



*CMA Online platforms and digital advertising market study*

*Comments on the Statement of Scope from Verizon Media*

*July 2019*

**1. Introduction**

- 1.1. Verizon Media is pleased to respond to the statement of scope, setting out the CMA's proposed areas of focus, themes and potential remedies.
- 1.2. Verizon Media is a global house of digital media and technology brands. Verizon Media's brands include Yahoo, AOL, Ryot, HuffPost, Tumblr, TechCrunch and BUILD. We are a challenger in digital advertising and a competitor to the market leaders. Through our own operations, and in partnership with others, Verizon Media helps drive diversity and choice in consumer services and brand advertising.
- 1.3. Verizon Media is an established player in the digital advertising market but still faces overwhelming competition from the leading players. Verizon Media is also a publisher (e.g. HuffPost) and so has first hand experience of the challenges created when the upstream digital advertising market is not fully competitive.
- 1.4. We therefore welcome the launch of this market study into the state of competition in the industry. We are supportive of competition authorities maintaining interest in the digital advertising market and, where appropriate, using their existing powers to promote competition and address distortions in the marketplace.
- 1.5. [REDACTED].

**2. Market study in context**

- 2.1. Verizon Media is a digital media and technology business with multiple lines of business, providing services to users across a number of international markets.
- 2.2. The UK is an important digital market and we share Government's wider ambition to promote an open and competitive digital economy that attracts new investment and therefore welcome the commitment to policies that are proportionate and pro-innovation. We particularly appreciate the attention paid to the evolution of the competitive landscape in digital advertising, which is critical for funding investment in our content creation and journalism.
- 2.3. The market study comes at a time when UK digital policy is in some flux and a number of novel policy initiatives touching digital companies are simultaneously in flight. These include - among others - the proposed Digital Services Tax, Digital Competition Expert Panel, Cairncross Review, Digital Charter, Industrial Strategy, Consumer Markets Green Paper and the digital advertising regulation review. There

is also impactful EU legislation for companies to consider, including the GDPR, ePrivacy Directive, AVMS Directive, and Copyright Directive.

- 2.4. Investors in the UK have been shaken by the speed and depth of these proposed interventions in the digital economy, which are conceived to achieve certain public interest goals but risk unintended collateral impacts. This is compounded by overlapping policy emanating from different sources and for different purposes, with limited cross-government coordination or robust assessments of their cumulative impact. The general effect of this policy ‘drift’ on the competitive landscape is important context for the market study.
- 2.5. With the right blend of policies and vision, Verizon Media sees a bright future for the UK’s digital advertising ecosystem, which builds on its strong creative roots and vibrant consumer markets. The next platform shift to 5G will open up opportunities for new investment, innovation and marketing creativity, bringing with it significant benefits to the UK economy at large and to consumers. The CMA’s market study can help to achieve this outcome

### **3. Description of the sector**

- 3.1. The introduction to the statement of scope describes the digital advertising sector at a high level. It will be important that the market study takes time to fully understand the complex relationships that drive the market, particularly between the market leaders (principally those identified as having “strategic market status”) and challenger companies, as well as to understand the actual scale, level of integration, and diversity of players that comprise the 3rd party ad ecosystem and collectively compete with market leaders<sup>1</sup>.
- 3.2. Another important aspect is the extent to which some players described in para 32 are diversifying their businesses and therefore play multiple roles in the digital advertising market.
- 3.3. The CMA should also validate assumptions that underpin its understanding of the market. Plum Consulting, for example, has updated Figure 2 since the publication of its report in order to more accurately reflect Verizon Media’s position in the search market. We ask that the CMA refer to this version going forward.

### **4. Scope and themes**

- 4.1. The proposed themes are an appropriate starting point for the CMA’s analysis, and we appreciate that the market study will presumably remain open to exploring new themes as they emerge during the evidence-gathering process.
- 4.2. In exploring themes 1 and 3, for example, it would be appropriate to examine the behaviour of consumers and advertising buyers in response to concerns arising from issues such as fake news, data processing practices or user generated content and how this has influenced the switching behaviour of these two groups.

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<sup>1</sup> LUMAscapes set out the ecosystem in a range of resources available [here](#)

- 4.3. Challengers in the ad market have invested heavily in brand safety measures, anti-fraud programmes, 3rd party measurement, transparency and other schemes. Challengers typically lead industry efforts to develop self-regulation and standards, and are early-adopters and champions within the sector. The market study should pay attention to how the market has responded to competitors seeking to positively differentiate themselves in response to advertiser demand on these issues, in particular to whether this investment has resulted in meaningful switching.
- 4.4. In exploring theme 2, the market study should examine the requirements imposed by GDPR and the effects of the legislation, as well as companies' practices. The imposition of this prescriptive framework on an existing, dynamic business model has been fraught with issues since GDPR came into effect and has unevenly impacted the competitive landscape. This is also relevant to the potential remedies (see section 6 below).
- 4.5. The Furman Review considered the impact of GDPR on data markets and competition, concluding that *"concerns over the application of the GDPR in digital markets are sufficiently widespread to merit further investigation. A retrospective assessment of the impact of the GDPR would be a valuable exercise regardless to ensure the regulations are operating as intended and are not unduly impacting competition"*<sup>2</sup>. This assessment should be undertaken as part of the market study.
- 4.6. [REDACTED].
- 4.7. [REDACTED].

## 5. Potential remedies

- 5.1. It is unusual for a market study to propose potential remedies at the outset. While the openness is appreciated, we would request that the CMA remains open to new conclusions and remedies following its evidence-led process to ensure that the right outcomes are achieved for competition and consumers.
- 5.2. The Furman Review recommended targeted interventions to address significant market status. All potential remedies should be examined with this starting point. Any remedies applied to the whole market should be subject to a proportionality test and with reference to the wider policy landscape challenger companies face in the UK (set out in section 2 above).
- 5.3. As noted above, there are a vast number of inter-connected digital policy initiatives in play and at a time of unprecedented political and economic uncertainty in the UK. Nothing harms business confidence more than conflicting or ambiguous overlapping regulation. The CMA has an opportunity to consider how the regulatory landscape as a whole can best promote competition and innovation, both in designing any of its own interventions and also in assessing the continued value of some existing mechanisms. Designing remedies which work in concert with both the current commercial environment and Government's long term ambitions for the digital economy will require careful and considered formulation.

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<sup>2</sup> [Unlocking digital competition: Report of the Digital Competition Expert Panel](#), p124

- 5.4. In this regard, particular attention should be paid to remedy area 2. We set out below some of the distortive effects of GDPR and emphasise that, while more clarity and parity on GDPR compliance is needed to boost competition in the digital advertising market, the introduction of even further regulation could compound the existing discriminatory effects on the 3<sup>rd</sup> party ad ecosystem. We would urge the CMA to consider the existing regulatory landscape when assessing competition in this market before introducing anything further.
- 5.5. GDPR introduced a legal responsibility to put consumers first with the goal of ensuring that their privacy rights are paramount. With accountability at its heart, GDPR has introduced practices once regarded as best practices by some companies as essential for all companies operating in the EU. GDPR compliance requires design, process, technology, training, cultural change and partnership. It was intended to establish a level playing field for business and strong foundations for a competitive digital economy.
- 5.6. In practice, the Regulation has become one of the most significant regulatory changes to date in the digital space. Investment in start ups has been discouraged<sup>3</sup>, companies have left the EU market because of the burdens it creates<sup>4</sup>, thereby diminishing competition. The combination of powerful regulators (often with differing priorities), inconsistent interpretation and enforcement, market reaction to the risk of heavy fines and potentially onerous codes will shape the future of the digital ecosystem - for those currently in the market and those wishing to join - and potentially impact the diversity of businesses and choice for consumers. These are negative unintended consequences to competition and consumers of a well-intentioned law.
- 5.7. [REDACTED].
- 5.8. Third parties have had the additional challenge of designing and implementing mechanisms to pass lawful bases amongst networks of independent data controllers (e.g. from publishers to their various ad partners). For challengers, this has been achieved via investment in IAB Europe's Transparency and Consent Framework (known as the "TCF"). Verizon Media has taken a leadership role in the development and evolution of the TCF and invested heavily to integrate it to our GDPR compliance programme, both as a publisher and ad tech platform. The TCF remains the only standardised way for challengers to pass lawful bases to process personal data within the 3rd party ad ecosystem.
- 5.9. [REDACTED]
- 5.10. In the short-term, therefore, the priority of the 3rd party ad ecosystem lies in consistent and clear interpretation of the GDPR so that companies can adapt and plan their respective futures accordingly. Introducing additional requirements around

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<sup>3</sup> See, for example, Jia, Jin and Wagman (2018) The short-run effects of GDPR on Technology Venture Assessment: a difference-in-difference analysis comparing venture capital funding in the EU to the US before and after GDPR. Available as NBER paper 25248, from [www.nber.org](http://www.nber.org). At the time of writing, an updated working paper version was available from SSRN at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3278912](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3278912).

<sup>4</sup> See <https://truthonthemarket.com/2019/05/24/gdpr-after-one-year-costs-and-unintended-consequences/>

consent on an unsettled market may be counterproductive, particularly if conceived as a whole market intervention and not limited to players with significant market status.

- 5.11. Many would agree that the emphasis on consent can degrade consumer experiences without adding desired protections. There is an alternate view that GDPR's future success and sustainability will rely far more heavily on the accountability measures it requires companies to embrace, on the cultural changes in organizations that will put consumers and data protection at the top of organizational priorities, and on clear and meaningful enforcement.
- 5.12. On potential remedy area 4, the CMA should set out clearly what is meant by transparency, noting that it can mean different things to different parts of the ad ecosystem. The market study should examine the different drivers behind the calls for transparency and the extent to which challenger companies already provide 3rd party measurement and other transparency measures that respond to advertiser demands. The study should also explore how a fully competitive market might reduce costs over time and increase efficiency such that, for example, brand safety measures are applied only once and at the appropriate points in the ecosystem.
- 5.13. The DCMS has begun work to take forward the recommendation of the Furman Panel to create a 'Digital Markets Unit'. The CMA should provide early clarification as to whether or how this would proceed alongside its work on potential remedy area 5 under the auspices of the market study.
- 5.14. We will consult internally on the more detailed remedies and may submit further comments during the course of the market study.

## **6. Evidence gathering**

- 6.1. We welcome the use of technology and behavioural expertise fostered by the CMA, all of which are necessary to understand digital market dynamics and competitive behaviour. The CMA has placed itself on the vanguard in creating a Data, Technology and Analytics Team, as it recognises that technologists, data scientists and behavioural economists are important to understanding the evidence and data being collected for true insights into competition in these digitally driven areas. The market study should employ this resource and expertise to ascertain incentives, distortions, and opportunities for enhanced competition.