

## Response to the CMA's Online Platforms and Digital Advertising Market Study Interim Report

### About the Advertising Association

1. The Advertising Association promotes the role, rights and responsibilities of advertising and its impact on individuals, the economy and society. We bring together companies that advertise, their agencies, the media and relevant trade associations to combine strengths and seek consensus on the issues that affect them. We develop and communicate industry positions for politicians and opinion-formers, as well as publish industry research through advertising's think-tank, Credos, including the Advertising Pays series which has quantified the advertising industry's contribution to the economy, culture, jobs and society.

### Context

2. The membership of the Advertising Association is very broad and includes the associations representing industry sectors, such as the advertisers (through ISBA), the agencies and advertising production houses (through the IPA and APA), all the media (from broadcasters and publishers, cinema, radio, outdoor and digital), market research (through MRS) and marketing services such as direct marketing, promotions.
3. Advertising is important. It plays a crucial role in brand competition, drives product innovation and fuels economic growth. It also provides revenues to fund a diverse and pluralistic media enjoyed by children and young people.
4. Advertising is a driver of economic growth and competition. Every pound spent on advertising returns £6 to GDP. Advertising spend will be over £23.6 billion this year and this will result in over £142bn to GDP, supporting 1 million jobs across the UK.
5. According to Deloitte research carried out on behalf of the Advertising Association, the one million jobs supported by advertising can be broken down as follows:
  - 350,000 jobs in advertising and the in-house (brands) production of advertising
  - 76,000 jobs in the media sectors supported by revenue from advertising
  - 560,000 jobs supported by the advertising industry across the wider economy.
6. As reported in *Advertising Pays: UK Advertising's Digital Revolution*, advertising's contribution to the economy topped £138 billion in 2018 in the UK. Online advertising accounted for 57% of that amount and is predicted to grow to a 62% market share by 2020. The ad-tech sector, which provides digital tools and services for the advertising industry, comprises of more than 300 UK-headquartered companies, with over £1bn invested in this sphere since 2013. This means the UK is now the largest online advertising market in Europe and third in the world behind the US and China.
7. Online advertising can deliver two key benefits: firstly, more targeted, relevant and timely ads for both individuals and advertisers. Secondly, it funds a host of online content and services that consumers can access at "zero" price. Many online media and press depend on advertising revenues to help finance the creation and production of their content.

# ADVERTISING ASSOCIATION

8. These benefits are valued by consumers. Research, cited by the CMA, suggests that many consumers prefer advertising on websites to be relevant to them. Moreover, most participants preferred targeted advertising and personalised discounts to non-targeted advertising and generic discounts (para 4.42)
9. Please contact Konrad Shek ([konrad.shek@adassoc.org.uk](mailto:konrad.shek@adassoc.org.uk)) for further information on any of the points raised in this submission.

## Our response

10. We welcome the opportunity to respond to the CMA's Online Platforms and digital advertising market study interim report.
11. We support the broad principle that a healthy, competitive online advertising market is important for the long-term sustainability of the industry. We seek outcomes that are balanced, transparent and accountable for the ecosystem, but believe it is vital that this review complements the DCMS review of online advertising and acts in concert with other areas of digital policy being pursued by government in order to deliver a coherent and joined-up approach towards online policy making.
12. Given the diverging views across our membership, our response focuses on Question 11 – *Potential interventions to give consumers greater control over their data.*

### *Imposing a “fairness by design” requirement on all platforms*

13. Introducing a “fairness by design” requirement appears to duplicate elements already covered by data protection law. It is also worth highlighting the growing research into the existence of the privacy paradox, whereby consumer stated intended behaviours do not match actual behaviours. The CMA, itself, has commented on the phenomenon of weak consumer engagement<sup>1</sup> experienced in many markets. This is often characterised by consumers not exercising the choices available to them.
14. Instead, this concern maybe better tackled in other ways. Norberg, Horne & Horne (2007)<sup>2</sup> pose the question about how much should policymakers and regulators intervene to protect consumers from their chosen behaviours. We agree with their assessment that there needs to be a greater effort from consumers to understand the implications of what they are giving consent to, which aligns with the paragraph 6.115's point about engagement and understanding.
15. We should not underplay the role of education to support this principle, without it would lead to the abrogation of the consumer's own responsibility to monitor their own behaviour. Hence, we believe that there is a role for both government and industry to invest more effort into media literacy programmes, from early years to mature audiences. In fact, regulators such as Ofcom have a statutory duty to promote media literacy<sup>3</sup>.

---

<sup>1</sup> <https://www.gov.uk/government/speeches/alex-chisholm-on-consumer-engagement-in-a-digital-world>

<sup>2</sup> Norberg, PA, Horne DR & Horne DA (2007). The Privacy Paradox: Personal Information Disclosure Intentions versus Behaviors. The Journal of Consumer Affairs, Vol. 41, No. 1,

<sup>3</sup> <https://www.ofcom.org.uk/research-and-data/media-literacy-research/media-literacy>

# ADVERTISING ASSOCIATION

16. The Government could also consider giving more support to Media Smart (<https://mediasmart.uk.com>), the advertising industry's education programme, whose mission is to ensure young people in the UK can confidently navigate the media they consume including being able to identify, interpret and critically evaluate all forms of advertising. It creates free media and digital literacy resources for teachers, parents and youth organisations working with 7-16-year olds. Media Smart has recently entered into an agreement to work with the European Interactive Digital Advertising Alliance (EDAA) to develop data protection and online behavioural advertising educational resources for young people. This is expected to be launched in the autumn, with a wider European rollout planned for 2021.

## *Designing regulations that work for small as well as large companies*

17. We were somewhat surprised to see in paragraphs 6.127-6.128 the suggestion of *exploring the extent to which mechanisms... [at the] browser, system... level, can be supported or adopted to give effective control to consumers*. This proposal could inadvertently hand significant market influence to manufacturers of browser software or operating systems and cementing their position as internet gatekeepers. This idea has been serious point of contention between industry and EU institutions in the drafting of the e-Privacy Regulations, such that the last published Council draft (13808/19 8 November 2019<sup>4</sup>) recommended the deletion of such wording in recitals 20a, 22, 22a, 23, 24 and Article 10.

18. Instead we believe it should be the domain of the publisher to build trust directly with its readers/users and to obtain consent directly for the use of processing or storage capabilities of terminal equipment and the collection of information from users' terminal equipment.

## *Privacy enhancing technologies*

19. Whilst privacy enhancing technologies are helpful to address consumer concerns, there is a risk that if it is overdone, it could result in advertisers having to serve or users receiving less relevant ads and therefore publishers receiving less revenue (i.e. the loss of the two key benefits referred to earlier in this submission). A balance must be struck between the two considerations.

20. The CMA notes Tide's blockchain solution in Annex L for consumers to monetise their own personal data. Whilst we would make no comment whether an individual decides, on their own volition, to sell his or her data, Article 8(1) of the Charter of Fundamental Rights of the European Union provides that the protection of natural persons in relation to the processing of personal data is a fundamental right. There are potentially legal and ethical issues for the UK government to consider whether data protection remains a fundamental right and whether it can be "traded".

21. Moreover, Tide's Whitepaper<sup>5</sup> seems light on detail on how the technology resolves compatibility conflicts with GDPR (i.e. right to be forgotten, right to rectification, and rules over storage limitation) and blockchain's immutable properties. European data protection authorities do not appear to have come to an agreed position on blockchain. The CNIL (*Commission Nationale de l'Informatique et des Libertés*) appears to be the only data

<sup>4</sup> <https://data.consilium.europa.eu/doc/document/ST-13808-2019-INIT/en/pdf>

<sup>5</sup> [https://tide.org/Tide\\_Whitepaper.pdf](https://tide.org/Tide_Whitepaper.pdf)

# ADVERTISING ASSOCIATION

protection authority that has published a position on blockchain<sup>6</sup> and makes the point that “*if blockchain properties are not required in order to meet the purpose of the processing, the CNIL recommends favouring other solutions that allow for full compliance with the GDPR*” (pg 5). The point of raising this is not to rule out the technology *per se*, but to emphasise the need for further analysis before proposing it as a solution.

22. Additionally, the report omits references to the JICWEBS blockchain project<sup>7</sup>. JICWEBS, the cross-industry body who define standards and best practice for digital advertising, is working with UK technology company Fiducia to evaluate how blockchain, or DLT (Distributed Ledger Technology) can boost efficiency and transparency in digital advertising. The focus of this project is on digital advertising payments and reconciliation in the supply chain, not personal data at this time. Five major advertisers (Unilever, Nestlé, McDonald’s, Virgin Media and O2) and their agencies (Mindshare, Zenith, OMG and Havas) are participating in the pilot. If the pilot is successful JICWEBS will consult with industry on how to widen the scope of the project. This project is also relevant to the question about *interventions addressing a lack of transparency in digital advertising*.
23. Whilst the Advertising Association takes no position on supporting or endorsing any particular technology, we would recommend that the CMA, in considering other privacy enhancing technologies, look into solutions such as federated learning<sup>8</sup> and differential privacy<sup>9</sup> to obtain a wider perspective on industry developments.

12 February 2020

---

<sup>6</sup> [https://www.cnil.fr/sites/default/files/atoms/files/blockchain\\_en.pdf](https://www.cnil.fr/sites/default/files/atoms/files/blockchain_en.pdf)

<sup>7</sup> <https://jicwebs.org/first-participants-announced-in-jicwebs-blockchain-pilot-aiming-to-increase-trust-and-transparency-in-digital-advertising/>

<sup>8</sup> <https://arxiv.org/pdf/1902.01046.pdf>

<sup>9</sup> <https://www.nowpublishers.com/article/Details/TCS-042>