
Submission

13 April 2023

The Australian Competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601

Re: September 2023 Report on the expanding ecosystems of digital platform service providers Issues Paper

The Australian Communications Consumer Action Network (**ACCAN**) thanks the Australian Competition and Consumer Commission (**ACCC**) for the opportunity to provide feedback to the *September 2023 Report on the expanding ecosystems of digital platform service providers Issues Paper* (the Issues Paper).

ACCAN is the peak body that represents consumers on communications issues including telecommunications, broadband, and emerging new services. ACCAN provides a strong unified voice to industry and government as consumers work towards communications services that are trusted, inclusive and available for all.

Digital platform ecosystems can provide significant benefits for both individuals and the broader community when the appropriate competition and consumer protections are in place. For example, integrated smart home devices can offer people with disabilities opportunities to live more independently. Using an accessible smartphone interface and voice activated assistants, Internet of Things (**IoT**) technologies and in-home devices can perform functions for people with disabilities that would otherwise be difficult or, for some, impossible. ACCAN is supportive of competitive and efficient digital platform markets that provide consumers with effective choice and confidence.

The issues paper explores a range of questions related to digital platform ecosystems, IoT devices and cloud services. We have restricted our comments to those questions that touch upon matters directly relevant to consumers. In this submission we:

- Reiterate the need for digital platform regulatory reforms recommended in the Digital Platform Services Inquiry interim report no. 5.
- Call for regulatory settings that reflect risks from IoT, including cybersecurity and domestic and family violence (DFV).
- Urge for the ACCC to include consumer cloud service providers in the proposed ex-ante competition measures where there is market concentration.

The need for consumer representation

Digital platforms are a popular means for Australians to communicate with each other.¹ However, Australians are faced with numerous harms including scams, harmful apps and fake reviews. In previous submissions to the ACCC Digital Platform Services Inquiry² ACCAN has raised concerns that there is no dedicated Australian consumer organisation representing the interests of consumers in the ever-expanding digital platform environment.

A properly resourced consumer voice is needed to ensure that all Australian consumers can use digital platforms confidently and safely. ACCAN recommends that consumer representation be adequately funded to properly engage with emerging issues facing Australian consumers on digital platforms. Funding would allow consumer groups to better participate in the ongoing discussions regarding digital platform services and consumer protections and safeguards.

We thank the ACCC for the opportunity to provide this submission. Should you wish to discuss any of the issues raised in this submission, please do not hesitate to contact me at

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Further details on our response to the consultation paper's questions are set out in **Attachment A** of this submission.

Yours sincerely,

Samuel Kininmonth
Policy Adviser

¹ We Are Social 2022. *DIGITAL 2022 AUSTRALIA: ONLINE LIKE NEVER BEFORE*. Available at: <https://wearesocial.com/au/blog/2022/02/digital-2022-australia-online-like-never-before/>

² ACCAN 2021. *Submission to ACCC Digital Platforms Inquiry Report on market dynamics and consumer choice screens in search services and web browsers*. Available at: <https://accan.org.au/accans-work/submissions/1847-acc-consumer-choice-screens>

ACCAN 2022, p.6. *Digital Platform Services Inquiry – March 2023 Report on Social Media Services*. Available at: <https://accan.org.au/accans-work/submissions/2018-acc-report-on-social-media-services-issues-paper>

Attachment A. Responses to select questions

10) What types of other potential competition issues have arisen from these providers of digital platform services expanding their ecosystems?

11) What types of potential consumer harms have arisen from these providers of digital platform services expanding their ecosystems?

Platform and software ecosystems owned by large technology companies can risk competition and consumer harms. Interconnected software can potentially benefit consumers by improving interactivity between connected services such as by allowing simpler account authentications and smart assistant capability. However, interconnection can potentially harm consumers by locking them into specific providers. Digital platform ecosystems also multiply the touchpoints services have with consumers and possibly increase the amount of data that large firms can collect from consumers.

Digital platform ecosystems represent a risk to consumers and require regulatory attention. Research by ACCAN found that:

- 79% of Australians believe more needs to be done to protect users' safety and privacy online.³
- Only 27% of respondents believe the government is doing enough to make sure digital platforms do the right thing.⁴

Platform ecosystems should be addressed using the ACCC's recommendations for regulatory reform of digital platforms including:⁵

- Economy wide prohibition on unfair trading practices and expanding the scope of unfair contract term laws.
- Mandatory processes to reduce scams, harmful apps and fake reviews. Mandatory internal dispute resolution processes and an independent external ombudsman scheme.
- Targeted ex-ante codes to address competition risks for large designated digital platforms.

Digital platforms ecosystems risk a diverse range of competition and consumer harms and will require multiple policy proposals and ongoing regulatory oversight.

³ ACCAN 2021. *New research finds nearly three-quarters of Australians want better complaints handling from digital platforms*. Available at: <https://accan.org.au/media-centre/media-releases/1942-new-research-finds-nearly-three-quarters-of-australians-want-better-complaints-handling-from-digital-platforms>

⁴ ACCAN 2021. *New research finds nearly three-quarters of Australians want better complaints handling from digital platforms*. Available at: <https://accan.org.au/media-centre/media-releases/1942-new-research-finds-nearly-three-quarters-of-australians-want-better-complaints-handling-from-digital-platforms>

⁵ ACCC 2022. *Digital platform services inquiry: Interim report No. 5 – regulatory reform*. Available at: www.accc.gov.au/publications/serial-publications/digital-platform-services-inquiry-2020-2025/digital-platform-services-inquiry-september-2022-interim-report-regulatory-reform

19) What consumer benefits arise from the provision of smart home devices in Australia by firms which also provide a suite of other products or services?

Smart home devices provide a range of benefits to consumers. As a report from University of New South Wales found that there has been enormous growth in the number of internet connected devices in the home:

These “Internet of Things” (or IoT) devices include televisions, webcams, smoke alarms, fitness trackers, climate-control systems – even “smart” light bulbs. They save us money and time. They help us stay fit, healthy and safe. They allow us to communicate effectively with friends and family, or be entertained.⁶

ACCAN’s 2021 position statement notes that properly regulated IoT devices can offer people with disabilities opportunities to live more independently by performing tasks that would otherwise be difficult or, for some, impossible.⁷ However, in order to realise these benefits, the IoT market requires appropriate regulation.

20) What competition and consumer harms may arise from the provision of smart home devices in Australia by firms which also provide a suite of other products or services?

Smart homes present a range of risks around cybersecurity and privacy.⁸ Australia’s current voluntary, Code-based IoT regulatory framework offers consumers minimal protection, and there are limited market-based incentives for Australian IoT device manufacturers to fill this void.⁹

We recommend the ACCC to consider a report from researchers at the University of Technology Sydney that made 42 recommendations to increase consumer protections for IoT devices in Australia.¹⁰ The report argues that the ‘most immediate pressing concern for [Consumer IoT] devices is the inadequate security of many products, particularly those installed in homes’.¹¹ We encourage that the ACCC examine the policy recommendations made in the report as part of the inquiry.

Given the vast majority of IoT devices are manufactured offshore and are either imported for sale or purchased by consumers directly online, regulatory measures will need be applicable post-

⁶ Sivaraman, V., Habibi Gharakheili, H. & Fernandes, C. 2017. *Inside job: Security and privacy threats for smart-home IoT devices*. Available at: <https://accan.org.au/grants/grants-projects/1442-inside-job>

⁷ ACCAN 2021. *Internet of Things Position Statement*. Available at: https://accan.org.au/files/Policy%20Positions/PP%202021/Internet%20of%20Things%20Position%20Statement%20short_FINAL.pdf

⁸ Sivaraman, V., Habibi Gharakheili, H. & Fernandes, C. 2017. *Inside job: Security and privacy threats for smart-home IoT devices*. Available at: <https://accan.org.au/grants/grants-projects/1442-inside-job>

⁹ ACCAN 2021. *Internet of Things Position Statement*. Available at: https://accan.org.au/files/Policy%20Positions/PP%202021/Internet%20of%20Things%20Position%20Statement%20short_FINAL.pdf

¹⁰ Lindsay, D., Wilkinson, G. & Wright, E. 2022. *Regulation of Internet of Things Devices to Protect Consumers*. Australian Communications Consumer Action Network, Sydney. Available at: <https://accan.org.au/grants/grants-projects/1781-regulation-of-internet-of-things-devices-to-protect-consumers>

¹¹ Lindsay, D., Wilkinson, G. & Wright, E. 2022, p.16. *Regulation of Internet of Things Devices to Protect Consumers*. Australian Communications Consumer Action Network, Sydney. Available at: <https://accan.org.au/grants/grants-projects/1781-regulation-of-internet-of-things-devices-to-protect-consumers>

manufacture to capture all devices sold and used by Australian consumers. Australia's IoT regulatory regime should be aligned with comparable jurisdictions to ensure consistency of consumer protection measures globally.

An effective Australian Internet of Things regulatory regime will address:

- Cybersecurity.
- Data privacy and informed consent.
- Transparency and consumer information.
- Device and network resilience.
- Durability and fitness for purpose.
- Accessibility.
- Protection for vulnerable consumers.

One issue of utmost concern at present is the use of smart home technology in Domestic and Family Violence (**DFV**) and technology facilitated coercion and control. For example, perpetrators of DFV may remotely alter the position of a security camera to undertake surveillance of victim-survivors in their homes.¹² Research shows that concerns around IoT are of even greater concern for vulnerable consumers.¹³ The research emphasises that contractual terms and conditions and privacy policies need to consider the needs of vulnerable groups in their design.

24) What is involved in switching consumer cloud storage providers? How hard or easy is it to migrate data from one provider to another?

At present there is no easy way for consumers to switch cloud storage providers. To migrate data from one provider to another, consumers have two options. One, they can manually download files from the previous provider onto local storage on a device and then upload to the new provider. This can be time consuming and difficult, particularly for consumers using mobile devices and tablets. Two, consumers can use a third-party cloud transfer service to automate the transfer of files. Third-party cloud services can be free or paid, with paid services sometimes offering more functionality. Third party cloud services may not integrate with every cloud provider.

Switching between consumer cloud service providers could be improved by requiring providers to provide interoperable, open standards so that consumers can more easily switch providers.

24) What consumer benefits arise from the provision of consumer cloud storage in Australia by firms which also provide a suite of other products or services?

Consumer cloud storage by diversified firms can offer consumers several benefits. For example, firms that offer both mobile operating systems and cloud storage (Apple and Alphabet) can ensure that cloud storage is optimised to integrate with mobile devices. Firms that offer a range of software (such as Alphabet or Microsoft) could also ensure that their cloud data integrates easily with other

¹² UQ News 2020. *Survey explores impact of technology-facilitated abuse*. Available at: <https://www.uq.edu.au/news/article/2020/09/survey-explores-impact-of-technology-facilitated-abuse>.

¹³ Lindsay, D., Wilkinson, G. & Wright, E. 2022, p.16. *Regulation of Internet of Things Devices to Protect Consumers*. Australian Communications Consumer Action Network, Sydney. Available at: <https://accan.org.au/grants/grants-projects/1781-regulation-of-internet-of-things-devices-to-protect-consumers>

software, providing economies of scope. However, these same opportunities also present potential competition harms such as bundling, tying and ‘lock in’ effects.¹⁴

24) What competition and consumer harms may arise from the provision of consumer cloud storage in Australia by firms which also provide a suite of other products or services?

Firms that offer cloud services in addition to other software services may also lead to competition concerns around vertical integration. As a research report from the EU argues:

The presence of lock-in effects, high switching costs, barriers to entry, economies of scale and potential network effects in a fast-growing cloud services market make action particularly urgent, as it will be difficult for other cloud services providers to compete on the merits and for the innovation in this sector to continue to grow for the benefits of the cloud users.¹⁵

The research report recommends that regulators promptly introduce ex-ante competition regulation to ensure that very large incumbent firms do not develop into a future oligopoly. The emergence of an oligopoly market structure would result in a material lessening in competition, risking consumer harm through pricing and service delivery. This should be addressed through the ACCC’s proposed ex-ante regulatory reforms currently under consideration.¹⁶

¹⁴ Jenny, J. 2021. *Cloud Infrastructure Services: An analysis of potentially anti-competitive practices*. Available at: https://1c0189d5-591c-4879-8e77-9042791e1e52.filesusr.com/ugd/159979_acbf93e9b2164250a0ca93e753616650.pdf

¹⁵ Jenny, J 2021, p.50. *Cloud Infrastructure Services: An analysis of potentially anti-competitive practices*. Available at: https://1c0189d5-591c-4879-8e77-9042791e1e52.filesusr.com/ugd/159979_acbf93e9b2164250a0ca93e753616650.pdf

¹⁶ ACCAN 2023. *Digital Platforms: Government consultation on ACCC’s regulatory reform recommendations Consultation Paper*. Available at: <https://accan.org.au/accans-work/submissions/2061-digital-platforms-regulatory-reforms>