Case C-250/25

Summary of the request for a preliminary ruling pursuant to Article 98(1) of the Rules of Procedure of the Court of Justice

Date lodged:

3 April 2025

Referring court:

Budapest Környéki Törvényszék (Hungary)

Date of the decision to refer:

10 March 2025

Applicant:

Like Company

Defendant:

Google Ireland Limited

Subject matter of the main proceedings

The display, in the responses of a chatbot based on a large language model (‘LLM’), of a text partially identical to the content of the website of a press publisher, and also the communication to the public, reproduction and possible free use of that content.

Subject matter and legal basis of the request

Categorisation, in accordance with Article 3 of Directive 2001/29 and Article 15 of Directive 2019/790, of editorial content which can be accessed through the responses given by the services of a chatbot, and also of the information communicated by means of editorial content which can be accessed through the results of a search.

The request for a preliminary ruling is made on the basis of Article 267 TFEU.

Questions referred for a preliminary ruling

1. Must Article 15(1) of Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 [on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC], and Article 3(2) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society, be interpreted as meaning that the display, in the responses of an LLM-based chatbot, of a text partially identical to the content of web pages of press publishers, where the length of that text is such that it is already protected under Article 15 of Directive 2019/790, constitutes an instance of communication to the public? If the answer to that question is in the affirmative, does the fact that [the responses in question are] the result of a process in which the chatbot merely predicts the next word on the basis of observed patterns have any relevance?

2. Must Article 15(1) of Directive 2019/790 and Article 2 of Directive 2001/29 be interpreted as meaning that the process of training an LLM-based chatbot constitutes an instance of reproduction, where that LLM is built on the basis of the observation and matching of patterns, making it possible for the model to learn to recognise linguistic patterns?

3. If the answer to the second question referred is in the affirmative, does such reproduction of lawfully accessible works fall within the exception provided for in Article 4 of Directive 2019/790, which ensures free use for the purposes of text and data mining?

4. Must Article 15(1) of Directive 2019/790 and Article 2 of Directive 2001/29 be interpreted as meaning that, where a user gives an LLM-based chatbot an instruction which matches the text contained in a press publication, or which refers to that text, and the chatbot then generates its response based on the instruction given by the user, the fact that, in that response, part or all of the content of a press publication is displayed constitutes an instance of reproduction on the part of the chatbot service provider?

Provisions of European Union law relied on

Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC, recitals 54 and 55 and Article 15(1) and (2).

Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society, Articles 2 and 3(2).

Provisions of national law relied on

A szerzői jogról szóló 1999. évi LXXVI. törvény (Law LXXVI of 1999 on copyright), Paragraphs 82/A, 82/C and 94(1).

Az elektronikus kereskedelmi szolgáltatások, valamint az információs társadalommal összefüggő szolgáltatások egyes kérdéseiről szóló 2001. évi CVIII törvény (Law CVIII of 2001 on electronic commerce and information society services), Paragraphs 2(1d) and 7(3).

Succinct presentation of the facts and procedure in the main proceedings

1 The applicant, a commercial company incorporated in Hungary, is the publisher and operator of various news portals protected by intellectual property law.

2 The defendant, incorporated in Ireland, is a member of the Alphabet group of companies (Alphabet Inc.). It provides the services known as generative artificial intelligence (AI) chatbots, under the names Google Search and Google Gemini (formerly known as Bard), to users located in the European Economic Area and Switzerland.

3 The generative AI chatbot Gemini (Bard), operated by the defendant, functions in a similar way to search engines and helps to create new content, such as images, music and code. Google's general conditions of contract ['terms of service'] are also applicable to the generative AI chatbot Gemini (Bard), which functions, in part, through its interconnection with the search engine service Google Search, also operated by the defendant.

4 The generative AI chatbot has been trained by means of the observation and matching of patterns (something known as 'string searching'); that makes it possible to initiate 'conversations' with the chatbot, in which users are able to obtain detailed information about, inter alia, the content of press publications, and, in certain cases, create summaries of those publications. When a chatbot directly quotes a longer passage from a web page, it highlights that page, which enables users to access the source directly with a single click.

5 Gemini (Bard) is a basic model of the LLM type. It is neither an information database, nor an information retrieval system. It does not store copies of the data collected, but rather it converts them into tokens – that is, it breaks the texts down into minimum units – and processes them. That chatbot does not have a fixed database from which it is able to retrieve any data content at the request of users. It uses the Google Search database to collect data and also usually suggests that the user search for the subject in question in Google Search afterwards. When it is asked to directly, the chatbot operated by the defendant is capable of providing a response that displays the content of a protected press publication.

6 In the period in which the facts of this case occurred, the applicant, as a news media publisher, principally published literary works of a journalistic nature which were accessible to internet users. The applicant displays advertisements on its interfaces, for which it receives advertising revenue in proportion to the number of users who visit each interface.

7 An article appeared on one of the applicant's protected online press publications (balatonkornyeke.hu) stating that Kozsó, a well-known Hungarian singer, had not given up on his dream of putting dolphins in an aquarium next to Hungary's largest lake, Lake Balaton. That article also made reference to other online press publications belonging to the applicant, reporting on the hospitalisation of Kozsó, his interests, the fact that he had served a custodial sentence in the United States and also a fine he had received for electricity theft.

8 In response to the question 'Can you provide a summary in Hungarian of the online press publication that appeared on balatonkornyeke.hu regarding Kozsó's plan to introduce dolphins into the lake?', the defendant's chatbot provided a detailed response which included a summary of the information appearing in the news media belonging to the applicant.

9 The applicant asked the referring court to find that the defendant had infringed the applicant's rights under the relevant national and EU legislation, by reproducing through electronic means, between 13 June 2023 and 7 February 2024, the applicant's press publications, in order to make them available to the public, by cable or by any other means, or in any other way, such that members of the public could access them from a place and at a time individually chosen by them, and by making available to the public, between 13 June 2023 and 7 February 2024, the content of those press publications, such that members of the public could access them from a place and at a time individually chosen by them.

10 The defendant asked the court to dismiss the applicant's claim.

11 With regard to the questions referred for a preliminary ruling, at issue in the present dispute is whether the extent of the editorial content which is able to be accessed through the responses given by the Google Gemini (Bard) chatbot services (the different results and responses display different parts of a press publication, which, taken together, may provide a basis for compiling more extensive information) or the relevance of the information communicated by means of editorial content which is able to be accessed through the results of a search (for example, communicating a part or the whole of summaries, or to an extent that goes beyond a highlighted piece of content) may reach such a level that it is regarded as use of the publications, within the meaning of Article 15 of Directive 2019/790, and, therefore, that displaying the content in that way is also subject to consent and compensation.

The essential arguments of the parties in the main proceedings

12 According to the **applicant**, the chatbot's response clearly indicates that the chatbot 'knew' [(had accessed)] the content of the protected publication and the response constituted an instance of making [that content] available to the public and also its reproduction.

13 The applicant argues that there was continual infringing behaviour on the part of the defendant during the specified period, in view of the fact that the defendant made continual use (by means of reproduction and by making available to the public) of the applicant's protected press publications, in different ways and without its consent. According to the applicant, the extent of the use exceeded the 'use of individual words or very short extracts of a press publication'. The applicant submits that, without the publisher's consent, the title of a press publication, at most, may be used free of charge and that what constitutes a 'very short extract' cannot be determined on the basis of the length of the publications, since to do so could cause significant economic harm in the case of longer texts.

14 The applicant noted that Article 15 of Directive 2019/790 provided for a specific new protection for related rights in the case of press publishers. In essence, the consent of the publisher of the press publication is required for that publication to be used on an online platform (in this case, Google Search and Bard/Gemini, operated by the defendant).

15 In the opinion of the applicant, in order to comply with the principle of effectiveness, when interpreting the exception relating to the 'use of individual words or very short extracts of a press publication', the legislative objective of Article 15 of Directive 2019/790 must be taken into consideration. On that basis, the display of content free of charge, or which goes beyond mere references, harms the economic interests of online publishers. If the legislative objective which underlies Article 15 of Directive 2019/790 were not to make such uses subject to the payment of compensation, the provision would be devoid of purpose.

16 The fact that the applicant gave its consent for [its content] to be displayed in search engines does not mean that it also consented to the communication of that content beyond the extent of the display that the legislation may be understood to permit. The defendant did not pay any compensation and, therefore, there is no basis on which to talk about consent.

17 According to the applicant, the chatbot used works by Hungarian authors and, during its training, the defendant infringed the applicant's right of reproduction, since the quantity and relevance of the data that it supplied to the program exceeded the limits of the exception.

18 Furthermore, the responses given by the chatbot constitute an instance of communication to the public, even when the chatbot does not respond to the user's

question on a search engine results page generated on a new website, but rather in the form of chat in the chatbot interface, displaying protected content there.

19 The **defendant**, on the other hand, argues that the response generated by the chatbot does not constitute an instance of making [content] available to the public or reproduction. The defendant did not use any Hungarian hardware infrastructure to train the chatbot; that training did not take place in Hungary and, therefore, Hungarian law is not applicable.

20 According to the defendant, displaying the responses in the chatbot does not constitute reproduction, or making available to the public, in accordance with Hungarian legislation. The chatbot's responses do not reach a 'new public', within the meaning of the case-law of the Court of Justice, but rather they may be accessed by exactly the same public that is able to access the content originally uploaded; that is, all internet users. Moreover, the responses displayed do not reach the threshold for the application of 'individual words or very short extracts' provided for in the relevant Hungarian legislation.

21 [Even] if the fact of the defendant displaying the responses constituted an instance of reproduction or making available to the public, such reproduction would still be covered by the exception provided for in the cases of temporary acts of reproduction (Article 5(1) of Directive 2001/29) and text and data mining (Article 4 of Directive 2019/790). Therefore, the extracts which appear in the response do not exceed the limits relating to content and extent and nor do they [fall outside] the exceptions to legal protection.

22 Furthermore, the content of the response given by the chatbot is not identical to that of the relevant press articles of the applicant. The response only makes reference to some of the facts [appearing] in the protected content. On the other hand, it also contains information that does not come from the applicant's protected press publications. That additional information – and, therefore, most of the response – was simply a product of 'hallucination' on the part of the chatbot. Generative artificial intelligence, as an experimental technology, is constantly learning and, consequently, may provide inaccurate or inappropriate information, make errors of interpretation, or even make things up, which is known as 'hallucination'.

23 Users are able to use the Gemini (Bard) service to find ideas, search for simple explanations and increase their productivity. It is not an information database, but rather a creative tool, and, therefore, it does not have a fixed database from which it is able to retrieve any data content at the request of users. In order to collect data, it uses the Google Search database, and, in its response, it is able to display a modified version of an article, if the user has already provided the original version of the article in his or her instructions.

24 Article 15 of Directive 2019/790 is based on balance. It aims to compensate press publishers for their investments, while, at the same time, attempting to safeguard

the fundamental rights of users, in particular, the right of freedom of expression and information (Article 11 of the Charter of Fundamental Rights of the European Union). If the investments of press publishers had to be considered in relation to each extract, it would be contrary to the general principle that the [service] provider is not obliged to check, on its own initiative, the content of the web pages to which search results lead.

Succinct presentation of the reasoning in the request for a preliminary ruling

25 The applicant has requested that a question be referred to the Court of Justice for a preliminary ruling. In its opinion, it is in the interests of both parties, at the stage of determining the subject matter of the dispute, to know how the Court of Justice interprets the law in relation to new legal questions, yet to be ruled on, raised by a novel technology such as artificial intelligence, so that the parties are able to make the statements and arguments necessary in light of that interpretation, which they will not be able to do at a later stage in the proceedings.

26 Of particular relevance in this context is the relationship between Article 3(2) of Directive 2001/29 and Article 15 of Directive 2019/790; specifically, whether, in such cases, the former may exclude the application of the latter.

27 The referring court has to rule on a question which has not previously come before it, while also at issue is whether the functioning of artificial intelligence chatbots, which have appeared since the adoption and entry into force of the legislation relied on, is included in the substantive of scope of that legislation. The referring court considers it necessary to request a preliminary ruling in order to interpret the legal rules set out in the questions referred and the national provisions which are, in essence, identical to those rules.