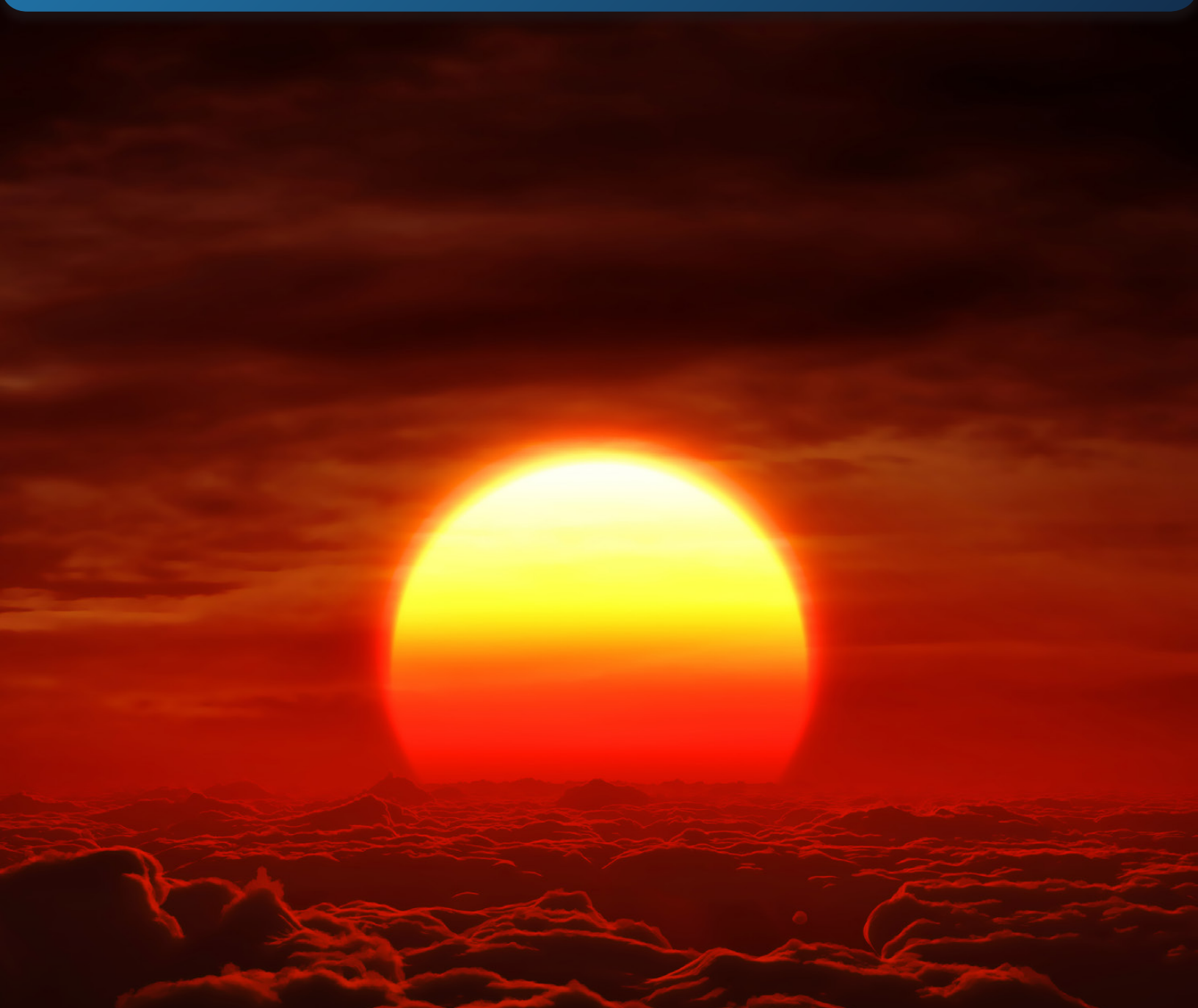


# AUSTRALIA'S DIGITAL PLATFORM INQUIRY: WE'VE ONLY JUST BEGUN...



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## I. INTRODUCTION

Digital Platforms Inquiries are becoming so ubiquitous as to be almost pedestrian. Nevertheless, when announced in December 2017, the Australian Digital Platforms Inquiry (“DPI”) was touted as a “world first” for its focus on the media sector and its breadth of inquiry across competition, privacy, consumer protection, and broader issues of public interest.

The genesis of the DPI was not lobbying from the Australian Competition and Consumer Commission (“ACCC”) or broader political concerns about the rise of major platforms. Rather, it lay in a political compromise; the government needed the support of a senator to pass changes to Australian media ownership law and that support hinged (in part) on the government agreeing to investigate the impact of digital platforms on competition in the media and advertising market.<sup>2</sup>

So it came to be that Australia’s first significant public inquiry into digital platforms was focused squarely on the impact of platforms on “the state of competition in media and advertising services markets, in particular in relation to the supply of news and journalistic content.”<sup>3</sup> As a result, digital platforms, in the context of the DPI, are defined narrowly as “online search engines, social media and digital content aggregators,” a distinct contrast to the broad-brush, digital-market-agnostic definitions which typically define digital platforms as digital businesses providing an online meeting place for different groups of users.<sup>4</sup>

## II. SCOPE OF INQUIRY

A consequence of the more limited definition of digital platforms adopted by the DPI is that the focus of the inquiry was squarely on the two dominant players in online advertising and media aggregation in Australia: Facebook and Google.<sup>5</sup> Although arguably narrow in this respect, the DPI was also broader than many in that it was not restricted to assessing competition concerns; indeed, while many of the concerns identified in the DPI Report stem from findings of market power, the recommendations directed toward competition law and policy are relatively modest. Part of the explanation

<sup>2</sup> The Hon Josh Frydenberg MP, The Hon Christian Porter MP, Senator The Hon Mitch Fifield, “ACCC Preliminary Report on Digital Platforms,” (Media Release, December 10, 2018).

<sup>3</sup> The Hon Scott Morrison MP, “Inquiry into digital platforms,” (Ministerial direction pursuant to ss 95H(1) of the *Australian Competition and Consumer Act 2010* (Cth), December 4, 2017).

<sup>4</sup> The House of Lords’ *Online Platforms* report describes digital platforms as a “broad category of digital businesses that provide a meeting place for two or more different groups of users over the Internet”: House of Lords, *Online Platforms and the Digital Single Market* (HL Paper 129, April 20, 2016) 7.

<sup>5</sup> The closest rival to Facebook (considered together with Instagram) in terms of time spent and unique audience was found to be Snapchat and Twitter, each with a fraction of the “time” share enjoyed by Facebook; ACCC, *Digital Platforms Inquiry: Final Report* (June 2019) 77 (“Final Report”). For Google, its share of search was found to be between 93-95 percent over the last decade, with its closest rival (Bing) enjoying no more than 4 percent during that time: Final Report, 66.

for the breadth of focus is that the ACCC is a competition and *consumer* authority, so is accustomed to considering issues from a consumer protection perspective. But the terms of reference went further still, requiring investigation of, among other things, the impact of digital platforms on choice and quality in news and the impact of information asymmetry between platforms and consumers more broadly. Consequently, the ACCC's investigation, analysis and recommendations traverse competition issues, consumer issues, privacy, copyright, and other public interest issues, while recognising that they are all interlinked, at least to some degree.<sup>6</sup> Its breadth in this regard has been described as world first or ground-breaking.<sup>7</sup>

The inquiry itself ran for 18 months, with a Final Report (the "Report," or the "Final Report") delivered in July 2019. Along the journey, the ACCC published an issues paper and a preliminary report, each of which attracted more than 100 submissions, a consumer questionnaire eliciting 260 responses, and it engaged in numerous public and private forums and meetings. It also commissioned independent research and issued 60 statutory notices to compel production of information.<sup>8</sup> Facebook alone claims to have produced over 1608 documents, comprising 14,500 pages, consuming more than 10,000 people-hours.<sup>9</sup> The Report itself runs to 623 pages.

The duration of the inquiry meant that between the time it commenced and the Final Report being delivered, a number of other reports were commissioned and reported, including the independent Furman report in the UK<sup>10</sup> and Crémer report in the EU,<sup>11</sup> each of which were referenced by the ACCC in its Report.

### III. THE HITS

The Report made 23 recommendations to government and, despite its media focus, many of the findings and recommendations apply to digital platforms generally or otherwise have industry-wide application.

The ACCC's essential conclusions are that Google and Facebook have substantial market power in relevant media and advertising markets and that this means markets are not functioning as well as they should. This is reflected in substantial imbalances in information and bargaining power for consumers, advertising, and media organisations.

In determining how best to address this imbalance the ACCC noted the intersection between competition, consumer protection and data protection, and privacy. It treaded lightly in relation to competition law and policy, but made more substantial recommendations in the areas of consumer protection and data protection and privacy. The Report also includes a significant suite of recommendations directly targeting media and the role of the platforms within the media and media advertising space, including with respect to copyright protection.

This note focuses on those recommendations most relevant to competition law and policy, while also touching on some of the more controversial recommendations around privacy and media.

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6 Final Report, 5. See also Rod Sims, "Insights and impacts of the ACCC Digital Platforms Inquiry," (IIC Australian Chapter Half Day Seminar, February 11, 2019).

7 See also James Panichi & Marci Eccles, "Australia stakes claim to world's first deep dive into Facebook, Google media impact," (MLex, January 12, 2019, <https://mlexmarketinsight.com/insights-center/editors-picks/antitrust/oceania/australia-stakes-claim-to-worlds-first-deep-dive-into-facebook,-google-media-impact>).

8 Final Report, 3.

9 Facebook, "Facebook's response to the Digital Platforms Inquiry," (September 12, 2019) 6 (that excludes voluntary engagement).

10 *Unlocking digital competition: Report of the Digital Competition Expert Panel* (UK, March 2019) (Panel comprising Jason Furman (Chair), Diane Coyle, Amelia Fletcher, Philip Marsden & Derek McAuley) (from September 2018-March 2019).

11 Jacques Crémer, Yves-Alexandre de Montjoye & Heike Schweitzer, *Competition Policy for the Digital Era* ("the Crémer Report") (EU, April 4, 2019) (commencing April 2018).

## IV. THE RISE OF THE PLATFORMS: MARKET POWER AND WHAT TO DO ABOUT IT

Chapter 1 of the Report is entitled “Rise of the digital platforms,” conjuring up images of a post-apocalyptic *Rise of the Machines*. After acknowledging the value provided by digital platforms, including the lowering of barriers to entry for a wide range of news sources, the Report churns out a plethora of statistics (e.g. “43 per cent of Australians used online sources as their primary news source in 2019;<sup>12</sup> Google and Facebook have collectively captured more than 80 per cent of growth in online advertising in the past three years<sup>13</sup>) to help support its conclusion that Facebook and Google do indeed have substantial market power in relation to online advertising and in their dealings with news media, and both have substantial bargaining power in dealing with news media.<sup>14</sup> Their ubiquity has made them, in many cases, “critical and unavoidable partners.”<sup>15</sup>

Core contributing factors to the ACCC’s findings of market power included:<sup>16</sup>

- the breadth and depth of user data collected; and
- the “considerable barriers to entry and expansion for search platforms and social media platforms that entrench and reinforce Google and Facebook’s market power,” including those arising from “same-side and cross-side network effects, branding, consumer inertia and switching costs, economies of scale and sunk costs.”

The role of data in contributing to and maintaining market power featured prominently in the Report,<sup>17</sup> with the ACCC observing that the collection of data enhances the services of the platforms which in turn attracts more users and advertisers in a “virtuous feedback loop.”<sup>18</sup> It rejected the argument that advertising data held by the platforms was “not rare or unique” and that it was “replicable” and “not inherently valuable.”<sup>19</sup> The “scale and scope” of data held by Google and Facebook and its “quality and accuracy,” make it particularly valuable and give them a “strong competitive advantage” which creates “barriers to rivals” and allows the incumbents to “expand into adjacent markets.”<sup>20</sup>

Dynamic competition was also found to be insufficient to curb this market power. Although the ACCC acknowledged that dynamic competition may apply some degree of competitive constraint, Google was “substantially insulated” from dynamic competition and in the case of Facebook, any constraint offered by dynamic competition had been “tempered.” In each case, this was largely due to barriers to entry and expansion, advantages of scope, and the “acquisition strategy” of the companies.<sup>21</sup>

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12 Final Report, 345, citing C Fisher, S Park, JY Lee, G Fuller & Y Sang, *Digital News Report: Australia 2019* (News & Media Research Centre, University of Canberra, June 12, 2019) 13.

13 Final Report, 119.

14 For Google identified markets were “the supply of general search services” and “the supply of search advertising services.” Final Report, 8. For Facebook the markets were “the supply of social media services” and “supply of display advertising services”: Final Report, 9. The Report did not reach a conclusion about whether there was a market for “news referral services to media business” in which Google and Facebook enjoy market power, but opined that they “probably” did; Final Report, 58.

15 Final Report, 1.

16 Final Report, 58.

17 Final Report, 11.

18 Final Report, 11.

19 Final Report, 57.

20 Final Report, 11.

21 Final Report, 58.

## A. Merger Reform

Having determined that the digital platforms have market power and that “strategic acquisitions” had contributed to this, the first two recommendations in the Report propose changes relating to how mergers are reviewed.

Australia’s merger law prohibits acquisitions that have the effect or likely effect of substantially lessening competition.<sup>22</sup> The ACCC has long been concerned that this standard limits the extent to which they can successfully challenge mergers or acquisitions of small but potentially significant nascent rivals. Despite this, the ACCC stops short of recommending a change to the core test or to the burden of proof for merger assessment (although it does flag that it “may be worthwhile” to consider whether a “rebuttable presumption” should be introduced into Australia’s merger laws and is “considering whether it is appropriate to advocate” for such changes outside the inquiry).<sup>23</sup>

Instead, the first recommendation is that additions be made to the list of factors a court *must* consider when determining whether the competition test has been satisfied with respect to a proposed acquisition. This non-exhaustive list currently includes a range of uncontroversial factors, such as the height of barriers to entry, the level of concentration, and the degree of countervailing market power. The ACCC proposes that two factors be added to the list:

- “the likelihood that the acquisition would result in the removal from the market of a potential competitor” and
- “the nature and significance of assets, including data and technology, being acquired directly or through the body corporate.”

Although these factors can already be considered, the ACCC regards their inclusion in the mandatory consideration list as offering an important signaling mechanism, highlighting their significance.

In relation to potential competitors, the ACCC states that the recommendation is designed to address concerns about the acquisition of nascent competitors by a dominant platform.<sup>24</sup> Although acknowledging the need to balance this concern against the risk of deterring start-ups who might choose to invest or innovate in the hope of being acquired and preventing anti-competitive acquisitions, the ACCC considered the signaling benefits outweighed this risk.<sup>25</sup> Neither Facebook nor Google have objected to the recommendation, perhaps providing reliable evidence that it is unlikely to have a substantive impact on their “acquisition strategies,”<sup>26</sup> given the challenges of predicting the competitive impacts of the counterfactual in cases of nascent competition.<sup>27</sup> It would be surprising if the government did not accept this proverbial “low hanging fruit” recommendation.

Unlike the first recommendation, the second is not only industry specific, but directly targets Google and Facebook. It recommends they work with the ACCC to agree on a protocol to notify the ACCC of proposed acquisitions.

There is currently no pre-merger notification requirement in Australia; parties may and frequently do notify the ACCC of proposed mergers that may raise concerns and the ACCC may indicate that they will not be challenged; indeed, many deals are contingent on the ACCC indicating it will not challenge a merger.

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<sup>22</sup> *Competition and Consumer Act 2010* (Cth) s 50.

<sup>23</sup> Final Report, 109.

<sup>24</sup> The Report references the Furman and Cremer Reports in relation to these recommendations: Final Report, 106.

<sup>25</sup> Final Report, 106.

<sup>26</sup> Support is tempered by some caution that the application of the criteria must be supported by evidence: Google Australia Pty Ltd, “Digital Platforms Inquiry: Submission in response to the ACCC’s Preliminary Report,” (February 18, 2019) 17; Facebook, “Facebook’s response to the Digital Platforms Inquiry,” (September 12, 2019) 33.

<sup>27</sup> See, for example, John M Yun, “Competition in Digital Technology Markets: Examining Acquisitions of Nascent or Potential Competitors by Digital Platforms,” (Prepared Statement before the United States Senate Committee on the Judiciary, Subcommittee on Antitrust, Competition Policy and Consumer Rights, Washington DC, September 24, 2019) 4-9.

Google indicated that it welcomes engagement on this issue, but expressed some caution;<sup>28</sup> Facebook does not support the recommendation,<sup>29</sup> pointing to a lack of evidence of a problem necessitating an industry-specific regulatory response and observing that the ACCC already has considerable powers to review mergers, whether or not notified by the parties.<sup>30</sup>

As with the first recommendation, concern has been expressed about the potential for the recommendation to “chill innovation and entrepreneurship,”<sup>31</sup> and while those concerns may be overblown, industry specific regulations (even informal ones) are fraught, at least where there is a lack of evidence of a problem requiring regulatory redress. It is tough to predict how Australia’s conservative government will respond to the call for greater regulation without a solid evidentiary foundation.

### ***B. No New Divestiture Powers***

Australia has provision for court-imposed divestiture remedies where merger laws have been contravened; as the ACCC rarely brings merger cases before the courts and even more rarely litigates over concluded mergers, resort to this power has not been made this century. Divestiture is not available for other competition law breaches. Calls by some, including News Corp, that Alphabet divest certain assets were firmly rejected in the Report. Despite “possible benefits” of some divestiture, the ACCC confirmed its view, expressed with some regularity, that, as a general rule, market structure is “best left to competitive forces” and that implementing structural reform “necessarily involves risks in design” and implementation, which is “particularly acute in digital markets.” In any event, the ACCC did not consider that the proposed divestitures would address the identified consumer and competition concerns.<sup>32</sup>

### ***C. No Change to Misuse of Market Power Laws***

As is the case in most jurisdictions, there is no prohibition in Australia on a company holding market power or in acquiring greater power, provided it is not done through anti-competitive means. Unilateral conduct having the purpose or effect of substantially lessening competition is prohibited.

The Report highlighted concern about the ability and incentives for digital platforms to exploit their market power, but (sensibly) makes no recommendation to change the core misuse of market power law, which was overhauled in November 2017 to reflect a greater focus on competition concerns.

However, the Report does state that dominant firms “of course, have a special responsibility that smaller, less significant businesses do not have.”<sup>33</sup> The adoption of this distinctly European terminology is notable, particularly given that it has not been a feature of Australia’s misuse of market power law. There is no illumination of what is intended by this reference in the Report, but some guidance can be found in a speech by ACCC Chair Rod Sims, who explained that he simply means that “conduct by a non-dominant firm that is benign, may become problematic when a dominant firm engages in the same behaviour.”<sup>34</sup> So much may be accepted, given competitive effects are market and context dependent. But Sims goes on, explaining that the ACCC considers that in the case of Google and Facebook this “special responsibility should go further” and this is reflected in some industry-specific recommendations.<sup>35</sup>

One of those may be the recommendation for a pre-merger notification protocol. Another is reflected in the targeted requirement for Google to remove default preferences.

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28 Google Australia Pty Ltd, “Digital Platforms Inquiry: Submission in response to the ACCC’s Preliminary Report,” (February 18, 2019) 17.

29 Facebook, “Facebook’s response to the Digital Platforms Inquiry,” (September 12, 2019) 13.

30 Facebook, “Facebook’s response to the Digital Platforms Inquiry,” (September 12, 2019) 38.

31 Final Report, 110.

32 Final Report, 117.

33 Final Report, 1.

34 Rod Sims, “Insights and impacts of the ACCC Digital Platforms Inquiry,” (IIC Australian Chapter Half Day Seminar, February 11, 2019)

35 Rod Sims, “Insights and impacts of the ACCC Digital Platforms Inquiry,” (IIC Australian Chapter Half Day Seminar, February 11, 2019).

## ***D. Removal of Default Preferences***

The ACCC recommends that Google provide Android device users with the ability to choose default search engines and browsers, arguing it will “improve consumer choice and be pro-competitive” by reducing “customer inertia as a barrier to expansion.”<sup>36</sup>

The ACCC’s clear concern is default bias. The recommendation itself represents a shift from the preliminary report, which was not company-specific and simply recommended suppliers of operating systems or browsers be required to provide this choice. There are two explanations for this. The first is that the ACCC accepted a number of submissions suggesting an industry-wide requirement might entrench Google’s dominance and heighten barriers to entry for small rivals who could no longer benefit from default search or browser installation on some devices.<sup>37</sup> The second is that between the release of the preliminary report and the final report Google announced (in March 2019) that it would make these changes in Europe.<sup>38</sup> The recommendation itself draws on these European commitments, arguing that the ability for Android users to choose default search engines and browsers should also be rolled out in Australia; failure to do so voluntarily is likely to result in the ACCC asking the government to compel them to do so.

In a blog response to the final report, Google identified this recommendation as one of two that raised “particular concerns.” It argued that the recommendation does not account for different Australian market conditions and laws, and is not accompanied by a justification for “focusing on Android when Apple’s iOS is the most-used mobile operating system in Australia . . . and Microsoft’s Windows remains the most-used PC-based operating system.”<sup>39</sup>

## ***E. Proactive Monitoring and Investigation***

The final (and arguably most significant) of the competition recommendations is that a specialist digital platforms branch of the ACCC be established to “investigate competition issues relating to digital platforms,”<sup>40</sup> including taking enforcement action, conducting inquiries, and making recommendations to government.

This recommendation was prompted, in part, by the ACCC’s conclusion that digital platforms with substantial market power have the ability and incentive to engage in anti-competitive leveraging behavior<sup>41</sup> and that existing laws are insufficient to deal with this, including as a result of lack of transparency and the time taken to accumulate and assess relevant data. In addition, the investigatory and litigation timeframes might mean the remedy is too late to address the identified concern.<sup>42</sup>

A specialist branch armed with compulsory information gathering powers would, it is argued, allow for increased visibility of problems and would improve consumer outcomes through greater transparency as well as acting as a catalyst for change by shining a light on bad practices. It would also develop the expertise of the ACCC in relation to digital platform markets and allow evidence to be built up over time and provide the ACCC with the flexibility to respond.

To combat concerns about lack of transparency associated with ad tech, in particular, the ACCC has further recommended a specific ACCC inquiry be conducted by the newly formed digital platforms branch into the supply of ad tech services and online advertising services by advertising and media agencies.<sup>43</sup>

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<sup>36</sup> Final Report, 110.

<sup>37</sup> Final Report, 110.

<sup>38</sup> Final Report, 111.

<sup>39</sup> Melanie Silva, “Google on the ACCC Digital Platforms Inquiry,” (Googleblog, September 17, 2019, <https://australia.googleblog.com/2019/09/google-on-acc-digital-platforms-inquiry.html>).

<sup>40</sup> Final report, 140 and recommendation 4.

<sup>41</sup> Rod Sims, “Insights and impacts of the ACCC Digital Platforms Inquiry,” (IIC Australian Chapter Half Day Seminar, February 11, 2019).

<sup>42</sup> Final Report, 139.

<sup>43</sup> Final Report, recommendation 5.

The creation of a specialist branch is not by itself controversial and is not unprecedented, but the ACCC further recommends that the branch be empowered by a ministerial direction to hold inquiries over a minimum of five years.<sup>44</sup> Ministerial direction brings with it a raft of compulsory information gathering powers not otherwise available to the ACCC. For this reason, it is perhaps not unsurprising that Facebook has pushed back on this aspect of the recommendation; while providing in principle support for a specialist branch, it has questioned the appropriateness of ongoing compulsory information-gathering powers, concerned about the “largely unconstrained nature of the public inquiry proposed” and noting the “intrusive, burdensome and costly” nature of the “highly coercive governmental power to compel the production of information and documents in circumstances where there is no reason to believe there has been any breach of laws.”<sup>45</sup> It is not alone in expressing these concerns.<sup>46</sup>

## V. CONSUMER PROTECTION

The Report makes two recommendations specific to consumer protection;

- a recommendation that unfair contract terms be prohibited and subject to pecuniary penalties;
- a recommendation that certain unfair trading practices be prohibited.

Both are industry wide recommendations.

Unfair contract terms in standard form consumer and small business contracts are currently rendered void by the Australian Consumer Law, but the ACCC considers that adding prohibition and the threat of penalties will provide greater incentives for compliance.

In relation to unfair trading practices, the scope of what should be included is left for further consideration, but the Report suggests that it may extend to certain data-use practices.<sup>47</sup> In particular, consumers should be protected from “conduct that deprives them of a real and meaningful choice” including by “imposing extortionate take-it-or-leave-it terms to consumers who are in need of a service,”<sup>48</sup> suggesting a consumer (and perhaps small business) version of an exploitative practices prohibition, *sans* the requirement to demonstrate market power or anti-competitive impact.

## VI. PRIVACY

The Report includes several recommendations relating to data privacy, including by strengthening the Privacy Act, particularly around notification and consent requirements, such as implementing pro-consumer defaults, enabling erasure of personal information, and providing a right of direct action for individuals<sup>49</sup> and the development of a statutory tort for serious invasions of privacy. The Report also calls for broader reform of Australia's privacy law in the form of a further review and development of an enforceable code of practice, developed by the Office of the Australian Information Commissioner (“OAIC”), “to enable proactive and targeted regulation of digital platforms’ data practices.”<sup>50</sup>

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44 Final Report, 140 and recommendation 4.

45 Facebook, “Facebook’s response to the Digital Platforms Inquiry,” (September 12, 2019) 6 (that excludes voluntary engagement) 45.

46. Business Council of Australia, *Submission to Treasury on the Digital Platforms Inquiry* (September 2019, p 4). See also John M Yun, Douglas H Ginsburg, Joshua D Wright & Tad Lipsky, “Comment of the Global Antitrust Institute, George Mason University School of Law, on the Australian Competition & Consumer Commission’s Digital Platforms Inquiry, Preliminary Report,” (George Mason University Law and Economics Research Paper Series, 19-04, January 22, 2019) 1.

47 Final Report, 498.

48 Final Report, 499.

49 Recommendation 16.

50 Recommendation 18.



## VII. MEDIA-SPECIFIC RECOMMENDATIONS

Most of the remaining recommendations are targeted at media and journalism more specifically. The most notable and most controversial is recommendation 7, that designated digital platforms provide codes of conduct governing relationships between digital platforms and media business to the Australian Communications and Media Authority (“ACMA”). This is the second of the recommendations about which Google raises “particular concerns.”<sup>51</sup> Google’s concern is unsurprising given the recommendation would require commitments on data sharing with news media business, early notification of changes to ranking or display of news content, and negotiated revenue sharing in some cases designed to address the imbalance of bargaining power.

The privacy and media-specific recommendations, unlike more general consumer and competition recommendations, have been described as “extensive and dramatic” and “far-reaching and bold.”<sup>52</sup>

## VIII. WHAT NEXT?

In its Report, the ACCC flagged as a “future ACCC work” direction, the issue of data portability. Australia is in the process of implementing a “consumer data right” (“CDR”) to give consumers greater control over their data. The CDR will be rolled out sector-by-sector, commencing with banking. The ACCC effectively dodged consideration of data portability as a potential panacea for some of the concerns it identified, although it did observe that it thought it unlikely that in the markets it was considering data portability would “have a significant effect on barriers to entry and expansion in certain digital platform markets in the short term.”<sup>53</sup> However, it will consider this further in the context of its work on the CDR.<sup>54</sup>

The ACCC has also pressed ahead with its ongoing investigations involving digital platforms, most notably commencing action against Google in October 2019 alleging that they misled consumers in relation to the personal location data that it collects, keeps and uses.<sup>55</sup> The effectiveness of the Australian Consumer Law in addressing many of the more egregious conduct of the platforms will be watched closely, particularly given the challenges associated with direct action under the competition provisions.

As to the fate of the Report, it is currently being considered by government, which conducted a further review of the Report’s recommendations throughout August and September 2019. A formal response is expected by the end of 2019.

Even if all or most are accepted, it is clear that many of the recommendations represent only the start of further program of consultation and inquiry designed to address the market power related concerns identified. The ACCC’s work relating to digital platforms *has only just begun*.

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51 Melanie Silva, “Google on the ACCC Digital Platforms Inquiry,” (Googleblog, September 17, 2019, <https://australia.googleblog.com/2019/09/google-on-acc-c-digital-platforms-inquiry.html>). Although Facebook supports a code “in principle” it expresses concern about the proposed nature and application of the code: Facebook, “Facebook’s response to the Digital Platforms Inquiry,” (September 12, 2019), 6 (excluding 1 voluntary engagement).

52 Sacha Molitorisz & Derek Wilding, “Digital platforms. Why the ACCC’s proposals for Google and Facebook matter big time,” (The Conversation, December 11, 2018).

53 Final Report, 116.

54 Final Report, 11 and 115.

55 ACCC, “Google allegedly misled consumers on collection and use of location data,” (October 29, 2019).

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