

**ONLINE ADVERTISING
SECTOR INQUIRY
PRELIMINARY REPORT**

**SUPERVISION AND ENFORCEMENT
DEPARTMENT - I**

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ONLINE ADVERTISING
SECTOR INQUIRY PRELIMINARY REPORT

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Abbreviations Index

AAID:	Android Advertising ID
MAU:	Monthly Active Users
EU:	European Union
ADLC:	French Competition Authority (<i>Autorite de la Concurrence</i>)
AMP:	Accelerated Mobile Pages
API:	Application Programming Interface
R&D:	Research and Development
ATT:	App Tracking Transparency
CCPA:	California Consumer Privacy Act
CMA:	UK Competition Authority (<i>Competition and Markets Authority</i>)
CNMC:	Spanish Competition Authority (<i>National Commission of Markets and Competition</i>)
CPA:	Cost Per Action
CPC:	Cost Per Click
CPD:	Cost Per Day
CPE:	Cost Per Engagement
CPI:	Cost Per Install
CPL:	Cost Per Lead
CPM:	Cost Per Mille/Cost Per Thousand
CPRP:	Cost Per Rating Point
CPS:	Cost Per Sale
CPT:	Cost Per Time
CPV:	Cost Per View
CRM:	Customer Relationship Management
DFA:	DoubleClick for Advertisers
DFP:	DoubleClick for Publishers
Directive	Directive (EU) 2019/790 Of The European Parliament and Of The Council Of 17 April 2019 On Copyright and Related Rights In The Digital Single Market and Amending Directives 96/9/EC and 2001/29/EC
DMA:	Digital Markets Act

DMP:	Data Management Platforms
DMU:	Digital Markets Unit
DOJ:	United States Department of Justice
DSP:	Demand Side Platform
DV 360:	Display & Video 360
ETP:	Enhanced Tracking Prevention
FAN:	Facebook Audience Network
FLoC:	Federated Learning of Cohorts
FSEK:	Law no 5846 on Intellectual and Artistic Works (<i>5846 sayılı Fikir ve Sanat Eserleri Kanunu</i>)
GDPR:	EU General Data Protection Regulation
HSTS:	HTTP Strict Transport Security
IAB:	Interactive Advertising Bureau
ID:	Identification Number
IDFA:	Identifier for Advertisers
ITP:	Intelligent Tracking Prevention
iOS :	iPhone Operating System
FTC:	Japanese Fair Trade Commission
Guidelines:	Guidelines on Commercial Advertisements and Unfair Trade Practices by Social Media Influencers
Commission:	European Commission
Board:	Competition Board
MAID:	Mobile Advertisement Identifiers
MTP:	Microsoft Tracking Prevention
OECD:	Organisation for Economic Co-operation and Development
OFCOM:	United Kingdom Office of Communications
RÖK:	Advertising Self-Regulatory Board (<i>Reklam Özdenetim Kurulu</i>)
RTÜK	Radio and Television Supreme Council (<i>Radyo ve Televizyon Üst Kurulu</i>)
SDK:	Software Development Kit
SES:	Social Economic Status
SSP:	Supply Side Platform

TBF:	Federation of Consumer Unions (<i>Tüketici Birlikleri Federasyonu</i>)
THD:	Consumer Rights Association (<i>Tüketici Hakları Derneği</i>)
TÖF:	Federation of Consumer Organizations (<i>Tüketici Örgütleri Federasyonu</i>)
TRT:	Türkiye Radio and Television Corporation
TURTLEDOVE:	Two Uncorrelated Requests, Then Locally Executed Decision On Victory
TÜDEF:	Federation of Consumer Associations (<i>Tüketici Dernekleri Federasyonu</i>)
TÜRDER:	Association for the Protection of Consumers and Competition (<i>Tüketici ve Rekabetin Korunması Derneği</i>)
ULB	User Level Bidding
VoD:	Video on Demand Services
VoIP:	Voice Over Internet Protocol
VR:	Virtual Reality

EXECUTIVE SUMMARY

In Türkiye as well as all around the world, rapid developments in internet technologies have turned into a norm that radically changes the ways of doing business in many sectors, while becoming the main determinant in consumer and company choices. Located at the focal point of digitalization, it is observed that online platforms bring novel risks and challenges for all parts of the society via their conduct and practices, in addition to the value they create.

In today's IT age, not only is the internet an important part of our lives, it also caused significant changes in various sectors such as finance, transportation, retail, etc. as well as in the field of advertisement, where it paved the way for the emergence of new methods of marketing. The increase in the use of internet-connected personal computers, smart phones, tablets and televisions, in particular, contributed to the acceleration of this transformation.

In line with the aforementioned developments, instead of the traditional types of advertising¹ such as television, radio and newspapers, advertisers have started to gravitate towards online channels where individuals are spending more time, which caused the sector to evolve from the traditional channels towards online ones, leading to a similar slide in advertisement spending towards the digital channel. All of these changes and transformations turned online advertisement into a structure that is not limited with geographical boundaries where the target audience is more easily determined, breaking the traditional taboos of advertising and setting up an example for creative destruction.

The degree of development in online advertising, which is nowadays characterized as “free” and provides the funding of the internet, was accompanied by competition law discussions about market definition and abuse of dominant position, in particular. Online advertising became a source of income especially for search engines as well as many websites, attracting the attention of competition authorities due to the size of the sector it attained and the limited number of incumbent players in the market.

¹ The phrases “traditional advertising” and “offline advertising” are used interchangeably.

In that sense, the functioning of the online advertising sector and the competitive concerns related to the sector became the subject of studies in many countries, including the United Kingdom², Australia³, Germany⁴, France⁵, Spain⁶ and Japan⁷. The reports published by the competition authorities of the aforementioned countries draw attention to similar problems in general. The reports list the factors preventing the development of competition in the sector as the fact that Google's and Facebook's positions in the sector remaining unchanged for many years with the vertically-integrated structure of these companies in the advertising sector and the resulting conflicts of interest, the fact that the undertakings in question created an ecosystem within the framework of their main fields of operations comprised of complementary products and services and thus were able to transfer their market power downstream or neighboring markets and could engage in anti-competitive conduct in those markets. Moreover, the reports also note that the auction and pricing processes in online advertising are complex and lack transparency. In addition, other prominent problematic areas are identified as data portability, self-preferencing and prevention of rivals' access to data.

In light of the complex way of operation of the online advertising sector and its multi-sided market structure, ensuring the sustainability of competition in online advertising and implementing the right competition policies are very

² CMA (2020), "Online Platforms and Digital Advertising Market Study Final Report" https://assets.publishing.service.gov.uk/media/5fa557668fa8f5788db46efc/Final_report_Digital_ALT_TEXT.pdf, Accessed: 07.03.2023.

³ ACCC (2021) Digital Platforms Inquiry, Final Report, <https://www.accc.gov.au/system/files/Digital%20advertising%20services%20inquiry%20-%20final%20report.pdf>, Accessed: 08.03.2023; ACCC Digital Advertising Services Inquiry Interim Report, <https://www.accc.gov.au/system/files/Digital%20Advertising%20Services%20Inquiry%20-%20Interim%20report.pdf> Accessed: 08.03.2023.

⁴ Online Advertising, Series of papers on "Competition and Consumer Protection in the Digital Economy", https://www.bundeskartellamt.de/SharedDocs/Publikation/EN/Schriftenreihe_Digitales_III.pdf?__blob=publicationFile&v=5, Accessed: 08.01.2021.

⁵ Opinion no. 18-A-03 of 6 March 2018 on Data Processing in the Online Advertising Sector, https://www.utoritedelaconcurrence.fr/sites/default/files/integral_texts/2019-10/avis18a03_en_.pdf, Accessed: 08.01.2021.

⁶ For a summary of the report in English see https://www.cnmc.es/sites/default/files/3626361_10.pdf, Accessed: 30.09.2021.

⁷ JFTC (2021), "Final Report Regarding Digital Advertising", <https://www.jftc.go.jp/en/pressreleases/yearly-2021/February/210217.html>, Accessed: 08.03.2023.

important for a faster growing online advertisement sector and, indirectly, for the internet itself. Also, the lack of transparency in the market means the competition authorities are faced with significant duties. In that sense, the sector inquiry herein has been launched with a view to describe this sector with a complex structure, identify the concentration status of the market, and research the structural or behavioral problems in these markets.

Within the framework of the sector inquiry conducted, first an overview of the definition and historical development of advertising is provided, followed by a description of the switch from traditional to online advertising in Türkiye, a presentation of the status of digitalization in Türkiye with emphasis on the importance of online advertising for the Turkish market. Lastly, legal regulations related to online advertising are scanned, and it is noted that there is no regulation to counter the competitive problems in the relevant sector, explaining the necessity of the sector inquiry herein in order to identify and eliminate these problems.

The second section examines the types of online advertising, inspects how search-based advertising, display advertising and classified advertising function and then queries the substitution relationship between these and their subcategories. Following this work intended to delineate the boundaries of the market, the level of concentration in Türkiye within the (potential) relevant markets is presented, and the current status of competition in the market is analyzed. In this framework, attention is drawn to Google's dominant position that was established under previous cases conducted in search-based advertising as well as to the fact that two main platforms consisting of Meta and Google gained prominence in display advertising with their market power, with their market share reaching much higher levels within the potential subcategories of display advertising, such as display advertising over social media channels or video based display advertising.

The third section addresses the advertisement technologies used in the provision of one type of online advertising, namely display advertisements, which are known for their complexities in particular. Via these technologies, advertisers are able to show their advertisements on various channels, publishers are able

to finance their content by gaining income from the advertisement space they own; resulting in a digital world where users can access a variety of content and the structure becomes sustainable. Thus, any current/future competition failure in these services could harm advertisers, publishers, and ultimately, users. For those reasons, the relevant section defines and explains what these advertisement technology services with a critical role in display advertising are, how they work and what the market structure and concentration level in Türkiye is.

The second and third sections show that the subcategories of online advertising and online advertising technology services in Türkiye are mainly controlled by Google and Meta. However, since the power of the undertakings in question are fed by the ecosystems they own and their data advantage, there is a need to examine the undertakings with market power in those markets not only in terms of pure advertising services, but within the framework of the whole ecosystem they control. As a result, the fourth section starts by explaining the concept of ecosystems and the economic reasons behind operating as an ecosystem, followed by an overview of the ecosystems owned by Google and Meta, which serves to convey the potential and actual pros/cons of the relevant undertakings' acting through the ecosystem.

Section five examines what types of data the undertakings collect/process within their ecosystems, the consequent advantages they gain before their rivals in terms of data variety and size, and which monitoring tools are used to collect the data in question, after which the report explains the types of targeted advertising which made data an important part of advertisements, as well as its benefits and the concerns it raises with relation to the consumers.

After a comprehensive and detailed overview of the functioning of the online advertising sector and its competitive structure, the sixth section examines the structural problems in the relevant markets and the competitive concerns raised by the practices of the technology undertakings which became a kind of *de facto* regulators in those markets due to their market power, and provides solution suggestions for those concerns.

Respectfully submitted for your attention.

1. INTRODUCTION

- (1) The constantly increasing physical distance between the producer and the consumer, and the diversification of the goods and services offered on the market makes advertisements an important element of marketing. Especially in light of the fact that businesses' ability to maintain their existence is tied to enduring consumer-demand in competition-based markets, the importance of advertisement for both consumers and sellers in terms of channeling consumer demand can be more clearly understood. The foremost factor in the importance of advertisements for consumers is that they can save time when deciding how to allocate their income to products and services by making use of the advertisements, which are easy and cheap to access. Another factor is the effectiveness of advertisements in acquiring better living conditions. For instance, advertisements for toothpaste, soap, deodorant, etc. encourage buyers to live a cleaner and healthier life. Moreover, advertisements provide lots of convenience to the buyers, both during use and during purchase, by showing them new use cases and explaining functions.⁸
- (2) On the other hand, some factors make advertisements important for the businesses as well. The first of these is that advertisements have a significant role in supporting the business' marketing efforts, thereby increasing its sales. Advertisements are one of the easiest ways for the sellers to reach the buyers. Particularly in today's world where competition is intense, one of the most significant factors allowing firms to get a larger slice of the cake is through successful advertisement campaigns. Increasing the sales of the businesses to allow them to work at the optimum capacity and thereby decrease total unit cost are among the other advantages provided by advertisements.
- (3) So advertisements affect the endurance of businesses by channeling consumer demand for goods and services on the one hand, while making positive contributions to the national economy by increasing demand to drive up welfare and employment, by improving innovation and product variety, and by keeping the competitive environment alive to decrease price levels on the other.

⁸ YALÇIN, A. (1995), "Pazarlama Bilgileri", Bilim Teknik Yayınevi, İstanbul.

- (4) In recent years, rapid developments in IT technologies and the rise in the use of the internet transformed the channels for reaching the consumer as well as business models, that is to say, organizations' ways of creating and providing value. The structure of mass communication tools changed in step with the technological developments, and these improvements in communication technologies also affected the advertisement space. In the modern age, traditional channels of advertisement have proved insufficient on their own to reach consumers, and the digitalization of the world made a switch from traditional advertising to online (i.e. digital) advertising unavoidable. As a result, online advertising surpassed all traditional channels of advertising with its speed of growth in the recent years. The main reason for the aforementioned growth and proliferation is the fact that online advertising allows advertisers to send their consumer messages more quickly at the right time and to the right target, to enter into a dialog and interact with the consumers, to take many actions such as data collection and sales funneling, and to perform detailed measurements and optimizations.
- (5) On the other hand, there are also opinions suggesting that advertisements have the potential to create barriers to entry or cause the exclusion of incumbents from the market by providing consumers information on the goods, services or activities they are interested in, by influencing them to build a passion for the brand, and by producing a sales-increasing effect in the relevant products while burdening the business with additional costs. In fact, a study conducted in 1954 on 20 branches of industry and another study conducted between 1972 and 1977 covering the American Manufacturing Industry showed that advertisement activities can create a significant barrier to entry⁹.
- (6) In addition, the tendency of advertising services to gradually gravitate towards the online channel led to certain changes in the provision of the services, in the players taking part in the provision of the service, and therefore in the supply chain of the service and the competitive inputs necessary to ensure the efficiency of the service. Even though ads shown when using a search engine and ads encountered when visiting a website or a social media platform are consolidated in the most general terms into the online (digital) advertising basket, the online

⁹<https://dergipark.org.tr/tr/download/article-file/187093>, Accessed: 28.06.2022.

advertising channel does not consist of homogeneous products and services; instead, it resembles a large river divided into smaller tributaries, each of which serves different purposes and appeals to very different user profiles. Furthermore, these tributaries divide further amongst themselves, and in this form online advertising space brings about the potential for countless types of advertising. These innovations and transformations in question fundamentally affect the competitive conditions in the market. An effective and proper implementation of competition law in these markets would only be through analyzing the aforementioned dynamics of the sector.

- (7) It is exactly for this reason that the Competition Board's (Board) decision dated 21.01.2021 and numbered 21-04/44-M **(Document-2)** launched an Online Advertising Sector Inquiry, in order to identify the behavioral and/or structural competition problems in the sector and develop solution suggestions for those problems, in light of the recent national and international developments in the field of online advertising. In that framework, rapporteurs were appointed with the Office of the President's Approvals dated 07.06.2021 and numbered 26633 **(Document-38)**, dated 23.06.2021 and numbered 27539 **(Document-52)**, dated 07.12.2021 and numbered 35687 **(Document-210)**, dated 16.12.2022 and numbered 55486 **(Document-260)**.
- (8) During the preparation of the sector report, information and documents were requested from undertakings¹⁰ and associations of undertakings in the sector, which are in the positions of publishers, advertisers and agents. To understand the position and measure the importance of another stakeholder in the market, i.e, the consumers, a consumer survey study was conducted to reveal their internet use habits as well as their knowledge, perceptions and preferences about advertisements. Moreover, interviews were conducted with various associations and undertakings, including Ankara Association of Advertising Agencies, Association of Advertising Agencies, Associations of Advertisers, Türkiye Interactive Advertising Bureau (IAB Türkiye) and MMA Global.
- (9) Within this framework, of the undertakings operating as agents in the sector, information and documents were requested from Admatic Medya AŞ (Admatic)

¹⁰ During the preparation of the sector report, information and documents were requested from 25 publishers, 53 advertisers, 33 agents and 26 undertakings which performed more than one of the roles of advertiser, publisher and agent.

with the letters dated 31.05.2021, numbered 26245 **(Document-30)** and numbered 26247 **(Document-31)**, from Adform Teknoloji AŞ (Adform), Adnext Reklam ve Medya Teknolojileri AŞ (Adnext), Penta Teknoloji Ürünleri Dağıtım Ticaret AŞ (Penta), Adroin Reklam ve Danışmanlık Ticaret Ltd. Şti. (Adroin), Adtarget Medya AŞ (Adtarget), Awarion Dijital Reklam Pazarlama Ticaret AŞ (Awarion), Criteo Reklamcılık Hizmetleri ve Ticaret AŞ (Criteo), Engageya Turkey Dijital Pazarlama Medya ve Yazılım Hizmetleri AŞ (Engageya), Gemius Araştırma ve Danışmanlık Hizmetleri Ltd. Şti. (Gemius), Ligatus İletişim Hizmetleri AŞ, Optdcom Teknoloji Yatırım AŞ, Türk Telekomünikasyon AŞ (Türk Telekom), Reklam9, RS İnternet Pazarlama AŞ, RTB House Reklam Teknolojileri AŞ (RTB House), SAS-ACCESS, Sizmek Turkey, Teads Ltd., Metin Madenciligi Yazılımları AŞ (Metin Madenciligi/Wordego), Mobilike Mobil Reklam Pazarlama ve Ticaret AŞ, Amvg Uluslararası İnternet ve Telekomünikasyon Hiz. Tic. Ltd. Şti., Tek Kılavuz İnternet Reklam Hizmetleri Bilişim Tek. Eğt. Öğr. AŞ, Coadvertise Dijital Reklam Ticaret Platformu Ltd. Şti (Coadvertise), Maksad İnternet Bilişim ve Danışmanlık Ticaret Ltd. Şti., Mediaworks Reklam ve Medya Teknolojileri AŞ, Reklam Portalı İnternet Hizmetleri ve Reklamcılık İç ve Dış Ticaret Ltd. Şti., RS İnternet Pazarlama AŞ, Inspark Akıllı İş Çözümleri Ltd. Şti., SAS Institute Bilgisayar Sistemleri Ltd. Şti (SAS Türkiye), Sizmek by Amazon (Sizmek), Teads Schweiz GmbH (Teads),with the letter dated 31.05.2021, numbered 26247 **(Document-31)**; from Nielsen Audience Measurement Piyasa Araştırma Hizmetleri AŞ with the letter dated 28.05.2022, numbered 26158 **(Document-18)**, and from Metin Madenciligi with the letter dated 16.06.2021, numbered 27115 **(Document-45)**.

- (10) Of the undertakings operating as publishers, information and documents were requested from Sahibinden Bilgi Teknolojileri Pazarlama ve Ticaret AŞ (Sahibinden) and Mynet Medya Yayıncılık Uluslararası Elektronik Bilgilendirme ve Haberleşme Hizmetleri AŞ (Mynet) with the letters dated 31.05.2021, numbered **(Document-32)**, dated 06.07.2021, numbered 28311 **(Document-61)**; from Estetik Yayıncılık AŞ¹¹, Noktacom Medya İnternet Hizmetleri San. ve

¹¹ Estetik Yayıncılık AŞ is the owner of the Sözcü Newspaper and the www.sözcü.com.tr website.

Tic. AŞ¹², Beyazperde Sinema İnternet Hizmetleri Ltd. Şti., Turkuvaz Haberleşme ve Yayıncılık AŞ¹³, Doğuş Yayın Grubu AŞ, Maksimum İletişim Hizmetleri AŞ, Ciner Yayın Holding AŞ¹⁴, Fox Networks Grup Yapım Ltd. Şti., Krea İçerik Hizmetleri ve Prodüksiyon AŞ, Ensonhaber Medya Hizmetleri AŞ, Onedio Bilişim Yazılım Medya Teknoloji Sanayi ve Ticaret AŞ, Ekşi Teknoloji ve Bilişim AŞ, MN Yazılım Medya Bilişim Basım Yayıncılık Reklam İç ve Dış Ticaret AŞ¹⁵, Donanım Haber Elektronik Yayıncılık Ltd. Şti. with the letter dated 31.05.2021, numbered 26268 **(Document-36)**; from Turkuvaz Haberleşme ve Yayıncılık AŞ and Beyazperde Sinema İnternet Hizmetleri Ltd. Şti with the letter dated 15.06.2021, numbered 27077 **(Document-44)**; and from Glokal (Hepsi Emlak), Zingat Gayrimenkul Bilgi Sistemleri, İlab Holding AŞ (Emlakjet), Letgo, SG Garanti Bilişim Otomotiv ve Sağlık AŞ, Emlaksitem Gayrimenkul Reklam Tan. Hiz. Tur. Tic. Ltd. Şti., Arabam Com İnternet Bilgi Hizmetleri AŞ, Araba Sepeti Otomotiv Bilişim Danışmanlık Hizmetleri Sanayi ve Ticaret AŞ (araba.com, tasit.com), Otonomi Web AŞ. with the letter dated 08.07.2021, numbered 28489 **(Document-63)**

- (11) Of the undertakings operating as advertisers, information and documents were requested from Nestle Türkiye Gıda Sanayi AŞ (Nestle), Burgan Bank AŞ (Burgan Bank), Generali Sigorta AŞ (Generali), Ford Otomotiv Sanayi AŞ (Ford), Türkiye Halk Bankası AŞ (Halkbank), Akbank .AŞ (Akbank), Türkiye Garanti Bankası AŞ (Garanti BBVA), Türkiye İş Bankası AŞ (İş Bankası), Nissan Otomotiv AŞ (Nissan), Hyundai Assan Otomotiv San. ve Tic. AŞ (Hyundai), Groupe PSA Otomotiv Pazarlama AŞ (Groupe PSA), Tofaş Türk Otomobil Fabrikası AŞ (Tofaş), Lokum Oyun Yayıncılık ve Pazarlama AŞ (Lokum Oyun), Riot Games Eğlence Hizmetleri Ltd. Şti. (Riot Games), Kosan Kozmetik Pazarlama ve Ticaret AŞ (Kosan Kozmetik)¹⁶, Elca Kozmetik Ltd. Şti. (Elca Kozmetik), Avon Kozmetik Ürünleri Sanayi ve Ticaret AŞ (Avon), LC Waikiki Mağazacılık Hiz. Tic. AŞ (Lc

¹² Noktacom Medya İnternet Hizmetleri San. ve Tic. AŞ provides content websites such as İzlesene.com, Sinemalar.com and Alkislerleyasiyorum.com as well as Doviz.com, Blogcu.com ve Yemektarifleri.com.

¹³ Turkuvaz Haberleşme ve Yayıncılık AŞ has the TV channels atv, atv Avrupa and Yeni Asır TV under its umbrella.

¹⁴ Ciner Yayın Holding AŞ owns the media broadcast companies Show TV, Show Türk, Show Max, Habertürk.com, Habertürk Radyo, Habertürk TV, Habertürk and Bloomberg HT.

¹⁵ MN Yazılım Medya Bilişim Basım Yayıncılık Reklam İç ve Dış Ticaret AŞ is the owner of the website www.memurlar.net.

¹⁶ Kosan Kozmetik manufactures Flormar products.

Waikiki), Adidas Spor Malzemeleri Satış ve Pazarlama AŞ (Adidas), Addax Tekstil Konfeksiyon San. ve Tic. Ltd. Şti. (Addax), Defacto Perakende Tic. AŞ (Defacto), A101 Yeni Mağazacılık AŞ (A101), Migros Ticaret AŞ (Migros), Bim Birleşik Mağazalar AŞ (Bim), Şok Marketler Ticaret AŞ (Şok Market), Beymen Perakende ve Tekstil Yatırımları AŞ (Beymen), CarrefourSA Carrefour Sabancı Ticaret Merkezi AŞ (CarrefourSA) with the letter dated 01.06.2021, numbered 26291 **(Document-33)**; from Hype Tanıtım ve İletişim Hizmetleri AŞ (Hpye), SEM İnternet Reklam Hizmetleri ve Danışmanlık AŞ (Sem İnternet), Ad Venture İnternet ve Pazarlama AŞ (Ad Venture), Carat Medya ve İletişim Hizmetleri AŞ (Carat Medya), C iletişim ve Reklam Hizmetleri Sanayi ve Ticaret AŞ, Digital Exchange Reklam Hizmetleri AŞ (Digital Exchange), Fkr Dijital Reklam Planlama Sanayi ve Ticaret Ltd Şti (Fkr Dijital), 41 29 Medya İnternet Eğitim ve Danışmanlık Reklam Sanayi Dış Ticaret AŞ (41 29 İnternet), Deep Dijital Reklam Medya Planlama ve Pazarlama AŞ (Deep Dijital), Digital Partners Reklam Hizmetleri AŞ (Digital Partners), Havas Media Turkey Medya Planlama ve Satın Alma Hizmetleri AŞ (Havas Media), Mediacom İstanbul Planlama Hizmetleri Ltd Şti (Mediacom), Wavemaker İletişim Planlama Hizmetleri Ltd Şti, Universal McCann Medya Planlama ve Dağıtım AŞ (Universal McCann), Vivaki Turkey Medya Hizmetleri AŞ, Opn İletişim Çözümleri AŞ (Vivaki Turkey), D-Market Elektronik Hizmetler ve Ticaret AŞ (Hepsiburada), Doğu Planet Elektronik Ticaret ve Bilişim Hizmetleri AŞ (N11), Boyner Büyük Mağazacılık AŞ (Boyner), Çiçeksepeti Dijital Hizmetler Pazarlama ve Ticaret AŞ (Çiçeksepeti), Glokal Dijital Hizmetler Pazarlama ve Ticaret AŞ (Glokal Dijital/Hepsi Emlak), Getir Perakende Lojistik AŞ (Getir), Letgo Mobil İnternet Servisleri ve Ticaret AŞ (Letgo), Foreign Uluslararası Medya Yayın Yapım Sanayi ve Ticaret AŞ (Foreign Medya), Unilever Sanayi ve Ticaret Türk AŞ (Unilever), Loreal Türkiye Kozmetik Sanayi ve Ticaret AŞ (Loreal) with the letter dated 31.05.2021, numbered 26245 **(Document-30)**; and from Unilever with the letter dated 16.06.2021, numbered 27116 **(Document-46)**.

- (12) Of those undertakings that carry more than one of the titles of advertiser, publisher and agency, information and documents were requested on 31.05.2021 from Acun Medya Prodüksiyon ve Reklam Hizmetleri AŞ (Acun Medya) with a letter numbered 26204 **(Document-9)**, from Akakçe Bilgi

Teknolojileri San. ve Tic. AŞ (Akakçe) with a letter numbered 26203 (**Document-10**), from Cimri Bilgi Teknolojileri ve Sistemleri AŞ (Cimri) with a letter dated 28.05.2021 and numbered 26167 (**Document-11**), on 31.05.2021 from Demirören Holding AŞ (Demirören) with a letter numbered 26202 (**Document-12**), from Oracle Bilgisayar Sistemleri Ltd. Şti. (Oracle) with a letter numbered 26205 (**Document-13**), from Huawei Telekomünikasyon Dış Ticaret Ltd. Şti. (Huawei) and Twitter İnternet İçerik Hizmetleri Ltd. Şti. (Twitter) with a letter dated 28.05.2021 and numbered 26155 (**Document-19**), on 28.05.2021 from DSM Grup Danışmanlık İletişim ve Satış Ticaret AŞ (Trendyol) with letters numbered 26136 (**Document-25**) and 26157 (**Document-20**), from Amazon Turkey Perakende Hizmetleri Ltd. Şti. (Amazon) with a letter numbered 26147 (**Document-21**), from Turkcell İletişim Hizmetleri AŞ (Turkcell) with a letter numbered 26140 (**Document-22**), from Vestel Ticaret AŞ (Vestel) with a letter numbered 26138 (**Document-23**), from Samsung Electronics İstanbul Pazarlama ve Ticaret Ltd. Şti. (Samsung) with letters numbered 26137 (**Document-24**) and 26132 (**Document-26**), from Yemek Sepeti Elektronik İletişim Perakende Gıda Lojistik AŞ (Yemek Sepeti) with a letter dated 31.05.2021 and numbered 26201 (**Document-15**), from Telpa Telekomünikasyon Ticaret AŞ (Telpa/General Mobile) with letters dated 28.05.2021 and numbered 26165 (**Document-16**) and 26151 (**Document-14**), from LinkedIn Corporation (Linkedin) with a letter dated 24.12.2021 and numbered 36541 (**Document-221**), from Tiktok Turkey Dijital Medya ve Reklam Ltd. Şti. (Tiktok) with a letter dated 15.12.2021 and numbered 36036 (**Document-211**), from Facebook Inc. (Facebook) with a letter numbered 26128 (**Document-27**) as well as a letter dated 15.12.2021 and numbered 36042 (**Document-217**), from Yandex Reklamcılık Hizmetleri Ltd. Şti. (Yandex) with a letter dated 28.05.2021 and numbered 26123 (**Document-28**), from Google LLC (Google) with letters numbered 26154 (**Document-17**), dated 03.06.2021 and numbered 26456 (**Document-34**), dated 15.12.2021 and numbered 36041 (**Document-216**), from Apple Inc. ve Apple Teknoloji ve Satış Ltd. Şti. (Apple) with letters dated 15.12.2021 and numbered 36037 (**Document-212**) as well as dated 28.05.2021 and numbered 26134 (**Document-29**), from Amazon Turkey Perakende Hizmetleri Ltd. Şti. (Amazon) with letters dated 01.07.2021 and numbered 28034

(Document-59), dated 28.05.2021 and numbered 26147 **(Document-21)**, from Microsoft Corporation and Microsoft Bilgisayar Yazılım Hiz. Ltd. Şti. (Microsoft) with letters dated 15.12.2021 and numbered 36039 **(Document-215)**, dated 31.05.2021 and numbered 26136 **(Document-25)**, from ile Los Gatos Turkey Yayın Hizmetleri AŞ (Netflix) with a letter dated 09.06.2021 and numbered 26735 **(Document-41)**, from Exxen Dijital Yayıncılık AŞ (Exxen) with a letter dated 14.07.2021 and numbered 29037 **(Document-69)**, from Snap Inc. (Snap) with a letter dated 15.12.2021 and numbered 36038 **(Document-213)**, from Pinterest Inc. (Pinterest) with letters dated 15.12.2021 and numbered 36039 **(Document-214)**, dated 03.06.2021 and numbered 26458 **(Document-35)**.

- (13) The response letters to the information requests above, received from the undertakings operating as agencies, entered into the Authority records as follows: from Sizmek on 17.06.2021 with the number 18693 sayı **(Document-47)**, from Awarion tarafından on 17.06.2021 with the number 19674 sayı **(Document-48)**, on 29.07.2021 with the number 19825 sayı **(Document-75)**, on 25.07.2022 with the number 29831 **(Document-237)**, on 10.10.2022 with the number 31924 **(Document-247)**, from Nielsen on 02.08.2021 with the number 19939 **(Document-89)**, from Reklam9 on 17.06.2021 with the number 18695 **(Document-49)**, from Metin Madenciligi on 07.07.2021 with the number 19369 **(Document-62)**, on 11.09.2021 with the number 20228 **(Document-112)**, from Teads tarafından on 27.07.2021 with the number 19801 **(Document-73)**, on 29.07.2021 with the number 19841 **(Document-76)**, on 29.06.2022 with the numbers 29317 **(Document-226)** and 29318 **(Document-227)**, on 29.06.2022 with the number 29374 **(Document-230)**, from Adform on 29.07.2021 with the number 19880 **(Document-79)**, on 07.07.2022 with the number 29557 **(Document-234)**, from Admatic on 02.08.2021 with the number 19941 **(Document-90)**, on 11.10.2022 with the number 31978 **(Document-259)**, from Penta on 20.08.2021 with the numbers 20500 **(Document-137)** and 20501 **(Document-138)**, on 29.06.2022 with the number 29366 **(Document-229)**, on 31.08.2021 with the number 20738 **(Document-156)**, from Adtarget on 02.08.2021 with the number 19942 **(Document-91)**, on 11.10.2022 with the number 31977 **(Document-258)**, from Adnext on 02.08.2021 with the number 19955 **(Document-95)**, from Optdcom on 16.08.2021 with the number 20334

(Document-117), on 04.07.2022 with the number 29445 **(Document-233)**, on 10.10.2022 with the number 31922 **(Document-246)**, from Adcolony on 16.08.2021 with the number 20335 **(Document-118)**, from RTB House on 02.09.2021 with the number 20792 **(Document-165)**, on 07.07.2022 with the number 29557 **(Document-235)**, on 10.10.2022 with the number 31929 **(Document-252)**, from Demirören on 03.09.2021 with the number 20829 **(Document-168)**, on 05.08.2022 with the numbers 30053 **(Document-240)** and 30260 **(Document-241)**, on 10.10.2022 with the number 31921 **(Document-245)**, on 10.10.2022 with the number 31925 **(Document-248)**, from Adobe on 12.10.2021 with the number 21987 **(Document-192)**, on 10.10.2022 with the number 31919 **(Document-244)**, from Hype on 12.10.2021 with the number 22015 **(Document-193)**, from Adroin on 24.09.2021 with the number 21435 **(Document-194)**, from Gemius on 24.09.2021 with the number 21436 **(Document-195)**, on 24.09.2021 with the number 21524 **(Document-196)**, on 10.10.2022 with the number 31930 **(Document-253)**, from Metin Madencilği on 11.10.2022 with the number 31965 **(Document-256)**, from Engageya on 11.10.2022 with the number 31976 **(Document-257)**, from SAS Türkiye on 06.08.2021 with the number 20082 **(Document-104)**, from Türk Telekom on 23.08.2021 with the number 20528 **(Document-141)**, on 01.07.2022 with the number 29342 **(Document-231)**, from Criteo on 11.08.2021 with the number 20227 **(Document-111)**, on 10.10.2022 with the number 31926 **(Document-249)**.

- (14) The response letters to the information requests above, received from the undertakings operating as advertisers, entered into the Authority records as follows: from Boyner on 29.07.2021 with the number 19877 **(Document-78)**, on 25.08.2021 with the number 20589 **(Document-144)**, on 03.09.2021 with the number 20825 **(Document-169)**, from Lokum Oyun on 30.07.2021 with the number 19900 **(Document-81)**, from Avon on 30.07.2021 with the number 19910 **(Document-83)**, from Ekşi Sözlük on 30.07.2021 with the number 19917 **(Document-84)**, from A101 on 30.07.2021 with the number 19920 **(Document-85)**, from Sem İnternet on 30.07.2021 with the number 19927 **(Document-86)**, from Netflix on 30.07.2021 with the number 19931 **(Document-87)**, from

Defacto on 02.08.2021 with the number 19934 (**Document-88**), from Deep Dijital on 02.08.2021 with the number 19932 (**Document-97**), on 01.09.2021 with the number 20755 (**Document-161**), on 20.09.2021 with the number 21288 (**Document-197**), from Universal McCann on 04.08.2021 with the number 20024 (**Document-100**), from Digital Exchange on 05.08.2021 with the number 20041 (**Document-101**), from Turkuvaz on 05.08.2021 with the number 20058 (**Document-102**), from Groupe PSA on 06.08.2021 with the number 20070 (**Document-103**), from Beymen on 06.08.2021 with the number 20083 (**Document-105**), from Riot Games on 06.08.2021 with the number 20090 (**Document-106**), from Halkbank on 05.08.2021 with the number 20055 (**Document-107**), from Ad Venture on 09.08.2021 with the number 20120 (**Document-108**), from Vivaki Turkey on 09.08.2021 with the number 20128 (**Document-109**), from Akbank on 11.08.2021 with the number 20216 (**Document-110**), from Havas Media on 11.08.2021 with the number 20229 (**Document-113**), from Carat Medya on 13.08.2021 with the number 20289 (**Document-115**), from Migros on 13.08.2021 with the number 20308 (**Document-116**), from CarrefourSA on 16.08.2021 with the number 20361 (**Document-121**), from Kosan Kozmetik on 16.08.2021 with the number 20368 (**Document-124**), from Adidas on 16.08.2021 with the number 20373 (**Document-125**), from Tofaş on 18.08.2021 with the number 20432 (**Document-130**), from Garanti BBVA on 18.08.2021 with the number 20445 (**Document-131**), from Addax on 18.08.2021 with the number 20447 (**Document-132**), on 15.10.2021 with the number 22113 (**Document-198**), from Şok Market on 18.08.2021 with the number 20448 (**Document-133**), from Hyundai on 20.08.2021 with the number 20489 (**Document-136**), from Ford on 20.08.2021 with the number 20510 (**Document-139**), from Elca Kozmetik on 23.08.2021 with the number 20536 (**Document-142**), from Otonomi on 27.08.2021 with the number 20651 (**Document-147**), from Çiçeksepeti on 31.08.2021 with the number 20733 (**Document-153**), from İş Bankası on 31.08.2021 with the number 20725 (**Document-155**), from LC Waikiki on 01.09.2021 with the number 20768 (**Document-163**), from Loreal on 18.11.2021 with the number 23011 (**Document-206**), on 06.12.2021 with the number 23481 (**Document-208**) and 23489 (**Document-209**), on 10.10.2022

with the number 31928 (**Document-251**), from Nestle on 06.09.2021 with the number 20854 (**Document-175**), on 15.10.2021 with the number 22114 (**Document-199**), from Nissan on 08.06.2021 with the number 18418 (**Document-38**), on 31.09.2021 with the number 20729 (**Document-151**) and 20730 (**Document-152**), from Bim on 08.06.2021 with the number 18419 (**Document-39**), on 26.07.2021 tarih 19777 (**Document-71**), from Unilever on 24.06.2021 with the number 18955 (**Document-55**), from Burgan Bank on 30.07.2021 with the number 19909 (**Document-96**), from Hepsiburada on 17.08.2021 with the number 20422 (**Document-128**), from Getir on 25.08.2021 with the number 20589 (**Document-143**), from Musa Said Arık on 27.08.2021 with the number 20682 (**Document-146**).

- (15) The response letters to the informationation requests above, received from the undertakings operating as publishers, entered into the Authority records as follows: from Noktacom Medya on 20.08.2021 with the number 20511 (**Document-140**), from Fox on 01.09.2021 with the number 20748 (**Document-157**), from Araba Sepeti on 31.08.2021 with the number 20743 (**Document-164**), on 03.09.2021 with the number 20834 (**Document-170**), from Arabam Com on 21.09.2021 with the number 21338 (**Document-191**), from Mynet on 09.07.2021 with the number 19477 (**Document-65**), on 16.08.2021 with the number 20383 (**Document-126**), from Digitürk on 29.07.2021 with the number 19848 (**Document-77**), from Letgo on 12.08.2021 with the number 20238 (**Document-114**), on 06.09.2021 with the number 20857 (**Document-176**), from Zingat on 02.09.2021 with the number 20794 (**Document-166**), from Glokal/Hepsi Emlak on 03.09.2021 with the number 20823 (**Document-167**), on 07.09.2021 with the number 20916 (**Document-180**), from Satış Garanti on 03.09.2021 with the number 20837 (**Document-171**), from Emlakjet on 06.09.2021 with the number 20874 (**Document-177**), from Ciner Yayın on 19.08.2021 with the number 20471 (**Document-135**), from Doğuş on 16.08.2021 with the number 20337 (**Document-119**).
- (16) The response letters to the informationation requests above, received from the undertakings with more than one of the titles of advertiser, publisher or agency, entered into the Authority records as follows: from Google on 03.06.2021 with the number 18315 (**Document-37**), on 01.09.2021 with the number 20754

(Document-159), on 16.09.2021 with the number 21214 **(Document-190)**, on 01.11.2021 with the number 22583 **(Document-203)**, on 19.11.2021 with the number 23047 **(Document-207)**, on 18.02.2022 with the number 29961 **(Document-239)**, on 19.08.2022 with the number 30481 **(Document-255)**, from Twitter on 06.09.2021 with the number 20891 **(Document-173)**, on 10.01.2022 with the number 24452 **(Document-224)**, from Microsoft on 06.09.2021 with the number 20883 **(Document-178)** and 20885 **(Document-179)**, from Pinterest on 15.09.2021 with the number 21205 **(Document-187)**, from Snap on 15.09.2021 with the number 21211 **(Document-189)**, on 20.10.2021 with the number 22220 **(Document-201)**, on 04.11.2021 with the number 22693 **(Document-204)**, on 08.11.2021 with the number 22763 **(Document-205)**, on 24.12.2021 with the number 24032 **(Document-222)** ve 24166 **(Document-223)**, from Samsung on 22.06.2021 with the number 18798 **(Document-51)**, on 16.08.2021 with the number 20353 **(Document-120)**, from Facebook on 23.06.2021 with the number 27539 **(Document-53)**, on 06.09.2021 with the number 20878 **(Document-172)**, on 02.07.2021 with the number 19228 **(Document-60)**, on 13.09.2021 with the number 21095 **(Document-185)** ve 21102 **(Document-186)**, from Amazon on 24.06.2021 with the number 18915 **(Document-54)**, on 01.09.2021 with the number 20756 **(Document-160)**, on 23.06.2022 with the number 29712 **(Document-225)**, on 13.07.2022 with the number 29641 **(Document-236)**, from Acun Medya on 28.06.2021 with the number 19013 **(Document-56)**, on 01.09.2021 with the number 20745 **(Document-162)**, from Trendyol on 08.07.2021 with the number 19401 **(Document-64)**, on 31.08.2021 with the number 20725 **(Document-154)**, from Oracle on 29.07.2021 with the number 19864 **(Document-74)**, on 31.08.2021 with the number 20714 **(Document-149)**, on 26.07.2022 with the number 29867 **(Document-238)**, on 19.08.2022 with the number 30448 **(Document-242)**, on 10.10.2022 with the number 31927 **(Document-250)**, on 10.10.2022 with the number 31931 **(Document-254)**, from Exxen on 04.08.2021 with the number 20007 **(Document-99)**, from Vestel on 16.08.2021 with the number 20365 **(Document-122)** and 20366 **(Document-123)**, from Turkcell on 17.08.2021 with the number 20396 **(Document-127)**, from Apple on 19.08.2021 with the number 20465 **(Document-134)**, on 10.09.2021 with

the number 21044 (**Document-184**), from Tiktok on 31.08.2021 with the number 20728 (**Document-150**), from Yemek Sepeti on 01.09.2021 with the number 20748 (**Document-158**), on 15.09.2021 with the number 21206 (**Document-188**), from Sahibinden on 09.09.2021 with the number 20990 (**Document-183**), from Pinterest on 15.09.2021 with the number 21205 (**Document-187**).

- (17) The responses by the Advertisers Associations were entered into the Competition Authority records on 26.04.2021, with the numbers 17407 (**Document-5**) and 7408 sayı (**Document-6**), the response letter of the Federation of Consumer Organizations on 22.02.2023, with the number 35937 (**Document-261**), and the response of the Federation of Consumer Unions on 22.02.2023, with the number 35939 (**Document-262**).
- (18) During the preparation of the Report, information and documents were requested from the Personal Data Protection Authority (Kişisel Verileri Koruma Kurumu - KVKK) with a letter dated 29.06.2022 and numbered 46029 (**Document-228**), and the responding letter entered into the Competition Authority records on 24.08.2022, with the number 30586 (**Document-243**). In addition, online interviews were conducted with the consumer organizations Federation of Consumer Unions (Tüketici Birlikleri Federasyonu - TBF), Federation of Consumer Associations (Tüketici Dernekleri Federasyonu - TÜDEF), Federation of Consumer Organizations (Tüketici Örgütleri Federasyonu - TÖF), Consumer Rights Association (Tüketici Hakları Derneği - THD), Association for the Protection of Consumers and Competition (Tüketici ve Rekabetin Korunması Derneği - TÜRDER) (**Document-264**) as well as with Adform, which holds the status of a mediator (**Document-265**).
- (19) The sector report herein mainly aims to present the development of the online advertising market, its players and its operation, and to address the existing and potential anti-competitive conduct in the market. In that framework, this section will first illustrate the historical development of the advertising market to establish the place and importance of online advertising within the sector, after which the trends in Türkiye towards online advertising in comparison to other advertising services will be analyzed in light of the impact of rapidly developing digitalization, a snapshot will be taken of the current status of digitalization in

Türkiye, and lastly Turkish regulations on advertising will be cited to examine the existence and scope of regulations specific to online advertising. Thus, it is intended to establish the importance of the sector concerned as well as the requirement for a sector inquiry.

1.1. Definition and Historical Development of Advertising

- (20) Advertising is the activity of promoting goods and services by purchasing space and/or time on various communication media with an aim to create demand for those goods and services or to increase the existing demand.¹⁷ The Turkish word for advertising, “reklam” comes from the word “*clamare*” in Latin, which means “to call”.¹⁸ The word was borrowed from the French “*reclame*,” and the concept has varying definitions. Merriam Webster¹⁹ defines advertising as “the action of calling something to the attention of the public especially by paid announcements”; while the Turkish Language Association²⁰ defines it as “any method used to introduce something to the public, to get them to like it and to thereby ensure demand.”
- (21) According to the American Marketing Association, advertisement is the business practice whereby a company pays money to position its message or brand at a specific location. Businesses use advertisements not only to promote their goods and services, but also to establish their corporate culture and branding. When used properly and strategically, advertising can lead to an increase in customers and sales. Advertising forms a unilateral communication channel where companies can publish their non-personal messages to a general audience. Unlike other types of marketing and even unlike public relations, when companies make a payment to take out an ad, they have full control over how the content in question will be promoted.
- (22) Examining the meaning of advertising from a historical perspective shows that it changed and developed significantly throughout history. First traces of advertising can be found at around 3,000 B.C.E. The billboards Babylonian

¹⁷ ELDEN, M., Ö. ULUKÖK and S. YEYGEL (2011), “Şimdi Reklamlar”, İletişim Yayınları, İstanbul.

¹⁸ DOĞANCANER, S. E. (2020), “Bir Dijital Reklamcılık Türü Olarak Doğal (Native) Reklam: Onedio.Com Üzerine Bir Araştırma”, Post-graduate Thesis, p. 3.

¹⁹ <https://www.merriam-webster.com/dictionary/advertising>

²⁰ <https://sozluk.gov.tr/> Accessed: 08.03.2023.

traders put in front of their stores to sell via criers are generally accepted to be the first examples of advertisements. But the process that characterizes today's advertisement started with Gutenberg's invention of the printing press. Following the Industrial Revolution, for a long time advertisements were prepared in the form of product leaflets emphasizing the rational benefits, which were used in various areas such as image and positioning with the rise of marketing after World War II.²¹ The invention of photography in 1839 introduced a visual aspect to advertisement, and producers started to use magazine ads from 1840s onwards. New channels were formed for advertisements following the first radio broadcast in 1907 and after the introduction of television into the advertising world in 1940 as both a visual and audio media²². Moreover, outdoor advertising using spaces visible for everyone such as billboards found its place among the types of traditional advertising.

- (23) The principles of the creativity in advertising was established between 1960-1969, of positioning between 1970 and 1979, and the period from 1980 onwards represents a process where the professional principles were established and professionalization took place. This is because advertising agencies that used to operate like middleman gradually started to incorporate all advertising services under their umbrella²³. All of these global developments in advertising history are presented below, classified under five technological steps:

Table 1: Five Technological Steps in Advertising History

Period	Technology	Type of Advertising
Pre-1930	Printed media	Product
1930 - 1940	Radio / Photography	Product symbolism
1950 - 1960	Television	Personalization
1970 - 1980	Database (MTVCNN)	Lifestyle
1990 - today	Internet	Cooperation

Source: Van Dyck, Fons (2017), *Yeni Nesil Reklamcılık*, p. 15.

- (24) Meanwhile, advertising in Türkiye also took its start with printed ads, similar to Europe. The first ads were published in 1860 in the newspaper *Tercüman-ı*

²¹ TAŞYÜREK, N. (2010), "Reklam ve Reklamın Tüketicilerin Satın Alma Davranışları Üzerindeki Etkisi: Bir Alan Araştırması", Post-graduate Thesis, p.10.

²² ELDEN, M. (2009), "Reklam ve Reklamcılık", Say Yayınları, İstanbul.

²³ TAŞYÜREK, N. (2010).

Ahval, and were about houses, lands and books for sale²⁴. In parallel with the increase in the number of published newspapers and magazines as a result of the environment of freedom created with the pronouncement of the constitutional monarchy in 1908, there was a dramatic rise in the number of readers as well, and the first advertisement agency, İlançılık Kolektif Şirketi, was founded in 1909. With this agency, professional advertising started in Türkiye in a real sense. In the pre-WWII period of Turkish advertising, it is known that advertisers were mostly state-related institutions, with limited use of images and a focus on informational longer-form articles. With a Cabinet Decision issued after WWII, in 1957, the right to take out ads in newspapers and magazines was only accorded to the Resmi İlanlar Şirketi (Official Advertisements Company), as a result of which development of the advertising sector slowed down due to the inclusion of a third party between the agency and the advertiser, and government control over advertising increased²⁵.

- (25) In 1960, on the other hand, advertising companies saw a rapid growth. Significant steps in advertising during this period are the establishment of the Turkish Radio and Television Corporation (Türkiye Radyo ve Televizyon Kurumu - TRT) in 1964, the establishment of the Turkish Advertising Agencies Association in 1971, which mediated the first act of organization among advertising agencies, and Pars Reklam Ajansı's taking Turkish advertising outside the borders of Türkiye in 1974 by setting up the first cooperation with foreign advertising agencies. Since the 1980s advertising has entered a period of significant progress. Liberalization trends in the national economy increased the power of the private sector as well as competition between the companies, which had a positive effect on advertising investments. Also, the start of color TV broadcast in 1983 made television a more important device for the agencies. With technology improving, some visual effects started seeing wider use to ensure that advertisements attract attention, get watched and are constantly remembered²⁶. The advertising world were directly affected by the launch of private TV channels after 1990s which ended the TRT monopoly, by the influx of foreign

²⁴ TAŞ, O. and T. ŞAHİM (1996), "Reklamcılık ve Siyasal Reklamcılık", Ankara.

²⁵ ASLANER A.G. And D.A. ASLANER (2020), "Gelenekselden Dijitale Türkiye'de Reklamcılık", Vol. 10, Issue 21, 17-30.

²⁶ ÇETİNKAYA, Y. (1992) "Reklamcılık ve Manipulasyon", Ağaç Yayıncılık, İstanbul.

investors into the country due to globalization, by the increasing number of foreign brands, and by the increase of investments and competition in the media space.

- (26) In addition to the developments above, there were gradual transformations in the conception of advertising, as well. Rational values were put aside to view brands, products and advertisements through the lens of the newer generation hedonistic values. Due to the emergence of internet as a new space that can keep pace with these transformations, which is more measurable and economic, which allows user interaction and which is suitable for more creative communication with the target audience, the importance of TV for advertising started to decrease, and online advertising came to the forefront, representing a significant portion of today's advertising that uses the power of the social media as well.
- (27) In the online channel, the first ads were messages positioned on websites. The first online ad was published in 1994, when the total number of internet users around the world was just 30 million. It is generally accepted that the first ad banner was the ad for the AT&T Company, published on the website of the Hotwired magazine²⁷. HotWired put its stamp on the history as the first magazine to sell lots of display advertisements to various corporations. Afterwards, this type of ads saw frequent use by large companies such as United Airlines and Maytag, and the use of ads began to spread among other companies as well.
- (28) The size and type of the media in banners changed in time as a result of developments in technology. A short time after their introduction these ads could be seen everywhere. The Interactive Advertising Bureau (IAB) was founded in 1996 and standard sizes and formats were developed for placing banner ads with an aim to keep the order. While these standards were complied with for a number of years, many advertisers developed non-standard online ads with an aim to make them more attractive²⁸. Being the first ads, banner ads later added variety to differentiate in terms of size and function.

²⁷ GÜRKAYNAK, G., İ. YILMAZ and B. YEŞİLALTAY (2014), "Legal Boundaries of Online Advertising", *Journal of International Commercial Law and Technology*, Vol. (9), Issue (3), p. 180-189.

²⁸ KOZLEN, K. (2006), "The Value of Banner Advertising on the Web, A Thesis Presented to the Faculty of the Graduate School", University of Missouri-Columbia.

- (29) First banners could allow unilateral interaction with the Web 1.0 technology, but with the advent of Web 2.0 mutual interaction in ad models became possible, and web ads became the focus of the brands. Afterwards, Web 3.0 technology improved data management, supported the accessibility of mobile internet and helped organize cooperation in sharing. Web technologies customized via Web 3.0 made it possible to display ads tailored to the needs of the target audience and enabled conversion-focused web advertising. In the present day, Web 3.0 technology is in use, which helps machines intelligently read web content and load websites²⁹ quickly as well as with higher quality; they can also do respond with the necessary action to decide what to operate first when creating interfaces that give more commands³⁰.
- (30) In addition to the improvements in banner ads, the emergence and development of search engines and the increase in the user network kicked up the popularity of search engine ads. Moreover, brands started to use the video networks that achieve many views and high user potential for video ads, and these maintain their increasing significance in the present day.
- (31) In light of all of the developments above, advertising activities today can be divided into many categories according to content, target audience, geography and the tools used (channels), but at their foundation they are differentiated according to whether they are presented through the internet in terms of the channel used. Advertising services over the web are called online (internet, digital³¹) advertising, and those services which are not provided over the web are called offline, or traditional advertising). The features of these two advertisement channels and the switch from traditional to online advertising in Türkiye are examined in the section below.

1.2. The Switch from Traditional to Online Advertising in Türkiye

- (32) The internet allowed tracking users' digital footprints and showing interaction-focused advertisements based on users' history, likes, etc. Internet advertising continued to develop and expand through many different methods, including e-

²⁹ The words "internet" and "web" are used interchangeably.

³⁰ CHOUDHURY, N. (2014), "World Wide Web and Its Journey from Web 1.0 to Web 4.0", International Journal of Computer Science and Information Technologies, Vol. 5 (6).

³¹ The report uses the concepts of online, web, internet and digital interchangeably.

mail, pop-up ads, search engines, social media and content³². In social media, ads can be placed both over the content and within the videos, and at the same time interaction with the target audience became possible through strategies such as sponsored content, etc. While the most important difference between online and traditional advertising is the use of the internet, the other main points of differentiation between the two channels can be summarized as follows³³:

Individuality: Online ads are able to use more personalized statements unlike traditional advertisement texts, since the former see the consumer not as a population but as individuals, providing some advantage to advertisers, particularly in terms of reaching the intended target audience. There are two ways of providing customized ad messages: i) Profiling the individual by analyzing his digital footprints, likes, posts and contacts on the web; ii) Using the consumer as a tool during the stage of the creation and dissemination of the ad content. This also leads to the emergence of the self-propagating feature of the digital media ads³⁴.

Interactivity: Digital ads that become active on use by the target audience provide advertising agencies a short time to use interactivity effectively, once more emphasizing the importance of attractiveness in this channel.

Cost: Digital advertising provides a chance to reach a better selected target audience with less cost.

Strategy: The structure of online ad campaigns is more dynamic due to their dependence on constant observation and their ability to update the data based on those observations.

- (33) In addition, traditional media depends on the distribution of the ad message from a single, expert source to the target audience where everybody receives the same message, while web-based media allows one-to-one communication and target-oriented applications³⁵. The consumer is in a passive position in traditional advertising, and he only receives as much information as provided.

³² Yalova Üniversitesi Sosyal Bilimler Dergisi (2020), Vol. 10, Issue 21, p. 17-30.

³³ ÖNAY DOĞAN, B. (2015), "Online Reklamcılık", Köprü Kitapları, İstanbul.

³⁴ YILMAZ, R. and M.N. ERDEM (2016), "150 Soruda Geleneksel ve Dijital Reklamcılık".

³⁵ ADALI AYDIN, G. (2019), "Gelenekselden Dijitale Reklamcılığın Dönüşümü: Türkiye’de Yapılan Lisansüstü Tezlerde Dijital Reklamın İzini Sürmek", p. 4.

On the other hand, in digital advertising, the amount of information provided to the consumer is shaped according to how much interaction the consumer has with the advertisement³⁶.

- (34) On the other hand, the fact that consumers' attention has been switching from the traditional to digital channels with more and more consumers spending a larger portion of their time on social media or make their shopping through e-marketplaces led to advertisers preferring to use digital rather than traditional channels to reach the consumers. In the final analysis, what matters to the advertisers is the ability to show the ads of their products to the proper target audience. Since the target audience in question is spending more time in the online channel, advertisers are naturally forced to use the online channel more efficiently to reach their consumers. Furthermore, the relative ease and success of performance measurements for online ads compared to traditional ads led to a rapid growth in online advertising, contributing to its constantly increasing share in revenue, both in Türkiye and at a global scale.
- (35) In that framework, the following examination of the development of online advertising with an aim to explain the current position of digitalization in Türkiye reveals that initially the effect of online advertising was restricted due to the fact that many advertisers tended to assess media based on the traditional advertising channels of radio, television and newspapers³⁷. However, the increasing use of the internet by the consumers led to an increase in the time spent on online channels, which dramatically accelerated online advertising.
- (36) Thanks to technological developments, the messages advertisers wish to convey to the consumers can be sent more quickly, at the right time and to the right target. As mentioned above, unlike traditional channels, online advertising allows taking many actions such as establishing a dialog with the consumers, interaction, data collection and sales redirection, and additionally, making detailed measurements and optimizations, which both play a role in the proliferation of online advertising services. These developments also make online advertising channels very important for advertisers.

³⁶ LOMBARD, M. and J. SYNDER-DUCH (2017), "Digital Advertising in the Digital Age: The Power of (Tele) Presence, Shelly Rodgers and Esther Thorson (Ed.). Digital Advertising Theory and Research", p. 169-188.

³⁷ AKSAKAL, E. (2019), "Çevrim İçi Reklamcılıkta Pazar Tanımı ve Muhtemel Rekabetçi Endişeler", Competition Authority Expert Thesis Series, Ankara, p. 1.

(37) According to the 2022 Estimated Media and Advertising Investments in Türkiye Report³⁸ (Türkiye’de Tahmini Medya ve Reklam Yatırımları 2021 Raporu), published by IAB Türkiye, Association of Advertising Agencies and Association of Advertisers in cooperation with the consultancy firm Deloitte, in the first half of 2022, 46.3% of the advertising investment expenditures in Türkiye was in the digital channel, with a further 42.6% in television, 6.3% in outdoor advertising, 2.5% in radio, 2% in press (newspapers/magazines), and 0.4 in the cinema channel. The following table shows the share offline (TV, press, outdoor, radio, cinema) and online advertising channels took from total advertisement expenses in the 2013-2022/6 period:

Table 2: Share of Advertising Channels within Advertising Expenses (2013-2021, %)

Channel	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022/6
Digital	19.48	21.87	24.09	24.17	25.9	28.9	33.3	54	46.7	46.3
Television	48.46	47.39	47.08	51.22	47.8	47.0	46.0	36	42.4	42.6
Press	18.98	17.37	15.77	14.88	12.0	9.5	6.5	3	2.6	2
Outdoor	9.91	10.29	10.04	6.25	10.0	10.3	9.4	5	5.6	6.3
Radio	2.21	2.12	2.00	2.35	3.2	3.3	3.7	2	2.5	2.5
Cinema	0.96	0.96	1.02	1.1	1.1	1.1	1.1	0.2	0.2	0.4
Total	100	100	100	100	100	100	100	100	100	100

Source: IAB Türkiye, 2013-2022 Reports

- (38) The data in the table show that digital advertisement expenses gradually increased its share within total ad expenditure throughout the years, and won the top spot among ad channels in 2020. One would not be mistaken to predict that increasing online advertisement expenditures are not unexpected and that online advertising should maintain its top position in terms of total expenditure. This is because the prevalence of mobile and fixed internet use as well as the changing user habits caused the publishing sector to change its platform, in other words the publishing sector moved from traditional channels towards digital media. Together with the increase in e-commerce, this unavoidably leads to a similar trend in ad expenditures.
- (39) Another point of note in the table is the fact that digital advertising expenses increased its share within total ad expenditures by around 65% compared to the previous year in 2020, thus reaching the highest rate of increase over the years.

³⁸ IAB Türkiye “Türkiye’de Tahmini Medya ve Reklam Yatırımları 2021 Raporu”, <https://iabtr.org/UploadFiles/PageFiles/Medya%20Yat%C4%B1r%C4%B1mlar%C4%B1%202021%20Y%C4%B1%20Sonu%20Raporu742022174356.pdf> , Accessed: 13.05.2022.

The study in question lists the reasons behind this as follows: (i) the measuring methodology was changed by collecting data from all stakeholders in the digital advertising ecosystem, and (ii) consumers were more interested in digital services due to the impact of the COVID-19 pandemic³⁹.

- (40) The 2022 Estimated Media and Advertising Investments in Türkiye Report examines digital channel ad expenses under various subcategories, as shown in the table below. According to the table, the highest share among digital ad expenses at 5,308 million TL goes to display-based advertisements, which include methods such as banners⁴⁰, textlinks⁴¹, etc. This is followed by video ad expenditures with 4,833 million TL and expenses for search engine ads with 2,994 million TL.

Table 3: Digital media Investments in Türkiye for 2022/6 (million TL)

Digital Media Investment Type	Expense Amount (million TL)
Display-Based	5,308
Video	4,833
Search Engine	2,994
Other	938
Total Digital Media Investment	14,073

Source: IAB Türkiye

- (41) At this juncture, it could be beneficial to provide some data on online advertising over social media carried out in Türkiye as well as globally. In the Digital 2021 Türkiye Report⁴², it is noted that Facebook, one of the top social media platforms in the country, can show advertisements to 38 million persons in Türkiye, which ranks twelfth in the global rankings. Target audience access rate for advertisements is 56.5% for Facebook, which is significantly higher than the world average of 36%. Another interesting statistics is the fact that while Instagram's average ad target audience potential is around 20% globally, this

³⁹IAB Türkiye, "Türkiye'de Tahmini Medya ve Reklam Yatırımları 2020 Raporu", <https://iabtr.org/UploadFiles/Reports/2020%20Medya%20Yat%C4%B1r%C4%B1mlar%C4%B1%20Raporu842021143819.pdf>, p. 29, Accessed: 13.05.2022.

⁴⁰These are advertisement bands or boxes located at the top, bottom or middle of webpages separating different types of content within the page, or positioned vertically on the margins of the webpage, which are enriched with multimedia options including video, audio, etc. in recent years, and which have predominantly visual content as well as animations.

⁴¹These are advertisements where the publishers include the requested keywords in the content texts. As the visitor reads the text he is interested in, an ad is shown when the mouse cursor passes over the keyword. The ads displayed are semantically related to the content.

⁴² "Digital 2021: Turkey" <https://datareportal.com/reports/digital-2021-turkey>, Accessed: 13.05.2022.

ratio is 68.4% in Türkiye, giving the Turkish market the global top place in the rankings of Instagram ad target audience access rates rankings. Similarly, Snapchat's average ad target audience potential worldwide is around 8.2%, but this ratio is 16,5% in Türkiye, and Twitter's global average ad target audience potential is around 5.8% with a corresponding ratio of 20.2% in Türkiye. As a result, with the aforementioned ratios in Türkiye above the global average, it is clear that Türkiye is an important market for online advertising in the social media channel.

(42) In order to better explain the state of digitalization in Türkiye through the internet use of consumers and their online behavior, the following section will relay the data collected from a survey the Authority conducted through an independent company, as well as the findings of the Digital 2021 and Digital 2022 Reports prepared in partnership by Hootsuite and We Are Social.

1.3. State of Digitalization in Türkiye

(43) The main indicators that give an idea about the speed of development, actual status and potential of digitalization, and thus online advertising services in a country include internet and social media utilization rates, usage habits and perceptions, and the age distribution of the population which use the internet. In order to reveal the level of information and perception of the consumers concerning the functioning of the online advertising sector and to examine the conditions of competition, a survey was conducted within the framework of the sector inquiry involving a total of 1736 interviews with individuals over 18 in 26 provinces. Together with the conclusions of the aforementioned survey and the findings of the Digital 2021 and Digital 2022 Reports, the behavioral tendencies concerning the online shopping habits of users in Türkiye are presented below:

- **Internet Use:**

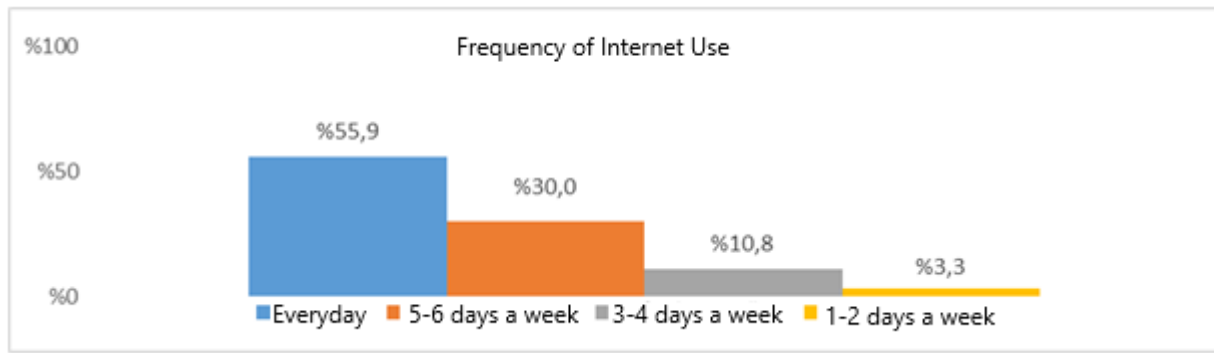
(44) According to the Digital 2022 Report⁴³, the number of internet users in Türkiye went up by 5.9% in 2022 to reach 69.95 million individuals, representing 82% of the total population. In terms of this particular main indicator, the number of

⁴³ In preparing the Digital Report, data from a wide variety of sources were used, including those published by market survey companies, internet and social media platforms, governments and public institutions. See <https://wearesocial.com/uk/blog/2022/01/digital-2022-another-year-of-bumper-growth-2/>., Accessed: 07.03.2023.

internet users in Türkiye is above the world average but behind the EU average, however it is close to the EU in its speed of increase. According to the report, the median age is around 31 in the world population and above 40 in the EU countries, but it is calculated to be 32.2 in Türkiye. Thus, Türkiye is a predominantly young country in terms of median age.

- (45) Looking at the frequency of internet use, as shown in the charts below based on the findings of the consumer survey, more than half of the participants used the internet “everyday” and 30% “5 to 6 days a week,” with the ratio of those using the internet everyday increasing in women, those in the AB socioeconomic status and in the 18-29 age group. The frequency of internet use increases with the socioeconomic status, but decreases with age. In the age distribution of frequency of internet use, the fact that the frequency goes up as the age gets younger seems to support Türkiye’s status as a country with a predominantly young population in terms of the median age.

Chart 1: Frequency of Internet Use (%)



Source: Competition Authority Consumer Survey

Table 4: Frequency of Internet Use by Gender, Socio-Economic Status (SES) and Age

Gender	Everyday	5-6 days a week	3-4 days a week	1-2 days a week
Male	54.2	32.1	9.7	4.0
Female	57.6	27.9	12.0	2.6
SES ⁴⁴	Everyday	5-6 days a week	3-4 days a week	1-2 days a week
AB	64.4	23.0	10.0	2.5
C1C2	56.8	30.8	9.9	2.4
DE	46.8	32.1	14.5	6.6
Age	Everyday	5-6 days a week	3-4 days a week	1-2 days a week

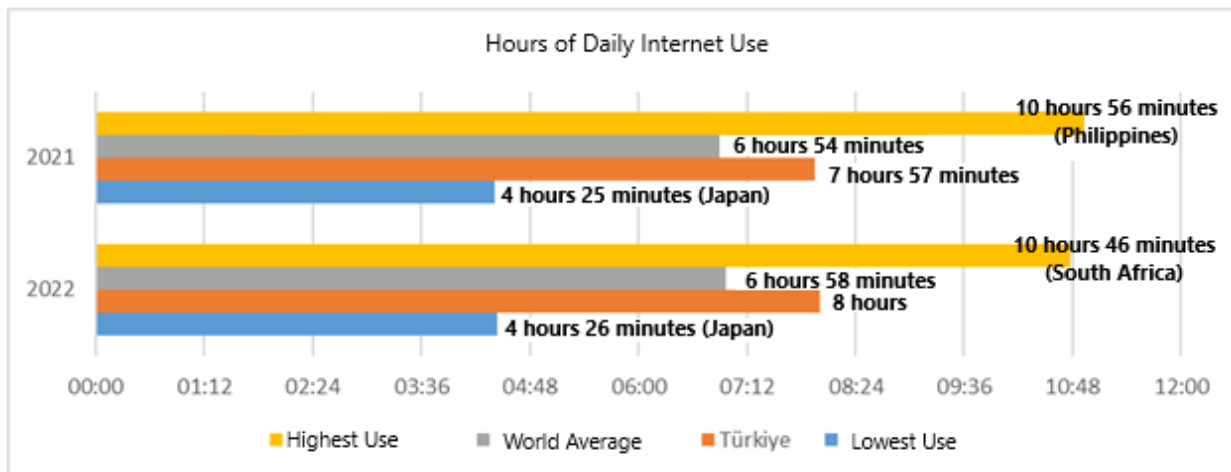
⁴⁴ In the most general sense, social and economic elements are divided into the three categories of high, middle and low, each of which are then further divided into the categories of low and high. Accordingly, the scale consists of 6 layers: SES Group A (high-high), SES Group B (high-low), SES group C1 (middle-high), SES group C2 (middle-low), SES Group D (low-high) and SES Group E (low-low).

Age 18-29	63.9	27.9	6.7	1.5
Age 30-39	59.8	28.7	9.4	2.1
Age 40-49	53.0	32.6	11.6	2.8
Age 50 and over	45.6	31.3	16.1	7.0

Source: Competition Authority Consumer Survey

- (46) According to the Digital 2022 Report, in Türkiye, the time internet users between 16-64 spent on the web each day reached 8 hours a day in 2022. As shown in the chart below, the world average for daily internet use was calculated at 6 hours 54 minutes for 2021, and 6 hours 58 minutes for 2022. Thus the fact that Türkiye is towards the top in the world rankings (12th out of 43 countries) show that internet's frequency of daily use is also high.

Chart 2: Comparison of Hours of Daily Internet Use in 2021 and 2022.

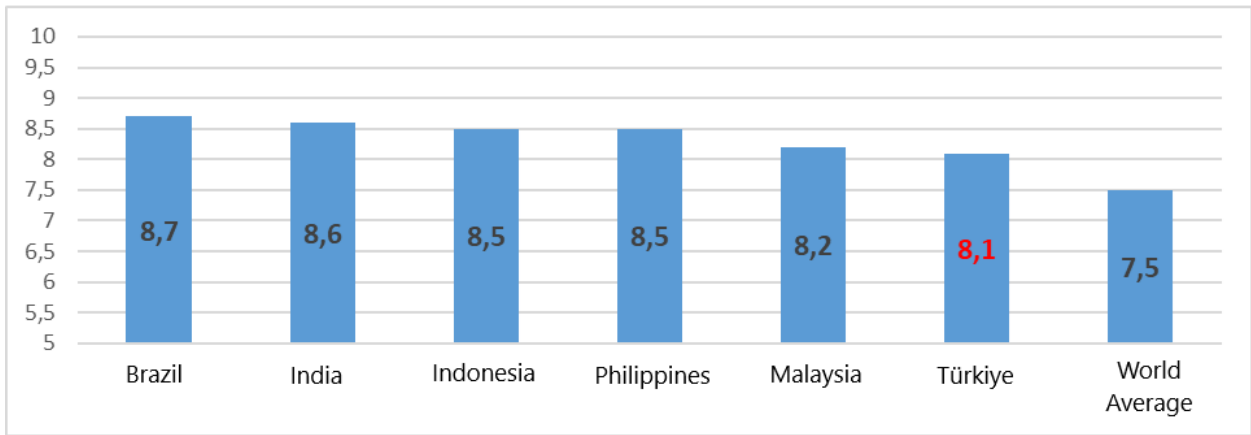


Source: Digital 2022 Report

- **Use of Online Channels:**

- (47) In the Digital 2022 Report, it is noted that there were 4.62 billion social media users worldwide in January 2022, corresponding to 58.4% of the total world population, and that there was a rise of more than 10% in the number of users within 12 months after the 424 million new users that ventured onto social media in 2021. As seen in the chart below, the report describes Türkiye as the 6th country overall that is most active on social media globally.

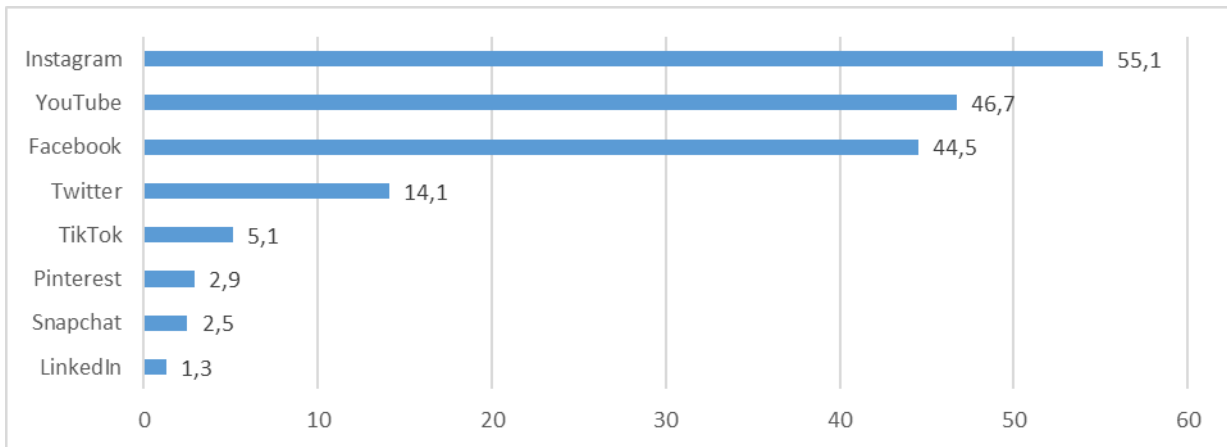
Chart 3: Average Number of Social Media Actively Used Each Month



Source: Digital 2022 Report

(48) According to the Digital 2022 Report, top five social media platforms most frequently used in Türkiye are YouTube (%94,5), Instagram (%89,5), Whatsapp (%87,5), Facebook (%79) and Twitter (%72,5). As can be seen in the chart below, which was prepared in accordance with the survey results, the participants quote “Instagram,” “YouTube” and “Facebook” as the most widely used social media applications. It is observed that the findings from the consumer survey and the Digital 2022 Report are largely the same in terms of the most frequently used social media applications:

Chart 4: Most Frequently Used Social Media Applications

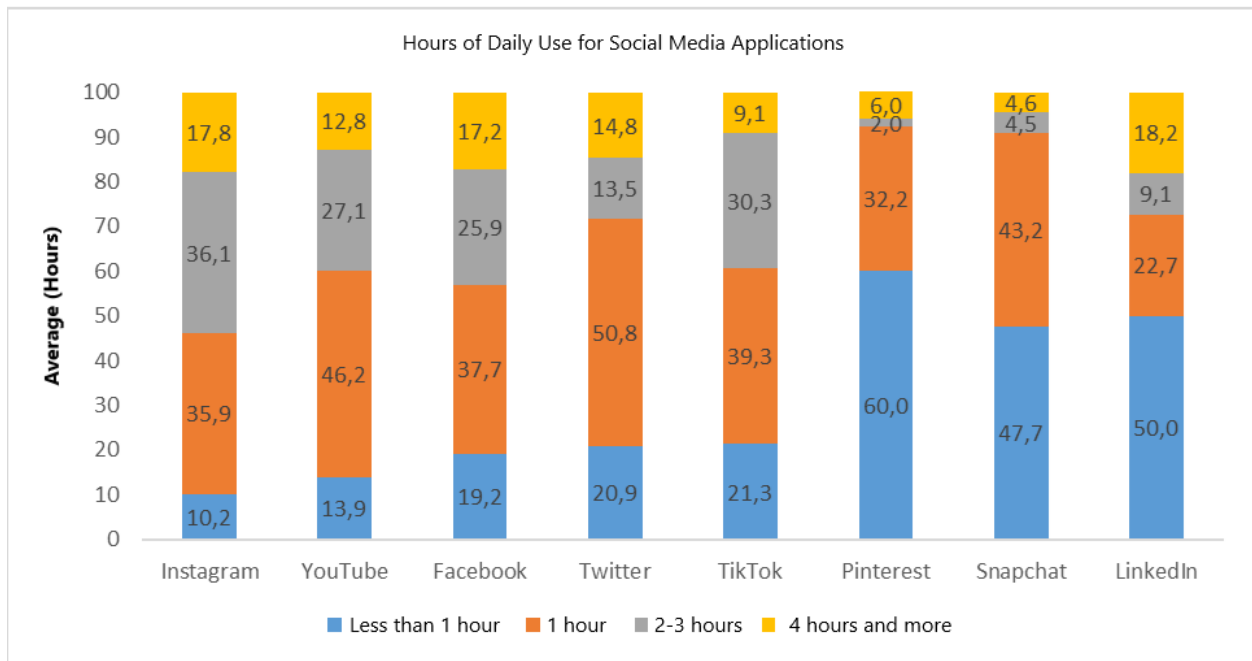


Source: Competition Authority Consumer Survey

(49) According to the Digital 2022 Report, average time spent on social media in Türkiye during 2022 was 2 hours 59 minutes, which is higher than both EU and global averages. This indicator shows that social media users in Türkiye spend more time on these platforms. The report also points out that Türkiye is the

country that most actively uses Instagram in the world. According to the survey findings, the most frequently used applications throughout the day are “Instagram” “YouTube” and “Facebook,” with 20% of Instagram and Facebook users spending 4 or more hours in the application. Furthermore, 30% of the participants of the consumer survey claimed that online channels increased quality of life.

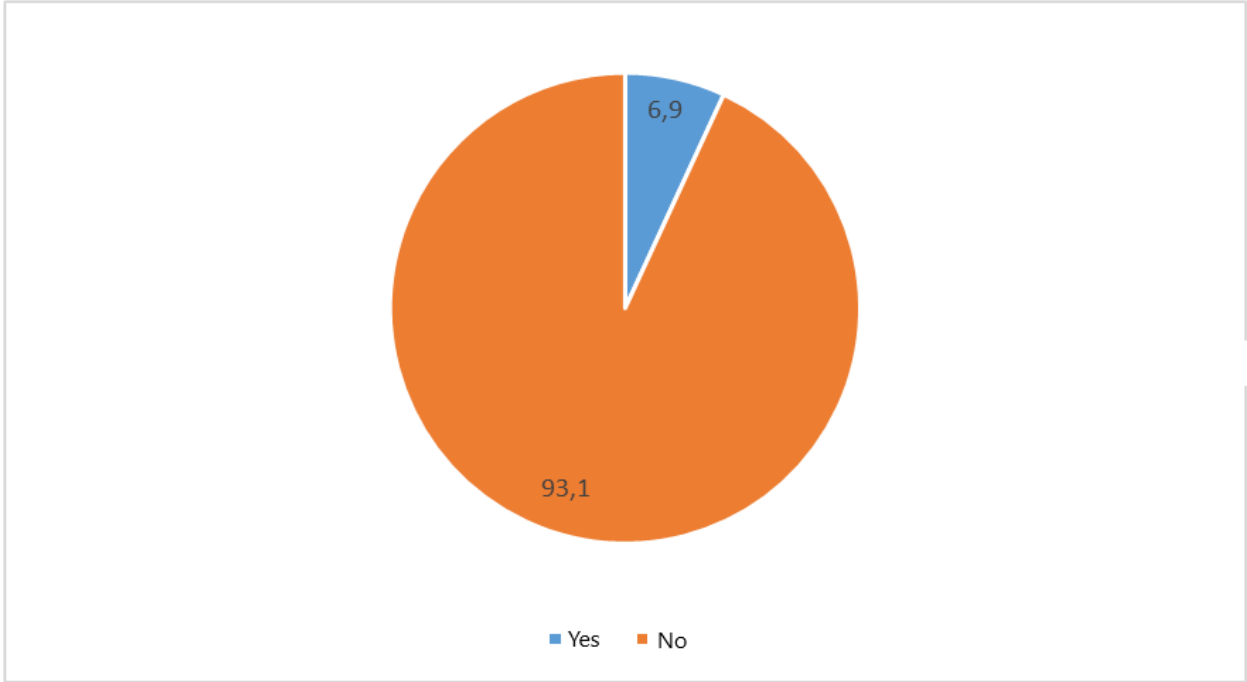
Chart 5: Hours of Daily Use for Social Media Applications



Source: Competition Authority Consumer Survey

(50) Following is a chart of the responses to the question “*Have you stopped using any online channels/platforms you previously used?*” asked in the consumer survey. As understood from the chart, 93.1% of consumers state that they did not stop using any online platforms they previously used. This leads to the conclusion that users in Türkiye make up a loyal audience for the platforms on which online advertising activities are conducted. Thus, the fact that Türkiye is a significant market for online advertising can also be seen in the chart below, which reveals the behavior of the target audience.

Chart 6: Whether Consumers Stopped Using Online Platforms (%)

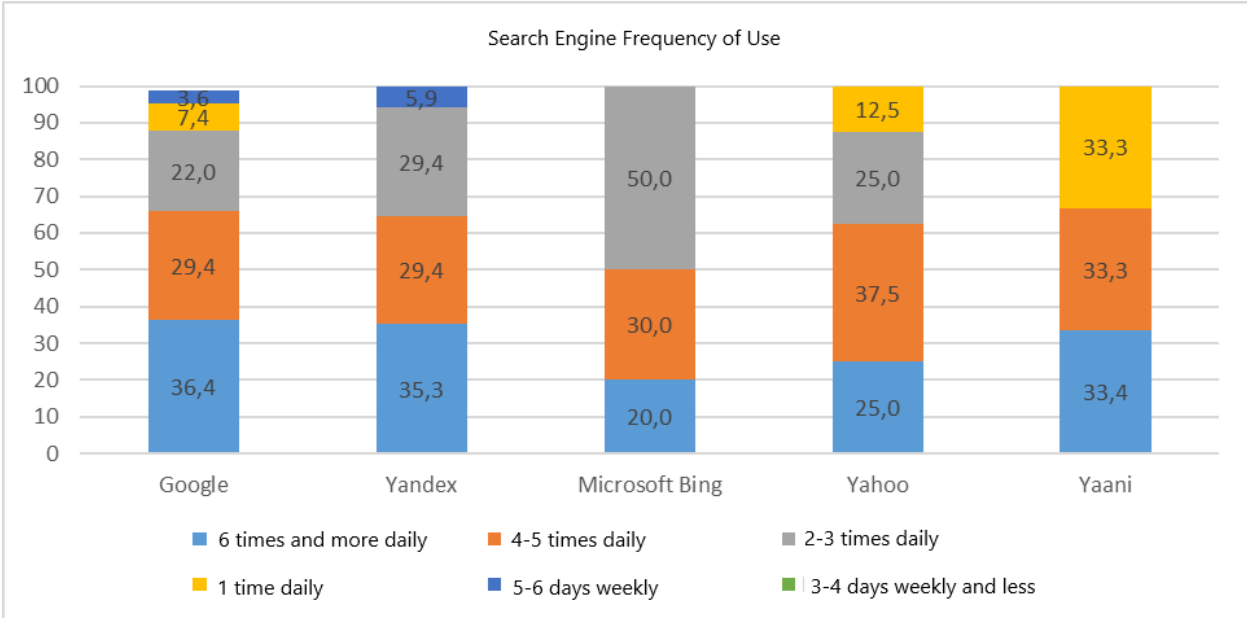


Source: Competition Authority Consumer Survey

- Search Engine Frequency of Use:**

(51) According to the survey results, 2 out of 5 people using Google as a search engine utilize the engine “6 times or more every day,” and the frequency of use for “Google” is calculated to be 29 time per week.

Chart 7: Search Engine Frequency of Use

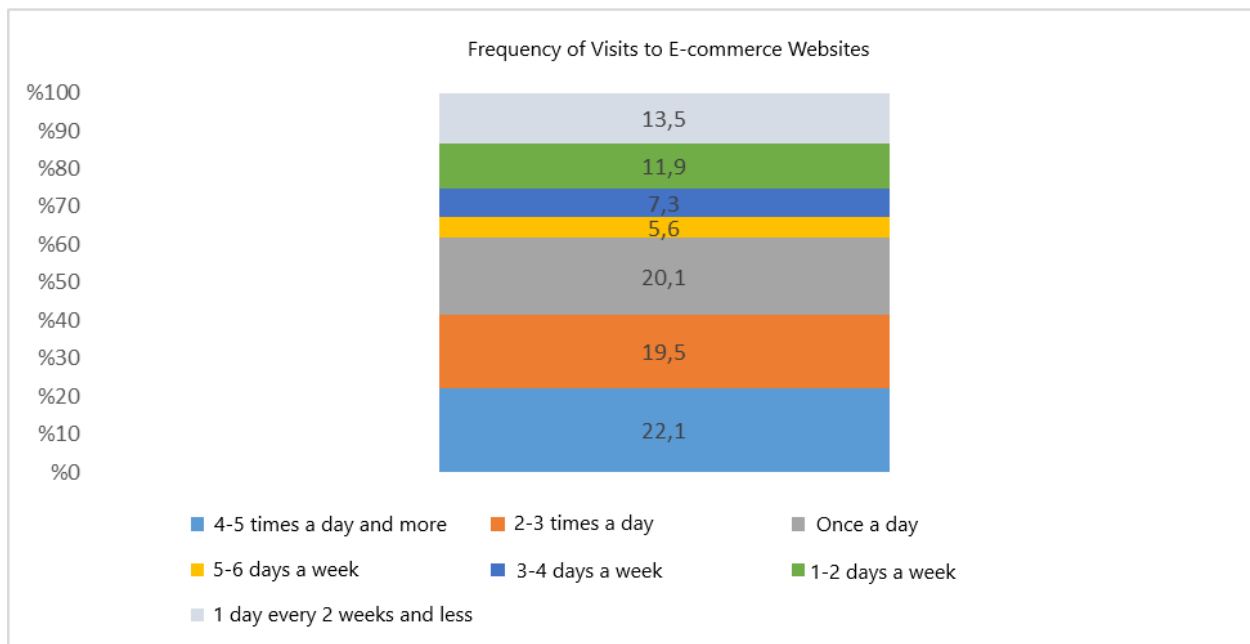


Source: Competition Authority Consumer Survey

- **Online Shopping:**

- (52) The Digital 2022 Report measured that, in 2022, 89% of the internet users between 16 to 64 made online products research before purchase, 89.5% visited online retail sites, and 75% shopped online. In 2022, the share of online shopping worldwide was around 76.8%; that rate was 63% in Türkiye for the previous year but jumped up to 75% due to the pandemic, which suggests that while the country fell behind the worldwide average in the previous year, its high potential for online shopping was revealed within a short period of time.
- (53) According to the findings of the survey, 47.9% of the participants count “shopping” among their purposes for using the internet. In addition, as shown in the charts below, the findings collected lead to the conclusion that around 22% of those that use internet for shopping visit e-commerce websites at least 4-5 time a day.

Chart 8: Frequency of Visits to E-commerce Websites



Source: Competition Authority Consumer Survey

- (54) The main indicators included above⁴⁵ show that internet use rates are high in Türkiye, that the country is performing above global averages in the digitalization

⁴⁵ In addition to the indicators above, another interesting factor contributing to online channel usage is crypto currency trade. Digital 2022 Report notes that the number of individuals owning crypto currency increased by around one third (37.8%), that at least 10 out of every 100 internet

process, and that it is an important country for advertising services due to usage habits. The fact that Türkiye ranks higher than EU countries for a many of the above indicators means that advertising services in our country have larger impact than they do in those countries.

- (55) In light of this role online advertising fulfills in terms of Türkiye's economy and population dynamics, the section below addresses how online advertising is regulated under the current legislation in Türkiye.

1.4. Advertising Regulations in Türkiye

- (56) The main regulation in Türkiye on the subject of advertising is the Act on the Protection of the Consumer⁴⁶, no 6502 (Act no 6502) and the Regulation on Commercial Advertisements and Unfair Trade Practices⁴⁷ based on the aforementioned Act. Article 61 of the Act no 6502 defines commercial advertisements as *“notices with the characteristics of a marketing communication made by advertisers in connection with a trade, business, craft or profession, using any channel through written, visual, auditory and similar methods, with an aim to ensure the sale or rent of goods or services, or to inform or convince the target audience”*. The second paragraph of the same article provides that commercial advertisements should be in compliance with general ethics, public order and personal rights, as well as correct and honest. Under Article 63 of the Act, the Advertising Board is invested with the right to establish the principles for commercial advertisements and to make the necessary arrangements to protect the consumer against unfair trade practice, to conduct examinations and, if required, inspections in that framework, and, in accordance with the conclusion of the examination and inspection, to take injunction or correction decisions, to impose administrative fines or, when deemed necessary, to impose cautionary injunctions for a period of up to three months.

- (57) According to Article 65 of the Act no 6502, the Advertising Council meets at least once a year under the coordination of the Ministry to monitor modern

users owned some type of crypto currency and that Türkiye is the fifth country globally, in terms of crypto currency purchases.

⁴⁶ Official Gazette dated 28.11.2013 and numbered 28835, <https://www.mevzuat.gov.tr/mevzuat?MevzuatNo=6502&MevzuatTur=1&MevzuatTertip=5>

⁴⁷ Official Gazette dated 10.01.2015 and numbered 29232, <https://www.mevzuat.gov.tr/mevzuat?MevzuatNo=20435&MevzuatTur=7&MevzuatTertip=5>

communication applications related to the creation and implementation of advertising policies, to conduct research and studies for developing the advertising sector and the advertisement monitoring function, to form opinions and suggestions on this subject, and to submit these opinions and suggestions to the authorities concerned. The organization and duties of the Advertising Council as well as its operating rules and procedures are set out in the Advertising Council Regulation⁴⁸.

- (58) Another institution that supervises advertisements is the Radio and Television Supreme Council (Radyo Televizyon Üst Kurulu - RTÜK). RTÜK monitors the commercial announcements and advertisements broadcast on radio and television, and the principles that these advertisements must abide by are set out in the Regulation on the Procedures and Principles of the Broadcast Service⁴⁹.
- (59) The Advertising Council and RTÜK are responsible for the administrative supervision of advertisements. Another way of supervising advertisements is self-regulation. The Advertising Self-Regulatory Board (Reklam Özdenetim Kurulu - RÖK), which consists of members from the Advertisers Association and the Association of Advertising Agencies, have been requesting advertisers to correct or cease publication of those advertisements they find to be in violation of the International Code of Advertising Practice⁵⁰. RÖK is not a legal entity, and neither does it have any power to impose sanctions. Thus, RÖK's decisions on advertisements are advisory in nature and are not legally binding.

⁴⁸ Official Gazette dated 24.12.2014 and numbered 29215. <https://www.mevzuat.gov.tr/File/GeneratePdf?mevzuatNo=20331&mevzuatTur=KurumVeKurulusYonetmeligi&mevzuatTertip=5>. Article 7 of the Regulation lists the duties of the Advertising Council as follows:

“a) Monitoring modern and international developments and court decisions in the field of advertising and marketing communication to render opinions and suggestions for improving the regulation and supervision functions in these areas.

b) When deemed necessary, setting up working parties and determining the members that will chair the working parties.

c) Examining and discussing the reports of the working parties.

d) Making suggestions to increase public awareness on matters related to advertising.

d) Developing suggestions to ensure all channel measurements are conducted soundly.

e) Monitoring the studies conducted with relation to the opinions and suggestions set out in the previous items, assess their outcomes, inform the public, publish the aforementioned studies and create guidelines when necessary.”

⁴⁹ Official Gazette dated 02.11.2011 and numbered 28103. <https://www.mevzuat.gov.tr/mevzuat?MevzuatNo=15508&MevzuatTur=7&MevzuatTertip=5>

⁵⁰ <https://www.rok.org.tr/>, Accessed: 07.03.2023

- (60) An assessment concerning online advertisements show that the national legislation lacks a separate regulation for online advertisements. The Regulation on Commercial Advertisements and Unfair Trade Practices define channel as “*the place and environment where the persons, groups or communities that transmit the advertisement and the promotion message meet with those who receive it; communication channels such as television, all kinds of printed press, internet, telephone, radio and cinema, as well as communication devices such as outdoor, published material, etc.*” Thus, the relevant regulation makes a wide definition for channel which includes internet as well. Since it is noted that commercial advertisement can be on any channel, it is understood that an advertisement on the web is also included in the relevant definition of channels.
- (61) Based on the Act no 6502, the Guidelines on Commercial Advertisements and Unfair Trade Practices by Social Media Influencers (Guidelines) was published after its adoption at the Advertisement Board’s meeting of 04.05.2021 numbered 309 as principle decision no 202/2⁵¹. The Guidelines mandate that advertisements made through personalities, known as “influencers” throughout the world, who ensure the sales or rent of goods or services owned by themselves or advertisers on their social media accounts and engage in marketing communication to inform or convince the target audience should be expressed in a clear and intelligible manner and be distinguishable. The Guidelines also ban audio, written or visual covert advertising on social media⁵².
- (62) Meanwhile, in accordance with Article 1 of the Act no 7194 Amending the Digital Services Tax as well as Certain Laws and the Statutory Decree no 375, all types of advertisement services provided in the digital media were made the subject of taxation⁵³.
- (63) Moreover, in accordance with the Law no 7253 Amending the Law on Regulation of Publications on the Internet and Suppression of Crimes Committed by Means

⁵¹ For the relevant Guidelines see <https://tuketici.ticaret.gov.tr/duyurular/sosyal-medya-etkileyicileri-tarafindan-yapilan-ticari-reklam-ve-haksiz-ticari-uyg>, Accessed: 07.03.2023.

⁵² <https://ticaret.gov.tr/haberler/ticaret-bakanligi-sosyal-medya-etkileyicileri-icin-kilavuz-yayimladi> Accessed: 07.03.2023.

⁵³ In this context, revenues collected from the provision of all types of advertisement services fall under the scope of the digital service tax, including those from search engine ads such as where the ad is shown with the search results or where the ad result concerning the advertiser is shown at the top, from banners, all types of auditory, visual or written ads published before, during or after a video or user post is watched, ads transmitted online through software on electronic devices, pop-ups, etc.

of Such Publications (Law no 7253), foreign social network providers with daily access over one million are obliged to appoint at least 1 real or legal entity as their representative in Türkiye, and if they fail to do so, there is five-step sanctions process set up involving a two-stage fine, followed by advertisement prohibitions and a two-stage web traffic restrictions⁵⁴. Accordingly, after the fine stage, taxpaying real and legal entities based in Türkiye are prohibited from taking out new ads with the relevant social network provider, no new agreements can be drawn to that end, and no moneys can be transferred.

- (64) An overview of the direct and/or indirect regulations concerning advertisements in Türkiye show that there is currently no special regulation on advertising, with existing regulations being applied to the online advertising field instead.
- (65) In light of the information in this section, it has been established that, due to the impact of digitalization, online advertising has become a rapidly developing, very significant market both globally and nationally, and it has been explained that there are currently no regulations for any actual/potential competition problems in the market. In light of the necessity of the sector inquiry herein for identifying and eliminating the competitive problems in the online advertising market, the following section will analyze the state of competition for the types of online advertising and for each potential downstream market, with an aim to draw a more detailed picture of the market.

⁵⁴ OYMAK, H . (2020), “7253 Sayılı İnternet Ortamında Yapılan Yayınların Düzenlenmesi ve Bu Yayınlar Yoluyla İşlenen Suçlarla Mücadele Edilmesi Hakkında Kanunda Değişiklik Yapılmasına Dair Kanun'un Getirdikleri”, Yeni Medya, (9), p. 131. <https://dergipark.org.tr/en/pub/yenimedya/issue/58796/848561>, Accessed: 08.03.2023.

2.ONLINE ADVERTISING

2.1.Types of Online Advertising

- (66) Consumers spending more and more time on the web made online advertising⁵⁵, which is a type of advertising making use of various internet-based media to promote goods and services, a rather important channel for advertisers to reach their consumers. The ability to conduct detailed audience targeting in online ad campaigns, thus making it easier to inform users on the product/service or encourage them to buy the product or service; the ability to measure the effectiveness after the ad is displayed, i.e. measure views and conversion, and the ability to make target-oriented optimizations⁵⁶ for the ad campaigns increase the attractiveness of online advertising for advertisers every year.
- (67) In fact, according to the Estimated Media and Advertisement Investments Reports, the shares of online advertising in total ad expenditure in Türkiye during the period from 2017 to 2022/6 were 25.9%, 28.9%, 33.3%, 54%, 46.7% and 46.3, respectively, showing a gradual increase⁵⁷.
- (68) An examination of the channel distribution of the ad expenditures of the 53 advertisers that were able to provide consistent data for the 2017-2021/5 period within the framework of the sector inquiry shows that the share of online advertising in total ad expenditures through the years were %55, %61, %49, %64 and %65, respectively. Accordingly, it can be concluded that online advertising has been increasing its share in general advertising expenses/budget every year, and at present commands more than half of all of the expenditures in the sector.
- (69) As mentioned in a previous section of the study⁵⁸, online ads are differentiated from traditional ads in many aspects, such as personalization, interactivity, costs, campaign strategy, etc. This differentiation affects the advertisers' choices

⁵⁵ AKSAKAL, E. (2020), "Çevrim İçi Reklamcılıkta Pazar Tanımı ve Muhtemel Rekabetçi Endişeler", Rekabet Authority Expert Thesis, Ankara, p.3.

⁵⁶ Optimization is the process of improving the performance of an ad campaign that is conducted under budgetary restraints with a view to more efficiently serve the purpose the advertiser is trying to achieve through online advertising.

⁵⁷ Quoted from the reports on the following addresses:<http://rd.org.tr/www/rd/assets/doc/RD-medya-ve-reklam-yatirimlari-2017-Raporu.pdf>, <http://rd.org.tr/Assets/uploads/bf6ab5b5-0d86-4bc3-92a7-da47c165cb61.pdf>, http://rd.org.tr/assets/uploads/medya_yatirimlari_2019_.pdf, <http://rd.org.tr/Assets/uploads/1cc3c0b2-236d-4ada-9cbe-8a24420611c5.pdf>, https://www.rvd.org.tr/uploads/2022/04/medyayatirimlari_2021yilsonu_raporu_final.pdf.

⁵⁸ See the section titled "1.2. Switch from Traditional to Online Advertising in Türkiye"

for these two types of advertising. On this particular issue, one advertiser, namely (...), stated that it did not adopt a standard approach when deciding on budget distribution between online and traditional advertising, and that it paid attention to various criteria such as the purpose and content of the advertisement, recognizability of the product and/or service, its target audience, the channel usage habits of the target audience, campaign period, campaign duration, campaign budget, sales targets, whether competitors invest in traditional advertising, brand recognition, long-/short-term company strategies and digital marketing trends. (...) also noted that traditional advertising had a significant impact on store sales while online advertising mostly affected e-commerce, which led to the consideration of monthly store and online sale targets when deciding on how to distribute the advertisement budget. In addition, (...), (...), (...) and (...) stated that they regularly reviewed the impact of each ad campaign they launched, and that their outcomes, effectiveness and productivity were among the factors affecting their choices between these channels. (...), on the other hand, explained that they primarily looked at the TV ad usage of their rivals when deciding on their own TV ad budget, after which they set the budget allocated to online advertising within the total ad budget.

(70) Online advertisements can be presented to users both on mobile devices and on fixed devices such as desktop and laptop computers. A review of the distribution in that sense shows that, according to the Estimated Media and Advertisement Investments Reports, the share of the mobile channel in Türkiye was 70% in 2020 and 73% in 2021⁵⁹. Examination of the fixed-mobile expenses of the 40 undertakings which provided data under the sector inquiry, on the other hand, reveals that the shares of the mobile channel in the 2017-2021/5 period were %19, %24, %57, %48 and %51,5, respectively. In that framework, it can be concluded that the share of the mobile channel among all advertising channels is on a constantly increasing trend, comprising more than half of the advertisers' expenditures in the recent periods.

⁵⁹ <http://rd.org.tr/Assets/uploads/1cc3c0b2-236d-4ada-9cbe-8a24420611c5.pdf>, Accessed: 07.03.2023.

(71) On the subject, when asked their opinions on how advertisers decided the distribution of the ads they would publish between the fixed-mobile channels, some of the undertakings expressed the following points.

- (...) stated that they did not differentiate between these channels;
- (...) stated that they decided based on the suitability and price of the channel;
- (...) stated that they looked at the basic performance indicators of the advertisement;
- (...) stated that they made their decisions based on the information they collected from sources which provide data on user habits, and that they were unable to make a differentiation in certain channels due to the nature of the platform; e.g. on platforms like Tiktok and Instagram all ads were through the mobile channel;
- (...), (...), (...) and (...) noted that the advertisement platforms they used operated through an artificial intelligence algorithm, that if the bidding strategy were left to these algorithms the relevant platform prioritized the channel where it decided the ad would create the most interaction and therefore channel selection was left to the algorithms used by those platforms;
- (...), (...) and (...) stated that they did not make a distribution beforehand in this area, that fixed and mobile channels were in general united under a single umbrella in recent years due to the sharp increase in smart phone usage rates and therefore they published all of their content without making a distinction between channels and thus the fixed/mobile channel distinction was lost.

(72) Online ads are displayed on various parts on the screen and at various times, when the user submits a search query or while he is browsing the internet. However, online advertisements have diverse purposes and functions, and they cater to various audiences, as a result of which there may be differences in terms of demand substitution. A small group of undertakings within the scope of the sector inquiry do claim that the distinction between the types of advertising is artificial and does not reflect the realities of the market, based on the fact that there are no significant differences in Türkiye between ad formats and the fact

that advertisers are able to constantly re-allocate their budget to a different types of ad media, however most of the undertakings note that online advertising sector may be divided into the categories of search advertising, display advertising and classified advertising.

(73) An examination of the studies in the literature and the decisions taken by the competition authorities reveal comments similar to the responses given by the sector players. The recent digital advertising sector reports by the Japanese Fair Trade Commission (JFTC) and the French Authority (*Autorite de la Concurrence-ADLC*) have divided online advertising into search advertising and display advertising⁶⁰, while the sector report of the British Competition Authority (*Competition and Markets Authority - CMA*) adds classified advertising to this categorization⁶¹. The sector report by the German Competition Authority (*Bundeskartellamt*) notes that search advertising and display advertising are the most important types of online advertising, with display advertising over the mobile channel and social media gaining importance in the recent period⁶². In the OECD (*Organisation for Economic Co-Operation and Development*) study titled “Competition in Digital Advertising Markets” on competition in online advertising markets, it is explained that there are various ways of classifying online advertising, but that the main categorization could involve search advertising, display advertising and video advertising⁶³. Estimated Media and Advertisement

⁶⁰ ADLC (2018), “Opinion No. 18-A Of 6 March 2018 On Data Processing in The Online Advertising Sector”,

https://www.autoritedelaconcurrence.fr/sites/default/files/integral_texts/2019-10/avis18a03_en.pdf, p. 16. Accessed: 08.03.2023; JFTC (2021), “Final Report Regarding Digital Advertising”, <https://www.jftc.go.jp/en/pressreleases/yearly-2021/February/210217.html>, p. 12. Accessed: 08.03.2023. In addition to the two main types, the report by the JFTC includes another category titled “other types of online advertising,” which is noted to include affiliate advertising (sales or revenue partnership advertising) and other online advertising types. Affiliate advertising is an advertisement model whereby undertakings pay third parties to advertise their products and/or services. The most significant example of affiliate advertising is the business model wherein social media influencers that can have an impact on their followers through their social media accounts direct them towards e-commerce websites by providing links for various products.

⁶¹ CMA (2020), “Online Platforms and Digital Advertising Market Study Final Report” https://assets.publishing.service.gov.uk/media/5fa557668fa8f5788db46efc/Final_report_Digital_ALT_TEXT.pdf, p. 59. Accessed: 07.03.2023.

⁶² Bundeskartellamt (2018), “Online Advertising, Series of Papers on Competition and Consumer Protection in the Digital Economy”, https://www.bundeskartellamt.de/SharedDocs/Publikation/EN/Schriftenreihe_Digitales_III.pdf?blob=publicationFile&v=5, p. 4. Accessed: 08.03.2023.

⁶³ OECD (2020), “Competition in Digital Advertising Markets” <https://www.oecd.org/daf/competition/competition-in-digital-advertising-markets-2020.pdf>, p. 13. Accessed: 08.03.2023.

Investments Reports in Türkiye⁶⁴ divide online advertising into the categories of search advertising, impression- or click-based advertising⁶⁵, video advertising, notices⁶⁶ and other⁶⁷.

- (74) The *Google/DoubleClick* Decision⁶⁸ of the European Commission (*Commission*) categorizes online advertising according to three different variables. The first of these is the choice mechanism concerning how the ad would be shown on the user's screen (*search advertising, display advertising and classified advertising*), the second is the format of the ad (*texts, shapes, etc.*), and the third is the distribution channel (*direct or indirect sales*). Similarly, in the Commission's *Microsoft/Yahoo* Decision⁶⁹, advertising is divided into four categories: format (*text, video*), the device used (*fixed, mobile*), pricing mechanism (*direct or indirect sales*), and mechanism of choice (*search advertising, display advertising and classified advertising*).
- (75) The Board decision dated 23.03.2017 and numbered 17-11/127-56, concerning bundle sales and tying practices in advertising services, defines no clear-cut relevant product market, but divides the online advertising channel into the search engine providers channel (search-based online advertising) and content providers channel (non-search-based online advertising), and further divides the content providers channel (non-search-based online advertising) into the direct sales channel and indirect sales channel (advertising intermediary services). In another Board decision⁷⁰ examining the Shopping Unit auction mechanism, advertising services are examined under two main categories, consisting of search advertising and non-search advertising. Lastly, the short decision

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See https://www.rvd.org.tr/uploads/2022/04/medyayativirimleri_2021yilsonu_raporu_final.pdf, Accessed: 14.07.2022

⁶⁵The relevant report notes that, for domestic or foreign publishers, impression- or click-based advertising includes all cost-per-click or cost-per-thousand-impressions publications (banners, textlinks, advertorials, rich media, in text ads, etc.), regardless of the device. In that framework, impression- or click-based advertising seems to fundamentally cover types of display advertising.

⁶⁶It is noted that the notices category includes the premium listing price spent on the classifieds website, i.e., investments by those placing ads on these websites excluding display advertisements. Thus, the "notices" category in the report represents the "classified advertising" sub-category, as clarified in the following sections of the report.

⁶⁷The "Other" group is stated to include the following five sub-categories: social media influencers, digital audio, e-mail, connected TV and in-game sponsorship.

⁶⁸COMP/M.4731, para. 10-15

⁶⁹COMP/M.5727, para. 36.

⁷⁰Board Decision dated 07.11.2019 and numbered 19-38/575-243.

announcement for the investigation on Facebook makes it clear that the online display advertising market was assessed⁷¹.

(76) In light of the information above, it becomes clear that online advertising could be classified in accordance with different variables, however it could mainly be divided into the categories of search advertising, display advertising and classified advertising by type. In that context, the following section will include general information on each type of advertising.

2.1.1. Search Advertising

(77) Search advertising refers to the text ads published by the search engine at the top or bottom of the organic results for a relevant search, provided advertisers bid on the keywords in the search query. Thus, it is possible to say that search advertising allows advertisers to reach users that perform searches on the web.

(78) Search advertising consists of text-based advertisements and advertisers consider them successful at responding to the immediate interests of the user. In addition, search advertising can increase the level of targeting by making adjustments to make the ads displayed to users that perform searches at a certain location⁷². In Türkiye, search engines such as Google, Yandex and Bing are providing services in the field of search advertising.

(79) The image below includes an example for search advertising. This example shows that when a search is performed on the Google search engine with a keyword such as “shoes,” links with text ads are displayed at the top of the search results page above organic results, together with the phrase “paid sponsor ads”:

⁷¹ <https://www.rekabet.gov.tr/tr/Guncel/meta-platforms-inc-eski-unvani-facebook-c3135926fa54ed11a22e00505685ee05>, Accessed: 07.03.2023.

⁷² Case AT40411, para. 135.

Figure 1: Appearance of Search Advertisements on the Google Search Engine

The image shows a Google search results page for the query 'ayakkabi'. The search bar at the top contains the text 'ayakkabi'. Below the search bar, there are navigation options: 'Tümü', 'Alışveriş', 'Haritalar', 'Görseller', 'Videolar', 'Daha fazla', and 'Araçlar'. The search results are displayed in a list format. The first three results are sponsored advertisements, each with a red box around them and a red label 'Ad Results' pointing to them. The first ad is from 'flo.com.tr' and is titled 'FLO Ayakkabı Modelleri - Büyük Kış İndirimleri'. The second ad is from 'divarese.com.tr' and is titled 'Kadın Ayakkabı Modelleri - Divarese'. The third ad is from 'elleshoes.com/' and is titled '2. Ürüne %50 İndirim - Hemen Alışverişe Başla'. The fourth result is an organic search result, with a green box around it and a green label 'Organic Results' pointing to it. It is titled 'Ayakkabı Modelleri ve Fiyatları | Ayakkabı Çeşitleri - Flo'.

Google

ayakkabi

Tümü Alışveriş Haritalar Görseller Videolar Daha fazla Araçlar

Yaklaşık 106.000.000 sonuç bulundu (0,58 saniye)

Ücretli sponsorlu reklam · https://www.flo.com.tr/flo_ayakkabi

FLO Ayakkabı Modelleri - Büyük Kış İndirimleri

Kredi Kartına 6 Taksit ve 30 Gün İçinde İade İmkaniyle Alışverişe Başlayın! Aradığınız **Ayakkabı** Modelleri Online'a Özel İndirimlerle [flo.com.tr](https://www.flo.com.tr)'de! Aynı Gün...

Erkek Ayakkabıları
Rahat ve Trend Ürünler Online'a Özel İndirimlerle FLO'da

Sneaker Modelleri
Rahat ve Şık Sneaker Modelleri Online'a Özel İndirimlerle FLO'da

Spor Ayakkabı Koleksiyonu
En Trend Spor Ayakkabılar Online'a Özel İndirimlerle FLO'da

Ücretli sponsorlu reklam · <https://www.divarese.com.tr/>

Kadın Ayakkabı Modelleri - Divarese

Sezonun Trend **Ayakkabı** & Çantalarını Keşfedin. Sonbahar & Kış Fırsatları Divarese'de. En Yeni **Ayakkabı** ve Çanta Trendleri Divarese.com.tr'de! Mağazada Kolay Değişim.

Ücretli sponsorlu reklam · <http://www.elleshoes.com/>

2. Ürüne %50 İndirim - Hemen Alışverişe Başla

Yeni Modelleri Hemen Keşfedin. Büyük Kış İndirimine Özel İkinci Ürüne %50 İndirim. Ücretsiz Kargo. Sezona Özel Fırsatlar. 15 Gün İçinde İade.

<https://www.flo.com.tr> > ayakkabi

Ayakkabı Modelleri ve Fiyatları | Ayakkabı Çeşitleri - Flo

Ayakkabı modelleri size özel indirimli fiyatlar ve taksit fırsatlarıyla Flo'da. **Ayakkabı** çeşitlerini incelemek için hemen [flo.com.tr](https://www.flo.com.tr)'yi ziyaret edin!

Erkek · Spor Ayakkabı · Günlük Ayakkabı · Rahat Ayakkabı

Ad Results

Organic Results

2.1.2. Display Advertising

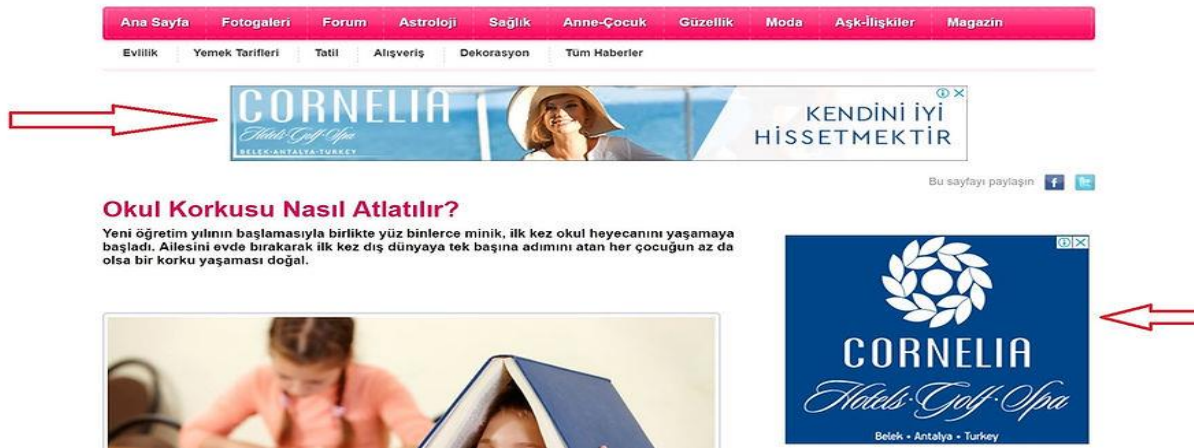
(80) Display advertising refers to showing visual advertisements in the form of texts, images and/or videos on the website/application of a publisher⁷³. Thus, display advertising channel providers allow advertisers to reach the visitors of the relevant websites or applications. While display advertising may be presented to users in various different forms, they are mainly subcategorized as banners, video ads, native ads, rich media ads, advertorials and e-mail ads.

- **Banner ads:** Banners are rectangular graphical ads which are placed in the easily-visible portions of the page (*on the right, left, top, bottom, etc. of the page*) and which redirect the consumer to an address determined by

⁷³ GERADIN, D. and KATSIFIS, D. (2019), "An EU Competition Law Analysis of Online Display Advertising In The Programmatic Age, European Competition Journal", 15:1, p. 59.

the advertisers when they are clicked. Banners are frequently used on websites, and they can have animated or non-animated visual elements. Banners are used by advertisers to create brand awareness or higher user traffic for their websites. The efficiency of banners are measured by their click-through rates. (...) also notes that when banners are shown to retargeted or remarketed⁷⁴ users, they can increase conversion rates as well as the performance of the ads. The following image shows the banner for a hotel published on a website as an example.

Figure 2: Example of a Banner



Source: Cyber Media Bilişim⁷⁵

- **Video advertisements:** These refer to the ads in a video format, shown to consumers on websites, social networks and various video platforms. Video ads can be addressed in two categories: in-stream video ads and out-stream video ads.
 - ✓ In-stream video ads: These are advertisements encountered by consumers when watching a video content on the internet. They can be broken down into the sub-categories of pre-roll, mid-roll and post-roll ads. Pre-roll video ads start when user launches the video to be watched. After a set period of time, the user may close the ad by pressing the start the video/skip ads button. Mid-roll video ads are placed in the middle of the stream, interrupting the broadcast and directing the consumer towards watching the ad. Similar to the

⁷⁴ This is where the users' previous visits or actions are used to show them the product/service they previously viewed as an advertisement.

⁷⁵ <https://www.cyberdigital.marketing/Google-goeruentuelue-reklam>, Accessed: 09.02.2023.

pre-roll video ads, these can also be closed by the consumer after a certain period of time. Post-roll video ads, on the other hand, are placed at the end of the content being watched⁷⁶. The following image is the screenshot of a mid-roll video ad pulished on the YouTube platform:

Figure 3: Example of a Mid-roll Video Ad



Source: YouTube Video Streaming Website

- ✓ Out-stream video ads: These refer to the video ads placed on some portion of the page, independent of the video being watched by the user.
- **Native ads:** These are ads placed on content pages, in line with the text or content on the page. The main feature of native ads is that they let users consuming a content to encounter and interact with the brand or the relevant product/service without the appearance of an advertisement⁷⁷. Therefore native ads resemble the design, format and function of the media they are published in⁷⁸. This way the ad almost integrates with the content

⁷⁶ GÜZEL, G. (2019), “Yayın İçi Video Reklamcılığına Yönelik Bir İnceleme”, Marmara University Social Sciences Institute, Post-Graduate Thesis, p. 51-56.

⁷⁷ ÖZGÜR, G., E. AÇAR, Ö. ÖZSOY and S. KAYALAR (2016), “Native Advertising Whitepaper”, IAB Türkiye Yeni Trendler Yürütme Kurulu – Native Advertising Çalışma Grubu, p. 3.

⁷⁸ <https://www.ftc.gov/business-guidance/resources/native-advertising-guide-businesses>, Accessed: 14.07.2022.

of the page, moving away from the look of an advertisement and bothering the user less. The following image shows an example of a native ad for a commercial bank published on the Onedio social content platform among the platform's own content. Users who click on the image and take a glance at the whole content see the screen in the second image which includes a link redirecting to participate in the entrepreneurship grant supported by the relevant bank as well as some information on the amount concerned for the grant.

Figure 4: Example for a Native Ad -1



Mültecilere Karşı Hoşgörülü müyüz?

Türkiye, Uluslararası Af Örgütü'nün yaptığı araştırmaya göre mültecilere hoşgörü sıralamasında sondan beşi...

f 5 t 0 s 3 19 Mayıs, 17:03



27 Fotoğraf ile Türkiye'de 19 Mayıs

Mustafa Kemal Atatürk'ün milli mücadeleyi başlatmak üzere Samsun'a ayak basmasının 97.yıl dönümü bugün t...

f 18 t 8 s 1 19 Mayıs, 16:12



Her Girişimcinin İhtiyaç Duyduğu 11 Destek Dokunuşu

Küçük bir destek, bir girişimcinin eline geçerse büyük bir fark yaratabilir! 😊

aracılığı ile

Figure 5: Example for a Native Ad- 2



- **Enriched media ads:** This is a type of display advertising with sophisticated features such as animation, video and audio that encourage the users to interact with the ad. Ads which move with the page when the user scrolls up or down or ads that are enlarged when the cursor is placed on them may be given as examples.
- **Advertorials⁷⁹:** This is a type of advertisement that provide information about the features, uses or advantages of the product or service it promotes and thus resembles the format of news, documentaries or articles in appearance. They are generally prepared by the experts of the subject or in light of the information these experts provide.⁸⁰
- **E-Mail Ads:** This is a type of ad wherein advertisers send messages to the registered e-mail addresses of their potential customers on campaigns/discounts/product promotions, etc. (...) notes that this type of advertisement has fallen out of favor in the recent years since the rate of opening e-mails dropped, users began to perceive them as spam, and

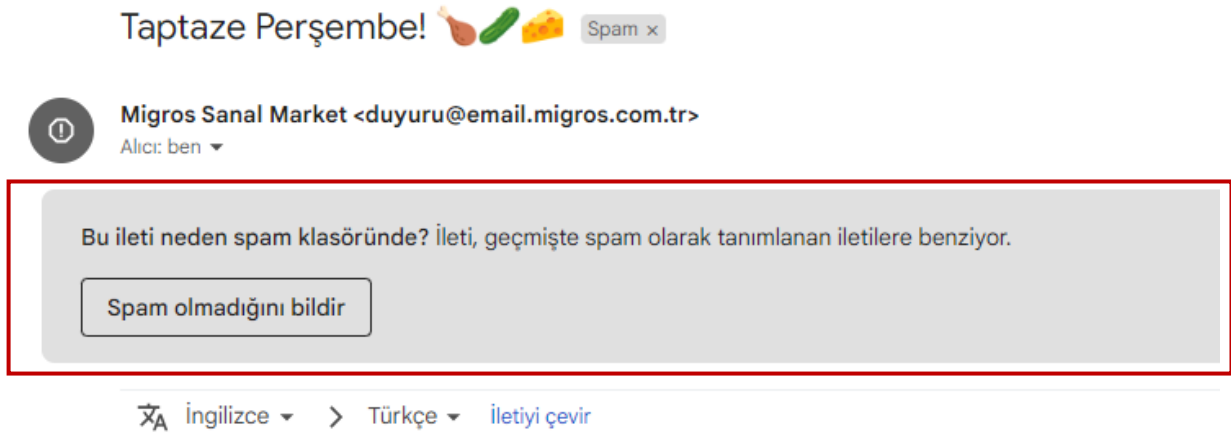
⁷⁹ This is a portmanteau created by merging the words *advertisement* and *editorial*.

⁸⁰ Considered to be similar to native ads. However they are differentiated from native ads by the fact that their sales purpose is clearly prominent and thus they do not necessarily presented in a format that resembles the content and design of the webpage they are placed in. E. ARSLAN (2017), "Türkiye'de Doğal Reklam: Bir İnternet Reklamcılık Yöntemi Olarak Türkiye'de Doğal Reklamın İncelenmesi", Karadeniz Technical Uni. Faculty of Communication Electronics Journal Vol./Issue 4/14, p. 24.

sometimes the e-mail could not be displayed in full due to size constraints.

The following image shows an example for an e-mail ad:

Figure 6: E-Mail Ad Example



Source: Screenshot from the personal inbox of the rapporteurs.

(81) In addition to the types explained above, display advertising is also broken down in terms of the channel on which they are sold. Display advertising inventories are sold to advertisers through two channels: platforms offering integrated services (owned and operated platforms) and open display advertising.

- **Owned and operated platforms:** These are comprised of platforms that sell their own advertisement inventories directly to advertisers or media agencies through various interfaces. This system can also be called the “closed channel”, since it is not connected to ad-tech services and allows purchase of inventory from a single publisher that also owns the platform. Owned and operated platforms are largely social media platforms, and Meta is the most significant platform offering integrated services, providing ads on Facebook, Instagram and Messenger platforms via Ads Manager⁸¹.
- **Open display advertising:** This is a system where many publishers sell their inventories to a number of advertisers through a chain of agencies offering ad-tech services. Thus, unlike owned and operated platforms,

⁸¹ ACCC (2020), “Digital Advertising Services Inquiry Interim Report”, <https://www.accc.gov.au/system/files/Digital%20Advertising%20Services%20Inquiry%20-%20Interim%20report.pdf>, p. 27. Accessed: 08.03.2023. Also see section 2.1. of the report herein.

advertisers can access the inventories of many publishers in the open display advertising channel⁸².

- (82) In both of these channels, the inventory is either allocated via real-time auctions or via direct agreements involving a price agreed upon between the advertisers and publishers. Publishers often prefer direct agreements when selling their *premium* inventory⁸³ that brings the highest ad revenues. Direct agreements can be made through programmatic advertising⁸⁴ tools or by drawing up a separate contract between the publishers and advertisers for the purchase of a certain ad inventory, using communication methods such as e-mail, phone, fax, etc⁸⁵. Inventory that have failed to sell via direct agreements are then sold by real-time auctions⁸⁶. Nowadays, a significant portion of the display advertisement inventory is sold via programmatic advertising technology tools⁸⁷.
- (83) Display advertisements can be shown to users on websites such as social media platforms, news sites, forums and blogs. At the same time, since users are spending more and more time on social media platforms and since these platforms allow better targeting due to the fact that they have more detailed information on their users such as interests and likes, display ads on these social media platforms have a special place from the perspective of advertisers. The chart below shows the share of social media platforms in total revenues from display advertising during the period 2017-2021/5 period, with respect to those publishers who provided information within the scope of the sector inquiry.

⁸² JFTC (2021), “Final Report Regarding Digital Advertising”, <https://www.jftc.go.jp/en/pressreleases/yearly-2021/February/210217.html>, p.13. Accessed: 08.03.2023.

⁸³ *Premium* inventory refers to the ad inventory that is generally located on the main page and/or the top of the publishers’ online channel, and thus have higher rates of interaction by the users visiting the channel.

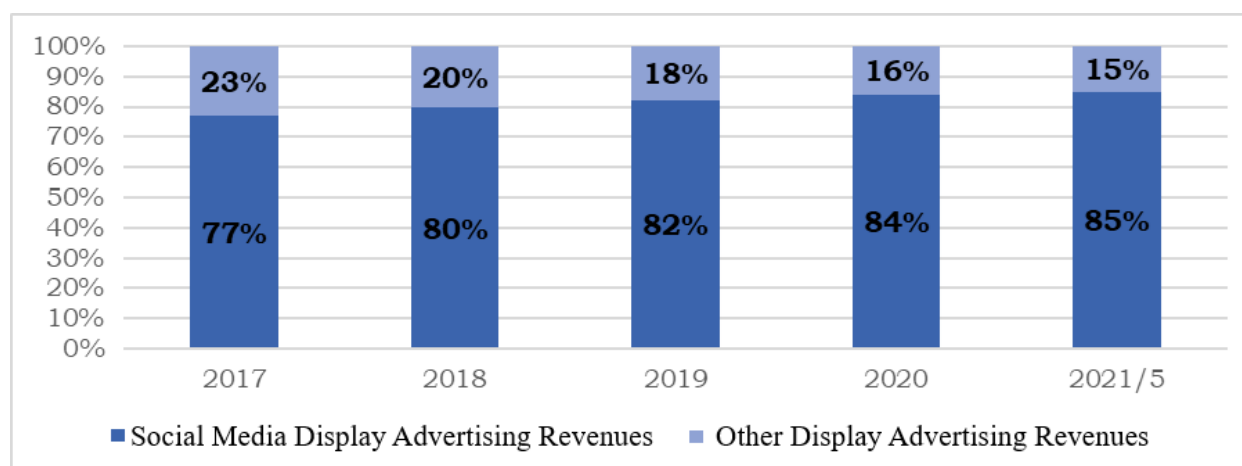
⁸⁴ Programmatic advertising is a type of purchase wherein technology is used in the sale of the ad inventory. In other words, programmatic advertising refers to the advertising business that develops purchase and sale processes based on automated systems (see <https://iabtr.org/programatik-satin-alma-nedir>, Accessed: 02.02.2023). These technologies will be examined in detail in the following section.

⁸⁵ ACCC (2020), “Digital Advertising Services Inquiry Interim Report”, <https://www.accc.gov.au/system/files/Digital%20Advertising%20Services%20Inquiry%20-%20Interim%20report.pdf>, p.17. Accessed: 08.03.2023.

⁸⁶ GERADIN, D. and KATSIFIS, D. (2019), p. 61.

⁸⁷ GERADIN, D. and KATSIFIS, D. (2019), 15:1, p. 61.

Chart 9: Share of Social Media Platforms⁸⁸ in the Total Market for Display Advertising during the 2017-2021/5 Period



Source: Information Acquired from Undertakings

(84) The above chart reveals that social media platforms, which received a 77% share from display advertising revenues in 2017, increased this amount to around 85%, indicating that social media platforms reinforced their already-strong position before the advertisers even further through the years and acquired a significant portion of their display advertising expenditures as revenue.

2.1.3. Classified Advertising

(85) Classified advertising is a model where advertisers pay to have certain products or services on a website serving a certain vertical market listed in a better/more visible position⁸⁹. Undertakings providing their opinions within the framework of the sector inquiry state that classified advertising is a type of online advertising aimed at sales, intended to increase consumers’ interaction with the content, brand or product, focused on certain sectors and generally used by shopping websites. While there is no consensus on what should be included in classified ads, this category is considered to cover a multitude of online platforms focused on certain sectors, which offer advertisers the ability to list certain products and

⁸⁸ Calculations include (...). (...) is not included in the calculations, due to (...).

⁸⁹ ACCC (2019), “Digital Platforms Inquiry - Final Report”, <https://www.accc.gov.au/system/files/Digital%20Platforms%20Inquiry%20-%20Final%20report%20-%20part%201.pdf>, p. 89. Accessed: 08.03.2023; ACCC (2021) Digital Advertising Services Inquiry Interim Report, <https://www.accc.gov.au/system/files/Digital%20Advertising%20Services%20Inquiry%20-%20Interim%20report.pdf>, p. 26; CMA (2020), “Online Platforms and Digital Advertising Market Study Final Report” https://assets.publishing.service.gov.uk/media/5fa557668fa8f5788db46efc/Final_report_Digital_ALT_TEXT.pdf, p. 60-61. Accessed: 07.03.2023

services, and consumers the functionality to make comparisons between these lists. Platforms using this type of advertising are generally concentrated in the sectors of employment, e-commerce, travel, real estate and vehicles. Classified advertising serves the purposes of listing products and prices on e-commerce websites, publishing ads on classified websites, raising their rankings and/or making them draw attention. As such, advertising payments in this field are typically in the form of listing or commission fees⁹⁰.

2.2. Market Definition in the Advertising Sector

(86) In order to present the outlook of the online advertising sector, identify the competition problems in the market and offer solutions to these problems under competition law, the first step should involve a discussion on the market definition for the sector. In that context, the next section will basically examine the substitutability relationships between types of online advertising, but before that, for completeness purposes, the substitutability relationship between offline and online advertising will be addressed⁹¹.

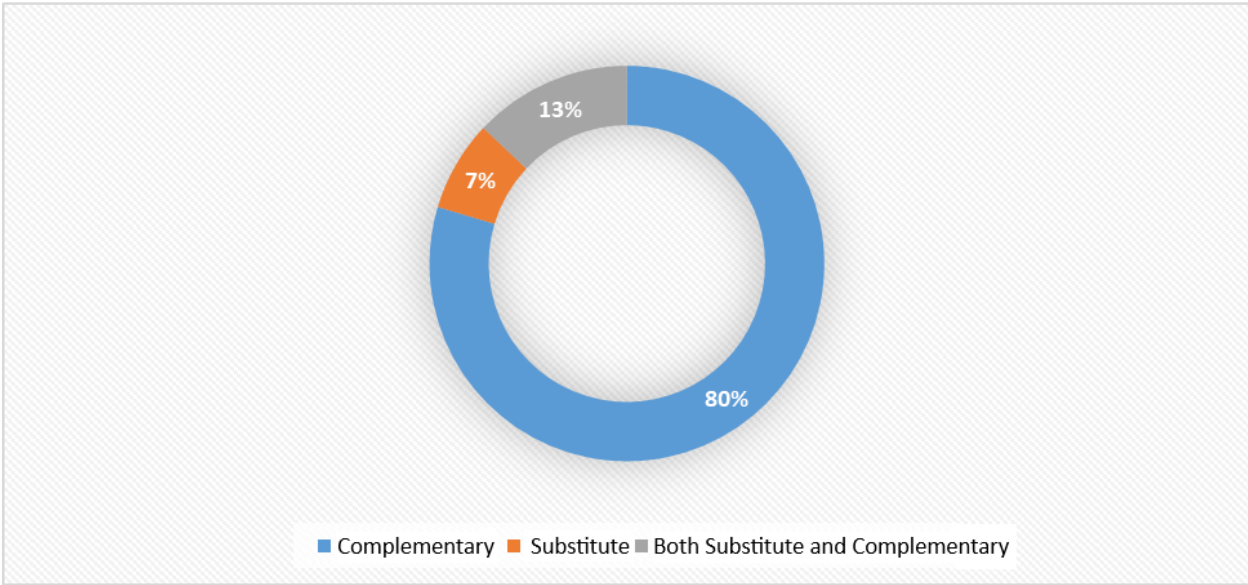
2.2.1. Substitution Relationship between Offline and Online Advertising

(87) In order to analyze the substitution relationship between offline and online advertising within the framework of the sector inquiry, 57 advertisers comprising the demand side of the sector were asked to provide their opinions on the substitutability-complementarity relationship between offline and online advertising, and 54 of them responded. The chart prepared based on the responses of the advertisers is provided below:

⁹⁰ CMA (2020), “Online Platforms and Digital Advertising Market Study Final Report” https://assets.publishing.service.gov.uk/media/5fa557668fa8f5788db46efc/Final_report_Digital_ALT_TEXT.pdf, p. 60-61. Accessed: 07.03.2023.

⁹¹ Since the first chapter of the study herein touched upon offline (traditional) advertising, this particular subject will not be separately explained here.

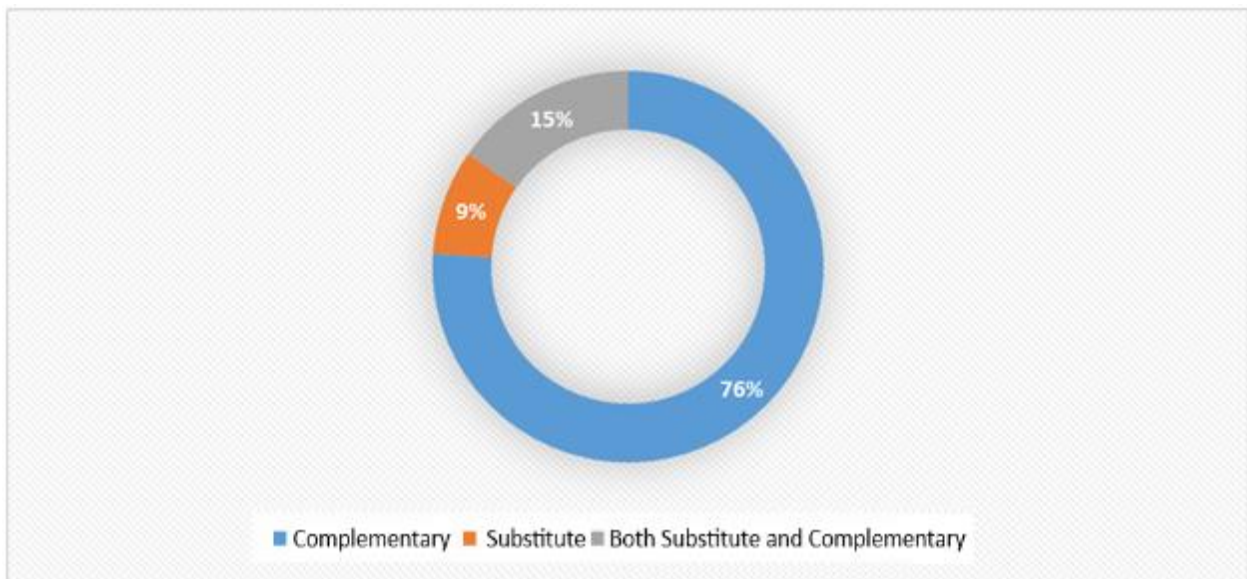
Chart 10: Advertisers' Opinion on the Substitutability Relationship between Online and Offline Advertising



Source: Information Acquired from Undertakings

- (88) As shown in the chart above, a significant 80% of the advertisers believe that there is a complementary relationship between offline and online ads, while 7% think that these two types of ads are substitutes for each other. Around 13% of the undertakings state that there are both substitutability and complementarity relationships between these two types. The responses show that advertisers do not generally consider offline and online advertising as substitutes.
- (89) Another chart based on the responses from 90 undertakings operating in the sector including publishers and agencies is presented below:

Chart 11: Advertisers', Publishers' and Agencies' Opinions on the Substitutability-Complementarity Relationship between Online and Offline Advertising



Source: Information Acquired from Undertakings

- (90) The chart above suggests that when all of the players in the market are included, a significant 76% of the undertakings adopt the view that there is a complementary relationship between offline and online ads, with a 9% believing that the two types of ads are substitutes for each other. Another 15% of the undertakings maintain that the two types are both substitutes and complements for each other.
- (91) The sector players' assessments noting that the two types are complementary are justified by the following:
- Online advertising provides opportunities for more interaction and for establishing a more interactive relationship with advertising units, it is more advantageous and more economically-efficient in terms of cost optimization, and it offers advantages for creativity, loyalty, socialization, accountability and branding.
 - Targeting in online advertising is much easier than offline advertising, and besides it offers a chance to reach target audiences that are unavailable to offline advertising as well as to collect valuable information about the target audience.
 - Online advertising has facilities to measure performance correctly, providing easy and fast solutions for efficiency assessments while offline advertising tries to account for interactions based on TV and radio rating

calculations, billboard sales and assumptions such as each newspaper sold is read by three persons on average. Thus, online advertising is differentiated from offline advertising by its real-time reporting tools.

- While offline advertising contributes to brand recognition, online advertising allows taking out personalized ads aimed at smaller audiences.
- It is observed that when one of the two types of advertising is used on its own for an extended period of time, brand interaction does not increase and communication with the customers remain limited.
- Each channel of communication have different potentials for accessing the target audience/consumer, different methods of serving the purpose of the advertisement and different advertising models, which means that advertisement materials must be designed to match these channels in terms of message, style and length, in line with certain communication objectives.

(92) On the other hand, those undertakings who maintain that the two types of advertisement concerned are substitutable state the following:

- The two types can be seen as parts of the same ecosystem in terms of consumer access and brand recognition since advertisers are mainly interested in connecting with their target audiences regardless of the format or instrument.
- When purchasing their ad inventory, advertisers engage in a price/quality exchange whereby they buy the ad that they think offers the best value for accessing the target audience. Therefore, various ad channels are in competition for the ad budget of the same advertiser.
- Since there are no long-term commitments in advertising services, the budget can be very rapidly re-allocated among the ad channels.
- Offline ads are now able to offer better targeted advertisements similar to online ads and are more successful in measuring efficiencies, removing any overt difference in the use-case of the two types of advertisements.

(93) Meanwhile, sector stakeholders which believe that there is a substitutability and well as a complementarity relationship between online and offline advertising make the following points:

- Offline ads are generally fixed, manageable from a single point and have limited measurement facilities, both operationally and in terms of reporting. Thus, they are different from online advertisements, yet these two types of ads still complement each other when it comes to transmitting a message to the consumer and showing advertisements, and they can even be substitutes under certain circumstances.
- While online and offline advertising had a substitution relationship at the beginning, they can only have a complementary relationship at a deeper level of the advertising funnel⁹² today.
- Offline and online ads can be used in conjunction or separately, with brands deciding what to do depending on their strategies, their sector of operation, their target audience and media budget.

(94) Within the framework of the points above, while a small portion of the undertakings state that there is a substitution relationship between online advertising and offline advertising since they serve the same purpose, a significant majority of the relevant undertakings note that the two types differ in terms of targeting and measurement mechanisms in particular, and that there is a complementary relationship between them rather than a substitution one.

(95) Similarly, sector inquiries of the ACCC and CMA point out that offline advertising lacks the data collection mechanisms of online advertising to make projections about the purchasing behavior of the consumers, that while offline advertising can target consumers to a certain extent via various campaigns (e.g., taking out ads in magazines on a certain topic of interest), this cannot achieve the same level of detailed targeting as online advertising campaigns⁹³. The *Google/Double Click*⁹⁴, *Microsoft/Yahoo! Search Business*⁹⁵, *Facebook/Whatsapp*⁹⁶,

⁹² Advertising (marketing-purchasing) funnel refers to the theoretical journey consumers take during the process of purchasing a good or service. This journey lasts from the consumers becoming aware of the product until their purchase of it (See <https://iabireland.ie/the-role-of-digital-across-the-advertising-funnel/>, Accessed: 02.02.2023.)

⁹³ ACCC (2019), “Digital Platforms Inquiry - Final Report”, <https://www.accc.gov.au/system/files/Digital%20Platforms%20Inquiry%20-%20Final%20report%20-%20part%201.pdf>, p. 91. Accessed: 08.03.2023; CMA (2020), “Online Platforms and Digital Advertising Market Study Final Report” https://assets.publishing.service.gov.uk/media/5fa557668fa8f5788db46efc/Final_report_Digital_ALT_TEXT.pdf, p. 217 Accessed: 07.03.2023.

⁹⁴ COMP/M.4731, para. 45-47.

⁹⁵ COMP/M.5727, Microsoft/Yahoo! Search Business, para. 61.

⁹⁶ COMP/M.7217, para. 75, 79.

*Microsoft/LinkedIn*⁹⁷, *Verizon/Yahoo*⁹⁸, *Apple/Shazam*⁹⁹, *Google AdSense*¹⁰⁰ and *Google/Fitbit*¹⁰¹ Decisions of the Commission also clearly show that online advertising does not belong in the same market with offline advertising due to its wide targeting facilities and its dependence on different pricing mechanisms. A similar approach can be observed in the Board's *Google Adwords*¹⁰² and *Google Shopping Unit*¹⁰³ decisions, as well.

(96) In light of the findings and observations above, it is concluded that there is no substitution between online and offline advertising, and that these two advertising types comprise separate markets.

2.2.2. Substitution Relationship between Types of Online Advertising

2.2.2.1. Substitution between Search Advertising and Display Advertising

(97) Once we have established the fact that online and offline advertising comprise different markets, we need to examine the substitution relationship between search advertising and display advertising, which are the most fundamental types of online advertising. This is because whether these two types of advertising exist in the same market or in different ones can significantly change the size of the competitive problems that might be identified within the sector.

(98) Within the sector inquiry, 58 advertiser undertakings were asked about the relationship between these two types, 46 of which submitted their response. The chart based on these responses is provided below:

⁹⁷ COMP/M.8124, para. 159.

⁹⁸ COMP/M.8180, Verizon/Yahoo, para. 25.

⁹⁹ Case/M.8788, para. 133-135.

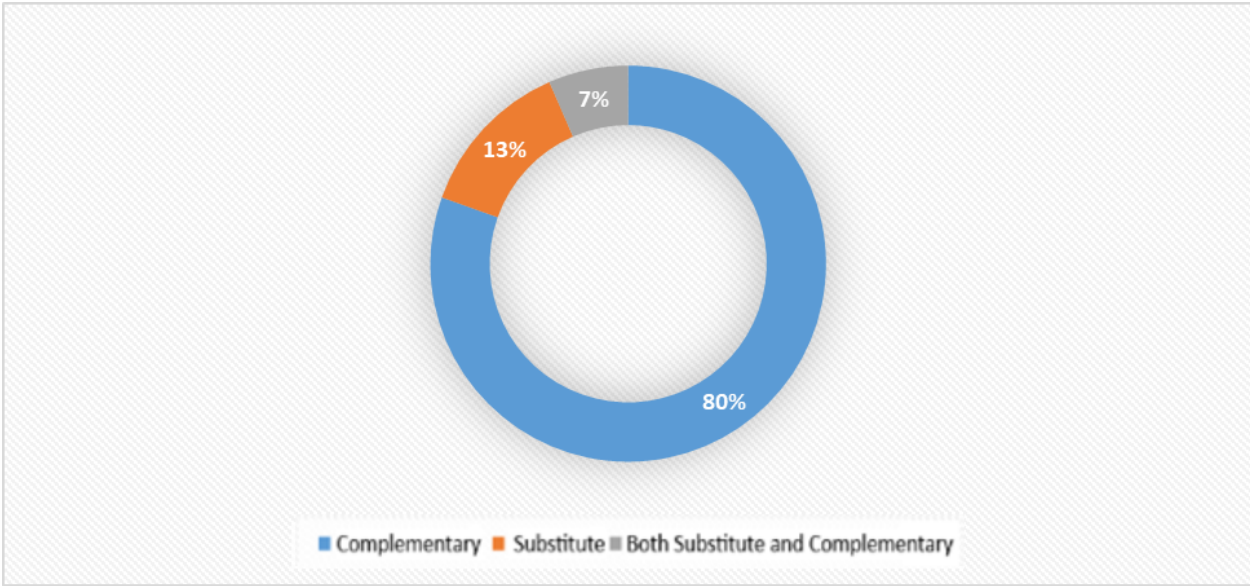
¹⁰⁰ Case AT.40411, para. 123-134.

¹⁰¹ Case M.9660, Google/Fitbit, para. 151.

¹⁰² Board Decision dated 12.11.2020 and numbered 20-49/675-295.

¹⁰³ Board Decision dated 7.11.2019 and numbered 19-38/575-243.

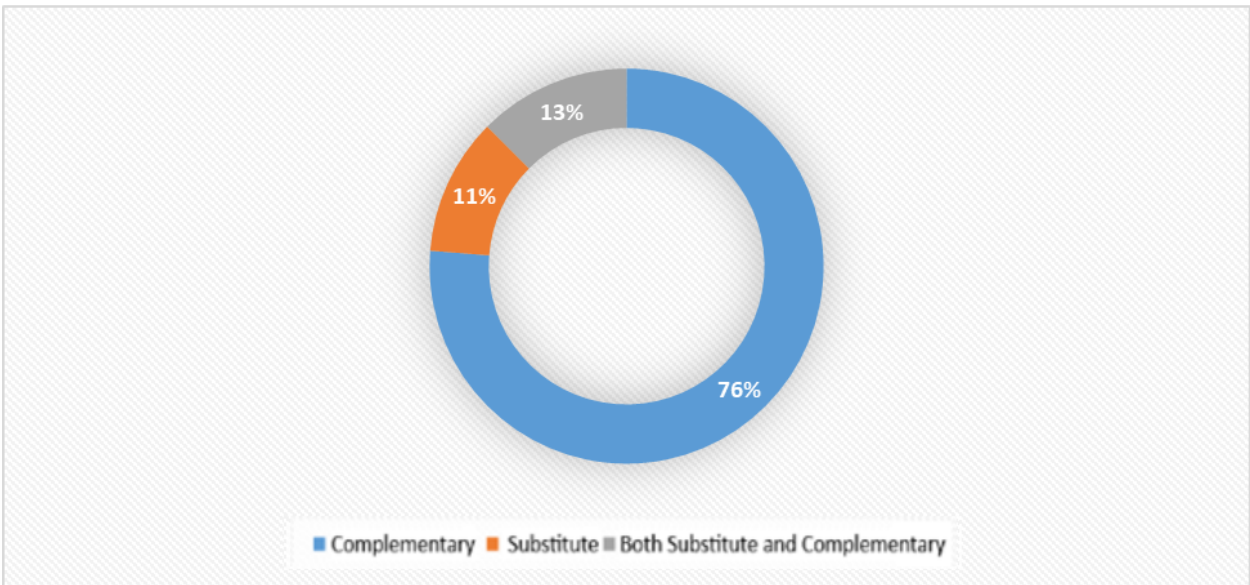
Chart 12: Advertisers' Opinion on the Substitution-Complementarity Relationship between Search Advertising and Display Advertising



Source: Information Acquired from Undertakings

- (99) According to the chart above, a significant 80% of the advertisers think that there is complementarity between search advertising and display advertising, while 13% believe that the two are substitutable, with a further 7% pointing out that the two types of advertisements have a relationship that involves both complementarity and substitutability.
- (100) The chart based on the responses from 78 undertakings including the agencies and publishers in the sector is as follows:

Chart 13: Advertisers', Publishers' and Agencies' Opinions on the Substitution-Complementarity Relationship between Search Advertising and Display Advertising



Source: Information Acquired from Undertakings

(101) The chart above shows that, when all sector players are included, a significant 76% of the undertakings are of the opinion that there is a complementary relationship between search advertising and display advertising, with 11% stating that the two types are substitutes. Another 13% of the undertakings claim that the two types of advertisements are sometimes substitutes and sometimes complementary.

(102) In their assessments stating that there is no substitution relationship between search advertising and display advertising, the sector players make the following points:

- Search advertising is mostly intended for those customers who have already shown interest in a certain product and are now at the end of the purchase funnel (in-market customers), whereas display advertising is a type of advertising that increases brand awareness and allows access to those audiences who have not yet shown interest (out-of market consumers). Therefore, search advertising adopts a pulling approach, while display advertising adopts a pushing one.
- Search advertising is closer to the point of purchase since the service it provides is aimed at performance, but display advertising is only partly used for performance, which means the two types of advertising serve different purposes and have unique roles in advertisers' strategies¹⁰⁴.
- In ad campaigns, display advertising that can provide more detailed targeting is used first to draw attention and increase brand recognition, followed by search advertising to direct the consumer towards taking action, thereby increasing the performance of search advertising.
- Since search advertising requires payment only when the ads are clicked, this type of advertising is more advantageous in terms of cost; besides, it performs twice better than display advertising in terms of cost per action and cost per conversion.
- Search advertising gets its message across through text, while display advertising uses visuals, texts and images for its ad messages.

¹⁰⁴ For instance, (...) stated that, in the January-June 2021 period, search advertising had a sales transaction volume of 86,541 and conversion rate of 0.64%, while in social media transaction volume was 2,241 with a conversion rate of 0.63%. Meanwhile, in display advertising, transaction volume was 586 and conversion rate was 0.02%, and therefore search advertising targeted an audience who had a higher likelihood to purchase.

(103) Those players who claim that there is a substitution relationship between the two types of ads point out the following:

- Improvements in behavioral targeting technologies allow user targeting and ad performance measurements with both types of advertising today, they are both based on automated bidding systems and have similar features such as more image based content.
- All advertisement types have the same general purpose, and looking at advertisement channels from the perspective of realizing the goals of promoting a product to the consumer, reminding them about the product and ultimately directing them towards making a purchase, these channels may be considered substitutable. Therefore, making a distinction would be artificial and would not reflect the realities of the market, and the opinion claiming otherwise is obsolete.
- Whatever the format of the advertising, it is based on user interactions and there is significant competition between the two types.

(104) Those players who believe there is both complementarity and substitutability between the two types of agreements make the following points:

- There are similarities between the two types of advertisements in terms of purpose such as transmitting marketing messages to large audiences and creating brand recognition, and they can be considered alternatives for each other within total ad expenditures.
- On the other hand, there are certain differences between these advertising types with respect to targeting facilities, consumer interaction, effectiveness of ads and many similar features, with search advertising providing advantages when targeting consumers that are looking for a certain product, while display advertising is more useful for creating mass communication.

(105) In light of the points above, a significantly large portion of the undertakings operating in the online advertising sector note that there is no substitution relationship between search advertising and display advertising, claiming that search advertising is mostly used to encourage users into purchasing more, while display advertising is used to create brand awareness in the minds of the users. Similarly, examinations into the online advertising sector carried out by

various authorities found that search advertising aimed to transition those consumers who show interest in a particular product into the purchasing process, and was more effective/successful in targeting actions, conversions and sales since it is closer to the point of sale¹⁰⁵.

(106) At the same time, the similarities in some of the features of the two types of advertisement arising from developments in targeting technologies was pointed out in the sector inquiries conducted by the ACCC and CMA. ACCC accepted that search advertising and display advertising showed a level of convergence in the last 15 years, but concluded that the two advertising types carried out different functions and had a limited substitution relationship. The important points in reaching this conclusion were determined to be the fact that display advertising is more suitable than search advertising for creating brand awareness and the fact that search based advertising is more efficient in ensuring conversion (purchase of the product, contacting the supplier of the product, etc.) where consumers use a search engine to start their online search process¹⁰⁶. Similarly, CMA noted that in display advertising, Facebook in particular could target those consumers at the final stages of the purchase funnel and therefore could become a competitor for Google going forward, but that this competitive pressure was not currently important from the perspective of the advertisers since display advertising was not a type of advertisement shown based on the objectives of the consumers (independent of where they are within the purchase funnel)¹⁰⁷.

¹⁰⁵ CMA (2020), “Online Platforms and Digital Advertising Market Study Final Report” https://assets.publishing.service.gov.uk/media/5fa557668fa8f5788db46efc/Final_report_Digital_ALT_TEXT.pdf, p 217-128-250. Accessed: 07.03.2023; ACCC (2019), “Digital Platforms Inquiry - Final Report”, <https://www.accc.gov.au/system/files/Digital%20Platforms%20Inquiry%20-%20Final%20report%20-%20part%201.pdf>, p 92-93. Accessed: 08.03.2023; Bundeskarttelltamt (2018), Online Advertising, Series of papers on “Competition and Consumer Protection in the Digital Economy”, https://www.bundeskarttelltamt.de/SharedDocs/Publikation/EN/Schriftenreihe_Digitales_III.pdf?__blob=publicationFile&v=5, p. 4. Accessed: 08.03.2023.

¹⁰⁶ ACCC (2019), “Digital Platforms Inquiry - Final Report”, <https://www.accc.gov.au/system/files/Digital%20Platforms%20Inquiry%20-%20Final%20report%20-%20part%201.pdf>, p. 92-93, Accessed: 08.03.2023.

¹⁰⁷ CMA (2020), “Online Platforms and Digital Advertising Market Study Final Report” https://assets.publishing.service.gov.uk/media/5fa557668fa8f5788db46efc/Final_report_Digital_ALT_TEXT.pdf, p. 226. Accessed: 07.03.2023.

(107) An examination of the decisions on the subject shows that the Commission avoided making a definite distinction in some of its decisions since this would not change the outcome for the transaction¹⁰⁸, but that in its recent *Google AdSense*¹⁰⁹ and *Google/Fitbit*¹¹⁰ Decisions, it clearly established search advertising and display advertising as separate markets. Similarly, in its recent *Facebook/Kustomer*¹¹¹ and *Facebook/Giphy*¹¹² Decisions, the CMA referenced its Report to note that search advertising and display advertising comprised different markets. In the Board's recent *Google Adwords* decision¹¹³, 84% of the undertakings whose opinions were requested did not consider these two types of ads as substitutes. In the relevant decision, the Board stated that search advertising and display advertising served different marketing purposes, and that the two types of advertising were different in terms of payment methods, costs and conversion rates, concluding that there was currently no substitutability.

(108) In light of the findings and observations above, it is concluded that search advertising and display advertising constitute different downstream markets within the online advertising sector, both from the perspective of the advertisers in the demand-side, and from the perspective of all sector players.

2.2.2.2. Substitution Relationship between Classified Advertising and Search Advertising/Display Advertising

(109) After establishing that search advertising and display advertising comprise different market, we need to identify whether there is substitutability between another type of advertising, i.e. classified advertising, and search advertising/display advertising. The sector players made the following observations on this subject:

¹⁰⁸ COMP/M.4731, para. 48-56, COMP/M.572, para. 75; COMP/M.7217 para. 76-79; COMP/M.8124, para. 161; COMP/M.8180, para. 25.

¹⁰⁹ Case AT.40411.

¹¹⁰ COMP/9660, para. 151-155.

¹¹¹https://assets.publishing.service.gov.uk/media/618a6328d3bf7f56059042d5/Facebook_Kustomer_-_Phase_1_Decision_.pdf, Accessed: 14.07.2022, para. 106-11.

¹¹²https://assets.publishing.service.gov.uk/media/61a64a618fa8f5037d67b7b5/Facebook_Meta_GIPHY_-_Final_Report_Public_Version_301121_.pdf, para. 5.165-5.174, Accessed: 14.07.2022.

¹¹³ Board Decision dated 12.11.2020 and numbered 20-49/675-295.

- Classified advertising is aimed at comprehensive online platforms that are focused on certain sectors and could be divided into two groups consisting of e-trade platforms like N11, Trendyol, Hepsiburada and classified ads websites such as Sahibinden, Hepsieklam etc.
- Once data is acquired by classified advertising through sales, traffic redirection, etc. effects, display advertising models allow cross-impressions, re-targeting and access to various users displaying similar behavior; similarly, once display advertising promotes a product to increase interest in it, that product could be accessible via classified advertising, and the process can conclude with the sale of the product.
- Classified advertising is not directly related to the other types, with the graphical elements and textual approaches used bringing significant differences.

(110) As mentioned by the sector players, classified advertising lets advertisers list certain products and services. The users then browse the listed products and services to try to find the most suitable option for their purposes. As a result, classified advertising seems to be closely related to the “comparison websites,” which present users with the chance to compare products and services from different businesses¹¹⁴. In that framework, classified advertising seems to be different from display advertising, which aims to create and increase brand awareness in the minds of the users, and also from search advertising, which aims to direct users in the last stages of the purchase funnel towards making a purchase. Likewise, the Commission’s *Microsoft Yahoo! Business*¹¹⁵ Decision notes that classified ads do not target the website content or any particular characteristics of the user, instead they comprise the main content of the webpage in which they are shown, and are shown in the same manner to all visitors of the website. Therefore, they are different from both search advertising and display advertising.

(111) However, in both search advertising and classified advertising, the users act with a drive to look for a particular product or service, and therefore these two

¹¹⁴ CMA (2020), “Online Platforms and Digital Advertising Market Study Final Report” https://assets.publishing.service.gov.uk/media/5fa557668fa8f5788db46efc/Final_report_Digital_ALT_TEXT.pdf, p. 61. Accessed: 07.03.2023.

¹¹⁵ COMP/M.5727, para. 41.

types of advertisements seem to involve similar behavior. On the other hand, as mentioned by (...), search advertising allows performing a search among all websites, while classified advertising limits searches to the relevant shopping website itself. Thus, classified advertising puts only a limited amount of competitive pressure on search advertising, exclusively for the product group it is related to¹¹⁶.

(112) As a result of the findings and assessments above, it is concluded that classified advertising cannot substitute search advertising or display advertising.

2.2.2.3. Substitution Relationship between Types of Display Advertising

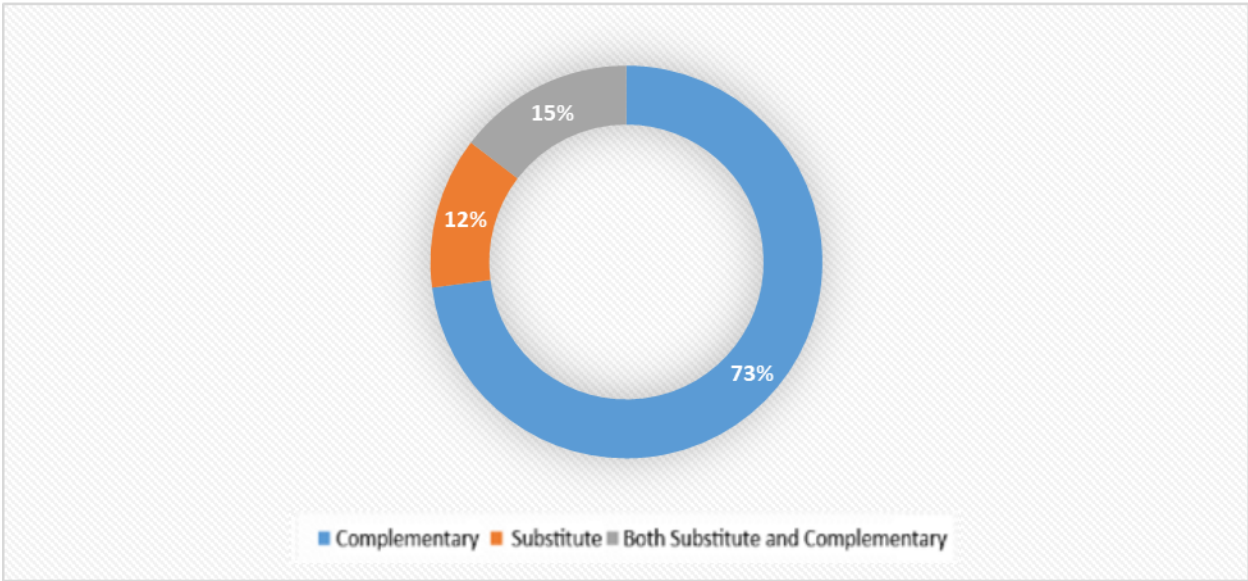
(113) While users can encounter display advertising in various formats including texts, images and/or videos, in general video advertising is positioned separately within the types of display advertising. Therefore it is important to examine the substitutability between video advertising and the other types of display advertising. Moreover, another issue that must be addressed is whether social media platforms that receive a gradually increasing share among those channels showing display advertisements should comprise a separate downstream market. The following section includes assessments on these points.

2.2.2.3.1. Substitution Relationship between Video Advertising and Other Types of Display Advertising

(114) The following chart is based on the responses received from 48 advertisers comprising the demand-side of the sector inquiry, concerning questions on the substitutability between video advertising and other types of display advertising:

¹¹⁶ ACCC (2019), “Digital Platforms Inquiry - Final Report”, <https://www.accc.gov.au/system/files/Digital%20Platforms%20Inquiry%20-%20Final%20report%20-%20part%201.pdf>, p. 94. Accessed: 08.03.2023.

Chart 14: Advertisers' Opinion on the Substitution Relationship between Video Advertising and Other Types of Display Advertising

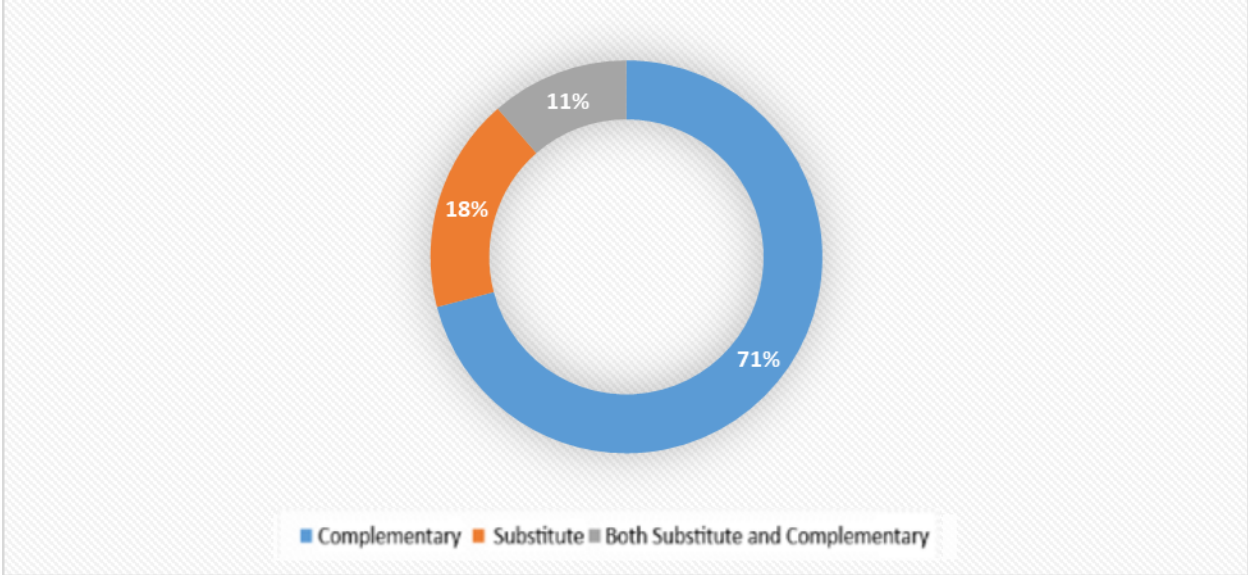


Source: Information Acquired from Undertakings

(115) As shown in the chart, 73% of the advertisers think that there is complementarity between video-based display ads and other display ads, while 12% believe that there is substitutability, with the remaining 15% stating that there is both complementarity and substitutability.

(116) When the agencies and publishers operating in the sector are included, the responses of the 82 undertakings concerned are presented in the chart below:

Chart 15: Advertisers', Publishers' and Agencies' Opinions on the Substitution Relationship between Video Advertising and Other Types of Display Advertising



Source: Information Acquired from Undertakings

(117) The chart included above reveals that, in the study with all of the sector players, a significant 71% of the undertakings adopt the view that there is complementarity between video advertising and other types of display advertising, with 18% believing that the two types are substitutes for each other. Meanwhile, 11% of the undertakings assert that the two types are sometimes substitutes and sometimes complements for each other.

(118) In their assessment that there is no substitutability between video advertising and other display advertising, sector players point out the following:

- Since video-based display advertisements have richer audio-visual content, they can attract users' attention more easily, offering an engrossing experience that can impact and convince users in a much shorter time than other display advertisements.
- Video-based display advertisements can transmit campaign messages in a more detailed video format that can be transformed into a story.
- While video-based display advertising plays a larger role in the recognizability portion of marketing, it does not steer towards direct access or acquisition, and thus these serve to ensure user awareness, acting in complement with performance-focused, non-video-based display advertisements that aim to increase access and acquisition, encouraging the user towards direct clicks.
- Video-based display advertisements are used to convey the entirety of the brand messages, while non-video-based display advertising is used to provide specific information on the brand to direct towards purchase, which means there is a difference between the two types in terms of brand objectives.
- Video-based display advertisements have significantly higher unit costs than non-video-based display advertisements, creating a separation between the two types with respect to pricing.

(119) Players who state that there is a substitution relationship between video advertising and other types of display advertising make note of the following points:

- Video advertising and other types of display advertising serve the same purpose and mainly aim to increase customer awareness; they can also be

used to acquire new customers and create interaction, which means they can function interchangeably.

- Advertisers do not encounter any barriers before switching their expenditures between different ad formats; rather, this is encouraged if investment revenues differ between the ad formats.
- With increasing accessibility and video features, the line between video-based and non-video-based advertising is getting more and more blurry, and video based display advertisements are increasingly published in an out-stream format in the recent years.

(120) Meanwhile, those players who think that there is both complementarity and substitutability between video advertising and other types of display advertising state that it is possible to use both types depending on the creative content produced for communication and the message to be transmitted, and that the advertising type chosen is mostly determined by the strategy of the advertiser on how they want to reach the users.

(121) In light of the findings and observations above, it is concluded that there is a separation between video-based advertising and other types of display advertising from the perspectives of both the advertisers and all other sector players, which means that there is a complementarity rather than substitution between these two types of advertising.

2.2.2.3.2. Substitution Relationship between Display Advertising over Social Media Channels and Display Advertising over the Other Channels

(122) Advertisers, publishers and agencies whose opinions were requested during the sector inquiry stated that the increasing time users spent on social media caused a switch towards social media in the advertisement budgets of the brands, that these channels were more advantageous than others due to the data in their possession (...), that these platforms also allowed social media influencers with the power to affect audiences to promote products and services, that a large number of advertisers closely monitored the influencing power of those who engage in this type of advertising on social media, that they signed advertising agreements with social media influencers who can promote their products thanks to this power (...), and that social media was more advantageous than

other types of advertisements for those brands without their own websites in particular, since it can redirect towards e-commerce business partners (...).

(123) In the survey conducted by the Commission within the framework of the examination for the *Facebook/WhatsApp* Decision, a portion of the participants noted that other non-search types of advertising were not as effective as taking out ads on social networks, and especially on Facebook, due to Facebook's large and concentrated target audience and ad targeting features. At the same time, other participants stated that there was no difference between platforms providing non-search based advertising services. In that framework, the Commission concluded that there was no need for defining such a market, on the grounds that there would be no competitive concerns within the framework of the file¹¹⁷. The Commission also adopted a similar approach in its *Microsoft/LinkedIn* Decision¹¹⁸. On the other hand, in its much more recent *Google/Fitbit* Decision, the Commission pointed out the sector players' observation that technologies supporting display advertising services over social networks were differentiating from those supporting display advertising services over other channels, noting that expanding to a new channel required investment. Moreover, from a demand-side perspective, advertisers have to take into account all of these potential segments when deciding how to spend their ad budget and could see these segments as complementary. However, the Commission then avoided making a clear market definition in this field, since that would not change the conclusion for the transaction¹¹⁹.

(124) In its *Facebook* Decision, the German Competition Authority also stated that there was strong evidence suggesting it could be possible to define a separate market in the form of non-search advertising over social media could be possible. The main justification for this assessment is the participating undertakings' claim that non-search advertising over social media was more suitable for those ads targeting certain groups or associated with social or emotional elements. Furthermore, the German Competition Authority claimed to have findings showing that there was a separate social network advertising market within the larger social media advertising market. In that framework, undertakings

¹¹⁷ Case M.7217, para. 77, 79.

¹¹⁸ Case M.8124, para. 159-161.

¹¹⁹ Case M.9660, para. 151-155.

participating in the survey stated that the data Facebook collected and used for advertisement purposes provided advantages to them in comparison to other social media websites, with eleven out of thirteen media agencies and many advertisers noting that Facebook offered good targeting opportunities with very detailed user data. On the other hand, the German Competition Authority chose not to make a clear market definition for the downstream markets of non-search advertising, since this was not important in the abuse assessment¹²⁰.

(125) In line with the assessments above, it can be concluded that social media platforms are more advantageous than other channels of display advertising for targeted advertising since they can provide detailed and varied data such as the likes and interests of users and their contacts with other users, and due to the fact that users spend a lot of time on these platforms. Moreover, they allow advertisers to make use of new types of ads such as those carried out by social media influencers, who are only available over social media platforms. Due to these advantages, the advertisers are constantly increasing their expenditure on these platforms, and thus display advertising through social media platforms are differentiated from display advertising through other platforms.

(126) Following this overview of the studies on relevant market definitions in the advertising sector and in the sub-categories of online advertising in particular, in order to portray the functioning of online advertising, the following section will examine how online advertising services are priced and which pricing models are used with which types of advertising.

2.3.Pricing Models in Online Advertising

(127) One of the most important elements involved in the process comprised of the advertiser reaching an agency and the publication of the ad by a publisher contacted through the agency is the pricing method. Players whose opinions were asked within the framework of the sector inquiry stated that the most common pricing methods were cost per click (CPC), cost per mille/cost per thousand (CPM), cost per action (CPA) and cost per view (CPV). In addition, there are other pricing models in use, such as cost per engagement (CPE), cost per

¹²⁰ Bundeskartellamt, B6-22/16, para. 361-363.

install (CPI) or cost per download (CPD¹²¹), cost per lead (CPL), cost per day (CPD), cost per time (CPT), cost per sale (CPS) and cost per rating point (CPRP). Information collected on each pricing model based on the data acquired within the framework of the sector report are as follows:

- **Cost per Click (CPC):** This is a pricing model where the advertiser makes a payment every time a user clicks on an ad. (...) states that CPC is priced higher than CPM since it ensures guaranteed clicks. CPC, is the main pricing method used in search advertising.
- **Cost per Mille (CPM):** The publisher considers every 1000 views of the webpage by the users as a unit and ads are priced over this unit (...). It is noted that there is a general tendency to price display ads on a CPM basis, in accordance with publishers' preferences (...).
- **Cost per Action (CPA):** This involves charging a fee when the users clicks on the internet ad and carries out the action on the webpage defined/intended by the advertiser. These actions require the user to provide some information to the website, such as account creation, form filling or product purchase (...). The name of the pricing model concerned may vary depending on the action chosen (...).
- **Cost per View (CPV):** Charges a fee every time an ad is displayed/viewed. This pricing model is mostly used of video advertisements (...). However, the criteria for watching the video may be interpreted differently by each publisher (...). For instance, charging may require the user to watch the first five seconds, 20% or entirety of the video (...). The type of payment made for watching the entire video is known as the cost per completed view (CPCV) model (...).
- **Cost Per Engagement (CPE):** This is the model wherein the advertiser makes a payment if the user somehow engages with the ad.
- **Cost per Install (CPI):** This is a pricing model specific to mobile advertising. It is used for creating brand recognition as well as by advertisers whose goal is getting their mobile apps downloaded/installed.
- **Cost per Lead (CPL):** This is a payment method that directs the consumers to the website of the advertiser, with the aim of getting the

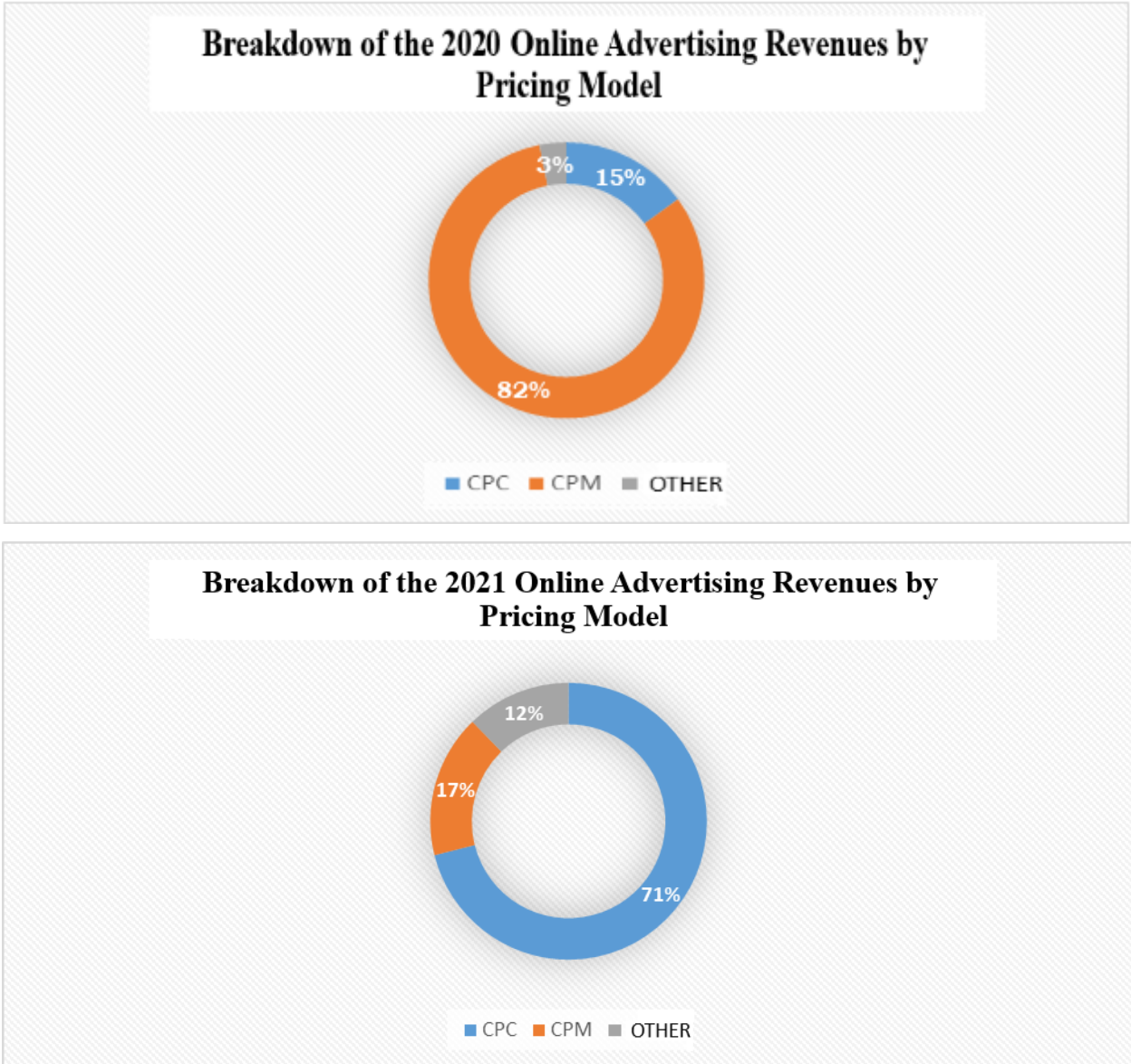
¹²¹ Will only be referred to as CPI in this report.

consumer to fill a registration form, and the advertiser makes a payment if that target is achieved (...).

- **Cost per Day (CPD):** This is used for pricing an advertisement space allocated daily to one advertiser or a limited number of advertisers (...).
- **Cost per time (CPT):** This is a payment model wherein the advertiser makes a payment for an ad a website will show for a set period of time.
- **Cost per Sale (CPS):** Refers to charging a commission at a certain percentage of the turnover generated by the sales made. It should be noted that this pricing model is mostly used in affiliate (sales partnership/cooperation) channels (...).
- **Cost per Rating Point (CPRP):** This is a payment model whereby the advertiser is charged if a set target audience is reached.

(128) Within the scope of the sector inquiry, data was requested from the publishers in order to see the share of the revenues from each pricing model within total online ad revenues; however, some undertakings stated that they did not keep data under this sub-category and some undertakings were only able to breakdown a portion of their revenues. Based on the information collected from those undertakings who were able to provide data, the charts created for 2020 and 2021/5 are included below. However, it must be noted that the analysis in question was based on data from a limited number of undertakings and thus could be insufficient to reflect the overall sector.

Chart 16: Breakdown of Online Ad Revenues by Pricing Model¹²²



Source: Information Acquired from Undertakings

(129) The charts above show that the cost per click (CPC) method made up a large portion of the total online advertising revenues of the publishers in the 2021/5 period, despite a drop in its share compared to 2020. This model was followed by the cost per mile (CPM) model, with the other pricing models commanding a rather small share within total online advertising revenues.

¹²² The “Other” category includes revenues from CPV, CPL, CPA, CPE, CPD and other pricing models.

2.4. Concentration Analysis in Online Advertising Services in Türkiye

(130) After establishing the general significance of online advertising and the issues related to market definitions in this area, the competitive structure of the market based on potential downstream market breakdowns must be identified. However, before conducting an analysis on the downstream markets of online advertising, it would be beneficial to examine the general share each type takes from the market. The following table includes advertisement expenditures for each sub-category of online advertising, based on the data from Türkiye Estimated Media and Advertisement Investment Reports¹²³ in the 2017-2021 period:

Table 5: Distribution of Online Advertising Expenditures (million TL)

Types of Online Advertising	2017	2018	2019	2020	2021
Search	812	918	1,110	2,849	4,450
Display	1,265	1,467	1,680	2,649	7,316
Mobile	-	-	-	-	-
Video	-	-	-	1,541	5,568
Social Media	-	-	-	240	-
Classified	-	-	125	138	150
Other	-	-	26	110	1,383
Total	2,077	2,385	2,941	7,527	18,867

Source: Türkiye Estimated Media and Advertisement Investment Reports

(131) According to the table above, online advertising spending increased 9-fold from 2017 to 2021, and an overview of the sub-categories show that search advertising expenditures increased 5.5 times during the same period, while display advertising¹²⁴ expenditures went by around 10.2 times. However, with relation to the calculations in the table, it would be beneficial to touch upon the change in the methodology carried out within the period under examination. The explanation in the Türkiye Estimated Media and Advertisement Investment Report states that, in order to conduct more accurate analyses of the market, the report switched to a system in 2020 wherein data was collected from all of

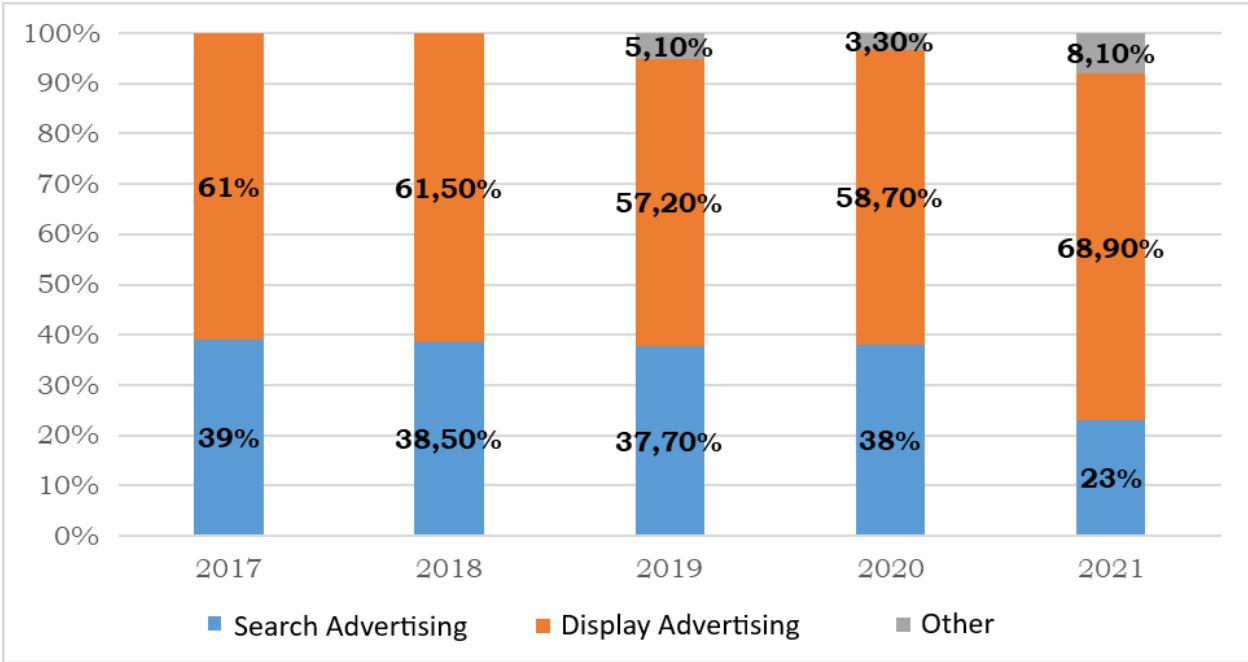
¹²³ Quoted from the reports on the following web pages: <http://rd.org.tr/www/rd/assets/doc/RD-medya-ve-reklam-yatirimlari-2017-Raporu.pdf>, <http://rd.org.tr/Assets/uploads/bf6ab5b5-0d86-4bc3-92a7-da47c165cb61.pdf>, http://rd.org.tr/assets/uploads/medya_yatirimlari_2019_.pdf, <http://rd.org.tr/Assets/uploads/1cc3c0b2-236d-4ada-9cbe-8a24420611c5.pdf>, https://www.rvd.org.tr/uploads/2022/04/medyayatirimlari_2021yilsonu_raporu_final.pdf

¹²⁴ Video advertising and social media influencer advertising in the table were considered under the category of display advertising for the calculations.

the stakeholders with different dynamics operating in the ecosystem that includes online advertisements. For that reason, it should be pointed out that this change of methods for preparing the relevant report is responsible for a portion of the 155% increase in total online advertising expenses, 156% increase in search advertising expenses and 163% increase in display advertising expenses observed in 2020 compared to the previous year.

(132) The following chart, on the other hand, shows the annual shares search advertising, display advertising and other types of online advertising received from total online advertising expenditures:

Chart 17: Distribution of Online Advertising Spending by Type¹²⁵



Source: Türkiye Estimated Media and Advertisement Investment Reports

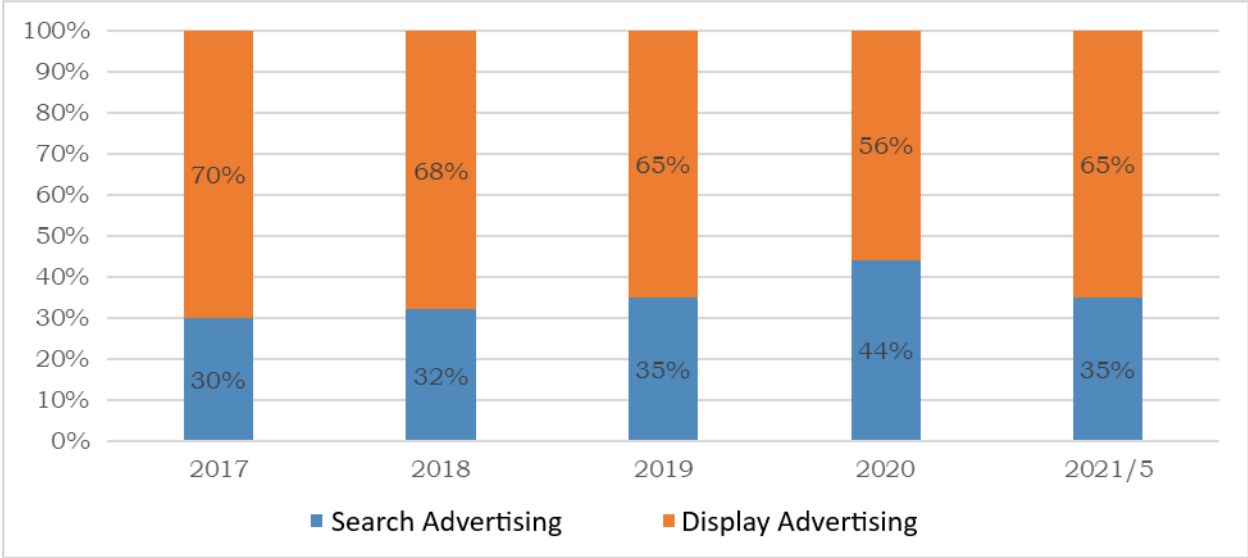
(133) According to the chart above, the share of search advertising within total online advertising expenses plateaued between 37-39% in the 2017-2020 period, but fell down to 23% by 2023. On the other hand, the same period saw a rise from 60% to 69% in the share of display advertising within total online advertising expenditures. While there was a 2.76 times increase in general compared to 2020 for display advertising types, this rate is calculated to be 3.6 times for video advertising. Within this framework, it has to be concluded that ad expenses in

¹²⁵ This chart shows display advertisements, video advertisements and advertisements by social media influencers in Table 5 under the “display advertising” heading, while classified advertisements and all other categories are shown under the “Other” heading.

the display advertising channels had a larger share within advertisers' budgets in 2021 compared to the previous years. It is also observed that the types of online advertising under the "Other" category increased their share within total online advertising types to their highest, yet remained at a negligible level of around 8% even in 2021, with advertisements falling under the classified advertising category in this sector report receiving a share below 1%.

(134) The following chart shows the search advertising and display advertising distribution for the online ad expenditures of the 32 advertisers who were requested information under the sector inquiry and were able to provide consistent data for the 2017-2021/5 period.

Chart 18: Distribution of Advertisers' Expenditures



Source: Information Acquired from Undertakings

(135) According to the chart above, for those advertisers who did provide information under the sector inquiry, the share of search advertising spending within total online advertising expenses was between 30 to 40% throughout the period concerned, with the exception of 2020 when it reached 44%. At the same time, very similar to the picture presented in the Türkiye Estimated Media and Advertisement Investment Reports, display advertising's share within online advertising expenses reached 65% by 2021/5. In that framework, it can be concluded that display advertising expenditures comprise more than half of the total online advertisement expenses/budgets of advertisers.

(136) During the sector inquiry, advertisers were asked which factors they took into consideration when deciding how they would allocate their budgets between search advertising and display advertising. In that framework;

- (...) (...) and (...) stated that they considered the objective of the ad campaign¹²⁶, how long the advertisement would be published, the target audience and location they wanted to reach, the platform choices of the target audience, the category/product information they wanted to focus on, cost per conversion, and the channel preferences of the target audience.
- (...) (...) and (...) stated that the main performance indicators for communication were important and they focused on those online channels which ensured the highest performance for the advertiser, i.e. those that provided the most interactions, click-throughs, etc.
- (...) stated that the business model of the undertaking also came into play since undertakings that only provided service through mobile applications could prefer display advertising to increase the number of app downloads and app interactions.
- (...) stated that they budgeted with an aim to attain the highest productivity by conducting daily, weekly and monthly assessments of the channel performances.

(137) The rest of the report will address the situation in the search advertising and display advertising markets, which form the foundations of online advertising¹²⁷.

2.4.1. Concentration Analysis in the Search Advertising Market

(138) Search advertising involves displaying advertisements related to the queries submitted by users to the search engines on the search results page, together with the organic results shown. Search advertising is widely used by advertisers since it offers the chance to target those consumers who are looking for a particular product, and thus has the highest rate of conversion. In fact, Google

¹²⁶ For instance, (...) noted that if they were to implement a sales-focused campaign they would prefer search advertising, while they would choose display advertising for an access-focused campaign.

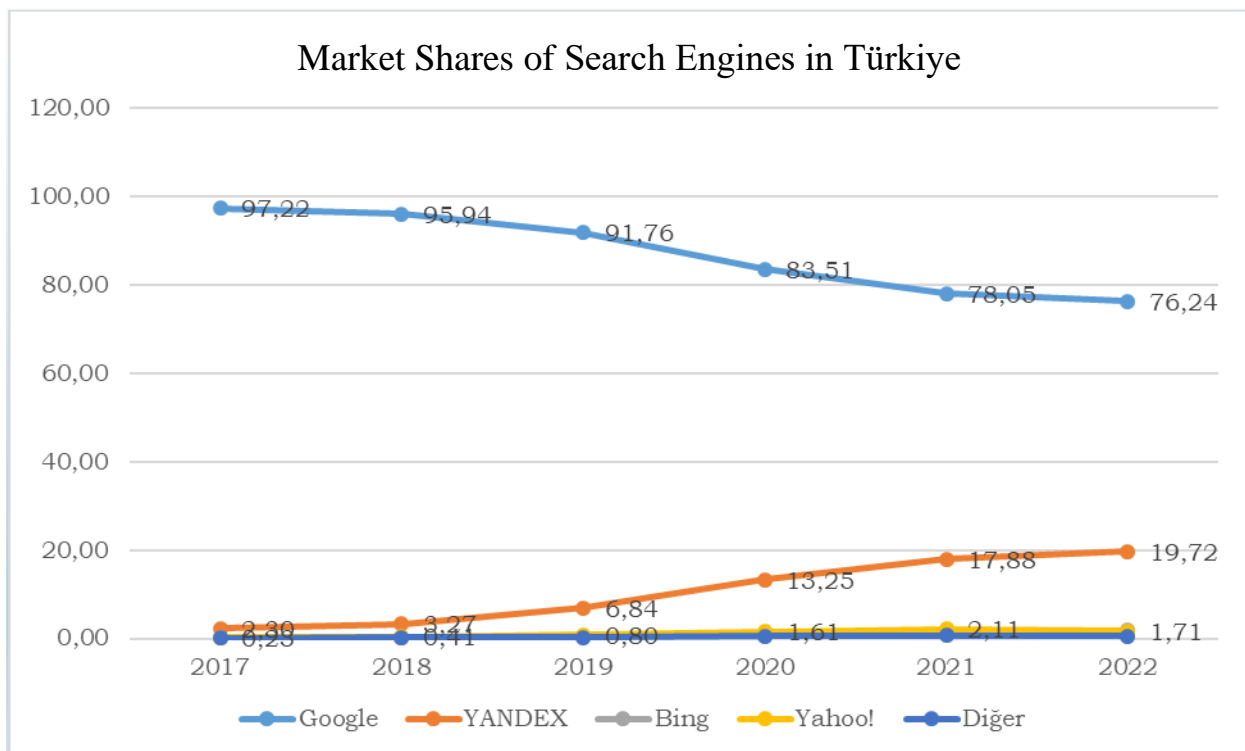
¹²⁷ The remaining part of the report will not include any further details on classified advertising, since it has a relatively negligible share within total online advertising expenses.

reports that around (...) % of the advertisers are using advertisements shown on the results page of search engines as one of their online advertising tools.

(139) In order to be active in search advertising, an undertaking must first develop a search engine preferred by the users as well as a platform to sell the search advertisements. The top reason to choose this type of ads for advertisers is the volume of utilization for the search engine concerned; therefore, the first step should be to examine the market shares of the search engines.

(140) The most popular search engines across the world are Google, Bing, Yahoo, Baidu, Yandex and DuckDuckGo. According to Statcounter data, as of 2022/8, Google has a market share of 92%, Bing 3.33%, Yahoo 1.34%, Yandex 0.97%, Baidu 0.84% and DuckDuckGo 0.71% at the global scale. The following chart shows the market shares of the search engines operating in Türkiye for the 2017-2022 period:

Chart 19: Market Shares of Search Engines in Türkiye (%)



Source: Statcounter¹²⁸

(141) The chart above shows that, for search engine services, Google had a market share of 97% as of 2017, but its market share fell sharply after 2018, down to

¹²⁸ <https://gs.statcounter.com/search-engine-market-share/all/turkey/#yearly-2017-2022>, Accessed: 02.02.2023.

76.24% by 2022. On the other hand, Yandex, which had a market share of 3.27% in 2018, reached a market share of 19.72% by the end of 2022, with search engines other than Yandex failing to reach a 5% market share.

(142) Another point of note in the chart is the fact that Yandex managed to gain ground against Google in Türkiye despite its low market share at the global scale. As known, with the Board's *Google Android* Decision dated 19.08.2018 and numbered 18-33/555-273, it was decided that Google violated Article 6 of the Act no 4054 on the Protection of Competition (Act no 4054) by engaging in tying practices by forcing mobile device manufacturers who wished to use Google's Commercial Android Operating System to pre-install of Google search, Google search widget and certain Google applications as well as some obligations about the location these applications within the device and about assigning Google search as the default. Following this finding and in order to establish competition in the market, an obligation was placed on Google to remove the clauses from its agreements with mobile device manufacturers involving the requirement to preferentially install Google search widget to the main screen and to assign Google search as the default for all search access points. As a result, it is possible to conclude that the *Google Android* Decision of the Board has been effective in allowing Yandex to gain market share against Google after 2018. However, despite losing market share in the recent years, Google undeniably maintains a very strong position before its competitors in the market.

(143) The following table includes ad revenues and related market shares in the search advertising market, generated by the Google and Yaani search engines, which were able to provide information under the scope of the sector inquiry. During the inquiry process, information was also requested from Yahoo! and Yandex, which are based abroad, but these undertakings failed to respond. Bing, on the other hand, stated that it currently did not offer search advertising in Türkiye, that it recently started to work on this field and therefore had not generated any ads revenue as of yet.

Table 6: Search Advertising Revenues (TL) and Market Shares

(.....TRADE SECRET.....)

Source: Documents Acquired from Undertakings

(144) The table above shows that Google's only rival whose data could be accessed under the sector inquiry, Yaani, failed to reach a market share of (...)% and that Google is close to a monopoly in the search advertising market. There is a small decrease observed in Google's market share if Yandex is included in the table in light of its progress in the search engine market, however this clearly would not significantly affect Google's market power. Similarly, advertisers point out that, in order of performance, Google, Yandex and Bing can be used in search advertising but that Google is so far in the lead among these in terms of interface, size of the user network and the sophistication of algorithms that there are no alternatives. In addition to being the most popular search engine for users, its low unit advertisement costs, its high efficiency and the ability to transfer data between different advertisement channels can be listed among the factors playing a role in the choice of Google. (...), on the other hand, noted that it used to work with Yandex in the past but stopped doing business with them due to a variety of reasons, including its lack of direct representatives in Türkiye, difficulties in management and low level of access.

2.4.2. Concentration Analysis in the Display Advertising Market

(145) Display advertising serves the advertisers’ goal of increasing brand recognition, and it stands out for being an effective marketing method in terms of ensuring successful and sustainable ad campaigns. Unlike search advertising, display advertising is not specific to a single location in terms of where it can be published, and can be included in all websites and mobile applications instead. Improving technology has made display advertising more visually interesting by allowing the use of different types of logos, animation, graphics and video to attract user attention, and as of 2021 it has gained more than half of the advertisers’ budgets.

(146) The sector report requested information from publishers generating revenues in the field of display advertising on their ad revenues for the 2017-2021/5 period as well as their resulting market shares, which are included in the following two tables:

Table 7: Ad Revenues Generated in the 2017-2021/5 Period by Those Undertakings Operating in the Field of Display Advertising, Who Were Requested to Provide Information under the Sector Inquiry (TL)

<p>(.....TRADE SECRET.....)</p>

Source: Documents Acquired from Undertakings

Table 8: 2017-2021/5 Market Shares of Those Undertakings Operating in the Field of Display Advertising, Who Were Requested to Provide Information under the Sector Inquiry (%)¹²⁹

<p>(...TRADE SECRET...)</p>

Source: Documents Acquired from Undertakings

(147) The tables above show that the total revenue generated by Facebook and Instagram, both under the umbrella of the Meta economic entity, comprised (...) % of the market, under the assumption of a market solely consisting of those undertakings whose information was requested, and that Meta was able to consistently maintain the market share in question for (...TRADE SECRET...) years. The most significant rival to Meta, namely Google, has YouTube as its most important platforms in this field, which grew by around (...) % in the 2017-2021/5 period to gain a market share of (...) %; thus, the total market share of the Google economic entity has reached (...) % by 2021/5. Another point of note is the fact that the market share social media platforms including LinkedIn,

¹²⁹ Assumes that the market consists solely of the undertakings who were asked to provide information.

Twitter, Snapchat and TikTok acquired within this period of time did not reach (...) %, remaining at a rather limited level. One more remarkable point is the fact that TikTok, which was launched in 2018 and only began to generate revenue in 2019, is showing a more rapid development than the other social media platforms despite starting generating revenue later. In addition, it is observed that social media platforms have been increasing or at least maintaining their market shares in general within the relevant period, while other publishers tended to lose market share. In that framework, even though there are numerous players operating in the field of online display advertising, the sector structure is mostly concentrated around Meta and Google economic entities, with Meta in particular holding a rather significant market power.

(148) Some of the advertisers state that Meta is holding a monopoly position while other advertisers claim that there are alternatives in online display advertising such as Google, TikTok and Twitter. Meanwhile, another portion of the advertisers note that while there are alternatives, Meta stands out due to its technological infrastructure and its data stores and that an examination of the feedback showed that the most productive results were received from Meta, all of which made advertisers very dependent on Meta.

(149) In conclusion, it is observed that in terms of search engine services Google's Turkish market share was above 97% before 2018 but fell down to around 75% after 2018. However, in search advertising, Google's market power in comparison to Yaani seems to be close to a monopoly with respect to the income from this field. Even though Yandex is not included in this calculation, the opinions of the stakeholders suggest that undertakings tend to prefer Google with its larger network for ad services. As such, it is projected that the market share picture for the search engines would be similar to the table above, even if Yandex were included in the calculation.

(150) On the other hand, in terms of display advertising, the Meta economic entity represents (...) % of the total revenues of those undertakings that provided information under the sector inquiry, followed by the Google economic entity with a share between (...) and (...)% , and both of these undertakings have been maintaining their positions in the market for some years. Thus, it is observed

that the online display advertising sector has a structure that is concentrated around the Meta and Google economic entities.

(151) Following the examination of the types of online advertising with respect to their sub-categories and their substitutability with each other and the concentration analysis focused on the downstream markets, the following section will look at the functioning of the advertisement technologies used in online display advertising. This will help illustrate the technologies used in providing display advertising services, which comprise a significant 70% of online advertising expenditures despite their complex structure, as well as the scale of the competition therein for Türkiye.

3. ONLINE ADVERTISING TECHNOLOGY

3.1. Information on Online Advertising Technology Services

(152) In their most basic form, online advertising technology services are those services which bring advertisers and content providers (ad publishers) together in a virtual environment and ensure the marketing of their ad inventories through software systems¹³⁰. Online advertising technology services are used when buying and selling display advertisements and they allow the automatic use of sophisticated algorithms and systems to exchange digital ads in mere milliseconds, thereby enabling the sale of digital ad space on the websites/applications of many publishers to many advertisers. In other words, using these technologies, enables advertisers who intend to communicate their promotions and campaigns for their brands/products/services to their consumers to show them on the websites or applications of the publishers in return for a certain fee.

(153) When users visit a website or application, they encounter a series of ads, together with the actual content of the visited page. Display advertisements presented can take the many forms including banners, video ads, native ads, enriched media ads, etc¹³¹. Advertisements displayed when the user visits a website/application, uses the social media or watches a video may be given as examples to this type of advertising.

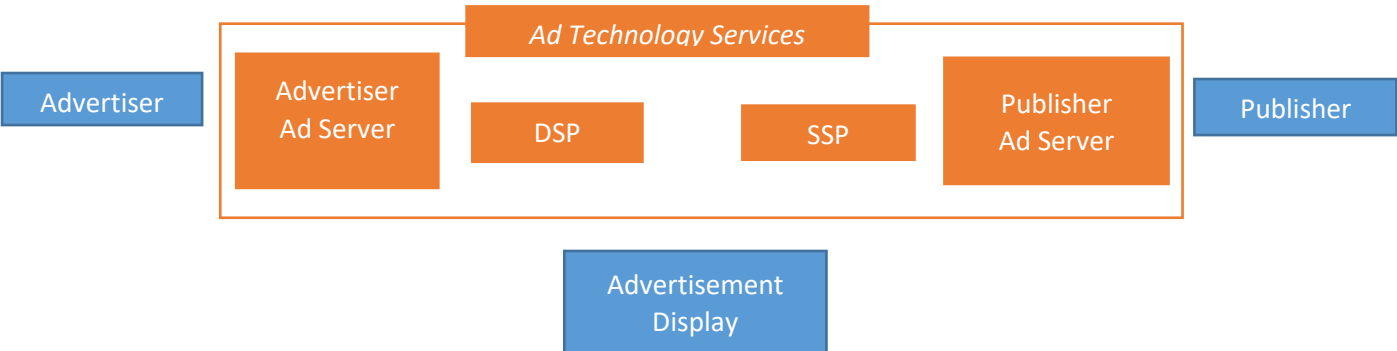
(154) Basically, as soon as an internet user access a website/application he wants to visit, the ad request and ad presentation begin to work in the background, and the ad is shown to the user when the relevant criteria are met. In other words, a series of ad technology services working in the background determine which ad will be presented to the user with the content of the visited webpage, and it is these tech services which actually display the ad. Within this process which takes only a few milliseconds, the user first enters the website, and as the page loads the publisher's ad server transmits the ad request to the supply side

¹³⁰ BAYE, M., M. BARENSTEIN, D. HOLT, ... and M. VITA, (2008), "Economics at the FTC: The Google-DoubleClick Merger, Resale Price Maintenance, Mortgage Disclosures and Credit Scoring in Auto Insurance", Review of Industrial Organization, p. 213

¹³¹ For details see section 1.1.2 of the report herein.

platforms (SSPs)/ad exchanges¹³², which will fetch the display advertisements; then, SSPs/ad exchanges that receive the request send that demand from the publisher to the advertiser and wait for the advertiser to make a bid. Advertisers meet that demand through the demand side platforms (DSPs) to make their bids, and the bid of the winning advertiser is entitled to show its advertisement on the website/application of the publisher through the advertiser ad server. The diagram of the process is given below:

Figure 7: Simplified Diagram of the Online Ad Technology Services Value Chain



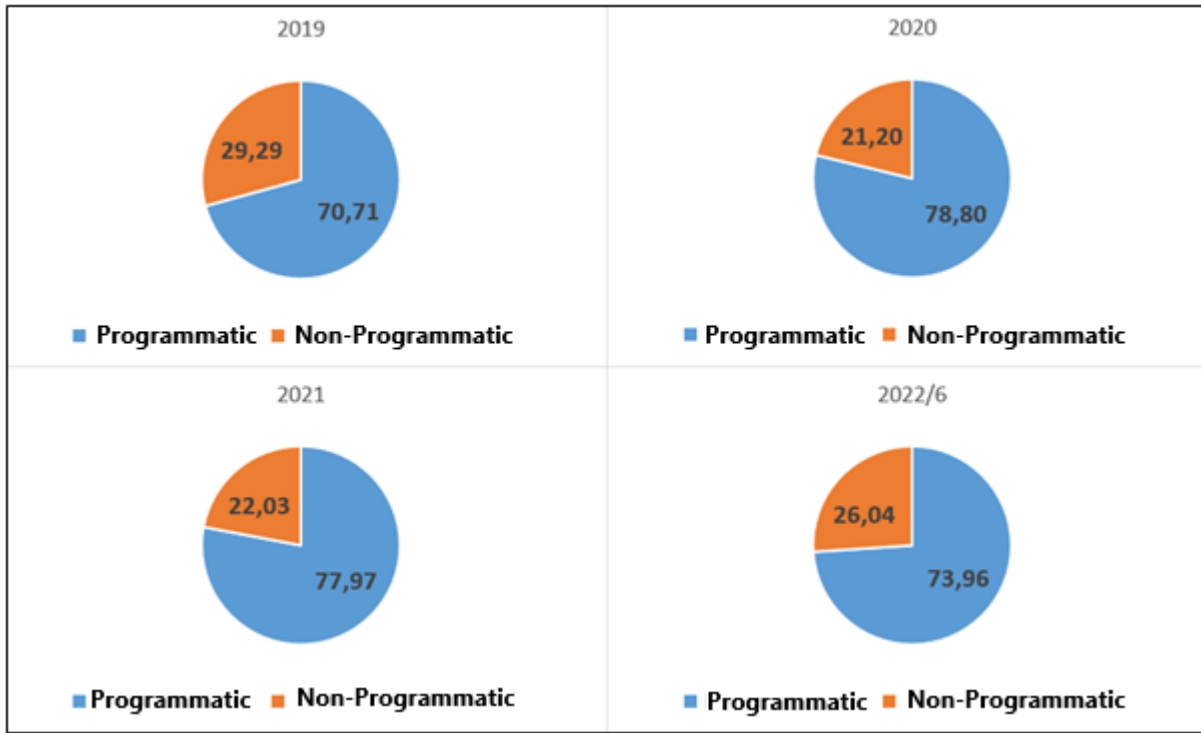
Source: Rapporteurs

- (155) The above-illustrated ad tech services which ensure the presentation of the display ads play a critical role in the provision of digital products and services. Through these technologies, undertakings show their ads to the consumers and publishers gain income from their advertising space to finance the content they provide. As a result, a competition failure in the provision of online ad technology services has the potential to harm the advertisers, publishers and, ultimately, consumers. Where competition cannot be established, online content-provider websites such as news publishers etc. and/or application owners would be less able to provide their content to the users, and as a result both consumers and advertisers could become dependent on increasingly fewer content providers.
- (156) Therefore, it seems beneficial to examine the place of these critically-important services in the advertising sector of Türkiye. The charts below include information on what portion of online advertisements in Türkiye was carried out

¹³² The SSP, ad exchange, DSP, publisher ad server and advertiser ad server concepts will be explained in detail in the following sections.

through programmatic methods¹³³ in 2019, 2020, 2021 and the first six months of 2022, respectively:

Chart 20: Distribution of Digital Ad Expenditures in Türkiye¹³⁴



Source: IAB Türkiye

(157) As shown in the figures above, ad technology services play a rather significant role in online advertising in Türkiye. This is because 70-80% of the ad expenditures throughout the years have been done via programmatic methods.

(158) Due to its consequent importance, this section will make a comprehensive examination of online ad technology services. As explained in the first section, there are three main types of online advertising services: search advertising, classified advertising and display advertising. The chart below illustrates online

¹³³ While this is explained in more detail in the explanations for Figure 7, spending data for programmatic advertising were taken as the basis of the calculation since online ad technologies are mainly used in the programmatic system. However, spending data for the relevant technologies would be higher assuming that direct agreements may also make use of these services.

¹³⁴<https://iabtr.org/UploadFiles/PageFiles/2019%20Medya%20ve%20Reklam%20Yat%C4%B1r%C4%B1mlar%C4%B1%20Raporu1952021172357.pdf>,

<https://iabtr.org/UploadFiles/PageFiles/2020%20Medya%20ve%20Reklam%20Yat%C4%B1r%C4%B1mlar%C4%B1%20Raporu1952021170656.pdf>,

<https://iabtr.org/UploadFiles/PageFiles/Medya%20Yat%C4%B1r%C4%B1mlar%C4%B1%202021%20Y%C4%B1%20Sonu%20Raporu742022174356.pdf>,

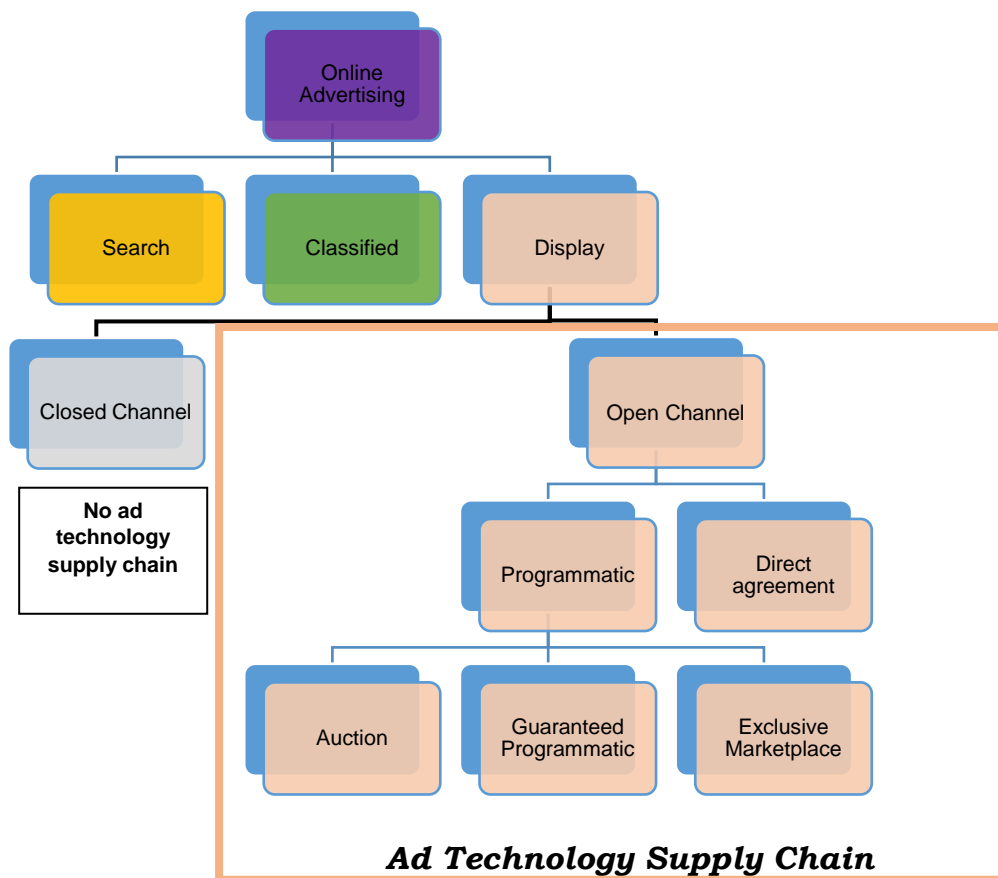
<https://www2.deloitte.com/content/dam/Deloitte/tr/Documents/technology-media-telecommunications/medya-ve-reklam-yatirimlari-2022-ilk-6-ay-raporu.pdf>

Accessed:

02.02.2023

advertising services in their entirety and indicates the place of online ad technologies examined in this section within that picture.

Figure 8: The Place of Online Ad Technologies within Online Advertising Services



Source: ACCC (2021), p. 27.

(159) As shown in the figure, display advertising services can be provided over two channels: closed and open. The *open channel* is one where numerous website publishers sell ad inventory to many advertisers and where there is unconstrained access to ad inventory. Online ad technology services make it possible to perform these large number of buying and selling transactions between these large number of parties easily, in a matter of milliseconds. These services refer to the technological infrastructure offered by the mediators which bring the relevant supply- and demand-sides together in such a way as to ensure that publishers can maximize the profits from their ad spaces, and advertisers can find publishers who provide an advertising channel that is in line with their targets (low cost, high interaction, etc.).

(160) On the other hand, the *closed channel* refers to a procedure where publishers with large ad inventories, in particular, directly sell their inventories to

advertisers using “their own systems.” These publishers are also known as “owned and operated platforms”. In this system, only the inventory of the publisher that owns the platform is sold, and no other publishers can sell inventories. Social media platforms such as Facebook, Instagram, Tiktok and Twitter use the closed channel system for selling ad space¹³⁵. Among these, Facebook is the largest publisher operating through the closed system. Facebook sells the ad space it owns via a system called Facebook Ad Manager¹³⁶. Ad technology services are not used for buying and selling advertisements on such closed channels. Thus, this part of the study will focus on “open” display advertising services rather than all display advertising services.

(161) *Display advertising services in the open channel* itself is provided by two main methods. The first of these methods is direct agreements (non-programmatic) and the second is the programmatic technology. In *display advertising based on direct agreements*, there is direct negotiation between the demand- and supply-sides of the advertisements, with the advertiser signing an agreement with the publisher to purchase a certain amount of ad inventory on the website or applications of the publisher. Ad technology services do not play a significant role in facilitating direct agreements. Unlike the programmatic technology, the method in question does not offer real-time targeting opportunities. It is more common for publishers to sell their *premium* ad inventory¹³⁷ via direct agreements in comparison to their other ad inventory. This is because publishers may choose the direct negotiation method in pricing these ad spaces that have high monetary value (e.g., those spaces with which the visitor interacts the most or to which he pays the most attention). For instance, a housing company may choose to sign an agreement with a real estate sales platform for a newly-launched project that involves showing ads to every visitor for a certain period of time (minutes-hours-days-months) at the most frequently seen, i.e. most attention grabbing part of the website. This method is referred to as the direct agreement method.

¹³⁵ CMA, p. 242.

¹³⁶ (... TRADE SECRET...)

¹³⁷ Premium is the valuable inventory or content the price of which is determined by the publisher in consideration of the supply and demand equilibrium. https://www.thinkwithGoogle.com/qs/documents/3608/6c244_IAB_whitepaper_on_programmatic_1.pdf, Accessed: 05.07.2022.

(162) On the other hand, in *display advertising based on programmatic technology* (programmatic advertising), the buying and selling transactions for the ad space are automated, where any ad inventory on the online channel is processed instantly, via communication between systems. In other words, programmatic advertising refers to advertising business in which purchase and sale processes are based on automated systems¹³⁸.

(163) Programmatic advertising makes use of ad technology services to facilitate the automated purchase, sale and distribution of the ad inventory, one impression at a time. Ad technology makes it possible for all of these transactions to happen in the time it takes for loading the relevant page when the internet user opens a website or application, and for the advertisements to target each individual consumer in real-time. In the most general sense, ad technology serves the following purposes:

- Offering the ad inventory of a publisher to a variety and number of advertisers,
- Taking a series of automated decisions about the ad inventory to determine which ad to show and what price to charge the advertiser,
- Showing the relevant advertisement through the publisher.

(164) In programmatic advertising, there are three main methods publishers can use to sell their inventories and advertisers can use to purchase them¹³⁹:

- *Open auctions*: In this method, a large variety and number of advertisers are invited to bid for the ad inventory. Open auctions may consist of a series of auctions used to determine the winning bid and the price to be paid by the owner of the winning bid. In the open auction method, the stakeholders in the sector have generally stated that the publisher channel is compliant with the category pre-selected by the advertiser for publishing its advertisement, but that they do not know exactly on which website their advertisements are shown. Despite this disadvantage, open auction also provides an advantage in that the advertisers can easily access to numerous inventories, and the publishers can access a large number of requests. Another reason for

¹³⁸ Martinez I. J. et al. (2017), *El profesional de la información*, Volume (26), Issue 2, p. 201-210.

¹³⁹ CMA (2020), "Online Platforms and Digital Advertising market study, Appendix M: Intermediation in open display advertising" p. M13

preferring the open auction method is that it is open to participation by everyone (...).

- *Programmatic Guaranteed (Automated Guaranteed)*: In this method the advertiser and the publisher engage in direct negotiations for a fixed-volume of ad inventory over a fixed price, and the advertisement technology services are only used to automate the distribution of the ads. According to the statements of the agencies, who are one of the stakeholders of the sector, the programmatic guaranteed method ensures advertisers' access to the premium inventory, however it has limited access to targeting controls in comparison to programmatic buying. For publishers, on the other hand, this method is advantageous since it allows direct adjustment of inventory prices and guarantees there will be no space left on their inventory without advertisements (...).
- *Private marketplaces*: This method involves holding auctions to which only a selected group of advertisers are invited. Private marketplaces ensure that advertisers can access their *premium* inventory, know exactly where their advertisements will be shown, and target consumers with certain characteristics in their advertisements. Publishers, on the other hand, have more control over which advertisers can access their inventories with this method, and can sell this space for a higher fee than they would via open auctions (...).

(165) (...) and (...), whose opinions were requested under the sector inquiry, stated that during the time when the programmatic technology was first seeing use, the inventory allocated to programmatic inventory was generally the surplus inventory with lower quality, but since programmatic advertising facilitates operational processes, centralized management, ad planning, ad analysis and campaign optimization, in time, *premium* ad spaces began to find a place in ad exchanges¹⁴⁰ through the private marketplace model.

(166) After this overview of the basic structure of programmatic advertising, the next section will examine the importance of programmatic advertising for advertisers and publishers, who are the users of the services concerned.

¹⁴⁰ See section 2.2.3.1 of the report herein.

3.1.1. Programmatic Advertising for Publishers

(167) Most of the publishers use programmatic technologies to sell their ad inventories. While due to lack of access to the advertisers, publishers used to be unable sell their ad spaces in a vertically integrated system like Google (i.e. sell directly to advertisers without needing an intermediary service), the advent of programmatic advertising made it possible for publishers to reach all advertisers¹⁴¹. Since programmatic advertising allows showing personalized ads, all publishers can promise advertisers access to the right audience¹⁴². Data-based user-targeting approach and the usability of these data with the programmatic technology became a determining factor for those publishers who do not produce niche content, in particular (that is, those who have a general audience and therefore cannot guess the characteristics of their users based on the content they provide). This is because the publisher can continue to produce its content in general and provide it universally, while showing ads to the correct audience via programmatic networks¹⁴³.

(168) Below is a chart prepared in light of the information collected from those publishers¹⁴⁴ who provided data under the sector inquiry, which reflects the purchase channels that generate revenue for the publishers:

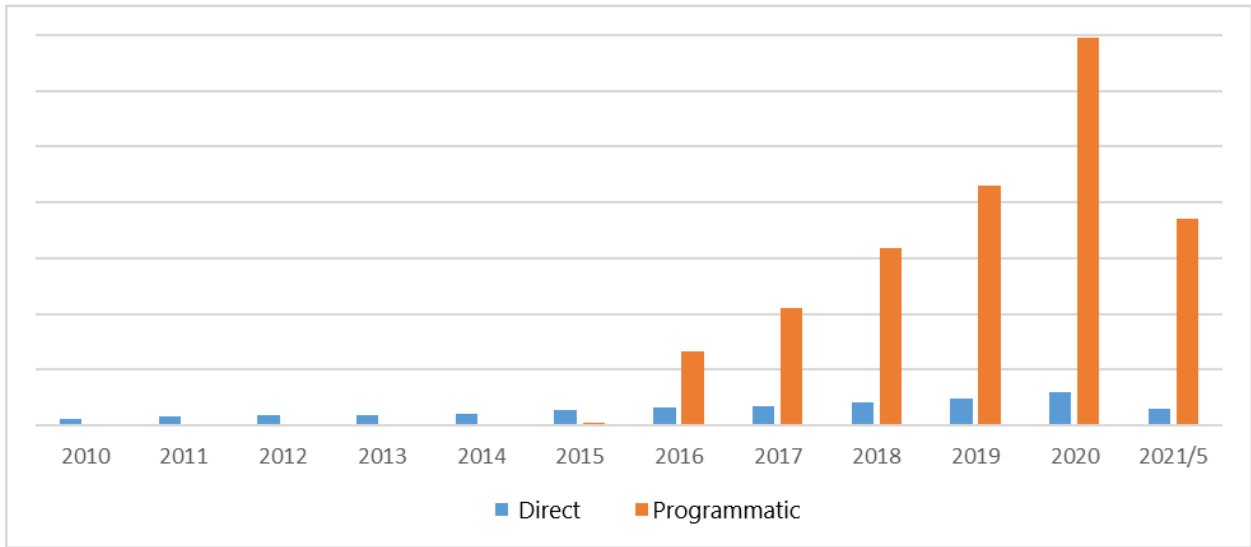
¹⁴¹ IAB Europe (2019), “Attitudes to Programmatic Advertising Report” <https://iabeurope.eu/knowledge-hub/attitudes-to-programmatic-advertising-report-2019/>, Accessed: 08.03.2023.

¹⁴² Saman, S. (2020), *Dijital Medya ve Reklamcılık: Türkiye Örneğinde Dijital Reklamcılık ve Dijital Reklamcılıkta Programatik Reklamların Rolü*, Post-graduate Thesis.

¹⁴³ IAB Europe (2019), “Attitudes to Programmatic Advertising Report”

¹⁴⁴ Based on responses from 38 publishers including (...).

Chart 21: Breakdown of Publishers' Ad Revenues by Direct Agreement/Programmatic Channel



Source: Information Acquired from Undertakings

(169) The chart shows that the relevant undertakings did not generate any revenue in the programmatic channel between 2010 and 2015, but from 2016 on, programmatic revenues surpassed direct agreement revenues to comprise a very large portion of the publishers' ad revenues. Total programmatic revenues collected in 2016 was around 4 times those from direct agreements, yet they reached (...) billion TL in 2020, corresponding to 11 times the revenues collected via direct agreements.

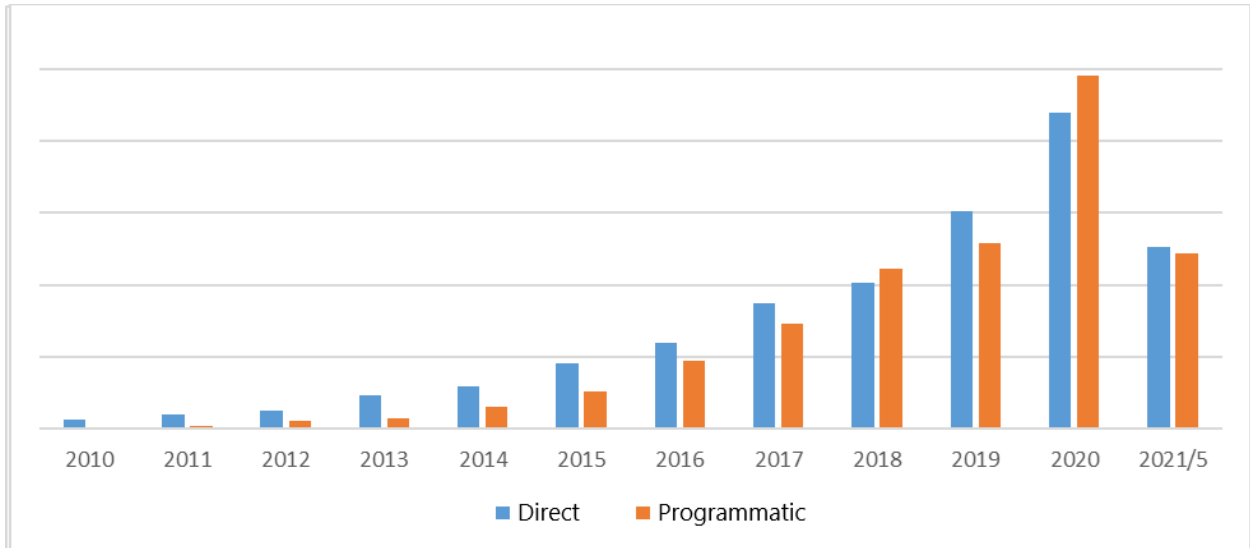
3.1.2. Programmatic Advertising for Advertisers

(170) In non-programmatic ad purchases, analyses are done over static data, while programmatic advertising provided advertisers access to detailed and transparent information on the campaign they purchased. The fact that consumer preferences can be monitored with instant updates helped advertisers to easily find an answers to the questions of where and how their budgets are spent. In short, the most important contribution of programmatic advertising to advertisers is about costs and productivity.¹⁴⁵

¹⁴⁵ Zeren, D., Keşlikli İ., (2019), "Programatik Reklamcılık: Kavram, İşleyiş ve Potansiyeli Açısından Değerlendirmesi", p. 319.

(171) The chart below show the distribution of ad expenditures based on direct agreements and on the programmatic channel for those advertisers¹⁴⁶ who provided data under the sector inquiry:

Chart 22: Breakdown of Ad Expenditures in Terms of Direct Agreements/Programmatic Channel for Advertisers



Source: Information Acquired from Undertakings

(172) The chart reveals that for those advertisers who provided data under the sector inquiry, ad spending via direct agreements constantly increased from 2010 to 2017 to reach around (...) million TL; that despite falling behind direct agreement spending, programmatic ad expenditures also showed a consistent increasing trend to reach around (...) million TL; that in programmatic ad expenditures surpassed expenditures based on direct agreements for the first time in 2018 with around (...) million TL; that 2020 saw the largest increase in both channels, with direct agreement based ad spending reaching around (...) million TL, and programmatic ad expenditures surpassing that to reach around (...) million TL. The data in question show that expenditures in both of these channels constantly increased through the years and that both channels received similar shares within advertisers' total ad budgets in the recent years. However, studies published in 2021 and 2022 by IAB indicate that programmatic purchase expenses in Türkiye were 5,893 million TL during the first half of 2021, but nearly doubled in the first half of 2022 to reach 10,408 million TL. Based on

¹⁴⁶Based on responses from 38 publishers including (...) and (...).

these data, it should be expected to see an increase in the budget allocated to this channel¹⁴⁷.

(173) At this juncture, advertisers were asked what criteria they used when choosing channels for their open display advertising purchases. The information acquired from the undertakings show that advertisers generally did not use the programmatic channel for their media strategies such as *premium* content, special sponsorships, brand-specific works and certain special advertisement formats, that the direct agreement method was preferred in campaigns involving the long-term reservation of the ad channel to an individual brand, that purchasing the ad service over the programmatic channel is more effective if there are no plans for publisher-specific setups. For instance, if an automobile brand sets up a long-term ad campaign for a newly-launched sports model aimed at the youth, they could want the ad to be shown to everybody who visits a webpage preferred by the young demographic and thus could choose the direct agreement method to achieve that goal. On the other hand, the programmatic channel may be chosen for another setup where it is sufficient for the ad to be shown on many websites to those users who are only interested in that product rather than to everyone using a certain website.

3.1.3. Publishers' and Advertisers' Views on the Benefits of Programmatic Advertising

(174) When asked their opinions on the benefits of programmatic advertising, the stakeholders of the sector generally report the following:

- Advertisers can reach a large number of publishers thanks to programmatic advertising and thus can usually purchase for lower unit costs in comparison to the traditional methods; at the same time, they can optimize their campaigns by implementing instant changes (...);
- Programmatic advertising helps advertisers to closely monitor and analyze their target audience to better perform market targeting and identify customer profiles, which gives them the chance to use their budgets more

¹⁴⁷ <https://www2.deloitte.com/content/dam/Deloitte/tr/Documents/technology-media-telecommunications/medya-ve-reklam-yatirimlari-2022-ilk-6-ay-raporu.pdf>,
<https://iabtr.org/UploadFiles/PageFiles/2021%20Yar%C4%B1y%C4%B1%20Medya%20ve%20Reklam%20Yat%C4%B1r%C4%B1mlar%C4%B1%20Raporu4102021151747.pdf> Accessed: 30.01.2023.

efficiently, increasing their performance. It also allows them to target one person on different channels and show the same person reinforcement ads on different times (...), thus advertisers enjoy the advantages of reaching the right audience at an extended scale, increasing their video interactions and controlling their media and inventories in detail (...);

- All publishers can be accessed over a single platform with the programmatic purchasing method, which means that publishers have easier access to advertisers and advertisers gain price advantages due to increased publisher competition, preventing publisher monopolization (...);
- Due to the growth of programmatic advertising, the exchange between DSPs and SSPs enabled the emergence of many technologies and companies (...);
- Programmatic advertising also offers publishers the advantages of enhancing productivity and increasing inventory control (...);
- Programmatic purchasing provides high level of transparency for the purchasing party, while allowing the selling party to progress without issues with regards to fee collection since money flow through the systems operates on a daily basis. Information such as which publishers have shown the ad, ad performance, etc. are directed automatically to the systems of the advertisers, which allows transparent and objective purchases (...).

(175) As a result, programmatic advertising offers publishers and advertisers many advantages such as target audience analysis, correct targeting, price/performance balance, time management, flexibility to make instantaneous changes, ability to monetize the whole inventory and shorter operational processes. In a general sense, publishers use programmatic advertising to reach previously inaccessible advertisers and create larger advertiser demand, and advertisers prefer programmatic advertising due to its ability to allow them to reach the correct audience with its consumer targeting features, its capabilities within the purchase processes and its operational productivity.

(176) In light of the information explained above, due to publishers and advertisers increasingly preferring programmatic advertising for online advertising services

and as a result of the fact that programmatic advertising has become the most important income item within ad revenues of publishers as compared to direct agreements, it is now necessary to determine if the system is competitive. This is because, if the relevant structure is not competitive, this would have a negative effect on advertising revenues/expenditures, which are the main source of funding for the content provided through online channels, resulting in many content creators becoming unable to operate. A natural consequence would be consumers being unable to access content freely and/or reaching a smaller number of content providers. Due to the reasons listed above, the following sections will first explain the online advertisement technology system, and after that will provide an overview of the current status of the relevant services in Türkiye.

3.2. Online Advertisement Technology System in Open Display Advertising Services¹⁴⁸

- (177) During the early days of display advertising, publishers sold their ad inventories to advertisers who wished to use these spaces for their ad campaigns through direct agreements. However, the increasing number of websites and publishers' need to sell their remnant (unsold through direct agreement) inventories on these websites resulted in the emergence of ad networks¹⁴⁹. Ad networks consolidate ad inventories from a large number of publishers under their own umbrellas to mediate the use of these ad spaces in line with the needs of the advertisers.
- (178) In programmatic advertising, the collection of inventories in the ad network provides a chance to process all inventories, while the opportunity to work with more than one ad network reinforces competition. Thus, the most optimum bid for the publisher among all advertisers' bids is published automatically and in a very short period of time. Moreover, the ability to perform transactions instantaneously within this structure creates an environment where taking real-time action is possible. Taken together, all of the factors above result in performing more valuable and effective ad sales and purchases¹⁵⁰.

¹⁴⁸ Information about the relevant services are based on the reports by the ACCC and CMA and on the information provided by the companies operating in Türkiye.

¹⁴⁹ https://assets.publishing.service.gov.uk/media/5fe495c28fa8f56afaf406d4/Appendix_M_-_intermediation_in_open_display_advertising_WEB.pdf, Accessed: 29.06.2022.

¹⁵⁰ IAB Europe (2019), "Attitudes to Programmatic Advertising Report"

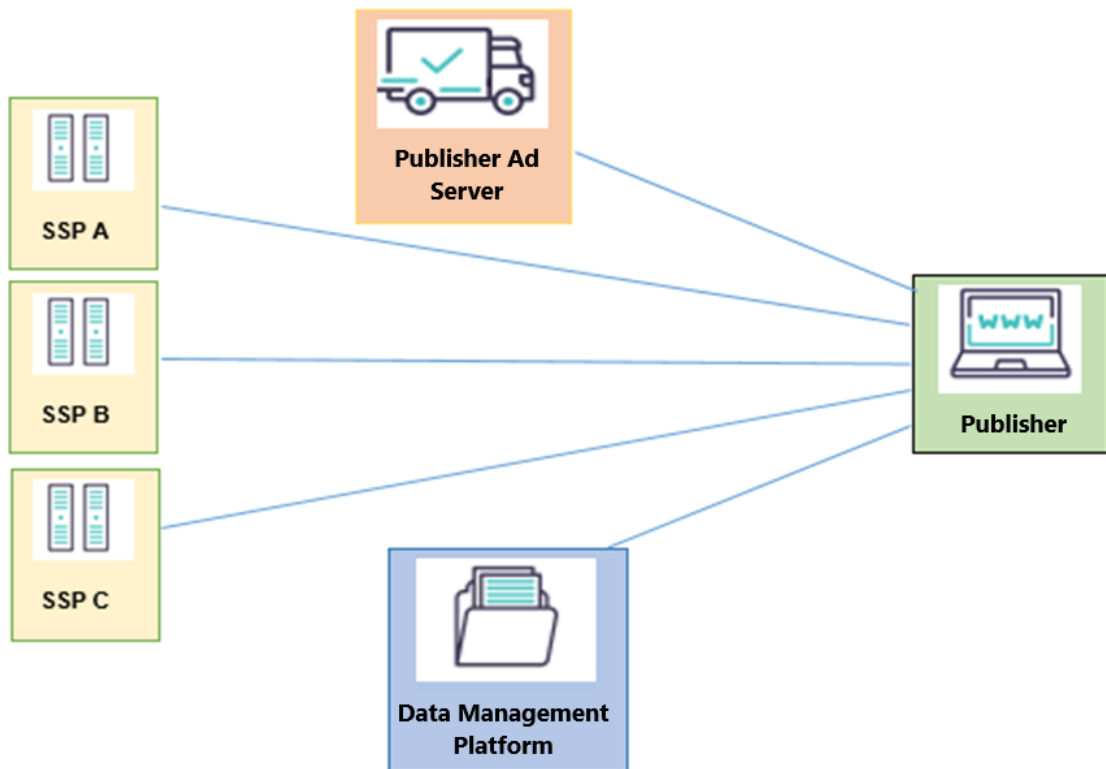
- (179) During the early days of programmatic advertising, agreements signed between ad networks and publishers were based on the previously-agreed prices for the existing inventory. Consequently, a publisher with a piece of inventory for which direct agreement did not apply negotiated whether that inventory would be purchased over the price previously set through the bids of the ad networks.
- (180) As the number of ad networks increased gradually, there emerged a risk of the same ad inventory getting purchased more than once by different networks, making it harder for advertisers to run their ad campaigns. Due to these reasons, the first online ad exchanges were established towards the end of the 2000s. Making it possible to bid in real time, ad exchanges are digital marketplaces where the ad inventory supply meets with the demand.
- (181) All of these needs and developments created the programmatic transaction models for open display advertising, leading to the emergence of “online ad technology” services which use special software to mediate between publishers and advertisers and facilitate the purchase and distribution process for the ad inventory. Online ad technology services are comprised of a series of services used by the publishers and advertisers that provide various complementary functions rather than a single, integrated service. Mainly, there are the publisher ad server, supply-side platforms, advertiser ad server and demand-side platforms. In addition, advertisers and publishers can make use of a variety of other services such as ad networks, ad verification, ad attribution/measurement and data management platforms, to get help with displaying and pricing their ads as well as measuring and controlling ad performance. The roles each of these services play within the programmatic process are explained in detail below.

3.2.1. Ad Technology Services Used by Publishers

- (182) Publishers sell ad space (ad inventory) on their websites or mobile applications using two main "publisher-side services" in the supply chain. Mainly, these ad technology services are as follows:
- Publisher ad servers
 - Supply-side platforms (SSPs)

The operation of the relevant services are shown in the image below¹⁵¹:

Figure 9: Publisher-Side Ad Technology Services¹⁵²



Source: ACCC (2021), p. 31.

(183) Publishers use *publisher ad servers* for the following purposes, with an aim to arrange and manage ad inventories in online channels such as websites and mobile applications:

- Taking decisions on which ads to show and deciding how to fill the existing ad inventory to maximize the publisher's revenues;
- Publishing the selected ads;
- Collecting, analyzing and reporting data so that the publisher can better understand the advertiser's demand for the ad inventory.

(184) Meanwhile, publishers use SSPs in order to automate the sales of their ad inventories. The main functions of the SSPs are:

- Conducting real-time auctions between DSPs in response to the bid requests received from publisher ad servers or from advertisers who

¹⁵¹ ACCC (2021), p. 31.

¹⁵² Detailed information on data management platforms will be provided in the following sections.

participate in the auction directly via header bidding¹⁵³, and then selecting the highest bid;

- Allowing publishers to manage how their ad inventory is sold and how the SSP auctions work;
- Providing information to publishers about the performance of their inventories.

Traditionally, publishers provide ad inventory through SSPs and advertisers make real-time bids through DSPs. When the technologies in question first emerged, ad exchanges used to hold real-time auctions between DSPs and SSPs in order to select which advertiser's bid would win the ad display. In that respect ad exchanges used to function as a digital marketplace where demand and supply could meet. SSPs, on the other hand, worked on setting base prices in auctions and which buyers could bid for a specific ad inventory, with an aim to maximize the selling price of the ad inventory.

(185) In time ad exchange functions merged with the SSP functions and nowadays both of the aforementioned functions are carried out by the SSPs¹⁵⁴. In other words, while at the beginning SSPs were used to connect to the ad exchanges in order to sell the inventory of the publisher, through the years most SSPs assumed the functions of an ad exchange, allowing publishers to connect directly with the DSPs. Most SSP can now function as ad exchanges that hold real-time auctions in order to select which advertiser's bid will win the ad display.

3.2.2. Ad Technology Services Used by Advertisers

(186) Advertisers use two main “advertiser-side services” to purchase ad inventory.

These are:

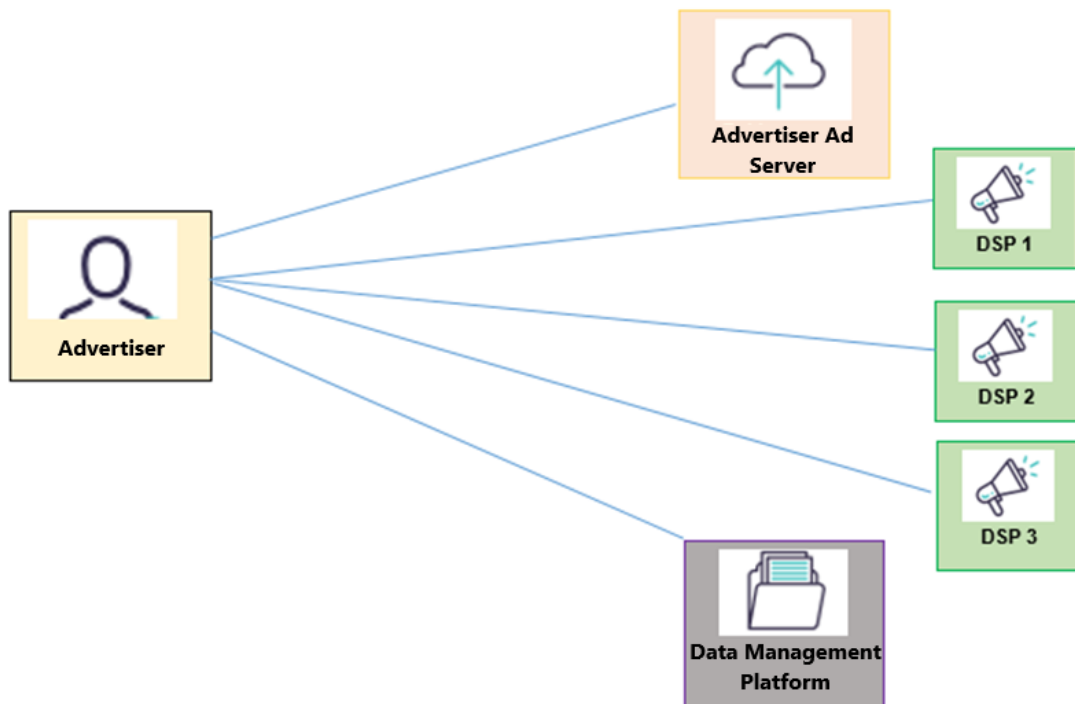
- Advertiser ad servers, and
- Demand side platforms (DSPs).

The figure below shows the operation of the relevant services:

¹⁵³ For details, see section 3.3.2. of the report herein.

¹⁵⁴ ACCC (2021), p. 31.

Figure 10: Advertiser-Side Ad Technology Services



Source: ACCC (2021), p. 32

(187) Advertisers use ad servers for the following purposes:

- Sending the ad file (image, video, text, etc.) to the publisher websites as required: This involves sending the ad file in accordance with the format in which the publisher will display the ad.
- Managing how the ads are published to the consumers (such as determining frequency limits¹⁵⁵): This involves determining how many ad impressions were requested at what part of the day.
- Monitoring ad performance: This involves monitoring whether ads are actually displayed and if so, whether they receive interactions.

(188) Advertisers use the DSPs in order to purchase ad inventories in accordance with their pre-determined parameters. DSPs connect to ad exchanges/SSPs to buy ad inventories, allowing advertisers to manage the ad inventory buying process over a single interface. DSPs can also provide data processing functions such as user targeting, data provision, performance and attribution measurements and

¹⁵⁵*Frequency caps*. Allows brands to limit the maximum number of ads consumers see online in a particular time period. <https://digitalsapiens.com/online-reklam/siklik-siniri-frequency-cap-nedir/>, Accessed: 08.08.2022.

ad verification. In order to access a large range of impressions, DSPs generally connect to more than one SSP/ad exchange. Some advertisers can simultaneously use more than one DSPs as well (directly or through the ad agencies they work with). In short, DSPs can be used for the following purposes:

- Using algorithms for the purchasing and bidding decisions of advertisers in response to bid requests from SSPs;
- Allowing advertisers to use the data available to the DSPs in order to target their ads towards specific audiences in real time;
- Collecting, analyzing and reporting the performances of advertisers' ad campaigns.

(189) There are a number of other services on offer within the ad technology supply chain. These services can provide alternative options for buying and selling ad inventory and help measure the performance of ad technology services and/or collection and use of data. It should be noted that advertisers and publishers may not always need separate providers for each of the services concerned, since such services can be offered by some DSPs and SSPs, as well. These services are explained below.

3.2.3. Other Ad Technology Services

3.2.3.1. Ad Exchanges

(190) Publishers and advertisers connect with each other in an ad exchange, which is a real-time auction market.¹⁵⁶ Ad exchanges are usually aimed at large online publishers. Online publishers need to meet minimum impression or expenditure requirements to be able to sell on ad exchanges. These requirements generally make ad exchanges inaccessible for smaller online publishers which sell their inventories through ad networks (such as many local newspapers and blogs).

(191) To finalize the inventory purchase transactions, ad exchanges charge publishers a commission at a certain percentage of the sales price of the inventory, known as “take rate”. The price for the inventory refers to the amount at which the publisher would be willing to sell the inventory, and the advertiser

¹⁵⁶https://texasattorneygeneral.gov/sites/default/files/images/child-support/20220114_195_0_States%20Third%20Amended%20Complaint.pdf,
02.02.2023.

Accessed:

would be willing to buy it. The economic value generated from the transaction is divided between the advertiser, publisher and the exchange in accordance with auction rules and the purchasing rate charged by the exchange. Since the cut of the exchange would reduce the existing benefits for the advertiser and the publisher, higher commission rates would decrease the number of ads purchased by the advertisers and the ad revenues generated by the publishers.

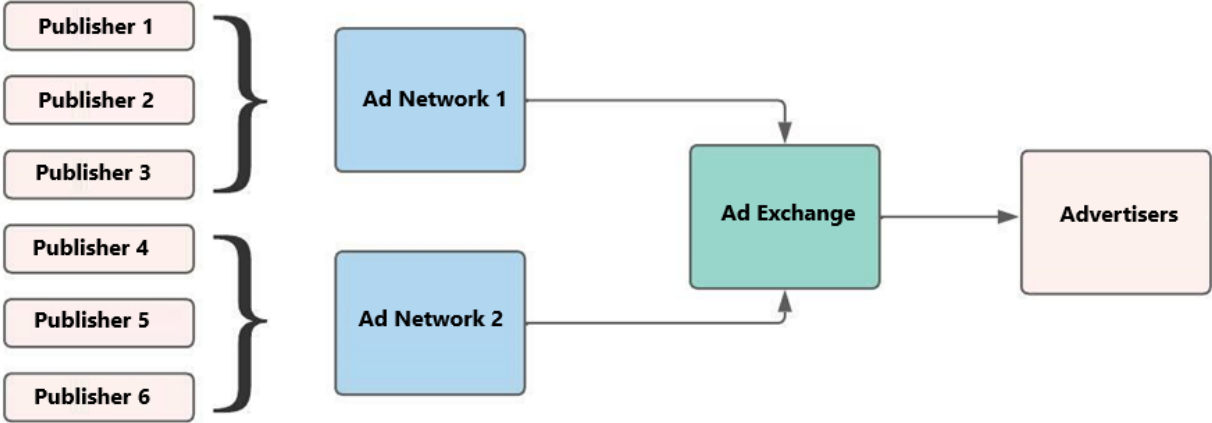
(192) As noted before, ad exchange functions melded with the SSP function in time. Thus, both of the services in question are now being offered by certain SSPs¹⁵⁷. In other words, while at the beginning SSPs were used to connect to the ad exchanges in order to sell the inventory of the publisher, through the years most SSPs assumed the functions of an ad exchange, allowing publishers to connect directly with the DSPs. Most SSP can now function as ad exchanges that hold real-time auctions in order to select which advertiser's bid will win the ad display.

3.2.3.2. Ad Networks

(193) Ad networks are one of the services used by advertisers and publishers to buy and sell display advertisements in the open channel. Ad networks collect ad inventories from a very large number of publishers together and sell them to advertisers. Ad networks can buy and sell the inventory they own directly, sell them through ad exchanges, or choose a combination of the two. For instance, Google AdSense and Facebook Audience Network are ad networks. Ad networks basically mediate the sale of ad inventories by small-scale publishers. The structure of an ad network is shown in the figure below:

¹⁵⁷ ACCC (2021), p. 31

Figure 11: The Place of Ad Networks and Ad Exchanges within the Ad Technology Supply Chain



Source: Rapporteurs

- (194) Ad networks represent a different sale process than ad exchanges. Instead of matching impressions by publishers with advertisers in a transparent, real-time transaction like ad exchanges do, ad networks operate as mediators that trade on their own account, collecting inventories from the publishers and selling them to advertisers. Ad exchanges, on the other hand, are marketplaces where publishers buy and sell ad inventory directly, bringing advertisers and publishers together without any intermediaries. Ad networks purchase inventory from publishers for a single price and then sell the same inventory to advertisers for a higher price, collecting the difference themselves with an undisclosed margin. Moreover, generally networks bear the risk that the inventory remain unsold, and they can arbitrage by reselling with one of the per impression, per click-through or per transaction charging models¹⁵⁸.
- (195) Most ad networks are willing to purchase at least part of the impressions by a publisher, independent of the size of the latter. Unlike exchanges, networks do not require publishers to meet high monthly minimum impression requirements.

¹⁵⁸https://texasattorneygeneral.gov/sites/default/files/images/child-support/20220114_195_0_States%20Third%20Amended%20Complaint.pdf,
02.02.2023.

Accessed:

As a result, ad networks are especially important for smaller publishers that are unable to sell their inventory through an exchange.

(196) Networks are also different from exchanges in terms of price. Although the qualitative differences between exchanges and networks make direct price comparisons difficult, in average, profit margins for impressions bought and resold by a network would be higher than the fee charged for trading the same impression through an exchange. The following table presents the differences between ad networks and ad exchanges:

Table 9: Differences between Ad Networks and Ad Exchanges

Criteria	Ad Network	Ad Exchange
Type of Entity	A company	A technological platform
Target Users	Agencies, advertisers and publishers	Agencies, advertisers, DSPs, SSPs and publishers
Pricing	Doesn't change since it depends on negotiations.	Fluctuates depending on the bids placed
Campaign Optimization	Takes time to implement changes.	Changes reflect in real-time.
Inventory	Offers a premium inventory to advertisers.	Offers the remaining inventory after selling the the premium inventory.
Transparency	Advertisers do not know where their ads will be appear. Publishers are unaware of the buyer.	Both parties are aware of the transaction parties.
Advantages	Publishers can sell the inventory at a premium price as they set the price	Advertisers determine the price by participating in the bidding process
Challenges	Advertisers have little say during negotiation as publishers set the base price.	Publishers may not get premium value for their inventory.

Source: Spiceworks¹⁵⁹

¹⁵⁹ <https://www.spiceworks.com/marketing/programmatic-advertising/articles/ad-network-vs-ad-exchange-key-differences-and-similarities/#:~:text=Ad%20Network%3A%20An%20ad%20network,don%27t%20involve%20an%20intermediary>, Accessed: 02.02.2023.

3.2.3.3. Data Management Platforms

- (197) Data management platforms (DMPs) are basically a piece of software that collect, store and arrange data from various sources such as websites, mobile applications and ad campaigns, and they have an important place within the online advertising ecosystem. DMPs are defined as platforms which allow participants in the ad technology value chain (advertisers, DSPs, SSPs and publishers) to manage, and analyze their data, integrate them with third-party data and use these data for targeting purposes¹⁶⁰.
- (198) DMPs help brands, agencies or publishers to collect, store and arrange data from web-based sources as well as report user behavior, making these data available for digital marketing activities. DMPs form the backbone of data-based marketing. They serve as integrating platforms for collecting, organizing and activating first- and third-party mass data from any source, including online, offline and/or mobile. In short, DMPs can be characterized as depositories where data is collected and can be coordinated.
- (199) DMPs can be fed from any source that contacts the web and whose data can be interpreted. In general, these sources can be listed as follows: websites and mobile applications, web analysis platforms, CRM¹⁶¹ systems, POS devices, call centers, social networks, internet-connected TVs, *beacon*¹⁶² devices. Data collected from these sources can be merged thanks to the rule modules within the DMP. Additionally, features offered by the DMPs such as finding users with similar characteristics (*lookalike*) and identifying different devices owned by the same user (*cross-device*) allow expansion of the user groups created by finding the similar users within segments¹⁶³.
- (200) DMPs can be addressed under two categories, depending on the users¹⁶⁴:

¹⁶⁰ Online Platforms and Digital Advertising, Market Study Final Report, https://assets.publishing.service.gov.uk/media/5efc57ed3a6f4023d242ed56/Final_report_1_July_2020.pdf, Accessed: 18.05.2022

¹⁶¹ Customer Relations Management (CRM) is a software system that manages relations with customers. For detailed information, see <https://www.oracle.com/tr/cx/what-is-crm/>, Accessed: 01.06.2022.

¹⁶² *Beacon* (Bluetooth Interaction Technology) are small wireless transmitters that can send signals to other smart devices using low energy bluetooth technology. *Beacons* are generally used in location technologies or close marketing for sending messages to mobile devices within range. See <https://semtr.com/blog/beacon-teknolojisi-ve-seo/>, Accessed: 01.06.2022.

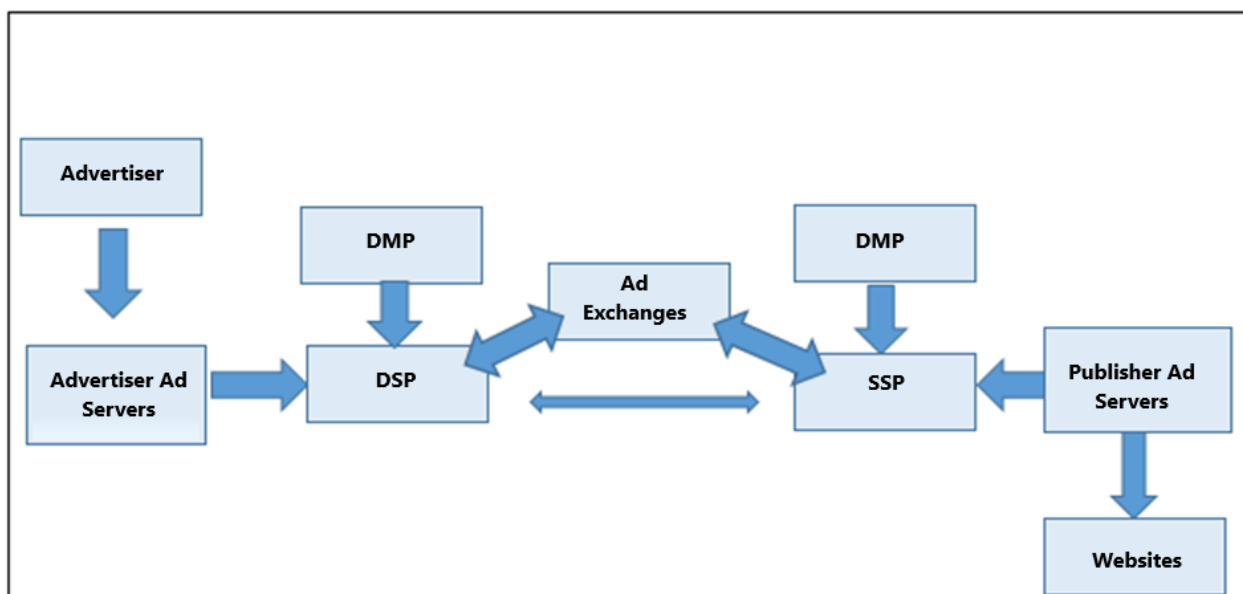
¹⁶³ <https://iabtr.org/veri-hedeflemesi-dmp>, Accessed: 24.02.2023

¹⁶⁴ For the relevant report see <https://iabtr.org/UploadFiles/PageFiles/DMP1072018181029.pdf>, Accessed: 01.06.2022.

- **Advertiser DMPs:** These platforms used by advertisers ensure that data ownership and organization is done correctly, that the data is re-targetable under the digital strategy and is reported.
- **Publisher DMPs:** These are used to organize, manage and re-target the data from users who visit and interact with the publishers' inventory. Publishers can sell their data to third-party marketplaces, or they can use them for re-targeting or website strategy management in their own campaigns.

(201) The following figure shows the role of DMPs in the ad technology supply chain:

Figure 12: DMPs' Role in Ad Technology Supply Chain



Source: The Clear Code Blog, The Main Technology Platforms and Intermediaries in the Digital Advertising Ecosystem¹⁶⁵

3.2.3.4. Ad Verification Services and Ad Attribution and Measurement Services

(202) Advertisers use ad verification providers as well as attribution and measurement providers to help them measure and assess the performances of their ad technology providers and ad campaigns. Ad verification providers mainly fulfill the following functions:

- Checking and ensuring brand safety: This function is a service used to prevent displaying the ads of the advertiser on websites or applications

¹⁶⁵ <https://adtechbook.clearcode.cc/adtech-platforms-and-intermediaries/>, Accessed: 08.03.2023.

that can harm the reputation of the advertiser, and it also helps check if advertisers are charged when the ads are shown on an “unsafe place”. Content that may harm brand safety can be classified in two: categories which are unsafe for a majority of brands and categories whose safety depend on the brand. Categories deemed to be generally harmful for brand safety include content related to alcohol, gambling, terror, violence, etc. No company would want to this type of content to be associated with their brand during ad display. Special categories, on the other hand, include criteria that can change depending on the brand, and even depending on the campaign. For instance, an automobile firm would prefer not to take out an ad on a page with news about high fuel prices.

- **Viewability:** This function checks if the published ads are shown in a viewable manner to help advertisers make sure that they are not charged for ads which are not seen by the users. It basically answers the questions of “*was the advertisement published, was it in a viewable space, did the user get a chance to see the ad,*” etc.
- **Ad fraud:** This function helps identify and prevent instances of ad fraud which involve ads being presented or clicked by bots¹⁶⁶ instead of consumers. It basically answers questions like “*On what type of media was my campaign published/will be published? Were my ads really placed on the ad spaces I was guaranteed?, How many other ads shared/will share the page with my ads?, Was my ad subject to fraud or some other practice I was not guaranteed?, Was there a video player on the page where I took out a video ad?, Was its size in line with my request?*” etc. Fraud may be carried out through various methods. Some of these methods are¹⁶⁷:
 - **Hidden ads:** These are ads placed on a page but cannot be viewed by the user. For instance, when more than one ad is placed on a single ad space, only the topmost ad can be viewed. In this case, the

¹⁶⁶ Bots are software programs working automatically to perform predefined tasks. <https://www.kaspersky.com.tr/resource-center/definitions/what-are-bots> Accessed: 08.03.2023.

¹⁶⁷ https://iabtr.org/UploadFiles/PageFiles/Ad_Verification1072018180134.pdf, Accessed: 31.01.2023

advertiser may incur charges for the impressions, even if the user never saw the ads on the bottom.

- Proxy Traffic: When user traffic is directed through proxy devices or networks, user data such as location can be anonymized. Location is an important part of advertisers' media plans. Agencies/brands incur costs above normal display costs in order to advertise at different regions. Parties that engage in fraud can gain unearned income by making the website traffic appear like it is coming from another location.
- Cookie Fraud: Cookies are important tools for following user behavior. At the same time they help determine ad performance (demand, click-through, purchase, etc.) or user interests. If, instead of a cookie from website A (actual site) which the user visited, he receives a cookie from website B (a completely different site) and if the user then makes a conversion (demand, click-through, purchase, etc.), this data will be recorded for website B together with the relevant cookie. Thus, visitors to website B can be depicted as real users even though they are not.
- Domain Spoofing: This is used to create an impression that the ads are shown on high-quality websites when in actuality they are shown on low-quality ones. The interactions created and the users reached in this context are real, but the inventories are skewed to value them at higher CPM rates and unearned income is generated.

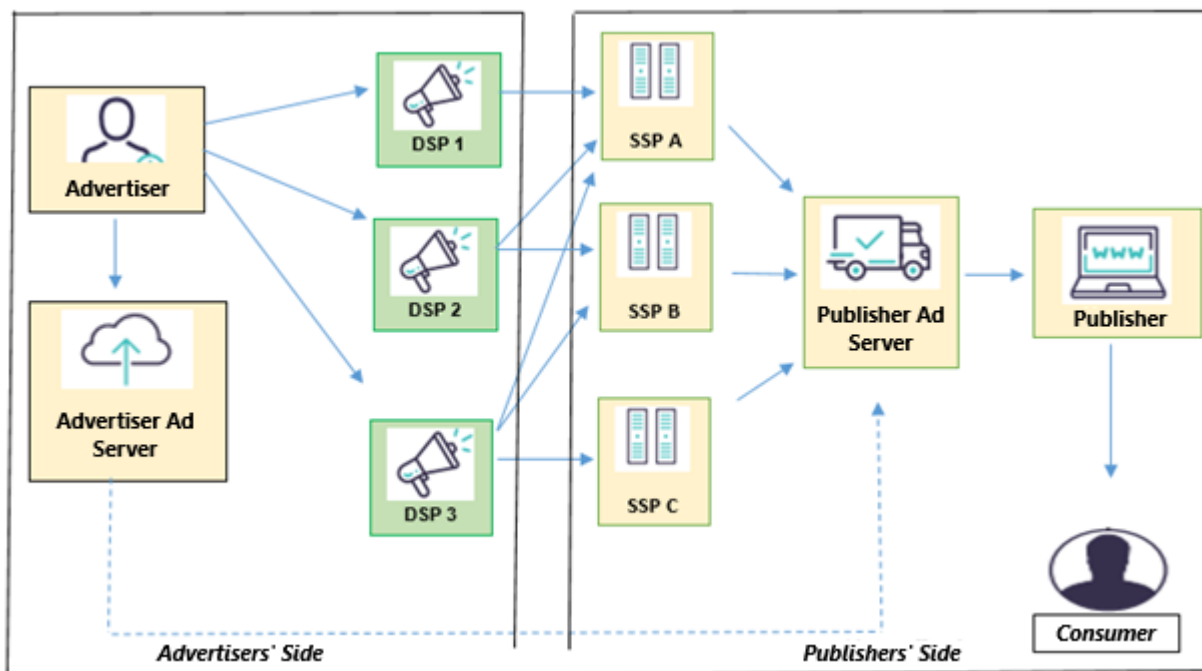
(203) Ad attribution and measurement providers help advertisers determine how effective an ad campaign is. This assessment is done by monitoring various activities of the user, such as if he clicks on the link to the relevant product/service after seeing the ad, how much time he spends on the page to which he is directed, whether he purchases the product/service after browsing the page, etc. This provides information to the advertiser on which ads encourage the customer towards purchasing the product or registering with the service. This information is also used by the advertiser to measure the performance of ad technology providers¹⁶⁸.

¹⁶⁸ ACCC (2021), p. 33.

3.2.4. Operation of the Ad Technology Supply Chain in Open Display Advertising Services

(204) As explained above, the transactions are carried out in a complex manner throughout the supply chain, and the services included in the process may not always be the same. In general, when users visit the channel of a publisher on a website or mobile application, “publisher-side service providers” use “advertiser-side service providers” to ask for bids from many advertisers who want to show ads to the consumers. Afterwards, these service providers in question follow a series of automated processes, including open auctions, in order to select an ad to show to the user and then make sure the winning ad is displayed. The details of this process is shown in the following figure, which explains the functioning of the ad technology supply chain in display advertising:

Figure 13: Programmatic Ad Technology Supply Chain



Source: ACCC (2021), p. 34.

(205) As the figure shows, within this process,

1. When a consumer visits a website, the website of the publisher sends an ad request to the ad server. If the ad inventory is reserved under a direct agreement, the publisher ad server displays the relevant advertiser's ad.
2. If the ad inventory is not reserved under a direct agreement, the publisher ad server forwards the ad request to one or more SSPs used by the

publisher. This request generally includes information about the ad inventory (e.g. size or shape of the ad inventory and what type of page is being viewed) as well as all information the publisher has about the visiting consumer (location, interests, etc.).

3. After that, SSPs transmit this information to DSPs, together with a bid request.
4. After receiving the bid request, DSPs use an auction, selection or ranking procedure to decide which advertisers' bids will be presented, depending on the information previously provided by the advertisers. DSPs can also connect with data management platforms to check if any additional information is available, in order to help with deciding how much to bid for the relevant consumer.
5. DSPs send the bids to the SSPs on behalf of the advertisers. Each SSP then selects the winning bid by conducting an open auction between the bidding DSPs and sends the winning bids to the ad server. The ad server selects the winning bid according to the rules determined by the publisher. How the ad server selects the winning bids sent by the SSPs varies depending on the ad technology the publisher prefers to use for bid selection¹⁶⁹.
6. After that, the publisher ad server informs the ad server of the winning advertiser, and this advertiser sends the ad creative¹⁷⁰ to the website of the publisher to be shown to the consumer. This connection between the advertiser ad server and the publisher website allows the advertiser ad server to monitor and measure the advertiser's campaign.

(206) As noted before, all the steps and the relevant ad technology service providers in each specific ad technology transaction may not always be the same, and the process may differ from the one outlined above. For instance,

¹⁶⁹ If the publisher is using the header bidding technology, the ad server can evaluate the bids received from all SSPs simultaneously. If this technology is unavailable, the publisher's ad server ranks SSPs (ad exchanges) according to their past performances and evaluates the bid coming from the top SSP (the winning bid at the ad exchange) independently from the bids coming from the other SSPs (winning bids at the other bid exchanges). In this method, if the bid sent by the top SSP is found unacceptable by the ad server, the bid sent by the SSP in the second place is evaluated. Details of the process in question are explained in section 3.3. of the report herein.

¹⁷⁰ Refers to the advertisements shown to the users on web pages, mobile applications or other digital environments in the form of images, video, audio, or another format.

- Direct agreements necessitate the use of a more limited number of ad technology services than in the programmatic channel. This may vary depending on the agreement between the advertiser ad server and the publisher ad server, or the advertiser and the publisher.
- Exclusive marketplace transactions only include those ad technology services used by the publisher participating in the transaction and the advertiser group invited to the auction.
- Programmatic guaranteed transactions only include those ad technology services used by the single advertiser and publisher participating in the transaction.
- The publisher or advertiser side can choose to use additional services/technologies such as ad exchanges, ad networks, data management platforms, ad verification, ad attribution and measurement, etc.

(207) During the process concerned, a significant portion of the advertisers' expenses consist of the ad technology services they use throughout the supply chain, which makes it important to understand how the pricing for the services offered by ad technology providers function. In that context, the pricing models widely used for each specific ad technology service are explained below:

- Advertiser ad servers: A fixed price is charged for each ad impression provided.
- DSPs: In this model, the fee charged is at a certain percentage of the total amount the advertiser spends on the ad inventory through the DSP. Moreover, additional fees could be charged for third-party services, such as those offered by data providers or verification services.
- SSPs and ad networks: The fee charged is a certain percentage of the total revenues generated by the publisher through the SSP or ad network.
- Header bidding¹⁷¹: The fee charged is at a certain percentage of the total amount gained by the publisher through the header bidding service. However, if the publishers implement this solution on their own by

¹⁷¹ Details of the relevant technology which serves as an example for the systems in in bid selection are explained in section 3.3. of the report herein.

using a code added to the header of their websites, the fee paid to third parties for header bidding is eliminated.

- Publisher ad servers: A fixed price is charged for each ad impression provided.

3.3. Systems Used in Bid Selection

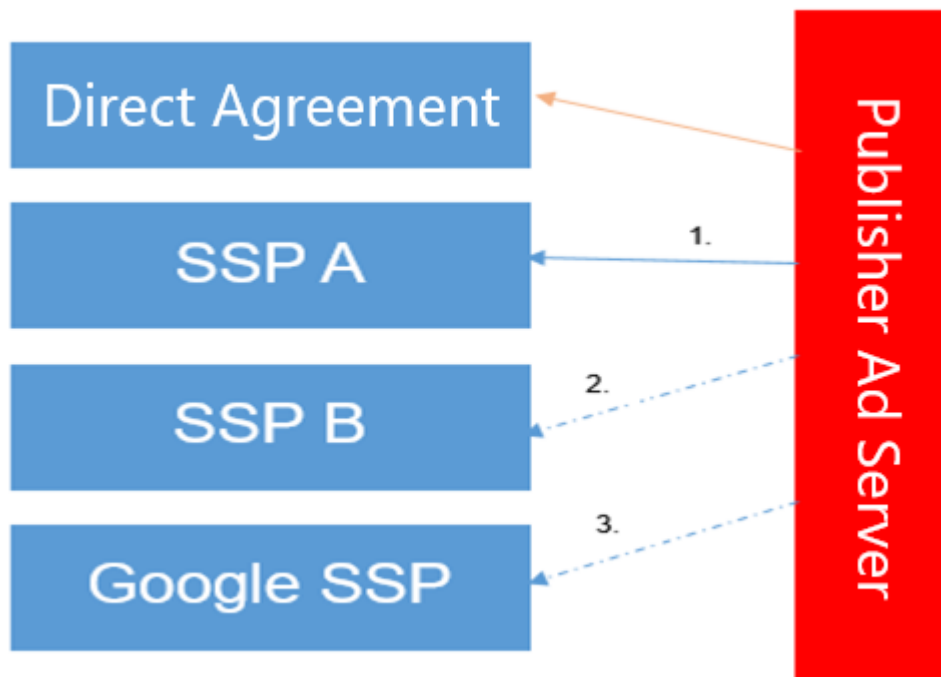
3.3.1. Waterfall Auction System

(208) Since when digital advertising first emerged, publishers have been looking for ways to sell their inventory previously unsold through direct agreements. This search resulted in ad networks, which purchase the left-over inventory from various publishers and resell these to advertisers. Agreements between ad networks and publishers used to be based on prices previously agreed for the existing inventory. Thus, a publisher with a piece of inventory not covered by a direct agreement negotiated with the advertiser on whether the inventory could be purchased over the pre-determined price, based on the bids of various ad networks.

(209) In order to sell their inventories, publishers ranked ad networks in a way resembling a waterfall (waterfall auction) and first looked for the ad network that accepted to pay the highest price in the ranking made in light of the previous bids; if this ad network did not buy the impression, the second ad network in the list was called. This process was managed by the ad server of the publisher.

(210) The waterfall auction system is considered unproductive due to the fact that it does not allow ranking SSPs according to the instant, actual bid they would offer. This is because in the waterfall system SSPs are ranked based on their estimated bids, which are calculated according to their average past performance. In the system concerned, even if an SSP ranked lower based on the estimated offer was willing to submit a higher bid for the impression in auction, the impression could be sold to an SSP offering a lower bid since that SSP is nonetheless higher in the rankings due to its relatively higher estimated bids.

Figure 14: Functioning of the Waterfall System on the Publisher Ad Server



Source: ACCC (2021), p.110.

(211) As seen from the figure above, if there is a direct agreement concerned, the publisher ad server first displays the inventory as required by the relevant agreement. Where there is no direct agreement or where there is unsold inventory, the publisher ad server first requests a bid from SSP A, which ranks at the top of the list created in accordance with the estimated bids that were calculated based on average past performance. As shown in the figure, since SSP A has bid higher than the minimum price of 2 TL set by the publisher with its offer of 2.75 TL, the process concludes and SSP A wins the auction. In this case, the fact that SSP B and Google SSP bid higher than SSP A does not affect the outcome of the auction, since it is sufficient for SSP A to bid higher than the minimum price in order to win the auction. However, where SSP A does not make a bid or where SSP A's bid is not higher than the minimum price, the publisher ad server asks for a bid from SSP B, and the process concerned continues until a bid by a SSP wins the inventory in question.

(212) Due to this way of operating, every step down in a waterfall auction requires additional time, which increases the risk that the user has left the page before

the ad is displayed. This risk leads to mistakes and inconsistencies in ad impressions and measurement, causing losses in the income generated in return for displaying ads. Where the loading times for ad elements are configured in a way that would slow down the loading of the content in the actual page, the functioning of the waterfall system has a negative effect on the loading times of the page itself.

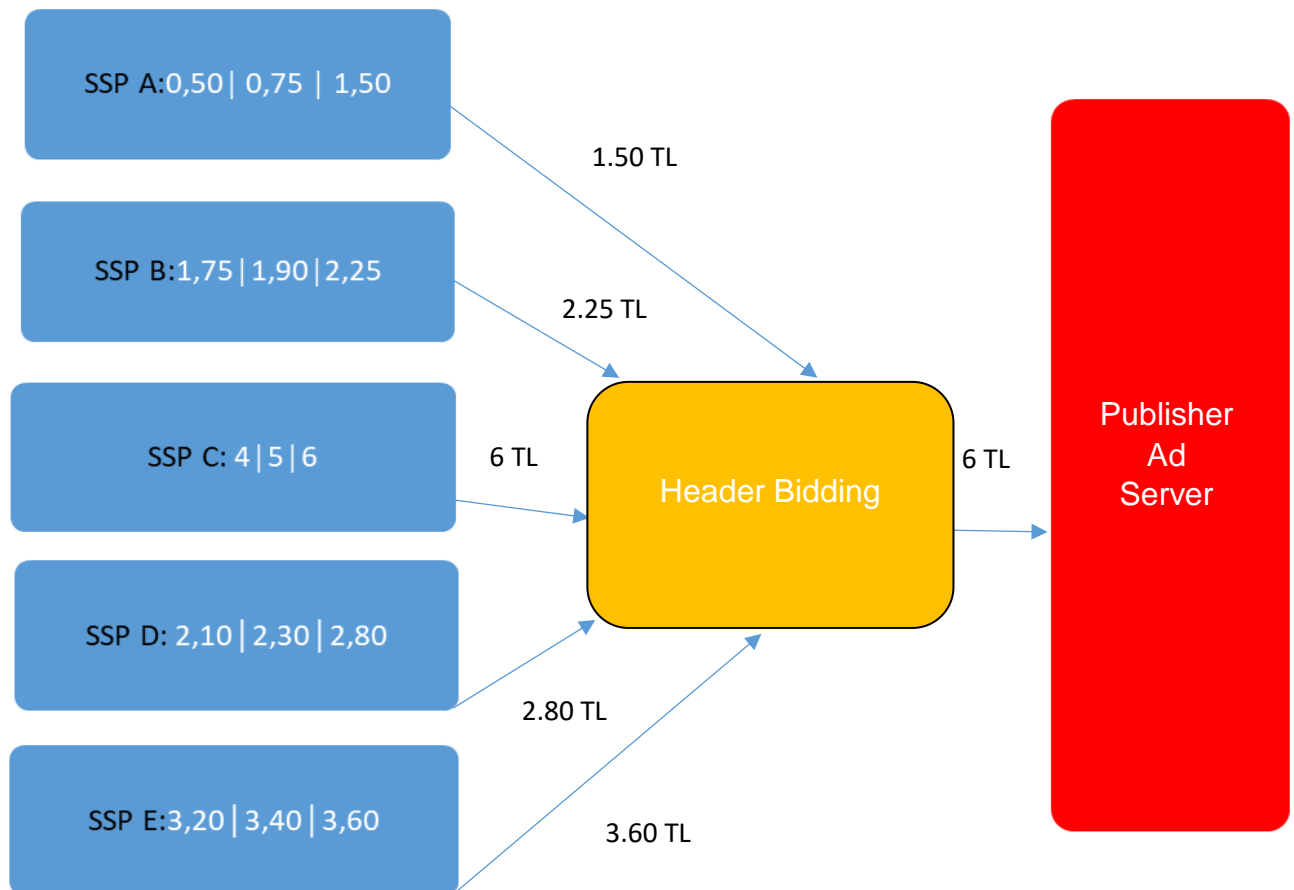
(213) DoubleClick, which was acquired by Google in 2008, launched the Dynamic Allocation feature in order to eliminate the drawbacks of the waterfall system. In the Dynamic Allocation system, the publisher could manually configure the estimated price for the left-over inventory. The Enhanced Dynamic Allocation, implemented by Google in 2014, on the other hand, expanded dynamic allocation to cover guaranteed line elements in the tender, i.e. direct agreements. Thus, direct agreements would not always have priority before other bids. In this case, SSP bids were able to win auctions without priority given to direct agreements, provided they were sufficiently high and the impressions of inventory sold through direct agreements were not lower.

3.3.2. Header Bidding System

(214) Publishers started to use the header bidding feature in 2015 to have all real-time SSP requests to compete with each other. Header bidding refers to a simple and innovative piece of code publishers can add to the header section of their HTML web pages in order to facilitate competition between exchanges. This piece of code connects the web site to various sources interested in purchasing the ad inventory (such as ad exchanges, SSPs, ad networks, etc.) and generally includes the names of the ad exchanges, ad networks and SSPs that the publisher wishes to work with. In the header bidding feature, when a user accesses the web page of a publisher, the browser of the user invites all SSP partners of the publisher participating in the header bidding simultaneously before calling the ad server. In this way, all SSPs can transmit their bids to the ad server at the same time. This process repeats every time the page loads, in other words, demand sources (advertiser side services) are re-included in the bidding process for the impression on the relevant page.

(215) Since header bidding allows each SSP participating in the auction to send real time bids, it differs from the waterfall process wherein the publisher ad server ranks each SSP according to past offers. The following figure shows the functioning of the header bidding system:

Figure 15: Functioning of the Header Bidding System



Source: Automatad¹⁷²

(216) In order to participate in the auction, SSPs that take part in header bidding select the highest bid among those sent to them. As a result of the header bidding auction, the highest bid wins the ad impression and the bid in question is transferred to the publisher ad server.

(217) Since increasing real-time price competition between more than one SSP ensures that the price per impression is higher, header bidding comprises a more productive allocation process than the waterfall system. Moreover, header

¹⁷² <https://headerbidding.co/header-bidding/#::~:~:text=Implement%20the%20header%20bidding%20code,the%20publisher%20wants%20to%20work>, Accessed: 02.02.2023.

bidding leads to more efficient use of time as it does not involve individually assessing each bid, unlike the waterfall system. These efficiencies also eliminate risks arising from the waterfall system, such as the user leaving the page before the ad is shown or mistakes and inconsistencies in the display and measurement of the ad. However, the header bidding system also has certain disadvantages. For instance, header bidding is a technology that is harder to implement since it requires both ad operations and development resources. Consequently, publishers in particular may lack the development resources to implement header bidding¹⁷³.

(218) Header bidding solutions can be open-source or proprietary. The main providers of proprietary header bidding services are Google, Amazon and Index Exchange¹⁷⁴.

3.3.3. Google Open Bidding System

(219) In 2018, Google launched a system called Open Bidding, which allows multiple third-party SSPs to directly compete in a single real time auction. Even though Open Bidding is conducted between more than one SSP simultaneously, it differs from header bidding since it is integrated with Google's own publisher ad server. When publishers use header bidding, Google's SSP does not compete with the other SSPs participating in the header bidding, but when they use Open Bidding, Google's SSP has to directly compete with the other SSPs that take part in the Open Bidding. Where the publishers use Google's publisher ad server (Google Ad Manager), on the other hand, it can prefer to sell the ad inventory through Open Bidding. In this system, all SSPs including Google's submit their bids to Google's publisher ad server at the same time, and then the publisher ad server selects the winning bid.

3.3.4. Google Unified Auction System

(220) Before 2019, Google used to conduct an auction between the DSPs which submitted their bids to its SSP, following which a separate auction was conducted at the publisher ad server between SSPs which offered a bid in the

¹⁷³https://assets.publishing.service.gov.uk/media/5fe495c28fa8f56afaf406d4/Appendix_M_-_intermediation_in_open_display_advertising_WEB.pdf, Accessed: 29.06.2022

¹⁷⁴ CMA, p. 269.

Open Bidding (including its own SSP). Then Google unified these auctions in 2019. Since this change, Google has been conducting an auction system with a single supply-side on its publisher ad server, which it calls Unified Auction¹⁷⁵.

(221) Thanks to this feature, a first-price auction¹⁷⁶ is conducted between all potential buyers for an ad impression, which include DSPs and SSPs. Publishers select the buyers that will participate in the Unified Auctions for their ad inventories. These buyers consist of:

- DSPs, including those of Google, that submit bids to Google's SSP,
- Third-party SSPs that participate in Google Open Bidding,
- Third-party SSPs that participate in header bidding.

(222) After explaining the products comprising the basis of the online ad technology and their way of operation, the following section includes an analysis of the competitive structure of the Turkish market for the sector concerned.

3.4. Concentration Analysis for Online Ad Technology Services in Türkiye

(223) In Türkiye, programmatic advertising is the primary ad channel used by publishers to generate income from their online content, and by advertisers to reach their target audience in the digital environment. According to the "Estimated Media and Advertisement Investment in Türkiye" report published by IAB Türkiye for the years 2021 and 2022, programmatic advertising expenditures in Türkiye was 14,710 million TL in 2021, and 10,408 million TL in the first half of 2022. These comprise around 78% of total digital advertising expenses in 2021, and around 70% of them in the first six months of 2022. In other words, in 2021 and 2022, only 22% and 30% of the total digital advertisement expenses, respectively, were through non-programmatic methods.

(224) The charts below show the usage rates of programmatic and non-programmatic methods by advertisers and publishers in 2017, as announced by IAB Europe. In light of the data concerned, usage rates in Türkiye seem to be lower than those of the EU, however, programmatic advertising is the most widely used method in both the EU and in Türkiye.

¹⁷⁵<https://www.accc.gov.au/system/files/Digital%20advertising%20services%20inquiry%20-%20final%20report.pdf>, Accessed: 29.06.2022

¹⁷⁶ In first-price auctions, the final price is the bid that won the auction. <https://support.google.com/adsense/answer/10858748?hl=tr> Accessed: 08.03.2023.

Chart 23: Distribution of European Ad Expenditures



Source: IAB¹⁷⁷

(225) For analyzing competition in this leading channel of online advertising, the examination should be focused on the players operating in Türkiye, as well as on the extent these players are active in the supply chain, the market concentration level at each stage of the supply chain, and the market power of the players. In that framework, the rest of this section will include some information on the service providers operating in Türkiye.

Online Ad Technology Service Providers in Türkiye

(226) The following table includes information on the undertakings operating in the field of ad technology services in Türkiye, as well as the sub-categories of service offered by these undertakings in the market:

Table 10: Positions of the Undertakings in the Ad Technology Supply Chain¹⁷⁸

Undertaking	SSP	DSP	Data Management Platform	Ad Exchange	Ad Server	Ad Network
Google	+	+		+	+	+
Adcolony	+		+	+	+	
Adform	+	+	+		+	
Adnext	+	+			+	
Optcom		+			+	+
Admatic	+					+
Adobe		+	+			
Adtarget	+	+				
Türk Telekom	+	+				

¹⁷⁷ https://iabtr.org/UploadFiles/PageFiles/Ad_Verification1072018180134.pdf, Accessed: 02.02.2023.

¹⁷⁸ While there may be undertakings apart from those included in the table, it can be said that the undertakings in the table are those which provide a large portion of the ad technology services in Türkiye.

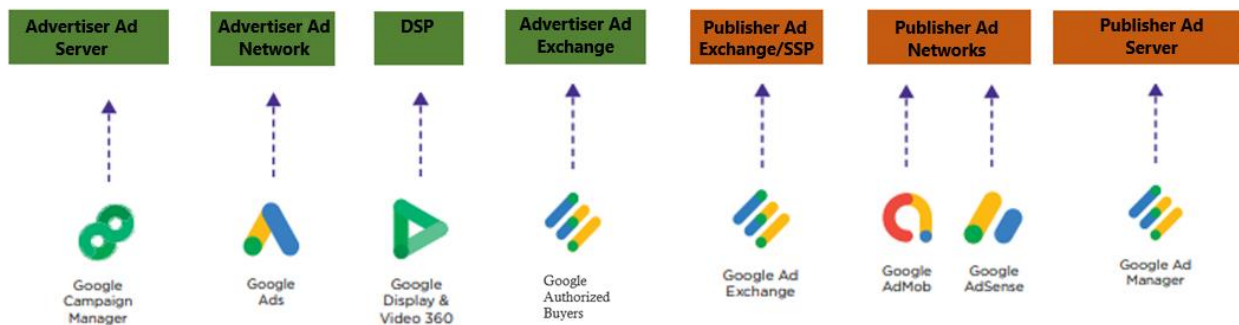
Teads					+	+
Amazon		+			+	
Awarion		+				
Criteo		+				
Rtb House		+				
Gemius					+	
Engageya					+	
Oracle			+			
Wordego						+

Source: Information Acquired from Undertakings

(227) The table above shows that there are 18 undertakings providing ad technology services in Türkiye, with some of them operating in more than one area. However, Google seems different than most of its rivals since it operates in all ad technology services, with the exception of DMP. Most of the other ad technology service providers, on the other hand, do not offer services comparable to Google.

(228) In order to explain Google’s place within this structure in more detail, the following image shows every ad technology product Google offers in Türkiye, matching each service with the name of the product:

Figure 16: Services Offered by Google



Source: Prepared in accordance with the information provided by Google.

- Ad Manager (previously, Ad Exchange) is Google’s publisher-side ad server, ad exchange and SSP. Publishers use Ad Manager to estimate the usability of the inventory according to websites’ past tendencies, to reserve some of that inventory for certain buyers, and to sell the left-over inventory to ad networks or advertisers.
- Campaign Manager is the ad server Google offers to advertisers. This service aims to present advertisers with a campaign management tool, and

includes functions such as reporting, media planning, maximum frequency setting, campaign management optimization and time targeting.

- AdSense and AdMob are Google's ad network services for publishers. AdSense is aimed at website publishers, while AdMob is for mobile application publishers.
- Google Ads is the ad network service Google offers to advertisers. It allows advertisers to create media campaigns in order to show digital advertisements in Google's inventory as well as on third-party websites.
- Display & Video 360 (DV360) is Google's DSP. It is one of the DSPs that purchase inventory from Authorized Buyers and also bids in third-party exchanges. As with all other DSPs, DV360 provides buyers display ad campaign management and performance measuring services in ad exchanges.
- Authorized Buyers is Google's ad exchange on the advertiser side. This exchange is a real-time marketplace that helps buyers such as ad networks, exchanges and DSPs to connect with publishers who wish to sell their ad inventories through Ad Manager, AdSense or AdMob.

(229) After establishing that Google is active at all levels of the ad technology service supply chain, except DMP, the following section will examine revenue-based market shares of the undertakings in Türkiye for each service¹⁷⁹.

Concentration Analysis for the Undertakings with Respect to SSP services

(230) Market share information of the undertakings operating in Türkiye in the fields of SSP and ad exchange services are given in the table below. As the table shows, Google's market share in Türkiye for SSP services is between 90-100%. This ratio was around (...) % in 2015, but fell down to (...) % in 2021 due to competitors entering the market in the recent years. Meanwhile, the competitors receive a negligible share of the market in the face of this rather high ratio.

¹⁷⁹Market shares calculated in this section are calculated on the basis of the information received from the ad technology providers who were established as operating in Türkiye. In light of the fact that the distribution of the revenue information to relevant services collected from the providers concerned may not be definite, it must be noted that the market share information quoted in this section are approximate values.

Table 11: Market Shares of the Undertakings with Respect to SSP and Ad Exchange Services (%)

<p>(.....TRADE SECRET.....)</p>

Source: Information Acquired from Undertakings

Concentration Analysis for the Undertakings with Respect to Publisher Ad Server Services

(231) With respect to publisher ad server services, the market shares of the undertakings operating in Türkiye are given in the table below. The table shows that the number of undertakings providing ad server services to publishers is relatively lower than the number of undertakings providing SSP services. Even though one of the competitors of Google, (...) was able to increase its market share to an extent through the years, this was a minimal increase, with Google's market share dropping to (...) % at a minimum in 2020. On the other hand, Google had a market share close to a monopoly until 2019, and in its six years of operation, (...) 's share in the market remained rather low.

Table 12: Market Shares of the Undertakings in Publisher Ad Server Services (%)

<p>(.....TRADE SECRET.....)</p>

Source: Information Acquired from Undertakings

Concentration Analysis for the Undertakings with Respect to DSP services

(232) Market shares of the undertakings operating in Türkiye in the field of DSP services are shown in the table below. Accordingly, one point of note is that there are more undertakings active in the DSP market in Türkiye than in the SSP market. At the start of the period examined, Google had a market share of around (...)% , but this share trends downward through the years, approaching (...)% in 2021. During the first years of the period in question, (...) among the competitors received a remarkable share but was unable to maintain it. Similarly, one of the competitors, (...), gained a market share between (...)% throughout the years, but the market share of the competitor in question does not display a stable upwards tendency. Market shares of the other competitors are rather low in comparison to that of Google's. Within this framework, allocation of the rest of the market between the competitors lead to the conclusion that Google is the sector leader.

Table 13: Market Shares of the Undertakings with Respect to DSP Services (%)

<p>(.....TRADE SECRET.....)</p>

Source: Information Acquired from Undertakings

Concentration Analysis for the Undertakings with Respect to Advertiser Ad Server Services

(233) With respect to advertiser ad server services, the market shares of the undertakings operating in Türkiye are given below. It is found that Google has a lower market share in ad server services offered to advertisers in comparison to the other online advertising mediation services examined above.

(234) However, at the start of the period in question, one of the competitors, (...), had a market share that was close to – in fact, for 2017, higher than – that of Google’s, but it lost this market share in time and by the end of the period its presence in the market dropped down to a negligible level. It can be observed that the competitor (...) always has the third place in the market without much variation, but the market share it maintains remains low as compared to the other players. Competitor (...), on the other hand, began to get a share of the market at the start of the period in question, which increased through the years, bringing the undertaking to the second place in the market in 2020-2021. In any event, from 2017 on, Google managed to constantly increase its market share, which was below 50% at the start of the period under examination, and managed to raise it up to around (...)% by 2021 despite losing some market for a time.

Table 14: Market Shares with Respect to Advertiser Ad Server Services (%)

<p>(.....TRADE SECRET.....)</p>

Source: Information Acquired from Undertakings

Concentration Analysis for the Undertakings with Respect to Advertiser Ad Network Services

(235) The market shares of the undertakings with respect to advertiser ad network services are given below. As the table shows, with respect to advertiser ad network services, Google has a market share that is much larger than those of the other undertakings operating in this field in Türkiye. While Google's market share was close to a monopoly in 2015, its share fell down by around (...) points in 2017, and reached a range of 85-100% in the following period. Among the competitors, (...) and (...) has a rather small share, with (...) and (...) each receiving negligible shares in the market, as well.

Table 15: Market Shares of the Undertakings with Respect to Advertiser Ad Network Services (%)

<p>(.....TRADE SECRET.....)</p>

Source: Information Acquired from Undertakings

Concentration Analysis for the Undertakings with Respect to Publisher Ad Network Services

(236) The market shares of the undertakings with respect to publisher ad network services are given below. It is observed that only Google and Admatic are active in Türkiye in the market for ad server services offered to publishers, and under the circumstances, Google's market share has remained close to the monopoly level between 2015 and 2021.

Table 16: Market Shares of the Undertakings with Respect to Publisher Ad Network Services (%)

<p>(.....TRADE SECRET.....)</p>

Source: Information Acquired from Undertakings

(237) The market share information provided above for each service shows that, in general, Google has a market share that is significantly larger than its competitors for each service in which it is active. At the same time, Google seems to be more dominant against its competitors in publisher-side services than in advertiser-side services.

Concentration Analysis for the Undertakings with Respect to DMP services

(238) To touch upon DMP services in which Google is not active in Türkiye, it should be noted that only Oracle and Adform have generated income from this service in the Turkish market. The following table shows the market share information of the undertakings concerned, which reveal that (...) market share in DMP services is over (...), varying in the range of (...)% for the period examined.

Table 17: Market Shares of the Undertakings with Respect to DMP Services (%)

<p>(.....TRADE SECRET.....)</p>

Source: Information Acquired from Undertakings

- (239) In addition to the observation that Google commands a high market share in all services it offers within the ad technology supply chain, (...), (...), (...) and (...), all of which are active in the field of ad technology services in Türkiye, noted that concentration in the market increased as a result of the fact that Google was active with multiple products in each category of ad technology services including DSPs, SSPs, publisher and advertiser ad servers, since there was strong complementarity between these services. Within this framework, the undertakings above stated that Google's ability to offer all of these components resulted in Google being preferred more and becoming the market leader in every service. They pointed out that this structure was problematic for the development of the sector and would prevent the evolution of the competitive structure by restricting the field of activity for smaller players in the long-term.
- (240) In light of the high market shares Google holds in each service as well as the statements of the competing undertakings, leading publishers and advertisers who could be reached in Türkiye were about the company from which they procured each online ad technology services in order to get a more detailed picture of the situation. Within this framework, following the observations on the market shares of the players in Türkiye in each stage of the ad technology services supply chain, the next section will provide information on the undertakings that provide services to the advertisers and publishers.

Ad Servers Used by Advertisers

(241) The following table includes information on the companies from which advertisers purchase ad server services. As the table shows, a significant portion of the advertisers procure ad server services from multiple companies, including Google, with (...), (...), (...), (...), (...), (...) and (...) (...TRADE SECRET...) purchasing services from Google; while (...) and (...) is purchasing services from (...TRADE SECRET...) Amazon. In that context, some of the advertisers tend to use multi-homing in ad server services, while others have single-homing. At the same time, it is observed that undertakings primarily prefer Google and Amazon for the ad server service.

Table 18: Ad Servers Used by Advertisers

Advertisers	Adform	Adjust	Artemis	Google	Amazon
(...)	X			X	
(...)					X
(...)	X				X
(...)		X		X	
(...)	X				X
(...)					
(...)	X				X
(...)					X
(...)				X	
(...)				X	X
(...)				X	X
(...)				X	
(...)	X		X	X	X
(...)	X		X	X	X
(...)				X	X
(...)				X	
(...)				X	
(...)				X	
(...)				X	
(...)				X	
(...)				X	
(...)				X	
(...)					X
(...)	X			X	X
(...)				X	X

Source: Information Acquired from Undertakings

DSPs Used by Advertisers

(242) Information on which firms advertisers use to procure DSP services are included in the table below. As the table shows, a large majority of the advertisers in Türkiye purchase DSP services from more than one companies in addition to Google, while (...), (...), (...), (...), (...), (...), (...) and (...) use only Google, and (...) procures the services from a company other than Google. In this framework, it can be said that advertisers have a general preference towards multi-homing with respect to the DSP service in Türkiye. However, undertakings seem to primarily prefer Google and Adform for their DSP services.

Table 19: DSPs Used by Advertisers

Advertisers	Adform	Criteo	Google	Rtb House	The Trade Desk	Other
(...)	X		X			
(...)	X		X			
(...)			X			X
(...)			X			
(...)		X	X	X		
(...)	X		X		X	
(...)						X
(...)			X			
(...)	X		X			
(...)		X		X		4X ¹⁸⁰
(...)			X			
(...)	X		X			3X
(...)	X		X			X
(...)	X		X			
(...)		X		X		
(...)			X			
(...)			X			
(...)			X			
(...)		X		X		
(...)	X		X			
(...)			X			
(...)			X		X	
(...)			X		X	

Source: Information Acquired from Undertakings

Ad Servers Used by Publishers

(243) The following table includes information concerning which companies publishers that responded under the sector inquiry used to procure their ad server services. Of the publishers, it is found that 7 undertakings including (...), (...), (...), (...), (...), (...) and (...) use Google exclusively, (...) uses Adserver exclusively, and the remaining 4 undertakings use ad servers other than Google. In light of this information, it is clear that publishers have a predominant tendency to use single-homing for ad server services, which is generally chosen to be Google.

¹⁸⁰ The multiplier before X refers to the number of undertakings in the other column. The same convention is used for the following examples.

Table 20: Ad Servers Used by Publishers

Publishers	Advert	Adtech	Adserver	Adform	Amvg	Google	Mopub
(...)						X	
(...)	X					X	
(...)					X	X	
(...)						X	
(...)						X	
(...)						X	
(...)						X	
(...)						X	
(...)						X	X
(...)				X		X	
(...)		X				X	
(...)			X				

Source: Information Acquired from Undertakings

SSPs Used by Publishers

(244) Information on which companies were used by publishers responding under the sector inquiry to purchase SSP services is provided in the following table. Of the publishers, 6 undertakings including (...), (...), (...), (...), (...) and (...) are working exclusively with Google’s SSP, with (...) and (...) using another SSP service in addition to Google’s. In light of that information, it is clear that publishers who provided data to the sector inquiry mostly preferred single-homing for their SSP service needs, with the majority choosing Google for that purpose.

Table 21: SSPs Used by Publishers

Undertaking Receiving/Providing the SSP Service	Google	OTHER
(...)	X	
(...)	X	
(...)	X	
(...)	X	
(...)	X	
(...)	X	
(...)	X	2X

Source: Information Acquired from Undertakings

(245) Assessing the above information on the undertakings which provided data under the sector inquiry as a whole shows that advertisers tend to prefer multi-homing for advertiser ad servers and DSP services, while publishers choose

single-homing for ad server and SSP services. However, it can be said that Google holds a special position where it can offer its services to a majority of the undertakings at nearly all stages of service.

(246) In order to determine the reason why the structure for the relevant services were set up this way, the following questions were asked to publishers, advertisers and ad technology providers between publishers and advertisers, and their responses are summarized below.

(247) First of all, *when advertisers and publishers were asked if they faced any technical or behavioral barriers when purchasing services from any undertaking other than their current mediator*, they responded that there was, in general, no barriers to procuring the services from another mediator, that they could easily work with alternative undertakings, and that when selecting undertakings they took into consideration criteria such as price, performance and the modernity of the technology used. They stated that they did not see a need to switch companies so long as there were no differences between the current undertaking providing the service and another one in terms of price or performance (...).

(248) *When undertakings were asked about why they prefer/ do not prefer to work with multiple undertakings when procuring the same service*, (...) undertakings stated that they preferred not to procure services from multiple undertakings for the same service, because this allowed more controlled ad targeting, collected all data at a single point, increased campaign experience, increased the mastery of the platform managers over the platform and thus increased campaign performance. Those (...) undertakings which stated that they work with multiple companies for the provision of the same service, on the other hand, stated that this increased the chance of accessing broader inventory and reaching advertisement targets, that sometimes the mediator providing the service had to vary based on the specifics of the campaign, that different mediators had different targeting options and technical capabilities, and that price arbitrage was also taken into consideration.

(249) When the same question was posed to the publishers, publishers with the title of (...) who responded to the question generally noted that working with multiple mediation companies for the provision of the same service was not preferred

since it was more effective to use a single SSP and ad server to optimize advertisements and measure revenue through a single channel.

(250) *In addition, undertakings were asked if they had sufficient data to take informed decisions when selecting mediators, and (...) stated that they had information when comparing the prices and quality of service, that planning and selecting ad expenses involved those undertaking that are most appropriate for the needs to the benefit of the advertiser and publisher, and thus agency selection was done deliberately.*

(251) On the other hand, (...) stated that they used the panels offered by DSPs and SSPs to follow such information as the CPM value for the advertisement purchased, the commission fee that would be charged for the mediation activity and how much revenue would accrue net of commission fees; however, since monitoring the information concerned depended on a single panel managed by the mediator, they were unable to confirm the accuracy of these numbers. In other words, they stated that the data available to the publishers and advertisers were limited to the panels managed by the SSPs/DSPs, which could cause concerns about the accuracy of these data, that since the algorithms of channels like Meta and Google were not transparent or subject to a supervision mechanism, they were forced to take the reporting tools created within their systems and offered to the use of publishers and advertisers on faith.

(252) Therefore, it seems certain advertisers and publishers were not knowledgeable about the performance measurement and pricing processes of the ad technology services, which led to concerns about the transparency of the services they purchased.

(253) *Advertisers were asked whether their selection of undertakings were affected by whether other ad technology services were also offered by the companies that provide ad technology services.* On that point, (...) stated that one companies' provision of multiple services was not a binding factor on their choices or decisions, that these services had interoperability even if they were not provided by the same company, and that procuring them from the same source did not add significant value. On the other hand, (...) stated that one of their criteria for the services they used was whether different products/solutions (e.g. verification tools and DSPs) could integrate with each other, but that it was not a decisive

criteria for them whether or not they procured their DSP service from the same company as they procured the SSP product. (...) stated that a DSP simultaneously providing SSP services did not directly affect their decision to publish, but that they estimated this could have a positive effect on the performance of the publication. (...) mentioned that whether the relevant mediator operated in other fields of mediation services was not one of their primary criteria during the selection process, but this additional competency would provide some advantage for the selection.

(254) On the other hand, (...) advertisers noted that they preferred undertakings who can offer multiple services on the grounds that provision of more than one mediation service by the same undertaking helped collect all campaign information in a single place, increased campaign experience, increased the platform mastery of those who managed the platform and thus improved the performance of later campaigns, using the products of a single undertaking was technically easier and undertakings providing multiple services could bring some cost advantages. As the justification for this choice, (...) referenced the network advantages, (...) mentioned the integration with the current business partners and measurement providers, and (...) noted that the DSP simultaneously providing SSP services positively affected the accessible inventory volume and that if agreements through the preferred DSP would be signed with publishers in question, these publishers use of these DSP undertakings as their SSPs would make the process technically easier during use and when signing an agreement, ensuring minimum amount of technical problems. (...) stated that platforms providing end-to-end service were preferred since handling advertisements through a single channel also brought single measurement, which lead to platforms with the highest access such as Google strengthening their positions.

(255) When the same question was asked to the publishers, (...) stated that procuring both SSP and ad server services from the same source accelerated the processes, (...) stated that undertakings offering integrated services such as Google were preferred since they had sufficient coverage to allow working with all platforms, (...) stated that advertisers generally using Google services had an important role in the selection of Google products. Meanwhile, (...) observed that it was not interested in whether its business partners were active in other mediation

services, that when selecting SSPs on the programmatic side, it was not a priority for them if that SSP was also a DSP.

(256) In light of the information above, the following sections will examine in more detail if the formation of this market structure that seems to be tipping towards Google products to some extent is due to Google's conduct and behavior. However, it should be noted that some undertakings whose opinions were requested under the sector inquiry indicated Google's actions as the reason for the current situation.

- (...) stated that Google used the data advantage it acquired from its other services (such as its search engine) to complicate and prevent competition in display advertising and that it could completely eliminate its rivals in an environment with no cookies;
- (...) stated that Google's provision of some of its services for free led to monopolization;
- (...) stated that Google forced advertisers to use its own DSP to buy ad inventory on YouTube and thus prevented rival DSPs, that advertisers were also forced to use Google since advertiser ad servers other than Google's were prevented from directly connecting to YouTube inventory, which meant that when an advertiser wanted to purchase ads on the world's largest video website YouTube and measure the effectiveness of its ads, it could only do that through Google's advertising technology, that Google limited inventory access for YouTube to its own advertising technologies;
- (...) stated that Google prioritized its own SSP for the expenses made over its DSP and for the data collected from its ad server, which made it harder for rival publisher ad servers and SSPs to compete, that Google was constantly trying to change these publisher-side service policies to its own advantage;
- (...) stated that Google's being a DSP as well as a SSP made it impossible to know its commission rates.

(257) In light of all of the information above, the following observations can be made about ad technology services in Türkiye:

- An examination of the behavior of those stakeholders who provided data shows that advertiser-side services pre-dominantly prefer multi-homing, while publisher-side services mostly use single-homing;
- Undertakings do not tend to change the company they are working with unless there is a significant difference in terms of price/performance;
- Google is a highly comprehensive company that is used for all services by every undertaking;
- Google's market share in each service is higher than its competitors;
- Which is explained as follows by the undertakings:
 - In comparison to its rivals, Google's operations have extensive scope, covering nearly every service end-to-end (undertakings generally tend to procure all of their services from a single company so as to avoid the processes of learning the systems of a new firm, adopting those systems to their own, etc.);
 - Google engages in conduct favoring its own services;
 - Google has a data advantage which it acquired due to the other services it provides in many different markets;
- The information that publishers and advertisers can access such as pricing, ad performance, etc. are limited to the panels managed by ad technology providers, which can lead to doubts about the accuracy of those data.

Findings of Other Competition Authorities concerning Online Ad Technology Services

(258) Lastly, as described above within the scope of the inquiry, it was found that the issues pointed out by the undertakings as well as the observations related to Google's strong position with respect to its services were also put forward by the CMA and ACCC. In that context, the rest of the section will touch upon the CMA and ACCC reports, which include extensive observations.

(259) In the CMA report examining the online ad technology services market, it is noted that Google has a share of around 90% in the publisher ad server market in the UK, that publishers generally tend towards single-homing, and that switching ad servers pose significant risks of lost revenue since it is a complex

and extended process¹⁸¹. The ACCC report, on the other hand, remarks that Google has a strong position as a publisher ad server in Australia with a share of around 90% and that there were two main reasons making it harder for other providers to effectively compete with Google in the field of publisher ad server service provision¹⁸². These reasons are:

- The ease of use of Google’s publisher ad server and its ease of integration with Google’s SSP: When a publisher registers to use Google’s publisher ad server, the publisher is allowed automatic access to Google’s SSP, which makes it easier for the publisher to start selling its ad inventory programmatically. Moreover, now that the publisher can easily integrate with Google’s SSP, it may no longer need to work with other SSPs since it will have a source of inventory via Google’s SSP. Using both Google’s publisher ad server and SSP means that the publisher can take advantage of using a vertically integrated provider, such as quicker integration and other technological benefits. Also, Google’s SSP is an important source of demand for publishers. In particular, access to Google’s SSP via Google’s ad server is considered very important by many publishers, since it is the main way of reaching the demand from Google Ads, which is a significant source of demand for publishers. Most of Google Ads demand is directed by Google’s SSP. As a result, Google’s publisher ad server is deemed a “must” by many publishers due to automatic integration with Google’s SSP and the opportunity to access a valuable source of demand.
- Prevalence of single access and high switching costs: This poses a large barrier to entry and expansion in the market for providing publisher ad servers, while also reinforcing the leadership position of Google in publisher ad server services. Publisher ad servers are designed as a single service to arrange and manage the sales of a publisher’s entire ad inventory and publishers only use a single publisher ad server, in general. Due to the central role publisher ad servers play in managing the sales of the ad inventory, single-homing is both practical and

¹⁸¹ CMA (2020), p. 269.

¹⁸² ACCC (2021), p. 56.

efficient in operational terms. Multi-homing, on the other hand, may be problematic for publishers. Because performance is measured and reported by various methods, measuring and comparing the performance on more than one publisher ad server becomes difficult. Secondly, switching publisher ad servers is a complicated, destructive, long and expensive process. In light of the central role publisher ad server plays in managing ad inventory sales for a publisher, any error when switching to a new server would most likely lead to significant loss of revenue due to unsold impressions. The presence of high switching costs when changing publisher ad server services raises barriers to entry for those who wish to start providing these services and reinforces Google's position as the premiere provider of them.

(260) The CMA report notes that Google has a share of around 50-60% in SSP services market in the UK, that since the header bidding method allows publishers to send ad requests to multiple SSPs, the latter are now able to access roughly the same inventory and compete for each impression, as a result of which there are less entry barriers for new SSPs¹⁸³. The ACCC report, on the other hand, states that while there is a degree of competition for SSP services, Google is the largest provider by far with a share of around 40-50%, receiving very little competitive pressure from its rivals. The reasons for Google's strong position in SSP provision compared to other SSP providers are explained as follows¹⁸⁴:

- It has almost exclusive access to the demand from Google Ads: One of the most important factors driving the use of Google's SSP is its almost exclusive access to the demand from Google's DSP, Google Ads. As a result, despite some publishers' multi-homing abilities, the competitors can only put limited competitive pressure on Google's SSP due to Google's ability to make use of such an important source of demand. Since many smaller advertisers procure their DSP services from Google Ads, it became a unique and privileged service, and access to the demand stemming from that privileged position increases the potential ad revenue of the publisher,

¹⁸³ CMA, p. 269.

¹⁸⁴ ACCC (2021), p. 58.

making it important for the publishers as well. This access also provides Google's SSP a significant competitive advantage before the other SSPs.

- Google's integration with the publisher ad server and the ease of use of its SSP services: Google's automatically integrating publisher ad server and SSP services provide ease of use for publishers. This ease of set-up seems sufficient to prevent publishers from working with other SSPs.

(261) The CMA report states that Google has a share of about 80-90% in the advertiser ad server market for the United Kingdom, that advertisers generally tend to use single-homing, and that switching costs are significant, particularly for advertisers who have complex ad provision and reporting needs¹⁸⁵. Meanwhile, the ACCC report notes that Google is the largest provider in Australia for ad server services with a share of around 80-90%, and that there are various reasons for Google's strong position:

- The competitive advantage stemming from integration with Google's other services: Google's advertiser ad server is integrated with one of Google's DSPs (Display & Video 360), which provides some competitive advantage to Google before other advertiser ad servers. Since Google's advertiser ad server as well as its DSP are under a single Google ad technology package intended for the advertisers (Google Marketing Platform), advertisers who use Google's DSP can also choose to use Google's advertiser ad server at the same time. The integration between the two services provides advertisers a consistent and smooth way to purchase advertisements and monitor performance, which can make advertisers avoid using an advertiser ad server other than Google's since this would require putting more time and effort into integrating it with Google's DSP.
- Advertisers' unwillingness to choose multi-homing access and high switching costs¹⁸⁶: Advertiser ad servers function as a hub advertisers use to manage the distribution, monitoring and verification of all of their digital ads, which leads to advertisers in general avoiding multi-homing. This is because using more than one service to perform the above management processes is probably expensive and hard to implement. Those advertisers

¹⁸⁵ CMA (2020), p. 265.

¹⁸⁶ CMA (2020), p. 267.

who do switch their advertiser ad servers would need to reconfigure a series of processes related to ad tags, their DSP integrations, ad delivery or performance reporting.

(262) An overview of DSP services in the CMA report shows that Google has a market share of 50-60%, that even though advertisers may choose to use more than one DSPs for different ad campaigns, they generally prefer a single DSP for a particular campaign, that this allows the advertiser the manage frequency limits over the whole campaign and facilitates audience management as well as reporting.¹⁸⁷ The ACCC report, on the other hand, notes that despite a degree of competition being present in this service, Google is the largest provider by far with a share of 60-70%, facing very limited competitive pressure from its rivals. The following points were identified as the likely reasons for this situation:

- Google's data advantage: One factor contributing to the strong position of Google's DSPs is the extensive first-party data collected from consumer-facing services, and third-party data from third-party websites and applications. As part of the DSP services, these data provide advantage to Google in offering ad targeting and attribution services. Some stakeholders in Australia have noted that, due to Google's large user base, it has a unique ability to gather and present the types of data most valuable to advertisers and publishers, giving it significant competitive power against its rivals which cannot offer similar data. Google, on the other hand, states that Google Ads and Display & Video 360 primarily use third-party data ads to target ads on third-party websites and applications, and it did not use first-party data. While ACCC accepts these statements by Google, it also remarks that it believes Google's first-party data gives it a competitive advantage in providing DSP services. This is because,
 - Google-owned data: Google uses first-party data for targeting in the inventory it owns and manages, which includes YouTube. The inventory Google owns and operates via YouTube may be a subset of the inventory sold through the DSP, but the use of this data may make the inventory of YouTube as well as other Google inventory more attractive.

¹⁸⁷ CMA (2020), p. 268.

- Google's integration with search and other Google services: Google's search network advertising service is provided via Google Ads, which currently also provides display advertising services. An advertiser who purchases search network advertising services from Google via the Google Ads platform can also use the DSP functions to purchase digital display ads for very little effort. Besides, the advertisers may prefer to use Google's DSP services if they are already using Google's other products; this may become important if an advertiser wishes to minimize the risk of losing data and control between systems. For instance, some advertisers may decide to use Google's DSP as they are already using other Google services which are not ad technologies per se, such as Google's cloud services. It is possible that the integration of Google's DSP service to the other services Google provides to advertisers can increase the ease of use for these services. Small- and medium-sized enterprises, in particular, may find the Google Ads menu attractive, since they lack the expertise, resources or sufficient ad expenditures to use the other DSPs. Additionally, most advertisers may be familiar with Google's DSP offers, but market feedback shows that they are less familiar with other DSP providers and that agencies will require more training on how to use these DSPs.
- Google's access to exclusive inventory: DSP providers such as Verizon, The Trade Desk and Amazon have partnerships that provide publishers exclusive access to certain publisher inventories and may increase the attractiveness of DSP offers for an advertiser. However, since YouTube's inventory is especially valuable for advertisers, it is believed that this will give significant competitive advantage to Google as compared to other DSPs.
- Benefits of single access: There are advantages to using a single DSP. Advertisers who have more than one DSPs are likely to face difficulties in viewing their ad campaigns globally, measuring performance between platforms, and setting overall frequency limits for the whole ad inventory. Moreover, the complexity of the ad technology supply chain may render

smaller advertisers less likely to have the necessary expertise and resources to use multiple DSPs. Additionally, another barrier before choosing multi-homing is the fact that using a new DSP is costly and time-consuming in terms of adjustment. CMA also states that while choosing multi-homing is widespread, the advantages of single-homing outweighs the advantages of using multiple DSPs and that advertisers therefore tend to use Google's Display & Video 360 DSP.¹⁸⁸

(263) In conclusion, an examination of the findings concerning the existing structure in Türkiye as well as the structure of the ad technology services in various countries shows that Google not only operates throughout the whole supply chain in our country and some other countries, it also is the player with the largest share among the providers at all levels of the chain. The most important reason for this situation is that single-homing for services and use of the same ecosystem are highly preferred due to the switching costs of advertisers and publishers, the difficulty of learning/using different technologies, and the facilitation of easier management of ad campaigns.

(264) This section examined online ad technology services, explaining the operation of the programmatic channel in open display advertising services, conducting concentration analysis in Türkiye for the services in question, and revealed the ecosystem in which Google is active for the relevant services, as well as its market power in that ecosystem. The underlying reasons for this picture where mediation services are tipping towards Google to an extent were investigated, and the behavioral tendencies of the stakeholders as well as the features of Google's services in this field were questioned.

(265) However, at this juncture, since the power of the undertakings are fed by the ecosystems they own and their data advantage, there is a need to examine the undertakings with market power in those markets not only in terms of pure advertising services, but within the framework of the whole ecosystem they control. For that reason, the next section will address the ecosystem concept, explain the economic grounds for operating in the form of an ecosystem, and then illustrate the ecosystems owned by Google and Meta. In that context, the

¹⁸⁸ CMA (2020), p. 48–49.

potential and actual advantages/disadvantages of the relevant undertakings' operations as an ecosystem will be discussed.

4. THE ECOSYSTEM CONCEPT, IMPORTANCE OF THE GOOGLE AND META ECOSYSTEMS FOR ONLINE ADVERTISING

4.1. General Framework

(266) Traditional competition law practice prioritizes the substitutability of goods and services when analyzing market power¹⁸⁹. In that framework, if consumers can reasonably replace one product with another, i.e. if there is cross demand elasticity between these two products, then it is assumed that the products are in competition with each other. It is widely accepted in traditional competition law practice that products which are not substitutable are not horizontally related, do not compete with each other and therefore are not competitors. In fact, paragraph 75 of the Guidelines on Vertical Agreements states:

- Agreements between competitors generally lead to harmful effects on the competitive structure,
- Agreements concluded between undertakings operating at different levels of the supply chain are expected to have fewer negative effects on the competitive structure,
- This expectation is based on a simple economic fact; at the horizontal level, competing undertakings produce substitute products, while competing undertakings at the vertical level produce complementary ones,
- Demand for a product falls down with the decreases in the price of its substitute, but rises with decreases in the price of its complementary product
- Consequently, in order to sell more, each competing undertaking hopes for a rise in the prices of the others, while undertakings in a vertical relationship wish for a decrease in the prices implemented by each other,
- As a result, each of the undertakings in a vertical relationship tend to prevent the other from engaging in conduct based on market power.

(267) When applied to digital markets, the traditional “substitutability” approach to market power analysis falls short of capturing important economic facts. In fact, digital markets are characterized by some specific features, and they also have

¹⁸⁹ Market power is the ability to maintain prices above the competitive level for a certain period of time, or the ability to maintain output in terms product amounts, product quality and variety or innovation below the competitive level for a certain period of time.

a tendency to “evolve towards a single platform,” known as *tipping*. The literature has identified six factors¹⁹⁰ encouraging this tendency: positive network effects, single-homing and switching costs¹⁹¹, free services¹⁹², data-based learning¹⁹³, trust¹⁹⁴, and platforms’ complementary services. In addition, digital markets are also shaped by classic factors such as economies of scale as well as high costs for research/development (R&D) and marketing.

(268) The ability of platforms to offer complementary services arises from their operating as an ecosystem. In fact, the prevalence of vertical integration strategies and ecosystems have become a distinctive feature of the platform economy¹⁹⁵.

(269) Meanwhile, the Digital Markets Act (DMA)¹⁹⁶ makes the following observations:

- Large platforms have emerged which benefit from strong network effects and are often embedded within their own platform ecosystems, and these platforms comprise the key structural elements of today’s digital economy, mediating a large portion of the transactions between end users and business users;
- Most of the platforms concerned are also comprehensively tracing and profiling end users;
- A few large platforms are increasingly functioning as gateways or gatekeepers between business users and end users, gaining an incumbent

¹⁹⁰ BEDRE-DEFOLIE, O. and R. NITSCHKE (2020), “*When Do Markets Tip? An Overview and Some Insights for Policy*”, *Journal of European Competition Law & Practice*, V: 11, No: 10, p. 611. For algorithmic network effects in digital markets, economies of scale and scope, data advantages and algorithms’ learn-by-practice effects strengthening the advantages held by incumbents and reinforcing the dominant positions of these undertakings, see GAL, M. and N. PETIT (2021), “*Radical Restorative Remedies for Digital Markets*”, *Berkeley Technology Law Journal*, Vol: 36, No: 2, p. 619-620.

¹⁹¹ Users’ single-homing choices affect the competition between the platforms. That is, users are required to choose a platform when single-homing, which disadvantages the competitors.

¹⁹² Free services that are prevalent in social media and search platforms reinforce network effects. This, in turn, makes it harder for rivals to compete with the incumbent player.

¹⁹³ Data assisted learning is where searches conducted by the user help the search algorithm develop its predictive power.

¹⁹⁴ Many platforms such as e-marketplaces and matchmaking platforms require establishing trust between the parties to become a valuable platform. Review and reputation mechanisms can encourage users to use a single platform. Thus, trust can make it harder for rivals to compete with the incumbent player.

¹⁹⁵ DEUTSCHER, E. (2022), “Reshaping Digital Competition: The New Platform Regulations and the Future of Modern Antitrust”, *The Antitrust Bulletin*, Vol: 67, No: 2, p. 313.

¹⁹⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32022R1925&from=EN>, Accessed: 23.01.2023

and permanent status due to conglomerate effects created around the main platform services;

- As a result, it has become harder to enter the market.

(270) In summary, the existence of platforms as an ecosystem comprised of services in many different and/or related markets has become a distinctive characteristic of digital markets. In digital markets, the data and users acquired from each service first feeds and strengthens the other services provided by the relevant undertaking, and ultimately the whole ecosystem created by the undertaking. Consequently, comprised of activities performed in different markets, ecosystems still encourage users to remain within the relevant platform's area of effect, offering them options to facilitate their choices on the one hand while creating barriers to entry and growth for those rivals who lack similar tools on the other¹⁹⁷.

4.2. The Ecosystem Concept and the Economic Features that Allow Platforms to Operate as Ecosystems

(271) Ecosystems are commercial business networks which collaborate to create and acquire value¹⁹⁸. However, the literature¹⁹⁹ notes that there are some difficulties in defining ecosystems since they are dynamic organizations with varying borders and strategies.

(272) Digital ecosystems can be described as resources that enable value creation from online or even offline trade between producers, content providers, developers, consumers and other users.²⁰⁰ The ecosystem concept sits on two axes²⁰¹:

- Multi-actor ecosystems: In the most general sense, an ecosystem is a community comprised of independent parties. From an economic

¹⁹⁷ KARAGÜLLE, O. (2020), Dijital Platformlarda Pazar Gücünün Belirlenmesi, Competition Authority Expert Thesis, Ankara, p. 39.

¹⁹⁸ PETROPOULOS, G. (2020), "Competition Economics of Digital Ecosystems", OECD Hearing on Competition Economics of Digital Ecosystems, p. 2, [https://one.oecd.org/document/DAF/COMP/WD\(2020\)91/en/pdf](https://one.oecd.org/document/DAF/COMP/WD(2020)91/en/pdf), Accessed: 07.02.2023.

¹⁹⁹ On the fact that there are few studies concerning the ecosystem concept, see Fletcher, A. (2020), "Digital competition policy: Are ecosystems different?", 134th meeting of the Competition Committee, OECD, p. 2. [https://one.oecd.org/document/DAF/COMP/WD\(2020\)96/en/pdf](https://one.oecd.org/document/DAF/COMP/WD(2020)96/en/pdf), Accessed: 07.02.2023.

²⁰⁰PETROPOULOS, G. (2020), p 2.

²⁰¹FLETCHER, A. (2020), p 5-6.

perspective, the ecosystem concept is closely related to the concept of “joint value creation,” and it refers to undertakings creating value together when they are unable to do so on their own.

- Multi-product ecosystems: In digital markets, the ecosystem concept refers to a single economic entity that provides various products and/or services via different units or businesses. Generally, there are economic connections between these products and services. In other words, on the demand-side, these products and services may be substitutes (Facebook Messenger and WhatsApp), complementary (Apple devices and iCloud) or integral (Android and Google Play). Moreover, there may be supply-side synergies between these products and services, as well.

(273) Bringing different actors together via the platforms to create value, digital platforms are almost always multi-actor ecosystems. This dimension of the ecosystem concept is closely related to the multi-market structure of the platforms.

(274) On the other hand, large-scale digital platforms are multi-product ecosystems at the same time. For instance, the Google ecosystem includes the products Android, Google search, Chrome, Google Docs, Google Play, Google Drive, Google Translate, Gmail, Google Maps, Google Shopping and YouTube.

(275) Some idiosyncratic features of digital platforms make it easier for these platforms to be active in multiple product or service groups, and basically encourage those platforms to transform into multi-product ecosystems. The features in question can be addressed under the two categories of supply-side features and demand-side features²⁰².

(276) Supply-side features can be broken down into economies of scale and scope across markets, competencies applicable across markets, data synergies across markets and interoperability²⁰³.

- Economies of scale and scope across markets²⁰⁴: A significant portion of the costs of the economic activities conducted by the platforms are comprised of fixed costs. Thus, an important level of economies of scale is

²⁰² FLETCHER, A. (2020), p. 5-6.

²⁰³ FLETCHER, A. (2020), p. 5.

²⁰⁴ DOĞAN, C. (2021), Rekabet Hukuku ve İktisadı Bağlamında Dijital Platformlar, On İki Levha Yayıncılık, İstanbul, p. 39-40.

achieved when the output of the platform goes up, with marginal costs approaching zero as the customer base expands. In addition to economies of scale, economies of scope is also an important economic feature of platforms. Since the main problem for platforms is to include both sides of the market into the platform, once this is achieved the platform can expand its product portfolio to offer different services to customers. For instance, once Amazon set up a digital infrastructure for supplying online books, distributing digital video over the same infrastructure would incur less costs than performing that activity on its own.

- Competencies applicable across markets: Competencies such as platform design and machine learning encourage the development of multi-product ecosystems, thereby making it easier for platforms to be active in a series of different product markets.
- Data synergies across markets: Data acquired in one market can offer benefits in developing a product in another market. Google can track the users in its ecosystem to collect more information about them. This means a higher-quality search service for the users, while improving targeted advertising services for the advertisers. Data can also facilitate entry into new markets. For instance, data acquired via Siri, which is a smart assistant, may make important contributions to the work on artificial intelligence.
- Enhanced interoperability across markets: A platform that controls the different components of an ecosystem can ensure effective and consistent interoperability between these components.

(277) Demand-side features are listed below²⁰⁵:

- Across-Market Network Effects: The value users attach to participating in the platform can increase with the participation of other users to the platform. The network effects may be direct or indirect. Direct network effects are observed in social networking platforms such as Facebook, for instance, where the benefit users attain from the platform increase with the number of platform users. Indirect network effects arise on those platforms with two different, interacting user groups where one of the

²⁰⁵ FLETCHER, A. (2020), p. 6.

groups get more value from increasing participation by the other user group. For instance, the more users there are in the Android ecosystem, the more attractive the platform will be for application developers and advertisers. This can ensure that the products and services offered to users are more varied and of higher quality. The platform will thus become more valuable and even more users will want to participate.

While network effects facilitate interaction between the different users of the ecosystem, they can also lead to the users becoming economically dependent on the platform. Additionally, network effects also increase the first-mover advantage for the platform. Thanks to this advantage, the first platform to attract users during the formation of the market can get a chance to acquire the whole market. Thus, due to strong network effects, the nature of the competition in the market may change from competition in the market to competition for the market.

- Barriers to Multi-homing across Markets: Consumer may choose to use a single operator/provider when buying services. Since users may have difficulty remembering different user names and passwords, the ability to access a number of separate products on a single platform using a single digital identity may be more practical for users. In terms of digital markets, one of the most important reasons for this is that there is consumer inertia in those markets²⁰⁶. Inertia is a consumer characteristic that raises switching costs for consumers, discourages switching to alternative marketplaces, and keeps them locked into a specific marketplace to the extent they are discouraged²⁰⁷.
- Barriers to Switching Across Multiple Markets: When a consumer buys a series of services from the ecosystem provider, it may become dependent on the platform with respect to other services as well. This situation that

²⁰⁶ OECD (2022), *The Evolving Concept of Market Power in the Digital Economy*, OECD Competition Policy Roundtable Background Note, www.oecd.org/daf/competition/the-evolving-concept-of-market-power-in-the-digital-economy-2022.pdf, Accessed: 07.03.2023.

²⁰⁷ There is an observation in the E-Marketplace Platforms Sector Inquiry Final Report as well. The Report notes that while there is variety on the consumer side with respect to e-marketplace resources, this was not the case for use density, that there was limited access tendency on the consumer side and the reasons for that were issues such as security concerns, habits, and the fact that signing up takes time. See <https://www.rekabet.gov.tr/Dosya/sektor-raporlari/e-pazaryeri-si-raporu-pdf-20220425105139595-pdf>, Accessed: 07.03.2023.

increases switching costs for the consumer can cause them to use a single source or limited sources.

- **Gatekeeper Role:** Consumers making interconnected choices²⁰⁸ causes some products and services to work as gateways for others. For example, consumers choose between different products/services in light of a number of factors. However, any new choice they make afterwards will be affected by the first one. The most important reason for this is the fact that consumer choices may be directed by behavioral tendencies such as status quo bias²⁰⁹ or default bias²¹⁰. As a result, when a consumer buys a device with the Android operating system, he will most likely use the Google Play application store, even if he may have other options in theory. At the same time, the gatekeeper or the mediator has control over to what extent consumer preferences are restricted or how much space is given to the consumer for selecting different services and products.

4.3. Reasons for Platforms Operating as Ecosystems and the Advantages/Disadvantages of Ecosystems

(278) Platforms have created comprehensive ecosystems that cover a series of interdependent and complementary products and services, including basic platform services. Platforms operating as ecosystems allows them to integrate different products and services, and share information between those products and services.

(279) Platforms may have various incentives to develop their product and service ranges and expand the scope of their ecosystems²¹¹. These incentives include,

²⁰⁸ Also known as “*nested decisions*”. See FLETCHER, A. (2020), p. 6.

²⁰⁹ Defined as a person’s tendency to do nothing and to maintain current or previous decisions, the status quo bias causes one to ignore new options offered or prefer the status quo option over these ones. When one sees changing one’s mind about the current choice or values the current choice more than necessary due to ownership bias, this can cause maintaining the current or previous situation and ignoring new options. See *CK Akdeniz* decision dated 20.02.2018 and numbered 18-06/101-52, p. 139.

²¹⁰ The default choice bias, which is one reason for the status quo bias, represents those cases where one does not make an active choice or where one prefers the standard option offered without making a choice.

²¹¹ CMA (2020b), “*Online Platforms and Digital Advertising Market Study- Appendix E: ecosystems of Google and Facebook*”, https://assets.publishing.service.gov.uk/media/5fe49531d3bf7f089e48dec9/Appendix_E_Ecosystems_v.2_WEB.pdf, p. 2. Accessed: 07.03.2023.

- Expanding their reputation and brand recognition to a wider range of consumers,
- Improving their current products and services by creating additional, complementary ones that enhance user experience,
- Achieving efficiencies by integrating a number of services that have similar requirements,
- Increasing the volume and variety of the data they collect and process about the consumers in order to innovate and improve their services, as well as meet the demand for valuable highly personalized advertising;
- Diversifying their product and service portfolios to ensure the sustainability of their business model against technological changes,
- Generating additional profits by entering new or existing markets.

(280) These incentives can bring some benefits to consumers. First of all, since consumers will receive a number of products and services over a single platform's ecosystem, their search costs may be reduced. In addition, while ecosystems facilitate consumer access to products and services, they can also eliminate problems and challenges related to multiple log-ins and identity verification processes.

(281) Secondly, since platforms operating as ecosystems offer a number of connected products and services under a single economic entity, these platforms can take strategic decisions rapidly so as to ensure that their products and services are fully compliant and can work together without problems.

(282) On the other hand, the existence and expansion of ecosystems can compound concerns about the gatekeeper status of some platforms as well as causing other competition problems²¹². These competition problems will be briefly explained below.

(283) First of all, platforms with market power can transfer that power to up/downstream or to neighboring markets. Known as the leverage effect²¹³, this

²¹² FLETCHER, A. (2020), p. 11

²¹³ Leverage is where an undertaking uses its monopoly power in one market to expand into a neighboring one, and then exercises its market power by raising prices and/or restricting output or quality. Todd, P. F. (2019), "Digital Platforms and the Leverage Problem", *Nebraska Law Review*, Vol: 98., No: 2, p. 488.

can allow incumbent platforms to merge all of their different activities under a single umbrella and gain advantage against their rivals.

(284) Secondly, a platform can avoid competition by surrounding its core service with many complementary products and services. Thus, if the platform can convince consumers to remain within its ecosystem through pre-installations, default settings, restriction of interoperability with rivals, etc., then it can make it harder for existing or potential rivals to compete with the platform.

(285) Thirdly, when a platform feels that a neighboring market may put competitive pressure on one of its core services, it can expand its ecosystem to protect itself from that future competitive threat. For instance, the CMA has emphasized this as one incentive for Google to enter the private search and display advertising markets²¹⁴.

(286) Lastly, platforms with high market power that operate as an ecosystem are able to collect two critical inputs from the online advertising market²¹⁵: (i) consumer attention, and (ii) consumer data. Thus, platforms that acquire more ad revenue make more investments than its rivals, which can add to the market power of some platforms. Moreover, the fact that platforms are generally form ecosystems comprised of complementary products and services mean that they can utilize the user data they have gathered under one activity during the performance of other activities. On the one hand, this may be seen as beneficial since it allows users to receive more personalized services, but on the other hand, it risks tipping the market since it makes those who procure services from the platform more dependent on the platform.

4.4. The Google and Meta Ecosystems

(287) Platforms that generate revenue through online advertising offer their services to a wide range of users. Google, which is the only undertaking with dominant power in Türkiye for search advertising, and Meta, which commands more than half of the total revenues generated by the undertakings who provided information under the sector inquiry in the field of display advertising, even without dealing with the sub-categories²¹⁶, have expanded the sizes of their

²¹⁴ 2020b, p. 1.

²¹⁵ CMA (2020), p. 56.

²¹⁶ For details, see section 2.4.

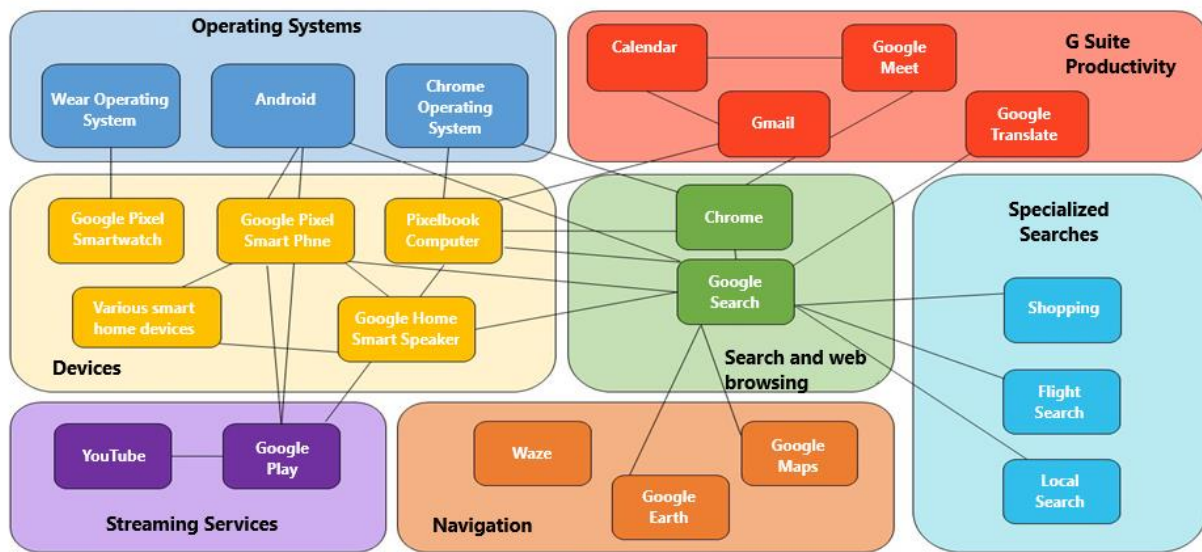
ecosystems by offering various products and services which the users currently need or will need in the future. However, it is also possible to claim that both of these undertakings support the market power they acquired in online advertising with their strong positions in core platform services²¹⁷. In that context, Google and Meta expanded their activities to neighboring markets by using their network power in general search services and social media services, respectively, to gain the competitive advantage in those markets while, at the same time, getting the chance to integrate different products and services to increase their market power. Therefore, this section will first provide some general information on the products and services offered by Google and Meta, and then share some assessments concerning Google's position in general search services, as well as Meta's position in social media services.

4.4.1. The Google Ecosystem

(288) Google provides mostly interrelated and complementary products and services to its consumers as well as its advertising and non-advertising business customers. Figure 16 below exemplifies Google's consumer products and its activities in the internet and search engine value chain, showing that Google is active in numerous consumer-facing markets, including applications, operating systems and devices.

²¹⁷ CMA (2020), p. 18.

Figure 17: Google's Online Ecosystem for Consumers



Source: CMA (2020b).

(289) The products and services Google offers to consumers are summarized below:

- Pixel mobile phones, tablets and Pixelbook laptop computers using the Android operating system which generally include pre-installed applications such as Chrome,
- Connected Home Nest which includes a number of smart home devices and serves as an access point for the Google Assistant product as well as Chromecast devices that allows computers and smartphones to connect and mirror their screens to televisions,
- The Chrome operating system for laptop computers and tablets, aimed at ensuring web browsers work compatibly and efficiently with the required software,
- The Android operating system for smartphones and the Wear operating system for smartwatches and wearable devices, which is a version of Android,
- Chrome internet browser that functions as a main access point for search engines and is currently one of the most popular web browsers; the open source browser engine Chromium which is used by many other browsers including Chrome, Microsoft Edge, Opera and Vivaldi, and the Chrome Web Store which provides digital distribution services for extensions that improve the functionality of Chromium and Chrome browsers,

- Web search engine Google Search, as well as specialized vertical search services such as Google Flights, Google Hotel Search, Google Shopping, Google News and Google Academic, accessible through the aforementioned platform,
- As complementary products, the Messaging application supported by the Google Assistant service, which allows users to send messages to each other over smartphones and computers,
- In the entertainment category, YouTube, which is a video sharing platform that allows users to watch, upload, share, comment on and subscribe to videos, and YouTube Music which provides online music streaming services via mobile applications.
- Google Pay, providing a digital wallet platform and online payment system services,
- Google Play Store application store which provides application and content distribution services to devices with the Android operating system, as well as mobile applications for e-books, games, online video-on-demand (VOD) and music services,
- Google Maps, Google Earth, Google Street View for desktop and mobile devices, the navigation app Waze for in-vehicle use and Android Auto, which is developed for in-vehicle information and entertainment systems, to be compatible with applications on Android devices,
- Google Assistant that can be used as an AI-supported virtual assistant for mobile and smart-home devices,
- Free web-based e-mail service Gmail,
- Health monitoring platform Google Fit, developed for Android, Wear and iOS operating systems,
- Communication platform Hangouts, which provides messaging, video chat and voice over internet protocol (VoIP) features,
- Free translation application Google Translate.

(290) Products and services Google offers to businesses/commercial users, on the other hand, includes the following:

- For advertising services;

- Admob, which serves as an ad network and platform, intended to be a tool for mobile application publishers,
- Adsense, which provides publishers with text-based search network ads related to the search queries entered by the users in a search box on websites as well as text ads, display ads and video ads which are related to the content of their websites,
- Analytics 360 providing measurement data and web analysis services on how end users interact with the content and the ads,
- Analytics and Analytics Standard for Firebase,
- Campaign Manager, which offers functions such as display advertising, reporting, media planning, repeat limit management and time targeting to advertisers,
- DV360, which offers display advertising campaign management and performance services in ad exchanges for those buyers who purchase inventory from authorized buyers as DSPs and who can bid on third-party exchanges,
- Ad Manager (previously, DoubleClick), which publishers use to estimate the usability of ad inventories, reserve those inventories for buyers and sell them via ad networks or ad exchanges,
- Online advertising platform Google Ads, aimed at advertisers,
- Google Marketing Platform, which is offered free-of-charge to small businesses and which provides more comprehensive, paid advertising and analysis services to larger enterprises,
- Google Tag Manager 360 and Standard, which allow publishers to manage their tags and codes,
- Local inventory ads which allow businesses to show product and store information to nearby users that perform searches on Google,
- Ad management platform SA360 for advertisers, and the Hotel Ads platform which allows advertisers to create dynamic ads on Google's Hotel Search service.
- For search services;
 - Google Cloud Search, offering companies search services for use within their own systems and documents,

- Google Manufacturer Center, for manufacturers to provide up-to-date and comprehensive product information in order to increase the accuracy of the information in Google services,
- Search Console (previously, Google Web Manager), which provides website administrators information on website search traffic to help them with measuring performance correction problems and improving their rankings,
- Waze Local, which lets businesses show various types of ads to nearby drivers using the Waze application.
- For complementary products and services;
 - Android Enterprise and Chrome Enterprise platforms, which allow businesses to monitor, administer and configure their applications,
 - G Suite, comprised of cloud computing, productivity and collaboration tools, software and products,
 - Google Cloud Platform offering various cloud computing services, including storage space management,
 - Google Domains that offers domain name registration services,
 - Google Maps Platform, which offers APIs to include the Google Maps service in various applications,
 - Google Merchant Center and Google My Business, aimed at businesses,
 - Google Web Designer, which helps advertisers create interactive and animated graphical HTML5 content,
 - Hangouts Chat, messaging application for business users,
 - Hire, for helping businesses manage their hiring processes,
 - Optimize, which offers users tools to test and personalize websites, and IP-based phone service Voice, which allows business customers to allocate and manage phone numbers for use by end-users in their organizations.

(291) Even though Google has a very wide range of products and services, it was able to expand to different markets thanks to the market power it acquired in the general search services, which was the first core platform service it offered. As mentioned in section 2.4.1, in 2022, Google had a market share of 76.24% in

general search services in Türkiye. Google's strong position in general search services is supported by some barriers to entry and growth. CMA also noted that scale economies in web indexing, access to click-through and search data, as well as Google's default features allow Google to maintain its strong position in the market for general search services²¹⁸.

(292) The fact that Google has a large ecosystem with various services in many fields in which it has vertical or conglomerate relationships, thanks to its strong position in general search services, allows Google to acquire important competitive advantages or grants it the opportunity to control access to the markets in which it is active.

(293) In light of the fact that Google provides most of its products and services to customers free-of-charge and has open-sourced some of its programs such as Android and Chromium, it becomes clear that Google would not gain noticeable profit from most of these products and services, and would actually suffer losses due to them if it did not have its advertising service revenues²¹⁹. Although, it is possible to claim that Google may use many of these products and services to attract more consumers to its search services, since Google generates most of its revenues through search network advertising. In other words, some portion of the free products and services in Google's ecosystem acts to maintain and reinforce its strong position in general search services.

(294) On the other hand, it is pointed out that its extended and comprehensive access to data could make it easier for Google to constantly expand its operations and develop novel services in new fields of operation²²⁰. Google's gradual integration of specialized vertical search services such as Flights, Hotels and Shopping to its general search services may be an example of that situation.

(295) However, in light of its dominant position in general search services market, Google's provision of vertical search services leads to a conflict of interest that may complicate the operations of rivals offering similar services and foreclose the market to competitors. In fact, in the Board's *Google Local Search* decision²²¹, it was found that Google complicated the operations of its competitors and

²¹⁸ 2020, p. 73

²¹⁹ CMA (2020b), p.6.

²²⁰ Bundeskartellamt Decision numbered B7-61/21, p. 21.

²²¹ Board decision dated 08.04.2021 and numbered 21-20/248-105, p. 284.

distorted competition by favoring its own local search and accommodation price comparison service on the general search results page in terms of position and presentation, and denying rival local search websites entry to the Local Unit.

(296) Similarly, the Board's *Google Shopping*²²² decision states that Google, which held dominant position in the markets for general search services and online comparison shopping services, disadvantaged its competitors providing comparison shopping services and complicated their operations, leading to the distortion of competition in the comparison shopping market.

(297) Google's aforementioned services were examined by the Commission, as well. In its *Google Search (Shopping)*²²³ Decision, the Commission found that Google intervened in the general search engine algorithm to highlight its own comparison shopping service *Google Shopping* and used its dominant position in one market as a leverage in another market to rank rival comparison shopping websites lower.

(298) Another field of activity where Google benefited from its access to the data it holds to expand the scope of its services concerns the most popular mobile operating system Android, and the wide software applications portfolio it developed to be compatible with Android. Additionally, thanks to the agreement it signed with equipment manufacturers and mobile network providers concerning the pre-installation and default settings of Google services, it could ensure a wide distribution network for its compatible and comprehensive product portfolio. This was especially clear for Google Search, Google Maps, the Play Store application store, YouTube video platform and the Gmail e-mail service, with Chrome browser having particular importance in this respect. That is to say, by means of this widely-used browser, Google could pre-configure the access point for its own search service on third-party operating systems other than Android²²⁴.

(299) This matter was addressed in the Board's *Google Android*²²⁵ decision, which noted that since Google held dominant position in licensable operating systems, the requirements of the tying practice were fulfilled by the provisions in the

²²² Board decision dated 13.02.2020 and numbered 20-10/119-69, p.143.

²²³ Commission Decision dated 27.06.2017 and numbered Case AT.39740.

²²⁴ Bundeskartellamt Decision numbered B7-61/21, p. 20.

²²⁵ Board Decision dated 19.09.2018 and numbered 18-33/555-273, p. 82-83.

agreements Google signed with device manufacturers concerning setting Google Search as default at the specified points, positioning it on the main screen and installing it exclusively on the devices.

(300) At the same time, operating at all levels of the supply chain in the advertisement technology sector, Google offers a wide portfolio of services to advertisers and publishers. As a result, Google has services which help bring supply and demand together in both search advertising and non-search advertising. In that respect, Google benefits from a large portfolio on the advertiser side, as well as the publisher side²²⁶. Additionally, providing online advertising services including search advertising and holding a strong market position in other products and services such as Android, Chrome and YouTube, Google has some advantages in comparison to other platforms, stemming from leverage effects as well as strong network effects. Since other platforms are not able to offer advertising space in all sectors nor do they have advertising space comparable to Google's search results page, they are only seen as a meaningful alternative in certain specific sectors by advertisers²²⁷.

(301) In this framework, the Board's *Google Adwords*²²⁸ decision examined the claim that Google complicated the activities of those websites who do not advertise with it in the content services market by advantaging those content providers which advertise with Google by displaying text ads in a preferential manner. The relevant decision observed:

- Google had dominant position in both general search services and text advertising markets,
- Just like general search services, text ad services were characterized by significant network effects stemming from the multi-sided platform nature, user habits, Google's high brand recognition, its financial and economic power and its position in the general search services market, which could serve as a barrier to the growth of those undertakings already in the market or as an entry barrier before new undertakings who wish to enter the market,

²²⁶ See Section 2.4, para. 62.

²²⁷ Bundeskartellamt decision numbered B7-61/21, p. 22.

²²⁸ Board Decision dated 12.12.2020 and numbered 20-49/675-295, p. 47.

- Moreover, the portfolio Google acquired through time was a significant factor in advertising services and required consideration,
- Google held a critical position from the perspective of advertisers in publishing Adwords ads,
- Therefore, Google seemed to be the only option for both users and advertisers.

The Board found that Google complicated²²⁹ the activities of organic results that do not generate revenue for it by positioning text ads at the top of general search results extensively and in a way that their advertisement nature is not clear.

(302) The fact that Google operates as an ecosystem may also lead to data-based concerns. For instance, in the Bundeskartellamt decision announcing Google as an undertaking with paramount significance for competition across markets, it is noted that²³⁰

- Another advantage of operating as an ecosystem for Google emerged at the point of data consolidation,
- Google was able to use the identifiers created for data combination such as mobile device ad IDs for its personalized advertising activities, or it can tie data together in a more consolidated manner, for example to define user groups with similar preferences.
- At the same time, due to its extensive access to the data it collected during the use of its services, Google could potentially have an idea about the personal tastes and needs of its users, and could use the same data for targeted advertising services,
- Similarly, Google could acquire data about the user behavior on third-party services or third-party websites through the advertising services it offered.

(303) The CMA²³¹ stated that the integrated structure of Google's ecosystem allowed the collection, processing and sharing of data through consumer-facing products and services, that this data included user data willingly given during sign-up for a Google account, information about the applications, browsers and devices

²²⁹ Board Decision dated 12.11.2020 and numbered 20-49/675-295, p. 202.

²³⁰ Bundeskartellamt decision numbered B7-61/21, p. 77.

²³¹ CMA (2020b), p. 6.

accessed by the Google services consumers used, as well as other information of the users related to their activities on Google services, including location data.

(304) In addition, depending on the working of the operating systems it owns, Google can also control the flow of user data between the applications and systems in its ecosystem²³². Even further, Google can make use of the extensive datasets it collected on how its services are used in order to adapt its services aimed at end-users to each individual user and thus to increase their attractiveness. Since Google has access to a large number of users, and thus extensive user data thanks to its wide-scale ecosystem, this volume of data brings significant competitive advantage to Google.

(305) As mentioned in the Bundeskartellamt decision which announced Google as an undertaking with paramount significance for competition across markets in accordance with Article 19(a)1 of the German Competition Law, Google offers consumer-facing services and advertising services in a large area due to its strong market position in its ecosystem and is able to expand their size. Additionally, Bundeskartellamt also emphasized that Google had the ability to benefit from economies of scope, set rules against other undertakings in the markets, strengthen or expand its market position or use its market position to its own advantage without facing sufficient competitive pressure²³³.

(306) It is noted that strong economies of scope are the reason why a small number of large digital platforms were able to set up ecosystems covering many neighboring markets²³⁴. In terms of economies of scope, Google has the ability to offer various services, cross promote its services within the ecosystem to improve and develop them, direct the users of one service towards the other services, or offer its services in different markets with various extensions and add-ons to enter new markets²³⁵.

(307) However, at different points of its ecosystem, Google makes an important impact on third-party access to users. It is also possible to talk about the infrastructure

²³² CMA (2020b), p. 5.

²³³ Bundeskartellamt decision numbered B7-61/21, p. 158-159.

²³⁴ Unlocking Digital Competition (2019), "Report of the Digital Competition Expert Panel (Furman Report)", https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/785547/unlocking_digital_competition_furman_review_web.pdf, p. 32.

²³⁵ Bundeskartellamt decision numbered B7-61/21, p. 161.

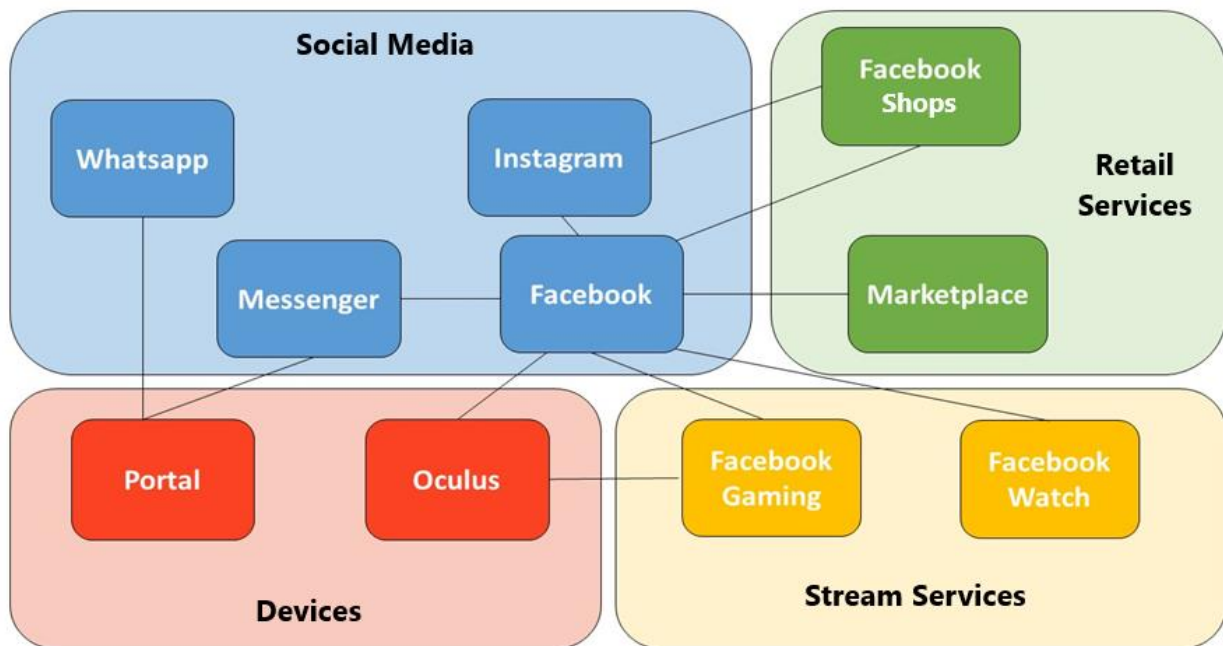
nature of the services offered by Google, due to its strong market position at all levels of the supply chain, and the fact that it mediates the activities of third parties through its extensive services.

(308) Besides, while Google holds the position of a rule-maker establishing the main conditions for the markets or market processes in the ecosystem, it can also shape these main conditions as the operator of the ecosystem, which makes it easier for Google to enter into such a new market and expand within it as compared to potential competitors. Consequently, Google's access to the high number of users in its ecosystem, the variety and scope of its interconnected services, its market position allowing it to set the rules in various platforms and markets as well as its extensive and comprehensive access to data and other resources, come together to provide Google with significant competitive advantages.

4.4.2. The Meta Ecosystem

(309) Meta also offers advertisers and developers a large number of inter-dependent and complementary products and services. The services offered by Meta are visualized in the figure below:

Figure 18: Meta's Online Ecosystem for the Consumer



Source: CMA (2020b).

(310) Among the markets where Meta is in actively operation, it holds dominant position in the markets for personal social networking services, consumer communication services and online display advertising services²³⁶, and it has recently started to offer messaging services together with various complementary services through its social media platforms Facebook, Instagram, Facebook Messenger, Instagram Direct Messenger and WhatsApp, as well as offering consumer devices called Portal and the Oculus virtual reality (VR) device.

(311) As seen from Figure 18, Meta offers developers the opportunity to develop applications and services that complement the products in its ecosystem, and it has entered other markets by leveraging its strong position in the social media market.

²³⁶ Board Decision dated 20.10.2022 and numbered 22-48/706-299,. 213.

(312) Accordingly, the products and services Meta provides in its ecosystem can be grouped under two categories: core platform services and devices. The first of the core platform services is the social networking platform Facebook, which is accessible through the web and by mobile applications, but there are other services offered on the relevant platform:

- Examples are; Buy and Sell Groups aimed at facilitating trade between users, Device Requests which lets users see and approve log-in requests from applications on various devices, Activities which help users find events they may be interested in based on the pages they have liked, Facebook Login which lets users quickly sign on to and access online services by providing their basic information from their Facebook user profiles and which is also provided to developers, User Profile which shows personal information on the users as well as all of the content published on their profiles, Friends and Friend Lists which allows users to send and view friend requests as well as view suggested contacts they can add, Groups which give users space to share their common areas of interests and express their views, Jobs which allow users to find and apply to job adverts directly on Facebook, Live Videos that help users and businesses interact on a live broadcast, Messenger which lets users message each other and share media content such as pictures, videos and audio, News Feed which is organized based on users' visited pages and areas of interest, and Stories which allows users or Facebook pages to share visual status updates in the form of photos or videos.
- At the same time, services mainly provided to businesses include such applications as Pages which allows free and public access to consumers, Marketplace which lets users list and view ads in their region, and Shops which provide business with the opportunity to display and sell products on the Facebook platform, to contact users via messaging applications and to complete purchases via online payment systems in some countries or to direct users to the sellers' own webpages.
- The Instagram application, which is another core service of Meta, includes the services Direct Messaging that lets users send messages to each other, Feed which presents users with content they deem important in

accordance with their interests, Stories which allows users to share visual status updates, and Shopping which lets business tag a product so that users can purchase directly through organic Instagram posts.

- The WhatsApp service is a mobile messaging application that also provides VoIP, and it does not currently include ads within the application.
- The devices offered by Meta are Portal, Meta Quest and Oculus Virtual Reality devices. The Portal devices are basically tools with various functions which lets users make video calls through Facebook Messenger and WhatsApp, while Meta Quest and Oculus Virtual Reality devices are a series of virtual reality goggles primarily aimed at the gaming and entertainment markets, which allow users to interact naturally within 3D virtual environments.

(313) Even though Meta has a wide range of products and services, Meta has mainly acquired its market power within the social media market through the Facebook application, and then expanded into other markets. In 2022, Meta's total market share in the Turkish social media market is 68.99%²³⁷. In the Board Decision dated 20.10.2022 and numbered 22-48/706-299, it is found that in addition to others, Facebook also held dominant position in personal social networking services and consumer communication services markets.

(314) Meta's ecosystem is basically founded on a crowded and large user base, which is fed by significant economies of scale that benefits from a strong lock-in effect on both private and business users²³⁸. That is to say, Meta operates a comprehensive ecosystem that takes a system of products surrounding platforms with strong market positions and merges that with a bundle of wide-ranging products for the use of individual users. In that context, economies of scope also let it discourage competitors from innovation and ensure that the portfolio of products and services is constantly expanded in a targeted manner²³⁹.

²³⁷ The market share of the Facebook application is 51.85%, the market share of the Instagram application is 17.14%. <https://gs.statcounter.com/social-media-stats/all/turkey/#yearly-2022-2022-bar>, Accessed: 07.03.2023.

²³⁸ Bundeskartellamt decision numbered B6-27/21, p. 26.

²³⁹ Bundeskartellamt decision numbered B6-27/21, p. 25.

(315) On the other hand, each of the services offered by Meta is integrated into the ecosystem to varying degrees. In particular, the Facebook platform has a higher degree of integration with Meta's other products, and the other services are integrated into the platform to different degrees. In that framework, there is full integration for certain services such as Games, Videos on Watch and Marketplace that are accessible directly on the Facebook platform via the application or the browser, while there is a high level of integration in services offered through separate applications but can work together and can be accessed through each other, such as Facebook and Facebook Messenger, as well as in Portal devices which are provided as a separate product but allows video calls through Messenger or WhatsApp²⁴⁰.

(316) On the other hand, there is limited integration for a small number of products and services such as WhatsApp, which are owned by Meta but are not integrated with the other social media platforms, with Meta announcing its plans to integrate Whatsapp with its other messaging platforms, Facebook Messenger and Instagram's Direct Messages and to combine their data²⁴¹. In fact, in 2021 Meta sent an announcement through the Whatsapp application to its users in Türkiye concerning the terms of use and privacy policy, stating that the users would have to approve sharing their personal WhatsApp data with the other Meta companies in order to continue using the WhatsApp service, and that they would be unable to use the service otherwise. In response the Board launched an investigation on Facebook and WhatsApp with a decision dated 11.01.2021 and numbered 21-02/25-M, and also took an interim decision concerning Facebook, ruling that Facebook suspend the rules it introduced in Türkiye, aimed at the use of WhatsApp user data for other services from 08.02.2021 onwards, and inform all users who approved these conditions or who received the announcement but did not approve the conditions on the fact that Facebook suspended the implementation of its new data sharing rules. The Board Decision dated 20.10.2022 and numbered 22-48/706-299, on the other hand, includes the observation that Meta, which holds dominant position in the personal social networking services and consumer communication services markets, abused its

²⁴⁰ CMA (2020b), p. 8.

²⁴¹ CMA (2020b), p. 8.

dominant position by restricting competition in the social networking services and online advertising services markets and by causing consumer harm, with its practice of merging the data it collected through different services, which had critical importance for its various activities.

- (317) Since Meta's ecosystem is built mainly on a data-oriented business model, to a significant extent, it is characterized and fed by its access to competition-related data. Meta is simultaneously making use of the data it collects via its main products and services it offers to consumers, such as Facebook, Instagram and WhatsApp, which include those directly provided by the users themselves, device data acquired through the users' interaction with these services, and those data collected by the third-parties. As a result, Meta has access to large set of high-quality, constantly-growing data that is produced by various sources. Meta's collection and use of data through the various services it provides has been the subject of examinations launched by other competition authorities as well.
- (318) In 2016, Bundeskartellamt initiated an examination on Facebook in response to the claims that it abused its dominant position in the social networks market through its terms of service related to the use of user data. Following the examination in question, Bundeskartellamt took the *Facebook* decision²⁴² in which it found that data merging was an abusive practice and stated that Meta's collection and use of data through third-parties could indicate an abuse.
- (319) The investigation launched by the French Competition Authority in response to the claim that Meta distorted competition in online advertising by foreclosing its social network to the competitors was concluded with the adoption of the commitments submitted by Meta²⁴³.
- (320) Moreover, in July 2021 the Commission launched an investigation²⁴⁴ on Meta using the ad data it collected from advertisers to the advantage of the Marketplace service in those markets where Facebook was active, and on Facebook connecting its online classified ads service "Facebook Marketplace" to

²⁴² Bundeskartellamt Decision dated 6.02.2019 and numbered B6-22/16.

²⁴³ ADLC Decision numbered 22-D-1216,

<https://www.autoritedelaconcurrence.fr/en/decision/regarding-practices-implemented-online-advertising-sector-0>, Accessed: 16.02.2023

²⁴⁴ https://ec.europa.eu/commission/presscorner/detail/en/ip_21_2848, Accessed: 16.02.2023

its own social networking platform. The Statement of Objections²⁴⁵ on the ongoing investigation, sent by the Commission, observes that the terms and conditions which allows Meta to use the advertising data it collects from its rivals to the benefit of the Marketplace are unfair and disproportionate, and that associating the Marketplace service with the dominant social networking service Facebook provides distribution advantages to Meta with respect to its rivals.

(321) Meanwhile in the USA, there is an ongoing lawsuit before the District Court of North California, launched in 2020, claiming that Facebook created an illegal monopoly in the markets for social networking and social media by acquiring large amounts of user data and using them to eliminate its competitors²⁴⁶.

(322) As an important provider of the online social communication infrastructure, Meta's services has an important effect on commercial communication options, and thereby on the access of product suppliers, advertisers and content providers to supply and sales markets. The facts that it controls access to a wide base of users and has large amounts of detailed user and transactional data mean that Meta has a strong impact on advertisers, publishers, and other news content providers. This stems from the increasing importance of social media advertising, from Meta's strong position in this field, as well as from its mediation power within the ecosystem and its power to set the rules, which can be described as the ability to define the frameworks and rules for the significant sales and supply markets created by the platforms in the ecosystem and to the use of the various services such as advertisement and communication channels.

(323) However, competitive advantages result from the fact that advertisement services offered by Meta on its social media platforms have a vertically integrated structure covering all advertisement technology tools²⁴⁷. This is because Meta controls all of the core functions in its ecosystem via advertisement technology tools, which is accompanied by economies of scope to Meta's advantage. Known as a "walled garden" in the advertising sector, this means that advertisers are mostly forced to use the advertising technology tools provided by Meta if they

²⁴⁵ https://ec.europa.eu/commission/presscorner/detail/en/ip_22_7728, Accessed: 16.02.2023

²⁴⁶ https://www.govinfo.gov/app/details/USCOURTS-cand-5_20-cv-08570, Accessed: 16.02.2023

²⁴⁷ CAPOBIANCO, A. (2022). "The Evolving Concept of Market Power in the Digital Economy – Note by Germany", OECD Competition Committee Meeting, Paris, France.

wish to use the ad space on Meta's ecosystem, especially in light of Meta's size and its strong position in social media advertising. Even though other competitors that provide social media services financed by ads have tried to create similar walled gardens with their own integrated advertising services, they have been unable to reach similar economies of scale due to their user numbers and the smaller-scale of the services they offer. Moreover, since advertisers have become dependent on the Meta services in the walled garden by using social media advertising and spending most of their ad budget on Meta, its rivals in the social media sector cannot generate equal and stable income from their advertising services. This is another consequence of Meta's high number of users, the high utilization rates of its services and the wide, granular database of the ecosystem, and it helps force competitors out of the system created by Meta and prevent competition.

(324) Thus, it is observed that Meta uses its dominant position in the market for social media services and its market power stemming from its high number of users and its access to wide-volume data in order to enter other markets via various products and services offered to users and to grow its activities in those markets. Accordingly, it may be said that Meta is increasing the scope of its activities through economies of scope, creating a strong lock-in effect on the users within its ecosystem. At the same time, thanks to the vertically integrated structure of the ecosystem, advertisers have become dependent on using various advertising services, which may lead to the foreclosure of the market to other competitors and to the distortion or restriction of competition.

(325) Consequently, in light of the complementary and interdependent relationships between the increasing number of products and services within the ecosystems Google and Meta built on the basis of their core platform services, it becomes clear that fully integrated ecosystems developed by platforms with significant resources and expertise can lead to important benefits to consumers in the form of efficiency gains and a more positive user experience. On the other hand, these platforms may

- ultimately deprive consumers from innovative products and services in the future, by helping keep core services provided by the platforms, including those that generate a large portion of the platforms' revenues,

exempt/immune from competition in the market or from any potential competitive pressure that may be caused by new entries by potential competitors,

- transfer the undertaking's market power in core platform services to other markets via the leverage effect,
- lead to competitive concerns stemming from processing or merging the data acquired or collected.

(326) After explaining the power provided by the ecosystems as well as the resulting potential advantages and competitive concerns, the next section will address data, which is another important tool for competition in online advertising. In that framework, the first step will be to describe the types of data collected/processed in online advertising as well as the data collected by Google and Meta within the ecosystems they operate, and the advantages the undertakings concerned have gained from these data they collect/process will be compared with the other undertakings. After that online user monitoring tools will be examined with an aim to understand how the data in question are collected. Finally, the section will explain how user data is used in advertising, and will present the benefits of targeted advertising as well as the concerns it causes.

5. A CRITICAL INSTRUMENT OF COMPETITION IN ONLINE ADVERTISING: DATA

(327) Large volume datasets which provide unique insight into user profiles and habits are generally considered key inputs for the entirety of the digital economy in general, and for the functioning of online advertising in particular. This is because these data sets serve as a fundamental parameter when deciding what type of ads to show to those who view the advertisements within the framework of targeted advertising, which constitutes a significant portion of online advertising. When consumers who view the advertisements are targeted well, more advertisers is willing to pay for the relevant ad space, and thus consumer data is converted into revenue for online platforms²⁴⁸.

(328) Consequently, the types of data collected/processed in online advertising, the power undertakings attain as a result of the data they collect, the purpose for which the user data is collected, how the data is used in targeted advertising, consumers behavior and reaction in response to the use of their data in targeted advertising, etc. are among the issues that must be addressed when establishing the importance of data for competition in the online advertising market. The aforementioned points are addressed below.

5.1. Types of Data Collected/Processed in Online Advertising

(329) When classifying user data, the literature takes into consideration criteria such as (i) whether the data is personal, (ii) the nature of the information it includes, (iii) whether it is structured or not, (iv) its collection methods, and (v) where it is acquired from²⁴⁹. The classifications based on these criteria will be examined in detail and the types of data will be explained below.

(330) The first classification is done based on whether the data is of a personal nature and the regulations on data protection becomes important in this respect. According to Article 3.1 of the Personal Data Protection Law (PDPL), personal data consist of “*all types of information about a real person whose identity is*

²⁴⁸ BUITEN M. C. (2020), “Exploitative Abuses in Digital Markets: Between Competition Law and Data Protection Law”, *Journal of Antitrust Enforcement*, Vol. 9, No: 2, p. 271.

²⁴⁹ CMA (2015), “The Commercial Use of Consumer Data, Report on the CMA’s Call for Information”, p. 25-26, *Autorité De La Concurrence ve Bundeskartellamt* (2016), “Competition Law and Data”, p. 5-7.

known or can be found". In that framework, content created by users including blogs, comments, photos, videos, etc., data concerning the online activities and behavior of the user, social data including those on social networking websites, home address, location data, demographic data as well as official data such as social security data, criminal records, etc. are examples of personal data²⁵⁰. Non-personal data, on the other hand, is broken down into the sub-categories of anonymous data, pseudonymous data and aggregate meta data²⁵¹. Anonymous data is a type of data collected without any personal identifiers in which it is impossible to recognize the identity of the owner. According to Article 3 of the PDPL, personal data can be anonymized by mapping it to other data so that it cannot be associated with a real person whose identity is known or knowable. Pseudonymous data is a type of data that can actually include personal data where any personal identifiers are removed or replaced with pseudonyms. Aggregate meta data, on the other hand, is a type of data created by merging the personal, anonymous and pseudonymous data belonging to more than one person. For instance, this type of data can be used when an undertaking wishes to select and target those people who are interested in sports²⁵².

(331) Secondly, data can be classified according to the different information it includes. For example, data can be diversified according to the information it provides on people and undertakings, such as the location or behavior of a person, the turnover of a business, or the current speed of a car.

(332) Thirdly, data is divided into two according to whether it is structured or not. Structured data includes various fields and displays how these fields are interrelated. An example for structured data is a consumer database with name, surname, address, age, phone number, etc. information. Unstructured data, on the other hand, is a type of data that is mostly created by persons and includes personal content, which does not fit into a model and requires processing by algorithms to be transformed into commercial value. Documents such as e-

²⁵⁰ OECD (2013), *Exploring the Economics of Personal Data, A Survey of Methodologies for Measuring Monetary Value*, p. 7-8.

²⁵¹ CMA (2015), *The Commercial Use of Consumer Data, Report on the CMA's Call for Information*, p. 25-26.

²⁵² *Ibid.* p. 25-26.

mails, presentations and reports in a business can be examples of unstructured data²⁵³.

(333) Fourthly, there is a distinction based on collection method, consisting of provided data, observed data and inferred data²⁵⁴. In the doctrine, derived data is sometimes added to these groups as well²⁵⁵.

(334) Provided data is comprised of personal information the user provides willingly such as name, e-mail, etc. as well as social media posts. In the literature, provided data may be further divided into (i) initiated data, (ii) transactional data and (iii) posted data. Initiated data refers to data the user provides when he sets up a relationship/connection such as applying for a loan or signing up for a website, transactional data refers to data provided when the user gets a credit card or pays an invoice, and posted data refers to data provided when the user publishes some content such as a social media post²⁵⁶.

(335) Observed data refers to mostly behavioral data acquired through the activity of a user or machine, and it consists of the digital footprints of the user in a sense²⁵⁷. Depending on the awareness levels of individuals, this type of data can be broken down into (i) engaged data (for instance, cookies, loyalty cards and data from active location services on personal devices), (ii) unanticipated data (for instance, data received from the sensor technologies on public transportation), and (iii) passive data (for instance, facial images from camera recordings)²⁵⁸.

(336) Inferred data is acquired via complex transformations of provided or observed data, and allows making inferences as to the characteristics of the users up to certain a level of accuracy. An example would be an online fashion store

²⁵³ <https://blogs.gartner.com/darin-stewart/2013/05/01/big-content-the-unstructured-side-of-big-data/>, Accessed: 16.09.2022

²⁵⁴ Autorité De La Concurrence ve Bundeskartellamt (2016), "Competition Law and Data", p. 5-7, ACCC (2019) Digital Platforms Inquiry Final Report, s.378, European Commission (2019) Competition Policy for the Digital Era, p. 24-25, World Economic Forum (2011) Personal Data : The Emergence of a New Asset Class, p. 7, 14.

²⁵⁵ ABRAMS, M. (2014), The Origins of Personal Data and Its Implications for Governance, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2510927, Accessed: 06.06.2022, European Parliament (2021), Regulating Targeted and Behavioural Advertising in Digital Services, p. 38, OECD (2014) Summary of the OECD Privacy Expert Roundtable on Protecting Privacy in a Data-Driven Economy: Taking Stock of Current Thinking, p. 5.

²⁵⁶ Ibid., p. 38.

²⁵⁷ European Commission (2019) Competition Policy for the Digital Era, p. 24-25.

²⁵⁸ European Parliament (2021), Regulating Targeted and Behavioural Advertising in Digital Services, p. 38.

predicting if a user is male or female based on the products viewed²⁵⁹. This data acquired as a result of probability-based analytical processes can be divided into statistical data and advanced analytical data. Credit or fraud scores that emerge as a result of a statistical process are examples of statistical data, while data about the possibility of voting for a certain political candidate would be an example of advanced analytical data²⁶⁰.

(337) Derived data is produced from the other types of data via certain calculations and refers to data that make up novel data elements about the individual. It is subdivided into computational and notational data. Computational data is attained by conducting an arithmetical operation on existing numerical data. An example would be a seller calculating the time spent per visit or the rate of returns for the purchased products. Notational data is acquired by grouping individuals together based on common characteristics. If a seller realizes that his customers have six common characteristics and starts looking for these characteristics when identifying potential customers, this would be an example for the use of this type of data²⁶¹.

(338) In the fifth and last place, data can be classified into first-party, second-party and third-party data, based on the party from which it was acquired. First-party data refer to those undertakings collect directly from the customers they serve during the use of their services. Second-party data are those acquired when first-party data collected by a business that directly engages with the users shares that data with a reliable business partner. Third-party data are those that can be acquired from first- or second-parties via purchase, licensing or exchange, or those that are collected by third-parties when users visit the website of a first-party undertaking (e.g. by using third-party cookies).

(339) On the other hand, the CMA²⁶² classifies data under the four main categories of (i) user data, (ii) contextual data, (iii) analytics data and (iv) search data; however it notes that this distinction is not clear, that one type of data could be included

²⁵⁹ Autorité De La Concurrence ve Bundeskartellamt (2016), “Competition Law and Data”, p. 7.

²⁶⁰ ABRAMS, M. (2014), European Parliament (2021), Regulating Targeted and Behavioural Advertising in Digital Services, p. 38.

²⁶¹ ABRAMS, M. (2014), p. 8.

²⁶² CMA (2020), “Online Platforms and Digital Advertising, Appendix F: The Role of Data in Digital Advertising”, p. F.3-F.6.

in more than one such category, and that there are many ambiguities in that sense.

(340) According to the CMA, user data primarily includes provided data, observed data and inferred data. Other than that, it notes that user data may also be broken down into personal and non-personal data, as well as demographical and behavioral data. Contextual data refers to those associated with the content for which an impression is presented or on which a user submits a query. Contextual data is generally used to gain a wider perspective. Analytics data are those related to the ad campaigns such as the number of users that view an advertisement, the number of click-throughs by users following the impression and purchase transactions, or the data required for ad verification controls. Lastly, search data refers to the data search engines use to present users results related to their search queries.

5.2. Data Collected by Undertakings Operating in the Online Advertising Sector and Data Advantage

(341) As presented in the previous sections of the report, Google and Meta have very strong positions in the markets for search advertising and display advertising markets, respectively. In effect, one of the most important factors playing a role in how these undertakings acquired the power in question is their data advantage. In fact, within the framework of the sector report, publishers were asked to provide detailed information on their data collection policies, the type of data they collected from their users, how they collected it and what the nature of the collected data was. In line with the responses received, it was concluded that the most comprehensive data was collected by Google and Meta. Consequently, in line with the response letters Meta and Google submitted to the Authority, the following section will address their data collection policies in detail, followed by a summary of the responses by other undertakings concerning the types of data they collect.

5.2.1. Google

(342) While Google did not present a comprehensive list on what types of user data were collected and used by each service, it noted that the following data is

acquired from the users if they interact with a Google service, in the most reliable manner possible:

(... TRADE SECRET...)

(343) The information above shows that both Google and Meta collect data from platforms, websites and applications they do not own, in addition to the data they collect from their own services.

5.2.2. Meta

(344) Meta stated that the types of data collected via Facebook, Messenger and Instagram varied depending on how the users utilized the relevant services. However, in general, data in the following categories of data could be collected from the users of those services:

(... TRADE SECRET...)

(345) Meta explains the information collected by the WhatsApp service as follows:

(... TRADE SECRET...)

(346) In addition, it is noted that the following data may be provided to WhatsApp by the third-parties in accordance with the privacy policy:

(... TRADE SECRET...)

(347) The information above shows that both Google and Meta collect data from third-party platforms, websites and applications, in addition to the data they collect from their own services.

5.2.3. Other Undertakings

(348) Of the undertakings operating in the market, (...) and (...) stated that they did not collect user information since their website offered the option to use the service without membership, however, nearly all of the undertakings indicated that they collected personal information such as name, surname, address, e-mail, contact, IP number and location as part of their membership/sign-up system; (...) and (...) stated that they used the browsing of non-registered users as anonymized data, (...) noted that they processed both personal and non-

personal data, and (...) pointed out that personal data was anonymized under certain circumstances.

(349) In addition to the data collected by the undertakings themselves, information was requested on whether they used data owned by third-party undertakings, and if so, the undertakings were asked about the nature of the data acquired this way as well as how it was acquired (through purchase, authorization, etc.). In response²⁶³,

- a large majority of the undertakings stated that they did not use third-party data,
- (...) noted that they used demographic data from undertakings such as Experian and targeting data from undertakings like LiveRamp, that they also used the data they purchased from market study companies²⁶⁴ conducting sector examinations (...) and from data collectors such as Foursquare and Datalogix to convey targeted advertisements(...),
- Some social media service providers indicated that if users opted to use third-party social networking account or log-in information (such as Facebook, Twitter, Instagram or Google) to register, this meant the user has provided profile information like user name to the relevant platform (...); moreover, that advertisers, app developers and publishers were able to share information with them in accordance with their privacy policies (...),

²⁶³ Information was also requested on whether data collected by undertakings were shared with third-party undertakings, and if they were, which user data were shared for what reasons. The findings received from a total of 24 publishers are summarized below:

- Four undertakings noted that they did not share data with third-parties under any circumstances.
- The remaining 20 undertakings stated that
 - ✓ They worked with third-party service providers (...) to make sure that certain features of the service worked and certain functions could be performed (...),
 - ✓ In the process of development or divestiture of the operations, and in case some businesses were acquired or transferred (...), the information collected could be shared with third-party undertakings, and that this possibility was indicated in the privacy policies,
 - ✓ (... TRADE SECRET...),
 - ✓ (... TRADE SECRET...),
 - ✓ Additionally, user information could be shared with the law-enforcement or government authorities or institutions when legally required (...).

²⁶⁴ Nielsen and Comscore may be given as examples (...).

(350) The information above shows that undertakings which provided information under the sector inquiry mainly processed first-party data. Additionally, three out of 28 publishers stated that they used third-party data when necessary, and purchased data from certain data collectors. At the same time, when the undertaking requires membership/sign-in to use the service concerned, any data collected this way may be characterized as provided data from the user. It is observed that, in general, personal data is requested from the user during service utilization or membership, with some undertakings also collecting anonymous data such as browsing data from unregistered users as well as through surveys, forms, etc. However, since one piece of data may fall under more than one category and certain types of data can be accessed by merging other types of data, it is impossible to deny that there are some difficulties in categorizing the types of data collected by the undertakings, in general. Thus, it would be more appropriate to categorize and tabularize the types of data collected by undertakings according to the information they include. Therefore, the types of data collected by social media platforms are as follows, with the next table showing the types of data collected by other publishers operating in the online advertising sector:

Table 22: Types of Data Collected by Social Media Platforms

(.....TRADE SECRET.....)

Source: Information obtained from undertakings

Table 23: Types of Data Collected by Other Publishers Active in Online Advertising Market²⁶⁵

(.....TRADE SECRET.....)

Source: Information obtained from undertakings

²⁶⁵ Depending on the responses of publishers in the online advertising market given in the table, similar types of data collected by undertakings are written in the table as a group.

- (351) Within the framework of the information given above, social media platforms generally collect similar types of data. Other publishers collect types of data which enable user profiling if users interact with the platform by subscription/sign in system.
- (352) In targeted advertising, beside the type of the data collected, the amount of data is also important for both efficiency and advertisers' preference about a publisher. The amount of the data collected is directly proportional to the number of users the platform has and interaction between the platform and the user.
- (353) According to Digital 2022 Report, the most visited three websites in Türkiye are www.google.com, www.youtube.com and www.facebook.com. Moreover, the top five social media applications where users spent their time most are respectively Instagram, TikTok, YouTube, WhatsApp and Facebook²⁶⁶. According to the information collected under the scope of the sector inquiry, Facebook has (...), Instagram has (...) and YouTube has (...) monthly active users (MAU) whereas TikTok, which is the closest platform in terms of the number of MAU, has (...) MAU. Those platforms are followed by Twitter with (...) MAU, Snapchat with (...) MAU and LinkedIn with (...) MAU. In addition, it is seen in the user survey made for the sector inquiry that Instagram is the most frequently used app daily. YouTube and Facebook are the second and the third app in this respect. Similarly, users spend their time on Instagram the most daily, followed by YouTube and Facebook. About 20% of Facebook and Instagram users spend 25% and more of their daily time on those applications daily.
- (354) Another critical variable in detecting undertakings' data advantage is the ability to associate the data with a single user and to make a detailed profiling. Meta collects data on third party websites or apps by means of (i) Facebook Advertisement Network (Meta's closed channel display advertising technology), (ii) buttons enabling sign in/log in to different websites or apps with Meta account information (social plug-ins), (iii) Like/Share buttons in different websites or apps and (iv) Meta analysis tool codes used in websites or apps to follow advertisement campaigns. The data collected in this way include (i) device

²⁶⁶ <https://datareportal.com/reports/digital-2022-turkey>, Accessed: 01.02.2023.

data such as operating system, battery level, browser type, IP address and other network information, location, device properties, device signals, cookies and (ii) payment information collected in in-game purchases on Meta platforms such as credit/debit card information and invoice address. It is stated that thanks to its ability to aggregate unique data obtained by means of users' interaction over third party channels, Meta draws an elaborated user picture that it can follow on both its applications as well as many other websites and applications; even if other undertakings collect high quality data, Meta's data set is characterized with a huge amount of high-quality data and therefore is very valuable²⁶⁷.

(355) Similarly, it is concluded that Google has very valuable data in terms of identifying user preferences; Google can collect data from third party platforms apart from its platform and even if other platforms have high quality data, Google's data set has vast and high quality data; thus, provides better insights about user behavior²⁶⁸. Google also collects data over third party websites or apps through (i) buttons enabling sign in/log in to different websites or apps with Google account information, (ii) Application programming interfaces (API) used for open display advertising services such as Google Analytics, Google Ad Manager, Google Ads/AdSense or software development kits (SDK) used for developing websites or apps. For instance, when a website wishing to use DoubleClick for Publisher uses Google's SDK, Google can collect the data on the relevant website.

(356) Within the framework of the information given above, taking into account the factors such as Meta's and Google's number of users and the time users spend in their platforms, it is seen that they create detailed profiles based on users' personal information such as family, education, profession, political interest and hobbies. The said undertakings strengthen their profiling ability by means of the data they collect over third party websites or apps; therefore, they have data advantage compared to other publishers in the sector.

(357) Undertakings in the sector also point out that Meta and Google have a vast data pool to use in advertisement targeting process since they have been in the sector for a long time and they have a lot of users. Beside its huge amount, the data

²⁶⁷ ACCC (2019), p. 85-86-87.

²⁶⁸ ACCC (2019), p. 85-86-87.

they have is diverse, and a diverse data set is more attractive for an advertiser since it promotes more targeted advertisements (...). For instance, one of the undertakings stated that having a mobile phone with an Android operating system, using Google Chrome browser and Google Search search engine, using Google Ads advertisement network for advertisement activities and Google Analytics for measurement mean that Google has all kinds of user information (...).

(358) In addition to the information about the types of the data collected, undertakings were also asked to provide information about whether the data collected are shared with the subsidiaries within the same economic unity; in another word, whether a data pool has been created. The answers are as follows: Out of 27 publishers, 6 publishers answered they do not share information because they do not have any subsidiaries (...). Eight publishers answered that they share information with the subsidies within the same economic unity (...). Three publishers answered that they use a common system. 13 publishers said that they do not share information. (...) stated that a common system is used in the same economic unity but they do not share information with the subsidiaries outside the membership system.²⁶⁹

5.3. Online User Tracking Tools

(359) Being critical for both work development processes and revenue obtaining methods, data give important advantages to the owners. Therefore, online user tracking methods or technologies are among the important factors about the functioning of the sector because competition will be affected inevitably due to the tools brought for restricting the methods/tools used by the sector to collect data²⁷⁰.

(360) Recently, it is observed that big technology firms such as Google and Apple has brought restrictions to the said methods/tools used by the sector to collect data depending on the regulations about the protection of personal data and confidentiality. However, shareholders express their concerns that such decisions might go beyond legal requirements and restrict competition in favor

²⁶⁹ Three publishers did not answer the question (...).

²⁷⁰ For the assessments related to the restrictions in this area, see section 6 of this Report.

of the undertakings in question. They suggest that those undertakings take the role of a kind of a de facto regulator because their decisions/practices might change the functioning and competitive structure of the market due to their market power.

(361) As explained above, publishers in the sector told that they generally collect the data provided directly by users while signing in or making orders such as name, e-mail address and mobile phone number. Moreover, some players say that they work with data management platforms to improve advertisement relevancy for users (...).

(362) In addition, both publishers and intermediaries state that data is collected via online tracking technologies or tools²⁷¹. Online tracking technologies are regarded as an essential tool for targeting the right group at the right time or measuring campaign performance²⁷². 26 publishers out of 29²⁷³ and 18 intermediaries out of 20²⁷⁴, who were asked to provide information for the sector inquiry, answered that they use third party cookies. A small group of undertakings answered that they use certain tracking methods other than third party cookies²⁷⁵. Players in the sector indicate that cookies are currently the most common and reliable method behind targeted advertising (...); they are also fundamental in measuring online digital advertisements in terms of real time auction ecosystem (...). Therefore, third party cookies are the most used tracking technology by both publishers and intermediaries.

(363) Depending on the information provided by undertakings, it is observed that although some of the undertakings operate by means of first party data collected directly on their websites, the dominant tool used for monitoring user activities especially between websites is third party cookies. Each of the user tracking technologies are explained below.

²⁷¹ The undertakings are: (...TRADE SECRET...)

²⁷² GERADIN, KATSIFIS and KARANIKIOTI (2021), Google as a de facto Privacy Regulator: Analysing the Privacy Sandbox from an Antitrust Perspective, TILEC Discussion Paper, p. 5; https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3738107, Accessed: 16.09.2022.

²⁷³ (...) stated that they do not use third party cookies; (...), stated that they do not have sufficient data since all the said processes are managed by the contractor; (...) stated that they cannot obtain such information.

²⁷⁴ (...) and (...) told that they do not use third party cookies.

²⁷⁵ The tracking tools are listed as follows: web beacons or pixel tags (...), mobile advertising IDs(...), SDKs that can be integrated to websites and mobile apps (...), (conversion) APIs (...), local storage (...), fingerprint (...), face ID technology (...), server logs (...), social plug-ins (...) and integration tools that allows using accounts to log in websites/apps (...).

5.3.1. Cookies

(364) Cookies are small text files which are stored in the users' browser when they visit a website for the first time and which are associated with a domain name. When a user visits a website, that website automatically places a cookie to user's computer invisibly in background. This cookie makes it possible to track the user's visits and activities on websites and to offer personal advertisements/content for the user.

(365) Undertakings that were asked for information within the scope of the sector inquiry categorize cookies as follows: In terms of intended use, (i) technical cookies, (ii) authentication cookies, (iii) targeting/advertisement cookies, (iv) customization cookies and (v) analytics cookies; in terms of the time (i) session cookies and (ii) persistent cookies; in terms of the party who installs a cookie (i) first party cookies and (ii) third party cookies (...). The categorization in the literature is similar in general terms²⁷⁶. According to the Guidelines on Cookies published by Personal Data Protection Authority, cookies are grouped as follows:

Cookies In Terms Of Intended Use

- **Essential Cookies:** They ensure the functioning of the website therefore they are essential. For instance, cookies that must be used to fulfill user requests such as log-in and filling a form are under this category.
- **Performance/ Analytics Cookies:** They are used to collect information about how users use a website without making a definition about users. Identifying the most visited pages, the number of unique visitors or how users surf the website is an example of how those cookies are used. Aggregated and anonymous data collected in this way are used to improve the functioning of the website.
- **Functionality Cookies:** Cookies used to remember users' choices and preferences about the website (i.e. user name, language, region, password etc.).

²⁷⁶ Guidelines on Cookies by Personal Data Protection Authority; Regulating Targeted and Behavioural Advertising in Digital Services, p. 43-45; Japan Report; France Report; ACCC Report.

- **Targeting/Advertisement Cookies:** Cookies used to track online user activity (websites and pages visited, etc.). Those cookies are generally installed by advertisement networks with the permission of the website operator.

Cookies In Terms Of the Expiration Period

- **Session Cookies:** Cookies that are erased when the user closes the web browser. Those cookies are also called temporary cookies and used for ensuring the continuity of the session.
- **Persistent Cookies:** Cookies that are kept for a certain time unless the user rejects or deletes manually. They are also called tracking cookies as they track users' visits to websites.

Cookies in Terms of the Party Installing the Cookies

- **First party cookies:** Cookies used by the website which the user is visiting. Those cookies can collect user information only on the website the user is visiting. For instance, if the user is visiting www.rekabet.gov.tr website, cookie is defined on www.rekabet.gov.tr domain.
- **Third party cookies:** Cookies that are installed by a third party out of the website which the user visits or its domain (for instance ad server of the digital ads on the website). Unlike first party cookies, they can track users' browser history or other activities on more than one website. In another words, they allow tracking between websites. Therefore, it is possible to say that third party cookies can collect limitless data.

(366) This comprehensive data collection by third party cookies has raised concerns about user privacy and compliance with data protection laws. Consequently, Apple was the first undertaking to block third party cookies as default on its web browser Safari (...). Intelligent Tracking Prevention (ITP) 1.0, launched in June 2017, blocked most of the third party cookies by using in browser machine learning. Afterwards, in October 2018, Mozilla started a process called Enhanced Tracking Protection and activated it as default in September 2019 for all “existing” installations and blocked 80% of third party cookies for users²⁷⁷. Later,

²⁷⁷ IAB Avrupa (2021), “Üçüncü Parti Çerez Sonrası Dönem Kılavuzu”, <https://iabtr.org/UploadFiles/PageFiles/%C3%9C%C3%A7%C3%BCnc%C3%BC%20Parti%20>

in January 2020, Google announced it would remove third party cookie support on Chrome web browser in two years²⁷⁸ but would offer Privacy Sandbox as an alternative mechanism for third party cookies.

(367) Although removal of third party cookies can be regarded as an improvement in terms of eliminating concerns about privacy, it is also considered a negative effect on competitive in the market because it will limit undertakings' ability to offer targeted advertising. After Google's announcement, in January 2021, CMA started an investigation in response to the competitive concerns that Google's power in advertising sector would further increase, the revenues of alternative publishers, especially news publishers, would fall in favor of Google and Google might favor itself. CMA ended the investigation in February 2022 with the commitments offered by Google. The commitments cover obligations to ensure transparency during the process, take third party opinions and include CMA to Privacy Sandbox's development and testing process. The commitment package aims to clarify the limits of the data that Google is allowed to use for digital advertising, prevent Google's self-preferencing, guarantee CMA's approval before removing information about or functions of third party cookies and create a monitoring mechanism for CMA to observe the compliance with those commitments²⁷⁹.

(368) In addition, in the investigation opened in June 2021 to assess whether Google violated competition rules by means of favoring its online display advertising technology in advertisement technology supply chain, the Commission stated that Google's removal of third party cookies was one of the issues examined²⁸⁰. Within the scope of this sector inquiry, Apple, Mozilla and Google were asked about their opinion regarding their policies on the removal of third party cookies. Competitive concerns in this area are discussed under section 6 of this report.

[%C3%87erez%20Sonras%C4%B1%20D%C3%B6nem%20K%C4%B1lavuzu1952021154139.pdf](#), p. 11. Accessed: 12.03.2023.

²⁷⁸ Later, the decision was postponed for one year.

²⁷⁹<https://www.gov.uk/cma-cases/investigation-into-googles-privacy-sandbox-browser-changes>, Accessed: 28.06.2022.

²⁸⁰ https://ec.europa.eu/commission/presscorner/detail/en/ip_21_3143, Accessed: 27.06.2022.

5.3.2. Web Beacons or Pixel Tags

(369) Web beacons or pixel tags consist of invisible code snippets that can be embedded to a web page or an e-mail and they are elements of the page. When the user opens an undertaking's page or an e-mail with a beacon or pixel, the code calls the server to load the page or the e-mail; thereby, the undertaking in question knows that a user opens a website or an e-mail²⁸¹. The codes collect users' log-in information, where they click on the website or the e-mail, the time spent on a specific page and in this way enable measuring (...).

5.3.3. Mobile Advertisement Identifiers (MAID)

(370) Mobile advertisement identifiers are identifiers that are designed transparently by mobile device operating system²⁸². MAID's are alphanumeric, that means they are strings created by using letters and numbers. They are used as there are no cookies in the mobile environment (...). Therefore, they are used commonly for providing targeted advertising in mobile devices in advertisement technology ecosystem (...)²⁸³. It is stated that since they are designed transparently, they are reliable, pseudonymous, stable and safe identifier of mobile activity and more permanent way to meet compliance with privacy legislation and protect consumer privacy²⁸⁴.

(371) MAIDs are called Identifier for Advertisers-IDFA on iOS devices and Android Advertising ID-AAID on Android devices. MAIDs are unique and mostly permanent. In addition, they can be used by all mobile apps (without need of user authorization) and advertisers installing codes to those apps.

(372) App Tracking Transparency Framework launched for MAID by Apple in 2021 with iOS 14.5 version is worth mentioning. The said framework asks users whether they allow the apps they use to track their activities/data on other companies' apps or websites. Although business models using data carefully and

²⁸¹ "Consumer Policy Research Center, Emerging Issues in Data Collection, Use and Sharing", <https://apo.org.au/sites/default/files/resource-files/2018-07/apo-nid241516.pdf>, p. 12, Accessed: 16.09.2022; ACCC (2019), "Digital Platforms Inquiry Final Report", p. 388.

²⁸² IAB Avrupa (2021), "Üçüncü Parti Çerez Sonrası Dönem Kılavuzu", p. 23.

²⁸³ For a similar assessment please see https://assets.publishing.service.gov.uk/media/5fe49554e90e0711ffe07d05/Appendix_G_-_Tracking_and_PETS_v.16_non-confidential_WEB.pdf, Accessed: 08.03.2023.

²⁸⁴ IAB Avrupa (2021), "Üçüncü Parti Çerez Sonrası Dönem Kılavuzu", p. 23.

giving options to users about how their data are used are welcomed, Bundeskartellamt opened an investigation against Apple due to anticompetitive risks to be created by the Framework²⁸⁵. According to the Authority's announcement, irrespective of the Framework in question, all apps have to ask for their users' consent to track their data. However with the Framework in question, when an app not made by Apple is started for the first time, apart from the dialog asking for user consent within the framework of legal regulations, Apple tells users that their data are processed for the second time and requests user consent for that. On the other hand, Apple does not use that Framework for the apps in its ecosystem. Therefore, Apple ask for content within the framework of existing regulations but does not request this consent for the second time within the framework of App Tracking Transparency Framework. Bundeskartellamt's investigation is ongoing.

(373) Within the scope of the sector inquiry, it is stated that one of the undertakings has lost 8% of its iOS revenues after Apple's said practice but it is too early to measure the impact since the latest change was made in June 2021. Such practices' possible effects on competition are discussed in detail under section 6 of the report.

5.3.4. Local Storage

(374) Local storage is an API working similar to cookies. It is less likely to be deleted/blocked by users as it is less known. It stores the data which websites want to save as text in key value form, like cookies. Storing more data than cookies and staying for a longer period in the browser (until the user cleans it) are the advantages of local storage compared to cookies²⁸⁶.

5.3.5. Fingerprinting

(375) Fingerprinting is a relatively new technique that enables websites to identify unique visitors by means of browsers or devices (...). Fingerprinting aims to

²⁸⁵https://www.bundeskartellamt.de/SharedDocs/Meldung/EN/Pressemitteilungen/2022/14_06_2022_Apple.html, https://www.bundeskartellamt.de/SharedDocs/Publikation/EN/Pressemitteilungen/2022/14_06_2022_Apple.pdf?__blob=publicationFile&v=4, Accessed: 28.06.2022.

²⁸⁶ CMA (2020), "Online Platforms and Digital Advertising, Appendix G: The role of tracking in digital advertising", p. G9.

combine pieces of information that are weak on their own (such as screen size, color depth, system fonts and time zone) into a “fingerprint” that uniquely identifies a browser or device. Different type of data such as user’s pattern of mouse movements, scrolling, the way that a user holds their device by using data from the sensors, fonts, operating system, battery level, plug-ins and time zone can be used to make a fingerprint. This technology is used to recognize the same user in more than one online session even if changes are made in log-in, IP addresses are hidden or changed or cookies are deleted²⁸⁷.

5.3.6. Facial Recognition

(376) Facial recognition is the biometric software that companies use to identify individuals²⁸⁸. Although inactivated at the end of 2021, Meta’s finding of user photos which they were not tagged is an important example of face recognition²⁸⁹.

5.4. Targeted Advertising

(377) Advertisers aim to address the right target audience, at the right time with the right content and create a loyal customer group. It is important to know about the target audience for applying the right message strategies. For target audience analysis, factors such as lifestyles and motivating factors, purchasing decision process, habits, families and cultural features are identified; demographical, socio-cultural and psychological analyses are taken as a basis. Message strategies suitable for the target audience are defined at the end of those processes.²⁹⁰

(378) While traditional ad channels on TV, radio, print outlets or billboards have relatively limited targeting potential, the internet provides many opportunities for targeting. Thanks to the data opportunities provided by the internet, online

²⁸⁷ACCC (2019), “Digital Platforms Inquiry Final Report”, p. 338; CMA (2020), “Online Platforms and Digital Advertising, Appendix G: The role of tracking in digital advertising”, p. G14.

²⁸⁸ Consumer Policy Research Center, Emerging Issues in Data Collection, Use and Sharing, <https://apo.org.au/sites/default/files/resource-files/2018-07/apo-nid241516.pdf>, p. 12, Accessed: 16.09.2022.

²⁸⁹ See <https://tr-tr.facebook.com/help/122175507864081>, Accessed: 16.09.2022.

²⁹⁰ GÖKDEMİR, Ş. Ş. and AKINCI S. (2019), “Çevrimiçi Davranışsal Reklamcılığa Yönelik Tüketici Tutumları ve Mahremiyet Endişeleri”, <https://dergipark.org.tr/tr/pub/erciyesiletisim/issue/43267/483907>, p. 23. Accessed: 27.06.2022.

advertising can be linked to the activities the consumers are currently engaged in such as searching, browsing and watching videos, which allows for a segmentation of consumers ²⁹¹

(379) Since online advertising is based on targeted advertising and even it is regarded identical with targeted advertising, it is necessary to examine the types of targeted advertising as well as its benefits and concerns in order to study the functioning and the problems of the online advertising sector. The said issues are discussed respectively below.

5.4.1. Types of Targeted Advertising

(380) Within the framework of the sector inquiry, it is understood that certain different targeting methods are used specifically for online advertisement types and those types differ in terms of data requirement and potential effects of advertisement types based on those methods.

(381) First of all, there are basically three categories in targeted advertising: personalized targeting, contextual targeting and remarketing²⁹². It is stated that the said advertisement types have different purposes and require different types and amounts of data²⁹³.

(382) Personalized ads are defined as those ads that require processing consumer's personal data. Ads based on personalized targeting are considered more "relevant" as they are based on a profile about the user that has been compiled from information such as browser history, location, etc. and reflect the consumer's likely interests. Specific data about the user such as hobbies, interests or characteristics are used in personalized targeting. Such types of data are taken from digital platforms, ad tech providers or data providers with access to behavioral data which may be inferred from web browsing history and other

²⁹¹ GÖKDEMİR ve AKINCI (2019), s.23; FOURBERG N. et al. (2021), "Online advertising: the impact of targeted advertising on advertisers, market access and consumer choice", [https://www.europarl.europa.eu/thinktank/en/document/IPOL_STU\(2021\)662913](https://www.europarl.europa.eu/thinktank/en/document/IPOL_STU(2021)662913), p. 18. Accessed: 29.06.2022

²⁹² In addition to the abovementioned targeting types, another study lists different targeting categories such as subject targeting, location targeting, interest targeting, geographic targeting, sociodemographic targeting and time targeting, which depend on collection and analysis of different categories of data and it is stated that those can be combined. ADLC (2018), "Opinion no. 18-A-03 of 6 March 2018 on data processing in the online advertising sector", p. 7, 28, 59.

²⁹³ ACCC (2020), p. 50.

online activities²⁹⁴. Personalized ads depend significantly on past and real time consumer data²⁹⁵.

(383) Contextual ads reflect the content of the webpage the user is displaying and require limited or no personal data. For such types of ads, targeting is made according to the content of the website or search query. In addition, contextual advertising can be “relevant” if it reflects the content of the page that a consumer has decided is interesting enough to spend time for reading²⁹⁶. Contextual targeting depends on the content of a website visited or a search query written by a user on a search engine. Therefore, a user looking at a blog about “running” is likely to see ads about “running shoes” or “sportswear”. It can be said that specific user data or browser history record is not needed for such targeting method. Contextual targeting is observed especially in listing ads and less frequently in search ads and display ads²⁹⁷.

(384) Advertising based on remarketing aims for reaching a user who has visited a website or used a mobile app before, showing ads to that user while surfing in a different channel and recapture the user’s attention for the product or service again. This ad type is generally used by e-trade websites. In remarketing, consumers experience an increased frequency of the display ads of the product they searched but did not buy over a few days.²⁹⁸ Such targeting requires data about consumers’ search and transaction history. E-commerce websites can collect information by using customer lists or user IDs²⁹⁹.

(385) It should be noted that the targeted ads made with different methods mentioned above are complementary. It is observed that the importance of personalized ads has increased significantly in time. The charts below are prepared by considering publishers’ total annual revenues from personalized ads and advertisers’ expenditures for personalized ads in Türkiye during 2010-2021/5 period, obtained from the undertakings that provided information within the scope of the sector inquiry:

²⁹⁴ ACCC (2020), p. 50.

²⁹⁵ CMA (2020), p. 157.

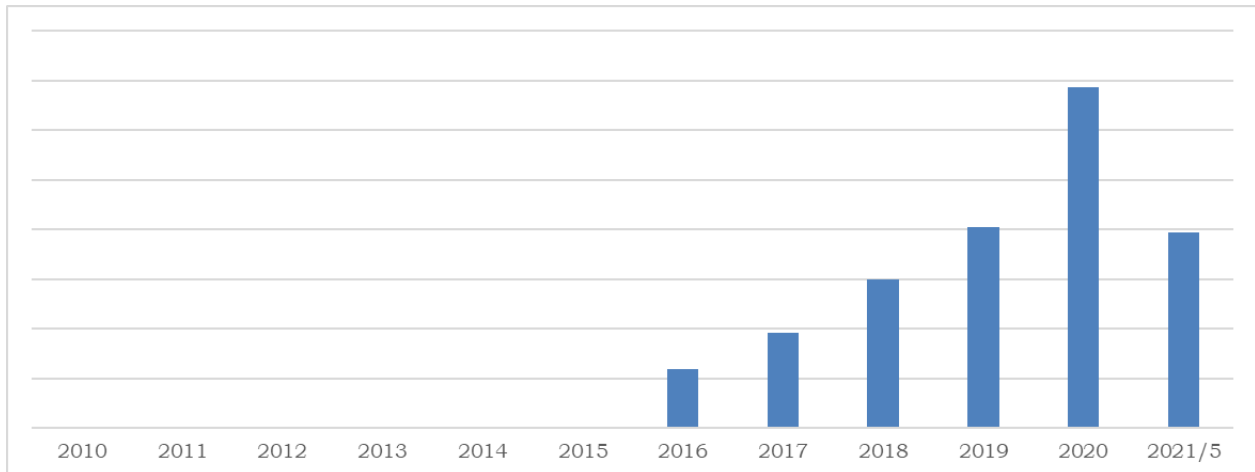
²⁹⁶ CMA (2020), p. 159.

²⁹⁷ FOURBERG et al. (2021), p. 18.

²⁹⁸ FOURBERG et al. (2021), p. 19.

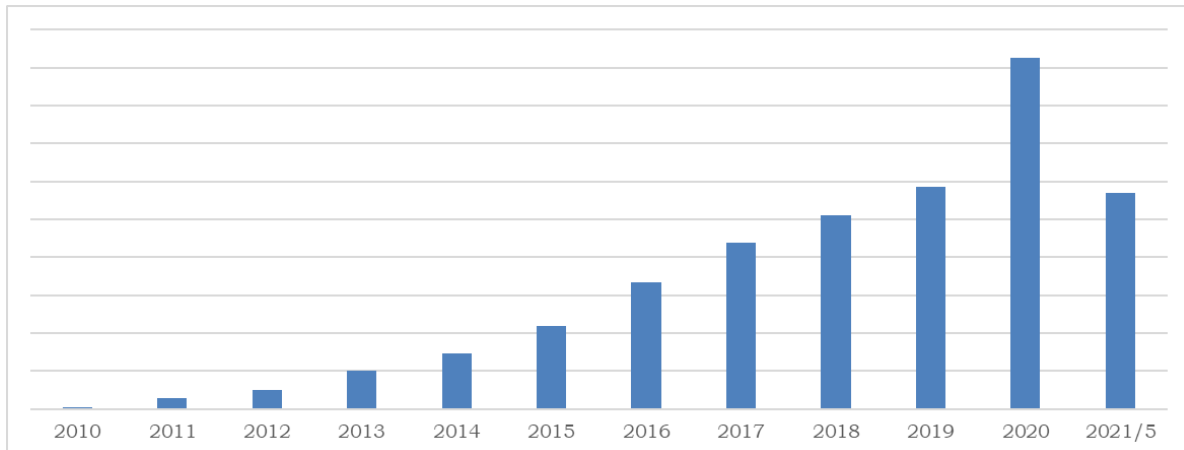
²⁹⁹ ACCC (2020), p. 50.

Chart 24: Publishers' Total Revenues from Personalized Ads (TL)



Source: Information obtained from undertakings

Chart 25: Advertisers' Total Expenditures for Personalized Ads (TL)



Source: Information obtained from undertakings

(386) First of all, it should be noted that charts are not comprehensive as the numbers in the charts do not reflect all publishers or advertisers. Nevertheless, the charts show the striking increase in demand for personalized ads on the basis of the sampling. As seen, concerning those who were contacted within the framework of the sector inquiry, publishers' revenues from personalized ads as well as advertisers' expenditures for personalized ads have been increasing rapidly. In terms of publishers, the revenues from personalized ads amounted to hundred thousands at the beginning of 2012 whereas the revenues reached millions in 2012, (...) in 2016 and went beyond (...) Turkish lira. The picture is similar with respect to advertisers. While the total expenditures for personalized ads amounted to (...) Turkish lira, the expenditures reached (...) in 2012, (...) in 2018

and about (...) Turkish lira in 2020. . It is also stated in responses that big publishers such as (...) and (...) provides only personalized ad services; thus, they obtain all of their revenues from personalized ads. Consequently, personalized ads are becoming more popular because they provide higher and more efficient revenues. This issue is discussed in detail under the title below.

5.4.2. Benefits of Targeted Advertising

(387) Targeted advertising provide significant benefits for each shareholder: publishers, advertisers and consumers. Looking at the publisher pillar, the majority of the publishers who were asked for opinion during the sector inquiry stated that personalized ads allow publishers to prevent displaying random ads, increase the efficiency of ad areas and obtain more ad revenues³⁰⁰. Similarly, intermediaries also pointed out that personalized ads increase publishers' performance, providing them with higher revenues³⁰¹. Depending on the studies made, it is estimated that the possibility that a user clicks on a display ad is 5.3 fold more than a standard ad in behavioral advertising. The clickthrough rate is 10.8 fold higher for remarketing for consumers who have been interested in a product before.³⁰² According to a study made by CMA, publishers who cannot sell personalized ads obtain approximately 70% less revenues than those who can³⁰³.

(388) Second, the advertisers who were asked for opinion, noted that if an ad is shown to consumers who are not interested in or do not need a product or a service, it is beneficial only for promotion purposes but when shown according to interests or needs, the ad's interaction and performance that is the consumer's tendency to purchase is much higher. Similarly, publishers highlighted that advertisers get the return for their investments at higher levels with personalized ads; brands usually cannot sell a product when the user visits the page for the first time, users may leave the page after having price information to search for competitors, at this point, personalized ads may be used to be remembered by a user and to show a discount if necessary. Intermediaries stated that personalized

³⁰⁰ (...).

³⁰¹ (...).

³⁰² FOURBERG et al. (2021), p. 19-20.

³⁰³ CMA (2020), p. 15.

ads make advertising more efficient by showing the right message at the right time to right persons so that brands can use their budgets more efficiently. Generally, targeted advertising enables more efficient allocation of ad sources and decreases losses stemming from uninterested customers. As a result, it is expected that both consumer welfare and producer welfare will increase³⁰⁴.

(389) Third, with respect to consumers; publishers, advertisers and intermediaries who were asked for opinion within the scope of the sector inquiry told that personalized ads are important because they ensure that users see ads related to their needs instead of being subject to publications that they are not interested in and they prevent negative effects on consumer experience. It is more likely that consumers will see useful information about products and services of their interest.

(390) Thanks to the efficiency in ad costs, it is expected that sales prices of advertised products will fall. Similarly, CMA states that respondents to the interim report suggested that the cost advantage resulted from more effective targeting may be passed onto product/service prices to some extent³⁰⁵.

(391) Remarketing ads are effective in encouraging consumers especially at earlier stages of purchasing decision process. However, the effectiveness of personalized ads is decreasing after the consumer visits the advertiser's online channel for the last time. Some studies show that high personalization lead to less interaction at first. A study evaluating the effects of ads at different personalization stages indicates that although personalized advertising has generally much bigger effect on consumers and clickthrough rates compared to non-personalized ads, that effect weakens when personalization is too apparent. Thus, it is thought that advertising messages that are not completely general but address a user's profile and interests more comprehensively are the most effective. On the other hand, studies have found that if consumers have trust in the respective vendor or the vendor is transparent about how data is collected and/or provides consumers with greater control over their data, consumers respond more positively to high levels of personalization³⁰⁶.

³⁰⁴ CMA (2020), p. 45, 154; FOURBERG vd. (2021), p. 18.

³⁰⁵ CMA (2020), p. 154.

³⁰⁶ FOURBERG et al. (2021), p. 20.

5.4.3. Concerns Related to Targeted Advertising

- (392) Online advertising is basically functioning by monetizing the data collected from users in return for the products/services users benefit from free of charge in another words at zero price. The data collected from users serves for offering targeted advertising services beside the improvement of a product or service.
- (393) Despite the benefits listed above, targeted advertising raises certain concerns. With respect to such concerns, the literature highlights consumers' unawareness that their data are used for targeted advertising, consent forms directing users to make decisions contrary to their interests and designs such as dark patterns. Consumers may share their data to be used in targeted advertising in a transaction that they may be unaware of or lack control over³⁰⁷ This causes confidentiality concerns that consumers' personal data may be potentially misused; thus, privacy concerns are one of the factors that affects consumers' attitude towards such ads³⁰⁸.
- (394) Although most of the sector shareholders mention the benefits of targeted advertising, (...) stated that personalized ads may create certain concerns about processing personal data and (...) told that high number of personalized ads may irritate consumers and lead to privacy concerns.
- (395) Depending on the abovementioned concerns, users' habits about the platforms where users are exposed to online advertising, their consciousness level regarding data collection and preferences for targeted advertising need to be examined.
- (396) According to Digital 2022 Report, as of January 2022, Türkiye's population is 85.3 million, 69.95 million people, in other words 82% of the population, are internet users. 68.9 million people, corresponding to approximately 81% of the population, use social media. In addition, internet users between the age of 16 and 64 spend averagely eight hours on the internet and three hours on social media daily. The main reasons for using the internet as follows: finding information (80.7%), keeping up to date with news and events (70.8%), researching how to do thigs (69.1%), finding new ideas or inspiration (64.6%), researching products and brands (61.9%), staying in touch with family and

³⁰⁷ CMA (2020), p. 154.

³⁰⁸ GÖKDEMİR and AKINCI (2019),p. 26.

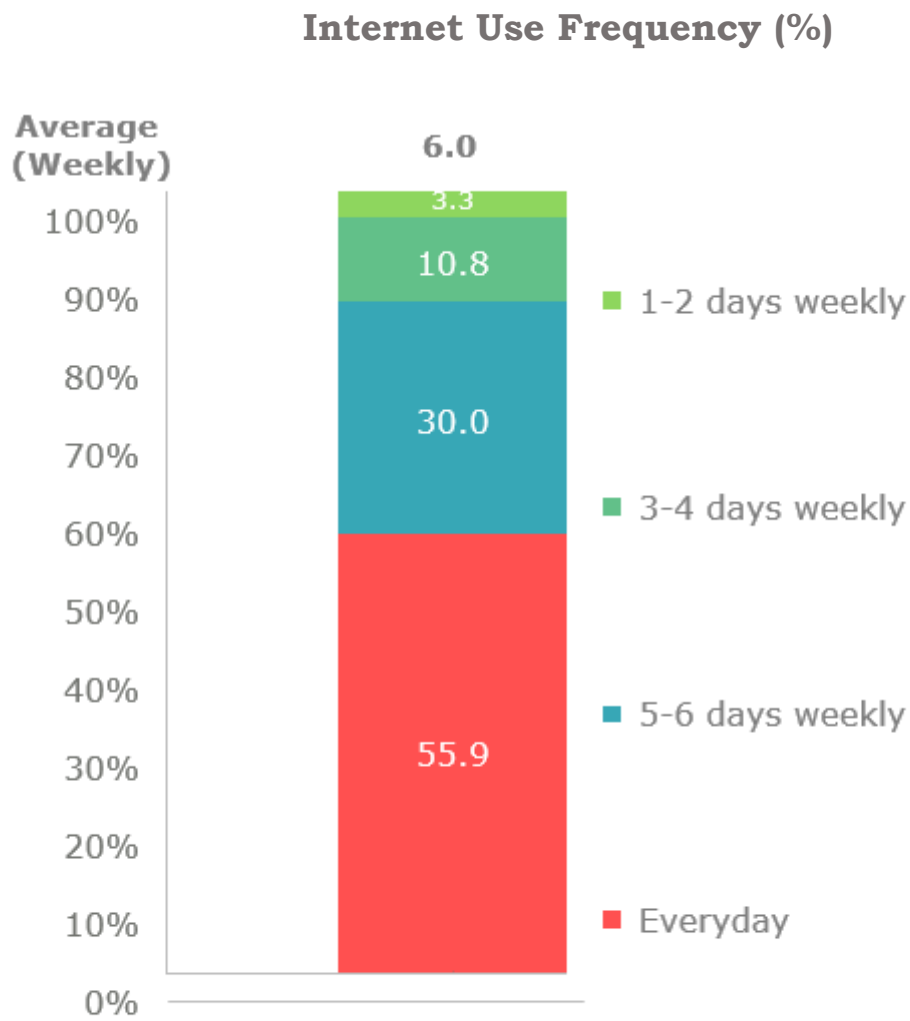
friends (61.3%) and watching videos, TV shows or movies (60.4%). Accessing and listening to music, education, researching health issues and healthcare products, researching places and travel, business related search, managing finance and sharing opinion are other reasons for using the internet³⁰⁹.

(397) The survey made under the scope of the sector inquiry with 1736 consumers who use internet ³¹⁰, shows that more than half of the consumers use the internet every day and 30% of the users use the internet for 5 to 6 days in a week, as shown in the chart below. It is understood that the internet use frequency is directly proportional with socio-economic status and inversely proportional with age.

³⁰⁹ <https://datareportal.com/reports/digital-2022-turkey>, Accessed: 21.06.2022.

³¹⁰ Interviews were made with 1736 internet users over the age of 18 in 26 cities within the scope of IBBS-Level 2 representing Türkiye.

Chart 26: Internet Use Frequency (weekly average)



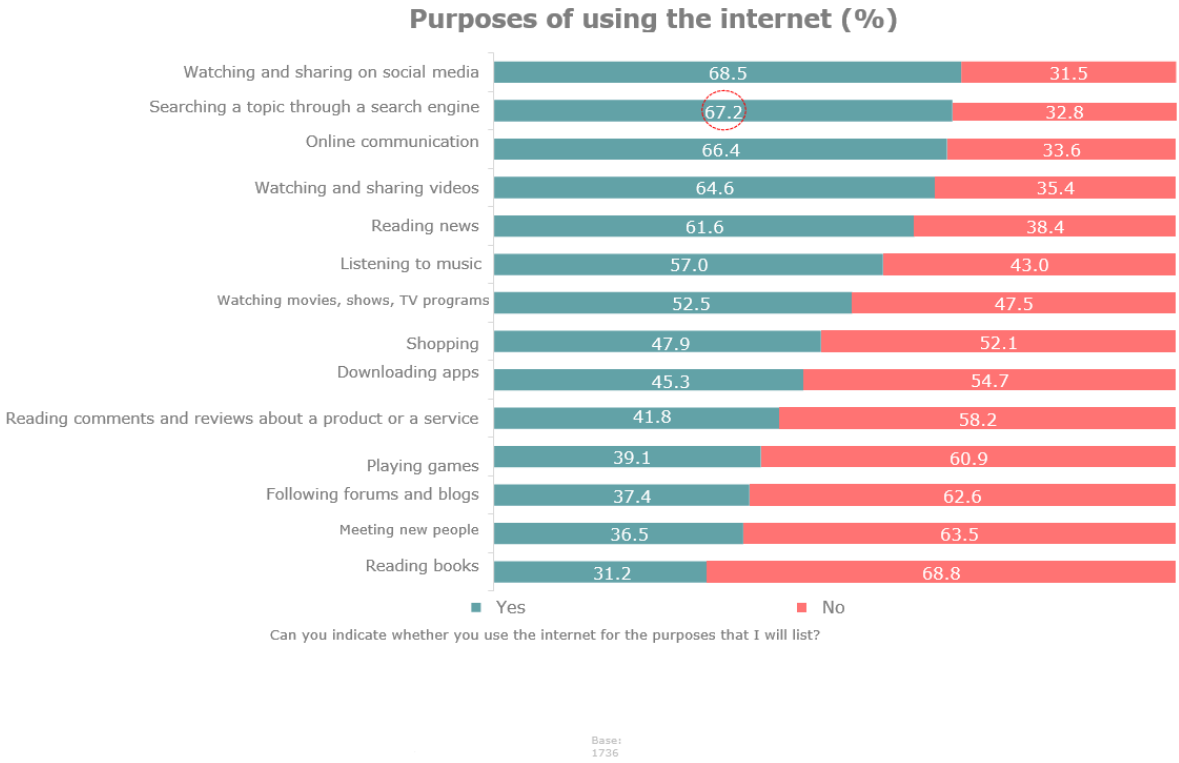
Can you indicate how often you use the internet by looking at the card?

Base: 1736

Source: Competition Authority Consumer Survey

(398) The survey shows the following conclusions about the purposes of using internet:

Chart 27: Purposes of using the internet (%)



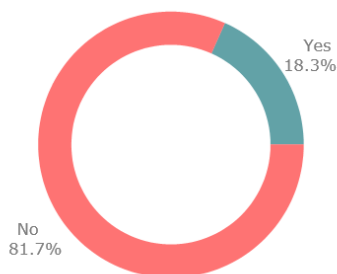
Source: Competition Authority Consumer Survey

(399) According to the chart above, users use the internet for social media (68.5%), for searching on search engines (67.2%) and communication (66.4%) the most. Despite the minor differences, the survey gives similar results to Digital 2022 Report.

(400) Although the rate of internet use is very high, the results of the research about users’ awareness about how applications are financed online is interesting. The chart below shows the answers to “Do you know how online services you use free of charge such as search engines, social media apps, messaging apps, news websites, e-commerce websites, game websites and forums/blogs are financed?” asked in the survey.

Chart 28: Awareness about How Online Apps are Financed and the Methods of Financing (%)³¹¹

Awareness about How Online Apps are Financed



"Do you know how online services you use free of charge such as search engines, social media apps, messaging apps, news websites, e-commerce websites, game websites and forums/blogs are financed?"

Awareness about How Online Apps are financed

-According to Gender-

Gender	Yes	No
Male	19.4	80.6
Female	17.2	82.8

-According to Socio-Economic Status-

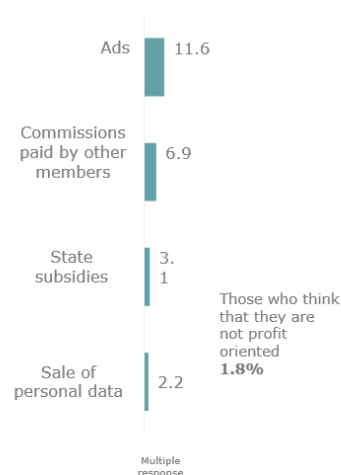
SES	Yes	No
AB	22.6	77.4
C1C2	17.7	82.3
DE	17.3	82.7

-According to Age-

Age	Yes	No
18-29	21.6	78.4
30-39	20.0	80.0
40-49	17.9	82.1
Over 50	13.3	86.7

Base: 1736

The Methods Known For Financing Online Apps



"What are the methods you know for financing online services you use free of charge such as search engines, social media apps, messaging apps, news websites, e-commerce websites, game websites and forums/blogs?"

Source: Competition Authority Consumer Survey

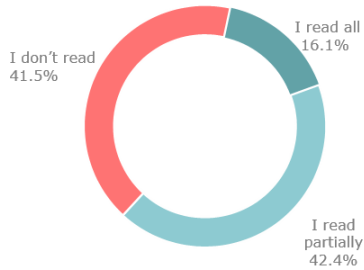
(401) The chart above shows that a large amount of users, 81.7%, said “No” and 18.3% said “Yes” to the question about whether they know how online apps are financed. The same chart shows that users know advertisements the most among the methods of financing online apps, followed by commissions paid by other members (6.9%), state subsidies (3.1%) and sale of personal data (2.2%).

(402) The answers to whether users are aware that they are sharing personal data while using platforms also show a striking result under the scope of the survey. 71.5% of the users say that they are not aware that they are asked for sharing personal data while using a platform. The answers to how consumers read terms of service and privacy explain the reason. The chart below is prepared according to the answers to “Which of the following reflects the best how you read terms of service and privacy policy of online services you use?”

³¹¹ Socio-economic status is a segmentation type made globally depending on social and economic elements. In the most general sense, social and economic elements are divided into three as low, high and medium, later each is divided into two as low and high. It consists of the following six layers: A SES Group (High-High), B SES Group (High-Low), C1 SES Group (Medium-High), C2 SES Group (Medium Low), D SES Group (Low-High) and E SES Group (Low-Low)

Chart 29: Whether Users Read Terms of Service and Privacy Policies of Online Services (%)

Whether Users Read Terms of Service and Privacy Policy of Online Services (%)



"Which of the following reflects the best how you read the terms of service and privacy policy of online services you use?"
Base: 1736

Whether Users Read Terms of Service and Privacy Policy of Online Services (%)

-According to Gender-

Gender	I read partially	I don't read	I read all
Male	42.1	39.9	18.0
Female	42.7	43.1	14.2

-According to Socio-Economic Status-

SES	I read partially	I don't read	I read all
AB	46.0	38.9	15.1
C1C2	41.3	41.2	17.5
DE	43.6	44.2	12.1

-According to Age-

Age	I read partially	I don't read	I read all
18-29	41.9	40.5	17.6
30-39	49.2	35.9	14.9
40-49	40.2	40.9	18.9
Over 50	38.1	48.8	13.1

Source: Competition Authority Consumer Survey

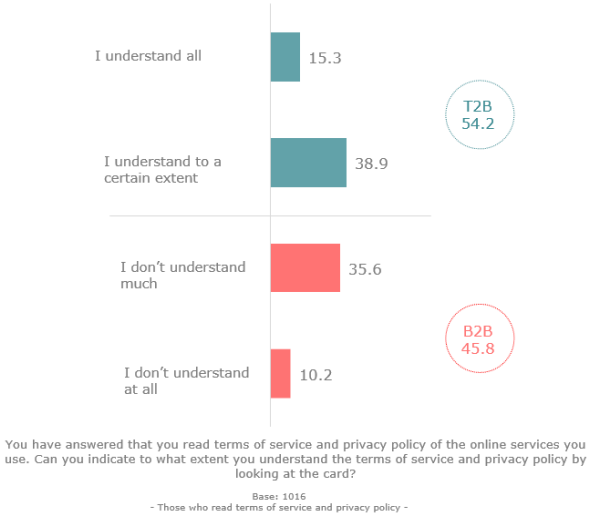
(403) 41.5% of the respondents say that they never read the policies, 42.4% say that they read the policies partially and 16.1% say that they read all. The survey shows that the percentage of users who read increases with the status level.

(404) Another question in the survey is about to what extent users who read terms of service and privacy policy understand those. In this regard, 1016 users were asked "You say that you read terms of service and privacy policy of the online services you use. Can you indicate to what extent you understand the terms of service and privacy policies by looking at the card?" The chart below shows the answers to this question.

Chart 30: Whether Users Understand Terms of Service and Privacy Policy of Online Services (%)

Whether Users Understand Terms of Service and Privacy Policy of Online Services

- Those who read terms of service and privacy policy of online services -



Whether Users Understand Terms of Service and Privacy Policy of Online Services

-According to Gender-

Gender	T2B	B2B
Male	54.8	45.2
Female	53.4	46.6

-According to Socio-Economic Status-

SES	T2B	B2B
AB	52.0	48.0
C1C2	54.4	45.6
DE	55.0	45.0

-According to Age-

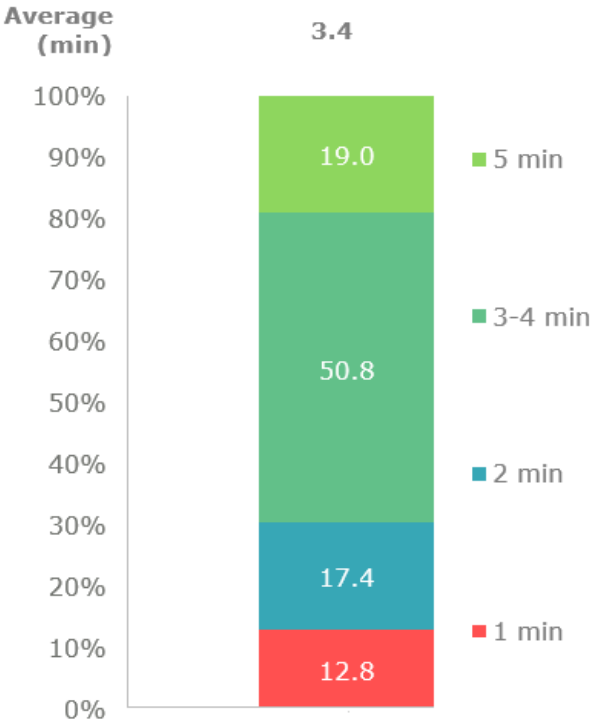
Age	T2B	B2B
18-29	56.0	44.0
30-39	52.0	48.0
40-49	57.7	42.3
Over 50	50.7	49.3

Source: Competition Authority Consumer Survey

(405) Approximately half of 1016 consumers who say that they read the terms of service and privacy policies (54.2%) answered that they understand the terms of service and privacy policy. Most of the users, who answered that they do not understand those, indicated long texts as a reason for not understanding. In addition, as seen in the chart below, the time spent for reading the relevant parts is as follows: out of 1016 users who prefer reading, 19% spend 5 minutes, 50.8% spend 3 to 4 minutes, 17.4% spend 2 minutes, 17.4% spend less than 2 minutes and 12.8% spend one minute.

Chart 31: The Time Spent for Reading the Terms of Service and Privacy Policy of Online Services (%)

**Time spent
for reading the terms of service and privacy
policy**
- Those who read terms of service and privacy policy of online
services -



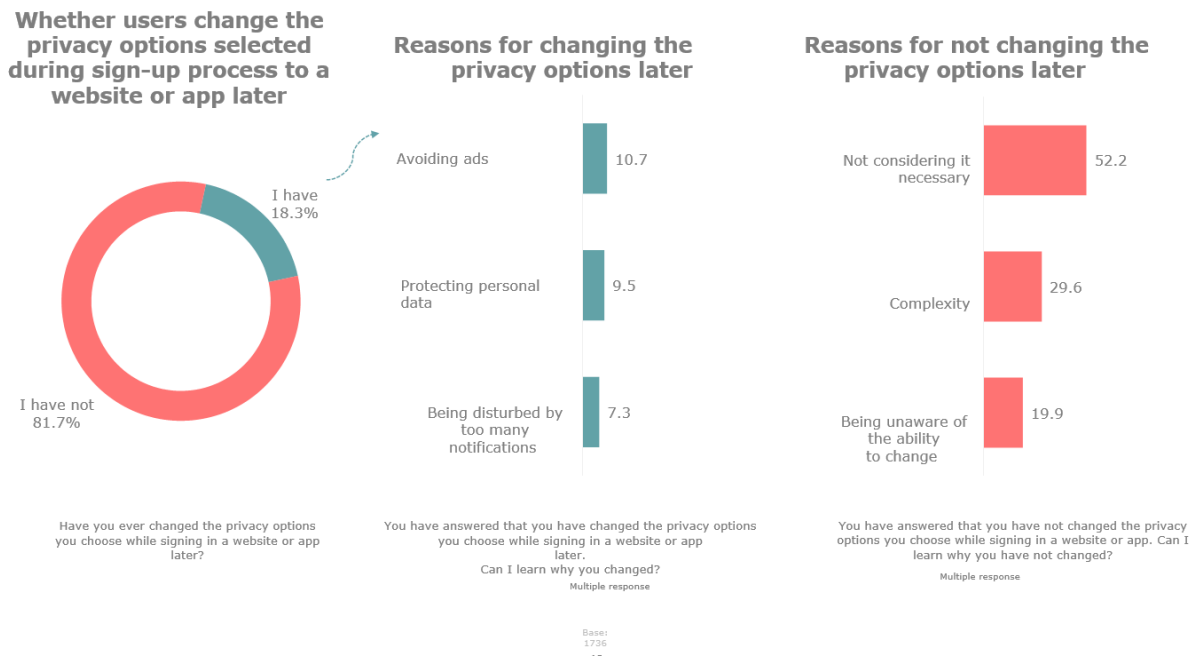
Can I learn how much time you spend reading terms of service and privacy policy?

Base: 1016
- Those who read terms of service and privacy policies -

Source: Competition Authority Consumer Survey

(406) In respect of measuring consumers’ control in data collection process, beside whether users read the terms of service, whether they make any changes in privacy options after signing in is also an important indicator. The chart below shows the answers to the question *“Have you ever changed the privacy options you choose while signing in a website or app?”*

Chart 32: Whether users change the privacy options selected while signing in a website or app later and the reasons for changing (%)



Source: Competition Authority Consumer Survey

(407) The chart shows that 4 out of 5 users do not change the privacy options selected during sign-in process to a website or an app later. Only 18.3% of the respondents change the privacy options later.

(408) Respondents who change the privacy options selected while signing in a website or an app later are asked why they change the privacy options. Avoiding ads is the first (10.7%) among the reasons for changing the privacy options later. Other notable reasons are protecting personal data (9.5%) and being disturbed by too many notifications (7.3%).

(409) In addition, users who do not change the privacy options selected while signing in a website or an app later are asked the reasons. Not considering it necessary (52.2%) is the first among the reasons for not changing the privacy options later, followed by complexity (29.6%), being unaware of the ability to change (19.9%).

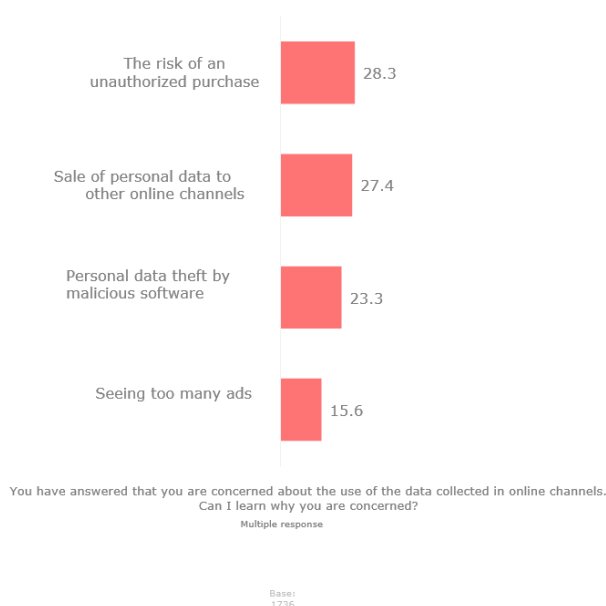
(410) Consequently, interpreting the charts above together, it is inferred that only one fifth of users change the privacy options later; the main motivation for this is to avoid ads; the most significant reason for not changing the options is considering it unnecessary.

(411) The answers to the question whether users know that they are asked for sharing certain personal data while using social networks or mobile apps or shopping online show that 71.5% of users are unaware and only 28.5% are aware of this. Among the answers given to the question related to why online platforms collect personal data, advertising and marketing purpose is the most popular answer (16.9%).

(412) Another question in the survey is related to the concerns about the use of the data collected by online platforms. 55.4% of 1736 participants answered that they are concerned about the use of the data collected to the question “*Can you indicate to what extent you are concerned about the use of the data collected in online channels by looking at the card?*” The survey also asked why users are concerned. The chart below shows the findings:

Chart 33: Why users are concerned about the use of the data collected in online channels (%)

The reasons why users are concerned about the use of the data collected in online channels



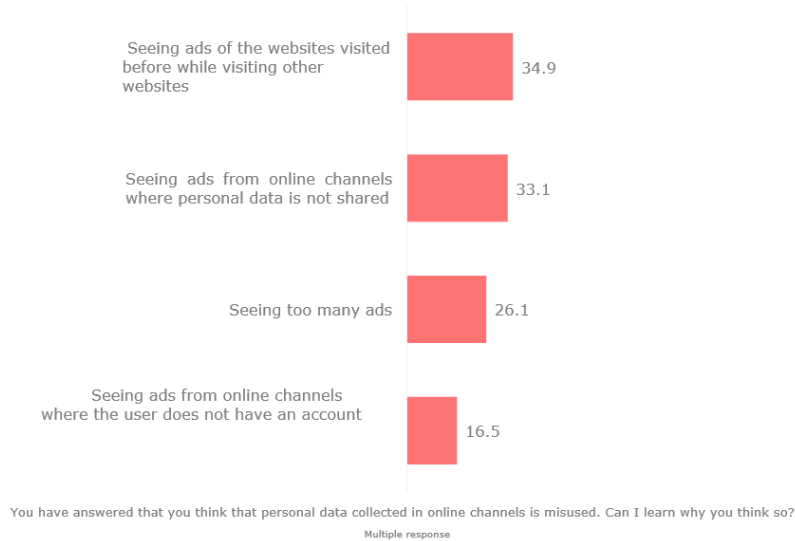
Source: Competition Authority Consumer Survey

(413) The chart above shows that the risk of an unauthorized purchase is on the first rank (28.3%) among the reasons why users are concerned about the use of the data collected in online channels. Other reasons are the sale of personal data to other online channels (27.4%), personal data theft by malicious software (23.3%) and seeing too many advertisements (15.6%).

(414) Another finding shows that 70.2% of the users think that the data collected is misused. The figure below shows the reasons:

Chart 34: The reasons why users think that personal data collected in online channels is misused (%)

The reasons why users think that personal data collected in online channels is misused



Source: Competition Authority Consumer Survey

(415) According to the chart above, the first reason why users think that personal data collected in online channels is misused is “seeing ads from the websites visited before while visiting other websites (34.9%)”. Other reasons are “seeing ads from online channels where personal data is not shared” (33.1%), “seeing too many advertisements” (26.1%) and “seeing ads from online channels where the user does not have an account”.

(416) In order to show users’ tendency about data collection process from a wider perspective, in addition to the consumer survey, publishers are also asked questions about the time spent by users in Türkiye on terms of service and privacy policy areas and the number of users who have changed privacy settings later. Google could not provide information about the time spent on privacy tabs but stated that the share of users who click on “more options” link on privacy and conditions tab in total subscribed users was respectively 1.9%; 1.5% and 1.55% between 2018 and 2020. “Secret Mode” option on privacy settings or control area is chosen by 11.8% of users, “Privacy Control, Privacy Consultant,

My Events, Event Controls, Ad Settings, Google Dashboard, Data and Personalization or Privacy Package” tabs are visited by 11.59% of the users. It is seen in the responses of other undertakings that could provide data that the average time spent by users in privacy policies is 9 seconds at least and 1 minute 19 seconds at most (...).

(417) A study made to examine consumers’ attitude towards online behavioral advertising and concerns about privacy concerns concludes that consumers have a positive attitude towards online behavioral advertising because it is reminding and informing about their interests. In addition, feeling annoyance and being followed is the leading reason for negative attitude toward behavioral advertising. Almost every consumer feels privacy concerns about personal data. Therefore, privacy concerns have a negative effect on consumer attitude towards online behavioral advertising. Limiting the personal data collected and using shorter and clearer explanations for privacy policies are effective in relieving privacy concerns and changing the attitude towards online behavioral advertising into positive³¹². The study shows that users do not have sufficient information that their personal data is used in personalized ads. Thus, even if they find those types of ads beneficial, they are concerned about privacy when they learn that their personal data is used.

(418) The issues stated above show that the so-called privacy paradox is also valid for the users in Türkiye. The privacy paradox means that although consumers report that they are very concerned about data protection and privacy they generally behave in a way that contradicts³¹³.

(419) The survey made by a consumer association, TBF, also verifies this finding. A representative of TÜRDER highlighted that consumers are not provided with sufficient/necessary information about data collection and processing for accessing free content, consumers giving permission are not conscious and as TBF representative stated, it is necessary to raise consumers’ awareness. TBF representative also stated that similar to binding, solutions should be brought to practices such as forcing users to visit other websites or apps. Consumers’

³¹² GÖKDEMİR and AKINCI (2019),p. 21.

³¹³ CMA (2020), p. 163.

feedback is also important in this process. Collective awareness is necessary for consumers to give feedback properly.

(420) In addition, TÖF representative pointed out that undertakings can reach more consumers in a faster way with lower costs in online advertising; consequently, increased number of ads leads to ad pollution. It is emphasized that ads also raise ethical problems in respect of the following: right of privacy, copyrights/patents, not showing the real source of content, contents spreading without being mature and verified, lack of personal data security and unclear limits of news and commercial information. As a result, it is understood that an optimal balance between the benefits and harms of targeted advertising is important in terms of social welfare.

(421) It is meaningful to mention CMA Report as it samples the studies in different countries about consumer behavior. When asked about their attitude about digital advertising, most of the consumers say that they prefer ads “relevant” to them. According to a study referred in the report, 54% of the participants say that they prefer relevant ads instead of random ads. However, studies show that after consumers are more informed about how targeted advertising is functioning, they feel more concerned about data processing and less willing to see personalized ads potentially. According to the said study, the share of participants who said that they do not prefer relevant ads raised from 20% to 61% after being explained how “real time bidding” in advertising is explained³¹⁴.

(422) According to CMA’s Report, how platforms chose to use default settings, how they present privacy setting choice to consumers and the language they use to explain privacy settings have an impact on consumer choices³¹⁵. First of all, since personal data is very valuable for personalized advertising and developing user services platforms, those who perform the said advertising activities or platform services have an important incentive to maximize the volume of the data they collect. In terms of informing way and settings about privacy, online platforms adopt methods such as requiring users to navigate a complicated route to find information about the use of their data and their ability to change settings; presenting users long and complicated privacy policies and terms which

³¹⁴ CMA (2020), p. 168-169.

³¹⁵ CMA (2020), p. 165.

consumers are not likely to read; presenting information and choices about privacy in a way to direct consumers to make decisions favorable to platforms³¹⁶.

(423) Looking at the regulations in Türkiye in this area, article 10 titled “Obligation of Data Controller to Inform of the Personal Data Protection Law covers the following provisions: *(1) At the time when personal data are obtained, the data controller or the person authorized by it is obliged to inform the data subjects about the following:*

a) the identity of the data controller and of its representative, if any, b) the purpose of processing of personal data; c) to whom and for which purposes the processed personal data may be transferred, ç) the method and legal basis of collection of personal data, d) other rights referred to in Article 11. Personal Data Protection

Authority regulates the principles and procedures to be followed by data controllers or persons authorized by them in accordance with the article in question, with the Communique On Principles And Procedures To Be Followed In Fulfillment Of The Obligation To Inform. Moreover the Guidelines on the Fulfillment of the Obligation to Inform gives examples of the scope of the information to be given as well as compliant and non-compliant practices within the scope of the obligation to inform. In the Guidelines, the example non-compliant with the obligation to inform is using a confusing language full of legal terms, writing the text in very small, light gray and italic fonts. Thus, there are studies made by Personal Data Protection Authority in this area.

(424) As a result, online advertising gives a unique opportunity to adapt ads in a way to reflect consumers’ interests or needs. Therefore, being an effective way of reaching the target audience, the use of personalized ads has increased significantly lately. As understood from the studies in the literature and statements of the shareholders, personalized ads are considered beneficial for both publishers and advertisers as well as consumers. Although personalized ads are regarded more relevant and effective, consumers feel privacy concerns as they depend on collection, use and share of personal data.

(425) The survey made within the scope of the sector inquiry shows that most of the users have concerns about the use of data collected in online channels. Nevertheless, 41.5% of the participants said that they never read privacy policies

³¹⁶ CMA (2020), p. 196.

and almost half of those who answered that they read privacy policies also said that they do not understand terms of service and privacy policies. Similarly, it is understood that few users change the privacy options selected while signing in a website or an app later. Beside the survey, other studies in this area are examined within the framework of the sector inquiry; many factors such as users' consciousness level about privacy, the time spent for reading privacy policies and whether they understand those are analyzed. Consequently, taking into account all those, it is concluded that users' participation to privacy policies and settings is minor.

(426) Although users are anxious about privacy, they do not behave accordingly; in other words, there are contradictions between their attitude and behavior, which can be explained with the design of online platforms. As a result, as consumers have limited control over how their data is used, platforms determine the terms of using personal data instead of consumers mostly, which may lead to negative outcomes in respect of consumer welfare as well as competition.

6. MAJOR COMPETITIVE CONCERNS ABOUT ADVERTISEMENT TECHNOLOGY SERVICES

6.1. Conflicts of Interest caused by the Vertical Integration in Advertisement Technology Supply Chain

(427) Vertical integration in online advertising sector is a method chosen for rapid growth³¹⁷. Undertakings, especially big platforms tend to operate over a vertically integrated system by acquiring smaller companies along ad technology supply chain. One of the undertakings that gave opinion within the scope of the sector inquiry (...) stated that Google created a vertically integrated and complete ad technology platform that provides services end-to-end over ad tech stack after acquiring DoubleClick for Advertisers (DFA) and DoubleClick for Publishers (DFP), which are regarded twins. However, there are conflicts of interests when more than one intermediary functions are made by a single provider.

(428) As known, conflict of interest is common in principal-agent relationship. In theory, it is accepted that the client has no incentive to carry out practices that negatively affect the principal when the principal is completely informed about

³¹⁷ CMA (2020), s.271.

agent's activities, this information is completely verifiable and the agreement is costless.

(429) However, this is not the case in terms of intermediary services in ad technology. Information asymmetry in ad technology services, which are very complicated, is high. Both advertisers and publishers have limited opportunity to verify the information they have. Intermediaries in ad technology supply chain generally act and make decisions on behalf of an advertiser or a publisher. Intermediaries may take actions that negatively affect the advertiser or publisher on behalf of which they act as they offer more than one service related vertically. The higher the number of services provided in ad technology supply chain, in other words, the bigger the ecosystem gets, the bigger the conflict of interest will be. The damages to be created by this conflict of interests will be more serious when the information asymmetry between the intermediary and clients is big, comparison and switching costs of clients are high, competition between intermediaries is limited and there are no efficiency gains counterbalancing the conflict of interests.

(430) There are two main conflicts of interest in respect of a vertically integrated ad technology provider:

- First, vertically integrated ad technology providers may be torn between their interests and clients' interests. In a case where a provider operates a publisher ad server and SSP, since the provider will wish to maximize its profits, it may have conflicting interests with the client at the cost of increasing its clients' costs. For instance, this is the case when the ad tech provider sells a publisher's inventory through its SSP and has more profits but when it sells the inventory through competing SSP the publisher has more profits.
- Second, a vertically integrated ad technology provider may face conflicts of interest in terms of different customer groups. When the ad service provider provide services to both advertisers and publishers, there may be conflicts of interest between the publisher and the advertiser. It means that it will be difficult for the provider to act in line of both parties' interests. For instance, if an ad technology provider offers both DSP and SSP services, there is a conflict of interest between advertisers who want

it to buy DSP's ad inventory at the lowest price possible and publishers who want it to sell SSP's ad inventory at the highest price possible. Conflicting interests are likely in a case where the provider is operating a SSP or an ad exchange where ad display is purchased and sold and is at the same time a buyer and/or a seller at this exchange. For instance, Google is operating a SSP (Google Ad Exchange) and buys impressions at this exchange through its DSPs (Display & Video 360 and Google Ads). Therefore, Google's SSP wants to sell impressions at a high price whereas its DSPs want to buy displays at a lower price and this may conflict with the interests of publishers who use Google's SSP service.

(431) This kind of conflicts is not peculiar to ad technology market; conflicts of interest are likely to occur when undertakings providing financial services act on behalf of both buyers and sellers. However, unlike financial markets, there is no regulation to prevent those in ad technology services. Consequently, Google can represent both sides in ad technology supply chain and manage ad exchanges without any responsibility to solve the possible conflicts of interest³¹⁸.

(432) Moreover, in the assessment about the concerns in online advertising, the observations that Google is the market leader and has activities in every stage of ad supply chain, as stated in the previous sections are important. While there are many ad technology providers in the supply chain, Google is the biggest ad technology service provider both in our country and throughout the world and at the same time a provider of important services for consumers such as general search services and online social network, which are financed by advertising. As discussed in detail in the previous sections³¹⁹, in terms of ad tech services, Google has an advertising ad server, two DSPs, one SSP, two advertising networks and a publisher ad server. At the same time it operates a web browser Google Chrome and control Gmail inventory by means of YouTube. From this perspective, no other ad tech provider has the same scope and size as Google. Google has advantages such as access to a larger ad inventory types with its bigger advertiser and publisher group compared to its rivals, ability to target ads

³¹⁸ CMA (2020), p. 279; ACCC (2021), p. 91.

³¹⁹ See section 3 and 4 of this Report.

in line with the width and depth of the data it provides and facility to use and integrate with its other services.

(433) On the other hand, as stated in section 4 of this Report, ecosystem-based activities produce benefits for users in terms of efficiency gains and more favorable user experience. In this respect, it is difficult to consider operating only on a vertically integrated structure as a competition infringement or problem.

(434) However, if vertically integrated undertakings with market power abuse their positions with self-favoring or tying, this abuse may strengthen the conflict of interests caused by the activities on the vertically integrated system and lead to an obvious competition problem.

(435) Google's power in the examined markets maximizes the damage to be caused by the said conflicts of interest. In addition, the transparency level in the ad technology services is not strong enough to pressure Google not to behave contrary to its customers' interests. Moreover, the complexity of ad technology supply chain complicates monitoring conflicts of interest. Negative effects of conflicts of interest will be more serious in cases where customers do not know whether the provider acts in line with their interests and cannot switch to an alternative supplier easily.

(436) Therefore, although it is difficult to consider such conflicts as a competitive concern per se, Google's (possible) practices examined have the capability of worsening the conflicts and turn them into a naked competitive problem. It is thought that rather than imposing a direct measure concerning conflicts of interest, minimizing the problem by the measures suggested for the practices discussed below would be more convenient.

6.2. Concerns about Google's Tying and Self-preferencing

(437) Self-preferencing may not always be anticompetitive; even, in some cases such behavior may increase efficiency in the market³²⁰. However, if an undertaking with significant power/market share like Google engages in self-favoring in a way to prevent and limit competitors from acting with merit, this may raise serious concerns.

³²⁰ HOVENKAMP, E. (2022) "Proposed Antitrust Reforms in Big Tech: What Do They Imply for Competition and Innovation.?", CPI Antitrust Chronicle, p.9.

(438) Thanks to the power it has in all important ad technology services, Google has a different position than other vertically integrated ad technology service providers. “Must-have” nature of the services provided by Google in addition to the services it provides in ad tech and related markets makes Google an important player in ad tech services. Thus, when Google engages in self-preferencing, it has a potential to restrict competition significantly. As Google operates in each stage of ad supply chain, it has the ability to reduce interoperability, strengthen indirect network effects and leverage the market power on buyer side to supply side or vice versa by means of self-preferencing.

(439) In this context, Google’s behavior that may potentially decrease efficiency and competition due to its important role in ad tech supply chain can be summarized as follows:

- Using its power in search advertising market for strengthening its own DSP,
- Allowing the purchase of YouTube ad inventory only through its own DSP,
- Directing the request coming from its DSPs to its SSPs,
- Abusing its position in the publisher ad server market to favor its SSP,
- Using bidding rules in publisher ad server to favor its services,
- Announcing plans for using its position in the browser market through Google Chrome to favor its ad technology services,

(440) Among the listed conducts, allowing the purchase of YouTube ad inventory through its own DSP can be considered within the scope of tying. In addition to the above-mentioned, one of the shareholders (...) say that Google forces customers to use its ad technology rather than independent providers’ solutions by means of restricting interoperability between its services and other providers’ services.

(441) Those conducts that can be considered tying or self-favoring with the potential to restrict competition are discussed individually in the following section. Besides, undertakings’ opinions about Google’s practices will be referred to when necessary.

6.2.1. Competitive Concerns that May Arise due to Google's Using its Power in General Search Advertising Market to Strengthen its Own DSP

(442) Google may use its power in general search advertising market to strengthen its position in open display advertising market because advertisers can reach Google search ad inventory only by means of Google DSPs (Google Ads-DV 360)³²¹. This exclusionary access may strengthen Google's position in DSP market as the said advertisement inventory is "must-have" for advertisers³²². Especially small advertisers tend to single-home in ad tech tools (DSP) to reduce transaction costs. Sector players (...) and (...) told that many advertisers prefer working with one DSP in order to avoid the inefficiency caused by working with different DSPs. Therefore, an advertiser who have used Google DSP for once to access the ad inventory may tend to continue using this tool in all actions.

(443) Moreover, when advertisers make an ad campaign with Google Ads, Google Ads arranges the campaign in a way to cover both search advertising and display advertising as default. Google Ads offers free tools and ready visuals that can be added to text ads to facilitate creating ads for small advertisers³²³. Accordingly, advertisers who tend to single-home have also a strong incentive to use Google Ads, which provides access to Google search advertising and other open display advertising market. As a result, it is thought that Google's expansion of its position in search advertising market to display advertising market may reduce its rivals' competitive power.

6.2.2. Competitive Concerns That May Arise from Google's Restrictions for Purchasing YouTube Inventory Only Through Its Own DSP

(444) The shareholders who were asked for opinion within the scope of the sector inquiry stated the following about Google's tying YouTube with DSP services:

- In 2018, Google deprived third parties' ability to place their ads on YouTube and measure the performance of ads published in this platform, advertisers who want to place ads on YouTube has to use Google's ad tech,

³²¹ CMA (2020), p.281.

³²² LATHAM O., M. HERVE and R. BIZET (2021), "Antitrust Concerns in Ad-Tech: Formalizing the Combined Effect of Multiple Conducts and Behaviours", European Competition Journal, Vol: 17, No: 2, p.6.

³²³ CMA (2020), p.281.

it is possible to give ads on YouTube only through Google's ad techs and independent companies cannot offer YouTube to advertiser customers, Google strengthens its dominant position in SSP as well as DSP market by means of obliging the use of its own technology solutions (...)

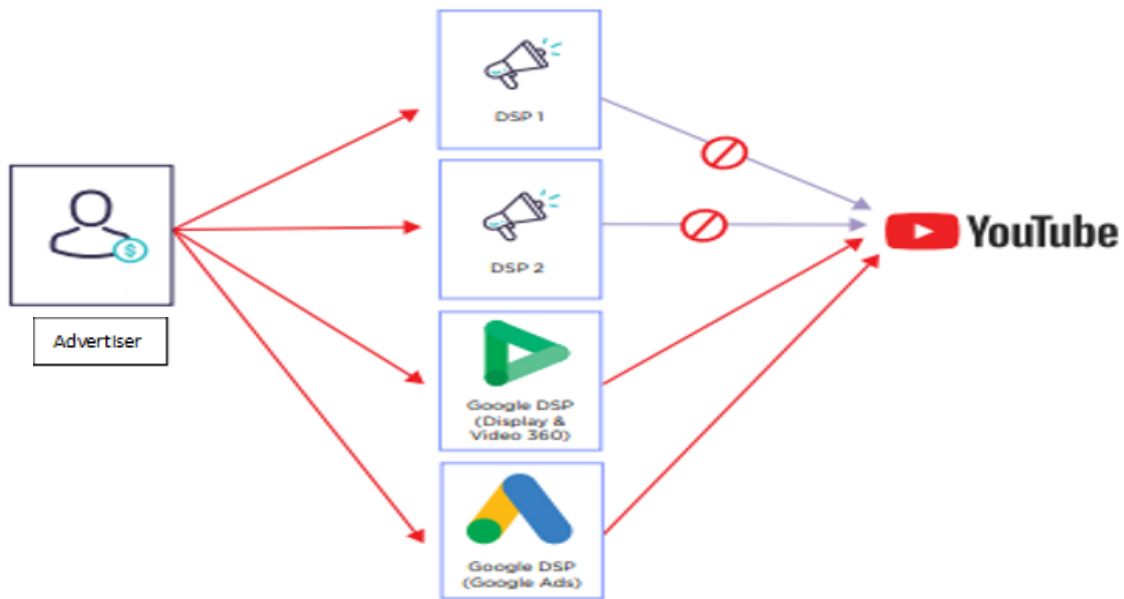
- Google claims privacy concerns to justify its prevention of third party DSPs from buying YouTube inventory, access to YouTube inventory is important for many advertisers but as of 2016, YouTube inventory can be bought programmatically by means of Google's ad purchasing solutions called Google Ads and DV360 (...),
- Google makes use of YouTube's dominance in order to prevent competition in ad technology services in different ways; as of 2015, advertisers have to use one of Google's DSPs (DV360 or Google Ads) to purchase an ad inventory in YouTube; before 2015, it was possible to purchase YouTube inventory by means of Google's ad exchange; tying YouTube inventory with its DSPs, Google forecloses competing DSPs; because of Google's tying, advertisers wishing to buy YouTube inventory have to use Google's DSP instead of competing DSPs; moreover, advertisers who have bought ads in YouTube through one of Google's DSPs are encouraged to use Google's DSP to buy ad in another DSP (...).

(445) The CMA Report also states that advertisers can only buy YouTube ad inventory through ad tech supply chain (that means advertisers can only give ads on YouTube) by means of using Google's own DSP (DV 360)³²⁴ While YouTube inventory could be purchased by means of third party DSPs, Google terminated such access in 2015³²⁵. Since then, the only way to purchase YouTube ad inventory through ad tech supply chain is to use Google's own DSP. Within this framework, the relationship for accessing YouTube inventory in programmatic channel is shown in the table below:

³²⁴ 2020, p.280.

³²⁵ JEON, D.S. (2021), "Market Power and Transparency in Open Display Advertising - A Case Study", Expert Group for the Observatory on the Online Platform Economy, p.17-18.

Table 24: The Availability of YouTube Inventory in Ad Tech Supply Chain



Source: ACCC (2021), p. 95.

(446) Apart from ad tech supply chain, advertisers can purchase ad inventory by means of agreements with Google representatives or exclusive YouTube business partners who operates premium YouTube channels and are approved by Google to sell ad inventory in YouTube contents. In addition, according to ACCC's observation, the share of ad inventory purchases through direct agreements in total YouTube ad inventory purchases is small³²⁶.

(447) Many advertisers do not prefer this alternative method to buy YouTube inventory. First, if advertisers want to benefit from all advantages of programmatic advertising, this method is not appropriate because the transaction is made outside ad tech supply chain. Moreover, since advertisers have to contact a Google representative or YouTube business partner directly to access YouTube ad inventory, it is not practical.

(448) Publicly available information shows that the inventory volume sold through those alternative channels is relatively small. Therefore, purchases through the said methods are more difficult compared to purchases through Google's DSPs and may cause higher costs for many advertisers. For instance, purchasing YouTube inventory directly can take place for limited inventories such as

³²⁶ ACCC (2021), p. 95.

YouTube main page and pricing depends on “ad expenses pre-determined with higher cost commitments”. Therefore, the inventory purchasing method in question is preferable for a limited number of big advertisers. This means that many advertisers wishing to buy YouTube inventory have to buy one of Google’s DSP services³²⁷.

(449) It is possible that the restrictions for the purchase of YouTube inventory may limit rival DSPs’ ability to compete with Google. YouTube’s significance for advertisers encourage them to use Google’s DSPs. According to We Are Social 2022 data, there are 57.4 million YouTube users in Türkiye, which amounts to 67% of the total population. Thus, YouTube has a key role for advertisers because of the large consumer group it can reach.

(450) Not constituting a big part of general display advertising does not mean that YouTube is not an important inventory for advertisers. To sector shareholders’ opinion, YouTube is an important ad inventory.

(451) Regarding the importance of accessing YouTube ad inventory, one of the shareholders (...) said that advertisers can only access YouTube inventory and measure the efficiency of ads in this platform by means of Google ad tech services and this complicates gaining customers for competitors. (...) stated that Google Search and YouTube are essential platforms for advertisers where they must publish their ads, they can access this inventory only by means of Google’s services, which brings an outcome similar to the case where “all advertisers have to work with a single advertising agency”, allowing third party intermediary access to those platforms will ensure a fairer market structure. Similarly (...) also suggests that ability to access YouTube inventory through third party DSPs will be an important development for the sector.

(452) One of the important factors that distinguishes YouTube ads from other display ads and video ads is the unique access provided to consumers by ads through YouTube. This is because YouTube has a significant user network compared to other video ad sources. According to the answers in the survey to the question about which social media apps are used, Instagram is at the top with 55.1% followed by YouTube with 46.7%. This means that a considerable amount of

³²⁷ ACCC (2021), p.100.

consumers watch video ads on YouTube platform. Therefore, advertisers have to use Google's DSPs to offer programmatic video ads to this group.

(453) Another feature of YouTube inventory that is attractive for advertisers is that Google enables ad targeting by using the data coming from its services for consumers. Google uses first party data to target the ads in the services it owns and operates, including YouTube. This means advertisers can use Google's first party data over YouTube besides having a unique scale and access.

(454) ACCC Report states that some of the internal documents obtained show that it is accepted that YouTube is an important sales point/channel for Google's DSPs. The documents define a series of sales points for Google's DSPs and includes examples showing YouTube's importance³²⁸.

(455) Social media video advertising has limited impact on advertisers' DSP choice. Although the ad expenses in Facebook constitute an important part of the ad expenses in Türkiye, this does not make access to ad inventory in YouTube less important for most of the advertisers. Ability to use video ad inventory in social media platforms such as Facebook, Instagram, Twitter and Snapchat does not have an impact on advertisers while they are making a choice among DSPs for video ad inventory. This is because it is possible to reach video ad inventory in those platforms via any DSP including Google's DSPs³²⁹. This restricts the competitive constraint to be placed by other video ad inventory sources on Google's DSPs.

(456) Moreover, users' manner of interacting with the content and therefore displaying the ads in other social media platforms are different compared to YouTube. Because of those differences, it is less likely that video ads in those platforms might serve as a substitute for the video ads in YouTube. For instance, the video ads in Facebook and Instagram are generally not in-stream video ads³³⁰. In those channels, consumers can scroll and pass the ads they do not want to see. However, on YouTube, ads play at the start, during or after consumers watch the video and can be skipped only after the consumer watches for a specific time.

³²⁸ ACCC (2021), p. 97.

³²⁹ ACCC (2021), p. 97.

³³⁰ ACCC (2021), p. 97.

(457) As mentioned in section 2 of this report³³¹, video-based display advertising is different from other display advertising types from the perspective of sector players; therefore, there is a complementary relationship between two types rather than substitutability. Similarly, it is known that social media platforms are more advantageous than other display advertising channels because social media platforms provide detailed and various data such as users' pleasures, interests and relations with other users and users spend too much time on those platforms. Thanks to social media platforms, advertisers can benefit from new ad types such as ads that are made by social media influencers and can be accessed only through those platforms. Advertisers' spending to those platforms are increasing due to the said advantages. As a result, display advertising on social media platforms are different from advertising on other platforms.

(458) In addition to the assessments above about the features that distinguish YouTube from other display advertising channels, it should be noted that advertisers can multi-home on more than one DSP. It means that advertisers wishing to publish ads on YouTube has to use a Google DSP but can also use other DSPs to purchase other ad inventories.

(459) However, in practice, there are many factors encouraging advertisers to single-home on DSPs, including the difficulties in measuring and managing campaigns as well as the challenges in the management process for multi access. For these reasons, most advertisers use single DSP³³². One of the shareholders, (...), indicated the following statements: Most of the advertisers prefer to work with a single DSP to avoid frequency limitations between DSPs and inefficiencies in conversion measurement stemming from working with more than one DSP. As a result of this, advertisers only use Google's DSPs. Google's DSPs are also used for purchasing inventories other than YouTube inventory. in this way, Google has an unfair advantage against its competitors. (...) argued that advertisers generally do not use more than one DSP for one ad campaign because:

- In case advertisers use different DSPs for different inventories, they have to spare different budgets and take into account different systems for measuring ads' efficiency.

³³¹ See section 2.2.2.3.

³³² JEON, D.S. (2021), p.14.

- As different DSPs cannot work together for most of the time, they cannot know when they will reach the frequency limits and it will be difficult to guarantee the frequency limit.
- Advertisers will face increasing costs to manage more than one DSP and lose bargaining power as the expenses are divided among DSPs.

(460) Moreover, DSPs, including Google, offer incentives to encourage advertisers to spend money through their platforms such as bulk discounts. Advertisers who want to access YouTube inventory have two options in the way that single-home on Google’s DSP or using it as a primary DSP, if they multi-home.

(461) In fact Google’s DSPs are not the only party granting access to an exclusive ad inventory³³³. However, the exclusive ad inventories provided by other DSPs cannot mitigate the competition concerns stemming from Google’s restrictions on YouTube ad inventory. For instance, the DSP called Trade Desk is the only DSP to be used to access TikTok inventory. Amazon’s DSP provides exclusive access to Twitch. However, there are important differences between TikTok and Twitch inventory, and YouTube inventory³³⁴.

(462) First, while Trade Desks is the only DSP where TikTok ad inventory is available through display channels, TikTok ad inventory can be purchased by advertisers through “self-serve advertising” solution. Advertisers do not have such option for purchasing YouTube ad inventory³³⁵.

(463) Secondly, access to the ad inventory on Twitch is not as important as YouTube inventory for advertisers. Twitch is a live streaming video platform mostly covering video games; thus, appeals a narrower audience than YouTube. Furthermore, advertisers and other DSP providers do not say that TikTok creates a “must have” ad inventory³³⁶.

(464) As a result, stakeholders’ concerns about Google’s tying YouTube ad inventory with its own ad technology are mentioned in CMA and ACCC Reports. The said practice can raise more competitive concerns if advertisers prefer to work with a single DSP provider.

³³³ ACCC (2021), p. 98.

³³⁴ ACCC (2021), p. 99.

³³⁵ ACCC (2021), p. 99.

³³⁶ ACCC (2021), p. 99.

6.2.3. Competitive Concerns That May Arise Because of the way Google Directs The Demand Coming From Its DSPs to SSPs

- (465) Google’s directing the demands from its DSP services (*Google Ads* and *Google DV 360*) to its own SSPs may restrict rival SSPs’ ability to compete with Google’s SSPs³³⁷. (...) mentioned about the said concern within the scope of the sector inquiry. (...)’s statements within this framework are as follows: Google DSP prefers/prioritizes Google SSPs/ ad exchange for expenditures made on Google DSP. Therefore, the demand when publishers use Google SSP will be higher than the demand they can obtain by using other SSP. As a result, it is difficult for any publisher to choose an SSP other than Google SSP.
- (466) Google’s action to design its ad tech services in a way that directs high value bids from Google’s DSPs to Google’s SSPs is called “channeling demand”.³³⁸ By sending bids of lower value from its DSPs to non-Google DSPs, Google may reduce the possibility of winning bids or providing publishers as much revenue. This is particularly the case for *Google Ads*, which is considered by publishers to provide “must-have” advertiser demand³³⁹. According to ACCC³⁴⁰, while it is easier to access the demand from Google DSPs (*Google Ads* and *Google DV 360*), it is not possible to say that this clearly constitutes channeling.
- (467) When we look at the functioning of the system, when a user visits a website, the publisher ad server asks SSPs for bids and SSPs offer bids to DSPs. DSPs apply algorithmic selection process among advertisers for the ad inventory on the basis of advertisers’ ad campaign and visitors’ user data, and conveys the winning bids to SSPs. It is possible to define this process auction step among advertisers³⁴¹. At this point, it is likely that Google’s DSPs prioritize the bid requests from Google’s SSPs and send higher bids compared to third party SSPs. This may increase the incentives of publishers wishing to access the bids from Google’s DSPs to use Google’s SSPs.
- (468) However, Google argues that the claims that third party SSPs cannot access *Google Ads* demand in real time are not true; third party SSPs can reach *Google*

³³⁷ LATHAM O., M. HERVE, R. BIZET (2021), p. 7.

³³⁸ ACCC (2021), p. 101.

³³⁹ CMA (2020), p. 283.

³⁴⁰2021, p. 101

³⁴¹ GERADIN D. and D. KATSIFIS (2019), p.73.

Ads demand for targeting purposes and advertising campaigns³⁴². Although it is technically possible that Google Ads demand can be accessed by third party SSPs³⁴³, ACCC's data analysis shows that in practice Google Ads demand is not available through these SSPs to a comparable extent; most of the demand from Google Ads is directed to Google's SSP³⁴⁴. CMA has found that most of the demand from Google Ads is directed to AdX, the total volume of displays gained by Google Ads by means of AdX is a few times higher than the displays gained by means of third party SSPs³⁴⁵. Similarly, data analyzed by ACCC shows that for a sample period in 2021, the overwhelming majority of Google Ads' winning bids on display inventory was directed to Google's SSPs and ad networks; some major SSPs did not receive any demand from Google Ads³⁴⁶. This indicates that demand from Google Ads is primarily provided by means of Google's SSPs and ad network and bids sent from Google Ads are much more likely to win auctions held on Google's SSP compared to auctions on third party SSPs.

(469) More importantly, many important publishers think that they can only access Google Ads demand through Google's SSPs. Google encouraged this in the past. For instance, previously, Google stated that its SSP allows publishers to connect their inventory to unmatched global demand online by saying "*Only [Google's SSP] connects you to millions of [Google Ads] advertisers plus a worldwide pool of top networks, trading desks and DSPs. Increase competition for every impression with unparalleled global demand*"³⁴⁷. Moreover, the French Competition Authority found that the competition advantage that other SSPs can have from accessing Google Ads demand because even if other SSPs can receive demand from Google Ads, Google Ads prohibits third party SSPs from informing publishers about this³⁴⁸.

³⁴² ACCC (2021), p. 101.

³⁴³ It is possible that third party SSPs can access Google Ads demand for certain targeting purposes because several advertisers attribute high value to targeting some inventories that are not available in Google's SSPs. In this case, Google's decision to allow Google Ads demand to be sent to third party SSPs may prevent these advertisers from switching to another DSP (ACCC 2021, p. 101).

³⁴⁴ ACCC (2021), p. 101.

³⁴⁵ CMA (2020), p. 284.

³⁴⁶ ACCC (2021), p. 101.

³⁴⁷ ACCC (2021), p. 102.

³⁴⁸ ACCC (2021), p. 104.

- (470) In programmatic display advertising, the ability to access Google Ads demand, which represents a large share of the demand accessible by SSPs is very important. Therefore ACCC states that access to Google Ads bids is a significant factor in a publisher's decision to use Google's SSP³⁴⁹. ACCC also points out that most of the smaller advertisers that have fewer sources to use a complicated DSP service single-home Google Ads; thus the only way for publishers to access demand from those small advertisers is to access the demand from Google Ads³⁵⁰.
- (471) Access to unique advertiser group who use Google Ads and increase in bid volume are very important for publishers because they increase the competition level for ad inventories. Access to this demand allows publishers to have higher bids for ad inventories or sell the inventories that they could not sell otherwise. Therefore, it is likely that publishers will use Google's SSP to reach Google Ads demand. This may cause publishers to single-home on Google's DSP or using it even if they multi-home. In this framework, access to Google Ads demand is likely to contribute to Google's strong position in terms of Google's SSP services and lessen the competition in SSP services market³⁵¹.
- (472) Google argues that looking at Google Ads alone is an artificial means of making an argument that Google pushes the demand to its own ad exchange for anticompetitive reasons and this perspective ignores the fact that Google offers Display&Video 360, which is specifically designed to buy ad inventory from many SSPs and many advertisers use this product³⁵².
- (473) However, according to ACCC, the fact that Google's other DSP service Display&Video 360 can be used through third party SSPs does not remove the competitive disadvantage for other SSPs stemming from not having full access to Google Ads demand because the demand from that source is unlikely to substitute the demand from Google Ads for many publishers³⁵³. Depending on the data analysis and feedback from shareholders, ACCC states that it is unlikely that Google Ads users will also use Display&Video 360 and it is easier to access

³⁴⁹ ACCC (2021), p. 102.

³⁵⁰ ACCC (2021), p. 103.

³⁵¹ ACCC (2021), p. 103.

³⁵² ACCC (2021), p. 103.

³⁵³ ACCC (2021), p. 103.

the demand from Google's other DSP, Display&Video, through Google's SSP, although to a lesser extent, than accessing the demand from Google Ads.

6.2.4. Competitive Concerns That May Stem from the Relationship between Google's Publisher Ad Server and its SSP.

(474) Another possible competitive concern in the market is that Google may use its publisher ad server to prefer its own SSP in time. In this case, publisher ad server is the ultimate determiner of the ad to be published. As Google's SSP is among the participants of the auction, if Google's publisher ad server prefers Google's SSP, the outcome may be in favor of Google's SSP and to the detriment of publishers who use Google's services and third party SSPs. One of the shareholders who were asked for opinions, (...) mentions about their concerns that Google's publisher ad server gives preference to Google's SSP in ad technology services.

(475) As a result of the recent changes in Google's functioning in ad tech auctions, the said action raises less competitive concerns compared to the past. However, due to cumulative effects of such actions, while other SSPs' ability to compete is restricted, Google may give competitive advantage to its SSP and reduce the competition in SSP services market. In fact, Google is the leader in publisher ad server market with DoubleClick. According to the information given by shareholders, as of 2021, Google's market share as publisher ad server in Türkiye is between 90% and 100%.

(476) The assessment about Google in terms of those concerns can be discussed under the scope of two points:

- Google's introducing Dynamic Allocation at the end of 2000s and the changes made to this system in 2014 and
- Google's refusal to participate in header bidding technology developed by the sector in 2015

6.2.4.1. Advantages of Dynamic Allocation for Google

(477) At the end of 2000s, Google's publisher ad server implemented a function called Dynamic Allocation and Google made changes to this function in 2014. How this

function can restrict third party SSPs' ability to compete with Google's SSP is explained below³⁵⁴.

(478) As discussed in section 3³⁵⁵, before Dynamic Allocation was implemented, publishers sold ad inventories by means of "waterfall" method on publisher ad server. Basically, waterfall method enables publishers to work with more than one SSP and in this way publishers avoid the risk of not selling ad inventory by depending on a bid from single SSP³⁵⁶. In this method, publisher ad servers determine a base price for ad inventory and list bids from other SSPs according to "estimated income potential". Assessing the bids from SSPs in order, the publisher ad server publishes the ad that surpasses the base price. On the other hand, the system has led to inefficiency because it prevents SSPs from competing simultaneously³⁵⁷.

(479) At the end of 2000s, Google's publisher ad server stopped working in this way and introduced a new system called Dynamic Allocation. Within the scope of this system, Google's publisher ad server allows Google's SSP to send real-time bid outside its normal turn in the waterfall process by receiving estimated bids for each SSP (according to past bids) and sending the highest estimation to Google's SSP as a base price. Google's SSP wins as long as it is willing to offer a bid 0.01 TL higher than the base price. In fact, SSPs do not have the chance to compete with each other simultaneously in this method because, as stated, publisher ad server determines the expected bids as base price not the real bids from non-Google SSPs. Moreover, in this method, no other SSP has the same privilege given to Google's SSP and other SSPs are called for bidding only when Google's SSP cannot win ad impression.

(480) In 2014, Google not only continued to offer simultaneous bids but also implemented Enhanced Dynamic Allocation technology, which is applicable for also direct agreements. In this method, Google's publisher ad server takes all the prices of direct agreements and estimated bids of third party SSPs and determines the direct agreement with the highest price or estimated bid as the

³⁵⁴ ACCC (2021), p. 105.

³⁵⁵ See section 3.3. of the Report

³⁵⁶ GERADIN, D. and D. KATSIFIS (2019), p. 75-76.

³⁵⁷ HOPPNER T., M. VOLMAR and P. WESTERHOFF (2021), "Online Advertising: The French Competition Decision on Google's Self-Preferencing in Ad Tech", *Concurrences eCompetitions* Sep 2021 II, p. 6-7.

base price. Third party SSPs can win ad impression if their estimated bids are higher than the prices in direct agreements and Google's SSP has not offered a bid. However, Google's SSP may make an auction to show a simultaneous bid to exceed the base price.

(481) Although Google's Dynamic Allocation method solves some inefficiencies in waterfall process, it gave unique advantages to Google's SSP compared to its competitors by allowing it to give real-time bids while other SSPs were not allowed to³⁵⁸. In other words, the said systems have the potential to limit the competition between SSPs in Google's publisher ad server to the benefit of Google's SSP and to the detriment of publishers and competing SSPs:

- (i) Within the scope of Dynamic Allocation, Google allows its SSP to give bid on a real time basis before any other SSP is called by its publisher ad server.
- (ii) Within the scope of Enhanced Dynamic Allocation, Google gives both its SSP and third party SSPs the opportunity to potentially win impressions against direct agreements but only allows its SSP to submit a real-time bid.

(482) Google's publisher ad server has introduced those functions, which has given Google's SSP the opportunity to bid and thus win more ad impressions compared to other SSPs in Google's publisher ad server. This unique advantage is likely to restrict third party SSPs' ability to compete with Google's SSPs.

(483) In *Google Ad Tech* decision³⁵⁹ the French Competition Authority found that even after Enhanced Dynamic Allocation is launched, Google's SSP is the only SSP that can bid for each ad impression and other SSPs are only called as long as Google's SSP has not offered a bid for the relevant base price, Google's publisher ad server abuses its dominant position by always applying convenient conditions to Google's publisher ad server compared to third party SSPs³⁶⁰.

(484) ACCC states that Google's introduction of Unified Auction in 2019 changed the way Google's publisher ad server functions, reducing the advantages given to Google's SSP under Dynamic Allocation and Enhanced Dynamic Allocation. On

³⁵⁸ ACCC (2021), p. 105.

³⁵⁹ ADLC's decision no 21-D-1

³⁶⁰ HOPPNER T., M. VOLMAR and P. WESTERHOFF (2021), p. 10-11.

the other hand, it is likely that the advantage provided to Google's SSP by Google's publisher ad server from the end of 2000s to 2019 contributed to Google's strong position in the supply of SSP services³⁶¹.

(485) In 2015, publishers adopted the technology called "header bidding" that gives other SSPs the opportunity to send bids to compete real-time with other SSPs for the inventory for increasing competition in terms of ad inventories. However, Google did not support this technology. As a result, while publishers use header bidding, Google's SSP had a unique last look advantage compared to other SSPs³⁶².

(486) Launching header bidding means that third party SSPs can compete more for publishers' ad inventory. Unlike the waterfall process where SSPs are called in order, publishers benefit from all selected SSPs competing simultaneously in a single auction. This means that the SSP with the highest real time bid can win the ad impression almost always instead of being beaten by an SSP that is on upper ranks in waterfall ranking but has a lower real time bid.

(487) Therefore, header bidding has led to solving the inefficiencies regarding waterfall process and increase in many publishers' revenues per ad inventory sold. On the other hand, Google's decision to not to participate in header bidding can mean that Google's publisher ad server continues to be more advantageous than competing SSPs.

6.2.4.2. Google's "Last Look" Advantage in Header Bidding Process

(488) In header bidding auction, while all other SSPs are competing simultaneously, first, heading auction is made and the winner is sent to publisher ad server³⁶³. However, if Google's publisher ad server is used, the winner in header bidding process is used in the calculation of the base price sent to Google's SSP as a part of Enhanced Dynamic Allocation feature³⁶⁴. This advantage is called Google's "last look advantage". The information Google gathers about header bidding allows Google to make a lower bid than it would if it directly competed with other SSPs through header bidding and did not see the bids. Moreover, this allows

³⁶¹ ACCC (2021), p. 109.

³⁶² CMA (2020), p. 285-286.

³⁶³ HOPPNER, T., M. VOLMAR and P. WESTERHOFF (2021), p. 7.

³⁶⁴ GERADIN D. and D. KATSIFIS (2019), p. 78-79.

Google's SSP to get ahead of third party SSPs with marginal bids³⁶⁵. Knowing the bid of the winner SSP during the heading process, Google's SSP pays only 0.01TL more to win the ad impression. With the last look advantage, Google makes use of the increased competition among SSPs via header bidding.

(489) Google claimed that it no longer had a last look advantage after introducing "Unified Auction" in 2019. However, as explained in the next title, the said feature is not sufficient to eliminate Google's privileged position vis à vis third party SSPs³⁶⁶.

6.2.5. Competitive Concerns that May Stem from the Auction Rules in Google's Publisher Ad Server

(490) As mentioned in section three³⁶⁷ Google used to make an auction among DSPs that offered bids to its own SSP and then among SSPs that offered bids to the Auction in its publisher ad server until 2019. However, it combined those auctions in Unified Auction in 2019³⁶⁸.

(491) The first example of the concerns that Google might abuse its power on publisher ad servers to favor its own services is the fees it charges from third party SSPs. In the Auction, which is a part of the Unified Auction, Google's publisher ad server takes a commission fee by between 5% and 10% of the winner bid from publishers if a third party SSP wins the auction. In the Auction, third party SSPs compete according to their net bids. In other words, Google's commission fee varying between 5% and 10% is not included in the bids. However, the bids given through Google's SSP compete depending on DSP's real bid. In this case, third party SSPs must offer a bid about 5-10% higher than Google's SSP in order to win. Moreover, SSPs participating in the Auction are banned from including bids coming from their own DSPs³⁶⁹ whereas Google's SSP can assess bids coming from its DSPs. This may cause Google's SSP to gain competitive advantage against third party SSPs³⁷⁰.

³⁶⁵ CMA (2020), p. 285.

³⁶⁶ ACCC (2021), p. 114.

³⁶⁷ See sections 3.3.3. and 3.3.4. of this Report.

³⁶⁸ ACCC (2021), p. 119.

³⁶⁹ HOPPNER, T., M. VOLMAR and P. WESTERHOFF (2021), p. 15.

³⁷⁰ ACCC (2021), p. 120-121

- (492) Second example of likely concerns is that while Google’s publisher ad server gives “minimum bid to win” information to Auction participants, header bidding participants are not provided with such information. Minimum bid to win information informs the unsuccessful SSPs how much they must bid to win the auction and winner SSPs the lowest bid they can give to win³⁷¹. DSPs consider that this information is a valuable input for building their future bidding strategies. It is stated that the advantage obtained through the said information is nearly the same as the last look advantage mentioned in the previous section³⁷².
- (493) Minimum bid to win information is provided only to DSPs who bid to Google’s SSP and third party SSPs who participated in the Auction. SSPs who win the auction via header bidding method are not provided such information. In this framework, not providing the said information to all participants equally may put SSPs participating in header bidding auctions at a disadvantage compared to SSPs participating in the Auctions. This may encourage the shareholders to prefer the ad tech providers included in Google services (Auction) instead of parties using header bidding. Moreover, SSPs may prefer to join Google’s Auction instead of header bidding in order to have the said information.
- (494) Under current conditions, “minimum bid to win” information is provided only to DSPs who give bid to Google’s SSP. This distorts DSPs’ decision process about bidding and may direct them to bid to Google’s SSP instead of third party SSP. Some DSPs who gave opinion to ACCC say that minimum bid to win information enables them to optimize their auction strategies.
- (495) Third example of likely concerns is that publishers can set a floor price in Unified Open Bidding process. Before this process, publishers were able to set different floor prices for different DSPs for auctions made in Google’s SSPs and other SSPs in Open Bidding³⁷³. For instance, a publisher may set the floor price as 1 TL for SSP1 and 1.05TL for SSP2 to check different winning amounts and win maximum revenues³⁷⁴. In this context, some shareholders emphasize their concerns that Unified Open Bidding rules reduce publishers’ flexibility to

³⁷¹ ACCC (2021), p. 122.

³⁷² HOPPNER, T., M. VOLMAR and P. WESTERHOFF (2021), p. 13.

³⁷³ CMA (2020), p. 287.

³⁷⁴ HOPPNER, T., M. VOLMAR and P. WESTERHOFF (2021), p. 14.

manage their inventories. Publishers think that they need to set high floor prices for strong bidders in order to maximize their revenues. CMA states that the motivation behind Google’s internal documents is to increase Google SSP’s competitive power even if the said rule is not a strict case of self-preferencing because it urges publishers to treat all SSPs and DSPs in the same way³⁷⁵. This is because before the changes, publishers were setting higher floor prices for Google than other demand sources. Setting different floor prices for different demand sources may be used to limit bid shading by DSPs that have a larger advertiser mass or an advantage in terms of user data; to reward their partners whom they are working with for a long time and to disadvantage lower quality demand partners³⁷⁶.

(496) Google suggests that Unified Bidding Rules is a “non-discriminatory approach that means all auction buyers compete based on the same price floor” and that allowing different floors may cause that a bidder with a higher valuation could lose against a bidder with a lower valuation. Google also argues that “publishers could use discriminatory floors to take advantage of self-competition to inflate bids”³⁷⁷.

(497) However, ACCC states that under current conditions, although the percentage of the impressions won by Google’s SSP has increased, publishers do not see corresponding changes in the percentage of the revenues from Google as they cannot set different floor prices for different SSPs and Google can win most of the available ad inventories with lower bids³⁷⁸.

(498) Lastly, ACCC states that Google prevents third party DSPs from bidding for Open Bidding inventory through vertically integrated SSPs, an ad tech provider wishing to reach Open Bidding inventory through its SSP must eliminate all bids from its DSP before bidding to Open Bidding; an SSP with a DSP can only send bids from its DSP through third party SSPs³⁷⁹. Accordingly, ACCC thinks that due to the said restrictions on vertically integrated ad tech providers who wish to buy the ad inventory offered via Google’s Open Bidding, vertically integrated

³⁷⁵ CMA (2020), p. 287.

³⁷⁶ CMA (2020), p. 287.

³⁷⁷ ACCC (2021), p. 124.

³⁷⁸ ACCC (2021), p. 124.

³⁷⁹ ACCC (2021), p. 125.

rivals may not benefit fully from the advantages arising from vertical integration³⁸⁰.

6.2.6. Concerns that the Ads on YouTube cannot be Verified or Measured by Independent Service Providers

(499) In addition to the concerns mentioned above, the shareholders in the sector have pointed out the following:

- Due to Google's policy, undertakings cannot place a code on YouTube, in other words, the software code serving for the measurements by ad servers cannot be added to ads, Google only allows Doubleclick [which is in its economic unity]³⁸¹(...),
- Undertakings offering independent impression and verifying services since 2018 are currently not able to monitor users in YouTube independently. YouTube data can only be accessed by using a similar API controlled by Google and as a result Google can re-filter the information it submits; puts only aggregated data and certain metrics into use. Since there is no access to raw data, no third party can verify the efficiency of YouTube ads independently. Due to this unclarity, they might not be able to offer their ads by comparing their efficiency with Google's ads and thus Google might charge excessive prices and prevent competition (...).

(500) Advertisers use ad tech tools to make ad campaigns. There are four basic stages of an ad campaign:

- **Target:** Deciding on a strategy to find the right consumer group for the ad campaign and collecting targeting information for that group.
- **Bid:** In order to place an ad at a right time and right place, taking publishers' bid about ad techs, applying targeting data to consumers, determining the value of ad opportunity and making a bid of a convenient price.
- **Measurement and monitoring:** Using the ad data to measure the basic features of an ad area purchased such as ad viewability, ad loading time

³⁸⁰ ACCC (2021), p. 125.

³⁸¹ Emphasize added by the rapporteurs.

or negative outcomes including the placement of the ad on an unreliable content for the brand (for instance an extremist forum) or ad fraud.

- **Analysis of user interaction:** The stage of identifying which ads consumers see and which ads lead to “conversion” (for instance a desired result such as a purchase). The aim of this stage is value the completed work, to show the returns of investment and minimize showing too frequent or rare ads to the same consumer.

(501) “Measurement and monitoring” and “Analysis of user interaction” stages involve the use of certain analysis tools to monitor feedback after the ad is shown to the consumer. The data used and the analysis made in these two last stages are returned to other ad tech tools to improve planning and purchasing processes for future transactions.

(502) The third phase of the ad campaign, measurement and monitoring, is about evaluating the ad’s efficiency. Within this framework, it covers measuring technical (that means not relevant to consumers) ad data and monitoring negative results. The following tools are used in this phase:

- **Measurement Tools:** They measure and analyze an ad’s publishing data. In addition to viewability, measurements regarding bid prices, the speed of an auction, auction process and other data points concerning ad delivery are included in this analysis.
- **Monitoring Tools:** This phase is about watching ads to avoid negative results. Monitoring tools focus on brand reliability and taking measures against ad fraud³⁸² (for instance showing the ads to a real consumer not a bot). Advertisers’ ad servers work with tools which fight with fraud and offer verifying services to make sure that an inventory with high quality and free of fraud has been purchased.

(503) “User interaction analysis tools” is the fourth stage of an ad campaign. This stage is associated with two processes: frequency limit and association:

³⁸² Ad fraud is any revenue gained from online advertising fraudulently. These revenues can be obtained illegally from ad impressions to bots, fake ad clicks and fake app downloads, etc. Advanced ad fraud imitates human behavior or seizes real computers and devices to make non-human traffic and clicks. It is very difficult to detect. Tools fighting with ad fraud help advertisers optimize ad expenses and reduce waste.

- **Frequency limits:** They are used to maximize the investment revenue of an advertiser. Advertisers monitor and check how many times an ad is shown to the consumer and avoid the cases where an ad is shown too many or too few times.
- **Attribution:** This process involves monitoring what consumers do after they are subject to an ad. All contact points about ads, in other words, any moment when a user meets an ad in any way is monitored to this end. Attribution also covers monitoring conversions, that is, revenue generating consecutive actions such as subscriptions and product sales.

(504) Advertisers need verifying and attribution services to evaluate the quality and price of the DSP they use and ad inventory they have purchased. The reliability and transparency of those services are important for them. ACCC emphasizes that advertisers seem to be able to verify the quality of DSP services they use but Google's services are exceptional. There are two important issues here: i) Google restricts the verification of YouTube inventory and ii) Google restricts the access to the data needed for attribution services.

(505) It is understood that there are concerns that Google has restricted advertisers' ability to evaluate independently of the quality of YouTube inventory and Google's DSPs by eliminating access to raw verification data in YouTube inventory. The shareholders' arguments are as follows: Before 2018, advertisers could use third party verification service providers to directly collect raw verification data about the ads shown on YouTube; those providers could place verification tags or pixels and analyze the information they collected by using those tags to make reports for advertisers.

(506) However, later, Google imposed restrictions preventing advertisers from using third party verification providers to verify Youtube ads completely and independently and removed the feature of using their own pixels and tags to collect raw data in an ad for third party verification providers. Therefore, it is understood that independent viewability and verification service providers cannot monitor users on YouTube independently.

(507) In addition, according to (...), those providers can only access YouTube data by using a similar API controlled by Google and as a result Google can re-filter the information it submits. Within this framework, Google puts into use only

aggregated data and certain metrics. Thus, third parties who do not have access to raw data cannot verify the efficiency of the ads on YouTube independently. Due to this unclarity, competitors are concerned that they might not be able to offer their ads by comparing their efficiency with Google's ads and compete thus Google might charge excessive prices and prevent competition.

6.2.7. Decisions and Investigations Taken Abroad About Google's Tying and Self-preferencing Practices

(508) The aforementioned concerns have been addressed by many competition authorities abroad. Decisions and investigations by competition authorities about Google's self-preferencing in terms of ad tech services are given below.

European Commission

(509) The Commission announced that it opened an investigation on 22.06.2021 to assess whether Google violated EU antitrust rules by favoring its own online display advertising technology services to the detriment of competing ad tech service providers, publishers and advertisers³⁸³. It was stated that the investigation would notably examine whether Google distorted competition by restricting third parties' access to user data on websites and apps for advertising purposes while reserving such data for its purposes. Emphasizing that the investigation would focus on display advertising where Google offers a number of services to both advertisers and publishers, the announcement listed the behavior that would particularly be examined:

- The obligation to use Google's DV360 and/or Google Ads to purchase online display advertisements on YouTube,
- The obligation to use Google Ad Manager to serve online display advertisements on YouTube and potential restrictions placed by Google on the way in which services competing with Google Ad Manager are able to serve online display advertisements on YouTube,
- Favoring of Google's ad exchange "AdX" by DV360 and/or favoring of DV360 and/or Google Ads by AdX,

³⁸³https://ec.europa.eu/commission/presscorner/detail/hu/ip_21_3143, Accessed: 02.12.2022.

- The restrictions by Google on the ability of third parties such as advertisers, publishers or competing online display advertising intermediaries to access data about user ID or user behavior that can be used by Google's own advertising intermediation services, including Doubleclick ID,
- Google's plans to prohibit the placement of third party cookies on its web browser Chrome and replace them with Privacy Sandbox tools,
- Google's plan to stop making the advertising identifier available to third parties on smart mobile devices with its mobile OS Android when a user deactivates personalized ads and the effects of this plan on online display advertising and online display advertising intermediation markets.

United Kingdom Competition Authority

(510) On 25.05.2022, CMA opened an investigation about Google into suspected anticompetitive conduct in online ad techs services market³⁸⁴. CMA announced that it would examine three basic services in this chain, being DSP service, ad exchange service and publisher ad server service. According to the announcement, the following concerns would be assessed in particular:

- Whether Google limited the interoperability of its ad exchange with third party publisher ad servers and/or made it difficult for rival ad servers to compete by contractually tying those services together and
- Whether Google used its publisher ad server and DSPs to illegally favor its own ad exchange services to exclude the services offered by rivals.

French Competition Authority

(511) French Competition Authority (*Autorité de la Concurrence-ADLC*) imposed fines to Google for favoring its own services in the online advertising sector³⁸⁵. The investigation showed that Google's DFP ad server favored its SSP AdX and its SSP AdX favored its ad server DFP. The decision states that first Google's DFP ad server favored AdX bidding platform by particularly indicating the price offered by competing SSP platforms. AdX used this information to optimize the

³⁸⁴<https://www.gov.uk/cma-cases/investigation-into-suspected-anti-competitive-conduct-by-Google-in-ad-tech>, Accessed: 25.01.2023.

³⁸⁵<https://www.autoritedelaconcurrence.fr/en/communiqués-de-presse/autorite-de-la-concurrence-hands-out-eu220-millions-fine-Google-favouring-its>, Accessed: 30.01.2023.

bidding process which it implemented by varying the commission received from impressions sold according to the intensity of competition. Secondly, it is stated that Google imposed technical and contractual limitations on the use of AdX platform through a third party ad server.

(512) Another practice examined within the framework of the decision is that Google implemented a predatory strategy by offering DFP at a very low cost and often for free. According to the assessments in the decision, DFP service revenues cover its costs at the global level and prices charged in AEA are very similar to the prices at the global level. Moreover, no evidence in the file showed that Google pursued a predatory strategy with regard to this service.

(513) Another complaint addressed in the decision is related to Google's use of its vertical integration in the advertisement technology ecosystem and the opacity of its contracts and services to generate undisclosed margins for publishers and advertisers. However, it is stated in the decision that the method used by AdX for calculating revenue sharing is an industry standard. On the basis of the evidence presented, the lack of transparency regarding Google's margins does not have a causal link with anticompetitive effects.

(514) As a result of the investigation, Google offered commitments to remove the competitive concerns, which aims to offer third party SSPs a way to interoperate with DFP server and allow competition on the merits between AdX and third party SSPs for buying inventory from publishers using DFP.

(515) ADCL considered that the commitments offered by Google will make Google comply with the law and improve the competitive functioning of the market for ad servers and SSP platforms. Therefore, the commitments were made mandatory for a period of three years from the notification of the decision or from their actual implementation date where appropriate.

Investigations and Cases in US

(516) On 11.09.2019, attorney generals from Columbia region and Porto Rico started an investigation in 48 states into whether Google abused its dominant position

in digital advertising by means of search results³⁸⁶. The said investigation focused on Google's dominance and use of consumer data in ad market.

(517) On 16.12.2020, 10 states in US District Court Eastern District of Texas filed a complaint about Google³⁸⁷. The subject of the complaint was basically Google's tying practices in display advertising market, exclusionary practices and its agreement with Meta to fix prices and allocate market.

(518) The claims in the complaint are as follows:

- Google forces publishers to license its ad servers and user its Ad exchange.
- Google uses its control over publishers' inventory to block competition among ad exchanges.
- Google wants to end Header Bidding, which promotes ad exchange competition and Meta helps Google with an unlawful agreement (Jedi Blue agreement).
- Google forces market participants to make their transactions through Google's tools.
- Google forces advertisers to use its ad buying tools.

(519) The case was combined with other cases brought in Eastern District of New York about Google's ad technology in August 2021. Google objected to the complaint but its objection was rejected to a large extent except the part related to Jedi Blue agreement. It was decided that the article of the complaint regarding Jedi Blue agreement would be rejected.

(520) Another case in the US is based on a complaint of a tour agency about Google dated 27.05.2020. Within this framework, it was argued that Google restricted competition in the market by means of acquiring its competitors, obliging the purchase of its different display advertising services to access data about search results and YouTube video ad platform and making those systems incompatible with the services of its competitors in online advertising market. The said case was combined with the ongoing cases related to Google in District Court of Eastern Texas.

³⁸⁶ <https://www.cnbc.com/2019/09/09/texas-attorney-general-leads-Google-antitrust-probe.html>, <https://www.cnbc.com/2019/11/14/states-Google-antitrust-probe-to-expand-into-search-android-businesses.html?&qsearchterm=FTC%20Google>, Accessed: 01.02.2023.

³⁸⁷ https://content.mlex.com/Attachments/2020-12-16_3BBOS9NWM9HN32D4%2F1-main.pdf, Accessed: 26.01.2023.

(521) Lastly, in the investigation initiated by DOJ and eight attorney generals on 24.01.2023 with the claim that Google unlawfully monopolized online advertising market³⁸⁸, the following allegations are examined:

- Google restricted competition in online advertising market by grasping the control of ad tech tools used to facilitate online advertising, operating in every segment of online advertising market, Google uses anticompetitive, exclusionary and illegal tools to protect its dominance over ad tech,
- Google ties its ad exchange AdX and publisher ad server DFP illegally,
- Google prevents fair competition by making advertiser requests from Google Ads peculiar to its ad exchange AdX,
- Google makes real time bids of its ad exchange AdX peculiar to its own publisher ad server,
- In order to ensure that higher value transactions are made via its ad exchange, Google uses its power over publisher inventory.
- Google manipulates fees to keep more valuable impressions.
- Google prevents competition by acquiring its emerging rivals.
- In order to prevent partnership between publishers and its rivals, Google manipulates Google Ad's bidding strategy.

Australian Competition Authority

(522) ACCC started a probe against Google alleging that Google mislead consumers and expanded the personal data it can collect and combine about internet activities. In June 2016, Google made changes that allowed the combination of personal data in Google accounts with the information obtained from non-Google websites, which used Google's technology if a consumer clicked "I agree". ACCC, alleged that Google did not inform consumers properly about this change and did not get their explicit consent. It was stated that with this change data about internet activities outside Google became associated with other information kept by, Google then Google used that information to improve its commercial performance in advertising. However, the Federal Court rejected ACCC's proceedings finding that Google did not mislead consumers. The Court found that the notification and the changes in privacy policy were not misleading

³⁸⁸ https://content.mlex.com/#/content/1444840?referrer=relatedportfolio_open, Accessed: 01.02.2023.

because Google sought account owners' consent to implement the changes and the practices leading to concerns were realized only with the informed consent of consumers³⁸⁹.

(523) Apart from those, ACCC ended its 18-month sector inquiry about online advertising services on 28.09.2021. As a result of the Report, ACCC has found that Google uses its dominant position in important parts of the ad tech supply chain to favor its services and be protected from competition. Google provides a significant advantage to its ad tech services by preventing rival ad tech services from accessing the ads on YouTube. Moreover, the lack of competition in the sector causes higher prices in ad tech services and higher costs for publishers and advertisers. Following the sector report, in June 2022 ACCC initiated investigations about Google's conduct related to ad techs and search distribution practices³⁹⁰.

Portuguese Competition Authority

(524) Portuguese Competition Authority opened proceedings on 17.05.2022 about Google upon the claim that Google abused its dominant position³⁹¹. The proceedings focused on allegations about Google's self-preferencing behavior at various stages of ad services chain. Portuguese Competition Authority stated that there were indicia that Google used the information not accessible by competitors on online advertisement auctions to change the outcome of those auctions to its favor and limited the development of rival competition auction technologies. The investigation was transferred to the Commission on 06.09.2022 and it is currently conducted by the Commission.

³⁸⁹<https://www.accc.gov.au/media-release/correction-accc-alleges-google-misled-consumers-about-expanded-use-of-personal-data>,
<https://www.accc.gov.au/media-release/court-dismisses-accc-case-against-google>, Accessed: 01.02.2023.

³⁹⁰ <https://content.mlex.com/#/content/1420222> Accessed: 01.02.2023.

³⁹¹https://extranet.concorrenca.pt/PesquisAdC/PRC_OR_INC_OR_PCC_Page.aspx?isPrint=True&IsEnglish=False&Ref=PRC_2022_4,
https://www.concorrenca.pt/sites/default/files/processos/prc/AdC-PRC_2022_04-Decisao-VNC-final-net.pdf, MLex | Google's Portuguese antitrust probe moves to EU Commission, AdC says, Accessed: 01.02.2023.

(525) In addition to the abovementioned investigations, there are other investigations addressing Google's behavior and data policies in ad tech services market in different countries such as Canada and Italy, which are still in progress³⁹².

6.3. Concerns that may stem from Google's Data Combining Practices

(526) Google has huge amount of consumer data coming from various sources to make inferences about products and services that are likely to be purchased and to create detailed super profiles of consumers. There is a series of sources supporting Google's data advantage, which is summarized below:

- First, since Google has a wide range of services for consumers, it accesses high-quality first party data in large amounts. Many of Google's services require that users should sign-in Google account; thus, Google has a reliable source of data about signed-in users.
- Secondly, Google has a wide network of followers in third party websites and apps.
- Thirdly, Google has access to several unique identifiers to identify and tie a user on different devices and log-ins including special access to DoubleClick IDs. This allows Google to monitor users through different services and ad tech supply chain.

(527) Moreover, while Google is expanding its activities in ad tech supply chain³⁹³, it is strengthening its data power at the same time. One of the most important acquisitions in this sense is Doubleclick takeover. This acquisition was authorized by the Commission in 2008. Seen as a milestone for the functioning of online advertising sector, it is considered to have changed online advertising ecosystem. Accordingly, the acquisition in question will be briefly mentioned.

(528) In Doubleclick decision, which is important in terms of data-based concerns, the Commission examined whether the combination of data owned by parties

³⁹²<https://www.canada.ca/en/competition-bureau/news/2021/10/competition-bureau-obtains-court-order-to-advance-an-investigation-of-Google.html>;
<https://en.agcm.it/en/media/press-releases/2022/7/A552>;
<https://en.agcm.it/en/media/press-releases/2020/10/A542>, Accessed:24.01.2023.

³⁹³ Google's important acquisitions in ad tech field are as follows: DoubleClick (April 2007) – publisher ad server and ad exchange; AdMob (November 2009) – mobile advertising technology; Invite Media (June 2010) – optimization; AdMeld (June 2011) – SSP; Adometry (May 2014) – analysis service.

would lead to foreclosure. According to the Commission, the provisions on the use of data in the contracts made by Doubleclick with customers prevent Google from having a competitive advantage. Because Doubleclick is prohibited from using the data it collects through DFA for other parties except the advertiser for whom it collects the data. The data collected by the publisher via DFP belong to the publisher. The Commission thought that although it is possible that advertisers might be urged to change contract provisions, advertisers do not have any interest in accessing other advertisers' data and having information about the pricing of ads in different websites. Therefore, if Doubleclick acts otherwise, in other words, deviates from being an impartial ad server, customers will switch to different servers, which reduces Doubleclick's incentive to this end. Moreover, even if there are contractual changes, many rivals have access to the said data and they can be collected from third party data collectors or internet service providers. In light of the said considerations, Commission cleared the transaction without conditions.

(529) On the other hand, Google has changed the situation contrary to what was foreseen in Commission's decision as its market power has increased. According to the information in the literature, in 2012, Google changed terms and conditions to combine DoubleClick data with the data coming from other business including Google Ad Exchange, general search and YouTube. In 2016, Google changed consumer privacy policy again and combined DoubleClick data and consumer data it obtained through other business³⁹⁴.

(530) Google's combination of data coming from publishers with other data to create users' super profiles may lead to "data leakage" and undermine publishers' incentive to invest in content. In May 2018, weeks before GDPR was put into effect, Google published updated terms and conditions about ad services. The conditions define Google as the common supervisor of data and requires publishers to get consent on behalf of Google; Google is turning into the actual supervisor of data with the ability to combine the data collected in publishers' websites with the data collected in the services it operates. CMA³⁹⁵ states that

³⁹⁴ SRINIVASAN, D. (2020), "*Why Google Dominates Advertising Markets*", Stanford Technology Law Review, Vol: 24, No: 1 p.61.

³⁹⁵ 2020, p.8

publishers think that they do not have bargaining power related to those changes.

(531) On the other hand, if Google uses those data in its walled garden and transfers to its intermediaries, it may favor them. In addition, hashing user IDs for all non-Google actors may strengthen the power coming from this data advantage. Google's data advantage is observed strongly in DSP layer (DV360 and *Google Ads*). Since one of the main functions of a DSP is to create a detailed profile based on big data and activate ad targeting, data advantage is more important on this layer.

(532) Therefore, Google has unequaled access to data; this data advantage helps Google's ad targeting and attribution services. Being an important input in terms of programmatic advertising, data is an entry barrier in front of competitors. ACCC³⁹⁶ highlights that data is critical for small competitors to compete effectively, competitors who cannot collect or purchase the necessary type and amount of data are at a disadvantage. Within this framework, data is a factor which reinforces incumbents' positions and affects growth in the market. Therefore, there are no substitutes for huge data sets kept by big digital platforms in the market.

(533) In its studies, OECD states that massive accumulation of personal information and intensive use of data analytics may enhance market power, lock-in consumers and raise barriers to entry. Issues such as whether the data is replicable, whether it can be collected from other sources, whether it is substitutable, how quickly it become outdated and how much data is needed for entry can be assessed³⁹⁷.

(534) The opinions of shareholders, who were asked for opinion within the scope of the sector inquiry, about Google's data combining are as follows:

- Google owns the two biggest and most visited websites in the world Google.com and YouTube.com. Since it has the most dominant DSP, SSP, ad exchange and publisher and advertiser ad servers as well as web analysis platform in the world and there are complementary relations among those, it has become the market leader in each of those categories.

³⁹⁶ ACCC (2021).

³⁹⁷ OECD (2016), "*Big Data: Bringing Competition Policy To The Digital Era- Executive Summary*", 126th meeting of the Competition Committee, p.4.

Due to those relations, Google can access search data of the most part of the world in DV360, which prevents other ad tech platforms from competing. The more data an ad tech service provider can reach, the more relevant results it can produce for consumers. Google can access various data from its different platforms including Google.com and YouTube.com. Because of this, consumers are less interested in other platforms providing advertisement intermediary services. No ad tech platform can compete with the ability of Google's DSP and ad server to access YouTube, which has the widest video ad inventory in the world (...).

- Also, Google uses the data it collects from its paid or free internet services in display advertising and operates in a way to target visitors anytime, anywhere. It can use this advantage against advertisers, publishers and competitors (...).
- Google's dominance in ad tech ecosystem depends on its ability to access lots of consumer data to target consumer mass in online advertising. Google is unmatched in terms of not only the volume of consumer data it has but also the methods and the frequency of data collection. Google can collect those consumer data because it makes the use of any of its services conditional on accepting "Privacy Policy". "Privacy Policy" conditions allow collection of a large amount of data about the users who use Google services. Google's view about which services constitute a Google service is very comprehensive and Privacy Policy allows combination of data among services. Most of the consumers do not give consent about collection of their data consciously and they are directed to collection of data at a maximum level through a series of "dark patterns" (...).
- Google can limit competitors' access to the data by including a vast amount of consumer data into its services and allowing its own ad tech to access the desired inventory and thus can strengthen its position in ad tech (...).
- Google collects data in increasing amounts but it can limit third-party access to data on privacy grounds and in this way it can protect its advantageous position based on data (...)

(535) Consequently, depending on the opinions/complaints from various country reports and shareholders in the sector, Google is in an unmatched position in terms of access to data as it provides complementary services and there are concerns that Google is using its advantage against its competitors by combining the data it accesses via different services.

(536) German Competition Authority's two investigations about Google address basically the concerns about data processing terms³⁹⁸. The aim of the first investigation is to determine the importance of Google for the competition among markets and analyze data processing conditions within the scope of the new act. The second investigation looks into Google's making the use of services conditional on giving consent to data processing and whether such data can be processed and whether users are given adequate options about how and with which aim they can be processed.

(537) German Competition Authority points out the following issues about the investigation into data processing conditions in its preliminary assessment:

- The Authority has reached the preliminary conclusion that users are not given sufficient choice as to whether and to what extent they agree comprehensive processing of the data across different services.
- The choices offered are not sufficiently transparent and too general.
- Thus, Google should change data processing conditions and the practices in question.

(538) According to the Authority's current assessment, sufficient choice requires that users must be able to limit data processing to the specific service used. In addition, users must be able to differentiate between data processing purposes. The choices offered to users must not be designed in a way that makes it easier for users to consent to data processing across services than not to consent to this.

(539) In our country, in Board's Facebook decision dated 20.10.2022 and numbered 22-48/706-299, it was decided that Meta distorted competition by complicating the activities of its competitors operating in personal social network services and online display advertising markets and creating barriers to entry to the market

³⁹⁸ https://www.bundeskartellamt.de/SharedDocs/Meldung/EN/Pressemitteilungen/2023/11_01_2023_Google_Data_Processing_Terms.html?nn=3591568, Accessed: 26.01.2023.

by means of combining data collected from Facebook, Instagram and WhatsApp services that are called core services and violated Article 6 of the Act no 4054; thus, the said undertaking shall be imposed administrative fines.

6.4. Transparency Problems in Ad Tech Supply Chain

(540) Advertisers and publishers must be able to make conscious choices about which services and servers they will use so that efficient competition is created in the provision of ad tech services. The ability of advertisers and publishers to make conscious choices depend on their ability to assess the factors concerning the services of ad tech providers such as price and quality. Lack of transparency in the functioning of the supply chain concerning the factors such as pricing, quality and process may complicate this assessment. Also, lack of transparency in ad tech supply chain may betray advertisers' and publishers' trust in services and they may quit using ad tech services.

(541) Information asymmetries stemming from the lack of transparency in ad tech services' performance cause negative outcomes for advertisers, publishers and ultimately consumers. For instance, if advertisers and publishers do not have sufficient information while they are assessing the quality of the services provided by ad tech providers, it will be difficult for ad tech providers to compete on the basis of service quality. The easier it is for advertisers and publishers to assess service quality, the easier it will be for them to choose the ad tech provider who offers the service the best.

(542) Consequently, the transparency problem is an important issue with respect to ad tech supply chain. Indeed (...) and (...) points out that the ad pricing process is not adequately transparent; advertisers, who make agreements with publishers through intermediaries do not know which metrics are used in the calculation for the pricing of different ad types and how much of the fees paid reaches the publisher, which is an important structural problem in the sector. Similarly, (...) and (...) emphasize that shareholders may make wrong choices because of the lack of transparency in the market and this harms the competitiveness of the online advertising sector. (...) and (...) state that vertically integrated big platforms' providing tools/services on both sales and purchase side leads to lack of transparency about the real value and cost of ad. (...)

highlights that in cases where vertically integrated platforms offer ad attribution, measurement and verification tools themselves, there are concerns stemming from conflicts of interest in relation to providing complete and accurate information about the performance of the ads. Furthermore, transparency problem is discussed in many country reports as well as international work.

(543) Recent sector inquiries published by CMA, ADLC, ACCC and Spanish Competition Authority (National Commission of Markets and Competition-CNMC) explain the issue as follows: Intermediary activities in the online advertising sector depend on a highly complicated auction system. Intermediaries gain the large part of the revenues in the sector. Advertisers and publishers do not have sufficient information about the core issues such as the functioning of the auction process, pricing in the auction process, ad efficiency and the share intermediaries get in the auction process. Due to information asymmetry, advertisers and publishers do not have adequate information about which suppliers they will choose. Players in the online ad sector see lack of transparency as an important problem.

(544) One of the reports emphasizing the opacity of the market, “Competition in Digital Advertising Market” by OECD states that there is lack of transparency in the fast growing digital advertising technology supply chain, especially for small advertisers and publishers, about the players in the market and activities³⁹⁹. OECD report also explains that the lack of transparency in pricing related to the auctions in ad exchanges may increase opacity. Apart from the price parameter, there is lack of transparency also because how many bids are not accepted in the ad exchange due to delay is not known, and there are not common standards to measure ad performance.

(545) In order to examine the effects of transparency problem, which is the most indicated problem in the sector, first the effect of the complexity of ad tech supply chain on transparency is discussed below. Then the transparency problems in ad tech supply chain are analyzed in order.

³⁹⁹ <https://www.oecd.org/daf/competition/competition-in-digital-advertising-markets.htm>, Accessed: 20.06.2022.

6.4.1. The Effect of the Complexity of Ad Tech Supply Chain On Transparency

(546) When advertisers buy DSP service and publishers buy SSP service, they make a decision according to certain price and performance criteria. Advertisers take into account certain important factors while assessing DSP services' price and quality:

- DSP's price and cost,
- DSP's performance according to the criteria below:
 - Whether ads are offered to the target audience,
 - Whether they are charged for the services provided,
 - Whether a consumer can see the ads purchased by DSP,
 - Whether the ads purchased are displayed on convenient and reliable websites for the brand,
 - Whether the ads purchased reach the consumer or whether the consumer click on the ad,
 - Whether the consumer takes an action after seeing the ad⁴⁰⁰.

(547) Advertisers cannot measure some of the factors listed above. Thus, they rely on third parties offering ad verification and ad association/measurement services to evaluate those.

(548) An important criterion for the performance of supply-side services is the revenues that publishers gain from selling ad inventory on websites. In addition, information about how the ad inventory is sold is important for publishers in assessing the efficiency of supply-side services. Such information is taken into account while making a decision about how the inventories will be sold in the future. The information that publishers need to assess price and quality includes:

- Data on all bids made including the names of all bidders, their bid prices, whether a bid succeeded or failed,
- Data about the impression sold and the price it was sold,
- Data about any header bidding that took place,

⁴⁰⁰ ACCC (2021), p. 146.

- Data provided in bid requests sent to DSPs,
- The targeting parameters used by advertisers who participated in the auction,
- The participation and win rates of the auction,
- Data transferred during an auction.

(549) Contrary to the advertisers who depend on third parties to assess the quality of the DSP they use, publishers need supply-side providers - SSPs- more to assess the price and the quality of the services they get⁴⁰¹.

(550) Since ad tech supply chain is complex by nature, it may be difficult for advertisers and publishers to understand and monitor how ad inventory is traded in the supply chain. Because of this, advertisers and publishers have to confine themselves to the information provided them by ad tech providers. ACCC⁴⁰² lists the factors that contribute to this complexity. These factors are also relevant for our country:

- Advertisers and publishers each have visibility only over a certain part of the supply chain: Publishers and advertisers have a direct relationship only with their service providers. Since they have sufficient information and control only over a certain part of the supply chain, neither party can know the difference between the price paid by the advertiser and the amount received by the publisher.
- Trading is automated: The auctions in the ad tech supply chain take place within milliseconds. Ad tech providers' systems depend on sophisticated and complex algorithms to facilitate this. The complexity and the lack of visibility over the operation of those systems means that advertisers and publishers are dependent on ad tech providers to make decisions about purchasing and selling inventories on their behalf.
- Reliance on third parties to measure performance: Advertisers need to rely on third party verification and attribution providers, their DSPs or advertiser ad servers to measure the performance of their ad campaigns and the ad tech services they use.

⁴⁰¹ ACCC (2021), p. 148.

⁴⁰² ACCC (2021), p. 145.

(551) This complex system aggregates the transparency problems. At which stages of ad tech supply chain the transparency problems take place and how are discussed below.

6.4.2. Transparency Problems in Ad Tech Supply Chain

(552) According to ACCC⁴⁰³, there are three key fields where transparency problems may take place:

- Pricing of ad tech services: Publishers and advertisers generally get sufficient information about prices and fees from ad tech providers. Google Ads is an exception. Since Google Ads does not share fees for using its services, publishers and advertisers do not have sufficient information about the fees in ad tech supply chain. This limits the ability of publishers and advertisers to make conscious decisions about buying and selling ad inventories.
- The operation of auctions: It may be difficult for publishers and advertisers to understand ad tech auctions properly. Many ad tech services provide information to publishers and advertisers about auction processes or outcomes. However, auctions that take place in Google's publisher ad server lack transparency. Especially, the operation of Google's Unified Auction is unclear. This may lead to Google's engaging in self-preferencing and retaining the fees that it does not share with publishers and advertisers. Moreover, since Google does not provide publishers with sufficient information about the outcomes of the auctions, they cannot define the sales strategy for their inventories consciously.
- The performance of demand-side services: Advertisers can measure the performance of demand-side services by using attribution and verification providers. However, the performance of Google's DSPs cannot be measured because Google restricts independent and accurate measurement of YouTube inventory. Since Google hashes⁴⁰⁴ user IDs, this makes it difficult for advertisers to engage in multi-touch attribution and gain detailed information about the performance of their ad campaigns.

⁴⁰³ ACCC (2021), p. 148-165.

⁴⁰⁴ In the Guidelines on the Examination of Digital Data during On-Site Inspections, hash is defined as a mathematical computation used to verify the integrity of digital files.

(553) Detailed assessment about these three issues are provided under the headings below.

6.4.2.1. Transparency Problems about Price

6.4.2.1.1. General Framework

(554) Pricing of ad tech services is important. There are different reflections of price transparency. According to the Report issued by ACCC⁴⁰⁵

- Generally, advertisers and publishers have sufficient information to assess the fees charged by ad tech providers with whom they have contractual relationships.
- Ad tech providers provide little information about pricing of ad tech services and advertisers and publishers generally obtain information about fees and prices directly from providers.
- Therefore, advertisers and providers reach prices of ad tech services by means of private negotiations with providers.
- Advertisers and publishers can access pricing information through the invoices they get after they have signed agreements with ad tech providers or product interfaces that produce customisable reports that cover certain metrics about price and performance.
- Within this framework, advertisers and publishers have generally sufficient information to assess the fees charged by their ad tech providers.
- On the other hand, there is a lack of publicly available information about the pricing of ad tech services across the supply chain.
- This may limit advertisers' and publishers' ability to make decisions that would allow them to optimize their purchase and sale of ad inventories.
- Moreover, the lack of publicly available information limit advertisers' and publishers' ability to compare and assess prices of ad tech services easily.
- As a result, advertisers do not know how much of their expenditures reach publishers and publishers do not know how much advertisers pay for their inventories

⁴⁰⁵ ACCC (2021), p. 153-154.

ACC emphasizes that the transparency problem in the ad tech supply chain is particularly related to Google⁴⁰⁶.

(555) According to CMA ⁴⁰⁷

- Market participants do not have visibility of the fees charged along the ad tech supply chain.
- This limits advertisers' and publishers' ability to make an optimal choice on how to buy or sell inventory.

In addition, CMA emphasized the following points:

- Publishers can see the commissions they agree with SSPs contractually but cannot see other fees charged by intermediaries.
- Since many SSPs do not provide data at auction level, publishers do not know even which advertisers have given bids for their inventory.
- Lack of transparency in terms of bidder IDs and the fees charged by intermediaries limit publishers' ability to bargain directly with advertisers.
- Similarly, DSP part of the supply chain is transparent for advertisers whereas advertisers do not have sufficient information about the fees charged by SSPs.

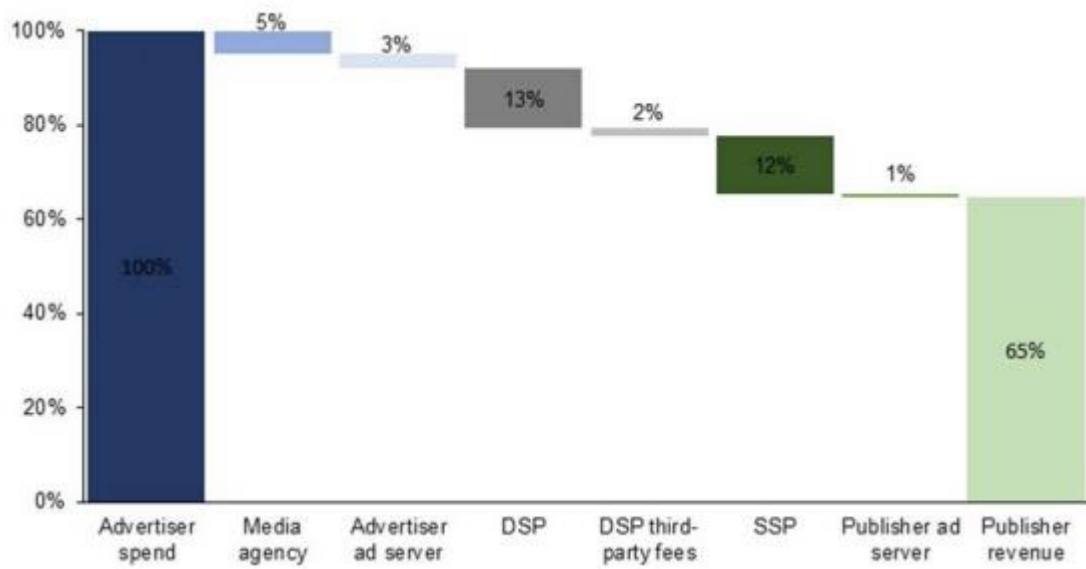
(556) The lack of transparency in pricing in auctions may give rise to rent seeking behavior by allowing the intermediary (SSP or DSP) to buy impressions at one price and sell them at a higher price. It is found in the work by CMA and ACCC that only a part of the ad expenditures by an advertiser is received by the publisher.

⁴⁰⁶ ACCC (2021), p. 153.

⁴⁰⁷ CMA (2020), p. 298.

(557) CMA's study has shown that publishers receive about 65% of the ad expenditures.

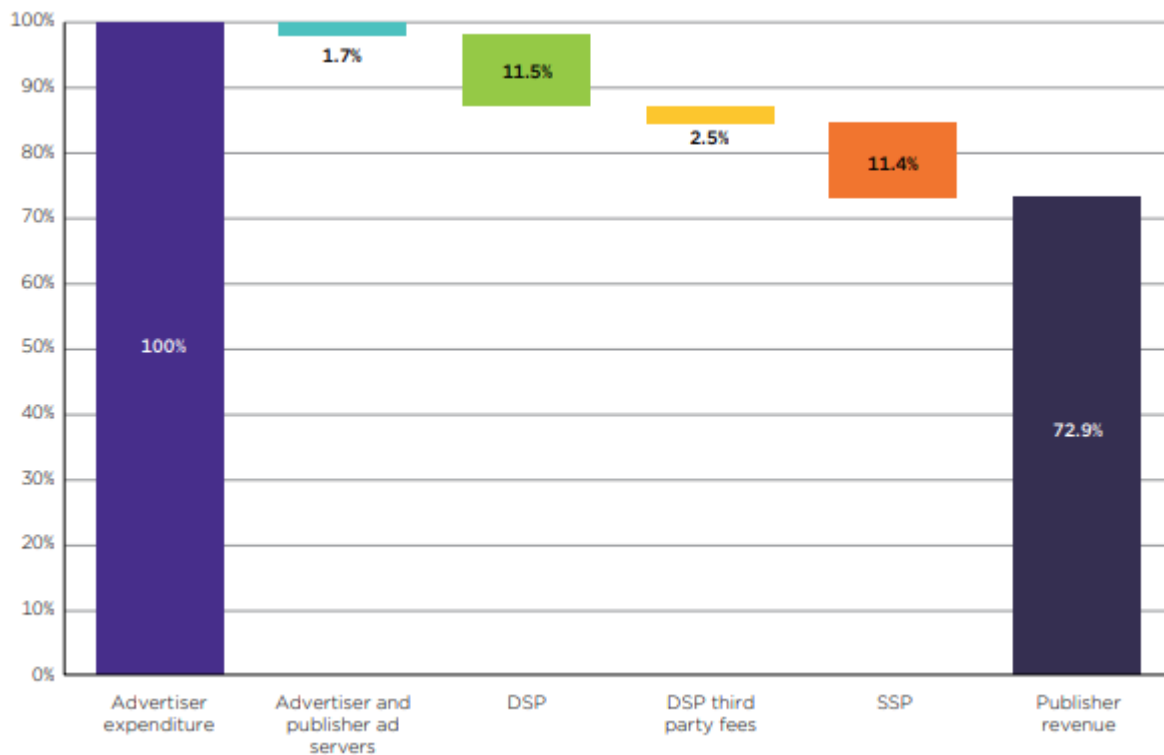
Table 25: Distribution of Advertiser Expenditures across the Ad Tech Supply Chain in the United Kingdom



Source: CMA (2020), p. 65.

(558) ACCC's study has shown that publishers receive about 72% of the ad expenditures.

Table 26: Distribution of Advertiser Expenditures across the Ad Tech Supply Chain in the Australia



Source: ACCC (2021), p. 49.

6.4.2.1.2. The Concern That Google Collects Hidden Fee

(559) The lack of transparency about the fees Google charge through Google Ads is the basis of transparency concerns about pricing in programmatic channel.

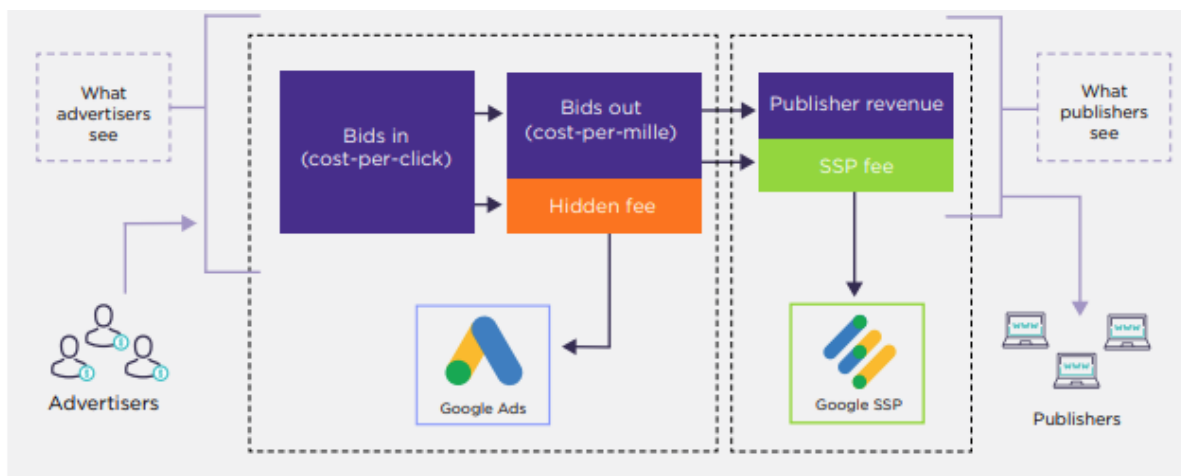
(560) Most advertisers submit bids to Google Ads on a cost-per-click or cost-per-action basis. Google Ads does not receive any additional fee from advertisers during bidding process. After Google Ads receives bids from advertisers, it bids in auctions in Google's SSPs. However, Google's SSP accepts advertising bids only on a per impression basis, which is different from the pricing model used by advertisers on Google Ads. This creates the problems listed below⁴⁰⁸:

- Google Ads charges advertisers each time an ad is clicked on (or an action is taken). However, Google pays SSP each time an ad is served. In other words, Google must pay SSP even if an ad is served but not clicked on. In this case, Google Ads do not receive any payment from advertisers.

⁴⁰⁸ ACCC (2021), p. 153-155.

- Since the pricing model of the bids received and made is different, Google Ads has to convert each bid received on a cost-per-click basis to cost-per-impression basis.
- There are concerns about the take rates retained by Google as a result of this conversion because only Google can observe the outcomes of the relevant auctions and no other party knows Google's actual take rate. This provides Google with the ability to retain a hidden fee.

Figure 19 : Hidden Fee Retained by Google



Source: ACCC 2021.

(561) The figure above shows that advertisers can see the bids they submit on a cost-per-click basis whereas publishers can see the revenue they receive on a cost-per-mille basis. However, no other party except Google can see price conversion.

6.4.2.2. Transparency Problems about Auctions

6.4.2.2.1. General Framework

(562) Publishers' and advertisers' ability to understand the operation and outcomes of auctions across the auctions is important for their assessment of the price and quality of the services provided. ACCC highlights that it is important for publishers to have information about auctions to decide which supply-side

services they will use⁴⁰⁹. The fundamental issue raised by publishers about the transparency is that Google's Unified Auction is not transparent.

(563) In addition, in the interim report prepared by ACCC and the opinions submitted to the interim report, there are other concerns about transparency in addition to the concerns about Google's auctions. Within this framework, the following issues are raised:

- Each ad tech provider has a different transparency level and the transparency level on bid requests is low.
- Although some advertisers have metrics to understand auction operations, some providers give more detailed information than others and transparency level varies across providers.
- It is difficult to understand the algorithms used by DSPs and SSPs.

ACCC asked for information to ad tech providers about the type of information they provide to advertisers and publishers in order to understand whether advertisers and publishers receive sufficient information about auctions. It is seen that although the level of information given by ad tech providers vary, advertisers and publishers can access a range of information that helps understanding auction outcomes. The transparency problems in Google's auctions are discussed in detail below.

6.4.2.2.2. Problems with the Transparency of Unified Auction

(564) As addressed in detail above, Google's Unified Auction takes place on Google's publisher ad server. The participants in Unified Auction basically involves:

- Authorized Buyers: Other DSPs bidding in Google's SSP, including Google's DSP.
- Open Bidders: Third-party SSPs that participate in Google's Open Auction (Google's server-side header bidding product).
- The Winner of Any Header Bidding Auction: In case the publisher uses header bidding, the bid of winner SSP in header bidding participates in the Unified Auction.

⁴⁰⁹ ACCC (2021), p. 148.

(565) The reason that header bidders participate in Google's Unified Auction in this way is that Google has taken a decision not to participate in header bidding. Since Google does not participate in header bidding, publishers can only operate an auction between Google's SSP and other SSPs by using Google's publisher ad server.

(566) Google's important position in publisher ad server services and the concern that it can use this position for self-preferencing in terms of its SSP and DSP increases the importance and meaning of ensuring transparency in Google's publisher ad server auctions. Normally, problems with the opacity of a single competitor's auction is not significant in a competitive market. In such market, customers can switch to products with more transparency. However, Google's strong position in publisher ad server services and the way it makes its auctions may mean that many publishers do not have any other choice than using Google's publisher ad server.

(567) Within the scope of the sector inquiry by ACCC, some shareholders in the sector have mentioned their concerns about the transparency of Google's Unified Action, likening it to a black box⁴¹⁰. Shareholders in the sector also have pointed out the following points about the lack of transparency of Google's Unified Action

- The lack of transparency of Google's Unified Action allows Google to engage in self-preferencing and retain undisclosed fees,
- Publishers do not know whether the demand from non-Google DSP is lower than the demand from Google's DSP, which creates uncertainty,
- Due to this uncertainty and the importance of Google's DSPs, publishers may choose to use Google's SSP instead of competitors⁴¹¹.

(568) Another concern about the transparency of Unified Auction in Google's publisher ad server is that it does not provide publishers with sufficient information to assess the bids from different sources in auctions. Publishers must be able to compare the value of using different SSPs to maximize their revenues and promote competition among SSPs.

⁴¹⁰ ACCC (2021), p. 149.

⁴¹¹ ACCC (2021), p. 149.

(569) Google currently provides two types of information to publishers in terms of publisher ad server auctions⁴¹².

- Bid Data Transfer Files: This file covers the record of bids received by Google's publisher ad server, including bids from Google's SSP and from other SSPs. However, since this file does not cover bids from header bidding auctions, it does not show all bids for ad impression. This file also includes the bidding data about the DSPs that submit bids through Google's SSP and the name of the bidder, bid price and whether the bid was rejected in terms of Open Bidding partners. However, there are not any information about ad impression such as the price at which the impression is sold.
- Data Transfer File: Data transfer file covers information about the price which an impression was sold at and bids submitted by header bidding partners.

(570) Before 2019, publishers could link or match those files together. This means that they were able to compare the performance of all bids in Google's Auction. However, at the end of 2019, Google made changes in those files and prevented linking those files together. As a result, publishers could no longer compare header bidding bids with bids from Google's Open Bidding and SSP⁴¹³.

(571) The following answers in the sector inquiry by ACCC are noteworthy⁴¹⁴:

- Preventing publishers from matching those IDs limits their ability to compare SSPs and rival SSPs' ability to compete with Google.
- Changes to bid data transfer file have undermined the competition in ad tech, protected Google's services from competition and reduced customers' incentive to consider competing SSPs.

⁴¹² ACCC (2021), p. 149.

⁴¹³ ACCC (2021), p. 149.

⁴¹⁴ ACCC (2021), p. 150.

6.4.2.3. Transparency Problems with Measuring and Attribution⁴¹⁵

- (572) Advertisers need verifying and attribution services to evaluate the quality and price of the DSP they use and ad inventory they have purchased. The transparency of those services is important for them. Concerns about verification and measurement of the Ads on YouTube by independent service providers are mentioned above. Those concerns also pose the risk of reducing transparency by creating information asymmetry.
- (573) In addition to Google's alleged practices, ad fraud may play a role in the transparency problem with verification and attribution services. The transparency problem in a scenario where ad fraud is frequent affects not only the advertisers but also all actors in advertising industry. Common fraud in online advertising market will undermine the functioning of those markets. If advertisers cannot be sure that the ad inventory they have purchased is real or the intermediaries they are trading with are legal, lack of transparency will distort trust in advertising.
- (574) In light of the information and assessments above, it is thought that in online advertising sector, information asymmetry raised especially with the contribution of the complexity in ad tech supply chain can prevent shareholders from using their decision mechanisms in purchasing services in a competitive environment. The problem in question is not limited to a single undertaking's behavior but it can be attributed to the overall market. On the other hand, there is the risk that undertakings with market power may strengthen this power and restrict competition to their favor in response to/depending on this problem. For this reason, transparency problem can be solved by ex ante regulations and current legal regulations can be reviewed if necessary.
- (575) Starting from this point, the Draft Bill on the Amendments to the Act on the Protection of Competition includes regulations concerning the transparency problem in advertising sector. The amendments to the Act ex ante prevent certain behavior of undertakings with significant market power and/or foresee certain ex ante obligations on such undertakings to act in a certain way.

⁴¹⁵ Theoretical framework is taken from (...)’s response.

(576) With the said regulation, commercial users can have information about the scope, quality, performance and pricing principles as well as the conditions to access such services in terms of the core platform services and ancillary services they are getting. In this way, commercial users will be able to consider alternative platforms according to criteria such as price, quality, etc. and choose the most convenient service. The regulation also will pave the way for advertisers and publishers to make conscious choices about which ad suppliers they will chose by allowing intermediaries, advertisers, publishers and third parties authorized by those to have sufficient information about the basic issues such as how the auction process functions, how prices are set during the auction process, ad efficiency and the share intermediaries take in the auction process. Therefore, the said provisions aim to eliminate the information asymmetry between the undertaking with market power and its commercial users and to promote competitiveness in the market by ensuring transparency. It is believed that if the draft bill is enacted, the problem with information asymmetry, which restricts publishers' and advertisers' ability to take conscious decisions about purchase and sale of ad inventory, will be solved and thus advertisers and publishers will have sufficient information to assess the quality of the services provided by ad tech providers, ensuring competition between ad tech providers.

6.5. Concerns Related to News Publishers⁴¹⁶

(577) Today, internet is an important tool for news publishers' activities. Reducing the costs of publishing and distributing content, internet have increased news publishers' access to readers and reduced readers' costs of searching and accessing content.

(578) However, concerns have risen that online market dynamics negatively affect the sustainability of news publishing for public interest and the quality of information accessed in this way. One of those concerns is that digital platforms reduce the publishers' incentive to invest and produce quality content by refusing to pay news publishers, which contribute to the traffic on those platforms with news content. Another concern is that digital platforms' certain apps affect most of the news publishers' ad revenues and creating news content.

⁴¹⁶ The terms press publisher and news publisher are used reciprocally in the text.

As a result, there is the risk that digital platforms may prevent news publishers from producing quality content and indirectly lead to misinformation/disinformation, causing a big social harm⁴¹⁷.

(579) Due to the said concerns and risks, it is important to show under the scope of the sector inquiry the interaction between news publishers and digital platforms. Accordingly, first, channels to access online news content and then the importance of those channels for news publishers will be explained.

6.5.1. Channels to Access Online News Content

(580) Consumers can access online news content directly through news publishers or indirectly via certain channels such as news aggregators, social networks and general search service providers. News publishers generally encourage users to join their pages and interact over social network. In our country, hürriyet.com and milliyet.com are online news publishers.

(581) News aggregators display partially or entirely the news contents coming from different publishers and arranges those via a combination of algorithms with an editorial work. Pure news aggregators do not produce original content. Google News is an example of a news aggregator. While general search services and social networks mostly do not pay the news publisher, there may be a contractual relationship between news publishers and news aggregators where a fee is charged for news content.

(582) Publishers, who use social networks as an alternative or complementary tools to reach users, have turned those into news aggregators that have a large part of the content produced by news publishers via tools for individual users to share content.

(583) Since search engines are fundamental sources used to search content, they are important access channels for readers/followers of news content. In some cases, digital platforms providing general search services also offer vertically integrated news aggregation services.

(584) In short, those digital services (search engines, social networks, news aggregators) basically provide readers with news via online search services,

⁴¹⁷OECD (2021), “Competition Issues Concerning News Media and Digital Platforms, OECD Competition Committee Discussion Paper”, <https://www.oecd.org/daf/competition/competition-issues-in-news-media-and-digital-platforms.htm>, p. 24. Accessed: 09.03.2023.

social media services etc. and allow news publishers to direct the readers towards themselves via such channels. In this relationship network, digital platforms are in both vertical and horizontal relation with news publishers.

- (585) In terms of vertical relations, first, contents of news publishers are distributed by digital platforms; thus, digital platforms can be regarded as directory service provider for news publishers. Another vertical relationship to consider is that digital platforms may be at the same time suppliers in the ad supply chain that work as intermediaries of display advertising services used by news publishers to publish ads on websites and apps.
- (586) The horizontal relation between news publishers (news aggregators such as Twitter and Google News) and digital platforms stems from the competition between digital platforms and news publishers to attract readers and publish display ads. While readers decide whether they will read news content on news publishers' websites/apps or on digital platforms on one side of the market, advertisers decide whether they will buy ads from news websites or digital platforms according to readers' tendencies on the other side of the market.
- (587) The importance of digital platforms in view of this relationship between digital platforms and news publishers is discussed below.

6.5.2. The Importance of Channels to Access Online News Content for News Publishers

- (588) Digital platforms are the basic source to access news for many readers today. For instance, digital platforms such as Google, Facebook and Twitter are important channels where readers reach news. According to 2018 Digital News Report by Reuters, readers prefer accessing digital news indirectly rather than directly. In the study, readers are asked about what the main way of accessing digital news content is. The share of readers accessing news content producer directly is 34% whereas 24% of the participants say that they use search engines and 23% say that they use social media channels⁴¹⁸.
- (589) Platforms offering online search services, social network services and news aggregation (portal) services are important for news publishers' activities. CMA

⁴¹⁸ KOZ, K. A. 2022. "İnternet Gazeteciliğinde Web Ölçümlerine Ve Haber Üretim Sürecine Etkileri", Sosyal Mucit Academic Review, 3(1), 176-195. <https://dergipark.org.tr/tr/download/article-file/2430671>, Accessed: 25.02.2023.

analyzed the traffic data of a few large news publishers' traffic data in 2018 and 2019. It is found that two main digital platforms, Google and Meta, provide almost 40% of the total traffic coming to websites⁴¹⁹. Similarly, JFTC states that access to news content provided in general search services through links is the most important source of traffic for news media and links to news content in portal websites are similarly important source of traffic⁴²⁰.

(590) The table below shows the traffic data that some of the news publishers receive through Google in our country. The lowest rate of traffic coming to news publishers in the table through Google is about 25% in 2022 for ensonhaber.com and milligazete.com whereas this share is about 45% for hürriyet.com and milliyet.com.

Table 27: The rate of traffic coming from Google to news websites (%)

Web site	Google traffic
Ensonhaber.com	23,70
Hurriyet.com.tr	46,22
Milliyet.com.tr	44,02
Yeniakit.com.tr	39,20
Sozcu.com.tr	31,88
Mynet.com	25,75
Haberler.com	36,18
Haberturk.com	38,13
Yenisafak.com	41,79
Milligazete.com.tr	25,2

Source: KOZ, K. A. (2022), "İnternet Gazeteciliğinde Web Ölçümleme Ve Haber Üretim Sürecine Etkileri", Sosyal Mucit Academic Review, 3(1), 176-195

(591) According to Eurobarometer data, 57% of the newspaper readers in EU read the news online and 47% of those read headings and summaries of the news on platforms such as Google News without visiting the source of the news. In other words, half of the online news readers stay on news aggregating platforms. 22%

⁴¹⁹ CMA (2020), "Online Platforms and Digital Advertising Final Report", https://assets.publishing.service.gov.uk/media/5fa557668fa8f5788db46efc/Final_report_Digital_ALT_TEXT.pdf, p.17. Accessed: 07.03.2023.

⁴²⁰ JFTC (2021), "Final Report Regarding Digital Advertising", https://www.jftc.go.jp/en/pressreleases/yearly-2021/February/210217_1.pdf, p. 125. Accessed: 08.03.2023.

of online news readers use social media, 14% use news aggregators and 21% use search engines⁴²¹.

(592) Due to this role of digital platforms in news publishers' activities, there is unbalanced bargaining power shaped by the acceptance of digital platforms' activities in general, which is to the disadvantage of news publishers. This unbalanced bargaining power between digital platforms and news publishers may block/restrict the ability of news publishers to gain revenues from online content and as a result, may constitute a threat to news publishers' existence. While digital platforms gain revenues directly or indirectly by using news publishers' content, contents of newspapers are read more but revenues of news publishers are decreasing dramatically and publishers cannot get the return for their investments. Some newspapers and magazines ended publication due to the transfer of revenues in this way⁴²².

(593) Considering the importance of digital platforms for news publishers, information about digital platforms' practices considered likely to disadvantage news publishers is given below⁴²³.

6.5.3. Digital Platforms' Practices Raising Concerns About News Publishers

6.5.3.1. Snippet⁴²⁴

(594) Snippet is a type of a result where short extracts from content providers are displayed directly on the general search results page in return for a query made by a user via the search engine. As shown in the figure below, snippets or content summaries are generally added to the news links displayed on the search engine. If the information provided via the snippet is sufficient, the user can stay in the digital platform's ecosystem and there is no need to access the website whose content is extracted in summary.

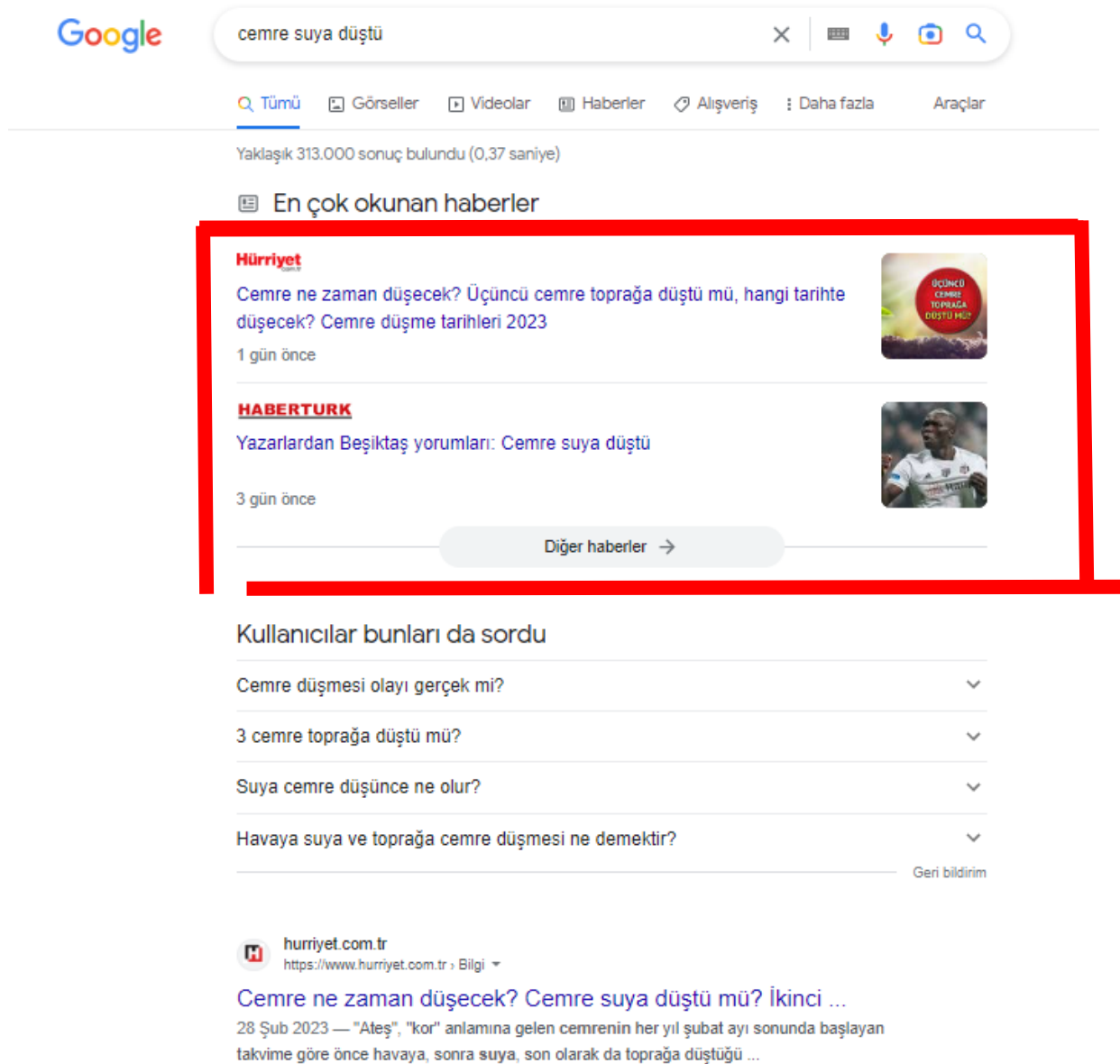
⁴²¹ EU Directive on copyright and related rights in the Digital Single Market 2019/790 Impact Assessment Document <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019L0790>, Accessed: 27.02.2023, p. 157.

⁴²² SULUK, C. (2022), "Avrupa Birliği Hukukunda Basın Yayıncılarına Tanınan Bağlantılı Haklar", İstanbul Medeniyet Üniversitesi Hukuk Fakültesi Dergisi, p. 175.

⁴²³ OECD (2021), "Competition Issues Concerning News Media And Digital Platforms, OECD Competition Committee Discussion Paper", <https://www.oecd.org/daf/competition/competition-issues-in-news-media-and-digital-platforms.htm>, OECD (2022), "Is Competition Policy the Right Response to the Crisis of Journalism?" <https://www.competitionpolicyinternational.com/is-competition-policy-the-right-response-to-the-crisis-of-journalism/> Accessed: 02.02.2023.

⁴²⁴ Literally snippet means small piece, it refers to extracting a small piece or a summary of a content from online channels and displaying it in this extracted form in search results.

Figure 20: An example of a Snippet on search results



Source: Screenshot taken by the rapporteurs.

- (595) News publishers can decide whether their content will be placed on snippets but cannot choose the format. That means news publishers cannot determine the format of the content to be displayed as a snippet (detail, length, visual, etc.). In addition, considering that if they opt out being on snippets, their traffic will be negatively affected, it seems that their choice to opt in or out is “not a real option”.
- (596) Services provided through snippets can affect news publishers basically in two ways. First, a publisher who does not want its content to be used by the platform

can deactivate being published on a snippet. In this case, the platform gives only a link to the news content. However, this format may reduce the visibility of the publisher for consumers among organic results. In relation with this, clicking rates and ad revenues may be reduced. Consequently, the benefits of preventing the platform from producing snippets would be limited for a news publisher.

(597) Secondly, if the news publisher does not deactivate the snippets, the platform may reveal the essence of the content. For instance a snippet may be so long that the reader can understand the content of the news publisher's article, as a result of which the reader does not need to click on the news publisher's link. This will reduce click through rates of organic results and negatively affect the directing traffic. As ACCC points out, reduced user traffic because of fewer readers visiting news publishers' websites may affect news publishers' ad service supply. This may even result in the news publisher leaving ad services market because the traffic level of a website is an important part of the decision about where the advertiser will spend the ad budget⁴²⁵.

(598) In literature, there are opinions that such behavior of search engines is a breach of intellectual property. Based on this, it is suggested that search engines' such behavior is not a competition problem because considering that publishers hold the copyrights related to the content of websites, it is possible to prevent digital platforms from using materials protected by copyrights⁴²⁶.

6.5.3.2. Asymmetric Access to User Data by Digital Platforms operating in Advertising Services Compared to News Publishers

(599) Digital platforms collect valuable data about readers' activities or choices from users who consume content in news publishers' websites and interact with those channels by means of tools such as tags, sign-in tools, add-ons and interaction buttons. Digital platforms can reach user data by means of ad tech products they provide to news publishers. For instance, ad tech services used for ad presentation on a news publisher's website can track whether users click on the ad thus whether they are interested in the ad and have data on this subject.

⁴²⁵ ACCC (2019), p. 229.

⁴²⁶ CARRIER, M. (2013), "Only 'Scraping' the Surface: The Copyright Hole in the FTC's Google Settlement", https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2391318, Accessed: 02.08.2022.

- (600) On the other hand, news publishers' access to data at user level is very limited compared to digital platforms in terms of news content on digital platforms. Apparently, digital platforms provide news publishers only combined and anonymous data, which makes it difficult for publishers to make a strategy for selling ad inventory by using their content.
- (601) This raises concerns that digital platforms will have competitive advantage over publishers by making user profiles and targeting more consumers in a better way. In addition, free riding problem may also occur. Digital platforms make use of publishers' news content and investments to produce this content to attract users and gain a significant value. It is stated in literature that digital platforms' data power and asymmetric advantage in terms of data use harm news publishers in display advertising market where digital platforms compete with news publishers horizontally and create exclusionary effects by diminishing the opportunities for providing advertising services⁴²⁷.

6.5.3.3. The Effect of Digital Platforms' Role in Intermediation Services in Display Advertising⁴²⁸

- (602) There are concerns for news publishers in terms of intermediation in display advertising by digital platforms, which have an important role in the distribution of news content because news publishers sell their ad inventory largely by using programmatic ad technologies of those platforms. One of the concerns in terms of news publishers is that digital platforms' power in display advertising intermediation services may increase the fees for these services. In this case, for instance, if Google increases the fees for ad intermediation services, a news publisher's ad revenues may decrease as its intermediation fee per ad has risen, which will result in lower ad revenues for news publishers because of lack of efficient competition in ad intermediation services.
- (603) The transparency problems in the fees paid by publishers to ad tech providers for selling ad inventory and in other conditions in ad tech supply chain are

⁴²⁷ GIANGASPERO, "Is Competition Policy the Right Response to the Crisis of Journalism?" <https://www.competitionpolicyinternational.com/is-competition-policy-the-right-response-to-the-crisis-of-journalism/>, s. 4. Accessed: 27.02.2023.

⁴²⁸ OECD (2021), "Competition Issues Concerning News Media And Digital Platforms, OECD Competition Committee Discussion Paper", <https://www.oecd.org/daf/competition/competition-issues-in-news-media-and-digital-platforms.htm>, p. 19. Accessed: 09.03.2023.

explained in detail above. At this point, it should be noted that the lack of transparency about “the real price” that news publishers may pay for intermediation services concerning ad impressions in websites/apps may lead to negative effects on the revenues of news publishers, who are trying to maximize their ad revenues.

6.5.3.4. Digital Platforms’ Publication Formats for News Content⁴²⁹

- (604) Digital platforms implement optimization ways (formats) for loading websites to mobile devices and displaying websites on those devices properly. Even if the use of those formats are not mandatory, complying with those is a de facto requirement for news publishers because those formats are important to be prominent and visible on digital platforms.
- (605) Accelerated mobile pages (AMP) are example of those formats. AMP is an open source code software. It is developed by an industry group including Google, Bing, LinkedIn, Twitter, Wordpress, eBay, Baidu, Weibo and other companies. Google supports AMP as web pages are loaded faster in mobile search queries⁴³⁰. For instance, the faster a website is loaded in response to a general search query, the higher it will be listed in the search results compared to websites without this feature. When users access the content of the website in this way, they access the content as fast as they reach the website through its own mobile app and thus they do not have to download the mobile app and spare a place on their phone.
- (606) Although the use of those formats by users can be regarded useful from this perspective, the lack of need to download the news publishers’ mobile app may negatively affect news publishers. Basically, those formats lead to the following outcomes: (i) the traffic going to news website will be diverted to digital platforms and the news website will not be able to create traffic and (ii) news websites that cannot attract traffic cannot access user data which will improve their ability to

⁴²⁹ OECD (2021), “Competition Issues Concerning News Media And Digital Platforms, OECD Competition Committee Discussion Paper”, <https://www.oecd.org/daf/competition/competition-issues-in-news-media-and-digital-platforms.htm>, p. 18 Accessed: 09.03.2023.

⁴³⁰ Board decision dated 12.11.2020 and numbered 20-49/675-295 <https://www.rekabet.gov.tr/Karar?kararId=9bbb9ad4-24d1-4d5d-b2c2-e710a35496ab>, s. 124. Accessed: 28.02.2023.

target in their ad activities and digital platforms will have more diversified data that will enable them to target ads better.

(607) Consequently, although they may be beneficial for user experience, those formats make users to remain in the ecosystem of digital platforms so-called walled garden; thus news publishers are concerned about this.

6.5.3.5. Changes to Digital Platforms' Algorithms for Aggregating News Content⁴³¹

(608) Digital platforms generally aggregate and compile news content through algorithms. News publishers highlight their concerns about the changes to those algorithms without prior notification or sufficient explanation since this leads to uncertainty about news publishers' impression and ranking. According to news publishers, although those changes improve user experience in some cases, they may lead to negative effects on their website traffic and thus their ability to gain revenues from news content. Digital platforms object to those concerns by noting that making too comprehensive explanations may allow publishers to play with the system/use the system to their favor and the rivals of the digital platform in question may free-ride on its investments.

6.5.4. The Developments Worldwide in Response to Digital Platforms' Practices Towards News Publishers

(609) In response to the abovementioned concerns, it is seen that regulatory rules concerning copyrights are used and several investigations have been initiated to improve news publishers' disadvantageous positions vis à vis digital platforms throughout the world. The developments in question are given below respectively.

6.5.4.1. Legal Regulations in Response to Digital Platforms' Practices Towards News Publishers

(610) First, in 2019 in EU, the Directive 2019/790 On Copyright and Related Rights in the Digital Single Market⁴³² (the Directive) prohibits the use of press content by

⁴³¹ OECD (2021), "Competition Issues Concerning News Media And Digital Platforms, OECD Competition Committee Discussion Paper", <https://www.oecd.org/daf/competition/competition-issues-in-news-media-and-digital-platforms.htm>, p. 19. Accessed: 09.03.2023.

⁴³² [Directive \(EU\) 2019/790 Of The European Parliament and Of The Council Of 17 April 2019 On Copyright and Related Rights In The Digital Single Market and Amending Directives 96/9/EC and 2001/29/EC](#). Accessed: 08.03.2023

information society service providers and social media platforms such as Google and Meta without permission and for commercial purposes. Basically, this Directive protects press publishers' rights and grants a right to press publishers to charge fees in case a work or other intellectual properties protected by copyrights are copied and publicized. In other words, in EU, incumbent news publishers' publications are protected from being used by information society service providers and in case of such use, news publishers have the right to charge fees from service providers - not users.

- (611) Article 15(5) of the Directive rules that member states shall provide that the authors of the works incorporated in a press publications receive an appropriate share of the revenues that press publishers receive for the use of their press publications by information service providers⁴³³.
- (612) The first country to adapt this change into national legal system is France. France made this adaptation with an amendment to intellectual property legislation stipulating that press publishers shall be paid fees⁴³⁴. It is seen that Germany complied with this in its domestic law with "Act on the Copyright Liability of Online Content Sharing Providers",⁴³⁵ which was an independent act on 01.08.2021. A regulation about paying fees to publishers was made.
- (613) After the relevant regulation in EU, Google announced that it made agreements with more than 300 publishers in Germany, Hungary, French, Austria, Holland and Ireland⁴³⁶. Google pointed out the following: the Directive allows search engines to use short extracts of news publishers' work. New rights are given to publishers when longer previews of their content are used. In order to solve the ambiguity about the concepts short extract and longer preview, Google will pay news publishers for content which goes beyond links and short extracts.

⁴³³ Article 15.1(II) of the Directive draws the limits of which types of use are under the scope of this regulation. It is stated that the rights given to press publishers shall not apply to non-commercial or private users. Similarly, it is stated that hyperlinking (art. 15.1/III) and use of individual words or very short extracts of a press publication shall not be considered under the rights granted under article 15.1 (art. 15.1/IV).

⁴³⁴ French Intellectual Property Act, article L218-4 regulates the fees to be paid within the scope of neighboring rights for online copying and publicizing press publications.

⁴³⁵ https://www.gesetze-im-internet.de/englisch_urhdag/englisch_urhdag.html, Accessed: 01.02.2023.

⁴³⁶ The link to Google's announcement: <https://blog.Google/around-the-globe/Google-europe/Google-licenses-content-from-news-publishers-under-the-eu-copyright-directive/>, Accessed: 01.02.2023.

- (614) Secondly, apart from the regulations in EU, in countries such as Australia and Canada, regulations have been implemented about payments by digital platforms in return for the use of news publishers' content. According to the regulation in Australia, Meta and Google will pay fees in return for publishing the news produced by media companies on their platforms. It is stated that the legislation was designed to weaken the outsized bargaining power of Meta and Google in their negotiations with news providers in Australia; in this way, digital platforms will not abuse their dominant positions by urging news businesses with take-it-or-leave-it approach; in case of a conflict during negotiations, an arbitration panel will make a binding decision about the offer to be paid⁴³⁷.
- (615) In Canada, a draft bill has been prepared requiring digital platforms to share the revenues they receive by using publishers' content. In the bill, which covers similar regulations to EU and Australia, obligations to prepare a public report on the subject of the regulation is brought⁴³⁸. Upon those developments, Google signed agreements with eight Canadian publishers for a new product and licensing program for payment to news organizations⁴³⁹.
- (616) It should be noted that the regulations concerning the breaches of intellectual property online and the liabilities of such breaches are currently very limited in Turkish law. The Law on Intellectual and Artistic Works addresses directly this issue (additional article 4(3)):
- *“In case where right of authors and related rights holders granted by this Law have been violated by providers of service and content through the transmission of signs, sounds and/or images including digital transmission, the works, which are the subject of the violation, shall, upon the application of the rightholders, be removed from the content. Natural or legal persons whose rights have been violated shall to this end initially contact the content provider and request that the violation be ceased within three days. Should the violation continue, a request shall be next made to the public prosecutor requiring that the service being provided to the content provider persisting*

⁴³⁷<https://globalnews.ca/news/7661644/australia-facebook-Google-laws-pass/>, Accessed: 01.02.2023.

⁴³⁸<https://www.nytimes.com/2022/04/05/world/canada/revenue-sharing-facebook-Google.html>, Accessed: 01.02.2023.

⁴³⁹<https://globalnews.ca/news/7976932/Google-canada-news-publishing-deal/>, Accessed: 01.02.2023.

in the violation be suspended within three days. The service being provided to the content provider shall be restored if the violation is ceased.”

- (617) Accordingly, the system in the Law on Intellectual and Artistic Works in terms of online breaches of intellectual property is the system so called “notice and take down”. In case of a violation of a right online, the right holder first contact the provider and request that the content be removed. If the violation continues, the service provider will be requested through the public prosecutor that the service to the information content provider be ceased. As seen, the main idea behind this regulation is that the information content provider is not liable for the violations which take place through its intermediation as a rule and not obliged to examine or detect such violations. The duty of the information content provider is only removing the violating content if it is informed of the violation⁴⁴⁰.
- (618) In addition, similar concerns have been raised in Türkiye. For instance, Anatolian Agency organized the “Symposium on the Protection of Copyrights in Press during the Digitalization Process” on 14.10.2022 in order to guarantee the copyrights of press publishers’ digital content, prevent commercial use of news content without payment, prevent information society service providers from receiving income unilaterally in digital press area, prevent unfair competition against the content produced by press publishers, raising public awareness to protect copyrights of news content and shed light on legislative work⁴⁴¹.
- (619) It was reported in the interview with General Directorate of Copyrights of the Ministry of Culture made on 28.02.2023 that a draft legislation is being prepared about copyrights of press publishers. There are studies about the issue within the framework of both Customs Union Agreement and EU Acquis Compliance Program as well as the problems raised by the sector representatives.

6.5.4.2. Investigations Initiated in Response to Digital Platforms’ Practices Towards News Publishers

- (620) Although the regulations made throughout the world concerning copyrights to protect financial rights of news publishers against digital platforms are

⁴⁴⁰ ÇONKAR, M.H. (2020), “Dijital Tek Pazarda Telif Hakkı ve Bağlantılı Haklar”, p. 710, <https://cdn.istanbul.edu.tr/file/JTA6CLJ8T5/D982D971D89C4AA3A4F299FAD2FF18F5>, Accessed: 09.02.2023; SULUK, C. 2022.

⁴⁴¹ <https://www.aa.com.tr/tr/kurumsal-haberler/aa-tarafindan-duzenlenen-dijitallesme-surecinde-basinda-telif-haklarinin-korunmasi-sempozyumu-basladi/2711768>, Accessed: 28.02.2023.

important, it is not possible to say that those regulations completely eliminate the problems with news publishers' activities. The recent example of this is Google's activities after the copyright regulation has been implemented in France. After the provisions of the Directive mentioned above have been enacted in domestic law in France, Google announced that unless the publishers in France allow Google to display their content for free, those contents will not be shown in Google services such as Search, News and Discover as a result. Thereupon, news publishers and agencies filed a complaint to the French Competition Authority that Google has abused its dominant position in general search services and the Authority has issued interim measures⁴⁴².

(621) The interim measure issued by the Authority⁴⁴³ requires that Google shall negotiate in good faith with the publishers the terms about the use of the content such as article extracts, photos, infographics, videos, etc. in Google's services, especially in Google Search and continue displaying the content during negotiation process. First, the Authority found that Google's practices can be considered abuse of dominant position on the following grounds:

- Imposing unfair trade conditions: Google might have imposed unfair transaction conditions on publishers and news agencies in a way to avoid any negotiations and payment for reuse and display of the content protected by legislation by means of announcing its zero price policy unilaterally and refusing to participate in negotiations.
- Discrimination among publishers: Google might have treated economic actors with different situations in the same way by imposing zero price policy to all publishers without examining their situations and without submitting a reasonable and objective justification.
- Preventing the implementation of the law: Google might have abused its dominant position by circumventing the relevant law by means of systematic request for free licenses to display press publishers' content without paying any fees.

(622) For those reasons, the Authority considered Google's practices harmful and took the interim measure decision. Basically, it is stated in the decision that Google's

⁴⁴²<https://www.concurrences.com/en/bulletin/news-issues/april-2020/the-french-competition-authority-issues-interim-measures-requiring-a-big-tech>, Accessed: 01.02.2023.

⁴⁴³ The interim measure was approved on 09.10.2020.

position in general search services market makes it irreplaceable and essential in bringing traffic to websites of news publishers and agencies. According to the complainants' data, search engines represent 26% to 90% of the traffic directed to news publishers' websites. This traffic is crucial for news publishers who cannot afford losing their digital readers due to the existing economic difficulties of the sector. In addition, the Authority thinks that news publishers and agencies have no other choice but adhere to Google's zero price display policy because the risk of not being displayed means a loss of income. Therefore, the Authority considers that publishers are urged to accept conditions that seem less favorable than the conditions existed before the relevant legislation.

(623) The Authority ordered Google to make negotiations with publishers and news agencies in good faith about the conditions and fees for the reuse of the protected material. However, later the Authority found that Google did not conduct negotiations with news publishers and agencies in good faith, Google refused to pay for the use of content and unjustifiably restricted the parties who will participate in the negotiations⁴⁴⁴. Moreover, taking into account the transmission of the information that would allow fair negotiation with news publishers and agencies, the display of the content protected with copyrights and the existing economic relations between the news publishers and Google, non-compliance with the obligations aimed at ensuring the neutrality of the negotiations have aggravated the breach. As a result Google was fined 500 million euros. Moreover, the Authority also provided for a periodic penalty payment up to 900,000 euros per day of delay in case of non-compliance. It is known that Google signed a framework agreement with French news publishers upon the said decision⁴⁴⁵.

(624) Another example of insufficient copyright regulations is Spain. Before the abovementioned Directive was adopted, Spanish government issued an act obliging Google and other news aggregators to pay a central license fee to use Spanish news agencies' news. Upon this regulation, in 2014, Google closed

⁴⁴⁴<https://www.autoritedelaconurrence.fr/en/press-release/remuneration-related-rights-press-publishers-and-agencies-autorite-fines-Google-500>, Accessed: 01.02.2023.

⁴⁴⁵ https://www.europarl.europa.eu/doceo/document/P-9-2021-001020-ASW_EN.html, Accessed: 07.02.2023.

Google News in Spain⁴⁴⁶. After Spain adopted the Directive allowing online media platforms to negotiate license fees directly with news agencies, the law, which was adopted in 2014, was abolished. After the second regulation, it was announced that Google News will provide services in Spain again.

- (625) Another competition investigation about news services was initiated by German Competition Authority under the scope of “Google News *Showcase*”^{447,448}. Google News Showcase is a service which offers news content from publishers in a more visible and detailed way. Google provided the said service to a group of German publishers. The Authority announced that it would examine whether Google News Showcase’s integration into the general search service will lead to self-preferencing and create barriers to the services provided by rival third parties, whether the service’s contractual terms include unreasonable conditions to the detriment of publishers and especially whether complicates applying copyrights disproportionately. According to the press release on the Authority’s website on 21.22.2022, the Authority concluded its proceedings against Google about online news services after Google made important adjustments to the benefit of publishers. In the announcement made by the President Andreas Mundt, it is stated that Google abandoned its plan to integrate Google News to the search engine⁴⁴⁹, whether publishers participate in Showcase will continue to be irrelevant for their ranking in search results and Google changed its contractual terms in a way that publishers will not face difficulties asserting their copyrights.
- (626) Lastly, a previous proceeding in Germany on this issue is worth mentioning. With the introduction of a regulation to the German Copyright Act in 2013, “ancillary copyright” is granted to press publishers to ensure high quality journalism and citizens’ access to qualified and accurate information. After the right was granted, Google refused to pay the remuneration in the tariff of VG Media, which is a professional association of press publishers. Afterwards, it was claimed that Alex Springer, which is the biggest publisher of Germany, started

⁴⁴⁶<https://www.theverge.com/2021/11/3/22761041/google-news-relaunch-spain-payments-publishers-eu-copyright-directive>, Accessed: 01.02.2023.

⁴⁴⁷ The service is currently unavailable in Türkiye. <https://news.Google.com/showcase?hl=tr&gl=TR&ceid=TR:tr> Accessed: 03.02.2023.

⁴⁴⁸https://www.bundeskartellamt.de/SharedDocs/Meldung/EN/Pressemitteilungen/2022/21_12_2022_Google_News_Showcase.html, Accessed: 27.01.2023.

⁴⁴⁹ The integration aims that participating in Google News will improve the ranking of a news website in Google general search results.

to allow Google to use its content for free for fear of losing its internet traffic and Google decreased the visibility of press publishers who demand remuneration. In response to this, VG Media and 41 publishers raised allegations that Google violated competition through discrimination by means of not displaying publishers demanding remuneration and displaying those who do not and thereby abused its dominant position. The German Competition Authority rejected the allegations⁴⁵⁰.

- (627) The decision did not make a specific market definition and dominant position analysis about Google's services. It is stated that Google's approach to urge publishers to agree that snippets for their content will be displayed at no fee and limit the presentation of search results by omitting snippets and preview images do not fulfill discrimination and unfair hindrance criteria. A broader stipulation of sanctions about the criteria to be applied within the scope of organic results without covering the search engine's policy to place or add its service will ultimately affect the product design and prevent the search engine from developing its services. On these grounds, the proceeding concerning the application shall not continue. It is also stated that Google's reasonable interests outweigh publishers' losses in view of the alleged practices. At the end, the decision explains that taking into account Google's aim to avoid damages actions and maintain its generally legitimate business model, it is concluded that the practice in question is probably objectively justified.
- (628) Depending on the abovementioned developments, it is understood that copyright regulations are an important step for protecting their monetary rights however may not be sufficient alone in ensuring news publishers' maintaining activities.
- (629) A study by ACCC about the inadequacy of regulations on the protection of copyrights mentions the following challenges in applying the copyrights to digital platforms reduce the expected benefits of copyrights: (i) digital platforms do not respond to news publishers' request to remove the content timely and (ii) not giving the monetary return for copyright protected material. It is recommended that Australia Communication and Media Authority develop code of conduct for governing the relations of platforms with news publishers in consultation with

⁴⁵⁰ Bundeskartellamt's decision no B6-126/14, https://www.bundeskartellamt.de/SharedDocs/Entscheidung/EN/Fallberichte/Kartellverbot/2016/B6-126-14.pdf?__blob=publicationFile&v=2, Accessed: 01.02.2023.

ACCC in order to clarify the copyright act in the country and to address the imbalance in the bargaining relation between news publishers and digital platforms beyond the copyright regulation⁴⁵¹.

(630) According to ACCC, this code of conduct should be designed to cover, for each platform: (i) within the borders of data protection and privacy acts, the sharing of data concerning readers' consuming news publisher's content in the digital platform's service⁴⁵², (ii) early notification to news publishers of important changes in ranking and display of news that are reasonably likely to affect the directing traffic, (iii) guaranteeing that the digital platform's actions do not impede news publisher's opportunity to gain revenues from the content published appropriately on digital platform's websites or apps or news publisher's website or apps and (iv) in case the digital platform obtains value directly or indirectly from the content produced by news publishers, making fair negotiations about how this revenue should be shared or compensated by news publishers⁴⁵³.

(631) Similarly, CMA also assessed the efficiency of copyright regulations and found that such regulations are not very effective in news publishers' maintaining their activities and may decrease the traffic to be obtained by news publishers⁴⁵⁴. Consequently, in July 2021, United Kingdom Government opened the idea of developing a code of conduct for digital platforms in news publishing to public consultation. The grounds for developing a code of conduct are explained as follows: Online platforms especially Google and Meta may impose unfair terms on news publishers, which may limit their ability to monetize their content and threaten the sustainability of news publishing. A code of conduct will support the sustainability of news publishing industry and help balancing the relation between news publishers and digital platforms. To develop the Code of Conduct, it is foreseen that the Digital Markets Unit will be established and it will work with OFCOM⁴⁵⁵. It is highlighted that this enforceable code can address the

⁴⁵¹ ACCC (2019), p. 206.

⁴⁵² For instance, the data obtained from news content provided by news publishers about the news content published by Meta or Google on their platforms.

⁴⁵³ ACCC (2019), p. 256.

⁴⁵⁴ CMA (2020), p. 15.

⁴⁵⁵ CMA (2021), "A New Pro-Competition Regime For Digital Markets", https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1003913/Digital_Competition_Consultation_v2.pdf, p. 27-35. Accessed: 01.02.2023.

concerns about the transparency on fees and ranking, access to user data, limitations on publishers' ability to monetize content and prior notification about the changes to algorithms.

- (632) Those platforms have become the inevitable trade partners of news publishers in terms of traffic as news readers access the news content through those digital platforms. ACCC highlights that the directing services supplied by general search service providers are “must have product for news media businesses”.⁴⁵⁶ As a result of this, news publishers may face an imbalance in bargaining power in their relationship with platforms. The imbalance in the bargaining power may lead to several disadvantages for news publishers; they may have no choice but to accept the terms that those platforms impose.
- (633) If news publishers have to accept the terms less convenient for them due to digital platforms' practices, readers may reach fewer news publishers and may be exposed to lower quality content. In terms of news publishers, this may lead to serious problems such as inability to reach readers, not being preferred by advertisers because of not attracting traffic and thus being excluded from online display advertising market.
- (634) As understood from the explanations in this section, the main problem between digital platforms and news publishers is that news publishers who do not have bargaining power against digital platforms' activities lose their opportunity to gain revenues and thus sustainability of their activities is jeopardized. This will prevent access to qualified and accurate news content, creating disinformation at the social level. It may also lead to the exclusion of news publishers from online advertising market.
- (635) In view of those concerns, there are two fundamental approaches for legal protection of news publishers. One of those is protecting copyrights and the other is protecting competition in the market. At this point, it is possible to prevent, with both competition law tools and copyright regulations, digital platforms' activities that complicate/hinder news publishers' gaining traffic and revenues, in brief that complicate their activities. In this kind of structure, news publishers will continue to produce content as long as they gain revenues and readers can access various news content. In terms of advertisers, the more news publishers

⁴⁵⁶ACCC (2019), p. 217

maintain their activities, the more there will be channels for publishing ads. Also, the dependency to digital platforms will diminish and competition in ad services market will improve.

(636) On the other hand, despite the situation described above by screening the literature and global practices, publishers who are contacted within the scope of the sector inquiry in our country have not raised similar competition concerns. Therefore, it is not possible to make a certain conclusion that those concerns also apply for our country. Nevertheless, this sector inquiry may serve for informing the shareholders about the developments in this area throughout the world, increasing awareness and encouraging shareholders to submit their contributions about the issue, if any, to the Authority. As similar concerns are valid in our country, it is suggested that coordination be made about how to eliminate concerns and an examination be made by asking for the opinions of the General Directorate of Copyrights of the Ministry of Culture and Tourism and in cooperation with the relevant Ministry.

6.6. Google's Privacy Sandbox

(637) Privacy Sandbox is a technology offer created by Google to improve user privacy by removing the use of third party cookies on Google Chrome⁴⁵⁷ browser⁴⁵⁸. The browser plays a critical intermediary role as it is a software that places the cookies to the user's computer on behalf of third parties. Google Chrome is the most used browser with 65% market share and an important gateway for publishers to reach desktop and mobile smart device users⁴⁵⁹. Browsers' market shares in terms of the number of page views in Türkiye are given below:

⁴⁵⁷ <https://gs.statcounter.com/browser-market-share#yearly-2019-2022>,
30.12.2022.

⁴⁵⁸ <https://privacysandbox.com/>, Accessed: 25.01.2023.

⁴⁵⁹ ACCC (2021), p. 127.

Accessed:

Table 28: Web Browsers' Market Shares between 2018 and 2022 in Türkiye (%)

Undertaking	2018	2019	2020	2021	2022
Chrome	72.79	73.51	76.05	76.68	81.00
Safari	10.42	11.16	11.42	10.28	10.08
Samsung	5.75	8.01	7.09	5.70	4.20
Opera	1.81	1.69	1.56	2.10	1.87
Firefox	1.70	1.08	1.04	1.09	0.54
Yandex	1.28	0.93	0.94	1.47	0.64
Android	2.62	1.18	0.18	0.17	0.06
IE	1.75	1.00	0.52	0.64	0.21
Edge Legacy	0.89	0.72	0.49	0.11	0.03

Source: Statcounter^{460,461}

- (638) As seen in the table above, between 2018 and 2022 in Türkiye, Chrome has maintained its high market power steadily and even increased. Chrome's 73% market share in 2018 raised to 81% in 2022. On the other hand the market share of its closest competitor Safari stayed between 10% and 11%. Following Safari, Samsung Internet's market share varies between 4% and 8%. It can be said that other competitors' market shares are ignorable. Google's practice in question has led to concerns by creating uncertainty in online advertising sector whose operation highly depends on third party cookies.
- (639) Third party cookies were part of the internet even before the internet started to develop commercially in 1990s. Cookies were not initially designed to monitor users on the internet⁴⁶². The most important duty of cookies in early stages is to provide "single sign on" function where a user can connect to more than one system with a single sign on⁴⁶³. Today, third party cookies allow ad tech providers to track users across websites⁴⁶⁴ and have a critical role for online display

⁴⁶⁰ <https://gs.statcounter.com/browser-market-share/all/turkey#yearly-2018-2022>, Accessed: 22.02.2022.

⁴⁶¹ The undertaking states that its statistics are based on more than five billion pageviews on more than 1.5 million websites. In relation to browsers' shares, pageviews are taken into account rather than unique visitors, thus how frequent browsers are used and use of more than one browser by users are considered. <https://gs.statcounter.com/factsheet>, Accessed: 15.02.2023.

⁴⁶² COOPER, D., T. YALÇIN, C. NISTOR, M. MACRINI and E. PEHLIVAN (2021), "Privacy Considerations for Online Advertising: A Stakeholder's Perspective to Programmatic Advertising", p. 11.

⁴⁶³ MENDYS, A. and J. JENSEN (2021), "How Will Google Privacy Sandbox Impact e-CRM of Danish SMEs?", MSC International Marketing Master Thesis, p. 29.

⁴⁶⁴ First party cookies allow tracking users only on the websites they visit whereas with third party cookies, users can be tracked in all websites they are integrated.

advertising. In case a user deactivates third party cookies, publishers' revenues from that user might decrease by 52%^{465,466}

- (640) Google makes the following explanations about deactivating third party cookies on Chrome browser: Cookies have turned into a flexible technology enabling significantly favorable innovations however at the same time they have led to undesired types of data use. Consumers are expecting to have stronger control over user tracking tools such as cookies and ad definers. Such control is also required by data privacy laws. If privacy practices do not keep up with users' changing expectations, online advertising ecosystem will be jeopardized.
- (641) Google lists the aim of Privacy Sandbox as follows: (i) to prevent tracking users while they are surfing on the internet by blocking widely used tracking mechanisms such as third party cookies and "secret user tracking techniques" such as fingerprinting⁴⁶⁷ and (ii) by creating privacy-centered alternatives for basic online business needs including presenting targeted ads to consumers, to allow publishers to create sustainable websites respecting users' privacy and to keep open internet alive.
- (642) Privacy Sandbox aims a solution that allows sufficient information flow for supporting advertising ecosystem and increases user privacy. Thanks to this technology, advertisers will be able to identify various ad terms and targets but those terms and targets will be made through anonymized data groups. In this way, advertisers can reach the target group without using users' personal data directly.
- (643) Privacy Sandbox plans a transformation from targeting at user level to targeting at mass/ group level⁴⁶⁸. According to Privacy Sandbox, user ID will be fragmented by third party websites and cannot be identified by different websites. A user activity in one website cannot be compared to the use activity on other websites. Privacy sandbox aims that advertising take place at

⁴⁶⁵ COOPER D., T. YALÇIN, C. NISTOR, M. MACRINI and E. PEHLIVAN (2021), p. 3.

⁴⁶⁶ Google deactivated third party cookies for a group of randomly chosen users (experiment group) in the study to measure empirically the effect of deactivating third party cookies on publishers' revenues. As a result of the study, the revenue loss per publisher in the revenues of the globally largest 500 publishers was 52% and the revenue loss per publisher for other publishers was 64% (See https://services.google.com/fh/files/misc/disabling_third-party_cookies_publisher_revenue.pdf Accessed: 25.01.2023).

⁴⁶⁷ Fingerprint method is identifying a device (and thus its user) by collecting information about hardware and software configuration.

⁴⁶⁸ GERADIN D., and D. KATSIFIS (2021), p. 40.

“cohort”⁴⁶⁹ level to prevent identification of an individual’s ID.⁴⁷⁰. The tool to complement this is Google’s own browser Chrome. Chrome will have the critical functions such as supervising ad auctions according to Privacy Sandbox. In line with this, a part of data processing will take place on the browser. This practice minimizes the data stored outside/far from the device. It depends on the developments in edge computing⁴⁷¹ which aims to be less dependent on cloud technologies and enable data processing close to the device or server.

(644) On the other hand, Privacy Sandbox aims to prevent only user tracking based on third party cookies. Therefore, when users visit a publisher’s website, publishers can still define users by means of first party cookies⁴⁷². Publishers can make the profiles of users based on user activity on their websites. However, while publishers are making this profile, they cannot use user activity on third party websites.

(645) This is beneficial for publishers with a wide user base. At the same time, it means that Privacy Sandbox’s privacy advantages can be limited⁴⁷³. After Privacy Sandbox, publishers can continue to track each user’s each click by means of first party cookies. In fact, this is necessary for the functioning of many websites but in this case, Google, which operates many services for consumers such as Gmail and YouTube, will maintain its ability to create user profiles with the data obtained from those sources. At the same time, it reduces the boundary between Google’s platform and open web⁴⁷⁴ because when users sign in Chrome, open web becomes a part of Google’s environment⁴⁷⁵. In other words, while Google Privacy Sandbox ends third party cookies, it allows platforms such as Google

⁴⁶⁹ Means groups or communities composed of people with common features.

⁴⁷⁰ GERADIN D., and D. KATSIFIS (2021), p. 40.

⁴⁷¹ Edge computing is processing of IT sources, in other words data, apps and functions such as storage close to devices instead of cloud computing or data center. This process is generally done on Internet of Things devices, smart phones, laptops or mobile devices such as tablets. Thanks to edge computing, performance of apps that require processing power can be increased, data can be processed faster and dependency on internet connection may be less. (See <https://azure.microsoft.com/tr-tr/resources/cloud-computing-dictionary/what-is-edge-computing/>, Accessed: 12.03.2023.)

⁴⁷² GERADIN D., and D. KATSIFIS (2021), p. 65.

⁴⁷³ GERADIN D., and D. KATSIFIS (2021), p. 42.

⁴⁷⁴ Open web means the entire websites and web pages that are accessible for everyone and generally indexed by search engines. (See <https://www.pcmag.com/encyclopedia/term/open-web>, Accessed: 12.03.2023).

⁴⁷⁵ <https://www.oracle.com/news/announcement/blog/google-privacy-sandbox-030721/>
Accessed: 30.12.2022.

and Facebook to collect first party cookies. Privacy Sandbox does not show a solution for tracking users in those platforms or other channels.

- (646) In terms of the prevention of third party cookies, two big web browsers Safari (Apple) and Firefox (Mozilla) also changed their policies to stop the use of third party cookies in 2017 and after⁴⁷⁶. Nevertheless, Safari and Firefox are not strong players in browser market or online advertising market. In this sense, Google's decision to prevent third party cookies has caused concerns that the functioning of the sector may be jeopardized in terms of personal targeting and ad measurement and competition may be distorted.
- (647) Google postponed the implementation of Privacy Sandbox to give enough time to shareholders for making assessments about the changes and not to jeopardize the undertakings whose revenues depend on online advertising during the development process. Currently, upon the concerns mentioned above and the ongoing investigation in UK, implementation of Privacy Sandbox is postponed until the end of 2023⁴⁷⁷.
- (648) The application should be shaped in the development stage before it is implemented by assessing its effects on competition, considering the following facts: Google has power in the market. The application may affect the functioning of the entire sector. Thanks to the application, Google may increase its market power anticompetitively. Shareholders whose revenues depend on online advertising may be harmed. Within this framework, first the legal regulations that pave the way for Privacy Sandbox will be explained. Then, alternative methods corresponding to third party cookies' functions and alternative user tracking/targeting technologies apart from third party cookies are assessed. Finally, likely competitive concerns are discussed under the scope of the sector shareholders' opinions about the application's effects and inquiries about it abroad.

6.6.1. Developments that Pave the Way for *Privacy Sandbox*

- (649) Data is an important input for providing online services. In addition, data allows better ad targeting. Thus, distribution and use of data by more firms desirable.

⁴⁷⁶ OLEJNIK L. (2021), "On The Governance of Privacy-Preserving Systems for the Web: Should Privacy Sandbox be Governed?" p. 2.

However, there are concerns about privacy⁴⁷⁸. For the last two decades, companies have been using several methods to track online users and users are generally not aware of to what extent they are tracked by companies since they do not read privacy policies for most of the time. Considering online tracking with the improvements in machine learning, it increases privacy concerns as it enables making very detailed user profiles. Moreover, in the real time auction that takes place in the “background” of the website visited by the user, many ad tech companies access data such as IP address, cookies, ID, time zone and location. Therefore, there is a natural balance between data privacy, efficiency and competition in online advertising⁴⁷⁹.

- (650) One of the best examples of cases where privacy concerns are created by online tracking is *Facebook-Cambridge Analytica*. The case showed how data aggregation can be used for political campaigns when personal data of 50 million Facebook users were collected in 2014 without their consent and sold to politicians and used to affect voters⁴⁸⁰. Consequently, given its possible consequences, it is not surprising that online tracking brings concerns and it is increasingly subject to regulations worldwide.
- (651) Google argues that privacy becomes an important topic for the society after users have started to understand and try to control how their personal data is used online; consumers expect stricter control over tools monitoring cookies and ad identifiers; data privacy acts require such controls, regulatory agencies about data privacy are handling the issue of how user privacy will be protected best in ad tech ecosystem⁴⁸¹.
- (652) Depending on the said concerns, legal regulations about user tracking and obtaining consent that had an impact on decisions to deactivate third party cookies in online advertising to protect data privacy in the best way have been made. Also, undertakings have developed applications to this end during the

⁴⁷⁸ <https://ec.europa.eu/competition/publications/reports/kd0419345enn.pdf> Accessed: 01.02.2023.

⁴⁷⁹ GERADIN D. and D. KATSIFIS (2021), p. 23.

⁴⁸⁰ https://en.wikipedia.org/wiki/Facebook%E2%80%93Cambridge_Analytica_data_scandal Accessed: 28.11.2022.

⁴⁸¹The examples of this are listed as follows: (i) UK Information Commissioner’s Office has been making an important and long term inquiry about real-time bidding, (ii) Ireland Data Protection Commission initiated a legal proceeding against Google’s real time bidding (RTB) product to assess whether Google’s procedure of processing personal data complies with GDPR and (iii) FTC in the United States is under pressure to look into RTB and its consequences for privacy.

process of compliance with the said regulations. The regulations are given below respectively.

6.6.1.1. Legal Regulations about User Tracking and Obtaining Consent

- (653) Legislators have a scattered approach towards the protection of personal data throughout the world. Some countries do not have a privacy act whereas some others have enacted regulations protecting privacy without considering efficiency concerns. Therefore, even if there is not a single act governing online privacy, in addition to the previous acts and regulations aiming to control the use of personal data, new actions have been taken in terms of user tracking and obtaining consent to inform users and enable them to control their data by giving them options⁴⁸².
- (654) First, e-Privacy Directive was put into effect in the EU in 2002. Dealing with the use of cookies, data minimization and data privacy, the said Directive was designed so that EU members could prepare their own acts in compliance with the legislation. The Directive sets out undertaking's obligations about processing personal data in terms of electronic communication tools such as e-mail, phone calls and internet connection. In addition, General Data Protection Regulation (GDPR), which is one of the most powerful and strict privacy regulations in the world, was put into effect in EU in 2018. Parallel to e-Privacy Directive, GDPR regulates processing of personal data. GDPR applies to companies providing goods and services to people living within the borders of EU, in addition to EU origin companies. It covers online advertising as well as cookies and device identifiers.
- (655) California Consumer Privacy Act (CCPA), which was put into effect in 2020, is one of the important regulations in US⁴⁸³. CCPA obliges the incumbent undertakings in California to explain how they collect, process and share customers' personal data. CCPA grants rights to users to learn which personal data are collected and whether their personal data are sold, prevent the sale of their personal data, request a firm to delete all personal data collected.

⁴⁸² "IAB Avrupa Üçüncü Parti Çerez Sonrası Dönem Kılavuzu", p. 7. <https://iabtr.org/UploadFiles/PageFiles/%C3%9C%C3%A7%C3%BCnc%C3%BC%20Parti%20%C3%87erez%20Sonras%C4%B1%20D%C3%B6nem%20K%C4%B1lavuzu1952021154139.pdf>, Accessed: 30.01.2023.

⁴⁸³ "IAB Avrupa- Üçüncü Parti Çerez Sonrası Dönem Kılavuzu", p. 8.

- (656) In addition, in many countries such as Canada, Brazil, etc., legal regulations are prepared to protect personal data and privacy. In Canada, Consumer Privacy Protection Act (CPPA), enacted in 2020, aims to grant more control to consumers about how firms collect and process data and increase protection for users' personal data⁴⁸⁴. In the same year Brazil General Data Protection Act *Lei Geral de Proteção de Dados* (LGPD) was put into effect. LGPD requires that undertakings should make a legal basis to process personal data and grants rights very similar to those under GDPR including access to data, data correction and data portability⁴⁸⁵.
- (657) In our country, in 2016, Personal Data Protection Law came into force to protect people's fundamental rights and freedoms, especially right of privacy and regulate the procedures and principles to be complied by real and legal persons who process personal data.

6.6.1.2. Developments in Practice about User Tracking and Obtaining Consent

- (658) Although data collection is inevitable in the provision of goods and services, concerns have risen about its abuse as it has an economic value. In order to solve those concerns, certain regulations on the collection and use of personal data are imposed to players collecting data. As a result of the legal regulations about user tracking and obtaining consent, companies are making changes to comply with those. Those changes can be categorized as actions by rival browsers and ad blockers removing online ads from websites.
- (659) In terms of actions by rival browsers first Apple, in 2017, by implementing *Intelligent Tracking Prevention* (ITP), took a step to ultimately deactivate third party cookies overall the sector. In the last two years, as market actors are trying to adapt to the last changes in ITP, Apple is reducing its abilities to track across websites.
- (660) Within this framework, if the user has not interacted with a website within the last 30 days, third party cookies are automatically deleted and new third party cookies coming from the website are blocked. If they visit a website and a third

⁴⁸⁴ "IAB Avrupa- Üçüncü Parti Çerez Sonrası Dönem Kılavuzu", p. 14.

⁴⁸⁵https://iapp.org/media/pdf/resource_center/Brazilian_General_Data_Protection_Law.pdf, Accessed: 01.02.2023.

party cookie is created, this cookie can be used only for 24 hours in the context of third party cookie. After 24 hours, the cookie can only be used in the context of first party and if there is no visit to the website again in 30 days, the cookie is deleted⁴⁸⁶. Apple has updated the functioning of ITP, which was launched in 2017, in a way to increase user privacy.

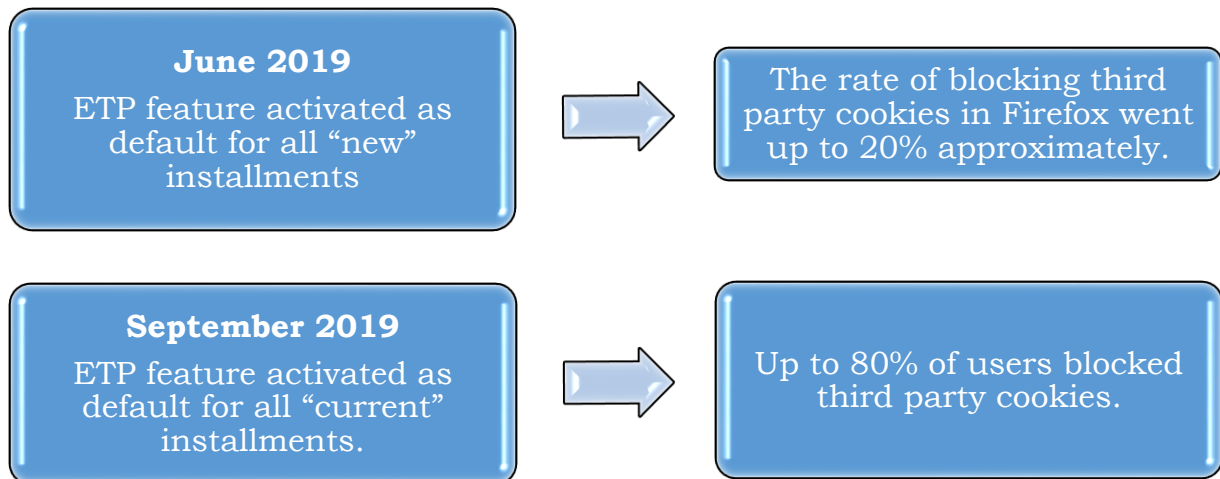
(661) Apple was asked “*the reasons of deactivating third party cookies*” and Apple made the following explanations: Thanks to ITP, Safari blocks tracking as default. It asks users whether they allow social media tools to access their ID and provides transparency and control to users. For instance, if a user interacts with a placed social media add-on, ITP displays a consent dialog box and the user can choose “Don’t allow” and “Allow”. If the user chooses “Allow”, while the user is visiting a website, a social media website can reach user data but when the user goes to another website, they should give access permission again. In this way, the user has control.

(662) On the other hand, Mozilla produced Enhanced Tracking Protection (ETP) function based on connect.me URL site in October 2018 to block third party cookies. The explanations about the app is as follows: Simplified content blocking settings provide users standard, strict and special options to control online trackers. The re-designed content blocking part in the website information panel (displayed by expanding the “i” symbol on the address toolbar) show what Firefox detects and blocks on every website you visit. In June 2019, Mozilla, with v.67.0.1⁴⁸⁷ update, activated ETP feature as default for all “new” installments and the rate of blocking third party cookies in Firefox went up to 20%. Lastly, in September 2019, Mozilla, with v.69 update, activated ETP feature for all “existing” installments and in a few weeks, up to 80% of users blocked third party cookies.

⁴⁸⁶ IAB Avrupa (2022), “Üçüncü Parti Çerez Sonrası Dönem Kılavuzu”, p. 17.

⁴⁸⁷ Mozilla is a version of Firefox browser.

Figure 21: Changes to Mozilla ETP Feature and their Impact



Source: IAB Avrupa (2022), “Üçüncü Parti Çerez Sonrası Dönem Kılavuzu”, p. 20.

- (663) Microsoft presented “*Microsoft Tracking Prevention*” (MTP), which is very similar to Firefox’s FTP in functioning. Like ETP, MTP blocks third party cookies coming from known tracking websites and in strict mode, searches to those websites. MTP was introduced in the 80th version of Microsoft’s Edge browser, which was launched on 15.01.2020. According to Microsoft, especially strict mode, helps protection against fingerprinters. Edge do not prevent ads locally but can download ad blocking extensions. The browser is now based on Chromium, many Chrome extensions (beside the extensions in Microsoft Store) work with Edge’s latest version.
- (664) With MTP update in January 2021, it is possible to control with which websites Microsoft Edge can share location, camera and microphone access. Users can review, set and reset website permissions and see which permissions have changed recently. However, there is only an option to delete third party cookies.
- (665) As mentioned above, many platforms are preparing to block third party cookies after Apple’s ITP initiative in 2017. Therefore, it is not surprising that Google announced in July 2020 that it would remove third party cookies from Chrome browser. Even if browsers such as Firefox and Safari are blocking third party cookies, given its market share, Chrome is likely to bring more comprehensive effects.
- (666) Apart from browsers’ practices mentioned above, ad blockers have been developed to block user tracking. For instance ad blockers are placed on several

browsers so that users can block pop-up ads, which were widely preferred during mid-2000s. Ad blockers are a type of software that removes online ads from the websites visited and are generally in the form of a browser extension. Ad blockers are used because ads may slow down loading speed, may distract users, lead to wider bandwidth especially on mobile devices and increase battery consumption. They are also used due to privacy concerns. All ad blockers similarly scan as the website is loading, look for all elements defined as an ad and changes the elements with ads not to be displayed⁴⁸⁸.

- (667) There are different types of ad blocking software. Ad blocking with a browser extension is the most used ad blocking tool. For instance, some browsers including Chrome, can limit the ads users see according to a range of instructions through built-in ad blockers. This limitation decreases the data amount used while surfing on the internet as data is needed to load each ad on the browser.
- (668) Another tool to block ads is Virtual Private Network (VPN) technology⁴⁸⁹. VPNs do not block ads automatically but if the user is connected to VPN while scanning, they provide an ad blocking service to help protect user privacy. There are indirect ad blockers provided by virus scanning apps as a browser extension.
- (669) In addition, there are apps that limit the number of ads on mobile devices for iOS and Android, similar to desktops. Even if ad blockers have been increasingly integrated into the app ecosystem, they do not attract attention compared to browsers. Although changes from market to market, the average ad blocker usage rate is estimated to be 37% globally in the third quarter of 2021⁴⁹⁰.
- (670) Following those developments before Privacy Sandbox was announced, alternative offers within the framework this initiative and other user tracking/targeting methods that are regarded as possible substitutes for third party cookies as well as reflections in the sector about their feasibility are discussed below.

⁴⁸⁸ <https://allaboutcookies.org/how-does-ad-blocker-work>, Accessed: 02.02.2023.

⁴⁸⁹ VPN is a technology allowing users to connect to internet by using different IPs other than their own IPs. VPN encrypts users' internet connection and prevents tracking their internet activities. (See <https://www.forbes.com/advisor/business/software/why-use-a-vpn/> Accessed: 12.03.2023.)

⁴⁹⁰ <https://www.statista.com/statistics/351862/adblocking-usage/> Accessed: 30.01.2023.

6.6.2. Privacy Sandbox Offers as Alternatives to Third Party Cookies

(671) Google has announced that it will work on alternative technology solutions that will do the functions of third party cookies within the scope of Privacy Sandbox. Google offered respectively the offers called FloC (*Federated Learning of Cohorts*) and TURTLEDOVE (*Two Uncorrelated Requests, Then Locally-Executed Decision On Victory*), which will work for ad targeting and remarketing functioning. Eighteen months after Google announced that FloC offer is 95% more effective than current personalized advertising offers, it announced that “The Topics API” would replace FLoC and “FLEDGE” offer would replace TURTLEDOVE⁴⁹¹. Google developed Attributing Reporting API to detect how many people see the ad and whether it is converted to a click and Trust Token API to fight misleading content and fraud in online advertising. Moreover, Google also offers Privacy Budget to prevent fingerprinting by stating that Privacy Sandbox’s long term aim is to limit over-collection of data from users. The content of alternatives to third party cookies’ functions as well as advantages and disadvantages thereof are given in detail below.

6.6.2.1. The Topics API instead of FLoC

(672) Today, personalized advertising is mostly made by means of tracking user activities across websites. Even if there are other methods for tracking users such as fingerprinting, tracking is made mostly through third party cookies today⁴⁹². Thanks to third party cookies, ad tech providers can track users regardless of the website they visit and place them to segments according to their interests and demographic features⁴⁹³. Ad tech providers submit those segments to advertisers who wish to reach a certain group.

(673) The aim of FLoC is to give targeted/personalized ads on the internet without identifying individuals specifically. By using machine learning algorithms, FloC separates user data into cohorts⁴⁹⁴. A FLoC cohort collects data obtained from hundreds of people in browser history and separates those into specific clusters.

⁴⁹¹ ELIOT D. and D. M. WOOD (2022), “Culling the FLoC: Market forces, regulatory regimes and Google’s (mis)steps on the path away from targeted advertising”, p.259.

⁴⁹² COOPER D., T. YALÇIN, C. NISTOR, M. MACRINI and E. PEHLIVAN (2021), p. 10.

⁴⁹³ GUIDA, S. (2021), “Third-Party Cookies and Alternatives: What Consequences in Terms of Consent?”, p. 4.

⁴⁹⁴ Means a group with common features, a cluster.

The first aim of this cluster is to enable targeting in line with the purposes of online advertising. The second aim is privacy; in each cohort, there should be sufficient number of users to prevent the identification of any user in each cohort. Google explains this approach as safety in the crowd. Chrome browser will update the cohort real-time as long as the user is surfing the internet. Users' personal data will not be uploaded or shared but only saved locally and this will protect user privacy.

- (674) After the cluster is created in the cohort, this cluster will be given a FLoC ID and those FLoC IDs will be used in a similar way as the use of third party cookies in advertising auctions. However, FloC ID is meaningless alone as it does not explain which cohort it corresponds to. Ad tech firms will identify FLoC IDs to create an insight about which types of users belong to each cohort and adapt marketing strategies accordingly.
- (675) FLoC offers a fundamental change to how targeted/personalized ads are made. First, FLoC takes targeting away from a specific person to cohort level. Second, FLoC makes the browser the central player because the only entity that can track users on websites and assign them to cohorts. This is just the opposite of the current practices where users are tracked by third party cookies and assigned to mass segments.
- (676) About Google's FLoC proposal, advertisers operating in Türkiye state that after the demise of third party cookies, they can continue collecting personalized information about their target audience via FLoC offer (...), while some advertisers suggest that FloC proposal will lead to dependency to Google products/services unless it is made in the form of a consortium and if it is under the sole control of Google.
- (677) When Google withdrew FLoC offer at the beginning of 2022, it announced The Topics API offer simultaneously instead of FLoC⁴⁹⁵. The Topics API offer is based on defining a topic such as "sports" and "travel" that reflects the interest of users best according to one-week browser history. When users visit a website, The Topics API will define three topics from each of the last three weeks to share with ad tech companies. Those topics will be stored on users' computer to be deleted

⁴⁹⁵ <https://blog.google/products/chrome/get-know-new-topics-api-privacy-sandbox/> Accessed: 23.01.2023.

at the end of three weeks and will not be stored in any third party server including Google's server. Unlike third party cookies that enable advertisers to track users and create profiles in order to understand their interests, The Topics API will share a short list of ad topics that may be relevant to the user with the ad tech firm⁴⁹⁶.

(678) Currently, rather than a completed technology offer, The Topics API is a call for development. Google has published a trial for The Topics API and requests feedback from third parties about this technology⁴⁹⁷. An online advertising expert evaluates The Topics API by saying "*Topics is a dumbed-down version of a FLoCs that people are actually able to understand . . . It's the same contextual targeting capability from around 2005. It's not very sophisticated.*"⁴⁹⁸ Google Chrome's internet platform leader Ben Galbraith said that although cohort IDs brought by FLoC are technically beneficial, it is difficult for users to understand what those IDs mean and the topics brought by The Topics API represent an important development for users⁴⁹⁹.

6.6.2.2. TURTLEDOVE and "FLEDGE" offered Instead

(679) Google's TURTLEDOVE offer aims to substitute the functions of remarketing provided by third party cookies. TURTLEDOVE creates an API that allows remarketing while making important privacy improvements. Within this framework, it is possible to summarize TURTLEDOVE's privacy improvements as follows: Data about a user's interests are kept not by the advertiser but user's browser. While remarketing, the advertiser cannot access data about who the users are or which websites they have visited before. Websites users visit and the ad networks of those websites cannot learn the ads users are interested in.

(680) Some conclusive objectives are designed for the API to be developed so that TURTLEDOVE can reach those aims. Those are to continue showing such types of ads to users who like ads reminding the websites they are interested in, to give clear and correct answers to users who want to know "*how ads know*" what

⁴⁹⁶ <https://www.adexchanger.com/privacy/meet-topics-api-googles-latest-addition-to-the-privacy-sandbox-its-basically-floc-2-0/> Accessed: 23.01.2023.

⁴⁹⁷ <https://developer.chrome.com/docs/privacy-sandbox/topics/> Accessed: 23.01.2023.

⁴⁹⁸ ELIOT D. and D. M. WOOD (2022), "Culling the FLoC: Market forces, regulatory regimes and Google's (mis)steps on the path away from targeted advertising", p.266.

⁴⁹⁹ <https://www.adexchanger.com/privacy/meet-topics-api-googles-latest-addition-to-the-privacy-sandbox-its-basically-floc-2-0/> Accessed:: 23.01.2023.

they are interested in and to enable users who want to end seeing such types of ads quit seeing ads which targets the group they are in.

- (681) TURTLEDOVE will provide a mechanism so that advertisers can add users to “interest group” segment. Advertisers will send a request to browsers of users who have visited their websites to join an interest group. For instance, a shoes retailer can add a user who has visited their website to an interest group called “shoes shopping”. At the same time, the advertiser can decide which third party ad networks can access those interest group information. If the said user in question visits another website, the browser will sent two irrelevant ad requests to the publisher’s ad network: (i) contextual request will include only information about the website the user has visited and first party targeting information. (ii) interest group request will cover only the information “the user is in X interest group” without the information about the website the user has visited. When the browser receives a response to those requests, an auction will be made on the device, the browser will choose the winner and show that ad.
- (682) Ad tech provider (...) states that a solution like TURTLEDOVE is an alternative approach to using third party cookies while protecting users’ privacy within the framework of remarketing; the offers Google submitted to World Wide Web Consortium-W3C (and discussed by W3C Improving Web Advertising Business Group⁵⁰⁰) have the potential to be a practical alternative against third party cookies. (...) and (...) states that offers like FLoC and TURTLEDOVE aim to enable targeting user groups based on interest without cookie-based personalized data; such targeting methods will be advantageous compared to targeting based on content or showing online random ads; on the other hand, there are a few analyses about the efficiency and performance of the offers currently; generally those solutions are not expected to yield results similar to personalized ads.
- (683) Like FLoC, TURTLEDOVE places the browser to the center of ad ecosystem. The browser will integrate a user to an interest group and the browser will be the only entity which sees the interest group the user is in. Moreover, the browser will have the duty of making online advertising auctions, which is traditionally made by ad servers and ad exchanges. In TURTLEDOVE, the browser is the

⁵⁰⁰ <https://www.w3.org/community/web-adv/>, Accessed: 16.02.2023.

player which sends content based request and interest group request and makes the last auction that announces the winner.

(684) Ad tech servers have produced many different variations and rival solutions against TURTLEDOVE offers. (...) submitted SPARROW offer to Google by suggesting that although it offers a good beginning to provide more privacy to users, TURTLEDOVE does not provide enough transparency to improve advertisers', publishers' and other tech providers' experience⁵⁰¹. SPARROW envisages transferring the management of interest group auction to a third party independent of the browser. This is called a gatekeeper that will protect auctions and users' personal data without a connection to other tech agencies. Ad tech provider Magnite has submitted its initiative called PARROT by arguing that with the existing TURTLEDOVE offer, *"the browser will be a giant black box that only has one key, which belongs to Google"*, it will be a serious problem that other shareholders (advertisers, publishers, ad server providers) access the data about online advertising auctions with delay⁵⁰². The basic difference between PARROT and TURTLEDOVE is that in PARROT the control of auctions belongs to the publisher not the browser.

(685) As a result of those inputs, Google has developed FLEDGE offer. The main difference of FLEDGE from TURTLEDOVE is that the bidding process at the time of displaying an ad is allowed to call a more reliable third party server that can take a more contextual decision when the ad is demanded⁵⁰³. Google states that FLEDGE is a Privacy Sandbox offer, which serves for remarketing and custom audience use purposes and it is designed to prevent third parties from tracking users across websites⁵⁰⁴. Google has published a demo version of FLEDGE offer and is waiting for feedback from third parties to develop FLEDGE.

6.6.2.3. Attribution Reporting API

(686) Attribution Reporting API is a Privacy Sandbox offer that is introduced to replace attribution functions made by third party cookies currently. The API records a

⁵⁰¹ <https://www.criteo.com/blog/sparrow-why-birds-may-play-a-key-role-in-the-future-of-advertising/> Accessed: 25.01.2023.

⁵⁰² <https://www.admonsters.com/what-is-parrot/> Accessed: 25.01.2023.

⁵⁰³ OLEJNIK L. (2021), p. 9.

⁵⁰⁴ <https://developer.chrome.com/docs/privacy-sandbox/fledge/#overview> Accessed: 23.01.2023.

conversion related to online ads and sends a report that a conversion is made to the publisher and advertiser without any data about the user⁵⁰⁵.

6.6.2.4. Trust Token API

(687) Trust Token API is a Privacy Sandbox offer, which is developed to find out whether a user displaying online ads is reliable and whether the impressions are unimportant/unnecessary or related to fraud, can be used by publishers to see whether users visiting websites are real users⁵⁰⁶.

6.6.2.5. Privacy Budget

(688) Google has introduced Privacy Budget offer to prevent tracking methods such as fingerprinting, which sector shareholders are concerned that it might be used when tracking across websites is not possible. Google explains that Privacy Budget aims to limit the amount of user data that a publisher can access. Google says that the earliest date of Privacy Budget's availability is the year 2024⁵⁰⁷.

(689) This section has addressed solution proposals that have similar functions to third party cookies but that are more user friendly in terms of the protection of personal data and privacy. Given that the planned implementation of Google's Privacy Sandbox is delayed until the end of 2023, the alternatives are open to improvement. Consequently, a final assessment has not been made about the said alternatives.

6.6.3. User Tracking/Targeting Technologies Alternative to Third Party Cookies

6.6.3.1. Contextual Targeting

(690) Theoretically, in a case where third party cookies cannot be used for user targeting, it is possible that contextual targeting may revive as it does not depend on user data. CMA states that "*advertisers are expected to return to spare larger amounts of their budgets mostly to contextual advertising*". In line with this, some shareholders in the sector say that they expect that the use of contextual advertising will increase after party cookies are deprecated.

⁵⁰⁵ <https://developer.chrome.com/docs/privacy-sandbox/attribution-reporting/> Accessed: 30.01.2023.

⁵⁰⁶ <https://web.dev/trust-tokens/> Accessed: 30.01.2023.

⁵⁰⁷ <https://developer.chrome.com/docs/privacy-sandbox/privacy-budget/> Accessed: 30.01.2023.

(691) However, it is not clear whether return to contextual advertising will serve for a valid substitution for cookie-based advertising especially in terms of publishers' revenues. According to ad tech company Peer39, behavioral advertising costs more than contextual advertising. In theory, if no publisher provided personalized ads, contextual ads could gain stability. However if a few selected publishers (Google, Meta) still can provide personalized ads widely, it is likely that advertisers will spare their budgets to that area. Moreover, even in the best scenario, contextual advertising could only offer an alternative in terms of targeting. It will not be able to provide solutions to a large extent for equal technologies such as conversion measurement, attribution and frequency limits.

6.6.3.2. Use of First Party Data

(692) Privacy Sandbox prevents "tracking across websites" through third party cookies. A publisher's ability to track users depending on a first party relation is permanent. First party data includes a publisher's customer relationship management (CRM) data and offline data (offline customer surveys). Publishers can use first party data to provide personalized ads. Some of the shareholders who have given opinion under the scope of the sector inquiry, have told that after Google's Privacy Sandbox initiative, first party data and targeting on the basis of first party data will be more important and advertisers will work for developing their own data pools (...).

(693) Most of the experts, on the other hand, think that first party data will be a solution only for huge publishers (Google, Meta, etc.). In line with this, some sector shareholders points out that undertakings such as Google and Meta will be affected by policy changes related to third party cookies at the minimum level because such walled gardens use large-scale first party data and have many alternative methods to identify users apart from cookies (...).

(694) Big platforms with important consumer services such as Google and Meta are less dependent on third party cookies compared to smaller publishers to offer high performance targeted advertising and obtain constant ad revenues. Google's and Meta's data width and depth are incomparably higher than other publishers. Those companies operate online properties allowing rich data signals such as purchasing purpose and emotional state. However, to reach such scale is a very difficult objective for other publishers.

6.6.3.3. Universal ID Solutions

- (695) Developed for eliminating inefficiencies stemming from cookie synchronization initially, Universal ID solutions has shifted their focus to tracking users across websites without third party cookies⁵⁰⁸. Within this framework, ad tech provider (...) indicates that sector shareholders are already examining and implementing universal ID solutions to prevent/minimize revenue loss due to ending the use of third party cookies, (...) says that abolishing the use of third party cookies increases the attention on alternative user identification solutions.
- (696) Online advertising sector shareholders generally call ID solutions developed in cooperation as ID Consortiums or Shared ID Solutions⁵⁰⁹. Those ID solutions are based on first party cookies and create substitutes for third party cookies' functionality. Universal ID solutions allow tracking user behavior on more than one website through a shared ID defined for each user⁵¹⁰. (...), (...) and (...) say that universal ID solutions increase user privacy but have a lower verification rate in terms of user definition compared to cookie technology.
- (697) Ad tech provider (...) says that efforts to develop such ID solutions continue but there is no completed method or outcome yet. (...) highlights that universal ID solutions are more accepted than other solutions (such as fingerprints, ID clusters) suggested to substitute third party cookies' functions but those solutions are provided by a lot of undertakings, which has led to problems; lack of a single ID solution recognized by the entire online advertising sector complicates the realization of solutions. The examples of such initiatives are DigiTrust⁵¹¹ developed by IAB Tech Lab, AD ID Consortium developed by AppNexus, Index Exchange and LiveRamp⁵¹², and open source ID5, which offers a free ID solution to publishers. ⁵¹³

⁵⁰⁸ GERADIN D., and D. KATSIFIS (2021), p. 20.

⁵⁰⁹ IAB Türkiye (2021), "Üçüncü Parti Çerez Sonrası Dönem Kılavuzu", p. 23.

⁵¹⁰ IAB Türkiye (2021), "Üçüncü Parti Çerez Sonrası Dönem Kılavuzu", p. 23.

⁵¹¹ DigiTrust, is an ID sharing service that realize synchronization among cookies to increase publishers' revenues as well as advertisers' mass access and improve consumer experience (IAB Türkiye 2021, p. 24). Nevertheless IAB terminated its work in this area as it is an ID solution based on third party cookies (GERADIN and KATSIFIS (2021), p. 21).

⁵¹² Advertising Identity Consortium defines its objectives as creating a standardized pool for cookies and device IDs, providing user based identifiers and creating a multi-channel ID framework (See www.adidentity.org, Accessed: 30.01.2023).

⁵¹³ ID5 is an open source technology created to improve online advertising for publishers and advertisers and to ensure that publishers obtain sustainable revenues. ID5 aims to make user

- (698) Moreover, within this framework, a few e-mail based ID solutions have been offered such as Unified ID by The Trade Desk. Briefly, such solutions work as follows: Publishers reach e-mail address of a user who has their websites (for instance encouraging the user to subscribe to a news bulletin) and upload this e-mail address to an ID solution provider in a mixed/encrypted way. The provider assigns a user ID to that user and forwards this to ad tech chain. This user ID will be used by all ad tech companies which interacts with the user to collect information about the user and offer targeted ads⁵¹⁴. According to the ad tech provider (...), anonymized e-mail addresses or methods allowing to recognize a user in a deterministic way are more reliable compared to probabilistic identification methods based on light signals.
- (699) On the other hand, the main difficulty for those solutions is to reach a certain scale. Even if big publishers and brands can persuade their users to share their e-mail addresses, it is difficult for less known publishers/brands. For instance, a user may accept to share an e-mail address to read news on a website of a newspaper with wide circulation but may not want to do this to read a blog.
- (700) An important barrier in front of the development of e-mail based ID solutions is that Google thinks that such solutions are not suitable for its corporate vision. Google argues that initiatives such as e-mail based ID solutions provide recognition at user level like third party cookies and track a user across websites; after third party cookies are abolished, it will not develop such user based identifiers. Google states that it believes that such solutions will fulfill neither the expectations of consumer privacy requirements nor data regulation requirements. Although Google emphasizes that this decision will not prevent other ad tech providers from using alternative user identification methods, it is possible that it may take measures complicating e-mail based tracking by means of, for instance, allowing users to sign up without sharing their e-mail addresses with the publishers.
- (701) While user tracking or targeting technologies without third party cookies may be a feasible alternative for parties that have the power to collect first party data or target users through content, even without creating the same efficiencies, they

recognition more efficient and more privacy compliant without using third party cookies. <https://id5.io/about/>, Accessed: 30.01.2023).

⁵¹⁴ COOPER D., T. YALÇIN, C. NISTOR, M. MACRINI and E. PEHLIVAN (2021), p. 20.

may put others at a disadvantage. In addition, ID solutions' efficiency depends on their common use in the market.

6.6.4. The Effects of Disabling Third Party Cookies by Browsers

(702) Chrome's market share is between 70% and 80% in Türkiye. Within this framework, since Chrome is more widely used, it is expected that the effects of Google's policy changes in the market will be higher than other browsers. This section handles shareholders' opinions about first, the effects of disabling third party cookies by older browsers, such as Firefox and Safari, and the effects of Google's practices to this end in the sector. Then, the views about the effects of the changes to browsers' practices on ad verification are given. Lastly, possible competitive concerns under competition law regarding Google's Privacy Sandbox in view of those possible effects are discussed.

6.6.4.1. The Effects of Disabling Third Party Cookies by Browsers such as Firefox and Safari

(703) Within the framework of the sector inquiry, advertiser, publisher and intermediary shareholders are asked their opinion about "the effects of disabling third party cookies by browsers such as Firefox and Safari on (i) themselves (ii) their rivals and (iii) other players in online markets. Most of the answers highlight negative effects.

(704) The concerns indicated by most of the advertisers, publishers and intermediaries are as follows:

- In terms of advertisers, the data of accessible customers will be limited, the restrictions on the use of cookies may complicate displaying personalized ads, targeting users and remarketing for such browsers' users and may prevent detailed measurement of the effects of the investments in ads; thus marketing ad budgets may be cut off⁵¹⁵.
- Due to the abovementioned reasons, publishers' and intermediaries' ad revenues may decrease⁵¹⁶, the said changes may negatively affect targeting and measurement of ad campaigns⁵¹⁷.

⁵¹⁵ (...).

⁵¹⁶ (...).

⁵¹⁷ (...).

- Small players will be affected more compared to big players. On the other hand, apps and websites that have a large amount of first party data will be affected less⁵¹⁸.
- First party data will be more important⁵¹⁹. Undertakings that have large amounts of first party data and do not need third party cookies will be stronger⁵²⁰.

(705) Also, shareholders say that the said browsers' are used less in Türkiye; thus the said practices will have limited⁵²¹ or no effects at all⁵²². An intermediary⁵²³ reports that Apple's practice that was implemented in 2017 has affected its revenues adversely and although each of the other practices in the sector has different effects, those are not as big as Chrome's⁵²⁴.

(706) Although there are not many, some publishers and intermediaries argue that the said practice will protect user privacy and personal data, ID systems as an alternative to cookies will provide more qualified environment that will give importance to user consent⁵²⁵.

(707) Some of the undertakings suggest that in an environment without third party cookies, contextual targeting will feature/undertakings who cannot target users directly will try to target users by creating a profile through content (...) (...) foresees that ad investments through mobile will dramatically increase. (...) states that this may negatively affect their ad practices but there are options such as switching to subscription system in the long term, creating tag based content to recognize the user and switching to solution-oriented premium use in order to prevent this.

(708) Consequently, most of shareholders are concerned that disabling third party cookies by browsers such as Firefox and Safari will decrease personalized ad

⁵¹⁸ (...).

⁵¹⁹ (...).

⁵²⁰ (...).

⁵²¹ (...TRADE SECRET...)

⁵²² Apart from those, there are publishers and intermediaries who state that they are not so much affected by disabling cookies because most part of their inventory sales are not made through programmatic channel but from direct sales (...) or they are not operating on the internet, and they are not affected much by the said practice because disabling Mobile Ad IDs are important for them (...).

⁵²³ (...)

⁵²⁴ (...) expects that deprecating third party cookies on Firefox, Safari and Chrome browsers will have technically similar effects.

⁵²⁵ (...).

impressions and thus ad revenues. Some of the undertakings state that depending on the market shares of the said browsers, they are not expecting negative or positive effects while some undertakings report that they are working on measures about negative outcomes.

6.6.4.2. Effects of Google's Disabling Third Party Cookies

(709) Taking into account Google's market power in browser and online advertising services, concerns have risen that Google's disabling third party cookies will have a greater impact on the competition in online advertising market, the revenues of shareholders in this market and the way of doing business; moreover, ad verification services will be impeded beside the said general reflections in the market.

(710) First, sector players are asked for their opinions about Google Privacy Sandbox as well as about the effects of Chrome's disabling third party cookies and alternative scenarios to be used in the future under the scope of Privacy Sandbox on (i) themselves, (ii) their rivals and (iii) players in the online markets. Most of the undertakings (advertisers, publishers and intermediaries) highlight the following concerns:

- Google Privacy Sandbox may complicate ad targeting, lead to inferior performance, increase in costs in online advertising and decrease in ad revenues⁵²⁶.
- First party data will be more important⁵²⁷; thus, the revenues of players that sell their own channels and use first party data will increase especially⁵²⁸.
- By means of FLoC solution, it will be possible to continue collecting personalized data about target groups⁵²⁹; however, if FLoC solution is not realized in the form of a consortium and is controlled by Google, they will be dependent on Google⁵³⁰.

⁵²⁶ (...).

⁵²⁷ (...).

⁵²⁸ (...).

⁵²⁹ (...).

⁵³⁰ (...).

- According to (...), the practice will be in favor of undertakings like Google and to the disadvantage of undertakings that will not build their business model on a browser.
- According to (...), with Privacy Sandbox, data will be paid, Google will control the ads and content.
- According to (...), it is possible that Google can make exceptions and favor itself while using data.
- According to (...), they do not know to what extent publishers and advertisers can reach user metrics with Google's Privacy Sandbox solution.
- According to (...), rival DSPs will not have the data volume Google has to create a model and algorithm, which will put them at a competitive disadvantage.
- According to (...), for instance, the situation will be unfavorable for advertisers who make performance-based publications aiming to convert a limited target group to an action such as buying a car whereas it will be less disadvantageous for advertisers marketing fast moving consumer goods and targeting larger groups.
- According to (...), walled gardens such as Google and Chrome will be less affected by this change because such walled gardens use many alternative methods to recognize users apart from cookies.
- According to (...) and (...), if Privacy Sandbox solutions are less efficient than third party cookies, advertisers will spare a larger amount of their expenses to Google's assets providing integrated services, which may be to the detriment of competing publishers and independent ad tech suppliers.
- According to (...) and (...) the existence and use of third party cookies have provided ad tech providers with alternative and independent personal data source, reducing their dependency on Google. If those alternative personal data sources are eliminated and if they are not replaced by a method protecting ad providers, Google's position in the online advertising market will be strengthened.

- According to (...), ad networks will not be able to reach real information coming from their audience, they will be dependent on Google's first party data and Google will strengthen its position in the online market.
- Some of the intermediaries argue that Google's Privacy Sandbox should provide opportunities similar to cookies; that means, the ability to do detailed mass targeting on the open internet should be maintained; otherwise, ability to do this only over areas closed to access and social media platforms will be a threat to players in ad tech market (...).
- They are concerned that Google will complicate all shareholders' ad measuring and placing by featuring only the browser. Google will strengthen its position supervising access to internet content and services (...).

(711) Regarding the possible future changes in the sector caused by Privacy Sandbox,

- Some advertisers, publishers and intermediaries say that those publishers who face losses as a result of Google's Privacy Sandbox may switch to paid service model⁵³¹.
- According to (...), since the importance of first party data increases, even if contents are not paid, providing subscribed services will prevail.
- It is too early to see whether those developments will lead to providing paid content (...).
- According to (...), Turkish users do not have a tendency to adopt paid registration method.
- Some of the publishers state that the initiative will not end targeted advertising completely and alternative tracking methods will be developed (...).
- Some publishers say that APIs to be placed on browsers will be used to maintain behavioral targeting in online advertising.
- (...) and (...) argue that contextual ad targeting will be more important like in the past in the online advertising sector.

(712) Despite the concerns mentioned above, some advertisers and intermediaries suggest that the initiative in question is favorable for protecting user data, may improve transparency and control on data in the long term and large firms in the

⁵³¹ (...).

technology sector will make digital marketing activities more compliant with privacy principles⁵³².

(713) In addition, some of the undertakings say that they are not affected by Privacy Sandbox or the effects are limited⁵³³.

(714) Apart from advertisers, publishers and intermediaries, Google was asked for its opinion about “*Concerning disabling third party cookies, actual and potential effects on (a) actors on each level of online (targeted) advertising (advertisers, intermediaries, publishers, etc.) and (b) users.*” In respect of the possible effects of disabling third party cookies on market participants and users, Google’s statements are as follows:

- Disabling third party cookies without alternatives may have a negative impact on critical internet network functions including preventing fraud and advertising.
- Users may be affected because they may see less relevant ads. Moreover disabling third party cookies without privacy oriented alternatives will reduce user privacy because some companies use secret tracking methods which users are not aware of and do not have control over such as digital fingerprinting.
- Blocking third party cookies in a wide sense like Mozilla and Apple do may impede many ad supported websites’ ability to obtain revenues from content.
- Therefore, they are trying to build new technological innovations to replace third party cookies on the internet network by contributing to the development of Privacy Sandbox.

(715) In respect of Privacy Sandbox’s effects on online advertising industry, Google states the following:

- Privacy Sandbox’s objectives are
 - To prevent secret tracking while users are surfing the internet so that users can surf without worrying about who is collecting their personal data,

⁵³² (...).

⁵³³ (...).

- To enable publishers to create sustainable websites respecting user privacy,
 - To keep lively the open internet network, which is an important information source with the ability to share content with many people and adapt the content according to personal needs,
- Privacy Sandbox's long term objective is to help preventing digital fingerprinting⁵³⁴ (that is collecting information about software and hardware to detect users)⁵³⁵, to this end, Privacy Sandbox aims to limit the information a website can access; in other words, to help managing effectively "privacy budget"; for instance a website will have to indicate which information it needs and websites accessing too much information can be stopped⁵³⁶

(716) Secondly, advertisers, publisher and intermediaries are also asked for their opinion about the effects of disabling third party cookies on ad verification⁵³⁷. Some advertisers and publishers mention their concerns that after disabling third party cookies, there may be data deviation; it will be difficult to deliver ads to right people; there may be insufficient interaction and there may be restrictions about campaign performance measuring and targeting⁵³⁸. Moreover, disabling third party cookies will risk most of the third party based measuring solutions, most measurements have to be carried to server side and this may eliminate the ability of independent third party measurement providers to see providers' campaign quality (...).

⁵³⁴ It is stated that digital fingerprinting is to collect information about software and hardware to detect users.

⁵³⁵ It is stated that digital fingerprinting usually happens in the background of apps and websites, which makes it difficult to combat and block; moreover, users cannot see or delete fingerprints (unlike cookies). See "Google's Response to the Interim Report" (12 March 2021), para.92 <https://www.accc.gov.au/system/files/Google%20%28March%202021%29.pdf>, Accessed: 19.11.2021.

⁵³⁶ It is stated that for instance, a website needs to know a user's screen size and language to work properly but if the website collects too much information, it can use this information to create "a fingerprint" for wider tracking.

⁵³⁷ Although the question is about the effects of disabling third party cookies on ad verification, the effects indicated constitute a general approach to all browsers' activities indeed. Since the market shares of alternative browsers are relatively lower and the effects of Google's initiative are more prominent, the answer to the relevant question is given under this heading where the effects of Google's initiative are discussed.

⁵³⁸ (...).

(717) Publishers say that third party cookies provide a single mechanism to share user identifiers and they are mostly used in open internet environments (...), verification tools are used in three main issues being (i) visibility, (ii) ad quality and fraud and (iii) brand reliability by agencies providing intermediary services in programmatic and non-programmatic purchase models as well as advertisers; ad verification does not need cookies to detect fraud, ensure brand reliability or measure visibility; thus in case third party cookies are disabled, verification solutions can continue as such (...). Moreover, it is stated that with disabling third party cookies, ad verification tools developed and provided in line with the standards set by IAB and MRC manage verification processes by using their cookies and current ad verification tools will realize the necessary improvements to adapt to current conditions (...).

(718) On the other hand, there are advertisers and intermediaries who think that disabling third party cookies will not affect ad verification⁵³⁹.

(719) Google argues that deprecating third party cookies will affect online display advertising ecosystem including publishers and advertisers (and Google itself), however, advertisers will continue to depend on first party data and third party data to personalize ads, measure and monitor ad campaigns.

(720) In light of shareholders' views, although there are shareholders who find browsers' disabling third party cookies are favorable in terms of protecting user data and privacy or who thinks that the effects of said practices will be minor or limited and even who think that they can adapt the changes in time, they constitute a relatively small group. Undertakings mostly mention their concerns. The concerns about the changes made by browsers such as Firefox and Safari as well as Google are similar. In brief, those are:

- The changes will complicate showing personalized ads, targeting users and remarketing.
- It will be difficult to measure the effects of investments in ads in detail in a certain period of time.
- Since measuring and data based targeting will be disadvantageous in terms of personalized ads, publishers' ad revenues will be reduced.

⁵³⁹ (...).

- As personalized ad impressions will increase, there may be a fall in intermediaries' revenues.
- First party data will be more important; thus, firms with stronger first party data will be less affected.
- Advertisers will be less relevant for users.
- The interest in contextual advertising will rise.

(721) In addition to the concerns about all browsers' disabling third party cookies, shareholders indicate the following concerns in terms of Google's Privacy Sandbox offer:

- If not realized in the form of a consortium, it will lead to dependency on Google's products/services, which will strengthen Google's position in the online advertising market.
- It is possible that Google can engage in self-preferencing.
- While Google is using its existing data advantage, ad quality will be poorer for its competitors.

(722) In terms of possible changes in the sector, undertakings argue that publishers facing losses in revenues will switch to paid services or providing subscribed services.

(723) In addition, concerning the effects of disabling third party cookies on ad verification, it is thought that there may be problems with ad measurement and ad targeting.

(724) Depending on concerns similar to those mentioned above, CMA and the Commission have started investigations into the policy changes about third party cookies. CMA's proceedings ended with commitments on 11.02.2022 whereas the Commission's investigation is still ongoing.

6.6.4.3. Possible Competitive Concerns to be Created by Privacy Sandbox

(725) Potential competitive concerns created by Google's Privacy Sandbox was first shown in CMA's report dated 01.07.2020⁵⁴⁰, which CMA published after the market inquiry into online platforms and digital advertising. Before moving on to CMA's and Commission's investigations, the concerns indicated in the report which can be regarded as the source of the said investigations are given.

⁵⁴⁰ CMA (2020), p. 294-296.

- (726) Highlighting the importance of third party cookies for online advertising activities, CMA states in the report that gradual elimination of Chrome's support to third party cookies will have significant effects on competitors' access to data and targeting ability. Moreover CMA states that targeting based on using first party data and authenticated user data does not require cross-site tracking and is not affected by the demise of third party cookies; thus, large incumbent platforms with leading consumer services such as Google and Meta are much less dependent on third party cookies to provide high-performing targeted ads. For instance, while Google could still continue to use the information it obtains from users' activities on Google Search and YouTube, advertisers who rely on third party data obtained through data management platforms and data brokers would probably have less granular data to target personalized ads. According to CMA, to the extent that ads on open display advertising is less feasible or effective without third party cookies, advertisers may switch their spending from open display advertising to ads on inventories owned and operated by platforms providing integrated services.
- (727) The report argues that this presents a fundamental challenge to non-vertically integrated advertising business model used by some publishers; prohibiting publishers from providing personalized ads while allowing platforms to continue to provide personalized ads will have a significant effect on publishers' revenues.
- (728) The report also notes that if successfully implemented, Google's Privacy Sandbox offer can allow personalized advertising (interest-based advertising and marketing) although limited compared to the opportunities provided by third party cookies; however, those proposals will make Chrome an important bottleneck for ad tech and thus Google will maintain its position at the center of ad tech ecosystem. Consequently, market participants will be concerned that Google may use Chrome's position to favor its own ad tech services and raise barriers to entry.
- (729) After concerns were brought in the said Report, CMA opened an investigation in January 2021 about Google's policy that changes third party cookies and other

tracking functions with the new rules so-called Privacy Sandbox⁵⁴¹. The investigation ended with the acceptance of commitments offered by Google.

(730) In its decision to accept commitments offered by Google⁵⁴², CMA explains that open display advertising depends on the ability to identify web users and “track” them across websites through third party cookies and other cross-site tracking tools. CMA is concerned that under the current conditions, if Privacy Sandbox proposals are implemented without sufficient regulatory scrutiny and oversight, Google may abuse its dominant position by leveraging its power in the browsers market in UK to prevent competition in digital advertising market and exploit users. CMA states that Google will lead to three basic concerns with Privacy Sandbox proposals:

(731) CMA’s first concern about “Unequal access to the functionality associated with user tracking and Google’s data advantages” is that Privacy Sandbox proposals may limit its rivals’ functionality while Google’s functionalities are offered unaffectedly. At this point CMA thinks that while publishers and ad tech providers depend on third party cookies to collect information about web users and carry out functions such as target advertising and measuring conversions, Google may use first-party cookies to perform such functions. Although rivals can also use first party data to provide digital advertising services, their reach to data and the quality of the data they obtain is most of the time more limited compared to Google. Google has a significant data advantage compared to others due to its ability to connect data with more precision because of the scope of its user-facing services and large base of users logged into Google accounts.

(732) CMA’s second concern that “Self-preferencing Google’s own ad tech providers and owned and operated ad inventory” is related to Chrome’s role in deciding which ads to show to a specific web user under Privacy Sandbox proposals. While Google is operating Chrome, it is working as a publisher and an ad tech provider at the same time. The decision notes that this may lead to conflicts of interest. Moreover, Google may have an incentive not to act in favor of its customers’ interest such as by self-preferencing its own ad inventory and ad tech services

⁵⁴¹ <https://www.gov.uk/government/news/cma-to-investigate-google-s-privacy-sandbox-browser-changes>, Accessed: 10.12.2022.

⁵⁴² https://assets.publishing.service.gov.uk/media/62052c52e90e077f7881c975/Google_Sandbo_x_.pdf, Accessed: 12.12.2022.

through Chrome's decisions on which ads will be shown to a specific web user. For instance, Google's ad tech services can benefit from more interoperability while interacting with Privacy Sandbox solutions (i.e. reduced latency) or Google can use its control over the device where the auction will take place (i.e. Android devices) to give its services a technical advantage in the form of additional processing power.

- (733) Lastly, CMA examined "imposition of unfair terms on Chrome web users". CMA indicates its concerns that in the absence of adequate regulation, scrutiny and supervision, Google may abuse its dominant position by preventing Chrome users from making an important decision about whether and how their personal data is used for targeting and delivering ads. CMA thinks that web users are likely to have different attitudes and preferences about collection and processing of their personal data. While some users may not want their personal data to be collected and processed by browsers and/or third parties, others may want to agree to such data usage in return for seeing more relevant ads, avoiding repeated ads or other rewards. The degree of control and option to choose provided by browsers in terms of collecting and processing personal data is likely to be a parameter of competition between browsers. The report also points out concerns that this may mean an abuse in the form of imposing unfair terms on consumers and such unfair terms may harm consumers by preventing them from adjusting privacy and targeting levels according to their preferences.
- (734) In addition to three concerns explained above, CMA also mentions its concerns that the announcements about Privacy Sandbox proposals may cause uncertainty in the market about certain alternative solutions to be offered to publishers and ad tech providers when third party cookies are deprecated.
- (735) In relation to the said concerns, Google submitted its first official commitment on 28.05.2021. Finding those commitments sufficient, CMA concluded that the commitments should be strengthened and revised as a result of the public consultation period when third parties rendered their opinions. Then, Google submitted commitments for the second time on 19.11.2021 to solve CMA's concerns⁵⁴³. Lastly, taking into account the consultation process regarding the

⁵⁴³https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1036204/211126_FINAL_modification_notice.pdf, Accessed: 14.11.2022.

second commitments, Google submitted its final commitments with limited number of improvements on 04.02.2021⁵⁴⁴. The summary of the commitments in question are given below:

- Transparency and consultation with third parties: Google will provide more transparency to and consultation with third parties to improve Privacy Sandbox proposals including an official process to interact with third party stakeholders and reporting to CMA on how third parties are taken into consideration.
- Involvement of CMA to Privacy Sandbox proposals: Google will be in an open, constructive and continuous dialog with CMA in relation to the development and implementation of Privacy Sandbox proposals.
- Standstill before the removal of third party cookies: Third party cookies will not be removed before the expiry of a standstill period of at least 60 days after Google notifies the CMA of its intention to remove third party cookies. At the CMA's request, Google will expand this standstill period by a further 60 days to a total of 120 days.
- Google's use of data: Google commits not to use a user's personal data from Chrome history and Google Analytics account for targeting or measuring ads after it ends support for third party cookies.
- Non-discrimination: Google will not distort competition by discrimination against its rivals in favor of its advertising products and services. Apart from exceptional circumstances, Google will not change its policies for *Google Ad Manager*, *Campaign Manager 360*, *Display & Video 360* or *Search Ads 360* to bring new policies restricting a customer's use of non-Google technologies. Google will inform the CMA ahead of any change to those policies for the duration of the commitments.
- Reporting and Compliance: Google will provide the CMA with quarterly reports and assign a monitoring trustee.

(736) The CMA announced that it accepted Google's commitments with the decision dated 11.02.2022 and ended the investigation⁵⁴⁵. In addition, the following

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https://assets.publishing.service.gov.uk/media/62052c6a8fa8f510a204374a/100222_Appendix_1A_Google_s_final_commitments.pdf, Accessed: 23.02.2023.

⁵⁴⁵ <https://competitionandmarkets.blog.gov.uk/2022/02/24/cma-secures-final-privacy-sandbox-commitments-from-google/>, Accessed: 14.11.2022.

points are highlighted in the decision: Google is still designing and testing different Privacy Sandbox proposals. Thus, the ultimate impact on competition and privacy will depend on the final design of Privacy Sandbox and steps taken by Google to mitigate any remaining concerns. CMA will closely oversee the design, development and implementation of Privacy Sandbox proposals and will have the opportunity to decide to continue its investigation or take other steps if any remaining concerns are not resolved. As a result, the ultimate effects of Privacy Sandbox proposals depend on their design and implementation and a decision has not been taken yet about those.

- (737) CMA also stated that on 16.02.2022, Google announced its intention to launch a similar set of privacy-related changes about app advertising in the Android ecosystem, which it calls *Android Privacy Sandbox*; informed the CMA about its intentions to this end and Google is planning to apply the commitments mentioned above to Android Privacy Sandbox on a voluntary basis. CMA announced that it will monitor this closely and continue to talk to Google and other market participants about the nature and detail of the proposals⁵⁴⁶.
- (738) The Commission also announced that it opened an investigation on 22.06.2021 to assess whether Google violated EU antitrust rules by favoring its own online display advertising technology services in online ad tech supply chain to the detriment of competing ad tech service providers, publishers and advertisers⁵⁴⁷. The investigation would especially examine whether Google distorted competition by restricting third parties' access to user data on websites and apps for advertising purposes while reserving such data for its purposes.
- (739) Emphasizing that the investigation would focus on display advertising where Google offers a number of services to both advertisers and publishers, the announcement lists the behavior that would particularly be examined. One of the practices listed is Google's plans to prohibit the placement third party cookies on Chrome and replace them with Privacy Sandbox tools.
- (740) It is also stated in the announcement that the Commission will take into account the need to protect user privacy pursuant to EU laws such as GDPR and

⁵⁴⁶ <https://competitionandmarkets.blog.gov.uk/2022/02/24/cma-secures-final-privacy-sandbox-commitments-from-google/>, Accessed: 12.12.2022.

⁵⁴⁷ https://ec.europa.eu/commission/presscorner/detail/hu/ip_21_3143, Accessed: 02.12.2022.

competition law and data protection law should work hand in hand to ensure that display advertising markets work on a level playing field where all market participants protect user privacy in the same way. In light of the examinations and findings mentioned above, it is understood that Google Privacy Sandbox offers have not been implemented yet; however sector shareholders are concerned about the said offers. It is also seen that the CMA and the Commission have opened investigations against Google depending on similar concerns. Eventually, it is important that Privacy Sandbox be developed in a way not to damage competition and thus consumers. The developments and changes in this area as well as the effects of those on the competitive structure of advertising sector can be actively monitored with the support of Information Technologies Department.

6.7. Apple's and Google's Practices in Mobile Online Advertising

(741) Mobile Advertising ID (MAID) is used for tracking users across apps on mobile smart devices. MAID has a similar function to third party cookies. MAID is the alphanumeric character strings that are assigned to mobile smart devices by mobile operating system provider. MAID is assigned randomly and does not include any information about user's real ID⁵⁴⁸. Unlike cookies, since it is assigned on device level, MAID is the same for all apps on a user's mobile smart device. All mobile apps and ad tech providers placing codes to those apps can access MAIDs without user authorization. MAIDs are not necessary for any basic device function but forms a basis for personalized/targeted advertising activities to take place in the mobile ecosystem. MAID is called IDFA⁵⁴⁹ (Identifier for Advertisers) on iOS devices and AAID⁵⁵⁰ (Google Advertising ID) on Android devices.

(742) As of 2012, Apple has allowed iOS users to block tracking via IDFA by using "Limit Ad Tracking" option. This app provides the opportunity to prevent tracking across apps and personalized/targeted advertising for users who are aware that they are tracked with IDFA tool and do not want that. In 2021, Apple announced

⁵⁴⁸ IAB Avrupa (2021), "Üçüncü Parti Çerez Sonrası Dönem Kılavuzu", p. 23.

⁵⁴⁹ <https://support.apple.com/tr-tr/HT212025>, Accessed: 01.03.2023.

⁵⁵⁰ <https://support.google.com/authorizedbuyers/answer/3221407?hl=en>, Accessed: 01.03.2023.

App Tracking Transparency (ATT) policy⁵⁵¹. With ATT, access to IDFA is blocked as default and apps must send tracking request and receive permission from users to access IDFA⁵⁵². Unless users give permission clearly, third party applications cannot track iOS users through IDFA. The picture of the warning shown to users on mobile smart devices in order to receive permission within the scope of this app is shown below:

Figure 22: Example of Tracking Request under ATT^{T.N.}



Source: Screenshot taken by rapporteurs on iPhone smart phone on 10.03.2023.

(743) In the past, ad targeting was enabled by default and users had to make changes in settings to disable it⁵⁵³. Shortly after Apple implemented ATT, it imposed a standard similar to those imposed on third parties with ATT. Accordingly, with “personalized ads” setting⁵⁵⁴, Apple enables iOS users to have control over Apple’s own personalized ads⁵⁵⁵. The picture showing the said setting is given below:

⁵⁵¹ <https://support.apple.com/tr-tr/HT211808>, Accessed: 01.03.2023.

⁵⁵² <https://developer.apple.com/app-store/user-privacy-and-data-use/>, Accessed: 31.01.2023.

T.N. The notification asks “Allow ‘Merge mansion’ to track your activity across other companies’ apps and websites?” and offers the options “Ask App not to Track” and “Allow”.

⁵⁵³ <https://9to5mac.com/2021/09/02/apple-personalized-ads-targeting-ios-15/>, Accessed: 31.01.2023.

⁵⁵⁴ <https://support.apple.com/tr-tr/HT202074>, Accessed: 31.01.2023.

⁵⁵⁵ A considerable amount of Apple’s revenues are generated from the sale of hardware and its online advertising activities are limited. Apple’s online advertising services consist of the search ads on its application store *App Store* and display ads on *Apple News* and *Stocks*.

Figure 23: Option to turn off personalized ads on iOS.^{T.N.}



Source: <https://support.apple.com/tr-tr/HT202074>, Accessed: 31.01.2023.

- (744) Apple states that the difference between personalized ads request and ATT stems from the fact that its own personalized/targeted advertising services does not fall under the definition of tracking. In its recent sector inquiry on mobile ecosystems, CMA indicates that ATT's choice architecture is made in a way to influence users to prevent tracking and it is more likely that users will not authorize ATT according to Apple's own personalized ads prompt⁵⁵⁶.
- (745) Following app developers' complaints with requests for interim measure about ATT policy, ADLC opened an investigation against Apple⁵⁵⁷. ADLC refused app developers' requests for interim measures that the obligatory use of ATT should be abolished and Apple should be ordered to engage in a constructive dialog with sector players in order to find an acceptable solution. ADLC announced that self-preferencing will be examined further in the context of the investigation due to the differences between the obligations Apple imposes on its apps and third party apps.
- (746) Similarly, in 2021, Google enabled Android users to disable AAID⁵⁵⁸. Google also has announced that it will implement "*Android Privacy Sandbox-APS*" policies.

T.N. An up-to-date English version of the screenshot concerned can be found at <https://support.apple.com/en-us/HT202074> (Accessed: 23.08.2023).

⁵⁵⁶ CMA (2022), "Mobile Ecosystems", Market Study Final Report, Annex-J, p. 20-21.

⁵⁵⁷ <https://www.autoritedelaconurrence.fr/en/communiqués-de-presse/targeted-advertising-apples-implementation-att-framework-autorite-does-not>, Accessed: 01.03.2023.

⁵⁵⁸ Previously, when Android users reset AAID, a new AAID was given. Therefore, Android users had to reset AAID regularly to prevent tracking.

With APS offers, Google plans to limit sharing of user data with third parties⁵⁵⁹. As explained before, Google has announced that it will maintain mobile advertising features including access to AAID until 2024. However, as a result of APS offers, which are at an initial level at the moment, it is possible that Google can disable AAID completely or limit access to AAID similar to Apple's ATT.

(747) In its sector inquiry about mobile ecosystems, CMA states that the said practices may lead to the following competitive concerns: Apple and Google's self-preferencing their own mobile advertising services; reinforcing their market powers in app distribution and driving developers to paid app model by making ad-funded apps less attractive⁵⁶⁰.

(748) Taking into account the said issues, an inquiry into mobile ecosystems has been opened with the Board decision dated 26.01.2023 and numbered 23-06/65-M. The said inquiry is expected to examine further Apple's and Google's policy changes that will affect basically mobile app markets as well as possible competitive concerns stemming from the changes.

6.8. Other Possible Competitive Concerns Observed in the Sector

(749) In addition to the competitive concerns discussed above, there are competitive concerns that are observed in academic reviewing but not indicated by shareholders. It has not been possible to determine in this study to what extent those concerns take place in practice. Nevertheless, it is thought that this uncertainty can be solved with potential contributions and opinions of shareholders in the sector. Consequently, the said issues are presented below to the attention of the shareholders.

6.8.1. Concerns that Google is Restricting Interoperability by Hashing User IDs

(750) Depending on user privacy reasons, Google hashes user IDs based on a mathematical formula and restricts access by any other parties' ad server to the user IDs. At the same time, it allows its DSPs (Google Ads and DV360) to access those IDs as default. As a result, while Google can reach user IDs directly, other actors are sent hashed IDs. This may both distort competition in the market by

⁵⁵⁹ <https://developer.android.com/design-for-safety/privacy-sandbox/introduction> Accessed: 31.01.2023.

⁵⁶⁰ CMA (2022), "Mobile Ecosystems", Market Study Final Report, Annex-J, p. 60-61.

causing information asymmetry and complicate multi-homing, reducing interoperability. Within this scope,

- Vertical multi-homing may be reduced (between a Google publisher ad server and non-Google SSPs and between a Google SSP and non-Google DSPs).
- Interoperability between different DSPs may also be reduced. As Google DSP and non-Google DSP have to work with different user Ids, when more than one DSP is used for a campaign, the campaign's efficiency may be deteriorated. For instance, the metric known as frequency limit can be affected and the user may see the same ad again and again.

6.8.2. Concerns about Price Discrimination Against Publishers

(751) Another likely concern to be raised because of Google's market power and activity in each stage of ad supply chain is cross subsidy and resulting price discrimination. Under normal circumstances, a non-vertical independent ad intermediary cannot charge below cost fees. However, a vertically integrated ad intermediary that operates in each stage of supply chain can compensate its loss in one layer with its high profits in another layer. Concerns that Google is engaged in price discrimination and put its rivals at a disadvantage are expressed in literature⁵⁶¹. Within this framework, the following arguments are made in doctrine:

- At publisher and ad server level, Google provides its services to small publishers for free but to large publishers at high fees.
- At ad exchange level, Google is engaged in discrimination in terms of pricing impressions by applying different rates to its publisher customers.
- After purchasing Doubleclick, Google reduced its publisher ad server price by one tenth⁵⁶², such pricing pressure complicates maintaining publisher ad server services as an independent activity.

⁵⁶¹ LATHAM, O., M. HERVE and R. BIZET (2021), p.

⁵⁶² CMA (2020), "Online Platforms and Digital Advertising", Annex- M, p. 64.

6.8.3. Concerns about Restriction of Ad Measuring by Independent Service Providers and Access by Third Party Analytic Service Providers to Data in Meta's Ecosystem

(752) The shareholders who were asked their views within scope of sector inquiry have expressed certain concerns about Meta in addition to Google about measuring practices. Accordingly,

- (...)’s statements are as follows: They are dealing with ad and channel/mass measuring in digital advertising sector. Media measuring helps advertisers see the socio-demographic features of the group in a channel when they want to purchase ads. Being similar to the rating system on TV, this service ensures proper media planning. In view of the information about functioning, all local channels are measured; programmatic ad networks can be measured but YouTube, Facebook and Instagram mobile apps and websites cannot be measured. Google, YouTube and Facebook do not allow this due to technical reasons. Advertisers spare the largest part of their budgets to Google’s Youtube and Meta’s Facebook and Instagram. YouTube and Instagram do not add codes of ad servers that make independent measuring.
- (...) argues that since Facebook manages its ads from a single platform, it is not possible to access and manage frequency by an independent agent; Facebook does not allow ad server impression tags for measuring impression access and comparing it with other ads.
- (...) makes the following arguments: Access to data is important for efficient competition. Facebook restricts access to data in its ecosystem by third party analytic service providers even when its users allow. Facebook does not share exposure data. Access to user level data is important for them to provide efficient services and usually they are granted lower access than requested.

(753) Similar allegations were brought by Criteo to French Competition Authority. In order to enlighten the background of the theory of harm which the alleged

practices are based on, it is necessary to mention the investigation opened upon the said application in France.

- (754) Upon the application of Criteo to the French Competition Authority, the Authority opened an investigation about Meta. Criteo provides advertising intermediary services to optimize the placement of remarketing ads to several inventories including platforms such as Facebook and Instagram, especially with their technologies.
- (755) Criteo argued that as of 2016, Meta has provided special API to certain intermediaries including Criteo, Criteo has used those APIs to bid in auctions and improve campaign performance monitoring however in 2018 Meta stopped providing those APIs especially to Criteo. At the same time, Criteo alleged that Meta withdrew its “Facebook Marketing Partners”⁵⁶³ status. This partnership enables the beneficiaries to access technical support and training to adapt to the developments in technologies and solutions provided by Meta; improve their service quality, access APIs more easily and improve APIs. Since advertisers see this situation as a guarantee for quality in terms of technical expertise and knowledge for the management of ad campaigns in Facebook, it means reputation in the eye of customers. Criteo argued that Meta’s alleged practices prevented Criteo from using its own technologies properly to carry out activities and Meta abused its dominant position.
- (756) In the investigation made upon the application, French Competition Authority decided that the following practices may lead to competitive concerns in the market for non-search based advertising market:
- Withdrawal of Criteo’s access to Meta’s partnership program called “Facebook Marketing Program”, the lack of objectivity, transparency, predictability and stability in the criteria for access to this program and the differences in implementation thereof,
 - The behavior of Meta’s sales teams towards Criteo, which are likely to constitute humiliation as of 2017,

⁵⁶³ Later it is called “Meta Business Partner”.

- Meta’s withdrawal of Criteo’s access from the API called User Level Bidding (ULB)⁵⁶⁴, which was launched as a part of the trial version to a limited number of firms,

The Authority expressed the following points: The practices examined during the preliminary assessment are likely to distort competition between online advertising service providers, who want to place ads to Meta inventory on one hand and weaken competitive pressure by intermediaries such as Criteo, who compete with Meta in terms of remarketing under Meta’s vertically integrated structure.

(757) The commitments submitted by Meta in response to those were considered to be able to solve competitive concerns explained and accepted⁵⁶⁵. The commitments in question are given below:

- Meta commits to offer access to its marketing/business partnership program to companies active in the field of advertising services. Meta commits that this access will be subject to a quantitative criterion related to ad campaign expenditure and service providers who have been able to use ULB API in the past will be automatically reintegrated to this system.
- Meta is trying to develop a new API called “Recommendation Functionality” for advertising technology providers. This API, which is available free of charge, will allow eligible firms to submit their requests for product recommendations or send individual bid adjustments. The commitments are submitted for a period of three years.
- The commitments will cover all advertising service providers, which participated in at least one advertising campaign targeting the users of Meta’s services in France⁵⁶⁶.

⁵⁶⁴ It is said that this API allows Criteo to use its own bidding and product recommendation technologies to optimize its remarketing offers in Meta’s ad ecosystem.

⁵⁶⁵ <https://www.autoritedelaconcurrence.fr/en/communiqués-de-presse/meta-makes-commitments-autorite-de-la-concurrence>, Accessed: 09.03.2023.

⁵⁶⁶ Moreover Meta commits to provide its sales teams with compliance training on the content of their communication especially to advertising clients and provide information to an independent trustee with the required qualifications in legal statistical and IT matters.

- (758) The decision suggests that the APIs, access to which is prevented by Meta, are related to the codes/tags which the shareholders have told that Meta prevents adding to the ads published in its inventory are related.
- (759) As stated in section 2.4. of this report, Meta's share in display advertising sector among the undertakings whose data can be obtained is (...) % between 2017 and 2021 and Meta have maintained this share during the years examined. In the social media market, Meta's total market share is 68.99% according to Statcounter, in 2022⁵⁶⁷. It is found in the Board decision dated 20.10.2022 and numbered 22-48/706-299 that Meta is dominant in personal social network services and consumer communication services markets in addition to others.
- (760) Given Meta's market power in social media and display advertising field, the alleged activities mentioned above may hinder the comparison of the services it provides as an ad inventory through preventing independent measurement providers from making efficient measurement and this may distort competition in ad tech services market through restricting the activities of ad servers or ad measurement service providers.

⁵⁶⁷ The market share of Facebook app is 51,85% whereas the market share of Instagram app is 17,14%. <https://gs.statcounter.com/social-media-stats/all/turkey/#yearly-2022-2022-bar>, Accessed: 07.03.2023.

7.CONCLUSION

The Importance of Online Advertising Sector

- (761) The physical distance between producer and consumer has widened and the variety of goods and services in the market has improved with the rapid development in information technologies and increasing use of internet. As a consequence, advertisement has turned into a critical marketing component. Digitalization of the world made a switch from traditional advertising to online advertising, in other words, to digital advertising.
- (762) The internet allowed tracking users' digital footprints and using interaction-focused advertisements based on features such as users' history and likes. Internet advertising has continued to develop and expand through many different methods, including e-mail, pop-up ads, search engines, social media and websites providing content. In social media, ads can be placed both over the content and within the videos, and at the same time interaction with the target audience became possible through strategies such as sponsored content, etc.
- (763) Online advertising has surpassed all traditional channels of advertising with its speed of growth in the recent years, online advertising has surpassed TV advertising and become the channel which takes the highest share from advertisement expenditures as of 2021. For the first half of 2021 and 2022, while the share of TV advertising in advertisement expenditures is 42%, the share of online advertising in advertisement expenditures is 46%.
- (764) The main reason for the aforementioned growth and proliferation is the fact that online advertising allows advertisers to send their consumer messages more quickly at the right time and to the right target, to enter into a dialog and interact with the consumers, to take many actions such as data collection and sales funneling, and to perform detailed measurements and optimizations.
- (765) In addition, the tendency of advertising services to gradually gravitate towards the online channel led to certain changes in the provision of the services, in the players taking part in the provision of the service, and therefore in the supply chain of the service and the competitive inputs necessary to ensure the efficiency of the service. Even though ads shown when using a search engine and ads encountered when visiting a website or a social media website/app are consolidated in the most general terms into the online advertising basket, the

online advertising channel does not consist of homogeneous products and services; instead, it resembles a large river divided into smaller tributaries, each of which serves different purposes and appeals to very different user profiles. Furthermore, these tributaries divide further amongst themselves, and in this form online advertising space brings about the potential for countless types of advertising. These innovations and transformations in question fundamentally affect the competitive conditions in the market. Efficient and proper competition law enforcement in these markets can only be possible by analyzing the said dynamics of the sector, detecting the behavioral and/or structural competition problems and proposing solution for those problems; thus, this sector inquiry has been made.

The Competitive Structure of Online Advertising Sector

- (766) Within the framework of the sector inquiry, the state of competition in our country is analyzed for all types of online advertising and for each potential downstream market. First, in line with shareholders' views as well as domestic and foreign case law, it has been found that online advertising and offline advertising are not substitutes and they constitute different markets.
- (767) Then, it is observed that in terms of search engine services, Google's Turkish market share was above 97% before 2018 but fell down to around 75% after 2018. Moreover, Google has significant market power compared to its rivals in terms of revenues in search advertising.
- (768) In terms of display advertising, the Meta economic entity (Facebook, Instagram, Messenger) represents (...) % of the total revenues of those undertakings that provided information under the sector inquiry, followed by the Google economic entity (YouTube, Play Store, Gmail, Google Discover) with a share between (...) %, and both of these undertakings have been maintaining their positions in the market for some years. Thus, it is observed that the online display advertising sector has a structure that is concentrated around the Meta and Google economic entities.
- (769) Users can encounter display advertising in various formats including texts, images or videos. According to shareholders' opinion, video advertising is positioned separately within the types of display advertising because it has a better capability to impact and convince users, it is more functional compared

to other types in terms of recognition but does not steer towards direct access or acquisition of the ad subject; in this respect, it is different from performance-focused, non-video-based display advertisements that encourages the user towards direct clicks; this difference is reflected to pricing.

(770) Similarly, it is understood that social media platforms are more advantageous than other display advertising channels because social media platforms provide detailed and various data such as users' pleasures, interests and relations with other users and users spend too much time on those platforms. In addition, thanks to social media platforms, advertisers can benefit from new ad types such as ads that are made by social media influencers and can be accessed only through those platforms and advertisers' spending to those platforms are increasing due to the said advantages. As a result, display advertising on social media platforms is different from display advertising on other platforms.

(771) According to Estimated Media and Advertising Investments in Türkiye Reports, while the share of search advertising within total online advertising expenses plateaued between 37% and 39% during 2017-2020 period, it fell down to 23% by 2023. The share of classified advertising during the examined period is below 1%. The share of display advertising within total online advertising expenditures during the same period saw a rise from 60% to 69%. Information provided by shareholders within the scope of the sector inquiry justified a similar picture. In the following sections, the report focuses on the structure and functioning of display advertising because of its much more complicated structure compared to classified advertising and search advertising as well as the economic size.

(772) Secondly, online advertising technology services, which are used when buying and selling display advertisements and which allow the use of sophisticated algorithms and systems to exchange digital ads in mere milliseconds thereby enabling the sale of digital ad space on the websites/applications of many publishers to many advertisers, are examined. Therefore, the report focuses on the open channel rather than the closed channel, which refers to a procedure where publishers with large ad inventories, so-called platforms that provide integrated services, such as Facebook, Instagram, Tiktok and Twitter, directly sell their inventories to advertisers using "their own systems."

- (773) Display advertising services in the open channel is provided by two methods. First is the direct agreement procedure where advertisers negotiate and agree with the publisher directly to purchase a certain amount of premium inventory. Second is the programmatic advertising, where the buying and selling transactions for the ad space are automated, where any ad inventory on the online channel is processed instantly, via communication between systems and which allows real-time targeting. Ad inventories apart from those allocated through direct agreements are sold through programmatic advertising.
- (774) Programmatic advertising comprises more than 70% of online advertising expenditures in our country. Programmatic advertising makes use of ad technology services to facilitate the automated purchase, sale and distribution of the ad inventory, one impression at a time.
- (775) During the early days of display advertising, the increasing number of websites and publishers' need to sell their remnant (unsold through direct agreement) inventories on these websites resulted in the emergence of ad networks, which consolidate ad inventories from a large number of publishers under their own umbrellas to mediate the use of these ad spaces in line with the needs of the advertisers. As the number of ad networks increased gradually, there emerged a risk of the same ad inventory getting purchased more than once by different networks, making it harder for advertisers to run their ad campaigns. Due to these reasons, online ad exchanges, which are digital marketplaces where the ad inventory supply meets with the demand, making it possible to bid in real time, have been created.
- (776) Moreover, advertisers and publishers purchase services from intermediaries to operate purchase and sale business and take certain decisions to do that. Publishers use publisher ad servers to arrange and manage ad inventories in online channels such as websites and mobile apps and use SSPs to automate the sale of ad inventories. Similarly, advertisers use ad servers to manage the way the ads are published whereas they use DSPs to buy ad inventories according to the parameters set. Accordingly, DSPs connect to ad exchanges/SSPs to buy ad inventories, allowing advertisers to manage the ad inventory buying process over a single interface. Moreover, due to the competition in the bidding system between DSPs and SSPs, a range of systems

has been brought to select the bids. Google's open bidding and header bidding systems are examples for those.

- (777) Apart from the main parties, there are other services offered in ad tech supply chain. Among those, DMPs allow participants in the ad technology value chain (advertisers, DSPs, SSPs and publishers) to manage and analyze their data, integrate them with third-party data and use these data for targeting purposes. Apart from those, advertisers use ad verification providers as well as attribution and measurement providers to help them measure and assess the performances of their ad technology providers and ad campaigns. It should be noted that advertisers and publishers may not always need separate providers for each of the services concerned, since such services can be offered by some DSPs and SSPs, as well.
- (778) Within the scope of the concentration analysis made in relation to the said ad tech services in Türkiye, it is observed that Google not only operates throughout the whole supply chain in our country, but also is the player with the largest share among all providers at all levels of the chain.
- (779) In addition to the observation that Google commands a high market share in all services it offers within the ad technology supply chain, undertakings which are active in the field of ad technology services in Türkiye note that concentration in the market has increased as a result of the fact that Google is active with multiple products in each category of ad technology services including DSPs, SSPs, publisher and advertiser ad servers, there is strong complementarity between these services; this structure is problematic for the development of the sector and would prevent the evolution of the competitive structure by restricting the field of activity for smaller players in the long-term.
- (780) It has been understood that intermediary services have evolved into Google somehow; the most important reason for this situation is that single-homing for services and use of the same ecosystem are highly preferred due to the switching costs of advertisers and publishers, the difficulty of learning/using different technologies, and the facilitation of easier management of ad campaigns, etc.
- (781) Fourthly, Google and Meta are remarkable with their market powers and their position is fed by both their ecosystem and data advantage, as a result of which they need to be examined in terms of not only advertising services but also the

entire ecosystem they are active in. Consequently, it is observed that in light of the complementary and interdependent relationships between the increasing number of products and services within the ecosystems Google and Meta built on the basis of their core platform services, fully integrated ecosystems developed by platforms with significant resources and expertise can lead to important benefits to consumers in the form of efficiency gains and a more positive user experience. On the other hand, it is emphasized that such ecosystems may serve for granting immunity from a possible competitive pressure to be created by rivals' entry; deprive consumers of innovative products and services in the future; may allow the market power in core platform services to be transferred to other markets via the leverage effect, lead to competitive concerns stemming from processing or combining the data obtained and collected.

(782) At fifth step, the types of data collected/processed in online advertising and the data Google and Meta collect within the ecosystems they operate are compared with the data collected by other undertakings in order to question the source of the data advantage which undertakings have gained through the ecosystems they own. In targeted advertising, in terms of efficiency and advertisers' choice for a publisher, in addition to the type of the data, the amount of the data collected is directly proportional to the number of users owned by a platform as well as the interaction between those users and the platform. Within this framework, it is observed that Facebook, Instagram and YouTube are the most used apps in our country. Compared with their rivals, they provide services to a significant amount of users. Another critical variable in detecting undertakings' advantage in terms of data is the ability of the data to be attributed to a single user and to make a profile in detail. Taking into account the factors such as Meta's and Google's significant number of users and the time users spend in their platforms, it is concluded that they create detailed profiles based on users' personal information such as family, education, profession, political interest and hobbies; they strengthen their profiling ability by means of the data they collect over third party websites or apps; therefore, they have data advantage compared to other publishers in the sector.

(783) Transformation of the data collected to service through targeted advertising provide significant benefits for each shareholder being publishers, advertisers

and consumers. Thanks to targeted advertising, advertisers increase the efficiency of ad spaces and their advertising revenues; improve ad interaction and performance with impressions according to needs and interests. With respect to consumers; publishers, advertisers and intermediaries who have rendered opinion within the scope of the sector inquiry have told that personalized ads are important because they ensure that consumers see ads related to their needs instead of publications that they are not interested in and they prevent negative effects on consumer experience.

(784) Despite the said benefits, targeted advertising raise privacy concerns for consumers because it depends on the collection, use and sharing of personal data. In the survey made within the scope of the sector inquiry, most of the users stated that they have concerns about the use of data collected in online channels. Nevertheless, 41.5% of the participants said that they never read privacy policies and almost half of those who answered that they read privacy policies also said that they do not understand terms of service and privacy policies. Similarly, it is understood that few users change the privacy options selected during sign-in to a website or an app later.

(785) Although users say state that they are anxious about privacy; they do not behave accordingly; in other words, the so-called privacy paradox is observed in the market. The privacy paradox means that although consumers report that they are very concerned about data protection and privacy, they generally behave contrarily. Consumer associations also make this observation. In addition, the said associations point out that undertakings can reach more consumers in a faster way with lower costs; consequently, increased number of ads leads to ad pollution, given consumers' unawareness about the collection of their data or giving consent to that. As a result, it is understood that an optimal balance between the benefits and harms of targeted advertising is important in terms of social welfare.

The Competitive Concerns in Online Advertising Sector

(786) Lastly, taking into account the functioning, structure and competition level of the sector, competition problems stemming from the practices of undertakings with market power are examined. The problems encountered/likely to be encountered are categorized under seven headings.

- (787) The first problem encountered in online advertising sector is the conflicts of interest due to the vertical integration in ad tech supply chain. This conflict of interest may take place because vertically integrated ad tech providers may be torn between their services' interests and customers' interests or because a vertically integrated ad tech provider provides services to both advertisers and publishers. Even though most of the undertakings in the sector may face the said problem, as shown in the sector inquiry, Google's market power in this area may aggravate the conflicts of interest. Again, although such conflicts are difficult to qualify as a competitive concern per se, Google's (possible) practices in question may worsen the conflicts and turn them into a naked competitive problem.
- (788) The second problem discussed is the concern that Google may engage in tying and self-preferencing. As stated above, since Google is active and strong in each stage of ad tech supply chain, it may transfer its power in ad tech services or providing certain services to other ad tech services. Sector shareholders and certain competition authorities abroad have indicated many competitive concerns concerning Google, including; (i) Using its power in general search services market to strengthen its DSP, (ii) Tying YouTube inventory to a purchase by means of only its own DSP, (iii) Directing the demand coming from its DSPs to its SSPs, (iv) favoring its SSP with its publisher ad server, (v) Using bidding rules in publisher ad server to favor its services, (vi) Self-favoring with Dynamic Allocation, (vii) having the last look advantage in header bidding, (viii) Using bidding rules in publisher ad server to favor its services, (ix) preventing verification and measuring of ads on YouTube by independent service providers. Moreover, it is seen that the authorities abroad have been investigating the said concerns.
- (789) Thirdly, in section 3 and 4 of the Report, it is concluded that Google has a much stronger position compared to its rivals in terms of access to data as it provides many complementary services. Shareholders' claims and the investigations abroad into similar claims have resulted in the concern that the said undertaking may use the advantage it gains by combining the data it collects over different services to the detriment of its competitors.

(790) The fourth problem discussed is the transparency problem in the ad technology chain. Advertisers and publishers must be able to make conscious choices about which services and servers they will use so that efficient competition is created in the provision of ad tech services. Therefore, the transparency of the supply chain needs to be increased. Transparency problem with ad technology is observed in three ways: First, advertisers and publishers have sufficient information and control only over a certain part of the supply chain, actors in the ad supply chain do not know the difference between the price paid by the advertiser and the amount received by the publisher. Second, the complexity of auctions in ad tech supply chain makes advertisers and publishers dependent on ad tech providers to sell and purchase inventory. Last, undertakings have mentioned their concerns that they are prevented from having their service performance measured by independent parties. Regulations are envisaged with the draft bill on the amendments to the Act no 4054 regarding the problems concerning transparency problem in question. The aim is that commercial users can have information about the quality, performance and pricing principles as well as the conditions of access to such services in terms of the fundamental platform services and ancillary services they are getting; intermediaries, publishers and third parties authorized by those in the online advertising market can have sufficient information about basic issues such as determination of prices during the tender process, the efficiency of ads and how much shares intermediary firms get from the tender process. Those regulations aim to ensure that advertisers and publishers can make a decision about which ad supplier to choose consciously and enhance competition in that area.

(791) The fifth problem discussed is that with their important role in conveying news content to users, digital platforms are indispensable commercial partners of news publishers and consequently news publishers have to accept the conditions imposed by platforms unconditionally. It is possible that those conditions may lead to falls in news publishers' ad revenues and under certain conditions to transfer revenues to digital platforms. News publishers' basic source of revenue is ad revenues and an increase in ad revenues may jeopardize the continuation of their activities, leading to fewer and/or lower quality news and social disinformation ultimately. In the elimination of digital platforms'

practices that are regarded as problems leading to a decrease in or a complete loss of news publishers' advertisement revenues, both competition law tools and legal regulations concerning copyrights can have a role. There may be coordination and cooperation with General Directorate of Copyrights of the Ministry of Culture to use both tools.

- (792) The sixth concern is about Google's Privacy Sandbox application for deprecating third party cookies on Chrome browser. The practice in question has led to concerns and uncertainty in the sector whose operation highly depends on third party cookies. With the said practice, Google might favor itself and put its competitors and other shareholders at a disadvantage in terms of user tracking and collecting data, and favor its owned and operated ad inventory. The said practice is in development stage and has not been implemented yet. In order to ensure that the application in question will be developed in a way not to damage competition and consumers, it is advisable that the developments and changes in this area as well as the effects of those on the competitive structure of advertising sector will be actively monitored with the support of Information Technologies Department.
- (793) The seventh concern addressed is Apple's and Google's restriction of access to MAIDs by third party applications that provide services on their operating systems (respectively iOS and Android). MAIDs are critical sources of data for the profitability and sustainability of mobile online advertising sector. Currently, Apple prevents third party applications' access to MAID as default with its ATT policy. Similarly Google has announced its policies that will restrict sharing user data with third parties in the near future. It is concluded that it would be better to discuss the possible anticompetitive concerns to be created by Apple's and Google's said policy changes in online mobile advertising and mobile application market as a part of a sector inquiry recently initiated about mobile ecosystems.

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