

## Response to the CMA:

### *Market Study into Online Platforms and the Digital Advertising Market in the UK*

July 2019

#### **About ISBA**

1. ISBA is the only body representing the UK's leading advertisers. Speaking with one voice on behalf of over 3,000 brands, we advocate a trusted advertising environment – transparent, accountable and effectively regulated. Working with our network of senior marketers, we help our members make better decisions both now and for the future.
2. ISBA is one of the tripartite stakeholders that make up The Advertising Association, which represents advertisers, agencies and media owners. We play a unique advocacy role, ensuring our members' interests are clearly understood and are reflected in the decision-making of media owners and platforms, media agencies, regulators and Government.
3. Our priorities fall into the following areas;

#### **Accountability & Responsibility**

Through both public and private advocacy we will:

- Drive faster progress within a defined timeframe for accountable, cross-platform, cross-channel audience measurement of commercial video.
- Hold technology companies to account for improved standards of brand safety and ad fraud.
- Shape the future of advertising co-regulation to be fit for purpose.
- Play a leading role in delivering industry accountability for digital content.

#### **Agency Alignment**

To ensure transparency and competitiveness we will:

- Drive wider industry adoption of ISBA's contract frameworks.
- Ensure contract advice remains current and addresses marketers' needs.
- Define and drive take-up of best practices in media agency / client relationships.

#### **Data Compliance and Equivalency**

Through our advocacy and capability building we will:

- Ensure that implications of data protection authorities' GDPR enforcement actions are understood by advertisers.
- Continue to exert influence on the finalised drafting of European ePrivacy regulation.
- Ensure that government and advertisers are fully cognisant and prepared for the impact of Brexit on the sector.

4. ISBA represents advertisers on the Committee of Advertising Practice (CAP) and the Broadcast Committee of Advertising Practice (BCAP) - sister organisations of the Advertising Standards Authority - which are responsible for writing the Advertising Codes. We are also members of the World Federation of Advertisers (WFA) and use our leadership role in such bodies to set and promote high industry standards as well as a robust, independent co-regulatory regime.

## Context

5. ISBA welcome this market study. We have contributed with oral and/or written evidence to the Cairncross Review, Furman Review, DCMS Select Committee and House of Lords Communications Committee, all of which have called for this study.
6. As the trade body for advertisers, we advocate a trusted, transparent and accountable environment. We recognise the important role online platforms play in society, in bringing people together and allowing new business models to flourish. Creating many benefits for consumers and advertisers alike. However, it is imperative that advertisers, who effectively underwrite 'free' platforms, have greater choice and transparency in the context of a healthy market and that consumers have trust in the way their data is used.
7. We recognise the description of the market as set out in the statement of scope and support the themes set out, namely:
  - to what extent online platforms have market power in user-facing markets, and what impact this has on consumers
  - whether consumers are able and willing to control how data about them is used and collected by online platforms
  - whether competition in the digital advertising market may be distorted by any market power held by platforms
8. In this response, which builds on our meeting with the CMA on 15<sup>th</sup> July 2019, we will focus largely on the third point. We are also aware that many ISBA members have been approached directly by the CMA to provide information into this study. As such, we set out an overview of the market and cite concerns that we have raised previously, building on our written and oral evidence to both the Cairncross and Furman Reviews.
9. ISBA support the broad proposals made by the Furman review. In particular the establishment of an ex ante regulatory regime to regulate the activities of online platforms and encourage greater competition in both consumer-facing and digital advertising markets. We would simply make the plea that this market study takes account of the other significant pieces of work underway in accounting for the Furman recommendations; namely:
  - The Online Harms White Paper
  - The Centre for Data Ethics
  - DCMS has signalled its intent to conduct a review of online advertising regulation.
  - The ICO has also commenced a broader examination of the use of personal data in AdTech.
10. In making this plea, we would point Government to the Australian Competition and Consumer Commission Digital Platforms Inquiry Final Report<sup>1</sup>. This report, which covers issues being looked at by multiple actors in the UK, including now the CMA, has sought to collate recommendations into a single and unified package. This is an outcome we would support.

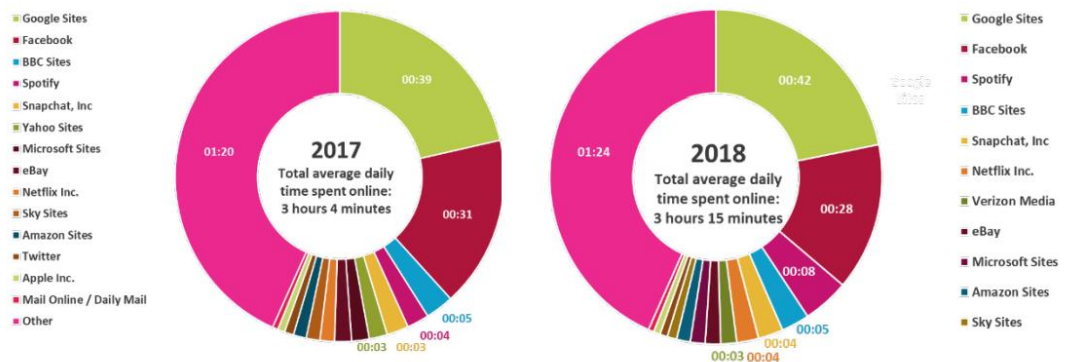
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<sup>1</sup> <https://www.accc.gov.au/system/files/Digital%20platforms%20inquiry%20-%20final%20report.pdf>

**Market Overview**

11. As Ofcom found in 2016, 42% of the UK adults who used the internet used social media to access news, while 36% used search engines with 9% of UK adult online users solely relied on social media for their news consumption<sup>2</sup>. In 2018, Ofcom found that adults who use the internet spent, on average, 3 hours 15 minutes online, with 35% of the total time spent online in the UK is on sites owned by Google or Facebook<sup>3</sup>.

**Average share of time spent online per day by adult digital population, split by property<sup>6</sup>:  
September 2017 and 2018 (hours:minutes)**

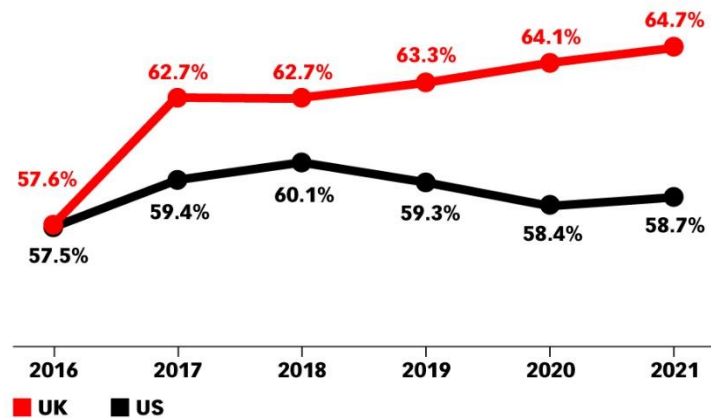


Source: Comscore MMX Multi-Platform, Age: 18+, Sep 2017 & 2018, UK

12. Against this backdrop, digital advertising has become a hugely important tool for ISBA’s members. It has had a transformative effect on their marketing activity, with the proportion of ad revenue spent on digital in the UK in 2018 reaching 57% of the total and predicted to grow by +9% in 2019 vs +5% for the total adspend market. Online advertising generated £13.4bn<sup>4</sup> in the UK in 2018. Smartphone advertising accounted for 51% of all online ad spend with 52% of online advertising revenue coming from search, and 39% from display advertising. Together Google and Facebook generated almost 63% of UK online advertising revenue in 2018, expected to reach 65% in 2021, as set out in the figure below<sup>5</sup>. Within the non-substitutable sectors of Search and Social Media, Google and Facebook’s positions are dominant. There are naturally concerns that companies with such established dominance could be using their market power to control supply and reduce competitive options for advertisers.

<sup>2</sup> Ofcom, News Consumption in the UK 2016  
<sup>3</sup> Ofcom, [Online Nation](#), May 2019. Figures are from September 2018  
<sup>4</sup> 2018 Adspend IAB / PwC  
<sup>5</sup> eMarketer, March 2019

**UK vs. US Facebook & Google Combined Net Digital Ad Revenue Share, 2016-2021**  
 % of total digital ad spending



*Note: Facebook=paid advertising only; excludes spending by marketers that goes toward developing or maintaining a Facebook presence; Facebook advertising revenues includes Instagram advertising revenues; Google=net ad revenues after companies pay traffic acquisition costs (TAC) to partner sites*  
 Source: eMarketer, March 2019  
 245597 www.eMarketer.com

13. When looking at the distinctive offer made by the digital platforms, this shift becomes understandable. Their ability to offer large yet targeted audiences, underpinned by user data – especially for younger demographics – mean that many advertisers believe they have little choice but to spend with one or other of the major platforms. This raises concerns about the imbalance that exists in negotiating power and the lack of transparency of the algorithms that govern audience targeting, paid search including ranking, and search engine results pages (SERPs).
14. All organisations clearly have an interest in being found online, though the nature of their presence varies from brand to brand and sector to sector, depending on the route to purchase; integrating advertising across search, social media and display and online video (eg YouTube) - often vital steps on the customer journey – is becoming a routine way to plan online advertising. The dominance and popularity of Google, Facebook and YouTube in these areas and the reliance of traditional media on them to distribute their own content present challenges as well as opportunities.
15. The first relates to consumer trust. As in any market, this is paramount. Contracts must be clear and consumers should have a clear understanding of the service they are receiving. In digital, the power continues to lie overwhelmingly with the service provider; as a consumer, you simply have to accept that you will be advertised to if you wish to use the service. The user hands over their data – often with little idea of what it will be used for – and has no choice but to receive advertising.
16. In a related vein, data protection laws, the General Data Protection Regulation and e-privacy have resulted in the platforms further restricting access for third parties and the sharing of data which is deepening mistrust along the supply chain. This is especially true for advertisers who feel they have decreasing control over the effective deployment of their advertising investments.

17. In 2018, the Advertising Association (AA) agreed that action needed to be taken to address the decline in public trust in advertising and set up a working group under the joint chairmanship of Paul Bainsfair, Director General of the IPA, and Phil Smith, Director General of ISBA. Industry research<sup>6</sup> shows that the public sees advertising as “a good thing with some downsides”, with the advertising industry ranking below other industry sectors such as banking and energy. When compared to other industries, it is the lowest-ranked on the AA’s long-term tracking survey.
18. Bombardment by advertising is the biggest of the public’s concerns. This factor has four components – volume, repetition, obtrusiveness and irrelevance. This is generally caused by the lack of good practice standards (often as simple as, for example, frequency capping) by the adtech industry. Related is the issue of intrusiveness, which refers to advertising which is felt to infringe upon people’s privacy. The research identified two key ways in which advertising can do this – appearing in places people consider to be private or using personal data in a way which makes people feel uncomfortable.
19. The AA Trust Paper sets out the actions being taken by industry to tackle these and other challenges<sup>7</sup>.
20. ISBA also shared the ICO’s concerns around the adtech industry’s management capabilities, particularly around data governance with its observations in the *Update report into adtech and real time bidding*: “Our work has highlighted the lack of maturity of some market participants, and the ongoing commercial incentives to associate personal data with bid requests”; and “The complex nature of the ecosystem means that in our view participants are engaging with it without fully understanding the privacy and ethical issues involved.”

### **The Digital Advertising Supply Chain and its Impact on Advertisers**

21. The impact of digital advertising and its trading practices continues to be a concern to advertisers seeking to reach audiences effectively and efficiently.
22. For many advertisers, they have little choice but to spend with one or other of the major platforms. Those where search is now an essential part of the customer journey to purchase arguably have least option.
23. Programmatic advertising, particularly real-time bidding, which enables individuals to be targeted and retargeted at low cost as they browse is particularly attractive and continues to grow.
24. Digital video advertising is driving display advertising growth (33% YOY in 2018) 44% of total display (51% of all smartphone advertising). Prices for digital video, which were significantly higher than those for static display, have been reducing as supply has grown but remain at an appreciable premium to static formats.
25. The ‘Programmatic and Direct Media Buying Workflow’ diagram (attached) describes different markets within the digital economy and the way in which content moves from

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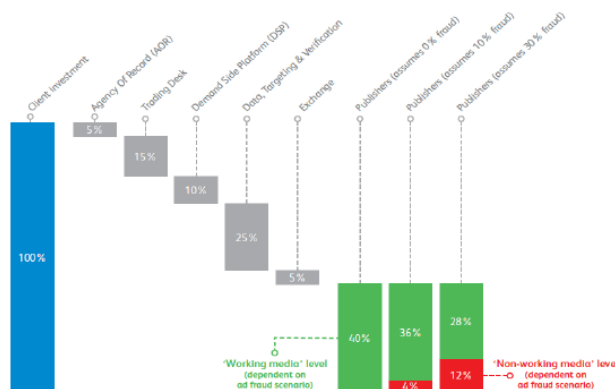
<sup>6</sup> Advertising Association, [Arresting the Decline of Public Trust in Advertising](#)

<sup>7</sup> Ibid



advertiser to publisher within each. By way of demonstrating the potential emerging harm, it is notable how Google operates at multiple stages within each of these markets, commanding large shares. Google’s shares in search now stands at 92%; in video websites, 80%; in ad exchanges, 60%; in smartphone OS, 82%; and in web browsers, 66%. Facebook, when Instagram is included, commands a two-thirds share of social media (67%).

- 26. It is true that Google’s dominance in search – 92% of the UK market in June 2019<sup>8</sup> – is being challenged, for example by Amazon and its Alexa product when it comes to voice search. However, the voice market is not growing as fast as predicted. It remains the case that while when people wish to search for products, they usually head to Amazon, when it comes to information, people navigate to Google. An attempt to break this stranglehold by Microsoft, although initially gaining market share from Google, more recently has led to Microsoft losing share of the market.
- 27. The existence of multiple third-party intermediaries in the programmatic supply chain and the opacity of the ecosystem provides opportunity for hidden margins and value dilution, which is a source of concern for advertisers and publishers as ‘working media’ levels (actual ads displayed) are apparently in decline . A test by *The Guardian*, in which it purchased its own inventory via the open market, resulted in only 30p in the pound spent reaching its own property, while the other 70p was lost to adtech companies in the supply chain demonstrating the shared concern of both advertisers and publishers..
- 28. In 2014 the World Federation of Advertisers (WFA), ran a quantitative study to identify the costs and margins of the programmatic supply chain. Their “waterfall” chart<sup>9</sup> is below, suggesting 40p in the pound finds its way to the publisher, absent any ad fraud.



- 29. In a progressive extension to this, ISBA is conducting an end-to-end industry study working with PwC on the programmatic supply chain. It is first study of its kind in the world which our members are working with us to reveal the true nature of the adtech supply chain together with members of the Association of Online Publishers (AOP). The results, when published in the Autumn, will provide the industry with credible evidence of the points that require reform. As discussed during our meeting with the CMA, we will continue to engage as this study progresses.

<sup>8</sup> StatCounter: <http://gs.statcounter.com/search-engine-market-share/all/united-kingdom>

<sup>9</sup> WFA, Compendium of Ad Fraud Knowledge for Media Investors 2016

## **Power of search**

30. At 28% of total UK AdSpend, paid search is now worth £6,656bn, the single largest segment of UK advertising spend across all media channels, and 50 pence in every 'digital pound' spent in the UK<sup>10</sup>.
31. For the majority of advertisers, search is essential to their business. Algorithm changes introduced periodically by Google can have a significant impact on brands' search rankings and result in immediate loss of revenues, requiring considerable resource to recover. An example of this was the impact on Moneysupermarket of a change in algorithms in 2013, which "hit visitor numbers and revenue growth" and sent it "tumbling down the list on the [search] results page".<sup>11</sup> Moneysupermarket went from 1st to 5th search result which had a material impact on their revenue. Although 5 years ago, Google remains dominant player and responsible for even arguably higher dependency by businesses
32. Well-optimised pages shore up predictable business models, and paid search advertising provides the power of control where brands, particularly those digital-first operations or service providers like telecoms, financial services and travel can literally turn on the tap to drive and regulate their business operations. As part of ISBA's ongoing representation efforts with Google, we have requested greater consultation with advertisers on proposed algorithm changes before their introduction, as our view would be that a better job needs to be done of supporting those whose business models are reliant on search.

## **Agency-Client Alignment**

33. ISBA identified a lack of alignment between the interests of agencies and their clients in the media marketplace. Client fee income for agencies was in long-term decline and other sources of income were growing. These included profits from buying and re-selling digital media to clients at non-disclosed margins, margins from adtech and rebates and discounts from media owners. These introduced the risk of conflict of interest in the agency-client relationship.
34. In April 2016, ISBA launched a new Framework template agreement for Media Planning and Buying services for advertisers. The contract was designed to help advertisers put in place terms with their media agencies to address a growing number of issues around media agency transparency. The framework contained clauses designed to ensure client visibility of agency sources of income. ISBA also introduced for the first time, clauses outlining standards and agency responsibilities related to digital measurement, metrics and standards, ad fraud and brand safety on-line.
35. Due to the fast evolving nature of the media marketplace ISBA has up-dated the original terms twice since their launch in 2016. The framework is now widely used by major advertisers and is in general use across the UK industry.

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<sup>10</sup> 2018 AdSpend: IAB/PwC

<sup>11</sup> ["Google search shakeup hits Moneysupermarket"](#), *The Times*, 11 July 2013.

## **Regulatory Considerations and Digital Advertising**

36. Digital advertising is central to the debate around online harms. This came to the fore in February 2017, when the Times<sup>12</sup> ran a story showing brands were unwittingly supporting terrorist content on video sharing platforms. Since then we have seen similar issues with misinformation, child sexual exploitation, self-harm and suicide across multiple platforms.
37. As the Online Harms White Paper states, *“Online advertising plays a crucial role in the digital economy, with many free digital services, such as search engines or social networks, funded by advertising revenues”*<sup>13</sup>.
38. The White Paper itself makes reference to online advertising<sup>14</sup>. Whilst we accept that the proposals put forward are not intended to impact on the existing cooperative advertising regulatory system, it is difficult to envisage this remaining the case. There is a real need to clarify who will have regulatory superiority in certain cases.
39. The potential for a new regulatory body to impact on the existing advertising regulatory system through the use of influencers or age-restricted advertisements for example is worth flagging at this stage. Advertisements are comprehensively covered by the existing collective regulatory system and are further focused on in the new ASA five-year strategy, More Impact Online, which makes commitments to explore the use of machine learning and AI to improve regulation.
40. The strategy prioritises:
- Working more closely with the large online platforms and more prioritisation and partnership working, in particular in our regulation of online ‘advertiser-owned’ advertising
  - The protection of vulnerable people and the appropriate limitation of children and young people’s exposure to age-restricted ads
  - Exploring new technological solutions and listening in new ways, including through research, data-driven intelligence gathering and machine learning.
41. In tackling these issues, the White Paper noted<sup>15</sup>, work already underway to address some of the issues that online advertising has been associated with. For example;
- ISBA sits as part of the Home Office-led working group on CSEA and terrorist content linked to advertising in order to develop actions that help ensure advertising is not supporting this kind of illegal activity.
  - The Centre for Data Ethics
  - DCMS has signalled its intent to conduct a review of online advertising regulation.
  - The ICO has also commenced a broader examination of the use of personal data in AdTech.

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<sup>12</sup> <https://www.thetimes.co.uk/article/big-brands-fund-terror-knnxfgb98>, The Times, Big Brands fund terror through online adverts, February 9 2017

<sup>13</sup> [Online Harms White Paper](#)

<sup>14</sup> [Online Harms White Paper](#)

<sup>15</sup> [Online Harms White Paper](#)



42. ISBA support the broad proposals made by the Furman review. In particular the establishment of an ex ante regulatory regime to regulate the activities of online platforms and encourage greater competition in both consumer-facing and digital advertising markets. We would simply make the plea that this market study takes account of both this and the other initiatives set out above.
43. Aside from this, ISBA has been highly active in working directly with the digital platforms to improve levels of accountability, transparency and trust on behalf of our members. In doing so, pushing for measures to tighten up advertising adjacencies while upholding the need for social responsibility to be exercised.
44. In response, we have welcomed the necessary steps taken by both Facebook and Google to reassure advertisers around issues of brand safety – including the hiring of additional content reviewers. But we remain concerned about the pace of self-imposed measures and the adequacy of these measures versus the scale of the issue.
45. Whilst the major platforms have introduced a range of initiatives aimed at protecting their users from harmful content, the ability to compare the consistency and effectiveness of these measures is questionable. In the various workstreams alongside government to tackle child sexual exploitation and terrorism content, issues are prevalent across smaller and emerging platforms, supported by advertising from irresponsible actors and companies. Setting a regulatory bar and reach that addresses this issue is critical.
46. It is clear and obvious, that the regulatory environment covering online content is fragmented; multi-territorial; lacks expertise and understanding in many areas; is reactive and driven by public pressure rather than proactive engagement; and lacks robust data.
47. We therefore fully support the need for new regulation, enforced by a new independent regulator in the context of an effective, fairly funded and collective regulatory environment. This must be backed by an independent arbitration process.

## **Conclusion**

48. ISBA welcome this market study. The regulatory framework is fragmented; multi-territorial; lacks expertise and understanding in many areas. To address this, we would urge the CMA and government to take close account of the multiple reviews that have either concluded, remain underway or are due to begin.
49. Given that market opacity is, we believe, the foundation for continued lack of adequate standards in the digital supply chain (hence our Programmatic Supply Chain Transparency study with PwC, due in the Autumn) we are keen to alert the CMA to a potential vehicle to a transparent supply chain. We regard this as phase two of this workstream: an ‘always-on’ tracker for the ecosystem.
50. The concept of a ‘persistent ID’ and the possibility to automatically track an ad impression from ‘IO to published inventory’ through a unified standard tracking system is beginning to be discussed, for example with both AI and blockchain technologies as potential solutions for this complex environment. ISBA fully supports the introduction of such transparency in the marketplace whether this is through a strengthened co-regulatory system as set out in the Online Harms White Paper or another route.
51. Such a system would be expensive. We would envisage a market shared funding model for the platforms, as we set out in our response to the Online Harms White Paper when

discussing the broad funding questions around a new regulatory system for the platforms.

52. We look forward to discussing this and other issues with the CMA as the market study progresses.