



Online Platforms and Digital Advertising Comments on the Market Study Interim Report

1. This submission sets out Google's comments on the CMA's interim report on online platforms and digital advertising published on 18 December 2019 (the "**Interim Report**").
2. Part I provides our thoughts on the CMA's findings to date. Part II provides our thoughts on the potential interventions.
3. The Interim Report provides a detailed summary of a complex ecosystem. We are grateful for the constructive engagement with the CMA and look forward to similar engagement for the remainder of the CMA's Market Study (the "**Study**").
4. We believe the state of competition in the UK in the sectors in which we operate is healthy. We accept that users and partners need to trust us and trust that the regulatory system is providing adequate supervision. While we do not see grounds for specific interventions - because the concerns have not been validated by evidence - we do see opportunities to discuss the kinds of principles that companies like Google could be expected to abide by in the future and the evidence that could be used to test their application. We hope that our comments below are helpful in this regard.

PART I: FINDINGS TO DATE

5. In our comments below, we address - in summary form - the Interim Report's concerns relating to us and why we continue to believe that we are competing on the merits in the sectors in which we operate, and why competition in these sectors is working well.

A. Competition in Search¹

6. The Interim Report recognises that our success in search is due to our investment in a high-quality product. We strive to provide users with the most relevant and useful search results possible.² This is how we compete: investment, innovation, efficiency, and automation that benefits users.
7. The Interim Report provisionally concludes that we have market power in search (¶3.92). Our success is not a result of our benefiting from barriers to entry or exclusionary practices. In the remainder of the Study, we think further time should be spent on understanding the extent to which our success in search is caused by

¹ At ¶8.4, the CMA asks if we agree with the CMA's descriptions of search services and its findings regarding competition in search. This section responds.

² The Interim Report says: "[...] relevance of results is widely viewed as the most important aspect of quality for users. Relevance is subjective and there is no single measure that is used across the sector to compare different search engines. However, the evidence that we have reviewed to date, which includes internal documents and user research submitted by parties, suggests that users generally view Google's English-language search results as being more relevant than those of other search engines" (¶3.26) (emphasis added).



investments in new and innovative search engine features that users value. Insofar as we have been able to win a large share of search queries by providing users with value, this should inform the nature of any interventions.

8. **Investments in Google Search:** The Interim Report suggests that insufficient competition dampens our incentives to improve Google Search (¶3.100). But our rate of investment and innovation in search has not slowed.³ We continue to launch thousands of updates and improvements every year - driven by competition for users and advertisers, and competition from specialised search providers among others.⁴ Absent competitive pressure, it would be difficult to explain our constant drive for improvement. In 2019, Alphabet spent \$26 billion on research and development,⁵ and in 2018 we ran over 650,000 experiments to improve Google Search (¶4.111).
9. **Collecting user data:** The Interim Report suggests that we can collect more user data than other platforms - or offer users worse terms for their data - because we face limited competition (¶3.100). The concern is theoretical; the reality is very different.
 - *First*, our Search results are focused on responding to the user query rather than user data.
 - *Second*, users value our services highly and, as discussed in more detail below, we offer tools and controls that allow users easily to decide what data they share, including options to choose not to use personalised advertising and not to have their data associated with their Google Account ID. We continually work on further improving these controls.⁶ Our privacy policy also compares favourably to those of our rivals: our policy is four times shorter than Bing's, we do not require a click-wrap agreement and, unlike DuckDuckGo, our data collection terms are visible on the homepage (Table 4.5 of the Interim Report).

³ PwC found that our global R&D expenditure was second only to Amazon. See “The 2018 Global Innovation 1000 study” available at: <https://www.strategyand.pwc.com/gx/en/insights/innovation1000.html>. In total, we make over 1000 updates to improve Google Search each year.

⁴ Setting aside technical debates about market definition, there is no escaping the fact that 66% of users now begin product searches on Amazon, not Google. And we face similar pressures in travel and other commercially significant categories. We note that at ¶3.104, the Interim Report states that it has assessed the competitive constraints imposed on Facebook from platforms that specialise in discrete services (*i.e.*, direct communication and content consumption “[...] to support a more extensive assessment”). We believe that, for similar reasons, further work should be done to understand the nature of the competitive relationship between us and specialised search services, in particular for commercial queries.

⁵ See “Alphabet Inc, Form 10-K”, page 36, available at: https://abc.xyz/investor/static/pdf/20200204_alphabet_10K.pdf?cache=cdd6dbf.

⁶ For example, in May last year we introduced new auto-delete controls for Location History and Web & App Activity. See “Introducing auto-delete controls for your Location History and activity data” available at: <https://www.blog.google/technology/safety-security/automatically-delete-data/>.



10. All of this is inconsistent with the theory that our purported market power allows us to collect more data or offer worse terms than would otherwise be possible. As the Interim Report notes, our approach to privacy controls is an example of “better practice” (¶4.137).
11. **Higher prices for other goods and services:** The Interim Report suggests that we may be able to use our purported market power to raise search advertising prices above competitive levels, thereby harming users (¶3.100). As discussed further below, we believe that this concern is unfounded and rests on assumptions that should be explored further in the next part of the Study.

B. Controls Over User Data⁷

12. We have worked hard to give users meaningful control over their data, even though (as the Interim Report acknowledges) communicating large amounts of complex information to users can be difficult (¶4.140).
13. We believe that every user should be able to make an informed decision about when and how their data are collected (¶4.4). For example, users should understand that targeted ads and personalised discounts (which users say they prefer (¶4.42)) require their data to be collected and processed. Accordingly, we design our privacy controls and settings in a way that gives users the opportunity to control how their data are used, including by consenting to its use for personalised advertising.
14. The Interim Report finds low user engagement with our privacy policy on the basis of visits/changes to privacy settings over a 28 day period and visit duration (¶¶4.83, 4.85). Neither is a good proxy for user engagement. Users who are happy with their settings are unlikely to review them every 28 days.⁸ Indeed, if all users checked their privacy settings about every two years, we would on average expect only about 5% of users to check their privacy settings in a given 28 day period. Similarly, visit duration reveals little about whether users had a successful experience. But whatever the methodology, the challenge of getting users to manage their privacy settings is not unique to us or other digital platforms.
15. The Interim Report identifies a number of barriers to effective user engagement with privacy controls (¶¶4.108-4.135). These include default settings, long and complex terms and conditions, difficulties navigating to privacy settings, a lack of clarity about the services being offered, the experience at sign-up and click-wrap agreements. The Interim Report recommends a number of steps that we have already taken:

⁷ At ¶8.4, the CMA asks if we agree with the CMA’s analysis and findings in relation to user control over data. This section responds.

⁸ Following a publicly reported data breach, users would be expected to visit their privacy settings more frequently. We note in this regard that users have not had a specific reason to doubt our commitment to their privacy, whereas (for example) Facebook experienced the Cambridge Analytics data breach in 2018.



- *First*, the Interim Report criticises privacy policies in general for being too “long and complex” (¶4.116). We have made our privacy policy as user friendly and accessible as possible, while still providing the detail and disclosures needed to meet our obligations under, for example, the General Data Protection Regulation (**GDPR**). It is broken into short and digestible sections with clear headings and overlays, is easily navigable and contains graphics and videos. We also provide short in-product notices. When implementing changes to our privacy policy, we tested different iterations with users to optimise user engagement. As a result of these efforts, the Center for Plain Language ranked our privacy policy top in a survey of seven major tech companies in 2015.⁹
- *Second*, users can access the relevant privacy settings and controls page directly from each of our services.
- *Third*, both logged-in and logged-out users can choose whether to accept personalised advertising across Google Search, YouTube and any websites that partner with us to show ads. In fact, logged-in users have access to privacy controls covering not only personalised advertising but also Location History, YouTube History, Web & App Activity and more. They can access all of these controls easily through their Google Account page or via our main diagnostic tool, called Privacy Checkup.

C. Competition in Digital Advertising

16. Digital advertising is important both to our business and the economy as a whole. The Interim Report gives a comprehensive overview of how digital advertising works. But we think that aspects of the sector and our services are not yet properly understood. We are committed to providing the CMA with the evidence and data to address this.
17. Our response below focuses on search advertising and what the CMA refers to as ‘open display’ advertising.¹⁰ Over the remainder of the Study, we would like to engage with the CMA to ensure that the facts, and our incentives, are properly understood. This goes to the heart of whether the interventions that the Interim Report goes on to propose are justified.

Search Advertising

18. The Interim Report underestimates the importance of the constraints we face in search advertising from specialised search providers. Although it is true that

⁹ See “Privacy-policy analysis” available at:
<https://centerforplainlanguage.org/wp-content/uploads/2016/11/TIME-privacy-policy-analysis-report.pdf>.

¹⁰ The Interim Report indicates that “open display” is when publishers “sell their inventory to a wide range of advertisers” through various intermediaries (¶2.40). The Interim Report makes separate findings regarding display advertising on third-party websites (“open display”) and display advertising on owned and operated platforms. We have adopted the CMA’s terminology for this Response but, in our view, all advertising (whether on a third-party website or an owned and operated platform) competes for user attention.



specialised search providers drive a large part of our advertising revenues, the Interim Report recognises that these players are becoming more successful in generating their own traffic (¶5.67). This is a trend we expect to continue.

19. The Interim Report says that our profitability in search advertising is “*consistent with exploitation of market power*” and cites certain advertisers who claim that our prices have risen over time (¶5.90). The Interim Report also suggests that concentration in search advertising may lead to higher prices for users across the economy (¶2.70). These findings are not consistent with the evidence:
 - *First*, the price of digital advertising has fallen by more than 40% since 2010.¹¹ No other medium has seen such a large drop. The result is that expenditure on advertising as a fraction of GDP has never been lower.
 - *Second*, as the Interim Report itself acknowledges, it is inherently difficult to compare our prices with those of third parties on a like-for-like basis (¶5.59). A full profitability analysis would have to disentangle those revenues that arise from market power from those which arise from genuine value-adds and competition on the merits.¹²
 - *Third*, any transmission mechanism between alleged concentration in search and the price of final products is likely to be complex given the two-sided nature of the market, the fact that advertisers pay for search ads on a per-click basis and the existence of an auction among advertisers. The Interim Report does not sufficiently explain this transmission mechanism, or present evidence that a less concentrated search market would be likely to result in reduced prices for advertising.
20. The Interim Report goes on to set out various hypothetical “*levers*” that we “*could in principle*” apply to exploit market power (¶¶5.81-5.89). We think it important that we continue to work with the CMA on these questions as we strongly believe the Interim Report’s concerns are unfounded.

Volume and Presentation of Ads

21. The first concern is that we could use market power to increase the number of search ads shown on our search engine results page (**SERP**) (¶5.82). This is not plausible:

¹¹ See “*The Declining Price of Advertising: Policy Implications*” available at: <https://www.progressivepolicy.org/issues/government-reform/the-declining-price-of-advertising-policy-implications-2/>.

¹² High profits can result from superior efficiency, and in any event, they do not necessarily indicate a failure of competition. The Competition Commission did not find an adverse effect on competition in the Movies on pay TV market investigation, notwithstanding its conclusion that “*Sky had persistently earned profits substantially in excess of its cost of capital.*” See the UK’s contribution to the Global Forum on Competition: Competition Issues in Television and Broadcasting, available at: [http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=DAF/COMP/GF/WD\(2013\)39&docLanguage=En](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=DAF/COMP/GF/WD(2013)39&docLanguage=En).



- First, we already apply an eight-ad limit for text search ads on our SERP, but it is quite rare that we ever show eight text ads. In fact, most search queries return no ads at all. This is because we only show ads when they meet our strict relevance criteria and quality thresholds.
 - Second, if we “crowded out” organic search results with less-relevant ads, we would degrade the quality of our search service, harm user experience and trust, and damage the ad ecosystem as a whole (¶5.82). Our research shows that users are both less likely to click on an ad and less likely to take a post-click action (such as making a purchase) when we reduce our relevance thresholds. This makes clicks less valuable to advertisers and trains them to lower their bids. In other words, showing more ads or lower-quality ads is contrary to our long-term commercial success.¹³ For example, the Interim Report notes that Bing shows ads on pages much more frequently than we do (Appendix C, Figure C.22). This is probably one of the reasons why Bing has lower user engagement than us. MySpace is another example of a platform whose efforts to monetise its website at the expense of relevance stunted its evolution.¹⁴
22. As for the suggestion that we could make our search ads less distinguishable from organic search results (¶5.82), it has always been our approach to ensure that search ads are clearly labelled as such. Again, this is important for our long-term commercial success and that of our advertising partners. We need users to click on ads because they find them relevant and useful, not because they are tricked into doing so.¹⁵

Adjusting Ad Rank

23. The second concern is that we could increase the volume of advertising shown on our SERP by lowering the relative weighting given to relevance in Ad Rank (¶5.83). This would (presumably) mean that more ads pass the Ad Rank threshold and more ad slots are filled. But, as noted above, we have clear incentives only to show ads that are relevant.¹⁶ To knowingly compromise the quality of our SERP would not be in our long-term commercial interests.

Reserve Prices and Quality Adjustments

24. The third concern is that we could manipulate the Ad Rank threshold in order to take advantage of Google Ads being a second-price auction (¶5.84). By setting the Ad

¹³ This learning effect is called ad blindness. See, for example, “Focus on the Long-Term: It’s better for Users and Business” available at: <https://research.google/pubs/pub43887/>.

¹⁴ See “The Rise and Inglorious Fall of MySpace” available at: <https://www.bloomberg.com/news/articles/2011-06-22/the-rise-and-inglorious-fall-of-myspace>.

¹⁵ This is at the heart of our Honest Results policy. See “Why we sell advertising, not search results” available at: <https://www.google.com/about/honestresults/>.

¹⁶ The Interim Report acknowledges that quality adjustment “is a benefit to both consumers and advertisers, as it means that search advertising is only shown to audiences that have expressed their interest in the relevant product or service through their search query” (¶5.49).



Rank threshold high where only a single bidder is expected to exceed the threshold, and low where multiple bidders are expected to exceed it, we could increase the amount that winning bidders have to pay.

25. This concern is abstract and unsubstantiated. The Interim Report provides no evidence of it materialising. It disregards the fact that a strategy built on manipulating relevance thresholds is bound to be counterproductive for long-term commercial success.

Other Mechanisms

26. The Interim Report refers to “other mechanisms where there may be scope for Google to exploit market power”(¶5.87):
 - First, the Interim Report claims that we “may have the incentive to match keywords very broadly”, causing more ads to be shown in response to each search query (¶5.87). As noted above, our incentive is the opposite. And advertisers are free to choose between our three principal keyword matching options (broad match, phrase match and exact match) at any time depending on their needs.
 - Second, the Interim Report claims that our automated bidding features may allocate bids in a way that deliberately manipulates the second-price auction (¶5.87). This simply does not happen. The auction is in real-time so our automated bidding algorithms cannot deliberately allocate advertisers’ bids into the second-highest position. The bids of advertisers who use automated bidding compete in each auction in exactly the same way as the bids of advertisers who use other tools.

Leveraging Market Power

27. Finally, the Interim Report suggests that we could “exploit [our] market power in general search by leveraging it into other related services”, including specialised search (¶5.88). We do not agree that our general search engine ‘self-preferences’ our specialised search services. We have already implemented specific remedies to deal with the concerns in the *Shopping* case, which is currently under appeal. We are happy to discuss specific concerns with the CMA in the second part of the Study.¹⁷

¹⁷ As for the suggestion that we leverage our market power from search into open display by encouraging single-homing on Google Ads, this is unfounded, for the reasons explained under ‘Inventory, Data and Demand-Side Platforms (**DSPs**) below.

Display Advertising on Third-Party Websites

28. The Interim Report overstates levels of concentration in open display. We face strong competition from vertically integrated ad tech providers and independent operators at each level of the intermediation chain. The Interim Report acknowledges this, saying that there are “*many DSPs [demand side platforms] operating in the UK*” and naming several large supply-side platforms (**SSPs**), both generalist and specialist (¶5.175).
29. While the Interim Report finds that publisher ad serving is less dynamic (¶5.181), it does not mention some of our main competitors in that space, such as AdGear, Adition, Polar and YoSpace. It also does not recognise the growing convergence between ad serving and SSPs. Almost all the main ad serving tools now incorporate - at least to some extent - SSP-type functionality (and vice versa). There is no longer a true market for standalone ad serving, which is an entirely commoditised service.
30. As for market power in open display, the Interim Report does not reach a firm view, but sets out a number of concerns. These fall into two main categories, which we address below:
 - First, concerns about a lack of transparency in the intermediation chain, particularly in relation to the fees that we charge our publisher and advertiser partners (¶5.189).
 - Second, concerns that our vertical integration gives rise to conflicts of interest and leveraging (¶5.202).

Pricing Transparency

31. The Interim Report suggests that there is a lack of transparency and an asymmetry of information in the intermediation chain. It states that the main issues “*relate to the transparency of fees paid to different intermediaries and the opportunity for ‘arbitrage’*” (¶5.191). By “*arbitrage*”, the Interim Report means the possibility for intermediaries “*to buy impressions at one price [from publishers] and sell them at a higher one [to advertisers], without its customers being aware of this ‘hidden fee’*” (¶5.193).
32. We recognise that there is an ongoing challenge to reassure stakeholders about transparency in this complex ecosystem, especially when levels of transparency have to be balanced against considerations such as user privacy and preventing ‘gaming’ of the auction rules. In the remainder of the Study, we will continue to provide factual descriptions of how our services operate in practice. Based on these, we believe it would be helpful to identify which specific information we ought to disclose - or continue to disclose - to ensure that our partners can exercise choice effectively. This should not require us to disclose all the details of how our systems operate. Such a requirement would undermine our ability to compete effectively.



33. Two specific points in the Interim Report bear mention:

- First, the fact that Google Ads runs an internal second-price auction amongst advertisers before bidding into ad exchanges is not unusual (¶5.195). Most DSPs and ad networks run an internal auction before submitting a bid into an ad exchange.
- Second, the Interim Report focuses on the removal of per-buyer floor prices in Ad Manager (¶5.196). We introduced this measure to level the playing field between different sources of demand in light of the introduction of a unified first-price auction. Publishers are still able to control minimum prices for their inventory. For example, publishers can set price floors across the auction, or advertiser-specific floors, or even format-specific floors - a beta feature we introduced specifically in response to publisher feedback.

Vertical Integration

34. The Interim Report finds that vertical integration in open display could give rise to “actual and/or perceived conflicts of interest” (¶5.199).¹⁸ The suggestion is that our incentives may not be aligned with those of our publisher and advertiser partners because we are present on both the ‘buy’ and ‘sell’ sides of the market.
35. We think the CMA is right to look into this issue given that many important players in this space are vertically integrated, but the risk of actual conflicts of interest should not be overstated. As the Interim Report recognises, vertical integration can give rise to efficiencies in areas such as cookie matching, latency and data protection (¶¶5.174, 5.187). It appears to us that many of the specific concerns in the Interim Report are unsubstantiated, whilst others appear to rest on misunderstandings. We have set out below our thoughts on these concerns, and look forward to further constructive engagement with the CMA during the second part of the Study.

Inventory, Data and DSPs

36. The Interim Report expresses a worry that making YouTube inventory accessible only through DV360 and Google Ads harms rival DSPs (¶5.208). The Interim Report also notes some of our counterarguments. For one, although some YouTube inventory was available to third-party DSPs before 2016, third-party spend on YouTube was low and large segments of YouTube inventory (namely mobile and TrueView inventory) were never available to third-parties in the first place. So the change in 2016 had relatively little impact. Further, competing DSPs have thrived even without access to YouTube inventory by competing on other parameters.
37. The Interim Report omits some important facts:
- First, restricting third-party access both to our own targeting data and our own inventory (such as YouTube inventory) is the best way to maintain the privacy of

¹⁸ The Interim Report also finds that “the significance of the competitive advantage of integration along the intermediation value chain is unclear” (Appendix H, ¶227).



user information and prevent it from being leaked to potentially malicious actors. Third-party DSPs with access to YouTube inventory could build profiles of users based on their viewing history, which would be a data protection risk. Restrictions are also a way to ensure that the ads appearing on our pages are of a consistently high quality, as widespread third-party ad serving on our properties could increase latency and make it harder for us to scan for ‘bad’ ads. Our approach is therefore justified by privacy law, commercial necessity and reputational risk.¹⁹

- *Second*, we deprecated the AdX channel for a reason, namely limited use (third-party DSPs only ever accounted for only a small percentage of YouTube spend) combined with the significant technical resources required to support the channel and the privacy issues noted above.
 - *Third*, there is lively competition between different DSPs and ad networks. Some competitors have important advantages over Google’s DV360 in terms of their technology and service as well as access to inventory and data (¶¶5.175, 5.177). The largest operators of DSPs include The Trade Desk, Xandr, Amazon and Criteo, all of which are highly regarded by advertisers.
38. The Interim Report also suggests that we may be leveraging market power in search advertising into display advertising by making it easy for search advertisers on Google Ads to create display campaigns (¶5.89). But this is not credible. Advertisers can easily un-check the box to set up a display campaign in Google Ads if they think this will not create value for them.

Third-party Access to AdX and Google Ads Demand

39. The Interim Report notes that we do not participate in header bidding (¶5.216). But, as the Interim Report itself acknowledges, this is for good reason. Header bidding is characterised by increased latency, reduced transparency and significant user trust and privacy concerns.
40. The Interim Report also suggests that we “[link] Google Ads demand to AdX and AdX to Google’s publisher ad server” (¶5.217). This is wrong:
- *First*, Google Ads demand is available both through third-party channels and Google channels other than AdX. It is not available only through AdX. Google Ads makes bidding decisions based on each individual advertiser’s goals and settings. For example, if an advertiser has set up a remarketing campaign, then Google Ads will bid into an exchange where the user ID matches a user ID on the advertiser’s remarketing list.

¹⁹ We are also subject to regulatory requirements. For example, it would be difficult to support our settlement with the US Federal Trade Commission if third-party DSPs or ad networks were able to show ‘bad’ ads against ‘made for kids’ inventory. See “Determining whether your content is made for kids” available at:

<https://support.google.com/youtube/answer/9528076?hl=en-GB>.



- Second, publishers can request ads from AdX using a third-party ad server. AdX will attempt to fill any such request based on real-time prices. AdX calls also come from publishers not using Ad Manager as their ad server.
41. Given that we do not link our services in the way that the Interim Report describes, it follows that the risk of losing access to AdX or Google Ads demand is not a barrier to publishers switching away from Ad Manager (¶5.217). It also follows that we do not have a greater incentive to “*foreclose rival providers along the intermediation chain*” by, for example, pricing aggressively in ad serving (¶5.218).

Bidding Data

42. Contrary to the Interim Report, we do not give AdX an informational advantage. Our policy is to encourage fair competition by improving transparency in the industry, as demonstrated by our recent move to a unified first-price auction (¶5.221).
43. It is true that we have recently limited the bidding data that Ad Manager shares with publishers through a test feature and that, from a publisher’s perspective, more data is usually better.²⁰ But we have to balance the desire of publishers for transparency with user privacy concerns and our confidentiality obligations to buyers. This is ultimately in publishers’ interests, as an attractive ad ecosystem facilitates higher auction prices. We solicit feedback from publishers on their access to bidding data and are always thinking about ways to make these data as useful as possible.
44. As for the concern that Ad Manager does not share the ‘minimum bid to win’ with header bidders, the Interim Report is right to say that this would be very difficult. Publishers have relationships with header bidders, not us. We do not know who any given publisher’s header bidders are and do not currently have a means of sending information to them. We share ‘minimum bid to win’ with all known buyers in the unified auction, both Google and non-Google.

DV360 Bidding Strategies

45. The Interim Report’s final concern relating to vertical integration is that we could harm rival ad exchanges by preferencing AdX when DV360 decides where to submit its bids (¶5.225).
46. This is wrong. DV360 targets the inventory that is best suited to meet the advertiser’s criteria in each individual auction. Where AdX captures DV360 spend, this is because AdX inventory generates a better return on investment for advertisers than competing ad exchanges. If we did preference AdX at the expense of an advertiser’s return on investment, the entire value proposition of DV360 as a DSP would be undermined.

²⁰ As noted in the Interim Report, our decision to limit these data fields was necessary in light of the transition to a unified first-price auction (¶5.223).



The Effects of Data Protection Legislation on Competition

47. The Interim Report suggests that data protection law may be having a significant effect on open display (¶5.228). It expresses concern that we may be going beyond the requirements of such legislation in order to limit the amount of data that we share with other market participants, thereby harming advertisers.
48. As explained above, and as the Interim Report itself acknowledges (¶2.18), there is a tension between the need for increased transparency to publishers and advertisers on the one hand, and the legal requirement to protect the privacy of user data on the other. We comply with the requirements of the GDPR in a way that we consider to be fair, reasonable and balanced. We therefore welcome the CMA's continued interaction with the UK ICO to establish data protection best practice. We note that the UK ICO has recently described us as “one of two key organisations in the industry [that] are starting to make the changes needed” to reform open display.²¹

Our Relationship with Publishers

49. The Interim Report notes that certain publishers have expressed concerns about their relationships with us other than in connection with advertising (¶5.240). This section responds.
50. In particular, we understand that many of these concerns have been raised by news publishers. Our search tools drive traffic to publishers' websites at no cost by connecting them with users. When looking at news sites, we think it important to emphasise that we do not earn significant advertising revenues from search queries for news. Most news queries are not suitable for the display of ads. The majority of our SERPs resulting from a news query do not show any ads at all.
51. As Table 5.1 of the Interim Report demonstrates, news publishers are not dependent on us for traffic. Less than a third of their traffic comes from Google Search. But we recognise that we have a common interest with news publishers in having a vibrant news ecosystem - users want to use Google to find news sites. We are therefore investing in ways to support the news industry.²²

Search Algorithm Updates

52. The Interim Report acknowledges that platforms have a legitimate interest in updating their algorithms to improve performance, and that it is not possible to alert

²¹ See “Blog: Adtech - the reform of real time bidding has started and will continue” available at: <https://ico.org.uk/about-the-ico/news-and-events/news-and-blogs/2020/01/blog-adtech-the-reform-of-real-time-bidding-has-started/>.

²² The Google News Initiative (**GNI**) is our global effort to help news organisations thrive in the digital age through various programs and partnerships. The GNI includes the Digital News Innovation Fund, which financially supports high-quality journalism in Europe. Other investments that benefit the news industry include Subscribe with Google, which helps publishers grow by making it easier for users to sign up for a news subscription. See “Google News Initiative” available at: <https://newsinitiative.withgoogle.com/>.



third-parties to each and every algorithm change (¶5.266). Simply put, there are inherent limits to the information that search engines like us can disclose about the operation of our ranking systems without risking adverse consequences:

- *First*, by disclosing the proxy signals that we use to assess a website's quality or responsiveness to a query, we would make it easier for publishers to 'game the system' by manipulating their rankings to appear more relevant than they are. This would make our search service less useful.
 - *Second*, the details of how a search engine ranks results are a core part of its business. Disclosing these details would allow competitors to copy innovations, free-ride on investments and intellectual property, and ultimately undermine the incentives that search engines have to make improvements.
 - *Third*, ranking may be governed by several different algorithms and signals that depend on the type of result or query. Further, ranking algorithms are subject to constant improvements and can change thousands of times each year. It would be impractical for a search engine to offer detailed disclosure of its ranking operations. We could not be completely transparent without breaking our search service entirely.
53. Notwithstanding these constraints, we share vast amounts of data on the main criteria that we use to determine search rankings. We provide key information on the operation of our search service on a dedicated How Search Works section of our website and on our Webmaster Help Center.²³ We supplement this information through a range of additional channels, including a detailed SEO guide, a dedicated YouTube channel with thousands of webmaster videos, a webmaster blog, a dedicated webmaster forum, a Twitter channel, and hundreds of research papers.
54. We are also committed to providing information that helps all publishers understand how their content is ranked.²⁴ We would be happy to share further information about our work to date in this area during the second part of the Study.

Use of Publisher Content for Free

55. The Interim Report notes complaints that we 'free-ride' on third-party content because we do not compensate publishers for the traffic they drive to our services (¶5.268). But the Interim Report itself acknowledges that our services generate a huge volume of free user traffic for publishers, which they can then use to grow their brands and earn ad and subscription revenues (¶3.25).²⁵ Both sides benefit.

²³ See "How Google Search Works" available at: https://www.google.com/intl/en_uk/search/howsearchworks/; and "Search Console Help" available at: <https://support.google.com/webmasters/?hl=en#topic=9128571>.

²⁴ See, for example, "How Search algorithms work" available at: https://www.google.com/intl/en_uk/search/howsearchworks/algorithm/.

²⁵ We have taken specific measures to support content creators. For example, we recently introduced ranking changes to give original news reporting more prominence in our search



56. We are ready to discuss specific concerns the CMA has about publishers' ability to monetise content hosted on properties such as YouTube or published in the Accelerated Mobile Pages (**AMP**) format. AMP is not a Google ecosystem, but an open-source technology that is the result of collaboration between developers, publishers, websites, distribution platforms and other companies. It is wrong to say that AMP does not currently support client-side header bidding (¶5.271). AMP currently supports 16 header bidding partners, including the top four in the UK.²⁶

Collecting and Processing User Data

57. The Interim Report suggests that publishers 'give up' valuable user data to us when (for example) they use the AMP format or place our analytics tags on their properties (¶5.275). This suggestion fundamentally misunderstands the nature of data. The fact that we collect information about user interactions with certain online properties does not prevent the owners of those properties from collecting the same information. Nor does it reduce the value of that information. And although we understand that many publishers would like to match their proprietary data with our proprietary data in order to create more detailed user profiles, we are limited by privacy concerns from sharing anything that is too granular. This is why the reports we provide are generally aggregated and anonymised, as the Interim Report recognises.

GDPR Changes

58. The Interim Report notes that we may have amended our terms and conditions in anticipation of the GDPR in a "*non-negotiable*" way so that partners had no choice but to accept them (¶5.279). In May 2018, we made changes to our terms and conditions that we considered were necessary to bring us into compliance with the new rules. In the next phase of the Study, we are happy to discuss any specific concerns the CMA may have about the substance of those changes and the way that we comply with privacy legislation.

PART II: POTENTIAL INTERVENTIONS

59. The Interim Report's proposed interventions (¶6.1) include principles and rules to govern the behaviour of platforms with market power; and interventions to address specific concerns relating to alleged market power, lack of transparency and conflicts of interest.
60. As we have explained above, we believe the state of competition in the UK in the sectors in which we operate is healthy. We play a positive role in helping users find things they need. We do not see grounds for specific interventions. But we do see

results. See "*Elevating original reporting in Search*" available at:
<https://www.blog.google/products/search/original-reporting/>.

²⁶ See "*AMP Real Time Config*" available at;
<https://github.com/ampproject/amphtml/blob/master/extensions/amp-a4a/rtc-documentation.md#currently-supported-vendors>; and "*Header Bidding 2020 Tracker*" available at:
<https://adzerk.com/hbix/>,



opportunities to discuss the kinds of principles that companies like us could be expected to abide by in the future.

A. Code of Conduct

61. The Interim Report suggests that a Code of Conduct aims to “*address the harmful effects that can arise from the exercise of market power*” and to achieve transparency, certainty and interoperability (¶6.12). We share these objectives. We set out below some initial ideas on how to achieve them in practice.

Strategic Market Status

62. The Code would seek to ensure ‘*Fair Trading*’; ‘*Open Choices*’; and ‘*Trust and Transparency*.’ As a general matter, these are principles that are essential to a healthy digital economy and so should apply to all digital platforms, not just those deemed to have ‘strategic market status’ (**SMS**).
63. That said, we recognise that aspects of those principles may seek to address specific concerns relating to SMS firms. So far, relatively little detail has been put forward concerning the methodology for determining which platforms are deemed to have SMS, both in terms of the requisite market power threshold (and how this compares to dominance under Article 102 TFEU/Chapter II of the Competition Act 1998), and the definition of a “*strategic bottleneck market*”²⁷ or “*important gateway*” (¶6.30).
64. Any SMS threshold will need clear and objective criteria that map to the pro-competitive purpose of the Code, as well as provisions for an SMS designation to be kept under review, particularly as new technologies develop and marketplaces change. The Code of Conduct ought not to be a subjective tool designed to regulate specific companies.
65. At the moment, for example, we do not consider whether or not a platform is ad-funded ought to be relevant to SMS. A number of other businesses may be said to hold ‘bottleneck’ status across a range of digital industries, such as in e-commerce platforms, real estate portals, ridesharing services, online ticketing service providers, and mobile and desktop application ecosystems associated with closed source operating systems.²⁸

²⁷ See “*Unlocking digital competition - Report of the Digital Competition Expert Panel*”, March 2019 (¶2.10).

²⁸ We think it unlikely in practice that a company switching from ads to an alternative monetisation model (such as paid subscriptions) would avoid SMS.



Substantive Provisions

66. We think it would be appropriate for any contemplated Code to focus on broad principles rather than seeking to prescribe in detail how product decisions are made.²⁹ Rules that are too detailed risk becoming obsolete quickly.
67. At the same time, broad principles may allow for wide-ranging and unpredictable interventions. In this case, rather than promoting innovation and enhancing certainty, the Code could delay or deter new product launches in the UK. This is a particular risk if the Code allows interventions without the requirement to first satisfy the evidentiary safeguards that have been developed in competition law (and elsewhere).
68. Any principles ought therefore to be developed incrementally in consultation with industry, with reference to precedent and with examples of practical applications for the companies they will impact. Sometimes the costs of a measure might outweigh its pro-competitive purpose. It makes sense for principles to be introduced iteratively and tested before they are enshrined in a formal Code.³⁰ We stand ready to discuss what would be expected for our business in practice.
69. The contemplated principles set out in the Interim Report are, understandably, early thoughts. It is difficult at this stage to see how they will be applied and translated into actionable rules. That said, we have the following observations:
 - **Fair Trading:** The Interim Report's proposal for transparent terms of business and no undue restrictions on competing with the platform (as proposed in Appendix I) seems a reasonable basis for ensuring fair trading for all businesses. We are therefore doubtful about the proposal in the Interim Report that an SMS would need to be an "*unavoidable trading partner as a result of their market power*" for this principle to apply.
 - **Open Choices:** The Interim Report contemplates a requirement "*not to bundle services*" or, if products are sold together "*to offer comparable terms for the bundled and separate services*" (¶6.43). The Interim Report also suggests that technical standards may be imposed to ensure interoperability (¶6.44). First, we are concerned that these principles could operate to prevent product designs that integrate different services. This could prevent - or make it harder - for companies to pass on to a customer the efficiencies of using two services together (e.g., through lower prices). Second, while we strive to make our services interoperable, we are concerned that over-broad principles requiring all

²⁹ The Interim Report indicates that the Code will consist of high-level rules that apply to relationships with advertisers and publishers, content providers, business users and users (¶6.38).

³⁰ In a recent speech, FTC Commissioner Christine Wilson described how attempts to legislate fairness in the rail and airline industries had led to higher prices and lower output. See "Remembering Regulatory Misadventures: Taking a Page from Edmund Burke to Inform Our Approach to Big Tech" available at: <https://www.ftc.gov/public-statements/2019/06/remembering-regulatory-misadventures-taking-page-edmund-burke-inform-our>.



services to be accessible to third-parties could damage investment and innovation.³¹ Further clarity on the types of integration that will be required under the ‘Open Choices’ principle - and the nature of ‘essential inputs’ that would be subject to technical standards - would therefore be helpful.³²

- **Trust and Transparency:** We support the CMA’s desire to increase trust and transparency, particularly in digital advertising. In this regard, we were an early adopter of the Interactive Advertising Bureau’s ads.txt initiative.³³ An important question for the remainder of the Study will be to determine which specific information ought to be provided and why it is important for competition. Some degree of informational asymmetry may be unavoidable, for example where sharing would undermine efforts to fight ad spam and harmful ads. In other cases, incentives to innovate and invest may be reduced if valuable proprietary information (e.g., search and ranking algorithms) is disclosed. We would benefit from a more granular discussion of the types of information - based on our current practices - that this principle would expect us to disclose (or commit to continuing to disclose on an ongoing basis).
70. Finally, it is important that any principles in the Code do not conflict, or go beyond, the requirements of the GDPR and EU data protection law. We urge the CMA to consider this risk of duplication in its recommendations to the Government and to avoid recommending principles that could result in more than one regulator exercising concurrent jurisdiction over the same type of conduct.

Enforcing the Code of Conduct

71. There is an inherent tension between the breadth and scope of the rules (or principles) in a Code of Conduct and the extent of the accompanying enforcement powers. More extensive enforcement powers - such as the ability to impose far-reaching changes to a company’s business or impose fines - require detailed rules that preserve legal certainty and the rule of law. Also required is a fully developed appeals process to

³¹ We have to make prioritisation decisions about where we invest our resources. For example, it was time- and cost-intensive to integrate YouTube’s TrueView format with DV360. Being required to develop the same integration for third-party DSPs may make it unfeasible for us to make YouTube inventory available through any DSP.

³² ‘Self-preferencing’ could also benefit from further discussion. It has become a phrase that is interpreted in different ways in different contexts. In the *Shopping* case, it describes a type of conduct that is alleged to involve specific effects on us, our rivals and the market, without objective justification. Contrast this to the use in, for example, “*Bundeskartellamt ends abuse probe after Amazon agrees to changing business terms for dealers*” available at: <http://competitionlawblog.kluwercompetitionlaw.com/2019/07/30/bundeskartellamt-ends-abuse-probe-after-amazon-agrees-to-changing-business-terms-for-dealers/>. It would be helpful to have further clarity on the kind of evidence that would be relevant for a new regulator investigating allegations of self-preferencing.

³³ We announced that DV360 would default to ads.txt inventory in August 2019. See “*Google Display & Video 360 to default to ads.txt inventory, support app-ads.txt*” available at: <https://marketingland.com/google-display-video-360-to-default-to-ads-txt-inventory-support-app-ads-txt-260182>.



ensure that companies receive a fair hearing and are not arbitrarily deprived of the commercial freedoms and property rights.

72. By contrast, a regime that relies on a more participative approach is compatible with broader, more flexible rules. Whatever efforts might be undertaken to provide guidance, it will rarely be possible for companies to know in advance whether a particular practice is deemed to be on the right side of the line when it comes to '*Fair Trading*', '*Open Choices*' or '*Trust and Transparency*'. The Interim Report does not currently envisage financial penalties for breaching the Code (Appendix I, ¶23) - a sensible approach as it would be inappropriate to fine companies for practices that they cannot know in advance will be deemed not to comply with these principles. For the same reason, the power to order companies to cease, delay or change good-faith business decisions - when the practices are not unlawful under existing law - would be unfair and counterproductive.
73. We look forward to iterating on how this balance might be achieved with the CMA over the remainder of the Study. Topics that we would be interested in discussing include: the nature of the evidentiary standards for finding there is a case to answer; the evidentiary standard for moving from a proposed initial phase to an in-depth investigation; the use of declaratory statements; interaction with other regulatory agencies; and mediation between SMS firms and complainants.

B. Potential Interventions to Address Market Power in Search

Access to Click and Query Data

74. The Interim Report provisionally concludes that the greater scale of English-language queries seen by Google is likely to support its ability to deliver more relevant search results compared to its competitors (¶3.62). It suggests that we could share our click and query data with third-party search engines (¶¶6.65-6.68).
75. As an initial point, the attributes of 'click and query' data are not entirely clear. In any event, granting rivals access to a greater amount of any click and query data would not change the competitive dynamic:
 - First, the fact that 15% of our daily traffic is made up of unique queries means that - for a significant proportion of queries - we are in the exact same position as any other search engine. Regardless of scale, past data cannot help us answer these queries (¶3.59).
 - Second, click and query data goes stale and suffers diminishing marginal returns. This is illustrated by the 2011 Yahoo!-Microsoft 'search alliance'. If there was a link between data scale and search or search advertising effectiveness, this agreement should have led to a substantial increase in search quality and monetisation for both companies. Instead, Yahoo!'s search revenue declined by



21% (in 2011) and 14% (in 2012).³⁴ Similarly, Microsoft did not deliver the increased revenue expected due to the joint venture.³⁵

- *Third*, we have already made many public datasets available - generally on an open source basis, for free - that search rivals and any other digital services provider can use.³⁶
 - *Fourth*, as the Interim Report notes, we already make our search results available to certain third-parties under syndication agreements.
76. In fact, sharing click and query data would likely have a significant negative impact on users, competition and innovation:
- *First*, as the Interim Report recognises, access to click and query data would reveal aspects of our algorithm to third-parties (¶6.68). In particular, rivals would be able to see what results we display in response to particular queries. For this reason, the proposal has the potential to be seriously damaging to competition in search in the UK.
 - *Second*, and relatedly, sharing click and query data would encourage third-parties to replicate (or ‘clone’) the results that we show. Instead of improved services, this could lead to less choice and lower quality services for users by reducing incentives for search engines to innovate and improve algorithms.
 - *Third*, there are privacy concerns.³⁷ Many search queries contain personal data, such as home addresses or medical information. Identifying and anonymising such personal information in large-scale datasets is a major challenge with no guarantee of success. We invest heavily in best-in-class security, auditing and protection capabilities to ensure that data are held safely, but third-parties may not do the same.

³⁴ See “Yahoo! Inc. 2012 Annual Report” available at:
http://www.annualreports.com/HostedData/AnnualReportArchive/y/NASDAQ_YHOO_2012.pdf.

³⁵ See “As The Yahoo-Microsoft Search Alliance Falls Short, Could A Yahoo-Google Deal Emerge?” available at: <http://searchengineland.com/yahoo-microsoft-search-alliance-google-127843>.

³⁶ For example, Google Cloud Public Datasets offers a repository of more than 100 public datasets from different industries. See “Google Cloud Public Datasets” available at: <https://cloud.google.com/public-datasets/>.

³⁷ The Australian Competition and Commission recognised this in its final report on the digital platforms inquiry. Specifically, it acknowledged that users would not expect publishers to have access to their “browsing history, search queries or navigational history.” See “Digital platforms inquiry - final report”, page 248, available at:
<https://www.accc.gov.au/publications/digital-platforms-inquiry-final-report>.



- *Fourth*, aside from the risk of a data breach, the very fact of us sharing query data with third-parties could do irreparable harm to our reputation. Users trust us to treat their queries appropriately. Handing over those queries to third-parties - especially if this is done for money - may cause users to lose confidence in their ability to search privately with us.
77. The Interim Report also suggests that creating a web index is important to developing a search engine (Appendix J, ¶35). Open-source crawlers like Common Crawl already provide browser operators (including Bing, Samsung, Baidu, Opera and many more) with equal-term access to copies of significant parts of the web. Any new entrant would be able to use this as a starting point to develop its own web index and continue crawling. In any event, indexing the right things quickly matters more than the size of the index or the proportion of the web it covers. Our index covers less than 1% of the URLs we see from crawling the web.
- Ability to Pay for Default Positions**
78. The Interim Report proposes two measures to address concerns about our ability to pay for default positions.
79. The first would restrict our ability to pay for default positions from device manufacturers and browsers (while allowing other search engines to continue to do this) (¶6.70). This has the potential to harm users. The Interim Report states that “*status quo bias means that individuals will often stick with the default choices they are presented with*” (¶4.112), even if it is not their preferred option. Preventing Google from being set as default does nothing to address this concern. Rather, it would simply switch out the search engine that most users prefer (Google) in favour of another default search engine that users find less useful or attractive. As the Interim Report notes, our success in search is largely a result of our high-quality search results (¶3.93). In other words, this proposal would reduce the welfare of ‘inert’ consumers. Moreover, many browsers (such as Safari and Firefox) already offer users the choice to change the default search service even where Google is set as the default.
80. The Interim Report also proposes a requirement for device manufacturers to implement a search engine choice screen on all devices (¶6.71). If the CMA were minded to pursue a choice screen solution to address perceived ‘inertia bias’, two principles in particular should be observed:
- *First*, the contemplated choice screen should apply consistently to similarly situated platforms. A choice screen obligation should not be drawn so narrowly that it distorts competition between similarly situated platforms or platform operators. For example, a choice screen that is applied only to Android devices might distort competition in favour of the iPhone: Apple’s iOS platform accounts



for approximately 50% of device sales in the UK.³⁸ Similarly Microsoft's share of desktop PCs has stayed above 75% for decades.³⁹

- Second, the choice screen should apply regardless of which service is set as default. The aim of a choice screen is not to boost or diminish the market share of a particular search provider. Therefore, users should benefit from a choice screen regardless of whether the default option has a high or low share of search at the time the user makes their choice.
81. The question of defaults and how they affect consumer behaviour - and competition - is an area where we think we can contribute data and evidence in the remainder of the Study.

Syndication Agreements

82. The Interim Report raises the possibility of requiring us to syndicate our search results to third-parties on fair, reasonable and non-discriminatory (**FRAND**) terms (¶6.73).
83. Companies are not generally required to license their intellectual property (**IP**) rights or proprietary technologies on FRAND terms (or at all). As the European Commission has observed, “*a patent owner has the right both to refuse to license a patent and to obtain remuneration should it decide to license that patent.*” A duty to license on FRAND terms arises only in “exceptional circumstances,” such as standard setting.⁴⁰ These are not exceptional circumstances. Search services and search ads are not standardised, the underlying IP rights are not essential, and we never made a FRAND licensing promise on which anyone relied in good faith (let alone a promise to allow changes in search results ranking).

C. Potential Interventions to Give Users Greater Control Over Their Data⁴¹

84. We agree with the Interim Report that “*protecting users, increasing their trust in the market and offering them appropriate controls*” are important objectives that digital platforms should strive to achieve (¶4.158). But layering new Code of Conduct-based rules, or other new regulations, on top of existing data protection law is not, in our view, the right response. We should work to avoid a scenario where there are overlapping and conflicting regimes, and therefore welcome the CMA’s decision to

³⁸ See “Mobile Operating System Market Share United Kingdom” available at: <https://gs.statcounter.com/os-market-share/mobile/united-kingdom>.

³⁹ See “Global market share held by operating systems for desktop PCs” available at: <https://www.statista.com/statistics/218089/global-market-share-of-windows-7/>.

⁴⁰ See Case AT.39985 Motorola – Enforcement of GPRS SEPs, Commission decision of 29 April 2014, ¶¶ 282-284. See also Case C-170/13 Huawei v ZTE, Judgment of the Court of 16 July 2015; and Case AT.39939 Samsung – UMTS Standard Essential Patents, Commission decision of 29 April 2014.

⁴¹ At ¶8.4, the CMA asks whether it has identified the appropriate range of remedies to improve users’ control over their data. This section responds.



explore this issue further through dialogue with the UK ICO and the Irish Data Protection Commission.

85. We have provided comments below on two of the Interim Report's specific proposals: enhanced data mobility; and privacy enhancing technologies (**PETs**). We believe that these proposals are already addressed under existing data protection rules.

Data Mobility Framework

86. The Interim Report proposes mechanisms for increasing data mobility to allow users to share the data held by one platform with another platform (¶6.135). We think that a data mobility regime has the potential to promote competition and access to data, while leaving users in control of that data.
87. We realised some time ago that data mobility made users value our services more. In 2007, we launched an engineering team called the Data Liberation Front. In 2011, the Data Liberation Front released Google Takeout, which allows our users to export their data from supported services.⁴² We subsequently launched the Data Transfer Project (**DTP**) in July 2018, bringing Facebook, Microsoft and Twitter on board to build an open-source framework that can seamlessly connect any two online service providers.
88. The Interim Report suggests that data mobility schemes may need to extend beyond the scope of the DTP to the sharing of inferred data (¶6.135). It proposes various ways to achieve this in a privacy-compliant way. For example, if a user shares data with an intermediary providing personal information management services (**PIMS**), the Interim Report suggests that the user could then instruct the data intermediary to release data to specific businesses (¶6.137). The Interim Report recognises that any data mobility scheme will need to deal with new concerns raised by such measures, including the increased risk of serious data breaches (Appendix L, ¶78).
89. Moreover, while data mobility tools should apply to data that a user creates, imports, approves for collection or has control over, they should not extend to data that a provider generates in order to improve its service. These include data generated to improve system performance or train proprietary algorithms. This is necessary to encourage participation.⁴³ By way of analogy, Open Banking allows authorised third-party providers to see a user's financial information; it does not require banks to share, for example, proprietary data on how users interact with their websites or the effectiveness of different marketing strategies. Separately, concerns have been raised

⁴² At the time, these included Google Buzz, Google Circles, Google Contacts, Picasa Web Albums, Google profiles and Google stream.

⁴³ See "Guidelines on the right to data portability" available at: https://ec.europa.eu/newsroom/article29/item-detail.cfm?item_id=611233, p. 10.



about whether sharing inferred data might increase market transparency and thereby undermine competition.⁴⁴

90. These issues will need to be carefully canvased with stakeholders to identify whether a practical, pragmatic solution can be developed. We believe the DTP provides one potential forum for these discussions.

Mandating the Use of Privacy-Enhancing Technologies

91. The Interim Report recognises that user-tracking techniques (such as third-party cookies) can be “*privacy-invasive*” (Appendix L, ¶¶115, 116). We agree that the digital ecosystem is changing and that steps to limit the use of cookies (and related technologies such as fingerprinting) are necessary to enhance user privacy. The Interim Report suggests that one way to do this is through the use of PETs (¶6.142).⁴⁵
92. We agree. This is why we launched the Privacy Sandbox initiative in August 2019.⁴⁶ As part of the Privacy Sandbox, we announced in January 2020 that Chrome is engaging the web community to develop a set of open privacy standards that serve the needs of users, publishers and advertisers. The UK ICO supported our announcement: “[Google] has also recently proposed improvements to its Chrome browser, including phasing out support for third-party cookies within the next two years. We are encouraged by this, and will continue to look at the changes Google has proposed.”⁴⁷
93. We recognise and share the Interim Report’s concerns, however, that a shift to on-device computation could result in an increased ‘coarseness’ of user data (Appendix L, ¶132). This would not only result in users receiving less relevant ads, but would also put publishers at risk of losing revenue. It could also reduce the efficiency of ad campaigns, especially those relying on real-time streams of click and conversion data. To minimise disruption to the ecosystem, we plan to work closely with browsers, publishers, developers, and advertisers when rolling out the Privacy Sandbox. We will provide them with opportunities to experiment with new mechanisms, test whether they work well in various situations and develop supporting implementations.

⁴⁴ The EC Special Advisers’ report observed that “a data pool may discourage competitors from differentiating and improving their own data collection.” See “*Competition policy for the digital era*” available at: <https://ec.europa.eu/competition/publications/reports/kd0419345enn.pdf>.

⁴⁵ These tools shift data processing from the platform to the device itself.

⁴⁶ See “*The Privacy Sandbox*” available at: <https://www.blog.google/products/chrome/building-a-more-private-web/>.

⁴⁷ See “*Blog: Adtech - the reform of real time bidding has started and will continue*” available at <https://ico.org.uk/about-the-ico/news-and-events/news-and-blogs/2020/01/blog-adtech-the-reform-of-real-time-bidding-has-started/>.



D. **Potential Interventions to Address Concerns Around Transparency, Conflicts and Market Power in Digital Advertising Markets**⁴⁸

94. The Interim Report proposes several interventions aimed at addressing specific concerns about competition in open display:
- Interventions to separate ('break up') various parts of our business, namely our publisher ad server, our DSP, our SSP and our analytics activities (¶6.163).
 - Interventions requiring us to offer YouTube inventory to third-party DSPs (¶6.176).
 - Interventions to improve transparency, such as transparency on fees (¶6.177).

Separation Proposals

95. As the Interim Report itself acknowledges, separation is “one of the more intrusive remedies available to competition authorities and regulators” (¶6.158). We believe that any of the CMA’s concerns that remain after further investigation can be addressed through less intrusive means, such as working with our partners to increase transparency or - as the Interim Report suggests - a principle (e.g., in the Code of Conduct) that we should not “unduly discriminate between Google’s own business and third parties” (fn. 342). Principles like this can achieve the same effect but are less likely to have negative, unpredictable consequences for our partners and the ecosystem as a whole.
96. Building a better understanding of our auction processes will demonstrate the benefits of vertical integration for publishers and advertisers. We believe this will remove misconceptions about perceived conflicts of interest: we strive to apply our rules to our own ad tech services and third-parties as impartially and fairly as possible. We look forward to engaging in more detail with the CMA on these issues.

Access to YouTube Inventory

97. The Interim Report suggests that it may be appropriate to integrate new sources of demand with our YouTube inventory (¶6.176). As noted above, restricting third-party access to YouTube inventory is the best way to keep user data private and to reduce the likelihood of ‘bad’ ads appearing alongside content.

Transparency Remedies

98. We support measures to improve transparency in open display. As an intermediation services provider, we have a commercial interest in being seen by other market participants as a trustworthy and reliable trading partner.
99. We would welcome further clarification as to how the Interim Report’s specific initiatives would go beyond the requirements of a Code of Conduct based on the

⁴⁸ At ¶8.4, the CMA asks whether it has identified the appropriate range of remedies to address conflicts of interest and a lack of transparency in digital advertising markets. This section responds.



principles of ‘Fair Trading’ and ‘Trust and Transparency’. This is particularly relevant to fees, given the Interim Report’s suggestion that a Code of Conduct should require platforms to “comply with common standards” (¶6.44) and be “transparent about fees they charge” (¶6.46). We think that individual platforms would be best placed to decide how to discharge these requirements.

100. We note that:

- Imposing consistent transaction IDs raises potential privacy concerns by allowing advertisers to join Google’s secure bid data with other information in a way that would allow individual users to be identified. It would also allow various market participants along the intermediation chain to ‘pool’ user data without user consent (¶6.178(b)).
- Our approach to ad verification and attribution is driven by our obligations under the GDPR. Any initiative to improve the ability of third-parties to measure the performance of their ads should not conflict with the requirements of data protection legislation (¶6.178(c)).
- We are constantly exploring ways to make our data files as useful as possible. But some large advertisers are sensitive about the disclosure of their bidding activity behaviour in previous auctions and contractually restrict us from disclosing that data. And, as noted above, bid data can be joined to other information in a way that allows individual users to be identified. Any attempt to ‘improve’ the quality of bid data which publishers receive needs to be balanced against the interests of these other stakeholders (¶6.178(d)).

101. The Interim Report’s final proposal is an “auditing regime” overseen by a regulatory body, which we assume would be the same regulatory body appointed to enforce the Code of Conduct (¶6.180). We agree that effective oversight needs information-gathering powers, but there are important questions that would need to be addressed regarding the scope of those powers. For example, would ‘audits’ be regular or ad hoc? Would the regulator have to issue specific information requests or be entitled to certain information as a matter of course? We look forward to exploring these issues with the CMA during the second part of the Study.

* * *

We hope the above is helpful. We acknowledge that the CMA has invested substantial time and effort in understanding the markets in which we operate in a fair and open-minded way. We intend to continue to cooperate and participate constructively.