NEWS MEDIA ALLIANCE

June 15, 2019

Comments of News Media Alliance
Before the U.S. Department of Justice
Regarding the Public Workshop on Competition in
Television and Digital Advertising

In response to the Department of Justice's ("DOJ") request for comments in connection with its Public Workshop on Competition in Television and Digital Advertising, the News Media Alliance (the "Alliance")[1] respectfully submits this comment. At the outset, the Alliance would like to express its appreciation to the Department for taking the initiative to explore these vitally important issues.

The Alliance and its members believe firmly that advertising of all sorts should benefit: (1) content creators, (2) advertisers, and (3) consumers. For creators, advertising provides an opportunity to monetize and fund content without having to charge customers directly. For advertisers, it provides an opportunity to reach potential customers and to educate them about advertisers' offerings. And for consumers, advertising provides an opportunity to access and consume content without having to spend any of their own money.

The interests of creators, advertisers, and consumers are well-aligned, and when evaluating the health of any advertising ecosystem—whether television, print, radio, or digital—the primary concern should be with how those interests are being served. Increasingly, however, the advertising ecosystem—and the digital advertising ecosystem in particular—is not serving the interests of those parties. Instead, it is serving the interests of a fourth party: the ad intermediaries. These intermediaries, which in the context of digital advertising include dominant tech platforms such as Google and Facebook, are growing enormously in terms of their market power, and they are eating a bigger and bigger share of the advertising pie. If this situation persists, the entire ecosystem could shut down.

---

[1] The Alliance is a nonprofit organization serving the U.S. newspaper industry. The Alliance works with its member publishers, as well as other partner organizations, to address the key challenges and opportunities of today's news environment: freedom of the press, public policy and legal matters, advertising growth, new revenue streams and audience development.

4401 N. Fairfax Drive ▪ Suite 300 ▪ Arlington, VA 22203 ▪ 571.366.1000 ▪ www.newsmediaalliance.org

Digital advertising should be a primary focus

Today, the Alliance's primary concerns deal with digital advertising, because it is now tan incredibly valuable form of advertising. Online ads offer effective targeting, are easy to measure and value, and ultimately offer return on investment ("ROI") to advertisers. It thus should not be surprising that digital ad spending is expected to surpass non-digital ad spending for the first time this year.[2]

While digital advertising continues its explosive growth, traditional forms of advertising, such as print advertising, are being both supplanted and transformed. As more and more advertising dollars go online, the tools that enable online advertising are being modified and repurposed to change the way that traditional ads are sold. For example, in the near future, more traditional forms of advertising will be bought and sold programmatically, using many of the same technologies that are currently used for online advertising.

In this environment, antitrust enforcers should understand that the old ways of evaluating competition and antitrust issues in traditional advertising markets no longer apply. They should also focus their investigatory resources on the digital advertising market, both because of its increasing relative importance and because anticompetitive problems in that market will soon seep into adjacent, more traditional advertising markets.

The main problem in digital advertising is that the intermediary ad tech layer is capturing a disproportionate share of the value

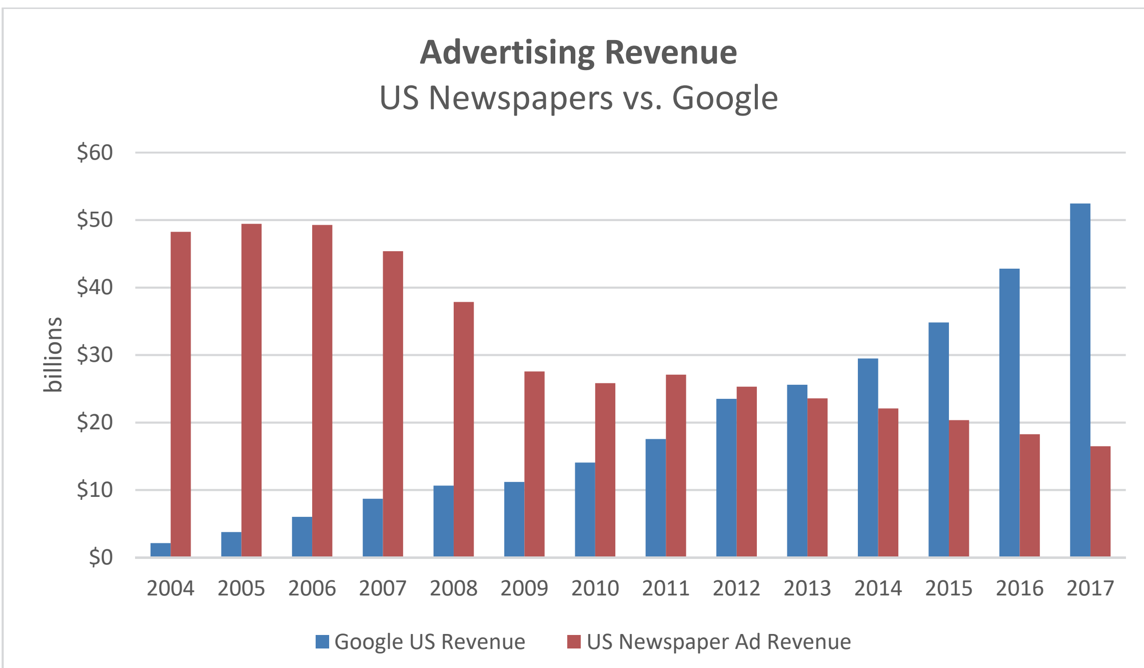
As mentioned above, the main problem in the digital advertising ecosystem is the emergence of dominant intermediaries that gobble up a growing share of the value created by the sale of digital ads. On the supply side, there has never been a greater amount of inventory available for sale, and there has never been a wider, more diverse group of companies trying to sell that inventory. On the demand side, advertisers from across the world compete to buy ad inventory. The bottleneck lies at the intermediary layer connecting the supply and the demand sides of the digital advertising market. This intermediary layer consists of "ad tech" companies—technology companies that supply the software and data that is required for online advertising to function.

Ad tech intermediaries perform an important function: connecting buyers to sellers and facilitating transactions between them. Indeed, modern digital advertising

[2] Toni Fitzgerald, *Major Milestone: Digital Ad Spending Will Pass Non-Digital This Year*, Forbes (Feb. 20, 2019), https://www.forbes.com/sites/tonifitzgerald/2019/02/20/major-milestone-digital-ad-spending-will-pass-non-digital-this-year/#607f1b0b6f6a.

would not be as efficient or as valuable without quality ad tech, and ad tech providers deserve to be compensated for their contributions. But today's ad tech giants now capture a portion of the value created by online advertising that is wildly out of proportion to the value they create. This leaves far less left over for digital publishers, who create ad inventory in the first place, and advertisers, who demand a reasonable ROI.

The fact that ad tech intermediaries are capturing an increasingly exorbitant share of digital advertising revenues is illustrated by the fact that in 2018 Google and Facebook (two of the largest ad tech intermediaries) captured a combined 60 percent of *all* U.S. digital advertising revenue.[3] Comparing Google's total US revenues (which is driven overwhelmingly by advertising) to US newspapers' advertising revenues paints an even starker picture. As the following graph shows, Google's US revenues have grown by more than 2,500 percent since 2008 to $52.4 billion in 2017, while US newspapers' advertising revenues have fallen 65 percent, from $48.2 billion to $16.5 billion.



Source: Google 10-K filings; NAA Estimates

---

[3] Megan Graham, *Digital ad revenue in the US surpassed $100 billion for the first time in 2018*, CNBC (May 7, 2019), https://www.cnbc.com/2019/05/07/digital-ad-revenue-in-the-us-topped-100-billion-for-the-first-time.html.

	Google US Revenue ($b)	US Newspaper Ad Revenue ($b)
2004	2.1	48.2
2005	3.8	49.4
2006	6.0	49.3
2007	8.7	45.4
2008	10.6	37.8
2009	11.2	27.6
2010	14.1	25.8
2011	17.6	27.1
2012	23.5	25.3
2013	25.6	23.6
2014	29.5	22.1
2015	34.8	20.4
2016	42.8	18.3
2017	52.4	16.5

The ad tech giants have been able to command a growing share of online advertising revenues because the intermediary layer is increasingly concentrated in the hands of a few dominant entities, and one entity in particular: Google.

The term "ad tech" does not refer to any one technology product, but rather it is a group of interconnected software technologies that perform different functions. But at each point in the "ad tech stack," Google controls the market-leading, if not dominant, product. As a result, almost every digital ad that is bought-and-sold through the ad tech layer goes through one of Google's ad tech software products at some point, and Google is able to demand a cut of the revenue involved.

The Department of Justice should scrutinize Google's conduct and acquisitions

Despite all of its talk about innovation, Google has not amassed its market power in the ad tech space through mere business acumen. Rather, that power is primarily the result of a series of strategic acquisitions, including the acquisitions of Applied Semantics (2003), Sprinks (2003), dMarc Broadcasting (2006), Adscape (2007), DoubleClick (2007), AdMob (2009), Teracent (2009), Invite Media (2010), Admeld (2011), mDialog (2014), spider.io (2014), and Adometry (2014).

The Department should re-examine each of these mergers individually to investigate whether they have substantially lessened competition. The Department should also investigate whether Google's acquisitions in the ad tech space, collectively, constitute an overarching attempt to monopolize the ad tech space.

The Department should also investigate whether protecting competition and consumers requires breaking up the tech monopolies to separate the platform side of their business from the ad tech side. While this may not create more competitors in the ad tech space, it could go a long way towards eliminating the conflicts of interest that incentivize companies like Google and Facebook to extract egregious monopoly rents as middlemen in the online advertising space.

Finally, whether in conjunction with one of the above recommended investigations or as a separate investigation, the Department should investigate specific acts of anticompetitive conduct, including: tying together different ad tech products, tying together first-party data collected by a platform with specific ad tech products, and using control over platforms (*e.g.*, Google search, Chrome) to promote certain ad tech products.

Once again, we would like to thank the Department for considering this comment as it explores industry dynamics in media advertising and the implications for antitrust enforcement and policy. The Alliance stands ready to assist the Department in whatever way we can.

Sincerely,

David Chavern
President and CEO
News Media Alliance