

Australian Competition and Consumer Commission
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I commend the ACCC's investigation into the effectiveness of choice screens for increasing competition and consumer choice in the search engine market. I am in broad agreement with the proposed recommendation set out in the Issues Paper. In this submission, I offer comments relevant to the Australian Government's broader objective of increasing competition within digital ecosystems. I look forward to ongoing collaboration with the Commission and other policymakers to further advance this important agenda.

Structural change within the digital economy

In the digital economy, there are embedded companies who enjoy advantages from economies of scale and high barriers to entry, often derived from vast and self-perpetuating data stores. Under these conditions, competition within the digital economy is unlikely to spontaneously occur—government intervention is necessary. Following the last decade of work by critical competition scholars and, more recently, certain policymakers (for example, in the UK,¹ Europe,² Japan³ and Brazil⁴) **two interventions for market reform** appear particularly urgent:

¹ Furman, J., Coyle, D., Fletcher, A., McAuley, D., & Marsden, P. (2019). Unlocking digital competition: Report of the digital competition expert panel. *UK government publication, HM Treasury*.

² European Commission. (2020, n.d). The Digital Services Act: Ensuring a safe and accountable online environment. *A Europe Fit for the Digital Age*.

https://ec.europa.eu/info/strategy/priorities-2019-2024/europe-fit-digital-age/digital-services-act-ensuring-a-safe-and-accountable-online-environment_en

³ Utsunomiya, H., & Takamiya, Y. (2020). Japan. *E-Commerce Competition Enforcement Guide*, 3.

<https://globalcompetitionreview.com/guide/e-commerce-competition-enforcement-guide/third-edition/article/japan>

⁴ Favaro Corvo Ribas, G., & Maximiano Munhoz, N. (2020, October 26). *The Brazil Antitrust Agency's new study on digital markets*. International Bar Association.

<https://www.ibanet.org/Article/NewDetail.aspx?ArticleUid=48D83F91-8874-4F3B-8FCF-E85A384BA841>

- antitrust interventions including breaking up vertically and horizontally integrated firms and the effective application of rules that limit the expansion of market incumbents through mergers and acquisitions; and
- data portability and interoperability standards that meaningfully address power asymmetries and barriers to entry into data-driven markets.

This type of market reform is likely to require greater international cooperation. Recently, Winseck and Puppis (2020) collated over 88 different platform regulation inquiries and reviews undertaken throughout the world between 2016 and 2020.⁵ A high number of regulatory initiatives globally suggests a high level of willingness among lawmakers to address the problem of market concentration in the digital economy, but as yet there has not been a coordinated global regulatory approach. I urge the Australian Government to take the lead on an effort to overcome fragmentation in the regulation of platforms internationally.

In addition to market reforms, national digital infrastructure and investment programs aimed at growing Australia's domestic digital economy could also assist Australia to realise the benefits of competition and innovation. To spur innovation, policymakers must think big, at the scale of, for example: high speed rail programmes; national highway projects; or national broadband initiatives. While I am supportive of the proposal for mandating choice screens, I strongly urge the Australian Government to complement end-user focused policies with interventions aimed at structural change within the digital economy.

⁵ Winseck, D. and Puppis, M. (2020), Platform Regulation Inquiries, Reviews and Proceedings Worldwide (unpublished), https://docs.google.com/document/d/1AZdh9sECGfTQEROQjo5fYeiY_gezdf_11B8mQFsuMfs/edit?usp=sharing