

# Our attention for sale: why the Big Tech advertising model needs greater scrutiny and regulation

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Response to the ACCC Digital Advertising  
Services Inquiry interim report

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# Summary

The ACCC's Digital Advertising Services Inquiry is a valuable addition to the Digital Platform Inquiry which seeks to correct the market imbalance caused by Big Tech companies like Google and Facebook.

The interim report has revealed substantive issues in Google's dominance of the ad tech industry, as well as the overall opacity of the ad tech industry and its complex infrastructure.

The public doesn't know that every time they visit a website with advertising, there is an invisible, real-time auction for their attention happening behind ad tech platforms. This automated trading floor takes bids from advertisers, companies and political parties who match their desired criteria to consumer online profiles and places a price on consumer eyeballs.

Google owns a dominant part of this infrastructure, and continues to abuse this dominance by sharing the data it has harvested from its popular consumer products (like Search and Youtube) with its ad tech products, like DoubleClick (now rebranded 'Google Ad Manager').

This sharing of data is an issue because it entrenches Google's monopoly power in advertising – and no competitor has been able to match the vast troves of personal and behavioural information Google has.

With input from leading advertising executives, publishers and industry organisations who are at the centre of the digital advertising industry, we welcome the opportunity to respond to this Inquiry.

We support ACCC's Inquiry into the ad tech landscape and recommend three key areas for development:

- 1) 'Clean slate' provisions which allow consumers the right to request deletion of their personal information that's been collected by online platforms.
- 2) An independent consumer advocate with powers to help the public navigate the various commercial processing of their personal information/data.
- 3) Immediate enforcement of data separation, or setting purpose limitations of no data sharing between products of large digital platforms, including for all acquisitions, both old and new.

We also recommend streamlining initiatives with the Privacy Act review, and ensuring YouTube and Facebook are included in future developments in recognition of their outsized dominance in the ad tech space.

# Introduction

Google and Facebook are at their core advertising companies. Their business models are powered by their vast ability to harvest user data and process this data into valuable recommendations for advertisers.

The digital advertising market in Australia is significant, commanding \$9.1 billion in spend during the financial year 2019/20 despite the interruptions of the pandemic.<sup>1</sup> It is a complex industry, and we note that the ACCC report chose to focus specifically on digital display advertising, rather than search advertising or online classifieds.

Both Google and Facebook command significant dominant positions in digital display advertising. They provide the technology infrastructure which powers the digital advertising landscape, or 'ad tech'.

The ACCC's interim report looks deeply into this ecosystem and The Centre for Responsible Technology are thankful for the opportunity to submit our response to this significant initiative.

Coupled with other significant inquiries and regulatory initiatives, including the News Media Bargaining Code, the Disinformation Code, and updates to the Privacy Act and Online Safety Act, an investigation into the need for regulatory intervention in the ad tech infrastructure which powers Big Tech's business models is a necessary exercise.

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<sup>1</sup> ACCC (2020), *Digital Advertising Services Inquiry interim report*, pg. 9

# Focus areas

The ACCC interim report presents a thorough review of the complex ad tech industry. It focuses on two primary concerns:

- Google's industry-leading position, including their product and service integration across the entire ad tech infrastructure
- Concerns about the opacity of the operation of the ad tech infrastructure<sup>2</sup>

It also asks for feedback on specific proposals, including:

- Measures to improve data portability and interoperability
- Data separation mechanisms
- Rules to manage conflicts of interest and self-preferencing in supply of ad tech services
- Implementation of a voluntary industry standard to enable full-independent verification of Demand-Side Platform services
- Implementation of a common transaction ID
- Implementation of a common user ID to allow tracking of attribution activity in a way which protects consumers privacy<sup>3</sup>

The Centre for Responsible Technology's response will focus on our core concerns for more equitable individual data rights, and addressing Big Tech's dominance. We will address the specific proposals around data portability, interoperability and data separation mechanisms. We also request further investigations into YouTube and the 'walled garden' of Facebook's advertising system.

## There's a person behind every data footprint

Harvesting data is at the core of Google and Facebook's business model. The 'surveillance capitalism'<sup>4</sup> methodology monetises the public's attention and engagement by harvesting vast amounts of personal information and using this to create comprehensive behavioural, demographic and psychographic profiles which are then sold to advertisers.

This is a process many consumers are not consciously aware of, and do not often realise the extent to which their everyday activities are being tracked, harvested and then monetised

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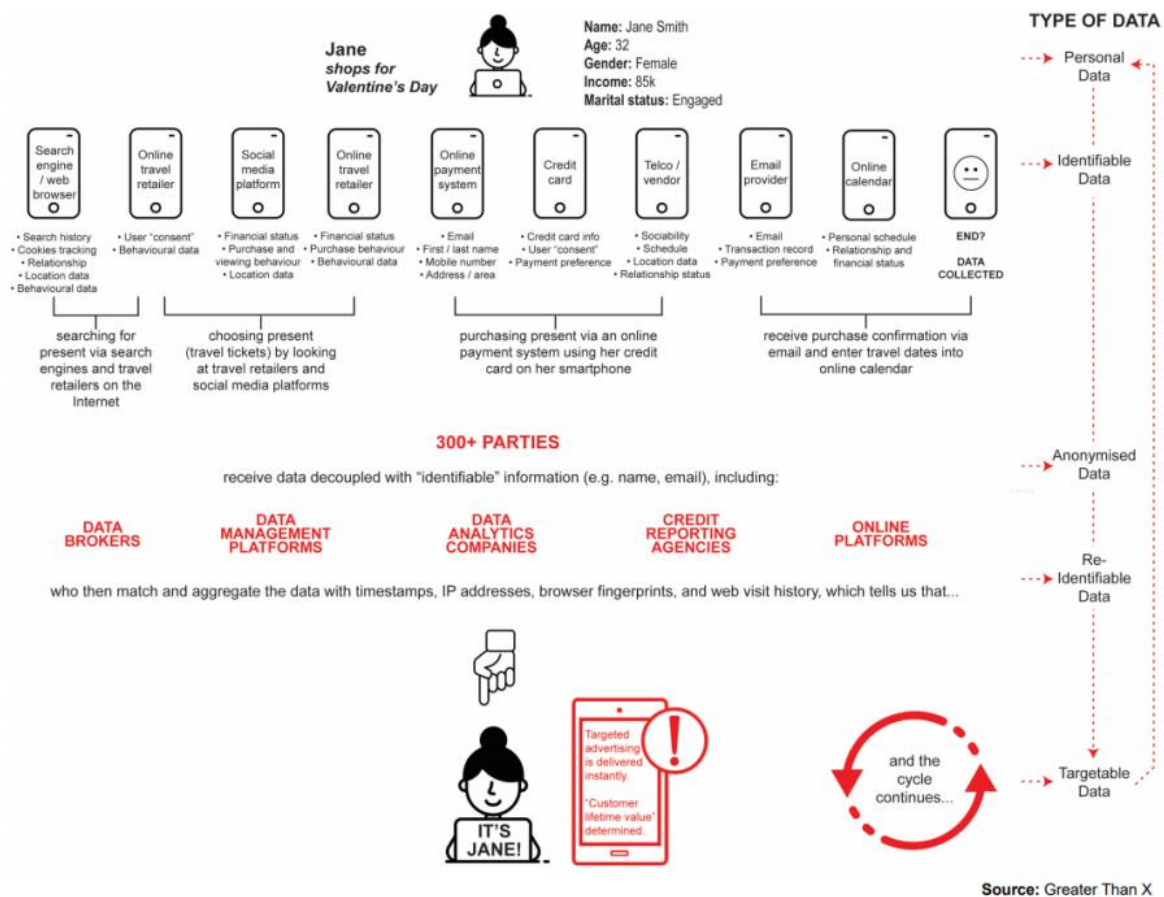
<sup>2</sup> ACCC (2020), *Digital Advertising Services Inquiry interim report*, pg. 9

<sup>3</sup> ACCC (2020), *Digital Advertising Services Inquiry interim report*, pg. 20-23

<sup>4</sup> Holloway (2019), *Explainer: what is surveillance capitalism and how does it shape our economy?*, <https://theconversation.com/explainer-what-is-surveillance-capitalism-and-how-does-it-shape-our-economy-119158>

by Google and Facebook. Figure 1<sup>5</sup> shows an indicative diagram of how consumers' everyday activities are targeted by the digital advertising market:

Figure 1. 'A day in the life of data' diagram



Google's vast data collection activities is of particular concern. Google conducts extensive data collection through first party as well as third party data. This includes:

Data from having a Google account (e.g. Gmail, Google Docs, Google Drive)

- Name
- Date of birth
- Gender
- Email

<sup>5</sup> Richmond (2019), *A Day in the Life of Data, removing the opacity surrounding the data collection, sharing and use environment in Australia*, pg. 9

- Phone number

Data from using any of Google's many consumer products and services

- Search history from Google Search
- Location history from Google Maps
- Movement data from Google Maps
- Interest and hobbies from YouTube
- Viewing history from YouTube
- Interest and hobbies from Gmail
- Interest and hobbies from Blogger

Data from use of Google devices, such as Android phones and Google Home and Nest, and through using Google apps on smartphones

- IP address
- Network connection information
- Location information
- Device attributes
- Device signals
- Home smoke alarms through Google Home and Nest
- Indoor and outdoor cameras through Google Home and Nest
- Thermostats through Google Home and Nest
- Doorbells through Google Home and Nest

Payment data collected through Google Pay

- Purchase history
- Credit Card information
- Debit Card information
- Billing address

Third party data tracking

- 80% of the most popular 1,000 websites in Australia had Google tracking
- 91% of the most popular 1,000 apps had Google tracking<sup>6</sup>

Google's surveillance advertising model is at the heart of the business and is an ongoing concern for consumers. Google keeps all the data it has harvested for all time, unless you are a new user as of June 2020, in which case it will only keep your data for 18 months.<sup>7</sup>

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<sup>6</sup> ACCC (2020), *Digital Advertising Services Inquiry interim report*, pg. 65

<sup>7</sup> Smith (2020), *Google collects a frightening amount of data about you. You can find and delete it now*, <https://www.cnet.com/how-to/google-collects-a-frightening-amount-of-data-about-you-you-can-find-and-delete-it-now/>

Even if you are a proactive consumer who actively tries to delete your data from Google's products, Google has admitted it can still track you, for example, it can track your physical location even if you turn off the location services setting.<sup>8</sup>

Google's ongoing data harvesting abuses have not gone unnoticed. There have been several lawsuits and investigations against Google globally:

- In January 2019 The French data regulator fined Google €50 million for breaching the EU's data protection rules.<sup>9</sup>
- In May 2019 the Irish data commission opened an ongoing investigation that will probe Google's Ad Exchange for violating users' personal data.<sup>10</sup>
- In October 2019 the ACCC filed a lawsuit against Google for misleading smartphones users about how it collected data, the first in what the ACCC said would be a series of lawsuits surrounding data collection.<sup>11</sup>
- In July 2020 the ACCC filed a lawsuit against Google for misleading consumers about expanded use of personal data, including sharing between the DoubleClick adserver and other Google products.<sup>12</sup>
- In June 2020, the state of California sought \$5 billion against Google for continuing to track users despite users being in 'private' mode.<sup>13</sup>

All of the different consumer products offered by Google, no matter how diverse – Google Search, YouTube, Android, Fitbit, etc. are all designed to feed this ubiquitous data harvesting exercise.

Google's horizontal integration in the ad tech space is to ensure Google's infrastructure can support this data harvesting and effectively monetise it for advertisers.

We therefore support the interim report's proposals around data management and governance in the ad tech space in an effort to curb Google's outsized dominance.

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<sup>8</sup> Zhou, Nieva (2018), *Google is probably tracking your location, even if you turn it off, says report*, <https://www.cnet.com/news/google-is-probably-tracking-your-location-even-if-you-turn-it-off-says-report/>

<sup>9</sup> Fox (2019), *Google hit with 44m pounds GDPR fine over ads*, <https://www.bbc.com/news/technology-46944696>

<sup>10</sup> Carroll (2019), *Google faces Irish inquiry over possible breach of privacy laws*, <https://www.theguardian.com/world/2019/may/22/irish-statutory-inquiry-to-investigate-if-google-flouted-privacy-laws>

<sup>11</sup> Kaye (2019), *Australian regulator files privacy suit against Google alleging location data misuse*, <https://www.reuters.com/article/us-australia-google-regulator-idUSKBN1X804X>

<sup>12</sup> ACCC (2020), *Correction: ACCC alleges Google misled consumers about expanded use of personal data*, <https://www.accc.gov.au/media-release/correction-accc-alleges-google-misled-consumers-about-expanded-use-of-personal-data>

<sup>13</sup> Stempel (2020), *Google faces \$5 billion lawsuit in U.S. for tracking 'private' internet use*, <https://www.reuters.com/article/us-alphabet-google-privacy-lawsuit-idUSKBN23933H>



## GIVING USERS CONTROL OF THEIR PERSONAL INFORMATION (DATA PORTABILITY)

The ACCC proposes increasing the ability for users to take control of their personal information by allowing them to request their data from platforms. They have referred to this as data portability, which can also reduce barriers to entry and expansion and promote competition in the ad tech chain. Data portability is defined as:

Tools that increase data mobility at the consumer's request, such as requiring firms with a significant data advantage to provide consumers with an easy interface in which to move or share their data from that firm to a third party at a consumer's request.<sup>14</sup>

We welcome this proposal and ask the ACCC to note some important considerations:

Both Google and Facebook currently offer data portability options for consumers. However the 'data' included in these capabilities can be superficial with a focus on content and volunteered, known behaviours (e.g. websites visited, photographs uploaded, comments shared).

Data portability measures need to ensure that all data including technical back-end data used to create individual profiling and targeting are captured as part of this exercise. This may include the accumulated logic algorithms have attached to specific users and network information that allows them to be contextualised with different data groups (e.g. which target groups consumers are part of vs. individual data categories). Consumer data available to advertisers, and to Google directly should be also be made available to port and delete on request by consumers. Essentially the accumulated machine learning which forms the logic behind targeting individuals should also be available.

We also recommend the ability for consumers to ask for a "clean slate", a request for online platforms to delete all collected information on request. Most consumers would have a difficult time, or at a minimum find it overly laborious to navigate the process of downloading their accumulated information from one vendor and uploading to another, so an option of a "clean slate" should be provided. There is already a working precedent for this in Europe's General Data Protection Regulation's 'right to erasure' or 'right to be forgotten' clause.<sup>15</sup>

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<sup>14</sup> ACCC (2020), *Digital Advertising Services Inquiry interim report*, pg. 80

<sup>15</sup> European Union (2018), *General Data Protection Regulation Art. 17 Right to erasure ('right to be forgotten')*, <https://gdpr.eu/article-17-right-to-be-forgotten/>

## PROCESSING INFORMATION BETWEEN TECHNOLOGY PROVIDERS (DATA INTEROPERABILITY)

The ACCC proposed initiatives around data interoperability<sup>16</sup> which focuses on firm level or advertiser level ‘portability’ without consumer access, in contrast to the consumer level access or portability. This includes aggregated and usually anonymised data at scale.

We support this proposal from the ACCC and recommend some important additions:

Data processing at scale is one of the core concerns around surveillance capitalism and individual data rights. The ability to process consumer data at scale, whether through a monopoly service like Google or between smaller ad tech providers has too often been led by companies without input from consumers.

The current proposals in the interim report focus on advertiser/vendor level initiatives and sees the consumer as a passive actor who needs ‘protection’. Aside from the first proposal of data portability, the subsequent proposals around interoperability, and implementation of common and user tracking IDs assume that individual consumers will be willing participants in the ongoing trade of their data.

This assumption needs to be challenged as consumer awareness of the value of their data grows and extractive business models come to light.

We recommend that the ACCC investigate a consumer representative who can act on behalf of consumers and can navigate the specific data proposals being explored.

This could be a statutory authority focused on digital data rights within the ACCC, ensuring consumers are able to input into large data trading exercises between technology providers.

This could also be some form of data trust, or even commercial data brokers which represent consumers. To date, consumer data has been mined for free with the default expectation that consumers benefit sufficiently by using the free services from which their data is harvested, and/or they see value in the resulting advertisement they are recommended.

In the surveillance economy consumers now understand that their data and attention are valuable commodities. Not only do they need better rights and protections from companies which profit from their data, they should also generate commensurate value from their own data, commercial or otherwise. This is a new idea we believe is worth exploring further.

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<sup>16</sup> ACCC (2020), *Digital Advertising Services Inquiry interim report*, pg. 80

## LIMITATIONS ON DATA SHARING (DATA SEPARATION)

The ACCC is considering data separation mechanisms<sup>17</sup> to ensure large digital platforms like Google do not use their dominance to stifle competition by sharing large data sets within its own product ecosystem.

We support this proposal and ask the ACCC to consider having a focus on digital platform acquisitions, both new and old.

As noted, Google's entire model of surveillance hinges on the ability to harvest large swathes of data. Its various acquisitions over the years is designed to feed this data harvesting exercise.

Google has a notorious track record in abusing data conditions through acquisitions.

Its acquisition of the DoubleClick ad server, which helped to entrench its dominance in the ad tech space is a prime example of this. During the first years of its acquisition Google vowed that they would not use data from DoubleClick to incorporate into its own data processing products. Then CEO Sergey Brin said, of the acquisition, that

(Privacy) is the number one priority when (we) contemplate new kinds of advertising products<sup>18</sup>

Years later Google quietly erased its policy of not sharing data between DoubleClick and other Google services<sup>19</sup>, thereby incorporating all data harvested by DoubleClick into its main advertising intelligence engine, and further entrenching the dominance of its first party data for billions of users.

During an antitrust hearing in a Congressional subcommittee, a representative expressed this questionable tactic:

I am concerned that Google's bait and switch with DoubleClick is part of a broader pattern where Google buys up companies for the purposes of surveilling (people)...and because of Google's dominance users have no choice but to surrender.<sup>20</sup>

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<sup>17</sup> ACCC (2020), *Digital Advertising Services Inquiry interim report*, pg. 81

<sup>18</sup> Angwin (2016), *Google has quietly dropped ban on personally identifiable web tracking*, <https://www.propublica.org/article/google-has-quietly-dropped-ban-on-personally-identifiable-web-tracking>

<sup>19</sup> Ibid.

<sup>20</sup> Ip (2020), *Google is still answering for its DoubleClick data merger*, <https://www.engadget.com/google-antitrust-hearing-doubleclick-200745163.html>

The ACCC filed a lawsuit in July 2020 against Google for breaching the original promise of not sharing data between DoubleClick and the wider Google network which is ongoing.<sup>21</sup>

YouTube was another major acquisition which has helped to entrench Google's dominant data position. A dedicated sub-section for YouTube will follow.

Google's \$2.1 billion acquisition of Fitbit will no doubt follow a similar pattern.

We therefore recommend that the ACCC create data separation conditions for all major acquisitions of large digital platforms like Google which has contributed to its dominant advertising position over time, and to enforce data separation mechanisms for any new acquisitions likely to follow this pattern.

Furthermore, data separation should be extended between major platform consumer services like Gmail, Google Maps, Google Docs, and Google Drive. Consumers are often not aware that using one Google service means that their information can be freely shared with another Google service. This is a breach of consumer trust and should be halted.

## Streamlining with the Privacy Act review

On December 2019 the Australian Attorney-General announced a review of the Privacy Act 1988.<sup>22</sup> Core elements of the review acknowledge the need to update the legislation to account for the vast changes the digital landscape has brought upon consumer data privacy and protection.

There are several elements which cross-over with considerations for data management, governance and consumer rights in the Privacy Act as with the Digital Advertising Services Inquiry.

Industry leaders call for close coordination between the two regulatory initiatives to ease the burden of any resulting regulatory frameworks. Consumers and individuals would also benefit from closer coordination of any interrelated frameworks between the two initiatives.

We recommend that specific attention is placed on the elements that cross-over between the Privacy Act review and the Digital Advertising Services Inquiry, and a thorough examination of how they inter-relate is conducted to ensure as effective a framework as possible.

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<sup>21</sup> ACCC (2020), Correction: *ACCC alleges Google misled consumers about expanded use of personal data*, <https://www.accc.gov.au/media-release/correction-accc-alleges-google-misled-consumers-about-expanded-use-of-personal-data>

<sup>22</sup> Australian Government Attorney-General's Department (2020), *Review of the Privacy Act 1988*, <https://www.ag.gov.au/integrity/consultations/review-privacy-act-1988>

## YouTube - an elephant hiding in plain sight

YouTube is a significant part of the Google ecosystem. It is a colossal online platform in its own right. In Australia YouTube commands approximately 16 million unique views per month, just shy of Facebook's 16.5 million.<sup>23</sup> It is therefore the second most popular social network in Australia. It is also the second largest search engine in the world, a fact most people do not realise because it is not classified as a traditional search engine.<sup>24</sup> YouTube helps to secure Google's dominance across video, social, search, and across ad tech.

However YouTube has often escaped regulatory scrutiny.<sup>25</sup> During government hearings and inquiries YouTube is often anonymised and categorised under the general 'Google' umbrella.

There are specific issues with YouTube called out by the ACCC interim report:

YouTube has been accused of being anti-competitive by restricting selling of its advertising inventory exclusively through the Google advertising network.<sup>26</sup> This has made Google a 'must have' for many advertisers. The interim report notes that several stakeholders validated that restricting access to YouTube inventory to the Google network has made it essential.<sup>27</sup> Advertising executives who we interviewed as part of this response confirmed that YouTube is an integral part of the digital advertising ecosystem, commanding outsized demand from advertisers.

Advertisers cannot independently verify measurement and performance from advertisements displayed on YouTube as third-party tracking is disabled.<sup>28</sup> This contributes to the overall opacity of the ad tech services which is a core focus of this report. Not allowing independent third-party verification is against the overall intention for a more transparent and accountable marketplace.

There are also concerns about brand safety and verification on YouTube.<sup>29</sup> YouTube has long had issues with brand safety and suitability. Many brands have had their advertising, for which they paid significant amounts, displayed next to inappropriate videos that contain

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<sup>23</sup> Social Media News (2020), *Social Media Statistics Australia – December 2020*, <https://www.socialmedianews.com.au/social-media-statistics-australia-december-2020/>

<sup>24</sup> Davies (2018), *Meet the 7 most popular search engines in the world*, <https://www.searchenginejournal.com/seo-101/meet-search-engines/#close>

<sup>25</sup> Douek (2020), *Why isn't Susan Wojcicki getting grilled by Congress?*, <https://www.wired.com/story/why-isnt-susan-wojcicki-getting-grilled-by-congress/>

<sup>26</sup> ACCC (2020), *Digital Advertising Services Inquiry interim report*, pg. 15

<sup>27</sup> ACCC (2020), *Digital Advertising Services Inquiry interim report*, pg. 125-126

<sup>28</sup> ACCC (2020), *Digital Advertising Services Inquiry interim report*, pg. 22

<sup>29</sup> ACCC (2020), *Digital Advertising Services Inquiry interim report*, pg. 174-176

racist and terrorist-related content.<sup>30</sup> YouTube was also revealed to be serving advertisements against videos featuring child abuse and other disturbing scenarios.<sup>31</sup> Even the UK marketing director for Google Ads has admitted that YouTube will never be able to guarantee “100% safety” for brands.<sup>32</sup> The Christchurch shooter in New Zealand has openly admitted to being radicalised by watching videos on YouTube.<sup>33</sup> The recent Capitol Hill mob violence that broke out in the U.S. showed YouTube videos of rioters and perpetrators getting advertiser revenue for their videos, effectively getting paid for promoting videos of the violence they caused.<sup>34</sup>

YouTube’s consistent problem with brand safety and disinformation has plagued the service for many years. While it has increased efforts around brand safety verification with advertiser tools<sup>35</sup>, and has acted on harmful disinformation around conspiracy theorists<sup>36</sup> and the pandemic<sup>37</sup>, these efforts often happen well and truly after the damage and reach of harmful content has passed.

YouTube also contributes to the overall problematic data harvesting which powers Google’s business model. In 2019 YouTube was fined \$150 million by the US Federal Trade Commission for violating the Children’s Online Privacy Protection Act, after it was found to be deliberately targeting children and harvesting their data usage.<sup>38</sup>

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<sup>30</sup> Joseph (2020), *The latest YouTube brand safety ‘crisis’ shows advertisers are taking a more nuanced approach*, <https://digiday.com/media/latest-youtube-brand-safety-crisis-shows-advertisers-taking-nuanced-approach/>

<sup>31</sup> Lepitak (2017), *Google responds to brand safety reports it benefited from child abuse on YouTube*, <https://www.thedrum.com/news/2017/11/18/google-responds-brand-safety-reports-it-benefited-child-abuse-youtube>

<sup>32</sup> Watson (2019), *Google says YouTube might never be 100% brand-safe*, <https://www.thedrum.com/news/2019/03/05/google-says-youtube-might-never-be-100-brand-safe>

<sup>33</sup> Greenspan (2020), *The Christchurch shooter was radicalized on YouTube and gave money to white-supremacist groups, report says*, <https://www.businessinsider.com.au/christchurch-new-zealand-shooter-radicalized-on-youtube-white-supremacy-report-2020-12>

<sup>34</sup> Beer (2021), *The attempted coup at the Capitol needs to be brands’ wake-up call about funding online disinformation*, <https://www.fastcompany.com/90592199/the-capitol-coup-needs-to-be-brands-wake-up-call-about-funding-online-disinformation>

<sup>35</sup> Joseph (2020), *YouTube’s latest brand suitability targeting updates could cost content creators*, <https://digiday.com/media/youtubes-latest-brand-suitability-targeting-updates-could-cost-content-creators/>

<sup>36</sup> Zadrozny, Collins (2020), *YouTube bans QAnon, other conspiracy content that targets individuals*, <https://www.nbcnews.com/tech/tech-news/youtube-bans-qanon-other-conspiracy-content-targets-individuals-n1243525>

<sup>37</sup> Neiva (2021), *YouTube says it’s removed 500,000 COVID-19 misinformation videos*, <https://www.cnet.com/news/youtube-says-its-removed-500000-covid-19-misinformation-videos/>

<sup>38</sup> Associated Press (2019), *YouTube fined \$170m for collecting children’s personal data*, <https://www.theguardian.com/technology/2019/sep/04/youtube-kids-fine-personal-data-collection-children->

For the first time in February 2020, Google revealed that YouTube generated \$15 billion in advertising revenue, and contributes roughly 10 percent of Google's earnings.<sup>39</sup>

YouTube is therefore a significant pillar in Google's advertising ecosystem. With its issues surrounding anti-competitive practices, lack of transparency and independent oversight, its persistent problems with harmful content and brand safety, and issues with data harvesting abuses, YouTube deserves specific regulatory scrutiny.

We support the ACCC's specific initiatives in investigating more controls and governance over YouTube practices, such as independent verification and addressing network exclusivity. We also encourage much more regulatory scrutiny specifically looking at YouTube as a standalone platform in future.

## Facebook - the ultimate digital 'walled garden'

Facebook has not been given focus on the interim report because the ACCC notes that Facebook advertising is not sold through the 'open exchange' ad tech system the way Google's advertisements are.

Facebook sells its advertising through its own proprietary system which is closed to other advertisers. Along with its main platform, this makes Facebook a 'walled garden' – which is a closed online platform ecosystem where only Facebook is able to benefit from the data it's collected from individuals, advertisers and other companies.<sup>40</sup> Facebook earned approximately \$674 million in digital advertising in Australia<sup>41</sup>, and their ad tech system is entirely opaque.

We believe it is worth paying closer scrutiny into the Facebook 'walled garden' as it is with the Google open ad exchange system.

Within the overall context of requiring better and more transparency with ad tech infrastructure, the 'walled garden' nature of Facebook's advertising ecosystem is itself cause for concern. Without the ability to track performance, measurement, pricing and operations independently, the integrity of Facebook's advertising systems cannot be confirmed. Given its dominant position within the digital display advertising industry, this should be scrutinised further.

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<sup>39</sup> Alexander (2020), *Creators finally know how much money YouTube makes, and they want more of it*, <https://www.theverge.com/2020/2/4/21121370/youtube-advertising-revenue-creators-demonetization-earnings-google>

<sup>40</sup> ACCC (2020), *Digital Advertising Services Inquiry interim report*, pg. 59

<sup>41</sup> Samios (2020), *Facebook's Australian revenue soars 16pc to \$674m*, <https://www.smh.com.au/business/companies/facebook-s-australian-revenue-soars-16pc-to-674m-20200531-p54y6m.html>

The opacity of the ad tech system which is a core focus of the report should extend to Facebook's own proprietary ad systems.

Industry leaders expressed desire for transparency across the entire ad tech system, so that there is an equitable level of scrutiny across all dominant players – namely Google *as well as* Facebook. Given the outsized influence of both platforms, it would benefit the industry to ensure that the same level of governance and regulation applies to both dominant players.

Facebook has concerning issues with its advertising system. As part of an ongoing lawsuit by the US District Court for California, documents reveal that Facebook knew for years about inflated and misleading metrics that it used for its advertising services. Advertisers were charged billions on the basis of this flawed data, but Facebook chose to ignore the issue.<sup>42</sup>

Facebook also shares the same data harvesting issues which Google is being scrutinised for. The most famous incident being the Cambridge Analytica data breach, which saw millions of Facebook users illegally profiled for political propaganda advertising, generating lawsuits in Australia<sup>43</sup> and the UK.<sup>44</sup> This data breach continues to generate fresh lawsuits into 2021.<sup>45</sup>

Facebook also takes the same data harvesting approach as Google does with its largest acquisitions, namely Instagram and WhatsApp. Early in the acquisition Facebook maintained that the data infrastructure of both products would not be integrated into the broader Facebook ecosystem, only to do exactly that years later.<sup>46</sup> WhatsApp caused particular outrage, as the hardline data harvesting tactics were enabled in early 2021, forcing an inordinate amount of data tracking on WhatsApp users not previously allowed.<sup>47</sup>

Facebook therefore exhibits the same problematic issues around its advertising model and ad tech as Google does, including the opacity of its ad network, the ongoing abuses of data harvesting, and the wholesale integration of data from its acquisitions.

We recommend that the ACCC inquiry include Facebook in future ad tech developments.

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<sup>42</sup> Iyengar (2021), *Facebook knew a key ad metric was 'inflated and misleading' for years, lawsuit alleges*, <https://edition.cnn.com/2021/02/18/tech/facebook-ad-reach-lawsuit/index.html>

<sup>43</sup> Taylor (2020), *Facebook sued by Australian information watchdog over Cambridge Analytica-linked data breach*, <https://www.theguardian.com/technology/2020/mar/09/facebook-cambridge-analytica-sued-australian-information-watchdog-300000-privacy-breaches>

<sup>44</sup> Criddle (2020), *Facebook sued over Cambridge Analytica data scandal*, <https://www.bbc.com/news/technology-54722362>

<sup>45</sup> Ridley (2021), *Facebook faces new UK class action after data harvesting scandal*, <https://www.reuters.com/article/uk-britain-facebook-lawsuit-idUSKBN2A92EF>

<sup>46</sup> Isaac (2019), *Zuckerberg plan to integrate WhatsApp, Instagram and Facebook Messenger*, <https://www.nytimes.com/2019/01/25/technology/facebook-instagram-whatsapp-messenger.html>

<sup>47</sup> Smith (2021), *Facebook practically forces WhatsApp users to share data with Facebook*, <https://bgr.com/2021/01/07/whatsapp-privacy-policy-change-data-sharing-facebook/>



# Recommendations

The Centre for Responsible Technology is thankful for the opportunity to respond to the ACCC Digital Advertising Services Inquiry. We make three key recommendations as a priority and three others for further consideration:

For priority:

1. Extend data portability measures by adding 'clean slate' provisions allowing consumers the ability to request to have their personal information deleted. Also ensuring data portability measures include technical back-end data used as part of consumer profiling; and not just restricted to visible front-end content and volunteered user generated information.
2. Investigate and develop a consumer representative body or group which can interact with commercial entities during data interoperability exercises and developments of common IDs for user tracking, making sure consumers have a representative who can ensure their rights are being enforced and place value on their data during commercial/vendor level data processing exercises.
3. Immediately enforce limitations on data sharing between products within large digital platforms, or data separation mechanisms which look at data sharing during new acquisitions as well as previous significant acquisitions. (e.g. Google's DoubleClick, YouTube and Fitbit, Facebook's Instagram and WhatsApp). Also enforce limitations for data sharing between existing Google products (like Gmail and Google Maps).

For further consideration:

4. Streamline related elements of the Privacy Act review with any elements of the Digital Advertising Services Inquiry to ensure an effective regulatory framework.
5. Include YouTube as a specific platform to investigate in addition to the specific issues highlighted in the interim report, as a recognition of its substantial contribution to Google's dominance in advertising and ad tech, and as a dominant advertising platform in its own right.
6. Include Facebook as a specific platform to investigate, recognising that it's 'walled garden' ecosystem is itself a competition and market issue for the digital advertising and ad tech industry, and in recognition that it shares the same problematic data harvesting practices for digital advertising that Google does.

# Conclusion

Digital advertising is essentially the business model which powers the dominance of Big Tech companies like Google, YouTube and Facebook.

As part of the ACCC Inquiry, there are some welcome and much needed initiatives being investigated to ensure consumer rights are protected in the digital advertising industry, and the dominance and anti-competitive practices of incumbent Big Tech companies are curbed.

We support the overall proposals on data management and recommend several considerations which will strengthen the veracity and effectiveness of the Inquiry. We also call on the ACCC to ensure that other large players, like YouTube and Facebook are included as part of future developments of the Inquiry.