

Unclassified

English - Or. English

28 October 2021

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE**

Working Party No. 2 on Competition and Regulation

Executive Summary of the roundtable on Digital advertising markets and competition

Annex to the Summary Record of the 70th meeting of Working Party 2 on 30 November 2020

30 November 2020

This Executive Summary by the OECD Secretariat contains the key findings from the discussion held during the 70th Meeting of Working Party 2 on 30 November 2020.

More information related to this discussion can be found at
<https://www.oecd.org/daf/competition/competition-in-digital-advertising-markets.htm>

Please contact Ms. Federica MAIORANO if you have any questions about this document
[E-mail: Federica.MAIORANO@oecd.org].

JT03483987

Executive summary of the roundtable on Digital advertising markets and competition

By the Secretariat*

From the discussion at the roundtable on digital advertising markets and competition held on 30 November 2020, the delegates' written contributions and the Secretariat's background paper, several key points emerged:

1. Digital advertising is of increasing importance and policy relevance across the globe. The ability to target advertisements to individual consumers in real time differentiates digital advertising from other forms of advertising.

A key theme from the country contributions and the roundtable discussion is the importance of digital advertising markets. Global digital advertising revenue will have exceeded USD 330 billion in 2020 and in many countries, digital advertising revenue now exceeds that for all other forms of advertising. Digital advertising is also important from a policy perspective as it funds a wide array of zero-priced products and services available online. It is the main revenue source for many of today's largest global platforms.

The ability to target digital advertising to individual consumers in real time is one of the key attractions of digital advertising to advertisers when compared with other forms of advertising. Where information exists for an advertiser to target an ad, this greatly increases the value of the ad: advertisers will pay more, and they expect to achieve a greater click through rate, and ultimately, revenue, from such ads.

The way in which targeting is achieved depends on the type of digital advertising. In particular, for search advertising, which is advertising that occurs on Internet search engines (both general Internet search as well as specialised search engines) the search terms form an important input to target the advertisements. In other forms of advertising, such as display advertising, an advertiser will need information about the consumer if they want to target their advertising. Hence, access to recent consumer data is important for behavioural advertising, especially for digital display advertising.

2. A number of factors make market definition and competition effects difficult to assess in digital advertising markets.

The digital advertising supply chain and the "ad tech stack" are complex. In traditional forms of advertising, the supply chain was often simple, with an advertiser dealing directly with a publisher (perhaps via an advertising agency). The digital advertising supply chain has grown in complexity and can now involve many services (many of which are facilitated with technology) and players. Even disentangling the various services and players is a complex task.

Further, digital advertising markets are multi-sided markets, with consumers on one side, and advertisers on the other, and content potentially on another side. This makes market definition and competition effects more complex to determine as the competition agency has to take consideration of all sides of the market. It is also important to consider the conduct in question when considering market definition and competition effects.

* This executive summary does not necessarily represent the consensus view of the Competition Committee. It does however identify key points from the discussion at the Roundtable on Digital Advertising Markets and Competition, including the views of the expert panellists, delegates' oral and written contributions and the background note prepared by the OECD Secretariat.

3. Consumer data is a key input into targeted digital advertising, and access to such data is important to being able to attract higher advertising prices.

Access to recent consumer data is required for behavioural advertising (that is, targeted advertising), especially for digital display advertising. In general, when an advertiser can access information about the consumer that will be viewing the ad (and when the consumer is in the advertiser's target audience) the advertiser will bid much more for that advertising space. This means that intermediaries with access to this information stand to make much higher margins than those without this information. It also highlights the importance of intermediaries on either side of the transaction (i.e. on the buyer side and on the seller side) being able to share this type of information.

To the extent that a provider of digital advertising services has access to consumer data from other parts of its business (i.e. from other consumer-facing services) those providers may have an advantage in respect of behavioural advertising, and consequently, advertising revenues. Where such data is not able to be collected or bought through another means, this may amount to a barrier to entry in relation to digital advertising services. Many discussants also noted the feedback loop that can occur when a firm has unique access to relevant data, which allows them to improve their service, thus attracting more consumers, and more data, and so forth.

4. Market studies in digital advertising markets are identifying concerns about market power, instances of potentially anticompetitive conduct, and a lack of transparency.

A number of competition agencies have started or completed market studies in digital advertising markets in recent years. These market studies have identified a number of competition concerns. Among other things, there appears to be agreement that these markets are characterised by increasing market concentration, as well as vertical integration. Many of the countries that participated in the discussion highlighted that just two large platforms now dominate digital advertising markets in their respective jurisdictions. Regarding search advertising, one platform accounts for the vast majority of revenue in almost all of the jurisdictions that contributed to the discussion. Regarding display advertising, two platforms often account for the majority of revenue. Further, a succession of mergers and acquisitions have led to increasing vertical integration across digital advertising in most of the countries that have considered these issues.

Concerns were also raised about both exclusionary and exploitative abuses of dominance in digital advertising markets. Regarding exclusionary conduct, this could include denying competitors interoperability (in terms of both systems and data), use of exclusive contracts, and leveraging conduct. Regarding exploitative abuses, this could include inflated ad prices (which could potentially be facilitated through arbitrage on vertically integrated platforms), or decreasing quality (on any of the relevant sides of the market), including by reducing consumers' privacy and/or collecting more consumer data.

Another key theme throughout the discussion was the lack of transparency in digital advertising markets. While too much (price, in particular) transparency might raise concerns about the potential for co-ordinated behaviour, a certain amount of transparency is required to facilitate informed decision making by market participants. In particular, discussants raised concerns about the lack of transparency between what advertisers pay on the one hand, and what publishers receive on the other. This means that it is difficult to calculate what fee/price the various intermediaries take in a transaction. In particular, the opacity of the digital auctions that allow "programmatic advertising" to be traded in real time mean that market participants cannot determine if they are paying/receiving a fair price for each trade. There is also a lack of standardised information about the quality of

advertising services in the market. In particular, regarding the effectiveness of ads. A lack of data interoperability between various advertising intermediaries further frustrates advertisers' ability to compare between suppliers. Without such information, advertisers cannot necessarily compare price and quality trade-offs to select the suppliers that best suit their advertising needs. Similarly, publishers may find it difficult to decide which intermediaries to use to sell their advertising inventory.

5. A number of competition agencies have already pursued enforcement action in a number of digital advertising markets.

The most common type of case taken to date has been abuse of dominance cases, usually focussing on exclusionary conduct. These cases have involved conduct such as exclusive contracts, tying, and refusing access to downstream rivals, for example. In addition, a number of cases have been concerned with exploitative contract provisions.

Cases involving exclusionary abuses were seen to be more straightforward than those involving exploitative abuses. Exploitative abuse cases might be particularly difficult when dealing with consumer harms around privacy and data. In this respect, other policy levers, such as those under consumer protection or privacy and data protection, might be more promising. In particular, enforcement under consumer protection laws does not usually require any demonstration of consumer harm against a consumer welfare standard. Consumer law might be relevant where a market player has not obtained proper consent from consumers regarding the collection and use of their data, for example. However, consumer engagement with privacy and personal data collection, use and sharing practices, may be lacking, meaning relying on consumers to drive better business practices might be optimistic without further pro-competitive interventions that help them to do so. In that regard, the increasingly cross-cutting issues in digital advertising markets underline the need for closer co-operation among competition, consumer and privacy policy areas to ensure the most effective policy responses.

There have also been numerous mergers involving digital advertising markets, though it seems that no such merger has been opposed to date. In hindsight, some have questioned whether some of these mergers have led to anticompetitive effects. Ongoing cases involving co-ordination between advertisers on bidding behaviour in search advertising were also mentioned.

6. Some governments are considering the need for additional regulation for the larger digital platforms that dominate digital advertising markets. Policy around these markets is likely to be in flux for some years to come.

Notwithstanding the ability to pursue competition enforcement in digital advertising markets, some governments consider that more targeted regulation is required for the larger digital platforms, many of whom are involved in digital advertising markets. Among other things, policies under consideration include codes of conduct, prohibitions against certain anticompetitive conduct by dominant platforms (including self-preferencing, for example), reversing the burden of proof, mandatory notification of any acquisition or merger, and mandating interoperability. Structural separation is another remedy that some governments are considering, as is setting up dedicated digital markets units or divisions.

The policy and regulatory landscape for digital advertising markets, and digital platforms more generally, is therefore changing rapidly. Given this, in the coming years there will be significant experiences on how various jurisdictions will regulate, or not, digital platform in response to the competition and other policy challenges raised in digital advertising markets.