



Chairperson of the Media and Digital Platforms Market Inquiry

The Competition Commission of South Africa
DTI Campus, Mulayo (Block C)
77 Meintjies Street, Sunnyside
Pretoria

Attention: Mr James Hodge

By email: JamesH@compcom.co.za

Dear Mr. Hodge

**MEDIA AND DIGITAL PLATFORMS MARKET INQUIRY: RESPONSE TO THE
MDPMI'S FURTHER STATEMENT OF ISSUES BY CAXTON AND CTP
PUBLISHERS AND PRINTERS LIMITED**

1. Caxton and CTP Publishers and Printers Limited (“**Caxton**”) provides this submission in response to the Media and Digital Platforms Market Inquiry’s (“**MDPMI**” or “**Inquiry**”) Further Statement of Issues (“**FSOI**”) dated December 19, 2023.
2. This document follows Caxton’s MDPMI submission dated December 5, 2023, as well as Caxton’s confidential MDPMI Request for Information Response and Supplementary Submission dated December 15, 2023.
3. In its FSOI, the Inquiry requested preliminary insights and observations from stakeholders, which Caxton provides below.

4. In its FSOI, the Inquiry listed six additional topics it wishes to explore.¹ Before this response answers the questions posed in relation to these topics, it provides an introduction to the unsustainable status quo.
5. As this response illustrates below, digital platforms have substantial control over access to, and gain economic benefit from, the news content produced by news publishers. These platforms have become the gatekeepers of digital consumers, and control how advertising space related to publisher content is monetised. Digital platforms are not transparent about how this works.
6. The influence of the status quo on the Constitutional rights of South African publishers are detailed below, as is Caxton's position on the non-transparency of digital platforms and revenue sharing determinations.
7. Digital Platforms have been exploiting the content produced by news publishers and do not provide details enabling publishers to calculate and demand remuneration due to them.
8. Where information is withheld that a party needs in order to give effect to their rights, Section 32 of the Constitution and the Promotion of Access to Information Act² entrenches the prejudiced party's right of access to that information.
9. Caxton is in the process of making an application in terms of the Promotion of Access to Information Act³ whereby it seeks to obtain the information which digital platforms refuse to provide or which is currently inaccessible. Caxton wishes to enforce its rights under copyright and its rights under the Competition Act as well as its constitutional rights which are being impeded by a lack of information. The rights which Caxton require to enforce or protect are not

¹ These further topics are (i) incorporating a constitutional interpretation to the Inquiry; (ii) Considering the impact of mis- and disinformation; (iii) increasing the emphasis on broadcast news media and SABC in particular; (iv) how to measure news and its benefits to search and social media platforms; (v) revenue share arrangements on certain digital platforms; and (vi) transparency and its role and importance in platform and AdTech markets.

² Act 2 of 2000.

³ *Idem*.

exhaustive. The MDPMI will no doubt request information, but it will be constrained in its ability to share that information, owing to confidentiality claims.

10. Meanwhile, Caxton places on record that the lack of transparency on the side of digital platforms makes it impossible to measure news and its benefit to search and social media platforms accurately. Without the ability to do so, fair revenue share arrangements cannot be agreed upon. The lack of access to platforms' revenue data, leaves news publishers in the vicarious position of attempting to negotiate revenue share agreements with no context as to the value they are creating for digital platforms. In this regard, Caxton submits that the Inquiry should conduct a thorough investigation into the revenue figures of digital platforms to better understand what could constitute a fair revenue arrangement.
11. Caxton understands that any revenue split arrangement is highly dependent on the revenue figures of a particular digital platform. It is therefore difficult for Caxton to state outright what arrangement is most appropriate, however, as detailed below, international research has pointed toward a 50-50 revenue split. Caxton notes that this ratio may be higher for certain publishers, particularly smaller ones. Further to this, Caxton submits that any revenue split arrangement should be calculated with reference to gross, and not net, revenue.
12. The FSOI's specific questions will be answered subsequent to the introductory remarks below.

A. INTRODUCTORY REMARKS

The digitisation of society and news consumption

13. Society has digitised, as has the publication and distribution of news content.⁴

While the main news delivery channels have transitioned from print and other traditional mediums to the World Wide Web, the global demand for news “is as robust as ever.”⁵ South Africans have increased access to news content, and search and social media platforms simplify and extend the distribution of news online.⁶

The media’s sustainability crisis

14. Despite the increased demand for news and the ability to distribute it widely via the World Wide Web, the media faces a sustainability crisis. According to South African news publishers,⁷ platforms like Google and Facebook dominate the digital media landscape in a way that stunts not only the growth but the very survival of the South African media.⁸ Due to the anti-competitive behaviour of platforms, the media finds itself unable to monetise content fully in digital spaces.⁹

In exercising its right to freedom of expression, the media contributes to the social and economic welfare of South Africans

15. Quality journalism costs money.¹⁰ It is widely acknowledged that the South African media is a vital element for the functioning of our democracy.¹¹ The

⁴ Eloff, H “South Africa’s Media Defamation Law in a Constitutional, Digital Age” page 27.

⁵ Schiffrin, A et al “Paying for news: What Google and Meta owe US Publishers” white paper published in November, 2023 and available [here](#). See page 9.

⁶ *Idem*.

⁷ Publishers Support Services “SA Publishers challenge Google and Meta at Competition Commission” February, 2022. Available [here](#).

⁸ Harber, A “How Google and Facebook are the biggest threat to South African News Media.” Published in November, 2017 by Financial Mail. Available [here](#).

⁹ Schiffrin, A “What Google and Meta owe publishers...and democracy.” Available [here](#).

¹⁰ Filloux, F and Gassée, J “The Real Cost of Genuine Journalism” June, 2009. Available [here](#).

¹¹ Murugesan, H “Media’s role in society” July 2023. Available [here](#).

same truth applies internationally.¹² In publishing and disseminating information in the public interest, media entities exercise their right to freedom of expression.¹³

16. In so doing, the media contributes to the dignity and autonomy of human beings by empowering them with the ability to make well-informed, responsible decisions and participate effectively in our democracy.¹⁴ It follows that the media's news reporting and distribution contributes substantially to the welfare of South Africans. It empowers them socially and when making economic and other decisions, which reconcile with the purposes of South Africa's Competition Act.¹⁵

Digital Platforms' lack of transparency and uncompetitive behaviour and its consequences cannot be reconciled with what the Competition Act stands for

17. Publisher submissions made to the Competition Commission indicate that digital media platforms control a large portion of the digital advertising market,¹⁶ and that they benefit substantially¹⁷ from news publisher content shared on their platforms without adequate remuneration. This benefit includes increased web

¹² Schiffrin, A "What Google and Meta owe publishers...and democracy." Available [here](#).

¹³ The right to freedom of expression is entrenched in Section 16 of the Constitution of South Africa, 1996.

¹⁴ *Khumalo v Holomisa* 2002 5 SA 401 (CC) at 416F.

¹⁵ Act 89 of 1998. In terms of Section 2(1) of the Act, its purpose is to promote and maintain competition in the Republic in order

- (a) to promote the efficiency, adaptability and development of the economy;
- (b) to provide consumers with competitive prices and product choices;
- (c) to promote employment and advance the social and economic welfare of South Africans; Competition Commission South Africa
- (d) to expand opportunities for South African participation in world markets and recognise the role of foreign competition in the Republic;
- (e) to ensure that small and medium-sized enterprises have an equitable opportunity to participate in the economy; and
- (f) to promote a greater spread of ownership, in particular to increase the ownership stakes of historically disadvantaged persons.

¹⁶ *Idem*.

¹⁷ See Adgate, B "Advertising in reliable news sources provides stronger brand effectiveness." Published on Forbes' website, Available [here](#). Also see Caxton's Response to the Competition Commission's Media and Digital Platforms Market Inquiry Statement Of Issues para 7.1-7.4. Available [here](#).

traffic creating valuable revenue-generating advertising space.¹⁸ It also allows digital platforms to collect data on users interacting with the publishers' content, from which data platforms gain more commercial insights to further boost their revenue.¹⁹

18. In their submissions, publishers also explained that digital media platforms control a substantial portion of online advertising and, specifically, the ad tech stack market (a complicated programmatic advertising market where advertisements and advertising space are linked up in a process including various steps and role-players).²⁰
19. Platforms like Google and Facebook know what is required for advertisements to perform optimally, but do not share this information. They have exclusive access to detailed user data according to which advertisements are targeted but do not share it.
20. As a result of this non-transparency, the news media does not have a clear indication of what is required for optimal advertising performance and revenue, nor does it have access to the user data that allows the successful targeting of an advertisement's intended audience.
21. The current reality is unsustainable and in direct contrast with the fair market envisioned in the Act - one where inclusive economic development and the social and economic welfare of South Africans is promoted;²¹ where South Africans enjoy more opportunities to participate in world markets and where small and medium-sized enterprises can participate equitably in the economy.

¹⁸ Schiffrin, A "What Google and Meta owe publishers...and democracy." Available [here](#).

¹⁹ Caxton's Response to the Competition Commission's Media and Digital Platforms Market Inquiry Statement of Issues (Sol) page 20. Available [here](#). Also see other stakeholder submissions in response to the Competition Commission's Inquiry are publicly available on its website. Available [here](#).

²⁰ For a clear and detailed explanation of the ad tech stack market, see Caxton's Response to the Competition Commission's Media and Digital Platforms Market Inquiry Statement of Issues para 12-17. Available [here](#).

²¹ *Idem*.

B. CAXTON'S ANSWERS TO THE FSOI'S QUESTIONS

2.1 Incorporating a constitutional interpretation to the Inquiry

22. According to FSOI, two key questions have arisen in assessing the adverse effects of digital platforms' uncompetitive behaviour:

- Should the adverse effect assessment be broadened to include Constitutional outcomes?
- Which Constitutional rights may be affected by this Inquiry, and how should provisions be interpreted to promote these rights?

23. To answer these questions, the Inquiry needs to delve into the impact that the uncompetitive behaviour of digital platforms has on the constitutional right of the media and South African society to determine whether a constitutional interpretation should be incorporated into the Inquiry.

24. Importantly, while Caxton understands the Inquiry's desire to delve into the constitutional effects felt by news publishers in the digital media space, it is important that the Inquiry not cast too wide a net so as to lead to potential challenges down the line. The main focus should be on freedom of the press and its importance to society and our democracy.

South Africa's Constitution in relation to the Market Inquiry at hand:

25. The Constitution is the prism through which all law must be viewed.²² It is in light of the Constitution that all other law must be considered.²³ The Inquiry acknowledges that Section 39²⁴ of the Constitution indicates how constitutional rights and legislation must be interpreted. In this response, Caxton stresses that the South African media and broader society hold the rights of access to information²⁵ and freedom of expression.²⁶

²² *Investigating Directorate: Serious Economic Offences and others v Hyundai Motors Distributors (Pty) Ltd & Others; in re Hyundai Motor Distributors (Pty) Ltd & Others v Smith NO & Others* 2000 2 SACR 349 (CC) at 360C.

²³ *Idem*.

²⁴ "Interpretation of Bill of Rights 39.

- (1) When interpreting the Bill of Rights, a court, tribunal or forum—
 - (a) must promote the values that underlie an open and democratic society based on human dignity, equality and freedom;
 - (b) must consider international law; and
 - (c) may consider foreign law.
- (2) When interpreting any legislation, and when developing the common law or customary law, every court, tribunal or forum must promote the spirit, purport and objects of the Bill of Rights.
- (3) The Bill of Rights does not deny the existence of any other rights or freedoms that are recognised or conferred by common law, customary law or legislation, to the extent that they are consistent with the Bill.:

²⁵ "Access to information 32.

- (1) Everyone has the right of access to—
 - (a) any information held by the state; and
 - (b) any information that is held by another person and that is required for the exercise or protection of any rights.
- (2) National legislation must be enacted to give effect to this right, and may provide for reasonable measures to alleviate the administrative and financial burden on the state."

²⁶ "Freedom of expression 16.

- (1) Everyone has the right to freedom of expression, which includes—
 - (a) freedom of the press and other media;
 - (b) freedom to receive or impart information or ideas;
 - (c) freedom of artistic creativity; and
 - (d) academic freedom and freedom of scientific research.
- (2) The right in subsection (1) does not extend to
 - (a) propaganda for war;
 - (b) incitement of imminent violence; or
 - (c) advocacy of hatred that is based on race, ethnicity, gender or religion, and that constitutes incitement to cause harm.

26. Whether the Inquiry's adverse effect assessment should be broadened to include constitutional outcomes, depends on whether any adverse effect interferes with the subject matter of any constitutional rights.²⁷
27. It is Caxton's submission that the adverse effects of digital platform behaviour do indeed interfere with its right to freedom of expression, which it needs to exercise freely to participate effectively in the markets under investigation. The lack of transparency from digital platforms prejudices Caxton's right of access to information it needs in order to give effect to its Section 16 right as well as its right to participate in the markets this Inquiry is investigating.
28. The conduct of digital platforms and its adverse effects do not resonate with the Competition Act's purpose, which includes the promotion and maintenance of competition in order to advance the social and economic welfare of South Africans.²⁸ Its purpose also extends to ensuring that small and medium-sized enterprises have an equitable opportunity to participate in the economy,²⁹ which they do not enjoy due to the uncompetitive behaviour and lack of transparency from digital platforms.
29. While this Inquiry is still at the stage of adverse effect assessment, it will therefore need to take action³⁰ in order "to remedy, mitigate or prevent the adverse effect on competition"³¹ recognising "the need to achieve as comprehensive a solution as is reasonable and practical."³²
30. When this stage of the Inquiry is reached, Sections 1(A)(2) and 1(A)(3) of the Competition Act will guide interpretations, and Section 39 of the Constitution will have to guide legal interpretation and development.

²⁷ *Eskom Holdings SOC Ltd v Vaal River Development Association (Pty) Ltd and Others* [(CCT 44/22) [2022] ZACC 44 para 113.

²⁸ Slump C, "When does the Constitutional Court have jurisdiction to hear competition law appeals?" published via derebus.org.za. Available [here](#).

²⁹ *Idem*.

³⁰ S43C(3)(a) of the Competition Act.

³¹ S43D(1).

³² S43C(4).

The media's rights to freedom of expression

31. In Caxton and other stakeholders' Sol response, the effects of digital platforms' uncompetitive behaviour on various human rights have been alluded to.³³ The right to freedom of expression is impacted in that digital platforms have become "the gatekeepers" of web traffic to publisher's websites³⁴ thereby influencing who sees online advertising and editorial content.
32. As illustrated in the Sol responses, publishers rely on their Constitutional right to freedom of expression to participate in the market.³⁵ However, the exercise of this right within the digital platforms market is curtailed through the uncompetitive conduct of digital platforms³⁶ in that they determine where and by whom commercial and editorial content ends up being seen using undisclosed methods.
33. As Sol responses have pointed out, this not only contributes to the media's sustainability crisis but impacts the South African media's opportunities to participate in markets and makes it easier for foreign competition to access the local market.³⁷ Their competition-distorting behaviour makes it more difficult for small and medium-sized enterprises to participate in the economy.³⁸
34. In addition to the media exercising its right to freedom of expression to publish, advertise and earn revenue, the media also fulfils a crucial role of informing South Africans of events in the public interest. In *Khumalo v Holomisa*, the court indicated that freedom of expression must be construed in the context of the

³³ Also see other stakeholder submissions in response to the Competition Commission's Inquiry, which are publicly available on its website. Available [here](#).

³⁴ See Caxton's Response to the Competition Commission's Media and Digital Platforms Market Inquiry Statement Of Issues para 12-17. Available [here](#). Also see Johann A, Drazilova M, Treweller S and Möhlen J, "The Value of Journalistic Content for the Google Search Engine in Switzerland," Fehr Advice & Partners AG, March 2023, pages 41 - 44. Available [here](#).

³⁵ See other stakeholder submissions in response to the Competition Commission's inquiry which are publicly available on its website. Available [here](#).

³⁶ *Idem*.

³⁷ *Idem*. Also see Caxton's Response to the Competition Commission's Media and Digital Platforms Market Inquiry Statement of Issues para 27. Available [here](#).

³⁸ See Caxton's Response to the Competition Commission's Media and Digital Platforms Market Inquiry Statement of Issues para 45-50. Available [here](#)

values enshrined in the Constitution, in particular human dignity, freedom and equality.³⁹

The right of access to information

35. In terms of Section 32 of the Constitution, publishers have the right to access any information held by digital platforms that is required for the exercise or protection of any rights, including its right to compete in the market. As this response explains above, the media needs to access its right to freedom of expression freely in order to compete, but digital platforms interfere with how and to whom news and traffic is distributed via their platforms. Through its lack of transparency on how value is created and revenue generated through its exploitation of publisher material, digital platforms further interfere with publishers' right to compete in the market under investigation.

36. While Caxton focused mainly on the effect the status quo has on the rights to freedom of expression and access to information, other stakeholders have indicated,⁴⁰ that the rights to information (Section 32), the right to language and cultural participation (Section 30), the right to equality (Section 9), the right to privacy (Section 14) and the rights of the child (Section 28) are also impacted.

37. While this is true, and while the media's sustainability crisis does complicate its execution of the duty to inform South Africans of information related to these rights, the media is not solely responsible for effecting the public's right to receive important information.

The public's right to freedom of expression

38. The media is one means by which South Africans enjoy the Constitutional rights of freedom of expression and access to information. Digital media platforms

³⁹ *Khumalo v Holomisa* 418 D-H

⁴⁰ See other stakeholder submissions in response to the Competition Commission's Inquiry which are publicly available on its website. Available [here](#).

constitute another means to this end. Even though both the media and digital platforms are means by which these rights may be secured, neither are solely obliged to give effect to the right; neither are “the subject matter of these rights”.⁴¹

39. While the effect of digital platform conduct on the public’s right to freely express themselves is not the focus of this study, some researchers have highlighted the stifling effect of digital platforms on their users’ right to freedom of expression.⁴²

The public’s welfare and basic human rights

40. Competition law has as a purpose the protection of consumer welfare⁴³ by means of ensuring the proper functioning of free, open and fair markets. Consumer welfare usually refers to the benefit consumers derive from being able to purchase a high volume of goods and services that are of a good quality, a wide variety, and at a competitive price - a benefit that competition protects and maximises.⁴⁴

41. The role that the media’s exercising of its right to freedom of expression plays in the welfare of South Africa’s democracy and its citizens was highlighted in

⁴¹ In adopting the reasoning of Unterhalter J’s minority judgment in *Eskom Holdings SOC Ltd v Vaal River Development Association (Pty) Ltd and Others*, the media or digital platforms would have been the subject matter of these rights if the rights to freedom of expression and access to information were held by South Africans and against the media or digital platforms. While sections 16 and 32 protect the rights to freedom of expression and access to information, and while these rights are exercised via the media and digital platforms, these stakeholders are not constitutionally obliged to provide the populace with these rights or to give effect thereto.

⁴² Article19.org “How can competition law help to secure freedom of expression on social media?” November 2018. Available [here](#).

⁴³ *Idem*.

⁴⁴ *Idem*.

several Sol responses,⁴⁵ as well as in the seminal case of *Khumalo v Holomisa*.⁴⁶

42. The court stated that exercising the right to freedom of expression contributes to the dignity and autonomy of human beings and that without it, citizens' ability to make responsible decisions and their ability to participate effectively in public life would be stifled.⁴⁷
43. Similarly, the ability of citizens to participate freely in the economy is curtailed when digital platforms limit the content they have access to within a market, thereby influencing their knowledge and, ultimately, ability to make decisions as citizens with the right of access to information.
44. Caxton therefore argues that the uncompetitive behaviour of digital platforms prejudices both the social and economic welfare of citizens.

Conclusion

45. The uncompetitive behaviour of digital platforms prejudices the media's right to freedom of expression on which it relies to generate revenue. It makes equal participation in the economy more difficult and prejudices large corporate media entities, SMEs and HDPs. It impacts the information received by South Africans according to which they make decisions both socially and economically.
46. The necessity to consider constitutional imperatives has been illustrated above, and Caxton submits that the adverse effect assessment should be broadened to include Constitutional outcomes with a focus on the right to freedom of expression and how it is exercised in the market.

⁴⁵ See, for example, pages 13-16 of the Joint submission by the South African national Editors' Forum, the Press Council of South Africa, the Association of Independent Publishers, Media Monitoring Africa, the Forum of Community Journalists, and SOS Support Public Broadcasting Coalition and the GIBS Media Leadership Think Tank on the Statement of Issues of the MDPMI dated 14 November 2023. Available [here](#).

⁴⁶ *Khumalo v Holomisa* 2002 5 SA 401 (CC) at 416F.

⁴⁷ *Khumalo v Holomisa* at 416 F.

In order to gain clarity on this topic, the Inquiry asks the following questions:

a.) How should the legislative provisions for a Market Inquiry be interpreted such as to promote Constitutional principles?

47. As explained above, the purposes of the Competition Act are undermined by the uncompetitive behaviour of digital platforms.

48. South African law should be interpreted in a way that aligns with Constitutional principles.⁴⁸ Constitutional principles are founded in and give expression to Constitutional values.⁴⁹ South Africa's Constitutional values include the values of human dignity, equality, and democracy.⁵⁰

49. The right to participate freely in the market without having its right to freedom of expression (through which news publishers generate revenue) stifled, is required for South African publishers to partake equally in the digital economy. The economic and social welfare of South Africans is prejudiced by the uncompetitive behaviour of these platforms, and these adverse effects require an interpretation that promotes Constitutional principles.

b.) Which Constitutional Rights are implicated in this Market Inquiry? Include a motivation.

50. The media's right to freedom of expression and its role in market participation has been highlighted. The effect of the media's right being stifled on its ability to compete in the market, and on the social and economic welfare of citizens, must be given due weight.

⁴⁸ Moosa, F “Understanding the “Spirit, Purport and Objects” of South Africa’s Bill of Rights” published via the University of Western Cape’s website. Available [here](#).

⁴⁹ *Idem*.

⁵⁰ S1 of the Constitution of the Republic of South Africa, 1996.

51. In the event that the Market Inquiry results in new law being developed, Sections 39 and 36 guide the development and limitation of Constitutional rights in the process.

c.) *Practically what does this imply for the work of the Inquiry, including the Inquiry process, evidence-gathering, findings and remedial actions? Provide detailed inputs.*

52. The MDPMI's Guidelines for Participation⁵¹ states that "the Inquiry must be conducted fairly and, as far as possible, openly in accordance with the Constitution and administrative law principles."

53. Caxton does not foresee the implications of the above influencing the Inquiry's methods⁵² set out in its Guidelines. It may, however, influence the Inquiry's timelines⁵³.

2.2 A consideration of the impact of mis- and disinformation

54. There are features of digital platforms such as ranking algorithms, paid results and the role of user preferences which affect competition amongst media organisations.

55. These features include, as the FSOI rightly indicates, the demotion of quality journalism in that alarmist and poor quality journalism is punted to the expense

⁵¹ The Inquiry's Guidelines for Participation are available [here](#), see para 7.

⁵² "10. For the purposes of the Inquiry, the methods that may be used for gathering information may include the following:

10.1 Receipt of Written Submissions on the issues identified in the Terms of Reference;
10.2 Targeted Information Requests to specific stakeholders;
10.3 Questionnaires and Surveys to identified stakeholders or the general public;
10.4 Research Studies including research papers, case law, case studies, and literature reviews drawn from a variety of domestic and comparative international sources;
10.5 Data Reviews examining data or information gathered during the Inquiry;
10.6 Direct Consultations including meetings, and in-depth interviews;
10.7 Public Consultations including workshops and seminars;
10.8 Focus Group Discussions with the relevant stakeholders;
10.9 Site Visits by arrangement with the relevant stakeholders; and
10.10 Formal Public Hearings taking into account written submissions by participants in order to provide information to the Commission on the issues to be addressed during the public hearings."

⁵³ Available [here](#).

of both credible media organisations and consumers. The ease of creation and distribution has indeed created a scope for mis- and disinformation. Media stakeholders have indeed argued that the rise of mis- and disinformation has challenged the ability of the news media to properly inform the public, as well as public trust. The growing mistrust negatively impacts the news media's ability to monetise content through viable business models.

56. Best practices to manage mis- and disinformation fall outside the scope of the Inquiry. That said, the market features of digital platforms affect public trust levels. This, in turn, has an impact on credible news media organisations and consumers, which should be considered by the Inquiry.

57. The Inquiry asks whether it has given due weight to the impact of mis- and disinformation on children in Scope Item 4-7. In this regard, Caxton believes that this has been sufficiently highlighted in SANEF's existing submissions.⁵⁴

d.) Has the business model of digital platforms played a role in exacerbating a growing mistrust by the public in the media?

58. Yes.

59. As SANEF had alluded to in its submission,⁵⁵ many digital platforms are funded primarily by advertising, which accounts for 80% of Google's revenue and 96% of Meta's revenue.⁵⁶ As the Inquiry indicated in its Statement of Issues ("Sol"), and as Caxton had indicated in its Initial Response⁵⁷ and Supplementary Submission,⁵⁸ engagement increases advertising revenue.

⁵⁴ See paragraphs 59-63 of the Joint submission by the South African national Editors' Forum, the Press Council of South Africa, the Association of Independent Publishers, Media Monitoring Africa, the Forum of Community Journalists, and SOS Support Public Broadcasting Coalition and the GIBS Media Leadership Think Tank on the Statement of Issues of the MDPMI dated 14 November 2023. Available [here](#).

⁵⁵ *Idem*. See para 31.

⁵⁶ See Meta and Google's revenue statistics [here](#) and [here](#).

⁵⁷ Caxton's Response to the Competition Commission's Media and Digital Platforms Market Inquiry Statement of Issues (Sol) para 7.4. Available [here](#). Also see Paying for News: What Google and Meta Owe US Publishers at page 13. Available [here](#).

⁵⁸ See Caxton's confidential MDPMI Supplementary Submission submitted on December 15, para A(4)(a).

60. Platforms are designed to drive engagement.⁵⁹ Researchers Ian Anderson, Gizem Ceylan and Wendy Wood elaborate:

“Maintaining high levels of user engagement is crucial for the financial model of social media platforms. Attention-getting content keeps users active on the platforms. This activity provides social media companies with valuable user data for their primary revenue source: targeted advertising.”⁶⁰

61. As the Inquiry’s Statement of Issues indicates,⁶¹ Digital platforms have incentives to display news that extend user engagement. Whereas traditional public interest journalism is regulated and bound to fact-checking and truth-telling, digital platforms designed for user engagement do not distinguish between what is true and untrue; between high and low-quality journalism. When attention-getting, controversial content is prioritised by design⁶² and at the cost of reliable, credible journalism, the result is the promotion of poor content, possibly with alarmist headlines.

62. Caxton’s confidential MDPMI Request for Information Response and Supplementary Submission on December 15, 2023.

63. As Caxton stressed in its supplementary submission, this has a direct and profound effect on the public’s ease of access to news as a public good.⁶³

⁵⁹ Ian Anderson, Gizem Ceylan, and Wendy Wood, “People share misinformation because of social media’s incentives — but those can be changed” (August 2023) Nieman Lab (accessible [here](#)). Also see Hutchenson, A “Internal Research from Facebook shows that re-shares can significantly amplify misinformation” (November 2021) published via socialmediatoday.com. (Available [here](#).)

⁶⁰ *Idem*.

⁶¹ Sol para 48.

⁶² Ian Anderson, Gizem Ceylan, and Wendy Wood, “People share misinformation because of social media’s incentives — but those can be changed” (August 2023) Nieman Lab (accessible [here](#)).

⁶³ See Caxton’s confidential MDPMI Supplementary Submission submitted on December 15, para 4 (xvi).

64. The role of technology platforms in enabling the creation and spread of misinformation is well documented, and research has found that misinformation is linked to a lower trust in mainstream media.⁶⁴

(d.) (a.) *If so, how does this differ across platform types? (e.g. search and social media)?*

65. The fact that news is published online, does not always mean that it is equally and easily accessible to all, as the case should be with news as a public good.⁶⁵

66. Google and Meta have respective holds on search-based advertising and social media advertising.⁶⁶

67. As Caxton's Initial Response explained,⁶⁷ search platforms respond to search engine queries by listing keyword-based results on a search engine results page ("SERP"). Content is filtered, bundled and ranked on SERPs according to digital platforms' algorithms that are not made public. Social media platforms also present users with content based on algorithms not known to the public. In doing so, digital platforms have become gatekeepers determining which content gets presented to which users.⁶⁸

68. Social media platforms, news aggregator apps and websites (including search engines) that curate news content from multiple sources can provide users with personalised news feeds based on their preferences.⁶⁹ As the Inquiry had indicated in its Sol, personalised newsfeeds create or entrench biases and

⁶⁴ Ognyanova et al, "Misinformation in action: Fake news exposure is linked to lower trust in media, higher trust in government when your side is in power," Misinformation Review (2020) (accessible [here](#)).

⁶⁵ See Caxton's confidential MDPMI Supplementary Submission submitted on December 15, para 4 (v).

⁶⁶ Schiffrin, A "What Google and Meta owe publishers...and democracy." Available [here](#).

⁶⁷ Caxton's Response to the Competition Commission's Media and Digital Platforms Market Inquiry Statement of Issues (Sol) para 12.2. Available [here](#).

⁶⁸ Caxton's Response to the Competition Commission's Media and Digital Platforms Market Inquiry Statement of Issues (Sol) para 26. Available [here](#).

⁶⁹ See Caxton's confidential MDPMI Supplementary Submission submitted on December 15, specifically answers to Scope Item 1 Questions on page 13.

shape users' online news engagement.⁷⁰ User experiences end up being defined by an online platform's curation, rank and display.⁷¹

69. Click-Through Rate (“CTR”) was illustrated in paras 30 and 31 of Caxton’s Response to the Inquiry’s Sol.

70. CTR plays a large role in determining public access to credible news content. While providing metadata and snippets push a content creator’s site further up the SERP, it reduces CTR.⁷²

71. SERP and CTR, therefore, affect the reach of news published as a public good. It causes the potential for “filter bubbles”⁷³ and “echo chambers.”⁷⁴ Filter bubbles and echo chambers create a situation where users of digital platforms are repeatedly exposed to the same perspectives or material that they might prefer. The Sol points out that filter bubbles and echo chambers lead to confirmation biases and siloed views, often reaffirmed by CTRs. This, it states, may result in distorted worldviews by the general populace, which in turn has broader implications for democracy.⁷⁵

72. In a social media context, the reality as it pertains to Facebook was simply illustrated by Elizabeth Dwoskin, Caitlin Dewey and Craig Timberg:

“When Facebook detects that more people than usual are clicking on any given story, the company’s software algorithms instantaneously spread and promote

⁷⁰ Sol para 49.

⁷¹ See Caxton’s confidential MDPMI Supplementary Submission submitted on December 15, specifically answers to Scope Item 4 paragraph iii.

⁷² Sam Underwood, “Organic CTR”, published on Advanced Web Ranking website. Available [here](#).

⁷³ The term “filter bubble” describes a scenario in which the choice of material displayed to a user is selected by algorithms according to the user’s previous behaviours, and this material is ‘devoid of attitude-challenging content’. See Bakshy, E, Messing, S and Adamic, L ‘Exposure to ideologically diverse news and opinion on Facebook’, Science, 2015, p. 1130 as referred to in ACCC (2019).

“Digital Platforms Inquiry – Final Report”. Page 346. Available [here](#).

⁷⁴ According to para 49 of the Sol, ‘echo chambers’ describes the repeated exposure to perspectives that affirm a person’s own beliefs, which may occur on social media platforms either as a result of curation by algorithms or sharing behaviour of other users populating a person’s newsfeed.

⁷⁵ Sol para 49.

that story to many other users in the network — enabling articles to “go viral” in a short period of time and making it harder to catch false news before it spreads widely.”

Again, the public’s online access to news as a public good is prejudiced.

(d.) (b.) Have efforts by platforms to root out mis- and disinformation been sufficient to address the problem?

73. No.⁷⁶

(e.) What has been the impact of growing public distrust on the business models of credible media organisations subject to self-regulatory bodies, and their ability to compete for attention both on online platforms and more broadly, if any?

74. Research indicates that exposure to fake news sources, albeit on platforms that are not credible news sites, is associated with lower trust in mass media.⁷⁷ The distrust is more apparent in times of crisis and uncertainty when readers are most in need of credible news sources.⁷⁸ A consequence of the public’s distrust of mainstream media is that consumers are left misinformed and more vulnerable.

75. Characteristics of “fake news stories” (or stories featuring mis- and disinformation) include cynical coverage and tabloid-style focus on scandal,⁷⁹ which erodes trust in news organisations.⁸⁰ The fact that online misinformation

⁷⁶ See the European Commission’s (an official European Union website) “A Europe that protects: EU Reports on progress in fighting disinformation ahead of European Council” published in June 2019. Available [here](#).

⁷⁷ Ognyanova et al, ‘Misinformation in action: Fake news exposure is linked to lower trust in media, higher trust in government when your side is in power,’ Misinformation Review (2020) (accessible [here](#)).

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ Hopmann, D. N., Shehata, A., & Stromback, J. (2015). Contagious Media Effects: How Media Use and Exposure to Game-Framed News Influence Media Trust. *Mass Communication and Society*, 18(6), pages 776–798; Ladd, J. M. (2012). *Why Americans Hate the Media and How It Matters*. Princeton, NJ: Princeton University Press.

often resembles journalistic product⁸¹ can diminish the credibility of legitimate news.⁸²

76. The vast majority of South Africa's credible media organisations subscribe to the Press Code and self-regulate according thereto. The Press Code sets minimum standards for ethical journalism that is credible and has been verified. Subscribers are required, therefore, to publish quality journalism. On digital platforms, user attention and engagement is the goal. Poor content that meets the requirements for ranking and optimal click-through wins the attention and engagement contest regardless of whether its content is accurate or not. Again, the public's access to news in the public good is what suffers.

(f.) What impact does this have on Constitutional Rights, including the Rights of the Child, and the role of the media in a democracy?

77. Exercising its right to freedom of expression, the media informs citizens on issues of the day, and makes that information available to the public who has the right to access it.⁸³ As has been indicated above, digital platforms have become the gatekeepers of information, thereby interfering with the making available and accessing of information in methods that have not been disclosed.

78. This poses an obstacle to the free-flow of information citizens rely on in a healthy democracy, and impacts the information fed to children, whose rights must at all times receive paramount consideration.⁸⁴

2.3 Greater emphasis on Radio and TV broadcast news media, and particularly the public broadcaster

⁸¹ Ognyanova et al, 'Misinformation in action: Fake news exposure is linked to lower trust in media, higher trust in government when your side is in power,' Misinformation Review (2020) (accessible [here](#)).

⁸² *Id.*

⁸³ Section 16(1)(b) of the Constitution indicates that everyone has the freedom to receive or impart information or ideas.

⁸⁴ See Section 28 of the Constitution.

79. Broadcasters and publishers benefit from the same rights to freedom of expression, access to information, and the right to participate in the market under investigation. While Caxton's focus is not radio and TV broadcast media, it agrees that these news distributors must be featured in the Inquiry discussions. This topic has been addressed in SANEF's submissions,⁸⁵ and Caxton has no further input.

Questions 2.4 and 2.5 asks how news and its benefit to search and social platforms should be measured, and looks into revenue share arrangements.

80. Responses to these questions are preceded by introductory remarks.

Digital Platforms' uncompetitive behaviour is an international problem

81. The uncompetitive behaviour of digital platforms and the prejudice it causes news providers has been highlighted internationally in, among others, Australia,⁸⁶ Canada,⁸⁷ and the United States of America.⁸⁸

A 50-50 value split is a sensible solution

82. While the US' Journalism Competition and Preservation Act; has been placed on hold,⁸⁹ Schiffrin *et al's* white paper estimates the payment that Facebook

⁸⁵ See paragraphs 49-53 of the Joint submission by the South African national Editors' Forum, the Press Council of South Africa, the Association of Independent Publishers, Media Monitoring Africa, the Forum of Community Journalists, and SOS Support Public Broadcasting Coalition and the GIBS Media Leadership Think Tank on the Statement of Issues of the MDPMI dated 14 November 2023. Available [here](#).

⁸⁶ Wildling, D "Regulating News and Disinformation on Digital Platforms: Self-Regulation or Prevarication?" Published in 2021 in the Journal of Telecommunications & the Digital Economy 9, No. See pages 11-46. Available [here](#).

⁸⁷ Government of Canada, "The Online News Act," published in Arts and Media, last modified October 3, 2023. Available [here](#).

⁸⁸ Ding, J "California bill requiring Big Tech to pay for news placed on hold until July 2024" published via Los Angeles Times. Available [here](#).

⁸⁹ Press release titled "Assembly member Wicks, Senator Umberg Reach Agreement for Two-Year Bill (AB 886)." July, 2023. Available [here](#). Also see Ding, J "California bill requiring Big Tech to pay for news placed on hold until July 2024" published in the Los Angeles Times. July, 2023. Available [here](#).

and Google Search platforms would owe to news publishers for the use of news content, should the act come into force.

83. Caxton agrees with the authors' submission that large digital platforms and news publishers provide "complementary services,"⁹⁰ that they create more economic value together as opposed to when they are used separately. News media, they reiterate, provide high-quality content to attract and keep user attention. Digital platforms benefit news publishers by being popular and easy-to-use channels by which news can be distributed to greater audiences.⁹¹

84. In practice, this means that separately, neither news publishers nor digital platforms would be able to generate high-quality news content for the vast audiences they are able to when they join forces. Along with this joint creation of value, opportunities arise to make money from advertising and to contribute substantially to the body of news as a public good. As publisher stakeholder submissions have previously stated, content monetisation is crucial for the sustainability of South Africa's news media.

85. In their submissions to the Inquiry, various South African news publishers have referenced this proposed 50-50 split.⁹² Caxton supports this proposal, but specifically contends that such a split must be based on gross, and not net, revenue.

An insurmountable obstacle: a 50-50 value split cannot be calculated without digital platform transparency.

86. As this submission has previously indicated, the lack of transparency by digital platforms makes it impossible to assess the ambit of remuneration due to South African publishers. In the context of the Schiffrin study, this limitation was articulated as follows: "The lack of publicly available, detailed micro-data on

⁹⁰ Schiffrin et al "Paying for News: What Google and Meta Owe US Publishers" November, 2023 and available [here](#).

⁹¹ *Idem*.

⁹² Stakeholder submissions in response to the Competition Commission's inquiry are publicly available on its website. Available [here](#).

user behaviour from Google and Facebook (Meta) proved to be one of the key limiting factors affecting our analysis.”⁹³

87. The Schiffrin study estimates value based on limited publicly available data, but indicates that the lack of transparency from digital platforms places them in a position where they cannot accurately determine value.⁹⁴ Caxton contends that, while impressions and limited public data are valuable for estimates, it does not provide the detailed data needed to accurately represent value.⁹⁵
88. The valuation of intellectual property for remuneration purposes deserves mention. News reports, photographs and multimedia footage constitute intellectual property, an asset that cannot be assigned value before coming into existence.⁹⁶ Regardless of what it costs to generate intellectual property, its value depends on factors such as what has been captured or recorded. Abstract factors like relevance, timing of the publication and audience response also influence the value of intellectual property.
89. A 50-50 split based on gross revenue earned from the use of intellectual property on digital platforms, will also provide a fair and practical outcome in this context.

Conclusion: the way forward

90. The first step toward determining the value to be split is obtaining accurate, detailed data. Stakeholder responses to the Inquiry have highlighted this point, and Caxton concludes that without it, the revenue due to the South African media cannot be calculated, much less collected. Without the revenue to which it is entitled, the media’s sustainability crisis will deepen.

⁹³ *Idem* page 19.

⁹⁴ *Idem*.

⁹⁵ Schiffrin et al “Paying for News: What Google and Meta Owe US Publishers” November, 2023 and available [here](#). See page 3, stating: greater transparency in the underlying methodology for calculating these payments is needed to broaden the discussion and devise a standard that is fair and equally applicable to big and, critically, smaller media outlets.”

⁹⁶ World Intellectual Property Valuation. “Valuing Intellectual Property Assets.” Accessed on January 18, 2024. Available [here](#).

91. However, whether or not there is credible data or ascertainable revenue information then a final offer arbitration system can be used to arrive at a fair revenue split.
92. At the heart of this issue is a bargaining imbalance that has been caused by market failure. In order to correct the bargaining imbalance, which is exacerbated by the asymmetry of information, there needs to be legislation in place (such as the draft legislation proposed by the Publishers' Support Services) which has a designation system that will force publishers and digital platforms into final offer arbitration, which enables the parties to propose offers that are more reasonable.
93. Any legislation should also allow news media publishers to bargain collectively with digital platforms. The proposed legislation adopts a model based on negotiation, mediation and arbitration, to best facilitate genuine commercial bargaining between parties, allowing commercially negotiated outcomes suited to different business models used by news publishers.
94. Caxton will seek via the PAIA process to exercise its rights to obtain the requisite information.

This response will now proceed to answer questions 2.4 and 2.5 of the FSOI

2.4. How to measure news and its benefit to search and social media platforms

- a. Provide your views on how news media content benefits a) search engines, b) news aggregators and c) social media platforms.
95. As publisher stakeholders have indicated in previous submissions,⁹⁷ news media content benefits search engines in that it populates the information

⁹⁷ Stakeholder submissions in response to the Competition Commission's inquiry are publicly available on its website. Available [here](#).

ecosystem web users access, which allow search engines to make money by offering, for example, keyword advertising. It sparks engagement which forms a critical part of the value search engines base their advertising or impression sales on.⁹⁸

96. Search engines are able to achieve power and scale through network effects by connecting producers and consumers. Further, benefits from network effects by attracting more users and advertisers to its platform, which in turn increases the supply and demand and sets a positive cycle in motion. To this end, the more users that use the platform, the more data it can collect, and analyse, to improve its search results and advertising campaigns. This in turn leads to a better experience for users and a higher return on investment for advertisers, which sequentially attracts more users and advertisers and strengthens the cycle.

97. Search engines like Google and Bing, connect users with the information they seek by bringing together the search and the answer. Search engines often obtain answers from content provided by news outlets.⁹⁹

98. Social media platforms need user engagement to inform its datasets and targeted advertising. How users interact with content allows them to make money through, for example, targeted advertising.¹⁰⁰ (Refer back to Sol responses for sources).

b. Do digital platforms use news media to develop to further build their existing platforms and new platforms within their business ecosystem, and if so, how? Please elaborate.

99. Yes, see paragraphs 96-99 above.

⁹⁸ Johann A, Drazilova M, Treweller S and Möhlen J, “The Value of Journalistic Content for the Google Search Engine in Switzerland,” FehrAdvice & Partners AG, March 2023, para 1. Available [here](#).

⁹⁹ *Idem*.

¹⁰⁰ Stakeholder submissions in response to the Competition Commission’s inquiry are publicly available on its website. Available [here](#).

c. Provide your views on the differing approaches to determining benefits by both platforms and media stakeholders.

100. See paragraphs 81-95 above.
101. In Caxton's view, it is only the digital platform's that know the true benefits that news content provides to the platforms. In the absence of this information, behavioural economic studies which look into a user's experience of a digital ecosystem and the affect that news has on user experience is the best approach. The lack of data from digital platforms makes this exercise futile, and that is why behavioural studies can assess in determining fair value.
102. While digital platforms may argue that there is limited direct monetisation of news content, it is clear that the presence of news content within digital ecosystems contributes significantly to the retention of users with the digital ecosystem.
103. The final offer arbitration approach, which is the mechanism proposed in the proposed legislation submitted by the Publishers' Support Services, also enables the publishers and digital platforms to strike bespoke deals that are aligned closer to fair compensation as the parties have to make offers that are reasonable.
104. For further context please refer to Caxton's submission on the Statement of Issues dated 5 December 2023.

d. How might the Inquiry measure 'news media content' on a digital platform? For instance should this include all posts by news media, all search or information that relies on news media, posts and blogs by journalists, etc. Provide for search, news aggregation and social media separately.

105. The Inquiry should use a broad approach to measure news content. All news content which is present on digital platforms should form part of any study into these markets, be it in relation to search, news aggregation or social media.

106. The Inquiry should also probe the extent to which news content was (or continues to be) used in the training of the platform's various AI projects.

e. *How might the Inquiry measure news media engagement or consumption on a digital platform? For instance, should this include clicks, impressions, shared posts, comments, etc. Provide for search, news aggregation and social media separately.*

107. Direct engagement, such as clicks, impressions, share posts and comments are important. However, the Inquiry should also consider the views that snippets and articles receive on SERP and social media feeds, which may not be easily ascertainable.

f. *How might the Inquiry measure the impact, if any, of news media content on general levels of engagement on a digital platform? Provide for search, news aggregation and social media separately.*

108. See paragraphs 81-95 above.

g. *How might the Inquiry measure any other benefits to digital platforms from news content that stakeholders propose, such as choice of platform, usage and levels of engagement, user data, generative AI training, etc? Provide for search, news aggregation and social media separately.*

109. See paragraphs 81-95 above. Due to the secrecy of digital platforms and the fact that there may be limited direct monetisation of news content, the Inquiry should investigate the holistic benefits that news content provides to digital platforms. News publishers provide the content that greatly improves the experience of using Google, but it is without a direct

gain in a commercial sense.

110. Therefore, there are non-direct commercial gains that digital platforms derive from news content, which ultimately accrues as commercial gain in the sense that it improves the users experience within the ecosystem, keeps users within the ecosystem and widens the scope of monetisation of those users.

h. Is the focus on benefits derived even the correct approach, and should the focus be on the value of original and copyright material used and displayed to consumers?

111. Copyright infringement is one way in which digital platforms exploit South African publishers, and the damages incurred by platforms as a result should be addressed.
112. If the focus is placed on copyright, the total value that news content provide digital platforms may not be completely appreciated and therefore may be inappropriate in this context.
113. Whether the focus is placed on copyright violations or benefits derived, the fact remains that detailed data is required from digital platforms in order to determine what they owe South African publishers.

i. Does the current share of news on social media platforms come as a result of deliberate algorithm changes and strategic choices in light of news media demands, and would the benefit be larger were these algorithmic changes not implemented?

114. It is not possible to answer these questions without the data required as Set out in paragraphs 81-95 above.

a. A related question is what role the media content may have played in building the platform in the first place to a point where it is less dependent on that content.

115. The media's content has definitely played a substantial role in building digital platforms. This conclusion can be derived with certainty based on stakeholder submissions to date, as well as the much-referenced studies by Schiffrin *et al*¹⁰¹ and the Fehr study.¹⁰²

b. Have other social media and search engines also implemented any such algorithmic changes in the past five years.

116. This is not known to publishers as digital platforms have not disclosed adequate data to answer this question. As has been stated has been stated by Caxton in previous submissions, algorithm changes fundamentally effect the commercial operations of Caxton's titles.

Caxton is required to deploy significant resources into ensure search engine optimization and to make sure that its content is viable to digital consumers. Digital platforms wield significant power in their ability to change algorithms at whim.

The ranking and discoverability of news content has been affected by recent algorithm changes by Google. Due to the opaque nature of these algorithms Caxton is not apprised of the exact workings of these changes.

j. Can platforms benefit from deprioritising content from businesses, including news media organisations, to drive ad spending on their platform by those businesses, including news media?

117. Digital platforms are better placed to answer this question.

¹⁰¹ Schiffrin *et al* "Paying for News: What Google and Meta Owe US Publishers" November, 2023. Available [here](#).

¹⁰² Johann A, Drazilova M, Treweller S and Möhlen J, "The Value of Journalistic Content for the Google Search Engine in Switzerland," FehrAdvice & Partners AG, March 2023, pages 41 and 44. Available [here](#).

k. To what extent are the click-through benefits accruing to the media the result of ad spend, like any other business, and how much is organic?

118. Caxton has shared the data it is able to on click-throughs and ad spend in its confidential RFI response. Data on how click-through benefits and spend-based benefits could be obtained from the relevant digital platforms.

2.5. Revenue share arrangements on certain digital platforms

Questions

I. What are the reasons that some platforms provide revenue share arrangements and others do not?

119. This question is presumably directed at digital platforms.

a. Should all platforms offer some form of revenue share, and if so why, and if not why not?

120. In principle, revenue share is a fair solution. See paragraphs 83-93 above.

b. Should only particular types of content be subject to revenue share, and if so what content and why, and if not why not?

121. The Inquiry has focused mainly on news content and the value of news content has been considered in detail in publisher submissions made to date. The inherent value of news content calls for fair remuneration in the form of revenue share. This does not, however, necessarily mean that content from non-news publishers should not be susceptible to remuneration.

c. Are the limitations simply practical, namely measurement of ads directly related to content? If so, how else might the advertising that is indirectly related to content be measured and if it could, then are revenue-sharing arrangements possible?

122. See paragraphs 81-95 above.

m. Are the eligibility criteria used by the different platforms exclusionary of media organisations, or particular types or sizes of media organisations? What should the eligibility criteria be and why?

123. This question has presumably been put to digital platforms for answering. Caxton does not have the information required to answer this question.

n. Should revenue share be based on gross revenue rather than net revenue for platforms, and if so why and if not why not? What are the costs for media organisations to be part of revenue share arrangements, and are these costs factored into the revenue share calculation?

124. The lack of transparency from digital platforms has been identified as an obstacle in the determination of what news publishers are due. The problem with net revenue-based calculations is that platforms' starting point for calculations is based on a net total calculated in a non-transparent way. Both publishers and digital platforms incur fees to make content available, and it is likely that publishers' expenses exceed that of digital platforms. A calculation on gross revenue would be acceptable.

o. What is a fair revenue share percentage and should that percentage differ for media content as opposed to other creative content?

125. Caxton is only able to comment on what would be a fair revenue share percentage for media content. In that respect, see paragraphs 81-95

above.

p. What is a fair revenue share percentage across various types of online news media such as video broadcast, audio broadcast, mainstream print, community print media etc.? Should revenue share percentages be the same across each type of online news media?

126. See paragraphs 81-95 above. Caxton's view is that this should apply to all news content.

q. If there was a means of measuring advertising directly and indirectly related to media content on all platforms, would this be a fair way of determining the benefits and sharing those benefits?

127. See paragraphs 81-95 above. Caxton's view is that this should apply to All news content.

2.6. Transparency and its role and importance in the platform and AdTech markets

128. See paragraphs 81-95 above.

r. For media stakeholders, identify the specific instances of an apparent lack of transparency and why transparency is important to fairer outcomes. Motivate why.

129. Transparency is critically important for ensuring fairer outcomes. Digital platforms are able to control these markets due to the secretive and opaque operations. These range from sharing selective and deceptive data, complicated digital advertising pricing, algorithmic changes, undetermined data personal data practices and other activities are kept secret by digital platforms.

Transparency is also particularly important in the case of the media.

s. For platforms, provide more specifics on why greater levels of transparency are not achievable in a) algorithms, b) revenue share arrangements, c) news content performance on the platform as a whole? If confidential information is cited, motivate why that information is confidential and why it cannot be shared on a bilateral basis?

130. This question is for digital platforms.

t. Can transparency alone fix some of the concerns that media companies have in their engagement with digital platforms, and if so, what specific concerns can be fixed and with what degree of transparency?

131. Yes, greater transparency would assist with fixing some of news publishers' concerns. See paragraphs 81-95 above.
