



SUBMISSION TO INQUIRY INTO THE COMPETITIVE NEUTRALITY OF THE NATIONAL BROADCASTERS

29 JUNE 2018

News Corp Australia appreciates the opportunity to make a submission to the *Inquiry into the Competitive Neutrality of the National Broadcasters Issues Paper* (the Issues Paper). We make this submission on behalf of News Corp Australia and Australian News Channel and confine the scope of the submission to news and information services.

The internet enabled commercial news publishers to publish their content online. The internet also enabled what had been until that time national broadcasters to also publish news content online.

As the Issues Paper states, new platforms, like Google and Facebook, now exist for distributing news and entertainment online, and revenue streams are changing. These platforms are also merely dumb pipes for distribution of content including news. These platforms are advertising companies. The platforms make content available for free. They do not pay for or invest in the content made available to consumers.

These platforms are now the gateway to the internet for the majority of Australians, including for news. This means they are now unavoidable trading partners for commercial news publishers.

According to the *Reuters Institute Digital News Report 2018*¹ the 83 percent of survey respondents in Australia are using online sources for news, and 52 percent are accessing social media sources. Across the entire survey 24 percent of respondents accessed news via search and 23 percent access news via social; emphasising the importance of referral traffic from platforms for commercial news and journalism and the business models that support the continued creation of content.

As consumers gravitate to the platforms so too do advertisers, further undermining the sustainability of publishers' business models.

The considerations that arise in the digital environment for commercial news providers, including whether and how they engage with the platforms and how this impacts business model/s, surpasses merely distribution.

As a result there is now a lack of a level playing field for the distribution of news content online. Public broadcasters – who are now news publishers – are advantaged on this field due to their taxpayer funding models and the out-of-date Charters that require holistic review in the digital context.

There is also a lack of a level playing field for the commercialisation of broadcast news content. Public broadcasters are advantaged on this field where they compete in a commercial marketplace with commercial news providers, with dramatically different incentives as they do not have to receive a return on their taxpayer funding in order to sustain a news content business (including reinvestment in news content).

¹ http://media.digitalnewsreport.org/wp-content/uploads/2018/06/DNR_2018-FINAL_WEB.pdf?x89475

DIGITAL NEWS PUBLISHING

News Corp Australia has embraced the digitalisation of news and journalism and has been at the forefront of adapting printed media to the online environment.

As we outlined in our submission to the ACCC's inquiry into digital platforms², the internet has enabled consumers to access and engage with news and journalism in new and innovative ways. Publishers can break news as it happens, update content as new information emerges, link to other articles, offer access on multiple devices and allow readers to comment on and share articles.

Commercial business models

The typical business model for commercial creators of news and journalism is to provide unique content to readers for free and in exchange sell readers' attention to advertisers, or via a cover or subscription price, or in combination.

The creation of news and journalism extends beyond an economic activity, performing an important democratic function, known as the fourth estate. This function includes disseminating information, undertaking investigation and analysis, presenting different perspectives, providing opportunities for public debate and advocating for change. Creating original, high quality and relevant news and journalism is a costly and demanding enterprise, requiring a team of journalists to source, research and write copy at pace, which is then edited and prepared for publication.

Digitalisation and the increasing shift to online news consumption have transformed the media landscape. To varying degrees, all major news content producers offer online news services in addition to their traditional formats, including newspapers, televised news and radio news. Additionally, online-only content creators have emerged and compete with established media organisations.

In the online environment, the two primary business models for commercial publishers are either/or a combination of:

- Ad-funded – where advertising constitutes the sole or predominant source of revenue and users can access content for 'free', although they are subject to data collection and advertising. Under this model, advertisements will feature alongside news content and publishers will collect data on the user while they are visiting the publishers' website (e.g. where they originated from and which articles they access), which they then market to advertisers; and
- Subscription-funded – where publishers generally 'lock' content behind a paywall. There is variation between how paywalls can operate. A subscription site may operate a hard paywall which is only accessible to subscribers; others may allow metered access (e.g. allowing X free views per month); and others may use a dynamic paywall where visitors may be shown a free article or a paywall and tailored subscription offer.

An example of News Corp Australia's ad-funded news is Australia's number one news and information site news.com.au. An example of our subscription-funded news is The Australian. Metropolitan and regional mastheads have combination funding models.

² <https://www.accc.gov.au/system/files/News%20Corp%20Australia%20%28April%202018%29.pdf>

However, digital platforms increasingly intermediate the relationship – and therefore the business model as identified in the Issues Paper – between commercial publishers and consumers and advertisers, and exert enormous influence on how consumers access and engage with news content.

Excessive intermediation disrupts business models – and advantages public broadcasters/publishers

Digital platforms use their market power to entrench their role as intermediaries between publishers and consumers and to ensure that they remain *the* gateway to the internet. The aim of digital platforms is to arrogate content from publishers and retain users within their own ecosystems, since every consumer lost to another website, even to content providers, is ultimately lost revenue for the platform: less data is harvested and less advertising is sold. Conversely, every consumer that stays within a platform's ecosystem is lost revenue for the publisher: no subscription revenue and less advertising sold.

Digital platforms therefore have an incentive to use their market power to attract consumers to their ecosystem in the first instance – by the use of opaque algorithms, scraping, crawling and extracting snippets of content – and then to retain consumers within their ecosystems and ensure they return as often as possible. Enhanced consumer engagement enables digital platforms to harvest more user data, which enriches the data available to sell to advertisers. Meanwhile, commercial content creators, such as commercial publishers of news and journalism, are deprived of the opportunity to monetise their content by selling subscriptions or advertising.

The effect of digital platforms on commercial publishers' revenues and ongoing investment in content creation is clear and very real. This is in stark contrast to the impact on public broadcasters that are also using digital platforms to distribute news content – as a publisher, not only broadcaster (television and radio).

Rather, public broadcasters are able to utilise these platforms – unavoidable trading partners of the digital economy, and gateways to the internet – to distribute content without having to consider the revenue implications and opportunity cost of doing so.

There is a lack of a level playing field for the distribution of news content online. Public broadcasters – who are now news publishers – are advantaged on this field due to their taxpayer funding models and the out-of-date Charters that require holistic review in the digital context.

Unfair trading terms undermines commercial business models – but not public broadcasters/publishers

Having entrenched their role as intermediaries between publishers and consumers, digital platforms are now 'unavoidable trading partners' for publishers and other producers of content seeking incoming traffic to their websites. Consequently, these platforms seek to remove or disintermediate other vertical or adjacent businesses through their ability to coerce publishers to accept terms of trade, 'standards' and 'policies', such as Google's First Click Free and Accelerated Mobile Pages, Facebook Instant Articles and Apple News that assist their business models and undermine those of commercial publishers.

Publishers that seek to resist the terms of access to a digital platform can be penalised by demotion (in search for example) or exclusion from the platform, resulting in an immediate deterioration in referral traffic. Those that comply with the terms of access are experiencing intense pressure on margins.

Reach/audience – in service of revenue and continued investment for commercial news publishers

The details above shine a light on the importance of commercial news and journalism having a presence and being discoverable via the platforms that are the gateways to the internet. It also illustrates the importance

of that to the commercial models and ongoing investment of commercial news organisations. Being discoverable – and therefore reach – is important to commercial media companies because it is an essential element to the revenues, be that subscription or advertising or a combination of both. More directly put, it is fundamental that commercial news organisations can generate revenue from its news and journalism. Central to decisions about online distribution is our ability to control our own destiny regarding how our content is placed and presented online, reach as many people as possible and monetise our content. This, we believe, is starkly different from the decision parameters facing public broadcasters regarding online distribution where reach – without having to have regard to monetisation is key.

Commercial publishers are constantly assessing how best to monetise online distribution via the platforms (reach) into sustainable content delivery decisions. It is anything but the case that commercial news organisations can just put content online – on a website or on a platform – and expect it to generate revenue. A recent story in Politico³ clearly explains the issues facing commercial publishers regarding Google's Accelerated Mobile Pages (AMP). Moreover however, Joshua Benton director of the Nieman Journalism Lab at Harvard University observed: *'We are moving from a world where you can put anything on your website to one where you can't because Google says so.'*

This is the daily reality of commercial news organisations in the digital era.

There is clearly a stark contrast between the day-to-day online distribution considerations and decisions for commercial publishers – and the impact these have on our business model/s – and the equivalent online distribution considerations and decisions public broadcasters.

Amplifying content online

The platforms are the largest suppliers of digital advertising services globally. The services that are used to 'promote' content available on those platforms are varied. Google AdWords is one product that you can buy to promote content, including news, so that it appears at the top of the search list. Facebook also has various products to amplify content, including news, and rank it higher in a user's New Feed.

We note that during Budget Estimates⁴ in May the ABC was asked about investment in digital marketing. The ABC said that \$440,000 was spent on Google AdWords in the last financial year, and would likely be \$500,000 in this financial year. The explanation for how important that investment was to the ABC follows:

The way that we consider it from a strategic point of view is that for Australians to really enjoy the content that the ABC makes—there's the content in and of itself, there's making sure it's distributed on the platforms that they want to consume it on and there's making sure that they're aware that it's available. Part of the challenge we have, of having such a broad diet of content available to Australians, is them having that sense of discovery of what is available to pique their interests. We do know that Google and social platforms are now a way in which most Australians are able to be reached, and so that is a very important way for us to reach Australians as to the content they might be interested in.⁵

³ 1 June 2018, *Google's mobile web dominance raises competition eyebrows*, https://www.politico.eu/pro/google-amp-accelerated-mobile-pages-competition-antitrust-margrethe-vestager-mobile-android/?utm_source=POLITICO.EU&utm_campaign=526cf96ab9-EMAIL_CAMPAIGN_2018_05_31_07_14&utm_medium=email&utm_term=0_10959edeb5-526cf96ab9-190121545

⁴ Senate Environment and Communications Committee Hansard, http://parlinfo.aph.gov.au/parlInfo/download/committees/estimate/1ec8fad5-a9bd-4d84-b9ba-38cc3b9c55e2/toc_pdf/Environment%20and%20Communications%20Legislation%20Committee_2018_05_24_6141.pdf;fileType=application%2Fpdf#search=%22committees/estimate/1ec8fad5-a9bd-4d84-b9ba-38cc3b9c55e2/0000%22

⁵ Senate Environment and Communications Committee Hansard http://parlinfo.aph.gov.au/parlInfo/download/committees/estimate/11dd78b1-437d-483d-bfe1-90e81411ca85/toc_pdf/Environment%20and%20Communications%20Legislation%20Committee_2018_05_23_6127.pdf;fileType=application%2Fpdf#search=%22committees/estimate/11dd78b1-437d-483d-bfe1-90e81411ca85/0000%22

The ABC also noted that they spent \$1.4million dollars on Facebook as part of \$4million marketing spend. When questioned, the ABC denied was being spent to compete with commercial media companies for audience, and went on to say: *‘Our job is not just making great distinctive Australian content and ensuring that it’s distributed on the platforms on which Australians want to consume it, it’s also about them being aware of the content that’s available to them. Given the broad diet of the content that we do produce, that is a very small but important investment in bringing Australians across the key activities that are there when they want to consume them.’*

A story in *The Australian* on 15 May 2017⁶ indicated that during Federal Budget week that year, the ABC invested in a marketing campaign and bought AdWords to promote its Federal Budget coverage. We note that the coverage would have been available in the normal course of events via Google search. The purchase of AdWords was designed to ‘boost’ the results to the top ranking/s.

According to the story, *The Australian* found the ABC was outbidding commercial news organisations in ad auctions operated by Google AdWords. For example on May 8 and 9, 2017 the ABC competed with nine.com.au, Seven News and news.com.au, on keywords to appear above them in search results.

According to *The Australian*, the range of keywords the ABC was bidding on was extensive and included “Sydney News”, “Breaking News”, “Political News”, “Budget News”, “Crime News”, “Sports News”, “International News”, “National News”, and “NSW News”.

‘It means the ABC is forcing commercial news organisations to spend more money on marketing in a sector already under pressure,’ reported *The Australian*.

We query the need to amplify news published by public broadcasters given that these news stories would be discoverable in search results in the usual course of searching. We also observe that the AdWords seem to cover what the ordinary person on the street would expect a public broadcaster to be reporting about on any given day of the year including around Federal Budget time.

It seems that public broadcasters undertaking activities for reach and audience in service of the metric alone but with a lack of purpose for such. This is in stark contrast to commercial media companies where these metrics are used in service of advertising.

Again, this evidences the lack of a level playing field for the distribution of news content online –including promotion and marketing of online news content. Public broadcasters – who are now news publishers – are advantaged on this field due to their taxpayer funding models and lack of requirement to generate audiences to ensure the sustainability of their business.

THE PROVISION OF PUBLIC BROADCASTING NEWS CONTENT

There is a lack of a level playing field for the provision of broadcast news content. Public broadcasters are advantaged on this field where they compete in a commercial marketplace with commercial news providers, with dramatically different incentives as they do not have to receive a return on their taxpayer funding in order to sustain a news content business (including reinvestment in news content), and nor do they have to cover costs incurred in the provision of content including in commercial negotiations for provision off the public broadcaster platforms.

As noted above regarding reach and audience, given the taxpayer funded model of public broadcasters it is possible that a range of outcomes from ‘providing’ public broadcast news content in the market. This

⁶ 15 May 2017, ABC stands by Google new advertising tie-up, <https://www.theaustralian.com.au/business/media/abc-stands-by-google-news-advertising-tieup/news-story/b1d1cc7ae9119b62c4f43d09a568e378>

includes reach/audience alone (without monetary consideration), less than advantageous commercial terms including monetary returns.

It is clear that the context against which public broadcasters and commercial organisations provide news and journalism has changed dramatically in the digital era. Distribution mechanisms and platforms are inherently different from those that existed when the public broadcasting charters were established. This is equally the case for broadcast news content as with published news content.

The commercial supply of news content is an important revenue stream for commercial news broadcasters, including the Australian News Channel (ANC) and its SkyNews channel (for example).

The Australian News Channel's commercial news services, including SkyNews, have and continue to pursue commercial opportunities for the supply of news services beyond subscription television. In doing so ANC has gone head-to-head with the ABC for the provision of news services.

While it is unclear what the terms of any tender or content provision arrangement has been, it is suboptimal that public broadcasters – funded by the public and not required to self-fund news production – are able to compete with commercial news and information providers for the provision of news content. This is particularly the case (but not the only case) when that news content is ultimately being commercialised (i.e. being monetised by advertising or subscription by the contracting party). In effect, the public broadcaster's new content is being commercialised by the contracting party.

Regardless, we are of the view that public broadcasters should not be able to provide news content in a commercial environment.

Examples of ABC going head-to-head with commercial news providers for the commercial supply of news content include:

- [Deal with oOh! to syndicate ABC News across all oOh! nationwide digital advertising platforms](#)

In April 2017 the ABC entered a three (3) year agreement with oOh!Media Limited to syndicate ABC News content across all of oOh! nationwide digital advertising platforms, including large format roadside billboards, digital billboards in shopping centres and place based media, including digital screens in offices, universities, cafes, gyms, medical centres and more. Under the deal ABC News also became the exclusive news provider for Qantas Lounges at five major airports.⁷

⁷ <https://www.abccommercial.com/librarysales/ooh-media-deal>

Image 1: ABC News content on oOh! Infrastructure at airport terminal

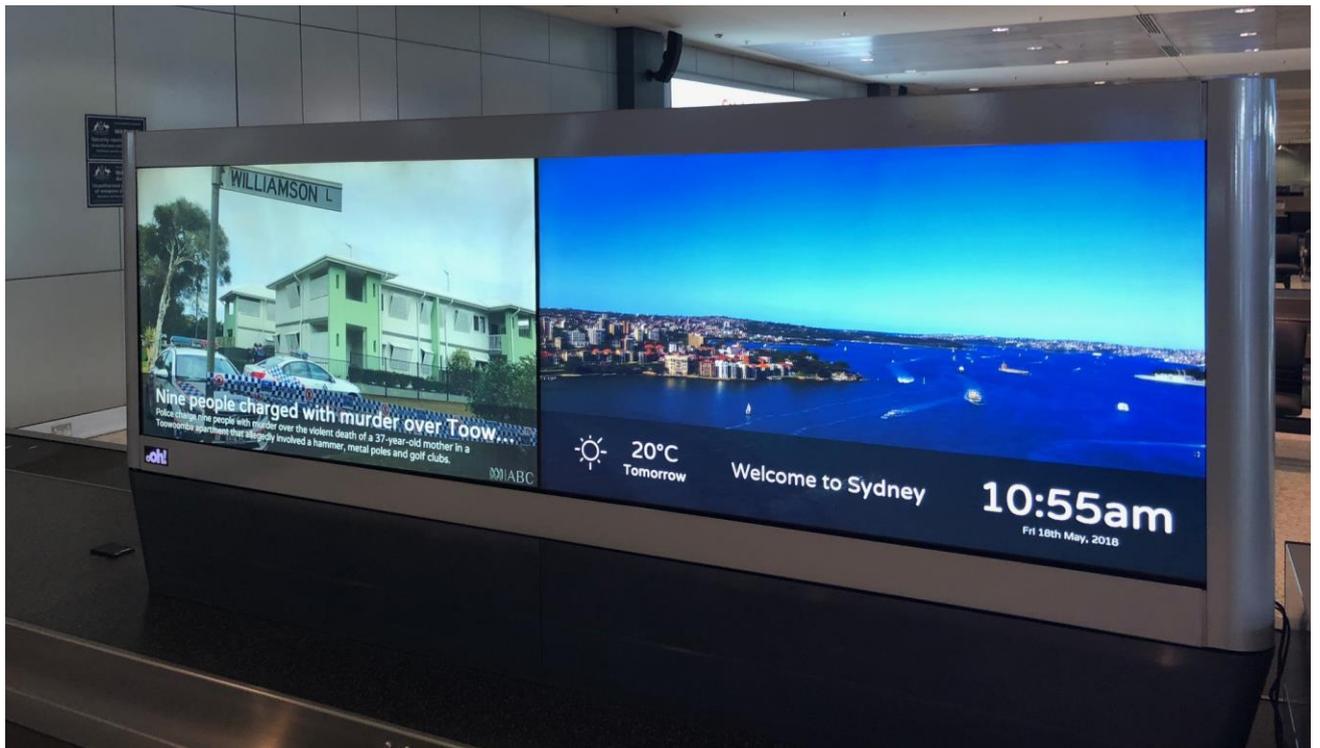


Image 2: Advertising screening before ABC News content on oOh! infrastructure at airport terminal



– QANTAS in-flight entertainment contract

This deal above, it was reported⁸, enabled oOh!’ to pitch for the Qantas in-flight entertainment contract – using ABC News content. That deal was eventually won by NCA using SkyNews for news content.

ANC CEO, Angelos Frangopolous, said at the time: ‘*We’ve learnt that the ABC is a formidable commercial opponent, not because of its content, but because it can fully leverage its taxpayer-funded resources*’.

RECOMMENDATIONS

We recommend that the Panel consider the following recommendations:

- Regular statutory review of the Charters of the public broadcasters – we cite the regular statutory review of the BBC Charter as an example of such a process. In the interim period, between statutory reviews, the public broadcasters should be required to report against all charter requirements
- Notwithstanding the above, the Charter states that *the Corporation shall take account of the broadcasting services provided by the commercial and community sectors of the Australian broadcasting system* (at clause (2)(a)(i)). Given the changes in the media landscape, it is important that this clause, and any others, are appropriate in the digital environment and apply to the range of services – including news services – provided by the commercial sector. This importance of this is particularly so when the ABC Charter also states that a function of the Corporation is *to provide digital media services* (at clause (1)(ba)).
- Regarding the point directly above, we note the SBS Charter does not include a similar provision regarding taking account of the services provided by the commercial sector. We recommend that this also be reflected in the SBS Charter.
- Public broadcasters should be prohibited from entering arrangements that would constitute providing news content in a commercial environment. This is particularly the case (but not the only case) when the arrangement would lead to public broadcasting news content being commercialised
- The appropriateness of public broadcasters promoting news content in commercial environments in direct competition with commercial news organisations (for example, purchase of AdWords; engagement in platforms services that would see that news content ‘preferred’ on the platform e.g Google AMP)

⁸ <https://www.theaustralian.com.au/business/media/qantas-latest-target-of-aggressive-abc/news-story/f5bb79497d353785746ccbc29f53fe48>