



# MEMORANDUM



**RE: The Competition and Markets Authority (UK), “Online Platforms and Digital Advertising Market Study” – Response from Index Exchange Inc.**

## **INTRODUCTION**

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In July 2019, the Competition and Markets Authority (the “**CMA**”) launched a market study related to online platforms and digital advertising in the United Kingdom (the “**Study**”). ✂

## **I. GENERAL FEEDBACK AND EXECUTIVE SUMMARY**

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This Section I provides general feedback on the Statement of Scope ✂ using the points of feedback requested in paragraph 118 of the Statement of Scope as a guide.

In paragraph 118 of the Statement of Scope, the CMA details the areas in connection with which they would welcome comments and views. These areas include the following:

1. The CMA’s description of the digital marketing sector and whether it is broadly accurate;
2. The proposed scope of the Study, including whether there are areas the CMA should focus on or areas that have been missed;
3. The three issues described in the Statement of Scope which can be broadly summarized under the following headings: (i) market power; (ii) consent/privacy; and (iii) anti-competitive behaviours (each an “**Issue**” and together the “**Issues**”);
4. The range of potential remedies including whether they would be appropriate, proportionate and effective;
5. ✂.

IX is pleased to provide feedback on the Issues ✂ but we feel poorly positioned to comment on the CMA’s description of the digital marketing sector, the proposed scope of the Study and the range of potential remedies (points 1, 2 and 4 above). To provide feedback in these areas, we would have to either conduct research (which would pale in comparison to that already conducted by the CMA and others) or offer anecdotal opinions which we worry might compromise the credibility of our feedback.

### ***Feedback on Point 3 – the Issues***

Regarding the Issues, please find detailed feedback in Section II below. We offer an executive summary of our response to each Issue here:

1. **Market power:** IX’s unique selling points centre around our independence, neutrality and openness. Advertisers and agencies want to work with us because of our commitment to these core practices and values. We are not able to comment on the sources of Facebook’s or Google’s market power nor are we able to offer insight into how they obtain and preserve that power.



2. **Consent/Privacy:** IX is a facilitator of data transactions between our Publisher and DSP partners (as each term is defined in Section II(B)(1) below). We do not have direct interaction with consumers. We require all our partners to comply with all applicable laws, including privacy and data protection laws. IX cannot comment on the means by which our partners achieve compliance when collecting data.
3. **Anti-competitive Behaviour.** IX understands that the CMA seeks insight into the digital advertising market; as far as we're able, IX will provide feedback on our business practices in an effort to provide colour on this point.



## II. FEEDBACK ON THE ISSUES

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This Section II is broken into two parts: (A) Section A outlines the three Issues at the centre of the CMA's Study; and (B) Section B details IX's response to each of the Issues.

### A. *CMA's Study – the Three Issues*

IX understands that the purpose of the Study is to assess the Issues, each of which reflects a potential source of harm to consumers in connection with digital advertising. Below please find more detail on each Issue, which we offer to ensure we're correctly aligned on the goals of the Study:

1. **Market Power.** To what extent online platforms have market power in user-facing markets, and what impact this has on consumers.
  - a. The Study will examine major online platforms such as Facebook and Google and intends to consider the source of any market power.
  - b. Key areas the Study will examine include: market share, prices of advertising, and how revenues are distributed along the advertising value chain.
2. **Consent/Privacy.** Whether consumers are able to control how data about them is used and collected by online platforms.
  - a. The Study will examine how major platforms collect and use personal data, including whether making this data available to advertisers in return for payment is producing positive outcomes for consumers.
  - b. The Study will consider whether people have the skills, knowledge and control over how information about them is collected and used so they can decide whether or not to share it in the first place.
3. **Anti-Competitive Behaviours.** Whether competition in the digital advertising market may be distorted by any market power held by platforms.
  - a. The Study will consider whether competition in digital advertising is producing positive outcomes for consumers.
  - b. It will examine concerns about the market power of certain sites and examine whether the control they have over people's data is making it harder for rivals to compete for business, to the detriment of consumers.

Please find IX's response to each of these issues outlined in Section B immediately below.



## **B. IX's Response to the Three Issues**

### **1. Market Power**

IX is a business-to-business digital advertising platform that connects purchasers of advertising inventory (“**Demand Side Partners**” or “**DSP**”) with publishers of advertising (a “**Publisher**” or the “**Publishers**”). We do not purchase advertising on behalf of clients or for resale, nor do we own the sites on which advertising appears. IX is independent; we have no business interests other than trying to function as an outstanding exchange. Our business is built on the pillars of neutrality and openness exemplified by our mission statement “Democratizing Digital Advertising.”<sup>1</sup> Many companies in the advertising, marketing and technology industries choose to partner with us because of this position. IX’s unique selling points centre around our independence and commitment to transparency.

We have no direct-to-consumer interaction. Instead we rely on our Publisher partners to provide, in a manner that complies with all applicable laws, the information required to serve ads to the desired audiences. IX does not require exclusivity from its Publisher partners - they may sell their advertising inventory through other exchanges as well.

A number of paragraphs in the Statement of Scope speak to Facebook’s and Google’s market power (i.e. paragraphs 60-62). We are not able to comment on the sources of their market power nor on their practices for establishing and maintaining such power.

### **2. Consent/Privacy**

IX requires all Publisher and DSP partners to comply with all applicable laws including privacy and data protection laws. We place particular emphasis on privacy and data protection as part of our commitment to openness.<sup>2</sup> IX is a facilitator of data transactions between our Publisher and DSP partners. We rely on our partners to advise their consumers of their practices in a manner that allows for informed consent.

IX is unable to comment on the manner in which partners achieve compliance when collecting data as we are not part of the relationship at that point, nor should IX integrate itself at that stage – we view that as a monitoring/enforcement role belonging to an independent regulator, not to a market participant like IX. To the degree IX can reflect its values with a commitment to data privacy legislation, we do so eagerly. There is however a limit to our role. Regarding IX’s disclosure obligations, we maintain a privacy policy on our public-facing website.<sup>3</sup> Our policy outlines our data use and sharing practices in straightforward language and explains how users can exercise control over that data.

### **3. Anti-Competitive Behaviour**

IX understands that one of the CMA’s goals in assessing whether there is effective competition in the digital advertising market is to better understand this industry and how it operates. Where possible, IX is happy to be a good partner in describing how we understand our place in this rapidly changing landscape. We cannot speak to DSPs’ or Publishers’ practices ☹.

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<sup>1</sup> Please see more about IX’s mission and vision online at: <https://www.indexexchange.com/about/>.

<sup>2</sup> Please see, for example, the “Industry Self-Regulation” Section of IX’s Privacy Policy, available online at: <https://www.indexexchange.com/privacy/>.

<sup>3</sup> Please find IX’s Privacy Policy online at: <https://www.indexexchange.com/privacy/>.

