

20 April 2018

By email: platforminquiry@acc.gov.au

Australian Competition and Consumer Commission

Level 20

175 Pitt Street, Sydney

New South Wales 2000

Dear Sir / Madam

Submission to ACCC Digital Platforms Inquiry

REA Group Limited (**REA**) welcomes the opportunity to comment as part of the Australian Competition and Consumer Commission (**ACCC**) Digital Platforms Inquiry (**the Inquiry**).

Global digital search engines, social media platforms and digital content aggregation platforms (together **Global Platforms**) are playing an increasingly important role in the commercial, social, political and educational interactions between Australians. They are creating and shaping markets while challenging conventional business models and operate under few regulatory or competitive constraints. In this context, the Inquiry is both timely and necessary.

The Australian digital property listings platform operated by REA is not a general search, social media or content aggregation platform of the kind identified by the Treasurer's terms of reference or discussed in the ACCC's Issues Paper.¹ REA acknowledges that the Inquiry's focus is on the impact of Global Platforms of those kinds on media and advertising services markets, particularly in relation to

¹ Ministerial direction: Inquiry into Digital Platforms, *Treasurer Scott Morrison* (4 December 2017) <https://www.accc.gov.au/system/files/Ministerial%20direction.pdf>; Digital Platforms Inquiry Issues Paper, *ACCC* (26 February 2018) <<https://www.accc.gov.au/about-us/inquiries/digital-platforms-inquiry/issues-paper>>.

the supply of news and journalistic content. However, REA wishes to make a number of comments, which it hopes are useful to the ACCC, from its perspective as:

- the operator of a digital platform (albeit not one of a kind that is the focus of the Inquiry);
- a significant purchaser of advertising services from digital search engines and social media platforms (in particular, Google and Facebook); and
- a participant in adjacent markets that face potential disruption from data-driven global search, aggregation and social media platforms with significant market power (including Google and Facebook), as well as global listings platforms such as Amazon, Airbnb and eBay/Gumtree.

1 Executive Summary

There is little doubt that the major data-driven Global Platforms, particularly Google, Facebook and Amazon, are dominant and have the freedom to act without effective constraint in the markets in which they operate.

This market power derives in large part from the size of their respective user bases, the extent of their users' engagement and the wealth of user data this engagement generates. The data to which Global Platforms have access, coupled with their ability to process it in close to real-time, provides a powerful competitive advantage that cannot be replicated by more specialised platforms or potential new entrants. It allows Global Platforms to develop detailed and accurate profiles of their users and market segments to tailor services and better target advertising.

Despite the dynamic characteristics of many digital markets, the market dominance of the major Global Platforms has proved to be durable, self-perpetuating and readily able to be leveraged into adjacent markets.

While the ACCC should not be concerned merely by platforms achieving scale through innovation and better services, REA submits that Global Platforms are uniquely positioned to foreclose competition from more specialised, local platforms and other digital businesses in adjacent markets, such as the provision of real estate listings by REA and others.

In the context of the Australian property listings market, in which REA competes and in which a number of the Global Platforms already have a presence, this has the potential to result in a loss of competitive tension as well as having a negative impact upon consumer welfare and the broader Australian economy.

REA submits that the market power of Global Platforms requires continued monitoring and rigorous enforcement by the ACCC and, potentially, carefully considered remedies focused on Global Platforms.

If the ACCC recommends regulatory reforms, it must keep in mind the very real risk of a chilling effect on local innovation and investment. Any new rules should also not impede further the ability of domestic and specialised platforms to compete with Global Platforms. To avoid adverse effects from an overbroad regulatory response, it is important to ensure the harm to be addressed, as well as the particular platforms or types of platforms involved, are precisely identified.

2 Confidentiality

Portions of this submission that have been highlighted in red and are preceded by the word “**CONFIDENTIAL:**” contain confidential and commercially sensitive information. That confidential information must not be disclosed to any third party without REA’s prior written consent.

REA acknowledges that:

- there is no restriction on the internal use, including future use, that the ACCC may make of confidential information consistent with the ACCC's statutory functions; and
- confidential information may be disclosed to the ACCC's external advisors and consultants on the condition that each such advisor or consultant will be informed of the obligation to treat the information as confidential.

REA will separately provide a public version of its submission.

3 Background

As stated above, REA does not compete against Global Platforms for the distribution of news and journalism content and related advertising services. However, REA is well placed to observe the anti-competitive effects of the conduct of the Global Platforms, as a customer and also a rival in the provision of digital property advertising services. REA also wants to ensure that any outcome of the ACCC Digital Platforms Inquiry will not impede competition by local platforms that serve local users and advertisers to the benefit of already well-established Global Platforms that have the infrastructure and means to address additional rules.

A substantial proportion of Australia's private wealth is linked to home ownership. In the December quarter 2017, national (residential) property stock was valued at \$6.9 trillion.² For most Australians, decisions concerning the sale and purchase of property are the most important financial decisions they will make during their lifetime and, as such, property markets have a significant impact upon their economic well-being. Residential property markets are also critical to the stability of the broader Australian financial system and generate employment across a number of industries.

² Australian Bureau of Statistics, *6416.0 - Residential Property Price Indexes: Eight Capital Cities, Dec 2017* (20 March 2018) < <http://www.abs.gov.au/ausstats/abs@.nsf/mf/6416.0>>.

In that context, well-functioning digital property listings markets provide an important service in allowing property seekers, landlords, vendors, real estate agents and other stakeholders access to efficient and reliable information about property.

3.1 Overview of REA's business

REA is a Melbourne-based, multinational digital advertising company specialising in property. REA's core business involves advertising properties on behalf of real estate agents and providing a platform for property seekers to search for properties by reference to criteria such as listing type, property type, price, location and features.

In Australia, REA operates (among other things) the residential property website www.realestate.com.au and the commercial property website www.realcommercial.com.au, as well as equivalent mobile sites and mobile device and watch apps for iOS and Android operating systems (together, the **REA platform**).

The REA platform is an online platform for property “listings” (advertisements by an agent for a property available for purchase or lease) and associated information.

REA is listed on the Australian Stock Exchange, with News Corporation holding a stake of approximately 61.6% via its wholly owned subsidiaries News Limited (which holds a 56.06% share) and News Corp Australia Investments Pty Ltd (which holds a 5.55% share).

REA currently deals with approximately 15,000 agent offices (comprising approximately 100,000 individual agents) across Australia.

3.2 The Australian digital property advertising industry

Digital property advertising first emerged in Australia in the mid-1990s. Today, digital property advertising platforms are widely used by property seekers. A

large majority of consumers (81%) looking to buy property use online resources to research the property market, compared to 39% using print publications.³ Although this submission refers primarily to “digital property advertising”, advertising in print and other media can also be substitutable and impose a degree of constraint.

As noted above, digital property listings platforms play an integral role in facilitating well-functioning property markets by reducing search costs and promoting greater efficiency. The ability to conduct electronic searches of available properties and filter results by price, location, housing type and a range of other characteristics has fundamentally changed the way consumers conduct property searches and enabled agents to acquire advertising services that target suitable categories of property seekers in increasingly sophisticated ways. In common with the Global Platforms, digital property listings businesses offer services to two broad customer sets – advertisers (i.e. real estate agents and other advertisers) and consumers, who are able to access the REA platform for free.

Also like markets for general search, social media and content aggregation, the supply of property advertising services is characterised by network effects to some extent. That is, the value of the services offered increases with the number of users. In particular, property listings platforms that have the greatest number of users are, all other things being equal, likely to be more attractive to agents (as well as property vendors and landlords) to list their properties because they offer the greatest exposure to potential buyers and tenants. Similarly, platforms with the most listings are likely to be more attractive to property seekers because they allow them to view more of the available properties in one place. Network effects can naturally result in a level of market concentration, but this is not necessarily problematic from a competition perspective and can result in benefits to consumers in terms of greater convenience, higher quality or more

³ Based on a national survey conducted by Research Now 'Valued Opinions' online research panel between 1 and 18 November 2017. A total of 6,097 panellists (representative of the Australian population) completed the survey, with 4,569 panellists qualifying for the full survey. The data reflects the responses provided by panellists who were looking to buy/bought a property in the last 12 months (n = 1,146).

targeted service offerings. Digital property advertising services are generally provided in markets that are relatively concentrated, but also highly competitive, innovative and dynamic.

Even though there are some broad similarities in the ways Global Platforms and digital property listings platforms operate, there are also fundamental differences. By way of example:

- In contrast to search, shopping and social media markets, the geographic dimensions of property markets tend to be relatively confined. As a consequence, digital property listings platforms have a more regional character and a large user base in one region may not necessarily translate into a strong market position elsewhere. For example, notwithstanding that it is a leading digital property listings platform in many regions, REA has a relatively low consumer user share in Canberra. To increase penetration in this region, REA has had to reduce its pricing levels below those of its competitors.
- At a functional level, digital property listings platforms are highly specialised and property purchasing (and leasing) decisions tend to be made relatively infrequently (the average period of home ownership in Australia is 11 years).⁴ In combination, these factors result in more sporadic and fragmented engagement with digital property listings platforms by consumers – certainly when compared with Global Platforms, which may be accessed every time a consumer wishes to purchase a product (Amazon), search for something on the internet (Google) or read news and interact with friends and family (Facebook). As a result, the extent of access to information regarding consumer habits and behaviours available to the major Global Platforms, and their ability to influence those habits and behaviours, is orders of magnitude greater than that available to operators of industry-specific platforms such as REA.

⁴ This figure is based on data obtained from CoreLogic.

- The narrower focus of specialist platforms, including digital property listings platforms, also has an impact on the breadth of the user data generated. The bulk of the user data generated by the REA platform is linked to the parameters of its property searches. REA may have some visibility of user interests from the property related content they view on its platform (for example, whether they are looking at investor, renter or renovation resources), but will never have access to the breadth of user data about life events and preferences that allows Google, Amazon and Facebook to build up detailed, real-time profiles of individual users and user segments. Such breadth of user data is essential in the ability to offer narrowed targeting services on potential buyers.

4 Global Platforms have an unfair data advantage in providing Australian property advertising services

4.1 Global Platforms have the ability to enter and disrupt adjacent segments or markets

While REA also recognises that disruption itself and the implementation of new business models can be pro-competitive and enhance consumer welfare, it submits that the Global Platforms' dominance makes them uniquely positioned to enter, and expand their presence in, adjacent markets and foreclose competition. Global Platforms arguably have the ability to foreclose competition from more specialised, local platforms by leveraging their:

- ability to build detailed, real-time user profiles and target services; and
- unparalleled user bases to communicate with large numbers of users (for example, Facebook and Instagram have a combined monthly active user-base of approximately 2.9 billion).⁵

Over time this has the potential to result in a loss of competitive tension in adjacent markets/segments, as well as having a negative impact upon consumer welfare and the broader Australian economy.

⁵ *Top 15 Most Popular Social Networking Sites and Apps [February 2018]*, DreamGrow (8 February 2018) <<https://www.dreamgrow.com/top-15-most-popular-social-networking-sites/>>.

4.2 The provision of Australian digital property advertising services is already competitive

REA faces strong competition, including from other digital property platforms. Domain.com.au, in particular, is a close and vigorous competitor in terms of price, service offerings and product innovation. There is also a range of smaller competitors with particular strengths in certain geographies or listing types. To remain competitive, REA invests heavily in the user experience of its platform and in innovative new services for agents and property seekers. For example, REA has recently focused on enhancing customer experience by introducing new app search filters and home page navigation, updating its renovation cost estimator, introducing smart app notifications providing users with personal property market reports and expanding the production of original property video content online.

Devoting significant resources to developing relationships with real estate agents and understanding local Australian property markets is also critical. REA employs teams of account managers whose role is to interact with agents, assist them in their use of REA's platform and associated services, manage any problems that arise and receive feedback on the platform.

Without these kinds of investments, REA's platform would face a real risk of quickly losing customers (both agents and property seekers) to alternative providers.

4.3 Global Platforms already compete in relation to Australian digital property advertising

Global Platforms are already competing in the supply of digital property advertising services internationally and in Australia. Specifically:

- *Google*
Google's ubiquitous presence on the internet means that it has the resources, technology and user base to develop a significant digital

property listings presence should it choose to. Google already offers tabs for “Images”, “Flights” and “Shopping” which bring together search results from other sites and display them on a single webpage.⁶

- *Facebook*

Facebook has recently expanded its Marketplace offering to include “home sales” and “property to rent” tabs in Australia.⁷ This functionality allows Facebook users to post sale and rental listings. Price and location filters can be used to narrow search results. Interested parties are able to communicate directly with the listing owner by private message, facilitating quick and convenient communication. REA does not have access to reliable data regarding the volume of Australian listings under the housing tab. However, it has been reported that the search volume for the Marketplace tab grew by three times worldwide between January and November 2017.⁸

In November 2017, Facebook commenced partnerships in the United States with Apartment List (a rental listings aggregator) and Zumper (an online rental marketplace) to grow the “Housing” Marketplace.⁹

Facebook users in the United States are able to search for listings using a range of filters for location, price, number of bedrooms and bathrooms, rental type, square footage and properties that are animal-friendly. This is a strategy that Facebook clearly has the capability to pursue in Australia should it choose to do so.

- *Gumtree/eBay*

Gumtree (which was acquired by eBay in 2005) offers online property listings in a number of categories, including flat-share and house-share,

⁶ Google, <www.google.com.au>.

⁷ *You can now use Facebook Marketplace to look for an apartment*, Mashable (10 November 2017) <<https://mashable.com/2017/11/09/facebook-marketplace-rental-listings/#3Exd3Q9BdPqj>>.

⁸ *Facebook expands its Marketplace section with housing rentals*, TechCrunch (10 November 2017) <<https://techcrunch.com/2017/11/09/facebook-expands-its-marketplace-section-with-housing-rentals/>>.

⁹ *Zumper Partners with Facebook Marketplace to Launch Revamped Home Rentals Section*, Zumper (9 November 2017) <<https://www.zumper.com/blog/2017/11/zumper-facebook-marketplace/>>; *New Facebook service aims to make apartment hunting easier*, The Washington Post (28 November 2017) <https://www.washingtonpost.com/news/where-we-live/wp/2017/11/28/new-facebook-service-aims-to-make-apartment-hunting-easier/?utm_term=.df34f200b028>

property for rent and sale, parking and storage, office space and commercial, room-share, short-term and land for sale.¹⁰ Listings can be posted and searched for free and can include photos and/or links to other websites. As at 26 March 2018, there were 58,346 advertisements listed within the 'Real Estate' section on Gumtree.com.au.¹¹ Users can filter search results by category, price and location. Gumtree also offers paid advertising space on its property pages, enabling property developers and agents to post links to specific listings or their own websites (these appear at the top of the page before search results).¹²

- *Amazon*

While Australians have been able to purchase goods (including books) via the Amazon.com website for many years, Amazon launched its Australian domain website (Amazon.com.au) with Marketplace functionality in December 2017.¹³ Although REA is not aware of it having made investments in the Australian digital property space, it has launched real estate agent referral services in the United States, which allow customers to obtain quotes and referrals from Amazon for real estate agents, as well as make appointments with real estate agents in their local area through Amazon's "Alexa" technology.¹⁴

The ability to provide exposure to a large number of consumers on a trusted, well-established platform is undoubtedly a feature which could be leveraged by Amazon to expand its Marketplace listings to include property or provide agent referral services in Australia.

- *Airbnb*

Airbnb offers an online accommodation-sharing marketplace, where individuals can lease or rent properties. Airbnb tends to be associated

¹⁰ Gumtree <www.gumtree.com.au>; *eBay buys London ads website Gumtree*, The Guardian (19 May 2005) <<https://www.theguardian.com/media/2005/may/19/business.newmedia>>.

¹¹ *Real Estate*, Gumtree (26 March 2018) <<https://www.gumtree.com.au/s-real-estate/c9296>>

¹² Gumtree Media, <<http://www.gumtreemedia.com.au/>>.

¹³ *Amazon Australia: one month later*, Sydney Morning Herald (16 January 2018).

<<https://www.smh.com.au/technology/amazon-australia-one-month-later-20180116-h0iv0c.html>>.

¹⁴ *How Amazon is getting in on the real estate game and it is scary*, Australian Financial Review (9 August 2017)

<<http://www.afr.com/real-estate/how-amazon-is-getting-in-on-the-real-estate-game-and-it-is-scary-20170808-gxs6l4>>.

with short-term rentals, but is also being used as a forum for arranging longer-term rentals.¹⁵ In addition, a range of businesses have begun to provide property management services (i.e. cleaning, administration etc.) to allow landlords to use Airbnb to rent properties on a longer-term basis.¹⁶

Global Platforms already impose real and significant competitive constraints on specialist digital property listing platforms, both because of their role as critical service providers in digital advertising and their ability and incentives to foreclose local platforms such as REA's. Their financial resources, large established user bases, control of broad user data sets and ability to disrupt traditional business models make many Global Platforms formidable competitors (or potential competitors) in the digital property advertising industry (discussed in further detail in section 5 below).

The significant competitive tension arising from the imminent threat of new entry and expansion is a consistent feature of the Australian digital property advertising industry. This distinguishes it from search, social media and online shopping markets where the major Global Platforms tend to be relatively insulated from competition and the threat of new entry.

5 Assessing the market power of global platforms

REA submits there is little doubt that the major Global Platforms, particularly Google, Facebook and Amazon, are dominant and have the freedom to act without effective constraint in the markets in which they operate. Of greater concern is that, despite the dynamic and fast-moving character of many digital

¹⁵ Airbnb, <<https://www.airbnb.com.au/>>; *Real estate industry responds to Airbnb's plot to shake up rentals*, news.com.au (14 March 2017) <<http://www.news.com.au/finance/real-estate/real-estate-industry-responds-to-airbnbs-plot-to-shake-up-rentals/news-story/993f5f5c58d3bb10cd520d6879e0e9c7>>; *Airbnb Explores Expansion in Long-Term Home Rentals*, Bloomberg (9 March 2017) <<https://www.bloomberg.com/news/articles/2017-03-08/airbnb-explores-expansion-in-long-term-home-rentals>>.

¹⁶ *Airbnb managers take on real estate agencies*, Australian Financial Review (4 May 2016) <<http://www.afr.com/technology/airbnb-managers-take-on-real-estate-agencies-20160502-gok6xt>>; *Airbnb Property Management Company | Airbnb Managers Service*, And Chill <<https://andchill.com.au/>>; *Hey Tom – Airbnb Management*, Hey Tom <<https://www.heytom.com.au/>>; *MadeComfy – Airbnb Property Management | Short Term Rental Management*, Made Comfy <<https://madecomfy.com.au/>>.

markets, the market dominance of these platforms has proved to be durable, self-perpetuating and able to be leveraged readily into adjacent markets.

5.1 Market share is an incomplete indicator of dominance

Market power ultimately arises from a lack of competitive constraint imposed by either competitors, the threat of entry or expansion and/or countervailing power on the other side of transactions. While consideration of market share is necessary and relevant, it is not a sufficient indicator of dominance on its own. As noted in section 3.2 above, markets in which platforms compete are typically characterised by network effects, which makes a degree of concentration inevitable. In this context, an assessment of whether a large platform possesses market power requires assessment of the competitive dynamics in the relevant market.

Recognising the shortcomings of market share data in assessing dominance, the global figures for Google, Facebook and Amazon remain striking. [REDACTED]

[REDACTED]¹⁷ This is consistent with publicly available data which indicates Google has consistently maintained a monthly search market share in Australia above 93% over the last three years.¹⁸ [REDACTED]

[REDACTED]¹⁹

This is broadly consistent with data available from other jurisdictions. In the recent European Commission decision in relation to abuse of dominance by Google, it was stated that, between 2008 and 2016, Google enjoyed “strong and stable” market shares (typically above 90%) in markets for general search

¹⁷ *Hitwise*, Computers and Internet > Search Engines (visits share Google and Google Australia) (February 2018) <http://www.hitwise.com/au/?bis_prd=1>.

¹⁸ *Search Market Share: Australia*, GlobalStats (February 2018) <<http://gs.statcounter.com/search-engine-market-share/all/australia>>.

¹⁹ *Hitwise*, Selected sites in Social (visits share) (February 2018) <http://www.hitwise.com/au/?bis_prd=1>.

services across the European Economic Area.²⁰ It has separately been suggested that Facebook “owns” 77% of all mobile social traffic.²¹ It has also been estimated that Google and Facebook will capture a combined 56.8% of United States digital advertising investment in 2018.²²

5.2 Other indicia of Global Platform dominance

There is significant diversity between Global Platforms. Even so, REA submits there are a number of common factors that contribute to their enduring dominance.

Unmatched user base and access to user data, keys for targeted advertising

Many commentators and industry participants agree that the size of their user base is a significant contributor to many Global Platforms’ ability to collect commercially valuable data.²³ These platforms have unparalleled visibility of the preferences, spending habits, needs and locations of hundreds of millions, or even billions, of individual users.

The longer and more regularly a user engages with a platform, the more that platform learns about the user and, with the help of algorithms, other similar users.

According to Nielsen Digital Ratings Monthly, in the month of January 2018:

- Google had a total unique audience in Australia of approximately 18.87 million, with the average Australian user spending 5 hours and 4 minutes on the Google website and 1 hour and 38 minutes on the Google

²⁰ *Google Search (Shopping)*, Case AT.39740, [2017] European Commission, 274 – 280.

²¹ *Is It Time to Break Up Google?*, New York Times (22 April 2017), <<https://www.nytimes.com/2017/04/22/opinion/sunday/is-it-time-to-break-up-google.html>>.

²² ‘Data Suggests Surprising Shift: Duopoly Not All-Powerful’, *eMarketer*, (19 March 2018) <www.emarketer.com/Article/Google-Facebook-Tighten-Grip-on-US-Digital-Ad-Market/1016494>.

²³ For example: Lina M. Kahn, ‘Amazon’s Antitrust Paradox’ (2017) 126 (3) *Yale Law Journal* <<https://www.yalelawjournal.org/note/amazons-antitrust-paradox>>; Directorate for Financial and Enterprise Affairs Competition Committee, ‘Big Data: Bringing Competition Policy to the Digital Era’ (27 October 2016) <[https://one.oecd.org/document/DAF/COMP/M\(2016\)2/ANN4/FINAL/en/pdf](https://one.oecd.org/document/DAF/COMP/M(2016)2/ANN4/FINAL/en/pdf)>; *The world’s most valuable resource is no longer oil, but data*, *The Economist* (6 May 2017) <<https://www.economist.com/news/leaders/21721656-data-economy-demands-new-approach-antitrust-rules-worlds-most-valuable-resource>>; *Silicon Valley’s Tax-Avoiding, Job-Killing, Soul-Sucking Machine*, *Esquire* (9 February 2018) <<http://classic.esquire.com/silicon-valleys-tax-avoiding-job-killing-soul-sucking-machine/>>; *Europe’s next competition clash: Online Data*. Politico (25 August 2017) <<https://www.politico.eu/article/europe-competition-google-amazon-facebook-data-privacy-antitrust-vestager/>>

app. Google also owns and operates other businesses including Gmail, Google Maps, Waze, Google suite, Android and Chrome; and

- Facebook had a total unique audience in Australia of 16.45 million, with the average Australian user spending 4 hours and 18 minutes on the Facebook website and 12 hours and 37 minutes on the Facebook app.²⁴ Facebook also owns and operates other businesses including Whatsapp, Instagram, Facebook Messenger.

In contrast, REA had a total unique audience in Australia of approximately 6.45 million over the same period, with the average Australian user spending only 46 minutes on the REA website and 1 hour and 3 minutes on the REA app.²⁵

Facebook and Google also collect third-party data thanks to a share of 60.3% and 27.1% respectively of all internet pages tracked. They are followed by ComScore (11.4%) and Twitter (10.5%). Google also tracks data thanks to its free ad inventory tool, DFP, installed by most publishers and Facebook acquires large sets of “offline” data to complement its online data.²⁶

As this data indicates, Google and Facebook have a significantly larger Australian user base than REA. The data also highlights that users spend substantially more time on Facebook and Google’s platforms than they do on REA’s platform. Global Platforms’ business models are built around the collection and processing of user data. While search, social media, online shopping and other services are typically offered to consumers for free, users arguably “pay” for these services by allowing collection of their data.

The data collected by different platforms will vary, for example:

- social media platforms such as Facebook gain access to broad data sets about user demographics, life events, connections, interests, preferences and physical location;

²⁴ Nielsen, <<http://www.nielsen.com/au/en.html>>.

²⁵ These figures are based on REA’s internal analysis.

²⁶ Ghostery, *Tracking the Trackers*, (4 December 2017) <<https://www.ghostery.com/lp/study/>>.

- search engines (or search engines combined with internet navigation software such as Google search and Chrome) typically pick up detailed information about a broad range of user interests and needs based on their searches and the websites they visit; and
- online retailers such as Amazon with its breadth of product offerings and popular loyalty program (Amazon Prime) engage in significant data collection, including valuable transactional data.

The data to which Global Platforms have access, coupled with their ability to process it in close to real-time, provides a powerful competitive advantage that cannot be readily replicated by more specialised platforms or potential new entrants. It allows Global Platforms to develop detailed and accurate “real-time” profiles of their users to continually improve the services they offer and better target advertising.

The significance of access to data in the competitive process is highlighted by the strategies adopted by Amazon. Amazon collects data from sales by its merchant vendors on the Amazon platform as well as tracking what shoppers search for and cannot find, which products a shopper views repeatedly and how shoppers respond to discounts and promotions.²⁷ This data can be used to:

- entrench its dominance in ecommerce by making it a critical service provider;
- identify high value product segments and make purchasing decisions;
- enhance user experience;
- deliver more precisely targeted purchasing suggestions;
- more effectively promote its own products and services; and
- identify suitable products for deals offered via its popular loyalty program Amazon Prime.

²⁷ Lina M. Kahn, ‘Amazon’s Antitrust Paradox’ (2017) 126 (3) *Yale Law Journal* <<https://www.yalelawjournal.org/note/amazons-antitrust-paradox>>.

This gives Amazon an effectively unassailable competitive advantage in the markets in which it chooses to compete (especially when combined with its control of the distribution networks and search functionality its merchant vendors typically rely on).²⁸

A comparison between the data capability of REA, the leading Australian digital property advertising business, and the major Global Platforms is also illustrative of the extent of their advantages.

REA has identified that changes in people's housing needs are closely linked to significant life events (for example, people are more likely to move homes around the times that they start a new job, get married, have children or end a relationship). REA is not able to access detailed user information about these events. In particular, digital property listing platforms like the REA Platform:

- cannot readily collect the type of user data that gives them broad visibility of user preferences and the life events that commonly trigger real estate transactions because the functionality of these platforms is more specialised and user engagement with them is therefore necessarily more focused;
- rely on extrapolating the information they have to understand a user's potential changing housing needs. Unless a user has an account on the REA Platform and has provided specific information, such as whether they are looking to rent, buy, sell or renovate using the "My Profile" page, REA will seek to infer their position in the 'property lifecycle' by looking at how that user is engaging with the REA Platform (both in terms of conducting property searches and viewing other content). For example, REA may be able to infer whether a user is thinking about renting, buying, renovating or selling by the content they view on the REA Platform (such as articles about tips for rental applications and guides to refinancing);

²⁸ Lina M. Kahn, 'Amazon's Antitrust Paradox' (2017) 126 (3) *Yale Law Journal* <<https://www.yalelawjournal.org/note/amazons-antitrust-paradox>>.

- look to third-party aggregated property data, data management and market research providers (such as CoreLogic, Salesforce/Krux and Research Ink) to build on the internal analysis that REA undertakes and “enrich” information about individual users as well as understand broader trends and the characteristics of particular consumer segments; and
- as a result, are often limited to making inferences about likely changes in housing needs from third party data or after a user has already reached a decision point that prompts them to engage with the relevant property listings platform.

In contrast, to the extent that Facebook, Amazon or Google choose to focus on Australian digital property offerings, the detailed, real-time user profiles that they generate will be an extremely powerful tool to enable them to precisely target particular users and market segments with listings and advertising for associated or ancillary services (whether or not a user is actively undertaking property searches).²⁹ For example, Google and Facebook will often be in a position to know when a user is expecting a child as a result of that user making related searches, joining relevant groups or making a relevant post. Such information has the potential to be incredibly powerful. In the advertising of properties, Global Platforms would have the capability to directly market to an individual user an appropriate, suitably located property (and introduce them to an agent to market their existing property) based on their needs and preferences, with high confidence, before the user has even accessed a platform such as REA's.

Lack of genuine rivals and limited threat of entry

The Global Platforms have tended to each dominate a distinct space: Google for general search; Facebook for social media; and Amazon for online shopping. None of the major Global Platforms could properly be characterised as substitutes for each other, except perhaps at the margins.

²⁹ *The world's most valuable resource is no longer oil, but data*, The Economist (6 May 2017) <<https://www.economist.com/news/leaders/21721656-data-economy-demands-new-approach-antitrust-rules-worlds-most-valuable-resource>>.

There may be complete or partial functional alternatives for some Global Platforms. For example:

- Bing and Yahoo are arguably relatively close search substitutes for Google (in a functional sense);³⁰ and
- Reddit, Twitter, Snap and YouTube (as platforms for communicating and sharing content such as pictures, videos and news) and MySpace (as a platform for creating user profiles) are likewise partial substitutes for aspects of the Facebook offering (including Facebook owned social media and messaging platforms Instagram and Whatsapp).³¹

However, REA submits that any competitive constraint imposed by these alternatives is generally weak.

In some cases this may be attributable to network effects. In other cases, it may be a result of an inferior service offering. However, quality of service issues can simply be a function of having fewer resources to devote to research and development and/or more limited access to the user data necessary to refine and improve services.

Complete ecosystems of services

A number of the Global Platforms (most notably, Google, Facebook and Amazon) have business models that centre around the creation of a stand-alone ecosystem of services that enable them to extract the maximum value from users.

Specifically:

- the Facebook ecosystem incorporates a user's profile, newsfeed, groups, posts, photos, pages, messaging, Marketplace, and all other services that can be accessed with a Facebook account (including Instagram and Whatsapp).³² It also arguably extends to social sign-on where users can

³⁰ Bing, <www.bing.com>; Yahoo, <https://au.yahoo.com>.

³¹ *Facebook to Acquire Instagram*, Facebook (9 April 2012) <<https://newsroom.fb.com/news/2012/04/facebook-to-acquire-instagram/>>; *Facebook to Acquire Whatsapp*, Facebook (19 February 2014) <<https://newsroom.fb.com/news/2014/02/facebook-to-acquire-whatsapp/>>.

³² *Facebook to Acquire Instagram*, Facebook (9 April 2012) <<https://newsroom.fb.com/news/2012/04/facebook-to-acquire-instagram/>>; *Facebook to Acquire Whatsapp*, Facebook (19 February 2014) <<https://newsroom.fb.com/news/2014/02/facebook-to-acquire-whatsapp/>>.

access or create profiles on a wide range of external websites using their Facebook login (for example, Spotify, Tinder, various news sites such as The Australian and NRL.com).³³ Facebook in particular is highly effective at keeping users within its ecosystem and, for example, displaying news and current affairs information to them within the Facebook environment, rather than directing them to external websites;

- the Google ecosystem centres around the Google search engine and associated services such as the Chrome web browser, Google Home / Google Assistant, Gmail, Google Maps, YouTube, Google Images, Shopping, Flights and News;³⁴ and
- the Amazon ecosystem incorporates the Amazon.com website on which Amazon and its merchant vendors offer broad range of products and services, sophisticated product recommendation functionality based on previous user engagement, the Amazon Prime loyalty program and extensive distribution, logistics and datacentre networks. Amazon has also expanded its presence in the homes of its customers via the launch of its voice-activated assistant product, Alexa, as well as the acquisition of video doorbell and home security companies Ring and Blink, which allow Amazon to deliver packages inside a home when the customer is not present.³⁵

The operation of these platforms as integrated ecosystems arguably increases switching costs and user ‘stickiness’ by making a transition to alternative services more complex and the loss of a user’s profile and/or history more significant.

³³ The Australia <www.theaustralian.com.au>; Tinder <tinder.com>; NRL <www.nrl.com>; Spotify, <<https://accounts.spotify.com/en-AU/login?continue=https:%2F%2Fwww.spotify.com%2Fau%2Faccount%2Foverview%2F>>.

³⁴ Google <www.google.com.au>.

³⁵ *Amazon buys video doorbell firm Ring for over \$1bn*, The Guardian (28 February 2018) <<https://www.theguardian.com/technology/2018/feb/28/amazon-buys-video-doorbell-ring-smart-home-delivery>>; *Amazon reportedly paid \$90M for security camera company Blink*, CNET (12 February 2018) <<https://www.cnet.com/news/amazon-blink-acquisition-90-million/>>.

“Multi-homing” is generally limited

Multi-homing occurs when users on either side of a two-sided market use more than one platform to fulfil their needs. In digital property listings markets, agents prefer to list their properties on more than one digital platform (in REA’s experience, vendors currently use an average of [REDACTED] resources to promote their property) and property seekers routinely access and search multiple platforms (on average consumers use [REDACTED] resources).³⁶ In contrast, multi-homing on Global Platforms tends to be limited. This can result in affected markets exhibiting what have been referred to as “winner takes all” competitive dynamics.³⁷

6 No other option: REA as a purchaser of advertising services from Global Platforms

REA is a significant purchaser of advertising services from digital search engines and social media platforms (especially Facebook and Google). Google’s search engine marketing (**SEM**), search engine optimisation (**SEO**) (which is aimed at boosting REA’s ranking in search results) and Facebook’s news feed placements are key drivers of REA’s audience reach.

REA therefore relies heavily on all three. REA aims to secure the top paid advertisement position on the Google search results pages for relevant searches, as well as ensuring that REA’s editorial content appears prominently in general and news search results.

Whilst REA continues to invest in print and out-of-home advertising (for example, billboards and bus stop advertising), REA anticipates that its spend on digital advertising for the 2018 financial year will comprise approximately [REDACTED] of its total consumer marketing spend.

³⁶ These figures are based on REA’s internal analysis.

³⁷ For example, *Google Search (Shopping)*, Case AT.39740, [2017] European Commission, 306 <http://ec.europa.eu/competition/antitrust/cases/dec_docs/39740/39740_14996_3.pdf>.

Certain services that REA offers to its agents also rely on advertising services from Global Platforms. REA currently sells an advertising product called “Audience Maximiser” to agents, this allows them to display property listings in the news feeds of Facebook users and on a number of other places across the internet based on their engagement with the REA Platform. REA has been offering this service for the past 18 months and is hoping to increase its adoption in the market. Significantly, it is entirely reliant on a number of competitors, including Facebook, to offer these services.

REA’s dual relationship with a number of Global Platforms as both a customer and competitor creates an inherent tension that REA expects is common to many digital businesses. On the one hand, the digital advertising services of Google and Facebook in particular are critical inputs for REA’s business and its ability to grow its brand recognition, listings numbers and visitors to its platform. In other words, REA could not afford to be the subject of boycotts from such platforms because there are no alternatives with the necessary breadth of data and scale to address REA’s marketing needs. On the other hand, REA is acutely aware of the longer-term risk of using these advertising channels, in terms of building a reputation for Global Platforms as a “destination” for property listings and entrenching patterns of user behaviour that will ultimately make it harder for REA to compete with them over time. It will also make REA more vulnerable to potential changes in the Global Platforms’ offerings or algorithms to seek to retain property seekers within their ecosystems rather than directing them to REA’s platform.

7 Proposals for regulatory change

The ACCC should not be concerned by platforms achieving or maintaining scale solely through innovation and better services. REA also recognises that disruption itself and the implementation of new business models can be pro-competitive and enhance consumer welfare.

Equally, entry by Global Platforms into adjacent markets via “bolt-on” acquisitions is often not problematic so long as they do not serve to reinforce or create a monopoly in the relevant or adjacent markets. Acquisitions by smaller platforms to help them compete with Global Platforms are even less problematic particularly where the acquisition merely hastens or aids expansion that could otherwise be achieved organically and there remains effective competition in the adjacent market.

Nevertheless, REA submits that the Global Platforms’ dominance makes them uniquely positioned to enter, and expand their presence in, adjacent markets and foreclose competition. As described above, over time this has the potential to result in a significant loss of competitive tension in adjacent markets.

The market power of Global Platforms therefore requires continued monitoring and rigorous enforcement by the ACCC, and potentially, carefully considered and targeted remedies.

REA submits that, while digital markets have some unique characteristics, concerns about the Global Platforms leveraging their market power into property advertising are generally capable of being regulated under existing, well-established principles of competition law. The introduction of an “effects test” into the prohibition on the misuse of market power in section 46 of the *Competition & Consumer Act 2010* will make it easier to address strategies through which the Global Platforms may seek to leverage positions of dominance to foreclose competition between platforms.

In this context, it is difficult to see a case for additional regulation governing competition between digital platforms. REA does not express any view about the need for regulation relating to the provision of news and journalistic content as it is not a significant creator of content of that nature.

However, it is important that any reform not impede further the ability of local and specialised platforms to compete against Global Platforms that already have

an unfair data advantage and have the financial resources to cope with additional rules. Accordingly, before recommending any reform, it is important to ensure that the harm to be remedied is clearly identified and the reforms precisely target the relevant conduct and are narrowed to the relevant industry. Any regulatory intervention should be based on a comprehensive understanding of each Global Platform's business model and the competitive landscape in which they operate.

Yours sincerely



Tracey Fellows
Chief Executive Officer and Executive Director
REA Group Limited