

Meta response to the ACCC's Digital Platform Services Inquiry September 2023 Report - Issues Paper

21 April 2023

Executive summary

Meta appreciates the opportunity to respond to the ACCC's Issues Paper in relation to the *Digital Platform Services Inquiry (DPSI): Report on the expanding ecosystems of digital platform service providers (Issues Paper)*.

Meta supports the ACCC's focus on sharpening its analysis of areas where competition concerns can arise from ecosystems and expansion strategies and welcomes the ACCC's consideration of fundamental concepts and business practices of digital platform services. However, on the basis of the Issues Paper, we have some concerns about the ACCC's intended approach to the inquiry.

First, the ACCC's definition of an ecosystem is extremely broad. It appears to capture any instance in which a company supplies two or more products that are interrelated, including incremental enhancements that add new features or functionality to products or services as well as step-change expansions which enable new and improved products and services. These enhancements - no matter how they are undertaken - are fundamental to how businesses seek to grow and are the very essence of competition. As such, "ecosystems" within the ACCC's definition can be observed across the Australian economy, from telecommunications, to banking, to retail, and there is nothing inherent in digital ecosystem businesses that present greater risks of anticompetitive conduct or consumer harm than in other sectors. Although we recognise that the ACCC will use the inquiry to seek to better identify the characteristics of ecosystems that are more likely to give rise to concerns, we are concerned that starting from a generalised assumption that ecosystems are a business structure, or involve behaviour, that is specific to digital platforms and warrants scrutiny makes the concept of ecosystems meaningless and inutile as an analytical tool. This approach may also incline the ACCC to presume a concern, and to fail to recognise the enormous consumer benefits that may flow from linkages between complementary products and the intense competition that occurs between digital businesses in seeking to enhance and expand their product suites. Notably, consumers may benefit from:

- **Lower cost or free services:** Digital platforms, developers and businesses like Meta and many others provide services that are free to consumers and generally subsidised by personalised advertising.
- **Enhanced convenience and user-experience:** Digital platforms and traditional businesses alike routinely add new functionality and features to seek to enhance the convenience, usefulness and user experience of their services.
- **Developing innovative features:** Combining the resources of complementary digital platform services facilitates development of innovative features and functionalities.

Secondly, the scope and focus of the inquiry risks the ACCC presenting only a partial (and skewed) picture of the effects of ecosystem expansion on competition and forming overly generalised conclusions because:

- Despite the inquiry's ambition to understand in a generalised sense the "expansion strategies of digital platform service providers and the impact on competition", the Issues Paper takes a very selective focus in terms of the companies and services the ACCC will examine. It focuses only on an artificially narrow set of five digital businesses and, in doing so, it ignores several other large digital platforms, including (but not limited to) ByteDance, Alibaba Group, Sony Group and Tencent Holdings, which likewise offer an array of globally-significant interrelated products and services.

- The five digital businesses within scope exhibit enormous diversity in terms of the type and range of services offered and interrelationships between those services, which risks the ACCC reaching over-broad or generalised conclusions if it does not grapple properly with that diversity.
- The proposal in the Issues Paper to draw conclusions about digital platform ecosystems based on case studies of the supply of smart home devices and consumer cloud storage services is clearly problematic. These are both areas in which Meta is not active and where competitors' observed expansion strategies may bear no resemblance to Meta's strategies in other areas. It is unclear how analysis of expansion by one or two companies into these two product areas could translate into any meaningful insights or conclusions about the expansion by other companies into other services.

Thirdly, the existence of an ecosystem is not an “exacerbating source of competitive or consumer harm”¹ and does not itself indicate any greater risks of competition law concerns. Businesses that offer a variety of complementary services may be able to deliver consumers higher-quality, lower-cost services in a manner that enhances competition. As noted above, this can be observed right across the economy. Meta does not consider that there is anything unique or special about ecosystems that requires a different analysis or allows for a unifying theory that makes generalised conclusions about ecosystems. Any proper evaluation of platform expansion strategies requires a detailed, nuanced and fact-intensive analysis - it requires examining the specific strategy and conduct, what impacts there are on consumers, advertisers, developers or other user groups, strategies of rival platforms and what may occur in the counterfactual, and the structure and dynamic characteristics of the relevant market.

To illustrate, Meta's business is significantly different from the other four digital platforms examined by this inquiry. Some of our competitors benefit significantly from their integration and control of the mobile hardware and operating systems that third parties, including Meta, rely on to reach users. Apple's and Google's control over their respective mobile ecosystems allow them to set the “rules of the game” for competitors who seek to use their app stores, and they have both the ability and incentive to provide their own services with a competitive advantage. As one specific and recent example, Apple's App Tracking Transparency (**ATT**) policy entrenches Apple's control over the iOS ecosystem and advantages Apple's app-monetisation and advertising services, which has resulted in Apple rapidly increasing its revenue. That has significantly impacted the effectiveness of ads measurement for non-Apple advertising services, restricting the ability of advertisers to measure ad performance through the whole of the purchasing journey through those services. Likewise, the control that Apple exerts over its mobile OS and app store services ecosystem is also illustrated by Apple's restrictive App Store guidelines and decisions in relation to cross-platform gaming, web-based, and ad-supported apps which prevents them from lowering barriers to switching and lock consumers into iOS devices. What this shows is that examining anticompetitive conduct is fact-specific and necessarily requires a nuanced analysis.

Meta encourages the ACCC to use the present inquiry to better understand the drivers of digital platform growth strategies and competition between platforms to continually enhance product functionality and convenience, rather than to attempt to reach overarching or generalised conclusions about any heightened risk of competitive or consumer harms that might arise from the supply of services in an ‘ecosystem’.

¹ Issues Paper, p 5.

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1. The concept of ecosystems

The concept of an ecosystem is not a term of art and, as the ACCC recognises, there are many ways to define an ecosystem. The Issues Paper defines an ecosystem as encompassing the “wide range of interrelated products and services - whether interrelated through technical interoperability or by commercial practices such as bundling - offered by a single or related group of companies.”² In that way, the ACCC appears to regard as an ecosystem essentially any instance in which (i) a company supplies more than one product or feature; and (ii) there is any interrelationship between the company’s products and/or features.

That definition is extremely broad and captures ordinary business conduct that is fundamental to how businesses seek to grow and compete for customers. It is entirely conventional for businesses of all types to seek to attract or retain customers and grow revenues by enhancing their products or services through new or improved features or expanding their offering into complementary or adjacent areas where there is, or is expected to be, demand. Successful businesses are not static, especially in the fast-moving technology industry. In order to attract new users and maintain existing users’ levels of engagement, particularly with a website or app, digital businesses must continually seek to improve the functionality and convenience of their products.

For that reason, “ecosystems” within the ACCC’s definition can be observed across the Australian economy, including for example in the following sectors that impact all Australian consumers:

- Major telecommunications businesses, like Telstra and Optus, have expanded to offer a range of interconnected products and services, ranging from mobile plans, home broadband, entertainment services and the supply of various devices, and typically offer those products and services to consumers via bundled offers.³ Internationally, telecommunications companies are seeking to expand through a joint venture into digital advertising.⁴
- All Australian banks have expanded in various ways to offer a range of interrelated financial products, including retail banking and deposit products, superannuation products, home loans and business banking products, and are increasingly expanding into offering integrated digital banking experiences with new technologies like AI chatbots.⁵
- Major retailers, like Coles and Woolworths, have expanded organically and via acquisition well beyond their core supermarket businesses, into adjacent areas like liquor retailing, insurance, financial services and telecommunications. These offers are often linked through loyalty programs that provide personalised offers to consumers and are increasingly integrating technology like AI driven self-checkouts.⁶
- Media conglomerates like Nine Entertainment and News Corp have expanded to offer a range of media distribution services, including print and digital news media, radio

² Issues Paper, p 2.

³ See the Telstra website homepage, ‘Popular Products’, available at <https://www.telstra.com.au/>; see also the Optus website homepage, available at <https://www.optus.com.au>, which shows the variety of products offered by Optus.

⁴ [M.10815](#), Deutsche Telekom, Orange, Telefonica, Vodafone (2023).

⁵ See, for example, National Australia Bank, Financial Services Guide (2022), ‘Financial services and products we are authorised to provide’. Available: <https://www.nab.com.au/financial-services-guide>.

⁶ See, e.g.: Woolworths expands self-checkout AI, The Guardian, 19 February 2023: <https://www.theguardian.com/business/2023/feb/19/woolworths-expands-self-checkout-ai-that-critics-say-treats-every-customer-as-a-suspect>.

broadcasting, free-to-air television, classifieds advertising, podcasts and video streaming services.⁷

- Within the digital sector, Australian platform businesses like REA Group (majority-owned by News Corp) operate the largest residential and commercial real estate listings platforms, and have expanded via acquisition into related areas such as the supply of property data and analytics, share accommodation listings, and mortgage lending and broking.⁸

Digital “ecosystem” businesses do not inherently present greater risks of anti-competitive conduct or consumer harm than businesses offering a range of interrelated products and services in other sectors, such as those identified above. The ACCC has previously suggested that digital platforms present greater risks than other sectors because of the “strength and combination” of the presence of factors such as their importance to growth and productivity, market concentration, the intermediary role of two-sided platforms, network effects, and access to data.⁹ However, when compared to the major players in Australian telecommunications, banking, retailing, media and tech sectors, there is no robust basis for that conclusion. Certainly, all of those sectors are hugely important to Australia’s economic growth and productivity, have high market concentration (with several having previously been characterised by the ACCC as oligopolistic), often perform intermediary roles, benefit from network effects, and collect large amounts of high-quality consumer data.

We are therefore concerned that starting from this generalised assumption that ecosystems are a business structure, or involve behaviour, that specific to digital platforms and warrants scrutiny makes the concept of ecosystems meaningless and inutile as an analytical tool, and inclines the ACCC to presume a concern. It also risks ignoring the many benefits to consumers that flow from linkages between complementary products and the intense competition between businesses seeking to enhance and expand their product suites particularly in the digital sector.

Just as, for instance, consumers who select bundled internet and mobile plans ordinarily receive lower pricing, the convenience of receiving one bill and an enhanced user experience, in a digital context, the supply of complementary services may offer the following benefits to consumers:

- **Lower cost or free services:** Digital platforms like Meta, developers and other businesses provide services that are free to consumers and subsidised by other services such as personalised advertising. For instance, before Meta acquired WhatsApp, its users were required to pay to use the messaging service.¹⁰ Today, consumers benefit from WhatsApp as a free service, which, like Meta’s other services, is supported by personalised advertising.
- **Enhanced convenience and user-experience:** As discussed above, digital platforms routinely add new functionality and features to seek to enhance the convenience, usefulness and user experience of their services. For instance, as described in section 3 below, Facebook developed the Marketplace functionality in response to customer demand and pre-existing user behaviour to offer an enhanced feature for users to share

⁷ See Nine, ‘Brands’, Available: <https://www.nineforbrands.com.au/brands/>, and News Corporation, ‘Media Assets’, Available: <https://www.news corpora australia.com/media-assets/>.

⁸ See REA Group, ‘Our Network’. Available: <https://www.rea-group.com/about-us/business-and-brands/>.

⁹ ‘Opportunities and Challenges in the Digital Revolution’ (17 March 2023), Speech by ACCC Chair Gina Cass-Gottlieb. Available:

<https://www.accc.gov.au/about-us/media/speeches/opportunities-and-challenges-in-the-digital-revolution>

¹⁰ ‘Meta response to the ACCC’s Digital Platform Services Inquiry September 2022 Report Discussion Paper’ (28 April 2022), Submission by Meta, p 78. Available: <https://www.accc.gov.au/system/files/Meta.pdf>.

and discover content as part of their social experience. Likewise, Amazon's development of AmazonBasics and the Amazon's Choice designation and REA Group's launch of realestate.com.au Home Loans on its property search platform allowing users to apply for conditional approval and home loans are expansions that delivered greater choice, convenience and benefits to their users.

- **Innovative features:** Combining complementary digital platform services facilitates development of innovative features and functionalities. For example, since its acquisition by Meta, Instagram has benefitted from Facebook's infrastructure and technology to develop and enhance numerous features and functionalities, including photo tagging, location services, video functionality and chat functionality. Likewise, Amazon's introduction and promotion of its own streaming service, Amazon Prime Video, along with its subsequent investments like its acquisition of MGM, have all enabled it to challenge incumbents, such as Netflix and traditional TV as well as movie and video production companies.

2. Scope of ACCC inquiry

Despite the intention of the inquiry is to consider "the extent of any anti-competitive conduct that has resulted from the expanding ecosystems of providers of digital platform services",¹¹ the Issues Paper contemplates narrowing the focus of the inquiry by (i) examining the expansion strategies of only five large companies; and (ii) considering in detail two particular product areas, being smart home devices and consumer cloud storage services. While we understand the desire to narrow the inquiry into more manageable areas of focus, this approach is highly selective and risks being both overinclusive and underinclusive.

First, the focus on what the Issues Paper suggests are five of the largest technology companies is arbitrary and artificially narrow. There are several other substantial digital platform businesses not within the scope of the ACCC's inquiry that offer at least as broad an array of linked services as the five focus companies, including (but not limited to) ByteDance (spanning social sharing and discovery, e-commerce and virtual reality activities), Alibaba Group (with an ecosystem sprawling across cloud computing and AI, e-commerce, financial services, media and entertainment), Sony Group (which includes electronic products manufacturing, video game consoles and content publishing, music and film activities, among many other activities) and Tencent Holdings (whose WeChat 'super-app' combines social networking functionality, payments and ride-hailing functionality, among other things). In fact, as noted by the Forbes data cited in Figure 1 of the Issues Paper, both Alibaba Group and Tencent Holdings generate larger global revenues than Meta,¹² and each offers an array of globally-significant interrelated products and services. By excluding such platforms and service providers from its assessment, the ACCC's inquiry risks presenting only a partial (and skewed) picture of the effects of ecosystem expansion on competition.

Second, among the five companies on which the Issues Paper focuses, there is enormous diversity in terms of the type and range of services offered, the extent and nature of interrelationships between their services, and the commercial strategies being pursued. That diversity and variance is evident from the ACCC's own description of examples of "expanding ecosystems" and Figure 2 in the Issues Paper. Critically, as the Issues Paper itself shows, Meta is significantly different from the other four digital platforms examined by this inquiry. In particular, some of our competitors benefit significantly from their integration and control of the hardware and operating systems in

¹¹ Issues Paper, p 6.

¹² Forbes, 'The Global 200' (12 May 2022). Available: <https://www.forbes.com/lists/global200/?sh=78b8d0ca5ac0>.

the mobile ecosystem that third parties, including Meta, rely on to reach users. It will be essential for the ACCC to grapple properly with that diversity to avoid reaching overly generalised conclusions that do not apply to all ‘ecosystems’ or even all companies within the scope of its inquiry.

Third, the case studies proposed by the ACCC are not a proper basis to attempt to reach generalised conclusions. The Issues Paper proposes that the ACCC will focus its inquiry on the supply of smart home devices and consumer cloud storage services “as examples that demonstrate the expansion into other services and products that interrelate with their digital platform services.”¹³ The Issues Paper also notes that “these examples will provide us the opportunity to demonstrate the impact of the expanding ecosystems in greater detail.”¹⁴ The proposal to draw conclusions about digital platform ecosystems based on a study only of two product areas is clearly problematic. It is unclear how analysis of the expansion of one or two companies into smart home devices or consumer cloud storage services could translate into any meaningful insights or conclusions about the expansion by other companies into other, vastly different services (for example, advertising or cloud gaming) or the competitive dynamics in those other segments. Both smart home devices and consumer cloud storage are areas in which Meta is not active and where competitors’ observed expansion strategies may bear no resemblance to Meta’s strategies in other areas. Obviously, there are many different ways in which a business may expand into an adjacent product area and analysing the manner in which a small number of competitors have chosen to do so in one area does not provide any basis for generalised conclusions about whether expanding ecosystems may lead to competition or consumer harms.

Section 3 below provides background information on Meta’s products and services that is relevant to the ACCC’s consideration of the extent to which it operates an ‘ecosystem’, its expansion strategies, and the key differences between the platforms that are the focus of the inquiry.

3. Meta’s products and services

We build technology that helps people connect, find communities, and grow businesses. Our useful and engaging products and features enable people to connect and share with people and communities they care about through mobile devices, personal computers, virtual reality headsets and wearables. We also help people discover new interests and creators, and enable people to share their opinions, ideas, photos and videos, and other activities with audiences ranging from their closest family members and friends to the public at large, and stay connected everywhere by accessing our products. We are moving our offerings beyond 2D screens towards immersive experiences like augmented and virtual reality to help build the metaverse, which we believe is the next evolution in social technology. The metaverse will be built by many technology companies, and Meta will contribute products and services across an entire ecosystem of experiences, devices and new technologies, in a way that is open and portable in that ecosystem, just like the internet today.¹⁵ Further, digital platforms are already building experiences and products for the metaverse. As stated by Nick Clegg, Meta’s President for Global Affairs, “there won’t be a Meta-run metaverse, just as there isn’t a ‘Microsoft-internet’ or a ‘Google-internet’ today”;¹⁶

¹³ Issues Paper, p 4.

¹⁴ Issues Paper, p 4.

¹⁵ *Form 10K – Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act for the fiscal year ended December 31, 2022* Meta Platforms, Inc., p 7. Available:

<https://d18rnOp25nwr6d.cloudfront.net/CIK-0001326801/e574646c-c642-42d9-9229-3892b13aabfb.pdf>.

¹⁶ Nick Clegg, ‘*Making the metaverse: What it is, how it will be built, and why it matters*’ (18 May 2022).

Available:

<https://nickclegg.medium.com/making-the-metaverse-what-it-is-how-it-will-be-built-and-why-it-matters-3710f7570b04>.

companies and individuals around the world will have a stake in developing the metaverse. All of our products and features, including our apps, share the vision of helping to bring this to life.

We offer many of our products and features to people and businesses at no cost, and we primarily monetise these by supplying personalised advertising that is displayed to users when they access our products and features. Our key consumer-facing products and services are as follows:

- **Facebook**, which enables people to connect, share, discover and communicate with each other through an ever-evolving set of features and functionalities, including Feed, Reels, Stories, Groups, the Messenger chat functionality, Watch, Marketplace and many more.
- **Instagram**, which likewise enables people to connect, share, discover and communicate with each other in a variety of ways, including through Feed, Stories, Reels, Video, Live, Shops and messaging, among other places.
- **WhatsApp**, which is a secure messaging and voice over internet protocol calling application that is used by people and businesses around the world to communicate and transact in a private way.
- **Reality Labs**, where our current product offerings include Meta Quest virtual reality headsets which allow people to enter a completely immersive and interactive environment with access to a wide range of VR games, experiences and applications through the Meta Quest Store, as well as Ray-Ban Stories smart glasses, which let people stay more present through hands-free interaction.

Our business is characterised by innovation, rapid change and disruptive technologies. We compete to attract, engage and retain people who use our products, to attract and retain businesses that use our free or paid business and advertising services, and to attract and retain developers who build compelling applications that integrate with our products. We also compete with companies that develop and deliver consumer hardware and virtual and augmented reality products and services. As we introduce or acquire new products, as our existing products evolve, or as other companies introduce new products and services, including as part of efforts to develop the metaverse or innovate through the application of new technologies such as AI, our competitive environment will evolve.

As Meta outlined in its recent submission responding to the ACCC's Digital Platform Services Inquiry sixth interim report on social media services,¹⁷ we compete to predict how people will engage tomorrow so that we can build those products and services today. Our success and value to users, advertisers, creators, businesses and developers comes from our ability to consistently offer popular and attractive features, which have been developed through continued investment and commitment to innovation.

One example of the evolution of Meta's products, to which the Issues Paper refers, is as follows:

Case study: Facebook Marketplace

Our introduction of Facebook Marketplace is an example of the evolution of the Facebook platform in response to customer demand and pre-existing user behaviour.

In the period leading up to 2014, Meta observed Facebook users were increasingly using Facebook's existing features, such as direct messaging and "Groups", to buy and sell goods as

¹⁷ 'Meta response to the ACCC's Digital Platform Services Inquiry March 2023 Report - Issues Paper' (28 April 2022), Submission by Meta.

part of their social experience. Meta responded to these demands in 2014 by introducing new “Buy and Sell Groups” (then For Sale Groups). These incorporated new features, such as the ability for sellers to easily post key details regarding the goods for sale, such as location, price and condition.¹⁸

In response to these features, we recorded increased use of Buy and Sell Groups. However, we recognised that such groups were fragmented, and users were unable to search for goods across multiple Buy and Sell groups through a single interface. In response to increased demand and the opportunity for improvement, Marketplace was launched in October 2016.¹⁹ It was designed to enhance these buy and sell activities and social experiences already occurring in the Buy and Sell Groups. Marketplace is a tailored surface that allows sellers to share and display their content to a larger pool of users, and allows buyers to search and discover content through a centralised interface.

As Marketplace is part of the social Facebook experience and relies on the shared technological infrastructure that underpins Facebook, users are by default shown content in close proximity to the location specified in their profile. Further, users are able to use Facebook’s private messaging function, Messenger, to communicate directly with sellers through the same medium that they already use to communicate with other Facebook users.

Far from involving any ‘leveraging’ of market power as the ACCC’s issues paper seems to suggest, the launch of Facebook Marketplace involved Meta’s investment in developing integrated buy/sell functionality to support users’ sharing and discovery of content with one another, in line with many other social services that compete to attract attention (such as TikTok, Twitter, Snapchat and Pinterest).

4. Concerns with the Issues Paper framework

Meta supports the ACCC’s focus on sharpening its analysis of areas where competition concerns can arise from ecosystems and expansion strategies, and considers that the often loose usage of terms like ‘ecosystem’ can be unhelpful to robust competition analysis.

However, while the concept of an ecosystem may be a useful conceptual tool, the existence of an ecosystem is not an “exacerbating source of competitive or consumer harm”²⁰ and does not itself indicate any greater risks of competition law concerns. As discussed in section 1 above, businesses that offer a variety of complementary services may be able to deliver consumers higher-quality, lower-cost services in a manner that enhances competition.

The Issues Paper identifies various forms of conduct, including bundling, tying, self-preferencing, pre-installation arrangements and default settings, that may arise in an ecosystem context and may raise competition law concerns.²¹ However:

- there is no reason in principle, and the Issues Paper does not suggest any reason, that such concerns are more likely to arise in a digital ecosystem. There is nothing in the concept of an ecosystem that requires unique or different analysis of such conduct from conduct

¹⁸ Meta (then Facebook), ‘*Introducing New Features in Facebook Groups to Improve the Way People Buy and Sell*’ (10 February 2015). Available: <https://about.fb.com/news/2015/02/introducing-new-features-in-facebook-groups-to-improve-the-way-people-buy-and-sell/>.

¹⁹ Meta, ‘*Introducing Marketplace: Buy and Sell With Your Local Community*’ (3 October 2016). Available: <https://about.fb.com/news/2016/10/introducing-marketplace-buy-and-sell-with-your-local-community/>.

²⁰ Issues Paper, p 5.

²¹ Issues Paper, p 6.

occurring in other contexts. There is also ample evidence of the ACCC already routinely considering potential anticompetitive effects relating to certain conduct in the supply of interrelated products in merger reviews and competition investigations;

- as the ACCC acknowledges, such strategies can be pro-competitive and provide benefits for users. In addition, they often have a legitimate commercial intent, are engaged in even by small competitors and have a limited (if any) effect of foreclosing rivals;
- while concerns may arise with this type of conduct in certain circumstances, for example where a company with market power in one market leverages that power into a market for a complementary product or service in a manner that avoids competition on the merits (such as through bundling or tying), that is a conventional and well-accepted analysis; and
- the ACCC has already proposed *ex ante* regulation to address such behaviours.²² The ACCC has evidently already formed the view that a mandatory service-specific code for Designated Digital Platforms should contain targeted obligations to address that conduct, and it is unclear what value is gained by reconsidering these issues through an ecosystem lens.

Critically, assessing the effects of ecosystem expansion is unavoidably a detailed and evidence-based analysis. For the reasons outlined above, it is not possible to reach robust conclusions about likely competitive effects of ecosystem strategies without detailed analysis or to reliably generalise conclusions across businesses with ecosystem characteristics. The Issues Paper poses several broad questions about five companies' perceived expansion strategies and their impact on competition. They are self-evidently very complex (and important) analytical questions that will depend upon careful consideration of factors including (i) the particular strategy and conduct being analysed (which market participants at large will often be unable to discern); (ii) whether impacts on consumers, advertisers, developers or other user groups in the relevant multi-sided markets are being analysed; (iii) the strategies of rival platforms and the assumptions being made in terms of competition in the counterfactual; and (iv) the structure and dynamic characteristics of the relevant market/s.

To illustrate, from Meta's unique perspective as a third-party developer of some of the most popular apps, there is specific conduct that limits growth, competition and innovation by third-party developers that warrants such a detailed and evidence-based analysis: Some of our competitors benefit significantly from their integration and control of the mobile hardware and operating systems that third parties, including Meta, rely on to reach users. Apple's and Google's control over their respective mobile ecosystems allow them to set the "rules of the game" for competitors who seek to use their app stores, and they have both the ability and incentive to provide their own apps with a competitive advantage.

Case study: Apple's control over the iOS

As one specific and recent example, Apple's launch of the ATT policy entrenches Apple's control over the iOS ecosystem and advantages Apple's app-monetisation and advertising services,²³

²²ACCC, *Digital Platform Services Inquiry Fifth Interim Report*, 11 November 2022, pp 124 -139. Available: <https://www.accc.gov.au/system/files/Digital%20platform%20services%20inquiry%20-%20September%202022%20interim%20report.pdf>.

²³ *Mobile ecosystems: Market study interim report* (14 December 2021), Report by Competition & Markets Authority (UK), p 255. Available: <https://www.gov.uk/government/publications/mobile-ecosystems-market-study-interim-report>.

which has resulted in Apple rapidly increasing its revenue.²⁴ As set out in Meta’s DPSI 5 Response²⁵ and DPSI 6 Response,²⁶ this has significantly impacted the effectiveness of ads measurement for non-Apple advertising services, restricting the ability of advertisers to measure ad performance through the whole of the purchasing journey through those services. In practice, ATT increases the amount that businesses need to spend on advertising to achieve sales (including for many small businesses who rely on targeted ads to reach a wider audience). The harmful impact of ATT on competition extends further to app developers and consumers, as the CMA recently found, ATT “is likely to result in harm to competition, make it harder for app developers to find customers and to monetise their apps, and ultimately harm consumers by increasing the prices or reducing the quality and variety of apps available to them”.²⁷

Likewise, the control that Apple exerts over its mobile OS and app store services ecosystem is also illustrated by Apple’s restrictive App Store guidelines and decisions in relation to cross-platform gaming, web-based, and ad-supported apps which prevents them from lowering barriers to switching and lock consumers into iOS devices. For example, Apple’s policies restricting cloud games and HTML5-based games have prevented Meta from introducing features that would enable developers to distribute and monetise, and users of iOS devices to enjoy, a variety of games, and Apple’s restrictions in independent web browsers prevent web apps from emerging as viable, operating system-agnostic alternatives to native apps.

Taken together, Apple’s restrictions on third-party web browsers, its restrictions on third-party gaming apps, and its ATT framework severely limit developers’ ability to create and consumers’ ability to enjoy cross-platform apps that could lower barriers to switching from Apple to Android and other devices. Ultimately, Apple’s exclusionary conduct prevents consumers from realising the innovation and benefits of a dynamic and otherwise well-functioning mobile app ecosystem. Apple’s approach is particularly concerning given how important functionalities controlled by the mobile platforms of today will be to enabling the extended reality technologies of tomorrow.

What this shows is that examining anticompetitive leveraging conduct in digital ecosystems is a fact-specific exercise, necessarily requiring a nuanced analysis, and generalising this across a diverse range of companies or from two specific services does not provide a reliable basis to short-cut that analysis. Focusing an inquiry based on the mere identity of five companies and not objective criteria like sector or industry or product risks not only being overinclusive by generalising analysis in this way, but as we note above, also underinclusive in not examining all key competitors in this space.

5. Ecosystems as a potential ‘exacerbating source’ of consumer harm

As it does for potential anti-competitive conduct, the Issues Paper identifies a number of respects in which potential consumer harms may be more likely to arise in the context of an ecosystem. However, again, there is no reason in principle why consumer harms are more likely to arise when consumers receive services provided as part of an ecosystem. A case-by-case analysis is required

²⁴ ‘Apple Tripled Its Ad Market Share After Blocking Competitors from Targeting Consumers’ (17 October 2021), The Motley Fool post by The Daily Upside. Available:

<https://www.fool.com/investing/2021/10/17/apple-tripled-its-ad-market-share-after-blocking-c/>.

²⁵ See section 2.3.3.

²⁶ See section 3.1

²⁷ CMA, ‘*Mobile ecosystems market study – Final report*’, Appendix J, paragraph 185. Available:

https://assets.publishing.service.gov.uk/media/62a229c2d3bf7f036750b0d7/Appendix_J_-_Apple_s_and_Google_s_privacy_changes_eq_ATT_ITP_etc_-_FINAL_.pdf.

and the application of the concept of ecosystems is likely to provide little (if any) assistance to identifying and analysing potential consumer harms.

In relation to the specific risks identified by the Issues Paper:

- **User lock-in and switching costs:** Whether there are meaningful switching costs that limit consumers' ability to switch services will depend entirely on the particular products or services being considered. For instance, consumers that are dissatisfied with their mobile device ecosystem are likely to confront some switching costs, including related to the potential need to purchase a new device, open new operating system accounts, repurchase apps already purchased via an app store on the alternative operating system, change digital wallet payment details, and/or transfer their data to a new device.²⁸ In contrast, in user attention markets in which services such as Facebook, Instagram, Snapchat, Youtube, TikTok, BeReal, Reddit, Twitter, Clubhouse, Poparazzi and others compete, consumers are readily able to compare and switch their relative usage between products at zero or low cost, because services are OS- and platform-agnostic, typically provided for free to consumers and multi-homing is widespread.²⁹ As can be seen from the starkly contrasting and fact-specific switching costs analysis in those two examples, little is gained simply by identifying whether the competitors supply multiple interrelated products in an ecosystem.
- **Data practices:** The Issues Paper suggests that digital ecosystems may be more likely to feature problematic data practices, excessive or undisclosed data collection, and consumers accepting undesirable terms. The ACCC appears to suggest that risks of these practices in a digital ecosystem context are higher because of "increased opportunities" to accumulate and use consumer data.³⁰ Again, it is unclear why digital businesses are singled out when the same can be said of other sectors, like in banking, airlines or telecommunications. There is no basis to suggest that risks are higher, or that any new or different risks arise, in a digital ecosystem context. The Issues Paper also appears to be premised on ill-founded assumptions from previous DPSI reports, including that:
 - access to large data sets necessarily confers competitive advantage and market power, despite questions about the nature and extent of any advantage conferred by data being subject of much debate and considerable nuance,³¹
 - digital platforms engage in excessive data collection and user tracking, when the ACCC has not identified the basis for such statements or given due regard to the existing privacy law framework and consumer protections already in place in Australia,³² and

²⁸ ACCC, *Digital Platform Services Inquiry Second Interim Report*, March 2021, p 38. Available: <https://www.accc.gov.au/system/files/Digital%20platform%20services%20inquiry%20-%20March%202021%20interim%20report.pdf>.

²⁹ See 'Meta response to the ACCC's Digital Platform Services Inquiry March 2023 Report - Issues Paper' (28 September 2022), Submission by Meta, pp 9-10 and p 22. Available: https://www.accc.gov.au/system/files/Meta_0.pdf

³⁰ Issues Paper, p 7.

³¹ See 'Meta response to the ACCC's Digital Platform Services Inquiry September 2022 Report Discussion Paper' (28 April 2022) Submission by Meta, at section 2.6. Available: <https://www.accc.gov.au/system/files/Meta.pdf>.

³² See 'Meta response to the ACCC's Digital Platform Services Inquiry September 2022 Report Discussion Paper' (28 April 2022), Submission by Meta, section 2.7. Available: <https://www.accc.gov.au/system/files/Meta.pdf>.

- users do not have the ability to decline to accept undesirable terms of use because platforms face a lack of effective competition, when the ACCC has not addressed questions about whether such concerns are unique to the terms of use of large digital platforms or why recent reforms to the unfair contract terms regime are not sufficient to address such concerns.³³

We consider that the ACCC needs to more fully engage with those foundational issues, which are at the intersection of competition, consumer protection, privacy and other policy areas, before it can proceed to assess whether the suggested concerns are more acute in relation to platform ecosystems.

6. Conclusion

Meta supports the ACCC's attempt to refine its existing analytical framework in relation to platform ecosystems and expansion strategies. However, we caution against over-reliance on the concept of an 'ecosystem' and any attempt to reach generalised conclusions about digital platform expansion strategies, given the diversity of businesses within the ACCC's broad definition of an ecosystem and the limited scope within the current inquiry to conduct the necessarily fact-intensive inquiry required to form robust conclusions.

We look forward to engaging constructively with the ACCC throughout the Inquiry.

³³See '*Meta response to the ACCC's Digital Platform Services Inquiry September 2022 Report Discussion Paper*' (28 April 2022), Submission by Meta, section 3. Available: <https://www.accc.gov.au/system/files/Meta.pdf>.