facebook

UK CMA: Online Platforms and Digital Advertising Market Study

Facebook's response to the CMA's invitation to comment

16 August 2019

1. Executive Summary

1.1 Facebook welcomes the opportunity to provide an initial response to the UK Competition and Markets Authority's (**CMA**) Statement of Scope published on 3 July 2019 (**SoS**), in relation to the CMA's market study into online platforms and digital advertising (**Market Study**). Facebook looks forward to engaging with the CMA in further detail on the matters raised in the SoS.

1.2 Facebook was founded only 15 years ago. With a good idea and without access to any user data at the time of its launch, Facebook's innovative and differentiated value proposition has enabled it to grow into the Facebook we know today.

1.3 As the CMA has noted, Facebook is a multi-sided platform:

(a) on one side of the platform, Facebook competes with a vast and growing number of platforms for users – each of which are engaged in strategies to provide innovative and differentiated value propositions to better meet users' ever-evolving needs. In the UK this includes, for example, Google, YouTube, Amazon, Twitter, Snap, Pinterest, LinkedIn, Bing, Huffington Post, Yahoo!, Activision Blizzard and Fortnite. The widespread use of mobile devices enables consumers to adopt and spread their limited time across a wide variety of services. As a result of consumers multi-homing and switching between different services in this way, competition is fierce and dynamic, with new and fast-developing platforms entering and expanding their offerings successfully on a continuous basis. The rapid growth of TikTok, for example, which has been downloaded over 1 billion times globally since launching in 2016, demonstrates that barriers to entry are low and pose no meaningful constraint on the development and growth of competitors; and

(b) on the other side of the platform, Facebook competes with these same user platforms and numerous other online and offline channels, for advertising revenue – revenue on which Facebook relies in order to provide valuable and innovative services to interested users, for free. This is a common business model long used by a wide variety of other online and offline ad-supported businesses, including free newspapers and free-to-air broadcasters such as ITV and Channel 4. What matters to advertisers is their ability to maximise their return on advertising investment. This is why, in order for Facebook to win a greater proportion of a business' advertising budget from other channels, it must compete vigorously to demonstrate that the value of placing an ad on Facebook is better than that offered by other online (or offline) advertising channels.

1.4 Facebook's easy to use, targeted and measurable advertising services have transformed and enhanced available advertising options for the benefit of advertisers in the UK. These affordable and innovative advertising solutions were simply not available even just a few years ago. Such innovation has enabled advertisers (irrespective of their size) to benefit from the significant efficiencies driven by Facebook. Facebook's investments in driving this innovation has enhanced its ability to deliver valuable services to users and advertisers alike – a strategy which has enabled Facebook to grow its business by helping advertisers,[1] especially Small and Medium Enterprises (**SMEs**), grow theirs.

---

[1] Facebook Second Quarter 2019 Results Conference Call, 24 July 2019 – Sheryl Sandberg, p. 5.

1.5   These overarching dynamics are covered in this initial response as follows:

(a)   **Advertisers benefit considerably from Facebook's innovative, efficient and pro-competitive advertising solutions** –: (a) Facebook makes creating a bespoke advertising campaign more accessible and measurable than ever before; (b) Facebook's advertising services have enabled UK SMEs to access advertising in a way that has not previously been possible, helping SMEs grow their businesses while contributing to the competitiveness of the wider UK economy; and (c) Facebook's advertising solutions generate efficiencies which maximise advertisers' return on investment. For more information, please see **Section 2** below;

(b)   **Facebook's advertising revenue funds Facebook's personalised and innovative user services, generating significant benefits for UK consumers** –: (a) Facebook's provision of free services to consumers is consistent with a common online and offline business model (e.g. free newspapers and free-to-air broadcasters); (b) Facebook is continually innovating to remain relevant to UK consumers and advertisers; and (c) Facebook's targeted advertising solutions benefit UK consumers directly. For more information, please see **Section 3** below;

(c)   **Multi-sided competitive dynamics require Facebook to compete vigorously in order to attract and retain both users and advertisers** –: (a) these dynamics should be recognised with reference to a proper market definition analysis which is a crucial step in the Market Study, but which has so far been omitted in the SoS; (b) a proper market definition analysis would recognise that competition between user platforms is thriving in the UK; and (c) that competition for advertising in the UK is vigorous. For more information, please see **Section 4** below;

(d)   **Data provided by users does not confer market power or act as a barrier to entry or expansion** –: (a) data is non-rivalrous, ubiquitous and easily obtainable from any number of third party providers, as well as from users directly when they choose to engage with valuable services; (b) data is not necessary for entry: there are countless examples of businesses with good ideas that have entered and grown successfully by providing services that users find valuable; and (c) there are diminishing economies of scale and scope from "big data". For more information, please see **Section 5** below; and

(e)   **Facebook is transparent with users about how their information is collected and used including through the provision of extensive user controls** -: (a) Facebook's terms of service are clear, intelligible and fair to consumers; (b) Facebook provides extensive and transparent information to consumers, including information about how personal data is used for advertising; and (c) Facebook provides users with tools to control their privacy and to optimise their experience. For more information, please see **Section 6** below.

1.6   In addition, Facebook notes that increased competition in advertising, fostered by Facebook and other online platforms, has been accompanied by growth in offline advertising and the wider UK advertising sector as a whole. Since Facebook was founded, advertising spend has continued to grow across the board, including for TV, radio, cinema and out-of-home advertising. By 2020, advertising spend on these channels is expected to grow between 3% to 6%. And with these "traditional" offline channels also benefiting from industry-wide digitalisation, advertising spend

on fast-converging channels such as video-on-demand and online radio has grown by around 30% in the period between 2017 and 2018. Such channels are forecast to continue to grow between 16% to 20% by 2020.[2] Overall, the UK advertising industry has grown from £11.7 billion in 2017 to £13.4 billion in 2018,[3] with 2018 representing the ninth consecutive year of growth for UK advertising.

1.7 Against this backdrop, the CMA's approach of outlining potential "remedies" at the outset of the Market Study – and before any fact finding, evidence gathering and assessment of market definition and market failure has commenced – gives rise to a concern that the proposed "remedies" have not been tailored to the evidence. In addition, while undermining due process, such an approach could have the unintended effect of diminishing, rather than furthering, competition in this highly dynamic and growing sector of the UK economy. Such a potential outcome risks destabilising the careful balance of competing commercial and policy objectives which have provided the foundation for significant innovation, entry and growth in the digital economy.

1.8 Notwithstanding these concerns, Facebook welcomes the opportunity to engage constructively with the CMA on the important commercial and policy considerations relevant to the Market Study. In particular, Facebook supports the principle of data portability: if users choose to share their data with one service, Facebook believes they should also be able to move their data to another service. Facebook believes that any industry-wide effort to deliver these enhanced choices necessitates a careful navigation of the current tension between calls for greater personal data privacy versus calls for greater data sharing. From this perspective, and building on the thinking which has already been done in relation to data portability in the European General Data Protection Regulation (*GDPR*), Facebook welcomes the opportunity to engage with the CMA, in particular to further:

(a) its participation in the Data Transfer Project, which is an open-source project that is committed to using existing standards wherever possible to build common ways for users to transfer their data into and out of online services, whilst also balancing privacy and security; and

(b) developing greater transparency in relation to advertising measurement in order to continue to provide advertisers with effective tools to measure the success of their campaigns across different advertising media more accurately, including across online and offline channels.

2. Advertisers benefit considerably from Facebook's innovative, efficient and pro-competitive advertising solutions

2.1 Over the last 15 years, Facebook has brought about significant benefits for advertisers of all kinds in the UK and beyond. In particular, Facebook provides access to affordable and accessible advertising solutions for UK SMEs in a manner which was simply not available just a few years

---

[2]   Advertising Association, *AA / WARC Expenditure Report July 2019*, press release, 30 July 2019:
 http://expenditurereport.warc.com/media/1142/press-release-aa-warc-expenditure-report-q1-2019.pdf; and
Advertising Association, *Advertising Association, Advertising Pays 7: UK Advertising's Digital Revolution,* p. 15.
[3]   IAB UK / PwC, *Digital Adspend Study*, 2018.

ago. This enables SMEs to reach wider audiences and to compete with and challenge much larger, more established businesses, more effectively – including in concentrated industries.

2.2   As detailed below, Facebook has made this possible by: (a) developing self-service advertising solutions that are easily accessible and measurable for all advertisers in the UK; (b) focusing on developing advertising solutions for attracting the UK SME community, the success of which also benefits UK consumers and the wider UK economy; and (c) providing tools and efficient solutions which maximise advertisers' return on investment, with resulting benefits for UK consumers.

Facebook makes creating a bespoke advertising campaign more accessible and measurable than ever before

2.3   Through its self-service Ads Manager tool,[4] Facebook has made it easy for a business of any size to create a high quality, targeted advertising campaign. Together with its free e-learning resources (accessible via Facebook's "Blueprint" portal[5] and various other Facebook Business resources),[6] Facebook's Ads Manager tool provides an easy, step-by-step process, through which any advertiser can build a bespoke advertising campaign in minutes, by:

(a)   *selecting a defined advertising objective* – whether that is to increase awareness (e.g. user awareness of an advertiser's brand), consideration (e.g. user traffic to an advertiser's website), or conversion (e.g. user action on an advertiser's website);

(b)   *specifying an audience* – by identifying a relevant group of prospective customers to reach with an ad (e.g. based on factors such as user interests); and

(c)   *choosing ad delivery formats and placements* – through innovative ad formats such as carousel images, videos or ephemeral video ads, together with a variety of ad placement options, primarily on Facebook and/or Instagram.

2.4   Through these tools, Facebook enables all types of advertisers to benefit from the innovative features it has developed for users of its platform, i.e. to engage with users in a way in which they consume online content, all at no investment or development cost to advertisers.

2.5   Facebook does not require advertisers to sign-up to any long-term advertising commitment for access to its advertising solutions. In fact, for as little as £1.00, advertisers can launch an advertising campaign on Facebook. And at no cost at all, businesses can use Facebook Pages to promote their products and services across Facebook – with 90 million businesses around the world now using this free tool. These options enable even the smallest of businesses to use Facebook's advertising services and gives businesses with limited advertising experience the opportunity to experiment with online advertising, at minimal risk.

---

[4]   Facebook Business, Ads Manager: https://facebook.com/business/tools/ads-manager.
[5]   Facebook Blueprint: https://www.facebook.com/business/learn.
[6]   Facebook Insights: https://en.gb.facebook.com/business/insights/tools/.

2.6   In addition, Facebook empowers advertisers with tools and information providing strong levels of transparency so that advertisers can make well-informed decisions on whether, and how much, to advertise on Facebook. These include:

(a)   *tools and analytics* – which enable advertisers to measure and track the performance of their ads on Facebook in real time using Facebook's ads reporting metrics,[7] insights metrics[8] and conversion metrics[9] which can be accessed via Facebook's self-service tools including Ads Manager,[10] Brand Lift,[11] Business Manager,[12] Conversion Lift,[13] Offline Reporting,[14] Facebook Analytics[15] and Audience Insights;[16]

(b)   *independent analytics* – advertisers can benefit from independent metrics and comparisons conducted by a wide range of third-party measurement companies in the UK and elsewhere, with whom Facebook already cooperates to enable an independent evaluation of the comparative performance of ads on Facebook, compared with other online and offline advertising solutions.[17] In addition, Facebook's measurement of ad impressions in News Feed is accredited by the non-profit industry organisation, the Media Rating Council (**MRC**), the same organisation that sets industry measurement standards for television and radio;[18] and

(c)   *verification and fraud detection* – Facebook partners with several independent companies including Moat, comScore and Integral Ad Science, which perform regular checks on Facebook's ad viewability and other engagement metrics.[19] Indeed, in July 2018, Facebook and Instagram were certified for the Internet Advertising Bureau's (**IAB**) UK Gold Standard 1.0.[20]

---

[7]   These metrics are based solely upon Facebook's own data and reflect the level of engagement between a user and an ad including, for example, the number of impressions, clicks and likes an ad has received.

[8]   These metrics provide aggregated demographic and interest information about the Facebook users who visit the advertiser's website, use its mobile application, or engage with the advertiser's campaign.

[9]   These metrics measure the effectiveness of an ad campaign based on the advertiser's marketing objective (e.g. online sales or app downloads).

[10]   Facebook Business, Ads Manager: https://www.facebook.com/business/tools/ads-manager.

[11]   Facebook Business, Optimisation Split testing & Test and Learn: https://www.facebook.com/business/help/1693381447650068.

[12]   Facebook Business, Business Manager: https://www.facebook.com/business/tools/business-manager.

[13]   Facebook Business, Conversion Lift, https://en-gb.facebook.com/business/m/one-sheeters/conversion-lift.

[14]   Facebook Business, Offline conversions: https://en-gb.facebook.com/business/help/1782327938668950.

[15]   Facebook Analytics: https://analytics.facebook.com/.

[16]   Facebook Business, Audience Insights: https://en-gb.facebook.com/business/insights/tools/audience-insights.

[17]   Facebook Business, Partner directory search for measurement criteria: https://www.facebook.com/business/partner-directory/search?solution_type=measurement.

[18]   Media Rating Council, *Update on Status of MRC's Audit of Facebook's Viewability Pipeline Integrations*, 27 November 2018: http://www.mediaratingcouncil.org/112718%20FB%20Viewability%20Pipeline%20Update_Final.pdf.

[19]   For more detailed information on Facebook's measurement tools, see Facebook Blueprint, *Getting Started With Facebook and Partner Measurement Solutions*, 11 April 2019: https://www.facebookblueprint.com/student/activity/181816-getting-started-with-facebook-and-partner-measurement-solutions.

[20]   IAB UK Gold Standard Certified and Registered:

2.7   These measures ensure that both large and small UK advertisers have unprecedented levels of information available to them to devise the most effective and successful advertising campaigns to meet their particular needs. At the same time, advertisers can access information that enables them to make better informed decisions on whether and how to shift their ad spend between different advertising channels to obtain the best return on investment. Compared with a billboard or a TV ad, for example, for which advertisers have no real information about how many people have viewed an ad (or in the case of TV, the entire duration of an ad), the sophisticated and detailed information available through online advertising (including on Facebook) has contributed to making advertising more measurable and effective for advertisers.

Facebook's advertising services have enabled UK SMEs to access advertising in a way that has not previously been possible, helping SMEs grow their businesses while contributing to the competitiveness of the wider UK economy

2.8   Facebook has allowed businesses, and in particular SMEs, to reach a wider audience than has ever previously been possible. Today, more than 375 million global Facebook users are connected to a local UK business through Facebook. This has enabled 78% of UK SMEs to increase their ability to attract customers and 42% of UK SMEs to sell their products to customers in other cities and countries.[21]

2.9   The benefits of advertising have a substantial positive impact on SMEs, such that an additional £1 spent on advertising by an SME has eight times the impact on the rate of its sales growth.[22] Indeed, surveys by YouGov demonstrate that the availability of online advertising has encouraged more UK SMEs to advertise, increasing from 30% of UK SMEs in 2013 to 42% in 2017.[23]   This, coupled with Facebook's "*self-serve*" and "*easy to use*" platform (as recognised recently by the Australian Competition and Consumer Commission),[24] mean that SMEs "*can easily set up accounts and business pages for advertising…in a short amount of* time" and "*target prospective customers globally with very little additional effort*".[25]

2.10   Indeed, the majority of UK businesses that place ads on Facebook in the UK are SMEs. This explains why more than one in three SMEs using Facebook in the UK say they have built their businesses on Facebook.[26] For example, the founder of Kings Barbers Club in Birmingham noted that: "*it wasn't until Facebook launched its Ads Manager tool that the business really took off*".[27]

---

https://www.iabuk.com/news-article/gold-standard-certified-and-registered.

21   Facebook, Economic Impact Survey: https://facebook.morningconsultintelligence.com/countries/uk.

22   Advertising Association/Deloitte, *Advertising Pays 2: How advertising can unlock UK growth potential*, 2014, p. 6:
         http://www.adassoc.org.uk/wp-content/uploads/2014/09/Advertising-Pays-2-How-advertising-can-unlock-UK-growth-potential.pdf.

23   Advertising Association / YouGov, SME Survey, August 2017: see Advertising Association, *Advertising Association, Advertising Pays 7: UK Advertising's Digital Revolution*, p.50:
         https://www.adassoc.org.uk/wp-content/uploads/2019/06/Ad-Pays-7-UK-Advertisings-Digital-Revolution-compressed.pdf.

24   Australian Competition and Consumer Commission (**ACCC**), *Digital Platforms Inquiry Final Report*, July 2018, p. 132.

25   *Ibid.*

26   Facebook, Economic Impact Survey: https://facebook.morningconsultintelligence.com/countries/uk.

27   Advertising Association, *Advertising Pays 7: UK Advertising's Digital Revolution,* p. 49.
         Further UK case studies are available at:

Today, King Barbers Club has 14 shops across the Midlands, making it the UK's largest chain of independently-owned barber shops.[28]

2.11   At an aggregate level, there are an estimated 5.7 million SMEs like King Barbers Club in the UK. Such SMEs comprise 99.9% of all private sector businesses in the country.[29] As recognised by the Chief Executive of the UK Advertising Association (Stephen Woodford), digital advertising *"supports the UK's SME community, creating jobs and growth right across the nations and regions, thanks to the flexibility and low cost of entry*" for such businesses.[30]

Facebook's advertising solutions generate efficiencies which maximise advertisers' return on investment

2.12   Facebook's advertising solutions generate efficiencies which benefit UK advertisers. As recognised in the recent independent report by the economic consultancy Lear which was commissioned by the CMA, Facebook's advertising solutions limit inefficient ad duplication.[31] They also provide businesses with "*numerous and significant benefits, through an ability to specifically target relevant audiences… often at a lower cost than traditional forms of advertising*".[32]

2.13   Facebook's continuous innovation has created incentives for all advertising channels to innovate, increasing the overall value of different channel propositions to advertisers. This includes advertising agencies where the "*rapid evolution of digital technologies has given agencies more opportunities to create value more profoundly*".[33] Indeed Facebook, like other digital platforms, has also facilitated innovation among advertising agencies (and in some instances, among digital-only advertising agencies) which has prompted established advertising agencies to compete harder to offer a compelling advertising proposition to their clients – whether through greater efficiency, increased innovation and/or improved service quality.

2.14   Taken together, these benefits have contributed to maximising advertisers' return on investment and, in turn, enhancing competition across online and offline advertising channels. In fact, the growth of online advertising in the UK, and of Facebook in particular, is likely to have contributed to a market-wide reduction in advertisers' costs and therefore, a reduction in advertising costs passed on to UK consumers. This accords with the recent findings of the Progressive Policy Institute which note that for every $3 an advertiser spends on digital advertising, they would have

---

https://facebook.morningconsultintelligence.com/countries/uk#Stories and https://analytics.facebook.com/success-stories.

[28]   https://www.kingsbarberclub.co.uk/barbershops.

[29]   Advertising Association, *Advertising Pays 7: UK Advertising's Digital Revolution,* p. 48.

[30]   *Ibid,* p. 5.

[31]   Lear, *Ex-post Assessment of Merger Control Decisions in Digital Markets for the UK Competition and Markets Authority*, 9 May 2019, para. II.71: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/803576/CMA_past_digital_mergers_GOV.UK_version.pdf.

[32]   ACCC, *Digital Platforms Inquiry Final Report*, July 2018, p. 131.

[33]   Advertising Association, *Advertising Pays 7: UK Advertising's Digital Revolution,* p. 62.

to spend $5 on print advertising to get the same impact and that subsequently, *"the benefits of these lower prices flow directly to advertisers and consumers"*.[34]

3.   Facebook's advertising revenue funds its personalised and innovative user services, generating significant benefits for UK consumers

3.1   The suggestion in the SoS that consumers may be receiving inadequate value for their data,[35] does not accord with market reality. Since being founded, Facebook has worked continuously – and at significant cost – to better meet users' (and as a result, advertisers') ever-evolving expectations of how users (and advertisers) would like to connect with and consume content online.

3.2   As detailed below: (a) the delivery of free services to consumers is a commonly used online and offline business model; (b) the consistent delivery of a high value user proposition to consumers is critical to Facebook's ongoing commercial success; and (c) targeted advertising is, itself, a benefit to UK consumers.

Facebook's provision of free services to consumers is consistent with a commonly used online and offline business model

3.3   As is the case in many other advertising contexts, providing a free service to consumers to promote service uptake and engagement is a common and long-standing online and offline business model. Facebook's business model is not the first in this regard: "*[F]ree newspapers and free-to-air broadcasters such as ITV and Channel 4, have similar business models [to Facebook]…all seek[ing] to capture readers or viewers by providing good quality content… [such that] generating these large audiences is necessary for their advertising space to generate revenue*".[36]

3.4   The provision of targeted advertising is also not unique to Facebook. It is notable that online news publishers (and free digital catch-up TV and video-on-demand services alike) are increasingly requesting that users sign-in to access content in order to "*profile their readers… [thereby] pitching this demographic information to-would-be advertising buyers*" for the purposes of targeted advertising.[37] Indeed, Pinterest's co-founder and CEO has also recently announced that "*the company's future strategy would focus on more 'personalized content curation' and 'getting better at showing you things you love'…in other words, more precise targeting and better ROI for advertisers*".[38]

3.5   Facebook has revolutionised communication and social interaction globally as a result of the innovative and compelling services it provides to consumers, for free. Facebook's ability to continue to deliver user services in this way depends on advertising revenue which accounted for

34   Progressive Policy Institute, Michael Mandel, *The Declining Cost of Advertising: Policy Implications*, July 2019: https://www.progressivepolicy.org/issues/government-reform/the-declining-price-of-advertising-policy-implications-2/.

35   CMA, *Online platforms and digital advertising market study, Statement of Scope*, 3 July 2019, para. 65.

36   Telegraph, Ryan Bourne, *Facebook deserves more credit…our data is not "the product"*, 2 August 2019: https://www.telegraph.co.uk/business/2019/08/02/facebook-deserves-credit-data-not-product/.

37   *Ibid*.

38   Observer, Sissi Cao, *Pinterest Proves Challenging Facebook's Social Media Supremacy Is Still Possible*, 2 August 2019: https://observer.com/2019/08/pinterest-q2-earnings-ceo-ben-silbermann-social-media-advertising/.

over 98% of Facebook's total global revenue in 2018.[39] As a result, Facebook's success is contingent upon ensuring that its services continue to be valuable to users, such that those users continue to engage with Facebook; this in turn ensures that Facebook continues to attract advertisers and advertising revenue, which can be re-invested in further innovative services which are valuable to users.

3.6   To be clear, Facebook does not sell its users' data to anyone, including to advertisers.[40] Facebook's services are supported by revenues generated from the sale of advertising, primarily on Facebook's owned and operated surfaces.

Facebook is continually innovating to remain relevant to UK consumers and advertisers

3.7   Facebook users have benefited from a number of consumer-driven innovations at no direct cost - for example: News Feed (introduced in 2006), Facebook Chat (introduced in 2008), Like button (2009), Timeline (2011), Facebook Camera (2012), Facebook Hashtags (2013), Facebook Groups (2014), Facebook Instant Articles (2015), 360 Video on Facebook (2015), Facebook Carousel Ads (2015), Facebook Marketplace (2016), Facebook Watch (2017), Facebook Spaces (2017), Facebook Stories (2017) and Instagram TV (2018). All of these innovations were funded by advertising revenues.

3.8   Facebook must continue to innovate to remain relevant to users and advertisers. Any deterioration in Facebook's user value proposition risks having users spend more of their scarce time on alternative services. This, in turn, would make Facebook less attractive to advertisers and therefore reduce advertising revenues. Facebook must therefore continue to innovate to stay relevant and attractive to users and to continue to provide services which advertisers value. In that context, Facebook spent $10 billion on research and development in 2018.[41]

Facebook's targeted advertising solutions benefit UK consumers directly

3.9   Facebook is attractive to advertisers as it seeks to deliver the right ad, to the right user, at the right time. Accordingly, the winner of an ad auction on Facebook is not necessarily the advertiser that bids the highest monetary amount. Rather, it is the ad which offers the highest 'total value' to a user that will win Facebook's ad auction,[42] taking into account: (i) the estimated likelihood and rate at which users will support an advertiser's advertising objective; (ii) the advertiser's bid amount; and crucially for the purposes of the Market Study; and (iii) the ad's quality and relevance

---

[39]   Facebook, Inc, Form 10-K 2018, p. 4, advertising revenue accounted for US$ 55,013 million of a total revenue of US$ 55,838 million for fiscal year ended 31 December 2018: https://www.sec.gov/Archives/edgar/data/1326801/000132680119000009/fb-12312018x10k.htm.

[40]   Facebook Data Policy: "*Sharing with Third-Party Partners: We work with third-party partners who help us provide and improve our Products or who use Facebook Business Tools to grow their businesses, which makes it possible to operate our companies and provide free services to people around the world. We don't sell any of your information to anyone, and we never will. We also impose strict restrictions on how our partners can use and disclose the data we provide. Here are the types of third parties we share information with*", available at: https://www.facebook.com/policy.php.

[41]   Facebook, Inc Form 10-K 2018, research and development accounted for US$ 10,273 million for fiscal year ended 31 December 2018: https://www.sec.gov/Archives/edgar/data/1326801/000132680119000009/fb-12312018x10k.htm.

[42]   For more information see: Facebook Business, Optimisation, Ad delivery: https://en-gb.facebook.com/business/help/430291176997542.

to the user. Contrary to suggestions in the SoS, the quality parameter in Facebook's ad auction process in fact comes at the explicit expense of additional advertising revenue for Facebook – i.e. if the quality and relevance metric were not included, the amount bid by individual advertisers would play a greater role in determining the winner of each auction. From this perspective, there can be no doubt that the increased efficiencies from Facebook's advertising services reduce businesses' advertising costs and are "*passed through to consumers*" including in the form of a "*higher quality of service*".[43]

3.10   Further, advertising is not an "add-on" service on Facebook. Rather, and as the CMA recognises in the SoS, personalisation and easy access to products and services are in and of themselves, significant benefits to UK consumers.[44] This is also recognised by:

(a)   the Centre on Regulation in Europe (**CERRE**) which notes that "*with targeted advertising, consumers are exposed to more relevant ads that better match their interests, which facilitates access to products and services that correspond to their tastes*";[45] and

(b)   the UK consumer body Which?, whose research among UK consumers shows that "*[s]pontaneously, most people feel that the targeting and tailoring of adverts and recommendations is positive, as it enhances services by increasing the relevance of the content they are shown*". Indeed, Which? also reports that, overall, "*it was felt that targeted adverts and recommendations were innocuous, and if a person didn't like them they could just be ignored… [and that in any event,] there is little concern that targeted adverts and recommendations will restrict choice, as people felt that online adverts and recommendations weren't their only source of insight into the products and services available to them*".[46]

4.   Multi-sided competitive dynamics require Facebook to compete vigorously in order to attract and retain both users and advertisers

4.1   In undertaking its Market Study, the CMA must take into account the competitive pressures faced by Facebook in the context of its multi-sided business model and the relevance and likelihood of potential entry and/or expansion in rapidly changing digital markets. This requires: (a) a proper market definition analysis; (b) analysis of the thriving competition between user platforms in the UK and elsewhere; and (c) the competitive interactions between online and offline advertising channels.

Proper market definition analysis is a crucial, but so far omitted, step for the Market Study

4.2   The CMA cannot make meaningful findings regarding the alleged market power of individual market participants, far less sensible remedies proposals, without a thorough and detailed examination of market definition. However, the SoS has essentially omitted this key first

---

[43]   CERRE, *Big Data and Competition Policy - Market power, personalised pricing and advertising*, February 2017, p. 53: https://cerre.eu/sites/cerre/files/170216_CERRE_CompData_FinalReport.pdf.

[44]   CMA, *Online platforms and digital advertising market study, Statement of Scope*, 3 July 2019, para. 69.

[45]   CERRE, *Big Data and Competition Policy – Market power, personalised pricing and advertising,* February 2017, p. 53: https://cerre.eu/sites/cerre/files/170216_CERRE_CompData_FinalReport.pdf.

[46]   Which?, *Control, Alt or Delete, The future of consumer data*, June 2018, pp. 20-21: https://www.which.co.uk/policy/digitisation/2659/control-alt-or-delete-the-future-of-consumer-data-main-report.

analytical step, resulting in what appears to be an inappropriate focus on only Facebook and Google in a manner which suggests that they do not compete with each other, or with other players. This is wholly inaccurate.

4.3 Any proper market definition exercise must first take proper account of the fact that Facebook is a multi-sided platform. On one side, Facebook competes with many online platforms to provide relevant and engaging services to users. On the other side, Facebook competes with these same platforms and numerous other channels for a greater proportion of businesses' advertising budgets and, as a result, advertising revenue.

4.4 Further, while increasing the volume of users can attract advertisers, increasing the volume of advertising can cause users to switch off or reduce their engagement with Facebook. Therefore, Facebook's success depends upon its ability to attract users and connect them with the right number of relevant ads. Strategies that might benefit advertisers at the expense of users would risk driving users away, triggering a negative feedback loop.

4.5 MySpace is a telling example of how critical it is for a platform to properly balance advertising and user experience. MySpace's focus on maximising short-term advertising profits, at the expense of an engaged user-base, led to an inevitable decline in engagement over time – irrespective of the data available to MySpace.[47] As reported by Forbes, "*Facebook was able to catch up and surpass MySpace because it provided a much better platform, tools and apps, and more options, whereas MySpace diverted its attention to serving eyeballs to advertisers and fell ever more behind on facilitating the 'social' part of social network*", with users lamenting that: "*Every time I logged on it [MySpace] it was just messages from bands I barely heard of…*".[48]

Competition between user platforms is thriving in the UK

4.6 Facebook competes vigorously with numerous online platforms - such as Google, YouTube, Amazon, Twitter, Snap, Pinterest, LinkedIn, Bing, Huffington Post, Yahoo!, Activision Blizzard and Fortnite – to attract and retain user interest in the UK and beyond. Independent reports have noted the intense competition for users faced by Facebook, for example:

(a) the Lear Report - stated that Facebook competes "*with other online advertising platforms such as Google, Amazon, Bing, Microsoft, Twitter, LinkedIn, Snapchat, YouTube and many others*"[49] and that such platforms are "*typically content providers*" such as "*online news,*

---

[47] See, for example: Bloomberg, Catherine Holahan, *MySpace Users Build Up Ad Immunity*, 5 February 2008: https://www.bloomberg.com/news/articles/2008-02-04/myspace-users-build-up-ad-immunitybusinessweek-business-news-stock-market-and-financial-advice; and The Guardian, Stuart Dredge, *MySpace – what went wrong: 'The site was a massive spaghetti-ball mess'*, 6 March 2015: https://www.theguardian.com/technology/2015/mar/06/myspace-what-went-wrong-sean-percival-spotify.

[48] Forbes, Chunka Mui, *Why Facebook Beat MySpace, and Why MySpace's Revised Strategy will Probably Fail*, 12 January 2011: https://www.forbes.com/sites/chunkamui/2011/01/12/why-facebook-beat-myspace-and-why-myspaces-revised-strategy-will-probably-fail/#1b7a5ac62c9a.

[49] Lear, *Ex-post Assessment of Merger Control Decisions in Digital Markets for the UK Competition and Markets Authority*, 9 May 2019, p. 60, para. II.54.

portals, blogs, social media etc" competing for users' interest to *"resell… to advertisers*".[50] The Lear Report also notes that in 2018, Snap and Twitter boasted "*a similar number of users to Instagram*";[51]

(b)   the Furman Report for the UK government – identified eBay, Peak games, Mail Online / Daily Mail, Netflix, Spotify, OATH (now Verizon Media), Sky, Apple, Soundcloud, BBC.com, Prodege, Activision Blizzard and ITV.com as other top 20 sites on which UK users spent their time in 2018;[52] and

(c)   Ofcom - identified WordPress, Blogger, Tumblr, Pinterest, Reddit and Imgur[53] and highlighted the prevalence of YouTube in the UK as having the "*highest reach of any site and has the most time spent per visitor per day*".[54]

4.7   Further, in addition to a wide range of existing, well-established competitors, Facebook faces constant competitive pressure from new and fast-growing user-facing propositions, all of whom have the potential to achieve break-out growth - for example:

(a)   TikTok – since launching in 2016, has been downloaded over 1 billion times globally.[55] The app has already surpassed both Facebook and Instagram as the most downloaded social media app from the Apple App Store worldwide in 2018 – retaining that accolade in Q1 2019.[56] TikTok has 500 million active users worldwide who spend on average 52 minutes per day on the app; only one minute lower than nine-year old Instagram (53 minutes) and almost three minutes more than eight-year old Snap (49.5 minutes).[57] In a recent article in The Guardian on the "*global stir*" caused by TikTok, a company representative was reported as saying that the UK is TikTok's second largest market, with 12% of global users hailing from the UK;[58]

[50]   Lear, *Ex-post Assessment of Merger Control Decisions in Digital Markets for the UK Competition and Markets Authority*, 9 May 2019, p. 3, para. I.10.
[51]   Lear, *Ex-post Assessment of Merger Control Decisions in Digital Markets for the UK Competition and Markets Authority*, 9 May 2019, p. 61, para. II.59.
[52]   Digital Competition Expert Panel, Jason Furman, *Unlocking digital competition*, March 2019, p. 29, Chart 1.D ("Share of time spent on top 20 sites by UK users"):
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/785547/unlocking_digital_competition_furman_review_web.pdf.
[53]   Ofcom, *Online Nation*, 30 May 2019, p. 123, Figure 5.4: Reach of selected social media, messaging, blogging and video-sharing sites: September 2015-2018:
https://www.ofcom.org.uk/__data/assets/pdf_file/0025/149146/online-nation-report.pdf.
[54]   *Ibid*, page 23-24. The Ofcom Report notes that Ofcom research has found that over a third (38%) of online consumers now use YouTube to search for content and information, up by 31% since 2016 (Ofcom, *Online Nation*, p. 23).
[55]   Sensor Tower, *TikTok Surpasses One Billion Installs on the App Store and Google Play*, 26 February 2019:
https://sensortower.com/blog/tiktok-downloads-one-billion.
[56]   Tech Crunch, *TikTok tops the iOS App Store for the fifth quarter in a row,* May 2019:
https://techcrunch.com/2019/05/16/tiktok-tops-the-ios-app-store-in-q1-for-the-fifth-quarter-in-a-row/.
[57]   Oberlo, *10 TikTok Statistics That You Need to Know in 2019 [Infographic],* 23 July 2019:
https://www.oberlo.co.uk/blog/tiktok-statistics.
[58]   The Guardian, Naaman Zhou, *'It just takes off': how the short-video app TikTok has caused a global stir,* 2 August 2019
https://www.theguardian.com/media/2019/aug/03/it-just-takes-off-how-the-short-video-app-tiktok-has-caused-a-global-stir.

(b) Fortnite – in the two years since its launch in 2017, Fortnite has "*grown into a global phenomenon with more than 250 million active players*" and in-game concerts that drew 10 million viewers in February 2019. This "*provides a telling snapshot of the new attention economy*" with the National Research Group reporting that "*Fortnite players spend more of their free time logging into the battle royale game than they do scrolling through Facebook and Instagram or streaming on Netflix and YouTube*". Indeed, with "*competition for free time… [being] finite…to have an event that draws that many people in any capacity make the threat of Fortnite being a platform very real'…*".[59] As Fortnite's CEO put it "*just like anybody could create a Facebook page, anybody should be able to express themselves in Fortnite in a huge variety of ways*". The recent acquisition by Epic Games (owner of Fortnite) of social video app Houseparty makes this all the more likely;[60] and

(c) MeWe – which launched in 2016 and experienced annual growth of 300% in 2018. It has already been ranked as the number 1 Trending Social App on the Google Play Store for multiple days in December 2018[61] and is recognised as "*one to watch*" in a 2018 Tech Trends report.[62] MeWe's CEO notes the app competes with Facebook and is "*thriving*".[63]

4.8 The Market Study must therefore take full account of the fast-changing environment in which Facebook operates and the growth of alternative social platforms. As the history of the development of Facebook's competitors demonstrates, competition can emerge from a rival able to identify and build on a differentiated service which might meet user demand. For example, in addition to TikTok, Fortnite and MeWe:

(a) YouTube - started as a video dating site with the slogan, "*Tune In, Hook Up*"[64] but quickly pivoted to offer, in addition to video streaming, the ability for users to "*follow*" other users, view a user's recent activity on a "*feed*"-style homepage and since late-2017, see "*stories*" of those followers.[65] Now over 1.9 billion users visit YouTube every month, consuming over a billion hours of video every day.[66] Indeed, the core YouTube service is, like Facebook, delivered free to consumers and funded by digital advertising; and

---

59   Hollywood Reporter, *Fortnite eclipses Facebook Instagram as Tweens' preferred social platform*, 11 June 2019: https://www.hollywoodreporter.com/news/fortnite-eclipses-facebook-instagram-as-tweens-preferred-social-platform-1217335.

60   Techcrunch, *Fortnite maker Epic acquirers social video app Houseparty*, 12 June 2019: https://techcrunch.com/2019/06/12/fortnite-maker-epic-acquires-social-video-app-houseparty/.

61   PR Newswire, *MeWe is the #1 Trending Social Media Site,* 12 December 2018: https://www.prnewswire.com/news-releases/mewe-is-the-1-trending-social-media-site-300764605.html.

62   https://mewe.com/about. See also the Future Today Institute, *2018 Tech Trends Report*, 2018, p. 80, which advises readers to "*keep watch on MeWe*": https://www.ctam.com/Media/think/FTI_2018_Trend_Report.pdf.

63   Wall Street Journal, Mark Weinstein, *I Compete With Facebook, and It's No Monopoly,* 27 June 2019: https://www.wsj.com/articles/i-compete-with-facebook-and-its-no-monopoly-11561676776.

64   The Guardian, Stuart Dredge, *YouTube was meant to be a video-dating website*, 16 March 2016: https://www.theguardian.com/technology/2016/mar/16/youtube-past-video-dating-website.

65   The Verge, Chris Welch, *Stories are coming to YouTube next*, 29 November 2017: https://www.theverge.com/2017/11/29/16716354/youtube-stories-reels-feature-announced.

66   YouTube, YouTube for Press: https://www.youtube.com/intl/en-GB/yt/about/press/.

(b)   Snap - began as a service for sharing ephemeral pictures and has since expanded with a number of competitive products and features, including non-ephemeral messaging and sharing and peer-to-peer payments. Snap at the end of June 2019 had over 200 million daily users.[67] Like YouTube, the developments to Snap's services have enabled it to attract a growing proportion of users' time and engagement in competition with Facebook.

4.9   In such a fast-moving and developing area, a market study which focussed unduly only on Facebook (and Google) would inevitably produce an analysis that is wholly inaccurate. All available evidence demonstrates that Facebook is subject to constant and intense competition for users such that it must continue to innovate in order to remain relevant. To not do so would risk exposing Facebook to a similar fate to that of online platforms which have not kept pace with innovation or user demands - such as, for example, NewsCorp's MySpace or AOL's Bebo.[68]

Competition for online advertising revenue is vigorous in the UK

4.10   On the other side of the coin, Facebook also faces intense competitive pressure for advertising budgets, from at least the wide range of ad-supported platforms with which it competes for users. As recently reported by the Observer "*as some of their [Facebook and Google's] smaller rivals have proven, there's still room to win a slice of the pie when the game is played right*".[69] In addition, "*strong reports from smaller advertising players shows there is still an appetite from marketers to diversity their ad spend across platforms…[and that] new advertising offerings could also be luring in businesses*".[70]

4.11   From this perspective, it is wholly artificial for the SoS to isolate Facebook and Google in a manner which overlooks the fact that they compete vigorously with each other and with other market players. For example:

(a)   there is clear evidence that advertisers increasingly switch between search and display advertising to serve the same function.[71] Indeed, the fact that both search and display advertising today enable sophisticated user targeting and ad performance measurement, rely on automated bidding systems and use greater image-focused content, illustrate

---

[67]   CNN, *Snapchat shows new signs of life, topping 200 million daily users for first time*, 23 July 2019, https://edition.cnn.com/2019/07/23/tech/snap-earnings-second-quarter/index.html.

[68]   The Telegraph, Emma Barnett, *Did AOL squander its chances with Bebo?,* 8 April 2010: https://www.telegraph.co.uk/technology/social-media/7564413/Did-AOL-squander-its-chances-with-Bebo.html.

[69]   Observer, Sissi Cao, *Pinterest proves challenging Facebook's social media reign is possible*, 2 August 2019: https://observer.com/2019/08/pinterest-q2-earnings-ceo-ben-silbermann-social-media-advertising/.

[70]   NBC News, 2 August 2019, *Facebook and Google's dominance in online ads is starting to show some cracks*, 2 August 2019: https://www.nbcnews.com/tech/tech-news/facebook-google-s-dominance-online-ads-starting-show-some-cracks-n1038766.

[71]   For example, see Performance Market Insider, Pierre Kiciak, *The Where and Why of Convergence Between Display and Paid Search*, 6 June 2016: http://performancein.com/news/2016/06/06/where-and-why-convergence-between-display-and-paid-search/; Think with Google, Matt Maltby, *How Leading Advertisers Are Using Search for Brand Building*, June 2014: https://www.thinkwithgoogle.com/advertising-channels/search/how-advertisers-are-using-search-for-brand-building/.

their interchangeability. This is supported by Performance Marketing Insider[72] and more recently, the Lear Report;[73] and

(b) YouTube (owned by Google) is a fierce direct competitor of Facebook. As noted in paragraph 4.6(c) above, YouTube has the "*highest reach of any site and has the most time spent per visitor per day*" in the UK. This, coupled with the growing demand for video advertising, further strengthens YouTube's leading position as an attractive advertising platform accessible only via Google's ad-tech services.[74] As emphasised by IAB, the continued growth of video advertising, bolstered by ever improving handset quality,[75] makes video consumption (and specifically YouTube) a major competitor to Facebook.

4.12 Competition from other online ad-supported platforms in the UK is likewise significant and growing, for example:

(a) Amazon – reported a "*37 percent year over year growth in its 'other' revenue category, which primarily reflects advertising… [where] revenue for the segment was $3 billion in the second quarter*" of 2019.[76] Amazon has significantly developed its online advertising services in competition with Facebook allowing advertisers to: (i) use any combination of ad formats such as sponsored products, headline search ads and product display ads; and (ii) advertise on other Amazon-owned and operated sites (e.g. IMDB), other shopping sites (e.g. Quidsi) and video streaming platforms (e.g. Twitch). It is also reportedly developing audio advertising on Alexa;[77]

(b) Twitter – reported that it had grown by "*21 percent year over year*" this year.[78] Its ad offering promotes the ability for advertisers to "*connect with a global audience*".[79] Its executives told analysts on earnings calls that "*new and improved product offerings overall are giving advertisers more of a reason to advertise with them*";[80]

---

[72] Performance Market Insider, Pierre Kiciak, *The Where and Why of Convergence Between Display and Paid Search*, 6 June 2016:
http://performancein.com/news/2016/06/06/where-and-why-convergence-between-display-and-paid-search/.

[73] Lear, *Ex-post Assessment of Merger Control Decisions in Digital Markets for the UK Competition and Markets Authority*, 9 May 2019, para. II.57.

[74] Ofcom, *Online Nation*, 30 May 2019, pp. 23-24, 55-57 and 144-163.

[75] IAB UK / PwC, *Digital Adspend Study*, 2018, p. 35.

[76] NBC, Lauren Feiner, *Facebook and Google's dominance in online ads is starting to show some cracks*, 2 August 2019:
https://www.nbcnews.com/tech/tech-news/facebook-google-s-dominance-online-ads-starting-show-some-cracks-n1038766.

[77] CNBC, *Amazon has big plans for Alexa ads in 2018; it's discussing options with P&G, Clorox and others*, 2 January 2018:
https://www.cnbc.com/2018/01/02/amazon-alexa-is-opening-up-to-more-sponsored-product-ads.html;
Marketing Land, Ginny Marvin, *Analysts say Amazon's advertising business will surpass AWS by 2021*, 14 August 2018:
https://marketingland.com/analysts-say-amazons-advertising-business-will-surpass-aws-by-2021-245983.

[78] NBC, Lauren Feiner, *Facebook and Google's dominance in online ads is starting to show some cracks*, 2 August 2019:
https://www.nbcnews.com/tech/tech-news/facebook-google-s-dominance-online-ads-starting-show-some-cracks-n1038766.

[79] Twitter Business, Advertising on Twitter: https://business.twitter.com/en/Twitter-ads-signup.html.

[80] NBC, Lauren Feiner, *Facebook and Google's dominance in online ads is starting to show some cracks*, 2 August 2019:
https://www.nbcnews.com/tech/tech-news/facebook-google-s-dominance-online-ads-starting-show-some-cracks-n1038766.

(c)   Snap – offers a wide range of advertising options including Snap ads, Story ads, branded filters and commercial ads.[81] It recently "*introduced non-skip commercials in its shows through its new 'Snap Select' program*", and reported a "*48 percent increase in total revenue from the prior year*";[82]

(d)   Pinterest – reported a "*whopping 62 percent year over year revenue growth in its second quarter earnings release*" in 2019.[83] The "*online scrapbook surprised Wall Street*" when it announced that its monthly user count had "*surpassed 300 million in the second quarter*" of 2019, jumping approximately 30% from a year ago;[84]

(e)   TikTok - having surpassed one billion downloads,[85] is investing heavily in its advertising capabilities. Demonstrating that its "*rising cultural cachet is palpable — and seemingly irresistible to marketers*",[86] it has already "*in much less time than other leading social media apps… shown promising signs of being the next go-to platform for advertisers*";[87]

(f)   the European Broadcaster Exchange (**EBX**) - the European ad-sales joint venture which includes Channel 4, aims to promote high-quality pan-European online video campaigns at scale. EBX is said to mark the start of a deeper strategic collaboration to drive forward the technological development of online TV and video advertising;[88]

(g)   Video-on-demand services – including for example Sky, ITV and Channel 4, all serve ads. For example, ITV's "Hub" has over 27 million registered users, with over 75% of 16-24 year olds registered. This, as stated by Dame Carolyn McCall DBE, "*gives [ITV] the opportunity to deliver addressable advertising campaigns targeting specific viewers by filters such as age, location or the device they're using*";[89] and

(h)   the Ozone Project – which launched last year, comprises leading news publishers including News UK, Reach, Guardian News & Media and The Telegraph joining forces to offer a programmatic ad network.[90] The project says it enables "*advertisers to reach 42 million engaged consumers in quality publishing environments*".[91] Dominic Carter, Chief

---

[81]   AdEspresso, *The Ultimate Guide to Snapchat Marketing in 2019,* 21 May 2019: https://adespresso.com/blog/ultimate-guide-marketing-snapchat/.

[82]   NBC, Lauren Feiner, *Facebook and Google's dominance in online ads is starting to show some cracks*, 2 August 2019: https://www.nbcnews.com/tech/tech-news/facebook-google-s-dominance-online-ads-starting-show-some-cracks-n1038766.

[83]   *Ibid.*

[84]   Observer, Sissi Cao, *Pinterest Proves Challenging Facebook's Social Media Supremacy Is Still Possible,* 2 August 2019: https://observer.com/2019/08/pinterest-q2-earnings-ceo-ben-silbermann-social-media-advertising/.

[85]   Sensor Tower, *TikTok Surpasses One Billion Installs on the App Store and Google Play*, 26 February 2019: https://sensortower.com/blog/tiktok-downloads-one-billion.

[86]   Fast Company, *Sorry, ads are coming to TikTok*, 21 June 2019: https://www.fastcompany.com/90367516/sorry-ads-are-coming-to-tiktok. See also TikTok Ads: https://ads.tiktok.com/i18n/.

[87]   MediaKik, *Statistics that show tiktok's insane growth [infographic],* 28 February 2019: https://mediakix.com/blog/tik-tok-user-growth-infographic/.

[88]   European Broadcaster Exchange, About EBX: https://ebx.tv/?page_id=26.

[89]   Advertising Association, *Advertising Association, Advertising Pays 7: UK Advertising's Digital Revolution,* p. 61.

[90]   *Ibid,* p. 44.

[91]   The Ozone Project: https://www.ozoneproject.com/.

Commercial Officer at News UK, told the Advertising Association that this demonstrates how "'*old media' can reset to thrive in the digital economy*". [92]

4.13 Indeed, in addition to these examples, it is also the case that other platforms are in a position to develop competitive advertising offerings in the UK. For example, just as "*Fortnite's explosion in popularity is opening new doors for marketers*",[93] there is nothing preventing Netflix, for example, from offering the option of a free or blended user-facing service funded by advertising in order to further bolster its reach. There is, in fact, widespread speculation that Netflix will offer digital advertising and, should it do so, it has the potential to grow quickly to become a major force in advertising given its user reach and the time spent by its users on the platform.[94] Indeed as the Lear Report recognises, not all apps present monetisation opportunities immediately. Rather "*they develop such monetisation opportunities once they have reached a large and engaged enough user base for them to be attractive to advertisers*" and that it may be necessary to consider that the success of such potential competitors may take longer than two years.[95]

4.14 Also relevant are examples of start-up businesses launching with digital-only advertising campaigns (for example, on Facebook) and later shifting some (if not all) of their advertising budgets to offline channel. British mattress company Simba, for example, launched in 2015 with a digital-only ad campaign.[96] In July 2016, Simba launched its first TV ad in the UK.[97]

4.15 Digital advertising has not, therefore, come at the expense of growth in offline advertising or indeed the UK advertising market as a whole. Indeed, since Facebook was founded, advertising spend has continued to grow across the board including for TV, radio, cinema and out-of-home advertising. By 2020, advertising spend on these channels is expected to grow between 3% to 6%. And with these "traditional" offline channels also benefitting from industry-wide digitalisation, advertising spend on fast converging channels such as video-on-demand and online radio has grown by around 30% in the period between 2017 and 2018. Such channels are forecast to continue to grow between 16% to 20% by 2020.[98] Overall, the UK advertising industry has grown from £11.7 billion in 2017 to £13.4 billion in 2018,[99] with 2018 represented the ninth consecutive year of growth for UK advertising.

[92] Advertising Association, *Advertising Association, Advertising Pays 7: UK Advertising's Digital Revolution,* p. 44.
[93] Adweek, *Fortnite's explosion in popularity is opening new doors for marketers*, 5 June 2018: https://www.adweek.com/brand-marketing/fortnites-explosion-in-popularity-is-opening-new-doors-for-marketers/
[94] CNBC, *Netflix will have no choice but to run ads, industry execs say*, 29 April 2019: https://www.cnbc.com/2019/04/29/netflix-will-have-no-choice-but-to-run-ads-industry-execs-say.html.
[95] Lear, *Ex-post Assessment of Merger Control Decisions in Digital Markets for the UK Competition and Markets Authority*, 9 May 2019, para. II.29, see also para. I.159.
[96] Marketing Week, *Simba's Insights on Building a Brand on Facebook and Instagram*, 30 May 2018: https://www.marketingweek.com/simba-facebook-instagram-marketing/.
[97] Little Black Book Celebrating Creativity, *Sir John Hegarty & Royle Productions Launch Simba Mattresses with Sultry New Spot*, 22 July 2016: https://lbbonline.com/news/sir-john-hegarty-royle-productions-launch-simba-mattresses-with-sultry-new-spot/.
[98] Advertising Association, *AA / WARC Expenditure Report July 2019*, press release, 30 July 2019: http://expenditurereport.warc.com/media/1142/press-release-aa-warc-expenditure-report-q1-2019.pdf, and Advertising Association, *Advertising Association, Advertising Pays 7: UK Advertising's Digital Revolution,* p. 15.
[99] IAB UK / PwC, *Digital Adspend Study*, 2018.

5. Data provided by users does not confer market power or act as a barrier to entry or expansion

5.1   As detailed in section 4 above, there is a wide variety of actual and potential competition for online advertising. It is therefore clear that access to user data (aggregated or otherwise) is not a barrier to entry or expansion. As detailed below: (a) user data is non-rivalrous, ubiquitous and easily obtainable from a number of third-party providers as well as from users directly when they choose to engage with valuable services; (b) user data is not necessary for competitors to enter the market or expand their offerings; and (c) diminishing economies of scale and scope from "big data" mean that market participants do not grow in proportion to the data they possess. There are countless examples of popular user-facing propositions that have successfully entered the market with good ideas, and without access to large sets of user data.

Data is non-rivalrous, ubiquitous and easily obtainable from a number of third-party providers as well as from users directly when they choose to engage with valuable services

5.2   Evidence shows that holding data by itself does not confer a competitive advantage,[100] including user data of the type held by Facebook. This is because:

(a)   it is non-rivalrous, in that, unlike money, consumers can and do choose to share exactly the same data with an inexhaustible number of other platforms. For example, a photo taken on an iPhone may be stored on Dropbox, posted on Facebook, shared on Snapchat and uploaded to a digital printing website all within a day. Such multi-homing demonstrates that the availability or consumption of data by one platform does not decrease its availability to other platforms; and

(b)   it has a near-zero marginal cost of production and distribution, in that the only restriction on consumers' ability to multi-home is the time available to them.[101]

5.3   As noted in paragraph 3.6 above, Facebook does not sell its users' data to advertisers. However, a host of third-party sources do make vast quantities of data – including data relevant to advertising such as consumer demographics, location and interests – available for purchase or licensing. These include providers such as: Acxiom, CCC Marketing, Oracle Data Cloud (formerly Datalogix), Quantium, Epsilon, Equifax, Experian, Nielsen, Merkle, Schober and TransUnion. Indeed, the market for selling such data is large and advertisers themselves report that acquiring user data is inexpensive. This is also recognised by the Lear Report, which points to "*the existence of many alternative data sources and to a flourishing marketplace for data that entrants can access in order to power their statistical models*".[102]

5.4   Indeed, it is a mistaken assumption that "user data" is the preserve of just a few digital platforms. In fact, a wide variety of companies, across a range of industries (including retail, payments, financial services and pharmaceuticals, to name a few) have long been collecting consumer data,

---

[100]   For example, see David Evans, *Why the Dynamics of Competition for Online Platforms Leads to Sleepless Nights But Not Sleepy Monopolies*, 25 July 2017: https://ssrn.com/abstract=3009438.

[101]   Anja Lambrecht & Catherine.E.Tucker, *Can Big Data Protect a Firm from Competition?*: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2705530.

[102]   Lear, *Ex-post Assessment of Merger Control Decisions in Digital Markets for the UK Competition and Markets Authority*, 9 May 2019, para. I.42.

while at the same time also digitalising. Indeed, and as the CMA has previously recognised, the first supermarket loyalty card in the UK was launched as long ago as 1994 – where loyalty cards remain an important source of consumer data for businesses including for online retail.[103] The data "troves" of such organisations contribute significantly to the existing and ever-increasing availability of data. In fact, a recent study by IBM and Oxford University found that digital platform companies account for only around 20% of "*commercializable*" data available globally, while "*far older incumbents like Unilever, Procter & Gamble, Bank of America and the UK's Santander own about 80%*".[104]

Data is not necessary for entry, there are countless examples of businesses with good ideas that have entered and grown successfully by providing services that users find valuable

5.5   It is a myth that data is necessary for competitors to enter and succeed in the market. Contrary to the suggestion in the SoS,[105] neither Facebook nor any of today's "leading" platforms (e.g. Amazon, Microsoft, Google, Spotify, Netflix, Uber etc.) had access to significant amounts of data at the time of their launch. The same is also true of more recent entrants – for example:

(a)   Snap competed by positioning itself as an ephemeral messaging platform when it launched in 2011 without any significant source of data. By the end of 2012 it had grown to one million daily active users (***DAUs***).[106] It has since grown by over 200 million DAUs in less than seven years to reach 203 million DAUs in Q2 2019;[107] and

(b)   Pinterest, when it had only 3,000 users, used grassroots marketing techniques such as engagement with bloggers to grow its user base.[108] It has continued to grow, and reported in 2019 that its user count had "*surpassed 300 million*" monthly active users in the second quarter,[109] a growth of 50 million users compared to 250 million users in 2018.[110]

5.6   The rapid growth of new entrants such as these demonstrates that the key ingredient for successful new entry is in fact an innovative and attractive idea that is differentiated from existing offerings (rather than access to large amounts of self-generated data). The rapid growth of these

---

[103]   CMA, *The commercial use of consumer data, Report on the CMA's call for information,* June 2015: paras. 2.6-2.7: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/435817/The_commercial_use_of_consumer_data.pdf.

[104]   Axios, Steve LeVine, *How Old Tech Could Roar Back,* 26 February 2018: https://www.axios.com/big-tech-new-rivals-old-tech-ibm-uber-facebook-1519609801-80daea23-cee2-44bf-ad54-f65336a996c2.html.

[105]   CMA, *Online platforms and digital advertising market study, Statement of Scope*, 3 July 2019, p. 19.

[106]   Fortune, *Snapchat: An Abridged History*, 4 February 2017: https://fortune.com/2017/02/04/snapchat-abridged-history/.

[107]   Snap Inc. *Snap Inc. Announces Second Quarter 2019 Financial Results*, 23 July 2019: https://investor.snap.com/news-releases/2019/07-23-2019-211107490.

[108]   All Things D, Liz Ganen, *The Secret Behind Pinterest's Growth Was Marketing, Not Engineering, Says CEO Ben Silbermann,* 20 October 2012: http://allthingsd.com/20121020/the-secret-behind-pinterests-growth-was-marketing-not-engineering-says-ceo-ben-silbermann/.

[109]   Business Insider, *Pinterest spikes 17% as monthly active users top 300 million for the first time*, 2 August 2019: https://www.businessinsider.sg/pinterest-stock-price-earnings-q2-beat-on-user-growth-2019-8/.

[110]   Digital Trends, *As Twitter and Facebook growth slows, Pinterest hits 250 million users*, 11 September 2018: https://www.digitaltrends.com/social-media/pinterest-250-million-users/.

companies has taken place despite the existence of other market players with larger user bases at the outset. These examples also demonstrate that companies can, over time, collect data directly from users if they offer services that people want to use – quickly gathering a large user audience even in the face of well-established competition.

5.7 Conversely, the mere accumulation of data by itself is not enough to guarantee success. Flickr, from its inception, was able to amass large volumes of data relating to users' photographs. However, accumulating large volumes of data did not result in its long-term success.[111] Following Yahoo!'s acquisition of the business, Flickr suffered significant set-backs through attempting to integrate the user data of Yahoo![112] and providing advertising, which caused Flickr's users to "*switch off*".[113] Such deterioration in user engagement (and resulting decline in advertising revenue) diverted time and resources away from developing Flickr's user-facing proposition and in particular Flickr's use on mobile devices.[114]

There are diminishing economies of scale and scope from "big data"

5.8 It is equally untrue that the more data a platform has, the bigger it is or will become. The evidence shows that economies of scale and scope from data are quickly diminishing such that a market participant possessing a greater amount of data does not necessarily enjoy a competitive advantage proportionate to the data it possesses (if it possesses any advantages at all). This is demonstrated by the fact that:[115]

(a) big data often offers overlapping insights and a firm can get similar insight more efficiently from a fraction of the full dataset.[116] Data accrued on social media websites, for example, is often repetitive across time and platforms. It is therefore unlikely to continue to provide a material increment for targeting ads or offering new services;

(b) it is often the ability to analyse critical data (rather than the quantity of data) which can most effectively identify a customer's preference. For example, Professors Anja Lambrecht and Catherine Tucker point out that it has been shown that to predict preferences for movies, ten movie ratings alone are more helpful than extensive

---

[111] PetaPixel, Allen Marubayashi, *Flickr'd Out: The Rise and Fall of a Photo Sharing Service*: https://petapixel.com/2016/03/22/flickrd-rise-demise-photo-sharing-service/.

[112] Matt Honan, *How Yahoo Killed Flickr and Lost the Internet*, 15 May 2012: https://gizmodo.com/how-yahoo-killed-flickr-and-lost-the-internet-5910223.

[113] PC World, Derek Powazek, *The new Flickr: Goodbye customers, hello ads,* 21 May 2013: https://www.pcworld.com/article/2039414/the-new-flickr-goodbye-customers-hello-ads.html.

[114] Tech Crunch, Tomio Geron, *A Look Back At Yahoo's Flickr Acquisition For Lessons Today*, 2014: https://techcrunch.com/2014/08/23/flickrs-acquisition-9-years-later/.

[115] Anja Lambrecht & Catherine.E.Tucker, *Can Big Data Protect a Firm from Competition?,* December 2015: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2705530.

[116] The Journal of Economic Perspectives – Volume 28, Number 2, Spring 2014, pp. 3-28, Varian, H. R. (2014). *Big data: New tricks for econometrics*: https://pubs.aeaweb.org/doi/pdf/10.1257/jep.28.2.3.

metadata.[117] The Lear Report also notes that "*claims that data diversity enhances accuracy are not based on rigorous systematic evidence*";[118] and

(c) additionally, large shifts in supply infrastructure have rendered tools for gathering data commonplace – e.g. through cloud-based resources, reduced data storage costs and the availability of technologies to analyse large datasets – meaning that smaller firms have greater access to powerful and inexpensive data resources than ever before.[119]

6. Facebook is transparent with users about how their information is collected and used, including through the provision of extensive user controls

6.1 Facebook shares the CMA's view that consumers ought to be able to have "*sufficient knowledge, understanding or tools*" in relation to the information they are sharing with Facebook and how it is subsequently held, used and shared.[120] Most UK consumers recognise the central role that personal data plays within a modern digital economy and society, such that the vast majority of the UK public (75%) have no fundamental or ideological objection to the sharing of their personal data. In fact, "*most are willing to engage with the data economy so long as there is a clear benefit for doing so*".[121]

6.2 Facebook therefore submits that the relevant focus for ensuring consumers are able to access these benefits should not only be on whether a platform has access to a large *amount* of data (for the reasons outlined in paragraph 5.8 above), but instead upon the degree of transparency and control that platforms (like Facebook) provide to consumers over how this data is used, so that consumers are able to make informed choices about whether to access the services offered by Facebook and, if so, how best to control various elements of their user experience.

6.3 For this reason, Facebook: (a) provides clear and fair contractual terms of service, which (amongst other things) provide clarity to users about how the Facebook service is funded and the role their personal data plays in that context, to ensure that consumers can make an informed transactional decision in choosing to register for and engage with the service; (b) ensures that people who use Facebook's services are provided with transparent and comprehensive information about how their personal data may be used, both for advertising and the provision of the service as a whole, both upon registration and on an ongoing basis; and (c) provides a wide array of tools and controls, including the ability for users to determine the scope of information that is used for advertising, tailor their user experience and determine the types of advertising they wish to see, and easily exercise their legal rights as a "data subject".

---

[117] Anja Lambrecht & Catherine.E.Tucker, *Can Big Data Protect a Firm from Competition?,* December 2015: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2705530.

[118] Lear, *Ex-post Assessment of Merger Control Decisions in Digital Markets for the UK Competition and Markets Authority*, 9 May 2019, p. 60, para. I.43.

[119] Anja Lambrecht & Catherine.E.Tucker, *Can Big Data Protect a Firm from Competition?,* December 2015: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2705530.

[120] CMA, *Online platforms and digital advertising market study, Statement of Scope*, 3 July 2019, paras. 63-64.

[121] DMA/Acxiom, *Global data privacy: What consumers really think*, February 2018, p. 7: https://dma.org.uk/uploads/misc/5a857c4fdf846-data-privacy---what-the-consumer-really-thinks-final_5a857c4fdf799.pdf.

6.4   Facebook's approach in this regard is not only essential to maintain user trust but is also underpinned by law. Like the rest of the EU, the UK benefits from an existing and robust legal regime to protect the collection, use and sharing of users' personal data, i.e. the GDPR. Facebook is engaged in frequent discussions with its lead supervisory data protection authority, the Irish Data Protection Commission, to ensure a continued high standard of protection for all EU users with regard to its ongoing compliance with GDPR.

Facebook's terms of service are clear, intelligible and fair to consumers

6.5   Consumers are able to make informed choices about whether they wish to sign up for Facebook based on the clear information that Facebook provides about the central role that personal data plays in Facebook's ability to provide the service. In particular, the Facebook Terms of Service make clear to consumers how the service is funded by advertising, and the role that their personal data plays in this context: *"Instead of paying to use Facebook […] you agree that we can show you ads that business and organizations pay us to promote on and off the Facebook Company Products. We use your personal data, such as information about your activity and interests, to show you ads that are more relevant to you."*. The Terms of Service also direct users to numerous key resources, including Facebook's Data Policy, to enable users to fully inform themselves about the details of Facebook's data processing practices. Like most other platforms, the Terms of Service establish the respective contractual rights and responsibilities of Facebook and each user, and as such all users are required to accept these terms in order to use the service.

6.6   More broadly, the terms themselves have been specifically designed to be clear, intelligible and fully consistent with EU and UK consumer law. Facebook has engaged in considerable work in this regard with the European Consumer Protection Cooperation Network, of which the CMA is a member, in order to address concerns relating to compliance with the EU consumer protection laws on unfair terms in consumer contracts.[122] The Terms of Service were most recently announced in June 2019 following these exchanges, and were welcomed by the European Commission.[123]

Facebook provides extensive and transparent information to consumers, including information about how personal data is used for advertising

6.7   Facebook provides consumers with extensive information about its data processing practices both at the point of registration and on an ongoing basis, in a variety of different contexts and formats. This approach is reflective of the fact that users may wish to digest information with different degrees of specificity throughout the duration of their use of the service, as the user's relationship with Facebook and their Facebook connections develops. As such, users are equipped to understand and manage the way in which their data is used at any given time.

---

[122]   European Commission, *Consumer Protection Cooperation Action on Facebook's Terms of Service*, April 2019: https://ec.europa.eu/info/sites/info/files/live_work_travel_in_the_eu/consumers/documents/factsheets_on_the_changes_implemented_by_facebook.pdf.

[123]   European Commission, *Facebook changes its terms and clarify its use of data for consumers following discussions with the European Commission and consumer authorities*, April 2019: https://europa.eu/rapid/press-release_IP-19-2048_en.htm.

6.8   Facebook's Data Policy, which provides the central resource describing Facebook's data processing practices, takes the form of a layered notice allowing users to access information in increasing levels of detail and granularity as has been specifically recommended by European Data Protection Authorities as a means of enhancing the accessibility of information.[124] Amongst other things, this provides users with clear information about the types of personal data that Facebook collects, and how this data is used to personalise both the organic content and advertising they see.

6.9   Following the same principle, Facebook provides a variety of additional information and user education resources on an ongoing basis, ranging from in-product guides and tools to widescale consumer marketing campaigns, to ensure users continue to have access to timely and relevant information accessible to the widest possible range of audiences. For example:

    (a)   After a new Facebook account is registered, each new user has the opportunity to run through a step-by-step Privacy Tour, which guides them through a range of features that enable them to retain control over their information on Facebook, including sharing controls, tagging, and privacy shortcuts. From the very beginning of their relationship with Facebook, Facebook provides its users with information about how they can control their privacy on Facebook.

    (b)   Thereafter, Facebook offers users with regular ongoing resources and reminders to enable them to continue to understand and manage the use of their data. Facebook's industry-leading 'Privacy Basics' education tool guides users through the process of understanding and managing their Facebook experience and the information they have shared with Facebook.[125] This provides information on a list of "top topics", expressed in simple language and assisted with user-friendly graphics and animations, to appeal to a broad range of users. Similarly, Facebook offers users "Privacy Check-Ups", whereby users are reminded of key privacy-related settings specific to their account and are prompted to evaluate whether to maintain or update their selections. These industry-leading tools were developed to provide a clear, user-friendly explanation of all aspects of privacy on the Facebook Service. The page is accessible from the Facebook Data Policy, the Help Centre, and from the "Privacy Shortcuts" menu at the top of almost every page on Facebook and is surfaced to users regularly in response to actions taken on the platform.

    (c)   Facebook has adopted a similar approach to explain to users in simple terms how its targeted advertising system works. The "About Facebook Ads"[126] page provides explanations, again using simple language, graphics and illustrations, as to why a user sees particular ads, how ads are served, the sources of information on which ads

---

[124]   Article 29 Working Party, Guidelines on transparency under Regulation 2016/679, para. 35: https://ec.europa.eu/newsroom/just/document.cfm?doc_id=48850.
[125]   Facebook, Privacy Basics: https://www.facebook.com/about/basics.
[126]   Facebook, About Facebook Ads: https://www.facebook.com/ads/about/?entry_product=ad_preferences.

personalisation is based, the tools available to the user to manage their ads preferences, and answers to a number of frequently asked questions relating to Facebook advertising.

(d)   Facebook also understands the importance in an online environment of providing users with certain information that is relevant to the specific context in which they are engaging with the service at the time. In 2014, Facebook's launched the "Why Am I Seeing this Ad?" (*WAISTA*) feature, which enables users to click on a specific advert to see an explanation of why they are seeing that ad. The user is also alerted to relevant controls, such as Facebook's Ad Preferences tool, where they can easily adjust their experience.[127] Earlier this year, Facebook improved this feature by giving users additional insight into how an advertiser has chosen to target a particular user population and enabling users to adjust the interest categories for which they would like to receive relevant ads and adjust their general ad settings.[128] More recently, Facebook has announced its "Why Am I Seeing This Post" (*WAISTP*) features.[129] WAISTP provides similar functionality to users as WAISTA, but for organic posts, i.e. enabling users to understand how and why posts show up in their News Feed and how to take appropriate action to manage or improve their News Feed experience.

6.10   Away from the platform itself, Facebook also periodically runs wide-scale consumer marketing campaigns across a range of media to alert users to key tools and information. Facebook has just launched a UK-wide campaign recognising that "*[w]e all have our own privacy settings*" and reminding people to "*choose the settings that are right for [them] at facebook.com/privacy*". Media will run across various channels over 12 weeks, including Facebook and Instagram, video-on-demand, digital, out-of-home, cinema, print, and audio. This campaign will be supplemented by "Facebook Cafes" held in cities across the country where users can participate in completing a Privacy Check-up with guidance from Facebook staff.

Facebook provides users with tools and controls to control their privacy and to optimise their experience

6.11   In conjunction with comprehensive user information, Facebook provides comprehensive and user-friendly settings and tools to enable users to make meaningful choices over how their data is used. As shown in the examples below, users may control their privacy settings in a multitude of ways on the Facebook platform; indeed, Facebook often provides users with several opportunities to control a single privacy setting. For example, a user may control who can see their posts: (a) when they create a post; (b) through the Privacy Check-up tool; (c) in the Privacy Settings and Tools Page; and (d) on that user's timeline. This is consistent with Facebook's emphasis to make tools and controls available to users in an intuitive and contextual manner.

---

[127]   Facebook Newsroom, *Understand Why You're Seeing Certain Ads and How You Can Adjust Your Ad Experience*, 11 July 2019:
https://newsroom.fb.com/news/2019/07/understand-why-youre-seeing-ads/.
[128]   Facebook, *What are my ad preferences and how can I adjust them?*:
https://en-gb.facebook.com/help/247395082112892?helpref=uf_permalink.
[129]   Facebook Newsroom, *Why Am I Seeing This? We Have an Answer for You*, 31 March 2019:
https://newsroom.fb.com/news/2019/03/why-am-i-seeing-this/.

6.12   Facebook's efforts to provide comprehensive and user-friendly settings and tools begin from the moment a user creates a Facebook account, when (as noted above) the user is presented with the opportunity to take a Privacy Tour, which guides them through a range of features that enable them to retain control over their information on Facebook, including sharing controls, tagging, and privacy shortcuts. This acts as an introduction to many of the core features of the service and presents the user with an opportunity to make choices over how their information may be used and shared with others.

6.13   After registration, Facebook provides a series of interactive tools, which explain in detail to users how their data is displayed on Facebook and to set their level of privacy at the level they choose. Users have access to these controls at any time, and Facebook periodically provides privacy reminders to users, so that they can understand the choices and tools that are available to them.

6.14   Regarding the use of data for advertising specifically:

(a)   Users are asked if they would like to consent, i.e. on an opt-in basis, to Facebook using data from advertisers, app developers and publishers about their activity off Facebook company products to decide which ads to show them. Accordingly, users are free to choose whether or not they wish to expand the scope of their data use concerning their activity off Facebook company products for advertising targeting purposes if they so wish.

(b)   Shortly, Facebook will be announcing more details relating to its new "Off-Facebook Activity" feature. This will allow users to see on a more granular basis the data that third party website owners and publishers, developers, advertisers, business partners (And their customers) and others use to integrate, use and exchange information with Facebook using the Facebook Business Tools (such as the Facebook Pixel). This feature will also allow users to disassociate this information and their future 'off-Facebook' activity, from their Facebook account if they wish.

(c)   As noted above, the WAISTA feature enables users to click on a specific advert to see an explanation of why they are seeing that ad and provides insight into how the relevant advertiser has chosen to target the particular user population. Facebook's Ad Preferences tool enables users to further adjust the interest categories for which they would like to receive relevant ads on a granular basis, enabling them to ensure that the advertising they see is tailored to their preferences[130].

6.15   Users also have the ability to access and download information they have shared with Facebook through the Access Your Information and Download Your Information tools, respectively. This provides users with a simple and powerful way to exercise their data subject access, rectification and erasure rights guaranteed by the GDPR by easily being able to see information they have shared over time, choose whether they wish to delete or update any such information. This information is also provided in a portable format, allowing users to easily reuse this information on other platforms and services.

---

[130]   Facebook, *What are my ad preferences and how can I adjust them?*: https://en-gb.facebook.com/help/247395082112892?helpref=uf_permalink.

6.16   Facebook is more focused than ever on a social networking vision which prioritises privacy, without losing the many significant benefits generated by Facebook for users, advertisers and third-party publishers, to-date.[131] This will involve a continued pursuit of additional ways in which Facebook can empower users to exercise control of their use of Facebook's services (in addition to those controls already available). Facebook is committed to ensuring that users continue to trust that the information they share with Facebook is protected. This commitment involves Facebook being prepared to engage with the relevant regulatory authority, such as the CMA, in order to achieve this in a way which does not undo the significant work which has already been done in this regard; and in a way in which continues to promote strong competition, innovation and a global level playing field.

7.   Facebook's initial comments on the remedy proposals in the SoS

7.1   In light of: (a) the significant benefits to users and advertisers (as detailed in sections 2 and 3 above); (b) the intense actual and potential competition for users and advertisers (as detailed in section 4 above); (c) the lack of any meaningful barriers to entry or expansion in online advertising (as detailed in section 5 above); and (d) the existing tools from which consumers already benefit to control access to / the use of their personal data (as detailed in section 6 above), it does not seem appropriate for the CMA to have sought to formulate remedies proposals at the very *outset* of the Market Study. Doing so *before* any fact finding, evidence gathering and/or assessment of market failure has commenced - and certainly in the absence of any legal or economic assessment of potential failures in the market and evidence of consumer harm – risks having the unintended effect of diminishing, rather than furthering, consumer benefits and competition in online advertising. Any such regressive effects would risk deteriorating the current levels of accessibility, quality and choice – both for users and for advertisers – and risk destabilising the careful balance of competing commercial and policy objectives which have made the recent levels of efficiency, innovation and value, possible.

7.2   In a similar vein, Facebook has explained above the contribution it has made to the UK economy, including in particular for UK SMEs. Facebook urges the CMA to be mindful of the impact of any remedy proposals which may reduce that contribution – not just by increasing the regulatory burden but also by inhibiting frictionless cross-border connections for businesses.

7.3   Notwithstanding these concerns, Facebook welcomes the opportunity to engage constructively with the CMA on the important commercial and policy considerations relevant to the Market Study. In particular, Facebook supports the principle of data portability: if users choose to share their data with one service, Facebook believes they should also be able to move their data to another service.

7.4   Indeed, data portability creates significant challenges and raises questions around who is responsible for the protection of information when it moves between services. As such, Facebook also believes that any industry-wide effort to deliver these benefits necessitates a careful navigation of the current tension between calls for greater personal data privacy versus calls for greater data sharing. Facebook notes that the IAB has also commented on this, noting that

---

[131]   Facebook Newsroom, *A Privacy-Focused Vision for Social Networking*, 6 March 2019:
https://newsroom.fb.com/news/2019/03/vision-for-social-networking/.

"legislators and policy-makers need to recognise not only the global nature of data, but also the balance between advertising - funding content and services - and safeguarding consumer privacy… Law makers are shaping rules that govern data businesses without necessarily understanding how they work and how they may benefit the digital economy".[132] Likewise, the ACCC more recently found that "*it is clear that a holistic approach that takes into account the close links between competition, consumer, and privacy issues is needed*".[133] In this regard, it is notable that the Furman Report recognised (but did not actually analyse or make any concrete suggestions) in relation to the "*competing objectives of data protection and consumer privacy, on the one hand, and competition policy on the other hand*".[134]

7.5   From this perspective, Facebook welcomes the opportunity to engage constructively with the CMA on these important and difficult legal and policy considerations, in particular to further:

(a)   its participation in the Data Transfer Project, which is an open-source project that is committed to using existing standards wherever possible to build common ways for users to transfer their data into and out of online services, whilst also balancing privacy and security; and

(b)   developing greater transparency in relation to advertising measurement in order to continue to provide advertisers with effective tools to measure the success of their campaigns across different advertising media more accurately, including across online and offline channels.

7.6   In doing so, Facebook highlights the importance of the CMA taking due account of the GDPR which, as the CMA will recognise, was enacted after years of careful debate and is supported by powerful specialist regulators with the benefit of deep subject-matter expertise. Indeed, the CMA will no doubt want to ensure that any proposals resulting from the Market Study do not cut across, or duplicate, existing regulations or create *"significant differences in data protection approaches across our jurisdictions [which] can have a confusing and damaging effect on consumer and business understanding of how laws operate and what they are there to safeguard"*.[135]

7.7   Facebook would like to understand how it might work with the CMA in order to ensure it can continue to contribute to the UK's growing advertising sector, including by continuing to innovate and best serve consumers <u>and</u> advertisers using its services in the UK.

---

132   IAB, The Programmatic Handbook, 2014, p. 23:
       https://www.iabuk.com/sites/default/files/The%20Programmatic%20Handbook.pdf.
133   ACCC, *Digital Platforms Inquiry Final Report*, July 2018, p. 3.
134   Digital Competition Expert Panel, Jason Furman, *Unlocking digital competition*, March 2019, para. 4.38.
135   Elizabeth Denham speech at the G20 Side Event - International Seminar on Personal Data, 4 June 2019:
       https://ico.org.uk/about-the-ico/news-and-events/news-and-blogs/2019/06/g20-side-event-international-seminar-on-personal-data/.