



Submission to Australian Competition and
Consumer Commission

Digital Platform Services Inquiry 2020-2025
September 2023 Interim Report

Introduction

Microsoft appreciates the opportunity to share our views on the issues paper for the September 2023 interim report in Australian Competition and Consumer Commission's Digital Platform Services Inquiry. Founded in 1975, Microsoft is a global technology company that develops and supports software, services, devices, and solutions. We recently celebrated 40 years of participating in and contributing to the Australian tech industry.

Microsoft welcomes and supports the ACCC's recognition that the growth in digital platform services has been a significant driver of productivity growth in the Australian economy.¹ We are committed to fostering inclusive growth by helping companies of all sizes digitally transform. Our company mission is to empower every person and organisation on the planet to achieve more.

Microsoft's products and services

As set out in the Issues Paper, Microsoft offers a wide range of products and services spanning general search (Bing), operating systems (Windows), productivity tools (Microsoft 365), professional networking (LinkedIn), gaming (Xbox), and cloud computing (Azure).² We also offer CRM Solutions (Dynamics 365), hardware devices (Surface), developer tools (GitHub), and others.

Despite some overlaps in the technologies supplied by the large companies listed in the Issues Paper, there are considerable differences. Each of Amazon, Apple, Meta, Alphabet, and Microsoft supply a different range of products and services that may encompass e-commerce marketplaces, app stores, search engines, social media and social networks, operating systems and application software, cloud computing services, digital advertising services, and more. The business models underpinning this range of products and services are just as varied and include ad-supported; perpetual licenses; consumption-based; subscriptions; open source; peer-to-peer; on-demand; marketplace, freemium, and more.

As a result, each company is competing for a different mix of customers and driven by different objectives, incentives, and competitive constraints. All these different incentives and constraints have different implications for competition and drive our different business decisions, including in relation to new products and services, expansion activities, and use of data.

For instance, the types of services and business models in consumer and enterprise services differ significantly. Many consumer-oriented technology services use a multi-sided, ad-funded business model, often providing the service for free to consumers but charging suppliers (businesses or advertisers) to reach the consumers. As the ACCC has found in its past inquiries, purely ad-funded consumer platforms often have the ability and incentive to collect large amounts of user data to enable more effective targeting and thereby attract more advertisers.³

In contrast, enterprise products and services typically involve the supply of technological services and technology-enabling infrastructure for a fee. These services and infrastructure serve as inputs for customers to use to further their own businesses. These fee-based or subscription business models do not create incentives to access or repurpose the data provided by enterprise customers. Instead, they

¹ ACCC, [Digital Platform Services Inquiry Fifth Interim Report](#), 11 November 2022, p29; cited in ACCC, [Digital Platform Services Inquiry Seventh Interim Report Issues Paper](#) ('Issues Paper'), 8 March 2023, p3.

² Issues Paper, p4.

³ See, e.g., [Digital Platforms Inquiry Final Report](#), 26 July 2019, p11, [Digital Advertising Services Inquiry Final Report](#), 28 September 2021, p83.

are incentivised to innovate to create tools and services that help business customers maximise the value of their own data. In fact, in such services, the data belongs to the customer, the product or service provider acts merely as a processor of such data on behalf of the customer.

As a widely diversified technology company, we have appreciated the ACCC's focused examination of digital platform services to-date. We urge the ACCC to continue to recognise the heterogeneity of different digital platform services and to continue to undertake market-specific analysis when considering firms' expansion activities and conduct.

The ACCC has recently recommended service-specific codes of conduct to apply to designated gatekeepers acting as unavoidable intermediaries between consumers and businesses. The service-specific nature of the recommended codes is a key reason that Microsoft considers this to be one potentially effective way of supplementing existing competition laws in regulating digital platform markets Australia. To ensure that any such codes promote competition to the benefit of consumers and do not inadvertently undermine it, it is critical that this new power be used only to address conduct for which there is strong evidence of actual significant competitive harms. Similarly, strong judicial review will ensure that interventions are supported by evidence and theory, increasing the likelihood that any intervention will benefit and not undermine competition. Therefore, and consistently with the ACCC's approach thus far, we caution against the value of broad generalisations applied across the vast variety of services in the rapidly growing digital economy.

Competition between ecosystems

The first step in assessing the competitive impact of digital platform ecosystems is to clearly define the meaning of an 'ecosystem'. The Issues Paper initially proposes to describe '**digital platform ecosystem**' as '*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*'.⁴ This is, however, a broad description that is used in a wide variety of contexts and to refer to various different types of interrelations and interconnections between products and services throughout the Issues Paper.

The fact that a company may have many lines of business and many assets does not make an 'ecosystem' for which competition must be studied at the level of the firm instead of considering a specific market. For example, the fact that Microsoft has been successful with enterprise modern work solutions like Microsoft 365 is of no relevance to its competitive position with Bing internet search. On the other hand, it may well be relevant to internet search whether a company has and controls access to critical sources of traffic, such as also being dominant in browsers, mobile operating systems, and search defaults in third-party products.

As a starting point, therefore, we welcome the ACCC's development of a clear definition of the term 'ecosystem' for the purposes of competitive analysis and when considering such an ecosystem might be appropriate to understand competitive dynamics and when it is not. It is important for the definition to clearly capture the competitive significance of the term and identify the essential features that distinguish a 'digital platform ecosystem' beyond common ownership of a collection of assets or capabilities.

A consistent understanding of the type of interrelation or interconnection that denotes an 'ecosystem' will be key to identifying a relevant theory of harm to assess the potential impact of conduct or expansion on competition and consumers. What are the limiting principles? For example, the ACCC's past analysis of digital platform markets have found that certain digital 'gatekeepers' exhibit a

⁴ Issues Paper, p2.

combination of unique economic characteristics that the ACCC has identified as contributing to market power, e.g., strong direct and/or indirect network effects, significant economies of scale and sunk costs, barriers to switching, etc.⁵

A clear definition is especially critical considering the vast variety of products and services offered by each of the firms listed in the Issues Paper, some of which are only tenuously connected or not at all. For example, Microsoft supplies digital advertising as well as consumer cloud storage service OneDrive, but the data collected from consumers using OneDrive is not used in connection with the supply of digital advertising services. Similarly, data collected from the supply of digital advertising services is not used in connection with the supply of OneDrive.

Moreover, it is important to take care that regulatory scrutiny of 'ecosystems' considers the many efficiencies and innovations resulting from expansion that benefit consumers and drive business growth. For instance, research by the Productivity Commission has found that *'there is good evidence that cloud services improve productivity. Such services allow businesses to tailor their computing resources more flexibly to their organisational needs, avoiding the large fixed costs of conventional computing solutions, and enable new ways of working'*.⁶ Microsoft's supply of cloud computing services requires substantial investment in infrastructure and ongoing innovation to develop technologies that can be used by *any* company, non-profit, or Government agency as an input to increase productivity and help build and enhance their own products or services in pursuit of innovation and growth.

Digital platforms' expansion strategies

An open market economy is characterised by vigorous competition between firms to innovate and grow. Continuing to improve on and expand our products and services is part of the competitive process and enables us to create value for our customers and to maintain a competitive edge in the fast-moving global technology markets in which we operate.

For Microsoft, our growth and expansion are driven by the persistent need to respond to consumer demand and market opportunities. This ongoing pursuit of growth and innovation has spurred us to enter different markets such as online search, social networks, CRM, and gaming to challenge established incumbents, increase competition, and ultimately to benefit consumers.

Again, this illustrates the value in ensuring the ACCC's definition of 'ecosystem' and framework for competition analysis is sufficiently precise to distinguish between, on the one hand, pro-competitive expansion resulting from efficiencies and innovation and, on the other hand, expansion that raises competition concerns involving foreclosure of competitors or leveraging of market power.

Consumer cloud storage services

Consumer cloud storage services have become an integral and expected feature of operating systems and many other online services, as consumers today expect and benefit from the ability to manage and securely access their content across different devices. As a result, consumer cloud storage has become a necessary and common feature of many digital services from online graphic design tools to email to operating systems.

⁵ ACCC, [Digital Platform Services Inquiry Fifth Interim Report](#), 11 November 2022, pp6-7.

⁶ Henry McMillan, Tim Murray, Catherine de Fontenay and Ralph Lattimore, Productivity Commission, [Head in the Cloud: Firm performance and cloud service](#), 26 October 2022, p3.

As the Issues Paper notes, consumer cloud storage services provide consumers with many benefits.⁷ They enable consumers to save files on a cloud drive, access them from any device through an application or a web browser and share content with others. It also provides a secure back-up in case the device is lost. Cloud storage services are supplied by Alphabet (Google Drive), Apple (iCloud), and Microsoft (OneDrive) along with a range of other providers such as Dropbox, pCloud, Sync.com, MEGA and IDrive.⁸

Consumer cloud storage services can be offered as an ancillary feature that is necessary to enable online products to work in the way that consumers expect or standalone. Microsoft offers a limited initial amount of storage in OneDrive as a feature of our Windows operating system and as a part of Microsoft 365 productivity tools. Users can also acquire the free tier functionality on a standalone basis. Users who need additional storage, can upgrade for a fee.

Consumers have complete control over which cloud storage service they use in conjunction with Microsoft products and services. Consumers using the Windows operating system or Microsoft 365 apps and services can choose to use OneDrive or instead rely on one of the many alternative consumer cloud storage service offerings available. And other suppliers of consumer cloud storage services have access to all the necessary application programming interfaces to be displayed, positioned, and accessed, by consumers in Windows 11 in the same way user access OneDrive. Alternative consumer cloud storage services offered by third parties can be installed to work seamlessly and sync files on the Windows operating system or used to manage files on Microsoft 365. Consumers can also easily turn off, disable, unlink, or uninstall OneDrive.⁹

We thank the ACCC for the opportunity to comment and look forward to continuing our open constructive dialogue with the ACCC on promoting and maintaining innovative and competitive digital markets in Australia.

⁷ Issues Paper, p12.

⁸ Ibid.

⁹ Microsoft Support, [Turn off, disable, or uninstall OneDrive](#).