


MEDIAPART

CULTURE ET IDÉES

Mediapart launches battle against Google for transparency over intellectual property rights payments

As a result of confidentiality clauses imposed by Google, Mediapart will not accept the money owed to it over the use of its intellectual property in search engine results; what are known as “neighbouring rights”. It comes down to an issue of trust with our readership, explains Mediapart's publishing editor Carine Fouteau, who argues that a united front by the press publishing sector is more necessary than ever in the face of Big Tech's lack of transparency.

Carine Fouteau - 29 April 2024 à 16h28

In March 2024, Mediapart should have received a substantial sum of money in exchange for Google's use of our articles, and thus our exclusive information, on its search engine. But because of a lack of transparency, we halted the transfer of funds to our accounts.

Since April 2019 a European directive on what are known as press “neighbouring rights”, a directive transcribed into French law in July of the same year, requires digital platforms to compensate publishers and press agencies for the dissemination of excerpts from their content – their intellectual property - from which these platforms derive revenue, notably advertising.

Mediapart considers that the principle of this financial compensation, which is enshrined in law as fees owed to the media and journalists, is fair. From the outset in October 2021 we supported the creation of the Collective Management Organization for Press Neighbouring Rights (OGC-DVP in French) in France, as we are fully behind its collective approach. This body is tasked with negotiating with Big Tech (sometimes known as GAFAM) and fairly distributing the funds among rights holders. Unlike media outlets that have opted for a dog-eat-dog approach by signing individual agreements, we believe

that only through a united front by industry players can we successfully influence these multinational corporations which, without legislation, would continue to plunder our articles.

As part of this approach an agreement was signed with Google in October 2023 on behalf of OGC-DVP members, who now represent 305 publishers and agencies. Besides Mediapart they include news agency AFP, Radio France, France Télévisions, sports newspaper *L'Équipe* and investigative publication *Le Canard Enchaîné*. Also included are members of magazine publishers union Le Syndicat des Éditeurs de la Presse Magazine (SEPM), specialist press body the Fédération Nationale de la Presse d'information Spécialisée (FNPS), and the Syndicat de la Presse Indépendante d'Information en Ligne (SPIIL), which represents the French online news media, and of which Mediapart is a founder member.

In a positive move, OGC-DVP members decided to mitigate the audience criterion to determine payments - the American company's sole guideline - with the criterion of journalistic quality, by taking into account the number of journalists employed by various media outlets.

“ The public's mistrust can only be tackled by refusing to obscure our economic models and our results. ”

But one essential condition for our online newspaper could not be secured: and this is transparency over the signed contract and the way it is applied. The confidentiality clauses imposed by Google today prevent us from disclosing to our readers not only the total amount paid under this deal, but also the amount that Mediapart is entitled to receive.

In view of the bond of trust that we have with our subscribers, who provide almost all of our revenue (98%), and given that we publish our accounts every year, it seemed inconceivable for us that we could accept a penny of this money, no matter how legitimate it might be. We could have decided to ignore this ban on transparency, but in doing so we would have jeopardised the agreement as a whole, to the detriment of other

members of the OGC-DVP. However, the payment does not get returned to the sender (Google): instead, it is being held in reserve in a collective management organization, pending the lifting of the ban on revealing the figures.

While we are of course fighting this battle in our own name, we consider it necessary for our entire industry's ecosystem. We are convinced that public mistrust can only be tackled by guaranteeing the independence of our businesses and by refusing to be opaque when it comes to our economic models and results. It is also significant that France's competition authority, the *Autorité de la Concurrence*, specifically relied on Google's lack of transparency to impose a fine of 250 million euros in a decision announced on March 20th 2024.

Following the Google deal, negotiations are underway with Facebook, Microsoft, X, and LinkedIn: to get the tech giants to give way, it is urgent that our national representatives, via Parliament, take up this issue and add to the 2019 law by setting the rejection of secrecy in stone. Faced with these current monopolistic abuses, which primarily hit smaller and more independent structures, regulation can no longer be delayed.

Fighting the Big Tech and AI hold over information

While it was a major preoccupation for us at the launch of Mediapart in 2008, the initial promise of an internet that was a space for equal sharing has self-destructed. In just a few years, online platforms have acquired unimaginable power, some becoming more powerful than states. Armed with genuine capitalist expertise, they have become indispensable in the dissemination and promotion of our journalistic content. By offering media all kinds of technical “solutions”, they interfere right at the heart of the way these media operate, in the creation and monetisation of what constitutes the inherent value of our profession. The race towards artificial intelligence simply confirms the extent to which information is the object of their desires.

Today, the threat to democracy is clear. The technological and economic challenges are such that we, as press organisations, cannot allow these digital giants to reshape the public domain exclusively for their own

benefit, to the detriment of the right to know.

“ Being financially dependent on online platforms seems to us to be incompatible with our public utility mission. ”

The issue that arises is not therefore about the risks and opportunities of new technologies, which are neither inherently good nor bad, and whose value stems from how we use them. It is instead about the economic and political stakes at play in refusing to let private concerns weaken press freedom and the pluralism of information through the use of algorithms.

A collective battle

Countering the law of the jungle, which stifles independent press and distorts competition, it is our responsibility not to yield an inch on independence and openness. That is why, contrary to some newspapers, Mediapart has always refused to enter into commercial agreements with these companies which have nothing to do with neighbouring rights payments, and which instead establish financial, technical and sometimes editorial partnerships.

Profitable for thirteen years, our advertising-free, public aid-free, benefactor-free, and shareholder-free economic model ensures, in the eyes of our readers, the production of interference-free, uncensored, and self-censorship-free information.

Being financially dependent on online platforms seems to us to be incompatible with our public utility mission, which is to hold the powerful to account. It also appears extremely dangerous to us in economic terms. With the life, or even the very survival, of many media outlets already tied to public aid - and thus to the goodwill of the state - being automatically at the mercy of companies whose strategic orientations can change overnight, as has already happened with Facebook, is extremely risky.

We regret that some fellow press organisations have gone it alone rather than engaging in collective bargaining. To name just one, *Le Monde* has recently entered into a bilateral multi-year partnership with the artificial intelligence company OpenAI, without

disclosing any financial details, after having first done the same with Google and Facebook. This agreement will “enable the company to draw on the newspaper's body of work to establish and enhance responses from its ChatGPT tool, in exchange for a significant source of additional revenue”, [explains the newspaper](#). On the other side of the Atlantic, *The New York Times* has taken the opposite approach, [filing a lawsuit](#) against the AI software creator and Microsoft, claiming an [infringement of its copyright](#).

With the strategy of tech giants being to lure dominant players into their nets in order to impose their practices and divide the market, it is vital that we pool our forces, especially those of the independent press: only a general mobilisation of publishers can stop our scoops being dismembered into statistical data. Approved by European Union member states on February 2nd 2024, the [AI Act](#) must go further by demanding greater transparency over the texts, images, and videos that are feeding the “machines” of artificial intelligence.

Following on from mineral raw materials, quality information must not now become the new El Dorado for the global extractive industry. Rather than simply accepting this subjugation, let us build a common ground with our readers and – using our professional expertise, which consists of producing facts, meaning, and clarity about the world around us - let us embrace our mission as a democratic counterpower. Our social utility depends on it.

- The original French version of this article can be found [here](#).

English version by Michael Streeter

Carine Fouteau