



Online Platforms and Digital Advertising Market Study

Observations of DMG Media on the Statement of Scope

July 2019

I. Introduction

1. The Competition and Markets Authority (“CMA”) announced on 3 July 2019 its decision to carry out a market study into online platforms and the digital advertising market in the UK (“Market Study”). At the same time, the CMA issued a Market Study Notice, as well as a Statement of Scope (“SoS”) on which interested parties are invited to comment.
2. This CMA Market Study is an initiative that DMG Media supports wholeheartedly. This initiative is not only welcome, but it is also timely. First, it comes at a time where news publishers, which are highly reliant on digital advertising, face extraordinary challenges. While many of British news publishers have massively invested in building their online operations, very few of them have been able to turn a profit as digital advertising revenues are overwhelmingly appropriated by digital platforms. The situation is particularly dramatic for the local and regional press, which is facing extinction. Thus, there is a high degree of urgency in ensuring that the revenues of digital advertising are not appropriated by digital platforms at the expense of news publishers. Second, there is growing evidence of anticompetitive behaviour by the digital platforms. Google, for instance, uses its control of the ad tech stack to engage in exclusionary behaviour, as well as to charge exploitative fees for its ad intermediation services. This has led several competition authorities in other EU Member States to investigate digital advertising markets – and more recently to the US Department of Justice launching an investigation into Big Tech.
3. DMG Media is one of Britain’s most successful news publishers. The Daily Mail and Mail on Sunday each hold about 25 percent of their respective national newspaper markets and Metro has the largest distribution of any free newspaper. Our main news website, MailOnline, is the largest English language newspaper website in the world, with an average 172 million monthly unique visitors. This position has been achieved by establishing full-scale editorial and commercial operations in both the USA and Australia, in addition to the UK. MailOnline is now the eighth largest news website in the USA (and largest foreign-owned),¹ and the fifth largest in Australia.²

1 See <http://www.ebizmba.com/articles/news-websites>

2 See <http://www.roymorgan.com/findings/7595-top-20-news-websites-march-2018-201805240521>

4. The purpose of this investment has been to enable DMG Media to make the transition from a profitable print media business into a profitable digital media business employing nearly 1,000 journalists in the UK, a third of whom work exclusively online, operating internationally from a UK base. However MailOnline's remarkable success in building an audience has not been matched by similarly exponential growth in advertising revenue, and although MailOnline has been profitable since the last quarter of 2017, DMG Media remains reliant on print revenues, in particular cover prices.
5. The difficulties DMG Media faces are far from unique. The Mediatique report published by the Department of Digital, Culture, Media and Sport's Cairncross Review shows that across the newspaper industry as a whole advertising revenue fell 70 per cent between 2007 and 2017, from £4,625m to £1,432m.³ Of the latter figure, only £487m was digital revenue.
6. As the news publishing industry's advertising revenue has contracted, the tech platforms' has expanded. Google's UK ad revenues more than doubled between 2011 and 2017, from £1.9 billion to £4.4 billion.⁴ Thus, Google alone took almost as much revenue as the entire newspaper industry had in 2007. Facebook's revenue increased even more dramatically, rising tenfold, from £181 million to £1.9 billion.⁵ Between them the two companies account for more than half (54 per cent) of total UK digital ad revenue.⁶
7. The present submission comprises DMG Media's observations on the SoS issued by the CMA. It is divided in five parts. Part II contains an executive summary, which also lays out DMG Media's recommendations on the SoS. Part III explains the reasons why the CMA should investigate Google and Facebook's ranking algorithms, and their lack of transparency, as part of this Market Study. Part IV discusses why the Market Study should particularly focus on online display advertising given it represents a critical source of revenue for news publishers (and, more generally, anyone delivering content on the internet). Finally, Part V discusses remedies.

II. Executive summary and recommendations

5. The SoS does a good job in terms of identifying key areas of concerns with respect to digital advertising and possible remedies to address them. DMG Media would however like to make the following recommendations:

a. 

³ See https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/720400/180621_Mediatique_-_Overview_of_recent_dynamics_in_the_UK_press_market_-_Report_for_DCMS.pdf

⁴ See <https://www.statista.com/statistics/268737/googles-digital-advertising-revenue-in-the-uk/>

⁵ See <https://www.statista.com/statistics/268738/facebooks-digital-advertising-revenue-in-the-uk/>

⁶ See <https://www.emarketer.com/Article/Digital-Duopoly-Remain-Dominant-UK-Ad-Race/1016481>

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In terms of remedy, the CMA should consider whether enforcement actions may be needed to bring these anticompetitive practices to an end, combined with *ex ante* regulation to ensure that competition is able to prosper in ad tech markets. The CMA should analyse whether Google's discriminatory practices/conflicts of interest can be sufficiently prevented through behavioural measures. In order to avoid the need for monitoring and the risks of regulatory breach, the CMA should consider a structural remedy, whereby Google would have to divest some elements of its suites of ad tech products.

- c. Third, while DMG Media recognises the importance of "*giving consumers greater protection in respect of data*", the CMA should be careful not to adopt a remedy that could have unintended consequences. For instance, while the GDPR *inter alia* aimed at placing some limits on the way digital platforms collect and process personal data, these platforms turned this regulation to their advantage. Thus, regulatory intervention should be careful not to put additional power in the hands of these platforms.
- d. Finally, if the Market Study reveals that the digital advertising market "*is not found to be working well*", the CMA should take prompt and decisive action. The news publishing industry will not be able to survive much longer in a situation where digital advertising revenues are almost entirely captured by the Google/Facebook duopoly. In an industry where the UK has traditionally played a major role, a lot of jobs are at stake. Moreover, if newspapers are no longer able to invest in original content, it is not only their readers who will be harmed but society at large considering the fundamental role played by news publishers in a functioning democracy as they report the activities of the courts, local authorities, and Parliament itself

III. Transparency of ranking algorithms

6. DMG Media is notes that the SoS, as drafted, omits any reference to the pivotal issue of digital platforms acting as traffic allocators for news publishers and the related issue of the platforms' opaque ranking algorithms, as both are inextricably linked with news publishers' ability to generate advertising revenue.



There are several reasons why the digital platforms' ranking algorithms should be an integral part of the CMA's Market Study.

7. First, for news publishers with an ad-funded business model, attracting user traffic is of critical importance in generating advertising revenues. Increased user traffic generates more views, which in turn translate into inventory available for monetization. Conversely,

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a decrease in user traffic leads to a corresponding loss in ad revenue. In this context, the platforms' ranking algorithms play a critical role. As news consumption shifts from print to digital, the way that people access news content has changed significantly: while some readers may still navigate directly to the news publishers' website, a large number of readers are being referred to the website from a large digital platform, typically Google or Facebook. For instance, although MailOnline is fortunate in that an unusually high proportion of its traffic – 46% in the UK – comes to it directly, via the MailOnline mobile app or bookmarking, a significant percentage of its traffic is still referred by digital platforms.

8. Large digital platforms have thus become the gateway through which a large number of users access news content and on which news publishers rely for traffic in order to monetize their content. However, these platforms rank news content – and thus allocate traffic among news publishers – according to opaque algorithms, which are updated with little or no notice, without explanation, and which may result in arbitrary discrimination against certain news publishers.
9. For instance, the day following the most recent update in Google's broad core algorithm on June 3 this year, MailOnline saw a very significant 50% drop in Search Traffic across all categories of content (news, sport, showbiz etc.) while its visibility index decreased by 43%.⁹ [REDACTED] This resulted in significant loss of revenues for MailOnline as it meant that fewer viewers were drawn to its sites, hence harming its ability to monetize its content. [REDACTED]

[REDACTED] This problem is not new. Historically MailOnline enjoyed the search rankings one would expect for a major news publisher. However, it also recorded significant drops in search traffic when Google made core algorithm changes in March 2018. [REDACTED]

⁹ See Barry Schwartz, "Daily Mail SEO says site lost big after June Google update, asks community for help", Search Engine Land, 6 June 2019, available at <https://searchengineland.com/daily-mail-seo-says-site-lost-big-after-june-google-update-asks-community-for-help-317926>

¹⁰ See also Australian Competition & Consumer Commission, Digital Platforms Inquiry, Final Report, June 2019, available at <https://www.accc.gov.au/publications/digital-platforms-inquiry-final-report>, p. 251, observing that the resources and time media businesses invest into understanding the algorithms of digital content "may represent an inefficient allocation of resources that could otherwise be used to fund the production of news content".



12. No news publisher can point to the specific changes in the algorithms which cause these dramatic changes and anomalies in search results – because the algorithms are secret. But the ability of digital platforms to decide what internet users see in terms of news is huge. In newsprint terms, a Google or Facebook algorithm shift is the equivalent of WHSmith deciding that on Royal Wedding Day readers of the Daily Mail are given the Telegraph, and during the World Cup Sun readers get the Guardian. The situation is even worse because while the market for the distribution of newspapers is competitive – as newspapers are distributed through around 50,000 outlets in the UK, including newsagents, convenience stores, supermarkets, garages etc. – digital publishers must rely on one search engine, Google, and one social media platform, Facebook. In this context, Google and Facebook’s ranking algorithms should be made fully transparent. This is necessary to ensure that all news providers are treated in a consistent way, without discrimination for commercial, political or any other reasons. If Google is making value-judgments that radically affect the news reaching its users, it is imperative that such judgments be made public. If Google is picking winners and losers, it should do so with complete transparency and be prepared to justify its choices. Google cannot avoid the legal and public accountability incumbent on publishers by claiming not to be one and at the same time act as if it is one.

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13. As pointed out in the recent Report “Competition Policy for the digital era”,¹¹ because platforms such as Google and Facebook effectively act as “regulators” in that they manage the algorithms that effectively decide what internet users will see, they “*have a responsibility to ensure that competition on their platforms is fair, unbiased, and pro-users.*”¹² In addition, this report underlines that transparency can also be a competition issue because non-transparent markets may be a fertile ground for anticompetitive practices and revenue appropriation.¹³
14. There is a second reason why the CMA should look at ranking algorithms as part of its Market Study, which is that digital platforms may manipulate such algorithms to increase their own advertising revenues to the detriment of those of news publishers. For instance, and despite Facebook’s allegations to the contrary, there is evidence that Facebook’s algorithm prioritizes in the newsfeed Instant Articles over news stories that are not displayed in the Instant Articles format.¹⁴ Instant Articles is a format for the design and display of mobile webpages that Facebook introduced with the purported aim of decreasing load time of mobile webpages. The main reason behind the increased speed is that when a user clicks on an Instant Article, Facebook delivers a pre-loaded version of the publisher’s article which is stored on its server. As a result, instead of navigating to the publishers’ website, users reading an Instant Article remain within the Facebook ecosystem, which harvests their data for advertising purposes. The publisher is thus deprived of valuable user data, as it cannot use first-party cookies, and relies on the data provided by Facebook at the latter’s discretion. Moreover, the publisher’s monetization options are significantly reduced, in that Facebook does not allow programmatic ads to be served on Instant Articles.¹⁵ The publisher may either monetize its article through direct (non-programmatic) deals or by becoming a member of the Facebook Audience Network. In the latter case, however, the publisher must agree to give Facebook 30% of the advertising revenue.
15. DMG Media thus strongly urges the CMA to include to its SoS the role of large digital platforms (Google and Facebook) as traffic allocators for news publishers, so it can analyse the functioning of their ranking algorithms and, should it find that these algorithms lack objectivity and transparency, adopt adequate remedies. DMG Media has additional resources it could share with the CMA if required.

IV. Focus on online display advertising

¹¹ See European Commission, “Competition Policy for the digital era”, A report by Jacques Crémer Yves-Alexandre de Montjoye Heike Schweitzer, 2019, available at ec.europa.eu/competition/publications/reports/kd0419345enn.pdf

¹² Id. at pp. 60-61.

¹³ Id. at pp. 63 et seq.

¹⁴ L. Gormsen & J. Llanos, “Facebook’s Anticompetitive Lean in Strategies”, 6 June 2019, available at SSRN: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3400204 p. 66.

¹⁵ <https://developers.facebook.com/docs/instant-articles/faq#FAQ-monetization>

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16. The SoS correctly identifies three main types of digital advertising in the UK: search, display and classified advertising.¹⁶ The SoS also observes that according to a study *“paid for search is the largest category of online advertising, accounting for 50% of the UK online advertising market in 2018, compared to 39% for display, 11% for classifieds and less than 1% for other formats.”*¹⁷
17. As far as news publishers are concerned, display advertising is the most important form of advertising as news publishers generate advertising revenues by displaying ads next to their online content. DMG Media considers that in its analysis the CMA should operate a distinction between display advertising on the “walled gardens” (Facebook, YouTube, etc.) and display advertising on the “open web” (on online newspapers, blogs, game sites, etc.). The reason is that these two forms of display advertising raise distinct, although related, issues for news publishers.
18. Display advertising on the “walled gardens” raises two major issues in DMG Media’s view.
 - a. The first problem relates to data. What attracts advertisers to Facebook or Google’s YouTube is the high level of behavioural targeting offered by these companies due to their ability to process the large troves of data they acquire across platforms and devices.¹⁸ This convinces advertisers that Google and Facebook are able to accurately identify the interests and intents of all potential customers, and serve them relevant ads.

These platforms’ data advantage is reinforced by the fact that they refuse to let third parties measure the performance of their campaigns. When an advertiser runs a campaign on Google or Facebook, the platform will insert a pixel to the ad which reports every time the ad is viewed or the user converts. The problem is that the platform may overreport ad metrics and ignore the role of competing news publishers. In 2016, Facebook admitted that it had miscalculated the average time users spent on watching paid video ads by up to 80%.¹⁹ According to a class action filed subsequently Facebook had wilfully inflated video ad metrics by up to even 900%.²⁰ To better understand the problem of overreporting for news publishers consider the following example: a user converts after viewing an ad on MailOnline. If the same user has been exposed to the same ad on Google or Facebook within the so-called “attribution window” of the platform (which by default is 28 days for Facebook and 30 days for Google after clicking the ad), then user conversion is attributed to Google or Facebook, rendering the news brand invisible to the advertiser. Overreporting ad metrics harms

¹⁶ SoS, paragraph 5.

¹⁷ SoS, paragraph 35.

¹⁸ SoS at paragraph 60 et seq. As the SoS correctly observes “Google may aggregate data from Google Maps, Gmail, YouTube, Google Play, Chrome, Android etc. Facebook may aggregate data from WhatsApp and Instagram.”

¹⁹ K. Sutton, “Facebook Hid Inflated Video Ad Metrics Error for Over a Year, Advertisers Allege”, *AdWeek*, 17 October 2018, available at <https://www.adweek.com/digital/facebook-hid-inflated-video-ad-metrics-error-for-over-a-year-advertisers-allege/>

²⁰ Ibid.

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news publishers as it convinces advertisers that their advertising investment is better spent on the walled garden rather than on news publishers. The result is that 90 per cent of all new advertising spend goes to Google and Facebook.²¹

- b. The second problem is one of free riding. Social networks heavily rely on news publishers content to draw and maintain users on their platforms. As noted in the Cairncross Review, for platforms *“the content provided by newspapers is a reason for people to visit their sites and then, potentially to look at or use other content or services they offer.”*²² Yet, they pay nothing to publishers to use their content. As pointed out in a recent report regarding the digital platform’s market power:

“Digital platforms’ bottleneck power manifests in their ability to use monopsony power to pay news outlets less than the competitive price for the news. ... Not only do they carry news for free, with the only compensation for sharing snippets and other reports being the increased traffic and attention diverted to news outlets’ websites.”²³

Of course, platforms could argue that such direct and indirect monetization of the traffic flowing through is a form of consideration for the referral services rendered to the news publisher. However, news publishers may never get the chance to monetize traffic in the first place, because the user is encouraged to stay on the platform. For instance, the Cairncross Review refers to a study revealing that *“42% of adults admit that they often skim headlines on social media without clicking through the relevant story.”*²⁴ Moreover, even when the platform does not divert traffic away from publishers, they nevertheless face considerable obstacles in monetizing it due to the large and opaque fees of ad tech intermediaries (see below).

19. Display advertising on the “open web” should be the primary focus of the CMA’s efforts because, but for the “walled gardens”, this is what really fuels the internet by generating revenues for thousands of news publishers, specialised blogs and online game providers operating in the UK. These content providers are providing much of the “substance” of the internet and generate considerable value for internet users. They deserve fair remuneration for their efforts. Yet, they are currently undercompensated due to the large revenues captured by the ad intermediaries they need to monetize their content, chief amongst which Google.
20. Display advertising on the “open web” raised the following major issues in DMG Media’s view.

²¹ See <https://adexchanger.com/online-advertising/digital-ad-market-soars-to-88-billion-facebook-and-google-contribute-90-of-growth/>

²² Cairncross Review, A Sustainable Future For Journalism, 12 February 2019, available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779882/021919_DCMS_Cairncross_Review_.pdf

²³ See Stigler Center Report, *supra* note 7, at p. 32.

²⁴ Id. at p. 32 (referring to Edelman Trust Barometer 2018 - UK Results, slide 11).

- a. First, through a series of acquisition, including Applied Semantics (2001), YouTube (2006), AdMob (2009), Invite Media (2010), AdMeld (2011), and most significantly, DoubleClick (2008), Google has monopolized the ad tech ecosystem. Google is present at virtually every step of the value chain between advertisers wishing to buy third-party display inventory and publishers. Google thus offers the leading ad server for publishers (DFP, now rebranded Google Ad Manager), the leading ad server for advertisers (DCM, now integrated with other Google products to form the Google Marketing Platform), two ad networks (AdSense, AdMob), the leading ad exchange/SSP (AdX), the leading third-party display ad buying solutions (AdWords, now rebranded Google Ads and DBM, now rebranded Display & Video 360) as well as its powerful analytics solution (Google Analytics). In other words, Google controls not only the dominant exchange but also the dominant actors that control the flow of supply and demand into the exchange. While a variety of other ad tech companies exist, they are considerable weaker than Google and the field is narrowing as many such companies have disappeared or have been acquired for a fraction of their original value (see below). Google has become an unavoidable ad intermediary for advertisers and publishers holding considerable market power.

- b. Second, Google has used its control of DFP (Google Ad Manager), its dominant ad server for publishers, to give systematic preference to its own ad exchange – via “dynamic allocation” and “last look” – to the detriment of other ad exchanges.²⁵ This form of vertical leveraging has had a devastating impact on competition in ad tech. Despite the continuous growth of programmatic advertising, the markets for ad intermediation and third-party display ad buying solutions are going through a major crisis, with the majority of non-Google ad tech companies struggling to survive and turning into fringe players, and investors being reluctant to invest in companies that compete with Google.²⁶ While programmatic advertising is on the rise, the ad tech industry is consolidating rapidly – the number of independent ad-tech companies has fallen 21 per cent since 2013 – and investment capital for start-ups is drying up.²⁷ As a result, news publishers are deprived of the benefits of competition in ad tech in terms of lower prices (i.e., lower commissions taken by ad intermediaries) and innovation. What the European Commission expected to be a vibrant market when it (misguidedly) allowed Google to acquire DoubleClick in 2008²⁸ has effectively become a desert.

²⁵ See D. Geradin & D. Katsifis, “An EU competition law analysis of online display advertising in the programmatic age”, (2019) *European Competition Journal*, available at <https://doi.org/10.1080/17441056.2019.1574440>

²⁶ See A. Schiff, “Should Google Be Broken Up? And Four Other Burning Questions As The DOJ Begins Its Antitrust Investigation”, *AdExchanger*, 10 June 2019, available at <https://adexchanger.com/platforms/should-google-be-broken-up-and-four-other-burning-questions-as-the-doj-begins-its-antitrust-investigation/>

²⁷ See <https://www.nytimes.com/2018/08/12/technology/google-facebook-dominance-hurts-ad-tech-firms-speeding-consolidation.html>

²⁸ See European Commission, Decision of 11 March 2008, COMP/M.4731 *Google/DoubleClick*, paragraph 295 et seq.

- c. Third, Google has used its vertical integration across the ad tech value chain and the opacity of its practices and its contracts to exploit advertisers and publishers by extracting undisclosed margins on top of its disclosed commission fees in breach of Article 102 TFEU.²⁹ As a result, news publishers are only obtaining a small share of advertising investment with Google pocketing the difference. While for every pound spent by a print advertiser, or a digital advertiser which books space directly with DMG Media, we receive 83p, the opacity of the programmatic advertising market means that neither we nor the advertiser know for certain what proportion of the programmatic advertiser's pound reaches the publisher. DMG Media estimates in its case it is only around 30p.³⁰ That represents a very significant loss for DMG Media and other publishers.
21. As a result, the ad intermediation markets are not competitive and Google, due to its vertical integration and its anticompetitive practices, is able to capture excessively large revenues to the detriment of news publishers and consumers. Given the extreme opacity of ad intermediation markets, the CMA should invest sufficient resources to fully understand how they work, why they are not competitive and to the extent necessary take appropriate measures to end Google's leveraging of its vertical integration across all parts of the ad tech ecosystem.

V. Remedies

22. The SoS preliminarily identifies five main areas in which remedies may be required. Among these five areas, DMG Media considers potential remedy areas 3 and 4 are particularly important.
23. First, in DMG Media's view, it is crystal clear that the "platforms' ability to exercise market power" (potential remedy area 3) should be limited. While if anticompetitive practices are identified some enforcement actions may be necessary, DMG Media agrees with the SoS that the development of an *ex ante* regulatory regime to address to address the platforms' market power should be considered. The possible remedies evoked at paragraph 95 of the SoS make sense, but it is subject to question whether "[r]equiring vertically integrated platforms to implement an appropriate form of separation between different activities across the value chain, to the extent necessary to reduce incentives to favour their own businesses" will be sufficient. Such a remedy would likely require significant monitoring to prevent digital platforms from evading their obligations. From that standpoint, structural remedies in form of divestments may be preferable.

²⁹ See D. Geradin & D. Katsifis, *supra* note 25. See also R. Benes, "Ad buyer, beware: How DSPs sometimes play fast and loose", *Digiday*, 25 March 2017, available at <https://digiday.com/marketing/dsp-squeeze-buyers/>.

³⁰ The World Federation of Advertisers estimated that publishers receive 40% of advertiser investment. See WFA guide to Programmatic Media – What Every Advertiser Should Know about Media Markets Programmatic Media, available at <https://www.wfanet.org/app/uploads/2017/04/programmatic.pdf>. The Guardian revealed in 2016 that "in worst case scenarios, for every pound an advertiser spends programmatically only 30 pence actually goes to the publisher." See D. Pidgeon, "Where did the money go? Guardian buys its own ad inventory", *Mediatel Newslines*, 4 October 2016, available at <https://mediatel.co.uk/newslines/2016/10/04/where-did-the-money-go-guardian-buys-its-own-ad-inventory/>.

24. Second, DMG Media agrees that the CMA should “*consider the need for remedies to improve transparency for participants in digital advertising markets (whether digital advertisers, content providers or intermediaries) on both financial flows and the delivery of advertisements*” (potential remedy area 4) given the extreme opacity of such markets. As Justice Louis Brandeis famously said, “[s]unlight is said to be the best of disinfectants.” We now have reached a situation where even sophisticated market players no longer fully understand the interactions between the parts of Google’s ad tech stack.³¹ This “opacity by design” has allowed Google to mislead advertisers and publishers to its sole profit. Transparency is needed.
25. Third, for the reasons described above (see paragraphs 8-16), it is also critically important to ensure that ranking algorithms are made more transparent so that they apply in a fair and non-arbitrary manner. There is indeed a clear link between the traffic online news publishers receive from digital platforms and their ability to monetize their content. Thus, unexplained and non-transparent algorithm shifts can have dramatic financial consequences for news publishers when they result in sudden traffic decreases. Moreover, we have also seen that algorithms may also be used by digital platforms to increase their own advertising revenues. Thus, adoption of a regulatory framework or a code of conduct is needed to ensure necessary transparency and fairness regarding algorithms. For this reason, DMG Media welcomes the addition of questions on algorithm changes to the revised Request for Information and recommends very strongly that the CMA includes to its SoS the role of digital platforms’ ranking algorithms in determining traffic and thus profitability of news publishers.
26. Finally, while DMG Media recognises the importance of “*giving consumers greater protection in respect of data*” (potential remedy area 2), the CMA should be careful not to adopt a remedy that could have unintended consequences. For instance, while the GDPR aimed at placing some limits on the way digital platforms collect and process personal data, these platforms turned this regulation to their advantages. European publishers were horrified when Google’s response to the EU’s General Data Protection Regulation (GDPR) was to impose a regime that would effectively make them data controllers – giving them the freedom to do what they want with data collected through publishers, while threatening not to serve ads to any publishers which do not satisfactorily obtain users’ consent on their behalf.³²

³¹ See the Cairncross Review, *supra* note 22, p. 58 noting that “the system of programmatic advertising is complicated to understand and navigate, for advertisers and publishers alike.

³² See <https://techcrunch.com/2018/05/01/google-accused-of-using-gdpr-to-impose-unfair-terms-on-publishers/>