

FREE ISN'T FREE: DIGITAL PLATFORM DATA PRACTICES AND AUSTRALIA'S UNFOLDING REGULATORY RESPONSE



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Free Isn't Free: Digital Platform Data Practices and Australia's Unfolding Regulatory Response

By Jacqueline Downes, William Georgiou & Melissa Camp

Since the release of its Digital Platforms Inquiry Final Report in 2019, the ACCC has continued to be active in investigating digital platform market issues in Australia, including the collection and use of consumer data in exchange for the provision of “free” services. The ACCC has initiated a variety of enforcement actions before the courts relating to these services. However, these cases have not to date used Australia's competition law but rather have been brought under consumer laws. This article explores whether current Australian competition laws are sufficient to address data issues or whether it is likely that, like their international counterparts, the ACCC may also move towards an *ex-ante* regulatory regime to govern digital platforms.

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Consumers often exchange their personal data for “free” access to a digital service on one side of the market while the relevant digital platform sells that data (including after combining it with the consumer’s data across other services) to customers on the other side of the market. This multi-sided exchange has led to a variety of benefits. These include increased digital participation, economies of scale and innovations and efficiencies. However, such services are arguably not “free” in reality: because consumers effectively trade their attention and data for access to content and services. In recent years the accumulation of vast amounts of data by digital platforms through this exchange has created challenges for governments and regulators: the accumulation of this data has allowed platforms to cement incumbency through network effects. Given the strong network effects present in such markets, there are concerns that there may be little room for alternative platform operators to supply consumers services that increase privacy or enhanced control over the way data is obtained, used, combined or sold.

With that context in mind, this article:

- Discusses the potential competition and consumer (i.e. privacy) risks presented by the “free” model and associated data collection practices, including those identified by Australia’s competition regulator, the Australian Competition and Consumer Commission (“ACCC”);
- Discusses how these potential competition and consumer risks are being managed in Australia, including via continued ACCC inquiries and enforcement actions (specifically via the use of Australia’s consumer protection law rather than its competition law);
- Discusses the international trend towards *ex ante* regulation of digital platforms, including in Europe, the UK and the U.S.; and
- Opines on whether the ACCC is also likely to consider the effectiveness of an *ex ante* regime in Australia.

I. THE RISKS WITH “FREE”

While some digital platforms collect subscription or membership fees for a paid version of their services, such as YouTube Premium and LinkedIn Premium, many platforms provide valuable services to consumers at zero financial cost.² Indeed, many important digital services are offered to customers for no monetary cost.

Use of these services has facilitated social, educational and workplace participation, especially throughout the COVID-19 pandemic. These services allow knowledge, ideas, and creativity to be shared instantaneously worldwide. The business model opens up markets in a way that was not previously possible by driving down barriers to user access, thereby encouraging wide-spread uptake. In turn, a digital platform gains access to enormous quantities of consumer data which can be leveraged in the supply of advertising or other services to subsidise the “free” service or the platform’s ecosystem more broadly.³ In this respect, price is charged asymmetrically across the two markets making it difficult to gauge the actual price paid by consumers when utilising digital platform services.

Despite the transformational impact that these free digital services have had, concern continues to grow internationally regarding the risks to competition and consumer outcomes that the accumulation of data, and the expansion of data gathering and combination practices, by digital platforms (including via free services) is having.

Recognising these risks, in 2017, the ACCC commenced the Digital Platforms Inquiry, which was the first of its kind globally to scrutinise competition and consumer issues in digital markets. Since the release of its Digital Platforms Inquiry Final Report (“DPI Final Report”) in 2019, the ACCC has continued to be active in investigating digital platform market issues in Australia. The ACCC established a specialist Digital Platforms unit.

In response to the ACCC’s DPI Final Report and its various recommendations to consider strengthening Australia’s competition, consumer and privacy laws, the Australian Government directed the ACCC to undertake an inquiry into digital advertising services. It also directed the ACCC to conduct a broader inquiry across a range of specific digital platform topics as part of an ongoing “Digital Platform Services Inquiry 2020-2025” (“DPSI”).

² ACCC, “Digital Platforms Inquiry Final Report,” (July 26, 2019) p 376. Available at <https://www.accc.gov.au/publications/digital-platforms-inquiry-final-report> (“DPI Final Report”).

³ *Ibid.* p 376.

As part of the DPSI the ACCC consults on and produces bi-annual public reports to the Australian Government in respect of competition and consumer issues across digital markets of its choosing. For example, the first report of the DPSI considered online private messaging, search and social media services.⁴ The second report considered mobile app marketplaces.⁵ Following its consultation on an issues paper in March 2021, the ACCC is now preparing a third report on the issue of whether a choice screen for web browser services and search engines is necessary in Australia.⁶ The ACCC also recently closed consultation in respect of what will be its fourth report which will investigate general online marketplaces (eg, Amazon, eBay, Kogan and Catch).⁷

II. THE POTENTIAL COMPETITION RISKS

The ACCC has found across its various digital inquiries that access to large amounts of user data can entrench a strong market position by creating significant barriers to entry and expansion.⁸ A key finding in the DPI Final Report was that cross-side network effects operate to benefit both consumers and advertisers on either side of the digital platform. A positive feedback loop may therefore result and drive scale.⁹ This feedback loop may compound network effects and raise barriers to entry and expansion, as consumers are less likely to switch to a new platform which provides worse quality or less tailored services as a result of a smaller aggregated data pool. This entrenches the position of a first mover platform.

Given this feedback loop, the ACCC identified as a potential trend the expansion of Google and Facebook into adjacent markets.¹⁰ Expanding a data driven business into new areas from which additional user data can be collected makes commercial sense. Given the successes of the “free” model noted above, it also makes sense that data driven businesses continue to offer services for free to promote rapid user uptake. As explained by the ACCC:

Businesses and, specifically, digital platforms can increase the amount of first party data collected by increasing the services provided to users. For example, Google now provides over 60 different online services that provide Google with over 60 different sources of first-party user data that may be combined and associated with a single user account.¹¹

The ACCC has raised concerns that the expansion of online platforms into other markets provides additional opportunities to collect data and creates an ecosystem of products and services that interoperate, which may have the effect of raising costs for rivals, creating barriers to entry and allowing anticompetitive tying or bundling.¹² While it is not unlawful to use market power to move into adjacent markets and offer new services, it is unlawful to do so where the leveraging of power (e.g. data in one market) results in a substantial lessening of competition.¹³

4 ACCC, ‘Digital Platform Services Inquiry Interim report September 2020’ (October 23, 2020). Available at <https://www.accc.gov.au/publications/serial-publications/digital-platform-services-inquiry-2020-2025/digital-platform-services-inquiry-september-2020-interim-report>.

5 ACCC, ‘Digital platform services inquiry Interim report No. 2 – App marketplaces March 2021’ (April 28, 2021). Available at <https://www.accc.gov.au/focus-areas/inquiries-ongoing/digital-platform-services-inquiry-2020-2025/march-2021-interim-report>.

6 ACCC, ‘Digital Platform Services Inquiry – September 2021 Report on market dynamics and consumer choice screens in search services and web browsers Issues Paper March 2021’ (11 March 2021). Available at <https://www.accc.gov.au/focus-areas/inquiries-ongoing/digital-platform-services-inquiry-2020-2025/september-2021-interim-report>.

7 ACCC, ‘Digital Platform Services Inquiry – March 2022 Report on general online retail marketplaces Issues Paper July 2021’ (July 22, 2021). Available at <https://www.accc.gov.au/focus-areas/inquiries-ongoing/digital-platform-services-inquiry-2020-2025/march-2022-interim-report>.

8 ACCC Chair, Rod Sims, speech at Global Competition Review Webinar, ‘Platforms’ dominance of apps market needs to be addressed’ (August 19, 2021). Available at <https://www.accc.gov.au/speech/platforms-dominance-of-apps-market-needs-to-be-addressed>. (“GCR Speech”).

9 DPI Final Report, p 67.

10 *Ibid.* pp 529 – 534.

11 *Ibid.* p 379.

12 ACCC, ‘Digital Platform Services Inquiry Interim Report September 2020’ (September 2020) pp 82 – 85. Available at <https://www.accc.gov.au/system/files/ACCC%20Digital%20Platforms%20Service%20Inquiry%20-%20September%202020%20interim%20report.pdf>.

13 Competition and Consumer Act 2010 (Cth) s 46.

III. THE POTENTIAL PRIVACY RISKS

Data driven platforms are incentivised to expand the amount of data collected and combined, including by increasing user uptake (such as by offering services for free), expanding into new services, obtaining larger data sets within services and aggregating pools of data. This is because the value of these platforms' services on the other side of the market (e.g. advertising) increases as they do so. These incentives have a number of privacy implications. The ACCC's observations on the privacy implications of digital platforms' data practices include the following:

- Many digital platforms can collect a large amount and variety of data on a user's activities beyond what the user actively provides while they are using the digital platform's services. Digital platforms often have broad discretions in how they use and disclose this data;¹⁴
- Many consumers do not understand which data is actually collected and how it is used. Often they are unable to opt out of data collection, meaning they must forgo use of that service altogether if they wish to avoid providing access to their data;¹⁵
- In a consumer survey commissioned by the ACCC, more than three in four digital platform users surveyed (77 percent) considered the tracking of their online behaviour to be a misuse of their personal information if it is used to create profiles or enable targeted advertising;¹⁶
- Presenting consumers with services marketed as "free" in the form of a clickwrap agreement can exploit behavioural biases that lead consumers to provide their consent to a transaction without informing themselves of the content of the terms and conditions and without due regard to these other potential costs of providing their user data;¹⁷
- Given the value provided by user data to the business models of digital platforms, including for product development and targeted advertising, digital platforms are not incentivised to encourage consumers to opt-out of their collection, use or disclosure of user data. Digital platforms are however incentivised to convey an impression that they offer consumers significant control over the collection, use and disclosure of their user data;¹⁸ and
- Digital platforms emphasise to users that they may control privacy settings. These options can however give users an impression of granular control over the sharing of their data without actually providing options for less data collection.¹⁹

It seems unlikely that a heavily data driven business would voluntarily scale back data collection practices to offer greater user privacy. This may be because, for example, in the case of search:

[C]harging even only a penny for the use of Google's engine may turn away many users, which then reduces the value of ad placement and of keywords. So the economic incentives are for Google, for example, to decrease its price on the side of users in order to increase the value of the products it sells to advertisers, and so increase the price on the advertisers' side.²⁰

¹⁴ DPI Final Report, p 374.

¹⁵ GCR Speech.

¹⁶ DPI Final Report, p 389.

¹⁷ *Ibid.* p 395.

¹⁸ *Ibid.* p 423.

¹⁹ *Ibid.* p 425.

²⁰ See G. Roger, 'Digital Platform Inquiry submission as a comment' (January 31, 2019) p 11. Available at <https://www.accc.gov.au/system/files/Guillaume%20Roger%20%28January%202019%29.PDF>.

IV. HOW ARE POTENTIAL COMPETITION AND CONSUMER RISKS BEING MANAGED IN AUSTRALIA?

In respect of the competition and privacy issues identified above, the ACCC has brought a variety of enforcement cases. Reflecting on such cases brought by the ACCC, Mr Sims stated that “these enforcement actions are about holding powerful digital platform businesses accountable for their representations to consumers and ensuring consumers are fully aware of the price they pay, through their data, for the supposedly free services they receive.”²¹

However, while the ACCC has indicated it is investigating ant-competitive conduct, to date competition law cases regarding digital platform issues have only been brought by private litigants. For example:

- In May 2018, Unlockd instituted proceedings in Australia, alleging Google misused its market power when it threatened to block its app, “Unlockd Rewards,”²² from accessing the Google Play Store and AdMob. Unlockd alleged Google’s conduct had the substantial purpose, effect or likely effect of substantially lessening competition in markets for the publication of advertisements on Android mobile devices; mobile devices; and/or online. Justice Moshinsky found that Unlockd had a prima facie case to be tried, and granted an interim injunction against Google. Unlockd however went into voluntary administration (citing Google’s conduct as the cause) and ultimately discontinued the proceedings;²³
- In April 2019, start-up Dialogue Consulting instituted proceedings against Facebook (and Instagram) in Australia, alleging Facebook misused its market power when it deactivated Dialogue’s platform access for alleged breaches of platform guidelines. Dialogue provides a service that automatically logs in and out of Facebook and Instagram accounts and allows users to schedule posts. Dialogue’s claim alleges that Instagram was refusing Dialogue access to its platform in an attempt to steer users towards Instagram’s own products. This case is ongoing;²⁴
- In November 2020, Epic Games instituted proceedings against Apple in Australia, alleging that Apple engaged in anticompetitive conduct, including by requiring that iOS (Apple’s mobile device operating system) app developers only distribute iOS apps through Apple’s “App Store,” and that certain iOS developers only use Apple’s in-app payment processing system and pay a 30 percent commission for all sales of in-app content. Epic Games brought similar proceedings against Google in March 2021. These cases are ongoing and follow similar ongoing cases instituted by Epic Games overseas.

The ACCC did challenge Google in the context of the ACCC’s public review of Google’s (then) proposed acquisition of Fitbit. On June 18, 2020, the ACCC expressed preliminary competition concerns with the transaction, including that it would substantially lessen competition in the supply of data-dependent health services or the supply of certain ad tech services in Australia that rely on the collection and analysis of large amounts of individual data (and in particular those services which enable targeting of online display advertising to consumer segments).²⁵ The ACCC rejected a behavioural undertaking proposed by Google. Google proposed that it would not, among other things, use health data for advertising (the EC however accepted a similar undertaking). Google completed the transaction on January 14, 2021 before the ACCC finished its merger investigation. The ACCC noted that the matter had become an enforcement investigation of a completed merger.²⁶

21 ACCC Chair, Rod Sims, speech at Australia-Israel Chamber of Commerce, ‘The ACCC’s Digital Platforms Inquiry and the need for competition, consumer protection and regulatory responses (August 6, 2020). Available at <https://www.accc.gov.au/speech/the-acccs-digital-platforms-inquiry-and-the-need-for-competition-consumer-protection-and-regulatory-responses>.

22 Unlockd’s mobile app allowed consumers to, among other things, obtain discounts on their telecoms services by watching ads when they unlock their phone screen.

23 ABC, “Unlockd advertising start-up blames Google as it goes into voluntary administration” (June 13, 2018). Available at <https://www.abc.net.au/news/2018-06-13/unlockd-enters-voluntary-administration-blames-google/9863596>.

24 *Dialogue Consulting Pty Ltd v Instagram, Inc* [2020] FCA 1846 (Application filed April 2019).

25 ACCC, Statement of Issues in Google/Fitbit, p 3. Available at <https://www.accc.gov.au/system/files/public-registers/documents/Google%20Fitbit%20-%20Statement%20of%20Issues%20-%202018%20June%202020.pdf>.

26 See ACCC, *Google LLC proposed acquisition of Fitbit Inc*, public register. Available at <https://www.accc.gov.au/public-registers/mergers-registers/public-informal-merger-reviews/google-llc-proposed-acquisition-of-fitbit-inc>.

Against the backdrop of exclusively private competition law litigation against digital platform issues, the ACCC has commented that it considers Australia's competition laws are insufficient to deal with digital platforms leveraging or misusing their market power (including into adjacent markets) and issues that arise from a lack of transparency of these platforms' data practices.²⁷ Speaking at a recent Global Competition Review webinar (the "GCR Speech"), Mr Sims noted that the reason competition law is often inadequate to address competitive concerns associated with digital platforms because of "*the necessary narrowness of the cases [brought to court], and the length of time taken to investigate and enforce competition law.*"²⁸ The length of time taken to investigate and enforce contraventions of the competition law in particular has significant consequences in digital markets where dominant digital platforms can rapidly leverage consumer data to expand into adjacent markets.

In this context, the ACCC has instead relied on Australia's consumer protection framework. For example:

In April 2021, the Federal Court handed down its judgment in *Australian Competition and Consumer Commission v Google LLC (No 2)*.²⁹ This case was the first in the world to probe Google's approach to the collection of users' location data. In this case, the Court commented that a user who read all of the available information provided by Google would probably not have been misled by its practices.³⁰ However, the Court ultimately found that most consumers will not carefully read the contents of privacy policies.³¹ It also found that the choice architecture used by Google on the mobile screen display, including presenting consumers with default settings switched to "on" and "off," would have misled consumers into thinking that their location data would not be collected in certain situations.³²

On 27 July 2020, the ACCC instituted proceedings against Google, alleging that Google misled consumers.³³ Following Google's acquisition of DoubleClick in 2008, Google stated in its privacy policy up to 2015 that it "*will not combine DoubleClick cookie information with personally identifiable information unless we have your opt-in consent.*"³⁴ Despite this, in 2016 Google changed its privacy policy to allow for the combination of these sets of data,³⁵ and prompted consumers to agree to this change with a pop-up notification displaying the text "I agree." The ACCC argues that the "I agree" notification was misleading because consumers could not have properly understood the changes it was making or how their data would be used, and so did not – and could not – give informed consent. In this case the ACCC also alleges that through combining the datasets, Google improved the profitability of its advertising business because this combined data is particularly valuable for advertisers who are seeking to target particular audiences – this allegation however was not paired with a competition law argument.

On December 16, 2020, the ACCC instituted proceedings against Facebook, alleging that Facebook misled consumers.³⁶ The ACCC alleges that Facebook made representations to consumers that its Onavo Protect app would keep users' personal activity data private, protected and secret, and that it would not use the data for any purpose other than providing Onavo Protects products. The ACCC also alleges however that Onavo Protect collected, aggregated and used significant amounts of users' personal activity data for Facebook's commercial benefit. This included details about Onavo Protect users' internet and app activity, including records of every app the consumer accessed on their device and the number of seconds each day they spent using those apps.

27 DPI Final Report, pp 138 – 139.

28 ACCC, Rod Sims, 'Platforms' dominance of apps market needs to be addressed' (August 19, 2020) (*GCR Speech*). Available at <https://www.accc.gov.au/speech/platforms-dominance-of-apps-market-needs-to-be-addressed>.

29 *Australian Competition and Consumer Commission v Google LLC (No 2)* [2021] FCA 367

30 *Ibid.* [227].

31 *Ibid.* [338].

32 *Ibid.* [326], [330].

33 ACCC, "ACCC alleges Google misled consumers about expanded use of personal data" (July 27, 2020) ("*ACCC Google/DoubleClick*"). Available at <https://www.accc.gov.au/media-release/correction-accg-alleges-google-misled-consumers-about-expanded-use-of-personal-data>.

34 See e.g. Google, Privacy Policy (August 19, 2015). Available at <https://policies.google.com/privacy/archive/20150819?hl=en-US>.

35 Google, Privacy Policy (June 28, 2016). Available at <https://policies.google.com/privacy/archive/20160628?hl=en-US>.

36 ACCC, "ACCC alleges Facebook misled consumers when promoting app to protect users data" (December 16, 2020). Available at <https://www.accc.gov.au/media-release/accg-alleges-facebook-misled-consumers-when-promoting-app-to-protect-users-data>.

While these cases may result in more transparent data collection and use statements being made to consumers by digital platforms, they do not address the potential underlying competition and privacy risks noted above. The incentives to expand data collection, use and aggregation practices continue to exist. While the use of the consumer law achieves better disclosure of these practices by the digital platforms, it does not prevent the practices from occurring.

V. THE TREND TOWARDS AN *EX ANTE* REGIME

Recognising the difficulty in using traditional competition law and policy to regulate digital platforms, numerous international jurisdictions are moving to introduce *ex ante* regulatory regimes in digital markets. The European Union is considering the proposed Digital Markets Act (“DMA”) which, if passed, will establish a targeted *ex ante* regulatory regime that provides certain designated core digital platform services with a clear framework of “dos and don’ts.” In relation to data specifically, the DMA introduces the following measures for designated digital platforms:

- Do: provide effective portability of data generated by a business or a consumer to that business or consumer,³⁷ and provide businesses access to high-quality, continuous, and real-time access to aggregated and non-aggregated data generated by that business on the relevant digital platform.³⁸
- Don’t: combine personal data sourced from multiple different services offered by the digital platform,³⁹ or use non-public generated by a business on its platform to compete with those businesses.⁴⁰

More recently, the UK Government has released a consultation paper outlining its proposal to introduce its own *ex ante* regulatory regime for digital markets.⁴¹ The consultation paper proposes to empower the UK Competition and Markets Authority’s Digital Markets Unit to implement “codes of conduct” and “pro-competitive interventions” against platforms with “Strategic Market Status.” Interventions may include “*measures to overcome network effects and barriers to entry/expansion through mandating interoperability, third-party access to data, or certain separation measures.*”⁴²

Germany’s legislature amended Germany’s competition laws, introducing specific *ex ante* competition rules for digital platforms that have paramount significance for competition across markets.⁴³ First, Germany’s Bundeskartellamt can declare that a company is active on multi-sided or platform markets and that it has paramount significance for competition across markets. Second, the Bundeskartellamt may also issue a prohibition order. This order prohibits a range of conduct by a declared platform, including: self-preferencing, impeding downstream/upstream competitors, impeding potential competitors, using competitively sensitive data to create barriers to entry and refusing interoperability or data portability.⁴⁴

37 Proposal for a Regulation of the European Parliament and of the Council on contestable and fair markets in the digital sector (Digital Markets Act) (December 2020) Art 6(h) (“DMA”). Available at <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=COM%3A2020%3A842%3AFIN>.

38 *Ibid.* Art 6(l).

39 *Ibid.* Art 5(a).

40 *Ibid.* Art 6(a).

41 UK Government, Consultation Paper “A new pro-competition regime for digital markets” (July 2021). Available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1003913/Digital_Competition_Consultation_v2.pdf.

42 *Ibid.* paragraph 104.

43 Tenth Act Amending the Act against Restraints of Competition for Competition Law 4.0 (ARC-Digital Competition Act), approved by the German Bundestag on 14 January 2021 and coming into force GWB Digitization Act or 10th Amendment to the German Act against Restraints of Competition. ARC Amendments

44 See s 19a(2), Acts against Restraints of Competition (Competition Act – GWB) s 19a(2), available [here](#).

The US House Judiciary Committee has also passed a six-bill reform package which is aimed at increasing regulation of digital platforms. The legislative package includes the *American Choice and Innovation Online Act* bill. It seeks to establish an *ex ante* regulatory regime similar to that proposed in the EU,⁴⁵ with similar interoperability and access requirements and prohibitions on the combination and use of personal data in the competitive process.⁴⁶

In his GCR Speech, Mr Sims referred to these (and other) international regulatory developments and said they “... *could bring greater transparency, competition and fairness to digital markets.*” He also said:

In Australia, our own work at the ACCC must be tailored to match our own issues and concerns. But although the finer details of our approaches may vary, competition authorities must align our approaches as much as possible.

This will include alignment around up-front regulation and rules, as well as enforcement and merger control.

The competitiveness, and the level and type of innovation in our economy, requires this.

It is clear from these comments and Mr Sims’ responses during the Q&A portion of the GCR webinar that the ACCC is keeping a close eye on these developments. Mr Sims called for work to be done in multilateral (e.g. the ICN and OECD) and also bilateral forums to compare and synthesize each regulatory approach to work towards this alignment.

VI. WHAT IS NEXT FOR AUSTRALIA

The ACCC signalled in the DPI Final Report that it would revisit the introduction of data portability and interoperability requirements in the future if it considered requirements would be beneficial in addressing issues of market power and competitive entry or switching.⁴⁷ The ACCC recognised that “*aside from addressing issues of market power, portability of data held by digital platforms may deliver significant benefits to current and potential future markets including through innovation and the development of new services.*”⁴⁸ The ACCC is likely to pursue this line of inquiry further through its DPSI and may potentially broaden the scope of the measures it considered necessary to address issues of market power and deliver benefits to the competitive process.

Further, considering the international trend towards *ex ante* regulation of digital platforms, it is likely that the ACCC will follow its international counterparts and consider recommending some form of *ex ante* regulation. In his recent GCR Speech, Mr Sims commented that, to address the global impact of dominant digital platforms, competition authorities globally must work to align their approaches as much as possible.⁴⁹ Mr Sims also announced, in an opening address to the Law Council of Australia that focused on the ACCC’s ‘conversation starters’ for merger reform in Australia, that the ACCC would consult in early 2022 via the DPSI on whether digital platform specific merger rules are needed, their particular design (if needed) and whether they “[N]eed to sit alongside wider sector specific rules to govern the conduct of digital platforms in order to address the competition and consumer concerns present in digital platform markets.”⁵⁰ In the interim, we anticipate the ACCC will continue to rely on the consumer law to tackle the competition and privacy risks arising in digital markets, issues which often relate to “free” services.

45 *American Choice and Innovation Act* available at <https://cicilline.house.gov/sites/cicilline.house.gov/files/documents/American%20Innovation%20and%20Choice%20Online%20Act%20-%20Bill%20Text.pdf>. The other bills are: *Platform Competition and Opportunity Act*; *Ending Platforms Monopolies Act*; *Augmenting Compatibility and Competition by Enabling Service Switching Act*; *State Antitrust Enforcement Venue Act*; and *Merger Filing Fee Modernization Act*.

46 DMA, Art 6(a).

47 DPI Final Report, p 30.

48 *Ibid.*

49 GCR Speech.

50 ACCC, Rod Sims, “Protecting and promoting competition in Australia,” Competition and Consumer Workshop 2021 - Law Council of Australia (August 27, 2020). Available at <https://www.accc.gov.au/speech/protecting-and-promoting-competition-in-australia>.

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