



ACCC - Ad tech Inquiry: Issues Paper

Response from Verizon Media Australia

April 2020

1. Introduction

- 1.1. Verizon Media is pleased to provide these initial comments in response to the issues paper. We support competition authorities deepening their understanding of the digital advertising market, to fully understand the competitive dynamics and broader context - regulatory, contractual, and otherwise - within which competition takes place.
- 1.2. The inquiry impacts our business at all levels. Verizon Media is active in the advertising market as an advertiser, media owner and advertising intermediary.

2. About Verizon Media

- 2.1. Verizon Media is a global house of digital media and technology brands. Verizon Media's brands include Yahoo, AOL, Ryot, HuffPost, TechCrunch and BUILD. Through our own operations, and in partnership with others, Verizon Media helps drive diversity and choice in consumer services and brand advertising.
- 2.2. Verizon Media is a business division of Verizon Communications Inc. Verizon Media operates in Australia as Verizon Media Australia Pty Ltd.

3. General comments

- 3.1. The digital advertising market provides benefits to both businesses and consumers. Revenue generated by digital advertising funds content creation and is critical for fueling investment in platforms, content creation and journalism. Competition in the ad intermediation market provides publishers the ability to partner with multiple platforms and to maximise the value of their inventory. In turn, this promotes plurality by providing a sustainable revenue stream for digital media. Consumers, in turn, reap the benefits of more diverse media.
- 3.2. We welcome the ACCC's commitment to detailed evidence-gathering and analysis. Given the complexity of the market and the scope of potential outcomes, this commitment to spend the time needed to appreciate not just the technology but the context of the technology, market dynamics, business incentives, and overarching interconnected regulatory landscape is well-considered. We also appreciate the ACCC's open-minded approach and forbearance from advancing hypotheses and potential remedies at this early stage of the process.

- 3.3. Governments and competition authorities around the world face pressure to more actively regulate the digital advertising market. Advocates are pushing for specific remedies, many involving deep market interventions or prescriptive regulation applicable to the whole market, far beyond the entities raising competitive concerns. Such interventions can act against competition by placing disproportionate burdens on competing firms or diverting resources from innovation. Thus the wider context for these firms matters as much as the specific facts in these fast-moving, complexly interconnected digital markets.
- 3.4. The UK's Competition and Market Authority (CMA), for example, has observed poor competition outcomes arising from some digital regulation and policy. They concluded that the design and implementation of regulation in some cases risks creating competition concerns by entrenching advantages of large, vertically-integrated platforms over smaller competitors. These comments were made with respect to the impact of GDPR on competition in the digital advertising market. Yet this is not an isolated example: it reflects a deeply embedded culture in digital policy-making. The inquiry must be tailored to regulators' areas of concern, and carefully targeted to avoid unintentionally hampering competition from challenger brands. The inquiry can then be specific about the issues it seeks to remedy and focus on addressing issues *at source* and creating positive incentives and behaviour in the market.
- 3.5. We focus our comments in this response on the perspective of challenger brands, specifically the competitive landscape they face in order to provide early guidance to the inquiry and adjacent issues that provide context to avoid unintended competition casualties.
- 3.6. Finally, this inquiry is taking place at a challenging time for the advertising market. Advertising spend is one of the early casualties of any economic downturn, and the Covid-19 pandemic is therefore an important context. We expect long term change in the advertising sector as a result, particularly to its strength and composition. Business models are adapting in response and some may change forever. Evidence submitted to this inquiry may quickly go out-of-date. The ACCC should assess the freshness and relevance of evidence gathered once the current situation comes to an end and consider the new context before deliberating next steps.

4. Information and pricing transparency

- 4.1. Transparency is an important feature of a well-functioning market. Usable information flowing through the advertising ecosystem can inform and drive buying decisions and efficiencies in the system, as well as promote competition for the provision of solutions which address advertisers' demands for a healthy and brand safe ecosystem.
- 4.2. Digital advertising supply chain is complex and a great deal relies on buyers developing a sophisticated understanding of the supply chain to inform decisions about the choice of business partners, distribution of spend and contracting terms.

We therefore welcome the precision of the ACCC's questions to hone in on what type and degree of transparency is necessary - and for whom - in order to inform buying decisions and to promote effective competition.

- 4.3. The inquiry should take care to identify the different reasons behind calls for greater transparency and how they differ between publishers and advertisers, as well as where there are conflicting interests.
- 4.4. There are some important factors to consider from the perspective of competing ad intermediaries distinct from issues relating to the conduct of firms with strategic market status.
- 4.5. Competing ad intermediaries typically contract with agencies and these existing commercial arrangements provide the most efficient route to ensure that fees and other information are passed through the ecosystem to advertisers and publishers and would solve shortcomings *at source*. The inquiry should focus on ways to create the right incentives and behaviour in the market, and drive more effective transparency (and accountability) within the ordinary course of commercial contracting.
- 4.6. We would urge caution in focusing purely on fee transparency (to the exclusion of other elements of ad tech services provided) without examining how this may benefit players with significant market status.
- 4.7. Independent verification is gaining importance in the market. For example, buyers increasingly want independent verification of ad fraud or conversion tracking. Competing firms have historically been at the forefront of developing and adopting these solutions and championing industry schemes - for example, through TAG and IAB - often in response to advertiser demand and many ad intermediaries have invested in solutions ahead of the market. Verizon Media, for example, provides its proprietary services free of charge to clients as a way to differentiate ourselves in the market.
- 4.8. In addition, there are pilots underway of blockchain and other technologies which aim to enhance transparency within the ecosystem. Verizon Media and others are beginning to test these technologies in some markets and will evaluate the results to identify the outcomes they deliver relative to the engineering costs involved. Such market-led initiatives seek to enhance transparency between parties without the need for forced disclosures.

5. Auction and bidding process

- 5.1. Verizon Media supports an open and fair auction where each intermediary player has an equal chance of winning. We do not self-preference.
- 5.2. Buyers are increasingly asking for transparency about fees, and competing ad intermediaries are incentivised to respond as a means of differentiating themselves in the market. For example, Verizon Media offers transparency in a number of ways, including our Omniscope tool and bid shading algorithm. These solutions are driven

by the shift among publishers to first-price auctions, with the purpose of ensuring a fair and transparent marketplace. They provide buyers with more transparency of the supply path to show where they can buy each impression for the best price and ensure that buyers are protected from overpaying when running on first-price supply.

- 5.3. More generally, there has been a significant shift towards transparency via industry initiatives led by IAB Tech Lab such as ads.txt declaration, which increases transparency in the advertising ecosystem.¹ Verizon Media supports industry initiatives over rights to sell inventory, such as publisher sellers.json and supplychain.object. Verizon Media Exchange declares the type of auction in its bid requests via an RTB flag (first price or second price).
- 5.4. These initiatives require significant investment by ad intermediaries. The ultimate goal is to have these standards routinely requested by buyers in RFPs and be widely adopted as a baseline and prerequisite for ad procurement. This behaviour will establish consistently high standards for buyers and encourage investment and innovation in new ad tech solutions to the benefit of both advertisers and publishers.

6. Mergers and acquisitions

- 6.1. The issues paper notes that vertical integration can raise competition and efficiency concerns, such as where it provides companies with the ability or incentive to impact other market participants' competitiveness or to take advantage of information asymmetries. Specific concerns have been raised about firms with strategic market status. Competing firms, or challenger brands, are situated quite differently. The number of competing firms which operate both demand-side and supply-side platforms is small and these firms are sub-scale globally. Competing firms are structured this way in order to compete effectively with market leaders. The efficiencies gained from vertical integration are what enables any competition in this market.
- 6.2. Advocacy to remove these efficiencies for competing firms risks resulting in market exits by making these firms even more sub-scale and unable to compete.

7. Related context

- 7.1. Changes to browser defaults and the treatment of third party cookies are important context for the competitive dynamics in this space. Browsers have introduced more consumer controls relating to the use of data and, in some instances, have made it difficult for consumers to share data where they so choose. This has the effect of disabling industry standard methods.
- 7.2. Changes to browsers' neutral posture impacts both competition in the ad intermediary market and the ability of digital content and services providers (particularly those without logged-in users) to generate revenues to fund their content production. Where possible, ad intermediaries can adapt to browser

¹ See <https://iabtechlab.com/ads-txt/>.

defaults set by firms who control access to this facility but this carries significant costs and imposes challenges to competing on the merits.

- 7.3. In addition, some browsers are not looking to change defaults applied to third party cookies but are exploring a migration away from cookies altogether towards other approaches to provide user control and transparency.² These efforts are in the early stages but primarily focused at present on greater user control and transparency and preserving publisher revenues. The impact on third party ad intermediaries which compete with market leaders has yet to be determined. For example, the shift away from cookies could require competing ad intermediaries (who do not also operate a browser) to adopt different identifiers to continue operating and an identifier acceptable to the browsers.
- 7.4. The ultimate solution may not be known until close to the scheduled date that cookies will be retired (around Summer 2021). Publishers and the competing ad ecosystem expect to bear much of the cost and engineering effort which this change will entail and it is unclear they will have sufficient time to do so. Some competing ad intermediaries may therefore struggle to adapt - which will impact the competitive landscape.
- 7.5. The pending changes to Australia's data protection law are also important context. As noted above, other competition authorities have noted how well-intentioned improvements to the legal protection of personal data in the EU have had unintended impacts on the competitive landscape in digital advertising. The design and implementation of GDPR has resulted in inconsistency between different business models because of the narrow legal bases permitted for personalisation and targeting of advertising and content, and the designation of tracking and analytics cookies as non-essential (thus requiring user consent).
- 7.6. There are a range of other impacts, including:
 - 7.6.1. The requirement to obtain user consent for personalisation and targeting has required significant investment in a transparency and consent framework to manage the flow of valid user consent between publishers and their ad intermediary partners. This is an EU-wide scheme developed by IAB Europe³ and has required non-trivial investments by competing ad intermediaries and publishers in engineering, business process and contractual arrangements in order for this ecosystem to continue operating under the new law. There is still no formal endorsement of this scheme by data protection authorities.
 - 7.6.2. The absence of a legal duty on data protection authorities to preserve competition in digital markets has led to calls for competition and data protection authorities to work together to address legitimate data protection concerns while preserving effective competition and sustaining

² See, for example, <https://www.blog.google/products/chrome/building-a-more-private-web/>

³ See <https://iabeurope.eu/transparency-consent-framework/>

competing ecosystems, and to ensure consistency between competing business models.

7.6.3. How data protection authorities respond to the consecutive waves of claims from privacy advocates also has impact. Ad intermediaries have insufficient certainty to satisfactorily inform their forward business decisions and commercial partnerships, and this bears most heavily on competing firms who have to divert engineering and other resources from venture investment in order to respond to fresh legal guidance or binding regulatory decisions.

7.7. The experience in Europe, even if not directly at issue, shows that the design and interpretation of data protection law can have uneven impacts across complex ecosystems like digital advertising and re-shape the competitive landscape. There is an opportunity for this to inform the proposed Privacy Code of Practice to be developed by the OAIC and/or any revision of the Privacy Act.