

EMMA and ENPA response to the European Commission's call for contributions: Shaping competition policy in the era of digitisation

Europe can pride itself as a continent with a diverse media landscape with a great variety of press publications on both national and regional level, expressing opinions, reporting on news and cultural events and essential information for the democratic life of the European citizen. In that connection, press publishers remain the main investors in professional journalism in Europe and represent a sector that is essential for European democracy. In a time of ongoing digital transition, requiring a great amount of investment and adaptation of business models, press publishers are at the forefront of innovation in the online environment. Nevertheless, the press faces numerous challenges in an environment where powerful international platforms have obtained monopolies in controlling the means of communication in the online environment. To protect and support the independent and free press EMMA and ENPA invite EU legislators to establish an appropriate regulatory environment in the years to come, particularly through the lens of competition law.

General remarks

- **ENPA and EMMA supports that EU competition policy should take a holistic approach.**

Other policy fields such as digital taxation, data protection, privacy, consumer protection should always include a competition analysis. More particularly, it should be considered whether certain types of regulation favour particular business models and if a regulatory framework has the effect of exacerbating an un-level playing field on the European market.

- **When EU policies are outlined to target players with a dominant position, particular attention should be given to the definition of the scope** so that SMEs are not affected needlessly.
- **An in-depth analysis should be made of the role of data in the data-driven digital economy.** It should be considered whether companies' difficulties in accessing or using data can have the effect of restricting competition and strengthening monopolies.

The monopolistic behavior of platforms should be tackled.

Google, Amazon, Facebook and Apple (GAFAs) are dominant players in their market place and the main controllers of personal data. They act in a monopolistic fashion to the detriment of businesses, consumers and the economy. Personal Data is used to sell ads on different platforms and publishers use them on an everyday basis in order to deliver relevant content to consumers. However, most of the growth in the broader advertising market is captured by the major platforms to the detriment of traditional outlets, despite huge investment by publishers in professional content, digital innovation and tools to increase audience engagement. One way of addressing the GAFA's dominant position is to differentiate those actors from the rest of the digital world.

- **Principles emanating from competition law should be at the basis of new proposals.**

The legislator should propose efficient and surgical measures to limit GAFAs possibilities to bundle or buy potential competitors; impose transparency requirements with respect to algorithms; prohibit

discrimination for or against any information sender or content producer and prevent them from competing with the companies that rely on them to enter the market; impose clear separation between the infrastructure of the platforms and their services as platforms should not take advantage of the infrastructure they provide to prioritize their own services or commercial interests.

Today access to data is determining in the digital economy

Publishers that invest in data-centricity can strengthen their bond with their readership and to a certain extent participate in the data-driven economy. Nevertheless, platforms are vastly advantaged in this regard as their access to data and data intelligence keeps growing. To even the playing field and foster a balanced marketplace with a healthy degree of competition, one solution may be to require platforms to share more data with publishers. Another concrete solution would be to impose stricter rules on the GAFAs in regard to collection of data (i.e. rules obliging them to delete the collected data after a specific time period).

The ad-blocking companies' discriminate and unfair behaviour should be addressed.

Ad-blocking services are an unfair and discriminate intervention in a free market. By manipulating the content delivered by the publisher to the reader and removing the advertising which monetises the content, these services are constantly weakening the free press across Europe. Such services monetize their free software to users by demanding high fees from publishers in exchange for "whitelisting" services. The publisher must be free to determine the way in which the content is delivered to the user without interference from players that use ad-blockers to extort high amounts of money from publishers. Ad-blockers on publishers' websites must be considered as an unacceptable market interference and illegal behaviour from the point of view of competition law, especially as the developers of ad-blockers grant preferential treatment to the whitelisted companies.

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***ENPA** is an international non-profit organisation representing publishers of newspaper and news media on all platforms. In a rapidly changing media environment, ENPA supports publishers with the aim of achieving a successful and sustainable future for independent news media in Europe.*

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