

## Game Over?

### What Google's Latest Behind-the-Scenes Manoeuvres Reveal About its Brazenly Non-Compliant "Remedy" in the Google Search (Comparison Shopping) Case

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Google currently has a problem: how do you disguise the fact that your "remedy" is blatantly non-compliant when even your disguise is failing?

As we demonstrated in our [April 2018 presentation](#), Google's auction-based "remedy" proposal is not compliant with the equal treatment standard set out in the European Commission's June 2017 Prohibition Decision. Whereas rivals are compelled to bid away their incentive and ability to innovate and grow, Google Shopping's bids cost it nothing—its bids are just meaningless internal accounting, paid from one Google pocket into another.

It seems that Google may have hoped to distract and deflect from this fatal flaw by focusing attention on what appears to be an even bigger problem: rivals hardly ever show up in the box.

Presumably, Google planned to increase the number of rivals showing up in the box over time, in the hope that this essentially meaningless increase would be mistaken for a significant improvement. Indeed, Google deployed a strikingly similar strategy under Commissioner Almunia, who ended up wasting two years pursuing greater visibility for rivals in a similar auction, before finally realising that it was the auction itself that was the problem (see [here](#) for details).

However, nine months after introducing its latest auction-based sham of a remedy, Google has only managed to deliver an increase in rivals' visibility from a negligible 3% of clicks to a paltry 6%.<sup>1</sup> In other words, having set the bait, Google has so far resoundingly failed to deliver the switch.

One might think that Google could simply dial-down its Google Shopping bids until it achieves the desired ratio of rivals' links versus its own. But it's not that simple.

Given that Google Shopping's bids are just meaningless internal accounting, there is no real incentive for Google to limit its bids. Recognising this, Google has promised the Commission that it will impose an artificial limit instead—capping Google Shopping's bids at a maximum of 80% of what it receives from the merchant (i.e., a 20% profit margin)<sup>2</sup>. While this commitment prevents Google from over-bidding, it doesn't prevent it from under-bidding—deliberately bidding under the odds until sufficient rivals start winning the auctions. So why hasn't Google done this?

Perhaps it's because lowering Google Shopping's bids would raise its notional profit margin to an embarrassing level, thereby shining a further spotlight on the inherent inequality of Google's auction-based "remedy". Or perhaps it's because this kind of bid manipulation would further

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<sup>1</sup> <https://www.bloomberg.com/news/articles/2018-06-18/google-improves-efforts-to-dodge-fines-on-shopping-ads-eu-says>

<sup>2</sup> Note that this 20% profit margin is an artifice, because Google Shopping and Google are one and the same company. Google's actual profit margin on Google Shopping's bids is 100%.

undermine the already paper-thin veneer of any arms-length separation between Google and its Google Shopping business unit. Or perhaps it is some combination of the two.

So, if Google can't artificially lower *its* bids, can it artificially raise everyone else's to achieve the same effect? It appears that Google thought it could. In March 2018, Google started to trial a Comparison Shopping Service (CSS) Partner Programme, which offered rivals a 20-30% rebate on their Google auction costs. Presumably, the expectation was that this time-limited offer would, at least temporarily, allow many more rivals to win the auctions and thereby create the illusion of a functioning "remedy".

Moreover, because Google's auction-based "remedy" is such an unattractive, low-margin proposition, few rivals have chosen to participate (and many of those that have, did so primarily to gather data on how non-compliant the "remedy" is). Presumably, Google hoped that its temporary offer of free advertising credits would serve a dual purpose: artificially driving up existing participants' bids while also encouraging more rivals to join the programme.

But, for various reasons, Google's CSS Partner Programme didn't perform as planned. Many of the merchants that were already bidding to appear in Google Shopping were reluctant to effectively bid against themselves, and so prohibited rivals from also bidding to feature their listings in Google's new auction. Moreover, because the result of Google's new auction is just a loose, and often seemingly random, collection of ads, clicks on these ads convert far less well than clicks from a genuine comparison shopping service. Merchants are understandably reluctant to pay the same price for traffic via Google's new auction as they pay for the far better converting traffic from rivals' actual comparison shopping pages.

And this is where things start to get *really* strange.

Presumably, realising that its CSS Partner Programme was failing to deliver the desired effect (the illusion of equal treatment), it seems that Google decided to subtly but fundamentally change it. If incentivising CSSs to participate in Google's auction-based charade didn't work, perhaps incentivising merchants would. But, in typical Google style, it didn't announce the change. Instead, Google set about quietly re-positioning its incentive scheme for CSSs as an incentive scheme for merchants and Ad Agencies.

In the last few weeks, participating rival CSSs have started to receive troubling enquiries from some of their merchants. Apparently, Google has started informing merchants about the comparison shopping "SpendMatch" programme and suggesting that they ought to be seeing some or all of the rebate. Moreover, Google recently updated its CSS partner web pages<sup>3</sup>, subtly altering the programme description from an incentive programme for CSS partners to an incentive programme for merchants: "*Get access to a brand new CSS incentive programme with promotional coupons for merchants and rewards for Partners*" now reads "*Get access to a brand new CSS incentive programme for new and existing merchants running Shopping ads through CSS Partners.*"

Remarkably, presumably in a further attempt to create the illusion of a thriving auction, Google has also begun to encourage Ad Agencies to funnel their shopping-related ad campaigns through one of Google Shopping's rival CSSs in order to cash in on the rebates. While this might appear to generate business for rival CSSs, it is in fact primarily driving up business for Ad Agencies.

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<sup>3</sup> [https://comparisonshoppingpartners.withgoogle.com/become\\_a\\_partner/](https://comparisonshoppingpartners.withgoogle.com/become_a_partner/)

And, in a particularly troubling development, it seems that Google has also begun encouraging Ad Agencies to create their own *pseudo* comparison shopping services. For example, [this from UK-based Ad Agency, Croud, on the 14 June 2018](#):

*“Google has made significant changes to its Shopping proposition and invited technology-led agencies into a new scheme. As part of this, Croud is proud to be the first UK agency to become a certified Comparison Shopping Partner, allowing brands and retailers to benefit from significant savings on their Google Shopping media spend...*

*As part of this scheme, Croud’s in-house team of developers has built its own Comparison Shopping Service (CSS), through which brands and retailers can benefit from significant savings on their Google Shopping spend. Reductions in media spend will vary, but retailers that run their Google Shopping activity through Croud will save up to 20% (capped at \$37,000 per month)...*

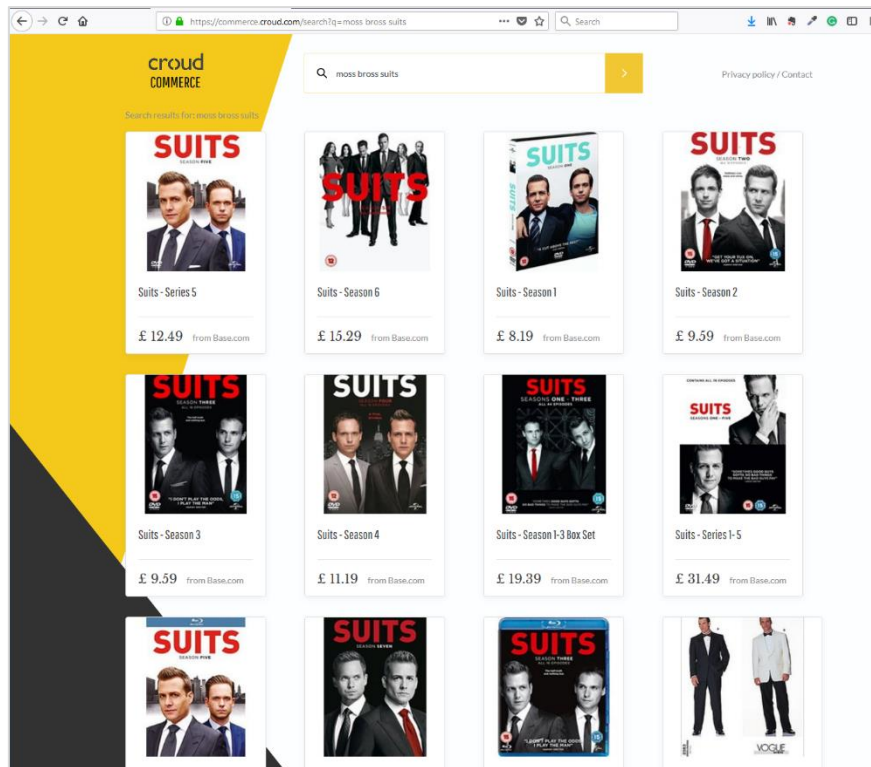
*Comparison Shopping Partners are certified CSSs that have completed in-depth training to help businesses make the most of Google Shopping Ads.”*

Leaving aside the repeated use of the problematic term “Google Shopping” in all the right/wrong places, it won’t surprise anyone to learn that, despite being Google “certified”, Croud is not a bona fide comparison shopping service, a point its own marketing material is at pains to point out:

*“For shoppers searching for your products, Google Shopping ads will look exactly the same as usual, just with a blue link showing ‘By Croud’, as in the example below. If a user clicks on the ad, they will be directed as normal to the product page on your website. If they click on the ‘By Croud’ link they will be sent through to the product page on Croud’s CSS website, from where they then navigate to your website to purchase. Very few people currently click on this link (0.0004% click-through rate); however we’ll be monitoring performance very closely over the coming days.”*



Note that Croud feels the need to reassure its clients that almost no one (i.e., 0.0004% of users) will ever click through to “the product page on Croud’s CSS website”. Which is just as well, because what Croud calls a “product page” isn’t really a product page, let alone a comparison shopping product page; it is just a collection of client offers for the given keywords. For example, as of 8 July 2018, a click on any of the “By Croud” links above takes users to an almost comically unsatisfactory page (for anyone but die-hard “Suits” fans):



In other words, Croud’s service isn’t a comparison shopping service at all. It is just a means of crudely funnelling merchant product feeds into Google ads, while offering no added value to users—not even the most basic added value of any comparison shopping service, which is the ability to efficiently compare prices. In fact, it is no small irony that Croud’s Google Certified, pseudo comparison shopping service is exactly the kind of no-value-add “thin-affiliate” site that Google’s penalty algorithms are supposed to weed out from users’ search results.

The only upside of this latest Google strategy is that it helps to highlight another fundamental and insidious problem with Google’s “remedy” proposal. In addition to depriving rivals of their profits, it also deprives them of the thing that all online services need: traffic. Which, of course, is exactly what Google has been found guilty of in the first place.

A crucial, but often-overlooked, point is that none of the featured links<sup>4</sup> in Google’s new auction take users to rivals’ comparison shopping services. Instead, users are delivered directly to one particular merchant offer for one particular product.

Leaving aside that the one particular product from the one particular merchant is rarely going to be what the user was actually looking for (hence the low conversion rates referred to above), the resultant lack of any interaction between the user and the CSS removes any opportunity for the comparison shopping service to add value to the process. By contrast, a deep-link to the appropriate page on a bona fide comparison shopping service (as would naturally be featured in any un-manipulated, relevance-based search results) would provide users with a comprehensive overview of the best prices and availability for the particular product (or category of product) they are looking for, as well as an efficient means for them to explore and compare similar alternatives before

<sup>4</sup> Remember that, according to Google’s own figures, only 0.0004% of users (that’s 1 in 250,000) ever click on the “by <Brand Name>” links (see Croud quote above).

making a purchase. Instead, under Google's gratuitously harmful "remedy", the vast majority of Google's users are left unaware that such clearly beneficial functionality even exists.

In short, if this non-remedy is allowed to stand, not only will the comparison shopping market not be restored to a level playing field, it will effectively cease to exist. Genuine comparison shopping services will wither on the vine and be replaced wholesale by pseudo comparison shopping services: Ad Agencies that offer "comparison shopping" in name only. Which, for Google, is presumably the whole point of the exercise; after all, that is effectively what Google Shopping became when it transitioned to an auction-based, pay-for-placement model in 2013.

Moreover, bearing in mind that comparison shopping has always been just one example of the harm caused by Google's anti-competitive search manipulation practices, if this auction-based "remedy" is allowed to stand it is likely to lead to a similar eradication of other specialised search domains, such as travel search, local search, jobs search, property search, and so on. In each case, sophisticated vertical search functionality will be replaced wholesale by a crude and positively harmful collection of pay-for-placement ads.

It is too early to know whether Google's latest manoeuvres will succeed in lending Google's auction-based proposal the veneer of a functioning "remedy". But, even if they do, we mustn't allow it to distract us from the fact that Google's auction-based non-remedy is brazenly non-compliant, positively harmful for users, and entirely unfit for purpose.

Once again, we suggest that it is well past time for Google to bite the bullet, abandon its cynical farce of an auction-based "remedy", and simply restore the unbiased and comprehensive natural search results on which it forged its formidable reputation and dominant market position—a change it could [implement tomorrow](#) if it wanted to. Alternatively, if Google elects to continue down this destructive and non-compliant path then perhaps it is time to heed the growing calls for Google to be broken up.