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**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
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Competition and Consumer Policy in Digital Markets – Note by Australia

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1. Introduction

1. The Australian Competition and Consumer Commission (ACCC) is an independent government authority responsible for promoting competition and fair trade in markets to benefit consumers, businesses and the economy. As a dual competition and consumer regulator, the ACCC can tackle market failures holistically. The ACCC uses its investigative discretion and a range of flexible tools to direct resources to matters that provide the greatest overall benefit for consumers and businesses.

2. Competition and consumer protection are fundamentally interconnected. In Australia, these functions are deliberately integrated, reflecting the reality that effective market outcomes often depend on the combined operation of competition and consumer laws. In digital markets, this interaction is particularly pronounced: the same conduct can affect both consumer decision-making and competitive dynamics. Features such as data collection and use, digital interface design and platform ecosystems can distort consumer choice while simultaneously reinforcing market power and barriers to entry. Even in otherwise competitive markets, asymmetric information and behavioural biases can undermine consumer welfare and market efficiency. Consumer protection therefore plays a critical role in complementing competition policy, particularly in digital markets where complexity, opacity and information imbalances shape outcomes.

3. The ACCC promotes competition and protects consumers across Australia by integrating competition and consumer perspectives across its operations. Understanding both perspectives helps staff identify where markets are not functioning well and the reasons why, empowering them to investigate and design appropriate enforcement remedies to improve market outcomes.

4. The ACCC's experience as a dual regulator demonstrates the benefits of an integrated mandate. The ACCC can apply the same enforcement and compliance tools (including seeking penalties and other outcomes) to conduct that may contravene competition or consumer protection laws. A coordinated approach is important to address market failures and apply the most effective regulatory response to stop the harm at hand. Additionally, as a single agency with a holistic mandate, the ACCC also has a stronger voice relative to smaller agencies with single functions. This enables the ACCC to more effectively educate the public and advocate to Government for necessary law or policy reforms.

5. Broad regulatory perspectives are increasingly important as digital markets evolve. Advances in data-driven business models, artificial intelligence and platform ecosystems raise issues that sit at the intersection of competition and consumer policy. For example, as the ACCC noted in the Final Report of its Digital Platforms Services Inquiry in early 2025, a large digital platform expanding into the generative AI supply chain may exclude or hinder rivals by bundling or tying a service in which it has market power such as search engines, messaging platforms and device operating systems with its generative AI product or service. As with any product or service, firms should ensure that information provided to consumers does not contravene relevant consumer laws in their jurisdiction.

6. The ACCC therefore adopts a holistic approach to addressing intersecting issues of competition, consumer protection and data practices in digital markets through enforcement, market studies and interagency engagement. This submission draws on that

experience and uses case studies to illustrate how overlapping competition and consumer issues arise in practice, how they are analysed and addressed, and how regulatory frameworks can evolve to better respond to the dynamics of digital markets.

2. Case study 1: ACCC's intervention in the supply of automated income verification services in Australia

7. This matter involved the protection of competition in a nascent market for consumer data, preventing early dominance by established firms, and allowing entry of new firms, innovation and long-term consumer benefits.

8. In December 2025, the ACCC accepted a court-enforceable undertaking from data broker and income verification firm Equifax Australasia Workforce Solutions Pty Limited (Equifax). The undertaking removed restrictions preventing Equifax's competitors entering into commercial arrangements to access important sources of electronic payroll and superannuation data used to provide automated income verification services in Australia.

9. The ACCC was concerned these agreements risked hindering existing competition and innovation in a developing market where access to data is critical. Promoting competition in this crucial part of the lending process boosts productivity by replacing slow and costly manual verification practices with quick and efficient automated methods, lowering the cost of providing loans.

10. Many lenders in Australia are transitioning their income verification practices towards automated solutions, which use electronic data, to shorten processing times, reduce the risk of fraud and enhance the customer experience.

11. This matter illustrates how restrictions on access to key data inputs can simultaneously reduce consumer choice and service quality while entrenching market power and limiting effective competition in a data-driven market.

3. Case Study 2: ACCC proceedings against Microsoft Corporation and Microsoft Pty Ltd

12. Consumer law investigations often concern conduct that distorts consumers' ability to make fully informed decisions about their options. In some circumstances, distorting consumer choice can have an anti-competitive effect by impacting decisions about what goods or services to buy, and which businesses to purchase from and when. This can have consequences for the ability of businesses to compete or enter new markets.

13. The ACCC regularly takes compliance and enforcement action concerning conduct that we allege contravenes the Australian Consumer Law, including conduct which deprives consumers of the ability to make an informed choice.

14. In October 2025, the ACCC instituted proceedings against Microsoft Corporation and Microsoft Pty Ltd for allegedly misleading approximately 2.7 million of Microsoft's existing Australian customers about the subscription options available to them. The ACCC alleges that Microsoft told subscribers of Microsoft 365 Personal and Family plans with auto-renewal enabled that to maintain their subscription they must accept the integration of Copilot and pay higher prices for their plan, or, alternatively, cancel their subscription. The ACCC alleges this information provided to subscribers was false or misleading because there was an undisclosed third option: the Microsoft 365 Personal or Family Classic plans, which allowed subscribers to retain the features of their existing plan, without Copilot, at the previous lower price.

15. The development and supply of generative AI products is a rapidly proliferating market in which various established and new entrants are competing. In our current proceedings, the ACCC alleges that, as a result of Microsoft's conduct, consumers may have accepted auto-renewal of their subscriptions at a higher price, with AI integration, based on false or misleading information, believing that it was their only option to maintain access to the features of their existing plan.

4. Case study 3: The intersection of competition with product safety

16. Competition and consumer protection, including ensuring consumer products are safe, helps markets to function effectively and builds consumer trust.

17. Positive product safety outcomes in digital markets depends not only on markets being competitive, but also on consumers having accurate information to assess potential safety risks, products meeting relevant safety requirements and businesses honouring basic consumer rights. In those markets, businesses have a strong incentive to invest in product safety measures to remain competitive and consumers benefit through choices available to them.

18. Challenges arise in digital markets when safety issues are not visible, and consumers cannot adequately assess product safety risks. Suppliers may not prioritise product safety where it poses a competitive disadvantage, leading to distorted market outcomes. The rapid expansion and volume of products available in digital markets from domestic and overseas businesses adds to the scale of this issue.

19. Further, whilst consumers may expect that the products they purchase are safe, they may not be able to assess the safety of those products in the absence of clear and accessible information disclosed about the product and, in some cases, physical inspection.

4.1. How we are addressing the issues

20. As a dual regulator and recognising that competition and consumer protection are interconnected, the ACCC takes a whole of economy lens and focus on proportionate interventions aimed at reducing harm.

21. Product safety standards help to address information asymmetries as they may require certain information to be communicated to consumers so they can take steps to address safety risks. They may also set minimum safety requirements that must be met to supply a product in Australia and can help prevent competition becoming a race to the bottom.

22. We recognise the important role of enforcement to hold businesses to account and to achieve specific and general deterrence. The ACCC's current compliance and enforcement priorities include a focus on promoting competition and addressing unfair practices and unsafe products in digital markets.

23. As part of our compliance and enforcement priority, we are engaging with a wide range of businesses regarding concerns about unsafe and non-compliant products under the Australian Consumer Law, the steps they will take to mitigate safety risks to consumers and address ACCC concerns.

24. To proactively address unsafe products before they reach the market, we also established the Australian Product Safety Pledge, a voluntary initiative which aims to protect consumers from safety risks when shopping online. Current signatories to the Pledge include major online marketplaces, AliExpress, Amazon Australia and eBay

Australia, who have committed to strengthening product safety measures through a number of commitments and annual reporting on key performance indicators. The ACCC is in the process of negotiating strengthened commitments with pledge signatories and prospective signatories.

25. This highlights how product safety and the availability of reliable information shape competition on quality in digital markets, and how consumer protection measures can support more effective competitive outcomes.

26. We recognise the important role for competition, consumer law and product safety in digital markets. The issue of unsafe products in digital markets was a key challenge identified by many delegations participating in the [OECD Consumer Policy Ministerial Meeting](#) in 2024. The ACCC participates in the OECD Working Party on Consumer Product Safety and works in close collaboration with other international authorities where collaborative efforts can help protect consumers in light of these issues.

5. Case study 4: Coordination across regulators and frameworks

27. The ACCC works extensively with other Australian regulators that regulate digital markets to build capacity, promote regulatory coherence and respond to emerging risks and opportunities across digital platform regulation.

28. The Digital Platform Regulators Forum (DP-REG) is one avenue for Australian regulators to share information about, and collaborate on, cross-cutting issues and activities relating to the regulation of digital platforms. Along with the ACCC, the Australian Communications and Media Authority, Office of the Australian Information Commissioner and the Office of the eSafety Commissioner are members of DP-REG.

29. The work of DP-REG members is often interconnected and may overlap across the regulation of digital platforms in the areas of consumer protection, competition, the media and information environment, privacy, and online safety. DP-REG members often face common and intersecting regulatory challenges, including addressing scams and emerging consumer harms, balancing innovation with appropriate protections, and responding to the market power of large, multinational digital platform operators. DP-REG seeks to increase cooperation and information sharing between members on broad areas of intersection, including new and novel regulatory approaches. It also provides members with an opportunity to collaborate on proportionate, cohesive and efficiently designed and implemented digital platform regulation. This approach is intended to reduce compliance costs for businesses, address emerging harms to Australians, and enhance international regulatory cooperation.

30. DP-REG has several strategic priorities for 2024-26, including understanding, assessing and responding to the benefits, risk and harms of technology, including AI models, fostering proactive engagement, and increasing members' digital platforms regulatory capability.

6. Examples of laws that aren't suited to addressing conduct in digital markets

31. While Australia has robust competition laws capable of addressing many forms of harmful conduct across the economy, the ACCC has identified through digital market inquiries over many years that they are not well-suited to addressing the range and scale of competition harms identified in digital platform markets. Lengthy proceedings can impede the effectiveness of efforts to address competition problems in markets for digital platform

services, in a way that proceedings of similar length may not in other markets. This is due to the tendency of digital platform markets towards a concentration of market power, and the speed with which technologies central to digital platform services change and develop. The central role of digital platform services to the productivity of the Australian economy also means that any anti-competitive conduct that is not addressed in a timely way may have significant costs for the economy. The immense scale and financial resources of large digital platforms may impede traditional enforcement through the courts, resulting in protracted litigated outcomes.

32. No single type of measure will address all the types of harm that can occur in markets for digital platform services. While there are benefits to flexible, general laws, without other complementary measures, the case-by-case enforcement of competition and consumer laws through the courts may also be poorly suited to the range of broad and systemic conduct that a single digital platform can engage in. This includes conduct across multiple interrelated services within a platform's ecosystem and at different levels of a supply chain (such as in the ad tech supply chain).

33. Further, enforcement of traditional competition and consumer laws may not adequately address patterns of platform behaviour. This may occur when one instance of conduct ceases due to enforcement action taken by a regulator, but the platform adapts its practices to achieve the same outcome with different conduct. In this case, the platform may evade detection, or the regulator may be required to bring a new case on different facts.

34. The ACCC recognises that taking action using our consumer protection toolkit can be an efficient and effective way of stopping conduct that may have both anti-competitive and consumer protection elements, it is not a silver bullet, and the ACCC has faced challenges with this approach, particularly in relation to online markets and addressing manipulative design practices where the evidence we present about the consumer harm is not in line with what courts have traditionally been asked to accept.

35. Throughout our inquiries, the ACCC has identified risks of consumer harm on digital platforms of all sizes. This includes a range of unfair trading practices, such as choice architecture that exploits consumers' behavioural biases and undermines consumer choice. In some cases, we see harmful conduct not adequately covered by existing competition and consumer law. These risks can be minimised by closing gaps in Australia's existing consumer laws relating to unfair trading practices to protect consumers and small businesses both online and offline. As enforcers, investigators should consider both competition and consumer protection issues, particularly in an ever-increasing era of trade via online markets where the same conduct can be seen to cause harm from both competition and consumer protection perspectives. Investigating such matters can be a complex task. Investigators must decide, based on the complexities of the law, and the evidence before it whether the conduct causing harm calls for a competition or consumer protection remedy.

7. Forward-looking approaches; highlight proposed digital competition regime

36. The ACCC considers that as the digital economy evolves and the ecosystems of digital platforms continue to expand in Australia, there must be appropriate regulatory tools to ensure effective competition in these markets. The ACCC has continued to recommend that targeted competition regulation of digital platform services and an unfair trading practice prohibition are needed to increase competition and protect consumers in digital markets.

37. Accordingly, the ACCC has recommended legally binding codes of conduct, applied service-by-service, which require certain Designated Digital Platforms to address issues including interoperability, anti-competitive self-preferencing, tying and exclusive pre-installation agreements. New obligations in these codes could also aim to improve consumer switching, information transparency and interoperability between different services, and to better protect business users of digital platform services. The Australian Government has announced its intent to implement a new digital competition regime in Australia, and the Treasury has released a 'Proposal paper' seeking views on how this regime should be implemented. In complement to these competition reforms, the ACCC continues to support the introduction of a principles-based, general prohibition on unfair trading practices in the Australian Consumer Law. The ACCC has welcomed the across Government agreement to introduce this prohibition and has announced it will prioritise manipulative and false practices, and unsafe consumer goods, in digital markets and promoting competition in digital markets in 2026-27.