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**Re: Submission to the Issues Paper**

In relation to the degree of competition between social media services, including a. the barriers to entry and expansion and b. the degree of differentiation between social media services, I would like to provide the following (quite general) observations.

## 1. Barriers to entry and expansion

From a supply perspective many online markets lack entries barriers that are common to traditional markets such as land and raw materials. However, digital platforms face other forms of entry barriers, particularly with regard to the collection, storage, synthesis and analysis of data.[1] Certain types of data may therefore amount to an essential facility.[2] In that respect, another significant strategic barrier to entry and expansion that the ACCC focuses on in the DPI are Google and Facebook's strategic acquisitions. The ACCC argues that some of those acquisitions have allowed Google and Facebook to entrench their respective incumbent positions. Those acquisitions have weakened the constraint from dynamic competition by eliminating potential competitors.[3] The expansion into related markets has also provided Google and Facebook with advantages in terms of scope and network in order to collect more data.

Network effects constitute by far the most significant barrier to entry in the platform economy. While network effect may also arise in the old and the new economies three 'data-driven network effects' that stem from the scale, scope, and the spill-over effect of data are unique to the platform economy. Network effects (both same-side and cross-side) are the first barriers to entry that the ACCC analyses in relation to Google and Facebook. For instance in the case of Google, the ACCC finds that "all else being equal, a large amount of data improves the relevance algorithm in the search engine, increasing the quality of the search service. A greater quantity of user data, including data on user searches and user interactions with search results, allows the Google relevance algorithm to update in a timely fashion, improving its relevance ranking."[4] Data-driven network effects may be

[1] Daniel L. Rubinfeld and Michal S. Gal, 'Access Barriers to Big Data' (2017) 59 *Arizona Law Review* 339, 349; Lina M. Khan, 'Amazon's Antitrust Paradox' (2017) 126 *Yale Law Journal* 710, 773 and 786.
[2] See e.g. Inge Graef, *EU Competition Law, Data Protection and Online Platforms: Data as Essential Facility* (Kluwer Law International, 2016).
[3] ACCC, Digital Platform Inquiry, Final Report (June 2019), 41 [hereafter 'DPI'], 74 and 80.
[4] DPI, 66.

reinforced by economies of scope and conglomeration effects, which the ACCC in the DPI discusses separately and not as a barrier to entry.[5]

A barrier to entry that is relevant to both traditional and online markets are economies of scale. In *Queensland Wire*, Mason CJ and Wilson J observed "[w]here the economies of scale in a market are such that the minimum size for an efficient firm is very large relative to the size of the market, it may be that potential competitors will be dissuaded from entering the market by the apprehension that only one firm would survive."[6] This is known as the supply-side of economies of scale. In old-economy industries, the high capital costs of manufacturing industries ensured that incumbents were protected from new players entering the protected market.[7]

In online markets, the demand-side of economies of scale (whereby the value of a product increases in line with the increasing number of users) may constitute an almost insurmountable barrier. In the DPI, the ACCC reiterates the finding in the report on digital platforms written for the European Commission stating that while economies of scale is a feature of a range of industries, 'the digital world pushes it to the extreme and this can result in a significant competitive advantage for incumbents.'[8] Since costs in the digital economy become marginal once the platform is set up, an incumbent is able to retain its market power relative to a new entrant. Its revenue will also continue to increase as new users and advertisers join the platform. This advertising revenue can be used to further invest into R&D. This could possibly lead to a positive-feedback loop. Two-sided markets require new entrants to achieve growth on both sides of the market in order to compete effectively.

If there are high switching costs on top of demand-side economies of scale and network effects, potential entrants might be even more deterred as there is considerable uncertainty in innovation markets about recouping investment in R&D. Since competition is for the market, a potential entrant's innovation must not just be a minor improvement. The innovation must rather be so substantial that people desert the incumbent and switch to the new entrant. In other words, the potential entrant must disrupt the market.

### 2. Product Differentiation

Dynamic efficiency is crucial in the platform economy and it arguably diminishes the role of product differentiation in some degree. Instead product imitation arguably plays a larger role than in the previous economies. Incumbent companies are generally wary of new entrants because they may challenge their market power. In digital markets new entrants need to be highly innovative in order to displace an incumbent. Digital platforms compete on features, not price, and some of the major digital platforms offer combinations of services. The ACCC observes that the services provided by digital platforms are constantly changing due to technological advancement and shifts in consumer preferences.[9] For instance, Facebook began as a consumer-facing social media service that allowed communication between networked users, but it now includes online marketplaces for goods and jobs, and Snapchat, which was initially a medium for creating and privately sharing photo-based content with other networked users, later expanded to include public content services.[10] Major

[5] Ibid, 73-74 and 79-80.
[6] *Queensland Wire Industries Pty Ltd v Broken Hill Pty Co Ltd* (1989) 167 CLR 177, 190.
[7] *Ibid*.
[8] DPI, 73, citing Jacques Crémer et al., *Competition Policy for the Digital Era*, European Commission Report No B-1049, 4 April 2019, pp. 2, 20.
[9] DPI, 42.
[10] *Ibid*, 41-42.

platforms are often easily able to introduce new features that mimic popular features of their rivals. For example, Facebook's introduction of 'stories' to its social media platform was reminiscent of Snapchat's core feature – the creation and sharing of multimedia messages referred to as 'snaps'. For tech firms it is also relatively easy to remove a new feature if it is not well received by its users. The addition and removal of features on a digital platform is different to markets in the old economy where firms would more likely incur substantial sunk costs in the adaption of the production process as a consequence of when altering or updating a product. Moreover, it may be costly and time-consuming to reverse those changes. Similarly, tech start-ups may find it difficult to engage in product imitation as they might lack the necessary resources. Large platforms can use product differentiation, on the one hand, to build customer loyalty, and product imitation, on the other hand, to ward off smaller competitors. This strategy increases the likelihood of single-homing and users becoming locked in on a platform's ecosystem. Single-homing and user lock-in are reinforced when a digital platform is able to use data to individualise products and services according to each individual user's preference.