



The Digital Advertising Dominance of Google: Exploitative Abuse and Judicial Limits (SAS Aowoa v. Google case)

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Resume: *In January 2026, the Paris Court of Appeal ruled, in the case of SAS Aowoa v. Google, that Google committed an exploitative abuse of dominance by suspending, without adequate justification, the Google Ads accounts of Aowoa, a French provider of telephone information services. The decision is, first and foremost, a follow-on damages ruling; it was handed down in proceedings for civil liability arising from anticompetitive practices previously sanctioned by the Autorité de la concurrence (ADLC) in Decision no. 19-D-26 of 19 December 2019. The Court applied the irrebuttable presumption of fault established by Article L. 481-2 of the French Commercial Code — a direct consequence of the prior finding of infringement — before proceeding to assess causation and the quantum of damages. But the decision also addressed a stand-alone action. The Court’s reasoning focused on the opacity, unpredictability, and arbitrariness of Google’s enforcement practices as constituting an abuse, while the claim of exclusionary abuse was dismissed for lack of evidence of market foreclosure. In sum, this decision makes two key contributions: it extends ‘exploitative abuse’ doctrine to non-transparent governance of digital essential facilities, and it exposes the structural limitations of ex post judicial enforcement as a regulatory instrument, underscoring the complementary role of ex ante frameworks such as the EU Digital Markets Act.*

The scale of Google’s presence in digital advertising markets has long attracted the attention of competition authorities. Through its control of Google Ads, the Ad exchange and Google Search, the company occupies a structurally dominant position that spans the entire advertising value chain, functioning simultaneously as marketplace operator, auction platform and the most

significant source of audience reach available to digital advertisers. The European Commission’s 2019 decision imposing a €2.95 billion fine for the favouring of Google’s own comparison-shopping service over those of rivals offered a notable illustration of how that position may be leveraged to distort competition, but it

addressed only one dimension of a broader problem¹.

The decision of the Paris Court of Appeal in *SAS Aowoa v. Google*, handed down in January 2026, engages a different and in some respects more elusive dimension of platform power: the capacity of a dominant operator to cause serious harm to dependent businesses not through market foreclosure, but through arbitrary and opaque enforcement of the rules governing access to its own ecosystem.

To better understand the origin of the dispute, let's recall that Aowoa, a provider of French telephone information services, brought proceedings alleging two main practices: Google had suspended its 'Google Ads' accounts without any explanation; and Aowoa's advertisements were systematically rejected by Google, causing material damage to its commercial operations.

The central question before the court was whether Google's conduct in administering its advertising platform constituted an abuse of dominant position contrary to competition law.

The court found that it did and characterized Google's behaviour as an abuse of exploitation, based on the opacity and the unpredictability of its advertising practices.

¹ A. Barker, "Digital advertising markets: Background note by the Secretariat", OECD, 30 Nov. 2020, DAF/COMP/WP2(2020)3, OECD.

At the same time, the court declined to accept Aowoa's broader claim of exclusionary abuse, limiting both the legal characterisation of the conduct and the scope of the financial remedy awarded. The decision is, in this respect, instructive in two directions: it demonstrates that competition law can reach conduct which falls short of classic market foreclosure, while simultaneously exposing the structural limitations of litigation as a tool for regulating entrenched platform power.

This article examines those two dimensions in turn. Part I analyses the court's recognition of exploitative abuse and its conceptual grounding in Google's structural dominance over the digital advertising market. Part II considers the limitations of the judicial remedy, both in its rejection of the broader claim and in its conservative approach of compensation, which shows some limitations of the current existing competition law frameworks. It should also be noted that the Court of Appeal's decision also focused on a procedural issue².

I. Judicial Recognition of Exploitative Abuse in a Digital Platform Model

The Paris Court of Appeal's recognition of exploitative abuse rests on two interlocking propositions. The first one concerns the

² Paris Court of appeal, 14 Jan. 2026, "*SAS Aowoa c/ Google LLC et Google France*", no. 23/05375, §§39-49.

structural nature of Google’s dominance over the digital advertising market and the impossibility of exit for dependent operators, such as Aowoa (A). The second one concerns the legal characterisation of Google’s conduct — as an exploitative rather than exclusionary abuse³ — and the doctrinal significance of that distinction for the development of competition law in the platform doctrine context (B).

A. Structural Dominance and the Logic of Platform Dependence

Google’s position in digital advertising markets is characterised not merely by a large market share but by a form of structural integration that makes exit effectively impossible for market participants.

Thus, this market suffers from the structural dominance of Google and creates a situation of dependence among market participants. Indeed, the market structure is built on Google Ads, AdX and the organic search index, which are the foundations of the advertising market, but also, of every digital ecosystem. A digital company needs to use advertising services to be competitive and visible in the digital economy. Thus, advertising is a precondition for competitive visibility in the digital economy. In this

context, it appears essential that the provider of such advertising services — here, Google — applies the same transparent, objective and fair conditions when offering its advertising services. This requirement was recalled by the Autorité de la concurrence in a landmark decision of 19 December 2019⁴, in which it condemned Google for applying the rules of its Google Ads platform in an opaque, non-objective, and discriminatory manner, in violation of Article L. 420-2 of the French Commercial Code and Article 102 TFEU. It is precisely this prior finding of infringement that constitutes the legal foundation of the SAS Aowoa v. Google ruling, as a follow-on damages action.

This structural issue – which Barwise and Watkins describe as the entrenchment of market power through network effects and data advantages – has significant implications on how market power in digital advertising markets must be understood. A platform that controls essential facilities occupies a qualitatively different position from a dominant firm in a conventional market. It does not merely compete; it governs, and governance — when conducted without transparency or procedural regulation — is itself a mechanism through which competitive harm may be inflicted⁵.

³ The Paris Court of appeal confirmed the ADLC’s decision of 19 December 2019, which rejected the characterization of an exclusionary abuse: Paris Court of appeal, 14 Jan. 2026, “SAS Aowoa c/ Google LLC et Google France”, no. 23/05375, §§134-151.

⁴ ADLC, Dec. no. 19-D-26 of 19 Dec. 2019 regarding practices in the sector of online search advertising.

⁵ P. Barwise & L. Watkins, “The Evolution of Digital Dominance: How and Why We Got to GAFA”, in *Digital Dominance: The Power of Google, Amazon,*

In the Aowoa case, the court pointed out this dynamic. The suspension of Aowoa's accounts and the rejection of its advertisements were not evaluated solely as commercial decisions taken by a private operator, but as an exercise of platform power against a competitor that had no meaningful alternative solution. The opacity of Google's enforcement mechanisms — the absence of comprehensible explanations for account suspensions or advertising rejections — was not incidental to the finding of abuse; it was constitutive of it. Where a dominant platform makes it structurally impossible for dependent operators to understand or challenge the rules governing their access, it undermines the basic conditions of fair dealing that competition law is designed to protect.

B. Exploitative Abuse and the Limits of the Exclusionary Paradigm

The court of appeal characterized Google's conduct as an abuse of exploitation rather than as an abuse of exclusion. The distinction is not merely taxonomic. Exclusionary abuse — the traditional focus of competition enforcement — can be defined as a conduct by a dominant company which forecloses market access to actual or potential competitors, thereby harming the competitive process. Exploitative abuse, by

contrast, concerns the direct imposition of unfair conditions by such a dominant company on trading partners or counterparties, typically in circumstances where the dominance of the relevant undertaking insulates it from market disciplines that would otherwise constrain such conduct.

The significance of the court's finding is that it extends the reach of competition law to a category of harm that sits outside the traditional exclusionary framework. The power of platforms like Google to shape market conditions by designing and administering their own rules can generate significant economic harm, even without any attempt to exclude the competitor itself. Indeed, a company that cannot reliably predict whether its advertisements will be approved, or whether its account will remain active, cannot plan, invest, or compete effectively. That harm is real, even if it does not map neatly onto the foreclosure model. Thus, the 'exploitative abuse' concept appears essential: it protects the competitive process within the platform itself.

In accepting this argument, the Paris Court of Appeal aligned itself with a broader current of competition law thinking that has sought to develop the concept of exploitative abuse beyond its traditional application to excessive pricing. The recognition that

Facebook, and Apple", Oxford University Press, New-York, pp. 22-30.

procedural unfairness, arbitrary enforcement, opacity, and the absence of meaningful recourse can constitute an abuse is doctrinally significant. It suggests that the duty of a dominant firm is not merely to refrain from market foreclosure, but to exercise its governance functions in a manner consistent with the interests of those who depend, without a meaningful alternative, on its infrastructure⁶.

II. The Limits of Judicial Remedies and the Structural Challenges of Platform Regulation

The ruling in the SAS Aowoa v. Google case is, at its core, a follow-on damages decision. Having established the existence of an infringement on the basis of a prior ADLC's decision, the Court was required to determine the conditions of Google's civil liability and the extent of the reparable harm.

The legal basis of such a claim in French law is Article L. 481-2 of the French Commercial Code. This provision plays a central role in this analysis: it establishes an irrebuttable presumption of fault, when a competition authority has previously established an infringement to antitrust law. But this presumption is limited to the scope

of the previous infringement. Thus, this Part examines the reasoning by which fault and causation were assessed in the present case (A). This Part also examines the quantification of the harm and the limits of compensation (B).

A. The Presumption of Fault and the Conditions of Civil Liability

Article L. 481-2 of the French Commercial Code provides that where a prior finding of infringement has been made by a competition authority, the existence of a fault is irrefutably presumed in any subsequent follow-on action. The Court therefore did not need to independently establish that Google had committed a fault: the 2019 ADLC's decision had already settled that issue⁷. The central questions for the Court were accordingly causation — whether Google's opaque and arbitrary enforcement of its Google Ads rules was the proximate cause of Aowoa's loss and quantum⁸.

Three further lessons emerge from the Court's application of this framework, which sharpen the practical significance of the ruling.

First, whilst the irrebuttable presumption of fault relieves the claimant of proving that the practices at issue constitute

⁶ Paris Court of appeal, 14 Jan. 2026, "SAS Aowoa c/ Google LLC et Google France", no. 23/05375, §§82–93.

⁷ ADLC, Dec. no. 19-D-26 of 19 Dec. 2019, regarding practices in the sector of online search advertising (Google Ads).

⁸ Paris Court of appeal, 14 Jan. 2026, "SAS Aowoa c/ Google LLC et Google France", no. 23/05375, §82.

an abuse of dominant position, it does not relieve Aowoa of the obligation to demonstrate the material reality of those practices as a precondition for obtaining compensation. According to point 82 of the present ruling, the claimant in a follow-on action bears, at minimum, the burden of establishing that the anticompetitive conduct actually occurred — which, transposed into the language of civil liability, amounts to proving the materiality of the fault itself⁹.

Second, the scope of the presumption is temporally bounded: according to point 85 of the ruling, practices that post-date the ADLC’s 2019 decision fall outside the presumption entirely. For those later practices, Aowoa must independently establish their anticompetitive character — meaning that this portion of the claim proceeds as a stand-alone action, not a follow-on one, with the full burden of proving both the abuse and the causal link to harm resting with the claimant¹⁰.

Third, at points 145–146 of the ruling, the Court of Appeal confirmed the ADLC’s rejection of the alleged exclusionary abuse. The exclusionary abuse alleged by Aowoa consisted in Google’s systematic suspension of its Google Ads accounts and the systematic rejection of its advertisements — conduct which Aowoa argued was not merely aimed at protecting the integrity of the

advertising platform, but was deployed as a deliberate instrument to foreclose it from the downstream market for telephone information services, by denying it access to the advertising infrastructure on which its commercial viability depended. The Court, however, found insufficient evidence that Google’s enforcement practices were directed at market foreclosure, holding that the evidence established an exploitative abuse through opacity and arbitrariness — and not an exclusionary strategy aimed at a downstream competitor¹¹.

Despite its significant doctrinal contribution, the Aowoa decision is circumscribed by the court’s refusal to find exclusionary abuse. The court accepted that Google’s enforcement conduct had harmed Aowoa but concluded that the evidence did not establish that the suspensions and rejections were designed, or functioned, to foreclose competition in any relevant market. The court drew a distinction between a platform acting to protect the integrity of its advertising environment and a platform deploying its enforcement discretion as an instrument of market power against competitors¹².

This distinction is analytically contestable. Where a dominant platform controls the infrastructure on which competitors are obliged to rely, the

⁹ *Ibid.*

¹⁰ *Ibid.*, §85.

¹¹ *Ibid.*, §§145–146.

¹² *Ibid.*, §§145–146.

cumulative effect of arbitrary or discriminatory enforcement may produce market foreclosure even in the absence of explicit anticompetitive intent. The question of whether Google's conduct had exclusionary effects as distinct from exclusionary intent was not fully resolved by the court, and this gap in the reasoning limits the precedential value of the decision for claimants seeking to establish broader competitive harm.

The practical consequence is significant. The narrow scope of the finding means that the decision provides limited guidance on how competition law should address conduct that blurs the line between exploitative and exclusionary abuse, a line that is, in the platform context, inherently difficult to draw. The court's caution may reflect an understandable reluctance to extend the law into uncertain territory without a clearer evidentiary basis, but it also leaves unresolved questions that future litigation will inevitably need to confront¹³.

B. Assessment of Harm, Causation, and the Limits of Judicial Compensation

The court's approach to compensation illustrates the limitations of judicial grounds for regulating platform power. Aowoa sought damages calculated by reference to a counterfactual model, linking

its revenue loss to the broader shifts in consumer search behaviour attributable to Google's conduct. The court declined this approach, characterising it as insufficiently grounded, and instead awarded compensation on a narrower basis the margins lost during the period of account suspension. While this is consistent with conventional damages methodology, it does not account for the long-term structural harm inflicted on a business whose operations were systematically destabilised by unpredictable enforcement¹⁴.

This limitation is symptomatic of a broader problem. Competition litigation is, by its nature, backward-looking and case specific. It compensates for demonstrable harm already suffered; it does not restructure the conditions under which future harm may arise. For a company with Google's financial resources, a damages award of the magnitude available to a single claimant such as Aowoa represents a negligible deterrent. The incentive to administer its advertising platforms with greater transparency and procedural fairness is not materially altered by the outcome of individual proceedings.

As Barwise and Watkins observe, the data advantages and network effects that underpin Google's market position are not susceptible to erosion through litigation: they are

¹³ *Ibid.*, §§82–90.

¹⁴ *Ibid.*, §§155–178.

structural features of the platform economy that require structural responses.

Srinivasan similarly argues that competition law frameworks were not designed to address the form of power that dominant platforms exercise, and that their application, however creative, will remain inadequate absent broader regulatory reform¹⁵.

This is the context in which instruments such as the EU Digital Markets Act must be understood. The DMA's ex ante obligations on designated gatekeepers requiring transparency, fair access, and non-discrimination as matters of ongoing regulatory compliance rather than post-hoc judicial remedy are designed precisely to address the structural gap that cases like *Aowoa* expose. Whether those obligations will prove sufficiently specific and robustly enforced to alter platform behaviour in practice remains to be seen. But the limitations of the judicial route, so clearly illustrated by the Paris Court of Appeal's careful but inevitably constrained decision, provide a powerful argument for the complementary role of proactive regulation¹⁶.

Conclusion

The SAS *Aowoa v. Google* decision is a significant, if circumscribed, contribution to the competition law treatment of platform

power. The court's recognition that the arbitrary and non-transparent enforcement of a dominant platform's rules may constitute an exploitative abuse of dominant position advances the doctrinal development of competition law in a direction that is both principled and responsive to the realities of digital markets. It establishes, at least at the level of French appellate authority, that the duty incumbent upon a dominant undertaking extends to the way it administers the infrastructure on which dependent operators rely.

At the same time, the decision underscores the structural limitations of competition litigation as a regulatory instrument. The rejection of the exclusionary abuse claim, the conservative approach to compensation and the modest deterrent effect of the available remedies collectively reflect the difficulty of applying a legal framework designed for conventional markets to the qualitatively different problem of platform dominance. The court resolved the dispute before it with care and doctrinal precision; it could not, in doing so, resolve the structural conditions that gave rise to it.

Those conditions call for regulatory responses of broader scope and greater structural ambition. An ex ante enforcement of the rule of law — such as the EU Digital

¹⁵ P. Barwise & L. Watkins, *op. cit.*, p. 26; D. Srinivasan, "Why Google Dominates Advertising Markets", 24 *Stanford Technology Law Review* 55 (2020), p. 66 & p. 69.

¹⁶ H. Kabore, "The geopolitical dimension of the EU Digital Markets Act: A theoretical analysis", in *Les régulations européennes du numérique et le droit du marché*, Bruylant, p. 131.

Markets Act — represents one such response, though its effectiveness will ultimately depend on the rigour and consistency of its enforcement. What the Aowoa case makes clear, above all, is that the question of how digital platforms exercise their governance functions — and to whom they are accountable in doing so — must continue to shape modern competition law.

But jurisdictions and authorities are not the institutions that shall answer such a

question. An effective regulation and a clear legal framework can only be provided by the legislative power. It also requires coordinated litigation, ex ante regulatory frameworks and greater data transparency. These are key conditions for reducing information asymmetries between platforms and limiting situations of dependence in digital markets.

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