



A new digital competition regime

The government is proposing a new digital competition regime for digital platforms to promote effective competition and unlock innovation, lower prices and better services for the benefit of Australian consumers and businesses.

Need for a new regime

Digital platforms have revolutionised the way Australians live, work, and connect. From instant communication with loved ones to the ability to shop, learn, and work remotely, these platforms have transformed our daily routines. Innovative uses of data and technology have led to advances in medicine, more personalised services, and a digital economy that contributes billions to our prosperity.

Competition harms

But with this innovation come new challenges. A small number of global tech giants dominate key services like search engines, app stores, and social media. Their control over these markets can harm competition, innovation, small businesses, and consumers.

- **Higher costs:** Limited competition means dominant platforms charge businesses steep fees, often passed on to consumers.
- **Lack of choice:** Platforms preference their own products and services above smaller competitors.
- **Unfair terms:** Small businesses face “take it or leave it” contracts that provide platforms with broad discretion to exercise their powers.
- **Barriers to switching:** Such as designing user interfaces and directing users to default products that make it hard for consumers to select an alternative or switch.

Current laws aren't fit for purpose

Australia's competition laws weren't designed for the fast-moving, complex digital economy. Investigations take years, remedies are often ineffective, and platforms can easily adapt their practices to maintain dominance. These slow and resource-intensive processes leave consumers and businesses vulnerable to harm. Australia's laws should apply regardless of whether products and services are delivered offline or online.

Countries around the world are implementing digital competition regimes to protect consumers and encourage innovation. The European Union, United Kingdom, Germany, Japan, South Korea, Brazil and India have introduced or proposed similar reforms to tackle the dominance of

major digital platforms. The European Commission and the UK Government estimates these laws will deliver EUR 13 billion (AUD 21.4 billion) and GBP 798 million (AUD 1.5 billion) in annual benefits for consumers respectively.

Our proposal for a new regime

The new digital competition regime introduces upfront rules for platforms with significant market power, ensuring fair competition and better outcomes for all Australians.

How it works

Platform designation

Large platforms that are of significance to Australian consumers and the economy, and that pose the greatest risk of competition harms, will be designated by the minister, based on an ACCC designation investigation. Once designated, a platform must comply with obligations for that service, including both broad obligations, and service-specific obligations.

Broad obligations

Contained in primary legislation, these obligations target anti-competitive behaviours common across services. Designated entities must comply with these rules for their designated services. Examples include:

- Restrictions on conduct that favours a platform's own products or services over those of a competitor (known as self-preferencing)
- Restrictions on a platform making the use of a product or service conditional on the use of another product or service (known as tying)
- Removing barriers to switching to a competitor.
- Ensuring fair treatment of business users.
- Requiring greater transparency about policies, processes or data for users and businesses.

Service specific obligations

The government proposes to prioritise app marketplaces and ad tech services for service-specific obligations – with the potential to expand to more services in the future. These tailored rules, set out in subordinate legislation, will provide detailed guidance for designated entities to meet their broad obligations.

Examples for app marketplaces that we may consider include:

- Prohibiting platforms from prioritising their own apps in search results, even when competitors offer higher-rated or more relevant options.
- Removing restrictions that force developers or businesses to use the platform's own payment systems.
- Mandating clear and timely communication of app review and approval criteria, including explanations for rejections or delays.
- Preventing platforms from using data obtained from competing developers (such as app performance or user metrics) to inform the development or marketing of their own apps.

Examples for ad tech services that we may consider include:

- Requiring platforms to provide transparent information about ad tech price, auction and ad performance, so businesses know where their money goes.
- Stopping platforms from giving their own advertising services unfair advantages over competitors.
- Addressing conflicts of interest by requiring platforms to not use information about the operation of one ad tech product to benefit another of their ad tech products.

Enforcement by the ACCC

The Australian Competition and Consumer Commission (ACCC) will oversee compliance, investigate breaches, and impose penalties when necessary. Penalties are proposed to match the maximum financial penalties under the Competition and Consumer Act: \$50 million, three times the value of the benefit obtained, or 30 per cent of adjusted turnover during the breach period.

What the regime will deliver

A new competition regime will deliver better competition, lower prices and greater choice.

For consumers:

- **More choice:** Consumers will have access to a wider range of products and services, as smaller businesses are given a fair go to compete.
- **Lower prices:** Increased competition will reduce platform fees, with cost savings that can be passed on to consumers.
- **Fairer platforms:** Consumers will benefit from easier ways to switch services, access alternatives, and control how their data is used.

For businesses

- **Fair competition:** Small businesses will no longer be sidelined by platform dominance, ensuring a level playing field.
- **Transparency:** Clearer insights into ad costs, performance, and platform practices will empower businesses to make informed decisions.
- **Opportunities to innovate:** Businesses will have greater freedom to develop new ideas, compete effectively, and reach broader markets.

Next steps

Consultation closes on 14 February 2025.

Further consultation will be undertaken on exposure draft legislation to inform final laws.