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MEDIA AND DIGITAL PLATFORMS MARKET INQUIRY

FURTHER STATEMENT OF ISSUES

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1. INTRODUCTION

1.1. Inquiry background

1. On 15 September 2023, the Competition Commission (“the Commission”), gazetted its Final Terms of Reference (“TOR”) pertaining to the Media and Digital Platforms Market Inquiry (“MDPMI” or “the Inquiry”), setting out the scope of the Inquiry along with eight main objectives. The MDPMI commenced on 17 October 2023 and issued a Statement of Issues (“SOI”) the same day setting out in more detail the areas of interest within those seven main objectives to the Inquiry.
2. This further statement of issues (“FSOI”) uses the initial observations and insights from the first phase of information gathering including responses to the SOI to provide some additional focused issue statements in order to attain further input from stakeholders. The FSOI is accompanied by further requests for information (“RFIs”) to get an even deeper understanding of issues in the digital distribution of news media. The Inquiry process is iterative and the FSOI includes only some preliminary insights and observations. The FSOI in no way limits the set of issues that the Inquiry is considering, nor does it replace the initial SOI. Rather the FSOI should be seen as an extension of the SOI and may provide clarifications on points made in the SOI where necessary. The intent of the FSOI is to bring other potential issues to the fore and get deeper and more nuanced insights into the issues that have already been articulated.
3. In releasing this FSOI, the Inquiry invites market participants and other interested parties (collectively “stakeholders”) to provide views and information on the additional issues identified. The FSOI is structured around the scoping items identified in the original SOI. Stakeholders are encouraged to provide views on the further issues articulated in the FSOI and answer questions posed that are applicable to them. Where views are provided, reasons and any corresponding evidence provide a stronger basis for the Inquiry, and as such are encouraged to accompany the submissions. The Guidelines for Participation on the inquiry website provide the framework for any submissions including any claims of confidentiality.
4. Written submissions to this FSOI should be emailed to mdpmi@compcom.co.za by 17h00 on 22 January 2024.

2. FURTHER STATEMENT OF ISSUES FOR SUBMISSIONS

5. The Inquiry received feedback from various stakeholders on the SOI including platforms, publishers, broadcasters and associations, along with responses to RFIs. In some instances parties responded only to RFIs. The submissions have engaged with the questions and themes in the SOI, providing important feedback to the Inquiry. In the process some additional interesting themes have emerged which the Inquiry wishes to explore in this FSOI as these themes have not been necessarily addressed by other stakeholders in responding to the SOI. These are set out in no particular order and all find relevance under the TOR Scope items.

2.1. Incorporating a constitutional interpretation to the Inquiry

6. Section 39(2) of the Constitution requires that “[w]hen interpreting any legislation, and when developing the common law or customary law, every court, tribunal or forum must promote the spirit, purport and objects of the Bill of Rights”. Moreover, section 39(1) of the Constitution states that “[w]hen interpreting the Bill of Rights, a court, tribunal, or forum (a) must promote the values that underlie an open and democratic society based on human dignity, equality, and freedom” along with the consideration of international law. This applies equally to the Competition Act (“the Act”), as confirmed in the *Mediclinic* judgement of the Constitutional Court.¹ In that judgement the Constitutional Court also emphasized that the Commission and Tribunal had “*the added responsibility to do so imposed on them by the Preamble and purpose of the Act*”.
7. There is therefore no question that the interpretation of Act, including the Market Inquiry provisions, must promote the Constitutional Rights. Rather the question is what Rights may be implicated by this Inquiry and practically how might the Market Inquiry provisions be interpreted to promote these Rights as required by the Constitution. Stakeholders have raised that the Constitutional Court has consistently affirmed the “*constitutional importance of media in our democratic society*”² but also that a range of Rights are impacted by the lack of sustainability of the media. This is primarily section 16 which provides for Rights to freedom of expression and freedom of the Press, but also through section 32 (Right to Information), section 30 (Right to

¹ Constitutional Court of South Africa. October 2021. In the matter between the Competition Commission of South Africa, and Mediclinic Southern Africa (Pty) Limited & Matlosana Medical Health Services (Pty) Limited. Case number: CCT 31/20.

² Constitutional Court of South Africa. February 2021. AmaBhungane Centre for Investigative Journalism NPC and Another v Minister of Justice and Correctional Services and Others 2021 (3) SA 246 (CC).

language and cultural participation), section 9 (Right to equality), section 14 (Right to privacy) and section 28 (Rights of the child). Stakeholders have stated that the implications for the Inquiry is to consider not only the impact on the sustainability of the media of market features in digital platforms, but also the impact on the multiplicity of Rights. This approach suggests that practically the adverse effect assessment may be broadened to include Constitutional outcomes, which may have implications for the substantiality of any adverse effect finding and the remedies required to address any adverse effect finding.

Questions

- a. *How should the legislative provisions for a Market Inquiry be interpreted such as to promote the Constitutional principles?*
- b. *Which Constitutional Rights are implicated in this Market Inquiry? Include a motivation.*
- c. *Practically what does this imply for the work of the Inquiry, including the Inquiry process, evidence-gathering, findings and remedial actions? Provide detailed inputs.*

2.2. A consideration of the impact of mis- and disinformation

8. Scope item 4 in the SOI set out to canvass submissions on whether there are features of digital platforms, such as the ranking algorithms, paid results and the role of user preferences, which may affect competition amongst media organisations, including the demotion of quality journalism at the expense of alarmist and poor-quality journalism to the detriment of credible media organisations and consumers. Submissions to the SOI and the RFIs are assisting the Inquiry to get a deeper understanding of these dynamics. However, media stakeholders have additionally raised the issue of whether the impact of mis- and disinformation in general should be considered by the Inquiry.
9. Online platforms have enabled the ‘democratisation’ of news insofar as it has become easier for citizens to post stories and videos of events. However, this ease of creation and distribution has equally created far more scope for misinformation and disinformation, so-called ‘fake news’. The promotion of paid content and other market features identified under Scope item 4 are also likely to aid the spread of such fake news. The concern over misinformation and disinformation appears to be recognised by platforms insofar as numerous platforms have sought to put in place some measures to curb misinformation and disinformation. For example, Google indicates that it has

put into place the Google News Initiative which includes dedicated initiatives to combat mis- and disinformation.³ Similarly social media platforms, such as Meta⁴, submit that they work with independent third-party fact-checkers who review posts, including those from publishers, check their facts, and rate their accuracy.

10. Media stakeholders have argued that the rise of mis- and disinformation on digital platforms has not only challenged the ability of the media industry to properly inform the public but also eroded public trust in the media. The growing level of mistrust is said to have impacted negatively on the ability of the news media to monetise content through viable business models. Whilst the media stakeholders recognise that best practices to managing mis- and disinformation fall outside the scope of the Inquiry, they argue that market features of digital platforms that affect public trust levels and the impact that this has had on credible news media organisations and consumers should form part of the considerations of the Inquiry. This includes the particular impact on children given the importance of balanced perspectives in their development and the greater disposition to using online content rather than traditional media. The Inquiry currently considers that these issues are likely to be captured under scope items 4 and 7 which specifically reference credible news to consumers. However, the SOI did not specifically include a discussion on mis- and disinformation and which warrants further submissions.

Questions

- d. *Has the business model of digital platforms played a role in exacerbating a growing mistrust by the public in the media, and if so,
 - a. *How does this differ across platform types (e.g. search vs social media)?*
 - b. *Have efforts by platforms to root out mis- and disinformation been sufficient to address the problem?**
- e. *What has been the impact of growing public distrust on the business models of credible media organisations subject to self-regulatory bodies, and their ability to compete for attention both on online platforms and more broadly, if any.*
- f. *What impact does this have on the Constitutional Rights, including the Rights of the Child, and the role of the media in a democracy?*

³ Google submission on the Statement of Issues.

⁴ Meta's Third-Party Fact-Checking Program. Available at: <https://www.facebook.com/formedia/mjp/programs/third-party-fact-checking>

2.3. Greater emphasis on Radio and TV broadcast news media, and particularly the public broadcaster

11. The TORs clearly set out that news broadcasters, which includes both radio and television news broadcasters, fall within the scope of the Inquiry. However, media stakeholders have expressed the concern that broadcasters, and particularly the public broadcaster SABC through both radio and television, have not featured as prominently in the SOI discussion. On the other side, some digital platforms have questioned the inclusion of broadcasters, stating that this is not something they have encountered in other jurisdictions and that the digital channel is incremental to the primary broadcast channel. In this context it is worthwhile to provide more discussion on news broadcasters within the Inquiry context to aid with further submissions on broadcaster issues.

12. A market inquiry needs to be responsive to entrenched market features but also proactive in assessing emerging market features that are likely to have a much larger impact on shaping competition in future. It is apparent that video and audio news content is already an important part of news consumption and is becoming increasingly so.
 - 12.1. As set out in the SOI, the second largest social media platform for news in SA is the video-sharing platform YouTube, and TikTok, another video-sharing platform, is the fastest growing social media platform. Moreover, video content represents a growing share of content on both search results and social media platforms, other than video-sharing platforms (e.g. on Facebook and X). On audio content, platforms increasingly offer audio options to listen to content such as news media. For example, there has been an increase in podcasts and other on-demand streaming services.
 - 12.2. Consistent with the platform experience, media organisations have identified that there is a growing trend towards video and audio content consumption by consumers. Even traditional print media companies have evolved to enhance their offering with video and audio content through their websites and on digital platforms (e.g. Business Day has a television news channel, News24 offers podcasts). The broadcasters themselves offer multimedia content on their websites and digital platform placement.

13. Radio and television news broadcasters state that they have been impacted by the shift to digital platforms and the online consumption of news, even if this may not be to the same extent as print

media. The decline in appointment television and the shift to on-demand consumption applies equally to news as it does to other programming. More generally, the increased consumption of news online impacts viewership and listenership for television and radio news respectively. The rise of digital advertising has also eaten into advertising spend on both these mediums. It is apparent that both television and radio have sought to tap into the online distribution channel to bolster reach and revenues. A search and social media presence is part of the strategy of these broadcasters. For instance, Kagiso Media, traditionally a small radio broadcaster, publishes over 6,000 digital news articles annually⁵. The SABC has over 2 million followers of its YouTube channels and 4 million followers on its various Facebook pages and around 1.5 million visits to its website. The revenue streams from digital platforms may be incremental, but the question that arises is whether this is a reflection of consumption habits or the limited ability to monetise digital content relative to broadcast distribution.

14. Media stakeholders have highlighted the particular importance of the SABC as the public broadcaster. As the public broadcaster, it remains a central source of news for a significant number of people in South Africa, where it enables access to media and other means of communication to a diverse set of people including marginalised groups, linguistic and cultural minorities; and poor and rural communities.⁶ The SABC provides news in all official languages both through its broadcast channels and online presence. Importantly, the SABC is not sufficiently funded by television license revenue nor government grants, and therefore remains heavily reliant on advertising revenue to fulfil its public mandate. SABC News has taken significant steps to transition to digital and to build up a digital presence through digital platforms mostly. Whilst all the scoping issues apply equally to the SABC, the public broadcaster aspect provides an additional dimension in the digital context insofar as a) it lacks the options to drive alternative revenue streams such as paywalls in its digital strategy, and b) it must deliver on its public mandate to provide public interest news to a predominately lower income and vernacular audience. This raises the question as to whether the market features of digital platforms and AdTech driven advertising distribution have a more pronounced effect on public interest journalism of this type, rather than the more commercial news operations only. The same question is likely to arise in respect of community media too, which similarly lacks the scope to draw on more commercial revenue streams to supplement their digital revenues.

⁵ Kagiso Media submission on the SOI, page 1.

⁶ SABC News offers 18 radio stations (which, among them, broadcast in all 11 official languages) and five free-to-air TV channels. SABC radio and TV have an estimated reach of 28.9 million and 26.6 million adults respectively, which is just under half of the South African population. (See SANEF and others submission on the SOI dated 14 November 2023).

Questions

- g. *What does radio (or audio) and TV (or video) broadcast news content distribution mix look like in an increasingly digital world and which digital platforms are likely to play a prominent role in the distribution of news broadcast media?*
- h. *How do the market features of digital platforms impact specifically on competition for advertising revenue and revenue sharing outcomes for audio and video content?*
- i. *Do any of the market features, including revenue share and ranking algorithms, have a more pronounced effect on public broadcasters relative to commercial media, and if so how? Does the same apply to community media (print, radio and television), and if not, why not?*

2.4. How to measure news and its benefit to search and social media platforms

15. The submissions received to date reveal a sharp disagreement between the platforms and the media stakeholders as to the importance of news content to the platforms, and hence what might constitute fair competitive or bargaining outcomes for both sides. This raises questions both as to how to measure news content on the digital platforms, but also how to measure the benefit that may be derived from that content to both platforms and the media. This is an important underlying question that informs several of the scope items in the SOI.

16. On the digital platform side of the debate:

- 16.1. Search engines state that only a small proportion of queries relate to news media and that they make little news media-related ad revenue. For instance, Google indicates that on what it considers is an expanded definition of news, which includes domain names with a newness aspect but excluding magazines, only ~2% of impressions on its search results are news content.⁷ On another measure which is how many queries return at least one news result, the percentage is materially higher as expected. Search engines also state that news content queries do not attract much paid advertising, which tend to be focused on queries with commercial intent, such as shopping or travel queries. Search engines also tend to offer news aggregation products, which in some cases are not directly monetised through advertising sales (e.g. Google) and in other cases they are monetised (e.g. Microsoft Start).

⁷ Google blog. 2023. How Google supports journalism and the news industry. Available at: [How Google supports the news industry \(blog.google\)](https://blog.google/industry/news/)

16.2. Like with search engines, social media platforms state that most of the content that is displayed in the user feed relates to user's individual and social experiences. For instance, Meta indicates that posts with news links constitute less than 3%⁸ of total posts globally, where "news articles" includes content about current events and other timely information which follows journalistic standards such as citing sources and having a byline. On social media the fraction of news media consumption varies across the news media platforms. For instance, news content may feature more prominently on X relative to Facebook, or on YouTube relative to TikTok. However, differences in user numbers may mean more users get news from, for instance, Facebook relative to X. Social media platforms have stated that the media content is mostly what the media itself posts and consumers do not want political content to take over their experience⁹, but are rather increasingly interested in more creator-driven content, especially video. To this end, Meta has previously reduced its news feed to prioritise content from friends and family.

16.3. Aside from stating that they benefit little from news media content, search and social media platforms also argue that they provide benefits to the news media. General search, including their news aggregation services, along with social media platforms argue that news media benefits from the free traffic and leads that are provided to them.

17. On the news media side of the debate:

17.1. Media stakeholders have a broader perspective of the role of news content on search and social media than just share of content, arguing that news media provides high quality content that keeps the users engaged and returning to the platform. The media stakeholders seem to recognise that there is a complementary between the platforms and the media, where the platforms also provide an easy distribution channel. However, the issue raised by these stakeholders is around the distribution of that shared value.

17.2. For search, the view of some media stakeholders is that news media is easy to access by users, where algorithmic updates emphasize news in general search results¹⁰ and are

⁸ Based on Meta internal estimates for the last 90 days ending August 2022. "News articles" include content about current events and other timely information which follows journalistic standards such as citing sources and having a byline.

⁹ See: <https://about.fb.com/news/2021/02/reducing-political-content-in-news-feed/>

¹⁰ For example, the 2011 "Freshness" update emphasized more recent search results including news. See News Media Alliance. Google Benefit from News Content. Available at: <https://www.newsmediaalliance.org/wp-content/uploads/2019/06/Google-Benefit-from-News-Content.pdf>

prominently displayed to grab user attention to drive engagement with search engines¹¹. This ubiquitous and attention-seeking display of news media is argued to benefit search engines as it drives engagement. This means that search engines can benefit from collecting more data on users, can better target their advertising and monetize more by showing more digital ads to users and drive them into more commercial streams where search engines make the bulk of their ad revenue. Search engines tend to offer personalised news feeds and this is argued to play a similar role.

17.3. For social media, the view is that content predominantly drives engagement keeping users interested and captive within the platform's ecosystem, and increased engagement drives increased levels of ad revenues¹². Thus, platforms provide value only when they are able to attract both content consumers and content producers¹³. If social media platforms fail to retain existing users or add new users, or if our users decrease their level of engagement their revenue, financial results, and business may be significantly harmed.¹⁴ While this engagement includes media generated through music or entertaining videos, it also includes current affairs and other original news media content, where social media platforms can significantly amplify engagement through reposts of stories, comments, etc. It is argued that through this increased engagement, platforms can collect more user data, sell more targeted ads and boost revenues.

17.4. Media stakeholders have put forward studies which seek to quantify the benefits to Google and Meta, albeit not specifically on all the dimensions cited by stakeholders. Shiffrin et al. (2023) seeks to provide a methodology as to what it considers the digital platforms may owe publishers in the US but propose this as a general methodology for any country. For Facebook, the authors use a study on news consumption by consumers from various sources to determine the share of time on Facebook spend consuming news as a proportion of total time spent on Facebook. This share is then applied to total Facebook advertising revenue, with news media presumed to share 50% of that revenue in a fair bargaining split. For Google,

¹¹ For example, on desktop search Bing features a myriad of news articles below its search bar that appear to have a prominent display, and news articles appear below the search bar on Google mobile. On Android phones, one simply swipes right on the home page to access a Google curated newsfeed, which can easily be discovered accidentally by users. Here, general informational queries that are not necessarily specific to or considered news media *per se* such as the query "rugby world cup", for example, can generate news results on the search engine results page ("SERP"). Here, one also has the option of selecting the "news" tab to see more news related information following an informational query.

¹² Meta, for example, hold the view that "If we fail to retain existing users or add new users, or if our users decrease their level of engagement with our products, our revenue, financial results, and business may be significantly harmed." Meta SEC 10K filing for the year ended 31 December 2022, page 15.

¹³ See Shiffrin, A.; Mateen, H.; Holder, P.; and Tabakovic, H. 2023. Paying for News Media: What Google and Meta Owe US Publishers, footnote 20. Available at: https://www.scribd.com/document/682422574/Paying-for-News#fullscreen&from_embed

¹⁴ Meta SEC 10K filing for the year ended 31 December 2022, page 15.

the study uses the results from another survey by the Fehr Group to determine the share of informational search on Google (estimated at around 50%) and the share of those that involve some news content (estimated at 70%). The product of these two (35%) is then applied to the total advertising revenues of Google, with news media presumed to share 50% too. The Fehr Study itself is interesting insofar as they seek to measure what proportion of Google Search users would prefer to use a search engine with news media content rather than without, as a measure of the value users place on news media in search.

17.5. News media stakeholders have stated the need for fair compensation for the content they provide where significant investments for digital transition and a frequent generation of news content is needed. While this view is raised across news media organisations, investigative journalistic publications in particular note that the content they provide benefit digital platforms as it drives significant engagement. Here they compete with repurposed versions of their original content, where the repurposed versions might enjoy better search engine optimisation outcomes on search engines for example. Investigative journalistic publications also publish infrequently¹⁵ limiting their ability to drive traffic to their websites but the discussions emanating from their content, including posts, reposts, repurposed content benefit digital platforms.

18. The very contrasting submissions to the SOI raises further questions of a) how should the Inquiry conceptualise the relationship between the media and the digital platforms, and b) once conceptualised, how might the Inquiry proceed to measure the role of news content on platforms.

19. Another aspect that the Inquiry found interesting is that many news media organisations are paying the digital platforms to provide exposure to their content. This appears to be more of a social media phenomenon than search and is interesting in the content where platforms such as Facebook have deprioritised external content such as news to prioritise friends and family content. It does raise numerous questions for the Inquiry as set out in the questions below.

Questions

a. *Provide your views on how news media content benefits a) search engines, b) news aggregators and c) social media platforms.*

¹⁵ Such as once a week where quality investigative news content takes time to produce thereby limiting publishers in their ability to provide a very frequent stream of stories.

- b. *Do digital platforms use news media to develop to further build their existing platforms and new platforms within their business ecosystem, and if so, how? Please elaborate.*
- c. *Provide your views on the differing approaches to determining benefits by both platforms and media stakeholders.*
- d. *How might the Inquiry measure 'news media content' on a digital platform? For instance should this include all posts by news media, all search or information that relies on news media, posts and blogs by journalists, etc. Provide for search, news aggregation and social media separately.*
- e. *How might the Inquiry measure news media engagement or consumption on a digital platform? For instance, should this include clicks, impressions, shared posts, comments, etc. Provide for search, news aggregation and social media separately.*
- f. *How might the Inquiry measure the impact, if any, of news media content on general levels of engagement on a digital platform? Provide for search, news aggregation and social media separately.*
- g. *How might the Inquiry measure any other benefits to digital platforms from news content that stakeholders propose, such as choice of platform, usage and levels of engagement, user data, generative AI training, etc? Provide for search, news aggregation and social media separately.*
- h. *Is the focus on benefits derived even the correct approach, and should the focus be on the value of original and copyright material used and displayed to consumers?*
- i. *Does the current share of news on social media platforms come as a result of deliberate algorithm changes and strategic choices in light of news media demands, and would the benefit be larger were these algorithmic changes not implemented?*
 - a. *A related question is what role the media content may have played in building the platform in the first place to a point where it is less dependent on that content?*
 - b. *Have other social media and search engines also implemented any such algorithmic changes in the past five years.*
- j. *Can platforms actually benefit from deprioritising content from businesses, including news media organisation, in order to drive ad spend on their platform by those businesses, including news media?*
- k. *To what extent are the click-through benefits accruing to the media the result of ad spend, like any other business, and how much is organic?*

2.5. Revenue share arrangements on certain digital platforms

20. In the submissions to the SOI several digital platforms indicated that either they currently engage in revenue share arrangements with content creators, or had plans to do so, whereas other platforms did not have any such arrangements or limited them to specific content type. These typically come with some eligibility criteria and specified sharing percentages of net revenue (i.e. gross revenue less cost of sales). For instance, YouTube does provide revenue share for eligible content creators, but the revenue share ranges from 45% to 70% of net revenue for the different content creator programmes. Facebook only provides revenue share on video content, not other content. X provides revenue share on video content and on ads in replies to creator posts. For news aggregation, Microsoft Start offers revenue share where it displays the partner content along with advertising whilst Google News does not.
21. Another aspect to the submissions was that the number of media organisations engaged in revenue share arrangements where they exist, which is often very limited. This raises questions as to the eligibility criteria and whether these facilitate news media participation, or alternatively whether the costs of engaging in these revenue-share programmes makes joining them uneconomic for many media organisations. The latter may also be impacted by the extent of traffic and revenue share, as the other side of the equation to whether it is economic or not, namely do the benefits outweigh the costs.
22. Revenue share is based on net revenue, not gross, and the revenue share percentage is determined by the platform. Platforms argue that they have variable costs involved in the share of advertising which should be deducted first. Whilst logical, it also appears that the content generators may also incur costs to be part of these programmes in terms of how the content is packaged for the platforms, but it seems this is not a consideration currently. In addition, it seems that most of the cost of advertising sales are largely in-house for the platforms as all of them rely on internal AdTech for placing ads on their own platforms. This does raise obvious questions as to how those costs are determined and whether it includes margins too.
23. Lastly, news media stakeholders across the various segments of print and broadcast media have stated the need to transition to digital distribution of news media¹⁶. This, however, requires

¹⁶ This is driven by increased usage and demand for digital consumption by users, and advertisers who wish to focus a large segment of their multichannel marketing strategy on digital platforms.

investments into both a digital transition and a frequent and up-to-date stream of good quality news content, but this does not generate sufficient revenues needed to justify both types of investment. Furthermore, revenues earned from paywalls and subscriptions is insufficient as news media organisations struggle to build the critical mass of subscribers to make this model feasible. Here news media organisations state that they have either attempted a digital transition but not enjoyed sufficient financial benefits to justify their investment in the transition or that they have no financial incentive to undergo the digital transition altogether. The latter argument is particularly the case for local (community) news publications.

Questions

- l. *What are the reasons that some platforms provide revenue share arrangements and others do not?*
 - a. *Should all platforms offer some form of revenue share, and if so why, and if not why not?*
 - b. *Should only particular types of content be subject to revenue share, and if so what content and why, and if not why not?*
 - c. *Are the limitations simply practical, namely measurement of ads directly related to content? If so, how else might the advertising that is indirectly related to content be measured and if it could, then are revenue-sharing arrangements possible?*
- m. *Are the eligibility criteria used by the different platforms exclusionary of media organisations, or particular types or sizes of media organisations? What should the eligibility criteria be and why?*
- n. *Should revenue share be based on gross revenue rather than net revenue for platforms, and if so why and if not why not? What are the costs for media organisations to be part of revenue share arrangements, and are these costs factored into the revenue share calculation?*
- o. *What is a fair revenue share percentage and should that percentage differ for media content as opposed to other creative content?*
- p. *What is a fair revenue share percentage across various types of online news media such as video broadcast, audio broadcast, mainstream print, community print media etc.? Should revenue share percentages be the same across each type of online news media?*
- q. *If there was a means of measuring advertising directly and indirectly related to media content on all platforms, would this be a fair way of determining the benefits and sharing those benefits?*

2.6. Transparency and its role and importance in platform and AdTech markets

24. Numerous media stakeholders sought to emphasize the lack of transparency in their arrangements with either the AdTech intermediaries or the digital platforms, and the role this plays in potentially perpetuating unfair practices. This took the form of either stating that there is an information asymmetry more generally, which limited the media's ability to interrogate the practices of digital platforms or AdTech companies, or the lack of transparency was raised in respect of particular practices or information that would be of use to the media companies in their negotiations. For instance, in the revenue share arrangements the media companies have voiced concerns over the lack of transparency on gross revenue and cost deductions to reach net revenue. All have raised issues of transparency on the algorithmic changes, or the algorithm overall. The academic literature around the benefits accruing to platforms has also cited the lack of public information on which to build a more comprehensive methodology and as the reason for selecting the particular methodology employed. This includes information such as the share of news content and its engagement on the platform.
25. Once more there seems to be a disjuncture between the platforms and the media organisations as platforms state that there is considerable transparency but that natural limits need to be placed either to prevent gaming the system, as in with algorithm transparency, or for commercial reasons. Transparency can often provide for fairer outcomes as it prevents one side in the negotiations exploiting information asymmetry to improve their bargaining position or weaken that of the other side. This may itself be a remedy in some instances if that information provides for a more equal bargaining outcome. However, certain information may contain business secrets and be confidential, or may facilitate collusion or strategic behaviour which may be to the detriment of businesses engaging platforms such as the media. However, in bilateral engagements confidentiality can also be maintained by agreement. The relevant question is therefore not about transparency or not, but rather what is the appropriate level of transparency?

Questions

- r. *For media stakeholders, identify the specific instances of an apparent lack of transparency and why transparency is important to fairer outcomes? Motivate why.*

- s. *For platforms, provide more specifics on why greater levels of transparency are not achievable in a) algorithms, b) revenue share arrangements, c) news content performance on the platform as a whole? If confidential information is cited, motivate why that information is confidential and why it cannot be shared on a bilateral basis?*
- t. *Can transparency alone fix some of the concerns that media companies have in their engagement with digital platforms, and if so, what specific concerns can be fixed and with what degree of transparency?*