

– Public Submission to the Digital Platforms Inquiry

Executive summary

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|---|---|
| Scope of the Inquiry | <p>In addition to short form news and journalistic content, books:</p> <ul style="list-style-type: none">• drive national discourse and awareness;• are an important channel through which information on news events, current affairs, history, culture and politics are shared; and• steer the national conversation, <p>and are therefore clearly within the remit of the Digital Platforms Inquiry (the <i>Inquiry</i>).</p> |
| Amazon's relevance to the Inquiry | <p>Amazon's conduct in the market for the supply and acquisition of e-books provides a useful case study of an incumbent digital platform with significant market power dealing in a product (books) which have great potential to influence the public discourse. There is no reason why, under comparable market conditions, Amazon would not be willing and able to engage in similar conduct in other markets for news and journalistic content.</p> |
| Amazon's dominance and abuse of market power | <p>Although Amazon is a relatively late arrival in Australia, the Inquiry is the perfect opportunity to alert the ACCC to the existence and effects of multiple instances of anti-competitive conduct abroad by Amazon against book publishers. In short, Amazon leverages its monopsony power in physical and e-book distribution to reinforce its dominance, squeeze traditional publishers and cannibalise the publishing segment. The race to the bottom between publishers and Amazon has negative effects for consumers on quality, choice and innovation. In certain instances, Amazon's monopsony power also results in higher prices for consumers.</p> <p>Indeed, the European Commission has probed into Amazon's dealings with publishers and expressed concerns that Amazon is using its dominant position to strong-arm them into entering contracts that insulate Amazon from competition and imposed legally binding conditions to put an end to its investigation into 'most favoured nation' clauses (<i>MFN clauses</i>). The European Commission was concerned this conduct may have led to less choice, reduced innovation and higher prices for consumers.¹</p> <p>This submission will outline:</p> <ul style="list-style-type: none">• the source and extent of Amazon's market power, and how the indicia of market power are different for digital platforms;• examples of Amazon's aggressive and anti-competitive business strategies;• how Amazon's accumulation of big data has facilitated it implementing these strategies;• the impact of these strategies on price and non-price competition for the supply and acquisition of content, particularly books, e-books and audio books (including the impact on new entrants and existing competitors);• the impact on publishers' ability to offer quality and new products; and |

¹ European Commission, 'Antitrust: Commission Accepts Commitments from Amazon on e-books' (Press Release, IP/17/1223, 4 May 2017) <http://europa.eu/rapid/press-release_IP-17-1223_en.htm>.

- the short and long-term consequences for consumers.

We would be happy to speak further to the ACCC on the issues raised in this submission if it would be of assistance.

Scope of the Inquiry

The Inquiry provides the ACCC with a timely opportunity to consider potential competition and consumer issues in the delivery and consumption of news and journalistic content through digital platforms. This is a rapidly evolving space with new technologies and the emergence of powerful new players changing the industry landscape. The ACCC rightly recognises that while Google and Facebook are clearly critical, other diversified and vertically integrated incumbents, in particular Amazon, also have a significant impact in the relevant markets and are increasingly likely to do so in the future.

In addition to looking beyond the traditional digital platforms, [REDACTED] submits that the ACCC should adopt a broad approach to 'news and journalistic content', defining this concept not by reference to its form but rather by its ability to influence public discourse and the dissemination and evolution of ideas in contemporary Australian society.

1.1 Which digital platforms do you consider to be relevant to this Inquiry?

1.2 Should the Inquiry consider digital platforms that do not currently provide access to news and journalistic content in Australia but may either provide news and journalistic content in the future and/or have an impact in relevant markets (e.g. Amazon, instant messaging applications)?

[REDACTED] understands that the purpose of the Inquiry is to look at the role played by digital platforms in influencing and controlling public discourse and awareness. The roles of Facebook and Google are clearly relevant to the future of short form journalism. They are important intermediaries who exercise significant influence on users' access to information. However, [REDACTED] submits that while short form journalism is important in this respect, so too are longer form published works on current affairs, media, politics and culture, among other genres. In this regard, [REDACTED] considers that the role of Amazon should also be a focus of the Inquiry.

Amazon was founded in 1994 in the US and began as an online bookstore. Initially selling books out of founder Jeff Bezos' garage, it rapidly expanded its operations and went public in 1997. Over time, it diversified its business operations and significantly increased the range of products it sold and services it supplied. Today, these include:

- various consumer goods (eg electronics, music, home goods, clothing and footwear);
- a paid subscription service called Amazon Prime providing free two-day delivery, music and video streaming and other benefits to subscribers;
- cloud computing and infrastructure services (called Amazon Web Services (**AWS**));
- grocery delivery service called AmazonFresh;
- physical book, e-book and audio book publishing;
- original content production with the launch of Amazon Studios;
- launching its own technology devices, including the popular Kindle e-reader and the Amazon Fire HD tablet;
- smart phones with its (now discontinued) Fire Phone; and

- announcements in drug delivery, health-care and banking services.²

Amazon is traditionally vertically integrated and participates at all levels of the supply chain. Amazon is now recognised as the largest online retailer in the world according to revenue and market capitalisation.

Amazon is dominant in the supply of books – globally and locally. Globally, Amazon accounts for around 65% of the sales of e-books and around 74% share of the supply of e-book readers. [REDACTED] has limited market share data for Amazon in Australia. However, [REDACTED] expects Amazon's share of the supply of books in Australia to be significant and to grow sharply in the coming years (or even months) to match its market share in the US. In Australia, a significant portion of [REDACTED] sales are made through Amazon, accounting for [REDACTED] of [REDACTED] audio book sales and [REDACTED] of [REDACTED] e-book sales.³

In 2017 in the US, where Amazon has an established presence and which reflects Amazon's strategic direction globally, it accounted for:

- over 83% of all e-book sales;⁴
- over 99% of all digital audio books sales;⁵ and
- over 45% of all print sales (including online and bricks-and-mortar retailers) as at January 2018.⁶

In addition, Amazon exerts greater and greater pressure on community bricks-and-mortar bookstores until they are driven out of business, leaving local consumers with little option but to go online even for print books. Further, online print sales is a market that Amazon overwhelmingly dominates in the US.

Amazon's effect on retail and wholesale markets for the supply of physical and e-books is therefore critical in any analysis of how online platforms affect public discourse in Australia. However, Amazon's impact in Australia is potentially much greater than on books alone. While Amazon has only recently entered Australia as a general e-commerce platform, its dominance in overseas e-commerce markets is well documented. As yet, Amazon has not substantially moved into short form news and journalism markets. However, it already supplies newspaper and magazine e-subscriptions through Kindle Newsstand. With a market capitalisation approaching one trillion Australian dollars (now the second largest worldwide after Apple and before Google),⁷ a more substantive move into article-by-article short form news is readily available to Amazon. Indeed the business model for such a move has already been demonstrated with success by Google and Facebook.

Further, it would be consistent with Amazon's demonstrated market strategy of leveraging the power that it has if it were to expand its physical book and e-book business to also create and disseminate short form news and journalism. Amazon has a history of expanding into new business lines and leveraging its market power in one market to influence negotiations in another market. For example, Khan describes Amazon as a:

² Shira Ovide, 'How Amazon's Bottomless Appetite Became Corporate America's Nightmare', *Bloomberg* (online), 14 March 2018 <<https://www.bloomberg.com/graphics/2018-amazon-industry-displacement/>>; Makeda Easter and Paresh Dave, 'Remember when Amazon Only Sold Books?', *LA Times* (online), 18 June 2017 <<http://www.latimes.com/business/la-fi-amazon-history-20170618-htmlstory.html>>; and Emily Glazer, Liz Hoffman and Laura Stevens, 'Next up for Amazon: Checking Accounts', *The Wall Street Journal* (online), 5 March 2018 <<https://www.wsj.com/articles/are-you-ready-for-an-amazon-branded-checking-account-1520251200>>.

³ [REDACTED] sales data.

⁴ Author Earnings, *February 2017 Big, Bad, Wide & International Report: Covering Amazon, Apple, B&N, and Kobo ebook Sales in the US, UK, Canada, Australia, and New Zealand* (February 2017) <<http://authorearnings.com/report/february-2017/>>.

⁵ Author Earnings, *Print vs Digital, Traditional vs Non-Traditional, Bookstore vs Online: 2016 Trade Publishing by the numbers* (2017) <<http://authorearnings.com/report/dbw2017/>>.

⁶ Author Earnings, *January 2018 Report: US online book sales, Q2-Q4 2017* (January 2018) <<http://authorearnings.com/report/january-2018-report-us-online-book-sales-q2-q4-2017/>>.

⁷ As at 29 March 2018 Amazon had a market capitalisation of AUD\$900,790,240,000.

*'marketing platform, a delivery and logistics network, a payment service, a credit lender, an auction house, a major book publisher, a producer of television and films, a fashion designer, a health insurance provider, a hardware manufacturer and a leading provider of cloud server space and computing power.'*⁸

Amazon has leveraged its dominance as an e-commerce platform to launch its delivery service, Fulfilment-by-Amazon (**FBA**) and expand into publishing. Sellers who often pay significant sums of money⁹ to use FBA have a better chance of being listed higher in Amazon search results than those who do not and Amazon published books generally receive greater prominence on its website. It may be that in the future, news and other content providers that host data on Amazon's cloud services platform, AWS, are served preferentially to Amazon users.

Amazon is an ever-increasing primary destination for online searches. In the US, Amazon now accounts for 44% of all online searches. In December 2017, US consumers spent almost 4 times more time on Amazon (22.6 billion minutes) than they did on the next largest retailer (by time spent), eBay (6.2 billion minutes).¹⁰ In fact, the total time spent on Amazon was more than the combined total time spent on the rest of the top 10 e-commerce retailers (16.6 billion minutes).¹¹ Maintaining the time each user spends on Amazon and creating reasons for users to re-visit Amazon sites is a key to Amazon's continued growth. Indeed, this is a formula for the growth of almost any online business. Google and Facebook have also learned that news content keeps users on the platform.

Amazon is also expected to start competing in digital advertising. Although it originally kept advertising to a minimum on its e-commerce platform, Amazon has gradually given more prominent placement to sponsored products in search results to encourage merchants to purchase ads to increase sales.¹² Amazon's ability to leverage and use its monopsony power allows it to effectively force suppliers to pay for marketing services in order for them to have any chance of competing effectively. The sheer scale of Amazon's operations and user-base positions it to be able to capitalise on the lucrative digital advertising market:

*'Amazon has an advertising platform no other company can match: a web store selling hundreds of millions of products combined with a streaming entertainment service and a trove of data about customer preferences. Amazon attracts 180 million U.S. visitors each month—all or most with shopping on their mind. And as more people shop on smartphones, they're skipping search engines like Google for Amazon's mobile app.'*¹³

One recent example of how Amazon is strategically linking advertisement with sales is a patent it successfully sought for "content-based price reductions and incentives" for customers who are presented with audio, video or interactive advertisements while shopping on its e-commerce platform.¹⁴ An example of what this strategy may look like in practice is a customer viewing an online product information page and being presented with a video review of that product. If the customer consents to receive the

⁸ Lina M Khan, 'Amazon's Antitrust Paradox' (2017) 126 (3) *Yale Law Journal* 710, 713 <<https://www.yalelawjournal.org/note/amazons-antitrust-paradox>>.

⁹ The fees for FBA services vary depending on the items being stored and shipped, but can amount to 10 to 20% of sales, see Julia Angwin and Surya Mattu, 'Amazon Says It Puts Customers First. But Its Pricing Algorithm Doesn't' (20 September 2016) ProPublica <<https://www.propublica.org/article/amazon-says-it-puts-customers-first-but-its-pricing-algorithm-doesnt>>.

¹⁰ Marketing Charts, *Consumers Spend More Time on Amazon Than on the Rest of the Top 10 Retailers, Combined* (28 March 2018) <<https://www.marketingcharts.com/industries/retail-and-e-commerce-82803>>.

¹¹ *Ibid.*

¹² Luke MacGreger, *Amazon has a Plan to Become Profitable. It's Called Advertising* (18 January 2018) AdAge <<http://adage.com/article/digital/amazon-a-plan-profitable-advertising/311992/>>.

¹³ *Ibid.*

¹⁴ Helen Edwards and Dave Edwards, *Amazon May Have Patented The Next Big Thing In Online Shopping* (1 December 2017) Quartz <<https://qz.com/1143096/amazon-may-have-patented-the-next-big-thing-in-online-shopping/>>.

advertisement, as they continue watching it the displayed price for that product drops.¹⁵ The strategy appears to be part of Amazon's attempt to prevent customer migration to other digital and social media platforms and maximise the time users spend on its e-commerce platform (making itself an attractive destination for digital advertising budgets).

It would also be a simple and strategic move for Amazon to incorporate a news re-publishing service into its platform. When an Australian user looks to buy a map of Kakadu National Park on Amazon for example, why not also serve those users an opinion piece by a food critic of the best restaurant in Darwin? If the user clicks the article, Amazon has a new valuable data point that would allow it to algorithmically suggest that the user may be interested in a tropical foods cook book.

Aside from Amazon, it would be prudent in the Inquiry for the ACCC to also consider all large digital platforms. Digital platforms are particularly effective at leveraging into new markets due to the vast amount of data they collect which can often be used to target customers in other markets in order to sell goods and services. In addition, there is strong brand affiliation with digital platforms. The barriers to entry and data collection are discussed further below.

1.3 What 'news and journalistic content' is particularly relevant to this inquiry? Should the ACCC consider a broad range of specialist suppliers of news and journalistic content?

1.4 Should the Inquiry focus on news and journalistic content supplied to consumers in Australia or news and journalistic content produced in Australia?

■■■■ submits that the ACCC should take a broad approach to 'news and journalistic content' to understand how public discourse is being impacted by digital platforms. Without examining a range of sources of content, the ACCC will not be able to fully appreciate the myriad ways in which digital platforms influence public discourse in Australia. In this regard, books are particularly relevant. Books drive the national conversation as much as short form journalism. They are important repositories of information on news events, current affairs, history, culture and politics. Recent examples of such seminal works include:

- *The Wife Drought*, Annabel Crabb – examining the roles of men and women in the paid workforce and the difficulties women face.
- *Talking to My Country*, Stan Grant – a hugely important title in terms of shifting the conversation around indigenous issues in Australia.
- *Fight Like a Girl*, Clementine Ford – extremely influential in terms of articulating recent feminist ideas and activism.
- *Silent Invasion*, Clive Hamilton – important work highlighting Chinese influence on the Australian political landscape.
- *The Tall Man*, Chloe Hooper – brought Australia's attention to Indigenous incarceration and police brutality.

The Inquiry should focus on content supplied to consumers in Australia. ■■■■ acknowledges that content produced in Australia is an important source of information on events in Australia. However, in order to fully understand its influence on public discourse, the ACCC should not limit itself to content only produced in Australia. Australians consume information from a variety of sources, many of which are based outside Australia. These sources have a material impact on the thoughts and ideas of Australians and form a key element of the robust public conversation that is a feature of Australian culture. Ignoring content produced overseas but which is still consumed in Australia would be ignoring a significant part of what influences the public discourse.

¹⁵ Ibid.

In the context of books, it is particularly relevant to consider the impact of digital platforms on content produced overseas. Australians routinely source books and e-books that are produced outside Australia. Such titles can and do contribute significantly to Australian public debate. For example, Thomas Pickety's 'Capital in the 21st Century', Roxane Gay's 'Bad Feminist', and a range of titles by Niall Ferguson and Richard Dawkins, to list but a few such influential foreign titles. Any negative impact that Amazon has on the publication of foreign titles such as these is as much an issue for Australian consumers and public debate as would be similar effects on local books and content.

1.5 What are appropriate metrics for measuring the choice and quality of news and journalistic content?

█ generally agrees with the ACCC's description of 'quality' being composed of characteristics such as objectivity and accuracy and performing functions such as analysis and investigations. These characteristics of quality are as readily applicable to books as they are to short form journalism, particularly non-fiction books such as those on current affairs, political events, history and culture.

As in any market, the quality of content, including books, is driven by competition. Effective competition for ideas and concepts should be a core metric for measuring the quality of content. This competition between 'ideas' presented by different media content ensures that content creators and distributors are, innovatively and efficiently, producing and supplying the highest quality content at the lowest price.

Extreme consolidation of power in the distribution of media content puts pressure on creators and undermines the quality and accuracy of content, as it reduces the ability of readers to compare different sources of information. Such consolidation may result in certain ideas and concepts being controlled by dominant distributor and not creators.

Clearly, as digital platforms become more dominant suppliers of published content (including books and short form journalism) the risks of these suppliers limiting certain forms of expression and narrowing the scope of ideas and perspectives increases. This is to the detriment of Australian consumers and Australian public debate and discourse.

In addition to the adverse effects of reduced competition, the 'stickiness' of digital platforms and their users affects the diversity of news and journalistic content supplied to them. Digital platforms generally offer convenience and a user-friendly experience, particularly in relation to their e-commerce platforms and online marketplaces. For example, they typically offer:

- easy-to-use and 'familiar' websites and functionality;
- a quick, simple and reliable logistics function;
- free or discounted shipping rates;
- access to consumer reviews and feedback; and
- generally low prices.

However, in exchange for the above, consumers unwittingly hand over a large part of their autonomy in selecting books (and news) to Amazon's (and Google's) algorithms or paid marketing choices.

Consumers are in large part oblivious to this exchange, believing they are receiving more choices and a broader range of content when in practice that is not the case. Once one of the digital platforms has a user, the breadth of what he or she sees is largely determined by that digital platform's algorithms which may favour a more narrowly targeted field of content. Amazon, for example, can use data accumulated from a user's online shopping patterns to target a specific selection of books to that reader and thereby narrow the freedom and spontaneity they might otherwise have to explore different genres and titles.

Questions for stakeholders

In considering the overall scope of the Inquiry, while Amazon is a relatively new entrant in Australia, its enduring and overwhelming dominance across various markets overseas is well documented. Amazon's:

- significant market capitalisation;
- aggressive business expansion and acquisition model;
- established vertical integration and logistics operations; and
- demonstrated ability to leverage power into new markets,

position it as a formidable force and potential new entrant into short form news and journalistic content markets in Australia.

In its infancy and on the verge of potentially rapid and unconstrained expansion in Australia, the Inquiry provides a timely opportunity for the ACCC to reflect on the impact of Amazon's business strategies and conduct on competition for the supply and acquisition of content, including books, e-books and audio books. The impact of these business strategies and conduct on content creators and consumers are discussed in more detail in the next section.

Relevant markets

The creation, distribution, access and consumption of news and journalistic content (in its variety of forms) occurs across multiple markets and involves a number of digital platforms. It is the business model of many of the larger digital platforms (eg Facebook, Google, Amazon) to diversify their business operations and to be active in various markets with one common feature: strong initial investment in digital or physical infrastructures that turn into barriers for new entrants. Accordingly, ██████ submits that the ACCC's focus in the Inquiry should be commensurate to the breadth and diversity of content, how content is consumed and the diversified business operations of digital platforms. Adopting a narrow focus risks understating the market power held by the digital platforms and their ability to leverage this to engage in exclusionary practices and insulate themselves from competition. We outline the most relevant markets for the Inquiry below.

3.1 What are the relevant media and advertising services markets for this Inquiry? Who are the key market participants?

3.2 What are the relevant markets for assessing the market power of digital platforms? Who do digital platforms compete with?

The ACCC should consider a broad set of media markets, as all these markets have varying levels of impact on public discourse. As discussed above, the ACCC should be agnostic as to the form that content creation takes and investigate impacts of digital platforms upon markets that include both short form journalism as well as longer form books.

From ██████ perspective, the key market participants and the most relevant market(s) in which they operate are summarised in Table 1.

Table 1 – key market participants and markets

| Market | Participant (not by order of size) |
|--|---|
| Market for the supply of publishing (including self-publishing) services | Amazon, Macmillan, HarperCollins, Hachette, Penguin / Random House, Simon & Schuster and others |
| Market for the supply of physical books (including | Amazon, Booktopia, Angus & Robertson, Dymocks |

| Market | Participant (not by order of size) |
|---|---|
| online and in-store) ¹⁶ | and others |
| Market for the supply of e-books | Amazon, Apple, Kobo, Google and others |
| Market for the supply of audio books | Amazon, Apple, Kobo, Google, Audible and others |
| Market for the supply of e-commerce platform services | Amazon, eBay and others |
| Market for the supply of search engine platform services | Google, DuckDuckGo, Bing and others |
| Market for the supply of advertising (particularly online) | Amazon, Google and Facebook |
| Market for the supply of social networking platform services | Facebook, Instagram, LinkedIn, Twitter and others |
| Market for the supply of video streaming services | Netflix, Apple, Amazon, Google and others |
| Market for the supply of digital music and audio streaming services | Amazon, Apple, Google, Spotify, Tidal, Deezer, Soundcloud, Pandora and others |

The ACCC should assess the market power and impact of digital platforms in at least each of the markets identified in Table 1. It is also important that the ACCC assess the market power of digital platforms across the various markets in which they operate. This is due to the risk of conglomerate effects arising with digital platforms, which typically operate across various markets and can enter new markets with ease due to their access to consumer data. Khan observed:

'Involvement in multiple, related business lines means that, in many instances, Amazon's rivals are also its customers. The retailers that compete with it to sell goods may also use its delivery services, for example, and the media companies that compete with it to produce or market content may also use its platform or cloud infrastructure. At a basic level this arrangement creates conflicts of interest, given that Amazon is positioned to favor its own products over those of its competitors.'

*Critically, not only has Amazon integrated across select lines of business, but it has also emerged as central infrastructure for the internet economy. Reports suggest this was part of Bezos's vision from the start. According to early Amazon employees, when the CEO founded the business, "his underlying goals were not to build an online bookstore or an online retailer, but rather a 'utility' that would become essential to commerce." In other words, Bezos's target customer was not only end-consumers but also other businesses.'*¹⁷

Market Power

While the traditional indicia of and metrics used to quantify market power should still be considered in the Inquiry (eg the ability to raise prices by about 5-10% regardless of marginal costs), adjustments should be made to recognise the value of non-monetary currency (consumer data) to digital platforms. In particular, profit and prices alone are imperfect measures of success and obscure the existence of market power for a digital platform, and especially for Amazon, that is able to have a chilling effect on competition merely

¹⁶ [REDACTED] does not have a concluded view on whether physical, e-books and/or audio books are all in separate markets, but they have been separated in Table 1 to clearly identify the key suppliers of each product.

¹⁷ Khan, above n 8, 754-755.

by making public announcements.¹⁸ Conversely, access to and utilisation of vast quantities of consumer data might of itself be a source of market power for a digital platform, even if the ability to monetise that data may not be recognised for several years. Transparency around what data is collected and how this is used are important considerations from a consumer protection as well as fair market conduct and competition perspective. We consider these issues in further detail below.

3.3 How should the market power of digital platforms be assessed? What are appropriate metrics for measuring any market power (e.g. market concentration, profits, prices, number of users, access to user data)?

The market power of digital platforms should be assessed by considering all the factors listed by the ACCC, including concentration, profit, prices, number of users and access to data.

The ACCC should give reduced consideration to profit and short-term price changes, due to the network effects associated with digital platforms and because users are effectively being charged in the form of their data. The network effects associated with digital platforms means digital platforms are incentivised to (and in fact do) operate at a loss often for many years in an attempt to one day become the dominant market participant and to build monopsony power which can be leveraged vertically.¹⁹ For example, Amazon has demonstrated that it is willing to engage in sustained loss-leading pricing and incur losses in its attempt to achieve dominance in e-commerce:

*'Given that online platforms operate in markets where network effects and control over data solidify early dominance, a company looking to compete in these markets must seek to capture them. The most effective way is to chase market share and drive out one's rivals—even if doing so comes at the expense of short-term profits, since the best guarantee of long-term profits is immediate growth. Due to this dynamic, striving to maximize market share at the expense of one's rivals makes predation highly rational; indeed, it would be irrational for a business not to frontload losses in order to capture the market.'*²⁰

It may also be difficult to undertake price analysis with digital platforms because of their ability to perfectly price discriminate and rapidly and unpredictably change prices. For example, Amazon engages in price discrimination and dynamic pricing, which makes it challenging to track its prices over time: *'... constant fluctuations in prices and the ability to price discriminate enable Amazon to raise prices with little chance of detection.'*²¹

Data should be given increased importance as a source of market power for digital platforms, as demonstrated by the rise of platforms such as Google, Facebook and Amazon who have used data to help gain and entrench their market power. The importance of data is demonstrated by its following uses:

- data gives digital platforms the ability to market and price products in ways that were previously impossible. For example, browsing e-books on Amazon's platform hands the company information about your reading habits and preferences, data the company uses to tailor recommendations and future deals. As such, control of data also allows Amazon to reduce its risk as it has detailed insights into consumer preferences;
- access to consumer data enables platforms to better tailor services and gauge consumer demand. It also permits a digital platform to use data gleaned from one market to benefit another

¹⁸ For example, healthcare stocks went down 10% after Amazon announced a health joint initiative with JP Morgan and Berkshire Hathaway on 30 January 2018 (see Ovide, above n 2).

¹⁹ John Thornhill, 'The New Rules', *The Australian Financial Review* (online), 3 April 2018 <<http://www.afr.com/technology/the-new-rules-of-data-capitalism-20180403-h0y9ba>> Thornhill observed that *'... data [has] largely superseded price as the most effective signalling mechanism in the economy'*.

²⁰ Khan, above n 8, 786.

²¹ Khan, above n 8, 768.

business line. For example, Amazon may dramatically expand its footprint in the ad business, leveraging its supply of shopping data from years of operating an e-commerce business; and

- data can create lock in effects for customers and suppliers who may not be able to switch if the platform is unwilling to provide them with their data or has data on the customer to provide them enhanced customer service (such as recommendations).

Amazon is opaque about the data it collects and generally shares only limited data – at a price – with sellers who sell on its platform. The myriad ways in which Amazon is able to utilise (and monetise) this valuable data is a testament to its importance to the business models of digital platforms. For example, the trail left behind after an online shopping spree gives digital platforms the ability to analyse that user's behaviour and develop pricing strategies to identify the 'right' price that will earn the most profit from that consumer. One study quoted in an article from *The Atlantic* found that the price of headphones recommended to certain consumers may depend on how budget-conscious each of their web histories showed them to be.²² We discuss the role and impact of data in more detail below.

As mentioned above, market power with digital platforms should also be considered by examining the vertical and horizontal links that exist between the operations of a digital platform. For example, Amazon is a retailer but also a delivery and logistics company (amongst providing a range of other goods and services).

Misuse of market power

Amazon is a particularly relevant example of a digital platform having acquired market power through its diversity of business operations and acquisition of large amounts of consumer data. This section provides examples of how Amazon has sought to use this market power in its interactions with █████ and other publishers. We also discuss in this section why Amazon's conduct is indicative of it having market power and the effect of this conduct on competition.

3.4 Do digital platforms have market power? If so, which digital platforms and in which markets? In particular:

- a) What realistic alternatives are available to users (i.e. consumers, advertisers and media content creators) of digital platforms? Do these alternatives effectively constrain the behaviour of digital platforms?**
- b) Do users use multiple digital platforms for similar functions? Do you have any evidence or observations on switching between platforms or the growth of new platforms?**
- c) What difficulties do users encounter in switching between platforms? Do digital platforms engage in behaviour that makes switching between platforms more costly or more difficult for users?**
- d) Does increasing the number of users increase the attractiveness of that digital platform for other users? Does this mean that it is only viable for one or two digital platforms providing a similar service to consumers to operate at the one time?**
- e) What difficulties are faced by providers in establishing competing platforms? Does the threat of new entry limit the market power of digital platforms? Over what timeframe should the threat of new entry be assessed?**
- f) Are there examples where digital platforms have engaged in behaviours that indicate the exercise of market power? What types of users are most at risk from any exercise of market power by digital platforms?**

²² Jerry Useem, 'How Online Shopping Makes Suckers of Us All', *The Atlantic* (online), May 2017
<<https://www.theatlantic.com/magazine/archive/2017/05/how-online-shopping-makes-suckers-of-us-all/521448/>>.

3.5 Do digital platforms engage in any behaviour that enhances their market position by excluding competitors or potential competitors, e.g. through the acquisition of rivals or restrictive contract terms?

3.6 Describe the nature of any impacts (positive and negative) that digital platforms are having on media content creators? What causes these impacts? Are these impacts temporary or ongoing?

3.8 What terms and conditions do digital platforms offer media content creators to publish or distribute their content? How do they differ from those offered by other distributors of media content? Do digital platforms offer different terms to different media content creators?

3.9 Have digital platforms changed the price, quality or choice of media content for Australian consumers? If so, what are the implications of this for media content creators? For example, how easily can media content creators offer access to subscriber only content via digital platforms and how readily can they obtain brand attribution for content accessed via digital platforms?

3.12 How important are digital platforms in delivering audience (and revenue) to media content creators relative to total audience and revenue?

3.13 Describe the nature of the impacts (positive and negative) that digital platforms are having on consumers? What causes these impacts? Are these impacts temporary or ongoing?

3.22 Have digital platforms changed the price of media content supplied to Australian consumers?

3.24 Have digital platforms changed the quality or choice of media content supplied to Australian consumers? Has the use of algorithms to select content changed the diversity of news supplied to consumers?

3.29 Have innovation and technological change increased or decreased competition in the media and advertising services markets?

Digital platforms have market power in a number of markets. Of particular relevance to █████ business is the market power of Amazon.

Quite simply, for many firms including █████, Amazon is an unavoidable trading partner. Amazon now accounts for 46% of *all* online shopping in the US, with its share growing faster than the sector as a whole. In addition, 44% of consumers go directly to Amazon when searching for goods in the US.²³ As mentioned above, █████ does not have reliable market share data for Amazon in Australia, however given its global dominance, in time (and potentially in a short period of time) Amazon is likely to amass the same market power in Australia.

In relation to books specifically, Amazon has a strong position in Australia. A significant proportion of █████ sales are made through Amazon, which reflects Amazon's status as an unavoidable trading partner. In Australia, Amazon accounts for:

- █████ of █████ audio book sales;²⁴
- █████ of █████ e-book sales;²⁵ and

²³ Sam Moore, *Amazon Commands Nearly Half of Consumers' First Product Search* (6 October 2015) Bloomreach <<https://www.bloomreach.com/en/blog/2015/10/amazon-commands-nearly-half-of-consumers-first-product-search.html>>.

²⁴ Of the remaining █████ of █████ audio book sales in Australia, the next biggest competitor has less than █████ (█████ sales data).

²⁵ Of the remaining █████ of █████ e-book sales in Australia, the next biggest competitor has less than half of Amazon's share (█████ sales data).

- █████ of █████ physical book sales (Amazon only commenced supplying █████ physical books in Australia in November 2017 but already accounts for █████ of █████ sales in the four months that it has been supplying physical books in Australia).²⁶

As the figures demonstrate, Amazon is already responsible for a significant portion of █████ sales. This is consistent with Amazon's general dominance in the supply of all formats of books and in fact the Australian market shares for Amazon are lower than its market shares globally, reflecting its status as a relatively new entrant in Australia. As an illustration of this, Table 2 summarises the percentage of industry sales made through Amazon in the US, which █████ believes reflects Amazon's long-term trajectory in Australia.

Table 2 – Industry sales through Amazon (US) in 2017²⁷

| | Amazon share |
|---------------------------|--------------|
| E-book | 83.3% |
| Print | 45.5% |
| Digital audio book | 99% |

In relation to the supply of e-books, for example, Amazon faces limited competition in many of the geographical markets in which it operates. Figure 1 below shows the market share of Amazon and its competitors for the supply of e-books in the US.

Figure 1 – E-book market share (US)²⁸

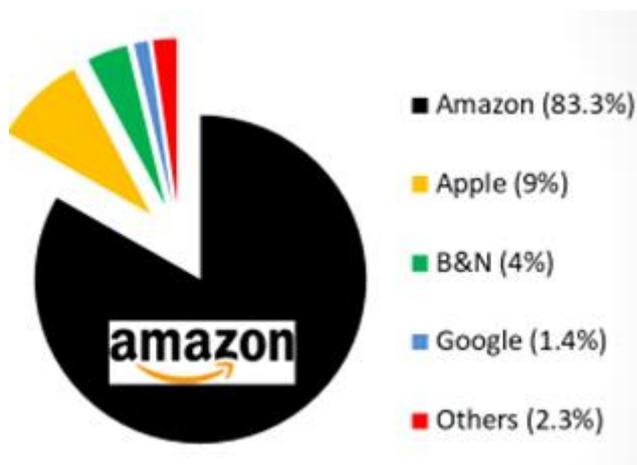


Table 2 and Figure 1 above demonstrate that Amazon is a dominant player and an unavoidable trading partner. Amazon's dominance extends beyond the US market. Again in relation to the supply of e-books, Amazon accounts for over 80% of e-book sales in several major English-speaking countries. As Table 3 below demonstrates, the nearest competitors to Amazon have a fraction of its market share across these markets.

²⁶ █████ sales data.

²⁷ Author Earnings, above n 4 and 6.

²⁸ Author Earnings, above n 4.

Table 3 – Total e-book sales by country in 2017²⁹

| | Amazon | Apple iBooks | Kobo | Barnes&Noble Nook |
|-------------------------|-------------|-----------------|------------|----------------------|
| USA | 406,000,000 | 44,041,000 | 1,246,000 | 19,395,000 |
| UK | 84,029,000 | 7,201,000 | 1,132,000 | – |
| Canada | 14,892,000 | 3,760,000 | 6,479,000 | – |
| Australia | 13,604,000 | 6,694,000 | 1,399,000 | – |
| New Zealand | - | 831,000 | 416,000 | – |
| 5-Country Total: | 518,526,000 | 62,527,000 | 10,672,000 | 19,395,000 |
| % of Total: | 82% | 10% | 2% | 3% |
| % in Australia: | 63% | 31% | 6% | - |

Amazon's dominance extends beyond English-speaking geographical markets. In its investigation into Amazon's dealings with e-book publishers (discussed below), the European Commission took the preliminary view that Amazon may have abused its dominant position in markets for the retail distribution of English and German language e-books to force publishers to accept parity conditions.

Given the dominance of Amazon in books globally (and particularly in the US), readers and content creators have limited alternative options and as such the behaviour of Amazon is largely unconstrained:

*'Amazon's early lead has, in fact, translated to long-term dominance. It controls around 65% of the e-book market today [as at October 2015], while its share of the e-reader market hovers around 74%. Players that appeared up-and-coming even a few years ago are now retreating from the market. Sony closed its U.S. Reader store and is no longer introducing new e-readers to the U.S. market. Barnes & Noble, meanwhile, has slashed funding for the Nook by 74%. The only real e-books competitor left standing is Apple.'*³⁰

Across several major national markets and in the US market in particular, although there are alternatives to Amazon, they are not current viable alternatives given Amazon's overwhelming market share. It is also unlikely they could gain sufficient size to become viable commercial alternatives to Amazon in the short to medium-term. This is particularly unlikely given, as discussed below, many of Amazon's business practices specifically prevent its competitors (both current and potential) from offering differentiated products and prices to Amazon in a bid to win market share and establish themselves as viable alternatives.

Although Amazon's market share is believed to be higher in the US than it is in Australia, Amazon is still a significant player of sufficient size and influence in Australia for these business practices to have the same effect. In relation to e-books, for example, the next largest seller to Amazon (██████) for ██████ titles has less than half of Amazon's share. The effect of these practices and size of its market share is likely to be even more significant now that Amazon has begun launching its full suite of products and services (the Amazon 'ecosystem') in Australia.

²⁹ Author Earnings, above n 4.

³⁰ Khan, above n 8, 761-762.

Amazon's market power is also reflected in the way that it negotiates with [REDACTED] and other publishers. On various occasions, Amazon has acted in a manner toward [REDACTED] or its overseas affiliates that is indicative of a firm leveraging its market power. For example, Amazon has:

- forced [REDACTED] to enter selling agreements with various MFN clauses, which have significantly reduced [REDACTED] revenue and increased the price paid by readers. The foreclosure effects of MFN clauses when used by a firm with market power are well known;³¹
- made and carried out the threat against [REDACTED] overseas affiliates of delisting such publishers from its website – [REDACTED]

Amazon's actual and threatened refusal to deal in these circumstances restricts competition in the upstream publishing market and downstream e-book distribution markets. Without access to Amazon's vast share of the e-book market, authors see sharply diminished sales and distribution and publishers like [REDACTED] may not survive. In addition, Amazon is able to obtain very favourable trading terms with publishers like [REDACTED] relative to those granted to Amazon's competitors. This stifles competition and innovation in the downstream market;

- forced the purchase of unwanted services by [REDACTED] overseas affiliates and other publishers. For example, when renewing its contract with Hachette last year, Amazon demanded payments for services including the pre-order button, personalised recommendations and an Amazon employee assigned to the publisher;³²
- used customer and client data to enter new markets to create Amazon branded products and sell them at a predatory price which puts competitors out of business;
- favoured its own books and distribution channel, as against other publishers and retailers, on its marketplace and its marketing and best-seller lists. For example, it is not uncommon for half of the titles on Amazon's Kindle bestseller list to be its own titles.³³ To achieve this, Amazon has manipulated customer search results to favour its own titles at the expense of those produced by certain publishers. This damages the publisher and its authors, as their titles are demoted in search results and marketing. It also negatively impacts consumers who receive distorted search results and are denied a genuine choice of titles that best match their preferences.³⁴ The theory of harm for this conduct is similar to the European Commission's Google Shopping case;³⁵

³¹ See, eg, Fiona Scott-Morton, 'Contracts that Reference Rivals' (Paper presented at Georgetown University Law Center Antitrust Seminar, 5 April 2012) <<https://www.justice.gov/atr/file/518971/download>> and Jonathan B Baker and Judith A Chevalier, 'The Competitive Consequences of Most-Favored-Nation Provisions' (2013) 27(2) *Articles in Law Reviews and Other Academic Journals* 20 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2251165>.

³² In 2014, Amazon tried to force harsher terms onto Hachette. When it refused, Amazon retaliated and stopped taking pre-orders for forthcoming Hachette books and started deliberately delaying the delivery of others (See Brad Tuttle, *4 Booksellers Taking Advantage of the Amazon-Hachette Battle with Big Discounts* (2 June 2014) Time <<http://time.com/money/2809307/amazon-hachette-boycott-sale-discount-books/>>).

³³ Khan, above n 8, 766.

³⁴ The Amazon platform also distorts results by favouring Amazon sellers ahead of third party suppliers, even when the third party is cheaper and has a high customer satisfaction rating. In one example referred to in a ProPublica article from 2016, the favoured Amazon-branded search result for Loctite super glue was nearly double the price with shipping of a demoted third-party supplier search result (see Angwin and Mattu, above n 9).

³⁵ In 2017, the European Commission imposed a €2.4 billion fine on Google for giving its own shopping comparison service preferential treatment over competing shopping comparison services in its general search results pages (see *Google Search (Shopping)* (AT.39740) [2017] EUC).

- prioritised the processing of price feeds that drop the prices of books, however delayed the processing of price feeds that return the price of books to the standard price; and
- tied other products and services (freight, marketing, print-on-demand, etc) in its agreements with publishers.

We discuss these practices and their negative impact on rival publishers and ultimately consumers in further detail below.

MFN clauses

MFN clauses require that no competitor of Amazon may receive better terms on price, commission, access on e-book selection, and access to alternative business models. These clauses and their impact on competition is summarised in Table 4 below. In summary, Amazon's conduct has effectively ended price competition for distributing e-books and resulted in overall lower revenue for authors, and higher distribution costs for publishers.

In 2015, the European Commission commenced an investigation into Amazon's business practices and, in particular, its use of price and non-price MFN clauses. The European Commission expressed concerns that these clauses may breach EU antitrust rules that prohibit abuses of a dominant market position and restrictive business practices and could result in reduced competition among e-book publishers and reduced consumer choice. The European Commission took the preliminary view that Amazon may have abused its dominant position in markets for the retail distribution of English and German language e-books to force publishers to accept parity conditions.³⁶

In 2017, the European Commission accepted a number of commitments from Amazon to address concerns about the impact of these clauses. These commitments included to:

- not enforce, include or change certain MFN clauses in contracts with e-book publishers; and
- allow publishers to terminate e-book contracts containing certain MFN clauses (specifically, clauses linking discount possibilities to the retail price of a given e-book on a competing platform).³⁷

The European Commission's acceptance of Amazon's commitments rendered them legally binding for a five year period with significant financial penalties for noncompliance. At the time of accepting these commitments, Commissioner Vestager of the European Commission said:

*'Today's decision will open the way for publishers and competitors to develop innovative services for e-books, increasing choice and competition to the benefit of European consumers. Amazon used certain clauses in its agreements with publishers, which may have made it more difficult for other e-book platforms to innovate and compete effectively with Amazon. We want to ensure fair competition in Europe's e-books market worth more than 1 billion euros.'*³⁸

³⁶ European Commission, above n 1.

³⁷ Ibid.

³⁸ Ibid.

Table 4 - MFN clauses in contracts with Amazon

| Clause | Impact on competition |
|--|---|
| <p>Price parity - Amazon Purchase Price (prior to currency conversion) must be no less favourable than the price to other Digital Book Partners.</p> | <p>The price parity clause limits [REDACTED] ability to offer smaller e-book retailers better prices as it would have to provide the same incentives to Amazon. But for the price parity clause, e-book retailers could negotiate with [REDACTED] for better wholesale prices for e-book titles, and could pass these cost savings onto consumers in the form of lower retail prices. The clause undermines [REDACTED] ability to experiment and differentiate its pricing to third party distributors and agents, and as a result, Amazon's current and potential competitors are unable to offer sufficient financial incentive to Amazon's customers to switch. E-book retailers are therefore prevented from differentiating themselves from and engaging in price competition with Amazon, resulting in higher prices for consumers.</p> <p>The above analysis is particularly true for new entrants. New entrants especially must offer something new or different from the incumbents to incentivise customers to switch to them. A lower price is an obvious and common example of the strategy by which a new entrant might seek to win market share. Although the incumbent (Amazon) enjoys an established reputation and brand equity, a new entrant offering a discounted price relative to Amazon will likely attract customers to try its products. However, the price parity clause eliminates the new entrant's ability to implement this strategy and, in doing so, undermines an important means by which they can overcome the high switching costs (discussed further in Table 6 below). Prospective new entrants are therefore discouraged from entering the market, chilling both price and non-price competition, with corresponding negative consumer outcomes.</p> <p>The effects of the price parity clause go beyond direct consumer impacts. Publishers like [REDACTED] earn smaller revenues on e-books. In addition, they have diminished autonomy to make business decisions that benefit their business and authors, while reaching and catering for the needs of a broad audience.</p> <p>The flow-on effects are felt directly by authors with less money available to provide to authors as upfront advances to write books. This is likely to result in a reduction in the number of books written, as authors no longer receive sufficient funding or must bear the financial risk themselves, leading to less diversity and lower quality in the content of books produced.</p> |
| <p>Business model parity - If [REDACTED] enters into an agreement with a [REDACTED] for any Alternative Business Model, [REDACTED] must offer the Alternative Business Model, on terms that, taken as a whole, are substantially similar.</p> | <p>The business model parity clause limits Amazon's competitors' ability to entice customers away from Amazon by offering business models qualitatively distinct from those of Amazon.</p> <p>Examples of such alternative business models may include a subscription model (with a certain number of e-book titles included per month), e-book rental model, bespoke content or trading terms as part of a promotion or to supply to niche distribution channels that can reach customers Amazon could not (eg coffee shops), or bundling e-books with physical books.</p> <p>This prevents [REDACTED] from sponsoring new entry as the new entrant cannot sufficiently distinguish itself from Amazon.</p> |

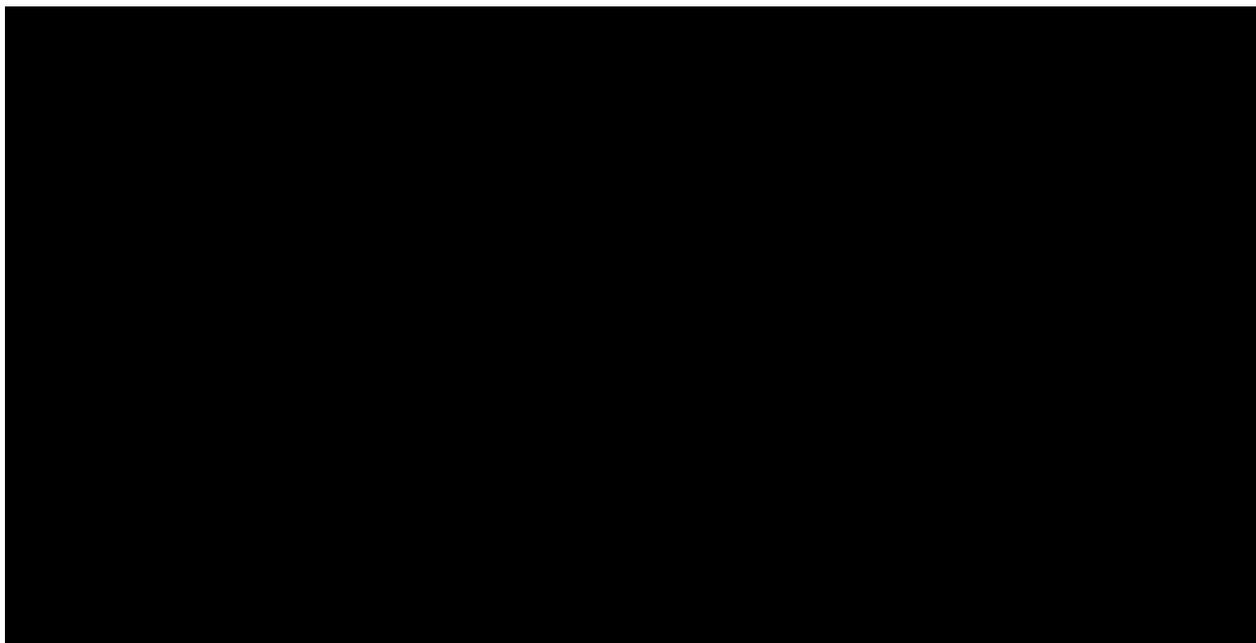
| Clause | Impact on competition |
|---|--|
| | It discourages competitors from trialling new business models and therefore reduces innovation. It also prevents █████ from trialling new content or experimental distribution models on a small scale and without exposure to significant losses that it might have on a large-scale to test its effectiveness before rolling it out to larger distributors such as Amazon. As a result, consumers suffer from reduced market choice and potential promotions and other benefits that could be made available through a competing platform. |
| Range parity - █████ must make available all digital books that are available via any other Digital Book Partner in the Territory. | The range parity clause means that Amazon always has the most complete selection of e-books. It removes the ability of a new entrant to distinguish itself from Amazon on the basis of the breadth of content, for example, by offering niche or special interest titles. Again, consumers ultimately suffer from reduced options in the market. |
| Functionality parity - Digital Books must include all features, elements and content (e.g. lending, multimedia or hyperlinked elements) available to other Digital Book Partners including method of distribution (e.g. streaming or partial downloads) and usage rules (e.g. user-lending, DRM features, device limitations). | The functionality parity clause limits innovation because Amazon only uses certain formats which are less supportive of enhanced functionality (such as audio-visual content). In the event that Amazon's format is supportive of the enhanced functionality, █████ has to produce that functionality twice, once for Amazon's format and once for the format of its competitors. We discuss the 'lock in' effect of Amazon's e-book format (which is inoperable with other e-readers) in further detail below. |

Amazon's contract is not indicative of general commercial practice in the book retailing industry. █████

Amazon's conduct has undermined the profitability of publishers, which has reduced the ability of publishers to invest in a range of books. Historically, publishers have used a cross-subsidisation model whereby they would use their best sellers to subsidise weightier and riskier books requiring greater upfront investment. Transfer of margin from publisher to Amazon means less appetite for risk in signing up untried authors or publishing outside the mainstream. The obvious risk here is the ongoing erosion of the diversity and quality of books, which in turn reduces the diversity and quality of Australian public debate and discourse. Khan states that:

'In the face of higher fees imposed by Amazon, publishers say they are less able to invest in a range of books. In a recent letter to DOJ, a group of authors wrote that Amazon's actions have "extract[ed] vital resources from the [book] industry in ways that lessen the diversity and quality of books." The authors noted that publishers have responded to Amazon's fees by both publishing fewer titles and focusing largely on books by celebrities and bestselling authors. The authors also noted, "Readers are presented with fewer books that espouse unusual, quirky, offbeat, or politically risky ideas, as well as books from new and unproven authors. This impoverishes America's marketplace of ideas.'³⁹

³⁹ Khan, above n 8, 766-767.



Exclusionary practices

Amazon's dominance is likely to persist because of Amazon's exclusionary practices and the industry characteristics such as high barriers to entry, high switching costs and network effects. Amazon routinely uses a number of exclusionary practices to maintain and enhance its market power, particularly its practice of locking in customers through membership of its website, charging below cost to deter new entry and force competitors out of the market, and 'gold-plating' its operations to raise barriers to entry. We summarise some of Amazon's exclusionary practices in Table 5 below. These practices have meant that competitors are unable to successfully enter the market, existing suppliers are forced to exit, and ultimately, consumers suffer through lack of competition and choice.

Table 5 – Exclusionary practices of Amazon

| Exclusionary practice | Details on practice |
|--|---|
| <p>Paid membership to Amazon Prime for exclusive deals and express shipping</p> | <p>The paid membership model used by Amazon through Amazon Prime discourages switching or use of multiple platforms. Amazon Prime is a paid subscription service offered by Amazon that gives users access to free two-day delivery, streaming video/music and other benefits for a monthly or yearly fee.</p> <p>It is estimated that Amazon had 80 million Amazon Prime members globally in 2017⁴¹ (with some sources suggesting this could be as high as 90 million in the US itself).⁴² Research suggests that less than 1% of Amazon Prime members consider shopping from other websites.⁴³</p> |

⁴⁰

⁴¹ CNBC, *Amazon hints at one of its best-kept secrets: How many Prime members it has* (2017), <<https://www.cnn.com/2017/02/17/amazon-hints-at-its-big-secret-how-many-prime-members-it-has.html>>.

⁴² Quartz, *Jeff Bezos is building a global army of Amazon Prime subscribers* (2017), <<https://qz.com/1196073/amazon-prime-amzn-had-its-best-year-of-signups-in-2017/>>.

⁴³ Clare O'Connor, 'Walmart and Target Being Crowded Out Online by Amazon Prime', *Forbes* (online), 6 April 2015 <<https://www.forbes.com/sites/clareoconnor/2015/04/06/walmart-and-target-being-crowded-out-online-by-amazon-prime/#16ffb5212d33>>.

| Exclusionary practice | Details on practice |
|---|--|
| | It is widely reported that Amazon will soon launch its Prime business in Australia. ⁴⁴ |
| <p>Predatory pricing by charging for books and other goods below cost.</p> | <p>Amazon has a history of pricing goods on its platform below cost as a way of capturing market share.</p> <p>Amazon's strategy in relation to books was explained in a letter by authors to the Department of Justice in the US:</p> <p><i>[Amazon] impose a one-price-fits-all \$9.99 sticker on all e-books, no matter how much authors and publishers had invested in those books. For years after the introduction of the Kindle, Amazon paid publishers \$12 to \$14 for many new e-books it sold at a loss for \$9.99. This strategy worked very well for Amazon, which sold millions of Kindle devices and added many customers to its Amazon Prime program. And on the surface, it would seem to have worked well for "consumers" who paid less per book. But this strategy badly damaged the publishing industry by driving down the price customers were willing to pay for new books, hence reducing the amount of revenue available for publishers to invest in new books. This, over time, also harmed readers.</i>⁴⁵</p> <p>A similar practice is evident in Amazon's conduct in the audio book market. Since Amazon's acquisition of Audible, Amazon often prioritises audio books as the lead format – unless the Kindle or physical edition is a 'bestselling' edition. Amazon also displays the cost of the audio book product as 'free', as a way of promoting signups for audible subscriptions (see Figure 1 in Annexure A for a screenshot displaying the free supply of audio books with Audible trial). █████ receives substantially less margin on audio books than e-books or physical content in an attempt by Amazon to market its own services.</p> <p>Predatory pricing is a significant deterrent for new entrants as it requires that the new entrant and its investors be able to sustain losses which would be incurred in matching Amazon's predatory prices.</p> |
| <p>Bundling and leveraging</p> | <p>Amazon engages in bundling and tying within its own ecosystem of products, which have the effect of excluding other providers.</p> <p>For example, sellers who use FBA have a better chance of being listed higher in Amazon search results.</p> <p>Similarly, Amazon uses the data it collects from the activity on its platform to launch new products and undercut competitors:</p> <p><i>'Amazon seems to use its Marketplace "as a vast laboratory to spot new products to sell, test sales of potential new goods, and exert more control over pricing." Specifically, reporting suggests that "Amazon uses sales data from outside merchants to make</i></p> |

⁴⁴ Peter Farquhar, 'Here's how we know Amazon's Retailer-crushing Prime Service is Almost Ready to Roll in Australia', *Business Insider Australia* (online) 28 March 2018 <<https://www.businessinsider.com.au/amazon-head-of-prime-job-australia-2018-3>>.

⁴⁵ Letter from Authors United to the United States Department of Justice (<<http://www.authorsunited.net/july/longdocument.html>>).

| Exclusionary practice | Details on practice |
|---------------------------------|--|
| | <p><i>purchasing decisions in order to undercut them on price” and give its own items “featured placement under a given search.”⁴⁶</i></p> <p>Amazon has a very high market share in the supply of e-book readers (estimated to be as high as 74% of all e-book reading devices in the US).⁴⁷ It has leveraged this strong position in e-readers to protect and enhance its dominance, 'lock in' customers and discourage new entrants in the market for the supply of e-books. Similar to Amazon's strategy with books, it is estimated that Amazon sold the Kindle below cost as a means of dominating the supply of e-book readers and therefore 'lock in' customers into its ecosystem.⁴⁸</p> <p>E-books sold by Amazon are generally not compatible with or transferable to other e-readers or non-Kindle apps. Kindle book customers therefore face high switching costs to change to another e-book platform (they would need to purchase an entirely new e-reader device and cannot transfer their existing e-books to the new e-book platform).</p> <p>In addition, other e-book retailers cannot sell titles to Kindle customers, who are effectively locked into the Amazon ecosystem. This makes it difficult for Amazon's competitors and new entrants to compete and win customers because even offering lower prices or better products may not be sufficient to offset the switching costs and to create an incentive for Kindle customers to switch e-book supplier.</p> |
| Acquiring competitors | <p>Amazon has engaged in a strategy of acquiring competing businesses, such as Book Depository, ABE Books, Booksurge, Goodreads, Brilliance Audio, Comixology, www.Joyo.com, Lexcycle, Shelfare and Audible.</p> |
| Discriminatory behaviour | <p>Amazon has demonstrated its willingness to preference its own titles and goods, against other third party goods sold on its platform by giving its own books or goods more prominence. For example, it is very common for a half of the best-selling e-books on Amazon Kindle to be Amazon's own titles. Figure 2 in Annexure A contains a screen shot from Amazon's best seller list from its website to illustrate the practice of Amazon prioritising its own titles as most of the titles on that list are Amazon's. The titles listed at items 3, 4 and 8 on this list are Amazon published titles (which receive more promotion by Amazon and are therefore are more likely to make it onto the best-seller list).</p> <p>In addition, 80-90% of the titles that Amazon promotes as part of the Kindle Price Promotion are selected by Amazon.</p> <p>Other discriminatory practices of Amazon include:</p> <ul style="list-style-type: none"> • Kindle prioritises its own content and Kindle Unlimited in advertising banners; and |

⁴⁶ Khan, above n 8, 781.

⁴⁷ Khan, above n 8.

⁴⁸ Eric Savitz, 'Amazon Selling Kindle Fire Below Cost, Analyst Contends' *Forbes* (online) 30 September 2011 <<https://www.forbes.com/sites/ericsavitz/2011/09/30/amazon-selling-kindle-fire-below-cost-analyst-contends/#7b29f0e56534>>.

| Exclusionary practice | Details on practice |
|--|--|
| | <ul style="list-style-type: none"> Kindle prioritises its own content and Kindle Unlimited titles in promotions above publisher led promotions. This is despite [REDACTED] paying to be included in sales promotion, such as [REDACTED] (see Figure 3 in Annexure A for a screenshot illustrating Amazon prioritising Kindle content on its website). The titles listed at items 2, 3, 4, 6, 8 and 9 of Figure 2 in Annexure A are Kindle Unlimited titles and therefore (in addition to individual purchase options) are titles accessed via a subscription / bundled access model where each book does not have to be purchased separately. This means the number of downloads is skewed in favour of these titles but they are presented as a best-sellers alongside other titles that are not offered by subscription / bundle. <p>Obtaining prominence is particularly important for book sales as discoverability of books largely depend on the extent to which the retailer chooses to promote it. This is different to traditional bricks-and-mortar stores, where the consumer has the ability to browse in a unguided manner, which increases the likelihood that lesser known authors will get discovered without the intervention of the retailer.</p> <p>In addition, while Amazon allows authors to self-publish, in practice it makes it a requirement for self-publishing authors to make their title available on Amazon platforms, including Amazon's subscription service, Amazon Prime. As such, these titles are not truly self-published, but rather part of Amazon's portfolio. This reflects another attempt by Amazon to maintain its dominance in the supply of e-books.</p> |
| Bypassing publishers in order to compete directly with them | <p>Amazon has made repeated attempts to buy audio rights directly from the authors and in doing so bypass publishers and arrogate editorial work done by publishers. To do this, Amazon is able to utilise the vast amounts of consumer data it has amassed (including information obtained whilst acting as the publisher's agent) and position itself as an attractive alternative distribution option for authors and content producers. Its established reputation and brand equity are also significant advantages for Amazon in this respect.</p> |

Barriers to entry

In addition to its use of MFN clauses and exclusionary practices, Amazon's dominance is likely to continue as a result of high barriers to entry in the market for supplying e-commerce services, which makes new entry by a potential competitor difficult. These factors include high switching costs and network effects and the impact of the data amassed by digital platforms such as Amazon. We summarise these factors in Table 6 below.

Table 6 – Barriers to entry

| Barrier to entry | Details on barrier |
|------------------|---|
| Big data | A significant barrier to entry is the data that digital platforms such as Amazon have amassed. Data is now commonly recognised as a barrier |

| Barrier to entry | Details on barrier |
|------------------------|--|
| | <p>to entry. The FTC Commissioner in 2016 said that '<i>data can act as a barrier to entry and that competition enforcers can and should assess the competitive implications of data</i>'.⁴⁹</p> <p>The data enables Amazon to engage in very targeted promotion and pricing activities, which is valuable to sellers. For example, Amazon recently implemented a promotion algorithm that targets individual users based on their history, as opposed to promoting to multiple users across the site as a whole. Such targeted advertising is likely to be more effective than generic advertising. A new entrant would lack this data which would make it less attractive for sellers.</p> <p>Amazon also has detailed sales information for the sales of books by any author. It uses this information to solicit authors to its own publication business.</p> <p>Khan states that:</p> <p style="padding-left: 40px;"><i>'... buying—or even browsing—e-books on Amazon’s platform hands the company information about your reading habits and preferences, data the company uses to tailor recommendations and future deals.</i></p> <p style="padding-left: 40px;">...</p> <p style="padding-left: 40px;"><i>Moreover, the swaths of data that Amazon has collected on consumers’ browsing and searching histories can create the same problem that Google’s would-be competitors encounter: “an insurmountable barrier to entry for new competition.</i></p> <p style="padding-left: 40px;">...</p> <p style="padding-left: 40px;"><i>reports now suggest that Amazon may dramatically expand its footprint in the ad business, “leveraging its rich supply of shopping data culled from years of operating a massive e-commerce business.”⁵⁰</i></p> <p>While data is collected and used by various digital platforms and bricks-and-mortar stores, the difference with Amazon is the scale and sophistication of the data it collects.</p> <p>We provide further information on Amazon's practices in relation to data below.</p> |
| Switching costs | <p>The switching cost for shoppers to move away from Amazon are high due to the Amazon Prime membership and the Kindle.</p> <p>Amazon Prime subscription system allows customers pay an annual fee in exchange for (amongst other things) access to over 1,000 Kindle titles for free. Subscribers that are used to this pricing model may be reluctant to return to a pay-per-title model offered by another e-books only retailer.</p> <p>Research shows that once users enter into a paid membership with a</p> |

⁴⁹ Terrell McSweeney, Commissioner, Federal Trade Commission, Remarks to the U.S. Chamber of Commerce at TecNation 2016 (Sept. 20, 2016) (https://www.ftc.gov/system/files/documents/public_statements/985773/mcsweeney_-_tecnation_2016_9-20-16.pdf).

⁵⁰ Khan, above n 8, 761, 773 and 786.

| Barrier to entry | Details on barrier |
|------------------|---|
| | <p>digital platform, they are very likely to purchase goods from that platform and are unlikely to consider other sources:</p> <p><i>'Market research consultancy Millward Brown Digital analyzed the buying patterns of more than 2 million online consumers, finding that Prime membership narrows the field of retailers a shopper is willing to consider.</i></p> <p><i>The company's analysis of Prime versus non-Prime members' cross-shopping behaviors found that less than 1% of Prime members are likely to consider other mass-market retail sites -- Walmart.com and Target.com, for example -- during the same online session.⁵¹</i></p> <p>As a content creator, the cost of [REDACTED] switching its sales away from Amazon is also very high. Amazon is a must-have customer based on its scale, market share and vertically integrated operations, combined with its retail platform. It is therefore not possible for any competing publisher or e-commerce platform to replicate or effectively compete with Amazon without incurring exponential start-up costs. This is further aggravated by the contractual MFN clauses which are a disincentive to competition and innovation.</p> <p>As outlined above in Table 5, the way Amazon's Kindle software and e-book formats work creates high switching costs for customers. Competitors and new entrants are not able to compete effectively because customers cannot transfer their libraries to competing platforms and other e-book suppliers cannot sell titles to users of the Kindle device and apps. This lack of interoperability creates a 'walled garden' effect:</p> <p><i>'More specifically, since each bookseller uses a different proprietary DRM scheme on their ebooks, compatible with a limited number of reading platforms, consumers face problems with interoperability. For example, a Kindle owner cannot buy books from Barnes & Noble, and a Nook owner cannot buy books from Apple. This lack of interoperability can increase barriers to entry, switching costs, and network effects. Consequently, consumers are often locked into an e-book ecosystem, which permits booksellers to act as gatekeepers of the e-book market.⁵²</i></p> <p>While e-reading is increasingly done on tablets or phones onto which users can download multi-platform apps, many users still rely on dedicated e-reading devices like Kindles and are likely to continue to do so.</p> <p>Switching costs also exist with customers becoming familiar with Amazon's website/user interface and being unwilling to invest the time to</p> |

⁵¹ Clare O'Connor, 'Walmart and Target Being Crowded Out Online by Amazon Prime', Forbes (online), 6 April 2015 <<https://www.forbes.com/sites/clareoconnor/2015/04/06/walmart-and-target-being-crowded-out-online-by-amazon-prime/#16ffb5212d33>>.

⁵² Ana Carolina Bittar, 'Unlocking the Gates of Alexandria: DRM, Competition and Access to E-Books' (25 July 2014) <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2620354>.

| Barrier to entry | Details on barrier |
|--|---|
| | learn how to operate a new system and customers may develop a general sense of loyalty or trust in a platform that they are familiar with. |
| Network effects and brand value | <p>Digital platforms become more attractive as more users are added to the network. This argument is also true for Amazon, as its growing user base increases its reputational advantage over its competitors. Its size begets size, attracting more and more third-party sellers into its swirling vortex, and collecting always greater amounts of consumer data to target and market to them and others.</p> <p>Network effects can make it more difficult for a new entrant to enter the market as users prefer using platforms which can provide them the benefits of network effects. New entrants are also likely to struggle to compete with Amazon given its established reputation and brand equity, as customers and suppliers are likely to prefer dealing with players with a proven track record.</p> |
| Size and reach of operations | Amazon's size and extent of operations including warehousing and delivery capability make it beyond the practical reach of any potential competitor. Large up-front investments can be a deterrent for potential new entrants. ⁵³ This is especially the case where an existing market participant has entrenched monopoly power. |

Amazon's business strategies and the examples of conduct discussed in this section highlight the potential for a digital platform to leverage its market power and the industry characteristics to engage in conduct which maintains and enhances this power. As has been demonstrated, the result has been a chilling effect on price and non-price competition – preventing new entrants from successfully entering the market and forcing existing competitors to shrink or exit.⁵⁴ A consumer surplus generated by competition between publishers is replaced by a surplus for Amazon's benefit at the expense of consumers and publishers alike.

While some of Amazon's practices may have resulted in consumers paying lower prices in the short term (eg as a result of Amazon's predatory pricing strategy), these practices should not be regarded as pro-competitive. On the contrary, Amazon's intention is clearly to reduce price competition with its rivals. This is particularly apparent when considered in the longer term, and is reflected in Amazon's pricing in the US and Europe. The impact in the long-term is to the detriment of competition and consumers, as Amazon's dominant position is reinforced along with its ability and incentive to increase its margins.

Amazon's conduct has also undermined the profitability of publishers, which in turn has reduced their ability to invest in a broad range of books. One famous quote of Amazon founder, Jeff Bezos, is: '*Your margin is my opportunity*'. In the context of book publication and distribution, this principle manifests by an integrated business using its monopsony power to foreclose upstream competition. The resulting transfer of margin from publisher to Amazon means less appetite for risk in signing up untried authors or publishing outside the mainstream. The result is an erosion of the diversity and quality of books, which in turn reduces the diversity and quality of Australian public debate and discourse.

⁵³ Kela Ivonye, 'This is how Walmart, Amazon, Target and others are Coming Up With New Ways Of Getting More Stuff To You Faster' (13 October 2017) Recode <<https://www.recode.net/2017/10/13/16392676/ecommerce-delivery-dominance-amazon-alibaba-last-mile-pickup-kiosk-locker>>.

⁵⁴ These concerns were articulated by Commissioner Vestager of the European Commission when Amazon's commitments regarding its MFN clauses with e-book publishers were accepted: '*Today's decision will open the way for publishers and competitors to develop innovative services for e-books, increasing choice and competition to the benefit of European consumers. Amazon used certain clauses in its agreements with publishers, which may have made it more difficult for other e-book platforms to innovate and compete effectively with Amazon...*' (European Commission, above n 1).

While the examples discussed above relate primarily to the market for the supply and acquisition of e-books, there is no reason this conduct and its impact on competition could not also arise in similar or related markets (particularly those with similar products and market structures). The e-book example provides a useful case study involving a digital platform with significant market power that deals with a product with great potential to influence and control public discourse and awareness.

█ would be happy to discuss Amazon's practices with the ACCC in further detail.

Other

The Issues Paper raises a range of other relevant issues in relation to digital platforms. To the extent the issues are not covered in the preceding section, we consider them below.

3.7 What are the advantages and disadvantages for media content creators of using digital platforms to publish or distribute their content?

3.19 What are the advantages and disadvantages of using digital platforms for consumers?

While the digital distribution of e-books over digital platforms could be pro-competitive and advantage consumers, the advantages in the current climate (given the practices of the dominant player) are short-term and limited. The potential advantages include:

- convenience;
- more targeted marketing and promotion and greater reach; and
- arguably, a potential increase in the number of voices that are available to users. However, as discussed above, the platforms are eroding the ability of publishers and other content creators to create in-depth investigative and analytical work.

The disadvantages of using digital platforms (particularly a dominant digital platform) for distributing content have been discussed above. Consumers are ultimately harmed by the reduced competition in the distribution of e-books, most notably by:

- ultimately being charged higher prices (even if in the short term there may appear to be lower prices);
- losing the benefit of discounting and promotions that may be available for new entrants; and
- receiving reduced choice and quality in the content supplied to them.

Data

3.10 Do digital platforms have access to user data that is helpful to media content creators (e.g. readership statistics)? Does this access to user data create any information asymmetry between digital platforms and media content creators and, if so, how does this impact competition in the relevant markets?

3.11 If so, how much do media content creators value access to such user data? How does the access to or control over user data impact the relationship between digital platforms and media content creators? For instance, how transparent are digital platforms about how content reaches consumers via their algorithms and how much notice do media content creators receive when significant changes are made?

3.21 Are consumers generally aware of these terms and conditions? Specifically, do Australian consumers understand the value of the data they provide, the extent to which platforms collect and use their personal data for commercial purposes, and how to assess the value or quality of the service they receive from the digital platforms?

3.23 If you consider the collection of data part of the effective price paid by consumers for use of the digital platforms, to what extent are consumers aware of and provide informed consent for the collection and use of their data?

Amazon collects data from all the activity that takes place on its digital platform and from its Echo device and Alexa. This data creates some residual benefits for publishers, in the sense that Amazon uses this data to target and sell books to consumers. However, this benefit is two edged. Amazon also uses sales data to preference its own business, such as its publishing business or Amazon Basics (which produces a range of consumer goods). As mentioned above, the data amassed by digital platforms is a key source of their market power and creates a significant barrier to entry for a new entrant.

Amazon is opaque about the data it collects and how it uses the data. This data is not shared with publishers, excepted for a limited amount of data, such as units purchased and the price at which they were purchased. The following are a few examples of instances where Amazon has not provided [REDACTED] data which would be beneficial for [REDACTED]

- search histories, which it does not share with the publishers;
- [REDACTED] receives weekly sales data, but does not receive daily data so [REDACTED] does not know exactly which day the book was purchased;
- there have been numerous periods where actual sales reports by Amazon have been delayed in Australia for substantial periods (for more than 1-2 months). Due to Amazon's significance from [REDACTED] perspective, it limits [REDACTED] ability to gain timely insights into its market performance; and
- [REDACTED] pays to receive a limited number of title submissions per quarter for 'Direct Merchandising'. These titles are meant to 'surface' more often than competing titles – however, Amazon does not provide any data on how these titles perform in comparison to titles without Direct Merchandising.

This data can provide insights into consumer preferences and choices which are useful to publishers. For example, publishing involves long lead times and accurately gauging public demand for particular genres or opinions is challenging with the best data, and near impossible without a fulsome understanding of the kinds of titles that are currently appealing to consumers.

Traditionally, [REDACTED] has had access to a range of consumer sales metrics from bricks-and-mortar retail stores. It could also recognise sales patterns of genres or authors in certain locations or certain kind of bookstores (eg, those located in shopping malls verses local independents). Identifying trends and popularity in this way for many years helped publishers identify future authors and titles that could be commercialised to meet demand in different market segments. As Amazon's power has grown in this

space, [REDACTED] has increasing difficulty detecting nuances and patterns in its sales data – and it receives no insight from Amazon sales on where books might be particularly popular or which titles appeal to which kinds of audience. Data on these metrics is known to Amazon. If their respective bargaining positions were more even, [REDACTED] would request more fulsome data reports from Amazon.

The increasing uncertainty in book publishing is damaging the long-term viability of the industry and increasing a focus on celebrity and known authors – to the detriment of diversity of voice. The market power of Amazon is largely the cause of this decline.

[REDACTED] also does not believe that Amazon effectively informs its users about the data being collected. [REDACTED] is not aware of the specific data that Amazon collects from consumers.

Access to news and journalistic content

3.26 How have the channels used by Australian consumers' to access news and journalistic content (e.g. TV, newspapers, social media, search engines) changed in the past five to ten years? How will this change in the next five to ten years?

There is still high demand for long form written opinion and news in the form of traditional physical books and e-books. However, overall sales of books have remained on a fairly steady decline over the past eight years in the face of significant changes in how news and other information is communicated to national audiences. In relation to non-fiction titles, this decline is likely due in part to certain basic non-fiction content being available on the internet. The extent to which this content is of comparable quality or diversity to that of books is doubtful.

There is a misconception that Amazon's market share growth is reflective of print sales (at least in the US market) also steadily increasing. However this is not the case. Rather, the increase in Amazon's sales reflects its predatory pricing strategy and comes largely at the expense of rival suppliers (some of who are prevented from discounting e-books as a result of the MFN clauses described earlier).

In terms of the 'channel' through which readers access books, there has been steady consolidation towards Amazon. The market share figures for Amazon have been discussed previously in this submission.

If left unchecked by regulators, [REDACTED] expects that over time access to book titles will increasingly consolidate towards Amazon – this is especially the case as Amazon ties its Amazon Prime features to book sales (ie free or expedited shipping).

The means by which consumers 'discover' a particular book over the early 2000's expanded rapidly to include a range of bespoke and niche blogs, twitter feeds, events, podcasts and promotions. However, this healthy divergence of voices recommending books is steadily being replaced by Amazon's recommendation algorithm. This generally means that consumers are alerted about titles of a similar kind to those already accessed (to simplify greatly the Amazon process), however it does not give new or emerging authors the same exposure as would the coming together of diverse voices.

3.27 How have the types of news and journalistic content accessed by Australian consumers' changed in the past five to ten years? How will this change in the next five to ten years?

In the view of [REDACTED], Australian consumers have shown increasing demand for content from around the globe. We expect this trend to continue in the future. More generally, and as discussed above there is steady demand for longer form book titles, which affirms the importance of book publishing to the Inquiry.

3.30 Have the markets that digital platforms operate in changed over time and are they likely to change further in the future? For example, to what extent can digital platforms now be considered to be publishers rather than distributors of content, and is this likely to evolve in the future?

Based on empirical evidence Amazon is likely to expand its monopoly position into more countries (including Australia) and in more markets for a wide range of goods and services. As it does so it

increases its ability and power to impose increasingly uncommercial terms on book publishers – among other suppliers. For example, it is possible that Amazon would enter markets directly relevant to the supply of news and journalistic content in the near future. As mentioned above, Amazon can use the data it has collected and its brand recognition to enter new markets.

3.33 How do existing laws and regulations apply to the conduct of digital platforms? For example:

- a) are digital platforms required to verify news and journalistic content before distributing it?**
- b) do intellectual property and copyright laws apply to the conduct of digital platforms in a similar way as to other market participants?**

If these laws and regulations do not apply to digital platforms, what are the implications for competition in the media and advertising services markets and how does this impact the quality and choice of news and journalistic content for consumers?

It is imperative to have a strong copyright framework to ensure content creators are able to enforce their rights. In Australia, digital platforms have recently pushed for Australia's copyright laws to be watered down. For example, the digital platforms have argued for:

- extending copyright safe harbour provisions to service providers (including commercial entities) despite this being beyond the original intention of such provisions; and
- the introduction of a broad fair use provision into Australian copyright law.

In addition, [REDACTED] has ongoing concerns both in Australia and overseas about digital platforms' disregard for territorial copyright. This is an issue of foremost importance because we believe Australia's copyright law should be appropriate and adequate to deal with the digital environment, ensuring there are sufficient incentives for Australian content creation and enabling rights-holders to enforce their rights.

We would be happy to speak further to the ACCC on the issues raised in this submission if it would be of assistance.

Annexure A – Screenshots from Amazon's website

Figure 1 – Amazon predatory pricing to entrench its dominance

The screenshot shows the Amazon product page for the Kindle Edition of 'The Tattooist of Auschwitz' by Heather Morris. The page features a book cover on the left with a 'Look inside' button. The main title and author information are at the top right, including a star rating and customer reviews. Below this is a table of purchase options for different formats: Kindle (\$9.89), Hardcover (\$23.73), Paperback (\$16.00), Audiobook (\$0.00), and Audio CD (\$45.41). A short synopsis follows, describing the story of Lale Sokolov. At the bottom, there are settings for word-wise and page flip options, and a promotional banner for an Autumn Sale.

The Tattooist of Auschwitz: Based on an incredible true story Kindle Edition
by Heather Morris (Author)
★★★★★ 42 customer reviews
#1 Best Seller in Biographical Fiction

See all 10 formats and editions

| | | | | |
|-------------------------------|----------------------|----------------------|------------------------------|---------------------|
| Kindle \$9.89 | Hardcover \$23.73 | Paperback \$16.00 | Audiobook \$0.00 | Audio CD \$45.41 |
| Read with Our Free App | 7 New from \$22.51 | 2 New from \$16.00 | Free with your Audible trial | 2 New from \$45.41 |

The incredible story of the Auschwitz-Birkenau tattooist and the woman he loved. Lale Sokolov is well-dressed, a charmer, a ladies' man. He is also a Jew. On the first transport from Slovakia to Auschwitz in 1942, Lale immediately stands out to his fellow prisoners. In the camp, he is looked up to, looked out for, and put to work in the privileged position of Tätowierer – the tattooist – to mark his fellow prisoners, forever. One of them is a young woman, Gita, who steals his heart at first

Read more

Length: 206 pages
Page Flip: Enabled
Word Wise: Enabled
Audible Narration: Ready

Autumn Sale
Choose from 250 books on sale at up to 70% off. Sale ends on 23 April 2018 at 11:59 pm AEDT. [Shop now](#)

Figure 2 - Amazon giving priority to its content

Amazon Best Sellers

Our most popular products based on sales. Updated hourly.

Any Department
Kindle Store
Kindle eBooks

- Arts & Photography
- Biographies & Memoirs
- Business & Investing
- Children's & Young Adult
- Comics & Graphic Novels
- Computers & Technology
- Cookbooks, Food & Wine
- Crafts, Hobbies & Home
- Education & Reference
- Erotica
- Gay & Lesbian
- Health, Fitness & Dieting
- History
- Humour & Entertainment
- Literature & Fiction
- Mystery, Thriller & Suspense
- Parenting & Relationships
- Politics & Social Sciences
- Professional & Technical
- Religion & Spirituality
- Romance
- Science & Maths
- Science Fiction & Fantasy
- Self-Help
- Sports & Outdoors
- Travel
- Foreign Language eBooks

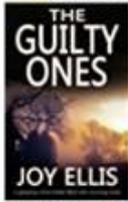
Best Sellers in Kindle eBooks

Top 100 Paid Top 100 Free

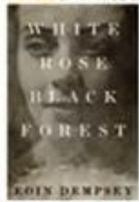
- 1.** kindleunlimited



I See You: The Number...
Clare Mackintosh
★★★★☆ 12
Kindle Edition
\$16.99
- 2.** kindleunlimited



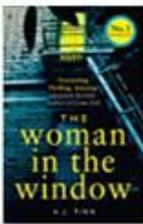
THE GUILTY ONES a...
JOY ELLIS
★★★★☆ 10
Kindle Edition
\$0.99
- 3.** kindleunlimited



White Rose, Black Forest
Eoin Dempsey
★★★★☆ 3
Kindle Edition
\$6.50
- 4.** kindleunlimited



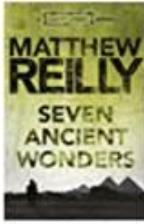
The Spinster Wife
Christina McKenna
★★★★☆ 14
Kindle Edition
\$1.49
- 5.** kindleunlimited



The Woman in the...
A. J. Finn
★★★★☆ 61
Kindle Edition
\$9.99
- 6.** kindleunlimited



P.S. I Hate You
Winter Renshaw
★★★★☆ 13
Kindle Edition
\$0.99
- 7.**



Seven Ancient...
Matthew Reilly
★★★★☆ 18
- 8.** kindleunlimited



The End Zone
L.J. Shen
★★★★☆ 6
- 9.** kindleunlimited



MURDER BY FIRE a...
FAITH MARTIN
★★★★☆ 7

Figure 3 – Amazon prioritising its own content and Kindle Unlimited

