

## **An Advertiser's Response to CMA Interim Report**

### **Our understanding of the markets within our scope**

- Do you agree with our descriptions of general search services and social media service, as set out in Chapters 2 and 3?

*Yes, this is a good description of the landscape.*

- Do you agree with our explanation of the different forms of digital advertising, as set out in Chapter 5?

*Yes, this is a good description of the landscape.*

- Do you agree with our explanation of how the intermediated open display market operates, as set out in appendix H?

*Yes, this is an excellent explanation of the very complicated open display market.*

- Do you agree with our understanding of the role of data, as set out in Appendix E?

*Yes. We particularly agree with the statement that "Given the importance of search relevance to consumers, lack of comparable scale in click-and-query data is likely to limit the ability of other search engines to compete with Google".*

*We also agree with the explanation of the use of data in targeted display advertising. The multiple uses including interest based, demographic and personalised all concur with our experience.*

### **Our initial findings and concerns under each theme**

- Do you agree with our analysis and findings in relation to competition in search and social media, as set out in Chapter 3?

*Yes. The analysis of competition in those sectors seems to be thorough and well argued. Based on the available evidence, the conclusions make sense.*

- Do you agree with our analysis and findings in relation to consumer control over data, as set out in Chapter 4?

*Yes. The findings on consumer control of data seem to be right.*

*We also make the following comments:*

- *The report's findings around the length of terms and conditions is concerning and we agree that more needs to be done to ensure that consumers understand how their data will be used and what they are consenting to.*
- *We agree with the conclusion that consumers need to be more aware that they are participating in a value exchange – their data for useful, free services – and that platforms can do more to raise this awareness.*
- *We note that there is a balance to be struck between ensuring consumers have adequate control over their personal data and ensuring that they continue to receive relevant advertising personalised to their specific interests. If the right balance is not struck, then consumers risk being bombarded with generic / irrelevant advertising, which could lead to frustration and ad fatigue.*

*We would also be interested to know the source for the comment in paragraph 4.60, that location data is still being captured by Google for non-logged in consumers even when the location feature is “set to pause by default”.*

- *Do you agree with our analysis and findings in relation to competition in digital advertising, as set out in Chapter 5?*

*Yes. Google and Facebook’s self-perpetuating advantages are clear, and we agree that these advantages create barriers to credible new entrants.*

*We agree that the ad tech stack is opaque. However, Google’s presence at all significant stages of the stack is well known, and the ability to buy and sell from itself gives rise to the possibility of a conflict of interest.*

*We also agree that auctions for advertising space are patently opaque and smaller players, with less knowledge and scale, will find it harder to navigate this complex space.*

### **The merits and challenges of the potential interventions identified**

- *Do you agree with our assessment of the merits of a code of conduct for large online platforms funded by digital advertising?*

*It will be important to ensure that the code is consistent with industry trends domestically and globally and can be adapted if required – this is necessary in such a fast-moving sector. The code should also facilitate meaningful application keeping in mind the global nature of these platforms, to avoid conflicting policies in different jurisdictions.*

*We also note that a code which is designed to tackle harmful effects rather than tackling the underlying causes may harm competition and drive up costs for advertisers.*

*Further, we believe such a code should apply to all platforms, not just SMS platforms.*

*Finally, we note that whoever is appointed to enforce the code will need to be well resourced in order to properly discharge those duties.*

- *Do you agree with the range of possible practices we have identified that could be considered under such a code of conduct?*

*Yes, the three overarching principles of “fair trading”, “open choices” and “trust and transparency” seem to cover all potential areas of concern.*

- *Have we identified the appropriate range of potential interventions to address the sources of market power for Google and Facebook?*

*With respect to the interventions proposed for general search, requiring Google to provide click and query data to other search engines would be beneficial and may help rivals gain a foothold.*

*We do not necessarily agree with the risk to consumer privacy expressed by Google in paragraph 6.67. As mentioned in the report, search data is based on indexing and algorithms. On the indexing side, click and query data could be provided by Google on an anonymous basis, that is, without taking into account consumer behaviour aside from search. Thus, search information sent to other search platforms would be similar to data generated from a user who is not logged in to Google.*

*Building on the above, and in response to paragraph 6.68, if search data is provided on an anonymous basis then query data should also be shared as this is the competitive blocker. Algorithms on how this query is visualised, displayed, treated and prioritised should absolutely remain protected as proprietary information; failing to do so would not be beneficial for further improvements in algorithms and thus user experience. This query data would of course need to be paid for, as there are substantial costs to maintain this infrastructure as stated in Chapters 1 to 3.*

*Assuming that a positive outcome is anticipated, we would consider that the remedies would be most effective if rolled out simultaneously.*

*In regards to the interventions proposed for social media, the interoperability features proposed in paragraph 6.83 would bring huge advantages to the marketing ecosystem, as it would allow advertisers to advertise to Facebook users outside of the Facebook ecosystem. However, this obviously needs to be balanced with privacy considerations.*

- *Have we identified the appropriate range of remedies to improve consumers' control over their data?*

*We agree that consumers should be able to decide whether to receive personalised advertising. As a general point, all players should have the same / similar duties when it comes to informed choices of consumers.*

*The proposal in paragraph 6.97 is interesting. Offering consumers incentives to use their data would be popular with consumers, but runs the risk of pushing up advertising prices, as platforms would likely want to recoup any investments made in this regard.*

*The proposal to implement a "fairness by design" approach seems very sensible. The three principles outlined in 6.115, "neutrality", "minimising friction" and "engagement and understanding" should be welcomed by consumers and advertisers.*

*We also support the proposal in 6.117 that SMS platforms should have an additional requirement to trial and test the choice architecture that they adopt.*

*Data mobility is particularly relevant when it comes to derived data both for consumers and for advertisers. Such mobility will be meaningful for consumers since non-derived data is easily movable without a lot of effort on the consumer side. Similarly, from advertisers' perspective, the derived data presents more value and it is more important to have the possibility to share that data with other (smaller) players in the ecosystem.*

- *Have we identified the appropriate range of remedies to address conflicts of interest and a lack of transparency in digital advertising markets?*

*The case for additional interventions, as stated in paragraph 6.156, is strong. The potential for conflict of interest given Google's market presence along the programmatic value chain is well made.*

*In our view, the separation mentioned in paragraph 6.167 makes sense, as that is where the auction happens, and potential conflicts of interest and prioritisation of inventory occurs.*

*In regards to the separation mentioned in paragraph 6.168, we would suggest that tag management be separated rather than analytics, as that is where trackings are placed. Separating analytics would push back advertisers who seek to utilise their first party data in media activation.*

*The proposal for an operational separation mentioned in paragraph 6.172 is good, but as noted it would require very high levels of oversight.*

*We welcome the proposal outlined in paragraph 6.176 that Google should open some, or all, of its YouTube inventory to third party DSP's, which would create additional choice for advertisers. However, if the final proposal is to open some inventory only, then the quality of that inventory needs to be specified (e.g. prime vs non-prime).*

*We fully support the interventions proposed in paragraphs 6.178 (a) (more transparency over fees) and 6.179 (b) (standardised transaction ID).*

*We support any move towards greater disclosure of data, as proposed in paragraph 6.176 (c), subject of course to GDPR and other confidentiality requirements.*

*We welcome the idea that this should be actively policed by a regulator, as proposed in paragraph 6.179.*

*It should be feasible to establish an effective auditing regime, as proposed in paragraph 6.180, provided the auditor is given a range of strong, statutory powers.*

*In our view, the industry, through various bodies such as ISBA and IAB, should be able to agree minimum standards, as suggested in paragraph 6.181.*

- *We have set out a number of specific questions relating to the potential interventions, which are discussed in the following appendices:*

*I: Potential practices to be tackled through a code of conduct*

*J: Potential interventions to address market power in general search*

*K: Potential interventions to address market power in social media*

*L: Potential interventions to improve personal data mobility*

*M: Potential interventions in digital advertising markets*

*Do you have any views on the more specific questions in these documents?*

- *Do you have any views about the appropriate sequencing of the remedies we have identified?*

### **Market investigation**

- *Do you agree with our assessment of the potential candidates for a market investigation, and what are your views on the merits of each?*

*We are unable to comment on this question.*

- *Do you agree with our proposal not to make a market investigation reference at this stage?*

*We understand the reasons put forth by the CMA not to make a market investigation.*

- *Do you support recommendations to government as an effective route to implementing interventions in these areas?*

*We are unable to comment on this question.*

**Further work we propose to do over the second half of the study**

- *Do you agree we have identified the right areas for further work in the second half of the study (set out below), and are there any significant gaps?*

*The areas identified seem sensible. We also consider that there is an outstanding question on search indexing vs algorithms that would determine the availability to share query or click and query data to other search platforms.*

**Additional questions from appendices:**

**Appendix I: Potential practices to be tackled through a code of conduct**

**We welcome views from stakeholders in identifying the scope covered by the code, the process of investigations and considerations on the enforcement and appeal rights under the code of conduct. In particular we are seeking views regarding:**

*I.1 Do you agree with the overall proposed approach of regulation in the sector through a code of conduct applying to SMS firms?*

*Please see our response on this question above. A code of conduct should apply to all platforms.*

*What thresholds should be applied by the regulator in determining SMS and compliance with the code?*

*In regards to determining SMS, we agree with the factors referred to in the interim report, including whether the platform has market power in the relevant market, whether the platform is an unavoidable trading partner for advertisers, and whether consumers have a meaningful choice of whether to use the platform. That said, please see the response above that the code of conduct should apply to all platforms.*

*I.2 What are your views on our initial thinking on the list of potential rules described in the left column of Table 1 below?*

*The potential rules seem sensible.*

*I.3 What are your views on the proposed form of regulation: a set of principles-based rules, supported where appropriate by guidance?*

*As stated above, it will be important to ensure that the code is consistent with industry trends domestically and globally and can be adapted if required – this is necessary in such a fast-moving sector. The code should also facilitate meaningful application keeping in mind the global nature of these platforms, to avoid conflicting policies in different jurisdictions. A principles-based system should take these factors into account.*

*Further, we believe such a code should apply to all platforms, not just SMS platforms.*

*I.4 What powers should the regulators have in making SMS companies change behaviour and under what conditions?*

*We believe a meaningful enforcement mechanism is necessary to ensure that all platforms are incentivised to comply with any regulation. Given the scale of some SMS firms, financial sanctions may not serve this purpose. However, we note it is generally more difficult to police behavioural change versus structural change.*

*I.5 What sanctions should apply where a SMS platform does not comply with or breaches orders under the code of conduct, and, what impact that might have on the speed and effectiveness of the regime, including any appeal process?*

*We believe a meaningful enforcement mechanism would be necessary to ensure that all platforms are incentivised to comply with the regime. However, we are not in a position to comment on what specific sanctions should apply.*

*I.6 How should the process of an investigation be defined? How would disputes under the code be tested and treated?*

*We are unable to comment on this question.*

*I.7 Should the regulator be able to direct SMS firms to implement, or unwind, measures for the purpose of fulfilling the objectives of the code?*

*As above, we believe a meaningful enforcement mechanism would be necessary to ensure that all platforms are incentivised to comply with the regime, which may include the ability to implement or unwind measures.*

*I.8 What forms of reporting by SMS firms should be within the scope of the code?*

*All firms should report against compliance with the code. This could be done in the annual accounts or separately.*

### **Appendix J: Potential interventions to address market power in general search**

***We are interested in stakeholders' views regarding the impact of defaults and the likely effectiveness of the Commission's choice screen remedy and potential variations to it, including design and scope. We have a number of specific questions on this subject:***

*J.1 Should there be some form of restriction on the ability of Google to buy default positions and / or the ability of browsers or device manufacturers to place defaults on their own properties?*

*Yes, as we believe that Google are leveraging their scale to price out competition.*

*What benefits could this intervention deliver and what adverse effects could the prohibition of such practices have on competition?*

*The benefits and effects described by the CMA seem correct. We have nothing further to add on this question.*

*J.2 Do you think that there is a case in principle for a choice screen remedy to increase competition and consumer choice in search?*

*Yes, there is a case that users should be given the choice mainly because it can be technically too difficult for some users to change the default search engine.*

*However, given Google's current market presence, we question the effectiveness of such a choice screen in increasing competition.*

*J.3 Do you have views on the appropriate design of a choice screen remedy and in particular:*

- a. *Should the design of the remedy be left at the discretion of the company implementing it or should a regulatory authority have stronger involvement in design?*

*We are unable to comment on this question.*

- b. *Do you have views on the way in which the European Commission's choice screen remedy is being implemented by Google?*

*We are unable to comment on this question.*

- c. *How should the number of slots on the choice screen be determined? How should they be allocated and ordered, and in particular is auctioning an appropriate method or should other approaches be used?*

*There will need to be clear technical criteria, applied objectively, in terms of which search engines are included in the choice screen, so as not to unduly hinder the owner of the operating system.*

*From there, consumers could be provided a simple decision tree that would provide options such as: 1) search engine that uses data to personalise results or not, 2) search engine that monetises search results through ads or not etc.*

*J.4 Do you have views on the appropriate scope of a choice screen remedy and in particular:*

- a. *Should the remedy apply to all firms or only to large firms? For example, could the remedy be effective if it applied only to competition to be the default search engine on Google's and Apple's mobile operating systems?*

*It should apply to all firms.*

- b. *Is SMS status a useful concept in this respect?*

*Please see our response to J4(a) above, i.e., the remedy should apply to all firms.*

**We have a number of consultation questions with regards to how effective and proportionate a remedy would be that provided access to search query and click data:**

*J.5 Should search engines be subject to a requirement to provide such data and if so, which ones?*

*Yes, they should. We agree with the list included in J 41. In addition, search engines should also provide the device used, time stamp, and if the user was logged in to the search engine's account which is believed to be used to personalise search results.*

*J.6 Which data would be most effective at supporting rivals' ability to deliver improved search results? In particular:*

- a. *Would all of search, click and query data be required or could a subset be sufficient?*

*All data should be provided in an anonymised way as per J 42. The industry belief is that Google's algorithm is tailored to different verticals, for example travel related queries are different from eCommerce queries.*

- b. *How would the benefits and costs of the remedy differ under each of these variants?*

*A specialised search engine, e.g. for the travel industry, would benefit from accessing data relevant only to travel.*

*Google can easily categorise queries into broad industries so we do not believe there would be additional cost.*

*J.7 Could the remedy be effective if restricted to data from UK users?*

*It's our understanding that Google's algorithm is tailored to handle different languages and grammatical nuances that come with it. A data set from the UK would be a valuable remedy, but would be only a subset, which would limit remedying the issue globally.*



*J.8 How could such a remedy be delivered, i.e. could existing APIs that provide access to search results, in accordance with syndication agreements, be altered to provide access to search and click data?*

*We would recommend an API access. We are not in a position to evaluate if altering specific existing APIs would be the best way.*

*J.9 Could the most relevant data be provided in a manner that was consistent with GDPR?*

*Yes, the data should be provided in a fully anonymised way and Google's terms and conditions should reflect this clearly. In fact, we do not believe that any personally identifiable data would be of value to remedy this issue.*

*J.10 What would the cost of implementing this remedy be and on which terms should the data be provided, including how or whether any costs should this be recovered from participants?*

*We are unable to comment on potential costs.*

*J.11 What are the possible unintended consequences and adverse effects that could result from providing access to this data?*

*We agree with the statements in paragraph J 51.*

***We are interested in stakeholders' views regarding whether the largest search engines should be subject to an obligation to supply search results and adverts on FRAND terms. In particular, we are interested in:***

*J.12 Should search engines be subject to a requirement to supply search results and adverts on FRAND terms and if so, which ones?*

*No comment.*

*J.13 What would the benefits and risks be of this remedy?*

*No comment.*

*J.14 How could access to search results be priced at levels that are low enough to incentivise taking part but high enough to rewards providers of search results and maintain the incentive for third parties to develop own web-index?*

*No comment.*

*J.15 What should the appropriate eligibility criteria for recipients of search results be?*

*No comment.*

*J.16 Which, if any, specific conditions imposed on recipients of search results, through syndication agreements, should be prohibited?*

*No comment.*

*J.17 What are the possible unintended consequences and adverse effects that could result from providing access to this data?*

*No comment.*

**We are interested in how the possible interventions set out in this appendix would interact with one another and whether they would be effective in isolation or whether their effectiveness is likely to depend on being introduced with other interventions.**

J.18 To what extent are these remedies substitutable or complementary in nature?

*We believe that for larger search engines and brands with higher consumer awareness such as Bing, Yandex or Seznam the demand-side remedies should to a certain extent be helpful in itself as per Yandex's increase of market share noted in J 13 but without the supply-side remedies the change is likely to be only partial as per the subsequent drop of market share also noted in J 13.*

*For this reason and also to level the playing field for smaller and niche search engines, it can be argued that both remedies are necessary and in an ideal case would be rolled out at the same time.*

J.19 Would these interventions be effective in isolation or would they need to be introduced as a package to be effective?

*Please see above.*

J.20 Should these remedies be rolled out together or would be appropriate and proportionate

*Please see above.*

#### **Appendix K: Potential interventions to address market power in social media**

**The CMA is interested in stakeholders' views regarding the impact of past deprecations of APIs by Facebook or other market participants on competition between social media platforms. In particular, we have the following questions:**

K.1 How effective were the Find Contacts or Publish Actions APIs at increasing competition or supporting the growth of rivals?

*We are unable to comment on the efficacy of Find Contacts or Publish Actions APIs.*

K.2 What have the impacts been of the deprecation of the Find Contacts and Publish Actions APIs?

*We are unable to comment on the impact of the deprecation of Find Contacts and Publish Actions APIs.*

**We are also seeking views regarding whether or how API access on social media platforms should be altered or enhanced, and whether mandating interoperability requirements on a single social media platform (or subset of them) would increase competition in these markets. In particular, we have the following questions:**

K.3 Should any social media platforms be subject to an API access obligation, and the scope of the interoperability requirements, including which features or functionalities, should be made interoperable?

*We are unsure on this point, however, the huge growth of TikTok demonstrates that social media dominance is not necessarily perpetual. This seems to be a good example of a new platform entering the market and growing rapidly because they are offering something that consumers value and enjoy.*

- *How effective would this type of intervention be at improving competition between social media platforms?*

*We are unable to comment on this question.*

- *Who should this intervention be applied to?*

*We are unable to comment on this question*

- *What conditions and permissions should be associated with access, including whether participants should be subject to reciprocal arrangements?*

*We are unsure on the conditions and permissions required.*

- *What should the appropriate eligibility criteria be for developers seeking access to these APIs?*

*We are unable to comment on this question.*

*K.4 How effective would a remedy be that extended existing intra-Facebook interoperability, such as is currently available between Facebook and Instagram, to non-Facebook applications?*

*In our view, competitive platforms and consumers are likely to benefit from such a remedy.*

*K.5 How should the standards surrounding these features be developed and monitored?*

*We are unsure exactly, but note that an independent regulator and industry bodies are likely to play a role.*

*K.6 What are the possible costs and unintended consequences that could result from mandating interoperability requirements or API access, in particular on incentives to innovate?*

*We are unable to comment on this question.*

## **Appendix L: Potential interventions to improve personal data mobility**

### **Questions about data mobility remedies for consultation**

**To summarise, on balance we think that the remedy would entail a combination of:**

- *At a minimum, a requirement on large platforms, where consumers have consented to the sharing of their own data, to interoperate with PIMs technically through, say, common and open standard APIs and security protocols and, if applicable, on reasonable commercial terms;*
- *To be most effective, the remedy would include the adoption of a common standard for the identification of users to enable PIMs and publishers to combine first party data with observed and/or derived data from the major platforms, although there may be privacy concerns associated with creating a common user ID; and*
- *To create the incentives for users to sign up to PIMs services, it is likely that some additional intervention would be required. One possibility is that the major platforms would be prevented from insisting that consumers consent to providing their data to them as a condition of use. This could take the form of a reciprocal obligation: if the platform wished to collect data on an individual it would be obliged to share it with others as specified by that individual or alternatively if it wished to obtain information from a PIM it would be obliged to supply the PIM with information.*

**We invite responses to the following questions:**

*L.1 Would the data-sharing remedies we have discussed be effective (including practicable and technically feasible) in addressing our competition concerns? Above all, would consumers adopt them in significant numbers?*

*The remedies could be practicable and feasible, however, we would advise caution with this approach.*

*Consumers provide consent to platforms for certain usages. If this data is shared across platforms, consumers may be targeted with services and advertisements with no clear view on who collected their data and how. This measure could therefore be beneficial for competition but harmful for consumer privacy.*

*All in all, in our view the concept of an aggregated "preference centre" makes sense, but it should become simply an aggregated view for consumers to opt in or out of their data being collected from different platforms.*

*We also question whether consumers would adopt the proposed remedies. This will depend on how easy it is for consumers to adopt and whether the benefits are clearly understood.*

*L.2 Would they address our concerns comprehensively? Would they perhaps only work in sectors (like financial services and travel) where there was sufficient advertising revenue to attract intermediaries and fund consumer incentives?*

*This is difficult to say, however, it seems plausible that the biggest benefits would accrue to the most data intensive sectors such as online shopping as well as those noted above.*

*L.3 Would the data-sharing remedies we have discussed only, or be more likely to, address the competition concerns we have over Google than Facebook? If so, could variants of the remedy be effective for Facebook or would an entirely different approach work better (say one that facilitated multi-homing)?*

*Because Google is far more data intensive than Facebook, it seems that these remedies would be more likely to address concerns with Google than Facebook.*

*We consider that the biggest win for the industry would be regarding the PIM with a consistent ID, which would bring higher competition as it will force Facebook, Google and other platforms to operate at the same level.*

*L.4 Is there a viable business model for PIM providers? What evidence could we gather to inform our judgement on this? Are there viable data-sharing intermediaries operating profitably in other sectors or overseas jurisdictions? Given the large number of unknowns, would a PIM challenge prize<sup>38</sup> help us determine whether there is a viable business model for PIM providers?*

*The challenge with this model is that it relies on ID resolution which is only valid if it is backed up with email addresses. As such, Google and Facebook, being the biggest in this field, would have little need to pay for this type of service, to the detriment of smaller players who would have this need.*

*L.5 If such a business model does exist, what other features would it be necessary to provide to create an ecosystem in which PIM providers could exist? We have discussed authentication and security protocols and an accreditation framework but are there other features that it would be necessary to create or adapt? For example, how desirable would it be to create unique and shared identifiers for individuals who wished to share data?*

*Please see our response to L.4. Beyond this, we are unable to comment.*

*L.6 Are there additional constraints that it would be necessary to impose on SMS digital platforms to make the emergence of viable PIM providers more likely? If the platforms were required to always make a 'Do Not Track' option available and/or set this option as a default with no avoidable loss of service quality would that create an incentive for the platforms to, for example, access customers through the platforms of intermediaries? Is such a requirement practicable or reasonable?*

*In our view such a requirement would be practicable but probably not reasonable.*

*L.7 Respondents to our consultation have acknowledged that obliging the major platforms to share with publishers and third-party providers the consumer data they hold could address some of our competition concerns but would increase the risk to consumer privacy. Do you agree that this risk is real and significant? Are there ways in which the risks to privacy could be mitigated?*

*In our view, any risk could be mitigated by ensuring that the data is properly and meaningfully anonymised.*

*L.8 Are there ways in which the major platforms could circumvent the remedies we have described? How could we reduce the prospect of this?*

*As mentioned above, it is essential to ensure that whoever enforces the remedies (e.g. the code) is well resourced. You could also require each company (not just SMS firms) to have an appropriately designated person to ensure compliance (similar to the GSCOP regime).*

*L.9 Would any of the remedies we have discussed here give rise to fresh customer detriment such as higher prices, lower service quality or less innovation?*

*It is difficult to say, however, it seems logical that if the income of SMS platforms is reduced as a consequence of enforced data sharing and the need to finance PIMs, they may seek to recoup lost revenue in other ways. On the other hand, prices may go down as SMS companies are forced to compete.*

*In regards to innovation, that will depend on whether allowing SMS companies to innovate freely is better for innovation than increasing competition amongst players. This would require further expert analysis.*

**To summarise, based on our current understanding and material reviewed thus far, we think a new digital advertising ecosystem based on client-side privacy-enhancing technology would likely entail:**

- *Browsers incorporating privacy-enhancing targeting technologies by default, where any behavioural targeting would occur on-device only, with no personal data or identifiers leaving the device;*
- *Browsers incorporating privacy-enhancing attribution technologies by default, where any matching between impressions and clicks or conversions would occur on-device only, with no personal data or identifiers leaving the device;*
- *Similar technologies underlying mobile-specific targeting and attributions (eg apps);*

- *Prohibition of targeting and tracking based on cookies or mobile advertising identifiers;*
- *Prohibition of transfer and trade of individual-level personal or behavioural data; and*
- *Further measures to tackle downstream competition issues and create a level-playing field for non-vertically integrated agents.*

**We invite responses to the following questions:**

*L.10 Would the privacy-enhancing technologies we have discussed be practicable and technically feasible?*

*As advertisers we are not technical experts, however it seems that they could be technically feasible.*

*L.11 Are there ways in which the major platforms could circumvent the remedies we have described? How could we reduce the prospect of this?*

*We are unable to comment on this question.*

*L.12 Would any of the remedies we have discussed here give rise to fresh customer detriment such as higher prices, lower service quality or less innovation?*

*We are unable to comment concretely – the remedies could lead to lowered innovation (as noted above) or increased innovation as platforms seek to gain competitive advantage.*

*L.13 What is the current picture in terms of available proposals based on client-side PETs in the realm of digital advertising? Do any other approaches exist that have not been considered in this report?*

*We are not aware of any other proposal or approach, although it may exist.*

*L.14 Current proposals for targeting rely on different approaches than proposals for attribution. Does any privacy-enhancing approach exist that combines targeting and attribution under the same framework?*

*We are not aware of any other approach, although it may exist.*

*L.15 What are the minimum requirements for a targeting or attribution technology to be considered privacy-enhancing? Can client-side technologies that disclose or broadcast limited information about the user (eg membership to specific clusters or interest groups) be considered privacy-enhancing?*

*Client-side technologies may improve privacy for those methodologies, as browsers will decide which information to share. Still, cookie-sync or ID browser syncs will happen and as such we will not be aware of any data transformation resulting from aggregation.*

*L.16 Could client-side privacy-enhancing technologies be effective (including practicable and technically feasible) in addressing privacy concerns in digital advertising?*

*Possibly yes. Using a device, which is generally password protected, could be beneficial in addressing such concerns.*

*L.17 Would these technologies exacerbate competition concerns, by entrenching the advantage of large vertically integrated platforms at the expense of smaller players in the ecosystem?*

*We are unable to comment on this question.*

*L.18 What additional measures would be able to lessen competition concerns arising in an ecosystem where users browse using client-side PETs?*

*We are unable to comment on this question.*

*L.19 What are the main obstacles to widespread adoption of client-side PETs for online advertising? How can these obstacles be overcome, to avoid failures similar to previous initiatives like Do Not Track?*

*Privacy Enhancing Technologies would in theory face the same barriers as Do Not Track or adblockers. Consumer inertia could be the main barrier. Consumer knowledge, understanding and acceptance seem critical to making it work.*

*L.20 Is there any characteristic of digital advertising on mobile devices that makes client-side privacy-enhancing solutions less effective or practicable?*

*We are unable to comment on this question.*

*L.21 Would consumers use devices and/or browsers that have the ability to serve privately targeted ads? Would adoption of these technology follow directly from their implementation in commonly used browsers or devices?*

*We are unable to comment on this question.*

*L.22 What is the role of user incentives in the adoption of client-side PETs (eg the sharing of publisher revenue with consumers being exposed to ads on the publisher's website or app)? Are they necessary for widespread adoption? Do they have other implications that might be counterproductive or advantageous?*

*Consumer incentives could be the key to gaining widespread adoption. However, they could be counterproductive if consumers consider them as just another intrusion into their online lives.*

*L.23 What should the role of government regulation be in the adoption and maintenance of privacy-enhancing standards in digital advertising, especially considering the failure of past voluntary initiatives (like Do Not Track) to attain widespread adoption?*

*This would require proper regulation and the resources to enforce it.*

*L.24 In terms of efficiency, privacy, and competition, how does a digital advertising ecosystem based on client-side PETs compare to one where behavioural advertising is banned outright?*

*A PET is preferable to banning behavioural advertising outright as it would give advertisers good control over ad targeting, whilst maintaining consumer data safety and privacy.*

*L.25 Is there any non-client-side PET-based approach that can effectively mitigate privacy concerns in digital advertising while preserving some of the efficiencies associated with targeting and attribution?*

*We are not aware of any other approach, although it may exist.*

*L.26 Is there any scope for combining data sharing and PET approaches into a unified solution, where for example the functions of a PIMS provider could be performed on-device?*

*We are unable to comment on this question.*

## **Appendix M: Potential interventions in digital advertising markets**

**We welcome views from stakeholders on possible interventions, over and above a code of conduct, to address competition issues in the digital advertising market.**

### **Separation interventions**

We have discussed the following specific potential interventions:

- separation of Google's publisher ad server (or Google's publisher ad server together with its SSP (AdX)) from other of its intermediary operations;
- separation by all intermediaries active in the open display market which operate both on the buy-side and sell-side to separate their operations between buy-side and sell-side;
- access by independent DSPs to Google's YouTube advertising inventory;
- access by independent intermediaries to Google's Analytics service; and
- access by independent intermediaries to Google's data from its user-facing markets.

**Where these interventions apply to data and digital advertising held within the 'walled gardens', and if the interventions were to be effective, we are seeking views on whether the interventions should be applied to Facebook, because of its strong position in display advertising.**

**In respect of each of these potential interventions we invite stakeholders to provide views on the following questions:**

*M.1 Would the intervention be effective in addressing the concerns identified in Chapter 5?*

*The CMA could consider the merits of a regulated exchange, which would increase transparency and allow the highest bidder to win the inventory. This could eliminate the need for other regulations and interventions and let business profit on providing value.*

*This could also remove much of the "ad tech taxes" both known and unknown.*

*In regards to the other potential interventions:*

*Separating entities who have both buy-side and sell-side entities in the form of a DSP and an SSP would be unfair because this allows IDs to be better passed as well as provides advertisers and agencies with potential benefits by committing to a larger partnership with one entity over another. That being said, Google's presence as a key player in each layer of the stack (DSP, SSP, analytics, ad server), their presence in Cloud, the fact that they own the largest video platform, and their way of working to inhibit integrations with entities outside of the Google stack causes difficulties for both advertisers, agencies, and the ad tech space in terms of cost transparency and data access.*

*The challenge with Facebook is tied to the large amounts of data shared by its consumers rather than its presence across the end to end stack. In that respect, Facebook is very different to Google.*

*M.2 Would an intervention focused on the purchase/sale of digital advertising inventory aimed at UK users be effective?*

*No, this would not be effective, especially in regards to companies present across 2-3 components of the stack. The issue is in respect of companies present across 4 or more components of the stack.*



*Ownership separation might be the correct path for companies present across 5 or more components, while structural or operational separation might be the right approach for those present across 4 – and no action might make sense for those present across less than 4.*

*Additionally, too much competition inevitably brings “black hat” players that the industry has self-regulated against over the past 3-5 years.*

**M.3 Should the intervention be considered further as a priority either by the CMA or by a regulatory body in the future?**

*We agree that these should be a priority.*

**M.4 How could the intervention be designed to minimise costs and maximise benefits?**

*The solution referred to in paragraph 16 of Appendix M is not a viable solution as most advertisers currently buy through Google’s DSP, DV360. If Google cannot sell independent publisher inventory, then those publishers may not be able to monetize their business. Such an approach might help SSPs and exchanges, but publishers and companies that support publishers would suffer. When advertisers buy media, they look for a specific audience and because Google has an end to end stack that uses the same ID, it makes it much easier to find that audience on a publisher. Most publishers rely on Google for the bulk of their programmatic revenue, even if it has the lowest profit margin.*

*The solution referred to in paragraph 23 of Appendix M is not a recommended solution, as using behavioural or demographic data makes advertising more relevant to consumers.*

**M.5 Would the benefits of such an intervention would be likely to outweigh the costs?**

*Such an intervention would require an extensive mapping exercise to highlight the costs as against the benefit, involving a range of experts, including programmatic experts from both the buy and sell side, engineers, economists and mathematicians.*

***In respect of mandating separation of Google’s publisher ad server (or Google’s publisher ad server together with its SSP (Adx)) from other of its intermediary operations we also invite stakeholders to specifically consider:***

**M.6 Would separation in an appropriate form be effective in addressing the concerns above, and if so whether this would require ownership separation, or would operational separation be sufficient?**

*Generally, structural changes are easier to enforce and require less ongoing oversight than behavioural changes.*

**M.7 If separation of the publisher ad server were to be an effective intervention, would it be more effective to require Google to separate out solely its publisher ad server operations or its now fully integrated publisher ad server/SSP operations?**

*It would be more effective to separate out the SSP and Publisher Ad Server as this is where Google is able to leverage control over publishers. However, publishers would be required to transition technology, which would bring additional cost and may need to be compensated in some way.*

*Some SSPs may be able to maintain business as usual.*

*In regards to paragraph 28 of Appendix M, this is plausible, however we note that other technology would be developed if it was possible to do so. Google’s DFP has a strong presence currently.*

*In regards to paragraph 29 of Appendix M, Google ad server does favour components of its own stack, which can be clearly seen by looking at the percentages of split of spend via the auction.*

***In respect of mandating access by independent DSPs to Google's YouTube advertising inventory we also invite stakeholders to specifically consider:***

*M.8 Could any concerns about the sharing of personal information needed in order for Google to be able to sell YouTube advertising on a programmatic basis via all qualified DSPs be overcome?*

*Yes, personal information can be hashed in the log level files so it cannot be seen or used past the auction needs. This is already being done.*

*M.9 If it were too difficult for TrueView inventory to be offered to third-party DSPs, could access to only non-TrueView inventory still be effective?*

*This would be the next preferred option.*

*M.10 Would there need to be a mechanism to help ensure that Google would treat Google and non-Google demand on the same basis?*

*Yes, as there is too much opacity in the space. The only way to ensure compliance is to provide proper oversight.*

*The only absolute way to do this to is to remove the SSP / Publisher Ad Server from Google's business.*

*Perhaps a second solution is to mandate the maximum share of traffic that could go through Google's SSP, e.g. a 10-15% share.*

*In regards to paragraph 47 of Appendix M, we do not believe that would be an effective sole intervention.*

*In regards to paragraph 50 of Appendix M, there would have to be rules and checks and balances in place to ensure that Google was not prioritising its own bids in the waterfall for YouTube inventory and that bids were on equal ground and based on the highest bid.*

***In respect of mandating access by independent intermediaries to Google's Analytics service we also invite stakeholders to specifically consider:***

*M.11 Would mandating access to Google's attribution service rather than underlying data address privacy concerns?*

*We do not see any privacy concerns, given that the underlying data relates to performance, audience and financials and would not include any personal data.*

*M.12 Would mandating access to Google's attribution service, rather than the underlying data, allow rivals to offer an equivalent service to Google?*

*Mandating access to Google's attribution service simply gives attribution to providers, platforms, and publishers rather than the bulk of the data that gives Google an upper hand – i.e. its knowledge of the consumer, which it uses to bolster its advertising business, and its end to end control of each component across the tech stack, which it uses as leverage over other entities throughout the ecosystem.*

***In respect of mandating access by independent intermediaries to Google's and / or Facebook's data from its user-facing markets we also invite stakeholders to specifically consider:***

*M.13 Could a comparable intervention to that which we have indicated could be applied to attribution data could also be developed to open up access to data collected by Google and/or Facebook for targeting purposes?*

*Please see our response to question M.1 above.*

### ***Transparency interventions***

*We have considered the following potential interventions:*

- 1. reporting of fees by Google and Facebook or reporting of fees by all ad tech providers;*
- 2. requirement to comply with a common transaction ID;*
- 3. a requirement on Google and Facebook to comply with industry standards on ad verification and measurement;*
- 4. a requirement on Google and Facebook to allow third-party verification of their own advertising inventory;*
- 5. a requirement on Google and Facebook to provide certain data, including bidding data, to publishers; and*
- 6. a requirement on Google and Facebook to provide transparency about the working of auctions to a regulatory body or approved independent auditor.*

***In respect of each of these specific transparency interventions we invite stakeholders to consider:***

*M.14 Would the intervention, either individually or in combination, be effective in addressing the concerns identified in Chapter 5?*

- 1. Reporting of fees by Google and Facebook or reporting of fees by all ad tech providers: Yes, although would require auditing and we query whether there is the expertise to do that.*
- 2. Requirement to comply with a common transaction ID: Possibly, although we are unclear on how this would work.*
- 3. A requirement on Google and Facebook to comply with industry standards on ad verification and measurement: Yes, although there is no common language on the back end of the ecosystem to be able to compare like with like.*
- 4. A requirement on Google and Facebook to allow third-party verification of their own advertising inventory: Yes, although note point 3 above.*
- 5. A requirement on Google and Facebook to provide certain data, including bidding data, to publishers: Probably.*
- 6. A requirement on Google and Facebook to provide transparency about the working of auctions to a regulatory body or approved independent auditor: Yes.*

*M.15 Should the intervention should be considered further as a priority either by the CMA or by a regulatory body in the future?*

*Yes, please see our response to question M.1 above.*

*M.16 How could the intervention could be designed to minimise costs and maximise benefits?*

*We are unable to comment on this question.*

*M.17 Would the benefits of the intervention be likely to outweigh the costs?*

*It is difficult to respond to this question as the costs are not clear to us.*

***In respect of those interventions that would just apply to Google and Facebook we invite stakeholders to consider:***

*M.18 Would transparency interventions would be better addressed by a code of conduct as proposed in Chapter 6, for example by requiring Google and Facebook to comply with existing or future industry standards, or by a regulatory body given specific powers to address the lack of transparency?*

*Please see the responses to Appendix I above.*

*M.19 If there were to be a regulatory body with powers to be able to put obligations on Google and Facebook in respect of the information that should be provided, what information should be provided?*

*The information provided would need to be in line with the relevant intervention. As a guide, we would suggest the following:*

- *Viewable / Non-Viewable impressions and Financial Impact MRC Standards*
- *IVT (GIVT, SIVT broken out) Impressions and Financial Impact*
- *Quality / brand safe / suitable impressions and financial impact by brand selection of criteria*
- *Off target impressions and financial impact*
- *Cost of buy side and sell side technology*
- *Cost of data*
- *Bid won amount if won or loss*
- *Second highest bid if won or loss*
- *Complete location each impression was placed (URL, App, Screen, Show, etc)*
- *Audience type (e.g. behavioural, demo, in-market)*
- *Format type (e.g. video, banner)*
- *Location type (e.g. Mobile Web, Mobile App, Connected TV, Desktop, OOH)*
- *Country*
- *Screen type (e.g. Mobile, Desktop, TV)*
- *Ad size (e.g. 300x250, 300x600)*
- *Length of video (e.g. 3 sec, 60 sec)*

***In respect of a requirement to comply with a common transaction ID we also invite stakeholders to specifically consider:***

*M.20 Would any of the standard formats which currently exist, were they be adhered to either through industry agreement or a requirement by a future regulatory body, be effective in enabling the reporting of the ad tech tax?*

*No, a new format would need to be built.*

*M.21 Would it be sufficient for the intervention to apply just to Google and Facebook or would the requirement also need to apply to all ad tech providers for it to work effectively?*

*There should be a level playing field, as long as the intervention does not inadvertently strengthen Facebook and Google's position. Also, depending on the intervention, the outcome may differ for different platforms, including Facebook and Google.*

***In respect of a requirement on Google and Facebook to provide certain data, including bidding data, to publishers we also invite stakeholders to specifically consider:***

*M.22 What information should be provided?*

*Please see our response to question M.19 above.*

*M.23 Should this information be provided to publishers to analyse or, alternatively, provided to a regulatory body for audit or review against stated auction rules?*

*It should be provided to both publishers, who are well-placed to analyse such information., and the relevant regulatory body.*

### ***Other possible interventions***

*The above separation and transparency interventions represent a selection of possible interventions in the digital advertising market. They do not necessarily represent an exhaustive list of interventions that might be able to be made to work effectively in this area. We would therefore invite other suggestions intended to address the competition issues we have identified in Chapter 5 that stakeholders consider to be worthy of further consideration by us in the second phase of this market study.*

*Please see our response to question M.1 above.*