

PCC Market Study No. 01, Series of 2025

Competition Policy and Data Privacy in Social Media and Search Platforms

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**PHILIPPINE
COMPETITION
COMMISSION**

Ensuring businesses compete and consumers benefit

Competition Policy and Data Privacy in Social Media and Search Platforms

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EXECUTIVE SUMMARY

The adoption of digital innovations in the Philippines has led to the rise of online platforms that are attempting to occupy as much of the digital market as possible. Essentially, digital platforms are multi-sided platforms that facilitate the interaction of two or more distinct user groups. They offer a range of online services based on a data-driven business model, allowing for targeted advertisements and enabling users to customize their experiences.

Given the rise of digital platforms and their implications on data collection and privacy, this study examines the interplay between data privacy and competition policy. Specifically, the study focuses on two Big Tech companies, namely Facebook (under Meta) and Google. It aims to provide insights into how data collection and digital advertising enable these platforms to consolidate data and maintain their market power within the context of Philippine digital markets and laws.

Findings from this study show that the digital platform ecosystem is notably highly concentrated, with a limited number of firms, such as Facebook and Google, emerging as dominant entities in the social media and search markets, respectively. This concentration allows these companies to collect and process vast amounts of user data, thereby raising significant data privacy concerns.

Central to the discussion of the anti-competitive effects associated with these concerns are the concepts of data portability and interoperability. While these functionalities are generally considered to be pro-competitive, they can be exploited by dominant platforms to further entrench their market power, ultimately to the detriment of platform users. Moreover, the presence of digital platforms operating across multiple jurisdictions heightens concerns regarding cross-border data transfers. Variations in data privacy standards and competition policy frameworks across different countries may increase the vulnerability of user data to exclusionary and exploitative practices by Big Tech firms.

Given this, the study recommends the following: (i) include data privacy considerations in the Philippine Competition Act (PCA), (ii) further research on data portability and interoperability mechanisms, (iii) international cooperation with competition authorities regarding data mobility and cross-border data flows issues, and (iv) stronger cooperation with the regulatory bodies such as the National Privacy Commission (NPC) through collaboration and legislative reform.

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I. INTRODUCTION

A. Overview

Digital platforms have vastly affected the way consumers and businesses interact with each other. These platforms continue to introduce digital innovations, resulting in more efficient and effective communication, access to information, and transactions. Unlike traditional physical markets that are limited by factors such as shelf space and distribution constraints, the business strategy known as the “long tail” of the internet has allowed digital platforms to host an infinite number of “niche” or less mainstream products alongside already popular product offerings, driving higher engagement and transactions for these digital platforms (Elberse, 2008). The use of digital platforms has now been adopted by a number of industries, including retail, transportation, and finance, among others.

However, the unprecedented growth of digital platforms does not come without issues. In recent years, the impact of digital platforms in the markets they operate in has been closely scrutinized from a competition perspective, and authorities from all around the globe have been measuring its effects on consumers and businesses alike. In particular, questions ranging from anti-competitive conduct by Big Tech firms to data privacy concerns have become essential discussions for antitrust authorities. For instance, the United Kingdom’s Competition and Markets Authority (CMA) has published their market study regarding online platforms and digital advertising (2020a), while the Australian Competition & Consumer Commission (ACCC) has an ongoing inquiry regarding digital platform services, both with the aim of assessing competition and consumer harm in the market for digital platforms.

Antitrust authorities have also had to address significant cases dealing with digital platforms and their data collection practices, as these practices were found to potentially stifle competition and compromise consumer’s data privacy. The European Commission has had several cases against Google, such as the DoubleClick acquisition and the Google Shopping case. The US Federal Trade Commission also has cases against Facebook regarding their acquisitions of Instagram and WhatsApp. These landmark cases illustrate the critical intersection between data privacy law and competition policy. In view of this, it is imperative for the Philippine Competition Commission (PCC) to explore these issues in the Philippine context, especially given that digital platforms have become widely adopted in the country.

This study focuses specifically on social media and search platforms, competition issues arising from the data collection activities, and practices done by players in these platforms. By doing so, the study is also able to highlight the interplay between competition policy and data privacy law, and whether competition and privacy authorities should factor in each other’s policy objectives in their respective regulatory functions.

B. Objectives

This study looks into the interplay between data privacy and competition policy. It focuses on two Big Tech companies, namely Meta’s Facebook and Google, in order to gain a better understanding of the relationship between digital platforms, data privacy, and competition policy.

Specifically, the study aims to gain a comprehensive understanding of the following topics:

1. The business model employed by digital platforms, particularly social media and search platforms;
2. The means by which Facebook and Google acquire and maintain power in the market for social media and search platforms, respectively;
3. The role of data collection and digital advertising in obtaining and maintaining market power;

4. The competition concerns arising from Facebook and Google's market power, particularly how consumers and businesses are affected by the data collection being done by digital platforms; and
5. The complex relationship between competition policy and data privacy law with respect to digital platforms.

In this manner, the study aims to provide recommendations and identify steps moving forward that the PCC and other industry stakeholders can adopt in order to address actual and potential competition concerns.

C. Scope and Limitations

This study is primarily focused on social media and search platforms, specifically Facebook, Google, and their respective competitors. Moreover, the competition issues addressed in this study are focused on those concerned with data collection and privacy.

There are numerous types of digital platforms, tailored to suit their intended purposes in the industries they operate in. Given the breadth and depth of issues concerning digital platforms, it is recommended to read this study in conjunction with other studies conducted by the PCC, namely the (i) Digital Platforms and Online Advertising: A Guide for Competition Policy¹ and the (ii) Issues Paper on the Philippine Digital Commerce Market² to better understand the possible competition issues that can arise from digital platforms.

This study is related to the two aforementioned studies, as they deal with similar concepts such as multi-sided platforms and consumer data, along with an overlap in regulatory frameworks. However, this study primarily focuses on the interplay between data privacy law and competition policy. This study specifically explores issues relating to data collection practices of social media and search platforms and their effects on consumers. This study also provides a more in-depth discussion on pertinent local and international regulatory agencies and frameworks to further elucidate the relationship between the two policy instruments.

D. Data and Methodology

Over the course of this study, pieces of evidence from multiple sources were gathered, as enumerated below:

1. **Internal desk research.** This study conducted a review of the existing literature regarding digital platforms and antitrust law. Publicly available information such as market research reports and national legislative documents were gathered. This paper also accessed information on privacy policies available on the websites of digital platforms.
2. **External research.** This study engaged two industry experts in the digital platforms sector who served as external consultants, producing comprehensive studies that were used as references in crafting this market study. The first industry expert provided insights on the interplay between data privacy and competition policy, while the second industry expert provided insights on the more technical aspects of digital platforms, such as their network infrastructure and pricing algorithms.
3. **Consumer survey.** This study conducted an online consumer survey through the Qualtrics platform. The survey collected responses from 1,000 users of social media and search platforms, who were asked about their preferences and behaviors when using digital platforms, as well as any concerns regarding data privacy. The demographics of the online respondents can be found in **Annex A**.

¹ Accessible at <https://www.phcc.gov.ph/wp-content/uploads/2024/06/PCC-Market-Study-2024-01-Digital-Platforms-and-Online-Advertising.pdf>.

² Accessible at <https://www.phcc.gov.ph/wp-content/uploads/2020/07/PCC-Issues-Paper-2020-03-Issues-Paper-on-the-Philippine-Digital-Commerce-Market.pdf>.

The rest of the market study is organized as follows: the first section discusses the industry background and a brief overview of digital platforms, specifically, search and social media platforms. The second section identifies the characteristics that distinguish digital platforms from traditional markets alongside a discussion of the regulatory frameworks that govern them. The third section discusses the competitive landscape in search and social media platforms and delves deeper into the mechanisms that allow platforms, such as Facebook and Google, to maintain market power in their respective markets. The fourth section focuses on the issues arising from digital platforms, particularly those related to competition policy and data privacy law. Finally, the fifth section provides recommendations to address the identified competition and data privacy issues.

II. INDUSTRY BACKGROUND

A. Overview of Digital Platforms

Digital platforms are applications that enable users to connect, interact, and conduct various activities online. They are characterized by the following attributes that set it apart from other digital applications: (i) accessibility via online and digital presence, (ii) facilitation of user interaction, (iii) provision of a variety of services, (iv) scalability, and (v) a data-driven business model (Spagnoletti et al., 2015).

Digital platforms are solely accessible through the internet. They facilitate interactions between users by offering various forms of services and activities that allow for communication, collaboration, and content sharing. Through innovative features, many digital platforms are designed to attract more users, increasing the user base rapidly. Digital platforms collect, store, and use data to personalize user experiences, deliver targeted advertisements, and improve services altogether.

B. Types of Digital Platforms

Digital platforms serve a multitude of purposes ranging from social networking, e-commerce, finance, transportation, knowledge and content sharing, among others. A brief explanation of social media and search platforms is provided for a better understanding of the functions and services offered by digital platforms.

1. Social Media Platforms

Social media platforms rely on mobile and web-based technology to create highly interactive platforms where users can share, co-create, discuss, and modify content. The types of content that can be found on social media include the following: blogs, posts, photos, short-form and long-form videos, among others (Kietzmann et al., 2011). Social media platforms also connect families, friends, and communities through group interactions. Some of the most prominent social media platforms include Facebook, X (formerly known as Twitter), Instagram, TikTok, LinkedIn, and Snapchat.

2. Search Platforms

Search platforms, also known as search engines, provide users with quick access to a vast amount of knowledge and resources available on the internet (Usova et al., 2021). They act as a library that allows users to browse, sort through, and utilize numerous internet sources available. Search platforms such as Google, Bing, Yahoo, Ask.com, and DuckDuckGo provide millions of users with the references they need in fulfilling their day-to-day activities.

A summary and comparison of the different aspects that make up both social media and search platforms are seen in **Table 1**.

Table 1: Comparison of Social Media and Search Platforms

	Social Media Platforms	Search Platforms
Definition	Highly interactive platforms where users share and create content	Quick access to the internet's resources
Purpose	Entertainment, communication, research, news	Research, news, entertainment
Examples	Facebook, Instagram, TikTok, LinkedIn, Snapchat	Google, Bing, Yahoo, Ask.com, DuckDuckGo

Source: Kietzmann et al., (2011) and Usova et al., (2021)

3. Other Digital Platforms

Aside from search and social media platforms, other types of digital platforms include the following: (i) media sharing platforms that distribute audio-visual content (e.g., television shows, movies, and music) providing entertainment to its users, such as YouTube, Spotify, Vimeo, Netflix, Amazon Prime, and Hulu; (ii) online payment systems that facilitate the transfer of payments, such as e-wallets and mobile banking applications; (iii) e-commerce platforms that allow users to purchase goods and transact with sellers, such as Amazon, Shopee, and Lazada; and (iv) gig platforms that match workers to jobs and consumers to services such as Grab, Foodpanda, and Airbnb. However, these types of platforms are not examined in this study, as the study is primarily concerned with search and social media platforms.

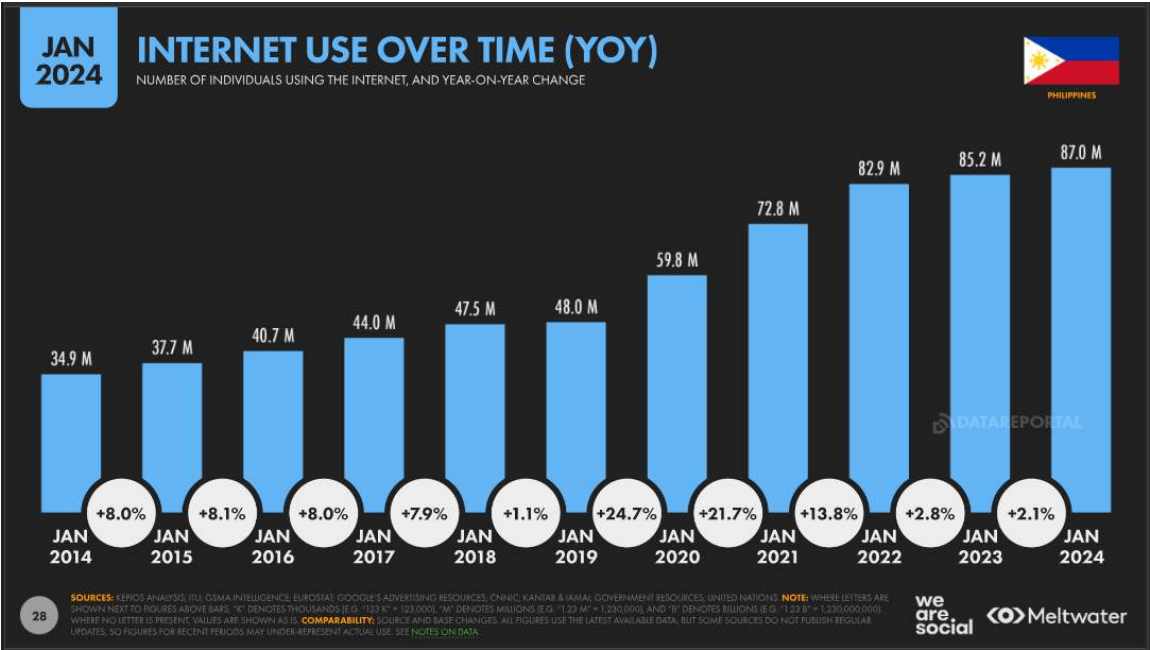
C. The Rise of Digital Platforms

Over the past decade, developments in technology have allowed the world to become highly interconnected through the internet. The provision of fast, reliable, and widespread internet connection has paved the way for the rise of digital platforms in recent years. This section presents the key statistics and figures about the usage of digital platforms in the Philippines through the years.

Figure 1 shows how the Philippines has experienced overall growth in internet penetration³ over the last 10 years, although the rate of increase has fluctuated year-on-year. Internet penetration has increased from 34.9 million users in 2014 to 87.0 million users in 2024. Currently, 73.6% of Filipinos have access to the internet, signaling the potential for achieving further digitalization in the country (Kemp, 2024).

³ Internet penetration is a measure of the population that has access to the internet by any means necessary.

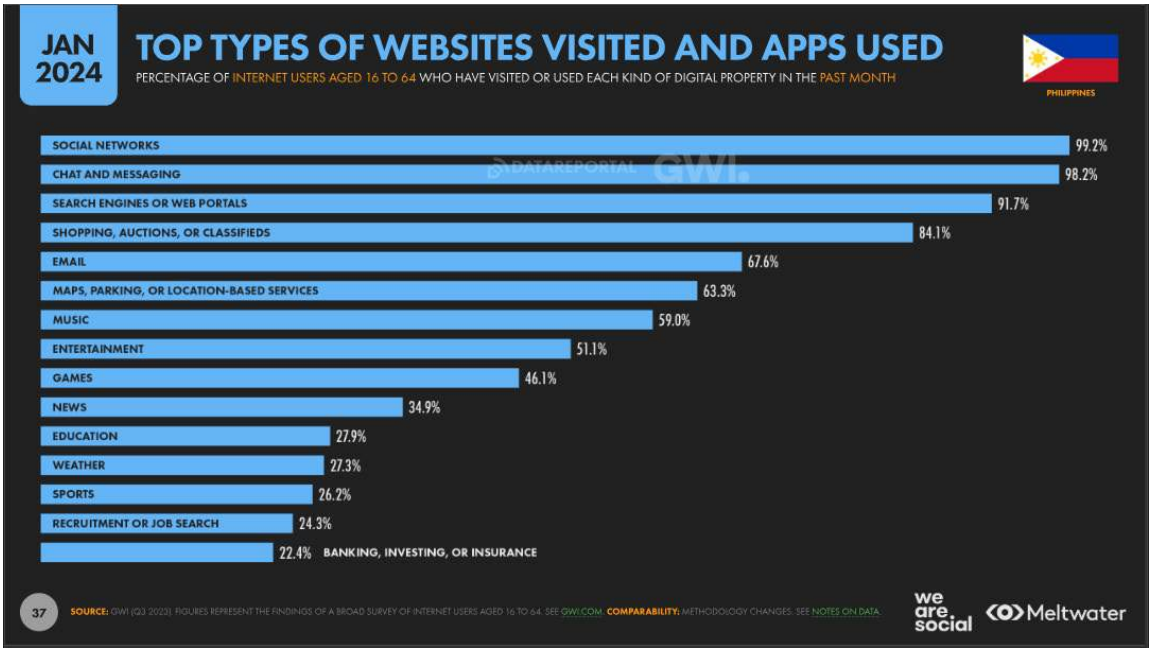
Figure 1: Internet Users in the Philippines from 2014 to 2024



Source: Kemp (2024)

Through the internet, users are able to access a variety of digital platforms, websites, and applications. **Figure 2** shows that the top platforms and websites frequently visited by internet users are social networking platforms, chat and messaging platforms, and search engines. Over 90% of internet users in the Philippines visit these platforms. Filipinos have incorporated these platforms into their daily lives through the way they communicate, interact, and obtain information. The breakdown of market shares per platform for search and social media platforms is provided in **Section III** (Competitive Landscape).

Figure 2: Frequently Used Websites and Applications in the Philippines as of 2024



Source: Kemp (2024)

In fact, the Philippines has been dubbed as the “social media capital of the world,” as it placed first in the global rankings for social media usage from 2015 to 2021 (Chua, 2021). As of January 2024, the Philippines ranks fourth in the world⁴ for social media usage (Pasion, 2024). This further highlights the prominence of digital platforms in the Philippines and the need to further study the industry in the domestic context.

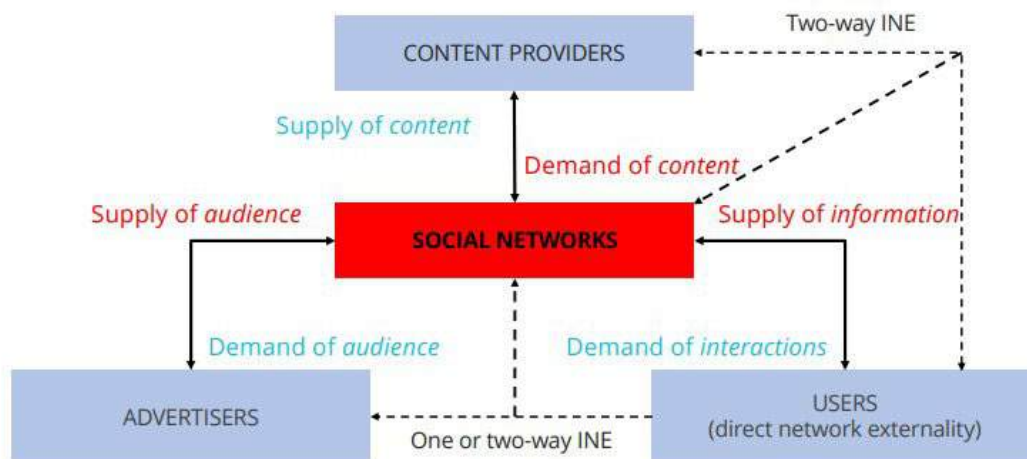
D. Business Model of Digital Platforms

This section discusses the business model of search and social media platforms, whose source of revenues is primarily derived from digital advertising. However, it is important to note that other digital platforms employ other kinds of business models. Streaming platforms, for example, generate revenues through a subscription-based business model (Serafica et al., 2020).

1. Multi-sided platforms and indirect network effects (“INE”)

Before discussing the digital advertising business model, it is important to highlight that Google and Facebook, alongside other search and social media platforms, are characterized as **multi-sided platforms**. Multi-sided platforms act as an intermediary to facilitate the interaction between two or more distinct user groups, wherein the demand of one user group depends on the demand from the other group/s (also known as indirect network effects or INE). Search and social media platforms are able to serve the following groups: (i) consumers, who utilize the search and social media functions; (ii) advertisers, who display advertisements to consumers; and (iii) content creators, who aim to appear as search results on social networks. **Figures 3 and 4** illustrate the relationship between the consumer groups in social media platforms and search platforms, respectively.

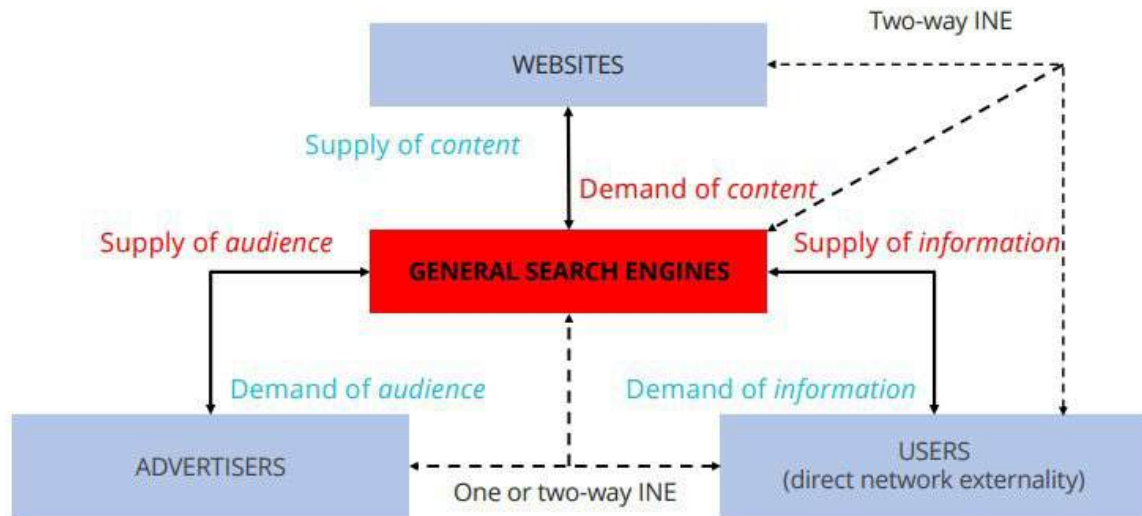
Figure 3: Intermediated Consumer Groups in Social Media Platforms



Source: Parcu (2022)

On one side of the platform, content providers such as creators and social media influencers create and supply content that is seen on social media platforms. This content reaches the screens or devices of general users who use social networks to consume content, interact with other users, and create their own content. On the other side of the platform, advertisers wish to take advantage of the global reach of social media platforms and view the platform as an opportunity to advertise their brands, products, and services to a wide number of potential customers.

⁴ The Philippines ranks fourth behind Kenya, South Africa, and Brazil based on time spent on social media.

Figure 4: Intermediated Consumer Groups in Search Platforms

Source: Parcu (2022)

Similar to social media platforms, search engines provide content and information through websites that cater to the different needs of the general users that browse, consume, and share content in the form of entertainment, information, and news. Advertisements appear in more search results in a bid to gain exposure to a wider set of users (Parcu, 2022).

Digital platforms employ a skewed pricing mechanism to facilitate this interaction between users and advertisers. On one side of the platform, they offer their services to users for free, while on the other they generate revenue from advertisers in exchange for the reach provided by the digital platform (CMA, 2020b). This generates a large amount of revenue that social media platforms require to fund maintenance and operation costs in running their platforms to keep the social network free for use to all of its users.

However, it is important to note that consumers do not actually avail of these services for “free,” as they are essentially “paying” for these services by providing digital platforms with their time, attention, and personal data. Digital platforms, in turn, are able to utilize user data to improve their targeted advertising services (CMA, 2020b).

Given the foregoing, network effects are a crucial element for the growth of both social media platforms and search engines. Clements (2004) classified network effects into two ways: direct and indirect. Direct network effects occur when the value of a platform for a user increases as more users *within the same customer group* use the platform. For instance, Facebook becomes more valuable to a user when more of their friends and family are present on the platform.

On the other hand, indirect network effects (referred to in **Figures 3 and 4** as **INE**) involve two or more *different customer groups* whose demand is interdependent with each other. In other words, the increase in users in one customer group increases the value of the platform for the other customer group. In the case of social media users and digital advertisers, a digital platform with more users will attract more advertisers, as the advertisements will be able to reach more users. Furthermore, a digital platform with more users also means that it has accumulated more data resulting in advertisements that are better targeted and more relevant to the users (Franck & Peitz, 2019).

It is also important to distinguish between one-way and two-way indirect network effects. One-way or uni-directional INE occurs when one group of users increases the value of the platform to another group, but not vice versa (Franck & Peitz, 2019). For example, advertisers

often benefit from a larger user on the platform, but general users may be put off by the increasing number of ads that disrupt the content they consume. This was evident in a study that investigated the perception of consumers towards YouTube advertisements. Three out of four respondents claimed they would always skip these ads given that they are disturbing, misleading, excessive in number, and interruptive at key moments in videos (Antoniadis et al., 2019).

On the other hand, two-way INE creates a positive feedback loop wherein one group of users' actions on the platform provide value for another group of users and vice versa (Johnson, 2019). For instance, online gaming platforms such as Steam allow video game developers to share and sell their games to a community of users looking for entertainment. If Steam succeeds in drawing high-quality developers who release popular titles to their platform, it will also attract more video game players to join and engage with the platform. A larger user base increases the potential sales of successful games, generating greater revenue for developers and incentivizing them to produce more high-quality content. This reinforces a virtuous cycle of platform growth: increasing participation enhances the overall value of the platform, which in turn motivates further content creation and innovation (Ojala & Lyytinen, 2022).

2. Digital advertising and the role of data collection

Search and social media platforms provide their services to users for free, and they gain revenue by providing businesses with targeted advertising opportunities. In particular, platforms offer ad inventory to these businesses, which are empty spaces in a website or application meant to be filled with advertisements for users to see and possibly interact with while using the website (ACCC, 2019). These ad inventories have been offered traditionally through newspapers, magazines, and billboards, and have now been adopted by digital platforms in their business models.

There are many complex steps involved in ensuring that an advertisement makes its way to the screen of its target audience.⁵ Businesses who intend to avail of ad inventory from digital platforms must first choose their preferred digital platform, as well as the target audience for the advertisement they plan to display. Thereafter, digital platforms choose what advertisement is best shown to a user at a given time through a process called an ad auction, where algorithms are used to determine which advertisements are shown to a particular user in real time.

The wide user base and reach of Facebook and Google make them the largest providers of this service. To recall, search and social media platforms collect data from its users as a form of "payment." Platforms can track user activity through methods such as web cookies and location tracking. For example, Facebook collects data about the posts and pages that a user views and interacts with (e.g., through likes and comments), whereas Google collects data through the search history of its users. Using complex algorithms, they are able to gather information about the demographic a user belongs to, as well as his or her interests and preferences which are essential inputs in ad targeting (ACCC, 2019). **Table 2** shows the types of data being collected by Facebook and Google and what they are used for.

⁵ For more information on the digital platforms model, refer to the PCC study titled *Digital Platforms and Online Advertising: A Guide for Competition Policy*.

Table 2: Facebook and Google Data Collection and Usage

	Facebook	Google
Type of data collected	• Types of content interacted with, frequency, and duration of engagement • Content and information shared by others about the user, such as photos, messages, and imported contact information • Interaction patterns, including preferred communication contacts and groups • Payment information⁶	• Language preferences and personalized search results or ads⁷ • Name, email address, billing information, and other data associated with a Google account • User activity, searched terms, watched videos, interactions with content and ads, voice and audio data • Purchase activity, communication and content sharing, interactions on third-party sites and apps using Google services, and Chrome browsing history • Location information⁸
Use of data collected	• To suggest tagging in photos or provide location-specific services, such as check-ins and event recommendations • To improve ad relevance, measure effectiveness, and extend reach both on and off its services • To ensure safety and security by using information to verify accounts, investigate suspicious activities, and enforce terms and policies	• To process search terms and suggest recipients for content sharing • To maintain user preferences across sessions • To track outages, address reported issues, and make enhancements based on user feedback

Source: Authors' compilation of Facebook's and Google's data policies

It is also important to note that targeted advertising is further refined through the use of machine learning. For context, machine learning is a branch of artificial intelligence wherein machines such as computers create mathematical models and predictions based on historical data through various techniques (Shaveta, 2023). The machine learning models utilized by these digital platforms become better at predicting and targeting advertisements the more users interact with them (Gonzalez, 2022). Thus, this feeds into the earlier discussion of indirect network effects—the more users there are in a certain platform would mean that ads are better targeted, making the platform more appealing to businesses who wish to advertise their products or services.

⁶ This includes details such as credit or debit card numbers, account information, and billing and shipping details.

⁷ Information are stored with unique identifiers linked to the browser, application, or device, enabling the maintenance of preferences across sessions.

⁸ When users utilize their services to provide features like driving directions, localized search results, and location-based ads.

E. Regulatory Framework

Recognizing the impact of digital platforms on daily transactions, various policy frameworks have been developed to address emerging regulatory concerns for these platforms over time. In the Philippines, different government agencies are involved in the regulation of digital platforms. For instance, the National Privacy Commission (NPC) is mandated to uphold data protection through the enforcement of the Data Privacy Act (DPA) of 2012 (Republic Act No. 10173) while the National Telecommunications Commission (NTC) is responsible for overseeing internet service providers (ISPs) that provide online telecommunication services including internet access. Additionally, the Department of Information and Communications Technology (DICT) contributes to policy formulation, including cybersecurity measures.

The PCC, in collaboration with relevant agencies, also contributes to addressing issues in the Philippine digital markets that may affect market competition. Specifically, the PCC-National Economic and Development Authority joint memorandum circular 01-2020 or the National Competition Policy, as supported and strengthened by the Administrative Order No. 44 (AO No. 44) series of 2021, provides a legal framework for pro-competition interventions to maintain market efficiency and protect consumer welfare, bolstering enforcement of the Philippine Competition Act (PCA) against cartels and anti-competitive agreements. In line with broader economic and regulatory goals, the following regulations are pertinent to the Philippine digital platforms and data privacy framework:

1. *Data Privacy Act (DPA) of 2012*

The Republic Act No. 10173, otherwise known as the DPA of 2012, is enacted with the primary goal of safeguarding individuals' personal information. It reflects the state's commitment to protecting the fundamental human right of privacy and ensuring the free flow of information to foster innovation and growth.

The NPC assumes a pivotal role in the enforcement of data protection standards as mandated by the DPA. **Table 3** presents the key points of the law. Functioning as the primary regulatory authority for data privacy matters in the country, the NPC aims to promote and ensure compliance with data protection practices. Its key duties include overseeing adherence to the DPA, conducting thorough investigations in response to complaints, and imposing sanctions for violations to maintain a secure digital landscape (National Privacy Commission, n.d.).

Table 3: Salient Points of the DPA

	Description
Principle of data processing	According to Section 11 of the DPA, the processing of personal information shall be allowed subject to adherence to the principles of transparency, legitimate purpose, and proportionality.⁹

⁹ Personal information must be: (a) Collected for specified and legitimate purposes determined and declared before, or as soon as reasonably practicable after collection, and later processed in a way compatible with such declared, specified and legitimate purposes only; (b) Processed fairly and lawfully; (c) Accurate, relevant and, where necessary for purposes for which it is to be used the processing of personal information, kept up to date; inaccurate or incomplete data must be rectified, supplemented, destroyed, or their further processing restricted; (d) Adequate and not excessive in relation to the purposes for which they are collected and processed; (e) Retained only for as long as necessary for the fulfillment of the purposes for which the data was obtained or for the establishment, exercise, or defense of legal claims, or for legitimate business purposes, or as provided by law; and (f) Kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the data were collected and processed: Provided, That personal information collected for other purposes may lie processed for historical, statistical, or scientific purposes, and in cases laid down in law may be stored for longer periods: Provided, further, That adequate safeguards are guaranteed by said laws authorizing their processing.

	Description
	Additionally, Section 21 of the DPA includes a provision on the principle of accountability for transfer of personal information. This pertains to the responsibility of personal information controllers, who are accountable for complying with the DPA when personal information is transferred to a third party for processing.
Basis for processing personal data including sensitive personal data	- Data privacy laws provide that a legitimate basis should be established for processing personal information.^{10,11} - On the other hand, processing of sensitive personal information¹² is afforded a higher level of protection. Section 13 of the DPA provides that processing of sensitive personal information is generally prohibited, except in certain instances such as when the data subject has given explicit consent or in cases where processing is explicitly provided for by law, or for medical treatment, among others.¹³
Personal information controllers and processors and their obligations under the DPA	- Personal information controllers are entities or individuals that determine the purposes, conditions, and means of the processing of personal information and maintain records of the same.¹⁴ - In case of a data breach affecting data subjects' rights, personal information controllers must promptly notify the NPC and affected individuals, appointing a data protection officer (DPO) to ensure DPA compliance.^{15,16} - Personal information processors oversee data processing, share responsibilities with controllers in maintaining records, cooperate with NPC investigations, and promptly report breaches to personal information controllers.
Data subject's rights	- Digital platforms collect user data as stipulated in the terms and conditions that users must agree to before signing up for the digital platform. Once users agree to these conditions, they give permission to process their information which may be utilized for strategies to improve user experience. - The DPA affords several rights to data subjects, including: (i) the right to information;¹⁷

¹⁰ Under the DPA, "misuse of information" is not explicitly defined. However, this may refer to the "unauthorized use of data" wherein the data is used for "unauthorized purposes or are no longer necessary for the purposes for which they were collected" (Sec. 16(e), DPA).

¹¹ For example, Section 12 of the DPA enumerates several lawful bases, which include consent of the data subject, the necessity of processing for the performance of a contract to which the data subject is a party, compliance with a legal obligation, protection of vital interests, and the existence of a legitimate interest pursued by the personal information controller or a third party.

¹² Includes information about an individual's race, ethnic origin, marital status, age, color, and religious beliefs, among others.

¹³ Processing of sensitive personal information is also permitted in situations wherein the processing "concerns such personal information as is necessary for the protection of lawful rights and interests of natural or legal persons in court proceedings, or the establishment exercise or defense of legal claims, or when provided to government or public authority" (Sec. 13(f)).

¹⁴ Records of Processing Activities (ROPA). Data controllers are required to inform data subjects of the purposes for the processing, categories of personal data being collected, methods used for processing, the scope and method of data sharing, recipients of their data if shared, and the identity and contact details of the data controller for the exercise of the rights of data subjects.

¹⁵ The DPO serves as a point of contact for data subjects and the National Privacy Commission (NPC), providing a transparency mechanism that allows regulatory authorities to assess compliance.

¹⁶ Section 31, DPA.

¹⁷ Section 16(a) of the DPA ensures individuals are informed about the collection and processing of their personal data, including purposes and the identity of the controller.

	Description
	(ii) the right to object; ¹⁸ (iii) the right to access; ¹⁹ (iv) the right to rectification; ²⁰ (v) the right to erasure or blocking; ²¹ (vi) the right to damages; ²² (vii) the right to file a complaint; ²³ (viii) the right to data portability; ²⁴ and (ix) the transmissibility of rights. ²⁵

2. Other Relevant Legislations

Digital platforms remain essential for facilitating global transactions, with local and international policy frameworks being established to strengthen enforcement mechanisms and ensure global adherence. Local regulatory frameworks related to digital platforms and data privacy are listed in **Annex B. Table 4** provides a summary of international legislation relating to digital platforms along with the salient provisions addressing data privacy concerns.

Table 4: International Legislations Governing Digital Platforms and Data Privacy

International Legislations		
	Summary	Implementing Agency
General Data Protection Regulation (GDPR)	The GDPR introduces a set of fundamental principles that govern the processing of personal data, emphasizing transparency, lawfulness, fairness, purpose limitation, data minimization, accuracy, storage limitation, integrity, confidentiality, and accountability.	Independent Data Protection Authorities (DPAs) in the European Union (EU)
Budapest Convention on Cybercrime	The Convention on Cybercrime, also known as the Budapest Convention, is a pioneering international treaty aimed at addressing the challenges posed by cybercrime.	Council of Europe
Digital Single Market Strategy	The DSM Strategy seeks to eliminate barriers to digital trade, promote innovation, and enhance digital connectivity within the EU.	EU

¹⁸ Section 16(b) of the DPA empowers individuals to resist the processing of their data, especially for direct marketing or automated processing.

¹⁹ Section 16(c) of the DPA enables individuals to request and obtain a copy of their data, along with details of its processing and recipients.

²⁰ Section 16(d) of the DPA allows individuals to request corrections to inaccuracies in their data.

²¹ Section 16(e) of the DPA permits individuals to request removal or suspension of their data under specific circumstances.

²² Section 16(f) of the DPA provides compensation for harm caused by inaccuracies, incompleteness, or unauthorized use of personal data.

²³ Section 16(g) of the DPA empowers individuals to report violations of their rights to the National Privacy Commission.

²⁴ Section 16(h) of the DPA allows individuals to obtain a copy of their data in electronic or structured format from the personal information controller for further use.

²⁵ Section 17 of the DPA allows the lawful heirs and assigns of the data subject to invoke the rights of the data subject at any time after the death of the data subject or when the data subject is incapacitated or incapable of exercising the rights enumerated in the immediately preceding section.

International Legislations		
Association of Southeast Asian Nations (ASEAN) Data Management Framework	Among others, the framework aims to promote a robust digital economy by (i) reducing the likelihood of data breaches; (ii) encourage data flows within the economy; and (iii) support cross border data flows across ASEAN Member States.	ASEAN
Organisation for Economic Co-operation and Development (OECD) Privacy Framework	The OECD Privacy Framework sets out internationally recognized principles for the protection of personal data to facilitate cross-border data flows while safeguarding privacy.	OECD
Convention 108	Convention 108 and its modernized version, Convention 108+, also known as the Convention for the Protection of Individuals with regard to automatic processing of personal data, are binding international treaties that establish fundamental principles for the protection of personal data and individual privacy rights across borders.	Council of Europe
Asia-Pacific Economic Cooperation (APEC) Privacy Framework	The APEC Privacy Framework promotes a flexible, principles-based approach to information privacy protection to support regional trade and data flows among APEC economies.	APEC

III. COMPETITIVE LANDSCAPE

The business model of search and social media platforms is driven by data collection and digital advertising. This section discusses the mechanisms that allow Google and Facebook, the platforms with the largest user bases and data accumulation among the search and social media platforms, to protect their incumbency advantage and maintain market power in their respective markets.

Both Facebook and Google rank among the largest companies globally by market capitalization. As shown in **Table 5**, Google and Facebook are currently among the most highly valuable companies in the world, ranking at 4th and 7th respectively.

Table 5: Top 10 Largest Companies Globally by Market Capitalization (as of October 2024)

	Company	Market Capitalization (in Trillions USD)
1	Apple, Inc.	3.448
2	Microsoft Corporation	3.093
3	NVIDIA Corporation	3.064
4	Alphabet Inc. (Google)	2.065
5	Amazon.com, Inc.	1.958
6	Saudi Arabian Oil Co.	1.739
7	Meta Platforms, Inc. (Facebook)	1.508
8	Berkshire Hathaway Inc.	0.996
9	Eli Lilly and Company	0.843
10	Broadcom Inc.	0.825

Source: Trading View (2024)

To further illustrate the size of Facebook and Google in the market for social media and search platforms, this study employs the use of three metrics in determining the competitive landscape of social media and search engine platforms. These include (i) market shares, (ii) direct and indirect network effects, and (iii) economies of scale and scope.

Traditionally, the use of tangible metrics such as market capitalization determines the firm's position in the market. However, such metrics may only serve to partially characterize the competitive landscape of digital platforms due to intricacies that arise from its non-traditional nature. For this reason, the study adds other measures and considerations to fully capture competition in this market, such as market shares based on users, direct and indirect network effects, and economies of scale and scope. These considerations also help illustrate the barriers to entry and expansion that new entrants and smaller players would have to face if they were to compete with incumbent firms such as Facebook and Google.

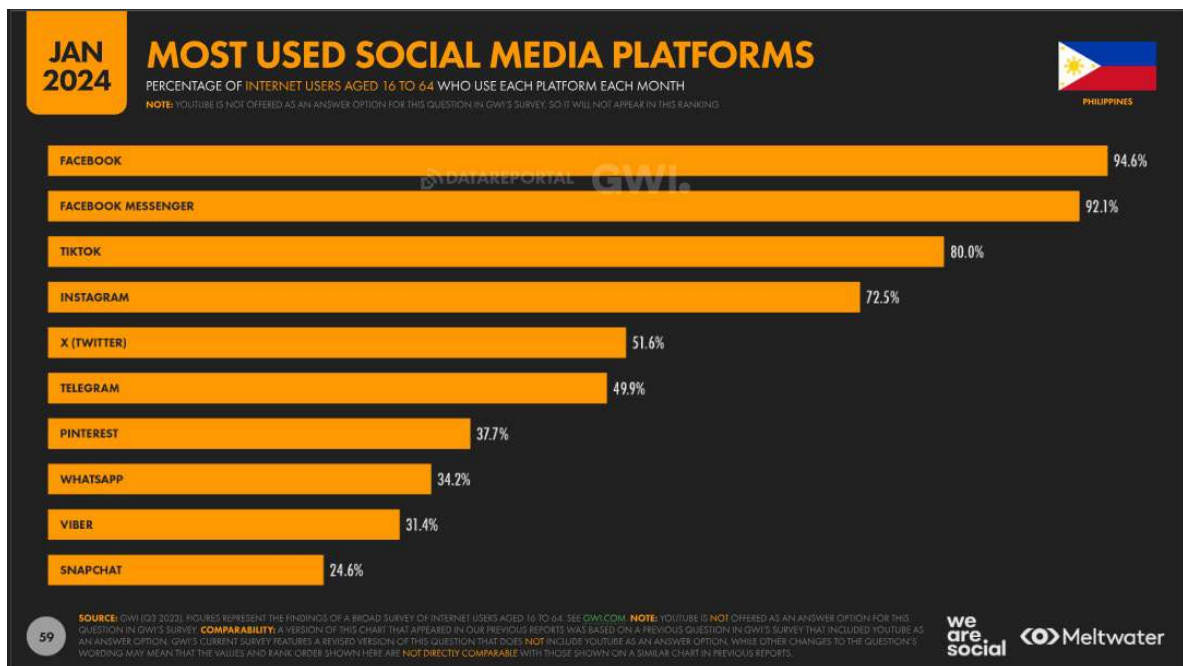
A. Social Media Platforms

1. Market Shares in Social Media

To illustrate the competitive landscape in which digital platforms operate, industry market shares are provided and discussed.

For social media, **Figure 5** shows that Facebook and Messenger are the most used social media platforms in the Philippines based on percentage of internet users who use each platform, followed by TikTok, Instagram, and X (formerly Twitter).²⁶

Figure 5: Top Social Media Platforms in the Philippines as of 2024



Source: Kemp (2024)

To verify the market share of each platform, this study also uses the number of active users that participated in the online consumer survey conducted by the PCC, as shown in **Figure**

²⁶ DataReportal states that information on social media users comes from data published by various social media platforms and government authorities. Note that due to issues such as duplicate accounts and "non-human" accounts (e.g., business accounts, pets, etc.) figures for social media users may not equate to unique, individual human users (Kemp, 2024).

6. The survey yielded similar results, with Facebook and Messenger as the platforms with the most active users (931 and 930, respectively) out of 1,000 respondents.

Figure 6: Number of Users of the Top Social Media Platforms based on Consumer Survey²⁷



Source: PCC Consumer Survey on Social Media and Search Platforms (2023)

For both Facebook and Messenger, majority of users state that they use the platform more than five days a week, with 740 and 776 users respectively. Users state that they use the platform for the following purposes: (i) to read or gather information, (ii) to share content or information, (iii) to be entertained, (iv) to join or organize groups, and (v) to communicate with people.

YouTube and TikTok follow with 848 and 725 users, respectively, providing their users with short-form and long-form video content. However, their users use the platform less frequently, with only 453 and 470 users, respectively, stating that they use the platform more than five days a week.

Furthermore, this study notes that social media platform users are not limited to using a single social media platform, as shown by the large number of respondents who stated that they multi-home or use more than one platform simultaneously. This is due to the fact that social media platforms offer distinct and complementary features. For instance, Facebook offers users a platform to share updates and content on the platform, while Instagram focuses more on photo uploads and short-form videos called “reels.”

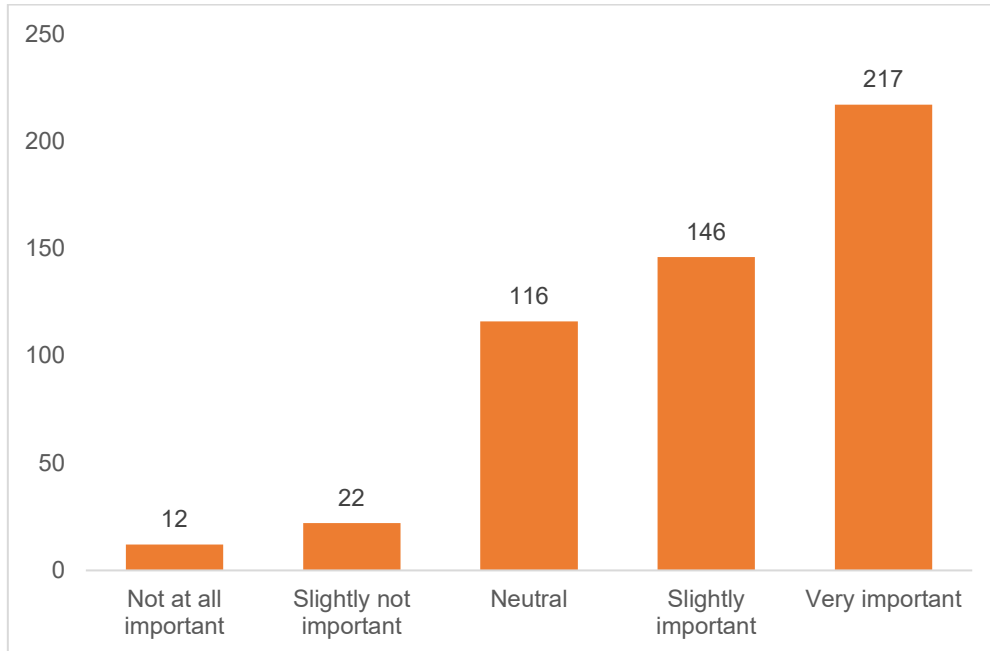
2. Direct and Indirect Network Effects

The presence of network effects may give rise to high market concentration and barriers to entry or expansion in digital platforms. Direct network effects in social media platforms such as Facebook are very evident, wherein the value of a platform for a user increases as more of their friends or family members join the platform. Thus, social media platforms with a large user base are more likely to attract more users.

²⁷ Multi-homing occurs if a user regularly uses more than one platform to access the same service, whereas single-homing occurs if a user only uses one platform for said service.

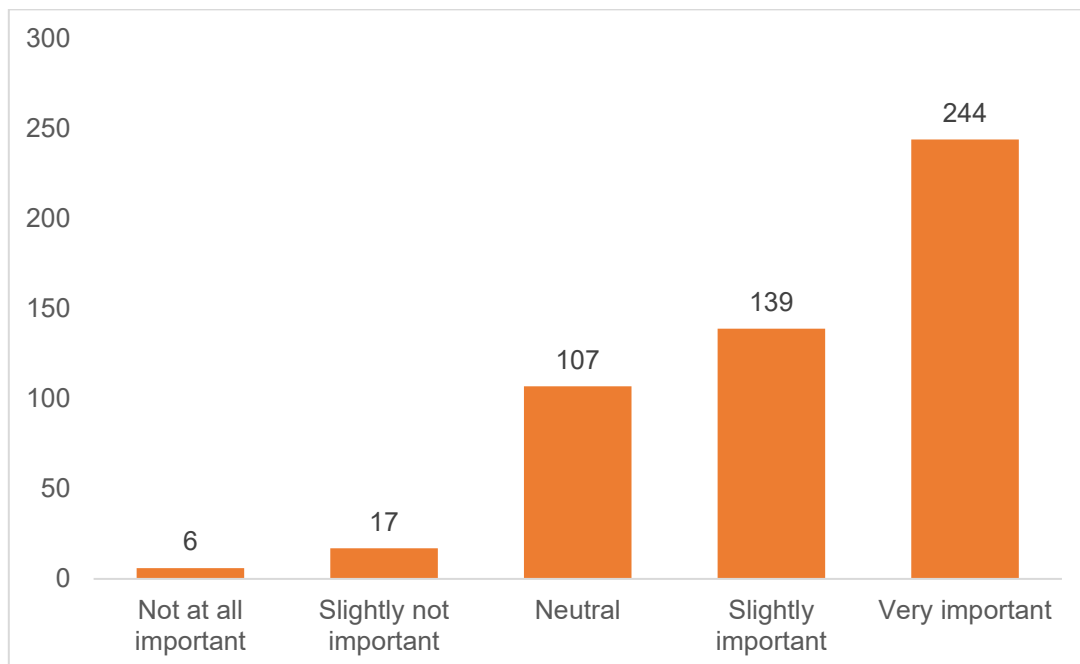
Figures 7 and 8 illustrate the existence of direct network effects for social media platforms. Based on the online consumer survey conducted, the majority of social media platform users place importance on the number of users, as well as the presence of friends, family, and colleagues in the same platform.

Figure 7: Importance of Number of Users in Using a Digital Platform²⁸



Source: PCC Consumer Survey on Social Media and Search Platforms (2023)

Figure 8: Importance of Presence of Family, Friends and Colleagues in Using a Digital Platform



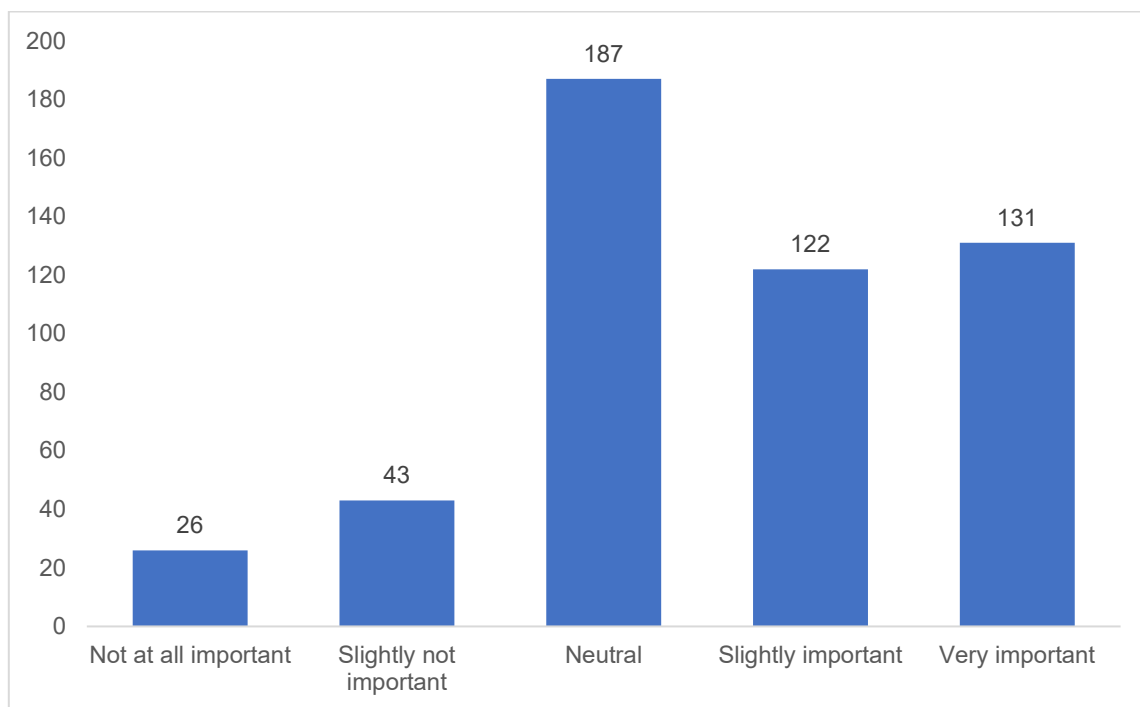
²⁸ Respondents were asked: "How important are the following factors/features when you decide which social media platform to use or to switch into?" Among the features identified were (i) the number of people using the platform and (ii) if it is the same platform used by family, friends and colleagues.

Source: PCC Consumer Survey on Social Media and Search Platforms (2023)

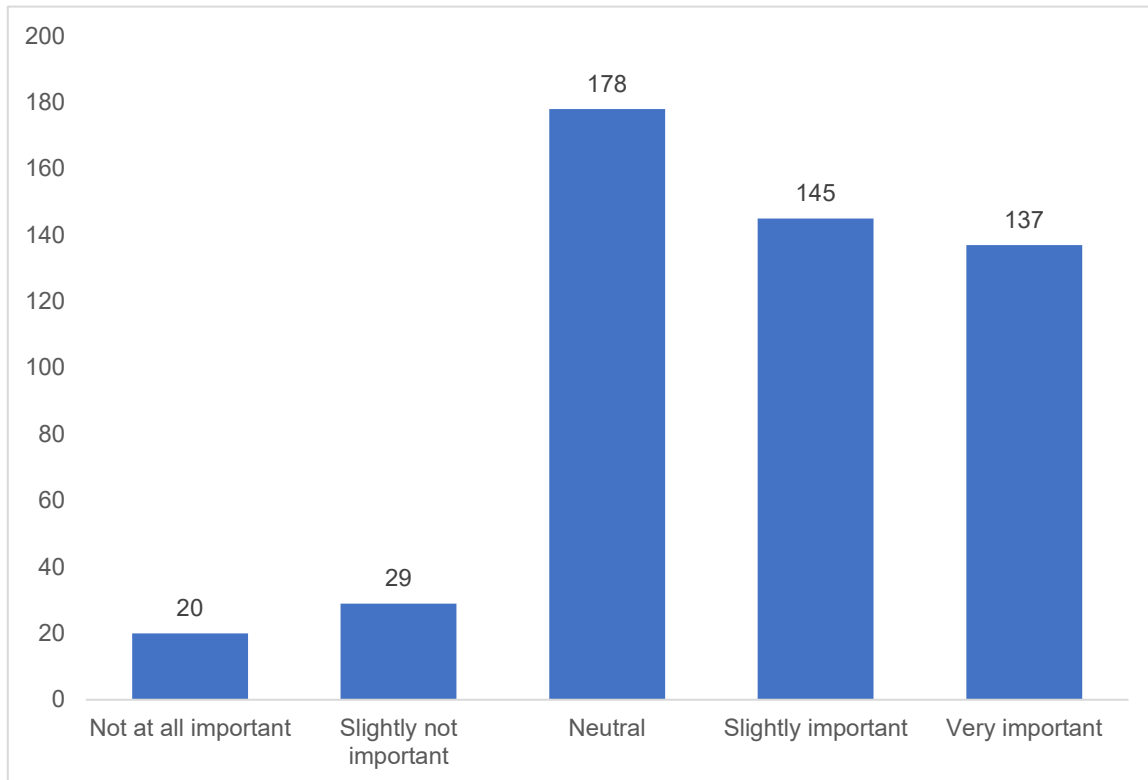
Indirect network effects also occur in social media platforms given that there are distinct user groups being served, namely users and advertisers. The more users a platform has, the more attractive it is to advertisers. Advertisers are willing to pay more to access a larger audience and the platform's targeted advertising services, thereby increasing the social media platform's revenue. It is important to note that the indirect network effects may be uni-directional for social media platforms, wherein although the presence of more users is appealing to advertisers, excessive advertising can negatively impact the user experience (OECD, 2022b). However, literature suggests that the perception of digital advertisements may be affected by age group, wherein younger users view advertisements more favorably than older users (Olivo, 2024).

Figures 9 and 10 tally the importance of advertisements to users of social media platforms based on the online consumer survey conducted for this study. The findings suggest bi-directional indirect network effects, wherein 253 out of 509 respondents (50%) place at least slight to high importance on the frequency advertisements that they see, and 282 out of 509 respondents (55%) feel the same towards the relevance of advertisements. However, the neutral response was the most popular in terms of both frequency (37%) and relevance (35%) of advertisements. Finally, only a minority of respondents find that advertisement frequency and relevance are slightly unimportant or not at all important to them. These findings also seem to apply similarly across different age groups; thus, this study is unable to verify whether different age groups react differently towards targeted advertisements.

Figure 9: Importance of Frequency of Advertisements to Social Media Platform Users



Source: PCC Consumer Survey on Social Media and Search Platforms (2023)

Figure 10: Importance of Relevance of Advertisements to Social Media Platform Users

Source: PCC Consumer Survey on Social Media and Search Platforms (2023)

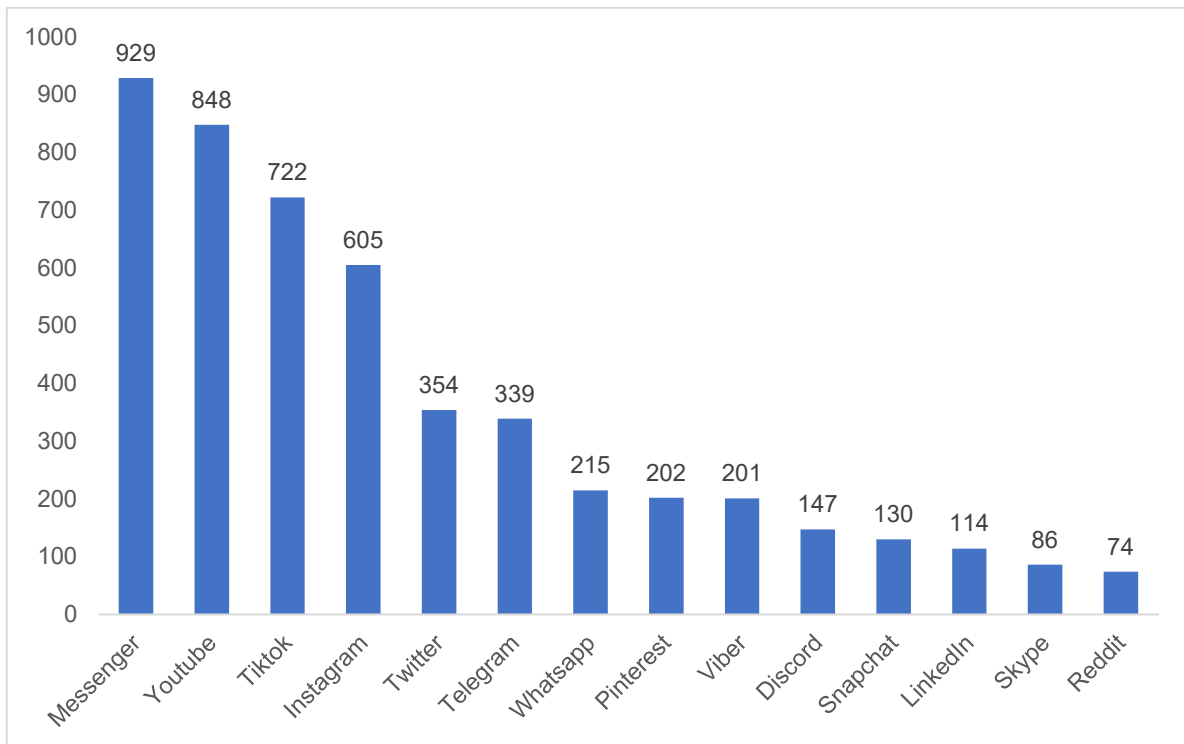
Furthermore, the zero-price model utilized by social media platforms encourages consumers to use these platforms, thus enhancing their attractiveness to both users (through direct network effects) and advertisers (through indirect network effects) alike.

It is important to note that network effects may be mitigated by multi-homing, where smaller players could potentially develop their own significant customer bases in order to prevent the market from tipping.²⁹ However, in the strictest sense, multi-homing only occurs if it is found that two platforms belong in the same relevant market.³⁰ However, this study uses the concept of multi-homing more loosely, as it does not go through the market definition analyses for both social media and search platforms. The overlap in features and functions among different platforms, as well as differing consumer preferences, make it challenging to delineate a final relevant market. Nevertheless, this study discusses the other social media platforms used simultaneously by Facebook users to provide insights into the possible competitive constraints faced by Facebook.

Out of the 931 respondents that indicated that they are Facebook users, only 17 respondents single-home or use Facebook exclusively. **Figure 11** shows the breakdown of platforms used by Facebook users.

²⁹ Tipping refers to "a situation characterized by the market being supplied entirely, or almost entirely, by a single dominant platform" (Nicoletti et al., 2023). Thus, the position of the incumbent becomes difficult to challenge and entrenchment prevails.

³⁰ The PCA defines the relevant market as the market in which a particular good or service is sold, and which is a combination of the relevant product market and the relevant geographic market.

Figure 11: Multi-Homing by Facebook Users

Source: PCC Consumer Survey on Social Media and Search Platforms (2023)

While Messenger has the highest number of multi-homing users, it is already part of the Facebook ecosystem. The same also applies to Instagram, which belongs to the Facebook ecosystem and had the fifth highest number of multi-homing users. YouTube and TikTok follow Messenger with the third and fourth highest number of users.

Figure 12 provides a comparison of features between different social media platforms. It is important to note that while these digital platforms may have similar features and services, consumers visit these websites for different reasons. Social media users may differentiate between social media platforms based on the needs they cater to, wherein platforms such as Messenger and WhatsApp are targeted towards facilitating communication, while platforms such as YouTube or TikTok are more geared towards content sharing. Users may also differentiate between the groups they can connect with through a social media platform. For example, LinkedIn users most likely connect with professional networks through the platform, whereas Snapchat users connect with close friends (CMA, 2020b).

Figure 12: Comparison of Features Between Different Social Media Platforms

	Profile/ Account	Curated/ Personalised Feed	Friends/ Contacts/ Connections	Followers/ Subscribers	Photo Sharing	Video Sharing	Comments	Messaging
YouTube	✓	Recommended	✓	✓	✓	✓	✓	✓
Facebook	✓	News Feed	✓	✓	✓	✓	✓	✓
Snapchat	✓	Discover	✓	✓	✓	✓		✓
WhatsApp	✓		✓		✓	✓		✓
Instagram	✓	Explore	✓	✓	✓	✓	✓	✓
Twitter	✓	Timeline		✓	✓	✓	Replies	✓
LinkedIn	✓	✓	✓	✓	✓	✓	✓	✓
TikTok	✓	For You	✓	✓		✓	✓	✓
Pinterest	✓	✓		✓	✓	✓*	✓	✓
Reddit	✓	Front Page	✓	✓	✓	✓	✓	✓
Tumblr	✓	Dashboard		✓	✓	✓	✓	✓

Source: CMA (2020b)

Given the foregoing, consumers may not consider all of the available social media platforms to be closely substitutable with that of Facebook, and, therefore, may not belong in the same relevant market. Thus, multi-homing may not be able to temper the incumbency advantage enjoyed by Facebook.

3. Economies of Scale and Scope

Economies of scale and scope also give rise to barriers to entry into the digital platforms market, providing incumbents such as Facebook with advantages over smaller players and potential entrants. With regard to economies of scale, digital platforms have been said to have a “winner-takes-most” dynamic (CMA, 2020b). To elaborate, once a digital platform has reached a certain size, it can be very difficult for potential entrants to effectively compete. This is because digital platforms are characterized by high fixed costs, especially during the development and operation of their platform, but very low marginal costs for every additional user. Zero pricing makes it even more difficult for new entrants to gain scale, as they will have to compete with the incumbent on non-price features (OECD, 2022b).

Further, incumbents enjoy economies of scope given the abundance of data and resources available to the most prominent social media platforms. Facebook is able to utilize data coming from the Meta ecosystem to provide better quality targeted advertising services. These ecosystems give rise to economies of scope where costs are minimized through the collection of data from all the platforms under a digital ecosystem. Instead of two separate entities collecting data, platforms under a single ecosystem will be able to integrate and pool user data through a unifying account to better profile their preferences and behaviors. It utilizes pooled data to improve services across ecosystem platforms through the reduction of user acquisition cost and increasing the efficiency of targeted advertisements.

These ecosystems can expand further through strategic acquisitions in the case of Instagram's acquisition by Facebook in 2012. Prior to the acquisition, Instagram was known to specialize in the photo-sharing market while Facebook was a more general social media platform. Facebook's purchase of Instagram allowed the platforms to unify under one Meta account and co-develop their photo-sharing services. It then allowed Facebook's users to experience a more refined photo-sharing service (Meta, 2012).

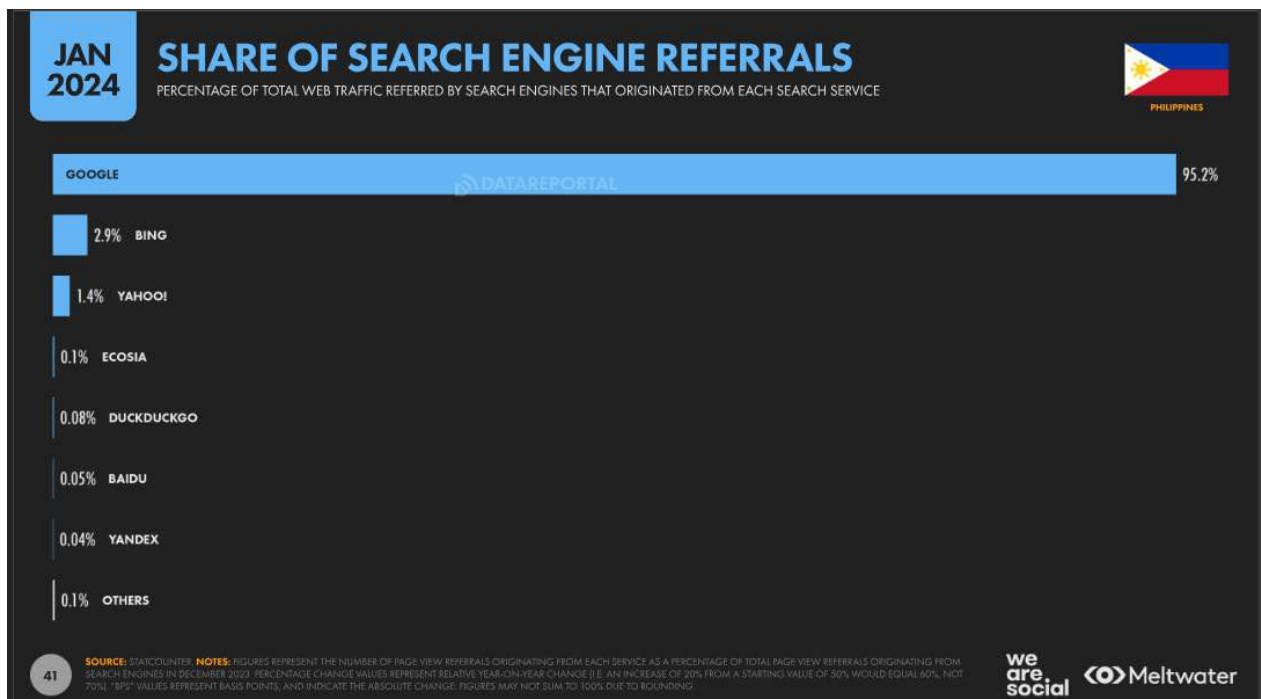
Ecosystems may result in a more convenient user experience, where users can move smoothly from one service to another within the ecosystem. However, ecosystems can also result in further entrenching an incumbent's market power, and the economies of scope enjoyed by these ecosystems also allow them to expand their presence in other digital markets.

B. Search Platforms

1. Market Shares in Search Platforms

For search platforms, **Figure 13** shows that Google is by far the leading search engine in the market with 95.2% of search engine referrals,³¹ followed by Bing and Yahoo with only 2.9% and 1.4%, respectively.

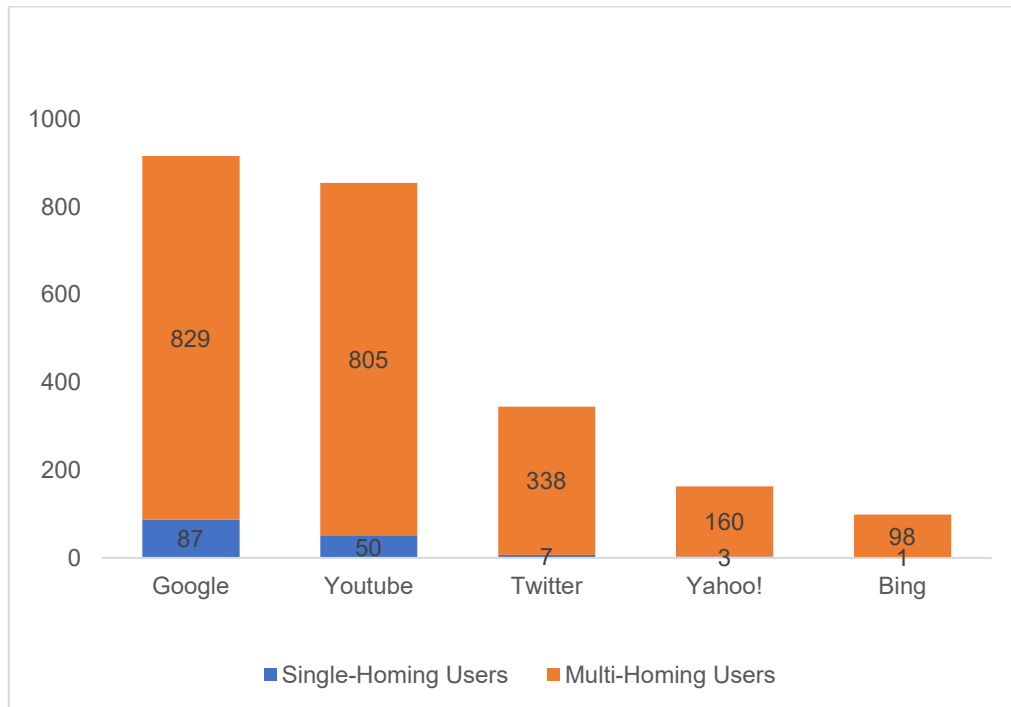
Figure 13: Top Search Platforms in the Philippines



Source: Kemp (2024)

Similar to how market shares were verified for social media platforms, this paper explores the online survey results for search platforms shown in **Figure 14**.

³¹ Search engine referrals represent the number of page view referrals originating from each service as a percentage of total page view referrals originating from search engines.

Figure 14: Number of Users of the Top Search Engine in the Philippines

Source: PCC Consumer Survey on Social Media and Search Platforms (2023)

Google, YouTube, and Twitter feature as the leading search engine platforms, and most multi-homing occurs within these three platforms. Only 87 respondents use Google exclusively, 359 use Google and YouTube, while 191 use Google, YouTube, and Twitter. However, note that YouTube and Twitter are not primarily categorized as search engines and are more akin to social media platforms. Although they have search functionalities, they are only able to retrieve content from their own websites (i.e., search results on YouTube and Twitter will be in the form of YouTube videos and tweets, respectively). Search engines, in contrast, are able to retrieve information from a diverse set of sources from the internet. Based on the online consumer survey however, some users may choose to use YouTube and Twitter for their search queries and information gathering activities given the wide range of services they offer.

Nonetheless, the majority of respondents state that on average, they use search engines to mainly accomplish the following: (i) to read or gather information, (ii) to buy and search for products, (iii) to share content or information, (iv) to be entertained, and (v) to communicate with other people. Among the five identified reasons for using search engines, the survey results showed that information gathering is the main use of search engines with almost four out of every five respondents (80%) indicating this type of usage.

Roughly half of the respondents chose the other four reasons for using search engines. Though the above-stated reasons for using search engines are distinct from each other, the number of respondents that have chosen them are almost equal. The sample shows that 53% use search engines to buy and search for products, while content sharing, entertainment, and communication each garnered 52% of respondents. This signifies the diverse needs of users that search engines are able to address on one platform.

2. Direct and Indirect Network Effects

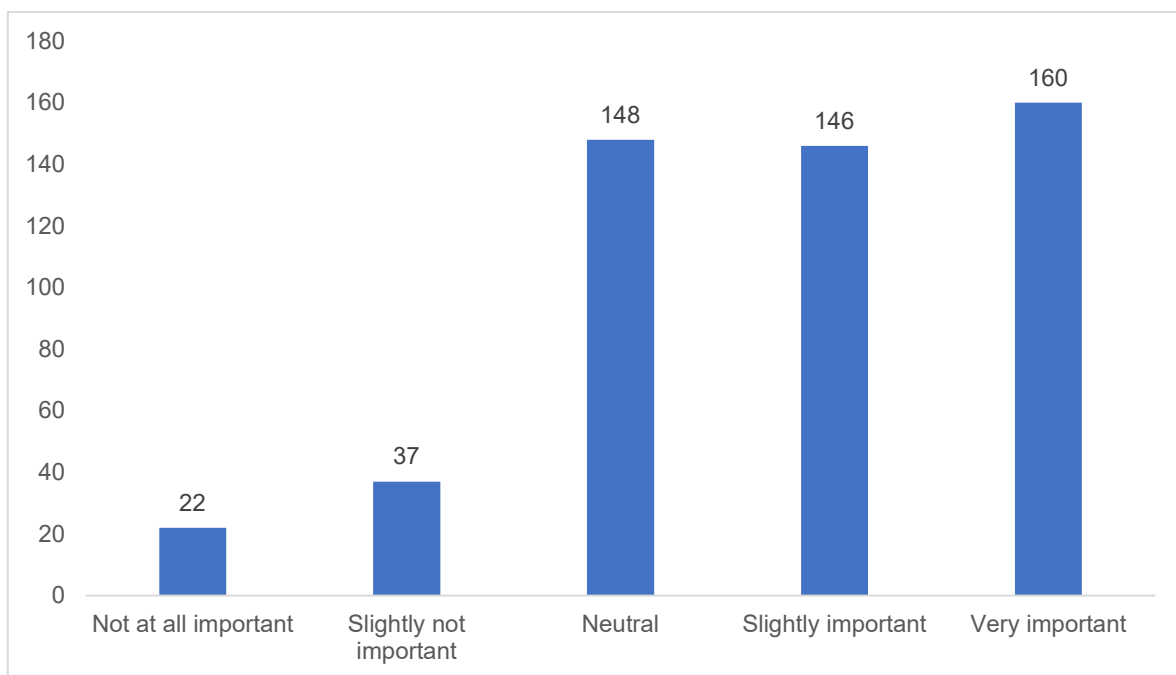
Google has amassed a large amount of user data that it can use to improve its algorithm. The more users a search engine can serve, the better it is able to gather data to understand

what users search and how they interacted with the results. This provides users with more relevant and higher quality results whenever they use the search engine (CMA, 2020b). Given the big amount of data that Google has accumulated, it can deliver more relevant results compared to its competitors, thereby making it more appealing to users. It is important to note that achieving direct network effects in search platforms would require sufficient scale (OECD, 2022b).

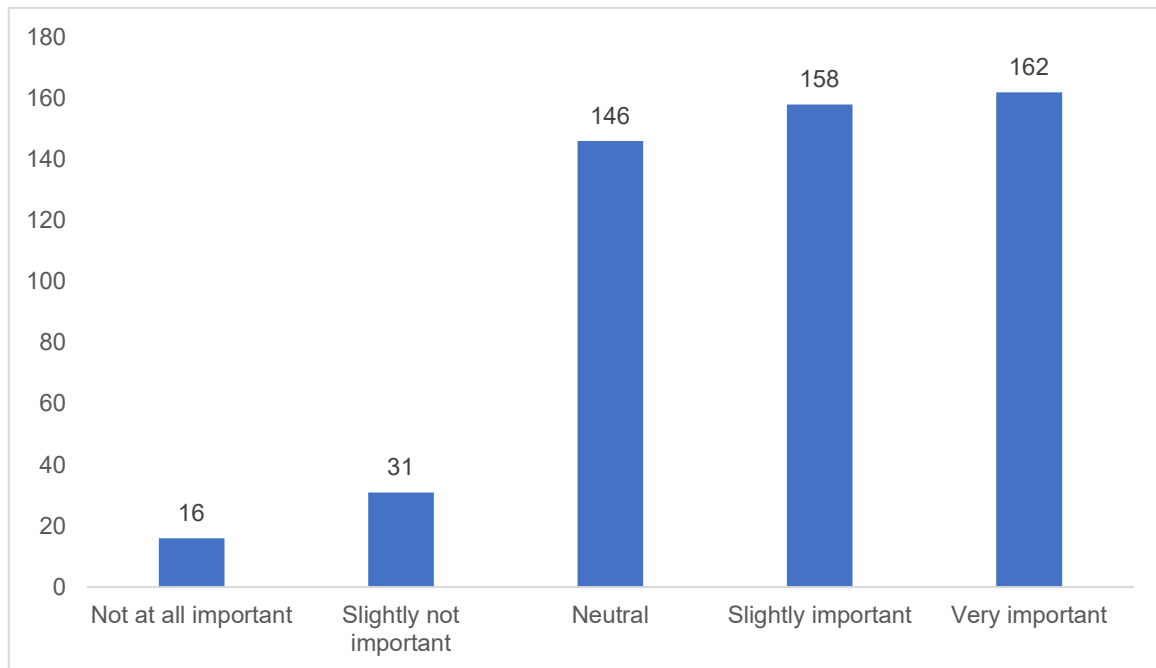
Similar to social media platforms, indirect network effects are present in search platforms. In this context, advertisers find a search platform more attractive if it has more users, as it is able to reach a larger user base, and a large user base allows the search platform to provide better ad targeting.

The online survey explored the indirect network effects from the perspective of users. **Figures 15** and **16** tally the responses to questions on importance of frequency and relevance of advertisements. The results suggest that the indirect network effects are bi-directional, wherein some users are also attracted to frequent advertisements that are relevant to their interests. In particular, 253 out of 513 (60%) indicated that frequent advertisements were either slightly or very important to them, while 207 out of 513 (40%) stated the same regarding the relevance of advertisements. However, there is also a significant number of respondents that are only neutral to the frequency and relevance of advertisements, and a few respondents that place little to no importance on the advertisements.

Figure 15: Importance of Frequency of Advertisements to Search Platform Users



Source: PCC Consumer Survey on Social Media and Search Platforms (2023)

Figure 16: Importance of Relevance of Advertisements to Search Platform Users

Source: PCC Consumer Survey on Social Media and Search Platforms (2023)

As discussed, multi-homing occurs in search platforms, and users typically multi-home between Google, Twitter, and YouTube. However, this paper notes that Twitter and YouTube are not primarily search engines. Excluding YouTube and Twitter in **Figure 14**, the survey shows that, out of the 916 Google users, there are 157 who also use Yahoo, followed by Bing with 92 users. Overall, there is not a significant user base in Google that multi-home in other search engines, suggesting that Google's market dominance is deeply entrenched.

3. *Economies of Scale and Scope*

Similar to social media platforms, search platforms also enjoy economies of scale. They face substantial fixed costs in developing and operating their platforms but very low marginal costs in providing their services to an additional user. This scale advantage enjoyed by the incumbent makes it difficult for small players to compete and leads to barriers for potential entrants.

Google also provides a variety of services other than its search engine, such as Gmail, Google Shopping, Google Maps, and YouTube. Thus, Google enjoys economies of scope as well, as they are able to obtain data from the aforementioned services. In turn, they can utilize the data to further dominate the markets they operate in and enter other digital markets.

In line with this, one of the ways that Google was able to enter into similar markets was through strategic acquisitions. For example, Google's failed attempt to penetrate the video-sharing platform market through the Google Video platform prompted it to acquire the market's biggest player, YouTube in 2006 (Cool et al., 2017). This expansion of services by a resource-rich platform like Google allows it to acquire and integrate data, streamlining service provision while continually collecting and utilizing data from an ever-growing user base.

IV. DATA PRIVACY AND COMPETITION POLICY ISSUES

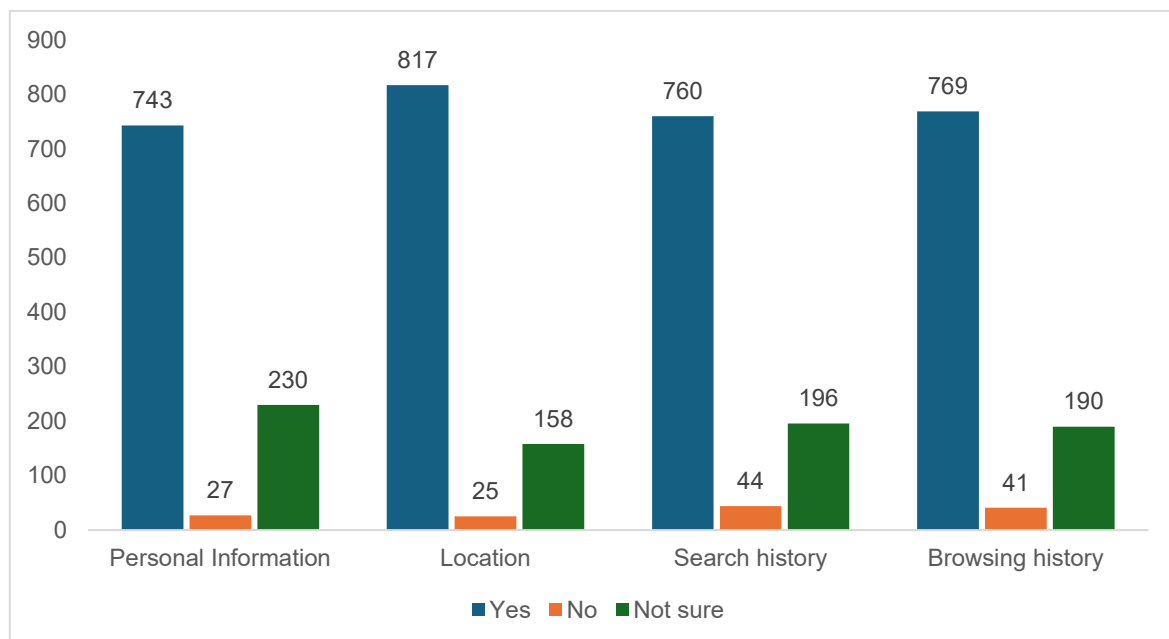
Given the foregoing discussion regarding the dominance of Facebook and Google in the social media platform and search engine markets, respectively, the following section explores the potential harm to consumers arising from such market dominance, with a focus on data privacy concerns and the tensions arising from competition policy and data privacy issues.

A. Consumer Concerns

The main concern for consumers in relation to digital platforms and data privacy is the lack of transparency and choice as to how these platforms utilize their data. Through the online consumer survey, this paper was able to get insight into consumer awareness and concerns regarding data collection and privacy practices done by search and social media platforms.

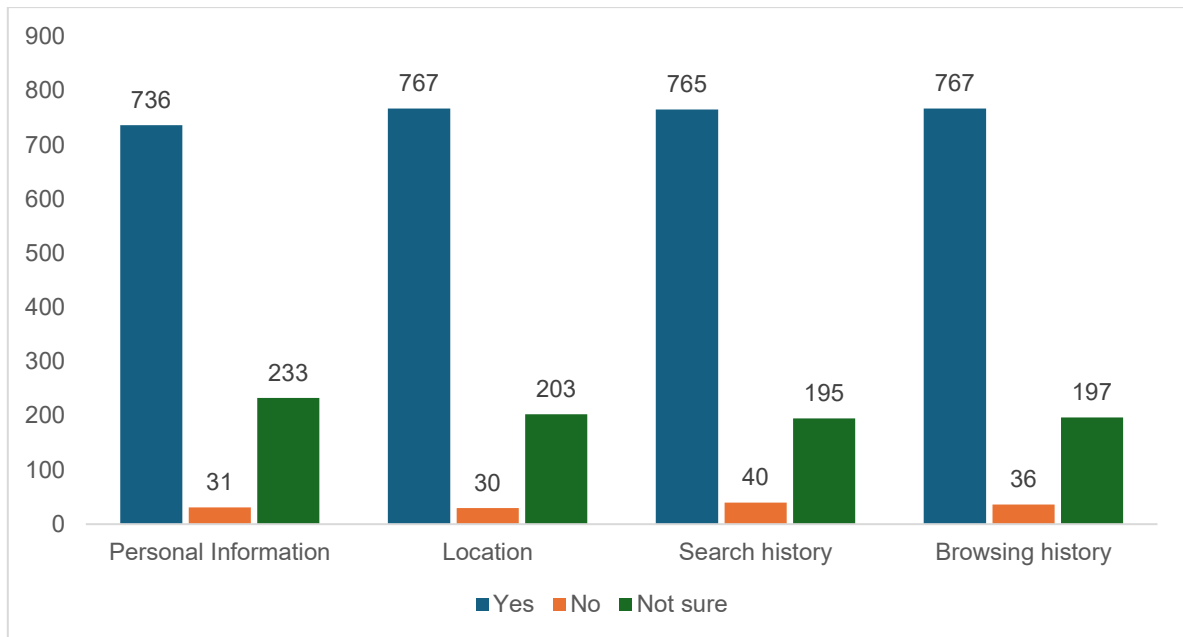
Figures 17 and 18 present the level of consumer awareness regarding the data collection and tracking practices done by social media and search platforms. Consumers were asked whether they were aware that digital platforms collect the following types of user data: (i) personal information, (ii) location, (iii) search history, and (iv) browsing history.³² Most consumers of social media platforms and search platforms exhibited an awareness of data collection practices by digital platforms, although there were some users that were unaware or unsure of the existence of such practices.

Figure 17: Awareness of Data Collection and Tracking Practices by Social Media Platforms



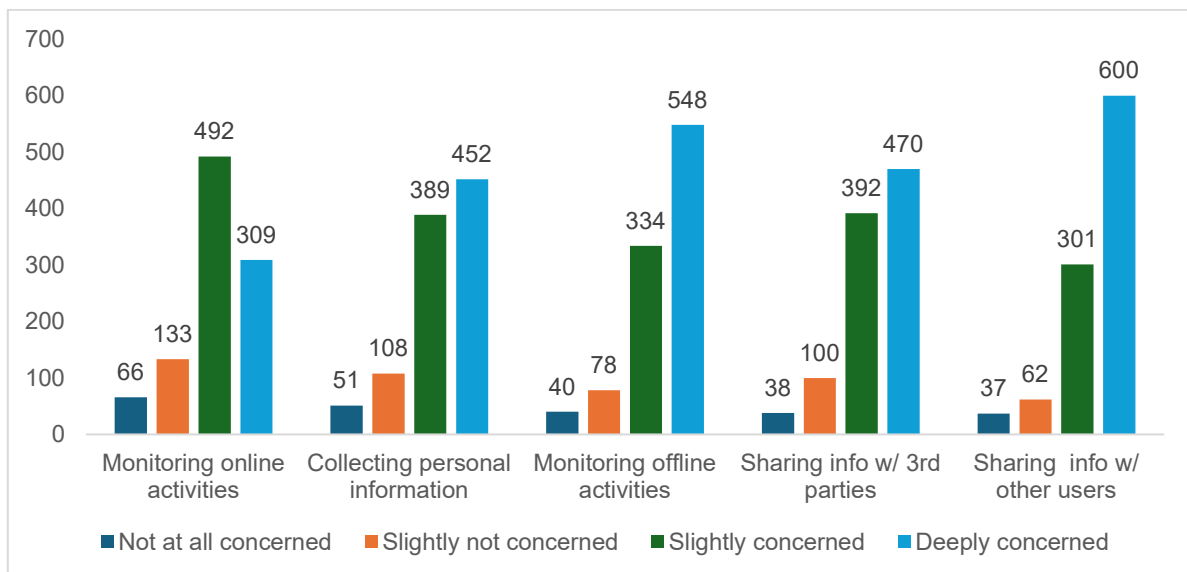
Source: PCC Consumer Survey on Social Media and Search Platforms (2023)

³² Search history pertains to all of the queries entered by a user into a search engine, while browsing history refers to all web pages visited by a user.

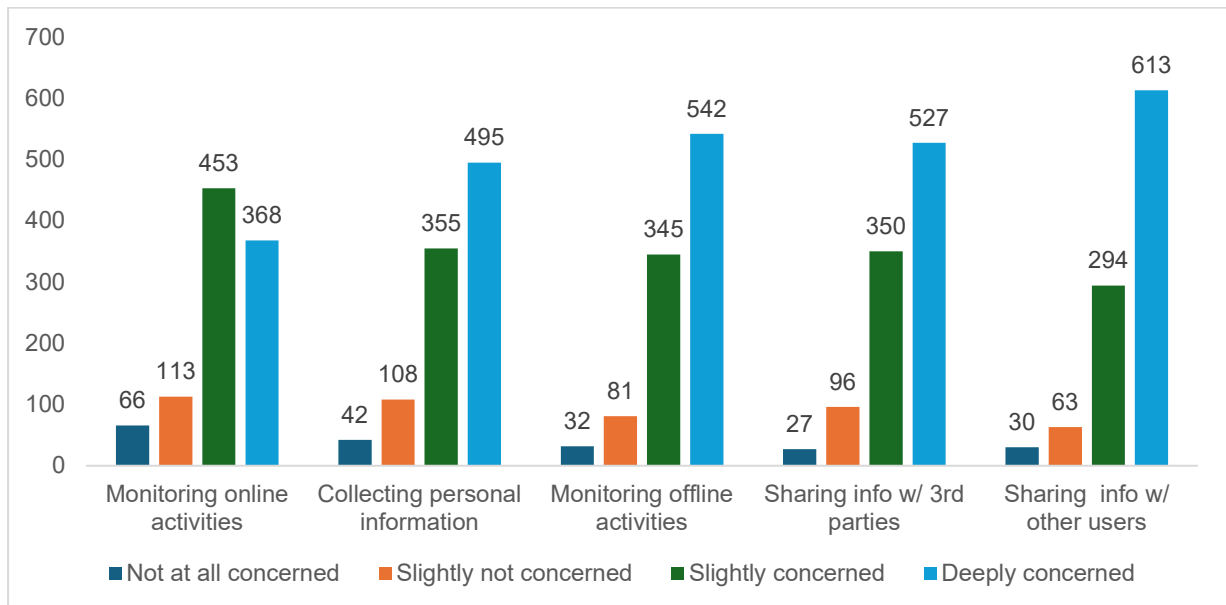
Figure 18: Awareness of Data Collection and Tracking Practices by Search Platforms

Source: PCC Consumer Survey on Social Media and Search Platforms (2023)

Moreover, consumers were asked regarding the extent to which they were concerned about the data collection practices by digital platforms. **Figures 19 and 20** present the level of concern that consumers who participate in the survey have pertaining to certain practices, namely (i) monitoring of online activities such as browsing and search history; (ii) collecting and storing personal information; (iii) monitoring offline activities such as location; (iv) sharing information with third parties such as analytics service providers and partner application developers; and (v) sharing information with other users. The results show that the majority of consumers surveyed are at least slightly concerned or even deeply concerned about said practices.

Figure 19: Consumer Concerns Regarding Data Collection Practices by Social Media Platforms

Source: PCC Consumer Survey on Social Media and Search Platforms (2023)

Figure 20: Consumer Concerns Regarding Data Collection Practices by Search Platforms

Source: PCC Consumer Survey on Social Media and Search Platforms (2023)

Results show that surveyed consumers are generally aware of and concerned with data collection practices of digital platforms. Included in these concerning practices are monitoring and sharing of collected information. However, although data privacy is important to consumers, they are not given much of a choice. The terms and conditions of digital platforms such as Google and Facebook are typically “take-it-or-leave-it” in nature, meaning that consumers do not have much bargaining power as to how their data is utilized. In other words, consumers would have to accept these digital platforms’ terms and conditions in their entirety, or not be able to use the digital platform at all, even if it meant giving up more data than they would like (CMA, 2020b). **Figures 21 and 22** show the account sign-up screen for Facebook and Google, which both require the user to provide personal information and agree to their privacy policies.

Figure 21: Account Sign-up Screen for Facebook

Sign Up ×

It's quick and easy.

First name Last name

Mobile number or email

New password

Birthday

Jul 3 2024

Gender

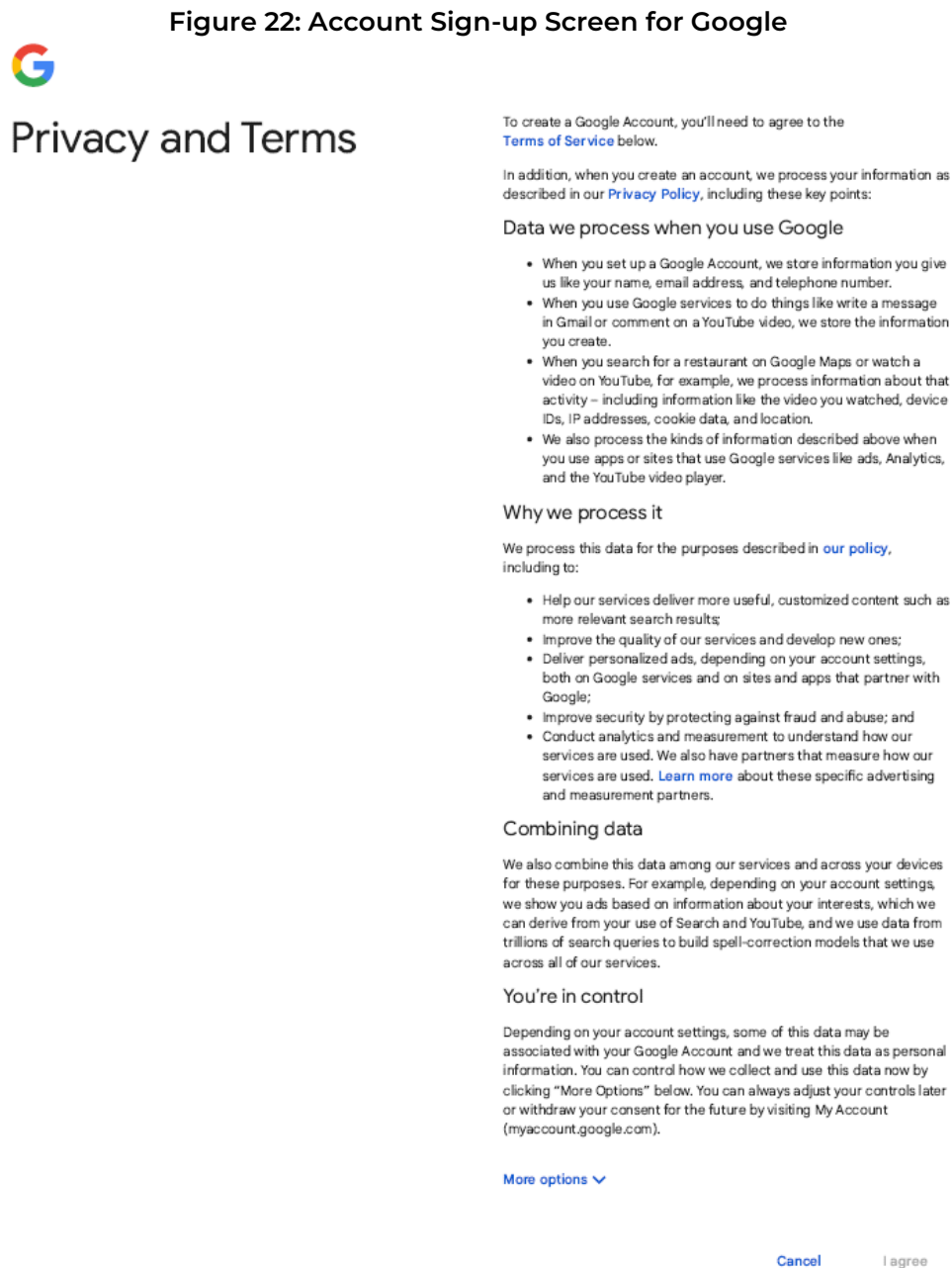
Female ☐ Male ☐ Custom ☐

People who use our service may have uploaded your contact information to Facebook. [Learn more](#)

By clicking Sign Up, you agree to our [Terms](#), [Privacy Policy](#) and [Cookies Policy](#). You may receive SMS Notifications from us and can opt out any time.

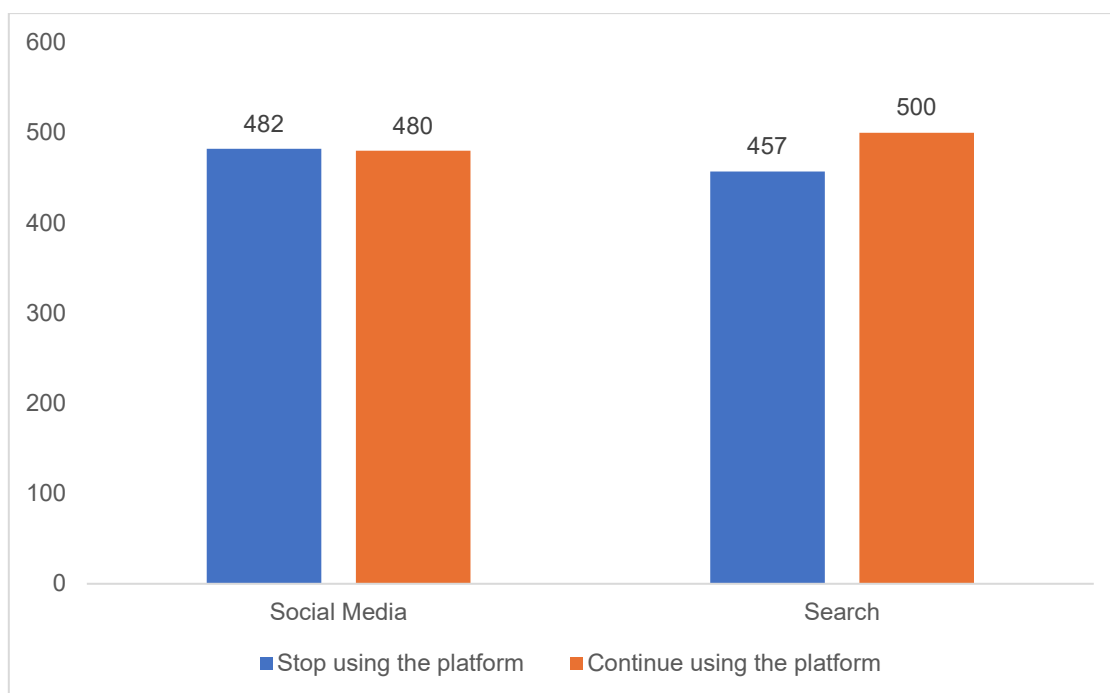
Sign Up

Source: Facebook



Source: Google (2023)

Figure 23 shows what consumers would do in the event that they find out that the digital platforms they use are engaged in the data collection practices previously mentioned. The results are ambiguous. Half of the users stated that they would stop using the platform, and the other half of users stated that they would still continue using the platform. This implies that despite the importance that consumers place on data privacy, they are unable to do much about it, most likely because they consider these platforms as indispensable and feel locked in, despite the presence of other social media or search platforms (CMA, 2020a).

Figure 23: Consumer Behavior Regarding Data Collection Practices by Digital Platforms³³

Source: PCC Consumer Survey on Social Media and Search Platforms (2023)

Such concerns have also been raised by competition authorities in other jurisdictions. For example, in 2019, the Bundeskartellamt, which is Germany's national competition regulatory agency, issued a decision against Facebook for its abuse of dominance due to excessive collection of user data. As a condition for joining the platform, Facebook had required its users to agree to the collection of their user data from third-party websites also owned by Facebook, which they would thereafter combine with data collected by Facebook itself (Bundeskartellamt, 2019). Similarly, the Competition Commission of India investigated WhatsApp's updated privacy policy in 2021, which required every WhatsApp user to mandatorily agree to data sharing with Facebook in order to continue to use the services of WhatsApp (Competition Commission of India, 2021). **Annex C** provides a list of notable cases and investigations against Facebook and Google in several jurisdictions.

B. The Relationship Between Data Privacy and Competition Policy

To understand competition concerns that are linked to digital platforms' use of data, it is essential to first note the conceptual relationship between data privacy and competition policy. While competition policy and data privacy laws may have different policy objectives, the OECD points out that these objectives align with respect to the protection of individual welfare, whether as a consumer or a data subject (OECD, 2024).

On one hand, data privacy laws are anchored on the goal to protect data subjects' rights and to afford individuals control over their personal data. Hence, data privacy laws generally endeavor to establish legal principles on how individuals' information is collected, processed, and used.

³³ Specifically, respondents were asked the question worded as: "If you find out that a social media platform is engaged with this activity, what would you most likely do?" The activity referred to in this question refers to the ones listed in Figures 19 and 20.

On the other hand, competition policy broadly concerns the enforcement mechanisms by which competitive pressure among rivals are fostered.³⁴ Such assessments involve the analysis of how price and non-price metrics such as data, impact market competition, and their overall effect on consumers (OECD, 2024).³⁵ Specifically, data can be seen as a parameter that ultimately affects the price, quality, and choices available to consumers. For example, digital platforms could utilize data to enable price discrimination and charge different prices to users depending on their willingness to pay or other factors such as geographical or behavioral characteristics (Mehra, 2020). Data can also be used as a tool for exploitative or concealed data practices, increasing the risk that data are used beyond its originally intended purpose compromising the quality and level of data privacy protection afforded to platform users.³⁶ Lastly, data can act as a barrier to potential entrants when incumbent firms utilize user data as a defensive leverage or to engage in exclusionary conducts, limiting consumer choices. In particular, exclusionary conduct may occur in cases of merging firms, where the accumulation and combination of data enables them to entrench their market power, effectively serving as an entry barrier for potential competitors (OECD, 2024).

1. The Data Privacy Act of 2012 and the Philippine Competition Act of 2015

While neither the PCA nor the DPA reference each other at the provisional level, both could provide a complementary framework in protecting data subjects' welfare. The PCA, in line with the general objective of competition laws, focus on the provision of consumer welfare measured in economics terms including the increase or decrease in price, quality, and/or consumer choice (OECD, 2024). It is notable that the PCA, at the provisional level, does not expressly state terms that cover data privacy considerations as part of the economic analyses of cases. On the other hand, the DPA mentions individuals' right to data portability, which is an important aspect to competition.

2. Data Portability and Data Interoperability

Data portability and data interoperability are characteristics of data that are considered to be pro-competitive (OECD, 2022a). Rubinfeld (2024) defines data portability as the ability to transfer data from one platform to another without affecting its content. This measure is considered pro-competitive for it enables users to choose among competing firms without facing significant switching costs.

Data interoperability is another characteristic which is deemed to promote competition. It refers to the functionality which specifically pertains to the ability of data to flow across systems and be “universally accessible, reusable, and comprehensible by all transaction parties” (Data interoperability, n.d.). This entails that data must be standardized³⁷ and must follow data exchange protocols³⁸ to support different uses while maintaining accuracy of data.³⁹ In other words, data interoperability refers to the ability of different systems and organizations to seamlessly exchange and make use of data. Data interoperability can foster competition by reducing barriers to entry and promoting innovation, making data available to small and large players alike.

³⁴ These mechanisms include the economic assessment of transactions, such as mergers and abuses of dominance.

³⁵ Hence, competition law concerns itself with the review of cases wherein data is considered as a non-price metric of competition.

³⁶ In cases of exploitative or concealed data practices, platforms could provide weak (low-quality) data privacy protection (OECD, 2024).

³⁷ Data standards ensure that data is formatted and structured in a way that is universally understandable, facilitating its exchange and use across different systems (Secoda, 2024).

³⁸ Data exchange protocols define the rules for how data is transmitted between systems, ensuring secure and efficient data transfer. Interoperability frameworks, such as the Open Systems Interconnection (OSI) model, provide a structured approach to addressing the technical and organizational challenges of data interoperability, outlining the necessary layers and components for seamless data exchange (Secoda, 2024).

³⁹ Meaning that data also exhibits data portability.

Such data characteristics necessitate careful consideration of data privacy implications in order to align with data protection regulations. Considering the benefits mentioned above, it is crucial for the competition policy framework to recognize the importance of data privacy, ensuring consumers are protected from potential data-related abuses.

Over the years, different countries have launched initiatives such as the Open Government Partnerships (OGP)⁴⁰ with objectives to strengthen policy frameworks including the promotion of accessible and interoperable data. Such initiatives highlight the benefits of maintaining open data by increasing access to information, increasing data use and applicability, and reducing associated costs with data requests among sources. Nonetheless, data openness presents challenges, particularly concerning technological resource availability, alignment with legal requirements, and data-sharing and privacy concerns.

Historically, the interplay between data privacy and competition policy has been complex, such that competition policy was considered as a separate element from data protection laws. In particular, data privacy considerations used to be considered out of the scope of antitrust regulation.

Because of antitrust cases that involve data privacy concerns, competition authorities are now integrating these considerations into antitrust enforcement.⁴¹ An example could be drawn from when the Competition Bureau of Canada ascertained the importance of data privacy considerations in antitrust enforcement. In June 2022, Canada amended its Competition Act to, among others, fix loopholes in the current law and adapt the law to today's digital reality (Government of Canada, 2022). One major amendment provides that in the assessment of potential anti-competitive behavior and conduct, the Competition Tribunal may look into both price and non-price factors, such as quality, choice, or consumer privacy.

C. Competition Policy and Tensions with Data Privacy Law

As discussed, the role of data is crucial in operating digital platforms. Consequently, the concentration of data within dominant platforms such as Google and Facebook have resulted in issues in the realms of both competition policy and data privacy law. In particular, this section discusses the possible pro-competitive benefits of data portability and interoperability, as well as its potential risks to data privacy. This section also discusses the difficulties that arise from the global operations of platforms such as Facebook and Google that result in cross-border data flows.

1. Data Interoperability

Interoperability promotes more competitive markets by easing the integration of potential entrants into the current system. When a new firm enters the market, it may find that barriers to entry are reduced when access to the system is not restricted solely to the incumbents.

Similarly, platform users benefit from data interoperability by expanding the array of services available on platforms, which may enrich user experience. For example, in different applications connected to Facebook (i.e., Meta Platforms like Instagram and WhatsApp), users can enjoy seamless switching across platforms, benefitting from interoperable data that enable tailored services such as personalized content, customized recommendations, or targeted advertisements (Hitlin & Rainie, 2019). These data-sharing practices may reduce friction associated with switching between platforms thereby ensuring uninterrupted use and potentially encouraging users to multi-home.

⁴⁰ The OGP is a multilateral initiative that secures commitments from national and sub-national governments to promote open government, fight corruption, and strengthen governance.

⁴¹ In recent years, there has been a noticeable shift among competition authorities towards recognizing data as a key input and a source of competitive advantage, with a focus on data-related theories of harm" (OECD, 2023).

To illustrate, **Table 6** outlines Facebook's and Google's practices regarding data sharing.

Table 6: Facebook and Google Data Privacy Practices

	Facebook	Google
Data-sharing practices	Among others, Facebook share collected users' information with: • People they share and communicate with; • Apps, websites, and third-party integrations that users use with Facebook, including games, websites that use the Facebook comment or share button, and apps that users connect to their Facebook account; • Facebook companies including Instagram and WhatsApp; and • Third-party partners who help Facebook provide and improve its services, such as advertising and analytics partners.⁴²	• According to its terms and conditions, Google does not share personal information outside the company except in specific cases. Consent is a crucial factor, with information shared outside Google only when explicit permission is granted, such as making a reservation through Google Home.⁴³ • Non-personally identifiable information may be shared publicly and with partners for trends and analysis. In the event of mergers, acquisitions, or asset sales by Google, the firm commits to maintaining confidentiality and providing notice to affected users before any transfer or change in privacy policies (Google).
Data-subject's rights	• Facebook provides users the ability to manage the content and information they share on Facebook using the activity log tool.⁴⁴	• Users can manage and review their activity information stored in their Google account. • Users have control over their location settings, such as enabling or disabling location on Android devices and managing location history to create a private map of their movements. • Personal information is not shared with advertisers unless explicitly permitted

⁴² According to its privacy policy, Facebook does not share personally identifiable information with advertising, measurement, or analytics partners unless you give them permission. However, it may share non-personally identifiable information with these partners, such as information about the reach and effectiveness of their advertising.

⁴³ For individuals affiliated with organizations using Google services, domain administrators may have access to certain account information for administrative purposes. External processing involves sharing personal information with trusted affiliates and businesses to process data on Google's behalf, following privacy policies and security measures. Legal reasons for sharing information include meeting applicable laws, enforcing Terms of Service, addressing fraud or security issues, and protecting rights, property, or safety.

⁴⁴ The Download Your Information tool allows users to download data associated with their Facebook account (Meta). Facebook retains data for the duration necessary to provide products and services to users that are not based on consent. Information linked to users account remains stored unless the account is deleted, or the data is no longer required for service provision. Should users decide to delete their account, Facebook removes content posted, such as photos and status updates. It's important to note that information shared about a user by others is not considered part of the user's account and will not be deleted when a request to delete account is made.

	Facebook	Google
		by the user, maintaining privacy and control over data usage for personalized ad experiences.

While interoperability generally fosters a more competitive market by facilitating the integration of potential entrants, dominant players like Facebook⁴⁵ and Google⁴⁶ have historically leveraged their large user networks and limited interoperability with other platforms (CMA, 2020). Such practice could pose potential anti-competitive implications, given that it favors incumbents, making it difficult for smaller players to enter the market and compete on an equal footing.

For instance, in 2019, Google's acquisition of Fitbit, a company specializing in wearable fitness trackers and smartwatches, was investigated by the European Commission for competition concerns. In particular, the Commission identified potential harm in the market of wrist-worn wearable devices, where user data is transmitted to a smartphone application.⁴⁷ This arises from the fact that Google has the ability and incentive to degrade the interoperability between wearable devices and Android⁴⁸ smartphones, essentially foreclosing Fitbit's competitors (Vande Welle, 2021).⁴⁹ While the transaction was cleared conditional to remedies proposed by the Commission, the case reinforces the possibility that dominant market players could further entrench their positions, making it difficult for competitors to attract comparable levels of user engagement and revenue.

This paper notes that for data interoperability to be effective in reducing barriers to entry, users should be able to intuitively navigate the user interface of digital platforms and toggle their data-sharing settings. **Figure 24** reveals that the majority of the respondents are aware of the privacy settings and the modifications or adjustments available to them.

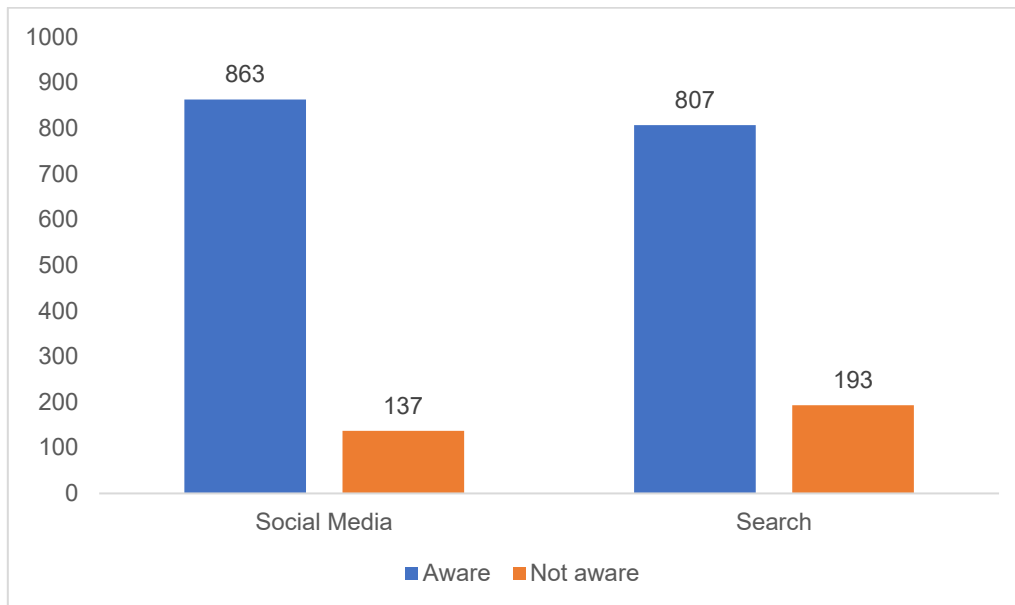
⁴⁵ Facebook also holds a dominant position in the social media advertising market with a market share of over 60%.

⁴⁶ Google holds a near-monopoly in the search advertising market, with a market share of over 90%.

⁴⁷ Wrist-worn devices generally connect seamlessly to Android-run smartphones. The only exception being the Apple Watch, which is only compatible with iOS, the exclusive operating system for Apple devices.

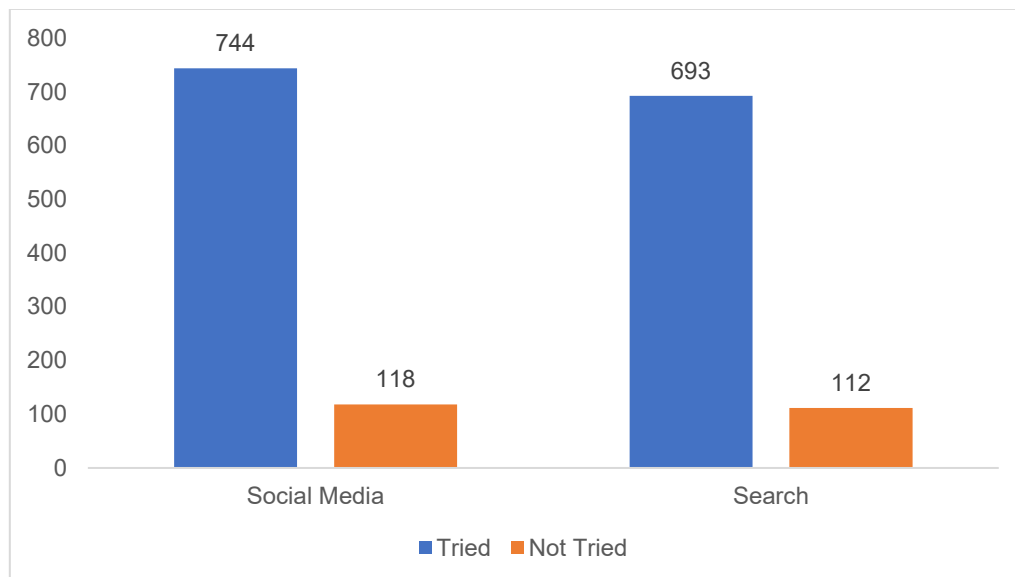
⁴⁸ Android is a smartphone operating system developed by Google.

⁴⁹ Case details are discussed further in Annex Box 1.

Figure 24: Users' Knowledge of Privacy Settings Modification and Adjustments

Source: PCC Consumer Survey on Social Media and Search Platforms (2023)

Moreover, Figure 25 shows that these users have attempted to adjust these settings to better suit their privacy preferences.

Figure 25: Number of Users Who Have Tried Modifying/Adjusting Privacy Settings

Source: PCC Consumer Survey on Social Media and Search Platforms (2023)

However, data interoperability may lead to tensions with data privacy law with respect to i) user consent and ii) data security. The continuous and real time access to data by competitors may potentially expose more personal data and result in a breach of privacy (OECD, 2024). With interoperability involving data transfer between systems, tensions may arise if user information is shared across platforms without explicit user consent.

Moreover, interoperability can heighten data vulnerability, raising the risk of breaches or unauthorized access. As companies continue to improve their security measures to safeguard user data, it is crucial for legal frameworks to also evolve, ensuring that the implementation of data interoperability aligns with data privacy laws. An example of a recent regulation that aims to facilitate interoperability is the EU's Digital Markets Act (DMA) of 2023. Among others, gatekeepers⁵⁰ are required to abide by interoperability requirements that seeks to maintain the levels of service integrity, security, and encryption offered by the gatekeeper.⁵¹

2. Cross-border Data Transfer and Extra-territoriality Application

Cross-border data transfer refers to the "transmission of personal information from one jurisdiction to another" (IAPP, n.d.). Economies engaged in cross-border data benefit from increased volume and variety of data which can be accessed by stakeholders, improving data-driven decision making and facilitating national integration into global value chains (Keck et al., 2022).⁵²

However, competition concerns could arise when firms with more access to cross-border data gain a competitive advantage over their competitors, potentially limiting their ability to compete. For instance, established players benefiting from network effects could derive greater value from integrated user data collected across borders. Competitors, on the other hand, may struggle to compete on equal footing, as they have limited access to consumer data to innovate and enhance their services.

In the same manner, the consolidation of data through mergers and acquisitions can raise competition and privacy concerns across different jurisdictions. In 2012, Facebook's acquisition of Instagram prompted scrutiny from competition authorities due to privacy concerns involving potential data monopoly (Federal Trade Commission, 2012). Google and Facebook, with their significant presence in the EU, were fined for using consumer data for unfair practices and eventually abusing their dominant market positions.⁵³ This illustrates that cross-border data regulations and enforcement actions still applies regardless of where a firm is headquartered.

Lastly, consumer concerns with regard to cross-border data flows also arise from the global operations of Facebook and Google particularly when data is transferred to jurisdictions with less stringent regulations, where safeguards to protect the privacy rights of individuals could be inadequate. This can lead to the erosion of data control and undermine individuals' ability to protect their personal information (Belarmino, 2023). In effect, such an event may modify conditions of competition and compromise competition enforcement

⁵⁰ Under the DMA, firms are designated as gatekeepers when (i) the company achieves an annual turnover in the European Economic Area (EEA) equal to or above €7.5 billion in in each of the last three financial years, or where its average market capitalization or equivalent fair market value amounted to at least €75 billion in the last financial year, and it provides a core platform service in at least three Member States; (ii) the company operates a core platform service with more than 45 million monthly active end users established or located in the EU and more than 10,000 yearly active business users established in the EU in the last financial year; and (iii) the company met the second criterion in each of the last three financial years (European Commission [EC], 2023).

⁵¹ That is, the levels of service integrity, security, and encryption offered by the gatekeeper that shall and will not be reduced (EC, 2023).

⁵² Both the GDPR and the DPA recognize the importance of cross-border data transfers such that organizations are required to adhere to data protection standards comparable to those in the home jurisdiction. This reflects a shared commitment between legislations to maintain a consistent level of data protection globally.

⁵³ In 2017, the Commission fined Google €2.42 billion for favoring its own shopping comparison service in search results. In 2018, the Commission fined Google €4.34 billion for requiring device manufacturers to pre-install Google apps and services on Android devices. Similarly, Facebook has been allegedly abusing its dominant position in the social networking market by tying its online classified ads service, Marketplace, to its Facebook social network. This practice makes it difficult for competitors to access users and compete effectively. Facebook has also been found to have imposed unfair trading conditions on competing online classified ads services that advertise on Facebook or Instagram. These conditions make it difficult for competitors to operate efficiently and reach users. According to the EC (2023), Facebook has engaged in a strategy of acquiring potential competitors, such as Instagram, to maintain its dominance in the social networking market. This strategy limits consumer choice and reduces competition.

given that user data becomes more vulnerable to exclusionary and exploitative conducts (OECD, 2024).

Thus, while data privacy regimes generally allow cross-border transfers provided that consent and adequacy are met, varying approaches in data protection across jurisdictions makes it challenging to regulate cross-border data movements. For example, differences in legal frameworks, policy priorities and enforcement mechanisms among jurisdictions may lead to difficulties in harmonizing the legal approach to cross-border data transfers. Despite the advantages of cross-border data sharing in terms of efficiency, it is essential to craft policies that consider preserving competition in markets and safeguarding consumer interests. Achieving this balance requires careful coordination and consideration among regulatory bodies and stakeholders.

D. Summary of Findings

Overall, this study identifies the following issues related to digital platforms, competition policy, and data privacy law:

- **Lack of consumer choice regarding the collection and use of personal data.** Despite the fact that consumers show a high degree of concern regarding their data privacy, results from the consumer survey show that consumers are still willing to continue using digital platforms regardless of their excessive data collection practices. This is aligned with findings from other jurisdictions such as ACCC and CMA, where despite the fact that consumers greatly value their data privacy, majority of consumers feel as if they do not have control over access to their personal data.
- **Digital platforms such as Google and Facebook employ a “take-it-or-leave-it” type of privacy policy, wherein consumers will only be able to use a platform if they agree to all terms and conditions.** The lack of choice is further highlighted by Google’s and Facebook’s strong network effects and lack of viable alternatives.
- **Contrasting principles within competition policy and data privacy law regarding data portability and interoperability.** Data portability and interoperability are viewed as pro-competitive mechanisms that could reduce barriers to entry and expansion. However, data interoperability may lead to tensions with data privacy law with respect to i) user consent and ii) data security.
- **Challenges arising from cross-border data flows.** Given that large digital platforms such as Google and Facebook are able to collect and transfer data across borders, varying approaches to data privacy across countries make it difficult to regulate cross-border data flows.

RECOMMENDATIONS

The preceding discussions in this study reveal several issues in the realm of digital platforms, competition policy, and data privacy. The study sets forth the following recommendations to address the concerns outlined.

1. **Explore incorporating data privacy considerations in PCC’s competition assessments by developing internal processes.** This can include creating internal guidelines for evaluating competition harm brought about by privacy-related factors in digital platform markets and building staff capacity on data protection issues. In the long term, legislative amendments to the PCA may be considered to keep it consistent with cutting-edge competition enforcement practices in other jurisdictions.

2. **Evaluate initiatives regarding data portability and interoperability.** This study recommends evaluation of existing and potential initiatives regarding incorporating data portability as a right of data subjects and imposing interoperability requirements. Data portability and interoperability allow consumers to switch and multi-home as well as reduce barriers to entry and expansion for competitors. However, the paper recognizes that such mechanisms may pose a risk to data privacy. Moreover, enhanced data mobility has not yet been proven effective, given the fact that there are not a lot of platforms that offer ported data services at present (ACCC, 2019). Thus, it is important to explore the benefits and costs of implementing data portability and interoperability from both a competition and data privacy perspective, ensuring a balanced approach. If it is adopted, it is essential to develop specific guidelines on how data portability and interoperability can be facilitated, with careful consideration as to what kinds of data are subject to data portability.
3. **Strengthen cooperation with international competition and consumer authorities.** The study also recognizes the importance of strengthening international cooperation with competition and consumer authorities overseas regarding data mobility and cross-border data flows issues. Given the global presence of Google and Facebook, which operate in multiple jurisdictions with varying regulatory frameworks, stronger cooperation is essential to ensure a seamless and consistent application of regulations across countries. Cooperation can be achieved through several ways, for instance, authorities can cooperate on a case-to-case basis on specific investigations that span different jurisdictions. More generally, cooperation in ways such as developing a new global data transfer agreement or creating a regional body specifically focused on data privacy can also be explored.
4. **Collaborate with local regulators.** Finally, this study also recommends building stronger institutional links with local regulators such as the NPC to prevent and address anti-competitive concerns in digital platforms. The PCC can collaborate with other regulatory bodies in many ways, such as through capacity-building, information sharing, discussing strategies, and leads on specific investigations, among others.

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ANNEXES

Annex A: PCC Online Consumer Survey Demographics
Figure A1: Age Group of Online Consumer Survey Respondents

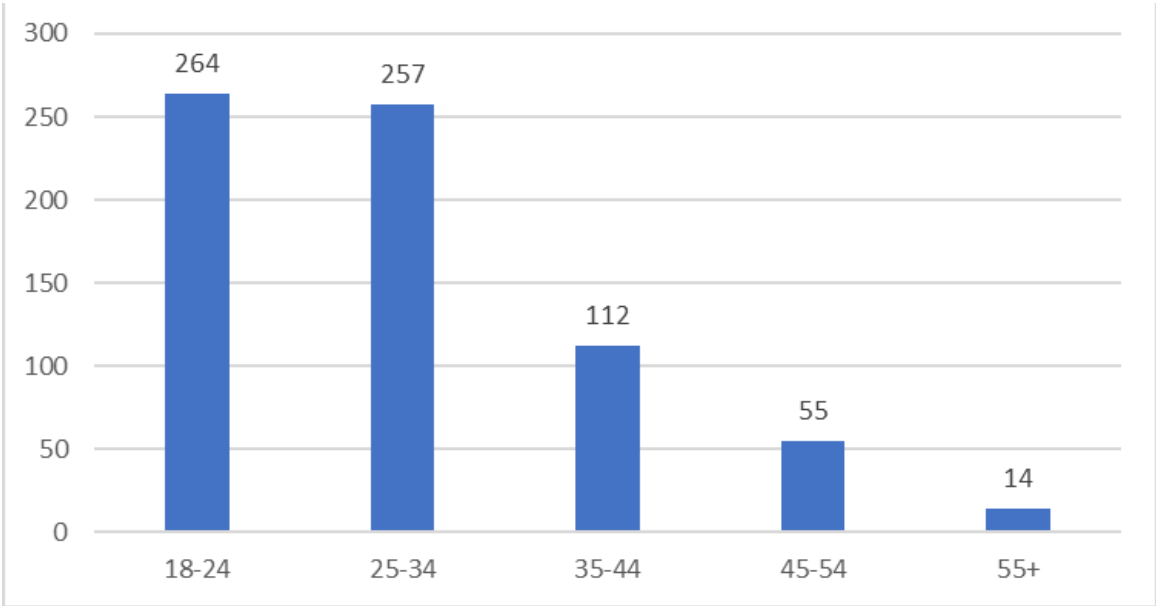


Figure A2: Gender of Online Consumer Survey Respondents

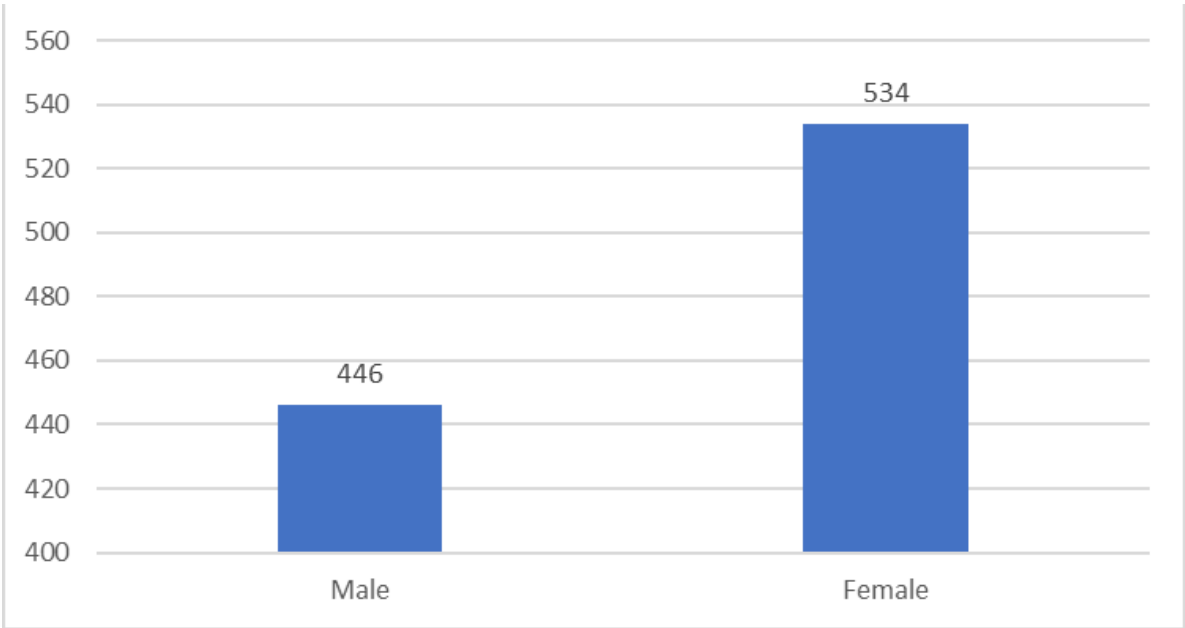


Figure A3: Region of Online Consumer Survey Respondents

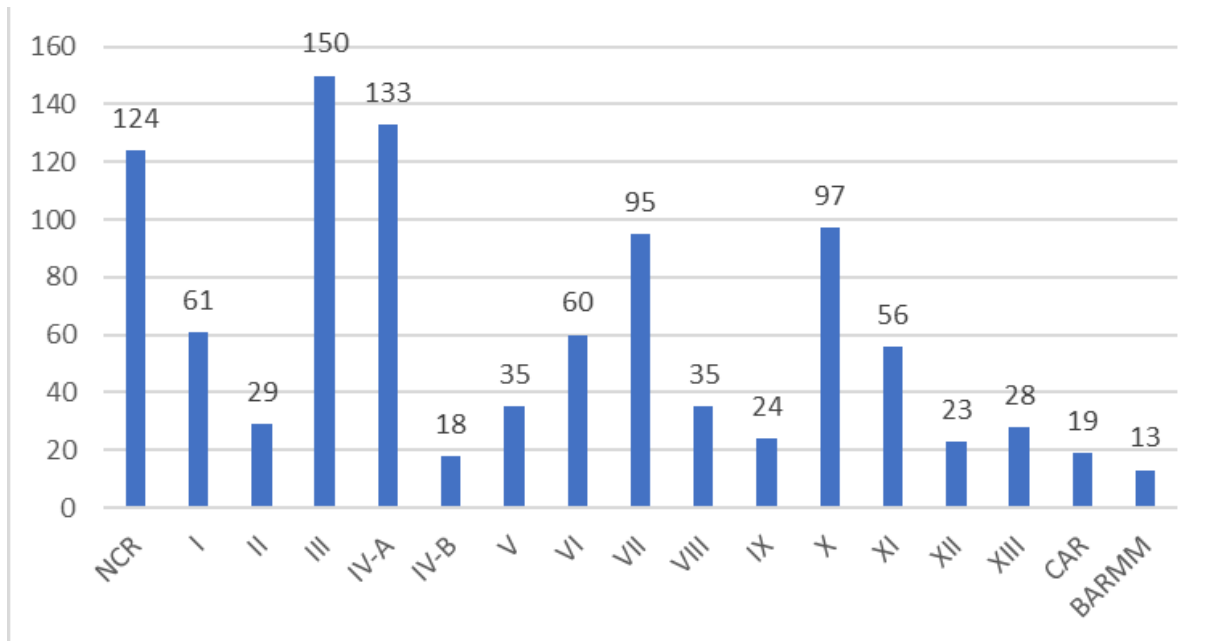
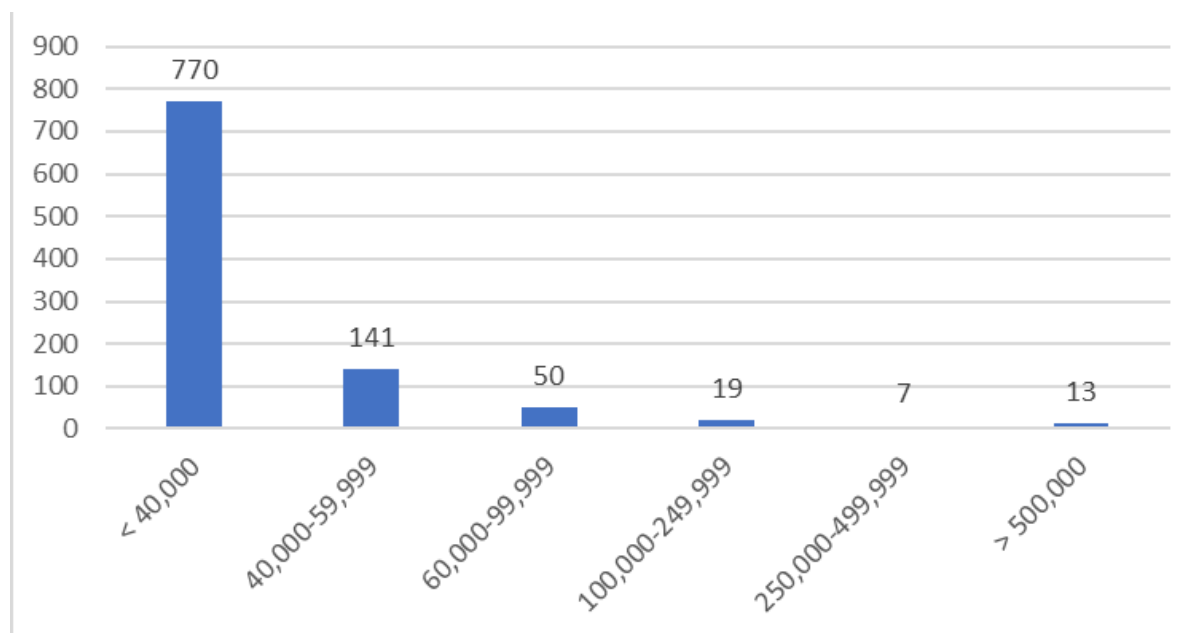


Figure A4: Monthly Income of Online Consumer Survey Respondents



Annex B: Local Legislations Governing Digital Platforms

Local Legislations		
	Summary	Implementing Agency
Consumer Act of the Philippines (Republic Act No. 7394)	The Consumer Act of the Philippines provides a framework for the protection of consumer rights and the promotion of fair and ethical business practices.	Department of Trade Industry (DTI)
BSP Circular No. 1023 (Guidelines on Cybersecurity for Banks and Other Financial Institutions)	BSP Circular No. 1023, issued by the Bangko Sentral ng Pilipinas (BSP), provides guidelines on cybersecurity for banks and other financial institutions in the Philippines. It underscores the critical importance of cybersecurity in the financial sector and sets clear expectations for financial institutions to establish robust cybersecurity practices and protect the integrity and stability of the financial system in the Philippines.	Bangko Sentral ng Pilipinas (BSP)
Cybercrime Prevention Act of 2012 (Republic Act No. 10175)	The Cybercrime Prevention Act of 2012 seeks to combat cybercrimes, protect individuals and entities from online threats, and uphold responsible behavior in the digital realm. It addresses various aspects of online activities, including those involving digital platforms, to ensure the security and integrity of the digital environment in the Philippines.	Department of Justice (DOJ), Department of Science and Technology (DOST) and the Department of Interior and Local Government (DILG)
E-Commerce Act of 2000 (Republic Act No. 8792)	The E-Commerce Act of 2000 recognizes and facilitates electronic commerce transactions, including those conducted through digital platforms.	Department of Trade Industry (DTI)

Annex C: Antitrust Cases Involving Facebook and Google in Various Regions
Table C1: Facebook

Jurisdiction	Date	Antitrust Case/Investigation	Status as of 2024
United States	2020	The <i>FTC vs. Meta</i> lawsuit alleges that Meta has accumulated monopoly power via anti-competitive mergers, particularly Instagram and WhatsApp.	As of 2024, the case has not yet gone into trial. ⁵⁴
European Union	2017	The European Commission is investigating Meta's "pay or consent" advertising model, wherein EU users of Facebook and Instagram have to choose between: (i) the subscription for a monthly fee to an ads-free version of these social networks or (ii) the free-of-charge access to a version of these social networks with personalized ads.	The investigation is still ongoing. ⁵⁵
Germany	2019	The Bundeskartellamt prohibited Facebook from combining user data from different sources without the user's consent. Facebook made the use of its social network conditional on the collection of user data from third-party sources and their combination with users' Facebook accounts (including Instagram and WhatsApp). ⁵⁶	In 2023, the European Court of Justice ruled that competition authorities of a Member State have the authority to investigate and sanction an infringement of the GDPR, if companies exploit their dominant market position. ⁵⁷
United Kingdom	2021	The UK CMA required Meta to divest the GIF platform, Giphy. The CMA found that the acquisition results in SLC in online display advertising and social media services.	As of 2022, Meta has divested Giphy given the CMA's findings. ⁵⁸
India	2021	CCI probed into the change in WhatsApp's privacy policy, which required users to consent to combining their user data with that of other Meta companies as a	The Supreme Court of India dismissed the appeals of Facebook and

⁵⁴ Federal Trade Commission. (n.d.). *FTC v. Facebook, Inc. (Meta Platforms)*. Federal Trade Commission. <https://www.ftc.gov/legal-library/browse/cases-proceedings/191-0134-facebook-inc-ftc-v-ftc-v-meta-platforms-inc> (Accessed September 19, 2024).

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⁵⁸ Hern, A. (2022, October 18). *Facebook owner Meta told to sell Giphy by UK competition watchdog*. The Guardian. <https://www.theguardian.com/technology/2022/oct/18/facebook-meta-sell-giphy-cma> (Accessed September 19, 2024).

Jurisdiction	Date	Antitrust Case/Investigation	Status as of 2024
		condition for using the services of WhatsApp. ⁵⁹	WhatsApp regarding the investigation. ⁶⁰

Table C2: Google

Jurisdiction	Date	Antitrust Case/Investigation	Status as of 2024
United States	2020	United States v. Google LLC (2020) accuses Google of illegally monopolizing the search engine and search advertising markets	Google lost this antitrust case in August 2024 after a ruling by a US federal court judge. ⁶¹
United States	2023	United States v. Google LLC (2023) accuses Google of illegally monopolizing the advertising technology market.	The trial for this case began in September 2024. ⁶²
Canada	2020	The CBC is investigating whether Google has engaged in certain practices that harm competition in the online display advertising industry.	The investigation is ongoing. ⁶³
European Union	2017	The European Union has fined Google three times: • In 2017, for its illegal behavior in comparison shopping services • In 2018, for its illegal behavior relating to the Android mobile operating system • In 2019, for its illegal practices in search advertising	The status of the three fines as of September 2024 are as follows: • Google lost its final appeal regarding the first fine⁶⁴ • Google lost an appeal regarding the second fine; Google still has one more chance to appeal the decision⁶⁵ • Google won a court challenge to overturn the third fine⁶⁶

⁵⁹ Competition Commission of India. (2021). *Order under Section 26(2) of the Competition Act, 2002 in Case No. 01 of 2021*. Competition Commission of India. <https://www.cci.gov.in/images/antitrustorder/en/0120211652258503.pdf> (Accessed September 19, 2024).

⁶⁰ The Economic Times. (2022, September 29). *HC dismisses Facebook India's plea challenging CCI probe into WhatsApp's 2021 privacy policy*. The Economic Times. <https://economictimes.indiatimes.com/tech/technology/hc-dismisses-facebook-indias-plea-challenging-cci-probe-into-whatsapps-2021-privacy-policy/articleshow/94517257.cms> (Accessed September 19, 2024).

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⁶⁵ Casert, R. (2024, September 20). *European Union takes action against Google in antitrust case over tech practices*. AP News. <https://apnews.com/article/technology-european-union-commission-el4d46538091a06085900117a156bcac1> (Accessed September 20, 2024).

⁶⁶ Casert, R. (2024, September 20). *Google hit with European Union digital antitrust charges*. AP News. <https://apnews.com/article/google-european-union-digital-antitrust-7810906b9fda391f9fa393750d67e76a> (Accessed September 20, 2024).

Jurisdiction	Date	Antitrust Case/Investigation	Status as of 2024
United Kingdom	2024	The UK CMA has issued a statement of objections to Google which provisionally found that Google is using anti-competitive practices in open-display ad tech.	The CMA will still carefully consider representations from Google before proceeding. ⁶⁷
Australia	2020	The Australian Competition and Consumer Commission alleged that Google misled consumers in publishing an on-screen notification and changing its privacy policy to expand use and collection of personal data.	The Australian federal court dismissed this case in 2022. ⁶⁸
India	2021	The CCI imposed a fine against Google regarding its licensing of the Android mobile operating system and its mobile applications, such as Google Search.	As of 2023, this fine has been upheld by India's court. ⁶⁹
Japan	2023	The JFTC has opened an investigation concerning the suspected violation of the Antimonopoly Act by Google LLC regarding its licensing of the Android mobile operating system and its mobile applications, such as Google Search.	The Investigation is ongoing. ⁷⁰

⁶⁷ Competition and Markets Authority. (2024, February). *CMA objects to Google's ad tech practices in bid to help UK advertisers and publishers*. GOV.UK. <https://www.gov.uk/government/news/cma-objects-to-googles-ad-tech-practices-in-bid-to-help-uk-advertisers-and-publishers> (Accessed September 20, 2024).

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⁶⁹ DataGuidance. (2023). *India: CCI fines Google \$161.9M over anti-competitive practices*. <https://www.dataguidance.com/news/india-cci-fines-google-1619m-over-anti-competitive> (Accessed September 20, 2024).

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Annex Box 1: Acquisition of Fitbit by Google

In 2019, Google announced its \$2.1 billion acquisition of Fitbit, a company specializing in wearable fitness trackers and smartwatches. Throughout its investigation, the European Commission collected information and feedback from competitors of the merging entities and various other market participants and stakeholders. The EU also closely collaborated with global competition authorities and the European Data Protection Board. The EU assessed that the transaction may harm competition in the following relevant markets:

1. **Advertising:** Given that Google would acquire (i) the database maintained by Fitbit about its users' health and fitness; and (ii) the technology to develop a database similar to that of Fitbit, the EU deemed that the consolidated amount of data would raise barriers to entry of Google's competitors on the advertising segment.
2. **Access to Web Application Programming Interface ('API') in the market for digital healthcare:** Google may restrict competitors' access to the Fitbit Web API, to the detriment of nascent European digital healthcare space.
3. **Wrist-worn wearable devices:** Google could possibly degrade the interoperability between competitors' wrist-worn devices and smartphones, in favor of Fitbit wearable devices.

In accordance with EU merger regulation, the transaction was eventually approved, conditional with Google's compliance on the remedy proposed by the Commission. The remedies include:

1. **Ads Commitment:** Google commits not to use any Measured Body Data or Health and Fitness Activity Location Data in or for Google Ads. Google commits to maintain Data Separation.
2. **Web API Access Commitment:** Google commits to maintaining access, subject to user consent consistent with applicable laws and without charge for access, to Supported Measured Body Data for API Users, subject to reasonable conditions indicated in the full decision text
3. **Android APIs Commitment:** Google commits to making the Core Interoperability APIs available, without charge for access, under the same license terms and conditions that apply to all other Android APIs that Google makes available as part of the Android Open Source Project and on a non-discriminatory basis, meaning that it does not differentiate its availability functionality first-party vs. third-party devices.

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