

THE GREAT DIGITAL GOLD RUSH



Many try... ..few succeed

Public Submission
Response to ACCC Digital Platforms Preliminary Report 2018

This Section is Confidential

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1. Introduction

The Digital Platforms Inquiry has received few submissions relating to the concerns of small business. Small business owners must utilise digital platforms if they want to survive in today's current economic climate. It's not a choice anymore, it's a necessity.

As so few SME responses were received by the ACCC to the Digital Platforms inquiry, it is likely that again, few small business responses will be received in relation to the preliminary recommendations and the matters proposed for further analysis.

According to the Australian Taxation Office ¹"There are around 4 million small businesses in Australia. They account for 99% of businesses in Australia, contribute \$380 billion to the economy and employ approximately 5.6 million Australians". Consequently, small business is an imperative part of the very fabric of Australia and yet on matters pertaining to the Digital Platforms Inquiry, small business is almost absent. Why?

I can tell you why... we are exhausted! We are struggling to stay afloat in a sea of government red tape, beset with chaotic changes in the business and economic landscape including digital technology. On top of this, we are running our businesses with little free time to make completely informed comment on matters technological, even though they are extremely relevant and often the lifeblood of our businesses. Although we are nimble and often passionate, SMEs do not have the resources of large enterprises and cannot always adapt to rapid change. SMEs cannot afford to have dedicated digital platform specialists on staff and must spend a lot of time, energy and money to outsource specialists that actually do what they say.



I must also say there is a definite fear factor of digital reprisal for SMEs. Multinational digital platforms could easily take down an SME. SME owners will on the whole, not wish to speak out about what is actually happening to their businesses in the digital world.

Nevertheless, comment must be made on the very important preliminary recommendations and those matters requiring further analysis. I do not propose to comment on every recommendation, some of which are outside my experience or knowledge. I have instead picked a number of ACCC recommendations, being those I feel most confident about. I have also made some of my own at the conclusion of this submission.

I must also say due to the reasons stated above, I have not read the entire Preliminary Report of 378 pages. Despite these possibly perceived 'shortcomings', I do however fervently hope the ACCC will take on board what I have to say.

1. <https://www.ato.gov.au/Media-centre/Speeches/Other/What-the-ATO-is-seeing-in-the-small-business-market/>

2. The Preliminary Recommendations

a) Preliminary Recommendations 1 & 2 —merger law & prior notice of acquisitions

Facebook acquired Instagram back in 2012. Facebook has now offered the facility on both personal and business pages to link Instagram accounts. Although this may seem convenient for sharing content, I have chosen not to do this as I am concerned about the handling and sheer volume of user data that Facebook already has access to.

Furthermore, Facebook also acquired WhatsApp in 2014. It has been reported Facebook is seeking to merge functionality between its own Messenger facility, WhatsApp and Instagram. In my mind, this is really dangerous quicksand for users. Facebook is already reading everyone's messages in Messenger and now they want even more detail about users' lives through these other services. I no longer use WhatsApp.

With so much data, it is not beyond the realms of possibility and indeed probability, that Facebook will position itself to remove potential competitors. History shows Facebook cannot be trusted with user data. In fact, United States Senator Richard Blumenthal (D-CT) recently stated regarding the proposed merger between WhatsApp and Facebook ²“Once again, Mark Zuckerberg appears eager to breach his commitments in favor of consolidating control over people and their data”. Senator Brian Schatz (D-HI) a ranking member of the US commerce subcommittee's panel on technology, tweeted just weeks ago that this merger was ³“Good for encryption but bad for competition and privacy”.

Merging Messenger, Instagram and Facebook is a dangerous precedent for user privacy and security. Users have been deceived by Facebook, thinking their data was safe and private. According to The New York Times on December 18, 2018 ⁴“Acknowledging that it had breached users' trust, Facebook insisted that it had instituted stricter privacy protections long ago. Mark Zuckerberg, the chief executive, assured lawmakers in April, 2018 that people “have complete control” over everything they share on Facebook”. Now we find users private messages were passed on to unrelated companies such as Netflix, Amazon and Spotify (to name just a few) for advertising purposes once again without the knowledge of users.

This is a blatant breach of trust by Facebook.

2. <https://www.theverge.com/2019/1/28/18200658/facebook-messenger-instagram-whatsapp-google-congress-markey-blumenthal-schatz-william-barr-doj-ftc>

3. <https://www.theverge.com/2019/1/28/18200658/facebook-messenger-instagram-whatsapp-google-congress-markey-blumenthal-schatz-william-barr-doj-ftc>

4. <https://www.nytimes.com/2018/12/18/technology/facebook-privacy.html>

2. The Preliminary Recommendations cont.

^{5.} "As Facebook raised a privacy wall, it carved an opening for tech giants. Internal documents show Facebook gave Microsoft, Amazon, Spotify and others far greater access to people's data than it had disclosed".

This is despite previously giving the US government an undertaking that it had cleaned up its data handling procedures. The facts are clear:

FACEBOOK CANNOT BE TRUSTED WITH USER DATA



Facebook acquisitions serve to enable greater gathering and sharing of user data, often without the express permission and knowledge of users despite undertakings given to government and users by Facebook.

Digital platforms with substantial histories of mishandling user data such as Facebook should be broken up into separate companies, which should then be sold off to unrelated entities.

Future Facebook acquisitions in similar domains should not be allowed.

Such regulation should apply to all digital platforms over a certain revenue and/or User number threshold.

5. <https://www.nytimes.com/2018/12/18/technology/facebook-privacy.html>

2. The Preliminary Recommendations cont.

b) Preliminary Recommendation 3 - choice of browser and search engine

I agree with the Recommendation that users should be given a choice of browser with no default browser selected. I also agree with the Recommendation that various options be given as search engine options. DuckDuckGo should be included in those options. Each search engine and browser should have a short and accurate description so users can make an informed choice. Digital platforms should not assume the average user knows exactly what browsers and search engines actually do.

c) Preliminary Recommendation 4 - advertising & related business oversight

With regard to the ACCC “concerns that Google or Facebook may be favouring either their own related businesses or those businesses with which they have a particular commercial relationship” - this is correct in my opinion, my reasoning is explained herein.

i) Algorithmic Pavlov’s Dog

I have long suspected that the way Google displays ads is not necessarily in terms of how much businesses bid on keywords as Google states. Sometimes, I think the Google algorithm adapts itself so that it keeps as many advertisers in the mix on a group of keywords as possible, so they don’t give up too soon. In this way, Google can earn more money in the long term.

Each advertiser gets a little bit of the dangling advertising carrot, just sufficient enough to keep them there, although they may not be doing very well. Google keeps advertisers at a certain position so they can’t do ‘too well’ at the expense of other advertisers.



Think of a kind of algorithmic ‘Pavlov’s Dog’. When the bell is rung (implied promises made by Google) an advertiser will salivate metaphorically at the thought of decent returns on investment. But in reality, chasing those returns does not always live up to the promises implied by Google. I have no data on this - it’s something I often consider however, especially when the ROI on my ads is not as expected. I’m left wondering if Google have psychologists or similar on staff to come up with such concepts?

2. The Preliminary Recommendations cont.

ii) Digital Advertising and the Need for Oversight

The analytics supplied by Google, are getting fairly complicated now for the average small business owner to comprehend in entirety and there's always the prospect that analytics are in fact inaccurate, perhaps on purpose? SMEs and users need external government oversight to ensure we get what we pay for.

SMEs are at a distinct disadvantage to large or multinational business when dealing with digital platforms. It is impossible for SME owners to understand what is permitted or acceptable in terms of algorithms. I've been using Google Adwords, YouTube and Facebook since XXXX, XXXX and XXXX respectively and I still don't understand exactly what I am supposed to do to optimise my ads, my posts and my videos.

Whilst I understand these digital platforms need to change their algorithms regularly to stop people 'gaming the system', I must say this puts SMEs at a distinct disadvantage. SME owners do not have the resources or the contacts within these digital platforms to ensure a level playing field in comparison to their big brother multinational and corporate competitors. Digital platforms haven't gotten the 'regular user -v- gamers of the system' balance right yet.

Digital platforms change their algorithms regularly and whilst large enterprises can adapt by hiring specialists to deal with these changes fulltime, SMEs cannot. Often when specialists are hired by SMEs, they do not live up to expectations. I have encountered this myself when hiring 'Google Certified Partners' multiple times. I hired them for minimum 6 month periods and still did not get what I paid for - only a very bad ROI.

iii) Thoughts on Digital Addiction

It seems that digital platforms are addicted to changing their algorithms with no thought about the effects on SMEs. But far more important than this, is the topic of digital addiction which gives the illusion of 'user control' ... one of Mark Zuckerberg's favourite talking points to defend Facebook, it seems. User control is linked with the concept of 'variable rewards' and choice but such choice is like saying to a toddler "do you want vegemite or peanut butter" ... there are in fact very limited choices offered by digital platforms. Facebook has not given users full control despite what Mark Zuckerberg states in congressional hearings.

Digital addiction is so very powerful that ⁶ "Some studies have even found that Facebook influences the brain just as alcohol or drugs might". Physical actions associated with addictive behaviours such as pulling a poker machine handle, puffing on a cigarette or scrolling through one's Facebook feed do actually strengthen the addiction.

Addiction is all about control and users giving it up!

6. <https://blog.drumup.io/blog/social-media-addiction-psychology-how-it-works-invaluable-lessons/>

2. Preliminary Recommendations cont.

Algorithms manipulate digital users.



“Consciously framed reasons for Internet use then become indistinguishable from habit, as choices are now automatic, below the level of conscious awareness. An addiction begins to form”.

To briefly summarise, digital addiction is a human vulnerability that digital platforms aggressively exploit without the concept of appropriate social responsibility. Digital addiction currently is far worse than tobacco for instance as there are so many digital addictions changing society, to name just a few examples:

- ✚ car accidents because people can't/won't stop checking their phones whilst driving;
- ✚ digital pornography addiction breaking up relationships;
- ✚ school kids disengaged in school because they're Facebooking underneath desks.

Digital platforms have a major role in the development of digital addiction in society and they are greatly contributing to the 'zombification of the nation'. Yes it's also an individual issue however multinationals need to step up and show leadership for the problem they helped create. One example of taking social responsibility could be to provide free digital addiction training courses and psychological counselling intervention for users.

Introduction of legislation to compel multinational digital platforms to take appropriate social responsibility.

A lack of transparency and no oversight by independent regulatory bodies allows digital platforms to manipulate and say whatever they like to users, advertisers and government authorities.

An amply resourced digital platforms regulatory authority with 'sharp teeth' is essential. The internet is now an essential service.

7. <https://medium.com/@auil.cote/addicted-to-social-media-ca56f6a22bcf>

2. Preliminary Recommendations cont.

d) Preliminary Recommendation 7 – Take down standard

In my previous Digital Platforms submission I wrote about my experiences with competitors using my business name and my experience with Google. In XXXXXXXXXXXX XXXX, I had a competitor steal my business name to use in its Adwords. A customer rang and complained she was confused because she thought she was calling us here in Australia and instead ended up talking to a company in the UK. I went through the Google Adwords procedure to report the use of my trademarked business name. At the end of the process (which took some time) I received the message that Google had a lot of reports and would come back to me. To date, I still have NOT been contacted. It is clear Google have no interest in SMEs other than the advertising money we pay them.

Google Copyright Infringement Process is Useless.

Google apparently does still not have an algorithm to pick up illegal use of a registered trademarked business name in their Google ads. Why not? The ability to detect unlawful use of registered company or business names could be coded into the Adwords algorithm, if Google had the will. This would be the socially responsible thing to do, not to mention just doing the right thing looking after your users Google.

I agree there should be a government enforced mandatory take down standard. This should be timely and not onerous for the applicant. There should also be some consequences placed on those who violated the rights of the intellectual property owner. Google could in fact strike the relevant pages and ads from their index (didn't happen for my business). However, the entire process needs to be overseen by a regulatory authority because history clearly shows that Google is not likely to comply. In light of my poor experience, it appears Google only has a 'lip service process' for righting intellectual property violations putting legitimate copyright at risk and in the crosshairs of cyber violators and thieves.



2. Preliminary Recommendations cont.

e) Preliminary Recommendation 8—use and collection of personal information

i) How do I stop Google Stalking Me?

Regarding the ACCC recommendations (a) to (g), I agree with and endorse these. At the time of writing I notice Google are tracking me even though I have turned off location history in my Google account many months ago. The default position of these controls should always be off until a person elects to have them on, but even when off, they do not work properly.

This screenshot is confidential. See my postcode at the bottom.

How do I stop Google stalking me? I do not give permission to be tracked. I have long ago paused all toggle switches for activity in myactivity.google.com and yet I am still being tracked by postcode. How is the average person supposed to stop this? I have sent feedback stating I do not give permission to have my history kept or to be tracked even by postcode.

2. Preliminary Recommendations cont.

ii) How do I Stop Facebook Stalking me?

Colloquially, Facebook is known as “Stalkbook” ... there’s a reason for this, not only can your ex-partner track what you’re doing on Facebook (depending on your settings) but Facebook tracks users across different devices outside its own platform. It also tracks non-Facebook users, that is, those who don’t even have a Facebook account. Facebook does these things without express permission of users and non-users. We don’t even realise we’re being stalked, much like a woman walking alone at night... until it’s too late. What really happens to all this data? Digital platforms (often foreign owned) have more information on Australians than do our own intelligence services.

During recent congressional testimony Mark Zuckerberg ⁸ often evaded direct answers about precisely how Facebook tracks users from site to site and device to device. Zuckerberg repeatedly argued that Facebook users have had full control of their data all along, which only left open the simplest question of all: Why didn't they know it?" Users are just beginning to find out now and how to stop being stalked is largely still unknown.

When I search on how to stop being tracked, I am directed to the ad preferences section https://www.facebook.com/ads/preferences/?entry_product=ad_settings_screen. How do non-users update this when they don’t even have an account? Catch 22!
Is Facebook actually saying:

Open an account so you can stop Facebook stalking you?

So I don’t want to be tracked but instead of Facebook offering an opt-out, they ask me to adjust Ad Preferences (which don’t appear to work anyway).

I’ve used the Ad Preferences link multiple times previously and found it confusing with the many dozens of companies there I’ve never actually heard of. Yesterday, I updated this section and today there are new companies that were not there yesterday, many of which are in the US and totally irrelevant to me.



8. <https://www.wired.com/story/mark-zuckerberg-congress-day-one/>

3. Proposed Areas for Further Analysis

a) A Digital Platforms Ombudsman

I raised the concept of a Digital Platforms Ombudsman (DPO) in the Recommendations Section of my previous Digital Platforms Inquiry submission:

“a Digital Ombudsman be appointed to oversee all things internet including the activities of digital platforms operational in Australia. Now the internet is an essential service and as the majority of Australians are involved in using the internet, a Digital Ombudsman is warranted and should be appointed additionally to the Telecommunications Ombudsman”.

A DPO could operate along similar lines to the existing Telecommunications Industry Ombudsman. Complaints regarding Digital Platforms which are not resolved at level 1 status could be escalated through a series of levels, each level having an increased cost for digital platforms which pay the operating costs of the DPO.

⁹The cost of an individual complaint consists of two elements: a volume fee and an operating cost fee.

- Volume fees reflect the direct dispute resolution staff costs of dealing with a complaint. These costs are generally set at the start of each financial year.
- Operating cost fees cover all other TIO expenses, which include support staff and service costs, accommodation, telecommunications, information technology, governance, member support and communications. Operating costs fees are calculated so as to recover only the actual costs incurred by the TIO, and charged on a proportional basis (i.e., based on a service provider’s proportion of the volume fees for any month”).

I imagine at first the volume of complaints would be high, but after time would decrease as digital platforms become compliant with Australian law. The DPO terms of reference would need to be fairly broad and much public consultation would need to be undertaken. I note the TIO states:

¹⁰“We are able to handle complaints about telephone and internet services, including by collecting any documents or information relevant to the complaint. We have the authority to decide the resolution of a complaint (the telecommunications company is legally obliged to implement) up to \$50,000, and make recommendations up to \$100,000”.

Digital Platforms do need an industry Ombudsman, their past actions indicate they are acting as a law unto themselves without regard for users. Digital platforms are clearly incapable of appropriate self-regulation and consequently should be subject to government regulation. I do not believe there should be a monetary cap on amounts claimed as compensation. There should also be a digital platforms education process for all Australians administered by the platforms themselves under the auspices of the DPO.

9. <https://www.tio.com.au/members/member-news/tio-complaint-charges>

10. <https://www.tio.com.au/about-us>

3. Proposed Areas for Further Analysis

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It's often impossible for SMEs to negotiate on anywhere near equal terms with digital platforms. In XXXXXXXXXXXXXXXX I applied for monetisation of my YouTube (YT) channel (YT is owned by Google).

My channel meets all the requirements as far as I know and still I have not had any contact from YT relative to my application. Under 'channel under review', it states that contact is usually within a month or so. I have sent feedback asking for help multiple times. I have even tweeted YouTube in the hope they might answer me. I often advertise my videos on YT but I'm still ignored. I contacted Google for help and that was also useless. I was told it was nothing to do with them, although advertising on YT is done through Google Adwords.

YouTube apparently does NOT care about my channel XXXXXXXXX which is XX years old, has XXX videos and over XX million views and they will still not communicate.

I agree with the ACCC points (a) to (d), the DPO should have the power to investigate all of these matters. In addition, users and advertisers should have the ability to lodge complaints due to lack of communication and support etc. It should be noted that sending feedback to Google, YT and Facebook is a complete waste of time. I have never been answered after sending feedback literally dozens of times now. YT in particular does NOT support small business until a channel is monetised, but of course that's a catch 22 for some channels. Facebook now has email support for advertisers but it is slow and frustrating. I've had many issues Facebook would not resolve. Google has a tollfree number however it took me 2 hours recently to place a new ad on the phone as I had problems with their online system. That's a crazy amount of time for an SME owner to spend on the phone just for one ad.

3. Proposed Areas for Further Analysis

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b) Third party measurement of advertisements served on digital platforms

There are two points I would like to make:

i) Third Party Ad Providers

Although I use a third party provider now that I'm happy with, previous third party providers have provided suspect figures in the past. My own internal measuring system did not correlate at all with the figures I was given by the third party ad provider. There is a tendency by third party providers and digital platforms alike to make mountains out of the metrics they supply. To an SME the bottom line is 'how many sales did I get as a result of this particular ad?' Branding activities are of secondary importance only as we do not have the huge budgets of multinational corporations to spend on branding without a decent ROI.

In one case I was told I had XXX clicks on an ad in a month, but when I checked my measurements, I could see I only had XX telephone calls. Granted these are not the same things being measured, but to a small business the number of clicks is nearly irrelevant for all intents and purposes... it's the ROI that really matters. How many sales did I actually get and XX is insufficient to justify spending thousands of dollars monthly. Some would say this is a good conversion rate, but look at the ROI and then we're in negative territory.

ii) Digital Platforms provide different analytics and metrics

One of the most confusing terms I personally find is the concept of 'reach'. On Facebook, 'reach' is the number of people the ad is served up in the users' feed. This doesn't mean what most people think it means. Users scroll through their feed quickly and will only see an ad for a fraction of a second. They will just keep on scrolling if the ad doesn't grab their attention absolutely immediately - see my point about digital addiction 3(c)(ii). Yet reach is touted as some fantastic type of metric - in my case XXXXXXXX people in the past 7 days on my business page but this doesn't really mean the same as views because people are scrolling so quickly, they don't see the detail of the ad unless they stop scrolling.

Below are some flash looking you beaut Facebook metrics after I did a live stream... see the post reach of XXXXXXXX - looks pretty impressive... right? But we don't know from these figures how many will convert to actual sales. Furthermore, we don't know if these figures are correct? How do we check? Good business means measuring and verifying everything, but we can't actually do that at the moment.

3. Proposed Areas for Further Analysis

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Facebook metrics sometimes are contradictory to each other. Take this example on the same recent livestream:

The second number XXXX refers to engagement. Yet there are XXXXX engagements in the screenshot below for the same livestream...which is correct? I've looked through the XXXXX comments on this livestream, so perhaps XXXXX is correct, but I'll never really know.

3. Proposed Areas for Further Analysis

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In short, I can never figure these metrics out. They seem contradictory and inaccurate. As the diligent owner operator of an SME, I think there's 'gilding of the lily', "data cherry picking" and a lot of 'smoke and mirrors' going on with the metrics supplied from digital platforms and some third party ad providers.

Facebook already has 'lily gilding form' when it failed to fix misreporting video metrics previously. In one legal case *LLE One LLC et al. v. Facebook*¹¹ "The average viewership metrics were not inflated by only 60-80 per cent; they were inflated by some 150-900 per cent." This is outright 'Facebook Fraud'. Facebook knew about the problem for a year previously and did nothing to mitigate advertiser losses, other than a slow cover up hoping no one would find out. What other metrics are misreported?

A Google search reveals 'About 914,000,000 results' using the search term 'Facebook legal cases'. There's certainly a lot of smoke and mirrors going on. Of particular concern, is the improper utilisation of user data for advertising purposes¹² "A company suing Facebook in a California court claims the social network's chief executive "weaponised" the ability to access data from any user's network of friends – the feature at the heart of the Cambridge Analytica scandal". Furthermore,¹³ "The evidence uncovered by plaintiff demonstrates that the Cambridge Analytica scandal was not the result of mere negligence on Facebook's part but was rather the direct consequence of the malicious and fraudulent scheme Zuckerberg designed in 2012 to cover up his failure to anticipate the world's transition to smartphones".

As a consumer and SME advertiser I am very concerned about where my data is going and how it is being used. Facebook could well owe all advertisers massive refunds for over reporting metrics and should prepare themselves for more class actions.

11. <https://www.gizmodo.com.au/2018/10/advertisers-suing-facebook-allege-it-may-have-committed-fraud-on-video-ad-metrics/>

12. <https://www.theguardian.com/technology/2018/may/24/mark-zuckerberg-set-up-fraudulent-scheme-weaponise-data-facebook-court-case-alleges>

13. <https://www.theguardian.com/technology/2018/may/24/mark-zuckerberg-set-up-fraudulent-scheme-weaponise-data-facebook-court-case-alleges>

3. Proposed Areas for Further Analysis

Advertisers of all sizes definitely need third party measurement of their ads and metrics, preferably by a government agency. These should be regularly audited for accuracy by an independent organisation that is 'arms length' from the digital platforms. If the digital platforms are asked to pay for the operations of this third party measurement authority, then appropriate methods need to be taken to ensure the veracity of the results. I'm concerned that 'lobbying' may take place to weaken the results of ad audits, particularly if audit agencies are 'certified' private businesses. I'm just now thinking of the building industry and the current situation in Sydney with dodgy certifiers certifying unsafe, high rise buildings. This is a potential time bomb waiting to explode. There's too much risk of corruption and we need better for both buildings and digital platforms in this multi-billion dollar industry.

c) Deletion of user data

Australians should have detailed legislation enforcing deletion of all non-essential user data after six months. The definition of 'non-essential' obviously needs to be agreed upon but it should include most user data, except the absolute essentials such as email address and name.

As a basic tenet of privacy, the 'Right to be Forgotten' should be enshrined in Australian law with those violating the law being subjected to heavy penalties along similar lines to that of the European Union i.e. 2% of revenue turnover. Fines for data breaches caused by negligence, not deleting user data and other privacy violations should be forwarded to a community fund to assist businesses and/or individuals who have suffered financial losses by their data being compromised.

European Commissioner for Justice, Fundamental Rights, and Citizenship, Viviane Reding states the core provision of the Right to be Forgotten ¹⁴"If an individual no longer wants his personal data to be processed or stored by a data controller, and if there is no legitimate reason for keeping it, the data should be removed from their system."

Deleting user data on a regular six monthly basis would allow user history to fade into the past where it belongs, rather than keep popping up in the feeds of others. I have personally experienced occasions where people I know have died (one who was tragically murdered) and then years later, have appeared before me unbidden in my Facebook feed. A long forgotten post, brought back from the dead... it can be quite a shock actually.

Deleting user data after six months also keeps data current and is more useful for advertisers.

14. <https://www.stanfordlawreview.org/online/privacy-paradox-the-right-to-be-forgotten/>

3. Proposed Areas for Further Analysis

d) Opt-In targeted advertising

Opt-in targeted advertising is one way of balancing the needs of user privacy and the necessity for advertising revenue.

However, this method still has the same potential ethical pitfalls as any advertising online plus the additional encumbrance of actually having to adhere to the platforms' stated goals. In fact, ¹⁵" The ethics of building a business off, selling...massive amounts of information with no choice to opt-out is also a current issue within the online advertising market". Unfortunately, it appears that some digital platforms do not have effective or efficient opt-out functionality. Furthermore the opt-in functionality doesn't always work properly.

i) Facebook Advertising Preferences

I have previously set my advertising preferences on my personal Facebook page twice in the past few months. Today I see ads for beauty products (a category I had not nominated) so I go into my ad preferences section and find all manner of categories I had not selected including alcohol and fungus! These are not things I am interested in and yet somehow, they have been selected... not by me.

Facebook Advertising Preferences is confusing with many tabs and boxes to check on multiple pages and then after wasting time twice previously, my selections are virtually useless.

On top of this I have dozens of US lawyers and real estate agents that I know nothing about uploading my details in advertising lists. There is no way to stop them, they're convinced they can sell me some repo or bank default property in the back blocks of Las Vegas or somewhere else irrelevant. I can only hide their ads. Why do I not have the option to reject them outright. They should then be notified by Facebook that I've rejected them with the reason why. I have no idea how they got my details and the same ones keep reappearing in a growing list of ever irrelevant topics. How is this helpful to me the user or indeed the advertisers themselves?

Ad Preferences states I have clicked on ads - I haven't. There is no way I have clicked an ad about XXXXXXXXXXXX. However, on the 'Related Pages' section of my cat's page there was a link to XXXXXXXXXXXX. I did click this link not knowing what it was, despite my cat not being the least bit interested in military matters. But this was not an ad, it's supposed to be a section of pages that are actually 'related' to the business page. My cat is actually a pacifist (apart from enjoying the odd skirmish with a mouse) and consequently has no relationship at all with XXXXXXXXXXXX. Why was this link on my cat's page?

15. <https://www.utc.edu/center-academic-excellence-cyber-defense/pdfs/ethical-issues-of-online-advertising-and-privacy.pdf>

3. Proposed Areas for Further Analysis

The 'Related Pages' section is just another means of Facebook justifying showing ads to users who have NOT selected them. These so called 'Related Pages' are not actually related to that particular page at all, they are a misnomer. I think Facebook should in fact call this section 'Similar Pages' if they are trying to promote other pages in the same genre or industry category because they may not be actually 'related' per se. Related gives the connotation that a business page is somehow connected by ownership or possibly some other type of arrangement. Again, like so many matters Facebook, it's confusing.

I rarely click ads and warfare is not in my list of ad preferences so why is Facebook showing me this? I certainly didn't watch an ad about XXXXXXXX (a US XXXXXX I do not use, and I doubt is available in Australia anyway).

Facebook Ad Preferences is a total failure in my opinion, designed to look like Facebook are actually doing something, but in reality:

- ✚ It's totally impractical
- ✚ It takes ages to delete everything which then comes back anyway at a later date
- ✚ The ads a user actually selects are drowned out by totally irrelevant ones.

Facebook Advertising Preferences are Pretty Useless

3. Proposed Areas for Further Analysis

Ad Preferences are only ‘preferences’ they don’t actually mean anything. They’re obviously not mandatory or compulsory. They’re just whimsical figments of our deluded hopes purporting to do something positive relating to our privacy requirements. Facebook is trying to give the impression that users actually have control.

i) **My Data is Valuable, Pay Me for It**

Furthermore, why is it digital platforms do not pay users for their data? Executives will say because their platforms are free for users. In reality, data is worth far more than the use of the platform. If platforms started charging for use, they would lose a very high percentage of users and therefore advertisers. According to The Economist ¹⁶“The world’s most valuable commodity is no longer oil, but data”.

Digital Platforms should Pay Users for Data



16. <https://www.economist.com/leaders/2017/05/06/the-worlds-most-valuable-resource-is-no-longer-oil-but-data>

4. My Additional Recommendations

I note the ACCC has reached its own recommendations. I respectfully suggest the following recommendations in addition be given consideration:

Recommendation no. 1

Develop a global alliance of regulatory authorities across multiple countries to appropriately deal with the many issues digital platforms now raise globally. A unified global strategy to deal with these digital behemoths should then be developed and adopted.

Recommendation no. 2

Digital platforms have now shown many times they cannot be trusted with user data, particularly in the case of Facebook. No future acquisitions in similar domains should be permitted for digital platforms once they reach a certain user and/or revenue threshold. Those digital platforms with egregious breaches such as Facebook should be divided up and those companies sold off. Appropriate legislation needs to be passed to prevent a repeat of the various cyber breaches of trust that have already been committed by digital platforms.

Recommendation no. 3

Algorithms manipulate users. Therefore appropriate legislation should be introduced to compel multinational digital platforms of a certain size to accept a certain level of social responsibility. This could take the form of spending a tax deductible percentage of their revenue (not gross profit) on socially responsible activities e.g. counselling for internet addiction. This percentage could be on a sliding scale with smaller digital platforms spending 2% up to 20% for the largest behemoths in the league of Facebook, Google, YouTube, Apple, Microsoft and Amazon. Similar social responsibility laws have been introduced in India.

Recommendation no. 4

That a Digital Platforms Ombudsman be commissioned to investigate not only matters of breaches of privacy, misreporting advertising metrics, removal of scams and the like, but also complaints relating to business growth being thwarted by either omission or commission of digital platforms. In particular, investigations relating to normal support given to some businesses but not others, including contact details should be included in the terms of reference.

Recommendation no. 5

The 'Right to be Forgotten' should be enshrined in Australian law and a new regulatory authority or Digital Platform Ombudsman be tasked with defending this user right. There should be an appropriate sliding scale for fines incurred due to privacy breaches, as a percentage of the Digital Platform's revenue.

Recommendation no. 6

Digital Platforms pay users and advertisers for their data initially and a royalty for every time thereafter their data is accessed by a third party. This should be enshrined in law.

5. Conclusion

Despite whatever legislation is adopted in Australia and other countries in the near future, digital platforms will always find sneaky ways around current legislation. Therefore, the legislation needs to be sufficiently open enough to adapt to the changing digital landscape. The 'Spirit of the law' has to be conveyed when these laws are drafted, including the concept that deception including exploiting loopholes is not in keeping with the purpose of the relevant legislation.

As large multinationals, digital platforms have a social responsibility. As they have already amply demonstrated they are not capable of showing consistent leadership of ethical social reform or accountability, therefore these will have to be legislated. Digital Platforms sell a highly addictive product, not unlike tobacco companies. Digital Platform executives take full advantage of users and their human vulnerabilities, consequently, checks and balances must be put into place through regulatory frameworks. Tobacco, alcohol and drugs are after all, regulated.

Due to their sheer size, digital platforms can manipulate entire markets, industries and in fact the very cultural and economic fabric of society. It is important that countries do not lose their unique flavour and culture, we are not the 51st state of the United States and we should uphold our heritage in our uniquely Australian way. Our laws should reflect this.

Current events in US politics are a prime example of what happens when digital manipulation by bad actors is allowed by digital platforms. Sometimes the digital platforms themselves are the bad actors or they join forces with bad actors to do bad things. Since my original ACCC submission in May, 2018 there have been huge revelations about how Facebook and other digital platforms utilise user data - it is so much worse than we originally thought and US laws haven't stopped them. We need strong Australian laws made in co-operation with other countries.

Although digital platforms have brought many good things to society there is a darker side that needs to be reined in now before they get too large and out of control. As a society, we need to control the growth of digital platforms before it's too late and they do irreparable harm to society.

Out of Control Growth = Cancer

In many ways the internet is representative of humanity and we are all connected to it. It's our responsibility to keep the body of humanity on the internet healthy and well for generations to come. Digital platforms also have a huge responsibility in this regard and if they won't be socially responsible voluntarily, governments must step in.

5. Conclusion cont.

It might take some short term unpleasant 'treatment' but we can and we should ensure a fair playing field for all - individual users, businesses and to ensure their longevity, especially the digital platforms themselves. No one wants to see them fail. But cancer can eventually kill its host so we need to take appropriately strong action now and treat the disease before it's too late, for the good of all.

In the interests of fairness, SMEs and individuals need additional protection from the most deleterious aspects of digital platform manipulation. In reality, SMEs either pay to play or don't play at all. In today's current economic climate, we must use digital platform advertising in order to survive and yet we have very little if any negotiation power, even when our legal rights are breached. Some digital platforms such as Facebook have revenues larger than entire countries and they are monopolistic in nature, especially when they acquire smaller potential competitors to maintain their monopolistic market position.

In many respects digital platforms have revolutionised business and consumer behaviours and this innovative spirit should not be quelled by unnecessary legislation. Unfortunately, social responsibility has been in short supply where digital platforms are concerned. Left unchecked a monopoly will of course always prioritise itself over others.

Sensible regulation is therefore needed but not to the extent that creativity and innovation are stifled. Whatever legislation is put in place, it should not be unduly onerous on business, especially SMEs who already have too much red tape to deal with. The effects of legislation should not be passed as a 'buck' back to SMEs. This especially relates to any additional taxes on advertising revenues.

**Large digital platforms have little accountability and transparency.
This has to change now.**

As a society with appropriate regulation we can work together for the good of all to find 'gold in them thar hills'. Socially responsible digital platforms can play a key part in this distribution of digital wealth, irresponsible digital platforms are destined for irrelevance.