



## EUROPEAN COMMISSION

Directorate-General for Communications Networks, Content and Technology

Digital Single Market  
E-Commerce and Platforms

### **Business-to-business relationships in the online platforms environment - data access, (re-)use and portability**

**Report of an engagement workshop hosted by the European Commission**

**19 October 2016, 9:30 - 16:00, Brussels**

On 19 October 2016, a European Commission workshop on access to, (re-)use and portability of data in the online platform environment took place. The workshop aimed at providing a better insight into the data related practices in the relationship between online platforms and their business users. This workshop brought together individual business users of different online platforms, associations representing such business users, academics, think tanks and government officials. The workshop was organised under Chatham House rule, and this report gives a high-level overview of the questions raised during the discussion.

The day's discussion was structured around the following questions:

- What data do platforms themselves have access to and how do they use it? Is this made transparent?
- How are access, use and/or portability rights established and communicated?
- How is customer data accessed, used and/or ported from online platforms by the business users?
- How is your business data (e.g. reviews, sales) accessed, used and/or ported from online platforms?
- How is aggregated, 'platform-held' data accessed, used or ported?

Against this backdrop, the workshop participants discussed their perception of specific good and bad practices engaged in by online platforms, and elaborated on the types of data involved, the potential effects on their business and on other actors, (missed) business opportunities, and emerging trends in this space. In addition, a series of questions on potentially required changes were raised including, but not limited to, policy interventions.

#### **FINDINGS**

Participants agreed that online platforms are important intermediaries bringing together third-party businesses with consumers and fostering innovation. It was also highlighted that they collect unprecedented volumes and varieties of data and maintain access to them – sometimes sharing data with their business users, or third parties and data intermediaries, other times restricting access and keeping these data to themselves.

Several participants highlighted that some online platforms for example impose specific (proprietary) payment systems but do not share the **payment information** of a customer with the third-party business providing a service, including subscription-based services. Businesses highlighted that where there is no direct financial contact with a customer, the customer strategy of the business user is limited – e.g. it is more difficult or impossible to

implement rebates for long-term customers or follow-up with customers who unsubscribed due to the expiration of their credit cards.

Participants also highlighted that direct and confidential **communication with customers**, beyond payment details, is essential for certain personalised services. According to the experience of the workshop participants, in these cases, the transaction contract is often established between a customer and a business and facilitated by an online platform, with the customer-business communication being run via the online platform. It was reported that in some cases, the business user does not have access to the contact, and sometimes to the identity of the individual user. In addition, it is unclear to what data from the communication business-individual client the online platform itself has access and how this is potentially exploited.

Some businesses claim that other customer related data, in **anonymised** form, can be shared by online platforms with their business users. Participants recognised that anonymising data is a challenge, but this specifically refers to customer behaviour data (for instance, time spent, location, patterns of consumer behaviour, etc.). While – to some extent – allowing access to such data, it was reported that some online platforms impose limitations on their reuse, providing that the data generated through the use of a specific platform can only be used in the context of this platform. This restricts the possibilities to use such data and insights derived from it in marketing and advertising through other channels and platforms, according to the participants.

**Portability of customer and business data** is a challenging issue not only due to the indicated limitations, but also potentially due to technical compatibility issues. Businesses reported that they experience lock-in effects with regard to the key data controlled by specific, individual online platforms. Some emerging business models offer intermediary services to data portability, which themselves also rely on online platforms offering access to data to their users. Such services are emerging especially in the space of personal data management systems but may develop solutions for business users of platforms as well.

Businesses seem to have difficulties in accessing **ad performance data** and data on their **sales statistics**. These data would allow businesses to assess the effectiveness of the advertisement campaign and to improve or adjust it if necessary, as well as to evaluate the marketing of its products and, eventually, the quality of service provided by the platform. There is generally a lack of transparency on the performance measurement (including on the functioning of algorithmic decision-making), and a procedural difficulty around the absence of independent third-party auditing of the services provided.

**Aggregate data** (e.g. market trends, research, effectiveness data, user analytics, social/cultural trends and valuation data) seems to be a not yet fully exploited resource with a huge potential, linked also to an asymmetry in **data skills and capability of the business users**. Such aggregated data can be used by businesses to identify market trends, conduct socio-economic and market research and design marketing strategies, evaluate the effectiveness of advertising data, to develop new products and improve the old ones, to design investment strategies and for other purposes. Some platforms claim to hesitate sharing data with business users and third parties due to privacy and data protection requirements. Furthermore, it would be unclear whether some types of data (e.g. pricing, content) and data sets are protected by (intellectual) property rights, which also limits data sharing. However, access to full and real-time data may also be restricted

due to commercial interests (for instance, access to pricing data for price comparison services or to data on public transportation). Platforms may in this regard also provide differentiated access to such aggregate data, e.g. limiting access for those third-party businesses that are also (potential) competitors. Scraping of data that are publicly available on websites may be technically complicated as multiple repeated queries are usually blocked by the websites (platforms), including to prevent cyberattacks.

Disregarding the identified limitations, **data sharing between online platforms and their business users does take place** to some extent, in the experience reported by businesses. It is usually based on contractual agreements where it seems beneficial both for the businesses and for platforms. The type of data deemed valuable and shared or captured depends on the specific business model(s) of the parties involved. At the same time, it has been emphasised that business users do not necessarily seek access to more personal data, but rather to anonymous or anonymised (raw and aggregate) data which can for example be provided through dedicated APIs.

**Solutions** explored by the participants for enabling data sharing and trust range from sector-specific discussions, to dialogue and cooperation in data sharing, to standard contractual clauses, technical and legal data standards, enforcement of the existing data sharing framework for e.g. public sector information, and, finally, mediation mechanisms. Specifics of online industries and business models need to be taken into account when extension of application of similar rules (e.g. consumer protection) is being contemplated. Some businesses also explain that although market-driven solutions for offering enhanced transparency and access to data to business users could materialise, online platforms currently impair their development by technical means – including by the abovementioned data-related practices.

## **FURTHER OUTREACH**

Further in-depth research is required in order to better understand the scale, causes and consequences of the identified data related practices. The workshop contributed to offering a sense of potentially unfair practices and will feed further into the on-going fact-finding exercise supported by [online surveys](#) among, respectively, online platforms and their business users.

**The Commission invites relevant stakeholders to participate in the aforementioned [online surveys](#).**