



Ad Tech Inquiry

Issues Paper

10 March 2020

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1. Overview

The Treasurer, the Hon Josh Frydenberg MP, has directed the Australian Competition and Consumer Commission (**ACCC**) to hold an inquiry into markets for the supply of digital advertising technology services (**ad tech services**) and digital advertising agency services (**ad agency services**) (the **Inquiry**).

The ACCC invites interested parties to submit views and information to assist our inquiry.

The Inquiry will follow on from the findings of the ACCC's Digital Platforms Inquiry, which delivered its final report in July 2019. It will also have regard to the work of international competition and consumer agencies – such as the UK Competition & Markets Authority – who are also considering these issues.

The inquiry will focus on the competitiveness, efficiency, transparency and effectiveness of markets for the supply of ad tech services and ad agency services. In particular, the ACCC seeks your views on:

- 1) whether market participants have enough information (including about pricing, rebates and revenue flows) to make informed choices about the use of ad agency and ad tech services
- 2) competition throughout the ad tech supply chain and in the supply of ad agency services
- 3) the role and use of data in supplying these services, and
- 4) whether competition and efficiency are being affected by supplier behaviour, including vertically integrated suppliers preferencing their own services, or by ad tech services businesses or ad agencies not acting in the best interests of their clients.

Further detail on the key issues for the inquiry are provided at **Section 4** below.

The ACCC seeks feedback from companies who buy digital display advertising, ranging from small businesses to global brands, and from other stakeholders including, advertising and media agencies, ad hosts or publishers (e.g. social media platforms, website owners, app developers that host advertisements), and advertising technology services companies.

To assist with your responses, short fact sheets containing key issues and questions for advertisers and ad hosts/publishers are set out at **Attachment C** and **Attachment D** respectively.

The ACCC encourages 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 the Inquiry. You are not expected to address every question in this Issues Paper. Wherever possible, please provide reasons for your views and any evidence available to support your views.

Key dates

This ACCC invites submissions from interested parties on the matters outlined in this issues paper by **21 April 2020**.

The ACCC will provide a preliminary report to the Treasurer in December 2020 and a final report to the Treasurer by 31 August 2021. These reports will be publicly released.

Making a submission

The ACCC invites your views by way of written feedback in response to this Issues Paper. The ACCC will also directly contact some market participants to request specific information.

Invitation for written submissions

You may provide your submission to the ACCC in the form of a public or confidential submission (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.

Written submissions to this Issues Paper should be emailed to AdTechInquiry@acc.gov.au by **21 April 2020**.

If you would like to be notified of updates in relation to the inquiry, please email your details to AdTechInquiry@acc.gov.au.

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 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 your submission, the confidential information 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 AdTechInquiry@acc.gov.au if you have any questions regarding making a submission containing confidential information.

About this Issues Paper

This Issues Paper provides further detail about the Inquiry, and draws attention to particular issues of interest to the ACCC. It is structured as follows:

- **Section 2** provides further detail about the scope of the Inquiry

- **Section 3** provides background information about the supply of digital advertising technology services and digital advertising agency services in Australia
- **Section 4** contains further detail on the key issues for the inquiry, along with specific questions for interested parties.

A glossary of key terms used in this Issues Paper is at **Attachment A**.

The full Ministerial Direction is at **Attachment B**.

A short fact sheet of key issues and questions for advertisers is at **Attachment C**.

A short fact sheet of key issues and questions for ad hosts/publishers is at **Attachment D**.

2. Scope of the Inquiry

Issues for consideration

The Inquiry will consider the following matters:

- (a) the intensity of competition in markets for the supply of, and the efficiency of markets for the supply of, ad tech services and ad agency services, with particular regard to:
 - (i) any concentration of market power in the hands of one or more suppliers of these services,
 - (ii) the availability of information (including pricing transparency) to advertisers, publishers and other market participants,
 - (iii) auction and bidding processes used to supply of digital display advertising,
 - (iv) the impact of mergers and acquisitions on those markets,
 - (v) supplier behaviour, and
 - (vi) how competition in these markets impacts on competition in the supply of digital display advertising services
- (b) the relationships between suppliers and customers in markets for ad tech services, ad agency services, and display advertising services, and
- (c) whether ad tech services, ad agency services, and display advertising services are being provided to the satisfaction of all market participants.

Definitions

As is apparent from the description above, the Inquiry is to be held in relation to the following goods and services:

- (a) digital advertising technology services
- (b) digital advertising agency services, and
- (c) digital display advertising services.

These services are defined in the Ministerial Direction as follows.

‘Digital advertising technology services’

‘Digital advertising technology services’ (or **ad tech services**) are services that provide for, or assist with, the automated buying, selling and delivery of digital display advertising services.

The ACCC considers that the key suppliers of ad tech services for this Inquiry include:

- publisher ad servers
- supply-side platforms (also referred to as ‘SSPs’) and ad exchanges
- demand-side platforms (also referred to as ‘DSPs’)
- advertiser ad servers, and
- data services providers.

Each of these participants in the market for ad tech services are described in more detail in **Section 3. Industry Overview** below.

‘Digital advertising agency services’

‘Digital advertising agency services’ (or **ad agency services**) are services supplied to advertisers relating to negotiating, acquiring or managing digital display advertising services.

Ad agency services are described in more detail in **Section 3. Industry Overview** below.

‘Digital display advertising services’

‘Digital display advertising services’ (or **display advertising**) are the supply of opportunities for the placement of advertising, by way of the internet, other than classified advertising and search advertising. For example, this includes the supply of advertising opportunities in banners, or in videos, on a webpage; within mobile apps; and in conjunction with social media content.

Potential outcomes

The Inquiry may lead to a range of outcomes, including but not limited to:

- findings regarding structural, competitive or behavioural issues affecting the supply of digital advertising technology services or digital advertising agency services
- increased information about competition, pricing and other practices in the supply of digital advertising technology services and digital advertising agency services to consumers, advertisers, publishers, and other market participants
- ACCC action to address any behaviour that raises concerns under the *Competition and Consumer Act 2010*, and
- recommendations to the Government for law or policy change.

Ministerial Direction

The full Ministerial Direction is at **Attachment B**.

3. Industry Overview

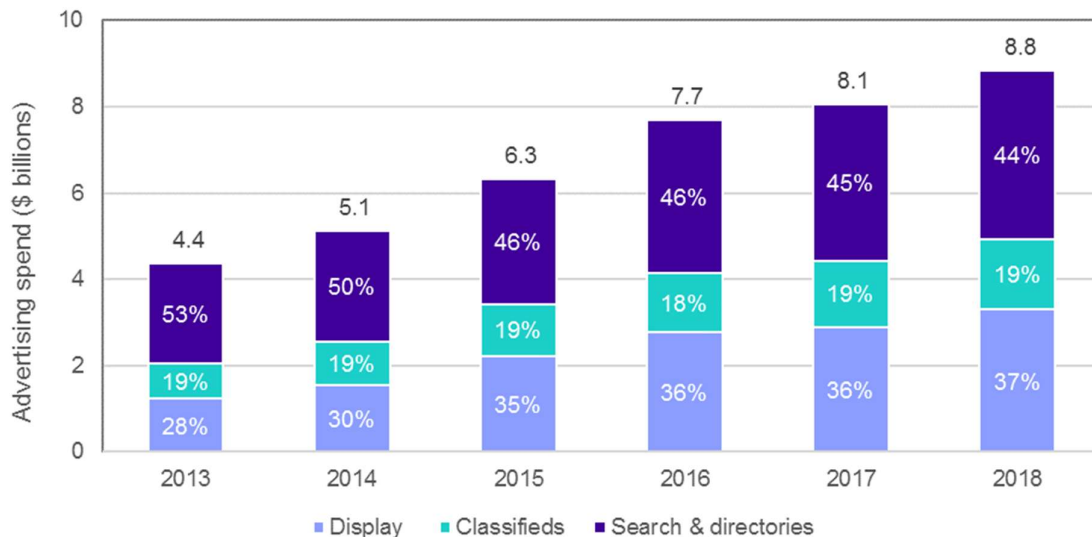
The online advertising industry in Australia

Online advertising can be broadly divided into three types:

- 1) **search advertising**, which appear when a user performs a search query on a general search engine (such as Google and Bing) or a specialised search engine (such as Amazon or Expedia)
- 2) **classified advertising**, which appear on general classifieds websites (such as Gumtree and Trading Post) or specific classifieds websites (such as Seek or Domain), and
- 3) **display advertising**, which refers to all other types of online advertising, including advertising in banners or videos on webpages, in mobile apps, and alongside social media content.

Figure 1 below shows the levels of expenditure on the various types of online advertising in Australia from 2013 to 2018.

Figure 1: A breakdown of online advertising expenditure in Australia¹



Note: Amounts are shown in 2018 dollars.

Source: CEASA, ACCC analysis.

In the 2018/19 financial year, the Australian market for online display advertising generated \$3.4 billion in revenue, a growth of 7.4 per cent on the previous financial year.² As the supply of display advertising has evolved into a complex ecosystem involving numerous intermediaries, a significant proportion of this online display advertising revenue flows to the suppliers of ad tech and ad agency services that are the focus of this Inquiry. For instance, estimates suggest that suppliers of ad tech and ad agency services in the UK receive, on

¹ ACCC, 'Digital Platforms Inquiry Final Report' (June 2019) ('**DPI Final Report**'), p91.

² Interactive Advertising Bureau, 'Online Advertising Expenditure Report FY19' (22 August 2019).

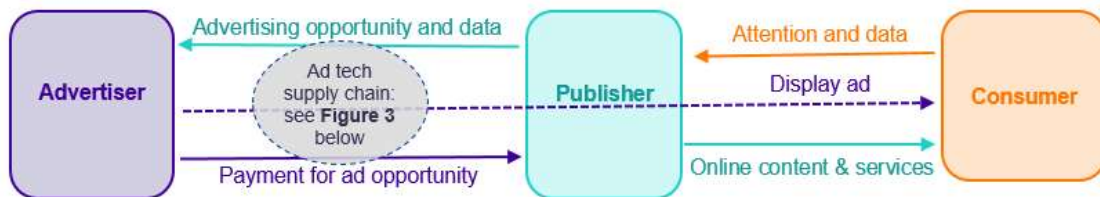
average, 38 per cent of an advertiser's online display advertising expenditure, though this figure is likely to vary considerably on a case-by-case basis.³

Digital display advertising

Buyers and sellers

A simplified diagram of the transaction between advertisers, publishers and consumers in the market for display advertising is shown at **Figure 2** below.

Figure 2: Simplified diagram of transactions between advertisers, publishers and consumers



Advertisers

Advertisers buy digital display advertising opportunities (or '**ad inventory**') from publishers to influence consumers' perceptions or actions. Advertisers may directly transact with publishers or, more commonly, transact through one or more intermediaries supplying a variety of ad tech services and ad agency services.

Advertisers can include businesses of all sizes and across all industries, as well as non-profit organisations and Government departments. There are some broad differences in how advertisers of different sizes buy display advertising:

- larger, more sophisticated advertisers often use ad agencies to plan and manage their online ad campaigns and tend to purchase digital display advertising inventory from multiple sources, and
- smaller advertisers commonly buy advertising directly from Google or Facebook using their self-service interfaces (e.g. Google Ads or Facebook Ads) and are less likely to buy display advertising from multiple sources.⁴

Publishers

In this Inquiry, the ACCC uses the terms '**ad host**' or '**publisher**' to refer to any supplier of online content, mobile apps, or other services that attract consumer attention online and that hosts advertising opportunities that they sell to advertisers.

There is a large variety of online publishers that sell display advertising opportunities to advertisers, including:

- print/online publishers that supply ads in both their print publications and online via their websites and apps: e.g. *The Age*, *The Economist*, *The Daily Telegraph*
- digital native publishers that display ads on their websites and apps: e.g. *Crikey*, *Buzzfeed*, *The Guardian Australia*
- broadcasters and websites that display ads alongside or embedded within online video content: e.g. *9Now*, *SBS On Demand*, *YouTube*

³ Plum Consulting, 'Online advertising in the UK: a report commissioned by the Department for Digital, Culture, Media & Sport' (January 2019), p64-65.

⁴ Competition & Markets Authority (UK), 'Online platforms and digital advertising: Market study interim report' (December 2019) ('**CMA Interim Report**'), p155.

- app developers: e.g. *King* (a developer of cross-platform games such as *Candy Crush*)
- social media platforms that display ads alongside social media posts: e.g. *Facebook*, *Twitter*, *Snapchat*

What are the main types of display advertising?

Main display advertising formats

Broadly, there are four main formats for display advertising, which are set out in **Table 2** below.⁵

Table 2: Main display advertising formats

Format	Description	Example
Banner	Advertising shown in standard display units on webpages or in apps - ad content may include images and animations. Ads may appear at the top, bottom, down the side of webpages and includes takeover ads.	<ul style="list-style-type: none"> • Banner advertising appearing at the top of pages on au.yahoo.com.
Native	Advertising integrated into the surrounding content, predominantly in-feed advertising such as promoted posts in social feeds or paid-for recommendations on webpages.	<ul style="list-style-type: none"> • Sponsored product links appearing on an Instagram feed • Facebook carousel image ads. • 'Promoted links from around the web recommended by Outbrain' appearing below articles on The Guardian app
Sponsored content	Advertiser-sponsored content on a webpage or app such as in ad-features or 'advertorials'.	<ul style="list-style-type: none"> • Sponsored articles on BuzzFeed.com.
In-stream video	Video advertising shown before, during or after video content.	<ul style="list-style-type: none"> • 30-second video ads show within programming on ITV Player. • 6-second bumper video ads shown before YouTube videos.

The different display advertising formats may also be delivered via a range of different devices, including a smartphone, a tablet, or a desktop/laptop and can be displayed within a web browser or mobile app.

In the future, display advertising is expected to expand to include other modes of delivery such as TV, voice assistants, wearable devices (such as smart watches), and digital-out-of-home billboards. This Inquiry will focus on display advertising delivered via desktop and mobile browsers on desktop/laptops or on mobile apps used on a smartphone or tablet.

How is display advertising bought and sold?

Digital display advertising can be bought and sold via direct negotiation between advertisers and publishers ('**direct deals**') or via the use of automated systems and processes and data ('**programmatic trading**').

⁵ Adapted from Plum Consulting, 'Online advertising in the UK: a report commissioned by the Department for Digital, Culture, Media & Sport' (January 2019), p22 (Figure 2.1), citing segmentation used by the Interactive Advertising Bureau (IAB) and PwC to report online advertising expenditure.

Overview of programmatic trading

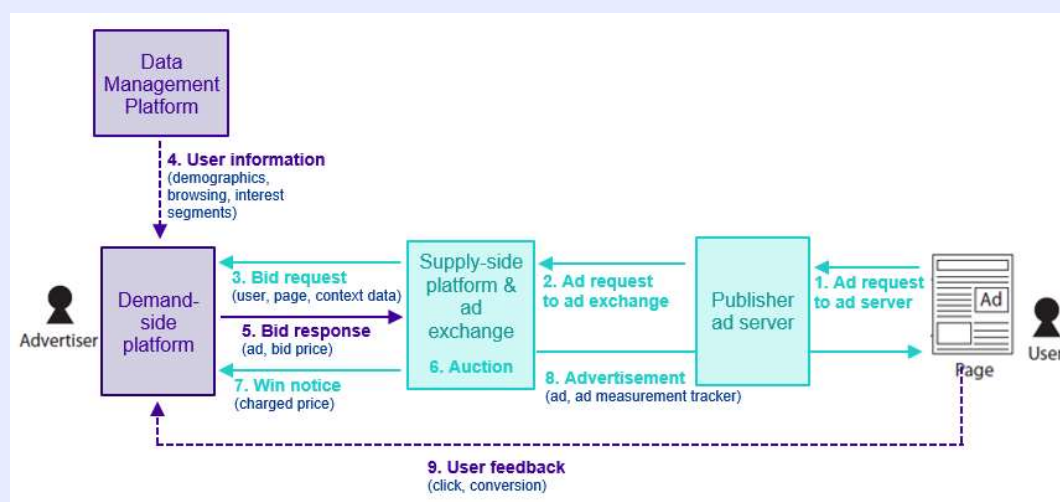
Programmatic trading is an umbrella term that includes many types of automated buying and selling of display advertising opportunities. It includes, but is not limited to, the use of real-time bidding to conduct open auctions (see further **Box 1** below).⁶ Other types of programmatic trading include the use of private marketplaces to facilitate private auctions⁷ or preferred deals⁸ and the execution of programmatic guaranteed deals.⁹

Box 1: How does a real-time bidding auction work?

Display ads are often served programmatically via a real-time bidding auction. This is a complex process involving several suppliers of ad tech services, but typically lasts less than 100 milliseconds and is invisible to the consumer.

Some key steps occurring during a real-time bidding auction are illustrated in **Figure 3** below.

Figure 3: Summary of key steps in a real-time bidding Auction



1. The webpage sends an ad request to the publisher ad server to find out if the ad space has been reserved under a direct deal. If so, the advertiser with the direct deal serves an ad.

2. If the ad space is not reserved, the webpage sends an ad request to the supply-side platform and ad exchange with information regarding the ad space and the consumer (based on information from cookies and other data).

3. The ad exchange sends this information to different demand-side platforms for advertisers' bids.

4. Demand-side platforms can contact data management platforms for third-party user data to decide how much to bid.

⁶ Plum Consulting, 'Online advertising in the UK: a report commissioned by the Department for Digital, Culture, Media & Sport' (January 2019), p10.

⁷ Private auctions allow multiple advertisers to participate in an invite-only auction.

⁸ Preferred deals involve a contract between a publisher and an advertiser for the advertiser to purchase certain ad inventory with a 'first-look' advantage before the publisher makes it available at an auction.

⁹ Programmatic guaranteed deals are direct deals between a publisher and an advertiser with the terms of the transaction agreed in advance, but executed programmatically instead of manually, which increases the efficiency of the order and allows the use of targeting tools for real-time personalised advertising.

5. Demand-side platforms generate and submit advertiser bids to the ad exchange/supply-side platform.
6. The supply-side platform/ad exchange conducts the auction and selects the winning bid.
7. A win notice is sent to the demand-side platform making the highest bid.
8. The winning advertiser's display ad (and tracker) is loaded onto the webpage.
9. The tracker collects information about the user's subsequent actions, including whether the user clicked the ad and whether it led to any conversion.

Different ways of selling programmatic display advertising inventory

There are a variety of ways in which display advertising may be sold programmatically:

- (a) Publishers with their own vertically-integrated ad tech services may sell their own ad inventory through their own services. These ads are sometimes referred to as 'owned and operated' ad inventory. For example:
 - i. Ads on Facebook's platforms (e.g. Instagram, Facebook and Messenger) are purchased through Facebook Ads, which is Facebook's demand-side platform and which only connects to Facebook services.
 - ii. Ads on Google's platforms (e.g. YouTube and Gmail) are purchased through Google's demand-side platforms – Google Ads and Google Marketing Platform.
- (b) Publishers can sell their ad inventory using an end-to-end ad tech services supplier who provides fully vertically-integrated services along the ad tech supply chain. For example, a publisher could join Facebook Audience Network. Ad inventory in Facebook Audience Network is generally purchased through Facebook Ads. Taboola is another example of an end-to-end ad tech services supplier.
- (c) Publishers can also sell their ad inventory using ad tech services that are interoperable with ad tech services provided by other suppliers. This means that a publisher can choose to use one or more supply-side platforms (e.g. Google Ad Manager, AppNexus, OpenX) to sell ad inventory to advertisers using any demand-side platforms that can connect with the publisher's chosen supply-side platforms. For example, a publisher could join Google Display Network, which allows the ad inventory on the network to be purchased by both Google's demand-side platforms and third-party demand-side platforms.

Ad tech services

The ad tech supply chain

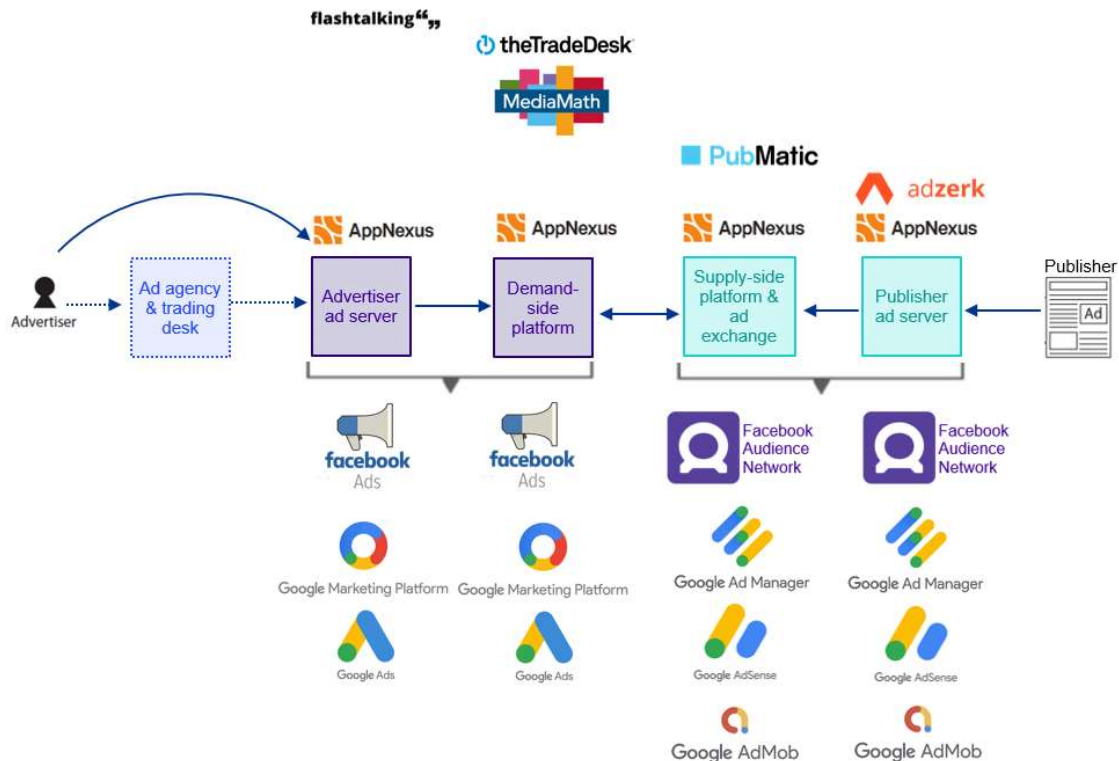
The ad tech supply chain involves a complex network of intermediaries that provide technologies and/or data to facilitate the programmatic sale and purchase of digital display advertising inventory.

These intermediaries provide ad tech services such as connecting buyers and sellers, facilitating trading (sometimes via auctions), and processing user data and analytics to target advertising and measure ad performance.¹⁰

¹⁰ Plum Consulting, 'Online advertising in the UK: a report commissioned by the Department for Digital, Culture, Media & Sport' (January 2019), p45.

A simplified representation of the ad tech supply chain along with a limited sample of market participants is provided at **Figure 4** below.

Figure 4: Simplified ad tech supply chain with a small sample of market participants



Key market participants

As shown in **Figure 4** above, the key participants in the ad tech supply chain include:

- **Publisher ad servers** – servers used by websites to organise and manage ad inventory and opportunities on their website. Publisher ad servers typically determine what ads will be shown, serve ads, and also collect information on the performance of those ads.
- **Supply-side platforms / Ad exchanges** – supply-side platforms are platforms used by publishers to maximise the price at which ad inventory is sold by setting price floors, determining what data to include in the auction and deciding which buyers can bid.¹¹ Ad exchanges provide a platform for demand-side platforms and supply-side platforms to connect, often via a real-time bidding auction (as described above). The functions of supply-side platforms are increasingly integrated with those of ad exchanges.¹²
- **Demand-side platforms** – platforms used by advertisers to help them purchase ad inventory from suppliers of ad inventory as effectively and cheaply as possible, and which utilise various data to provide ad targeting services.
- **Advertiser ad servers** – servers used by advertisers to manage and track all ad and campaign information in one location.

¹¹ Autorité de la Concurrence, 'Opinion on data processing in the online advertising sector' (6 March 2018), p25.

¹² The ACCC will consider supply-side platforms and ad exchanges together to the extent that their functions are fully integrated and performed by the same entity.

There are a number of other market participants who may be involved in the ad tech supply chain, including ad networks (networks which purchase ad inventory from different publishers and repackage and sell the ad inventory to advertisers directly) and a range of data services providers (see discussion below).¹³

Data services providers

Data has an important role in the market for digital display advertising. It enables ads to be targeted to particular users who are most likely to find them relevant or interesting and allows the analysis of ad performance and measurement of the ad's impact on consumers.

The main types of data used in the market for display advertising services include:¹⁴

- user data (e.g. demographic, interests, browsing history, location, purchasing history, etc.)
- device data (e.g. browser, operating system, device model, etc.),
- contextual data (e.g. ad format, media content, etc.), and
- ad campaign and performance data (e.g. click-throughs, conversions, etc.).

There are a number of data services providers supplying data-related services to support the ad tech supply chain, including:

- **Data management platforms** – platforms that provide publishers and advertisers with tools to store, manage and analyse their data stores. Data management platforms can be used to combine data directly collected by the publisher (**first-party data**) with data obtained from others (**third-party data**), which may include information such as user purchase history, geographic data and sociodemographic data, which can be used to increase the ability of websites and advertisers to target advertisements. This data can then be used to analyse ad performance and to manage ad campaigns.
- **Data analytics services** – software that enables websites and advertisers to collect user traffic data combined together with ad campaign and conversion data to analyse the impact and performance of an ad campaign.
- **Ad verification and measurement services** – software that assist advertisers to identify whether ad impressions are brand-safe and viewable. This may also help advertisers to identify potentially fraudulent ad impressions.
- **Data brokers** – suppliers of third-party data to websites and advertisers to supplement the data they collect first-hand.

Ad agency services

What do ad agencies do?

Ad agencies assist advertisers with designing, launching, and managing ad campaigns, providing a range of media strategy, planning, and advertising buying services to advertisers. This may include the planning and management of ad campaigns across different modes of delivery, including broadcast TV or radio, print media, digital, outdoor, and cinema. Some smaller specialise ad agencies may focus on assisting with digital ad campaigns and programmatic advertising.¹⁵

¹³ The ACCC understands that there is some ambiguity about the precise definition of an ad network.

¹⁴ Plum Consulting, 'Online advertising in the UK: a report commissioned by the Department for Digital, Culture, Media & Sport' (January 2019), p14.

¹⁵ Plum Consulting, 'Online advertising in the UK: a report commissioned by the Department for Digital, Culture, Media & Sport' (January 2019), p47.

Ad agencies often have in-house trading desks that assist in coordinating and executing the programmatic purchase of online ads, and controlling how a programmatic advertising budget is spent.

This Inquiry focuses on the ad buying services supplied by ad agencies that assist advertisers with the optimisation and purchase of online display advertising. The ACCC notes that the Inquiry is directed *not* to extend to the supply of creative input for advertising.

Why do advertisers use ad agencies?

Due to the complexity of online advertising markets, advertisers often use ad agency services to manage their ad campaigns and to assist with purchasing ad inventory from multiple different sources. The majority of Australia's spend on advertising flows through ad agencies.¹⁶

Benefits to advertisers of using ad agency services include:¹⁷

- external advice and expertise in designing campaigns and allocating budget across advertising channels
- greater economies of scale and scope in relation to the technology and expertise available to execute ad campaigns, and
- the ability to negotiate preferred trading arrangements, such as volume discounts and rebates, due to their scale.

However, the Digital Platforms Inquiry identified concerns that:

- ad agencies represent another layer of opacity in the digital advertising supply chain, and
- supply chain opacity may provide an incentive for ad agencies to act in a way that benefits their own interests rather than the interests of their advertiser clients.¹⁸

These concerns are explained in greater detail in **Section 4** below.

¹⁶ DPI Final Report, p155.

¹⁷ CMA Interim Report, p154.

¹⁸ DPI Final Report, p155-156.

4. Key issues for the Inquiry

In accordance with the Ministerial Direction, the ACCC has set out below some key issues relevant to this Inquiry, along with some key questions on which the ACCC is seeking submissions from stakeholders. The ACCC does not expect or require submissions to cover every question. We encourage interested parties to provide information in response to the issues that are most relevant to them.

Please include in your submission a description of your role(s) in the ad tech supply chain. Wherever possible, please provide reasons for your views and any evidence available to support your views.

(a) Efficiency and competitiveness of the relevant markets

The ACCC is directed to consider the intensity of competition and the efficiency of markets for ad tech services and ad agency services.

Questions for market participants

- 1) How competitive do you consider each market in the ad tech supply chain to be and why?
- 2) Do ad tech suppliers provide their customers with services that reflect the cost of providing that service and/or the value of that service to the customer?
- 3) How competitive do you consider the market for ad agency services to be and why?
- 4) Do ad agencies provide their customers with services that reflect the cost of providing that service and/or the value of that service to the customer?

(i) Concentration of market power

The ACCC is directed to consider the extent of concentration of market power in markets for ad tech services, ad agency services, and display advertising services.

Market structures

Questions for market participants

Ad tech services

- 5) Who are the main competitors in the supply of the following ad tech services in Australia? Please provide market shares estimates wherever possible.
 - a) publisher ad servers?
 - b) supply-side platforms and ad exchanges?
(Note: To the extent that these services are fully integrated, they will be considered as a single entity. If you consider these functions to remain separate, please provide separate information for supply-side platforms and for ad exchanges.)
 - c) ad networks?
 - d) demand-side platforms?
 - e) advertiser ad servers?
- 6) For each service in the ad tech supply chain, do any firms have the ability to profitably raise prices or lower quality without losing customers?

Ad agency services

- 7) Who are the main ad agencies in Australia? Are they associated with one of the five major global advertising holding groups (WPP Group, Omnicom Group, Publicis Groupe, Interpublic Group, and Dentsu)? If so, which ones?
- 8) Do any of these ad agencies have the ability to profitably raise prices or lower quality without losing advertisers in Australia?
- 9) Do any of the ad agencies' holding companies have the ability to profitably raise prices or lower quality without losing advertisers globally?

Display advertising services

- 10) Who are the main suppliers of display advertising services in Australia?
- 11) Do any of these suppliers have the ability to profitably raise prices or lower quality without losing customers in the market for display advertising services in Australia?

The role and use of data

The ACCC seeks stakeholder views on the role and use of data in markets for ad tech services and ad agency services. In particular, the ACCC seeks feedback regarding whether there are issues arising from:

- unequal access to data,
- conduct that forecloses competitors' access to data, or
- a lack of transparency in how suppliers deal with consumer and other data,

that may affect the intensity of competition and efficiency of markets for ad tech services and ad agency services.

Questions for market participants

- 12) Who are the main competitors supplying the following data services in Australia? Please provide market share estimates wherever possible.
 - a) data management platforms
 - b) data brokers
 - c) data analytics services, and
 - d) ad measurement and verification services.
- 13) What types of data are of value to ad tech services providers? Do ad tech services providers and ad agencies use both personal and non-personal information?
- 14) Do different types of ad tech services use different types of data?
- 15) How is the data used to assist ad tech functions?
- 16) Are any other participants in the data supply chain relevant to the supply of ad tech services or ad agency services?

(ii) Availability of information and pricing transparency

The ACCC is directed to consider the availability of information to market participants in ad tech and ad agency markets, which is important to ensure that market participants can make informed choices that promote competition and the efficient operation of a market.

Opacity in the ad tech supply chain

In the Digital Platforms Inquiry, stakeholders raised concerns with the ACCC regarding the opacity surrounding the ad tech supply chain used to facilitate the programmatic purchase of display advertising.¹⁹ Opacity may arise due to the growing complexity and number of suppliers and services involved in the ad tech supply chain and the 'black box' nature of some parts of the ad tech supply chain.

Specific concerns were raised that there is a lack of transparency in relation to the proportion of advertiser spend retained by ad tech suppliers.²⁰ This issue is discussed in greater detail below. But a lack of transparency could also relate to the quality of service provided, or other terms and conditions of supply of ad tech services.

The ACCC is also aware of stakeholder concerns raised in the Digital Platforms Inquiry regarding the additional opacity introduced by the use of ad agencies, including the way that large ad agencies are structured and how they report their revenue and purchasing arrangements.²¹ There are five major advertising holding groups globally (WPP Group, Omnicom Group, Publicis Groupe, Interpublic Group, and Dentsu), each with a number of smaller ad agencies operating in Australia. Whereas the holding groups often deal directly with suppliers of ad inventory (such as major publishers, Google, Facebook), advertisers typically contract with the Australian ad agencies. These corporate structures and arrangements have given rise to concerns from both publishers and advertisers about a lack of visibility or control over the terms on which the holding group supplies advertising inventory to the Australian ad agency.²²

Questions for market participants

17) For publishers:

- a) What information do you need to make informed decisions about how to sell your display advertising inventory?
- b) Do you have access to this information? If not, how does this impact your decision-making about how to sell your display advertising inventory?
- c) Who controls access to this information?

18) For advertisers and ad agencies:

- a) What information do you need to make informed decisions about how to buy display advertising inventory?
- b) Do you have this information? If not, how does this impact your decision-making about how to buy display advertising inventory?
- c) Who controls access to this information?

¹⁹ DPI Final Report, p151.

²⁰ DPI Final Report, p151.

²¹ DPI Final Report, p155-156.

²² DPI Final Report, p156.

Additional questions regarding the more specific issue of pricing transparency are set out at pages 19-20 below.

Pricing transparency

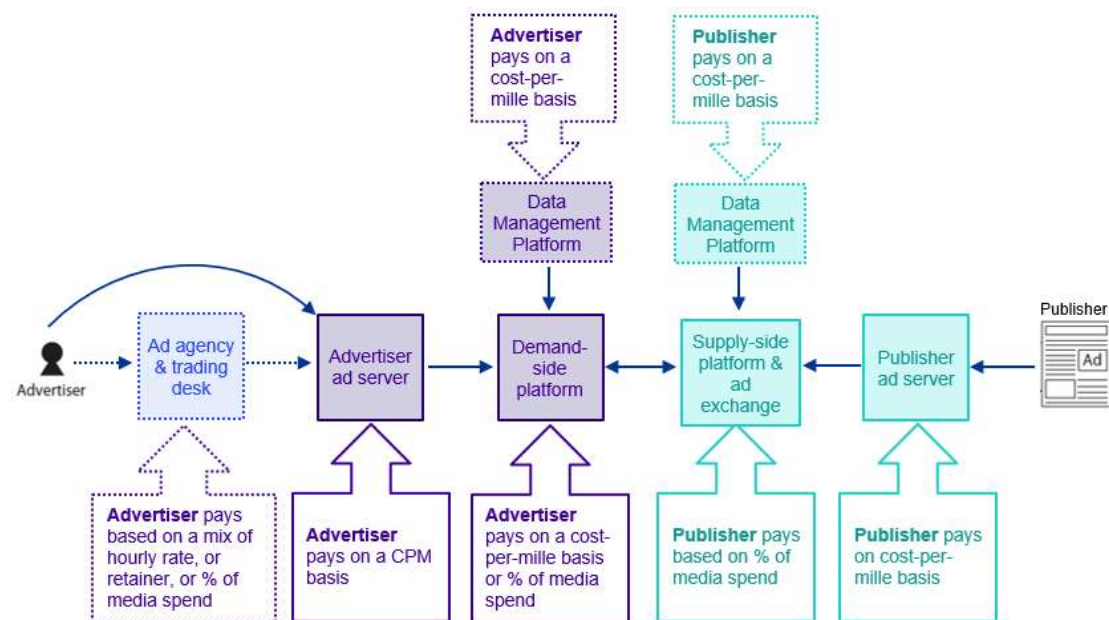
The ACCC is directed to specifically consider the revenue and share of an advertiser's display advertising expenditure retained by ad tech and ad agency services suppliers.

The fees charged, and revenue retained by participants in the ad tech supply chain may vary significantly based on the type of ad inventory involved, how it is sold and the interaction of auction processes. Broadly speaking, however, the ACCC understands that ad tech services are typically paid as follows:

- Advertisers typically pay ad agencies based on hourly rates, based on a retainer, commissions based on percentage of their media spend, or a combination of these.
- Advertisers typically pay advertiser ad servers, demand-side platforms and data management platforms on a cost-per-mille basis, which means the advertiser pays each time their ad is displayed and the price is per one thousand impressions.²³ Advertisers may also pay demand-side platforms based on a percentage of their media spend.²⁴
- Publishers typically pay supply-side platforms and ad exchanges based on a percentage of ad spend under a revenue share agreement.²⁵
- Publishers typically pay publisher ad servers and data management platforms on a cost-per-mille basis.

This is summarised at **Figure 5** below.

Figure 5: Fees charged by the ad tech supply chain



²³ DPI Final Report, p152. One impression refers to one online ad served to one individual user.

²⁴ CMA Interim Report, p194.

²⁵ DPI Final Report, p152 and CMA Interim Report, p195.

Implications

A lack of information may cause some market participants to question whether the ad tech supply chain is working efficiently. Publishers may question whether the ad tech supply chain is delivering them the best possible return on their ad inventory. Similarly, advertisers may also lack information on how much they are paying to different firms for ad tech services and if they are getting value for money for those services.²⁶

More specifically, a lack of transparency around prices and the amount of revenue retained by ad agencies and ad tech providers could:

- Decrease the efficiency of the ad tech supply chain by increasing search costs for advertisers and for publishers in selecting suppliers of ad tech services and impairing their ability to seek out more competitive deals.
- Create difficulties for advertisers to optimise their spending decisions, leading to increased advertising costs.
- Lead to publishers receiving less advertising revenue than they would if advertisers were more easily able to optimise spend.
- Allow some market participants to obtain additional financial benefit by not fully disclosing all their sources of income (e.g. commissions), or heighten the risk of market participants engaging in anti-competitive conduct. Potentially problematic behaviours that may be facilitated by supply chain opacity are considered in greater detail below under the heading '(v) Supplier behaviour'.

Questions for market participants

Ad tech services

19) For publishers:

- a) Are you able to easily determine the price at which your inventory is sold and the difference between the sale price of your ad inventory and the revenue you receive?
- b) Can you easily compare the price and quality of services being offered by supply-side ad tech services providers? If not, what is preventing you from being able to make this comparison?
- c) How does the availability of pricing information affect your ability to maximise the profit generated from your ad inventory?

20) For advertisers and ad agencies:

- a) Can you easily compare the price and quality of services being offered by each demand-side ad tech service provider? If not, what is preventing you from being able to make this comparison?
- b) Are you able to easily determine how much of your total ad spend is being retained by ad tech services providers?
- c) How does the availability of pricing information affect your ability to optimise your ad spend and seek out the most competitive offers for ad tech services?

²⁶ DPI Final Report, p138.

21) For ad tech services providers:

- a) What information do you provide to your customers? E.g. pricing information, information on any other sources of revenue, metrics about the services you have provided.

Ad agency services

22) For publishers:

- a) What types of discounts, rebates, or benefits do you give to ad agencies?
- b) What information do you have regarding how these are passed on to advertisers?

23) For advertisers:

- a) How are ad agency fees calculated?
- b) How much information do you receive from ad agencies regarding any discounts, rebates or benefits they or their holding companies receive from publishers?
- c) Does the use of ad agencies increase or decrease your visibility over the fees charged throughout the ad tech supply chain?
- d) Do you have a complete understanding of the revenues received by ad agencies?

24) For ad agencies:

- a) How are ad agency fees calculated?
- b) What types of discounts, rebates, or other benefits do you receive from publishers? How are these discounts, rebates or other benefits calculated by publishers?
- c) Do any other market participants give any discounts, rebates, or benefits to ad agencies?
- d) How are any discounts, rebates or other benefits passed on to advertisers? What information do you provide to your customers about how these discounts, etc. are passed on?
- e) What other information do you provide to your customers? E.g. metrics about performance of purchased programmatic advertising?

(iii) Auction and bidding processes

The ACCC is directed to consider the auction and bidding processes undertaken in the supply of digital advertising services.

In the Digital Platforms Inquiry, stakeholders raised concerns that the auction and bidding processes run by some ad tech services may create self-preferencing opportunities. For example, auctions could be carried out in a way that gives vertically-integrated ad tech suppliers a 'last look' advantage, more information on the user's position on their purchase journey, or more opportunities to submit real-time bids.²⁷

The ACCC is also aware of concerns that the sequential auctions conducted in the ad tech supply chain, may create opportunities for arbitrage by intermediaries such as supply-side

²⁷ DPI Final Report, p135.

platforms and demand-side platforms that are not transparent to other market participants. The concern is that intermediaries could acquire advertising opportunities in one auction, sell those same opportunities at a higher price in a different auction, and keep the difference for themselves, without customers being aware of what has happened.²⁸

Questions for market participants

- 25) Are there any features or aspects of current auction or bidding processes that you consider may have the potential to preference any particular supplier of ad tech services? If so, please provide examples.
- 26) Do you consider auctions and bidding processes to be run fairly for all market participants?
- 27) How does the ad tech supply chain differ (if at all) for display ads served on desktop browsers, mobile browsers, and mobile apps?
- 28) How does the ad tech supply chain differ (if at all) between real-time bidding, programmatic direct, and private marketplace transactions?
- 29) For advertisers and ad agencies:
 - a) What types of information would assist you to decide whether and how much to bid in an auction for display advertising inventory (e.g. number of bidders, final auction price, other bids, etc.)?
 - b) Do you have access to this information? If not, how does this affect your ability to bid effectively?

(iv) Mergers and acquisitions

The ACCC is directed to consider the impact of mergers and acquisitions in ad tech services and ad agency markets. There appears to be a trend towards mergers and acquisitions that increase vertical integration along the ad tech supply chain.²⁹ For example, Amazon's acquisition of demand-side platform TubeMogul in 2018, Google's acquisition of various ad tech suppliers including DoubleClick, Admob, and Adometry in 2007, 2009 and 2014, and Taboola's acquisition of Outbrain in 2019.

Questions for market participants

- 30) Have any mergers or acquisitions provided suppliers with the ability to profitably raise prices or lower quality without losing customers, or made it more difficult for new companies to enter the market? If so, which ones?
- 31) Has competition, or potential competition, in the supply of ad tech services been impacted by:
 - a) acquisitions of start-up companies
 - b) acquisitions of new technology
 - c) mergers or acquisitions between companies at different levels of the ad tech supply chain?If so, please describe how.

²⁸ CMA Interim Report, p202.

²⁹ CMA Interim Report, p199.

(v) Supplier behaviour

The ACCC is directed to consider the behaviour of suppliers in markets for ad tech services and ad agency services.

Potential behaviours arising from vertical integration

There appears to be a growing trend towards vertical integration in markets for ad tech services.³⁰ The ACCC seeks market feedback regarding the impact of vertical integration along the ad tech supply chain on the behaviour and incentives of suppliers in markets for ad tech services and ad agency services and on the efficiency of the supply chain.

Vertical integration can give rise to efficiencies in the supply chain. For example, where the demand-side platform and the supply-side platform are provided by the same company those services may be able to operate together more effectively in terms of:

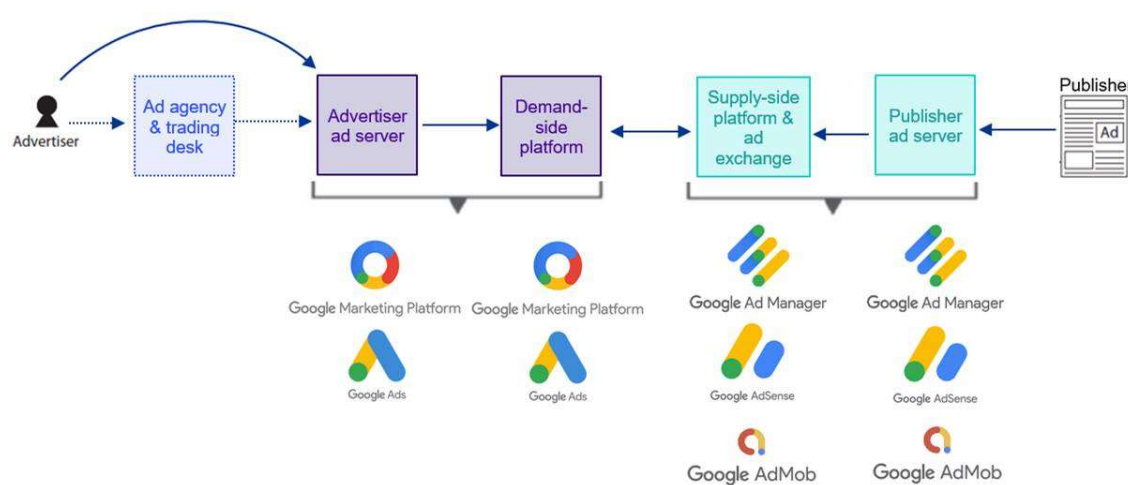
- reduced latency between services, or
- working with common User IDs, allowing for more effective matching of data provided by the publisher and advertiser for the purpose of advertising personalisation.³¹

However, vertical integration can also raise competition and efficiency concerns, such as where it provides companies with the ability and incentive to impact other market participant's competitiveness, or to take advantage of information asymmetries.

Google's vertical integration

In the Digital Platforms Inquiry, stakeholders raised concerns regarding the extent of Google's vertical integration throughout the entire ad tech supply chain (see **Figure 6**).

Figure 6: Google's services in the ad tech supply chain



In the Digital Platforms Inquiry, the ACCC identified the potential for vertically integrated suppliers of ad tech services to engage in conduct such as:

- favouring or preferencing their own ad inventory – for example, Google's demand-side platform, which facilitates the purchase of ad inventory from a range of sources including Google ad inventory, may preference the purchase of ads on locations which generate

³⁰ CMA Interim Report, p197, 199-200.

³¹ CMA Interim Report, p200.

the most revenue for its own business (e.g. Google's own ad inventory) instead of acting in the best interests of the advertiser,³² or

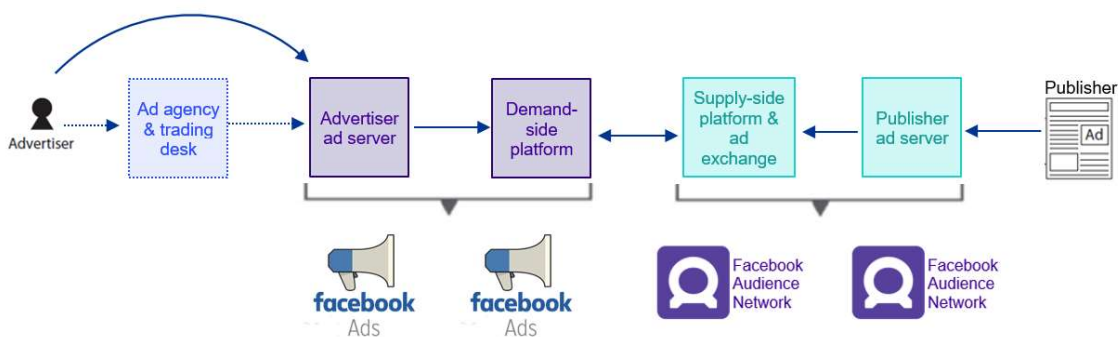
- favouring or preferencing their own ad tech services – for example, Google's demand-side platform or supply-side platform may preference ad inventory from its own ad exchange over third-party ad exchanges.³³
- limiting interoperability with third party ad tech services to incentivise the use of their own ad tech services – for example, Google Ads has a greater ability to match cookies and are less likely to face timeout and latency issues when buying on Google's ad exchange than third-party DSPs.³⁴

The ACCC seeks stakeholder views on whether Google's vertical integration may give it the ability and incentive to favour or preference its own ad tech services.

Facebook's vertical integration

Facebook also supplies vertically integrated ad tech services for ad inventory made available on the Facebook Audience Network (see **Figure 7** below).

Figure 7: Facebook's services in the ad tech supply chain



Unlike Google's ad tech services, Facebook's ad tech services are generally not interoperable with any other ad tech services.³⁵

The ACCC seeks stakeholder views on the impact of Facebook's vertically integrated ad tech services and their limited interoperability with other ad tech services.

³² DPI Final Report, p135.

³³ Ibid.

³⁴ DPI Final Report, p161.

³⁵ There appears to be some limited interoperability between Facebook and other ad tech services in the supply of mobile display ads, e.g., Facebook Audience Network's participation in the advanced bidding process developed by MoPub (a mobile monetization platform developed by Twitter): David Cohen, Adweek, ['Twitter's MoPub Moves Facebook Audience Network Into Open Beta for Advanced Bidding'](#) (27 February 2020).

Questions for market participants

- 32) What is the extent of vertical integration throughout the ad tech supply chain? Has there been a trend towards more or less vertical integration over time?
- 33) What are the potential benefits and risks of a more vertically integrated ad tech supply chain? Please provide estimates and examples wherever possible.
- 34) Are any market participants tying or bundling their vertically integrated services along the ad tech supply chain, or preferencing their own ad tech services over those of their competitors, in a way that affects your ability to compete in markets for ad tech services?
- 35) Are any market participants engaging in behaviour that serves their own interests rather than the interests of their customers?

Policies relating to data collection, management and disclosure

The ACCC seeks stakeholder views on the likely impact of the terms and conditions offered by suppliers of ad tech services and ad agency services, including their policies in relation to privacy and data collection, management and disclosure.

Terms and conditions regarding data access may affect a market participant's ability to compete. For example, there are reports that Facebook and Google have both made policy decisions limiting the amount of data that is shared with other market participants, including direct competitors.³⁶

Further, data from one level of the supply chain may be used to benefit services supplied at other levels of the supply chain. For example, supply-side platforms may collect data about the outcomes of auctions that they have previously conducted. If a company owns both a supply-side platform and a demand-side platform, data from the supply-side platform could be used to inform the demand-side platform's future bidding strategies. The impact of this data on competition could be magnified if the company shares more of the auction outcome data with its own vertically integrated services than it does with third parties.

Questions for market participants

- 36) Are there any terms and conditions regarding data collection, management and disclosure that impact your ability to compete in markets for ad tech services and ad agency services?

Potential behaviours by ad agencies that take advantage of supply chain opacity

As noted in the discussion on 'Opacity in the ad tech supply chain' above (see p16), the Digital Platforms Inquiry identified issues with opacity in the supply chain that may create an incentive for ad agencies to benefit their own interests rather than their advertiser clients, such as by:³⁷

- directing advertiser spend in ways that would maximise the discounts or rebates that a publisher offers to the ad agency rather than in the best interests of the advertiser

³⁶ See CMA Interim Report, p213 and DPI Report, p137, citing UK Commons Digital, Culture, Media and Sport Committee, 'Disinformation and 'fake news': Final Report' (14 February 2019) p38.

³⁷ DPI Final Report, p155-156.

- not passing on to advertisers any cost savings, discounts, or rebates offered to the ad agency's holding company by publishers, and encouraging clients to use ad tech services suppliers owned by the ad agency.

The ACCC is also aware of the potential for a lack of transparency to give rise to rent-seeking behaviour and opportunities for 'arbitrage' (i.e., the possibility for ad inventory to be bought at one price and sold at a higher price without the advertiser's knowledge).³⁸

Questions for market participants

- 37) Are you aware of any ad agencies engaging in conduct that prioritises their own interests over the best interests of their advertiser clients?
- 38) Are you aware of any ad agencies not passing on discounts they receive or buying ad inventory at one price and selling it for a higher price?

(vi) Impact on competition in the market for display advertising

The ACCC is directed to consider how the intensity of competition in markets for ad tech services and ad agency services may impact competition in the market for display advertising. Therefore, the ACCC is interested in the state of competition in display advertising markets and how this may be impacted by the supply of ad tech services and ad agency services.

Questions for market participants

- 39) For publishers:
- a) What proportion of your display advertising inventory do you sell programmatically? What proportion do you sell by direct negotiation with advertisers?
 - b) What proportion of your advertising revenue is derived from selling display advertising inventory via:
 - i) Google Display Network?
 - ii) Facebook Audience Network?
 - iii) other third party ad exchanges? (and which ones?)
- 40) For advertisers and ad agencies:
- a) What proportion of your display advertising budget is spent programmatically?
 - b) Do you use ad agencies to manage your display advertising spend? If so, what proportion of your spend is managed by ad agencies?
 - c) What proportion of your advertising expenditure is spent on advertising inventory from:
 - i) Google-owned platforms (e.g. YouTube, Gmail)?
 - ii) third-party publishers on Google Display Network?
 - iii) Facebook-owned platforms (e.g. Facebook, Instagram, WhatsApp)?
 - iv) third-party publishers using end-to-end ad tech services such as Facebook Audience Network or Taboola?
 - v) third-party publishers on other ad exchanges?

³⁸ CMA Interim Report, p202

(b) Relationships between suppliers and customers

The ACCC seeks stakeholder views regarding the relationships between suppliers and customers, including the impact of existing corporate structures or contractual arrangements on competition and market participants' ability to make informed decisions.

Questions for market participants

41) Are you aware of any restrictive clauses in contractual arrangements that affect your ability to use alternative suppliers of ad tech services, ad agency services, or display advertising services?

Ad tech services

42) How are the contractual arrangements negotiated between ad agencies, suppliers of ad tech services and suppliers of display advertising?

43) Can individual advertisers or publishers negotiate with ad tech services providers (including with Google)?

Ad agency services

44) What are the relationships between global advertising companies and their Australian subsidiary ad agencies?

45) What relationships are there between ad agencies and their own trading desks? Do ad agencies preference their own trading desk?

46) Do ad agencies preference publishers who give them free inventory?

(c) Satisfaction of market participants

The ACCC seeks stakeholder feedback regarding their level of satisfaction with the supply of ad tech services, ad agency services, and display advertising services.

This is a broad topic regarding whether markets for ad tech services, ad agency services, and display advertising services are generally working well for all market participants. It includes, for instance, the concern raised by stakeholders during the Digital Platforms Inquiry regarding an inability to independently measure their advertising spend and verify the performance of their ads on Google and Facebook. It also includes issues regarding whether any ad tech services may facilitate the digital distribution of scam ads.

Questions for market participants

47) Are ad tech services, ad agency services, or display advertising services being provided to your satisfaction? Please provide reasons for your answer.

48) Are you satisfied with your ability to independently verify the brand-safety and viewability of display ads?

49) Do you consider any aspect of ad tech services to be involved in facilitating the digital distribution of scam ads?

Attachment A – Glossary

Term	Description
ad agency services	'Digital advertising agency services', which are defined in the Direction as services supplied to advertisers relating to negotiating, acquiring or managing display advertising.
ad exchange	A platform for demand-side platforms and supply-side platforms to connect, often via a real-time bidding auction. These functions are increasingly integrated with those of supply-side platforms.
ad host	Any supplier of online content, mobile apps, social media or other services that attract consumer attention online and that hosts display advertising opportunities that are sold to advertisers (also referred to as a publisher)
ad inventory	Digital display advertising opportunities sold by a publisher to an advertiser.
ad network	A network that purchases ad inventory from different publishers to repackage and sell the ad inventory directly to advertisers.
ad tech services	'Digital advertising technology services', which are defined in the Direction as services that provide for, or assist with, the automated buying, selling and delivery of display advertising.
advertiser	Buyers of digital display advertising opportunities from publishers, including businesses of all sizes and across all industries, as well as non-profit organisations and Government departments.
advertiser ad server	A server used by advertisers to manage and track all ad and campaign information in one location
cost-per-mille or CPM	A basis for pricing that refers to a cost per one thousand impressions.
data analytics services	Software that enables websites and advertisers to collect user traffic data combined together with ad campaign and conversion data to analyse the impact and performance of an ad campaign
data broker	A supplier of third-party data to websites and advertisers to supplement the data they collect first-hand
data management platform	A platform that provides publishers and advertisers with tools to store, manage and analyse their data stores, which can be used to increase the ability of websites and advertisers to target advertisements and to analyse ad performance and manage ad campaigns.
demand-side platform or DSP	A platform used by advertisers to help them purchase ad inventory from suppliers of ad inventory as effectively and cheaply as possible, and which utilise various data to provide ad targeting services.
direct deals	Deals in which ad inventory is bought and sold via direct negotiation between advertisers and publishers.

Term	Description
display advertising	'Digital display advertising services', which are defined in the Direction as the supply of opportunities for the placement of advertising, by way of the internet, other than classified advertising and search advertising.
impression	One impression refers to one online ad served to one individual user.
'owned and operated' ad inventory	Ad inventory that is sold by a publisher exclusively through their own vertically-integrated ad tech services (e.g. Facebook Audience Network ad inventory, YouTube ad inventory).
preferred deals	Deals involving a contract between a publisher and an advertiser agreeing for the advertiser to purchase certain ad inventory with a 'first-look' advantage before the publisher makes it available at an auction.
private auctions	Auctions where multiple advertisers are invited to participate in an invite-only auction.
programmatic advertising	Advertising that is bought and sold via programmatic trading.
programmatic guaranteed deals	Direct deals between a publisher and an advertiser with the terms of the transaction agreed in advance, but executed programmatically instead of manually, which increases the efficiency of the order and allows the use of targeting tools for real-time personalised advertising.
programmatic trading	The use of automated systems and processes and data to buy and sell display advertising opportunities.
publisher	Any supplier of online content, mobile apps, social media or other services that attract consumer attention online and that hosts display advertising opportunities that are sold to advertisers (also referred to as an ad host).
publisher ad server	A server used by websites to organise and manage ad inventory and opportunities on their website. For example, publisher ad servers typically determine what ads will be shown, serve ads, and also collect information on the performance of those ads.
real-time bidding or RTB	Open auctions that take place on an ad exchange in the milliseconds between a user visiting a webpage and the page loading.
supply-side platform or SSP	A platform used by publishers to maximise the price at which ad inventory is sold by setting price floors, determining what data to include in the auction and deciding which buyers can bid. These functions are increasingly integrated with those of ad exchanges.
trading desk	An entity assisting with coordinating and executing the programmatic purchase of online ads, and controlling how a programmatic advertising budget is spent. Ad agencies often have in-house trading desks.



Competition and Consumer (Price Inquiry— Digital Advertising Services) Direction 2020

I, Josh Frydenberg, Treasurer, give the following direction to the Australian Competition and Consumer Commission.

Dated: 10 February 2020

Josh Frydenberg
Treasurer

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Part 1—Preliminary

1 Name

This instrument is the *Competition and Consumer (Price Inquiry—Digital Advertising Services) Direction 2020*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Competition and Consumer Act 2010*.

4 Definitions

Note: Expressions have the same meaning in this instrument as in the *Competition and Consumer Act 2010* as in force from time to time—see paragraph 13(1)(b) of the *Legislation Act 2003*.

In this instrument:

advertiser means a person that places an advertisement.

digital advertising agency services means services supplied to advertisers relating to negotiating, acquiring or managing digital display advertising services.

digital advertising technology services means services that provide for, or assist with, the automated buying, selling and delivery of digital display advertising services.

digital display advertising services means the supply of opportunities for the placement of advertising, by way of the internet, other than:

- (a) classified advertisements; and

Part 1 Preliminary

Section 4

(b) advertising provided in conjunction with the search results of internet search engines.

Examples: Supply of opportunities to place advertisements that would appear:

- (a) in banners, or in videos, on a webpage; and
- (b) within a software application on a mobile computing device; and
- (c) in conjunction with social media content.

exempt supply has the meaning given by subsection 95A(1) of the Act.

goods has the meaning given by subsection 95A(1) of the Act.

inquiry has the meaning given by subsection 95A(1) of the Act.

services has the meaning given by subsection 95A(1) of the Act.

State or Territory authority has the meaning given by subsection 95A(1) of the Act.

supply has the meaning given by subsection 95A(1) of the Act.

the Act means the *Competition and Consumer Act 2010*.

Part 2—Price inquiry into supply of certain digital advertising services

5 Commission to hold inquiry

- (1) Under subsection 95H(1) of the Act, the Commission is required to hold an inquiry into the markets for the supply of digital advertising technology services and digital advertising agency services. The inquiry is *not* to extend to any of the following:
 - (a) the supply of a good or service by a State or Territory authority;
 - (b) the supply of a good or service that is an exempt supply;
 - (c) reviewing the operation of any Australian law (other than this Act) relating to communications, broadcasting, media, privacy or taxation;
 - (d) reviewing the operation of any program funded by the Commonwealth, or any policy of the Commonwealth (other than policies relating to competition and consumer protection);
 - (e) the supply of creative input for advertising.
- (2) For the purposes of subsection 95J(1), the inquiry is to be held in relation to goods and services of the following descriptions:
 - (a) digital display advertising services;
 - (b) digital advertising technology services;
 - (c) digital advertising agency services.
- (3) Under subsection 95J(2), the inquiry is not to be held in relation to the supply of goods and services by a particular person or persons.

6 Directions on matters to be taking into consideration in the inquiry

Under subsection 95J(6) of the Act, the Commission is directed to take into consideration all of the following matters in holding the inquiry:

- (a) the intensity of competition in the markets, and the efficiency of the markets, for the supply of digital advertising technology services and digital advertising agency services (*those markets*), with particular regard to:
 - (i) how competition in those markets impacts on competition in the market for the supply of digital display advertising services; and
 - (ii) the availability to advertisers, publishers and other market participants of information on activities in those markets; and
 - (iii) the revenue of, and share of an advertiser's digital display advertising services expenditure retained by, each of the suppliers of services referred to in subsection 5(2); and
 - (iv) the concentration of power in the markets amongst and between suppliers of services referred to in subsection 5(2); and
 - (v) auction and bidding processes and other similar processes undertaken in digital display advertising services; and

Part 2 Price inquiry into supply of certain digital advertising services**Section 7**

- (vi) mergers and acquisitions in those markets; and
- (vii) the behaviour of any suppliers in those markets, including:
 - (A) the nature, characteristics and quality of the services they offer; and
 - (B) the pricing and other terms and conditions they offer to consumers and businesses;

Example 1: Characteristics of services offered include the interoperability of systems or software used or offered by different suppliers.

Example 2: Other terms and conditions include policies relating to privacy and data collection, management and disclosure.

- (b) relationships between suppliers and customers in the markets for services referred to in subsection 5(2), including the extent to which existing corporate structures, or contractual arrangements, have a negative effect on competition in the market or informed decision-making by market participants;
- (c) whether the services referred in subsection 5(2) are being provided or performed to the satisfaction of all market participants.

7 Directions as to holding of the inquiry

- (1) Under subsection 95J(6) of the Act, the Commission is directed to do the following in holding the inquiry:
 - (a) give to the Treasurer an interim report on the inquiry by no later than 31 December 2020.
- (2) Under subsection 95P(3) of the Act, the Commission is directed not to make available for public inspection, copies of any interim report until the Treasurer, in writing, authorises the Commission to do so.

8 Period for completing the inquiry

For the purposes of subsection 95K(1) of the Act, the inquiry is to be completed, and a report on the matter of inquiry given to the Treasurer, by no later than 31 August 2021.



Questions for advertisers

In 2019, the ACCC completed the Digital Platforms Inquiry. Following this, we are holding an inquiry into ad tech services.

The ACCC is holding an Inquiry into:

- **ad tech services:** services facilitating the automated buying, selling and delivery of digital display advertising (e.g. Google Ads, Facebook Ads, MediaMath, AppNexus), and
- **ad agency services:** services provided by advertising and media agencies to assist with the purchase and optimisation of digital display advertising.

Public or confidential submissions can be emailed to AdTechInquiry@acc.gov.au by **21 April**.

What we want to know:

- 1) What type of ad tech/agency services do you use for digital display advertising?
- 2) What has been your experience with digital display advertising?

Issue 1 – Availability of information

Do you have enough information to make an informed decision about which ad agency or ad tech company to choose when buying online display advertising?

In the Digital Platforms Inquiry, we heard concerns about the complexity and ‘black box’ nature of some parts of the digital display advertising supply chain which can result in a real or perceived lack of information about the price and quality of services provided.

For example:

Can you easily compare the price and quality of ad tech services?

Do you know if your ad agency receives rebates or discounts when purchasing advertising space on your behalf? If your agency does, is the discount or rebate passed on to you as the client?

Are auction and bidding processes that determine the cost of your digital advertising transparent?

Do you know how much of your total ad spend is being retained by your advertising agency or ad tech services providers?

Issue 2 – Competition in the ad tech supply chain

Could the ad tech company or agency you use increase its price, or reduce the quality of service provided, without losing your business? Would you go to a rival?

We’re interested in the competitiveness and efficiency of the markets for the supply of ad tech, ad agency and display advertising services. Competition and efficiency can result in lower prices, higher quality, and greater choice for advertisers.

Ad Tech Inquiry – Fact Sheet for Advertisers

For example:

Is there choice available to you when buying ad tech services?

Do you feel like there is a range of ad agencies offering different services?

How have recent mergers and acquisitions have changed the market landscape?

Issue 3 – The role and use of data

Does access to consumer data impact your decision of which ad tech company and ad agency to use?

Consumer data plays an important role in targeting digital display advertising to its intended audience, and measuring its results. We are interested in how targeting capability, availability of consumer data, and terms and conditions regarding data collection and management, affect your choice of which ad tech companies and ad agencies to use.

For example:

What factors do you consider when buying online display advertising?

Do different companies have exclusive access to certain methods of audience targeting, or exclusive access to particularly valuable sets of consumer data?

Are there restrictions on access to consumer data that affect your advertising purchasing decisions?

Does the use of consumer data by ad tech service providers or ad agencies affect either competition or consumers?

Issue 4 – Supplier behaviours

Do you observe suppliers acting in a way that affects competition?

We're interested in whether large ad tech companies with multiple ad tech services have the ability and incentive to bundle, tie, or preference their own services.

We are also interested in your views on using multiple ad tech services from a single supplier, compared with different services from different suppliers.

For example:

What are the advantages or disadvantages of buying ad tech services from the same company?

What are the advantages or disadvantages of buying ad tech services from a range of companies?

How well do the ad tech services you use interact with ad tech services provided by other suppliers?

Do you think your ad agency acts in your best interests?

We are interested in your views on the transparency and accountability of decisions made by ad agencies.

For example:

Do you think the lack of transparency around digital display advertising means your current or previous ad agency has the potential to misinform or mislead you about the advertising you have paid for?

Ad Tech Inquiry – Fact Sheet for Advertisers

Are you aware of any agencies buying advertising space at one price and selling it to you/other companies at a higher price?

Could ad agencies direct your advertising spend in a way that benefits them/other clients and not you?

Are you satisfied with the price and quality of services provided by your agency?

More information

[Ad Tech Inquiry Issues Paper](#)



Questions for ad hosts

In 2019, the ACCC completed the Digital Platforms Inquiry. We are now holding an inquiry into ad tech services. We would like to hear from any website or app owners that generate income by hosting digital display advertising.

The ACCC is holding an inquiry into:

- **ad tech services:** services facilitating the automated buying, selling and delivery of digital display advertising (e.g. Google Ads, Facebook Ads, MediaMath, AppNexus), and
- **ad agency services:** services provided by advertising and media agencies to assist with the purchase and optimisation of digital display advertising.

Public or confidential submissions can be emailed to AdTechInquiry@acc.gov.au by **21 April**.

What we want to know:

- 1) What type of ad tech or agency services do you use to sell digital display advertising and generate revenue?
- 2) What has been your experience with selling digital display advertising?

Issue 1 – Availability of information

Do you have enough information to make an informed decision about which ad tech company to choose when selling online display advertising?

In the Digital Platforms Inquiry, we heard concerns about the complexity and ‘black box’ nature of some parts of the digital display advertising supply chain which can result in a real or perceived lack of information about the price and quality of services provided.

For example:

Can you easily compare the price and quality of ad tech services?

What rebates or discounts do you give to ad agencies and do you know whether they are passed on to advertisers?

Are auction and bidding processes used to sell your advertising inventory transparent?

Do you know what the difference is between the price at which your ad inventory is sold to advertisers and the amount of ad revenue you receive?

Issue 2 – Competition throughout the ad tech supply chain

Could the ad tech company you use increase its prices, or reduce the quality of service provided, without losing your business? Would you go to a rival?

We’re interested in the competitiveness and efficiency of the markets for the supply of ad tech, ad agency and online display advertising services. Competition and efficiency can

Ad Tech Inquiry – Fact Sheet for Ad Hosts

result in lower prices, higher quality, and greater choice for website or app owners that host digital display advertising.

For example:

Is there choice available to you when buying ad tech services?

Have recent mergers and acquisitions changed the market landscape?

Issue 3 – The role and use of data

Does access to consumer data impact your decision of which ad tech company to use?

Consumer data plays an important role in targeting digital display advertising to its intended audience, and measuring its results. We are interested in how targeting capability, availability of consumer data, and terms and conditions regarding data collection and management, affect your choice of which ad tech companies and ad agencies to use.

For example:

What factors do you consider when selling online display advertising?

Do different companies have exclusive access to certain methods of audience targeting, or exclusive access to particularly valuable sets of consumer data?

Are there restrictions on access to consumer data that impact your decisions on how to sell ad inventory?

Does the use of consumer data by ad tech service providers affect either competition or consumers?

Issue 4 – Supplier behaviours

Do you observe suppliers acting in a way that affects competition?

We're interested in whether large ad tech companies with multiple ad tech services have the ability and incentive to bundle, tie, or preference their own services.

We are also interested in your views on using multiple ad tech services from a single supplier, compared with different services from different suppliers.

What are the advantages or disadvantages of buying ad tech services from the same company?

What are the advantages or disadvantages of buying ad tech services from a range of companies?

To what extent do ad tech services provided by one supplier interact with ad tech services provided by other suppliers, and to what extent do you think should they be?

More information

[Ad Tech Inquiry Issues Paper](#)