

GETTY IMAGES

Submission to the ACCC Digital Platforms Inquiry Issues Paper

10 April 2018

BACKGROUND

Getty Images was founded 22 years ago. It has an award-winning image and video collection of over 250 million assets, of which over 170 million are digitized, encompassing the latest global news, sports, celebrity, music and fashion coverage; exclusive conceptual creative images; and the world's largest commercial archive. New content is added daily, with more than 6 million highly edited and curated new assets added each quarter.

Getty Images serves nearly 1 million customers in nearly every country in the world, with websites in 14 languages, providing content to media outlets, advertising agencies, and corporations. It employs over 100 staff photographers and works with over 200,000 contributors.

Each year we represent more than 160,000 news, sport and entertainment events around the globe: 70,000 in entertainment, 50,000 in sport and 40,000 in news.

It is the world's most-awarded photo business. Our photographers have won more than 1,000 major industry awards including the Pulitzer Prize, World Press Photo, Picture of the Year International, Sony World Photography Awards, White House Photographer of the Year, Visa d'Or, Ville de Perpignan Remi Ochlik, UK Picture Guild Awards Press Photographer of the Year, Sports Photographer of the Year and Creative Review Photography Annual. Our multi-award-winning photographers cover the top news stories globally, documenting almost 40,000 news events annually.

Getty Images also represents many of the world's most prestigious and prolific photojournalists, whose imagery makes front covers and websites around the world, influencing public and political opinion and driving change.

The value of professionally produced images cannot be overstated. These images convey every day's news, illustrate trends and shape our society. They draw and retain users on websites more effectively than print alone. Images are also indispensable for online marketing. The professional production of images is a complex, sophisticated and expensive business. Besides the creative work of skilled photographers around the world, image production and distribution require a high degree of coordination, organization and investment.

Additionally, there is significant work and technology investment undertaken by professional photographers and their licensing agencies in the selection, editing, captioning and key-wording of images, as well as in developing search functionality and improving digital distribution, in order to provide publishers with the most sought after and relevant images in a timely and efficient manner. These creative and technical innovations benefit the general public, but this investment and innovation are threatened if imagery can no longer generate revenue.¹

Getty Images role for the purposes of this Inquiry

As a photo library Getty Images is both a creator of content and a content provider. As such we are a major supplier of images and video for news and journalistic content.

¹ CEPIC "Image Providers Call for Better Protection of Creative Works Online" June 2015

Some online platforms pay to license content from us. Getty Images serves as the distribution partner for approximately 330 image partner relationships, such as National Geographic, the NBA, Conde Nast and BBC Worldwide. These partners rely on Getty Images as their primary distribution channel for commercializing their digital content. Others include Sky News, LIFE Picture Collection, Fairfax Media, FIFA, Bloomberg, and AFP.

Many of our customers use our content in their marketing, including within their social media channels. We also use various social media online platforms to help promote our own business.

To an extent, we are also an online platform ourselves, in the sense that we provide an online destination where the public can freely view the content we make available for license. Many visitors do only that. **A key distinction though between photo libraries acting as online platforms and other online platforms that accept user uploaded content, is that photo libraries have the consent of the copyright owner to display their images.**

Getty Images generates revenue primarily by marketing and licensing rights to use copyright protected content; our own content as well as the content we distribute on behalf of more than 200,000 individual artists and over 300 image partners (including top media brands). We therefore are able to speak for a wide cross selection of content owners, small and large, as well as articulate the impact of online platforms on our customers in Australia and globally. Images are the only universal language of the Internet *and* are also among the most sought-after type of content online.

In view of the breadth and scale of interests we represent, we hope that due weight will be given to our comments in this consultation.

GETTY IMAGES SUBMISSION IN RESPONSE TO THE ACCC INQUIRY QUESTIONS:

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

Digital platforms in Australia relating to the supply of news and journalistic content are not limited to traditional media entities. Social media platforms are now one of the largest sources of news and journalistic content for Australians². In addition, the growth of messaging apps as a source of news content, such as WhatsApp, Messenger and WeChat has jumped significantly. Aggregations services such as Apple News, Snapchat Discover are also growing strongly.³ As a result the number of digital platforms providing news and journalistic content has ballooned, and all such platforms affect the market being investigated by this Inquiry.

We note the distinction between those digital platforms that pay to license the content they use on their platforms, such as digital versions of print media (eg: News Limited, Sky News, Fairfax Media, Bloomberg), from those platforms that place the onus on users uploading images to their social media sites to themselves secure the rights to the content they upload (eg: Facebook) or search engines that rely on copyright loopholes in order to display crawled content.

² Reuters Institute Digital News Report 2017

³ Ibid

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)?

Yes, as the world becomes more and more global through use of the internet, digital platforms developed in other countries have a direct impact on Australia, even prior to commencing formal operation in this country.

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?

Yes, consumers of content source from many and varied digital platforms, ranging from traditional media, social media, messaging apps and aggregation services.⁴ Sources of content on these platforms include not only traditional media but also user generated 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?

In our view yes, the ACCC should consider all sources, not restricted to local news. Local news brands face increased competition from overseas brands, for example local versions of the Guardian, Mail Online, BuzzFeed and the Huffington Post. The internet is a global source of news and journalism. As a result it makes no sense to only focus on content produced in Australia but rather to focus on all content *supplied* to consumers in Australia.

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

The accuracy, reliability and integrity of news and journalistic content always has been and continues to be vitally important, especially amid accusations of ‘fake news’ and manipulation of news stories to suit particular causes. Relevant metrics therefore would include how a digital platform self regulates against inaccurate content, for example by sourcing content from a reliable and accurate source, and how effective is that regulation. Does it have an editorial integrity policy in place, and does it apply those standards to the content it publishes?

Questions to Stakeholders

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

While Australia has one of the highest concentrations of print ownership of any Western country, with News Corp Australia and Fairfax the two main players, it also has one of the world’s highest levels of smartphone penetration and internet access. The result is Australian’s have access to news and journalistic content via a high number of online, mobile and social platforms. The top brands in Australia online include news.com.au, abc news online,

⁴ Ibid

nine.com.au, Yahoo, Sydney Morning Herald online, BBC News online, and Huffington Post. The top social Media and Messaging platforms include Facebook, YouTube, Twitter, Facebook Messenger and WhatsApp. The main general internet search engines would include Google, Bing and Yahoo, and the predominant news aggregators include AppleNews, GoogleNews and Snapchat Discover⁵.

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

Digital platforms are competing with traditional media outlets via TV, broadcasts, radio and print, both local and overseas brands. The major players in this market include the five television news stations, Herald Sun, Daily Telegraph, Sydney Morning Herald, BBC News, CNN, The Australia, The Age and Sky News.

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

We would argue that the number of users/visitors and access to user data should be the key indicators for measuring market power for a digital platform, as this in turn dictates the platforms ability to amass user data (discussed in more detail below). Profits and prices are less relevant in the digital world where platforms are, more often than not, free for users to enter (in exchange for users' personal data).

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?

For a media content creator the only alternatives to digital platforms are limited, they would include the traditional media publishers. Opting out of digital platforms means effectively opting out of the internet. Traditional media does not constrain the behaviour of digital platforms.

For users of social media there are no realistic alternatives to digital platforms given social media itself is defined as the use of online communications channels that enable users to create and share content or to participate in social networking.

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?

Competition law prohibits, among other things, the abuse of a dominant position. Certain aspects of technology markets tend to lead to dominance by one or a few players and monopolistic outcomes may arise more readily than in other sectors, e.g.

⁵ Ibid.

economies of scale can be achieved very quickly where an online platform can use the Internet to harness a herd mentality amongst millions of consumers in relation to a new service that, reliant on loopholes in copyright law, is able to display third party content without needing to pay for it. Facebook itself noted in its submission to the Senate Select Committee Inquiry on the Future of Public Interest Journalism (“Future of Public Interest Journalism Inquiry”) that “Facebook is a distribution platform for publishers, a way for people anywhere to read or watch the work of journalists and media organisations”⁶, however it does that by distributing content without, in general, paying for the creation of that content.

Consequently news content creators, suppliers, publishers are the most at risk.

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?

It’s noted there has been a concentration of digital platforms over the course of the last 10 years. For example, Facebook which was founded in 2004 has acquired 66 companies since that date including Whats App Messenger (2016), Instagram (2012) and Oculus Virtual Reality (2014).⁷

IMPLICATIONS FOR MEDIA CONTENT CREATORS (JOURNALISTS AND MEDIA ORGANISATIONS):

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?

Positive impacts on Getty Images:

- Digital platforms provide the opportunity for news media plurality, which is important for ensuring there is a diversity of viewpoints available and consumed across and within media enterprises and preventing any one media owner or voice having too much influence over public opinion and the political agenda. For Getty Images this plurality creates new markets for our news content and new business opportunities.
- Imagery is the language of the internet, and in particular news images. You only have to think of recent images of Syrian refugees, or images of 9/11 or Tiananmen Square in 1989 to understand the power of news images. They transcend physical and language barriers, and evoke emotion, spurring people into action like no other form of content. The ability to use digital platforms to share news content globally and instantly over digital platforms is transformational. It has changed both the method and how quickly the world reacts to news events

⁶ Senate Select Committee on the Future of Public Interest Journalism Report 2018

⁷ Techwyse “66 Facebook Acquisitions – The Complete List (2018)!”

Negative impacts on Getty Images:

- Reduced revenue due to pirating of content: many consumers become ‘accidental pirates’ as a result of using online digital platforms. This arises, for example, whenever a user of a search engine copies an editorial image from an image search results page or right clicks an editorial image appearing on social media and then re-uses the image on their own website or social media news site, not appreciating that they do not have any permission for the re-use, thus exposing the consumer to the risk of copyright infringement action from the copyright owner. Getty Images has itself tried to address this by implementing its own ‘embed’ feature which facilitates free, legal sharing of almost 90 million of our images for non-commercial editorial use. The use of this feature provides a legal way to utilise editorial content while respecting creator’s rights, and it links back to the Getty Images site.
- Framing issues: A number of digital platforms are increasingly framing images instead of hosting the images and paying for a license. Framing incorporates an image into a news site so that the website visitor perceives the images as appearing on that news site, even though the image is technically hosted on a third-party site. Framing deprives image creators of recognition of their authorship, revenue and the ability to control where their images appear online.
- Safe Harbour: Safe Harbour laws were introduced to strike a balance between content creators, online service providers and information users in order to foster continued growth of the internet economy. Unfortunately however the balance has tipped further and further in favour of online service providers, at the expense of content creators. The current safe harbour provisions encourage a number of digital platforms to do as little as possible to exclude third party posted infringing content, lest they learn too much, acquire actual knowledge of infringing images and therefore trigger DCMA liabilities. The law currently has the perverse effect of rewarding those that turn a blind eye to infringements, whilst disadvantaging those that make an effort to do the right thing by licensing content. Not only is Getty Images unable to stop users from uploading our content to these intermediaries and therefore do not receive remuneration from their display of our content, the impact is double because both we and our paying customers are effectively forced to compete with an unlicensed market which pays little or nothing for the same content, thus driving the value of the whole market for images downwards. There is a global trend of intermediaries continually pushing the boundaries of safe harbour far beyond the circumstances originally contemplated at the time the legislation was implemented.
- Data loss: Images, including editorial images, are a rich source of information. Getty Images tracks its search terms and purchasing patterns on its website in accordance with the terms of its Privacy Policy, and this information is helpful in determining what our customer will want to buy in the future, predicting trends and better understanding our customers preferences. We translate this data for our editorial team to help decide on what to shoot and how to shoot it. We also use search data to automatically curate images on our website to make visiting our website a more engaging experience. And we also use AI techniques, combined with image recognition technology to automatically recognise the data contained within news content, which can help with

suggestive image tagging on new images. Image viewing data is clearly also valuable to advertisers, as it can be used to create user profiles and predict buying potential. Advertisers will pay more to be able to place the right ad at the right time to the right person. When content is uploaded directly to digital platforms without a license in place for use, Getty Images loses not just the licensing fees but also access to any consumer data in relation to its images. Ultimately if content owners such as Getty Images and their paying customers (such as news websites) lose their ability to be able to engage with online users and capture this data, then investment in the creation of news content will suffer.

- Disruption to sales with our legitimate customers: Use of our editorial content by digital platforms will often affect our business sales to our customers. For example, if a media client wants to do an exclusive deal for some breaking news images, but then sees that the images have been lifted and put on Twitter, and then retweeted and reposted to other sites such as Tumblr and Instagram, then the client will no longer want to pay the exclusive licensing fee for the images. They are no longer exclusive to them. The relationship with the client also suffers which is difficult to quantify. Getty Images has direct experience in this regard, for example we have seen the demand for exclusive entertainment shoots featuring weddings and babies subside dramatically over recent years due to the loss of exclusivity posed by digital platforms whose users directly lift and repost the content without paying license fees.

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

The key advantage for Getty Images is the ability to use the internet to reach our overarching goal of moving the word with our images, (whether they be news, sport or entertainment), which is only possible given the vast reach and near universal access in many countries to digital platforms. They make communication and interaction with our customers easier and create new markets and business opportunities.

The main disadvantages are:

- trying to ensure our content creators (i.e. photographers) are recognised and rewarded for their work, which is increasingly difficult in a right click world; and
- funding the production of quality photo journalism. Getty Images invests significant sums in producing quality content for licensing and distribution to its customers. It sends photographers around the world to report on significant news events and this quality of photo journalism is not cheap. If news content providers are not paid by digital platforms for the use of their content and that content is then distributed by aggregators globally, providers will face difficulties in continuing to fund the quality photo journalism that they do. The production of quality news content under this model becomes unsustainable, which will lead to a decline in the quality of content published.

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?

The 'value gap' is a term used to describe the difference between the returns obtained by digital platforms and the royalties that those platforms pay to content creators when their works are available on the digital platform sites. Digital platforms that store and provide access to the public to large amounts of news images that are uploaded by their users should be required to take measures to ensure the creators of that content are properly remunerated. It is unsustainable for content creators to continue to supply professional editorial imagery to digital platforms without proper remuneration.

There is a consistent pattern over the course of the last six years in the growth of consumption of news accessed via social media sites like Facebook and Twitter, containing significant amounts of user generated content rather than content sourced directly from media suppliers. There are also significant generational splits in the sources used for news content. Globally younger groups and smartphone users are much more likely to use social media and messaging apps as their main source of news. The result is affecting the range and types of news content that is being consumed.

While digital platforms may have significantly boosted access to news content for consumers, the quality of media content made available is dramatically altered by the behaviour of digital platforms. Susan Athey, a Professor of economics at Stanford Graduate School of Business explores the impact of marketplaces and digital platforms on the economy, including news media. Her work in this area studied how online aggregators and intermediaries redistribute reader attention away from large news publishers and toward small outlets. "That can have a pretty big effect in the long run in terms of what kinds of news gets created, and how investments are made. If large news outlets do a lot of in-depth reporting then we expect to see less in-depth reporting when the outlets lose market share. Aggregators and intermediaries force news outlets to compete on the basis of catchy headlines and snippets rather than on the basis of a reputation for quality investigation...As an intermediary, you need to think about the effect of decisions you make on the structure of the market participants, because that ultimately affects the quality of what's provided and the competitiveness of the market."⁸

Getty Images is also concerned by the role that the digital platforms play in circulating and giving life to content that has been manipulated in some way, or in manipulating the story that goes with an image, so called 'fake news'. An example is the recent Westminster terror attack. A photographer, Jamie Lorriman, who had been on Westminster Bridge by chance, took the image of a Muslim woman walking on the bridge at that time. Subsequently, the woman was wrongly accused of ignoring victims of the Westminster terror attack. The image was described by a Twitter account as "paying no mind to the terror attack, casually [walking] by a dying man while checking [her] phone." The image received thousands of retweets, being shared by many from the American alt-right movement, including Richard Spencer, director of the white supremacist National Policy Institute. When the photographer found out what was happening

⁸ Susan Athey: Applying Machine Learning to the Economy – Stanford Graduate School of Business, Jan 29, 2018

he immediately distributed a selection of pictures in which it was clear the woman was distressed and horrified. This demonstrates that the use of digital platforms is having an impact on the type of news story that is being circulated and illustrates the vulnerability of social media to spreading fake news.

The digital manipulation of news images as another avenue of 'fake news' is another area that is proliferating as a result of social media. For example the following image,



made the rounds of social media sites in 2017, but President Putin was digitally added into this image. This is a matter which Getty Images, and many other content providers are keenly concerned about. Getty Images has a strict editorial policy, as do most traditional media outlets, prohibiting the manipulation of its editorial content. This is important if the public are to have any confidence that the images they are viewing are not manipulated. For these reasons we recommend that digital platforms direct traffic to the source of content, and to support the growth of traditional media on digital platforms. On digital platforms it becomes much more important to know who the source of your news content is, whether they have trained professional journalists and photographers and whether they have a strict editorial policy in place to make sure that what is published is true and defensible.

As more users get their news from social media⁹, where content is likely to be user generated or uploaded from secondary sources without licensing from the original media content creator, the impact of manipulated content becomes more widespread. This is to be contrasted with content sourced from the original media content creator with a strict editorial policy in place to prevent such manipulation.

3.10 Do digital platforms have access to user data that is helpful to media content creators (eg 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?

Data has been described as the currency of the Internet. With gateways to the internet in the hands of a few, the accumulation of data from millions of people using those gateways such as when performing online searches, can lead to a valuable data collection in a small number of hands, and may in itself be a source of market power or dominance. When digital platforms publish and distribute our editorial content to consumers without linking back to the source of

⁹ Pew Research Center "News Access Across Social Media Platforms 2017"

that content, they prevent the content provider from accessing any data in relation to that consumer.

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?

Data is highly valued by Getty Images in order that we can better understand our end user customers and provide the content they want, yet in many cases we have little or no control over how the content reaches consumers. Loss of traffic to our website equates directly to loss of data.

Getty Images would argue that user data generated as a result of viewing our copyright protected content should accrue to the benefit of the copyright owner, not the digital platform. Use of our content on the digital platforms without a hyperlink directly to our content source means we have no access to user data. When that data is collected by a small number of platform providers it can give them an unfair advantage in the market place, to the disadvantage of the content creator. Getty Images, as a news content creator, has very limited power to demand access to our data, and it appears it will require regulatory intervention in order to rebalance this inequity. Digital platforms should either pay for the use and distribution of news content by entering into license agreements with content providers or share data gained through exploitation of third party content.

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

Digital platforms provide a valuable intermediary service for the benefit of both internet users and content creators. For example, without search engines it would be practically impossible to use the vast and ever-growing wealth of information on the world wide web. However to be valuable to content creators the central navigation service of search engines must link to the source of the content itself, not just to the content. Editorial content creators want their content to be found and linked to. Revenue from digital platforms accounts for a relatively small party of Getty Images' overall revenue when compared to the volume of images being displayed by such platforms.

All digital platforms should be required to display a hyperlink back to the original source of the editorial content. Internet users would still be able to freely travel the internet via hyperlinks. They would travel more extensively in this instance as they would no longer be cocooned within large online platforms. This would mean that copyright holders would retain a greater degree of control of the exploitation of their works.

IMPLICATIONS FOR ADVERTISERS:

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

Digital platforms have a near stranglehold on advertising and as such due to their scale they have numerous advantages as compared to traditional content publishers. These impacts are generally caused by the abundance of data the platforms retain on all of their users. Depending on the platform they may have usage data, purchase data, interest data, etc.

3.14 What are the advantages and disadvantages of using advertising services offered by digital platforms for advertisers (i.e. advertising agencies and businesses directly advertising on digital platforms)?

Platforms provide access to their data through advanced targeting. Access is provided within the platform thereby NOT allowing an advertiser to acquire the data, rather to use it temporarily for targeting advertising. While most of the data allows for lower funnel targeting, platforms are also moving up the funnel to allow advertisers upper funnel signals for targeting advertising.

3.15 What terms and conditions do digital platforms offer advertisers? How do they differ from those offered by other suppliers of advertising services? Have digital platforms changed the price, quality or choice for advertisers? If so, what are the implications of this for advertisers?

More precise targeting or the appearance of more precise targeting pushes rates up significantly for the advertiser. And, since attribution is a difficult indicator to track the conclusion made by many advertisers is to attribute conversion to the platform even though that may not be accurate.

3.16 Do digital platforms have access to user data that is helpful to advertisers (e.g. return on investment statistics)? Does this access to user data create any information asymmetry between digital platforms and advertisers and, if so, how does this impact competition in the relevant markets?

Yes. Depending on the platform they have access to significantly more data than content publishers. For example, Amazon media can provide access to pools of users based on recent purchases or intent to purchase signals. Few if any content publishers have this data.

3.17 How much do advertisers value access to such user data? How does the access to or control over user data impact the relationship between digital platforms and advertisers?

Advertisers are always clamouring for actionable data and purchase or intent to purchase data is enormously valuable. As a result, most advertisers spend proportionally higher on platforms which provide more granular data on their users.

LONGER TERM TRENDS

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?

Computers and more recently increased smartphone usage has dramatically altered the way Australian consumers access news and journalistic content. Studies show that online is the source of news for over 70% of the Australian population, again skewed toward the younger consumers.¹⁰ The 2012 Finkelstein Report noted that new technology had profoundly changed the way Australian access news, and the Future of Public Interest Journalism Inquiry confirmed that the pace of change following the Finkelstone Report has continued exponentially.¹¹ There is no sign this will slow.

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?

There has been an explosion of user generated content uploaded to digital platforms over the last decade, and this trend looks set to continue. This content is not subject to any editorial integrity checks and balances, and is wide open to manipulation. It's quality, reliability and integrity cannot be vouchsafed. It is cheap (or in most cases free) and plentiful and thereby reduces the demand for content from traditional content suppliers. This impacts content suppliers, such as Getty Images, who invest substantial resources to produce quality content with editorial integrity.

3.28 How has the Australian advertising expenditure changed over time? In particular, how have digital platforms impacted the advertising revenue of media companies, especially those involved in the supply of news and journalistic content, and how have media markets responded?

Digital platforms have fragmented the audience for news content with a corresponding effect on how advertising money is allocated by companies. Media buyer, Nunn Media, told the Future of Public Interest Journalism Inquiry, "As a media buyer who is briefed to reach as many relevant people as possible on behalf of your client, you follow the audience. If the way to them is through disaggregation – most commonly referred to as Google and Facebook – then that's where you go...It's fragmented the way that money is being spent. What that means in practical terms is the amount of money going to those who produce content has diminished as a share...."¹²

EXISTING REGULATION AND PROPOSALS FOR CHANGE

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

¹⁰ Ibid

¹¹ Senate Select Committee on the Future of Public Interest Journalism Report 2018

¹² Ibid

- **Are digital platforms required to verify news and journalistic content before distributing it?**

No, there is generally no verification as to the accuracy of user content uploaded to digital platforms. As noted above, this is in direct contrast to the strict editorial guidelines in place by media content providers such as Getty Images.

Getty Images Editorial Policy governs the capture and supply of our editorial content, and is set out in detail on our website. Photographs are the visual communication of a story and should be held to an equal level of accountability, responsibility and integrity as the written word in journalism. Images illustrate and reflect the events of our world today and therefore have a responsibility to be delivered to the customer with accuracy and impartiality. Digital platforms should be held to the same standard when delivering news and journalistic content.

- **Do intellectual property and copyright laws apply to the conduct of digital platforms in a similar way as to other market participants?**

As noted above the current Safe Harbour provisions are tipped in favour of online service providers at the expense of content creators, who have seen their content devalued by the ease with which it can be uploaded and shared, the massive scale of infringement and the lack of meaningful remedies, not to mention the heavy burden of detection and enforcement just to take advantage of the limited takedown remedy available.

3.34 Should digital platforms be subject to the same laws and regulations as other market participants in the media and advertising services markets and how does this impact the quality and choice of news and journalistic content for consumers?

Yes, in order to provide accurate, verifiable news content.

3.36 Are there existing laws and regulations sufficient to address the activities of digital platforms? Is there a case for the specific regulation of digital platforms and, if so, what issues would proposed regulation seek to address?

No, existing laws are not currently sufficient. Currently digital platform providers have an unfair advantage over media content providers due to their withholding of consumer data, putting them in a dominant position. Data gained through use of content provided by media content providers should be shared with the content provider. They should be required to pay for content used on their platforms or alternatively direct users to the original content providers site via hyperlinks.

Getty Images is seeking a fair digital market, one in which participants can operate with legal certainty and on a level playing field. We would seek a position which reflects the legal and economic realities of the market and stops free-riding by certain platforms and brings long-sought fairness for content creators. We recognise this can only be achieved via changes to a number of different regulatory frameworks, including both competition and copyright laws.