

ANNEXURE 1



**competition commission**  
*south africa*

**REGISTRATION FORM FOR WRITTEN SUBMISSION**

**Form MDPMI 1**

**About this form**

This is a registration form issued pursuant to the Guidelines for Participation in the Media and Digital Platforms Market Inquiry.

The form is to be completed by parties making written submissions and parties wishing to make an oral presentation at a public hearing.

**Media and Digital Platforms Market Inquiry contact**

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**Details of person making submission**

**(Please print)**

Name and Surname: Dr. Courtney Radsch

Name of Organisation or Entity: Center for Journalism & Liberty at Open Markets Institute

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**Required Details**

Does your submission adversely affect any other firm or individual? Please provide details of such firm or individual:

N/A

Does your submission contain any confidential information?

If yes, please also file Form CC7

Yes  No

Do you require interpretation services?

Yes  No

If yes, please indicate language: \_\_\_\_\_

Do you intend to make oral submissions in virtual public hearings?

Yes

No

If yes, please provide an estimate of the time required for an oral presentation: 20 minutes

**Main focus of submission:**

Statement of Issues' Scope Item 2, related to competition for advertising revenues and user data, and Scope Item 3, related to assessing the commercial relationship between news media and relevant digital platforms.

**Summary of the issues:**

Please see comment attached below.



Comment on Competition Commission's Media and Digital Platforms Market Inquiry  
Center for Journalism & Liberty | Open Markets Institute

November 14, 2023

Competition Commissioner Doris Tshepe,

The Open Markets Institute's Center for Journalism & Liberty (CJL), based in Washington, D.C., submits this comment with the goal of providing relevant international sources that inform the work of the Competition Commission (Commission) in its Media and Digital Platforms Market Inquiry (MDPMI). At the CJL, we work to ensure that the news media industry of the 21st is robustly funded and suited to the needs of citizens of the world's democracies.<sup>1</sup> In this comment, we will address the Statement of Issues' Scope Item 2, related to competition for advertising revenues and user data, and Scope Item 3, related to assessing more broadly the commercial relationship between news media and relevant digital platforms.

Scope item 2: Evaluate whether market features distort competition for advertising revenue, consumer data and subscription fees between news media organizations and the relevant digital platforms that display and distribute news media content as intermediaries to consumers, including news aggregators.

- The digital advertising market is dominated by three corporations: Google, Meta (formerly Facebook), and, more recently, Amazon. All three platforms act as publishers by selling advertising space to brands, large and small, while also providing intermediation services that connect news publishers to advertisers, known as “ad tech.” For such “ad tech”, all three platform charge fees to both or one of the parties involved in the transaction.<sup>2</sup> Globally, the three companies reportedly accounted for 74% of the digital ad spending in 2021 and were on their way to surpass that mark in 2022.<sup>3</sup>
- Commercially supported news media is beholden to the dominance of mainly two corporations in the “ad tech” market: Google and Meta. The digital platforms' terms and conditions, the way they tie or bundle services, and their handling of user data, have a deep impact in the predictability (or lack of thereof) of ad revenues sources for news

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<sup>1</sup> <https://www.journalismliberty.org/>

<sup>2</sup> Google and Meta charge fees for serving ads to both publishers and advertisers. Amazon, through Amazon Publisher Services, handles web publishers inventory but charges service fees only to advertisers when they use the Amazon DSP platform (<https://advertising.amazon.com/blog/bringing-ad-buyers-and-sellers-together-with-amazon-publisher-services>). To learn about fees in programmatic advertising, see: <https://adalytics.io/blog/adtech-supply-fees>

<sup>3</sup> <https://digiday.com/marketing/the-rundown-google-meta-and-amazon-are-on-track-to-absorb-more-than-50-of-all-ad-money-in-2022/>

publishers. This imbalance of power in advertising only worsens when paired with the algorithmically-driven display of news in search engines and social media platforms, which can prioritize or deprioritize news in any given moment – thus, impacting news publishers’ reach and their relationship with audiences.<sup>4</sup>

- In this current landscape, digital advertising is rife with conflicts of interest that have distorted competition to the detriment of news publishers. Large digital platforms are effectively diverting digital advertising revenues away from news publishers because they compete against news publishers for the same eyeballs to generate revenue, *and* they control the “ad tech” services that serve ads across the web based on algorithmically driven systems built on vast troves of data that gives them an unfair advantage. This is the foundation of what has become widely known in the United States as “surveillance advertising.” To learn more about this system and its harms to news media and consumers, we recommend reviewing the following reports, articles, and testimonies:
  - [Democracy, Journalism, and Democracy: How to Fund Independent News Media in the 21st Century \(November 2023, Center for Journalism & Liberty\).](#)
  - [Scrutiny Over Google’s Ad Business Should Expand to the Entire Ad Tech Market \(June 21, 2023, Tech Policy Press\).](#)
  - [How Google Manipulated Digital Ad Prices and Hurt Publishers, Per DOJ \(February 2, 2023, Tech Policy Press\).](#)
  - [U.S. Senate Hearing on Competition in the Digital Advertising Ecosystem: Written Testimony of Dina Srinivasan, Thurman Arnold Project Fellow, before the Subcommittee on Competition Policy, Antitrust, and Consumer Rights \(May 3, 2023\)](#)
  - [U.S. Senate Hearing on Competition in the Digital Advertising Ecosystem: Written Testimony of Barry Lynn, Executive Director of Open Markets Institute, before the Subcommittee on Competition Policy, Antitrust, and Consumer Rights \(May 3, 2023\).](#)

*Scope item 3: Evaluate whether the commercial relationship between news media and relevant digital platforms is characterized by imbalances in bargaining power and the impact of such imbalances on competitive outcomes affecting the news media industry, including pricing and non-price outcomes.*

- Economists and media scholars in the United States have recently estimated the excess value that news content generates for Google search and the social network Facebook,

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<sup>4</sup> <https://www.journalismliberty.org/publications/report-how-to-fund-independent-news-media-in-the-21st-century/>; Courtney Radsch. [URGENT: Understanding and Responding to Global Emerging News Threats. Internews March 2023.](#)

which is not shared with news publishers. The study<sup>5</sup>, co-authored with researchers at Columbia University, concludes that in a scenario where Google and Facebook would share the excess value they obtain from the presence of news content in their search and social media platforms, respectively, news publishers could get up to \$14 billion annually. A similar study conducted on behalf of the SWISS MEDIA publishers' association with oversight by leading academics<sup>6</sup> found that the very presence of news on Google Search provided value to all users regardless of whether they clicked through or were even searching for news. It found that if Google did not have a dominant market position in web search and had to face competition, fair compensation for the value that media content provides to Google search would amount to about 40% of total revenue, or approximately \$176 million per year in Switzerland alone. To learn more about this methodology, we recommend reviewing the following articles:

- [The Value of News Content to Google is Way More Than You Think \(August 8, 2023, Tech Policy Press\).](#)
  - [What Google and Meta owe publishers ... and democracy \(November 5, 2023, Daily Maverick\).](#)
  - [Google and Meta Owe US Publishers \\$14 Billion a Year \(November 12, 2023, Tech Policy Press\).](#)
  - [Paying for News: What Google and Meta Owe US Publishers — Draft Working Paper \(Working Paper, November 9, 2023, Initiative for Policy Dialogue at Columbia University in the City of New York\)](#)
- As explained in a paper authored by CJL's director Dr. Courtney Radsch, titled "Making Big Tech Pay for the News They Use,"<sup>7</sup> the combination of the decline of advertising revenue, the rise of 'AdTech,' and the tenuous sustainability of most independent news organizations have led to a decoupling of advertising and journalism "that threatens the very foundation of a commercial news model." From this article, we recommend examining Dr. Radsch's presentation of three policy areas:
    - Taxing digital advertising to support journalism
    - Increasing news media bargaining power
    - Rethinking intellectual property rights with a focus on copyright and licensing for publishers
- Up to this date, measures that increase news media bargaining power have rapidly risen across the globe as a key measure to correct some of the power and financial

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<sup>5</sup> <https://policydialogue.org/publications/working-papers/paying-for-news-what-google-and-meta-owe-us-publishers-draft-working-paper/>

<sup>6</sup> <https://fehradvice.com/valueofmedia/>

<sup>7</sup> <https://www.cima.ned.org/publication/making-big-tech-pay-for-the-news-they-use/>

imbalances between large digital platforms and publishers. The CJL has been tracking such efforts in the **Tech & Media Fair Compensation Global Tracker**<sup>8</sup> — which is updated regularly with updates as more countries seek to rebalance this relationship. Per our analysis, the Commission’s MDPMI has ample precedent, and it also provides the Commission a unique opportunity to shape the direction of global policy.

- Dr. Radsch is a leading expert on media competition policy and platform regulation and has been consulted by governments and publishers including in Australia, Brazil, Canada, India and South Africa. Earlier this year, she joined a group of fellow scholars and journalists in Johannesburg to establish global principles for fair compensation for news publishers<sup>9</sup> that reflect lessons learned from legislative initiatives around news media bargaining codes. Her previous work<sup>10</sup> has examined other efforts the South African government has taken to rebalance the aforementioned relationship between publishers and platforms, concluding that the centerpiece of an effective reform effort is a regulatory system that allows publishers to enter informed negotiations with platforms over the use of their content. This should include use by companies who build AI systems using content scraped from news publisher websites, which is done without permission or compensation and in violation of intellectual property rights.

The CJL team would appreciate the opportunity to weigh in further as the commission’s inquiry develops and would be happy to provide testimony before the commission. We also hope to provide analysis as the commission moves toward drafting language to translate this inquiry’s findings into policy.

#### ADDITIONAL RESOURCES:

- Public event: [“Protecting News to Preserve Democracy,” organized by CJL and News Media Alliance in Washington, D.C.](#), with remarks by the Minister of Canadian Heritage Pascale St-Onge about her work implementing Canada’s groundbreaking news media compensation law, the Online News Act, despite considerable pressure from tech giants Meta and Google to block such solutions (September 27, 2023).
- [Open Markets Submits Public Comment on Artificial Intelligence & Copyright](#) (October 31, 2023).

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<sup>8</sup> <https://www.journalismliberty.org/tech-media-fair-compensation-frameworks>

<sup>9</sup> <https://www.gibs.co.za/news-events/news/pages/big-tech-and-journalism-principles.aspx>

<sup>10</sup> <https://www.cima.ned.org/publication/making-big-tech-pay-for-the-news-they-use/>



- Discussion paper: “[Platformization and Media Capture: A Framework for Regulatory Analysis of Media-Related Platform Regulations](#)” (Courtney Radsch, UCLA Journal of Law & Technology, Platforms and the Press, 28, no. 2 (Winter 2023)).
- Report: [Sustaining Journalism, Sustaining Democracy: A Policy Guide on Platforms and the Press](#) (Michael Karanicolas, Courtney Radsch, Akshat Agarwal and Nicholas Wilson, UCLA Information Policy Lab, April 2023).
- Commentary: [Frenemies: Global approaches to rebalance the Big Tech v journalism relationship](#) (Courtney Radsch, Brookings Institution, August 29, 2022)