

By E-mail**Kate Daniels**

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To: **CAXTON AND CTP PUBLISHERS AND PRINTERS LIMITED**
PO Box 43587
Industria
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2042

E-mail: paul@jenkins.co.za

CC: **WEBBER WENTZEL**
Dario Milo and Nick Farrell

E-mail: dario.milo@webberwentzel.com
nick.farrell@webberwentzel.com

From: Kate Daniels/Neil MacKenzie/ 322069.00006

Date: 30 April 2024

Subject: **GOOGLE LLC'S RESPONSE TO REQUEST FOR ACCESS TO INFORMATION IN TERMS OF SECTION 53(1) OF THE PROMOTION OF ACCESS TO INFORMATION ACT OF 2000 ("PAIA")**

Dear Sir


1. INTRODUCTION

- 1.1 We act on behalf of Google LLC.
- 1.2 On 4 March 2024, Caxton and CTP Publishers and Printers Limited (**Caxton** or the **Requester**) issued a PAIA request in terms of section 53(1) of the Promotion of Access to Information Act of 2000 (**PAIA**) (the **Request**).
- 1.3 The Request was addressed to Google South Africa (Pty) Ltd (**Google ZA**), Google Ireland Ltd (**Google Ireland**) and Google LLC (**Google LLC**).
- 1.4 Below is Google LLC's response to the Request.

2. PAIA IS NOT APPLICABLE TO GOOGLE LLC

- 2.1 Google ZA, Google Ireland and Google LLC are separate and distinct corporate entities. Google LLC is a foreign *peregrinus* and accordingly, PAIA is not applicable to Google LLC.
- 2.2 The Requester has no entitlement under PAIA to issue the Request to a foreign *peregrinus*.
- 2.3 Neither the Information Regulator nor a South African court has jurisdiction to decide a PAIA request in relation to a *peregrinus*.
- 2.4 In the circumstances, Google LLC is not obliged to respond to the Request.
- 2.5 Google LLC's participation in and provision of information and documents at the Inquiry should in no way be construed as acquiescence in relation to the applicability of PAIA and the Request.

Yours faithfully

 P.P
A. H. Kinnemann

Fasken

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E-mail dario.milo@webberwentzel.com
nick.farrell@webberwentzel.com

From: Kate Daniels/Neil MacKenzie/ 322069.00006

Date: 30 April 2024

Subject: **GOOGLE IRELAND LTD'S RESPONSE TO REQUEST FOR ACCESS TO INFORMATION IN TERMS OF SECTION 53(1) OF THE PROMOTION OF ACCESS TO INFORMATION ACT OF 2000 ("PAIA")**

Dear Sir


1. INTRODUCTION

- 1.1 We act on behalf of Google Ireland Ltd (**Google Ireland**).
- 1.2 On 4 March 2024, Caxton and CTP Publishers and Printers Limited (**Caxton** or the **Requester**) issued a PAIA request in terms of section 53(1) of the Promotion of Access to Information Act of 2000 (**PAIA**) (the **Request**).
- 1.3 The Request was addressed to Google South Africa (Pty) Ltd (**Google ZA**), Google Ireland and Google LLC (**Google LLC**).
- 1.4 Below is Google Ireland's response to the Request.

2. PAIA IS NOT APPLICABLE TO GOOGLE IRELAND

- 2.1 Google ZA, Google Ireland and Google LLC are separate and distinct corporate entities. Google Ireland is a foreign *peregrinus* and accordingly, PAIA is not applicable to Google Ireland.
- 2.2 The Requester has no entitlement under PAIA to issue the Request to a foreign *peregrinus*.
- 2.3 Neither the Information Regulator nor a South African court has jurisdiction to decide a PAIA request in relation to a *peregrinus*.
- 2.4 In the circumstances, Google Ireland is not obliged to respond to the Request.
- 2.5 Google Ireland's participation in and provision of information and documents at the Inquiry should in no way be construed as acquiescence in relation to the applicability of PAIA and the Request.

Yours faithfully

 P. P.
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E-mail: dario.milo@webberwentzel.com
nick.farrell@webberwentzel.com

From: Kate Daniels/Neil MacKenzie/322069.00006

Date: 30 April 2024

Subject: **RESPONSE TO REQUEST FOR ACCESS TO INFORMATION IN TERMS OF SECTION 53(1) OF THE PROMOTION OF ACCESS TO INFORMATION ACT 2 OF 2000**

Dear Sir

1. INTRODUCTION

- 1.1 We act on behalf of Google South Africa (Pty) Ltd (**Google ZA**).
- 1.2 On 4 March 2024, Caxton and CTP Publishers and Printers Limited (**Caxton** or the **Requester**) issued a PAIA request in terms of section 53(1) of the Promotion of Access to Information Act of 2000 (**PAIA**) (the **Request**).
- 1.3 The Request was addressed to Google ZA, Google Ireland Ltd (**Google Ireland**) and Google LLC, (collectively **Google**).
- 1.4 We respond on behalf of Google ZA as set out below (the **Response**).

2. **GOOGLE ZA**

- 2.1 Google ZA does not provide any products or services to South African consumers. Google ZA primarily provides support and marketing services to Google Ireland.
- 2.2 Google ZA is a separate legal entity and does not have the authority to obligate or contract on behalf of Google Ireland (or any other Google entity), including to negotiate contracts and/or licences or accept any sales orders on behalf of Google Ireland. Google ZA is not a branch, liaison office, agent and/or representative of Google Ireland (or any other Google entity).

3. **THE RIGHTS THE REQUESTER SEEKS TO EXERCISE AND/OR PROTECT**

- 3.1 The Requester contends that the requested records are required to exercise or protect the following rights:
 - 3.1.1 The Requester's right to participate meaningfully in the ongoing Media and Digital Platforms Market Inquiry initiated by the Competition Commission (the **Inquiry**);
 - 3.1.2 The Requester's right "*to fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law, including but not limited to its right to be protected from unlawful competition practices and/or the intellectual property rights subsisting in the news content which it produces;*" and
 - 3.1.3 The Requester's right to media freedom.

4. **THE REQUESTER'S PURPORTED RIGHT TO PARTICIPATE MEANINGFULLY IN THE INQUIRY**

- 4.1 The Requester has failed to adequately demonstrate how the requested records are required by the Requester to exercise or protect the Requester's right to participate meaningfully in the Inquiry. The Requester has failed to establish the necessary connection between the requested records and the right sought to be exercised or protected. A general assertion that all requested records are required for the exercise and protection of the Requester's right to participate meaningfully in the Inquiry is not adequate. The Request is accordingly defective and, for this reason alone, Google ZA is entitled to refuse access to the requested records.
- 4.2 It is specifically denied that the requested records are required for the Requester to exercise or protect its right to participate meaningfully in the Inquiry. The Requester instead appears to seek to perform the functions assigned to the Competition Commission during the Inquiry, which is an impermissible basis for the Request.
- 4.3 The Requester is an active participant in the Inquiry and already has meaningfully participated. This is evidenced by the detailed written submissions made by the Requester to the Competition Commission on 5 December 2023 and 20 January 2024 and the comprehensive oral submissions made at the public hearings on 14 March 2024.

- 4.4 The Inquiry (and its associated process) is subject to the Competition Act No. 89 of 1998. The Competition Commission has prescribed, as it is entitled to do, the manner in which the Inquiry is to be conducted.
- 4.5 The Competition Act further determines the role of participants in the Inquiry, such as the Requester and Google ZA, and does not provide for information to be requested or exchanged between them for purposes of the Inquiry.
- 4.6 The Request is accordingly misplaced and is clearly an attempt by the Requester to circumvent the provisions of the Competition Act and the prescribed Inquiry process. This is not permissible.

5. THE REQUESTER’S PURPORTED RIGHT TO CONSIDER AND VINDICATE ANY ACTIONABLE RIGHTS AND CLAIMS

- 5.1 The Requester has failed to provide an adequate explanation as to why each requested record is required for the exercise and protection of the Requester’s purported right to fully consider and vindicate any actionable rights and claims. A general assertion that all requested records are required for the exercise and protection of the Requester’s purported right to consider and vindicate any actionable rights is not adequate. Similarly, for this reason alone, Google ZA is entitled to refuse access to the requested records.
- 5.2 It is denied that the records are required for the exercise and protection of the Requester’s purported right to consider and vindicate any actionable rights. The Requester is in a sufficiently well-informed position that it could formulate its claim and institute proceedings against Google to vindicate its rights, should it elect to do so.
- 5.3 The requested records are an attempt at pre-litigation discovery which is impermissible. Google ZA is accordingly entitled to refuse access to the requested records.

6. THE REQUESTER’S RIGHT TO MEDIA FREEDOM

- 6.1 Whilst Google recognizes that media freedom is important, the Requester has failed to provide an adequate explanation as to why each requested record is required for the exercise and protection of the right to media freedom. A general assertion is not adequate.
- 6.2 It is not permissible to contend in general terms without any finding by the Competition Commission that “*The impact of the South African digital markets and the distorted market features present therein, in which Google plays a dominant role, on South Africans’ access to a competitive and free press is well documented. Google’s dominance in digital markets severely affects news publishers’ commercial viability and directly impedes their ability to publish news.*” This is denied.
- 6.3 The failure to adequately demonstrate a connection between the requested records and the right to media freedom, also for this reason alone, entitles Google ZA to refuse access to the requested records.

7. PUBLIC INTEREST

- 7.1 Google ZA specifically denies that the disclosure of the requested records would reveal evidence of (i) a substantial contravention of, or failure to comply, with the law, or (ii) imminent and serious public safety or environmental risk, and (iii) the claim by the Requester that the public interest in the disclosure of the record clearly outweighs the harm contemplated in the provision in question, and accordingly that it is mandatory in terms of section 70 of PAIA to grant access to the requested records.

8. GOOGLE ZA'S RESPONSE

- 8.1 Google ZA sets out in the table below its detailed response to the Request.
- 8.2 The table indicates where a particular requested record to the best of Google ZA's knowledge and belief does not exist. Attached as **Annex 1** is an affidavit in terms of section 55 of PAIA by the Country Director of Google ZA, Alistair Mokoena, confirming which requested records to the best of Google ZA's knowledge and belief do not exist.

9. PROCEDURE IN TERMS OF SECTION 56 OF PAIA

- 9.1 The Requester may lodge a complaint to the Information Regulator or initiate an application with a court against the refusal of any of the requested records in terms of section 56 of PAIA.
- 9.2 The procedure to do so is as follows:
- Complaint to the Information Regulator
- 9.2.1 A complaint to the Information Regulator must be lodged within 180 days of receipt of this notice.
- 9.2.2 A complaint to the Information Regulator must be made in writing and a complaint form must be completed either manually or online. A complaint form, Form 5, can be downloaded from the Information Regulator's website, <https://inforegulator.org.za/complaints/>
- Application to court
- 9.2.3 The Requester may apply to court for appropriate relief in terms of section 82 of PAIA, within 180 days.
- 9.2.4 The Requester may lodge a notice of motion and founding affidavit (the application) at court.
- 9.2.5 Google shall deliver a notice to oppose within 10 court days of the delivery of the application.
- 9.2.6 The Requester shall deliver an answering affidavit within 15 court days of the delivery of the answering affidavit.
- 9.2.7 Google shall deliver a replying affidavit within 10 court days of the delivery of the answering affidavit.
- 9.2.8 The application shall be set down for hearing.

Yours faithfully

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Item	Requested record	Access granted	Access refused	Reason(s) for refusing access
1.	<p>Records of the gross annual revenue derived from all of Google's product offerings available to the South African market in the proceeding financial year which are attributable to Caxton's news content.</p> <p>(Annexure A - para 1)</p>		X	<ul style="list-style-type: none"> <li data-bbox="911 371 1525 658">● The Requester has not adequately demonstrated how the requested records will assist in the Requester exercising or protecting the right to media freedom. The Requester has not established a connection between the requested records and the right to media freedom.¹ <li data-bbox="911 696 1525 1182">● To the extent that the requested records are sought to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law ...</i>”, such records are sought for the purpose of pre-litigation discovery which is impermissible. Further, the Requester has not adequately demonstrated how the requested records are required for the Requester to exercise or protect its right to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law.</i>”² <li data-bbox="911 1220 1525 1599">● To the extent that the requested records are sought to “<i>meaningfully participate in the ongoing Media and Digital Platforms Market Inquiry (Inquiry) initiated by the Competition Commission</i>”, the Requester has not provided an adequate explanation as to why the requested records are required for the Requester to exercise its right to meaningfully participate in the Inquiry.³ <li data-bbox="911 1637 1525 1711">● To the best of Google ZA's knowledge and belief, the requested records do not exist.⁴

¹ Section 50(1) of PAIA.

² Section 67 of PAIA.

³ Section 50(1) of PAIA.

⁴ Section 55(1) – (3) of PAIA.

				<ul style="list-style-type: none"> ● The requested records are not in the possession of Google ZA.⁵
2.	<p>Records of Google’s calculation of the gross annual revenue derived from its product offerings available to the South Africans which are attributable to Caxton.</p> <p>(Annexure A - para 2)</p>		X	<ul style="list-style-type: none"> ● The Requester has not adequately demonstrated how the requested records will assist the Requester in exercising or protecting the right to media freedom. The Requester has not established a connection between the requested records and the right to media freedom.⁶ ● To the extent that the requested records are sought to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law ...</i>”, such record is sought for the purpose of pre-litigation discovery which is impermissible. Further, the Requester has not adequately demonstrated how the requested records are required for the Requester to exercise or protect its right to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law.</i>”⁷ ● To the extent that the requested records are sought to “<i>meaningfully participate in the ongoing Media and Digital Platforms Market Inquiry (Inquiry) initiated by the Competition Commission</i>”, the Requester has not provided an adequate explanation as to why the requested records are required for the Requester to exercise its right to meaningfully participate in the Inquiry.⁸ ● To the best of Google ZA’s knowledge and belief, the requested records do not exist.⁹

⁵ Section 1 of PAIA: Definition of Record.

⁶ Section 50(1) of PAIA.

⁷ Section 67 of PAIA.

⁸ Section 50(1) of PAIA.

⁹ Section 55(1) – (3) of PAIA.

				<ul style="list-style-type: none"> The requested records are not in the possession of Google ZA.¹⁰
3.	<p>Records of any mechanisms which Google may have for attributing indirect revenues for the use of Caxton’s news content.</p> <p>(Annexure A - para 3)</p>		X	<ul style="list-style-type: none"> The Requester has not adequately demonstrated how the requested records will assist in exercising or protecting the right to media freedom. The Requester has not established a connection between the requested records and the right to media freedom.¹¹ To the extent that the requested records are sought to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law ...</i>”, such records are sought for the purpose of pre-litigation discovery which is impermissible. Further, the Requester has not adequately demonstrated how the requested records are required for the Requester to exercise or protect its right to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law.</i>”¹² To the extent that the requested records are sought to “<i>meaningfully participate in the ongoing Inquiry (Inquiry) initiated by the Competition Commission</i>”, the Requester has not provided an adequate explanation as to why the requested records are required for the Requester to exercise its right to meaningfully participate in the Inquiry.¹³ To the best of Google ZA’s knowledge and belief, the requested records do not exist.¹⁴

¹⁰ Section 1 of PAIA: Definition of Record.

¹¹ Section 50(1) of PAIA.

¹² Section 67 of PAIA.

¹³ Section 50(1) of PAIA.

¹⁴ Section 55(1) – (3) of PAIA.

				<ul style="list-style-type: none"> ● The requested records are not in the possession of Google ZA.¹⁵
4.	<p>Records detailing the calculation of the percentage of Google’s total annual global revenue which is attributable to Caxton’s news content.</p> <p>(Annexure A - para 4)</p>		X	<ul style="list-style-type: none"> ● The Requester has not adequately demonstrated how the requested records will assist in exercising or protecting the right to media freedom. The Requester has not established a connection between the requested records and the right to media freedom.¹⁶
				<ul style="list-style-type: none"> ● To the extent that the requested records are sought to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law ...</i>”, such records are sought for the purpose of pre-litigation discovery which is impermissible. Further, the Requester has not adequately demonstrated how the requested records are required for the Requester to exercise or protect its right to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law.</i>”¹⁷
				<ul style="list-style-type: none"> ● To the extent that the requested records are sought to “<i>meaningfully participate in the ongoing Media and Digital Platforms Market Inquiry (Inquiry) initiated by the Competition Commission</i>”, the Requester has not provided an adequate explanation as to why the requested records are required for the Requester to exercise its right to meaningfully participate in the Inquiry.¹⁸
				<ul style="list-style-type: none"> ● To the best of Google ZA’s knowledge and belief, the requested records do not exist.¹⁹

¹⁵ Section 1 of PAIA: Definition of Record.

¹⁶ Section 50(1) of PAIA.

¹⁷ Section 67 of PAIA.

¹⁸ Section 50(1) of PAIA.

¹⁹ Section 55(1) – (3) of PAIA.

				<ul style="list-style-type: none"> The requested records are not in the possession of Google ZA.²⁰
5.	<p>Records reflecting the percentage of Google’s global revenue that is related to Caxton’s news content.</p> <p>(Annexure A - para 5)</p>		X	<ul style="list-style-type: none"> The Requester has not adequately demonstrated how the requested records will assist in exercising or protecting the right to media freedom. The Requester has not established a connection between the requested records and the right to media freedom.²¹ To the extent that the requested records are sought to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law ...</i>”, such records are sought for the purpose of pre-litigation discovery which is impermissible. Further, the Requester has not adequately demonstrated how the requested records are required for the Requester to exercise or protect its right to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law.</i>”²² To the extent that the requested records are sought to “<i>meaningfully participate in the ongoing Media and Digital Platforms Market Inquiry (Inquiry) initiated by the Competition Commission</i>”, the Requester has not provided an adequate explanation as to why the requested records are required for the Requester to exercise its right to meaningfully participate in the Inquiry.²³ To the best of Google ZA’s knowledge and belief, the requested records do not exist.²⁴

²⁰ Section 1 of PAIA: Definition of Record.

²¹ Section 50(1) of PAIA.

²² Section 67 of PAIA.

²³ Section 50(1) of PAIA.

²⁴ Section 55(1) – (3) of PAIA.

				<ul style="list-style-type: none"> The requested records are not in the possession of Google ZA.²⁵
6.	<p>Records of the sources of Google’s revenue that could be directly or indirectly attributable to Caxton either through direct or indirect advertising (or generated through any information collected or any use of any algorithm affected by any search or any individual)</p> <p>(Annexure A - para 6)</p>		X	<ul style="list-style-type: none"> The request is not understood. The Requester is invited to clarify the request.
7.	<p>Records of Google's market share in online search in terms of advertising revenue and audience in South Africa.</p> <p>(Annexure A - para 7)</p>		X	<ul style="list-style-type: none"> The Requester has not adequately demonstrated how the requested records will assist in exercising or protecting the right to media freedom. The Requester has not established a connection between the requested records and the right to media freedom.²⁶ To the extent that the requested records are sought to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law ...</i>”, such record is sought for the purpose of pre-litigation discovery which is impermissible. Further, the Requester has not adequately demonstrated how the requested records are required for the Requester to exercise or protect its right to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law.</i>”²⁷

²⁵ Section 1 of PAIA: Definition of Record.

²⁶ Section 50(1) of PAIA.

²⁷ Section 67 of PAIA

				<ul style="list-style-type: none"> To the extent that the requested records are sought to “<i>meaningfully participate in the ongoing Media and Digital Platforms Market Inquiry (Inquiry) initiated by the Competition Commission</i>”, the Requester has not provided an adequate explanation as to why the requested records are required for the Requester to exercise its right to meaningfully participate in the Inquiry.²⁸
				<ul style="list-style-type: none"> The requested records are not in the possession of Google ZA.²⁹
8.	<p>Records of the metrics used in Google’s determination of its market share in online search in terms of advertising revenue and audience in South Africa.</p> <p>(Annexure A - para 8)</p>		X	<ul style="list-style-type: none"> The Requester has not adequately demonstrated how the requested records will assist in exercising or protecting the right to media freedom. The Requester has not established a connection between the requested records and the right to media freedom.³⁰
				<ul style="list-style-type: none"> To the extent that the requested records are sought to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law ...</i>”, such records are sought for the purpose of pre-litigation discovery which is impermissible. Further, the Requester has not adequately demonstrated how the requested records are required for the Requester to exercise or protect its right to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law.</i>”³¹

²⁸ Section 50(1) of PAIA.

²⁹ Section 1 of PAIA: Definition of Record.

³⁰ Section 50(1) of PAIA.

³¹ Section 67 of PAIA.

				<ul style="list-style-type: none"> To the extent that the requested records are sought to “<i>meaningfully participate in the ongoing Media and Digital Platforms Market Inquiry (Inquiry) initiated by the Competition Commission</i>”, the Requester has not provided an adequate explanation as to why the requested records are required for the Requester to exercise its right to meaningfully participate in the Inquiry.³²
				<ul style="list-style-type: none"> The requested records are not in the possession of Google ZA.³³
9.	Records showing the calculation of Google’s revenue split between: advertising, app store commissions, subscriptions and other revenue. (Annexure A - para 9)		X	<ul style="list-style-type: none"> The Requester has not adequately demonstrated how the requested records will assist in exercising or protecting the right to media freedom. The Requester has not established a connection between the requested records and the right to media freedom.³⁴
				<ul style="list-style-type: none"> To the extent that the requested records are sought to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law ...</i>”, such records are sought for the purpose of pre-litigation discovery which is impermissible. Further, the Requester has not adequately demonstrated how the requested records are required for the Requester to exercise or protect its right to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law.</i>”³⁵

³² Section 50(1) of PAIA.

³³ Section 1 of PAIA: Definition of Record.

³⁴ Section 50(1) of PAIA.

³⁵ Section 67 of PAIA.

				<ul style="list-style-type: none"> To the extent that the requested records are sought to “<i>meaningfully participate in the ongoing Media and Digital Platforms Market Inquiry (Inquiry) initiated by the Competition Commission</i>”, the Requester has not provided an adequate explanation as to why the requested records are required for the Requester to exercise its right to meaningfully participate in the Inquiry.³⁶
				<ul style="list-style-type: none"> The requested records are not in the possession of Google ZA.³⁷
10.	Records showing the calculation of Google’s revenue profit before and after tax generated in South Africa over the past 5 years. ³⁸ (Annexure A - para 10)		X	<ul style="list-style-type: none"> The Requester has not adequately demonstrated how the requested records will assist in exercising or protecting the right to media freedom. The Requester has not established a connection between the requested records and the right to media freedom.³⁹
				<ul style="list-style-type: none"> To the extent that the requested records are sought to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law ...</i>”, such records are sought for the purpose of pre-litigation discovery which is impermissible. Further, the Requester has not adequately demonstrated how the requested records are required for the Requester to exercise or protect its right to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law.</i>”⁴⁰

³⁶ Section 50(1) of PAIA.

³⁷ Section 1 of PAIA: Definition of Record.

³⁸ We understand that this question is seeking records about all Google group / Google entities.

³⁹ Section 50(1) of PAIA.

⁴⁰ Section 67 of PAIA.

				<ul style="list-style-type: none"> To the extent that the requested records are sought to “<i>meaningfully participate in the ongoing Media and Digital Platforms Market Inquiry (Inquiry) initiated by the Competition Commission</i>”, the Requester has not provided an adequate explanation as to why the requested records are required for the Requester to exercise its right to meaningfully participate in the Inquiry.⁴¹
				<ul style="list-style-type: none"> The requested records are not in the possession of Google ZA.⁴²
11.	Records of any amounts provided by Google to South African government entities in the form of sponsorships in the last five years. (Annexure A - para 11)		X	<ul style="list-style-type: none"> The Requester has not adequately demonstrated how the requested records will assist in exercising or protecting the right to media freedom. The Requester has not established a connection between the requested records and the right to media freedom.⁴³
				<ul style="list-style-type: none"> To the extent that the requested records are sought to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law ...</i>”, such records are sought for the purpose of pre-litigation discovery which is impermissible. Further, the Requester has not adequately demonstrated how the requested records are required for the Requester to exercise or protect its right to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law.</i>”⁴⁴

⁴¹ Section 50(1) of PAIA.

⁴² Section 1 of PAIA: Definition of Record.

⁴³ Section 50(1) of PAIA.

⁴⁴ Section 67 of PAIA.

				<ul style="list-style-type: none"> To the extent that the requested records are sought to “<i>meaningfully participate in the ongoing Media and Digital Platforms Market Inquiry (Inquiry) initiated by the Competition Commission</i>”, the Requester has not provided an adequate explanation as to why the requested records are required for the Requester to exercise its right to meaningfully participate in the Inquiry.⁴⁵
				<ul style="list-style-type: none"> The requested records are not in the possession of Google ZA.⁴⁶
12.	<p>Records of Google’s determination of the methodology for revenue sharing in respect of Google News Showcase.</p> <p>(Records requested by Caxton-Annexure A - para 12)</p>		X	<ul style="list-style-type: none"> The Requester has not adequately demonstrated how the requested records will assist in exercising or protecting the right to media freedom. The Requester has not established a connection between the requested records and the right to media freedom.⁴⁷
				<ul style="list-style-type: none"> To the extent that the requested records are sought to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law ...</i>”, such records are sought for the purpose of pre-litigation discovery which is impermissible. Further, the Requester has not adequately demonstrated how the requested records are required for the Requester to exercise or protect its right to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law.</i>”⁴⁸
				<ul style="list-style-type: none"> To the extent that the requested records are sought to “<i>meaningfully participate in the ongoing Media and Digital Platforms Market Inquiry (Inquiry) initiated by the Competition Commission</i>”, the Requester has not provided an adequate explanation as to why the requested

⁴⁵ Section 50(1) of PAIA.

⁴⁶ Section 1 of PAIA: Definition of Record.

⁴⁷ Section 50(1) of PAIA.

⁴⁸ Section 67 of PAIA.

				<p>records are required for the Requester to exercise its right to meaningfully participate in the Inquiry.⁴⁹</p>
				<ul style="list-style-type: none"> ● The requested records are not in the possession of Google ZA.⁵⁰
13.1	<p>It has been alleged by news publishers globally that Google’s Bard AI was trained on a dataset that included news, magazine and digital publications. In this regard Caxton requests:</p> <p>Records of any of Caxton’s journalistic output used in the training of Bard AI.</p> <p>(Annexure A - para 13.1)</p>		X	<ul style="list-style-type: none"> ● The Requester has not adequately demonstrated how the requested records will assist in exercising or protecting the right to media freedom. The Requester has not established a connection between the requested records and the right to media freedom.⁵¹ ● To the extent that the requested records are sought to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law ...</i>”, such records are sought for the purpose of pre-litigation discovery which is impermissible. Further, the Requester has not adequately demonstrated how the requested records are required for the Requester to exercise or protect its right to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law.</i>”⁵² ● To the extent that the requested records are sought to “<i>meaningfully participate in the ongoing Media and Digital Platforms Market Inquiry (Inquiry) initiated by the Competition Commission</i>”, the Requester has not provided an adequate explanation as to why the requested records are required for the Requester to exercise its right to meaningfully participate in the Inquiry.⁵³

⁴⁹ Section 50(1) of PAIA.

⁵⁰ Section 1 of PAIA: Definition of Record.

⁵¹ Section 50(1) of PAIA.

⁵² Section 67 of PAIA.

⁵³ Section 50(1) of PAIA.

				<ul style="list-style-type: none"> ● To the best of Google ZA’s knowledge and belief, the requested records do not exist.⁵⁴
				<ul style="list-style-type: none"> ● The requested records are not in the possession of Google ZA.⁵⁵
13.2	<p>It has been alleged by news publishers globally that Google’s Bard AI was trained on a dataset that included news, magazine and digital publications. In this regard Caxton requests:</p> <p>Records of any use by Google of any data from Caxton or its users for the purposes of constructing any algorithm or including a search algorithm, Bard AI, rubric, global rate setting algorithm or any other algorithm employed in any business activity of Google, Alphabet or Jigsaw.</p> <p>(Annexure A - para 13.2)</p>		X	<ul style="list-style-type: none"> ● The Requester has not adequately demonstrated how the requested records will assist in exercising or protecting the right to media freedom. The Requester has not established a connection between the requested records and the right to media freedom.⁵⁶
				<ul style="list-style-type: none"> ● To the extent that the requested records are sought to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law ...</i>”, such records are sought for the purpose of pre-litigation discovery which is impermissible. Further, the Requester has not adequately demonstrated how the requested records are required for the Requester to exercise or protect its right to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law.</i>”⁵⁷
				<ul style="list-style-type: none"> ● To the extent that the requested records are sought to “<i>meaningfully participate in the ongoing Media and Digital Platforms Market Inquiry (Inquiry) initiated by the Competition Commission</i>”, the Requester has not provided an adequate explanation as to why the requested records are required for the Requester to exercise its right to meaningfully participate in the Inquiry.⁵⁸

⁵⁴ Section 55(1) – (3) of PAIA.

⁵⁵ Section 1 of PAIA: Definition of Record.

⁵⁶ Section 50(1) of PAIA.

⁵⁷ Section 67 of PAIA.

⁵⁸ Section 50(1) of PAIA.

				<ul style="list-style-type: none"> ● To the best of Google ZA’s knowledge and belief, the requested records do not exist.⁵⁹
				<ul style="list-style-type: none"> ● The requested records are not in the possession of Google ZA.⁶⁰
13.3	<p>It has been alleged by news publishers globally that Google’s Bard AI was trained on a dataset that included news, magazine and digital publications. In this regard Caxton requests:</p> <p>Records of how the value of the inclusion of this data was assessed or included in the profits or revenues attributed to Caxton.</p> <p>(Annexure A - para 13.3)</p>		X	<ul style="list-style-type: none"> ● The Requester has not adequately demonstrated how the requested records will assist in exercising or protecting the right to media freedom. The Requester has not established a connection between the requested records and the right to media freedom.⁶¹
				<ul style="list-style-type: none"> ● To the extent that the requested records are sought to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law ...</i>”, such records are sought for the purpose of pre-litigation discovery which is impermissible. Further, the Requester has not adequately demonstrated how the requested records are required for the Requester to exercise or protect its right to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law.</i>”⁶²
				<ul style="list-style-type: none"> ● To the extent that the requested records are sought to “<i>meaningfully participate in the ongoing Media and Digital Platforms Market Inquiry (Inquiry) initiated by the Competition Commission</i>”, the Requester has not provided an adequate explanation of why the requested records are required for the Requester to exercise its right to meaningfully participate in the Inquiry.⁶³

⁵⁹ Section 55(1) – (3) of PAIA.

⁶⁰ Section 1 of PAIA : Definition of Record.

⁶¹ Section 50(1) of PAIA.

⁶² Section 67 of PAIA.

⁶³ Section 50(1) of PAIA.

				<ul style="list-style-type: none"> ● To the best of Google ZA’s knowledge and belief, the requested records do not exist.⁶⁴
				<ul style="list-style-type: none"> ● The requested records are not in the possession of Google ZA.⁶⁵
13.4	<p>It has been alleged by news publishers globally that Google’s Bard AI was trained on a dataset that included news, magazine and digital publications. In this regard Caxton requests:</p> <p>Records of Google's determination of what data is used to train Bard AI.</p> <p>(Annexure A - para 13.4)</p>		X	<ul style="list-style-type: none"> ● The Requester has not adequately demonstrated how the requested records will assist in exercising or protecting the right to media freedom. The Requester has not established a connection between the requested records and the right to media freedom.⁶⁶
				<ul style="list-style-type: none"> ● To the extent that the requested records are sought to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law ...</i>”, such records are sought for the purpose of pre-litigation discovery which is impermissible. Further, the Requester has not adequately demonstrated how the requested records are required for the Requester to exercise or protect its right to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law.</i>”⁶⁷
				<ul style="list-style-type: none"> ● To the extent that the requested records are sought to “<i>meaningfully participate in the ongoing Media and Digital Platforms Market Inquiry (Inquiry) initiated by the Competition Commission</i>”, the Requester has not provided an adequate explanation as to why the requested records are required for the Requester to exercise its right to meaningfully participate in the Inquiry.⁶⁸

⁶⁴ Section 55(1) – (3) of PAIA.

⁶⁵ Section 1 of PAIA: Definition of Record.

⁶⁶ Section 50(1) of PAIA.

⁶⁷ Section 67 of PAIA.

⁶⁸ Section 50(1) of PAIA.

				<ul style="list-style-type: none"> The requested records are not in the possession of Google ZA.⁶⁹
<p>14, 15, 16 and 16.1.⁷⁰</p>	<p>In Alphabet’s 2022 annual report (“2022 Annual Report”) it is stated at page 12 that: <i>“In the US, we launched a new feature to help readers discover local and regional news from different states so they could better understand election coverage of the races they most care about.”</i> In this regard Caxton requests:</p> <p>At page 15 of the 2022 Annual Report it is stated that <i>“People in affected areas turned to Search to find the latest news and information in where to find shelter and aid.”</i></p> <p>At page 31 of the 2022 Annual Report it is stated that : <i>“Communities around the world rely on local news to thrive and stay connected. More than 90% of the publications that are part of the Google News Showcase, our curated online news experience and licensing program, represent local, community and regional news.”</i> In this regard, Caxton requests:</p> <p>Records of Google’s determination of the news titles which can be included in Google News Showcase.</p> <p>(Annexure A - para 16.1)</p>		X	<ul style="list-style-type: none"> The Requester has not adequately demonstrated how the requested records will assist in exercising or protecting the right to media freedom. The Requester has not established a connection between the requested records and the right to media freedom.⁷¹ To the extent that the requested records are sought to <i>“fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law ...”</i>, such records are sought for the purpose of pre-litigation discovery which is impermissible. Further, the Requester has not adequately demonstrated how the requested records are required for the Requester to exercise or protect its right to <i>“fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law.”</i>⁷² To the extent that the requested records are sought to <i>“meaningfully participate in the ongoing Media and Digital Platforms Market Inquiry (Inquiry) initiated by the Competition Commission”</i>, the Requester has not provided an adequate explanation of why the requested records are required for the Requester to exercise its right to meaningfully participate in the Inquiry.⁷³

⁶⁹ Section 1 of PAIA: Definition of Record.

⁷⁰ We understand that items 14, 15, and 16 do not request any records. Hence, the information provided here is in response to item 16.1.

⁷¹ Section 50(1) of PAIA.

⁷² Section 67 of PAIA.

⁷³ Section 50(1) of PAIA.

				<ul style="list-style-type: none"> ● Google ZA is not in possession of the requested records.⁷⁴
16.2	<p>Records of any indigenous languages which have been included by Google in its product partnerships.</p> <p>(Annexure A - para 16.2)</p>		X	<ul style="list-style-type: none"> ● The Requester has not adequately demonstrated how the requested records will assist in exercising or protecting the right to media freedom. The Requester has not established a connection between the requested records and the right to media freedom.⁷⁵ ● To the extent that the requested records are sought to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law ...</i>”, such records are sought for the purpose of pre-litigation discovery which is impermissible. Further, the Requester has not adequately demonstrated how the requested records are required for the Requester to exercise or protect its right to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law.</i>”⁷⁶ ● To the extent that the requested records are sought to “<i>meaningfully participate in the ongoing Media and Digital Platforms Market Inquiry (Inquiry) initiated by the Competition Commission</i>”, the Requester has not provided an adequate explanation as to why the requested records are required for the Requester to exercise its right to meaningfully participate in the Inquiry.⁷⁷ ● The requested records are not in the possession of Google ZA.⁷⁸

⁷⁴ Section 1 of PAIA: Definition of Record.

⁷⁵ Section 50(1) of PAIA.

⁷⁶ Section 67 of PAIA.

⁷⁷ Section 50(1) of PAIA.

⁷⁸ Section 1 of PAIA: Definition of Record.

<p>17.1</p>	<p>We understand that Google collects users' data. It is unclear what data Google collects on users that use Caxton's domains. Caxton asks that Google provides the following:</p> <p>Records pertaining to the manner in which Google makes Caxton's data and journalistic output available to Google's users.</p> <p>(Annexure A - para 17.1)</p>		<p>X</p>	<ul style="list-style-type: none"> ● The Requester has not adequately demonstrated how the requested records will assist in exercising or protecting the right to media freedom. The Requester has not established a connection between the requested records and the right to media freedom.⁷⁹ ● To the extent that the requested records are sought to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law ...</i>”, such records are sought for the purpose of pre-litigation discovery which is impermissible. Further, the Requester has not adequately demonstrated how the requested records are required for the Requester to exercise or protect its right to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law.</i>”⁸⁰ ● To the extent that the requested records are sought to “<i>meaningfully participate in the ongoing Media and Digital Platforms Market Inquiry (Inquiry) initiated by the Competition Commission</i>”, the Requester has not provided an adequate explanation as to why the requested records are required for the Requester to exercise its right to meaningfully participate in the Inquiry.⁸¹ ● The requested records are not in the possession of Google ZA.⁸²
<p>17.2</p>	<p>Records of any user data which Google collects from users while</p>		<p>X</p>	<ul style="list-style-type: none"> ● The Requester has not adequately demonstrated how the requested records will assist in exercising or protecting the right to media freedom. The Requester has not established a

⁷⁹ Section 50(1) of PAIA.

⁸⁰ Section 67 of PAIA.

⁸¹ Section 50(1) of PAIA.

⁸² Section 1 of PAIA: Definition of Record.

	<p>they are reading Caxton's journalistic output.</p> <p>(Annexure A - para 17.2)</p>			<p>connection between the requested records and the right to media freedom.⁸³</p> <ul style="list-style-type: none"> To the extent that the requested records are sought to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law ...</i>”, such records are sought for the purpose of pre-litigation discovery which is impermissible. Further, the Requester has not adequately demonstrated how the requested records are required for the Requester to exercise or protect its right to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law.</i>”⁸⁴ To the extent that the requested records are sought to “<i>meaningfully participate in the ongoing Media and Digital Platforms Market Inquiry (Inquiry) initiated by the Competition Commission</i>”, the Requester has not provided an adequate explanation as to why the requested records are required for the Requester to exercise its right to meaningfully participate in the Inquiry.⁸⁵ The requested records are not in the possession of Google ZA.⁸⁶
<p>17.3</p>	<p>Records of any use by Google of this user data to re-target audiences with advertising solutions.</p> <p>(Annexure A - para 17.3)</p>		<p>X</p>	<ul style="list-style-type: none"> The Requester has not adequately demonstrated how the requested records will assist in exercising or protecting the right to media freedom. The Requester has not established a connection between the requested records and the right to media freedom.⁸⁷ To the extent that the requested records are sought to “<i>fully consider and vindicate any</i>

⁸³ Section 50(1) of PAIA.

⁸⁴ Section 67 of PAIA.

⁸⁵ Section 50(1) of PAIA.

⁸⁶ Section 1 of PAIA: Definition of Record.

⁸⁷ Section 50(1) of PAIA.

				<p><i>actionable rights and corresponding claims which it may enjoy against Google in law ...”, such records are sought for the purpose of pre-litigation discovery which is impermissible. Further, the Requester has not adequately demonstrated how the requested records are required for the Requester to exercise or protect its right to “fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law.”⁸⁸</i></p>
				<ul style="list-style-type: none"> ● To the extent that the requested records are sought to “<i>meaningfully participate in the ongoing Media and Digital Platforms Market Inquiry (Inquiry) initiated by the Competition Commission</i>”, the Requester has not provided an adequate explanation as to why the requested records are required for the Requester to exercise its right to meaningfully participate in the Inquiry.⁸⁹
				<ul style="list-style-type: none"> ● The requested records are not in the possession of Google ZA.⁹⁰
17.4	Records of any collection by Google of any user data through any tech solution that Caxton might use e.g. GAM (Annexure A - para 17.4)		X	<ul style="list-style-type: none"> ● The Requester has not adequately demonstrated how the requested records will assist in exercising or protecting the right to media freedom. The Requester has not established a connection between the requested records and the right to media freedom.⁹¹
				<ul style="list-style-type: none"> ● To the extent that the requested records are sought to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law ...”</i>, such records are sought for the purpose of pre-litigation discovery which is impermissible. Further, the Requester has not adequately demonstrated how the requested records are required for the Requester to exercise or protect

⁸⁸ Section 67 of PAIA.

⁸⁹ Section 50(1) of PAIA.

⁹⁰ Section 1 of PAIA: Definition of Record.

⁹¹ Section 50(1) of PAIA.

				<p>its right to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law.</i>”⁹²</p>
				<ul style="list-style-type: none"> ● To the extent that the requested records are sought to “<i>meaningfully participate in the ongoing Media and Digital Platforms Market Inquiry (Inquiry) initiated by the Competition Commission</i>”, the Requester has not provided an adequate explanation as to why the requested records are required for the Requester to exercise its right to meaningfully participate in the Inquiry.⁹³
				<ul style="list-style-type: none"> ● The requested records are not in the possession of Google ZA.⁹⁴
18.1.1	<p>Records of any data showing the impact on Caxton's journalistic content affected by Google's algorithms, in terms of search results on the SERP.</p> <p>(Annexure A - para 18.1.1)</p>			<ul style="list-style-type: none"> ● This request is not understood. The Requester is invited to explain the request.
18.1.2	<p>Records of any differentiation or identification processes by Google's algorithms in establishing what content amounts to news content.</p> <p>(Annexure A - para 18.1.2)</p>		X	<ul style="list-style-type: none"> ● The Requester has not adequately demonstrated how the requested records will assist in exercising or protecting the right to media freedom. The Requester has not established a connection between the requested records and the right to media freedom.⁹⁵
				<ul style="list-style-type: none"> ● To the extent that the requested records are sought to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law ...</i>”, such records are sought for the purpose of pre-litigation discovery which is impermissible. Further, the Requester has not adequately

⁹² Section 67 of PAIA.

⁹³ Section 50(1) of PAIA.

⁹⁴ Section 1 of PAIA: Definition of Record.

⁹⁵ Section 50(1) of PAIA.

				<p>demonstrated how the requested records are required for the Requester to exercise or protect its right to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law.</i>”⁹⁶</p>
				<ul style="list-style-type: none"> To the extent that the requested records are sought to “<i>meaningfully participate in the ongoing Media and Digital Platforms Market Inquiry (Inquiry) initiated by the Competition Commission</i>”, the Requester has not provided an adequate explanation as to why the requested records are required for the Requester to exercise its right to meaningfully participate in the Inquiry.⁹⁷
				<ul style="list-style-type: none"> The requested records are not in the possession of Google ZA.⁹⁸
18.1.3	Records that show how Google's algorithms determine what content is news content. (Annexure A - para 18.1.3)			<ul style="list-style-type: none"> We understand this request to be a repetition of item 18.1.2 above.
18.1.4	Records of the number of referral clicks which Google has directed toward Caxton's news sites in the past 12 months and records of how Google determines “free referral clicks.” (Annexure A - para 18.1.4)		X	<ul style="list-style-type: none"> The Requester has not adequately demonstrated how the requested records will assist in exercising or protecting the right to media freedom. The Requester has not established a connection between the requested records and the right to media freedom.⁹⁹
				<ul style="list-style-type: none"> To the extent that the requested records are sought to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law ...</i>”, such records are sought for the purpose of pre-litigation discovery which is impermissible. Further, the Requester has not adequately

⁹⁶ Section 67 of PAIA.

⁹⁷ Section 50(1) of PAIA.

⁹⁸ Section 1 of PAIA: Definition of Record.

⁹⁹ Section 50(1) of PAIA.

				<p>demonstrated how the requested records are required for the Requester to exercise or protect its right to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law.</i>”¹⁰⁰</p>
				<ul style="list-style-type: none"> To the extent that the requested records are sought to “<i>meaningfully participate in the ongoing Media and Digital Platforms Market Inquiry (Inquiry) initiated by the Competition Commission</i>”, the Requester has not provided an adequate explanation as to why the requested records are required for the Requester to exercise its right to meaningfully participate in the Inquiry.¹⁰¹
18.1.5	Records of any intentional deprioritisation of Caxton news content on the Google Search Engine Results Page. (Annexure A - para 18.1.5)		X	<ul style="list-style-type: none"> This request is not understood. The Requester is invited to explain the request.
18.1.6	Records of any protocols applied by Google for deprioritizing news in search results and records of explanations for this. (Annexure A - para 18.1.6)		X	<ul style="list-style-type: none"> This request is not understood. The Requester is invited to explain the request.
18.1.7	Records of the metrics or factors used by Google to determine whether news content should be deprioritized in search results. (Annexure A-para 18.1.7)		X	<ul style="list-style-type: none"> This request is not understood. The Requester is invited to explain the request.

¹⁰⁰ Section 67 of PAIA.

¹⁰¹ Section 50(1) of PAIA.

<p>18.1.8</p>	<p>Records showing the calculation of the percentage of Google users who conduct a search for news and merely review the results on the SERP and do not click through to a publisher's website</p> <p>(Annexure A - para 18.1.8)</p>		<p>X</p>	<ul style="list-style-type: none"> ● The Requester has not adequately demonstrated how the requested records will assist in exercising or protecting the right to media freedom. The Requester has not established a connection between the requested records and the right to media freedom.¹⁰²
				<ul style="list-style-type: none"> ● To the extent that the requested records are sought to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law ...</i>”, such records are sought for the purpose of pre-litigation discovery which is impermissible. Further, the Requester has not adequately demonstrated how the requested records are required for the Requester to exercise or protect its right to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law.</i>”¹⁰³
				<ul style="list-style-type: none"> ● To the extent that the requested records are sought to “<i>meaningfully participate in the ongoing Media and Digital Platforms Market Inquiry (Inquiry) initiated by the Competition Commission</i>”, the Requester has not provided an adequate explanation as to why the requested records are required for the Requester to exercise its right to meaningfully participate in the Inquiry.¹⁰⁴
				<ul style="list-style-type: none"> ● The requested records are not in the possession of Google ZA.¹⁰⁵

¹⁰² Section 50(1) of PAIA.

¹⁰³ Section 67 of PAIA.

¹⁰⁴ Section 50(1) of PAIA.

¹⁰⁵ Section 1 of PAIA: Definition of Record.

<p>18.1.9</p>	<p>Records of any scanning by Google of Caxton’s domains/news sites in order to display recent content on Google Search Engine Results Page and Google News within seconds of publication.</p> <p>(Annexure A-para 18.1.9)</p>		<p>X</p>	<ul style="list-style-type: none"> ● The Requester has not adequately demonstrated how the requested records will assist in exercising or protecting the right to media freedom. The Requester has not established a connection between the requested records and the right to media freedom.¹⁰⁶
				<ul style="list-style-type: none"> ● To the extent that the requested records are sought to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law ...</i>”, such records are sought for the purpose of pre-litigation discovery which is impermissible. Further, the Requester has not adequately demonstrated how the requested records are required for the Requester to exercise or protect its right to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law.</i>”¹⁰⁷
				<ul style="list-style-type: none"> ● To the extent that the requested records are sought to “<i>meaningfully participate in the ongoing Media and Digital Platforms Market Inquiry (Inquiry) initiated by the Competition Commission</i>”, the Requester has not provided an adequate explanation as to why the requested records are required for the Requester to exercise its right to meaningfully participate in the Inquiry.¹⁰⁸
				<ul style="list-style-type: none"> ● To the best of Google ZA’s knowledge and belief, the requested records do not exist.¹⁰⁹
				<ul style="list-style-type: none"> ● The requested records are not in the possession of Google ZA.¹¹⁰

¹⁰⁶ Section 50(1) of PAIA.

¹⁰⁷ Section 67 of PAIA.

¹⁰⁸ Section 50(1) of PAIA.

¹⁰⁹ Section 55(1) – (3) of PAIA.

¹¹⁰ Section 1 of PAIA: Definition of Record.

<p>18.1.10</p>	<p>Records of the mechanisms used by Google use [to] ensure the news it displays is "<i>relevant, original, trustworthy and high-quality journalism.</i>"</p> <p>(Annexure A - para 18.1.10)</p>		<p>X</p>	<ul style="list-style-type: none"> ● The Requester has not adequately demonstrated how the requested records will assist in exercising or protecting the right to media freedom. The Requester has not established a connection between the requested records and the right to media freedom.¹¹¹ ● To the extent that the requested records are sought to "<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law ...</i>", such records are sought for the purpose of pre-litigation discovery which is impermissible. Further, the Requester has not adequately demonstrated how the requested records are required for the Requester to exercise or protect its right to "<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law.</i>"¹¹² ● To the extent that the requested records are sought to "<i>meaningfully participate in the ongoing Media and Digital Platforms Market Inquiry (Inquiry) initiated by the Competition Commission</i>", the Requester has not provided an adequate explanation as to why the requested records are required for the Requester to exercise its right to meaningfully participate in the Inquiry.¹¹³
<p>18.1.11</p>	<p>Records of any steps taken by Google to mitigate against the unlawful use of news content (plagiarism) by unscrupulous news outlets.</p>		<p>X</p>	<ul style="list-style-type: none"> ● The Requester has not adequately demonstrated how the requested records will assist in exercising or protecting the right to media freedom. The Requester has not established a connection between the requested records and the right to media freedom.¹¹⁴

¹¹¹ Section 50(1) of PAIA.

¹¹² Section 67 of PAIA.

¹¹³ Section 50(1) of PAIA.

¹¹⁴ Section 50(1) of PAIA.

	(Annexure A - para 18.1.11)			<ul style="list-style-type: none"> To the extent that the requested records are sought to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law ...</i>”, such records are sought for the purpose of pre-litigation discovery which is impermissible. Further, the Requester has not adequately demonstrated how the requested records are required for the Requester to exercise or protect its right to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law.</i>”¹¹⁵ To the extent that the requested records are sought to “<i>meaningfully participate in the ongoing Media and Digital Platforms Market Inquiry (Inquiry) initiated by the Competition Commission</i>”, the Requester has not provided an adequate explanation as to why the requested records are required for the Requester to exercise its right to meaningfully participate in the Inquiry.¹¹⁶ The requested records are not in the possession of Google ZA.¹¹⁷
19.1	<p>Records of the direct revenue Google has made from "news" in the preceding decade.</p> <p>(Annexure A - para 19.1)</p>		X	<ul style="list-style-type: none"> The Requester has not adequately demonstrated how the requested records will assist in exercising or protecting the right to media freedom. The Requester has not established a connection between the requested records and the right to media freedom.¹¹⁸ To the extent that the requested records are sought to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law ...</i>”, such records are sought for the purpose of pre-litigation discovery which is impermissible.

¹¹⁵ Section 67 of PAIA.

¹¹⁶ Section 50(1) of PAIA.

¹¹⁷ Section 1 of PAIA: Definition of Record.

¹¹⁸ Section 50(1) of PAIA.

				<p>Further, the Requester has not adequately demonstrated how the requested records are required for the Requester to exercise or protect its right to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law.</i>”¹¹⁹</p>
				<ul style="list-style-type: none"> ● To the extent that the requested records are sought to “<i>meaningfully participate in the ongoing Media and Digital Platforms Market Inquiry (Inquiry) initiated by the Competition Commission</i>”, the Requester has not provided an adequate explanation as to why the requested records are required for the Requester to exercise its right to meaningfully participate in the Inquiry.¹²⁰
				<ul style="list-style-type: none"> ● The requested records are not in the possession of Google ZA.¹²¹
19.2	<p>Records of the calculation of direct revenue Google determine[s] direct revenue.</p> <p>(Annexure A - para 19.2)</p>		X	<ul style="list-style-type: none"> ● The Requester has not adequately demonstrated how the requested records will assist in exercising or protecting the right to media freedom. The Requester has not established a connection between the requested records and the right to media freedom.¹²²
				<ul style="list-style-type: none"> ● To the extent that the requested records are sought to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law ...</i>”, such records are sought for the purpose of pre-litigation discovery which is impermissible. Further, the Requester has not adequately demonstrated how the requested records are required for the Requester to exercise or protect its right to “<i>fully consider and vindicate any</i>

¹¹⁹ Section 67 of PAIA.

¹²⁰ Section 50(1) of PAIA.

¹²¹ Section 1 of PAIA: Definition of Record.

¹²² Section 50(1) of PAIA.

				<p><i>actionable rights and corresponding claims which it may enjoy against Google in law.”</i>¹²³</p> <ul style="list-style-type: none"> ● To the extent that the requested records are sought to “<i>meaningfully participate in the ongoing Media and Digital Platforms Market Inquiry (Inquiry) initiated by the Competition Commission</i>”, the Requester has not provided an adequate explanation as to why the requested records are required for the Requester to exercise its right to meaningfully participate in the Inquiry.¹²⁴ ● The requested records are not in the possession of Google ZA.¹²⁵
20.1	<p>Records of any benefit derived by Google from Caxton's journalistic output being available within Google's ecosystem / on Google surfaces.</p> <p>(Annexure A - para 20.1)</p>		X	<ul style="list-style-type: none"> ● The Requester has not adequately demonstrated how the requested records will assist in exercising or protecting the right to media freedom. The Requester has not established a connection between the requested records and the right to media freedom.¹²⁶ ● To the extent that the requested records are sought to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law ...</i>”, such records are sought for the purpose of pre-litigation discovery which is impermissible. Further, the Requester has not adequately demonstrated how the requested records are required for the Requester to exercise or protect its right to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law.</i>”¹²⁷

¹²³ Section 67 of PAIA.

¹²⁴ Section 50(1) of PAIA.

¹²⁵ Section 1 of PAIA: Definition of Record.

¹²⁶ Section 50(1) of PAIA.

¹²⁷ Section 67 of PAIA.

				<ul style="list-style-type: none"> To the extent that the requested records are sought to “<i>meaningfully participate in the ongoing Media and Digital Platforms Inquiry (Inquiry) initiated by the Competition Commission</i>”, the Requester has not provided an adequate explanation as to why the requested records are required for the Requester to exercise its right to meaningfully participate in the Inquiry.¹²⁸
				<ul style="list-style-type: none"> To the best of Google ZA’s knowledge and belief, the requested records do not exist.¹²⁹
				<ul style="list-style-type: none"> The requested records are not in the possession of Google ZA.¹³⁰
20.2	Records of the calculation of the percentage of Google search results which can be classified as news searches. (Annexure A - para 20.2)		X	<ul style="list-style-type: none"> The Requester has not adequately demonstrated how the requested records will assist in exercising or protecting the right to media freedom. The Requester has not established a connection between the requested records and the right to media freedom.¹³¹
				<ul style="list-style-type: none"> To the extent that the requested records are sought to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law ...</i>”, such records are sought for the purpose of pre-litigation discovery which is impermissible. Further, the Requester has not adequately demonstrated how the requested records are required for the Requester to exercise or protect its right to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law.</i>”¹³²

¹²⁸ Section 50(1) of PAIA.

¹²⁹ Section 55(1) – (3) of PAIA.

¹³⁰ Section 1 of PAIA: Definition of Record.

¹³¹ Section 50(1) of PAIA.

¹³² Section 67 of PAIA.

				<ul style="list-style-type: none"> To the extent that the requested records are sought to “<i>meaningfully participate in the ongoing Media and Digital Platforms Market Inquiry (Inquiry) initiated by the Competition Commission</i>”, the Requester has not provided an adequate explanation as to why the requested records are required for the Requester to exercise its right to meaningfully participate in the Inquiry.¹³³
20.3	<p>Records of any determination by Google of the trustworthiness of Caxton's content and of any use by Google of Caxton's data to test if other sources are trustworthy in any way.</p> <p>(Annexure A - para 20.3)</p>		X	<ul style="list-style-type: none"> The Requester has not adequately demonstrated how the requested records will assist in exercising or protecting the right to media freedom. The Requester has not established a connection between the requested records and the right to media freedom.¹³⁴ To the extent that the requested records are sought to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law ...</i>”, such records are sought for the purpose of pre-litigation discovery which is impermissible. Further, the Requester has not adequately demonstrated how the requested records are required for the Requester to exercise or protect its right to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law.</i>”¹³⁵ To the extent that the requested records are sought to “<i>meaningfully participate in the ongoing Media and Digital Platforms Market Inquiry (Inquiry) initiated by the Competition Commission</i>”, the Requester has not provided an adequate explanation as to why the requested records are required for the Requester to

¹³³ Section 50(1) of PAIA.

¹³⁴ Section 50(1) of PAIA.

¹³⁵ Section 67 of PAIA.

				<p>exercise its right to meaningfully participate in the Inquiry.¹³⁶</p>
				<ul style="list-style-type: none"> ● To the best of Google ZA’s knowledge and belief, the requested records do not exist.¹³⁷
				<ul style="list-style-type: none"> ● The requested records are not in the possession of Google ZA.¹³⁸
20.4	<p>Records of the calculation of the percentage of searches made on Google in South Africa which could be classified as “information searches.”</p> <p>(Annexure A - para 20.4)</p>		X	<ul style="list-style-type: none"> ● The Requester has not adequately demonstrated how the requested records will assist in exercising or protecting the right to media freedom. The Requester has not established a connection between the requested records and the right to media freedom.¹³⁹
				<ul style="list-style-type: none"> ● To the extent that the requested records are sought to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law ...</i>”, such records are sought for the purpose of pre-litigation discovery which is impermissible. Further, the Requester has not adequately demonstrated how the requested records are required for the Requester to exercise or protect its right to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law.</i>”¹⁴⁰
				<ul style="list-style-type: none"> ● To the extent that the requested records are sought to “<i>meaningfully participate in the ongoing Media and Digital Platforms Market Inquiry (Inquiry) initiated by the Competition Commission</i>”, the Requester has not provided an adequate explanation as to why the requested records are required for the Requester to

¹³⁶ Section 50(1) of PAIA.

¹³⁷ Section 55(1) – (3) of PAIA.

¹³⁸ Section 1 of PAIA: Definition of Record.

¹³⁹ Section 50(1) of PAIA.

¹⁴⁰ Section 67 of PAIA.

				<p>exercise its right to meaningfully participate in the Inquiry.¹⁴¹</p>
				<ul style="list-style-type: none"> ● To the best of Google ZA’s knowledge and belief, the requested records do not exist.¹⁴²
				<ul style="list-style-type: none"> ● The requested records are not in the possession of Google ZA.¹⁴³
20.5	<p>Records of the calculation of the percentage of South African Google search results which have included Caxton’s journalistic content as part of the results on a Google Search Engine Results Page. made on Google in South Africa which could be classified as "information searches"</p> <p>(Annexure A - para 20.5)</p>		X	<ul style="list-style-type: none"> ● The Requester has not adequately demonstrated how the requested records will assist in exercising or protecting the right to media freedom. The Requester has not established a connection between the requested records and the right to media freedom.¹⁴⁴
				<ul style="list-style-type: none"> ● To the extent that the requested records are sought to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law ...</i>”, such records are sought for the purpose of pre-litigation discovery which is impermissible. Further, the Requester has not adequately demonstrated how the requested records are required for the Requester to exercise or protect its right to “<i>fully consider and vindicate any actionable rights and corresponding claims which it may enjoy against Google in law.</i>”¹⁴⁵
				<ul style="list-style-type: none"> ● To the extent that the requested records are sought to “<i>meaningfully participate in the ongoing Media and Digital Platforms Market Inquiry (Inquiry) initiated by the Competition Commission</i>”, the Requester has not provided

¹⁴¹ Section 50(1) of PAIA.

¹⁴² Section 55(1) – (3) of PAIA.

¹⁴³ Section 1 of PAIA: Definition of Record.

¹⁴⁴ Section 50(1) of PAIA.

¹⁴⁵ Section 67 of PAIA.

				<p>an adequate explanation as to why the requested records are required for the Requester to exercise its right to meaningfully participate in the Inquiry.¹⁴⁶</p>
				<ul style="list-style-type: none"> ● To the best of Google ZA’s knowledge and belief, the requested records do not exist.¹⁴⁷
				<ul style="list-style-type: none"> ● The requested records are not in the possession of Google ZA.¹⁴⁸
20.6	<p>Records of the amount of keywords that have been sold in the preceding year in South Africa.</p> <p>(Annexure A - para 20.6)</p>		X	<ul style="list-style-type: none"> ● This request is not understood. The Requester is invited to clarify the request.
20.7	<p>Records of the amount of revenue contributed by keywords to the gross revenue generated in South Africa in 2023.</p> <p>(Annexure A - para 20.7)</p>		X	<ul style="list-style-type: none"> ● This request is not understood. The Requester is invited to clarify the request.

¹⁴⁶ Section 50(1) of PAIA.

¹⁴⁷ Section 55(1) – (3) of PAIA.

¹⁴⁸ Section 1 of PAIA: Definition of Record.

**AFFIDAVIT IN TERMS OF SECTION 55(1) OF THE PROMOTION OF ACCESS TO
INFORMATION ACT 2 OF 2000**

I, the undersigned,

ALISTAIR MOKOENA

do hereby make oath and state that:

1. I am an adult male currently employed as the Country Director of Google South Africa (Pty) Limited (**Google ZA**). I am duly authorised to depose to this affidavit.
2. I make this affidavit on behalf of Google ZA and not on behalf of Google Ireland Ltd and Google LLC.
3. The facts contained in this affidavit fall within my personal knowledge, save where otherwise stated or where the contrary appears from the context, and are to the best of my belief both true and correct.
4. I have been the Country Director of Google ZA since April 2020. My role includes the day-to-day operation of Google ZA, which includes managing the employees based in Google ZA's Johannesburg office and overseeing the implementation of Google ZA's primary activities. Where necessary, my role entails liaising with other Google entities on marketing initiatives in South Africa.
5. On 4 March 2024, Caxton and CTP Publishers and Printers Limited (**Caxton**) issued a request to Google LLC, Google Ireland Limited and Google ZA for access to



information in terms of section 53(1) of PAIA. I refer to this request for information as the PAIA Request.

6. I have reviewed the PAIA Request and Google ZA's response to the PAIA Request (the **Response**).
7. The purpose of this affidavit is to confirm in terms of section 55(1)(b)(ii) of PAIA that there are reasonable grounds to believe that the records requested in items 1, 2, 3, 4, 5, 13.1, 13.2, 13.3, 18.1.9, 20.1, 20.3, 20.4, and 20.5 of the PAIA Request to the best of my knowledge and belief do not exist and accordingly, it is not possible to give access to these records (the **Requested Records**).
8. In relation to certain items of the requests, based on my knowledge and to the best of my belief, the requested record and responsive data points simply do not exist. I also point out that certain of the requests ask for records containing specific, bespoke data points that are of a nature that would not ordinarily exist in the normal course of Google's business, as far I am aware. Based on my experience, to bring into existence a record containing the types of specific data points mentioned, would require deliberate application of effort and skill to calculate and compile the data and then articulate it in a record (for example in an excel spreadsheet). In any event, Google ZA does not have access to such data and does not have the capabilities to create such records and to the best of my knowledge such records have not been created and do not exist.





ALISTAIR MOKOENA

Signed and sworn to before me at Sandton on this 29th day of April 2024, the deponent having sworn that the contents of this affidavit are true, acknowledges that he knows and understands the contents of this affidavit, that he has no objection to taking the prescribed oath, and that he considers the prescribed oath to be binding on his conscience.



COMMISSIONER OF OATHS

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