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English - Or. English

2 November 2020

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

## **Working Party No. 2 on Competition and Regulation**

### **Competition in Digital Advertising Markets – Note by Mexico**

30 November 2020

This document reproduces a written contribution from Mexico (IFT) submitted for Item 1 of the 70<sup>th</sup> OECD Working Party 2 meeting on 30 November 2020.

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

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**JT03467777**

## *Mexico (IFT)*

### 1. Introduction

1. This document aims to describe the practice of the Federal Telecommunications Institute (IFT, for its acronym in Spanish) regarding competition assessment in digital advertising markets. It provides a general overview of how digital advertising markets work, including the role played by data and a summary of relevant IFT's experience on this issue.

### 2. Characteristics of the Digital Markets in Over The Top Services

2. The digital economy has revolutionized several areas of daily life, and has led to the appearance of new services such as OTT (Over The Top) services<sup>1</sup>, including digital platforms,<sup>2</sup> and digital advertisement.
3. OTT services, including digital platforms (digital services), are systems that operate over Internet telecommunications networks, through the use of applications (interfaces—mobile applications and websites—), data centers, dedicated lines that allow connectivity to telecommunications networks and the Internet, cloud computing, including artificial intelligence, machine learning and algorithms, and an important know how and skills to employ those resources. All digital services providers use these elements, and without them, it is impossible to provide those services. The expertise gained by an economic agent developing a specific digital service, would enable it to provide another kind of digital service.
4. In the case of digital platforms, they exhibit important economies of scale and scope, direct and indirect network effects and face low marginal cost, switching cost and lock-in effects.
5. Digital platforms monetize their services based on the following models:
  1. **Advertising.** The providers offer a group of users some digital services through the platform, such as audiovisual or audio content (including information, news and entertainment like videos, music and video games), and communications services (including email, chats, calls and conferences services), shopping, and others, to a group of users for free in exchange of exposure to a certain type of advertising, with the aim of attracting the largest number of users on one side of the platform and selling advertising time, spaces and banners to another group on the platform (the advertisers);
  2. **Data.** The consumer groups that use the platforms generate a large amount of data, which is collected, stored and processed (Big Data) by the platforms. This type of databases are very valuable for the platforms themselves (it allows them to improve the personalization of their services) and for other users, such as advertisers (target

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<sup>1</sup> Digital services provided over the Internet telecommunications networks.

<sup>2</sup> Digital services that enable communication, connection and matching of two or more user groups. Some of the main features of the platforms are:

- i) they serve two or more user groups;
- ii) user groups need each other in some way and cannot capture for themselves the value of their mutual interaction; and
- iii) they depend on the platform's catalyst to facilitate interactions between them that generate value.

advertising), banks, among others. Thus, when using a free digital service, it is very likely that the data generated by the user is the price paid by consumers. Data generated by users interacting through digital platforms constitute an integral part of the business model. Therefore, there is a very close and almost inseparable relationship between digital platforms and data, affecting prices, quantities, costs, investments, profits, quality and other decision variables of the economic agents involved;

3. **Commissions per transaction.** Some digital platforms providers offer digital services of communication, connection and matching to different groups of users, some of them offer and others acquire digital goods or services that are consumed on the Internet, or goods or services that are consumed outside the Internet, and earn a fee for these digital services of communication, connection and matching. Those platforms allow linking supply and demand in real time, reducing transaction costs. The providers of this type of services can identify the transactions that are made between the different user groups, so they have the ability to assign a fee/commission for each of the transactions made between them, or
4. A combination of the above.
6. In the digital economy, digital platforms are important providers of digital advertising services. Nonetheless, various companies operating over Internet can offer this type of services.

### 3. Digital Advertising Markets

7. Digital advertisement follows similar principles than advertising in “traditional” platforms, such as newspapers, broadcasted TV and radio and Pay TV, being driven by competition for consumer’s attention. Broadly speaking, advertisers are willing to pay higher fees when their message can reach a bigger audience. However, advertising in digital markets has led to new forms of reaching specific audiences, allowing the improvement of targeting advertisement.
8. Some digital OTT services offered by platforms, such as social networks, search engines, and some audio and audiovisual content distributors, appear to be free, but they are financed by advertisement, and they benefit from economies of scale, scope and direct and indirect network effects.
9. Digital advertising plays an essential role funding online content of some bigger and smaller platforms. There are, at least, two elements driving competition in digital advertising markets:
  1. the number of users active on a platform (search engines, social networks, OTT content distributors, etc.); and
  2. the amount of data collected, stored and processed through data mining techniques or Big Data.
10. OTT services, including digital platforms, that use advertising as a business model fall into the category of two-sided markets, similar to “traditional” telecommunications and broadcasting platforms, such as pay and free-to-air TV. One of the main characteristics of two-sided or multi-sided platforms is the presence of indirect network effects, where two or more groups interact, and the decisions of one group affect the other through an externality. In this case, the utility that a given user derives from a certain good or service depends on the number of other users present in the other group.

11. A digital service with a great number of users is more attractive to advertisers, for two main reasons:
  1. the message they are sending could potentially reach a great number of users; and
  2. bigger OTT service providers have the means to collect, store and process data, allowing them to offer targeted advertising.
12. At a general level, we could distinguish different digital advertising markets depending on the type of digital service or platform that operates through the Internet. Thus, the digital advertising services offered through search platforms could be a different market than the digital advertising services offered through audiovisual content platforms, and so on.
13. As a first approximation, we could accept the proposal of the Competition and Markets Authority (CMA), that considers three main types of digital advertising:
  1. Search advertising: Advertisers pay Internet digital service providers to link their ads to a specific search word or phrase so that it appears in relevant search engine results. This type of advertisement is related, mainly, to search engines.
  2. Display advertising: Advertisers pay Internet digital service providers to display ads in different formats, including banner-style adverts, “native” advertising, sponsored content, and video advertising; on websites or mobile apps alongside the digital service a user is interested in. This type of advertisement is prone to targeted advertising, and it becomes more accurate with more data available.

According to CMA, the display advertising type could be divided into two channels: owned and operated platforms and the open display market. The owned and operated channel is primarily made up of large social media platforms, which sell their own advertising inventory directly to advertisers or media agencies through self-service interfaces. The open display advertising market is integrated by a wide range of publishers, for example newspapers and app providers, that compete against each other in real time to sell inventory to advertisers through a complex chain of intermediaries, ranging from media agencies to data suppliers,<sup>3</sup> that run auctions on behalf of the publishers and advertisers.
  3. Classified advertising: Advertisers pay Internet digital service providers to list specific products or services on a specialized website serving a particular market segment (comprising digital comparison tools and online marketplaces: recruitment, ecommerce, consumer finance, travel, property and cars).<sup>4</sup>
14. The three types of digital advertising described above, might have limited substitution with each other, because they serve different purposes depending of the objectives of the advertiser’s campaign. For example, display advertising is suitable for raising brand awareness and reaching new audiences that might not yet have shown interest in the product, whereas search advertising is suitable for consumers that have shown interest and has immediate impact in sells.<sup>5</sup>

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<sup>3</sup> CMA (2020) *Online platforms and digital advertising*, Appendix M: intermediation in open display advertising, [https://assets.publishing.service.gov.uk/media/5efb22add3bf7f769c84e016/Appendix\\_M\\_-\\_intermediation\\_in\\_open\\_display\\_advertising.pdf](https://assets.publishing.service.gov.uk/media/5efb22add3bf7f769c84e016/Appendix_M_-_intermediation_in_open_display_advertising.pdf).

<sup>4</sup> CMA (2020) *Online platforms and digital advertising*, [https://assets.publishing.service.gov.uk/media/5efc57ed3a6f4023d242ed56/Final\\_report\\_1\\_July\\_2020\\_.pdf](https://assets.publishing.service.gov.uk/media/5efc57ed3a6f4023d242ed56/Final_report_1_July_2020_.pdf)

<sup>5</sup> CMA (2020) *Online platforms and digital advertising*, [https://assets.publishing.service.gov.uk/media/5efc57ed3a6f4023d242ed56/Final\\_report\\_1\\_July\\_2020\\_.pdf](https://assets.publishing.service.gov.uk/media/5efc57ed3a6f4023d242ed56/Final_report_1_July_2020_.pdf)

15. Additionally, search engine providers such as Google and Bing generally provide search advertising, whereas social networks and third content providers such as Facebook, Instagram and YouTube provide display advertising.
16. Providers of these types of digital advertising services (Google, Facebook, Bing, etc.) are considered digital platforms. Digital platforms are prone to tipping because of their winner-takes-all or winner-takes-most dynamics, the existence of economies of scale and scope; direct and indirect network effects, collection of big data sets, among others. These elements favor concentration, allowing just a small number of participants in these markets. For example, Google and Bing are the main competitors providing search engine services in the Americas and Europe, being Google the main competitor with approximately 90% of search queries in these areas. The position in search queries serve as leverage into search advertising, where Google is the main competitor with market shares similar to those in search queries.
17. Digital advertising could finance other digital services offered by digital platforms providers, but it is also a dimension where these providers compete. Consumer's exposure to digital advertising could be considered as a quality dimension, in the sense that users want to be exposed to a smaller number of advertisements, in such a way that user's will perceive a high quality service the less number of advertisements they are exposed to. Digital services providers should find the right balance in this dimension, in order to attract more users. However, an increase in the proportion of ads with respect to the content, without affecting the number of users, could be indicative of market power.
18. There are two factors influencing the value of digital advertising:
  - **Number of Users:** As in "traditional" advertising markets, the value for advertisers is directly related to the potential audience they can reach. Additionally, another important element is the period of time that platforms can capture users, keeping consumers online for longer periods will be more valuable for advertisers.
  - **Consumer Profiling:** Digital platforms have access to large databases, which increase as users interact with platforms (searching for information, viewing content, communicating to other users, etc.). The information collected by digital platforms is used to make user profiles, allowing targeting advertisement. These profiles are valuable to advertisers because they can result in higher investment return, and a willingness to pay higher prices. It is important to highlight that collecting and processing data is the main element in consumer's profiling.

#### 4. The Importance of Digital Advertising in Mexico

19. In 2019, digital advertising represented approximately 40% of total advertising spent in Mexico, and it is expected to continue growing. This year's value of the Mexican digital advertising market was USD 2 358 million, divided into the following categories:<sup>6</sup>
  - display advertising (social media, banner advertising and video advertising): USD 1 551 million
  - search advertising: USD 694 million
  - classified advertising: USD 112 million.

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<sup>6</sup> Information available at: <https://www.statista.com/outlook/216/116/digital-advertising/mexico#market-revenue>.

20. The key driver of the importance of digital advertising in Mexico is related to the users that can be reached through digital platforms. For example, it is estimated that there are 62 million social network users in Mexico, and providers of these services like Instagram and Snapchat, claim that 24 million and 14.8 million Mexican users can be reached with adverts through their platforms, respectively.<sup>7</sup>
21. The main firms controlling digital advertising, are global firms such as Google in search advertising, Facebook (including Instagram) YouTube, Snapchat, Twitter in display advertising, among others.

## 5. The Role Played by Data

22. Data has become a key competitive asset in digital markets. As digital platforms extend their importance in the economy, the firms increase their ability to collect information about the profile, behavior and preferences of the consumers. Competition agencies increasingly focus on issues related to the collection and use of personal data in the digital economy.
23. Data is different from other goods since it has certain characteristics that are:
  - **Non-rivalrous.** More than one user can use the same data at the same time. However, restrictions can be placed on access to consumer data, for example, through contractual conditions. This implies that efficient markets may involve sharing data in order to minimize the costs of multiple firms collecting, storing and processing the same data multiple times.
  - **Cost structure.** The collection, storage and analysis of data is likely to involve substantial fixed costs and low marginal costs. These elements drive economies of scale and scope, which can represent an advantage to larger firms, raising potential entry barriers.
  - **Value.** There are different types of data collected by online platforms; some data are more valuable than others. For example, a list of ages and addresses has not the same value as a list of goods consumed by a group of people of the same age. The extent to which data hold their value over time may have an impact on the extent to which they are sold and on the availability of alternative sources, and may therefore be a relevant factor to consider in assessing whether competition concerns may arise.<sup>8</sup>
24. The cost structure of data gives the incumbents an advantage over new entrants, which could represent barriers to entry. Nevertheless, other characteristics of data can be used to foster competition when needed. For example, given the fact that data is non-rivalrous, one possible solution to a potential competition problem could be the creation of copies of databases.<sup>9</sup>
25. Data have an important value to digital platforms, because they serve the following purposes, they:

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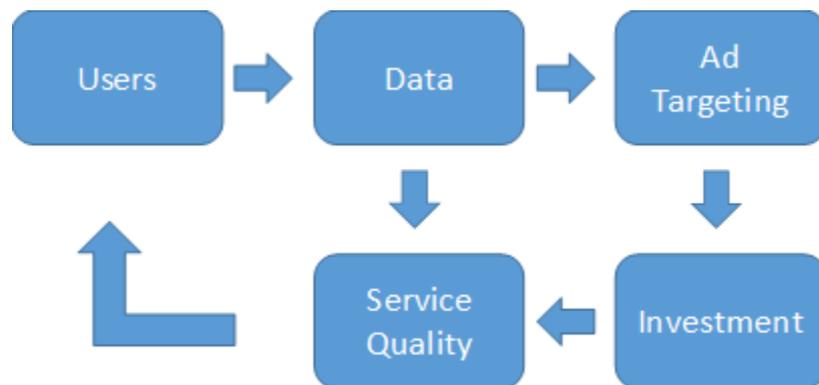
<sup>7</sup> Information available at: <https://datareportal.com/reports/digital-2020-mexico>.

<sup>8</sup> CMA (2015) “The commercial use of consumer data”, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/435817/The\\_commercial\\_use\\_of\\_consumer\\_data.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/435817/The_commercial_use_of_consumer_data.pdf).

<sup>9</sup> Schepp, Nils-Peter, & Achim, Wambach (2016) “On big data and its relevance for market power assessment”, *Journal of European competition Law and Practice*, 7, no. 2, 120-24.

- Can be an input of production that enables a business to improve its service offerings and increase its returns.
  - Can be a strategic asset enabling a platform to maintain a lead over rivals and to limit entry into its market.
  - Can be a commodity, which the firm could sell to other businesses that cannot collect the data themselves.
26. Data can represent a competitive advantage in digital markets due to the creation of feedback loops. A digital platform with large datasets is able to constantly develop improved services and making them more targeted for users, as well as better targeting its advertising. There are two distinct types of feedback loops:
- User feedback loop. It occurs when companies collect data from users and use them to improve the quality of their product or service, which then draws in more users, creating a virtuous circle.
  - Monetization feedback loop. It enables revenues generated from business users (such as for targeted advertising) to be reinvested in improving the quality of service and attracting more users.<sup>10</sup>
27. Feedback loops are illustrated in the following figure:

**Figure 1. Feedback Loops**



Source: Jason Furman et al., H.M. Treasury (U.K.); “Unlocking digital competition: Report of the digital competition expert panel”; March 13, 2019, available at: [www.gov.uk/government/publications](http://www.gov.uk/government/publications).

28. Considering the above, data can create, maintain or rise dominant position in digital advertising markets. Nevertheless, the collection of large datasets and analysis of data could lead to benefits for consumers, such as accessing to better and personalized services. Therefore, competition authorities should act on a case-by-case basis.
29. There are two relevant factors when considering whether data can contribute to dominance:
- The scarcity and ease of replicability of data

<sup>10</sup> Furman, Jason et al., (2019) “Unlocking digital competition: Report of the digital competition expert panel”; H.M. Treasury (U.K.), March 13.

- Whether the scale and scope of data collection matters to competitive performance.<sup>11</sup>
30. The relevance of these elements should be assessed in order to determine whether data produce or strengthen dominance in digital markets.

## 6. IFT's Relevant Experience

31. The Mexican Federal Economic Competition Law (LFCE, for its acronym in Spanish) empowers the Mexican Competition authorities<sup>12</sup> to analyze horizontal mergers in which the effects occur in relevant markets where the acquired economic agent participate and overlaps its activities with the purchasing economic agent. However, it also enables the analysis of vertical and conglomerate mergers when they involve related markets in which the acquiring economic agent participates.
32. Within this legal framework, the IFT has analyzed a case involving digital advertising markets: the merger by which The Walt Disney Company acquired some Fox Corporation assets (Disney-Fox Merger), authorized by the IFT in March 2019.<sup>13</sup>
33. In the merger analysis, the IFT identified that Disney and Fox overlapped in ten activities; one of them was the provision and selling of commercial ads, or advertising in online platforms providing audiovisual content. However, in this concentration it was not necessary to conduct a deep analysis regarding digital advertising markets, as long as the market share of Disney and Fox was not substantial. The Disney-Fox merger implied anticompetitive effects in licensing of programming channels to pay TV providers in the categories of factual and sports, and conditions were imposed on factual and sports markets.
34. Even though in this case it was not necessary to carry out a deep analysis in digital advertising markets, the IFT has identified the relevance of these markets, including the importance it bears for funding digital platforms and the key role data plays. Considering the above, it is possible to foresee that a significant number of cases will require an assessment of digital advertising and data as important related markets, because concentration in those markets could lead to leveraging strategies and situations that could damage competition.

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<sup>11</sup> Autorité de la Concurrence and Bundeskartellamt (2016) "Competition Law and data", <http://www.autoritedelaconcurrence.fr/doc/reportcompetitionlawanddatafinal.pdf>.

<sup>12</sup> In México, there are two federal-level competition agencies with legal jurisdiction separated by sectors, the IFT for the telecommunications and broadcasting sectors; and the Federal Economic Competition Commission (COFECE) for the rest of the economy.

<sup>13</sup> The concentration involved various economic activities, and competition risks (horizontal, vertical and of coordination) were identified in two markets that correspond to the provision and licensing of channels for pay TV in the sports and factual programmatic categories. The IFT imposed behavioral conditions that counteract these risks in the market of "factual" channels and structural conditions in the sports channels market, through the sale of the Fox Sports business. The remedies in the market of factual channels include: a) maintaining independence in terms of decision-making and the flow of information between Disney/Fox and Grupo A&E; and b) maintaining separate the provision and licensing of the factual channels of the parties (National Geographic and Nat Geo Wild) from the "factual" channels currently sold by Grupo A&E (A&E, History, H2 and Lifetime). On the other hand, the structural remedy in the market of sports channels was the divestiture or sale of the Fox Sports channels and all the assets of the business.