



CMA Market Study – online platforms and digital advertising

Vodafone response to the Scope of the Study

Introduction

Vodafone welcomes this market study into an increasingly important sector. In our response to the Digital Competition Expert Panel we specifically called for this and we're pleased to see this taken on board.

Given the short timeframe to comment on the scope of the study, we've restricted our comments to some key themes on which we would be more than happy to follow up in more detail at a later date.

We have also attached our earlier submission to the Digital Competition Expert Panel as an appendix.

Key points

- We would agree that the description of the online platforms funded by digital advertising is correct. However when looking at this sector, an essential point to consider is the wider ecosystem of markets associated with the platform service and the extent to which the links between this wider ecosystem also impact innovation and choice. Challenges include entry barriers, the availability of alternative routes to reach end-users and the extent to which incumbents, as well as challengers, are trying to create new markets by engaging in innovation.
- Whilst we support the concept of proportionate and targeted ex-ante regulation being introduced in this sector, we strongly believe that competition law is a tool that can be used to address issues in this market if deployed flexibly and appropriately.
- The CMA should take a more proactive and dynamic approach to competition analysis in the platform sector given the nature of multisided platforms, data and ad funded services and the impact of big data and network effects. In terms of market definition, we need to move from a less price-focused approach towards one that takes data funded markets and evolving competitive dynamics into account. Competition authorities need to be aware that anti-competitive outcomes can occur even when markets appear to be competitive e.g. closed ecosystems where there are unreasonable barriers to switching.
- In relation to ex ante regulation, the principles used to address Significant Market Power in other markets should be used to address the issues arising from digital “gatekeepers” that arise as a result of the dominance of some online platforms. Digital platforms should be analysed using a similar test to the three criteria for determining whether a telecoms market is susceptible to regulation – high and non-transitory barriers to entry, a market structure that does not tend towards effective competition and where competition law alone is insufficient. Given the multi-sided nature of digital markets, any assessment should include connected markets which form part of a value chain (e.g. operating systems and app stores).
- In relation to potential remedies, in addition to those areas identified, consideration should also be given to addressing barriers to entry and unfair discrimination by platforms towards their own vertical products and services. However, to the extent that the regulation is ex ante, in order to ensure remedies are proportionate and do not stifle innovation, regulation should be targeted towards digital gatekeepers that meet a digital platform specific version of the three criteria test as set out above.
- On the proposal for a new Digital Markets Unit, whilst we support the need for regulatory oversight of these markets, in our view any ex ante targeted regulation should be overseen by an existing regulator i.e. Ofcom. There are already a number of different regulators acting in the digital space



which has led to significant confusion and potential duplication. It is important that businesses have clarity of direction and certainty of outcome and adding another regulator would risk creating further complexity.

- There remains a broader point about the need to level the regulatory playing field between the companies that invest significant sums to build and maintain the networks that support digital services in the UK and those companies that rely on using those networks to derive significant profit.

For further information:

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