

Guardian Media Group (442843428064-82) response to DG competition consultation - “Shaping competition policy in the era of digitisation”

NON - CONFIDENTIAL VERSION

About the Guardian

1. GMG is one of the UK's leading commercial media organisations and a British-owned, independent, news media business. GMG owns Guardian News & Media, the publisher of theguardian.com and the Guardian and Observer newspapers, and its globally acclaimed investigations, including investigating the Paradise Papers and Panama Papers, and Cambridge Analytica. As well as being the UK's largest quality news brand, the Guardian and Observer have pioneered a highly distinctive, open approach to publishing on the web and it has achieved significant global audience growth over the past 20 years. Our endowment fund and portfolio of other holdings exist to support the Guardian's journalism by providing financial returns.

Introduction

2. The rise of search and social media products and services has enabled Guardian journalism to reach readers across the globe. Whereas news organisations once owned the production, distribution and monetisation of their journalism from end-to-end, a diverse range of different players across the value chain now influence the consumption of high-quality journalism, which has effectively become disintermediated, with the likes of Twitter and Facebook becoming the first breakers of news. The disintermediation of news has challenged the traditional role and purpose of news brands, raised issues about their ability to control how they feature within digital environments, and undermined multiple existing revenue streams on which news media organisations have relied.
3. Online search and social platforms often reduce the debate about the commercial and social value of news brands to a simplistic argument which suggests that the provision of web traffic to news media websites represents a sufficient value exchange. The ability to take this commercial position is largely due to the imbalance in power between the platforms and news media publishers, and ignores the value of news media publishers to a high-quality information economy, and the role that information economy plays in powering the products, services and brands of the dominant digital platforms.
4. The major tech platforms are defining future formats and schema that dictate the shape of the future of news, delivered via machine learning and AI. Few if any of these products provide traffic, advertising revenue, prominent brand attribution or direct payment to the creators of that content. Many of them place new resource demands on already constrained news organisations. **Plans by technology companies to use AI to promote news and information in a variety of new settings pose opportunities and risks for news organisations and the wider information economy, which should be interrogated closely by the Commission's review.**

5. The emergence, from publicly funded universities, of world-leading businesses that specialise in areas of technology such Artificial Intelligence (AI) represent a national success story for the UK. The UK government's focus on leading the debate on the ethics of AI is welcome, given the potential for AI to transform the media, the wider economy and society. **The UK government and EU Commission should consider the case for adopting a mergers framework that enables Ministers to call in the potential merger or acquisition of technology and media companies, on the grounds of both national security and the potential importance of those businesses to the future economic well-being of the country.**
6. The platform algorithms that determine the prominence and distribution of different types of content on search and social platforms are designed according to the reasoned decisions of human programmers, but that reasoning is often obscured from public view. Multiple select committees of parliament and committees of the US Congress, have experienced difficulty in gaining responses to information requests of the platforms to understand the reasoning for policy design, and the actions taken against them. **Therefore media regulators across the EU should be given powers to request data, information, platform policies, and performance against those policies.**
7. The lack of primary legal liability for the content that circulates on search and social platforms has too often been used by the online platforms as a reason not to act against egregious content and user behaviour. **It is in the interests of citizens, business and society more broadly to adapt the legal accountability of online search and social platforms to create a form of transparent accountability overseen by an independent regulator.** ¹
8. The lack of natural competition, combined with high levels of opacity in the wider market create the need for new levels of regulatory intervention. Such intervention is essential to ensure a high level of transparency of transaction costs, and put a spotlight on the terms and conditions that govern the market from both a business-to-business and business-to-consumer perspective. GMG suggests that concentration in the digital advertising market should be addressed in three stages.
 - a. **A full market investigation into the wider digital advertising market.**
 - b. **The digital advertising industry should be encouraged to develop a self-regulatory system of transparent receipting, enabling buyers and sellers of advertising inventory to understand where, when and how money is directed within the programmatic ecosystem.**
 - c. **If a self-regulatory system of transparent receipting fails, or is shunned by the biggest market players, the review should recommend a statutory system of regulation, modelled on steps taken in**

¹ http://www.bundeskartellamt.de/EN/Home/home_node.html

the banking sector to increase transparency and divide out conflicting functions in the digital advertising value chain.

9. Questions about commission fees charged within dominant app ecosystems appear similar to those tackled by DG Competition in its recent Google Android² ruling, and its review of the independence of card processing schemes³. **The Commission review should examine the fees charged for payment services offered by incumbent tech companies, and the impact this has on both businesses and consumers.**
10. The collection, aggregation and exploitation of personal data has quickly become the dominant business model of the largest players in the digital economy. Large data sets are difficult to gather and replicate, which creates a barrier to entry for everyone apart from the one company that gains dominance first. The decision to allow already dominant rivals to purchase competitors and emerging businesses that could provide competition has contributed to the digital dominance we see today. **The Commission's competition review should learn from mistakes of the past, and ensure that it develops a competition framework that promotes a healthy, competitive, plural digital economy.**

**Guardian Media Group
September 2018**

² http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=1_40099

³ http://europa.eu/rapid/press-release_IP-18-342_en.htm