



Asia Internet Coalition (AIC) Comments on Interim Report for Digital Advertising Services Inquiry to ACCC

22 March 2021

Mr. Rod Sims
Chairman
Australian Competition and Consumer Commission
23 Marcus Clarke Street,
Canberra ACT 2601

Subject: Comments on Interim Report for Digital Advertising Services Inquiry to ACCC

Dear Chairman,

The Asia Internet Coalition (AIC) appreciate the opportunity to submit comments on the [Interim Report](#) of the Australian Competition and Consumer Commission's (ACCC) Inquiry into Digital Advertising Services (Ad Tech Inquiry).

The AIC is an industry association of leading Internet and technology companies. AIC seeks to promote the understanding and resolution of Internet and ICT policy issues in the Asia Pacific region. Our members are strongly committed to the security of digital platforms, products and services in support of the digital economy goals of Australia.

First and foremost, we commend the ACCC for their efforts on drafting the interim report to promote competition and transparency in the digital advertising space. While we support the ACCC's intention, some findings of this interim report need further evidence gathering about the nature of the ad tech ecosystem and the priorities and preferences of customers, namely advertisers and publishers. We are of the view that there is a risk of bringing such reforms into practice that can have unintended consequences, including on efficiency, costs, consumer privacy and future incentives to invest and innovate in ad tech. As such, please find appended to this letter [detailed comments and recommendations](#), which we would like the ACCC to consider when preparing the final report.

We are grateful to the ACCC for adopting a transparent, multi-stakeholder inquiry process and welcome further opportunities to offer our inputs and insights, directly through meetings and by participating in official consultations.

Should you have any questions or need clarification on any of the recommendations, please do not hesitate to contact me directly at [REDACTED] or [REDACTED]. Thank you for your time and consideration.

Sincerely,

[REDACTED]

Jeff Paine
Managing Director
[Asia Internet Coalition](#) (AIC)

Detailed Comments and Recommendations

The ACCC's Interim Report centers around two main themes: A single digital platform's presence across the ad tech stack in Australia, and opacity in the ad tech supply chain and its impact on the ability of participants to make informed choices. These themes underpin the ACCC's subsequent analysis and key preliminary findings:

- a. Regarding the competitive dynamics in ad tech and the structure of the Australian ads market :** The ACCC has formed a preliminary view that Google is the largest supplier of ad tech services in Australia by a large margin and across key products. In forming this view, the ACCC has largely focused on the supply of ad tech in respect of open display advertising onto desktop and mobile web browsers.

Comments on the Interim Report:

- The Interim Report doesn't sufficiently take into account the highly creative and fast moving nature of the ad tech industry. but considers competition with a rather limited perspective. For example, the consumption of digital advertising via formats other than desktop or mobile web browsers (e.g., via mobile, in app and CTV) is increasing significantly, and publishers are constantly moving to embrace these and other developments. Similarly, the ACCC does not adequately take into account important options for advertisers with respect to display advertising, such as: (a) directly sold advertising; (b) display advertising not sold on web browsers, including in-app ads and CTV; and (c) all other types of digital advertising. By doing so, it doesn't fully reflect how advertisers purchase online advertising in practice - that is, by considering a range of online formats and buying channels when allocating their budget.

- b. Regarding data sharing, transparency, user privacy and the broader role of data:** the ACCC considers that some digital platforms have unparalleled access to data which gives them a competitive advantage, and that they may be restricting access to data in a way that reduces competition. However, the ACCC also recognises the clear tension between promoting access to data for ad tech providers and the protection of user privacy.

Comments on the Interim Report:

- The AIC agrees that transparency in ad tech is important. However any measures aiming to increase transparency need to be taken cautiously in order to also protect user privacy. In this regard, the ability of ad tech participants to meet their compliance obligations and user expectations in respect of their privacy is very important to the long-term success of the industry, and therefore to advertisers and publishers as well as suppliers of ad tech.
- c. Regarding vertical integration and conflicts of interest:** The Interim Report sets out the ACCC's preliminary view that Google's integration across the buy-side and sell-side, and its strength as a

supplier of ad tech services and related inventory, means that it can likely preference its own business interests at the expense of competition. The ACCC considers that a participant operating on both the buy-side and sell-side could face conflicts of interests which could harm outcomes for advertisers and publishers.

Comments on the Interim Report:

- It is encouraging that ACCC recognises that publishers and advertisers do benefit from vertical integration, by improving efficiency and cost savings. However, the Interim Report also includes negative findings regarding the potential for self-preferencing where an ad tech participant is vertically integrated. The AIC encourages the ACCC to take account of these advantages (and their value to many customers of ad tech) when considering a potential intervention.

d. Regarding issues related to opacity and transparency in the ad tech supply chain: The ACCC considers that opacity and the complexity of the ad tech supply chain, and information asymmetries caused by a lack of transparency around service quality, means advertisers and publishers cannot make informed choices about services.

Comments on the Interim Report:

- Advertisers and publishers have access to tools and information that enable them to assess their return on spend and compare it among different digital advertising products. Advertisers can readily evaluate their ROI (i.e. amount paid and the return through impressions, clicks, acquisitions, etc), while publishers can manage their inventory to maximise yield.
- Although important, transparency needs to be balanced against the need to protect user privacy. The AIC encourages the ACCC to carefully consider what information advertisers and publishers actually need to make informed decisions about ad tech and how their access to such information can be facilitated while respecting user privacy.

AIC perspective on the ACCC's reform proposals

With reference to the ACCC's six reform proposals, the AIC encourages ACCC to consider that, in principle, industry-led change is preferable to legislation and that market players should be offered sufficient opportunities to provide input on their development. This is critical to avoid unintended consequences to the detriment of long term competition and market participants, including advertisers and publishers, and the industry as a whole.

Furthermore, the AIC provides the following comments on the ACCC's proposals:

A) Proposals to reduce data-related barriers to entry in ad tech: AIC recommends ACCC to consider:

Proposal 1: Measures to improve data portability and interoperability. In particular, mechanisms that promote competition and access to data, while leaving users in control, by allowing data mobility at the request of a consumer. In addition, measures that increase data transfers between

firms would be a significant intervention and any potential advantages need to be cautiously balanced with :(i) risks to consumer privacy and consumer confidentiality obligations that might arise where data is transferred without user request, (ii) risk that the investment required in data mobility further disadvantages competing firms and fail to deliver on competition goals, and (iii) the impact on incentives for investment and competition whereby suppliers need to share information collected through the services they have developed.

There also exists a concern that the proposal appears to allow data portability to be initiated by competitors (such as news publishers), rather than users. While we support user-initiated data portability, however, if data could be demanded by competitors it would raise not only privacy concerns but also risks of disproportionate market distortion.

Proposal 2: Data separation mechanisms that would prevent data gathered by platforms with significant data advantage through one service being used in the supply of a different service. This would be a significant intervention into the businesses of the ad tech participants concerned. Therefore, any proposed data separation mechanisms would need to be weighed against the risk of

- reduced efficiency, innovation and consumer benefits that are created when a providers' different services integrate seamlessly;
- burden on businesses and impact on competition if the mechanisms are unevenly applied and what impact this might have participants' costs; and
- potential consent/choice fatigue and harming user experience.

2. **Proposal 3:** A thorough assessment to define whether rules to manage conflicts of interest and self-preferencing concerns are necessary. If such rules are considered necessary, it would seem appropriate that they are developed by the industry with close consideration of relevant issues such as:

- negative impacts upon efficiency and innovation;
- tensions between increased transparency on one hand and firms would user privacy risks and confidentiality obligations to customers;
- complications created in trying to apply best interest obligations across two-sided products like exchanges/SSPs;
- the risk that equals access obligations might affect innovation, particularly for features that require costly and difficult integrations (for example: if any product is required to work equally well with all third parties from day one - this place a burden on rollouts of new product features);
- tensions between developing ecosystem level optimisations, with long term benefits for the industry, but which may impact the short-term interests of participants (e.g., the development of the Better Ads Standards for improving overall advertising experiences for users).

B) Proposals to address opacity issues

Proposal 4: A voluntary industry standard to enable full, independent verification of DSP services.

- If implemented, this should happen in privacy-safe clean-team environments to balance the dual principles of enabling independent verification while protecting user privacy.

Proposal 5: A common transaction ID to allow transactions to be traced through the supply chain.

- The AIC considers that user privacy needs to be at the forefront of any reforms in ad tech, and is concerned that this proposal raises significant privacy concerns. In particular, it could connect data that might lead to the identification of users and the pooling of user data without consent. It could also raise concerns for participants in respect of their own privacy obligations (under law and contract).

Proposal 6: A common user ID to allow tracking of attribution activity across the supply chain (but which protects privacy)

- The digital advertising market as a whole is in a process of adaptation due to the deprecation of third party cookies. The success of this transition will shape future competition in the digital advertising market. Examining ways in which market participants can adapt successfully - including via the development of user IDs - will be an important element of the second phase of the ACCC's inquiry.
- Again, this proposal raises significant privacy concerns and risks connecting data that might lead to the identification of users and the pooling of user data without consent.