

3 April 2018

Australian Competition and Consumer Commission

By email: platforminquiry@acc.gov.au

Digital platforms inquiry - Issues paper

Submission by the Medibank Group

Please find attached a submission by the Medibank Group ("**Medibank**") in relation to the above Inquiry. This response reflects the views of the Medibank Group including our private health insurance subsidiary, ahm. However, the data supporting our views in this submission relates to Medibank Private Limited.

This submission reflects our views of the issues as they affect us in our capacity as an advertiser. In particular, we have focussed on Google's search engine services, which is a major advertising platform that we use, and are further to the issues already noted in the ACCC's issues paper dated 26 February 2018 ("**Issues Paper**"). We have not attempted to answer every question posed by the ACCC in this Inquiry, as we considered we were not best placed to answer beyond those we could meaningfully respond to in our capacity as an advertiser.

Our submission is suitable for public release, except for the attached confidential annexures.

We would be pleased to discuss this further with the Commission, and would be pleased to receive any requests for further information which may be helpful to the Commission.

Kind regards



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Chief Customer Officer

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Questions

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

Our view is that Google has, for all practical purposes, the entire Australian market share for internet-related search engine services, including search results, advertisements and analytics that modern advertisers need. In particular, we use Google Analytics, YouTube, AdWords, and Double Click. We do not use Google News, Play Newsstand, AdSense or AdMob.

We consider the only other real market participant is Microsoft's Bing, although this is a very much a smaller participant.

To illustrate this point, see Confidential Annexure 1.

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)?

Our view is that an appropriate metric would include consideration of *market share and concentration*. This in turn contributes to *dependence* for various users in the ecosystem illustrated by the ACCC in the Issues Paper in Figure 1 on page 11, including advertisers. It also contributes to Google's increasing *profits* already noted by the ACCC in the Issues Paper on pages 13-14.

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?

Further to our answer to question 3.1, see Confidential Annexure 2.

We consider there are now no realistic alternatives for various users in this ecosystem, including advertisers. Overwhelmingly, many users in this ecosystem only use or concentrate their use on Google for these services, which is already noted by the ACCC in the Issues Paper on pages 13-14 and our data also reflects this. We also consider that Google's current market share is a substantial contributor to driving up a market for the cost of those services without much by way of effective commercial or legal constraint.

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

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)?

3.15. ... Have digital platforms changed the price, quality or choice for advertisers? If so, what are the implications of this for advertisers?

We respond to the above questions as follows:

The ongoing costs of investment *in our own brand* have substantially increased, and particularly escalated from early 2013. Costs also increased in the years 2011 to early 2013, but these were modest and contained.

Like other advertisers, we have already invested in our brand, for example in its creation, development, marketing and protection by way of trade mark registration and enforcement. We have invested in our anchor Medibank house brand for more than 40 years such that it has significant market penetration and has become a recognised, household brand.

However, the market dominance of Google means that we must invest *even more* to obtain and retain customers – often at a substantial and unknown escalating cost – and despite investing *even more*, our return on investment has decreased (see our response to question 3.16 for our further views on return on investment).

Our spend in particular relevant periods is set out in Confidential Annexure 3. In part, that increasing proportion can be explained by key pricing events affecting the private health insurance industry, which are effective in 1 April each year. But, that does not explain the overall escalating year on year annual spend which was not seen in years prior to 2013, nor does the increasing consumer use of the internet.

We think the main explanation is the change in Google’s Trademark Adwords policy effective from 23 April 2013¹. From that date, Google no longer stopped advertisers purchasing and using trade marks as keywords in Google Ads (previously known as sponsored links) in Australia (and various other jurisdictions).

The previous policy meant that *‘what was ours was ours’* and that our brands could only be properly bought and used by us. The change in policy meant that *‘what was ours was up for auction’* and our brands could be properly bid on and used by others, including competitors; indeed, anyone could bid on brands which had trade mark registration and therefore protection.

There are only some limitations on this which are set out in the Australian Consumer Law, Trade Marks Act and Google’s current trade marks policy². Some advertisers may thus see the investment in trade mark registration as still necessary for other purposes but potentially less valuable than it once was, despite the costs necessarily involved in trade marks protection not decreasing. We accept that there may be some hotter and contested competition for more generic, non-brand terms such as “private health insurance”, but not *our own brand*.

¹ We are unable to provide a copy of this retrospective policy as it appears to have been taken down by Google.

² <https://support.google.com/adwordspolicy/answer/6118?hl=en-AU>

Google's commercial pricing approach of using an auction means that we are unable to exercise meaningful or full control of our spend (that is, we are forced to bid on our own brand). Branded search forms part of an auction and where there is increased competitor activity targeting the Medibank brand, this simply means that the cost inflates, and as a result our cost per click and cost per acquisition increases.

Absent other contributing factors, we attribute the increase in spend in the year immediately following the removal of this policy, and the continual increases each year thereafter, largely if not wholly to the change in this policy.

The benefits in using Google services for us as an advertiser are the very substantial data and key insights that they possess and can provide as a result of a large volume of consumers using their services. We think Google is providing a better level of collaboration when compared to other publishers and is working hard to forge relationships in market overall.

While we do have access to both branded and generic query volume relevant to our industry, we do not have full visibility on best performing organic terms for brands and competitors to optimise our spend towards, which would reduce reliance on paid activity.

Google is unwilling to provide data on what competitors are spending and the size of the market, except an aggregated and anonymous 'Top 5' spend. It is one of the only media channels for which we cannot gain visibility of competitive spend.

3.16. Do digital platforms have access to user data that is helpful to advertisers (e.g. return on investment statistics)? ...

Further to our answer above, we are provided with return on investment statistics which are set out in Confidential Annexure 4.

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

Following the answers set out above, our view is obviously that technological change has resulted in a consolidation of the market, such that other participants – even large ones such as Microsoft – cannot or choose not to compete, and consequently this has produced decreased competition in the advertising services markets.