



Appendix A: Terms of Reference





COMMONWEALTH OF AUSTRALIA

COMPETITION AND CONSUMER ACT 2010

INQUIRY INTO DIGITAL PLATFORMS

I, Scott Morrison, Treasurer, pursuant to subsection 95H(1) of the Competition and Consumer Act 2010, hereby require the Australian Competition and Consumer Commission to hold an inquiry into the impact of digital search engines, social media platforms and other digital content aggregation platforms (platform services) on the state of competition in media and advertising services markets, in particular in relation to the supply of news and journalistic content, and the implications of this for media content creators, advertisers and consumers.

Matters to be taken into consideration include, but are not limited to:

- i. the extent to which platform service providers are exercising market power in commercial dealings with the creators of journalistic content and advertisers;
- ii. the impact of platform service providers on the level of choice and quality of news and journalistic content to consumers;
- iii. the impact of platform service providers on media and advertising markets;
- iv. the impact of longer-term trends, including innovation and technological change, on competition in media and advertising markets; and
- v. the impact of information asymmetry between platform service providers, advertisers and consumers and the effect on competition in media and advertising markets.

This is not to be an inquiry into supply by any particular persons or persons, or by a state or territory authority.

This inquiry is to commence today and submit to me a preliminary report within 12 months and a final report within 18 months.

DATED THIS 4th DAY OF December 2017

SCOTT MORRISON
Treasurer



**Appendix B:
Overview of defamation
law and application to
digital platforms and
media businesses**



This appendix provides an overview of key features of Australian defamation law as applicable to digital platforms and media companies.

Overview of defamation law

Australian defamation law is set out in the national uniform defamation legislation which was enacted by each of the states and territories (the National Defamation Law) in 2005 and 2006,²²⁶⁹ supplemented by the common law.²²⁷⁰

Defamation requires a judge to be satisfied that the material is capable of bearing a defamatory meaning and a jury to be satisfied that the defamatory meaning would be conveyed to an ordinary, reasonable reader.²²⁷¹ There is a limitation period of one year for defamation claims, with the possibility of a court-ordered extension of up to three years.²

A necessary element of defamation is that the defendant must have published the defamatory material.²²⁷³ ‘Publication’ under defamation law is broadly defined and includes any person who has voluntarily disseminated the defamatory material.²²⁷⁴ Content creators such as newspapers are liable under defamation law as ‘primary publishers’, while distributors of defamatory materials who did not create the material but voluntarily disseminated it to others such as libraries or newsagents are also liable under defamation law as ‘secondary publishers’.²²⁷⁵

Liability under defamation law applies to digital platforms in a similar way as to other media businesses. That is, digital platforms that distribute defamatory material on their platforms may be liable as ‘secondary publishers’ under defamation law, much like any other media business which distributes defamatory material on its website or via another channel. Further, if a digital platform were to create the defamatory material, it would be liable under defamation law as a primary publisher.

The key difference between primary and secondary publishers is that secondary publishers may try to make out the defence of innocent dissemination.

Defence of innocent dissemination

While both primary and secondary publishers of defamatory material are liable under defamation law for being involved in the publication of material, secondary publishers may rely on the innocent dissemination defence,²²⁷⁶ which requires the following elements:

- not made aware of the defamatory material²²⁷⁷, or
- if made aware of the defamatory materials, took steps to remove it within a reasonable timeframe.²²⁷⁸

2269 These laws were enacted in substantially the same form by the state and territory legislatures: see *Civil Law (Wrongs) Act 2002 (ACT)* Ch 9; *Defamation Act 2006 (NT)*; *Defamation Act 2005 (NSW)*; *Defamation Act 2005 (Qld)*; *Defamation Act 2005 (SA)*; *Defamation Act 2005 (Tas)*; *Defamation Act 2005 (Vic)*; *Defamation Act 2005 (WA)*.

2270 The National Defamation Law does not affect the operation of the common law tort of defamation, except to the extent that the National Defamation Law provides otherwise (whether expressly or by necessary implication). *Civil Law (Wrongs) Act 2002 (ACT)* s 118; *Defamation Act 2006 (NT)* s 5; *Defamation Act 2005 (NSW)* s 6; *Defamation Act 2005 (Qld)* s 6; *Defamation Act 2006 (SA)* s 6; *Defamation Act 2005 (Tas)* s 6; *Defamation Act 2005 (Vic)* s 6; *Defamation Act 2005 (WA)* s 6.

2271 D Rolph et al, *Media Law: Cases, Materials and Commentary*, Oxford University Press, 2015, p. 74.

2272 See ss. 14B, 56A; *Limitation of Actions Act 1974 (Qld)* ss. 10AA, 32A; *Limitation of Actions Act 1936 (SA)* s 37(1), (2); *Defamation Act 2005 (Tas)* s. 20A(1), (2); *Limitation of Actions Act 1958 (Vic)* ss 5(1AAA), 23B; *Limitation Act 2005 (WA)* ss 15, 40.

2273 *Dow Jones & Co Inc v Gutnick* (2002) 210 CLR 575.

2274 See *Goldsmith v Sperrings Ltd* [1977] 1 WLR 478 at 505 per Bridge LJ; *Dow Jones & Co Inc v Gutnick* (2002) 210 CLR 575 at 647 per Callinan J.

2275 D Rolph et al, *Media Law: Cases, Materials and Commentary*, Oxford University Press, 2015, p. 214.

2276 See *Defamation Act 2005 (Vic)* (NSW) (Qld) (WA) s 32, *Defamation Act 2006 (NT)* s 29, *Defamation Act 2005 (SA)* s 30, *Civil Law (Wrongs) Act 2002 (ACT)* s 139C.

2277 See *Von Marburg v Aldred & Anor* [2015] VSC 467, where Dixon J said that ‘an awareness of the existence of the impugned material is a precondition before an internet intermediary such as an administrator or sponsor of a Facebook page will be held to be a publisher. The internet intermediary is not the publisher of it if not aware of its existence’.

2278 See *Trkulja v Google Inc. LLC* [2012] VSC 533.

In *Google Inc. v Duffy*²²⁷⁹, Google sought to rely on the defence of innocent dissemination by arguing that its search engine algorithms automatically indexed relevant links and images without any knowledge that the material was defamatory. This argument was rejected by the court because Dr Duffy had notified Google of the defamatory materials and gave Google a reasonable timeframe to remedy the situation.

Liability of digital platforms under defamation law

Digital platforms may be liable as secondary publishers of defamatory material if they do not remove defamatory material after:

- being notified of the defamatory material, and
- a reasonable period of time for the removal of the offending search terms has passed.²²⁸⁰

There are several cases where digital platforms have been found liable under defamation law as secondary publishers.²²⁸¹

- For instance, in *Google Inc v Duffy*²²⁸², Dr Duffy discovered that Google searches for her name were accompanied by an autocomplete suggestion 'Janice Duffy Psychic Stalker' and that the search results included a link to a website called the Ripoff Report (which had published defamatory materials about her). Dr Duffy wrote to Google requesting removal of the content, but Google did not respond to her request. Dr Duffy then sued Google for defamation. Google argued that there was no 'publication' of its search results, but the Court found Google liable as a secondary publisher of the defamatory material for reasons including that Google had intentionally designed its search engine to produce results in the way it did and had facilitated the reading of the defamatory material in an indispensable, substantial and proximate way.
- In *Trkulja v Yahoo! Inc LLC*²²⁸³, Mr Trkulja successfully sued Yahoo! for displaying photos of him alongside articles associated with violent crimes and photographs of Tony Mokbel. Mr Trkulja argued that the way the search results were arranged gave rise to the imputation that he had been involved in violent crimes and his rivals had hired a hitman to murder him.
- In *Trkulja v Google Inc LLC*²²⁸⁴, Google initially made an application to strike out the proceeding on the basis that it had no prospects of success, which was dismissed by the Victorian Supreme Court, successfully appealed by Google in the Court of Appeal, and then successfully appealed by Mr Trkulja in the High Court. The outcome of this trial is still pending.

Despite the theoretical liability of digital platforms, it should be noted that the majority of defamation cases have involved the author or publisher of the defamatory material being sued rather than the digital platform involved. For example, in *Hockey v Fairfax Media Publications Pty Ltd*,²²⁸⁵ Fairfax Media was sued under defamation law, not Twitter.²²⁸⁶

2279 [2017] SASCFC 130.

2280 The most recent Australian authority for this is *Google Inc v Duffy* [2017] SASCFC 130.

2281 *Google Inc. v Duffy* [2017] SASCFC 130.

2282 [2017] SASCFC 130.

2283 [2012] VSC 88.

2284 [2012] VSC 533.

2285 [2015] FCA 652.

2286 In this instance the court found defamatory imputations in two tweets written by Fairfax Media and broadcast on Twitter. Fairfax Media was ordered to pay Mr Hockey \$80 000 for the two tweets published on Twitter by *The Age*. *Hockey v Fairfax Media Publications Pty Ltd* [2015] FCA 652 at 515, 517.

Remedies for publishing defamatory content

The main remedy in defamation cases is the award of damages set by the trial judge,²²⁸⁷ who is required to ensure there is a rational relationship between the amount of damages awarded and the harm suffered.²²⁸⁸ Damages may be awarded for both economic and non-economic losses. Non-economic losses are capped at a maximum of \$250 000 (subject to annual indexation).²²⁸⁹

In *Google v Duffy*, Google was ordered to pay Dr Duffy \$115 000.²²⁹⁰ In *Trkulja v Yahoo! Inc LLC*, Yahoo was ordered to pay Mr Trkulja \$241 000 in damages.²²⁹¹

2287 See *Defamation Act 2005* (NSW) s 22(3); *Defamation Act 2005* (Qld) s 22(3); *Defamation Act 2005* (Tas) s 22(3); *Defamation Act 2005* (Vic) s 22(3); *Defamation Act 2005* (WA) s 22(3).

2288 See *Civil Law (Wrongs) Act 2002* (ACT) s 139E; *Defamation Act 2006* (NT) s 31; *Defamation Act 2005* (NSW) s 34; *Defamation Act 2005* (Qld) s 34; *Defamation Act 2005* (SA) s 32; *Defamation Act 2005* (Tas) s 34; *Defamation Act 2005* (Vic) s 34; *Defamation Act 2005* (WA) s 34.

2289 *Civil Law (Wrongs) Act 2002* (ACT) s 139F(1); *Defamation Act 2006* (NT) s 32(1); *Defamation Act 2005* (NSW) s 35(1); *Defamation Act 2005* (Qld) s 35(1); *Defamation Act 2005* (SA) s 33(1); *Defamation Act 2005* (Tas) s 35(1); *Defamation Act 2005* (Vic) s 35(1); *Defamation Act 2005* (WA) s 35(1).

2290 *Duffy v Google Inc* (No 3) [2016] SASC 1 at 3.

2291 *Trkulja v Yahoo! Inc & Anor* (No 2) [2012] VSC 217 at 1.



Appendix C: Recent reviews of media industry laws and regulations



The ACCC notes there has been numerous government reviews and reports in relation to various different and sometimes overlapping issues in media and intellectual property regulation in recent years. Key reviews relevant to media services providers (and their equivalent regulation) are noted below.

Media laws and regulations

Outlined below are relevant key government reviews, inquiries or reports over the past 15 years in relation to Australian media law and regulations, in reverse chronological order:

2013-18

- [Inquiry into the competitive neutrality of the national broadcasters](#), Department of Communications and the Arts, 2018 - ongoing
- [Communications sector market study: final report](#), Australian Competition and Consumer Commission, April 2018
- [Inquiry into impacts on local businesses in Australia from global internet-based competition](#) (the Internet Competition Inquiry), Standing Committee on Industry, Innovation, Science and Resources, March 2018
- [Report on Public Interest Journalism](#), Australian Senate Select Committee, February 2018
- [Local content in regional Australia—2017 report](#), Australian Communications and Media Authority, May 2017
- [Review of the Australian Communications and Media Authority: final report](#), Department of Communications and the Arts, October 2016
- [Digital disruption: what do governments need to do?](#) Productivity Commission, June 2016
- [Reconnecting the customer: estimation of benefits](#), Australian Communications and Media Authority, November 2015
- [The Australian internet security initiative: interviews with industry participants](#), Australian Communications and Media Authority, October 2015
- [Five-year spectrum outlook 2015-19: the ACMA's spectrum demand analysis and strategic direction for the next five years](#), Australian Communications and Media Authority, September 2015
- [Digital radio report](#), Department of Communications, July 2015
- [Independent cost benefit analysis of broadband and review of regulation](#), Department of Communications and the Arts, August 2014
- [Broken Concepts—The Australian Communications Legislative Landscape](#), Australian Communications and Media Authority, originally published in August 2011 and updated June 2013
- [Connected citizens—A regulatory strategy for the networked society and information economy](#), Australian Communications and Media Authority, June 2013

2012 and earlier

- [Convergence Review](#) by Glen Boreham, Department of Broadband, Communications and the Digital Economy, May 2012
- [Classification—Content Regulation and Convergent Media](#), Australian Law Reform Commission, March 2012
- [News Media Regulation](#) by Ray Finkelstein and Matthew Ricketson (the Finkelstein Review), Department of Broadband, Communications and the Digital Economy, February 2012
- [Enduring Concepts—Communications and media in Australia](#), Australian Communications and Media Authority, November 2011
- [Digital Australians: expectations about media content in a converging media environment](#), Australian Communications and Media Authority, October 2011

- [Draft children’s television standards 2008](#), Australian Communications and Media Authority, September 2008
- [Survey of the community radio broadcasting sector 2002-03](#), Australian Communications and Media Authority, August 2005

Importantly, most of the studies and reports listed above have focused on specific media or communications sectors or on a specific category of rules (for example, content classification). The relatively fragmentary approach taken by past reviews is illustrated in the table below. As such, there has been limited opportunity to consider the overarching media and communications regulatory framework, as proposed in **Recommendation 7**.

Table 1: Focus of past inquiries, reviews and reports

Inquiry / review / report	Focus of inquiry / review / report ²²⁹²					
	Print publishing?	Online publishing and broadcasting?	TV broadcasting?	Radio broadcasting?	Information communications technology?	Advertising?
Inquiry into the competitive neutrality of the national broadcasters 2018 - ongoing	X	X	✓	✓	X	X
Communications sector market study: final report April 2018	X	X	X	X	✓	X
Internet Competition Inquiry March 2018	X	X	X	X	✓	X
Report on Public Interest Journalism February 2018	✓	✓	✓	✓	X	X
Local content in regional Australia - 2017 report May 2017	✓	✓	✓	✓	X	X
Review of the Australian Communications and Media Authority: final report October 2016	X	✓	✓	✓	✓	X
Digital disruption: what do governments need to do? June 2016	X	X	X	X	✓	X
Reconnecting the customer: estimation of benefits November 2015	X	X	X	X	✓	X
The Australian internet security initiative: interviews with industry participants October 2015	X	X	X	X	✓	X
Five-year spectrum outlook 2015-19: the ACMA’s spectrum demand analysis and strategic direction for the next five years September 2015	X	X	✓	✓	X	X

²²⁹² The table provides a general and high-level summary of the relevant sectors that are considered in detail by the inquiries, reviews, and reports listed. The ticks denote sectors that were areas of focus, whereas the crosses denote sectors that were not discussed in depth (although some of these were mentioned peripherally in the inquiries, reviews, and reports).

Inquiry / review / report	Focus of inquiry / review / report ²²⁹²					
	Print publishing?	Online publishing and broadcasting?	TV broadcasting?	Radio broadcasting?	Information communications technology?	Advertising?
Digital radio report July 2015	X	X	X	✓	X	X
Independent cost benefit analysis of broadband and review of regulation August 2014	X	X	X	X	✓	X
Broken Concepts—The Australian Communications Legislative Landscape Published Aug 2011, updated June 2013	X	✓	✓	✓	✓	X
Connected citizens—A regulatory strategy for the networked society and information economy June 2013	X	✓	✓	X	✓	X
Convergence Review May 2012	X	✓	✓	✓	✓	X
Classification—Content Regulation and Convergent Media March 2012	X	✓	✓	✓	✓	✓
News Media Regulation (the Finkelstein Review) February 2012	✓	✓	✓	✓	X	✓
Enduring Concepts—Communications and media in Australia November 2011	X	✓	✓	✓	✓	X
Digital Australians: expectations about media content in a converging media environment October 2011	X	✓	✓	X	✓	X
Draft children’s television standards 2008 September 2008	X	X	✓	X	X	X
Survey of the community radio broadcasting sector 2002-03 August 2005	X	X	X	✓	X	X

Intellectual property laws and regulations


The ACCC notes that in the past 20 years, there have been numerous reviews undertaken by various departments and organisations in relation to copyright and defamation law, including an ongoing consultation being conducted by the Department of Communications and the Arts. A number of these discuss the provision of businesses providing media services (along with a range of other matters).

2013-18

- [Copyright modernisation consultation](#), Department of Communications and the Arts, 2018 - ongoing
- [Consumer survey on online copyright infringement 2018, Department of Communications and the Arts, August 2018](#)
- [Statutory Inquiry into NSW Defamation Act 2005](#), New South Wales Department of Justice, June 2018
- [Cost benefit analysis of changes to the Copyright Act 1968](#), Ernst and Young, commissioned by the Department of Communications and the Arts, December 2016
- [Intellectual Property Arrangements](#), the Productivity Commission, August 2016.
- [Australian Government Response to the Productivity Commission Inquiry into Intellectual Property Arrangements](#), August 2017
- [Inquiry into Australia's Innovation System](#), Senate Standing Committees on Economics, December 2015
- [Inquiry into Copyright and the Digital Economy](#), Australian Law Reform Commission, November 2014

2012 and earlier

- [Review of intellectual property legislation under the Competition Principles Agreement](#), Intellectual Property and Competition Review Committee, Attorney-General's Department, September 2000
- [Numerous past inquiries](#) by the Copyright Law Review Committee (no longer in existence), Attorney-General's Department, 1984-2005



Appendix D: Results of the ACCC's experiment searching for news-related content on Google Search




Table 1: Search term: 'Banking Royal Commission'


Number of times different publishers had their articles appearing in top stories carousel		Number of times different publishers had their articles appearing in organic search results	
ABC	58	The Australian Financial Review	20
Sydney Morning Herald	14	ABC	10
The Australian	6	News.com.au	5
The Guardian	4	Sydney Morning Herald	4
News.com.au	3	Choice	2
The Australian Financial Review	3	Business Insider	1
Business Insider	2	Macrobusiness	1
Cuffelinks	1	SBS	1
Herald Sun	1	The Guardian	1
The West Australian	1		
Total	93	Total	45

Table 2: Search term: 'Scott Morrison'


Number of times different publishers had their articles appearing in top stories carousel		Number of times different publishers had their articles appearing in organic search results	
The Guardian	17	News.com.au	7
News.com.au	15	Sydney Morning Herald	6
The Australian	13	ABC	5
Sydney Morning Herald	11	The Guardian	5
The Australian Financial Review	8	The Australian	4
ABC	7	The Monthly	3
9News	6	9News	1
Daily Telegraph	4	The Australian Financial Review	1
The New Daily	3	Daily Telegraph	1
Herald Sun	3	SBS	1
2GB.com	3	The New Daily	1
The Conversation	2		
SBS	2		
Pedestrian TV	1		
New Matilda	1		
3AW	1		
Music Feeds	1		
Junkee	1		
The West Australian	1		
Total	100	Total	35

Table 3: Search term: 'AFL'

Number of times different publishers had their articles appearing in top stories carousel		Number of times different publishers had their articles appearing in organic search results	
Fox Sports	43	Fox Sports	5
News.com.au	15	News.com.au	3
AFL	14		
Herald Sun	12		
Wwos - Nine	6		
The Age	3		
The Advertiser	2		
Carlton Football Club	1		
ESPN	1		
Sydney Morning Herald	1		
The Roar	1		
Triple M	1		
Total	100	Total	8



**Appendix E:
Changes to news
provision - Analysis
of major metropolitan
and national print
publications 2001-2018**



Summary

The ACCC analysed articles published in twelve major Australian metropolitan and national newspapers between 2001 and 2018, and identified declining provision of articles in a number of topics related to public interest journalism.

This analysis found that, overall, newspapers:

- published 26 per cent fewer articles on local government issues in 2018 than at the peak of local government coverage in 2005 (a drop from approximately 11 400 to 8 400 articles per year)
- published 40 per cent fewer articles on local court matters in 2018 than at the peak of local court reporting in 2005 (a drop from 11 900 to 7 200 articles per year)
- published 30 per cent fewer articles on health issues than at the peak of health reporting in 2004 (a drop from 21 600 to 13 300 articles per year), and
- published 42 per cent fewer articles on science in 2018 than at the peak of science reporting in 2006 (a drop from 6 400 to 3 700 articles per year).

The newspapers considered by the ACCC in this exercise each have both print and online versions. The data considered by the ACCC in this exercise were drawn from print versions, as the relevant database did not contain consistent data on online versions. However, the ACCC considers that an analysis of the articles contained in print editions still provides a good indication of the editorial priorities of various publications, particularly given the significant overlap between articles published in online and print editions during the period surveyed.

Overview and methodology

This exercise was designed to assess trends in the provision of articles relating to various topics of journalism by Australian traditional print news media companies (now print/online news media companies) over a period of significant disruptions to their businesses and declining revenues, as outlined in chapter 6.

Publications in scope

The ACCC analysed the number and topic of articles published from 2001 to 2018 across 12 print editions of major metropolitan and national daily news publications from Australia's three largest publishers.

Publication	Coverage	Publisher
<i>The Australian Financial Review</i>	National	Nine Entertainment Co (formerly Fairfax Media) ²²⁹³
<i>The Australian</i>	National	News Corp Australia (formerly News Limited) ²²⁹⁴
<i>The Advertiser</i>	Metropolitan (Adelaide)	News Corp Australia (formerly News Limited)
<i>The Herald Sun</i>	Metropolitan (Melbourne)	News Corp Australia (formerly News Limited)
<i>The Age</i>	Metropolitan (Melbourne)	Nine Entertainment Co (formerly Fairfax Media)
<i>The Courier Mail</i>	Metropolitan (Brisbane)	News Corp Australia (formerly News Limited)
<i>The West Australian</i>	Metropolitan (Perth)	Seven West Media (formerly Western Australian Newspapers Holdings Limited) ²²⁹⁵
<i>The Daily Telegraph</i>	Metropolitan (Sydney)	News Corp Australia (formerly News Limited)
<i>The Sydney Morning Herald</i>	Metropolitan (Sydney)	Nine Entertainment Co (formerly Fairfax Media)
<i>The NT News</i>	Metropolitan (Darwin)	News Corp Australia (formerly News Limited)
<i>The Hobart Mercury</i>	Metropolitan (Hobart)	News Corp Australia (formerly News Limited)
<i>The Canberra Times</i>	Metropolitan (Canberra)	Nine Entertainment Co (formerly Fairfax Media) ²²⁹⁶

These publications were selected to represent a comprehensive range of the most popular daily news publications in Australia's capital cities. A separate exercise (available at Appendix F) assessed the availability of newspapers in local and regional areas of Australia.

Choice of news topics

The analysis focussed on news articles relating to 10 topics or categories of reporting: **local courts, higher courts, local government, public policy, health, education, science, industrial relations, corporate conduct and sport.**

These categories were selected to represent a range of 'specialist' reporting topics relevant to the provision of public interest journalism as defined in chapter 6. Sport was included as an example of a popular topic of reporting less frequently relevant to public interest journalism.²²⁹⁷

2293 Fairfax Media was acquired by Nine Entertainment Co in December 2018, at the end of the period surveyed in this exercise.

2294 News Limited rebranded itself as News Corp Australia in June 2013, during the period surveyed in this exercise.

2295 Seven West Media was formed through the merger of Seven Media Group and West Australian Newspaper Holdings Limited in 2011.

2296 *The Canberra Times* was acquired by private investors as part of Nine Entertainment Co's sale of Australian Community Media in April 2019. This occurred after the period surveyed in this exercise.

2297 As discussed in chapter 6 of the Report, public interest journalism can include journalism focused on a wide range of different topics. While many sports articles published during the period contain results, commentary and analysis of sporting events that are unlikely to constitute public interest journalism, some articles related to sport can comprise public interest journalism - for example, where they report on corruption or criminal behaviour involving sports clubs or governing bodies.

Source of data

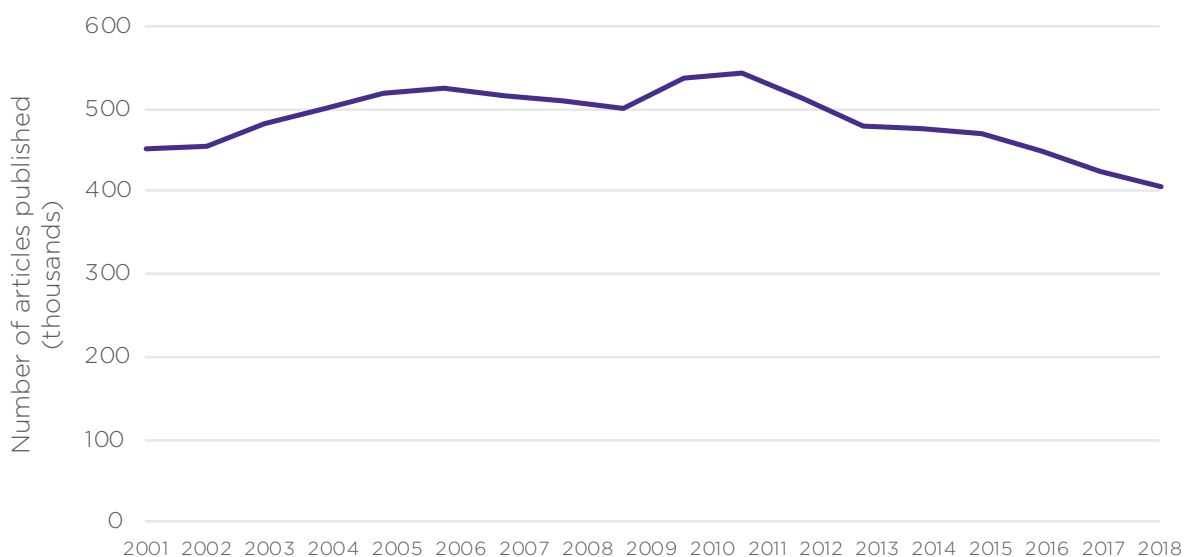
The results show that the total number of articles published in the selected publications peaked in 2010 followed by steady decline to 2018 (Figure 1: Total articles published from 2001 to 2018). This exercise used data generated through keyword searches of the Factiva Global News Database (Factiva database), which contains full text versions of articles from all major Australian news publications. As the Factiva database did not contain consistent data for the online provision of articles by the publications selected throughout the period surveyed, the exercise was limited to articles in print editions.

While the Factiva database includes its own 'tagging' and 'filtering' of articles in various categories of journalism, these were not used to distinguish between news topics in this exercise.²²⁹⁸

Instead, to provide consistency and transparency of results, this exercise conducted keyword searches to identify news articles under each of the 10 reporting categories.

The development of keyword search terms was assisted by manually reading and categorising all articles published by the publications on a single day during the period – amounting to around 1 600 articles. The initial set of search terms was then applied to this dataset, and calibrated in order to provide results acceptably consistent with the manual categorisation of these articles.

Figure 1: Total articles published from 2001 to 2018

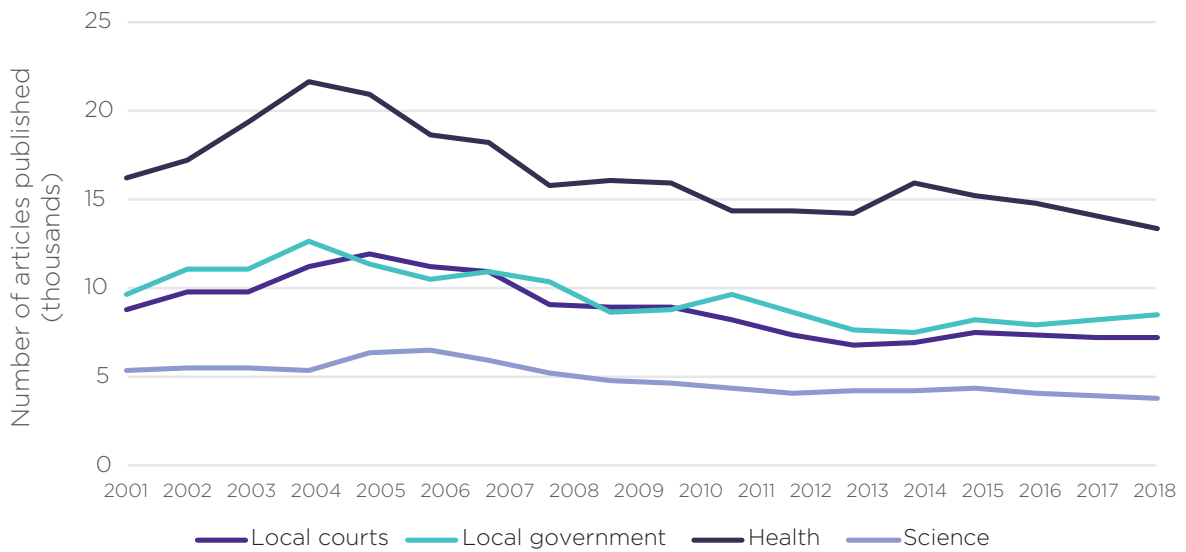


Source: ACCC analysis of data sourced from the Factiva Global News Database.

However, the reporting categories analysed in this exercise did not uniformly follow this overall trend. Figure 2 shows that the number of news articles relating to local government, local courts, science and health peaked in 2004 and 2005, and fell to levels well below this peak by 2018.

²²⁹⁸ The exercise did, however, use Factiva's in-built 'subject' categorisations to exclude non-news content such as editorials, calendars of events, press releases, transcripts and advertorials.

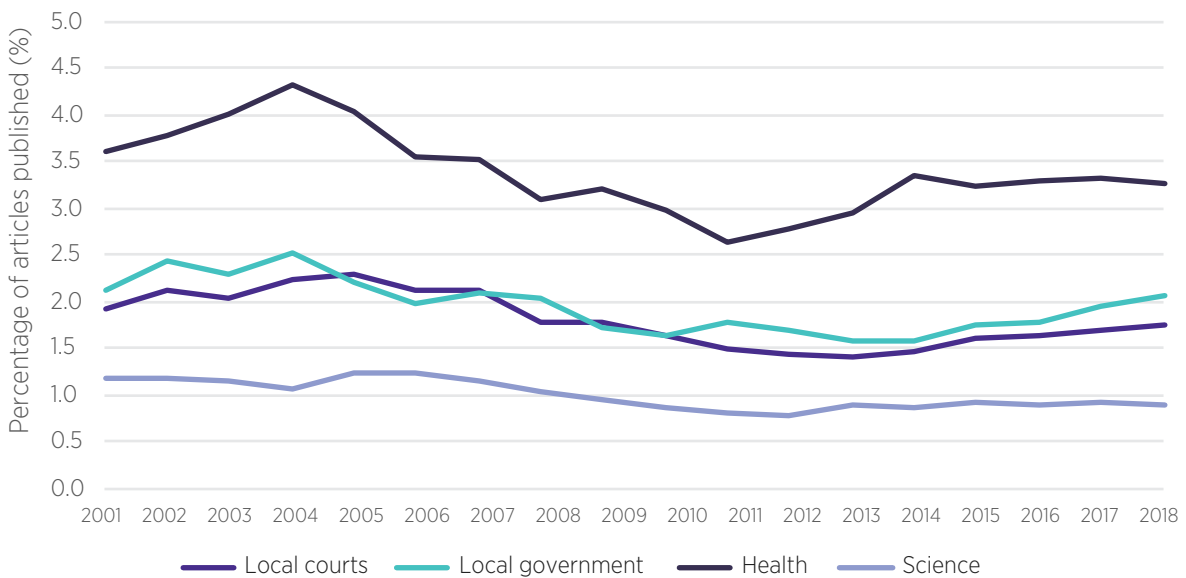
Figure 2: Reduced provision of specialist reporting – articles published per year



Source: ACCC analysis of data sourced from the Factiva Global News Database.

Figure 3 shows the provision of these four categories of reporting as a proportion of all articles published. This analysis shows these categories of journalism exhibit a similar decline from peaks in 2004 and 2005, although the proportional provision of articles on these topics stabilised (and to some degree recovered) between 2014 and 2018.

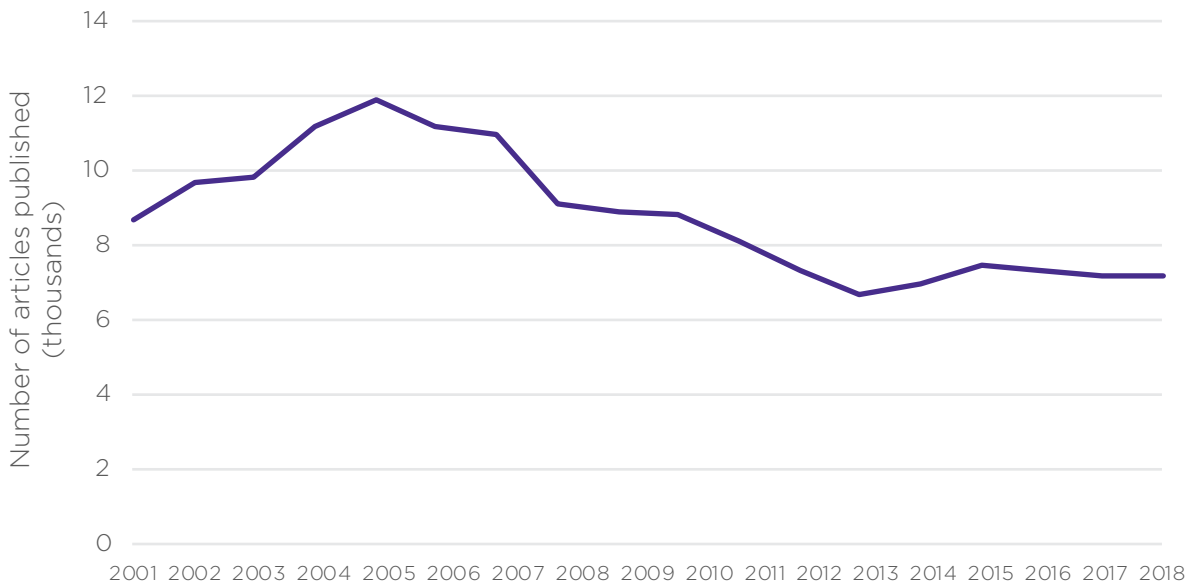
Figure 3: Reduced provision of specialist reporting – percentage of all articles per year



Source: ACCC analysis of data sourced from the Factiva Global News Database.

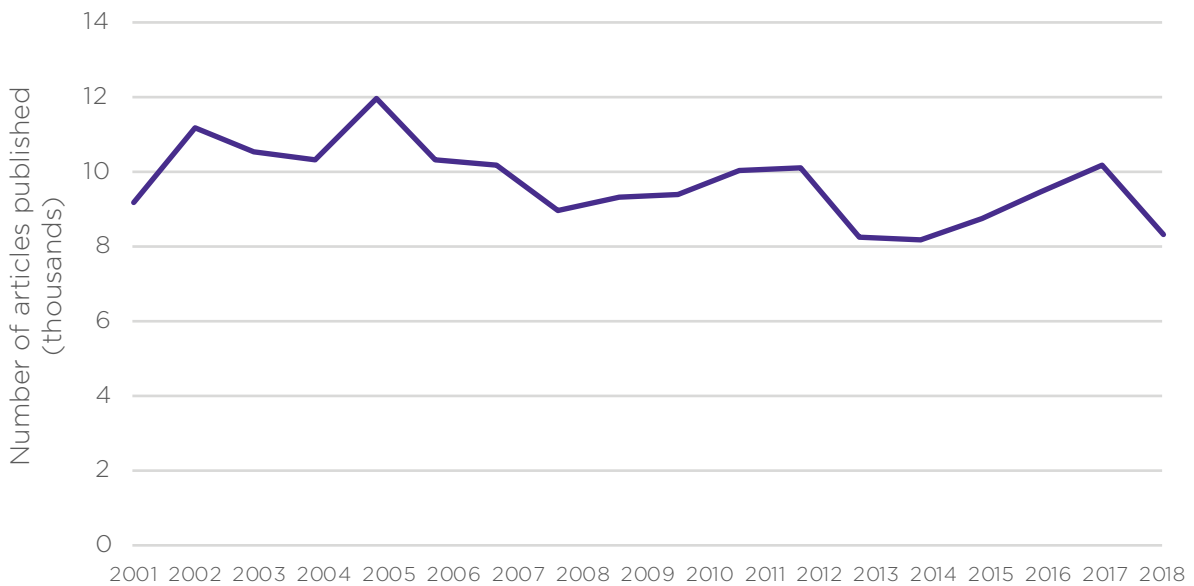
Full results – provision by category

Figure 4: Local court reporting - articles published per year



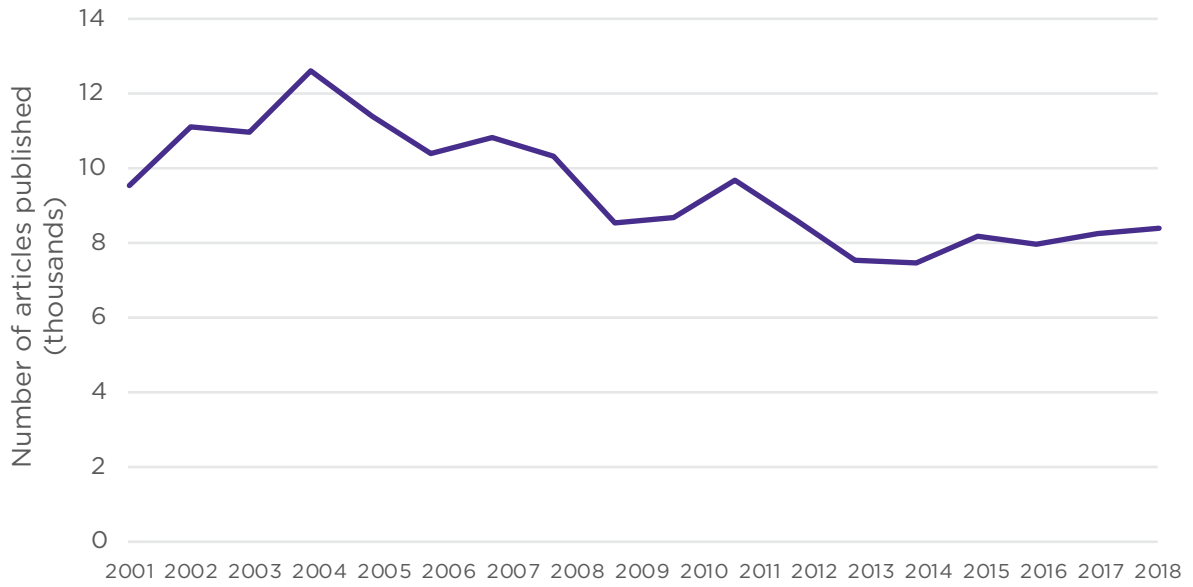
Source: ACCC analysis of data sourced from the Factiva Global News Database.

Figure 5: Higher court reporting - articles published per year



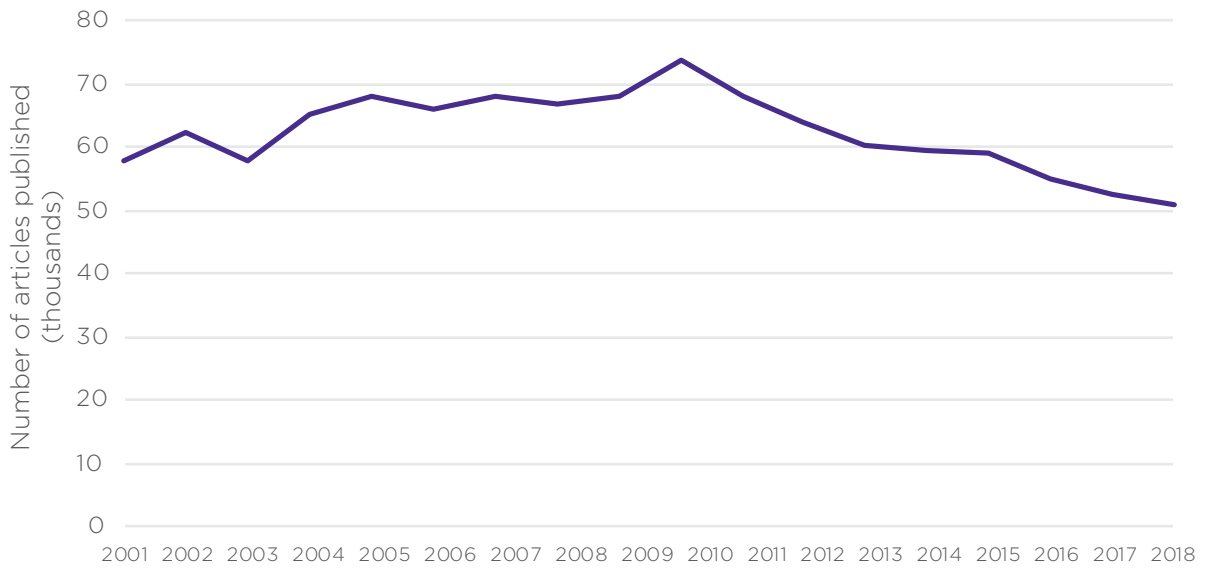
Source: ACCC analysis of data sourced from the Factiva Global News Database.

Figure 6: Local government reporting – articles published per year



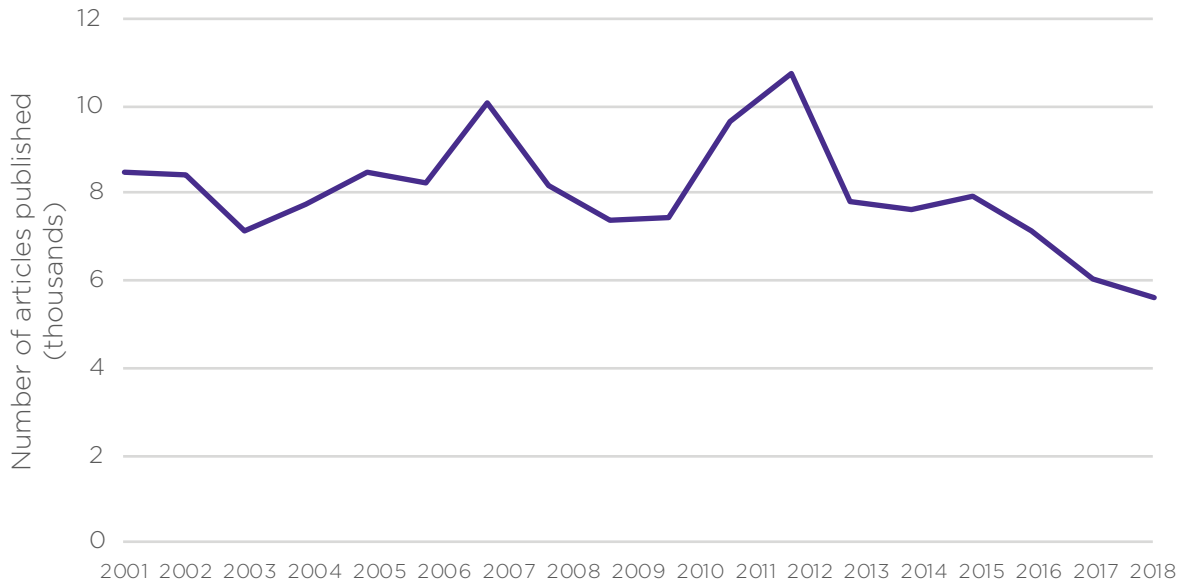
Source: ACCC analysis of data sourced from the Factiva Global News Database.

Figure 7: Public policy reporting – articles published per year



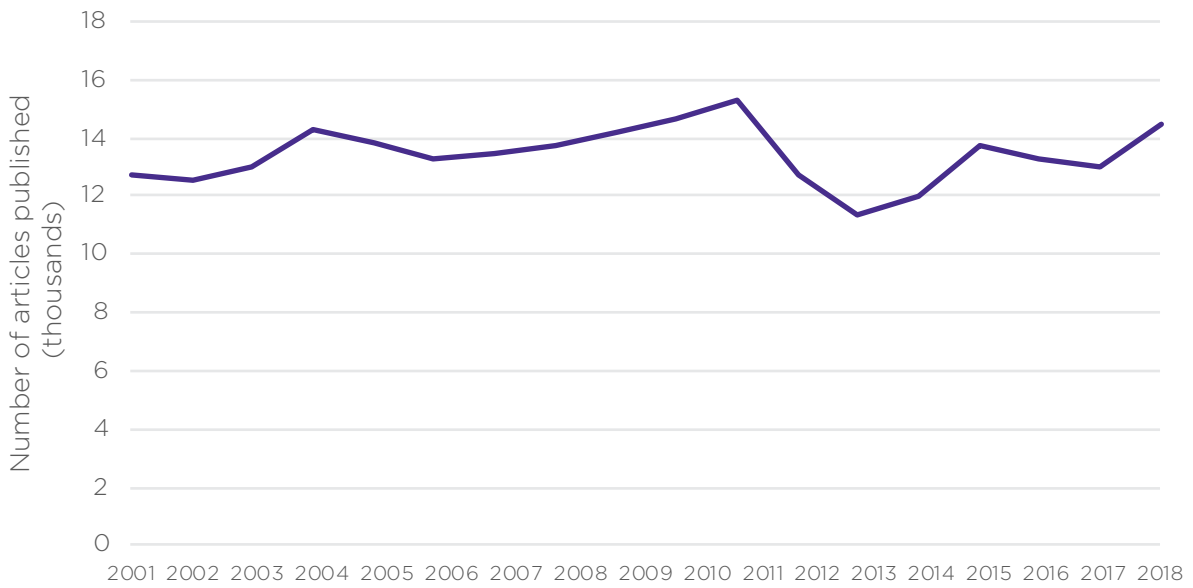
Source: ACCC analysis of data sourced from the Factiva Global News Database.

Figure 8: Industrial relations reporting - articles published per year



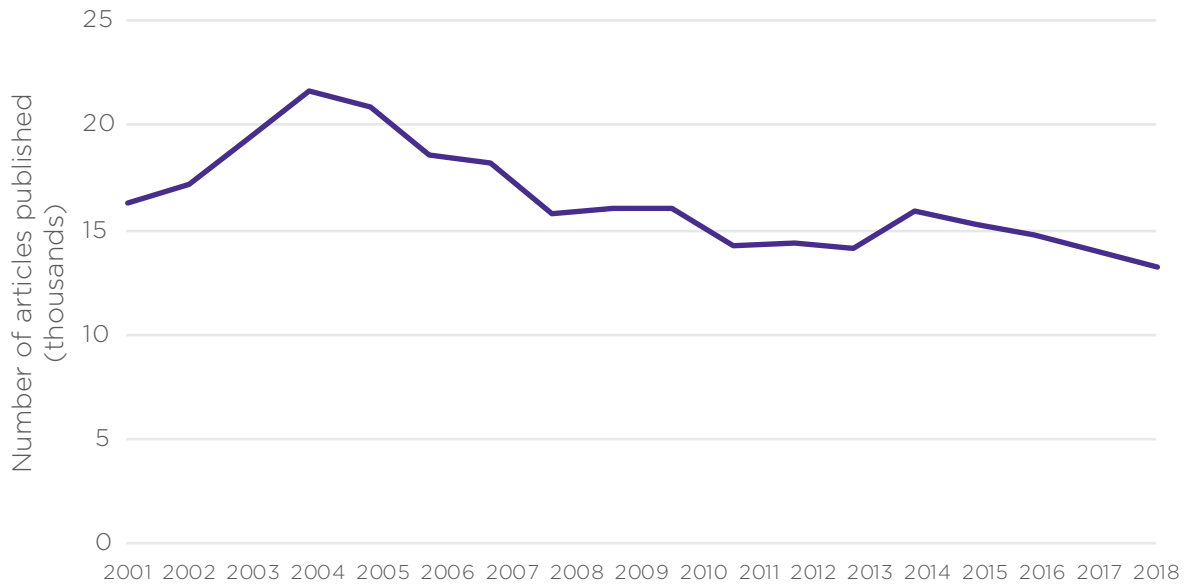
Source: ACCC analysis of data sourced from the Factiva Global News Database.

Figure 9: Corporate conduct reporting - articles published per year



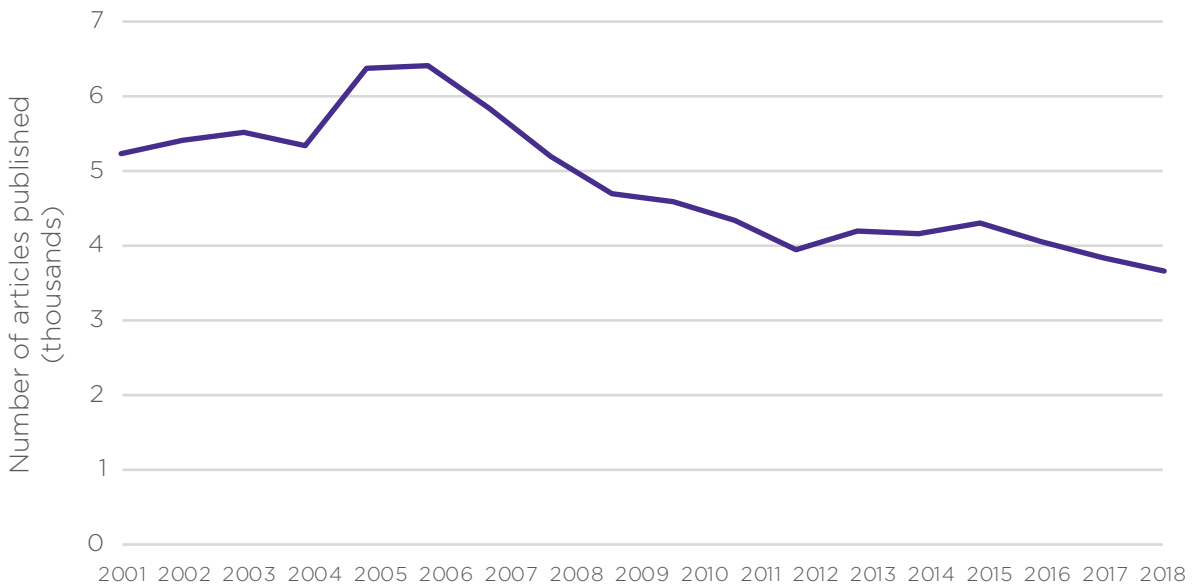
Source: ACCC analysis of data sourced from the Factiva Global News Database.

Figure 10: Health reporting - articles published per year



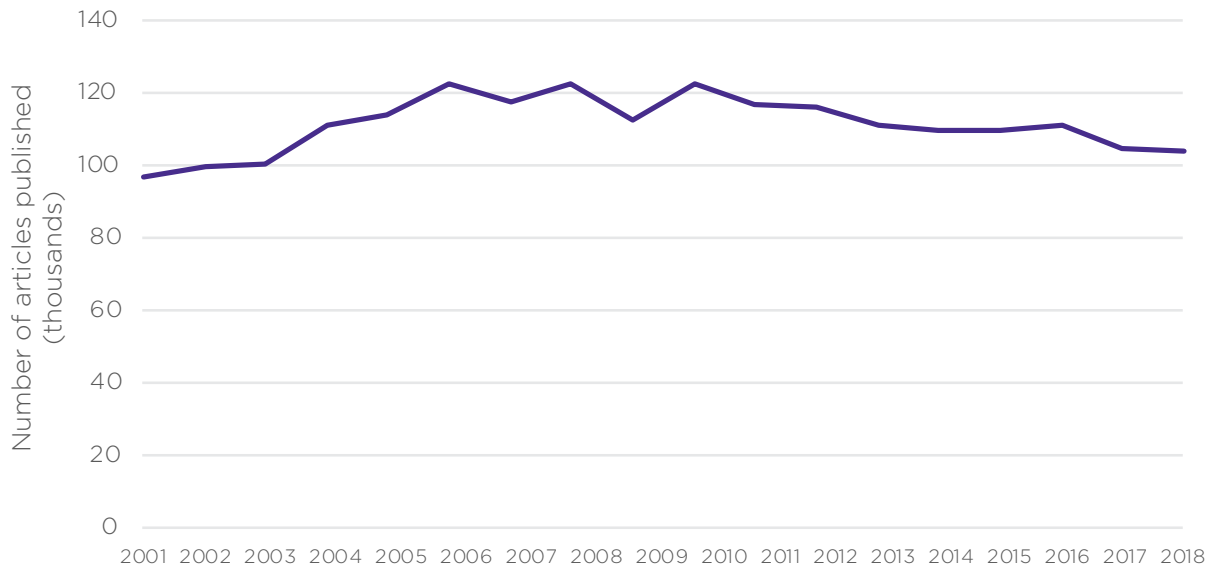
Source: ACCC analysis of data sourced from the Factiva Global News Database.

Figure 11: Science reporting - articles published per year




Source: ACCC analysis of data sourced from the Factiva Global News Database.


Figure 12: Sport reporting – articles published per year



Source: ACCC analysis of data sourced from the Factiva Global News Database.



**Appendix F:
Local and regional
newspaper closures -
2008-09 to 2017-18**



Summary

A simple analysis of the number and location of Australian local and regional newspaper titles shows that the net total of unique newspaper titles declined by 15 per cent between 2008-09 and 2017-18. Closures during this period left 21 local government areas without a single local or regional newspaper, including 16 local government areas in regional Australia.

Introduction

The provision of local journalism, either in newspapers or online, plays an important democratic role. A range of international studies have directly linked reductions to local journalism with declines in civic engagement and negative impacts on the management of public finances.²²⁹⁹

This exercise attempts to quantify the risk of under-provision of local journalism by analysing trends in the number and location of local and regional newspaper titles published by Australian media businesses in Australia during the ten years from 2008-09 to 2017-18.

Methodology

This exercise uses data obtained by the ACCC from major Australian news media businesses through the issue of notices under section 95ZK of the *Competition and Consumer Act 2010*. These businesses included: News Corp, Nine Entertainment Co (includes former Fairfax Media), The Taylor Group, Seven West Media, McPherson Newspapers and Star News Group.

Key data variables included the following: name of the newspaper, publisher, genre of newspaper (local/regional), area of circulation, area of circulation by postcode, office location, office location by postcode, frequency of publication, closure date and circulation (for closed newspapers). Publishers provided the ACCC with data for each financial year from 2008-09 to 2017-18. They also provided information about mergers and acquisitions where relevant.

Following the methodology used by Gao, Lee and Murphy²³⁰⁰, this exercise matched newspapers to local government areas based on circulation postcodes. The ACCC used the 2011 Australian Bureau of Statistics (ABS) definition of local government area to identify local government areas serviced by each newspaper. If a newspaper serviced postcodes across multiple local government areas, it was matched to each of these areas accordingly.²³⁰¹ This matching yielded 545 unique newspapers servicing 376 local government areas at some point between 2008-09 and 2017-18.

Analysis of this data assumed that newspapers 'dropped out' of the dataset during the period surveyed for one of two reasons: (1) the newspaper was closed or absorbed by another newspaper or (2) the newspaper merged with another newspaper to form a new newspaper.

Given both of these scenarios lead to an effective reduction in the provision of newspaper publications, the ACCC has referred to them collectively as 'closures' throughout this appendix.

The ACCC notes that newspapers have been considered to be effectively closed when both print and online circulation cease. None of the publications identified as 'closures' in this exercise have continued providing local coverage as online-only publications.

A number of newspaper titles launched during the 10-year period, some of which also closed by the end of the period. These dynamics are accounted for in the sample, such that 'closures' should be read as *net* closures.

2299 See V Lee and D Wessel ., '[How closures of local newspapers increase local government borrowing costs](#),' *Brookings*, 16 July 2018, accessed 15 April 2019; P Gao, C Lee, D Murphy, '[Financing Dies in Darkness? The Impact of Newspaper Closures on Public Finance](#)', *Journal of Financial Economics*, (Forthcoming), 2019.

2300 P Gao, C Lee, D. Murphy, '[Financing Dies in Darkness? The Impact of Newspaper Closures on Public Finance](#)', *Journal of Financial Economics*, (Forthcoming), 2019, an earlier version of this paper can be found at <https://www.brookings.edu/wp-content/uploads/2018/09/WP44.pdf> , pp. 8-9, accessed 9 May 2019.

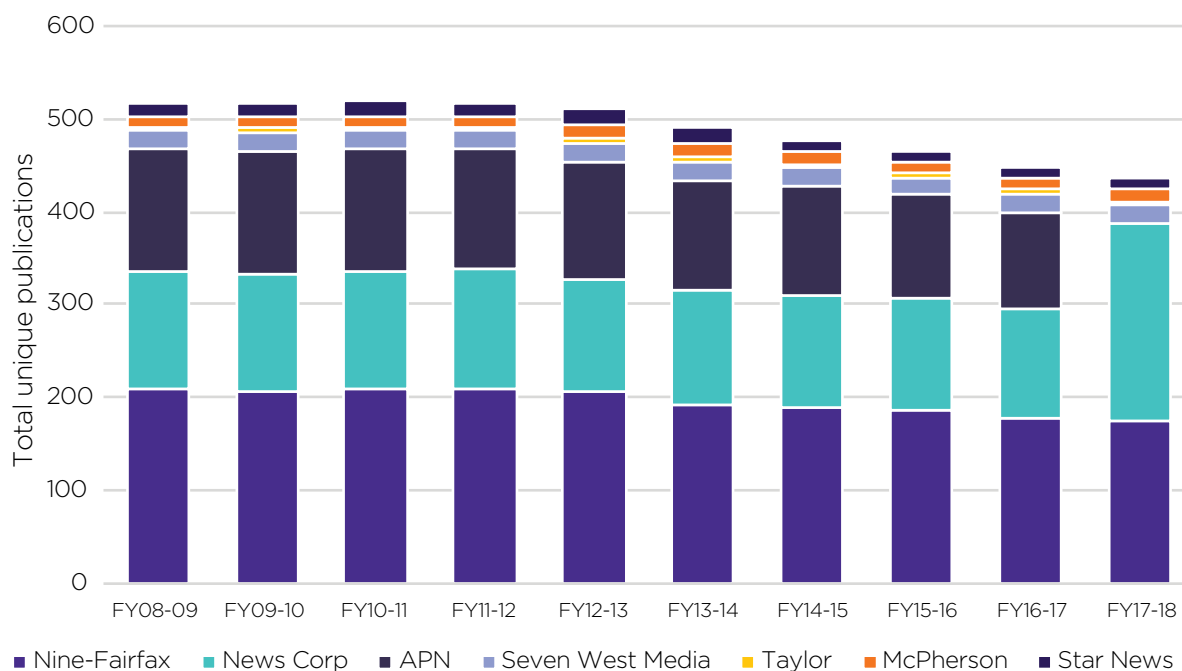
2301 Australian Bureau of Statistics, [Australian Statistical Geography Standard \(ASGS\)](#), July 2011, Cat. No. 1270.0.55.006, "Statistical Area Level 1 2011 to Local Government Area 2011 (zip file, 'table 2' sheet), accessed 1 February 2019.

Results

Decline in provision of local newspapers

The net total of local and regional newspapers in Australia decreased by 15 per cent between 2008–09 and 2017–18 (Figure 1: Total number of unique newspapers from 2008–09 to 2017–18, by major media company). There were 106 closures over the period; 85 per cent of which relate to titles owned by major national media publishing groups. Following these closures, 21 local government areas that were initially serviced by at least one newspaper were left without a single local or regional newspaper.

Figure 1: Total number of unique newspapers from 2008–09 to 2017–18, by major media company



Source: ACCC analysis of data provided to the Inquiry

Note: APN was acquired by News Corp in December 2016.²³⁰² Data shown in this chart for that business is based on the ACCC's assuming that acquired publications existed between 2008–08 and 2016–17.

The trends identified by this exercise are not unique to Australia; similar trends have been observed in the United States of America and the United Kingdom.²³⁰³ It has been indicated to the ACCC that a number of other local and regional newspapers are earmarked to either reduce frequency of circulation or close entirely in 2019.²³⁰⁴ The ACCC therefore expects that the trend of local and regional newspaper closures is likely to continue.

²³⁰² ACCC, [News Corporation - proposed acquisition of APN News & Media Limited's Australian Regional Media division - ARM](#), 8 December 2016; T Burrowes, [News Corp completes takeover of APN's regional newspapers](#), Mumbrella, 29 December 2016.

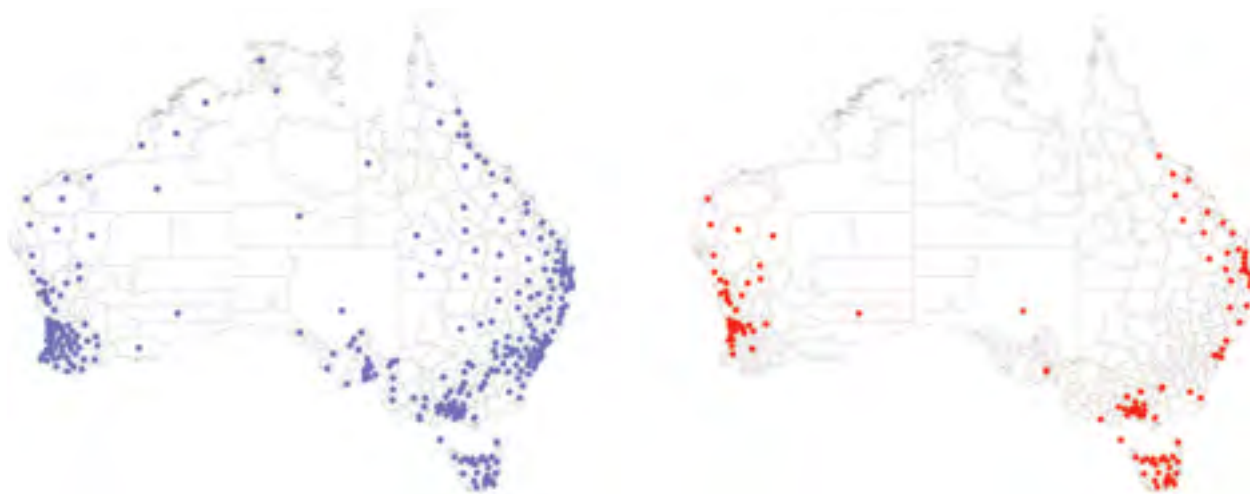
²³⁰³ See P Gao, C Lee, D Murphy, [Financing Dies in Darkness? The Impact of Newspaper Closures on Public Finance](#), Journal of Financial Economics, (Forthcoming), 2019; Mediatique, [Overview of recent dynamics in the UK press market](#), April 2018, report commissioned by the UK Department for Digital, Culture, Media and Sport, pp. 55–56.

²³⁰⁴ Information provided to the ACCC as part of the s95ZK notice response process.

Geographical coverage

Figure 2 shows the geographic locations of local and regional newspaper coverage, and locations of closures identified in this exercise. On the left hand side of Figure 2: Geographical coverage and closure of regional and community newspapers (2008-09 to 2017-18), the blue dots indicate local government areas where a local or regional newspaper was published at some point between 2008-09 and 2017-18.²³⁰⁵ On right hand side, the red dots indicate local government areas affected by the closure of one or more local or regional newspaper closures at any point between 2008-09 and 2017-18. Note that a single local or regional newspaper can provide coverage to multiple government areas, and that closure of a single newspaper can affect multiple local government areas.

Figure 2: Geographical coverage and closure of regional and community newspapers (2008-09 to 2017-18)



Source: ACCC analysis of data provided to the Inquiry

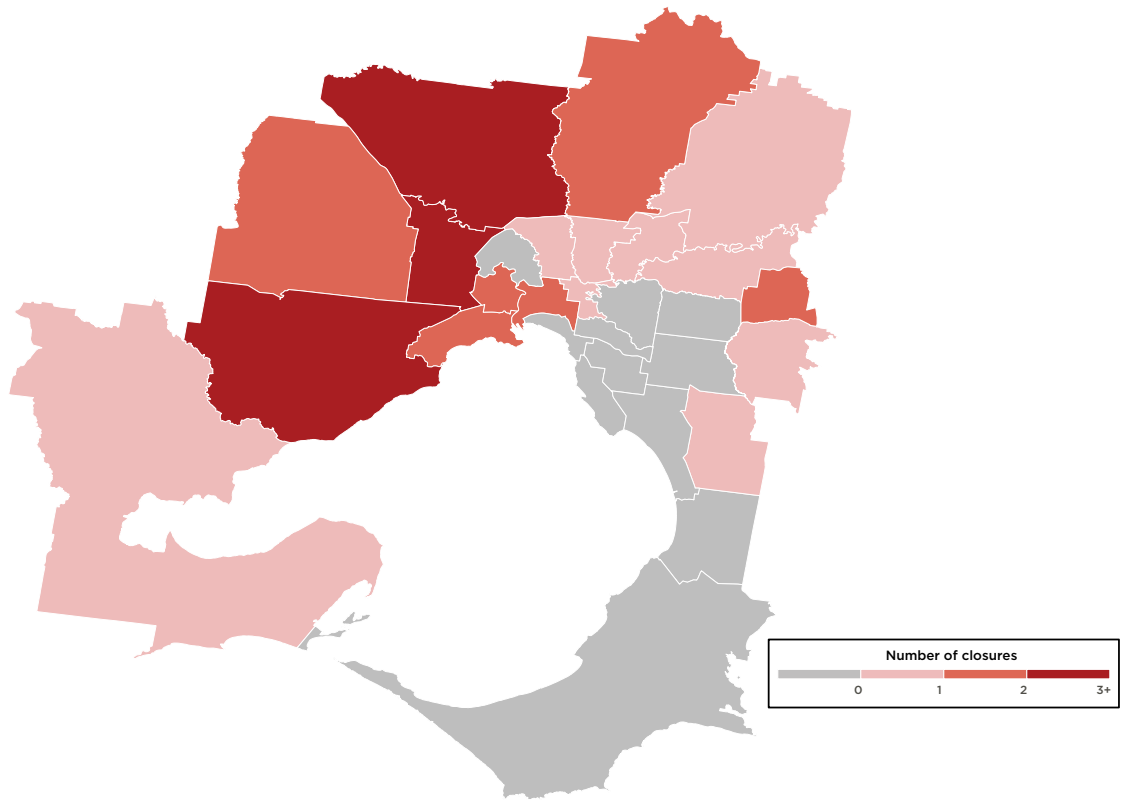
The exercise also demonstrates reduced availability of local and regional newspapers; 92 per cent of metropolitan local government areas were serviced by at least one newspaper at some point during 2008-09 to 2017-18 compared to 59 per cent of regional areas.

Newspaper closures in capital cities

The following heat maps show local government areas in capital cities affected by the closure of one or more local newspapers at any point between 2008-09 and 2017-18. These maps demonstrate the effect local newspaper closures are having in urban and suburban areas of capital cities, which is particularly noticeable in Melbourne and Brisbane.

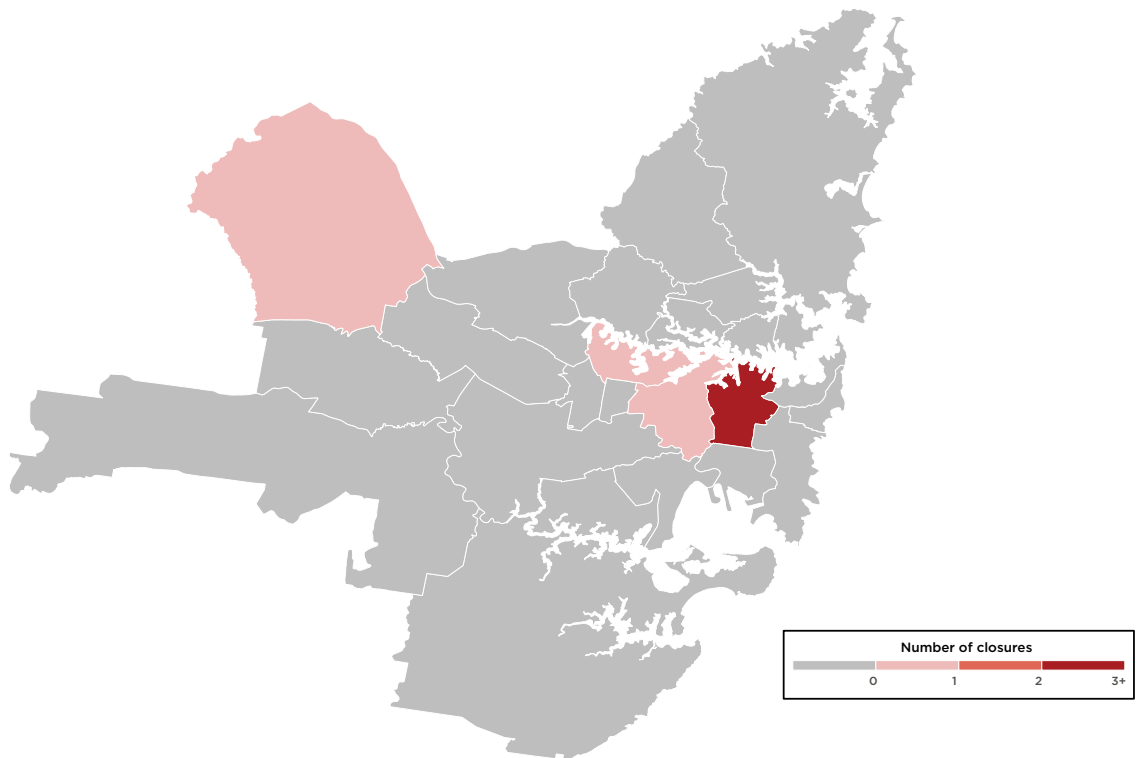
²³⁰⁵ Note that clustering around capital cities only reflects that local government areas in that region are geographically small.

Figure 3: Local government areas in Melbourne affected by local newspaper closures (2008-09 to 2017-18)



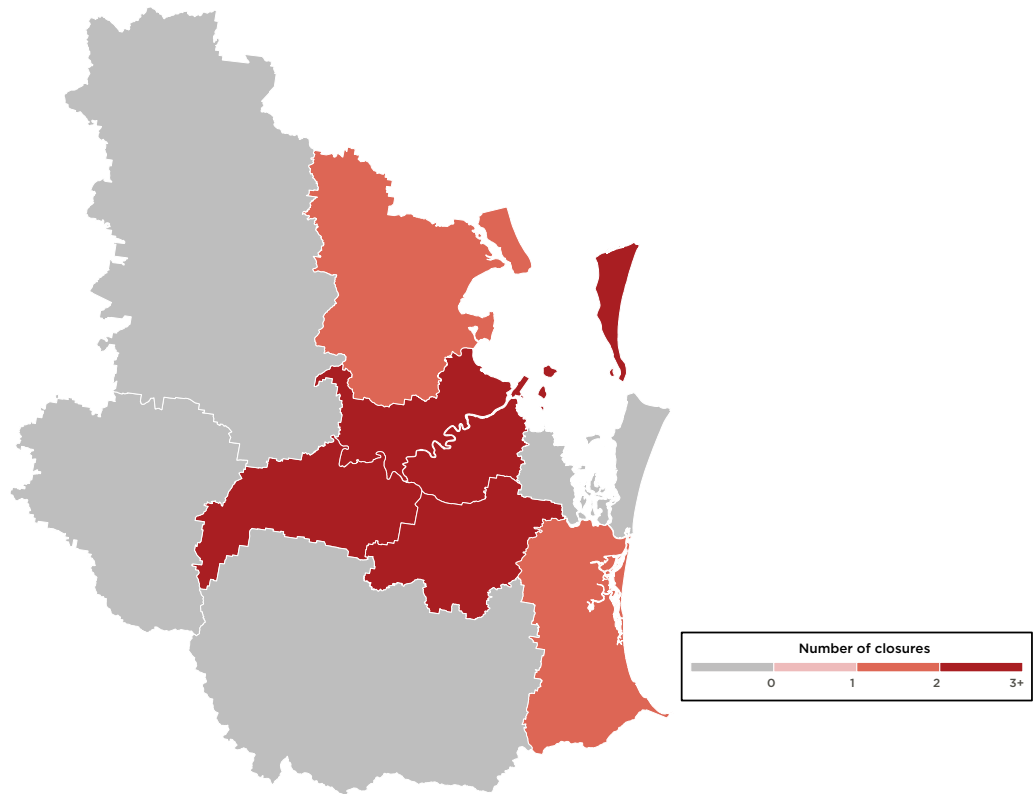
Source: ACCC analysis of data provided to the Inquiry

Figure 4: Local government areas in Sydney affected by local newspaper closures (2008-09 to 2017-18)



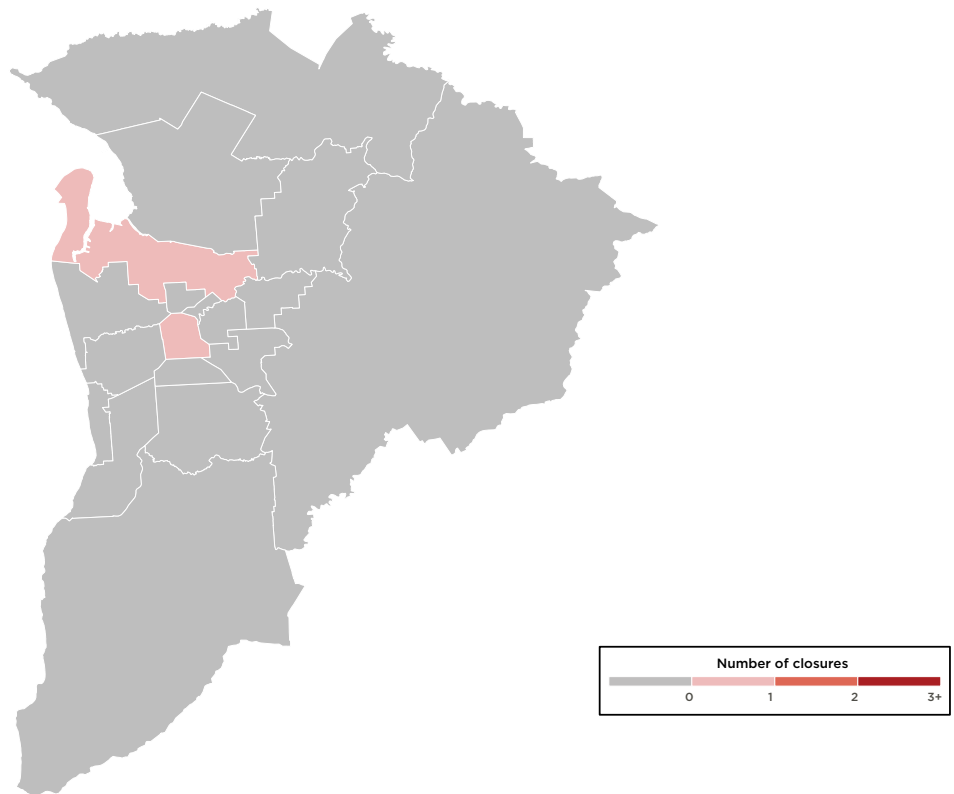
Source: ACCC analysis of data provided to the Inquiry

Figure 5: Local government areas in Brisbane affected by local newspaper closures (2008-09 to 2017-18)



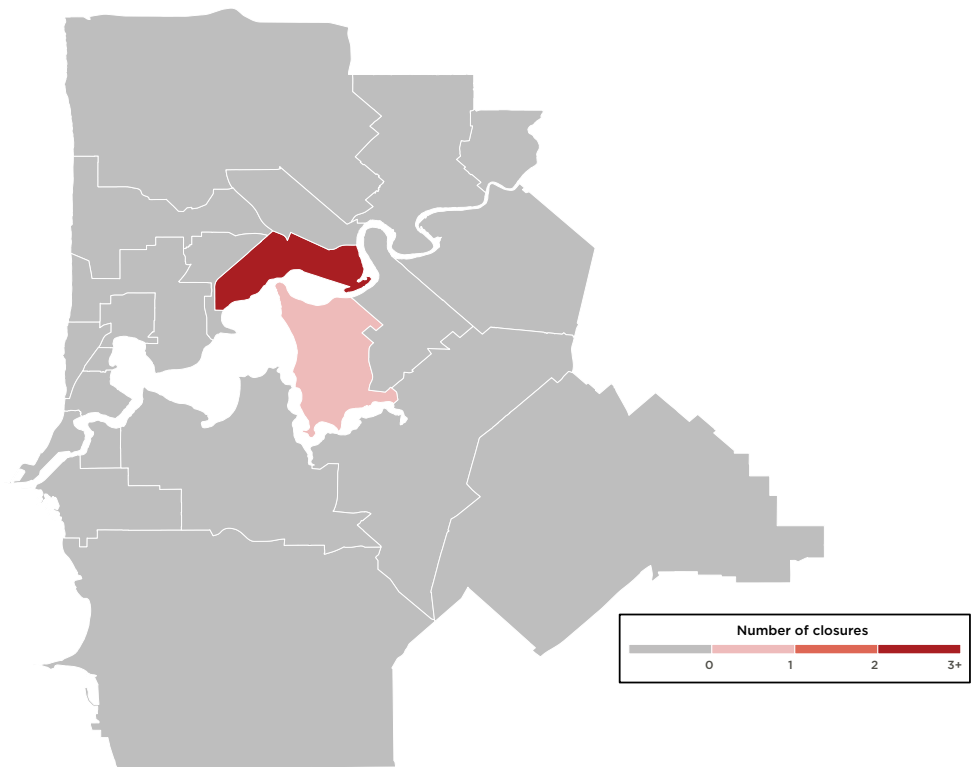
Source: ACCC analysis of data provided to the Inquiry

Figure 6: Local government areas in Adelaide affected by local newspaper closures (2008-09 to 2017-18)



Source: ACCC analysis of data provided to the Inquiry

Figure 7: Local government areas in Perth affected by local newspaper closures (2008-09 to 2017-18)




Source: ACCC analysis of data provided to the Inquiry

Conclusion


This exercise analysed trends in the number and location of Australian local and regional newspapers that cover the news of the country's small towns, city neighbourhoods and suburbs. This analysis found that:

- during the ten years surveyed, a net total of 106 newspapers closed, decreasing the total number of Australia's local and regional newspapers by 15 per cent between 2008-09 and 2017-18
- 21 local government areas initially serviced by at least one local or regional newspaper were left with no coverage by the end of the surveyed period.

Based on information provided to the ACCC, the trends observed over the study period are likely to continue in the near future.



Appendix G: Philanthropic support for journalism in international jurisdictions



Summary

This appendix provides an overview of regulation as it relates to philanthropic funding of journalism and the current state of philanthropically funded journalism in a number of international jurisdictions.

The United States of America (the US)

The US has a well-developed philanthropically-funded non-profit news ecosystem. An October 2018 report from the Institute for Nonprofit News (INN) found there are over 200 non-profit newsrooms in the US, and that three-quarters of these newsrooms launched after 2008. INN estimates its over 180 member organisations employ nearly 2200 journalists and earn annual revenue totalling nearly US\$350 million.²³⁰⁵ Some of the larger non-profits such as ProPublica have annual operating budgets of US\$10 million and have won prestigious journalism awards including Pulitzer Prizes.²³⁰⁶ Table 1 shows some of the major philanthropically-funded journalism organisations in the US.

Table 1: Selection of major philanthropically-funded journalism organisations in the US.

Organisation	Date founded	Role
ProPublica	2007 ²³⁰⁷	Non-profit media business
Center for Investigative Reporting	1977 ²³⁰⁸	Non-profit media business
Center for Public Integrity	1989 ²³⁰⁹	Non-profit media business
The Nieman Foundation	1938 ²³¹⁰	Provides scholarships for journalists
The Democracy Fund	2011 ²³¹¹	Provides grants to fund journalism
The Lenfest Institute for Journalism	2016 ²³¹²	Aims to develop and support sustainable business models for local journalism

Some commentators suggest the success of philanthropic funding for journalism in the US is a result of the ingrained culture of philanthropic support for public interest activities in American life.²³¹³ However, it also appears to be supported by favourable regulatory settings and administration.

The US's regulatory settings require media businesses to be granted non-profit status in order to receive tax deductible donations. Like Australia's regulatory framework for charitable status and deductible gift recipient (DGR) status, organisations must have a purpose that fits into one of a number of specific categories designated by the Internal Revenue Service (IRS). While the production of public interest journalism does not fit neatly into any of these categories, the IRS has granted non-profit status to a significant number of media businesses under the 'education' category.²³¹⁴ Thus, despite the similarity in regulatory structure between the US and Australia in this area, it appears to be, in effect, much easier for media businesses to receive DGR-equivalent status in the US than in Australia.

²³⁰⁵ Institute for Nonprofit News, [INN Index: The state of non-profit news](#), October 2018, p. 4.

²³⁰⁶ B Birnbauer 'Philanthropy is funding serious journalism in the US, it could work for Australia too' *The Conversation*, 16 June 2017, accessed 14 March 2019.

²³⁰⁷ ProPublica, [The Mission](#), accessed 16 May 2019.

²³⁰⁸ Reveal, [About Us](#), accessed 16 May 2019.

²³⁰⁹ The Center for Public Integrity, [About Us](#), accessed 16 May 2019.

²³¹⁰ Nieman Foundation, [About](#), accessed 16 May 2019.

²³¹¹ The Democracy Fund, [About the Democracy Fund](#), accessed 16 May 2019.

²³¹² The Lenfest Institute, [Local Journalism, Innovation, Democracy](#), accessed 16 May 2019.

²³¹³ R Foster and M Bunting, Public funding of high-quality journalism, 10 April 2019, p. 29.

²³¹⁴ B Birnbauer, 'Philanthropy is funding serious journalism in the US, it could work for Australia too' *The Conversation*, 16 June 2017, accessed 14 March 2019. However, there is uncertainty around the exact eligibility criteria for media businesses under the 'education' category and the IRS has been criticised for this lack of clarity. See R. Foster and M. Bunting, Public funding of high-quality journalism, 10 April 2019, p. 29.

While it is substantial, philanthropy in the US remains a relatively small source of funding for journalism in proportion to commercial revenue. It is estimated that philanthropy contributed around US\$100 million a year between 2010 and 2015 to the production of journalism in the US while the sector more broadly reported total annual commercial revenues of over US\$25 billion.²³¹⁵ The scale of philanthropy appears to be growing, and in February 2019 the Knight Foundation announced a US\$300 million contribution over five years to support local news.²³¹⁶ Philanthropic funding for journalism in the US also appears to be unevenly distributed, with organisations that have received funding in the past more likely to receive it again in the future. It is estimated that just 25 not-for-profits received over 80 per cent of total grant funding between 2010 and 2018.²³¹⁷

The United Kingdom (the UK)

Philanthropically-funded journalism in the UK is not as widespread as it is in the US, but is slightly more prevalent than in Australia.

In 2017, the European Journalism Centre estimated that philanthropic contributions worth about £30 million a year are made to journalism in the UK.²³¹⁸ This includes funding for a number of prominent organisations including the Bureau for Investigative Journalism, the Centre for Investigative Journalism and Full Fact. These organisations conduct their own investigations, provide education and assistance to investigative journalists and conduct fact-checking in the wider media respectively.

Organisations must become registered charities to receive tax-deductible donations in the UK, and there is no separate category equivalent to DGR status. Similar to Australia and the US, organisations in the UK must have objectives that fit into certain designated categories to be registered as charities and journalism does not fit neatly into any of the existing categories. While some organisations that have a strong journalism focus have had success in obtaining charitable status through the 'education' category, this has been a challenging process, involving multiple rejections and challenges to rulings of the Charity Commission.²³¹⁹

The Centre for Investigative Journalism and Full Fact are both registered charities, but the Bureau for Investigative Journalism (which actually produces public interest journalism) has had its application rejected twice.²³²⁰ It is likely that these regulatory hurdles have limited the expansion of not-for-profit media businesses in the UK.²³²¹

In early 2019, the UK's Cairncross Review recommended that the UK Government extend eligibility for charitable status to not-for-profit news organisations. This recommendation was intended to provide both a new revenue stream and significant tax benefits for these organisations.²³²²

2315 R Foster and M Bunting, Public funding of high-quality journalism, 10 April 2019, p. 30.

2316 Knight Foundation, [Knight Foundation Focuses on Building the Future of Local News in \\$300 Million Five-Year Commitment](#), accessed 18 March 2019.

2317 Shorenstein Center on Media, Politics and Public Policy and Northeastern University's School of Journalism, [Funding the News: Foundations and Nonprofit Media](#), 18 June 2018, p. 43.

2318 Journalism Funders Forum, [Philanthropic Journalism Funding in the UK](#), April 2017, commissioned by European Journalism Centre, p. 22.

2319 Journalism Funders Forum, [Philanthropic Journalism Funding in the UK](#), April 2017, commissioned by European Journalism Centre, p. 7.

2320 Journalism Funders Forum, [Philanthropic Journalism Funding in the UK](#), April 2017, commissioned by European Journalism Centre, p. 7.

2321 The Reuters Institute for the Study of Journalism and the Information Society Project, [The impact of charity and tax regulation on not for profit news organisations](#), March 2016, p. 77.

2322 Government of the United Kingdom, [The Cairncross Review: A Sustainable Future for Journalism](#), Department for Digital, Culture, Media & Sport, 12 February 2019, p. 99.


Canada

Similar to arrangements in the UK, in Canada only registered charities can receive tax-deductible donations. Media businesses do not fit neatly within the laws regulating charitable status in Canada, and as a result the country has few philanthropically-funded journalism outlets.²³²³


However, in its 2018 Fall Economic Statement the Canadian Government introduced a CAN\$595 million package to support journalism which included measures specifically aimed at encouraging philanthropic funding of not-for-profit journalism. The reforms create a new category of 'qualified donee' for not-for-profit media businesses, which will allow them to receive tax-deductible donations.²³²⁴ The Canadian Government is therefore expressly promoting philanthropic support for the country's journalism sector.

2323 The Reuters Institute for the Study of Journalism and the Information Society Project, [The impact of charity and tax regulation on not for profit news organisations](#), March 2016, p. 39

2324 B Campion-Smith and T MacCharles, '[Ottawa to provide aid to support Canadian journalism](#)', *The Toronto Star*, 21 November 2018, accessed 19 March 2019.



Appendix H: ACCC review of digital platforms' processes, terms and policies



This Appendix provides an overview of the ACCC's desk-based review in relation to a selection of digital platforms' sign-up processes (section 1), opt-out processes (section 2) and terms of use and privacy policies (section 3). These findings are referenced, where relevant, in chapter 5. Details of the methodology for each of these reviews are provided as relevant below.

Review of sign-up processes

Key findings

- The ACCC reviewed the sign-up processes to create new accounts on Google's Gmail, Facebook, Twitter and Apple (Apple ID) in July and November 2018.
- Three of the four digital platforms reviewed used clickwrap agreements where a user proceeding with the sign-up process is deemed by the digital platform to constitute acceptance of its terms of use and privacy policies.
- In each of the sign-up processes reviewed, the fastest way to create an account does not require users to review or edit their privacy settings.
- Google gives new Gmail users the option to review and edit their privacy settings before creating their account; if new users do not edit any of these six privacy settings, four of the settings are preset to saving the relevant information to the user's Google Account by default,²³²⁵ while two of the settings are preset to not saving the information to the user's Google Account.

Methodology

In July and November 2018, ACCC staff reviewed the sign-up process for new Australian users²³²⁶ of Google (Gmail), Facebook, Twitter and Apple (Apple ID). This research was conducted by ACCC officers on a Windows PC using the Chrome internet browser and on a Macbook Pro using the Chrome internet browser.

The following steps were taken to create new accounts:

- Visit 'create account' page:
 - Gmail: <https://accounts.google.com/>
 - Facebook: <https://www.facebook.com/r.php>
 - Twitter: <https://twitter.com/i/flow/signup>
 - Apple: <https://appleid.apple.com/account#!&page=create>
- Follow prompts to create an account on each platform. All links such as 'learn more' within the sign-up process were followed and screenshots recorded.
- Flowcharts were created to visually represent the path a new user takes through the sign in process, see section 1.3 below. Where applicable, the headings of the screens have been extracted in the flowcharts.
- Relevant screenshots of the sign-up process from the time of the ACCC's review are extracted below. The ACCC notes that the webpages may have been updated since the time this review was conducted and that each screenshot used in this Appendix is accompanied by a reference stating the date on which the webpage was last accessed by the ACCC.

²³²⁵ For the avoidance of doubt, 'default' means 'a procedure which has preset parameters by that operate unless changed by the user' (as defined by the [Macquarie Dictionary](#)). 'Default setting' accordingly refers to the preset function of a setting which applies unless changed by the user.

²³²⁶ That is, users accessing an account from a device with an IP address located within Australia.

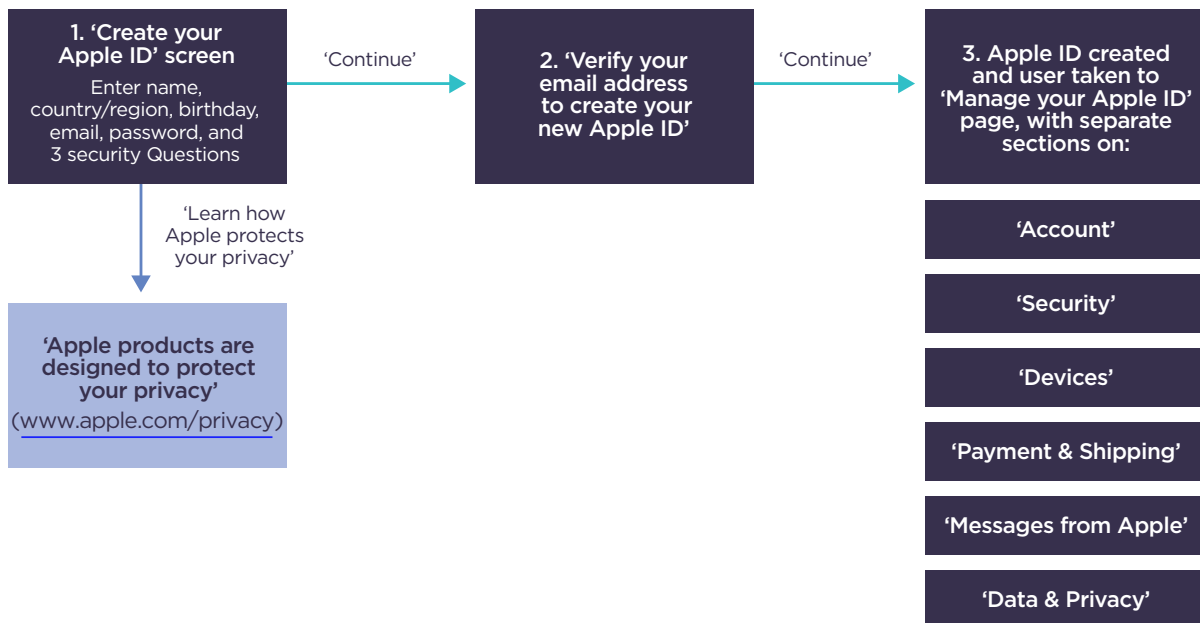
Sign-up flowcharts

The flowcharts below represent the path a new user can take when making an account and any possibility to opt-out of data collection. In particular:

- **Dark purple boxes** represent the fastest steps for a user to take to create a new account on each digital platform.
- **Light blue boxes** represent a separate webpage outside the sign-up process, some of which include pages setting out the digital platforms' terms of use and privacy policies.²³²⁷
- **Green boxes** represent pop-ups with additional information that do not take the user away from the sign-up process.
- **Orange boxes** represent the user being taken to a separate page or section with more options to change privacy settings.

Apple ID sign-up flow chart

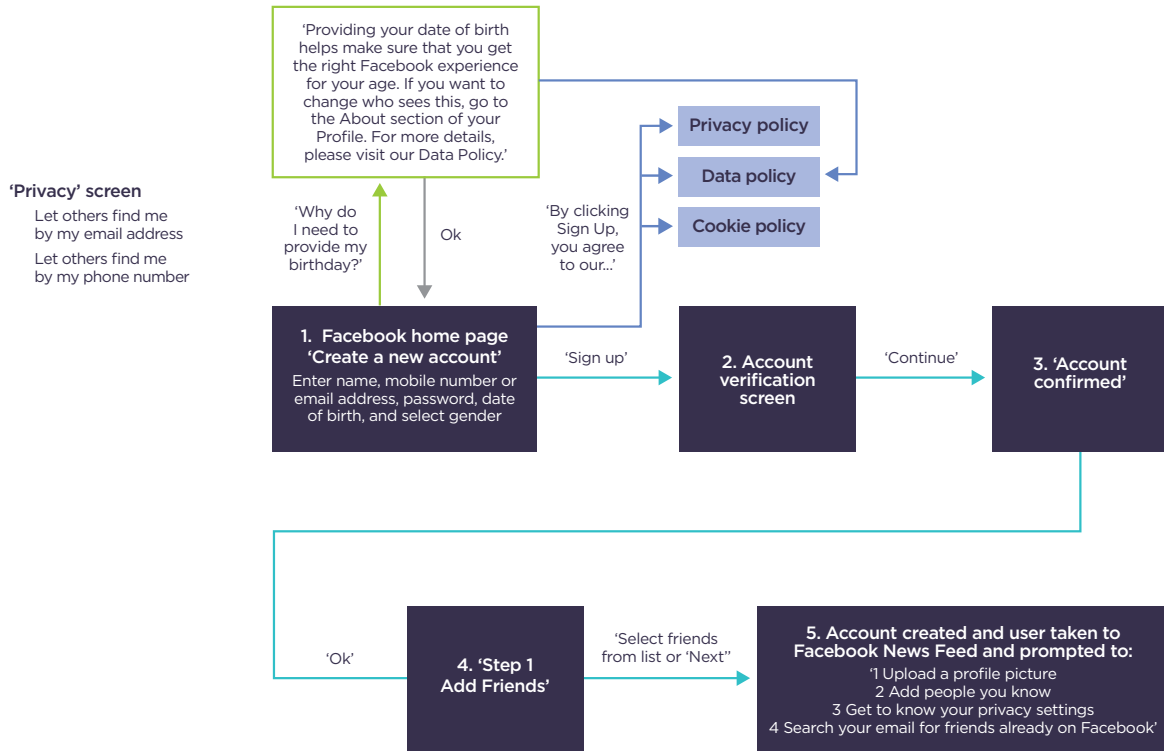
Figure 1: Sign-up process for a new Apple ID



²³²⁷ If the user was directed to an external page such as the platform's privacy policy, further links from the external page were not followed as no direct changes to settings can be made from pages such as the privacy policy. While there may be links to further information from such pages, the user has been taken away from the main sign-up process.

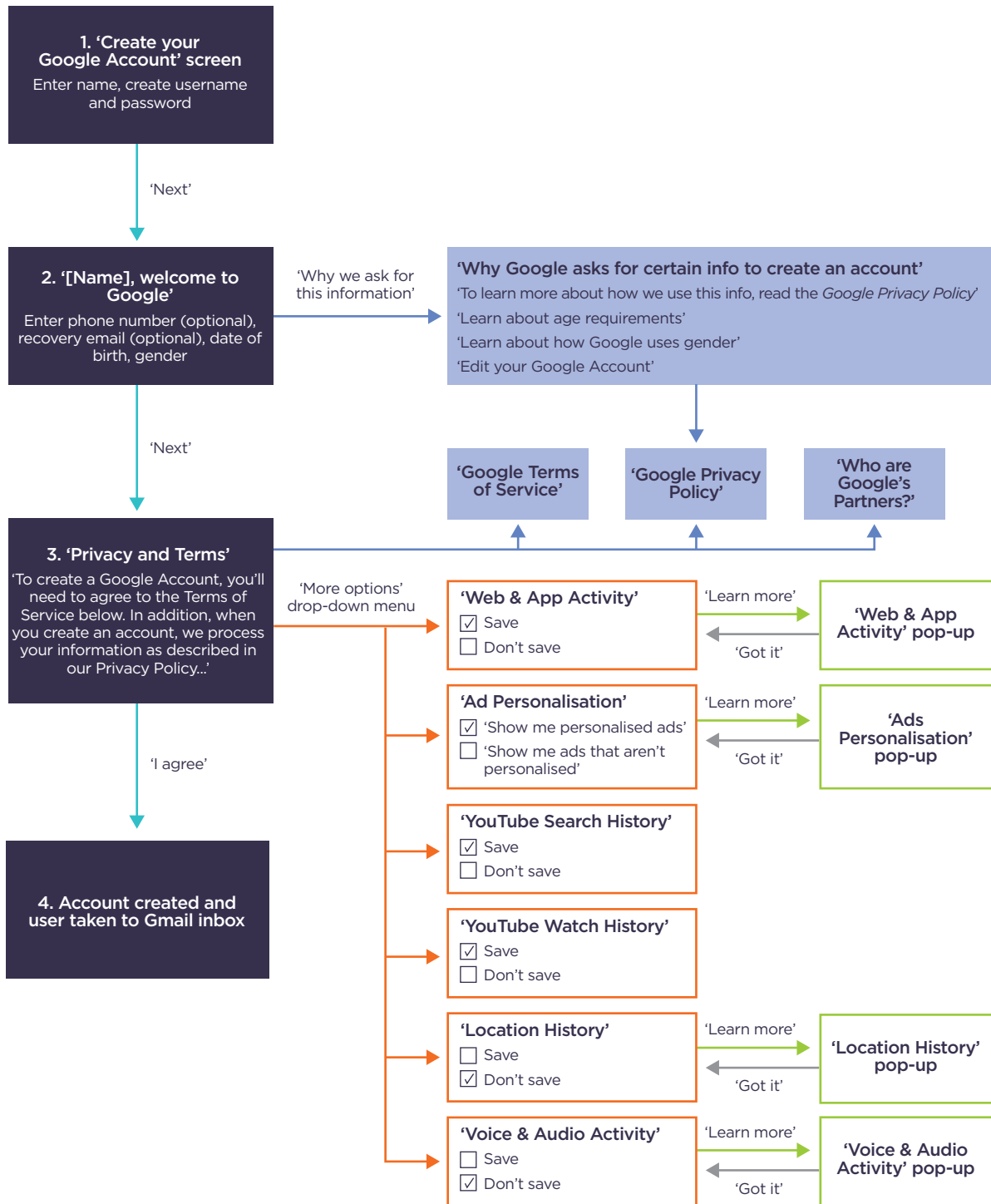
Facebook sign-up flow chart

Figure 2: Sign-up process for a new Facebook account



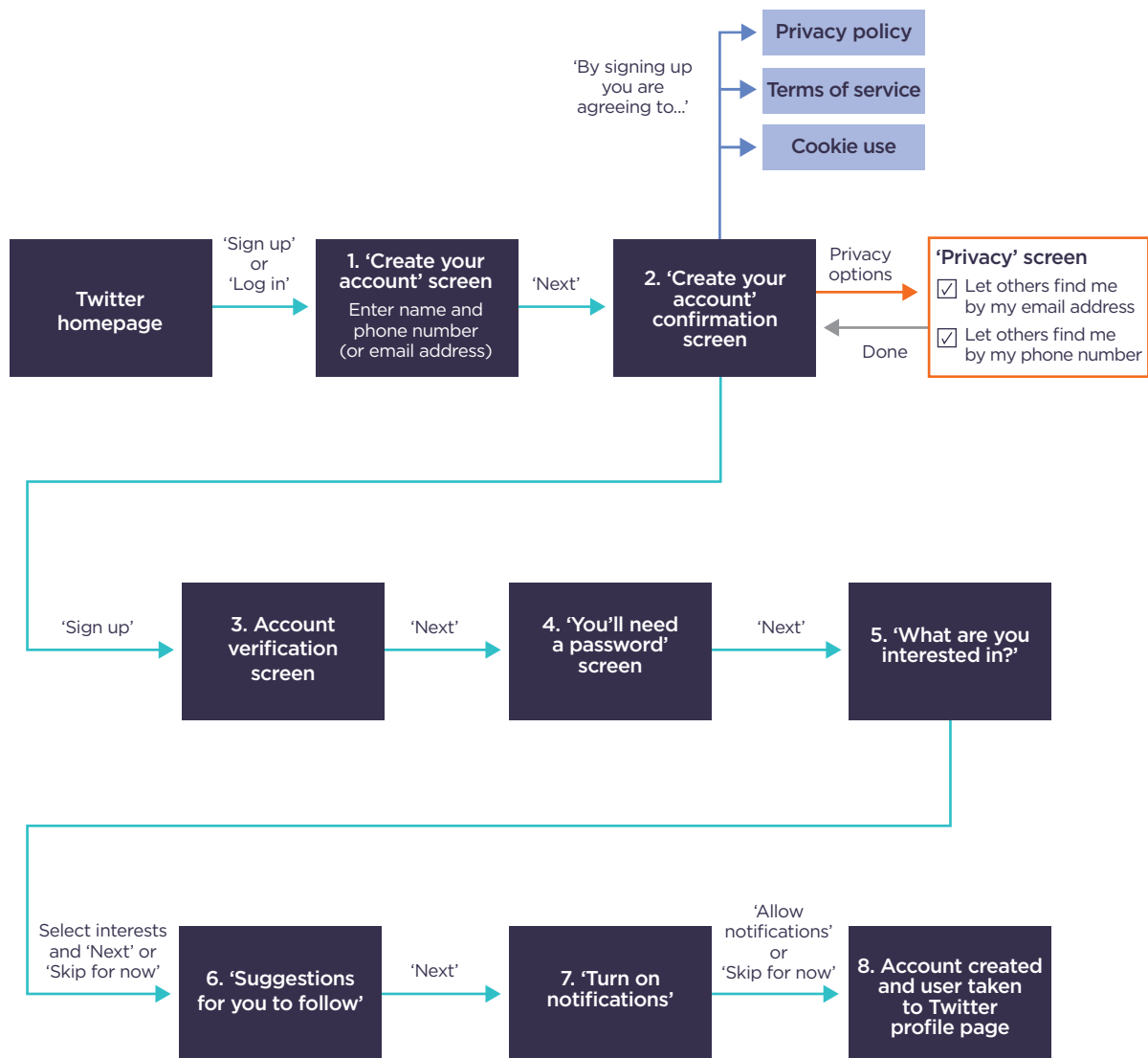
Gmail sign-up flow chart

Figure 3: Sign-up process for a new Google Gmail account



Twitter sign-up flow chart

Figure 4: Sign-up process for a new Twitter account



Clickwrap agreements

As shown in the light blue boxes in the above flowcharts for Facebook, Google and Twitter, each of these three digital platforms use a clickwrap agreement where new users are deemed to have accepted their terms and conditions (which incorporate their privacy policies) by proceeding with the sign-up process.

The screenshots at figures 5, 6 and 7 below show the wording used on each digital platform to let users know that signing-up will mean that they have accepted the terms of use.

For example:

- Facebook's 'Create an account' page states 'By clicking Sign Up, you agree to our Terms, Data Policy and Cookie Policy' in small font (figure 5).²³²⁸ This means that users signing up to Facebook can agree to Facebook's terms, including consenting to Facebook's collection and use of the user's data, without being asked to read or understand any of the terms of service.

2328 Wording used by Facebook on sign-up. Facebook, [Create a new account](#), accessed 31 October 2018.

- Google's 'Privacy and Terms' screen states that 'To create a Google account, you'll need to agree to the Terms of Service below'. Google also states that 'when you create an account, we process your information as described in our Privacy Policy, including these key points' (figure 6). While users may agree to Google's Terms of Use and Privacy Policy without reviewing these webpages, Google provides some dot points summarising its privacy policy on this screen to allow new users to review a summary of some key points relating to Google's privacy policy and data practices.
- Twitter's 'Create your account' screen states 'By signing up, you agree to the Terms of Service and Privacy Policy, including Cookie Use.', with hyperlinks to separate pages for Twitter's Terms of Service, Privacy Policy, and Cookie Use webpage (figure 7). This means that users signing up to Twitter can agree to its terms and data practices without seeing any of its terms of service or privacy policies.

Apple did not require new users to accept its terms of service or privacy policy as part of the sign-up process for creating an Apple ID. The Apple Media Services Terms of Service specifically governs the use of Apple's services which are: iTunes Store, App Store, Apple Books, Apple Music, and Apple News.²³²⁹ Use of the Apple ID or any other Apple services aside from those listed are therefore not covered under the Apple Media Services Terms of Service.

Clickwrap agreements and engagement with terms and conditions

The use of clickwrap agreements to gain consent is relevant to consider as it may affect the engagement of consumers with the terms and conditions for the services provided. For example, research conducted by the European Commission in 2016 found 9.4 per cent would click through to view the terms and conditions in a clickwrap agreement, whereas 77.9 per cent would read or scan at least part of the terms and conditions if they were provided to users within the acceptance process (for example, in an embedded window on the page that users could scroll through).²³³⁰

Figure 5: Facebook 'Create an account' screen²³³¹

2329 See Apple, '[Apple Media Services Terms and Conditions](#)', accessed 22 November 2018.

2330 European Commission 2016, '[Study on consumers' attitudes towards Terms and Conditions](#)', accessed 20 November 2018.

2331 Screenshot taken from sign-up process commenced at <https://www.facebook.com/r.php>, accessed 20 July 2018.

Figure 6: Google 'Privacy and Terms' screen²³³²

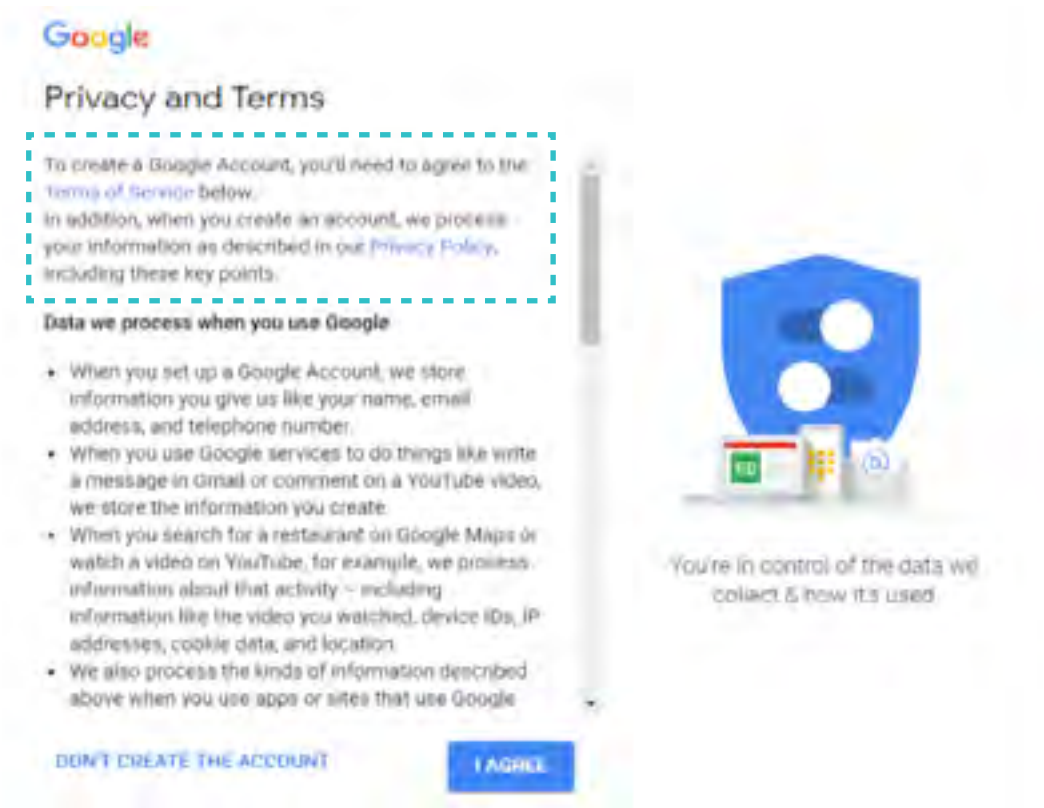
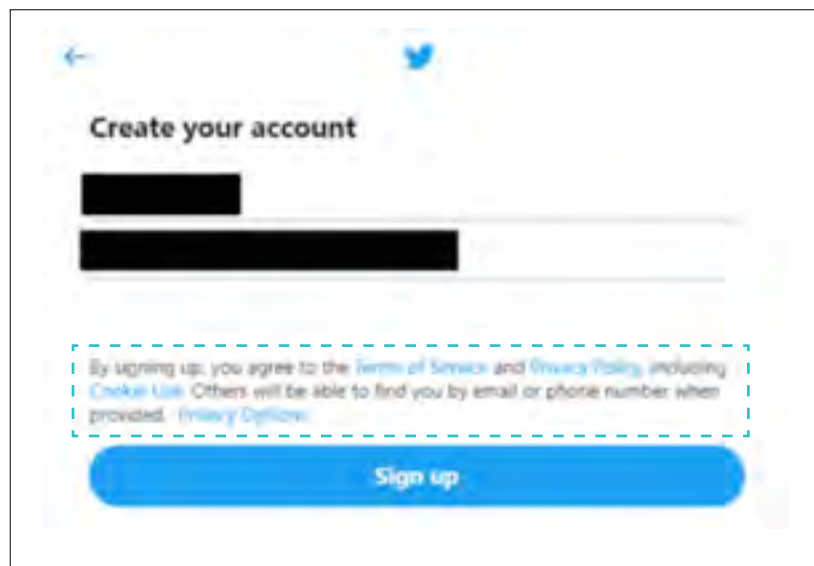


Figure 7: Twitter 'Create your account' screen²³³³



2332 Screenshot taken from sign-up process commenced at <https://accounts.google.com/>, accessed 20 July 2018.

2333 Screenshot taken from sign-up process commenced at <https://twitter.com/i/flow/signup>, accessed 24 July 2018.

User prompts to review and edit privacy settings

In each of the sign-up processes reviewed, the ACCC found that the fastest way to create an account, as denoted by the line of dark purple boxes in the flowcharts above did not include new users reviewing or editing their privacy settings.

While none of the sign-up processes required a user to review and edit their privacy settings *before* a new account is created, Apple and Facebook took users to a page with either privacy settings or prompts to check their privacy settings directly *after* a new account is created:

- Once a new Apple ID is created, users were taken directly to a ‘manage account’ webpage where they can review and edit information and settings in relation to their account, including in relation to ‘Data & Privacy’.
- Once a new Facebook account was created, the user was taken to their Facebook News Feed page and prompted to do the following:
 - upload a profile picture,
 - ‘Add people you know’,
 - ‘Get to know your privacy settings’, and
 - search email for friends already on facebook. However, the ACCC notes that, whilst ‘Get to know your privacy settings’ can be viewed by a user scrolling down, a user may have to scroll through a lengthy ‘people you know’ list before reaching the ‘Get to know your privacy settings’ section.

The review further found that Twitter’s sign-up process allows users to click on a link to ‘Privacy Options’ (see figure 7), but this link only allowed new users to select whether other Twitter users can connect with the new user on Twitter by searching their email address or phone number (see figure 8). These user-to-user privacy settings did not appear to affect how Twitter collects, uses and discloses the new user’s information except in relation to other Twitter users.

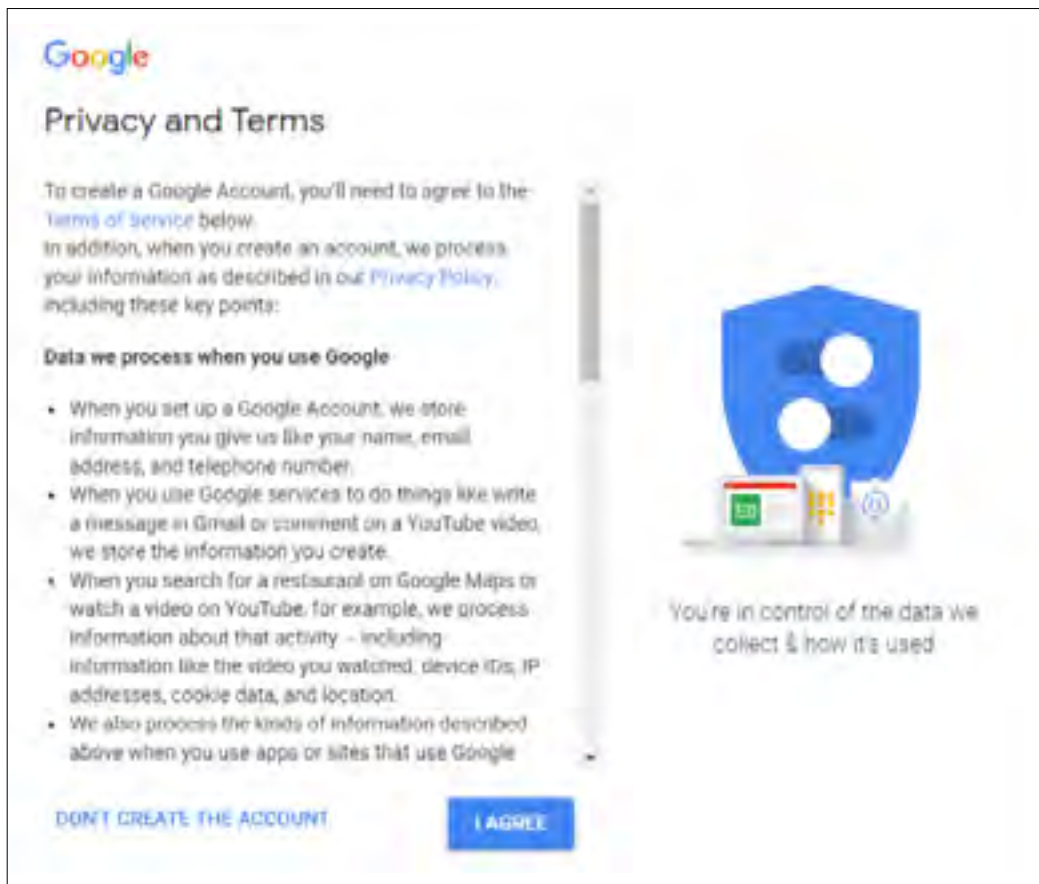
Figure 8: Twitter ‘Privacy Options’ screen²³³⁴



The review also found that Google offers Gmail users creating a new Google Account the option of customising their privacy settings as part of step 3 on the ‘Privacy and Terms’ webpage, although this option has limited visibility. That is, the options to edit Google’s default privacy settings are only visible to new users who first scroll down past Google’s key points on their privacy policy to see the ‘More Options’ link, and then click on the ‘More Options’ link to open a drop-down menu that sets out the privacy settings (see figures 9 and 10 below). Because these privacy settings are folded within a drop-down menu, and the link to this drop-down menu is at the end of a scrolling passage of text, new users may be less likely to see these options to customise the data collected and associated with their Google Account.

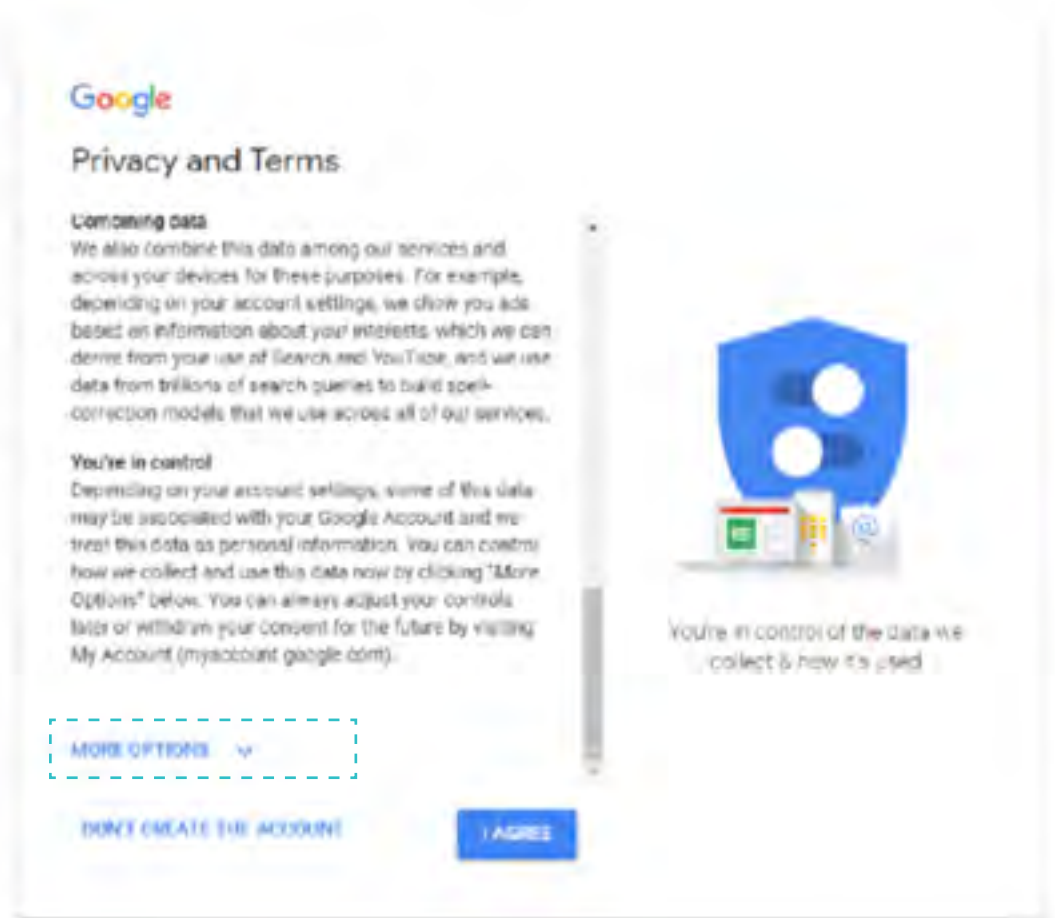
2334 Screenshot taken from sign-up process commenced at <https://twitter.com/i/flow/signup>, accessed 24 July 2018.

Figure 9: Google 'Privacy and Terms' screen before scrolling to the end of the text ('More Options' link not visible)²³³⁵



2335 Screenshot taken from sign-up process commenced at <https://accounts.google.com/>, accessed on 20 July 2018.

Figure 10: Google 'Privacy and Terms' screen after scrolling to the end of the text ('More Options' link visible)²³³⁶



Use of defaults

The privacy settings available in the 'More Options' drop-down menu for new users creating a Google Account had different pre-selected defaults. That is, without editing any of the privacy settings in the 'More Options' drop-down menu, ACCC staff found that some of the privacy settings were pre-selected to save certain activity to the user's Google Account and some of the privacy settings were pre-selected not to save certain activity.

Overall, four of the six settings were preset to save information to a user's Google Account, while two settings were preset not to do so. Specifically:

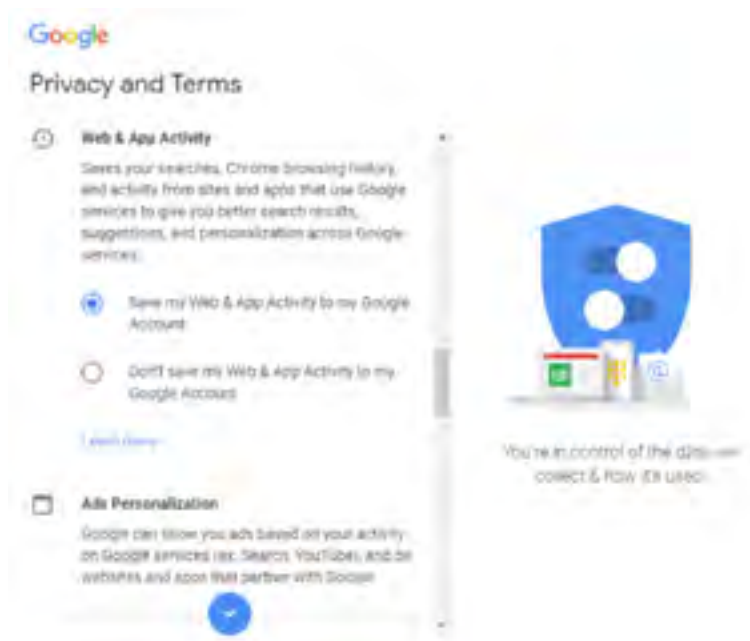
- 'Web & App Activity' has 'Save my Web & App Activity to my Google Account' pre-selected (see figure 11)
- 'Ad Personalisation' has 'Show me personalised ads' pre-selected (see figure 12)
- 'YouTube Search History' has 'Save my YouTube Search History to my Google Account' pre-selected (see figure 13)
- 'YouTube Watch History' has 'Save my YouTube Watch History to my Google Account' pre-selected (see figure 14)
- 'Location History' has 'Don't save my Location History to my Google Account' pre-selected (see figure 15)
- 'Voice & Audio Activity' has 'Don't save my Voice & Audio Activity to my Google Account' pre-selected (see figure 16)

²³³⁶ Screenshot taken from sign-up process commenced at <https://accounts.google.com/>, accessed on 20 July 2018.

Use of defaults and effect on consumer decision making

The default settings used by digital platforms is important because consumers tend to keep the default option (i.e. the status quo) rather than actively choosing another alternative.²³³⁷ Research suggests that there are a number of possible reasons for consumers' tendency to choose the default setting, including 'favouring inaction, avoiding cognitive effort, inferring that the default option is the best recommended, or tending to favour the status quo'.²³³⁸ Therefore, whether the default settings are in consumers' best interests may impact on consumer welfare.²³³⁹

Figure 11: 'Web & App Activity' default setting²³⁴⁰



2337 OECD, 'Improving online disclosures with behavioural insights', 2018, p.31.

2338 Ahmetoglu et al, 'Pricing Practices: Their Effects on Consumer Behaviour and Welfare', 2010, Prepared for the Office of Fair Trading, pp.13-14.

2339 OECD, 'Improving online disclosures with behavioural insights', 2018, p.31.

2340 Screenshot taken from sign-up process commenced at <https://accounts.google.com/>, accessed 20 July 2018.

Figure 12: 'Ad Personalisation' default setting²³⁴¹

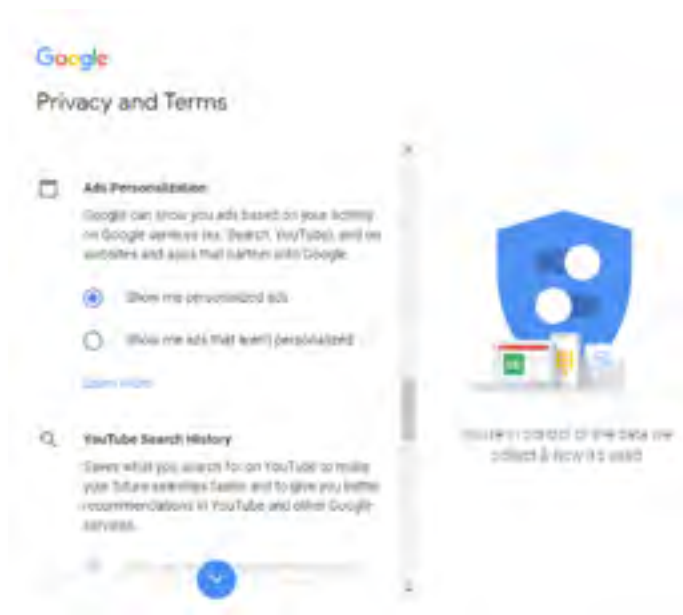
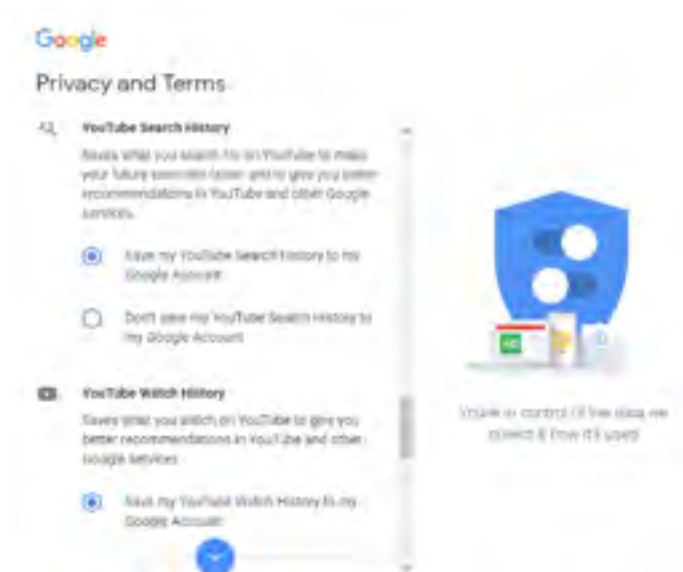


Figure 13: 'YouTube Search History' default setting²³⁴²



2341 Screenshot taken from sign-up process commenced at <https://accounts.google.com/>, accessed 20 July 2018.

2342 Screenshot taken from sign-up process commenced at <https://accounts.google.com/>, accessed 20 July 2018.

Figure 14: 'YouTube Watch History' default setting²³⁴³

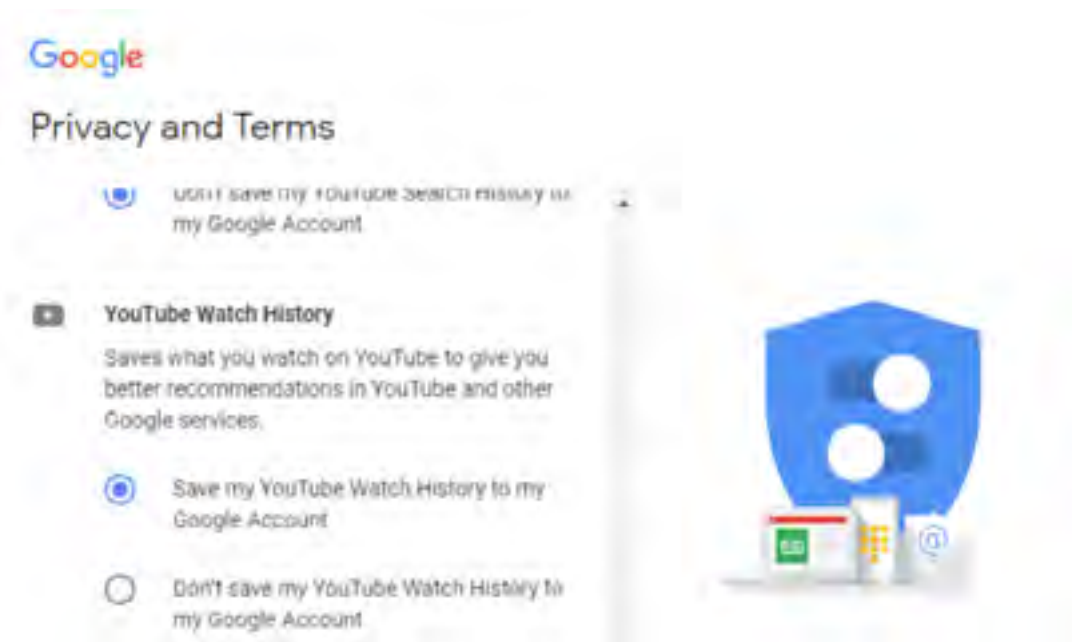
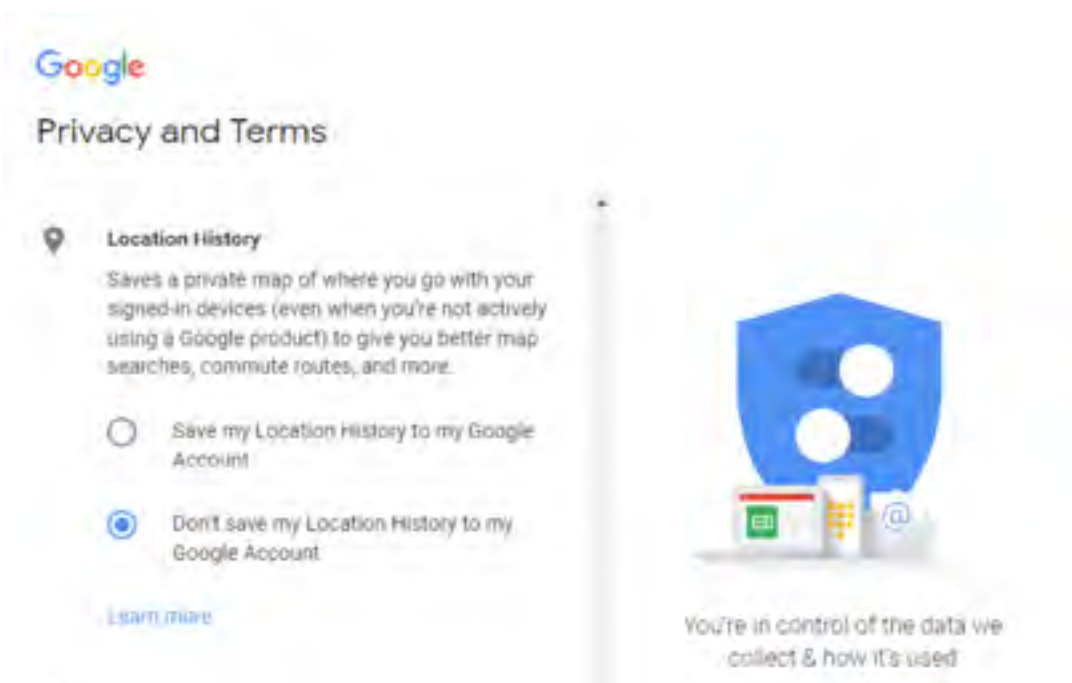


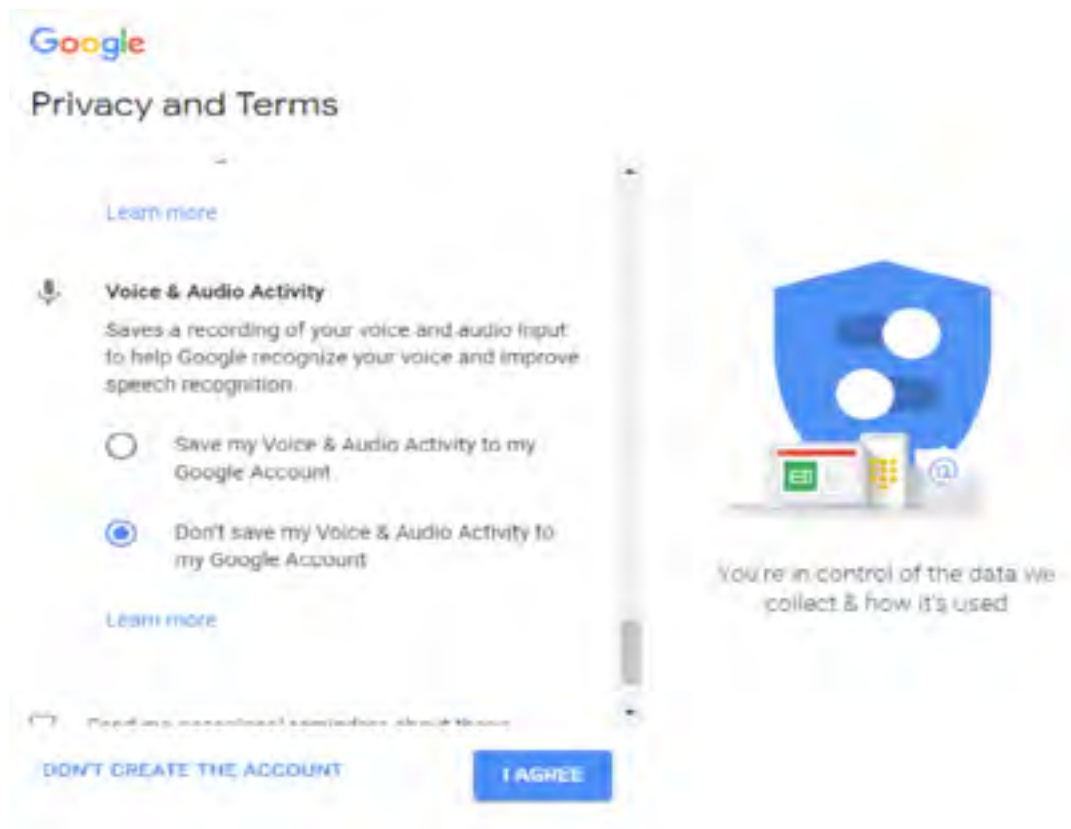
Figure 15: 'Location History' default setting²³⁴⁴



2343 Screenshot taken from sign-up process commenced at <https://accounts.google.com/>, accessed on 20 July 2018.

2344 Screenshot taken from sign-up process commenced at <https://accounts.google.com/>, accessed on 20 July 2018.

Figure 16: 'Voice & Audio Activity' default setting²³⁴⁵



Review of opt-out processes

Key findings

- The ACCC reviewed select opt-out processes on a Google Account between August and November 2018.
- ACCC staff found there were several pre-selected settings where a user is, by default, taken to have opted in to certain uses of their user data unless the user actively seeks out and de-selects the setting. In the case of 'Ad personalisation', the pre-selection is not immediately visible to the user, who must click on a 'more options' link to see the pre-selection.
- Google's policies indicate that turning off Google's 'Ad personalisation' setting does not opt-out users to all types of targeted advertising because Google states it may still target ads to a user 'based on general factors' and, in addition, turning off 'Ad personalisation' will not turn off online tracking for advertising purposes by other ad networks.
- Generally, the explanations around the data collection settings frame the data collection in positive terms with descriptions of how the data may be used to improve services to the user, whilst opting-out of the data collection tends to be framed in negative terms in terms of limiting or disabling the personalised services a user may receive.

²³⁴⁵ Screenshot taken from sign-up process commenced at <https://accounts.google.com/>, accessed 20 July 2018.

Methodology

On various dates between August and November 2018, ACCC staff researched the opt-out processes in an existing user's Google Account. This research was conducted by ACCC staff on a Windows PC using the Chrome internet browser and on a Macbook Pro using the Safari internet browser. The research involved documenting the steps to opt-out of the following settings in a user's Google Account:

- Google's 'Ad personalisation' setting
- Google's 'Location History' setting
- Google's 'Web & App Activity' setting

Relevant screenshots of the opt-out process from the time of the ACCC's review are extracted below. The ACCC notes that the webpages may have been updated since the date this review was conducted and that each screenshot used in this Appendix is accompanied by a reference stating the date on which the webpage was last accessed by the ACCC.

Opting-out of targeted advertising

Steps for opting-out

The ACCC documented the process for opting-out of the 'Personalised Advertising' setting on an existing user's Google Account:

- When visiting <https://myaccount.google.com/> and after signing in, users are presented with a number of customisable settings divided into 'Sign-in & security', 'Personal info & privacy', and 'Account preferences'.²³⁴⁶
- In the 'Personal info & privacy' section, users can click on 'Manage Ad Settings' (see figure 5.17 below) to view their 'Ad Personalisation' setting, which is turned on by default (see figure 5.18 below).
- A user can click 'More Options' to see an additional option to 'Also use your activity and information from Google services to personalise ads on websites and apps that partner with Google to show ads. This stores data from websites and apps that partner with Google in your Google Account'. This is also pre-selected to on by default (see figure 5.19 below).
- When a user selects 'Turn Off' to disable 'Ad Personalisation', users are presented with a pop-up explaining the consequences of turning off this setting (see figure 5.20 below).
- Google notes that turning off 'Ad Personalisation' will not stop ads from being targeted to a user 'based on general factors, like the subject of what you're looking at, the time of day, or your general location' (see figure 5.20 below).
- Once 'Ad Personalisation' has been turned off, users are presented with a pop-up with additional information stating that 'It may take some time before this change is reflected across our systems' and 'You can also turn off ads personalisation for the Google ads that you see when you're signed out and 100+ other online ad networks' followed by a link to 'Visit Your Online Choices' (see figure 5.21 below).

²³⁴⁶ See <https://accounts.google.com/> and signing in to an existing Google account, accessed 9 August 2018 and 16 November 2018.

Figure 17: Google's 'Ad Settings'²³⁴⁷

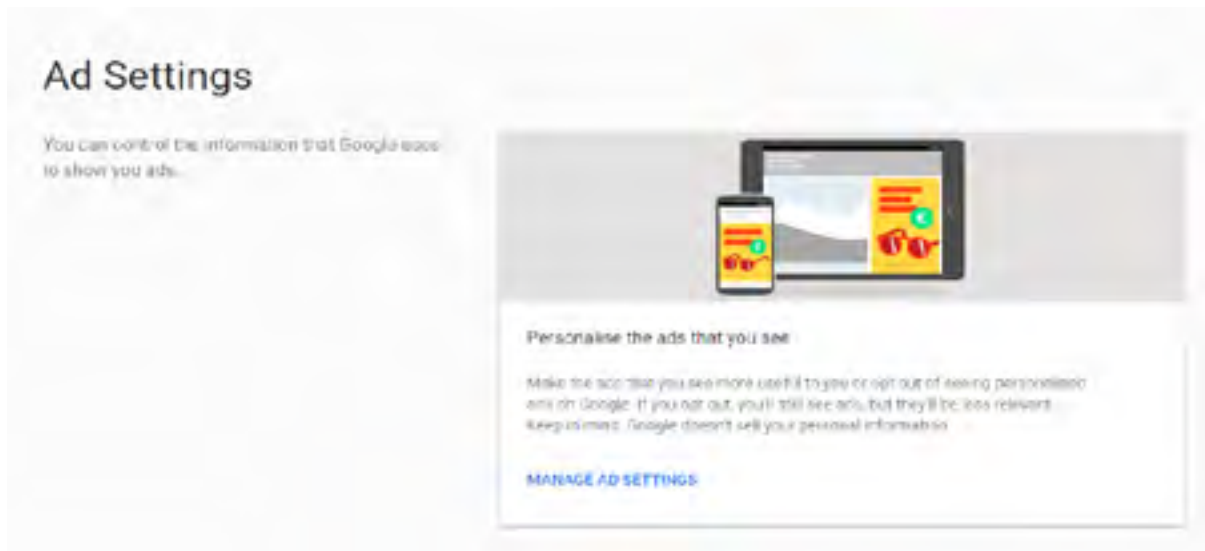
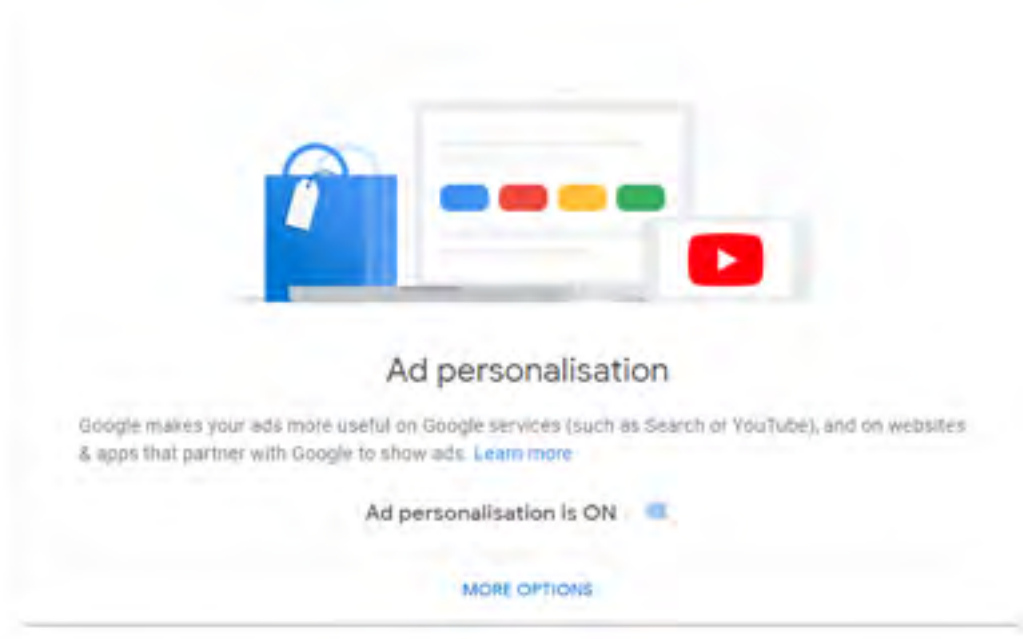


Figure 18: Google's 'Ad personalisation' setting²³⁴⁸



2347 Screenshot taken from opt-out process described above: <https://accounts.google.com/> > Ad Settings, accessed 19 November 2018.

2348 Screenshot taken from opt-out process described above: <https://accounts.google.com/> > Ad Settings > Manage Ad Settings, accessed 19 November 2018.

Figure 19: Google's 'Ad personalisation' setting after clicking on 'More Options'²³⁴⁹

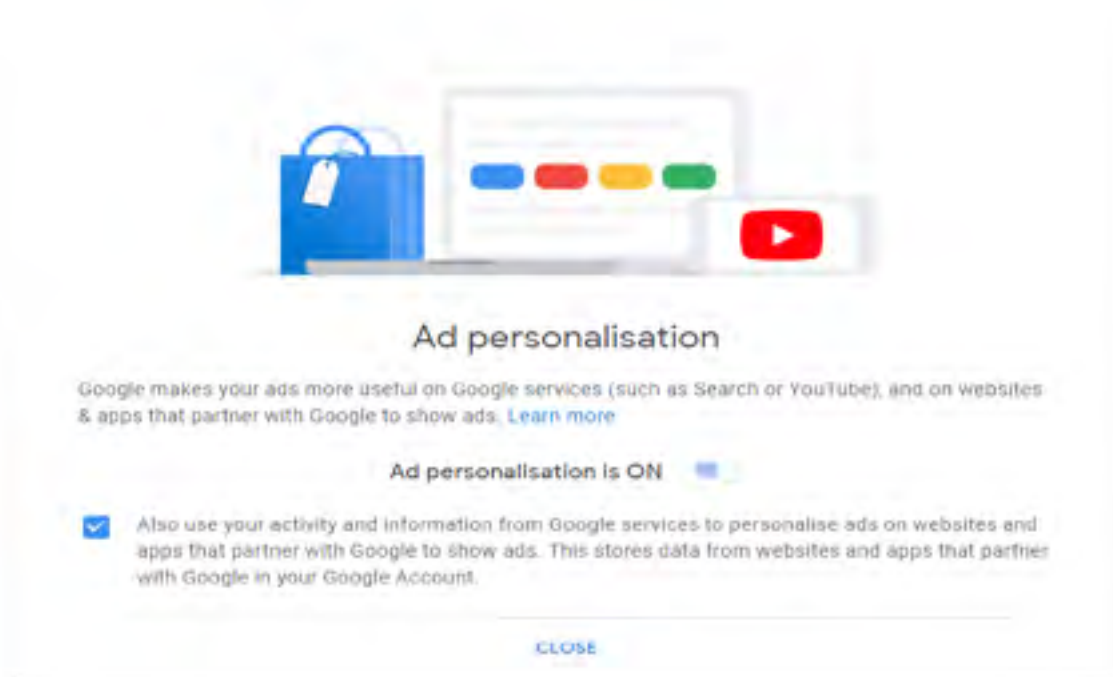
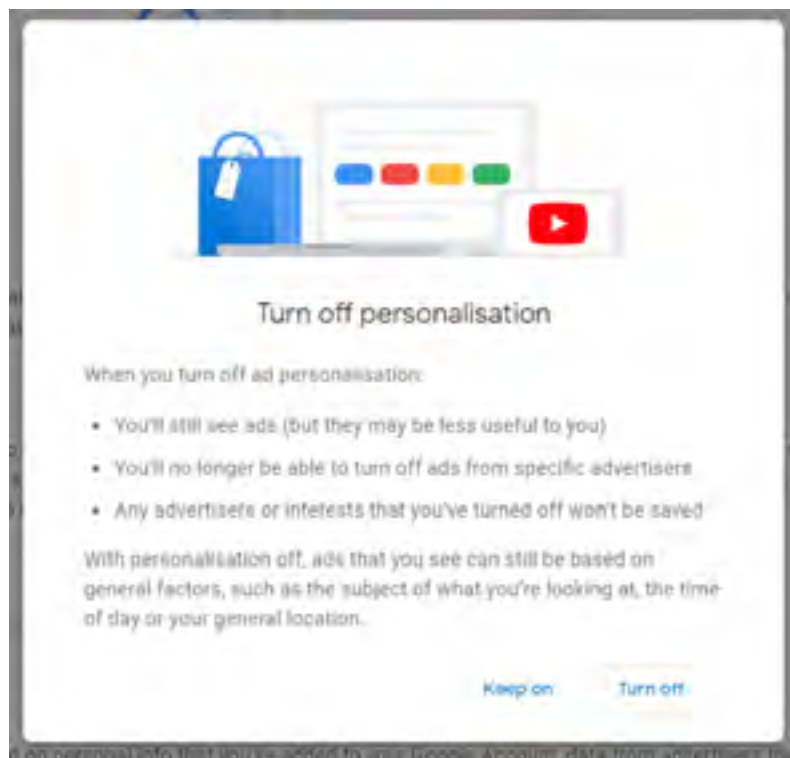


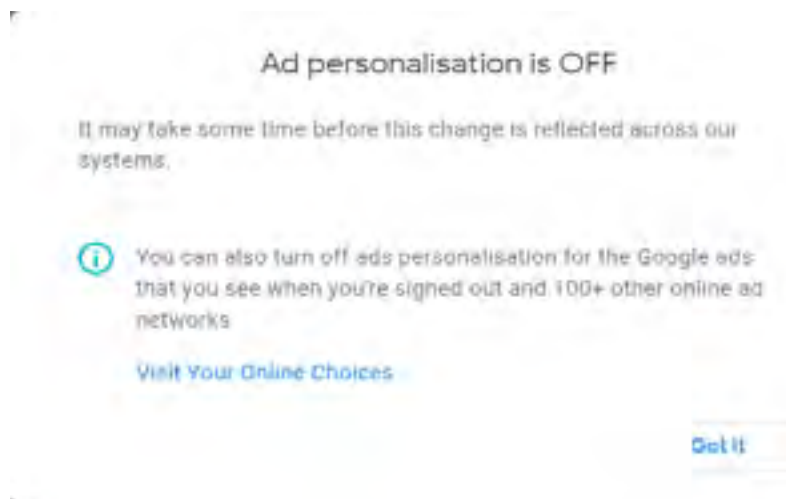
Figure 20: Google's 'Turn off personalisation' pop-up²³⁵⁰



2349 Screenshot taken from opt-out commenced at <https://accounts.google.com/> > Ad Settings > Manage Ad Settings > More Options, accessed 19 November 2018.

2350 Screenshot taken from opt-out commenced at <https://accounts.google.com/> > Ad Settings > Manage Ad Settings > Turn off Ad Personalisation, accessed 19 November 2018.

Figure 21: Google's 'Ad personalisation is OFF' pop-up²³⁵¹



ACCC observations

The ACCC found a number of design features that either introduced potential confusion or may nudge users against selecting settings that minimised the extent of data collection:

- Use of hidden pre-selections - When a user sees that 'Ad personalisation is ON' (see figure 5.18 above), the user must click on the 'more options' link to see that there is another option pre-selected for 'Also use your activity and information from Google services to personalise ads on websites and apps that partner with Google to show ads. *This stores data from websites and apps that partner with Google in your Google Account*' (emphasis added) (see figure 5.19 above). As noted above, default pre-selections can impact consumer decision making as consumers are more likely to remain with a default. Moreover, by designing the user interface such that it is only visible to users who click on 'more options', many users may not be aware that they have the setting turned on or that they have the option to turn it off.
- Lack of clarity - The 'Turn off personalisation' pop-up notes that the ads shown to a user can still be targeted to that user 'based on general factors, such as the subject of what you're looking at, the time of day or your general location' (see figure 5.20 above). ACCC officers were unable to find a definition of what 'general factors' means from Google's policies and therefore could not determine the scope of the 'general factors' that can continue to be used to target advertising to a user with 'Ad Personalisation' turned off.
- Framing - Google's description of the 'Ad personalisation' setting is framed in positive terms; 'Google makes your ads more useful on Google services (such as Search or YouTube), and on websites & apps that partner with Google to show ads' (see figure 5.19 above). Additionally, the 'Turn off personalisation' pop-up focusses on the negative aspects of turning off ad personalisation, noting that 'You'll still see ads (but they may be less useful to you)', 'You'll no longer be able to turn off ads from specific advertisers', and 'Any advertisers or interests you've turned off won't be saved' (see figure 5.20 above). By framing 'Ad personalisation' in such positive language, and focusing on the potential negative consequences of turning it off, users may be nudged to keep their 'Ad personalisation' turned on.

2351 Screenshot of popup taken from opt-out commenced at <https://accounts.google.com/> > Ad Settings > Manage Ad Settings > Turn off Ad Personalisation > Turn off, accessed 19 November 2018.

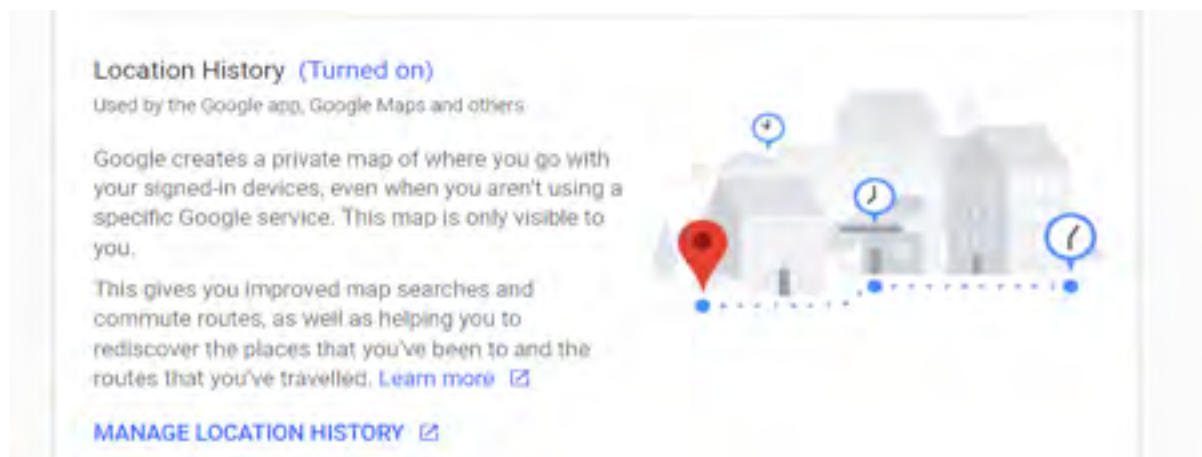
Opting-out of the collection of location data

Steps for opting-out

The ACCC documented the process for opting-out of the 'Location History' setting on an existing user's Google Account:

- When visiting <https://myaccount.google.com/> and after signing in, users are not provided with a direct menu option to edit their location settings.
- However, users may manage their location information by selecting 'Privacy Checkup'. This displays the following settings to users:²³⁵²
 - Web & App Activity
 - Location History
 - Device Information
 - Voice & Audio Activity
 - YouTube Search History
 - YouTube Watch History
- A user may complete the following steps to turn 'Location History' off:
 - Select 'Manage Location History' (see figure 5.22 below). This takes a user to their timeline along with a pop-up titled 'Explore your timeline' (see figure 5.23 below).
 - Scroll through the three screens of the pop up and click on 'Learn more' on the final screen of the pop-up (see figure 5.24 below). This takes users to a webpage with instructions on how to change their location data collection settings (see figure 5.25 below).
 - Following these instructions, a user can then click back to their timeline page, and navigate, through the Settings cog icon, to the webpage with their 'Location History' setting (see figure 5.26 below).
 - Toggle the setting off and then click 'Pause' on the popup titled 'Pause Location History?' (see figure 5.27 below).

Figure 22: Google's Privacy Checkup webpage displaying the 'Location History' section²³⁵³



²³⁵² Opt-out commenced at <https://accounts.google.com/> > Privacy Checkup: Get Started > Start Now, accessed 19 November 2018.

²³⁵³ Opt-out commenced at <https://accounts.google.com/> > Privacy Checkup: Get Started > Start Now, accessed 20 November 2018.

Figure 23: Google's 'Explore your timeline' pop-up²³⁵⁴

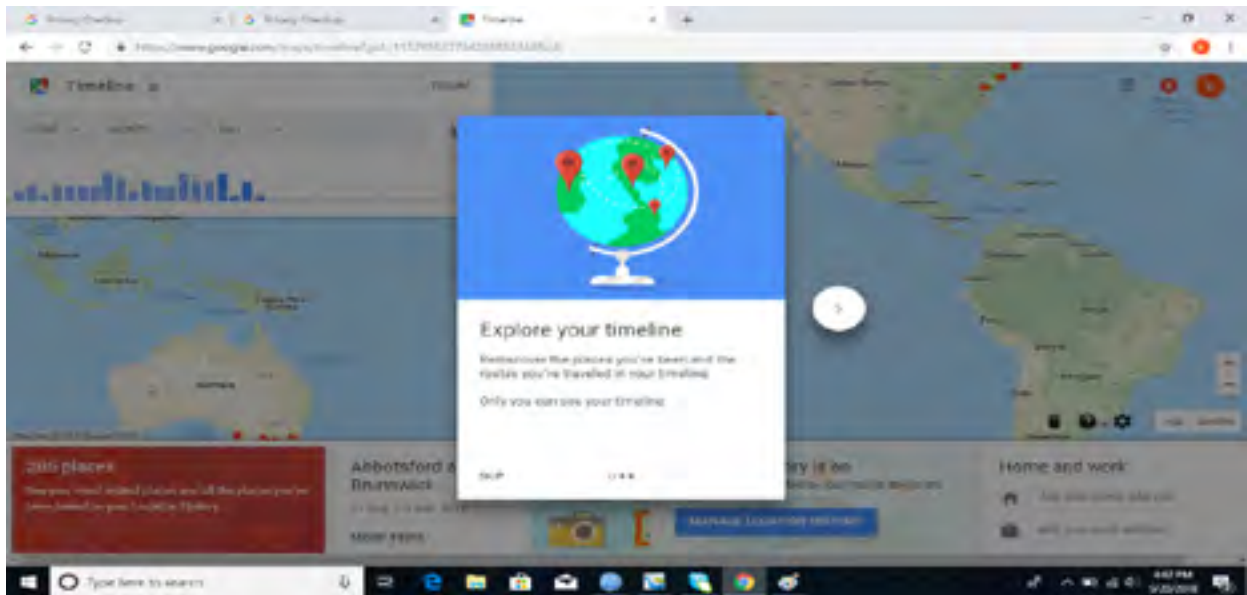
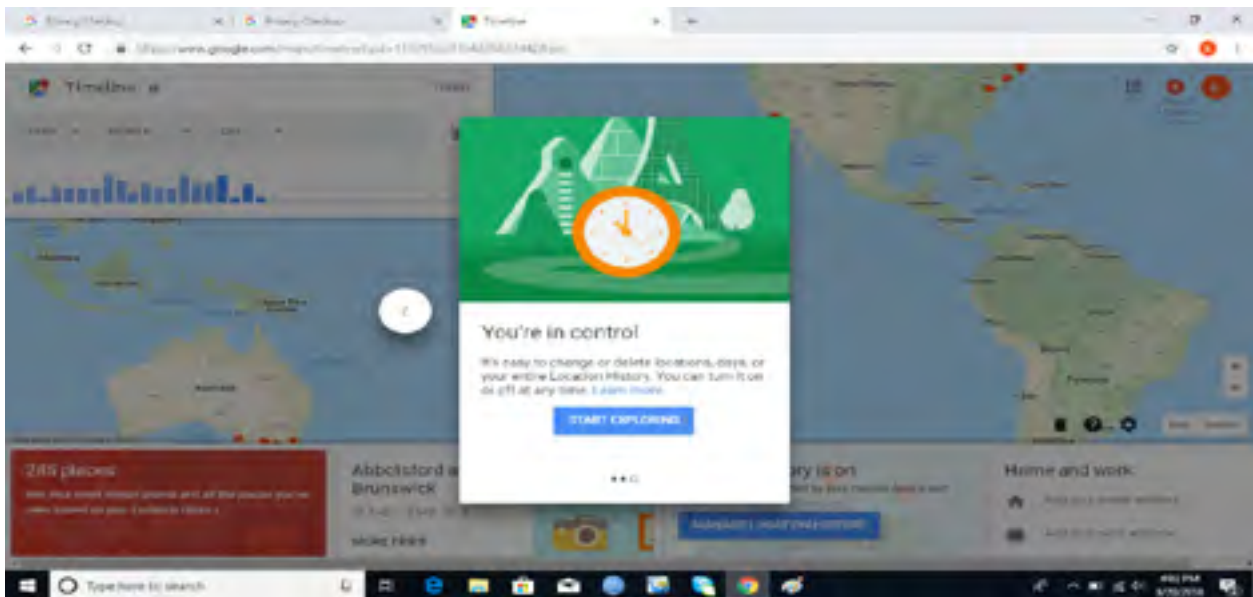


Figure 24: Google's 'You're in control' pop-up²³⁵⁵



2354 Opt-out commenced at <https://accounts.google.com/> > Privacy Checkup: Get Started > Start Now > Manage Location History (Screen 1), accessed 20 September 2018.

2355 Opt-out commenced at <https://accounts.google.com/> > Privacy Checkup: Get Started > Start Now > Manage Location History (Screen 2), accessed 20 September 2018.

Figure 25: Google's instructions on how to 'Turn on or pause Location History'²³⁵⁶

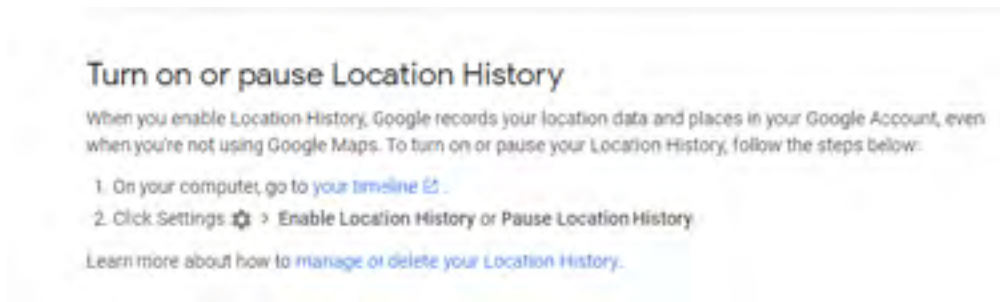
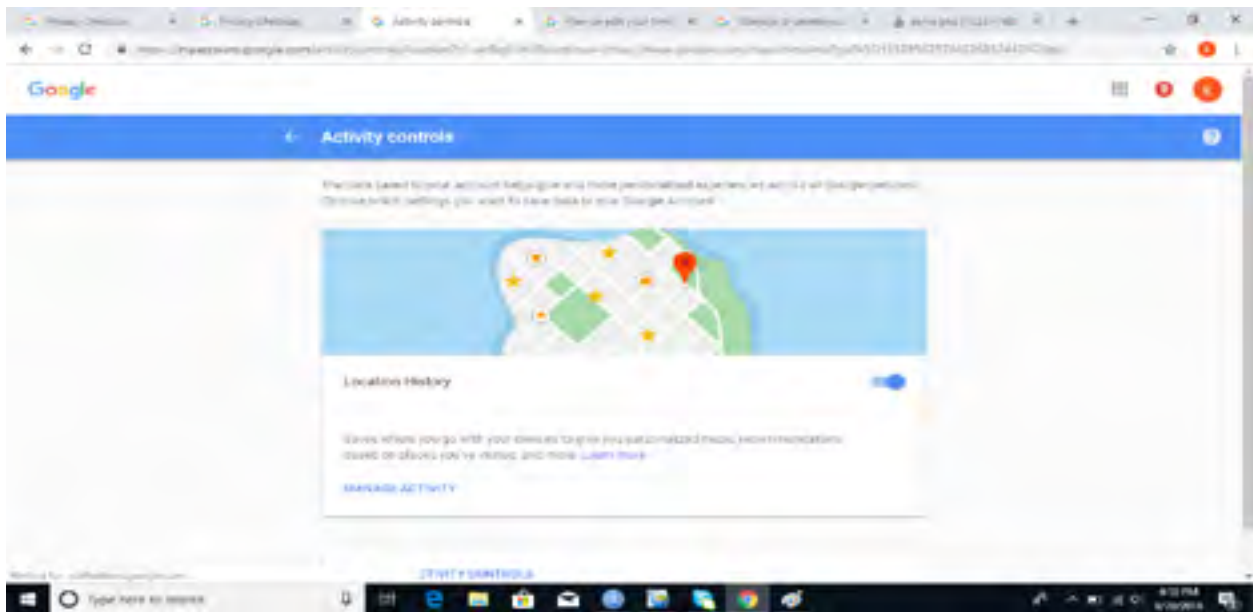


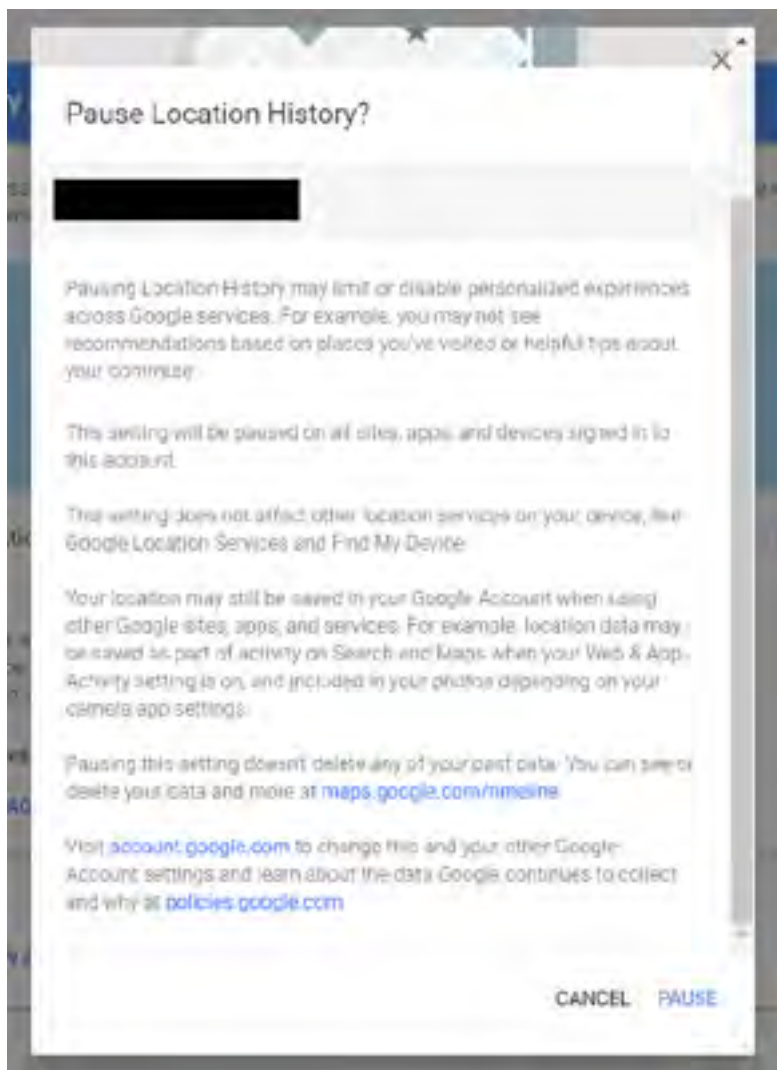
Figure 26: Google's 'Location History' page²³⁵⁷



2356 Opt-out commenced at <https://accounts.google.com/> > Privacy Checkup: Get Started > Start Now > Manage Location History (Screen 2) > Learn More, accessed 20 September 2018.

2357 Opt-out commenced at <https://accounts.google.com/> > Privacy Checkup: Get Started > Start Now > Manage Location History (Screen 2) > Learn More > Settings, accessed 20 September 2018.

Figure 27: Google's 'Pause Location History?'²³⁵⁸



ACCC observations

The ACCC found a number of design features that either introduce potential confusion or may nudge users against selecting settings that minimised the extent of data collection:

- Use of Distractions- A user who uses Google's 'Privacy Checkup' function to 'Manage Location History' is faced with numerous options before being provided with information on how to turn off location history. Clicking on 'Manage Location History' takes the user to their timeline with a pop-up titled 'explore your timeline' (see figure 5.20 above). There is also a much more prominent 'Start Exploring' button below the smaller 'learn more' link that takes the user to a webpage with instructions on how to turn off their Location History setting.
- Framing- Google uses wording that emphasises the privacy of a user's Location History, stating that 'Google creates a *private map* of where you go with your signed-in devices, even when you aren't using a specific Google service. *This map is only visible to you*' (emphasis added) (see figure 5.22 above). However, Google's privacy policy also states that 'We use the information we collect from all our services for the following purposes', which would include the use of location information for the purpose of providing 'personalised services, including content and ads'.²³⁵⁹

²³⁵⁸ Opt-out commenced at <https://accounts.google.com/> > Privacy Checkup: Get Started > Start Now > Manage Location History (Screen 2) > Learn More > Settings > toggle off, accessed 20 September 2018.

²³⁵⁹ See [Google Privacy Policy](https://policies.google.com/), accessed 20 November 2018.

- Lack of clarity- Google suggests to users that its services may be less useful with Location History disabled by stating ‘Pausing Location History may limit or disable personalized experiences across Google services. For example, you may not see recommendations based on places you’ve visited or helpful tips about your commute’ (see figure 5.27 above). However, Google does not provide any expanded detail about how and to what extent pausing Location History will ‘limit or disable’ a user’s experiences across Google’s services.

Opting-out of the collection of Web & App Activity data

Steps for opting-out

The ACCC documented the process for opting-out of the ‘Web & App Activity’ setting on an existing user’s Google Account:

- When visiting <https://myaccount.google.com/> and after signing in, users are not provided with a direct menu option to edit their ‘Web & App Activity’ setting.
- However, users may manage their location information by selecting ‘Privacy Checkup’. This displays the following settings to users:²³⁶⁰
 - Web & App Activity (see figure 5.24 above)
 - Location History
 - Device Information
 - Voice & Audio Activity
 - YouTube Search History
 - YouTube Watch History
- A user may complete the following steps to turn ‘Web and App Activity’ off:
 - Select ‘Manage Web & App Activity’ (see figure 5.28 below)
 - Select ‘Change setting’ (see figure 5.29 below)
 - Turn the toggle to turn ‘Web & App Activity’ off (see figure 5.30 below)
 - A pop-up is displayed titled ‘Pause Web & App Activity?’ Users then choose between ‘Cancel’ or ‘Pause’ (see figure 5.31 below).

²³⁶⁰ Opt-out commenced at <https://accounts.google.com/> > Privacy Checkup: Get Started > Start Now, accessed 19 November 2018.

Figure 28: Google's Privacy Checkup displaying the 'Web & App Activity' setting²³⁶¹

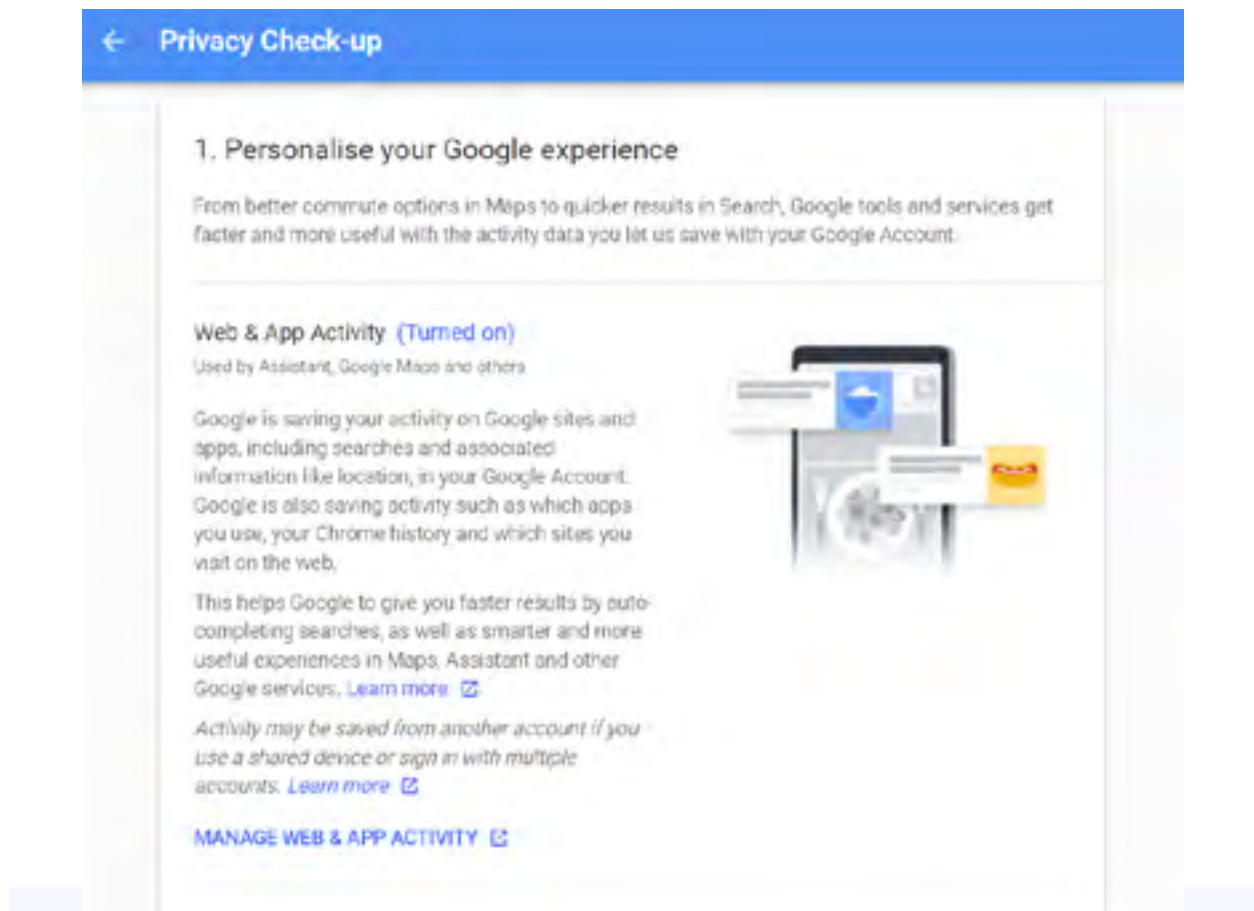


Figure 29: Google's My Activity > 'Web & App Activity'²³⁶²



2361 Opt-out commenced at <https://accounts.google.com/> > Privacy Checkup: Get Started > Start Now, accessed 20 November 2018.

2362 Opt-out commenced at <https://accounts.google.com/> > Privacy Checkup: Get Started > Start Now > Manage Web & App Activity, accessed 20 November 2018.

Figure 30: Google's 'Web & App Activity' control²³⁶³

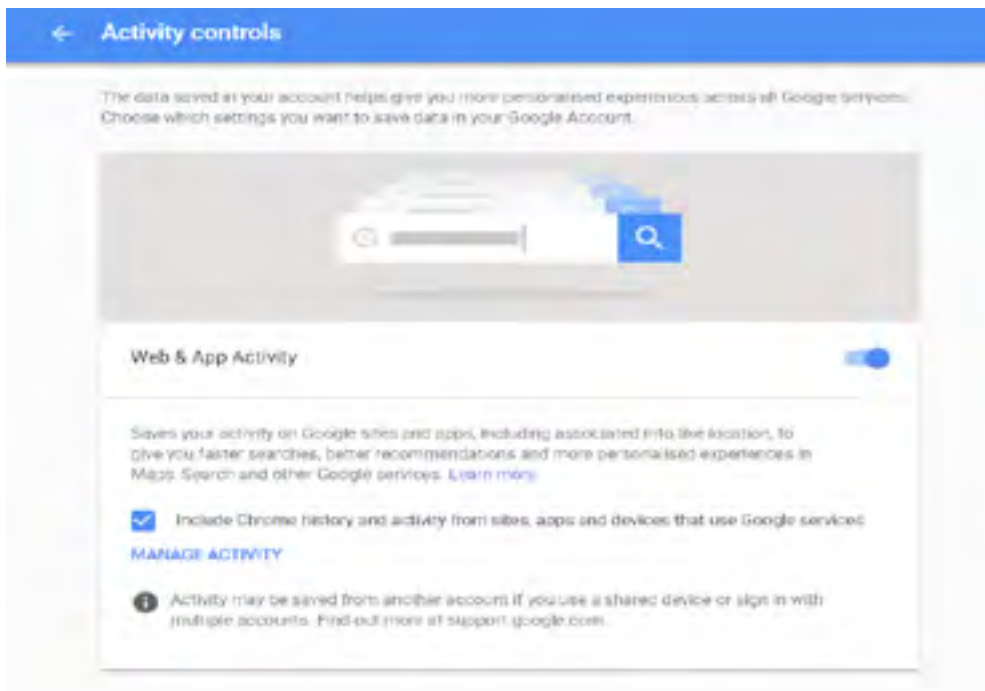
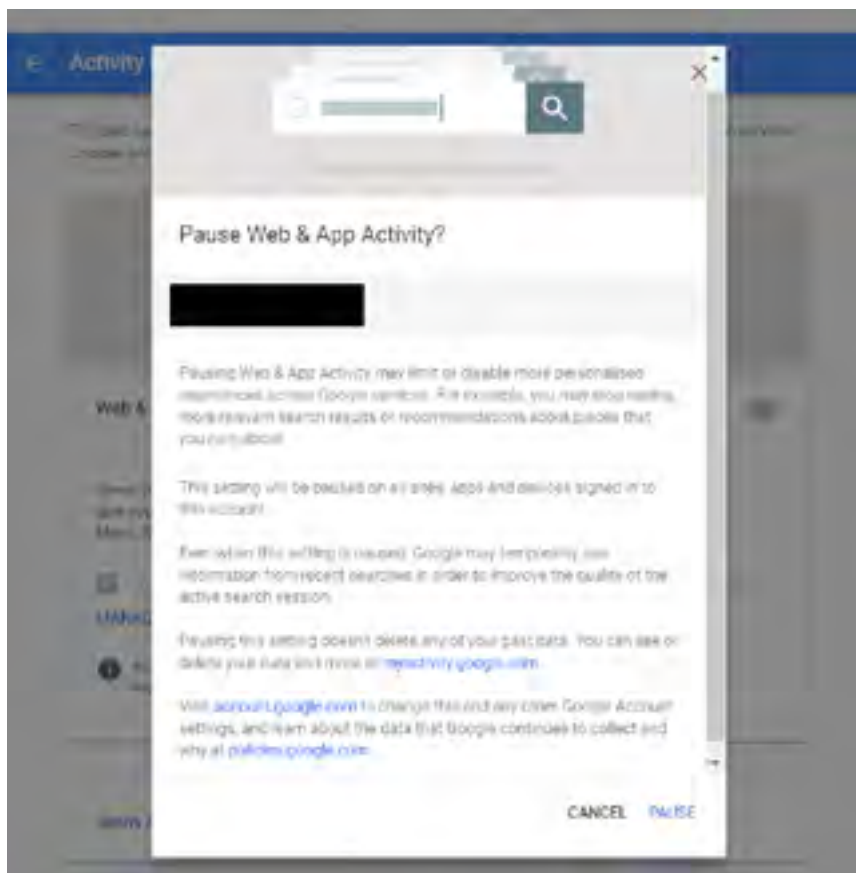


Figure 31: Google's 'Pause Web & App Activity?' pop-up²³⁶⁴



2363 Opt-out commenced at <https://accounts.google.com/> > Privacy Checkup: Get Started > Start Now > Manage Web & App Activity > Change Setting, accessed 20 November 2018.

2364 Opt-out commenced at <https://accounts.google.com/> > Privacy Checkup: Get Started > Start Now > Manage Web & App Activity > Change setting > toggle off, accessed 20 November 2018.

ACCC observations

The ACCC found a number of design features that either introduce potential confusion or may nudge users against selecting settings that minimised the extent of data collection:

- Use of pre-selections - 'Web & App Activity' is turned on by default for new users. In addition, when a user visits the webpage for 'Web & App Activity', they will also see that the setting has the option 'Include Chrome history and activity from sites, apps and devices that use Google services' pre-selected (see figure 5.30 above). As noted above, default pre-selections can impact consumer decision-making as consumers are more likely to remain with a default.
- Framing - the description of the Web and App activity setting highlights its potential benefits for the user in helping Google 'to give you faster results by auto-completing searches, as well as smarter and more useful experiences in Maps, Assistant and other Google services' (see figure 5.31 above). This may encourage users to permit the saving of 'Web & App Activity' to their Google Account.
- Lack of clarity - it may also be unclear to some users that, after they have turned off 'Location History', they must also turn off 'Web & App Activity' to turn off Google's collection of 'associated info like location' to their Google Account (see figure 5.30 above).

Review of terms of use and privacy policies

During June and July 2018, ACCC staff undertook a research project to examine the terms and conditions in consumer agreements with digital platforms that were in effect as at 31 July 2018, in order to inform the ACCC's consideration of the extent and impact of any information asymmetry between digital platforms and consumers.

The purpose of the review was to inform the ACCC's analysis as to how digital platforms communicated their data practices to users and, combined with other research, whether there were features of privacy policies and terms of use²³⁶⁵ that may make it less likely for consumers to be able to make an informed choice about their use of different digital platforms.

Key findings

- The review of the privacy policies and terms of use found:
- There were a number of common terms and data practices that are featured in many digital platforms' terms of use.
- A number of these features may discourage consumers from reading digital platforms' privacy policies and terms of use; or could impede users from understanding the actual data practices of digital platforms even if they did read the privacy policies and terms of use.
- All digital platforms reviewed had, in some form, terms that granted the digital platforms rights over user data, including personal information.

Methodology

ACCC staff conducted reviews of the terms of use and of privacy policies of key digital platforms in order to help consider how digital platforms and consumers interact. The ACCC reviewed privacy policies that were in effect at 31 July 2018 for Facebook, Google, Twitter, Microsoft, Apple, WhatsApp, Instagram, and Snapchat and terms of use for Facebook, Google, Twitter, Apple, WhatsApp, Instagram, and Snapchat.

The review also covered the most recent previous versions of the terms and policies to compare changes to these previous versions. The privacy policies and terms of use of a number of media businesses were also included in the review. A list of terms and policies from key digital platforms that formed part of the review are found below.

²³⁶⁵ The platforms examined have varying names to describe their Terms of Use. For consistency, this paper will refer to them by the catch-all 'Terms of Use'.

ACCC staff read each privacy policy and terms of use and noted terms and features that may affect a consumer’s ability to understand the terms and policies presented to them. These reviews included looking at the length of each document, the number of links within the documents, and the language used in describing how personal information is collected, used and shared by digital platforms. The review also involved analysing each policy and term to produce an estimated reading time,²³⁶⁶ and an indication of complexity of the language using the Flesch-Kincaid reading score.²³⁶⁷ In undertaking the review, ACCC staff took note of features individually, as well as in the context of features from the other terms of use, to determine whether there were terms and features that appear across multiple digital platforms. The team also noted common provisions present in the terms of use and privacy policies of different digital platforms and media businesses (referenced in Chapter 5).

Findings

Length and complexity of language

The ACCC review of terms and policies found that each of the digital platforms’ privacy policies reviewed (excluding the numerous links to separate webpages) were between 2 500 and 4 500 words and would take an average reader between 10 and 20 minutes to read.

Combined with the Flesch-Kincaid reading score, the review also estimated that the language used within most of the policies was complex, with the exception of Snapchat. The policies and terms reviewed required at least a US college level of reading to understand.

Table 1: Estimated reading time and reading level

Digital Platform	Word count (current policy)	Est. reading time	Flesch readability score
Google	4,047	20 minutes	44.5
Facebook	4,266	21 minutes	42.4
Instagram	4,266	21 minutes	42.4
WhatsApp	2,475	12 minutes	45.9
Twitter	4,364	22 minutes	39.1
Apple	3,642	18 minutes	31.8
Snapchat	3,906	20 minutes	51.5
Microsoft	2,523	13 minutes	38.0

Incorporation of documents and navigability

The review found that, of the digital platforms reviewed, privacy policies and terms of use were often difficult to navigate, with numerous separate, interlinked policies that all contain important information regarding the digital platform’s data practices. Examples of interlinked documents include:

- Google’s Privacy Policy states ‘This Privacy Policy doesn’t apply to services that have separate privacy policies that do not incorporate this Privacy Policy’,²³⁶⁸ but it was only by reading each of the eight separate privacy policies for other Google services (Chrome and Chrome OS, Play, Books, Payments, Fiber, Project Fi, G Suite for Education, YouTube Kids, and Google Accounts Managed with Family Link) that a user would identify that each of those separate privacy policies do incorporate Google’s main policy and therefore Google’s privacy policy does apply to all of its services.²³⁶⁹

²³⁶⁶ Using an estimated average reading speed of 200 words per minute.

²³⁶⁷ The Flesch Readability Score calculates readability of a document based on the average number of words per sentence, and the average number of syllables per word. It is an inverse scoring system; the higher the score, the easier a document is to read. Documents that score between 50.0-60.0 are classified as ‘fairly difficult to read’, which translates to around a US 10th to 12th grade school level; documents scoring between 30.0-50.0 are ‘difficult to read’, at a US college reading level.

²³⁶⁸ Google, [Privacy policy](#).

²³⁶⁹ Google, [Privacy policy](#).

- Facebook’s Terms of Service states ‘To provide these services, we must collect and use your personal data. We detail our practices in the Data Policy, which you must agree to in order to use our Products’.²³⁷⁰ The Terms of Service also contains a section in its table of contents to ‘other terms and policies that may apply to you’, including Facebook’s ad controls, Privacy Basics and Cookies Policy.

The review also found that of the digital platforms reviewed, some policies and terms contained hyperlinks that resulted in pop-up additional information or new pages, taking users away from the primary document. For example, Facebook’s Data policy contains over 70 hyperlinks, which link to other Facebook policies and terms, definitions of terms that are within the data policy, Facebook ‘help centre’ articles and other pages.

Ambiguous or unclear language

The review found that the language within privacy policies of digital platforms reviewed was often ambiguous to the reviewers, either because of unclear, or very broad, language. One example of broad language used in multiple privacy policies reviewed was the use of the word ‘may’ in relation to how digital platforms collect, use and share users’ data. Instances included:

- Twitter’s Privacy Policy states - ‘We may also disclose personal data about you to our corporate affiliates in order to help operate our services and our affiliate’s services, including the delivery of ads’.²³⁷¹
- Instagram’s Cookies Policy states - ‘Third-party cookies may be placed on your device by someone providing a service for Instagram’²³⁷²
- WhatsApp’s Privacy Policy states - ‘As part of the Facebook family of companies, WhatsApp receives information from, and shares information with, this family of companies. We may use the information we receive from them, and *they may use the information we share with them*, to help operate, provide, improve, understand, customize, support, and market our Services and their offerings’.²³⁷³ (emphasis added)’

The review also found some ambiguity in what the digital platforms reviewed considered was ‘personal information’ under their terms of use. Often a definition was not included in the terms of use, and digital platforms often only provide examples of what is encompassed by the term.

Source	Definition of ‘personal information’?
Google’s Privacy Policy	‘information that you provide to us which personally identifies you, such as your name, email address, or billing information, or other data that can be reasonably linked to such information by Google, such as information we associate with your Google Account’. ²³⁷⁴
Facebook’s Data Policy	‘information such as your name or email address that by itself can be used to contact you or identifies who you are’. ²³⁷⁵
Twitter’s Privacy Policy	including ‘a display name (for example, “Twitter Moments”), a username (for example, @TwitterMoments), a password, and an email address or phone number’. ²³⁷⁶
Apple’s Privacy Policy	‘Personal information is data that can be used to identify or contact a single person.’ ²³⁷⁷

2370 Facebook, [Terms of Service](#).

2371 Twitter, [Privacy policy](#).

2372 Instagram, [About Cookies](#).

2373 WhatsApp, [Privacy policy](#).

2374 Apple, [Privacy Policy](#).

2375 Facebook, [Data Policy](#).

2376 Twitter, [Privacy policy](#).

2377 Apple, [Privacy Policy](#).

The review also found that the ambiguity regarding personal information in the policies reviewed lead to ambiguity regarding the circumstances, and the types of information, the reviewed digital platforms may share with third parties:

- Google - 'We do not share your personal information with companies, organizations, or individuals outside of Google except in [specific] cases'.²³⁷⁸
- Facebook - 'We provide advertisers with reports about the kinds of people seeing their ads and how their ads are performing, but we don't share information that personally identifies you (information such as your name or email address that by itself can be used to contact you or identifies who you are)'.²³⁷⁹
- Apple - 'personal information will only be shared by Apple to provide or improve our products, services and advertising; it will not be shared with third parties for their marketing purposes'.²³⁸⁰

Large variety of data collected

The terms of use of the digital platforms reviewed often gave broad discretion as to the data the digital platform can collect from a user, and in some cases, from someone who is not a user of their services.²³⁸¹ Some examples of these types of data collection are outlined below.

Location Data

- Google's Privacy Policy covers the collection of user location data via GPS, IP addresses, sensor data from the user's mobile device, and information from Wi-Fi access points, cell towers, and Bluetooth-enabled devices.²³⁸² A footnote in the policy further discloses that sensor data from a mobile device can provide granular data on the user's movement: 'an accelerometer can be used to determine your speed and a gyroscope to figure out your direction of travel'.²³⁸³
- Facebook's Data Policy (which covers Facebook, Instagram and Messenger) discloses that information it obtains from users' devices includes 'Bluetooth signals, information about nearby Wi-Fi access points, beacons and mobile phone masts', 'the name of your mobile operator or ISP, language, time zone, mobile phone number, IP address, connection speed and, in some cases, information about other devices that are nearby or on your network'²³⁸⁴, and GPS location information.
- Twitter's Privacy Policy states: 'Subject to your settings, we may collect, use, and store additional information about your location - such as your current precise position or places where you've previously used Twitter - to operate or personalize our services including with more relevant content like local trends, stories, ads, and suggestions for people to follow'.²³⁸⁵

Placement of cookies

- Google - 'In some cases we may also collect your personal information through the use of cookies and other tracking devices. This enables us to recognise your computer and greet you each time you visit our website, without bothering you with a request to register or log-in. It also helps us keep track of products or services you view, so that we can send you news about those products or services. We also use cookies to measure traffic patterns, to determine which areas of our websites have been visited, and to measure transaction patterns in the aggregate. We use this to research our users' habits so that we can improve our online products and services'.²³⁸⁶

2378 Google, [Privacy policy](#).

2379 Facebook, [Data Policy](#).

2380 Apple, [Privacy Policy](#).

2381 For example, Facebook's Cookie Policy (which is linked to from its Privacy Policy) states 'Cookies enable Facebook to offer the Facebook Products to you and to understand the information we receive about you, including information about your use of other websites and apps, whether or not you are registered or logged in. Facebook, [Cookies Policy](#).

2382 Google, [Privacy Policy](#).

2383 Google, [Privacy Policy](#).

2384 Facebook, [Data Policy](#).

2385 Twitter, [Privacy Policy](#).

2386 Google, Privacy Policy, [Key Terms](#).

- Facebook - 'Cookies enable Facebook to offer the Facebook Products to you and to understand the information we receive about you, including information about your use of other websites and apps, whether or not you are registered or logged in.'²³⁸⁷
- Twitter - 'When your browser or device allows it, we use both session cookies and persistent cookies to better understand how you interact with our services, to monitor aggregate usage patterns, and to personalize and otherwise operate our services such as by providing account security, personalizing the content we show you including ads, and remembering your language preferences.'²³⁸⁸

Broad or unclear discretion regarding use, combination and sharing of user data

As stated above, the policies of the digital platforms reviewed generally required users to allow a large amount of data to be collected. That is, the terms of use of the digital platforms' reviewed generally included broad discretions to collect, use, and disclose user data for targeted advertising purposes. Further, the policies reviewed did not generally inform users about the specific purposes for which each type of user data is collected.

Combining of data

- Google's privacy policy - 'We may combine the information we collect among our services and across your devices for the purposes described above'.²³⁸⁹
- Twitter - 'we may also associate your account with browsers or devices other than those you use to log into Twitter (or associate your logged-out device or browser with other browsers or devices)'.²³⁹⁰
- Facebook - 'We also process information about you across the Facebook Companies for these purposes, as permitted by applicable law and in accordance with their Terms and Policies.'²³⁹¹

Sharing with third parties for advertising purposes

The majority of policies reviewed included a broad discretion regarding sharing data with third parties, or using data from third parties, for the purposes of advertising. The review found that within these policies, the identity and types, of third parties with whom user data may be shared were often high-level or vague:

Company	Third parties who may receive user data	Third parties who may provide user data
Google	'our advertising partners' 'trusted businesses or persons'	'our advertising partners' 'trusted partners, including marketing partners ... and security partners' 'our partners'
Facebook	'partners' 'measurement partners' 'partners who use our analytics services' 'advertisers' 'partners offering goods and services in our Products' 'vendors and service providers' 'research partners and academics'	'partners' 'select group of third-party data providers' 'third-party partners' 'website owners and publishers, app developers, business partners (including advertisers)'
Twitter	'advertisers' 'partners'	'ad partners and affiliates' 'partners (including ad partners), or our corporate affiliates' third parties who are not our ad partners', 'partners who help us evaluate the safety and quality of content on our platform'

²³⁸⁷ Facebook, [Cookies Policy](#).

²³⁸⁸ Twitter, [Privacy Policy](#).

²³⁸⁹ A different webpage provides some additional information: 'Many websites and apps use Google services to improve their content and keep it free. When they integrate our services, these sites and apps share information with Google': Google, Policy, [How Google uses information from sites or apps that use our services](#).

²³⁹⁰ Twitter, [Privacy Policy](#).

²³⁹¹ Facebook, [Data Policy](#).

Company	Third parties who may receive user data	Third parties who may provide user data
Apple	'strategic partners that work with Apple to provide products and services, or that help Apple market to customers' 'our partners'	'other persons' 'datasets such as those that contain images, voices or other data that could be associated with an identifiable person'
Snapchat	'Snapchatters' 'third parties' 'business partners' 'the general public'	'third-party services'
WhatsApp	'third-party providers' 'Facebook family of companies'	'third-party providers' 'Facebook family of companies'

This lack of clarity means that users are not able to identify who they are agreeing to have their information shared with.

For instance, when agreeing to Twitter's terms of use, a user accepts that 'We may also disclose personal data about you to our corporate affiliates in order to help operate our services and our affiliate's services, including the delivery of ads'²³⁹² Similarly, Snapchat's terms of use requires a user to 'agree that we, Snap Inc., our affiliates, and our third-party partners may place advertising on the Services, including personalised advertising based upon the information you provide us or we collect or obtain about you'.²³⁹³

Targeted advertising purposes

The review found that some digital platforms may also describe the purpose of targeted advertising within a long list of other purposes beneficial to users, rather than stating it at the outset:

- Google's Privacy Policy states that it collects data from its users to: provide its services; maintain and improve its services; develop new services; *provide personalised services, including content and ads*; measure performance; communicate with users; and protect Google, its users, and the public.²³⁹⁴
- Facebook's Data Policy states that it collects user data to: 'provide, personalise and improve its products (*including to select and personalise ads, offers and other sponsored content*); provide measurement, analytics and other business services, promote safety; integrity and security; communicate with its users; and research and innovate for social good' (emphasis added).²³⁹⁵
- Twitter's Privacy Policy states 'we use both session cookies and persistent cookies to better understand how you interact with our services, to monitor aggregate usage patterns, and to personalize and otherwise operate our services such as by providing account security, *personalizing the content we show you including ads*, and remembering your language preferences' (emphasis added).²³⁹⁶

Take-it-or-leave-it terms and bundling consent

In addition to the inclusion of other documents and pages into terms and policies (discussed above as part of information asymmetry), all the terms and policies reviewed required a user to accept the terms of use and privacy policy on take-it-or-leave-it terms.

Some digital platforms' policies reviewed also bundled consents, including:

- Google's privacy policy states that it collects user information across its services and that 'We may combine the information we collect among our services and across your devices for the purposes described above'.²³⁹⁷ As stated above, Google's Privacy Policy is incorporated into the terms of use.

²³⁹² Twitter, [Terms of Service](#).

²³⁹³ Snap, [Terms of Service](#).

²³⁹⁴ Google, [Privacy Policy](#).

²³⁹⁵ Facebook, [Data Policy](#).

²³⁹⁶ Twitter, [Privacy Policy](#).

²³⁹⁷ Google, [Privacy Policy](#).

- WhatsApp's Privacy Policy (which users must agree to as part of its terms of use) states that WhatsApp collects information that it shares with Facebook.²³⁹⁸

Granting of licenses to user-uploaded content

All of the terms of use reviewed state that, as part of the agreement to use the service, a user grants a broad license to the digital platform to store, display, or otherwise use any content uploaded by the user.

Some platforms include a further agreement for the user to license their name and likeness for use in advertising:

- Facebook - 'you give us permission to use your name and profile picture and information about actions that you have taken on Facebook next to or in connection with ads, offers and other sponsored content that we display across our Products'²³⁹⁹
- Snapchat - 'when you appear in, create, upload, post or send Public Content, you also grant Snap Group Limited, Snap Inc. and our affiliates and business partners the unrestricted, worldwide right and licence to use your name, likeness, and voice'²⁴⁰⁰
- Google - 'we may display your Profile name, Profile photo, and actions you take on Google or on third-party applications connected to your Google Account (such as +1's, reviews you write and comments you post) in our Services, including displaying in ads and other commercial contexts'²⁴⁰¹.

Changes to terms and conditions and services.

The terms of use reviewed each contained a term that allowed digital platforms to changes to the terms of use without user's consent. Across all platforms reviewed, a user's continued use of the service following any change was taken as acceptance of the change.

The majority of the digital platforms' terms of use also include terms that allow the platform to unilaterally vary the services provided under the contract, including adding or removing functions or services:

- Google - 'Google may also stop providing Services to you, or add or create new limits to our Services at any time'²⁴⁰²
- Snapchat - '.we may add or remove features, products, or functionalities, and we may also suspend or stop the Services altogether. We may take any of these actions at any time, and when we do, we will try to notify you beforehand - but this won't always be possible.'²⁴⁰³

Transfer of user data

Each of the digital platforms reviewed, either within the privacy policy or terms of use, required users to grant the digital platform the right to transfer the user's data to a third party in the event of change to the digital platform's' existence, such as merger, acquisition or bankruptcy.

- Apple - 'in the event of a reorganization, merger, or sale we may transfer any and all personal information we collect to the relevant third party'²⁴⁰⁴
- Facebook - 'All of our rights and obligations under these Terms are freely assignable by us in connection with a merger, acquisition or sale of assets, or by operation of law or otherwise'²⁴⁰⁵
- Twitter - 'In thse event that we are involved in a bankruptcy, merger, acquisition, reorganization, or sale of assets, your personal data may be sold or transferred as part of that transaction. This Privacy Policy will apply to your personal data as transferred to the new entity'²⁴⁰⁶

2398 WhatsApp, [Privacy policy](#).

2399 Facebook, [Terms of Service](#).

2400 Snap Group, [Terms of Service](#).

2401 Google, [Terms of Service](#).

2402 Google, [Terms of Service](#).

2403 Snap Group, [Terms of Service](#).

2404 Apple, [Privacy Policy](#).

2405 Facebook, [Terms of Service](#).

2406 Twitter, [Privacy Policy](#).

- WhatsApp - 'All of our rights and obligations under our Privacy Policy are freely assignable by us to any of our affiliates, in connection with a merger, acquisition, restructuring, or sale of assets, or by operation of law or otherwise, and we may transfer your information to any of our affiliates, successor entities, or new owner'.

Google's privacy policy does not explicitly state that data would be transferred in such events, but implies that this is the case:

- 'If Google is involved in a merger, acquisition, or sale of assets, we'll continue to ensure the confidentiality of your personal information and give affected users notice before personal information is transferred or becomes subject to a different privacy policy'.²⁴⁰⁷

List of terms and policies reviewed

Digital Platform (version current as at 31 July 2018 except where otherwise indicated)	Link
Google	https://policies.google.com/terms
Facebook, Instagram, Messenger	https://www.facebook.com/legal/terms/update?ref=old_policy
WhatsApp	https://www.whatsapp.com/legal/#terms-of-service
Apple	https://www.apple.com/au/legal/internet-services/itunes/au/terms.html
Twitter	https://twitter.com/en/tos#update-intlTerms
Snapchat	https://www.snap.com/en-US/terms/#terms-row
Google	https://policies.google.com/privacy?hl=en&gl=AU
Chrome and Chrome OS	https://www.google.com/intl/en/chrome/privacy/
Google Play Books	https://play.google.com/books/intl/en/privacy.html
Google Payments	https://payments.google.com/payments/apis-secure/get_legal_document?ldo=0&ldt=privacynotice&ldl=en
Google Fiber	https://fiber.google.com/legal/privacy/
Google Project Fi	https://fi.google.com/about/tos/#project-fi-privacy-notice
G Suite for Education	https://gsuite.google.com/terms/education_privacy.html
YouTube Kids	https://kids.youtube.com/t/privacynotice
Google Accounts Managed with FamilyLink	https://families.google.com/familylink/privacy/child-policy/
Facebook, Instagram, Messenger	https://www.facebook.com/about/privacy/update?ref=old_policy
Facebook Cookies Policy	https://www.facebook.com/policies/cookies/
Instagram Cookies Policy	https://help.instagram.com/1896641480634370?ref=ig
WhatsApp	https://www.whatsapp.com/legal/
WhatsApp	https://www.whatsapp.com/legal?eea=1#privacy-policy
Apple	https://www.apple.com/au/legal/privacy/en-ww/
Twitter	https://twitter.com/en/privacy
Twitter (Previous version)	https://twitter.com/en/privacy/previous/version_13
Snapchat	https://www.snap.com/en-US/privacy/privacy-policy/

²⁴⁰⁷ Google, [Privacy Policy](#).



Appendix I: Overview of third party data sharing with app developers



Third party data-sharing occurs when user data is passed on from one entity to another. Further to the discussion in chapter 7 (section 3.3), this Appendix provides further discussion on the sharing of user data between digital platforms and app developers.

I.1 Overview

App developers collect user data from their apps for a range of different reasons including research and development, usage analysis, diagnostics and troubleshooting as well as in connection with their business models. App developers use a range of different business models to generate revenue, which impact the types of user data collected from their apps. These business models include:²⁴⁰⁸

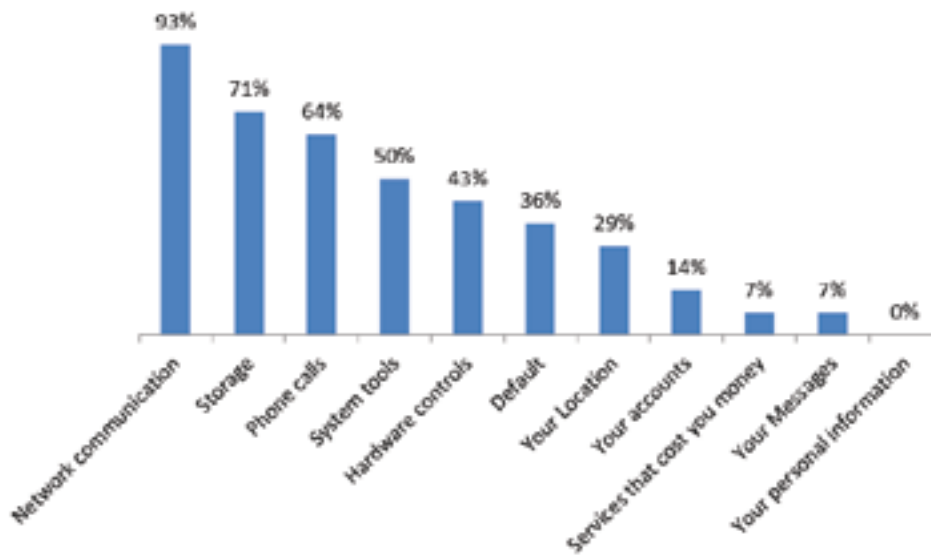
- **paid downloads:** charging a fee to users to download the app
- **freemium / free-to-premium:** provide users with a free version of the app with less functionality and charge users who choose to upgrade to a paid version of the app with more functionality (e.g. Dropbox)
- **in-app purchases:** charging users for in-app purchases (e.g. games, digital content)
- **in-app advertising:** charging advertisers to supply in-app advertisements to users
- **sale of data:** charge third parties for sale of user data collected via app use
- **promotion:** not charging anyone but using the app to promote other products and services (e.g. Nike, Comedy Central, restaurants, grocery stores).

Although these business models may overlap, apps that generate revenue by charging users are generally likely to have less incentive to collect user data than apps that generate revenue by supplying advertising or selling user data. This is supported by OECD research that *free* apps are generally more likely to request permissions to access user data in almost all categories examined (except phone calls). As illustrated in figures 1 and 2 below, zero per cent of top-rated paid Android apps requested a user's personal information, compared with 50 per cent of top-rated free Android apps; top-rated free apps were also more than twice as likely to request location information as top-rated paid Android apps – see figures 1 and 2 below regarding the number and types of permissions requested by top-rated paid and free apps on Android devices.²⁴⁰⁹

2408 OECD, The App Economy, 2012, page 22.

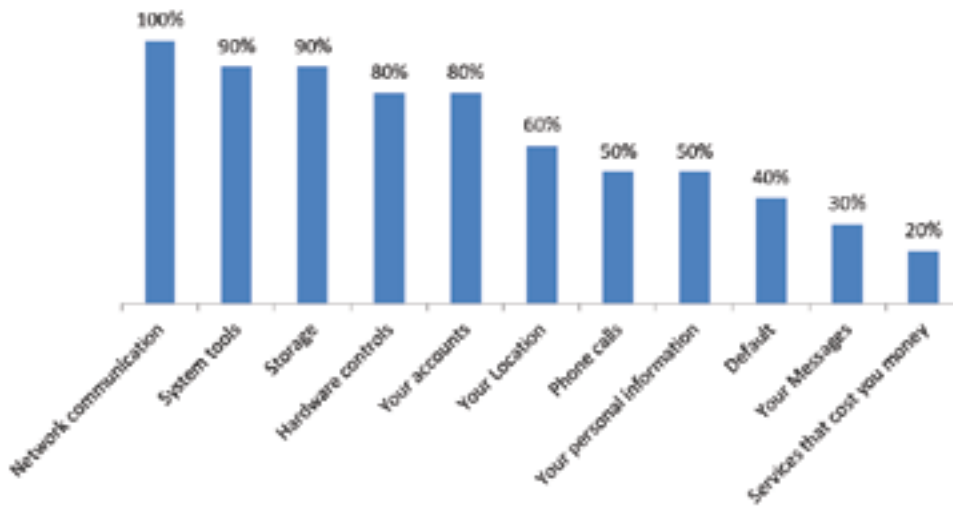
2409 OECD, The App Economy, 2012, page 40, Figures 24 and 25.

Figure 1: Number of permissions requested by Android's top-rated *paid* apps²⁴¹⁰



Source: OECD based on data from Play Market (September, 2012)

Figure 2: Number of permissions requested by Android's top-rated *free* apps²⁴¹¹



Source: OECD based on data from Android Market (September, 2012)

The collection of data via apps benefits both app developers and digital platforms, allowing them both to utilise the data collected.

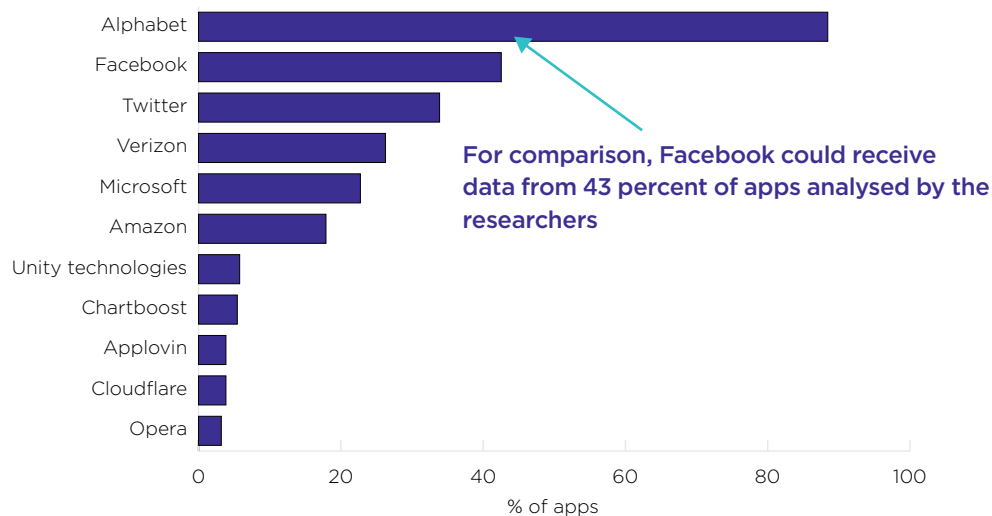
2410 OECD, The App Economy, 2012, page 40, Figure 24.

2411 OECD, The App Economy, 2012, page 40, Figure 25.

I.2 Sharing of user data from app developers to digital platforms

App developers can share the user data collected from their mobile apps with numerous third parties, including digital platforms. A number of reports and studies have shown that Google and Facebook have the ability to collect significant amounts of user data from third-party apps. For example, researchers from Oxford University examined 959 000 apps from the US and UK Google Play Stores and found that most of the apps reviewed contain third-party tracking.²⁴¹² In particular, the study found that 88 per cent of the apps were sending user data back to Google and between 19 and 43 per cent of the apps were sending user data to each of Amazon, Microsoft, Verizon, Twitter and Facebook (see figure 3 below).²⁴¹³

Figure 3: Third party data flows from mobile apps²⁴¹⁴



Source: Oxford University, *Third Party Tracking in the Mobile Ecosystem*, 2018 at p5.

Privacy International has specifically examined the transmission of data from third-party apps to Facebook. Its December 2018 report found that at least 61 per cent of apps tested automatically transferred data to Facebook the moment a consumer opens the app, regardless of whether the consumer has a Facebook account and whether they are logged-in to Facebook.²⁴¹⁵ In March 2019, Privacy International re-tested all of the apps and found that two-thirds have updated their apps so that they no longer contact Facebook when a consumer opens the app (including Spotify, Skyscanner and KAYAK).²⁴¹⁶ The remaining third of apps re-tested, however, still sent data to Facebook as soon as they are launched and many may collect sensitive information such as information regarding a user's religious beliefs.²⁴¹⁷ A similar study by MobilSicher examined several iOS versions of popular apps tested by Privacy International and found that many of these apps also share information with Facebook as soon as they are opened.²⁴¹⁸ These include apps which may transmit sensitive personal information about a

2412 Oxford University, [Third Party Tracking in the Mobile Ecosystem](#), 2018 p. 5

2413 Oxford University, [Third Party Tracking in the Mobile Ecosystem](#), 2018 p. 5

2414 Oxford University, [Third Party Tracking in the Mobile Ecosystem](#), 2018 p. 5

2415 Privacy International, [How Apps on Android Share Data with Facebook \(even if you don't have a Facebook account\)](#), 29 December 2018, accessed 17 April 2019.

2416 Privacy International, [Guess what? Facebook still tracks you on Android apps \(even if you don't have a Facebook account\)](#), 5 March 2019, accessed 17 April 2019.

2417 For example, the [King James Bible app](#), [Qibla Connect app](#), and [Muslim Pro app](#): see Privacy International, [Guess what? Facebook still tracks you on Android apps \(even if you don't have a Facebook account\)](#), 5 March 2019, accessed 17 April 2019.

2418 MobilSicher.de, [Auch iOS-Apps senden unbemerkt Daten an Facebook](#), 6 January 2019.

user's religious beliefs or affiliations, sexual orientation or practices, or health information such as Tinder, Grindr, OK Cupid, ForDiabetes, and Migraine Buddy.²⁴¹⁹

Facebook and Google's developer agreements contain provisions for the sharing of data which are binding on developers who wish to distribute apps via the Facebook platform or the Google Play Store. In particular, Clause 9 of the Google Play Developer Distribution Agreement states that:²⁴²⁰

Privacy and Information

- 9.1 Any data collected or used pursuant to this Agreement is in accordance with Google's *Privacy Policy*.
- 9.2 In order to continually innovate and improve Google Play, related products and services, and the user and Developer experience across Google products and services, *Google may collect certain usage statistics from Google Play and Devices including, but not limited to, information on how the Product, Google Play and Devices are being used.*
- 9.3 The data collected is used in the aggregate to improve Google Play, related products and services, and the user and Developer experience across Google products and services. Developers have access to certain data collected by Google via the Play Console.

Clause 8 of the Facebook Platform Policy imposes an additional obligation on the developers to 'obtain adequate consent' from consumers before the developer uses any Facebook technology that allows Facebook to collect and process data about them:²⁴²¹

Obtain adequate consent from people before using any Facebook technology that allows us to collect and process data about them, including for example, our SDKs and browser pixels. When you use such technology, provide an appropriate disclosure:

- a) That *third parties, including Facebook, may use cookies, web beacons, and other storage technologies to collect or receive information from your websites, apps and elsewhere on the internet and use that information to provide measurement services, target ads and as described in our Data Policy;* and
- b) How users can opt-out of the collection and use of information for ad targeting and where a user can access a mechanism for exercising such choice.

Both Google and Facebook incorporate their privacy and data policies in their developer agreements.²⁴²² Importantly, both of these policies allow Google and Facebook to combine user data across their services:

- **Facebook Data Policy:** 'we collect information from and about the computers, phones, connected TVs and other web-connected devices you use that integrate with our Products, and we combine this information across different devices that you use'.²⁴²³
- **Google Privacy Policy:** 'we may combine the information we collect among our services and across your devices for the purposes described above'.²⁴²⁴

This ability to combine information from different sources in relation to a single user is significant because apps can collect a range of identifiers from a user's device such as device serial numbers and unique advertising IDs. Some of these identifiers, such as the advertising IDs, are anonymous and may be collected and transmitted without notifying or seeking consent from the user, but these identifiers will cease to be anonymous as soon as it is associated with the personal information in a user account.²⁴²⁵

2419 MobilSicher.de, [Auch iOS-Apps senden unbemerkt Daten an Facebook](#), 6 January 2019.

2420 [Google Play Developer Distribution Agreement](#), effective as of 15 April 2019, accessed 17 April 2019 (emphasis added).

2421 See Facebook for developers, [Facebook Platform Policy](#), accessed 17 April 2019 (emphasis added).

2422 See clause 9.1 of the [Google Play Developer Distribution Agreement](#) effective as of 15 April 2019, accessed 17 April 2019 and clause 8.2 of the [Facebook Platform Policy](#).

2423 <https://www.facebook.com/policy.php>

2424 <https://policies.google.com/privacy?hl=en-US>

2425 See further discussion in AppCensus blog, [Ad IDs behaving badly](#), 14 February 2019; MobilSicher.de, [How Facebook knows which apps you use – and why this matters](#), 20 December 2018; and Tech Crunch, [Many popular iPhone apps secretly record your screen without asking](#), 7 February 2019.

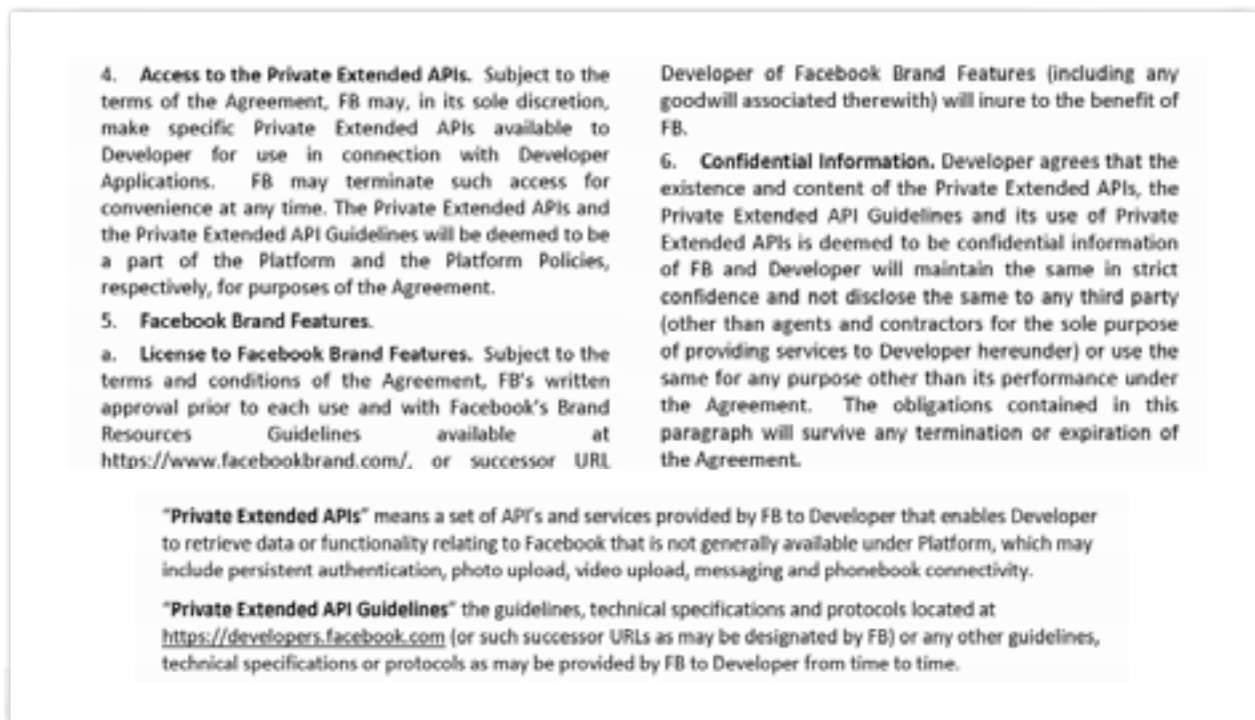
I.3 Sharing of user data from digital platforms to app developers

Digital platforms can also share user data from their users with third-party app developers. Facebook states that it has given third parties access to Facebook users' personal information for purposes like enabling Facebook integrations to be built on to other companies' devices or platforms and enabling users to have social experiences (like seeing recommendations from Facebook friends) on other apps and websites.²⁴²⁶

Information presented by the UK Department of Communications, Media and Sport Committee (DCMS) Committee in its inquiry on 'Disinformation and Fake News' (DCMS Final Report) suggests that Facebook may give app developers preferential access to information on its users in exchange for reciprocal access to the app developer's data or to attract more developers to build apps using the personal information of Facebook's users.²⁴²⁷ For instance, the DCMS Final Report found that the 'Reciprocity' agreements used by Facebook 'enabled Facebook to gain as much information as possible, by requiring apps that used data from Facebook to allow their users to share their data back to Facebook.'²⁴²⁸

The DCMS Committee also published selections of documents ordered from Six4Three, which included a 'Private Extended API Addendum' setting out clauses that give Facebook the 'sole discretion' of making available certain APIs to app developers that enables the developer 'to retrieve data or functionality relating to Facebook that is not generally available under the Platform'.²⁴²⁹ The relevant clauses 4 and 6 and the definition of 'Private Extended API' are extracted below in figure 4.

Figure 4 Relevant extracts from Facebook 'Private Extended API Addendum'²⁴³⁰



2426 Facebook Newsroom, [Let's Clear Up a Few Things About Facebook's Partners](#), 18 December 2018.

2427 DCMS, [Disinformation and 'fake news': Final Report](#), 14 February 2019, pp. 33-35.

2428 DCMS, [Disinformation and 'fake news': Final Report](#), 14 February 2019, pp. 35.

2429 DCMS, [Further selected documents ordered from Six4Three](#), 19 February 2019, pp. 15 and 16.

2430 DCMS, [Further selected documents ordered from Six4Three](#), 19 February 2019, pp. 15 and 16.

In December 2018, Facebook published a release in response to the release of these documents indicating that they omit important context, including:

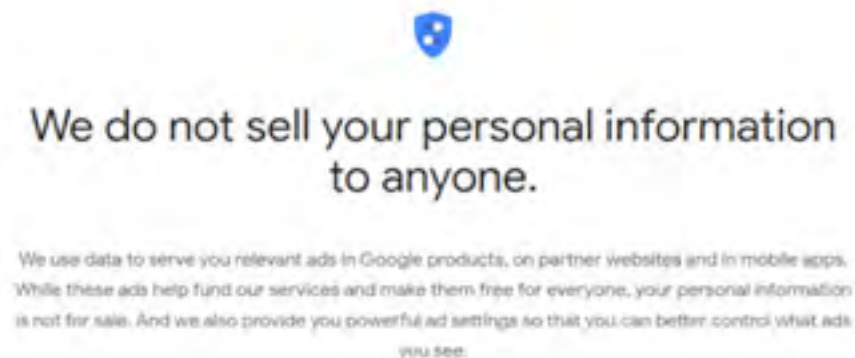
- that the documents subject to the release were ‘cherry picked’ by Six4Three in an attempt to force Facebook to share information on friends of the app’s users²⁴³¹
- though they had considered requiring developers to buy advertising, Facebook ultimately settled on a model that did not require this²⁴³²
- the ‘reciprocity’ provision (discussed above) was an optional feature for consumers that required developers to give people the option to share information back to Facebook through the developer’s app.²⁴³³

I.4 Do digital platforms ‘sell’ personal information to third parties?

Digital platforms often make statements that they do not sell user information, in particular ‘personal information’, to third parties. For example:

- A Facebook Help page states: ‘Does Facebook sell my information? No, we don’t sell any of your information to anyone and we never will. You have control over how your information is shared’²⁴³⁴
- Google’s mobile Ad Settings (where users can choose whether to turn off Ad Personalisation) contains the statement: ‘Google doesn’t sell your personal information to anyone’²⁴³⁵ and a Google ‘safety centre’ page on ads and data states: ‘We do not sell your personal information to anyone’ (see Figure 5).

Figure 5 Screenshot of Google web page on ‘How Ads Work’²⁴³⁶



The ACCC’s information-gathering in the Inquiry has not found any examples of digital platforms directly selling information to third parties. However, the Inquiry has found that:

- Some digital platforms and app developers share user data collected via APIs (as discussed above).
- Digital platforms collect user data, including personal information, from Australian consumers, such as gender, age and interests, in order to create detailed profiles of consumers to enable advertisers (using that platform) to target advertising to particular segments of the population. Generally, the more specific the segments are, the more the digital platform is able to charge for the advertising opportunity.

2431 Facebook, [Response to Six4Three Documents](#), 5 December 2018, accessed 25 April 2019.

2432 Facebook, [Response to Six4Three Documents](#), 5 December 2018, accessed 25 April 2019.

2433 Facebook, [Response to Six4Three Documents](#), 5 December 2018, accessed 25 April 2019.

2434 Facebook, Help Centre, [Does Facebook sell my information?](#), accessed 31 October 2018.

2435 Google, Ad Settings, accessed 21 November 2018.

2436 Google, Safety Centre, [Ads and data](#), accessed 21 November 2018.

- This creates an incentive to collect detailed user data, including personal information, from consumers, and digital platforms use a growing array of mechanisms to passively collect information from users (see chapter 7, section 4.4(b)). This includes data collected across multiple digital platforms, via different devices and browsers, and through products which some users may not know are used for this purpose,²⁴³⁷ which further increases their ability to create detailed profiles of consumers.
- Some digital platforms also collect information on consumers who are not registered as users of their services, such as through web tracking practices (see chapter 7, section 4.3(g) on '*Disclosures regarding online tracking of non-users*').
- Some digital platforms supplement their user data with data purchased from other data holders, such as data analytics firms,²⁴³⁸ to create more detailed profiles of Australian consumers.
- There is evidence that some third parties with which digital platforms have contracted, such as app developers or 'partners', have used information of users obtained through digital platforms to on sell for other commercial purposes.²⁴³⁹ See, for example, discussion of Cambridge Analytica in chapter 7, box 7.15 on '*Data-sharing with third-party app developers*'.

Findings from overseas investigations indicate that Facebook has considered selling app developers access to personal data. In particular, the DCMS found that Facebook linked data access for third-party app developers with spend on advertising.²⁴⁴⁰ That is, the DCMS found that Facebook pursued a strategy of requiring developers to spend substantial sums on Facebook 'as a condition of maintaining preferential access to personal data'.²⁴⁴¹ In support of this, the DCMS extracted an internal Facebook email that outlined 'the need for app developers to spend \$250,000 per year to maintain access to their current Facebook data'.²⁴⁴² However, the ACCC notes that Facebook's response to the DCMS report states that the emails considered by the DCMS did not tell the full story and that, although Facebook had considered requiring developers to buy advertising in exchange for access to personal data, Facebook ultimately settled on a model that did not require this.²⁴⁴³

The ACCC's findings are relevant when considering what a reasonable consumer may expect from the headline statements provided by digital platforms such as those extracted above.

- First, as noted in chapter 7, section 4.2(b), the ACCC's survey found that digital platform users may have a wide range of data they perceive to be personal information. This includes not just name, age and financial information but also browsing history, location and personal preferences. Such information is increasingly collected and used to create in-depth profiles of users by digital platforms.
- Second, the headline statements provided by digital platforms about the 'sale' of personal information may provide a false sense of certainty that information collected by digital platforms is not being monetised. This may therefore facilitate users not to take steps to protect or reduce the amount of information they would otherwise provide to platforms.
- Finally, the passive collection of information and the joining of third party data sets may not be reasonably expected by a consumer when they pass data on to one party. It is noted, however, that the inquiry has found that these data sharing practices are not limited to digital platforms.

2437 For example, until June 2017, Google indicated it used the content of Gmail to inform targeted advertising to users. D. Green, [As G Suite gains traction in the enterprise, G Suite's Gmail and consumer Gmail to more closely align](#), Google, 23 June 2017, accessed 31 October 2017.

2438 R Baker, '[Facebook makes data deal with Quantum, Acxiom and Experian to fuse offline and online data](#)', *Ad News*, 21 July 2015, accessed 31 October 2018; Quantum, [Quantum announces data partnership with Facebook](#), 23 July 2015, accessed via wayback machine (26 March 2016 snapshot). It was announced in 2018 that Facebook would seek to roll back these partnerships: Facebook, [Shutting Down Partner Categories](#), *Newsroom*, 28 March 2018, accessed 31 October 2018.

2439 D MacMillan '[Tech's 'Dirty Secret': The App Developers Sifting Through Your Gmail](#)', *The Wall Street Journal*, 2 July 2018, accessed 31 October 2018.

2440 DCMS, [Disinformation and 'fake news': Final Report](#), 14 February 2019, pp. 30-33.

2441 DCMS, [Disinformation and 'fake news': Final Report](#), 14 February 2019, p. 30.

2442 DCMS, [Disinformation and 'fake news': Final Report](#), 14 February 2019, p. 32.

2443 Facebook, [Response to Six4Three Documents](#), 5 December 2018, accessed 25 April 2019.



Glossary



Term	Description
AANA	Australian Association of National Advertisers
ABAC	Alcohol Beverages Advertising Code
ABC	Australian Broadcasting Corporation
ACCC	Australian Competition and Consumer Commission
ACCC consumer survey	Roy Morgan Research, 'Consumer Views and Behaviours on Digital Platforms' prepared for the ACCC, November 2018
ACCC news survey	Roy Morgan Research, 'Consumer Use of News' prepared for the ACCC, November 2018
ACCC questionnaire	An online consumer questionnaire conducted by the ACCC as part of this Inquiry in February to April 2018 to provide a streamlined process for individual consumers to make a submission
ACCC review of terms and policies	ACCC review of the privacy policies and terms of use for several large digital platforms
ACCC review of sign-up processes	ACCC's review of the sign-up processes of Google's Gmail, Facebook, Twitter and Apple's Apple ID
ACL	Australian Consumer Law
ACMA	Australian Communications and Media Authority
ADAA	Australian Digital Advertising Alliance
ADMA	Association for Data-driven Marketing and Advertising
Addressable television advertising	Targeted advertising that appears on smart televisions, via set-top boxes or on online television catch-up services
Ad inventory	Advertising space on a website or app that is made available for advertisers to purchase
Ad exchange	An advertising marketplace that connects and matches supply from websites and apps selling advertising inventory and demand from advertisers purchasing advertising inventory
Ad fraud	Fraudulently creating clicks, impressions and/or conversions in order to generate digital advertising revenue
Ad network	A network that purchases digital advertising inventory from different websites and, repackages and sells these opportunities to advertisers, directly or through Ad exchanges
Ad tech	Ad tech is a common abbreviation for 'advertising technology'. It refers to intermediary services involved in the automatic buying, selling and serving of some types of display advertisements
Ad tech stack	Ad tech stack is a common abbreviation for 'advertising technology stack'. It refers collectively to the combination of ad tech involved in the whole online advertising supply chain between advertisers and websites/apps. For example, this may include DSPs, SSPs, ad servers and ad exchanges
Ad verification	Services which verify whether advertisements appear on intended websites or apps and/or reach the targeted audience
Advertiser ad server	A server used by advertisers to manage and track all online advertising and campaign information in one location
AFCA	Australian Financial Complaints Authority
Aggregated data	Data created by aggregating the personal or non-personal data of multiple individuals
AHRC	Australian Human Rights Commission
AI	Artificial intelligence – the ability of computer software to perform tasks that are complex enough to simulate a level of capability or understanding usually associated with human intelligence
Algorithm	A sequence of instructions that performs a calculation or other problem-solving operation when applied to defined input data. In this report 'algorithm' generally refers to the algorithms used by major digital platforms to rank and display content on their services
ALRC	Australian Law Reform Commission
AMP	Accelerated Mobile Pages, an open-source publishing format for mobile devices that enables the near-instant loading of content

Term	Description
Android fork	An independently developed operating system that uses the Android operating system as its base, but is not certified by Google
APC	Australian Press Council
APIs	Application programming interfaces – tools for building software that interacts with other software, for example, how apps interact with operating systems
APP entities	Entities that are regulated under the Privacy Act and includes which include any private and public organisations with an annual turnover of more than \$3 million and all data companies
APPs	Australian Privacy Principles as set out in the <i>Privacy Act 1988</i> (Cth)
ASB	Advertising Standards Bureau
B&C Package	The Australian Government's 'Broadcast and Content Reform Package', which made changes to Australian media law in 2017
BSA	<i>Broadcasting Services Act 1992</i> (Cth)
CAANZ	Consumer Affairs Australia and New Zealand
CCA	<i>Competition and Consumer Act 2010</i> (Cth)
CDR	Consumer Data Right
CEASA	Commercial Economic Advisory Service of Australia
Chatbots	Machine learning algorithms that interact with humans by simulating conversations through natural language. They are commonly used in client and customer service, but also include conversational intermediaries with cloud services such as Apple's Siri, Microsoft's Cortana, Google Assistant and Amazon's Alexa
Clickwrap agreements	Online agreements that use digital prompts which request users to quickly provide their consent to online terms and policies without requiring them to fully engage with the terms and policies of use
CNIL	Commission nationale de l'informatique et des libertés, the French data protection authority
Coalition for Better Ads	The Coalition for Better Ads is a group of associations and companies involved in online media that aims to improve consumers' experience with online advertising
COMPPS	Coalition of Major Professional & Participation Sports
Content Code	Content Services Code 2008
Content creation	The creation of news and journalistic content based on research, investigation and analysis of current events by journalists, photographers and news agencies, plus a range of copy-editing, editing, rearranging and graphics work
COPPA	Children's Online Privacy Protection Act (US)
Copyright Act	<i>Copyright Act 1968</i> (Cth)
CPA	Cost-per-acquisition – the amount an advertiser pays when an online ad leads to a sale/conversion. This is also referred to as cost-per-conversion
CPC	Cost-per-click – the amount an advertiser pays every time an internet user clicks their online ad
CPM	Cost-per-mille – the amount an advertiser pays each time their online ad is displayed, with the amount measured per one thousand impressions
CPRC	Consumer Policy Research Centre
CPRC Survey	'Consumer data and the digital economy' survey, published 13 May 2018
Crawling	The process by which search engines systematically and continuously search the internet for new pages and add them to their index of known pages so they can be surfaced in search results
Cross-side network effects	Present when the number of users in one type of user group increases (or decreases) the value of the platform for users in another type of user group on the platform
Cross-subsidisation	In the context of multi-sided platforms, cross-subsidisation refers to the practice of setting a relatively low price for a product or service supplied on one side of the platform, in order to increase the revenue earned from a product or service supplied on another side of the platform

Term	Description
DAB	Digital audio broadcasting
Data analytics	Tools used by websites and advertisers to measure and track the performance of advertising, as well as the behaviours of users online
Data practices	The collection, use and disclosure of user data
DBCDE	Department of Broadband, Communications and the Digital Economy. The DBCDE performed functions generally now undertaken by DOCA
DCCA	Danish Competition and Consumer Agency
De-identified data	Data collected from individuals that has been stripped of any personally-identifying information
Deloitte Privacy Index	Deloitte consumer survey titled 'Trust: Is there an app for that?: Deloitte Australian Privacy Index 2019', 14 May 2019
Digital content aggregation platforms	Online intermediaries that collect information from disparate sources and present them to consumers as a collated, curated product. Users may be able to customise or filter their aggregation, or to use a search function. Examples include Google News, Apple News, and Flipboard
Digital native	A news outlet that only publishes content online and not in print or via broadcast
DIGI	Digital Industry Group Inc.
Digital platforms	Digital search engines, social media platforms and other digital content aggregation platforms
DIIS	Department of Industry, Innovation and Science
Disinformation	False or inaccurate information that is deliberately created and spread to harm a person, social group, organisation or country
Distribution	The circulation of newspapers by wholesalers and retailers, with newspapers either being sold at individual sales points or via subscription
DMCA	<i>Digital Millennium Copyright Act 1998 (US)</i>
DMP	Data Management Platform – a platform used by websites and advertisers to store, manage and analyse data collected which can then be used in the selling and buying of advertising
DOCA	Department of Communications and Arts
DP Privacy Code	An enforceable code of practice to be developed by the OAIC in consultation with industry stakeholders to regulate digital platforms' data practices (see recommendation 18).
DPC Ireland	Data Protection Commission of Ireland
DSP	Demand Side Platform – a platform used by advertisers to optimise and automate the purchase of online advertising
Dynamic competition	Competition resulting from the potential for development of innovative products and services that allow a competitor to enter and/or expand in a market
EC	European Commission
Echo chamber	Repeated exposure to perspectives that affirm a person's own beliefs, either through algorithms or public discourse
EPC	European Publishers Council
EU	European Union
Facebook Ad Manager	Facebook's self-service interface to purchase ads that can be placed on Facebook, Instagram, Messenger and third party websites and applications that sell advertising inventory through Facebook Audience Network
Facebook Audience Network	A service where websites and applications make advertising inventory available via Facebook. Advertisers can purchase this ad inventory through Facebook Ad Manager
FCF	First Click Free – a policy Google discontinued in October 2017 which required news publishers to provide a certain number of subscription articles free of charge to consumers
Filter bubble	A situation where users of digital platforms are repeatedly exposed to the same perspectives, as a result of algorithms curating presenting content users might prefer to see
Finkelstein Review	'Report of the Independent Inquiry into Media and Media Regulation' conducted by the Honourable Ray Finkelstein QC, published 28 February 2012

Term	Description
Flexible Sampling	Google's policy that allows publishers to choose the number of free news articles provided to users of Google Search
Freemium	A model where both free and paid content is provided by a supplier. In the case of news publishers, news publishers provide a certain number of news articles for free before requiring consumers to pay for additional content beyond the provided number of news articles
FTC	Federal Trade Commission
FTC Act	Federal Trade Commission Act
GDPR	General Data Protection Regulation, established by the European Union
Google Ad Manager	The Google platform which houses a number (but not all) of the website-facing Google products used for the selling of advertising inventory via the ad tech supply chain, though each product can be used separately.
Google AdMob	Google's service offered to mobile application developers to help monetise their applications by allowing Google to sell advertising inventory on their applications on their behalf
Google Ads	Google's service offered to advertisers which allows them to create and purchase both search and display advertising. Advertisements can appear on Google owned and operated sites and third party websites that sell inventory through Google AdSense or AdMob
Google AdSense	Google's service offered to websites which involves websites supplying advertising inventory to the Google Display Network or Google Search Network. Google sells advertising inventory on those websites on their behalf and shares the revenue generated with the website
Google Marketing Platform	The Google platform which houses a number (but not all) of Google's advertiser-facing products used for the purchasing and measurement of advertising inventory via the ad tech supply chain, though each product can be used separately.
Hashing	A process in which identifying details of personal information are removed by assigning a unique identifier to an individual using a hashing encryption process
IAB	Interactive Advertising Bureau
ICCPR	International Covenant on Civil and Political Rights
ICN	International Competition Network
ICPEN	International Consumer Protection and Enforcement Network
Information disorder	The inability of consumers to rely on news and journalistic content as a result of disinformation, malinformation and misinformation
Instant Articles	A publishing format offered by Facebook that is designed to allow pages to load faster on the Facebook app. It is only accessible on mobile devices
Internet Code	Internet Industry Codes of Practice 2005
IoT	Internet of Things – the use of internet-connected technology in physical devices that have not traditionally featured such technology, such as cars, household appliances and speakers. This allows these devices to collect, share and make use of data
IP address	Internet Protocol address, a numeric address assigned to each device connected to a local network or the internet via the Internet Protocol
IPEC	UK Intellectual Property Enterprise Court
ISP	Internet Service Provider
ITAA	Internet of Things Alliance Australia
Machine learning	The ability of some computer software to autonomously improve knowledge and processes through the repetition of tasks, without the manual entry of new information or instructions
Malinformation	Accurate information inappropriately spread by bad-faith actors with the intent to cause harm, particularly to the operation of democratic processes.
Manufacturing	Refers broadly to the physical printing process
MEAA	Media, Entertainment and Arts Alliance
MRC	Media Rating Council
Misinformation	False or inaccurate information that is not created with the intention of causing harm.

Term	Description
Multi-sided platform	A platform which is characterised by the following pair of properties: <ul style="list-style-type: none"> ■ two or more distinct types of users or parties ('economic agents') interact on the platform, and ■ an increase in usage by one type of user or party increases the value of the platform to users or parties of another type.
National Defamation Law	The national uniform defamation legislation enacted by each of the States and Territories in 2005 to 2006, supplemented by the common law
Natural language processing/natural language generation	Technology that allows computer software to collect, analyse, interpret and produce 'natural' language in the form of text and speech ¹
NBN	National Broadband Network
NDB Scheme	Notifiable Data Breaches Scheme in Part IIIC of the <i>Privacy Act</i>
Network effects	The effect whereby the more users there are on a platform, the more valuable that platform tends to be for their users. Precise definitions are provided for the two types of network effects that are of concern for this report (cross-side network effects and same-side network effects)
OAIC	Office of the Australian Information Commissioner
OAIC survey	'Australian Community Attitudes to Privacy Survey 2017' conducted by the OAIC and published in May 2017
Online Infringement Bill	<i>Copyright Amendment (Online Infringement) Bill 2018</i> (Cth)
Paywall	A feature of a website where users must subscribe and/or pay to access content on the website
Personal information	Defined within the <i>Privacy Act</i> as <ul style="list-style-type: none"> ■ 'Information or an opinion about an identified individual, or an individual who is reasonably identifiable: ■ whether the information or opinion is true or not; and ■ whether the information or opinion is recorded in a material form or not.'
Preliminary Report	The Digital Platform Inquiry Preliminary Report dated December 2018
Price discrimination	Identical or very similar goods are priced differently based on the supplier's belief regarding a consumer's willingness to pay for the goods
Privacy Act	<i>Privacy Act 1988</i> (Cth)
Programmatic advertising	Automated buying, selling and serving of advertising, which occurs in real time and allows advertisers, websites and intermediaries to utilise various data sources for targeting users
Pseudonymous data	Data collected from individuals where the personally-identifying information has been replaced with artificial identifiers
Public broadcaster	A broadcaster which is established under federal legislation and receives the majority of its funding from public sources. In Australia and many other countries, public broadcasters are not state broadcasters and are independent of government
Publisher ad servers	A server used by websites to organise and manage advertising inventory on their website. It determines what advertisements will be shown, serves them, and collects information on their performance
PwC Report	A Price Waterhouse Coopers Report commissioned the by ACMA in 2014 on 'The cost of code interventions on commercial broadcasters'
RA	<i>Radiocommunications Act 1992</i> (Cth)
Referral	Where a user is directed from one website to another via a hyperlink
Rightsholder	A holder of copyright under copyright law
Same-side network effects	Present when the number of users in one type of user group increases (or decreases) the value of the platform for users in that same type of user group
SBS	Special Broadcasting Services Corporation
SCA	Southern Cross Austereo
SEO	Search Engine Optimisation

Term	Description
SMEs	Small and medium-sized enterprises
snippet	The small amount of text, an image, or a short video that is provided in addition to a hyperlink generated in response to a search query. The purpose of a snippet is to provide context to the hyperlink and an indication of the contents of the relevant website to the user
SSP	Supply side platform – a platform used by websites to optimise and automate the sale of online advertising inventory
Subscribe with Google	A service that allows users to buy subscriptions, using their Google account, on participating news websites. This allows users to ‘Sign in with Google’ to access the publisher’s products, with the payments processed through Google
TCP Code	Telecommunications Consumer Protections Code
Telecommunications Act	<i>Telecommunications Act 1997 (Cth)</i>
Third party data	Information from an entity that does not have a direct relationship with the person the data has been collected about. Common types of third party data that may be purchased by websites or advertisers include purchasing history, geographic data and sociodemographic data
TIO	Telecommunications Industry Ombudsman
Top Stories	A specialist search result offered by Google that displays sets of related results horizontally with images and includes articles, live blogs and videos on breaking news stories. Top Stories can contain news articles from different publishers, or from one news publisher
Trading desk	An entity that specialises in the purchasing of digital advertising. Trading desks are often in-house departments found in the major advertising agencies
TSC	Technical Steering Committee
UCTs	Unfair contract terms
UDHR	Universal Declaration of Human Rights
UN Special Rapporteur	UN Special Rapporteur for the Right to Privacy
Universal Search	A form of specialised search offered by Google that utilises a specialised content-specific algorithm, designed to provide relevant results for a particular content category, such as images, videos, maps and news. This algorithm considers two main criteria in displaying and ranking specialised search results – user intent and the quality and relevance of potential results
Vertical search	Search engines that specialise in different types of search. For example, Expedia provides vertical search services for travel
VLRC	Victorian Law Reform Commission
VPN	Virtual private network – services which create a virtual encrypted tunnel between users and a remote server operated by the VPN service