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German media and advertising industry criticises distortions of competition by Google and turns to the European Commission

A broad alliance of leading associations of the German media, internet and advertising industry today approached the European Commission in Brussels. The background is Google's plans to block so-called third-party cookies in the market-dominating browser Chrome from next year onwards. The associations claim that Google is breaching European competition law by doing so.

Google would exclude competitors and their market partners from processing commercially relevant data through the envisaged change. The companies concerned would be inadmissibly denied access to legally permitted ways of using data, although the already very strict legal requirements of European data protection law allow the processing of competition-relevant data by means of cookies. Google is attempting to intervene as a gatekeeper in the business relationships between companies and their users by virtue of its de facto rule-setting power. At the same time, Google itself collects considerable amounts of user data and is not affected by the technical changes. Through its behaviour, Google abuses its market power under the guise of data protection and distorts free competition in the online advertising markets. In a sense, laws are created here by a gatekeeper who, however, is not legitimised to do so - the shaping of data protection law is rather (exclusively) the task of the legislator. This is to the detriment of the free media, the (internet) economy and consumers. Such behaviour is not foreseen by European data protection regulations and at the same time endangers media diversity.

Due to similar allegations, the European Commission already opened competition proceedings against Google in June 2021 to investigate the company's practices in the field of online advertising technology. The associations are supporting this procedure by providing data and analyses, among other things. The associations are represented in these proceedings by the law firm Hausfeld, which specialises in media and antitrust law.

The alliance under the umbrella of the ZAW consists of associations of the German media and communications industry and includes, among others, the following organisations:

- German Association of Online Research (“Arbeitsgemeinschaft Onlineforschung e.V.”),
- German Newspaper Publishers and Digitalpublishers Association (“BDZV - Bundesverband Digitalpublisher und Zeitungsverleger e.V.”),

- German Audit Bureau of Circulation (“Informationsgemeinschaft zur Feststellung der Verbreitung von Werbeträgern e.V.”),
- Organization of Media Agencies (“OMG e.V. Organisation der Mediaagenturen”),
- German Brands Association (“Markenverband e.V.”),
- German Advertisers Association (“Organisation Werbungtreibende im Markenverband - OWM”),
- Association of German Magazine Publishers (“Verband Deutscher Zeitschriftenverleger e. V. - VDZ”) and
- German Advertising Federation (“Zentralverband der deutschen Werbewirtschaft ZAW e.V.”)

Members of the associations include leading media providers, marketers, media and advertising agencies, advertisers and institutions of neutral social and market research. The alliance unites the entire advertising and media industry in Germany behind it.

Background information:

Online advertising is considered the "lifeblood" of the internet and has continued to develop successfully in recent years. The fact that advertising can be tailored to a large extent to the actual interests and needs of users has particularly contributed to this success. Interest-based advertising offers them added value and is therefore more relevant to consumers than advertising that does not take user data into account. Thanks to efficient advertisements, consumers can use many services that would otherwise have to be paid for. Many audiovisual media and journalistic offerings would not be financially viable without data-based advertising, advertisers cannot reach potential customers in a targeted, efficient and cost-effective way.

Google wants to remove a necessary foundation from this advertising or ad-supported ecosystem by blocking third-party cookies across the board in its Chrome browser starting next year - even if their use is consented to. With a market share of over 60 percent, Chrome is the dominant web browser. If Google is allowed to implement the envisaged measures, all players in this ecosystem will suffer considerably - except Google itself:

- According to initial [market surveys](#) by the UK Competition Authority (CMA), online publishers may suffer revenue losses of up to 70 per cent, threatening their very existence. Press, media and broadcasting diversity will be reduced because the central source of funding for many content providers will be eliminated.
- Consumers will have a smaller choice of online offerings and will more often have to pay for content in the future. This will happen regardless of their preferences and choices: Google blocks third-party cookies even if their use is consented to. In doing so, Google is violating fundamental principles of data protection law - such as the free, informed choice of users - and interfering with other people's business relationships.

- Because of greater inaccuracy, online advertising campaigns are becoming more expensive for advertisers - from big brand companies to small niche providers. In the end, consumers also pay for this.
- Google itself is not affected by this blockade, so it can continue to personalise advertising and keep increasing its advertising revenues. Advertisers become more and more dependent on Google and eventually have to pay monopoly prices.

This restriction of competition gives Google a one-sided advantage. The associations demand that the use of third-party cookies must remain permitted, provided that users consent to their use in a self-determined manner. The associations are already supporting the British Competition and Markets Authority (CMA) against Google and the Federal Cartel Office in Bonn against Apple in similar proceedings. All proceedings have in common that companies are increasingly abusing their various gatekeeper positions to distort free competition on the internet under the pretext of data protection.

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