Written Evidence submitted by Richard Stables, CEO of Kelkoo Group (DMCCB12)

How Google decimated a £1bn business

1. Executive Summary

- Kelkoo Group was a £1bn business and a market leader in comparison shopping
- Google's self-preferencing behaviour decimated the Kelkoo business and the whole market for comparison shopping
- Similar stories are found in a range of different markets where Big Tech abuses its monopoly power
- Innovation has stalled and consumers are paying the price - exacerbated in a cost-of-living crisis
- The UK's digital economy - and small businesses in particular - can thrive again with effective regulation and antitrust enforcement
- The Digital Markets, Competition and Consumer Bill is needed now to restore competition, drive innovation, and restore consumer choice in digital markets

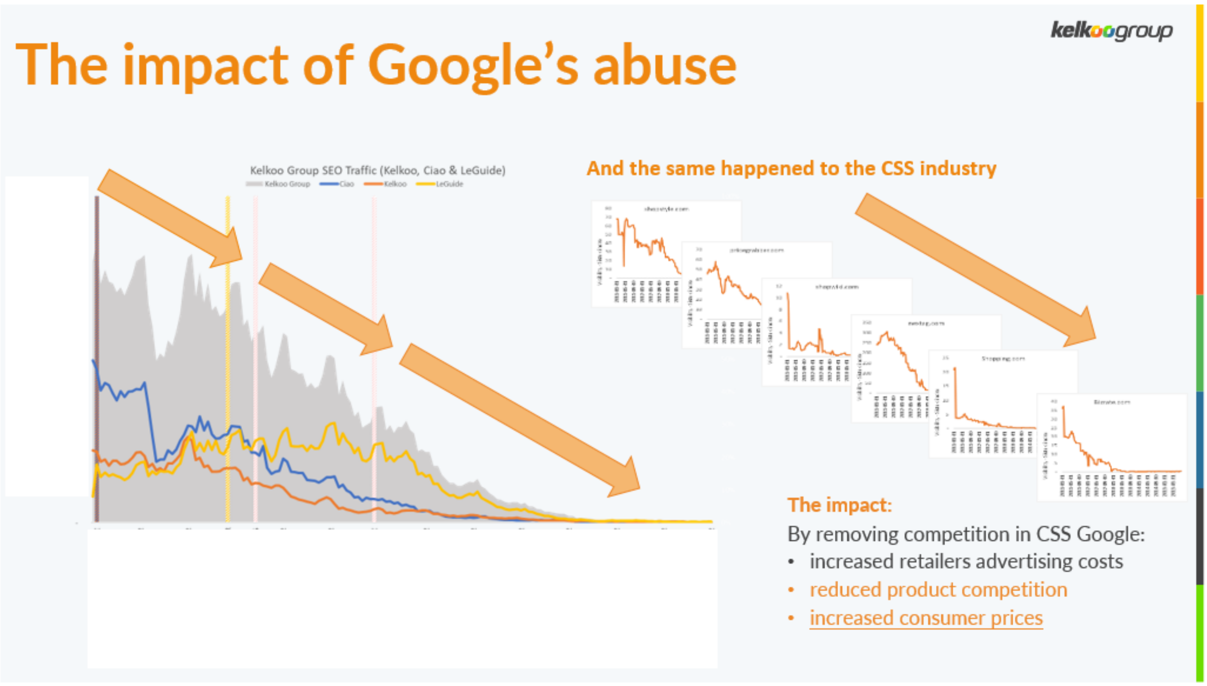
2. Kelkoo Group introduction

2.1. Started in 1999, Kelkoo Group was a ***pioneer in comparison shopping services*** (CSS) in the UK and Europe. Comprising of three brands - Kelkoo, Ciao and LeGuide - Kelkoo Group was ***valued at approx. £1bn*** at its peak. As a market leader in shopping comparison, we helped consumers make great shopping choices and helped online retailers to reach those consumers.

2.2. However, our business was taken to a cliff edge by Google's anti-competitive behaviour in the CSS market. Using its overwhelming dominance in search, Google promoted its own CSS and excluded competitors like Kelkoo from its general search results. Shopping comparison is an 'attention' market which relies on the ability to provide useful information to compete for consumers' attention. By promoting its own service and removing rivals from view, Google monopolises this 'attention' and makes it impossible for competitors to connect with consumers as they look for the best deals online.

2.3. As a result, consumers can no longer find Kelkoo or services like ours. Competition in shopping comparison has been decimated, leaving consumers poorer and Kelkoo and others struggling for survival. The graphic below illustrates the impact of Google's market abuse on the visibility of our business and the CSS sector for consumers searching on Google.

2.3.1. The impact of Google's market abuse illustrated below:



3. Why this matters

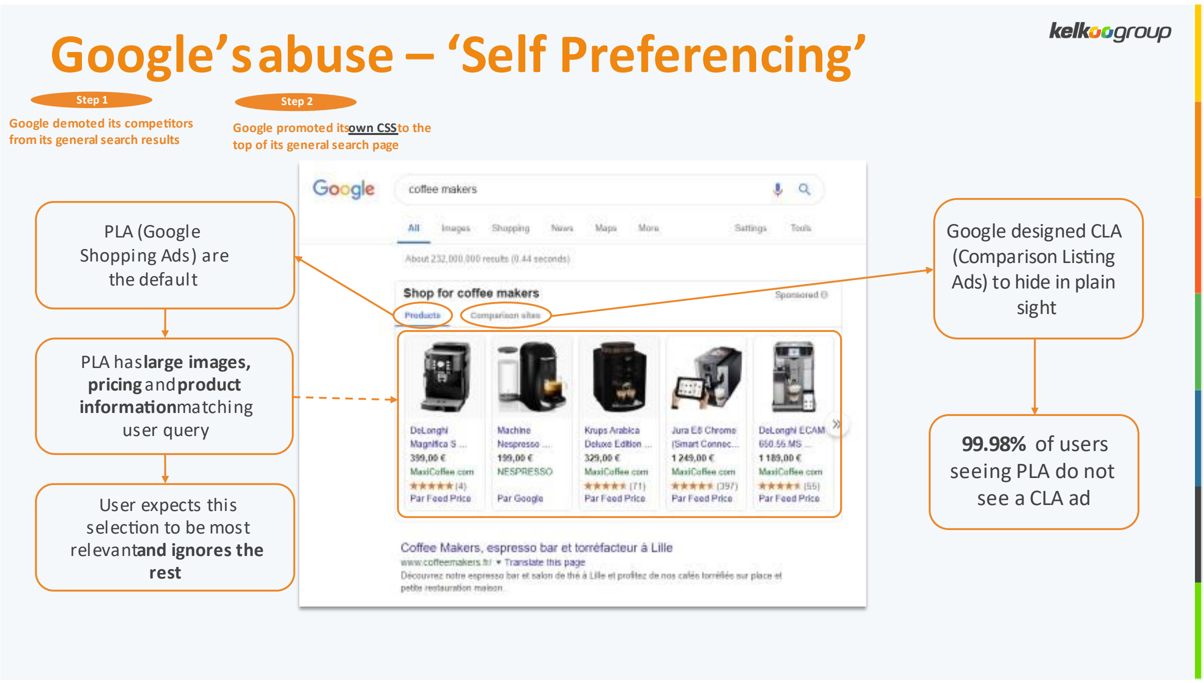
The pandemic and now economic uncertainty have brought the impact of Google's anti-competitive behaviour into sharp focus - many consumers are struggling to cope with rising living costs and would benefit from easily discoverable price comparison sites. Helping consumers to make better shopping choices enables both the discovery of lower priced goods for the consumer, and stronger competition between retailers to attract those consumers. Google's crushing of competition in comparison shopping prevents that from happening.

4. Google's harm in detail

4.1. Before Google's abuse, consumers could find CSS services easily. When they did so, they could view approx. 28 shopping offers per results page of a typical CSS. In comparison, when consumers see Google's default CSS at the top of Google's search pages, they can only view six shopping offers per results page. Those retailers who do appear first (because they have paid the most) have fewer visible rivals themselves to compete with. With access to CSS websites foreclosed, the average number of offers viewed by consumers decreased dramatically and competition between retailers is itself also decreased.

4.2. Furthermore, because ranking within Google's default CSS is based primarily on the price bid by the retailer, those retailers who win are those who pay the most. This competition on bid price, and the monopoly on consumer attention that Google maintains, results in significantly increased costs for retailers compared with a genuinely competitive market. Increased costs for retailers are, inevitably, passed on to consumers.

5. The below slide illustrates how Google's CSS is given prominence and has a visually attractive format which commands consumer 'attention'.



5.1. In contrast, even when Google includes CSSs, it hides them on a tab which the vast majority of consumers do not notice. Google reserves the large, attractive display for itself and hides rivals in plain sight. In short, Google's competitors are prevented from competing equally with Google's comparison service.

6. Why the Digital Markets Competition and Consumers Bill is necessary:

6.1. Tech giants have built unassailable market positions in their main services: for example, Google has over 90 percent market share in search. Network effects mean that this will likely never be overturned. This incredible position of strength means that they act as gatekeepers to the internet, not just in the sector where they have strength, but allowing them to pick winners and losers for any consumer facing service industry which conducts business online. More often than not, Google picks itself as the winner and excludes competitors from the market. This harms both consumers and businesses in the UK. Consumers should benefit from competition online, particularly through services like price comparison where they could have access to a range of competing tools helping them to save money and make the best buying choices; instead, they tend to get access to a single tool - Google - which limits choice and stifles competition. Because the consumers are kept in one place by Google, businesses also pay monopoly prices to reach those consumers. They should benefit from competition amongst the various comparison sites, but instead they pay inflated prices and do not benefit from innovation and choice through competition.

6.2. The reality is that Big Tech represents a real and present danger to free market competition in the digital economy. Specifically, Google's self-preferencing and exclusionary practices have already spread to other verticals like local search, flights and hotels and investments/banking Google is following the same pattern in these verticals that it established in Shopping, and it will likely continue into new markets if left unchecked. Setting an effective precedent against this behaviour is vitally important for all verticals if we are to avoid restriction of consumer choice across the board in the future. Google's power is likely to be strengthened in the years to come

– unless it can be stopped in its tracks. Experience of the Covid-19 pandemic shows that consumers have moved much of their shopping activity online and have been forced to use the very limited choices available to make their shopping choices.

7. How the DMCC Bill will benefit both businesses and consumers:

7.1. The DMCC Bill will help to set a level playing field for businesses of all sizes to be able to compete on the merits. By preventing systematic abuses of market power by Big Tech gatekeepers, small businesses will be incentivised to innovate again and better able to attract investment, allowing growth and innovation in technology industries which directly benefit consumers. In short, the DMCC Bill is pro innovation, pro-choice, pro competition, and pro-growth.

7.2. The approach taken in the DMCC bill will allow the CMA to:

7.2.1. act quickly to deal with clear and obvious problems instead of becoming bogged down in the formality of anti-trust law processes;
7.2.2. tailor the solutions specifically to the problems in each area, ensuring that markets can operate effectively with only the appropriate intervention;
7.2.3. adjust the approach over time to take account of fast-moving digital markets.

7.3. Making third party dialogue part of the process is also vital to the success of the DMCC Bill. Kelkoo has seen first-hand how Google deploys smoke and mirror tactics when dealing with regulators. Involving market participants in key discussions (ideally in the room with all parties) is essential to ensuring deep and detailed understanding of the issues on all sides, so that solutions can properly target the issues.

8. Why the Judicial Review standard is the correct standard:

8.1. The UK is renowned for the quality of its Judicial Review standard. Appeals based on the Judicial Review standard ensure the right balance of reasonableness, fairness, rationality, and certainty. The latter is essential in fast moving digital markets as the internet moves at lightning speed – the quicker certainty is achieved, the better. In contrast Big Tech's lobbying for JR+ and a merits appeal process simply amounts to full force delaying tactics, designed to tie up the decision makers and prevent effective enforcement. The Big Tech playbook of delay and obfuscation has been well honed in Europe where we have seen almost one and half decades of delay in the Google Shopping case alone. This must not be repeated in the UK or in any other jurisdiction.

9. Final observation

9.1. We applaud the Government standing up to Big Tech's lobbying over the Judicial Review standard. The DMCC Bill has the potential to be the defining act in restoring an even playing field in digital markets. It will give the CMA/DMU powers the much-needed ability to regulate fairly, effectively, and swiftly which is key. The proposed legislation and its tailored approach, together with the Judicial Review standard ensuring the right balance accountability and certainty, will send a clear message that the UK is open for business and is pro-growth, pro-innovation, pro-competition and pro-choice - and all businesses of all sizes can compete fairly on their individual merits.

9.2. From our global regulatory dialogue, we know that the DMU is being lauded. The DMCC bill must not be watered down. We have a once in a generation opportunity to solve the issue of market dominance. To conclude, the promise of the internet, as the ultimate meritocracy, must be reclaimed.

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