

Ranking Transparency Guidelines - Article 5(7) of Regulation (EU) 2019/1150 of the European Parliament and of the Council of 20 June 2019 on promoting fairness and transparency for business users of online intermediation services

Fields marked with * are mandatory.

Policy Background

The recently adopted [Regulation \(EU\) 2019/1150](#) of the European Parliament and of the Council of 20 June 2019 on promoting fairness and transparency for business users of online intermediation services entered into force on 31 July 2019. The Regulation will apply from 12 July 2020.

Article 5 of the P2B Regulation requires online intermediation services, such as ecommerce marketplaces, app stores, online travel agents, to set out in their terms and conditions the main parameters determining ranking and the reasons for the relative importance of those main parameters as opposed to other parameters. A similar obligation applies to online search engines.

To help online intermediation services and online search engines understand this obligation, the Commission in Article 5(7) agreed to produce guidelines.

Article 2(8) and 5

Ranking is defined in Article 2(8) as:

'ranking' means the relative prominence given to the goods or services offered through online intermediation services, or the relevance given to search results by online search engines, as presented, organised or communicated by the providers of online intermediation services or by providers of online search engines, respectively, irrespective of the technological means used for such presentation, organisation or communication;

The objective of Article 5 is set out in recital 25:

The indicators used for measuring the quality of goods or services of business users, the use of editors and their ability to influence the ranking of those goods or services, the amplitude of the impact of remuneration on ranking as well as elements that do not or only remotely relate to the good or service itself, such as presentational features of the online offer, could be examples of main parameters that, when included in a general description of the ranking mechanism in plain and

intelligible language, should assist business users in obtaining the required adequate understanding of its functioning.

Article 5 Ranking

1. *Providers of online intermediation services shall set out in their terms and conditions the main parameters determining ranking and the reasons for the relative importance of those main parameters as opposed to other parameters.*
2. *Providers of online search engines shall set out the main parameters, which individually or collectively are most significant in determining ranking and the relative importance of those main parameters, by providing an easily and publicly available description, drafted in plain and intelligible language, on the online search engines of those providers. They shall keep that description up to date.*
3. *Where the main parameters include the possibility to influence ranking against any direct or indirect remuneration paid by business users or corporate website users to the respective provider, that provider shall also set out a description of those possibilities and of the effects of such remuneration on ranking in accordance with the requirements set out in paragraphs 1 and 2.*
4. *Where a provider of an online search engine has altered the ranking order in a specific case or delisted a particular website following a third party notification, the provider shall offer the possibility for the corporate website user to inspect the contents of the notification.*
5. *The descriptions referred to in paragraphs 1, 2 and 3 shall be sufficient to enable the business users or corporate website users to obtain an adequate understanding of whether, and if so how and to what extent, the ranking mechanism takes account of the following:*
 - (a) the characteristics of the goods and services offered to consumers through the online intermediation services or the online search engine;*
 - (b) the relevance of those characteristics for those consumers;*
 - (c) as regards online search engines, the design characteristics of the website used by corporate website users.*
6. *Providers of online intermediation services and providers of online search engines shall, when complying with the requirements of this Article, not be required to disclose algorithms or any information that, with reasonable certainty, would result in the enabling of deception of consumers or consumer harm through the manipulation of search results. This Article shall be without prejudice to Directive (EU) 2016/943.*
7. *To facilitate the compliance of providers of online intermediation services and providers of online search engines with and the enforcement of the requirements of this Article, the Commission shall accompany the transparency requirements set out in this Article with guidelines.*

Purpose of the guidelines

The Commission intends the guidelines to achieve the following broad objectives:

1. To elaborate on the elements included in Article 5 such as ‘ranking’, ‘relative importance’, ‘main parameters’, ‘adequate understanding’.
2. To provide guidance on balancing giving meaningful transparency and not disclosing algorithms.
3. To identify existing sectoral rules and industry best practices.

4. To provide guidance on the complementarity and relationship between requirements in the Regulation with consumer protection/marketing legislation and the fight against illegal content.
5. To provide practical guidance and examples of how online intermediation services and search engines can advise businesses of the main parameters in a meaningful way.
6. To provide, where appropriate, sector specific guidance.
7. To identify ways to help businesses monitor, or self-verify, variations and changes in parameters that affect ranking, such as technical tools or experiments currently being used or developed.

The guidelines need to be technology neutral. This means that the technology used to provide online intermediation services or a search engine does not matter particularly, as the type of online intermediation service these guidelines could apply to in the future may not even have been developed yet. Voice technology is an emerging type of interface design to which Regulation 2019/1150(EU) as well as the ranking guidelines will equally explicitly apply.

Purpose of this targeted survey

The Commission would like to seek input from stakeholders to understand how the guidelines may best serve their intended purpose of facilitating compliance with the ranking transparency obligation.

We would like your feedback and suggestions on the broad objectives of the guidelines before going into more detail on each objective, identifying sectoral specificities, illustrative examples, industry best practices and future trends.

Please share:

- examples of relevant industry practices;
- company-internal examples of ranking practices (e.g. procedure for and frequency of changes);
- case studies (e.g. business users using transparency or SEO to improve ranking);
- and identified areas that may require sector specific guidance (e.g. the use of editors in app stores, personalisation in social media, the link to offline elements on ecommerce marketplaces).

In your answers, do take into account the impact of:

- new technologies;
- new types of platforms;
- commercial developments/new tools;
- and likely future trends.

Elements such as standard setting and trust marks (ISO standard on consumer reviews), voice ranking and visual search, third party solutions (SEO, key word ranking trackers), third party plug ins, captive loading, GDPR, elimination third party cookies could be considered in this regard.

Let's start the survey

About your organisation

* What type of organisation are you?

- Business User
- Platform
- Association of consumers
- Association of businesses
- Association of users of platforms
- Other

* Which sector of activity are involved into?

- App development
- Delivery/Beauty/Real Estate
- General search engines
- Social Media
- Retail (multi-product)
- Retail (specialised)
- Travel
- Other

* Please specify

local search and directory providers - SIINDA (www.siinda.com - stephanie@siinda.com)

* In what country does your organisation have its headquarters?

Switzerland

* Is your organisation established in a/several EU Member States?

- Yes
- No

Meaning of Ranking (Article 2(8))

Objective: To elaborate on the legal definition of 'ranking' and consider the practical application for providers of online intermediation services and search engines.

Recital 24 states, "*Ranking refers to the relative prominence of the offers of business users or relevance given to search results as presented, organised or communicated by providers of online intermediation services or by providers of online search engines, resulting from the use of algorithmic sequencing, rating or review mechanisms, visual highlights, or other saliency tools, or combinations thereof.*"

What elements within this definition would benefit from additional clarity?

- what is the scope of application of the P2B regulation on directories and local search providers?
- how is "relative prominence" defined: does it mean internal placement on a local search or directory site or SEO appearance or is it related to general search results only?
- how are "offers" defined ? : are they referring to products or services from business users or is it also referring to digital presence and SMB basic information? Directory and local search providers are showing both organic search and paid search results, how will this be affected?
- How are "business users" defined, does it also encompass sole traders and individual entrepreneurs?

Are you aware of any industry standards or best practices that could/should be taken into account?

SIINDA members have to abide to business practices ensuring that presentation of search results is not misleading, that paid and organic results are both displayed and that third party information is also referenced. The business unveiling its information on a directory or local search platform always have the possibility to correct and amend its own data.
EDAA also has a Code of Conduct applicable to digital advertising and there are also business practices developed by IAB and EASA.

Are there any particular concerns arising from voice, visuals, presentation, future trends?

Voice search is very peculiar because it usually brings up one, maximum 2 results. The transparency requirements regarding ranking and display of voice search results therefore have to take this specificity into account, the most important element is usually having accurate, UpToDate and content-based information from the business to enable best voice-search results.

Would sector-specific guidance be valuable? If so, on what topics (e.g. the use of editors in app stores, the importance of personalisation in social media, the link to offline elements on ecommerce marketplaces)?

- For illustrative purposes, it would be beneficial to have a fictional example of how the Commission expects the search providers to inform its user base.
- A search result is often comprised of both textual listings as well as graphical content (banners) related to the search query. Is the Commission looking for the description and impact of both these variables, or just the text based listings?
- A search provider has in many cases different services available through multiple channels (web based and app based). Some of these can have different income models, hence the rank models differ. However, it is quite common to have one set of terms and conditions covering the different services. Does the Commission expect that each specific service has its own rank description?
- What affects the rank is quite often an advertiser which is prioritized before a non-paying company (free-listing). Does the new legislation imply any form of illustration / mark on the paid advertisers? Are the paid listings in a search result thought to be presented in a way which provides the user an immediate understanding that he / she is facing a paid listing in the search result? Or is it sufficient just to have the description of the rank available for the user to access?

Meaning of presentation and accessibility

Objective: To elaborate on the meaning of 'to set out in terms and conditions' (Article 5(1)) - online platforms - and the meaning of 'easily and publicly available description' (Article 5(2)) and the obligation for notices to be inspected (Article 5(4)) - general search engines).

What elements in these Articles would benefit from additional clarity?

- What should be enshrined in terms and conditions and what can be displayed on public notices? How can this be technologically neutral and also mobile-optimised?
- Can't we assume, based on the regulation, that online directories will have to set out the main parameters determining ranking in a public notice on their search engine? Given the fact that these parameters will change regularly, it would be very difficult from a practical point of view to have the obligation to take them up in the terms and conditions to be accepted by the clients.
- Would this be required also for third-party hosting such as website providers who are hosting SMBs information pages?

What practically can be done to ensure that the explanations are written in plain and intelligible language, changes can be identified and previous versions saved for future reference?

- list what search ranking means and how it applies to business identification
- explain what SEO is and how it is used at the advantage of small businesses for directory and listings purposes
- differentiate between types of business users

Are you aware of any industry standards or best practices that could/should be taken into account?

IAB, EASA and EDAA codes

Are there any illustrative examples from business-to-consumer relationships, which could be used as inspiration?

Like with the GDPR notices, the business specificities and trade proprietary information like algorithms should not be unveiled, only explanation of the difference between paid search, organic search and SEO

Are there any particular concerns arising from voice, visuals, presentation, future trends?

Are you aware of any industry standards or best practices that could/should be taken into account for the obligation to make notices available for inspection (Article 5(4) applicable to general search engine only).

How practically could the obligation to make notices available for inspection (Article 5(4) applicable for general search engines only) work?

Would specific sector specific guidance be valuable? If so, on what topics?

Main parameters/ relative importance

Objective: To elaborate on the meaning of ‘main parameters’ and ‘relative importance’ (Article 5(1) and 5(2) applicable to online platforms and general search engines respectively) and to explain in more detail the balance between giving meaningful transparency and not disclosing algorithms or impairing providers’ ability to act against bad faith manipulation of ranking.

Recital 25 states, “*The indicators used for measuring the quality of goods or services of business users, the use of editors and their ability to influence the ranking of those goods or services, the amplitude of the impact of remuneration on ranking as well as elements that do not or only remotely relate to the good or service itself, such as presentational features of the online offer, could be examples of main parameters.*”

Recital 27 states: “*Providers of online intermediation services or of online search engines should not be required to disclose the detailed functioning of their ranking mechanisms, including algorithms, under this Regulation. Their ability to act against bad faith manipulation of ranking by third parties, including in the interest of consumers, should equally not be impaired. A general description of the main ranking parameters should safeguard those interests, while providing business users and corporate website users with an adequate understanding of the functioning of ranking in the context of their use of specific online intermediation services or online search engines. To ensure that the objective of this Regulation is achieved, consideration of the commercial interests of providers of online intermediation services or online search engines should, therefore, never lead to a refusal to disclose the main parameters determining ranking.*”

Meaning of 'main parameters', illustrative examples that you can share?

- Business secrets and trade secrets need to be preserved, they can mean way to present listings, way to organize categories or verticals , way to bundle presentation and to enhance information – this should remain the company's proprietary asset.
- The importance of location-based data can be an element of main parameters for search ranking. Also the accuracy and value-added information is crucial for SMBs such as for example website information, contact details opening hours, social media presence...
- Voice-search triggers and social media components are key

What would you consider when deciding the 'relative importance' of ranking parameters?

- The global reach is important, but do we have to mention the priority of the different ranking parameters?
- For verticals, the representativity is also key
- Directories and yellow pages type services are among the only ones providing organic search results in equivalence with paid-search so transparency requirements are already met when promoting organic search. Keyword search is still in use and is the main logic of search results, supplemented by value- added information

How are these 'main parameters' affected by other factors? (E.g. personalisation, default settings, filtering mechanisms, cross-platform presence, experiments/tests, external factors (e.g. changes required due to legal obligations)). Are these factors equally 'main parameters'?

Legal and compliance factors are also key and should be considered when deciding on the importance of main parameters. For example, depending on some national or local regulations that differ on regulated professions, search results in some verticals or specialized directories for regulated professions might differ.

How to balance giving meaningful transparency and not disclosing algorithms (disclosure-v- preventing gaming)?

Business secrets and trade secrets need to be preserved, they can mean way to present listings, way to organize categories or verticals, way to bundle presentation and to enhance information – this should remain the company's proprietary asset.

Are you aware of any industry standards or best practices that could/should be taken into account?

Are there any particular concerns arising from voice, visuals, presentation, future trends?

Would specific sector specific guidance be valuable? If so, on what topics?

Direct & Indirect remuneration

Objective: To elaborate on the meaning of ‘direct remuneration’ and ‘indirect remuneration’ (Article 5(3)).

Recital 25 states, “*Remuneration could, in this respect, refer to payments made with the main or sole aim to improve ranking, as well as indirect remuneration in the form of the acceptance by a business user of additional obligations of any kind which may have this as its practical effect, such as the use of services that are ancillary or of any premium features.*”

What is your understanding of ‘direct remuneration’ and ‘indirect remuneration’? What examples can you share?

- Does direct remuneration refer to buying digital advertising solutions? It would therefore be very difficult to discriminate as it cannot be done a solution/product level
- Does indirect remuneration encompass bundles or is it related to major use of platform services?

Are you aware of any industry standards or best practices that could/should be taken into account?

Are there any particular concerns arising from voice, visuals, presentation, future trends?

Would specific sector specific guidance be valuable? If so, on what topics?

Adequate understanding

Objective: To elaborate on what would give businesses the required 'adequate understanding' of the ranking mechanism (Article 5(5)).

Recital 24 states that “ *This reasoned description should help business users to improve the presentation of their goods and services, or some inherent characteristics of those goods or services.*”

Article 5(5) states: “ *The descriptions referred to in paragraphs 1, 2 and 3 shall be sufficient to enable the business users or corporate website users to obtain an adequate understanding of whether, and if so how and to what extent, the ranking mechanism takes account of the following:*

(a) the characteristics of the goods and services offered to consumers through the online intermediation services or the online search engine;

(b) the relevance of those characteristics for those consumers;

(c) as regards online search engines, the design characteristics of the website used by corporate website users.”

What type of explanation/main parameters would enable businesses to have an 'adequate understanding'?

- General remark : This will imply that for directories and local search providers explanation of the ranking mechanism will differ depending on the used platform (e.g. mobile/website) as the algorithms used on these platforms are not the same (e.g., on mobile, it focus more on proximity).
- Mobile-optimisation or voice-search readiness index could be some parameters that enable business users to get an adequate understanding of search raking results and SEO.

Are you aware of any industry standards or best practices that could/should be taken into account?

- SEO code of ethics at <https://www.weaponsofseo.com/weapons-of-seo/seo-code-of-conduct/>

Are you aware of any tools (public or private) that can help businesses monitor variations and changes in parameters that affect ranking or self-verify, such as technical tools or experiments currently being used or developed? Are there any industry initiatives or best practices?

- Voice-search readiness indexes are growing in the industry and help assess SMB presence
- The global digital transformation of SMBs is also to take into account – research show that it is not happening at the same pace and with same level per countries

Are there any particular concerns arising from voice, visuals, presentation, future trends?

Would specific sector specific guidance be valuable? If so, on what topics?

Interplay with complementary and other EU legislation

Objective: To identify and discuss the relationship between the proposed guidelines and existing EU legislation, co-regulatory initiatives and industry-led initiatives.

Examples include the complementarity and interplay between the proposed guidelines and the [Consumer Protection Framework](#) (UCPD), [Consumer Rights Directive](#) (CRD) and the [E-commerce Directive](#) (ECD). In addition, voluntary measures taken to fight illegal content online.

Are you aware of any existing sectoral rules that could affect how Article 5 works in practice? For example, Directive 82/2001 on the distance marketing of pharmaceutical products, Regulation 80/2009 on computerised reservation systems.

Are there any specific concerns about how the proposed guidelines will interplay with existing EU legislation, co-regulatory initiatives and industry-led initiatives?

- What will be the interaction with GDPR as regards scope and definition of business user (cf sole entrepreneurs)?
- What will be the interaction with the Electronic Communications Code and universal service (providing universal access for basic listings for directory information) and also the e-privacy regulation?
- What will be the interaction with Small Business Act and pushes towards digital transformation of SMBs?

Are you working on any solutions that provide a simple and consistent approach that could serve as a best practice?

Are there any particular concerns arising from voice, visuals, presentation, future trends?

Would specific sector specific guidance be valuable? If so, on what topics?

Relationship between ranking and other obligations

Objective: To explore your suggestions and ideas on the relationship between ranking and other obligations in the Regulation (e.g. differentiated treatment) and the Regulation's co-regulatory obligations (e.g. specialised mediators and codes of conduct).

In particular:

The relationship between ranking and other obligations in the Regulation such as the relationship with differentiated treatment (Article 7(3)(b))

What is your understanding of how Article 5 relates to Article 7(3)(b)?

What type of explanations are necessary to enable businesses to have an 'adequate understanding'?

Are you working on any solutions that provide a simple and consistent approach, which could serve as a best practice?

The encouragement for industry to set up organisations that provide specialist mediators to facilitate out of court settlement of disputes (Article 13) and the creation of Codes of Conduct (Article 17).

Are you aware of any industry standards or best practices that could/should be taken into account?

What could the Commission do to encourage industry (e.g. stakeholder events, workshops)?

It would be good if the European Commission would organize a stakeholder event or workshop with interested parties and representatives of local search and business information providers to ensure they can also voice their specificities, talk about their current best practices and voice any operational concern they might have.

You can contact SIINDA at www.siinda.com or email at stephanie@siinda.com

If you want to upload a file do it here

The maximum file size is 1 MB

Thank you for taken the time to answer this survey!

Contact

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