Current trends in competition law - DMA workshop



about heureka!group in a nutshell

9 countries50 k merchants93 % brand awareness500 employees





joint call of comparison shopping industry

- letter to EVP Vestager and COM Breton of 17th October
- 43 Comparison Shopping Services (CSS)
- 20 Member States
- 30 to 1000 employees
- largest CSSs in 7 states
- claims:

"Reopen general search results pages for the most relevant sites!"

"Removing Shopping Units is the best solution."



FAO: Executive Vice-President Margrethe Vestager

& Commissioner Thierry Breton Rue de la Loi / Wetstraat 200 1049 Brussels

Belgium

by e-mail: margrethe-vestager-contact@ec.europa.eu cab-breton-contact@ec.europa.eu

17th October 2022

Re: Comparison shopping services call for actions to end Google's Shopping Units

Dear Executive Vice-President Vestager, Dear Commissioner Breton.

We, the undersigned 43 comparison shopping services ("CSSs") from across Europe, are renewing our call for enforcement measures against Google's self-preferencing practices on general search results pages, under EU competition law and/or the Digital Markets Act ("DMA").

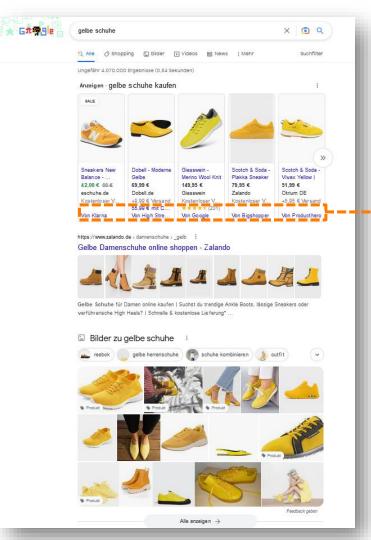
We welcome the recent judgments Google Search (Shopping) and Android as well as the adoption of a ban of self-favouring by search engines in the DMA. Both further strengthen the Commission's stance to finally open up Google's general search results pages for the most relevant CSSs by removing Google's self-serving, price-enhancing and inferior "Shopping Units".

Following such landmark competition cases and pioneering legislation, it is time to ensure compliance. Having suffered first-hand from Google's failure to ensure equal treatment within general search results pages, we have been requesting formal steps against Google's non-compliance with the Google Search (Shopping) decision since 2017. Recent developments have confirmed our observations, increased our concerns and strengthened our arguments. With this joint letter of the few CSSs that succeeded to stay in business despite Google's non-compliance, we submit that implementing the ban of self-favouring in search results should be the Commission's top priority: either by

- · enforcing Google's compliance with the Google Search (Shopping) decision,2 and/or
- addressing compliance with Art. 6(5) DMA once Google Search has been designated as a
 core platform service.

See, for example, joint letter of the founders and CEOs of 41 European CSSs of 28 November 2019 or joint industry letter of 135 companies and 30 industry associations of 12 November 2020.

Case AT.39740 - Google Search (Shopping).



Google shopping box

- all clicks leading to merchants
- >99% of clicks in box

Merchant's site

- no offers
- no filter

"By CSS" links

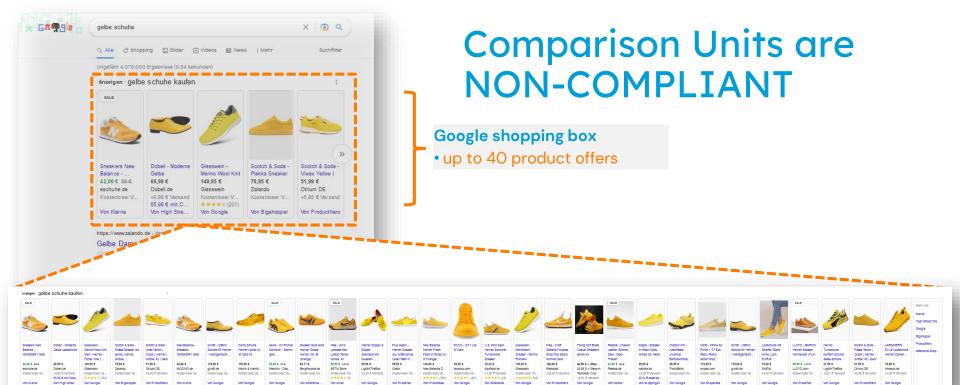
- only links to CSS website
- <1% of clicks</p>

Google images box

- product filter
- product offers

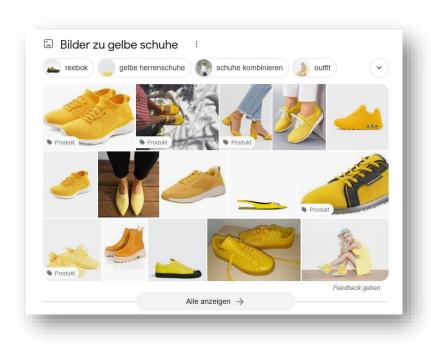
- 99% product comparison by Google
- 1% comparison by rivals
- no search result for a rival CSS above the fold





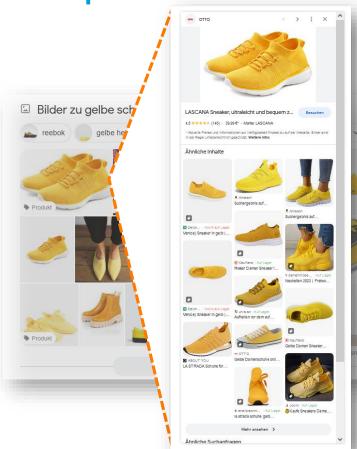






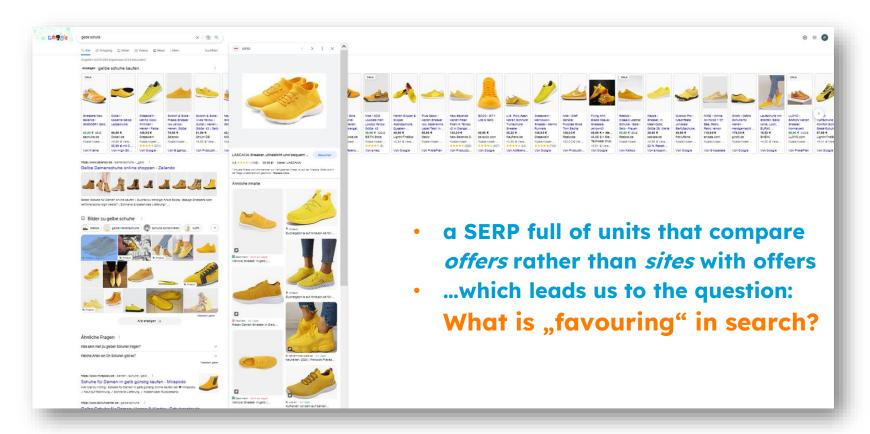
 product comparison service within Google images boxes, embedded in general search results page





- product comparison service within Google images boxes, embedded in the general search results page
- extendable



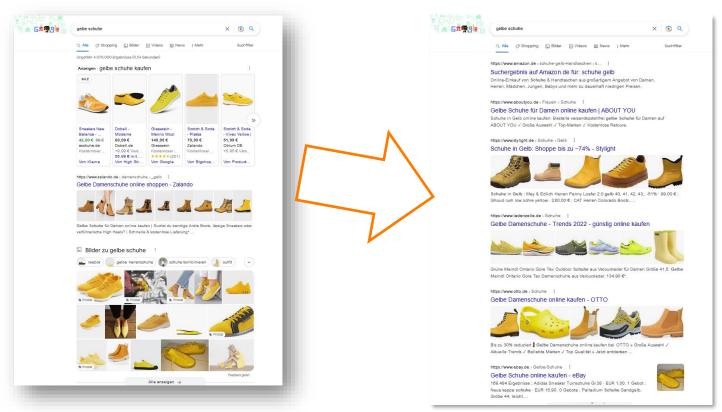


What is "favouring"? Art. 6(5), Recitals (51,52):

"where a gatekeeper provides its own online intermediation services through an online search engine [...] by [...] partly or entirely embedding in search engines results, groups of results specialised in a certain topic"



Units comparing products and prices within general results pages must go now!



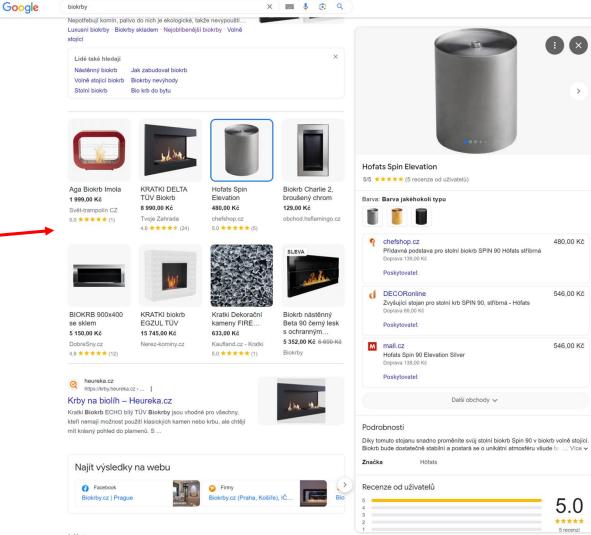


Google who must come up with a compliant solution

printscreen from 4/2023



This is a true and full Price Comparison Service!!!





iphone 14 X 🔳 🕹 🙃 Q

Produkty Obrázky Zprávy Price Mini Videa Colors T-mobile Fialova

Přibližný počet výsledků: 5 720 000 000 (0,46 s)

Zobrazit

Výsledky pro

Apple iPhone 14 Plus

Apple iPhone 14 Pro

Apple iPhone 14 Pro 128G8 Zistý. m...

Sponzorováno :

5G 128GB

19 176 Kč

Allegro.cz





Alza.cz















Allegro.cz

+ doprava za 9...





Doprava zdarma

Všechny filtry - Nástroje

Z webu Google Z webu Klarna Z webu Produc... Z webu Google Z webu Heureka Z webu Klarna Z webu Google Z webu Google

Sponzorováno

amarty.cz

Apple iPhone 14 | Smarty.cz

Vyber si svůj nový telefon Apple v luxusním designu a se skvělým výkonem. Ponoř se do jablečného světa a vyber si telefon Apple za super cenu a s rychlým doručením.

Sponzorováno

alza.cz https://www.elza.cz / mobilini-belefon / apple |

Apple iPhone 14 128GB - MEGA Výprodej na Alza.cz

MEGA Výprodej je tady! Vybírejte z nabídky plné poctivých slev na Alza.cz. Odborné...

Apple https://www.apple.com - iphone-14 [

iPhone 14 a iPhone 14 Plus

iPhone 14 má stejný fantastický čip jako iPhone 13 Pro. Díky čipu A15 Bionic s 5jádrovým GPU běží nejnovější funkce svížně a graficky náročné hry nebo aplikace ... iPhone 14 Pro · Přechod na iPhone · iPhone 13 · Koupit

Alza https://www.alza.cz / ... / Mobilin/ telefony iPhone |

Mobilní telefony Apple iPhone 14

Mobilní telefony Apple iPhone 14 skladem. ✓ Bezpečný výběr i nákup. ✓ Doručíme do 24 hodin. ✓ Poradíme s výběrem. ✓ Pravidelné akce a slevy na Mobilní ... Phone 14 Pro - iPhone 14 128GB černá - Phone 14 Plus - iPhone 14 Pro Max

Heureka
https://mobitni-telefony/heureka.cz / apple-iphone-14...

Apple iPhone 14 128GB od 18 440 Kč - Heureka.cz Očekávaná 14. řada oblibeného výrobce smartphonů je tu. Vychutnejte ještě kvalitnější

fotky, inovativní funkce a delší výdrž baterie. Na vaše bezpečí mysli ... ** * * * Hodnoceni: 95 % - 72 recenzi - 18 440.00 Kč až 37 292.92 Kč

Skladem ()

Lidé se také ptají

Kdy se dá koupit iPhone 14?

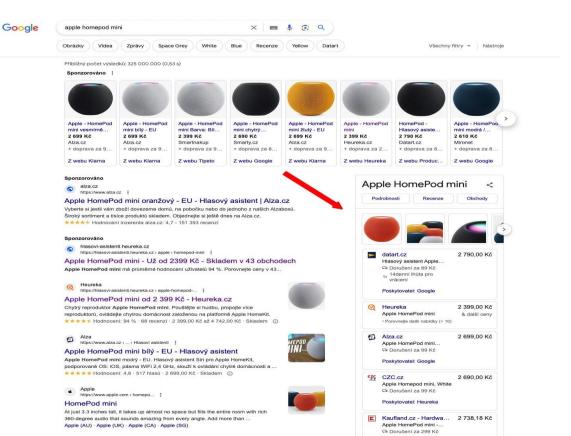
Jaký je rozdíl mezi iPhone 13 a 14?

Pe	drobnosti Recenze	Obchody
•	Single-risks	•
>	www.datart.cz Mobilni telefon Apple Donučeni za 89 Kč. 14decni ihūta pro vrāceni	23 490,00 Ki
0	Poskytovatel: Google Mironet	20 801,00 Ki
	Apple iPhone 14 128G8 C4 Doručení za 89 Kč Poskytovatel: Google	
0	Alza.cz iPhone 14 512GB bila Doručení za 99 Kč	27 990,00 Ki
	Poskytovatel: Google	
•	Mobil Pohotovost Apple iPhone 14, 256G © Doprava zdarma	23 290,00 Ki
	Poskytovatel: Heureka	
qq	CZC.cz Apple iPhone 14, 256G D Doprava zdama	24 690,00 Ki



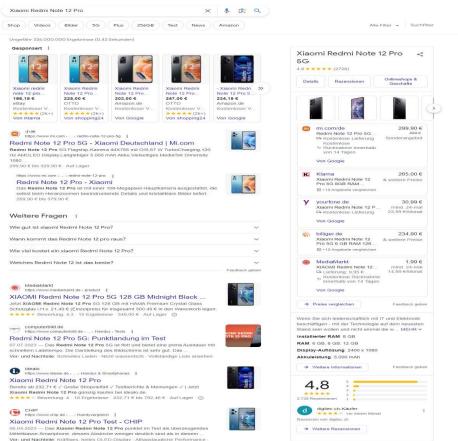
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Obchod	Produkt	Podrobnosti	Slevy a akce	Cena položky	Odh. celk. cena	
www.datart.cz Poskytovatel: Google	Mobilni telefon Apple iPhone 14 256GB Midnight (MPVX3YCIA)	C+ Doručení za 89 Kč 14denní lhůta pro vrácení		23 490,00 Kč	© 23 579,00 Kč	Navštívit web
Mironet Poskytovatel: Google	Apple iPhone 14 128G8 červená / EU distribuce / 6.1" / 128G8 / IOS16	G- Doručení za 89 Kč		20 801,00 Kč	© 20 890,00 Kč	Navštivit web
Alza.cz Poskytovatel: Google	iPhone 14 512GB billá Mobilní telefon	Ch Doručení za 99 Kč		27 990,00 Kč	© 28 089,00 Kč	Navštívit web
Mobil Pohotovost Poskytovatel: Heureka	Apple iPhone 14, 256GB Blue	C Doprava zdarma		23 290,00 Kč	© 23 290,00 Kč	Navštívit web
CZC.cz Poskytovatel: Heureka	Apple iPhone 14, 256GB, Midnight - MPVX3YC/A	Ch Doprava zderma		24 690,00 Kč	⊕ 24 690,00 Kč	Navštívit web
Apple Poskytovatel: Google	Apple iPhone 14 256 GB temnê inkoustová	C Doprava zdarma		29 990,00 Kč	© 29 990,00 Kč	Navštívit web
iStores CZ Poskytovatel: Google	iPhone 14 256 GB temné inkoustový	C Doprava zdarma		25 490,00 Kč	© 25 490,00 Kč	Navštívit web
iPhoneLab.cz Poskytovatel: Google	Apple iPhone 14 128GB Red (E-SIM) Stav telefons: Rozbalený, Odpočet DPH: Ne (koncový zákazník)	Ch Doručení za 99 Kč		17 990,00 Kč	© 18 089,00 Kč	Navštívit web
Svět iPhonu Poskytovatel: Google	Apple iPhone 14 128 GB Fialový	Ch Doručení za 115 Kč		19 990,00 Kč	⊚ 20 105,00 Kč	Navštívit web
Penta CZ Poskytovatel: Gurmado.eu	Mobilni telefon Apple iPhone 14 256GB Starlight	⇔ Doručení za 85 Kč		24 011,00 Kč	© 24 096,00 Kč	Navštívit web
MALL.cz Poskytovatel: Heureka	Apple iPhone 14, 512GB, Starlight (MPX33YC/A)	G- Doručení za 99 Kč		29 990,00 Kč	© 30 089,00 Kč	Navštívit web
planeo.cz Poskytovatel: Google	APPLE IPhone 14 256 GB Midnight MPVX3YC/A	C+ Doručení za 99 Kč 14denní lhúta pro vrácení		23 490,00 Kč	© 23 589,00 Kč	Navštivit web
ISETOS Poskytovatel: Google	iPhone 14 256GB Starlight Apple iPhone	C Doprava zdarma		23 690,00 Kč	⊙ 23 690,00 Kč	Navštivit web
O2 Czech Republic, a.s.	70mm 14 05200 EO	□ Doprava		26 080 00 1/4	C) he nen no vx	Name and the second



▶ Videa :

Poskytovatel: Adference Shopping

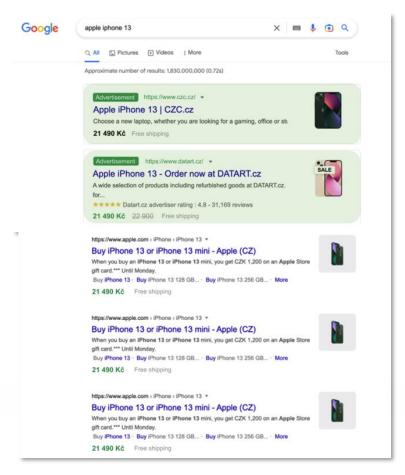


Fredback geben

Kein kabelioses Laden · Vollständige Liste ansehen

Google

one of possible solutions by heureka!group



- Equal treatment of paid and unpaid
- Equal access to paid and unpaid results
- Clear labelling of paid results

Clear DMA framework for any of the many technical solutions

FRAND conditions for (Art. 6 (12)) and No Favouring when (Art. 6(5))

- crawling (e.g. equal frequency)
- indexing (e.g. equal depth)
- ranking (Art. 2 (22)):
 - = relative prominence of **search results** (Art. 2 (23)), i.e. of:
 - any information in any format (i.e. images, texts, graphs etc.)
 - related to a search query (i.e. also in its anticipation)
 - irrespective of unpaid or paid (i.e. also within text or other ads)
 - also for direct answers or other information (e.g. Knowledge Graphs, Q&As)
 - irrespective of displayed in connection, along with or partly or entirely embedded in organic results (i.e. any information on SERP is covered)
 - irrespective of technical means used for presentation (i.e. device or browser)
 - · even if only one result is presented

No contractual, commercial or technical undermining of these obligations (Art. 13(4)).

No search quality degrading for CSSs availing equal treatment (Art. 13(4)).

Neutral structure, design, function or operation of search user interface (Art. 13(6)).



comparison shopping industry is not silent

Current communication towards DG competition informing DG that:

- Google officially started the AB test of the "new design solution" which is supposed to comply with the DMA's ban on self-preferencing in ranking (Article 6 (5) DMA).
- We, as Heureka, actively take part in the AB test to be better able to assess its merits and impact.
- Despite the early stage of the test, we have to insist on stating that this new solution may NEVER BE COMPLIANT with Article 6 (5) DMA.
- From all we see currently live online, Google intends to keep its groups of Product Listing Ads as results specialised in the topic of products (bundled in so-called Shopping Units).
- Contrary to the unambiguous wording of Recital (51), Google thereby, at least partly, embeds its own comparison shopping service into Google's search engine results pages (SERP).
- To add insult to injury, Google is now adding a further proprietary product comparison service into its SERP.

thank you!