

Global Tech Platforms

Background

Platforms are the world's largest online businesses providing multiple services, often acting as social networks. Platforms are a new regulatory and technological phenomenon and as such they have received regulatory attention only in recent months. They are facing numerous challenges such as data processing and collecting transparency, abuse of dominant position, transparent search algorithms etc.

Platforms are currently regulated by the [eCommerce Directive](#) that removes almost all liability, for the content they are hosting, from intermediaries.

The European Commission has launched a public consultation on platforms in September 2015. Results were announced on 25 May 2016. The Commission recognised that the majority of businesses highlight a perceived unfair exploitation of a marked imbalance, by platforms, in bargaining power across the supply chain, and that online platforms effectively control access to important data bases. The unfair practices of platforms include: imposing unfair terms and conditions, unilaterally modifying market access conditions, lack of transparency on tariffs etc.

On 10 May 2017, the Commission released a [communication](#) where it announced that it plans to take action to address unfair contractual clauses and trading practices identified in relationships of online platforms and their suppliers. These actions will explore dispute resolution, fair practices criteria and transparency, and could lead to legislation being introduced in this area. EACA welcomes this development as a positive step towards more accountability of platforms, which may stir further industry reaction.

EACA position

Restrictions to data access

Media agencies are concerned about certain data practices of specific, major global tech platforms.

First and foremost, agencies believe that 3rd party audience and media verification is crucial. This is not currently allowed by all major platforms. Secondly, there are often discrepancies between audiences purchased (i.e. very targeted, niche, data driven) and the data on which reports are provided (i.e. broader and less specific). Certain platforms justify such data practices by hiding behind data protection regulations. As agencies are merely seeking anonymized and aggregated audience data, agencies do not believe this presents any data protection concerns.

Agencies also believe that such data practices are not in the best interests of advertisers or agencies. The data does exist, but the platforms are restricting access for reasons that are deemed, at best, unclear and, at worst, unfair and anti-competitive.

The overarching argument is that such data practices have the potential to significantly affect the

ability of advertisers and agencies to make the best marcoms investment recommendations and strategic decision-making. In turn, such practices have the potential to negatively affect business partnerships, whilst also hindering business development, innovation and the provision of effective services by agencies.

Terms and conditions

Ts&Cs of big tech platforms in the media industry are pre-formulated and non-negotiable. In addition, we highlight a variety of specific points, including:

1. **Payment terms:** External suppliers of platforms are typically required to settle their financial obligations within a 30 day period. This is often a major issue for many agencies as their clients often insist upon longer payment periods (e.g. 60-120 days). As a result, agencies are often forced into settling their debts with tech platforms in advance of being paid themselves.
2. **Data access:** Agencies are often restricted from accessing crucial reporting data and analytics. Or, in some cases, have to pay to gain access.
3. **Modification of T&Cs:** Often such T&Cs can be changed by the tech platforms at any time, leaving agencies with no choice but to accept. Due to the size and dominance of specific platforms (and their relative importance to the clients of agencies), agencies rarely have the option to refuse to use them – even for short periods of time.
4. **Exclusivity clauses**