

Latest developments in EU Competition Law and Policy

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Structure of the presentation

- 1. Policy: The revised Horizontal Guidelines
- 2. Enforcement: The Google AdTech case and DMA designations
- 3. Perspectives: The evaluation of Reg. 1/2003 and the development of Art. 102 TFEU Guidelines



Policy

The revised Horizontal Guidelines



Horizontal Guidelines: Scope





Horizontal Guidelines: Sustainability

Sustainability agreements do not violate Art. 101 TFEU pursuant to...

...Art. 101(1) TFEU

...Art. 101(3) TFEU

Participative and transparent standard selection

No obligation to comply

Freedom to unilaterally adopt higher stand<u>ard</u> No exchange of commercially sensitive information

Effective and non-discriminatory access

No significant increase in price NOR reduction in quality OR combined market share not exceeding 20%

Both qualitative efficiencies and cost savings

value benefits, individual use value benefits, benefits, collective benefits

Restrictions necessary to achieve benefi

Sufficient residual competition left

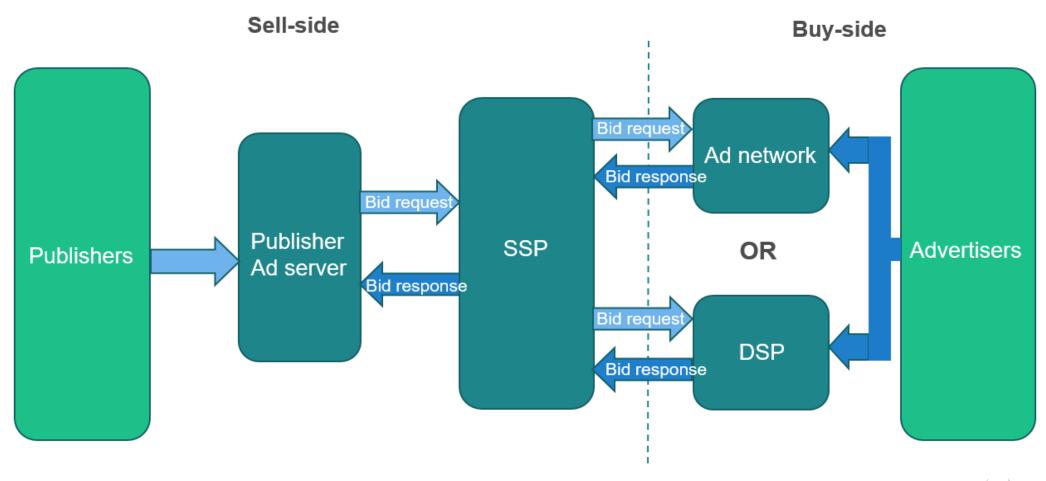


Enforcement

The Google AdTech case and first experience with the DMA

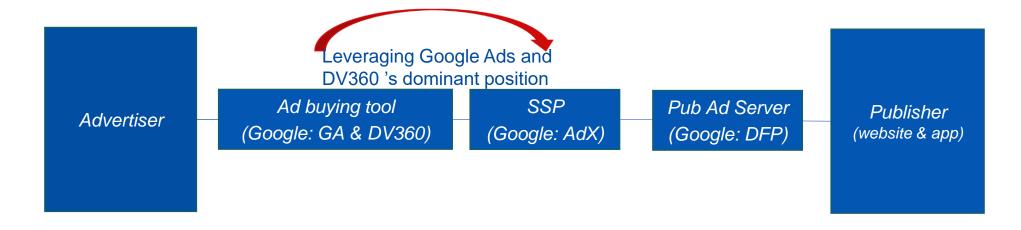


Google AdTech: The ad tech stack



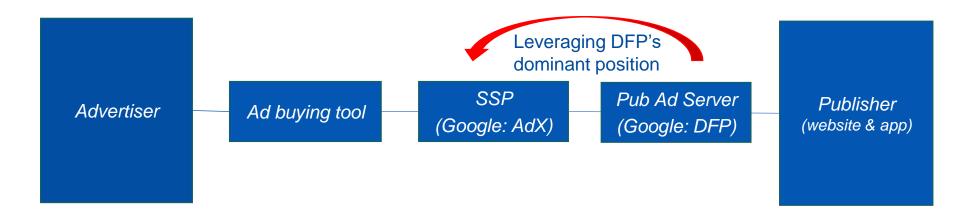


Google AdTech: Buy-side conduct



- Google has abused Google Ads and DV360's dominant position(s) in the market(s) for programmatic ad buying tools for the open web by favouring AdX to the detriment of rival SSPs
- Google intentionally sought to provide AdX a substantial advantage through a series of 3 distinct practices, which together constitute the "buy-side conduct"
- Example: Google Ads was avoiding competing ad exchanges and mainly placing bids on AdX, thus making it the most attractive ad exchange for publishers

Google AdTech: Sell-side conduct



- Google has abused DFP's dominant position in the market for publisher ad servers by favouring AdX to the detriment of rival SSPs
- Google intentionally sought to provide AdX a substantial competitive advantage over rival SSPs through a series of 8 practices, which together constitute the "sell-side" conduct
- Example: Google informed AdX in advance of the value of the best bid from competitors submitted to DFP which it had to beat to win the auction

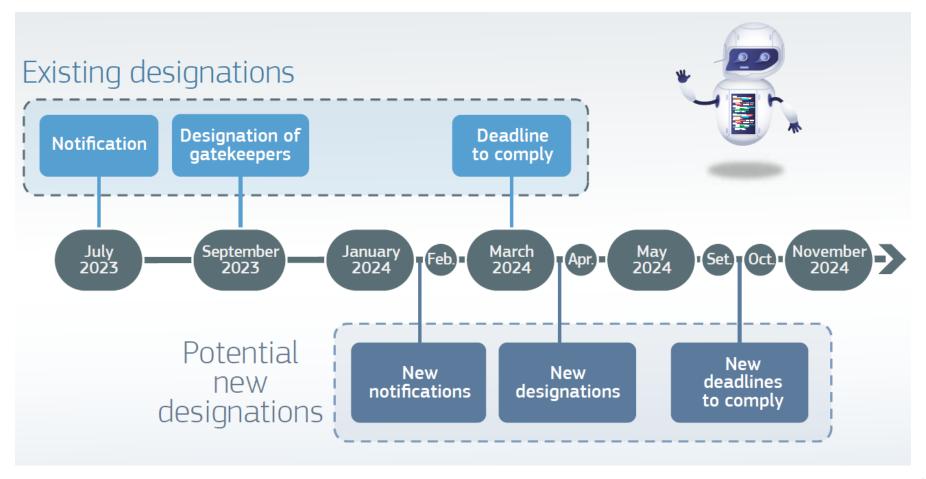
DMA: Designated gatekeepers and services

Gatekeeper	Inter- mediation	Search	Social network	Video sharing	N-IICS	Operating system	Browser	Virtual assistant	Cloud	Ads
Alphabet	? • G	G			Accepted rebuttal					
Apple	X				Market investigation on rebuttal	investigation on iPadOS				
Meta			1		9 ~					
Microsoft		Market investigation on rebuttal			Accepted rebuttal		Market investigation on rebuttal			Market investigation on rebuttal
Amazon										amazon advertising
ByteDance			J							

Samsung

Non-designation letter

DMA: Enforcement schedule





Perspectives

The evaluation of Reg. 1/2003 and the development of Art. 102 TFEU Guidelines



Art. 102 TFEU Guidelines: schedule

Dec. 2005	Discussion Paper and ensuing public consultation
Dec. 2008	Adoption of Guidance Paper on Enforcement Priorities in applying Article 102 TFEU to exclusionary conduct
Mar. 2023	Call for Evidence launching the process leading to future adoption of Guidelines on exclusionary abuses of dominance
Apr. 2023	45 contributions submitted by deadline of call for evidence
2024	Planned publication of draft Guidelines and public consultation
2025	Scheduled adoption of final Guidelines



Evaluation of Reg. 1/2003: Schedule

Public consultation

Public tender for evaluation study (contract awarded, study ongoing)

Conference: 20 Years of Reg. 1/2003: A (r)evolutionary tale

Interactive Workshop: The Evaluation of Reg. 1/2003

Staff working document with the results of the evaluation

Q2 2024

