



Australian  
Press Council



# Submission to the ACCC Digital Platforms Inquiry

February 2019

## **Australian Press Council Submission in response to the ACCC Digital Platforms Inquiry Preliminary Report**

The Australian Press Council (the Press Council) welcomes the release of the ACCC's Digital Platforms Inquiry Preliminary Report and the opportunity to provide comment on the preliminary recommendations and proposed areas of further analysis and assessment.

The Press Council notes and agrees with the bulk of the findings in the Preliminary Report, in particular regarding the market power of digital platforms and their impact on the commercial news media sector and journalism in Australia. The Press Council notes that these findings align in large part with the concerns raised by the Press Council in its earlier submission to the Inquiry.

The Press Council reiterates its concerns about the imbalance in the commercial relationship between the digital platforms and the publishers of print and online news and the implications for the sector in Australia.

In this submission the Press Council concentrates on those recommendations relevant to its operations. A number of individual Council members will be making separate detailed submissions.

### **General Observations**

The Press Council supports the need to address the market power of digital platforms and monitoring their activities and the potential consequences of these activities for news media organisations and advertisers. The Press Council supports increased powers but suggests they could be assigned to an existing regulator. Rather than create a new entity the Press Council suggests the functions would be most appropriately undertaken by the ACCC. The ACCC has deep experience in analysing and responding to issues of market power and through this Inquiry has built expertise in the operations and impact of the digital platforms.

The Press Council notes the focus of the ACCC on Facebook and Google Search in the Preliminary Report but, consistent with its earlier submission, urges the ACCC to not lose sight of other digital platforms that also aggregate and distribute content such as Apple News and Google's YouTube.

The Press Council urges the ACCC to continue to consider and develop measures to improve the bargaining position of publishers with the digital platforms. The viability of print and online media depends on those disseminating content to recognise, and appropriately remunerate, those gathering, delivering and analysing news. In undertaking this work the ACCC should focus on how to create and maintain a strong and healthy Australian commercial media industry.

The Press Council highlights particularly the difficulties facing local and regional media and the vital role they play in informing local communities. The Press Council does not believe that digital platforms can replace local or regional news media publishers and is concerned that changes to broad commercial relationships may not necessarily flow down to this group. The aggregation model impacts adversely across the news media industry and has particular consequences for local and regional news and the communities they service. Policy decisions about the future of the media industry and its regulatory framework need to be especially mindful of these consequences.

The Press Council sees merit in Preliminary Recommendation 5 but believes that more work needs to be done to develop an effective regime.

## **Preliminary Recommendation 6**

The Press Council is not convinced about the need for major change to the current regulatory arrangements covering the print and online news media sector. The Press Council believes that the existing industry self-regulatory arrangements best ensure an independent and free print and online news media sector operating without the threat of government interference or oversight. This is vital to ensure Australian communities can continue to be informed by a strong and vibrant news media that holds government and public institutions to account and continues to play a strong role in Australia's democracy.

The existing industry regulatory arrangements through the Press Council preserve the independence of the print and online publications but promote the high standards expected of a responsible media sector. The Press Council covers material published by its members whether in print, online, video and podcast. It processes complaints about over 500 content pieces per year, around 30 of which proceed to full adjudication.

Publisher members of Press Council commit themselves to comply with the Press Council's Standards of Practice and its complaints process. Any person may lodge a complaint about non-adherence to these standards and publishers are not involved in considering complaints. Although there have been significant changes in the industry over the past few years, recent research suggests the level of overall trust in news is rising (Digital News Report: Australia 2018 p25).

As the ACCC acknowledges in its report "sector-specific regulations are often underpinned by sound rationales based on differences in the functions or impact of the regulated entities."

While the ACCC notes in its report that "there are significant benefits to be derived from a fundamental reform of the Australian media and communications regulatory frameworks to adequately address the challenges of digitalisation and convergence", the ACCC also acknowledges that "the realisation of these benefits, however, requires an analysis of issues and markets beyond the remit of this Inquiry." The ACCC also notes that "it will be necessary for the Government to take into account many other competing interests, including broader policy issues" in its consideration of this Preliminary Recommendation.

The Press Council notes that previous governments initiated the Finkelstein and Convergence Reviews but, after due consideration, governments and Parliaments have decided to leave existing regulatory arrangements for the print and online news media sector in place.

The Press Council notes concerns about the coverage of online publishers and the regulatory arrangements that apply to this group. The Press Council has expanded its reach to cover not just print publications but also online media, whether it is solely online or an extension of print activities. This scope also includes embedded video on publisher websites and podcasts. The Press Council's members currently make up 13 of the top 20 online publishers and over 900 print mastheads.

While the Press Council typically focuses its attention on the activities of its member organisations it also has taken action in respect of publishers who are not members. Recognising the need to address performance in this sector of the industry the Press Council will continue to work with all Australian print and online publishers and encourage them to become members and to operate to the standards and principles of the Press Council. Where appropriate, the Press Council will continue to take action in regard to complaints about non-member publications.

While the Press Council does not believe that a full-scale review as outlined in the ACCC Preliminary Report is necessary, it does acknowledge that there is scope to consider complementarity of existing

arrangements as a means of assisting consumers to understand the regulatory arrangements that apply to the content they are consuming across a variety of platforms. The Press Council proposes that the Department of Communications should be charged with bringing existing industry regulators together to discuss and consider greater complementarity in regulatory principles that could guide regulators when undertaking their roles. Greater complementarity could lead to a more consistent application of regulatory principles and assist in industry and consumer understanding of regulatory arrangements while leaving individual regulators to manage industry and sector-specific matters that require unique consideration and for which there is a strong rationale.

### **Preliminary Recommendations 7-11**

In regard to Preliminary Recommendation 10 —serious invasions of privacy—print and online news media organisations which are members of the Press Council and adhere to its standards and complaints-handling system is provided with an exemption under the Privacy Act for the purposes of conducting journalism. These news media organisations must adhere to the Press Council’s Privacy Principles in the course of their journalism to be eligible for that exemption. We believe this regulatory arrangement is working well and there is no need for any change to this arrangement.

The Press Council has no specific comments on the remaining preliminary recommendations but agrees the need to increase the confidence of Australian consumers in the use of digital platforms and the standards involved in the presentation of news material on those platforms.

### **Proposed areas of further analysis and assessment**

The Press Council notes the proposed areas for further analysis and assessment and would want to be part of any further work aimed at improving choice and quality of news and journalism.

The Press Council agrees with the ACCC finding that content aggregators are “considerably more than mere distributors or pure intermediaries in the supply of news” as a result of their role in selecting which content to carry on their platforms. The Press Council supports further work in this area to determine the most appropriate arrangements to monitor this function.

The Press Council has a key role in promoting responsible journalism through its standards of practice and its complaints-handling system. It notes particularly that this role extends to print and online publications. These standards are binding on all publisher members and have been developed following widespread public consultation. They are updated in line with emerging issues and community expectations. For example, the Press Council adopted an advisory guideline on reporting of family and domestic violence in 2016.

In these circumstances the Press Council would not support giving the government regulator (ACMA) the power to determine standards or principles by which the print and online publishers operate given the potential to impinge on the operation of a free and independent press and online news media sector.

The Press Council is strongly supportive of the ACCC considering further measures to support journalism in Australia.

The Press Council also supports moves to improve the news literacy of Australian consumers; however, it questions the need for a government entity to be involved in this process. The Press Council is open to assuming the role of working with digital platforms to improve Australians’ understanding of how news and journalism is curated and displayed on social media and other digital platforms. The Press Council is mindful of the resources required to properly undertake this

task and would want to discuss this matter further with government to properly scope and fund any activities.

The Press Council has no position on the remainder of the proposals for further consideration discussed in the Preliminary Report.

A handwritten signature in black ink, appearing to read "John Pender". The signature is written in a cursive style with a large initial 'J' and 'P'.

John Pender

Executive Director

February 2019