Supplementary Submission Free TV Australia

Third-party measurement & verification

Digital Platforms Inquiry
Australian Competition & Consumer Commission

November 2018

1. Summary

Free TV Australia thanks the ACCC for the opportunity to make this supplementary submission to expand on the third-party measurement and verification issues raised in our substantive submission.

As set out in our initial submission, Free TV considers that a key focus of the ACCC should be the ability of dominant digital platforms to continue to operate in the advertising market with no genuine third-party measurement and verification of their audience reach claims.

Every year, over $15.5 billion worth of advertising is bought and sold in Australia. Half of this is sold through digital advertising channels dominated by Google and Facebook. In order for this market to operate efficiently and effectively, audience reach claims made by publishers must be based off a consistent set of metrics and, crucially, be subject to genuine third-party measurement and verification.

Through the ACCC's consultation process to date, incorrect claims have been made by these dominant players that mis-state the third-party verification process that applies to their products. There is no genuine third-party verification of the reach of digital advertising products offered by their digital platforms.

In contrast, a genuine third-party measurement and verification process has been implemented by every major publisher of news and journalistic content operating in Australia. That is, digital products offered by all metropolitan commercial TV networks and other news publishers such as News Corp and Fairfax, have all implemented code in their products that captures and reports raw usage data to Nielsen. This is the currency on which our digital advertising products are bought and sold.

Conversely, a number of significant global social network players have not implemented these software development kits (SDKs) in their products. At best, they supply their own usage data and place it into an escrow server where it can then be accessed by Nielsen for the purposes of reporting audience reach. This process is referred to as a double-blind measurement system. However, the audience data is collected and supplied by the publisher in this process. What Nielsen and other parties have in this case is only an ex-post 'right of audit' of data prepared by the digital platforms themselves. This should not be confused with proper third-party measurement and verification with data collected at the source.

Claims that this process can be compared to the third-party measurement system implemented by other publishers are wrong.

There is a relevant comparison with the undertaking given to the ACCC in 2000 by OzTAM that requires that raw metropolitan television audience data (referred to as "Elemental Data") be provided to third parties under reasonable commercial terms. The advertising revenues that now accrue to the digital platforms far exceed those of the TV sector when the ACCC took action to require third-party access to OzTAM data.

We strongly urge the ACCC to recommend that legislation be enacted that would require that all digital publishing businesses of scale operating in Australia to be required to natively deploy accredited third-party SDKs for independent verification.

2. Background

2.1. What we said in our original submission

In our substantive submission we recommended requiring all companies/publishers operating at scale in Australia to comply with the existing transparent measurement of online traffic by including third-party SDKs across all of their advertising products. This would allow robust, verifiable and consistent measurement against independently set standards for reach and viewability.

We formed this recommendation following our observations that the measurement process employed by the dominant digital platforms creates an environment where false and misleading claims can be made about the reach of digital advertising.

In turn this distorts the advertising market in favour of the digital platforms. This distortion starves the local media industry of advertising dollars, reducing the funding available for Australian content, local services (including news and current affairs) and local jobs.

Further, our submission highlighted a number of examples of where the lack of genuine third-party verification and independently set metrics had led to ten documented cases of Facebook making measurement claims that were false and misleading to advertisers.[1]

Since making our substantive submission, filings in a Court case against Facebook have alleged that the inflation of video viewership was far greater than initially thought and summarised in our submission. It is now alleged that:

> *… "duration of video viewed" and "percentage of video viewed" metrics were "typically inflated by between 150% and 900%."*[2]

In addition, the filings allege that Facebook deliberately withheld data on the effectiveness of its video advertising product:

> *"Facebook did not wish to draw scrutiny to its viewership figures because it knows that the majority of video ads on its platform are viewed for very short periods of time—users scroll right past. If advertisers were more widely aware of this fact, and in particular, if they knew that their advertisements were among those that were not drawing viewers' attention, they would be less likely to continue buying video advertising from Facebook."*[3]

Free TV is not in a position to comment on whether these allegations are correct. However, it is clear that a process that relies on testing the veracity of audience reach and video viewership through the Court system is a highly inefficient process. It also exposes all of those advertisers who do not have the resources to take Court action to seek redress for the potentially misleading claims of the reach and effectiveness of the advertising products sold by the digital platforms that do not have genuine third-party verification.

2.2. Claims made at the public forum

At the 16 August 2018 invite-only stakeholder forum a claim was made that third-party verification was available on digital platforms, and the measurement systems are independently verified.[4]

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1 https://marketingland.com/heres-itemized-list-facebooks-measurement-errors-date-200663
2 https://www.mediapost.com/publications/article/326652/facebook-inflated-video-metrics-by-up-to-900-mar.html?hashid=jN2uq-eixy8F3loBEWryd-4uiKA
3 https://arstechnica.com/tech-policy/2018/10/advertisers-allege-facebook-hid-the-fact-that-no-one-watches-video-ads/
4 https://www.accc.gov.au/system/files/DPI%20-%20industry%20stakeholder%20forum%20-%20summary%20for%20public... _0.pdf

This claim is incorrect.

As set out in the following sections, the process of calculating audience reach and video viewership on Google and Facebook products relies on data solely captured and collated by the digital platforms themselves. The fact that there may be a 'right of audit' of this data by third-parties should not be confused with a genuine third-party verification and measurement system (at the source).

To the extent that there continues to be confusion over this point, Free TV strongly urges the ACCC to retain the services of a technical expert to independently advise on these verifications systems.

This is a crucial point for the financing of local news and journalistic content (and indeed all other local content). Inflated audience reach claims directly negatively impact on the ability of local publishers and other content creators, like commercial television networks, to compete and attract the advertising revenue necessary to invest in this content.

3. What is third-party measurement and verification?

Third-party verification relies on external parties having access to the raw audience reach and video viewership data. Genuine third-party verification requires that this process happen at arms-length from the publisher, with the raw usage data being captured directly by the third-parties, such as Nielsen, at the source, through an SDK implemented across all digital products.

For example, to accurately determine the reach of Google News articles or Instant Articles on Facebook, these products should be coded to allow independent measurement and verification by Nielsen (or similar) directly, rather than through the ex-post interpretation of usage data collated by Google and Facebook themselves.

These SDKs have been implemented by all other major digital news publishers operating in Australia. In turn these news publishers earn the required revenue to invest in their content by selling advertising around this content. Google and Facebook do not invest in news and journalistic content, preferring to rely on monetising the content produced by others. They also do not provide genuine independent measurement and verification of the claims they make to advertisers.

It is a double play that leaves publishers and broadcasters who rely on advertising revenue to fund content investment in an almost untenable position. The advertising market must be levelled by requiring that all players are providing genuinely verifiable audience claims through SDK implementation.

This also would allow advertisers to determine their own metrics for effectiveness.

For example, Facebook currently markets itself to advertisers on the basis of incremental reach: the number of extra people that it estimates it can reach above a TV only audience. For this measure, Facebook counts reach when the server is called—that is it can be counted even if viewed for zero seconds, with zero pixels being rendered. In contrast, OzTAM only counts reach when a video is viewed, 100% rendered, for at least 15 continuous seconds. Google reach is counted when a video is viewed for two continuous seconds at 50% rendered.

By providing at-the-source access of audience reach and video viewership data to third-parties via an SDK, advertisers and their agents would be able to determine their own metrics for effectiveness. However, as set out in our original submission, Free TV is strongly of the view that there should be independently set benchmark criteria for when an audience member can be counted as having been reached or a video having been viewed.

4. An audit right is not third-party verification

Genuine third-party verification should not be confused with the right of third-parties to audit the proprietary data of dominant digital players such as Google and Facebook. This confusion was used by some people at the ACCC public forum of 16 August 2018 to claim that the digital platforms were subject to third-party verification.

This is a very important distinction. An audit right has two main problems. First and foremost, the data is still collected, collated and disseminated by the digital platforms. The usage data provided to Nielsen into the 'double-blind' process is a black box. There is no genuine independent verification of this data—including the extent to which the numbers are inflated by non-human activity.

Second, for the right to audit to have any power, it requires a third-party to exercise that right. Free TV has no direct knowledge of whether Nielsen has ever exercised this right. Even if the audit right is triggered, the auditing process would be a bilateral process between the third-party and the provider of the data—predominantly Google or Facebook. It is not an open and transparent process in which all stakeholders who rely on the accuracy of reach claims would have visibility.

This process also ignores those small to medium business enterprises who buy advertising directly from Google and Facebook and who rely on the reporting provided through the Google and Facebook dashboards.

Rather than relying on an indirect, opaque and unreliable process that overstates the effectiveness of the digital advertising products sold by Facebook in particular, a genuine verification process must be mandated. This would be consistent with some of the principles behind an undertaking required by the ACCC of OzTAM in 2000, as outlined in the next section.

5. ACCC requirement for third-party access to OzTAM data

Consistent with an undertaking required by the ACCC in 2000, OzTAM allows third-parties to access metropolitan TV audience data, known as Elemental Data. Subject to obtaining an OzTAM data usage licence (under the terms of the ACCC undertaking, the licence must be offered on reasonable commercial terms), anyone with Gold Standard accredited software can access metropolitan TV Elemental Data. The Gold Standard specifies the arithmetical procedures to deliver uniform calculations as well as the standard industry terms and language to use, enhancing transparency.

Through its implementation of SDKs, OzTAM can correctly attribute every minute of video content played by connected devices across all streamed and catch-up viewing of the metropolitan free-to-air and subscription TV (Foxtel) broadcasters' internet-delivered video services. It should be noted that user data is fully anonymised, and OzTAM collects no information that can identify who owns or uses individual devices.

The comparison with the audience reporting of the dominant digital publishers such as Google and Facebook could not be more stark. Yet it is these audience reach figures that advertisers rely on when deciding when to allocate their marketing budgets. The distortions that result from this unlevel playing field result in dollars moving from news publishers and commercial television networks—reducing the revenue available to invest in content such as news and public interest journalism.

6. What's the solution?

Consistent with the recommendations included in our substantive submission, it is crucial that all digital publishing businesses of scale operating in our territory should be legislatively required to natively deploy accredited third-party SDKs for genuine independent measurement and verification.

The funding of Australian content, including news and journalistic content, requires that those who are prepared to invest in its creation are on level playing field for advertising revenue with those digital platforms that freely leverage and monetise this content.