



'UNLOCKING DIGITAL COMPETITION'

Whitereport Global Limited's response to CMA's market study interim report, 'Online platforms and digital advertising'

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This is a public document submitted by Whitereport Global Limited to the Competition & Markets Authority's (CMA) call for consultation on the market study interim report, *Online platforms and digital advertising*.

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Preface

This is a Response Document ('Response') submitted by Whitereport Global Limited ('Whitereport') on 12 February 2020 via e-mail to onlineplatforms@cma.gov.uk, in response to CMA's call for consultation on the market study interim report, *Online platforms and digital advertising*, published by CMA in December 2019.

As an innovative data and gov tech scale-up and experienced media analyst, [Whitereport](https://www.whitereport.co.uk) focuses on the data and business side of the media and advertising markets, analyzing the 1000+ UK media companies that are listed in the Whitereport database (including the commercial, financial and ownership data of both traditional content providers and global platforms). We will now share some of our new evidence and insights with CMA and the public as a contribution to the consultation.

We are happy to take part in further consultations with the CMA. We would be glad to offer our unique data and consulting services, such as new market monitoring and alert services, to fill in gaps and support evidence-based decision making at CMA with regard to the pioneering work started last year.

As the original documents and the approach of the CMA interim report are fairly comprehensive, we now only summarize our responses, and offer a few additional points we have derived from our data and findings. For the sake of simplicity, we will refer to our findings as WR#1, WR#2, etc.

The source of the photo on the cover page is provided below.¹



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¹ <https://www.yak-casein.com/uploadfile/banner/201808/2018820154334785.jpg>

Recommendations

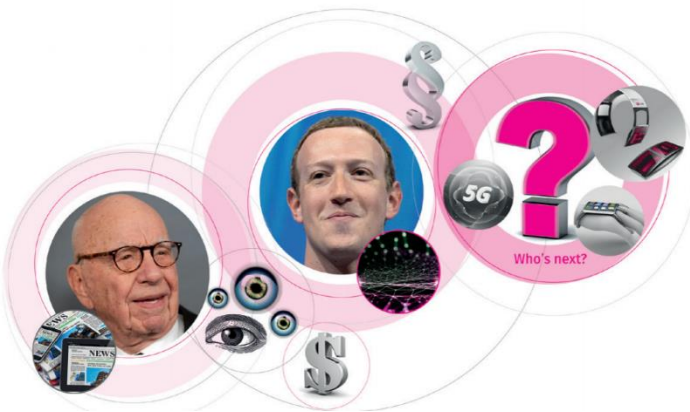
In the previous and current **Response**, we use chess as a metaphor for the market – but unlike chess **any new regulation, policy or intervention should not be a zero-sum game, but should create a win-win situation for all stakeholders** – including old, new and future businesses, consumers, and governments.

With CMA's interim report being fairly comprehensive, the following is only a brief run-through of our responses and additional suggestions.

WR#1: One ecosystem – equal rules

Digital platform and media services have brought significant innovation to the digital advertising and media market. Their different operational models remain outside the remit of existing regulations and industry standards, creating a **'double reality'**: different or no rules for online platforms, while their competitors in the legacy media and advertising sectors are highly regulated by EU and/or national laws (see Appendix 1).

Our understanding is that this consultation and future regulations serve to level the playing field between 'new' and 'legacy' players, so as to eliminate this 'double reality' and create new and future-proof frameworks for digital competition.



Alongside improving conditions in digital competition, this consultation and the following actions may also well be utilized to 'unlock digital competition'—to design, that is, a framework for future players, to free competition from issues of a magnitude we are currently facing.

Source of illustration: Whiterport's #Unlockingdigitalcompetition report

We propose that CMA consider the following developments and/or interventions to improve competition in the digital advertising market of the United Kingdom.

WR#2: Open up

As CMA has pointed out, there are several ways and levels of possible interventions. In our opinion, the best way forward to improve competition would be to **liberate the market (on the model of open banking, though the technical and institutional background is different): equalize positions and create an open, more transparent and interoperable ecosystem, instead of current and future walled gardens.**²

It is not the easiest strategy to execute because Strategic Market Status (SMS) firms would have to give up their walled gardens, other players should also be ready to take the opportunity, and there would be technical and operational angles. But we believe **a 'free digital ad/media market' will begin working and innovating as soon as it becomes possible** – just as reactions to **open banking** and patterns of use suggest there is life after the incumbents' dominance.

We find this to be the most practicable solution for the advertising market because rather than short-term corrections (punishing GAFAs or breaking their power by separation), the objective should be to **wind up existing walled gardens, and to stop the abuse of dominant positions and the operation of closed ecosystems.** Opening up markets for other players would let competition and innovation thrive for the benefit of all ('access remedies').

WR#3. Code of conduct, opening markets, evidence-based market monitoring with forecast and alerts

Of the potential interventions listed by the CMA in its Interim report, we find the following actions the most effective, as a future operational model:

- a) **a code of conduct for existing SMS firms** and
- b) **interventions that open up the markets (to other players)** (e.g. by selling other publishers' ad surfaces, data access to 3rd parties)
- c) **building an evidence-based regulatory system** by applying new business intelligence tool sets to continuously **monitor the ever-changing market reality, to alert CMA** when new market or competition issues arise, and to **provide forecasts** – faster reactions/interventions on the part of CMA would facilitate maintaining fair competition during any future changes

“ With current trends, the emergence of 5G and IoT, and the impact of millennials, Europe has only five years to avoid a crash of the media/content market ”
– Whitereport Forecast, Nov 2019

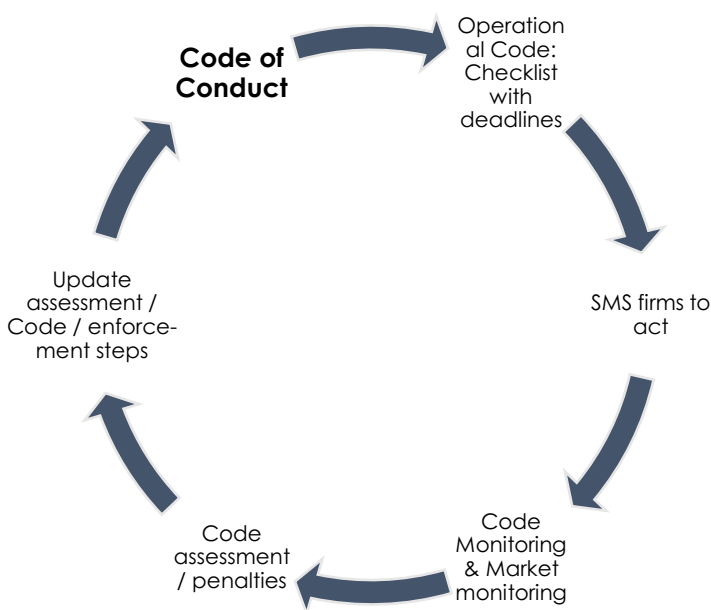
² There might be a few exceptions where some separation would be more effective, as by preventing Google from participating in all phases of the value chain.

- d) based on the new sets of evidence, CMA might have **regular consultations** to adjust the Code
- e) **educating end consumers** (campaigns, school programmes etc.) is key to explaining what is behind the illusion of 'free' internet services.

WR#4. The Code in practice

We welcome the idea of a Code of Conduct as outlined by CMA, with such concepts as 'fair trading,' 'open choices' and 'trust and transparency,' and the introduction of the category of SMS firms.

A few aspects we think are worth considering:



- In addition to efforts to remedy current competition issues, CMA might want to request **innovative and pro-publisher/consumer solutions that might give extra 'score points'** to SMS firms during the assessment.³
- In terms of the relationships the Code could cover, we suggest considering that of **platforms and regulators**.⁴
- As part of evaluating the market position of SMS firms, we suggest that **a reconsideration of how the market is defined by the EU⁵ and segmented seems in order**, owing to the truly cross-media nature of the advertising and media ecosystem. Cf. WR#4 in our previous Response.
- However, a high-level approach might

work as a Code. In order to operationalize the Code it is crucial to find **relevant, evidence-based KPIs**, to avoid protracted legal debates with no improvement. Therefore, we suggest that an 'assessment system,' a simple checklist to operate the Code, be instituted.

³ For example, social media firms with SMS ought to require their users to fill in 'imprint' data on their Profile page, so consumers could check the background of the site; consumer educational campaigns etc.

⁴ Assessing collaboration with CMA and other regulators (Ofcom, ICO, HMRC etc.)

⁵ on 9 December, 2019, the European Commission announced it would put the issue of "Defining market in a new age" on its agenda. Cf. https://ec.europa.eu/commission/commissioners/2019-2024/vestager/announcements/defining-markets-new-age_en

WR#5. Innovation

Inside the CMA

Own gov tech developments

- We suggest that CMA develop an **'assessment survey' type of microsite for the Code** for SMS firms. Here they could upload their evidence (legal documents with links, such as T&Cs, or financial data) with timecodes, easily check their status etc.
- We suggest that all information on the Code site (except confidential business information CMA might collect) be open for the public to increase transparency and foster innovation.⁶

Regulatory sandbox

- CMA could play an active role in innovation – the interim report itself is highly valuable and inspiring for innovators and open-minded authorities in and outside the UK;
- Open regulatory sandbox programmes to solve specific issues, especially inter-regulatory ones, such as how to solve the tax difference issues (Digital Services Tax), or how the audit of SMS firms in Code assessment could be automated as much as possible.

£6-7bn untaxed UK revenue

“ According to Whitereport data and calculations, £6-7bn revenue was not reported by media-related digital platforms (e.g. Google UK, Facebook) in 2019 in the UK alone. For 2018, the same figure was estimated at over £5bn. ”

Whitereport's #Unlockingdigitalcompetition report

Outside CMA, inspired by CMA

Market innovation

- We believe that the elimination of the walled gardens would help publishers and ad tech providers to develop and launch more innovative and independent, third-party data and analysis tools to ensure an independent service for brands and media owners.
- Interventions may also encourage the development of innovative solutions (cookies, consents etc.)
- Uniting publishers to develop ad market solutions might raise antitrust concerns, but bolstered by a common ecosystem, these companies may find ways to compete with SMS firms.

⁶ For example, Whitereport data aggregation includes public data so we'd be interested in this, too; probably many government organisations, business intelligence firms, think tanks etc. would be interested and could benefit from the data.

Government innovation and other regulators

- The UK government might consider establishing a digital transformation fund for content providers – which might be based on an ‘innovation tax’ that is paid by SMS firms –, to support the digital transformation of the 1000+ UK content providers (publishers and audio-visual media)⁷
- The VAT advantage of advertising on global digital platforms places a handicap on UK advertisers and media companies.⁸ 62 per cent of SMEs find they cannot afford to advertise in newspapers, or on television and radio, according to a Facebook survey^{9,10}
- The rules and transparency of political advertising and spendings on advertising might also be of interest for related regulators, and these rules may need to be harmonized with the CMA's Code.

⁷ According to the Whitereport UK database, there are more than 1000 SMEs in the media market.

⁸ Latest news on newspaper VAT: <https://home.kpmg/uk/en/home/insights/2020/01/tmd-vat-treatment-of-digital-newspapers.html>

⁹ Presented by Facebook at the Westminster Media Forum, January 2020

¹⁰ Latest news on newspaper VAT: <https://home.kpmg/uk/en/home/insights/2020/01/tmd-vat-treatment-of-digital-newspapers.html>

About Whitereport

Database. KPIs. Reports. Consulting.

[Whitereport](#) is an innovative scale-up founded by media expert Kinga Incze with a global mission to make the cross-media market more transparent.

We are independent, and operate as a third-party data service provider and consultant to business and government organisations.

Thanks to our comprehensive database of **1000+ UK media companies**, which aggregates public data, including financial, commercial and ownership data of traditional media and new platforms, Whitereport is able to provide **new evidence on the business side of the UK's cross-media market**.

We also provide cross-media macro KPIs for the UK market that help stakeholders to keep track of—

- how the media market changes;
- how the competition fares and increases/decreases;
- how the market changes and use the evidence in communication, media business, regulation, policy and litigation.

Coupled with our expertise in both traditional media and online platforms, our new approach provides valuable help for B2B and B2G decision makers in shaping the media market of the 21st century.

We hope our contribution is of value, and we would be happy to follow-up with CMA. We would be glad to offer our unique data and consulting services to fill in gaps and support evidence-based decision making at CMA. We are here to support CMA in its journey.

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Appendix

The table below summarizes the impact of other regulations – the Digital Services Tax, E-Privacy, Audiovisual Media Services modification – on the digital market.

Please note that in addition to the legal framework, the digital market is also impacted by technical developments like 5G, and many other socio-economic factors.

Whitereport's summary of areas where the platforms' current regulatory background might contribute to their competitive (dis)advantage – in addition to advantages earned by their new and valuable services to consumers and advertisers

Legal /regulatory approaches	'Legacy'		Non-linear audio-visual media	Platforms
	Publishing	Linear audiovisual media		
Competition				+
Data protection*				+
Consumer protection				+
Advertising				+
Tax				+
Copyright				+
Media (AVMS)				

* Personalised and well-targeted advertising is the key feature of digital advertising, compared to mass media (broadcast or print publishing).