



**Submission by Yelp Inc. to the  
Australian Competition and Consumer Commission**

*Response to Issues Paper for Interim Report No.9 of the Digital  
Platform Services Inquiry – revisiting general search services*

30 August 2024

## A Executive Summary

1. Yelp Inc. (**Yelp**) welcomes the opportunity to respond to the Australian Competition and Consumer Commission's (**ACCC**) Issues Paper for Interim Report No. 9 (**Issues Paper**) in its ongoing Digital Platform Services Inquiry (**DPSI**).
2. Yelp's submission focuses on Google's abuse of its position as the dominant search engine in Australia to exclude competition from the market for local search services, ultimately denying Australian local businesses and consumers the benefits of rigorous competition.
3. In this submission Yelp sets out its view on:
  - the current state of competition in the supply of local search services globally and in Australia;
  - the impact of Google's substantial market power on competition and consumers in Australia; and
  - why Yelp supports the ACCC's proposal of an ex-ante regulatory regime that includes a targeted code of conduct that prohibits designated digital platforms – including dominant digital search services – from providing favourable treatment to their own products and services in ranking, indexing and crawling.
4. Yelp also provides this submission in response to Google's supplementary submission to the ACCC on 26 July 2024 regarding the allegations of self-preferencing conduct made by other third parties.<sup>1</sup> Yelp disagrees with the claims made by Google in its supplementary submission. It considers that Google's repeated references to prioritising 'results that are most helpful and useful'<sup>2</sup> or 'the most relevant, trustworthy and helpful responses to [a] particular search query'<sup>3</sup> are thinly veiled attempts to confound the interests of Australian users with its self-preferencing conduct. As Yelp explains below from paragraph 44, Google's conduct serves to harm Australian consumers by inhibiting their access to superior local search services such as Yelp.
5. Yelp was founded in 2004 and is headquartered in San Francisco, USA. Yelp operates a local search service that provides both factual information and user-generated content on brick & mortar local businesses to consumers. It helps users find the best local businesses across a variety of categories and allows businesses to engage with their customers. Yelp began operating in Australia in 2011 and provides a free website and mobile app to Australian users. When Yelp first commenced operations in Australia, it invested in marketing, community engagement and sales. Yelp still maintains an Australia-facing website (at <https://www.yelp.com.au>), but it no longer invests in these channels, and has no present plans to reinvest in the Australian market, predominantly due to the behaviour of Google. In Australia, in 2023, Yelp received more than 30 million visits, and had 8,500 weekly average app users.
6. When Yelp was founded, Google was at the outset of its journey and was intent on making access to information broadly available to all internet users as a gateway to the 'open web'. As such, Yelp (and a range of other internet-focused platforms) structured its business model around the concept of the 'open web' based on a collaborative partnership with search engine providers such as Google.
7. Google's core business is a general or "full service" search engine, based on a technology of systematic crawling and indexing of the web. This means that Google periodically inspects third-party websites to understand the nature of their content, and provides users with a search

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<sup>1</sup> Google's supplementary submission to the ACCC, 26 July 2024, <https://www.accc.gov.au/system/files/Google%20%28supplementary%20submission%29.pdf?ref=0&download=y>

<sup>2</sup> Ibid page 4.

<sup>3</sup> Ibid.

algorithm that, based on a given textual query, returns a search engine results page (**SERP**) supposed to help the user find content related to its query.

8. Through displaying Google Local search results in more favourable positions and with richer graphical content, Google is able to leverage its market power in general search to self-preference its own specialised search products (including local search), and exploit its data advantages and search algorithms.
9. While the ACCC's inquiries have largely focused on general search services to date, Yelp submits that a robust consideration of the anti-competitive effects of Google's conduct in the supply of local search services is important to ensure that appropriate measures are included in any future code of conduct imposed on digital platforms such as Google. Local search services provide competition with general search services that also offer specialised results and also arm consumers with knowledge and which generates robust competition between local businesses and services who are increasingly incentivised to compete to garner engagement, trust and loyalty.
10. Yelp applauds the ACCC's proposal of an ex ante regulatory regime that includes a code of conduct for search services to prohibit self-preferencing by designated digital platforms. However, the implementation of the Digital Markets Act (**DMA**) in the European Union has faced significant challenges, pursuant to Google's efforts to evade compliance, as described further from paragraph 29 below. Yelp considers that the designing and enactment of any regulation in Australia must leverage the experience in the European Union to ensure that circumventive measures don't exacerbate digital platforms' anticompetitive conduct.
11. Yelp agrees with the ACCC's recent comments that push for the Australian Government to move quickly in the design, consultation and enactment of enabling legislation to give the ACCC the power to develop mandatory codes of conduct to promote greater competition in markets for digital services.<sup>4</sup> Yelp urges the ACCC to prioritise the development of a mandatory code of conduct for search engine services once that enabling legislation has been enacted. Delaying any solutions further will lead to additional lost competition and further impacts on consumer welfare in Australia.
12. Given the current uncertainty as to when the Australian Government will progress the development of an ex ante regulatory framework, Yelp also urges the ACCC to take enforcement action against Google for its anti-competitive self-preferencing conduct in order to prevent further competition and consumer harms in the interim.

### ***The ACCC's investigation into Google's search services***

13. Yelp understands that the ACCC commenced an investigation into Google's search services following the publication of the third Interim Report of the Digital Platform Services Inquiry in 2021. Yelp recognises the work the ACCC has done on this to date, including the court-enforceable undertakings entered with Australian mobile network operators Telstra, Optus and TPG in July and August of this year in which the operators have agreed to not renew or enter into any new agreements with Google that require Google's search services to be pre-installed and set as the exclusive default search function on their devices.<sup>5</sup>
14. The ACCC itself has recognised that local businesses and consumers will continue to suffer the longer the Australian government delays in regulating.<sup>6</sup> To prevent further harm in the interim, Yelp urges the ACCC to take further enforcement action against Google for its anti-competitive self-preferencing conduct. As the ACCC continues its investigation, Yelp would be happy to assist

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<sup>4</sup> <https://www.thesaturdaypaper.com.au/news/politics/2024/07/06/exclusive-acc-cc-pushes-regulate-tech-platforms#hrd>

<sup>5</sup> <https://www.acc.gov.au/media-release/acc-accepts-undertaking-from-tpg-in-ongoing-investigation-into-googles-search-services>

<sup>6</sup> <https://www.thesaturdaypaper.com.au/news/politics/2024/07/06/exclusive-acc-cc-pushes-regulate-tech-platforms#hrd>

in any way possible, including through providing additional submissions or evidence where helpful.

## **B The nature and state of competition in the supply of local search services**

15. As the ACCC concluded in 2021 in its third Interim Report, Google continues to hold a dominant position in the supply of general search engine services in Australia.<sup>7</sup> Yelp submits that Google's vertical integration and dominance in the market for search engine services allows it to continue to engage in leveraging and self-preferencing conduct that prevents competition on the merits.
16. In 2021, the ACCC determined that Google's dominance in general search is related to it being the pre-set default engine on Apple's Safari and Google Chrome.<sup>8</sup> Whilst this is certainly true, Google's dominance is also related to self-preferencing of Google's own specialised search products, including local search.

### ***The stifling of competition through Google Local***

17. Google offers its own specialised local search service, which we will refer to as Google Local. (Google's own terminology seems to shift with time and location — for instance, "Google Places" is another term that is used to describe this service.)
18. Google abuses its dominance in general search by displaying Google Local search results in a more favourable position, and subject to more favourable conditions of display, than the local search results of rivals' services.
19. New customers usually discover Yelp's content after searching a specific business or category of businesses on a general search engine (eg, Google) and clicking on a Yelp link on the SERP. These links may lead the user to two types of Yelp pages: Yelp local business pages (eg, Gail's Bakery Belsize Park); and Yelp search results pages which collects a list of businesses relevant to their query (eg, bakeries in Belsize Park).<sup>9</sup>
20. Since 2007, Google's SERPs have featured prominent "Universal Boxes" or "OneBoxes" containing specialised search results, which generally appear at or near the top of the SERP. Sometimes these results are drawn from third-party services, but for certain sets of queries – for instance local services – OneBox results are drawn only from Google properties.<sup>10</sup> An example of the OneBox is at Figure 1 below.

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<sup>7</sup> ACCC, Interim Report No. 3, page 23.

<sup>8</sup> Ibid, page 9.

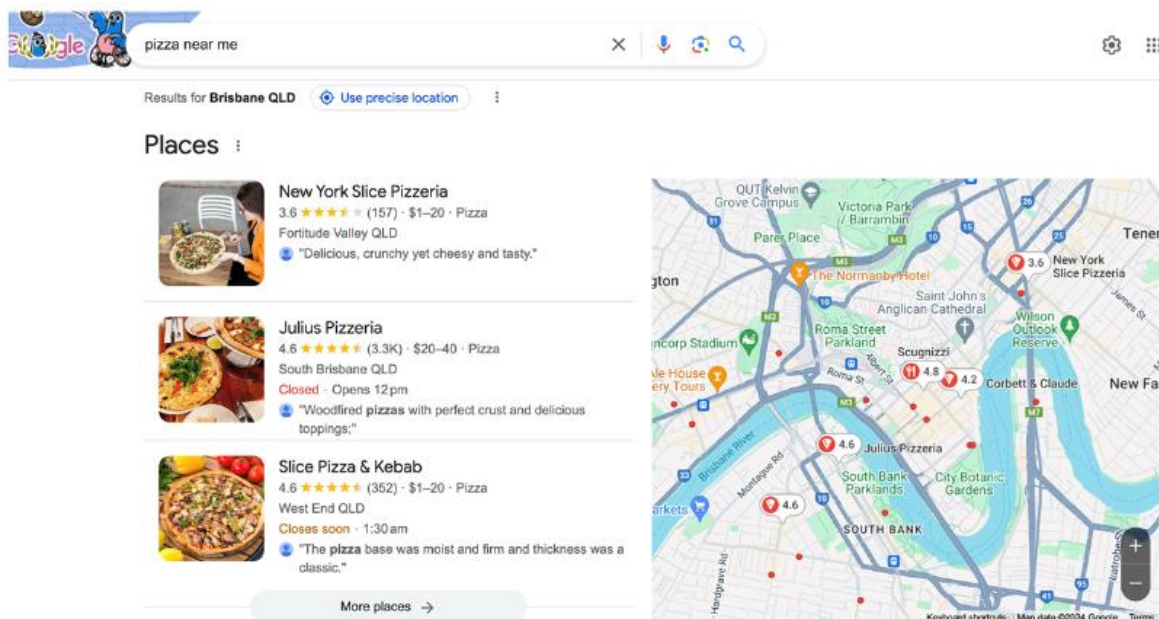
<sup>9</sup> Users otherwise access Yelp's platforms through navigating directly to Yelp's homepage or through the app.

<sup>10</sup> Google OneBox is a separate display box within the SERPs where results from a search match is compiled.

According to Google, "Google OneBox gives users access to real-time data through a simple, fast, and easy to use search interface. Google.com uses this concept to provide users with access to information in various content repositories, such as Google News, Google Images, and Google Book Search. On Google.com, OneBox results also provide real-time data such as weather, flight tracking, package tracking, and movie times. Instead of a complex interface, Google provides a single text entry box. The name OneBox refers to this one search box that provides information from many sources."

[https://www.google.com/support/enterprise/static/gsa/docs/admin/current/gsa\\_doc\\_set/oneboxstyle/oneboxstyle.html#:~:text=Google%20OneBox%20gives%20users%20access,Images%2C%20and%20Google%20Book%20Search.](https://www.google.com/support/enterprise/static/gsa/docs/admin/current/gsa_doc_set/oneboxstyle/oneboxstyle.html#:~:text=Google%20OneBox%20gives%20users%20access,Images%2C%20and%20Google%20Book%20Search.)

Figure 1: Google's 'OneBox' or 'Universal Box' in response to the search query 'pizza near me' in Brisbane, QLD



21. Google Local collects information on brick & mortar local businesses and displays this information to consumers through Google Maps or through a OneBox containing specialised search results for local services, drawn exclusively with results from Google Local (ie, excluding search results from other specialised local search providers, such as Yelp).
22. As part of this dynamic, Google's conduct displays results from Google Local in superior positions and subject to superior conditions of display on Google's SERP, even when Yelp (or other local search providers) offers consumers better results. Google's dominant market position in general search, and the leveraging of that position to dominant local search services, are to the detriment of competition.
23. This conduct critically impacts competing local search engine services in two ways:
  - (a) Businesses who operate the most relevant websites according to Google's organic algorithm no longer appear at the top of the Google SERP, but only below the Local OneBox and block of sponsored results.
  - (b) The Local OneBox elevates Google's Local content to the top of the SERP, where users expect to find the most relevant answer to their queries. This includes a map that links only to Google's listings. Because rival local services cannot appear in the OneBox (including in its map), they appear only substantially further down the SERP where user engagement is much lower – vastly diminishing user engagement that would have once gone to rival services instead.
24. Yelp (and other competing local search services) only appear in the generic search results section of the SERP, which generally includes only a webpage's title, its URL, and a short snippet of text. Typically, no organic links appear on screen "above the fold" after a local search query; the user must scroll down in order to make the organic links visible.
25. On the other hand, Google Local's search results are positioned in a highly visible location (ie, above all generic search results) in an attractive OneBox that includes a map, images, ratings for local businesses, and more. The position, amount of space occupied and richer graphical features of the OneBox enables Google Local's search results to easily grab a user's attention

and results in a higher click-through rate. In fact, users are conditioned to expect that Google will place the most relevant results at the top of the SERP.

26. Google's deliberate decision to exclude competing services from the OneBox ensures that third-party content is not treated on a par with Google Local's search results such that competing local search sites like Yelp will continue to suffer from reduced traffic.
27. Yelp notes that Google's exclusionary conduct differs from that of other less dominant search engines. Bing and DuckDuckGo both populate their Local OneBox-equivalents using their organic search algorithms or partnerships with third-party local search providers. This means that when a user enters a local search query in Bing, Bing's search algorithm first identifies the best links from across the web to answer this particular query. Bing then uses the most relevant links from this list to populate its local box with images and relevant information.
28. Yelp also notes that Google takes different approaches to its exclusionary OneBox policy depending on whether it is active in that vertical market. For example, Google uses organic links and content aggregators such as Allrecipes to populate its Recipe OneBox. It appears that in circumstances where Google is not active in recipe searches, Google delivers search results that are powered organically and with the consumer front of mind.

***Yelp and other local search engine services cannot provide a competitive restraint through alternative strategies***

29. Yelp and other potential local search rivals cannot offset the competitive disadvantage caused by their exclusion from the OneBox via alternative strategies or routes to markets for the following reasons:
  - (a) Yelp cannot bid for Local Services Ads (**LSAs**)
    - (i) Google's Local Service Ads are paid ads that help local service businesses attract customers by being positioned at the top of Google search in a sponsored link. LSAs link to listing pages for individual businesses on Google's own aggregator service, not to rival aggregation services.
    - (ii) As such, it is not possible for Yelp, or other similar services, to bid for LSAs on their own behalf (ie, to link to their own website). Rather, they could only do so on behalf of an individual business (ie, they could in principle run LSAs campaigns on behalf of advertisers, collecting a fee on top of the price paid to Google to run these ads). Even then, Google would send users to a Google landing page rather than Yelp. Such an approach would turn Yelp into an advertising arbitrage company, rather than a local search provider, a model that would constitute a reduced competitive threat to Google's search advertising business. This would also mean that rivals stop being direct competitors of Google, and instead become customers. Adopting this model would also force Yelp to reveal to Google its directory of businesses and to populate these businesses' Google LSA landing pages with Yelp's own user-generated content (eg, reviews, opening hours, contact details, etc.).
  - (b) Bidding for Google General Search Ads raises acquisition costs
    - (i) Google's General Search Ads are a form of paid search advertising in which companies pay to have their ads displayed above and below organic search engine results when users search certain keywords.
    - (ii) Yelp and others can bid for Google general search ads, but this acts to raise its customer acquisition costs. Google's conduct effectively forces rivals into an

illusory choice between giving Google its data and paying for traffic or else being effectively excluded from the SERP.

- (c) 'Traditional' organic links are effectively invisible
    - (i) Services like Yelp can appear in the "traditional" organic links, however, these are now effectively invisible as they do not appear anywhere near the top of Google's SERP (an issue exacerbated on mobile devices due to smaller screen sizes) and are not paired with any richer graphical details).
  - (d) App traffic is complementary to web traffic and is not an adequate replacement
    - (i) While Yelp's app now contributes to a material share of traffic in geographic markets where it is established, app traffic is a complement to web traffic and cannot be used to replace general search traffic. While apps can help deepen engagement with users, users need to be acquired in the first place. Users are unlikely to install or use an app they are not already familiar with and the process of getting acquainted with a local search service usually starts with a general search engine such as Google, provided their results are not rigged towards their own ecosystem.
30. The impact of Google's self-preferencing conduct and the unavailability of alternative strategies to effectively compete in the market for the supply of local search services is illustrated by Yelp's attempts to do so overseas. Yelp only monetises its services in the USA (accounting for over 90% of Yelp's revenue) and Canada. In November 2016, Yelp was forced to greatly reduce its investment in sales and marketing efforts outside of the USA and Canada. This was despite Yelp's vocal complaints to regulators, including to the European Commission in May 2014 regarding the 'infertile...landscape for innovation' as 'a direct result of the abuses Google has undertaken with its dominant position'<sup>11</sup>, and filing an objection to the European Union's proposed antitrust settlement with Google in June 2014.
31. In Australia, Yelp maintains its website but has stopped investing in marketing, community management and sales. In Australia, in 2023, Yelp's Australia-facing website received more than 30 million visits, and had over 8,500 weekly average app users..

***The impact of the DMA on Google Search results and anti-competitive conduct in the European Union***

32. As the ACCC is aware, competition authorities in jurisdictions around the world are seeking to address the competition and consumer issues arising from the dominant positions that platforms such as Google hold across markets, including those for search engine services. In the Issues Paper, the ACCC recognises the enactment of the DMA in the European Union as a measure designed to address anti-competitive self-preferencing by a gatekeeper that provides its own online intermediation services, such as through an online search engine.
33. Whilst these international developments to enliven competition in digital platform markets are encouraging, Yelp considers that Google's purported compliance measures to date in the European Union operate only to maintain or even exacerbate Google's self-preferencing and are in clear violation of the DMA.
34. On 6 September 2023, the European Commission designated Alphabet as a gatekeeper under the DMA. Article 6(5) of the DMA deals explicitly with self-preferencing and provides the following:

*"The gatekeeper shall not treat more favourably, in ranking and related indexing and crawling, services and products offered by the gatekeeper itself than similar services or*

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<sup>11</sup> <https://www.nytimes.com/2014/07/09/technology/yelp-joins-critics-of-european-union-settlement-with-google.html? r=0>

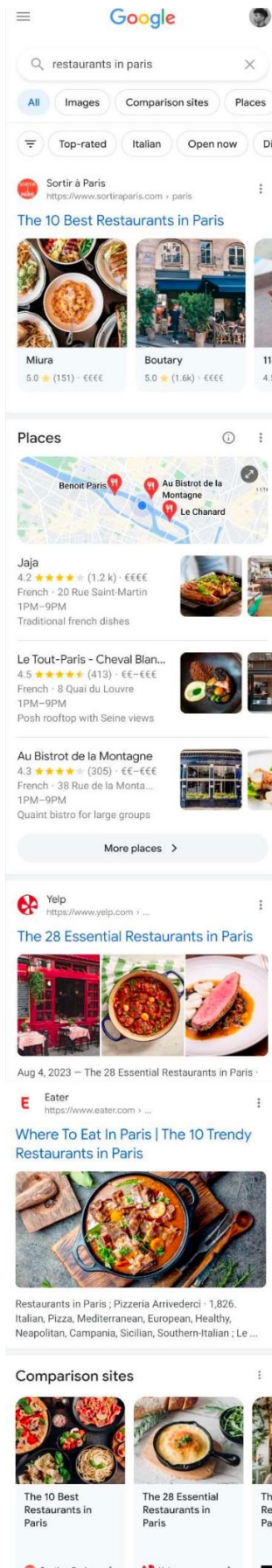


*products of a third party. The gatekeeper shall apply transparent, fair and non-discriminatory conditions to such ranking and related indexing and crawling."*

35. Google began serving European users SERPS in purported compliance with the DMA in early 2024. Yelp conducted an analysis of Google's DMA changes and determined that not only do they violate the DMA's prohibition against self-preferencing, but they might also actually exacerbate it, leading it to keep even more traffic within its own properties than in Google's pre-DMA SERPS.
36. Figure 2 below is a depiction of the new SERP that Google told the European Commission and rivals that it was going to implement. Notably, from what we can discern, it does not portray what is always shown to users in Europe. In particular, the carousel shown at the top of the SERP in the mock-up does not always appear there — meaning the OneBox is sometimes the first element of the SERP.

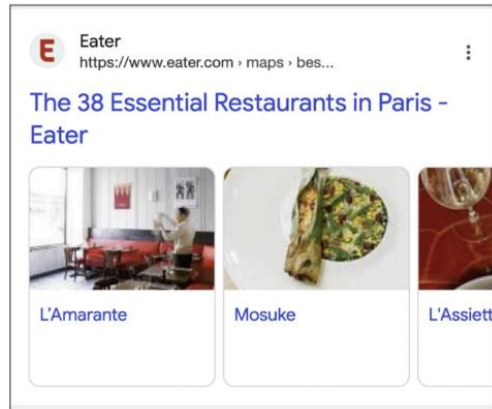


Figure 2: Google's proposed SERP changes sent to the European Commission and third parties

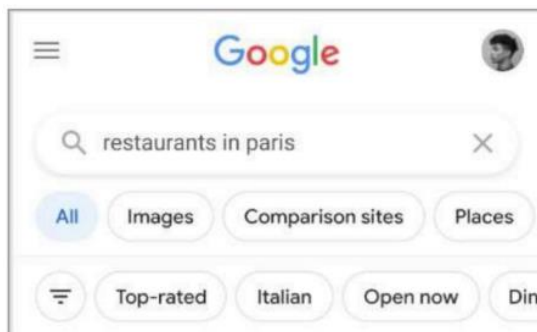


37. Google's DMA changes implemented the following three new features to the SERPS:

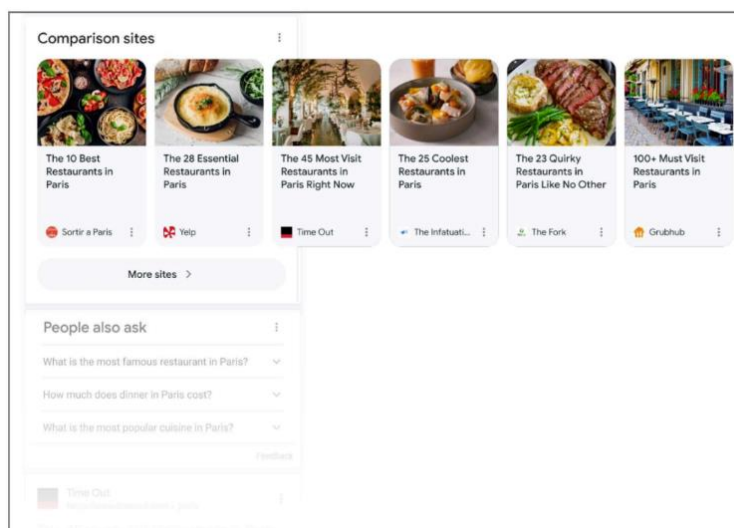
- (a) New Vertical Search Service (**VSS**) results whereby Google replaced an organic link with a visual carousel with a horizontal scroll option.



- (b) New SERP filter toggles where a user can completely disable organic search and show only Places results (if 'Places' is clicked) or disable the local OneBox (if 'Comparison sites' is clicked). With the exception of 'Comparison sites', every toggle is an enhancement of Google's 'house' productions ('Open now', 'Top-rated', etc).



- (c) A new comparison sites module appears mid-SERP and garners a low percentage of clicks due to its positioning on the page and less-direct relevance to a given query. It serves up listicles in a horizontal scroll in response to queries where a user is searching for a specific type of business and is otherwise scrolling vertically.



(together, the **DMA Changes**).

38. Meanwhile, and most critically, Google continues to self-preference its OneBox so that it always appears at the very top of the SERP or as the second feature on the SERP. The OneBox — including the Knowledge Panel (the area that includes information about specific businesses) and the map — continue to link exclusively to Google's content and exclude the content of rivals.
39. Yelp conducted a click study of user behaviour when presented with the new SERPS compared to the pre-DMA SERPS and found that the new SERPS continued to preference Google's content above that of competing search engine services. Yelp found that Google retained approximately 55% of traffic under its pre-DMA SERPS compared to as much as 73% of traffic under the new SERPs, depending on their specific orientation.
40. Yelp is not alone in finding that Google continues to self-preference with its DMA changes. For example, in February 2024, Near Media similarly analysed Google's DMA changes and determined Google was continuing to self-preference.<sup>12</sup> Near Media's research found that 40% of restaurant searchers in Ireland didn't scroll down far enough in a typical search to even encounter the comparison sites module. For the 60% that did, there was almost no engagement. Ultimately, Google Local results continued to capture the majority of engagements and clicks from all searchers, with these results exacerbated amongst mobile users.<sup>13</sup>
41. On 25 March 2024, the European Commission opened non-compliance investigations under Article 20(1) of the DMA against Alphabet, to determine whether Alphabet's display of Google search results may lead to self-preferencing in relation to Google's vertical search services over similar rival services. The EC itself was concerned that Alphabet's measures may not ensure that third-party services featured on Google's search results page are treated in a fair and non-discriminatory manner in comparison with Alphabet's own services, as required by Article 6(5) of the DMA.<sup>14</sup>
42. Despite these challenges, Yelp believes that it is possible for these issues to be addressed and for competition to be increased through a prescriptive and targeted code of conduct that outlines how digital platforms must comply with specific obligations and prohibitions, and is supported by anti-avoidance measures and substantial penalties for non-compliance. Alphabet's circumvention of the DMA should not deter the ACCC from pursuing such remedies, but should instead be utilised as an anticipatory measure that informs the level of prescription and regulation necessary to ensure compliance with any code of conduct introduced in Australia. Yelp has detailed its recommendations for an effectively designed code of conduct for search engine services from Section D below.

### **C The effects of Google's conduct in relation to local search engine services on competition and consumer welfare**

43. The ACCC has already considered that "all platforms should design user interfaces with the interests of consumers in mind, and refrain from using negative choice architecture or dark patterns that exploit consumers' behavioural biases or make it difficult for consumers to exercise their choices."<sup>15</sup> Yelp submits that the positioning and graphical details of Google Local's search results compared to that of rivals, as described at paragraphs 23 and 24 above, is a form of negative choice architecture that is systematically designed to exploit consumers' behavioural biases, including the reasonable supposition that the most relevant and useful results will be the most prominent or at the top of the SERP. Ultimately, Google's conduct in relation to Google

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<sup>12</sup> <https://www.nearmedia.co/google-serp-restaurants-eu-dma-analysis/>

<sup>13</sup> Ibid.

<sup>14</sup> [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_24\\_1689](https://ec.europa.eu/commission/presscorner/detail/en/ip_24_1689)

<sup>15</sup> ACCC, Interim Report No. 3, page 65.

Local prevents consumers from choosing a local search result based on its merits and from making that choice on the basis of what is most helpful and useful to that user's exact query.

***Loss of traffic undermines content generation and is detrimental to competition and consumers***

44. The loss of traffic to alternative local search engine services such as Yelp undermines content generation and makes these competing services less attractive to consumers, ultimately reducing the quality and breadth of content and information accessible by consumers. Yelp's local search services rely on interaction between users and local businesses trying to reach those users, thus generating content by providing details about local businesses, images, ratings and reviews.
45. For example, Yelp allows consumers to post "user-generated content" including sharing reviews and ratings describing their experience with local businesses. For any local business it is aware of, Yelp creates a business page containing the information it can collate online and crowd source from its community of consumer and business users, as well as available consumer reviews. Businesses can then "claim" their Yelp page at no cost. Businesses who have claimed their page can update their basic information, add photos of their business, or share information (eg, hours or specialities). Businesses can also interact with their customers by responding to their reviews and choose to purchase advertising from Yelp.
46. All other things being equal, visitors will go to sites with the greatest breadth of and freshest content. To reliably generate large volumes of fresh content, very significant volumes of search traffic are required. The most important source of traffic for local search services are general search websites such as Google. Google's control over general search traffic puts it into a position from which it can (and in fact does) sabotage competing local search providers by starving them of the traffic necessary to keep their service turning.
47. To understand the value of competition in this space, it is important to recognise that local search providers do not simply present the raw information provided by their users. Rather, there are important places where local search providers must innovate and compete to provide the most useful content to users. For example, local search services must innovate in using the best technology to curate and filter reviews to provide the best possible signal to consumers and can innovate in finding means to encourage users to engage with the platform (eg, as Yelp has done through recognising Yelp Elite Squad reviewers and organising real-world events in key markets to build a community of content generators). Google's conduct all but ensures that their own local search services have all the input their dominant position in general search collects, regardless of their ability to turn this input into useful content for the users, who ultimately end up being harmed.

***Harm to Australian consumers through the decline in search quality***

48. Google's conduct harms consumers by favouring more lucrative but inferior, lower quality and less accurate content. Google's conduct aims to remove a competitive threat and it does so by sacrificing the quality of its consumer-side service.
49. To demonstrate that Google's decision to exclude rivals from its Local OneBox degrades the quality of its SERP by displaying inferior local search results, Yelp conducted a comparison of the most prominent content appearing on Google and Yelp in multiple geographies and industries in the United States. Although not in Australia, the results are illustrative and comparable. Those comparisons uniformly confirm that Google's content is of demonstrably lower quality, meaning that Google is forcing lesser-quality content on users.<sup>16</sup>

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<sup>16</sup> Yelp compared all the reviews available on Yelp and Google for the first 100 businesses listed by both companies for a set of 120 generic queries with "local intent" (ie, queries designed to show that the user is searching for a local business). These queries each

50. Google's reviews are also generally shorter and less detailed than those of Yelp. A comparison study done by Yelp in the United Kingdom showed that Yelp reviews are consistently longer and more informative than Google's across a number of sectors. This is due in particular to the fact that Google allows users to leave empty reviews (ie, pure star ratings).
51. On 23 May 2024, Federal Trade Commission economist Devesh Raval in the United States released a study that corroborates the finding that Google's favouring of low-quality content causes harm to consumers.<sup>17</sup> Raval examined how local business reviews for generalist platforms, such as Google and Facebook, compare with specialized platforms like Yelp, HomeAdvisor, and the Better Business Bureau (**BBB**). The study's findings support anticompetitive concerns that Google's behaviour harms consumers by prioritizing its own lower-quality features over competitor content with higher quality.
52. Raval found that Google, Facebook, and HomeAdvisor exhibit signs of rating inflation, even for lower-quality businesses that have received a poor letter grade from the BBB or had numerous consumer complaints filed against them. In fact, a low quality business on Google had about the same average rating as a medium quality business on Yelp.<sup>18</sup>
53. The study also finds that Yelp's content policies, and trust and safety practices help mitigate the impact of lower quality or potentially fake reviews. Google allows users to leave a star rating with no review text, which the study found made up 32% of Google's reviews and saw an overwhelmingly positive average of 4.3 stars. The study also revealed that 50% of Google reviews were 100 characters or less, compared to only 2% of Yelp reviews. In fact, a SOCi research report found that Google reviews with text had fallen 28% between January 2015 and July 2022, as bare ratings lacking context made up more of Google's local business content.<sup>19</sup> On the other hand, Yelp invests considerably in the quality and reliability of its reviews and to protect the integrity of content on its platform, including through automated recommendation software,<sup>20</sup> reporting by Yelp's community of business owners and users, human moderation and the Consumer Alerts program.<sup>21</sup>
54. Despite the decline in search quality facilitated by Google's dominance, Google is able to leverage its monopoly distribution to steer consumers looking for a business on Google Search or Google Maps to their own business reviews, creating less incentive for them to take serious steps in reigning in the growing issue of fake reviews. Ultimately, consumers bear the cost as they are deprived of the benefits of rigorous competition in the supply of local search engines and are subjected to Google's prevailing but inferior product.

## **D Design of Australian framework**

55. Yelp supports the ACCC's proposal for legislation that empowers the ACCC to develop mandatory service-specific codes of conduct to promote competition in digital platform services.
56. Prohibiting self-preferencing conduct in search engine services is fundamentally important in terms of competition, consumer benefit and innovation and urgently needs to be addressed. This will produce direct and immediate consumer benefits. Specific rules prohibiting this activity could

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took the form of [city, business type] (eg, "Miami Restaurants"). They were constructed based on pairings from 20 different U.S. cities and six typical business categories for local search.

<sup>17</sup> Devesh Raval, 'Do Bad Businesses Get Good Reviews? Evidence Across Several Online Review Platforms', 23 May 2024 <https://deveshraval.github.io/reviews.pdf>

<sup>18</sup> Ibid, page 23.

<sup>19</sup> <https://www.soci.ai/insights/state-of-google-reviews/#lp-pom-box-236>

<sup>20</sup> Yelp's recommendation software is engineered to provide a level playing field for all businesses on Yelp. The software evaluates every review based on hundreds of signals of quality, reliability, and user activity on Yelp. The reviews it identifies as the most helpful and reliable are recommended.

<sup>21</sup> The Consumer Alerts program aims to fight the spread of misinformation on Yelp. A Consumer Alert is a pop up that is placed on a business page to warn users when Yelp has detected abnormal activity or attempts to mislead them. Before placing a Consumer Alert on a business page, Yelp conducts a thorough investigation and will provide the evidence it finds whenever possible.

be included in a mandatory code of conduct that is specific to search engine services, including local search engines.

#### **D.1 Recommended obligations to address self-preferencing in local searches**

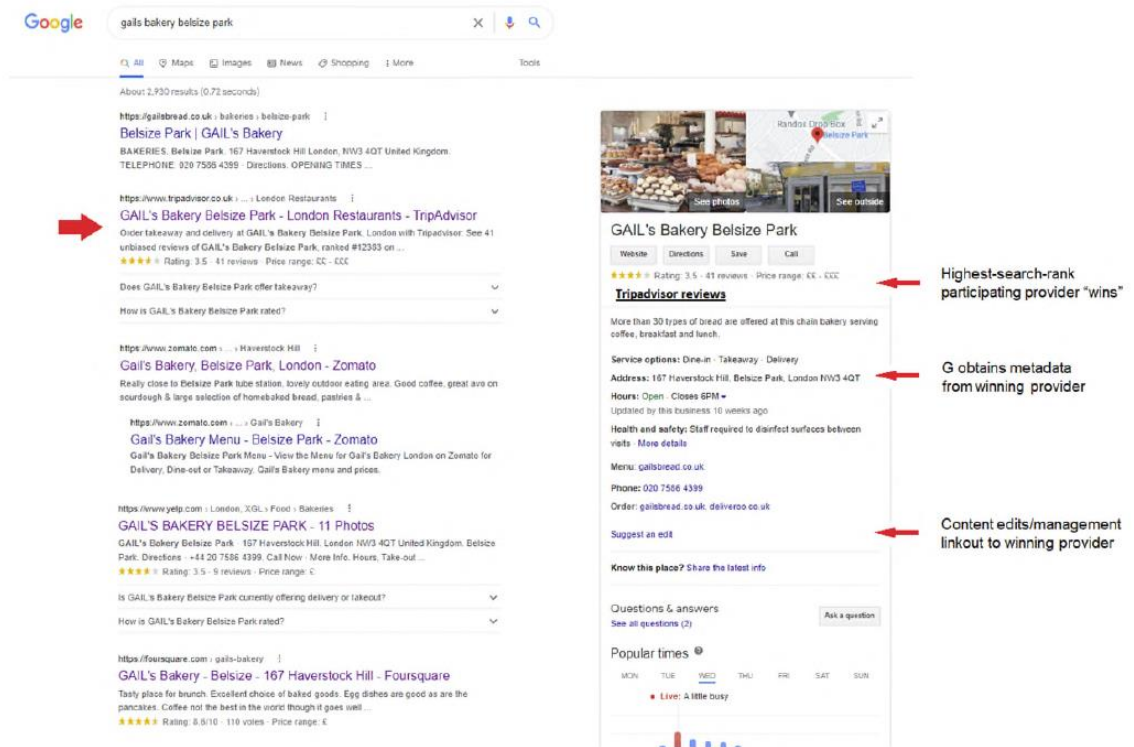
57. Yelp submits that Australia should adopt similar obligations and prohibitions for gatekeepers as apply under the DMA, including Article 6(5) set out at paragraph 34 above. However, Yelp submits that any code of conduct introduced in Australia should be more targeted or prescriptive about how search providers like Google are to comply. An effective and administrable way to achieve this would be to enforce a principles-based approach for any remedy to comply with. Yelp outlines below a set of principles that would ensure firms with the highest-quality local content have a fair opportunity to win traffic and are incentivised to improve their offerings.
- (a) First, Google's self-preferencing conduct must end and the principles of non-discrimination be applied, with Google forced to treat competing local search providers no less favourably than its own local search service within its general search results page.
  - (b) Second, any remedy must necessitate competition on the merits. This means that rival local search players who offer attractive and well curated content, or find other ways to innovate and improve their offerings, must be rewarded with visibility and traffic, which will in turn incentivise them to invest in their services and compete with Google. Similarly, display of Google Local's search service must be contingent on it offering objectively higher quality compared to rivals.
  - (c) Third, any remedy imposed must not only ensure that the anti-competitive conduct ends; it must also eliminate the consequences of Google's abuse. The consequence of Google's conduct is that Yelp, and others, have been forced to scale back their investments in Australia (and in international jurisdictions more broadly) leading to a diminishing of their content. Given the strength of network effects in the industry, any remedy should go beyond just levelling the playing field and allow for a transition period allowing for rivals to re-establish themselves and make investments necessary to compete effectively.
58. To illustrate that these principles can readily be implemented, Yelp provides a specific proposal which is based on a two-step design. This proposal would require Google to operate within a different paradigm; one in which it links to the best and most relevant content for users' search queries, whether provided by Google or by a third-party service.
- (a) Google must first match users with the 'best' possible information at the top of the SERP. To determine what is 'best', search providers such as Google must build a merit-based methodology for matching local businesses with various providers of relevant content for those businesses. They must determine which content provider ranks highest for searches related to a given business or business category, for example, using Google's organic search algorithm for calculating rankings of content providers.
  - (b) Search providers such as Google must then implement this merit-based methodology by creating a clear path to the source content, not a small link designed to generate a low click-through rate. For local search (the most common category of search), a merit-based methodology means:
    - (i) linking to the highest-ranking provider's page in the OneBox;
    - (ii) pinning links to that provider's page in Maps (as Apple Maps already does); and



(iii) using content from that provider to populate the corresponding Knowledge Panel.<sup>22</sup>

59. Under this proposal Google would continue to display a OneBox for broader searches (eg, “coffee shop near me”) and Knowledge Panels for individual businesses (eg, “Gail’s bakery Belsize Park”), but these OneBoxes and Knowledge Panels would be interoperable with third-party local search providers. In response to a given user query Google would then determine, as it already does today, whether it was a single business query best answered with a Knowledge Panel or broader query that was best answered with a OneBox and which business(es) best responded to the user query. The only difference would be that the information on these businesses would be populated by the local search provider deemed to have the most relevant content at the first stage of the process. With a click on a given business listing within the OneBox or Knowledge Pane, the user would be taken to the listing page of that business on the local search service deemed to have the most relevant content.
60. Two mock-ups are provided below: the first for a search for a single business where the most relevant result is TripAdvisor who is used to populate the knowledge box; the second is for a more generic listing ('coffee in Belsize Park') where the box contains multiple local businesses selected by Google with the most relevant local service provider shown in this case.

**Figure 3: Mock-up of a Knowledge Panel populated with third party content**



<sup>22</sup> Knowledge panels are information boxes that appear on Google when you search for entities (people, places, organizations, things) that are in the Knowledge Graph. They are meant to help you get a quick snapshot of information on a topic based on Google’s understanding of available content on the web. The Google Knowledge Graph is a knowledge base from which Google serves relevant information in an infobox beside its search results. This allows the user to see the answer in a glance, as an instant answer. <https://support.google.com/knowledgepanel/answer/9163198?hl=en>



Figure 4: Mock-up of a OneBox populated with third party content

Google coffee in belsize park

Find results on

Yelp THE BEST 10 Cafes near... Tripadvisor Best cafe in Belsize Park ... Yell Cafes & Coffee Shops near Belsize Park

Coffee

Oliver's Village Cafe  
4.6 ★★★★★ (339) · Cafe · **Yelp**  
62 Belsize Ln  
Dine-in · Outside pickup · No-contact delivery

Chamomile Cafe  
4.2 ★★★★★ (301) · Cafe · **Tripadvisor**  
Chamomile Cafe, 45 England's Ln  
Dine-in · Takeaway · Delivery

Sable d'Or  
4.6 ★★★★★ (143) · Cafe · **Yell**  
30 England's Ln  
Dine-in · Takeaway

Points to relevant provider's biz page

View all

https://m.yelp.com · London · Belsize Park · Restaurants |  
**THE BEST 10 Cafes near Belsize Park, London, United ... - Yelp**  
Best Cafes in Belsize Park, London, United Kingdom - Garden Breakfast Cafe, Oliver's Village Cafe, Chamomile, Silverberry Deli & Kitchen, The Little One, ...

What are people saying about cafes near Belsize Park, London, United Kingdom?

What are some highly rated cafes near Belsize Park, London, United Kingdom?

https://www.englandslanecafe.com |  
**England's Lane**  
North London's finest cafe & restaurant, serving the best Antipodean-inspired food in a beautiful corner location on England's Lane, Belsize Park.

https://www.tripadvisor.co.uk · ShowUserReviews-g18... |  
**Best cafe in Belsize Park - Chamomile Cafe & Restaurant**  
Chamomile Cafe & Restaurant. Best cafe in Belsize Park · See 163 traveller reviews, 34 candid photos, and great deals for London, UK, at Tripadvisor  
★★★★★ Rating: 5 · Review by RoseUS18

https://www.yelp.com · cafes+and+coffee+shops-belsize-p... |  
**Cafes & Coffee Shops near Belsize Park Tube | Reviews - Yell**  
Cafes & Coffee Shops near Belsize Park Tube - Sweet N Savoury · 1.6 · 237 Kilburn High Road, ; Starbucks Coffee Co (UK) Ltd · 80 · 202 Haverstock Hill, ; Cesta Coffee.

https://www.zomato.com · London · Belsize Park |  
**The 10 Best Cafe Restaurant in Belsize Park for March 2022**  
Best Cafe Restaurant in Belsize Park - Amorino - Honey & Co. - Mornmouth Coffee Company - Said Dal 1923 - Ottolenghi - Kaffeine - Ginger & White - Flat White.

61. Yelp considers that this proposal is simple, transparent and user friendly as well as easy to monitor.
- (a) It ensures competition on the merits. Local search providers would know that if they provided more accurate/relevant information on local businesses this would result in visibility and traffic. This would encourage innovation and investment.
  - (b) The proposal requires minimal engineering effort as it would rely on Google's existing organic search algorithm and all of the relevant information to rank local search providers is already scraped by Google through the normal indexing process of its search engine. If necessary, Google could specify a data feed structure and ask third-party participants to provide data on local businesses to this specification. In the mock-ups above, it is clear that most of the information Google would need to populate the Knowledge Panel or OneBox from a competitor website is already collected by Google. For example, star ratings and review counts are already displayed below the "blue link" to this competitor's website.
  - (c) The proposal requires Google Local to "re-index" its local search product so that it can be ranked on a consistent basis with third parties. This is a desirable feature. The proposal above is that the best local search service for each business be selected through Google's general search algorithm. Currently Google Local does not appear in organic results because Google has chosen to artificially promote its own content and withdraw it from being indexed by its own search engine. Yelp anticipates that, under the remedy proposal, Google would choose to re-index its content so that its local search service was eligible for inclusion in the One Boxes/Knowledge Panels. This will facilitate indexing and ranking of Google and third-party content on an integrated and objective basis. It will enable straightforward monitoring of Google's ranking compared to that of rival services.
  - (d) The design will be low latency. Google has sometimes argued that interoperability is high latency because it requires "calling" content from multiple services to populate a page. This does not apply to Yelp's proposal. This is because third-party content only needs to be reviewed and compared at the first stage of the two-step process and there are various ways that this first stage assessment could be optimised to reduce latency. For example, Google could conduct the assessment of which provider had the best content for a given query/business on a periodic basis, rather than each time a query was made.
  - (e) The design would permit Google to earn a fair return by showing search ads around the organic results. The remedy would need to contain some minimum display requirements (eg, it would not be appropriate for Google to "bury" the interoperable One Box under pages of LSAs or other advertisements as this would undermine the remedy principle of third-party local search providers being able to compete on the merits for traffic).<sup>23</sup> However, subject to these requirements, Google would be able to populate the page with other results and advertisements as it saw fit. Yelp would also envisage Google being permitted to overlay additional content on individual business listings (eg, food ordering links or restaurant reservations) if these capabilities were not offered by the third-party local search provider selected for the business in question. As such, Google would still be able to monetize its search results page and earn a financial return, but would not be able to anti-competitively leverage its market power in general search into local search.
  - (f) The design does not require Google to give up control of its organic search algorithm and design of the SERP. Google would then be free to choose which businesses to display

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<sup>23</sup> For example, the OneBox must be visible on the first page on desktop and within one swipe or scroll on mobile and display a minimum number of local businesses (say three) within each One Box.

and how many businesses to display in the OneBox in response to a given user's query with the only restriction being that it could not make the choice of listings dependent upon the identity of the local search provider that had been selected as the most relevant for that particular business or artificially promote results.

- (g) The ongoing monitoring requirements would be limited and within the capabilities of a monitoring trustee. A monitoring trustee would be able to verify whether the OneBox was indeed being populated with the most relevant organic results. It could also test that Google's search algorithm was indeed selecting between local search providers in an impartial fashion by running periodic A/B tests.
62. Finally, Yelp believes that the above measures should be supported by an anti-avoidance measure which would make it a separate contravention for the designated digital platform to enter, begin to carry out, or actually carry out a scheme that has the purpose or effect of avoiding the application of other provisions in the applicable code of conduct. Similar anti-avoidance measures exist under other mandatory codes of conduct regulated by the ACCC, such as the gas market code in Part IVBB of the *Competition and Consumer Act 2010* (Cth).
63. In Australia, the ACCC has a range of options to ensure compliance with its industry-specific codes of conduct including administrative resolutions, court enforceable undertakings, infringement notices and court action. These implementation and enforcement measures are necessary for any adopted code of conduct to be effective in practice, as it will ensure that there is no space for digital platforms to avoid compliance. Significant financial penalties for breaches of any code of conduct are important to effectively deter harmful conduct by digital platforms.
64. The ACCC should also perform regular compliance checks to ensure any code of conduct is being complied with and to assess whether any compliance issues should form the basis of further focus or industry-wide education. Yelp considers such checks would be an effective supplementary tool alongside the compliance measures above in deterring and search providers such as Google from engaging in self-preferencing conduct in contravention of any code.

## **E Conclusion**

65. Google's self-preferencing conduct in local search results has received little attention to date in Australia. Google exploits its dominance in general search to display Google Local search results in a significantly more favourable position and format such that the local search engines of rival providers are effectively excluded from meaningful competition. Yelp considers the state of the market for the supply of local search engine services to be critical in any future consideration by the ACCC and Australian Government of an effective regulatory framework. Local search results are relevant to the everyday lives of Australian people, arming them with vital information about their local businesses, services and community.
66. Yelp urges the ACCC to compel the implementation of a targeted and prescriptive code of conduct in relation to search engine services. Yelp hopes the ACCC will be empowered to use a breadth of tools to enforce these obligations in order to create a fairer playing field that benefits internet users, fosters innovation and protects the open web, setting an example for the rest of the world to follow.