



AUSTRALIA

Submission by Free TV Australia

**Digital Platform Services
Inquiry – September 2023
Report on the expanding
ecosystems of digital
platform service providers**

ACCC

April 2023

1. Summary

- Free TV Australia appreciates the opportunity to comment on the Australian Competition and Consumer Commission (ACCC) Digital Platform Services Inquiry – September 2023 Report on the expanding ecosystems of digital platform service providers issues paper.
- The ecosystems created by the digital platforms have achieved such a dominant and far-reaching position in the marketplace that they are already unavoidable for most consumers and businesses. Indeed, the platforms, and in particular Google, have become so pervasive that even businesses that seek out alternative service partners can still be impacted by their use of their strategic market position.
- Data is central to the competition issues that arise as a result of the expansion of the digital platforms ecosystems.
- When combined with product and service tying and interoperability restrictions, dominant digital platforms are able to use the expansion of ecosystems to further enrich and centralise their data holdings and further entrench dominant positions in related markets.
- This pace of expansion shows no signs of slowing, with several significant transactions, such as Google’s acquisition of FitBit, adding to the power of their ecosystem.
- There is no time for further delay as, left unchecked, the ecosystems and their related data holdings will continue expanding and will be so interconnected throughout the economy, and our personal lives, that regulation may be unable to address their immense power.
- This further underscores the urgent need for the implementation of the ACCC’s recommendations for the creation of an ex-ante competition regime for dominant digital platforms, including strong data separation requirements.

2. About Free TV Australia

Free TV Australia is the peak industry body for Australia’s commercial free-to-air broadcasters. We advance the interests of our members in national policy debates, position the industry for the future in technology and innovation and highlight the important contribution commercial free-to-air television makes to Australia’s culture and economy. We proudly represent all of Australia’s commercial free-to-air television broadcasters in metropolitan, regional and remote licence areas.



Free TV has been closely involved in the ACCC’s consultation processes, providing detailed submissions on the competition issues caused by the conduct of large digital platforms who are dominant across related markets. Commercial broadcasters have a complex relationship with these dominant digital platforms, ranging from networks being clients of digital platform service providers through to competing as advertiser funded content service providers.

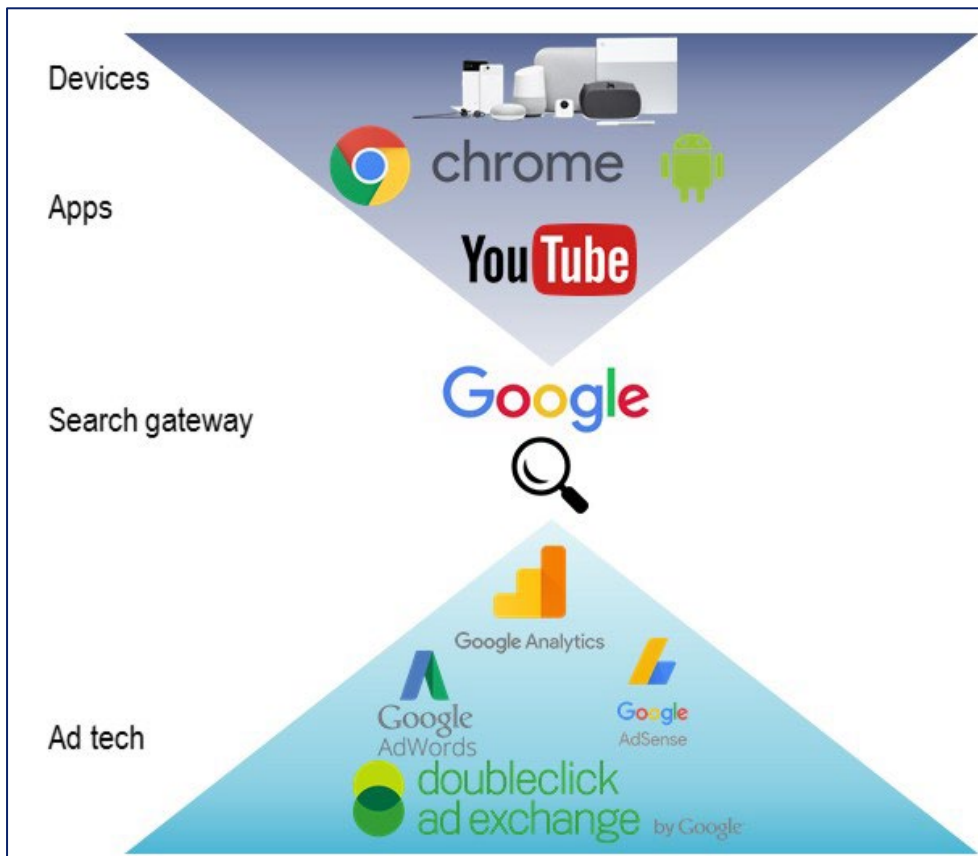
As a result, Free TV members have a unique perspective on the growth of ecosystems and the impacts on competition observed where dominant platforms expand their ecosystems and use interoperability restrictions and product tying to entrench their dominant position.

3. Expanding scale and scope of digital platforms

Free TV welcomes the ACCC’s focus on the expanding ecosystem offering from the digital platforms and how the types of data collected from these expanded services may be used to enhance another digital platform service within a digital platform service providers’ ecosystem.¹

In our submission in 2018, Free TV raised the issue the vertical integration of Google and the capacity that gave it to advantage its own related businesses. At that time, we sketched out the Google ecosystem as per the diagram below.

Figure: 2018 Picture of Google’s integration



As the ACCC has noted, since this time Google, as well as other digital platforms, has continued to aggressively expand its ecosystem². In addition to the list included by the ACCC, some of the most significant expansions of Google’s ecosystem include:

- Significant expansion into the connected TV space through licensing of AndroidTV and the development of Google TV
- Continuing expansion of its advertising technology (ad tech) stack, including products that rely on the exclusive bundling of data into DV360 such as cross-inventory frequency capping
- Completing the integration of Nest products into the Google hardware division (2018)³

¹ ACCC, Digital Platform Services Inquiry – September 2023 Report on the expanding ecosystems of digital platform service providers issues paper, Page 5

² Ibid Page 4

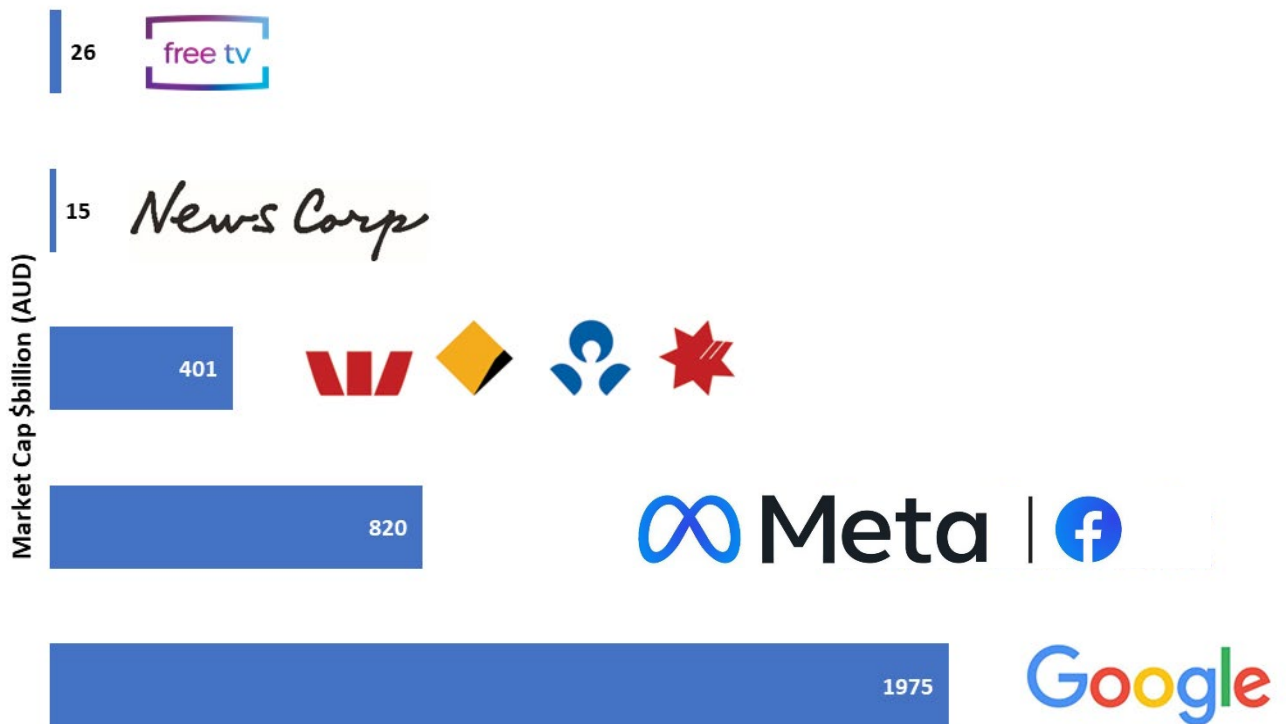
³ <https://www.cnn.com/2018/02/09/google-botched-nest-integration-tony-fadell-other-ex-employees.html>

- Acquiring FitBit.

Free TV also notes the ACCC’s sales comparison across the digital platforms with significant ecosystems that demonstrates revenues that are up to 23 times that of Australia’s biggest companies, such as Westpac. Free TV has previously presented market capitalisation analysis that demonstrates the scale of these businesses, with particular comparison to Australia’s media sector.

As shown in the updated graph below, these companies are not just big in an Australian context, they have access to capital that is unprecedented in most companies worldwide. This access to capital allows the dominant platforms to readily acquire emerging competitors and start-up innovators to expand and entrench their ecosystems.

2023 Digital Platform Ecosystem Companies - Market Capitalisation Comparison



Source: Yahoo Finance, Market Caps as at 5 April 2023, Free TV includes NEC, PARA, SWM, and SXL

4. Ensuring effective data separation

As these ecosystems, and particularly Google, continue to expand, the greater their capacity to integrate data across their portfolio will become. Free TV has previously raised the issue of Google’s bundling of exclusive access to Google data—which includes ‘click and query data’—with DV360.

Anonymised user related data is crucial in digital advertising and in the provision and use of ad tech services and there is no more valuable dataset in the world than the ‘click and query’ dataset collected by Google through its search product.

Google’s bundling of the exclusive use of this data within its own products in related markets, enables it to leverage its dominant position in search across the digital advertising supply chain. As Google’s ecosystems continue to expand unchecked, the capacity to exercise this market power to restrain competition similarly expands.

Accordingly, there is an urgent need for action to impose data separation constraints on dominant digital platforms.

The case for these pro-competitive measures has already been established by the ACCC and formed, in part, the basis of the recommendations to Government on the need for a new regulatory regime for dominant digital platforms. While not seeking to re-prosecute the case for data-separation and interoperability requirements, Free TV highlights that the growth of the ecosystems and the access to user data gained through these products, makes the need for reform all the stronger.

5. Integration means fewer privacy controls

Free TV also notes the continuing review of the Privacy Act that is considering tighter controls on the consent provisions for the collection and use of data in providing targeted advertising. There are two points relevant to this ongoing review.

First, a data separation framework is privacy enhancing, in that it would limit the use of data about individuals as compared to alternative models such as data portability or interoperability arrangements that have been previously proposed as potential remedies to the issues described above by the ACCC. As such, Free TV continues to advocate for a data separation approach as being the most straightforward and privacy compliant manner in which to deal with the significant competition issue posed by data bundling by dominant digital platforms.

Second, any reforms that flow from the Privacy Act review risk further entrenching the dominant position of vertically integrated digital platforms that have significant and growing access to first party data collected across a range of businesses within the same corporate entity. In the absence of a data separation framework, any further moves to limit or restrict anonymised data enrichment practices, will disproportionately impact smaller competing firms and lock-in the competitive advantage enjoyed by the dominant digital platforms.