

Response to the CMA's Online platforms and digital advertising market study

Synopsis: Our response draws on our expertise in advertising and marketing regulation, and our insights about how the online advertising market is currently operating. Specifically, the need for a level playing field between broadcasters and platforms; responsibility and accountability of platforms; brand safety; ad fraud; algorithmic transparency; data privacy; and platform dominance.

Context

1. Advertising plays a crucial role in brand competition; it drives product innovation and fuels economic growth. It also provides revenues to fund a diverse and pluralistic media enjoyed by children and young people. The UK has the largest online advertising market in Europe and the third largest in the world behind the United States and China. In 2018, online advertising contributed 57% of the UK's total advertising spend of £23.6 billion and it is predicted to account for 62% by 2020. This signifies a vast change in the industry given that before the turn of the millennium, online advertising expenditure was so negligible that it did not even register in published statistics.¹
2. The ASA system is "collective regulation". It is underpinned by an "enabling statutory instrument", The Contracting Out (Functions Relating to Broadcast Advertising) and Specification of Relevant Functions Order 2004 and a formal Deed between Ofcom and the ASA (Broadcast), BCAP and Basbof. As a result, Ofcom has a longstanding relationship with the ASA which regulates advertising across all broadcast and non-broadcast media: Co-regulation provides the ASA responsibility for regulating the content of broadcast (TV, radio) and video on demand advertising under contract from Ofcom. In relation to non-broadcast advertising, the ASA works with a range of legal backstops, from Trading Standards and the Gambling Commission, to the Information Commissioner's Office.²
3. The government has celebrated advertising self-regulation including the world-leading CAP/ASA system and schemes like the European Digital Advertising Alliance framework for

¹ Advertising Pays 7: The UK Advertising's Digital Revolution:
<https://www.adassoc.org.uk/wp-content/uploads/2019/06/Ad-Pays-7-UK-Advertisings-Digital-Revolution-compressed.pdf>

² About the ASA & CAP:
<https://www.asa.org.uk/about-asa-and-cap/about-regulation/about-the-asa-and-cap.html>



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online behavioural advertising and the JICWEBS Digital Trading Standards Group Good Practice Principles. These schemes play a fundamental role in helping to regulate the ecosystem and provide valuable insights.

4. Although paying into the ASA system is currently “voluntary”, compliance with the rules is mandatory and these are binding on the entire industry. The advertising industry is committed to ensuring the self-regulatory system remains fit for purpose and that companies market responsibly in digital as well as traditional media. To that end, industry has committed to supporting the ASA’s 5-year strategy: More Impact Online.³

About UKTV

5. UKTV is a commercial broadcaster reaching over 34 million viewers per month. It consists of Dave, W, Gold, Alibi, Yesterday, Drama, Eden and UKTV Play. These channels account for over 7% of the British commercial TV market. UKTV advertises via its own websites, social media sites, third party publishers and paid for advertising on third party platforms.
6. We work hard to produce socially responsible advertising content in online media to comply with the CAP and BCAP Advertising Codes. We have created and established a robust in-house compliance process to ensure that advertising and marketing content across all media, including all digital media - our own websites, social media sites, and paid for advertising appearing on third party platforms and publications, meets strict regulatory requirements.
7. We note that the subject of digital advertising will be a specific focus of the separate DCMS review expected later this year. We hope that this, and the CMA’s investigation are complimentary and that any scope creep from the Online Harms regulatory framework is avoided. It is crucial that existing regulatory structures are not undermined or co-opted by a new framework as proposed for in the Online Harms White Paper.
8. While personal and societal harms such as terrorism and child sexual exploitation are the intended scope of the Online Harms White paper, and therefore outside the scope of this review, the negative externalities of online advertising are significant and troubling from a brand safety and a societal perspective.
9. In June 2019, UKTV responded substantively to the DCMS’s consultation on further advertising restrictions, or a blanket ban on advertising HFSS products outside the hours of 9pm and 5.30am for television and online media. While this may be politically attractive, the analysis of the Government’s Impact Assessment highlighted a distinct lack of evidence supporting the case for further restrictions, including whether advertising as it is currently

³ More impact Online:

<https://www.asa.org.uk/resource/more-impact-online.html>

<https://www.asa.org.uk/uploads/assets/uploaded/1f9d1f1b-8f2b-4dbf-bed0b5dc7bf8d57e.pdf>



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served to audiences under our strict UK regulatory framework contributes towards obesity in children in any way. Fundamentally, the case did not justify the damage further restrictions would cause to the broadcast industry.

It is promising that there is much work happening in the area of online content and advertising regulation by the DCMS, ASA/CAP, CMA, ICO and the Home Office,⁴ and that the industry as well as government and regulators have woken up to the significant issues present in the online world. However, we hope the focus will be on harms that are evidenced, including those discussed in this paper, and that resulting policy making will be joined up.

The need for a level playing field

10. It is clear that the regulatory environment covering online content is fragmented and multi-territorial; it lacks expertise and understanding in many areas. Significant work must be done to make platforms accountable for the content and placement of content on their platforms.
11. Broadcast channels in the UK are regulated by Ofcom which can remove one's licence for consistent breaches of the Broadcasting Code. As part of its duties and functions in relation to broadcasting under the Communications Act 2003, Ofcom is required to draw up and revise a code for television and radio services. The Ofcom Broadcasting Code ("the Code") has helped ensure broadcasters reach high levels of compliance and trust with audiences. Internet companies would benefit from similar levels of trust and compliance.
12. Broadcasters have binding legal (licence) obligations to comply with BCAP and face the possibility of fines, a shortened licence or licence revocation in the event of serious non-compliance. Platforms, as the online equivalent, ought to face similar risks.
13. For truly competitive markets, it is vital that there are strong sanctions for online platforms that breach advertising rules, and that the ASA is strengthened by any resulting co-regulation, to allow for this. As co-regulation exists for the broadcast advertising industry, so too should it exist for online advertising – a framework which goes beyond the current Trading Standards legal backstop.
14. If broadcasters and advertisers fund the current ASA system as they have traditionally, it is appropriate for online platforms to do so, in line with their market share. This equivalence will solve many of the issues that are bountiful in the digital advertising world. It would also serve to limit online "bombardment" - the sense that one is under attack online, which, in addition to

⁴ Online Harms White Paper, April 2019, p28:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/793360/Online_Harms_White_Paper.pdf



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the placement of irresponsible and harmful content, is the biggest driver contributing towards the decline in people's trust in, and favourability towards advertising in the UK.⁵

15. This is an important message which underpins the first step in a chain of events affecting how advertisers make decisions. At its basis, if one is an irresponsible advertiser, it is easier and more straightforward to circumvent rules and regulations by not spending with established broadcasters. Working with online platforms currently means there is a greater chance of putting an illegal message out onto the market without any intervention whatsoever – at its best, very delayed intervention. It benefits fraudsters, and those playing fast and loose with the rules. This current unlevel playing field stifles competition as the nefarious money also arrives on the market in a way that it should not.
16. Broadcasters put robust in-house compliance processes in place, and use bodies such as Clearcast, to help ensure their obligations under the Communications Act are met; to help with compliance of the BCAP Code; and to ensure that illegal advertising does not reach viewers. Broadcasters use these resources and pay substantial amounts each year to ensure that the majority of the significant numbers of ads broadcast on their channels by significant numbers of varied advertisers are likely to comply.
17. Much bad practice can be rooted out in this area if a similar body to Clearcast existed in the online world. It would help online platforms ensure the content they carry is likely to comply with the UK Advertising Codes and relevant legislation; this could feasibly be funded by platforms in line with their market share, in the same way that broadcasters fund Clearcast.
18. While advertisers are responsible for creating and providing compliant content across all broadcast and non-broadcast media, the above process is followed due to the significant risks to broadcasters in the event they carry non-compliant advertising, were they to fully rely on the advertiser's legal obligations and responsibilities. However, where ads are served on online platforms, such as Facebook, YouTube and Twitter, the advertiser is primarily responsible with the platform holding secondary responsibility.
19. Platforms currently apply their own arbitrary rules and rely on the advertiser taking full responsibility for their content published. That secondary responsibility means that significant numbers of problematic ads appear online, with delayed reactive measures applied for amendments or removals. Moreover, in the event CAP contact Facebook and Google about illegal content appearing online, removal is not swift – notwithstanding this level of regulatory instruction.

⁵ Arresting the decline of public trust in UK Advertising:

https://www.iabuk.com/sites/default/files/public_files/AA_Public_Trust_Paper.pdf



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20. The need for platform responsibility is particularly urgent given compliance with the Codes is mandatory across all media. Broadcasters should be able to operate on a level playing field with those companies they are competing directly with for advertising revenue.
21. Currently, the regulations are not structured around those with the most influence, control and capacity to do harm. They are not comprehensive enough to tackle negative externalities. Platforms should not be “benefiting” from the fact that they carry less responsibility than other advertising outlets. In this case, bad actors will utilise online media more than other areas, as they currently do.

Platform responsibility argument: Platform or publisher?

22. Social media companies can no longer realistically claim to be a “platform” in so far that they have no role in regulating the content of their sites. That is not the case - they continually change what is and is not seen on their sites based on algorithms and human intervention. They are not merely a channel through which content is made available. They are also significantly different from the traditional model of a “publisher” which commissions, pays for, edits and takes responsibility for the content it disseminates. As a result, interestingly, the DCMS recommend that a new category of company is formulated, which *“tightens tech companies’ liabilities, and which is not necessarily either a platform’ or a publisher.”*⁶
23. There are indeed material differences between Facebook, YouTube and Twitter, for example. However, platforms are not being made responsible in a way that is true to their business models. There is no one size fits all: the *“platform, not a media company”* argument fails entirely where platforms can show the user at least a million different pieces of content which suit their needs. For example, Facebook exercise an editorial function before one arrives on the platform with their arbitrary code, rules and algorithms. By design, the intense editorial process that manicures the feed means that this is a heavily curated ad serving platform.
- A fact emphasised by Facebook CEO Mark Zuckerberg in his testimony to Congress about how Facebook is funded: *“Senator, we run ads”*⁷
24. Further, platforms operating in similar way to YouTube are currently seen as harmful when misleading information and harmful content is amplified with long delays and mostly reactive measures applied to the removal of problematic content.

⁶ Digital, Culture, Media and Sport Committee, “Disinformation and ‘fake news’: Interim Report” 2017-2019: <https://publications.parliament.uk/pa/cm201719/cmselect/cmcmds/363/363.pdf>

⁷ Mark Zuckerberg, CEO Facebook, Testimony to Senate’s Commerce and Judiciary Committees, April 2018 – The Washington Post, Transcript of hearing: https://www.washingtonpost.com/news/the-switch/wp/2018/04/10/transcript-of-mark-zuckerbergs-senate-hearing/?noredirect=on&utm_term=.e774126f0111



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25. The question of why platforms are allowed to continue to work in a way that a network broadcaster would not, is key. While this may be down to their relatively recent arrival on the market, it is clear that there is an urgent need for change.
26. The argument that it is impossible to maintain an environment where millions of people visit platforms daily may suggest a fundamental flaw in the business if it cannot be managed effectively. However, it is within their capacity to manage advertising content effectively, as described above. Platforms may become less profitable, however the environment would be a safer one, and the playing field more level.

Ad fraud

27. Ad fraud is often referred to as the second biggest revenue source for organised crime after narcotics.⁸
28. Advertisers are not only being defrauded, investment decisions are materially affected. Digital campaigns appear more effective from a return of investment perspective; money goes where it should not; it adversely impacts innovation by potentially stopping new services from reaching the market – that perpetuates anti-competitive market conditions. It promotes the efficacy of those campaigns, with money being moved out of traditional media and indeed, proper journalism (outside the scope of this review). Revenue also goes towards funding or incentivising illegal or harmful content, and there is very little one can do.
29. From a return on investment perspective, if a click through is falsified, a marketer has little idea about the impact of their campaign and how effective it is on the market.

Brand safety

30. Digital advertising is central to the debate around online harms. In 2017 The Times' story highlighted this issue for the first time where brands unwittingly supported terrorist content on video sharing platforms. Since then, we have seen similar issues with misinformation, child sexual exploitation, self-harm and suicide across multiple platforms.⁹ As the White Paper states, "*Online advertising plays a crucial role in the digital economy, with many free digital services, such as search engines or social networks, funded by advertising revenues.*"¹⁰

⁸ Ad Fraud Is Organized Crime's 2nd Biggest Source of Income, November 2017:

<https://medium.com/adbank-blog/ad-fraud-is-organized-crimes-2nd-biggest-source-of-income-c914528cac50>

⁹ The Times, Big Brands fund terror through online adverts, February 2017:

<https://www.thetimes.co.uk/article/big-brands-fund-terror-knnxfqb98>

¹⁰ Online Harms White Paper, April 2019:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/793360/Online_Harms_White_Paper.pdf



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31. Marketers ought to have confidence in the content policy of a platform; that they offer consistent levels of protection; rules are being adhered to; to ensure that this is an appropriate and socially responsible advertising channel for them.
32. If broadcasters choose to advertise on platforms to attract younger viewers, there is real concern about brand safety regarding the content that advertising is placed in or around, despite ad verification and blocking tools in place.
33. As a direct result of the imbalance in advertising regulation and the clear disparity in advertising content standards, a brand's content can appear beside illegal content, disinformation, and ad fraud. This is a potential barrier to using those platforms. The concern is wrapped up in the need for a level playing field - broadcasters advertising on platforms are acutely aware that ads could be placed around content which could be problematic, or which brands may not wish to be close to, from a contextual perspective.
34. Currently, to help with brand safety many content rules are generic, white or blacklist, however this is not a one size fits all solution. Platform advertising terms and conditions are category led - one can exclude particular categories from appearing alongside content, but there is very little confidence as an advertiser or a content provider that a similar level of protection to that of the broadcast industry will be provided for. In the past, advertisers assumed that categories and metadata had been entered correctly, however misattribution is common.
35. Current brand safety measures appear too reactive, and while we acknowledge that brand safety efforts are on-going, much of this effort is focused on continuously training machines with a low proportion of human viewers by comparison.¹¹
36. The steps taken by both Facebook and Google to reassure advertisers around issues of brand safety, including the hiring of additional content reviewers, are welcome. However, the concern remains about the pace of self-imposed measures, disproportionately reactive measures and human oversight; and the adequacy of these measures versus the scale of the issue. Whilst the major platforms have introduced a range of initiatives aimed at protecting their users from harmful content, the ability to compare the consistency and effectiveness of these measures is questionable.
37. YouTube's initial response to brand safety issues was that one should opt for their more expensive "Google Preferred"¹² premium advertising model. Those Channels are expected to undergo more scrutiny than other user generated channels. However, many brands including UKTV subsequently removed ads from YouTube after they were seen beside very

¹¹ Google promises to "listen more" as it rolls out new ad controls on YouTube, June 2018:

<https://www.marketingweek.com/google-promises-listen-more-rolls-out-ad-controls/>

¹² Google Preferred:

<https://www.thinkwithgoogle.com/products/google-preferred/>



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problematic videos.¹³ Although improvements have been made, these are still inadequate. The fact that brands must pay a premium to safeguard against some of the most extreme content is irreconcilable, particularly as these measures do not provide a sufficient level of protection.

38. Further, it is not beyond the realms of possibility that consumers viewing content by respected household names, appearing next to nefarious content, might actually serve to endorse it.
39. UKTV invests in paid for ads on Facebook and Instagram to reach and engage with audiences. We previously chose to run in-stream video ads¹⁴ but removed them due to brand safety concerns. In October 2018 we used in-stream ads to promote “Women On The Verge”, an original scripted comedy. The high reported viewing rate of 79% was encouraging, however the exact placement of our ads was unknown. We were unable to retrospectively assess how protected our ads were in the previous context they appeared, with the publisher breakdown only made available from the last 30 days of a request being made.
40. Importantly, even if this information was made available, it is understood that our content could have appeared beside 56,000 respective publishers, a list of which would be sent for us to manually check with the intention to provide a white or blacklist approach. Something which we do not have the expertise, or the capacity to do. Unless we opted to pay for third party software tools such as Double Verify, a similar measure to Google Preferred, we would have still been unaware of the exact videos our ads appeared against.¹⁵ From a contextual placement point of view, this lack of transparency is risky for brands.
41. When UKTV frequently advertises on another major broadcaster’s channel, it is aware of the general standards applied, and the approach to the business. It would know that human beings have assessed the content and made a decision from an advert content, and programme content perspective. This does not purely relate to illegality, reputational damage is also a concern. Ads may be banned and removed, but even if the majority of online advertising was legal, decent, honest and truthful, this does not legislate for contextual issues.
42. In broadcasting, there are many ads that would not be placed around programmes from a contextual perspective. Emotional damage can be created if the wrong context of advert

¹³ Google’s bad week, March 2017:

<https://www.theguardian.com/technology/2017/mar/25/google-youtube-advertising-extremist-content-att-verizon>

¹⁴ In-Stream Video Ads:

<https://www.facebook.com/business/help/257808937971866>

¹⁵ Double Verify:

<https://www.doubleverify.com/>



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appears alongside the wrong context of programme.¹⁶ This is a serious consideration for broadcasters - it is not on the platforms' filter as a serious consideration.

Algorithmic Transparency

43. Requiring digital platforms to have greater transparency over algorithms should also be a key focus. Social media platforms use algorithms which can lead to “echo chambers” or “filter bubbles” where a user is presented with only one type of content instead of a range of sources.

44. Currently, there is no systematic means of assessing the impact of a platform’s algorithms and decisions, nor of holding intermediaries to account. We agree with the DCMS’ assertion: *“Just as the finances of companies are audited and scrutinised, the same type of auditing and scrutinising should be carried out on the non-financial aspects of technology companies, including their security mechanisms and algorithms, to ensure they are operating responsibly. The Government should provide the appropriate body with the power to audit these companies, including algorithmic auditing, and we reiterate the point that the ICO’s powers should be substantially strengthened in these respects.*

If companies like Facebook and Twitter fail to act against fake accounts, and properly account for the estimated total of fake accounts on their sites at any one time, this could not only damage the user experience, but potentially defraud advertisers who could be buying target audiences on the basis that the user profiles are connected to real people. We ask the Competition and Markets Authority to consider conducting an audit of the operation of the advertising market on social media.”¹⁷

45. Algorithm changes have an impact which can result in a significant reduction in traffic. The Government’s suggestion for the new regulator to have powers to interrogate the impact of algorithms in selecting content for users and request explanations about the way they operate is welcome. Where changes to algorithms have a particular impact, there should be greater transparency and consultation with the industry.¹⁸

¹⁶ ITV under pressure to drop Love Island surgery ads as 40% of women say it harms body image, July 2018: <https://www.thedrum.com/news/2018/07/24/itv-under-pressure-drop-love-island-surgery-ads-40-women-say-it-harms-body-image>

¹⁷ Digital, Culture, Media and Sport Committee, “Disinformation and ‘fake news’: Interim Report” 2017-2019: <https://publications.parliament.uk/pa/cm201719/cmselect/cmcomeds/363/363.pdf>

¹⁸ Online Harms White Paper, April 2019, p41: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/793360/Online_Harms_White_Paper.pdf



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Data privacy

46. Products such as G-mail, Google maps, Street view, Satellite view, Pokémon Go, among others, have allowed for excessive amounts of personal data gathering via the scanning of e-mails and receiving information on people's identities, locations, interests and their most private information. While initial business models were concerned with improving products, and the targeting of advertisements, it became apparent that with "filter bubbles" and recommendation engines behavioural predictions could be taken to increase the probability of a good outcome, by steering people towards particular outcomes.
47. The user perception is that these products add immense value and convenience to people's lives, and in many ways, they have changed our lives for the better. There is great appeal in content being served for products or services one finds interesting and useful. However, the underlying principle is that what appears to be good for the consumer is disproportionately benefiting the advertising industry, at the expense of the security and safety of consumers. The issue is the third-party market in our most personal data: individuals have no guarantee about the security of their personal data within the ecosystem.
48. The majority of internet users do not understand that many of the advertisements they see online have been specially selected for them via the process of real-time bidding (RTB), which relies on the use of personal data.
49. In recent months the ICO have reviewed how personal data is used in RTB and programmatic advertising.¹⁹ During the RTB process a wide range of data is broadcast to multiple advertisers via an auction within a fraction of a second in order to serve an ad to a user browsing a web page – this can result in a person's personal data being seen by hundreds of organisations, where data protection rules are not sufficiently considered. We understand that many RTB practices are unlawful. It is unclear to whom the data is being handed to, whether data is being sent off in a way that is appropriate, and what that data is.
50. The ICO are clear about their particular focus on "special category data" (which comprises sensitive information about people's health, race, religious beliefs, political opinions, or sexual orientation) being broadcast to third parties. They have questioned how advertisers relied on contracts for receiving user consent for data-sharing across the supply chain, and data being shared and used without people's consent. Notably, that the creation and sharing of personal data profiles about people, to the scale they have seen is disproportionate, intrusive and unfair, particularly as people are often unaware it is happening.²⁰

¹⁹ Information Commissioner's Office: Update report into adtech and real-time bidding, 20 June 2019: <https://ico.org.uk/media/about-the-ico/documents/2615156/adtech-real-time-bidding-report-201906.pdf>

²⁰ Blog: ICO Adtech update report published following industry engagement, 20 June 2019: <https://ico.org.uk/about-the-ico/news-and-events/news-and-blogs/2019/06/blog-ico-adtech-update-report-published-following-industry-engagement/>



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51. The need for explicit consent for the processing of special category data in RTB is unambiguous. So too is the need for organisations to be held accountable for who they share data with. These are GDPR basics, and yet unlawful practice is significant.
52. While the technology used in this area is complex and impressive, it is not sufficient to hide behind opaque and “complicated” technology to excuse clearly disallowed activities. It is in everyone’s interest for the energy and expertise dedicated to maximising returns in ad tech, is put into handling data appropriately and lawfully.
53. As a traditional broadcaster in our online advertising world, the data we have on consumers is far less granular. The excessive collection of personal data used to “follow” users is not something broadcasters have an interest in. If many are abusing the system in RTB, it could prevent respectable broadcasters utilising this, and stop reputable players from innovating in a way that keeps advertising moving forward.
54. Most recent research from June this year showed that 23 billion dollars is set to go to ad fraud in 2019 - that is 7% of our global ad spend.²¹ A common data standard for the passing of information between each player in the supply chain, and proper independent auditing processes will help the market operate more effectively.
55. As competition and privacy issues have recently merged, we hope that the ICO and the CMA will continue to have live discussions and work closely, to ensure the current market failure is corrected through strong regulatory intervention.

Platform Dominance

56. Adult internet users in the UK spend over 3 hours a day accessing the internet, with more than a third of this time spent on sites owned by Google or Facebook.²²
57. Online platforms have also been the subject of increasing scrutiny and public debate. Recent studies of digital markets in the UK, US, Europe and elsewhere have raised concerns about the market power of large platforms and whether this might be harming competition and consumers, particularly by creating barriers to new entrants. Dominance of one or two firms in their respective markets allows the dictation of business terms to those wishing to gain access.²³
58. Globally, it has been estimated that firms which extract the most revenue from digital advertising are dominated by the large online platforms. In addition to Google, Facebook,

²¹ Report: Ad fraud to hit \$23 billion, isn’t going down, June 2019:

<https://adage.com/article/digital/report-ad-fraud-hit-23-billion-isnt-going-down/2174721>

²² Ofcom Online Nation, May 2019. Figures from September 2018:

https://www.ofcom.org.uk/data/assets/pdf_file/0024/149253/online-nation-summary.pdf

²³ Furman Review, Unlocking digital competition: Report of the digital competition expert panel, March 2019:

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Amazon, Microsoft and Twitter, the top ten global firms by digital advertising revenue include the large Chinese platforms Alibaba, Baidu and Tencent.

59. Although online platforms often provide services to users for “free”, in practice consumers are paying through their attention and data which the platforms monetise by selling digital advertising. As online platforms have grown, so too has digital advertising revenue. Digital advertising to UK consumers has experienced rapid growth during the past decade – it now comprises over 50% of UK advertising expenditure and is forecast to continue to grow strongly in future, as mentioned above.
60. The health of the UK’s advertising market is central to the ongoing success of UK television. Advertising is an overwhelmingly primary source of revenue, and whilst audiences have increasingly migrated to viewing in online environments, broadcasters have sought to keep pace with this and increased competition, by developing on demand services and data-led targeting which is fundamental to its sustainability long term. However, broadcasters are competing in an uneven playing field in the current digital media market which the digital platforms dominate. Facebook and Google are an unregulated duopoly commanding 84% of global spend in 2017.²⁴
61. Against that background, there should be far greater scrutiny of their size and dominance in relation to the digital advertising market as a whole. The digital economy does not have enough competition and we support the Government’s request for the CMA to look into this further.

Conclusion

62. As well as the creation of a new regulatory regime; a beefed-up ASA; tougher sanctions on platforms; strong regulatory intervention to protect consumers from the unlawful handling of their data, digital literacy and understanding should also form a core part of the Government’s strategy to encourage users to think critically about the media they consume.
63. Although it has been the case since 2011, a significant number of advertisers are not aware that the ASA/CAP regulate online advertising, including companies’ and organisations’ content on their own websites and social media spaces (online ‘advertiser-owned’ advertising). There should be more education in this area, and a clear distinction made between the regulation of advertising, online editorial, and user generated content.
64. We are mindful that the risk of unintended consequences from further well-meaning regulation could weaken competition. The delivering of benefits to users can be hamstrung by onerous and competing requirements which could have a negative impact on delivering

²⁴ Mark Ritson: Why you should fear the digital duopoly in 2018, December 2017: <https://www.marketingweek.com/2017/12/05/ritson-digital-duopoly-2018/>



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value to the consumer. Therefore, it is vital that there should be a coherent and joined-up approach towards policy making.

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