

Submitted to:

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Written Comments Provided to the Public Workshop on Competition in Television and Digital Advertising, May 2-3, 2019

**Submitted by
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**On behalf of
Innovation Defense Foundation
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The Innovation Defense Foundation (IDF) is pleased to submit these comments on the Department of Justice’s “Public Workshop on Competition in Television and Digital Advertising.” The IDF is a nonprofit, nonpartisan, research and issue-advocacy institution focusing on “permissionless innovation,” seeking to address unnecessary legal or regulatory impediments to innovation. The Foundation is actively involved in several issues relating to the evolution of the internet and the digital economy. The digital marketplace and online advertising are critical components of this ecosystem, and the Innovation Defense Foundation commends the DoJ for addressing this important yet complex issue.

As markets have evolved, advertising has changed as well, moving from print to radio the television and now the internet. With every change there has been renewed focus on advertising and the role it plays in society. Early on there were concerns about the social value of advertising and its function in a market economy, but ultimately it was found that advertising conveys useful

information to consumers while expanding a producer's ability to reach the universe of possible customers demanding its products.

To summarize the key points of these comments, I would note that today's market for advertising is dynamic and competitive. Advertising is quickly adapting to digital platforms and the potential for more targeted ads. And while there may be just a few large players in the marketplace, that does not mean there is a lack of competition. Even Google and Facebook face new threats of competition, such as Amazon's rise as a major digital advertiser. Similarly, Target, Walmart and other large players have increased their online presence and their ability to provide targeted ads for digital consumers. This trend is even more notable in the mobile space, where apps of large platforms and retailers directly compete for ads.

Additionally, the market is not static; a growing number of players are moving into the digital marketplace, such as AT&T's acquisition of AppNexus, and a host of smaller marketers such as Adobe's Advertising Cloud, LumaScape, Jivox, and others. And as Assistant Attorney General Makan Delrahim noted in his opening comments at the workshop, "Of the top 10 companies that contributed to digital advertising's revenue growth 10 years ago, only three remain on the top 10 list today."¹ This reflects much of the dynamic evolution of the internet, including the rise and fall of once dominant platforms, such as AOL and MySpace.

An Industry in Transition

Advertising has a long and controversial history with respect to its role in the marketplace. Ever since Edward Chamberlain sheared off advertising as a selling cost rather than a production cost, advertising has been a controversial topic in economic theory. Critics

¹ Makan Delrahim, "Opening Comments, Department of Justice Public Policy Workshop on Competition in Television and Digital Advertising," available at <https://www.justice.gov/opa/speech/assistant-attorney-general-makan-delrahim-delivers-remarks-antitrust-divisions-public>

have asserted that advertising creates false demand and creates social waste.² Others have suggested that by promoting brand loyalty, advertising poses a barrier to entry that can limit competition.³ And even when the role of advertising is acknowledged, the wide discrepancies between spending and outcomes continues to raise questions about the efficacy of advertising. However, when put in the perspective of information economics, research suggests that advertising does in fact benefit consumers by providing information and reducing search costs. Thus, even though advertising may increase the price of a good, it reduces total consumer costs.⁴ And in the real world, abandoning the stylized facts of the perfectly competitive market, advertising is, as Israel Kirzner notes, "...an integral, inescapable aspect of the market economy."⁵

Information economics has enhanced our understanding of advertising, and more recent work examining the economics of two-sided markets has provided a more formal framework for understanding the role that advertising plays.⁶ Going back to when advertising first appeared in print media, publishers were creating a platform that provided consumers content while at the same time providing advertisers access to potential customers. These publishers balanced overall demand for their products by setting prices for consumers to access to content while also setting fees charged to advertisers.

² For a discussion of some of the early debates on the social value of advertising, see Jules Backman, "Is Advertising Wasteful?" *Journal of Marketing*, vol. 32, no. 1 (January 1968): pp. 2-8.

³ William S. Comanor and Thomas A. Wilson, *Advertising and Market Power*, Cambridge: Harvard University Press, 1974. For a rebuttal, see Carl Shapiro, "Advertising as a Barrier to Entry?" Working Paper No. 74, Federal Trade Commission, June 1982.

⁴ Brozen, Yale, *Advertising and Society*, New York: New York University Press, 1974.

⁵ Israel Kirzner, "Advertising: A Lecture by Israel Kirzner," Foundation for Economic Education, September 1, 1972.

⁶ Jean-Charles Rochet and Jean Tirole, "Platform Competition in Two-Sided Markets," *Journal of the European Economic Association*, June 2003, 1(4): 990-1029.

These content or attention platforms have evolved over time, from print to radio, to television, cable television, and now the internet. But the balancing carried out by the platforms remains the same—providing content that attract the optimal amount of consumers and, therefore, advertisers. And, as David S. Evans notes, they are interdependent⁷:

An increase in advertiser demand increases the returns from generating user attention, which increases the incentives for content creation and platform improvements. More and better content attracts more consumer time to the platform, which enables the platform to sell more ads. Attention platforms use ad revenues to finance content and other features, because that is primarily what generates the attention that results in ad revenues.

Changing Strategies in Digital Advertising

Perhaps the most significant change with respect to advertising that occurred in the shift from linear television advertising to digital advertising was the reliability of access to consumers. Television was dominated by “single homing” users, meaning it was pretty clear where advertisers needed to focus their efforts. With the rise of the digital world, consumers became more mobile and began multi-homing, making it more difficult for advertisers find their consumers (and consequently making multi-homing consumers less valuable).⁸ However, platforms and publishers collected more behavioral data on their consumers, providing a more detailed description of potential customers for advertisers. In this case, it becomes important for publishers to provide even higher quality content in order to attract more consumers to their platforms.

Researchers are also finding that the role of online advertising is more complicated, and the impact of ad auctions and search page displays can vary based on the size of the firm making

⁷ David S. Evans, “Attention Platforms, the Value of Content, and Public Policy,” *Review of Industrial Organization*, vol. 54, issue 4: 775-792.

⁸ Simon P. Anderson, Oystein Foros, and Hans Jarle Kind, “Competition for Advertisers and for Viewers in Media Markets,” *The Economic Journal*, vol. 128, issue 608, Feb. 1, 2018: pp. 34-54.

the purchase. For instance, the placement of a search page ad is more relevant for smaller firms than larger, well-known brands. A slip in display placement for Walmart or Best Buy has less impact on sales than does the same slip by a smaller business selling the same product. More precisely, researchers have found that ad position and advertiser prominence are substitutes. Przemyslaw Jeziorski and Sridahr Moorthy noted "... in searches for camera brands, a retailer not in the Top-100 of Alexa rankings has a 30–50% higher click-through-rate (CTR) in position one than in position two, whereas a retailer in the Top-100 of Alexa rankings has only a 0–13% higher CTR for the same position improvement."⁹ Such differential impacts suggest that digital advertising may require more careful analysis prior to any market interventions.

There are also interesting cross-platform impacts worth examining that suggest an optimal ad buy may include both traditional television and digital ads. For example, one study found that while many companies have failed to coordinate television and digital advertising campaigns, there are clear benefits to doing so. The study found that airing television ads for financial services products increased the number of Google searches for those same products.¹⁰

These interdependencies between various aspects of digital and television advertising suggest that advertisers, publishers, and other intermediaries continue to discover how this dynamic market process is evolving and what components are converging. Absent evidence of consumer harm, this discovery process should be allowed to continue.

Now publishers provide more than content with respect to accessing consumers. Today's digital platforms develop valuable data analytics that provide far more information about their subscribers. Thus, targeted behavioral marketing becomes possible, and publishers provide

⁹ Przemyslaw Jeziorski and Sridahr Moorthy, "Advertising Prominence Effects in Search Advertising," *Management Science*, vol. 64, no. 3, March 2018: 983-1476.

¹⁰ Mingyu Joo, Kenneth Wilbur, Bo Cowgill, and Yi Zhu, "Television Advertising and Online Search," *Management Science*, vol. 60, no. 1 (January 2014): pp. 56-73.

advertisers with much more detailed information about potential customers. This was the key difference in the shift from TV to digital. Targeted ads can be much more effective than the broad-based audience reached by television.

The digital advertising market is complex and includes more than large players such as Google and Facebook. In fact, intermediaries are critical in this market, from ad networks, to ad exchanges and ad servers, data aggregators and data suppliers, and a host of others critical to bridging the gap between advertisers and publishers. And as Susan Athey noted, such intermediation is required given the level of fragmentation in the market.¹¹ For example, Amazon's rise in digital advertising has been accompanied by a host of new startups focused on this new platform, including InsightLeap, Downstream, and Gradient.¹²

Competition in Digital Advertising

Currently, the debate over digital advertising focuses on the potential for anticompetitive behavior due to the dominant duopoly in the digital advertising marketplace. While it is clear that Google and Facebook play a substantial role in this marketplace (representing market shares of 37.2 percent and 22.1 percent, respectively), they are by no means the sole players in this market. In fact, even as the digital advertising market continues to expand, both Google and Facebook experienced small declines in market share as Amazon made a significant jump to third in market share (still at just 8.8 percent).¹³ Yet even so, it is sometimes the case that large firms are large because they are successful at providing consumers what they want at a lower price than their competitors.

¹¹ Susan Athey, "Advertising Overview: Issues, Challenges and Opportunities," lecture presented at DoJ Public Workshop on Television and Digital Advertising," May 2, 2019.

¹² Taylor Soper, "Report: Amazon Takes More Digital Advertising Market Share from Google-Facebook Duopoly," *GeekWire*, February 20, 2019, available at <https://www.geekwire.com/2019/report-shows-amazon-taking-digital-advertising-market-share-google-facebook-duopoly/>

¹³ *Ibid.*

But the market is changing, and new entrants are in the market, especially in mobile, where the convergence of traditional linear tv and digital is most prevalent. Advertisers are now able to use the targeted tools of digital advertising in a TV setting. Both AT&T and Verizon are poised to be larger players in this market, as is DishTV. Even with two primary firms, the market remains competitive, and future trends even more intermediation and competition in this space.

This is not to say there are no challenges in digital advertising. This space has its own concerns, such as brand integrity, privacy, and transparency. But these are not questions of antitrust enforcement; large brands have raised these concerns and it will be incumbent upon advertisers to address these concerns as the market matures. Failure to do so will lower the value of the platforms for digital advertising, which could reduce demand for these services.

Digital advertising does create its own unique concerns. Questions of brand integrity, privacy, and transparency must be addressed, but these are not issues of antitrust enforcement.

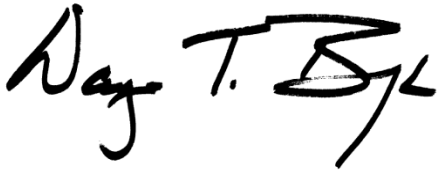
Conclusion

In conclusion, the International Defense Foundation appreciates the DoJ's efforts to assess the state of television and digital advertising. The IDF views the market as dynamic and competitive. New and more targeted ways to reach potential customers are evolving and online advertising facilitates \$500 billion annually in online retail sales as well as sales in more traditional outlets. As technology advances, important aspects of linear television and digital advertising are converging, providing the potential for more efficient approaches to advertising.

Given the rapid pace of change and the growing share of digital advertising in the overall advertising market, the DoJ and other federal regulators should proceed with caution when considering interventions in the digital advertising market. Prior to any action, careful study is

required to demonstrate whether there is, in fact, a significant market failure. Importantly, this should be assessed within a paradigm that focuses on consumer welfare and identifies specific instances of consumer harm. Additionally, it is also important to demonstrate that any proposed changes have identifiable welfare-enhancing effects relative to the status quo. Misapplying economic principles in pursuit of antitrust actions can impose market distortions that do more harm than good.

Respectfully submitted,

A handwritten signature in black ink that reads "Wayne T. Brough". The signature is written in a cursive, slightly stylized font.

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