COMMENTS TO THE EUROPEAN COMMISSION'S PUBLIC CONSULTATION ON THE PRELIMINARY FINDINGS ON GOOGLE SEARCH DATA SHARING

–CASE DMA.100209-SP-ALPHABET-ARTICLE 6(11)–

SUBMITTED BY CONSUMER ASSOCIATION IUS OMNIBUS

I. IUS OMNIBUS

Ius Omnibus (Ius), with registered office at Second Home Lisboa, Mercado da Ribeira, Av. 24 de Julho, 1200-479 Lisbon, Portugal, is a non-profit association, created in March 2020, to promote and defend the rights and interests of consumers in the European Union. It is a consumer protection association registered and recognized by the Portuguese Government and the European Commission as a qualified entity under Directive (EU) 2020/1828, which has filed several class actions in the field of consumer protection.

Ius's interest in participating in this public consultation stems from its commitment to the effective defense of consumer rights in the digital environment, particularly in the online search market. As an association dedicated to promoting fair and undistorted competition, as well as the collective protection of consumer interests, Ius considers it essential that the implementing act resulting from this proceeding translates the obligations of the Digital Markets Act (Regulation (EU) 2022/1925, hereinafter "DMA") into tangible improvements for European end users.

Ius has found that unfair online commercial practices erode consumer confidence and exacerbate information asymmetries between platforms and users. The erosion of trust in markets is not only a matter affecting consumer welfare. However, it is also directly related to the strength of markets and their ability to be innovative and competitive. That is why the implications of a fair and equitable digital environment transcend the immediate objectives of consumer protection. This concern is particularly acute in the online search market, where a single gatekeeper controls the infrastructure upon which millions of European citizens rely daily to access information, and where the lack of effective competition directly limits consumer choice.

Ius has demonstrated a consistent commitment to citizen participation and transparent governance through its active involvement in numerous public consultation processes at both national and European level.

In the field of digital markets regulation specifically, Ius has previously submitted comments in the context of Case DMA.100204 SP-Apple-Article 6(7), where it raised concerns about interoperability and its effects on consumer welfare; in the context of the public consultation on the first revision of the Digital Markets Act, launched by the Commission on 3 July 2025, where Ius submitted detailed observations on consent, interoperability, self-preferencing, private enforcement and the implications of artificial intelligence for digital markets; and in the context of the public consultation on the Joint Guidelines on the Interplay between the DMA and the GDPR, where Ius raised concerns about the structural circularity of consent in digital environments, the limits of data portability and interoperability obligations, and the risks of anonymization frameworks that undermine the protective purpose of both instruments.

Ius has actively engaged with the Commission's enforcement agenda under the DMA throughout this period. This accumulated experience in DMA proceedings informs the present submission and underlines Ius's conviction that effective enforcement of the DMA's obligations is not merely a matter of competition policy, but a prerequisite for the genuine empowerment of European consumers in the digital economy.

II. Public consultation

On 5 September 2023, the Commission adopted a decision designating Alphabet as a gatekeeper under the Digital Markets Act (DMA) for a number of its services, including its online search engine Google Search. Since 7 March 2024, all obligations under the DMA have become fully applicable to all of Alphabet's designated core platform services.

According to Alphabet's most recent compliance report, submitted on 6 March 2025, Alphabet considers that it has ensured compliance with Article 6(11) of Regulation (EU) 2022/1925 by means of the launch of the European Search Dataset Licensing Program on 6 March 2024, a program which has been in operation since then with only limited modifications. The Commission's assessment has been markedly different. Since March 2024, the Commission has met with Alphabet several times, organized two compliance workshops – on 21 March 2024 and 1 July 2025 – during which Alphabet's compliance with Article 6(11) was discussed, and engaged with several third parties, such as undertakings providing online search engines and other stakeholders, enabling them to make comments. Based on those exchanges, the Commission identified at least four areas of Alphabet's program warranting further specification: the anonymization methodology, the fairness of pricing terms, the scope of the data provided, and the frequency and duration of data sharing.

On 27 January 2026, the Commission opened proceedings under Article 20(1) of the DMA to specify the measures Alphabet must put in place to effectively comply with its online search data-sharing obligations. On 16 April 2026, the Commission adopted its Preliminary

Findings setting out the proposed measures that Alphabet should implement to ensure effective online search data sharing with third-party online search engines, and invited interested third parties to submit observations on these measures, and in particular on their effectiveness, completeness, and implementation timelines.

In summary, the proposed measures cover five areas: eligibility of beneficiaries, scope and conditions for data sharing, anonymization, FRAND pricing, and the process for Search Dataset acquisition and pre-acquisition data testing. Giving third-party undertakings access to ranking, query, click, and view data is important to achieving the objectives of fairness and contestability in online search engine services, as these undertakings use this data to optimize their services and ensure the most relevant results are surfaced to end users. End users also benefit, as access to such data improves the search results of third-party providers of online search engines, making them credible alternatives to Google Search, thereby increasing choice and innovation in online search engine services to the benefit of end users.

Ius Omnibus submits these comments in that spirit. As a consumer association, our perspective is that of European end users, the citizens who, for almost two years, have been the unintended beneficiaries of a legal obligation that has produced no tangible change in their daily experience. This consultation has rightly attracted the attention of technical experts, competition practitioners, and undertakings with a direct commercial stake in the outcome. Their contributions are valuable and necessary. However, Ius considers it equally important that the Commission hears from organizations that represent the people who actually use Google Search and competing search engines every day, ordinary citizens, not market participants or legal specialists.

The issues at stake in this proceeding may appear highly technical: anonymization thresholds, API delivery conditions, ISAE 3000 assurance standards, crawl prioritization signals. But their consequences are not technical at all. They determine whether European consumers will have access to genuinely competitive alternatives to Google Search, whether those alternatives can deliver results of comparable quality, and whether the choice of search engine will be meaningful rather than a mere option with no practical value. The Digital Markets Act was designed precisely to address this kind of structural imbalance, not as an end in itself, but as a means of restoring fairness and choice in digital markets for the benefit of users.

Ius's participation in this consultation is therefore aimed at ensuring that the implementing act that results from these proceedings does not remain merely a high-level agreement between the Commission, Alphabet, and well-resourced competitors. For it to fulfill its purpose, it must translate into a concrete and perceptible improvement in the daily experience of the European citizens it is ultimately meant to serve.

III. Comments

In this section, comments will be provided in response to the proposed measures set out by the European Commission in its Preliminary Findings. For ease of reference, this submission follows the structure of the Preliminary Findings, which organize the proposed measures into

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five areas: (1) eligibility of beneficiaries; (2) data scope and conditions of sharing; (3) anonymization; (4) FRAND pricing; and (5) the process for Search Dataset acquisition and pre-acquisition data testing.

For reasons of relevance and focus, this submission concentrates on those areas where observations from a consumer perspective can meaningfully contribute to the discussion. Areas that are predominantly technical or operational between Alphabet and third-party online search engines, and where a consumer association is not best placed to add substantive value, have therefore been addressed only to the extent that they have direct consequences for end users.

In this regard, Ius Omnibus has no substantive observations to make on the (1) eligibility of beneficiaries. The criteria proposed by the Commission appear adequate from a consumer perspective and are therefore not further addressed in this submission. The comments below focus on the remaining four areas.

1. DATA SCOPE AND CONDITIONS OF SHARING

This section addresses the proposed measures concerning the scope of search data that Alphabet must share with third-party online search engines and the conditions under which that sharing must take place. Ius Omnibus broadly agrees with the Commission's approach in this area, and in particular with the introduction of the principle of parity and the inclusion of AI-generated search outputs within the scope of the obligation. The section also identifies two areas of concern: a residual asymmetry in the conditions for data delivery, and a structural gap in the proposed framework regarding crawl-prioritization signals that the Preliminary Findings leave unaddressed.

1.1 The parity principle and the inclusion of AI-generated outputs

Ius Omnibus welcomes the introduction of the principle of parity as the overarching legal standard governing the scope of search data that Alphabet must share with third-party online search engines. As set out in paragraph (3) of the Preliminary Findings, Alphabet must give third-party online search engines access to all Search Data on par with the data it itself collects for the purpose of optimizing its own search services. The principle represents a qualitative leap forward compared to Google's initial compliance offer, which was limited to a narrow selection of traditional web link data and fell far short of what is needed to enable genuine competition in the online search market. Under paragraphs (4), (6), (8) and (10) of the Preliminary Findings, Alphabet must share query data covering any input entered by a user on any access point and any modifications to that query, view data covering any URLs and visual content displayed on search engine results pages, granular click data including the timing, order and duration of clicks, hovers, scrolls and swipes, and ranking data covering each URL's position and prominence on the results page. Ius Omnibus supports this comprehensive scope and calls on the Commission to preserve it in its entirety in the

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final implementing act, without dilution in response to arguments by Alphabet that a narrower scope would be sufficient.

The importance of this data as a barrier to entry in the online search market is not a recent discovery. Already in 2010, the European Commission identified click data on "long-tail" queries as the principal scale advantage enjoyed by incumbent search engines in its assessment of the Microsoft/Yahoo transaction (Case COMP.M.5727, paragraph 162). The fact that European consumers are only now, more than 15 years later, seeing a regulatory framework that seriously begins to address this barrier is itself a measure of the problem's magnitude and persistence. This history also underscores the importance of ensuring that the implementing act is adopted before the 27 July 2026 deadline and that its provisions are not weakened at the final stage.

The inclusion of advanced search engine results page features and AI-generated search results within the parity principle is particularly significant and deserves explicit consumer support. As Ribera Martínez[1] has noted, in the first quarter of 2026, approximately 4.3% of the search engine market is already powered by artificial intelligence, with projections exceeding 10% by the end of 2027. Google's own AI Overviews now appear in more than 50% of Google searches, driving zero-click rates to 65%, meaning that for every 1,000 searches conducted on Google, only 360 clicks reach the open web. The search experience is being fundamentally transformed, and a framework that does not extend the parity principle to AI-generated outputs would be obsolete the moment it is adopted. Ius Omnibus therefore calls on the Commission to confirm explicitly in the final implementing act that AI-generated search outputs and advanced search engine results page features are fully covered by the parity principle under paragraph (3), and that any future evolution of Google Search's AI functionalities will automatically fall within the scope of the data sharing obligation.

Search engines such as DuckDuckGo already offer their own AI-powered products that compete directly with Google's generative search functionalities. Without access to data on how Google displays and ranks its own AI-generated results, competitors cannot train or optimize their models on equal terms, leaving consumers who use these alternatives structurally worse off in their daily search experience. The absence of parity in AI-related data also creates a powerful mechanism of ecosystem lock-in: if the quality gap between Google's AI search functionalities and those of its competitors widens further, as it inevitably will in the absence of data parity, users who wish to access comparable AI search capabilities will have no practical option other than to remain within the Google ecosystem. This in turn reinforces Google's position across all the adjacent markets in which it operates, including search advertising, voice assistants, browser services and mobile operating systems. The lock-in is not an incidental outcome; it is a foreseeable and direct consequence of failing to extend the parity principle to AI-generated search data, and the consumer bears its cost. It bears emphasis in this context that the objective of the data-sharing obligation under Article

[1] Ribera Martínez, A. (2026, April 29). *Rolling with the punches: The European Commission's approach to the sharing of search data under Article 6(11) DMA*. Kluwer Competition Law Blog. https://legalblogs.wolterskluwer.com/competition-blog/rolling-with-the-punches-the-european-commissions-approach-to-the-sharing-of-search-data-under-article-611-dma/

6(11) of the DMA is not to enable competitors to free-ride on Google's investment, but to enable genuine product differentiation in the online search market. This differentiation ultimately serves the consumer rather than the competitor.

1.2 Daily record-level data sharing and minimum five-year access: a necessary floor

Ius Omnibus supports the conditions of data sharing proposed in Section 2.2 of the Preliminary Findings, which represent a substantial improvement over the current situation. Paragraph (15) establishes that Alphabet must share Search Data with third parties on par with its own frequency of access to the same data, operationalized by paragraph (20) as a requirement to share the data daily and at record level. Paragraph (17) requires delivery via API in a manner that enables third parties to access only new data, rather than the complete updated dataset each time, and paragraph (18) establishes a minimum access duration of five years from the moment when the Search Data becomes effectively accessible to each specific third party. These conditions stand in stark contrast to what Google's voluntary program has delivered: data that is, on average, 4.5 months old and subject to a maximum access term of 3 years. Ius Omnibus supports each of these requirements and calls on the Commission to treat them as non-negotiable floors in the final implementing act.

That said, a qualification identified by Ribera Martínez deserves acknowledgment and, in Ius Omnibus' view, an explicit response in the final implementing act. If Alphabet's internal systems access and process the same data in real time or multiple times per hour for the purpose of optimizing its own ranking and auto-completion services, then providing third parties with data only on a daily basis may not achieve the parity required by paragraph (15) in substance, even where it formally satisfies the daily sharing requirement under paragraph (20). This structural delay is further compounded by the fact that the allowlist used to determine which query entities are included in the dataset is updated only once a week under paragraph (22). New and trending query terms may therefore be blocked from the dataset for several days before being added to the allowlist, meaning that competitors would receive data about emerging search trends only after peak user interest has passed. For consumers, this gap is most acute in searches related to breaking news, public health developments or viral events, precisely the contexts in which timely and accurate search results matter most. Ius Omnibus calls on the Commission to include in the final implementing act a monitoring obligation requiring Alphabet to demonstrate that its frequency of internal data access does not materially exceed the daily sharing frequency provided to third parties, and to adjust that frequency accordingly if it does.

1.3 The crawl-prioritisation data gap

Ius Omnibus wishes to draw the Commission's attention to a structural gap in the proposed framework that has direct and immediate consequences for the quality of search results available to European consumers. The data scope defined in Section 2.1 of the Preliminary Findings covers query, view, click and ranking data under paragraphs (4), (6), (8) and (10). It does not extend to crawl prioritisation signals, despite the fact that paragraph (40) of the

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Preliminary Findings expressly permits beneficiaries to use the Search Dataset for the purpose of web crawling and index building.

A search engine performs two distinct functions: it builds an index of web pages, and it ranks those pages in response to user queries. The Preliminary Findings address the second function comprehensively through the parity principle but leave the first entirely unresolved. Competitors will remain unable to determine which pages, among the billions on the open web, are actually worth indexing, despite Google having access to precisely that information through its massive-scale click data. The result is that alternative search engines will continue to operate from a structurally inferior index, not because their ranking algorithms are weaker, but because the raw material on which those algorithms operate is fundamentally incomplete.

For consumers, this gap has direct, tangible consequences. A structurally inferior index means that relevant pages go unindexed, that specialized or lower-visibility sources are absent from search results, and that high-visibility commercial content predominates over content that may be more useful to the individual user's specific need. The gap also operates as a mechanism of ecosystem lock-in: a consumer who tries an alternative search engine and receives results of visibly lower quality, not because the competitor's ranking methodology is inferior, but because its index is structurally incomplete, will return to Google. The structural inferiority of the index thus becomes a self-reinforcing barrier that operates independently of any improvement in ranking quality and independently of the consumer's own preferences. Ius Omnibus calls on the Commission to address the crawl-prioritisation data gap explicitly in the final implementing act, by extending the parity principle under paragraph (3) to cover the data signals that determine not only how pages are ranked but which pages are indexed in the first place, thereby giving practical effect to the purpose limitation already recognised in paragraph (40).

2. ANONYMIZATION

This section addresses the proposed technical and contractual measures set out in Section 3 of the Preliminary Findings to ensure the anonymization of end users' personal data in the Search Dataset before it is shared with third-party online search engines. Ius Omnibus firmly supports the Commission's approach in this area without reservation. The section also addresses two related matters: the framing of privacy as a fundamental right of European consumers, and the question of where the burden of compliance should fall, which connects directly with the observations made in Section 4 below on the audit requirements imposed on beneficiaries.

2.1 Privacy as a fundamental right, not a parameter of market optimization

Before addressing the substance of the proposed technical measures, Ius Omnibus considers it important to establish the correct framing for this discussion. The protection of personal data in the context of online search is not a preference of market participants, nor

a technical parameter to be optimised against competing considerations. It is a fundamental right of European citizens, enshrined in Article 8 of the Charter of Fundamental Rights of the European Union and given concrete expression in the General Data Protection Regulation.

In this context, the question before the Commission is not whether to prioritise privacy or competition, but how to design an anonymisation framework that advances both simultaneously. As the Commission itself recognises in paragraph (19) of the Preliminary Findings, the proposed measures aim to reduce the likelihood of re-identification of end users to a residual level without unnecessarily degrading the quality or usefulness of the search data.

This framing is consistent with the approach taken by the Court of Justice in its judgment of 4 September 2025 in the SRB case. In paragraphs 75 to 77 and 86 of that judgment, the Court held that pseudonymised data does not automatically constitute personal data for every recipient in every circumstance: whether it does so for a specific recipient depends on whether that recipient can, in practice, re-identify the individuals behind it, and whether effective technical and organisational measures prevent them from doing so. The dataset that beneficiaries receive has already been processed through a five-step pipeline and is subject to strict contractual prohibitions on re-identification. The privacy risks it poses are therefore fundamentally different from those posed by raw personal data, and the regulatory framework should reflect that distinction. The Commission's proposed framework is not a compromise between privacy and competition. It is a technically superior solution that advances both.

2.2 Agreement with the proposed five-step technical pipeline

Ius Omnibus strongly supports the five-step technical pipeline proposed in Section 3.1 of the Preliminary Findings as a replacement for the frequency thresholding methodology that Alphabet applied under its voluntary programme. Under Alphabet's approach, a query was only included in the dataset if the exact string had been submitted by more than 30 signed-in users globally over the past 13 months. The result, as documented by third-party online search engines in the compliance workshops of March 2024 and July 2025, was the elimination of between 90% and 100% of unique queries and between 30% and 40% of total query volume, rendering the dataset practically useless.

The proposed pipeline, set out in paragraphs (21) to (34) of the Preliminary Findings, takes a fundamentally different and more sophisticated approach. Rather than discarding entire records based on the frequency of the complete query string, it applies a sequential series of targeted measures: attribute suppression, removing direct identifiers such as account IDs, IP addresses, device IDs and precise timestamps; allowlist-based entity thresholding, assessing each component of a query individually against a weekly-updated list of entities appearing in queries issued by more than 50 signed-in users over the past 13 months; length-based thresholding, removing queries whose character length exceeds the 95th percentile for the relevant language; metadata generalisation, ensuring that at least 50 signed-in users share the same location and device metadata before that metadata is

included; and "mini-sessionisation", grouping related consecutive queries to provide context without enabling re-identification.

The practical improvement is significant and has immediate consequences for the quality of search results that European consumers receive from alternative search engines. A concrete example illustrates this clearly. A query such as "best cardiologist Amsterdam 2024" would have been discarded in its entirety under Alphabet's voluntary program, as the exact string was likely submitted by fewer than 30 users globally. Under the Commission's approach as set out in paragraphs (22) and (24) of the Preliminary Findings, each component of the query is assessed individually: "best", "cardiologist", "Amsterdam" and "2024" each appear in thousands of queries independently, and the record therefore passes through the pipeline and is included in the dataset. As Ribera Martínez has noted, this approach is more permissive toward common concepts in rare combinations and more restrictive regarding the presence of personal identifiers embedded in any query. The system correctly disaggregates the query and protects what needs to be protected, rather than discarding the entire record because the full combination is statistically rare.

This matters enormously from a consumer perspective. The queries that Alphabet's system was eliminating were precisely those of greatest value to the individual user: specific, contextual, information-rich queries about medical conditions, legal situations, local services or niche subjects. These are the searches that a person most needs to receive high-quality results, and they are the searches that alternative search engines were least able to optimize in the absence of relevant data. The effect was felt disproportionately by users with specific or complex information needs, including older users with health-related queries, users with lower digital literacy seeking guidance on public services, and users in linguistic minorities whose query patterns are statistically less common. Ius Omnibus calls on the Commission to preserve the five-step pipeline in its entirety in the final implementing act and to resist any argument that a simpler or less granular approach would be sufficient.

The threshold of 50 signed-in users applied both to entity-based thresholding under paragraph (22) and to metadata generalization under paragraph (31) is, in Ius Omnibus' view, legally well-founded. As Peter Craddock[2] has noted, when anonymization is mandated by law, compliance is measured objectively and primarily by the risk of identification, singling out and linkability. The k=50 threshold for metadata generalization constitutes an implementation of k-anonymity, a technique recognized by the Article 29 Working Party as appropriate for mitigating the risks of singling out and linkability, the two central criteria for assessing the effectiveness of an anonymization measure. Ius Omnibus supports this threshold and calls on the Commission to explicitly confirm in the final implementing act that it represents the applicable standard, without leaving room for Alphabet to argue for a higher threshold on privacy grounds, in a manner that would simply reproduce the effect of its original frequency thresholding approach.

[2] Craddock, P. (2026, March 10). *Anonymisation of personal data: Compliance vs utility, regulators vs the law*. LinkedIn. https://www.linkedin.com/pulse/anonymisation-personal-data-compliance-vs-utility-law-peter-craddock-ulhre/

From a broader perspective, recent scientific research cited by Ribera Martínez confirms a "no free lunch" scenario in data science: it is impossible to achieve negligible privacy leakage and maximum data utility simultaneously. This finding reinforces our position on a critical point. Alphabet's original compliance approach was not the most privacy-protective option available. It was simply the most restrictive in terms of utility, without offering materially greater protection against re-identification. The Commission's proposed pipeline achieves a better outcome in both dimensions simultaneously, which is precisely what Article 6(11) DMA and Recital 61 require.

2.3 Residual technical vulnerabilities: an honest acknowledgment

Ius Omnibus acknowledges, as a matter of intellectual honesty, that the proposed five-step pipeline is not without residual technical vulnerabilities. Ribera Martínez has identified the risk of composition attacks, in which a group of 50 users sharing the same metadata may still be collectively identifiable if all members of the group also share a query on a particularly sensitive topic, such as a rare medical condition. The risk of data linkage by beneficiaries with access to large auxiliary datasets has also been identified by practitioners in the field. Furthermore, as noted by commentators with technical expertise in this area, the personal data detectors used to identify names, addresses, and phone numbers in query strings are imperfect instruments: names from non-Western linguistic and cultural traditions, compound names, or names that coincide with common words may generate false negatives, whilst other character strings may be erroneously flagged as personal identifiers. At the scale of billions of daily queries, even small error rates translate into significant volumes of affected data.

Ius Omnibus does not cite these vulnerabilities to undermine confidence in the Commission's approach, which represents a genuine and substantial improvement on Alphabet's voluntary program. Rather, these vulnerabilities serve to reinforce two points. First, they justify the contractual safeguards already established in Section 3.2 of the Preliminary Findings, including the prohibition on linking the Search Dataset with auxiliary datasets under paragraph (38)(a), the restriction of purpose under paragraph (40), the prohibition on re-identification under paragraph (38)(b), and the requirement to implement state-of-the-art encryption and access controls under paragraphs (44) to (51). These contractual measures are proportionate to the residual risk and appropriately targeted. Second, as further developed in Section 4 below, the technical imperfections of the anonymization pipeline are the responsibility of Alphabet, the entity that designs, controls and operates it. The correct regulatory response is to hold Alphabet to a higher standard of technical robustness in its pipeline, rather than imposing disproportionate audit burdens on beneficiaries who receive the output of that pipeline as an already-processed dataset.

3. FRAND PRICING

This section addresses the measures proposed in Section 4 of the Preliminary Findings concerning the fair, reasonable and non-discriminatory terms on which Alphabet must

provide third-party online search engines with access to the Search Dataset. Ius Omnibus does not adopt a position on the technical merits of the pricing methodology as such, which falls outside our area of expertise as a consumer association. However, the FRAND pricing framework, as currently designed, reveals, in Ius Omnibus' view, the most significant structural deficiency in the Preliminary Findings as a whole: the absence of an effective and enforceable mechanism to oversee Alphabet's compliance. It is this deficiency, rather than the pricing formula itself, that this section principally addresses.

3.1 The incremental cost-based methodology: no objection from a consumer perspective

Paragraphs (71) to (83) of the Preliminary Findings establish that the compensation Alphabet may charge third-party online search engines for access to the Search Dataset shall reflect only the incremental costs incurred by Alphabet for the purpose of making the data available, plus a reasonable return corresponding to a return on capital employed that shall not exceed Alphabet's weighted average cost of capital. Paragraph (76) clarifies that these incremental costs include the fixed and variable costs of preparing and formatting the dataset, the storage costs linked to making it available, and the costs of electronically transmitting the data and verifying the identity of eligible third parties. Paragraph (74) further establishes that micro, small and medium-sized enterprises shall not be required to pay more than those incremental costs plus the permitted reasonable return, which represents an important protection for smaller operators who are, as Ius Omnibus notes in Section 4 below, among those most likely to offer genuinely differentiated search alternatives to European consumers.

As Ribera Martínez has observed, the incremental cost-based methodology is an ambitious approach that leaves open the question of whether the non-amortized, upfront fixed costs incurred over the years in generating the search data should be reflected in the pricing formula. This question remains unresolved in the Preliminary Findings. Ius Omnibus does not take a position on the resolution of that question. What the consumer perspective does require, however, is that whatever pricing framework is ultimately adopted in the implementing act does not become a mechanism through which Alphabet can delay or frustrate third-party access. As paragraph (83) of the Preliminary Findings establishes, Alphabet must provide the basis for the calculation of the compensation in sufficient detail for eligible third parties to decide whether to engage in negotiations. This transparency requirement is welcome, but it is insufficient on its own: transparency as to the basis of the price is meaningless if there is no binding timeline within which negotiations must be concluded and no predetermined consequence if Alphabet engages in protracted or bad-faith negotiations. Ius Omnibus calls on the Commission to complement the transparency requirement under paragraph (83) with binding negotiation timelines and a clear default access mechanism that operates if those timelines are not met, so that pricing discussions cannot be used as an instrument of delay.

3.2 The fundamental gap: the absence of effective oversight of Alphabet

The most significant concern Ius Omnibus raises regarding the FRAND pricing section is not the pricing formula itself but the oversight architecture that surrounds it, which reflects a broader deficiency in the Preliminary Findings. Paragraph (84) of the Preliminary Findings establishes that Alphabet shall not prevent beneficiaries from raising any persistent disagreement with the Commission, and that the Commission will then take any appropriate measure to verify Alphabet's compliance, without prejudice to the parties' right to seek judicial recourse.

This provision is, in Ius Omnibus's view, wholly inadequate as a compliance mechanism. It places the entire burden of initiating oversight on the beneficiaries, who must first identify a problem, then attempt to resolve it bilaterally with Alphabet, and then escalate it to the Commission as a "persistent disagreement" before any verification of Alphabet's conduct takes place. In the interim, Alphabet retains control over the data and the terms of access. This is precisely the dynamic that has rendered the obligation under Article 6(11) DMA effectively inoperative for the past two years. As documented by DuckDuckGo during the compliance workshops held in March 2024 and July 2025, potential beneficiaries spent months raising concerns about the quality and usability of the dataset, without any tangible regulatory response that altered Alphabet's behavior.

The FRAND pricing framework is particularly vulnerable to this dynamic. Pricing negotiations are inherently bilateral and protracted. Without binding timelines, a gatekeeper that has every commercial incentive to delay access to the dataset can engage in extended negotiations that formally comply with the letter of the implementing act, whilst producing no practical improvement in market conditions. For the consumer, the outcome of such a scenario is functionally identical to non-compliance: no viable alternative to Google Search emerges, no competitive pressure on the quality or terms of Google's services materializes, and the ecosystem lock-in that Article 6(11) DMA was designed to address remains fully intact.

Ius Omnibus therefore calls on the Commission to introduce, in the final implementing act, three specific measures to address this gap. First, a proactive monitoring obligation requiring Alphabet to report periodically to the Commission on the status of ongoing access negotiations, including the number of pending requests, the stage of negotiations and any pricing offers made, so that the Commission can identify delays without waiting for a beneficiary to escalate a complaint. Second, binding maximum timelines for the conclusion of access negotiations, after which a default access mechanism should operate, allowing the third party to access the dataset at the incremental cost rate established under paragraph (76) pending the resolution of any pricing dispute. Third, a structured and time-bound dispute resolution procedure with predetermined consequences for Alphabet's non-compliance, including the possibility of interim measures that maintain or restore access to the dataset whilst the dispute is being resolved. These measures are not punitive; they are the minimum conditions necessary to ensure that the FRAND pricing framework serves its intended purpose of enabling effective access to the dataset, rather than providing a procedural framework within which effective access can be indefinitely deferred.

4. DATASET ACQUISITION PROCESS AND PRE-ACQUISITION DATA TESTING

This section addresses the measures proposed in Section 5 of the Preliminary Findings concerning the process by which third-party online search engines may obtain access to the Search Dataset, including the pre-acquisition testing mechanism and the audit and security requirements that beneficiaries must satisfy as conditions of initial and continued access. Ius Omnibus supports the pre-acquisition testing structure as a sensible and proportionate mechanism. However, it raises serious concerns about the audit requirements imposed on beneficiaries as conditions of access, which are, in Ius Omnibus' view, legally misconceived, disproportionate to the actual risk profile of the dataset as it reaches beneficiaries, and likely to produce outcomes that are directly contrary to the purpose of Article 6(11) DMA.

4.1 Agreement with the pre-acquisition testing structure

Ius Omnibus supports the three-tiered pre-acquisition testing structure established in paragraphs (87) to (95) of the Preliminary Findings. Sample A, provided free of charge under paragraph (88), offers a preliminary indication of the dataset's characteristics. Sample B, described in paragraphs (89) to (94), provides a larger and more tailored sample that allows third parties to assess whether the dataset is fit for their specific purpose before entering into a legal commitment. Sample C, under paragraph (95), provides access to 5% of the final Search Dataset drawn from no less than one month and no more than one year of queries, enabling a substantive evaluation of the dataset's commercial utility.

This structure directly serves consumers' interests by lowering the threshold for smaller and newer operators to evaluate the dataset's potential. Operators who cannot afford to commit significant resources based on unverified assumptions about data quality are disproportionately likely to offer genuinely differentiated or specialized search alternatives, including search engines designed for specific user communities, linguistic minorities, or users with accessibility needs. By enabling operators to make informed decisions before assuming contractual obligations, the pre-acquisition testing structure reduces a barrier to entry that would otherwise fall most heavily on the operators whose market entry would be most beneficial to consumers. Ius Omnibus calls on the Commission to preserve this structure in the final implementing act and to ensure that the costs charged for Samples B and C under the FRAND pricing methodology do not, in turn, become a barrier to meaningful pre-acquisition evaluation.

4.2 The audit requirements are legally misconceived and disproportionate

Ius Omnibus raises serious objections to the audit requirements established in paragraphs (108) to (116) of the Preliminary Findings as conditions of initial and continued access to the Search Dataset. Under paragraph (108), a beneficiary seeking initial access must provide a Level 1 reasonable assurance report prepared by an independent auditor in accordance with ISAE 3000 or an equivalent internationally recognized assurance framework, confirming that its technical and organizational systems are designed to handle the data safely. Under

paragraph (113), continued access is conditional on the submission of annual Level 2 assurance reports confirming that those systems are operating effectively in practice. Paragraph (115) grants Alphabet the power to suspend or terminate access if a beneficiary fails to provide these annual reports or if an audit reveals significant gaps in its privacy safeguards.

These requirements, in Ius Omnibus' view, are legally misconceived in their design and disproportionate in their effect. The starting point must be the correct legal characterisation of the obligation itself. Article 6(11) DMA imposes the obligation to anonymise the Search Data on Alphabet, not on the beneficiaries.

As Peter Craddock has explained, the provision "does not require the gatekeeper to anonymise the personal data it already has but to anonymise data prior to the sharing of such data with third parties. In other words, it has to make a separate version of its own data anonymous prior to placing it at the disposal of third parties." The obligation belongs to Alphabet alone. Beneficiaries receive the output of that process. The Court of Justice's judgment of 4 September 2025 in the SRB case supports this distinction. In paragraphs 75 to 77 and 86, the Court held that pseudonymised data does not automatically constitute personal data for every recipient: whether it does so for a specific recipient depends on whether that recipient can, in practice, re-identify the individuals behind it, and whether effective technical and organisational measures prevent them from doing so.

Under the proposed framework, beneficiaries cannot do so: they have no access to the identification key held by Alphabet, and they are contractually prohibited from attempting re-identification under paragraph (38)(b) of the Preliminary Findings. Imposing ISAE 3000 assurance requirements on beneficiaries in this position is therefore disproportionate to the actual risk profile of the dataset as it reaches them, and it conflates Alphabet's role as the entity responsible for anonymisation with the beneficiaries' role as recipients of an already-processed dataset.

The cost of commissioning Level 1 and Level 2 assurance reports from an internationally recognized auditing firm is substantial. As Ribera Martínez has noted, for smaller search engines, those costs may well exceed the expected commercial benefit of the data, making the dataset in practice accessible only to larger and better-funded operators. The operators most likely to be deterred are precisely those most likely to benefit consumers: privacy-focused search engines, accessible search tools designed for older users or users with lower digital literacy, search engines in minority languages, and specialized search services that address the needs of users the incumbent does not serve well. A framework that inadvertently restricts access to operators is not only inefficient from a competition perspective; it is also actively harmful to consumers.

A fourth and related measure would address a structural information asymmetry that the proposed framework leaves unresolved. Neither beneficiaries, nor privacy advocates, nor the Commission itself is currently in a position to independently verify whether Alphabet's anonymisation pipeline achieves the level of privacy protection it is designed to deliver. Alphabet controls both the pipeline and the data to which it is applied, and it is the only party that can empirically assess whether the five-step process is functioning as intended and

whether the residual risks identified in Section 2.3 above are being effectively mitigated. This information asymmetry is incompatible with effective regulatory oversight. The correct response is not to impose additional audit burdens on beneficiaries, but to require Alphabet itself to be accountable for the process that is, under Article 6(11) DMA, its exclusive legal responsibility. Ius Omnibus therefore calls on the Commission to introduce in the final implementing act a specific obligation requiring Alphabet to disclose its anonymisation methodology in sufficient technical detail to the Commission or to a designated independent body, including any changes to the pipeline, the parameters applied at each step, and the results of any internal privacy risk assessments. This transparency obligation would not require Alphabet to share commercially sensitive information with competitors. It would require it to account to regulators for the process it alone controls and for which it alone bears legal responsibility.

Ius Omnibus calls on the Commission to recalibrate the audit requirements in the final implementing act in three specific respects. First, the Level 1 and Level 2 assurance reports required under paragraphs (108) and (113) should be replaced with a lighter-touch self-certification mechanism for operators below a certain size threshold, complemented by a right of audit that the Commission or a designated independent body may exercise on a targeted basis where specific concerns arise. Second, the standard applied to any retained audit requirement should be calibrated to the actual risk profile of an already-anonymized dataset rather than to the ISAE 3000 standard applicable to raw personal data. Third, the power granted to Alphabet under paragraph (115) to suspend or terminate access based on an audit report should be subject to independent review before taking effect, to prevent Alphabet from using the audit mechanism as an instrument of commercially motivated access restriction against competitors. These adjustments would preserve the genuine privacy safeguards that the framework requires whilst removing the barriers to entry that the current audit requirements impose on precisely the operators whose market participation would be most beneficial for European consumers.

IV. Closing remarks

Ius Omnibus welcomes the opportunity to contribute to the public consultation on the proposed implementing measures concerning Alphabet's obligations under Article 6(11) of the Digital Markets Act, which the Commission is required to conduct in the context of the specification proceedings opened under Article 8(2) DMA. The Preliminary Findings represent a genuine and significant step forward in addressing a structural imbalance in the online search market that the Commission itself identified as far back as 2010 and that European consumers have experienced in their daily search interactions ever since. The introduction of the principle of parity, the replacement of Alphabet's frequency thresholding approach with a more sophisticated and better-targeted anonymization pipeline, and the establishment of minimum conditions for data delivery and access duration are all measures that Ius Omnibus supports and encourages the Commission to preserve without dilution in the final implementing act.

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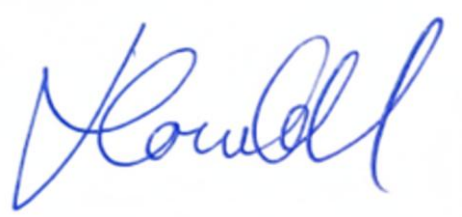
However, the effectiveness of those measures in practice will depend on three conditions that the Preliminary Findings do not yet fully satisfy. The first is the extension of the principle of parity to crawl-prioritization signals, without which alternative search engines will continue to operate from a structurally inferior index regardless of the quality of their ranking algorithms, and consumers who use those alternatives will continue to receive structurally worse results. The second is the introduction of proactive, enforceable oversight of Alphabet's own compliance, including binding negotiation timelines and a default access mechanism, without which the FRAND pricing framework risks reproducing the cycle of bilateral negotiations and unresolved disputes that have rendered the obligation effectively inoperative for the past two years. The third is the recalibration of the audit requirements imposed on beneficiaries to reflect the actual legal and risk profile of the already-anonymized dataset they receive, so that the framework does not inadvertently restrict access to precisely those operators whose market participation would be most beneficial for European consumers, including those serving vulnerable users, linguistic minorities, and communities with specific information needs.

These three conditions are not marginal refinements, but rather, differences between a framework that is formally correct and one that is effective in practice. The implementing act must be adopted before 27 July 2026, and this public consultation is the last meaningful opportunity for the Commission to ensure that the final text delivers on the promise of Article 6(11) DMA. From a consumer perspective, the central test for the implementing measures is not whether they are technically sophisticated in their design, but whether they produce a tangible improvement in the search alternatives available to European consumers. The voices and experiences of consumers, and in particular those least able to navigate a market dominated by a single operator, must remain at the center of the Commission's deliberations as it finalizes the implementing act.

For Ius Omnibus,

Lena Hornkohl, President of Ius Omnibus



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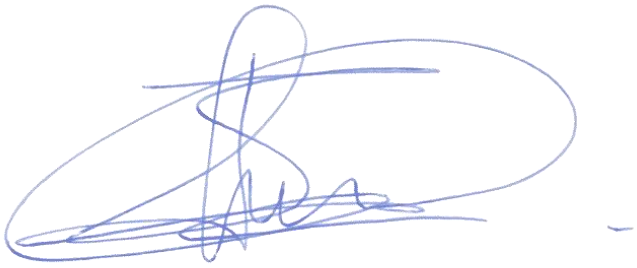
Carmen Estevan de Quesada, Director of Ius Omnibus



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