



Digital Platform Services Inquiry – March 2022 Report on general online retail marketplaces

Issues Paper

July 2021

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1. Overview

The Australian Competition and Consumer Commission (**ACCC**) seeks your views on potential competition and consumer issues in the provision of general online retail marketplaces to consumers in Australia.

The ACCC is examining general online retail marketplaces as part of the Australian Government's direction to the ACCC for a five year inquiry into digital platform services (the **Inquiry**), which includes electronic marketplace services.¹

Marketplaces that facilitate the supply of general goods between sellers and Australian customers (referred to as 'general online retail marketplaces' or 'marketplaces' throughout this paper), are a form of electronic marketplace service in Australia. Examples of general online retail marketplaces include eBay Australia, Amazon Australia, Catch.com.au, and Kogan.

The ACCC will submit a report to the Treasurer by 31 March 2022 following its examination of general online retail marketplaces (the **Report**).

While general online retail marketplaces provide benefits to sellers and consumers, concerns have been raised to the ACCC about the conduct of some marketplaces and the risk of harm to both sellers and consumers. These include concerns relating to the display of seller goods and timeliness of payments for sellers; and for consumers, the level of support provided by marketplaces when disputes arise as well as goods quality issues.

In addition, the ACCC is cognisant of potential future risks posed by online marketplaces due to their ability to perform a gatekeeper role, enabling them to exercise a degree of market power and extract increasing value from sellers and consumers, potentially increasing prices.² Internationally, the business practices of certain marketplaces are subject to close scrutiny and investigation by competition and consumer agencies due to their potential impact on consumers and the competitive process.

The growth of general online retail marketplaces in other jurisdictions

Online shopping and extensive consumer use of large general online retail marketplaces has been long established in a number of other countries. The large role performed by such marketplaces in retail sales has led to an increasing scrutiny of their market power, and competition and consumer concerns that arise from certain practices. These include consideration of marketplaces' pricing practices, their use of data, and the terms and conditions imposed on third-party sellers.

For example: in the US, Germany and the European Union (jurisdictions where Amazon is an established, leading marketplace), regulators have undertaken investigations or commenced proceedings regarding how Amazon uses its market power, and the effect it has upon third-party sellers and consumers.³

¹ In December 2019, the Treasurer directed the ACCC to conduct a five year inquiry into markets for the supply of digital platform services. 'Electronic marketplace' is a form of service included under the Inquiry definition of 'digital platform services'. 'Electronic marketplace' is defined in the Ministerial Direction as a service that: (a) facilitates the supply of goods or services between suppliers and consumers; and (b) is delivered by means of electronic communication; and (c) is not solely a carriage service (within the meaning of the Telecommunications Act 1997) or solely consisting of one or more of the following: (i) providing access to a payment system; (ii) processing payments. The full Ministerial Direction can be found on the [ACCC website](#).

² Jonathan B. Baker & Fiona Scott Morton, Antitrust Enforcement Against Platform MFNs, 127 Yale L.J. (2018). Available at: <https://digitalcommons.law.yale.edu/vlj/vol127/iss7/13>

³ European Commission, [Antitrust: Commission sends Statement of Objections to Amazon for the use of non-public independent seller data and opens second investigation into its e-commerce business practices](#), 10 November 2020; K Lyons, [Prosecutors are investigating Amazon's treatment of third-party sellers](#), *The Verge*, 3 August 2020; Bundeskartellamt, 'Proceedings against Amazon based on new rules for large digital companies', 18 May 2021.

Although no particular online retail marketplace appears to currently hold a position in Australia equivalent to Amazon's position in a number of other jurisdictions, general online retail marketplaces are playing an increasingly significant role in facilitating the sale of consumer goods online in Australia. Online shopping has increased dramatically during the COVID-19 pandemic, resulting in online purchases in 2020 growing by 57% year-on-year, and Australians spending a record \$50.46 billion online in 2020,⁴ compared with \$27.5 billion in 2018.⁵ Currently, it is estimated that the largest marketplaces in Australia are used by more than 12 million Australians every month to shop and/or sell their goods.⁶

The ACCC's examination of general online retail marketplaces, as part of the Digital Platform Services Inquiry, will explore the current state of the relevant markets as well as potential future developments. We will consider how business users and consumers use general online retail marketplaces and how these marketplaces affect competition in Australian markets. This examination will help ensure that our understanding keeps pace with the rapid development of marketplaces, enabling us to be better prepared for likely issues of concern and to proactively take steps to address them.

The ACCC is looking to understand the potential competition and consumer protection issues that matter most to sellers (ranging from small businesses to global brands), consumers, and other stakeholders that utilise general online retail marketplaces in Australia. However, we are particularly interested in stakeholders' views on the following issues relating to general online retail marketplaces:

- 1) The degree of competition between the marketplaces in Australia and the extent to which competition from other sources constrains or affects their practices
- 2) The benefits consumers and third-party sellers derive from using the marketplaces
- 3) The nature of the marketplaces' terms and conditions, fees, and other charges and their impact on third-party sellers and consumers
- 4) How marketplaces determine which products are given more prominent placement or are more visible on the marketplace, and how this impacts competition and consumers
- 5) The extent to which marketplaces collect, analyse, and use data from third-party sellers and consumers
- 6) Where marketplaces also supply their own products on the platform, the impact that these sales and associated practices may have on competition with third-party sellers
- 7) The impact of terms and conditions and functionality, offered by the marketplace, on the pricing strategies of sellers and on the final prices consumers pay
- 8) The impact of practices engaged in or facilitated by marketplaces to influence consumers to purchase goods,
- 9) The role marketplaces play in protecting consumers, and
- 10) The effectiveness of the marketplaces' complaints handling and dispute resolution processes.

Further detail on the key issues for the Report are provided at **Section 3**.

⁴ Online Physical Goods Index (produced by Quantium), February 2021, as quoted in Australia Post, [Inside Australian Online Shopping – eCommerce Industry Report 2021](#), 2021, p 4.

⁵ Online Physical Goods Index (produced by Quantium), March 2019 as quoted in Australia Post, [Inside Australian Online Shopping – eCommerce Industry Report 2019](#), 2019, p 7.

⁶ eBay, [Lockdown – One Year On, eBay Australia Public Policy](#), 18 March 2021, accessed 28 June 2021.

Marketplaces the focus of the Report

As stated above, the general online retail marketplaces the focus of this Report are those online platforms that facilitate the supply of general goods between suppliers and Australian consumers. Examples of such marketplaces in Australia include eBay, Amazon, Catch.com.au and Kogan.

This Report will not focus on the conduct of online retailers on their own websites;⁷ classified services, such as Gumtree and Facebook Marketplace;⁸ or comparison or referral shopping services, such as Google Shopping.⁹ The Report will also not focus on marketplaces which sell only specialised goods such as cars, furniture, or clothing. However, this Report may consider these sectors as part of examining competition in general online retail marketplaces (see **Section 2**). The ACCC notes that these market participants may be examined in future reports to the extent they could be similarly classified as an 'electronic marketplace' consistent with the Ministerial Direction.

Key dates

The ACCC invites written views from interested stakeholders to be submitted by **19 August 2021**.

This Report will be submitted to the Treasurer by **31 March 2022**, and will be made public soon after.¹⁰

Responding to the Issues Paper

The ACCC invites written submissions from interested stakeholders. We will also directly contact some market participants to request specific information. Submissions to this Issues Paper should be emailed to digitalmonitoring@acc.gov.au

We encourage you to provide your views on the issues that are most relevant to you, as well as on any other issues you consider relevant to general online retail marketplaces. You do not have to address every question in this Issues Paper and you may discuss issues not covered in the Issues Paper. In preparing your submission, please include as much evidence as is possible to support your views.

Invitation for written submissions

You may provide your submission to the ACCC in the form of a public or confidential submission, noting that the ACCC's Inquiry is a public process and that, in general, submissions will be placed on the ACCC website to allow for public consultation (see section below on **Treatment of confidential information**). You are encouraged to speak with our team before providing a confidential submission if you have any questions at all regarding the ACCC's processes for dealing with confidential information

⁷ For the purposes of this Issues Paper, this includes businesses that primarily conduct sales of consumer goods through a website that they operate.

⁸ For the purposes of this Issues Paper, this includes websites and platforms that facilitate transactions between sellers and consumers through online listings. Consumers wishing to purchase a product found on a classifieds platform may then complete the purchase outside of the platform.

⁹ For the purposes of this Issues Paper, this includes websites and platforms that enable businesses looking to sell their own goods to list their products on the platform so consumers can compare them against other products. Consumers wishing to purchase a product found on a comparison shopping service may then complete the purchase on the retailer's own website.

¹⁰ Further detail on the Digital Platform Services Inquiry is provided at **Section 4**.

Written submissions to this Issues Paper should be emailed to digitalmonitoring@acc.gov.au by 19 August 2021.

Invitation for feedback on consultation hub

Consumers and third-party sellers may also wish to provide their feedback to the ACCC via the ACCC's [consultation hub](#).

The ACCC notes that this consultation is intended to be part of the public consultation process and therefore responses on the consultation hub will generally be treated as public (see section below on **Treatment of confidential information**).

Responses via the consultation hub should be completed by 19 August 2021.

The ACCC consultation hub has a list of questions that are particularly relevant. However, the ACCC notes that consumers and sellers are not restricted to only answering the particular questions in the fact sheets, and are encouraged to respond to any issues on which they have views.

Treatment of confidential information

The ACCC invites interested parties, where appropriate, to discuss confidentiality concerns with the ACCC in advance of providing written material.

The Inquiry is a public process and feedback (written and oral) will generally be posted on the ACCC website.

The *Competition and Consumer Act 2010* (the CCA) allows interested parties that provide feedback to the Inquiry to make claims for confidentiality in certain circumstances.

The ACCC can accept a claim of confidentiality from a party if the disclosure of information would damage their competitive position, the ACCC is satisfied the confidentiality claims are justified, and it is not necessary in the public interest to disclose the information. The ACCC will consult with a party where possible and appropriate prior to publishing any information over which that party has claimed confidentiality.

Making a claim of confidentiality

1. So that the ACCC can consider whether the confidentiality claim is justified, you must provide reasons why the information is confidential and why disclosure of the information would damage your competitive position.
2. If you are claiming confidentiality over all of the information in your submission, you must provide reasons why all of the information in your submission is confidential. As the Inquiry is a public process, please consider whether there are any parts of your submission that may be published without damaging your competitive position.
3. If you are claiming confidentiality over a part of the information in your submission, the information over which you claim confidentiality should be provided in a separate document and should be clearly marked as 'confidential' on every relevant page. Alternatively, you may wish to provide (1) a public version for publication on the ACCC website with the confidential information redacted, and (2) a confidential version with all of the confidential information clearly marked.
4. Contact us at digitalmonitoring@acc.gov.au if you have any questions regarding making a submission containing confidential information.

2. General online retail marketplaces

General online retail marketplaces are platforms which facilitate transactions between sellers of goods and consumers. The marketplaces allow sellers to list various products for sale on the platform and allow buyers to find and buy these products.

Although the use of general online retail marketplaces in Australia is not currently as significant as it is in other countries, online shopping (of which the marketplaces form part) is performing an increasing role. Most recently, online shopping saw significant growth particularly during the COVID-19 pandemic and lockdowns, with non-food online sales forming 14.2% of total non-food sales in May 2021 compared to 10.9% in February 2020.¹¹

More Australians than ever are using general online retail marketplaces and eBay alone is used by 12 million Australians on a monthly basis.¹² Other marketplaces such as Amazon, Catch.com.au, and Kogan also experienced rapid growth since 2020 as a result of higher consumer demand.¹³

Rise in online shopping due to the COVID-19 pandemic and associated lockdowns

Recent surveys have showed that usage of general online retail marketplaces has grown significantly. This is as a result of lockdowns imposed to stem the spread of COVID-19, generally higher levels of discretionary spending, consumers having more time to browse online, and consumers feeling safer to shop online than in-store.¹⁴ The surveys also found that increased usage was not isolated to certain age groups, with significant increases in online shopping figures observed for both younger and older Australians compared to pre-pandemic levels.¹⁵

Figures from Australia Post showed the dramatic increase in online shopping, with the online share of retail spend reaching 16.3% during 2020.¹⁶ These figures also showed that high levels of online shopping activity were sustained even after COVID-19-associated restrictions eased across Australia.¹⁷ Some industry participants consider that the COVID-19 pandemic has brought the growth of general online retail marketplaces several years forward and many consumers, having newly discovered the convenience of online shopping, will not look back.¹⁸

¹¹ Australian Bureau of Statistics, [Online sales, May 2021 - Supplementary COVID-19 analysis](#), 5 July 2021.

¹² eBay, [Lockdown – One Year On, eBay Australia Public Policy](#), 18 March 2021, accessed 28 June 2021.

¹³ K Skantzou, [Extra one million Aussies are using eBay for online shopping](#), *news.com.au*, 18 March 2021; D Powell, [Amazon breaks through \\$1 billion revenue mark in Australia](#), *The Sydney Morning Herald*, 8 February 2021; D Powell, [Kogan shares tumble after profit forecasts sliced](#), *The Sydney Morning Herald*, 21 May 2021; Connecting the Australian Channel Staff, [Catch.com.au hires robots to manage stock surge](#), 25 September 2020.

¹⁴ eBay, [Lockdown – One Year On, eBay Australia Public Policy](#), 18 March 2021, p.8.

¹⁵ eBay, [Lockdown – One Year On, eBay Australia Public Policy](#), 18 March 2021, p.8 and 10

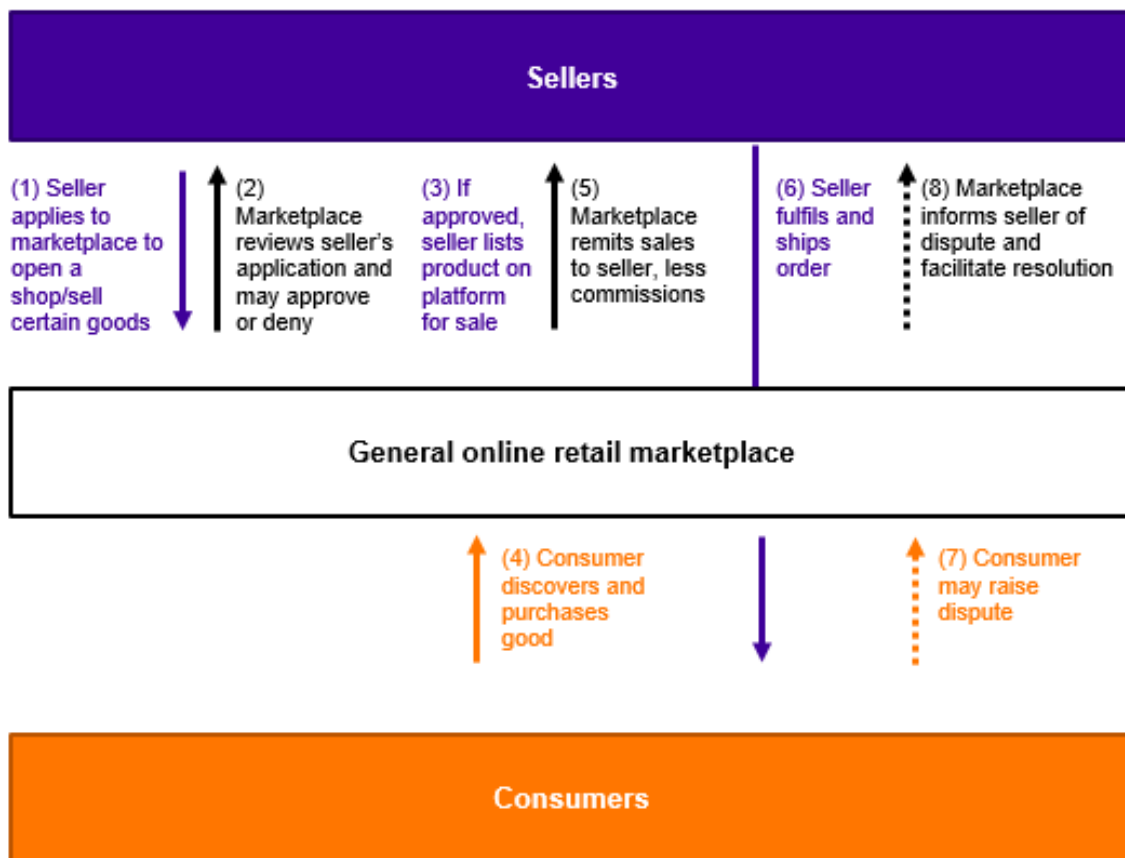
¹⁶ Australia Post, [Inside Australian Online Shopping – eCommerce Industry Report 2021](#), 2021, p. 11.

¹⁷ Australia Post, [Inside Australian Online Shopping – eCommerce Industry Report 2021](#), 2021, p.15.

¹⁸ eBay, [Lockdown – One Year On, eBay Australia Public Policy](#), 18 March 2021, p.28

How general online retail marketplaces work

A high level overview of the operation of general online retail marketplaces in Australia is provided below.



Source: adapted from Japanese Fair Trade Commission [Report regarding trade practices on digital platforms](#)¹⁹

A large number of goods are available for sale on general online retail marketplaces. The marketplaces provide consumers with the ability to search for specific goods. Marketplace algorithms then determine which goods listed on the platform are relevant to the query and the order in which they should be presented to the consumer. Consumers may also browse defined product categories (e.g. electrical goods, books, etc.) and featured sections in the marketplace to discover goods. The marketplaces also offer consumers the ability to compare competing products they found based on factors such as price and user reviews.

General online retail marketplaces also confer benefits to third-party sellers by providing them access to their customer base. In return, the marketplaces take a percentage of third-party sales. Marketplaces may also charge fees for value-add services such as warehousing, packing, and shipping of the goods.

Where consumers experience problems with the good they purchased, they are generally directed to contact the seller directly; in some circumstances (eg: where the issue cannot be resolved between the seller and customer) the issue may be raised with the marketplace,

¹⁹ Japanese Fair Trade Commission, [Report regarding trade practices on digital platforms](#), October 2019, p.17

which then informs the seller that there was an issue and takes steps towards a resolution of the complaint are followed.

Competition between and within marketplaces

General online retail marketplaces are multi-sided platforms and compete against each other, as well as other online and bricks and mortar businesses, in attracting both sellers and consumers. However, due to network effects, the more sellers that participate in one marketplace, the more consumers are attracted to use that particular marketplace. In examining the degree of competition faced by particular general online retail marketplaces, the ACCC will also consider the degree to which brick and mortar sales, online sales direct from a retailer's website, comparison or referral services, and classifieds competitively constrain general online retail marketplaces.

Some general online retail marketplaces purely facilitate trade between sellers and buyers on their platform, and so competition on these marketplaces occur solely between sellers on the marketplace. However, other marketplaces play a dual role and also act as a seller on the platform retailing their own goods in addition to facilitating trade between third-party sellers and buyers. In many cases, the marketplaces' own goods compete directly with goods sold by third-party sellers.

Key marketplaces

eBay, Amazon, Catch.com.au, and Kogan are some of the largest general online retail marketplaces in Australia. A comparison table of each of the above marketplaces' reported estimated revenue in Australia is below.

	eBay Australia	Amazon	Kogan	Catch.com.au
Reported gross sales 2020	\$6.5 billion ²⁰	\$2.6 billion ²¹	\$1.084 billion ²²	\$610 million ²³

eBay is Australia's largest general online retail marketplace, with eBay stating that 12 million Australians use the marketplace every month to shop and sell goods.²⁴ eBay arrived in Australia in 1999 and since then Australians have reportedly spent more than 2.5 billion hours on the marketplace.²⁵ eBay only facilitates transactions between third-party sellers and consumers and it does not itself sell its own goods on its marketplace. eBay's revenue in Australia and New Zealand, earned mainly from commissions on third-party marketplace sales and transaction fees, reportedly rose by 2.5 per cent to \$62.3 million 2020 compared to 2019.²⁶ While eBay does not report gross merchandise sales on its marketplace, it is estimated that the value is worth around \$6.5 billion.²⁷

²⁰ S Mitchell, [eBay's revenue growth slows despite e-commerce boom](#), *Australian Financial Review*, 31 May 2021.

²¹ Stuart Marsh, [Amazon Australia predicted to dominate local ecommerce by 2030](#), 29 March 2021.

²² Calculated based on reporting from first half and second half 2020 (Kogan [ASX Announcement - Kogan.com passes three million Active Customers and grows Gross Sales by over three hundred million dollars in the half](#), 26 February 2021 and Kogan, FY20 Results presentation, 17 August 2020, p. 7

²³ S Mitchell, [eBay's revenue growth slows despite e-commerce boom](#), *Australian Financial Review*, 31 May 2021.

²⁴ eBay, [Lockdown – One Year On, eBay Australia Public Policy](#), 18 March 2021, accessed 28 June 2021.

²⁵ eBay, [Australia's first marketplace turns 21](#), 12 September 2021, accessed 29 June 2021.

²⁶ S Mitchell, [eBay's revenue growth slows despite e-commerce boom](#), *Australian Financial Review*, 31 May 2021.

²⁷ Ibid.

While Amazon has had a strong presence in overseas markets such as the United States, it only began operating its Australian marketplace in December 2017.²⁸ Amazon's Australian operations has since grown significantly, with total revenue reportedly more than doubling to \$1.2 billion in 2020 compared to 2019.²⁹ \$511 million of this revenue is associated with sales of goods on the marketplace (some of it from the sale of its own goods), more than double the \$218 million in sales made in 2019. Revenue earned from third-party marketplace sales and commissions reportedly rose to \$126.1 million in 2020.³⁰ Despite the significant growth, Amazon Australia lost \$3.8 million in 2020.³¹

Catch.com.au is part of the Wesfarmers group and has become one of the largest general online retail marketplaces in Australia since it set up operations in 2006.³² Today, Catch.com.au is used by more than 2.9 million users.³³ Catch.com.au's gross sales from July to December 2020 reportedly increased by 139 per cent to \$610 million while revenue increased by 112 per cent.³⁴

Kogan began operations in Australia in 2006 and is among Australia's largest retailers and general online retail marketplace operators. Kogan launched Kogan Marketplace in March 2019 which provided third-party sellers to list their goods for sale on the Kogan platform alongside Kogan's goods. In 2020, Kogan reported that it is actively used by over 3 million customers.³⁵ Kogan also reported gross sales increasing by 97.4 per cent to \$638.2 million in the latter half of 2020 compared to the previous corresponding period, and revenue grew by 88.6 per cent to \$414.0 million over the same period.³⁶

Concerns raised on general online retail marketplaces

The ACCC has received a number of complaints regarding the conduct of general online retail marketplaces listed above, from both consumers and third-party sellers. Complaints raised with the ACCC have been wide-ranging in nature, although a number related to the quality of goods sold on marketplaces, the timeliness of payment remittance to sellers, how goods are put on display on marketplaces, and the level of support provided by marketplaces to consumers when disputes arise, and the risk of consumer harm from products sold through marketplaces.

The risk of consumer harm on online marketplaces

Consumer harm can come in varied forms.

The ACCC has been working with online marketplaces over a number of years to improve the safety of consumer products that are sold online. In November 2020, the ACCC launched the Australian product safety pledge, a voluntary initiative that commits its signatories to a range of safety related responsibilities that go beyond what is legally required of them. AliExpress, Amazon Australia, Catch.com.au, eBay Australia and MyDeal.com have all signed on to the product safety pledge.

²⁸ C Pash, [Amazon is coming to Australia with 'low prices, vast selection, and fast delivery'](#), *Sydney Morning Herald*, 20 April 2017.

²⁹ S Mitchell, [Amazon Australia sales exceed \\$1b](#), *Australian Financial Review*, 8 February 2021.

³⁰ S Mitchell, [Amazon Australia sales exceed \\$1b](#), *Australian Financial Review*, 8 February 2021.

³¹ S Mitchell, [Amazon Australia sales exceed \\$1b](#), *Australian Financial Review*, 8 February 2021.

³² Catch.com.au, [About Us](#), accessed 29 June 2021.

³³ S Mitchell, [Look who's catching up with Kogan](#), *Australian Financial Review*, 3 March 2021.

³⁴ S Mitchell, [eBay's revenue growth slows despite e-commerce boom](#), *Australian Financial Review*, 31 May 2021.

³⁵ Kogan, [ASX Announcement - Kogan.com passes three million Active Customers and grows Gross Sales by over three hundred million dollars in the half](#), 26 February 2021.

³⁶ Kogan, [ASX Announcement - Kogan.com passes three million Active Customers and grows Gross Sales by over three hundred million dollars in the half](#), 26 February 2021.

While commitment to the product safety pledge is a welcome and positive step towards improving the safety of products supplied online, it does not capture all online marketplaces and only covers consumer harm which arises from unsafe products.

A number of international competition regulators are also currently scrutinising the conduct of general online retail marketplaces for their potential impact on competition and harm to consumers, including issues relating to the use of seller data, the prevalence of fake reviews, display of products on marketplaces, and terms and conditions imposed on third-party sellers.³⁷

³⁷ See, for example: European Commission, [Antitrust: Commission sends Statement of Objections to Amazon for the use of non-public independent seller data and opens second investigation into its e-commerce business practices](#), 10 November 2020; Reuters Staff, [German watchdog launches new investigation into Amazon - report](#), Reuters, 29 October 2020; K Lyons, [Prosecutors are investigating Amazon's treatment of third-party sellers](#), The Verge, 3 August 2020; CMA, press release, [CMA to investigate Amazon and Google over fake reviews](#), 25 June 2021.

3. Key issues

The ACCC has set out below some key issues relevant to this Report, along with questions on which the ACCC is seeking submissions. This section is structured as follows:

- The supply of general online retail marketplace services in Australia, and the degree of competition in that sector
- The relationship between general online retail marketplaces and third-party sellers
- The relationship between general online retail marketplaces and consumers

The ACCC does not expect or require submissions to respond to every question included in this Issues Paper. We encourage interested parties to provide information in response to the issues that are most relevant to them. If a market participant wishes to raise points not covered by these questions, they are welcome to do so.

The ACCC seeks views from anyone who participates on general online retail marketplaces, including consumers, small business customers, sellers and the marketplaces themselves. Please include in your submission a description of your role(s) as a market participant. When your comments relate to only a specific marketplace, or to multiple marketplaces, please also include this in your submission.

Wherever possible, please provide reasons for your views and any evidence available to support your views.

(a) Overview of the sector

(i) Supply of general online retail marketplace services

General online retail marketplaces are platforms which facilitate transactions between sellers of goods direct to consumers. General online retail marketplaces are multi-sided platforms and compete against each other, and other businesses, in attracting both sellers and consumers.

The ACCC seeks views on the market structure and competitive conditions applicable to the supply of general online retail marketplaces in Australia. Though the ACCC has listed above some of the largest general online retail marketplaces in Australia as the focus of this Report, market participants are invited to provide feedback in relation to any general online retail marketplaces they consider are relevant in the Australian context.

Questions for market participants

- 1) Which platforms are the most significant general online retail marketplaces in Australia?
- 2) What are the barriers to entry and expansion in Australia for the supply of general online retail marketplaces? How have these changed over time?
- 3) To what extent do general online retail marketplaces compete with the third-party sellers that are selling directly from their own online stores? To what extent do they compete with physical stores?
- 4) To what extent do third-party sellers make their goods available across multiple marketplaces? Are there reasons for picking one marketplace and not the other? To what extent can sellers bypass the marketplaces to reach consumers?

- 5) Are any general online retail marketplaces considered a 'must have' for Australian third-party sellers or for sellers of a particular category of goods?
- 6) To what extent do consumers use more than one marketplace? What role do subscription/loyalty schemes have in consumer choice of marketplace? What role do non-price factors, such as the level of customer service or ease of access to refunds have in consumer choice of marketplaces?
- 7) To what extent can consumers bypass marketplaces to buy directly from sellers?
- 8) What services do marketplaces provide to assist or enable sellers to sell their goods? How have these changed over time?

(ii) Trends in the supply of general online retail marketplace services

Like other technology-driven sectors, the use of general online retail marketplaces is developing, and is subject to change due to, for example, potential entry or expansion by marketplaces into Australia or changes in consumers' purchasing habits. This includes changes that may have occurred as a result of the COVID-19 pandemic and associated lockdowns, which saw online purchases grow dramatically.³⁸

The ACCC invites views on trends in the use of general online retail marketplaces that may affect the supply of such marketplaces in Australia in the future, including changes in consumer behaviour, new entry or expansion, and technological change or innovation.

Questions for market participants

- 9) Are there any trends in consumer behaviour or preferences, such as increased online purchasing that have or will affect general online retail marketplaces? If so, describe what they are.
- 10) Has competition, or potential competition, in the supply of general online retail marketplaces services been affected by:
 - a) acquisitions of start-up companies
 - b) entry into the market by international businesses
 - c) the acquisition or development of new technology
 - d) acquisitions of companies operating in related sectors within the mobile and / or desktop device ecosystem?
 - e) the current COVID-19 pandemic and the increase in online purchasing by consumersIf so, please describe how.

(b) Relationships between general online retail marketplaces and third-party sellers

The ACCC seeks views on the interaction between general online retail marketplaces and third-party sellers that use those marketplaces.

³⁸ See Australia Post, '[Inside Australian Online Shopping: eCommerce industry report](#)' 2021; Australian Bureau of Statistics, '[Online sales, January 2021](#)' (source: Retail Trade, Australia, January 2021)

i. Getting products listed or removed on the marketplace

General online retail marketplaces provide sellers with access to consumers, as well as associated services such as access to a marketplace's customer base. They may also provide services such as warehousing, packing, and shipping of the goods. Marketplaces put in place terms and conditions that third-party sellers must adhere to in order to place their products on the marketplace.

The ACCC invites feedback on general online retail marketplaces' terms and conditions, processes of review, and the effect these terms may have on a seller's ability to compete effectively on the marketplace.

Questions for market participants

- 11) What is the process for getting a product listed on a general online retail marketplace? What is the process for removing a product from the marketplace? Has this process changed over time?
- 12) How effective are the key marketplaces' current processes for reviewing and approving products? Do these processes operate to ensure low quality and products which may cause consumer harm are excluded?
- 13) What processes are in place (if any) for taking action in response to consumer reviews? Are products ever removed in response to poor consumer reviews?
- 14) To what extent do the marketplaces' terms and conditions affect the pricing of goods by sellers?
- 15) What fees and charges do marketplaces charge to third-party sellers? How have these changed over time and how do these affect sellers?
- 16) What are the benefits of the additional services provided by marketplaces to third-party sellers (for example: warehousing, distribution)? To what extent are sellers able to use services other than those offered by the online retail marketplaces?

ii. Display of goods

General online retail marketplaces can offer millions of products for sale to consumers. How products are displayed to consumers on a marketplace can therefore have a significant impact on a product's overall success.

The ACCC seeks feedback on how products are displayed on the general online retail marketplaces, and the effect that this has on third-party sellers

Questions for sellers on marketplaces

- 17) How important is it for a product to be displayed prominently on a marketplace for the success of the product? How important is the product category or categories that a product is assigned to?
- 18) How do marketplaces determine how, and in which order, products are displayed? Which products (if any) benefit most from this? How has this changed over time?
- 19) Are third-party sellers informed of changes made by marketplaces as to how goods are displayed? If so, are sellers provided reasonable information on the changes?
- 20) How has the methodology that marketplaces use to determine which goods to display prominently affected how sellers market their goods?

iii. Collection of data

Previous ACCC reports into digital platforms have examined the role of digital platforms in the increased collection and use of consumer data and the more precise targeting of consumers enabled by that collection.³⁹ The collection and use of data associated with consumers (including data from both the marketplace and other sources) can benefit sellers and general online retail marketplaces by allowing them to tailor offerings to the consumer, allowing consumers to see products that may be more relevant to them; however, it also increases the risk of harm to consumers from exclusionary targeting (i.e.: businesses deliberately not serving ads to those consumers or a segment to which the consumer belongs), exploitation and price discrimination. In addition, the ACCC is aware of concerns raised in other countries about some digital platforms using data collected from third party sellers to advance their own products to the potential detriment of rivals.

The ACCC seeks information about the amount, and type, of data collected during a consumer's use of general online retail marketplaces, including who has access to that data and the degree of transparency provided to the consumer about how marketplaces and/or third-party sellers use that data.

Questions for market participants

- 21) What range of consumer data can be collected from the use of marketplace?
 - a) To what extent is this data accessible to the seller, and for how long?
 - b) To what extent is this data accessible to the marketplace or other third-party?
- 22) For what purposes is this data collected? To what extent does analysis of this data affect future browsing and purchasing by consumers?
- 23) What terms and conditions are in place between marketplaces and third-party sellers for the access of data by the marketplaces? What data are sellers required to provide marketplaces access to?

iv. Seller satisfaction

In addition to their role in providing a marketplace and facilitating trade between third-party sellers and buyers, general online retail marketplaces may also act as a seller on the platform itself by retailing their own goods. The ACCC invites views on the effect this has on competition within the marketplace and on third-party sellers that offer products which compete with products offered by the marketplace.

The ACCC is also seeking general information and views on the experiences of third-party sellers when dealing with general online retail marketplaces.

Questions for market participants

- 24) To what extent do marketplaces have processes in place to resolve third-party sellers' complaints? How effective are these processes?
- 25) Do third-party sellers have any concerns about their relationships with the relevant online marketplaces? For example, in relation to:
 - a) terms and conditions for placing products on marketplaces
 - b) requirements regarding regulatory compliance
 - c) costs and fees

³⁹ See Digital Platforms Inquiry Final Report, July 2019; Digital Platform Services Inquiry Interim Report, September 2020

- d) tech support
 - e) rankings and display of products
 - f) integrity of reviews
 - g) other
- 26) To what extent are marketplaces' relationships with third-party sellers affected by the marketplace acting as a seller in the same product category?

(c) Relationships between general online retail marketplaces and consumers

i. Consumer satisfaction

General online retail marketplaces provide consumers access to millions of products, and the ability to search for specific goods across that marketplace. Though there are benefits to consumers from being easily able to access such large numbers of products, there is also risk of harm to consumers, including from products that are unsuitable or of low quality, or from scams or products that may cause harm.

The ACCC is seeking information and views on the experiences of consumers when dealing with general online retail marketplaces, including whether consumers are presented with sufficient information to inform their purchasing decisions, processes in place to exclude or remove products that may be misleading or cause harm to consumers, and mechanisms in place for consumers to report products to marketplaces, and seek (and receive) redress. We note that we seek the views of all market participants; and particularly invite consumer experiences relating to these areas.

Questions for market participants

Questions regarding consumer satisfaction with general online retail marketplaces

- 27) What information are third-party sellers required to provide to customers about the product for sale, including in relation to quality or price?
- 28) What information do app marketplaces provide customers about the product for sale, including in relation to quality or price?
- 29) What processes are in place for consumers to rate and review products? To what extent do reviews and ratings affect consumer choice of a product?
- 30) What is the process for consumers to return products and/or report low quality or harmful products, and what role do marketplaces play in these processes? How effective are these processes for consumers?
- 31) How easy is it for consumers to seek (and receive) a repair, replacement or refund for a harmful, faulty or not-fit-for-purpose product?

Questions regarding potential for harm on general online retail marketplaces

- 32) What risks are there to consumers when making purchases on a general online retail marketplace? What measures are in place to protect consumers from the risks of scams, or harmful products, on marketplaces? What processes are in place to deter sellers from offering harmful products?
- 33) What complaints mechanisms are in place for consumers to report scams or harmful products to the marketplaces? How effective are these mechanisms?

ii. Collection of consumer data and its effect on consumers

The ACCC invites views on the amount of information consumers receive about the data that is collected when they use and purchase through general online retail marketplaces.

Questions for market participants

Questions regarding collection and use of consumer data

- 34) To what extent are consumers informed about data collection by third-party sellers and the marketplaces? How is this information presented to consumers?
- 35) To what extent are consumers able to limit this data collection?
- 36) To what extent is consumer data used by third-party sellers or marketplaces to target consumers?
- 37) To what extent (if at all) is a consumer's data used in a way that affects the price offered to the consumer?

4. Scope of the Inquiry and advice to Government

In December 2019, the Treasurer directed the ACCC to conduct a five year inquiry into markets for the supply of digital platform services. The Inquiry will provide a report to the Treasurer every six months with each report focusing on different digital platform services. The goods and services included in the Treasurer's Direction for the Inquiry are:

- (a) digital platform services
- (b) digital advertising services supplied by digital platform service providers
- (c) data collection, storage, supply, processing and analysis services supplied by:
 - (i) digital platform service providers; or
 - (ii) data brokers.

Services included under the Inquiry definition of digital platform services are:

- (a) internet search engine services (including general search services and specialised search services)
- (b) social media services
- (c) online private messaging services (including text messaging, audio messaging and visual messaging)
- (d) digital content aggregation platform services
- (e) media referral services provided in the course of providing one or more of the services mentioned in paragraphs (a) to (d)
- (f) electronic marketplace services.

As part of the Inquiry, the Treasurer directed that the ACCC take into consideration a number of matters over the duration of the Inquiry, including:

- (a) the intensity of competition in the markets for the supply of digital platform services
- (b) practices of individual suppliers in the markets for digital platform services which may result in consumer harm
- (c) market trends, including innovation and technology change, that may affect the degree of market power, and its durability, held by suppliers of digital platform services
- (d) changes over time in the nature of, characteristics and quality of digital platform services arising from innovation and technological change, and
- (e) developments in markets for the supply of digital platform services outside Australia.

The first six monthly report was provided to the Treasurer on 30 September 2020 and published on 23 October 2020. That report provided an in-depth focus on online private messaging services in Australia. It also updated the ACCC's previous analysis in relation to search and social media platforms and identified competition and consumer issues common across these platforms.

The second six monthly report was provided to the Treasurer on 31 March 2021 and published 28 April 2021. That report focused on mobile app marketplaces and examined issues including the use and sharing of data by apps, the extent of competition between app

providers on Google and Apple's app marketplaces, and the app marketplaces' relationships with consumers.

The third six monthly report will be provided to the Treasurer by 30 September 2021. It will examine the provision of web browsers and general search services to Australian consumers, and the impact of pre-installation and default arrangements on these service offerings. The report will also provide the ACCC's advice to the Australian Government on Google's roll out of choice screens for search engines on new Android devices in Europe and the effectiveness of choice screens in addressing issues in the supply of general search services.

Ministerial Direction

The full Ministerial Direction can be found on the [ACCC website](#).

Glossary of terms used

Term	Description
ACCC	Australian Competition and Consumer Commission
CCA	<i>Competition and Consumer Act 2010 (Cth)</i>
CMA	Competition and Markets Authority, UK
Electronic marketplaces	Services that facilitate the supply of goods or services between suppliers and consumers electronically
General online retail marketplaces or marketplaces	Electronic marketplaces that facilitate the supply of general goods between sellers and Australian customers
Inquiry	The ACCC Digital Platform Services Inquiry 2020-2025
Report	The report in relation to general online retail marketplaces, which the ACCC will submit to the Treasurer by 31 March 2022