Executive Summary

Digital advertising is the economic backbone of much of the Internet. But complaints have recently emerged from a number of quarters alleging the digital advertising market is monopolized by its largest participant: Google. Most significantly, a lawsuit first filed by the State of Texas and 17 other U.S. states in 2020 alleges anticompetitive conduct related to Google's online display advertising business. The U.S. Justice Department (DOJ) reportedly may bring a lawsuit similarly focused on Google's online display advertising business sometime in 2022. Meanwhile, the United Kingdom's Competition and Markets Authority undertook a lengthy investigation of digital advertising, ultimately recommending implementation of a code of conduct and "pro-competitive interventions" into the market, as well as a new regulatory body to oversee these measures. Most recently, a group of U.S. senators introduced a bill that would break up Google's advertising business (as well as that of other large display advertising intermediaries such as Facebook and Amazon).

All of these actions rely on a crucial underlying assumption: that Google's display advertising business enjoys market power in one or more competitively relevant markets. To understand what market power a company has within the market for a given type of digital advertising, it is crucial to evaluate what constitutes the relevant market in which it operates. If the market is defined broadly to include many kinds of online and/or offline advertising, then even complete dominance of a single segment may not be enough to confer market power. On the other hand, if the relevant market is defined narrowly, it may be easier to reach the legal conclusion that market power exists, even in the absence of economic power over price.

Determining the economically appropriate market turns importantly on whether advertisers and publishers can switch to other forms of advertising, either online or offline. This includes the specific ad-buying and placement tools that the Texas Complaint alleges exist within distinct antitrust markets—each of which, it claims, is monopolized by Google. The Texas Complaint identifies at least five relevant markets that it alleges Google is monopolizing or attempting to monopolize: publisher ad servers for web display; ad-buying tools for web display; ad exchanges for web display; mediation of in-app ads; and in-app ad networks.

As we discuss, however, these market definitions put forth by the Texas Complaint and other critics of Google's adtech business appear to be overly narrow, and risk finding market dominance where it doesn't exist.

Digital advertising takes numerous forms, such as ads presented along with search results, static and video display ads, in-game ads, and ads presented in music streams and podcasts. Within digital advertising of all kinds, Google accounted for a little less than one-third of spending in 2020; Facebook accounted for about one-quarter, Amazon for 10%, and other ad services like Microsoft and Verizon accounted for the remaining third. Open-display advertising on third-party websites—the type of advertising at issue in the Texas Complaint and the primary critiques of Google's adtech business—is a smaller subset of total digital advertising, with one estimate finding that it accounts for about 18% of U.S. digital advertising spending.

U.S. digital advertising grew from $26 billion in 2010 to $152 billion in 2020, an average annual increase of 19%, even as the Producer Price Index for Internet advertising sales declined by an annual average of 5% over the same period. The rise in spending in the face of falling prices indicates that the number of ads bought and sold increased by approximately 26% a year. The combination of increasing quantity, decreasing cost, and increasing total revenues is consistent with a growing and increasingly competitive market, rather than one of rising concentration and reduced competition.

But digital advertising is just one kind of advertising, and advertising more generally is just one piece of a much larger group of marketing activities. According to the market research company eMarketer, about $130 billion was spent on digital advertising in the United States in 2019, comprising half of the total U.S. media advertising market. Advertising occurs across a wide range of media, including television, radio, newspapers, magazines, trade publications, billboards, and the Internet.

An organization considering running ads has numerous choices about where and how to run them, including whether to advertise online or via other “offline” media, such as on television or radio or in newspapers or magazines, among many other options. If it chooses online advertising, it faces another range of alternatives, including search ads, in which the ad is displayed as a search-engine result; display ads on a site owned and operated by the firm that sells the ad space; “open” display ads on a third-party’s site; or display ads served on mobile apps.

Although advertising technology and both supplier and consumer preferences continue to evolve, the weight of evidence suggests a far more unified and integrated economically relevant market be-tween offline and online advertising than their common semantic separation would suggest. What publishers sell to advertisers is access to consumers’ attention. While there is no dearth of advertising space, consumer attention is a finite and limited resource. If the same or similar consumers are variously to be found in each channel, all else being equal, there is every reason to expect advertisers to substitute between them, as well.

The fact that offline and online advertising employ distinct processes does not consign them to separate markets. The economic question is whether one set of products or services acts as a competitive constraint on another; not whether they appear to be descriptively similar. Indeed, online advertising has manifestly drawn advertisers from offline markets, as previous technological innovations drew advertisers from other channels before them. Moreover, while there is evidence that, in some cases, offline and online advertising may be complements (as well as substitutes), the dis-tinction between these is becoming less and less meaningful as the revolution in measurability has changed how marketers approach different levels of what is known as the “marketing funnel.”

The classic marketing funnel begins with brand-building-type advertising at the top, aimed at a wide audience and intended to promote awareness of a product or brand. This is followed by increasingly targeted advertising that aims to give would-be customers a more and more favorable view of the product. At the bottom of this funnel is an advertisement that leads the customer to purchase the item. In this conception, for example, display advertising (to promote brand aware-ness) and search advertising (to facilitate a purchase) are entirely distinct from one another.

But the longstanding notion of the "marketing funnel" is rapidly becoming outdated. As the ability to measure ad effectiveness has increased, distinctions among types of advertising that were once dictated by where the ad would fall in the marketing funnel have blurred. This raises the question whether online display advertising constitutes a distinct, economically relevant market from online search advertising, as the Federal Trade Commission, for example, claimed in its 2017 review of the Google/DoubleClick merger.

The Texas Complaint adopts a non-economic approach to market definition, defining the relevant market according to similarity between product functions, not by economic substitutability. It thus ignores the potential substitutability between different kinds of advertising, both online and offline, and hence the constraint these other forms of advertising impose on the display advertising market.

If advertisers faced with higher advertising costs for open-display ads would shift to owned-and-operated display ads or to search ads or to other media altogether—rendering small but significant advertising price increases unprofitable—then these alternatives must be included in the relevant antitrust market. Similarly, if publishers faced with declining open-display ad revenues would quickly shift to alternative such as direct placement of ads or sponsorships, then these alternatives must be included in the relevant market, as well.

If advertisers and publishers are faced with a wide range of viable alternatives and the market is broadly defined to include these alternatives, then it is not clear that any single firm can profitably exercise monopoly power—no matter what its market share is in one piece of the broader market. Similarly, it is not clear whether "consumers" (e.g., advertisers, publishers, or users) have suffered any economic harm.

With a narrow focus on "open display," it is quite possible that Google's dominance can be technically demonstrated. But if, as suggested here, "open display" is really just a small piece of larger relevant market, then any fines and remedies resulting from an erroneously narrow market definition are as likely to raise the cost of business for advertisers, publishers, and intermediaries as they would be to increase competition that benefits market participants.

Read the full issue brief here.