

*News Corp* Australia

**SUBMISSION TO THE  
AUSTRALIAN COMPETITION AND  
CONSUMER COMMISSION**

***AD TECH INQUIRY***  
**INTERIM REPORT**

**19 March 2021**

## Table of Contents

<b>Executive Summary</b>	<b>3</b>
<b>1 Measures to improve data portability and interoperability</b>	<b>6</b>
1.1 Data portability	6
1.2 Data interoperability	7
<b>2 Data separation measures</b>	<b>9</b>
2.1 Data silos	10
2.2 Purpose Limitation Requirements	11
<b>3 Rules to manage conflicts of interest and self-preferencing in the supply of ad tech services</b>	<b>12</b>
3.1 News Corp Australia's response to the ACCC's proposal	12
3.2 Additional remedy that should apply to SMS firms only: Prohibition on self-preferencing	13
<b>4 Measures to increase transparency in the ad tech supply chain</b>	<b>14</b>
4.1 Implementation of a voluntary industry standard to enable full, independent verification of DSP services	15
4.2 Implementation of a common transaction ID	15
4.3 Implementation of a common user ID	17
<b>Appendix A – Definition of 'SMS'</b>	<b>20</b>
<b>Appendix B – Definition of 'ad tech data advantage'</b>	<b>21</b>

# Executive Summary

News Corp Australia welcomes the Interim Report of the ACCC's Digital Advertising Services Inquiry (the *Inquiry*). This Inquiry is an important step towards recognising and addressing the competition issues present in ad tech markets. It is important that the Inquiry results in improvements in ad tech markets, including increased transparency and competition, to ensure these markets effectively function for all publishers, advertisers and ad tech providers. Google, the most important ad tech intermediary in Australia, recently announced multiple deals with Australian news publishers to compensate them for their content and should be commended for this change, which departs from past practice. In the same vein, Google and other large players now have an opportunity to address the findings of the Interim Report under the supervision of the ACCC.

News Corp Australia supports the ACCC's proposals to introduce:

- data interoperability measures and data silos for platforms with a significant data advantage;
- rules to manage conflicts of interest, facilitate equality of access and increase transparency in the ad tech supply chain; and
- measures to increase transparency in the ad tech supply chain, including the implementation of a voluntary industry standard to enable full, independent verification of DSP services.

However, News Corp Australia is concerned that some of these proposals in their current form will not provide an effective remedy to the concerns raised by stakeholders in their responses to the ACCC's Issues Paper. Therefore, News Corp Australia also provides some suggestions for how the ACCC's proposals could be amended or strengthened to effectively address many of the key areas of concern raised in the Interim Report.

## Summary of News Corp Australia's response to the ACCC's proposals

ACCC proposal	News Corp Australia response
<b>ACCC Proposal 1(a): Measure(s) to improve data portability</b>	Supports in principle.
<b>ACCC Proposal 1(b): Measure(s) to improve data interoperability</b>	Supports the implementation of data interoperability measures for companies with an <b>ad tech data advantage</b> . These companies should be required to provide anonymised data to third-party ad tech service providers.
<b>ACCC Proposal 2: Data separation mechanisms</b> The ACCC is considering the extent to which data separation mechanisms, such as data silos or purpose limitation requirements, may be effective in levelling the playing field between large platforms with a significant data advantage and rival ad tech providers.	Supports the use of data silos over purpose limitation requirements. Data silo measures should only apply to those firms with an <b>ad tech data advantage</b> .

<p><b>ACCC Proposal 3: Rules to manage conflicts of interest and self-preferencing in the supply of ad tech services, including:</b></p> <p>requirements to <b>put measures in place to manage conflicts of interest</b>, such as preventing the sharing of information between ad tech services, or obligations to act in the best interest of publisher or advertiser customers;</p> <p>requirements to provide <b>equal access to ad tech services</b> (i.e., level playing field obligations to prevent self-preferencing); and</p> <p><b>requirements to increase the transparency</b> of the operation of the supply chain.</p>	<p>Supports the ACCC's proposal to implement these rules.</p> <p>News Corp Australia <b>also</b> proposes <b>an additional remedy</b> to address the particular harms caused by the self-preferencing conduct of firms with 'Strategic Market Status' (<b>SMS</b>).</p> <p>These firms should be prohibited from engaging in self-preferencing conduct per se.</p> <p>The ACCC should have powers to designate firms as having SMS, impose behavioural remedies and investigate and impose fines for contraventions of these provisions.</p>
<p><b>ACCC Proposal 4: Implementation of a voluntary industry standard to enable full, independent verification of DSP services</b></p>	<p>Agrees that there should be a solution that allows advertisers to verify DSP services. However, News Corp Australia is concerned that this proposal may not provide an adequate or effective remedy as an industry-led proposal.</p>
<p><b>ACCC Proposal 5: Implementation of a common transaction ID</b></p> <p>Industry should implement a common system whereby each transaction in the ad tech supply chain is identified with a single identifier which allows a single transaction to be traced through the entire supply chain. This should be done in a way that protects the privacy of consumers.</p>	<p>Agrees that further transparency is needed for publishers and advertisers on the ad tech auction and supply chain. However, News Corp Australia is concerned that such transparency would not be achieved with an industry-led protocol.</p> <p>News Corp Australia instead suggests that legislation be introduced which requires firms with an <b>ad tech data advantage</b> to provide each publisher with data generated from users' interactions with that particular publisher's sites as well as payment where that publisher's data is used to facilitate, enable or enhance ad tech services provided to other publishers and advertisers.</p> <p>Additionally, platforms with an <b>ad tech data advantage</b> should be required to provide to publishers and advertisers data which is sufficient to audit transactions to both optimise revenue and identify manipulation and fraud.</p>

**ACCC Proposal 6: – Implementation of a common user ID to allow tracking of attribution activity in a way which protects consumers’ privacy**

Introduction of a secure common user ID, which ad tech providers would be required to assign to any data used for attribution purposes. This should be done in a way that protects the privacy of consumers.

Agrees that further transparency is needed for ad verification and attribution. However, News Corp Australia is concerned that an industry-led user ID solution is unlikely to be effective. News Corp Australia instead suggests that these issues be addressed through data interoperability measures such as those discussed above in **section 1.2 below**.

## 1 Measures to improve data portability and interoperability

<p><b>ACCC Proposal 1(a): Measure(s) to improve data portability</b></p>	<p><b>News Corp Australia Response:</b> Supports in principle, however, this measure is unlikely to fully address data-related competition concerns.</p>
<p><b>ACCC Proposal 1(b): Measure(s) to improve data interoperability</b></p>	<p><b>News Corp Australia Response:</b> Supports the implementation of data interoperability measures for companies with an <b>ad tech data advantage</b>. These companies should be required to provide anonymised data to third-party ad tech service providers.</p>

Remedies which facilitate greater access to data for market participants are crucial in creating strong and dynamic competition in ad tech services.

In the Interim Report, the ACCC has proposed data-related measures to increase data portability and/or interoperability. The aim of these measures is to reduce data-related barriers to entry by enabling access to the data of large platforms by other market participants.<sup>1</sup> The Interim Report refers to data *portability* measures as those that '*increase data mobility at the consumer's request*',<sup>2</sup> and might include in-house or third-party user interfaces, such as Personal Information Management Services (*PIMS*), that allow consumers to elect to move their data between firms and ad tech service providers. By contrast, data *interoperability* measures provide for the transfer of data between firms (including ad tech service providers) without a request from a consumer.<sup>3</sup> This may include the standardised sharing of '*non-personal, aggregated or anonymised data*' between firms.<sup>4</sup> Each of these types of data-related measures is addressed separately below.

### 1.1 Data portability

While data portability measures may increase consumer control over data mobility, such measures are unlikely to be an ineffective solution to addressing data-related barriers to entry in ad tech markets. They are, first and foremost, a consumer-focussed proposal not a competition proposal. Any effectiveness they may have as a competition remedy is limited to how many consumers participate in the data portability scheme and choose to port their data to a variety of ad tech firms. As the level of take-up of such user-led technologies is typically low,<sup>5</sup> this measure would likely lead to even less data

<sup>1</sup> ACCC, Ad Tech Inquiry Interim Report, 28 January 2021, <<https://www.accc.gov.au/focus-areas/inquiries-ongoing/digital-advertising-services-inquiry/interim-report>>, page 80.

<sup>2</sup> ACCC, Ad Tech Inquiry Interim Report, 28 January 2021, <<https://www.accc.gov.au/focus-areas/inquiries-ongoing/digital-advertising-services-inquiry/interim-report>>, page 80.

<sup>3</sup> ACCC, Ad Tech Inquiry Interim Report, 28 January 2021, <<https://www.accc.gov.au/focus-areas/inquiries-ongoing/digital-advertising-services-inquiry/interim-report>>, page 80.

<sup>4</sup> ACCC, Ad Tech Inquiry Interim Report, 28 January 2021, <<https://www.accc.gov.au/focus-areas/inquiries-ongoing/digital-advertising-services-inquiry/interim-report>>, page 80.

<sup>5</sup> Competition Market Authority, Online platforms and digital advertising: Market study final report, Appendix Z: assessment of potential data-related interventions in digital advertising markets, 1 July 2020, <[https://assets.publishing.service.gov.uk/media/5efc3f7ae90e075c5aeb9947/Appendix\\_Z\\_\\_Data\\_related\\_interventions\\_in\\_digital\\_advertising\\_markets.pdf](https://assets.publishing.service.gov.uk/media/5efc3f7ae90e075c5aeb9947/Appendix_Z__Data_related_interventions_in_digital_advertising_markets.pdf)>, para 201.

being provided to other market participants than what is currently shared by large platforms.<sup>6</sup> As the CMA has noted, the static efficiency gains of data portability measures are likely to be smaller when compared to data interoperability remedies.<sup>7</sup>

Further, the granularity of the user consent required may nullify the competitive benefits of the data being shared.<sup>8</sup> For example, even if the user ports their data over to one trusted ad tech company, any further sharing of data down the supply chain, which may be necessary to facilitate the real-time bidding or serving of an ad, may necessitate a further approval from the user, introducing significant supply-side frictions. This is particularly the case where the consent and transfer is handled by a third-party platform (e.g., a PIMS). This may cause consumer fatigue, meaning fewer consumers porting their data to alternative ad tech service providers. Consumer fatigue may also result in consumers being more likely to only port their data to large platforms, which can use that data for all of its ad tech services and consumer-facing services, rather than the user having to port to multiple firms that operate a range of consumer-facing and advertising services.

There is also the issue of timely transfer of data. For certain data types whose value diminishes quickly (e.g., browsing history, purchase intent, or location data), real-time transfer is necessary to ensure that rivals are able to compete with platforms with a data advantage.<sup>9</sup> These types of data enable ad tech service providers to target users accurately based on information most relevant at the time of the ad being served (e.g., the user's location). Where consumers are using a data portability interface, such timely transfer may be impossible if the consumer has not previously elected to share their data with a third-party ad tech intermediary.

Data portability measures will not therefore effectively address the heart of competition concerns relating to data - that is the breadth of the data collected by large platforms and the potential for this to 'lock in' consumers within those closed ecosystems. As such data portability measures are unlikely to address or reduce in any material way data-related barriers to entry in ad tech markets.

## 1.2 Data interoperability

In contrast, data interoperability measures address the heart of data-related competition concerns in ad tech markets. Such measures require platforms with a significant data advantage to provide anonymised data to other market participants thereby enabling those market participants to compete effectively on crucial aspects of ad tech services, such as ad targeting and attribution. This competition could be introduced without temporal delay (i.e., due to consumer inaction) or limitation (e.g., for real time

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<sup>6</sup> Competition Market Authority, Online platforms and digital advertising: Market study final report, Appendix Z: assessment of potential data-related interventions in digital advertising markets, 1 July 2020, <[https://assets.publishing.service.gov.uk/media/5efc3f7ae90e075c5aeb9947/Appendix\\_Z\\_\\_Data\\_related\\_interventions\\_in\\_digital\\_advertising\\_markets.pdf](https://assets.publishing.service.gov.uk/media/5efc3f7ae90e075c5aeb9947/Appendix_Z__Data_related_interventions_in_digital_advertising_markets.pdf)>, para 197.

<sup>7 7</sup> Competition Market Authority, Online platforms and digital advertising: Market study final report, Appendix Z: assessment of potential data-related interventions in digital advertising markets, 1 July 2020, <[https://assets.publishing.service.gov.uk/media/5efc3f7ae90e075c5aeb9947/Appendix\\_Z\\_\\_Data\\_related\\_interventions\\_in\\_digital\\_advertising\\_markets.pdf](https://assets.publishing.service.gov.uk/media/5efc3f7ae90e075c5aeb9947/Appendix_Z__Data_related_interventions_in_digital_advertising_markets.pdf)>, para 197.

<sup>8 8</sup> Competition Market Authority, Online platforms and digital advertising: Market study final report, Appendix Z: assessment of potential data-related interventions in digital advertising markets, 1 July 2020, <[https://assets.publishing.service.gov.uk/media/5efc3f7ae90e075c5aeb9947/Appendix\\_Z\\_\\_Data\\_related\\_interventions\\_in\\_digital\\_advertising\\_markets.pdf](https://assets.publishing.service.gov.uk/media/5efc3f7ae90e075c5aeb9947/Appendix_Z__Data_related_interventions_in_digital_advertising_markets.pdf)>, para 200.

<sup>9 9</sup> Competition Market Authority, Online platforms and digital advertising: Market study final report, Appendix Z: assessment of potential data-related interventions in digital advertising markets, 1 July 2020, <[https://assets.publishing.service.gov.uk/media/5efc3f7ae90e075c5aeb9947/Appendix\\_Z\\_\\_Data\\_related\\_interventions\\_in\\_digital\\_advertising\\_markets.pdf](https://assets.publishing.service.gov.uk/media/5efc3f7ae90e075c5aeb9947/Appendix_Z__Data_related_interventions_in_digital_advertising_markets.pdf)>, para 199.

data). As noted in the CMA's Final Report, a requirement that Google and Facebook share their data with competitors would enhance competition by enabling more ad tech providers to use this data to 'deliver effective advertising in competition with Google and Facebook'.<sup>10</sup> As the ACCC notes, data interoperability measures would also allow other market participants to combine the data of large platforms with their own data sets, thereby reducing the 'lock-in' effect of data that is 'walled' into a single platform's ecosystem.<sup>11</sup> These measures would also drive innovation and efficiency in ad tech markets, as ad tech services would compete based on the value of their service and effectiveness of their technology (rather than simply on how much data they can accumulate). Finally, such measures would increase transparency for advertisers and publishers who require data held by large platforms for ad targeting, conversion measurement/attribution, frequency capping and ad verification.

However, this data interoperability requirement should only apply to firms that the ACCC designates as having an 'ad tech data advantage'. A suggested definition of a firm that could be designated with an 'ad tech data advantage' is set out further in **Appendix B below**. This designation ensures that such a measure directly addresses the significant data advantage that large platforms have vis-à-vis other ad tech service providers. The application of such data-related measures to large platforms has international support, as set out further below in **Figure 1**. The ACCC should also have the power to oversee enforcement with these rules, including the power to impose fines and corrective orders for non-compliance.

**Figure 1: International support for measures to deal with platforms with a data advantage**

The CMA's Digital Markets Unit has recommended that pro-competitive interventions, such as data interoperability and separation measures, be applied only to firms with 'Strategic Market Status' so as to address the "root cause of market power" of these firms.<sup>12</sup> The CMA adopted the concept of 'Strategic Market Status' from the Furman Review and set out that the definition should include those firms which "have obtained gatekeeper positions and have enduring market power over the users of their products."<sup>13</sup> The CMA also set out that evidence of a firm's SMS status would include whether the firm had "the ability to obtain and control unique data that is applicable outside the market" – for example, consumer data that is gathered in consumer facing markets i.e., outside of ad tech markets.<sup>14</sup>

Similarly, the European Commission's proposal for a new Digital Markets Act only applies to 'gatekeeper' firms. The European Commission has set out that a gatekeeper firm is one that:

<sup>10</sup> Competition Market Authority, Online platforms and digital advertising: Market study final report, Appendix Z: assessment of potential data-related interventions in digital advertising markets, 1 July 2020, <[https://assets.publishing.service.gov.uk/media/5efc3f7ae90e075c5aeb9947/Appendix\\_Z\\_\\_Data\\_related\\_interventions\\_in\\_digital\\_advertising\\_markets.pdf](https://assets.publishing.service.gov.uk/media/5efc3f7ae90e075c5aeb9947/Appendix_Z__Data_related_interventions_in_digital_advertising_markets.pdf)>, para 172.

<sup>11</sup> ACCC, Ad Tech Inquiry Interim Report, 28 January 2021, <<https://www.accc.gov.au/focus-areas/inquiries-ongoing/digital-advertising-services-inquiry/interim-report>>, page 80

<sup>12</sup> Competition Markets Authority, A new pro-competition regime for digital markets: Advice of the Digital Markets Taskforce, December 2020, page 41, available here: <[https://assets.publishing.service.gov.uk/media/5fce7567e90e07562f98286c/Digital\\_Taskforce\\_-\\_Advice.pdf](https://assets.publishing.service.gov.uk/media/5fce7567e90e07562f98286c/Digital_Taskforce_-_Advice.pdf)>.

<sup>13</sup> <sup>13</sup> Competition Market Authority, Online platforms and digital advertising: Market study final report, 1 July 2020, <[https://assets.publishing.service.gov.uk/media/5efc3f7ae90e075c5aeb9947/Appendix\\_Z\\_\\_Data\\_related\\_interventions\\_in\\_digital\\_advertising\\_markets.pdf](https://assets.publishing.service.gov.uk/media/5efc3f7ae90e075c5aeb9947/Appendix_Z__Data_related_interventions_in_digital_advertising_markets.pdf)>, para 7.56.

<sup>14</sup> Competition Market Authority, Online platforms and digital advertising: Market study final report, 1 July 2020, <[https://assets.publishing.service.gov.uk/media/5efc3f7ae90e075c5aeb9947/Appendix\\_Z\\_\\_Data\\_related\\_interventions\\_in\\_digital\\_advertising\\_markets.pdf](https://assets.publishing.service.gov.uk/media/5efc3f7ae90e075c5aeb9947/Appendix_Z__Data_related_interventions_in_digital_advertising_markets.pdf)>, para 7.57.



- has a strong economic position, significant impact on the internal market and is active in multiple EU countries;
- has a strong intermediation position, meaning that it links a large user base to a large number of businesses; and
- has (or is about to have) an entrenched and durable position in the market, meaning that it is stable over time.

One of the factors for the qualitative assessment of whether a firm meets this definition (particularly the last point on an entrenched market position) is whether it has any data-driven advantages, in particular, in relation to the provider’s access to and collection of personal and non-personal data or analytics capabilities, which create entry barriers in the relevant market.<sup>15</sup>

The application of data-related remedies to platforms with significant market power was also a feature of the new competition laws recently introduced in Germany. The new law expressly provides for access to “data relevant for competition” to be a factor in determining whether a company has a dominant market position in relation to its competitors.<sup>16</sup> It also clarifies that refusal to grant access to data, platforms and interfaces by firms with a dominant market position may be an abuse of dominance.<sup>17</sup>

The ACCC has expressed concern that data interoperability measures may impact consumer privacy.<sup>18</sup> In News Corp Australia's view, nothing in relation to the data interoperability measures proposed in this section risks undermining consumer privacy. This is because the objective of any data remedies is to ensure that any data is shared on an entirely anonymised basis. Nothing that the ACCC or News Corp Australia propose would expose users to greater risk of or propensity to being identified or otherwise undermine user privacy. Specifically, any data provided should not include personal information (**PI**). News Corp Australia also accepts that news media businesses should be prohibited from personalising any acquired data, combining data with PI held by News Corp Australia, and combining matched anonymised data sets separate from any PI data held by News Corp Australia.

## 2 Data separation measures

<p><b>ACCC Proposal 2: Data separation mechanisms</b></p> <p>The ACCC is considering the extent to which data separation mechanisms, such as data silos or purpose limitation requirements, may be effective in levelling the playing field between</p>	<p><b>News Corp Australia Response:</b> News Corp Australia supports the use of data silos over purpose limitation requirements. Data silo measures should only apply to those firms with an <b>ad tech data advantage</b>.</p>
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<sup>15</sup> Proposal for a Regulation of the European Parliament and of the Council on contestable and fair markets in the digital sector (Digital Markets Act), European Commission, COM(2020) 842 final, page 38, available here: <<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020PC0842&from=en>>.

<sup>16</sup> Christian Ritz and Falk Schöning, Digital Avant-Garde: Germany’s Proposed “Digital Antitrust Law”, December 2019, <[https://www.hoganlovells.com/~media/germany\\_folder-for-german-team/artikel/2019\\_12\\_cpi-antitrust-chronicle\\_ritz-schoening\\_digitalavant-garde.pdf](https://www.hoganlovells.com/~media/germany_folder-for-german-team/artikel/2019_12_cpi-antitrust-chronicle_ritz-schoening_digitalavant-garde.pdf)>

<sup>17</sup> Dr Justus Herrlinger et al, New Competition Law in Germany - 10th amendment to German Act against Restraints of Competition passed, 20 January 2021, <<https://www.whitecase.com/publications/alert/new-competition-law-germany-10th-amendment-german-act-against-restraints>>

<sup>18</sup> ACCC, Ad Tech Inquiry Interim Report, 28 January 2021, <<https://www.accc.gov.au/focus-areas/inquiries-ongoing/digital-advertising-services-inquiry/interim-report>>, page 81.

large platforms with a significant data advantage and rival ad tech providers.	
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News Corp Australia understands that the ACCC's proposal relating to data separation is aimed at reducing data-related barriers to entry by levelling the playing field in relation to the data advantage of large digital platforms.<sup>19</sup> However, unlike data interoperability measures, data separation would not provide competing ad tech service providers with equal resources. Instead, it would target the ability of certain platforms to leverage their market power in consumer-facing product markets by using the consumer data collected in those markets to enhance their ad tech services. Therefore, News Corp Australia considers that these remedies are unlikely to be as effective as data interoperability measures in enabling other ad tech service providers to compete effectively on ad targeting, verification and attribution services.

## 2.1 Data silos

News Corp Australia considers that data silos could be a targeted method of levelling the playing field between platforms with a significant data advantage and their competitors. A data silo remedy, implemented in addition to data interoperability measures, may be necessary to ensure that other ad tech service providers have a chance to build their targeting and attribution services to be able to compete with those of dominant players. Data silo remedies have international support from both the CMA<sup>20</sup> and from the European Commission.<sup>21</sup> For example, the European Commission's proposed *Digital Markets Act* contemplates that, in relation to their core platform services (including advertising services, app stores, search engines, social networking, video sharing platform services) 'gatekeepers' should be required to:

refrain from combining personal data sourced from these core platform services with personal data from any other services offered by the gatekeeper or with personal data from third-party services, and from signing in end users to other services of the gatekeeper in order to combine personal data, unless the end user has been presented with the specific choice and provided consent....<sup>22</sup>

However, as the ACCC acknowledges, data silo remedies can place a significant burden on businesses.<sup>23</sup> The application of this remedy should therefore be targeted, such that it is a proportionate response to the harms being perpetrated by large digital platforms. The application of a data silo obligation to other, smaller ad tech service providers would severely restrict their ability to develop their own ad targeting and attribution services and would therefore be contrary to the very purpose of the proposal. Therefore, to ensure that the imposition of a data silo is proportionate to the benefit obtained, this

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<sup>19</sup> ACCC, Ad Tech Inquiry Interim Report, 28 January 2021, <<https://www.accc.gov.au/focus-areas/inquiries-ongoing/digital-advertising-services-inquiry/interim-report>>, page 81.

<sup>20</sup> Competition Markets Authority, Online platforms and digital advertising: Market study final report, 1 July 2020, <[https://assets.publishing.service.gov.uk/media/5fa557668fa8f5788db46efc/Final\\_report\\_Digital\\_ALT\\_TEXT.pdf](https://assets.publishing.service.gov.uk/media/5fa557668fa8f5788db46efc/Final_report_Digital_ALT_TEXT.pdf)>, para 85

<sup>21</sup> The proposed EU Digital Markets Act would prohibit 'gatekeeper' firms that have a dual role as a provider of core platform services to businesses, while also competing with those same business users in the provision of the same services to the same end users, from using data that is not publicly available to offer similar services to those of their business users. See Article 6(i) available here: <<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020PC0842&from=en>>. See also Article 5(a), according to which a gatekeeper shall refrain from combining personal data between services unless the user has specifically provided consent pursuant to the GDPR.

<sup>22</sup> European Commission, Proposal for a Regulation of the European Parliament and of the Council on contestable and fair markets in the digital sector (Digital Markets Act) available here: <https://eur-lex.europa.eu/legal-content/en/TXT/?qid=1608116887159&uri=COM%3A2020%3A842%3AFIN>

<sup>23</sup> ACCC, Ad Tech Inquiry Interim Report, 28 January 2021, <<https://www.accc.gov.au/focus-areas/inquiries-ongoing/digital-advertising-services-inquiry/interim-report>>, page 82.

measure should only be considered and applied in cases where the ACCC designates a platform as having an ad tech data advantage (as defined in **Appendix B below**).

## 2.2 Purpose Limitation Requirements

Purpose limitation requirements prevent firms that collect user data from sharing that data internally for advertising purposes but *only where the consumer requests such a limitation*. It is primarily a consumer-focused proposal, aimed at providing consumers with greater control over their data. Its impact would therefore depend on the number of users who opt in to or out of receiving targeted advertising. Therefore, we do not think that it is likely to provide a solution to levelling the playing field.

As the ACCC recognises, purpose limitation requirements are also likely to place significant regulatory burden on businesses,<sup>24</sup> particularly if they are to be applied industry-wide. Certain privacy solutions can cause significant competition harms when applied industry-wide (rather than to targeted firms) and without regard to the advantages that large platforms, have as:

the costs of implementing privacy limitations can be significant and are more likely to be easily met by large platforms;

large consumer-facing companies are more likely to have consumers willing to opt into targeted advertising in order to use their services in an 'optimal' manner; and

it is easier for large platforms with multiple consumer-facing services to obtain user consent given their brand visibility and the fact that users are less likely to consent to give their data to unknown companies (particularly untested or new entrants).

In this context if any purpose limitation requirement were to be implemented it would only make sense to do so in relation to large platforms with an ad tech data advantage, and not as an industry-wide application.

Lastly, as the ACCC notes, purpose limitation requirements are likely to cause significant consumer choice fatigue.<sup>25</sup> This will only drive more consumers to platforms that offer multiple consumer-facing services which can extract a single consent from users for both its consumer-facing products and ad tech services.

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<sup>24</sup> ACCC, Ad Tech Inquiry Interim Report, 28 January 2021, <<https://www.accc.gov.au/focus-areas/inquiries-ongoing/digital-advertising-services-inquiry/interim-report>>, page 82

<sup>25</sup> ACCC, Ad Tech Inquiry Interim Report, 28 January 2021, <<https://www.accc.gov.au/focus-areas/inquiries-ongoing/digital-advertising-services-inquiry/interim-report>>, page 82.

### 3 Rules to manage conflicts of interest and self-preferencing in the supply of ad tech services

<p><b>ACCC Proposal 3: Rules to manage conflicts of interest and self-preferencing in the supply of ad tech services, including:</b></p> <p>requirements to <b>put measures in place to manage conflicts of interest</b>, such as preventing the sharing of information between ad tech services, or obligations to act in the best interest of publisher or advertiser customers</p> <p>requirements to provide <b>equal access to ad tech services</b> (i.e., level playing field obligations to prevent self-preferencing), and</p> <p><b>requirements to increase the transparency</b> of the operation of the supply chain.</p>	<p><b>News Corp Australia Response:</b> Supports the ACCC's proposal to implement these rules.</p> <p>News Corp Australia <b>also</b> proposes an <b>additional rule</b> set out in <b>section 0 below</b> to address the particular harms caused by self-preferencing conduct of firms with 'Strategic Market Status' (<b>SMS</b>). This would prohibit firms with SMS from engaging in self-preferencing conduct.</p>
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#### 3.1 News Corp Australia's response to the ACCC's proposal

News Corp Australia supports the ACCC's proposal to introduce new rules to improve transparency and competition in the ad tech industry.

While News Corp Australia believes that conflicts of interest are predominantly an issue with large vertically integrated platforms, it does not object to a rule that would require ad tech service providers that provide services to both publishers and advertisers to identify and disclose to customers situations where there is a risk of that company self-preferencing its own interests over those of the publisher or advertiser.

News Corp Australia also supports the ACCC's proposal to introduce rules to mandate equal access and proposes that these should include a requirement that ad exchanges and SSPs provide all bidders fair and equal access to the exchange, including speed and information access, and a requirement to ensure that there is no unfair reduction in the quality of access. This would ensure that, like financial exchanges, all participants in the auction have fair and equal access to the exchange. This would result in a better outcome for bidders and a better outcome for publishers whose inventory will be valued based on quality rather than an artificial price. News Corp Australia also suggests additional obligations on companies with SMS to address self-preferencing conduct as set out below in **section 0**.

Finally, News Corp Australia therefore suggests that the rules include a requirement that ad tech service providers disclose fees, including margins (e.g., when advertisers are charged on a Cost-Per-Click basis but publishers paid on a Cost-Per-Mille basis) with sufficient detail to enable contracting parties to assess the relative cost of supply routes for different transaction types.

### 3.2 Additional remedy that should apply to SMS firms only: Prohibition on self-preferencing

#### (a) Overview and rationale

The above rules are aimed at providing publishers and advertisers with the information they need to be able to make a decision to switch providers if they determine that they are not receiving a valuable service. However, these remedies are unlikely to be sufficient to eliminate the self-preferencing conduct of firms that have significant market power due to: (a) the imbalance in bargaining power between these platforms and publishers/advertisers; and (b) the high costs of switching between providers.

News Corp Australia therefore suggests that the ACCC recommend to Government that legislation be enacted which applies solely to firms designated with 'Strategic Market Status' (**SMS**). This legislation would prohibit companies designated with SMS from engaging in self-preferencing behaviour. This should include a specific prohibition on:

- tying or bundling different ad tech services or products together, including bundling discounts;
- restricting interoperability with third party providers or their customers;
- charging higher access fees to third party providers or their customers; and
- funnelling the highest bids to its own tools/inventory.

Additionally, there should also be a requirement under this legislation that companies designated with SMS that both sell their own ad inventory and operate either an **ad exchange** or a **buy-side service** make available (i.e., surface) their advertising inventory using third-party buy-side tools (e.g., DSPs). This measure would ensure that prominent suppliers of inventory do not foreclose their competitors in buy-side tools markets or ad exchange markets by tying their inventory to their ad tech service.

#### (b) Scope

As set out above, News Corp Australia submits that these rules should only apply to firms designated with SMS. This is to ensure that the rules are a proportionate response to the particular harms which can be perpetrated by vertically integrated firms with significant market power. There is strong international support for introducing rules to regulate the self-preferencing conduct of firms with SMS. The remedy set out **under section 3.2(a) above** is very similar to the recent changes made in Germany to the 'German Act against Restraints of Competition' which aim to "toughen control of abusive practices for big market-dominating digital companies".<sup>26</sup> The German law now enables the Federal Cartel Office (**FCO**) (Germany's competition regulator) to designate a firm as having "paramount cross-market significance for competition" – this designation lasts for five years.<sup>27</sup> The FCO's designation takes into account the firm's:

- dominant position on one or more digital market(s);
- financial resources;
- vertical integration;

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<sup>26</sup> Guy Chazan and Javier Espinoza, 'Tech companies face clampdown in Germany over competition fears', 4 February 2020, Financial Times, available here: <<https://www.ft.com/content/39559796-4698-11ea-aea2-9ddbdc86190d>>

<sup>27</sup> Dr Justus Herrlinger et al, New Competition Law in Germany - 10th amendment to German Act against Restraints of Competition passed, 20 January 2021, <<https://www.whitecase.com/publications/alert/new-competition-law-germany-10th-amendment-german-act-against-restraints>>

- access to competition-relevant data; and
- their importance for the access of third parties to procurement and sales markets and their resulting connected influence on the third parties' respective business activities.<sup>28</sup>

After making that designation the regulator is able to prohibit the firm engaging in self-preferencing conduct, e.g., it may prohibit a designated firm from denying access to its collected data if such access is necessary for a third company to offer a competing service.<sup>29</sup> The European Commission and the CMA have proposed similar reforms aimed at the self-preferencing conduct of 'gatekeeper' firms<sup>30</sup> and firms with SMS, respectively.<sup>31</sup>

In Australia, SMS status should be designated by the ACCC Digital Platforms Branch. News Corp Australia has set out in Appendix A a proposed definition and criteria which the Digital Platforms Branch could rely on to make such a designation. The definition includes two alternative circumstances where a firm should be designated as having SMS – 1) firms that are 'Strategic ad tech Service Providers' and/or 2) firms that are 'Strategic Gateway Operators'.

The ACCC should have the power under the legislation to:

- investigate firms designated with SMS that own the combination of businesses identified above;
- impose behavioural remedies (e.g., requiring firms designated with SMS to make specific inventory available to buy through other exchanges);
- monitor or order monitoring compliance with any orders; and
- impose fines for contraventions of rules or orders.

#### **4 Measures to increase transparency in the ad tech supply chain**

While News Corp Australia supports the ACCC's goal to improve transparency in the ad tech supply chain, we believe that the proposed remedies are unlikely to provide a wholly effective and appropriate solution to the issues set out in the Interim Report.

One of the primary issues is that all three of the ACCC's proposals are industry-led. As discussed further below, this means that there is no guarantee that these proposals will provide the necessary information needed to improve transparency for customers in ad tech markets.

Further, industry-led proposals have historically either failed to achieve wide-spread uptake, or failed to measurably improve market conditions because large players have no incentive to participate in them or their development.

A more appropriate and effective remedy, would be to require large players to provide publishers with data collected in relation to consumers' engagement with that publisher's sites. Payment should also be

<sup>28</sup> Dr Justus Herrlinger et al, New Competition Law in Germany - 10th amendment to German Act against Restraints of Competition passed, 20 January 2021, <<https://www.whitecase.com/publications/alert/new-competition-law-germany-10th-amendment-german-act-against-restraints>>

<sup>29</sup> Dr Justus Herrlinger et al, New Competition Law in Germany - 10th amendment to German Act against Restraints of Competition passed, 20 January 2021, <<https://www.whitecase.com/publications/alert/new-competition-law-germany-10th-amendment-german-act-against-restraints>>

<sup>30</sup> European Commission, Proposal for a Regulation of The European Parliament and of The Council on Contestable and Fair Markets in the digital sector (Digital Markets Act), 15 December 2020, <<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020PC0842&from=en>>, pages 40, 59

<sup>31</sup> Competition Markets Authority, Online platforms and digital advertising: Market study final report, 1 July 2020, <[https://assets.publishing.service.gov.uk/media/5fa557668fa8f5788db46efc/Final\\_report\\_Digital\\_ALT\\_TEXT.pdf](https://assets.publishing.service.gov.uk/media/5fa557668fa8f5788db46efc/Final_report_Digital_ALT_TEXT.pdf)>, para 8.161

made by the platforms to a publisher in circumstances where that publisher's data is used to sell advertising.

**4.1 Implementation of a voluntary industry standard to enable full, independent verification of DSP services**

<p><b>ACCC Proposal 4: Implementation of a voluntary industry standard to enable full, independent verification of DSP services</b></p>	<p><b>News Corp Australia Response:</b> Agrees that there should be a solution that allows advertisers to verify DSP services. However, News Corp Australia is concerned that as an industry-led proposal, it may not provide an adequate or effective remedy.</p>
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The ACCC's proposed remedy, which increases advertisers' ability to evaluate the performance of DSPs using third-party systems, will likely increase transparency in the ad tech supply chain and increase competition in the market for independent measurement services. As discussed above, one potential difficulty in implementing the ACCC's proposal may be that it is industry-led. However, News Corp Australia is not a frequent advertiser and therefore does not have visibility over whether the ACCC's proposal is likely to be effective in rectifying the specific concerns around ad attribution and verification.

**4.2 Implementation of a common transaction ID**

<p><b>ACCC Proposal 5: Implementation of a common transaction ID</b></p> <p>Industry should implement a common system whereby each transaction in the ad tech supply chain is identified with a single identifier which allows a single transaction to be traced through the entire supply chain. This should be done in a way that protects the privacy of consumers.</p>	<p><b>News Corp Australia Response:</b> Agrees that further transparency is needed for publishers and advertisers into the ad tech auction and supply chain. However, News Corp Australia is concerned that such transparency would not be achieved with an industry-led protocol which may not necessarily provide publishers and advertisers with the information they require to make strategic decisions regarding their inventory and campaigns respectively, and to compare ad tech service providers.</p> <p>Instead, platforms designated with an <b>ad tech data advantage</b> should be required to provide each publisher with data generated from users' interactions with that particular publisher's sites as well as payment where that publisher's data is used to facilitate, enable or enhance ad tech services provided to other publishers and advertisers.</p> <p>Additionally, platforms with an <b>ad tech data advantage</b> should be required to provide to publishers and advertisers data which is sufficient</p>
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	to audit transactions to both optimise revenue and identify manipulation and fraud.
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**(a) Response to the ACCC's proposal**

While a common transaction ID *may* assist in making pricing and auctions more transparent, there is no guarantee that it will do so. In particular, News Corp Australia is concerned that an industry-led solution will not provide a solution that sufficiently enables publishers and advertisers to audit the auction.

Additionally, given the length of time that previous industry-led proposals have taken to be developed, it is unlikely that in this case an industry-led solution would provide a timely remedy to the concerns raised by stakeholders.

**(b) News Corp Australia's proposal for payment for use of and sharing of publisher data**

News Corp Australia therefore suggests that platforms which are designated with an ad tech data advantage be required to provide each publisher with data collected from user's interactions with that particular publisher's sites.

The data collected from users' interactions with our website content should be considered to be owned by News Corp Australia. This data is generated when a user opens a webpage owned and operated by News Corp Australia. The data is only generated because of the attention created by publishers' content. News Corp Australia has invested significantly in creating the content which attracts readers to its sites. For these reasons, this data should belong to News Corp Australia and News Corp Australia should have sole control over how data from users visiting News Corp Australia's sites is directly or indirectly monetised. Publishers cannot compete effectively in targeted services when third-parties use the data from its own pages plus the data from all the publishers' pages in Australia.

News Corp Australia therefore proposes that platforms with **an ad tech data advantage** be required to share data collected from a third-party publishers' website about the users who visit that publishers' website with that publisher in a manner that will allow interoperability and protect personally identifiable data. This obligation would only apply to firms designated with an ad tech data advantage that collect data from third-party publishers' websites. This type of remedy has international support. For example, the proposed European Digital Markets Act includes a requirement that 'gatekeeper' firms allow their business customers to access the data about their sales, customers and other commercial activity. It also provides that this access must be free, high quality, continuous and in real time.<sup>32</sup>

Additionally, News Corp Australia considers that, in circumstances where companies designated with an ad tech data advantage assist in the sale of inventory to an advertiser (through one or more ad tech services), a publisher should receive a percentage of the advertising revenue collected if that publisher's data has been used in the course of that transaction (e.g., to inform the advertiser or to assist the seller of inventory better target potential buyers). The percentage would reflect the contribution of the publisher, its content and sites in generating the data. While this remedy does not address the cause of the harm, it would go some way to rectifying the resulting commercial impact on publishers. It would also recognise the value of and investments required to create professional news content that attracts users to publishers' webpages. Lastly, it would also help to continue to support journalism and news content, which are at risk from falling advertising revenues.

<sup>32</sup> Article 6(i) of the draft EU Digital Market's Act



In order to improve transparency across the ad tech supply chain, News Corp Australia also suggests that platforms with an **ad tech data advantage** be required to provide publishers and advertisers with data relating to the sale, serving and display of ad inventory (both through direct channels and through an auction), that is collected from their ad tech buying and selling tools and exchanges. The data should be sufficient to permit publishers and advertisers to audit transactions to both optimise revenue and identify manipulation and fraud.

For buy and sell side tools this would include a consolidated report that includes:

- the information intermediaries send to each ad exchange;
- the content of each exchange response (including bid price);
- the full bidding landscape, including bids that were excluded due to latency;
- for publisher ad servers specifically, corresponding, un-hashed KeyPart and timestamp fields in all Data Transfer files;
- accurate timestamps to the nearest micro-second in the log-level data files;
- where the company that operates the ad server also operates an exchange, the ad server should disclose information that permits the seller to understand why the ad server allocated an impression to an exchange as opposed to the publisher’s direct sold inventory (e.g., this could include disclosure of the temporary CPMs that ad servers assign to guaranteed line items); and
- algorithm transparency in the ad serving logic.

For ad exchanges, this would include:

- ensuring that auction information provided to participants is equal in content, granularity, breadth and scope;
- ensuring log level data access includes Yield;
- accurate timestamps to the nearest micro-second in the log-level data files; and
- synchronising business clocks to provide accuracy and comparability on time stamps.

Obtaining this data and being able to properly use it would enable News Corp Australia to review the sale of each ad impression individually, rather than collectively, and thus run its own analysis with a full view of bidding data. This would enable News Corp Australia to make informed decisions about how to sell its inventory, including which ad tech partners it should use and whether it would be more profitable, for example, to make direct deals with certain advertisers.

**4.3 Implementation of a common user ID**

<p><b>ACCC Proposal 6: – Implementation of a common user ID to allow tracking of attribution activity in a way which protects consumers’ privacy</b></p> <p>Introduction of a secure common user ID, which ad tech providers would be required to assign to any data used for attribution purposes. This</p>	<p><b>News Corp Australia Response:</b></p> <p>Agrees that further transparency is needed for ad verification and attribution. However, News Corp Australia is concerned that an industry-led solution is unlikely to be effective. News Corp Australia instead suggests that these issues be addressed through data interoperability</p>
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should be done in a way that protects the privacy of consumers.	measures such as those discussed above in <b>section 1.2 above.</b>
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The ACCC has proposed implementing an industry-led common user ID to enable third parties to provide independent attribution services.<sup>33</sup> The primary focus of this remedy is to facilitate competition in buy-side services, particularly attribution services, and to provide advertisers with greater transparency on the value of buy-side services.

A common user ID has also been suggested by the CMA as a way to enable data interoperability.<sup>34</sup> This would theoretically replace the process of cookie syncing and enable ad tech service providers to identify users along the ad tech supply chain – much like Google does for its own services using the DoubleClick ID. In this way, the user ID would be somehow attached to user data, which is used for ad targeting, as well as attribution after the impression has been sold, but would allow for these services to occur in a way which protects the user's identity.

Industry stakeholders have tried to build solutions based on a common ID, both for attribution and ad targeting services. Examples include: DigitTrust, the Ad ID Consortium, ID5 and The Trade Desk Unified ID. However, the success of these common ID initiatives has been limited, most likely because the some of the companies with the largest cookie footprint refuse to participate in them. The DigiTrust ID was shut down in June 2020 by the IAB Tech Lab due to the ongoing decline of third-party cookies, which underpin DigiTrust ID.<sup>35</sup>

Further, industry-led initiatives are inherently problematic as its individual members are often competitors, and issues associated with governance, payment structure and trust may stop them from easily settling for a single standard. For example, while the Advertising ID Consortium (an open and independent group governed by representatives from AdTech companies like Index Exchange, LiveRamp, The Trade Desk and dataxu) has added new partners in the past few years, it has also lost others in the process. AppNexus, one of the founders of the group, left shortly after it was acquired by AT&T.<sup>36</sup> MediaMath departed the Advertising ID Consortium as well in 2018, reportedly due to disagreements about the direction of the ID solution.<sup>37</sup>

Ultimately, these solutions all still revolve around identification and rely on some type of ID. Arguably, as walled gardens seek to further lock in user data by restricting access to all user data contained on its platforms and across its browsers, they are more and more unlikely to participate in or allow access to their data through one of these initiatives. In fact, in a recent blog post, Google clearly signalled it will not do so.<sup>38</sup> An industry-led common user ID is therefore unlikely to provide an effective and timely remedy to transparency concerns and data-related barriers to entry in ad tech. To combat data related barriers to entry News Corp Australia instead suggests that the ACCC recommend that data

<sup>33</sup> ACCC, Ad Tech Inquiry Interim Report, 28 January 2021, <<https://www.accc.gov.au/focus-areas/inquiries-ongoing/digital-advertising-services-inquiry/interim-report>>, page 184.

<sup>34</sup> Competition Markets Authority, Online platforms and digital advertising: Market study final report, 1 July 2020, <[https://assets.publishing.service.gov.uk/media/5fa557668fa8f5788db46efc/Final\\_report\\_Digital\\_ALT\\_TEXT.pdf](https://assets.publishing.service.gov.uk/media/5fa557668fa8f5788db46efc/Final_report_Digital_ALT_TEXT.pdf)>, para 8.241

<sup>35</sup> Grace Dillon, AB Tech Lab Shuts Cookie-Aggregator DigiTrust; Apple Criticised Over Subscription Cut, *ExchangeWire*, 18 June 2020, <<https://www.exchangewire.com/blog/2020/06/18/iab-tech-lab-shuts-cookie-aggregator-digitrust-apple-criticised-over-subscription-cut/>>

<sup>36</sup> Maciej Zawadziński and Michael Sweeney, Identity in AdTech: Meet The Various ID Solutions, 3 September 2019, *Clearcode*, <<https://clearcode.cc/blog/adtech-id-solutions/>>

<sup>37</sup> Maciej Zawadziński and Michael Sweeney, Identity in AdTech: Meet The Various ID Solutions, 3 September 2019, *Clearcode*, <<https://clearcode.cc/blog/adtech-id-solutions/>>

<sup>38</sup> See: <<https://blog.google/products/ads-commerce/a-more-privacy-first-web>>.

interoperability and data silo measures be introduced in relation to platforms with an ad tech data advantage, as set out **above in sections 1.2 and 2.1.**

## Appendix A – Definition of 'SMS'

As set out in **section 0 above**, News Corp Australia proposes that certain rules apply to firms with 'Strategic Market Status' (**SMS**).

This is an umbrella concept that encompasses two distinct circumstances, including where a firm is:

- a 'Strategic Ad Tech Service Provider'; or
- a 'Strategic Gateway Operator'.

A firm could satisfy one or both definitions, for example:

- market power at various point in the ad tech supply chain would mean that a provider is currently a Strategic Ad Tech Service Provider; and
- simultaneously, through e.g. the ownership of a browser, the same firm can also be a Strategic Gateway Operator.

However, it is only necessary for a firm to satisfy the definition of one of the two categories to have **SMS**. We address the definition of 'Strategic Ad Tech Service Provider' and 'Strategic Gateway Operator' in turn below.

### a) **Strategic Ad Tech Service Provider**

A Strategic Ad Tech Service Provider is a firm which has a substantial market share in an ad tech market. The firm should have sufficient market share or particular market advantages (eg it owns a 'must have product') such that it has a strategic bargaining position vis-à-vis its customers and/other ad tech service providers, resulting in business dependency.

Indicia of this level of market share could include (but should not be limited to):

- the firm owns or controls a 'must have' product in the relevant ad tech supply chain;
- the firm is vertically integrated across three or more levels of the ad tech supply chain; **or**
- the firm has 51% or more market share.

Relevant '**ad tech markets**' would include those markets used for the sale and purchase of display inventory on third party sites. It would not extend to 'walled garden' advertising ecosystems except in relation to the data obligation requirements in **sections 1.2 and 2.1 above**.

### b) **Strategic Gateway Operator**

A Strategic Gateway Operator is a firm that is in a position to leverage market power or control over a gateway market or a bottleneck to the ad tech industry. This would include firms that have 50% or more market share in the relevant market.

A 'strategic gateway' market or service should be one which, if a party has sufficient market power, it could easily enter a relevant ad tech market itself, raise barriers to or otherwise prevent third parties from entering into a part of the ad tech supply chain. To aid in the interpretation of 'strategic gateway', there should be a non-exhaustive list of 'strategic gateway' markets, products or services, which could include web browsers.

## **Appendix B – Definition of 'ad tech data advantage'**

News Corp Australia proposes that the data obligations set out in **sections 1.2, 2.1 and 4.2(b)** above apply to firms designated with an 'ad tech data advantage'. This includes all businesses that have access to, ownership of, or control over data that has strategic importance to ad tech service providers, excluding publisher data that relates to users or subscribers to that publishers' original content. This is a different concept to 'Strategic Market Status' above and may include companies who do have SMS and companies who do not have SMS.

Whether the data collected by a digital advertising business has strategic importance to the ad tech industry could be determined on the basis of a mixture of qualitative and quantitative considerations.

*Qualitative considerations:* These matters would, if applied, capture firms that run digital advertising businesses that have certain qualities or collect, own or control certain types of data that place it in a strategic position vis-à-vis ad tech service providers. This could be determined by reference to broad indicia such as:

- The firm's activities outside of digital advertising, e.g., where the firm runs a consumer-facing platform such as a popular social media platform which gives it access to deep or highly detailed user data;
- Access to transaction level data, e.g., where the firm is also a large provider of consumer retail services; and
- The firm has a substantial base of Australian users (i.e., 5 million or more) that use its 'sign-in' or 'logged-in' functions or services that allow the firm to track users across devices, without cookies.

*Quantitative considerations:* this would include firms that have access, ownership or control of a significant level of data. A significant level data is where the firm operates a business that collects data on over 5 million Australians or more on average per year, for example, by having 5 million or more active subscribers or users.

As set out above, data collected on users or subscribers of publisher's original content should be excluded from the data obligations, even where that publisher would otherwise satisfy the definition set out above. First-party data collected by publishers from its users reflects the work by the publisher in creating quality original content. This data should be considered to be owned by the publisher. Unlike the data collected by other consumer-facing platforms which may aggregate content from other sources or track users looking at content created by third-parties (e.g., on a browser), first-party data collected from publishers on users visiting their websites directly reflects the value and the effort that has been invested in creating quality original content to draw users to the page. Publishers should therefore be able to capitalise on this work product through offering digital advertising on their properties targeted to their audiences. Similarly, third party platforms should not be able to capitalise on publishers' effort, time, and money in investing in creating original quality content by using data collected on publishers' readers or users for improving its ad tech services or advertising on its own properties. Therefore, data collected by publishers from users of its original content should not be considered to be 'data' for the purposes of designating a platform as having an ad tech data advantage.