation.
Note: We allow advertising for the sale of consumer technology where the landing page might contain navigational features related to technical support.”

18.2 Restriction on placing of ‘Call Ads’ on ads shown on laptops and desktops

18.2.1 As per ADIF, Google provides another service for search advertisers viz. ‘Call Ads’, whereby advertisers can add their phone number on their ad text. However, as per ADIF, Google Ad Policies allow placing of such call ads only if the advertisers avail Google’s service ‘Call Assets’ or ‘Call-Only Ads’. ADIF has alleged that Google Policies unreasonably restrict ‘Call Ads’ on laptops and desktops, and allows the same exclusively on mobile phones. ADIF has stated that as per Google’s policies, *“Call ads are text ads that include a phone number*



and are designed to encourage calls rather than clicks. They appear exclusively on mobile phones.”

18.2.2 ADIF has submitted that if Call Ads are also allowed on laptops and desktops, then search-users could directly contact the advertiser by dialling the given number. Thus, as per ADIF, this is a strategically implied restriction from Google which is deterrent to user experience.

18.2.3 Further, ADIF has stated that Google’s policies on Call Assets say that “*Call Assets are the easiest way to add phone numbers to existing ads. If you attempt to include a phone number elsewhere in your ad text, it may lead to the disapproval of the ad. You can also create call campaigns.*”

18.2.4 Thus, ADIF has alleged that Google imposes an unfair and exclusivity condition on advertisers forcing them to avail Google’s service, *i.e.*, Call Assets, in order to add phone number on their advertisement. Google states that if an advertiser wants to encourage customers to call them, they should consider using ‘Call Assets’ or ‘Call-Only Ads’ instead of putting the number in their ad text.

18.3 Non-transparency in Google Ads Policies and Ad ranking

18.3.1 As per ADIF, for online search advertising, Google runs its own auction to decide which advertisement to show in response to a given search query and ranks the advertisement on its SERP and Play Store. Thus, an advertiser who wants to appear on the top of Google’s SERP or Play Store, needs to have a high Ad Rank.

18.3.2 As per ADIF, the Ad Rank of an advertiser depends on the maximum price bid and the Quality Score of the advertisement. However, this process of price bidding and placement is all funnelled through and controlled by Google, through a black-box approach. Rankings of advertisements are based on a non-transparent, inconsistent, and complex indexing algorithm devised by Google involving the quality of the advertisements. Google is inconsistent with its policies determining the quality of advertisements. As per ADIF, though visibility of an ad depends on the ranking of the ad, Google does not completely disclose the way its algorithm operates, and the actual criteria which determines their ad’s Quality Score are not transparent. This creates an unfair ecosystem for the advertisers because they are not aware about the actual criteria to improve their



Ad ranking. Therefore, as per ADIF, instead of providing its advertisement services to advertisers on fair and non-discriminatory terms, Google operates its ranking system of ads in a non-transparent manner. This provides immense opportunity to Google to interfere with the ranking list of search advertisements and impose unfair conditions, amounting to abuse of dominant position by Google.

18.3.3 As per ADIF, the present issue raised is different in facts and cause of action from the issue examined in Commission's earlier case of *Vishal Gupta and Another v. Google LLC and Others*, Case Nos. 06 & 46 of 2014 viz. 'Whether the bidding process of Google AdWords is extremely opaque and not transparent?' In the present case, ADIF submitted that Google operates its ranking system in a non-transparent manner, allowing Google to interfere with the ranking list of search ads on its SERP and Google Play Store. In furtherance to this, non-transparency in Google Ads Policies allows Google to artificially inflate the price for Google search advertising services. Thus, there is an abusive element in the conduct of Google which was never investigated in the previous cases. Further, there is a significant time gap when the Information(s) in Case Nos. 06 and 46 of 2014 were filed and the filing date of the present Information. There have been many changes in the competition landscape of the online search advertisement market in the meantime, given it is such a dynamic market. India has seen the upsurge in digital market, internet in general in the last five years. Regulators across the globe are investigating this issue, given the serious implications involved in the competitive landscape of digital markets. Currently, Google Search Ad Service is a 'must have' for all websites and app developers, and hence, Google has all the incentive to abuse its position to protect its position and generate more revenue. Consequently, ADIF has submitted that the previous orders of the Commission ought not bar the present Information under the principle of *res judicata* because the factual matrix and cause of action are completely different.

18.4 Allowing advertisers' registered trademarks to be used as 'keywords' by competitors and third-parties

18.4.1 Advertisers pay Google for their advertisements to be displayed on SERP when search-users enter particular keywords or phrases, with payment typically made



to Google if the search user clicks on the advertisement. Similarly, to reach the customers and create a digital customer base, an app developer has to avail the service of Google search ads in Google Play Store. Search users can click on the ‘sponsored’ link, which is above the organic search results, either in Play Store or SERP to reach the advertiser.

18.4.2 An advertiser who wishes to advertise their product or services on Google’s products (including Search, YouTube, Play Store, *etc.*) has to create text-based ads. It is alleged by ADIF that Google recommends the use of trademark of entities and app developers as ‘keywords’ to their competitors which will have more traction. A ‘keyword’ is a combination of words or terms that best describes the product, brand or retailer being advertised. Bid values are assigned to each individual keyword and then search engines pit advertisers against each other in second price auction-style bidding for the highest positions on search engine result pages. Ad Rank is a value that is used to determine where advertisements are shown on a page relative to other advertisements, and whether the advertiser’s advertisements will show at all. Ad Rank is a combination of the bid, ad quality score, the Ad Rank thresholds, the context of the user’s search, and the expected impact of extensions and other advertisement formats. The ranking of an advertisement hence, depends on the maximum price bid by an advertiser in an auction for each click on its advertisement, and the qualitative ranking of that advertisement (*i.e.* Quality Score). Google Ads advertisements displayed most prominently are those with the highest Ad Rank.

18.4.3 When users search for that keyword on a search engine or an app, the relevant advertisement along with the advertisers’ webpage or app respectively, appears as a sponsored link on the top of the organic search results. When users click on the sponsored advertisement, they are taken to the advertiser’s website or app.

18.4.4 As per ADIF, an advertiser cannot stop a competitor from bidding on its registered ‘trademarks’ as keywords and hence, to protect its customers from falling into the hands of a competitor or a malicious website, a genuine advertiser has to bid a high rate for the keywords of its own registered trademarks, because if an end-user searches for a specific website or app by its brand name or trademarked name, then ads of the advertiser which won the bidding process will



be shown on top positions on SERP and Play store and thereafter the organic results of the specific website or the app will appear, below the ads. Consequently, in order to prevent competitors and other websites/ apps to lead the traffic to their websites/ app, the advertisers are forced to participate in the bidding process of Google's search ad services for their own trademarks so that their customers can reach them on digital platforms when their brand names or trademarked names are searched on the general web or Google Play Store. As per ADIF, this practice of Google of conducting bidding process on registered trademarks of advertisers/ brands is anti-competitive in nature.

- 18.4.5 ADIF has submitted that Google used to carry out an investigation on such registered keywords in India and in European Countries till 2009. However, in 2015, Google changed its policy in India allowing use of trademarks as 'keywords'. Google's policy now says that it will not investigate or stop the use of the trademark as a keyword in India. However, Google still investigates the trademark as keywords in other places such as the European Union. Such discriminatory practice of Google arises out of its abuse of dominance, wherein the Indian market is very big for Google in terms of revenue.
- 18.4.6 Thus, ADIF has alleged that Google forcing advertisers to bid on their own trademarked keywords results in limiting the production of goods or services by such genuine advertisers, amounting to contravention of the provisions of Section 4(2)(b)(i) of the Act, because if the advertisers would not avail services of Google themselves, the system is skewed and designed in such a manner that their competitors would bid on their registered trademarks as keywords. In every case, Google would unfairly profiteer from such conduct.
- 18.4.7 As per ADIF, Google is also in contravention of the provisions of Section 4(2)(c) of the Act on this count. If a genuine advertiser fails to win the bidding process for its own trademark, then losing the top spot to another website or app would mean diversion of traffic from the genuine advertiser to that of a competitor or third-party. This results in foreclosure of the market for such genuine advertisers, who could not win the bidding process and would lose their business to competitors and/or third parties because they could not reach their customers. It is further alleged by ADIF that though Google has no right over the trademark of an



app developer under its Google Payments Terms of Service-Seller (IN) agreement ('GPTS') and Developer Distribution Agreement ('DDA'), but it still uses the trademarks as keywords without the consent of the trademark owner to conduct bidding and generate revenue in the process denying a fair share to the trademark owner. Such conduct of Google harms competition in the search advertising market and hence, violates Section 4(2)(c) of the Act.

- 18.4.8 As per ADIF, this amounts to imposition of unfair terms on the genuine advertisers in violation of the provisions of Section 4(2)(a)(i) of the Act. Advertisers would need to provide crores of rupees just to protect their brand, having no alternative but to raise the prices of their goods/ services and pass on the commission costs to consumers. Consequently, this causes harm to consumers as they are compelled to pay higher prices for the goods/ services. Moreover, this creates a negative perception of consumers towards the advertisers.
- 18.4.9 Additionally, advertisers losing an ad spot to a third-party may open the gate for malicious websites to defraud the search users. A search user may be exposed to an advertising linked to a site that is likely to harm its interests and privacy. Exposure of search users to malicious advertising may also disrupt the advertising strategy and good will of genuine advertisers. Thus, while Google is unfairly imposing conditions such as, restriction on third-party technical service providers to prevent search users from being exploited, on the other hand, it allows third parties to bid on keywords which are owned by a particular advertiser under the trademark law. Therefore, such conduct of Google also amounts to contravention of the provisions of Section 4(2)(a)(i) of the Act.
- 18.4.10 Moreover, as per ADIF, even if a trademark complaint is raised with Google, Google acts as the arbiter. In fact, Google plays the role of judge, jury and executioner by virtue of its dominant position in the relevant market. This hence, falls squarely in the realm of anti-trust violation.
- 18.4.11 ADIF has stated that even the UK Competition and Markets Authority's ('CMA') Report on Online Platforms and Digital Advertising has noted the concern of several advertisers, who have stated that Google's search advertisement auctions are not transparent, and results in hampering their



business because they have to buy their own trademark as keywords at a higher rate.

18.4.12 As per ADIF, this issue raised in the present matter is different from the issue of keyword bidding dealt with in *Matrimony.com and Another v. Google LLC & Others*, Case Nos. 7 & 30 of 2012. ADIF has submitted that in this case, it has been alleged that Google has no right over the unauthorised and impermissible usage of a registered trademark of app developers on Google Play Store as per the GPTS and DDA, still Google Ad Trademark Policies allow competitors to bid on a registered trademark. Hence, such policy in itself is alleged to be unfair. The Commission never had an opportunity to examine GPTS and DDA and its import on keyword bidding in the former cases. *Secondly*, one of the reasons that the Commission in *Matrimony* case (*supra*) dismissed the allegations was because Bharat Matrimony had not challenged the terms of the Ad Text Policy of Google *per se*. However, in the present information, the submission is that Google's Ad Policies on Trademarks in itself is anti-competitive under provisions of Section 4(2) of the Act. *Thirdly*, the Commission in *Matrimony* case (*supra*) held that it cannot look into issues pertaining to trademark infringement. However, the Hon'ble Delhi High Court in *Google LLC v. DRS Logistics (P) Ltd.*, (2023) 4 HCC (Del) 515 and *DRS Logistics (P) Ltd. and Anr. v. Google India Pvt. Ltd. and Others*, 2021 SCC OnLine Del 5767 dealt with similar issue pertaining to trademark infringement and observed that the owners of trademarks are aggrieved to the extent that the customers searching for their trademarks are diverted to websites of their competitors. Therefore, the Hon'ble Court held that there are competing rights and interests which need to be reconciled by reference to the relevant statute. Hence, the Commission is the relevant authority to look into the imposition of unfair conditions under the Act. *Finally*, the Commission in *Matrimony* case (*supra*) had not examined Google's search advertisement services in Google Play Store. Hence, the facts and cause of action in the present matter are different.



19. ADIF has also submitted that the aforesaid abusive conduct of Google is also extended to its ‘online display advertisement services’.
20. In respect of the above allegations, Google, in its response dated 09.04.2025, has stated that:
- 20.1 Online search advertising competes with other forms of online advertising like online display advertising and online specialised search advertising. Advertisers generally multi-home across many different online advertising channels and shift marginal spend among channels depending on each channel’s return on advertising spend. As such, there cannot be a separate relevant market for ‘Online Search Advertising Services’ for assessment of dominant position of Google.
- 20.2 Nonetheless, even considering only ‘search advertising’ as a relevant market, Google is not dominant therein. Google’s search ads are targeted predominantly by the user’s query and not user data. Search ads are also generally paid based on the value of a click, which is not dependent on the number of people who use a particular search advertising platform. Therefore, a dominant position in search, even if it could be shown, would not *ipso facto* imply a dominant position in search advertising.
- 20.3 Google’s search ad policies regarding mobile call ads and technical support protect users from low quality and irrelevant ads. Third-party technical support ads were suspended due to prevalence of misleading or fraudulent ads that harmed consumers. ADIF cites the 2018 Google blog post announcing the policy but omits key language showing that the policy arose from Google’s considered and reasonable judgment that ads in this category were harmful to users and the ads ecosystem. The post noted: *“For many years, [Google has] consulted and worked with law enforcement and government agencies to address abuse in this area. As the fraudulent activity takes place off our platform, it’s increasingly difficult to separate the bad actors from the legitimate providers”*. It was only after these efforts that Google undertook the step of prohibiting ads in this category. The post further noted that Google sought, unsuccessfully, to find a solution allowing ads from legitimate suppliers, *“Since restricting ads for third-party technical support providers last year, we’ve been testing a verification program for legitimate providers. Unfortunately, our testing shows that the potential for ads that lead to abusive or misleading offline experiences in this*



category is still too high". Scams related to third-party tech support can be extremely harmful and have drawn government attention.

20.4 Google places reasonable limits on appearance of phone numbers in ads in order to prevent free-riding and to provide a safer and higher quality user experience. ADIF's allegations muddle two different Google Ads features, Call Assets and Call Ads. 'Call Assets' are an extension to standard text ads. On devices capable of making calls, the extension may show as a click-to-call button. On other devices, the extension may show as a button that reveals the business's phone number when clicked. 'Call Ads', on the other hand, are a specialised ad format designed specifically to encourage calls rather than clicks through the advertiser's website and are therefore, only available on mobile devices. Google requires advertisers to provide a phone number to purchase Call Ads or to provide Call Assets for two reasons. First, Google verifies that the phone numbers included in Call Assets and Call Ads are legitimate and associated with the advertising business, helping to protect users from scams and other fraudulent activity. Second, Google Ads are generally offered on a pay-per-click basis. Allowing advertisers to include a phone number in a way that could not be registered and tracked by Google would permit unfair free-riding. Call Assets and Call Ads hence, require the user to click in order to see the phone number or make a call, allowing Google to track and charge for the click.

20.5 Nonetheless, the Commission has already considered and rejected a challenge to Google's prohibition on advertisements from third-party tech support providers as well as Call Ads in its order dated 12.07.2018 passed in the Vishal Gupta case (*supra*). The Commission observed that scammers placing phone numbers in ad text, titles, or URLs have misled consumers into thinking that a click would place a call when instead it would open a website. The Commission had hence, found that Google's prohibition of phone numbers in ad text "*followed a fair, legitimate process using clear, accessible and pro-consumer policies*". The Commission had further observed that Google's policies concerning ads for third-party tech support providers were developed with the backdrop of "*significant scrutiny of [remote tech support] providers by various competition and consumer protection agencies*".

20.6 Google's search ad policies are transparent and are published on its help centre blogs. The Commission has already considered Google Ad Policies in Vishal Gupta case



(*supra*) and, in fact, given a finding in favour of Google. The Commission has found that Google provides sufficient data to advertisers on the performance of their advertisements and no contravention of the provisions of the Act can be attributed to Google's bidding process.

20.7 Further, in Matrimony case (*supra*), the Commission noted that Google provides extensive guidance on the operation of its ads ranking systems and on ad quality scoring in particular. The Commission found that Google provides extensive performance data, beyond the quality score metric, to help advertisers understand how their ads will perform on Google. The Commission has hence, already found allegations concerning transparency of Google's ad ranking systems and quality score reporting to have no merit.

20.8 Allegations concerning the impact of Google's policies on a trademark holder's market access are false and ADIF's theory would create a duty to deal found nowhere in competition law. ADIF asserts that trademark owners are denied access to market, if they cannot appear at the top of SERP or Play Store on queries containing their mark. However, *firstly*, ADIF misstates how the ad auction works. Google selects ads through a combination of relevance to the user, ad quality, and the advertiser's bid. It is not the case that simply paying more guarantees better placement. All advertisers are subject to this same ranking system; if the trademark holder wins the auction, they are shown first and, if not, another ad may show higher. *Secondly*, the trademark holder is not the only 'genuine' advertiser for a given trademark. As the Commission noted previously, users may well be searching for competitors to a given business. The Hon'ble Delhi High Court in DRS Logistics (*supra*) made the same observation and noted that users could be searching for reviewers of a trademarked product or service. Users might also be searching for retailers who sell a trademarked product. *Thirdly*, it is false that a site that does not appear in the top ad slot is foreclosed from the market; it could appear in subsequent ad slots or in the organic search results, including prominently within a knowledge panel. And *fourthly*, Google has no duty to place any particular site in any particular place in its ads or search results, and using the Act to impose one would fundamentally undermine the bedrock competition principle that firms are free to choose with whom they deal.



- 20.9 Nonetheless, the Commission has already confirmed in Matrimony case (*supra*) that Google’s keyword bidding policy is pro-competitive, and enhances user choice. Additionally, in the Commission’s *prima facie* order dated 28.11.2024 passed in the Case No. 42 of 2022 titled *Winzo Games Private Limited v. Google LLC and Others*, the Commission has agreed that it has already adjudicated the keyword bidding issue in Matrimony case (*supra*), and held that it does not warrant any fresh consideration because it did not find any concerns.
- 20.10 ADIF’s further allegation that Google must share ad revenue with trademark holders due to provisions of GPTS and DDA at best, constitutes a contract dispute and not a competition law matter. As noted above, the Commission has already held that the use of trademarks in keyword bidding is pro-competitive, benefiting competition for advertising and therefore benefiting users. That conclusion did not depend on Google’s rights under intellectual property or contract law to make use of the trademarks. ADIF’s theory would actively undermine the pro-competitive benefits to users noted by the Commission and by the Delhi High Court in the DRS Logistics case (*supra*) by wrongly allowing a trademark owner a “*monopoly over the SERP yielded by a search query that contains the trademark.*”
- 20.11 ADIF’s attempt to distinguish the Commission’s decisions in Matrimony case (*supra*) and Vishal Gupta case (*supra*) is without merit and displays a fundamental misunderstanding of both Google’s activities and competition law. The Commission’s orders are *in rem* and not *in personam*, i.e., the primary role of the Commission is to address anti-competitive issues impacting the entire market, instead of addressing individual issues of some stakeholders. If an issue has been previously addressed, the Commission is under no obligation to take cognizance of claims presented later by complainants agitating the same issues in a different fashion. The Commission’s orders are meant to correct broader market failures and not address individual issues of complainants. Keeping this in mind, it may be noted that ADIF’s allegations against Google’s practices, including restriction on advertising of third-party technical support providers, restriction on placing of ‘Call Ads’, non-transparency in search ad ranking, and trademark bidding policies have been thoroughly examined and rejected by the Commission in previous cases. The recently implemented Section 26(2A) of the Act allows the Commission to not inquire into issues/ conduct that have already



been decided by the Commission. Based on the same, the present Information should be rejected to prevent duplication of proceedings.

21. Google has also submitted that ADIF's allegations extending its aforesaid allegations to Display Ads is wholly unsupported and should be summarily rejected. As per Google, ADIF has alleged that Google's abusive ad policies also apply to Display Ads but has not provided any evidence or examples of any allegedly unfair or abusive Display Ad Policy.
22. The Commission has examined in detail the averments made by ADIF and the submissions thereto made by Google, on all the issues related to alleged unfair and discriminatory conditions imposed by Google upon advertisers as part of its Google Ads Policies.
23. At the outset, the Commission notes that ADIF has not pointed out any specific part of any policy or conduct of Google in support of its claim that the allegations made in the present matter also extend to Google's Online Display Advertising services. As pointed out by Google, ADIF has simply stated that its allegations of abusive ad policies also apply to Display Ads. Therefore, in light of there being no supporting evidence to such claim, the Commission does not deem fit to take cognizance of such claim of ADIF.
24. Now, with respect to prohibition on advertisements from third-party technical support providers and Call Ads, the Commission notes that, in Vishal Gupta case (*supra*), the Commission had, while rejecting allegations from third-party technical support providers of suspension of their AdWords accounts in an unfair and discriminatory manner by Google, observed as follows:

“87. Google's AdWords Policies clearly define minimum standards of use for its advertising platform (AdWords). These policies protect the platform and the end-users, particularly, the vulnerable end-users. The Commission notes that an online advertising platform cannot be left without any regulatory mechanism which is based on defined criterion that ensures not only safety of advertisements for end-users but also to prevent unscrupulous advertisers from making false and misleading claims and representations. A platform would as such be within its rights to regulate itself to ensure that advertisements conform with its quality and safety standards. More



generally, platforms and users are free to agree upon the terms and policies that will govern their relationship, including enforcement mechanisms.”

...

99. The material on record shows that the enforcement and implementation of the AdWords Policies are non-discriminatory and based on defined criteria to ensure consumer safety. ...”

25. Similarly, with respect to the allegations of non-transparency in Google Ads Policies and Ad ranking, the Commission notes that, in Matrimony case (*supra*), the Commission had, *inter alia*, observed in this regard, as follows:

“272. Further, the Commission notes that there is no merit in the finding of the DG that the information Google provides to advertisers severely restricts their ability to critically evaluate their campaigns and take corrective steps. The Commission is of the opinion that this finding of the DG emanates out of singular focus on the 1-10 Quality Score. While it is true that 1-10 Quality Score gives one estimate of ad quality but Google also provides other metrics and tools for assessing ad and campaign performance as well ...

273. In view of the above, the Commission is of the opinion that the DG’s concern regarding disclosure of advertiser performance data by Google does not appear to be well founded. In fact, Google provides sufficient data to advertisers on the performance of their ads.”

26. Further, in the same vein, the Commission had, relying upon the Matrimony case (*supra*), in Vishal Gupta case (*supra*), also observed in this regard, as follows:

“154. ... As a result, the Commission holds that Google provides sufficient data to advertisers on the performance of their advertisements and no contravention of the provisions of the Act can be attributed to the Google’s bidding process.”

27. Lastly, with respect to Google’s keyword bidding policies allowing bidding on trademarks of brands as part of advertisers’ Ad Text, the Commission notes that, in Matrimony case (*supra*), the Commission had, *inter alia*, observed in this regard, as follows:



“291. The Commission finds that Google’s Keyword Bidding Policy does not prohibit advertisers from bidding on trademarked keywords. Google applies this policy universally, and permits advertisers to bid on Google’s own trademarks as well. Depending on the query and a variety of other factors, free results may include links for a trademark owner’s rivals in response to queries that include a trademarked term. Prohibiting advertisers from bidding on queries that include trademarked terms might result in a perverse situation where Google cannot return ads for competitive or complementary products even when users are searching for them. Therefore by allowing bidding on trademarked terms, it increases the relevance of Google’s ads which benefits users also.

...

294. The Commission is of the view that Google’s Keyword Bidding Policy enables a user to include a trademarked keyword in its query and, consequently, the user is not only presented with ads from the trademark owner but will also see a broader range of ads, including from the trademark owner’s competitors. This promotes competition and enhances user choice.

...

316. ... The Commission is of the opinion that it is not within the domain of the Competition Agency to pronounce upon trademark infringement issues simpliciter unless the same raise any competition issue.”

28. The Competition (Amendment) Act, 2023 has introduced Section 26(2A) to the Act, which provides as follows:

“The Commission may not inquire into agreement referred to in section 3 or conduct of an enterprise or group under section 4, if the same or substantially the same facts and issues raised in the information received under section 19 or reference from the Central Government or a State Government or a statutory authority has already been decided by the Commission in its previous order.”

(emphasis supplied)



29. A bare perusal of the above provision shows that the language used by the legislature is inspired by the principles of *res judicata* imbibed under Section 11 of the Code of Civil Procedure, 1908, which provides for laying an issue at rest by disallowing re-agitation and re-litigation of the same or ‘substantially the same’ issues, once a decision upon the said issues has been rendered by a competent court of law. Though in the traditional sense, *res judicata* is applicable upon subsequent rounds of litigations between the same parties or between parties deriving their titles from the same parties, nonetheless, in the context of competition law, which is a law *in rem* and not *in personam*, once a decision on an alleged market behaviour has been rendered by the competition authority, no purpose would be served by inquiring into the same issue yet again without there being any material change in circumstances being pointed out, and re-investigating the same issue again would simply lead to a wastage of time and resources of the public exchequer. *Res judicata* is a cornerstone of the legal system, promoting fairness, consistency, and efficiency, by preventing re-litigation of already decided issues.
30. Therefore, keeping in mind the above, the legislature, in its wisdom, has introduced the principles of *res judicata* in competition law *vide* its 2023 amendment, and therefore, under Section 26(2A) of the Act, the Commission has been bestowed with the discretion to ‘not inquire’ into allegations made in an Information, if ‘substantially the same facts and issues’ have ‘already been decided by the Commission in a previous order’.
31. As seen above, all the four instances of alleged unfair and discriminatory conditions imposed by Google upon advertisers as part of its Google Ads Policies as raised by ADIF in the present matter, have already been examined in substance and set to rest by the Commission in its previous decisions in Matrimony case (*supra*) and/ or Vishal Gupta case (*supra*). The Commission is not convinced with the reasons stated by ADIF for distinguishing its allegations from the issues examined in previous orders passed by the Commission. As per the clear language of Section 26(2A) of the Act, the issues examined in the previous order may be ‘the same’ or ‘substantially the same’.
32. Therefore, the present matter is directed to be closed forthwith in terms of the provisions of Section 26(2A) of the Act.



33. The Secretary is directed to communicate to ADIF and Google, accordingly.

**Sd/-
(Ravneet Kaur)
Chairperson**

**Sd/-
(Anil Agrawal)
Member**

**Sd/-
(Sweta Kakkad)
Member**

**New Delhi
Date: 01.08.2025**

**Sd/-
(Deepak Anurag)
Member**