



Select Committee on Communications and Digital

Corrected oral evidence: The future of journalism

Wednesday 8 July 2020

4 pm

Members present: Lord Gilbert of Panteg (The Chair); Lord Allen of Kensington; Baroness Bull; Baroness Buscombe; Viscount Colville of Culross; Baroness Grender; Lord McInnes of Kilwinning; Baroness McIntosh of Hudnall; Baroness Meyer; Baroness Quin; Lord Storey.

Evidence Session No. 19

Virtual Proceeding

Questions 159 - 168

Witnesses

[I](#): Dr Liza Lovdahl Gormsen, Director of the Competition Law Forum & Senior Research Fellow in Competition Law, British Institute of International and Comparative Law; Professor Damien Geradin, Professor of Competition Law and Economics, Tilburg University.

USE OF THE TRANSCRIPT

This is a corrected transcript of evidence taken.

Examination of witnesses

Dr Liza Lovdahl Gormsen and Professor Damien Geradin.

Q159 **The Chair:** We have two new witnesses, who I think were listening in to at least part of that session. Dr Liza Lovdahl Gormsen and Professor Damien Geradin are academic experts in this area. Thank you both very much for joining us. You know the focus of our inquiry into the future of journalism, the impact of digital tech on the advertising market, the consequences of that economic shift on news media and a range of wider issues. It is very good of you to take the time to join the Committee and give us the benefit of your expert insight. Can I ask you to introduce yourselves, your backgrounds, your respective roles and, in so doing, give us your reaction to the CMA's final report, which we have been discussing?

Dr Liza Lovdahl Gormsen: It is an absolute pleasure to be here today. I am here in my capacity as a senior research fellow from the British Institute of International and Comparative Law, but I would like to disclose that I am also a senior adviser at the Financial Conduct Authority.

I found the report useful. It provides very helpful statistics about Facebook and Google's dominance of the UK social media and search digital advertising markets. It goes into a lot of detailed analysis of the tech economic arguments, such as the impact of network effects and other aspects of competition. That is very detailed. The CMA rejects point by point Facebook and Google's best arguments against interoperability. The report gathers systematic evidence of specific bad behaviours.

That said, I am fairly disappointed that the CMA has decided not to conduct a market investigation, in particular because it has already done so much work. I would argue that the CMA has collected enough evidence to take enforcement against Facebook and Google, let alone a market investigation. At this point, the market is so distorted that Google and other platforms can extract money from all sides of the market, both advertising scams and those who are advertising against scams. Things are so absurd that the chairman of the FCA, Charles Randell, said in a speech on 16 June this year, "We need a framework to stop social media platforms and search engines from promoting unsuitable investments, including scams, to ordinary retail consumers. It is frankly absurd that the FCA is paying hundreds of thousands of pounds to Google to warn consumers against investment advertisements from which Google is already receiving millions in revenue". What is the competition authority's objective if not to take action against the biggest companies distorting the market?

The Chair: Thank you. That is very interesting and we will want to explore those issues further.

Professor Damien Geradin: Thank you for having me. I am delighted to be here. I am both an academic and a practitioner, with 25 years' experience in competition law, focusing on media and tech markets. In

the UK, I have affiliations with UCL, where I teach competition law, and the University of East Anglia, where I am a visiting professor. I have written extensively on digital markets and, in particular, on online advertising.

I was involved in the CMA market study. I met with the CMA and presented my papers on the subject. I spent about two years of my life trying to make sense of advertising markets and the various tools used by advertisers and publishers. My reaction to the CMA final report is extremely positive. It is a fantastic piece of work. I am delighted because it vindicates some of the concerns I have expressed in my papers and when I met with the CMA.

The presence of Google on all sides of the market is a source of major conflicts of interest. There is significant evidence of self-preferencing and other anti-competitive behaviour to the detriment of rivals and, in the end, advertisers and publishers. Clearly, this is not a well-functioning market. I should note that, in response to questions you have addressed to Google and Facebook, Google criticised some of my papers. They cite a study that they have funded by Mr Bitton and Mr Lewis. I have prepared a response, which I have published. It is a 100-page response, which dismisses every single one of their arguments. Of course, they do not mention this reply in their submission.

I was disappointed that the CMA did not recommend a market investigation. Seeing the amount of work they have done and the damning evidence they have collected, to me it was natural to carry on with a market investigation. It could have been done swiftly because of the tremendous work that had been done. Now, I understand the reasons and we can discuss them later.

Q160 Lord Allen of Kensington: Following on from your points at the end, why did they not do this? I am just worried: why did they not investigate it? Should they have investigated?

Professor Damien Geradin: I am not in the shoes of the CMA. I suppose they have their own reasons, but I am concerned about the time it will take to create the DMU, to adopt a code of conduct and then to adopt remedies. You can be certain that Google and Facebook, and the other platforms, will do nothing to help. Their strategy is one of obfuscation. I am very concerned about nothing happening for a certain period. My recommendation would be to take action on the basis of the evidence, in parallel with the work to put the DMU and the codes of conduct in place. There is a huge amount of evidence. They have a case on their plate, so why not proceed?

Dr Liza Lovdahl Gormsen: I fully agree with Damien's point that they already have the evidence. I was listening to your earlier session. They said it could take up to 18 months to do the market investigation and then an extension of six months. Surely it should not take 18 months with all the evidence they have already gathered; it should be much, much quicker. This could be done in parallel as the DMU is set up and legislation comes into place. On top of that, I understand that they say it

is not the most agile of things because this is an ongoing issue but, frankly, they could also take enforcement action. Literally nothing is being done at this time if they do not do this market investigation.

Lord Allen of Kensington: I completely agree.

Q161 **Baroness Buscombe:** Thank you both. It is very interesting so far. You have in part answered my question, which is whether you believe that the digital markets unit can be set up in a timely manner. You have already said there is a real issue here as to why we are having to wait for the market investigation. It could have been pursued in tandem or in parallel. If you were listening to the previous session, you will know that they touched on the setting up of the unit. Behind my question is the whole survival of journalism and that is the remit of our investigation. If you would both care to expand on this, it would be very helpful. Do you have any ideas about how they could be more efficient or fleet of foot in setting up this unit?

Dr Liza Lovdahl Gormsen: Before I address that specific question, I wonder whether the CMA would have done this market study in the first place had it not been for the Furman report and the Cairncross review, which were published in March 2019 and February 2019 respectively. Both of those excellent reports recommended that the CMA take action.

To your specific question about whether the digital markets unit can be set up in a timely manner, no. The timely manner would have been 2012, when most of the regulators around the world woke up. Having said that, if we are supposed to be positive here and looking ahead, the Government have some time to respond to the CMA's recommendations. The best-case scenario, with absolutely no bumps in the road, would be legislation at the beginning of 2022.

This means, if all goes well, the DMU would be established three years from now. In the meantime, the platforms will have a free pass. Publishers and content providers will suffer immensely. They will leave the market. We all know that they are up against Google and Facebook. They just do not have the granular data. I see a very bleak immediate future.

Professor Damien Geradin: I am very concerned about the future of journalism. I should disclose that I have advised a number of news publishers over the years. You have very serious issues on the table. It needs to be understood that news publishers are becoming increasingly popular. Their news content is read very widely and the UK is a world leader. Journals such as the *Guardian* are read all over the world. The *Daily Mail* is popular in the United States and Australia. The *Financial Times* is a journal of reference in the business world. The content has never been so popular and yet, in many instances, their revenues are dwindling.

Why is this the case? It is for two reasons, essentially. First, advertisers are spending more on the platforms. They are spending in so-called "walled gardens" such as Facebook, Instagram and YouTube, because the platforms can collect huge amounts of data, predict your intentions

and desires, and serve you with extremely targeted ads. Secondly, Google is basically the leading provider of intermediation services. This is a sector that it has almost monopolised and it takes a big chunk of the money. According to the CMA, it takes at least 30% on average. I think it takes more if you use a range of other services.

They are basically deprived of their revenues. I am concerned that there is not much time to waste. Covid-19 has brought more urgency to the process because of, once again, this curious phenomenon that their content is really sought after. People are going to the papers for accurate information about Covid-19 and other news, while their revenues have collapsed because advertisers have less money to spend.

I am very concerned that the industry is not in a position to wait for three years. I agree with Liza. Even if things go well, I see 2022 probably as the earliest time when the DMU could be operational. It will then take more time to do the codes of conduct and more time to adopt remedies.

Baroness Buscombe: That is very helpful.

The Chair: Dr Gormsen, this Committee called for the study in March 2018. We were ahead of Furman and Cairncross by about 12 months. You might want to add that to your timeline when you make this point in future.

Q162 **Baroness Quin:** Putting aside the frustrations with the slow timetable, assuming that the digital markets unit gets up and running, what form would you like it to take? The CMA was talking about the form it should take in a rather broad way. It might be a new organisation or build on existing organisations. It might cover several bodies. What should it ideally look like?

Dr Liza Lovdahl Gormsen: What the CMA is suggesting is very much what the Furman report was suggesting. The reason why I am referring to the Furman report as well as the CMA report is that they discussed the form. It seems to be suggested that the remit of the DMU is to use tools and have a framework to reduce barriers to entry and support greater competition and consumer choice in digital markets. That should be backed by new legislative powers. Is that not what the CMA is supposed to be doing? Is this not exactly the powers that the CMA has now? What exactly is different in the form that they are suggesting?

I understand that we do not have an enforceable code of conduct at the moment, which is one suggestion I wholeheartedly support. Upon asking Facebook whether it would sign up to a code of conduct, the answer was no. Therefore, it is clear that it has to be an enforceable code of conduct. We need data portability, so data can move swiftly across platforms. We need to have open standards and data openness while protecting privacy. These suggestions that have been put on the table are the right ones, for sure.

As for whether the DMU is going to sit under the CMA, the question is a matter of synergy effects and efficiencies. If they have similar powers, what will it add, except that they will be in charge of the code of conduct

and, as explained in the previous session, that takes quicker action than the pro-competitive initiatives that are on the table?

Professor Damien Geradin: First, I should clarify something. In the prior question I was asked whether the market study was conducted in a timely manner. The answer is yes. I am fully aware of the recommendations made by the House of Lords in 2018. They started this in 2019 and did a huge amount of work in a short time. The CMA should be really commended for what it has done.

When it comes to the DMU, I do not think a decision has been taken yet, but I believe it should be within the CMA. The CMA is a great organisation. It has all the knowledge, skills and resources. Instead of creating something new, such as a digital regulator, it would make more sense to have it within the CMA, especially considering it has already done a lot of work. This is probably where it should be.

As to the exact form, I do not know. It should be properly staffed. It should have the right set of powers because it will need powers in order to do things. I do not think the platforms will be particularly forthcoming or want to play ball. The Australian experience suggests that anything voluntary will not work, so things will have to be mandated if they are to take place.

As I told the CMA when we met, I believe that it should work with the Financial Conduct Authority. These markets are very close to financial markets. These ad slots, these inventories, are commodities. This is trading in commodities. Interestingly, and I wrote about this, the sort of things that Google is allowed to do would never be allowed in financial markets. The conflicts of interest with a company being involved on the buyer's side, on the seller's side and being the exchange in the middle would never be tolerated. The FCA, one of the leading financial conduct authorities in the world, is just next door. They should work with them. I understand they have to work with the ICO and others, but my go-to place would be the FCA.

Dr Liza Lovdahl Gormsen: Needless to say, I wholeheartedly support that. When you discussed the Digital Markets Taskforce, I was wondering why the FCA was not at the table and had not been invited. I am not here in my capacity as the FCA so I will stop there.

The Chair: It is very interesting. This Committee has repeatedly made the point that regulation in the digital age is not about just regulating the platforms. It is about the way the regulators come across to deal with these incredibly complex, very fast-moving organisations. Co-ordinated regulation goes beyond the tech regulators to ensuring the whole regulatory piece works in the digital environment. It is very interesting that you make that point.

Q163 **Baroness McIntosh of Hudnall:** To be clear, I was not able to be here for the session with the CMA. I do not have the benefit of knowing the answers they gave that are relevant to this session as well. The point about the connection to the FCA and the standards applied there, which are not applied to the way Google behaves in its own market, seems to

be extremely important. We raised it when Google came to see us recently. It would be fair to say, and I hope my colleagues agree, that we did not get a very satisfactory answer and I do not think we have had one yet.

However, I was going to ask you about this issue of the market investigation that did not happen. That is probably unnecessary because you have both made your views pretty clear about that. Arising from this issue about timing, which seems to be what prevented the market investigation happening, because it would take too long, I am very struck by your assessment of how long it would take to get legislation on the statute books and then set up the DMU. You both referred to a very bleak future as a consequence. What can be done now? What pressure can be applied by whom, to whom, to mitigate the bad effects that you see eventuating for newspapers and other media outlets, as a result of this delay in taking any action against the platforms?

Dr Liza Lovdahl Gormsen: They could start with the market investigation. I understand from content publisher newspapers that they would support that. That could be a very first step. Because the Government now have some time to look at the CMA's recommendations, the Government could help.

Baroness McIntosh of Hudnall: Sorry, could I interrupt you for a moment? As I understand it, the CMA has said in terms that it does not seek to instigate a market investigation. Am I right in thinking that one response the Government could have is to say, "We see you do not want to, but we want you to"? Is that what you are saying?

Dr Liza Lovdahl Gormsen: Yes. Surely the Government can look at the recommendation and simply say, "We disagree with that". That is one way. You remit that back to the CMA. Then they can consider whether they are going to go against the Government's recommendations. I know that might be cat and mouse, going back and forth like a tennis match, but one would hope that they can start right here, right now, because they have done tremendous work. As I said at the beginning, I am impressed with the great work they have already done, so it should not take too long a time to get going on this. The Government could help content providers and publishers right now by saying that they do not endorse that recommendation.

Professor Damien Geradin: I was disappointed that the CMA decided not to go for a market investigation, as I have expressed. I understand the reasons as well. It is not a mindless decision. Their reasoning is to say, "The market investigation is a one-off. These are structural problems so we need to build the tools to address them". I entirely agree. We need robust tools and institutions to address these problems. The vision of the CMA makes a lot of sense.

I am a little worried about what happens in the meantime. If the market investigation is not a good idea for various reasons, what should be done in the meantime is perhaps to proceed with an investigation. There is a lot of evidence. The report, with the annexes, is about 2,000 pages. The evidence is absolutely damning with respect to Google. The philosophy of

these firms is to move fast and break things, but the philosophy of regulators is very often to be extremely cautious. There is an asymmetry between what these platforms do and the response they get. Very often the response is not even effective. I have been involved in the Google cases run by the European Commission, which have made a lot of noise, but the outcome is very disappointing. The remedies are weak; nothing has changed.

In this case, there is scope for an investigation, because otherwise Google will get away with the anti-competitive behaviour it has pursued for a long time. You are talking about more than 10 years of anti-competitive behaviour. Their anti-competitive behaviour started with the Google-DoubleClick merger, in which both the European Commission and the FTC were essentially misled about their intentions. I do not see why they should get away with this now that the evidence is on the table.

Of course, there will be codes of conduct, but an infringement action with a fine and possible remedies is still desirable. That will also generate additional evidence. So much for the market investigation. If it does not happen, it does not; that is fine. In the end, creating and setting up the tools is definitely the right thing to do. I agree with this 100%, but, in the meantime, I would not stay put.

I would also consider action forcing the platforms to pay for their use of news. I slightly disagree with what has been said: it is not a matter of snippets. Let us face it: Facebook would be an empty shell without news content. This is the way people start conversations. You would not believe the number of news products Google offers. It is not only Google News; I can cite these products. It is hugely important for them. They denied that and they produced controversial studies, but I really believe that news is fundamental. People go to search for news so, if they could not respond to user queries for news, their platform would lose a lot of value.

Lord Allen of Kensington: Chair, probably the most important thing that we could do in this report is to say they have to pay for news. If that was the headline, it would be a good way to take things forward. That could be the headline. It is just a headline, but it could be really important. In trying to support journalism, getting these people who have 90% of the advertising market online paying for their content could be a really positive but evocative point. I do not know if my colleagues on the Committee agree with me.

The Chair: We have questions to come on to in that area. It is clearly important. Professor, very briefly, you talked about the importance of advertising to Facebook and Google. You have highlighted the work you have done on that. If you have any specific work that you could point us at, maybe you could send that to us afterwards.

Professor Damien Geradin: I will follow up in writing if that is okay.

The Chair: It would be useful. We have been examining that.

Dr Liza Lovdahl Gormsen: Damien has done a lot on the Google side and I have done a lot of research on Facebook, the business model, the

payment system and all that. I might also be able to point you to things on the Facebook side. We have talked a lot about Google, but do not forget that Facebook is equally part of this.

The Chair: We will take you both up on that kind offer.

Baroness McIntosh of Hudnall: We are hearing from you that time is of the essence in this issue, because of the speed with which the platforms work against the relative leisurely pace at which regulators habitually work. Your recommendation to us is that we recommend that something be done speedily. Is that correct?

Professor Damien Geradin: It is entirely correct. Just think about the online display advertising market. It is moving all the time. Every other year, Google is shifting gear and moving to a new strategy, with new products and new ways of doing things. I find it shocking that it can engage in anti-competitive behaviour and exclude rivals for more than a decade without any action being taken.

There are two sides to my argument. First, I would ask, "Why do you not investigate them now that you have collected all this evidence?" At the end of the day, the CMA has enforcement powers. I do not see why enforcing the law would be incompatible with building the tools of the future. The two can be done in parallel.

Secondly, there is some urgency with respect to newspapers. Many of them are in a very difficult position. By the way, some have disappeared, especially the regional and local press. It may be time to think about this. This is what the ACCC, which is also a competition authority, and the Autorité de la concurrence, which is the French competition authority, have done. This should be considered.

The Chair: Let us move on to that point. We are not the only jurisdiction dealing with these issues. Many other jurisdictions are tackling them in a variety of ways. Let us talk about the international element and what has happened overseas.

Q164 **Viscount Colville of Culross:** Professor Geradin, I was very interested in you talking about how we have to make sure the platforms pay for news. I was interested in appendix S of the CMA report, which said, "Remedies which seek to give publishers rights to compensation for use of their content by platforms make little difference or, worse, result in less traffic to publisher sites". However, we have seen the example of what the ACCC is doing in Australia, in setting the mandatory bargaining code between publishers and platforms to get negotiations going for copyright payment of news. Is the CMA right, in that it is very difficult to get content to be paid for by platforms? Is the ACCC's code the best way forward or are there other ways that we could get news to be paid for by platforms?

Professor Damien Geradin: It is a complicated issue. You have to look at it broadly. The traditional argument of the platforms has been to say, "Why do news publishers complain? At the end of the day, we send them a lot of traffic", which is true. Basically, if you go to Google Search and

you do a search, you will see links to news articles and, in some instances, you will click on them. Therefore, they receive traffic. Typically, their studies will say, "We are sending so many billions' worth of traffic to news publishers".

That may be true but, first, it is not always so easy for the news publishers to monetise the traffic, because a lot of the advertising has gone to the platforms. They have more data; they are less scrupulous about content; they are very addictive; they try to push people to stay on the platform. It is for all these reasons. Even if they send traffic, it does not mean it can be so easily monetised.

Secondly, it is not only about traffic or about snippets. You have to look at it more broadly. News is a very attractive input, certainly for Facebook, because a lot of discussions on Facebook are linked to news. When they say, "We do not need news", they mean that they do not need to place news content into the user's feed, but it is not the same as a system whereby the users could no longer put news in their posts. If Facebook was taken at its word and could not use any news content whatsoever, some of the value of the platform would vanish. It is important to make distinctions. I can follow up in writing on this point.

It is the same for Google. Google loves news because it draws attention and draws people to the platform. They want people to be on the platform. You might start with what is happening at Manchester United: will they sign new players? Then you may then have links to the *Guardian*, the *Sun* or whatever else, but you will stay on the platform. You will then look for a product and be served with search ads. You will go to YouTube and see ads that are fully monetised by Google.

They also use news content to train their algorithm. This is much broader than snippets. This is the fundamental misunderstanding. You cannot ignore the value of news content for Google and Facebook. They are trying to turn this around: "We send them traffic". Of course you send them traffic, but the value is also elsewhere.

Viscount Colville of Culross: Is the ACCC example of setting up a mandatory code for negotiations over copyright a way forward?

Professor Damien Geradin: Yes, I believe so. One reason why news publishers are unable to get value for their content is a lack of bargaining power. Let me give you an example. Google can do without the *Guardian*, because there are still the *Times*, the *Financial Times*, the *Daily Mail* and whatever, but the *Guardian* cannot do without Google. There is a collective action problem. If news publishers could get together and say, "Okay, you do not want to pay for content; you will not get our content", suddenly it would be much easier to monetise the content, but they could not do that for anti-trust reasons. A mandatory code of conduct or mandatory framework for negotiation gives more bargaining power to the news publishers, and that is why it is a good solution.

It will not create miracles because the amount of money that will be paid will be limited, by nature. That is why you need fundamental changes to

online advertising markets. That is the long-term solution but, in the meantime, it would definitely help to have some sort of framework for mandatory negotiation. It would provide relief and, at the end of the day, it would not be a gift. They are using the content.

Dr Liza Lovdahl Gormsen: We talk about news snippets. I also want to talk about investigatory journalism, because that is the most expensive form of journalism and costs a lot of money. News publishers and content providers need money from advertising because, otherwise, they cannot carry out investigatory journalism any more. That would be the end of it. We will not see the *FT* revealing the Wirecard scandal. We will not see the *Guardian* breaking the Cambridge Analytica scandal back in 2018. This is essential. It is essential that that money is going in that direction.

Professor Damien Geradin: I would like to explain why I think the CMA is right in saying, "We need codes of conduct and a holistic view of the situation". Everything is linked. One of the reasons why, for instance, it may be difficult to fund investigative journalism is that you may spend £500,000 on a story that you investigate for a year. Then it will be copied in the next 10 minutes by other news publishers and you will not get the exposure you deserve. It all depends on the way algorithms are trained. That is why you need to do something about this. Everything is interlinked. There is not one solution. A mandatory code of conduct or mandatory framework for negotiation gives short-term relief. That would still help a lot.

Q165 **Lord Storey:** I found this session very, very informative and useful. Taking the mantra of forcing them to pay for their news, surely you have to get countries to get together to make that happen, because they can pick off individual countries. The example we have been given is that, in Spain, Google closed its Google News service in response to legislation forcing it to pay publishers for news. How could we avoid that happening? How could UK regulators avoid such an outcome?

Professor Damien Geradin: We should not overdramatise the Spanish event. Let me tell you why. Google News does not matter that much for publishers. It is a source of traffic but not a very big one. Google can shut it down; it will not change the face of the earth. It is important to understand, as I mentioned, that Google has many products to serve news: AMP, Google Discover, the Google News app, organic search, the search carousel and so forth. This Google News threat is an empty one, in my view. Should they do it, publishers might lose a bit of traffic, but I do not think it would change much. I still believe that a mandatory framework for negotiation would be important. By the way, they could be told that they cannot do any of that while the negotiations take place. However, the Spanish did nothing about it.

It is basically an empty threat. They will keep using news. They will maintain all their other news products because it is very valuable to them. The traffic will continue to flow from search. On top of that, if they become really threatening, they can be told, "Look, do not do any of that while the negotiations take place".

Dr Liza Lovdahl Gormsen: I am very pleased that you brought the international element back to this discussion. I recall that the CMA in its interim report, in December 2019, said that one reason it came with the preliminary conclusion that it was not going to do anything here was that this was surely a global issue. What could the UK do? That also happened in 2011 when they did a market investigation reference into the global audit sector. They have clearly done it before. Despite it being a global issue, the CMA has done a market investigation reference in that sector. Just because it happens in certain countries, it therefore cannot happen here.

The UK could take a leading position on this but, right now, we are being overtaken right, left and centre by other countries around the globe, which are doing more than we are doing. Particularly in Europe, Germany and France are at the forefront of these things. Even the European Commission is. We cannot be deterred by the fact that this is a global issue.

Q166 **Baroness Meyer:** You have answered my question because I was going to ask about other countries and whether they deal with it better than we do in this country. For instance, you mentioned France and Germany, so could you expand on this? What do they do better? Damien said something that I thought was really interesting. I used to be in financial services and the FSA would never have allowed this type of behaviour. It is extraordinary.

Professor Damien Geradin: I am happy to elaborate a little on this. I follow the French competition authority and its work quite closely, being French-speaking. The CMA is a fantastic institution. It is doing excellent work. I know some of them are still listening and they should not take this wrongly. From my impression, it is a bit of a think tank, if you see what I mean. It is good at doing very polished reports and studies. The French and German competition authorities are not as sophisticated but they just go for it.

Look at the French competition authority. This year, it adopted a decision against Apple with a €1.1 billion fine. It adopted a decision against Google, fining it €150 million for what is called exploitative abuse, basically exploiting its users.

The difference between these authorities and the CMA is that they are just going for it. They enforce the law. I am not a British lawyer, but I understand from colleagues based in the UK that there is a great fear of having decisions struck down by the Competition Appeal Tribunal. A competition authority should not be fearful of losing in court. The only way to never lose in court is just to do no enforcement. If you do enforcement work, by definition you will lose in court, but this is the way law develops.

There should be more enforcement. It is nice to do reports and studies, but very often the end of a study suggests another study. Especially in a space such as this where there is a lot of evidence, it should trigger at least one enforcement action.

Dr Liza Lovdahl Gormsen: There is a balance to be struck between being detailed and turning every stone, which the CMA is very good at doing, and then taking decisions rapidly and quickly. The CMA has a system of priorities, so it prioritises the cases, whereas the French competition authorities do not. They issue a decision more quickly and they are not afraid of failing. The turnover of decisions from Europe is much, much bigger than the CMA.

I agree with Damien that they are afraid of being appealed, but sometimes you have to lose. The court is there to set the boundaries of the law. They need to be vigorous and detailed, but they also need to get on with it and take more decisions. We talked about enforcement action in this area. Even if they do not want to do a market investigation, they can still take enforcement action in this area. They have the evidence now in this report.

Q167 **The Chair:** I am paraphrasing, but you are clear that there is an imbalance of power between the platforms and the news media organisations. The CMA, though, concluded: "It is not clear from the evidence available to us at this time whether publishers do or do not receive adequate compensation for the use of their content through increased referral traffic". Is that a view that they should have come to?

Professor Damien Geradin: As I said, it is a complex matter. There are studies going in different directions. I find it striking that there is a greater consumption of news. UK newspapers are increasingly read, not only in the UK but abroad. You are talking about global titles. They increase investment. They increase output, and their compensation and level of revenue diminishes. There is definitely a compensation problem. It cannot be denied. Titles that have expanded investment, expanded output, become more popular and have more readers are barely making money. Some of them are losing money. This is not sustainable. Whether they receive adequate compensation through referral traffic, I do not know, but it does not seem so.

The Chair: Dr Gormsen, do you agree that the CMA should not have come to that conclusion?

Dr Liza Lovdahl Gormsen: I agree with what has just been said.

The Chair: Thank you. We are pretty much out of time. We talked a bit about what other jurisdictions are doing. Baroness Quin, do you want to come in here and probe a little bit on how we might not just learn from other jurisdictions but co-operate?

Q168 **Baroness Quin:** It is interesting that both of you have indicated that countries could go ahead unilaterally and not be daunted by the situation. Is there any kind of formal network or organisation at international level that could tackle some of these problems? Obviously, a certain amount can be done within the EU, which Britain is no longer part of. Do you see an international or European organisation that could be effective in this domain?

Dr Liza Lovdahl Gormsen: In 2016, the European Data Protection Supervisor proposed the creation of a digital clearing house. The point of the digital clearing house was to bring together agencies from around the world—primarily in Europe but everybody else was welcome—to share information and discuss how best to enforce their rules, within their remit, in digital markets. We have now left the EU, but I understand that we are still welcome to share our experiences in the digital clearing house. That is one way of going about doing this. There is the International Competition Network, but it does not have any powers. That is a place where you can discuss best practices. The digital clearing house is one way forward.

Professor Damien Geradin: There are definitely networks and I am certain that the CMA is very well connected to the other authorities. They are certainly talking to them, and exchanging notes and best practices. I am certain that there is co-operation.

In some cases, it might be optimistic to think that the UK could change certain behaviour, because it is only one country among many. Still, it is a big market. Some remedies could definitely be adopted. If your platform is under the joint pressure of the German competition authority, the French competition authority and the UK competition authority, you will have to change your practices. If we had a global regulator, that would be better, but it does not exist. Some form of unilateral action is sometimes necessary.

The Chair: Dr Gormsen and Professor Geradin, thank you both very much for very interesting evidence. Thank you for offering to submit us some additional written evidence, which you have referred to, by way of a reading list, reference to articles or something you produce for us. We appreciate that; it would be very welcome. Thank you very much indeed for taking time to be with us this afternoon.