



Digital Platform Services Inquiry – March 2025 – Final Report

Issues Paper

25 July 2024

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1. Background

The ACCC has been examining digital platforms since 2017 through its original Digital Platforms Inquiry (2017-19), Digital Advertising Services Inquiry (2020-21) and ongoing Digital Platform Services Inquiry (2020-25) (the **Inquiry**). Across these 3 inquiries, the ACCC is required to publish a total of 14 reports, concluding with this final report of the Inquiry. Thus far, the reports in these inquiries have made a total of 33 recommendations, spanning competition law, consumer and small business protection, media regulation and privacy law. These previous recommendations reflect the intersection of issues arising from the growth of digital platforms. A list of these previous recommendations can be found at section 5 of this Issues Paper.

In the fifth interim report of the Inquiry (provided to Government in September 2022), the ACCC recommended new competition and consumer protection measures to address various harms observed in the supply of digital platform services. On 8 December 2023, the Government provided in-principle support for all of these recommendations and noted it would undertake further work to implement them, including consulting on the development of a new ex-ante digital competition regime.¹

In November 2022, the unfair contract term laws were strengthened through the *Treasury Laws Amendment (More Competition, Better Prices) Act 2022* (Cth). In late 2023, Treasury ran a public consultation process on options to address unfair trading practices.² The ACCC welcomed these developments, noting they were included as recommendations in the original Digital Platforms Inquiry.

The Government has committed to introducing new mandatory industry codes to outline the responsibilities of the private sector and the role of government in relation to scam activity, initially covering banks, telecommunications providers and certain digital platform services. In late November 2023, Treasury released a consultation paper seeking feedback on proposed features of a Scams Code Framework and work is progressing towards its design.³ The Government is aiming to introduce the primary legislation that will underpin the Scams Code Framework later in 2024.⁴

The final report

Given the existing body of work undertaken by the ACCC to date and the Government's ongoing work to implement the ACCC's September 2022 recommendations, this tenth and final report (**final report**) of the Inquiry will focus on the following 3 key topics:

- recent overseas legislative and regulatory developments in markets for digital platform services and their impact on competition and consumers,
- major developments and key trends in certain markets for digital platform services (for example, those explored in earlier reports of the Inquiry), and

¹ Australian Government, [Government's response to the ACCC Digital Platform Services Inquiry](#), 8 December 2023, accessed 18 July 2024.

² Treasury, [Unfair trading practices – Consultation Regulation Impact Statement](#), November 2023, accessed 18 July 2024.

³ Treasury, [Scams – Mandatory Industry Codes](#), January 2024, accessed 18 July 2024.

⁴ M Rowland and S Jones, [Albanese Government continues crackdown on scammers](#) [media release], Australian Government, 21 May 2024, accessed 18 July 2024.

- potential and emerging competition and consumer issues which relate to digital platform services.

The ACCC considers a focus on these 3 topics will effectively conclude this 5-year Inquiry. Consideration of recent overseas legislative and regulatory developments will support the current process of regulatory reform in Australia, highlighting how Australia can seek to leverage the experience and impact of changes in other jurisdictions. Examining major developments and key trends in certain markets for digital platform services will allow the ACCC to update its understanding of these markets in light of recent developments. Finally, considering potential and emerging competition and consumer issues on a preliminary basis may inform the ACCC's advice to government about the potential need for further consideration and monitoring of issues in future.

The purpose of this Issues Paper is to invite written submissions from interested parties to assist the ACCC in understanding the 3 key topics identified above.

Written submissions should be emailed to digitalmonitoring@accc.gov.au by **COB 23 August 2024**. In general, submissions will be published on the ACCC website. For more information about making a submission, including the treatment of confidential information, see page 16.

The ACCC is required to submit its final report to the Assistant Treasurer by 31 March 2025.

2. Focus of the final report

Topic 1: International regulatory developments

The final report will explore recent international regulatory developments with respect to markets for digital platform services, and their impact on competition and consumers. This is important given the ACCC's previous recommendations for new competition and consumer protection measures, and the Government's commitment to consult on the development of a new ex-ante digital competition regime. Understanding similar international developments is essential to balance international regulatory cohesion, while ensuring domestic measures are fit for Australia's needs.

Summary of key international developments

Below are some examples of recent international developments. The final report may provide further detail on these and developments in other jurisdictions, including developments occurring between now and early 2025 and their impact on competition and consumers.

The ACCC notes some key themes have emerged globally from efforts to regulate digital markets. These include:

- from a competition perspective: addressing anti-competitive self-preferencing, tying and bundling practices, addressing barriers to switching, and promoting access to third-party applications on a platform or service (where applicable),⁵ and
- from a consumer protection perspective: addressing the use of consumer data (including practices such as combining personal data), promoting data portability, addressing business practices such as unfair trading and providing reporting and compliance mechanisms.⁶

European Union

The Digital Markets Act (**DMA**) became applicable on 2 May 2023 and imposes competition obligations on designated ‘gatekeeper’ platforms. The DMA aims to complement the (ex-post) enforcement of existing competition laws by setting clear rules to make sure these platforms do not abuse their position.⁷

A key pathway for designation is where a platform meets quantitative criteria, including an annual turnover within the European Union (**EU**) of at least €7.5 billion in the past 3 financial years or an average market capitalisation of at least €75 billion in the last financial year.⁸ The platform must also operate a core platform service which serves as an important gateway for business users to reach end users, with more than 45 million monthly active users in the last financial year and at least 10,000 yearly active business users established in the EU.⁹ A platform can be designated by the European Commission (**EC**) as a gatekeeper in respect of several core platform services, depending on the breadth of products or services it offers.¹⁰ As of 18 June 2024, a total of 24 core platform services provided by 7 gatekeepers have been designated, covering services such as social networks, online messaging, video sharing, search, browsers, digital advertising, operating systems and online intermediation services.¹¹

The Digital Services Act (**DSA**) entered into force on 16 November 2022 and imposes a variety of obligations on online intermediary services, including consumer protection obligations, which aim to address illegal and harmful practices online.¹² The most stringent obligations apply to designated ‘very large online platforms’ (**VLOPs**) and ‘very large online search engines’ (**VLOSEs**) with over 45 million users in the EU. As of 18 June 2024, the EC has designated 25 VLOPs and 2 VLOSEs.¹³

On 27 November 2019, the EC amended its existing directive on unfair commercial practices to include an explicit prohibition on businesses operating within the EU from submitting

⁵ European Commission, [The Digital Markets Act: ensuring fair and open digital markets](#), accessed 18 July 2024; UK Digital Competition Expert Panel, [Unlocking digital competition](#), March 2019; Competition and Markets Authority, [The CMA’s approach to digital markets regulation](#), 11 January 2024, accessed 18 July 2024; C McConnell, [KFTC proposes DMA-style bill to regulate large platforms](#), *Global Competition Review*, 19 December 2023, accessed 18 July 2024.

⁶ European Commission, [Europe Fit for the Digital Age: new online rules for platforms](#), accessed 18 July 2024; [Digital Markets, Competition and Consumers Act 2024](#) (UK), Part 4, Chapters 1-2.

⁷ European Council, [Digital Markets Act](#), accessed 18 July 2024.

⁸ [Regulation 2022/1925 on contestable and fair markets in the digital sector and amending Directives \(EU\) 2019/1937 and \(EU\) 2020/1828 \(Digital Markets Act\) \(EU\)](#), Article 3(2)(a).

⁹ [Regulation 2022/1925 on contestable and fair markets in the digital sector and amending Directives \(EU\) 2019/1937 and \(EU\) 2020/1828 \(Digital Markets Act\) \(EU\)](#), Article 3(2)(b).

¹⁰ European Commission, [Questions and Answers: Digital Markets Act: Ensuring fair and open digital markets](#), 6 September 2023, accessed 18 July 2024.

¹¹ European Commission, [Digital Markets Act: Gatekeepers](#), accessed 18 July 2024.

¹² European Commission, [The Digital Services Act](#), accessed 18 July 2024.

¹³ European Commission, [Supervision of the designated very large online platforms and search engines under DSA](#), 12 July 2024, accessed 18 July 2024.

false or misleading online reviews or social media endorsements to promote products.¹⁴ The amended directive also prohibits businesses from stating that product reviews are submitted by consumers who have used or purchased products, without first taking reasonable steps to verify this.¹⁵

Germany

In January 2021, Germany amended the German Competition Act through the GWB Digitalisation Act.¹⁶ It introduced section 19a, which enables the Bundeskartellamt (**BKartA**), Germany's competition regulator, to prohibit platforms of 'paramount significance' from engaging in anti-competitive practices. 'Paramount significance' is determined with reference to:

- a company's dominant position in one or more markets,
- its financial strength or access to other resources,
- its vertical integration and activities in otherwise related markets,
- its access to data relevant for competition, and
- the relevance of its activities for third-party access to supply and sales markets and its related influence on the business activities of third parties.¹⁷

Once the BKartA has designated a platform as being of 'paramount significance', section 19a allows the BKartA to take preventative measures to prohibit the platform from taking actions which may threaten competition, such as self-preferencing or restricting access to data.¹⁸

In December 2021, the BKartA determined that Google is of paramount significance for competition across markets.¹⁹ Meta was designated in May 2022.²⁰ Amazon was similarly designated in July 2022, and this was upheld by the Federal Court of Justice in April 2024.²¹ Apple was designated in April 2023, however the decision is subject to an ongoing appeal. The BKartA is currently investigating Apple's tracking policy for third-party apps.²² It is also currently examining whether to designate Microsoft.²³

¹⁴ [Directive 2019/2161 of the European Parliament and of the Council of 27 November 2019: Amendments to Directive 2005/29/EC at Article 13 Annex I](#) (EU), Article 7(b).

¹⁵ [Directive 2019/2161 of the European Parliament and of the Council of 27 November 2019, Amendments to Directive 2005/29/EC at Article 13 Annex I](#) (EU), Article 7(b).

¹⁶ Bundeskartellamt, [Amendment of the German Act against Restraints of Competition](#), 19 January 2021, accessed 18 July 2024.

¹⁷ [Competition Act](#) (Germany), section 19a(1).

¹⁸ Bundeskartellamt, [Amendment of the German Act against Restraints of Competition](#), 19 January 2021, accessed 18 July 2024.

¹⁹ Bundeskartellamt, [Case Summary: Bundeskartellamt determines Google's paramount significance for competition across markets](#), 5 January 2022, accessed 18 July 2024.

²⁰ Bundeskartellamt, [Proceedings against large digital companies on the basis of Section 19a GWB](#), 2 July 2024, accessed 18 July 2024, p 2.

²¹ Bundeskartellamt, [Case summary: Paramount significance for competition across markets formally determined](#), 6 July 2022, accessed 18 July 2024.

²² Bundeskartellamt, [Proceedings against large digital companies on the basis of Section 19a GWB](#), 2 July 2024, accessed 18 July 2024, p 2.

²³ Bundeskartellamt, [Proceedings against large digital companies on the basis of Section 19a GWB](#), 2 July 2024, accessed 18 July 2024, p 1.

India

On 12 March 2024, India's Ministry of Corporate Affairs published a report of the Committee on Digital Competition Law examining the need for ex ante or upfront competition rules in India, which includes a draft Digital Competition Bill, for public consultation.²⁴ Consultations concluded on 15 May 2024.

Under the draft Digital Competition Bill,²⁵ entities which have been designated based on financial and user thresholds would be required to comply with broad service-agnostic obligations in respect of reporting and compliance, fair and transparent dealings, self-preferencing, data usage, restricting third-party applications, anti-steering and tying and bundling. The Competition Commission of India would be empowered to make regulations specifying mandatory separate conduct requirements for each 'core digital service' in relation to the broad obligations in primary law. Where a designated entity complies with the regulations for its designated service(s), it would be deemed to have complied with the primary law obligations.

Japan

In May 2020, the National Diet of Japan (the national Japanese legislature) enacted the Improving Transparency and Fairness of Digital Platforms Act (**ITFDP Act**) which places co-regulation obligations on designated digital platform businesses.²⁶ The ITFDP Act enables the Ministry of Economy, Trade and Industry (**METI**) to review platform operation and publish yearly assessment results. The METI Minister can request that the Japan Fair Trade Commission (**JFTC**) take appropriate measures under Japan's Antimonopoly Act if a digital platform provider is suspected to be involved in Antimonopoly Act violations.²⁷

The ITFDP Act designates digital platform providers whose transparency and fairness 'must be significantly improved'. Specified digital platform providers must disclose terms and conditions, develop procedures and systems to ensure fairness and submit reports and self-assessments.²⁸ Amazon, Apple, Google, LY Corporation (Yahoo! Shopping and Yahoo! Ads), Meta and Rakuten Group are all specified digital platform providers subject to regulation under the ITFDP Act.²⁹

²⁴ Ministry of Corporate Affairs (India), [Report of the Committee on Digital Competition Law](#), 27 February 2024; Ministry of Corporate Affairs (India), [MCA invites public comments on Report of Committee on Digital Competition Law and Draft Bill on Digital Competition Law](#), 12 March 2024, accessed 18 July 2024.. 'Ex-ante' upfront rules aim to prevent anti-competitive conduct from occurring, while traditional 'ex-post' competition frameworks intervene after anti-competitive conduct has occurred.

²⁵ Ministry of Corporate Affairs (India), [Report of the Committee on Digital Competition Law](#), 27 February 2024, Annexure 4.

²⁶ Typically, the Japan Fair Trade Commission (JFTC) conducts market studies, the Headquarters for Digital Markets Competition (HDMC) further considers digital issues from a whole-of-government perspective, and the Ministry of Economy, Trade and Industry (METI) uses this to inform legislation.

²⁷ Ministry of Economy, Trade and Industry (Japan), [Key Points of the Act on Improving Transparency and Fairness of Digital Platforms \(TFDPA\)](#), 16 April 2021, accessed 18 July 2024.

²⁸ Ministry of Economy, Trade and Industry (Japan), [Toward Sound Development of Markets Surrounding Digital Platforms](#), 2 February 2024, accessed 18 July 2024.

²⁹ Ministry of Economy, Trade and Industry (Japan), [Toward Sound Development of Markets Surrounding Digital Platforms](#), 2 February 2024, accessed 18 July 2024.

In June 2024, Japan passed new ex-ante legislation, the Act on Promotion of Competition for Specified Smartphone Software, targeting anti-competitive behaviour in smartphone software markets.³⁰ The new legislation is expected to take effect by December 2025 and will affect designated providers of mobile operating systems, app stores, internet browsers and search engines.³¹ The legislation imposes various prohibitions on designated providers to improve competition. For example, designated providers will be prohibited from preventing third parties from offering their own app stores, and preventing app developers from using third party billing systems or displaying information such as prices available outside the app. Designated companies will also be subject to proactive obligations, such as offering choice screens. New fines for non-compliance, set at 20% of domestic sales, exceed fines under the ITFDP Act.

South Korea

In December 2023, the South Korean government signalled a regulatory approach in favour of targeted ex-ante competition regulation for large digital platforms. At a 19 December cabinet meeting, President Yoon Suk Yeol pledged stricter corrective measures and enforcement for dominant platforms.³² The Korea Fair Trade Commission Chair Han Ki Jeong also introduced a draft Act on the Promotion of Platform Market Competition.

The draft Act would prevent designated platforms from unfair practices such as self-preferencing, tying, restricting multi-homing and restricting transfer of data.³³ The requirements placed on the designated platforms would be prohibitions, rather than positive obligations, and could be subject to a defence of efficiencies.³⁴ The designation thresholds for the draft legislation would be qualitative and quantitative.³⁵

Since then, the draft Act has not been pursued through parliament, and South Korea's major opposition party has presented its own draft bill to establish fair practices in digital platform markets.³⁶ The opposition's bill would designate platforms that have total sales exceeding KRW500 billion (around A\$545 million).

United Kingdom

On 24 May 2024, the UK Government passed the Digital Markets, Competition and Consumers Act (**DMCC Act**).³⁷ The new legislation provides the UK Competition and Markets Authority (**CMA**) with the authority to regulate designated digital platforms that have 'strategic market status' in respect of a digital activity. The introduction of the DMCC Act stems from a 2019 report by the Digital Competition Expert Panel which raised concerns relating to potential anti-competitive conduct where the concentration of market power is in

³⁰ T Sekiguchi, [Smartphone-system operators would be hit with 20 percent fines under Japan's proposed antitrust law](#), *Mlex*, 26 April 2024, accessed 18 July 2024; Japan Fair Trade Commission, [Regarding the passage of the Act on Promotion of Competition for Specified Smartphone Software](#), 12 June 2024, accessed 18 July 2024.

³¹ S Sakamaki, [Japan starts preparing rules and regime to implement smartphone competition legislation](#), *Mlex*, 19 June 2024, accessed 18 July 2024.

³² S Ji-hyoung, [Yoon pledges to break up e-commerce market monopoly](#), *The Korea Herald*, 19 December 2023, accessed 18 July 2024.

³³ C McConnell, [KFTC proposes DMA-style bill to regulate large platforms](#), *Global Competition Review*, 19 December 2023, accessed 18 July 2024.

³⁴ C McConnell, [KFTC proposes DMA-style bill to regulate large platforms](#), *Global Competition Review*, 19 December 2023, accessed 18 July 2024.

³⁵ B Byung-yeul, ['Online platform regulation needed to correct abuse of power by dominant players': KCC chief](#), *The Korea Times*, 5 February 2024, accessed 18 July 2024.

³⁶ J Lee, [South Korea's legislative term kicks off with platform regulation proposed by main opposition party](#), *Mlex*, 14 June 2024, accessed 18 July 2024.

³⁷ [Digital Markets, Competition and Consumers Act 2024](#) (UK).

a small number of technology firms across numerous digital markets, including self-preferencing, tying and bundling, data portability barriers, and switching concerns.³⁸

The CMA can designate a platform as having ‘strategic market status’ in respect of a digital activity where it has substantial and entrenched market power and a position of strategic significance in respect of the activity.³⁹ The digital platform must also meet a turnover threshold (either global turnover exceeding £25 billion, or UK turnover exceeding £1 billion, in the most recent period of 12 months (or an earlier 12-month period as specified in the DMCC Act).⁴⁰

Once a platform has been designated, the CMA can impose ‘conduct requirements’ specifying how the platform must conduct itself in relation to the relevant digital activity, and will also have powers to impose ‘pro-competition interventions’ to rectify an adverse effect on competition.⁴¹ The DMCC Act provides for a ‘countervailing benefits’ exemption where conduct that may otherwise breach a conduct requirement gives rise to user benefits that outweigh any harm caused.⁴²

The DMCC Act also limits behaviour that could negatively affect consumers, such as unfair trading, subscription traps, fake reviews and drip pricing.⁴³ The DMCC Act provides the CMA with broad information gathering powers to investigate potential breaches of the Act.

The ACCC invites interested parties to share their views on the impact that international regulatory developments, and other significant developments with respect to digital platform services, have had on competition and consumers.

The ACCC acknowledges that in most cases, legislation has only recently been enacted and the full impact of recent international regulatory developments cannot yet be observed. Noting this, parties are invited to provide their views on these developments more broadly, including views on *potential or anticipated* impacts on competition and consumers.

Topic 2: Major developments in digital platform markets

In the final report, the ACCC intends to provide updated information relating to some of its observations from certain earlier reports of the Inquiry, for example the September 2020 Report on Online Private Messaging and the March 2021 Report on App Marketplaces. A brief summary of these 2 previous reports is provided below.

³⁸ UK Digital Competition Expert Panel, [Unlocking digital competition: Report of the Digital Competition Expert Panel](#), March 2019; Competition and Markets Authority, Remarks by Sarah Cardell, CEO of the CMA, [The CMA's approach to digital markets regulation](#), 11 January 2024, accessed 18 July 2024.

³⁹ [Digital Markets, Competition and Consumers Act 2024](#) (UK), sections 2, 5-6.

⁴⁰ [Digital Markets, Competition and Consumers Act 2024](#) (UK), sections 2(3), 7.

⁴¹ [Digital Markets, Competition and Consumers Act 2024](#) (UK), Part 1, Chapters 3 and 4.

⁴² [Digital Markets, Competition and Consumers Act 2024](#) (UK), section 29.

⁴³ [Digital Markets, Competition and Consumers Act 2024](#) (UK), Part 4, Chapters 1-2. ‘Drip pricing’ is when a price is advertised at the beginning of an online purchase, but then extra fees and charges (such as booking and service fees) are gradually added during the purchase process. This can result in consumers paying more than they initially intended to. ACCC, [Misleading drip pricing practices](#), accessed 18 July 2024.

In updating some of its previous observations, the ACCC intends to focus on:

- examining changes to the offerings of key suppliers of these services, including as a result of recent technological advancements
- identifying changes in the scale and identity of the key suppliers of these services, including new entrants, and
- identifying changes in the way that consumers are using services, including views regarding trust and quality.

Given the relatively short passage of time, the ACCC does not, at this stage, intend to update information relating to services or markets examined in more recent reports (for example, those published since September 2022). However, the ACCC may consider other major developments and key trends in additional earlier reports. A list of all previous ACCC reports published under the Inquiry is provided in section 4.

Examining major developments and key trends in certain markets for digital platform services will allow the ACCC to update its understanding of these markets in light of recent developments.

1.2.1 Report on Online Private Messaging

The September 2020 report was the first interim report of the Inquiry. Given the timing of this report coincided with the early months of the COVID-19 pandemic, the ACCC noted that services such as WhatsApp, Zoom and video sharing platform TikTok had seen significant growth, likely partly because of isolation requirements leading to a shift to remote working, learning and ways of maintaining social connections during this period.⁴⁴

Online private messaging services encompass a range of services, including text, audio and video messaging services, and are offered by a wide variety of platforms. The ACCC observed a wide range of online private messaging services available to Australian users, which were often highly differentiated, offering different features and functionalities, and used by consumers for a number of different purposes.

The ACCC's competition assessment focused on standalone online private messaging services and found that Facebook (now Meta) and Apple were 2 of the largest suppliers of standalone online private messaging services in Australia. As of June 2020, Facebook Messenger was the largest service, with an estimated 14.7 million monthly active users and Facebook-owned WhatsApp had an estimated 8 million monthly active users. Apple's iMessage had an estimated range of 6 million to 12 million daily active users in Australia.⁴⁵

Based on survey data from the Australian Communications and Media Authority (**ACMA**), the report noted that in the 6 months to June 2020, 66% of online Australian adults had used Facebook Messenger, 39% had used WhatsApp, 33% had used Apple's FaceTime video calling service and 16% had used iMessage.⁴⁶

Australians' usage of these services is increasing. Based on recent ACMA survey data, in the 6 months prior to June 2023, 72% of Australian adults used Facebook Messenger (up from

⁴⁴ ACCC, [Digital Platform Services Inquiry – Report on Online Private Messaging](#), 23 October 2020, pp 2-3, 13.

⁴⁵ ACCC, [Digital Platform Services Inquiry – Report on Online Private Messaging](#), 23 October 2020, pp 13, 22.

⁴⁶ ACCC, [Digital Platform Services Inquiry – Report on Online Private Messaging](#), 23 October 2020, p 13.

66% in 2020), 51% used WhatsApp (up from 39% in 2020) and 35% used FaceTime (up from 33% in 2020).⁴⁷

The ACCC's September 2020 report found that both Facebook's and Apple's services benefited from identity-based network effects, providing them with significant competitive advantages over smaller suppliers of standalone services in Australia.⁴⁸ However, because the use of Apple's online private messaging services was limited to users of Apple devices, the ACCC found that iMessage was likely to impose weaker competitive constraints on Facebook Messenger and WhatsApp than those services imposed on iMessage.⁴⁹

1.2.2 Report on App Marketplaces

In its March 2021 report, the ACCC found that Apple and Google were the predominant mobile app marketplace operators in Australia, offering the App Store and Play Store respectively.⁵⁰

The report referenced data from Statcounter, estimating that in December 2020, Apple iOS held 54% of the market share of mobile operating systems (**OS**) in Australia, while Android held 46%.⁵¹ Based on updated data from Statcounter, these shares appear to have remained stable – as of June 2024, Apple iOS again held 54% market share, while Android held 45%. The next closest competitor, Samsung, held less than 1% (0.86%).⁵²

In the March 2021 report, the ACCC considered it likely that Apple and Google held significant market power in mobile app distribution in Australia, due to their control of the iOS and Android mobile OS. This meant the App Store and the Play Store were 'must haves' for the majority of mobile app developers in Australia.⁵³

The ACCC is actively monitoring recent legal actions in this area domestically and internationally, including Epic Games' current Federal Court action against Apple and Google underway in Australia. Epic Games and class action lawyers representing smartphone users and app developers allege Apple and Google have each contravened various provisions of the *Competition and Consumer Act 2010* (Cth).⁵⁴

The ACCC invites interested parties to share their views on whether there have been any major developments or key trends in the markets for online private messaging and app marketplaces since the ACCC completed its previous reports on these topics in September 2020 and March 2021 respectively.

Parties are also invited to share their views on further major developments or key trends in services or markets considered in other earlier reports of the Inquiry (that is, those published prior to September 2022).

⁴⁷ ACMA, [Communications and media in Australia: How we communicate](#), December 2023, accessed 18 July 2024.

⁴⁸ ACCC, [Digital Platform Services Inquiry – Report on Online Private Messaging](#), 23 October 2020, pp 2, 20.

⁴⁹ ACCC, [Digital Platform Services Inquiry – Report on Online Private Messaging](#), 23 October 2020, pp 33-34.

⁵⁰ ACCC, [Digital Platform Services Inquiry – Report on App Marketplaces](#), 28 April 2021, p 19.

⁵¹ ACCC, [Digital Platform Services Inquiry – Report on App Marketplaces](#), 28 April 2021, p 19.

⁵² Statcounter, [Mobile operating system share in Australia – June 2024](#), accessed 18 July 2024.

⁵³ ACCC, [Digital Platform Services Inquiry – Report on App Marketplaces](#), 28 April 2021, p 43.

⁵⁴ [Epic Games, Inc v Apple Inc \(Case Management\) \[2022\] FCA 341](#) (4 April 2022) at [1]. See also A Lavoipierre, [A legal battle of Epic proportions](#), ABC News, 4 May 2024, accessed 18 July 2024.

Topic 3: identifying potential or emerging issues

As part of the final report, the ACCC proposes to consider potential or emerging competition and consumer issues relating to markets for digital platform services in Australia which have not previously been examined by the ACCC. This aspect of the final report may help inform the ACCC's advice to government about the existence of potential or emerging competition and consumer issues in relation to such markets in Australia, as well as potential areas for further consideration and monitoring of emerging issues in future.

Note on scope

The scope of the ACCC's consideration of any potential or emerging issues in this section of the final report will differ from the more detailed scoping of previous reports of the Inquiry, which have generally had a specific topic or market for digital platform services as their primary focus.

In the final report, the ACCC intends to identify potential or emerging issues on a preliminary basis only. In response to issues identified, the report may note where, in the ACCC's view, further consideration or monitoring by government may be warranted.

The potential and emerging issues the ACCC identifies will primarily be issues:

- raised in submissions,
- identified via desktop research, or
- highlighted through relevant work undertaken by overseas regulators.

The ACCC does not propose to comprehensively define the services or markets discussed, identify key suppliers, or calculate market shares of suppliers in Australia.

In making a submission, interested parties are encouraged to highlight which (if any) of the potential issues identified below they believe warrant further consideration. If possible, please indicate, in order, which issues you consider to be the highest priorities. The ACCC also invites interested parties to identify additional potential or emerging competition and consumer issues relating to markets for digital platform services which they consider may also warrant future government consideration.

1.3.1 Potential competition and consumer issues in online gaming

Online video games and gaming platforms are a popular form of entertainment and social connectivity in the digital age. In 2024, the total market value of the Australian video games industry is estimated at A\$4.21 billion,⁵⁵ with around 91% of Australian households owning a video game device or console.⁵⁶ Digital platforms are often key suppliers or distributors of online gaming services. For example, they may facilitate access via physical video consoles (such as Microsoft's Xbox console), via streaming services (such as Amazon's Twitch), or increasingly, via app stores such as the Apple App Store or Google Play Store. In 2024, the largest contribution to sales revenue in the Australian online games market was through mobile gaming apps, worth approximately A\$1.56 billion.⁵⁷

⁵⁵ J Batchelor, [The Australian games industry in numbers](#), *GamesIndustry.biz*, 12 November 2023, accessed 18 July 2024.

⁵⁶ Interactive Games & Entertainment Association, [Australian Games Industry Statistics](#), 5 May 2024, accessed 18 July 2024.

⁵⁷ J Batchelor, [The Australian games industry in numbers](#), *GamesIndustry.biz*, 12 November 2023, accessed 18 July 2024.

The ACCC has not previously examined competition and consumer issues in online gaming markets but observes there may be current practices in the online gaming industry giving rise to potential competition and consumer concerns. For example:

- The ACCC understands there may be competition concerns regarding the distribution of online games (including through subscription services and/or mobile app stores), as well as interoperability concerns related to the ability to play online games across multiple platforms (including consoles).⁵⁸
- With most online games being sold and distributed globally through online subscription services, consumers are increasingly reliant on licensing to access online games. The use of these types of licensing arrangements may give rise to consumer concerns as their limitations may be unclear to consumers, who typically may not understand, or be adequately informed, that they are not buying permanent access and ownership over content.
- Some online games may employ manipulative or deceptive design elements, giving rise to consumer concerns. Children and teenagers may be particularly susceptible to such practices given they are often less aware than adults of commercial practices and messaging.⁵⁹ Examples include the use of design elements which may cause users to make unintended purchases,⁶⁰ including in-game purchases, representations that products can be obtained 'for free' through extended game play when in reality it is virtually impossible for users to do so, and a lack of transparency about the probability (or improbability) that loot boxes⁶¹ contain rare items.

The ACCC invites interested parties to share their views on potential or emerging competition and consumer issues in relation to online gaming in Australia.

Please provide as much detail or evidence as you can to support your response.

1.3.2 Potential competition and small business issues in cloud computing

Cloud computing refers to providing global, on-demand network access to computing resources such as networks, servers, storage, applications and services.⁶² Cloud computing leverages a provider's pooled resources to serve multiple business customers with shared infrastructure, creating flexibility in resources. Digital platforms are often both key suppliers and customers of cloud computing services. Examples of cloud computing providers operating in Australia include Amazon Web Services (**AWS**),⁶³ Microsoft,⁶⁴ Google,⁶⁵ Oracle⁶⁶

⁵⁸ In response to similar concerns, the UK CMA is currently undertaking a market investigation into the distribution of cloud gaming services through app stores on mobile devices in the UK and is due to report on its findings in early 2025: CMA, [Mobile browsers and cloud gaming](#), last updated 5 July 2024, accessed 18 July 2024. The ACCC is monitoring Australian and international litigation related to the distribution of online games, including Epic Games' current action against Apple and Google in the Federal Court of Australia.

⁵⁹ International Consumer Protection and Enforcement Network, [Best practice principles: Marketing practices directed towards children online](#), June 2020, pp 8, 13-14.

⁶⁰ For example, representations that purchases are 'one-off' purchases, when in fact they may be billed monthly.

⁶¹ 'Loot boxes', 'treasure chests' or 'mystery boxes' are items that players purchase within a game. The content of these boxes is unknown before purchase, but players are generally hoping for items or rewards. In some countries such as Belgium and the Netherlands, loot boxes are regulated as a form of gambling, however this is not currently the case in Australia.

⁶² National Institute of Standards and Technology (US), [Cloud Computing](#), 12 May 2022, accessed 18 July 2024.

⁶³ AWS' Asia Pacific Region (Sydney) was launched in 2012, with the AWS Asia Pacific (Melbourne) Region added in 2023. AWS, [AWS Global Infrastructure](#), accessed 18 July 2024.

and IBM.⁶⁷ Generative artificial intelligence (AI) models (discussed further in section 1.3.3 below) require access to cloud computing, as providers of such models need significant computing power to train and deploy their products.⁶⁸ Some cloud computing providers, such as AWS, Microsoft and Google, are also investing in their own generative AI models and products.⁶⁹

Some overseas regulators have previously considered and identified potential competition harms in the supply of cloud computing services. For example:

- In a 2023 market study on competition in cloud computing, the French competition regulator, the Autorité de la concurrence, found evidence of 2 pricing practices used in the industry, which could cause consumer lock-in with the major providers.⁷⁰
- In its ongoing market investigation into the supply of public cloud infrastructure services in the UK,⁷¹ the CMA has identified 4 potential barriers to multi-cloud (where a customer uses multiple cloud providers) and switching.⁷²
- In a fact-finding survey undertaken by the JFTC into competition among cloud service providers in Japan in 2022, the JFTC noted that the degree of market concentration is increasing year on year, with limited evidence of user switching. The JFTC considered that these markets may, in future, pose risk of conduct such as self-preferencing for software licences and preferential treatment of exclusive partners.⁷³

In its September 2023 report, the ACCC examined consumer cloud storage as an example of the expanding ecosystems of digital platforms.⁷⁴ The report found there may be anti-competitive effects when a firm has substantial market power in one market and, by way of bundling, tying or self-preferencing, raises the costs or reduces the revenues of rivals, rendering them less competitively effective. Similarly, where a firm has market power, the pre-installation and default settings it chooses may affect competition and consumer

⁶⁴ Microsoft made its Azure cloud services available to Australian users in 2014, with 2 data centres based in Melbourne and Sydney. Microsoft, [New Microsoft Azure Geo opens for business in Australia](#), 26 October 2014, accessed 18 July 2024.

⁶⁵ Google Cloud Platform expanded to Australia in 2017, opening a Sydney cloud region in 2017 and a Melbourne region in 2021. Google Cloud, [Google Cloud Platform expands to Australia with new Sydney region - open now](#), 21 June 2017, accessed 18 July 2024; Google Cloud, [The new Google Cloud region in Melbourne is now open](#), 29 July 2021, accessed 18 July 2024.

⁶⁶ Oracle expanded its Cloud Platform (Infrastructure-as-a-Service and Platform-as-a-Service) services to Australia in 2017, though it has provided Software-as-a-Service products in Australia since 2012. P Smith, [Tech giant Oracle makes huge investment to bring cloud services to Australia](#), *Australian Financial Review*, 13 February 2017, accessed 18 July 2024.

⁶⁷ IBM has offered Infrastructure-as-a-Service cloud computing product Softlayer in Australia since 2014. It has invested in data centres in Sydney and Melbourne. P Wolf, [IBM launches SoftLayer cloud in Melbourne, Sydney](#), *IT News*, 26 August 2014, accessed 18 July 2024.

⁶⁸ Z Meyers, [Big tech rivalry could be the key to competition in AI](#), *Centre for European Reform*, 30 May 2024, accessed 18 July 2024.

⁶⁹ C Carugati, [The competitive relationship between cloud computing and generative AI](#), *Bruegel Working Paper 19/2023*, 11 December 2023, accessed 18 July 2024, p 5.

⁷⁰ Autorité de la concurrence, [Cloud computing: the Autorité de la concurrence issues its market study on competition in the cloud sector](#), 29 June 2023, accessed 18 July 2024.

⁷¹ The supply of public cloud infrastructure services in the UK is currently the subject of an investigation by the CMA, following findings from the UK Office of Communications (Ofcom) that market features make it difficult for UK businesses to switch providers and may be causing customers to settle for lower quality services. CMA, [Cloud services market investigation](#), last updated 1 July 2024, accessed 18 July 2024. Ofcom, [Cloud services market study: interim report](#), 5 April 2023, accessed 18 July 2024, p 2.

⁷² These include technical barriers, the use of fees connected with transferring data outside the cloud provider's infrastructure, discounts offered by some cloud providers which are conditional on customers committing to a certain level of spending, and software licensing practices by some cloud providers. CMA, [Public cloud infrastructure services market investigation – Issues statement](#), 17 October 2023, accessed 18 July 2024, p 5.

⁷³ Japan Fair Trade Commission, [Report Regarding Cloud Services \(Summary\)](#), 28 June 2022, accessed 18 July 2024.

⁷⁴ ACCC, [Digital Platform Services Inquiry – Report on expanding digital platform ecosystems](#), 27 November 2023, p 5.

choice.⁷⁵ For example, the report found that consumers may use bundled cloud storage services even when more innovative or higher-quality alternatives exist.⁷⁶

Given this past focus, the ACCC does not intend to revisit consumer cloud storage as part of its consideration of this topic. However, the ACCC notes that cloud storage is only one aspect of cloud computing and intends to focus its consideration on other offerings, such as access to networks, servers, applications and storage (with a focus on business users).

Questions

The ACCC invites interested parties to share their views on potential or emerging competition and small business issues in relation to cloud computing in Australia.

Please provide as much detail or evidence as you can to support your response.

1.3.3 Potential competition issues in generative artificial intelligence

Generative AI refers to a type of AI that can create content such as text, images, audio, video or data, usually in response to plain language prompts entered by a user. Generative AI adopts a machine learning approach for turning inputs and outputs into new outputs by analysing extremely large datasets.⁷⁷ Large Language Models (LLMs) form the basis of certain generative AI systems.⁷⁸

The ACCC notes that recent developments in, and adoption of, generative AI have been extensive, and this technology continues to expand and develop at a rapid pace. Generative AI products and services may present new opportunities, but also new challenges. In its July 2023 joint submission to the Department of Industry, Science and Resources' AI Safe and Responsible use of AI in Australia discussion paper,⁷⁹ the Digital Platform Regulators Forum (DP-REG)⁸⁰ noted immediate impacts of this technology include risks to consumer protection, competition, media and the information environment, privacy and online safety.⁸¹

DP-REG has published several pieces of work on generative AI, including a detailed working paper on LLMs used in generative AI published in October 2023.⁸² Regarding potential competition concerns, the paper notes that:

- Developing and operating LLMs requires a large financial investment upfront, access to vast datasets, long development lead times, access to sophisticated AI systems

⁷⁵ ACCC, [Digital Platform Services Inquiry – Report on expanding digital platform ecosystems](#), 27 November 2023, p 5.

⁷⁶ ACCC, [Digital Platform Services Inquiry – Report on expanding digital platform ecosystems](#), 27 November 2023, p 123.

⁷⁷ Digital Platform Regulators Forum, [Examination of technology: Large Language Models working paper](#), 25 October 2023, accessed 18 July 2024, p 20.

⁷⁸ LLMs, like generative AI models, produce outputs based on inputs or user prompts. If given some words to start with, LLMs can predict what characters or words might come next, much like the auto-complete functionality in many smartphone or messaging apps. The results generally appear original, even though they are essentially a synthesis of the existing data used to train the LLM. For further detail, see Digital Platform Regulators Forum, [Examination of technology: Large Language Models working paper](#), 25 October 2023, accessed 18 July 2024.

⁷⁹ Department of Industry, Science and Resources, [Safe and responsible AI in Australia: discussion paper](#), June 2023.

⁸⁰ The Digital Platform Regulators Forum (DP-REG) is an information sharing and collaboration initiative between Australian independent regulators with a shared goal of ensuring Australia's digital economy is a safe, trusted, fair, innovative and competitive space. Its members are the ACCC, the Australian Communications and Media Authority (ACMA), the eSafety Commissioner (eSafety) and the Office of the Australian Information Commissioner (OAIC). See [Digital Platform Regulators Forum](#) for further detail.

⁸¹ Digital Platform Regulators Forum, [DP-REG joint submission to the Department of Industry, Science and Resources' AI discussion paper](#), 26 July 2023, accessed 18 July 2024.

⁸² Digital Platform Regulators Forum, [Working Paper 2: Examination of technology – Large Language Models](#), 25 October 2023, accessed 18 July 2024.

and talent, and substantial ongoing computing costs and access to computing resources (such as cloud storage), which together create high barriers to entry.

- LLMs are likely to have features common to digital platform services that make them tend towards concentration, including a positive feedback loop involving the collection and use of user data, economies of scale, and access to large volumes of high-quality user data. Because of these characteristics, new entrants could find it difficult to compete with digital platform services that use LLMs as part of new and existing services.⁸³
- Generative AI can increase a user's interaction with particular digital platforms. Over time, this may make it more difficult for users to leave these platforms.⁸⁴ LLMs could allow big digital platforms to strengthen and expand their market power by continuing to engage in anti-competitive practices the ACCC has previously observed. These include anti-competitive self-preferencing, tying and data access restrictions.⁸⁵
- The Organisation for Economic Co-operation and Development has also suggested that algorithms could facilitate collusive or cartel-like behaviours in broader markets, such as setting prices, determining bids or sharing markets.⁸⁶

The current ninth interim report of the Inquiry is considering competition and consumer issues in relation to general search services in Australia, including the potential impact of generative AI as it relates to general search services. Given this current focus, the ACCC is not proposing to further consider the potential impact of generative AI on general search services in the final report.

Further, the ACCC notes the 2024-25 Budget announcement that Treasury will review and strengthen existing regulations relating to consumer law and AI.⁸⁷ Given this planned review, for the purposes of the final report the ACCC proposes to focus on potential competition issues relating to generative AI that may warrant further consideration in Australia.

The ACCC invites interested parties to share their views on potential or emerging competition issues in relation to generative AI in Australia.

Please provide as much detail or evidence as you can to support your response.

⁸³ Digital Platform Regulators Forum, [Working Paper 2: Examination of technology – Large Language Models](#), 25 October 2023, accessed 18 July 2024, p 10.

⁸⁴ Digital Platform Regulators Forum, [Working Paper 2: Examination of technology – Large Language Models](#), 25 October 2023, accessed 18 July 2024, p 11.

⁸⁵ Digital Platform Regulators Forum, [Working Paper 2: Examination of technology – Large Language Models](#), 25 October 2023, accessed 18 July 2024, p 12.

⁸⁶ OECD, [Algorithmic Competition: OECD Competition Policy Roundtable Background Note](#), 10 May 2023, chapter 3.

⁸⁷ Australian Government, [Budget 2024-25 Budget Paper No. 2: Budget Measures](#), 14 May 2024, accessed 18 July 2024, p 141.

3. Making a submission

The ACCC invites written submissions from interested parties, including:

- digital platform service providers,
- consumers and consumer groups,
- business users of digital platforms, including small businesses, and
- other interested stakeholders.

We may also directly contact market participants to request specific information.

Written submissions to this Issues Paper should be emailed to digitalmonitoring@acc.gov.au by **COB 23 August 2024**.

We encourage you to provide your views on the issues that are most relevant to you. You do not have to address every question in this Issues Paper. In preparing your submission, please include as much evidence as possible to support your views.

You may provide your submission to the ACCC in the form of a public or confidential submission. However, the Inquiry is a public process and, in general, submissions will be published on the ACCC website. The ACCC's process for dealing with confidential submissions is set out below.

Treatment of confidential information

The *Competition and Consumer Act 2010* allows interested parties that provide feedback to the Inquiry to make claims for confidentiality in certain circumstances. The ACCC invites interested parties, where appropriate, to discuss confidentiality concerns with the ACCC in advance of providing written material.

The ACCC can accept a claim of confidentiality from a party if the disclosure of information would damage their competitive position, the ACCC is satisfied the confidentiality claims are justified, and it is not necessary in the public interest to disclose the information. The ACCC will consult with a party where possible and appropriate prior to publishing any information over which that party has claimed confidentiality.

Making a claim of confidentiality

1. So that the ACCC can consider whether the confidentiality claim is justified, you must provide reasons why the information is confidential and why disclosure of the information would damage your competitive position.
2. If you are claiming confidentiality over your entire submission, you must provide reasons why all of the information in your submission is confidential. As the Inquiry is a public process, please consider whether there are any parts of your submission that may be published without damaging your competitive position.
3. If you are claiming confidentiality over a part of your submission, the confidential information should be provided in a separate document and should be clearly marked as 'confidential' on every relevant page. Alternatively, you may wish to provide (1) a public version for publication on the ACCC website with the confidential information redacted, and (2) a **confidential version** with all of the confidential information clearly marked.
4. Contact us at digitalmonitoring@acc.gov.au if you have any questions.

4. Scope of the Inquiry

In December 2019, the Treasurer directed the ACCC to conduct a 5-year inquiry into markets for the supply of digital platform services. The ACCC is required to provide a report to the Treasurer every 6 months. The goods and services specified in the Treasurer's Direction for the Inquiry are:

- (a) digital platform services
- (b) digital advertising services supplied by digital platform service providers
- (c) data collection, storage, supply, processing and analysis services supplied by:
 - a. digital platform service providers
 - b. data brokers.

Services included under the Inquiry definition of 'digital platform services' are:

- (a) internet search engine services (including general search services and specialised search services)
- (b) social media services
- (c) online private messaging services (including text messaging, audio messaging and visual messaging)
- (d) digital content aggregation platform services
- (e) media referral services provided in the course of providing one or more of the services mentioned in paragraphs (a) to (d)
- (f) electronic marketplace services.

The ACCC is required to take into consideration a number of matters in holding the Inquiry, including:

- (a) the intensity of competition in the markets for the supply of digital platform services
- (b) practices of individual suppliers in the markets for digital platform services which may result in consumer harm
- (c) market trends, including innovation and technology change, that may affect the degree of market power, and its durability, held by suppliers of digital platform services
- (d) changes over time in the nature of, characteristics and quality of digital platform services arising from innovation and technological change, and
- (e) developments in markets for the supply of digital platform services outside Australia.

The full Ministerial Direction can be found on the [ACCC's website](#).

To date, the ACCC has published reports on the following topics:

- [Online private messaging services](#)
- [App marketplaces](#)
- [Web browsers and general search services](#)
- [General online retail marketplaces](#)
- [Regulatory reform](#)

- [Social media services](#)
- [Expanding ecosystems of digital platform service providers](#)
- [Data products and services](#)

The ninth interim report will revisit potential competition and consumer issues arising in the supply of general search services in Australia. It will consider the current state of competition in the supply of general search services and what has changed, including the current state of competition in the supply of general search services; the factors influencing the current competitive landscape in the supply of general search services, including international legislative reform and the emergence of new technologies; and trends in search quality over time. The report will be provided to the Government by 30 September 2024.

5. List of past ACCC recommendations relating to digital platforms

Digital Platform Services Inquiry Interim Report No. 5 – Regulatory Reform (September 2022)

On 8 December 2023, the Government provided in-principle support for the below recommendations and noted it would undertake further work to implement them, including consulting on the development of a new ex-ante digital competition regime.⁸⁸

Recommendation 1: Economy-wide consumer measures

The ACCC continues to recommend the introduction of new and expanded economy-wide consumer measures, including an economy-wide prohibition against unfair trading practices and strengthening of unfair contract laws.

These reforms, alongside targeted digital platform-specific obligations, would assist in addressing some of the consumer protection concerns identified for digital platforms.

The ACCC notes the unfair contract term laws were strengthened in November 2022 through the *Treasury Laws Amendment (More Competition, Better Prices) Act 2022*. In late 2023, Treasury ran a public consultation process on unfair trading practices. Submissions received in response to the Consultation Regulation Impact Statement have been published on Treasury's website.⁸⁹

⁸⁸ Australian Government, [Government's response to the ACCC Digital Platform Services Inquiry](#), 8 December 2023.

⁸⁹ Treasury, [Unfair trading practices – Consultation Regulation Impact Statement](#), accessed 18 July 2024.

Recommendation 2: Digital platform-specific consumer measures

The ACCC recommends additional targeted measures to protect users of digital platforms, which should apply to all relevant digital platform services, including:

- a notice and action mechanism,
- verification of certain business users,
- additional verification of advertisers of financial services and products,
- improved review verification disclosures, and
- public reporting on mitigation efforts.
- Mandatory internal dispute resolution standards that ensure accessibility, timeliness, accountability, the ability to escalate to a human representative and transparency.
- Ensuring consumers and small business have access to an independent external ombuds scheme.

Recommendation 3: Additional competition measures for digital platforms

The ACCC recommends the introduction of additional competition measures to protect and promote competition in markets for digital platform services. These should be implemented through a new power to make mandatory codes of conduct for ‘designated’ digital platforms based on principles set out in legislation.

Each code would be for a single type of digital platform service (i.e. service-specific codes) and contain targeted obligations based on the legislated principles. This would allow flexibility to tailor the obligations to specific competition issues relevant to that service as these change over time.

These codes would only apply to ‘designated’ digital platforms that meet clear criteria relevant to their incentive and ability to harm competition.

Recommendation 4: Targeted competition obligations

The framework for mandatory service-specific codes for designated digital platforms (proposed under Recommendation 3) should support targeted obligations based on legislative principles to address, as required:

- anti-competitive self-preferencing,
- anti-competitive tying,
- exclusive pre-installation and default agreements that hinder competition,
- impediments to consumer switching,
- impediments to interoperability,
- data-related barriers to entry and expansion, where privacy impacts can be managed,
- a lack of transparency,
- unfair dealings with business users, and
- exclusivity and price parity clauses in contracts with business users.

The codes should be drafted so that compliance with their obligations can be assessed clearly and objectively. Obligations should be developed in consultation with industry and other stakeholders and targeted at the specific competition issues relevant to the type of service to which the code will apply. The drafting of obligations should consider any justifiable reasons for the conduct (such as necessary and proportionate privacy or security justifications).

Digital Advertising Services Inquiry (2020-21)

Recommendation 1: Google should amend its public material so that it clearly describes how Google uses first-party data to provide ad tech services.

Recommendation 2: The ACCC should be given powers to develop sector-specific rules to address conflicts of interest and competition issues in the ad tech supply chain. The rules would apply to ad tech providers that meet certain criteria linked to their market power and/or strategic position.

Recommendation 3: The power to introduce sector specific rules should allow the ACCC to address competition issues caused by an ad tech provider's data advantage.

Recommendation 4: Industry should establish standards to require ad tech providers to publish average fees and take rates for ad tech services, and to enable full, independent verification of demand-side platform services.

Recommendation 5: Google should provide publishers with additional information about the operation and outcomes of its publisher ad server auctions.

Recommendation 6: The ACCC should be given powers to develop and enforce rules to improve transparency of the price and performance of ad tech services. The rules would apply across the Australian ad tech supply chain.

Digital Platforms Inquiry (2017-19)

The Digital Platforms Inquiry Final Report, published in July 2019, contained 23 recommendations, spanning competition law, consumer protection, media regulation and privacy law, reflecting the intersection of issues arising from the growth of digital platforms. In December 2019 the Government published its response and implementation roadmap.⁹⁰

A summary of these recommendations is set out below. Further detail, including the Government's December 2019 response, can be found at Appendix A of the Government Response and Implementation Roadmap for the Digital Platforms Inquiry.⁹¹

Recommendation 1: Changes to merger law.

Recommendation 2: Advanced notice of acquisitions.

Recommendation 3: Changes to search engine and internet browser defaults.

⁹⁰ Australian Government, [Government Response and Implementation Roadmap for the Digital Platforms Inquiry](#), 12 December 2019, Appendix A: Response to each recommendation, pp 15-19.

⁹¹ Australian Government, [Government Response and Implementation Roadmap for the Digital Platforms Inquiry](#), 12 December 2019, Appendix A: Response to each recommendation, pp 15-19.

Recommendation 4: Proactive investigations, monitoring and enforcement of issues in markets in which digital platforms operate.

Recommendation 5: Inquiry into ad tech services and advertising agencies.

Recommendation 6: Process to implement harmonised media regulatory framework.

Recommendation 7: Designated digital platforms to provide codes of conduct governing relationships between digital platforms and media businesses to the ACMA.

Recommendation 8: Mandatory ACMA take-down code to assist copyright enforcement on digital platforms.

Recommendation 9: Stable and adequate funding for the public broadcasters.

Recommendation 10: Grants for local journalism.

Recommendation 11: Tax settings to encourage philanthropic support for journalism.

Recommendation 12: Improving digital media literacy in the community.

Recommendation 13: Digital media literacy in schools.

Recommendation 14: Monitoring efforts on digital platforms to implement credibility signalling.

Recommendation 15: Digital Platforms Code to counter disinformation.

Recommendation 16: Strengthen protections in the Privacy Act

- **16(a):** Update 'personal information' definition
- **16(b):** Strengthen notification requirements
- **16(c):** Strengthen consent requirements and pro-consumer defaults
- **16(d):** Enable the erasure of personal information
- **16(e):** Introduce direct rights of action for individuals
- **16(f):** Higher penalties for breach of the Privacy Act

Recommendation 17: Broader reform of Australian privacy law.

Recommendation 18: OAIC privacy code for digital platforms.

Recommendation 19: Statutory tort for serious invasions of privacy.

Recommendation 20: Prohibition against unfair contract terms.

Recommendation 21: Prohibition on certain unfair trading practices.

Recommendation 22: Digital platforms to comply with internal dispute resolution requirements.

Recommendation 23: Establishment of an ombudsman scheme to resolve complaints and disputes with digital platform providers.